

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JERMAINE T. FULLER,

APPELLANT

APPELLATE CASE NO. 2009-147686

RECORD ON APPEAL

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SC Court of Appeals

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1 In the Court of General Sessions

2 York County, South Carolina

3

4 The State of South Carolina

5 versus

6 Jermaine Tyrone Fuller, Defendant

7 Case Number: 2009-GS-46-1679

8

9 Heard on Friday, October 23, 2009.

10 Before the Honorable Lee S. Alford

11 Appearances:

12 E.B. Springs, IV.

13 Assistant Solicitor

14 1675 York Highway

15 York, SC 29745

16

17

18

19

20

21 Reported by: Janet M. Rich

22 Circuit Court Reporter

23 1992 Downey Street

24 Rock Hill, SC 29732

25

1 Mr. Springs: This is Mr. Jermaine Tyrone
2 Fuller standing here. He's representing himself on
3 armed robbery charges, entering a bank with intent
4 to steal, conspiracy, possession of a firearm during
5 the commission of a violent crime, and kidnapping.
6 He represents himself and he's written to me and he
7 has requested discovery in his case. I have
8 prepared the discovery. I have shown him
9 photographs which the State may use in any trial of
10 his case and I'm at this time handing him the rest
11 of the discovery in his case. Mr. Fuller, that's
12 your discovery.

13 On an earlier occasion he was before Your Honor
14 represented by retained attorney John Mobley and he
15 fired Mr. Mobley.

16 A few weeks later, maybe a month later, he told
17 the Honorable John Hayes that he was going to have
18 his mother retain someone for him and he did not
19 desire the public defender.

20 More time has gone by, perhaps another month.
21 I did call his mother on Monday this week, a very
22 pleasant lady, I believe her name is Tina Turner.

23 Mr. Fuller: Tina Fuller.

24 Ms. Springs: I'm sorry. Tina Fuller, a very
25 pleasant lady, but she says she has not retained an

1 attorney for him and that process has stopped.
2 She's not going to be retaining an attorney for him.
3 So since the last time that he discussed an attorney
4 with Judge Hayes he was under the impression that
5 was going to happen and for that reason he did not
6 need the public defender. I wonder if the court
7 might inquire at this point if he thinks he needs
8 appointed counsel.

9 The Court: Are there co-defendants in this
10 case?

11 Mr. Springs: The co-defendant has plead guilty
12 and is gone.

13 The Court: All right.

14 Mr. Springs: That co-defendant had a retained
15 attorney, so his appointed counsel, it would be the
16 public defender in this building.

17 The Court: All right. Mr. Fuller.

18 Mr. Fuller: Yes, sir.

19 The Court: The games are over.

20 Mr. Fuller: Yes, sir.

21 The Court: Okay. We're down to the
22 nitty-gritty. Your case is going to trial.

23 Mr. Fuller: Yes, sir.

24 The Court: And you are either going to have an
25 attorney or you are going to have to represent

1 yourself.

2 Mr. Fuller: I'm representing myself.

3 The Court: I don't know if I did that before
4 or Judge Hayes did that.

5 Mr. Springs: No one has gone through the
6 warnings about self representation.

7 The Court: Let me do that now. Mr. Fuller, you
8 understand that you have a constitutional right to
9 have an attorney present and representing you at any
10 time you appear in the South Carolina court of
11 general sessions. Do you understand that?

12 Mr. Fuller: Yes, sir.

13 The Court: If you could not afford an attorney
14 the State would both appoint and pay someone to
15 represent you. Do you understand that?

16 Mr. Fuller: Yes, sir.

17 The Court: An attorney would most likely
18 represent you better than you can represent yourself
19 because an attorney is trained in the rules of
20 court, rules of evidence, the courtroom procedure,
21 and the common law and statutory criminal laws of
22 South Carolina.

23 An attorney would be able to explain to you the
24 charges and punishment you face.

25 An attorney would be able to tell you the

1 witnesses and evidence that the State has available
2 to present at trial to prove your guilt.

3 An attorney would be able to tell you if there
4 are any legal defenses that might be available to
5 you if you were go to trial.

6 An attorney would be able to subpoena all
7 witnesses that you know of to your trial to assist
8 in your defense.

9 And even if you decide to plead guilty instead
10 of going to trial, an attorney may be able to
11 negotiate with the Solicitor to either get the
12 charges you face or possible sentences you face
13 reduced.

14 Do you understand your right to have an
15 attorney represent you on these charges?

16 Mr. Fuller: Yes, Your Honor.

17 The Court: Do you understand the benefits of
18 having an attorney represent you on these charges?

19 Mr. Fuller: Yes, I do.

20 The Court: Understanding both the right to and
21 benefit of an attorney, do you wish to proceed today
22 without an attorney or do you wish to have attorney?

23 Mr. Fuller: Your Honor, I wish to proceed
24 without an attorney. I only ask you and the court,
25 the Solicitor, provide me with things needed to

1 fairly represent myself.

2 The Court: All right. I find the decision of
3 the defendant Jermaine Fuller to proceed today
4 without an attorney to be made freely, voluntarily,
5 and intelligently and allow him to proceed without
6 counsel.

7 Let me ask you a couple additional questions
8 though. How old are you, Mr. Fuller?

9 Mr. Fuller: 27.

10 The Court: And how far did you go in school?

11 Mr. Fuller: I went through public high school,
12 tenth grade, and I completed the rest of my GED
13 through home schooling.

14 The Court: So you have a GED diploma?

15 Mr. Fuller: Yes, sir.

16 The Court: Okay. What have you done for a job
17 or occupation?

18 Mr. Fuller: I pressure wash. I have my own
19 pressure washing business since I was 17 years old.
20 And invest in real estate also.

21 The Court: Real estate?

22 Mr. Fuller: Yes, sir.

23 The Court: Have you ever been charged with any
24 criminal offense before?

25 Mr. Fuller: Yes, I have.

1 The Court: So you've been in court before?

2 Mr. Fuller: Yes, I have.

3 The Court: What happened in that proceeding?

4 Mr. Fuller: I've been in court multiple
5 times.

6 The Court: Is that right. Did you go through
7 trials or anything?

8 Mr. Fuller: No, sir, never been through any
9 trial.

10 The Court: You plead guilty or anything like
11 that?

12 Mr. Fuller: Actually some charges were dropped
13 and I plead guilty on some.

14 The Court: Did you have an attorney then?

15 Mr. Fuller: Yes, sir, I did.

16 The Court: So you ---

17 Mr. Fuller: I have represented myself
18 before.

19 The Court: You have?

20 Mr. Fuller: But not through a jury trial, only
21 plea negotiations.

22 The Court: Okay. So you are familiar with
23 court proceedings then, how it works, all except you
24 hadn't been through a jury trial, but you are
25 familiar --

1 Mr. Fuller: Well, I'm not completely, I'm
2 not an attorney, but I am, you know, acquainted with
3 the court system.

4 The Court: All right. That's what I need to
5 know. All right. Again I find the decision of the
6 defendant Jermaine Fuller to proceed today without
7 an attorney to be made freely, voluntarily, and
8 intelligently. I'll allow him to proceed today
9 without an attorney, proceed in his case without an
10 attorney.

11 Let me give you this explanation, Mr. Fuller.
12 Of course, you can represent yourself in a jury
13 trial. A jury trial is difficult to represent
14 yourself when you don't know the rules and how to
15 proceed. The court can advise you as to the
16 procedures, but the court cannot represent you,
17 cannot be your attorney and tell you what to say or
18 tell you what to present.

19 Mr. Fuller: Yes, sir.

20 The Court: And tell you how to ask questions
21 or any of those kind of things. The court cannot be
22 your attorney. The court can advise you as to
23 procedure, what you need to do and what the
24 procedures are, but the court can't advise you about
25 the law and procedure in court and that kind of

1 thing. Do you understand that? So if you get
2 lost --

3 Mr. Fuller: Yes, sir.

4 The Court: You are just going to be lost.

5 Mr. Fuller: So.

6 The Court: You understand. My advice to you
7 is that you'd be better off to take the public
8 defender and work with a public defender and help
9 him or her, as the case may be, to prepare your
10 defense and that would be my recommendation to you
11 because it's very difficult in my experience over
12 the years that I've been in this job for a person to
13 represent themselves. Most often what happens is
14 they get frustrated and lost during the course of
15 the trial, but you have a right to do that. I'm not
16 telling you you don't have that right because you
17 do, but I think that you'd be better off with an
18 attorney. I tell everybody that.

19 Mr. Fuller: Yes.

20 The Court: But, you know, so it's going up to
21 you, but I still recommend that you let the public
22 defender's office represent you. These attorneys
23 are experienced attorneys. Most of them have been
24 there for years trying cases and things.

25 Mr. Fuller: I understand.

1 The Court: But it's up to you if you want to
2 go forward. Once you get into it, once you make the
3 decision to go forward and you get started with the
4 trial, you can't change your mind then because we
5 can't have it but one way.

6 Mr. Fuller: Yes, sir.

7 The Court: So once a trial starts if you are
8 representing yourself we cannot then give you an
9 attorney.

10 Mr. Fuller: I understand.

11 The Court: Okay. So that decision has to be
12 made before trial starts.

13 Mr. Fuller: That's right.

14 The Court: All right.

15 Mr. Fuller: Where I stand at this point, I
16 want to overview all the evidence. Now he said that
17 I can't keep those photographs. Now I understand
18 that there is video footage associated with those
19 photographs. I would like to see those beforehand
20 also.

21 The Court: They will make arrangements for you
22 to do that. My understanding is that they are not
23 going to allow you to have all these photographs
24 down with you in the jail, but they will make
25 arrangements for you to view -- has he viewed the

1 photographs yet?

2 Mr. Springs: I have handed him these two
3 packages of photographs. Mr. Fuller, did you look
4 at the photographs?

5 Mr. Fuller: I looked at the photographs,
6 yes.

7 Mr. Springs: Okay.

8 The Court: And you are saying there is some
9 video associated with it that you want to see?

10 Mr. Fuller: There should be video footage.

11 Mr. Springs: There is. I will show it to
12 him.

13 The Court: All right. He'll make arrangements
14 for you to see those.

15 Mr. Fuller: Okay.

16 The Court: But again my suggestion to you is
17 that you think long and hard --

18 Mr. Fuller: I am.

19 The Court: ---about having somebody appointed
20 to let them assist you and then you can talk with
21 them and together you can prepare your defense.

22 Mr. Fuller: Okay.

23 The Court: That would be my suggestion to you
24 and what have you, but you still can have obvious
25 involvement in it but that's my recommendation to

1 you.

2 Mr. Fuller: Yes, sir.

3 The Court: I like to see everyone represented.

4 Mr. Fuller: One other request, along with the
5 evidence as I over look it, can I be provided with
6 some legal information and law books?

7 The Court: You can have access to them.

8 Nobody is going to provide them to you.

9 Mr. Fuller: Okay. Do you have them?

10 The Court: You can have access to them, but,
11 you know, arrangements have to be made to do that.

12 Mr. Fuller: Because now I did request that my
13 mother be able to mail me some legal information, legal
14 books, but that was denied.

15 The Court: What about that, Solicitor? I
16 think he has a right to do some research if he wants
17 to do that.

18 Mr. Springs: He does and there's not obviously
19 a law library at the jail. I would be happy to
20 provide him with Mcannich's Criminal Law which I
21 believe is published by the South Carolina Bar and
22 Ferguson's South Carolina Criminal Law. Those are
23 probably two of the best books, two treatises on
24 criminal law in South Carolina that I know of that
25 cover the charges, every charge, that he has. I'll

1 be glad to make two law books, those two treatises
2 available to him, and he needs some time to peruse
3 those and digest those and I would ask the court if
4 necessary to order the sheriff to let him have those
5 two law books.

