

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CLARENDON COUNTY

William Jeffrey Young, Circuit Court Judge

RECEIVED
AUG 11 2014
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

ANDREW L. BLACKMON,

APPELLANT

APPELLATE CASE NO. 2013-002440

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

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

Attorneys for Respondent

INDEX

INDEXi

GUILTY PLEA HEARING TRANSCRIPT (NOVEMBER 5, 2013)1

COLLOQUY BY THE COURT3

SENTENCING13

INDICTMENT15

CERTIFICATE OF COUNSEL.....17

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

COURT OF GENERAL SESSIONS

Andrew L. Blackmon,)
)
PLAINTIFF,)
)
v.)
)
The State of South Carolina,)
)
DEFENDANT.)
_____)

TRANSCRIPT OF HEARING
C/A #: 2013-GS-14-00070

CLARENDON COUNTY COURTHOUSE
November 5, 2013

BEFORE:

HONORABLE WILLIAM JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Chris Durant
Attorney for the State of South Carolina

King Cutter, Esquire
Attorney for Andrew L. Blackmon

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

	<u>PAGE</u>
Questions by The Court	3
Facts of the Case by Solicitor DuRant	6
Questions by The Court	8
Sentence by The Court	13
Certificate of Service	14

EXHIBITS

(There were no exhibits marked during this hearing)

Andrew L. Blackmon vs. The State of South Carolina 3

1 The Court: Mr. Cutter, I understand your client
2 wants to change his plea from not guilty to guilty?

3 Mr. Cutter: Yes, Your Honor.

4 The Court: All right. And you have had an
5 opportunity to go over all the charges contained in the
6 indictment, his constitutional rights and the
7 consequences of his pleading guilty, is that correct?

8 Mr. Cutter: Yes, sir.

9 The Court: And you think he has understood what you
10 told him?

11 Mr. Cutter: Yes, sir.

12 The Court: And you believe that he's making the
13 right decision?

14 Mr. Cutter: I do, Your Honor.

15 The Court: And based on your investigation of the
16 facts and the circumstances and everything that the State
17 has, you think if this case were to go to trial, there
18 would be a substantial likelihood that he'd be found
19 guilty beyond a reasonable doubt?

20 Mr. Cutter: Yes, Your Honor.

21 The Court: All right. Mr. Blackmon, I need to ask
22 you a series of questions to make sure you're entering
23 into this plea freely, voluntarily and knowingly and
24 intelligently.

25 Mr. Blackmon - Questions by The Court:

(Questions by The Court)

1 Q: The first question I have is, are you under the
2 influence of alcohol or drugs today?

3 A: No, sir.

4 Q: Are you taking any medication that would cloud your
5 judgment to make it so that you don't know what's
6 going on today?

7 A: No, sir.

8 Q: Are you aware of any physical, nervous or mental
9 condition that would keep you from understanding
10 what we're doing today?

11 A: I'm not quite sure. I got mental illnesses, but
12 they haven't diagnosed me with my mental illnesses
13 in this state, but I have been diagnosed in the
14 past.

15 Q: But you've had tests done in this state. So you're
16 not under -- claiming to be insane or not knowing
17 what's going on today, is that correct?

18 A: Not today, no.

19 Q: Okay. All right. And it's my understanding that
20 you want to plead guilty under Indictment 2013-GS-
21 14-070 which reads that, "In Clarendon County, South
22 Carolina on or about January 25th, 2013, the
23 defendant, Andrew Lee Blackmon, unlawfully did enter
24 a building or part of a building occupied as a bank,
25 depository or building and loan association with the

(Questions by The Court)

5

1 intent to steal money or securities for money either
2 by force, intimidation, threats all in violation of
3 Section 16-11-380(A) of the South Carolina Code of
4 Laws, 1976, as amended." Is what's stated in this
5 indictment the truth, sir?

6 A: Under mental illness.

7 Q: And we're not going into that. Do you want to go to
8 trial or do you -- I'm not going to force you one
9 way or the other, but do you want a trial or do you
10 want to plead guilty and is what's stated in this
11 indictment the truth?

