

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County

D. Garrison Hill, Circuit Court Judge

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S.C. Supreme Court

RYAN ANTONIO CHAPMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212307

APPENDIX

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

KAREN RATIGAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS

2009-GS-23-07946

2009-GS-23-07947

STATE OF SOUTH CAROLINA,

vs.

TRANSCRIPT OF RECORD

RYAN ANTONIO CHAPMAN,
DEFENDANT.

ORIGINAL

June 10, 2010,
Greenville, South Carolina

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG, JUDGE.

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

L. MARK MOYER, ESQ.
Assistant Solicitor

THOMAS M. HOSKINSON, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

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(DW) - Denotes Defense Witness

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All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

(WHEREUPON, State's Exhibit No. 1 was marked for identification only.)

THE COURT: Are we ready to proceed?

MR. MOYER: Yes, Your Honor.

MR. HOSKINSON: Yes, Your Honor.

THE COURT: All right.

MR. HOSKINSON: As you know, Your Honor, we have a couple of pre-trial matters that -- this is State v. Ryan Chapman.

THE COURT: Right.

I thought -- don't y'all usually announce the case?

MR. MOYER: Yes, sir.

THE COURT: Go ahead and call the case.

MR. MOYER: I think the Clerk has the indictments, Your Honor.

THE CLERK: Yes. I'm sorry.

THE COURT: This is the case of the State v. Ryan Antonio Chapman, under indictment 2009-GS-23-07946 on the charge of attempted armed robbery. And State v. Ryan Antonio Chapman, under indictment 2009-GS-23-07947 on the charge of kidnapping.

I understand the Defense now has a motion.

MR. HOSKINSON: Yes, sir.

And I think those are the only charges the State is

1 going forward on. They had mentioned earlier that they're
2 not going forward on the conspiracy charge.

3 THE COURT: That's what I understand.

4 MR. HOSKINSON: We, also, have a motion to suppress a
5 statement by the Defendant, a Jackson v. Denno hearing,
6 and a couple of other pre-trial motions we can --

7 THE COURT: Is the State ready to proceed?

8 MR. MOYER: I am, Your Honor, unless you would like
9 to draw a jury first.

10 THE COURT: Why don't we do the motions. That way,
11 the jury stays where they're comfortable, rather than
12 being --

13 MR. MOYER: Okay.

14 THE COURT: -- separated. And then we'll draw them
15 and be ready to start right away.

16 MR. MOYER: Sure.

17 THE COURT: Call your first witness.

18 MR. MOYER: The State would call Investigator Dave
19 Weiner.

20 THE CLERK: Investigator Weiner, please come forward.

21 Place your left hand on the Bible, and raise your
22 right hand to be sworn in.

23 WHEREUPON,

24 DAVID WEINER,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 Would you, please, state your name for the record?

4 THE WITNESS: David Weiner.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. MOYER:

8 Q And you are employed by the Greenville County
9 Sheriff's Office?

10 A That's correct, sir.

11 Q How long have you been with the Greenville County
12 Sheriff's Office?

13 A 10 years.

14 Q What is your position?

15 A Currently, I'm assigned as an investigator to the
16 armed robbery unit.

17 Q Okay. Now, you were the investigator for the case
18 that is, currently, before the Court, this attempted armed
19 robbery and kidnapping charge?

20 A Yes, sir.

21 Q All right. Let me start off by asking you, when did
22 the actual incident take place, the actual attempted armed
23 robbery?

24 A July 11th, 2009, at approximately 2:25 in the
25 morning.

1 Q Okay. And when were you assigned the case?

2 A On the 13th, July 13th.

3 Q Okay. Now, at that time, had you -- were you made
4 aware of the fact that a suspect had been identified?

5 A Yes, sir.

6 Q And by whom had this suspect been identified?

7 A There had been several individuals, both present at
8 the robbery, as well as other employees at the restaurant
9 that had watched the video surveillance that had named a
10 potential suspect.

11 Q Okay. Now, did you speak to all three of those
12 people before your confrontation with the Defendant in
13 this case?

14 A I did.

15 Q Okay. Now, when did you, actually, come in contact
16 with the Defendant?

17 A On July 14th.

18 Q Okay. Of 2009?

19 A Correct.

20 Q And you spoke to those three individuals you
21 mentioned on the day before?

22 A July 13th, yes, sir.

23 Q Where did you meet with the Defendant? Where did you
24 come in contact with him?

25 A At his residence.

1 Q And where was that?

2 A [REDACTED], which is in Greenville County.

3 Q And what was the time?

4 A Approximately 8:45 in the morning.

5 Q Now, at that time, did you have a search warrant for
6 the premises?

7 A That's correct.

8 Q Who did you meet with first at the -- when you
9 arrived at the residence?

10 A His mother came to the door.

11 Q Okay. And what did you inform her?

12 A I told her that I had a search warrant for the
13 residence, and that I would like to speak with her son,
14 Ryan.

15 Q And how did you come about speaking to or meeting
16 with her son, Ryan Chapman?

17 A She told me that he was still asleep, or in his
18 bedroom. So she went and got him. And he sat outside.
19 There was a small carport outside the side door. And I
20 went back inside to talk with her to explain to her the
21 case I was investigating.

22 Q Okay. And so can you describe to me what -- where
23 exactly the Defendant went after you -- after he was
24 gotten out of bed?

25 A He came outside and sat down. I don't know if there

1 was a chair -- excuse me -- or some boxes out in this
2 little carport. And he sat on them. There were two other
3 investigators present there. And I had, specifically,
4 told them, don't discuss the case with him, just keep your
5 eyes on him.

6 Q Okay. Now, was he put in custody?

7 A No, sir, not at that time.

8 Q Was he told he couldn't leave?

9 A No, sir.

10 Q Was he dressed?

11 A Yes, sir.

12 Q Was he put in handcuffs?

13 A No, sir.

14 Q Okay. Now, did you collect anything during the
15 search warrant?

16 A I did, a pair of shoes.

17 Q Okay. And where did you find them?

18 A In his bedroom.

19 Q And what was the significance of the pair of shoes?

20 A The shoes matched the description given by the
21 employees from the robbery.

22 Q Which was?

23 A Just a pair of black shoes, black and red shoes.

24 Q Okay. Now, after you found that item and collected
25 it, did you talk to the Defendant?

1 A I did.

2 Q And where was he?

3 A Still at that carport.

4 Q Okay. What was he doing at that point?

5 A He was just sitting down. And I had just briefly
6 spoke to the investigators. I said, Did he say anything?

7 And they said, No. As a matter of fact, he hasn't
8 asked a single word. He didn't ask what it was about, or
9 anything.

10 And so I looked at him and I said, You know, I'm here
11 because of a robbery at the Burger King.

12 Q And what did you notice, if anything, about his
13 demeanor and the way he was acting?

14 A He was extremely nervous. I could see his chest
15 rising up and down rapidly as he was breathing. And I
16 could, actually, see one of those arteries in his neck,
17 actually, pumping. I could see it pulsing from his heart
18 beat, and it was racing.

19 Q Okay. Now, when you mentioned your reason for being
20 there, what was his response?

21 A Nothing verbal. He just nodded his head up and down,
22 you know, affirmatively nodded yes. I said, I'm here
23 because of the armed robbery at the Burger King. And he
24 nodded yes.

25 Q And then did you say anything else?

1 A I did. I told him, I said, I think you're involved
2 with it, you have something to do with it. And he
3 continued to nod his head yes. And then I asked him if he
4 wanted to come downtown and talk with me. And, again, he
5 nodded his head yes.

6 Q Okay. And so he was brought downtown then?

7 A Yes, sir.

8 Q And how was he brought downtown to the law
9 enforcement center?

10 A In a marked patrol car that comes with us to all
11 search warrants.

12 Q Okay. And is there a reason you bring a marked
13 patrol car for that purpose?

14 A Just to make sure people understand that we are, in
15 fact, the Sheriff's Office.

16 Q And so he was brought back in the marked patrol car?

17 A Yes, sir.

18 Q Okay. Was he transported -- was he put in handcuffs
19 at that time?

20 A At that time, he was, yes, sir.

21 Q And is that protocol?

22 A Yes, sir. In fact, at that time, it becomes
23 procedure when he gets transported in the back of that
24 patrol car. For his safety and for the safety of the
25 deputy transporting him, he'll be handcuffed.

1 Q Okay. And so did you tell him that he had to go with
2 you back to the law enforcement center?

3 A No, sir, not at that time.

4 Q Okay. Now, when you got back to the law enforcement
5 center, where did you meet with him?

6 A In my office.

7 Q And, at that time, was -- were the handcuffs taken
8 off?

9 A Yes, sir.

10 Q And can you describe the office to the Court?

11 A It's just a square room, probably about 12 X 12. It
12 has five desks in it. Each of us has like a large tall
13 hutch to give some amount of privacy for the
14 investigators.

15 Q Okay. So is this the sort of place where you
16 interview both suspects and witnesses?

17 A Yes, sir.

18 Q No bars, or anything like that?

19 A No, sir.

20 Q How long a period of time did you speak to him?

21 A For about two hours.

22 Q Now, describe what all took place over this two-hour
23 period.

24 A Sure. Of course, when he was sat down, he was
25 Mirandized in writing. Obviously, he confirmed his --

1 that he could read and write, and that he did have some
2 sort of education. And then I interviewed him. And then
3 there was, also, a time period where we left the office
4 and returned.

5 Q Okay. Now, you said you interviewed him, and we'll
6 get into specifics of the Miranda warnings in just a
7 minute. But did he give you a confession?

8 A He did.

9 Q And after how long a period of time of talking to him
10 did he give you this confession?

11 A Less than 10 minutes.

12 Q And can you describe the questioning techniques that
13 you used, your demeanor? What I'm trying to get at, was
14 it kind of heavy-handed questioning or --

15 A Just like I'm talking to you now. He was still doing
16 the nodding his head affirmatively when I was talking to
17 him, you know, You have something to do with this, I'm
18 confident of it. You need to tell me about it. And he
19 would keep nodding his head yes. And I'd say, All right,
20 tell me about it.

21 He said, I had nothing to do with it.

22 And so I'd just say, Look, your -- you know, your
23 body is saying yes. You need to tell me what's really
24 going on. And then he, finally, after -- like I said, in
25 less than 10 minutes, he put it in writing.

1 Q Okay. And so were you the only person who
2 interviewed him?

3 A At that time, yes, sir.

4 Q Okay. So that was after, you said, a short period of
5 time, 10 or 15 minutes of talking to him?

6 A It wasn't even 10 minutes.

7 Q Okay. And then you mentioned you left?

8 A Yes, sir.

9 Q And did he go with you?

10 A He did, yes, sir.

11 Q And what was that all about?

12 A Myself and another investigator -- just for safety, I
13 took somebody else. But part of Mr. Chapman's statement
14 was that some of the evidence may have been destroyed at a
15 certain location in the woods. So we went to go look for
16 it. And he came to show us where.

17 Q Okay. And that was back over near where the incident
18 location was?

19 A Just across the street, yes, sir.

20 Q Okay. And then you came back to the law enforcement
21 center?

22 A Yes, sir.

23 Q And then is that when you completed the paperwork and
24 signed everything?

25 A Yes, sir.

1 Q Okay. Now, during the time that you spoke to
2 Mr. Chapman, did he ever have any complaints about the way
3 he was treated, or about being uncomfortable, or anything?

4 A No, sir.

5 Q All right. Now, did you advise the Defendant of his
6 Constitutional rights pursuant to Miranda?

7 A Yes, sir.

8 Q And did you do so using a form?

9 A Yes, sir.

10 (WHEREUPON, State's Exhibit No. 2 was marked for
11 identification only.)

12 BY MR. MOYER:

13 Q Let me hand you what's marked as State's Exhibit
14 No. 2 for purposes of this hearing only. Let me ask you,
15 can you identify what I've just handed you?

16 A Yes, sir.

17 Q And what is it?

18 A That is the Miranda waiver signed by Mr. Chapman.

19 Q And how do you recognize it?

20 A Obviously, it's our Sheriff's Office form. But, more
21 importantly, it has Mr. Chapman's name and birthday on the
22 top, as well as his initials and signature on it, and my
23 signature on it as well.

24 Q Okay. And that's a copy?

25 A Yes, sir. This is a copy of it.

1 Q Is it an exact copy?

2 A Yes, sir.

3 MR. MOYER: Your Honor, at this time, I would move to
4 have State's Exhibit No. 2 entered into evidence.

5 THE COURT: Any objection, Mr. Hoskinson?

6 MR. HOSKINSON: No, Judge.

7 THE COURT: All right. Without objection, for this
8 hearing's purpose only.

9 (WHEREUPON, State's Exhibit No. 2 was admitted into
10 evidence.)

11 BY MR. MOYER:

12 Q All right. Now, this form that is before you now,
13 does that list the rights that you informed the Defendant
14 of?

15 A It does, yes, sir.

16 Q Okay. And would you go over those rights with the
17 Court?

18 A Yes, sir. I'll just read it verbatim, if that's all
19 right.

20 It says, Before we ask you any questions, you must
21 understand your rights. Then there will be another line.
22 You have the right to remain silent. The next line,
23 Anything you say can be used against you in court. Next
24 line, You have the right to talk to a lawyer for advice
25 before we ask you any questions and to have him with you

1 during questioning. The next line, If you have no money
2 to pay a lawyer's fee, the Court will appoint one to
3 represent you without cost, if you wish. Next line, If
4 you decide to answer questions now without a lawyer
5 present, you will still have the right to stop answering
6 at any time. You, also, have the right to stop answering
7 at anytime until you talk to a lawyer.

8 And there's a separate paragraph that -- a bold
9 heading, Waiver of Rights. I have read this statement of
10 my rights and I understand what my rights are. I'm
11 willing to make a statement and answer questions. I do
12 not want a lawyer at this time. I understand and know
13 what I am doing, no promises or threats have been made to
14 me, and no pressure or coercion of any kind has been used
15 against me.

16 Q Okay. And did you make sure -- you went over that
17 form then with the Defendant?

18 A Yes, sir.

19 Q And did you make sure that he understood each of
20 those rights?

21 A Yes, sir. Before I even let him read the form, I
22 have them -- or I had him read a line out loud to make
23 sure that he could read okay.

24 And then beside each line, he'll place his initials.
25 I, also, have him sign in three places. He signs beneath

1 the line that says, You have the right to talk to a lawyer
2 for advice. I, also, have him sign where I circled the
3 word "coercion" to understand that I've explained it to
4 him, or that he already understands the definition. And
5 then I, also, have him sign the entire form.

6 Q Okay. And he signed the form?

7 A Yes, sir.

8 Q Did he seem to have, in your opinion, any trouble
9 understanding those rights?

10 A No, sir.

11 Q Did you do anything to determine his education level?

12 A I did.

13 Q And what was that?

14 A Just that I asked him what the highest grade
15 education that he had. And he told me tenth grade.

16 Q And did you determine if he could read and write?

17 A Yes, sir.

18 Q And how did you do that?

19 A Again, by having him read that line out loud, I
20 understand that he can now read. And then when we go into
21 the statement, again, the reading and writing part there.

22 Q Did his answers to your questions and responses
23 during the questioning appear to be rational and
24 responsive?

25 A Yes, sir.

1 Q Was there anything about him or the way he acted that
2 led you to have any doubt as to whether he was -- his
3 mental faculties were such that he couldn't understand?

4 A No, sir.

5 Q Were any threats, coercion, or intimidation used in
6 order to get him to sign his confession?

7 A No, sir.

8 Q Was there any promises made by you or anyone else, or
9 hope of reward held out to get him to speak to you about
10 what happened?

11 A No, sir.

12 Q Okay. Now, you said he signed the form?

13 A Yes, sir.

14 Q Did he ever change his mind at any later time and ask
15 to stop the questioning because he wanted an attorney?

16 A No, sir.

17 Q Did he make comments about wanting anyone else with
18 him?

19 A No, sir.

20 Q No parent, or guardian, or anyone else like that?

21 A No, sir.

22 Q Now, let me back up to when you took -- when you were
23 at Mr. Chapman's home that morning, you said his mother
24 was present?

25 A Yes, sir.

1 Q Okay. And so she was present for the whole time?

2 A Yes, sir.

3 Q Did you inform her that her son would be accompanying
4 you back to the law enforcement center?

5 A Yes, sir.

6 Q How old was Mr. Chapman?

7 A 16.

8 Q And what -- do you have his date of birth?

9 A [REDACTED].

10 Q Okay. Now, after he signed that form indicating he
11 wanted to waive his Constitutional rights, did he indicate
12 to you that he wished to talk to you about what happened
13 and give a statement?

14 A Yes, sir.

15 Q And did he give that statement in writing?

16 A Yes, sir.

17 (WHEREUPON, State's Exhibit No. 3 was marked for
18 identification only.)

19 BY MR. MOYER:

20 Q Let me hand you what's been marked as State's Exhibit
21 No. 3. Could you take a look at that? Is that the
22 statement that the Defendant gave you?

23 A Yes, sir.

24 Q And how are you able to recognize it?

25 A It -- obviously, again, it is our Sheriff's Office

1 paperwork for a suspect's statement. And it's got my
2 signature at the bottom.