6 Mr. Fuller: Sounds good to me. Sounds good.
7 If I can get that, you know, how soon do you think I
8 can get it?

9 Mr. Springs: I'll get over there today.

10 Mr. Fuller: Because we are still scheduled for
11 the second?

12 Mr. Springs: No. We had him scheduled for
13 trial November second, and I've written Mr. Fuller a
14 letter and I've told him, I thought he would ask for
15 a public defender today and the public defender I
16 thought was going to need time and I also say in the
17 letter that if you don't get public defender you
18 need time to prepare your defense. We are not going
19 to call him November second, but we are going to
20 call his case for trial November 16th term.

21 Absolutely positively, just like the sun is going to
22 come up tomorrow, it will happen November 16.

23 The Court: You've got until November 16 with
24 or without an attorney.

25 Mr. Fuller: Yes, sir.

1 The Court: Now if you decide you want to have
2 the public defender appointed, you need to let us
3 know that and they need a little time to work on
4 your case.

5 Mr. Fuller: Yes, sir.

6 The Court: So you can't ask for the public
7 defender two or three days before trial and expect
8 them to be totally up to your case, although they
9 could help you, but they wouldn't be able to help
10 you as well, okay. So you need, if you're going to
11 decide that --

12 Mr. Fuller: I just need to see everything that
13 is going to be presented against me before I can
14 make that decision.

15 Now I do want to present this to you. On
16 August 7 I wrote a certified letter, I had it
17 notarized by the, by someone here at your jail, and
18 I had it mailed. certified to the clerk, it was
19 delivered on the 17, and it was concerning the
20 arrest warrants. I've got all of them right here.
21 Now these are the same copies that my lawyer John
22 Mobley had provided me with also and when I came
23 into the jail on December 20 when I was transferred
24 here, I was brought in by two of the officers, I
25 can't think of their names right off, but I asked

1 them for copies of the warrants. They didn't
2 provide it with me, you know, provide them to me.
3 And also the copies from the State here the, the
4 return is left void. Now to my understanding, the
5 return is supposed to be signed by me in the
6 presence of the issuing officer and served to me but
7 that wasn't done.

8 The Court: What do you know about that?

9 Mr. Springs: May I see them. I think the
10 return gets signed. I see the return is not
11 completed here. I'll go over to the clerk's office
12 and get fully completed copies of the warrants which
13 will have the signatures on there.

14 Mr. Fuller: So that's not the true copy?

15 Mr. Springs: This is a copy of the warrant
16 before it got served upon you, so I will get you a
17 copy of the warrants as they appear after they were
18 served on you with the return fully completed. I'll
19 certainly do that and get that to you today.

20 Let me say one, two more things. I will get
21 the two law books to Mr. Fuller today. I will get
22 the fully completed copies of the warrants to you
23 today, such as everything is filled in the way after
24 they were served upon you.

25 And I have written a letter to Mr. Fuller and

1 in the letter I say you've asked me a couple of
2 times for a plea bargain, and in my letter I say
3 that if you plead guilty to all of your charges, I
4 would ask the court not to stack any of them, not to
5 make any of them consecutive, but all run together,
6 meaning you would be facing the minimum mandatory
7 ten on the armed robbery, at least ten years, but
8 the most you could get is the 30 years that the
9 armed robbery or the kidnapping or the entering the
10 bank with intent to steal carries, so the judge, if
11 you plead guilty under those terms, your exposure
12 would be 10 to 30 years. Were you clear on that?

13 Mr. Fuller: Yes, sir.

14 Mr. Springs: Okay. If you are going to take
15 me up on that, you have to do it the week of
16 November second, okay?

17 Mr. Fuller: Okay.

18 Mr. Springs: Because when we get to November
19 16, there are no deals.

20 Mr. Fuller: No.

21 Mr. Springs: You can still plead guilty, but
22 you can get a hundred years at that point and you
23 are really throwing yourself on the mercy of the
24 court. So I want to clear that up. There is a
25 deadline on concurrent sentencing, no stacking, and

1 that's the week of November second.

2 . If you need anything else, you've been writing
3 to me, and I think your correspondence comes to me
4 pretty quickly, you just ask if you need anything
5 else, and I'll get the things to you today that I
6 promised will come to you today, and then next week
7 we'll get together and watch those videos.

8 Mr. Fuller: Okay. I just want to make it
9 clear -- oh, we're going to watch the videos next
10 week. Okay. I just want to make it clear which
11 videos do you have? Videos from the bank?

12 Mr. Springs: Videos from the bank. I'm not
13 sure if the U-Haul.

14 Mr. Fuller: Because there's pictures of the
15 U-Haul here.

16 Mr. Springs: I don't know if that was moving.

17 Mr. Fuller: Well, it is because it has a time.

18 Mr. Springs: If there is a moving video from
19 the U-Haul, you'll see that. And if there is a
20 moving video from public storage, you'll see that.
21 I think there are. I think there are three
22 videos.

23 Mr. Fuller: According the evidence I have it
24 is. It is stated it is.

25 Mr. Springs: I think so. Whatever videos I

1 have, you'll see those too.

2 Mr. Fuller: Okay. But now if you don't have
3 that, that's a problem, because it clearly states
4 here that you do have video footage of the U-Haul.

5 Mr. Springs: Well, let's cross that bridge
6 when we come to it, but I think I do have the video.

7 Mr. Fuller: Okay.

8 The Court: But it wouldn't have your case
9 thrown out by no means.

10 Mr. Fuller: No.

11 The Court: It depends on the facts and
12 evidence. You need to understand that, you know
13 what I'm saying; you don't have a lawyer.

14 Mr. Fuller, the games are over.

15 Mr. Fuller: Yes, sir.

16 The Court: Take a serious look at it, do
17 whatever you want to do, and if you want a public
18 defender, you need to let us know so we can get
19 somebody appointed.

20 Mr. Fuller: Now will you be the judge
21 presiding?

22 The Court: I have no idea who will be
23 presiding that week.

24 Mr. Fuller: All right.

25 Mr. Springs: Thank you, Your Honor.

1 I, Janet Rich, official court reporter for the Sixteenth
2 Circuit of the State of South Carolina, do hereby certify
3 that the forgoing is a true, accurate, and complete
4 transcript of record of all the proceedings had and
5 evidence introduced in the trial of the captioned case,
6 relative to appeal, in the court of general sessions for
7 York County, South Carolina, on the 23 day of October
8 2009.

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

11

12

Janet Rich

13

14 Janet M. Rich

15

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25

In the Court of General Sessions
York County, South Carolina

The State of South Carolina

versus

Jermaine Tyrone Fuller, Defendant

Case Number: 2009-GS-46-1679,1680,1682,3663

Heard on Monday & Tuesday, November 16-17-2009.

Before the Honorable John C. Hayes, III

Appearances:

E.B. Springs, IV.

Assistant Solicitor

1675 York Highway

York, SC 29745

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The Court: All right.

Mr. Springs: May it please the court.

The Court: Yes, sir.

Mr. Springs: Your Honor, the next matter for this honorable court is the State of South Carolina versus Jermaine Tryone Fuller. I'm holding one, two, three charges here true billed by our York County Grand Jury. The first charges Mr. Fuller with entering a bank with intent to steal. The number is 2009-GS-46-3663; armed robbery on 2009-GS-46-1679. Possession of a firearm during the commission of a violent crime of armed robbery on 2009-GS-46-1680, and the last one is criminal conspiracy on 2009-GS-46-1682. Mr. Fuller is here in the courtroom. He represents himself. Mr. Fuller, how do you plead to these charges, sir; guilty or not guilty?

Mr. Fuller: Not guilty.

Mr. Springs: Your Honor.

The Court: Before we go further.

Mr. Fuller, you have been before me and you've also been before Judge Alford and as of October 23, 2009, Judge Alford went over with you your rights regarding counsel and also the dangers in your representing yourself, so you are here pro se. Now do you wish to

have stand by counsel? That is someone --

Mr. Fuller: Yes, sir.

The Court: Okay.

Mr. Fuller: Yes, sir.

The Court: I have Mr. Harry Collins here. I had asked Mr. Harry Collins if he would be willing. Mr. Collins is a former public defender and now practices on his own and he's agreed to be stand by counsel if we can find him.

Mr. Fuller: Okay.

The Court: Let's wait until he gets here. He was just in here.

Mr. Springs: He'll be here in about a minute.

Mr. Fuller: Your Honor, would it be okay if I can have a brief visit with my mother please.

The Court: Yes, while we're waiting. She will have to stay behind the rail.

Mr. Fuller: She brought some papers for the court.

The Court: Yes. Why don't you have a seat. I'll let her hand them to Mr. Collins and then he will hand them to me.

(Mr. Collins enters the courtroom.)

The Court: This is Mr. Harry Collins.

He's a member of the bar, a former public defender, I'm going to appoint him to be stand by counsel so you can ask him any procedural matters. And Mr. Collins, his mother is seated directly behind you and she has some documents that she wishes to hand up. All right, Mr. Springs.

Mr. Springs: Your Honor, I handed up to the court a copy of a transcript of the October 23 proceedings.

The Court: You can be seated.

Mr. Springs: And it notes that I gave Mr. Fuller some discovery, we talked about his trial date out to today, and it discusses Judge Alford colloquy with him about what he's going to do about an attorney. I hand that up. Do you have that transcript. May I make that a court exhibit?

The Court: You may.

(Court exhibit one transcript received into evidence.)

Mr. Springs: Mr. Fuller has made a number of pretrial motions. I've gotten copies of all of them. And I'm going turn it over to Mr. Fuller at this point.

The Court: All right. Mr. Fuller, I did not, while some of these were addressed to me, I did

not get them until this morning but I got some letters and some motions. And in one it's called motion to suppress and I went through and you've got like 20 different things you wish to suppress and what I will do at this time is ask you to tell me your positions on that so I will know where we need to head from here. I know most of them had to do with the search of the Homewood Suites and some surplus.

Mr. Fuller: Your Honor, do you mind if I acquaint myself with the attorney?

The Court: No, go right ahead.

(Court's in recess at 03:24 PM.)

(Court resumes.)

Mr. Fuller: Your Honor, Mr. Collins, would it be possible to talk to him somewhere in private like the holding cell?

The Court: We will take a break. We usually require attorneys, you can go through with him this time since we don't have a lot of people coming in and out. We'll take about a 15 minutes break.

(Court's in recess at 03:26 PM.)

(Court resumes at 04:18 PM.)

Mr. Springs: We're ready to return to the

trial of Mr. Jermaine Fuller, Your Honor, and Mr. Fuller has made certain pretrial motions so I once again turn it over to him.

The Court: Mr. Fuller.

Mr. Fuller: Do you have a copy of the motions?

The Court: I've got a copy of several things but I think that I thought was --

Mr. Springs: I have complete copies of all of Mr. Fuller's motions. If I may, I'll give him this set.

The Court: Okay.

Mr. Collins: I was under impression the plea was going to be entered but that's apparently incorrect.

The Court: Okay.

Mr. Fuller: Now, Your Honor, if it's possible, for us to go off record, me, you, and Mr. Springs?

The Court: But you are pro se.

Mr. Fuller: All right then. I wanted to speak with Mr. Springs about a deal we talked about last week.

The Court: I'll give you a couple more minutes then to talk back that. He wants to talk to.

Mr. Springs: Mr. Fuller wants some consideration with his case then.

Mr. Fuller: Yes, sir.

Mr. Springs: And I can't make any promises in this regard. So if you are going to plead guilty, you are just going to have to trust me and the Lord. I can't make you any promises on that. I just can't.

Mr. Fuller: So if you were it would just be later.

Mr. Springs: If I were help him it would be later. I don't want you to plead guilty relying on anything because that's between me and his attorney later.

Mr. Fuller: Okay, Your Honor, Which motions do you have?

The Court: Well, I don't know. I've got quite a few but I was trying to boil them down earlier and it looks like we have motions to suppress certain evidence and that mainly comes from the arrest there at the Homewood Suites on Greystone Boulevard in Columbia. Then we've got we talked about failure to give Miranda warnings. Don't get this wrong, I don't mean it derogatory because you are not an attorney but it's kind of jumbled so an

attorney would have things kind of nicely notched into certain little areas, and I'm not finding fault, but because you are not an attorney you have got a string of things. They may all be connected or they may all come from one event. So I got, there are 20 of them that you've identified that you wanted excluded is what you say, the following evidence excluded, including search warrants, padlocks, photos, I think I saw polo boots, cell phone chargers. So the way I would break it down is there was a search at the Homewood Suites and based I believe on a search warrant and I haven't gotten a copy of the search warrant, so you are attacking that search?

