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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

Certiorari to Hampton County

Honorable Diane Schafer Goodstein, Circuit Court Judge

IVAN WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001644

APPENDIX

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State of South Carolina) In the Court of General Sessions
) Fourteenth Judicial Circuit
 County of Hampton) 2012-GR-25-0071

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Ivan Williams,)
)
 Defendant.)
)
)
)

November 4, 5, 2013
 Hampton, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge, and a jury

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

Randolph Murdaugh, III, Esquire, Assistant Solicitor
 Richard Alexander Murdaugh, Esquire, Assistant Solicitor
 Attorneys for the State

Stephanie Smart-Gittings, Esquire
 Attorney for the Defendant

ALSO PRESENT:

Kelvin Wright, Esquire, Assistant Solicitor
 Attorney for the State

Elizabeth B. Harris, CVR-M
 Circuit Court Reporter

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1 MONDAY, NOVEMBER 4, 2013

2 JURY VOIR DIRE

3 THE COURT: Ladies and gentlemen of the jury, we are
4 about to begin the trial of the case of the State of South
5 Carolina vs. Ivan Williams, indictment number
6 2012-GS-25-00071. Ladies and gentlemen of the jury, I hold
7 in my hand the indictment that initiates this case, and I'm
8 going to read you the indictment.

9 The defendant, Ivan Williams, has been accused of
10 burglary first degree, and it reads:

11 That in Hampton County, South Carolina, on or
12 about June 27, 2011, the defendant, Ivan
13 Williams, did enter the dwelling of Valerie
14 Singleton, located at [REDACTED] Savannah Highway,
15 Furman, South Carolina, without consent and with
16 intent to commit a crime therein. That in
17 addition, the entry occurred during the
18 nighttime.

19 Ladies and gentlemen of the jury, this is an
20 indictment. It's actually a piece of paper that has
21 absolutely no evidentiary value whatsoever. This is just
22 the document that starts these criminal proceedings.

23 As a matter of fact, as Mr. Williams is seated here in
24 this courtroom at the defense table, he's presumed to be
25 just as innocent as me or you. We start from that frame of

1 reference.

2 I'm going to ask you some questions. Each of you have
3 been determined to be qualified, and I'm going to ask you
4 some questions to determine whether or not you could be
5 fair and impartial with regard to the trial of this case.

6 I'm going to ask Mr. Williams if he could stand and
7 turn around and face the jury pool, if you could.

8 (THE DEFENDANT COMPLIES.)

9 THE COURT: Thank you, Mr. Williams. You can have a
10 seat.

11 Is anybody related by blood or marriage? Do you have
12 a close social, business, personal relationship with Mr.
13 Williams? If so, please stand. All right, no response.

14 Ladies and gentlemen of the jury, the potential
15 witnesses in this case are Valerie Singleton; Perry
16 Singleton of the sheriff's department; Jordan Elmquist,
17 sheriff's department; James Brooker, sheriff's department;
18 and Ron...

19 MR. R. MURDAUGH: Rontavious.

20 THE COURT: Rontavious ---

21 MR. R. MURDAUGH: Yes, sir.

22 THE COURT: --- Taylor. All right, is anybody related
23 by blood or marriage? Do you have a close social,
24 business, or personal relationship with any of these
25 potential witnesses? If so, please stand.

1 Yes, ma'am, if you could come forward? If you could
2 just come forward, and I'll speak to you up here.

3 (THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH IN
4 THE PRESENCE OF COUNSEL.)

5 THE COURT: Yes, ma'am, your name and number.

6 JUROR: Sonya Fennell.

7 THE COURT: Yes. Do you ---

8 JUROR: What -- just -- does he have a sister?

9 THE COURT: Who?

10 JUROR: Charles. Is his name Charles?

11 THE COURT: Who?

12 JUROR: Is his name Charles?

13 THE COURT: His name?

14 JUROR: Williams.

15 THE COURT: Ivan Williams.

16 JUROR: Okay. I thought he was kin to one of tenants
17 out there.

18 THE COURT: Okay. That's not a problem.

19 JUROR: I was just double checking.

20 THE COURT: That's all right. Good. Very good.

21 She's qualified to serve.

22 Yes, sir, your full name and number.

23 JUROR: Stephen D. Elmquist.

24 THE COURT: Okay, and, and your number?

25 JUROR: 46.

1 THE COURT: 46. Who do you know?

2 JUROR: Jordan Elmquist.

3 THE COURT: Okay, and what would -- is he related to
4 you?

5 JUROR: He's my son.

6 THE COURT: Okay. Very good. We'll -- in view of the
7 fact that he's going to be testifying in this case, you are
8 excused for the purposes of this trial alone.

9 I'm going to ask -- we're going to excuse you for the
10 day. You can come back. You can call tomorrow after 6 and
11 follow the instructions on the answering machine. be sure
12 to get the number from the security desk. You can leave at
13 this time.

14 JUROR: Yeah.

15 THE COURT: Thank you.

16 JUROR: Thanks.

17 THE COURT: Very good.

18 Ma'am, how are you doing? Your name and number.

19 JUROR: Karen Wilson, 172.

20 THE COURT: 172?

21 JUROR: Uh-huh.

22 THE COURT: Tell me who you're related to or who you
23 know.

24 JUROR: Jordan Elmquist used to work for us at General
25 Wilson Construction.

1 THE COURT: Okay, and how would you describe your
2 relationship with him? Have you had an ongoing friendship
3 with him?

4 JUROR: We're good friends with the family.

5 THE COURT: Okay, and how often do you see Mr.
6 Elmquist?

7 JUROR: Every ---

8 THE COURT: All, let's be quiet so the court reporter
9 can hear.

10 JUROR: Probably every couple of months.

11 THE COURT: Okay. If called to serve on this jury and
12 Mr. Elmquist were to testify, would you give greater weight
13 to anything that he would have to say by virtue of the fact
14 that you know him?

15 JUROR: I don't know. I mean, it would be hard to. I
16 wouldn't want it to jeopardize doing the right thing, I
17 guess I could say.

18 THE COURT: Do you think that you could set aside your
19 relationship, listen to the evidence presented in this
20 case, and the law as I charge it to you, and give both the
21 state and the defendant a fair and impartial trial?

22 JUROR: I would do my best, yes, sir.

23 THE COURT: In polite conversation, we always qualify
24 what we say, but these are matters that we have to deal in
25 absolutes. My question to you is could you be fair and

1 impartial?

2 JUROR: Yes, sir, I believe I could be.

3 THE COURT: Okay. Very good. You are qualified to
4 serve. Thank you.

5 JUROR: Okay.

6 THE COURT: Yes, ma'am, your name and number.

7 WITNESS: Rosa Orr, number 118.

8 THE COURT: Rosa Orr, very good. Who do you know?

9 JUROR: I know all the officers that you called.

10 THE COURT: Okay, and how do you know them?

11 JUROR: We work very closely together; I probably
12 provided a lot of the information they have in the case.

13 THE COURT: Okay. Well, you are excused for the
14 purposes of this trial. We're going to ask that you call
15 back tomorrow after 6. You're free to leave at this time.

16 JUROR: Okay.

17 THE COURT: But call back tomorrow after 6. Be sure
18 to get the number from security.

19 MS. SMART-GITTINGS: She's a 911 operator.

20 THE COURT: Okay.

21 MS. SMART-GITTINGS: So, I'm not sure.

22 THE COURT: Well, it might be such, it might be an
23 individual case, an individual warrant or something. Did
24 it involve 911?

25 MS. SMART-GITTINGS: Yes.

1 THE COURT: So, I'm going to ask that she come back,
2 and that way she -- you can get your -- it might be that
3 you don't have to come back. But we don't want to excuse
4 you so you can get the benefit of your service here today.

5 JUROR: Okay.

6 THE COURT: Very good. Let's do that.

7 JUROR: Thank you.

8 THE COURT: Very good.

9 (END OF CONFERENCES AT THE BENCH.)

10 THE COURT: Mr. Murdaugh, I'm going to ask if you
11 could stand and identify yourselves -- yourself and the
12 members of your office.

13 MR. R. MURDAUGH: If Your Honor please, I am Randolph
14 Murdaugh, III. I am some position with the solicitor's
15 office; I'm not sure what it is. Kelvin Wright is the
16 solicitor in charge of Hampton County. Alex Murdaugh as an
17 assistant solicitor. Bruce Davis is a big shot
18 investigator.

19 THE COURT: Thank you, Mr. Murdaugh.

20 Is anybody related by blood or marriage to any of
21 these individuals who have been named? Do you have a close
22 social, business, or personal relationship with any of
23 these individuals? If so, please stand.

24 Yes, sir. If you could come forward.

25 (THE FOLLOWING CONFERENCE TAKES PLACE AT THE BENCH IN

1 THE PRESENCE OF COUNSEL.)

2 THE COURT: Your name and number.

3 JUROR: Juror number 5, Chris Altman.

4 THE COURT: Chris Altman. Yes.

5 JUROR: I'm an employee for his son, John Murdaugh.

6 THE COURT: All right, now, his son is not involved in
7 the solicitor's office. He's not trying this case. He's
8 not going to be testifying, and could you set aside the
9 fact that you work for his son and give both the state and
10 the defendant a fair and impartial trial?

11 JUROR: Yes, sir.

12 THE COURT: All right. The fact that your employer's
13 last name is Murdaugh.

14 JUROR: Yeah.

15 THE COURT: Could you set that aside and do what's
16 right and do what's fair?

17 JUROR: Yes, sir.

18 THE COURT: You're qualified to serve. Thank you.

19 JUROR: Thank you.

20 (END OF CONFERENCE AT THE BENCH.)

21 THE COURT: Ms. Smart, if you could stand and identify
22 yourself and the members of your office.

23 MS. SMART-GITTINGS: Good afternoon. My name is
24 Stephanie Smart-Gittings. I'm with the Fourteenth Circuit
25 Public Defender's Office. Our chief public defender for

1 Hampton, Allendale, and Jasper counties is Mr. Plexico.

2 MR. PLEXICO: Good afternoon.

3 MS. SMART-GITTINGS: Mr. Robert Hughes is in our
4 Jasper office.

5 THE COURT: Thank you, Ms. Smart.

6 Is anyone related by blood or marriage? Do you have a
7 close social, business, or personal relationship with any
8 of these lawyers? If so, please stand. No response.

9 Is there any member of the jury panel who has formed
10 or expressed an opinion about any issue or matter involved
11 in this case? If so, please stand. No response.

12 You've heard the bare-bones facts with regards to the
13 allegation that has been put before this court. I remind
14 you that those are indeed just that, allegations. Having
15 been armed with that information, does anybody know
16 anything about this case? If you've witnessed anything
17 about this case, if so, please stand. No response.

18 Is any member of the jury panel aware of any bias or
19 prejudice towards either the state or the defendant in this
20 case? If so, please stand. No response.

21 Is there any member of the jury panel that was a
22 member of the grand jury that issued the indictment in this
23 case? If so, please stand. No response.

24 Is any member of the jury panel a former law
25 enforcement officer or have a family member who is a former

1 law enforcement officer? If so, please stand.

2 If you could come forward, each of you.

3 (THE FOLLOWING CONFERENCES TAKE PLACE AT THE BENCH IN
4 THE PRESENCE OF COUNSEL.)

5 THE COURT: Yes, sir, your name and number.

6 JUROR: William Capers, juror number 22.

7 THE COURT: Okay.

8 JUROR: I have a relative, Sheriff T.C. Smalls.

9 THE COURT: Where does he work?

10 JUROR: Sheriff.

11 MR. R. MURDAUGH: Sheriff for Hampton.

12 THE COURT: Hampton County, okay. All right, and how
13 is he related to you?

14 JUROR: My mom told me that he's, like, my -- I'm his
15 cousin on her side. I'm not exactly, I'm not exactly sure
16 how we're related, but that's what she told me.

17 THE COURT: Okay. Very good. All right, how often do
18 you see him?

19 JUROR: Not very often.

20 THE COURT: Okay. So, he's not going to be testifying
21 in this case, and if called upon to serve on this jury,
22 could you listen to the evidence presented in this case or
23 the lack thereof, listen to law as I charge you, give both
24 the state and the defendant a fair and impartial trial?

25 JUROR: Yes, sir.

1 THE COURT: You're qualified to serve. Thank you.

2 Yes, ma'am, your name and number.

3 JUROR: Shirley Hinman, 74.

4 THE COURT: Juror number 74. Yes, ma'am.

5 JUROR: I don't know if it's pertinent, but I have a
6 cousin who is a retired state trooper.

7 THE COURT: Okay.

8 JUROR: That's all.

9 THE COURT: In South Carolina?

10 JUROR: Yes.

11 THE COURT: Okay. Well, this doesn't involve anything
12 having to do with traffic violations.

13 JUROR: Okay.

14 THE COURT: Or no troopers are going to be testifying
15 whatsoever. Could you set aside the fact that you're
16 related to somebody who's even remotely involved or used to
17 be involved in law enforcement if called upon to serve on
18 this jury? Listen to the evidence presented in this case,
19 or the lack thereof, and listen to the law as I charge it
20 to you, and render a fair and impartial ---

21 JUROR: Yes.

22 THE COURT: --- verdict?

23 JUROR: Yes, sir.

24 THE COURT: You're qualified to serve. Thank you.

25 Yes, ma'am, your name and number.

1 JUROR: Nancy Sullivan, 152.

2 THE COURT: 152, Ms. Sullivan, 152.

3 JUROR: My oldest son is part-time with the Hampton
4 Police Department.

5 THE COURT: Okay.

6 JUROR: He's a former highway patrolman, and Billy
7 Jerrell is my first cousin.

8 THE COURT: Okay, Billy Jerrell, is he a witness in
9 this?

10 MR. R. MURDAUGH: No.

11 THE COURT: Very good.

12 All right, the people that you have mentioned are not
13 going to be testifying in this case. It doesn't involved
14 the police department. These are sheriff's deputies who
15 have investigated this case.

16 If called upon serve on this jury, could you set aside
17 the fact you are related to people involved in law
18 enforcement, listen to the evidence presented in this case
19 or the lack of evidence, and the law as I charge it to you,
20 and give both the state and the defendant a fair and
21 impartial trial?

22 JUROR: Yes.

23 THE COURT: You are qualified to serve.

24 (END OF CONFERENCES AT THE BENCH.)

25 THE COURT: Has any member of the jury panel heard or

1 read anything about this particular matter? If so, please
2 stand.

3 (NO ONE STANDS.)

4 THE COURT: Ladies and gentlemen of the jury, is there
5 any member of the jury panel who is a member or contributor
6 to any group whose primary concern is the promotion of law
7 enforcement? There are groups such as Mothers Against
8 Drunk Driving or Students Against Drunk Driving, CAVE,
9 Citizens Against Violent Crime. Every sheriff's department
10 throughout the state has a sheriff's association; highway
11 patrol has such an association. My question to you is
12 simply this. Do you belong or contribute to any of these
13 law enforcement organizations? If so, please stand. No
14 response.

15 Does any member of the jury panel know of any reason
16 whatsoever why you could not serve as a juror in this case,
17 with particular emphasis being placed on your ability to be
18 fair and impartial to both the state and the defendant? If
19 so, please stand. No response.

20 Any additional questions from the state?

21 MR. R. MURDAUGH: None, sir.

22 THE COURT: Any from defense?

23 MS. SMART-GITTINGS: None, Your Honor.

24 THE COURT: Very good. Madame Clerk, if we could have
25 a jury.

1 CLERK OF COURT: Yes, sir.

2 (A PAUSE.)

3 THE COURT: Ladies and gentlemen of the jury, when she
4 calls your name, going to ask that you come stand right in
5 front of me. Turn around and face the clock at the back of
6 the courtroom, and bring your belongings when they call
7 your name.

8 (A PAUSE.)

9 THE COURT: Strikes are five and ten. Do you agree,
10 Mr. Murdaugh?

11 MR. R. MURDAUGH: That's correct.

12 THE COURT: Five and ten? Five and ten?

13 MS. SMART-GITTINGS: That's correct, Your Honor.

14 *JURY SELECTION*

15 CLERK OF COURT: Number 55, John Gibbs.

16 (WHITE MALE COMES FORWARD.)

17 CLERK OF COURT: What says the state?

18 MR. R. MURDAUGH: Present the juror.

19 CLERK OF COURT: What says the defense?

20 MS. SMART-GITTINGS: Seat the juror.

21 CLERK OF COURT: Okay, Mr. Gibbs, you can have a seat
22 in the jury box.

23 Juror number 103, Emma Mole.

24 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)

25 CLERK OF COURT: What says the state?

1 MR. R. MURDAUGH: Present the juror.
2 CLERK OF COURT: What says the defense?
3 MS. SMART-GITTINGS: Seat the juror.
4 CLERK OF COURT: Number 115, Thomas A. O'Banner.
5 (AFRICAN-AMERICAN MALE COMES FORWARD.)
6 CLERK OF COURT: What says the state?
7 MR. R. MURDAUGH: Present the juror.
8 CLERK OF COURT: What says the defense?
9 MS. SMART-GITTINGS: Seat the juror.
10 CLERK OF COURT: Sonya Walsh Fennell.
11 MR. R. MURDAUGH: Number?
12 CLERK OF COURT: Number 159.
13 (WHITE FEMALE COMES FORWARD.)
14 CLERK OF COURT: What says the state?
15 MR. R. MURDAUGH: Present the juror.
16 CLERK OF COURT: What says the defense?
17 MS. SMART-GITTINGS: Seat the juror.
18 CLERK OF COURT: Number 53, Bernice Garvin.
19 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)
20 CLERK OF COURT: What says the state?
21 MR. R. MURDAUGH: Present the juror.
22 CLERK OF COURT: What says the defense?
23 MS. SMART-GITTINGS: Seat the juror.
24 CLERK OF COURT: Number 21, James R. Callis,
25 (WHITE MALE COMES FORWARD.)

1 CLERK OF COURT: What says the state?
2 MR. R. MURDAUGH: Present the juror.
3 CLERK OF COURT: What says the defense?
4 MS. SMART-GITTINGS: Please excuse the juror.
5 CLERK OF COURT: Number 81, Samyetta Jennings.
6 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)
7 CLERK OF COURT: What says the state?
8 MR. R. MURDAUGH: What number did you say?
9 CLERK OF COURT: 81.
10 MR. R. MURDAUGH: I'm sorry.
11 CLERK OF COURT: 81.
12 MR. R. MURDAUGH: Present the juror.
13 CLERK OF COURT: What says defense?
14 MS. SMART-GITTINGS: Seat the juror.
15 CLERK OF COURT: Number 166, Reverta P. Williams.
16 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)
17 CLERK OF COURT: What says the state?
18 MR. R. MURDAUGH: Present the juror.
19 CLERK OF COURT: What says the defense?
20 MS. SMART-GITTINGS: Seat the juror.
21 CLERK OF COURT: Number 107, Melissa S. Moore.
22 (WHITE FEMALE COMES FORWARD.)
23 CLERK OF COURT: What says the state?
24 MR. R. MURDAUGH: Present the juror.
25 CLERK OF COURT: What says the defense?

1 MS. SMART-GITTINGS: Please excuse the juror.
2 CLERK OF COURT: Number 94, James F. Long, Jr.
3 (WHITE MALE COMES FORWARD.)
4 MR. R. MURDAUGH: What number?
5 CLERK OF COURT: 94. What says the state?
6 MR. R. MURDAUGH: Present the juror.
7 CLERK OF COURT: What says defense?
8 MS. SMART-GITTINGS: Seat the juror.
9 CLERK OF COURT: Number 80, Rosa Mae Jenkins.
10 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)
11 CLERK OF COURT: What says the state?
12 MR. R. MURDAUGH: Present the juror.
13 CLERK OF COURT: What says the defense?
14 MS. SMART-GITTINGS: Seat the juror.
15 CLERK OF COURT: Number 41, Benita K. Drayton.
16 MR. R. MURDAUGH: What number?
17 CLERK OF COURT: 41.
18 (NO RESPONSE.)
19 CLERK OF COURT: Drayton, Benita K. ---
20 JUROR: I'm 40. I'm 40, Benita I. Drayton.
21 THE COURT: I have, I have Benita I. and a Benita K.
22 You called number 40. The
23 Are you Bonita I.?
24 JUROR: Yes.
25 THE COURT: Come forward.

1 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)

2 CLERK OF COURT: What says the state?

3 MR. R. MURDAUGH: Present the juror.

4 CLERK OF COURT: What says the defense?

5 MS. SMART-GITTINGS: Seat the juror.

6 CLERK OF COURT: Number 172, Karen C. Wilson.

7 (WHITE FEMALE COMES FORWARD.)

8 CLERK OF COURT: What says the state?

9 MR. R. MURDAUGH: Present the juror.

10 CLERK OF COURT: What says the defense?

11 MS. SMART-GITTINGS: Please excuse this juror.

12 CLERK OF COURT: Number 90, Anna E. Kelly.

13 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)

14 CLERK OF COURT: What says the state?

15 MR. R. MURDAUGH: Present the juror.

16 CLERK OF COURT: What says the defense?

17 MS. SMART-GITTINGS: Please seat the juror.

18 CLERK OF COURT: Number 15, Cameron D. Brown.

19 JUROR: It's Carmen.

20 CLERK OF COURT: I'm sorry.

21 JUROR: That's okay.

22 (AFRICAN-AMERICAN FEMALE COMES FORWARD.)

23 CLERK OF COURT: What says the state?

24 MR. R. MURDAUGH: Present the juror.

25 CLERK OF COURT: What says the defense?

1 MS. SMART-GITTINGS: Seat the juror.
2 THE COURT: Two alternates, one and two.
3 CLERK OF COURT: Number 66, Andrew S. Hadwin.
4 THE COURT: On each, one and two on each.
5 CLERK OF COURT: Yes, sir.
6 (WHITE MALE COMES FORWARD.)
7 MR. R. MURDAUGH: What number?
8 CLERK OF COURT: 66.
9 MR. R. MURDAUGH: Okay.
10 CLERK OF COURT: What says the state?
11 MR. R. MURDAUGH: Present the juror.
12 CLERK OF COURT: What says the defense?
13 MS. SMART-GITTINGS: Seat the juror.
14 CLERK OF COURT: Number 22, William J. Capers, II.
15 (AFRICAN-AMERICAN MALE COMES FORWARD.)
16 CLERK OF COURT: What says the state?
17 MR. R. MURDAUGH: Excuse the juror.
18 CLERK OF COURT: Number 142, James L. Smith.
19 (AFRICAN-AMERICAN MALE COMES FORWARD.)
20 CLERK OF COURT: What says the state?
21 MR. R. MURDAUGH: Present the juror.
22 MS. SMART-GITTINGS: Seat the juror.
23 CLERK OF COURT: Thank you.
24 THE COURT: Ladies and gentlemen of the balance of the
25 -- well, before we do that, any objection with regard to

1 the jury selection process from the state?

2 MR. R. MURDAUGH: None from the state, sir.

3 THE COURT: Any from defense?

4 MS. SMART-GITTINGS: None from the defense.

5 THE COURT: Very good. Ladies and gentlemen of the
6 balance of the jury pool, we're going to release you for
7 today. Make sure that you get the telephone number from
8 the security desk and call tomorrow after 6:00 and follow
9 the instructions. You are free to leave at this time.
10 Thank you very much.

11 (THE JURY PANEL EXITS.)

12 THE COURT: Mr. James F. Long.

13 JUROR: Yes, sir.

14 THE COURT: I'm going to ask if you can have a seat
15 right here on this front row. I'm going to ask that you
16 serve as the foreman of this jury.

17 Mr. Long, you, like everyone else when it comes time
18 to deliberate, are going to have one vote with regard to
19 the outcome of this case. But in addition to that, you're
20 going to have some -- two different additional
21 responsibilities, one of which is if there are problems or
22 questions that develop throughout this trial, I'm going to
23 ask the juror to communicate those questions or concerns to
24 you. You can reduce it to writing, give it to the bailiff,
25 and he will submit it to me. If it's something I can

1 answer or something I can help you with, then I will
2 certainly be happy to do that.

3 In addition to that, when it comes time to deliberate,
4 you are to preside over the deliberation process. That
5 essentially means that you are just to ensure that
6 everybody's voice is heard.

7 We are going to begin the trial of this case in the
8 morning, and I'm going to at this time ask, if you could,
9 to stand. Raise your right hands as the clerk administers
10 the oath.

11 (THE JURY IS SWORN.)

12 THE COURT: Mr. Foreman, ladies and gentlemen, I'm
13 going to admonish each of you that y'all don't know
14 anything about this case other than what the charge is.
15 You don't know anything about it. I'm going to order and
16 instruct and demand that y'all not discuss the case amongst
17 yourselves. Don't discuss it with your family members,
18 coworkers, friends.

19 I can bet you my bottom dollar when you go home,
20 they're going to say what happened in your jury service.
21 This is one time where you don't have to answer them. Tell
22 them that I've ordered you not to do that.

23 The reason for that is that it might be that your
24 significant other has an opinion about this type litigation
25 and you, ladies and gentlemen of the jury, have taken a

1 solemn oath to listen to the evidence presented in this
2 case and the law as I charge it to you and render a fair
3 and impartial verdict. You need to base your decision on
4 what transpires here in this courtroom. Do not discuss the
5 case with anyone.

6 Mr. Foreman, there are going to be times throughout
7 the trial of this case where you're going to be in the jury
8 room outside of our presence. I'm going to ask you to
9 enforce the rule there be no discussion about this case.
10 Don't talk about witnesses. Don't talk about anything
11 concerning the case. Don't talk about the lawyers; don't
12 talk about members of the sheriff's department. You can
13 talk about Carolina football, Clemson football, whatever
14 you want to talk about that, but you can't talk about the
15 case.

16 There will be a time for that after you've heard all
17 the evidence in the case, and I charge you the law, and I
18 give you instructions on begin -- on -- instructions to
19 being your deliberation process. But until that time, do
20 not do that.

21 Mr. Foreman, ladies and gentlemen of the jury, we're
22 going to recess for the afternoon and start back at 9:30,
23 9:30 sharp.

24 I do want to tell you that I have never really
25 participated in it, but my children tell me there's such a

1 thing as social media and Facebook and Tweeter or Twitter
2 or whatever. There is no place for that in this courtroom.
3 Do not put anything on Facebook about what this case is
4 about. The fact that you're serving on jury duty, don't do
5 that. Don't put anything with regard to anything on social
6 media about this trial; do not do that.

7 I doubt there will be any kind of coverage in the
8 paper or on the news or in the newspaper, but if it were to
9 -- if you were to notice that, I'm going to ask that you
10 divert your attention from that because you, once again,
11 have taken a solemn oath to pay attention to the evidence
12 presented in this case, or the lack thereof, and render a
13 verdict that speaks the truth.

14 I'm going to ask you be here at 9:30, 9:30 sharp.

15 Everyone remain seated as the jury exits the
16 courtroom.

17 (THE JURY EXITS AT 4:06 PM.)

18 THE COURT: Mr. Murdaugh, you are recognized.

19 MR. R. MURDAUGH: No exceptions or additions.

20 THE COURT: Very good.

21 Any pretrial motions that we need to tend to today?

22 MR. R. MURDAUGH: The only one I can possibly think
23 of, there may be an identification problem with the -- with
24 a photo ID lineup.

25 THE COURT: Okay. Well, we will conduct a *Biggers*

P. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

29

1 hearing first thing in the morning. We can get prepared

2 ---

3 MR. R. MURDAUGH: I can do that this afternoon.

4 THE COURT: Oh, that would be great if we could do
5 that. That's great.

6 MR. R. MURDAUGH: Do you want it?

7 MS. SMART-GITTINGS: Of course. Yes.

8 MR. R. MURDAUGH: Okay.

9 THE COURT: Very good.

10 MR. R. MURDAUGH: May I proceed?

11 THE COURT: Certainly.

12 MR. R. MURDAUGH: Call Perry Singleton.

13 PERRY L. SINGLETON, SR., BEING
14 DULY SWORN, TESTIFIES AS FOLLOWS.

15 THE COURT: Yes, sir, Mr. Singleton, pull up that
16 witness chair. I'm going to ask you to pull up real close
17 to that microphone, and speak loudly, clearly, and slowly
18 in order that we can hear everything that you've got to
19 say.

20 WITNESS: Yes, sir.

21 DIRECT EXAMINATION BY MR. R. MURDAUGH:

22 Q. Your name is Perry Singleton?

23 A. Perry Lee Singleton, Sr., sir.

24 Q. You're employed by the Hampton County Sheriff's
25 Department as a detective?

P. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

30

1 A. I am.

2 Q. What is your rank?

3 A. Lieutenant.

4 Q. Okay. Did you have an occasion on ---

5 MR. R. MURDAUGH: May I look at the indictments?

6 THE COURT: You sure may.

7 BY MR. R. MURDAUGH:

8 Q. Did you have an occasion on the 27th of June 1911 or
9 some day thereafter to a present photo lineup to the
10 victim, Valerie Singleton?

11 A. I did.

12 Q. Okay. When did you do that?

13 (A PAUSE.)

14 Q. Excuse me. I said 1911. It's 2011, 2011 that I was
15 talking about.

16 A. It was on 7/1/2011.

17 Q. July?

18 A. July 1, 2011.

19 Q. Okay. Had y'all had information as to the nickname of
20 a person that was in her house that night?

21 A. Yes.

22 Q. Okay, and what was that nickname?

23 A. Buck.

24 Q. Did you fix a photo lineup with a person by the name
25 of Buck in it?

P. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 A. I didn't. We had it done.

2 Q. Okay, and who did it for you?

3 A. SLED.

4 Q. Is this a routine procedure for you to call SLED and
5 give them a picture, and they fix you a photo lineup?

6 A. Yes.

7 Q. Okay, and did they do that?

8 A. They did.

9 Q. Okay. So, let me see the photo lineup.

10 MR. R. MURDAUGH: If Your Honor please, I would ask
11 that this be marked as an exhibit. We punished it to Ms.
12 Smart.

13 THE COURT: Very good. We'll -- if you'd give it to
14 the court reporter, she'll mark it.

15 MR. R. MURDAUGH: This is one we gave you earlier,
16 Stephanie.

17 MS. SMART-GITTINGS: I have it.

18 (PHOTO LINEUP MARKED AS STATE'S EXHIBIT NUMBER 1 FOR
19 IDENTIFICATION.)