3 Q Okay. Does it have the date?

4 A It has the date. I, also, put the end time of the
5 interview. And it's, also, notarized.

6 Q Okay. And that's a copy; is that correct?

7 A Yes, sir.

8 Q Is that an exact copy?

9 A Yes, sir, it is.

10 MR. MOYER: Your Honor, at this time, I would move to
11 have State's Exhibit No. 3 entered into evidence for
12 purposes of this hearing only.

13 THE COURT: Any objection?

14 MR. HOSKINSON: Just for the hearing, Judge.

15 THE COURT: Absolutely.

16 State's Exhibit No. 3 is admitted into evidence for
17 this hearing only.

18 (WHEREUPON, State's Exhibit No. 3 was admitted into
19 evidence.)

20 BY MR. MOYER:

21 Q Would you tell the Court how that statement,
22 actually, got into written form, how it got into typed
23 form?

24 A Yes, sir. After I finished Mirandizing him and he
25 agreed to give a statement, I explained to him that as we

1 discussed what occurred, I will type it out. And then
2 when I have completed typing it, I will print it out. And
3 then, at that time, he can review it, add something,
4 delete something, change something, do whatever he wants
5 to it.

6 Q Okay. And did you do so?

7 A Yes, sir.

8 Q And, after you finished typing it out, what did you
9 do with it?

10 A Once he reviewed it and agreed to the statement that
11 it was to the best of his recollection as to what
12 occurred, I had -- there are four paragraphs in this one.
13 I have him initial at the beginning and end of each
14 paragraph. And then I'll write the time at the bottom.
15 And then he'll sign it and print his name at the bottom.

16 Q So after you typed it up, it was, actually, either
17 read back to him, or he read it?

18 A He read it, yes, sir.

19 Q He read it. And then initialed on either side?

20 A Of each paragraph, correct.

21 Q All right. And then after that, did he sign?

22 A Yes, sir.

23 Q Indicating that that was his statement?

24 A Yes, sir.

25 MR. MOYER: Your Honor, at this time --

1

2 BY MR. MOYER:

3 Q Well, Investigator Weiner, let me ask you. I'm not
4 sure if the Court finds this necessary or not, but let me
5 ask you to publish the statement for the Court, read the
6 statement.

7 A Okay. It says that, I have been advised of my
8 Miranda rights. I'm not currently under the influence of
9 any alcohol or narcotics that would affect my judgment.
10 No promises or threats have been made to me. I am giving
11 this statement on my own free will. I'm allowing the
12 investigator to type this statement for me.

13 A guy I know named -- or I'm sorry. A guy I know
14 called Timbo has been talking about robbing the Burger
15 King for a few months now. I started talking to him about
16 it last week. Timbo was about my height and a little
17 older, maybe 19. He has lighter skin and he has hazel
18 eyes. He's banging Pirue [phonetic]. The plan was to get
19 them as they walked out of the place with the deposit bag.
20 I didn't have a gun, but he said he did. He wanted me to
21 go to be a lookout.

22 We were waiting across the street for the place to
23 close. We waited there for about 30 minutes. When they
24 walked out, we ran out there. Timbo went up to them and
25 he said something like, Where is it at? They told him

1 that they didn't have anything, so he went in the Burger
2 King. I ran in behind him. I think there were maybe six
3 employees, at the most.

4 We went to the back, and Timbo started beating on the
5 woman in the back office. I wasn't really watching the
6 whole thing. I was trying to watch the other employees.
7 But I could hear the woman yelling at him to stop it. I
8 was real nervous about the whole thing. And I swung at
9 the lady one time, then I left. I don't remember the
10 alarm going off inside.

11 We ran out of there together. I was first. I ran
12 back to Ridgeview, and Timbo followed me. We hid in the
13 cut between Ridgeview and Willie Street. We didn't get
14 anything from the robbery.

15 We already had a change of clothes, because we
16 planned on burning the clothes we did the robbery with. I
17 was taking pills and marijuana that night, so that's about
18 all I can remember. Timbo started burning the clothes.
19 And I left and went home.

20 Q Okay. Now, did you hear from the Defendant again
21 after this encounter with him?

22 A I did.

23 Q When was that?

24 A The very next day, he called.

25 Q Okay. So he called you. Where did he call you from?

1 A From the detention center.

2 Q What did he say?

3 A That he wished to talk to me again.

4 Q So what did you do?

5 A I went and pulled him from the detention center.

6 Q Okay. And you had a conversation with him?

7 A I did. Once again, I Mirandized him in writing.

8 Again, I filled out the form the same way. And he signed
9 it and initialed it in all the proper places.

10 Q Okay. And what did he tell you at this time?

11 A That he wished to recant his earlier statement.

12 Q Okay. What -- did you ask him any details or
13 follow-up questions?

14 A He told me that it was not him, but it was, actually,
15 Timbo, as named in the earlier suspect -- in the earlier
16 statement, and another subject by the name of
17 Bootsy [phonetic].

18 Q Did you ask him anything about, you know, why he gave
19 the statement the day before, or anything like that?

20 A Yes, sir. And he never could -- he never answered
21 that question.

22 (WHEREUPON, State's Exhibit No. 4 was marked for
23 identification only.)

24 BY MR. MOYER:

25 Q Let me hand you State's Exhibit No. 4. Can you

1 identify what I just handed you?

2 A Yes, sir.

3 Q What is that?

4 A That is an exact copy of the Miranda waiver from July
5 15th, when I spoke to him the second time.

6 Q Okay. After he called you from the --

7 A Detention center, yes, sir.

8 Q -- detention center?

9 Okay. And is that form identical to the other form
10 that you just read to the Court?

11 A Yes, sir.

12 Q Okay. The other Waiver of Rights form?

13 A Yes, sir, just a different date on it.

14 MR. MOYER: Your Honor, I would move to have
15 State's Exhibit No. 4 moved into evidence for purposes of
16 this --

17 THE COURT: Is there any objection for this hearing
18 only?

19 MR. HOSKINSON: Not for this -- no objection.

20 THE COURT: So admitted.

21 (WHEREUPON, State's Exhibit No. 4 was admitted into
22 evidence.)

23 MR. MOYER: Your Honor, that's all the questions I
24 have for this witness at this time.

25 THE COURT: Mr. Hoskinson.

1 MR. HOSKINSON: Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. HOSKINSON:

4 Q Detective Weiner, you've been with Greenville for 10
5 years?

6 A Yes, sir.

7 Q And, in that whole 10-year period, have you been an
8 investigator that whole time?

9 A No, sir.

10 Q How long have you been an investigator?

11 A Three years.

12 Q Three years. And, as an investigator, do you have to
13 take continuing education classes?

14 A Yes, sir.

15 Q Is that done with the law enforcement academy?

16 A Some of them are, yes, sir. Some of them are, also,
17 here locally or through secondary places, universities
18 and --

19 Q And do those classes include courses on interviewing
20 witnesses and suspects?

21 A Yes, sir.

22 Q And do they include courses on how to approach a
23 suspect and obtain a confession?

24 A Yes, sir.

25 Q And, prior to that, were you a patrol officer?

1 A Correct.

2 Q Okay. And then, prior to that, had you gone to the
3 law enforcement academy?

4 A I did not. I attended a separate program in the
5 state, but same intentions.

6 Q Okay. And do you have a college degree?

7 A Yes, sir.

8 Q Okay. And, presumedly, you have a high school degree
9 as well?

10 A Yes, sir.

11 Q And Ryan Chapman, at this point, was, what, in the
12 tenth grade?

13 A He informed me that he had a tenth grade education,
14 yes, sir.

15 Q Okay. Now, let's see. I think -- do you have those
16 waivers that were put into evidence?

17 A (Witness pointed.)

18 Q Okay. Looking at the waiver from the first time you
19 met with him, is this the time that the waiver was done?

20 A Yes, sir. That was -- there will be a time at the
21 top that says 09:44. That's when I filled it out and
22 printed it.

23 Q Okay.

24 A And then the time at the bottom, 09:47, is after he
25 signed it, and I signed it.

1 Q Okay. And then, on the typed confession, there's no
2 time at the top, is there?

3 A No, sir.

4 Q Okay. Is that time at the bottom here?

5 A Correct. 11:57 is when I completed -- or when he
6 signed that statement.

7 Q So between 9:47 and 11:47 is the back and forth
8 interview process?

9 A 11:57.

10 Q 11:57?

11 A Yes, sir.

12 Q Okay. And that's where you're typing the statement
13 and he's talking --

14 A Correct. And, like I mentioned, we had, also, left
15 the building and gone to another scene.

16 Q Okay. So it was 11:47 after you left the building
17 and came back from the scene?

18 A Correct.

19 Q Okay. And then, in that statement, there's a
20 reference to burning the clothes?

21 A Correct.

22 Q Okay. And after you left the scene and came back --

23 A That's when he signed it, and I put a time on it.

24 Q Okay. And when you went to the house for the search,
25 at that point in time, you didn't have an arrest warrant?

1 A No, sir.

2 Q You spoke to Ryan. Did he drive back with you?

3 A Not with me. He went in a marked car.

4 Q Before he got in that car, he had talked to you?

5 A Briefly, yes, sir.

6 Q Okay. And what did you say to him?

7 A I told him that I was there because of the robbery at
8 the Burger King.

9 Q Yeah.

10 A And that I felt he had something to do with it. And
11 I asked him if he wanted to come downtown and give a
12 statement.

13 Q Okay. And someone put handcuffs on him?

14 A Correct, to transport him to the law enforcement
15 center.

16 Q Okay. And his mom was there?

17 A Correct.

18 Q And, after you obtained the statement, that's when
19 you went to a magistrate in order to obtain this -- an
20 arrest warrant for Ryan Chapman?

21 A Yes, sir.

22 Q Okay. And then -- now, did you then serve it upon
23 him?

24 A I did not, but another deputy did.

25 Q Okay. And where was Ryan when it was served? Was he

1 at the detention center?

2 A More than likely in my office still. I can't say for
3 sure.

4 Q Okay. Now, this office is shared with the other
5 investigators?

6 A Correct.

7 Q About how many investigators are in that office?

8 A There are four investigators and one supervisor that
9 work in that office. At the time this occurred, I don't
10 know. Certainly, myself and whoever was serving the
11 warrant.

12 Q Okay. Do you do all interviews at your desk in that
13 office?

14 A 99 percent of them, yes, sir.

15 Q Now, you handcuffed him to bring him down to the
16 detention center; correct?

17 A After the warrants were served?

18 Q No, beforehand. When you were at the house and you
19 brought him down, you had him in handcuffs?

20 A He was handcuffed on his way to the law enforcement
21 center, yes, sir.

22 Q And then, when he was interviewing with you, he had
23 the handcuffs still?

24 A No. I had taken them off until we left to go to the
25 scene to look for the burned clothes, he was handcuffed

1 then.

2 Q Okay. Now, you went out to the scene of where he
3 told you that the clothes had been burned?

4 A Correct.

5 Q This is -- is it behind -- was it Emerald --

6 A Yeah. I think it's called Emerald Commons now. But,
7 for years, it was called Ridgeview Condominiums.

8 Q Yeah.

9 A And so that's what most people refer to it as is
10 Ridgeview.

11 Q Okay. And it was just you and Ryan at that time?

12 A No. There was another investigator there as well.

13 Q And are we talking about a -- woods or a park?

14 A It's just a small wooded area. It's a cut through
15 from Willy Street to the condominiums, maybe 30 yards
16 deep.

17 Q Okay. And you saw no evidence of a fire?

18 A Not a recent -- no recent activity of a fire,
19 correct.

20 Q Okay. Did you see evidence of any fire?

21 A There was, certainly, a fire pit area, but, again, no
22 recent activity there.

23 Q Like an old pit that hadn't been used in a long time?

24 A Right.

25 Q And, at that point, you asked him if he was -- if I

1 could find it here. Are you taking the rap for somebody
2 else? You asked him that?

3 A I did, yes.

4 Q Okay. You brought him back to the detention center.
5 Now, is he housed with other adults or juveniles at that
6 time?

7 A Juveniles at that time.

8 Q Okay. And this is in Greenville?

9 A Correct.

10 Q And they didn't transport him to Columbia?

11 A I think they did, but it usually takes them several
12 days to get that process going.

13 Q Okay. He's able to contact you from juvenile
14 detention in Greenville the next day?

15 A Correct. I believe he called me. And I'm pretty
16 sure his mother called me as well. Both were stating that
17 he wanted to talk to me again.

18 Q Okay. And when you -- now, did you have him pulled,
19 or did you go down to see him, or did you bring him back
20 to the office?

21 A Right. I'll call up there and just say, I just want
22 to make sure he's still in your custody. Yes, he is. All
23 right. I'd like to come talk to him. I'll go over there
24 and talk to him, and then bring him back to my office.

25 Q Okay. Your office is here downtown; correct?

1 A Correct, yeah. It's in the same building as the
2 juvenile detention facility.

3 Q And he wanted to tell you -- well, he did tell you
4 that it was some -- that it was Bootsy and Timbo that did
5 the crime?

6 A Correct.

7 Q And you went through the whole procedure of going
8 through the waiver sheet again?

9 A Yes, sir.

10 Q But you did not go through a procedure of typing up a
11 second statement?

12 A Not a second statement, no, sir.

13 Q Did you ask him for details?

14 A He couldn't provide any, other than to say that Timbo
15 and Bootsy had done it.

16 Q How long was that conversation with him
17 approximately?

18 A Maybe 15 minutes.

19 Q Okay. It wasn't a two hour back and forth like --

20 A No, sir.

21 Q Okay. And this is not otherwise videotaped or
22 audiotaped?

23 A No, sir.

24 MR. HOSKINSON: Thank you, Detective.

25 THE WITNESS: Yes, sir.

1 THE COURT: Any redirect, Mr. Moyer?

2 MR. MOYER: No redirect, Your Honor.

3 THE COURT: Thank you.

4 You may step down.

5 MR. MOYER: Your Honor, at this time, I would move to
6 have --

7 I'd like to get these marked.

8 (WHEREUPON, State's Exhibit Nos. 5, 6, 7, and 8 were
9 marked for identification only.)

10 MR. MOYER: May I approach?

11 THE COURT: You may.

12 MR. MOYER: Your Honor, at this time, I have four
13 documents that I would seek to introduce. They're
14 self-authenticating documents. One is an order for -- an
15 order from Family Court for probation. And it shows an
16 adjudication for a petit larceny. That's State's Exhibit
17 No. 8.

18 State's Exhibit No. 7 is a probation order from the
19 Family Court that shows an adjudication for possession of
20 marijuana.

21 State's Exhibit No. 6 is an order for probation that
22 shows a probation violation.

23 And State's Exhibit No. 5 is an order from the Family
24 Court showing an adjudication for shoplifting.

25 As I said, each of these is self-authenticating. And

1 I would move to introduce these for purposes of this
2 hearing only at this time.

3 THE COURT: Any objection?

4 MR. HOSKINSON: It's just for this hearing, Your
5 Honor.

6 THE COURT: Just for this hearing, they're admitted
7 into evidence.

8 (WHEREUPON, State's Exhibit Nos. 5, 6, 7, and 8 were
9 admitted into evidence.)

10 MR. MOYER: And I have no further questions -- I'm
11 sorry, no further witnesses, at this time, for purposes of
12 the Jackson v. Denno.

13 THE COURT: All right. Thank you.

14 Mr. Hoskinson.

15 MR. HOSKINSON: I call Ryan Chapman, Your Honor.

16 THE COURT: Mr. Chapman, come forward.

17 THE CLERK: If you'll come forward to be sworn in.

18 Place your left hand on the Bible, and raise your
19 right hand to be sworn in.

20 WHEREUPON,

21 RYAN ANTONIO CHAPMAN,

22 after first having been duly sworn, testified as follows:

23 THE CLERK: Thank you.

24 You may be seated.

25 Would you, please, state your name for the record.

1 THE WITNESS: Ryan Chapman.

2 DIRECT EXAMINATION

3 BY MR. HOSKINSON:

4 Q Ryan, can you hear me okay?

5 A Yeah.

6 Q Okay. Now, if you don't hear me all right or you
7 don't understand what I'm saying, just ask me to repeat
8 myself. Okay.

9 A Okay.

10 Q Are you a little nervous?

11 A I'm all right. I'm a little nervous.

12 Q All right. Now, do you have a speech impediment?

13 A Yes, sir.

14 Q Okay. Now, how old are you right now?

15 A 17.

16 Q Okay. When -- and your birthday is in March?

17 A Yes, sir.

18 Q And so last summer -- July of last summer, you would
19 have been 16?

20 A Yes, sir.

21 Q Okay. And you've been held in custody since your
22 arrest; isn't that true?

23 A Yes, sir.

24 Q Okay. But, before that, did you live with your mom?

25 A Yes, sir.

- 1 Q Okay. And who's your mom?
- 2 A Janice Harris.
- 3 Q Is she here today?
- 4 A Yes, sir.
- 5 Q Is she that lady sitting here?
- 6 A Yes, sir.
- 7 Q And have you lived with your mom your whole life?
- 8 A Yes, sir.
- 9 Q Okay. And is your mom remarried?
- 10 A Yes, sir.
- 11 Q And is that man named Mr. Harris?
- 12 A Yes, sir.
- 13 Q And where does the Chapman name come from?
- 14 A Her maiden name.
- 15 Q Okay. And that's your last name?
- 16 A Yes, sir.
- 17 Q Okay. Do you remember that morning when Detective
- 18 Weiner came to your house?
- 19 A Yes, sir.
- 20 Q And where were you when he came?
- 21 A I was in the room asleep.
- 22 Q Okay. And who woke you up?
- 23 A My mom.
- 24 Q Okay. And did she tell you what was going on?
- 25 A My mom just referred to me like there was police

1 outside wanting to talk to me.