Mr. Fuller: Yes, Your Honor.

The Court: Was there another search? Was there a search of a storage building?

Mr. Fuller: Yes, sir.

The Court: And you are attacking that search?

Mr. Fuller: That was because it was the result of that search.

The Court: Fruit of the poisonous tree you mention that in your motion.

And also you go into quite a bit into the

fact that you, even after you were and this is your position, in custody, that you were not immediately given your Miranda rights and that they failed upon you questioning them, that they would not answer your questions.

Mr. Fuller: Yes, sir.

The Court: All right. Well, I think so why don't you go ahead and tell me, argue those, in whatever you order you want and we'll address them or the State will probably have to present evidence.

Mr. Fuller: I'll start with that one since that is the one you referred to and I will basically just use the motion as a guide. It was December third I checked into the Homewood Suites. December 5.

The Court: Of '08.

Mr. Fuller Yes, '08, December 3, '08. December 5 around 11 p.m. I was walking out of the hotel room and coincidentally officers were coming off of the elevator, my room was right there at the end of the hall at the elevator and there was one officer coming from the other end of the hall from the stairwell and I don't know the officers by name. I know their faces and I have their names here and I hope to get an opportunity to match the faces with

the names. But I will proceed without the names. I do know Officer Doherty. I know his name. That's the only one I know. Immediately I surrendered to them as they came off the elevator. The officer coming from the stairwell is the one who actually placed me in handcuffs and put me on my knees. I didn't ask what was the reason for my arrest. I didn't get a response. They took everything out of my pocket. They took my cell phone. My key out of my hand because I was going to my car and they asked was anyone else in the room; did I have any guns. I said no. After they asked me that and I responded, they picked me up and took me inside of the room and placed me on the floor until one of the other officers took a chair out of the kitchen area. He brought that chair into the den area, they sat me in that chair, placed me in the chair, took my shoes off. They checked my shoes, patted my feet down, I guess checked me for weapons or what not, and at the same time the other officers were checking my room. They didn't ask for consent. Doherty statement said that they did. They did not ask for consent to search and neither did they make a reply when I asked who were they with, which agency are they with, why were they arresting me. So eventually I took upon

myself assuming that they were arresting me on a situation that happened in McCormick, South Carolina. So I said, Are you guys here for a warrant from McCormick? I still did not get a straight forward answer when I asked them that. They pretty much said, yeah, we're checking for weapons.. We got to make sure, we understand that you might be armed. Do you have any guns? I said, No, I don't have any guns, and that's the closest consent that we came to agreeing to a search, then asking me did I have any guns and I said, no, I don't have any guns.

At that time officers asked to search my car and he took, he had already taken my key, he went towards the door. He said, Do you have any guns in the car? I said, no, I don't have guns in my car either. I don't have any weapons.

Eventually they found the bag that was by the door, they opened that bag and found some money. They got excited about that. Asked where did the money come from? Questions like, how could I afford my car because it was a BMW and I told them that car is not expensive, it may look expensive but I didn't pay much for it, and eventually Officer Doherty sat down with a pad and started to ask questions, specifically where I had been yesterday or

what not. And, you know, I told him I had already explained to them, you know, where I had been and I explained also initially when the bag was opened, that I do real estate and I complained that I sold houses and I was explaining where the money come from.

On his statement he said he did read my Miranda warning to me, but they were not read to me at any point. If they were to be read the proper time would have been actually in the hallway because I was in custody. I was on my knees. There was no threat to anyone. There was no one in the room. I understand if they needed to do a sweep, a protective sweep, to check were any dangerous persons in there that would have been fine, but all the items that they found were inside a bag. I had a bag in my, two bags in my room and a bag by the door. Those were the bags that were open.

According to the search warrant you will see that the items were actually found within those bags before they actually went and acquired a legal search warrant, so therefore I'm contesting the arrest based on basically three things: Failure to give me my Miranda warnings; failure to answer when I asked the reason for my arrest, and to inform me

which agencies they were with. And also search and seizure property without my consent.

I understand that's the code 17-13-15 is my right to actually have to be informed for the reason for my arrest. Your Honor, I have case law, would those be important to give to you also.

The Court: If you have them, it certainly would be good to hand them up, yes.

Mr. Fuller: I think they are on the also in the motion but should I bring up and speak to them? The cases that refer to the situation?

The Court: Yes, sir.

Mr. Fuller: State versus Newel as far as once a person is taken into custody they have a right have the Miranda warnings read to them which would have been when I was in the hallway before I was even taken to my hotel room. State versus Newel. Could I also read the details that follow? 803 South Carolina 471, 401 SC 2 (d) 420. CCTP is that certified certificate of proof 1991.

Your Honor, I'd also like to state that even if Miranda warnings were read at the point and where in the statement that he says, he clearly says that I told them that I did not want them to search my room. I can actually read that portion.

The Court: All right.

Mr. Fuller: It's actually paragraph 123 on page, paragraph one on page two.

The Court: You are talking about of your motion?

Mr. Fuller: No, in the actual statement.

The Court: See, I don't have those.

Mr. Fuller: Okay.

The Court: Go ahead. All right. Let's kind of take this one thing at a time. You've addressed your concerns about what happened there at Homewood Suites; no Miranda warning, they didn't answer questions, and the search was, a nonconsensual search. Now I'll turn it over to the State now to present their witness on this witnesses.

Mr. Springs: I'll call Special Agent Mike Doherty of the FBI. Agent Doherty, if you'll be sworn.

Michael Doherty, being first duly sworn, testified as follows:

Direct examination by Mr. Springs:

Q Tell us your name please?

A Mike Doherty.

Q Who do you work for?

A I work for the FBI.

Q Back in 2008 were you investigating a string of bank robberies in the two Carolinas and upper Georgia wherein the bank robber wore a full motorcycle helmet, rode a motorcycle to the bank, ran in --

Mr. Fuller: Objection, Your Honor, that is irrelevant to this case.

The Court: He can't ask those kinds of questions in front of the jury, but I'm going to allow him, since this is outside of the jury's presence, I'm going to ask he can go into why he was doing an investigation. I'll allow that.

Q Thank you, Your Honor. Agent Doherty, I'm going to ask just a few preliminary questions. The rules are relaxed here. I'm going to get us to the hotel room where we need to be.

A Yes, sir.

Q Were you investigating a series of bank robberies?

A Yes, sir.

Q Did the Sharon branch of the First Citizens Bank get robbed on the morning of September 4, 2008?

A Yes, sir.

Q And did it come to your attention it was alleged to have been done by a man on a motorcycle wearing a full motorcycle helmet?

A Yes, sir.

Q For that reason did it get somewhat of a high priority with the FBI?

A Yes.

Q Did you go right to the scene?

A Pardon me?

Q Did you go right to the bank?

A Yes, sir.

Q Start working with the York County Sheriff's Office detectives?

A Yes, sir.

Q And did it come to your attention that a u-haul truck had been seen out on a country road near Sharon and a picture had been taken?

A Yes, sir.

Q And did you officers investigate the source of u-haul, where it had been rented from?

A Yes, sir.

Q Where was it rented from? Where was the u-haul dealership located?

A Columbia, South Carolina, just off Broad River Road.

Q And did you get in touch with or go directly to that u-haul truck dealership and get the information on the person that had rented it?

A We did.

Q Who had rented it?

A Jermaine Fuller.

Q After you got that information at that point were there several law enforcement agencies involved?

A Yes, sir.

Q A lot of officers, fair to say?

A Yes, sir.

Q And did you keep investigating and find Jermaine Fuller was registered at the Homewood Suites Motel?

A Yes, sir.

Q Okay. What time of day or night did you go to the Homewood Suites Motel?

A It was around 11 p.m. on December 5, 2008.

Q The day after the bank robbery?

A Yes, sir.

Q And did you go up to Mr. Fuller's room on the second floor?

A Yes, sir.

Q Now as you got out on the hall of Mr. Fuller's room, tell the court what you saw, and if you would just take it slow and easy, what happened?

A We approach Mr. Fuller's room and the door was ajar with the latch sticking out to hold it ajar. We thought Mr. Fuller may have gone down the hall to the

ice machine or soda machine. A couple officers went that way and a few officers were there by the door. Mr. Fuller came out of the door, we identified ourselves as police, told him to get down, he complied got down in the hallway.

Q Did you have your guns out?

A Yes, sir.

Q Okay. This is an armed robbery?

A Yes, sir.

Q Did he comply and get on his knees.

A He did.

Q Keep going nice and slow and easy for the judge?

A Mr. Fuller was handcuffed at that point. I told him he had outstanding assault charges from McCormick.

Q Was that true? Was he wanted on an ABHAN warrant from McCormick?

A Yes, sir.

Q And were you aware of that?

A Yes, sir.

Q Continue please?

A He was familiar with that and commented that he knew about those charges, he was just waiting to turn himself in. He was waiting for his probation to be over when he was going pay his restitution and then

turn himself in for those outstanding charges.

Q And was that conversation still in the hallway?

A Yes, sir.

Q In the meantime did any officers sweep the room, look in the room, to see other human beings in there?

A I asked Mr. Fuller if there was anybody else in the hotel room. He said, no, there wasn't. A protective sweep was conducted of the hotel room and nobody else was present.

Q Then what happened?

A I asked Mr. Fuller if it was okay if we searched the motel room. He said yes.

Q Did you go in the motel room?

A Other officers went in. I got his personal belongings, wallets and stuff out of his pockets, and then I took Mr. Fuller into the motel room and sat him down and searched him more thoroughly and checked his shoes as he indicated.

Q Okay. Now let's see what agencies were there. You are the FBI?

A Yes, sir.

Q You have York County detectives?

A Yes, sir.

Q Was SLED there?

A Yes, sir.

Q Okay. And as you went into room did officers in fact start searching room pursuant to his permission?

A Yes, sir.

Q And shortly after officers started searching, did something get somebody's attention in a big way?

A Yes, sir.

Q What was that?

A One of the officers held up a gym bag and said something to the effect of, "Look at all this money".

Q Okay. Did he say it in a voice loud enough that everybody in the room could hear it?

A Yes, sir.

Q Including Mr. Fuller?

A Oh, yes, sir, he commented on it.

Q What did Mr. Fuller say?

A He indicated that, words to the effect, that wasn't a lot of money for him. He deals in real estate, deals with a lot of money all the time. I think he said it was about \$40,000. I think he said that he can show us on his computer where he has a line of credit for \$50,000 or over \$50,000. That he deals in real estate, it's not just not a lot of money for him to have.

Q When he started saying these things was it spontaneous or when the money was found did you start

asking what about this money, did he start talking spontaneously or did you start questioning him about the money?

A He volunteered that information.

Q Okay. After he said these things about the money and his line of credit that you just related to the court, then what was done or said by you or Mr. Fuller or anybody, then what happened?

A I advised Mr. Fuller of his rights. I read him his rights as contained on the advice of rights form.

Q Do you have a copy of that with you?

A I think so, yes, sir.

Q Do you have it out here in the courtroom or with you?

A It's just a blank advice of rights form.

Q I want you to tell the court exactly what you told Mr. Fuller. Do you need that with you?

A Well, I think I can tell you. You have the right to remain silent. Anything you say can be used against you in a court. You have the right to --

Mr. Fuller: Judge, I should have asked this beforehand. Is it possible that we can sequester the other witnesses.

The Court: Any other witnesses we'll sequester.

Mr. Springs: In the hallway all the law enforcement folks.

The Court: The case agent can stay in.
Thank you.

Q You were telling Judge Hayes the Miranda rights as you gave them to Mr. Fuller there?

A Yes, sir.

Q Go ahead.