20 BY MR. R. MURDAUGH:

21 Q. Okay, show you State's 1 for ID. Did you present this
22 to Ms. Valerie Singleton?

23 A. I did.

24 Q. And what did you instruct her to do?

25 A. To pick out Ivan Buck Williams.

P. SINGLETON - DIRECT EXAMINATION / CROSS-EXAMINATION

32

1 Q. Okay.

2 A. And she did.

3 Q. Okay. Where, where is that now? Is it this one?

4 A. It's four or five.

5 Q. Okay. Did you tell her what to do on that thing if
6 she saw the person that she saw in the house?

7 A. I did.

8 Q. And what did you tell her to do?

9 A. I asked her to circle the picture, including the
10 number, sign her name, and put the correct time.

11 Q. Okay, and did she do that?

12 A. She did.

13 Q. Okay, and the person that she circled and that is
14 indicated as number five on here, who is that?

15 A. Ivan a/k/a Buck Williams.

16 Q. Okay.

17 THE COURT: Anything further, Mr. Murdaugh?

18 MR. R. MURDAUGH: No, sir.

19 THE COURT: All right, cross-examination.

20 MS. SMART-GITTINGS: May it please the court?

21 THE COURT: Yes.

22 CROSS-EXAMINATION BY MS. SMART-GITTINGS:

23 Q. Detective Singleton, at what point did you become
24 involved in this investigation?

25 A. It happened over that weekend, ma'am. That Monday.

P. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 33

1 Q. And how did you become aware of the name Ivan Buck,
2 Ivan Buck Williams?

3 A. I know him personally.

4 Q. But isn't it true the victim was not able to give the
5 name to Officer Elmquist?

6 A. I'm not aware of that.

7 Q. Did you tell her that -- your earlier testimony was
8 that you asked her to pick out Ivan Buck Williams. Is that
9 correct?

10 A. That is correct.

11 Q. And she picked him out as a result of you asking her
12 to pick out Ivan Buck Williams?

13 A. She gave a statement prior to that, ma'am.

14 Q. But in her statement to law enforcement, she didn't
15 know who Ivan -- she's didn't know the names of the people
16 involved in her ---

17 A. She knew Buck and one of the Taylor twins.

18 Q. She didn't tell Elmquist that, did she?

19 A. I'm not sure what she told, told Elmquist.

20 Q. You're the case agent on this case?

21 A. I am.

22 Q. And you have the police reports submitted by the
23 Hampton County Sheriff's Office?

24 A. I know what's in the police report.

25 Q. And the police reports indicate that she did not know

P. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 34

1 the name of the suspects in her house?

2 A. That is correct.

3 Q. And that she only knew them from being uptown, but she
4 didn't know who they were?

5 A. I met with her on that Monday.

6 Q. So, some time then -- from the time that it happened
7 and the time that she met with you, she had been given the
8 name of a suspect. Is that correct?

9 A. I can't answer that.

10 Q. But it is your testimony that you asked her
11 specifically to pick out Ivan Buck Williams?

12 A. That was after I met with her.

13 MS. SMART-GITTINGS: I don't have any of other
14 questions, Your Honor.

15 THE COURT: Any redirect, Mr. Murdaugh?

16 MR. R. MURDAUGH: No, sir.

17 THE COURT: All right. Be glad to hear -- is there
18 any other evidence you would like to present with regard
19 to ---

20 MR. R. MURDAUGH: No, sir.

21 THE COURT: --- the Biggers issue?

22 MR. R. MURDAUGH: No, sir.

23 THE COURT: Very good.

24 You may have a seat.

25 (THE WITNESS EXITS THE STAND.)

1 THE COURT: Ms. Smart, do you have any evidence you'd
2 like to offer or any argument?

3 MS. SMART-GITTINGS: I do not have any evidence, Your
4 Honor. But I would like to suppress the photo lineup based
5 on the testimony of Detective Singleton, whose first
6 statement was that he asked the victim to pick out
7 specifically Ivan Buck Williams.

8 I would submit to the court by him asking her to pick
9 out Ivan Buck Williams, that that is severely suggestive,
10 and that -- we would ask that that be suppressed based on
11 the fact that it was suggestive. His testimony was I told
12 her to pick out Ivan Buck Williams.

13 THE COURT: All right. What, what do you think about
14 the fact that really one of the issues in a *Biggers* hearing
15 is to determine whether or not the lineup itself is
16 unconstitutionally suggestive? Have you had an opportunity
17 to review the pictures that were submitted to the victim?

18 MS. SMART-GITTINGS: I have the pictures, Your Honor,
19 and I have no issue as to whether or not the pictures look
20 similar.

21 THE COURT: Right.

22 MS. SMART-GITTINGS: The six photos, all of the men
23 look similar in complexion, hair type, facial features. My
24 concern is that he specifically said pick out Ivan Buck
25 Williams.

1 THE COURT: All right, Ms. Smart, I understand what
2 you're saying, and your point is well taken. But would you
3 agree that that really goes more to the weight of the
4 testimony? You're going to have wide latitude with regard
5 to cross-examining the investigating officer and the
6 victim. Don't you think that probably is a question of
7 fact that the jury needs to resolve?

8 MS. SMART-GITTINGS: I do, Your Honor. I would submit
9 that it is a question of fact.

10 THE COURT: Okay. Anything that you would like to add
11 with regard to that, Mr. Murdaugh?

12 MR. R. MURDAUGH: No, sir. I think you've covered it
13 well.

14 THE COURT: All right. Well, I do indeed find that --
15 I've had an opportunity to review the photographs that were
16 submitted. They are remarkably similar. They are not
17 unconstitutionally suggestive.

18 With regard to the manner in which she picked it out,
19 all of the circumstances and what was communicated to her
20 before the lineup and during the lineup, the photographic
21 lineup procedure, I'm going to give you, Ms. Smart, wide
22 latitude to cross-examine them in every way, shape, and
23 form to point out any circumstances that might indicate
24 there's some suggestion. But I will allow the photographic
25 lineup into evidence with that qualification that you're

1 going to be allowed to do that.

2 Very good. Anything further?

3 MR. R. MURDAUGH: Not from the state, sir.

4 MS. SMART-GITTINGS: Your Honor, I do have one more
5 motion. I'd like to make a motion to sequester the state's
6 witnesses at this time. I do understand that Detective
7 Singleton is the case agent, but my concern is what's, you
8 know, what's going to happen as a result of either Ms.
9 Singleton hearing his testimony or him hearing Ms.
10 Singleton's testimony. Officer Elmquist, of course I would
11 like to keep him sequestered and Sergeant Brooker.

12 THE COURT: Okay.

13 MS. SMART-GITTINGS: I'm sorry, Detective Brooker.

14 THE COURT: Mr. Murdaugh, be glad to hear from you in
15 regard to sequestration.

16 MR. R. MURDAUGH: I have no objection to that.

17 THE COURT: All right. Mr. Singleton, the chief
18 investigating officer, will be allowed to stay in the
19 courtroom at all times, and the other witnesses will be
20 sequestered.

21 The sequestration order is going to require that there
22 be no discussion amongst the witnesses with regard to what
23 the testimony was or anything such as that. So, the
24 sequestration order is that y'all are only going to be in
25 the courtroom when you're testifying.. No discussion

1 amongst you with regard to what the questions were, what
2 the answers were. Does everybody understand that? Very
3 good.

4 Anything further?

5 MR. R. MURDAUGH: Just out of an abundance of caution,
6 sir. I have not talked with Detective -- I mean, with
7 Officer Elmquist. May I do that before I put him into
8 sequestration, Your Honor?

9 THE COURT: Certainly you're allowed to do that. Yes.

10 MR. R. MURDAUGH: Okay. Thank you, sir.

11 THE COURT: You're able to do that, sir.

12 MS. SMART-GITTINGS: Nothing further, Your Honor. I'm
13 sorry.

14 THE COURT: Anything further?

15 MR. R. MURDAUGH: Nothing, sir.

16 THE COURT: All right. Very good. We'll stand at
17 ease until 9:30.

18 (OFF-THE-RECORD.)

19 MR. R. MURDAUGH: We got a bond on this fellow, and I
20 assume that -- unless the bondsman -- he's out of a bond
21 unless he comes and bonds, he's not going to be released
22 tonight. I'll leave it up to you.

23 THE COURT: What do you have to say about that, Ms.
24 Smart?

25 MS. SMART-GITTINGS: Your Honor, he has not -- he has

1 been to all of his court appearances since he's been
2 released on bond. There's no issue as to whether or not
3 he's going to appear as far as any past behavior. So, I
4 would ask that his bond remain in place.

5 THE COURT: Okay. You know, one thing, and there's
6 been a case recently on this. Once the case is called to
7 trial, we really kind of have to have the bondsman show up
8 in court and say on the record that he's willing to stay on
9 the bond. It's only 4:15. You might need to get him up
10 here to address that very issue. And if he -- if the
11 bondsman is in a position to stay on the bond, I'll allow
12 you to remain on the bond.

13 (OFF THE RECORD.)

14 MS. SMART-GITTINGS: I did try to contact Travis
15 Griffith, the bail bondsman in this case. His phone is
16 going straight to his voice mail, and his voice mail is
17 full. So, I have no other telephone number to contact
18 him.

19 THE COURT: Well, I'm going to ask that you leave a
20 message on that voice mail, but he'll have to remain with
21 us. It's not that I would doubt that he would come back.
22 But the problem is if he doesn't show up, then we can't
23 estreat the bond. So, he's going to have to show up in
24 court on the record and say that he'll remain on bond.

25 If you can get in touch with him tonight and the case

1 goes beyond Monday, then he can go on bond once -- once the
2 case is called, the bond has been met. He has to agree to
3 stay on it thereafter, and it has to be on the record. He
4 can't just tell you it's okay; he's going to have to show
5 up. He's going to have to show up.

6 MS. SMART-GITTINGS: Thank you, Your Honor.

7 THE COURT: So, he will remain in custody until such
8 time as we can have the bondsman appear before the court.

9 MS. SMART-GITTINGS: Thank you, Your Honor.

10 (WHEREUPON, THE CASE IS AT EASE.)

11 TUESDAY, NOVEMBER 5, 2013

12 (COURT RESUMES AT 9:32 AM.)

13 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBIT
14 NUMBERS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 FOR
15 IDENTIFICATION.)

16 THE COURT: Please be seated.

17 Mr. Murdaugh, anything from the state before we
18 proceed?

19 MR. R. MURDAUGH: Nothing, sir.

20 THE COURT: Ms. Smart?

21 MS. SMART-GITTINGS: Nothing, Your Honor.

22 (A PAUSE.)

23 THE COURT: All right, we're ready for the jury.

24 MR. R. MURDAUGH: Rontavious Taylor? You need to go
25 to...

1 This is a sequestered witness, if Your Honor please.

2 (A PAUSE.)

3 (THE JURY ENTERS AT 9:36 AM.)

4 THE COURT: I'm going to ask the foreman if you could,
5 if you could just come and stand right here and let the
6 people go by. Logistically, Mr. Foreman, it might be best
7 to be the last one out of the jury room. That way we won't
8 have any problem.

9 Mr. Foreman, ladies and gentlemen of the jury, thank
10 you for being here, and thank you for being here on time.
11 We are about to begin the trial of the *State of South*
12 *Carolina vs. Ivan Williams*, indictment number
13 2012-GS-25-00071.

14 I want to talk with you a bit before we get started.
15 I have shared with you during the jury selection this
16 indictment, and the defendant, Mr. Williams, has been
17 indicted for burglary first degree. This indictment, as I
18 mentioned to you, bears absolutely no evidentiary value.
19 This piece of paper is just the document that starts the
20 criminal proceeding.

21 He has been charged with burglary first degree arising
22 out an alleged incident that took place on June 20, 1985.
23 To that offense, he has pled not guilty. In the United
24 States of America, a person who is accused of a crime may
25 plead not guilty. Certain constitutional safeguards

1 come into play, the first of which is he's presumed to be
2 innocent. As Mr. Williams sits there at that defense
3 table, he is presumed to be as innocent as me or you; we
4 start from that frame of reference. That's the way we
5 start.

6 The second constitutional safeguard is that the state
7 bears the burden of proof. They are required to prove each
8 and every element of this crime, and that will be explained
9 to you in great detail at the conclusion of the case.

10 And the third constitutional safeguard is that the
11 state has the burden of proof, but moreover they have to
12 meet the highest burden of proof known by our judicial
13 system: proof beyond a reasonable doubt.

14 Imagine with me, if you will, the scales of justice
15 where the lady is blindfolded from all bias and prejudice.
16 When any trial starts, the scales are even. In a civil
17 case, if we were here talking about an automobile accident,
18 contract dispute, plaintiff would be required just to tilt
19 the scales ever so slightly in their favor, and they will
20 have met their burden of proof because, after all, in those
21 civil matters all they're talking about is money.

22 In this case, we're talking about very important civil
23 liberties, and the state is required not only to prove
24 their case, but to prove it beyond a reasonable doubt, and
25 I envision that as locking up the scales, the highest

1 burden of proof known to our judicial system. It's not
2 proof beyond every doubt, but it's beyond all real doubt,
3 substantial doubt. I'll charge you in great detail at the
4 conclusion of the case what a reasonable doubt means in the
5 eyes of the law.

6 We are about to begin the trial of the case, and Mr.
7 Murdaugh is going to stand up before you. He represents
8 the state. He's going to kind of lay out what this case is
9 all about, and set out a little bit about the law and what
10 he intends to prove. Then Ms. Smart, who represents Mr.
11 Williams, defense counsel, will have an opportunity to
12 stand up and make an opening statement.

13 Then we'll begin the actual trial of the case where
14 the lawyers call witnesses. And since the state has the
15 burden of proof, they go first. They call the witnesses
16 they have to establish the elements of this offense, and
17 they will present their case, and then after that, the
18 defense is going to have an opportunity to present evidence
19 if they choose to do so.

20 Once again, as I explained to you, they don't have to
21 prove anything. Defendant need not testify, need not
22 present any evidence because after all, in our everyday
23 lives we all know that you can be accused of something and
24 not be able to prove your innocence. We know that, and the
25 law doesn't require that an individual do that. But if

1 they choose to do so, they'll have an opportunity to
2 present evidence. They're not required to in the eyes of
3 the law.

4 Ladies and gentlemen of the jury, you and I have
5 certain duties to perform. I'm the arbiter of the law. I
6 preside over this proceeding. I determine what evidence
7 you get to hear. This is a proceeding that's governed by
8 the rules of evidence and the rules of criminal procedure,
9 and I determine what evidence you get to hear. In addition
10 to that, at the conclusion of the trial I will charge you
11 the law that applies in this case.

12 Ladies and gentlemen of the jury, you are judges as
13 well. You are the ones who are going to judge the facts.
14 You're going to be the ones that listen to the evidence and
15 determine what the truth is.

16 In every trial that's tried in the United States of
17 America, there's a conflict with regards to the facts.
18 You, in your infinite wisdom, collective wisdom, are going
19 to have to listen to the evidence and determine what is
20 true, and that's going to be your job.

21 The law doesn't allow me to have an opinion about the
22 facts, to comment on the facts. That's your sole,
23 exclusive job is to listen to the evidence and determine
24 what is true.

25 I'll give you one admonition from the very beginning.

1 If I make a -- you know, I'm the arbiter of the law, and if
2 I make an error with regard to evidence, let you hear
3 evidence that you shouldn't or not allowing you to hear
4 evidence that you should hear, if I make a mistake with the
5 evidence, if I make a mistake in regard to the law, those,
6 those matters can be easily corrected. But you need to
7 understand that if there's an error with regard to finding
8 of fact, quite often those can't be corrected. So, you
9 have an awesome responsibility.

10 This is an important matter. It's important to the
11 state. It's important to the defense. And you need to pay
12 very close attention because it's very important to you as
13 well.

14 Ladies and gentlemen of the jury, you are necessarily
15 going to be called upon to determine the believability of
16 witnesses. I want to share with you a little bit about
17 what the law says in that regard.

18 First of all, you need to use your good common sense.
19 All of us in our everyday lives are called upon to
20 determine whether or not someone is telling us the truth.
21 You need to ask yourself what opportunity this person had
22 to observe the things to which they are testifying to. Ask
23 yourself if there is any -- they have any bias or
24 prejudice, anything to gain by their testimony.

25 You can believe all of what a witness says, none of

1 what a witness says, or a portion thereof. That's
2 completely within your parameters as the triers of fact to
3 make those type determinations.

4 In addition to that, the law says that you can take
5 into consideration the witness's demeanor. Any of you who
6 have teenaged children like myself, sometime it's important
7 to listen to not only what they say but how they say it.
8 The law allows you to take that in consideration. Just use
9 your good common sense in that regard.

10 At the conclusion of the presentation of evidence, the
11 lawyers will have an opportunity to give what they call
12 closing arguments. They're similar in form to opening
13 statements. They will stand up before you and in summary
14 fashion talk with you. But the closing arguments are truly
15 argumentative in nature because at that point in time, all
16 of the evidence will have been presented. They will be
17 able to point to the evidence that supports their relative
18 position. What they have to say is not evidence, but it
19 will aid you immensely in your deliberation process. So,
20 pay very close attention as the lawyers give their closing
21 arguments. After that, I will charge you the law.

22 Once again, Mr. Foreman, there will be no deliberation
23 about this case, no discussion about the witnesses, the
24 lawyers, anything about the case until I give you
25 instructions to do so. You need to hear all the trial; you

1 need to hear the law before there can be any discussion
2 whatsoever about the case.

3 I also want to admonish you there will be no note
4 taking. Given the nature of this case and the length of
5 this case, it's not necessary that you take notes. It is
6 going to require that you pay very close attention as the
7 witnesses testify.

8 Ladies and gentlemen of the jury, you are
9 participating in a time-tested system. You've taken a
10 solemn oath to listen to the witnesses, determine what the
11 truth is, and apply it to the law. I am confident that you
12 will do so.

13 Mr. Murdaugh.

14 MR. R. MURDAUGH: May it please the court?

15 Mr. Foreman, ladies and gentlemen of the jury, as His
16 Honor told you, an opening statement is sort of like a set
17 of plans for somebody constructing a house or a road map on
18 somebody that's driving down the highway. What I'm going
19 to tell you is what I intend to prove from that witness
20 stand and from certain evidence that's going to be
21 introduced.

22 And let me tell you something else. His Honor just
23 told you y'all have to consider only what comes from that
24 witness stand and what comes from those items that are
25 introduced as evidence and nothing else. You were selected

1 and chosen by both the defendant and the state to decide
2 this case. You must listen to the testimony and reach a
3 verdict. .

4 Verdict is derived from the Latin word veredicto,
5 which means to speak the truth. And whatever your verdict
6 be, let it speak the truth as you understand it in this
7 courtroom.

8 Now, the defendant in this case, Buck Williams, is
9 charged with burglary, and I'm going to tell you in lay
10 terms what burglary is. This is breaking and entering of a
11 dwelling house, a house that somebody lives in, during the
12 nighttime -- that is the definition in this case -- with
13 the intent to commit a crime.

14 Now, you will hear testimony from Valerie Singleton,
15 the lady seated right there behind where I was sitting,
16 that on the 27th of June 2011, about -- and I can't
17 remember what time she said it was. I think it was a
18 little bit after 12:00. She comes home, and she walks in
19 her house, and she sees two black males, one of which she
20 knows by the name of Buck. Doesn't know his name, but
21 knows him as Buck. She looks at them, and boy I'm going to
22 tell you what. She's pretty dern smart, too. She said
23 look here, boys. Y'all are in my house. Y'all get the
24 heck out of here, and I won't call the police. And she
25 will testify what happened then. They eased out of the

1 house. She immediately called the police.

2 On the following day or two days later, Perry
3 Singleton, the detective seated right there, takes a
4 statement from her, and she has learned what Buck's full
5 name is by then: Irvin -- Ivan Buck Williams. And she
6 tells Perry that.

7 He gets a picture of Ivan Buck Williams and he sends
8 it to SLED, and SLED does this to facilitate
9 investigations. They prepare a photo sheet with six
10 pictures in it, and y'all will see this thing, and he gives
11 it to Valerie. It's sometime later on that she looks at
12 it, a good while later on, and she looks at it and she says
13 that's the man right there. Perry says, well, circle it.
14 She circles it and signs her name to it, and that person is
15 Ivan Buck Williams, that fellow sitting right over there.

16 Now, ironically, the second man involved in this, it's
17 sort of an unusual situation. I've run into this situation
18 one other time since I've been prosecuting, and that's
19 since 1964. They know his last name, but they don't know
20 what his first name is because it's a set of twins. We
21 know it was one or the other of them because she did
22 another photo lineup and picked him out. But we don't know
23 whether it's you or you if y'all are identical twins. We
24 don't know which one to try, and that's why we're trying
25 Ivan Williams.

1 You will hear testimony that -- from James
2 Brooker, detective -- policeman with the sheriff's
3 department that when he arrived at the house of Evelyn --
4 of Valerie that he found a bunch of stuff. Two televisions
5 that were laid out on the bed, a bunch of coins, a bag.
6 You'll see pictures of this, of what he saw when he got
7 there. They will be introduced.

8 He looked to see how somebody had gotten into the
9 house, and he found a door leading to the outside that had
10 been pried open, and you'll hear his testimony about this.

11 So, we know, first of all, that these people broke
12 into a dwelling house. We know it was after 12:00 in the
13 nighttime with the intent to steal because they had taken
14 all of this stuff and laid it out, getting ready to take it
15 away. And if it is, as Valerie says, Ivan Buck Williams
16 that she picked out from the photo lineup and whom she knew
17 but didn't know his name, then he is guilty of the crime of
18 which he is charged. Thank you.

19 THE COURT: Ms. Smart, you are recognized.

20 MS. SMART-GITTINGS: May it please the court, Your
21 Honor?

22 THE COURT: Yes.

23 MS. SMART-GITTINGS: Solicitor Murdaugh. Good morning
24 ladies and gentlemen of the jury.

25 First of all, the judge has made it clear that you, as

1 the jurors, are the triers of the facts. You are to
2 ascertain when the information that comes from the witness
3 stand -- what is true and what is not true. The witnesses
4 will take the oath and they will testify, but as the judge
5 has told you, you have to determine whether or not these
6 witnesses are biased. You have to determine whether or not
7 it's possible that the witness was able to observe what the
8 witness is going to testify to. And based on your
9 experiences and demeanor of the witnesses, you will
10 determine whether or not it is, in fact, a fact.

11 The judge has also told you that Ivan Williams is
12 innocent. He's as innocent as you or I, and as he wears a
13 cloak of innocence, you as jurors will have to take each
14 piece off if you believe the state has met the element.

15 We submit that -- we agree that someone may -- I take
16 that back. We agree that the state will tell you that
17 someone entered Ms. Singleton's house. That's the reason
18 why we're here. The state will tell you that someone put
19 some items on the bed in Ms. Singleton's house, but we do
20 not agree that the person that did that was Ivan Williams.
21 So, this is purely an identification case.

22 The state is going to have to prove to you the
23 identity of the persons who went in the house. And the
24 state has tools and mechanisms by which they develop
25 suspects, and they will tell you how they develop suspects.

1 Ms. Singleton's testimony will be important because she is
2 the only eyewitness in this case; she is the only person
3 that will be able to identify the suspect.

4 What Ms. Singleton will tell you, or what she told one
5 of the officers is going to be different from what she told
6 another officer. That is what you have to determine --
7 which statement, in fact, is more believable -- and that is
8 where the conundrum occurs. You'll have to determine which
9 of her statements you're going to believe.

10 You're going to have to listen to the testimony from
11 the Hampton County Sheriff's Office to determine how
12 believable they are. I've worked with the Hampton
13 department, Hampton sheriff's office for -- 1999 with a
14 couple of years in between there I haven't worked here, and
15 we have a great working relationship. I will never submit
16 to this jury that any of the officers from the Hampton
17 County Sheriff's Office is dishonest, but I will tell you
18 that they are zealous, and they strive very hard to solve
19 cases. And as citizens of Hampton County, that is what you
20 want, and that is what you expect from your sheriff.

21 But sometimes in their rush to judgment they make
22 mistakes, and that is what we're submitting that you
23 determine. You listen to the steps that was taken by the
24 Hampton County Sheriff's Office and determine whether or
25 not the leap of faith that they are asking you to take is

1 worth taking. And if you don't jump when they say jump,
2 then you can't put a layer of guilt on Mr. Williams. If
3 they don't prove to you that it was Mr. Williams in the
4 house, then you have to find him not guilty.

5 Mr. Williams may or may not testify when you -- a lot
6 of jurors think, well, if he didn't do it, why don't he
7 just tell us. He can tell us. Why wouldn't he tell us?

8 Well, the law doesn't require him to tell you that.
9 The law doesn't require him to do anything but sit at --
10 and actually he doesn't actually have to appear, but the
11 law places the entire burden to prove his guilt on Mr.
12 Murdaugh.

13 So, we submit that you listen to the evidence, you
14 listen to the testimony, and when you begin your
15 deliberation, you honestly state what you believe. I
16 expect it to be difficult. I don't expect you all to come
17 to an agreement, but I expect you to deliberate and to
18 deliberate honestly and respectfully. Respect the opinions
19 of your fellow jurors. Thank you very much.

20 THE COURT: Thank you, Ms. Smart.

21 MR. R. MURDAUGH: Call Valerie Singleton.

22 THE COURT: Ms. Singleton, if you could come forward,
23 please, and place your left hand on the Bible and raise
24 your right hand as the clerk administers the oath.

25 VALERIA SINGLETON, BEING DULY

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1 SWORN, TESTIFIES AS FOLLOWS:

2 THE COURT: Ms. Singleton, have a seat. I'm going to
3 ask that you pull up real close to that microphone. Speak
4 loudly, clearly, and slowly in order that we can hear
5 everything that you've got to say, and let's start with
6 your full name, Ms. Singleton.

7 WITNESS: Valeria Singleton.

8 THE COURT: Thank you.

9 Mr. Murdaugh.

10 DIRECT EXAMINATION BY MR. R. MURDAUGH:

11 Q. Ms. Singleton, how are you this morning?

12 A. Doing good.

13 Q. Ms. Singleton, I'm direct -- going to direct your
14 attention to June the 27th of 2011. Does that date ring a
15 bell with you?

16 A. Yes, it does.

17 Q. Will you tell me why it rings a bell?

18 A. That was the night I came home and found two guys in
19 my home.

20 Q. Okay. Now, if you will, talk to me as loud as I'm
21 talking to you so all of these ladies and gentlemen can
22 hear everything you say clearly and distinctly, okay?

23 A. Okay.

24 Q. Where do you live?

25 A. Now?

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. No. At that time.

2 A. At that time, I lived in Furman, South Carolina.

3 Q. Okay, and did you have a house there?

4 A. I had a mobile home.

5 Q. Okay. Did anyone live with you?

6 A. Sometime my kids would be there, but just me.

7 Q. Okay. Was anybody staying at the house that night?

8 A. No.

9 Q. Okay, and you got home at what time?

10 A. Around 12:25 AM.

11 Q. AM. You're talking about during the night?

12 A. During the night, yes.

13 Q. Okay. When you arrived at your house, tell the ladies
14 and gentlemen on the jury what you observed and what you
15 saw.

16 A. Okay. On the 27th of June 2011, when I got home that
17 night, I pulled up around 12:25, and I was listening to
18 music, and I had my music playing quite loud in my car. I
19 sat in to the car, and I listened to the song until it went
20 off. Then I got out my car, and I hit my alarm three
21 times.

22 Okay, with this going on, I walked up to my door. I
23 thought I heard something, but then I stop. I said no,
24 maybe there's something under the house; maybe there's a
25 cat or something. So, I went on inside.

1 Once I got inside my house -- I could see my back door
2 from my front door. I notice that the back door was
3 cracked open, and I stopped. I looked around and when I
4 looked around, I could see Buck was at the foot of my bed
5 with my TVs spread out, and he was gathering some items, I
6 guess, but he never saw me.

7 In my bedroom door, I had a fan blowing, so he
8 couldn't hear me when I came in. So, I watched him. He
9 didn't hear me in the house, and after I watched him for a
10 few minutes, I said hey. What you doing, and he just
11 looked up. He stared at me. Never said a word. And I
12 said I think you should leave and when I said that, he
13 looked into the corner of the room.

14 Okay. I say, so you have somebody with you. I
15 suggest both of y'all come out now and I won't call the
16 cops. And that other guy proceeded to come around the
17 corner where I couldn't see them him, and he walked out
18 towards me. He walked real slow.

19 They both walked out. They never said a word to me.
20 They just walked out. They never took their eyes off me,
21 and they went to the back door and they left. I locked the
22 door, and I called 911.

23 Q. Okay. The fellow that you first saw when you went in
24 there.

25 A. Yes.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. Had you ever seen him before?

2 A. Yes.

3 Q. Did you know him by name?

4 A. Just his nickname, Buck.

5 Q. Just the nickname Buck?

6 A. Just the nickname.

7 Q. Okay. Now, I'm going to show you some pictures and
8 ask you if you can identify these. I had her mark State's
9 Exhibit Number 2. What is that?

10 A. That's my TV stand.

11 MR. R. MURDAUGH: If Your Honor please, I have shown
12 these to counsel.

13 THE COURT: Any objection?

14 MS. SMART-GITTINGS: Without objection, Your Honor.

15 THE COURT: All right, and they are denominated as
16 State Exhibits?

17 MR. R. MURDAUGH: State's Exhibit Number 2 for
18 identification, and I ask that they be introduced.

19 THE COURT: Very good, and any objection?

20 MS. SMART-GITTINGS: No objection, Your Honor.

21 THE COURT: State's Exhibit Number 2 is into evidence.

22 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
23 NUMBER 2.)

24 BY MR. R. MURDAUGH:

25 Q. Okay. What is that a picture of?

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 A. My TV stand.