12 A: No, sir.

13 The Court: Okay. All right. Please bring our jury
14 in.

15 Mr. Blackmon: But it's not true.

16 Mr. Cutter: Your Honor, can I get him to sign this?

17 The Court: Yes.

18 Mr. Cutter: All right.

19 (Off the record)

20 (Back on the record with Plea)

21 The Court: I understand there has been a change in
22 the posture of the case. Is that correct?

23 Mr. Durant: That's correct, Judge. I understand
24 from Mr. Cutter that his client now intends to plead
25 guilty to the negotiated fifteen (15) years.

(Mr. Durant states facts in case)

6

1 The Court: All right. Is that correct, Mr. Cutter?

2 Mr. Cutter: That's my understanding, yes sir.

3 The Court: Now, when we stopped a little while ago
4 we were at the point where I had read him the indictment
5 and Mr. Blackmon you said what was stated in the
6 indictment was not true. Is that not true that what is
7 stated in the indictment is the truth?

8 Mr. Blackmon: It is true.

9 The Court: What are the facts? I think I've heard
10 most of them.

11 Mr. Durant: You've heard most of them. There was a
12 bank robbery at the Bank of Clarendon, Your Honor, you've
13 seen the video footage from that event. That was on June
14 5th of this year. Of course, you heard from the teller
15 in that case, Christina Blanding, who had some knowledge
16 of Mr. Blackmon before this event. She identified him by
17 name along with other individuals at the bank as well.
18 Mr. Blackmon came to the teller and passed a note, I
19 don't know if Your Honor, has seen the note that was
20 passed here in Court ...

21 The Court: I have not.

22 Mr. Durant: I'll be glad to pass it up to you now
23 for your consideration.

24 (Counsel passes note to Your Honor)

25 Mr. Durant: You can see that there was threat

(Mr. Durant states facts/Questions by the Court)

7

1 involved. Mr. Blackmon through the note stated "Don't
2 make any moves, don't risk it I know you and your
3 family". Of course, Ms. Blanding did undergo some
4 counseling. She was clearly distraught. When I met with
5 her on Friday, it was not something she was looking
6 forward to. She was nervous and Mr. McInnis from the bank
7 said she was relieved to get it over with after this
8 morning. Judge, after the incident at the bank Mr.
9 Blackmon left and went to DSS here and I had the DSS
10 worker here prepared to testify that when Mr. Blackmon
11 came in DSS later that morning, changed clothes and gave
12 them a bag of clothes and ask them to give them to Good
13 Will. She said well we can't do that and Mr. Blackmon
14 apparently left and took the clothes and they were found
15 hanging on a fence at DSS in that ... on the fence with
16 that jacket, the bright colored jacket, Your Honor saw
17 him wearing and a pair of pants. That camouflage
18 bandana, sunglasses. Also in that bag was Mr. Blackmon's
19 social security card he had left in the pants in the bag.
20 Thereafter, officers got information that Mr. Blackmon
21 was at a Manning Motel here. They went there, found Mr.
22 Blackmon. He was arrested. In his back pocket when he
23 was arrested was that note that Your Honor is looking at
24 and also in his possession was a room key for Room 256 at
25 the Days Inn here in Manning. Officers got a search

1 warrant for that room, executed the search warrant and
2 inside the room found a substantial portion of the funds
3 that were stolen. I think they found about \$2,500 of the
4 \$2,770. Your Honor, as far as his prior record he has
5 been arrested in Boston for some assault charge but no
6 conviction on that.

7 **Mr. Blackmon - Questions by The Court:**

8 Q: Mr. Blackmon, do you agree with the facts as stated
9 by the solicitor?

10 A: Yes sir.

11 Q: Are you, in fact, guilty?

12 A: Yes sir.

13 Q: Mr. Blackmon, do you understand that your lawyer
14 has, because he is a good lawyer, has been able to
15 negotiate a fifteen (15) year sentence on this. That
16 means that I either accept or reject that. Quite
17 frankly, once a trial starts there is no offer on
18 the table but they have offered to let you negotiate
19 to fifteen (15) years, do you understand?

