

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Greenville County

S.C. SUPREME COURT

Honorable Letitia H. Verdin, Circuit Court Judge

BILLY ROY BOYD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000961

APPENDIX

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1 for purchase to find out was anything confiscated from any
2 type of crime being committed, so to speak. So I was very
3 much aware of this at all times. But I was very
4 confident, because I've never taken anything stolen, so to
5 speak.

6 So, as I went to the first pawnshop, which was,
7 actually, a First Cash America off 291, Pleasantburg -- it
8 wasn't mentioned. I went there. There were four places I
9 went total. Only two places were mentioned today. And
10 this person advised me that they would give me \$215. So
11 the first estimate was about \$70, \$74. The second place I
12 went to was like \$215. So I'm like, wow, this price is
13 going up, let me shop around some more.

14 So, as I went to the fourth pawnshop, which is called
15 Luthi's, which I have a past affiliation there over a
16 period of maybe 10 years, I was told that probably -- I
17 think, what, \$315, between \$275 and \$315. I was like,
18 wow, this price is really going up. I left there and I
19 went and inquired at First Cash. I was on a mission. I
20 was going all over the place. If I could have gotten
21 \$10,000, I would have. Because, at that point in time, I
22 thought I had struck gold, so to speak, a jackpot, so to
23 speak.

24 So, as I went to First Cash and I inquired, it seemed
25 like their price kind of declined. So I was like, well,

1 the last person offered me more. So I continued to go
2 back home. I didn't purchase anything, because I knew my
3 housekeeper, she was only working three hours that day.
4 This was March the 5th of 2010. I went back home. And,
5 as I went back home, I talked with her and everything like
6 that.

7 And, later on that day, I was in my back yard. I'm
8 constantly playing with my animals and doing landscaping.
9 I like to spend a lot of time just staying busy, so to
10 speak. That's when I'm feeling good. And on these
11 particular days, I was feeling pretty good. I had just
12 overcame a bad bout of sickness, so to speak --

13 MS. TESSITORE: Objection, Your Honor, relevance.

14 THE COURT: Overruled.

15 DEFENDANT BOYD: I had just overcame a bad bout with
16 sickness and was on a medication called -- God, what's the
17 name of this medication? I'm on it now. Concerning
18 parasites, oh, man. I've forgot this medication's name.
19 But it's kind of like chemotherapy, so to speak. And I
20 had got all the way down to 122 pounds. So this is kind
21 of why I was very thin in the pictures that you saw.

22 And as she, who was a good Christian woman, was
23 encouraging me and praying for me daily because the
24 medicine was working. And I was beginning to gain my
25 weight back. My diagnosis was that I had a parasite that

1 probably was the size of a snake that was eating all of my
2 food for a year and a half. And they ran so many tests
3 and --

4 MS. TESSITORE: Your Honor, the State objects. This
5 is just not relevant to --

6 THE COURT: Well, I don't know where you're going,
7 but I'm going to give you the opportunity to tell the jury
8 what you want to say. But let's try to make it relevant
9 to the case, sir.

10 DEFENDANT BOYD: I had had so many hard times in my
11 life. And, at this particular time in my life, the
12 medicine was working. And I wasn't released from a
13 doctor, so to speak. And, as my housekeeper would come to
14 work every morning, if I wasn't in the house assisting her
15 or running after my spoiled rotten cats, I was outside
16 doing something.

17 And this was on the 5th of March, 2010. So
18 approximately that afternoon where my neighbor was
19 constantly calling around the yard, from the yard, his
20 yard and my yard, he was always looking to make a couple
21 of dollars, so to speak, cut your grass, whatever. He
22 lives with his mother. And I asked him, Hey, man, I found
23 this. And I showed him my findings of the jewelry. And
24 he stated to me, he said, I know of this --

25 MS. TESSITORE: Your Honor, I'm going to object to

1 hearsay.

2 THE COURT: Sustained.

3 DEFENDANT BOYD: And he stated to me --

4 THE COURT: Sir, you can't talk about what that
5 person said.

6 DEFENDANT BOYD: Okay. Well, I was encouraged to go
7 to one more particular pawnshop that I had never been to.
8 And this pawnshop was off East North Street. So I said,
9 okay, why not, one more. When I went to this particular
10 pawnshop, they gave me the highest bid. And it was then
11 that I made my offer, giving my driver's license and
12 willingly knowing that I was under surveillance. I didn't
13 have anything to hide. I knew that they would run a
14 background check on every piece of merchandise that was
15 pawned.

16 And she, also, stated that today -- I didn't think
17 anything of it. If anything, I was thinking I had hit the
18 jackpot, so to speak. And I really was given the course
19 where asking each pawn representative to give an account
20 past record of all my affiliations, and dealing with them.
21 Because I remember first pawning items and buying items
22 ever since the year probably 1997. And, in all of this
23 time, there has not been one time on my record or any
24 other occasion that I had ever taken them anything that
25 was stolen.

1 And if I knew that these things came from a robbery,
2 I think what I would have done if I was desperate or on
3 drugs, so to speak, I think I would have sold these items
4 on the street, so to speak, or let somebody else use their
5 identification. I didn't have anything to hide. And I
6 didn't think nothing more of the fact that I had hit the
7 jackpot. This is all I knew. This is what I had done
8 before. And it had never backfired. This has taught me a
9 very valuable lesson, which I can say honestly, even my
10 family had encouraged me maybe you don't want to shop
11 there so often. This is where people go on drugs or they
12 try to get quick money. But I felt like every time I went
13 there since I submitted my driver's license, I, Billy
14 Boyd, did not have anything to hide.

15 Now, it's been 21 months later, two years. I've had
16 to pay for that. I pay for that every day of my life. I
17 just kind of today wanted the Court to get a little feel
18 of who Mr. Billy Roy Boyd is. So I have some photos of my
19 house, how I live. I have some landscaping photos of the
20 landscaping that I do at my house. These pictures were
21 taken probably two weeks before I was incarcerated,
22 arrested.

23 And I would like the Court to see just a little bit
24 about who Mr. Billy Roy Boyd is, if I can, please.

25 THE COURT: All right. So you just want to hold the

1 pictures up, and explain what they are?

2 DEFENDANT BOYD: If the jury, please, sir, can see
3 everything:

4 THE COURT: Well, they'll have them back there with
5 them.

6 DEFENDANT BOYD: I don't know if they can really see
7 them from this point.

8 THE COURT: We'll pass them around to the jury.

9 DEFENDANT BOYD: This is like what -- I have a
10 veranda in my house. This is like my prayer room where
11 I've got probably 50 or 60 tropical flowers growing in my
12 house. I'm constantly having people over to my house.
13 They say, Billy, how do you do it? I have a green thumb.
14 I'm a landscaper.

15 My father is a landscaper/plumber, so to speak. And
16 I used to hate my father, so to speak, because he always
17 spent time in the yard growing things. And I made my
18 first plant grow one day, and I went crazy. So, now, I
19 can make any tree or whatever grow in the house. And I
20 kind of love that, so to speak. So this gives a scenario
21 of my green house. I have, literally, a green house
22 inside of my house, literally.

23 This is some findings. As I said, I'm always finding
24 things. I stated that before. This is some of the
25 findings in my house. My house is that of a gallery, so

1 to speak. I have black and white friends that come over
2 to my house to show my house off, so to speak. My house
3 is a hundred-year-old house, and I love it. It's built
4 out of old wood. I have the old crystal doorknobs. And I
5 have the square door panels. That's how old my house is.

6 And what I really love about my house, being a black
7 man, is one day sitting in my house having a glass of
8 wine, and knocking the wall out to an old fireplace, and
9 seeing that the chimney was still intact, and making a
10 fire in this house, and just letting my mind go back to,
11 wow, now, I know when this house was built, and there was
12 no black man in sight, so to speak. So I'm kind of living
13 in history. I really love my house. I've been in my
14 house for seven years, stable, stably in my house for
15 seven years.

16 I'm in the process of buying my house. I was
17 negotiating this prior before being arrested. I have
18 eight rooms. And I live alone. My house is full of
19 items. In fact, they call me Fred Sanford. They say I'm
20 a pack rat. That's what I do these days. The older I've
21 got, since I've been through so many crises in my life
22 with illness, I've become more sensitive to sentimental
23 things, such as animals. Because I don't have kids, and I
24 don't have a wife.

25 MS. TESSITORE: Your Honor, I'm going to object as

1 far as relevance.

2 THE COURT: Overruled.

3 DEFENDANT BOYD: I'm sentimental to things, animals,
4 collecting things. That truck that you saw, you'll see it
5 again, my sister had just bought me that truck, because
6 she knows I like to collect stuff. In fact, if I can, I
7 want to have my house enlarged, so to speak. I want to
8 get lost in my house.

9 And I'm always entertaining guests, because I, also,
10 like to cook, too. So when I can make a white person lick
11 their fingers, it's really impressive. Because I notice
12 white people don't put too much seasoning in their food.
13 It's kind of like bland, so to speak. So to have them eat
14 your food, you're pretty good in the kitchen, so to speak.
15 So I would like for you definitely to look at these
16 things.

17 This is, also, another picture of the truck with some
18 other tools. And those tools are still in the back of the
19 truck presently today. I inquired and asked my sister.

20 This is a different approach right here of my
21 backyard that I landscaped. I loved this backyard,
22 because it was covered with kudzu. And I've got the big
23 bad spoiled rotten cat, so to speak, to keep the snakes
24 away. And I worked in this backyard on many sick days, or
25 days when I didn't feel so good, just sitting outside in

1 the shade looking at the neighbors. Because we're on the
2 back dead end street of a driveway. And you see your
3 neighbors coming up the back alley. You can just
4 literally scream over there and say, hey, do you have any
5 butter, or sugar, or whatever?

6 And that gentleman that testified, he's constantly
7 going up and down the alley. He lives with his mother. I
8 am constantly landscaping her yard as well. Well, I spent
9 a lot of time in my backyard. And I've realized that in
10 my 40's that I've turned out to be my father, so to speak.

11 I'm the baby of five children. My parents are still
12 married, so to speak. I wasn't born in the ghetto. I
13 have a sister that's been in the Navy service, so to
14 speak. I have another sister that has worked at
15 Greenville Tech for approximately 20 years. And she still
16 works there. Prior, before I got diagnosed in 1998 with
17 full blown AIDS -- and I don't know how I contracted it --
18 I was in customer service. And I was kind of really,
19 really good with people, so to speak. And I, at one time
20 in my life, was introverted, but my self-esteem was
21 boosted, and I become extroverted. So, now, I'm like my
22 father. I spend a lot of time in my backyard, so to
23 speak. And this will refresh the jury and the Court as to
24 the landscaping I do, and the tools that were found in my
25 truck.

1 This is one of my spoiled rotten kitty cats named
2 Munchkin. She keeps my snakes and mice away in my old
3 house, so to speak. I love Munchkin. I haven't seen
4 Munchkin in two years... I really miss Munchkin.

5 This is another finding in my kitchen. I like to
6 spend a lot of time in my kitchen. I was renovating my
7 kitchen, so to speak, into a cafe style. There's a lot of
8 collections in my kitchen. I found a lot of old bottles.
9 And I was landscaping my backyard. And I was building a
10 shelf on my wall for some of the antiques that I had
11 found. So, in other words, it was a collection of my
12 house's own history and antiques. So, as I entertain my
13 friends with a glass of wine, or we ate a steak, or
14 whatever, I will let them see some of my collections. And
15 I became very, very sentimental.

16 In other words, after I got diagnosed with AIDS, I
17 started valuing life, so to speak. I've had pneumonia
18 more times than the law allows. I've been in a coma
19 multiple times. Multiple times, I've gotten down to 125,
20 or 130, or 140. I look very healthy and nice now, because
21 I've been incarcerated for two years. And I eat a lot of
22 canteen. In fact, I've probably put about \$3,500 in the
23 canteen since I've been incarcerated. I've got receipts
24 from the canteen where I'm getting constantly Honey Buns,
25 Snickers. And I really hate that, so to speak, but it's

1 an account that I'm definitely not hungry, that's for
2 sure.

3 Also, if I can add, before the 5th, I had just
4 received a monthly check on the 3rd of \$1,000. I get that
5 every month on the 3rd, disability, because I once worked
6 under social security. And I was really a part of
7 society, so to speak. So because I put in the pot, so to
8 speak, I'm allowed to receive a little something.

9 And this is another picture of another one of my
10 rooms. Like I stated, I have eight rooms. And some of my
11 findings -- my house is cluttered with findings. And my
12 family tells me, you don't need any more room, what you
13 need to do is get rid of some stuff. But, like I said, it
14 seems like these things, and these hobbies, and these
15 activities, they fill a void in my life, so to speak.
16 They fill a void.

17 This is some more of my house, so to speak, so the
18 jury and the Court can see I live quite comfortably. I
19 was not hungry. And my bills, my finances, so to speak,
20 are not delinquent, or past due. There's a lot of
21 character references that I can use that I'm not going to
22 use.

23 MS. TESSITORE: Your Honor, I'd object if he's going
24 to start --

25 THE COURT: Okay.

1 DEFENDANT BOYD: I really felt that the jury and the
2 courtroom needed to hear how I feel, and let me express my
3 own self. This is the first time I've been able to
4 express myself in two years. I have been through hell and
5 back, and my life will never be the same. I may look fine
6 now, because this is my first time in civilian clothes in
7 two years. When I'm not in these civilian clothes, I'm in
8 chains. I have been affected emotionally, mentally,
9 spiritually, all of the above. I miss my family. I miss
10 my friends. I miss my home that I presently still have
11 because my family still maintains it.

12 My family is so supportive, because I've never been
13 in this type of trouble. In fact, I've never been
14 incarcerated in GCDC in my entire life. And underneath
15 these clothes, so to speak, I have suffered probably 65
16 ringworm parasites, so to speak.

17 This situation has been very conducive to my health.
18 It has compromised my health. When I stated before I
19 never got released from the doctor -- at this point in
20 time, I don't know what's going on in my blood work, so to
21 speak. I don't know. But I will tell you this, this was
22 a very, very good experience for me to be incarcerated.
23 Because I became closer to God like never before. They
24 say what doesn't kill you makes you stronger.

25 MS. TESSITORE: Your Honor --

1 MR. ROBINSON: Mr. Boyd, excuse me. I'd like to ask
2 you just a couple more questions to follow-up with your
3 statements, or whatever.

4 DIRECT EXAMINATION

5 BY MR. ROBINSON:

6 Q In 2004, you had two bad checks; is that right?

7 A Yes, sir.

8 Q Okay. Regarding this incident on the 4th that you're
9 here for today, did you ever rob or kidnap that day?

10 A No, sir.

11 Q Okay. The items that you found, you tried to pawn
12 those; is that correct?

13 A Yes, sir.

14 Q Those items were pawned at two different pawnshops;
15 correct?

16 A Yes, sir. That's correct.

17 Q Did you present a license?

18 A Yes, sir, I did.

19 MR. ROBINSON: I just wanted to follow-up with your
20 testimony, Mr. Boyd. Answer any questions Ms. Tessitore
21 has.

22 DEFENDANT BOYD: Thank you, sir.

23 And because you really made me remember to, also,
24 reiterate this right here --

25 MS. TESSITORE: Your Honor --

1 MR. ROBINSON: Mr. Boyd, answer any questions
2 Ms. Tessitore has.

3 DEFENDANT BOYD: Yes, sir.

4 CROSS-EXAMINATION

5 BY MS. TESSITORE:

6 Q Mr. Boyd, you've talked about mostly the Friday,
7 March 5th?

8 A Yes.

9 Q And your activities that day; correct?

10 A That's correct.

11 Q And so you agree that the truck that you were found
12 in by Detective Lusk is the same truck that you've got a
13 picture of there; correct?

14 A Yes, ma'am. That's correct.

15 Q Okay. And you'd, also, agree that State's Exhibit
16 No. 32 that that's you on the day you were arrested?

17 A Yes, ma'am. Distressed, just broke down that day,
18 just unbelievable. I can't believe it.

19 Q And how much weight have you put on since --

20 A Since that picture, I probably was about 198 there.
21 I've probably put on 60, 55, 60 pounds.

22 Q Okay. And that's because you're getting three square
23 meals a day?

24 A Lots of Honey Buns. I really can't eat that food,
25 it's so bad. I get a lot of canteen from my family, so to

1 speak.

2 Q And would you, also, agree that your -- this is you
3 in State's Exhibit No. 43, position #5?

4 A That's Billy Roy Boyd.

5 Q Okay. And on State's Exhibit No. 1, who's in
6 position #2?

7 A That is Billy Roy Boyd.

8 Q That is Billy Roy Boyd. Okay. And did you, also,
9 agree that your facial hair has changed since then?

10 A Yes, it has.

11 Q Okay. And who changed that?

12 A Who changed my facial hair?

13 Q Did Mr. Boyd?

14 A Yes, I shaved.

15 Q And when did you shave and change your --

16 A Well, I normally, shave every two days. This is why
17 if I don't shave I wear hats, so to speak. Because since
18 I'm in my 40s, my hairline has receded. And that's kind
19 of ugly, so to speak. So I, normally, stay shaved. That
20 day, with the hate on, just being out in the yard and
21 whatever, I didn't care.

22 Q So you've shaved your hair as well?

23 A Uh-huh. I shave my head all the time. I have
24 multiple -- I have other pictures of my head being clean,
25 too.

1 Q And you wear different kind of hats?

2 A Yes. I wear a variety of hats, especially when I
3 haven't shaved. Hats, that is, hats.

4 Q Okay. And so you work outside a lot landscaping?

5 A Only if I feel good, so to speak.

6 Q Okay. Well, you said that's what you do; right? You
7 drive around and you --

8 A When I feel good.

9 Q -- collect collectibles?

10 A Only when I feel good.

11 Q Okay. Well, back in March of 2010, you felt well
12 enough to go to four pawnshops on Friday; correct?

13 A That's correct.

14 Q And you felt well enough on Monday to go back to the
15 same shop you had been at; correct?

16 A That's correct.

17 Q And you felt well enough to drive Mr. Martin, he's
18 your neighbor?

19 A That's correct.

20 Q And you felt well enough to drive him over to the
21 Cash America on East North Street?

22 A That's correct.

23 Q A pawnshop you had never been to?

24 A That -- well, I had been there, but I don't --
25 probably to look for a heater one time for my house, a

1 kerosene heater. But I don't think I purchased anything.

2 Q So you didn't have an affiliation with that pawnshop?

3 A That's correct.

4 Q And the pawnshop that you went to on Rutherford Road
5 where you met Ms. Neubia, who was here testifying today,
6 you didn't know her as well; right?

7 A Well, actually, she probably wasn't familiar with me.
8 I had noticed her before, but she stated something that
9 was so true.

10 Q Well, what she said is hearsay. So I'm going to ask
11 you to just answer the question. Had you been to that
12 pawnshop before Friday after the robbery and the
13 kidnapping?

14 A Friday before, you stated?

15 Q No. Were you there the day after you committed the
16 robbery?

17 A That I committed the robbery?

18 Q Were you there on the Friday after?

19 A I went there on a Friday, yes.

20 Q And you saw the video; correct?

21 A Yes. That's correct.

22 Q And that was the day after the robbery?

23 A After I did my figures and everything from looking at
24 the discovery, yes, it was the day after.

25 Q Well, you saw the video?

1 A Yes.

2 Q And do you recall being there?

3 A But I, also, saw the date of the video. And on the
4 5th, I stated, yes, I did go to multiple places on the
5 5th. That's correct.

6 Q And you went and you showed Ms. Neubia the two gold
7 rings that you had in your possession; correct?

8 A That is correct.

9 Q Okay. And those gold rings, you've seen those, the
10 pictures of those?

11 A Yes, I have.

12 Q Okay. And so you agree that you pawned those items
13 that -- or excuse me, you showed number 17 and 16, those
14 two rings to Ms. Neubia; correct?

15 A I showed them to her on the 5th, and got an
16 evaluation of approximately if I did sell them to her, how
17 much would she give me. I did do this on Friday, that is
18 correct.

19 Q On Friday, the 5th?

20 A The 5th.

21 Q Okay. And that was at about 11:20 in the morning?

22 A Yes. Because I had to hurry back because my sitter
23 was there, so to speak, my housekeeper.

24 Q And the items shown in State's Exhibit No. 26, do you
25 recognize those?

1 A Yes. I do recognize that.

2 Q Okay. And you agree you pawned those items at the
3 Cash America -- well, came back on Monday with those
4 items?

5 A Yes. I came back and inquired again, yes.

6 Q So you felt well enough to do all of this, as you
7 said, kind of price comparison, trying to get the most you
8 could because you had struck gold?

9 A How many days had lapsed before I came back?

10 Q I don't know.

11 A Approximately three days. All of this event didn't
12 happen on one day. It happened in a total of three days.
13 So, yes, I did, come back on the following Monday.

14 Q Well, the armed robbery occurred on Thursday evening.
15 And Friday, you went to four different pawnshops; correct?

16 A Well, I'm not familiar with an armed robbery and a
17 kidnapping. But I am familiar with my findings and the
18 date. And she stated about the plastic bag. That's the
19 plastic bag that I found them in, too. I, also, stated
20 that in the record, so to speak.

21 Q Let's talk about that. Where did you -- you said you
22 found them just on the ground when you got out of your
23 truck?

24 A If I would have had someone to go to the night drop
25 where I go and buy my cigarettes, so to speak --

1 Q Well, I'm asking, where did you find that plastic
2 bag?

3 A Okay. If you would have went to the night 711 drop
4 in store on the 5th of Friday -- the 5th of March, March
5 the 5th, 2010, between 9:30 and 10:00, if you would have
6 ran the video footage, you would have saw --

7 MS. TESSITORE: Objection, Your Honor.

8 THE COURT: Overruled.

9 DEFENDANT BOYD: You would have saw a black male
10 getting out of the gray truck that you see. If it appears
11 that he found this on the -- it appears on the camera that
12 he found this on the ground, and the plastic bag. But
13 because I was denied bail, I couldn't go and get that
14 footage, that video footage, so to speak. I've been
15 detained and incarcerated.

16 BY MS. TESSITORE:

17 Q Okay. I'm just asking you where you were when you
18 found this plastic bag that happened to contain the two
19 sets of jewelry that were stolen during the armed robbery?

20 A The drop in store 711, which is in the facility of
21 the alleged, what, beauty shop or whatever. That's my
22 area of town. That's where my church is. That's where my
23 grocery store is. And that's where I go to get my
24 cigarettes. I'm very familiar with that area.

25 Q Okay. Now, I'm going to focus your attention on

1 State's Exhibit No. 38, and ask you to take a look at
2 that. Isn't it true that's the stick that was found on
3 the front seat of your truck when you were arrested, or
4 taken into custody by Detective Lusk?

5 A That is the stick that was found in my truck.

6 Q Okay. Thank you.

7 A Because there wasn't a search warrant. There was
8 multiple tools --

9 MS. TESSITORE: Your Honor, I object.

10 DEFENDANT BOYD: There was multiple tools. That was
11 the one that was seized.

12 And I'm going to ask you this, is there --

13 THE COURT: No, no, no --

14 DEFENDANT BOYD: Okay. I'm sorry. Go ahead.

15 That is the stick. That is one of the tools that was
16 seized from my truck, yes.

17 BY MS. TESSITORE:

18 Q Okay. So this stick is the stick that was seized
19 from your truck?

20 A I don't know if it's the one that was mentioned.
21 They stated two by two, two by four, they stated. I think
22 that's a two by eight right there.

23 Q Okay. And, as far as the photo of the truck, when
24 Detective Lusk found you, you didn't know he was coming to
25 the pawnshop, did you?