2 Q. And what was on -- was anything on that stand?

3 A. Not at the time, no.

4 Q. What was on it?

5 A. It was my 32 inch TV.

6 Q. Okay.

7 MR. R. MURDAUGH: May I exhibit it to the jury?

8 THE COURT: Yes.

9 BY MR. R. MURDAUGH:

10 Q. I show you an item marked State's Exhibit Number 3 for
11 identification and ask you if you can identify that.

12 A. Yes. Those are my two TVs in a bag on my bed.

13 Q. Okay, and I show you State's Exhibit Number 4 and ask
14 you if you can identify that.

15 A. Yes. Again that's my 19 inch TV and my 32 inch TV in
16 a bag of items that I had in my bedroom.

17 MR. R. MURDAUGH: Your Honor please, I offer these two
18 as exhibits.

19 THE COURT: All right, any objection?

20 MS. SMART-GITTINGS: No objection, Your Honor.

21 MR. R. MURDAUGH: May I present them to the ---

22 THE COURT: 2, 3, and 4 into evidence.

23 MR. R. MURDAUGH: May I present them?

24 THE COURT: Yes.

25 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT

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1 NUMBER 3.)

2 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
3 NUMBER 4.)

4 BY MR. R. MURDAUGH:

5 Q. Ms. Singleton, I show you State's Exhibit, Number 5
6 and ask you what that is a photo of.

7 A. Okay, this is a photo of the bag used to put my
8 contents in, and it was loaded with my radio and some
9 personal items that I had: camera, cell phone, coins.

10 Q. Had you put that stuff in that bag?

11 A. No, sir. They used that bag to gather the items.

12 MR. R. MURDAUGH: And if Your Honor please, I offer
13 number 5 as an exhibit.

14 MS. SMART-GITTINGS: Without objection.

15 THE COURT: State's Exhibit 2, 3, 4, and 5 are into
16 evidence.

17 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
18 NUMBER 5.)

19 BY MR. R. MURDAUGH:

20 Q. I show you State's Exhibits Number 7 and -- 6 and 7
21 ask you what those are photos of.

22 A. Okay, number 6 is a 19 inch TV, and number 7 is a 32
23 inch TV.

24 Q. And where are they?

25 A. On the bed.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. Okay. Is that the same bed that you were talking
2 about earlier?

3 A. Yes, same bed.

4 Q. Okay.

5 MR. R. MURDAUGH: If Your Honor please, I would offer
6 these as exhibits.

7 THE COURT: Any objection from the state?

8 MS. SMART-GITTINGS: No objection, Your Honor.

9 THE COURT: 6 and 7 are into evidence.

10 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 6.)

12 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
13 NUMBER 7.)

14 BY MR. R. MURDAUGH:

15 Q. I show you State's Exhibit Number 10 and ask you -- 10
16 and 11 and ask you what those are photos of.

17 A. Okay, both exhibits 10 and 11 are the items that were
18 inside the bag, which is my cell phone, camera, flashlight,
19 a small radio, some coins, and jewelry.

20 Q. Okay. So, these were taken out of the bag and put on
21 the bed?

22 A. Yes, to take a picture of.

23 MR. R. MURDAUGH: Okay. Thank you, ma'am.

24 I offer these as exhibits, Your Honor. That's 10 and
25 11.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 THE COURT: Any objection from the state?

2 MS. SMART-GITTINGS: No objection, Your Honor.

3 THE COURT: 10 and 11 are into evidence.

4 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
5 NUMBER 10.)

6 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
7 NUMBER 11.)

8 BY MR. R. MURDAUGH:

9 Q. I show you State's Exhibit Number -- what is that?
10 12?

11 A. Yes.

12 Q. Number 12 and ask you what that is.

13 A. Exhibit 12 is a picture of my file cabinet which they
14 broke into.

15 Q. Was anything taken out of it?

16 A. Yes. That's where the cameras and cell phones came
17 out of.

18 Q. Okay.

19 MR. R. MURDAUGH: If Your Honor please, I offer 12, 12
20 as an exhibit.

21 THE COURT: Any the objection from state?

22 MS. SMART-GITTINGS: No objection, Your Honor.

23 THE COURT: 12 is into evidence.

24 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
25 NUMBER 12.)

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 BY MR. R. MURDAUGH:

2 Q. And lastly 13, what is that?

3 A. Okay, that's the top drawer of the file cabinet, which
4 the drawer is missing. The lock is broken.

5 Q. Thank you, ma'am.

6 MR. R. MURDAUGH: I offer this as an exhibit, if Your
7 Honor please.

8 MS. SMART-GITTINGS: No objection, Your Honor .

9 THE COURT: 13 is into evidence.

10 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 13.)

12 BY MR. R. MURDAUGH:

13 Q. Okay. I show you State's Exhibit Number 8 and 9 and
14 ask you what that is a photograph of.

15 A. Okay, 8 and 9 -- well, 8 is ---

16 Q. Start off with 8.

17 A. Okay, 8 is the exhibit of my back door that was open
18 when I got home.

19 Q. And where does that door lead to?

20 A. The back door? Out of the back of the house, so the
21 backyard.

22 Q. To the outside?

23 A. Outside the house.

24 MR. R. MURDAUGH: If Your Honor please, I would offer
25 State's Exhibit Number 8 as an exhibit.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 MS. SMART-GITTINGS: No objection, Your Honor.

2 THE COURT: State's Exhibit 8 is into evidence.

3 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
4 NUMBER 8.)

5 BY MR. R. MURDAUGH:

6 A. And Exhibit Number 9 is the lock on the back door that
7 was pried open.

8 MR. R. MURDAUGH: And if Your Honor please, I would
9 offer 9 as an exhibit.

10 MS. SMART-GITTINGS: No objection, Your Honor.

11 THE COURT: 9 is into evidence as well.

12 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
13 NUMBER 9.)

14 BY MR. R. MURDAUGH:

15 Q. Now, Ms. Singleton, did, on the 28th or 29th of June
16 or sometime after this break-in, did you have an occasion
17 to talk with Perry Singleton?

18 A. I did.

19 Q. And don't tell me what you said.

20 A. Okay.

21 Q. But did you give him a written statement?

22 A. I did.

23 Q. At the time you talked to him, had you learned what
24 Buck's full name was?

25 A. I did.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. Okay. Did you tell him in that statement that the
2 person that you saw in your house was Ivan Buck Williams?

3 A. I did.

4 Q. Okay. Did he show you a good while later a photo
5 lineup?

6 A. I did -- he did.

7 Q. Ma'am?

8 A. He did.

9 Q. Okay, I and ask you if you recognize this item?

10 A. Yes, number five. That's the one I chose.

11 Q. No. What is this a picture of?

12 A. Buck Williams, Ivan Williams.

13 Q. Anybody else beside him?

14 A. No, just him.

15 Q. Well, I notice that there are six people on there.

16 A. Yes, but that's the only one I recognize.

17 Q. Okay. So, this is a photo lineup of six people?

18 A. Yes. Correct.

19 Q. And did, did Perry Singleton ask you to -- if you
20 could identify the person that was in your house that
21 night?

22 A. Yes. He asked me to circle and initial.

23 Q. And did you do that?

24 A. I did.

25 Q. Okay.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 MR. R. MURDAUGH: If Your Honor please, I would offer
2 this as an exhibit.

3 THE COURT: Very good.

4 MS. SMART-GITTINGS: No objection, Your Honor.

5 THE COURT: All right.

6 COURT REPORTER: State's 14.

7 THE COURT: State's 14 is into evidence with objection
8 from defense.

9 (PHOTO LINEUP MARKED INTO EVIDENCE AS STATE'S EXHIBIT
10 NUMBER 14.)

11 BY MR. R. MURDAUGH:

12 Q. Showing you State's Exhibit Number 14, you circled
13 number five?

14 A. I did.

15 Q. Do you see that person in the courtroom today?

16 A. Yes, he is.

17 Q. Where is he?

18 A. He's right there sitting at the table.

19 Q. You're pointing to your right. I ask you if you're
20 indicating the person upon whose shoulder I now put my
21 hand?

22 A. I am.

23 Q. Okay, and he is the person who that was in your house

24 ---

25 A. Yes.

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. --- that night?

2 A. Yes. Yes.

3 Q. Okay. Did you see another person that night?

4 A. Yes.

5 Q. Okay. Were you able to identify him?

6 A. No. I never seen him before that night.

7 Q. I understand that, but were you shown a photo ID of
8 him later?

9 A. Yes, I was, yes.

10 Q. And did you pick out that person?

11 A. Yes, I did.

12 Q. Did you learn that person was a Taylor?

13 A. At the time, yes.

14 Q. No, not at the time. Later on learn that.

15 A. Yes, I did.

16 Q. And did you learn that he was one of two twins?

17 A. He was one of two, correct.

18 Q. Okay, and was it the two twins Rontavious and
19 Dontavious Taylor?

20 A. Yes.

21 Q. Okay.

22 MR. R. MURDAUGH: May I exhibit the photo lineup to
23 the jury?

24 Q. Did you give anybody permission to go in your house
25 that night?

V. SINGLETON - DIRECT EXAMINATION BY MR. MURDAUGH

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1 A. I did not.

2 Q. How did you know Buck Taylor -- I mean, Buck Williams?

3 A. I knew, I knew his face from around town, and I knew
4 of him as Buck.

5 Q. Okay.

6 A. But I didn't know his real name until later that
7 morning. I was sitting at home with my family, and that's
8 how I identified him. So, by the time I gave them my
9 statement, I already knew his full name, but before that I
10 only knew him as Buck.

11 Q. You say how you identified him?

12 A. Family members. We were sitting there going through
13 Facebook.

14 Q. I mean, you recognized the ---

15 A. But I recognized the face. I knew him as Buck.

16 Q. Okay.

17 A. I didn't have his full name.

18 Q. Okay.

19 A. Yes.

20 Q. Okay. The house that this -- that you lived in in
21 Furman.

22 A. Right.

23 Q. Is that in Hampton County?

24 A. It is.

25 Q. Okay.

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 68

1 MR. R. MURDAUGH: Thank you. Answer any questions Ms.
2 Smart may have.

3 WITNESS: Okay.

4 THE COURT: Ms. Smart, you are recognized for
5 cross-examination.

6 MS. SMART-GITTINGS: May it please the court, Your
7 Honor?

8 THE COURT: Yes.

9 CROSS-EXAMINATION BY MS. SMART-GITTINGS:

10 Q. Good morning, Ms. Singleton.

11 A. Good morning.

12 Q. Now, the night that this incident occurred, you called
13 911, correct?

14 A. I did.

15 Q. And deputies were dispatched to your house?

16 A. Yes.

17 Q. Do you know how many deputies came to your house that
18 night?

19 A. Maybe two or three. I'm not remembering. I thinking
20 there might have been three: two deputies and a canine.

21 Q. Okay. Initially how many deputies responded?

22 A. Two.

23 Q. Two?

24 A. Yes.

25 Q. Do you remember their names?

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 69

1 A. I don't.

2 Q. Deputy Elmquist?

3 A. Could have been. I don't know their...

4 Q. But you remember initially talking to the first
5 responder that night?

6 A. I do.

7 Q. Okay, and do you remember telling the first responder
8 that you had seen those suspects around the area, that you
9 had seen them uptown, but you, you did not know the
10 suspects' names?

11 A. Not, not both. Just one. I didn't know the one. I
12 knew of Buck, but I don't know the other guy that was in my
13 home. I never seen him before that night.

14 Q. So, it's your testimony that you told the first
15 responder that you knew Buck's name?

16 A. I did, I did know him as Buck.

17 Q. And you told that to the deputy at the ---

18 A. I recognized -- I told him I recognized the face. I
19 didn't know his name.

20 Q. But you said you didn't know his name, correct?

21 A. I knew him as Buck. I did not know him as Ivan.

22 Q. And so you gave a physical description?

23 A. I did.

24 Q. Of the two fellows?

25 A. I believe I did.

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 70

1 Q. Okay.

2 A. I told what they was wearing.

3 Q. And after that, you indicated that they ran out the
4 back door?

5 A. They did.

6 Q. Now, when you -- and, and is your testimony today that
7 you did not tell the first officer that you didn't know the
8 names of the suspects?

9 A. I did not know them by their full legal name.

10 Q. Okay.

11 A. No, I didn't.

12 Q. So, when you walked in your house, isn't it true that
13 you told the first officer that you didn't immediately know
14 someone was in your house?

15 A. No, because I -- at first I didn't see them. All I
16 saw was that my back door was open, and I looked around. I
17 looked -- my living room is large. My kids' bedroom is
18 large. I looked back there, where I didn't see anybody.
19 But then when I looked in my bedroom, that's when I saw his
20 head leaning over the foot of my bed. You could not see
21 his whole body; you could just see his head from where he
22 was standing.

23 Q. And you were able to identify him from ---

24 A. His face, yeah.

25 Q. --- that far?

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 71

1 A. Could see his face fully.

2 Q. Now, was the light on in your room?

3 A. Yes.

4 Q. So, you left the light on?

5 A. No. You can't tell from the outside, the curtains
6 that I have, that my light was on.

7 Q. Okay. So, you, you knew him, so you told him to
8 leave?

9 A. I asked him to leave. I did.

10 Q. And you weren't afraid of him?

11 A. At first I was, but I was not going to leave my house.
12 I worked too hard for what I got.

13 Q. Okay. So, you just stayed there and you watched them
14 ---

15 A. And I asked them to leave, yes.

16 Q. And they left?

17 A. And they left.

18 Q. Now, do you know the twins?

19 A. No.

20 Q. You had never seen them before?

21 A. Not before that night.

22 Q. So, you never told the first responder that you had
23 seen both suspects?

24 A. No, not both, no.

25 Q. Just that one?

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 72

1 A. I know ---

2 Q. Just Ivan?

3 A. --- that one, yes. I know him from around town?

4 A. Now, are you aware as to whether or not the other
5 suspect was arrested?

6 A. I'm not sure.

7 Q. As a victim, were you notified?

8 A. I received calls a while back, and I thought it was
9 for Ivan.

10 Q. Okay.

11 A. But I couldn't make it here.

12 Q. Okay.

13 A. So, I told them I couldn't make it.

14 Q. Now, your last name is Singleton. Are you related to
15 Detective Singleton?

16 A. Not in -- no.

17 Q. You're not related to him?

18 A. I was married to a Singleton.

19 Q. Are you related to any of the Hampton County sheriff's
20 officers?

21 A. I am.

22 Q. You're related to Maurice, Maurice Hunt?

23 A. Uh-huh.

24 Q. And you spoke with him about this case?

25 A. He was trying to get in contact with me for Ms. Peggy.

V. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 73

1 Other than that, he don't know the case.

2 Q. Now, you -- and Perry asked you to make a witness
3 statement?

4 A. Yes.

5 Q. And you did?

6 A. Uh-huh.

7 Q. Now, isn't it true that Perry gave you the
8 photographic lineup and told you to pick out Buck?

9 A. That was after the fact.

10 Q. But he did give you the lineup and ---

11 A. Yeah, I ---

12 Q. --- and ask you to pick out Ivan Williams?

13 A. Uh-uh. He asked me to pick out the guy that was in my
14 house.

15 Q. Okay. So, he didn't tell you to pick out specifically
16 Buck?

17 A. No.

18 Q. Okay.

19 A. He said pick out the guy that was in my house.

20 Q. Okay.

21 MS. SMART-GITTINGS: I don't have any other questions.

22 THE COURT: Redirect?

23 MR. R. MURDAUGH: I have no questions. Call James
24 Brooker.

25 THE COURT: All right, you may step down.

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 (THE WITNESS EXITS THE STAND.)

2 THE COURT: Mr. Brooker, if you could have a seat here
3 in the witness chair? We're going to ask you to pull up
4 real close to the microphone, and place your left hand on
5 the Bible and raise your right hand as the clerk
6 administers the oath.

7 JAMES A. BROOKER, BEING DULY
8 SWORN, TESTIFIES AS FOLLOWS:

9 THE COURT: Ask that you speak loudly, clearly, and
10 slowly in order that we can hear everything that you've got
11 to say. Let's start with your full name.

12 WITNESS: My name is James Albert Brooker.

13 THE COURT: Thank you, Mr. Brooker.
14 Mr. Murdaugh.

15 DIRECT EXAMINATION BY MR. R. MURDAUGH:

16 Q. Mr. Brooker, by whom are you employed?

17 A. Hampton County Sheriff's Office.

18 Q. In what capacity are you employed by them?

19 A. I am currently employed as a detective.

20 Q. Okay, sir, and how long have you worked with the
21 sheriff's department?

22 A. For approximately nine and a half years.

23 Q. Okay. Prior to that, were you in law enforcement?

24 A. I had seven years of law enforcement experience with
25 the South Carolina Department of Corrections.

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. Okay. Mr. Brooker, on June the 27th of 2011, did you
2 have an occasion to respond to a call in Furman?

3 A. Yes, I did.

4 Q. Okay, and was that in Ms. Valerie Singleton's ---

5 A. Yes, it was.

6 Q. --- house?

7 A. Yes, sir.

8 Q. Or trailer. Okay. Will you tell the ladies and
9 gentlemen what you did when you got there? Were you the
10 first person to get there?

11 A. I arrived with another deputy that was on duty with me
12 that night. We arrived pretty much about thirty seconds
13 apart; he arrived about thirty seconds prior to me.

14 Q. Okay. In separate cars?

15 A. Yes, sir.

16 Q. Okay. You almost have to, didn't you? It's a dumb
17 question.

18 Okay, sir, when you got there, what did you do?

19 A. When we arrived at the residence, we was met by Ms.
20 Singleton, and we asked her what had taken place, and Ms.
21 Singleton began to explain to us what had happened.

22 She stated to us that she had arrived home from work
23 after working. She got off about 12:30, 12:25, and she
24 arrived home at her residence. She stated that when she
25 arrived home, she sat in her car for about two to five

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 minutes because she was listening to a song that was
2 playing. After hearing her song, she got out of her
3 vehicle and went inside her residence.

4 When she went inside her residence, she was walking
5 toward her kitchen area of her residence, and she noticed a
6 black male inside of her, inside of her residence wearing
7 gloves, but at that time she could also hear a second black
8 male. Both males was inside her bedroom.

9 She stated at that time that she told both of the
10 black males that if they get out of her residence, she
11 would not call the police. She stated that the first black
12 male exited the room slowly, and then shortly after that
13 the second black male began to exit the room slowly. And
14 as they exited the room, they was just staring at her, and
15 she wasn't sure what their intentions was, but they
16 continually to walk -- they continued to walk past her,
17 walking to the door the residence, and exited the
18 residence.

19 She stated that once these individuals got outside the
20 residence, one of the black males ran into a wooded area
21 that goes along side her residence, and the other black
22 male just stopped and stared at her for a little while.
23 And after a few minutes, he then ran into the same wooded
24 area behind the other black male. At that point, Ms.
25 Singleton stated that she picked up the phone and called

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 for law enforcement.

2 Q. Okay. When she gave you this information, Detective
3 Brooker, did you go into the trailer?

4 A. Yes, sir, we did.

5 Q. Okay. What did you see when you got in there?

6 A. We, we noticed there were several things moved around
7 and thrown about in -- inside the trailer. We specifically
8 concentrated on the bedroom area in which she said she
9 found the black males or seen the black males coming out
10 of. There were several items spread out or sprawled out on
11 the bed of the bedroom area at that particular time.

12 We also began to look around to see if we can find a
13 point of entry into the residence, and we was able to
14 determine that the point of entry was the back door, the
15 rear door of the residence. It appeared to have been pried
16 open with some type of tool.

17 Q. Mr. Brooker, I show you State's Exhibit Number 2, 3,
18 4, 5, 6, 7, 10, 11, 12, 13 and ask you what they are.

19 A. These are these are items that was on the bed of the
20 residence on that particular evening and items.

21 Q. You say they are items. Are they photographs of the
22 items?

23 A. Yes, sir. They are photographs ---

24 Q. Okay.

25 A. --- of items that was on the bed of the residence.

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 Q. Okay.

2 A. In the bedroom.

3 Q. And who took those pictures?

4 A. I took these pictures, sir.

5 Q. Okay. Now, you have indicated that you looked for a
6 point of entry?

7 A. Yes, sir.

8 Q. And did you find one?

9 A. Yes, sir, we did.

10 Q. And where was that?

11 A. That would be the back door of the residence.

12 Q. Okay, and what did you find when you looked at the
13 back door?

14 A. We checked the back door. We found what would appear
15 to be fresh pry marks as if the door had been pried open
16 using some type of a tool.

17 Q. Okay. I show you Exhibits -- Exhibit Number 8 and ask
18 you what that is a photograph of.

19 A. This is a photograph of the back door of the
20 residence.

21 Q. Okay, and I show you State's Exhibit Number 9 and ask
22 you what that is.

23 A. This is a photograph of the locking mechanism on the
24 back door of the residence.

25 Q. And it's the same door as in Number 8?

J. BROOKER - DIRECT EXAMINATION BY MR. MURDAUGH

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1 A. Yes, sir, it is.

2 Q. Okay, and that was pried open you say?

3 A. Yes, sir, it was.

4 Q. Okay. After taking photographs, examining the door,
5 did y'all do anything else?

6 A. After we took the photographs, we attempted to get
7 fingerprints off the items that appeared to have been
8 touched by the two individuals. We was unsuccessful with
9 lifting any fingerprints off those items.

10 Q. Did you later learn that the person in the house had
11 gloves on?

12 A. Yes, sir. After speaking with Ms. Singleton, she
13 informed me that both subjects was wearing gloves.

14 Q. Okay. Can you get fingerprints if somebody's wearing
15 gloves?

16 A. No, sir.

17 Q. Okay. Did you do anything else?

18 A. At that particular point, she pointed out to us where
19 the subjects entered the wood line area alongside the
20 residence. We contacted our K-9 unit to come out and see
21 if we could track the subjects on the ground. The K-9 ---

22 Q. And did they come out?

23 A. The K-9 unit did respond to the residence, yes, sir.

24 Q. Did they follow anything anywhere?

25 A. Yes, sir. We did follow a track into the wood line,

J. BROOKER - CROSS-EXAMINATION BY MS. SMART-GITTINGS 80

1 wood line area and through a field running alongside the
2 residence, a path through that field. We followed that
3 track all the way across Steep Bottom Road, which is where
4 the field -- the path of that field comes out to. We
5 tracked along side Steep Bottom Road to a road known --
6 called Cora Road, which is off of Steep Bottom Road.

7 The track led us to a residence all the way to the
8 very back of Cora Road. I believe the residence number was
9 202 without looking at my notes. And at that particular
10 point, the dogs tracked around it, and we came upon some
11 tire tracks, and that's where the trail ended.

12 Q. Yes, sir.

13 MR. R. MURDAUGH: Thank you, Mr. Brooker. Answer any
14 questions Ms. Smart may have.

15 THE COURT: Ms. Smart, you are recognized for
16 cross-examination.

17 MS. SMART-GITTINGS: May it please the court?

18 THE COURT: Yes.

19 CROSS-EXAMINATION BY MS. SMART-GITTINGS:

20 Q. Detective Brooker, you were the supervising agent in
21 July 2011, correct?

22 A. Yes, ma'am.

23 Q. And you were Deputy Elmquist's supervisor?

24 A. Yes, ma'am, I was.

25 Q. And, and he responded that night as well?

J. BROOKER - CROSS-EXAMINATION BY MS. SMART-GITTINGS

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1 A. Yes, ma'am.

2 Q. Did you complete a police report?

3 A. No. Deputy Elmquist did this report on this
4 particular incident.

5 Q. And you signed off on that report?

6 A. Yes, I did.

7 Q. So, you're familiar with what is in his report?

8 A. Yes, ma'am.

9 Q. Do you have the report with you today?

10 A. Yes, I do.

11 Q. So -- and you may need to use that report to refresh
12 your memory. Did you review that report prior to
13 testifying today?

14 A. Yes, I did.

15 Q. Okay. Several things I wanted to point out. Isn't it
16 true that in the report that Deputy Elmquist provided and
17 you signed off, the victim stated that she saw both
18 suspects around the area, that she had seen them uptown,
19 but does not know the suspects' names?

20 A. Yes, that's correct.

21 Q. And that's the information that she gave Deputy
22 Elmquist or you at, at the initial response?

23 A. Yes, ma'am, that is.

24 Q. Okay, and also she told you -- she gave -- was it you
25 that she gave the physical description of?

J. BROOKER - CROSS-EXAMINATION BY MS. SMART-GITTINGS

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1 A. Well, we -- while we was both standing there, she gave
2 a physical description of both suspects.

3 Q. And she didn't tell you all that Buck was in the
4 house, did she?

5 A. She never called anyone by name.

6 Q. Okay. So, she didn't know their names?

7 A. No.

8 Q. She had only seen them uptown?

9 A. Yes.

10 Q. Okay. Now -- and you took the picture of the door,
11 correct?

12 A. Yes, ma'am, I did.

13 Q. And this is a picture of the inside of the house,
14 correct?

15 A. Those pictures are the inside of the house, yes,
16 ma'am.

17 MS. SMART-GITTINGS: May I, may I approach the
18 witness, Your Honor?

19 THE COURT: You may.

20 BY MS. SMART-GITTINGS:

21 Q. And none of these pictures are actually the outside of
22 the house?

23 A. No, ma'am, they're not.

24 Q. And so we assume that -- another thing before I go to
25 that. This particular locking mechanism, is this easy to

J. BROOKER - CROSS-EXAMINATION BY MS. SMART-GITTINGS 83

1 jimie, the, the lock that you turn?

2 A. I, I would not -- no, ma'am. I'm not sure if that
3 lock was engaged at the time this incident took place.

4 Q. Okay, but you would admit that when you look at these
5 pry marks, it looks like they were made from inside the
6 house?

7 A. There are pry marks on both sides of the -- on, on
8 this side of the door, inside, yes, ma'am.

9 Q. All right, on the inside?

10 A. Yes.

11 Q. So, that would suggest that somebody was prying their
12 way out of the house and not in the house, correct?

13 A. That would suggest that the door was pried, ma'am.

14 Q. But the door -- there are no pictures to show that the
15 door was pried from the outside of the house to gain entry
16 inside the house?

17 A. No. There is no pictures of the outside.

18 Q. So then when you say the door was pried open, the, the
19 pictures that the state has today are pictures that show
20 the door being pried from the inside?

21 A. As I indicated, that would show that the door was
22 pried.

23 Q. Okay. So -- now, when you attempted to dust for
24 fingerprints, there weren't any fingerprints on any of the
25 items in the house?

J. BROOKER - CROSS-EXAMINATION BY MS. SMART-GITTINGS

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1 A. None of the items that was laid out on the bed, ma'am.

2 Q. Now, is it common to have a TV in your house and not
3 have any fingerprints on the TV?

4 A. Depends on who have touched, whether the TV has been
5 touched or not, ma'am.

6 Q. So, did it appear that the TV had been used?

7 A. What? What do you mean by used?

8 Q. Like does it appear that -- was the TV in such a state
9 that it was dusty? It looked like it might have been in
10 storage.

11 A. I, I didn't notice any dust on the television at the
12 time I, I checked for fingerprints, ma'am. I just noticed
13 it was lying there on the bed.

14 Q. Did it appear as if it had been wiped clean for
15 prints?

16 A. I could not say that, ma'am.

17 Q. And do you dust for fingerprints?

18 A. Yes, I did.

19 Q. Isn't it common that you would have fingerprints that
20 are sometimes unidentifiable?

21 A. Sometimes. Not always.

22 Q. And that -- well, we -- how do fingerprints -- or at
23 -- get on items?

24 A. Fingerprints get on items when an individual touches
25 an item, ma'am, and the residual oil in that person -- on

J. BROOKER - CROSS-EXAMINATION / REDIRECT EXAMINATION 85

1 the person's finger will remain on that item, and the dust
2 will attach the oils left on the item, ma'am.

3 Q. So, if anyone had touched any of those items, some
4 type of print would have been on it?

5 A. Very possible.

6 Q. Okay. Okay, and you didn't participate in the photo
7 lineup, did you?

8 A. No, ma'am, I did not.

9 Q. Do you live in the Furman area?

10 A. No, ma'am, I do not.

11 Q. Are you familiar with the Furman area?

12 A. I am familiar with the Furman area due to the fact
13 that I patrol the Furman area over the years I've been with
14 sheriff's office.

15 Q. Okay.

16 MS. SMART-GITTINGS: I don't have any other questions.

17 THE COURT: Redirect?

18 MR. R. MURDAUGH: Yes, sir.

19 REDIRECT EXAMINATION BY MR. R. MURDAUGH:

20 Q. The area where this trailer of Valerie Singleton is
21 located, can you describe that for the jury?

22 A. The area where the trailer is sitting on, as you're
23 traveling along Highway 601, Savannah Highway in the Furman
24 area, the trailer coming from the Hampton area sits off on
25 the right-hand side of the road.

J. BROOKER - REDIRECT EXAMINATION BY MR. R. MURDAUGH

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1 There are about two or three other trailers that was
2 sitting there at that time. Right alongside the trailer,
3 there was pretty big wooded area that runs right alongside
4 the trailer, and further back along that wooded line is a
5 big, open field area with a path running through.

6 Q. What is the closest house or trailer to her trailer?

7 A. There was another trailer that sat directly across
8 from her, probably about 50 to 75 yards across from her
9 that sat directly in front of hers.

10 Q. Okay. The question was asked of you. Was the door
11 pried from the inside or the outside?

12 A. Yes, sir, it was. You asked me was it?

13 Q. Which was it?

14 A. I, as I, as I said, I could tell that the door was
15 pried, but the door, it would have to been pried from the
16 outside. It could have been marks that -- you know, could
17 have been pried from the outside also as well as the
18 inside.

19 MR. R. MURDAUGH: Thank you. I have no further
20 questions.

21 THE COURT: You may step down.

22 (THE WITNESS EXITS THE STAND.)

23 MR. R.A. MURDAUGH: Call Deputy Perry Singleton.

24 THE COURT: Mr. Singleton, if you would comes forward.

25 MR. R. MURDAUGH: May Detective Brooker stay in the

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1 courtroom now?

2 THE COURT: He can.

3 If you could, place your left on the Bible and raise
4 your right hand as the clerk administers the oath.

5 PERRY L. SINGLETON, SR., BEING
6 DULY SWORN, TESTIFIES AS FOLLOWS:

7 THE COURT: Pull up real close to that mic and speak
8 loudly, clearly, and slowly so we all can hear everything
9 you've got to say. Let's start with your full name,
10 please, sir.