2 Q Okay. And did you come downstairs?

3 A Yes, sir.

4 Q Did you go out to that carport?

5 A After he told me I had to be in the carport, he
6 escorted me outside to the carport.

7 Q Okay. And did anybody talk to you out there?

8 A At first, nobody. The police -- the LEC [sic] talked
9 to me. And I was trying to ask him what was going on, but
10 nobody would talk to me at that point in time.

11 Q Okay. What were you wearing?

12 A I was just in my boxers.

13 Q In your boxers?

14 A Yes, sir.

15 Q And, later on, did you end up talking to Detective
16 Weiner?

17 A Yes, sir.

18 Q That's the guy that just testified; right?

19 A Yes, sir.

20 Q And what did he say to you?

21 A He -- the same thing he referred to me first. He
22 came outside from talking to my mother or whatever. And
23 he was like, Where's the pistol at?

24 And I referred to him and I said, I don't know what
25 you're talking about.

1 Q Okay. He asked you where the pistol was at. What
2 else did he ask you?

3 A And then he asked me whether I knew Bootsy. And I
4 was still referring to him, I don't know what you're
5 talking about.

6 Q Did he talk about going downtown?

7 A No. He never talked to me about that.

8 Q Okay. Well, did you end up going into a police car
9 with handcuffs?

10 A Yes, sir.

11 Q Okay. What did they tell you before you went into
12 the police car?

13 A Just -- at the moment, I guess he told my mom thank
14 you for your time or whatever. And then, as they was
15 leaving out of my house, I got up trying to go in the
16 house. But Detective Weiner said I got to come with him.
17 And my momma came out with my with clothes. And I had to
18 go with Detective Weiner. He handcuffed me and put me in
19 the car, you know.

20 Q So Detective Weiner said, You have to come with me?

21 A Yeah.

22 Q And he put you in handcuffs?

23 A Handcuffs, yes, sir.

24 Q And this -- and you were able to get your clothes
25 from your mom?

1 A Yes, sir.

2 Q Okay. Now, do you remember the room that you were

3 talking to Detective Weiner in?

4 A Yes, sir.

5 Q Okay. Was he pretty much accurate saying it's a

6 12 X 12 room with some desks in it? Is that --

7 A It was a big room.

8 Q Yeah?

9 A Yeah.

10 Q Okay. Did you sit with him?

11 A I sat in the -- in his little cubby in the corner.

12 Q Okay. And did you ask him about something -- besides

13 talking about the case, did you tell him or ask him

14 that -- about anybody that you wanted to be there with

15 you?

16 A My mom.

17 Q Okay. How many times did you ask him if your mom

18 could be there with you?

19 A No more than 10 times.

20 Q No more than 10 times, you asked for your mom?

21 A Yes, sir.

22 Q Okay. Did Detective Weiner talk to you about some

23 things that he could do for you?

24 A Yes, sir.

25 Q Okay. Tell me about that.

- 1 A As he was trying -- as he was -- kept talking to me,
2 he kept saying that he could do two things for me. And
3 where I was sitting, behind me was a little board or
4 whatever with ankle bracelets on it. And he was like, If
5 you work for me, I can work for you. And he was like,
6 Either I can get you out -- and he pointed at the ankle
7 bracelets. He was like, I can get you out on one of them,
8 or I can -- after you leave, I can call the Solicitor and
9 have her -- have them drop it down to juvenile charges.
- 10 Q Okay. Well, there's two things there; right?
- 11 A Yes, sir.
- 12 Q What's -- this thing behind you, what was it?
- 13 A An ankle bracelet.
- 14 Q And what are those for?
- 15 A Having me monitored at home.
- 16 Q Monitored at home. Is that called house arrest?
- 17 A Yeah.
- 18 Q And he said what, that if you help him, he'll what?
- 19 A If I help him, he'll help me.
- 20 Q Help you do what?
- 21 A He'll help me get out, or drop to the lesser charges.
- 22 Q Okay. And get out on house arrest?
- 23 A Yes, sir.
- 24 Q Now, you're familiar with the juvenile system?
- 25 A Yes, sir.

1 Q You've been involved in the juvenile system; right?

2 A Yes, sir.

3 Q And you just heard us talk about how you've been in
4 the juvenile system?

5 A Yes, sir.

6 Q Okay. If you had a choice to be brought to court
7 like you are today as an adult, or be charged as a
8 juvenile, which one would you rather have?

9 A Juvenile.

10 Q Okay. Did you end up going to the juvenile system?

11 A I ended up -- I got -- after talking to him, they
12 transported me or referred me to the juvenile system, yes,
13 sir.

14 Q The juvenile detention center?

15 A Yes, sir.

16 Q Did they ever bring your charges into juvenile court?

17 A No, sir.

18 Q You've been charged as an adult; right?

19 A Yes, sir.

20 Q Did you ever go home on house arrest?

21 A No, sir.

22 Q Okay. What were you thinking and feeling when you
23 were talking to Detective Weiner?

24 A At the point in time where I was, I was handcuffed.
25 And, during the whole process, I was handcuffed. And I

1 felt like they -- all the investigators was talking to me.
2 I felt scared. And I felt like it wasn't nothing I could
3 protect or anything, that if they could do anything to me.

4 Q Well, how would you describe -- how did you feel?

5 A I was nervous and scared.

6 Q Okay. And you were asking for your mom?

7 A I was asking for my mom. And he kept bypassing the
8 question.

9 Q Okay. Did anybody call your mom?

10 A Huh?

11 Q Did anybody -- did you end up calling your mom?

12 A No, sir.

13 Q And did you end up giving a statement to Detective
14 Weiner?

15 A Yes, sir.

16 Q And what did you think would happen if you gave him
17 that statement?

18 A Like he told me, he said he would be able to help me
19 get out on house arrest. And I felt if I got out on house
20 arrest, I could prepare my case better than I could if I
21 was incarcerated.

22 Q Yeah. And, the next day, did you call Detective
23 Weiner?

24 A Yes, sir.

25 Q Did he come down to speak to you?

1 A Yes, sir.

2 Q Did you tell him you wanted to change your statement?

3 A I told him that I couldn't do it no more. I didn't
4 do it. I don't know why I said I did it. And he just
5 told me, he was like the case is closed. He just sent me
6 back. He didn't talk to me or nothing. He just sent me
7 back.

8 Q Okay. Had you ever seen those -- that sheet before,
9 that Miranda form before?

10 A Never, no.

11 Q You know, the one we talked about in discovery. I
12 showed you the one where you -- this one where you signed
13 your name at the bottom and put your initials on the side,
14 this form?

15 A This first time I seen it was when he showed it to
16 me.

17 Q When Detective Weiner -- that's the first time you've
18 seen these kind of forms?

19 A Yes, sir.

20 MR. HOSKINSON: No further questions at this time,
21 Judge.

22 THE COURT: Mr. Moyer.

23 CROSS-EXAMINATION

24 BY MR. MOYER:

25 Q Okay. Now, the reason you went down to juvenile

1 court after you got arrested by Investigator Weiner,
2 didn't you have -- you had some juvenile charges pending,
3 didn't you?

4 A No, sir.

5 Q You were already done with all your probation at that
6 time?

7 A Yes, sir.

8 Q Okay. So that's where they took you just to be
9 housed; right, before you had to come up here? And you
10 were brought up here when you turned age 17? Is that when
11 you were brought up here?

12 A Yes, sir.

13 Q Okay. Now, you've been -- this hasn't been the first
14 time you've ever been questioned or talked to by police?

15 A Yes, sir, it has.

16 Q All right. Well, do you not -- you've been in
17 trouble before, haven't you?

18 A Yes, sir.

19 Q Okay. In fact, back in June of 2006, you got -- June
20 15th of 2006, you and another guy were investigated for
21 the theft of a couple of motorcycles, weren't you?

22 A Repeat the question, please.

23 Q Do you remember back on June 15th of 2006, you and
24 another fellow were investigated because -- you were
25 investigated for stealing two motorcycles from a guy, who

1 lived on Rangeview Circle? Do you remember that?

2 A No, sir. I don't recall that, no, sir.

3 Q You don't remember being investigated for that, and
4 being talked to by the police?

5 A No, sir.

6 Q All right. Well, how about on September the 7th of
7 2006, that's when you got in trouble for stealing a purse;
8 right, from Berea Middle School?

9 A Yes, sir.

10 Q And you ended up going to court for that, didn't you?

11 A Yes, sir.

12 Q And, before you got charged, the principle came and
13 got you, and brought you over to talk to the school
14 resource officer?

15 A About the petit larceny, I never went to court for
16 that charge. I just -- I was released to my parents
17 custody at school. And I just never went to court for it.

18 Q But you had to talk to a school resource officer and
19 you admitted that you stole the purse, didn't you?

20 A Yes, sir.

21 Q All right. So you talked to a police officer on that
22 occasion. On September the 17th of 2006, you were placed
23 on trespass notice, weren't you?

24 A For what?

25 Q A guy named Dennis Moon -- do you remember Dennis

1 Moon? He lived at [REDACTED]?

2 A And put on -- no, sir.

3 Q Do you remember an officer came and said, You can't
4 go over there any more. And he said, If you do, you'll be
5 charged with trespassing?

6 A No, sir.

7 Q You don't -- well, the fact that -- is your date of
8 birth [REDACTED]?

9 A Yes, sir.

10 Q Do you remember a Deputy Phillips coming up and
11 saying that you're not allowed to go on [REDACTED]
12 anymore?

13 A I recall that.

14 Q You do remember that. And it was -- Dennis Moon was
15 a 56-year-old man, and he said that he didn't want you
16 over there anymore. So you talked to an officer on that
17 occasion, didn't you?

18 A He just -- I didn't -- he never questioned me. He
19 just -- all he, basically, said was that the dude didn't
20 want me on his property. That's all.

21 Q Okay. January the 20th of 2007, you got in trouble
22 for running away from home, didn't you?

23 A Yes, sir.

24 Q So the police were involved in that?

25 A Yes, sir.

1 Q February the 13th of 2007, you got in trouble for
2 interfering with the operation of a school bus, didn't
3 you?

4 A Yes, sir.

5 Q And the police came and talked to you. And you
6 didn't get charged, but they came and interviewed you
7 about that, didn't they?

8 A No, sir.

9 Q They talked to you about it, didn't they?

10 A They talked to me, but didn't interview me.

11 Q And, on March the 28th of 2007, you got in trouble
12 for having marijuana at school, didn't you?

13 A Yes, sir.

14 Q And they came -- whoever caught you came and took you
15 over to a school resource officer, and they found
16 marijuana in your shoe, didn't they?

17 A Yes, sir.

18 Q The officer told you to take your shoe off, and there
19 was marijuana?

20 A Yes, sir.

21 Q November the 19th of 2007, that's when you got in
22 trouble for breaking into an automobile and stealing a
23 purse; right?

24 A Repeat that question.

25 Q That's when you got in trouble for breaking into a

1 car and stealing cigarettes out of the car?

2 A Yes, sir.

3 Q All right. And, at that time, you were talked to by
4 a police officer?

5 A Yes, sir.

6 Q Can you take a look at that? Is that your signature
7 on that form? Is that your signature right down here,
8 Ryan Chapman?

9 A No.

10 Q That's not your signature?

11 A No.

12 Q Do you live -- you lived at [REDACTED] when you
13 got in trouble on that occasion, didn't you?

14 A Yes, sir.

15 Q Okay. And your name is Ryan Antonio Chapman?

16 A Yes, sir.

17 MR. MOYER: I would like to have these marked as
18 State's exhibits.

19 (WHEREUPON, State's Exhibit Nos. 9 and 10 were marked
20 for identification only.)

21 BY MR. MOYER:

22 Q I'm going to show you what's been marked right now
23 for just identification purposes as State's Exhibit No. 9.
24 I want you to take a look at that. Is that your name,
25 Ryan Antonio Chapman?

1 A Yes, sir.

2 Q Okay. And you were 14 years old when you gave --
3 when you talked to the officer about breaking into that
4 automobile?

5 A Yes, sir.

6 Q And you lived at [REDACTED]?

7 A Yes, sir.

8 Q In Greenville, 29617?

9 A Yes, sir.

10 Q And there's a signature here of Ryan Chapman. Does
11 that say Ryan Chapman?

12 A That says Ryan Chapman, yes, sir.

13 Q Okay. Do you remember giving this statement to the
14 officer?

15 A No, sir.

16 Q What does that statement say?

17 A I am at the Sheriff's Office Northern Area Command
18 with my mother Janice Harris. I am speaking with
19 Investigator Whitmire about this case. I have been
20 advised of my Miranda rights. And I give this statement
21 freely and voluntarily. Interview with -- Investigator
22 Whitmire is typing this statement as I tell it.

23 Me and the guy that lives up the street from me had
24 an altercation in the past over cigarettes. The police
25 had been called and he has told me and some other people

1 to stay off his property. This was before I went to jail
2 in March. I haven't took nothing of his. And we haven't
3 spoken or nothing. There has been a few times when I
4 stepped on his property both through the next door
5 neighbor's and through the backyard, but I haven't took
6 nothing of his.

7 Q Okay. Is that what happened?

8 A Yes, sir.

9 Q Is that the statement you gave the officer?

10 A That's the statement, yes, sir.

11 Q Okay. And when you gave that statement, you signed
12 the form?

13 A I don't recall him ever typing a statement.

14 Q Okay. But you gave that statement to an officer?

15 A Yes, sir.

16 Q And the officer went over your Miranda rights with
17 you on that occasion, didn't he?

18 A No, sir.

19 Q Okay. Did you lie when you said the officer -- it
20 says here, I have been advised of my Miranda rights, and I
21 give this statement freely and voluntarily?

22 A On that statement, I didn't -- on the part I'm at the
23 Sheriff's Office all the way -- I didn't say none of that.
24 I started at, Me and the guy that lived up the street.

25 Q So they just made up the rest of that?

1 A Above that, I am at the Sheriff's Office Northern
2 Area Command, I didn't say nothing like that --

3 Q You didn't say nothing like that, they just made that
4 up?

5 A I started at, Me and the guy.

6 Q And so you're telling me the officer signed your name
7 for you? You didn't sign that form?

8 A That's not my signature.

9 Q Are those your initials?

10 A They're my initials, but that's not my signature.

11 Q Ryan Chapman, that's your initials?

12 A RC, yes, sir.

13 Q RC. And so you went through this form, and you put
14 your initials on that form, didn't you?

15 A No, sir. Them are RC, my initials. But that's not
16 my signature.

17 Q This is a form just like that other one that you had
18 to talk to Investigator Weiner about, isn't it?

19 A Yes, sir.

20 Q Okay. And so on December the 18th of 2007, you went
21 over a form just like the one you went over with
22 Investigator Weiner, didn't you?

23 A December 18th?

24 Q December the 18th of 2007, you went over a form and
25 gave a statement just like you did with Investigator

1 Weiner on this case?

2 A No, sir.

3 Q Okay. So these are just made up? The officer just
4 made these up?

5 A I'm not saying that, but I know for certain not in
6 December.

7 Q But you talked to the officers and you told them what
8 happened; right?

9 A Not in December. I was -- in December of 2007 -- in
10 December of 2007, I was healing from an accident prior
11 from -- I got hit by a car.

12 Q All right. Well, that was true what the officer
13 wrote in the report about what happened?

14 A Yeah.

15 Q So he had to get it from somewhere; right?

16 A I told him about me and the guy.

17 Q All right. A couple more questions. On May the
18 22nd, 2008, that's when you got arrested at Wal-Mart for
19 shoplifting; right?

20 A I was released to my mother's custody.

21 Q Okay. But you got in trouble for that, didn't you?

22 A Yes, sir.

23 Q And you had to talk to a police officer on that
24 occasion, too, didn't you?

25 A No, sir.

1 Q You got arrested?

2 A I got arrested, yes, sir.

3 Q All right. When you gave this -- so this is the

4 statement then that you gave -- that Investigator Weiner

5 took from you on July the 11th -- I'm sorry, July the 14th

6 of 2009; right?

7 A Yes, sir.

8 Q Okay. And you signed that statement, didn't you?

9 A Yes, sir.

10 Q And you put your initials before each of the

11 paragraphs and after each of those paragraphs saying it's

12 the truth?

13 A Yes, sir.

14 Q Okay. And you signed it then saying, I have read the

15 above statement and it is true and correct, to the best I

16 recall. You signed that; right?