1 A No. I really didn't care who was coming behind me.
2 The only thing I knew was that I had used my driver's
3 license to show that I didn't have anything to hide. And
4 I had no idea whatsoever -- I had no idea that it was
5 stolen or came from a robbery.

6 Q Okay. So looking at State's Exhibit No. 24, would
7 you agree that that is the way that you were stopped by
8 Detective Lusk? Is that the -- that's the inside of your
9 truck; right?

10 A I could say yes and no, so to speak. Because I don't
11 know where that was taken at. And I'm not there showing
12 my face to say that I permitted it or I okay'd it. So I
13 don't know.

14 Q So you didn't approve the picture being taken, and
15 you didn't approve of the officer seeing it in plain view;
16 correct?

17 A I didn't approve of being arrested, to be honest with
18 you.

19 Q Okay. And I'm showing you State's Exhibit No. 23.
20 That is your truck; right?

21 A That is my truck.

22 Q Okay. Mr. Boyd, you had mentioned earlier that you
23 knew Mr. Martin; correct?

24 A Only the fact that he lives next door to me with his
25 mother.

1 Q Okay. And you've known him for several years?

2 A When I say know him, know him as being -- as one
3 would say the neighbors bond, so to speak, to be honest.

4 Q The neighbors what?

5 A In other words, to be living with his mother,
6 dependent on his mother, so to speak. To be, as one would
7 say, not really stable. That's what I would say.

8 Q How long have you known him?

9 A I can't say how long I've known him. But I can say
10 how long I've lived in that house, seven years. And I've
11 seen him off and on during that period of time.

12 Q And you, obviously, took him with you to the
13 pawnshop?

14 A Yeah.

15 Q So you're that familiar with him that you're
16 comfortable riding with him?

17 A Not riding. But that particular day -- every now and
18 then, my family would give him a couple of bucks, or give
19 him a ride. He's always walking or on the bicycle, so to
20 speak.

21 Q Well, isn't it true that the property you're talking
22 about where you had resided at

23 , that's a rental; correct?

24 A That's correct.

25 Q And you received some housing subsidy to pay that

1 rent?

2 A At one point in time, I did, but not now.

3 Q And you mentioned earlier, too, that you were -- that
4 you are disabled; correct?

5 A This is correct.

6 Q And as part of -- I guess you -- and you said you got
7 a \$1,000 check for disability?

8 A On the 3rd, yes.

9 Q The 3rd of?

10 A The 3rd of the month.

11 Q Okay. And how often do you get that?

12 A I get that every month on the 3rd.

13 Q Every month on the 3rd, you get \$1,000. And that's
14 for -- that's because you cannot work; correct?

15 A I've been clinically diagnosed as being disabled.

16 Q Okay. And who pays your rent, your -- all your
17 expenses as they are -- as they come up?

18 A Well, my family has spent \$15,000 on me since I've
19 been incarcerated just on lawyer's fees. They buy my
20 vehicles. They, literally, give me everything that I want
21 to make me feel comfortable. They're very supportive.
22 They give me anything I want.

23 Q And that's because your sisters, they're both very
24 successful?

25 A Yes, they are.

1 Q One of them has a Hummer that she drives around?

2 A That's correct.

3 Q And the other one works in finance?

4 A She's been at Greenville Technical College for 20
5 years.

6 Q And so they're willing to provide that help to you;
7 correct?

8 A I -- only if I need it, only if I need their support.
9 I'm their baby brother, so to speak. And they love me.
10 And I love them, and I miss them.

11 Q And it must be hard to always feel like you're asking
12 them for money?

13 A Well, the only time I really do ask is if I need it.
14 But my sister, Debbie Boyd Ladson, who's my power of
15 attorney -- during the moments -- my very, very gray days
16 and the days where I couldn't get out of the bed and she
17 had to almost lift me and turn me over and wipe my butt,
18 so to speak, I made her power of attorney over all of my
19 financial affairs.

20 Q So in order to access your money, you have to go
21 through your sister?

22 A If I really, really need something. But I will tell
23 you this, that was only when I was, as one would say,
24 severely stricken. But if I'm not severely stricken, I
25 manage my own affairs.

1 Q But she is in control of the --

2 A She's only in control when I fall ill, so to speak.
3 Because I'm affiliated with AIDS Upstate, so I had to have
4 a power of attorney. And she has accessibility to
5 everything.

6 Q Okay. Now, do you recall when you -- as far as the
7 truck, your sisters bought that truck for you?

8 A Well, in fact, both of my sisters have bought my last
9 three vehicles.

10 Q Okay. Well, just talking about this truck. One of
11 your sisters bought that for you; correct?

12 A I'm trying to think of the month and date that she
13 bought it.

14 Q Well, we don't need to know the month and date. I'm
15 just asking you, did she buy the truck for you?

16 A Yes. Debbie Boyd Ladson.

17 Q Okay. And it's a 1983 Ford truck?

18 A This is correct.

19 Q And isn't it true she spent about \$900 on it?

20 A That is true.

21 Q Now, Mr. Boyd, you want this jury to believe that
22 you, Billy Roy Boyd, just happened to get out of your
23 truck and strike gold when you got out that day, and you
24 just found the two sets of jewelry? And they just
25 happened to be laying outside your truck; is that correct?

1 THE COURT: No. That's not an appropriate question.

2 DEFENDANT BOYD: Thank you, sir.

3 What I want the jury to know, not believe, but know
4 is I want them to go beyond that day and look at the whole
5 affiliation of all of the pawnshops, and let them see how
6 far my history go back. And if they could know the
7 history of the pawnshops, they would see in the past that
8 I have pawned multiple jewelry and accessories, all types
9 of things, not just that particular day, so to speak.

10 BY MS. TESSITORE:

11 Q Okay. Just focusing on the items of jewelry that
12 we're talking about here today.

13 A Yes, ma'am.

14 Q We're not talking about all your collectibles. I'm
15 just talking about the items that you found. You say they
16 were all in one plastic bag outside of your truck when you
17 went to get cigarettes?

18 A Yes. And, also, I think that it was stated -- the
19 lady who said that she received it at the pawnshop, she
20 said she received it in a bag. She said it was in a bag.
21 She said that herself. Yes, it was in a bag, a little
22 plastic bag. In fact, it looked like costume jewelry. It
23 didn't look like it was real. This is why I went to
24 multiple places getting it appraised. And this is why my
25 housekeeper will attest to it herself.

1 Q So you found the items?

2 A That is correct.

3 Q On the ground?

4 A That is correct.

5 Q All together?

6 A That's correct.

7 Q And it just so happens that your physical description
8 matches the suspect's description from the robbery and the
9 kidnapping; correct?

10 A Well, I have to really answer that in this area.
11 They provided the description of the individual. And
12 looking at the lineup, everybody had a goatee on the
13 lineup, but Billy Roy Boyd was the only one that had the
14 beard. So that was kind of easy to pick out the one with
15 the beard, so to speak. It was almost like it was coerced
16 and rehearsed, so to speak.

17 On both lineups, if you look at it closely, you will
18 see only Billy Roy Boyd had the beard. And you will see
19 that the incident acquired March the 4th, 2010, on the
20 4th -- and it was stated that the perpetrator was
21 recognized that day. But it shows on the lineup that he
22 was not identified until the 9th. But he was formally
23 arrested on the 8th, and charged as guilty. He was
24 already --

25 MS. TESSITORE: Your Honor, at this point, I would

1 ask that -- he's just going on and on.

2 THE COURT: Do you have any more questions?

3 MS. TESSITORE: Thank you.

4 BY MS. TESSITORE:

5 Q So, Mr. Boyd, this picture that was taken four days
6 after the robbery --

7 A Can you look at the date on the bottom?

8 Q No. I'm asking you a question.

9 A Can you, please, ask -- answer that question? Can
10 you look at the date on that photo lineup?

11 Q Well, let's look at the photo lineup that Ms. Maurer
12 looked at.

13 A The date, can you, please, specify the date on that
14 lineup, please, ma'am?

15 Q That is March 9th.

16 A Thank you.

17 I was formally arrested and detained on the 8th. And
18 that analysis of the lineup was presented a day after my
19 being arrested. So it was easy to say this is the person
20 we have in custody. This is the person that we found with
21 the merchandise. That was the day after my being
22 arrested, a day.

23 So that assessment and that analysis should have been
24 submitted already on, what, on the 4th, when the incident
25 happened, or on the 5th, or --

1 Q Mr. Boyd --

2 A -- or maybe on the 6th --

3 Q -- just focusing on the question. This was the
4 picture taken four days --

5 A That's Mr. Billy Boyd a day after he was arrested,
6 yes.

7 Q But it was four days after the robbery; correct?

8 A Yes, five days.

9 Q Five days?

10 A Yes, that's five days.

11 Q And you, obviously, have a little bit more facial
12 hair in that picture; correct?

13 A Yes, that's correct.

14 MS. TESSITORE: I have no further questions.

15 THE COURT: Mr. Boyd, thank you very much.

16 You may step down.

17 DEFENDANT BOYD: Do I leave that up here?

18 THE COURT: Yes. They're in evidence.

19 All right, sir. You may call your next witness.

20 MR. ROBINSON: One second, Your Honor.

21 (Pause.)

22 DEFENDANT BOYD: At this point, the Defense rests,
23 Your Honor.

24 THE COURT: All right. Ladies and gentlemen, we're
25 going to go ahead and take our lunch recess. I just ask

1 you to be back in the jury room at 1:45. And we're going
2 to try to conclude the case at that time.

3 So enjoy your lunch. Don't do any outside
4 investigation. And continue to keep an open mind. And
5 don't discuss the case with anyone.

6 Thank you.

7 Be back at 1:45.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 12:28 p.m.)

10 MOTIONS

11 THE COURT: Yes, sir, Mr. Boyd.

12 DEFENDANT BOYD: Yes, sir, Your Honor.

13 Can I renew my motion for a directed verdict of
14 acquittal on all --

15 THE COURT: Of course, you may, sir.

16 And I respectfully deny the motion.

17 DEFENDANT BOYD: Thank you, sir.

18 THE COURT: All right. We'll be in recess until
19 1:45. And, at that time, we'll have the closing
20 arguments.

21 Thank you.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: Good afternoon.

24 We have a juror who has been involved in a minor car
25 wreck, Mr. Ingle. And I don't know how long it's going to

1 take him to return.

2 Is there any objection to removing him and replacing
3 him with the alternate?

4 MS. TESSITORE: Not from the State, Your Honor.

5 DEFENDANT BOYD: No objection.

6 THE COURT: Okay. That's what we'll do.

7 Anything else before we bring the jury back in?

8 MS. TESSITORE: Your Honor, the State would request
9 permission to, at least, be able to approach the table
10 with respect to the evidence when I'm speaking to the jury
11 in closing.

12 THE COURT: All right. Anything from the Defendant?

13 DEFENDANT BOYD: No, sir, Your Honor.

14 THE COURT: Thank you.

15 MS. TESSITORE: Thank you, Your Honor.

16 THE COURT: So is the State going to waive opening on
17 the law?

18 MS. TESSITORE: Yes, Your Honor.

19 THE COURT: Bring the jury in.

20 (WHEREUPON, the jury came into open court at
21 approximately 2:05 p.m.)

22 THE COURT: Ladies and gentlemen, I believe
23 Mr. Ingle, as you may know, was involved in a minor car
24 wreck out on Haywood Road during the break. And we're
25 just going to substitute Ms. Bonavia --

1 Am I pronouncing that right?

2 JUROR #148, LAURIE BONAVIA: Bonavia.

3 THE COURT: Yes. So you're a regular juror.

4 JUROR #148, LAURIE BONAVIA: I was a regular juror.

5 THE COURT: Oh, Mr. Owens --

6 THE CLERK: It's Mr. Owens.

7 THE COURT: Oh, okay. I got my notes wrong.

8 And, Ms. Bonavia, you're still a regular then.

9 With that, we're going to have the closing arguments.

10 Mr. Boyd, whenever you're ready, sir.

11 CLOSING ARGUMENTS

12 DEFENDANT BOYD: Yes, sir.

13 I thank you today, jury. And I thank you for the
14 last three days that you've listened. I will say that I'm
15 not guilty. I may pawn items lately, but I did not commit
16 these crimes.

17 The stick they found in my truck four days later
18 can't be linked to the incident. Officer Shaw and Lusk
19 could not connect the stick to the material or the scene.
20 No FBI, no SLED, no county, no one could say it was the
21 stick. It's not broken. And Ms. Holcombe said it broke.
22 The material that came from when the suspect hit the table
23 can't be connected to my stick. I didn't do it. I didn't
24 do it.

25 I was legally pawning property I had found with a

1 license in plain view, midday, in front of a camera at
2 these pawnshops. Video shows me finding the items, not
3 stealing. If I thought I was doing something illegally,
4 why would I use my license during midday in front of
5 video?

6 Both victims gave different statements. One says
7 it's me. The other says, I don't know. How long do you
8 think 15 minutes took? You, the jury, I can't even begin
9 to explain what I'm feeling right now. I've never been in
10 this situation before. This is what I've always watched
11 on television, and hoped that it never happened to me. I
12 may look somewhat confident and I may look somewhat
13 professional, but deep down inside, I'm very afraid and
14 fearful. This is my life here. I'll never be the same.

15 I have condolences for the victims. I have a mother
16 and I have sisters that I love. I didn't just wake up one
17 day at 43 years old and decide to throw my life away. I
18 love life even more since my diagnosis. I feel very good
19 considering everything I've been through. I feel very
20 good in my body. I still take medication that's probably
21 \$4,500 to \$5,000 a month.

22 And I don't give no credit to medication, but I give
23 praise to all mighty God. One thing the situation did do,
24 it did bring me closer to God. I'm still here, and I'm
25 still alive for a purpose. The only thing I want to do is

1 go back to that little house that I love so much. The
2 only thing I want to do is see my spoiled rotten kitty cat
3 again. I want to hold my cat again. The only thing I
4 want to do is tell my sisters how much I love them.
5 They've spent \$15,000 of their money since I've been
6 incarcerated. \$15,000 on representation when the only
7 thing someone had to do was just go and obtain the audio
8 and video of that day.

9 But this is for a purpose. God allowed this for a
10 reason. I hate that this happened to the victims, but
11 more so, I'm a victim. And I've been unjustly violated.
12 But you know what? If I go to heaven, I have to forgive
13 my accusers. I want to go to heaven. I made my peace
14 with God.

15 I've met a lot of wonderful guys in that jail that
16 respected me and called me Mr. Billy, that came to me
17 every morning and asked me, Mr. Billy, would you pray for
18 me? Let me tell you something. I met some guys that will
19 never ever get out of jail. And they were some of the
20 nicest people I ever met, who made mistakes, who went down
21 that road, so to speak.

22 Now, I know what God wants me to do. Whether I spend
23 the rest of my life in jail, or whether I'm free --

24 MS. TESSITORE: Objection, Your Honor --

25 DEFENDANT BOYD: -- God wants me to preach his gospel

1 to the broken hearted, or people that have made wrong
2 choices.

3 I want the jury to look at everything that the
4 Prosecutors presented, at everything that could not link
5 Billy Boyd or that particular stick they say that they got
6 out of my material on my truck. A stick they stated, at
7 first, was a two by two, and then a two by four. That
8 particular stick over there is a two by eight. Everything
9 they tried to present, it did not stick. Nothing [sic]
10 was circumstantial.

11 Out of all the alleged conversations, we did not hear
12 not one recorded conversation between the victims talking
13 with the detectives. We got no surveillance. We got no
14 DNA. And even with that stick over there, there's no
15 Billy Boyd's blood on it. There's no Billy Boyd's
16 fingerprint on it. There's not a hair of Billy Boyd's.
17 There's nothing of Billy Boyd's to link Billy Boyd to that
18 crime.

19 I think they stated once that they had been robbed
20 before. The bottom line of it is, March the 8th, when I
21 was arrested because I was found with the alleged items, I
22 was judged right then as guilty. And I've been denied
23 bail since then. I haven't had a chance to build my case
24 or my strategy. This is me presenting the truth with what
25 I got, as I'm still presently incarcerated. This is me

1 presenting the truth. This is everything that I know.

2 I'm 44 years old now. My past record, my history,
3 nothing supports me being a robber and a kidnapper.
4 Nothing supports me being that person, nothing even
5 similar in my past record. Nothing supports that,
6 nothing. Nothing that they have submitted, nothing
7 circumstantial [sic], nothing that was conversed, nothing.
8 Not a fingerprint, not a hair, not an audio video, not a
9 surveillance. Nothing can link Billy Roy Boyd on that
10 day, March the 4th, at this particular place that this
11 robbery and this kidnapping happened.

12 There was so much more I could have said. There was
13 so much more I could have submitted had I been not denied
14 bail. But I used what I had. And you, the jury, I want
15 you to look at all the facts, and everything that was
16 submitted. Look at someone who's 44 years old, past and
17 present, and identify Billy Boyd as the one that night
18 that did the alleged crime.

19 And, also, I would like to say I forgive. I forgive
20 my accusers. And God bless everybody today. I want to
21 thank you very, very much.

22 Thank you.

23 THE COURT: Thank you, Mr. Boyd.

24 Ms. Tessitore.

25 MS. TESSITORE: May it please the Court.

1 Mr. Boyd, Mr. Robinson.

2 Ladies and gentlemen of the jury, when I began this
3 case, I told you a little bit of a road map as far as the
4 law, which the Judge will give you at the end of my
5 closing remarks. And I just wanted to remind you of those
6 elements before I sum up what the State's case is, and how
7 it shows that this Defendant is guilty beyond a reasonable
8 doubt.

9 First of all, the kidnapping, the Judge will explain
10 that. Whoever unlawfully seizes or confines a person
11 without the authority of law, then they commit a
12 kidnapping. In this case, as I said in the beginning,
13 there's no duct tape. There's no blood. Fortunately,
14 there is no blood. And it was the fact that he used the
15 stick to open the door, told them to get in there,
16 threatened them, and they didn't feel free to leave. It's
17 as simple as that. They were in there. They locked the
18 door. And they were afraid to come out, because they
19 could hear the rumblings that he was still in the shop
20 looking for something. The front of the shop was dark.
21 He couldn't find anything. He went right out the back
22 door.

23 So, as far as the kidnapping goes, that's the
24 evidence you can consider. And you are the fact finders.
25 You are the judges of the facts. And I think that those

1 facts have been established. You've heard it from both
2 victims. You've heard the officers talk about where they
3 found the victims, in the bathroom, scared. You heard the
4 call from Ms. Maurer to 911 while she was in the bathroom.
5 And you could hear that she was not feeling like she was
6 free to leave.

7 So I think we can move on to the issue of the armed
8 robbery. Now, that is taking something of value from
9 another person in that person's presence by force or
10 intimidation, and while using a deadly weapon. And
11 there's no question that this Defendant was standing in
12 that small room and he held this stick, which feels like a
13 baseball bat. And you'll have a chance to look at this.
14 That would be force or intimidation. And you can
15 decide -- because you will make this decision, whether
16 this is a deadly weapon and whether it is able to be used
17 to inflict serious bodily harm. And this is the stick
18 which he was striking on the table. And Ms. Holcombe
19 never said that it broke in two. She just said that she
20 thought it may have broken. And you can determine if you
21 find that that is a broken stick.

22 So the elements of the armed robbery, obviously,
23 you've heard about the rings, the items of value, the
24 money that was taken. You heard it was from another
25 person, the two victims, and, obviously, in their

1 presence. So those are, basically, the checklist that you
2 need to keep in mind as you consider all of the evidence,
3 and decide what the facts are as the finders of the facts.

4 But, basically, ladies and gentlemen, this case is
5 about common sense and credibility. It's as simple as
6 that. It's not about conspiracy, or a trail, or a series
7 of coincidences. It's simply not that. This Defendant
8 was greedy. He was careless, and he got caught.

9 And he wants to talk to you about why would he go
10 into the pawnshop and not conceal his identity and talk
11 about that. My question is, why would he go into the shop
12 and not conceal his face when he's committing the robbery?
13 That's the first question. Because he was careless. And
14 then he got greedy when he started taking these items
15 around the next morning. And he said he felt like he
16 struck gold. And he was trying to get as much as he could
17 out of that jewelry. And then he was caught, as Detective
18 Lusk explained to you as he followed that trail.

19 You don't need -- as the Judge told you at the
20 beginning of this case, you don't need any special skills,
21 other than your common sense. And you can look at these
22 pieces of evidence and determine for yourself whether you
23 think that it's -- those wood fragments may have come from
24 that stick.

25 There was no testing done. The detective said -- you

1 know, the FBI couldn't do it, SLED couldn't do it. And
2 it's just pieces. It's pieces from an object that you can
3 compare and look at that stick as it was being struck on
4 the table and swung around. Would pieces of decay have
5 fallen out of the crack and the stick as you look at it?

6 And then you can decide whether those pieces that Dar
7 Shaw, Sergeant Shaw, collected the night of the incident
8 came from that crack in the stick. And you'll see that
9 crack in the stick. This is the photograph that was
10 taken. But you, actually, have the stick, and you have
11 the pieces. And you can look at those back in the jury
12 room and decide, did these pieces come from that stick?
13 That's your decision. It's common sense. And I don't
14 want to insult your intelligence by going any longer about
15 that. But this is not CSI. This is not TV. This is
16 Greenville County. And with all the pieces in the puzzle,
17 you don't need an expert to come in here and explain to
18 you how those pieces look like that stick.

19 With respect to the credibility, I would ask you to
20 consider, first of all, when Mr. Boyd was caught by
21 Detective Lusk, who -- and the Defendant, Mr. Boyd, didn't
22 know he was coming. So he didn't have time to tuck that
23 back with the rest of the tools, or whatever he says was
24 in the back of the truck.

25 But he is found by Detective Lusk. And Detective

1 Lusk asks him, hey, what about those rings. After they
2 had just found out that he had pawned the second set of
3 jewelry, which was the green and silver stones. And he
4 asked, well, what about the gold rings? And what did the
5 Defendant say to him after he was Mirandized? He said, I
6 don't know what you're talking about. Well, of course, he
7 knew what he was talking about, because he's on video, and
8 you have that, where he was pawning the two gold rings the
9 day after the robbery. So, of course, he knew about the
10 rings. So he lied to Detective Lusk. And he invoked his
11 right to remain silent. And no other statements were
12 taken, and the conversation ended.

13 With respect to, you know, Mr. Boyd, he wants you to
14 believe that Ms. Holcombe is a hair stylist who may have
15 been legally blind. I mean, that's what he wanted you to
16 believe when he was asking that question. He wants you to
17 believe that Ms. Holcombe was legally blind. But she's
18 not the one that identified him in the photo array. So
19 it's -- just moving on.

20 As far as the money, he told you that he collects
21 from social security for disability, he told you that he
22 receives that disability because he can't work. But, yet,
23 he's, also, told you about how hard he works at finding
24 all of those things, and going around talking to
25 pawnshops. He's very busy doing that. He's a landscaper.

1 He told you about his landscaping abilities.

2 So, basically, he is collecting a check from the
3 government, the same as if he's disabled. But yet, you
4 heard about how active he is. And he's talked about his
5 medical -- apparently, medical issues. That's not
6 relevant. That's to just try to get your sympathy. And
7 to believe that there's parasites the size of a snake, you
8 know, you make that decision. Is he telling the truth?

9 And he talked to you about his affiliations with all
10 of these pawnshops. But, yet, the two employees that came
11 in here, they did not recognize him when he came in the
12 pawnshop. And they told you that. They had to get all of
13 his information. He didn't wear a mask during the crime.
14 He changed his clothes.