11 WITNESS: Perry Lee Singleton, Sr.

12 THE COURT: Mr. Singleton.

13 Mr. Murdaugh, you are recognized.

14 DIRECT EXAMINATION BY MR. R.A. MURDAUGH:

15 Q. Detective Singleton, by, by whom are you employed,
16 currently employed?

17 A. Hampton County Sheriff's Office.

18 Q. How long have you been so employed?

19 A. Twenty-four years with the sheriff's office.

20 Q. And twenty-four years in law enforcement and,
21 Detective Singleton, what rank -- what is your rank right
22 now?

23 A. I'm a lieutenant.

24 Q. All right, and do you head up the detective division
25 at the Hampton County Sheriff's Department?

P. SINGLETON - DIRECT EXAMINATION BY MR. R.A. MURDAUGH 88

1 A. I do.

2 Q. So, you're, you're the head detective?

3 A. I am.

4 Q. All right, and in your capacity as detective at the
5 Hampton County Sheriff's Department, did you have occasion
6 to be involved in the investigation of the burglary at Ms.
7 Singleton's house?

8 A. That is correct.

9 Q. All right, and as a result of -- was that case
10 assigned to you? Were you the lead detective?

11 A. Yes.

12 Q. All right, and as a result of that assignment, did you
13 conduct an investigation?

14 A. I did.

15 Q. All right, and as part of that investigation, did you
16 take a statement from Ms. Valerie Singleton?

17 A. I did.

18 Q. Now, Detective Singleton, in reading her statement
19 and, and listening to her statement, what you learn about
20 the identity of one of the burglars?

21 A. Learned that one of the burglars was -- had a nickname
22 of Buck Williams. Got the victim into the office. She
23 provided me a statement and also provided me with his full
24 name.

25 Q. All right. Now, just so the jury understands this,

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1 the burglary occurred on June 27th?

2 A. That's correct.

3 Q. Right, and you took a statement sometime later. All
4 right. Now, between the time of the burglary and the time
5 of taking the statement, had Ms. Singleton learned the full
6 name of the person whom she could identify?

7 A. She did.

8 Q. All right, and when she gave that statement, what name
9 did she provide in the statement, Detective Singleton?

10 A. Ivan Buck Williams.

11 Q. All right, and as a result of that identification,
12 what steps did you take?

13 A. Contact Captain Russell. Advised him as to what Ms.
14 Singleton told me. He in return contacted SLED. Sent a
15 picture to SLED of Ivan Buck Williams, and they provided us
16 with a photo lineup.

17 Q. All right.

18 A. Of six people.

19 Q. And just so we're clear, now, who, who is Captain
20 Russell?

21 A. He's, he's over operation.

22 Q. All right, and he's, he's ---

23 A. Captain of the sheriff's office.

24 Q. He's seated in the courtroom over here today?

25 A. He is.

P. SINGLETON - DIRECT EXAMINATION BY MR. R.A. MURDAUGH 90

1 Q. He's, he's with the sheriff's department?

2 A. Yes.

3 Q. And at your direction, he contacted SLED?

4 A. That's correct.

5 Q. All right, and as a result of his contacting SLED, ask
6 you if you can recognize what's been marked as State's
7 Exhibit 14.

8 Now, as a result of Mr. Russell's contact with SLED,
9 did SLED prepare that composite?

10 A. They did.

11 Q. All right, and is the preparation of that composite
12 for identification purposes something that SLED commonly
13 and routinely does for Hampton County Sheriff's Office in
14 investigating crime?

15 A. At our request, sir.

16 Q. Okay, and so this wasn't anything new?

17 A. No.

18 Q. All right, and they prepared that particular
19 composite?

20 A. They did.

21 Q. Did you at a later date to present that composite to
22 Ms. Valerie Singleton?

23 A. I did.

24 Q. All right, and what did -- what, what did you, what
25 did you request Ms. Singleton do?

P. SINGLETON - DIRECT EXAMINATION BY MR. R.A. MURDAUGH 91

1 A. To pick out Ivan Buck Williams out of this photo
2 lineup.

3 Q. Okay, and did she do that?

4 A. She did.

5 Q. And how -- if you will, show the jury. How did you
6 ask her to -- how, how did she denote Ivan Buck Williams?

7 A. I asked her to circle Ivan Buck Williams and to date
8 it -- I mean, to put her name and the time and the date.

9 Q. All right. Now, when you were asking her to do this,
10 did you provide Ms. Singleton any hints or any suggestions
11 as to who she should circle?

12 A. No, I did not.

13 Q. All right, and that would be improper?

14 A. Yes.

15 Q. All right, and she totally noted that person on her --
16 on the -- on her own?

17 A. She did.

18 Q. In the investigation of this, there was some mention
19 of another officer. Was Officer Elmquist the other person
20 involved in this investigation?

21 A. Yes.

22 Q. All right, and at this juncture, Mr. Elmquist is no
23 longer with the Hampton County Sheriff's Office?

24 A. That's correct.

25 Q. All right, and he's some -- he's stationed somewhere

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1 else, and he is not local?

2 A. Yes.

3 Q. All right, and lastly, Detective Singleton, is the
4 person who Ms. Singleton identified in that lineup in the
5 courtroom today?

6 A. He is.

7 Q. And where is he?

8 A. He's seated to my right beside counsel.

9 Q. Okay, and in the grey hoodie?

10 A. That is correct.

11 MR. R.A. MURDAUGH: Thank you. Please answer any
12 questions Ms. Smart has.

13 THE COURT: Ms. Smart, cross-examination. You are
14 recognized.

15 MS. SMART-GITTINGS: May it please the court?

16 THE COURT: Yes, ma'am.

17 CROSS-EXAMINATION BY MS. SMART-GITTINGS:

18 Q. Detective Singleton, you, you interviewed Ms.
19 Singleton the very next day after this incident occurred?

20 A. Sometime afterwards, yes.

21 Q. Within -- less than twenty-four hours you interviewed
22 her?

23 A. That's correct.

24 Q. Now, when you interviewed her, did you by any chance
25 record that interview?

P. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 93

1 A. I did not.

2 Q. And when you interviewed her, you provided a report?

3 A. I did.

4 Q. And in your report, you indicated that Ms. Singleton
5 told both you and the responding officers that she knew the
6 identity of the suspect. Is that correct?

7 A. That is correct.

8 Q. But you heard testimony today from one of the initial
9 responders that that was not, in fact, true. Is that
10 correct?

11 A. I think she told -- she said she knew. I don't know
12 whether she I told them or not, but she told me.

13 Q. But she -- Sergeant Brooker did testify that she ---

14 A. He did.

15 Q. --- did tell them that, correct?

16 A. She did.

17 Q. And so when you put that information in your report,
18 where did you get that information?

19 A. Got it from the victim.

20 Q. Okay, she's -- is Ms. Singleton related to you?

21 A. No, ma'am.

22 Q. Okay. Now, you know Ivan Williams, don't you?

23 A. I do.

24 Q. And you know Ivan Williams believes that you're out to
25 get him?

P. SINGLETON - CROSS-EXAMINATION BY MS. SMART-GITTINGS 94

1 A. I, I don't know that.

2 Q. You've never heard that before?

3 A. No, ma'am.

4 Q. Okay. Now, you also interviewed one of the Taylor
5 twins?

6 A. I did.

7 Q. At some point, and they are twins. You can't tell
8 them apart unless ---

9 A. I can't.

10 Q. --- you know them really well, right?

11 A. That's correct.

12 Q. And you got one of the twins to give you a written
13 statement?

14 A. He provided me a written, written statement.

15 Q. Now, by any chance did you tell him what to write in
16 that statement?

17 A. No, ma'am, I did not.

18 Q. And he gave that statement to you freely and
19 voluntarily?

20 A. He did.

21 Q. And you didn't promise him that you would let him out
22 of jail is he wrote that statement?

23 A. No, ma'am. I can't let people out of jail.

24 Q. Okay.

25 MS. SMART-GITTINGS: I don't have any other questions.

P. SINGLETON - REDIRECT EXAMINATION BY MR. R.A. MURDAUGH 95

1 THE COURT: Redirect?

2 MR. R.A. MURDAUGH: Yes, sir. Just one second, Your
3 Honor.

4 (A PAUSE.)

5 REDIRECT EXAMINATION BY MR. R.A. MURDAUGH:

6 Q. Detective Singleton, in your twenty-four year law
7 enforcement career, have you ever used a personal vendetta
8 to go out and get someone?

9 A. Not at all.

10 Q. All right, and would you do that?

11 A. No, sir.

12 Q. All right, and did you do that in this case?

13 A. I did not.

14 Q. Did you make up any evidence to try to prosecute Buck
15 Williams?

16 A. None whatsoever, sir.

17 MR. R.A. MURDAUGH: Thank you.

18 THE COURT: All right, you may step down.

19 (THE WITNESS EXITS THE STAND.)

20 MR. R. MURDAUGH: Your Honor please, I think we are
21 concluding, but I need about five minutes to talk -- to see
22 if I've got one more witness.

23 THE COURT: Very good. Then we will stand at ease for
24 about ten minutes.

25 Mr. Foreman, ladies and gentlemen of the jury, I'm

1 going to ask that you retire to the jury room. Once again,
2 do not discuss the case.

3 (THE JURY EXITS AT 10:39 AM.)

4 THE COURT: Anything from the state before we recess?

5 MR. R. MURDAUGH: No, sir.

6 THE COURT: Anything from defense?

7 MS. SMART-GITTINGS: Nothing, Your Honor.

8 THE COURT: Very good.

9 (OFF THE RECORD.)

10 MR. WRIGHT: The state has made a new offer to the
11 defendant. To protect Stephanie, I'd like to put on the
12 record if he doesn't want to take the offer. I don't want
13 her getting PCR'd.

14 (A PAUSE.)

15 (JUROR NUMBER 15 ENTERS THE COURTROOM.)

16 THE COURT: Yes, ma'am, your full name?

17 JUROR: Carmen Denise Brown.

18 THE COURT: All right, Ms. Brown, I understand that
19 you have communicated with the bailiff that you know one of
20 the participants in this litigation.

21 JUROR: Valerie Singleton. That's my brother's niece
22 by marriage, and I just wanted to make sure. I didn't know
23 her by Singleton. I know her by Heyward, so that was why I
24 wanted to point that out.

25 THE COURT: All right, and how often do you see her?

1 Do you see her on a daily basis?

2 JUROR: No. Huh-uh.

3 THE COURT: Have you ever eaten at her house?

4 JUROR: Huh-uh.

5 THE COURT: Does she ever come to your house?

6 JUROR: No.

7 THE COURT: Do you feel if called upon to render a
8 verdict in this case, the fact that you are related to her
9 by marriage, would that affect your ability to be fair and
10 impartial?

11 JUROR: Not at all, no.

12 THE COURT: Okay, and your relationship is what again?

13 JUROR: My sister-in-law, that's her niece. So,
14 that's my brother's niece by marriage.

15 THE COURT: Okay.

16 JUROR: I just wanted to point that out to you.

17 THE COURT: You don't have a very close relationship
18 with her?

19 JUROR: No.

20 THE COURT: As a matter of fact, you didn't even know
21 her last name.

22 JUROR: No. I only know her maiden name.

23 THE COURT: Okay.

24 JUROR: Yes.

25 THE COURT: Thank you.

1 (JUROR NUMBER 15 EXITS THE COURTROOM.)

2 THE COURT: All right, I'll be glad to hear from the
3 state with regard to this particular juror. Do you have a
4 position?

5 MR. R. MURDAUGH: If Your Honor please, the answers to
6 her questions would indicate that she would be fair and
7 impartial. She is not within the third degree by law.

8 THE COURT: All right.

9 All right, Ms. Smart, be glad to hear from you with
10 regard to this juror's qualifications.

11 MS. SMART-GITTINGS: Your Honor, she -- I think it was
12 an honest mistake. The victim wasn't here yesterday. So,
13 I believe that she can be fair and impartial.

14 THE COURT: Very good. All right, we are in agreement
15 in that regard.

16 All right, Mr. Williams, I'm going to ask you if you
17 could stand. I'm going to ask you to raise your right hand
18 as the clerk administers the oath.

19 (WHEREUPON, IVAN WILLIAMS IS DULY
20 SWORN.)

21 THE COURT: Mr. Williams, just -- you can stand right
22 there, if you could. At this time, I'm going to explain to
23 you certain of your rights. If you do not understand
24 anything I say, please let me know. You want me to explain
25 anything in more detail, let me know and I'll be happy to

1 do so. You understand?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. We have now reached the stage
4 of the trial where you may present your defense. You have
5 the right to claim the protections given to you by the
6 Fifth Amendment of the Constitution of the United States,
7 which provides in relevant part that no person shall be
8 compelled in any criminal case to be a witness against
9 himself. This means that you cannot be required to testify
10 in this case. You have the right to testify on your own
11 behalf. However, no one can make you testify. This is a
12 personal right; no one can waive this right except you.

13 If you decide to testify, you would be subject,
14 subject to the same rules that govern other witnesses. You
15 may be examined and cross-examined on any relevant issue in
16 this case.

17 In addition, if you any convictions involving
18 dishonesty or false statements or crimes punishable by
19 imprisonment for more than one year, this court determines
20 that the probative value of admitting this evidence,
21 evidence outweighs its prejudicial effect to you, the
22 solicitor will be able to introduce your record to attack
23 your credibility.

24 If you decide to testify, this decision on your
25 part must be freely, voluntarily, and intelligently

1 made, with knowledge of the protections given to you by the
2 Fifth Amendment, the consequence of your decision to
3 testify.

4 If you decide not to testify, I will instruct the
5 jurors that they cannot give the fact that you did not
6 testify any consideration whatsoever, and there is to
7 be absolutely no prejudice to you because you did not
8 testify.

9 It is left entirely up to you whether, whether or
10 not to testify. You may talk to your attorney, family
11 members, friends, or anyone else, but the final decision
12 will be left entirely up to you. You understand what I've
13 explained to you?

14 DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions about what I've
16 explained to you?

17 DEFENDANT: No, sir.

18 THE COURT: Have you discussed this matter with your
19 lawyer?

20 DEFENDANT: Yes, sir.

21 THE COURT: Do you wish to have additional time to
22 speak with her?

23 DEFENDANT: Yes, sir.

24 THE COURT: Pardon?

25 DEFENDANT: Yes, sir.

1 THE COURT: All right, then I'm going to allow you to
2 do that. Y'all can have a seat and discuss it.

3 (COUNSELOR AND DEFENDANT CONFER.)

4 THE COURT: While they're discussing it, I understand
5 the bondsman is here in the courtroom. If you could come
6 forward? Yes, sir, your full name?

7 MR. GRIFFITH: Terrace Orlando Griffith.

8 THE COURT: All right, and Mr. -- and I understand
9 that you are the bondsmen who secured the bond for Ivan
10 Williams. Is ---

11 MR. GRIFFITH: Yes.

12 THE COURT: --- that correct?

13 MR. GRIFFITH: Yes, sir, Your Honor.

14 THE COURT: And the trial has started and when the
15 trial starts, that relieves your responsibility, unless you
16 agree to stay on during the trial. My question to you is
17 in the event this matter goes on beyond today, are you in a
18 position to stand on his bond again?

19 MR. GRIFFITH: Yes, sir.

20 THE COURT: All right. Very good. I don't anticipate
21 -- anticipate this matter is going to resolve itself today,
22 but in the event it does not, then you agree to remain on
23 the bond?

24 MR. GRIFFITH: Yes, sir.

25 THE COURT: Thank you so much. You're free to leave

1 now. Thank you.

2 MR. GRIFFITH: Have a good one.

3 CLERK OF COURT: Thank you.

4 (A PAUSE.)

5 MS. SMART-GITTINGS: Defendant is ready to tell you
6 whether or not he's going to testify.

7 THE COURT: Very good.

8 Mr. Williams, have you had a sufficient -- have you
9 had sufficient time to discuss this matter with your
10 lawyer?

11 DEFENDANT: Yes, sir.

12 THE COURT: All right, and do you wish to testify?

13 DEFENDANT: No, sir.

14 THE COURT: Very good.

15 Ms. Smart, I understand from the state there has been
16 an offer that's been tendered, and if you could place that
17 on the record.

18 MR. WRIGHT: Your Honor, in reference to *State vs.*
19 *Ivan Williams* found in indictment number 2012-GS-25-00072,
20 which he's charged with burglary in the first degree, the
21 state has proffered an offer of the plea to burglary second
22 violent straight up. And I guess he has an opportunity to
23 decide whether he wants to take the offer or not take the
24 offer, just understanding that his current charge carries a
25 minimum of fifteen years to life, and the offer carries a

1 range from zero to fifteen, which will be in the judge's
2 discretion to sentence.

3 THE COURT: All right, Ms. Smart, you've explained to
4 him that if he's convicted of these charges, it's a most
5 serious offense and it's a nonparolable offense. That he
6 will serve the sentence day for day, the minimum of which
7 would be fifteen years that he would serve day for day, and
8 that -- subject to the eighty-five percent rule, but it's a
9 nonparolable offense, and he'd have community supervision
10 and all that?

11 MS. SMART-GITTINGS: I did not tell him about the
12 community supervision, Your Honor, but I did tell him that
13 the mandatory minimum would be fifteen years. That it is a
14 violent offense, and that he would get a minimum of
15 fifteen-year sentence.

16 THE COURT: All right, and you explained to him that
17 it's a nonparolable offense, and that there is no parole,
18 and he serves it day for day if convicted in this trial.
19 He understands that, doesn't he?

20 MS. SMART-GITTINGS: Yes, he does.

21 THE COURT: All right, and he understands that both of
22 them are violent offenses and that it adversely affects his
23 custody status and parole eligibility for the burglary
24 second. He understands that?

25 MS. SMART-GITTINGS: Yes, sir, Your Honor.

1 THE COURT: All right, and I'm going to give you an
2 opportunity to discuss that, that with him right now, if
3 you would.

4 MS. SMART-GITTINGS: Thank you, sir.

5 (COUNSELOR CONFERS WITH DEFENDANT.)

6 THE COURT: Ms. Smart, you are recognized.

7 MS. SMART-GITTINGS: Your Honor, I've spoken with my
8 client, and he indicates that he does not want to accept
9 the plea offer.

10 THE COURT: Very good.

11 All right, is that true, Mr. Williams?

12 DEFENDANT: Yes, sir.

13 THE COURT: You understand the collateral
14 ramifications of conviction of a burglary first degree?

15 DEFENDANT: Sir?

16 THE COURT: You understand the ramifications if you're
17 convicted of the offense for which you're being charged?

18 DEFENDANT: Yes, sir.

19 THE COURT: All right. You've understood all your
20 conversations with your lawyer?

21 DEFENDANT: Yes, sir.

22 THE COURT: You need any additional time to confer
23 with her?

24 DEFENDANT: No, sir.

25 THE COURT: Very good. Thank you so much. You may be

1 seated.

2 All right, at this time I'll entertain motions.
3 The state has rested, and I'll entertain motions at this
4 time.

5 MS. SMART-GITTINGS: Your Honor, I make -- I'd like to
6 motion for a directed verdict in that the state has not
7 proven -- in the light most favorable to the state, the
8 state has not proven the elements of burglary first degree.
9 And so we would ask that, we would ask that the court,
10 court direct a verdict.

11 THE COURT: Mr. Murdaugh, you are recognized.

12 MR. R. MURDAUGH: If Your Honor please, we have proved
13 that a burglary took place, that it was in the nighttime,
14 that an entry was -- took place on a dwelling house in the
15 nighttime with the intent to steal by showing all the stuff
16 that was moved from one place to another. I think this --
17 and it was in Hampton County, and we think that's
18 sufficient.

19 THE COURT: Very good. I agree with you. Motion for
20 directed verdict is denied.

21 MS. SMART-GITTINGS: Thank you, Your Honor.

22 THE COURT: Does counsel have -- need an opportunity
23 to gather their thoughts with regard to closing arguments?

24 MS. SMART-GITTINGS: Your Honor, I am going to call
25 the state's witness Taylor. I can't remember whether it's

1 Rontavious or Dontavious.

2 THE COURT: Oh, okay. Very good. My question was
3 whether or not the, whether or not the defendant was going
4 testify, but I didn't recall you listing a witness.

5 MS. SMART-GITTINGS: I did not, Your Honor. I'm going
6 to use the state's witness.

7 THE COURT: Well, we're going to allow you to call
8 this witness anyway.

9 Any objection from the state?

10 MR. R. MURDAUGH: No, sir.

11 MR. WRIGHT: I would ask for a short break so that the
12 state can get a rap sheet for this witness. I'm not sure
13 if the name was identified yesterday or not, but definitely
14 would like to at least have five minutes.

15 THE COURT: Certainly you're going to have that
16 opportunity, and we will take about a ten-minute recess,
17 and we -- if you -- we'll stand at ease.

18 Anything from the state before we take a recess?

19 MR. R. MURDAUGH: No, sir.

20 THE COURT: Anything from defense?

21 MS. SMART-GITTINGS: No, sir.

22 THE COURT: We'll stand at ease for ten minutes.

23 (OFF THE RECORD.)

24 THE COURT: Please be seated. Thank you.

25 Mr. Murdaugh, is the state ready to proceed?

1 MR. R. MURDAUGH: The state is.

2 THE COURT: Very good.

3 Ms. Smart.

4 MS. SMART-GITTINGS: The defense calls Rontavious
5 Taylor.

6 THE COURT: I was just asking ---

7 MS. SMART-GITTINGS: Oh, I'm sorry.

8 THE COURT: --- if you had anything before we brought
9 the jury out.

10 MS. SMART-GITTINGS: No, sir, Your Honor.

11 THE COURT: Very good. Thank you so much.

12 We're ready for the jury.

13 MR. R. MURDAUGH: If Your Honor please, I don't think
14 I've rested in front of the jury.

15 (THE JURY ENTERS AT 11:22 AM.)

16 THE COURT: Mr. Foreman, ladies and gentlemen of the
17 jury, thank you for your time and your patience.

18 Mr. Murdaugh, you are recognized.

19 MR. R. MURDAUGH: If Your Honor please, the state now
20 rests.

21 THE COURT: Very good.

22 Ms. Smart, you are recognized.

23 MS. SMART-GITTINGS: Defense calls Rontavious Taylor.

24 THE COURT: Mr. Taylor.

25 RONTAVIOUS TAYLOR, BEING DULY

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS

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1 SWORN, TESTIFIES AS FOLLOWS:

2 THE COURT: Mr. Taylor, pull up close to that
3 microphone. We'll ask you to speak loudly, clearly, and
4 slowly in order that we'll hear everything that you've got
5 to say. Let's start with your full name, please, sir.

6 WITNESS: Rontavious Taylor.

7 THE COURT: Thank you, Mr. Taylor.

8 Ms. smart.

9 DIRECT EXAMINATION BY MS. SMART-GITTINGS:

10 Q. Mr. Taylor, now there are two of you, correct?

11 A. Yes, ma'am.

12 Q. And you have another brother?

13 A. Yes, ma'am.

14 Q. And tell the jury about your brother as far as the two
15 of you.

16 A. Can you repeat the question?

17 Q. What is your -- tell the jury what type of brother
18 your other brother is as far as the way you look.

19 A. Cool, calm, collect.

20 Q. How does he look?

21 A. Oh. Tall, skinny, just like me really.

22 Q. He looks ---

23 A. You see me, you see him.

24 Q. --- just like you? So, y'all are twins?

25 A. Yes, ma'am.

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 109

- 1 Q. Okay, and have I -- I've never -- have I ever
2 represented you before?
- 3 A. No, ma'am.
- 4 Q. But you've been in trouble before?
- 5 A. Yes, ma'am.
- 6 Q. A little bit of trouble?
- 7 A. Yes, ma'am.
- 8 Q. Okay. Now, you got a subpoena to come here today?
- 9 A. No, ma'am, not today. Yesterday.
- 10 Q. And who subpoenaed you to come here today?
- 11 A. I had received it by Officer Peace, but I didn't read
12 it because he was wanting me to sign off on it. I didn't
13 read it.
- 14 Q. When you got here, did anybody speak with you?
- 15 A. No, ma'am.
- 16 Q. So, did I subpoena you to come here?
- 17 A. No, ma'am. I don't think.
- 18 Q. Okay. Let's talk about October 2011. Were you
19 incarcerated?
- 20 A. Yes, ma'am.
- 21 Q. Where were you?
- 22 A. Hampton County.
- 23 Q. And did anything significant -- what were you
24 incarcerated for?
- 25 A. Burglary.

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 110

1 Q. And do you know the facts of the burglary that you
2 were incarcerated for?

3 A. No, ma'am.

4 Q. Now, while you were in jail, did anything significant
5 happen?

6 A. Yes.

7 Q. How long did you stay in jail?

8 A. Seven days.

9 Q. And during that seven days, did anybody visit you?

10 A. Not my family members. I had a officer visit me.

11 Q. What officer visited you?

12 A. Perry Singleton.

13 Q. And why did he, why did he visit you?

14 A. Try to get me to write a statement.

15 Q. Why -- what did he get the -- try to get you to write
16 a statement about?

17 A. Ivan, saying that he been in the house.

18 Q. Okay. Did you write a statement?

19 A. Yes, ma'am.

20 Q. Did you have a chance to keep a copy of that
21 statement?

22 A. No, ma'am.

23 MS. SMART-GITTINGS: May I approach the witness, Your
24 Honor?

25 A. I wasn't ---

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 111

1 MS. SMART-GITTINGS: Just, just a minute.

2 (STATEMENT MARKED AS DEFENDANT'S EXHIBIT NUMBER 1 FOR
3 IDENTIFICATION.)

4 BY MS. SMART-GITTINGS:

5 Q. I'm going to hand to you what is marked Defendant's 1
6 for identification purposes. Can you look at that
7 statement?

8 A. Yes, ma'am.

9 Q. Have you seen that before?

10 A. No, ma'am.

11 Q. Do you know what that is?

12 A. Yes, ma'am.

13 Q. What is that?

14 A. The statement.

15 MR. R. MURDAUGH: Your Honor please, I'm having
16 difficulty hearing the defendant.

17 THE COURT: I'm going to ask you to speak up, if you
18 could. Lean in real close to that microphone.

19 BY MS. SMART-GITTINGS:

20 A. It's a statement.

21 Q. Okay, and is that the statement that you wrote for the
22 officer that came to see you?

23 A. Yes, ma'am.

24 Q. And how did you come about writing that statement?

25 A. Well, he was telling me the facts. I just wrote them.

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 112

1 Q. So, did you send information to him that you knew
2 about a burglary?

3 A. No, ma'am.

4 Q. Did you ask for him to come see you?

5 A. No, ma'am.

6 Q. But he just showed up?

7 A. Yes, ma'am.

8 Q. And he asked you to write a statement?

9 A. Yes, ma'am.

10 Q. And you wrote a statement?

11 A. Yes, ma'am.

12 Q. Did you sign that statement to be true?

13 A. No, ma'am.

14 Q. Did you sign the statement?

15 A. I signed it, yes, ma'am.

16 Q. What did you tell him happened? Did he ask you what
17 happened prior to asking you to write a statement?

18 A. He was, he was telling me what to write.

19 Q. When you say he was telling you what to write, did he
20 ask you did you have any knowledge about a burglary?

21 A. No, ma'am.

22 Q. So, how did he get you to write a statement?

23 A. Saying that help him -- he was telling me, order for
24 me to get out of jail -- because I had no right being in
25 jail for so long for nothing. I didn't -- know what I'm

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 113

1 saying? He said help him get, get me out, I got to help
2 him, which was me writing what he say write. So, I wrote
3 what he said write. This was it right here. He had got
4 his cell phone and put it on record and got me to read over
5 the statement.

6 Q. So, he recorded this on his cell phone?

7 A. I reckon. I guess it's a phone that any -- Hampton
8 County Sheriff's Department should have. I guess it's a
9 little -- black, little phone. He pulled it out, put it on
10 the desk, and we read over the statement.

11 Q. Okay. Now, you're telling this jury that Detective
12 Singleton came to the jail and asked you to write a
13 statement?

14 A. Yes, ma'am.

15 MR. R. MURDAUGH: Your Honor please? That's leading.

16 THE COURT: It is.

17 MS. SMART-GITTINGS: Okay.

18 THE COURT: We'll ask that you ask a direct question.

19 BY MS. SMART-GITTINGS:

20 Q. Did you know anything about the incident?

21 A. No, ma'am.

22 Q. Did you know whether your brother was involved in the
23 incident?

24 A. No, ma'am.

25 Q. Were you involved in the incident?

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS

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1 A. No, ma'am.

2 Q. Did you ever go in to Valerie Singleton's house?

3 A. No, ma'am. I don't even know who she is, and that was
4 -- this is my first time seeing her right here, this day
5 here.

6 Q. Did you ever speak to Ivan Williams ---

7 A. No, ma'am ---

8 A. --- regarding the burglary of Ms. Singleton's house?

9 A. No, ma'am.

10 Q. Did Ivan Williams ever tell you anything about the
11 burglary of Ms. Singleton's house?

12 A. No, ma'am.

13 Q. But you wrote a statement that Ivan -- tell, tell the
14 jury what you wrote in the statement.

15 A. I wrote ---

16 Q. Don't read it. Just what do you remember writing?

17 A. Saying that, that Ivan was in the house and Val came
18 home that stays in the house. Val came home. That about
19 it.

20 Q. You want to use your statement to refresh your memory?

21 (A PAUSE.)

22 Q. Do you remember what else you wrote in the statement?

23 A. Yes, ma'am.

24 Q. What else did you write in the statement?

25 A. Saying that she said just put everything back. She

R. TAYLOR - DIRECT EXAMINATION BY MS. SMART-GITTINGS 115

1 ain't seeing him. Duck back off her room -- in her room.

2 Q. No, don't read it. Just tell the jury.

3 A. She duck -- they duck back up in her room -- I mean,
4 ducked back in her room. She seen then. They ducked back
5 in her room, and when she came home, they were in the
6 house. She seen them. They duck back in the room. She
7 said drop everything. I won't call the police, and that's
8 all I remember.