17 A I signed it, yes, sir.

18 Q And you went to -- you left school in the tenth

19 grade; right?

20 A Yes, sir.

21 MR. MOYER: I have no further questions at this time.

22 THE COURT: Any redirect?

23 MR. HOSKINSON: No, Your Honor.

24 THE COURT: Thank you.

25 You may step down.

1 Anything further from the Defense?

2 MR. HOSKINSON: Yes, Your Honor.

3 We call Janice Harris.

4 THE COURT: Ms. Harris, come forward.

5 THE CLERK: Ms. Harris, if you'll raise your right
6 hand to be sworn in.

7 WHEREUPON,

8 JANICE HARRIS,

9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 You may be seated.

12 DIRECT EXAMINATION

13 BY MR. HOSKINSON:

14 Q You're Janice Harris?

15 A Yes.

16 Q You're Ryan's mom?

17 A I am.

18 Q And you're the lady that answered the door when
19 Officer Weiner came?

20 A Yes.

21 Q You woke up Ryan. Ryan went outside. Did -- you
22 stayed indoors?

23 A Yes.

24 Q So while he was outside, you were inside?

25 A Correct.

1 Q And you couldn't hear what was going on outside at
2 that point?

3 A Correct.

4 Q Later on, while they were still there, did you end up
5 bringing him clothes, or stepping outdoors?

6 A Yes.

7 Q And when you were outdoors, at that point in time,
8 were there officers out in the front?

9 A Yes.

10 Q And were you able to hear what they were saying?

11 A A little bit, yes.

12 Q Okay. Did you overhear one of them say something in
13 particular?

14 A Yes, I did.

15 Q And was it one of the -- was it an officer or a
16 detective? Could you tell?

17 A I think it was one of the police officers, I think it
18 was.

19 Q Okay. And what did that police officer say?

20 A He stated that they were going to take him out of his
21 comfort zone.

22 Q Okay. They were going to take him out of his comfort
23 zone?

24 A Uh-huh.

25 Q And then -- did they then take Ryan into the police

1 car and bring him downtown?

2 A They did.

3 Q Did you end up talking to Officer Weiner?

4 A I did.

5 Q Towards the end?

6 A Yes.

7 Q Okay. Did -- what did you say to him?

8 A He told me that they were going to take Ryan
9 downtown, that he would call me later with any updates.
10 And he, also, told me that -- and I asked him, you know,
11 if I needed to come to the station with him. And he told
12 me, no, that he would call me later and let me know any
13 updates of what was going on.

14 MR. HOSKINSON: Okay. Thank you, Ms. Harris.

15 THE WITNESS: You're welcome.

16 MR. HOSKINSON: Answer any questions. --

17 THE COURT: Mr. Moyer?

18 MR. MOYER: I have no questions, Your Honor.

19 THE COURT: Thank you.

20 You may step down.

21 Anything further?

22 MR. HOSKINSON: No more witnesses, Judge.

23 THE COURT: Okay. Any reply?

24 MR. MOYER: Not at this time, Your Honor.

25 THE COURT: All right. I'll hear arguments.

1 MR. HOSKINSON: Okay. Thank you, Judge.

2 What we're dealing with is, certainly, a statement
3 given to someone who is youth, a 16-year-old. It's,
4 also, a statement involving someone who was detained by
5 police prior to an arrest warrant. And he was arrested
6 and taken downtown, you know. Mr. Chapman was -- when he
7 testified, he explained how it was like, you have to come
8 downtown and meet with us.

9 And this is reminiscent of State v. Funchess. Now,
10 it's an illegal arrest. But, in that situation, Your
11 Honor would then consider whether the confession was given
12 voluntarily under those circumstances. And you need to
13 rigidly scrutinize that interaction between the person
14 who's falsely arrested with the police officer.

15 Now, it would be a little different if the person was
16 arrested with an arrest warrant and then brought in for
17 questioning. But when they've been arrested involuntarily
18 and then questioned, the analysis from the Court should be
19 more strict. Because there's the whole -- the way I'm
20 seeing this is that the whole context of the situation
21 already creates a course of atmosphere. The person is
22 there involuntarily asking for their mom, in all respects
23 wanting to get home.

24 And Your Honor is going to take the whole
25 situation -- and State v. Williams talks about people who

1 are under age. Age alone is not going to be a per se
2 invalidation of the statement. But age is a factor to be
3 considered. And Your Honor I would ask to consider all
4 the circumstances, the age, he's got a speech impediment,
5 he's asking for his mom, he's scared, he's being
6 questioned by an officer. He was handcuffed when he was
7 brought down, and handcuffed when he was meeting with the
8 officer as well.

9 And then we have the concern of promises of leniency,
10 which brings us to State v. Peak. And State v. Peak asks
11 us to consider whether the confession and the statements
12 given by the Defendant are the result of any promises of
13 leniency by the State. They were telling him that if you
14 help us, we'll send you home on house arrest. If you help
15 us, we're going to send the case to juvenile court, not
16 adult court.

17 Now, juvenile court, I think the maximum sentence
18 would be an involuntary commitment until they're 21. The
19 consequences in child court are much less severe than in
20 adult court. And that would have been an advantage to
21 someone. Going home on house arrest would be an
22 advantage. And they're both the sources of why the person
23 would have confessed.

24 So you have a lot of factors that sway to suppressing
25 the statement as being an involuntary statement, promises,

1 age, and an involuntary arrest. All which would flow to
2 suppressing this, not only for Mr. Chapman, but for
3 anybody who's put in that circumstance. The State needs
4 to be scrutinized. And there needs to be some kind of
5 sanction to them to prevent this from happening again, and
6 again, and again, as well as his Constitutional rights
7 under the U.S. Constitution and the State Constitution.

8 THE COURT: Thank you.

9 Mr. Moyer.

10 MR. MOYER: Your Honor, may it please the Court.

11 First off, I'd like to state that I think the issue
12 of suppressing the statement for illegality of arrest
13 under it being an illegal arrest, the fruit of the
14 poisonous tree, I don't think that would come under the
15 gambit of a Jackson v. Denno hearing. And if Your Honor
16 was going to hear that, I would, actually, want to put up
17 a little bit more testimony so I could more fully argue
18 that.

19 But the issue before the Court is whether this was a
20 statement that was freely and voluntarily given. Under
21 the Pittman case and the Parker case, both of which are
22 South Carolina cases, the standard of the totality of the
23 circumstances does not change due to the fact that the
24 Defendant is a juvenile.

25 And let me, actually, back up and state that, first

1 off, I'm not going to concede that this was a
2 non-custodial situation. Let me start off by saying that.
3 I think the officer testified that the Defendant went
4 willingly with him, that he was dressed, and that it was a
5 non-custodial situation. It was not a prolonged
6 interrogation. The Defendant was asked and he agreed to
7 go.

8 That being said, if the Court would find that this
9 was a custodial interrogation, the -- it would be
10 considered -- the Defendant would have -- will have been
11 considered to have waived his rights under the totality of
12 the circumstances. The Court is to take -- well, first
13 off, there is a dispute in testimony. The officer stated
14 and testified that the Defendant never asked for his
15 mother, and that he made no promises of leniency. The
16 Defendant testified differently.

17 I think the Defendant has lost credibility for
18 several reasons. First off, he's the one on trial here
19 today. Second of all, he has convictions that are
20 impeachable under Rule 609. Third of all, I would argue
21 to the Court that he was caught telling untruths under
22 oath just a few minutes ago. He tried to minimize his
23 involvement with the police. He said he had never been
24 questioned. Whereas, I was able to come up with eight to
25 10 different instances where he was questioned, and where

1 he was arrested. He is very familiar with the criminal
2 justice system.

3 And then looking at the totality of the
4 circumstances, we look at his background, experience, and
5 conduct. He is familiar with being arrested. This is not
6 the first time an officer had ever spoken to him. He's
7 familiar with the Court system. He's been in jail. He's
8 been locked up.

9 We look, also, under the totality of the
10 circumstances, the details of the interrogation. The
11 Defendant confessed to this officer within about 10
12 minutes. It was a very low-key questioning. The officer
13 didn't raise his voice. He didn't get angry or yell. It
14 was very low-key.

15 Other factors. We look at the Defendant's education.
16 He was -- graduated -- or he left in the tenth grade. We
17 look at his youth. He was a 16-year-old, Your Honor,
18 which is a juvenile. But this is different from cases
19 where we see the Court give an extraordinary amount of
20 consideration to his age.

21 If we look at the Pittman case, that was a
22 12-year-old boy who was charged -- who confessed to
23 shooting his grandparents, a 12-year-old boy. He was
24 questioned for three and a half hours. That confession
25 was considered by the South Carolina Supreme Court as

1 admissible, and that was a 12-year-old. There's a huge
2 difference between a 12-year-old and a 16-year-old. A
3 16-year-old can drop out of school, can drive, can have
4 consensual sex, can -- there are -- it's not unheard of
5 for 16-year-olds to be in college, or, at least, to be
6 making life choices. So there's a huge difference between
7 a 16-year-old and a 12-year-old.

8 The Parker case, also, deals with a 16-year-old where
9 a 16-year-old was, actually, the subject of a man hunt
10 with 30 police officers, who were shooting at him that
11 went on overnight. He stayed up all night in the woods.
12 He was then questioned by the police. And that confession
13 by a 16-year-old was considered valid.

14 We look at the other considerations under the
15 totality of the circumstances, which include whether the
16 Defendant was given his Miranda warnings, which he was,
17 the length of the detention, which was short in this case,
18 the repeated and prolonged nature of the questioning,
19 which, again, was very minimal, and whether there was
20 physical abuse. And there's been no allegations that
21 there was any kind of physical abuse in this case.

22 So all that being said, Your Honor, I would argue
23 that when you look at the totality of the circumstances in
24 this particular case, the Defendant freely and voluntarily
25 waived his Miranda warnings, his Constitutional rights,

1 and the statement should be admitted into evidence.

2 Thank you.

3 THE COURT: Thank you.

4 I'll give you the last word. It's your motion.

5 MR. HOSKINSON: Thank you, Judge.

6 Just a quick reply. The State did mention some other
7 states -- other cases. I'm not entirely familiar with the
8 one about a 12-year-old. But, in those cases, the Court
9 was considering the particular defendant on trial, and
10 whether that person had the capacity. It's a specific
11 analysis of what is happening here with this guy. He's
12 not someone who's going to be going to college at the age
13 of 16. He's someone who can read. But he's, also,
14 someone who -- and we are arguing -- and this is the State
15 v. Peak --

16 THE COURT: You would admit that he is probably more
17 experienced in the criminal justice area than most
18 16-year-olds?

19 MR. HOSKINSON: I think there's more 16-year-olds out
20 there who don't have records than those that do, Judge.
21 And, in this particular circumstance, he was given
22 promises of leniency as part of the inducement for his
23 confession, as well as the analysis that the Court needs
24 to take, in this case, that they need to rigidly
25 scrutinize. I don't think it's a per se if there is an

1 involuntary arrest. I don't think it's a per se. But I
2 think it creates a more rigid scrutiny by the trial court.

3 So we've got three layers. We've got the rigid
4 scrutiny. We've got the totality of the circumstances
5 with the age. And we, also, have the inducements of
6 leniency.

7 Thank you, Judge.

8 THE COURT: Thank you.

9 I've had an opportunity to read over his statement,
10 which was, also, read into the record. I've had an
11 opportunity to review the Miranda warnings that he was
12 given. I've heard the testimony at this hearing this
13 morning. It's the -- in considering the totality of the
14 circumstances, again, his age, but he's not a normal
15 16-year-old. He's had more experience in the criminal
16 justice system than most 16-year-olds should have.

17 But I find that the statement, which was given on the
18 14th of July of 2009, was made freely and voluntarily
19 after the Defendant was given his Miranda rights, which he
20 waived. The statement of the Defendant will be admitted
21 into evidence upon the proper foundation by the State.
22 That is my ruling.

23 Do you have another motion?

24 MR. HOSKINSON: Yes, Judge.

25 I have some other motions. But, before we move into

1 those, I would ask the Court to consider sequestering the
2 witnesses in the trial.

3 THE COURT: Any objection from the State? Which
4 would mean the officer could be in here and, of course,
5 the victims have a right to be in here.

6 MR. MOYER: That's fine.

7 THE COURT: All right. Granted.

8 MR. HOSKINSON: Okay. Well, most of those witnesses
9 are the victims, Judge.

10 THE COURT: You know, victims have a right to be here
11 in a trial. So I'm sorry that they're both witnesses and
12 victims. But victims have a right to be here at the
13 trial.

14 MR. HOSKINSON: Okay. There's a -- I believe the
15 State is going to proffer evidence involving -- well, I
16 think there are a couple of witnesses that were not,
17 actually, at the scene when this took place, if I'm
18 correct.

19 Are they here right now? Do they need to be
20 sequestered? I don't --

21 THE COURT: Sir, you need to take your glasses off
22 your head.

23 Thank you.

24 MR. HOSKINSON: I think there's a Diamond Chastain
25 that was not on scene. Is she in the courtroom right now?

1 MR. MOYER: There are two witnesses who weren't
2 victims, and one officer who -- and two officers in the
3 courtroom, so, yes.

4 THE COURT: They will stay out until they testify.
5 And then they're welcome to stay for the balance of the
6 trial.

7 MR. HOSKINSON: Okay. And this next motion involves
8 somebody who was not a victim on scene, but had watched a
9 video -- a crime scene video after it had taken place, and
10 provided an identification of the Defendant in that video.
11 And I was looking at -- in preparation for this trial, I
12 found a case, the State v. Bantan, which touched upon the
13 issue that I'm about to present, Judge. And I don't know
14 if you're familiar with the case.

15 But, during the trial, an officer was on the stand
16 and said, We've got a videotape, and we've got a videotape
17 that showed the Defendant. And the Defense objected
18 because the officer was making an ID on this video.

19 And the issue there, the Court wanted to look at the
20 quality of the video and view the video to determine if it
21 would be admissible or not, because poor quality would
22 have led to a speculative reply from the witness. And
23 we'd ask the Court to consider not allowing that type of
24 testimony into the trial we're about to present if it's
25 going to be calling for a speculative conclusion by a lay

1 witness, basically, providing an opinion not rationally
2 based on their own perception of what they're seeing.

3 THE COURT: All right. Mr. Moyer.

4 MR. MOYER: I'm not 100 percent sure I understand
5 what he's asking for. I mean, to explain to the Court,
6 the robbery that you've heard a little bit about today was
7 captured on video. Two individuals who were not present
8 during the robbery, the following day, they looked at the
9 video and recognized who -- they recognized this
10 Defendant. There was no State action involved in that.
11 Both of these individuals were at the Burger King the
12 following day just at work. And they looked at it,
13 recognized him, and then they notified the police.

14 THE COURT: So this wasn't like a lineup or
15 something?

16 MR. MOYER: So I think without any State action, Your
17 Honor, there's no issues regarding the identification.

18 MR. HOSKINSON: But I'm not bringing it up as a Neil
19 v. Biggers state action scenario.

20 One of the witnesses that was not present during the
21 robbery itself is going to testify that she was working
22 there the week of or prior, and overheard a conversation
23 involving this Defendant talking about doing a robbery.
24 And we're, also, asking that that be suppressed as
25 hearsay, unless the State provides --

1 THE COURT: Well, no, if he was the one saying it,
2 it's not hearsay.

3 MR. HOSKINSON: They're going to try to enter it as
4 an admission. This is -- I think that is what they were
5 going to do, but this occurred beforehand. So --

6 THE COURT: Well, that tends to show planning and,
7 certainly, premeditation. I don't see why that would be
8 objectionable, quite frankly, especially if he's the one
9 saying it.

10 MR. HOSKINSON: So they're watching this video and
11 the video shows bandannas and hats. And there needs be a
12 threshold determination if the quality is so poor that it
13 invites a speculative conclusion by the witness, not a
14 State action, but an evidentiary matter of speculative lay
15 opinion not rationally based on the perception of the
16 witness and it's...

17 THE COURT: Well, Mr. Moyer, was the State wanting to
18 use that at this point in time? Is that what the State is
19 wanting to -- put it into evidence?

20 MR. MOYER: We'll be putting the video into evidence
21 and listening to the testimony from the individuals who
22 were able to recognize him. I mean, it sounds to me that
23 his interest can be protected --

24 THE COURT: I mean, you're protected on
25 cross-examination. You can attack their credibility. But

1 I think it will come in as to whether the jury wants to
2 believe it or not, based upon your -- after your
3 cross-examination is a different matter.