15 He changes his hat. He said he has other hats. He
16 put on a baseball hat that's got a lid. And you have the
17 baseball cap right in that bag there to look at. And you
18 see it in the video, and you see it in the pictures. That
19 cap has a lid that, you know, kind of might help conceal
20 his face a little bit if he's walking around. But he
21 didn't do a whole lot. He just wasn't careful when he was
22 getting greedy. And he was trying to get as much as he
23 could out of the jewelry he found.

24 Now, you can look at the items that were collected by
25 Detective Lusk. Does that look like the belongings and

1 the money -- is this the money that came from the pawnshop
2 where they found him and he got the \$20 for the green
3 stones? And these items are the ones that were collected
4 from him, his hat, his wallet, and some loose change in
5 the pocket. Does that sound like somebody -- or as far as
6 the things he had that, you know, he leads a lavish life,
7 and has a housekeeper, and all these things that he's
8 trying to convince you that he -- you know why would he
9 need this money? So consider that.

10 Then he told you about his sisters, how they give him
11 everything. He's the baby. And whatever he wants, they
12 give him. They spend all of this money on lawyers, but
13 he's chosen to represent himself. His sisters are
14 enablers. That's what they are. And you can see how from
15 the day that his picture was taken when he was arrested --
16 and he told you his appearance has changed. That is not a
17 coincidence. He doesn't want to look like this man,
18 because this man is who robbed the shop that night. This
19 man right there, Mr. Billy Boyd. He has changed his hair.
20 He's changed his facial -- his beard. And he told you
21 about how much weight he has gained, you know. That is
22 not a coincidence. And maybe he was hoping that the
23 victims wouldn't be able to recognize him when he was in
24 here.

25 He said if he knew that the items were stolen that he

1 found that he would have traded them on the streets. And,
2 you know, why wouldn't he have gone and tried to find the
3 rightful owners of that property? You can see the rings.
4 They're valuable. And all of these items are in a plastic
5 bag laying on the ground. And my question is, what robber
6 would have gone through all that, to use this stick, to
7 shake it at these victims, you know, steal the items,
8 leave out before the police got there and then go up the
9 street and just drop his loot and just walk off? I mean,
10 that doesn't make any sense.

11 Again, just use your common sense. He wants you to
12 believe that these pieces of jewelry just all fell down
13 from the sky altogether, both sets of jewelry were
14 altogether, and contained in a nice little plastic bag.
15 And they just fell from the sky. And he was the luckiest
16 man to have found that. Use your common sense. That is
17 not a coincidence.

18 He called Mr. Martin, his friend that came in here.
19 He knows him. It's his neighbor. And he referred to him
20 as a bum. He was trying to, basically, distance himself
21 from Mr. Martin. Because Mr. Martin is the one that puts
22 him in the pawnshop. He rode with him. He knows him.
23 And, now, he's saying, oh, he's a bum. He's got problems.
24 And he's trying to push him away. That's the guy who he
25 was with. And that's -- why would he bring him to pawn

1 the items?

2 So you -- I think you can think about that, and
3 realize he's just trying to distance himself. He's
4 referring to himself in the third person. And you heard
5 that he would refer to Mr. Billy Boyd. Well, he is
6 Mr. Billy Boyd. He's the same one on March 4th, 2010,
7 that's sitting right here today.

8 He has, also, told you, basically, because there's no
9 video that it didn't happen. Well, you have better than
10 the video. In fact, you had the videos that you saw that
11 didn't have sound, because they don't record sound. But
12 you had the live testimony of the victims who lived
13 through this.

14 And Ms. Maurer is a little dramatic. There's no
15 question about that. But she's sitting there and being
16 cross-examined by the man who held this stick up to her.
17 And she was the one that got a full view of his face as he
18 was holding this stick, and shaking it, and demanding
19 money and jewelry. So, yes, she's going to be emotional,
20 and she's going to be dramatic. But that's because this
21 was a serious incident. And you heard her voice on that
22 911 call. And you can tell she was scared, and she still
23 is scared.

24 So, as far as Mr. Boyd talking about the months
25 that -- you know, all this time that could have been

1 investigated, he's had that time. He's had time to sit
2 there and think about how he could try to explain away,
3 you know, all of these pieces along the trail. And so he
4 has had that time. And he says he's got the resources and
5 so -- and he's given you what he has today, which is his
6 testimony about, you know, what he does, and where he
7 lives, and how he lives, or how he wants you to think he
8 lives. I would ask you to consider the credibility of the
9 officers and the victims, you know. Would all of those
10 officers come in here and put their hand on that Bible and
11 swear to tell the truth and risk their careers? All of
12 them.

13 So Mr. Boyd is suggesting that everybody got together
14 and there's a conspiracy against him. And I just ask you
15 to think about that. Does that make sense that they would
16 all just come together and decide that they were going to
17 try to frame Mr. Boyd? No, that doesn't make sense. And
18 that's -- you get to assess their demeanor and their
19 credibility. And you are the judges of that. So I'll let
20 you decide that.

21 Now, regarding the photo identification, the Judge
22 will explain to you about what factors you need to
23 consider with respect to the photo array that Ms. Maurer
24 looked at when she picked this Defendant out. And those
25 factors just, generally, are the opportunity to observe

1 the suspect, how close did she get, how is the lighting,
2 how accurate was her description that she gave to the
3 police as it compared to the Defendant, not today, but
4 when he was arrested only four days later with additional
5 growth on his face, obviously, showing that he did not
6 shave.

7 And it would be -- as far as the other factors, you
8 know, like I said, was she accurate in her description she
9 gave from the 911 call all the way to Detective Lusk?
10 And, you know, age, you know, height, weight, some of
11 those things are hard to judge in that instance. But she
12 was -- you know, she gave a range. And it all fits right
13 there, if you look at that.

14 So what I just want to do very briefly is have you
15 focus on the fact that this is -- clearly, we're just
16 talking about four days in time. And the first day was
17 Thursday, March 4th, when the robbery was committed. And
18 I'm just going to point out, this is the beginning of the
19 911 call from Ms. Maurer. And you can listen to that
20 again, if you wish to. This is when she called and she
21 gave the description of the suspect.

22 And then Sergeant Shaw collected the wood fragments
23 from the table, the table where the stick was struck. And
24 then you have the pictures. And I'm just pulling out two
25 where you can see where if he had parked this truck on the

1 side of the business -- you know, if he's going to commit
2 a robbery, he's not going to park between two cars. He's
3 going to plan for a quick getaway.

4 So if his truck had been parked here, Ms. Holcombe
5 and the other witness said they wouldn't be able to see
6 it. But he didn't, because he left a trail. He didn't
7 leave a fingerprint, but he left a trail. And you don't
8 need a fingerprint when you have two witnesses. And
9 Ms. Holcombe, even though she couldn't pick him out of the
10 array -- and that makes sense, because she told you all I
11 could see was the side of his face. And he kept shaking
12 that stick at me. And I was trying not to look, but I was
13 trying to look. So she did the right thing when she
14 looked at that array. She didn't pick out the wrong
15 person. So that goes to her credibility. She said,
16 I'm -- I can't be sure, you know. I don't know.
17 Ms. Maurer, Sharon, was the one who got the better look at
18 him. So she did the right thing, and you should consider
19 that.

20 Then the next day, as far as -- the Defendant is in
21 possession of the stolen jewelry. And you have heard that
22 he was at First Cash at 11:00. And he was getting an
23 offer on the two gold rings. And isn't it interesting
24 that he didn't show her all of the jewelry? He only
25 picked out two of the items as a set, the set taken from

1 Ms. Holcombe. And then at 3:00 p.m., he's over at Cash
2 America getting \$320 in cash. And he doesn't show them
3 the green stone jewelry either.

4 On Monday, when he goes back to First Cash, that's
5 when he pulls out the green jewelry, and he shows it to
6 Ms. Neubia. And Ms. Neubia, having been alerted by
7 Detective Lusk, is looking for items that match the
8 descriptions that were in the diagram. It matches. She
9 does the right thing, she calls the police. And they
10 arrive.

11 And then what do you have? Then you have this
12 Defendant with his truck with the stick laying across the
13 seat. And the detective told you, This is how I found it,
14 this is how I saw it. And the Judge makes the decision
15 about the legality of him seizing that. And he's already
16 made that decision, so you don't have to. All you have to
17 decide is does that appear to be the stick that's here
18 today, and is it in substantially the same condition? And
19 you will be the judge of that.

20 Then you look at the items that were collected from
21 his person when he was arrested. And there's the money
22 from the pawnshop. He's already somehow spent the other
23 \$320 pretty quickly. And then he's arrested. And this
24 trail then leads to when he is photographed by Detective
25 Lusk. And you can see him there when he's caught. And

1 that's the look of a man who had been caught. He got
2 greedy. He got careless. And he got caught.

3 And then, finally, you have the photo array. And, as
4 I said, you look at the lighting. You look at the
5 opportunity to observe. And you've heard from the
6 victims. And this is the Defendant. This is the man who
7 has been identified, not only by his face, but when
8 Ms. Holcombe was in here you can tell, I mean, he had a
9 very distinctive voice, you know. You don't need a voice
10 degree in college to understand that. You can hear his
11 voice. It's very distinctive.

12 And, just remember, when Ms. Holcombe testified, she
13 said that when he was about to -- they were closing the
14 door, because he ordered them in there. She said, I heard
15 him say, God will forgive me for this. And it's not a
16 coincidence that he stood up here before you and talked
17 about God and forgiveness. That's not a coincidence.
18 Because he believes that because he's done all these good
19 things, and met all these nice people, and done some good
20 things since he's been arrested and pending his trial that
21 he somehow has been justified in what he did. But, in
22 order to be forgiven, he has to repent and be held
23 accountable for it. And that, ladies and gentlemen, is
24 your job.

25 And, in this case, there are not a series of

1 coincidences, like lightening striking Mr. Boyd one time
2 after another time after another time. There's this whole
3 trail of evidence that leads to him. It's not a series of
4 coincidences. It's a trail of evidence that leads by just
5 using your common sense, and what you've heard here today
6 and this week.

7 This is the Defendant who needs to be held
8 accountable. He's in denial. And it's your job to make
9 sure he understands, just like he said when he stood up
10 before you, that when you do bad things, there's bad
11 consequences. And he needs to be held accountable for
12 that, rather than having this delusion that he's somehow
13 made peace with God. Well, that's between him and God.
14 And you're not asked to be God. You're just asked to be
15 judges of the facts, and use those facts that the State
16 has given to you. And you should be firmly convinced of
17 his guilt as to all four charges.

18 Thank you.

19 THE COURT: Thank you, Ms. Tessitore.

20 CHARGE ON THE LAW

21 THE COURT: Ladies and gentlemen, you've heard all
22 the evidence, and you've heard the arguments of the
23 lawyers. And it's now my duty to instruct you on the law
24 that applies to this case. And it's your duty to find the
25 facts from all the evidence in the case. And to those

1 facts, you must apply the law as I give it to you, and you
2 must follow the law as I give it to you. And you should
3 not be concerned with what the law should be, but with
4 what it is.

5 You must not be influenced or concerned by any
6 personal likes or dislikes, or opinions, or prejudices, or
7 undue sympathy. And that means you must decide this case
8 solely on the evidence before you, and according to the
9 law. And you will recall you took an oath to do just that
10 when we began this case on Monday.

11 Now, in following my instructions, you must follow
12 all of them and not single out some and ignore others,
13 because they're all equally important. And you must not
14 read into these instructions, or anything I may have said
15 or done during the course of this trial as any suggestion
16 as to what I think your verdict should be, or what I think
17 the facts are in this case, because that is a matter
18 entirely for you to determine.

19 Under our Constitution, you are the sole and
20 exclusive judges of the facts. And I'm not allowed or
21 permitted to comment on the facts. And, please, don't
22 construe anything I've done or said during this trial as
23 any commentary on the facts. You and you alone are the
24 judges of what the facts are. And you decide what the
25 facts are by evaluating or weighing the evidence you've

1 heard during the course of this trial.

2 There's no way for you to weigh evidence in the
3 literal sense. I'm, certainly, not going to give you a
4 set of scales to take back in the jury room to conduct
5 experiments. That wouldn't be practical. You weigh and
6 evaluate evidence mentally. And you do it by simply using
7 your good common sense, and your sense of logic and
8 reason, and your life experiences. And you bring those
9 things to bear on the evidence you've heard here in this
10 trial.

11 Now, I told you at the outset that the evidence from
12 which you are to decide what the facts are consists of two
13 sources. The first is by way of sworn testimony. And the
14 second is by way of exhibits. Everything else is not
15 evidence. The law, also, recognizes two different forms
16 or types of evidence. And what I'm talking about, ladies
17 and gentlemen, is direct evidence and circumstantial
18 evidence.

19 Direct evidence is the testimony of someone who
20 claims to have actual and direct knowledge of a fact, such
21 as an eyewitness. It is evidence that, if believed,
22 immediately establishes a fact.

23 Circumstantial evidence, on the other hand, is
24 indirect evidence. Put another way, circumstantial
25 evidence is proof of a chain of facts and circumstances

1 from which you could find that another fact exists, even
2 though it has not been proven to you directly.

3 Now, the law makes no distinction between the weight
4 or value to be given direct or circumstantial evidence.
5 You're entitled to consider both kinds of evidence. And
6 there's not a greater degree of certainty required of one
7 over the other. After weighing all the evidence, if
8 you're not convinced of Mr. Boyd's guilt beyond a
9 reasonable doubt, you are required to find him not guilty.

10 Now, I told you at the beginning that you would have
11 to determine and gauge the credibility or believability of
12 all the evidence. And I'm not going to repeat that again,
13 because I know you heard me the first time. But I will
14 say this, you can believe everything a witness says, or
15 you can believe nothing a witness says. You can believe
16 parts of a witnesses testimony, and disbelieve other parts
17 of the same witnesses testimony. You can believe one
18 witness over several, or several over one. But you,
19 certainly, aren't going to decide this matter of
20 credibility arbitrarily or irrationally. You're going to
21 decide it based on principles of logic and reason, and
22 using sound judgment.

23 Now, as I told you several times before we began the
24 presentation of evidence, the mere fact that Mr. Boyd has
25 been charged is not evidence of anything. Remember, the

1 indictment is not a witness. It's not an exhibit. And
2 you should not place any weight on it whatsoever. The
3 mere fact that someone has been charged with a crime
4 doesn't even create a suspicion of guilt.

5 Mr. Boyd pled not guilty to the charges, and that
6 plea put the burden on the State to prove him guilty. A
7 person charged with committing a crime is never required
8 to prove himself innocent, or prove himself not guilty, or
9 offer any evidence or explanation whatsoever. That is a
10 fundamental part of our law. And it is not a
11 technicality. It is a substantial right to which everyone
12 is entitled, unless you, the jury, are satisfied that the
13 State has proven guilt beyond a reasonable doubt.

14 I, also, told you that you would have to weigh and
15 evaluate the evidence as to each charge separately. And
16 there are four charges, four indictments. And the verdict
17 form is going to set them out separately. But you're
18 going to have to weigh and evaluate the evidence as to
19 each charge individually, and not be influenced by your
20 decision on one charge as to what you decide to do on
21 another.

22 Now, I've talked a lot about reasonable doubt, so let
23 me define that term for you. Reasonable doubt is defined
24 by the law as the kind of doubt that would cause a
25 reasonable, sincere, honest, and conscientious person to

1 hesitate to act in an important matter in their own
2 affairs. Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of the Defendant's guilt.

4 There are, of course, very few things we can know
5 with absolute certainty. And the law does not require
6 proof that overcomes every possible doubt. If, based on
7 your view of the evidence, you are firmly convinced of
8 Mr. Boyd's guilt as to a charge, you must convict him of
9 that charge. On the other hand, if you think there's a
10 real possibility that he is not guilty, you would be
11 required to give him the benefit of the doubt and find him
12 not guilty.

13 A reasonable doubt may arise from the evidence or
14 from a lack of evidence. And a defendant is entitled to
15 every reasonable doubt that may arise in the case. And
16 that means simply that if upon any issue of fact that is
17 essential to a finding of guilt you have a reasonable
18 doubt as to how that issue should be resolved, it's your
19 duty to resolve that doubt in favor of Mr. Boyd.

20 In order to establish criminal liability, the State
21 is always required to prove criminal intent beyond a
22 reasonable doubt. Criminal intent is something that can
23 be shown by circumstantial evidence, and may be inferred
24 from the circumstances. And it is not necessary to
25 establish intent by direct and positive evidence. But

1 intent may be established by inference in the same way as
2 any other fact by taking into consideration the acts of
3 the parties and all the circumstances. Criminal intent is
4 a mental state of conscious wrongdoing. It is up to you
5 to determine what the Defendant intended to do based on
6 the circumstances.

7 Now, ladies and gentlemen, Mr. Boyd has represented
8 himself during this trial. And, of course, everyone has a
9 Constitutional right to represent themselves. And the law
10 makes no distinction between a criminal defendant that
11 represents himself at a trial and a defendant who is
12 represented by an attorney. And, of course, you would not
13 be authorized to make any distinction in that regard
14 either.

15 Now, I'm going to go through the two crimes that are
16 alleged to have occurred and committed by Mr. Boyd. The
17 first is armed robbery. And I'm going to tell you what
18 the elements of that crime are. And the second is
19 kidnapping. And then I'll go through the elements of
20 those crimes -- that crime as well.

21 Armed robbery is an offense set forth by statute.
22 And in order to prove that Mr. Boyd committed this
23 offense, the State must first prove beyond a reasonable
24 doubt that he took personal property away from the person
25 or presence of another person. Property is in the

1 presence of a person if it is within the person's reach,
2 inspection, observation, or control so that the person
3 could, if not overcome with violence or prevented by fear,
4 keep possession of the property.

5 The State must, also, prove beyond a reasonable doubt
6 that the Defendant carried the property away intending to
7 permanently deprive the owner of the property, and keep
8 the property for the Defendant's own use. The slightest
9 removal of the property or the complete possession, even
10 for an instant by the Defendant, is sufficient to show a
11 taking and carrying away of the property. The taking and
12 carrying away of the property must have been done with
13 violence, or putting the owner of the property in fear of
14 violence.

15 Finally, the State must prove beyond a reasonable
16 doubt that the Defendant was armed with a deadly weapon
17 during the robbery. A deadly weapon is defined as any
18 article, instrument, or substance that is likely to cause
19 death or great bodily harm. Whether an instrument has
20 been used as a deadly weapon depends on the facts and the
21 circumstances. The following are examples of instruments
22 that may be deadly weapons: A pistol, a shotgun, a rifle,
23 a dagger, a knife, a slingshot, metal knuckles, a razor,
24 and a gun may be a deadly weapon, even if it is not
25 operating. Ordinary objects may become deadly weapons

1 when the facts show that they have been used to inflict
2 serious bodily harm or death.

3 Now, the second crime alleged is kidnapping. In
4 order to prove this offense, the State must prove beyond a
5 reasonable doubt that Mr. Boyd knowingly and unlawfully
6 seized, confined, inveigled, decoyed, kidnapped, abducted,
7 or carried away another person without authority of law.

8 To do something unlawfully is to do it willfully
9 against the law. Knowingly means with knowledge,
10 consciously, and not accidentally or involuntarily. Seize
11 means to take hold of suddenly or forcibly. Confine means
12 to limit, restrict, or enclose within bounds, imprison, or
13 shut or keep in. Inveigle means to lure, entice, or lead
14 astray by false representations, promises, or other
15 deceitful means. Decoy means to lure by or as if by
16 decoy. A decoy is something to entice a person into a
17 trap. Kidnap is to remove a person against his will by
18 unlawful force, or by fraud. Abduct means to carry off
19 secretly or by force for an illegal purpose. And carry
20 away means to remove.

21 The State does not have to prove that the Defendant
22 did all of these things. Instead, if you find by a
23 reasonable doubt that the Defendant did any of these
24 things, you may find the Defendant guilty of kidnapping.
25 Something done without authority of law is something done

1 which the law does not sanction, permit, allow, condone,
2 or provide justification for. The kidnapping does not
3 have to be for any personal or monetary gain or any
4 illegal purpose, but may be for any reason whatsoever.

5 Now, ladies and gentlemen, the State always has to
6 prove identity beyond a reasonable doubt. You must be
7 satisfied beyond a reasonable doubt of the accuracy of the
8 identification of the Defendant before you may convict
9 him. Identification testimony is an expression of belief
10 or impression by a witness.

11 You must decide the accuracy of the identification.
12 And you must consider the believability of each
13 identification witness in the same way as you would with
14 other witnesses. You may consider whether the witness had
15 an adequate opportunity to observe the offender at the
16 time of the offense. This may be affected by how long or
17 short a time was available, how far or close the witness
18 was, the lighting conditions, and whether the witness had
19 a chance to see or know the person in the past.

20 The burden of proof on the State extends to every
21 element of the crime charged. And this, specifically,
22 includes the burden of proving beyond a reasonable doubt
23 the identity of the Defendant as the person who committed
24 the crime.

25 Now, that covers all the substantive law. And let me

1 just give you a few instructions as to your deliberations.
2 You don't serve as jurors in this case, or any case, to be
3 partisans or advocates for either the State or the
4 Defense. You were chosen because both sides believed you
5 could be fair and impartial, and could decide this case
6 without any kind of preconceived ideas, or any type of
7 bias or prejudice. And that means that you are to use
8 your experiences in life, and your good common sense, and
9 your sense of logic and reason.

10 And, as I said, you use those things to weigh and
11 evaluate the evidence. And once you do that, you'll be
12 able to determine whether the State has met its burden of
13 proof. And you'll be able to determine the facts of the
14 case. And, once you have decided the facts, you take the
15 law that I've just given to you, and you apply it to those
16 facts. And when you've done that, you'll be able to reach
17 a verdict.

18 Now, deliberations are called that for a reason.
19 Because deliberation is defined as a careful
20 consideration, a weighing up with a view to a decision.
21 And I've already talked to you about this idea of weighing
22 the evidence. The genius of our jury system is it allows
23 12 people from different backgrounds, life experiences,
24 and perspectives to come together, consider the evidence,
25 and, ultimately, reach a verdict.

1 Now, we call them deliberations for a reason. You're
2 to consider the evidence in this case carefully and
3 deliberately, and discuss it in a calm, thorough, and
4 courteous manner. And, remember, you're not partisans or
5 advocates. You are judges, judges of the facts. And your
6 sole interest is to determine the facts of the case, and
7 determine whether the State has met its burden of proof.

8 So listen to the views of all your fellow jurors and
9 consider others points and points of view, and talk
10 through and discuss the evidence. And remember that your
11 vote is just that, it's your vote and no one else's. And,
12 certainly, don't surrender an honestly and conscientiously
13 held belief if you don't think you should. But, on the
14 other hand, don't be afraid to give up your opinion if the
15 discussion persuades you that you should and it would be
16 rational to do so. But this case is very important to
17 both sides. This is their day in court. And I know
18 you'll do this fairly and impartially.

19 And I want to go over the verdict form just briefly
20 with you. And I'll hand it to Mr. George. You'll just
21 see for each of the four indicted charges, it asks you to
22 determine whether you find Mr. Boyd guilty or not guilty
23 of those charges. And, again, you must consider each
24 charge separately and independently.

25 Now, the record is closed. There are not going to be

1 any more witnesses. There's not going to be anymore
2 exhibits. So I can't give you something that may have
3 been referred to during this case that was not put into
4 evidence, so bear that in mind.

5 And, also, don't start deliberating until you get the
6 exhibits. That will be your signal that you can start
7 discussing the case.

8 I thank you for your attention.

9 And you may return to the jury room at this time.
10 And don't start talking about the case until you get the
11 exhibits.

12 (WHEREUPON, the jury was excused from open court at
13 approximately 2:54 p.m.)