20 A: Yes sir.

21 Q: You understand that that is a serious offense and
22 that with that you will have to serve eighty-five
23 (85%) percent of the fifteen (15) years and you
24 understand as well this is still the strikes against
25 you if you should get some more charges such as this

(Questions by The Court)

9

1 you could actually end up getting life without the
2 possibility of parole, do you understand?

3 A: Yes sir.

4 Q: All right. You also understand that when you plead
5 guilty you waive certain constitutional rights. The
6 first right you waive is your right against self
7 incrimination. You will never be required to
8 testify against yourself. In fact, if you didn't
9 take the stand during this trial, I would tell the
10 jury they couldn't hold that against you. Do you
11 understand?

12 A: Yes sir.

13 Q: Do you wish to waive your right against self
14 incrimination at this time as you are talking to me?

15 A: I don't understand.

16 The Court: Talk to your lawyer about that.

17 (Mr. Blackmon and Attorney Cutter talk off the record)

18 A: I waive the right.

19 The Court: He is under oath, is that correct?

20 Ms. Roberts: Yes sir. I sworn him early today.

21 The Court: Okay. You sworn him earlier today.

22 Q: You understand that you're still under oath?

23 A: Yes sir.

24 Q: You understand that there is a jury of twelve
25 primary and one alternate sitting back there ready

(Questions by The Court)

10

1 to hear more testimony, if necessary, ready to
2 defend yourself, Mr. Cutter is a fine lawyer and he
3 could artfully cross examine some more witnesses and
4 put more witnesses up on your behalf but you are
5 waiving the rest of this trial. Is that correct?

6 A: Yes sir.

7 Q: Do you understand that at this point the State will
8 not have to put up any more evidence and you won't
9 get to question anymore evidence, do you understand
10 that?

11 A: Yes sir.

12 Q: So you wish to waive the rest of your right to
13 confront the witnesses against you and plead guilty?

14 A: Yes, Your Honor.

15 Q: Has anybody threatened you in anyway to get you to
16 plead guilty?

17 A: No.

18 Q: Has anybody promised you anything to get you to
19 plead guilty other than the negotiated sentence?

20 A: No sir.

21 Q: And again, this Court makes, because of the
22 complexities of the parole system and everything we
23 have in the State I make no representations as to
24 when you will get out jail. Do you understand that?

25 A: Yes.

(Questions by The Court)

11

1 Q: Well, is the only reason that you are pleading
2 guilty is because you are in fact guilty of the
3 charge of entering the bank with the intent to
4 steal?

5 A: Yes.

6 Q: Are you satisfied with the services of Mr. Cutter?

7 A: Yes.

8 Q: Has he done everything that you have asked him to
9 do?

10 A: Yes.

11 Q: Do you need anymore time to speak with him?

12 A: Yes.

13 The Court: Okay. Go ahead and speak with him some
14 more.

15 (Mr. Blackmon and Attorney Cutter talk off the record)

16 Mr. Cutter: We wish to proceed, Your Honor.

17 The Court: All right.

18 Q: Do you need to speak to him any longer?

19 A: No, I don't.

20 Q: Have you understood all of my questions?

21 A: Yes I have.

22 Q: Do you have any questions of me?

23 A: I don't think so.

24 Q: Do you understand that if you change your mind to
25 plead guilty or the sentence that I give you, which

(Questions by The Court)

12

1 is the negotiated fifteen (15) that you will only
2 have ten (10) days in which to file an appeal?

3 A: Okay. Yes I do.

4 Q: All right. So under indictment 2013-14-70, charging
5 you Andrew Lee Blackmon with entering a bank with an
6 intent to steal, how do you plead? Guilty or not
7 guilty?

8 A: Guilty.

9 The Court: I find a substantial factual basis for
10 his plea. I find the Defendant has entered into the plea
11 freely, voluntarily, knowingly and intelligently. He not
12 only knew that he had a right to a jury trial, we started
13 a jury trial. There's just a few witnesses left and he
14 has decided that he wishes to go ahead and enter the
15 negotiated plea of fifteen (15) years.