A You have the right to remain silent. Anything you say can be used against you in a court of law. You have a right to have an attorney. If you can't afford one, one will be appointed for you if you wish. If you, if you agree to answer questions now and you can stop answering at any time and then there is a paragraph, do you understand these rights as they've been read to you and do you agree to answer questions now without a lawyer present.

Q And did he indicate he understood his rights and then did he have conversation with you?

A He did, he said he understood his rights. And he again volunteered more information. He said, I don't know why you are asking me questions. I've already explained to you where the money came from.

Q Did he ask you anything about searching the room? Was there any conversation about searching the

room at that point?

A Not yet. I asked him questions about where he had been and when I got to asking Mr. Fuller where he had been the day before, the day of the bank robbery, Mr. Fuller said, Whoa, whoa, whoa, why are you asking me that, that didn't have anything to do with the assault charge in McCormick. It appeared that it dawned on him that the investigation may involve more than the assault charge in McCormick. At that point he said, I don't want to answer anymore of your questions. Why are you searching my room? I said, well, because you said we could search your room. I said, no, I don't want you searching my room. I don't want you searching my car. I said you agreed already to let us search your car. He said, no, I don't want you searching my car. I don't want you searching my room and I don't want to answer anymore questions.

Q Okay. While he was talking with you after Miranda, talking further about the money, had you promised him anything to get him to talk to you?

A No.

Q Was anyone threatening him?

A No, sir.

Q Was he handcuffed?

A Yes, sir.

Q Okay. Was he in pain or hurt in anyway, in any sort of torment?

A No, sir, not that he indicated or I could tell.

Q That little bit of conversation he had with you after you gave him the Miranda rights, did he appear to be doing it freely and voluntarily having that conversation with you?

A Yes, sir.

Q Now did you stop the search of the hotel room when Mr. Fuller said I don't want you searching my room?

A Yes, sir.

Q And you summons a Richland County detective to go get a Richland County search warrant for the hotel room and the car, the BMW?

A Yes, sir. Detective Eddie Strait with the York County Sheriff Office and I attempted to coordinate with Richland County to meet with investigator and obtain a search warrant.

Q All right. And that investigator will tell us about that, so at this point I'm going to ask you to please answer any questions Mr. Fuller has of you.

The Court: Mr. Fuller.

Cross examination by Mr. Fuller:

Q Sergeant Doherty, I understand that you investigate other bank robberies. Did you have any evidence that I possibly was involved in one when you came to my motel room?

A Yes, sir.

Q Can you tell me what it was exactly?

A Yes. The investigation of the bank robbery, a witness saw a u-haul van parked in the vicinity out in the country not far from the Sharon, the First Citizen's Bank that was robbed. It was parked out in the country and didn't, you know, it appeared suspicious. It wasn't parked by anything. As a matter of fact, I think it was backed in sideways, not by any house or anything, and this witness drove by it twice and took a picture of the van, u-haul van.

Q So when you came to my room did you have a warrant or anything for a bank robbery?

A No, sir, we did not have a warrant for a bank robbery.

Q So you didn't have any evidence to get a warrant for bank robbery or any?

A Well, we did have evidence.

Q I mean, why didn't you come with a search warrant?

A Pardon me?

Q Why didn't you come with that search warrant before I handed you that evidence?

A I didn't anticipate needing a search-warrant. We didn't know what we were going to find. What -- when your name came up and several things fit, namely the u-haul van traced back to fitting, to being rented by you, and your physical description matching what we had received from the witnesses at the bank, then checked your criminal history and saw had you this outstanding warrant.

Q So when you came you had intentions of maybe playing it by ear and seeing what you could find, and one thing leads to another basically?

A There may have been a logical explanation, your name and the u-haul van.

Q Okay. So you do agree that you arrested me in the hallway?

A Yes, sir.

Q Do you remember exactly who put the handcuffs on me?

A I think it was me.

Q No.

The Court: You just got to answer.

Q Okay. So do you remember exactly which officers

came up with you from the elevator?

A Pardon me?

Q Were you there at the initial part of the arrest?

A Yes, sir.

Q Or did you come later?

A I was there initially.

Q So can you name the officers that came up with you, name the officers that came from the stairwell because he and another officer met me at the exact same time, can you name that officer that actually put the handcuffs on me in the hallway?

A I thought I put the handcuffs on you. But all the officer's names are listed on that statement. Now two officers, when we got the hotel the door was ajar, we thought maybe you were down the hall. Two officers went down the hall to check. The rest of us were there by the door when you stepped out.

Q So which two officers went down the hall?

A I think it was Lieutenant Johnson and I'm not sure who was with him.

Q Is he the African American officer?

A I think the African American officer Alex Underwood was with me.

Q Alex Underwood?

A Yes, sir.

Q Okay. So you don't remember exactly who met from the stairwell and placed me on my knees and put the handcuffs on me?

A Would you repeat your question please?

Q You don't remember the officer's name who came from the stairwell, okay -- there was only one officer that came from the stairwell as I was coming out my door?

A That's different than my recollection.

Q Okay. All right. But you said that you read me my warnings outside or inside?

A Inside. We were sitting down in the little living room area.

Q Why didn't you read them to me when you had me handcuffed on the outside?

A I figured it would be easier to go in and sit down once they were conducting a search.

Q So you asked to search the room first or did you feel like it would be appropriate -- did you feel it was appropriate to go in and search first and ask could you search first?

A I asked to search before I read you your rights.

Q Did they do a protective sweep before you asked for consent to search?

A I think they were doing, officers went in to clear the room while you were in the hallway with me and perhaps Eddie Strait. That's when I asked you if consented.

Q All right. So officers are already inside of the room before you asked for my consent?

A Sure.

Q Okay. So it -- we were alone when you asked for consent?

A No. No, there was another officer or two there. I think there were six of us all together.

Q Can you give me their names?

A Which names?

Q All six of them. Or do you not know them?

A They are all six listed on this. I can read them to you.

Q Okay.

A The officers that were with us were Lieutenant Keith Johnson, Al Stuckey, Alex Underwood, Chris Johnson, and Mike Robinson of SLED, Chris Bell of Richland County Sheriff's Office, Eddie Strait of York County Sheriff's Office, and myself, FBI.

Q Which ones were in the hallway and which ones went into the search?

A I don't remember. Now the search or the

protective sweep?

Q The protective sweep?

A I don't remember who went in.

Q You don't remember. So are you saying that you just sat in the hallway with me while they did protective sweep, you just sat in the hallway?

A The protective sweep of the hotel room took a minute, just to make sure there was no other people in there.

Q Okay. So did the officers stop after they did that initial sweep? Was there a break in between the initial sweep and the search when they found?

A No, they came and somebody said it's clear.

Q They said it was clear?

A At that point you had consented and I walked you back in the room.

Q So I consented. All right. Now when you told Mr. Springs that I said I did not want you to search anymore, did I say I don't want you to search anymore or do I specifically say that I did not give you consent?

A You did. You said the latter. Why are searching my room? I didn't agree to let you search the room. I said well, yes, you did. You said why are you searching my car? I said the same thing.

You agreed to let us search your car. At that point you said, No, no, I didn't. I don't want to answer anymore questions.

Q So did you ask did I have any guns or weapons?

A Oh, yes.

Q Okay. Did you ask if anyone else was in the room initially?

A Yes.

Q Okay. Now when you asked those questions, were officers already not searching through the couch saying they had to look for guns?

A I'm sorry?

Q Were officers not already looking through the couches and different place saying they had to make sure that I didn't have weapons. Were they not already searching when you asked that question?

A When I asked you if you had a gun?

Q Yes.

A I asked you if you had a gun out in the hallway.

Q You didn't ask inside the room?

A I know once we were inside, I'm sure we were looking for a gun. A gun was brandished in the bank robbery, so, yes, we were looking for a gun.

Q Well, did you find one?

A No, we did not.

Q Okay. So let me get this straight. Exactly what questions did you ask me before you supposedly read me Miranda warnings, which questions did you ask before that?

A Is there anybody else in the room. Is it okay if we search the room.

Q And that was it?

A Yes.

Q Okay. Nothing more?

A No.

Q Okay. So you did not ask where I had been the day before or how long had I been in the room or any questions like that before giving me my warnings?

A No. No.

Q Okay.

A I think we talked about that though.

Q We did.

A Yeah.

Q So you basically saying that I just volunteered all this information out of the blue, you guys had your knowledge sealed, said nothing to lead --

A Oh, no. There were conversations going on but I wasn't questioning you.

Q Okay. Conversations?

A Sure.

Q But no questions?

A Like when the officers picked up the bag and said look at this.

Q Do you think that a question has to be asked to lead one into basically give you information that you are looking for that may incriminate them; do you think you have to ask a question or are you in a sense used to misleading a person into giving you information?

Mr. Springs: Objection, that's argumentative.

The Court: Well, I'll let him answer it. His question is basically do you mislead people into answering questions?

A No, sir.

Q No. Okay, but you said there were conversations going on?

A With the officers.

Q With the officers?

A Sure.

Q Okay. Well, either one of those could have given me Miranda warnings probably, right? It didn't have to be you, did it?

A No.

Q So you do agree other officers were

communicating with me before the warnings were given?

A Communicating with you or asking you questions? My recollection is we weren't questioning you, myself or any other officers.

Q So we didn't have a discussion about where I had been?

A We did talk about where you had been.

Q Before the warnings?

A No. No. I read you your warnings and we talked about, I tried to get initial explanation about the money. You said I already explained that.

I asked you where you had been and how long you've been in the motel room. You told me, I said have you been in Columbia this whole time? You said the furthest you've been from Columbia was Batesburg or something like that where you had to evict somebody. Said you were in, you owned real estate.

I specifically asked you about the day before, and that's when, it appeared to me, that your guard went up that this may not have been about the McCormick assault. You said why are you asking, you asked me why am I asking you about that? What does this have to do with McCormick?

Q Where were you when you supposedly read those

warnings?

A I was sitting right next to you in the living room area. You were at the desk where the laptop computer was.

Q I was in a chair?

A Yes, sir.

Q Okay. That they had taken, all right. Now from my arrest in the hallway to the time that bag was opened, approximately how long would you say it took?

A Probably not long because earlier in the search that bag was found. I think it was near the door.

Q Yeah, it was found pretty soon?

A Yes, sir.

Q Yeah. And pretty much when that bag was opened, is that when my attitude changed?

A No. At that point you were explaining everything, it's not a big deal.

Q So you did not ask where the money came from?

A No. You immediately started explaining where the money came from. Well, at least you said you, it's not a lot of money for me. I buy and sell houses and own real estate. I just sold some houses.

Q Do you remember the officer's name that said "that money came from the bank." Do you remember which officer said that?

A No. But that was later, after Miranda, after your demeanor changed and you decided, no, no, no I didn't consent. No, no, no, I don't want to answer anymore questions.

Q Do you remember that officer?

A I think I remember saying, "we know where that money came from".

Q What's his name?

A I don't remember.

Q Was it Officer Joe Clark?

A Pardon me?

Q Officer Joe Clark?

A What's your question?

Q I'm asking was he present? Was he the who executed the warrant?

A Joe Clark, yes, he was detective with Richland County who came back with the search warrant.

Q Okay. So you said you found the bag pretty quickly, do you remember the other items that were found along with the bag?

A Oh, yes, sir. Walkie talkies, gloves, nylon tie down, charger for walkie talkies, cell phone, laptop computer, clothes, the big bag of money.

Q Were these things inside of the bag or were they all out in the open, plain view?

A When I saw those items they were in the bedroom section of the room and I think they had been in a bag that had been dumped out.

Q So they dumped the bag out before the search warrant?

A Yes. I believe so, yes.

Q And even before the Miranda warnings?

A I don't know because you and I were in the living room. It's a little two room suite. So I don't know if they dumped those out before Miranda or not.

Q So if they found all these items before Miranda warnings, but there were no questions asked. You guys were pretty much silent up until that point?

A No, there was talk among the officers. Look at this walkie talkies. Look at these gloves. Look at this. It looks like a bag a motorcycle helmet. We were discussing stuff.