14 THE COURT: Any objections to the charge?

15 MS. TESSITORE: None from the State.

16 THE COURT: From the Defense?

17 MR. ROBINSON: Your Honor, we didn't cover this --
18 Mr. Boyd didn't cover this. He would ask for a lesser
19 included charge of strong armed robbery in this case.

20 THE COURT: Okay. On what basis would he be entitled
21 to that?

22 MR. ROBINSON: Your Honor, as the Court is aware, the
23 elements of strong armed robbery are -- one is the taking
24 of money, goods, or personal property. Another is putting
25 that person in fear by violence -- or putting the person

1 in fear. That was presented in this case by the evidence
2 that this person took a stick, and put the persons in
3 fear, and took the personal property of the two victims.
4 So Mr. Boyd would ask for a lesser included charge.

5 THE COURT: But how would that be a -- I just --
6 this, of course, has not been raised before. So I'm
7 trying to think through it here at the very end of the
8 case.

9 MR. ROBINSON: Yes, sir.

10 THE COURT: So how would a jury be entitled to find
11 him guilty of strong armed robbery is what I'm asking?

12 They can either believe or not believe --

13 MR. ROBINSON: Yes, sir.

14 THE COURT: -- the evidence. I'm just trying to find
15 your rationale for requesting this lesser included charge.

16 MR. ROBINSON: I think the rationale, Your Honor, is
17 that it covers the elements of armed robbery. The weapon
18 that we're speaking of here is a stick that put them in
19 fear -- put the victims in fear of danger and harm. It
20 wasn't a gun or anything of that nature, but it was a
21 stick. And that's a rationale that fits into the common
22 law robbery.

23 THE COURT: So what's the State's position on that?

24 MS. TESSITORE: Well, Your Honor, if they determine
25 that the weapon in the case is not a deadly weapon, as

1 they have the -- as what's -- that's in their province,
2 then it would be strong armed robbery.

3 THE COURT: Yes. I mean, I could see that.

4 I don't see how they could find that somebody wasn't
5 put in fear, that that didn't occur. But I could see the
6 jury saying the stick was not a deadly weapon. So I
7 don't -- I'll be glad to charge them that as a lesser
8 included offense.

9 Is that what you want, Mr. Boyd?

10 MR. ROBINSON: One second, Your Honor.

11 (Pause.)

12 DEFENDANT BOYD: I don't want it, Your Honor.

13 THE COURT: You don't want the charge?

14 DEFENDANT BOYD: No, sir.

15 THE COURT: And that's a strategic decision you're
16 making after consulting with Mr. Robinson?

17 DEFENDANT BOYD: Yes, sir.

18 THE COURT: All right. So you understand that if you
19 give the jury the option of the lesser included offense,
20 it's --

21 What's the maximum sentence on the strong armed
22 robbery?

23 MR. ROBINSON: 15 years.

24 MS. TESSITORE: 15 years, Your Honor.

25 THE COURT: So if the jury came back with that, the

1 maximum sentence would be 15 years, whereas under armed
2 robbery, it's 30 years.

3 MS. TESSITORE: A mandatory minimum, and then up to
4 30 years.

5 THE COURT: What's the mandatory minimum?

6 MS. TESSITORE: 10, I believe.

7 THE COURT: So it's a mandatory minimum of 10 to 30
8 years if they convict you of armed robbery. And you have
9 two charges of armed robbery.

10 If the jury had the option of the lesser included
11 offense of strong armed robbery and just convicted you of
12 those -- and, of course, I don't know what the jury is
13 going to do. I'm just making sure you understand they may
14 find you not guilty. And that may be your strategic
15 reason for not wanting the lesser included offense,
16 because you don't -- and then the jury doesn't have that
17 option. But I just want to make sure you understand the
18 consequences.

19 DEFENDANT BOYD: Yes, sir. I understand. If I said
20 I'm not guilty, I'm not guilty.

21 THE COURT: So you don't want the lesser included?

22 DEFENDANT BOYD: No, sir.

23 THE COURT: All right. Thank you.

24 Well, y'all confer about the exhibits and make sure
25 they're all in order. And then we'll be at ease until we

1 hear something from the jury once the exhibits are taken
2 back.

3 (Pause.)

4 THE COURT: Okay. We'll be at ease until we hear
5 something from the jury.

6 (WHEREUPON, the proceedings were recessed at
7 approximately 3:04 p.m.)

8 THE COURT: I understand we have a verdict.
9 Anything before we bring the jury in?

10 MS. TESSITORE: Not from the State, Your Honor.

11 THE COURT: All right. Do you have anything?

12 DEFENDANT BOYD: No objection, sir.

13 THE COURT: Bring the jury in.

14 (WHEREUPON, the jury came into open court at
15 approximately 4:00 p.m.)

16 THE COURT: Mr. Foreman, has the jury reached a
17 unanimous verdict, sir?

18 JUROR #45, JOSHUA GEORGE: We have.

19 THE COURT: All right. If you'll hand it to the
20 bailiff, we'll receive it and publish it.

21 Thank you.

22 VERDICT

23 THE CLERK: Your Honor, in the case of
24 2010-GS-23-3487, 3488, 3489, and 3490, the State of South
25 Carolina v. Billy Roy Boyd. Number one, as to the charge

1 of armed robbery, victim Sharon Maurer, indictment
2 2010-GS-23-3487, we, the jury, unanimously find the
3 Defendant, Billy Roy Boyd, guilty.

4 Number two, as to the charge of armed robbery, victim
5 Debbie Holcombe, indictment 2010-GS-23-3488, we, the jury,
6 unanimously find the Defendant, Billy Roy Boyd, guilty.

7 Number three, as to the charge of kidnapping, victim
8 Sharon Maurer, indictment 2010-GS-23-3490, we, the jury,
9 unanimously find the Defendant, Billy Roy Boyd, guilty.

10 Number four, as to the charge of kidnapping, victim
11 Debbie Holcombe, indictment number 2010-GS-23-3489, we,
12 the jury, unanimously find the Defendant, Billy Roy Boyd,
13 guilty.

14 This is signed by Joshua George, our foreman.

15 Ladies and gentlemen of the jury, if you agree that
16 these are the verdicts you reached in your deliberation
17 room, would you, please, raise your right hand.

18 (WHEREUPON, all the jurors raised their hand.)

19 THE CLERK: Thank you.

20 THE COURT: Any matters before the jury is discharged
21 from the State?

22 MS. TESSITORE: No, Your Honor.

23 THE COURT: From the Defense?

24 DEFENDANT BOYD: No, sir..

25 THE COURT: Okay. Ladies and gentlemen, that

1 concludes your service in this case. I believe you just
2 need to call back tonight after 6:00 to see if we have
3 cases tomorrow.

4 And I want to thank you for your service. And I hope
5 you have a good evening.

6 (WHEREUPON, the jury exited the courtroom at
7 approximately 4:03 p.m.)

8 THE COURT: Any motions at this stage?

9 MS. TESSITORE: None from the State, Your Honor.

10 THE COURT: From the Defense?

11 DEFENDANT BOYD: No, sir.

12 THE COURT: All right. We'll proceed to the
13 sentencing whenever everyone is ready.

14 Yes, ma'am, Ms. Tessitore.

15 MS. TESSITORE: May it please the Court.

16 Your Honor, I believe that the victims do wish to be
17 heard prior to sentencing.

18 Your Honor, with respect to his prior record, in
19 1997, receiving stolen goods; in 1998, fraudulent check;
20 in 2004, two counts of fraudulent check; in Georgia, 1991,
21 trespassing, false information to police, and unlawful use
22 of telephone.

23 THE COURT: I'll be glad to hear anybody who wishes
24 to speak at the sentencing on -- as far as the victims.

25 MS. TESSITORE: Thank you, Your Honor.

1 Just, please, state your name for the record.

2 MS. DEBBIE HOLCOMBE: I'm Debbie Holcombe.

3 THE COURT: Yes, ma'am, Ms. Holcombe.

4 MS. DEBBIE HOLCOMBE: Mr. Boyd, I just want you to
5 know --

6 THE COURT: No, no. You're not going to address him.
7 You're addressing me.

8 MS. DEBBIE HOLCOMBE: I just want Mr. Boyd to know
9 that my heart goes out to his family for what he has put
10 them through in the last almost two years. I want him to
11 know that being the Christian that I am, I will forgive
12 him, but I will never forget what he has done do me.

13 THE COURT: Thank you, Ms. Holcombe.

14 MS. TESSITORE: Ms. Maurer.

15 THE COURT: Yes, ma'am.

16 MS. SHARON MAURER: Your Honor, I hold this man no --
17 I forgive this man. But he's made his own choices. And
18 he's got a history of bad choices. I'm glad that this
19 happened to me, rather than someone smaller and weaker
20 that he might have taken advantage of. And I beg you when
21 you make your decision to bear in mind what might happen
22 if he's allowed out somewhere, for the trauma he's put us
23 through..

24 And I want to thank you for your indulgence. And I'm
25 sorry I'm such an emotional wreck.

1 THE COURT: All right. I understand, ma'am.

2 Thank you.

3 Anything further?

4 MS. TESSITORE: Nothing further, Your Honor.

5 THE COURT: All right. Mr. Boyd, I'll be glad to
6 hear anything you'd like to say, or if you'd like
7 Mr. Robinson to say anything for you.

8 DEFENDANT BOYD: I'm just -- I'm devastated. I'm
9 devastated. God knows my heart. But this is for a
10 reason. I'm really concerned about my family, my animals.
11 I'm devastated and -- I'm just devastated.

12 MR. ROBINSON: Your Honor, may I say something on
13 Mr. Boyd's behalf?

14 THE COURT: If he wants you to.

15 DEFENDANT BOYD: (Defendant Boyd nodded.)

16 MR. ROBINSON: Your Honor, he's been a very
17 cooperative person at the trial of this case. It's
18 unfortunate, the result. But I believe that Mr. Boyd had
19 an opportunity to speak his mind and to present himself in
20 court.

21 He does suffer from AIDS. His life span is not very
22 high. He doesn't have a long life to live as a result of
23 this. He's been in jail for 20 --

24 DEFENDANT BOYD: 21 months.

25 MR. ROBINSON: 21 months.

1 And, Your Honor, his record is very small, nothing in
2 terms of any violent crimes or anything of that nature,
3 mostly bad checks that weren't paid and failure to return
4 rental property back in 1997, I believe.

5 But, Your Honor, we'd ask the Court to impose a
6 minimum sentence in this case. And, because of his
7 sickness, we'd ask him to be put into some medical
8 facility as well.

9 Thank you.

10 THE COURT: Thank you, sir.

11 The CDR code on kidnapping is 95; is that right?

12 MS. TESSITORE: Yes, Your Honor.

13 I believe -- I didn't check the CDR code.

14 THE COURT: What's the sentencing range?

15 MS. TESSITORE: The sentencing range with the
16 kidnapping is zero to 30 years. And it is violent and
17 most serious. And armed robbery is 10 to 30, also,
18 violent and most serious.

19 THE COURT: I didn't bring my sheet up here.

20 MS. TESSITORE: I didn't bring my CDR book. I'm
21 sorry, Your Honor.

22 Your Honor, it's 646 days that he's been in jail.

23 SENTENCE

24 THE COURT: Mr. Boyd, the sentence of the Court is
25 that you be committed to the Department of Corrections on

1 indictment number 2010-GS-23-3487 for a period of 20
2 years. Credit for time served.

3 On indictment 3488, the sentence is 20 years,
4 concurrent. Those are for the armed robberies.

5 For the kidnapping, it's 10 years on case 3489, and
6 10 years on case 3490 concurrent.

7 Good luck to you, sir.

8 *****END OF TRANSCRIPT OF RECORD*****
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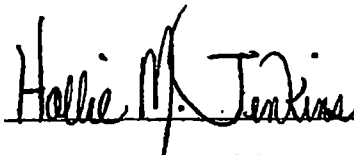
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE .)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 12th, 13th, and 14th days of December, 2011.

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

August 18, 2012

A handwritten signature in cursive script that reads "Hollie M. Jenkins". The signature is written in dark ink and is positioned above a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleBilly Ray Boyd 349065
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2015-CP-23-03678

APPLICATION FOR

POST-CONVICTION RELIEF

ENTERED COMPUTER

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL WIGGINS
JUN 11 PM 3 19**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 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 McCormick Correctional Institution
2. Name and location of Court which imposed sentence Greenville County Thirteenth Circuit
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-23-03487 2010-GS-23-03489
 - (b) 2010-GS-23-03489
 - (c) 2010-GS-23-03490
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) December 14, 2011
 - (b) 20 years

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty NO
- (b) after a plea of not guilty NO
- (c) after a plea of nolo contendere NO
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. 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. June 11, 2014
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. No citations of any written opinion
- ii. or orders entered
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) NA
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Did not knowingly, intelligently, voluntarily waive
 (b) Ineffective Assistance of Paid Counsel
 (c) Delayed Indictment / False Indictment
11. State concisely and in the same order the facts which support each of the grounds set out in (10): Add'l p. 2

- (a) No Order of Self Representation on Record
 (b) Appellate Counsel failed to raise a perse
 (c) reversible error. Paid Counsel provided no
 12. Prior to this application have you filed with respect to this conviction: representation -> continued on separate page

- (a) any petition in a State Court under South Carolina Law? Yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? Yes

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. Pro Se Motion For Dismissal
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
 i. Greenville County Thirteenth Circuit
 ii. South Carolina District Court
 iii. Greenville, South Carolina
 iv. _____
- (c) the disposition thereof:
 i. State acknowledged Motion For Dismissal
 ii. in Procedural History but failed to address
 iii. the Motion. District Court closed the Motion
For Dismissal on November 22, 2011.
Did not make a ruling on the Motion
continued on separate page

iv.

(d) the date of each such disposition:

- i. No Response From State of South Carolina
- ii. District Court Closed the Motion for
- iii. Dismissal on November 2 2011, without
- iv. a ruling then filed a 2241 Habeas

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. No citations or written opinions
- ii. or orders entered
- iii. _____
- iv. _____

Cons
on Nov
2, 20
cont
on
separate
page

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?

Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. Motion For Dismissal of an Indictment
- ii. Pursuant to Speedy Trial Act of 1974 and
- iii. Sixth Amendment Ineffective Assistance

(b) the proceedings in which each ground was raised:

- i. Criminal Trial
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Waiver of Counsel Circumstances
- (b) prevented Petitioner from asserting this
- (c) ground. However, the Court knew that

17. Were you represented by an attorney at any time during the course of:

Petitioner had not validly waived his right
to counsel. → continued

- (a) your arraignment and plea? NO Petitioner never arraigned
- (b) your trial, if any? NO Paid Counsel relieved two days
- (c) your sentencing? NO
- (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? NO
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. Benjamin John Tripp, SC Court of Appeals
- ii. Scott D. Robinson P.O. Box 10042
- iii. Greenville, SC 29603
- (b) the proceedings at which each such attorney represented you:
- i. Criminal Appeal
- ii. Stand by Counsel Criminal Trial
- iii. _____
19. State clearly the relief you seek in filing this application:-
Reversal of Conviction
20. Are you now under sentence from any other court that you have not challenged?
NO

Additional Responses on separate pages

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

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

Billy Boy Boyd

SWORN to and subscribed before me this 11th
day of June, 2015.

[Signature] (L.S.)
Notary Public

My Commission Expires: May 03, 2017

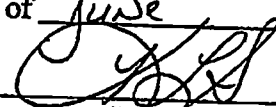
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

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

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


Applicant

SWORN or affirmed to and subscribed before me this
14th day of June, 2015.


Notary Public

My Commission Expires: May 03, 2017

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully;

- (a) Did not knowingly, intelligently and voluntarily waive right to counsel.
- (b) Ineffective assistance of paid counsel
- (c) Delayed Indictment

11. State concisely and in the same order the facts which support each of the grounds set out in (10);

(a) No Order of Self Representation in the record. The Petitioner was entitled to counsel under the Constitution of the United States and there is absolutely no evidence in the December 12, 2011, Criminal Transcript and December 9, 2011, Transcript to support that the Petitioner did knowingly, intelligently, and voluntarily waive his right to counsel. "The Sixth and Fourteenth Amendments guarantee that a person brought to trial in any state or federal court must be afforded the right to the assistance of counsel before he can be validly convicted and punished by imprisonment." *Faretta v. California*

(a) No record of Faretta hearing held to determine that Petitioner knowingly, intelligently, and voluntarily waived his Sixth Amendment right to counsel. Faretta requires that a defendant seeking self representation be "made aware of the dangers and disadvantages of self representation, and be informed that he would have to follow the rules of the court. So that the record will establish that he knows what he is doing and his choice is made with eyes open."

A defendant may waive his or her right to counsel through (1) waiver by affirmative verbal request; (2) waiver by conduct; and (3) forfeiture. *State v. Boykin*, 324 S.C. 552, 556, 478 S.E.2d 689, 690 (Ct. App. 1996).

1. Waiver by Affirmative Verbal Request

To effectuate a valid waiver of the right to counsel, the two-pronged Faretta test must be met in which the defendant is (1) advised of his right to counsel and (2) adequately warned of the dangers of self representation. *Prince v. State*, 301 S.C. 422, 423-24, 392 S.E.2d 462, 463 (1990) (citing *Faretta v. California*). The record fails to show that the Petitioner was advised of his right to counsel and adequately warned of the dangers of self representation. To the contrary, on December 9, 2011, the Petitioner was brought to the Judge's chambers, with paid counsel and prosecutor present, told unequivocally that he would go to trial on December 12, 2011, and that he would represent himself. Further, the Petitioner had been represented by paid counsel Scott D. Robinson since February 6, 2011. (10 Months). There is absolutely no evidence in the record to support that the Petitioner made a verbal request to waive his constitutional right to counsel.

13 Additional Pages
76 Exhibits

2. Waiver by Conduct

A defendant may waive his right to counsel through his conduct. **United States v. Goldberg** “[T]o the extent that the defendant’s actions are examined under the doctrine of waiver, there can be no valid waiver of the Sixth Amendment right to counsel unless the defendant also receives Faretta warnings.” **Goldberg**, 67 F.3d at 1100. Any subsequent misconduct will be treated as a waiver by conduct.” **Boykin**

In his order to be relieved as counsel, Attorney Scott Robinson alleged that the Petitioner was uncooperative, refused to meet with counsel, made threats to counsel and pursued a course of conduct that counsel believed to be repugnant and criminal. However, paid counsel submitted no evidence to support his allegations. Also, the record is void of any conduct by the Petitioner that could be deemed as obstinate, threatening or criminal sufficient to warrant a waiver of counsel. Moreover, Attorney Robinson had been the Petitioner’s paid counsel for ten months and prior to his motion to be relieved as counsel there had not been any issues raised by Attorney Robinson concerning the Petitioner’s conduct. Moreover, there is absolutely no record of any actions by the Petitioner to delay the adjudication of his matter. As evidenced in the record there were no requests for continuances by the Petitioner. As a matter of fact, the Petitioner sent a letter dated August 15, 2011, to Attorney Robinson imploring him to take the matter to trial or motion for dismissal. Ironically, after making these serious allegations, paid counsel Scott Robinson is ordered relieved as paid counsel but then ordered to serve as “standby counsel”.

In the **December 9, 2011, Order Relieving Counsel**, the Judge asserted that the Defendant consented to Attorney Robinson being relieved and had refused the services of OID. However, there is absolutely nothing in the record to show that the Petitioner consented to Attorney Robinson being relieved as counsel. As a matter of fact, the Petitioner stated in the record that Attorney Robinson had received money and should have investigated to defend him. Further, the Petitioner stated several reasons in his criminal trial to support his incompetence and inability to conduct his own criminal defense. For instance, the Petitioner asked if his sister who was not a licensed attorney could help with his defense.

Further, the Petitioner stated that he had been incarcerated for 21 months, denied the opportunity to prepare for his case because he was denied bail. Also the Petitioner stated in the record that he has full blown Aids and that the Judge used his medical condition as a basis to deny bond. Also, the Petitioner stated that on **October 25, 2010**, after much insistence from his sister, the Petitioner was admitted into the hospital for oozing blisters from his head to his private areas, diagnosis Shingles. The Petitioner was discharged from the hospital on October 28, 2010 and immediately put back into general population. Further, it is absurd that the Petitioner would knowingly, intelligently and voluntarily ask to represent himself after the Petitioner’s family paid \$4500.00 to Attorney Scott D. Robinson to represent the Petitioner in his criminal matter. Also, the record fails to show that the Petitioner was offered OID services prior to being forced to represent himself on December 12, 2011.

Also, the record gives the impression that the Petitioner had not retained counsel in a reasonable time, thus his right to counsel was waived. Please note that prior to the Petitioner being brought before the Judge on January 13, 2011, the Petitioner's attorney, **Ivan J. Toney was relieved on December 15, 2010, by the Judge without the Petitioner's knowledge and consent.** After the Judge relieved the Petitioner's paid counsel on December 15, 2010. On January 13, 2011, the Petitioner was brought before Assistant Solicitor Allen Fretwell who asked very angrily why the Petitioner was giving them a very hard time. Allen Fretwell stated to the Petitioner that he was not suppose to be speaking with him but continued to do so. He then took the Petitioner before a judge; whom the Petitioner later discovered to be Judge Stilwell, the same judge that denied the Petitioner bail on April 1, 2010 and November 11, 2010. **The Judge ordered the Petitioner to retain counsel in 30 days.**

Further the Petitioner was threatened that if he did not retain counsel in 30 days his right to counsel would be deemed waived. **(Procedural History).** Also, on **January 13, 2011**, later that evening, Attorney Scott D. Robinson made an unsolicited visit to the Petitioner. Attorney Robinson stated to the Petitioner that he had seen him earlier that day in the Judge's courtroom and he believed that he could help him. Attorney Scott Robinson pursued the Petitioner and his family until he was retained on **February 6, 2011.** **(Greenville County Detention, Inmate Visits, Procedural History).**

Here, the record in the instant case is void of any conduct by the Petitioner that could be deemed as a waiver of counsel. Further, the record fails to provide any evidence that the Petitioner was advised of the dangers and disadvantages of self-representation as required by Faretta. Moreover, it is inconceivable that the Petitioner would make the choice to litigate his own criminal matter notwithstanding 21 months of detention without preparation and access to documents, poor health due to Aids, his lack of familiarity with the criminal court system, and he had paid counsel. The trial court made no findings, either oral or written that Petitioner's self-representation was made knowingly, intelligently, and voluntarily.

3. Forfeiture

In *Unites States v. Goldberg*, the Court recognizing the drastic nature of the sanction of forfeiture declared that forfeiture sanction should only be applied where the facts establish "extremely dilatory conduct."

In the instant case, the sanction of forfeiture would be drastic because there is absolutely no evidence of abusive conduct from which to conclude that the Petitioner forfeited his right to counsel. Here, paid counsel alleged in his motion to be relieved that Petitioner was uncooperative, refused to meet with counsel, made threats to counsel and pursued a course of conduct that counsel believed to be repugnant and criminal. However, the

record is absent any evidence that the Petitioner made threats to counsel or pursued a course of conduct that could be construed as repugnant and criminal. Furthermore, the trial court failed to conduct a hearing or make an inquiry into counsel's claims. The Petitioner's family has recorded conversations with counsel and during these conversations at no time did Attorney Scott D. Robinson assert that the Petitioner exhibited dilatory conduct.

11(b) Ineffective Assistance of Counsel

The Sixth Amendment guarantees a defendant the right to the effective assistance of counsel. Counsel has the duty to provide a level of representation that is on par with prevailing professional norms. Counsel must conduct reasonable investigation, preparation, and presentation of the defense.