16 Mr. Cutter, would you like to say anything on behalf
17 of your client?

18 Mr. Cutter: Yes sir, Your Honor, briefly. Mr.
19 Blackmon is forty-four years old, he's married. His wife
20 Virginia Blackmon is in the courtroom. He was born and
21 raised in Boston and lived down here briefly and lives in
22 the Alcolu area. He has four kids, Your Honor. We
23 appreciate the State working with us with this offer here
24 today and we just ask that you accept the negotiations.

25 The Court: You all aren't asking for restitution in

(Sentencing by The Court)

13

1 the future? >

2 Mr. Durant: No sir.

3 The Court: It would be so far in the future. I will
4 give him credit for the time, he's been in jail since
5 what right after it happened?

6 Mr. Cutter: Yes sir. Thank you.

7 The Court: All right. The sentence of the court is
8 that you Andrew Lee Blackmon be sentenced to the State
9 Department of Corrections for fifteen (15) years. Good
10 luck, sir.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

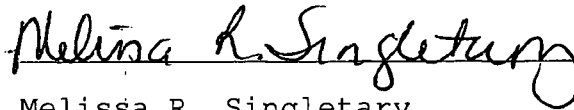
25

CERTIFICATE

This is to certify that the transcript in the matter of Andrew L. Blackmon vs. The State of South Carolina, consisting of Thirteen (13) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 2nd day of July, 2014.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina

WITNESSES

Eric Rosdail
Department
Manning Police

DOCKET NO. 2013-GS-14-0070

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

February TERM 2013

THE STATE

vs.

ANDREW LEE BLACKMON

VIRGINIA IRENE BLACKMON

ARREST WARRANT NUMBER

2013A1420100014 2013A1420100015
DIR00042

Indictment for

ROBBERY / ENTERING BANK WITH INTENT TO
STEAL

ACCESSORY BEFORE THE FACT TO
ENTERING BANK WITH INTENT TO STEAL

ACTION OF GRAND JURY

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Lambert Boyd
Foreperson of Grand Jury
Date: 2-28-13

VERDICT

True Bill

Foreperson of Petit Jury
Date:

DECEMBER 11 2013
CLARENDON COUNTY, SC
COURT OF GENERAL SESSIONS
RECEIVED
OF ORIGINAL FILED IN THIS OFFICE
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

INDICTMENT FOR

ROBBERY / ENTERING BANK WITH INTENT TO STEAL

ACCESSORY BEFORE THE FACT TO ENTERING BANK WITH INTENT TO STEAL

At a Court of General Sessions convened on February 28, 2013, the Grand Jurors of CLARENDON County present upon their oath:

COUNT ONE – ROBBERY / ENTERING BANK WITH INTENT TO STEAL

That in Clarendon County, South Carolina, on or about January 25, 2013, the Defendants, Andrew Lee Blackmon and Virginia Irene Blackmon, unlawfully did enter a building or part of 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; all in violation of Section 16-11-380(A), S.C. Code of Laws (1976), as amended.

COUNT TWO – ACCESSORY BEFORE THE FACT TO ENTERING A BANK WITH INTENT TO STEAL

That in Clarendon County, South Carolina, on or about January 25, 2013, the Defendant, Virginia Irene Blackmon, advised or agreed with or urged, counseled, hired or encouraged, or in some way aided or abetted Andrew Lee Blackmon to commit the felony of Entering a Bank With Intent To Steal, in violation of the Common Law and Section 16-01-0040, S. C. Code of Laws (1976), as amended.

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

Solicitor

Ernest A. Fin...

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE

DATE 7/22/2014

Bonnie H. Roberts

CLERK OF COURT CLARENDON COUNTY, SC

RECEIVED

AUG 11 2014

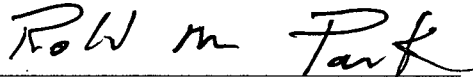
ETRBNK

SC Court of Appeals

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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 11, 2014,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
AUG 11 2014
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

RECEIVED

AUG 11 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANDREW L. BLACKMON,

APPELLANT

APPELLATE CASE NO. 2013-002440

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 11th day of August, 2014.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 11th day of August, 2014.

[Signature]

(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.