9 MS. SMART-GITTINGS: May I approach, Your Honor?

10 THE COURT: Yes.

11 MS. SMART-GITTINGS: I'd like to introduce Defendant's
12 Exhibit 1 into evidence.

13 MR. R. MURDAUGH: May I see it?

14 MS. SMART-GITTINGS: Sorry.

15 MR. R. MURDAUGH: I don't think I have any objection.

16 (A PAUSE.)

17 MR. R. MURDAUGH: If Your Honor please, I have no
18 objection to the introduction of the statement. There are
19 some markings of -- some circlings on the one that she has.
20 I've furnished her with a clean copy.

21 THE COURT: All right. In view of the fact the state
22 is not objecting to the introduction of the statement, I'll
23 admit it into evidence.

24 MS. SMART-GITTINGS: We're going to get this one
25 marked as Defense Exhibit 2 and have him identify it, and

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1 then I'll introduce that one because this one is -- it's a
2 white paper versus a yellow one.

3 THE COURT: Very good.

4 MR. R. MURDAUGH: We, we will stipulate that they are
5 identical.

6 THE COURT: Very good. That will be Defense Exhibit?

7 MS. SMART-GITTINGS: Defense Exhibit 2.

8 THE COURT: 2 into the evidence.

9 (STATEMENT MARKED INTO EVIDENCE AS DEFENDANT'S EXHIBIT
10 NUMBER 2.)

11 BY MS. SMART-GITTINGS:

12 Q. Do you -- I asked you do you know Ivan Williams,
13 correct?

14 A. Yes, ma'am.

15 Q. Where does he live?

16 A. Furman.

17 Q. You live in -- where do you live?

18 A. Furman, couple of houses down from his.

19 Q. Do you know what area of Furman he lives in?

20 A. Ashley Circle. I live on Lovely Hill. He live on
21 Ashley Circle.

22 Q. Is that anywhere near Steep Bottom Road?

23 A. No, ma'am.

24 Q. Is it in the same direction as Steep Bottom Road?

25 A. No, ma'am.

R. TAYLOR - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 Q. So, why did you write that statement?

2 A. So I could get out of jail. I wasn't, I wasn't in any
3 kind of trouble when I was growing up, and I thought I
4 could get out by writing the statement that he made me
5 write.

6 Q. Did you get out?

7 A. I got out, like, seven days -- or three days after I
8 wrote the statement, which was seven total.

9 MS. SMART-GITTINGS: I don't have any other questions.

10 THE COURT: Cross-examination, Mr. Murdaugh?

11 CROSS-EXAMINATION BY MR. R. MURDAUGH:

12 Q. Mr. Taylor.

13 (A PAUSE.)

14 Q. Mr. Taylor.

15 A. Yes, sir.

16 Q. In this statement that you wrote for Perry Singleton,
17 that's -- where is that statement? Showing you State's
18 Exhibit Number -- excuse me, Defendant's Exhibit Number 2.
19 Did you write in that statement:

20 Sometime in a month of August, Ivan Buck Williams
21 told me that he broke in Valerie's house when she
22 wasn't home. So, Ivan Buck Williams said he went
23 in Valerie's room. When she came back home and
24 took -- and seen -- and Val seen him. Didn't
25 back off. So, Ivan Buck Williams say Val said to

R. TAYLOR - CROSS-EXAMINATION BY MR. R. MURDAUGH

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1 -- down Ivan Buck Williams, and whatever you have
2 down and willing out. I won't call the police.
3 This statement was written by Rontavious Davis
4 Taylor.

5 Did you write that?

6 A. Yes, sir.

7 Q. Huh?

8 A. Yes, sir.

9 Q. And you told in that statement that Buck Taylor told
10 you he went into Valerie's house? You put that in the
11 statement, didn't you?

12 A. Yes, sir. What I told -- I put was Perry Singleton
13 told me to put.

14 Q. Perry Singleton told you everything that's in this
15 statement?

16 A. Yes, sir. I didn't know what was going on at the
17 time. I don't know nothing. I don't ask him that. I just
18 put what Perry Singleton told me to put.

19 Q. Okay. Now, let me ask you a question. Have you been
20 convicted of a crime?

21 A. Have I?

22 Q. Yes, sir.

23 A. Yes, sir.

24 Q. Sir?

25 A. Yes, sir.

R. TAYLOR - CROSS-EXAMINATION BY MR. R. MURDAUGH

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1 Q. What?

2 A. Have a burglary second after this right here.

3 Q. You have been convicted of burglary second?

4 A. Yes, sir.

5 Q. Okay. Is that the same one you were in jail for?

6 A. Yes, sir. Well, I got lock up for something
7 different.

8 Q. I'm asking you a question. Is the burglary second
9 that you were convicted of the same one you were in jail
10 for when you wrote this statement?

11 A. No, sir.

12 Q. It wasn't?

13 A. No, sir.

14 Q. It was a different burglary?

15 A. Yes, sir.

16 Q. Which burglary was the one you were in jail for?

17 A. For Maryanne Roof.

18 Q. Okay. What did you plead guilty to?

19 A. Burglary second.

20 Q. For whose house?

21 A. Maryanne Roof.

22 Q. So, it was the same one?

23 A. No, sir.

24 Q. I don't understand. This was a burglary on Maryanne
25 Roof's house at a different time?

R. TAYLOR - CROSS-EXAMINATION BY MR. R. MURDAUGH

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1 A. Yes, sir.

2 Q. Okay. So, they accused you of breaking in it twice?

3 A. Yes, sir.

4 Q. You pled guilty to one of them?

5 A. Yes, sir.

6 Q. Huh?

7 A. Yes, sir.

8 Q. Okay. Anything else you've been convicted of?

9 A. No, sir.

10 Q. And Perry Singleton, this fellow right here, told you
11 everything to write down in here?

12 A. Yes, sir.

13 Q. The exact words?

14 A. Yes, sir.

15 Q. He said okay, Rontavious -- and you are Rontavious,
16 aren't you?

17 A. Yes, sir.

18 Q. Huh?

19 A. Yes, sir.

20 Q. Let me see your driver's license.

21 (A PAUSE.)

22 MR. R. MURDAUGH: If Your Honor please, I would offer
23 a copy of this as an exhibit.

24 THE COURT: Any objection?

25 MS. SMART-GITTINGS: No objection, Your Honor.

R. TAYLOR - CROSS-EXAMINATION BY MR. R. MURDAUGH

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1 THE COURT: It's into, it's into evidence. We'll go
2 ahead and ---

3 MR. R. MURDAUGH: With, with Your ---

4 THE COURT: --- mark, make a copy of that and put it
5 into evidence, and I'll allow the court reporter to hang
6 onto it until such time as it can be substituted.

7 MR. R. MURDAUGH: Thank you, sir.

8 (DRIVER'S LICENSE MARKED INTO EVIDENCE AS STATE'S
9 EXHIBIT NUMBER 15. A COPY IS LATER SUBSTITUTED.)

10 THE COURT: State's 15 is into evidence.

11 MR. R. MURDAUGH: May I present it to the jury?

12 THE COURT: You may.

13 BY MR. R. MURDAUGH:

14 Q. Now, Mr. Taylor, I show you an item and ask you if you
15 identify anybody in this group of people.

16 A. Yes, sir.

17 Q. Huh?

18 A. Yes, sir.

19 Q. Loud, please, so these people ---

20 A. Yes, sir.

21 Q. --- can hear you. Who is it that's in there?

22 A. My brother.

23 Q. That's your brother. Where is he? Which number?

24 A. Four.

25 Q. Huh?

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1 A. Four.

2 Q. Number four. .

3 MR. R. MURDAUGH: If Your Honor please, I would offer
4 this as an exhibit.

5 THE COURT: Any objection?

6 MS. SMART-GITTINGS: Objection, Your Honor. This is
7 the defense case, and the state should have introduced that
8 during their case. I did not object to the driver's
9 license because the twins -- to verify that it was
10 Dontavious and not Rontavious, but the photo ID should have
11 been introduced during the state's case.

12 THE COURT: All right, to the extent ---

13 MR. R. MURDAUGH: I'll withdrawal it, sir.

14 THE COURT: All right. Very good. If it's withdrawn,
15 we won't have to rule on it.

16 (A PAUSE.)

17 BY MR. R. MURDAUGH:

18 Q. Mr. Taylor, look on the third line from the bottom.
19 You reading it? Right here. You got it?

20 A. Yes, sir.

21 Q. Read to the jury what you said.

22 A. Dontavious put it ---

23 Q. Whoa, whoa, whoa. Get closer to this thing here. I
24 want them to hear what you say.

25 A. Put whatever you have down and walk out and I

R. TAYLOR - CROSS-EXAMINATION BY MR. R. MURDAUGH 123

1 won't call the police. This statement written by
2 Rontavious Taylor.

3 Q. Say it again now. What did you put?

4 A. Dontavious Taylor, put whatever you got down.
5 Put whatever you have down and walk out and I
6 won't call the police. This statement written by
7 Rontavious Taylor.

8 Q. So, you are saying in this thing that Buck Taylor told
9 you that, that Dontavious said -- no, that Val said okay,
10 Dontavious: Put whatever you have and walk out and I won't
11 call the police. Is that what you say in that statement?

12 A. Yes, sir.

13 Q. Huh?

14 A. Yes, sir.

15 (A PAUSE.)

16 Q. And Dontavious is your brother?

17 A. Yes, sir.

18 Q. Your -- huh?

19 A. Yes, sir.

20 Q. Your identical twin?

21 A. Yes, sir.

22 Q. Why would you put in there, for lord's sake,
23 Dontavious was in the house that night if it wasn't true?

24 A. Because Perry told me to put that. Like I say, he --
25 Perry sent me a warrant with my name on it with my picture,

R. TAYLOR - CROSS-EXAMINATION / REDIRECT EXAMINATION 124

1 my record picture. He say -- for order -- for me to help
2 you, you help him. So, I put what he wanted me to put. He
3 told you to put. I put what he put. I told him ---

4 Q. Why didn't he tell you to put your name down there?

5 A. I ain't know. He told me to put my brother name
6 because that's what -- he told me what picture.

7 Q. Okay. So -- oh, by the way. You and Buck grew up
8 three houses apart, didn't you?

9 A. No, sir. I live on Lovely Hill; he grew up on Ashley
10 Circle.

11 Q. How close did y'all grown up together?

12 A. Close but not that close.

13 Q. How close?

14 A. Hey-how-you-doing close.

15 Q. What?

16 A. Hey-how-you-doing close, and it was ---

17 Q. How-you-doing close?

18 A. Yeah.

19 Q. You mean out the front door how you doing? Okay.
20 Never heard that before.

21 MR. R. MURDAUGH: I have no further questions. Thank
22 you.

23 THE COURT: Any redirect?

24 DIRECT EXAMINATION BY MS. SMART-GITTINGS:

25 Q. Just for clarity, what you write -- what do you write

R. TAYLOR - REDIRECT EXAMINATION BY MS. SMART-GITTINGS 125

1 in this statement? What you wrote ---

2 MR. R. MURDAUGH: Leading, if Your Honor please.

3 THE COURT: That is leading. This is redirect.

4 BY MS. SMART-GITTINGS:

5 Q. What did you write in the statement regarding who was
6 in the house and what was said so the people will know? Go
7 ahead and read it, and you kind of mumble, so try to be
8 clear.

9 A. All right.

10 THE COURT: And read slow.

11 WITNESS: Read the whole thing?

12 THE COURT: Yes, and step up to the microphone so
13 everybody can hear you. Read it slow and loud.

14 BY MS. SMART-GITTINGS:

15 Q. We don't understand your handwriting. So, you have to
16 read your handwriting.

17 A. You want me to read the whole thing for you?

18 Q. Go ahead.

19 A. Sometimes in the month of August, Ivan Buck
20 Williams told me that he broke into Valerie house
21 when she wasn't home. So, Ivan Buck Williams
22 said he was in Valerie room. She came back home
23 and Val seen him duck off in her room. So, Ivan
24 Buck Williams said Val said to them, Ivan Buck
25 Williams, Dontavious Taylor, put down whatever

R. TAYLOR - REDIRECT EXAMINATION BY MS. SMART-GITTINGS 126

1 you have down and walk out and I won't call the
2 police.

3 Q. So, your statement has what Val said to the boys? Is
4 that ---

5 A. Yes, ma'am.

6 Q. And what did Val say?

7 A. Put whatever you have down and walk out and I
8 won't call the police.

9 Q. Did Val call their names?

10 A. No, ma'am.

11 MS. SMART-GITTINGS: I don't have any other questions.

12 THE COURT: All right, you may step down.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: You may call your next witness.

15 MS. SMART-GITTINGS: The defense rests, Your Honor.

16 THE COURT: All right, any reply testimony?

17 MR. R. MURDAUGH: Yes, sir. Perry Singleton.

18 THE COURT: All right, Mr. Singleton, if you could
19 come forward and place your left hand on the Bible and
20 raise your right hand while the clerk administers the
21 oath.

22 PERRY L. SINGLETON, SR., BEING

23 DULY SWORN, TESTIFIES AS FOLLOWS:

24 DIRECT EXAMINATION BY MR. R. MURDAUGH:

25 Q. Mr. Singleton, I show you Defense Exhibit Number 2 and

P. SINGLETON - DIRECT EXAMINATION BY MR. R. MURDAUGH 127

1 ask you if you recognize it.

2 A. I do.

3 Q. What is it?

4 A. It's a statement that was written by Rontavious Taylor
5 on November the 14th of 2011. I'm sorry, October the --
6 October 14, 2011 at the detention center.

7 Q. Rontavious Taylor has said that you told him every
8 word to put in that statement. Is that true?

9 A. That is not true.

10 Q. What did you tell him?

11 A. He sent for me through the jail to come talk to him.
12 He could help me.

13 Q. And what did he tell you?

14 A. He gave me this written statement stating that Ivan
15 Williams and his brother was the ones that committed the
16 burglary at Valerie Singleton residence in Furman.

17 Q. Okay. Did you tell him what to write in it?

18 A. No, sir. We don't do that.

19 Q. Did you do it on this occasion?

20 A. I did not, sir.

21 MR. R. MURDAUGH: Thank you. I have no questions.

22 THE COURT: Cross-examination?

23 CROSS-EXAMINATION BY MS. SMART-GITTINGS:

24 Q. Detective Singleton, isn't it true that this statement
25 says that Val told Ivan, Ivan Buck Williams and Rontavious

P. SINGLETON - DIRECT EXAMINATION BY MR. R. MURDAUGH 128

1 Taylor, put the items down and I won't call the police.

2 That's what he wrote, correct?

3 A. I, I believe so.

4 Q. Do you have a copy of the statement?

5 A. I don't.

6 Q. But you took this statement?

7 A. I was there while he wrote the statement.

8 MS. SMART-GITTINGS: May I approach, Your Honor?

9 A. Write the statement, yes, ma'am.

10 THE COURT: You may.

11 (A PAUSE.)

12 A. It says:

13 Ivan Buck Williams, Dontavious, put whatever you
14 have down and walk out, and I won't, won't call
15 the police. This statement was written by
16 Rontavious Taylor.

17 Q. Okay. So, Rontavious, Rontavious wrote in a statement
18 that Ivan told him that Val said Ivan Buck Williams and
19 Dontavious Taylor, put down what you have?

20 A. That's what in the statement.

21 Q. But Val didn't know the names of the suspects.

22 MR. R. MURDAUGH: Your Honor please, again this is
23 leading. This is her witness.

24 THE COURT: I will sustain the objection. It has to
25 be a direct question.

P. SINGLETON - DIRECT EXAMINATION BY MR. R. MURDAUGH 129

1 MS. SMART-GITTINGS: ' He is not my witness, Your Honor.
2 This is on cross.

3 THE COURT: Yes. You're absolutely right. You can
4 lead.

5 MR. R. MURDAUGH: I apologize.

6 MS. SMART-GITTINGS: And I learned from him.

7 THE COURT: It's reply; it is indeed reply. We got us
8 all confused. All right, you may cross-examine with
9 leading questions.

10 MS. SMART-GITTINGS: Lost my train of thought.

11 THE COURT: Take your time.

12 (A PAUSE.)

13 BY MS. SMART-GITTINGS:

14 Q. So, this statement says from Rontavious that Ivan told
15 him that Val told Ivan Buck Williams and Rontavious Taylor
16 to put the items down, correct?

17 A. That's correct.

18 Q. But at the time of the initial investigation, Val did
19 not know the names of the suspects?

20 A. That's not correct.

21 Q. Sergeant Brooker testified that she didn't know the
22 names of the suspects, correct?

23 A. She told me she knew a nickname, which would be Buck.

24 Q. Okay, but that would still make this statement
25 actually incorrect because she couldn't have said Ivan Buck

P. SINGLETON - DIRECT EXAMINATION BY MR. R. MURDAUGH 130

1 Williams if she didn't know his full name, correct?

2 A. It wouldn't be -- that statement wouldn't be incorrect
3 because Ivan Buck Williams's name, name is in that
4 statement.

5 Q. But she didn't know Rontavious's name -- Dontavious's
6 name, did she?

7 A. I don't know. She didn't give it to, to the deputies.

8 Q. But Dontavious's name is specifically mentioned in
9 this statement, correct?

10 A. It is.

11 Q. But she never called Dontavious's name, did she?

12 A. Not to the deputies.

13 MS. SMART-GITTINGS: Okay. I don't have any other
14 questions.

15 THE COURT: Redirect?

16 MR. R. MURDAUGH: I have no further questions.

17 THE COURT: You may step down.

18 (THE WITNESS EXITS THE STAND.)

19 THE COURT: Any additional witnesses in reply?

20 MR. R. MURDAUGH: One additional one.

21 MR. R.A. MURDAUGH: Yes, sir. Call Sheriff T.C
22 Smalls.

23 THE COURT: Sheriff Smalls, if you could come forward.

24 MS. SMART-GITTINGS: Your Honor, I object to this
25 witness. He was not on the witness list. We did not voir

1 dire the jury as to whether or not they know him, or
2 whether or not they have any relationship with him.

3 THE COURT: All right, might counsel approach the
4 bench for a moment?

5 (OFF-THE-RECORD BENCH CONFERENCE.)

6 MR. R.A. MURDAUGH: Sheriff Smalls.

7 THE COURT: Before we do that, Sheriff Smalls, your
8 full name is?

9 SHERIFF SMALLS: Thomas C. Smalls.

10 THE COURT: All right, ladies and gentlemen of the
11 jury, you know when we selected this jury, we asked each
12 member of the jury if they knew any of the potential
13 witnesses. Whether they had a close social, business, or
14 personal relationship with this witness.

15 This witness is a witness who has been called in
16 reply. We didn't anticipate this witness being called.
17 I'll ask you that now. Does anybody know Sheriff Smalls or
18 have a close social, business, or personal relationship
19 with the sheriff? If so, please raise your hand. No
20 response.

21 You may come forward. Place your left hand on the
22 Bible and raise your right hand as the clerk administers
23 the oath.

24 THOMAS C. SMALLS, BEING DULY
25 SWORN, TESTIFIES AS FOLLOWS:

T. SMALLS - DIRECT EXAMINATION BY MR. R.A. MURDAUGH

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1 DIRECT EXAMINATION BY MR. R.A. MURDAUGH:

2 Q. All right, and it's -- you are Sheriff T.C. Smalls?

3 A. Yes, I am.

4 Q. How long have you served in that capacity, Sheriff?

5 A. Approximately second term. Seven years.

6 Q. All right, and prior to being elected sheriff here in
7 Hampton County, tell us about your law enforcement career
8 before that.

9 A. I started law enforcement in 1983. Before becoming
10 sheriff, I was in enforcement about twenty-three years.
11 Work at the Hampton County Sheriff's Office most, most of
12 those years, and about three years and six months at the
13 Varnville Police Department.

14 Q. All right, sir, and as sheriff here in Hampton County,
15 you have employed Lieutenant Singleton as your chief deputy
16 over investigation?

17 A. Yes.

18 Q. Chief of detectives. Is that correct?

19 A. That's correct.

20 Q. All right, sir, and over -- prior to being elected
21 sheriff, did you also through your involvement in law
22 enforcement career work closely with Detective Singleton?

23 A. Yes, I did.

24 Q. All right. So, you've known him for a long period of
25 time?

T. SMALLS - DIRECT EXAMINATION BY MR. R.A. MURDAUGH 133

1 A. Yes, sir.

2 Q. And worked closely with him in cases?

3 A. Yes, sir.

4 Q. All right, sir, and both before you instilled the
5 trust in him to make him your lead detective and since he
6 has been the lead detective with the Hampton County
7 Sheriff's Office, have you ever had a situation where you
8 were aware of Perry Singleton manufacturing evidence or
9 threatening witnesses or coercing him to do something
10 improper in regards to the witness testimony?

11 A. No, I haven't.

12 Q. All right, sir, and certainly had that ever been the
13 case, you'd been made aware of that, you would have done
14 something about it?

15 A. He would have been charged, yes, sir.

16 Q. All right, and that has not occurred, has it?

17 A. No, sir.

18 Q. Okay.

19 MR. R.A. MURDAUGH: And I, I think that's all the
20 questions I have.

21 THE COURT: Cross-examination?

22 MS. SMART-GITTINGS: No questions for the sheriff.

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

24 (THE WITNESS EXITS THE STAND.)

25 MR. R. MURDAUGH: No further reply, sir.

1 THE COURT: All right.

2 Mr. Foreman, ladies and gentlemen of the jury, we are
3 going to recess for lunch. We're going to ask that you be
4 back at 2:00, 2:00 sharp.

5 Once again do not discuss the case. When we reconvene
6 at 2:00, we'll have closing arguments and charge to the
7 jury, and then you will begin deliberations, but it's
8 premature to talk about this case amongst yourselves or
9 with anyone else. And I'm going to ask you to be back at
10 2:00, 2:00 sharp.

11 Everyone remain seated as the jury exits the
12 courtroom.

13 (THE JURY EXITS AT 11:56 AM.)

14 THE COURT: All right, we have had a discussion in
15 chambers, and just to place it on the record, I kind of
16 want to go over what the charge is. It's going to be a
17 very short, straightforward charge to the jury.

18 The indictment is not evidence. I'm going to charge
19 the defendant is presumed to be innocent and reasonable
20 doubt, duties of the jury and the trial judge, direct and
21 circumstantial evidence, credibility of witnesses and how
22 to evaluate that, failure of defendant to testify. Also
23 going to charge them the law with regard to identification
24 testimony. I'm going to charge the prior record of a
25 witness, how that affects their ability to evaluate that

1 particular witness's testimony. I'm going to charge
2 burglary first degree, and I'm going to define what a
3 dwelling is.

4 Any -- and obviously each of you are going to have an
5 opportunity to object to the charge after its read in toto,
6 and I'll be happy to entertain any additional requests at
7 this time.

8 Any preliminary objections from the state?

9 MR. R. MURDAUGH: From my understanding, there would
10 be at this time no additional requests.

11 THE COURT: Very good.

12 From Ms. Smart?

13 MS. SMART-GITTINGS: None from defense, Your Honor,
14 and we don't have any additional requests either.

15 THE COURT: Very good. We will stand at ease until
16 2:00.

17 And, Ms. Smart, you're understanding under these
18 circumstances, you will go first?

19 MS. SMART-GITTINGS: Yes, sir.

20 THE COURT: Very good.

21 (OFF THE RECORD.)

22 THE COURT: Anything from the state before we proceed?

23 MR. R. MURDAUGH: Nothing, sir.

24 THE COURT: Anything from defense?

25 MS. SMART-GITTINGS: Nothing, Your Honor.

1 THE COURT: I understand that the state is going to
2 waive opening on the law.

3 MR. R. MURDAUGH: That is correct.

4 THE COURT: Very good.

5 (THE JURY ENTERS AT 2:07 PM.)

6 THE COURT: Mr. Foreman, ladies and gentlemen of the
7 jury, thank you for being here and being here on time.

8 We have concluded the taking of testimony in this
9 case, and now the lawyers will have an opportunity to
10 present their closing arguments. I had mentioned to you
11 earlier what they say is not evidence, but it will aid you
12 immensely in your deliberation process because at this
13 point in time, all the evidence is in. These very fine
14 lawyers can point to the evidence that supports their
15 relative position.

16 Under these circumstances the defendant and Ms. Smart
17 goes first.

18 MR. R. MURDAUGH: Please the court -- excuse me. I
19 forgot I have waived opening.

20 THE COURT: That's right.

21 Ms. Smart, you are recognized.

22 MS. SMART-GITTINGS: May it please the court, Your
23 Honor?

24 Ladies and gentlemen of the jury, you have been
25 fortunate because this has been a very quick trial, and it

1 is still very early in the day, and you have plenty of time
2 to deliberate. So, we're grateful that you paid attention
3 to the facts and all the witnesses that were presented
4 before you.

5 And as the judge told you earlier, Ivan Williams is
6 still innocent until all twelve of you have been proved --
7 until the state has proven to all twelve of you that he is
8 guilty of the charge.

9 And so how did the state present their case to you?
10 The state, from my recollection, presented three witnesses
11 to you. The first one -- and only one of those witnesses
12 being a fact witness, and the witness was Ms. Valerie
13 Singleton. And then they followed with Detective Singleton
14 and Sergeant Brooker, both of the sheriff's office.

15 Sergeant Brooker was the first responder, along with
16 Deputy Elmquist, who is no longer in the area, but Sergeant
17 Brooker gave the testimony from what they found during the
18 course of their investigation as first responders.

19 Now, Sergeant Brooker was also the person that took
20 the pictures of the crime scene, or the alleged crime
21 scene. And so all of these, these photographs and all the
22 statements that have been entered into evidence will go
23 back in the jury room with you, and you will have the
24 opportunity to look at them and take as much time as you
25 need to evaluate them during the course of your

1 deliberation, but there are just a few things that I
2 specifically wanted to point out to you and bring to your
3 attention.

4 The picture that you see earlier, the picture of the
5 door and the pry marks that are on the door, the state's
6 evidence was that the persons opened the door by prying the
7 door open.

8 Through your life experiences and what you know, if
9 you have any experience with a screwdriver, look at this
10 door and ask yourself. Does it look like this door was
11 pried open from the outside, or were these pry marks made
12 from the inside of the door? And if they were made from
13 the inside of the door, at what time where they made? Did
14 the alleged suspects make this -- make the pry marks, or
15 where they there? But use your life experiences and look
16 at this door.

17 You don't have any photographs of the outside of the
18 door; you don't know how the outside of the door looks.
19 You don't know whether there are pry marks on the outside
20 of the door to gain entry inside the door. And then use
21 your life experience to determine whether or not this
22 particular lock can be pried open.

23 Those are the facts that you, as jurors, have to
24 ascertain: whether or not it's possible, or whether or not
25 it's impossible to do. And if you decide that this door

1 was not pried open from the outside but, in fact, these pry
2 marks are on the inside and not used to gain entry into the
3 residence, then the state hasn't proved that they pried
4 this door open to get in the house. And even if you
5 believe that the door was pried open, did they still meet
6 the burden of proving the identification of the alleged
7 suspects?

8 The television's on the bed. Sergeant Brooker
9 testified that he's trained in taking fingerprints and that
10 he attempted to collect fingerprints, but there weren't any
11 fingerprints on the TV. There weren't fingerprints of the
12 owner; there weren't any fingerprints of the suspects.
13 That the TV did not have any fingerprints whatsoever. But
14 he testified that when we touch things, the oils in our
15 skins -- in our skin transfers the fingerprints to the
16 items that we touch.

17 So, use your life experience and ask yourselves. Why
18 weren't there fingerprints on this TV, any fingerprints
19 whatsoever, none?

20 The written statement of Rontavious. So, some people
21 may not like Rontavious because he has burglary
22 convictions, and you might say oh, because he was convicted
23 of a crime, I don't believe him. He's a convicted
24 criminal. You know, he's not believable.

25 When he wrote this statement, he didn't know that he

1 was going to be called into court to testify; he didn't
2 know that. So, when he wrote this statement, he wrote what
3 he wrote. But the content of this statement is what I
4 think is important when we talk about inconsistent facts.

5 The content of the statement says -- and we've been --
6 we went back and forth and that's why this statement is
7 going into evidence because we've gone back and forth about
8 the statement. The contents that, that I think are
9 important is -- this is he's saying. He says Ivan Buck
10 Williams told him that Val, the victim, said to him:

11 Ivan Buck Williams and Dontavious Taylor, put
12 whatever you have down and walk out, and I won't
13 call the police.

14 Well, why is that important? Sergeant Brooker
15 testified that she told the first responders I don't know
16 their names. I know them because I've seen them uptown,
17 but I don't know their names. She's never said she knew
18 Dontavious, Dontavious's name. So, that makes this
19 statement factually incorrect.

20 This is his twin. Why would he throw his twin brother
21 under the bus? Why would he name his twin brother in the
22 statement that he gave to Detective Singleton? Just to get
23 out of jail? Well, he said if he wrote the statement, he'd
24 get out of jail. He said he got out of jail.

25 And the other thing that is consistent is every time

1 a statement was taken from Detective Singleton, it refers
2 to the defendant as Ivan Buck Williams. So, when you refer
3 to yourself, do you call yourself your whole name and your
4 nickname, or wouldn't you just say I? If I'm going to tell
5 you what Solicitor Murdaugh told me, I'm not going to say
6 Solicitor Murdaugh said Stephanie Smart-Gittings, sit down.
7 You're talking too long. I'll say Solicitor Murdaugh told
8 me sit down. I'm talking too long.

9 But this statement has full names written in the
10 statement, and as a layperson if you were writing this
11 statement, would you write out the full name of your
12 brother, or would you write my brother, Ron? Would you
13 write out his full name?

14 Ask yourselves and then determine whether or not this
15 statement is believable for one or two reasons. Why would
16 he write it? And if he really did not know what occurred,
17 then that might explain why it's factually inconsistent.

18 Who writes a factually consistent statement? If, in
19 fact, he was telling the truth that he was told what to
20 write, that might explain why this statement is pretty
21 consistent with Ms. Singleton's statement.

22 But remember she said to the first responders I don't
23 know their names. I know their faces. But less than
24 twenty-four hours later, twenty-four hours later she meets
25 with Detective Singleton and she knows Ivan Buck Williams's

1 name, but she has yet to reveal Dontavious's name.