To establish a claim of ineffective assistance of counsel, the two-step process established by the Supreme Court of the United States requires the defendant to show: 1) specific actions or omissions by counsel that fall below an objective standard of reasonableness and 2) a reasonable probability that the result would have been different but for the deficient performance of counsel. There is a strong presumption that counsel was effective. However, actual conflict of interest and complete failure to investigate leads to a presumption of prejudice.

Appellate counsel ineffective for failing to raise a per se reversible error on direct appeal; i.e., **no Order of Self-Representation and Faretta Hearing on record**. Also, Appellate Counsel failed to raise delayed indictment and other substantive issues. The Petitioner was arrested on **March 8, 2010**, but Petitioner was indicted on **February 15, 2011, 343** days later and detained in Greenville County Detention for twenty-one (21) months without bond.

Paid Counsel Attorney Scott D. Robinson conspired with the State to induce the Petitioner to plead guilty. And when the Petitioner refused to plead guilty, Paid Counsel Scott D. Robinson maliciously relieved himself as counsel on December 9, 2011, Friday, two days before the Petitioner was forced to go to trial and represent himself on December 12, 2011. Paid Counsel Scott D. Robinson deliberately and maliciously refused to file a motion for dismissal on the behalf of the Petitioner even after admitting in a letter response that the State delayed to indict and prosecute its case against the Petitioner. Paid Counsel stated in the letter that he would file a **Motion to Dismiss on September 12, 2011**, but he never did. The Petitioner's sister was forced to file a motion to dismiss on behalf of her brother on **September 7, 2011**. (Attorney Client Communication August 26, 2011)

Paid Counsel failed to investigate the Petitioner's case. The Petitioner and his family were told that the \$4500 included a full investigation of the case and that Paul J. Silvaggio would be the investigator. However, Attorney Scott D. Robinson requested that the Petitioner's family find the alibi witnesses, get pawn shop records and check the

Salvation Army for a possible suspect. In a **July 18, 2011**, tape recorded conversation, Attorney Scott Robinson proposed that a female investigator that he knew look at the case. The Petitioner's family declined because they knew that Attorney Robinson was stalling for time to help prosecutors find a convenient way out. Later, Investigator Silvaggio disclosed that he was no longer assisting Attorney Robinson for ethical reasons and that no investigation was ever conducted. Investigator Silvaggio also stated that Petitioner's family should request the return of money because no investigation was ever conducted.

Paid Counsel failed to inform Petitioner/Client.

February 8, 2011, Attorney Scott D. Robinson filed notice of representation.

February 9, 2011, Petitioner called his sister and stated that he was going to court. His sister called Attorney Robinson several times to inform him that Petitioner/Boyd was taken to court for trial and insisted that Attorney Robinson call her. Attorney Robinson did not return calls and when she later saw Attorney Robinson; he feigned that he had not received any calls from her. The Petitioner/Boyd without counsel was brought before Greenville Municipal Judge Mathew Hawley and Detective B. W. Lusk. Petitioner states that Judge Hawley stated, "we need to go forward with a hearing now and that there was no need to prolong it." After the Petitioner stated several times that he would not go forward without counsel; Judge Hawley tried to induce Boyd to go forward by saying, "the most I'm giving out today is three years." (Inmate Movement History record confirmed that Boyd was transported to court on February 9, 2011).

February 16, 2015, Petitioners sisters were told by Attorney Scott Robinson that a preliminary hearing would be held for the Petitioner/Boyd. However, Petitioner was not transported to the Greenville Municipal Court on that date. Judge Fulbright claimed that it was too late to transport Petitioner. Judge Fulbright scheduled the preliminary hearing for the next day.

*****February 17, 2011**, first so called preliminary hearing held for Petitioner/Boyd. Present in the courtroom were Petitioner's sisters, Attorney Scott Robinson, and Investigator Paul J. Silvaggio for the defense. Detective B. W. Lusk for the State. **Absent were the Victims.** It was apparent that Detective Lusk was being dishonest and that he was trying desperately to make his case against Petitioner/Boyd. He failed to provide any evidence sufficient for showing of probable cause. After Detective Lusk's testimony, Judge Fulbright failed to make a ruling. The Petitioner's sister and Investigator Silvaggio noted that the so called preliminary hearing was not recorded nor was the State's witness Detective B. W. Lusk required to swear in. After the hearing, Attorney Robinson immediately walked out of the courtroom without saying a word to the Petitioner or his family. Attorney Robinson never informed Petitioner/Client of the judge's decision. But when asked later about the results of the preliminary hearing on February 17, 2011, Attorney Robinson stated to the Petitioner's sisters that he was 99.9 percent sure that it was yea. (Inmate Cell Movement History)

May 22, 2011, Attorney Robinson visited the Petitioner, three months later. Attorney Robinson visited the Petitioner again on **May 23, 2011**. Petitioner asserts that Attorney Robinson told him that he was not going to trial; however, he wanted the Petitioner to prepare to go to court on **May 31, 2011**, no specific time given. (**Detention, Inmate Visits, May 23, 2011, less than 30 minutes**)

The Petitioner informed his sisters of the date. The Petitioner's sister called Investigator Silvaggio to inquire about the date. Investigator Silvaggio stated that he knew nothing about a hearing and he would call Attorney Robinson. After Attorney Robinson discovered that the Petitioner's sisters had been informed of the **May 31, 2011**, date, Attorney Robinson claimed that the hearing had been cancelled due to the alleged passing of Detective Lusk's mother. Petitioner noted that the Procedural History indicated that the trial was set for **May 25, 2011**, which would have been unreasonable since Attorney Scott D. Robinson had not prepared the Petitioner for trial. Petitioner did not receive any notice of hearing from the State (**Procedural History**)

July 18, 2011, Petitioner's sister called the Greenville Municipal Court to inquire about the preliminary hearing held on **February 17, 2011**. She was informed that there were no results to be given. She was also told that there was nothing written in the record and that Judge Hawley bound it over to the State. Petitioner's sister was advised to speak with the Solicitor. The Petitioner's sister noted that the clerk failed to provide the date the matter was bound over. Later that afternoon, Petitioner's sisters went to Attorney Scott Robinson's office to speak with him about their concerns about the State's failure to prosecute the Petitioner's case and to implore him again to file a motion to dismiss.

Attorney Robinson was evasive and it was apparent that he wanted the Petitioner to plead guilty. During the **July 18, 2011**, meeting, Attorney Robinson indirectly disclosed that the Petitioner was indicted on **February 15, 2011**. Petitioner's sister believed that the Municipal Court had informed Attorney Robinson that she had called earlier that day. The Petitioner reasoned that if he was allegedly indicted on **February 15, 2011**, why was there an attempt to bring him to the Municipal Court on **February 16, 2011**, and what was the purpose of the so called preliminary hearing held on **February 17, 2011**.

November 2, 2011, The South Carolina District Court closed the Petitioner's/Boyd's Motion for Dismissal without a response from the State and a **2241 Writ of Habeas** was filed by the South Carolina District Court purportedly on behalf of the Petitioner. However, at no time did the Petitioner ever make a motion seeking habeas relief pursuant to 28 U.S.C. 2241. When the Petitioner filed a Motion for Dismissal on **September 7, 2011**, he was a pretrial detainee in Greenville County Detention and had been for **eighteen (18) months**. Petitioner was aware that habeas is ordinarily available post conviction.

November 7, 2011, Petitioner/Boyd received second plea off via mail from Attorney Scott Robinson reducing the armed robbery to strong robbery and dropping the

kidnapping. Petitioner required to plead guilty by November 18, 2011, or the matter would be set for trial on December 5, 2011.

November 19, 2011, Saturday. Petitioner informed by detention officer that he is scheduled for trial on **December 5, 2011**. Court docket confirmed that Petitioner was placed on the docket on November 18, 2011.

Paid Counsel failed to call witnesses in the Petitioner's defense

November 21, 2011, first certified written request to Scott Robinson to subpoena witnesses and all pawn shop records.

November 23, 2011, Attorney Robinson made two attempts to visit with Petitioner. After his first attempt, Attorney Robinson spoke with the Petitioner's sister. Attorney Robinson stated that the purpose of his visit was to explain the plea offer to the Petitioner because he felt that Mr. Boyd did not fully understand the plea offer. Also stated that if the Petitioner/Boyd accepted the plea offer it would be time served and the Petitioner/Boyd would be home for the holidays. Attorney Robinson sent text messages stating that he was going back at 1230 P.M. to show the Petitioner/Boyd new information from the State and to see if there were any alibi witnesses.

December 2, 2011, Petitioner/Boyd received visit from Attorney Robinson. Attorney Robinson did not and had not prepared Petitioner for trial. Again, Attorney Robinson asked for alibi witnesses, information that had been given to him previously by the Petitioner and his sister. When asked why he sent the plea offer via mail, Attorney Robinson stated because they are monitoring. To suggest that the State was monitoring the Petitioner's phone calls. However, in his few prior visits, Attorney Robinson had never spoken with the Petitioner via phone. Attorney Robinson left additional discovery and a motion to relieve himself as counsel dated November 30, 2011.

December 5, 2011, Petitioner's sisters went to court and discovered that Attorney Robinson had requested a continuance for December 12, 2011.

December 5, 2011, Petitioner/Boyd submitted a letter requesting Attorney Robinson to relieve himself as counsel due to inefficient counsel and gross conflict of interest.

December 6, 2011, Petitioner informed that morning that he had to go to court. Petitioner stated that he was not scheduled until December 12, 2011, and he refused to go.

December 9, 2011, Friday, Petitioner/Boyd, again requested to go to court. Petitioner believed that this hearing pertained to his request to have Attorney Robinson relieved as counsel and agreed to be transported. **Petitioner was brought into the chambers of Judge Robin Stilwell.** Also present was paid counsel Attorney Scott D. Robinson and Assistant Jennifer Tessitore. Petitioner stated that there was no court reporter present. Also stated that he was told unequivocally that he would go to court on December 12, 2011, Monday, and that he would represent himself. Petitioner repeatedly told Judge that

he had not been prepared for trial and that Attorney Robinson had failed to subpoena his witnesses. Judge Stilwell sarcastically told the Petitioner to have his family subpoena his witnesses. Petitioner then asked Attorney Robinson to subpoena witnesses; he stated that he was no longer the Petitioner's/Boyd's attorney. Petitioner stated again that Attorney Robinson was working against him. Solicitor Jennifer Tessitore retorted, why don't we have his sister relieved as counsel and they all laughed.

Attorney Robinson drew up four subpoenas without addresses and called the Petitioner's sisters to inform them that the subpoenas would be in his mail slot. Petitioner's sisters did pick up the subpoenas after the office closed. Petitioner's sister noted that Attorney Scott Robinson did affix his name on the subpoenas as the attorney representing the petitioner. Petitioner's sisters made every attempt that weekend to locate those witnesses but were unsuccessful. Petitioner stated that he was harassed, mocked and intimidated in the December 9, 2011, meeting. After Petitioner was convicted on December 14, 2011, Petitioner discovered that Attorney Robinson had been relieved as counsel on December 9, 2011. However, Attorney Scott Robinson on December 12, 2011, stood as "standby counsel" to prevent a continuance and to give the appearance that the Petitioner/Boyd had chosen to conduct his own defense.

December 12, 2011, Attorney Robinson requested from the Petitioner's sister witnesses for the defense and then later provided the names to the solicitor. After the court reconvene, Solicitor Jennifer Tessitore requested that all witnesses for the defense be sequestered. The Petitioner's sister was never allowed back into the courtroom and waited outside the courtroom until the conclusion of the trial.

December 14, 2011, Attorney Scott D. Robinson coerced the Petitioner/Boyd to testify and stated that if Boyd did not testify it would look like he was hiding something. Boyd testified hoping that he could present himself to the jury. Petitioner repeatedly asked about his witnesses. Also, Petitioner asked the Judge to allow his witnesses to come forward in order to make his case. Petitioner stated that a few minutes later, Judge Hill requested that the bailiff get the witnesses for the defense. When the bailiff returned, he stated that there were no witnesses for the defense. Judge Hill then stated that they needed to move on. Petitioner again stated to Attorney Robinson that he needed his witnesses, especially **Linda Meyers**.

Attorney Robinson stated that the Petitioner was doing fine and that he did not need any witnesses, and the court moved forward with closing arguments. Petitioner later discovered that his sister who had been forced to wait outside as a witness since the start of the trial had been asked by Attorney Robinson twenty minutes prior to closing arguments to get a copy of Boyd's **lease agreement and social security statement**. The Petitioner's family had given this information to Attorney Robinson on February 6, 2011 and on June 11, 2011. When the Petitioner's sister returned, she was informed that witnesses had been called for the defense and that she had missed her opportunity because she was not there. Attorney Scott Robinson deliberately and maliciously sent Petitioner's sister to get documents that he already had to ensure that she did not testify for the Petitioner/Boyd. Also Attorney Scott Robinson gave Petitioner/Boyd's sister a

subpoena for Linda Meyers dated December 14, 2011, about an hour before closing arguments.

Rule 1:16, Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client, or where representation has commenced, shall withdraw from the representation of a client: (1) if withdrawal can be accomplished without material adverse effect on the interests of the client. (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expenses that has not been earned or incurred.

February 6, 2011, Sunday, Investigator Paul J. Silvaggio acting on behalf of Attorney Scott D. Robinson did come to the private residence of the Petitioner's sister, Ms. Donna Boyd and did present a contractual agreement for legal services for the Petitioner. Ms. Boyd agreed to pay \$4500, signed the agreement for legal services concerning a legal matter and Investigator Silvaggio did fill in the information in the agreement and affixes his initials by the date. However, as evidenced by the contract, Attorney Robinson did not affix his signature nor did he ever present the contractual agreement to the Petitioner for signature. It is evident that Attorney Scott Robinson did not intend to get a signed agreement for legal services from the Petitioner.

Further, on February 11, 2011, the Petitioner's sister in the presence of Investigator Silvaggio did pay a total of \$4,000 dollars to Attorney Scott D. Robinson. On February 17, 2011, the Petitioner's sister in the presence of Investigator Paul J. Silvaggio did pay to Attorney Scott D. Robinson a sum total of \$250.00, and on March 3, 2011, the Petitioner's sister did pay a sum total of \$250.00 to the Office Manager, the wife of Scott D. Robinson. However, absolutely no services were ever rendered.

Attorney Scott D. Robinson conspired with the State to withhold evidence.

June 11, 2011, Petitioner's sisters met with Attorney Scott Robinson to disclose the July 20, 2010, tape recorded conversation between the Petitioner's sister and potential witness Tracy Bryan Shirah. Petitioner's sister asserts that when she initiated the conversation about the recording, Attorney Robinson was dismissive and tried to ignore her in an attempt to down play the significance of the recording. Petitioner's sister placed the recording on Attorney Robinson's desk and it was only after the sister played the recording did Attorney Robinson feigned to be interested in the recording. Upon hearing the tape, Attorney Robinson asserted, "That's exculpatory evidence, and claimed that he did not have it."

Attorney Robinson then called Assistant Solicitor Tessitore and spoke via speakerphone. He stated that he had the Petitioner's sisters in his office and that they had Tracy Shirah's statement. Solicitor Tessitore stated that she already had it. Attorney Robinson stated

that this is a different statement. She stated different from the other one? He stated yes, and she stated really, oh! Based on their responses, it was apparent that Attorney Robinson knew about the recording prior to meeting with the Petitioner's sister on June 11, 2011, and that he and solicitors were deliberately withholding the recorded evidence. Moreover, Attorney Robinson and solicitors were surprised when the Petitioner's sister disclosed that she had taped the jail detention conversation with Tracy Bryan Shirah on July 20, 2010. Attorney Robinson requested two copies of the recording purportedly for himself and the solicitor. June 18, 2011, Petitioner's sister did provide two copies of the tape recorded evidence and the names of the alibi witnesses.

11 (c) Delayed Indictment/False Indictment

Delay in criminal trial proceeding Petitioner asserts that 343 days passed from his arrest on March 8, 2010, before he was secretly indicted on February 15, 2011. Petitioner asserts that he was secretly indicted because he was never afforded an initial appearance or a preliminary hearing, violating South Carolina law and his constitutional right to a speedy trial. Also Indictment illegally detained because the victims did not testify before the grand jury and the indictment was not true billed because the grand jury never met. Also there are serious defects in the indictment.

Petitioner asserts that he was secretly brought before Solicitor Arial on September 16, 2010. Solicitor Arial asked the Petitioner where he lived. In the discovery and during the so called bond hearing on April 1, 2010, it was stated by one of the victims that the person that robbed them was homeless and that she had seen the suspect at the Salvation Army. The Petitioner stated that he had never been homeless and that he had maintained his residence for six years. (Inmate Cell Movement History)

September 17, 2010, Petitioner retained the services of Ivan J. Toney.

September 22, 2010, Petitioner received first plea offer from Solicitor Allen Fretwell. The plea offer required that the Petitioner plead guilty to kidnapping and the robbery would be dropped. Moreover, the plea offer required the Petitioner to enter a guilty plea before January 10, 2011. If the Petitioner did not plead guilty by that date, the **case would be placed on the docket for disposition.**

October 7, 2010, Petitioner awakened at 4 a.m by officer and told that he had to go to court. Petitioner taken to the Greenville Municipal Court and placed in a holding cell for four hours. Later, court security determined that Petitioner was not on the docket for trial. Petitioner was transported back to detention and told that he would go back to court at 3 p.m. Later, Petitioner was transported to Greenville County General Sessions.

Petitioner asserts that he was brought before a female judge whom he later discovered was Honorable Judge Letitia H. Verdin. Also present in the room was arresting officer

and Greenville City Detective B.W. Lusk. Judge Verdin asked the whereabouts of the Petitioner's attorney. The Petitioner stated that he had not spoken with his counsel. The judge then asked the Petitioner if he knew the purpose of the hearing. Petitioner stated that he did not. Judge Verdin stated that it was a **preliminary hearing** to determine if there was evidence to move forward with the case. The Petitioner stated that he did not wish to proceed without counsel. Again Judge Verdin stated that they could move forward if he wanted to. Again the Petitioner refused to move forward without counsel. As the Petitioner was leaving the courtroom, Judge Verdin told the Petitioner to put in a request for bond. **(213 days passed since arrest on March 8, 2010, no indictment)**

Later, that evening, the Petitioner discovered that his attorney, Ivan J. Toney had not been notified of a preliminary hearing. Moreover, when Attorney Toney called the Solicitor's Office, he was told that the Petitioner was not scheduled for a hearing that day and that she (Jan Crouch and Donna Bearden) knew absolutely nothing about it. **The Inmate Movement History record confirmed that Petitioner, Mr. Boyd was signed out and transported to court on October 7, 2010.**

November 23, 2010, Petitioner sent a letter to the South Carolina Supreme Court about his concerns with present counsel Ivan Toney and the criminal court system.

December 2, 2010, Petitioner received a letter to appear at the Greenville Municipal Court for a **preliminary hearing**. The Petitioner's sister appeared for the hearing and waited until all the cases had concluded. Judge Pamela Fulbright asked her reason for being in court; she stated that her brother was to appear for a preliminary hearing that day. Judge Fulbright purported to have no knowledge of preliminary hearing and after investigation stated that Attorney Ivan J. Toney had cancelled at the last minute. **(269 days passed since arrest on March 8, 2010, no indictment)**

December 15, 2010, Paid Counsel Ivan J. Toney relieved as counsel per Judge Robin Stilwell and Petitioner Billy Roy Boyd ordered to retain counsel within 30 days or his right to counsel would be deemed waived. Attorney Ivan J. Toney was relieved without the Petitioner's knowledge and consent and then pressured to retain counsel. The plan is set in motion for Attorney Scott Robinson to represent Petitioner Billy Roy Boyd.

January 13, 2011, later that evening, Petitioner Billy Roy Boyd received an unsolicited jail visit from Attorney Scott D. Robinson and Investigator Paul J. Silvaggio. Attorney Robinson stated to the Petitioner that he had seen him earlier that day in the courtroom before Judge Robin Stilwell. He stated to the Petitioner that he could help him. In a July 23, 2013 recorded conversation, Investigator Silvaggio stated that he had pulled some strings to set up the jail visit with the Petitioner on January 13, 2011. Investigator Silvaggio stated that what he did was improper and that if the Petitioner needed to throw him under the bus he understood. Attorney Scott D. Robinson continued to request to represent the Petitioner until he was retained on February 6, 2011.

13. If answered "yes" to any part of (12) list with respect to each petition, motion or application:

i. September 7, 2011, Petitioner filed Pro Se Motion for Dismissal of Indictment Pursuant to Speedy Trial of 1974 and Sixth Amendment. Petitioner detained at the Greenville County Detention Center since March 8, 2010. (18 Months).

(c) the disposition thereof;

i. State acknowledged Motion for Dismissal in Procedural History but failed to address the Motion.

ii. The South Carolina District Court Closed the Motion for Dismissal without Response on November 2, 2011. District Court filed a 2241 Habeas without Petitioner's knowledge or consent.

17. Were you represented by an attorney at any time during the course of :

(a) your arraignment and plea? No, Petitioner retained counsel on March 16, 2010. However, Petitioner was never arraigned thus denied the opportunity to enter a plea. As evidenced in the Procedural History, Petitioner was arrested on March 8, 2010, but never formally charged.

(b) your trial if any? Petitioner hired Attorney Scott D. Robinson to represent him in a criminal matter on February 6, 2011. However, Attorney Robinson refused to submit a motion for dismissal and prepare Petitioner for trial. Attorney Scott D. Robinson was the Petitioner's lawyer for ten (10) months. However, on December 9, 2011, Friday, Petitioner was brought to the judge's chamber and with paid counsel Attorney Scott D. Robinson and solicitor present told unequivocally that he would go to trial on December 12, 2011, Monday, and would represent himself. The record shows that Attorney Robinson did submit a motion to be relieved as counsel on November 30, 2011 and on December 9, 2011, an Order relieving him as counsel was entered. In his order to be relieved Attorney Robinson alleges that Petitioner is uncooperative, refused to meet with counsel, made threats to counsel and pursue a course of conduct that counsel believed to be repugnant and criminal. But after making these serious allegations not supported in the record, the Petitioner's former paid counsel is ordered to serve as "standby counsel". Attorney Scott Robinson should have been precluded from acting as "standby counsel".

First, Attorney Robinson had been the Petitioner's counsel for ten months and had done absolutely nothing to defend the Petitioner. Second, Attorney Scott Robinson acknowledged in an August 22, 2011 letter response to the Petitioner, the State's delayed indictment and failure to prosecute the Petitioner but failed to submit a Motion for

Dismissal on September 12, 2011, as he stated he would. Third, Attorney Robinson knew that the Petitioner was grossly incompetent. For example, before the start of the December 12, 2011 trial, the Petitioner stated several reasons why he was unable to litigate his own defense and asked the judge if his sister could assist him. The Petitioner had been detained for twenty-one months prior to going to trial, was incompetent, in poor health due to AIDS, admitted into hospital on and had not at any time been prepared for trial.

State vs. _____
 Ticket/Warrant Number(s) _____
 Offense(s) Charged _____
 Penalty: _____

FARETTA WARNINGS

You have been charged with the criminal offense(s) listed above. Before you can plead guilty or not guilty to this charge(s) or proceed to trial, you must be informed that you have the right to an attorney. If you cannot afford an attorney (and meet certain income guidelines established by the Court), an attorney will be appointed to represent you, if you so choose. If you do not meet the eligibility guidelines to have an attorney appointed to represent you, you still have the right to an attorney to represent you on the charge(s) listed above, however the attorney must be retained at your own expense.