Q So now I didn't ask you why you were arresting me. Did I ask you that at any point?

A Yeah, you did, but you were familiar with the charge.

Q No. No. Did I specifically ask you why you were arresting me?

A Yes.

Q In the hallway?

A Yes.

Q I asked you that, didn't I?

A I think so, yes, sir.

Q Okay. But did you respond?

A Yes, sir.

Q What did you say?

A Outstanding charges out of McCormick County for ABHAN.

Q Did you not tell Mr. Springs that you told me first without even asking?

A I may have told you before you asked or you may have asked, but I remember you were familiar with them. You went on to explain, "Oh, yeah, I was going to turn myself in for those." I'm waiting for my probation to expire and pay my restitution then I was going to turn myself in. Like you knew about the charges.

Q So the point is you informed me of the reason for?

A Pardon me?

Q Is that correct? Did you inform me of the reason for arrest?

A Yes.

Q Okay. But you are not sure when I asked you the

reason for my reason?

A I know we discussed it.

Q We discussed it but you know for sure you told me?

A Yes.

Q Okay. Because do you remember your statement you said that I asked was my arrest for a warrant?

A Okay.

Q In McCormick? The point is I had to ask you was the warrant, were you arresting me for a warrant in McCormick. That's the whole point.

A Okay.

Q Do you remember that?

A You may well have asked. I'm sure I told you.

Q But the point is I had to ask that second question because the first one wasn't answered. The first question was and I'm asking do you remember?

A I know I told you the charges out in the hallway when you were initially arrested. Now you may have asked me what are the charges. I don't know if I told you before or after you asked, but I know you responded, Okay. I know about those. I was about to turn myself in.

Q Okay. You said in your statement that I explained, that I already explained where the money

had come from?

A You did.

Q What do you mean when you say I explained?

A I mean after I mirandized you, you appeared to get concerned about the questioning. Like you didn't want to answer anymore questions.

Q But you said that I explained. You said, first you said that I volunteered, but then you said I already explained. By volunteer would that be considered an explanation but without a question. Explanations aren't given unless somebody asked you a question?

A Yes, you explained or addressed where the money came from without being questioned initially. Then after Miranda when I broached the question again you said, "I already explained it." Like you didn't want to explain further.

Q So in other words, you said it was uttered expression basically when I said that money came from a bank, I invest in houses, I just gave all that voluntarily as uttered expression?

A Yes, you volunteered that information.

Q Okay. Thank you. No further questions.

Mr. Springs: That's all I have.

The Court: You can step down.

Mr. Springs: Your Honor, we've got a jury panel downstairs.

The Court: I'm going to let them go until ten in morning. We probably need to wrap up for the day. My matter in the morning that I thought was going to take a couple hours has been whittled down so we can start back at ten in the morning.

Mr. Springs: I think we can knock out the two search warrants fairly quickly. I'd like to call my two search warrant officers.

The Court: Well. Let's do that then, but I do have drug court at six o'clock.

Mr. Springs: I don't think it will take that long. Would you ask for Joe Clark to come in.

Mr. Collins: Your Honor, are we still on the same motion?

The Court: It all dovetails. Now is the search warrant. There was a search warrant for Homewood Suites after he withdrew, after they testified he withdrew his consent and I thought that there was a search warrant of a storage locker or building or something.

Joseph Clark, being first duly sworn
was examined and testified as follows:
Direct Examination by Mr. Springs:

Q What is your name, sir?

A Joseph Clark.

Q Are you an investigator with Richland County Sheriff's Office?

A That's correct.

Q And were you called out in the middle of the night December 5 maybe going into December 6, 2008, to assist York County detectives and the FBI and SLED at a hotel room?

A That's correct.

Q And did you go over there to the Homewood Suites hotel room?

A I did.

Q Did you have a conversation with these officers and did they tell you about what they had?

A Yes.

Q Okay. And after you got information from those officers, did you prepare an application for a search warrant?

A I did.

Q All right. I'm holding what's been marked State's exhibit one, this is the search warrant for the Homewood, a copy of the search warrant for the Homewood Suite room, take a look and see if that is in fact an accurate copy of the search warrant you

prepared to take to a magistrate judge?

A It is.

Q Did you take it to the magistrate judge?

A I did.

Q And did you take the oath before that magistrate judge?

A I did.

Q And tell the court what you told that magistrate judge under oath that you had in the way of probable cause to seek a search warrant for the Homewood Suites hotel room 202 and BMW car please?

A We made contact with Judge Howard at her home.

Q Let me stop you. Would the court like a copy, Your Honor?

The Court: That would be nice.

Mr. Springs: I'm sorry.

The Court: Thank you.

A We made a contact with Judge Howard at her home. I was accompanied by Detective Strait from York County Sheriff's Office and I believe his name is Doherty from the FBI. They had briefed me, just give me brief overview of where they were in this process. That they basically located someone that they were interested in in regards to a bank robbery investigation, and then once they located him, they

wanted to then effect a search warrant on that hotel room that he have residing in. And they wanted to have that before they conducted any search of the hotel room.

Q All right. And if you would go ahead and read the actual affidavit of probable cause that you gave to the magistrate?

A On 12/4/08 while at _____ located in Sharon, South Carolina, zip code _____ an unknown suspect entered the bank while presenting a firearm. Stated to bank employees quote give me all your money unquote. The subject was very specific while stating he did not want any of the quote bait money unquote. During the robbery the subject was wearing black in color motorcycle helmet, gray shirt, dark in color pants, and dark colored gloves. The subject was able to steal a large amount of US currency. Just prior to the armed robbery an unbiased witness observed a u-haul truck parked near the incident location and was able to take a photograph of the u-haul. An investigation by initiated by the York County Sheriff's Department and Federal Bureau of Investigation.

During the investigation it was revealed that the u-haul truck was recently rented

from a local u-haul company located at
here in Columbia, South Carolina,

Per the rental agreement the truck
observed near the incident location was recently
rented by a Jermaine Tyrone Fuller. It was
discovered that Mr. Fuller had an outstanding arrest
warrant for assault and battery of a high and
aggravated nature on 12-5 of '08. Excuse me. Of a
high and aggravated nature end of sentence.

On December 5, 2008, further
investigation revealed that Mr. Fuller was currently
located at here
in Columbia,

Detective Eddie Strait of the York
County Sheriff's Department and Agent Michael Doherty
of the Federal Bureau of Investigation, along with
Deputy Christian Bell of Richland County Sheriff's
Department made contact with Mr. Fuller at this
location.

Initially Mr. Fuller by way of verbal
consent allowed the investigating officers to search
his room. Mr. Fuller stated that a white BMW parked
in the parking lot of bearing VIN
number WBAGL 63422DB6543 was in fact his vehicle and

that he recently purchased it for \$9,000. The car keys were also located on his person. When asked for permission to search the vehicle Mr. Fuller gave verbal consent.

During the initial search of the room a dark in color gym bag was discovered with a large amount of cash located inside. After the discovery of the bag Mr. Fuller then stated he wanted the investigating officers to obtain a search warrant. The original incident location of the robbery is located in the rural part of the York County. The evidence sought after is needed in order to further the investigation currently being conducted by Federal Bureau of Investigation in conjunction with York County Sheriff's Department.

Q All right. And did the magistrate judge find there was probable cause to issue the warrant and in fact issued the warrant to you?

A She did.

Q And did you go back to the hotel room with the search warrant?

A I did.

Q And later was a return done which listed all of the things seized from the motel room?

A It was.

Q When was the search warrant executed -- when was it actually -- when was the room and car searched per the search warrant, what date?

A The date it was issued. The --

Q December 6?

A Correct.

Q And what day did do you the return, return it to the magistrate judge? Was the return done on December 10?

A I see it right here. I'm sorry. Yes, December 10.

Q One of the things seized pursuant to the search warrant was it a public storage rental agreement there in Columbia? I'm on the return, page two.

A Page two.

Q Item 16.

A Correct. I see it.

Q Okay. Are you familiar with how close that particular public storage rental facility is to the u-haul facility where the u-haul truck was rented from?

A Not right off hand. If you told give me the addresses I could give a relative distance.

Q are you familiar with?

A Yes.

Q If they were both on they'd be fairly close?

A Fairly close, yeah.

Q Were you aware that the public storage facility had been rented the afternoon of the bank robbery on December 4?

A I was informed of that.

Q Very good, sir. All right. And were you aware that another officer sought a search warrant for public storage facility?

A I was aware of that.

Q Thank you very much. If you would answer any questions Mr. Fuller has for you.

Cross examination by Mr. Fuller:

Q Officer Clark, were you there when I was initially arrested from the beginning of my arrest or did you come later with the search warrant?

A I came later with search warrant.

Q So you weren't there initially?

A No, sir.

Q So you weren't there when they arrested me or even later when supposedly Mr. Doherty started asking me questions that I objected to?

A Clarify that question for me so I understand.

Q When in your, it says that -- well, I'll just

ask you. At what point did they start searching my room and it says here after they opened the bag?

A I can't answer that.

Q Okay. So this wasn't transcribed by you?

A This search warrant was transcribed by me.

Q Okay. So you didn't put in here on the last page at what point they stopped searching and went to obtain a warrant?

A I was informed by York County Sheriff's Office and the FBI that they wanted a search warrant for the room that you were residing in.

Q Okay. So you basically transcribed this off of what they told you, not exactly what you saw or heard?

A Which part? You talking about the items?

Q It says here, "During the initial search of the room a dark in color gym bag was discovered. After discovery of the bag Mr. Fuller stated that he wanted the investigating officers to obtain a search warrant"?

A Now I understand. So the question is?

Q Okay. Did they tell you that or were you there when that actually took place?

A They told me that.

Q They told you that?

A Yes.

Q So exactly which officer told you that?

A That would have been probably a combination of both.

Q Who?

A Both Strait and Doherty.

Q Strait and Doherty?

A Correct.

Q Told you that after the bag was found that's when I said they need a warrant?

A You are asking me when---initially Mr. Fuller by way of verbal consent allowed the investigating officers to search his room. And Mr. Fuller stated that a white BMW parked in the parking lot 230 Greystone Boulevard bearing the VIN number was in fact the vehicle that he had recently purchased. Then they, when asked permission to search the vehicle, Mr. Fuller gave verbal consent. They expressed to me that you had given verbal consent to both search the room initially and to search the car. They told me that.

Q Okay.

A Yeah.

Q All right. But I'm asking you, did they tell you here that after they opened the bag I asked them

to obtain a search warrant; that's what I asked them?

A During the initial search of the room a dark in color gym bag was discovered with a large amount of cash located inside. I do not remember a conversation as to when or where you decide or you determined you needed a search warrant.

Q Okay. So what actually gave you the probable cause to obtain that search warrant? Is there items that they found or is it something you already had before they arrested me?

A What gave law enforcement probable cause for the search warrants?

Q No, what gave you the authority to actually go obtain the warrant? What gave you probable cause? Was it items they found in that search, the initial search, that they made of my room?

A Well, in this case of search warrant, I'm presenting what I know to a magistrate judge, who then makes the determination that probable cause has been search.

Q All right. But in the search warrant you said you were looking for certain items, that items that you said you were expecting to find, had they already been found in the initial search or did you know by some other means that you may find those items?

A Well, clearly I was told that there was a gym bag full of cash.

Q Okay. But the others items that you said you were looking for, GPS, walkie talkies, were those things that some eye witness said they saw or were those things that you just found in my room?

A I don't remember mentioning that in the affidavit where they mention GPS or walkie talkies in the affidavit.

Q Well, description of property. Any and all items related to the bank robbery to include but not limited to: Gray long sleeve shirt, dark in color gloves, dark in color motorcycle helmet, dark in color gym bag, GPS mapping devise to include any computers, walkie talkies, consistent with two way communication, and any and all documents deemed to be related to the robbery. Is that not part of your search warrant?

A That is. That's a description of property sought.

Q So what I'm asking you is these items that you were trying or that you were expecting to find, exactly what was the reason you expected to find them?