2 To the victim's knowledge, Dontavious has never been
3 arrested, arrested for this. So, ask yourselves this. If
4 the state believed the statement from Rontavious, why
5 didn't they ever arrest his brother? They didn't.

6 So, what else do you have? You don't have any
7 physical evidence other than the pry marks. So, you have
8 to ask yourself some questions about the pry marks.

9 You only have one identification witnesses -- witness,
10 and ask yourselves this. It's 12:30 at night, and she said
11 that she left the light on in her room, so that that's how
12 he was able to see him. But she says that she walks in and
13 she stares at somebody who is in her room stealing her
14 stuff, and she says y'all better get out or I won't call
15 the police. And she stands there while they stare her down
16 and slowly walk out of her house.

17 Ask yourselves. Through your experiences, how
18 reasonable is it that a thief who was caught in the home
19 with someone is going to stare them down as they slowly
20 walk out of the house?

21 So, Sergeant Brooker says the dogs tracked, and he
22 said the dogs tracked towards Steep Bottom Road. And I
23 asked Rontavious did they even -- where did they live, and
24 they said that they both lived in the Ashley Circle area of
25 Furman, but he also said that that's in the opposite

1 direction of Steep Bottom Road. But the dogs trace in the
2 opposite direction of where these guys lived.

3 So, if you know that this lady is going to call the
4 police, where are you going to go? Are you to run in the
5 opposite direction to actually someone else's house I think
6 he said the dogs chased to -- traced to?

7 And I, and I told you in the beginning that I would
8 never, ever question the character of a law enforcement
9 agency because that's not what I do as a defense attorney.
10 But I did tell you that law enforcement officers are very
11 zealous, and they want to crack a case because they want to
12 close a case. That's their jobs. That is what they tend
13 to do, and in doing so, they can rush to judgment. And if
14 you rush to judgment, if you don't have any physical
15 evidence to corroborate that, you wind up without any
16 physical evidence and one fact witness, one fact witness.

17 So, is it possible that the testimony that you
18 received -- what part of it do you choose to believe, if
19 any? You don't have to believe the testimony of any of the
20 witnesses, but you have to determine the facts. You have
21 to determine whether not the state proved that Ivan
22 Williams pried his way into Val Singleton's house, laid her
23 TVs out on the bed, and slowly walked out of her house when
24 she came in at 12:30 at night. And if you don't believe
25 that those facts occurred, then your verdict would be not

1 guilty.

2 If you don't think it's possible that it happened the
3 way the state -- the state's evidence showed that it
4 happened, then you have to find him not guilty because you
5 can't add any facts to it. You can't take away -- you can
6 take away the facts that you don't agree to, but you
7 certainly can't add any facts that weren't testified to
8 from this court -- from this testi -- from this witness
9 stand.

10 So, we thank you for your time and at the end of this
11 case, we will submit to you that the state has not met its
12 burden of proof, and the correct verdict would be a verdict
13 of not guilty.

14 THE COURT: Thank you, Ms. Smart.

15 Mr. Murdaugh, you are recognized.

16 MR. R. MURDAUGH: Please the court?

17 THE COURT: Yes, sir.

18 MR. R. MURDAUGH: Mr. Foreman, ladies and gentlemen of
19 the jury, I told y'all at the very beginning that my
20 statement was a map or a set of plans like contractors use
21 to lead you through this thing.

22 His Honor told you at the beginning and will charge
23 you again the law in this case, the law y'all can't do
24 anything about except listen to him. If you disagree with
25 the law, you've got to believe what he says; you've got to

1 take the law as he gives it to you.

2 The facts belong to y'all. The judge can't tell you
3 what the facts are. I can't tell you what the facts are.
4 Stephanie can't, Ms. Gittings can't tell you what the facts
5 are. You twelve people, and I say twelve because you two
6 alternates won't serve if -- unless something happens to
7 one of the other jurors between now and y'all's
8 deliberation. You have to make that determination.

9 He told you at the beginning and he'll tell you again
10 that you've got a right to take everything into
11 consideration that you have gained throughout your life.
12 You got a right to take into consideration the -- what a
13 person has to gain or what to lose by testimony. You've
14 got a right to take into -- consider the weight of the
15 testimony, the demeanor of the witness, how -- whether you
16 believe him or not or her or not. You've got a right to
17 take into consideration the way that person holds up his
18 right hand and puts his left hand on the Bible and says I
19 swear to god that I'll tell y'all the truth.

20 By the way, something ain't got anything to do with
21 anything. You know why they do that, make them put their
22 right hand up? Back in the old English days when somebody
23 came to court and got caught lying, they would put a P in
24 the palm of their hand for perjury. So, the next time they
25 came in court, said put your hand up, and that's why they

1 do that. Like I say, that doesn't have much to do with
2 anything.

3 Let's look at the testimony in this case. Valerie
4 Singleton comes to her house at, what, was it 12:30? 12:30
5 at night. She's playing music. She sits there and listens
6 to it, walks in the house, and lo and behold there, there
7 is a man over her bed. On her bed is a pile of her
8 household goods and televisions, and y'all will have all
9 this in there to see. I'm not going to show them to you
10 individually now, but they -- all this stuff is laying on
11 her bed.

12 And she says that she looked at the man, and help me
13 remember this now specifically because I don't want to make
14 a mistake. Help me remember what she says. She says that
15 I looked at him. I did not know his name. I knew him from
16 the community. I knew as Buck, but I didn't know his name.
17 Do y'all remember that? I, I, I'm pretty sure that's what
18 she said. Didn't know his name, but I knew him as Buck.

19 And the other fellow came out. She said y'all get out
20 of my house, and it's only by the grace of god, Mr. Foreman
21 and ladies and gentlemen of the jury, she ain't dead laying
22 on a slab right now. You come in your house at 12:30 at
23 night and somebody has broken into it, you're lucky you're
24 alive. But she says get out of my house or I won't call
25 the police and said that they walked out. And she

1 immediately called the police just like she should have
2 done.

3 She said that she learned the next, next day or two
4 days later -- next day, I think she said -- that his name
5 was really Ivan Buck Williams. Do you remember that
6 testimony? And the next -- the following day she gave a
7 statement to Perry Singleton, and in the statement she says
8 Ivan Buck Williams.

9 They sent off to SLED and got back this thing, and I'm
10 going to tell you what. Y'all looked at this thing close
11 when you looked at it to start off with. Everybody on
12 there comes as close to looking alike as any photo lineup
13 I've ever seen and, I mean, y'all can take that into
14 consideration. He says pick out the man that broke into
15 your house and circled it, number five.

16 I asked her if she sees that man in the courtroom
17 today. She says right over yonder. If you'll remember, I
18 went over and put my, my left hand on his shoulder.

19 Burglary is the breaking and entering a of dwelling
20 house. A trailer where you live is a dwelling house. The
21 judge will give you a definition of what a dwelling house
22 is in his charge.

23 Breaking and entering of a dwelling house in the
24 nighttime. She says it was 12, close to 12:30. That is
25 the nighttime.

1 With the intent to commit a crime. Well, they have
2 taken all of the stuff that they are going to steal from
3 her and piled it on the bed, getting ready to take it out.
4 That is an indication they were going to commit a crime.

5 There is a bunch of hoopla about two things, and I
6 don't know where it is, but somewhere in here is the
7 statement of Rontavious. That ain't got a thing to do with
8 this case. I mean, there's a lot to talk about it.

9 I didn't put him on the stand. I could have
10 subpoenaed him here as a witness, and I am under an
11 obligation when I present testimony in the court to present
12 truthful evidence, and I didn't present him because I
13 understood that he had pled guilty to burglary.

14 And I tell you you can't consider that except for one
15 thing, and that is to determine his believability. A man
16 that will commit burglary -- that's with intent to steal --
17 and he admitted he pled guilty to burglary. My daddy told
18 me. Said if a man will steal, he'll lie. Y'all ever heard
19 that? Well, that's Rontavious.

20 The other thing I heard was about prying the door
21 open. Why Mr. Brooker didn't take a picture from the other
22 side, I don't know, but why in the name of god would you
23 pry a door open when all you got to do is turn the key?
24 There ain't no need to pry it. It had to come from the
25 outside. All you got to do is turn the knob and walk out

1 if you're going to pry it from the inside. Doesn't that
2 make sense?

3 Let me tell you, ladies and gentlemen, this is a case
4 that it's quite evident that Ivan Buck Williams broke into
5 the house, that he was fixing to steal, and he got caught
6 along with his co-conspirator that we can't prosecute
7 because we don't know which one he is. It might have been
8 Rontavious; it might be his brother. He says it's his
9 brother. I imagine if we asked the brother, he'd say it
10 was Rontavious. That's the way things mostly go.

11 And let me tell you something. Rontavious, he's
12 sitting on the second row right there behind the
13 defendant's family. Does it make more sense to you that he
14 told the truth, and now he's got to go back to that
15 neighborhood that he was in? I said how far you live away,
16 and I had never heard this before in my life. Says I'm
17 how-do-you-do far. The -- but he's got to go back to that
18 neighborhood and live there. So, that might be the reason
19 that he denies he was telling the truth when he wrote that
20 statement.

21 Ladies and gentlemen, Valerie, law enforcement, people
22 of Hampton County will be waiting on your verdict, a
23 verdict which should be guilty as charged. Thank you.

24 JURY CHARGE

25 THE COURT: Mr. Foreman, ladies and gentlemen of the

1 jury, you have heard all the evidence. You've heard the
2 closing arguments. Now it's my responsibility to charge
3 you on the law. I know that you've just had lunch, and
4 sometimes there's a tendency to get a little bit tired in
5 mid afternoon, but this is important stuff.

6 I wish there was an easy way to do it, to charge you
7 the law. It's kind of like taking medicine: there ain't an
8 easy way to do it. But perk up and pay very close
9 attention because this is an important case. It's
10 important to the state of South Carolina; it's important to
11 the defendant. So, in order for you to do your job as
12 you've taken an oath to do, for you to listen to the
13 evidence, but you -- in order to do your job, you have to
14 know what the law is. I'm going to charge you that. So,
15 that's why it's important to perk up and pay close
16 attention.

17 This indictment charges the defendant with burglary in
18 the first degree. I remind you that the fact the defendant
19 was arrested and charged and indicted is not evidence; it
20 cannot be considered by you as evidence of guilt. Nor does
21 it create any presumption or inference of guilt. This
22 document is simply the formal, written instrument which
23 contains the charge made against the defendant. It is the
24 formal document by which this case is brought into this
25 court.

1 Ladies and gentlemen of the jury, the defendant has
2 pled not guilty to this indictment. That plea puts the
3 burden on the state to prove the defendant guilty. A
4 person charged with committing a criminal offense in South
5 Carolina is never required to prove himself innocent. I
6 charge you that it is an important rule of the law that the
7 defendant in a criminal trial, no matter what the
8 seriousness of the charge may be, will always be presumed
9 to be innocent of the crime for which the indictment was
10 issued unless it has been proven by evidence satisfying you
11 of that guilt beyond a reasonable doubt.

12 This presumption of innocence does not end when you
13 begin your deliberations. It accompanies the defendant
14 throughout the trial until you reach a verdict of guilt
15 based on evidence satisfying you of that guilt beyond a
16 reasonable doubt.

17 Presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the defendant
19 which remains with the defendant until it has been stripped
20 from the defendant by evidence satisfying you of the
21 defendant's guilt beyond a reasonable doubt.

22 Presumption of innocence is not a mere legal theory;
23 it's not just a legal phrase. It is a substantial right to
24 which every defendant is entitled unless you, the jury, are
25 satisfied from the evidence of the defendant's guilt beyond

1 a reasonable doubt.

2 What is reasonable doubt in the law? Reasonable doubt
3 is the kind of doubt that would cause a reasonable person
4 to hesitate to act. The state has the burden of proving
5 the defendant guilty beyond a reasonable doubt. Some of
6 you may have served as jurors in civil cases where you were
7 told it's only necessary to prove that a fact is more
8 likely true than not true, such as by a greater weight or
9 preponderance of the evidence.

10 In criminal cases, the state must prove -- proof must
11 be more powerful than that. Must be beyond a reasonable
12 doubt. Proof beyond a reasonable doubt is proof that
13 leaves you firmly convinced of the defendant's guilt.
14 There are very few things in this world that we know with
15 absolute certainty, and in criminal cases the law does not
16 require proof that overcomes every possible doubt.

17 If, based on your consideration of the evidence, you
18 are firmly convinced the defendant is guilty of the crime,
19 you must find the defendant guilty. If, on the other hand,
20 you think there is a real possibility that the defendant is
21 not guilty, you must find the defendant not guilty.

22 I remind you that during this trial, you and I have
23 certain duties to perform. As the trial judge, it is my
24 responsibility to preside over the trial of this case. I
25 also had the duty to rule on admissibility of the evidence

1 offered during this trial. You are to consider only the
2 competent evidence before you. If there was any testimony
3 ordered stricken from the record in this case during this
4 trial, you must disregard that testimony. You are to
5 consider only the testimony which has been presented from
6 this witness stand, any exhibits which were made a part of
7 the record in this case, any stipulations of counsel.

8 I have the additional duty to charge you the law
9 applicable to this case. As the presiding judge, I am the
10 sole judge of the law in this case. It is your duty as
11 jurors to accept and apply the law as I now state it to
12 you. If you already have an idea as to what the law is and
13 what the law ought to be and it does not agree with what I
14 now tell you the law is, you must abandon this idea because
15 you were sworn to accept the law and apply the law exactly
16 as I state it to you.

17 In every case tried in this court before a jury, the
18 jury becomes the sole, exclusive judge of the facts in the
19 case trial. The trial judge cannot intimate, state,
20 comment on, or make any statement to a trial jury about the
21 facts in the case. Since you, the jury, are the sole judge
22 of the facts in this case, you are not to infer from what I
23 have said during the progress of this trial in ruling upon
24 the admissibility of evidence or otherwise or anything I
25 say now during the course of this instruction to you I have

1 any opinion about the facts of this case.

2 The law simply does not allow me to have an opinion
3 about the facts. This is a matter solely for you, the
4 jury, to determine. As jurors, it is your duty to
5 determine the effect, value, weight, the truth of the
6 evidence presented during this trial.

7 There are two types of evidence which are generally
8 presented during a trial: direct evidence and
9 circumstantial evidence. Direct evidence is the testimony
10 of a person who claims to have actual knowledge of a fact,
11 such as an eyewitness. It is evidence which immediately
12 establishes the main fact to be proven. Crimes may be
13 proven by circumstantial evidence. Circumstantial evidence
14 is based on inference and not on personal knowledge or
15 observation.

16 The law makes no distinction between the weight or
17 value to be given to either direct or circumstantial
18 evidence. However, to the extent that the state relies on
19 circumstantial evidence, all the circumstances must be
20 consistent with each other when taken together to point
21 conclusively to the guilt of the accused beyond a
22 reasonable doubt. If the circumstances merely betray the
23 defendant's behavior as suspicious, proof has failed.

24 The state has the burden of proving the defendant
25 guilty beyond a reasonable doubt. This burden rests with

1 the state regardless of whether the state relies on direct
2 evidence, circumstantial evidence, or some combination of
3 the two.

4 Necessarily, you must determine the credibility of
5 witnesses who will testify in this case. Credibility
6 simply means believability. It becomes your duty as jurors
7 to analyze and evaluate the evidence, determine which
8 evidence convinces you of its truth.

9 To determine the believability of the evidence who
10 have -- of witnesses who have testified in this trial, you
11 have -- you may believe one witness over several witnesses
12 or several witnesses over one witness. You may believe a
13 part of the testimony of a witness and reject the remaining
14 part of the testimony of that same witness. You may
15 believe the testimony of the witness in its entirety or
16 reject the testimony of a witness in its entirety.

17 You may consider whether any witness has exhibited to
18 you any interest, bias, prejudice, or other motive in this
19 case. You may also consider the appearance and the manner
20 of the witness while on the witness stand.

21 A person who has a past criminal record is competent
22 to testify in a trial. A past record does not affect the
23 ability of that witness to testify. Past record may only
24 be considered by you, if at all, in determining the
25 witness's believability. Remember you are the sole judge

1 of the facts in the case and the believability of any and
2 all witnesses.

3 Ladies and gentlemen of the jury, an issue in this
4 case is identification of the defendant as the person who
5 committed the crime charged. The state has the burden of
6 proving identity beyond a reasonable doubt. You must be
7 satisfied beyond a reasonable doubt of the accuracy of the
8 identification of the defendant before you may convict the
9 defendant.

10 Identification testimony is an expression of belief or
11 impression by a witness. You must determine the accuracy
12 of the identification of the defendant. You must consider
13 the believability of each identification witness in the
14 same way as any other witness.

15 You may consider whether the witness had an adequate
16 opportunity to observe the defendant at the time of the
17 offense. This will be affected by things like how long or
18 short a time was available, how far or close the witness
19 was, the lighting conditions, and whether the witness had
20 the chance to see or know the person in the past.

21 Once again I instruct you the burden of proof is on
22 the state to every element of the crime charged, and this
23 specifically includes the burden of proving beyond a
24 reasonable doubt the identity of the defendant as the
25 person who committed the crime. If after examining the

1 testimony you have a reasonable doubt as to the accuracy of
2 identification, you must find the defendant not guilty.

3 I instruct you and emphasize that the fact that the
4 defendant did not testify is not a fact to be considered by
5 you in any way in your deliberations, your consideration of
6 the question of guilt or innocence of the defendant. It
7 must not be considered by you in any manner whatsoever.
8 The defendant has the constitutional right to remain
9 silent. An assertion of this right must not be considered
10 by you in your deliberations. I repeat. Under your oath,
11 you are to draw no conclusion whatsoever from the fact that
12 the defendant in this case did not testify.

13 Mr. Foreman, the fact that this defendant did not
14 testify should not even be discussed in the jury room. Mr.
15 Foreman, I am going to ask that you enforce the rule that
16 there be no discussion about that.

17 The law doesn't allow that. The burden of proof, as I
18 have stated to you, is on the state. The defendant is not
19 required to prove his innocence. The burden of proof
20 remains on the state to prove guilt beyond a reasonable
21 doubt.

22 Ladies and gentlemen of the jury, I'm going to charge
23 you the substance of the law with regard to first-degree
24 burglary. Pay very close attention. The defendant is
25 charged with first-degree burglary. The state must prove,

1 first prove beyond a reasonable doubt that the defendant
2 entered a dwelling without consent. A dwelling is any
3 building or portion of a building in which a person
4 ordinarily sleeps.

5 In order to prove the defendant entered the dwelling,
6 the state does not have to show that the defendant's entire
7 body entered the dwelling. The smallest entry is
8 sufficient. It may be any part of the body such as a hand,
9 a foot, or even an instrument such as a hook or other
10 instrument.

11 In addition, the state does not have to prove that
12 force was used to gain entry. If a person enters a
13 building by way of deception, artifice, trick,
14 misrepresentation to get consent to enter, this is entry
15 without consent.

16 Next, the state must prove beyond a reasonable doubt
17 that the defendant intended to commit a crime, either a
18 felony or a misdemeanor, at the time of the entry. Mere
19 entry into a dwelling without consent is not burglary. If
20 the intent to commit a crime is formed after the entry, it
21 is not burglary.

22 On the other hand, if the defendant intended to commit
23 a crime at the time of entry, it is a burglary even if the
24 intent was abandoned after the entry. It does not matter
25 that the intended crime was not completed. Intent may be

1 shown by acts and conduct of the defendant and other
2 circumstances from which you may naturally and reasonably
3 infer intent.

4 Finally, the state must prove beyond a reasonable
5 doubt defendant entered or remained in the dwelling during
6 the nighttime. Nighttime is the period between sunset and
7 sunrise during which there is enough daylight to recognize
8 that -- where there is not enough daylight to recognize a
9 person's face except by artificial light or moonlight.

10 Mr. Foreman, I'm going to come forward and share this
11 verdict form with you. I'm going to ask if you could stand
12 up, and we'll go over this form.

13 Mr. Foreman, this is a document. It's entitled
14 verdict form. It's got the case number on here, and the
15 State of South Carolina, County of Hampton. The *State of*
16 *South Carolina vs. Ivan Williams*. There's one charge, one
17 indictment, burglary first degree, and the
18 form essentially says: We, the jury, by unanimous consent
19 find the defendant Irvin Wilson -- Williams is. There's
20 two determinations, not guilty or guilty, and you would
21 check one of those, sign it as a foreman, date it today's
22 date.

23 There's a note here that the verdict must be
24 unanimous. It can't be eleven to one, six to six, eight to
25 four. Everyone has to agree; it has to be unanimous. Mr.

1 Foreman, it's your job to be sure that everybody's voice is
2 heard.

3 In addition to that, in the same vein, if someone
4 were to get up and use the restroom, stop deliberations
5 because everyone has to participate all through the
6 deliberation process. You can have a seat.

7 There, there -- during your deliberations, there might
8 come a time where you have a question, and I'll tell you
9 from the outset that the difficult question in this case,
10 you're going to have to resolve. That's your job as the
11 triers of fact. If there's a question that comes up, it's
12 a question about the facts, you've heard the law. I don't
13 have an opinion about the facts. I can't render an opinion
14 in that regard. However, if your question is a matter
15 about the law, I can answer it.

16 If during your deliberation if there's a question that
17 you have and you can't determine whether it's a question of
18 fact, question of law, write it down anyway. Give it to
19 the bailiff, and if it's something I can help you with, I
20 will. But I don't anticipate there is going to be any
21 question because you've heard the evidence. You've heard
22 the law, and you've paid attention. You've got all the
23 tools necessary to resolve this case.

24 I'm going to ask the alternates to remain with us; do
25 not go back into the jury room.

1 Mr. Foreman, I have told you throughout the trial when
2 you go back to the jury room not to begin deliberations.
3 Now once again I am going to tell you not to do that
4 because I have to talk with these very fine lawyers to
5 determine whether or not they have an objection as to the
6 manner in which I've charged the law. Perhaps I've
7 inadvertently misstated something, left something out, put
8 something in that doesn't belong there. We're got to
9 resolve that.

10 We also have to get together all the documentary
11 evidence, and if there is not a necessity for me to bring
12 you back, I will get all the documentary evidence. The
13 bailiff will carry it back and tell you to begin
14 deliberations. Once again do not begin deliberations until
15 you receive instructions from me or the bailiff.

16 There's also a notation at the bottom of the verdict
17 form to knock on the door when you've reached a verdict. I
18 hear tell in Williamsburg County, there was a jury that
19 stayed back there three and a half days. They didn't knock
20 on the door. So, we need to make sure that if you reach a
21 verdict, knock on the door, and we will receive you back in
22 the courtroom.

23 So, let's proceed forward with a serious mind. I'm
24 going to ask you to have a seat in the jury room, but do
25 not begin deliberations. I'm going to ask the alternates

1 to remain with us.

2 (THE JURY EXITS AT 2:48 PM.)

3 THE COURT: Any objection to the jury charge from the
4 state?

5 MR. R. MURDAUGH: No objections or additions. If I
6 might make an inquiry?

7 THE COURT: Right.

8 MR. R. MURDAUGH: In talking with the foreman, you
9 said Irvin Williams. It's Ivan, and I just want to make
10 sure we got the -- we're on the same page.

11 THE COURT: I can make, I can make that clarification.
12 I can look at it, and I can tell you.

13 MR. R. MURDAUGH: Okay, sir.

14 THE COURT: I'm going to ask the bailiff if they can
15 get the verdict form and bring that back in here to me.

16 MR. R. MURDAUGH: I think probably you got Ivan on
17 there, but just out of an abundance of caution.

18 THE COURT: We'll do that.

19 Any objection to the jury charge from the defense?

20 MS. SMART-GITTINGS: None, Your Honor.

21 THE COURT: All right. I'm going to ask if each of
22 you could come up here, and we're going to ask if all of
23 the documentary evidence could be placed on the jury rail
24 there, and I'm going to ask if everything that's in that
25 pile is in evidence and if there's anything in the pile

1 that's not in evidence.

2 It is indeed Ivan on the verdict. Do you want me to
3 bring them out and clarify that?

4 MR. R. MURDAUGH: No, sir.

5 THE COURT: Very good.

6 (A PAUSE.)

7 THE COURT: On the caption it's Ivan, but on the -- in
8 the body of it, it does say Irvin, but I'm making that
9 clarification.

10 (A PAUSE.)

11 MR. R. MURDAUGH: All there, sir.

12 THE COURT: All right. Mr. Murdaugh, is everything
13 that's in this pile in evidence?

14 MR. R. MURDAUGH: Yes, sir.

15 THE COURT: Is there anything in that pile that's not
16 in evidence?

17 MR. R. MURDAUGH: Not that I saw, sir.

18 THE COURT: All right.

19 Ms. Smart, is everything in that pile in evidence?

20 MS. SMART-GITTINGS: Yes, sir.

21 THE COURT: Is there anything in that pile that's not
22 in evidence?

23 MR. R. MURDAUGH: No, sir.

24 THE COURT: All right. Hang on just one moment. The
25 caption said Ivan, but in the body of the verdict it did

1 say Irvin, and we're making that correction.

2 Alternates, if you will bear with me just one moment.

3 We're going to be with you in just a second.

4 (A PAUSE.)

5 THE COURT: You can go ahead and tell them to begin
6 deliberations, and give them whatever scratch pad and
7 pencil they need.

8 (JURY DELIBERATIONS BEGIN AT 2:53 PM.)

9 (THE ALTERNATES ARE EXCUSED BY THE COURT.)

10 THE COURT: Anything from the state before we recess?

11 MR. R. MURDAUGH: No, sir. It was pleasure trying the
12 case for you, sir.

13 THE COURT: It was a very quick one but an important
14 one. Thank you very much.

15 Ms. Smart, anything from you?

16 MS. SMART-GITTINGS: Nothing, Your Honor.

17 THE COURT: Very good. We'll stand at ease.

18 (OFF THE RECORD.)

19 THE COURT: I understand that we have a verdict. Is
20 there anything from the state before we bring the jury out?

21 MR. R. MURDAUGH: Nothing.

22 THE COURT: Anything from the defense?

23 MS. SMART-GITTINGS: Nothing, Your Honor.

24 THE COURT: We are ready for the jury.

25 (THE JURY ENTERS AT 4:06 PM.)

1 THE COURT: Mr. Foreman, have you reached a verdict?

2 FOREPERSON: Yes, sir.

3 THE COURT: Is it unanimous?

4 FOREPERSON: Yes, sir.

5 THE COURT: All right. I'm going to ask that you give
6 the verdict form to the clerk.

7 (A PAUSE.)

8 THE COURT: You may publish the verdict.

9 VERDICT

10 CLERK OF COURT: The State of South Carolina, County
11 of Hampton. *State of South Carolina vs. Ivan Williams*,
12 case number 2012-GS-25-71, verdict form. Burglary first
13 degree, we, the jury, find by unanimous consent that the
14 defendant, Ivan Williams, is guilty. Signed by the
15 foreperson, dated 11/5/2013.

16 THE COURT: Mr. Foreman, ladies and gentlemen of the
17 jury, I want to thank you for your service. Your service
18 is concluded for today. We are going to ask that you call
19 ---

20 Have we made the determination as to whether or not
21 this case is going forward in the morning?

22 MR. WRIGHT: We're not going to go forward with Mr.
23 Albert. We're, we're going to continue that one. I
24 believe an offer has been made involving Mr. Skyler Ford
25 and Craig Loadholt.

1 THE COURT: Do we need to bring the jury back?

2 MR. WRIGHT: I guess we, we have a motion in front of
3 you. I guess Stephanie is involved in that other case, and
4 some judges don't make attorneys try two in one week. So,
5 depending on your preference, if you don't want her to try
6 two in one week, then we don't have anything.

7 THE COURT: I tell you what. We'll -- I'm going to
8 ask you to call the clerk's office after 6 tonight and
9 follow the instructions with regard to that.

10 I want to thank you for your time and your service
11 with regard to this case. I've told you not to discuss the
12 case with anyone, but I'm going to release you from that
13 order. You don't have talk with anybody if you don't want
14 to, but if you want to discuss this case with someone,
15 since the verdict has already been rendered, you can do
16 that.

17 I'm going to ask you to call the clerk's office this
18 afternoon and follow the instruction. You're free to leave
19 at this time. Thank you.

20 CLERK OF COURT: Judge, they need to be sure to pick
21 up the call-in number at the security desk if they haven't
22 already done that.

23 THE COURT: Very good. Make sure that you have the
24 number to call. Thank you very much.

25 (THE JURY EXITS AT 4:09 PM.)

1 THE COURT: And penalty, I understand, is a minimum
2 mandatory fifteen years, maximum thirty. Is that correct?

3 MR. R. MURDAUGH: That's correct, sir.

4 THE COURT: Minimum mandatory fifteen?

5 MR. R.A. MURDAUGH: Minimum fifteen, maximum life.

6 THE COURT: All right, if you could bring your client
7 forward, Ms. Smart?

8 I'm going to ask Mr. Murdaugh if he could sign the
9 sentencing sheet and ask Ms. Smart to sign it as well.

10 (A PAUSE.)

11 THE COURT: Be glad to hear from the state with regard
12 to sentencing.

13 MR. R. MURDAUGH: If Your Honor please? You have
14 heard the testimony in this case. The -- he has no prior
15 record except one petit larceny, I think it is.

16 Would you want to say something about it?

17 (A PAUSE.)

18 MR. R. MURDAUGH: We have nothing further, sir.
19 You've heard the testimony.

20 MR. WRIGHT: On there I checked for the 17-25-45.
21 He's actually -- it's under the two strikes. So, it would
22 be an A. It didn't have a spot for a copy for A and B
23 because I just checked for, for that part. I don't know if
24 you want to add an A or not for, for under the checked part
25 for most serious. I just wanted to bring it to your

1 attention.

2 THE COURT: Very good. All right.

3 Ms. Smart, you are recognized.

4 MS. SMART-GITTINGS: May it please ---

5 THE COURT: Be glad to hear from you and your client.

6 MS. SMART-GITTINGS: May it please the court, Your
7 Honor? Mr. Williams his here; his family is present in the
8 courtroom and stands in support of him. We'd ask Your
9 Honor that -- you've heard the testimony. We'd ask that
10 you sentence him to the mandatory minimum of fifteen years,
11 the minimum sentence that you could give him.