You do have the constitutional right to represent yourself and proceed without an attorney; however, I must inform you of the following:

- Self-representation can be dangerous and you have the right to have the assistance of a lawyer at all stages of the proceedings, and if you cannot afford a lawyer, a lawyer can be appointed to represent you.
- Criminal defense is a highly specialized and technical area of the law.
- There may be certain factual, legal, or other defenses to the charge(s) you are facing and if you choose to proceed without the services of a licensed attorney, you may not be aware of certain defenses.
- There may be issues related to the conduct of trial or a guilty plea that could arise in the future that you may not be aware of and it would be your attorney's responsibility to be aware of those issues and how to properly address them before the Court, and, if necessary, preserve the issues for appellate review.
- There may be collateral consequences of a conviction or plea that you are not aware of, including, but not limited to, you could face increased penalties for subsequent offenses, suspension of your driver's license, the restriction of the right to possess firearms and/or ammunition, or your immigration status may be affected.
- If you exercise your right to proceed without the services of an attorney, you are responsible for complying with all applicable rules of court, including rules of evidence, procedural rules, and proper behavior before the Judge and/or Jury.
- You understand that if you waive screening for a court-appointed attorney, that you are responsible for hiring a private attorney if you want one.

I state that I have fully and completely read this document regarding self-representation and I have had any and all of my questions answered to my complete satisfaction. At this time, I **DO/DO NOT** (circle one) wish to be screened for a court-appointed attorney and I wish to proceed with my trial at this time.

 Signature of Defendant Date

 Signature of Judge Date

Attorney Scott D. Robinson,

I want to respond to your assertions. First, I am not implying anything, I am simply going on the facts. I have not met with you and Investigator Silvaggio a total of nine times. If you came to the detention center, trust me, it was not to see me. After the so called preliminary hearing on 02/17/11, I did not see you again until 05/20/11, three months after the hearing. At which time, you stated very confidently that there would not be a trial, but I needed to prepare to go to court; which I later discovered meant to meet with prosecutors. What was the significance of meeting with prosecutors? Ironically, you did not discuss the results of the preliminary hearing nor was I apprised of the indictment on 02/15/11.

Also, the dates listed for meeting with my sisters are wrong. On 02/15, I was suppose to be transported to the municipal court but it was canceled due to the time. My sisters were there on time, however, you and Silvaggio were late. Afterwards, they did not meet with you. According to my sister's meticulous notes; they did not meet with you on 03/18/11, 05/10/11, 06/09/11 and definitely not 08/14/11; which by the way is on a Sunday and the day after you received the first letter dated August 13th.

For the sake of argument, let us say that you did meet with me a total of nine times. Please explain; why you did not request information seven months ago to establish an alibi? Moreover, what did we spend those nine meetings talking about? I was never informed by you ; that I was formally indicted on 02/15/2011, nor were the preliminary results ever discussed with me. Furthermore, until this day; you have never discussed the tape recorded evidence that my sister provided to you and the solicitor on 06/28/11. In regard to the indictment, my sisters were not informed until 07/18/11. If it were not for my sister, Donna; I would be totally in the dark.

Second, in regard to how long this case is taking; this case is taking too long. Attorney Robinson, you have admitted to me and my sisters that this is a simple case of receiving of stolen goods. And if this case had been investigated by prosecutors, I would have never been charged with robbery and kidnapping. Furthermore, you keep stating that you are waiting on prosecutors, suggesting that you are waiting for them to put me on the docket. What docket? As you have so confidently stated, there is not going to be a trial. Additionally, there has been no effort by you to prepare this case for trial, seven months later, you are requesting info to establish an alibi? Moreover, please explain the several failed attempts to meet with prosecutors?

In regard to the four (4) factors for Motion to Dismiss for delay, I will start with the length of delay. In response to your remark, "the case indicted in 2011, so that may be against me," the case was indicted on 02/15/11; however, we both know that I should have been properly indicted in March 2010. Furthermore, how could being indicted almost a year later be to my disadvantage. If anything it is to the prosecutors disadvantage; I have been detained without bail since 03/08/10. So, if I were formally indicted on 02/15/11; please explain and justify my continued detention since March 08,

2010. Attorney Robinson, I am starting to question your competence.

Attorney Robinson, you may not be "sure" of the reasons for the delay; however, the reasons are crystal clear to me. In response to prejudice to my case, are you kidding me? My case reeks of prejudice. Let me begin with stating that I am a black man; who was unjustifiably denied a bond on March 08, 2010 and April 01, 2010. Subsequently, who was repeatedly denied the right to appear before Judge Stillwell to be reconsidered; thus denying my constitutional right to due process. Furthermore, I was not afforded a preliminary hearing within the timeframe prescribed by law. Also, let us not forget about the tape recorded evidence deliberately withheld by prosecutors and you. By the way, on May 22, 2011, when you came to inform me that there would not be a hearing; you did take and has failed to return the perjured statement by Tracy Brian Shirah, a letter addressed to me written by his girlfriend, and other discovery evidence. I demand that you return all of these items immediately. Ironically, you never discussed with me the importance of these items; now, I clearly understand your interest in these items.

In response to the remark, "you have been refused bond countless time with your previous three (3) attorneys," this is untrue and you know it! Obviously, you have not bothered to read the record. When I was arrested on March 08, I was unjustifiably denied bail. I remember, the judge saying, I can't say that you are guilty or not guilty; my guilt or innocence was not his determination to make. Correct me if I am wrong; isn't that the jury's role. Furthermore, when I went before Judge Stillwell on April 01, 2010, he used the excuse; that I was a flight risk due to my medical condition to deny my first and only formal bond appearance. Subsequently, he continues to deny me the right to come before him to be reconsidered. According to one attorney, he stated that his decision is final and not to bring this matter before him again because he did want to disappoint me. This statement sounds both prejudice and personal to me. Moreover, when I was admitted into the hospital for shingles in 10/2010; Judge Stillwell still refused to allow me to come before him to be reconsidered. Additionally, you admitted that representation by previous attorneys was not up to par, specifically, disparaging Ivan Toney and Fletcher Smith. Furthermore, you even stated some harsh words against Assistant Solicitor Jennifer Tessitore.

Third, I am not disparaging the courts and the attorneys in my case. I am simply stating truths based on my experience with this, as you claim, great system. Moreover, why would my not having the utmost confidence in the system matter to you anyway? And where do you get off telling me, a grown man, entitled to his own opinion to cease from stating how the system has treated me? I find your remark, "the systems works for everyone" both racially insensitive and idiotic. Furthermore, a man who has paid you in full from the very beginning, forty-five (4500) hundred dollars for what was suppose to be, according to you, a simple case of receiving of stolen goods. And what have you accomplished so far? Absolutely nothing! So far I have only received failure to communicate, double dealing, untruths, evasions and excuses, how dare you! Furthermore, how can a system that you admit to be "not perfect," assure justice for everyone, an imperfect system can only assure winners and losers. Unfortunately, Blacks and Hispanics are often the losers; I find it unsettling that a defense attorney could be so

provincial in his view of the judicial system and how it relates to everyone. Are you saying that every time a black man receives a harsher sentence for the same crime committed by his white male counterpart, justice is meted out fairly? As I stated previously, surely, you make a better prosecutor than you do a defense attorney.

Fourth, as stated previously, if you were really interested in establishing an alibi; you should have done this early on. Furthermore, I gave you this info in an earlier meeting. My sister also gave you this info early on and once again on June 28th. Moreover, I fail to see the relevance of establishing an alibi nineteen (19) months later. I could say; that I was sitting in the middle of the floor eating cheerios, are you going to believe me ? Furthermore, why do I need an alibi, when the state(prosecutors) have absolutely no evidence against me. Once again, what was the so called response from the grand jury? Attorney Robinson, when asked about the findings of the preliminary hearing; you stated to my sisters that you were almost 99.9 percent sure that it was yea. Unless, you and the prosecutors are the grand jury, I find your response to be very disturbing. In regard to filing a motion to dismiss, I have been requesting that you do so for the past several months. And you still blatantly refuse to do so. Moreover, I find your attitude and behavior toward me and my sisters both appalling and reprehensible and I will not tolerate anymore of your foolishness.

On November 08, 2011, I received a second plea offer in the mail dated November 07, 2011. When asked why you didn't communicate with me about it; you stated that you didn't because "they are monitoring." In regard to the claim that you came to visit me twice; you did attempt to visit me twice on November 23, 2011. However, the purpose of your visit was not to prepare me for trial. As you stated earlier that day to my sister; your purpose was to ensure that I understood the plea offer. Moreover, when asked about placing me on the docket on November 18, 2011, less than two and a half weeks before the scheduled December 05, 2011 trial; you stated that the prosecutors pissed you off when they did that, suggesting that you knew nothing about it. On December 05, 2011, I did submit to you a motion asking you to relieve yourself as counsel. Based on overwhelming evidence and the lack of communication; you are complicit with prosecutors which presents a clear and unmistakable conflict of interest.

All the best to you too,

Billy Roy Boyd
07September2011
07December 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2015-CP-23-3678
COUNTY OF GREENVILLE	)	
	)	
Billy Ray Boyd,	)	
S.C.D.C. No. 349065,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed June 11, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the February 2011 term of General Sessions for two counts of armed robbery (2010-GS-23-3487, -3488) and two counts of kidnapping (2010-GS-23-3489, -3490).

After the State called the case to trial, the Applicant proceeded pro se (with Scott D. Robinson, Esquire as standby counsel). The Applicant was found guilty. On December 14, 2011, the Honorable D. Garrison Hill sentenced the Applicant to concurrent terms of 20 years for each count of armed robbery and 10 year for each count of kidnapping.

A notice of appeal was filed at the South Carolina Court of Appeals. Benjamin J. Tripp, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense

perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Boyd, Op. No. 2014-UP-220 (S.C. Ct. App. filed June 11, 2014). The Remittitur was sent on June 27, 2014.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Did not knowingly, intelligently and voluntarily waive right to counsel."
 - a. No order of self-representation in the record.
 - b. No record of a Faretta hearing.
2. Appellate counsel failed to raise the Faretta issue.
3. "Ineffective assistance of paid counsel."
 - a. Conspired with the State to withhold evidence and for the Applicant to plead guilty.
 - b. Failed to investigate case.
 - c. Failed to call witnesses.
4. "Delayed indictment."

III.

The Applicant waived his right to counsel. While Mr. Robinson was present at the trial, he was present as standby counsel. Mr. Robinson did not serve as an advocate at trial, he merely answered any questions the Applicant might have. Such standby assistance has been found to be proper. The United States Court of Appeals for the Fourth Circuit has held "[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

chooses to exercise his right to self-representation by proceeding pro se.” United States v. Lawrence, 161 F.3d 250, 253 (4th Cir. 1998); see also United States v. Mikolajczyk, 137 F.3d 237, 246 (5th Cir. 1998) (holding that, as the defendant “had no right to standby counsel, it seems unlikely that standby counsel’s failure to assist could be a violation of his Sixth Amendment rights”); United States v. Bova, 350 F.3d 224, 226 (1st Cir. 2003) (noting that the defendant did not have the right to both “represent himself and to enjoy the benefit of standby appointed counsel”) (emphasis in original). The Fourth Circuit further noted there was no error in limiting the scope of standby counsel’s responsibilities, noting that “[p]lacing reasonable limits on the advice to be given by standby counsel that the court was under no obligation to provide in the first instance does not constitute an abuse of discretion.” Lawrence, 161 F.3d at 253. Therefore, the Applicant cannot now claim his Sixth Amendment right to effective counsel was violated when, at his insistence, his appointed counsel was relieved and remained merely as standby counsel during the trial.

The Respondent submits the Applicant cannot meet his burden of proof on this issue. Regardless, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent argues the Applicant’s claim of a “delayed indictment” is without merit and does not justify the vacation of his convictions. See State v. Culbreath, 282 S.C. 38, 40, 316 S.E.2d 681, 681 (1984) (“[T]he failure of the solicitor to act upon a warrant within ninety (90) days . . . does not within itself invalidate a warrant or prevent subsequent prosecution.”).

Further, this Court finds the Applicant failed to provide evidence of any prejudice that resulted from the delay. See, e.g., State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007) (noting one must prove prejudice in order to prevail on an allegation that one's speedy trial rights were violated).

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

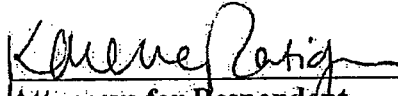
ALAN WILSON
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JOHN W. MCINTOSH
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P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

Dec. 22, 2015

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

BILLY RAY BOYD, 349065

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2015-CP-23-3678

AFFIDAVIT OF SERVICE BY MAIL

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:

Billy Ray Boyd, 349065
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

DATED this 22nd day of December, 2015.


 Judy A. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2015CP2303678
	)	
Billy Roy Boyd,	)	
	)	
Applicant,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

October 24, 2017
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

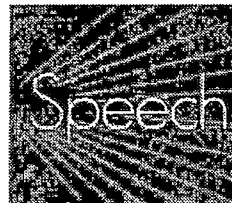
A P P E A R A N C E S:

RODNEY RICHEY, Esquire
Attorney for the Applicant

DESHAWN MITCHELL, Esquire
Attorney for the Respondent

Teresa B. Johnson
Certified Verbatim Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



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I N D E XDIRECT CROSS REDIRECT RECROSS

Applicant Witnesses:

Billy Boyd

by Mr. Richey 6

by Mr. Mitchell 20

Respondent Witnesses:

Allen Fretwell

by Mr. Mitchell 25

Scott Robinson

by Mr. Mitchell 28

by Mr. Richey 32

Certificate of Reporter 38

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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APPLICANT EXHIBITS

(No exhibits offered.)

RESPONDENT EXHIBITS

S-1	Order	31	31
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COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 24th day of October, 2017 at approximately 10:02 a.m.)

MR. MITCHELL: May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. MITCHELL: This is 2015-CP-23-3678, Billy Ray Boyd versus the State of South Carolina. The applicant is presently incarcerated at the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the applicant at the February 2011 term of General Sessions for two counts of Armed Robbery and two counts of Kidnapping.

After the State called the case to trial, the applicant proceeded pro se with Mr. Scott Robinson as standby counsel. The applicant was found guilty on December 14th, 2011. The Honorable D. Garrison Hill sentenced the applicant to concurrent terms of 20 years for each count of Armed Robbery and 10 years for each count of Kidnapping.

A Notice of Appeal was filed at the South Carolina Court of Appeals. Mr. Benjamin J. Tripp of the South Carolina Commission on Indigent Defense

1 division of Appellate Defense effected the appeal
2 in the form of an Anders brief. The Court of
3 Appeals dismissed the appeal. The remittiture was
4 sent on June 27th, 2014. He's present in the
5 courtroom today represented by Mr. Richey.

6 **THE COURT:** Mr. Richey.

7 **MR. RICHEY:** Thank you, Your Honor. We call
8 Mr. Boyd please.

9 **THE COURT:** All right, sir. If you will,
10 come forward and be sworn.

11 **BILLY BOYD**

12 having first been duly sworn, testifies as follows:

13 **THE CLERK:** Thank you.

14 **MR. RICHEY:** Judge, can I have one moment?

15 **THE COURT:** Sure.

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

18 **THE WITNESS:** My name is Billy Roy Boyd. If
19 I may proceed?

20 **MR. RICHEY:** Mr. Boyd, hold on. I'm going to
21 ask you questions.

22 **THE COURT:** Mr. Boyd, your attorney is going
23 to ask you questions, and you answer those
24 questions. All right. That's how this hearing will
25 go.

1 All right. Yes, sir.

2 MR. RICHEY: Thank you.

3 DIRECT EXAMINATION

4 BY MR. RICHEY:

5 Q Mr. Boyd, are you currently incarcerated?

6 A Yes, I am.

7 Q And where are you incarcerated?

8 A McCormick Institution.

9 Q And were you convicted in Greenville County?

10 A Yes, I was.

11 Q And what were you convicted for?

12 A I was convicted with Kidnapping and Armed
13 Robbery, two counts of each.

14 Q And were you represented by an attorney during
15 that case?

16 A Was I represented? No.

17 Q Okay. So you actually tried the case pro se; is
18 that correct?

19 A No.

20 Q You tried the case with Scott Robinson being a
21 standby lawyer, correct?

22 A No, sir.

23 Q You tried your case, right? You did opening and
24 closing argument in you case, correct?

25 A I was forced to represent myself.

1 Q All right. We'll get to that.

2 A Okay.

3 Q We're just trying to lay some background for
4 the record. Okay?

5 A Okay.

6 Q So you tried the case yourself, correct?

7 A Yes.

8 Q Okay. And you had Scott Robinson as standby
9 counsel?

10 A No, sir.

11 Q Okay. Scott Robinson sat at the table with you,
12 correct?

13 A Yes, he did.

14 Q Okay. All right. Now, you filed this
15 application for post-conviction relief, correct?

16 A That's correct.

17 Q And in this application, you allege, amongst
18 other things, that Mr. Robinson was ineffective, correct?

19 A That's correct.

20 Q And you also allege that -- you also allege
21 other issues in your application, correct?

22 A This is correct.

23 Q Okay. Do you have your application in front of
24 you?

25 A My PCR application?

1 Q Yes, sir.

2 A I have the components of the application. I got
3 everything laid out. Yes, I do have my application.

4 Q For the Court, your issues are outlined in that
5 application, correct?

6 A Yeah, I do have all my issues outlined.

7 Q Okay. All right. The first issue you have is
8 dealing with actually having to try the case, correct?

9 A Pardon me?

10 Q The first issue you have that you're dealing
11 with is being forced to try the case yourself, correct?

12 A This is correct.

13 Q Okay. Can you explain that to me?

14 A Yes, with all due respect, Your Honor, and
15 respect to the Court, Your Honor, my conviction is
16 unlawful because there is no order of self-representation
17 in the record. I did not knowingly, intelligently or
18 voluntarily waive my rights to counsel. There is no
19 Faretta hearing no where in the record. The record is
20 moot. The case file is void of that.

21 Q Okay. So your position is -- your position is
22 that -- that -- that you were not giving a proper warning
23 before trying this case?

24 A There was no order of self-representation. I
25 never wanted to represent myself. Scott Robinson was my

1 paid attorney. I paid him money to represent me.

2 Q Okay. And, subsequently, at the time of the
3 trial, he was relieved by an order before the day of the
4 trial, correct?

5 A Yes. Scott Robinson put a motion in November
6 the 30th of 2011 to be relieved. On December the 9th, I
7 was transported to the courthouse. I was brought into
8 Judge Stilwell's private chambers with Jennifer Tessitore
9 and Scott Robinson being present. There wasn't a court
10 reporter. It was a very small room.

11 Q And do you believe that Mr. Robinson was
12 ineffective for being removed from your case?

13 A Not only ineffective then, but ineffective for
14 the whole 10 months that he was my paid attorney.

15 THE COURT: All right. One second. All right.
16 I understand today's an emotional day, but we're
17 going to have to conduct ourselves as if we --
18 because we are in a courtroom. If not, then you'll
19 have to leave the courtroom. I hate to do that
20 because I know you want to be here for this. But
21 there can be no outburst. The head nodding is -- you
22 know, it's a little bit distracting. I'm trying to
23 listen to the testimony and find places in the
24 record. All right.

25 Yes, sir.

1 BY MR. RICHEY:

2 Q Sir, can you -- when you talk, I don't know, it
3 gets kind of mumbled to me.

4 THE COURT: Yeah. I think if you scoot back
5 just a little bit. Try that. Try that.

6 THE WITNESS: Okay.

7 THE COURT: You've got a very clear voice.
8 You almost don't need a mic.

9 THE WITNESS: I've been a little hoarse
10 lately.

11 BY MR. RICHEY:

12 Q You need something to drink?

13 A Maybe just a little water please.

14 MR. MITCHELL: I'll get it.

15 THE COURT: I got it.

16 THE WITNESS: Thank you. (Pause.)

17 Okay. I'm ready.

18 BY MR. RICHEY:

19 Q Okay. We'll pick up. You believe that, prior to
20 the trial date, Mr. Robinson was ineffective?

21 A Yes, the entire 10 months.

22 Q What exactly did he do to be ineffective?

23 A Well, Mr. Robinson was retained February the
24 6th of 2011. Mr. Robinson had seen me in the courtroom
25 before Judge Stilwell on January the 13th of 2011. Judge

1 Stilwell was reprimanding me because I didn't have
2 consistent representation -- consistent representation.
3 So as I left the courtroom and I went back to the
4 detention center, Scott Robinson and his investigator,
5 Paul Silvaggio, they made an unsolicit visit to come and
6 see me. Scott Robinson told me that he had saw me in the
7 courtroom earlier and he believed that he could help me,
8 so to speak. So Scott Robinson pursued me until he was
9 retained February the 6th of 2011, and I have his
10 contract right here with me when he was retained. Right
11 here. (Indicating.)

12 Q Okay. So you retained him, and after retaining
13 him, did y'all discuss your case? Let me do this.

14 A Okay.

15 Q I want to just ask you briefly, the last --
16 facts of this case was what? You were supposed to have
17 done an armed robbery, correct?

18 A The charges were two counts of Armed
19 Robbery ---

20 Q Right.

21 A --- and two counts of Kidnapping.

22 Q And where did the armed robbery and kidnapping
23 supposed to have occurred?

24 A Allegedly at some salon, beauty salon,
25 something like that -- of that nature.

1 Q And that was -- it was alleged that you,
2 basically, intimidated them to get the money. That's what
3 was alleged, correct?

4 A Yes, that's correct.

5 Q And there was jewelry that supposedly were
6 taken, correct?

7 A This is correct.

8 Q Okay. Go ahead.

9 A Okay. As Scott Robinson was retained, February
10 the 6th of 2011, he was given \$4500 to represent me,
11 investigate, subpoena my alibi witnesses, pull the pawn
12 shop records to see had I ever been there before, were
13 there any priors of me ever bringing anything that was
14 stolen. He pretty much promised me everything.

15 After Scott Robinson was retained and received
16 the money, I saw Scott Robinson February the 17th of
17 2011, the same month he was retained. Supposedly, I was
18 going for a preliminary hearing. But I found out it was a
19 sham because I have my indictment papers. I was indicted
20 February the 15th. So I never had, as one would say, a
21 preliminary hearing.

22 So after February the 17th, I did not hear from
23 Scott Robinson again until May the 22nd. That was three
24 months later. No contact. No nothing. I couldn't ever
25 call him by collect. I could never call him collect.

1 Never.

2 Q Okay. When did you get notice of the actual
3 trial date?

4 A My family and my sister, in particular, Donna
5 Boyd, who kept meticulous notes and helped me along this
6 journey, she was keeping me posted on a lot of things.
7 She also was communicating with him.

8 Q So did you get notice -- I mean, did y'all get
9 two weeks notice of a trial, three weeks? What kind of
10 notice did you get?

11 A No, we didn't get anything. In fact, when I
12 heard from Scott Robinson again, May the 22nd, three
13 months later, he pretty much told me that there wasn't
14 going to be a trial and he wanted me to meet with the
15 prosecutors. I found out that he was taking me to meet
16 with them so that I could sign some type of plea deal.

17 Q Okay.

18 A But I was not willing to plead.

19 Q Okay. Do you -- can you tell me was there a
20 plea offer offered to you?

21 A Upon being incarcerated for 21 months at the
22 detention center without -- with being denied bail, for
23 the entire 21 months, four consecutive times, I received
24 three plea offers within that length of time.

25 Q And what were they? Do you recall?

1 **A** One was dropped, one robbery, the armed robbery
2 to strong robbery, dropped the kidnapping and one was
3 just kidnapping. You know, they was kind of shuffled up a
4 little bit.

5 **Q** Were there a time -- was there a time placed on
6 the offer, like, how much time they would recommend?

7 **A** No, there wasn't. No, there wasn't.

8 **Q** Okay. Would -- would you -- did you ever talk
9 about the significance of going from strong armed robbery
10 versus armed robbery in terms of violent, 85 percent? You
11 have those discussions?