4 MR. HOSKINSON: Yes, sir.

5 THE COURT: I don't think there's any prohibition
6 against it coming in.

7 MR. HOSKINSON: Okay. And the other matter is one of
8 the witnesses -- I've got a prior criminal history of one
9 of the witnesses that the State is going to present. And
10 it's a record involving theft of cable service. I
11 consider that to be --

12 THE COURT: Does that carry more than a year?

13 MR. HOSKINSON: No.

14 But it's -- I think it's a crime of dishonesty.

15 THE COURT: Would you agree with that?

16 MR. MOYER: (Mr. Moyer nodded.)

17 THE COURT: All right.

18 MR. HOSKINSON: So I can cross on that without --

19 THE COURT: Yes, you can cross on that.

20 MR. HOSKINSON: And just so I -- for the record, on
21 the video, the State v. Bantan, the Court watched the
22 video. And it was such a poor quality, I -- obviously,
23 it's a written decision, so I can't look at the video.
24 But I imagined it to have been something like a
25 silhouette, dark, grainy video. And the Judge looked at

1 that and said, There's -- the witness should not have made
2 that conclusion based on this terrible quality video. And
3 then the Judge gave the jury an instruction to disregard
4 the officer's testimony. That brought me to making this
5 motion, Judge. And if --

6 THE COURT: Is this of that terrible quality, or is
7 this, actually, decent quality?

8 MR. HOSKINSON: When I read the decision, I imagined
9 something much worse than what I saw in this case. But I
10 think that this video is of bad quality, and it can't
11 identify anybody in that video.

12 THE COURT: Do y'all have it available to look at
13 quickly?

14 MR. HOSKINSON: I think he's ready to turn it on.

15 MR. MOYER: Would you care to see it?

16 THE COURT: Yes. Let's look at it.

17 MR. MOYER: There's three different camera angles.

18 (Pause.)

19 MR. MOYER: Your Honor, I'm afraid that the computer
20 is shut down. We --

21 THE COURT: We can take that up at another break.

22 MR. HOSKINSON: Okay. I just think that to make an
23 ultimate ruling that --

24 THE COURT: If you've got the disk, I can look at it
25 on my computer.

1 MR. MOYER: Okay. Is that what you would care to do?

2 THE COURT: I mean, if y'all got it -- if y'all can
3 pull it up in five minutes --

4 MR. MOYER: It will just take a couple of minutes.

5 THE COURT: Okay. Sure.

6 (Pause.)

7 THE COURT: I'll tell you what, I've got to go get my
8 glasses. So why don't we take a 10-minute break. So
9 court will be in recess for the next 10 minutes.

10 (WHEREUPON, a break was taken.)

11 THE COURT: Are we ready to proceed?

12 MR. MOYER: Yes, sir, Your Honor.

13 THE COURT: All right. You may proceed.

14 (WHEREUPON, State's Exhibit No. 1 was played in open
15 court.)

16 MR. MOYER: If it pleases the Court, I'm going to
17 fast-forward a little bit.

18 THE COURT: All right.

19 (WHEREUPON, State's Exhibit No. 1 was played in open
20 court.)

21 MR. MOYER: Your Honor, that is one camera angle we
22 can show. I'll move on to the next one.

23 (WHEREUPON, State's Exhibit No. 1 was played in open
24 court.)

25 MR. MOYER: I'll move on to the final camera angle,

1 Your Honor.

2 (WHEREUPON, State's Exhibit No. 1 was played in open
3 court.)

4 MR. MOYER: Your Honor, that is the bulk of what
5 we'll be showing to the jury and the witnesses.

6 THE COURT: All right. And the --
7 Turn the lights back on.

8 The witness who would testify, it's my understanding,
9 had seen the Defendant before?

10 MR. MOYER: Yes, sir.

11 MR. HOSKINSON: Yes, sir.

12 MR. MOYER: You're going to hear testimony that they
13 have known him for quite a while. I mean, you can hear --
14 actually, four of the witnesses are going to say they
15 could recognize him. The two who were not present for the
16 incident are going to say they've known him for a long
17 time. He used to come in there several times a day. So,
18 yes, it is a matter of someone who is very familiar with
19 him.

20 THE COURT: All right. I've seen the video. There's
21 a very clear image of his eyes, which are very telling.
22 If y'all remember, the little girl in Utah who was -- that
23 had been captured and held hostage for a number of years,
24 and then somebody saw her eyes. And it was a clear view
25 of the eyes.

1 So I will allow it in for what it's worth. You can
2 cross-examine them as far as you want to about it.

3 MR. HOSKINSON: Thank you, Your Honor.

4 THE COURT: Thank you.

5 Are there any other motions to be made?

6 MR. HOSKINSON: None from the Defense.

7 THE COURT: The jury won't be available until 11:30.
8 So, at that time, let's just -- so y'all can have a plan,
9 let's plan on striking a jury, and getting them seated.
10 And then we'll break for lunch, and then come back about
11 2:00 to commence the trial.

12 Does that work for y'all?

13 MR. HOSKINSON: Yes, sir.

14 MR. MOYER: Yes.

15 THE COURT: So we'll be in recess now until 11:30
16 when we'll bring a jury up and do the jury selection.

17 Thank you.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Are you ready to proceed?

20 MR. MOYER: Yes, sir, Your Honor.

21 THE COURT: It's my understanding there's been a
22 change in the posture of the case; is that correct?

23 MR. HOSKINSON: Yes, Your Honor.

24 THE COURT: That your Defendant now wishes to plead
25 guilty to the two charges.

1 MR. HOSKINSON: I believe so, Your Honor. And I'll
2 let him answer your questions.

3 Shall I have him come up to the --

4 THE COURT: Yes, please, come up.

5 All right. Mr. Hoskinson, you represent Mr. Ryan
6 Antonio Chapman; is that correct?

7 MR. HOSKINSON: I do, Your Honor.

8 THE COURT: Have you had an opportunity to explain to
9 him the charges contained in the indictments, the possible
10 punishment he faces, and his Constitutional rights?

11 MR. HOSKINSON: I have, Your Honor.

12 THE COURT: And, in your opinion, does he understand
13 the charges and his Constitutional rights?

14 MR. HOSKINSON: Yes, Your Honor.

15 THE COURT: Does he wish to plead guilty or not
16 guilty?

17 MR. HOSKINSON: He's indicated to me that he wishes
18 to plead guilty.

19 THE COURT: Do you agree with his decision?

20 MR. HOSKINSON: I agree with his decision.

21 THE COURT: And, based upon your investigation of the
22 facts and the circumstances, do you believe if we
23 proceeded on to trial that there would be a substantial
24 likelihood he'd be found guilty beyond a reasonable doubt?

25 MR. HOSKINSON: Yes, Your Honor.

1 THE COURT: All right. Now, Mr. Chapman, I need to
2 ask you a series of questions to make sure that you're
3 entering into this plea freely, and voluntarily,
4 knowingly, and intelligently of the charges contained in
5 the indictment and the possible consequences of your plea?

6 DEFENDANT CHAPMAN: Yes, sir.

7 THE COURT: The first question I have for you is, are
8 you under the influence of alcohol or drugs today?

9 DEFENDANT CHAPMAN: No, sir.

10 THE COURT: Are you taking any medication that would
11 cloud your judgment in any way?

12 DEFENDANT CHAPMAN: No, sir.

13 THE COURT: Are you aware of any physical, emotional,
14 or nervous condition that would keep you from
15 understanding what's happening in this courtroom today?

16 DEFENDANT CHAPMAN: No, sir.

17 THE COURT: Now, it's my understanding you want to
18 plead guilty to the charge of attempted armed robbery
19 under indictment 2009-GS-23-07946, and under indictment
20 2009-GS-23-07947, the charge of kidnapping; is that
21 correct?

22 DEFENDANT CHAPMAN: Yes, sir.

23 THE COURT: All right. Now, the first indictment
24 charging you with kidnapping reads that Ryan Antonio
25 Chapman did in Greenville County on or about the 11th day

1 of July of 2009, while armed with a deadly weapon, or
2 while alleging either by action or words that he was armed
3 while using a representation of a deadly weapon or any
4 object that a person present during the commission of the
5 robbery would reasonably believe to be a deadly weapon did
6 attempt to take by means of force or intimidation goods or
7 monies described as money belonging to Burger King from
8 the person or presence of Alan Ray [sic], Jr., Alicia
9 Wakefield, and/or Donald Seagraves in violation of Section
10 16-11-330 of the South Carolina Code of Laws.

11 And I incorrectly said this was a kidnapping. This
12 was the attempted armed robbery.

13 Is what's stated in this indictment the truth?

14 DEFENDANT CHAPMAN: Yes, sir.

15 THE COURT: Under indictment 7947, on the charge of
16 kidnapping, the indictment states that Ryan Antonio
17 Chapman did in Greenville County on or about the 11th day
18 of July, 2009, unlawfully seize, abduct, confine,
19 inveigle, decoy, or carry away Alan Ray Young, Jr., Alicia
20 Wakefield, and/or Donald Seagraves without the authority
21 of law in violation of Section 16-3-910 of the South
22 Carolina Code of Laws 1976, as amended.

23 Is what's stated in this indictment the truth?

24 DEFENDANT CHAPMAN: Yes, sir.

25 THE COURT: Solicitor, what are the facts?

1 MR. MOYER: Thank you, Your Honor.

2 If it please the Court.

3 Your Honor has already heard some of the facts and
4 you've seen the video. I'll supplement what you have
5 heard by saying that this incident did happen in the early
6 morning hours of July the 11th of 2009.

7 The victims, three employees of Burger King, were
8 leaving the store when two men came running up to them
9 with masks. They had their hands in their pockets and
10 under their shirts posturing as if they had guns. They
11 made comments as if they had guns by making comments such
12 as, We're going to start busting or shooting if you don't
13 comply with what we say. They demanded money from the
14 victims. The victims did not have the money bag and
15 conveyed that to the two would-be robbers.

16 At that time -- I'm sorry. Let me back up just a
17 little bit. When the two men came running up, one of the
18 victims screamed, one of the young men. And the -- one of
19 the would-be robbers punched him in the face. It was not
20 this Defendant, it was the other unknown Defendant. He
21 punched him in the face.

22 That young man then told the robbers wanting to just
23 kind of calm the situation down that the money bag was
24 inside. They told the employees to open the Burger King
25 back up. They did so. They marched into the Burger King

1 and to the back room, as you saw on the video, where the
2 manager was told to open the safe.

3 As she was beginning to open the safe, the other
4 individual, not this Defendant, but the other individual
5 picked up a stool and hit her over the head, as you saw on
6 the video, breaking the stool. At that time, this victim
7 kind of did the unexpected and, actually, rushed the men
8 and ended up chasing them out of the restaurant. The
9 other individual punched the victim again before they ran
10 out.

11 The following day, two employees came into Burger
12 King, both of whom at separate times looked at the video,
13 and they could recognize this Defendant as the Defendant
14 who was wearing black, as you saw on the video. And two
15 of the victims, also, were able to say they knew the
16 Defendant and he used to come into the restaurant all the
17 time, even multiple times a day. Officers did a search
18 warrant. They found shoes that matched the shoes as they
19 were described by the victims. The Defendant then gave
20 the confession that you heard.

21 THE COURT: All right. Mr. Chapman, is what's stated
22 by the Solicitor, the facts that he stated, are they true?

23 DEFENDANT CHAPMAN: Yes, sir.

24 THE COURT: Are you, in fact, guilty of the charge of
25 attempted armed robbery and kidnapping?

1 DEFENDANT CHAPMAN: Yes, sir.

2 THE COURT: Now, do you understand that the possible
3 maximum sentence for the kidnapping charge is 30 years in
4 jail?

5 DEFENDANT CHAPMAN: Yes, sir.

6 THE COURT: And do you understand that the maximum
7 for the attempted armed robbery under Section 16-11-330(b)
8 is 20 years in jail?

9 DEFENDANT CHAPMAN: Yes, sir.

10 THE COURT: And do you understand that both of these
11 charges are violent, most serious crimes?

12 DEFENDANT CHAPMAN: Yes, sir.

13 THE COURT: And you understand with that that
14 you're -- the violent, most serious, you're going to have
15 to serve 85 percent of whatever sentence I give you?

16 DEFENDANT CHAPMAN: Yes, sir.

17 THE COURT: And that, basically, these are your
18 strikes. If you get caught again doing a violent, most
19 serious crime, you will spend the rest of your life in
20 jail without the possibility of parole.

21 Do you understand that?

22 DEFENDANT CHAPMAN: Yes, sir.

23 THE COURT: So you fully understand the charges that
24 you're pleading guilty to, and the possible consequences
25 that you face?

1 DEFENDANT CHAPMAN: Yes, sir.

2 THE COURT: Now, you understand when you plead
3 guilty, you waive certain Constitutional rights. The
4 first right you waive is your right against
5 self-incrimination. Not in this Court or any other court
6 in this land would you ever be required to testify against
7 yourself. However, when you plead guilty, you're doing
8 exactly that.

9 Do you wish to waive your right against
10 self-incrimination at this time?

11 DEFENDANT CHAPMAN: Yes, sir.

12 THE COURT: Do you, also, understand that you're
13 waiving your right to have a jury trial?

14 Now, we were all prepared to go forward. In fact, we
15 had a jury downstairs who was ready to walk up here for
16 you to select that jury for your trial. But when you
17 plead guilty, you waive your right to have a trial.

18 Do you understand that?

19 DEFENDANT CHAPMAN: Yes, sir.

20 THE COURT: In that trial, Mr. Hoskinson would have
21 the opportunity to cross-examine the witnesses presented
22 by the State, and you could present witnesses on your
23 behalf, if he thought it was in your best interest.
24 Again, during that trial, you would never have to prove
25 your innocence. The State would have the burden of

1 proving your guilt beyond a reasonable doubt.

2 Do you understand that?

3 DEFENDANT CHAPMAN: Yes, sir.

4 THE COURT: Do you wish to waive your right to have a
5 trial and confront the witnesses against you?

6 DEFENDANT CHAPMAN: Yes, sir.

7 THE COURT: Now, has anybody threatened you in any
8 way to get you to plead guilty?

9 DEFENDANT CHAPMAN: No, sir.

10 THE COURT: Has anybody promised you anything to get
11 you to plead guilty?

12 DEFENDANT CHAPMAN: No, sir.

13 THE COURT: Is the only reason that you're pleading
14 guilty to attempted armed robbery and kidnapping is
15 because you are guilty of attempted armed robbery and
16 kidnapping?

17 DEFENDANT CHAPMAN: Yes.

18 THE COURT: Now, have you had enough time to speak to
19 Mr. Hoskinson about this?

20 DEFENDANT CHAPMAN: If I could get a little more time
21 to speak with him.

22 MR. HOSKINSON: Do you need more time to talk to me?

23 DEFENDANT CHAPMAN: Yeah.

24 THE COURT: Would you like to take some time?

25 DEFENDANT CHAPMAN: (Defendant Chapman nodded.)

1 THE COURT: All right. We'll stand at ease.

2 MR. HOSKINSON: Let me see how much time he needs.

3 THE COURT: Yes.

4 MR. HOSKINSON: Come here, Ryan.

5 (Pause.)

6 THE COURT: Now, are you satisfied with his services?

7 DEFENDANT CHAPMAN: Yes, sir.

8 THE COURT: Has he done everything that you've asked
9 him to do in this case?

10 DEFENDANT CHAPMAN: Yes, sir.

11 THE COURT: All right. Is there anything that he's
12 done, in this case, that you wish that he had not done?

13 DEFENDANT CHAPMAN: No, sir.

14 THE COURT: And he's been available to talk with
15 you -- now, you've been incarcerated, but he's been
16 available to talk with you about the preparation of this
17 case; is that correct?

18 DEFENDANT CHAPMAN: Yes, sir.

19 THE COURT: Okay. And, again, you just had a few
20 minutes to talk to him. Do you need any more time, at
21 this point, to talk to him?

22 DEFENDANT CHAPMAN: No, sir.

23 THE COURT: Do you need any more time to decide
24 whether you want to plead guilty or not?

25 DEFENDANT CHAPMAN: No, sir.

1 THE COURT: Now, is there any recommendation from the
2 State?

3 MR. MOYER: No, sir, Your Honor.

4 THE COURT: Now, have you understood all of my
5 questions this morning?

6 DEFENDANT CHAPMAN: Yes, sir.

7 THE COURT: Is there anything you'd like to ask me
8 this morning? You're going to get another opportunity to
9 speak and say whatever you want to.

10 DEFENDANT CHAPMAN: Okay.

11 THE COURT: Now, has anyone suggested to you how you
12 should answer my questions?

13 DEFENDANT CHAPMAN: No, sir.

14 THE COURT: So the answers you've given me are your
15 answers?

16 DEFENDANT CHAPMAN: Yes, sir.

17 THE COURT: Now, do you understand that you will have
18 a right to appeal this plea and any sentence that I may
19 give, but you'll only have 10 days in which to file the
20 appeal?

21 Do you understand that?

22 DEFENDANT CHAPMAN: Yes, sir.

23 THE COURT: And do you understand that if you cannot
24 afford an attorney, one will be appointed for you --

25 DEFENDANT CHAPMAN: Yeah.

1 THE COURT: -- at no cost to you.

2 All right. Under indictment 2009-GS-23-07946,
3 charging you with attempted armed robbery, how do you
4 plead, guilty or not guilty?

5 DEFENDANT CHAPMAN: Guilty.

6 THE COURT: Under indictment 2009-GS-23-07947,
7 charging you, Ryan Antonio Chapman, with kidnapping, how
8 do you plead, guilty or not guilty?