12 It is a violent offense, so he is going to serve a
13 good portion of that sentence, and he has assumed that he's
14 going to do fifteen years if the court is inclined to give
15 him a fifteen-year sentence. But we would ask, in light of
16 the fact that he does not have any prior criminal history
17 other than -- and we're not certain about the petit
18 larceny, but that he does not have any violent offenses,
19 that you would serve -- sentence him to the mandatory
20 minimum fifteen years.

21 THE COURT: Mr. Williams, what do you have to say for
22 yourself?

23 DEFENDANT: The only thing I got to say is, I mean --
24 I don't know. I mean, I'm a hard-working fellow, man. I
25 always been staying out of trouble. I got a family. I got

1 three kids. Engaged.

2 I mean, I feel like I'm about to go down for something
3 I didn't commit, and, I mean, I just say to my public
4 defender, thank her for giving me all the help she, she
5 could have give me.

6 I just, I just -- this is hard. I, I never been in
7 this type of situation. I'm not no problem child. I
8 wasn't looking forward for this. I wish I just could have,
9 you know, get probation, you know. I mean, I, I never been
10 in any trouble. I don't have no record. I just wish
11 probation could have been a offer, you know what I'm
12 saying, so I could, you know, stay doing the right thing,
13 supporting my family and all, but seem like that didn't
14 work out, so...

15 THE COURT: Anybody else that you would like to offer
16 in mitigation, Ms. Smart?

17 MS. SMART-GITTINGS: I don't think they're able to
18 right now, Your Honor. They're pretty emotional, but I did
19 tell them not to make any motion when the court -- when the
20 verdict was read. I think they are just dealing with it
21 right now.

22 THE COURT: Mr. Williams, you understand that the
23 least I can give you is fifteen years. You understand
24 that?

25 DEFENDANT: Yes, sir.

1 SENTENCE OF THE COURT

2 THE COURT: All right, Mr. Williams, in indictment
3 2012-GS-25-0071, burglary first degree, in view of the fact
4 that you have no prior record, the sentence of the court is
5 you be committed to the State Department of Corrections for
6 a period of fifteen years. That's taking in consideration
7 this is a nonparolable offense and a violent offense. Good
8 luck to you.

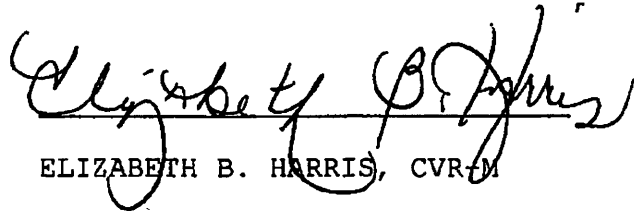
9 MS. SMART-GITTINGS: Thank you, Your Honor.

10 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR HAMPTON COUNTY, SOUTH CAROLINA, ON
THE 4TH AND 5TH DAYS OF NOVEMBER, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



ELIZABETH B. HARRIS, CVR-M

COLUMBIA, SOUTH CAROLINA

JULY 14TH, 2014

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

IVAN WILLIAMS, #00357781

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

FILED
AMF

JAN - 2 2018

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC2018-CP-25-001
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Ridgeland Correctional Institution
2. Name and location of Court which imposed sentence Hampton County General Sessions
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-25-0071
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) November 5, 2013
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. January 11, 2017
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2017 UP -027
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel

- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) The trial attorney failed to conduct a thorough Neil v. Biggers hearing.
- (b) The trial attorney failed to object and/or renew the objection in court identification thus not preserving the issue for appeal.
- (c) The trial attorney failed to object to Solicitor's improper and prejudicial closing argument.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- No
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) None of these issues were preserved for appeal.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? No

- (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Trial Attorney - Stephanie Smart-Gittings, Fourteenth Circuit Public Defender,
P O Box 506, Hampton, SC 29924
 - ii. Appellant Attorney - James A. Brown, P O Box 592, Beaufort, SC 29901
 - iii. PCR Attorney - Cory H. Fleming, P O Drawer 507, Beaufort, SC 29901
 - (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____
19. State clearly the relief you seek in filing this application:
Petitioner requests a new trial.
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA

)

)

VERIFICATION

County of)

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

Juan Williams

SWORN to and subscribed before me this 7th
day of December, 2007.

Jane King
Notary Public

(L.S.)

My Commission Expires: 8/26/2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF HAMPTON	)	
	)	
Ivan Williams, #357781,	)	Case No.: 2018-CP-25-001
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on January 2, 2018, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Hampton County Clerk of Court. In April 2012, the Hampton County Grand Jury indicted Applicant first-degree burglary (2012-GS-25-0071). The charge resulted from a June 2011 incident in which the Victim, who recognized Applicant, came home after midnight to find Applicant and an accomplice burglarizing her home. Tr. p. 48, ll. 14-25. Applicant and his accomplice had pried open a door to the house. Tr. p. 50, ll. 8-10. When police arrived, two televisions, numerous coins, and a bag were laid out on a bed. Tr. p. 50, ll. 1-7. The victim subsequently identified Applicant in a photo line-up. Tr. p. 49, ll. 7-15.

Stephanie Smart-Gittings, Esquire, represented Applicant at trial. Assistant Solicitors Randolph Murdaugh, III, and Richard Alexander Murdaugh prosecuted the case. On November 4, 2013, Applicant proceeded to trial before the Honorable Michael G. Nettles. The jury found Applicant guilty as indicted. On November 5, 2013, Judge Nettles sentenced Applicant to

imprisonment for fifteen years for first-degree burglary.

Applicant filed a timely notice of appeal. James Arthur Brown, Jr., Esquire, filed a brief on Applicant's behalf pursuant to Anders v. California, 386 U.S. 738 (1967), and petitioned to be relieved as counsel. Applicant subsequently filed a pro se brief. The South Carolina Court of Appeals affirmed Applicant's conviction in an unpublished opinion filed January 11, 2017. State v. Williams, Op. No. 2017-UP-027 (Ct. App. 2017). The remittitur was returned to the circuit court on January 27, 2017.

Attached to this Return and incorporated by reference are the records of the Hampton County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. "The trial attorney failed to conduct a thorough Neil v. Biggers hearing."
 - b. "The trial attorney failed to object and/or renew the objection in court identification thus not preserving the issue for appeal."
 - c. "The trial attorney failed to object to Solicitor's improper and prejudicial closing argument."

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective

assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

V.

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the

allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

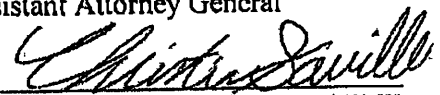
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHRISTIAN SAVILLE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

04/30, 2018

1 In the Court of Common Pleas for the
2 State of South Carolina, County of Hampton

3

4 Case No.: 2018CP-25-001

5 Ivan Williams,

6 Plaintiff(s),

7 vs. Transcript of Record

8 State of South Carolina

9 Defendant(s).

10

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15 June 6, 2018

16 Beaufort, South Carolina

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21 BEFORE:

22 The Honorable Diane Shafer Goodstein

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APPEARANCES

REPRESENTING APPLICANT:

Cory H. Fleming, Esquire

PO Drawer 507

Beaufort, SC 29901

REPRESENTING THE STATE:

Christian Saville, Esquire

Office of the Attorney General

PO Box 11549

Columbia, SC 29211

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1 PROCEEDING

2 THE COURT: Okay.

3 MR. SAVILLE: Your Honor, if the Court is
4 ready, the State would call the case of Ivan
5 Williams.

6 THE COURT: I am ready.

7 Mr. Fleming, are you ready?

8 MR. FLEMING: I am ready, Your Honor. Can
9 we bring Mr. Williams over?

10 THE COURT: Pardon?

11 MR. FLEMING: Can we bring Mr. Williams
12 over?

13 THE COURT: Absolutely. Be careful now.
14 Take it slow.

15 MR. SAVILLE: For the record, I'll read
16 out the procedural history, Your Honor.

17 THE COURT: I don't think that Mr. Fleming
18 will object. You typically have all of the
19 stuff.

20 MR. SAVILLE: Sure. Sure. Stay in the
21 routine here.

22 May it please the Court, this is the case
23 of Ivan Williams v. the State of South
24 Carolina. This is case number 2018-CP-25, that
25 is 001. Mr. Williams was indicted in

COLLOQUY

1 April 2012 by the Hampton County Grand Jury for
2 first degree burglary. Stephanie
3 Smart-Gittings, Esquire represented him at
4 trial. Assistant Solicitors Randolph Murdaugh,
5 III and Richard Alexander Murdaugh prosecuted
6 the case.

7 On November 4th, 2013, he proceeded to
8 trial before the Honorable Michael G. Nettles.
9 The jury found Applicant guilty as indicted.
10 On November 5th, 2013, Judge Nettles sentenced
11 him to imprisonment for 15 years for first
12 degree burglary.

13 Mr. Williams he did file a timely notice
14 of appeal. James Arthur Rowell, Jr., Esquire
15 filed a brief on his behalf pursuant to the
16 Anders v. California and petitioned to be
17 relieved as counsel. Applicant subsequently
18 filed a pro se brief and South Carolina Court
19 of Appeals confirmed the conviction on January
20 11th, 2017. The remittitur was returned to the
21 circuit court on January 27th, 2017.

22 Mr. Williams filed an application for
23 post-conviction relief on January 2nd, 2018,
24 raising the allegations of ineffective
25 assistance of counsel for failure to conduct a

COLLOQUY

1 thorough Neil v. Biggers hearing, failure to
2) object and/or renew objection to the in-court
3 identification and thus, not preserving the
4 issue for appeal, and the trial attorney failed
5 to object to Solicitor's improper and
6 prejudicial closing arguments.

7 Mr. Williams is here today represented by
8 Cory Fleming. And I will turn it over to
9 Mr. Fleming.

10 THE COURT: Yes, sir.

11 MR. FLEMING: Good afternoon, Your Honor.
12 If I can give you just a little road map. This
13 won't be a very lengthy hearing. It wasn't a
14 very lengthy trial.

15 THE COURT: Okay.

16 MR. FLEMING: The good news for all of us
17 who have to read it is the transcript is short.
18 I will specifically tell you that the majority
19 of what we will be focusing on takes place
20 between, on my transcript of record, Page 29
21 through 36, just for clarification purposes.

22 THE COURT: Okay.

23 MR. FLEMING: And then -- and I'll mention
24 it again. And then, the second thing,
25 concerning the closing argument will be on

COLLOQUY

1 Page 146, and I'll address it once we get to
2 those points.

3 THE COURT: Okay.

4 MR. FLEMING: Judge, this is what I will
5 call a very old-fashioned prosecution in that
6 the entire case was based on a single
7 identification by the victim of the crime.
8 There was no other evidence corroborating it,
9 DNA, fingerprints, confessions, anything of
10 that nature. So, it limits, really, the entire
11 case on the actual identification. So,
12 obviously, that's what we're addressing in this
13 matter. And the points that will become
14 clearer as, of course, we get through that.

15 THE COURT: Okay.

16 MR. FLEMING: I do not intend -- because
17 this has to do with trial and trial strategy, I
18 do not intend to call Mr. Williams as a witness
19 in the case, but, of course, Ms. Smart will be
20 probably our sole witness for both sides.

21 THE COURT: Okay.

22 MR. FLEMING: All right. If I can, I will
23 call her to the stand.

24 THE COURT: Yes, you can.

25 And if you would come around, please,

COLLOQUY

1 ma'am, and be sworn.

2 Thereupon,

3 STEPHANIE SMART-GITTINGS

4 was called as a witness, having been first duly sworn,
5 was examined and testified as follows:

6 THE CLERK: Could you please state your
7 name for the record?

8 THE WITNESS: Stephanie Smart-Gittings,
9 G-I-T-T-I-N-G-S.

10 THE COURT: Your witness.

11 MR. FLEMING: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. FLEMING:

14 Q Ms. Smart, as I referred to you, having
15 known you for that long under that name,
16 Ms. Smart-Gittings, you are currently an attorney in
17 the 14th Circuit?

18 A I am.

19 Q And as the Attorney General pointed out,
20 at the time of this trial, you were working in your
21 capacity with the Public Defender's Office?

22 A Yes.

23 Q Now, as we sit here today, you are
24 actually the chief public defender for the entire
25 14th Circuit?

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 A That's correct.

2 Q But at the time, then, I believe you were
3 a deputy public defender or assistant public
4 defender?

5 A Assistant public defender.

6 Q Now, for clarity sake, because you never
7 know when a lawyer gets involved in the case, when
8 did you get involved in the case, at what stage was
9 it -- let me narrow that down. Was it prior to a
10 preliminary hearing?

11 A Let me refer to my file.

12 Q Sure.

13 A I believe I was involved at the
14 preliminary hearing.

15 Q Okay. So, fairly early on in the process?

16 A Yes.

17 Q In preparation for what, ultimately, led
18 to a full jury trial -- let me cut through a little
19 bit of it. As I've instructed the Judge already,
20 there weren't any physical evidence issues in this
21 case, right?

22 A No.

23 Q So, you didn't have to worry about going
24 to SLED with the DNA lab or the fingerprints --

25 A Right.

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 Q -- or anything like that? So, early on,
2 did you recognize and, obviously, narrow your focus
3 in this case as to the identification issue?

4 A Yes.

5 Q Okay. And in that process, did you have
6 the opportunity to speak to various witnesses?

7 A I did.

8 Q Okay. And primarily -- I know that you
9 spoke to the detective in charge of the case,
10 obviously?

11 A Yes.

12 Q But also, did you speak with -- the
13 woman's name is, was it Valerie Singleton?

14 A I did.

15 Q Okay. Did you have an opportunity to
16 interview her as well?

17 A I did.

18 Q So, she was cooperative in the sense that
19 she would talk to you?

20 A Someone in the family knew her and
21 provided her telephone number to me. The number
22 that was on the police report was wrong, so they had
23 given me another number for her and I was able to
24 reach her by phone.

25 Q Okay. And we'll get back to whatever she

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 told you in a second as it relates to specific
2 issues.

3 A Okay.

4 Q Now, the -- I want -- I'm going to go
5 ahead and start referencing the transcript in the
6 trial, Page 29 is where we begin.

7 A I have it.

8 Q Okay. Thank you. And that is the Neil V.
9 Biggers hearing concerning whether or not the
10 identification would be admissible in the trial?

11 A No. I have two transcripts.

12 Q Okay.

13 A My 29 is direct exam by the State.

14 Q Okay.

15 MR. FLEMING: Your Honor, may I approach
16 to compare and see if we can't get to the right
17 thing?

18 THE COURT: Yes.

19 BY MR. FLEMING:

20 Q It's a little confusing because -- yep,
21 that's it. See, first thing in the morning or we
22 can do it now?

23 A All right.

24 Q All right. It appears that as the hearing
25 proceeded, the Solicitor called Perry Singleton, Sr.

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 to the stand; is that right?

2 A That's right.

3 Q And he is the lead detective in this case?

4 A He is -- he was.

5 Q He was. And what is -- in terms of your
6 analysis of the Neil vs. Biggers factors, what was
7 the important thing that Mr. Singleton testified to?

8 A He testified that he interviewed the --
9 Ms. Singleton, Valerie Singleton, and that she knew
10 him from the community. She had the opportunity to
11 observe him -- them, because there were two
12 defendants, because they were in her house. The
13 light was on and she asked them to leave. She told
14 them if they left, she wouldn't call the police and
15 then they left.

16 Q Okay. I'm not sure that all of that's
17 specifically in this testimony and we might --

18 A It's not. It was Detective Singleton.

19 Q I'm talking about specifically in the Neil
20 vs. Biggers hearing. Go to Page 31 on the very
21 bottom.

22 A Okay. I pick out Ivan Williams.

23 Q Okay. So the Solicitor asked -- so the
24 colloquy here is that the Solicitor was asking them
25 how the presentation of the photo line-up took

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 place?

2 A Right.

3 Q And the Solicitor asked, And what did you
4 instruct her to do? And then Detective Singleton
5 said, To pick out Ivan Buck Williams?

6 A Yes.

7 Q End quote. Why was that important to you
8 in this hearing?

9 A My later argument was that it was
10 suggestive because she didn't ask -- Detective
11 Singleton did not ask her to pick out the person
12 that she saw in the house, he specifically said,
13 Pick out Ivan Williams.

14 Q Okay. And so, your theory of the case,
15 then, was -- to paraphrase --

16 A He told her who to pick out. He told her
17 to pick out the defendant that was on trial.

18 Q She had no choice but to pick out that
19 person?

20 A Right.

21 Q Right, instead of picking out the person
22 who did the crime?

23 A Yes.

24 Q Or who she thought did the crime. Now,
25 that was the only witness that the State called in

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 the hearing, correct?

2 A That's correct, yes.

3 Q In this hearing?

4 A Yes.

5 Q Okay. Now, I'm going to -- I'm going to
6 show you what's been marked as Plaintiff's Exhibit
7 1, which is a copy of the police report and the
8 written statements so that you can have direct
9 reference to it. I've taken out the booking stuff
10 and all of that.

11 And for the record, Exhibit 1 is one,
12 two, three, four, five pages. I'd like you to
13 reference the very first page of that exhibit. And
14 that -- does that appear to be the initial report
15 taken by police that responded to the incident
16 location?

17 A This is the report submitted by Deputy
18 Elmquest and Brooker.

19 Q The names that on there are Deputy
20 Elmquest and Deputy Booker [sic]?

21 A Yes.

22 Q Okay. Now, in that report that you
23 obviously knew about, can you explain the
24 significance of any type of identification?

25 A In the box where it says subject, it says,

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 person unknown, untrack.

2 Q Okay.

3 A And there isn't -- on this particular
4 report, there isn't a description of height, weight,
5 hair.

6 Q Well, what does the report indicate that
7 the victim said about the burglars on that report?

8 A She had seen them uptown, but does not
9 know the suspects' name.

10 Q Okay. Flip the page. And on the second
11 page, it appears that that's a supplement to the
12 original -- the first page, right?

13 A That's correct.

14 Q And it has the description of the two
15 burglars that she observed, right?

16 A Yes.

17 Q The first one was described as what?

18 A 5-10, 5-11, brown skin, 130, 140 pounds,
19 skinny, low cut fade hair, early 20s, wearing green
20 shirt, black gloves and jeans.

21 Q And then the second one?

22 A 5-10 to 11, dark skin, 140 to 150 pounds,
23 small row, nappy hair, early 20s, wearing all black
24 with gloves.

25 Q Okay. And again, nowhere on there did the

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 victim in any way say that there was a name?

2 A She had not give a name.

3 Q Okay. Now, can I -- I understand that at
4 the time, Deputy Elmquest had left the force?

5 A He did.

6 Q And he was no longer available?

7 A He wasn't.

8 Q In this hearing, is there a reason that
9 you didn't either call Deputy Elmquest or Deputy
10 Booker -- Brooker?

11 A I knew that Deputy Elmquest was not
12 available. Deputy Brooker, I talked to him about it
13 as well. He didn't recall and he didn't write the
14 supplemental report, so it would have been hearsay
15 evidence. I couldn't call him to testify to what
16 Deputy Elmquest submitted in his supplemental.

17 Q Okay. You were, however, able -- later in
18 the trial, you were able to cross-examine Deputy
19 Brooker?

20 A Yes.

21 Q And you were able to bring out the fact
22 that the victim did not know the person's name?

23 A Yes.

24 Q And bring out what the potential
25 descriptions were?

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 A Yes.

2 Q Okay. Now, the -- in the transcript, the
3 Judge seemed to focus and the Solicitor seemed to
4 focus on the actual pictures in the photographic
5 line-up, right?

6 A Yes.

7 Q And I've seen them, you've seen them. And
8 for the Court's understanding, you did not have an
9 argument as to any suggestiveness of the
10 particular -- the pictures themselves?

11 A I did not.

12 Q They looked similar?

13 A They looked similar, similar body type,
14 facial, hair.

15 Q And so, now I would like to ask you about
16 Page 36 on the transcript. The Judge asked you the
17 question in the end of that first paragraph, Don't
18 you think that probably is a question of fact that
19 the jury needs to resolve?

20 A Yes.

21 Q And then your answer was, I do, Your
22 Honor, I would submit that that is a question of
23 fact.

24 When you said that, were you
25 relate -- were you talking about the entire

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 procedure or were you talking about just the --

2 A The photo.

3 Q The pictures themselves?

4 A The pictures themselves, I had asked
5 how -- who created the photo line-up. And I believe
6 they, DMV pictures or SLED, I can't remember who,
7 but they did not create the line-up. And in my --
8 what I believed we were talking about at that time
9 was the array of photos as to whether or not that
10 was the issue.

11 Q Okay.

12 A Because there are two separate issues in
13 Neil V. Biggers, one is the identification and the
14 other is, of course, the photographic line-up as to
15 whether or not the pictures weren't similar or, you
16 know, things of that nature. So, at that point, we
17 were discussing the six pictures themselves.

18 Q So, any reading of this transcript that
19 might lead to the conclusion that you were conceding
20 that the entire process was a question for the jury,
21 that's not what you intended?

22 A No, that would be a legal issue, the
23 entire process itself. As to whether or not it was
24 suggestive would have been an issue for the Judge,
25 and that's why we had the Neil V. Biggers. I was

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MR. FLEMING

1 conceding that the six pictures were an issue of
2 fact for the jury.

3 Q I understand that very clearly now. Thank
4 you. Now, the -- I'd like to go back through Neil
5 V. Biggers and then ask you questions about what
6 your thought process or strategy was concerning each
7 one of the factors.

8 A Give me one second.

9 Q Sure.

10 A I have that in my cross-examination. Let
11 me get to it.

12 Q Sure.

13 A Oh, it's right here. Okay, I'm ready.

14 Q Okay. Now, the first factor that the
15 Court has directed us to look at is the witness's
16 opportunity to view the individuals. You obviously
17 did not discuss that in any way in the hearing.
18 And what was your reasoning there?

19 A I had already -- I had spoken to
20 Ms. Singleton via telephone and I actually had typed
21 out all the Biggers factors and I had gone over the
22 questions with her. And she was adamant about what
23 she had seen and what she was going to say. And if
24 I had asked her specifically ability to observe,
25 remember and relate the facts, she talked about --

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 that's when I asked her the questions about the
2 light. And she was clearly going to say that she
3 had the ability to view him because he was in her
4 house. He was standing under the light and she knew
5 him from uptown. They were close -- as a matter of
6 fact, she said they passed by her to get out the
7 door. And what I did not want was for her to
8 continuously say it was Ivan Buck Williams, it was
9 Ivan Buck Williams, it was him, it was him. So, I
10 didn't ask her all those questions. I asked her
11 some of them. Her answers weren't changing from how
12 we had spoken on the phone and I didn't want her to
13 continuously say it.

14 Q That's actually in the trial --

15 A Right.

16 Q -- part that took place in front of the
17 jury?

18 A Yes.

19 Q Right. And in the Neil V. Biggers
20 hearing, which is, of course, outside of the jury,
21 you knew what her response was going to be and you
22 did not have any evidence favorable to Mr. Williams
23 on that prong of the testimony?

24 A It would not have helped us if I had
25 called her as a witness.

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MR. FLEMING

1 Q Okay. And that same exact philosophy
2 would apply with regard to the next factor on degree
3 of attention?

4 A Yes.

5 Q Okay. And with regard to the level of
6 certainty, is that right?

7 A That's right.

8 Q Okay. Which is the fourth factor. Now,
9 the other two -- the other two that I would like to
10 talk about is the accuracy of the prior description.
11 In the particular description given in the packet of
12 information, the Plaintiff's Exhibit 1, it has,
13 which I believe she later indicates the green shirt
14 person was Mr. Williams?

15 A Yes.

16 Q Is that right? But she describes that
17 person as maybe five -- I think no taller than 5-10
18 or 5-11?

19 A 5-10, 5-11.

20 Q And then a hundred --

21 A 130 to 140 pounds.

22 Q Okay. And you knew -- you knew that
23 Mr. Williams was about six feet tall or a little bit
24 taller?

25 A Yes.

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 Q And at the time --

2 A He was bigger.

3 Q He was bigger, like a 175 pounds?

4 A Yes.

5 Q That's right. You -- you chose not to
6 bring that out, and is it because of the second
7 statement that she gave you?

8 A Yes.

9 Q Okay. All right. So, for Court's
10 clarification, she made an initial description of
11 the subjects?

12 A Yes.

13 Q Within 30 to 45 minutes after the event
14 occurred?

15 A Yes.

16 Q And then, not quite 24 hours later, she
17 made a written statement, which I've attached in
18 there, where she was more specific?

19 A Yes.

20 Q Is that right? In the trial of the case,
21 you brought out those inconsistencies, right?

22 A I did.

23 Q In front of the jury?

24 A Yes.

25 Q Which was your strategy of defense. But

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MR. FLEMING

1 you did not want to address that in the Neil V.

2 Biggers hearing. What was the reasoning there?

3 A Two reasons. The first reason, I knew it
4 wouldn't work. None of her testimony would have
5 been favorable to us, so it wouldn't help me be
6 successful in having the suppression -- the
7 identification suppressed.

8 Q Okay.

9 A The second reason, I didn't want her to
10 know specifically the questions that I was going to
11 ask her. And if I had asked her those questions in
12 the Neil V. Biggers, she would have been more
13 prepared in front of the jury and more polished
14 witness. And if I had given her the line of
15 questioning, she would have made a more credible
16 witness to the jury.

17 Q Okay. Thank you. And in the final prong,
18 which they talk about the length of time between the
19 crime and the confrontation, sort of -- if we can
20 sort of meld that a little bit. You argued that in
21 trial about the changing -- the changing
22 identification, the lack of the name and then, all
23 of a sudden, they have a name. Do you -- but you
24 obviously didn't -- you touched on it in the Neil V.
25 Biggers hearing, but is there a reason that you

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MR. FLEMING

1 didn't go any further on that? Did you learn
2 something about how she may have learned this name?
3 A She -- she said that she -- her brother
4 told her the name, like -- so, somehow the families
5 are intertwined, the families know each other. And
6 she told her brother what happened. They had gone
7 on Facebook and her brother told her it was Buck.
8 Like, everybody knew him in the community as Buck,
9 but they didn't know his name. And I can't remember
10 which family member, but one of Buck Ivan's family
11 members knew her as well. We had all communicated
12 about talking with her. And she said that it was
13 Ivan. She wasn't sure about the twins. It was
14 clear that she was going to continuously say that it
15 was Ivan who had been in her house.

16 Q Okay.

17 A And one of the things we learn in trial
18 advocacy is limit the number of times the jury is
19 going to hear that your client did it, did it, did
20 it, did it. And I wanted to minimize the time for
21 her to say that it was him.

22 Q Okay. The -- and so, your decision not to
23 talk about that or bring that up was also strategic?

24 A It was, yes.

25 Q All right. One last -- one last question

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MR. FLEMING

1 as it relates -- as it relates to that. In our
2 field, frequently, people talk about expert
3 testimony, testimony of people that might come in
4 and explain why a particular procedure is good, bad,
5 or not. Did you contemplate an expert as it relates
6 to the identification process in this case?

7 A I thought about an expert. I actually
8 called -- I can't remember who it was, one of the
9 attorneys in the Beaufort office and we talked about
10 it because they had an expert that they used, but it
11 was for a cross-racial identification. This
12 particular case, it wasn't a cross-racial
13 identification type of case.

14 And with regard to the photographs,
15 we didn't find a problem with the photographs.
16 Because she knew him from the community, because the
17 families were so intertwined, I didn't think that an
18 expert would help. I remember talking to Gene Hood
19 about it as well and he just didn't think -- after
20 we talked about the case, we didn't think it was a
21 good idea to call an expert.

22 Q Okay. Thank you. Now, the last question
23 I have -- well, let's -- for the record, let's go
24 ahead -- I've said it, but let's for the record,
25 talk about this. The remainder of the case as it

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 relates to proof that the government was providing,
2 there were no other identifications of Mr. Williams;
3 is that right?

4 A That's right.

5 Q No third party, no bystanders or anything
6 like that?

7 A No. Well, there was the co-Defendant that
8 was called as a witness, but he testified, I
9 thought, favorable for the defense because he said
10 that Perry told him to write that.

11 Q Okay. Let me -- we'll get into that.
12 That's sort of my last one, but we'll get into it
13 right now. They were -- the government's theory of
14 the case is that one of two identical twins was the
15 other burglar?

16 A Yes.

17 Q Is that correct?

18 A That's correct.

19 Q And they were unable to determine which
20 one?

21 A That's correct.

22 Q All right. And one of the identical twins
23 had been arrested?

24 A Yes, for another crime, not this crime.

25 Q Yes, for another crime. And --

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MR. FLEMING

1 MR. SAVILLE: I would respectfully object
2 under relevance as to what this has to do with
3 the Biggers hearing and issues surrounding the
4 identification.

5 THE COURT: Very well.

6 You may proceed.

7 MR. FLEMING: All right. Thank you.

8 BY MR. FLEMING:

9 Q That person, that -- one of the twins was
10 in jail, Detective Singleton came to speak to him in
11 jail about this crime?

12 A Yes.

13 Q And at that point, that witness wrote a
14 statement implicating Mr. Williams?

15 A He did.

16 Q All right. The State did not call that
17 witness in their case-in-chief?

18 A They did not.

19 Q And you, in fact, called the witness --

20 A I did.

21 Q -- in your defense?

22 A I did.

23 Q And you -- the purpose for that was
24 because that witness testified that the detective,
25 Mr. Singleton, coerced or forced him into writing

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 that statement?

2 A That's correct.

3 Q And furthermore, that not only did he
4 force him to write it, but told him what to write?

5 A That's correct.

6 Q And that was a part of your defense
7 strategy?

8 A Yes.

9 Q So, while, very technically, there was
10 somebody implicating him, it actually -- you used it
11 to say that he was forced to say something that
12 wasn't true?

13 A That's correct.

14 Q Okay. So as it relates to actual evidence
15 presented by the government, that isn't any
16 evidence?

17 A No, it isn't.

18 Q And there were no statements made by
19 Mr. Williams in any way implicating himself; is that
20 right?

21 A No.

22 Q And there were no fingerprints found at
23 the scene?

24 A None.

25 Q And no DNA found at the scene?

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 A None.

2 Q They didn't find any stolen goods in
3 Mr. Williams' custody or control anywhere?

4 A Nothing.

5 Q So, this truly is just the victim
6 identification?

7 A That's it.

8 Q Now, the last -- the last thing that I
9 want to talk to you about is on Page 146 of the
10 transcript.

11 A Is "do that" the first words on --

12 Q No, on Line 20 -- I'll read it to you
13 while you look at it. It says, It's only by the
14 grace of the God, Mr. Foreman, and ladies and
15 gentlemen of the jury, she ain't dead laying on a
16 slab right now. You come in your home, 12:30 at
17 night and somebody has broken into it, you're lucky
18 you're alive.

19 Now, we've all tried cases in which
20 this has happened. And did you at the time,
21 contemplate objecting to that statement as being
22 beyond the bounds of fair comment?

23 A I did. Solicitor Murdaugh is very
24 dramatic and had I objected, he would have made more
25 emphasize on what he had said, probably would have

DIRECT EXAMINATION OF STEPHANIE SMART-GITTINGS BY
MR. FLEMING

1 said it again and the jury would have heard it
2 again. And I wanted to minimize what the jury would
3 have heard that would hurt my client.

4 Q Okay. So, you decided you'd rather it
5 just slide by than --

6 A And, hopefully, nobody heard it. Just let
7 it slide by and not bring attention to it.

8 Q I understand completely.

9 A Because jurors aren't always listening, so
10 I didn't see any -- if I had seen -- like, I watch
11 facial expressions and I didn't see anyone sigh or
12 look -- frown upon -- do anything different, so I
13 didn't think it was necessary to object. I don't
14 know if they heard it or not.

15 Q Okay.

16 MR. FLEMING: Your Honor, with the
17 exception of making some arguments concerning
18 what's in the transcript, I have no more
19 questions.

20 THE COURT: Very well.

21 Yes. Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. SAVILLE:

24 Q Good afternoon, Ms. Gittings. Thank you
25 for being here today. Ms. Gittings, how many times

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS/ BY MR.
SAVILLE

1 did you meet with Mr. Williams prior to trial?

2 A I honestly don't know.

3 Q Approximately?

4 A Quite a bit. I remember, gosh, him, his
5 mom, his aunt, his sisters. Like, this wasn't just
6 Mr. Williams on trial, this was his entire family,
7 as you can see by their presence today. So, I
8 was -- quite a bit.

9 Q Sure. And you recently just testified
10 that Mr. Williams' family knew the family of the
11 victim. How did you come to know that?

12 A They knew the lady, Ms. Singleton.

13 Q Right. They knew the victim?

14 A Uh-huh. (Indicating affirmatively.)

15 Q How did you come to know that?

16 A Just talking to the different family
17 members, his family. And like I said, that's how I
18 got her phone number. Because there was a different
19 number on the police report and one of the family
20 members gave me her telephone number.

21 Q Okay. Are you aware of any correspondence
22 between the victim and Mr. Williams' family?

23 A I think they were friends. I mean, they
24 knew each other, so they probably talked to each
25 other. Yeah, I think they -- I don't think that

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS BY MR.
SAVILLE

1 she -- there was any animosity between them. I
2 think they -- they remained friends.

3 Q All right. Now, the victim in this case,
4 were you able to form an opinion on what kind of
5 witness she made for the State?

6 A She was adamant about the fact that she
7 knew that it was him. I talked to her for quite a
8 while. She allowed me to -- you know, to ask her
9 questions and she answered the questions. And so,
10 I -- I felt like she was going to be a strong
11 witness. I think, at some point, she thought maybe
12 she might not come, but she did come and she did
13 testify.

14 Q Were there any plea offers in this case?

15 THE WITNESS: The Court's indulgence one
16 moment.

17 (Pause.)

18 THE WITNESS: There was a plea offer for
19 probation on May the 9th. The State put that
20 on the record with Judge Buckner and the court
21 reporter, Ms. Hill. It looks like there was a
22 plea offer at some point for six years, and
23 then the final one was straight up, a
24 straight-up plea.

25

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS BY MR.
SAVILLE

1 BY MR. SAVILLE:

2 Q Do you feel that it was a --

3 Mr. Williams' -- I'm sorry, let me rephrase that.

4 Do you feel that Mr. Williams was influenced by

5 other people to not plead guilty?

6 A He initially -- he was adamant that he

7 didn't do it. He entertained the plea offer. We

8 went through this, oh my gosh, we talked about it.

9 We talked about trial strategy. He just didn't want
10 to take it.

11 Q Did you advise him of what you felt his
12 chances were at trial?

13 A The probation offer, I advised him that it
14 was a very good offer and that he should have taken
15 it. The straight-up offer, you might as well go to
16 the trial on a straight-up offer. The only one that
17 I really wanted him to take was the probation offer.

18 Q Okay. And he got -- was he sentenced to
19 15 years in this case?

20 A Yes.

21 Q Is that the minimum sentence for first
22 degree burglary?

23 A It's the mandatory minimum, yes.

24 Q Now, regarding the statement made by the
25 Solicitor in his closing argument, do you recall

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS BY MR.
SAVILLE

1 that the Judge instructed the jury that what the
2 lawyers say in closing arguments is not evidence?

3 A Yes.

4 Q And do you recall the Judge advising the
5 jury that they are to make a determination based on
6 competent evidence?

7 A I don't remember that.

8 Q Okay.

9 A I'm not saying that the Judge didn't, I
10 just don't remember that.

11 MR. SAVILLE: Beg the Court's indulgence.

12 I'll find that.

13 THE COURT: Uh-huh. (Indicating
14 affirmatively.)

15 (Pause.)

16 BY MR. SAVILLE:

17 Q It's transcript Page 44 -- 44, if you look
18 in the top right-hand corner, Line 12, Ladies and
19 gentlemen of the jury, you are judges as well, you
20 are the ones who are going to judge the facts.
21 You're going to be the ones that listen to the
22 evidence and determine what the truth is.

23 A Yes.

24 Q He, effectively, echoes the same
25 sentiment, That's your sole and exclusive job, is to

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS BY MR.
SAVILLE

1 listen to the evidence and determine what is true.

2 That is on Page 44, Line 21.

3 Is there anything you wish you would
4 have done regarding challenging the identification
5 of Mr. Williams?

6 A I think I did -- I think I was pretty
7 effective. I definitely researched the issue,
8 always, always talked to other counsel in our office
9 to find out, you know, whether or not my trial
10 strategy was appropriate. So, I think that I was
11 prepared and I did the best that I could.

12 Q Okay.

13 MR. SAVILLE: Beg the Court's indulgence.

14 THE COURT: Yes.

15 (Pause.)

16 MR. SAVILLE: That's all that I have,
17 Ms. Gittings. Thank you very much.

18 THE COURT: All right. Redirect.

19 MR. FLEMING: I have no redirect, Your
20 Honor.

21 THE COURT: Very well. Thank you. Thank
22 you very much. Is this witness free to leave
23 or is there any objection?

24 MR. SAVILLE: No, ma'am. No objection,
25 Your Honor.

CROSS EXAMINATION OF STEPHANIE SMART-GITTINGS BY MR.
SAVILLE

1 THE COURT: All right. Thank you.

2 All right. You wanted to make a closing?

3 MR. FLEMING: Yes, ma'am. And if I may
4 begin by saying, I am requesting an
5 opportunity, if the Court will allow it, to
6 submit a proposed order that will better define
7 the evidence and the arguments as they're --

8 THE COURT: Sure.

9 MR. FLEMING: As we've heard today.

10 THE COURT: Sure.

11 MR. FLEMING: And for the record to say
12 that, first of all, people who don't do it
13 don't realize that trying cases is hard and you
14 have to make a lot of decisions very quickly
15 and you have to make those decisions in a way
16 with imperfect knowledge and with a lot of -- a
17 lot of guessing as to what may or may not
18 happen. It's a lot like -- it's a lot like
19 gambling. You have to make a decision and you
20 have to be able to live with the results. So,
21 you do the best you can at the time. It's not
22 always right. Anybody that tries a lot of
23 cases knows that sometimes you don't make the
24 right decisions.

25 I think the problem in this case, as it

CLOSING ARGUMENT BY APPLICANT

1 relates to this post-conviction relief action,
2 is that the Neil V. Biggers hearing was fairly
3 light in terms of detail, especially with
4 regard to the finding. It seems to me -- it
5 seems to me that -- and the finding may or may
6 not be correct, that's not for me to decide,
7 but it seems to me that there was a great
8 emphasis put on the composition of the
9 photographs themselves without any other -- not
10 addressing the rest of the factors, if you
11 will. Because most of the time in
12 identification situations, the taint of the
13 process occurs before they ever show you the
14 picture.

15 In this case -- in this case, we don't
16 have any particular facts in the hearing
17 addressing the particular factors as propounded
18 by Neil V. Biggers. And as such, there's just
19 sort of a general recognition that, yeah, this
20 passes muster, here it is. And it allows --
21 and that, in many ways, creates the, what I
22 would consider to be confusion about what
23 Ms. Smart-Gittings' response was to the Judge.

24 I believe very clearly that
25 Ms. Smart-Gittings was responding to the notion

CLOSING ARGUMENT BY APPLICANT

1 that the photographs themselves were -- were
2 not objectionable, if you will. But I don't
3 think that -- I don't think in reading this,
4 that the Court necessarily thought that that
5 was just what she was agreeing to. It reads to
6 me like the Court believes she was agreeing
7 that the whole processes was not objectionable.
8 And so, of course, the Court made a ruling.

9 Then, just for purposes of this record,
10 when it -- when the time came for any of the
11 evidence to be admitted before the jury, no
12 objection was made. And then at the close of
13 the State's evidence, the directed verdict
14 motion, there was no renewing of anything. And
15 then at the end of the case, there was no
16 renewing of anything. And to the extent that
17 that matters with regard to this issue, I just
18 want to point that out, that it wasn't
19 specifically raised any other time in the
20 entire -- in the entire trial.

21 I believe that the cross-examination of
22 the witnesses was done very appropriately in
23 the trial before the jury with the information
24 that the lawyer had to work with and was very
25 effective in making those points. But I

CLOSING ARGUMENT BY APPLICANT

1 believe that in this case, the Court was a
2 better arbiter to what is a horrible way, in my
3 opinion, to conduct a photographic line-up.
4 Because when you show a photographic line-up to
5 somebody and say, pick out John, that's who's
6 going to get picked out.

7 And when I first read that in the
8 transcript, I thought, oh, this must have been
9 kept out. And it -- and it led me to the
10 conclusion that that particular fact, along
11 with the remainder of the process, including
12 the fact that she did not name an individual
13 who did this 30 minutes afterwards, coupled
14 with it would be a strong appellate issue that
15 it did not get addressed. And to the extent
16 that the errors that I've discussed today led
17 to the inability to have that reviewed, I
18 believe that is ineffective under those
19 circumstances.

20 As it relates to the Solicitor's closing
21 argument, which is -- I can stand here and tell
22 you that I have tried that very case with that
23 very Solicitor and heard that very statement.
24 And I understand how -- what the strategy was
25 and, obviously, after her explanation of the

CLOSING ARGUMENT BY APPLICANT

1 strategy, I'm not sure that any practicing
2 lawyer could necessarily fault that. So, I
3 leave that then on the sole issue of the Neil
4 V. Biggers case and would just ask that I
5 submit a brief proposed order.

6 THE COURT: Sure.

7 Yes, sir.

8 MR. SAVILLE: Briefly, Your Honor, I would
9 just bring to the attention the reading of Neil
10 V. Biggers, provides that you're not only
11 talking about the suggestiveness of a line-up,
12 but even if it is suggestive, then the question
13 becomes whether under the totality of the
14 circumstances, the identification was reliable.
15 I think it's pretty clear that Ms. Gittings had
16 every reason to know that the victim in this
17 case knew Applicant and could identify him
18 independently of any type of photo line-up. I
19 think that she provided valid strategic reasons
20 for not wanting to completely continue
21 hammering into the facts, that she knows this
22 guy from around town and she can pick him out
23 and that the families know each other.

24 There's just so many independent bases for
25 her to be able to identify Mr. Williams and she

CLOSING ARGUMENTS BY THE STATE

1 was able to identify him in the courtroom as
2 well. I think kind of what we're doing today
3 is just trying to retry a Neil v. Biggers
4 hearing that was already conducted and ruled
5 upon.

6 I feel that Mr. Williams got the mandatory
7 minimum for the sentence and was represented
8 diligently and clearly by a lawyer who was very
9 thoughtful on trial strategy and the
10 implications. And for these reasons, we would
11 request that you deny relief. Thank you.

12 THE COURT: All right. Thank you.

13 Yes, sir. Any response?

14 MR. FLEMING: No, ma'am.

15 THE COURT: Very well. If you guys will
16 submit orders.

17 Let me just tell you. I know you have
18 several to do, so I would say 60 days. Is that
19 better for you? Because I'm afraid I'm loading
20 you up.

21 MR. SAVILLE: That's much appreciated,
22 Your Honor. Thank you.

23 THE COURT: All right. Sixty days.

24 MR. FLEMING: Yes, ma'am. Thank you.

25 THE COURT: Thank you both so much.

CLOSING ARGUMENTS BY THE STATE

1 MR. SAVILLE: All right. Your Honor, that
2 is all that we have this week. Thank you very
3 much.

4 THE COURT: All right. Thank you.

5 (Proceeding concluded.)
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CLOSING ARGUMENTS BY THE STATE

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 1st day of December, 2018.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

Circuit Reporter for the 14th Circuit

(850) 893-6662

14

mmanley@sccourts.org

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STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Ivan Williams, #357781,

FILED
3:01 PM
AUG 13 2018

2018-CP-25-001

Applicant,

v.

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on January 2, 2018. Respondent submitted its return on April 30, 2018. An evidentiary hearing into the matter was convened on June 6, 2018, at the Beaufort County Courthouse. Applicant was present at the hearing and was represented by Cory H. Fleming, Esquire. Respondent was represented by Assistant Attorney General Christian Saville of the South Carolina Attorney General's Office.

Before this Court were the records of the Hampton County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the record on appeal, Applicant's appellate records, the State's return, and the application. Based on these records and the testimony presented, the Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate that Ivan Williams ("Applicant") is incarcerated with the South Carolina Department of Corrections pursuant to orders of commitment of the Hampton County Clerk of Court. The April 2012 term of the Hampton County Grand Jury indicted Applicant for first-degree burglary (2012-GS-25-0071). Stephanie Smart-Gittings, Esquire ("Trial Counsel"), represented Applicant at trial. Assistant Solicitor Richard A.

Murdaugh prosecuted the case. On November 4, 2013, Applicant proceeded to a jury trial before the Honorable Michael G. Nettles. The jury found Applicant guilty as indicted. On November 5, 2013, Judge Nettles sentenced Applicant to imprisonment for fifteen years for first-degree burglary, the statutory minimum for first-degree burglary.

Applicant filed a timely notice of appeal. James Arthur Brown, Jr., Esquire, filed a brief on Applicant's behalf pursuant to Anders v. California, 386 U.S. 738 (1967). In the Anders brief, appellate counsel conceded the trial court correctly admitted evidence identifying Applicant because the identity of the Applicant was already known to the victim, nothing in the six-photo array was unduly suggestive, and the evidence of identification was sufficiently reliable for consideration due to the victim's previous knowledge of Applicant. The South Carolina Court of Appeals affirmed Applicant's conviction in an unpublished opinion filed January 11, 2017. State v. Williams Op. No. 2017-UP-027 (Ct. App. 2017). The remittitur was returned on January 27, 2017.

II. ALLEGATIONS

Applicant filed a PCR application alleging the following:

1. Ineffective Assistance of Counsel

- a. "The trial attorney failed to conduct a thorough Neil v. Biggers hearing."
- b. "The trial attorney failed to object and/or renew the objection to the in-court identification thus not preserving the issue for appeal."
- c. "The trial attorney failed to object to Solicitor's improper and prejudicial closing argument."

At the June 6, 2018, hearing, Applicant expressly withdrew his allegation that Trial Counsel failed to object to an improper and prejudicial closing argument by the Solicitor.

III. SUMMARY OF TESTIMONY PRESENTED

Applicant was present at the evidentiary hearing, but only Trial Counsel testified.

Trial Counsel

Trial Counsel testified she spoke to various witnesses in preparation for the trial, including the Victim. Trial Counsel explained Victim actually knew Applicant before he burglarized her home. In fact, Trial Counsel recalled Applicant's family and Victim's family knew each other. Her recollection of Victim's identification was that Victim came home to find Applicant and a codefendant burglarizing her home, at which time she told them to leave and she would not call the police. Trial Counsel recalled Victim first told police she knew Victim from around town but did not know his name, as Victim testified she only knew him by the name "Buck" at the time. Tr. p. 69, l. 14. It was Trial Counsel's recollection that Victim went on Facebook with some family members in the hours following the burglary to learn Applicant's real name, which she gave to law enforcement. Victim then identified Applicant in a photo lineup as well as in court. Trial Counsel testified she knew what Victim was going to testify to as a result of their pre-trial conversations, and Victim remained adamant that she knew Applicant and he was the one she caught burglarizing her home.

As Trial Counsel recalled from the Nell v. Biggers hearing, she did not challenge the suggestiveness of the photo lineup on the basis that the six photos themselves were suggestive, as the lineup featured six photos of similar-looking African-American males and she saw no problem with the pictures. She did, however, argue suggestiveness on the basis that Detective Perry Singleton instructed Applicant to "pick out Ivan 'Buck' Williams." Trial Counsel recalled that although the identification was admitted after the Biggers hearing, she was later able to raise this issue on cross-examination. Trial Counsel also asserted there were some questions related to Victim's identifications of Applicant she strategically did not ask of Victim during the Biggers

hearing because they would not have been helpful for purposes of the hearing and she also did not want Victim to know everything she was going to be asked at trial.

Trial Counsel recounted she was able to challenge Victim's identification of Applicant at trial as well as address discrepancies in Victim's descriptions such as height and full name of Applicant. However, it was Trial Counsel's opinion Victim made an adamant and credible witness for the State. Trial Counsel she knew everything Victim was going to say due to their pretrial discussions and was selecting her questions accordingly. Moreover, Trial Counsel recalled was strategically trying to minimize the amount of times the jury heard Victim repeat, "[Applicant] did it."

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witness presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

This Court finds Applicant has failed to prove he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. This Court finds Trial Counsel rendered thorough and calculated representation before and during Applicant's trial, and her performance regarding Victim's identification of Applicant was both a result of sound strategic reasoning and a set of factual circumstances which simply do not evidence suggestiveness regardless of her zealous representation. Furthermore, after observing the testimony of Trial Counsel, the only witness presented at the hearing, this Court finds Trial Counsel's testimony to be credible and well-articulated.

Failure to Conduct a Thorough Neil v. Biggers Hearing

Applicant alleges Trial Counsel was ineffective for failing to conduct a thorough Neil v.

Biggers hearing. This Court finds this allegation to be meritless.

First, Applicant has failed to satisfy the first prong of Strickland by proving Trial Counsel was deficient in her performance during the Biggers hearing. Due process requires courts to assess, on a case-by-case basis, whether an out-of-court identification resulted from unnecessary and unduly suggestive police procedures, and if so, whether the out-of-court identification was nevertheless so reliable that no substantial likelihood of misidentification existed. Biggers, 409 U.S. at 198, 93 S.Ct. 375. In this case, a Biggers hearing was held regarding the photo lineup presented to the Victim, who actually walked in on Applicant burglarizing her home and already knew Applicant from the community. Trial Counsel credibly testified at the PCR hearing she did not see an issue of suggestiveness with the photos in the lineup themselves, as they all looked similar in hair type, complexion, and facial features. This is corroborated by the trial judge's finding that the photos were "remarkably similar" and not unconstitutionally suggestive. Tr. p. 36, ll. 14-17. Therefore, Trial Counsel attempted to have the photos suppressed on the basis that the presenting officer instructed Victim to "pick out Ivan 'Buck' Williams" from the lineup. Trial Counsel raised this issue on cross-examination at the Biggers hearing and argued this was "severely suggestive." The trial judge found this issue goes to the weight of the evidence rather than the suggestiveness of the lineup and gave Trial Counsel wide latitude on cross-examination. Tr. p. 36, ll. 18-25. At the PCR hearing, Trial Counsel credibly testified she strategically did not ask select questions regarding Victim's prior descriptions of Applicant at the hearing because she did not want Victim to know everything she was going to ask at trial. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995). Trial Counsel was able to raise the issue that Victim was not able to give officers Applicant's name when they

first responded. Tr. p. 33, l. 4. As Victim would later explain at trial, she simply knew Applicant by his nickname "Buck" at the time, but learned of his full name the next morning.

It is clear from Trial Counsel's credible testimony at the PCR hearing as well as the record before this Court that Trial Counsel rendered adequate representation at the Biggers hearing and raised the challengeable issues in an attempt to suppress Victim's photo lineup identification of Applicant. This Court finds Applicant has failed to prove she was deficient for failing to sufficiently challenge a photo lineup in which the photos all looked substantially similar and Victim, as well as Victim's family, knew Applicant before the crime occurred. Furthermore, this Court finds Trial Counsel had thorough discussions with Victim prior to the trial, indeed knew how she was prepared to testify, and strategically tailored her representation accordingly.

Furthermore, Applicant has failed to satisfy the second prong of Strickland, which requires him to prove that but for Trial Counsel's alleged deficiency, there is a reasonable probability the outcome of the proceeding would have been different. This Court notes the record as well as testimony from the PCR hearing reveals the source of Victim's identification of Applicant and lack of suggestibility in the photo lineup. First the record is clear that Victim had already told law enforcement that Applicant was the individual, along with a codefendant, she found burglarizing her home. When law enforcement initially responded to the incident, Victim informed them she knew Applicant from the community, but only gave them a description and not his name. Tr. p. 69, ll. 14-23. As explained in the record and by Trial Counsel's testimony at the PCR hearing, Victim only knew Applicant by his nickname "Buck" at the time. Tr. p. 69, l. 14. Trial Counsel recalled Victim learned his real name by consulting with family members and finding Applicant's Facebook page. Victim then gave another statement to Detective Singleton

in which she informed him of Applicant's full name. Tr. p. 88, ll. 18-24. This all occurred prior to the presentation of the photo lineup. Clearly, Victim possessed independent knowledge of Applicant's identity. Taken in conjunction with the lack of any suggestiveness in the photos themselves, Applicant cannot prove the result of the proceedings would have been any different had Trial Counsel performed any differently. Therefore, Applicant also fails to satisfy the second prong of Strickland.

Even assuming arguendo the lineup had been suggestive, there was no escaping the exceptional reliability of Victim's identification of Applicant in this case. Even when identification resulted from unnecessary and unduly suggestive police procedures, courts must then consider if the out-of-court identification was nevertheless so reliable that no substantial likelihood of misidentification existed. Biggers, 409 U.S. at 198. Under the totality of the circumstances, the factors to be considered in assessing the reliability of an otherwise unduly suggestive identification procedure are:

- (1) the witness's opportunity to view the perpetrator at the time of the crime,
- (2) the witness's degree of attention,
- (3) the accuracy of the witness's prior description of the perpetrator,
- (4) the level of certainty demonstrated by the witness at the confrontation, and
- (5) the length of time between the crime and the confrontation.

Biggers, 409 U.S. at 199.

The facts of this case demonstrated an exceptionally reliable identification of Applicant by Victim. First, Victim actually watched Applicant burglarize her home for a few minutes before intervening, and Applicant slowly walked out after being told she would not call the police if he left. Tr. p. 56, ll. 1-18. Again, this was an individual who Victim and her family already knew before the crime, albeit by his nickname. After giving multiple statements to law enforcement implicating Applicant, Victim was presented a lineup and recognized Applicant from the lineup

and no one else. Tr. p. 64, ll. 9-18. Victim testified she was able to see Applicant's face fully and the light was on during the encounter in her home. Tr. p. 71, ll. 1-6. Victim also identified Applicant in court as the man inside her home. Tr. p. 65, ll. 15-25. Therefore, this Court finds that even if Trial Counsel was deficient in her performance regarding the Biggers hearing, and even if the photo lineup would have been suggestive, there was still ample circumstances justifying the admission of the photo identification. For these reasons, Applicant has failed to prove both deficiency and prejudice regarding this allegation. Accordingly, this allegation is denied and dismissed with prejudice.

"Failure to object and/or renew the objection to the in-court identification"

Applicant also alleges Trial Counsel was ineffective for failing to object and/or renew the objection to the in-court identification thus not preserving the issue for appellate review. This Court finds this allegation to also be meritless.

First, Applicant has failed to show Trial Counsel was deficient for not objecting to the in-court identification because there was nothing objectionable to render the in-court identification inadmissible. The South Carolina Supreme Court has concluded, as the majority of courts have concluded, that Neil v. Biggers does not apply to in-court identifications, and the remedy for any alleged suggestiveness is cross-examination and argument. State v. Lewis, 363 S.C. 37, 42, 609 S.E.2d 515, 518 (2005). In its analysis, the Court considered the Georgia Supreme Court's reasoning that procedural safeguards in place for pre-trial identifications are not applicable to in-court identifications because the witness' testimony is subject to the same rules of evidence, witness credibility, and cross-examination as all other testimony in a criminal trial. Lewis, 363 S.C. at 43 (citing Ralston v. State, 251 Ga. 682, 309 S.E.2d 135 (1983)). In the present case, the record reveals nothing improper or objectionable about the in-court identification to begin with.

Victim was asked if she saw Individual she identified from the photo lineup in the courtroom, to which she replied she did and directed the solicitor to Applicant. Tr. p. 65, ll. 12-25. Of course, this in-court identification took place after testimony revealing Victim knew Applicant from the community before the crime even occurred. Trial Counsel subsequently cross-examined Victim about discrepancies in the descriptions Victim had provided to law enforcement and also raise the issue that law enforcement suggested who she should identify by instructing her to pick out "Ivan 'Buck' Williams." Trial Counsel convincingly and credibly testified at the PCR hearing that she knew how Victim was going to testify at trial and therefore wanted to challenge her identifications but minimize the amount of times the jury heard Victim say Applicant did it. Furthermore, and unfortunately for Applicant, Trial Counsel testified that Victim made an adamant and credible witness for the State. The in-court identification was not improper or suggestive. For these reasons, this Court finds Applicant has failed to satisfy his burden of proving Trial Counsel's performance was deficient for failing to object or renew objections to an identification which was proper and admissible.

Furthermore, Applicant has failed to satisfy his burden of proving prejudice from Trial Counsel's alleged deficiency of not objecting or renewing objections to the identification. Applicant cannot prove that but for Trial Counsel's lack of objection to the in-court identification, the result of the proceedings would have been different. As previously noted in this Order, the record reveals nothing unduly suggestive about the in-court identification. Moreover, the record contains ample testimony that Victim knew Applicant completely independent of the burglary, as Victim knew him from the community and their families knew each other. Notwithstanding the in-court identification, Victim, who knew Applicant, had already implicated Applicant in multiple statements to law enforcement and identified him in a

photo lineup before trial. Applicant has failed to present any evidence objections to the identification would have been sustained or resulted in a reversal on appeal. For these reasons, Applicant has failed to satisfy either prong of Strickland, and this allegation is denied and dismissed with prejudice.

"Failure to object to Solicitor's Improper and prejudicial closing argument"

Applicant expressly withdrew this allegation at the PCR hearing. This allegation is therefore dismissed with prejudice.

[Conclusion and signature on following page]

VI. CONCLUSION

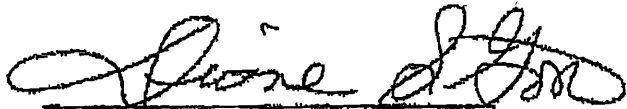
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

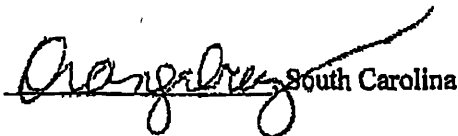
IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice in regard to all allegations; and
2. Applicant must be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 8 day of August, 2018.



DIANE SCHAFER GOODSTEIN
Presiding Judge
Fourteenth Judicial Circuit

 South Carolina

WITNESSES

Singleton, HCSO

DOCKET NO. 2012GS2500071

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

April Term 2012

ARREST WARRANT NUMBER

N101258

Date of Arrest: January 26, 2012

ACTION OF GRAND JURY

TRUE BILL

THE STATE

vs.

Ivan Williams

Cecil B. McKenzie
Foreperson of Grand Jury
Date: APR 19 2012

VERDICT

Indictment for

Burglary / Burglary (After June 20, 1985) - First
degree

SC Code: 16-11-0311
CDR Code: 0079

Foreperson of Petit Jury
Date:

INDICT

A TRUE COPY
Michael D. Nantz
CLERK OF COURT FOR
HAMPTON COUNTY, S.C.
DATE 2-15-18

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2012GS2500071

At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Hampton County present upon their oath:

Burglary / Burglary (After June 20, 1985) - First degree

That in Hampton County, South Carolina, on or about June 27, 2011, the Defendant, Ivan Williams, did enter the dwelling of Valerie Singleton, located at [REDACTED], Furman, SC, without consent and with the intent to commit a crime therein. That, in addition, the entry occurred during the nighttime.

All in violation of S. C. Code of Laws §16-11-311.

A TRUE COPY
of the foregoing
CLERK OF COURT FOR
HAMPTON COUNTY, S.C.
DATE 7-13-12

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

TRUE COPY

Isaac M. Stone, III

Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
STATE VS.Ivan Williams

AKA:

Race: OTHER Sex: M Age: 29DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary - First Degree15-240in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Attorney for the StateSC Bar# 46146

Defendant

[Signature]
Attorney for DefendantSC Bar# 14207WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment.of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 44 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea.	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS2500071A/W#: NI01258Date of Offense: 6/27/2011S.C. Code § : 16-11-0311CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

TA TRUE COPY
CLERK OF COURT FOR
HAMPTON COUNTY, S.C.
DATE 8-15-12

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2140Sentence Date: 11/5/2013