12 **A** No, I didn't because I wasn't guilty, so I was
13 not going to plead to anything.

14 **Q** No, I didn't ask you -- I asked did you have
15 those discussions. I didn't ask --

16 **A** No, I didn't. I didn't feel the need to have
17 those discussions.

18 **Q** So it was your position, at the time, that you
19 were not willing to accept any offer.

20 **A** No, because I knew that had the State or my
21 paid attorney investigated, I believed that I would be
22 vindicated. I never thought that I would be convicted. I
23 didn't have no past severe criminal background. I had
24 alibi witnesses. There was records that could have been,
25 you know, pulled. There's a lot of things that could have

1 been investigated and the outcome of my situation would
2 have been totally different.

3 **Q** Now, you were never promised or was there any
4 process that there was 100 percent chance that you would
5 be found not guilty? Did anybody discuss with you that
6 there is a chance that you might be found guilty,
7 regardless of what the evidence was?

8 **A** There was always a chance that I could have
9 been found guilty if I was not -- not -- how can I say --
10 represented properly. But with me being detained for 21
11 months, I wasn't able to litigate my own case. I didn't
12 have a law degree. I was dealing with poor health. I was
13 on a drug called Zoloft. I have a depression certificate
14 with me here today. I was grossly incompetent and
15 ignorant of the law. I never tried to litigate my own
16 case. This is why I paid him thousands of dollars for him
17 to do the job.

18 **Q** Let me ask you this question. At some point,
19 there was an offer in here of five years, correct?

20 **A** Pardon me?

21 **Q** At some point, you received an offer of five
22 years, correct?

23 **A** I was told a few things, but I knew just
24 Kidnapping itself carried at least 50 years. So I wasn't
25 told in particular that I could get about five years, no,

1 I wasn't.

2 Q Okay. You were never told there was a
3 recommendation in the case, that the State would go in
4 there and ask the judge to sentence you to five years?

5 A No, but I was told that the only thing I should
6 have received was received stolen goods. But why would I
7 even receive that if I didn't know that the merchandise
8 was even stolen?

9 Q Let me go through so I can kind of organize
10 this for the court. One, you believe that there was no
11 Faretta warnings or an order having you represent
12 yourself, correct?

13 A There is no order for self-representation in
14 the record.

15 Q Okay. Number two, it is your position that
16 Scott Robinson did not represent you because he did not
17 investigate the case properly?

18 A Well, when Scott Robinson came and represented
19 me and signed the contract, so to speak, he never had any
20 intention on getting me prepared for trial. He wanted me
21 to plead -- he didn't -- he only came to see me a
22 consecutive of four times within the 10 months that he
23 was retained. He never investigated my alibis. He had
24 recorded tape conversation with one of my witnesses,
25 recorded evidence. He never even presented that. Also

1 that information was served to the State. They didn't
2 present that.

3 None of my alibi witnesses were ever
4 subpoenaed. In fact, he did type up four subpoenas, and
5 he told my family to deliver the subpoenas. He had
6 received money to do this job himself. So he never
7 prepared me for trial. Scott Robinson wanted me to plead.

8 Q And you believe based off that you should --
9 the Court should issue a new trial; is that correct?

10 A I don't recommend a new trial, but I do
11 recommend the case to be overturned. I recommend that due
12 to the fact that I never received my due process.

13 Q Right.

14 A And I have been unlawfully detained.

15 Q So you are asking the Court to vacate your
16 conviction?

17 A Yes.

18 Q And when that conviction vacates, then you will
19 receive a new trial. That's what you're asking the Court
20 to do in this case? You want the Court to give you that
21 relief, correct?

22 A Relief, but no trial, no. But relief, yes.
23 You're asking me about one component of my PCR
24 application. I also would like the courts to know that I
25 have a procedural history that the State presented on my

1 behalf. I have a copy of that procedural history. I'd
2 also like to read some things if I please.

3 **Q** And -- okay. This procedural history, are you
4 referring to that in terms of the representation Scott
5 Robinson gave you?

6 **A** All of the above. All the above. I would just
7 like the courts to hear some things. I want to put
8 everything on record today.

9 **THE COURT:** Mr. Boyd ---

10 **THE WITNESS:** Yes.

11 **THE COURT:** --- the only thing that I have
12 jurisdiction to hear today is your PCR application,
13 wherein you are alleging ineffective assistance of
14 counsel. That's the only thing I have jurisdiction
15 to hear. You sound like you have had some time to
16 look over the law and understand it in some ways.
17 I'm limited in that jurisdiction here today.

18 **THE WITNESS:** Can I ask you, Your Honor,
19 being limited in that jurisdiction would a delayed
20 indictment be outside of that jurisdiction?

21 **THE COURT:** You mean an indictment passed the
22 180-day ---

23 **THE WITNESS:** Yes, ma'am.

24 **THE COURT:** --- time period? If you want to
25 ask -- if you want to ask him about that, I'll hear

2 BY MR. RICHEY:

5 **A** Yes.

8 **A** I was incarcerated on March the 8th of 2010. I
9 have a procedural history where my family retained a
10 total of four paid attorneys within that 21 months of
11 being denied bail in the detention center. The State
12 presented a procedural history of three of those paid
13 attorneys being relieved as though I was stalling and
14 wanted a continuance. Let me put on the record that I
15 never asked the State for not one continuance.

16 In fact, Scott Robinson being my fourth paid
17 attorney, I had to file my own pro se motion through the
18 help of my sister, Donna Boyd. My own motion. Scott
19 Robinson didn't file not one single motion in the 10
20 months that he was my fourth paid attorney. The State
21 wanted to present the first three attorneys as though
22 there was a way of conduct or whatever. The first two
23 paid attorneys, I had them relieved. But the third one --
24 Judge Stilwell had the third one relieved.

25 Your Honor and courts, when these three

1 attorneys were relieved, I was not even indicted. In
2 fact, I was not duly indicted for 343 days and the State
3 still moved forward to prosecute me.

4 Q Okay. Answer any questions the Attorney General
5 has for you.

6 MR. MITCHELL: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. MITCHELL:

10 Q Good morning, Mr. Boyd. How are you?

11 A Yes, good morning.

12 Q I just have a few questions for you, sir. I'll
13 be brief.

14 A Okay.

15 Q You mentioned, just briefly a moment, about
16 your prior representation. So is it correct that you had
17 three previous attorneys prior to Mr. Robinson?

18 A Yes, I did.

19 Q Would I be correct in saying Fletcher Smith,
20 Elizabeth Wiygul and Ivan Toney?

21 A This is correct.

22 Q And you said that you asked for them to be
23 relieved.

24 A Only the first two.

25 Q And why was that?

1 **A** These attorneys wasn't indigent attorneys. They
2 were paid attorneys to investigate, to build up a defense
3 for me, to litigate my case. I paid them money for this
4 service -- my family did. So I had the first two relieved
5 because they were not pushing for my constitutional
6 rights. The third one, I didn't. That was -- Judge
7 Stilwell relieved him.

8 **Q** Is it safe to say that you have grievances with
9 all the attorneys you've had or that they haven't
10 investigated your case?

11 **A** The first three did nothing.

12 **Q** How about Mr. Robinson? Did he do anything?

13 **A** The fourth one did nothing.

14 **Q** Okay. Do you take any responsibility in that?

15 **A** I take no responsibility at all. In everything
16 I just stated on the record -- I also can read it in
17 record. It's in the pretrial transcript, all of my
18 discrepancies and issues that I had, in particular, with
19 Scott Robinson, who was my paid attorney for almost a
20 year. There was consistent representation in place for
21 those 10 months. There is no excuses for my case to not
22 have been defended -- I'm going to say that -- for me to
23 have been represented, investigated, litigated -- that's
24 what I meant to say. Scott Robinson did absolutely
25 nothing.

1 **Q** Let me ask you this because I just want to make
2 sure it's clear for the record. You represented yourself
3 at trial, correct?

4 **A** I was forced to represent myself.

5 **Q** Well, I appreciate that answer. The question I
6 asked you was, did you represent yourself at trial?

7 **A** To the best of my ignorant ability, to the best
8 of my lawlessness ability because I knew nothing about a
9 -- I didn't have a law degree. I was ignorant of the
10 system. I was very incompetent. So based on the ability
11 that I could, I tried to do the best I could, being
12 forced to. And also, I could verify that, on page 8 in
13 the pretrial transcript, when we went into the judge's
14 prior chambers how I was marked, interrogated and forced
15 to represent myself as Scott Robinson was relieved two
16 days before my trial. I had to litigate and defend myself
17 two days later.

18 **Q** Let me ask you this. I know you just mentioned
19 the hearing inside the judge's chambers. Did the judge
20 ever tell you about the dangers and perils of going to
21 trial and representing yourself?

22 **A** I was never given a Faretta warning, a
23 competency test to see whether or not I even made it to
24 the third grade. I was told, I was forced and
25 interrogated, marked and made to represent myself. I can

1 read it right now in the pretrial transcript to the whole
2 courtroom.

3 **MR. MITCHELL:** That's quite okay. That's all
4 the questions I have for him, Your Honor.

5 **THE COURT:** All right. Mr. Richey, do you
6 have any follow up?

7 **MR. RICHEY:** No follow up.

8 **THE COURT:** All right. Sir, you can step
9 down. Thank you. And the transcript that you -- I do
10 have one quick question for you -- the transcript to
11 which you are referring is the December 9th, 2011?

12 **THE WITNESS:** Yes, ma'am. And also in the
13 criminal trial transcript, on page 11, I was so
14 incompetent, I asked Judge Garrison Hill, who was
15 residing over the case, could my sister Donna help
16 me. So if Scott Robinson was my standby counsel,
17 that was just to give the appearance that I had
18 representation. I didn't.

19 Scott Robinson was relieved, calling me
20 repugnant and uncooperative. If I was repugnant and
21 uncooperative, then why would he want to be my
22 standby counsel. That was somebody that had a
23 prejudice against me or didn't have my best
24 interest. That was only to give the appearance --

25 **THE COURT:** I just wanted to make sure that I

1 had the transcript I needed.

2 **THE WITNESS:** Yes, on page 11 in the criminal
3 transcript as well.

4 **THE COURT:** I do. I've got it right here.
5 I've got it turned to there.

6 **THE WITNESS:** Thank you, ma'am. Thank you.

7 **THE COURT:** Thank you. Mr. Boyd, as you are
8 returning to your seat, and you can go ahead and
9 return to your seat, I just want to say to you, I
10 don't want you to feel like I'm being patronizing or
11 anything like that in any way. As I was reviewing
12 your packet on PCR, I noticed that you have had
13 absolutely no disciplinary record at the Department
14 of Corrections ---

15 **THE WITNESS:** No, ma'am.

16 **THE COURT:** --- whatsoever.

17 **THE WITNESS:** No, ma'am.

18 **THE COURT:** And I just -- I just -- I have
19 not ever seen that before and I'd like to commend
20 you for that.

21 **THE WITNESS:** Thank you, ma'am. Thank you.
22 You have a nice day.

23 **THE COURT:** I hope you do too.

24 **MR. RICHEY:** That's all, Your Honor.

25 **THE COURT:** All right. And Mr. Richey, I do

1 have -- as part of the PCR record, I do have the
2 transcript of the hearing with Judge Stilwell and I
3 do have the entire trial transcript. I've marked the
4 pages to which you and he referred. All right.

5 **MR. RICHEY:** Yes, ma'am.

6 **THE COURT:** All right.

7 Yes, sir.

8 **MR. MITCHELL:** At this time, Your Honor, the
9 State would call Solicitor Allen Fretwell to the
10 stand.

11 **THE COURT:** All right.

12 **ALLEN FRETWELL**

13 having first been duly sworn, testifies as follows:

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

16 **THE WITNESS:** Allen Oliver Fretwell.

17 **THE CLERK:** Thank you.

18 **DIRECT EXAMINATION**

19 **BY MR. MITCHELL:**

20 **Q** Good morning, Mr. Fretwell, how are you?

21 **A** Morning. How are you?

22 **Q** I'm doing well. How long have you practiced law
23 in South Carolina?

24 **A** 18 years.

25 **Q** 18 years. And how long have you been associated

1 with the Solicitor's office here?

2 **A** 18 years.

3 **Q** 18 years. Very good. Thank you. Could you tell
4 me a little bit briefly about your involvement with this
5 case in the beginning stages?

6 **A** Mr. Boyd's case was initially assigned to me. I
7 can't tell you how long it was assigned to me exactly.
8 But eventually, I do recall that Mr. Boyd had a number of
9 attorneys. There were some allegations by Mr. Boyd
10 against those attorneys of improper conduct.

11 I remember on at least one occasion, the Office
12 of Disciplinary Counsel contacted me about a complaint
13 that Mr. Boyd had made. It was after that contact that
14 Mr. Boyd filed a complaint against me. So in our office,
15 we conflicted the -- because he had made that complaint,
16 we conflicted the case to another prosecutor. Assistant
17 Solicitor Jennifer Tessitore took over prosecution.

18 **Q** Can I just -- I want to briefly ask you about
19 the evidence in the case. Do you remember any of the
20 evidence in the case or the allegations? If you don't --

21 **A** I certainly remember the allegations. I don't
22 know that I would recall all of the evidence in the case.

23 **Q** Could you give me just a brief snippet of the
24 allegations in the case?

25 **A** To the best of my recollection, the allegation

1 was that two ladies in a beauty shop were -- basically,
2 it was the equivalent of a housebreaking at a business.
3 The door was forced open or entered somehow. An assailant
4 came in, threatened the two ladies. Eventually, I think,
5 required them to go to a bathroom. Took items of value
6 from them. The only thing else that stands out in my mind
7 is that there was a large 4x4 type weapon used that was
8 apparently broken on a table, I think. There was a piece
9 of that stick, post, whatever you want to call that, that
10 was on the table.

11 Q I know you said earlier that you didn't try the
12 case.

13 A I did not try the case.

14 Q After some time in 2011, you passed the case
15 along to Jennifer Tessitore.

16 A It was at some point, I think, between January
17 and the middle part of that year. I don't recall
18 specifically when.

19 Q I guess the final question I have for you,
20 there were four total attorneys that represented Mr. Boyd
21 during the period of time that you prosecuted the case?

22 A To the best of my recollection, correct.

23 Q That's all the questions I have for you.

24 MR. RICHEY: No questions.

25 THE COURT: All right. Sir, you can step

1 down.

2 **MR. MITCHELL:** At this time, Your Honor, the
3 State would call Scott Robinson.

4 **SCOTT ROBINSON**

5 having first been duly sworn, testifies as follows:

6 **THE CLERK:** Thank you. You may be seated.
7 Please state your full name for the record.

8 **THE WITNESS:** Sure. It's Scott David
9 Robinson.

10 **THE CLERK:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. MITCHELL:**

13 **Q** Good morning, Mr. Robinson. How are you?

14 **A** Good morning. Good. Thanks.

15 **Q** How long have you practiced law here in South
16 Carolina?

17 **A** 25 years.

18 **Q** 25 years, and how much of that time has been
19 devoted to criminal law?

20 **A** 22 years.

21 **Q** 22 years. It's safe to say you're pretty well
22 versed in criminal practice?

23 **A** I think so. That's what I think, but yeah, I
24 think so.

25 **Q** All right. Thank you. Thank you for that

1 answer. Were you -- I think there's been some previous
2 testimony. But just for the record, you were retained for
3 this case, correct?

4 A I was. I was the fourth attorney.

5 Q Fourth attorney?

6 A Yes.

7 Q Could you briefly give me a little bit of the
8 factual scenario that took place in this case?

9 A I think I have to kind of echo what
10 Mr. Fretwell said. That's exactly what happened.

11 Q Let me ask you. I know that the trial was in
12 December of 2011. When were you retained? Do you recall?

13 A I was retained -- I think -- I think Mr. Boyd
14 said that it was about 10 months before the trial.

15 Q About 10 months?

16 A Uh-huh.

17 Q Safe to say sometime inside of a year?

18 A I believe so. I believe so.

19 Q And I want to ask you about a hearing before
20 the actual trial date. It's right before the actual trial
21 date.

22 A Okay.

23 Q You heard Mr. Boyd refer to a meeting inside
24 the chambers of Judge Stilwell?

25 A I don't recall where it actually was. I thought

1 it was in the courtroom, but he may be right. I'm not
2 sure exactly where it was. But Judge Stilwell had a
3 hearing. It's pretty obvious he explained to Mr. Boyd
4 about the -- my recollection is that he went through the
5 whole process of the Faretta warnings and things like
6 that.

7 Q So you recall Judge Stilwell telling
8 Mr. Boyd --

9 A Yeah, he's pretty -- he's pretty -- Judge
10 Stilwell's very -- he's very thorough. He would have done
11 that.

12 MR. MITCHELL: May I approach, Your Honor?

13 THE COURT: Yes.

14 BY MR. MITCHELL:

15 Q Do you recognize this document?

16 A I do. I do.

17 Q Could you tell me what it is?

18 A It looks like the order relieving me of
19 counsel.

20 Q Okay. Inside that order, is there any
21 additional language with respect to Faretta warnings?

22 A He -- he doesn't say, specifically, Faretta,
23 but he goes through the -- that he's been advised of his
24 right to an attorney to represent him, blah, blah, blah.
25 Just basically all the Faretta warnings are in here to

1 ensure that Mr. Boyd is aware of the dangers of self-
2 representation.

3 Q Basically, you understand these buzz words that
4 are included in this order ---

5 A Certainly.

6 Q --- accurately represent the warnings that --

7 A These are Farettas warnings to make sure that he
8 knowingly and voluntarily waives the right to counsel,
9 correct.

10 MR. MITCHELL: At this time, Your Honor, the
11 State would move that document into evidence.

12 THE COURT: Any objection to that being
13 admitted?

14 MR. RICHEY: Is that the order?

15 MR. MITCHELL: It's the order.

16 MR. RICHEY: No objection.

17 THE COURT: All right. It's so admitted.

18 (State's Exhibit 1 is marked for identification and
19 admitted into the record.)

20 BY MR. MITCHELL:

21 Q I just want to talk a little bit about the
22 trial itself. There's no question that Mr. Boyd
23 represented himself and you were standby counsel?

24 A I was -- it was -- I was -- the judge ordered
25 me to be the standby counsel in the case. That's how it

1 worked out. He was making sure that, in case Mr. Boyd had
2 any questions, that he had someone to speak to. And we
3 talked -- we talked throughout the whole trial. His
4 witnesses in the case were his sisters. They -- because
5 they were sequestered -- they were outside in the case,
6 as I recall. And I thought he did a pretty good job. I
7 mean, he's a great -- he's a very eloquent guy. But
8 unfortunately, the jury found him guilty.

9 He had a -- he had a fair trial. I thought that
10 Judge Hill gave him a lot of opportunity. He was very,
11 very careful with him. He was very courteous to him. He
12 had every opportunity. It's unfortunate that the jury
13 found him guilty, but he was given all the stuff that
14 he's entitled to under the law.

15 Q I think that's all the questions I have for
16 you, Mr. Robinson.

17 A Sure.

18 Q Please answer any questions that Mr. Richey may
19 have.

20 THE COURT: Mr. Richey?

21 MR. RICHEY: One moment, Your Honor. (Pause.)
22 May I approach the witness, Your Honor?

23 THE COURT: Of course.

24 CROSS-EXAMINATION

25 BY MR. MITCHELL:

1 Q Mr. Robinson, I'm going to pass you this
2 document. It's got some writing on it. Is this a document
3 generated by your office?

4 A Yes, we did the -- what this document -- this
5 is dated -- you want to put this in the record first?

6 Q Go ahead and explain it.

7 A This is a letter I sent to him on 8/26/2011,
8 basically talking about -- he had sent me a pretty
9 disparaging letter. That's what I think this in relation
10 to or something he may have said to me. Something like
11 that. Went over my investigator, Paul Silvaggio, his
12 investigation, the number of times we met. We met with
13 his sisters as well. Went over the idea of a speedy
14 trial. He had questions as far as why it's taking so
15 long.

16 Q Well, let me ask you. In that letter, you
17 proposed filing a motion to dismiss for a delayed
18 indictment. Do you recall talking to him about filing
19 that motion?

20 A I think I put all that in the letter. I don't
21 know if I recall, specifically, talking about it. But, I
22 think, in the letter, I may have spoken about that. It
23 was like, number three, I think, in the letter.

24 Q Yeah, it says motion to dismiss due to delayed
25 indictment.

1 **A** Uh-huh.

2 **Q** Do you think that -- did you file that motion?

3 **A** I don't believe I did. I don't think that was
4 really a -- you know, I didn't think it would work, first
5 of all.

6 **Q** Also, you were present at the hearing in front
7 of Stilwell on the 9th about the motion to be relieved,
8 correct?

9 **A** I believe I was, yes.

10 **Q** Okay. And in this transcript, the court says,
11 so, basically, it's the State's position that we are
12 ready to go forward on Monday and we -- we want to make
13 sure that Mr. Boyd realize he will be representing
14 himself and there will not be any more continuance in
15 this matter. Do you recall that being stated in this by
16 the prosecutor that it was already decided that he was
17 going to represent himself? Do you recall any of that?

18 **A** I don't. It's a long time ago. I don't think it
19 -- I don't think it was already decided. I have no idea,
20 but it was -- I thought it was very fair, for the most
21 part. It was -- I thought Judge Stilwell just made sure
22 he went through the whole record and everything.

23 **Q** Do you -- can you talk to me a little bit about
24 the relationship with you and Mr. Boyd prior to you being
25 relieved? Did he want you to actually try the case at any

1 point?

2 **A** I don't -- you know you take a case to try a
3 case. I was the fourth attorney in the case. I got the --
4 I think he made a point about me not filing a motion for
5 discovery. I received all the discovery from Ivan Toney
6 in the case. He put it in a prophylactic bag, like one of
7 these prophylactic bags, that he brought to my office
8 that -- as far as my discussion -- I take every case as
9 though I'm going to try.

10 I met with his sisters a lot of times. I met
11 with him. I had a good investigator, Paul Silvaggio. As
12 far as -- you're going always to look at a case as a
13 trial, not a plea. You're always doing it that way. And I
14 think he's always taking the position that he's not
15 guilty. If he's not guilty, you're not looking at the
16 case as though it's a plea. I think he stated a few
17 moments ago that he had received -- he had received at
18 least three plea offers in the case and he wouldn't have
19 taken any of them.

20 **Q** Do you recall what they were?

21 **A** I don't recall. I don't recall what exactly
22 they were. As I stated, he did receive plea offers.

23 **Q** No other questions for this witness.

24 **A** Thank you.

25 **MR. MITCHELL:** No other questions, Your

1 Honor.

2 **THE COURT:** Sir, you can step down.

3 **THE WITNESS:** Thank you, ma'am.

4 **THE COURT:** Anything else from the State?

5 **MR. MITCHELL:** One, potentially -- testimony,
6 Your Honor. Could me and opposing counsel approach
7 the bench?

8 **THE COURT:** Of course.

9 (Bench conference is held off the record.)

10 **THE COURT:** All right. Anything else from the
11 State?

12 **MR. MITCHELL:** That's all the witnesses, Your
13 Honor, the State has.

14 **THE COURT:** All right. Well, Mr. Boyd, I
15 think you've raised some very interesting issues. I
16 want to take a look at this entire transcript as
17 well as the transcript of the hearing with Judge
18 Stilwell.

19 **MR. BOYD:** Yes.

20 **THE COURT:** I want to look at your
21 application in this case and I want to consider it.
22 So I'm not going to be in a position to rule today.

23 **MR. BOYD:** Okay.

24 **THE COURT:** I'm going to take it under
25 advisement. I'm going to think about it. I would

1 anticipate ruling on this matter in about a month.