A These items here that we're looking for or that

was put on here for searching for, would have been things related to me either by York County Sheriff's Office or the FBI.

Q So they didn't inform you that the things that they had already found? When you drew this up, they didn't get with you and let you know what they had already saw or found in the room in the bags?

A I don't recall. Honestly I don't recall.

Q Okay.

A I know I remember hearing a bag of money. That they found a gym bag with cash in it.

Q So walkie talkies is consistent to two way communication. That's just something that you assumed would be involved in the bank robbery? You weren't aware that they actually found those in my room?

A I was unaware that they had found those in your room. Now are you asking me had they mentioned it to me that these were things we could be looking for? Yes, clearly they would. I would not have just, you know, off the top of my head put in things like that.

Q Okay.

A Maybe clothing perhaps in a discussion with them, but, no, these were things we talked about.

Q So you had no idea of the things they had

already found?

A I have no idea what they found.

Q So when you drew this up, you drew it up on your own knowledge of what you should search for in a bank robbery?

A No, sir, that's not what I said. What I said was, this is after a discussion with York County Sheriff's Office and the FBI.

Q So it was after discussion with them?

A Yes.

Q Okay. So you did draw your warrant up based on the things that they told you?

A Yes. Through the discussion, yes.

Q Because it was actually the FBI who were doing the investigation, right?

A I was not interested in jurisdiction at that point. We were dealing --

Q So you were totally unaware of any bank robberies going on, is that correct?

A No, I was told there was a bank robbery, that you were a bank robbery suspect.

Q Okay. But actually Doherty was the investigator on that?

A Sorry?

Q Doherty was the one doing the investigation?

A I was unaware of who was the lead investigator at all.

Q But they contacted you because you were in Richland County; you were the one authorized to get a search warrant for that jurisdiction?

A That's correct.

Q Correct?

A That's correct.

Q So you didn't seek their advice on the things that you should put in the search warrant?

A Yes, we discussed it.

Q So they did tell you the things that you should put in there?

A They didn't tell me what to put in there. We discussed this.

Q You discussed it. In your discussion what did they say?

A That they would be looking for things of this nature. Things that are listed in the description of the property to be sought.

Q So you didn't come up with these items on your own knowledge?

A Right. I already said that. I said it came by a discussion.

Q Okay. Based on the things that they already

found?

A That I don't know.

Q You don't know, but you do understand that they had already been to my room and arrested me?

~~A I was not aware of that at all.~~

Q Okay. But exactly what time was this, do you remember?

A It was early in the morning. Dark, early in the morning. I don't want to shoot from the hip. I know it was --

Q Three -- three o'clock a.m.?

A I don't think it was quite that late.

Q Okay. All right. No further questions.

The Court: Redirect?

Mr. Springs: Nothing further. Your Honor, when FBI Doherty came off the stand as the last witness he absent mindedly sat here through about half of Investigator's Clark testimony. They testified about totally different things. It was an innocent error but he's out now and I just wanted to make the court aware we had a little sequestration blip.

The Court: Who?

Mr. Springs: Agent Doherty, the FBI agent. He got off the stand --

The Court: I understand, okay.

Mr. Springs: Okay. Thank you,
Investigator.

The Court: You can step down. Thank you.

Mr. Springs: Go ahead and leave the one
with the evidence sticker there if you would please.
Would you ask Sergeant McDaniels to come in please.

Walter McDaniels, being first
duly sworn, testified as follows:

Q Tell us all your name, sir?

A My name is Sergeant Walter Shaun McDaniels.

Q And are you a detective or an investigator with
the Richland County Sheriff's Department Sheriff's
Office?

A Yes, I am.

Q And were you contacted by some officers about
seeking a search warrant for a public storage
facility?

A Yes, I was.

Q And did these officers who contacted you tell
you some things about what they had, what they were
dealing with, and why they needed a search warrant
for that public storage facility?

A Yes, they did.

Q And after you got that information from those

officers, did they also share with you an earlier search warrant for a hotel room?

A That is correct.

Q Okay. And after you got that information from those officers and they shared with you the fact that they had gotten an earlier search warrant and actually showed it to you, did you prepare a search warrant for the public storage facility recently rented to Jermaine Fuller?

A That is also correct, yes, sir.

Q And did you go to a magistrate judge and take an oath to tell the truth to the magistrate judge about this?

A That is true, yes, sir.

Q And did you tell the magistrate judge what you had and why you were seeking a warrant for the public storage facility?

A Yes, I did.

Q And did the magistrate judge, after hearing what you had to say, see fit to give you a warrant by finding probable cause?

A Yes.

Q All right. I'm showing you a copy of the warrant. Well, I'm showing you State's exhibit two. First of all, tell us all if that appears to be a

copy of the search warrant that you took to the magistrate judge seeking a lawful search of the public storage building?

A Yes, it is.

Q All right. Now I'm going to ask you to read the basis for the probable cause, but to save a little time I'm going to ask you frankly, did you incorporate the earlier search warrant's first page into yours word for word?

A That is correct.

Q Then did you continue on with your, with additional information on a second page? I'll take that other search warrant back.

A That is correct.

Q So we've heard it. It's been recorded what that first page is. If you'd pick it up with the additional information you had to the magistrate on the second page, sir, tell the court?

A When asked for permission to search the vehicle, Mr. Fuller gave verbal consent. During the initial search of the room a dark in color gym bag was discovered with a large amount of cash located inside. After the discovery of the bag, Mr. Fuller then stated that he wanted the investigating officers to obtain a search warrant.

The original incident location of the robbery is located in the rural part of York County. A search warrant for room number

was

~~obtained and executed during the early morning hours~~ of December 6, 2008.

During the execution of that search warrant documentation was recovered corroborating the fact that Mr. Fuller is currently renting a 5 by 15 storage located at in Columbia, South Carolina, . It has been listed, he has been listed as a renter of the storage unit in question since December 4, 2008.

Mr. Fuller rented the storage area hours after the robbery and approximately 30 minutes prior to the u-haul.

Q Let me stop you there. 30 minutes prior to the u-haul, did you mean to say 30 minutes after the u-haul was turned in?

A Yes, sir. Actually the, he rented the storage area out hours after the robbery on the day of the robbery and approximately 30 minutes prior to the u-haul being turned in.

Q Okay.

A Being returned.

Q Did the magistrate hear it the way you are it's typed or did fill in after the u-haul was returned?

A Subsequently speaking, we actually fill in as well as go over the narrative of the.

Q Okay.

A Search warrant.

Q All right. If you continue and wrap it up with that last sentence?

A The evidence sought is needed to further the investigation currently being conducted by the York County Sheriff's Department in conjunction with the Federal Bureau of Investigations.

Q Okay. And when did the magistrate judge issue this search warrant to you, what day?

A That was on December 6 of 2008.

Q All right. And the return which shows what was seized, what item was seized in the search?

A One Suzuki G 5X 1300 R motorcycle.

Q You don't need to give the serial number and then the return for this search warrant when was it made, what date?

A The seventh, December 7.

Q The next day?

A Yes, sir.

Q Okay. Thank you, sir. If you'd answer any

questions that Mr. Fuller has.

A Sure.

The Court: Cross.

Cross examination by Mr. Fuller:

~~Q Officer McDaniels, were you at my arrest?~~

A No, sir, I was not.

Q Okay. So you only obtained the search warrant for public storage?

A That is correct, yes, sir.

Q So the items that you were seeking you were notified by which officer?

A I was informed by Detective Strain or I don't remember, I always mispronounce his name, and a number of the Federal Bureau Investigations, Doherty.

Q Okay. About what time did they contact you to get this warrant?

A Initially I was made aware of it the early hours of December 6.

Q Okay. So you were basically unaware of the surrounding situation, they just contact you because you were in jurisdiction?

A That is correct.

Q Okay. No further questions.

The Court: All right.

Mr. Springs: Nothing further. If you'll just lay the one with red sticker down on the table there. Thank you very much. If you'll just wait outside for just a minute.

A Sure.

Mr. Springs: Your Honor, we covered the defendant's spontaneous utterance and what he said after Miranda and we covered the two search warrants. I think that pretty much covers where we were with Mr. Fuller's motion.

Mr. Fuller: That wasn't really covered because there were other officers present at my arrest. There were actually 11 officers. Now I was trusting because this was done --

The Court: Let me stop you right here. We're going to stop for day in just a minute and start back. I'm not going to make any ruling this afternoon but the State doesn't have to call every witness that was there. The State just has to call the witness they believe and it's up for me to determine are sufficient.

Mr. Fuller: Yes, sir.

The Court: To establish their probable cause and the other issues, the Miranda and all those, they are not required to call everybody that

was there.

Now you have a right to call witnesses if you wish and you have a right to testify on this issue. Of course, you have a right to remain silent, so you do not need to testify at any time. Generally when you testify or give statements, those statements can be used against you in a trial. However, if you testify solely on these issues, even though it will be under oath, they would be only for the purposes of this motion.

Mr. Fuller: Yes, Your Honor.

The Court: So you do have a right to testify and you have a right to remain silent and so, but you can call witnesses and we'll start back at ten in the morning. If you wish to call witnesses you can call them and/or you can testify.

Mr. Fuller: The only thing, Your Honor --

Mr. Springs: Let me --

Mr. Fuller: I was under the impression that all the officers present at the arrest would be here, that's because Mr. Springs, he replied me saying that SLED agents, everybody would be present and I was trusting that.

Mr. Springs: Let me jump in. That's our showing on these things. Mr. Fuller has asked that

the SLED agents be here, they are in the hall, there are three SLED agents in hall that come up from Columbia, and they were brought just because he wanted them here on this issue. They are here.

The Court: The SLED agents are here but we have got to stop for the day because I got another court that I have to start in 30 minutes, so I don't think we can finish it. We'll start back at ten in morning and if you'll have those SLED agents available, Mr. Springs.

Mr. Springs: Yes, sir.

The Court: And you can call any or all of them and I talked to you about what you can do as far as your own testimony, and of course you got Mr. Collins as stand by counsel who will be glad to discuss procedurally those matters with you.

Mr. Collins: Could I move the court to ask the Solicitor's Office to provide me with my own copy of discovery so I can take it home and look at it.

Mr. Springs: That is incredibly burdensome. I've given Mr. Fuller everything. I'd be here until late tonight. That would be incredibly burdensome. I will strenuously object to that. Mr. Fuller has been given every scratch of paper.

Mr. Collins: At least summaries, the main things?

The Court: Obviously you got copies of the search warrant. You can have my two if you bring them back.

Mr. Fuller: I have extra copies of pretty much everything in my cell if I can be allowed to go and hand them to someone and he hand them to him.

The Court: Mr. Collins, this building wasn't here when I practiced law, so I don't know what, how all that is handled, but it would seem to me that you could pick them up and you can get them to the appropriate place in the detention center and you can pick them up. Is that a possibility, does anybody know?

Ms. Miller: I'll work on that.

The Court: Ms. Miller will help you arrange for that. Make sure you bring these people back.

Mr. Collins: Yes, Your Honor.

The Court: And I have not written any notes on them so. All right. We'll be at ease until ten in the morning.

(Court's in recess at 05:29 PM.)

(Court resumes on November 17, 2009 at

10:09 AM.)

The Court: State ready to proceed?

Mr. Springs: We are ready, Your Honor.

The Court: Mr. Fuller, you ready to proceed?

Mr. Fuller: Your Honor, after given it some long, prayerful consideration to the situation my conscious cannot allow me to go any further. I'm going to plead guilty.

The Court: Did you get together with Mr. Springs and make sure we get the paperwork done.

Mr. Springs: The clerk has it.

The Court: The clerk has it. All right. Come on around and.

Mr. Springs: May I seek speak while Mr. Fuller is signing his documents.

The Court: Yes, sir.

Mr. Springs: Your Honor, I want to put on the record while Mr. Fuller has been pro se, I have scrupulously provided him discovery and provided him, answered all his questions that he had of me about evidence and let him know that any witnesses he wanted subpoenaed to court I would compel to come to court. He gave me some witness names, I did compel

these people to come, and just want to put on record I provided him all the discovery, shown him evidence, shown him pictures/videos that we were going to use in this trial and compel witnesses to come attend court pursuant to his right to have subpoenaed brought into court. I just wanted to put that on the record.

Mr. Fuller: I'd just like to apologize for the confusion I caused yesterday.

The Court: Mr. Fuller, I do this for a living. You have every right to do what you did as far as the trial. I'm never going to fault anybody for exercising their constitutional rights and exercising their options, so don't, you owe me no apology, for that anyway.

Mr. Fuller: Maybe to the ladies sitting back there, I want to apologize to them too.

The Court: I'll give you a chance at a certain point to make statements, to hear from, I believe this might be your mother, and I'll hear from the victim at some point, so we'll have an opportunity to do that. Mr. Springs.

Mr. Springs: Your Honor, the charges we're dealing with here are armed robbery, entering a bank with intent to steal, conspiracy with an

accomplice named Calvin Settles, and possession of a firearm during the violent crime of armed robbery. Mr. Fuller is pleading guilty straight up with one caveat, I would ask the court to not run any sentences consecutive, but run whatever sentence you deem fit to be concurrent all together.

The Court: All right. Mr. Fuller, how old are you?

Mr. Fuller: 27.

The Court: All right. How far did you go in school?

Mr. Fuller: 12th grade. I went to the tenth grade through public high school and I completed the rest of my GED through home schooling.

The Court: All right. We have, myself and Judge Alford, have gone through extensively your right to have an attorney and I found and Judge Alford found by your conduct waived your right to an attorney, so we called the case and you are appearing pro se and I appointed Mr. Harry Collins who is present to be stand by counsel. Are you satisfied with the way Mr. Collins has assisted you in the last 24 hours?

Mr. Fuller: Yes, Your Honor.

The Court: Okay. You are charged with

these four offenses, all of which are alleged to have occurred on December 4, 2008. It's alleged that on that date you did enter a bank with intent to steal. That alleges that on that date that you entered a bank, that being First Citizens Bank branch in

Sharon, South Carolina, that you entered it with the intent to steal money or securities either by force, intimidation, threats, and while therein you robbed the tellers at gunpoint and took money that belonged to First Citizens Bank.

You are also charged with criminal conspiracy. It's alleged that on that same date, December 4, 2008, you did knowingly and feloniously and willfully unite, combine, and conspire and confederate with Kevin Sheron Settles for the purposes of committing the crime of armed robbery. Do you understand that?

Mr. Fuller: Yes, Your Honor.

The Court: You are also charged with on that date while committing the crime of armed robbery which I'll go over in just a minute have in your possession a firearm in violation of the law of this State. Do you understand that?

Mr. Fuller: Yes, sir.

The Court: The last indictment is that

for armed robbery. It's alleged that on or about December 4, 2008, while armed with a deadly weapon, that being a handgun, that you did feloniously take, carry away personal property belonging to the First Citizens Bank in the presence of Patricia Kelly and/or Charlene Farr who are employees of the bank at that time. That you did this by means of force or intimidation and that you took from them in fear goods and moneys of First Citizens Bank and this is alleged to have occurred in Sharon, South Carolina.

Armed robbery is a felony. It carries from 10 to 30 years in jail. It is a violent offense. A violent offense is the type of offense that carries with it certain restrictions; that is, there are programs in the South Carolina Department of Corrections that certain individuals or certain inmates are entitled to participate in and violent offenders are not entitled to participate in.

This is a most serious offense. A most serious offense is the type of offense which if in your lifetime you receive two most serious or a combination of three serious and most serious offenses you'll be subject to being incarcerated for life without parole, that is, a true life sentence.

This is also a no-parole offense.

That means that whatever sentence you receive you would have to serve at least 85 percent of that sentence before you'll eligible for any early release. If you were granted early release you'll be released into a community supervision program with certain conditions. If while you were on that, in that community supervision program that could be for up to two years. If you violated your probation -- I'm sorry. If you violated the community supervision program you could be re-incarcerated for up to a year and that pattern can continue. If you were re-incarcerated, serve some more time, and were re-released, you would be back into the community supervision program. If you reoffended you can be put back in up to the total amount of time to which you were sentenced. You understand all that?

Mr. Fuller: Yes, sir.

The Court: Armed robbery does not allow for any suspended sentence or probation. Do you understand that?

Mr. Fuller: Yes.

The Court: Criminal conspiracy is also a felony. It carries up to five years in jail. Possession of a weapon during the commission of a crime is also a felony and carries up to five years

in jail. And entering a bank with intent to steal carries up to 30 years in jail.

Mr. Springs: It is serious because it carries 30 years.

The Court: Okay. And it is a serious offense. I told you a serious offense. Is it a violent offense?

Mr. Springs: It is not.

The Court: How about parole ineligibility?

Mr. Springs: It is no parole.

The Court: It is also a no parole offense. And it is a serious offense. Again meaning the same thing I talked to you a moment ago. If you received two most serious or a combination of three serious and most serious convictions in your lifetime you would be eligible to be or you could be incarcerated for life without parole, that is, a true life sentence. Do you understand all that?

Mr. Fuller: Yes, Your Honor.

The Court: Knowing all those things how do you plead to armed robbery?

Mr. Fuller: Not guilty.

The Court: I beg your pardon?

Mr. Fuller: Not guilty.

The Court: Not guilty?

Mr. Fuller: I mean guilty. I'm sorry.

Guilty.

The Court: Which one?

~~Mr. Fuller: Guilty.~~

The Court: How do you plead to possession of a firearm during the commission of a violent crime?

Mr. Fuller: Guilty.

The Court: How do you plead to criminal conspiracy?

Mr. Fuller: Guilty.

The Court: How do you plead to entering a bank with intent to steal?

Mr. Fuller: Guilty.

The Court: Other than the fact that the solicitor is recommending that whatever sentences you receive run rather than consecutive concurrent, has anybody made any promises or threats today to cause you to enter your pleas of guilt to these four charges?

Mr. Fuller: No, Your Honor.

The Court: Are you today under the influence of anything that would cause you to be intoxicated?

Mr. Fuller: No.

The Court: Are you entering your pleas today to these four charges freely and voluntarily?

Mr. Fuller: Yes, sir.

The Court: Have you ever been treated for any mental or emotional disabilities?

Mr. Fuller: No.

The Court: You have a right, Mr. Fuller, to a trial by jury on these charge. In fact, you have started the trial process and heard motions that you have entered yesterday afternoon. But you do have a right to go forward with the trial and be tried by a jury. The jury verdict would have to be unanimous. The jury could only convict you if they were convinced of your guilt beyond a reasonable doubt. You are presumed innocent of this charge, these charges, and you would need not prove your innocence. The State would have to prove your guilt beyond a reasonable doubt.

As to these charges you have the right to remain silent; that is, you would not have to testify or give any statements concerning this and you cannot be compelled to give any statement or testify in regard to these charges.

You have the right to confront the

witnesses against you; to see, hear, question, and cross examine those witness who since you are representing yourself, you would have the right to personally do all of that. But you also have the right to have your witnesses compelled to come to court to testify for you. Do you understand all of that?

Mr. Fuller: Yes.

The Court: So you understand you have a right to a jury trial and you are presumed innocent. That you have the right to remain silent, the right to confront witnesses against you, and the right to have your witnesses come to court. You understand all that?

Mr. Fuller: Yes, sir.

The Court: I advise you that when you enter a plea of guilt to a charge that you are giving up these rights and you are also giving up any defense you might have to the charge, do you understand that?

Mr. Fuller: Yes.

The Court: Knowing all those things I ask again, how do you plead to entering a bank with intent to steal?

Mr. Fuller: Guilty.

The Court: How do you plead to armed robbery?

Mr. Fuller: Guilty.

The Court: How do you plead to criminal conspiracy?

Mr. Fuller: Guilty.

The Court: How do you plead to possession of firearm during the commission of a violent crime?

Mr. Fuller: Guilty.

The Court: I'm going to ask the Solicitor at this time to give me the facts, though I've heard some of them.

Mr. Springs: Yes, Your Honor. May it please the court. Your Honor, on the afternoon of December the third 2008, Mr. Fuller went to a u-haul truck rental facility in Columbia and he rented a u-haul box truck. This type truck we are all used to seeing out on the road such as is used in moving furniture. The next day December 4, 2008, the next morning, he and Kelvin Settles drove that u-haul truck up here to York County, parked it out on a country road near Sharon, parked it out on Locust Hill Road and out on Locust Hill Road they unloaded a motorcycle. Mr. Fuller put on a motorcycle helmet with a dark face shield, rode the motorcycle to the

First Citizens Bank branch in Sharon down the road from where u-haul truck was parked, entered the bank armed with an automatic pistol. Once he got into the bank, and I'm handing to the court a few pictures of Mr. Fuller entering the bank. Once in the bank he

vaulted up on Mrs. Yvonne Miskelley's teller counter. Once up on the counter, demanded money at gunpoint from Mrs. Yvonne Miskelly and the teller next to her Charlene Pharr, gave them bags to start putting the money in, then he went through the drive thru station which was around the hallway from that teller station. The drive thru teller was Mrs. Patricia Miskelly. At gun point he robbed her of the money she had there in her teller drawer and he demanded to know who had access to the vault. He wanted to get the money from the vault. Mrs. Patricia Miskelly did have a key and access. At gun point he had her go in and get cash money out of the vault. Then he left the bank having stolen \$73,000 and some change from the bank, got on a motorcycle which he had waiting outside, and drove away. Drove back up to where the u-haul truck was waiting, loaded the motorcycle in the back of the u-haul truck and then he and Kelvin Settles drove back to Columbia with police sirens all over the area looking for a motorcycle.

Once he got back to Columbia, he rented a public storage rental facility, put the motorcycle in it, and then he took the u-haul truck back and turned the truck back in and went to Homewood Suites hotel. He had a room there.

A lady at the time of the robbery saw the u-haul truck sitting out on Locust Hill Road, Mrs. Carol Thomas. Mrs. Thomas thought the truck looked very odd. It did look quite odd, Your Honor. Let me get a photo of it. Mrs. Carol Thomas thought it was so usual and so suspicious that she took a picture of the parked truck with her digital camera and as she was getting ready to take the picture, let me back up. She saw the truck. She was driving along. She left her driveway on Locust Hill Road and thought the truck looked suspicious, went down the road. She was so bothered by it she turned around and came back, and as she came back toward the u-haul truck she was passed by a motorcycle going quickly in the opposite direction which would have been Mr. Fuller on his way to the bank. As she headed back towards the u-haul truck she took a picture of it and as she got close to the truck she took another picture of it and those photographs included the identifying truck number on the side of the u-haul

truck. When she heard the bank was robbed and she heard shortly thereafter within an hour, she immediately called the police, give them those pictures; The police put two and two together, particularly when she said she saw the motorcycle in

the area and after the robbery she heard the sound of the motorcycle after she had seen the truck and gone back into her own driveway.

They ran the number on the truck, checked it with u-haul, they got Mr. Fuller's name, and eventually located Mr. Fuller registered at the Homewood Suites Hotel. They went to the hotel room and found him there. Found him to be in possession of \$51,886 cash money in a bag there in the motel room. As you'll see from the restitution sheet we've offered to the court, there was still \$20,000-something missing from what was stolen from the bank. Found that money, gave him his Miranda rights, they had some conversation. Got a search warrant to search the room, found other suspicious things, and these charges followed. Mr. Kelvin Settles has pled guilty on an earlier occasion and his case is closed.

Mr. Fuller's prior record is an assault and battery of a high and aggravated nature from a few

years ago and two public disorderly conducts from the early 2000s.

The Court: You agree with those facts, Mr. Fuller? To the extent that, I'm not going to ask you if you agree with all of it because you don't know this lady, you related certain things that a third party did that you are not aware, but do you admit that you were involved in the robbery.

Mr. Fuller: Yes.

The Court: All right. I find that, I accept your plea. I find that it is freely, voluntarily, knowingly, and intelligently entered. It's entered with your having by conduct waived your right to counsel and proceed pro se. The facts support your plea. You've signed pleas of guilt on the sentencing sheets and on the indictments, so I accept your pleas. Now I'm going to hear from any of the victims who wish to speak and then I'll hear from you and anyone on your behalf and again Mr. Collins is your, before I do that. How many days have you served already?

Mr. Fuller: 300.

The Court: 309?

Mr. Fuller: No, I want to say 345.

December 20 when is when I came in.

The Court: You understand --

Mr. Springs: He was in custody from
December 5.

The Court: I can't do that kind of math
~~that quick. You are also going to be required to pay~~
back over \$23,000 to the bank. You understand that?

Mr. Fuller: Okay.

The Court: Let me hear from the victims
if any wish to speak.

Mr. Springs: As I related the factual
foundation I neglected to add that Marie Sanders, the
bank manager, was there at the time and witnessed
this and went through the same ordeal, she's here and
she's very nervous. The drive thru teller
Mrs. Patricia Miskelly. They are both nervous as can
be. Do either of you ladies want to speak? You
don't have to. They are too nervous, Your Honor.
Mrs. Charlene Pharr and Mrs. Yvonne Miskelly they are
manning the bank so they would have come testified on
a staggered basis. They are not here. Mrs. Yvonne
Miskelly wanted me to relate to you that she was the
teller that was standing there at the station where
Mr. Fuller jumped up on the counter. This has really
upset her. She had to do some counseling. It has
really haunted her to this day. It bothers all of

the ladies even now after almost a year. They wanted me to let you know that.

The Court: All right. Mr. Fuller, before I hear from you, I'll be glad to hear from your mom, but you understand that all of these constitutional questions that you raised yesterday, all these search and seizure and Miranda, that by pleading guilty you are waiving, you are giving up all of those challenges to your arrest, to the search, to any statements.

Mr. Fuller: Yes.

The Court: Okay.. All right. Yes, ma'am your name.

Mrs. Fuller: I'm Blandina Fuller.

The Court: And your his mother.

Mrs. Fuller: Yes, Your Honor.

The Court: Tell me what you want to tell me.

Mrs. Fuller: Your Honor, first of all I want to say it was so shocking for me to hear of such news to be honest with you I just could not believe that this would be my son because all the years he was at home he never stole, not one thing. My husband and I have never even been suspicious of him taking anything that did not belong to him. But

however, judge, when he came here, you gave him a, he had a bond hearing back in I guess it was January and the amount was so high that we were not able to get him out and that was the best thing, judge, because German's time here, he's, he has really made

tremendous changes. He's not the same person that came here. He's really not. Judge, you know by the motions he's made that it's possible that he could have been walking out the door very soon. But because he wanted to do what was right, he wanted to have this clear once and for all, so I just beg you to please extend mercy, please. Thank you.

(Mr. Fuller hugs his mother.)

The Court: All right. Mr. Fuller, anything you want to say?

Mr. Collins: Can I say something?

The Court: Yes, Mr. Collins.

Mr. Collins: I understand my position is that of only stand by counsel. In the brief time I've been knowing Mr. Fuller and I've been able to talk to him, we discussed mainly the case because short order like that I had to focus on the case. Just going over his motions briefly, as briefly as I did, I did see as opposed to the normal pro se motion, there were some validity in there, not

necessarily that we're going to carry the day, but certainly that would, you know, be food for thought to whoever the trier of that issue was. I discussed that with him and I discussed the opportunity that he could have a way of preserving those motions by proceeding in a different manner than what he's doing now. And that there was a possibility at some point in the future that someone might agree with him in a different courtroom that he was right about the Miranda or the search warrant or the consent, although the issues that even though you think know just how the law is, you pick up an opinion and it turns someone else says, no, you were wrong, it's this way now. But throughout all of that and I went and spoke to him at the jail last night and I had a long talk with him down there too and the bottom line is he was not focused like most defendants are, like, okay, how can I get out of this. Can I do this? Can I do that? What can you do to get me out of this? From the first time I talked to him his point was he wanted to do what he felt was right with his conscious and sometimes I say that and I wonder what they mean by that and he said he's been in jail a long time, he said he wanted to do what was right, follow his conscious, and not put anybody else

through anything else. All I can say, only knowing that about him, I would just ask the court to take, that is a reason that a lot of courts will give for mitigating the sentence downwards and I would ask the court to consider that in imposing sentence on Mr. Fuller.

Mr. Fuller: Thank you.

The Court: And Mr. Fuller, I hate to keep interrupting, but they had an outstanding warrant for assault and battery of a high and aggravated nature out of McCormick, is that still pending?

Mr. Fuller: Yes, sir.

The Court: And you were on probation for what?

Mr. Fuller: Reckless driving.

The Court: Okay. All right. I'll be glad now to hear from you. Anything you want to say?

Mr. Fuller: I just want to make apology to all the ladies in the bank. I don't know who's who. Patricia Miskelly.

Ms. Miskelly: I was the drive thru teller that you held the gun to.

Mr. Fuller: I'm sorry. Marie Sanders. I'm sorry. Yvonne, Charlene Pharr.

The Court: She's with the --

Ms. McDaniels: I work with Mr. Springs.

Mr. Fuller: Oh, okay.

The Court: All right. The sentence on all of these are to run concurrent and I'll run them concurrent to any outstanding sentence that you have for reckless driving, give you credit for your 345 days that you've already served. You are to make restitution of \$23,316.95 to First Citizens Bank. Excuse me one second. The sentence on the armed robbery is 25 years. The sentence on entering the bank is 25 years. The sentence on criminal conspiracy is five years. Possession of firearm during the commission of a violent crime is five years. Again those are all to run concurrent and you owe that restitution. You understand all that?

Mr. Fuller: Yes, Your Honor.

The Court: Mr. Fuller, you would have ten days to file an appeal if you believe I have committed any error in the way I handled the accepting of your plea. You understand that?

Mr. Fuller: Yes, sir.

The Court: Thank you all.

Mr. Collins: Thank you, Your Honor.

(Court's in recess at 10:37 AM.)

I, Janet Rich, official court reporter for the
Sixteenth Circuit of the State of South Carolina, do
hereby certify that the forgoing is a true, accurate,
and complete transcript of record of all the

proceedings had and evidence introduced in the trial
of the captioned case, relative to appeal, in the
court of general sessions for York County, South
Carolina, on the day of November 2009.

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



Janet M. Rich

DOCKET NO. 2009-GS-45-03663

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

YCSO / Strait

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

September 17, Term 2009

I hereby appear in my own proper person and plea guilty to the within indictment or to

adm

ARREST WARRANT NUMBER

Direct Indictment Re:
J-153604

THE STATE

Defendant

vs.

Witness:
Christa Berfield Ct Spec.
C.C.C. PLS AND G.S.

ACTION OF GRAND JURY

JERMAINE TYRONE FULLER

TRUE BILL

Indictment for

ENTERING A BANK WITH INTENT TO STEAL

SC Code: 16-11-380
CDR Code: 0257

Foreperson of Grand Jury
Date: 9/17/09

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on September 17, 2009, the Grand Jurors of York County present upon their oath:

ENTERING A BANK WITH INTENT TO STEAL

The Defendant, Jermaine Tyrone Fuller, did in York County, South Carolina, on or about December 4, 2008, did unlawfully enter a building occupied as a bank, depository, or building and loan association with the intent to steal money or securities for money, either by force, intimidation, or threats, in that the Defendant did enter the First Citizens Bank branch located in Sharon, South Carolina and robbed the tellers at gunpoint of monies belonging to First Citizen Bank. All in violation of Section 16-11-380, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAVID HAMILTON
 CLERK OF COURT

2010 APR 16 AM 10:55

CERTIFIED TRUE COPY

E. B. Sprague IV
 ASSISTANT SOLICITOR

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

112

WITNESSES

CSO: Yeager

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

April 23, Term 2009

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

153610

THE STATE

Defendant

vs.

Witness:
Christa Benfield Ct Spec.
C.C.C. PLS AND G.S.

ACTION OF GRAND JURY

JERMAINE TYRONE FULLER

TRUE BILL

Representative of Grand Jury
Date: 4/23/09

Representative of Petit Jury
Date:

Indictment for

POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-490
CDR Code: 549

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on April 23, 2009, the Grand Jurors of York County present upon their oath:

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

The Defendant, Jermaine Tyrone Fuller, did in York County on or about December 4, 2008, while committing the crime of Armed Robbery, a crime of violence, have in his possession a firearm, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

certified true copy
2010 APR 16 AM 10:55
YORK COUNTY
CLERK OF COURT
The peace and dignity of the State, and contrary to the statute in such
case made and provided.

Bhuil
DEPUTY SOLICITOR

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:

Christie Benfield Ct Spec.
C.C.C. PLS AND G.S.

DOCKET NO. 2009-GS-46-01682

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

April 23, Term 2009

THE STATE

VS.

JERMAINE TYRONE FULLER

Indictment for
CRIMINAL CONSPIRACY

SC Code: 16-17-410
CDR Code: 049

WITNESSES

YSC / Yeager

SS:

ARREST WARRANT NUMBER

J-153612

ACTION OF GRAND JURY

TRUE BILL

J. D. Miller
Foreperson of Grand Jury

Date: 4/23/09

VERDICT

Foreperson of Petit Jury
Date:

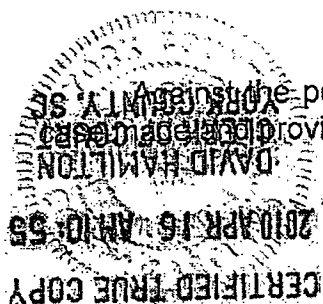
STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on April 23, 2009, the Grand Jurors of York County present upon their oath:

CRIMINAL CONSPIRACY

The Defendant, Jermaine Tyrone Fuller, did in York County, South Carolina, on or about December 4, 2008, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have tacit understanding with Kelvin Sheron Settles, for the purpose of committing the crime of Armed Robbery. All in violation of Section 16-17-410, Code of Laws of South Carolina, (1976, as amended).



Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

Bhul
DEPUTY SOLICITOR

WITNESSES

YCSD/Strait

SS

ARREST WARRANT NUMBER

J-153604

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 4/23/09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-46-01679

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

April 23, Term 2009

THE STATE

vs.

JERMAINE TYRONE FULLER

Indictment for

ARMED ROBBERY

SC Code: 16-11-0330

CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

Christie Benfield Ct Spec.
C.C.C. PLS AND C.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on April 23, 2009, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The Defendant, Jermaine Tyrone Fuller, did in York County, South Carolina, on or about December 4, 2008, while armed with a deadly weapon, to wit: a hand gun, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take and carry away personal property belonging to First Citizens Bank from the person of or in the presence of Patricia Miskelly and/or Charlene Pharr, employees of First Citizen Bank. The Defendant, by means of force or intimidation, put Patricia Miskelly and/or Charlene Pharr in fear and took goods or monies of said First Citizens Bank, located at 4028 Woodlawn Street, Sharon, SC, such goods or monies being described as follows: US Currency. All in violation of §16-11-330, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



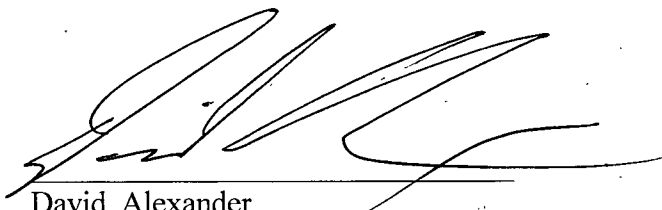
DEPUTY SOLICITOR

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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."

July 25th, 2013

A handwritten signature in black ink, appearing to read 'David Alexander', is written over a horizontal line.

David Alexander
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

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from York County

John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JERMAINE T. FULLER,

RECEIVED

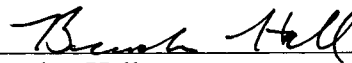
APPELLANT JUL 25 2013

APPELLATE CASE NO. 2009-147686

SC Court of Appeals

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 25th day of July, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 25th day of July, 2013.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.