9 DEFENDANT CHAPMAN: Guilty.

10 THE COURT: All right. I find a substantial factual
11 basis for the plea. I find the Defendant's decision to
12 plead guilty has been given freely and voluntarily. He
13 has had the advice of counsel with whom he says he is well
14 pleased. I will accept the plea.

15 Solicitor, what is his criminal history again?

16 MR. MOYER: Your Honor, you heard us detail it during
17 the cross-examination of the Defendant during the Jackson
18 v. Denno. And, as I --

19 THE COURT: I think it was a shoplifting, mostly
20 petty theft, a trespassing, a disturbing of schools. Now,
21 not all of these he was, actually --

22 MR. MOYER: Right.

23 The actual convictions were shoplifting, petit
24 larceny, and simple possession of marijuana.

25 THE COURT: Now, Mr. Chapman, do you agree that

1 that's your criminal history?

2 DEFENDANT CHAPMAN: Yes, sir.

3 THE COURT: Mr. Solicitor, would any of the victims
4 like to make a statement?

5 MR. MOYER: I'm being told from my investigator that,
6 no, they would not like to address the Court.

7 THE COURT: All right. Now, Mr. Hoskinson.

8 MR. HOSKINSON: May it please the Court.

9 Judge, I'm not going to go over the details of what
10 happened that night, at least, those portions that you've
11 already heard. But a little bit about Ryan and his
12 family, and kind of an understanding of who he is versus
13 that other person.

14 Ryan has lived with his mom his whole life, but she's
15 been married, at least, a couple of times. And he has a
16 step-dad at this point. It's a pretty decent home. He's
17 got an older brother who, I think, has finished high
18 school and --

19 Is he going to college now?

20 MS. JANICE HARRIS: Uh-huh.

21 MR. HOSKINSON: And he has an older sister. He is
22 the youngest of three. Growing up, he could only hear out
23 of one ear. And that's been all of his life. And he's,
24 also, had this problem with speech all of his life. So,
25 as an elementary school error, sometimes he'd get picked

1 on because he was different in that regard. And his mom
2 would be the one that would talk to the parents of the
3 other child and settle that issue, or he'd go to his
4 brother and that would clear it up. But, by junior high,
5 he wasn't getting picked on as much as before.

6 But from talking to people that know him, they do not
7 think he's the leader type. He's more of the one that
8 others would use as the follower.

9 And, in this case, if we look at what happened, the
10 other person is the first one in. The other person is the
11 one who punches somebody right away. The other person is
12 the one doing the talking and throwing the stool. Ryan
13 was sort of the stand-by-the-side type of person who
14 wasn't the ring leader. He's had some problems in Family
15 Court. That's for sure. This event, certainly, is going
16 to change his life now and for -- and for quite sometime
17 in the future.

18 I know his mom cares about him. I know that she's
19 been by his side through a lot of these juvenile court
20 issues. I'm sure she's been mad at him plenty of times
21 when he was growing up. But she came here today to be in
22 support of him, and she loves her son.

23 Also, there is a lady that goes by Auntie Joe. She's
24 sitting here. She's concerned about him a lot, too. And
25 I've talked to both of them at length prior to this trial.

1 And I know that they want the best for Ryan. But he made
2 a mistake when this happened. And I know he wants to say
3 a couple of things to the Court when I'm done.

4 But I, also, want to ask Your Honor to consider, at
5 one point long ago, the State was offering that if Ryan
6 were to plea that they would recommend 10 years. And I
7 know that's not their recommendation right now.

8 THE COURT: That's not on the table now.

9 MR. HOSKINSON: It's not on the table now. And I
10 would ask, at least, Your Honor to consider when
11 sentencing Ryan something that does not exceed that
12 recommendation.

13 THE COURT: Well, that's not a recommendation.

14 MR. HOSKINSON: It's not a recommendation. To not
15 exceed 10 years.

16 And, at his age, at this point, whatever sentence he
17 gets will be a lot of time for him to grow up. And he
18 grew up a lot today when he decided to do what an adult
19 needs to do, which is take responsibility for something
20 that they did. And this is a growing-up moment for him.
21 He's not 18 yet. But he's, certainly, in the adult world.
22 And we would ask people that are adults and mature adults
23 that when they're ready to take responsibility for
24 something that they should.

25 We had some suppression motions earlier today. He

1 understands what I would do for him at trial. And I would
2 go all the way to the end of trial, if he asked me. But
3 he wanted to plead guilty to Your Honor today, and take
4 responsibility for what he did. We'd ask you to take that
5 into consideration and request that you not sentence him
6 anything beyond 10 years.

7 And I think Ryan would like to, at least, say a
8 couple of words to Your Honor.

9 THE COURT: Yes, Mr. Chapman.

10 DEFENDANT CHAPMAN: I would just say I apologize to
11 the employees at Burger King for my actions. And if I
12 harmed them physically, mentally, I apologize now.

13 I have grew up. In the future, I know things like
14 this will never happen again. I plan on -- rather than
15 going to prison, I'd rather go home, finish school, either
16 get a GED or a high school diploma, and get -- find some
17 trade to do. Like if I do go to prison, when I get out of
18 prison, I want to go to college and, hopefully, make my
19 momma proud.

20 THE COURT: Anything further?

21 Would his mother like to say anything?

22 (There was no response.)

23 THE COURT: Does she not want to say anything, or is
24 she just emotional?

25 MR. HOSKINSON: Do you wish to say anything to the

1 Judge, Janice?

2 MS. JANICE HARRIS: Yes.

3 MR. HOSKINSON: You do. Okay.

4 MS. JANICE HARRIS: This has been a really hard time
5 for me, because this is my youngest son. And I can't say
6 whether Ryan did this or not.

7 THE COURT: Well, he just said he did.

8 MS. JANICE HARRIS: I just ask that -- because Ryan
9 is a follower, he is not a leader. And I just ask that
10 the Court have some leniency on him so that he does not
11 become a product of the system. Ryan is a good kid. And
12 I just feel like he followed the wrong person. And just
13 that -- Your Honor just take it upon you just to be
14 lenient with him, and let him have a life outside of the
15 prison system. I'm not saying that, you know, to let him
16 go free. Because with him pleading guilty to this, he did
17 wrong. And I just ask that you find it in your heart to
18 just be merciful to him and our family.

19 THE COURT: Thank you.

20 Anything else? Would the aunt like to say anything?

21 Would you like to say anything, ma'am?

22 AUNTIE JOE: No.

23 I would just like to say that I've been dreading this
24 day. But, like I say, I think Ryan needs to learn a
25 lesson, but not a harsh 37 years in prison at 17. He's

1 not killed anybody. He's not hurt anybody. And I feel
2 that he do need to learn a lesson. But I'd, also, say I'd
3 like to know the other guys that was with him, that he's
4 the only one standing before you. And he's not the leader
5 of the pack.

6 THE COURT: Okay. I did forget to ask him -- I need
7 to ask him.

8 Do you understand that the 30 years and the 20 years,
9 if I decide to run them consecutively, I can sentence you
10 to 50 years in jail?

11 Do you understand that?

12 DEFENDANT CHAPMAN: Can you repeat that?

13 THE COURT: Do you understand that you're looking at
14 30 years on the kidnapping, 20 years on the attempted
15 armed robbery, and that if I decide to run them
16 consecutively, then that will be a 50-year sentence?

17 Do you understand that?

18 DEFENDANT CHAPMAN: Yes.

19 THE COURT: Do you still want to plead guilty?

20 DEFENDANT CHAPMAN: Yes.

21 THE COURT: Anything further from the State?

22 Yes, ma'am. Please come forward.

23 MS. ALICIA WAKEFIELD: I --

24 THE COURT: I need for you to come forward so I can
25 hear you well.

1 Please state your name for the record.

2 MS. ALICIA WAKEFIELD: My name is Alicia Wakefield.

3 THE COURT: Yes, Ms. Wakefield.

4 MS. ALICIA WAKEFIELD: And I just want to know did he
5 even know the other guy, because the other guy is the guy
6 who really --

7 THE COURT: That's a question we're not in a position
8 to answer it.

9 MS. ALICIA WAKEFIELD: Okay.

10 THE COURT: But if you'd like to say something before
11 I sentence him, you, certainly, have the right to do so.

12 MS. ALICIA WAKEFIELD: Well, I just want to say, I do
13 think he should be punished, but 50 years is a lot of
14 time. I really want the guy who did it to me. That's all
15 I wanted to say.

16 THE COURT: Anything further from the State, or the
17 Defense?

18 MR. MOYER: Nothing further, Your Honor.

19 MR. HOSKINSON: No, sir.

20 THE COURT: How much time has he spent in jail?

21 MR. MOYER: Your Honor, he spent 98 days in our jail.
22 He spent, as you've heard, a good bit of time in the
23 juvenile facility. I thought he was serving it for a
24 probation revocation. I could be wrong. Because I did
25 not calculate that time. But he's been in jail since his

1 arrest on July the 11th -- 14th of last year.

2 THE COURT: Were the probation violations because of
3 this charge?

4 MR. HOSKINSON: My understanding is it was not a
5 probation violation, that when -- they didn't have the
6 capacity to have somebody 16 in Greenville. So they
7 housed him with the juveniles in Columbia. And then when
8 he turned 17 in March, they brought him back to
9 Greenville. That's my understanding of why he was down
10 there.

11 THE COURT: If he was incarcerated for the whole time
12 on this particular charge, I'm more inclined to give him
13 credit for time served since --

14 July 15th?

15 MR. MOYER: July 14th.

16 THE COURT: July 14th, whatever that calculates to
17 be.

18 All right. I have had an opportunity to review the
19 facts of this situation. I have taken into consideration
20 his age. And I have, also, taken into consideration that
21 he probably was not the ring leader in this situation.
22 Even though he was not the ring leader, he still
23 participated in what had to be a harrowing experience for
24 these victims, one that I've never had to experience, but
25 I can only imagine what they were thinking when they

1 thought their life was going to be taken, or whatever. Of
2 course, they couldn't plan on the next day.

3 So, therefore, what he did was very bad. But, at
4 least, at this point in time, he did take responsibility
5 for it. And I'm taking that into consideration that he
6 has accepted that responsibility. I am not going to max
7 him out, but he won't be a young man when he gets out of
8 prison. He won't be an old man. But he's going to do
9 some serious time.

10 SENTENCE

11 THE COURT: Ryan Antonio Chapman, on the charge of
12 robbery -- attempted robbery, under indictment
13 2009-GS-23-07946, it's the sentence of this Court that you
14 be incarcerated to the State Department of Corrections for
15 a period of 15 years.

16 Under indictment 2009-GS-23-07947, on the charge of
17 kidnapping, it is the sentence of this Court that you be
18 committed to the State Department of Corrections for a
19 period of 15 years.

20 Because these incidents -- these crimes happened
21 virtually at the same time, I will run them concurrent.
22 Also, the time that he has been in jail since July
23 15th [sic], he will be given credit for that. That's the
24 sentence of the Court.

25 *****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

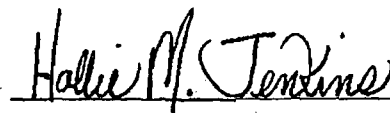
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 8th day of June, 2010.

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

October 31, 2011



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

RYAN CHAPMAN

3-8-93

YOUR RIGHTS

Sheriffs Office

Greenville, S.C.

Date 7-14-09

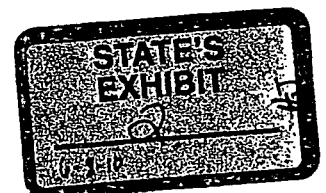
Time 0944

RC Before we ask you any questions, you must understand your rights.RC You have the right to remain silent.RC Anything you say can be used against you in court.RC You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. X Ryan ChapmanRC If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish.RC If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

RC I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.Signed X Ryan ChapmanWitness D. Weiner *630 621 RH

Witness _____

Time 0947

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

1-09-110427

STATE'S
EXHIBITI, Ryan Antonio Chapman (d.o.b.: 3-8-93)
D. Weinerdo hereby give freely and voluntarily this statement to
and

who have identified themselves to me to be Deputies of the Greenville County Sheriff's Office, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice, that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised any reward to make this statement.

I am 16 years old, and I reside at: _____

I have a 10th grade education, and I can read and write.

I have been advised of my miranda rights. I am not currently under the influence of any alcohol or narcotics that would affect my judgment. No promises or threats have been made to me. I am giving this statement on my own free will. I am allowing the investigator to type this statement for me.

A guy I know called 'Timbo' has been talking about robbing the Burger King for a few months now. I started talking to him about it last week. Timbo is about my height and a little older, maybe 19. He is lighter skinned and he has hazel eyes. He's banging Piru. The plan was to get them as they walked out of the place with the deposit bag. I didn't have a gun, but he said he did. He wanted me to go to be a look out.

We were waiting across the street for the place to close. We waited there for about thirty minutes. When they walked out we ran over there. Timbo went up to them and he said something like 'where is at?' They told him they didn't have anything so he went in the Burger King. I ran in behind him. I think there were maybe six employees at the most. We went to the back and Timbo started beating on the woman in the back office. I wasn't really watching the whole thing I was trying to watch the other employees, but I could hear the woman yelling at him to stop it. I was real nervous about the whole thing and I swung at the lady one time then I left. I don't remember the alarm going off inside.

We ran out of there together, I was first. I ran back to Ridgeview and Timbo followed me. We hid in the cut between Ridgeview and Lily St. We didn't get anything from the robbery. We already had a change of clothes because we planned on burning the clothes we did the robbery with. I was taking pills and marijuana that night so that's about all I can remember. Timbo started burning the clothes and I left and went home.

11:57

I have read the above statement of 1 of 1 pages and it is true and correct as best I recall.

WITNESS:

D. Weiner *630 621

I HAVE RECEIVED A COPY OF THIS STATEMENT

Sworn before me this 14th day of July 20 09

NOTARY PUBLIC FOR SOUTH CAROLINA

OF

MCE 02-13-12

RYAN CHAPMAN

3-8-93

YOUR RIGHTS

Sheriffs Office

Greenville, S.C.

Date 7-15-09

Time 1107

- RC Before we ask you any questions, you must understand your rights.
- RC You have the right to remain silent.
- RC Anything you say can be used against you in court.
- RC You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. X Ryan Chapman
- RC If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish.
- RC If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

RC I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: X Ryan ChapmanWitness D. Weiner *630 621 DL

Witness _____

Time 1110

OF



STATE'S
EXHIBIT

8/6/10

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

07-161842 AUTOBREAKING/PETT LARCENY 12/18/07

UGH RYAN ANTONIO CHAPMAN do hereby give freely and voluntarily this statement to
INV. J. WHITMIRE *842/462 and INV. K. MORECRAFT *398/460 KM
who have identified themselves to me to be Deputies of the Greenville County Sheriff's Office, Greenville, South
Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can
be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney
of my choice, that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent
me. I have not been threatened or promised any reward to make this statement. UGH

UGH I am 14 years old, and I reside at: _____

I have a 8TH grade education, and I can read and write. UGH

UGH I AM AT THE SHERIFF'S OFFICE NORTHERN AREA COMMAND WITH MY MOTHER JANICE HARRIS. I AM SPEAKING WITH
INV. WHITMIRE ABOUT THIS CASE. I HAVE BEEN ADVISED OF MY MIRANDA RIGHTS AND I GIVE THIS STATEMENT
FREELY AND VOLUNTARILY. INV. WHITMIRE IS TYPING THIS STATEMENT AS I TELL IT. UGH
UGH ME AND THE GUY THAT LIVES UP THE STREET FROM ME HAS HAD AN ALTERCATION IN THE PAST OVER
CIGARETTES. THE POLICE HAS BEEN CALLED AND HE HAS TOLD ME AND SOME OTHER PEOPLE TO STAY OFF HIS
PROPERTY. THIS WAS BEFORE I WENT TO JAIL IN MARCH. I HAVEN'T TOOK NOTHING OF HIS AND WE HAVEN'T SPOKEN
OR NOTHING. THERE HAS BEEN A FEW TIMES WHERE I STEPPED ON HIS PROPERTY TO GO THROUGH THE NEXT DOOR
NEIGHBOR'S THROUGH THE BACK, BUT I HAVEN'T TOOK NOTHING OF HIS. XXXXXXXXNOTHING FOLLOWSXXXXXXXXXX
UGH

20 DEC 2007 07 53

I have read the above statement of 1 pages and it is true and correct as best I recall.