2 MR. BOYD: Okay.

3 THE COURT: I know a month is a long time,
4 but I want to make sure I've gone through everything
5 very clearly. If I feel like I can rule before then,
6 I will.

7 MR. BOYD: Okay.

8 THE COURT: I'm just telling you if you
9 haven't heard something in a month, then, you know
10 -- then -- well, I'll just tell you you will hear
11 something within a month.

12 MR. BOYD: Okay.

13 THE COURT: Fair enough?

14 MR. BOYD: Yes, ma'am.

15 THE COURT: All right then. I appreciate it.
16 I'll take this matter under advisement.

17 MR. BOYD: Thank you, ma'am.

18 THE COURT: Thank you.

19 MR. RICHEY: Thank you, Your Honor.

20 THE COURT: Thank you.

21 (WHEREUPON, the proceedings conclude at
22 approximately 11:25 a.m.)
23
24
25

CERTIFICATE

38

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 13th day of March, 2018.

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

Teresa B Johnson

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Billy Ray Boyd, # 349065

Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-3678

ORDER OF DISMISSAL

ENTERED COMPUTER

18 MAY 17 PM 3:08
Paul Wickensmeyer CDC GUL SC

This matter comes before the Court by way of an application for post-conviction relief filed on June 11, 2015, by Billy Ray Boyd (Applicant). Respondent made its Return on or about December 22, 2015. An evidentiary hearing into the matter was convened on October 24, 2017, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present and represented by Rodney W. Richey, Esquire. Respondent was represented by DeShawn H. Mitchell, Esquire of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Applicant's Standby Trial Counsel Scott D. Robinson, Esquire testified as did Assistant Solicitor Allen O. Fretwell, Esquire. This Court had before it a copy of the records of the Greenville County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's trial, the PCR application, Respondent's Return, Applicant's records from the Department of Corrections and Applicant's appellate records. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court's orders of commitment. The

Greenville County Grand Jury indicted the Applicant at the February 2011 term of General Sessions for two counts of armed robbery (2010-GS-23-3487, -3488) and two counts of kidnapping (2010-GS-23- 3489, -3490). After the State called the case to trial, the Applicant proceeded pro se (with Scott D. Robinson, Esquire as standby counsel). The Applicant was found guilty. On December 14, 2011, the Honorable D. Garrison Hill sentenced the Applicant to concurrent terms of 20 years for each count of armed robbery and 10 year for each count of kidnapping.

Applicant filed a timely notice of appeal. Benjamin J. Tripp, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The South Carolina Court of Appeals dismissed Applicant's appeal after review pursuant to Anders v. California¹. State v. Boyd, Op. No. 2014-UP-220 (S.C. Ct. App. filed June 11, 2014). The Remittitur was sent on June 27, 2014.

ALLEGATIONS

In his application, Applicant alleges he is being held in custody unlawfully for the following reasons (quoted verbatim):

1. "Did not knowingly, intelligently and voluntarily waive right to counsel."
 - a. No order of self-representation in the record.
 - b. No record of a Faretta² hearing.
2. Appellate counsel failed to raise the Faretta issue.
3. "Ineffective assistance of paid counsel."
 - a. Conspired with die State to withhold evidence and for the Applicant to plead guilty.
 - b. Failed to investigate case.
 - c. Failed to call witnesses.
4. "Delayed indictment."

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

¹ 386 U.S. 738 (1967).

² Faretta v. California, 422 U.S. 806 (1975)

Applicant's Testimony

Applicant testified he was convicted of two counts of kidnapping and armed robbery. He testified he was forced to represent himself at trial. He testified Scott D. Robinson, Esquire sat at his table during trial as standby counsel. Applicant testified Mr. Robinson was ineffective. He testified his first allegation or issue was that he was forced to represent himself. Applicant testified he believed his conviction was unlawful because there was no order or self-representation in the record. He testified he did not knowingly, intelligently or voluntarily waive his rights to counsel and that there is was no Faretta hearing anywhere in the record. Applicant testified he never wanted to represent himself and that he paid Mr. Robinson money to represent him. He testified Mr. Robinson put in a motion to be relieved on November 30, 2011 and on December 9, 2011 he was transported to the courthouse in the private chambers of Judge Stilwell with Mr. Robinson and Solicitor Jennifer Tessitore present. He testified there was not a court reporter. Applicant testified he believed Mr. Robinson was relieved and that Mr. Robinson was ineffective for the ten months he represented him. He testified Mr. Robinson was retained February 6, 2011. Applicant testified Mr. Robinson had seen him in the courtroom before Judge Stilwell on January 13, of 2011 when Judge Stilwell was reprimanding him because he did not have consistent representation. He testified as he left the courtroom and went back to the detention center, Mr. Robinson and his investigator Paul Silvaggio made an unsolicited visit to come and see him. Applicant testified Mr. Robinson told him that he had saw Applicant in the courtroom earlier and he believed that he could help Applicant. He testified Mr. Robinson pursued him until he was retained on February 6, 2011. Applicant testified the alleged charges supposedly happened at a beauty salon and that he was alleged to have intimidated the victims there to get money and jewelry. He testified he paid Mr. Robinson four thousand five hundred

dollars to represent him, investigate, subpoena his alibi witnesses, pull pawn shop records to see had he ever been there before, and were there any priors of him ever buying anything that was stolen. He testified Mr. Robinson pretty much promised him everything and once Mr. Robinson was retained and received the money he saw Mr. Robinson on February 17, 2011, to go for a preliminary hearing. Applicant testified he found out it was a sham because he had his indictment papers. He testified he was indicted February 15, 2011 and that he never had a preliminary hearing. Applicant testified he did not hear from Mr. Robinson again until almost three months later. He testified his family and his sister Donna Boyd kept meticulous notes and helped him along the journey while keeping him posted on a lot of thing. Applicant testified he did not get notice of his trial and when he finally heard from Mr. Robinson on May 22, 2011, Mr. Robinson told him there was not going to be a trial. He testified Mr. Robinson wanted him to meet with the prosecutors to work out a plea deal but that he was not willing to plead guilty. Applicant testified during the time he was incarcerated he was offered three plea deals. He testified one plea offer included the armed robbery dropped to strong robbery and the kidnapping was reduced. He testified he was not going to plead guilty to anything. Applicant testified had the State or his paid attorney investigated, he believed that he would be vindicated. He testified he never thought that he would be convicted and that he did not have any past severe criminal background. Applicant testified he also had alibi witnesses and there were records that could have been pulled. He testified there was always a chance that he could have been found guilty if he was not represented properly but with him being detained for twenty one months, he was not able to litigate his own case. He testified he did not have a law degree and was dealing with poor health. Applicant testified he was grossly incompetent and ignorant of the law and had never tried to litigate his own case. He testified he was never told there was an offer of five years but

that the only charge he should have received was receiving stolen goods. Applicant testified he should not have even received that if he did not know the merchandise was stolen. He testified when Mr. Robinson came and represented him, Mr. Robinson never had any intention on getting him prepared for trial and that Mr. Robinson wanted him to plead guilty. He testified none of his alibi witnesses were ever subpoenaed but that Mr. Robinson did type up four subpoenas but told his family to deliver the subpoenas. Applicant testified he wanted relief in his post-conviction relief application by having his conviction overturned but not a new trial. He testified he also took issue with the timeliness of the filing of his indictment. Applicant testified he was incarcerated on March 8, 2010 and that his family had retained a total of four paid attorneys within the twenty-one months of him being denied bail in the detention center. He testified the State presented a procedural history of three of those paid attorneys being relieved as though he was stalling and wanted a continuance but he never asked for any continuances.

On cross-examination, Applicant testified he had three previous attorneys prior to being representing by Mr. Robinson who included Fletcher Smith, Esquire, Elizabeth Wiygul, Esquire, and Ivan Toney, Esquire. He testified he only asked to have the first two relieved. Applicant testified he had them relieved because they were attorneys who were paid to investigate, to build up a defense for him, to litigate his case and they failed to do so. He testified his third attorney was relieved by Judge Stilwell but he did not ask for it. Applicant testified his first three attorney did not do anything regarding his case. He testified Mr. Robinson did not do anything either. Applicant testified he took no responsibility in having his attorneys relieved as there was never any consistent representation by any of his attorneys. He testified he was forced to represent himself at trial. He testified Mr. Robinson was relieved two days before his trial in the Judge's chambers and that he never received his Faretta warnings or a competency test.

Solicitor Fretwell's Testimony

Assistant Solicitor Allen Fretwell testified he had practiced law for eighteen years and he had been associated with the Greenville County Solicitor's Office for all of those eighteen years. He testified Applicant's case was initially assigned to him and that he did recall that Applicant had a number of attorneys. Solicitor Fretwell testified there were some allegations by Applicant against his previous attorneys of improper conduct. He testified he remembered on at least one occasion, the Office of Disciplinary Counsel contacted him about a complaint that Applicant had made. Solicitor Fretwell testified after this contact Applicant filed a complaint against him. He testified after Applicant filed the complaint his office conflicted him out of the case and another prosecutor Assistant Solicitor Jennifer Tessitore took over prosecution. He testified the allegations in the case against Applicant were that there was two ladies in a beauty shop robbed and basically it was the equivalent of a housebreaking at a business. Solicitor Fretwell testified the door was forced open or entered somehow and an assailant came in, threatened the two ladies and required them to go to a bathroom. He testified the assailant took items of value from the ladies and that there was a large 4x4 type weapon used that was apparently broken on a table.

Standby Trial Counsel's Testimony

Scott D. Robinson testified he had practiced law for twenty five years. He testified he was retained to represent Applicant as Applicant's fourth attorney. Mr. Robinson testified Applicant's trial was in December of 2011 and he was retained about ten months before the trial. He testified he recalled Judge Stilwell had a hearing where he explained to Applicant about his Faretta warnings. Mr. Robinson testified concerning an order introduced by Respondent which relieved him and explained that Applicant had been explained to concerning the dangers of self-representation. He testified Judge Stilwell ordered that he remain as standby counsel for

Applicant's case. Mr. Robinson testified Judge Stilwell was making sure that in case Applicant had any questions, he had someone to speak to as his standby counsel. He testified he and Applicant talked throughout the whole trial and his witnesses in the case were his sisters. He testified he thought Applicant did a pretty good job during trial and had a fair trial but unfortunately the jury found him guilty. Mr. Robinson testified the trial judge gave Applicant a lot of opportunities, was very careful with him and courteous to him.

On cross-examination, Mr. Robinson testified about a letter he sent to Applicant on August 26, 2011 in response to a disparaging letter Applicant had sent to him. He testified the letter went over his work on the case including his investigator, Paul Silvaggio, his investigation, and the number of times we met. Mr. Robinson testified he met with Applicant's sisters and went over the idea of a speedy trial. He testified he put in the letter about filing a proposed motion to dismiss for a delayed indictment but that he never filed it as he did not think it would have been successful. Mr. Robinson testified he thought the process with fair in regard to Applicant representing himself. He testified he was the fourth attorney for Applicant and that he had received all of Applicant's discovery from Applicant's third attorney. Mr. Robinson testified he met with Applicant's sisters a lot of times and had a good investigator. He testified Applicant always took the position he was not guilty and would not take any plea deals.

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 at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth

below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his 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, 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 v. Washington, 466 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.

Applicant proceeded on the following allegations:

Faretta Warning

Applicant alleged there was no order of self-representation in the record or record of a Faretta hearing. Applicant testified he was forced to represent himself and believed his conviction was unlawful because there was no order or self-representation in the record. He testified he did not knowingly, intelligently or voluntarily waive his rights to counsel. According to the United States Supreme Court, in order to waive the right to counsel, the accused must be (1) advised of his right to counsel and (2) adequately warned of the dangers of self-representation. Gardner v. State, 351 S.C. 407, 411, 570 S.E.2d 184, 186 (2002). The trial judge must determine whether there is a knowing and intelligent waiver by the defendant. Id. If the trial judge fails to address the disadvantages of appearing pro se, as required by the second prong of Faretta, the appellate courts will look to the record to determine whether petitioner had sufficient background or was apprised of his rights by some other source. Id. There is no scripted Faretta hearing a judge must undertake and “if the record demonstrates the defendant’s decision to represent himself was made with an understanding of the risks of self-representation, the requirements of a voluntary waiver will be satisfied.” Gardner, 351 S.C. at 411-412, 570 S.E.2d at 186 (2002) (internal citations omitted). In a PCR action, if the record fails to demonstrate the petitioner made an informed choice to proceed *pro se*, with “eyes open,” then the petitioner did not make a knowing and voluntary waiver of counsel, and the case should be remanded for a new trial. See Watts v. State, 347 S.C. 399, 556 S.E.2d 368 (2001). In the present case, Applicant testified his first allegation or issue was that he was forced to represent himself. Applicant testified he never wanted to represent himself and that he was forced to. A defendant may surrender his right to counsel through (1) waiver by affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture. State v. Boykin, 324 S.C. 552, 556, 478 S.E.2d 689, 690 (Ct. App.

1996). A defendant may waive his Sixth Amendment right to counsel. A waiver is an intentional and voluntary relinquishment of a known right. United States v. Goldberg, 67 F.3d 1092, 1099 (3d Cir. 1995); Maxwell v. Genez, 350 S.C. 563, 571, 567 S.E.2d 496, 500 (Ct. App. 2002). The courts indulge every reasonable presumption against waiver of fundamental constitutional rights, and do not presume acquiescence in the loss of fundamental rights. Johnson v. Zerbst, 304 U.S. 458, 464, 58 S.Ct. 1019, 1023, 82 L.Ed. 1461, 1466 (1938); Pitts v. North Carolina, 395 F.2d 182, 188 (4th Cir. 1968). A defendant may waive his right to counsel through his conduct. United States v. Goldberg, 67 F.3d 1092, 1100 (3d Cir. 1995); State v. Jacobs, 271 S.C. 126, 128, 245 S.E.2d 606, 608 (1978); State v. Boykin, 324 S.C. 552, 556, 478 S.E.2d 689, 690 (Ct. App. 1996). Most courts have held that the defendant must first be warned that his misconduct will thereafter be treated as a waiver. Boykin, 324 S.C. at 556, 478 S.E.2d at 691. “[T]o the extent that the defendant’s actions are examined under the doctrine of ‘waiver,’ there can be no valid waiver of the Sixth Amendment right to counsel unless the defendant also receives Faretta warnings.” Goldberg, 67 F.3d at 1100. Any subsequent misconduct will be treated as a “waiver by conduct.” Boykin, 324 S.C. at 556, 478 S.E.2d at 690. A waiver of the right to counsel may be inferred from a defendant’s actions. State v. Cain, 277 S.C. 210, 284 S.E.2d 779 (1981); see also State v. Robertson, 382 S.C. 185, 188, 675 S.E.2d 732, 733 (2009) (finding, based on Respondent’s criminal history, his disregard for the instructions of the court, and inexcusable absence from trial, a waiver of the right to counsel by conduct was inferable). Here after a review of the record and testimony presented, this Court finds Applicant has failed to show there was a violation of Faretta warnings. Introduced at the evidentiary hearing was an order dated December 9, 2011 signed by the Honorable Robin Stilwell. In the detailed order, Judge Stilwell found several things. Among them were:

- (1) Defendant has had three (3) prior attorneys both retained and relieved by the Court;
- (2) Defendant has been warned previously by this Court that failure to have an attorney shall not be the basis for any continuance of his trial;
- (3) Defendant has been advised of his right to have an attorney to represent him as well as the benefits of having counsel and the perils and consequences of proceeding without an attorney;
- (4) Defendant is aware of the benefits of having counsel and the perils and consequences of proceeding without counsel and is choosing to represent himself in this case (see procedural history attached to this Order);
- (5) Defendant has consented to relief of Mr. Robinson and agrees to represent himself in the trial of this matter.

It is clear from the order and testimony presented that Judge Stilwell had multiple interactions with Applicant prior to Applicant proceeding to trial. In his order Judge Stilwell notes that Applicant has been advised of his rights to have an attorney represent him as well as the benefits of having counsel and the perils and consequences of proceeding without an attorney. Judge Stilwell also makes reference to the procedural history attached to the order which no doubt references Applicant's numerous dealing with Judge Stilwell. Based on this order, this Court finds Applicant has failed to prove his allegation concerning Faretta warnings or the lack of an order. Accordingly, this allegation is denied and dismissed with prejudice.

Ineffective Assistance of Standby Counsel

Applicant alleged that his Standby Counsel was ineffective in failing to investigate his case, call witnesses, conspiring with the State to withhold evidence and trying to get the Applicant to plead guilty. The United States Court of Appeals for the Fourth Circuit has held

“[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation by proceeding *pro se*.” U.S. v. Lawrence, 161 F.3d 250, 253 (4th Cir. 1998); see also Simpson v. Battaglia, 458 F.3d 585, 597 (7th Cir. 2006) (“[T]he inadequacy of standby counsel’s performance, without the defendant’s relinquishment of his Faretta right, cannot give rise to an ineffective assistance of counsel claim under the Sixth Amendment.”); U.S. v. Mikolajczyk, 137 F.3d 237, 246 (5th Cir. 1998) (discussing that the rights to proceed *pro se* or with effective counsel are “disjunctive,” and as the defendant “had no right to standby counsel, it seems unlikely that standby counsel’s failure to assist could be a violation of his Sixth Amendment rights”); U.S. v. Bova, 350 F.3d 224, 226 (1st Cir. 2003) (noting that the defendant did not have the right to both “represent himself and to enjoy the benefit of standby appointed counsel”) (emphasis in original). Therefore, Applicant had no right to effective assistance of standby counsel.

Notwithstanding the lack of a right to effective assistance of standby counsel, Applicant’s Sixth Amendment right to self-representation was not violated by his standby counsel. In determining whether such rights have been respected, the primary focus must be on whether the defendant had a fair chance to present his case in his own way. McKaskle v. Wiggins, 465 U.S. 168 (1984). As was the case in McKaskle, Applicant had the opportunity to select witnesses, cross-examine, speak to the jury, and make his own strategic trial decisions indicative of self-representation. In addition to exercising his right of self-representation, he was given the additional benefit of Counsel to standby and assist if he chose. Moreover, Sixth Amendment rights are not infringed when counsel “merely helps to ensure the defendant’s compliance with basic rules of courtroom protocol and procedure.” McKaskle, 465 U.S. at 183. Applicant cannot insist on self-representation at his trial and then later place the blame of his conviction on the

attorney whose representation he refused. One must accept the assistance of Counsel in order to attack it as ineffective in a later proceeding. Accordingly, after a review of the record this Court finds Applicant's constitutional rights were not violated by having Mr. Robinson as standby counsel. This allegation is denied and dismissed with prejudice.

Delayed Indictment

Applicant also alleged that he was not indicted in a timely manner after being arrested.

Rule 3(c) of the South Carolina Rules of Criminal Procedure states;

----- Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the grand jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the Grand Jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken; or (3) making other affirmative disposition in writing and filing such action with the Clerk of Court. Rule 3(c), SCRCrimP

In State v. Culbreath, 282 S.C. 38, 316 S.E.2d 681 (1984) the South Carolina Supreme Court interpreted the rule requiring solicitors to act on a warrant within ninety days of its issue. The court agreed with and affirmed the trial court's holding that such a rule was administrative not jurisdictional. *Id.* Furthermore, the court stated a solicitor's delay does not within itself invalidate a warrant or prevent subsequent prosecution. *Id.* at 40, 316 S.E.2d at 681. In State v. Edwards, the defendant alleged the State violated Rule 3 by allowing over 800 days to elapse between the issue of the arrest warrant and the indicted. The Court of Appeals disagreed finding the trial court was correct in finding Rule 3 was procedural in nature and it did not infer any substantive rights. State v. Edwards, 374 S.C. 543, 649 S.E.2d 112 (Ct. App. 2007), *rev'd* (on unrelated grounds), 384 S.C. 504, 682 S.E.2d 820 (2009). This Court finds that Applicant has failed to show any irregularities with respect to the indictments. Accordingly, this Court denies and dismisses this allegation with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any violations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCP. Refer to Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice;
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 15 day of May, 2018.



LETITIA H. VERDIN
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

WITNESSES

B W Lusk

Greenville Police Department

3/8/2010

ARREST WARRANT NUMBER

M382244

ACTION OF GRAND JURY

Bobby Damm

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-

AOF

003487

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

12-14-11

TERM 2010 2011

THE STATE

VS.

BILLY ROY BOYD

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

Certified Copy
Paul B. Winkler
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 3/9/12

RECEIVED

MAY 07 2010

Clerk of Court
Greenville County

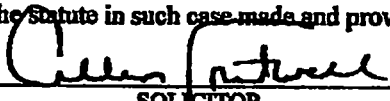
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

**INDICTMENT FOR
ARMED ROBBERY**

At a Court of General Sessions, convened on **FEB 15 2011** the Grand Jurors of Greenville
County present upon their oath:

That BILLY ROY BOYD did in Greenville County, on or about the 4th day of March, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies, described as U.S. Currency and jewelry, from the person or presence of SHARON MAURER. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the Statute in such case made and provided.


SOLICITOR

WITNESSES

B W Lusk *[Signature]*

Greenville Police Department

3/8/2010

ARREST WARRANT NUMBER
M382243

ACTION OF GRAND JURY

[Signature: Billy Damm]

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-
AOF

003488

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2010 204

12-14-11

THE STATE

VS.

BILLY ROY BOYD

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

certified Copy
Paul B. Wilkerson
Clerk of Court C.P. & G.S.
Greenville County, SC
dated 3/2/12

RECEIVED

MAY 07 2010

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY

FEB 15 2011

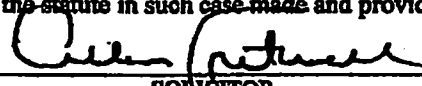
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That BILLY ROY BOYD did in Greenville County, on or about the 4th day of March, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies, described as U.S. Currency and jewelry, from the person or presence of DEBBIE HOLCOMBE. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

WITNESSES

B W Lusk *JB*

Greenville Police Department

3/8/2010

ARREST WARRANT NUMBER

M382246

ACTION OF GRAND JURY

Billy D. Davis
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-
AOF

003489

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2010 *204*

THE STATE

vs.

BILLY ROY BOYD

Indictment for

0095

KIDNAPPING

VIOLATION § 16-03-0910

certified Copy
Paul B. Wilkerson
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated *3/2/12*

RECEIVED

MAY 07 2010

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING

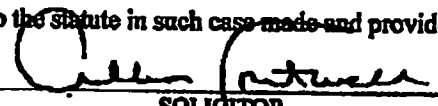
At a Court of General Sessions, convened on
County present upon their oath:

FEB 15 2011

the Grand Jurors of Greenville

That BILLY ROY BOYD did in Greenville County, on or about the 4th day of March, 2010, unlawfully seize, abduct, confine, inveigle, decoy or carry away DEBBIE HOLCOMBE, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

B W Lusk *DL*

Greenville Police Department

3/8/2010

ARREST WARRANT NUMBER

M382246

ACTION OF GRAND JURY

Billy Damm
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-

AOJ

The State of South Carolina

003490

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2010 *2011*

THE STATE

vs.

BILLY ROY BOYD

Indictment for

0095

KIDNAPPING

VIOLATION § 16-03-0910

certified Copy
Paul B. Winkler
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated *3/2/12*

RECEIVED

MAY 07 2010

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING

At a Court of General Sessions, convened on
County present upon their oath:

FEB 15 2011

the Grand Jurors of Greenville

That BILLY ROY BOYD did in Greenville County, on or about the 4th day of March, 2010, unlawfully seize, abduct, confine, inveigle, decoy or carry away SHARON MAUER, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR