

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

THE STATE,

RECEIVED
DEC 28 2012
SC Court of Appeals

|
V.

WILLIAM T. COLEMAN,

APPELLANT

APPELLATE CASE NO. 2012-212338

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT (JUNE 18 – 19, 2012).....	1
INDICTMENTS	189
CERTIFICATE OF COUNSEL.....	193

THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT

STATE’S EXHIBIT #2 (IN CAR CAMERA VIDEO)

State of South Carolina)
County of York)

In the General Sessions
Court of York

Case No.: 2012-GS-46-01470

State of South Carolina.,)
Plaintiff.,)
-vs-)
William Theopla Coleman.,)
Defendant.)

Transcript of Record

June 18-19, 2012
York, South Carolina

B E F O R E:

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

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

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ORIGINAL

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I-N-D-E-XE-X-A-M-I-N-A-T-I-O-N

<u>WITNESS</u>	<u>BY:</u>	<u>PAGE NO.</u>
Dewayne Burch	Solicitor Holland	P.38-48
		P.52-61
		P.103-128
		P.144-145
	Ms. Inzerillo	P.49-50
		P.61-72
	Mr. Coleman	p.134-144
Opening Statement	Solicitor Holland	P.99-102
	Mr. Coleman	P.102-103
Closing Argument	Solicitor Holland	P.152-159
	Mr. Coleman	P.159-160
Charge to the Jury		P.160-168
Verdict.		P.183
Sentencing		P.185-186
Court Reporter Certificate Page.		P.187
Voir Dire/Batson Sheet		P.188

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
ST.1	.380 Revolver/Ammo		P.117/121
ST.2	In Car Camera Video	P.46-47	P.125
ST.3	Daniel Ervin's Driving Record	P.45	
CT.1	Jury Note		P.186
CT.2	Jury Note		P.186
CT.3	Jury Note		P.186
CT.4	6 Jury Notes		P.186

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

1 (COURT IN SESSION IN THE MATTER OF STATE V. WILLIAM
2 THEOPLA COLEMAN ON MONDAY, JUNE 18, 2012 AT 11:52 A.M..)

3 THE COURT: Thank you. Take your seats.

4 (NOTE: DEFENDANT, WILLIAM COLEMAN, BLACK MALE,
5 ENTERING THE COURTROOM.)

6 SOLICITOR HOLLAND: May it please the Court.

7 THE COURT: All right. Yes, ma'am.

8 SOLICITOR HOLLAND: Your Honor, before you is William
9 Coleman. He is represented by Melissa Inzerillo of the
10 public Defender's Office. The State is here ready to go to
11 trial on Indictment 2012-GS-46-0-1-4-7-1; that being for
12 possession of a handgun with the serial numbers
13 obliterated. The Defendant was also indicted for one
14 charge of carrying a pistol unlawfully. The State is not
15 proceeding on that indictment and we will be dismissing it
16 in this case, so the State ask the defense how does Mr.
17 Coleman plead to this charge?

18 MS. INZERILLO: Your Honor, Mr. Coleman is indicating
19 he wishes to plead not guilty

20 SOLICITOR HOLLAND: I believe there is an attorney
21 issues and Ms. Inzerillo would like to resolve that first.

22 THE COURT: All right. Ms. Inzerillo.

23 MS. INZERILLO: May it please the court, Your Honor.

24 In my conversations with Mr. Coleman this morning, he
25 has indicated he wishes to address the court on his own

1 behalf; we just ask the Court to hear any motions he has.

2 THE COURT: Mr. Coleman.

3 MR. COLEMAN: Good morning.

4 THE COURT: Good morning.

5 MR. COLEMAN: Yes, sir. I would like to make a motion
6 to dismiss on my own, my right to file a motion in my own
7 defense. I would like to make a motion to dismiss based on
8 no proper cause for initial traffic stop, illegal search
9 and seizure, insufficient evidence, violation of
10 Constitutional rights to a fair trial and evidence of these
11 facts are set forth in the following paragraphs.

12 Evidence of no probable cause is proven by the
13 physical evidence of the case. And also the incident
14 report and case summary he alleges that he pulled the car
15 over for failure to dim lights. This allegation is proven
16 to be false by video evidence as shown in the video footage
17 documented and recorded by the officers in car camera at
18 approximately 1:26 a.m. Seventeen minutes into the stop
19 the defendant explains to Sergeant Bunch that his bright
20 lights didn't even work so he couldn't fail to dim lights
21 because the bright lights on the vehicle didn't even work.
22 Sergeant Bunch agreed with the defendant and makes the
23 statement "Well why don't you get them fixed so you can
24 turn them on" therefore agreeing with Mr. Coleman that his
25 probably cause for the stop was false. So based on no

1 probable cause for initial traffic stop I would move that
2 this case to be dismissed in its entirety. And also
3 illegal search and seizure is proven by either video
4 surveillance. In the incident report Sergeant Bunch made
5 the false allegation within the first three lines that he
6 immediately detected a order of marijuana upon the stop.
7 The same officer made another false statement in the case
8 summary reported he detected the odor of marijuana during
9 the search. Both of these statements are proven to be
10 false by audio/video surveillance. The video proves that
11 it wasn't immediately upon the stop nor during the search
12 that he continued to smell marijuana. This proof is
13 documented at 1:28 a.m. It was twenty minutes into the
14 stop that Sergeant Bunch claimed he smelled Signal 9. Its
15 clearly Sergeant Bunch was making this up because backup
16 arrived less than five minutes after the stop. None of the
17 other officers on the scene proclaimed to have smelled
18 Signal 9 which is a drug.

19 Also added to the fact of illegal search and seizure
20 is no drugs was found nor illegal drug paraphernalia, nor
21 were any arrest made prior to search. I hereby move the
22 court to dismiss based upon illegal search and seizure the
23 case in it's entirety. Added to the fact of illegal search
24 and seizure to the fact that Sergeant Bunch falsified
25 statements in the incident report and the case summary

-7-

1 saying that Coleman was arrested prior to search. This is
2 not true, Coleman was not under arrest prior to search as
3 proven by audio/video surveillance. In the video
4 documented at 1:17 a.m., per Sergeant Bunch's order Officer
5 Wilson detained Coleman making the statement you are not
6 under arrest, you are just being detained. Ten minutes
7 later documented at 1:27 still detained Coleman ask to be
8 taken to the jail. Sergeant Bunch contends saying, "Take
9 him, I'm tired of dealing with him." At this point Coleman
10 still was not under arrest. Officer Wilson transported me
11 to Rock Hill city jail. I was later taken to the hospital.
12 The limousine was searched after I left from the scene
13 without my consent nor the owner's consent and I was not
14 under arrest for a crime.

15 I further this motion also on the grounds of
16 insufficient evidence based on the facts the incident
17 report and case summary contains multiple variations even
18 though written by the same officer. Neither the incident
19 report nor the case summary matches such good evidence of
20 the audio/video surveillance finding most of the officers
21 reports to be untrue. Sergeant Bunch attempts to link Mr.
22 Coleman to ta jacket that he alleges to have found in the
23 driver's seat making a false statement in the incident
24 report that Coleman slipped out of the jacket as he was
25 getting out of the car. And in the case summary he made a

1 false statement the jacket he was wearing when stopped.
2 Audio/video surveillance document documented at 1:15 shows
3 Coleman exiting the car smoothly without taking off
4 anything. The reporting officer also made the false
5 statement that he found Mr. Coleman's wallet in the right
6 front pocket with the firearm and that is how he identified
7 Mr. Coleman. This is not true. He identified Mr. Coleman
8 documented at 1:40 a.m. in rear passenger Edward Flowers
9 told him who Mr. Coleman was. He did not identify me by a
10 jacket nor a wallet therefore if it doesn't fit you must
11 acquit. I wasn't in actual or constructive possession of
12 anything found inside the vehicle. I was outside the
13 vehicle approximately a whole half an hour while the
14 vehicle was occupied by four other unattended so anybody
15 could have put that gun, I didn't. I also have
16 fingerprint analysis showing that my fingerprints was not
17 on the gun.

18 THE COURT: Your motion has been - you made what you
19 consider to be a motion and it's been recorded by the court
20 reporter but you are not entitled to make a motion on your
21 own behalf because you have an attorney even though it's
22 clear you're not entitled to represent yourself and have an
23 attorney since you have an appointed attorney you cannot
24 represent yourself and therefore your motion is on the
25 record but it is not a motion that I can rule on.

1 MR. COLEMAN: I wish to represent myself, Your Honor.

2 I want to make this motion to be my own defense.

3 THE COURT: Well if you represent yourself you have to
4 represent yourself for the entire case and there is a
5 danger in you representing yourself since you're not an
6 attorney, and there is a benefit in your having an
7 attorney. You applied for and were appointed an attorney.
8 Do you understand that?

9 MR. COLEMAN: Yes, sir. I hadn't applied for one, I
10 was appointed one. I didn't apply for one.

11 THE COURT: What's the situation as far as counsel?

12 MS. INZERILLO: Your Honor, I was appointed to Mr.
13 Coleman's case upon his arrest on the 26th of January. I
14 have represented him for that time. Does the Court wish
15 for me to go through his application or my thoughts on -

16 THE COURT: Has there been any motions regarding
17 counsel situation? Put those on the record.

18 MS. INZERILLO: Yes, Your Honor, if I may.

19 Your Honor, Mr. Coleman and I met on his initial
20 appearance on March 5th. Mr. Coleman did not appear for
21 his bond returnable on May 17. I state that - wish to put
22 on the record - Mr. Coleman does strongly disagree with
23 that but he did not appear for a bond returnable on April
24 17th. The State issued a bench warrant and Mr. Coleman was
25 picked up May 8th. I met with Mr. Coleman, arranged for an

1 offer to be made in his case which was 90 days on a
2 misdemeanor concurrent to a 180 day commitment that he has
3 to through SCDC. Mr. Coleman indicated he did not want to
4 accept that offer and ask me to file a speedy trial motion
5 on his behalf. Your Honor, I did file that speedy trial
6 motion. That motion I believe was heard on the 10th but I
7 would ask Ms. Holland to please correct my dates if I'm
8 wrong about that.

9 SOLICITOR HOLLAND: I believe it was filed on May -
10 I'm sorry, on May 14th and the hearing was had on May 16th
11 in front of Judge Alford. May 10th was the day we planned
12 on him pleading guilty.

13 MS. INZERILLO: Okay. Thank you.

14 Your Honor, on May 16th in front of Judge Alford we
15 did have the speedy trial motion. Mr. Coleman at that time
16 did ask for me to be relieved. I did not at that time join
17 into the motion. Essentially I didn't feel like it was
18 right at that point; we had not had that many discussions
19 but he did feel strongly about that and did ask for me to
20 relate Judge Alford did decline at that point. Mr. Coleman
21 and I met several times from May 16th when that hearing was
22 heard. We were ready to go, I continued by representation
23 of him. We had - Judge Alford as a part of a speedy trial
24 motion ordered that Mr. Coleman have a second preliminary
25 hearing; that preliminary hearing was held at the end of

-11-

1 May. At the end of that preliminary hearing Mr. Coleman
2 did indicate to me that he wished to have me relieved as
3 counsel and go forward on his own. Because Judge Alford
4 was here handling a non-jury term and was holding court, we
5 ask him to please hear that motion because we were
6 scheduled to actually come before Your Honor on June 4th in
7 order to try and address that issue and not waste time -
8 waste Your Honor's time in trying it.

9 Judge Alford did hear that motion, I did join in that
10 motion; essentially Mr. Coleman was asked by the court to
11 make his motion, he did. I cannot remember if he
12 specifically made a motion to have me relieved, I did make
13 a motion at that time to have me relieved and Judge Alford
14 did discuss that with Mr. Coleman. When specifically ask
15 and pressed by Judge Alford, Mr Coleman indicated he did
16 not want to have me relieved, he wished to have me continue
17 on his case. So I did continue on his case and Judge
18 Alford did not relieve me at that time. He did order the
19 case continued from the June 4th term of this term so I
20 continued to work on this case. So, Your Honor, I would
21 say extensively this is the third time this issue has been
22 held in front of a General Sessions judge in this circuit.
23 I will say, Your Honor, I have been working with Mr.
24 Coleman. I know Mr. Coleman made it clear in front of
25 Judge Alford he does not trust my advice, he does not trust

1 me as his attorney. I know he has been very diligent in t
2 that was his position that he wished to do his own research
3 essentially to double check what I have been saying. I am
4 aware, Your Honor, there is some jail phone calls that he
5 has had similar conversations with his family to that
6 affect. I have - I am on the case, Your Honor, I am
7 prepared to go forward today. I will say as his attorney
8 although conversations between Mr. Coleman and I are
9 amiable at this point; I do feel like they have broken down
10 in terms of he - there is not a trusting relationship
11 between us. I am aware that he is double checking
12 everything that I do. I think there has been some
13 disagreement on essentially how put forward on which is why
14 Mr. Coleman felt strongly enough to do his own motion to
15 dismiss and not rely on me to do one that I had prepared
16 for pretrial motions for today.

17 So, Your Honor, I would say I guess at this point I
18 would join in his motion and feel strongly about and had
19 indicated to me at least all through last week he was
20 considering going forward on his own.

21 THE COURT: Mr. Coleman, you want to relieve her, Ms.
22 Inzerillo, of further representation of you?

23 MR. COLEMAN: Yes, sir.

24 THE COURT: You want to proceed on your own?

25 MR. COLEMAN: Yes, sir, Your Honor.

-13-

1 THE COURT: You've been told apparently by Judge
2 Alford and now me there is a danger in your representing
3 yourself since you're not an attorney and there is a
4 benefit in you having an attorney. Do you understand that?

5 MR. COLEMAN: Yes, sir, Your Honor.

6 But I would like to ask that if I am granted an
7 opportunity to represent myself, can I have a continuance
8 so I can learn the trial procedures better so I'll know the
9 procedures of a trial?

10 THE COURT: No. I will relieve Ms. Inzerillo. She
11 will be what we call stand-by counsel; that is she will
12 remain in the courtroom for you to question and have any
13 advice that you need but we're going to go forward with the
14 case today. So it will not be continued that you can
15 represent yourself.

16 And as to your motion to dismiss, that motion is
17 considered having been made by you after Ms. Inzerillo was
18 relieved of counsel and that motion is denied. So we will
19 go forward with the trial.

20 All right, any other - Does the State have any
21 pretrial matters?

22 MS. HOLLAND: Your Honor, just since Mr. Coleman is
23 representing himself there is a gun involved in this case
24 and I ask that a lock be placed on it. Just to make
25 everybody in the courtroom comfortable we ask that Mr.

1 Coleman not handle the gun that maybe a bailiff if it needs
2 to be passed up that a bailiff do it. That was just to
3 make everybody in the courtroom comfortable if there should
4 be a lock on it I've advised them to please place a lock on
5 it.

6 I would like to place the rest of the chronology of
7 events on the record since none of it's here and you will
8 have it in front of Your Honor.

9 THE COURT: Mr. Coleman, you can have a seat.

10 (DEFENDANT SAT DOWN.)

11 SOLICITOR HOLLAND: Ms. Inzerillo told you a bench
12 warrant was issued after his bond returnable on April 17th.
13 Ms. Inzerillo did ask me to give him an offer of concurrent
14 time and I offered him ninety days and he pled only to the
15 unlawful carrying. I prepared paperwork at that point the
16 next day when he was supposed to plead guilty which was May
17 11th not May 10th. He rejected that offer, Ms. Inzerillo
18 notified me that he was ready and that he wanted a trial.
19 A speedy trial motion was filed on Monday May 14th; at that
20 point the case was 102 days old. A motion - the hearing
21 was had two days later on May 16th; Judge Alford ordered me
22 to try the case no later than July 9th, given the court
23 terms and the fact that we have two off court terms after
24 this week I went ahead and got special permission to submit
25 that case to a Grand Jury and it was indicted. Judge

-15-

1 Alford did order a second preliminary hearing. Ms.
2 Inzerillo had represented the defendant on a preliminary
3 hearing on March 27 as well. Probable cause was found at
4 both hearings. On May 21st the - Ms. Inzerillo came to me
5 and indicated that Mr. Coleman wanted the plea offer back.
6 I initially said no but after some deliberations between me
7 and Ms. Inzerillo I did agree to give him his offer back.
8 I gave him a very short window to take it; again we were in
9 the courtroom ready to do the plea and he rejected the
10 offer again.

11 The second preliminary hearing was held on May 30th
12 again and the next day as we had a hearing in front of
13 Judge Alford the defendant at that point ask for a
14 continuance again and at that point and he also mentioned
15 and again today. When a speedy trial motion was filed
16 although the motion was not appropriate I dropped
17 everything and got ready for a trial so the State is ready
18 to proceed today.

19 THE COURT: Any - Ms. Inzerillo, if you'll just have a
20 seat behind Mr. Coleman.

21 (MS. INZERILLO MOVED BACK BEHIND DEFENDANT.)

22 MS. INZERILLO: Also, Your Honor, may I have one
23 moment?

24 THE COURT: You may.

25 (PAUSE.)

1 SOLICITOR HOLLAND: Your Honor, if I may place one
2 other additional issue --

3 THE COURT: Wait just a minute. She's talking to Mr.
4 Coleman. He can't --

5 SOLICITOR HOLLAND: Thank you.

6 (PAUSE.)

7 MS. INZERILLO: Thank you, Your Honor.

8 SOLICITOR HOLLAND: Your Honor, the State would just
9 like to state for the record, the defendant did apply for a
10 public defender. I pulled the document and he did sign for
11 a public defender. We do have additional issues we would
12 like to take up after the jury.

13 THE COURT: Mr. Coleman, anything else before we get
14 the jury up?

15 MR. COLEMAN: Sir?

16 THE COURT: Anything else before we get the jury panel
17 up?

18 MR. COLEMAN: I would just like time to look over this
19 --

20 THE COURT: Okay. I'll give you a few minutes to do
21 that.

22 (PAUSE.)

23 SOLICITOR HOLLAND: Your Honor, if I may check, may I
24 step outside and see if my officer's are here?

25 (SOLICITOR HOLLAND LEFT THE COURTROOM.)

1 MR. COLEMAN: Your Honor.

2 THE COURT: Yes, sir.

3 MR. COLEMAN: Your Honor, is okay if I have Melissa
4 Inzerillo represent me?

5 THE COURT: Well you got - it suits me and I think
6 it's the wisest thing to do but you relieved her and she's
7 got to give her okay now.

8 Ms. Inzerillo, do you want back in?

9 MS. INZERILLO: I'll be okay, Your Honor.

10 THE COURT: I beg your pardon?

11 MS. INZERILLO: I'll be okay with that, Your Honor.

12 THE COURT: All right, she's back in then. She
13 represents you.

14 All right, Ms. Holland gets back in we'll notify her
15 of the latest...

16 (SOLICITOR HOLLAND REENTERS THE COURTROOM.)

17 THE COURT: Ms. Holland, Ms. Inzerillo is back on the
18 case.

19 SOLICITOR HOLLAND: Okay. Your Honor, then since Ms.
20 Inzerillo made a motion regarding voir dire the State only
21 objects to the last question; that being Number 8 says "Has
22 any member of the jury have a strong feeling against the
23 possession of guns." That's just kind of irrelevant in
24 this matter. This has nothing to do with possessing a gun.
25 It has to do with possessing a gun with the serial number

1 obliterated.

2 THE COURT: I'll not ask that. I will ask about a gun
3 related charge.

4 SOLICITOR HOLLAND: Okay. And then also for Number
5 Four. We would just ask that that be reciprocal. She ask
6 about has anybody been involved or employed or volunteered
7 with a prosecutors office. We just ask that you ask the
8 same thing about the public defender's office.

9 THE COURT: Any objection?

10 MS. INZERILLO: No, Your Honor.

11 THE COURT: All right. Let's go through the motions
12 then. We had the motion --

13 Anything else, Ms. Holland?

14 SOLICITOR HOLLAND: No, Your Honor. We don't have a
15 motion.

16 THE COURT: Ms. Inzerillo, I've got your first motion
17 is compliance by the State in discovery.

18 Has the State complied with discovery?

19 SOLICITOR HOLLAND: Yes, Your Honor, and Ms. Inzerillo
20 went through the law enforcement case file this morning.

21 MS. INZERILLO: Your Honor, if I may comment on that.

22 This morning I was given copies of some jail phone
23 calls made by my client I believe to certain members of his
24 family. We have received a tape a couple of weeks ago
25 maybe last week of some other jail phone calls. I have

-19-

1 reviewed those and discussed those with Mr. Coleman;
2 however we were given about sixteen to twenty additional
3 phone calls this morning. I have not had a chance to go
4 through those phone calls, Your Honor. Generally the phone
5 calls lasted about ten minutes a piece and it's not
6 something that can get pushed through fairly quickly. I
7 have informed the State that I generally do listen to the
8 jail phone calls just in case there is something further
9 investigated otherwise that needs to be done of the case
10 and any other issues I need to discuss with Mr. Coleman and
11 having had these given to me this morning I have not had a
12 chance to do that. It is my understanding that the State
13 is not contending to use it in their case in chief, but
14 should Mr. Coleman take the stand or should we do anything
15 to open the door that they would intend to use those and I
16 would ask the Court at this time just for a continuance so
17 that I can listen to these tapes and advise Mr. Coleman as
18 to what's on them and any decisions that he needs to make
19 regarding them.

20 THE COURT: Are these calls initiated by Mr. Coleman?

21 MS. INZERILLO: They were, Your Honor.

22 THE COURT: Does the State intend to use them?

23 SOLICITOR HOLLAND: Your Honor, we do not intend to
24 use them at all. I don't even believe they're
25 discoverable. I just provided them to Ms. Inzerillo aa a

1 courtesy; we do not intend to use the phone calls.

2 THE COURT: No one should know better what's on those
3 calls than Mr. Coleman himself. I certainly encourage
4 counsel to discuss with him if he believes there is
5 anything in that that would be exculpatory; that might try
6 to be isolated, and we can deal with that but I'm not going
7 to continue the case based - If we developed that slippery
8 slop and all the defendant would have to do is the night
9 before trial make a couple of phone calls, stretch them out
10 as long as they could and then the next day say I'm not
11 ready to go to trial I got phone calls. That's kind of
12 putting the defendant in control of the docket and that is
13 not going to happen in this courtroom at least not today.

14 MS. INZERILLO: Thank you, Your Honor.

15 THE COURT: The only time it could happen if a higher
16 court told me that's that the way we ought to operate.

17 All right, so discovery has been met. Prior record of
18 Mr. Coleman just for impeachment.

19 SOLICITOR HOLLAND: Yes, Your Honor. The State - I
20 have shown this to Ms. Inzerillo, we have three certified
21 convictions; one for possession of crack, one for
22 possession with intent to distribute crack and one for
23 failure to stop for a blue light. The State would just ask
24 to inquire about those as misdemeanors and felonies that
25 carry in excess of a year.

1 THE COURT: You contest those, Ms. Inzerillo?

2 MS. INZERILLO: No, Your Honor.

3 THE COURT: All right, no impeachable offenses.

4 Any non-law enforcement gonna testify?

5 SOLICITOR HOLLAND: No, Your Honor. All of our
6 witnesses are law enforcement.

7 THE COURT: That takes care of Number 3.

8 Motion to sequester, I'll do that reciprocal.

9 Any Lyle testimony?

10 SOLICITOR HOLLAND: No, Your Honor.

11 THE COURT: Can't see any in a case like this.

12 Motion to suppress and motion - That's Number 6,

13 Motion to Suppress the Gun, we'll come back to that.

14 Motion to Suppress Statements.

15 Were there any statements?

16 SOLICITOR HOLLAND: There were a few when the
17 defendant was pulled over. He was ask his name and he gave
18 a fake name and a fake date of birth and in that they were
19 not his name or date of birth, so there are a few
20 statements and the State is prepared for a Jackson v. Denno
21 hearing.

22 THE COURT: All right. Well let's get the jury panel
23 up and draw a jury and let them go to lunch because it's
24 already almost 12:30 and we won't swear them in. We will
25 get them up, draw a jury panel, and then we'll probably

1 break for lunch too and we'll see what kind of schedule and
2 come back and take care of the motions.

3 SOLICITOR HOLLAND: And, Your Honor, in regard to
4 sequestration, Sergeant Bunch is my case agent, we'd ask
5 that he be allowed to stay in the courtroom.

6 THE COURT: He'd be allowed to stay in.

7 SOLICITOR HOLLAND: Our only other witness is Sergeant
8 Wesley Wiles, I certainly would ask that he stay in here
9 for purposes of jury selection. There were a number of
10 jurors that work at Winthrop and I would just like to make
11 sure that he doesn't take the stand and people all of a
12 sudden recognize him by face and not by name so if he could
13 just stay in to be presented to the jury.

14 THE COURT: Any objection?

15 MS. INZERILLO: No, Your Honor.

16 SOLICITOR HOLLAND: Thank you.

17 THE COURT: Let's get the jury up. Somebody let me
18 know when they're here. We'll be at ease for a few
19 minutes.

20 (COURT IN RECESS AT 12:25 P.M..)

21 (COURT BACK IN SESSION AT 12:32 P.M..)

22 (JURY ENTERS COURTROOM AT 12:30 P.M..)

23 THE COURT: Thank you. Take your seats.

24 Members of the jury panel, we're going to start our first
25 trial for the week and it is the case of State of South

-23-

1 Carolina versus Mr. William Coleman.

2 Mr. Coleman, would you stand so the jury can see you.

3 (DEFENDANT WILLIAM COLEMAN STOOD.)

4 THE COURT: This is Mr. Coleman, he is represented by
5 Ms. Inzerillo.

6 (DEFENSE ATTORNEY MELISSA INZERILLO STOOD.)

7 THE COURT: You may be seated.

8 (DEFENDANT AND ATTORNEY MELISSA INZERILLO SITTING
9 DOWN.)

10 THE COURT: The State is represented by Ms. Holland
11 and Mr. Epting from the Solicitor's office.

12 (SOLICITOR'S STOOD AND SAT BACK DOWN.)

13 THE COURT: Ms. Inzerillo is from the public
14 defender's office.

15 Mr. Coleman is charged with the offense of having a
16 handgun with the serial number obliterated. It's alleged
17 this occurred on January 26, 2012 here in York County,
18 South Carolina. To this charge he has entered a plea of
19 not guilty. That plea places on the state the burden of
20 proving Mr. Coleman's guilt beyond a reasonable doubt
21 before a jury could convict him.

22 Somewhat similar to the questions I ask downstairs I
23 now have a series of questions to ask you. This time what
24 I will do is ask you if you need to respond to any of these
25 questions, stand and we'll discuss them here but we won't

1 go into a lot of detail, probably won't have to. So if any
2 of these apply to you please stand.

3 First, are any of you related by blood or marriage, or
4 are you a close personal friend of Mr. William Coleman; if
5 so, please stand?

6 No one stands.

7 Have any of you been represented by Ms. Inzerillo, Ms.
8 Holland, Mrs. Holland, Mr. Epting or anyone from either the
9 Solicitor's Office, Mr. Brackett, or the Public Defender's
10 Office Mr. Dest? If you have been represented by them or
11 assisted them in any way as a witness or been a victim or
12 anything like that, any association with them, please
13 stand?

14 No one stands.

15 Are any of you a personal friend of Mr. Epting, Mrs.
16 Holland, or Ms. Inzerillo, if so please stand? Or go to
17 the same church, clubs, or anything like that.

18 No one stands.

19 Do any of you know anything about this case; have any
20 of you heard about it from any source whatsoever? Or have
21 any of you formed or expressed any opinion about any matter
22 or issue which would be involved in this case; if so,
23 please stand?

24 No one stands.

25 Were any of you members of the Grand Jury which passed

-25-

1 on this indictment at an earlier time; if so, please stand?

2 No one stands.

3 Are any of you or members of your immediate family
4 either involved in law enforcement at any level, or
5 involved in the prosecution of criminal cases at any level
6 anything from an MP or policeman, sheriff's deputy, US
7 Marshall or anything such as a solicitor, US Attorney,
8 Attorney General, or anything like that if so, please
9 stand?

10 All right, yes, ma'am, your name and number?

11 A. My name is Erin Woodcock, my number is 247. My
12 husband is a detention officer with the Mecklinburg County
13 jail.

14 THE COURT: In which county?

15 MS. WOODCOCK: Mecklinburg County.

16 THE COURT: All right. Would that affect your ability
17 to be fair and impartial in the trial of this case?

18 MS. WOODCOCK: No, sir.

19 THE COURT: Would you base your verdict on the law and
20 the evidence in this trial?

21 MS. WOODCOCK: Yes, sir.

22 THE COURT: All right. Thank you. I appreciate you
23 standing. That's exactly what - That's why I ask the
24 question.

25 Next are any of you or a member of your family -

1 immediate family members of or contributors to
2 organizations such as Mother's Against Drunk Drivers,
3 Student's Against Drunk Drivers, Citizen's Against
4 Violence, sometimes referred to as CAV; sheriff's
5 Association, Trooper's Association or Fraternal Order of
6 Police; if so, please stand?

7 No one stands.

8 Have any of you - and I'm not going to ask you to go
9 into particulars with this but this is a charge of having a
10 gun - Mr. Coleman is alleged to have a gun that had the
11 serial numbers obliterated in some fashion. Have any of
12 you or a member of your immediate family been charged with
13 a gun - a violation of the South Carolina Gun Law; if so,
14 please stand?

15 No one stands.

16 The following are possible witnesses in this case. I
17 do not know that all will testify but even if they don't
18 testify, their names may come up, so if you're related by
19 blood or marriage or if you are a close personal friend or
20 acquaintance of any of these individuals, please stand.

21 Sergeant Wayne Bunch of the Winthrop Police
22 Department; Officer Percy Wilson of the Winthrop Police
23 Department; Sergeant Wesley Wiles of the Winthrop Police
24 Department.

25 From the Solicitor's Office, Martha Parrish, Kevin

-27-

1 Tollison. From the Sheriff's Office, Cheryl Guzman. And
2 from the York County Forensic Service Unit, George Weeks.
3 Any of you related by blood or marriage or a close personal
4 friend or acquaintance of any of those individuals; if so,
5 please stand?

6 No one stands.

7 Anything further from the State?

8 SOLICITOR HOLLAND: Nothing, Your Honor.

9 THE COURT: Anything from the Defense?

10 MS. INZERILLO: No, Your Honor.

11 THE COURT: Finally, do any of you know of any reason
12 whatsoever why you could not or should not serve as a fair
13 and impartial juror in this particular case; if so, please
14 stand?

15 No one stands.

16 Now the way we draw juries in this case, each side has
17 a right to remove, that is, strike up to five individuals.
18 If you hear your name called please come forward and bring
19 with you any personal belongings that you may have so that
20 you won't have to go back and get them if you are seated.

21 If you hear your name called -

22 Mr. Anthony, would you move over just a little bit. A
23 little bit more, I like to see the jury. They might not
24 want to see me. If you come forward stand beside the
25 bailiff up here, turn around and first face the table where

1 the Solicitor's are seated. One of them will either say
2 either excuse the juror or present the juror. If you hear
3 the words excuse the juror you may return to your seat. If
4 you hear the words present the juror, turn and face the
5 table where Ms. Inzerillo and Mr. Coleman are seated. Ms.
6 Inzerillo will say either excuse the juror which again
7 means you may return to your seat. Or she will say swear
8 the juror. If you hear those words please step over and
9 the bailiff will show you where to have a seat in the jury
10 box.

11 Madame Clerk.

12 MADAME CLERK: Number 157, Annette Myers.

13 (WHITE FEMALE COMING FORWARD.)

14 MADAME CLERK: What say you for the State?

15 SOLICITOR HOLLAND: Please present the juror.

16 MADAME CLERK: The Defense?

17 MS. INZERILLO: Please swear the juror.

18 MADAME CLERK: You may have a seat in the jury box.

19 Number 180, Betty Pryor.

20 (WHITE FEMALE COMING FORWARD.)

21 MADAME CLERK: What say you for the State?

22 SOLICITOR HOLLAND: Please present the juror.

23 MADAME CLERK: The Defense?

24 MS. INZERILLO: Please swear the juror.

25 MADAME CLERK: Please have a seat in the jury box.

1 Number 101, Leesa Honeycutt.

2 (WHITE FEMALE COMING FORWARD.)

3 MADAME CLERK: What say you for the State?

4 SOLICITOR HOLLAND: Please present the juror?

5 MADAME CLERK: Defense?

6 MS. INZERILLO: Please swear the juror.

7 MADAME CLERK: You may have a seat in the jury box.

8 Number 91, Towanda Harris.

9 (BLACK FEMALE COMING FORWARD.)

10 MADAME CLERK: What say you for the State?

11 SOLICITOR HOLLAND: Please present the juror.

12 MADAME CLERK: Defense?

13 MS. INZERILLO: Please swear the juror.

14 MADAME CLERK: You may have a seat in the jury box.

15 Number 93, Candace Helms.

16 (WHITE FEMALE COMING FORWARD.)

17 MADAME CLERK: What say you for the State?

18 SOLICITOR HOLLAND: Please present the juror?

19 MADAME CLERK: Defense?

20 MS. INZERILLO: Please swear the juror.

21 MADAME CLERK: You may have a seat in the jury box.

22 Number 131, Laura Lucketta.

23 (WHITE FEMALE COMING FORWARD.)

24 MADAME CLERK: What say you for the State?

25 MADAME SOLICITOR: Please excuse the juror.

1 MADAME CLERK: You are excused from this case.

2 Number 21, Melissa Boykin.

3 (WHITE FEMALE COMING FORWARD.)

4 MADAME CLERK: What say you for the State?

5 SOLICITOR HOLLAND: Please present the juror.

6 MADAME CLERK: Defense?

7 MS. INZERILLO: Please swear the juror.

8 MADAME CLERK: You may have a seat in the jury box.

9 Number 150, Donna Monteiro.

10 (WHITE FEMALE COMING FORWARD.)

11 MADAME CLERK: What say you for the State?

12 SOLICITOR HOLLAND: Please present the juror.

13 MADAME CLERK: Defense?

14 MS. INZERILLO: Please swear the juror.

15 MADAME CLERK: You may have a seat in the jury box.

16 Number 154, Amber Murdock.

17 (BLACK FEMALE COMING FORWARD.)

18 MADAME CLERK: What say you for the State?

19 SOLICITOR HOLLAND: Please present the juror.

20 MADAME CLERK: Defense?

21 MS. INZERILLO: Please swear the juror.

22 MADAME CLERK: You may have a seat in the jury box.

23 Number 117, Kathleen Kozlowski.

24 SOLICITOR HOLLAND: Madame Clerk, may you repeat the
25 number.

1 MADAME CLERK: 117.

2 (WHITE FEMALE COMING FORWARD.)

3 MADAME CLERK: What say you for the State?

4 SOLICITOR HOLLAND: Please present the juror.

5 MADAME CLERK: Defense?

6 MS. INZERILLO: Please swear the juror.

7 MADAME CLERK: You may have a seat in the jury box.

8 Number 222, Katelin Tough.

9 (WHITE FEMALE COMING FORWARD.)

10 MADAME CLERK: What say you for the State?

11 SOLICITOR HOLLAND: Please present the juror.

12 MADAME CLERK: Defense?

13 MS. INZERILLO: Please excuse the juror.

14 MADAME CLERK: You are excused in this case.

15 Number 225, Pamela Tysinger.

16 MS. INZERILLO: Madame Clerk, may I have the number
17 again.

18 MADAME CLERK: 225.

19 (WHITE FEMALE COMING FORWARD.)

20 MADAME CLERK: What say you for the State?

21 SOLICITOR HOLLAND: Please present the juror.

22 MADAME CLERK: Defense?

23 MS. INZERILLO: Please swear the juror.

24 MADAME CLERK: You may have a seat in the jury box.

25 Number 22, Ryan Brewer.

1 (WHITE MALE COMING FORWARD.)

2 MADAME CLERK: What say you for the State?

3 SOLICITOR HOLLAND: Please present the juror?

4 MADAME CLERK: Defense?

5 MS. INZERILLO: Please excuse the juror.

6 MADAME CLERK: You are excused in this case.

7 Number 159, Paul Nguyen.

8 (BLACK MALE COMING FORWARD.)

9 MADAME CLERK: What say you for the State?

10 SOLICITOR HOLLAND: Please excuse the juror.

11 MADAME CLERK: You are excused from this case.

12 Number 223, Kimberly Trotter.

13 (WHITE FEMALE COMING FORWARD.)

14 MADAME CLERK: What say you for the State?

15 SOLICITOR HOLLAND: Please present the juror.

16 MADAME CLERK: Defense?

17 MS. INZERILLO: Please swear the juror.

18 MADAME CLERK: You may have a seat in the jury box.

19 Number 144, Sally McGill.

20 (WHITE FEMALE COMING FORWARD.)

21 MADAME CLERK: What say you for the State?

22 SOLICITOR HOLLAND: Please present the juror?

23 MADAME CLERK: Defense?

24 MS. INZERILLO: Please swear the juror.

25 MADAME CLERK: You may have a seat in the jury box.

-33-

1 THE COURT: We will draw an alternate, strikes will be
2 one and two.

3 MADAME CLERK: Number 128, Philip Long.

4 (WHITE MALE COMING FORWARD.)

5 MADAME CLERK: Please present the juror.

6 MADAME CLERK: Defense?

7 MS. INZERILLO: Please excuse the juror.

8 MADAME CLERK: You are excused in this case.

9 Number 68, Cheri Flanagan.

10 (WHITE FEMALE COMING FORWARD.)

11 MADAME CLERK: What say you for the State?

12 SOLICITOR HOLLAND: Please present the juror.

13 MADAME CLERK: Defense?

14 MS. INZERILLO: Please swear the juror.

15 MADAME CLERK: You may have a seat in the jury box.

16 THE COURT: Anything from the State involving the
17 striking of the panel?

18 SOLICITOR HOLLAND: Nothing, Your Honor.

19 THE COURT: Anything from the Defense?

20 MS. INZERILLO: Nothing, Your Honor.

21 THE COURT: Those of you who were not chosen I'm going
22 to allow you to leave. I'm going to ask you to do so
23 quietly so we can start working with this panel. Call back
24 tonight after Seven. And as I told you earlier today,
25 please follow the instructions that you receive at that

1 time. Either call back if you're told to call back or
2 return if you're told to return. Have a pleasant evening.
3 Again please try to leave fairly quietly so I can start
4 talking with this group. Thank you.

5 (JURY DISMISSED AT 12:49 P.M..)

6 THE COURT: Those of you who were chosen, we're not
7 going to administer the oath yet. We have some legal
8 matters to take up but we wanted to go ahead and get the
9 jury drawn so you could go and have lunch because it's
10 almost One o'clock. I'm going to ask you to be back at
11 2:30. We do have a little bit of work to do; we might not
12 be able to start at 2:30 but we'll take a little lunch
13 break ourselves, but I'm going to ask you to be back at
14 2:30.

15 Now even though you hadn't been administered the oath,
16 that is you haven't been sworn in, you are on this jury
17 panel. So you are not to discuss the case among
18 yourselves, or nor are you to try to make up your own mind
19 until I instruct you jointly to deliberate and return a
20 unanimous verdict. Prior to that time you're not equipped
21 with all the tools you need to make a reasonable decision.

22 You are not to let anyone discuss this case with you
23 outside the courtroom. If anyone tries to discuss this
24 case with you tell them you cannot as you are serving as a
25 juror. And if anyone tries to discuss this case with you,

-35-

1 tell them that you are serving as a juror and you cannot
2 discuss the case with them and report back to me if anyone
3 does try to discuss the case with you.

4 Do not let yourselves be exposed to any news coverage
5 if there is any. Do not watch anything, read anything or
6 listen to anything that could remotely deal with this
7 trial. You must base your verdict solely on the law and
8 the evidence that's developed in the trial. I'm not sure
9 where this incident took place but you will hear where it
10 allegedly occurred, and unless you have some particular
11 reason why you have to go to that location, do not go to
12 that location because we have to rely on the information
13 received here in the courtroom.

14 Do not do any research. Don't go to the library and
15 particularly do not go onto any electronic - do not access
16 any electronic information on anything that could remotely
17 deal with this trial. Again, your verdict must be based on
18 the law and the evidence that's developed here in this
19 courtroom. It would be a violation of your oath and
20 improper and cause a lot of problems if you were to go on
21 line or go anywhere and find out information about this
22 case. The world is at our fingertips now but you can't
23 access it regarding anything regarding this trial. Don't
24 look up anything about Mr. Coleman, about the attorneys,
25 about the charge, about court rules, about evidence rules,

1 about me, don't research anything that could remotely deal
2 with this trial. This trial will probably take this
3 afternoon and probably into the morning but it will not be
4 a very lengthy trial.

5 Now when you come back, Ms. Boykin, I'm going to ask
6 you to be the Forelady. When you come back you'll have
7 that seat.

8 Ms. Flanagan, you will have that seat back there as
9 the alternate although you'll probably want to move down
10 one when you come back in so - closer so we can have you to
11 the witness the better. Those two seats are the only
12 assigned seats; everyone else sit wherever you happen to
13 come in in the line of jurors. And based on the makeup of
14 the jury I'm going to designate the Men's room as a Woman's
15 room in the jury room - in the jury room so that when you
16 take breaks you'll have that opportunity.

17 All right, we'll let the jury, the bailiff will show
18 you where the jury room is and how to access, go in and out
19 while you're serving as a juror.

20 (JURY EXITS COURTROOM AT 12:52 P.M..)

21 THE COURT: Anything from the State before we adjourn?

22 SOLICITOR HOLLAND: Nothing, Your Honor.

23 THE COURT: From the Defense?

24 MS. INZERILLO: No, Your Honor.

25 THE COURT: All right. Let's try to reconvene let's

-37-

1 say Two o'clock and that will give us a little over an hour
2 for lunch then we can start into the two motions or at
3 least any motions we have to deal with.

4 All right, we'll be at ease until Two o'clock.

5 (COURT IN LUNCH RECESS AT 12:53 P.M..)

6 (COURT RECONVENED AT 02:05 P.M..)

7 (STATE V. DONALD GUFFEY PLEA HEARD AT THIS TIME.)

8 (COURT BACK ON THE RECORD IN THE MATTER OF STATE V.
9 WILLIAM COLEMAN AT 02:16 P.M..)

10 SOLICITOR HOLLAND: Can we have Mr. Coleman.

11 (DEFENDANT WILLIAM COLEMAN REENTERING COURTROOM.)

12 THE COURT: We're back on the record on Mr. Coleman's
13 case; the jury has been drawn, not sworn, they've gone to
14 lunch; we now have a couple of motions, I'm familiar with
15 at least one.

16 Ms. Inzerillo.

17 MS. INZERILLO: Yes, Your Honor. There are two
18 remaining motions, Defense Motions in Limine. One is to
19 suppress the gun that was found in this case. And the
20 second one is supposedly statements that Mr. Coleman may
21 have made and we'll defer to the State as to which one they
22 want to handle.

23 THE COURT: Well we'll go in whatever order. It may
24 be that the same witnesses are --

25 SOLICITOR HOLLAND: Your Honor, it is the same

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-38-

1 witness. I would suggest that we can do the Jackson v.
2 Denno then we can do the suppression. We can kind of just
3 pick up his testimony where it leaves off.

4 THE COURT: That's good. Call your first witness.

5 SOLICITOR HOLLAND: The State calls Sergeant Dwayne
6 Bunch. Step right there to that Bible and she'll swear you
7 in.

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

10 DIRECT EXAMINATION - IN CAMERA

11 SERGEANT DWAYNE BUNCH BY SOLICITOR HOLLAND

12 Q. Please state your name for the record.

13 A. Sergeant Dwayne Bunch.

14 Q. And where are you employed?

15 A. Winthrop University Police.

16 Q. Did you investigate the case that lead to charges on
17 William Coleman for possession of a handgun with the serial
18 numbers obliterated?

19 A. I did.

20 Q. And how did you come into contact with Mr. Coleman?

21 A. A traffic stop.

22 Q. A traffic stop. And do you remember about what day
23 that was?

24 A. January - January of this year. I can't remember.
25 The 21st maybe, 29th.

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-39-

1 Q. It was a traffic stop. About what time was that?

2 A. It was after midnight about one o'clock; a little
3 after one o'clock.

4 Q. And where did the vehicle stop?

5 A. Cherry Road, Camden Avenue in the city of Rock Hill.

6 Q. Okay. And that's within York County?

7 A. Yes, ma'am.

8 Q. Okay. Were you alone when you pulled him over?

9 A. I was initially yes.

10 Q. In your vehicle?

11 A. Yes, ma'am.

12 Q. Were you dressed in uniform?

13 A. I was.

14 Q. And did you have your firearm displayed?

15 A. I did.

16 Q. You said initially you were the only officer. Did
17 backup officers arrive?

18 Q. How many?

19 A. Two from my department and I know a few others stopped
20 in between from the highway patrol and Rock Hill Police
21 Department.

22 Q. And all these backup officers, were they also dressed
23 in uniform?

24 A. They were.

25 Q. And had their firearms displayed?

1 A. Yes.

2 Q. When did each of them arrive? Did they all arrive at
3 the same time?

4 A. No. The officers from my department came give or take
5 a few minutes after I got the vehicle stopped. The next
6 officer to stop was the South Carolina Highway patrolman.
7 And then he cleared out rather quickly and then a Rock Hill
8 officer stopped and actually got out, came up with us.

9 Q. And the highway patrol officer, did he just stop
10 to make sure you were okay, to see if you needed anything?

11 A. I think he was more trying to figure out what was
12 going on exactly because there was - it was more than one
13 person in the car. I guess he just wanted to see what was
14 going on.

15 Q. When you pulled the defendant over, did you approach
16 the vehicle?

17 A. I did.

18 Q. What did you tell him was the reason you had stopped
19 him?

20 A. I stopped him for failure to dim his headlights.

21 Q. Okay. Did you ask for his license and registration?

22 A. I did.

23 Q. What was his response?

24 A. He provided me with a Bill of Sale on the vehicle as
25 it had a temporary tag on it and told me that he did not

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-41-

1 have his driver's license on him.

2 Q. Did he provide you any identifying information?

3 A. He gave me a name and date of birth.

4 Q. Okay. What was that name?

5 A. Daniel Ervin.

6 Q. And what was the date of birth?

7 A. I want to say it was October 3rd maybe, without
8 looking at it. October of '83. I can't remember the exact
9 day.

10 Q. Do you have your notes with you?

11 A. I do not. I left them on the seat there.

12 Q. If I handed you your notes would that refresh your
13 recollection?

14 A. Yes, ma'am.

15 (SOLICITOR HOLLAND HANDED WITNESS FILE NOTES.)

16 A. Thank you.

17 Q. If you can tell us that date of birth.

18 A. The date of birth that he gave me that day was October
19 18th of 1983.

20 Q. And after receiving that name and date of birth what
21 did you do?

22 A. I actually ran a DMV check on that name and date of
23 birth for Daniel Irvin.

24 Q. And is Daniel Irvin a real person?

25 A. Yes he is.

1 Q. He is?

2 A. Yes.

3 Q. With that date of birth?

4 A. Yes.

5 THE COURT: That's my date of birth too. Not '83 but
6 an earlier time.

7 BY SOLICITOR HOLLAND:

8 Q. After running the license and getting the name and the
9 date of birth back, what did you do?

10 A. I immediately ask dispatch for the last four of the
11 social security number attached to that driver's license
12 and then I reapproached the driver side of Mr. Coleman's
13 car and ask him for the last four on his social.

14 Q. And what did he say?

15 A. He did not know the social security number.

16 Q. Did you ask him any other questions then?

17 A. I did not. I did ask - I believe I backed away from
18 the vehicle then and I ask for a - some information on this
19 Mr. Irvin subject.

20 Q. What kind of - just for a photograph?

21 A. I did ask for a photograph from another one of my
22 officers - has DMV on line access - using DMV on line you
23 can print a photograph of a person by that driver's
24 license. I ask him to print me a photo and bring it to the
25 scene where I was at.

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-43-

1 Q. Did you ever require about the defendant's age? Did
2 you ask him how old he was?

3 A. I did. After I got him out of the car I did ask him
4 that.

5 Q. How old did he say he was?

6 A. He said he was twenty-nine.

7 Q. If his date of birth was October 18th of 1983, would
8 he have been twenty-nine?

9 A. No, ma'am.

10 Q. How old would he have been?

11 A. He would have been twenty-eight.

12 Q. After the defendant - so at that point you're waiting
13 on the photograph to come for the officer to bring the
14 photograph?

15 A. Yes, ma'am.

16 Q. Okay. And what did you do with Mr. Coleman in the
17 meantime? You said you ask him out of the car.

18 A. Mr. Coleman after I determined that he did not know
19 his social security number as he claimed the whole
20 situation seemed a little shaky Mr. Coleman was handcuffed
21 for my safety and anyone else's safety at the scene.

22 Q. And he was just detained in handcuffs?

23 A. Yes.

24 Q. Was he placed under arrest?

25 A. No he was not under arrest at that time.

1 Q. Did he indicate to you that he believed he was under
2 arrest?

3 A. No, ma'am, he did not.

4 Q. And this is after 1:00 am in the morning when you and
5 Officer Wilson are the only two officers on the scene?

6 A. At that moment yes.

7 Q. How many passengers were in that vehicle?

8 A. In addition to Mr. Coleman there were five people in
9 the car. Including him and four passengers.

10 Q. Four passengers. So at that point its 1:00 am, five
11 people total ---

12 A. Yes, ma'am.

13 Q. --- in the vehicle and you and Officer Wilson?

14 A. Yes, ma'am.

15 Q. What happened after - Did you eventually get the photo
16 on scene?

17 A. I did.

18 Q. What happened after that?

19 A. The photo was brought out to me and I immediately
20 looked at it and determined that that was not Mr. Coleman.

21 Q. Approximately how long did it take for Officer Parks
22 to get there with that photograph?

23 A. Maybe - I'm going to say anywhere from about eight to
24 fifteen minutes. And there was a reason for that..

25 Q. What was the reason?

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-45-

1 A. My dispatcher had stepped out and anytime - We're a
2 small department so anytime the dispatcher needs to step
3 out an on road officer needs to come in and cover that area
4 so in case the phone rings or an officer starts, you know,
5 calling for help on the radio or whatever. So Officer
6 Parks was in dispatch and my dispatcher needed to use the
7 restroom.

8 Q. If I can have just one moment.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE PREMARKED
10 FOR IDENTIFICATION.)

11 Q. I'm going to hand you what's been marked for
12 Identification only in State's Exhibit Number Three.

13 A. Yes, ma'am.

14 Q. If you can look at this and tell me what that is.

15 A. That is the printout of Daniel Irvin.

16 Q. And that's what you received from Officer Parks?

17 A. Yes.

18 Q. And is that the photograph that you used to compare
19 Mr. Coleman?

20 A. Yes.

21 Q. What happened once you received that from Officer
22 Parks?

23 A. I immediately looked at it and I looked at Mr. Coleman
24 and told him this was not him and he was adamant that it
25 was him; that he had dreadlocks back then.

1 Q. Did you ask him any questions about the details of
2 that report about...

3 A. I don't recall asking him anything about this after I
4 looked at it and determined it was not him.

5 Q. What did you do after you determined it was not him?

6 A. I placed Mr. Coleman under arrest.

7 Q. Prior to being placed under arrest was Mr. Coleman
8 Marandized at any point in this process?

9 A. I don't believe so. He wasn't questioned about
10 anything at that time other than his identify which he's
11 required to give.

12 Q. Did Mr. Coleman appear to be under the influence of
13 drugs or alcohol such that he could not understand the
14 circumstances?

15 A. No.

16 Q. Did Mr. Coleman appear to have any physical or
17 psychological ailments that would prevent him from
18 understanding the circumstances?

19 A. No, ma'am.

20 Q. Did you threaten him or promise him anything?

21 A. I did not.

22 Q. Was your in car camera operating when you were
23 speaking with Mr. Coleman?

24 A. Yes, ma'am.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO PREMARKED FOR

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-47-

1 IDENTIFICATION.)

2 Q. I hand you what's been marked as State's Exhibit
3 Number Two. And do you recognize that?

4 A. I do.

5 Q. What is that?

6 A. That is the video from my vehicle.

7 Q. And how do you know that's the video from your
8 vehicle?

9 A. Because I have signed the top of the video.

10 Q. And you watched the entirety of that?

11 A. Yes, ma'am.

12 Q. Has Mr. Coleman's statement to your interaction with
13 him that you've just described, is that on that video?

14 A. It is.

15 SOLICITOR HOLLAND: Your Honor, we would just ask to
16 play this and get a clear indication of what happened.

17 (STATE'S EXHIBIT NUMBER TWO PUBLISHED TO THE COURT AT
18 02:26 P.M..)

19 (STATE'S EXHIBIT NUMBER TWO, VIDEO INDICATING 01/26/11
20 STARTS AT TIME STAMP 1.10.42/STOPS AT TIME STAMP 1.27.34.)

21 BY SOLICITOR HOLLAND:

22 Q. Sergeant Bunch, you've seen the rest of the video;
23 correct?

24 A. Yes, ma'am.

25 Q. Is that the extent that relates to his statement?

SERGEANT DEWAYNE BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-48-

1 A. It is.

2 Q. Does Mr. Coleman make any additional statements?

3 A. Not that I'm aware of.

4 Q. There on the video?

5 A. No, ma'am.

6 Q. Okay. And your entire interaction with him was simply
7 to ascertain his identity; correct?

8 A. It was.

9 Q. How long have you been in law enforcement?

10 A. Twelve years.

11 Q. And during the course of your employment with Winthrop
12 University Police Department, have you performed many
13 traffic stops?

14 A. Yes.

15 Q. And ascertaining the identify is one, is usually the
16 initial part of a traffic stop?

17 A. Yes.

18 Q. There were additional statements that occurred on the
19 video that you didn't testify to. At any point do you
20 remember, did the defendant say if you don't believe me
21 then arrest me?

22 A. Yes.

23 Q. If you don't believe me then book me?

24 A. Yes.

25 SOLICITOR HOLLAND: I beg the Court's indulgence for

SERGEANT DWAYNE BUNCH: BY MS. INZERILLO - IN CAMERA

-49-

1 just one moment.

2 (PAUSE.)

3 SOLICITOR HOLLAND: Please answer any questions Ms.
4 Inzerillo may have.

5 MS. INZERILLO: May it please the Court, Your Honor.

6 CROSS EXAMINATION - IN CAMERA

7 SERGEANT DWAYNE BUNCH BY MS. INZERILLO:

8 Q. Sergeant Bunch, I believe that you testified this
9 pretty much shows what happened at the scene; is that
10 right?

11 A. Yes.

12 Q. And I know at some points just I guess because of the
13 way the microphones work when cars go by its hard to hear
14 type things.

15 A. Yes.

16 Q. Do you recall any statements that Mr. Coleman made
17 that perhaps we cannot hear because cars went by but you
18 could hear in terms of dealing with him face to face?

19 A. No.

20 Q. Okay. Now soon after this once Mr. Coleman is sort of
21 sent away, he's placed in Officer Wilson's car; is that
22 right?

23 A. I believe Officer Wilson did transport him yes.

24 Q. Okay. Now once you were done at the scene, did you
25 have any other interaction with Mr. Coleman that evening or

SERGEANT DWAYNE BUNCH: BY MS. INZERILLO - IN CAMERA

-50-

1 any time after that?

2 A. The only thing I can recall with Mr. Coleman following
3 this was he was at the jail requesting EMS. And when I
4 arrived at the jail EMS - he was being loaded up.

5 Q. Okay.

6 A. To the best of my knowledge. I didn't participate in
7 that. I don't recall what that was exactly for.

8 Q. Okay. Did you have any conversations with him as they
9 were loading him up?

10 A. I don't believe I had any conversations with him. I
11 did see him but that - there was no interaction between us.

12 Q. Okay. Did you see him any more after that?

13 A. I think the only other time I saw him was when I gave
14 him a copy of his warrant.

15 Q. Did he make any statements to you then?

16 A. No.

17 Q. So all of the statements that you recall is what you
18 testified to what's on this video?

19 A. Yes.

20 Q. Okay.

21 MS. INZERILLO: Your Honor, I have no further
22 questions.

23 THE COURT: Okay.

24 SOLICITOR HOLLAND: The State's ready for the
25 Defense's motion.

-51-

1 THE COURT: Ms. Inzerillo.

2 MS. INZERILLO: Your Honor, just briefly. We would
3 ask the Court to make a finding in terms of Jackson v.
4 Denno, would just point out that it's clear on the tape as
5 the Court has seen Mr. Coleman is in handcuffs for the
6 majority of the time he is - almost the entire time he is
7 out of the car. There is a conversation with him, there is
8 multiple cops, officer's on the scene, all officers are in
9 uniform and had their firearms on their side. As you can
10 see with Sergeant Bunch is in uniform today. And Mr.
11 Coleman is as I indicated handcuffed the entire time in
12 speaking with him. And we'd just ask the Court to take
13 that into consideration.

14 SOLICITOR HOLLAND: Your Honor, the State's response
15 is relying on a case I believe I handed Your Honor which is
16 *State versus Silver* which states that ordinary traffic
17 stops do not involve custody for purposes of *Miranda*. The
18 officer was simply trying to ascertain Mr. Coleman's
19 identify and that is a typical part of a traffic stop. It
20 was because Mr. Coleman was not truthful with him that it
21 was extended in such a way but his - The interaction and
22 the statements were simply just to ascertain who he was at
23 that point. The State's position is that that is a part of
24 a traffic stop is to ascertain identity and during the
25 course of that stop he would not be considered in custody

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-52-

1 for purposes of *Miranda*. He made multiple statements
2 indicating that he himself did not believe he was under
3 arrest as well.

4 THE COURT: All right. Well I deny the motion to
5 suppress any statements. I think *State versus Silver* is of
6 some help but there is also appears to be - I just have a
7 synopsis, I don't have the entire case, *US versus Sullivan*
8 Fourth Circuit case 1998, "persons temporarily detained
9 pursuant to ordinary traffic stops are not quote in custody
10 end quote for purposes of *Miranda*. Even drawing weapons,
11 handcuffing a suspect, placing them in a patrol car for
12 questioning, or using or threatening to use force - we
13 don't have here - does not necessarily elevate a lawful
14 stop into a custodial arrest for *Miranda* purposes."

15 So I deny the motion to suppress any statements.

16 SOLICITOR HOLLAND: Thank you, Your Honor.

17 THE COURT: Now we've got search. Okay.

18 SOLICITOR ANTHONY: Officer Bunch, we're gonna take up
19 where we left off and fill in some holes.

20 REDIRECT EXAMINATION CONTINUED - IN CAMERA.

21 OFFICER SERGEANT BUNCH BY SOLICITOR HOLLAND:

22 Q. As a law enforcement officer you said you'd been in
23 law enforcement for twelve years. Do you have any
24 experience or any training in drug recognition?

25 Q. And what did that involve?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-53-

1 A. I was taught drug recognition by the South Carolina
2 Criminal Justice Academy back in 2002. Basically it's a
3 eighty hour course that you go to and they teach you about
4 what certain drugs look like; what they smell like; how to
5 identify them; the trends people use to hide them; what
6 they use to put them in, it's a whole array of stuff.

7 Q. And over your twelve years of experience have you
8 encountered marijuana?

9 A. Many many times.

10 Q. And are you familiar with the smell and the
11 paraphernalia ---

12 A. Yes.

13 Q. --- associated with marijuana?

14 A. Uh-huh.

15 Q. And just to repeat, you pulled William Coleman over on
16 January 26, 2011; placed him under arrest for giving false
17 information to police based off him giving you an incorrect
18 name?

19 A. That's correct

20 Q. When you initially approached the vehicle what did Mr.
21 Coleman have on?

22 A. A jacket.

23 Q. And what did the - Do you remember what the jacket
24 looked like?

25 A. I don't remember what was on it. It was a multi

1 colored jacket, red white and blue. I know white and blue
2 was the majority color of the jacket.

3 Q. And this was on your initial approach; correct?

4 A. On my initial approach yes.

5 Q. And then you leave and you go run his license?

6 A. I did.

7 Q. Okay. And when you reapproach the vehicle what did
8 Mr. Coleman have on?

9 A. White t-shirt.

10 Q. And where was the jacket that you had seen?

11 A. It was in the seat behind him just hanging off the -
12 over the seat.

13 Q. Such that it looked like he had taken it off and ---

14 A. Yes.

15 Q. --- it had just - it was behind him?

16 A. Yes.

17 Q. And then subsequently you determine he was not Daniel
18 Ervin and placed him under arrest?

19 A. I did.

20 Q. And what was he placed under arrest for?

21 A. Giving false information to police.

22 Q. And pursuant to your experiences as a law enforcement
23 officer when someone gives you a false identity does that
24 usually raise suspicion?

25 A. Yes.

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-55-

1 Q. Is that usually indicative that there is something
2 going on?

3 A. Yes.

4 Q. And at the point you place him under arrest you have
5 no idea who this person is?

6 A. I did not know who he was at that moment.

7 Q. So you don't know if he's wanted?

8 A. I do not.

9 Q. After he's placed under arrest you said you secured
10 him in Officer Wilson's vehicle; correct?

11 A. That's correct.

12 Q. And what did you do?

13 A. I returned to the vehicle. There was still passengers
14 in the car.

15 Q. So you returned to Mr. Coleman's vehicle?

16 A. Yes. To Mr. Coleman's -

17 Q. And there's still four passengers in the car?

18 A. Yes.

19 Q. Now what did you notice about the vehicle?

20 A. There was a odor of marijuana coming from about the
21 vehicle.

22 Q. And you said you had made marijuana cases before.

23 A. That's correct.

24 Q. You're familiar with the smell?

25 A. Yes.

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-56-

1 Q. And what did you do once you smelled the marijuana?
2 What did you do?

3 A. I did alert I believe Officer Parks that I smelled
4 marijuana from the vehicle. I believe then individually I
5 either tried to get ID's from the passengers or I got them
6 out one at a time. I believe I got some ID's from a few of
7 them first. Some didn't have any ID. And then I tried to
8 run some of the ones I did get and then eventually I did
9 start getting them out of the car as well.

10 Q. So eventually did you get all four of them out of the
11 car?

12 A. Yes. At one point they all four were exited the
13 vehicle.

14 Q. And were any of them willing or able to give you Mr.
15 Coleman's true identity?

16 A. Not a one of them.

17 Q. They were not willing to give you his real name?

18 A. No they only knew him by some street name, nickname of
19 something they called him. They would not tell me who he
20 was. In fact a couple of them said they didn't even know
21 him.

22 Q. And after running ID's did you search that vehicle?

23 A. I did.

24 Q. Okay. And why did you search the vehicle?

25 A. Because it did smell like marijuana.

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-57-

1 Q. And describe your search of the vehicle. What was the
2 first thing you did?

3 A. The first thing I did was I just began looking - Well
4 the first thing I did when I went back to the car is I got
5 the jacket that was sitting in Mr. Coleman's seat.

6 Q. That being the jacket that he had on?

7 A. Yes. It was still in the same way in the same
8 position as when he was exiting the vehicle. The jacket
9 was in the same position it was when I returned to the
10 vehicle. I removed the jacket from the seat, reach into
11 the right front pocket of the vehicle and immediately
12 pulled out a wallet.

13 THE COURT: Right front pocket of the vehicle?

14 A. Sorry, the jacket. Right front pocket of the jacket
15 and I pulled out a wallet immediately.

16 Q. And whose wallet was that?

17 A. It would be William Theoplas Coleman's wallet.

18 Q. How do you know that was his wallet?

19 A. I found his South Carolina Identification Card inside
20 the wallet along with some other things with his name on
21 it.

22 Q. And the photograph on that ID Card that matched ---

23 A. Yes.

24 Q. --- Mr. Coleman you identified - you had interacted
25 with? And did you continue to search his jacket?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-58-

1 A. I did.

2 Q. Okay. What else did you find?

3 A. I put my hand back in that same pocket and pulled out
4 a loaded handgun.

5 Q. What did you notice about the handgun?

6 A. That the serial number was removed. First of all it
7 was loaded. Second the serial number was removed from the
8 vehicle - handgun. I'm sorry.

9 Q. What kind of handgun is it?

10 A. It's a .38 revolver.

11 Q. And so where would the serial number have been located
12 on that gun?

13 A. It's different on many guns but on that particular gun
14 the serial number if this were the gun and I'm holding it
15 by the handle, the serial number is on the side just below
16 the revolving - where the bullets are held - the revolving
17 chamber.

18 Q. So in the pocket of the jacket that he had had on and
19 left it in the vehicle you find a gun and on top of the gun
20 a wallet?

21 A. Yes, ma'am.

22 Q. The defendant's wallet. Did you search the remainder
23 of the vehicle?

24 A. I did.

25 Q. Okay. What else did you find in the car?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-59-

1 A. I found a grinder in the vehicle.

2 Q. In your experience in law enforcement what can - what
3 is a grinder typically used for?

4 A. To grind up marijuana.

5 Q. Did you see any indication that that grinder had been
6 used to grind up marijuana?

7 A. Yes.

8 Q. And what was that indication?

9 A. There was some very little flakes of ground - ground
10 up residue in the bottom of the grinder. Not enough to
11 test. And it even smelled like marijuana.

12 Q. Did you find anything else in the vehicle?

13 A. Open containers. I believe I found one in the front,
14 and one in the back. And the one in the back was - someone
15 did take responsibility for the one in the back. The one
16 in the front the passenger said it - the front passenger
17 said it wasn't his so it had to be Mr. Coleman's.

18 Q. What did you eventually do with the grinder?

19 A. I left the grinder in the vehicle. There was no
20 purpose in me taking the grinder at that point because
21 there was not enough marijuana in it to test. I did not
22 find any marijuana thereafter in the vehicle.

23 Q. What eventually happened to the vehicle that Mr.
24 Coleman was driving?

25 A. I towed it.

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-60-

1 Q. Why did you tow it?

2 A. Because no one in the car had a license.

3 Q. And was the car searched again pursuant to an
4 inventory search or did your search suffice?

5 A. My search sufficed. I mean there was no point in
6 going back and redoing the whole search.

7 Q. Had you not searched the vehicle would the vehicle
8 have been searched?

9 A. Yes.

10 Q. Pursuant to the bench warrant?

11 A. Yes, ma'am.

12 Q. And would an inventory policy?

13 A. That's correct

14 Q. Is that standard procedure on any car you tow?

15 A. Any and every one we tow that we have access to.

16 Q. And within the car everything in it had been
17 inventoried ---

18 A. Yes.

19 Q. --- at the police station?

20 A. Yes.

21 Q. And Mr. Coleman's jacket, he left that in the car;
22 correct, when he was arrested?

23 A. Correct.

24 Q. Okay. And that jacket would have just been left.
25 Would that jacket have been left in the vehicle?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA
BY MS. INZERILLO - IN CAMERA

-61-

1 A. I left the jacket in the car.

2 Q. So that jacket eventually would have been searched
3 pursuant to an inventory search had you not searched it
4 previously?

5 A. That's correct yes.

6 Q. At the time that you spoke with Mr. Coleman initially
7 when you approached and he said he didn't have his driver's
8 license, at that point did you place him under arrest for
9 not - for driving without having his actual driver's
10 license on him? Could you have?

11 A. I could have yes.

12 Q. Thank you.

13 A. Yes.

14 SOLICITOR HOLLAND: Answer any questions Ms. Inzerillo
15 may have.

16 MS. INZERILLO: May it please the Court, Your Honor.

17 THE COURT: Yes, ma'am.

18 CROSS EXAMINATION CONTINUED - IN CAMERA

19 SERGEANT DWAYNE BUNCH BY MS. INZERILLO:

20 Q. Sergeant Bunch, the car that Mr. Coleman was in was
21 pulled over for a failure to dim it's headlights; is that
22 right?

23 A. That's right.

24 Q. Okay. And at no point did you do - check the car to
25 see that the headlights would work, anything like that;

1 right?

2 A. No, ma'am.

3 Q. Okay. Because I believe there's some discussion
4 between you and Mr. Coleman about the state of the
5 headlights, how they don't work and you advised him to get
6 that fixed, that type of thing.

7 A. As best I can recall he said that the regular
8 headlights didn't work so he was driving with the high
9 beams on.

10 Q. Okay.

11 A. Which is still a violation of the law.

12 Q. When you addressed him at the car he gave a name and a
13 date of birth; is that right?

14 A. That is right.

15 Q. And that name was Daniel Ervin; right?

16 A. That is correct.

17 Q. And you personally don't know Daniel Ervin?

18 A. I have no clue who that is.

19 Q. Okay. So outside of eventually pulling the DMV
20 records that Ms. Holland showed you, that's your only
21 knowledge of Daniel Ervin?

22 A. Correct.

23 Q. Okay. And Mr. Coleman gave you a date of birth; is
24 that right?

25 A. Yes.

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-63-

1 Q. And both of those when you called them in came back
2 clear; is that right?

3 A. Yes.

4 Q. So at the time that you ask for the social security
5 number, the driver - the information that you have is this
6 person has given you a driver's license number and a date
7 of birth that has come to a valid person and a valid
8 driver's license; is that right?

9 A. Yes.

10 Q. And at that point with that information you could have
11 given him a ticket for failure to dim headlights and sent
12 him on his way?

13 A. No. I mean all I knew at that moment is that the name
14 and date of birth he gave me came back clear.

15 Q. Okay.

16 A. I did not know that was him or not him at that moment.

17 Q. But you knew it came back clear?

18 A. Yes.

19 Q. And you don't know Daniel Ervin?

20 A. I don't.

21 Q. Right? So it wasn't like you immediately looked at
22 Mr. Coleman and knew immediately this person is not Daniel
23 Ervin because I know Daniel Ervin?

24 A. That's correct

25 Q. Okay. So you reapproach the car and you ask him for

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-64-

1 the last four digits of his social security number ---

2 A. That's correct.

3 Q. --- essentially; is that right? And you got him out
4 of the car at the point when he couldn't give you that
5 information essentially?

6 A. Correct.

7 Q. I believe Ms. Holland ask you about the date of birth
8 that he gave you not checking out with the age that he gave
9 you; is that right?

10 A. Something to that effect yes.

11 Q. Okay. But essentially no where on the tape on the
12 scene do you ever say that would make you twenty-eight, not
13 twenty-nine or anything like that; right?

14 Now on the video this video is running from the point
15 in time where Mr. Coleman pulls over; right? So
16 essentially at the beginning of the traffic stop.

17 A. There's a small delay when you first cut the blue
18 lights on. It's a couple of seconds before that camera
19 actually hits record.

20 Q. Okay.

21 A. But essentially that's the video in its entirety.

22 Q. Okay. So there's no part before this that we're
23 missing no interaction?

24 A. No. No, ma'am.

25 Q. Okay. And on this video at 1:14 in the morning is

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-65-

1 when the driver's license - is when you get word the
2 driver's license is clear?

3 A. Correct.

4 Q. Is that right?

5 A. Somewhere around there yeah.

6 Q. Okay. And I know you've seen the video; is that
7 right?

8 A. Yes.

9 Q. Okay. So at that point you decide to wait for DMV on
10 line to check the picture or check the information; is that
11 right?

12 A. That's correct

13 Q. Okay. And that took I guess for Officer Parks an
14 additional ten minutes. Is that about right?

15 A. Give or take yeah. I don't know exactly.

16 Q. Okay. And as we saw in the video William was in
17 handcuffs at that time?

18 A. Yes.

19 Q. And he wasn't going anywhere; right?

20 A. No.

21 Q. All right. And you at that point finally get the
22 information and get the picture and essentially show him
23 the picture. I believe there's some discussion between
24 three officers and him about who is in fact in that
25 picture.

1 A. Correct.

2 Q. Right? You were trying to explain to him it's not
3 him, he's trying to say yes it is essentially.

4 A. I knew it wasn't him when I looked at it.

5 Q. Okay. At that point though when you decide to arrest
6 him you don't tell him he's under arrest for false
7 information though do you?

8 A. I did not right at that moment. I just told them to
9 go ahead and take him on. I do believe he was told he was
10 under arrest though.

11 Q. Later on that evening?

12 A. Well I think Officer Wilson told him when he put him
13 in the car.

14 Q. Okay. In fact on the tape you say to the officers go
15 ahead and take him I'll deal with it later; is that right?

16 A. I don't know. We can watch it again.

17 Q. And you indicated that Officer Wilson was the one that
18 transported him; is that right?

19 A. He did.

20 Q. Okay. And when you are interacting with Mr. Coleman
21 the entire time you're calling him Mr. Ervin; is that
22 right?

23 A. Yes.

24 Q. Essentially saying if that's who you are but you
25 address him as Mr. Ervin?

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-67-

1 A. Sure. Yeah.

2 Q. Right? And when you begin talking with the passengers
3 in the car you're asking them who was the driver; is that
4 right?

5 A. Uh-huh.

6 THE COURT: Yes and no.

7 A. Yes. Yes it is. Sorry.

8 Q. When you begin interacting with the passengers you do
9 tell an officer I smell Signal 9, which is drugs; right?

10 A. I don't know if I said Signal 9 or marijuana but I did
11 smell it and it was while I was on the driver's side of the
12 car.

13 Q. Okay. But prior to that all the times you're at the
14 driver's side of the car you don't remember pulling anybody
15 out indicating that you smelled marijuana at that point; is
16 that right?

17 A. No I wasn't gonna get them all out at once.

18 Q. Okay. But you have the ability to do that and call
19 for backup, wait for backup and pull them out of the car;
20 is that right, when you smell marijuana?

21 A. That's correct yes.

22 Q. Okay. Now I know because I know this was a long time
23 ago, sometimes your memory gets a little fuzzy, but again
24 whatever is on the video is an accurate reflection of what
25 took place that night; is that right?

1 A. It's the exact yes.

2 Q. Okay. With the exception of that one redaction by
3 agreement of the Solicitor and the Public Defender's office
4 this video is pretty much the extent of the traffic stop;
5 is that right?

6 A. Correct.

7 Q. Okay. So at this point sort of midway through Mr.
8 Coleman is arrested, he's placed in the back of Officer
9 Wilson's car and he's actually transported?

10 A. Correct.

11 Q. Okay. And by my notes he's transported at 1:28?

12 A. Again that's give or take, whatever the video says.

13 Q. Sure. Okay. Which is at this point 14 minutes after
14 the driver's license came back clear?

15 A. Uh-huh. That's correct.

16 Q. So at this point at 1:28 is when you began interacting
17 with the passengers inside the car; right?

18 A. Correct.

19 Q. And you indicated that you smelled Signal 9 but when
20 you interact with the passengers in the car you only - the
21 only thing you ask them is what is the identity of the
22 driver?

23 A. I was trying to establish that immediately yes.

24 Q. Okay. So you didn't pull them out and say look I
25 smell marijuana I'm gonna pat you down for marijuana.

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-69-

1 Everything you ask them is I need your driver's license,
2 and by the way who is the driver?

3 A. Yeah I didn't ask them about the marijuana right away.

4 Q. Okay. Now you had mentioned the grinder that was
5 found. That - whatever was found in the grinder was not
6 tested; is that right?

7 A. That's correct.

8 Q. Okay. So essentially with your understanding it
9 smelled like marijuana but there has been no chemical test
10 or anything like that?

11 A. Correct.

12 Q. And Mr. Coleman was never charged with marijuana?

13 A. No he was not.

14 Q. All right. Now going a little bit further down on -
15 and we'll see this a little bit further on the tape once we
16 play it again - at about 1:39 is when the jacket is sort of
17 rediscovered and the wallet and the gun is found in the
18 jacket; is that right?

19 A. If that's what the time on the video is yes.

20 Q. That's fair. That's fair. And that from that point
21 is 25 minutes from the time the driver's license has come
22 up clear; is that right? And Mr. Coleman has been off
23 scene at that point for 15 minutes; is that right?

24 A. Yeah.

25 Q. Okay.

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-70-

1 A. That's correct.

2 Q. Now I'm gonna show you --

3 MS. INZERILLO: May I approach the witness, Your
4 Honor?

5 Q. I'm going to show you the inmate property sheet.
6 That's the inmate property sheet from the night of Mr.
7 Coleman's arrest; is that right?

8 A. That's correct

9 Q. Okay. And there's a name underneath Daniel Ervin that
10 looks like Officer Wilson filled it in; is that right, with
11 all the property that was found on his person?

12 A. Are you referring to this?

13 Q. The original name, not the one that's marked. The one
14 that's marked out.

15 A. Originally it was put on there as Daniel Ervin yes.

16 Q. And what time was that put on there?

17 A. According to Officer Wilson's time 1:34 am.

18 Q. Okay. And then someone marked that out and wrote in
19 red William Coleman; is that right?

20 A. That's correct

21 Q. Was that you or do you know who wrote that?

22 A. I believe the jail did that. That's a females
23 handwriting.

24 Q. Okay. And this document is created when you guys
25 process people in the jail and you have to actually

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA

-71-

1 inventory their person instead of just inventorying their
2 car making sure you got everything from their person?

3 A. That's correct. This form, this is actually a bag -
4 Let me see.

5 Q. Sure.

6 A. But this is a bag and all their property has to go in
7 it before they go into the jail so there's like a booking
8 counter we come into. They take everything off of them
9 right there.

10 Q. Okay.

11 A. And then it's inventoried on this sheet and place
12 whatever is on this sheet is placed in this bag.

13 Q. Okay.

14 A. And that's what it appears to have been done here at
15 this point. Officer Wilson is the one who did this.

16 Q. Sure. And that was at 1:39?

17 A. It says 1:34 by his time.

18 Q. Okay. Great. And at 1:34 you didn't do this because
19 at 1:34 you're actually still on scene?

20 A. Obviously yes.

21 Q. Okay. And that was 1:34 is before essentially before
22 the firearm is found according to what's on -

23 A. According to the video. I mean, you know, the clock
24 on the video could be off a few minutes. It's around about
25 that time yeah.

SERGEANT BUNCH: BY MS. INZERILLO - IN CAMERA
BY SOLICITOR HOLLAND - IN CAMERA

-72-

1 Q. Okay.

2 MS. INZERILLO: Your Honor, at this time we have no
3 further questions. We would just request the Court to
4 watch the remainder of the video.

5 SOLICITOR HOLLAND: Your Honor, ---

6 THE COURT: Okay.

7 SOLICITOR HOLLAND: --- I just have a few followup
8 questions if I may.

9 REDIRECT EXAMINATION - IN CAMERA

10 SERGEANT DWAYNE BUNCH BY SOLICITOR HOLLAND:

11 Q. We highlighted this in the Jackson v. Denno hearing, I
12 ask you to repeat, he gave you an incorrect date when you
13 approached; correct?

14 A. Incorrect date.

15 Q. And name -

16 A. Name and age yes.

17 Q. And given the fact that that had been his correct date
18 of birth that he would have not been twenty-nine years old;
19 correct?

20 A. Correct.

21 Q. Did you notice that even though it's not heard on the
22 video?

23 A. I did.

24 Q. Okay. And he also indicated he didn't know his social
25 security number?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-73-

1 A. He did. I think more than once actually.

2 Q. Okay. You said the jacket you left in the vehicle;
3 correct?

4 A. Yes.

5 Q. What did you do with the gun you found?

6 A. The gun was placed into evidence. I took the gun into
7 my custody, it was placed in my trunk at that point
8 unloaded and then transferred from me as the finder to
9 evidence.

10 Q. And you said it was unloaded. Did you remove the
11 bullets?

12 A. I did.

13 Q. And then what happened to those?

14 A. I placed them - per our policy we bag a gun and it's
15 ammunition separately.

16 Q. And what did you do with the wallet?

17 A. I believe the wallet was placed into property. I'm
18 not sure exactly. It may have been placed into property or
19 left in the vehicle.

20 Q. But it was not taken into evidence?

21 A. No I did not take the wallet into evidence.

22 Q. And at the time that the sheet Ms. Inzerillo
23 questioned you about that would have been before likely
24 either simultaneously with what is happening at the scene
25 or before or that long?

SERGEANT BUNCH: BY SOLICITOR HOLLAND - IN CAMERA

-74-

1 A. Yes, ma'am.

2 Q. Okay.

3 SOLICITOR HOLLAND: And, Your Honor, we have the rest
4 of the video prepared. The video is about an hour long.

5 (STATE'S EXHIBIT NUMBER TWO CONTINUED TO BE PUBLISHED
6 TO THE COURT AT 2:54 P.M..)

7 (STATE'S EXHIBIT NUMBER TWO STARTS AT TIME STAMP
8 1.27.34/STOPS AT TIME STAMP 1.39.27.)

9 MS. INZERILLO: Your Honor, at this time we're
10 prepared to go forward with the motion if the State has no
11 other questions.

12 SOLICITOR HOLLAND: The State is ready for the motion.

13 THE COURT: Officer, you can go back and have a seat.

14 OFFICER BUNCH: Thank you, sir.

15 (WITNESS LEAVING WITNESS STAND.)

16 THE COURT: All right.

17 MS. INZERILLO: Your Honor, at this time the Defense
18 would move for a suppression of the gun on two grounds.
19 The first ground being the lack of reasonable suspicion for
20 a search. As has been testified and as the court can see
21 on the video initially when Mr. Coleman is approached by
22 Sergeant Bunch and gives information that information
23 actually checks out. He is an officer who is dealing with
24 someone who has for all intensive purposes a clean driver's
25 license. At that point, Your Honor, is the point at which

-75-

1 the defense --

2 THE COURT: How do you say that checks out? It's
3 confirmed that somebody with that name does exist and has a
4 driver's license. That doesn't necessarily check out that
5 the person assuming that identity is in fact that person.
6 He doesn't have anything to indicate it other than who they
7 were.

8 MS. INZERILLO: Well, Your Honor, our position would
9 be that Sergeant Bunch has nothing in his knowledge to
10 contradict that. He does not know Daniel Ervin, he has no
11 independent knowledge that at that point in the stop Mr.
12 Ervin --

13 THE COURT: Anytime anybody is stopped you just get
14 out and I can say I'm Willis Lightener and they say okay.
15 I don't have a social security number card, I don't have
16 any identification. They say you're a good young man get
17 back in the car and don't do this again. They don't have a
18 right nor obligation to determine that somebody is giving
19 proper information when they have nothing to substantiate
20 it other than their word?

21 MS. INZERILLO: Your Honor, Sergeant Bunch did
22 substantiate it. He called DMV and the DMV did verify the
23 information that he had at the time. The person he was
24 talking to gave a name and a date of birth that does
25 register to a driver's license.

1 THE COURT: I agree with that.

2 MS. INZERILLO: But with any other lack of information
3 Sergeant Bunch has no independent information to determine
4 that at that point any reasonable suspicion that Mr.
5 Coleman is not who he says he is. As Sergeant Bunch
6 indicated he does not know Mr. Ervin, he can at that point
7 articulate reasonable suspicion in thinking well I know
8 Daniel Ervin, this person is not Daniel Ervin. It is at
9 that point that the defense does contend that lack of
10 reasonable suspicion is not warranted to continue the stop.

11 I would argue, Your Honor, on behalf of Mr. Coleman
12 that while someone not know their social security number
13 may be unusual especially in this day and age, my argument
14 would be I don't believe even that rises to the level of
15 reasonable suspicion. I am not doubting that Sergeant
16 Bunch's experience, he probably is reviewing the situation,
17 thinks it's odd someone doesn't know their social security
18 number in this day and age, but the courts do require a
19 reasonable suspicion of criminal undertaking at that point.
20 And at that point he can articulate a reasonable suspicion
21 of criminal undertaking because he has no independent
22 knowledge to contradict what Mr. Coleman is accessing.

23 Your Honor, at that point is the Defense's argument
24 that the traffic stop at that point was unnecessarily
25 prolonged. That happened at 1:14 and again like Sergeant

-77-

1 Bunch actually referred to the tape, Mr. Coleman actually
2 the DMV was not pulled until 1:20 - I believe it was pulled
3 several minutes later and for that reason, Your Honor, our
4 contention is it wasn't a stop that was prolonged and
5 therefore the gun in this case should be suppressed.

6 Our secondary argument -

7 THE COURT: Let me hear the State on Number One first.

8 SOLICITOR HOLLAND: Simply on that.

9 I do believe you have an additional argument.

10 MS. INZERILLO: I do.

11 SOLICITOR HOLLAND: Okay.

12 As to the stop, Your Honor, they have probable cause
13 for a traffic violation. He was driving with his bright
14 lights on. And as Your Honor knows a traffic stop based on
15 an officer's observation of a traffic violation is per se
16 reasonable and after that an officer can request license,
17 registration. Mr. Coleman was not able to provide a
18 license. Officer Bunch was simply thorough, saw that it
19 was clear and say ha can I get the last four of the social,
20 approaches the defendant, he cannot provide the last four
21 of his social and in addition he says how old are you? I'm
22 twenty-nine. Based on the date of birth he gave he should
23 have been twenty-eight. And Officer Bunch did testify that
24 he noticed that so certainly at that point he's just trying
25 to ascertain who he is. And as to the rest of the State's

1 position is, you know, he approaches he smells marijuana.
2 And that coupled with the fact that the defendant has given
3 a fake name. He has given a date of birth, he has lied
4 about his age, he does not know his social security number,
5 he's been proven not to be the person he says that he is.
6 In addition there's four passengers in the car all of whom
7 refuse to identify the defendant. This is very suspicious
8 and very much seems like things are going on that should
9 not be going on. And Officer Bunch testified pursuant to
10 his experience in law enforcement when people give fake
11 names that that does raise suspicion. It's usually
12 indicative of the fact that something else is going on.
13 And in addition to that he smells marijuana searches -

14 THE COURT: We haven't quite gotten there yet.

15 SOLICITOR HOLLAND: Okay. You want me to stop?

16 THE COURT: Not stop but --

17 SOLICITOR HOLLAND: I'll let Ms. Inzerillo --

18 THE COURT: Right now we've just the reasonable
19 suspicion to the - to go on to the lengthy - as she calls
20 it the detention.

21 SOLICITOR HOLLAND: I don't believe that the detention
22 at all is lengthy. I think he is just verifying his
23 identity. Obviously if you had handed your driver's
24 license over that's going to be short of you saying I don't
25 have my driver's license. Of course they're gonna have to

-79-

1 run you through and its going to take longer. I don't
2 believe it was anything unreasonable. It was simply just
3 trying to accomplish the purpose of the traffic stop and
4 just his identity at that point. And given the fact that
5 he could not provide a correct name that's why it took so
6 long.

7 THE COURT: All right. The next ground.

8 MS. INZERILLO: Your Honor, our secondary grounds
9 would be pursuant to *Arizona versus Gant*. I do have a copy
10 of that as I'm sure the Court is familiar with it but I can
11 hand up a copy of it. I have provided a copy to the State.

12 (DOCUMENTS RECEIVED UP BY THE COURT.)

13 THE COURT: You got something you want --

14 MS. INZERILLO: I will, Your Honor. Essentially what
15 we have, Your Honor, in this case is, it's clear from the
16 video is the entire investigation in this case revolves
17 around trying to find out who the driver's information is.
18 There is other statements made, I smell Signal 9; there is
19 some, you know, essentially an assertion there could be
20 drugs in the car but as the Court can see from the video
21 all of the investigation that happens after that is
22 essentially to check the identifications of the passengers
23 to run their licenses essentially. But also its
24 essentially to try to find out who Mr. Coleman is. As you
25 can see their all - each passenger is frisked but none of

1 them are ask about any drugs in the car, anything that
2 would substantiate the State's assertion that the
3 subsequent search of the car has something to do with drugs
4 and not with the original allegation of trying to find out
5 who Mr. Coleman is.

6 I will certainly leave it to the deference of the
7 Court; I know it's hard to hear portions of this tape, but
8 from my listening of it when they are trying to figure out
9 when they're all looking at the picture, the three officers
10 and Mr. Coleman, at that point at 1:27 Sergeant Bunch says
11 go ahead and take him I'll deal with it later. It's clear
12 he doesn't know at that point who Mr. Coleman is; that even
13 though later on and today the assertion is I placed him
14 under arrest for false information and it's clear from the
15 video he still has no idea who he is and with sufficient
16 grounds to charge him with false information because it is
17 not until 1:39 when the wallet and the firearm are found in
18 the car. Essentially the wallet that they realized Mr.
19 Coleman is as to Mr. Coleman and not Mr. Irvin.

20 I questioned Sergeant Bunch about -

21 THE COURT: The question really is, when did they
22 realize he wasn't Mr. Irvin; not when they decided he was
23 Mr. Coleman.

24 MS. INZERILLO: Right. And so, Your Honor, our
25 argument would be that up until 1:39 when they find the

-81-

1. wallet that question is unsettled and essentially the
2. search in this case - They are questioning him about his
3. identity but they are not looking in the car for any drugs
4. or essentially, you know, about who he is which reverts
5. back to a search of the original reason he was pulled over,
6. the failure to dim the headlights. Under Arizona v. Gant
7. it's clear under that case --

8. THE COURT: You got to tell me where now. I ask for
9. that earlier. I thought you were going there.

10. MS. INZERILLO: Sorry, Your Honor.

11. The holding is in the case - I beg the Court's
12. indulgence for one minute.

13. (PAUSE.)

14. MS. INZERILLO: Your Honor, I point the Court towards
15. the front in the head notes which is Page 4 of 29 and 5 of
16. 29.

17. THE COURT: I can't rely on the head note but I'll
18. look at it.

19. MS. INZERILLO: I'll point Your Honor to the exact
20. language. Essentially the holding in this case is that the
21. search - officers may search a vehicle incident to a
22. person's arrest only when the arrest is within reaching
23. distance of the passenger compartment or essentially the
24. thing that has been taken into evidence or is reason to
25. believe that the vehicle contains evidence of the offense

1 of the arrest.

2 As is clear from the video Mr. Coleman is transported
3 at 1:28 am.; and so at 1:39 when this gun is found he is no
4 where near the item that was ultimately taken in this case
5 and the search in this case converting back to the failure
6 to dim headlights is a kin to the Arizona v. Gant facts in
7 which the Court held that because of purposes of the
8 traffic stop is essentially an Arizona v. Gant he was
9 pulled over for a DUS, he was determined to be DUS and was
10 arrested for that; any subsequent search of the car would
11 not yield any information on that. Our argument is that
12 this case is analogous to Arizona v. Gant in that
13 essentially the search reverts back to the reason he was
14 pulled over which is the failure to dim head lights and any
15 search of the car would not yield to that.

16 THE COURT: Well what are the officers supposed to do?
17 They've got a car no driver and four passengers so they
18 just leave, leave the car sitting in the middle of the road
19 with no driver and no idea of who the passengers are or are
20 any of them licensed?

21 MS. INZERILLO: Well, Your Honor, they do check the
22 passengers. I don't believe we have standing to argue what
23 they do with the passengers.

24 THE COURT: I understand but think about when he
25 smells marijuana. There's an unoccupied car sitting in the

1 middle of the road.

2 MS. INZERILLO: I guess our position is we're
3 questioning the Signal 9 because everything surrounded
4 that. The context of that ought to be it does not indicate
5 that that is the real reason for the search but you see
6 from the investigation -

7 THE COURT: Are you saying he's lying under oath that
8 he smelled marijuana?

9 MS. INZERILLO: I'm saying that he said that on the
10 video but its clear from the remainder of the investigation
11 that they are actually trying to find out who Mr. Coleman
12 is.

13 THE COURT: All right.

14 SOLICITOR HOLLAND: Your Honor, it's the State's
15 response is that I don't find this analogous to Arizona
16 versus Gant at all. We're not alleging that this is a
17 search incident to arrest but rather that it's based on a
18 probable cause determination by the officer. I ask him why
19 did you search the car? Based on his observation and the
20 smell of marijuana. As I argued previously the behavior of
21 the defendant and the passengers in the vehicle is very
22 suspicious; the defendant has given a fake name, they have
23 no idea who he is. At this juncture none of the passengers
24 would give his name; certainly there is suspicious behavior
25 which Officer Bunch testified that within his experience is

1 indicative that there is something going on and does raise
2 his suspicion level. Then he approaches the vehicle and
3 smells the strong odor of marijuana at that point.

4 THE COURT: Any wrap up?

5 MS. INZERILLO: Your Honor, just briefly:

6 The language is on Page 21 and 29 from the case I
7 handed up right above the concurring footnote.

8 SOLICITOR HOLLAND: And, Your Honor, the State - I did
9 provide you with *State versus Morris* which is a case I
10 believe Your Honor was upheld by the Court of Appeals in
11 that.

12 THE COURT: That's a little different facts than this
13 one.

14 Where on 21?

15 MS. INZERILLO: It is about midway down the page, Your
16 Honor, right above Justice Scalia is concurring with him,
17 that starts "police may search a vehicle incident to a
18 recent occupant's arrest."

19 THE COURT: Well in other places though they don't say
20 that's the only reason they can stop them.

21 I deny the motion. I find that there was a reason for
22 the traffic - sufficient reason for a traffic stop; that is
23 the use of bright lights when they should have been dimmed;
24 that that was a legitimate reason for stopping the vehicle.
25 I believe they also had a reasonable suspicion to - well

-85-

1 let me take it back.

2 I won't quite call it reasonable suspicion, but I
3 think they had a legitimate reason to determine who was in
4 fact the driver of the vehicle and determine that person's
5 identification. The fact that someone just gives their
6 name and it just happens that they are lucky or maybe they
7 had foresight that that name comes back being some licensed
8 driver doesn't end the inquiry. I think the officers have
9 a right particularly with modern techniques.

10 I wasn't even aware that you could get a photograph
11 that soon but I think that the - I find that the officer
12 had a right to determine that the information was correct
13 and not take it at face value. I think we'd be in a rather
14 bad situation if we just started letting people say that
15 they were somebody and the police do not have a right to
16 verify that.

17 Once they determined - I think the length of the delay
18 was required by and explained away by the officer. It did
19 take some time but they had to obtain the information from
20 the Department of Transportation or Department of Public
21 Safety. And that because of the unavailability of the
22 dispatch or someone that was not - they were unavailable to
23 get it any quicker, they got it within a reasonable - they
24 got that, the photo, within a reasonable period of time, so
25 I find that the length of detention was not prolonged, it

1 was not unreasonable. I find that once they determined in
2 their mind - they may have been wrong - but when they did
3 determine in their mind reasonably that this man was not Mr
4 Irvin - they didn't know who he was. They didn't know if
5 he was Mr. Coleman but they did not know he was Mr. Irvin;
6 that they had reasonable suspicion that something was amiss
7 and they had a right to go further and examine the car and
8 get the other occupants out.

9 And in doing this the smell of marijuana, I believe,
10 created probable cause to search. I find at that point the
11 known facts and circumstances were sufficient to warrant a
12 man of reasonable prudence to have the belief that
13 contraband or evidence of a crime would be found in the
14 car. And I think that in the view of the standpoint of an
15 ordinary objectively reasonable police officer that this
16 amounted to a probable cause to proceed with the search.

17 Probable cause justifies the warrant less search of
18 every part of a vehicle that may conceal the object of the
19 search which here was marijuana. Again this case is not
20 quite as clear as *Morris* because in *Morris* there was more
21 than just an odor. The odor was detected, I find that -
22 the Court kind of got on me for saying when the marijuana
23 was smelled in this - in the *Morris* Case - but here I find
24 that it was smelled right before the officer indicated he
25 had - I believe it's Code 9 or whatever the law

-87-

1 enforcement's words were for marijuana is, so I deny the
2 motion.

3 MS. INZERILLO: Thank you, Your Honor.

4 Your Honor, just one quick point. Sergeant Bunch did
5 refer to when he was talking about the grinder to having
6 marijuana in it and even though --

7 THE COURT: I don't think that needs to - that's not
8 coming in during the trial.

9 SOLICITOR HOLLAND: That may not - I do not intend to
10 bring that up.

11 MS. INZERILLO: I just wanted to make sure. It was
12 just for purposes of this, I just wanted to make sure.

13 May I beg the Court's indulgence for just one moment?

14 THE COURT: Okay.

15 SOLICITOR HOLLAND: Your Honor, I have two short
16 points when she's finished.

17 (PAUSE.)

18 MS. INZERILLO: May we approach, Your Honor?

19 THE COURT: Yeah.

20 (BENCH CONFERENCE OFF THE RECORD AT 03:45 P.M..)

21 THE COURT: Mr. Coleman, your counsel is telling me
22 you want to go back and dismiss Ms. Inzerillo?

23 MR. COLEMAN: She won't ask the questions I'm -

24 MADAME COURT REPORTER: I'm sorry, Judge, I can't --

25 THE COURT: You need to stand up and you need to tell

1 me what you want to tell me.

2 MR. COLEMAN: She won't ask the questions I'm asking
3 her to ask Your Honor for me to make the motion like when
4 she's picking the jury she won't strike instead of us
5 coming together on it.

6 THE COURT: Well what do you want to do? We're in the
7 case, what do you want to do? I mean do you want to go on
8 your own and choose your lawyer?

9 MR. COLEMAN: I want her to go with me instead of
10 against me.

11 THE COURT: She's got to make her decisions based on
12 her oath and her obligations to you and to the court. I
13 said earlier and I'm sure Judge Alford told you earlier
14 there is a danger in an individual being their own attorney
15 in representing yourselves because there is a danger in
16 self representation because you don't know the rules, you
17 don't know all the law. You've done some research. None
18 of us know all the law. In any event, what do you want to
19 do? We've got to move forward. You want to let her go now
20 or do you want to keep her and be your own lawyer and have
21 her as standby?

22 MR. COLEMAN: I can be my own lawyer.

23 THE COURT: Do you understand there is a danger in
24 that? All right.

25 Ms. Inzerillo, you'll be stand by counsel from now on.

1 Before we break do you have two more points?

2 You can be seated, Mr. Coleman.

3 SOLICITOR HOLLAND: About the video. I just have this
4 as to Ms. Inzerillo. The video is about sixty minutes long
5 and you heard it up to the point that the audio terminates.
6 The audio is never restored and the rest of it is just
7 basically just passengers standing around. I intended to
8 admit the video but only play the first half, and I have
9 discussed this with Ms. Inzerillo. Just simply for the
10 jury to have if somebody -

11 THE COURT: Well she's not the lawyer any more so you
12 better see what Mr. Coleman wants on that.

13 SOLICITOR HOLLAND: Thank you, Your Honor.

14 And the -

15 THE COURT: Here's what - I can't say what Mr. Coleman
16 wants. You present your case like you chose to present it.
17 If Mr. Coleman wants other parts played he has a right and
18 opportunity to do that.

19 SOLICITOR HOLLAND: And given the fact that we've
20 agreed that the grinder needs to be redacted out of the
21 video, we need just a brief fifteen minutes to change the
22 video. The video as it exist is an agreement as between me
23 and Ms. Inzerillo and we will need to change that video.

24 THE COURT: Okay.

25 MR. COLEMAN: Your Honor, keep the part about the

1 grinder in there.

2 THE COURT: He says leave the grinder in there.

3 All right, anything else before we take a break?

4 SOLICITOR HOLLAND: One thing now that Mr. Coleman is
5 pro se, the State would just like to remind him he can make
6 no statement as to the sentence as far as this could
7 possibly affect his liberty; that is not for the jury's
8 consideration.

9 THE COURT: All right I have received a "special
10 note". "Sir, my name is Pam Tysinger, Juror No. 225. I
11 did not hear a specific question to answer but my neighbor
12 is Kevin Brackett our solicitor. I am able to remain
13 impartial and render a fair judgment. Thank you, Pam
14 Tysinger."

15 I'll bring her back in but I don't think she'll say
16 much more than what she's already said.

17 SOLICITOR HOLLAND: The State has no objection.

18 THE COURT: Do you want to relieve her and seat the
19 alternate or do you want to stick to Ms. Tysinger?

20 MR. COLEMAN: I'd like to relieve her. But, Your
21 Honor, --

22 THE COURT: Let's take one thing at a time. We'll
23 bring her in in a minute and seat the alternate.

24 Okay, what else?

25 MR. COLEMAN: I'd like to say one thing. Even though

-91-

1 you might redact the grinder out of the video, I'd like for
2 that not be discussed in the case.

3 SOLICITOR HOLLAND: I've instructed Sergeant Bunch not
4 to mention it. Just not discuss the grinder. I might ask
5 him however the statements, the video will be played as
6 we've seen.

7 THE COURT: All right. We'll take a break and...

8 Do you all mind just for - I just bring Ms. Tysinger
9 back to chambers and excuse her and then have the alternate
10 sit?

11 You find any problem with that, Mr. Coleman?

12 I'm just going to do what you said, rather than all of
13 us just sit around and bring Ms. Tysinger in I was going to
14 tell her face to face she is relieved and we'll seat the
15 alternate.

16 MR. COLEMAN: What about - Like there is some jurors
17 that I thought should have been struck. Like I don't think
18 it's right to have an all female jury.

19 THE COURT: Too late now. You had an attorney at that
20 time.

21 MR. COLEMAN: I was telling her - I was telling her to
22 strike some of them; that I didn't think it was right to
23 have an all female jury. She wouldn't listen to me.
24 That's what I'm saying because we --

25 THE COURT: The State - We can't undo it right now.

1 When I say right now it's probably - I meant we're at the
2 stage where we're going to go forward with the trial with
3 the jury you had.

4 All right, we'll take a minute, about a fifteen minute
5 break.

6 MS. INZERILLO: Thank you, Your Honor.

7 (COURT IN RECESS AT 03:48 P.M..)

8 (COURT BACK IN SESSION AT 04:13 P.M..)

9 THE COURT: Thank you, take your seats. And let's get
10 Mr. Coleman in.

11 (DEFENDANT WILLIAM COLEMAN REENTERS COURTROOM.)

12 THE COURT: All right is the State ready to proceed?

13 SOLICITOR HOLLAND: Yes, Your Honor. We would just
14 ask, Your Honor, if you would provide an instruction to the
15 jury and explain why Mr. Coleman had a lawyer and now does
16 not. Just simply that they understand that it was his
17 decision to elect to go forward pro se.

18 THE COURT: Mr. Coleman, anything you want to say
19 before the jury comes in?

20 MR. COLEMAN: Sir?

21 THE COURT: Anything you want to say before the jury
22 comes in?

23 MR. COLEMAN: Yeah. Yeah I want to suppress some
24 evidence.

25 THE COURT: You want to do what?

-93-

1 MR. COLEMAN: I want to suppress some of the officer's
2 statements.

3 THE COURT: Well the motion has already been made
4 regarding that and I over ruled you, so I can't revisit it.
5 I can't keep going back and forth; I can't - I'll let you
6 put on the record which one you want to suppress but I've
7 already ruled on the statements. You want to suppress the
8 officer's statements?

9 MR. COLEMAN: The officers's statements.

10 THE COURT: No. There is no grounds - On what grounds
11 can you suppress the officer's statements?

12 MR. COLEMAN: It's false statements. He said I was
13 the one he detected it --

14 THE COURT: Well you can cross examine him on that.
15 You have a right to ask him questions but I can't suppress
16 an officer's statement. Whatever they say is what they say
17 and so for you to - That's why its good to have a lawyer, a
18 lawyer knows what questions - If an officer or any witness
19 is not being forthright the attorneys have the skill and
20 the ability and the way to fair it out - the truth. So you
21 just have to ask the officer questions about the legitimacy
22 of - whether or not the statement is true or not.

23 MR. COLEMAN: Okay. Is it okay if Melissa sits right
24 here in case I need to ask her a question?

25 (ATTORNEY MELISSA INZERILLO MOVED FORWARD TO DEFENSE

1 TABLE.)

2 THE COURT: Yeah. All right.

3 Bring in the jury.

4 (JURY REENTERS COURTROOM AT 04:17 P.M..)

5 THE COURT: First Ms. Tysinger, I let her - I excused
6 her from further service. She didn't do anything wrong,
7 she didn't misbehave, she didn't violate any rules or
8 anything like that. Its just some information she thought
9 about and she needed to share with me and I thought under
10 the circumstances it would be best to allow her to not
11 serve further after consulting with the attorneys.

12 And now that you are comfortably seated if you will
13 stand the Clerk will administer the oath.

14 MADAME CLERK: Please raise your right hand.

15 (WHEREUPON: PETIT JURY SWORN
16 AT 04:18 P.M..)

17 THE COURT: You can be seated.

18 I'm going to chat with you just for a minute and then
19 turn the case over to the attorneys and Mr. Coleman. You
20 may notice - probably hadn't yet - Mr. Coleman and Ms.
21 Inzerillo have changed seats. Mr. Coleman has elected as
22 is his right to proceed on his own. I have assigned - ask
23 Mr. Inzerillo to sit and assist him if he needs any
24 assisting on a procedural matter. But Mr. Coleman is now
25 representing himself. Again that's his right to do so and

-95-

1 he ask to do so and neither he nor Ms. Inzerillo did
2 anything wrong. That's just his choice. But Ms. Inzerillo
3 will be there to answer and help him if he needs any
4 assistance.

5 Now to this charge of having a gun with the serial
6 number obliterated Mr. Coleman has entered a plea of not
7 guilty. His plea of not guilty places on the State the
8 burden of proving his guilt beyond a reasonable doubt. He
9 is presumed innocent, he does not need to prove anything.
10 He does not need to prove his innocence. He is presumed by
11 our law to be innocent and the State must before he could
12 be convicted prove to a jury his guilt beyond a reasonable
13 doubt.

14 I have three primary jobs; one is that I am the
15 logistics person. I make sure we take breaks and while I'm
16 on that I know it's been almost two hours since I said we
17 would start and it not because I missed the class in
18 kindergarten when they told you how to tell time. We had
19 some matters to take up outside of your presence and they
20 took quite a bit longer than I had anticipated because we
21 started at 2:00 to try to be ready by 2:30 and it just
22 didn't work. But I do the logistics and make sure we take
23 breaks, try to make sure people are speaking loud enough,
24 those type things, that you can see and hear.

25 I also, my second job is to rule on questions of

1 evidence. When one side believes certain evidence should
2 be allowed to be put into the record for your consideration
3 and the other side believes on some legal theory a rule
4 that that evidence is not admissible I have to rule on
5 that. My third job is that I am the sole judge of the law
6 in this case. You must take accept and apply the law as I
7 charge it. This is true even if you think I charge the law
8 in error or even if you think the law should be different.
9 Your oath requires you to take accept and apply the law as
10 I charge it.

11 You are not to infer from anything I say or do at any
12 time as being an indication of an opinion of mine on the
13 facts. Our law does not allow a trial judge to formulate
14 or express to a jury any opinion on the facts. That is
15 solely your job. It is solely up to you to examine the
16 evidence, to give the evidence the effect the value the
17 weight and the truth you believe it should have.

18 In doing this you may believe one witness as opposed
19 to several; several witnesses as opposed to one, you may
20 believe all or part or none of a witnesses testimony. Use
21 your common sense, your sense of logic, your sense of
22 reason. Use your experiences in life as you analyze the
23 evidence. As judges of the facts you necessarily must
24 judge the credibility, that is the believability of the
25 witnesses who testify. In assessing believability use the

-97-

1 things I have just talked about, use the things that you in
2 your day to day life find as being indicative of
3 truthfulness. And you can use certain evaluators I call
4 them. A witness's demeanor, how they act on the stand, are
5 they hesitant or straightforward. Look at consistencies or
6 inconsistencies in a witness's testimony. Look at any bias
7 or prejudice, that is, whether a witness would wish to help
8 or hurt one side or the other. And consider the
9 opportunity a witness had to actually know those things to
10 which a witness testified. All these things you consider
11 to determine the truth facts apply the law and you'll be in
12 a position to return a verdict that speaks the truth.

13 I've already told you what not to do as far as not
14 making up your mind, not discussing the case, not doing any
15 outside research, and not letting yourself be exposed to
16 any news coverage. I'm not going to go back over that but
17 that applies throughout the trial. If you can't see, you
18 can't hear, let me know; cup your ear, voice raising
19 gesture, a nudging gesture and I'll try to correct it. We
20 take breaks about every hour and a half. If you need a
21 break at any time simply raise your hand and with no
22 questions ask we will take a break. It's hard to pay
23 attention if you are not comfortable and everybody's
24 comfort level is different. So while we want to move the
25 case along, we're not in such a hurry that we won't take a

1 break of we need to. So let me know if you need a break
2 and I extend that to counsel and Mr. Coleman also.

3 And, Ms. Flanagan, you are now on the jury; you're not
4 the alternate any more so - I'm sorry, I understand because
5 you sat somewhere else. Now, in this case there will be a
6 pistol displayed and to some degree handled. It is locked.
7 It is unloaded. Our court rules require that. I still am
8 directing the counsel to make sure that it is never pointed
9 at anyone but we have courtroom procedures; we quite
10 frequently have firearms in here so we take the utmost
11 caution and have them checked thoroughly and a lock put on
12 them. So even though you'll see the gun displayed it is
13 not in operable - firing state.

14 All right, Counsel.

15 Oh, let me, what I'm gonna do now is let the attorney
16 and then Mr. Coleman make for you an opening statement.
17 They are not giving testimony even though one of them is
18 the defendant himself he is not allowed; of course the
19 State is not allowed to give testimony, they are not
20 testifying because at this stage they simply will be
21 telling you their position, their outline of the trial, so
22 a blueprint of the trial. They are not trying to convince
23 you of anything. After you hear all of the evidence we'll
24 have the part of the trial called the summation where the
25 attorney and Mr. Coleman will appear before you and try to

OPENING STATEMENT: BY SOLICITOR HOLLAND

-99-

1 convince you based on the record why your verdict should be
2 a certain verdict. That's not what they are doing at this
3 point.

4 Counsel.

5 SOLICITOR HOLLAND: May it please the Court.

6 Good afternoon, ladies, my name is Jessica Holland,
7 I'm an assistant solicitor for York County which means I
8 handle along with the other attorneys in our office the
9 prosecution of criminal cases in York County.

10 Today I'm here to talk to you about Mr. William
11 Coleman. Mr. Coleman on January 26th of this year was
12 traveling in a vehicle about 1:00 am along the perimeter of
13 Winthrop campus on Cherry Road. Officer Dwayne Bunch,
14 Sergeant Dwayne Bunch was patrolling that area and he sees
15 Mr. Coleman driving and sees that he's failing to dim his
16 headlights; that his bright lights are on. He pulls him
17 over at that point and he approaches and speaks with Mr.
18 Coleman, except Mr. Coleman does not give the name of
19 William Coleman.

20 MR. COLEMAN: Objection, Your Honor. Objection.

21 THE COURT: The objection is over ruled. She's just
22 making her opening statement. The objection is over ruled.

23 Go ahead.

24 SOLICITOR HOLLAND: He gives the name Daniel Ervin and
25 also provides a date of birth, says I don't have my

1 driver's license. Sergeant Bunch goes back and due to
2 modern technology can run that name and date of birth
3 through the Department of Motor Vehicles. When he pulls
4 it up and he pulls up an actual Daniel Ervin and at that
5 point he decides to ask the defendant for the last four of
6 his social to see if the numbers matched up. At that point
7 the defendant cannot provide him with that. An officer --
8 Since Sergeant Bunch originally approached Mr. Coleman Mr.
9 Coleman was wearing a jacket and it was brightly colored.
10 But when he reapproaches to ask him what are the last four
11 of your social that jacket - Mr. Coleman has taken that
12 jacket off and it's behind him in the seat. And at that
13 point he ask Mr. Coleman out of the car to ask him about
14 the social security number and to also ask him how old he
15 is. Mr. Coleman says I'm twenty-nine. Well if the date of
16 birth he had given was correct Mr. Coleman would not have
17 been twenty-nine, he would have been twenty-eight.

18 So that raises Sergeant Bunch's suspicions at that
19 point. They detain Mr. Coleman for some time; they get a
20 photograph from the Department of Motor Vehicles, all for
21 Daniel Ervin for the name he's given and the date of birth
22 he's given and determine by looking at that photograph that
23 that is not Mr. Coleman. At that point Mr. Coleman is
24 placed under arrest for giving false information to police.
25 The vehicle he was driving was a older model kind of

OPENING STATEMENT: BY SOLICITOR HOLLAND

-101-

1 limousine and there were four passengers in the back of the
2 vehicle. Sergeant Bunch speaks with those passengers, ask
3 them out of the car, checks their ID's; and during that
4 time he smells an odor of marijuana. And based on the
5 suspicious behavior and the marijuana he decides that he's
6 gonna search the vehicle. And he goes and searches and
7 that jacket that Mr. Coleman had had on that he had removed
8 and I said was sitting behind him is still in the seat. So
9 he takes that jacket and reaches into the pocket. The
10 first thing he pulls out is a wallet with Mr. Coleman's
11 identification card in it. The photograph matches and the
12 name says William Coleman who is seated at the defense
13 table.

14 After that he takes the wallet out and he reaches in
15 and he finds a gun. That gun is a revolver, kind of an
16 older looking gun. And all guns have serial numbers
17 printed on them, and that serial number had been scratched
18 off. When you see the gun you will see how it has been
19 scratched off deliberately. And that the entire serial
20 number is not - cannot be ascertained by looking at the
21 gun. It's a violation of South Carolina law to possess a
22 gun that has the serial number obliterated or removed.

23 Now Mr. Coleman has chosen to go forward before you
24 without an attorney and he has chosen to represent himself
25 which is certainly his right. So I would just ask that you

OPENING STATEMENT: BY SOLICITOR HOLLAND
BY MR. COLEMAN

-102-

1 listen to the evidence, that you listen to the - to myself
2 and Mr. Coleman and just to be thoughtful in your
3 consideration of that evidence and to return a verdict of
4 guilty. Thank you.

5 THE COURT: Mr. Coleman, would you like to make an
6 opening statement?

7 MR. COLEMAN: Yes, sir, I do.

8 THE COURT: You may proceed.

9 MR. COLEMAN: How are you all doing today? On this
10 night that I was arrested Officer Bunch pulled out of the
11 car at approximately 1:15 am. He left those other guys in
12 the car unattended for approximately a half an hour while
13 me and him conversated about why I was driving without a
14 license. Well he arrested - not arrested me but he
15 detained me and took me to jail so he could determine who I
16 was. During that time one of those guys -

17 SOLICITOR HOLLAND: Objection, Your Honor.

18 THE COURT: You can say they had time to do that but
19 you can't say whether they did because you weren't in the
20 car.

21 MR. COLEMAN: All right. Somebody put a gun in my
22 pocket while I was outside the car. That gun was checked
23 for my fingerprints and my fingerprints were not on the
24 gun. I don't know who did it, I can't say who put the gun
25 in there because I don't know who had the gun on them. All

OPENING STATEMENT: BY MR. COLEMAN
SERGEANT BUNCH: BY SOLICITOR HOLLAND

-103-

1 I know is I just picked the guys up in the limousine from a
2 hotel room.

3 SOLICITOR HOLLAND: Objection, Your Honor, he's
4 testifying as to the -- statement of the facts.

5 THE COURT: You can't testify. At this point you
6 can't testify. You can give an over view of what you think
7 the evidence will show.

8 MR. COLEMAN: The evidence does show that. In the
9 video he ask 'em where did I pick them up at and they told
10 him I picked them up at a hotel room. I had just picked
11 those guys up in a hotel room. They were only in my car
12 approximately five minutes then we got pulled over. That's
13 it.

14 THE COURT: Thank you.

15 All right, call your first witness.

16 SOLICITOR HOLLAND: State calls Sergeant Dwayne Bunch.

17 (WHEREUPON: DWAYNE BUNCH,
18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

19 DIRECT EXAMINATION

20 SERGEANT DWAYNE BUNCH BY SOLICITOR HOLLAND:

21 Q. Can you please state your name for the record?

22 A. Its Sergeant Dwayne Bunch.

23 Q. And where are you employed?

24 A. Winthrop University Police Department.

25 Q. And how long have you been employed there?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-104-

1 A. Twelve years.

2 Q. And is that the extent of your experience in law
3 enforcement?

4 A. Yes.

5 Q. And what sort of training do you receive as a law
6 enforcement officer?

7 A. You got to go to the academy for - Back when I was in
8 the academy it was nine weeks. Its my understanding now
9 it's changed to twelve weeks for additional --

10 Q. And as a - I'm sorry.

11 A. For additional training that I've already received.

12 Q. As a sergeant with Winthrop University Police
13 Department, describe your duties.

14 A. I supervise day shift which is a night shift from 6:00
15 p. to 6:00 a. The way our schedule works we're on two
16 days, off three, on three, off two. I have a couple of
17 guys that work on shift under me and it's my job to
18 supervise them as well as enforce the laws in the State of
19 South Carolina.

20 Q. And describe the jurisdiction of the Winthrop
21 University Police Department. Exactly where do you patrol?

22 A. Well Winthrop University police officers have state
23 wide jurisdiction; however, per our departments policy we
24 can only police within a certain perimeter of Winthrop
25 University. Pretty much Cherry Road from Constitution -

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-105-

1 Actually from Stadium Street all the way to just the
2 beginning of Cherry Park. Everything east of that to the
3 Coliseum and all the streets and areas in between.

4 Q. And even though you work for Winthrop University you
5 do travel, patrol the roads surrounding the university;
6 correct?

7 A. Yes. Yes we do.

8 Q. Were you working on the night of January 26?

9 A. Yes I was.

10 Q. And that was of this year ----

11 A. Yes, ma'am.

12 Q. --- 2012? Around 1:00 am did you encounter the
13 defendant William Coleman?

14 A. I did.

15 Q. Describe what happened?

16 A. I was traveling north bound on Cherry Road, I passed a
17 limousine about Park Avenue Extension traveling south bound
18 on Cherry Road. The vehicle had it's high beams on, I
19 turned around initiated a traffic stop on it. It was a red
20 colored late '80's model limo and it pulled over at Cherry
21 Road in the middle of the road at Camden Avenue.

22 Q. And that stop - spot where you stopped, is that
23 within York County?

24 A. Yes it is.

25 Q. And is that within the jurisdiction of the Winthrop

1 University Police Department?

2 A. Yes.

3 Q. Once you pulled the vehicle over, describe what you
4 did.

5 A. I called the stop out, I got out of the car, I
6 approached the driver side of the vehicle to where the
7 driver's window is and I made contact with Mr. Coleman face
8 to face at that moment, ask for a driver's license
9 registration and I advised him why he had been stopped.

10 Q. And who was the driver of that vehicle again?

11 A. William Coleman.

12 Q. Do you see the driver of that vehicle in the
13 courtroom?

14 A. Yes I do.

15 Q. Okay. Will you please point to him and tell us where
16 he is sitting.

17 A. He's in the blue shirt sitting at the defense table
18 first seat.

19 SOLICITOR HOLLAND: Please let the record show that he
20 has identified the defendant.

21 (WITNESS IDENTIFIES DEFENDANT WILLIAM COLEMAN.)

22 Q. And when you ask for a license and registration, what
23 was Mr. Coleman's response?

24 A. He initially gave me some paperwork on a vehicle as it
25 had a forty-five day temporary tag on it like it had just

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-107-

1 been purchased or transferred or something. And then I had
2 to ask him a second time for his driver's license and he
3 said he did not have it with him.

4 Q. Okay. And did he provide you any identifying
5 information?

6 A. He gave me a name and date of birth.

7 Q. What were those?

8 A. He told me he was Daniel Irvin with a date of birth of
9 October 18th, 1983.

10 Q. Okay. And Mr. Coleman's driving; how many other
11 passengers are there in the vehicle?

12 A. Minus him there's four other passengers in the
13 vehicle.

14 Q. And what did Mr. Coleman have on when you initially
15 approached the vehicle?

16 A. A red and white jacket. It may have had some other
17 colors in it but red and white is what sticks out to me.
18 They were the predominate colors of that jacket.

19 Q. And that's what he had on when you pulled him over?

20 A. Yes.

21 Q. And this is in the middle of the night in January?

22 A. Yes.

23 Q. Do you remember, was it cold?

24 A. I don't remember the temperature.

25 Q. But it was in the middle of the night in January?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-108-

1 A. It was in the middle of the night in January.

2 Q. And at that point he gives you the name Daniel Irvin
3 and that date of birth, what did you do?

4 A. I immediately stepped back away from the vehicle and I
5 remember Officer Wilson arrived on scene, another one of my
6 officers, which is typical of any traffic stop a backup
7 officer will come. I stepped to the rear, the left rear of
8 the vehicle and radioed dispatch to run a check on Daniel
9 Irvin with that name and date of birth of October the 18th
10 of 1983.

11 Q. And while you are doing that what is Officer Wilson
12 doing?

13 A. Officer Wilson is covering the vehicle and that can be
14 seen. He's standing at the left rear of my vehicle just an
15 over view - left rear of the subjects vehicle with an over
16 view of the whole vehicle because there are passengers in
17 the vehicle.

18 Q. And once you run the date of birth of the name through
19 the South Carolina Department of Motor Vehicle, what
20 happened?

21 A. I got dispatched radioed me back with the status on
22 that was clear.

23 Q. What does that mean? What does clear mean?

24 A. That the person has a driver's license and it's clear
25 and accurate.

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-109-

1 Q. Okay. And so what did you do once you heard that
2 information?

3 A. I ask the dispatch for the last four digits of the
4 social attached to that driver's license.

5 Q. And did you return to the vehicle at that point?

6 A. I did.

7 Q. And at that point what did Mr. Coleman have on?

8 A. At that point Mr. Coleman was just wearing a white t-
9 shirt.

10 Q. Where is the jacket that he had on?

11 A. It's seated behind him like he took it off and just
12 let it hang ---

13 (WITNESS DEMONSTRATED.)

14 A. --- over the seats where he was, the driver's seat.

15 Q. Okay. And what did you do once you reapproached the
16 vehicle?

17 A. I ask him what the last four of his social was.

18 Q. Was he able to provide you those number?

19 A. No, ma'am. No, ma'am.

20 Q. And so what did you do?

21 A. I ask him to step out of the vehicle at that point.

22 Q. Did you ask him his age?

23 A. I did.

24 Q. And how old did he say he was?

25 A. He advised me he was twenty-nine.

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-110-

1 Q. If his date of birth would have been October 18th of
2 1983 how old would he be?

3 A. Twenty-eight.

4 Q. What did you do at that point?

5 A. I brought Mr. Coleman to the rear of the vehicle,
6 Officer Wilson did a pat down of him which is standard
7 procedure to make sure he wasn't, you know, carrying any
8 weapons or anything on his person, anything that was going
9 to harm and put us in jeopardy. Brought him to the back of
10 the vehicle, placed him in handcuffs because at that moment
11 he wasn't being truthful with me. I knew he wasn't being
12 truthful with me because I knew that the date of birth he
13 gave me didn't match up with being twenty-nine. And I did
14 ask him, you know, what person of your age doesn't know
15 your social.

16 Q. And when you take him out of the vehicle to the rear
17 of the vehicle, did he take the jacket with him or where's
18 the jacket?

19 A. The jacket is still in the car in the driver's seat.

20 Q. Was it cold enough that night that most people would
21 wear a jacket or long sleeves?

22 A. I believe it was. I believe it was in the '30's or
23 some sort that night.

24 Q. And so you bring him to the rear and he's being
25 detained; you're asking him questions. What else did you

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-111-

1 do to ascertain his identity at that point?

2 A. At that point I radioed Officer Chris Parks who is
3 another one of the officers on my shift and ask him for a
4 DMV - to come and run a DMV photo of Mr. Irvin, who I
5 believed to be Mr. Irvin at the time, so that I could look
6 at that photo and determine if that was the person I was
7 dealing with.

8 Q. And the photo would have been of Daniel Irvin?

9 A. Yes.

10 Q. So it would have been his driver's license photo?

11 A. Yes. It's a new technology available to us now for
12 these type situations where we can just pull up the
13 person's photo now.

14 Q. Okay. And Officer Parks arrived with that photo?

15 A. He did.

16 Q. About how long did it take for him to get there?

17 A. It's about eight to twelve minutes or so. He was
18 stuck in dispatch at the time.

19 Q. Why was he stuck in dispatch?

20 A. A department of our size which is not real big we only
21 have one dispatcher on duty per shift and if that
22 dispatcher needs to excuse herself or himself to go to the
23 restroom or do something else then an officer has to stay
24 in the dispatch console in case the phone rings or, you
25 know, somebody comes in the lobby or what not. And at that

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-112-

1 moment my dispatcher needed to go to the restroom so
2 Officer Parks was delayed just a couple of minutes in his
3 time in coming out to me.

4 Q. And did Officer Parks eventually arrive with that
5 photograph?

6 A. He did.

7 Q. What did you do once he arrived with the photo?

8 A. I looked at the photograph immediately and I knew that
9 that was - that that person seated at the defense table was
10 not Daniel Irvin.

11 Q. Did the DMV photograph, it was obviously not Mr.
12 Coleman - - -

13 A. Yes.

14 Q. - - - in the photograph? And once you ascertained
15 that this was not - his name was not Daniel Irvin and he
16 was not this individual, what did you do?

17 A. Mr. Coleman was taken to jail and charged with giving
18 false information at that moment.

19 Q. And so right then was he transported away from the
20 scene?

21 A. Yes.

22 Q. And who took him?

23 A. Officer Percy Wilson.

24 Q. At the point when you put him in Officer Wilson's
25 cruiser do you have any idea who this is?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-113-

1 A. I do not.

2 Q. You just know he's not Daniel Irvin?

3 A. Correct.

4 Q. Now after Mr. Coleman is taken from the scene, what
5 did you do next, because there's still four passengers in
6 the car; correct?

7 A. Right. I reapproached the vehicle started - I
8 reapproached the vehicle on the driver's side and I leaned
9 into the car somewhat to talk to the passengers and I could
10 smell an odor of marijuana throughout the vehicle.

11 Q. And as an officer have you been trained in drugs and
12 narcotics and their smell and -

13 A. I have.

14 Q. Okay. And when did you go through that training?

15 A. 2002.

16 Q. And over your experience in law enforcement have you
17 experienced marijuana and drugs?

18 A. Yes.

19 Q. And you're familiar with the smell?

20 A. Yes.

21 Q. And what did you do with regard to the passengers?

22 A. I began to collect their ID's immediately to figure
23 out who all they were because though I still didn't know
24 who the driver was I didn't know who was in the car with
25 him as well. So some had ID's, some didn't; I got some

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-114-

1 names and date of births off some of the others. The only
2 kick back to that DMV on line is I can only run in state.
3 If you're a South Carolina that's available to me. I can't
4 do it if you're from any other state. I don't have that
5 ability to run another state's photo. So some of them guys
6 in the car had a different state's ID so I was not able to
7 run that photo like I did with Mr. Coleman.

8 Q. And how many males were passengers? How many males
9 were in the vehicle?

10 A. There were three - Outside of Mr. Coleman there were
11 three males and one female in the car.

12 Q. And so you spoke with each of the passengers?

13 A. Maybe not on a one on one basis but I spoke with the
14 immediate front seat passenger and then I spoke with the
15 left rear passenger. I don't think I ever had an
16 interaction with the female.

17 Q. Who had interaction with the female, another officer?

18 A. I want to say Officer Wilson did.

19 Q. And so you ask all of them out of the car and you
20 speak to some of them, Officer Wilson speaks to the rest.
21 Were any of the passengers able to give you or any of the
22 other officers on the scene Mr. Coleman's real name?

23 A. No.

24 Q. So they all refused to identify him?

25 A. Some claimed that they didn't know him and some

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-115-

1 identified him by some nick name.

2 Q. And after all of the passengers were out of the car
3 what did you do at that point?

4 A. I returned to the vehicle to search the vehicle and I
5 did reach into the jacket that was seated still in the same
6 position that it was when I returned to the vehicle from
7 where Mr. Coleman took it off, I returned to that jacket, I
8 reach in the right front pocket of that jacket and the
9 first thing I felt was a wallet. I pulled the wallet out
10 of the jacket, the wallet was on top.

11 Q. And what was in the wallet?

12 A. A South Carolina Identification card identifying
13 William Theoplas Coleman which is who I had in custody.

14 Q. So the photograph that you saw on that ID card matched
15 Mr. Coleman?

16 A. Yes.

17 Q. So after you pull out the wallet and see that that's
18 his identification did you continue to search the jacket?

19 A. I did.

20 Q. What did you do?

21 A. I reached back into the right front pocket of that
22 jacket and pulled out a .38 revolver, loaded .38 revolver.

23 Q. And you've identified Mr. Coleman who's seated at the
24 defense table as the person who was wearing that jacket and
25 took it off in the seat?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-116-

1 A. Yes.

2 Q. And did the jacket look like it had been manipulated
3 in any way since he had gotten out of the car?

4 A. No.

5 Q. So his wallet is on top and the gun is underneath?

6 A. That's correct.

7 Q. Did you notice anything odd about the gun?

8 A. Yes. The serial number was removed from the vehicle -
9 I'm sorry, from the gun, scratched off in some sort of
10 manner. I don't know what was used to do it with but it
11 was missing.

12 Q. And the scratching that appears on the gun is it very
13 obvious, is it large?

14 A. Yes it's obvious.

15 SOLICITOR HOLLAND: May I approach the witness, Your
16 Honor?

17 THE COURT: Yes, ma'am.

18 Q. I'm handing you what's been marked as State's Exhibit
19 Number One for identification and I'm gonna hand you a
20 glove as well. If you could open that and tell us what is
21 in there.

22 (WITNESS COMPLIED WITH REQUEST FROM SOLICITOR.)

23 A. This is the .38 revolver that I recovered from the
24 jacket that day.

25 Q. And how do you recognize that gun?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-117-

1 A. Because the serial number is scratched off of it just
2 the way I remember it.

3 Q. And has the gun been changed or altered in any way
4 since you found it in Mr. Coleman's jacket?

5 A. No.

6 SOLICITOR HOLLAND: Your Honor, the State would ask to
7 admit the gun into evidence.

8 THE COURT: Any objection, Mr. Coleman?

9 MR. COLEMAN: No, sir.

10 THE COURT: Without objection.

11 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE IDENTIFIED AND
12 MARKED, RECEIVED INTO EVIDENCE.)

13 SOLICITOR HOLLAND: Your Honor, I request permission
14 to publish it briefly, but to show it to the jury.

15 THE COURT: Well I think they can see it well enough.

16 SOLICITOR HOLLAND: Okay.

17 Q. Can you indicate, just point where the serial number
18 is scratched off?

19 A. Right here on the right top of the - just before the
20 muzzle.

21 Q. And how do you know that that's where the serial
22 number should be? Or if you know - -

23 A. I'm not an expert firearms man but all guns have a
24 serial number on them but they're not all in the same
25 place. If you look at my firearm that I carry the serial

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-118-

1 number is under the barrel. On this particular hand gun
2 the serial number is located on the right top corner just
3 before the barrel. It's different on every gun. Some are
4 on the handle, some are on the bottom of the trigger. It's
5 just who ever makes the gun.

6 Q. Okay. If you look closely are a few numbers visible
7 or is just the entirety of the number --

8 A. There is a few numbers visible. I can only make out
9 the last three digits on the serial number the night I
10 looked at it and even today in looking at it, it's the
11 same. I can only make out the last three.

12 Q. So the entire serial number of the gun cannot be
13 ascertained by looking at the gun?

14 A. Correct.

15 Q. And that's been scratched off deliberately?

16 A. Yes.

17 Q. And it's a rather large mark on a small gun?

18 A. Yes.

19 Q. You can put it down.

20 (WITNESS COMPLIED.)

21 Q. Was that gun loaded when you pulled it out of the
22 jacket?

23 A. Yes, ma'am, it was.

24 Q. And the gun's not loaded now; correct?

25 A. No, ma'am, correct.

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-119-

1 Q. Who took the bullets out of the gun?

2 A. I did.

3 Q. What did you do with them?

4 A. Placed them in evidence per our policy in a separate
5 evidence bag separate from the gun.

6 Q. I noticed you had a glove on when you touched the gun.
7 Why are you wearing a glove?

8 A. The gun was taken out of evidence by a forensic
9 officer and fingerprinted for latent fingerprints.

10 Q. Were any - We use the word latent in law enforcement
11 but were any identifiable fingerprints pulled off the gun?

12 A. No there were no identifiable prints pulled off the
13 gun.

14 Q. So there was just no whole fingerprints from which we
15 could test who had handled the gun; correct?

16 A. Correct.

17 Q. And in that same Exhibit Number One, can you see if
18 there is an additional item in that bag?

19 A. Yes, ma'am, there is.

20 Q. Okay. If you could get that out and tell us if you
21 recognize that.

22 A. Let me use this other glove.

23 (WITNESS REMOVED ITEM FROM EVIDENCE BAG.)

24 A. These are the bullets I took out of that firearm that
25 night.

1 Q. And how do you know?

2 A. Because their placed in a bag with my signature on it.

3 Q. Have the bullets ---

4 A. And the bag was sealed.

5 Q. --- been altered or changed in any way?

6 A. No, ma'am.

7 Q. And when things are entered into evidence, what is -
8 where do you take it?

9 A. At our department we take them back to the police
10 department, we inventory them, we place them in evidence
11 bags similar to this; we put markings on the bag, the
12 agency, the item number, the case number, the defendant's
13 name, the charge and then the - we seal the bag, initial
14 the top as you can see on the top of this bag there is my
15 initials with a circle on it indicating I was the one that
16 sealed the bag. Now obviously its been opened by forensics
17 since to fingerprint but I initialed the bag and placed it
18 into evidence and a form is filled out to go along with it
19 for evidence.

20 Q. And are those in the same appearance and the same
21 condition they were on the night that you removed them from
22 the gun?

23 A. Yes.

24 Q. Okay.

25 SOLICITOR HOLLAND: Your Honor, the State request to

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-121-

1 move that portion of Exhibit Number One into evidence.

2 THE COURT: Any objection?

3 MR. COLEMAN: No, sir.

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT ONE IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE - PORTION OF STATE'S EXHIBIT
7 ONE.)

8 BY SOLICITOR HOLLAND:

9 Q. And so the evidence room at Winthrop University Police
10 Department, is that a secured area?

11 A. It is. No one has access to it except the evidence
12 custodian.

13 Q. And who is that?

14 A. Sergeant Wesley C. Wiles.

15 Q. And who brought the gun to court today?

16 A. Wesley Wiles.

17 Q. And also do you keep track of who touches the item or
18 who has custody of the item in any way on the bag, the
19 evidence bag?

20 A. That is correct yes.

21 Q. And how is that done?

22 A. At the bottom of that bag there is a chain of custody
23 of probably six or seven spaces for if the gun is checked
24 out for testing, checked back in, et cetera, et cetera,
25 that the person who signs it out can sign it and date it

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-122-

1 for who took it out of evidence. And then the evidence
2 custodian can sign and date it back in when it's returned.

3 Q. Okay. And you're saying that the Forensic Services
4 Unit came and tested the gun for fingerprints but did not
5 pull any identifiable prints off of the gun?

6 A. Correct.

7 Q. And the wallet. What did you do with the wallet you
8 found?

9 A. I did not take it into evidence.

10 Q. Why didn't you take it into evidence?

11 A. I saw no reason to take it into evidence. I had Mr.
12 Coleman's ID out of it and the wallet did not contain
13 anything illegal.

14 SOLICITOR HOLLAND: I beg the Court's indulgence for
15 just one moment.

16 (PAUSE.)

17 Q. And just to clarify, since we've talked police lingo,
18 when I say identifiable prints, can you describe a little
19 bit more what we're talking about?

20 A. Prints that identify a person. Everybody has a
21 fingerprint that's identifiable to them and them only. If
22 I touched that gun with my whole print and they printed it
23 they would be able to identify my print from that gun.
24 They were not able to pull any identifiable prints off the
25 gun, any whole prints anyway.

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-123-

1 Q. So that basically means that no one's whole
2 fingerprint was on the gun?

3 A. Correct.

4 Q. And you have to have that whole fingerprint to be able
5 to test it; correct?

6 A. You do. In most cases yes. Certainly in this case
7 that was the situation.

8 Q. Now is your police cruiser outfitted with an in car
9 camera?

10 A. Yes, ma'am.

11 Q. Okay. And was your camera running that night?

12 A. Yes, ma'am.

13 Q. Okay.

14 SOLICITOR HOLLAND: May I approach the witness, Your
15 Honor?

16 THE COURT: Yes, ma'am.

17 BY SOLICITOR HOLLAND:

18 Q. I'm handing you what's been marked as State's Exhibit
19 Number Two. Now if you can look at that and tell me what
20 that is.

21 A. That is a video of my in car camera.

22 Q. And how do you know?

23 A. I viewed it and signed the top of it with my initials.

24 Q. So those are your initials?

25 A. Yes.

1 Q. And you watched the entirety of everything that's on
2 that video?

3 A. Yes.

4 Q. And is that video a true and accurate depiction of the
5 night that you encountered Mr. William Coleman?

6 A. It is.

7 Q. And when does that video start? Is it your entire
8 encounter with him?

9 A. It is. From the - my police car - Most all police
10 cars have a delay. The minute you cut the lights on the
11 lights come on instantaneous; it's a two or three second
12 delay before the camera kicks on.

13 Q. So you're turning your blue lights on is what turns
14 the camera on?

15 A. Yeah. I can turn it on manually by using this little
16 button right here. I can turn it on manually and it comes
17 on instantly. But when you're driving and you cut your
18 blue lights on you're not thinking about pushing this.
19 They come on automatically with the camera.

20 Q. And when does the video end? Why does the video end?

21 A. The video ends when I shut the video off.

22 Q. Okay. When you manually stop recording?

23 A. Yes.

24 Q. Okay.

25 SOLICITOR HOLLAND: Your Honor, the State would ask to

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-125-

1 move State's Exhibit Number Two into evidence.

2 THE COURT: Any objection?

3 MR. COLEMAN: No, sir.

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR HOLLAND: Request to publish, Your Honor.

8 THE COURT: Yes.

9 SOLICITOR HOLLAND: Approach the witness.

10 (SOLICITOR HOLLAND TOOK STATE'S EXHIBIT TWO FROM
11 WITNESS.)

12 SOLICITOR HOLLAND: Thank you.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO PUBLISHED TO
14 THE JURY AT 04:55 P.M..)

15 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, STARTING AT
16 TIME STAMP 01.10.41.)

17 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, STOPPING AT
18 TIME STAMP 01.25.30.)

19 BY SOLICITOR HOLLAND:

20 Q. Sergeant Bunch, we're going to pause that for just a
21 second. The two other officers that were on scene, who are
22 they?

23 A. The officer on my right is Officer Chris Parks. The
24 officer on my left is Officer Percy Wilson.

25 Q. Okay. And at that point you're questioning him about

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-126-

1 that DMV printout ---

2 A. Yes.

3 Q. --- you brought to the scene? Okay. Thank you.

4 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, CONTINUED
5 TO BE PUBLISHED TO THE JURY.)

6 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, STOPPED AT
7 TIME STAMP 01.27.52.)

8 BY SOLICITOR HOLLAND:

9 Q. Sergeant Bunch, just one quick question. At that
10 point what is he placed under arrest for?

11 A. Giving false information to police.

12 Q. And is that where he's taken from the scene?

13 A. Yes.

14 Q. And we see him walk off. Thank you.

15 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, CONTINUED
16 TO BE PUBLISHED TO THE JURY.)

17 (STATE'S EXHIBIT NUMBER ONE, IN CAR VIDEO, STOPPED AT
18 TIME STAMP 01.42.48.)

19 BY SOLICITOR HOLLAND:

20 Q. Sergeant Bunch, at that point in the audio cut's out.
21 Why did the audio cut out?

22 A. I cut the microphone off.

23 Q. Okay so your body microphone is what controls the
24 sound ---

25 A. Yes.

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-127-

1 Q. --- that is on there? Is the audio ever restored on
2 the remainder of the video?

3 A. No.

4 Q. And is the remainder of the video on that disc?

5 A. It is.

6 Q. This is just the first half?

7 A. Yes.

8 Q. And is any of the remainder of the video really
9 relevant to Mr. Coleman?

10 A. No, ma'am.

11 Q. What does it show?

12 A. It just shows us talking a little further with the
13 individuals we got out of the car. We wrote one guy a
14 ticket for open container in the back seat. Set them all
15 free.

16 Q. Okay. Just basically ---

17 A. Nobody --

18 Q. --- just showing everybody clearing out?

19 A. Yes.

20 Q. Okay. And just to repeat, none of the passengers were
21 willing to give you the defendants real name; ---

22 A. No.

23 Q. --- correct?

24 A. No.

25 Q. Some did give a street name but not his real name?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-128-

1 A. Correct.

2 SOLICITOR HOLLAND: Thank you, Sergeant Bunch, if
3 you'd answer any questions Mr. Coleman may have.

4 A. Okay.

5 THE COURT: We're going to have to stop for the day.
6 I have a different kind of court I have to hold on some
7 Monday nights and this is one of those Monday nights and it
8 starts at 6:00 and I have to do some work before we do
9 that.

10 So before you do your cross examination, Mr. Coleman,
11 that will be the first thing in the morning. We'll start
12 back at 9:30 in the morning. The bailiffs have already
13 showed you how to get in and out while you're serving as a
14 juror and we'll see you back at 9:30 in the morning. Have
15 a pleasant evening.

16 (JURY EXITS COURTROOM AT 05:29 P.M..)

17 THE COURT: We will be at ease until 9:30.

18 (COURT IN RECESS AT 05:30 P.M..)

19 COURT BACK IN SESSION TUESDAY, JUNE 20, 2012 AT 09:37
20 A.M..)

21 (STATE VERSUS THOMAS HUTTO PLEA HEARD BY THE COURT AT
22 09:37 A.M..)

23 (PAUSE.)

24 (DEFENDANT WILLIAM COLEMAN REENTERING COURTROOM AT
25 10:00 A.M..)

-129-

1 (COURT BACK IN SESSION IN THE MATTER OF STATE VERSUS
2 WILLIAM COLEMAN AT 10:03 A.M..)

3 THE COURT: We received a note from the jury.

4 You can sit down.

5 One was rather significant. The first says can we
6 take notes during the trial. Of course I tell them I
7 prefer they do not. The third is are we allowed to see a
8 copy of the law that the defendant is being charged with.
9 Of course I'll tell them I'll charge them that. This one
10 disturbs me. Any family member of the defendant approached
11 one of us how should we handle it? One was approached when
12 they were not wearing a badge. They were approached
13 apparently "engaged in everyday conversation".

14 I don't know who your family is or whether any family
15 of Mr. Coleman is present, but I can tell anybody if they
16 try talk to a juror they're going to jail for as long as I
17 can put them which is about six months. So I'm going to
18 just tell the jury what I told them yesterday to report
19 back to me if anybody has discussed, tried to discuss the
20 case with them or talk to them in any way. And if I find
21 out anybody has they're going to jail.

22 Yes, ma'am.

23 SOLICITOR HOLLAND: Your Honor, that's all we ask is
24 some further questioning to find out who did it because he
25 has three family members here and I believe that person - I

1 mean obviously there is criminal consequences for that but
2 also that they be ask to leave the courthouse as well.

3 THE COURT: Any - There are three individuals sitting
4 on the front row. I don't know if they are family members
5 or not.

6 Did any of you discuss or talk to any jurors
7 yesterday?

8 A. I didn't.

9 THE COURT: Two of you are saying no and one is
10 hedging.

11 A. No because I was fixin to say I didn't talk to none of
12 them yesterday. As I was walking in this morning I was
13 asking I said what are you having - she's pregnant - I ask
14 her what she was having and she said a boy.

15 THE COURT: All right. That was improper. Don't talk
16 to them at all.

17 A. Okay.

18 THE COURT: You got that?

19 A. Yeah. See I didn't know I couldn't ask her what she
20 was having. I thought ya'll said I was talking about the
21 case. That's all I ask her was what she was having.

22 THE COURT: No.

23 A. Okay.

24 THE COURT: I'm not going to take any action. I
25 appreciate your candor in telling me it was you because I

-131-

1 didn't want to put a juror in the position to have to come
2 in and point out somebody. I'll tell the jury that that's
3 taken care of. If it's not, I've already told you there's
4 a six month jail sentence waiting on somebody.

5 But thank you for being candid.

6 All right, bring in the jury.

7 Anything else?

8 Wait just one second. Wait just a minute.

9 SOLICITOR HOLLAND: Your Honor, can we ask that she
10 leave the courtroom? I don't believe it's appropriate that
11 she's sitting here behind me when she's having discussions
12 with jurors outside the courthouse. She's clearly
13 identified with the defendant as being related to him and
14 sitting behind him and that she's being nice and speaking
15 to a juror on the way into court.

16 THE COURT: I'm not going to require that. I think -
17 You can shake your head in disgust if you wish.

18 I want the record to show that Ms. Holland has
19 expressed her disgust at my ruling by shaking her head.

20 SOLICITOR HOLLAND: I'm sorry, I was moving my hair,
21 I'm sorry, I was not expressing - -

22 THE COURT: I just - There is a lesson in there
23 somewhere.

24 All right, bring in the jury.

25 MR. COLEMAN: Your Honor, is it okay if Melissa can

1 represent me?

2 THE COURT: No not at this point. We can't keep
3 coming back and forth and back and forth. I know the jury
4 will be completely confused and we're going to have to go
5 along like we are now. She's sitting right there and you
6 can talk to her until your hearts content.

7 MR. COLEMAN: Okay.

8 THE COURT: They can come in now.

9 (JURY REENTERS COURTROOM AT 10:06 A.M..)

10 THE COURT: Now you are convinced that I did not
11 attend the class in kindergarten where they taught you how
12 to tell time. I do apologize. Unfortunately I told you
13 yesterday Judge Nettles was here from Lake City. He had a
14 family emergency and had to leave so the two things - Well
15 one really, a couple of things this morning that was
16 scheduled and I took care of them for him and that's what
17 I've been doing so I've been working since 9:30 because of
18 a situation that rose beyond anybody's control so I
19 apologize to you but we weren't in here playing tiddly
20 winks or working cross word while you all were sitting out
21 there.

22 I prefer you not to take notes and there's some
23 reasons for that and I'm not going to go into them. I will
24 tell you the law on obliteration of a serial number at the
25 end of the trial when I charge you the law. I'll tell you

-133-

1 that at this time but it basically is it's against the law
2 in South Carolina to have a gun with the serial number
3 where you can't read it, obliterated. But I'll charge you
4 the law from the statute book later.

5 Now as to an individual approaching one of the jurors.
6 I've handled that. That person has admitted that they ask
7 a question of one of the jurors and I appreciate their
8 candor in doing that. They have been admonished that if
9 that happens again, anybody talks to any juror even if it
10 isn't about the case, if it's about personal matter or
11 anything else I've told that person how long they're going
12 to go to jail for. Not only are they going to jail but
13 I've told them for how long. So if anybody is approached,
14 a juror, if somebody tries to talk to you about anything
15 while you are serving on this jury, somebody you don't
16 know, of course you can talk to your spouse or your
17 significant other, but I've taken care of that and it will
18 not happen again and if it does there will be some dire
19 consequences and that - everybody in the courtroom knows it
20 because I've been very open about it.

21 With all that said I think the officer is still on the
22 stand. If he's still under oath, if you'll come on back up
23 we'll proceed:

24 (WITNESS, OFFICER BUNCH, RETURNS TO WITNESS STAND.)

25 THE COURT: I can't recall if you had completed.

OFFICER BUNCH: BY MR. COLEMAN

-134-

1 SOLICITOR HOLLAND: Yes, Your Honor, I had completed
2 my questioning and I believe it was Mr. Coleman's turn to
3 cross examine.

4 THE COURT: Mr. Coleman, you can cross examine Officer
5 Bunch.

6 CROSS EXAMINATION

7 OFFICER DEWAYNE BUNCH BY MR. COLEMAN:

8 Q. How you doing today, Officer Bunch?

9 A. All right.

10 Q. The night of my arrest when you took me to the jail, I
11 ask you, I said could you fingerprint - -

12 THE COURT: Lets don't put your hands in your pocket.

13 A. Mr. Coleman, I can't hear you.

14 Q. I ask you could you fingerprint the weapon.

15 A. Okay.

16 Q. I told you it wasn't mine; right?

17 A. I don't recall you asking me that but...

18 Q. You don't recall that?

19 A. No, sir.

20 Q. Okay. That's the question I have for you because that
21 night I recall asking you would you fingerprint the weapon
22 and I recall you telling me yes I will and if your
23 fingerprints aren't on it you don't have anything to worry
24 about.

25 A. I don't recall ever making that statement.

OFFICER BUNCH: BY MR. COLEMAN

-135-

1 Q. You don't?

2 A. No, sir.

3 Q. Okay. Did you put the weapon there?

4 A. Sir?

5 Q. Did you put the weapon there?

6 A. Put the weapon where?

7 Q. Wherever you found it.

8 A. In your jacket?

9 Q. That's where you found it at.

10 A. No, sir.

11 SOLICITOR HOLLAND: Objection, Your Honor.

12 THE COURT: I - -

13 SOLICITOR HOLLAND: I'm sorry.

14 THE COURT: I over rule the objection. Its cross
15 examination.

16 A. I did not, sir.

17 Q. You didn't?

18 A. No, sir.

19 Q. I do know this, yesterday when you showed it to this
20 courtroom you showed it and you showed those big ole
21 bullets I sat right there and I cried. Do you know why I
22 cried? Because I feel like if you didn't put the weapon
23 there ---

24 SOLICITOR HOLLAND: Objection, Your Honor.

25 Q. --- it changed my life.

OFFICER BUNCH: BY MR. COLEMAN

-136-

1 SOLICITOR HOLLAND: He just needs to ask questions.

2 THE COURT: Yeah, just ask questions. You can ask him
3 questions.

4 MR. COLEMAN: Okay. I don't have any questions to
5 ask.

6 THE COURT: I'm not trying to cut you short. You can
7 ask him questions two or three days if you like but they've
8 got to be questions rather than you making your - kind of
9 giving your testimony.

10 BY MR. COLEMAN:

11 Q. Is it possible that anybody else could have put that
12 gun?

13 A. Yeah anything's possible.

14 Q. Do you know who put the gun there?

15 A. No, sir.

16 Q. Okay. So why am I on trial for a weapon?

17 A. Because I found the gun in your jacket pocket.

18 Q. Was I there when you found it in my jacket pocket?

19 A. No, sir.

20 Q. Did you see a gun in my jacket pocket when I got out
21 of the car?

22 A. No, sir.

23 Q. By police procedure - my grandfather was a police - by
24 police procedure when you take someone out of the car
25 aren't you supposed to search the immediate area when you

OFFICER BUNCH: BY MR. COLEMAN

-137-

1 first got them for weapons as soon as you get them out of
2 the car?

3 A. No, sir.

4 Q. You're not? So you didn't see a weapon on me when you
5 got me out of the car; right?

6 A. No, sir.

7 Q. But when you went back to the car was a weapon?

8 A. Yes, sir

9 Q. Do you know anything about the other guys that was in
10 the car?

11 A. I know who they are.

12 Q. Have any of them ever had a weapon charge?

13 A. I didn't check their criminal history.

14 Q. Without checking their criminal history why didn't you
15 charge them?

16 A. Because they didn't have the weapon.

17 Q. Did I have the weapon?

18 A. Not on your person.

19 Q. So you basically saying I had the weapon?

20 A. Yes, sir.

21 Q. Can you prove I had the weapon?

22 A. As I stated before, sir, I found it in your jacket
23 pocket.

24 Q. Did you see it in my jacket pocket when you got me out
25 of the car?

1 A. No I did not, sir.

2 Q. Okay. So do you know it was somebody that put it in
3 my jacket pocket once I was out of the car?

4 A. I do not know that.

5 Q. So you cannot say that it was in my possession; right?

6 A. It was in your jacket pocket.

7 Q. But it wasn't in my possession.

8 A. Your jacket was in your possession. I saw the jacket
9 on you. Do I know that the gun was in the pocket at the
10 time? No.

11 Q. So you took me out of my car searched me; right?

12 A. Officer Wilson did yes.

13 Q. And I was out of the car for how long?

14 A. However long it said on the video tape.

15 Q. And you said you saw me slip out of my jacket?

16 A. I did. I didn't say I saw you slip out of it. I
17 believe what I said was that you were wearing the jacket
18 when I came up to the car. When I returned to my car to
19 run the name you gave me, when I returned to your car, you
20 were out of the jacket.

21 Q. Right here I have a incident report, it says - in this
22 incident report you said subject slipped out of his jacket
23 as he was getting out of the vehicle.

24 A. That would be my assumption yes.

25 Q. Your assumption?

OFFICER BUNCH: BY MR. COLEMAN

-139-

1 A. Yes. Your jacket came off of you somehow.

2 Q. And yesterday before the trial you said that you saw
3 me take the jacket off and you saw exactly how I was
4 sitting and you said it was sitting in the exact same way
5 when you came back to it; correct?

6 A. I did not one time yesterday did I say I saw you take
7 the jacket off.

8 Q. What did you say about the jacket yesterday?

9 A. I told the Court yesterday as I will tell them today
10 that you had the jacket on when I came to the car to ask
11 you for your driver's license and registration. When I
12 went back to my car to run Daniel Irvin's information and I
13 came back to you to ask you your social you were out of the
14 jacket then. The jacket was taken off of you and was
15 laying behind you on the seat. That's what I said
16 yesterday.

17 Q. Right here you said subject slipped out of the jacket
18 as he was getting out of the vehicle.

19 A. You slipped out of that jacket before I got you out of
20 that vehicle yes somehow.

21 Q. As he was getting out of the vehicle. Now you're
22 saying that I slipped out of the jacket while I was inside
23 the vehicle?

24 A. At some point, Mr. Coleman, you came out of that
25 jacket. I can't tell you when you came out of the jacket.

1 Q. So you telling me you see me come out of the jacket?

2 A. No I'm not telling you I seen you come out of the
3 jacket.

4 Q. All right, you're not telling me you seen me come out
5 of the jacket. But you said you seen the jacket sitting in
6 my car.

7 A. After you got out of the vehicle yes.

8 Q. You seen it sitting in a certain position?

9 A. Yes.

10 Q. It didn't move?

11 A. No, sir.

12 Q. How can you be so sure it didn't move?

13 A. Because when you sit back on a jacket that you've
14 taken off it takes a shape in the seat. If that jacket's
15 been lifted or moved it's not going to be in that shape
16 like somebody was sitting on it no more. It's going to be
17 fluffed like it's been moved.

18 Q. So if you was the passenger in the car, the middle
19 passenger, or whoever put the gun in there, you didn't put
20 the gun there and your intentions was getting rid of a
21 weapon and putting it on somebody who's already going to
22 jail for a charge you don't think he could slip it in the
23 pocket set the jacket back down on the seat?

24 A. And not have the jacket look like it was sat on no,
25 sir. If you're sitting on an item, on a jacket or a piece

OFFICER BUNCH: BY MR. COLEMAN

-141-

1 of clothing, and somebody picks it up after you've walked
2 away from it, it's going to be fluffed. So it's not just
3 gonna - -

4 Q. So the jacket was sat on?

5 A. The jacket was leaned back on when you slipped out of
6 it in some form or manner. I don't know how. But when you
7 came out of the car the jacket was still in the same
8 position when I returned to the car as it was when you were
9 sitting on it.

10 Q. So I was sitting on the jacket?

11 A. With your back yes. Because if I slip my shirt off
12 right now, Mr. Coleman, and let it lay behind me, when I
13 get up there's where it's still gonna be.

14 Q. Do you believe in Devine intervention?

15 A. Sir?

16 Q. Do you believe in Devine intervention?

17 A. Yes, sir.

18 Q. To my understanding Devine intervention is when
19 something happens --

20 SOLICITOR HOLLAND: Objection, Your Honor.

21 THE COURT: I'll let him ask the question. It's cross
22 examination. See where it's going.

23 BY MR. COLEMAN:

24 Q. To my understanding Devine intervention is when
25 something happens to keep something else from happening --

1 MADAME COURT REPORTER: I'm sorry, sir, could you
2 repeat that?

3 Q. Devine intervention is when something happens by the
4 power of God to keep something else from happening.

5 Yesterday I cried after you had showed them that gun
6 the first time in this courtroom and you showed me those
7 bullets and I watched that tape I cried.

8 A. Okay.

9 Q. Do you know why I cried?

10 A. No, sir.

11 Q. I cried because I have a two year old daughter - -

12 SOLICITOR HOLLAND: Objection, Your Honor.

13 THE COURT: You're now getting into testimony and
14 that's not a question. You can ask him if he knows why you
15 cried and if he says no you got to end it there. You can't
16 tell us why you cried.

17 He's just asking if you know why you cried.

18 BY MR. COLEMAN:

19 Q. Did you know I felt like I wouldn't be able to see her
20 again because of --

21 SOLICITOR HOLLAND: Objection.

22 THE COURT: He wouldn't know the answer to that. He
23 doesn't know why you cried. Might not know that you did
24 cry, but if you did cry he doesn't know why. He can't.

25 BY MR. COLEMAN:

OFFICER BUNCH: BY MR. COLEMAN

-143-

1 Q. Okay. Do you know that I'm not guilty?

2 A. No I don't know that.

3 Q. Did you know that I'm on trial for a weapon where it's
4 - it was found in the vehicle with four other persons and I
5 was no where around? I had been away from the place you
6 discovered it for thirty minutes. Do you know that?

7 A. Yes, sir, I do.

8 Q. Do you know that I did a background check on the other
9 people that was in the car after I made bail?

10 A. No, sir.

11 Q. Did you know that I discovered - -

12 SOLICITOR HOLLAND: Objection, Your Honor, he's
13 testifying.

14 THE COURT: You can't testify to that. You can't
15 testify at all. He doesn't know what you discovered.

16 MR. COLEMAN: One second please.

17 THE COURT: Okay. Certainly.

18 (PAUSE.)

19 BY MR. COLEMAN:

20 Q. Sergeant Bunch, did you know that the person sitting
21 in the middle seat of my vehicle had been charged with two
22 gun charges last year?

23 A. No, sir, I did not.

24 Q. Within like the last six months before you arrested
25 me?

OFFICER BUNCH: BY MR. COLEMAN
BY SOLICITOR HOLLAND

-144-

1 A. No, sir.

2 Q. Did you know that Edward Flowers the person sitting
3 behind him had shot like five people in Lancaster?

4 A. I don't know nothing about that.

5 Q. Did you know that if you did not stopped me and
6 detained for falsifying information that I could have been
7 the victim?

8 A. No, sir, I don't know that.

9 MR. COLEMAN: That's all I got to say.

10 THE COURT: Okay. Thank you.

11 Any redirect?

12 SOLICITOR HOLLAND: Your Honor, just briefly.

13 REDIRECT EXAMINATION

14 SERGEANT DWAYNE BUNCH BY SOLICITOR HOLLAND:

15 Q. Sergeant Bunch, you said that at some point the
16 defendant took off the jacket he originally had on;
17 correct?

18 A. That is correct.

19 Q. And when you reapproached and saw that he had taken
20 off the jacket - - -

21 A. Yes, ma'am.

22 Q. - - - and he was subsequently removed from the car,
23 did the jacket appear to have been moved in any way?

24 A. No, ma'am.

25 Q. So it was still pushed back in the seat?

SERGEANT BUNCH: BY SOLICITOR HOLLAND

-145-

1 A. Yes.

2 Q. Thank you. That's all.

3 SOLICITOR HOLLAND: Your Honor, that's all.

4 THE COURT: You can step down. Thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: Call your next witness.

7 SOLICITOR HOLLAND: Your Honor, can we take just a
8 quick break for just a few minutes?

9 THE COURT: Yes, ma'am. Is your witness here?

10 SOLICITOR HOLLAND: No, Your Honor. We just need to
11 confer about a few things. It will be just a few minutes.

12 THE COURT: All right, we'll take a short break then.

13 (JURY EXITS COURTROOM AT 11:24 A. M..)

14 THE COURT: How long do you need?

15 SOLICITOR HOLLAND: Your Honor, we were discussing the
16 fact that Mr. Coleman had brought up the criminal records
17 of the other individuals. We don't know if those are
18 accurate or not at this point but I believe I know the
19 answers to this but the State would ask at this point that
20 we'd be able to bring in the fact that he has a prior
21 criminal record.

22 THE COURT: I don't think he's opened the door to
23 that.

24 SOLICITOR HOLLAND: Thank you, Your Honor. Then that
25 would be the end of the State's case if Your Honor declines

1 that motion the State would rest at this point.

2 THE COURT: All right. Mr. Coleman, the State is
3 resting, that is, the State is telling us that they have
4 presented their case. You have a right to present evidence
5 if you wish, you have a right to testify if you wish. You
6 can call witnesses if you wish and they can take the stand
7 and testify. You also have the right of course to remain
8 silent. Like I say you can testify and if you testify the
9 State can ask you about your prior record which I have
10 somewhere of possession of crack cocaine, possession with
11 intent to distribute.

12 Is that PWID crack cocaine?

13 SOLICITOR HOLLAND: Yes, Your Honor, second.

14 THE COURT: And a blue light. I will tell the jury
15 that the State can ask you about those not to prove that
16 you committed this offense but rather to - so the jury can
17 use that in accessing whether to believe you or not that
18 is, as to your credibility but not as to your guilt. You
19 have a right to remain silent. If you exercise your right
20 to remain silent I will tell the jury you have done that, I
21 will tell the jury that they cannot consider that against
22 you in any fashion whatsoever, that you have the right to
23 remain silent and that you are presumed innocent of this
24 charge and that you do not have to prove your innocence
25 that they State must prove your guilt beyond a reasonable

-147-

1 doubt. Do you understand all of that? Do you have any
2 questions about any of that?

3 MR. COLEMAN: No, sir, I don't.

4 THE COURT: All right. We'll take a short break.
5 Do you intend to testify?

6 MR. COLEMAN: No, sir.

7 THE COURT: All right. Well I'll tell the jury just
8 what I told - told them what I'm gonna tell them so when
9 the jury comes back in the State will rest and then if - -
10 Do you have any witnesses you intend to call?

11 MR. COLEMAN: Yes, sir, I'll call - -

12 THE COURT: All right. When the State rest then we'll
13 allow you to call your witnesses and then we will go into
14 your arguments and the charge. We'll have a little break
15 then.

16 You may want to discuss with Ms. Inzerillo if there
17 are any particular charges on the law you wish me to charge
18 and I will charge what we call the standard charges. She's
19 familiar with that. And I'll charge actual and
20 constructive possession. I will charge the statute that
21 says you can't carry - it's against the law to have a
22 pistol in your possession that has the serial number
23 obliterated. Since you're not going to testify I will
24 charge the jury about your right to remain silent.
25 anything else your lawyer - She's not your lawyer now, your

1 former counsel who is now your standby counsel, anything
2 else that she advises you that she thinks you should ask to
3 tell the jury. So we'll take a short break and when we
4 come back you be ready to call whatever witnesses you
5 intend to call. Take about a ten minute break.

6 SOLICITOR HOLLAND: Your Honor, we were never given a
7 witness list. Ms. Inzerillo had indicated to me, I know
8 she originally that they are not calling any witnesses, we
9 need to run the records. We just ask to be informed of
10 their names.

11 THE COURT: Ms. Inzerillo, I hate to interrupt you, we
12 need the names of the witnesses and their date of birth.

13 MS. INZERILLO: Your Honor, that's what we were
14 discussing. I don't believe he wants to call that witness.

15 THE COURT: I understand. If he decides, we're going
16 to take a break, if he decides he doesn't want to call
17 witnesses you can provide that information. Let me know if
18 we need time to check that. If there are no witnesses,
19 then we'll just come back and be ready to go with closing
20 arguments and the charge.

21 MS. INZERILLO: Yes, Your Honor.

22 THE COURT: And there are no lesser included's of
23 course. And this is a Court's Exhibit.

24 (COURT IN RECESS AT 11:30 A.M..)

25 (COURT BACK IN SESSION AT 11:42 A.M..)

1 THE COURT: Thank you. Take your seats.

2 (DEFENDANT WILLIAM COLEMAN REENTERS COURTROOM.)

3 THE COURT: The State has a right to close and since
4 Mr. Coleman has presented no evidence...

5 All right, we've received another note from the jury.
6 It says "several of the jurors are having a hard time
7 hearing, please have those speaking to speak a little
8 louder." So just --

9 And you do have a soft voice, Mr. Coleman, which is
10 fine, it's very pleasant to hear, but if you would project
11 a little more when you talk to the jury. You have a right
12 to talk to the jury and you will go first under our rules
13 and then one of the attorneys either Ms. Holland or Mr.
14 Epting will have the right to make -

15 MR. COLEMAN: I'm not putting up a case, Your Honor.

16 THE COURT: That's what I was told but you do have a
17 right - She will make a final - You will make an argument
18 to the jury as to why you feel they should not find you not
19 guilty. Then she or he will make argument as to why the
20 jury should find -- If you don't listen to me you will not
21 know what's going on, so I'll let you talk to Ms. Inzerillo
22 in just a minute. But you will make your - I know I'm
23 repeating myself but you kind of got me side tracked, you
24 will make your closing argument and the State will talk to
25 the jury about why they should find you not guilty. And

1 then Ms. Holland or Mr. Epting will have the right to go
2 before the jury and argue as to why they should find you
3 guilty. Then I will charge the jury the law that is
4 applicable to this case. Do you understand all of that?

5 MR. COLEMAN: Yes, sir. Your Honor, I thought she
6 goes first. I'm not --

7 THE COURT: She can waive opening and you -- You're
8 right, you present - I'm wrong, you presented no evidence
9 so you get to go last. I apologize, you know more about
10 the rules than I do. You get to go last because you did
11 not present any evidence so she'll go first and then you'll
12 go last. Thank you for straightening me out, I'm sorry.

13 All right, bring in the jury.

14 SOLICITOR HOLLAND: Just real quickly while they're
15 coming in.

16 I don't want to object in his closing repeatedly.
17 There were just some things that he brought up on cross of
18 Sergeant Bunch that about having a two year old and about
19 the fact that he cried in the courtroom about some
20 statement that one of the other people in the car were
21 going to rob him. And then also mentions about not being
22 able to see the daughter and that is related to the
23 sentence. We would just ask that he be, you know, know
24 that he is bound by the facts that are in evidence and
25 things that are relevant. I just don't want to object

CLOSING ARGUMENT: BY SOLICITOR HOLLAND

-151-

1 continuously throughout his closing. I'd like to let him
2 close.

3 THE COURT: You have to - Your arguments have to be
4 based on what the jury has heard as far as evidence.

5 MR. COLEMAN: Yes, sir.

6 (JURY REENTERS COURTROOM AT 10:46 A.M..)

7 THE COURT: Members of the jury panel, the State has
8 rested, that is, they are calling no further witnesses.
9 And Mr. Coleman has indicated he is not going to call any
10 witnesses so we've now reached the point where the State
11 will make their closing arguments. At this time they will
12 be taking the evidence and telling you what based on the
13 law what evidence you should look at in reaching your
14 conclusion and what the conclusion should be.

15 Then Mr. Coleman will go last and have the right to
16 argue to you why based on the evidence and the law why you
17 should find him not guilty.

18 SOLICITOR HOLLAND: Thank you, Your Honor, may it
19 please the Court.

20 THE COURT: Yes, ma'am.

21 SOLICITOR HOLLAND: Good afternoon. Thank you so much
22 for being with us for this past day and for listening to
23 all of us.

24 I kind of wanted to start by talking about an analogy.
25 I have a one year old and my daughter is currently into

1 everything and one thing she likes to do is pull on the
2 cords; cords to anything, lamps, anything, and often I have
3 to go over and stop her and move her away from it and that
4 often results in tears. But just because she cries, just
5 because she's upset doesn't mean that I can't act at that
6 moment because it's my responsibility to keep her safe and
7 to let her know what's right and what's wrong. And that is
8 your role today. Sympathy or feeling bad can't stop us
9 from doing what's right and what's wrong. And what's
10 important today is whether or not Mr. Coleman possessed a
11 gun in which the serial number had been removed.

12 When I first started driving I had a great analogy
13 about stop signs. Let's say you live in kind of a rural
14 part of the county and there is a stop sign near your
15 house. No one is ever at that stop sign, you hate stopping
16 at it, and one night you're in a bit hurry you need to get
17 home. No one is ever at that stop sign so you run it.
18 Nobody is there, nobody gets hurt, it's no big deal. But
19 what if everybody started running stop signs and what if
20 everybody started violating the law then we'd have a
21 problem. And that's why in even cases like this where
22 luckily no one was hurt and no one was injured is so
23 important because when we stop enforcing our laws we have a
24 problem.

25 And as to Mr. Coleman the judge is going to charge you

CLOSING ARGUMENT: BY SOLICITOR HOLLAND

-153-

1 on the law and there is some basic elements that I as the
2 State have to meet in order to meet my burden. These are
3 pretty basic in this case. Did it happen in York County?
4 That's why we're here in the courthouse in York County
5 because it had to have happened in York County. Sergeant
6 Bunch testified that this happened on Cherry Road in Rock
7 Hill and that is within York County which most of you are
8 familiar with where Winthrop University is.

9 Was William Coleman the driver? Sergeant Bunch
10 identified William Coleman that is sitting at the defense
11 table as the driver of that vehicle and as the individual
12 who took off that jacket and the gun was pulled out of that
13 pocket. And the defendant told you he was the driver.

14 The next thing that we prove is possession. Sergeant
15 Bunch told you when he pulled William Coleman over - and
16 this is in January in the middle of the night - he had the
17 jacket on and when he left to go run the information
18 through the Department of Motor Vehicles he came back he
19 had the jacket off. It was in the seat and he said that
20 the jacket was undisturbed, looked like it had not been
21 messed with since Mr. Coleman when he had gotten out of the
22 vehicle. And that is where the gun is found. And Mr.
23 Coleman said that was his jacket.

24 Now we have to prove there was a handgun with the
25 serial number removed. You will get to take State's

1 Exhibit Number One, which is in this envelop, back to you.
2 The Judge has ask that we not handle the gun so I'm going
3 to leave it in that but you'll get to look at it and see,
4 see that the serial number is very obviously been scratched
5 off. It's a large mark on the barrel of the gun so you'll
6 still be able to look and to see that and to see that that
7 has been removed. And the serial number has clearly been
8 scratched off.

9 Now why is William Coleman guilty? Those elements are
10 kind of basic. Kind of basic things, hoops that I have to
11 jump through. We all know why times there is a lot of
12 other things that come into these cases. Why give a fake
13 name? He was pulled over instantaneously gives a name.
14 The name is actually someone's name it's just not his name.
15 And he gives a fake date of birth initially when he's
16 pulled over. He lies to Sergeant Bunch and says I don't
17 have an ID. He ask for his license. Do you have any kind
18 of identification on you? You can hear it on the video, No
19 I don't have anything. We know that's a lie because his
20 wallet is found in the pocket later with an ID in it.
21 That's how they figure out who he is.

22 And why lie about your name unless you're doing
23 something wrong? If you forgot your license at home or
24 something like that, why not just say I left my license its
25 in my other car; this is not my car I typically drive I

CLOSING ARGUMENT: BY SOLICITOR HOLLAND

-155-

1 don't have it on me. Why lie about your name? And stick
2 to your story when you're confronted with a picture that is
3 not you for Daniel Irvin and stick to it and still refuse
4 to give your true identity. Why did he take his jacket
5 off? It's in the 30's outside, one o'clock in the morning.
6 If you'll look at the video you will notice most of the
7 passengers have on coats. The defendant is wearing a t-
8 shirt underneath that jacket and he gets out of the car in
9 a t-shirt. Its in the 30's everybody else has on coats;
10 why would you take your coat off?

11 Why take your jacket off unless you have something
12 illegal on you? You hear on the video Sergeant Bunch say
13 that's why he - that must be why he took his jacket off
14 because he had a gun in his jacket. Why else take it off?
15 You're sitting in the car and you've been driving in your
16 jacket why at that moment do you take your jacket off and
17 leave it in the seat? And the gun was under his wallet.
18 Sergeant Bunch said he reached in his pocket and he pulled
19 out a wallet. The wallet had the defendant's ID in it, the
20 gun is underneath that wallet.

21 Now Mr. Coleman has hinted many times that someone
22 else put it there. And in these cases it's a little hard
23 because everything I tell you is not evidence. Any
24 questions I ask, any information you got from the things
25 I've said while I was asking Sergeant Bunch questions is

1 not evidence. What is evidence are the two pieces of
2 evidence that have been admitted right here which is the
3 video and the gun and the ammunition and everything that
4 Sergeant Bunch said. He was the only witness. That's your
5 evidence. It's hard sometimes to not take what I say or
6 what another attorney or what Mr. Coleman in this case said
7 because he elected to represent himself. What he said is
8 not evidence. What Sergeant Bunch said was evidence. But
9 Mr. Coleman did mention several times somebody else put it
10 there.

11 All of the passengers refused to give his name. There
12 were four passengers in the vehicle; all of them refused to
13 give his real name. They gave a street name but that's not
14 an identifying name. You can't run that through the DMV.
15 They refused to give his name. All the passengers
16 protected him by not giving his name. All the passengers
17 gave a valid ID but the defendant gave a fake name.
18 Sergeant Bunch said that the jacket was not tampered with.
19 He testified repeatedly he had taken it off, you could see
20 the impressions where he had been leaning back on it in the
21 seat. It had not been moved; it had not been picked up or
22 laid anywhere, it was still pushed back in the seat in the
23 same position. And the gun is under his wallet. His
24 wallet is on the top. It's not a quick slip of the gun in.
25 His wallet is on top. Why would you protect someone by

CLOSING ARGUMENT: BY SOLICITOR HOLLAND

-157-

1 refusing to give their name and then stick a wallet in
2 their pocket? You can see from the video the people in
3 that car, there where the four people in that car who were
4 all sitting there while Mr. Coleman is being dealt with.
5 Why would you protect him and refuse to give his name but
6 then you're going to frame him and put a gun in his pocket?
7 That doesn't make a lot of sense.

8 Mr. Coleman said multiple things about people having
9 records. There is no evidence of that.. Sergeant Bunch
10 couldn't confirm or deny that. We have no evidence of
11 that. That's some of the things he said. That's what I'm
12 talking about, information you get from me, from the
13 defense attorney, from Mr. Coleman in this case. That is
14 not evidence. The evidence comes from what Sergeant Bunch
15 said. And there is no evidence that those people have
16 records. That's just what he ask. Sergeant Bunch was not
17 able to confirm that, he does not know, so that is not
18 verified information.

19 Mr. Coleman has kind of hinted at some other things,
20 some indication that he himself was in danger that evening.
21 But Mr. Coleman was the one with the gun. He was the one
22 with the gun in his pocket. And it's hard for somebody in
23 your position you're here, you're registered to vote you
24 got a driver's license and now you got to serve jury duty.
25 It's really not anything anyone relishes doing. But your

1 role is so important because cases like this matter. And
2 cases like this matter because if we don't enforce our laws
3 we get into trouble. And this is a very important day for
4 Mr. Coleman and it's a very important day for the State and
5 for York County. And Mr. Coleman I am sure will try to
6 appeal to your sympathy and he cried. He might have a
7 child. I don't know. And that certainly - you know the
8 human side of us we react to that, we feel for that. Its
9 difficult to judge somebody but all of that is irrelevant.
10 The question today is whether or not William Coleman
11 possessed a gun from which the serial number has been
12 obliterated.

13 He took his jacket off. Why would you take your
14 jacket off unless you knew you had something in your
15 pocket? It's in the exact same position when Sergeant
16 Bunch reapproaches. Everybody else has on coats, the rest
17 of the passengers. Most of the officers have on long
18 sleeves, Sergeant Bunch told you he believed it was in the
19 30's that night. Why would you take your jacket off unless
20 you knew you had something you were not supposed to have?
21 He lies about his name.

22 He lies about his date of birth. He lies and says he
23 doesn't have an ID. He lies and lies and lies and refuses
24 to admit who he is. Why would you do that? The rest of
25 the passengers gave their names. The rest of the

CLOSING ARGUMENT: BY SOLICITOR HOLLAND
BY MR. COLEMAN

-159-

1 passengers protected him, refused to give his ID, and it
2 was found in his pocket by a trained law enforcement
3 officer who has testified to you that the jacket was not
4 moved; that he removed it on his own and left it in the
5 seat; it had not been tampered with and he pulled a gun out
6 of that pocket.

7 I want to thank you so much for being here and for
8 listening to everything and being so thoughtful and for
9 considering everything we have to present to you. And I
10 just ask that you go back there and consider what the true
11 question is; put your sympathies aside, put any ideas you
12 have about prejudice or things you like or don't like;
13 things you favor or don't favor and just answer that
14 question, Did William Coleman possess a gun that night and
15 was the serial number removed from that gun? Thank you.

16 THE COURT: Mr. Coleman, you can talk to the jury now
17 and make your closing statement.

18 MR. COLEMAN: How ya'll doing?

19 I did lie about my name that night, I admit it. I'm
20 serving time for that right now in SCDC. I lied about my
21 name, about driving under suspension. It's not the first
22 time I lied about my driving under suspension. I served
23 time for driving under suspension before and falsifying
24 information and lying about my name. I left the jacket in
25 the car because I did have my wallet in my pocket which

CLOSING ARGUMENT: BY MR. COLEMAN
CHARGE TO THE JURY

-160-

1 would have identified me. I know he would have found my
2 wallet he can identified me and took me in for driving
3 under suspension. I'm driving under suspension a lot. I
4 got pulled over nine times in January as Daniel Irving. I
5 lied about who I was every single time. But that gun, I
6 did not have a gun. Who would carry a gun under their
7 wallet anyway? How you gonna get to it if you need to get
8 to it? You can't under a wallet. It's defiantly somebody
9 else put that gun there. They got pending charges. They
10 done shop people I haven't. But I do drive under
11 suspension, I admit it. I left the jacket in that car. I
12 had the wallet in my pocket I didn't want to go to jail for
13 driving under suspension and I been known to get off using
14 my cousin's license. That's my cousin Daniel Irvin. I
15 thought I was gonna be able to try it but I didn't have a
16 gun. That's it.

17 THE COURT: Thank you.

18 Members of the jury panel, I appreciate the attention
19 you've given everybody at this point. I'm now going to
20 charge you the law that you are to apply to the facts as
21 you determine them to be in this case.

22 The indictment charges and the indictment is the
23 paperwork by way of which this case is processed through
24 our court system.

25 And it is also is where, Madame Forelady, and I will

CHARGE TO THE JURY

-161-

1 tell you more of this later, your unanimous verdict of the
2 jury will be enrolled. And it is not evidence; it contains
3 the charge, the allegation, what the State claims but the
4 indictment is not evidence. The fact that Mr. Coleman has
5 been arrested, charged and indicted and is on trial is not
6 evidence either. It is not considered - to be considered
7 by you as any indication that he committed this offense.
8 It does not create any presumption of guilt. Anyone
9 charged with any offense in our system goes through the -
10 this procedure, that is, when someone is thought to have
11 violated the law they are arrested, charged, indicted and
12 tried, and that's just the way our system works but this
13 does not create any inference of guilt.

14 Here Mr. Coleman has entered a plea of not guilty on
15 the charge. This plea of not guilty places on the State
16 the burden of proving, that is, the burden of proving his
17 guilt beyond a reasonable doubt. Mr. Coleman like anyone
18 charged with any offense in our system is presumed innocent
19 of the charge. This presumption of innocence is a
20 substantial right; it is not just a legal theory or a mere
21 legal phrase. Presumption of innocence is a substantial
22 right. It adheres to an individual at the time they are
23 arrested; remains with them as their case is processed
24 through our court system. The presumption of innocence in
25 Mr. Coleman's favor exist at this moment and it exists as

1 you deliberate. The presumption of innocence in his favor
2 is removed if and when and only if and when you determine
3 the State has proven his guilt beyond a reasonable doubt.

4 Now the State does not have to prove his guilt beyond
5 all or beyond every doubt but beyond a reasonable doubt.
6 Our courts have defined a reasonable doubt as the kind of
7 doubt that would cause a reasonable person to hesitate to
8 act. Proof beyond a reasonable doubt is proof that leaves
9 you firmly convinced of an individuals guilt. There are of
10 course very few things in our world we know with absolute
11 certainty and that is not required in a case such as this.
12 If based on your consideration of the evidence you are
13 firmly convinced that Mr. Coleman is guilty of this offense
14 you would find him guilty. On the other hand if you think
15 there is a real possibility that he is not guilty, you
16 would give him the benefit of that reasonable doubt and
17 find him not guilty. He is entitled to the benefit of any
18 reasonable doubt you have as to any issue in this case.

19 I remind you that I am the sole judge of the law in
20 this case and that you must take and accept and apply the
21 law as I charge it. Even if you think I charge the law in
22 error or even if you think the law should be different.
23 Your oath requires you to take, accept and apply the law as
24 I charge it. You are not to infer from anything that I
25 have said or done during this trial as being an indication

CHARGE TO THE JURY

-163-

1 of an opinion of mine on the facts. Our law does not allow
2 a trial judge to formulate or express to a jury any opinion
3 on the facts, that is your job. It is solely up to you as
4 the trial jury in this case to examine the evidence and to
5 give to the evidence the effect, the value, the weight and
6 the truth you believe it should have. In doing this you
7 may believe one witness as opposed to several, several
8 witnesses as opposed to one and you may believe all or none
9 of a witness's testimony. Use your common sense, your
10 sense of logic, your sense of reason. Use your experiences
11 in life as you analyze the evidence. As judges of the
12 facts you can use certain evaluators; how a witness acts on
13 the stand, their demeanor. Are they hesitant or
14 straightforward in responding to questions? Look at
15 consistencies and inconsistencies in the witness's
16 testimony. Look at any bias or prejudice; that is, whether
17 a witness wishes to help or hurt one side or the other.
18 And you can consider the opportunity a witness had to know
19 those things about which they testified. All these things
20 you consider, determine the true facts, apply the law, and
21 you will be in a position to return a verdict that speaks
22 the truth.

23 Now in cases such as this there are generally two
24 types of evidence presented. Direct and circumstantial
25 evidence. Direct evidence is the testimony of someone who

1 claims to have had actual knowledge of a fact such as an
2 eyewitness. Circumstantial evidence - Direct evidence is
3 evidence which immediately establishes the main fact to be
4 proven. Circumstantial evidence of proof of a chain of
5 facts and circumstances which indicate the existence of a
6 fact. Circumstantial evidence is evidence which
7 immediately establishes collateral facts from which the
8 main fact may be inferred. Circumstantial evidence is
9 based on inference and not on personal knowledge or
10 observation. Our law makes absolutely not distinction
11 between direct and circumstantial evidence. Our law does
12 not require a greater degree of certainty of circumstantial
13 evidence as opposed to direct evidence. What you should do
14 in this case is weigh all of the evidence. After weighing
15 all of the evidence if you are not convinced of Mr.
16 Coleman's guilt beyond a reasonable doubt, you must find
17 him not guilty.

18 Mr. Coleman has exercised his constitutional right to
19 remain silent. This factor cannot be used against him in
20 any way whatsoever. It cannot be considered by you, you
21 cannot discuss it; that is, you cannot discuss the fact
22 that he exercised his right to remain silent. And you
23 cannot factor it into your own deliberation. Your oath
24 requires you to draw no conclusion from the fact that Mr.
25 Coleman exercised his constitutional right not to testify.

1 As I told you Mr. Coleman is not required to prove his
2 innocence. It is incumbent upon the State before you can
3 convict him to prove his guilt beyond a reasonable doubt.
4 So the fact that he exercised his constitutional right to
5 remain silent, cannot be used against him or mitigate
6 against him in any way whatsoever.

7 You ask earlier about the charge and the law and this
8 is the law, Code Section 16-23-30 about the Code of Laws
9 which is the bound volumes of our laws and statutes passed
10 by our legislature. You don't have to remember the number
11 but it's entitled *Possession of a Firearm* but it covers gun
12 violations. The particular violation Mr. Coleman is
13 charged with states that "it is unlawful to possess a
14 firearm with a removed or obliterated serial number." A
15 pistol is under our laws a firearm. In order to find Mr.
16 Coleman guilty you would have to find beyond a reasonable
17 doubt that he did knowingly possess a handgun, or a pistol,
18 from which the original serial number has been removed or
19 obliterated. I use the term obliterated in it's common
20 sense of every day usage.

21 To prove possession the State must prove beyond a
22 reasonable doubt that Mr. Coleman had both the power and
23 intent to control the firearm. Possession may be either
24 actual or constructive. Actual possession means that the
25 firearm is in his actual custody. Constructive possession

1 means that he had dominion or control or right to exercise
2 dominion and control over either the firearm itself or the
3 property where the firearm was found. The mere presence at
4 a scene where a firearm alone is not enough to prove
5 possession. Actual knowledge of the presence of the
6 firearm is strong evidence of a defendant's intent to
7 control the firearm. A defendant's knowledge and
8 possession may be inferred when a firearm is found on or in
9 the property under his control. However this inference is
10 simply an evidentiary fact taken into consideration by you
11 along with the other evidence in this case and to be given
12 such weight if any as you determine it should have.

13 Your verdict must be unanimous, all twelve jurors must
14 agree on the verdict. Your verdict cannot be based on
15 passion, prejudice, sympathy, public opinion or matters
16 outside the record. It must be based on the record and the
17 law as I charge it to you. If you have questions just like
18 you've done to this point, write them down and send them
19 out; I will confer with the attorneys and Mr. Coleman and
20 then I will respond. It may be that I can write an answer
21 to whatever question you have on the note itself. If I
22 send a note back in please keep it and return it.

23 I have to make it a part of the record, Madame
24 Forelady. It may be that I have to bring you back in and
25 here in open court answer whatever question you may have.

CHARGE TO THE JURY

-167-

1 In South Carolina we do not send in to the jury a written
2 charge. If you wish me to go over any part or all of the
3 law, please let me know and I'll bring you back and here in
4 open court recharge you whatever you need to have
5 recharged. We can have testimony replayed if you wish. If
6 you would like to have testimony replayed we can do that.
7 Just let us know and we'll bring you back here in the
8 courtroom and do that. The compact disc or the DVD is in
9 evidence. We'll have the solicitor or an officer of the
10 court make available for you something to play that on if
11 you wish to watch it while you are deliberating. Keep in
12 mind that I've told you - We will send in the gloves if you
13 wish to use them to handle any evidence. I remind you that
14 the gun has been checked, that it is in a locked position
15 and we will have it rechecked of course before we send it
16 in to you; but it is part of the record and it is to be
17 available for you if you wish to look at it.

18 You are not to start deliberating until I have gone
19 over my charge with the attorneys. I have to let you go to
20 the jury room for just a few minutes. If I have made an
21 error in my charge I have to bring you back in here and
22 correct whatever error I have made. If I have not made any
23 error I will send in the indictment and the exhibits and
24 the bailiff will tell you to start deliberating. When you
25 have reached a verdict please knock on the door, Madame

CHARGE TO THE JURY

-168-

1 Forelady, tell them the jury has reached a verdict and we
2 will send for you as promptly as we can. I told you
3 earlier that the other judge is not here today and so I may
4 be fairly busy but I will stop whatever I am doing as soon
5 as it is convenient and send for you whenever you need -
6 whenever you let me know, you've reached a verdict or you
7 need me for any reason.

8 The indictment again is not evidence but you will have
9 it with you in the jury room. And on the bottom back of
10 the indictment is the word verdict, four lines beneath it,
11 the bottom line is where you will sign as forelady and
12 there is a place for the date and today is the 19th. On
13 one of the lines above your signature you will write the
14 verdict, unanimous verdict. If you find that the State has
15 failed to prove Mr. Coleman guilty beyond a reasonable
16 doubt of this offense, you will write two words, not
17 guilty. If on the other hand you find the State has proven
18 Mr. Coleman guilty of this offense beyond a reasonable
19 doubt, you would write the one word guilty.

20 Now I'm going to let you go to the jury room but do
21 not start deliberating yet.

22 (JURY EXITS COURTROOM TO DELIBERATE AT 11:14 A.M..)

23 THE COURT: Anything from the State?

24 SOLICITOR HOLLAND: Nothing, Your Honor.

25 THE COURT: Mr. Coleman?

1 MR. COLEMAN: No, sir, Your Honor.

2 THE COURT: Okay. Check - Here's the verdict form.

3 Stephanie, give this to...

4 Send it back. Does the State have something they Can
5 give the jury to watch the DVD?

6 SOLICITOR HOLLAND: I believe we can get one of the
7 carts and take it back there. Do you want us to check the
8 gun as well?

9 THE COURT: Please.

10 SOLICITOR EPTING: Your Honor, it has the zip tie to
11 it but there are rounds in there.

12 SOLICITOR HOLLAND: We can leave the rounds ...

13 THE COURT: Why don't you leave the rounds in here.

14 SOLICITOR HOLLAND: Your Honor, I can go get the
15 television.

16 THE COURT: Before you do that; let's send that on
17 back and tell them to start deliberating.

18 No verdict form, just the indictment.

19 Have a seat.

20 It's a little unusual, but I felt yesterday when I was
21 ruling on the suppression motion that I rounded a little
22 bit so hopefully I am now going to go over the grounds for
23 my ruling as I probably in articulated - stated yesterday
24 and I'm not sure I'll be any more articulate today but I'll
25 try.

1 The stop was for failure to dim the lights and that
2 was a legal and not a pretextual stop. And of course I
3 find the officer had the right to make the stop. Mr.
4 Coleman failed to present any evidence that he was in fact
5 who he claimed to be, that is, Daniel Irvin, and I believe
6 that created a situation where the police had the right to
7 detain the defendant for a sufficient amount of time to
8 verify or corroborate that he was or who he said he was or
9 was not who he said he was. I find that the officers - an
10 officer, any officer making a traffic stop has a right, the
11 driver has no indicia of identity to take the necessary
12 steps as long as it is reasonable to verify the driver had
13 the right to operate a motor vehicle on the public roads
14 and streets of the State. Coupled with that I find that it
15 would have been certainly non-professional to allow an
16 unknown driver to drive off not knowing whether the driver
17 was in fact a licensed driver in the State of South
18 Carolina.

19 I find the officer had probable cause to arrest the
20 defendant for providing false information to law
21 enforcement when they determined after what I find to be a
22 reasonable length of time for detention, based on the need
23 for and the ability to obtain sufficient indicia of Mr.
24 Irvin and confront Mr. Coleman with the results of the
25 fruit of what they found, so I find the length of the

-171-

1 detention certainly reasonable under the facts of the case.
2 So I find that the officers had probable cause to arrest
3 mr. Coleman for giving false information to law
4 enforcement.

5 At this point I find the officers had the right to
6 inquire. Here we had a motor vehicle sitting in the middle
7 of the road with the driver in custody and four passengers.
8 The officers certainly had the right to inquire of this
9 driver less car sitting in the middle of the street as to
10 the status of the occupants as to whether or not they could
11 or could not go forward with driving the vehicle. I find
12 that once the officer inquired and detected the odor of
13 marijuana based on his training and experience I find that
14 he was confident to make such a finding and once he
15 concluded that in his opinion whether it was marijuana or
16 not and that in his opinion he smelled marijuana he had the
17 right to search the vehicle for that contraband. And that
18 includes anything in the car.

19 I base my finding of probable cause on the case of
20 State versus Morris Opinion No. 4872, and I do not have the
21 cites, of course the appeal is pending; in there the Court
22 says as applicable to my ruling "probable cause is a
23 commonsense, nontechnical conception that deals with the
24 factual and practical consideration of everyday life on
25 which reasonable and prudent men, not legal technicians,

1 act. Probable cause to search exists where the known facts
2 and circumstances are sufficient to warrant a man of
3 reasonable prudence in the belief that contraband or
4 evidence of a crime will be found in a particular place.
5 The principle components of the determination of probable
6 cause will be whether the events which occurred leading up
7 to the search - and I've outlined those - "viewed from the
8 standpoint of an objectively reasonable police officer,
9 amount to probable cause." And I find that probable cause
10 exist based on that, on Morris, review of what constitutes
11 probable cause.

12 As to the scope I find that once the right to inspect
13 the car - search the car for contraband existed, the
14 officers had the right to search anything in the car
15 wherein the contraband or evidence could be concealed.
16 Morris also states that. So again I have denied the motion
17 to suppress the evidence; that is, the pistol, the gun.
18 And I just want to make it a little clearer as to the basis
19 for my ruling. And then we go off the record.

20 (COURT IN RECESS AT 11:21 A.M..)

21 (COURT BACK IN SESSION AT 11:44 A.M..)

22 THE COURT: Thank you. Take your seats.

23 Back on the record with Mr. Coleman's case. I
24 received a note from the jury. Two questions: Can we see
25 the video again. And I answered that by writing the video

-173-

1 player on the way. I numbered that one and I had not -

2 Number Two: What kind of seats were in the vehicle,
3 front seat, bucket seats? I had written as to Number Two,
4 you must rely on the evidence presented during the trial.
5 I had Ms. Inzerillo go over it. The State had no objection
6 to either answer. Ms. Inzerillo went over the note and my
7 responses with Mr. Coleman and I understand Mr. Coleman
8 wants the jury to know what kind of seats were in the
9 vehicle.

10 Is that correct, Ms. Inzerillo - I mean Mr. Coleman?

11 MR. COLEMAN: Yes, sir.

12 THE COURT: Well we can't reopen the record. The
13 record doesn't have anything that I can recall about what
14 kind of seats were in there, so I can't tell them. I don't
15 know what kind of seats were in there so I can't tell them
16 what kind of seats were in there.

17 MR. COLEMAN: But Sergeant Bunch displays how he seen
18 the jacket sitting. He goes like this.

19 (DEFENDANT DEMONSTRATED.)

20 MR. COLEMAN: That's why he's sitting up like it's a
21 bucket type seat.

22 THE COURT: Yeah, well I understand all of that. But
23 I can't tell the jury what kind of seats were in there
24 because there is no testimony as to what kind of seats.
25 They have to reach that conclusion based on what you're

1 just saying that if they believe Officer Bunch that they
2 believe that it was as you demonstrated just around you to
3 kind of indicate to me that - well it could be bucket seats
4 or it could be a bench seat. But anyway, the bottom line
5 is I can't add anything, tell them what kind of seats were
6 in there.

7 MR. COLEMAN: I know like he made a visual display
8 that it was bucket seats.

9 THE COURT: Well they heard him.

10 MR. COLEMAN: It was not bucket seats, it's a bench
11 seat.

12 THE COURT: But they heard him. You could have ask
13 him. I'm not finding fault, you're not a lawyer, but --

14 MR. COLEMAN: I don't want to know that it's a
15 question for the jury. I want to know if it's a question
16 about fact. I know that if he made a visual display that
17 it was this type of seat or if it was really this type of
18 seat.

19 THE COURT: Well we don't know if it's that type seat.
20 That's what I'm saying when you cross examined Officer
21 Bunch and I can't tell you - I can't find fault with
22 anything you did but you could have ask him, if you wished,
23 what kind of seats were in there but I don't know that
24 anybody ask him what kind of seats and I don't know that
25 anyone testified to any seats.

1 MR. COLEMAN: No the jury ask it.

2 THE COURT: Well you object to me answering the
3 question this way? You object to me answering that Number
4 Two question by saying "as to Number Two you must rely on
5 the evidence presented during the trial." You object to me
6 answering the jury's question that way; correct?

7 MR. COLEMAN: Yes, sir.

8 THE COURT: Well I'm going to answer it that way
9 anyway because I think that's the correct way.

10 All right, take Mr. Coleman back in and we'll see if
11 we have anything to do.

12 (DEFENDANT WILLIAM COLEMAN REMOVED FROM COURTROOM.)

13 (COURT IN RECESS IN THE MATTER OF STATE VERSUS WILLIAM
14 COLEMAN AT 11:49 A.M..)

15 (COURT BACK IN SESSION IN THE MATTER OF STATE VERSUS
16 WILLIAM COLEMAN AT 12:45 P.M..)

17 (DEFENDANT WILLIAM COLEMAN REENTERS COURTROOM.)

18 THE COURT: We received a note from the jury. It says
19 we need to hear a play back of the opening statement of the
20 prosecutor. That's the first time I've ever had that
21 request but that's not evidence so I don't believe I will
22 play it back. I'll tell them I will not do that.

23 They also want a "a better definition about" "carry
24 about his person". That's not in my charge and that's not
25 what the statute says so I'm gonna bring them back in and

1 charge them the statute and define possession for them
2 because that's what the code section prohibits; not
3 carrying on their person, but possessing.

4 Any comment on that from the State?

5 SOLICITOR HOLLAND: No, Your Honor.

6 THE COURT: Mr. Coleman, any comment on that?

7 (PAUSE.)

8 THE COURT: Mr. Coleman, you have any comment on that?

9 MR. COLEMAN: Say they ask for what?

10 THE COURT: They wanted - They want to hear the
11 opening statement of the prosecutor and then I declined to
12 hear that because that's not evidence. And then they want
13 a better definition about "carry about his person" and I
14 never used that language so I don't know where they're
15 coming up with that but I'm going to recharge the statute
16 and the law.

17 MR. COLEMAN: They got that off the indictment, Your
18 Honor.

19 THE COURT: I don't have a copy of the indictment.

20 SOLICITOR HOLLAND: I have a copy.

21 MR. COLEMAN: The indictment says the defendant
22 William Coleman did in York County, South Carolina on or
23 about January 26, 2012 unlawfully carry about his person
24 ---

25 SOLICITOR HOLLAND: Yes it's possession of a handgun.

-177-

1 THE COURT: Don't interrupt him when he's talking.

2 SOLICITOR HOLLAND: I'm sorry. I apologize.

3 MR. COLEMAN: --- carry a firearm on his person and
4 serial removed or obliterated."

5 THE COURT: Let me see it. That's not what the
6 statute says. You all got him indicted -

7 MR. COLEMAN: She's got True Billed on the indictment.

8 (DOCUMENTS RECEIVED UP BY THE COURT.)

9 THE COURT: I guess we better define the definition of
10 carry about his person. I don't have one.

11 SOLICITOR HOLLAND: Your Honor, I believe that's just
12 - I mean the State meant it was not in his possession. At
13 the top it's possession of a handgun with the serial
14 numbers obliterated. You can just recharge them on the
15 actual statute.

16 THE COURT: Well I can do that but carry about their
17 person is what it says and they need a definition of that
18 and I don't have one so we'll take a break and I'll see if
19 I can find out if there is any law and I'll ask you to see
20 what you can find about carry about his person. That's
21 what you all charged him with.

22 Ms. Inzerillo, if you'll do some research on behalf of
23 Mr. Coleman we'll check on that, and order lunch for the
24 jury. So let's take a break and see if we can find out
25 what we got here.

1 (COURT IN RECESS IN THE MATTER OF STATE VERSUS WILLIAM
2 COLEMAN AT 12:49 P.M..)

3 (COURT BACK IN SESSION AT 01:14 P.M..)

4 THE COURT: Thank you. Take your seats.

5 Anything - I'm going to of course bring the jury back
6 in and tell them we will not play back the opening
7 statement of the prosecutor and I will define - I do have
8 in my charge book a charge on carrying about their person.
9 It's actually under Code Section 16-23-20 where that
10 language is used where they do have a definition.

11 Anything from the State?

12 SOLICITOR HOLLAND: Nothing, Your Honor.

13 THE COURT: Mr. Coleman, anything?

14 MR. COLEMAN: Can I hear it?

15 THE COURT: Yes, sir, you can. You certainly can.

16 It simply says "A weapon is about a defendant's person
17 if it is readily accessible and convenient for immediate
18 use. The weapon need not be actual touching the person of
19 the defendant."

20 MR. COLEMAN: I don't object to that, Your Honor.

21 THE COURT: Thank you.

22 Bring in the jury.

23 MR. COLEMAN: Ha, Your Honor.

24 THE COURT: Yes, sir.

25 MR. COLEMAN: Can I object?

1 THE COURT: You can.

2 MR. COLEMAN: I'd like to use State versus --

3 MADAME COURT REPORTER: Just a minute, just a minute.

4 Yes, sir.

5 THE COURT: All right, Mr. Coleman, says he objects to
6 the charge and he just stated it's okay because now we have
7 a case *Town of Clinton versus Hall*, a Supreme Court case
8 that's been handed up to me from 1943.

9 All right.

10 MR. COLEMAN: Permission to speak, Your Honor.

11 THE COURT: Yes, sir.

12 MR. COLEMAN: I want to use State versus --

13 MADAME COURT REPORTER: I'm sorry, Judge, I can't hear
14 him.

15 MR. COLEMAN: *State versus Wesley*.

16 THE COURT: All right I see that one too from 1918.

17 All right, what...

18 I will make that part of the record, you're referring
19 to the last paragraph. This is a case from 1918, I don't
20 know what the statute said at that time. They do have it
21 in here that it says "conviction of carrying an unlawful
22 weapon in violation of certain code sections from 1912."
23 It is not warranted where the accused did not carry the
24 pistol about his person concealed or unconcealed but it was
25 taken about in a place in his satural or suitcase."

1 I don't know whether the statute said then but I am
2 going to charge the language that I had that I've already
3 read earlier.

4 But you're on the record and that will be reserved for
5 any appeal. I'm going to make this a Court's Exhibit.

6 All right, bring in the jury.

7 (JURY REENTERS COURTROOM AT 01:19 P.M..)

8 THE COURT: Members of the jury panel, I've received
9 your note and I'm sorry it took me a little while to get my
10 act together quite frankly but the opening statement of the
11 prosecutor is not evidence so I'm not going to play that
12 back to you. Like I told you before that's just their
13 position so you can't - That's just the way they see the
14 case but to you taking the evidence and the law to see it
15 as you see it.

16 I charged you -- You've ask about "carry about his
17 person" which is the language used in the indictment.
18 He's charged under 16-23-30, you received that. Also in
19 the indictment and you will see the word in the heading
20 "possessing of a handgun with the serial numbers
21 obliterated" and I have defined for you actual and
22 constructive possession. I did not define for you the term
23 "carry about person" so I will do that now.

24 A weapon is about one's person if it is readily
25 accessible and convenient for immediate use. The weapon

-181-

1 need not be actual touching the person of the defendant."

2 That is the definition of carry about their person.

3 Again it is upon one's person that is readily accessible

4 and convenient for immediately use. Immediate use but need

5 not be actual touching the person or the defendant. So

6 that covers those two questions and we'll send in lunch

7 when it comes. If you have any other questions send them

8 out. Thank you.

9 (JURY EXITS COURTROOM AT 01:21 P.M..)

10 THE COURT: Anything from the State?

11 SOLICITOR HOLLAND: Nothing. Thank you, Your Honor.

12 THE COURT: Mr. Coleman, anything at this point?

13 MR. COLEMAN: No, sir, Your Honor.

14 THE COURT: All right. Thank you.

15 (NOTE FROM THE JURY RECEIVED UP BY THE COURT.)

16 THE COURT: Wait just one second.

17 Can you type me that, what I said?

18 They want a copy of the statement I just made. I
19 usually don't do that but if everybody agrees so let's talk
20 it over while she's typing it up and somebody needs to get
21 the disappearing act of Holland and Epting.

22 I'm just gonna charge what I just said.

23 SOLICITOR HOLLAND: They just want you to repeat it?

24 THE COURT: Well they want a copy of it and I usually
25 don't send those back but if everybody agrees I have no

1 objection to it.

2 MADAME COURT REPORTER: I'm going to prepare it for
3 Judge Hayes and let him have it.

4 SOLICITOR HOLLAND: Oh, play it.

5 MADAME COURT REPORTER: No, prepare him a partial
6 transcript. Just what he said.

7 THE COURT: If there is no objection.

8 SOLICITOR HOLLAND: There is no objection.

9 MADAME COURT REPORTER: It will take me a few minutes
10 because I want to pull it up.

11 (COURT AT EASE.)

12 (COURT BACK IN SESSION 01:36 P.M..)

13 THE COURT: Thank you. Take your seats.

14 While we were doing what we were doing the jury
15 continued to deliberate and I received a note that they
16 reached a verdict.

17 Anything from the State before we bring the jury in?

18 SOLICITOR HOLLAND: Nothing, Your Honor.

19 THE COURT: Mr. Coleman, anything before I bring the
20 jury in?

21 MR. COLEMAN: No, sir, Your Honor.

22 THE COURT: Bring in the jury.

23 (JURY REENTERS THE COURTROOM AT 01:38 P.M..)

24 THE COURT: Madame Forelady, I understand the jury has
25 reached a verdict.

VERDICT

-183-

1 MADAME FORELADY: Yes.

2 THE COURT: If you'll hand it to the bailiff he will
3 hand it up to me.

4 (VERDICT FORMS RECEIVED UP BY THE COURT.)

5 MADAME CLERK: In the State of South Carolina versus
6 William Coleman of Indictment 2012-GS-46-01471 for
7 possession of a handgun the serial number obliterated, the
8 verdict is guilty, signed by the Foreperson and dated
9 today's date.

10 If this be your verdict so say you all by raising your
11 right hand?

12 (ALL JURORS AFFIRMED.)

13 MADAME CLERK: Let the record show all jurors affirmed
14 this verdict.

15 THE COURT: Anything from the State before the jury is
16 dismissed?

17 SOLICITOR HOLLAND: No, sir, Your Honor.

18 THE COURT: Mr. Coleman, anything before the jury is
19 dismissed?

20 MR. COLEMAN: no, sir, Your Honor.

21 THE COURT: Members of the jury panel, thank you for
22 your help. There is pizza here, you can stay and eat it
23 but you don't have to. We'll serve it in the - where you
24 have been - it's been your home for the last day or two.
25 Please call back tonight after Seven. We are going to

1 start another trial but we won't start it until in the
2 morning. I don't know whether you'll be back up here to do
3 that or not. That's coordinated somewhere else. But thank
4 you for your help on this and like I say you can go back
5 there and eat or you can leave but call back tonight after
6 Seven and follow those instructions. Thank you so much.

7 (JURY DISMISSED AT 01:40 P.M..)

8 MADAME COURT REPORTER: Judge, is that a note from the
9 jury the Forelady has got in her hand?

10 THE COURT: Richard, Richard, Richard; would you see,
11 the Forelady had - she had a piece of paper in her hand,
12 see if that's a note she needs to - - -

13 THE BAILIFF: I think it is to tell you the truth.

14 THE COURT: Well the truth is what I want.

15 Anything from the State?

16 SOLICITOR HOLLAND: Nothing before sentencing, Your
17 Honor.

18 THE COURT: Mr. Coleman, anything now that the jury
19 has been dismissed?

20 MR. COLEMAN: Could you repeat what you said, Your
21 Honor?

22 THE COURT: Do you have any issues to take up? The
23 jury has found you guilty and so now we move into the part
24 of the trial where I determine what sentence to impose. I
25 think it carries up to five years in jail so I'm going to

SENTENCING

-185-

1 have you come around and I'll have the State tell me about
2 your record. I know about three of your offenses and there
3 may be more or may not. And then I'll be glad to hear from
4 you as to why you think your sentence should be greater or
5 not greater but lesser than what the State may think. So
6 just come on around and stand up here in front of the Clerk
7 and Ms. Inzerillo can come around with you in case you have
8 any questions. And I'll be glad to hear his record.

9 SOLICITOR HOLLAND: Your Honor, just for the record
10 the State is going to dismiss the unlawful carrying charge
11 that we decided not to proceed to trial on. I'll be
12 dismissing that today.

13 MADAME CLERK: Do you have the sentencing sheets?

14 SOLICITOR HOLLAND: I do.

15 (DOCUMENTS RECEIVED UP BY THE CLERK OF COURT.)

16 SOLICITOR HOLLAND: Your Honor, as to Mr. Coleman's
17 prior record, his adult record, first offense we see on his
18 record is a possession of crack, Your Honor, that we have a
19 certified conviction for that offense which you sentenced
20 him to on February 7th of 2002; he received a YOA at that
21 point, he entered the YOA program subsequently. And then
22 in 2004 he was convicted of possession of marijuana. He
23 was convicted of failure to stop for a blue light which we
24 also have a certified conviction of that. And then in 2004
25 he was also convicted of PWID crack cocaine second offense

SENTENCING

-186-

1 in which he received a sentence of four years.

2 It looks like his parole was revoked on that offense
3 later in 2009 and he was sent back to jail. There is a
4 shoplifting from Hartsville in 2011 and a DUS in 2009 that
5 have no dispositions. So I believe most of his serious
6 offenses are the ones for which we have these certified
7 convictions the last of which being the PWID crack cocaine
8 in which he was sentenced to four years.

9 THE COURT: All right, Mr. Coleman, anything you want
10 to say before I determine what sentence to - but first let
11 me ask you. How long have you been in jail, how many days?

12 MR. COLEMAN: I been in jail about forty some days.

13 THE COURT: Now anything you want to say?

14 MR. COLEMAN: Yes, sir. I maintain my innocence, Your
15 Honor, it wasn't my gun.

16 THE COURT: Well the jury found that it is. I'm going
17 to sentence you to three years in jail, give you credit for
18 forty days. Thank you.

19 SOLICITOR HOLLAND: Your Honor, he's owed credit for
20 forty-two days.

21 THE COURT: Forty-two days. All right. Thank you.

22 (WHEREUPON: COURT EXHIBIT ONE THROUGH FOUR RECEIVED
23 INTO EVIDENCE.)

24 (DEFENDANT WILLIAM COLEMAN ESCORTED FROM COURTROOM.)

25 (COURT ADJOURNED AT 01:45 P.M../STATE V. COLEMAN.)

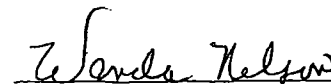
-187-

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 18th and 19th days of June, 2012.

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



Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 10-23 / 2012

County: YorkDate: June 18, 19, 2012VOIR DIRE/BATSON SHEETCase No: 2012-GS-46-01471Judge: John C. Hayes, IIIState/Plaintiff: StateState/Pl's Atty: Sol, Jessica Holland
Sol. Chris EptingDefendant: William Theopla ColemanDefense Atty: Ms. Melissa InzerilloCourt Reporter: Wanda Nelson

Juror #	Name	Sex	Race	Strikes			
				Court	Plaintiff	Defense	Accept
157	Annette H. Myers	F	W				X
180	Betty H. Pryor	W	F				X
101	Leesa R. Honeycutt	F	W				X
91	Towanda Y. Harris	F	B				X
93	Candace D. Helms	F	W				X
131	Laura E. Lucketta	F	W		X		
21 **	Melissa A. Boykin	F	w				X
150	Donna M. Monteiro	F	W				X
154	Amber M. Murdock	F	B				X
117	Kathleen Kozlowski	F	W				X
222	Katelin C. Tough	F	W			X	
225	Pamela G. Tysinger	F	W				X
22	Ryan L. Brewer	M	W		X		
159	Paul Nguyen	M	O		x		
223	Kimberly D. Trotter	F	w				X
144	Sally A. McGill	F	W				X
128	Philip W. Long	M	W			X	
68	Cheri S. Flanagan	F	W				X

** Foreperson.

In the Court's column, indicate who made the motion to strike the jurors for cause. C-Court; P-Plaintiff; D-Defense.

WITNESSES

WPD\Bunch

tr

ARREST WARRANT NUMBER

M-455083

ACTION OF GRAND JURY

~~RETURN~~

Foreperson of Grand Jury

Date: 5/17/12

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-48-01470

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

May 17, Term 2012

THE STATE

vs.

WILLIAM COLEMAN

Indictment for

CARRYING A PISTOL UNLAWFULLY

SC Code: 16-23-20

CDR Code: 044

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

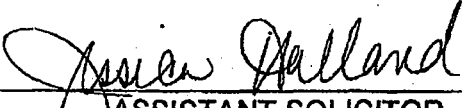
INDICTMENT

At a Court of General Sessions, convened on May 17, 2012, the Grand Jurors of York County present upon their oath:

CARRYING A PISTOL UNLAWFULLY

The Defendant, William Coleman, did in York County, South Carolina, on or about January 26, 2012, unlawfully carry about his person a firearm, described as follows: an Arminius Titan Tiger .38 caliber handgun, all in violation of Section 16-23-20, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-01471

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

191
WITNESSES

WPD\Bunch

The State of South Carolina
County of York

Defendant

COURT OF GENERAL SESSIONS

May 17, Term 2012

I hereby appear in my own proper person and plead guilty to the within indictment or to

tr

ARREST WARRANT NUMBER

M-455084

Defendant

THE STATE

VS.

Witness:

WILLIAM COLEMAN

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

Paul White
Foreperson of Grand Jury

Date: 5/17/12

VERDICT

Indictment for

**POSSESSION OF HANDGUN WITH SERIAL
NUMBERS OBLITERATED**

SC Code: 16-23-30
CDR Code: 2364

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 17, 2012, the Grand Jurors of York County present upon their oath:

POSSESSION OF A HANDGUN WITH SERIAL NUMBERS OBLITERATED

The Defendant, William Coleman, did in York County, South Carolina, on or about January 26, 2012, unlawfully carry about his person a firearm from which the original serial number had been removed or obliterated, all in violation of Section 16-23-30, Code of Laws of South Carolina (1976, as amended).

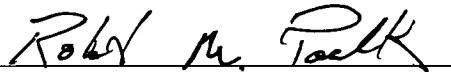
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

December 28, 2012,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
DEC 28 2012
SC Court of Appeals