WITNESS:

INV. J. WHITMIRE *842/462

I HAVE RECEIVED A COPY OF THIS STATEMENT

Sworn before me this 18th day of December 20 07

NOTARY PUBLIC FOR SOUTH CAROLINA

OF

Rebecca J. SmithRyan Chapman

ORIGINAL

Case Number 07-161842**YOUR RIGHTS**

Sheriff's Office

Greenville, South Carolina

Date 12-18-07Time 1112

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

gt rc Ryan Chapman

Anything you say can be used against you in court.

gt rc

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

gt rc

If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish.

gt rc

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

gt rc**WAIVER OF RIGHTS**gt rc

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind had been used against me.

gt rc

Signed

gt rc
Ryan Chapman

Witness

James Hester Morn

Witness

John T. #842/462

Time

1118**ORIGINAL**

20 DEC 2007 07 53

FORM 5

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

RYAN ANTONIO CHAPMAN,)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2011-CP-23-

03379

FILED - C. CHAPMAN, CO.
MAY 19 AM 9:06
GREENVILLE, SCINSTRUCTIONS B 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 LEE CORRECTIONAL INSTITUTION, 970 WISACKY HIGHWAY, BISHOPVILLE, SOUTH CAROLINA
2. Name and location of Court which imposed sentence GREENVILLE COUNTY COURT OF GENERAL SESSIONS, GREENVILLE, SOUTH CAROLINA
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-95-23-01946, ATTEMPTED ARMED ROBBERY

- (b) 2009-JS-23-01947; KIDNAPPING
 (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) JUNE 8, 2010; FIFTEEN (15) YEARS
 (b) JUNE 8, 2010; FIFTEEN (15) YEARS
 (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?
NO, I DID NOT.
8. If you answered Ayes@ to (7), list:
 (a) the name of each Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. N/A
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. N/A
 ii. _____
 iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
 (a) FIRST COLLATERAL ATTACK.

- (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) INVOLUNTARY GUILTY PLEA
(c) VIOLATION OF UNITED STATES CONSTITUTION
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) FAILURE TO INVESTIGATE CASE
(b) RESULTING FROM INEFFECTIVENESS OF COUNSEL
(c) IMPROPER INTERROGATION TACTICS
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? No.
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
i. N/A
ii. _____
iii. _____
iv. _____
v. _____
- (b) the name and location of the Court in which each was filed:
i. N/A
ii. _____
iii. _____

- ☒ iv. _____
 (c) the disposition thereof:
 i. N/A _____
 ii. _____
 iii. _____
 iv. _____
 (d) the date of each such disposition:
 i. N/A _____
 ii. _____
 iii. _____
 iv. _____
 (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 i. N/A _____
 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, THEY HAVE NOT.

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

- (a) which grounds have been presented:
 i. N/A _____
 ii. _____
 iii. _____
 (b) the proceedings in which each ground was raised:
 i. N/A _____
 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) FIRST COLLATERAL ATTACK

(b) FIRST COLLATERAL ATTACK

(c) /

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

(a) your arraignment and plea? YES, I WERE.

(b) your trial, if any? N/A

(c) your sentencing? YES, I WERE.

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. THOMAS HOSKINSON, 305 EAST NORTH STREET,
SUITE 123, GREENVILLE, SOUTH CAROLINA 29601

ii. /

iii. /

(b) the proceedings at which each such attorney represented you:

i. PLEA, SENTENCING

ii. /

iii. /

19. State clearly the relief you seek in filing this application:

BASED ON THE ALLEGATIONS, PLEA BE VACATED
AND SENTENCE BE REVERSED, IN THE ALTERNATIVE
BE REMANDED FOR A NEW TRIAL

20. Are you now under sentence from any other court that you have not challenged?

NO, I AM NOT.

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

VERIFICATION

I, RYAN ANTONIO CHAPMAN, #341146, 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.

SWORN to and subscribed before me this 17
 day of May 2011.

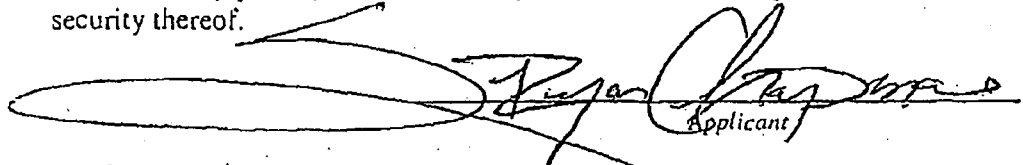
[Signature] (L.S.)
 Notary Public

My Commission Expires: 5-16-11

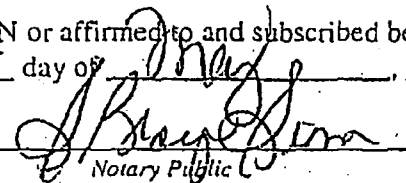
APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, RYAN ANTONIO CHAPMAN, #341146, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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


Applicant

SWORN or affirmed to and subscribed before me this
17 day of May, 2011.


Notary Public

My Commission Expires: 5-16-11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2011-CP-23-3379
COUNTY OF GREENVILLE	)	
	)	
Ryan Antonio Chapman,	)	
S.C.D.C. No. 341146,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed May 19, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the April 2010 term of General Sessions for attempted armed robbery (2009-GS-23-7946) and kidnapping (2009-GS-23-7947). Thomas Hoskinson, Esquire represented the Applicant.

On June, 8, 2010, the Applicant pled guilty. The Honorable W. Jeffrey Young sentenced the Applicant to concurrent terms of fifteen (15) years for attempted armed robbery and fifteen (15) years for kidnapping. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel.
 - a. Failure to investigate.
2. Involuntary guilty plea.
3. "Violations United States Constitution."
 - a. "Improper interrogation tactics."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel.

First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to

trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief

hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General
P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

September 20, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS
2011-CP-23-03379

RYAN ANTONIO CHAPMAN,
APPLICANT,)

vs.)

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,
RESPONDENT.)

ORIGINAL

February 28, 2012
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

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

RODNEY W. RICHEY, ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
Assistant Attorney General

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent Witness

Page No.(AW) RYAN ANTONIO CHAPMAN:

Direct Examination by Mr. Richey.....4
Cross-Examination by Ms. Ratigan.....13

(AW) THOMAS M. HOSKINSON:

Direct Examination by Mr. Richey.....16
Cross-Examination by Ms. Ratigan.....19
Redirect Examination by Mr. Richey.....21

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: Yes, ma'am, Ms. Ratigan.

MS. RATIGAN: Thank you, Your Honor.

This is the case of Ryan Chapman v. the State of South Carolina, docket #2011-CP-23-03379.

Mr. Chapman was indicted for attempted armed robbery and kidnapping. He was represented on those charges by Mr. Hoskinson. He pled guilty on June 8th of 2010. I would note that he, actually, pled during the middle of a trial. So his guilty plea hearing starts at the bottom of Page 75. And it appears that he started it after the Jackson v. Denno hearing. Anyway, he pled before Judge Young and received concurrent sentences of 15 years for attempted armed robbery, and 15 years for kidnapping. He did not file an appeal.

And the State is ready to proceed.

THE COURT: Mr. Richey.

MR. RICHEY: We call Mr. Chapman.

THE COURT: All right.

THE CLERK: Mr. Chapman, please, place your left hand on the Bible and raise your right hand.

WHEREUPON,

RYAN ANTONIO CHAPMAN,
after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

1 You may be seated.

2 Please state your full name for the record.

3 DIRECT EXAMINATION

4 BY MR. RICHEY:

5 Q State your name, please.

6 A Ryan Chapman.

7 Q And, Mr. Chapman, you have hearing loss; correct?

8 A Repeat that.

9 Q Which ear is your good ear, this one or that one?

10 A (Witness indicated.)

11 Q Okay. So if you don't hear something, then let me
12 know. Okay.

13 A (Witness nodded.)

14 Q You've got to answer "yes" or "no," so she can take
15 it down.

16 A Yeah.

17 Q Okay. You are, currently, in the Department of
18 Corrections; correct?

19 A Yeah.

20 Q And what are you in the Department of Corrections
21 for?

22 A Attempted armed robbery and kidnapping.

23 Q And what type of sentence did you receive on those
24 charges?

25 A Repeat that.

1 Q What kind of sentence did you receive?

2 A Oh, 15 years -- two 15-year sentences ran concurrent.

3 Q And, as the Attorney General outlined, you pled
4 guilty to those charges; is that correct?

5 A Yes, sir.

6 Q You started a trial; correct?

7 A Yes, sir.

8 Q Okay. Who represented you on those charges?

9 A Thomas Hoskinson.

10 Q And you have filed this application saying that he
11 did not effectively represent you; correct?

12 A Correct.

13 Q And you're basis -- one of the bases for your
14 allegations against him is you believe he failed to
15 properly investigate your case; is that correct?

16 A Correct..

17 Q And that investigation centered around an alleged
18 statement you gave; correct?

19 A Correct.

20 Q And your arrest; correct?

21 A Correct.

22 Q Okay. Can you tell the Judge the issue that you have
23 with your arrest?

24 A During the day that they came to do the search
25 warrant, they came to my house --

1 Q Okay. Who is "they"?

2 A Detective Weiner, and a couple police officers.

3 Q So when the police came.

4 A When the police came to serve the search warrant,
5 they came to my house to serve it. And during the process
6 of them serving the warrant, they said -- the police said
7 that they had -- that I had agreed to go for questioning.
8 But one of the other -- on Detective Fortner's statement,
9 it said that I was placed under arrest at my residence.

10 Q And were you placed under arrest at your residence?

11 A To me, yes, sir. I was put in handcuffs and
12 Mirandized.

13 Q Okay. And so you believe this arrest violated your
14 Constitutional rights; is that correct?

15 A Correct.

16 Q Okay. Tell me why you believe it violated your
17 Constitutional rights.

18 A Because my Fourth Amendment prevents unlawful search
19 and seizure. And the search warrant on its face had said
20 they had identified a suspect, but during -- but in the --
21 with the statements given by the employees and the people
22 that worked at the Burger King --

23 Q Okay. Let me stop you right there for a second.

24 Excuse me.

25 This is, supposedly, a robbery that took place at

1 Burger King; is that right? It's alleged that someone
2 went into the Burger King and robbed the place and left;
3 correct?

4 A Correct.

5 Q Okay. Now, go back, the people at Burger King. Go
6 ahead and finish what you were saying.

7 A They said that after the robbery took place, a person
8 at the robbery and two employees that wasn't at the scene
9 of the robbery said, I think it was him. But on the face
10 of the affidavit on the search warrant, they said they
11 recognized, but they were not 100 percent sure it was me.

12 Q So you're saying that the affidavit that was given
13 was not credible?

14 A Correct.

15 Q Okay. And so you believe that any evidence that they
16 got after that arrest should have been -- should not have
17 been able to be presented against you; correct?

18 A Correct.

19 Q Okay. Let's move forward. So after you got down to
20 the police department, they took an alleged statement from
21 you; is that correct?

22 A Correct.

23 Q And you believe because the arrest was not proper
24 that they should not have been able to use that statement?

25 A Correct.

1 Q Okay. Did you talk to your lawyer about that?

2 A Repeat that.

3 Q Did you talk to your lawyer about, hey, this arrest
4 is not good, and all this stuff --

5 A Correct.

6 Q You did?

7 A Yeah.

8 Q And did -- what -- did he give you any advice on it?

9 A I mean, after I had spoken to him about what I had
10 thought were errors in my case, he said that really that
11 the illegal arrest really wasn't verified, and the
12 voluntariness of the confession. And he said he was going
13 to look into it. But, during the suppression hearing, I
14 felt like he really didn't look into it for me.

15 Q So you all started out with a hearing; correct?

16 A A suppression hearing.

17 Q And you were in the courtroom for that hearing?

18 A (Witness nodded.)

19 Q You've got to answer "yes" or "no," so she can take
20 it down.

21 A Yes.

22 Q Okay. And so your testimony is that during that
23 hearing, you made a determination whether you wanted to
24 continue the hearing; correct?

25 A Yes.

1 Q And that determination was no; is that correct?

2 A Yeah.

3 Q And it was no because of what?

4 A Repeat the question.

5 Q You made the determination not to continue with your
6 hearing; right, the suppression hearing, this hearing you
7 had prior to your guilty plea that we've been talking
8 about?

9 A Okay.

10 Q You made the decision not to continue with that
11 hearing; correct?

12 A Correct.

13 Q And why was -- why did you make that decision?

14 A Because after the suppression hearing, we had a
15 recess before we picked the jury. And he came and told
16 me -- he was like, It really ain't looking too good. And
17 he was like, What should I do -- I mean, he asked what do
18 I want to do.

19 And, at first, I said, I still want to go to trial.
20 And then he was like, I can try to get you 10 years. And
21 he said, They said they'll give you 10 years. So I said,
22 I'll plead guilty.

23 Q Did he say he could -- now, I want you to say what
24 you just said again about the 10 years. I didn't quite
25 understand it. He said he could do what about the 10

1 years? Say that again.

2 A He could get me the 10 years.

3 Q Okay. When you say get you the 10 years, was there
4 an offer of 10 years out there at some point?

5 A Repeat that.

6 Q Was there some offer of 10 years that the State made
7 to you at some point?

8 A If I would have pled guilty before December 2009, I
9 would get 10 years.

10 Q So you're saying that the lawyer said that he could
11 get you back to the 10 years, or how was that phrased?

12 A Yeah.

13 Q Yeah what? I mean, how was it phrased?

14 A How was it phrased?

15 Q Yeah. How did he say it?

16 A He said -- how did -- he said, I could try to put the
17 10 years back on the table for you.

18 Q Okay. So he put it back on the table?

19 A Yeah.

20 Q Now, you then decided to plead guilty; correct?

21 A Yeah, correct.

22 Q And did you receive 10 years?

23 A What's that?

24 Q Did you get 10 years?

25 A No, sir.

1 Q What did you get?

2 A 15 years.

3 Q Okay. On this transcript -- and I'm going to ask you
4 this question about this transcript. On this transcript,
5 you said you were satisfied with his representation, and
6 all that; correct?

7 A (There was no response.)

8 Q Is that correct?

9 A (There was no response.)

10 Q Is that right?

11 A Correct.

12 Q Okay. You answered these questions that you
13 understood everything; correct?

14 A Correct.

15 Q Okay. Now, you're saying that you don't believe the
16 lawyer, actually, effectively represented you; correct?

17 A Correct.

18 Q Why the change?

19 A What do you mean?

20 Q I mean, at the time of this guilty plea, you told the
21 Judge on this transcript -- and we've talked about this,
22 some of the answers you made on this transcript; correct?

23 A (There was no response.)

24 Q Now, afterwards you do not believe that the lawyer
25 effectively represented you; correct?

1 A Correct.

2 Q And what do you know differently today that you
3 didn't know at the time of your guilty plea?

4 A Well, like I said earlier about my Constitution [sic]
5 being violated, and that if he could have investigated it
6 a little bit more like I asked him to that I wouldn't have
7 insisted on pleading guilty. I would have just kept going
8 to trial.

9 Q So after getting to the Department of Corrections,
10 you've done some research on these issues; correct?

11 A Correct.

12 Q And, after doing the research, you have realized that
13 there were more issues there; is that correct?

14 A Correct.

15 Q And had the research been done in the way that you
16 have done it at the Department of Corrections, you believe
17 that the outcome of the case would have been different; is
18 that correct?

19 A Correct.

20 Q And so your change of heart is that after reviewing
21 your case, you know there are things that you believe
22 should have been done differently; correct?

23 A Correct.

24 Q So, at the time you answered all these questions, you
25 didn't know all that; correct?

1 A Correct.

2 MR. RICHEY: Okay. Answer any questions Ms. Ratigan
3 has for you.

4 CROSS-EXAMINATION

5 BY MS. RATIGAN:

6 Q Did you review all the State's evidence with your
7 lawyer?

8 A Repeat that.

9 Q Did you review all the State's evidence with your
10 lawyer before you pled guilty?

11 A I really -- I mean, I didn't review everything, but I
12 reviewed some of it.

13 Q Like police reports, things like that?

14 A Yes, ma'am.

15 Q And did you tell your lawyer what had happened that
16 day at the Burger King?

17 A Yes, ma'am.

18 Q And did you discuss the confession with your lawyer?

19 A Yes, ma'am.

20 Q Okay. And your statement today is that there's a
21 problem with the search warrant's affidavit?

22 A Yes, ma'am.

23 Q Okay. Did you and your lawyer ever talk about that
24 search warrant and affidavit?

25 A We talked about the process for them to come into my

1 house to the process of them getting a statement.

2 Q And, at some point, the State had made you a 10-year
3 offer, and you had turned it down because you wanted to go
4 to trial?

5 A Yes, ma'am.

6 Q And after that suppression hearing, your lawyer said
7 he was going to try and get back that 10-year offer?

8 A Yes, ma'am.

9 Q All right. But when you went and pled guilty that
10 day, did you know that there was no offer for a sentence
11 from the State?

12 A Not really, no, ma'am.

13 Q So you thought you were going to get that 10 years
14 offered from the State?

15 A Yes, ma'am.

16 Q So when the Judge and the State said there was no
17 sentence recommendation, you didn't say anything to
18 correct them?

19 A No, ma'am.

20 Q And why didn't you try and correct them if you
21 thought that you were getting a 10-year recommendation?

22 A Because it was an open plea, so I thought I would be
23 able to get the 10 years.

24 Q So your lawyer told you it was an open plea?

25 A Yes, ma'am.

1 Q And that, in your mind, was that you were going to
2 get that 10 years?

3 A Yes, ma'am.

4 Q Okay. And you told the Judge that day that you were
5 guilty; is that correct?

6 A Yes, ma'am.

7 Q And that you were giving him truthful answers?

8 A Yes, ma'am.

9 Q But your statement today is that you were not giving
10 him some truthful answers?

11 A Yes, ma'am.

12 Q Why did you lie to the Judge?

13 A The reason I lied is because I -- the reason I lied
14 is because I thought I would be able to get the 10 years,
15 you know. I was looking at more time. And I was still
16 young, so I didn't want all that time.

17 MS. RATIGAN: Okay. That's all I have, Your Honor.

18 MR. RICHEY: No other questions.

19 THE COURT: All right. Thank you, sir.

20 MR. RICHEY: I call Mr. Hoskinson.

21 THE CLERK: Mr. Hoskinson, please, place your left
22 hand on the Bible and raise your right hand.

23 WHEREUPON,

24 THOMAS M. HOSKINSON,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 DIRECT EXAMINATION

4 BY MR. RICHEY:

5 Q Sir, would you state your name, please?

6 A Thomas M. Hoskinson.

7 Q And, sir, where are you employed?

8 A At the Greenville County Public Defender's Office.

9 Q And are you an attorney in that office?

10 A I am.

11 Q Okay. Do you recall representing Mr. Chapman?

12 A I recall representing Mr. Chapman.

13 Q Okay. And you were in the courtroom during his
14 testimony; is that correct?

15 A Yes, I was.

16 Q Do you understand what his issues are with the
17 arrest -- what his issues are that he believes his
18 Constitutional rights were violated when he was arrested
19 for this charge? Do you recall that issue coming up in
20 the case?

21 A I do.

22 Q And do you believe that the arrest was proper and
23 legal?

24 A I remember doing a -- discussing that with him, and
25 then doing some suppression hearings prior to trial. I

1 think -- I'll have to look at the transcript. I think one
2 of them was regarding their coming to his house, and then
3 him going down to the police department and talking to the
4 detective.

5 Q So those issues were brought before the Court, and
6 the Court denied the issues. And you were going to go
7 forward on some -- you were getting ready to pick a jury.
8 So if you all were getting ready to pick a jury, does that
9 mean the Judge denied these motions?

10 A I believe the Judge did deny our suppression hearing.

11 Q Okay.

12 A Yeah, I remember that.

13 Q Do you believe that you did the proper amount of
14 research on these issues prior to going to trial on them?

15 A I do.

16 Q Okay. And that you discussed those issues with
17 Mr. Chapman?

18 A Yes.

19 Q The research and all that?

20 A Yes.

21 Q Did -- in terms of investigation of the case, can you
22 tell me kind of what you do, generally, to investigate
23 these cases, or...

24 A Yeah. This one, early on he had talked to me about
25 his recollection about where he was at that time, and that

1 kind of thing. And an investigator from our office went
2 out and talked to his mom and his girlfriend to see if we
3 could confirm if he was with them or not at that time.
4 And they said that he was not with them. And, prior to
5 trial, I went to the Burger King and looked around. And I
6 talked to one of the employees there.

7 Q Okay. Did he -- did you ever discuss with him about
8 the pitfalls of going forward with the trial? Because, at
9 some point, the trial was stopped; is that correct?

10 A Yeah. My recollection -- and I can double-check with
11 the transcript -- was that after the suppression hearing,
12 we had a break. And I went to talk to him then.

13 Q And did he want to proceed with the trial, or no?

14 A No. After the suppression hearing, my notes are that
15 I spoke with the Defendant in the cell. He said he wanted
16 to plead guilty, that he did commit the crimes. I
17 explained his rights, consequences, options, and the
18 guilty plea process.

19 Q Okay. You say your notes reflect that he said he did
20 the crime?

21 A Yes.

22 MR. RICHEY: Hold on one second.

23 (Pause.)

24 MR. RICHEY: No other questions.

25 MS. RATIGAN: Just a few questions to make sure we

1 have a full sense of the record.

2 CROSS-EXAMINATION

3 BY MS. RATIGAN:

4 Q You filed the appropriate Brady and Rule 5 discovery
5 motions?

6 A I did.

7 Q And you reviewed those materials with your client?

8 A Yes.

9 Q Did you review with him his confession?

10 A Yes.

11 Q Did you discuss with him the impact that that would
12 have on the Defense's case?

13 A Yes.

14 Q And you had -- I believe you testified you had
15 reviewed that search warrant and affidavit?

16 A I believe I did. I gave him the discovery, so I
17 don't have that in my file. But if it was in the
18 discovery, I would have gone over it with him.

19 Q Did you perceive there to be any problems or
20 irregularities with the search warrant affidavit?

21 A If I did, yes, I would have researched it and
22 prepared that for the suppression hearing. I don't have
23 that stuff with me, because I gave him the copies of the
24 discovery. But anything in there that I thought was
25 irregular or out of place, I would have gone over it with

1 him and tried to work on that for the suppression hearing.

2 Q And, at some point, the State came to you with a
3 10-year offer?

4 A They did. I think I have a copy of the offer,
5 actually. I'll double-check that in my file.

6 Yeah. They -- in August of 2009, they sent us a plea
7 offer saying that they would -- you know, at a plea, they
8 would recommend a sentence of 10 years.

9 Q And you conveyed that to your client, and discussed
10 it with him?

11 A I did. I have a date that I talked to him about it
12 at first -- or at one point in October. And then I talked
13 to him again after that.

14 Q Since this case was put on the trial docket, it would
15 be fair to say that you rejected that 10-year offer?

16 A Yes.

17 Q After the suppression hearing when you went to talk
18 to Mr. Chapman, did you tell him that you would try and
19 get that 10-year offer back on the table?

20 A My notes don't reflect me talking to him about it.
21 Looking at the transcript, I think I mentioned to the
22 Judge that there was previously an offer of 10 years, and
23 that, you know, that's something we would shoot for, but
24 it was not any longer a recommendation from the
25 Solicitor's Office.

1 Q Did you tell Mr. Chapman if he pled guilty that day
2 that he would get a 10-year recommendation?

3 A No. I can't guarantee a sentence.

4 Q But you didn't tell him he'd get that particular
5 recommendation is what I'm asking?

6 A Right.

7 Q Okay. And you knew that day that he was pleading
8 guilty without any kind of sentence recommendation?

9 A I knew that, yes.

10 Q And did you explain that to Mr. Chapman?

11 A That's something I would explain, and I normally do
12 explain. And it's customary for me to explain when
13 there's a no-recommendation situation and what that means.
14 So my notes about the guilty plea process, that's part of
15 several things that I mention to a client.

16 Q And part of those discussions, you would have
17 explained the minimum and maximum he could receive on
18 these charges?

19 A That's right.

20 MS. RATIGAN: That's all I have, Your Honor.

21 MR. RICHEY: I've just got one more question.

22 REDIRECT EXAMINATION

23 BY MR. RICHEY:

24 Q When you told me that he was in the cell and he said,
25 you know, he did it and he wanted to plead guilty, was

1 that -- the discussion about the 10 years, was that after
2 you said that, or before you said that? Do you remember?

3 A Oh, like he and I talking about what we were going to
4 ask the Judge?

5 Q No. Did he say -- when you were in the holding cell,
6 did he say, hey, you know, I'm guilty, I did it, I want to
7 plead guilty? Did the discussion about trying to get the
8 10 years and all that, was that had after that, or before
9 that? Well, let me give you a hypothetical.

10 A Okay.

11 Q A hypothetical is, did you go in there and say, hey,
12 if you plead guilty, we'll try to get 10 years? Or was
13 it, hey, I did it, I want to plead guilty? Or was it that
14 you went in there and he said, hey, I did it, I'm guilty,
15 and you then start talking to him, hey, we'll try to get
16 10 years? Was the 10 years before or after?

17 A That, I don't know. My notes don't talk about
18 sequence of like where in the meeting he says this, or I
19 say something else. So I don't know if I said, you know,
20 we're going to ask for 10 years and then he says, yes, I
21 want to plead guilty, or he says, I want to plead guilty
22 and then I say, well, here is our plan, this is what we're
23 going to tell the Judge. I don't know the order.

24 Q So can you testify as to whether the 10 years was an
25 inducement for him to plead guilty?

1 A I don't know what he was considering as far as
2 like if --

3 Q All right --

4 A I can't say that.

5 MR. RICHEY: Okay. Thank you, sir.

6 MS. RATIGAN: I have nothing further, Your Honor.

7 THE COURT: Thank you.

8 MR. RICHEY: Nothing else, Your Honor.

9 MS. RATIGAN: The State would rest on the record and
10 the testimony before the Court.

11 THE COURT: Okay. Any argument?

12 MR. RICHEY: No, sir.

13 THE COURT: Thank you for your presentations.

14 I'm going to review the file in light of the
15 testimony and let you know my decision in the next several
16 weeks.

17 Thank you.

18 *****END OF TRANSCRIPT OF RECORD*****
19
20
21
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25

CERTIFICATE OF REPORTER

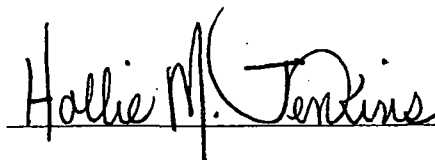
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 28th day of February, 2012.

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

September 10, 2012

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

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Ryan Antonio Chapman,)
 S.C.D.C. No. 341146,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No.: 2011-CP-23-3379

ORDER OF DISMISSAL

FILED
 GREENVILLE
 2012 MAR -7 AM 9:25

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 19, 2011. The Respondent made its return on September 20, 2011. An evidentiary hearing into the matter was convened on February 28, 2012 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Thomas Hoskinson, Esquire. The Court had before it the transcript of the guilty plea hearing, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the April 2010 term of the Greenville County Grand Jury for attempted armed robbery (2009-

GS-23-7946) and kidnapping (2009-GS-23-7947). He was represented by Thomas Hoskinson, Esquire.

On June, 8, 2010, the Applicant pled guilty. The Honorable W. Jeffrey Young sentenced the Applicant to concurrent terms of fifteen (15) years for attempted armed robbery and fifteen (15) years for kidnapping. The Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. Failure to investigate.
2. Involuntary guilty plea.
3. "Violations United States Constitution."
 - a. "Improper interrogation tactics."

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

2
JH

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Applicant stated he met with plea counsel and reviewed the evidence and his version of events. The Applicant stated he believed there was an issue with the search warrant affidavit and that he discussed this with plea counsel. The Applicant stated that, as his arrest was improper, the statement he later gave to police should not have been used against him. The Applicant stated there was a suppression hearing regarding this statement and that plea counsel told him the case was not looking good. The Applicant stated that, at first, he still wished to proceed to trial but plea counsel said he would try and get an earlier ten (10) year plea offer. The Applicant stated he did not know he was pleading guilty without a recommendation and believed

he was pleading guilty for a ten (10) year sentence. The Applicant admitted he told the plea judge he was guilty and was providing truthful answers but stated he lied to the judge in order to receive a (10) year sentence.

Plea counsel testified he filed discovery motions and met with the Applicant to review the discovery materials and to discuss the impact the Applicant's confession would have on the case. Plea counsel testified he also reviewed the search warrant and affidavit and that he would have researched any potential issues. Plea counsel testified the State made a plea offer for a ten (10) year sentence in August 2009, the Applicant rejected it, and the case was placed on the trial docket. Plea counsel testified there was a pre-trial Jackson v. Denno hearing on the voluntariness of the Applicant's confession but the judge denied his motion to suppress. Plea counsel testified that, in a break after the Denno hearing, the Applicant stated he was guilty and wanted to enter a guilty plea. Plea counsel testified he explained the differences between a guilty plea and trial and told the Applicant he would be pleading guilty without a sentence recommendation. Plea counsel testified he told the Applicant the minimum and maximum sentences he could receive and did not tell the Applicant he would receive a ten (10) year sentence.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, pp. 80-81). The Applicant also told the plea judge

that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp. 82-84).

This Court finds the Applicant failed to meet his burden of proving plea counsel did not properly investigate and challenge issues related to the search warrant and subsequent confession. This Court finds credible plea counsel's testimony that he would have researched any potential issues related to the search warrant and affidavit. This Court finds the Applicant has failed to present any compelling evidence to support his allegation that the search warrant affidavit was deficient. See Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998) (finding the failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result). Further, this Court finds plea counsel properly challenged the voluntariness of the Applicant's confession in the Denno hearing. This Court has reviewed the transcript and finds plea counsel thoroughly cross-examined the witnesses and argued the Applicant's confession was not voluntary. The Applicant has failed to articulate what else plea counsel could have done that would have resulted in the suppression of the confession.

This Court finds the Applicant failed to meet his burden of proving plea counsel said he would receive a ten (10) year sentence if he pled guilty. This Court notes both the Applicant and plea counsel testified there was a prior plea offer for ten (10) years. The Applicant testified that, after the Denno hearing, plea counsel said he would attempt to resurrect that prior plea offer. While the Applicant testified he was not aware he was pleading guilty without a recommendation (and that he thought he would receive a ten year sentence), this Court does not find this testimony credible. What this Court does find credible is plea counsel's testimony that he explained to the Applicant that he was pleading guilty without a sentence recommendation.

Further, this Court notes it was stated at the plea hearing that the Applicant was pleading guilty without a recommendation from the State and the Applicant did not object. (Plea transcript, p.85). See Holden v. State, 393 S.C. 565, 575, 713 S.E.2d 611, 616 (2011) (finding "any alleged deficiency in plea counsel's representation was cured by the plea colloquy"); Burnett v. State, 352 S.C. 589, 593-94, 576 S.E.2d 144, 246 (2003).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not

established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief is denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 4th day of June, 2012.



D. Garrison Hill
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

WITNESSES

David Weiner

Greenville County Sheriffs Office

7/14/2009

ARREST WARRANT NUMBER

1478626

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

LMM

007946

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2008

THE STATE

vs.

RYAN ANTONIO CHAPMAN

Indictment for

0026

ATTEMPTED ARMED ROBBERY

VIOLATION § 16-11-0330

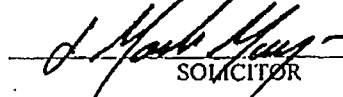
STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED ARMED ROBBERY

At a Court of General Sessions, convened on **APR 13 2010** the Grand Jurors of Greenville
County present upon their oath:

That RYAN ANTONIO CHAPMAN did in Greenville County, on or about the 11th day of July, 2009, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force or intimidation, goods or monies described as: money belonging to Burger King from the person or presence of Allen Ray Young, Jr., Alisha Wakefield, and/or Donald Seagraves. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

ARREST WARRANT

1-478626

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

09-110427

against

Ryan Antonio Chapman

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 8 Weight: 145DL State: SC DL #: DOB: Agency ORI #: SC0230000Prosecuting Agency: Greenville County Sheriffs OfficeProsecuting Officer: David Weiner - 0630Offense: Robbery / Attempted armed, or allegedly armed, robberyOffense Code: 0026Code/Ordinance Sec: 16-11-0330(B)This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant RYAN CHAPMAN on 7-14-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant David Weiner whobeing duly sworn deposes and says that defendant Ryan Antonio Chapmandid within this county and state on or about 07/11/2009 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) in the following particulars:DESCRIPTION OF OFFENSE Robbery / Attempted armed, or allegedly armed, robbery

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

In the early morning hours of 7-11-09 the defendant and a codefendant did plan and conspire to commit an armed robbery. The defendant and codefendant did approach several employees of the Burger King located at 6515 White Horse Rd. while they were exiting the business and locking the doors. The codefendant stated he was armed with a gun and demanded the night deposit. The employees did not have the deposit so the defendant and codefendant forced the employees back into the store, against their will, and into the back of the business. Once in the business the four employees were held against their will while the defendant and codefendant assaulted several employees. Eventually the defendant and codefendant left the business without any property of the victims or the business. The entire incident was captured on video surveillance. This defendant has given a written confession to this incident. This occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)467-5252

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/11/2009 defendant Ryan Antonio Chapman

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of GreenvilleDESCRIPTION OF OFFENSE: Robbery / Attempted armed, or allegedly armed, robbery

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 07/14/2009

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

(L.S.)

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-Judge's Telephone (864)467-5302Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 318

AFFIDAVIT

COMPUTER-ENTERED

JUL 15 2009
GREENVILLE COUNTY
SHERIFF'S OFFICE

④

WITNESSES

David Weiner

Greenville County Sheriffs Office

7/14/2009

ARREST WARRANT NUMBER

1478628

ACTION OF GRAND JURY

TRUE BILL

Ann Swerette

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23- LMM 007287

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2009

THE STATE

v5.

RYAN ANTONIO CHAPMAN

Indictment for

0095

KIDNAPPING

VIOLATION § 16-03-0910

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING

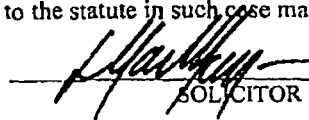
At a Court of General Sessions, convened on
County present upon their oath:

APR 13 2010

the Grand Jurors of Greenville

That RYAN ANTONIO CHAPMAN did in Greenville County, on or about the 11th day of July, 2009, unlawfully seize, abduct, confine, inveigle, decoy or carry away Allen Ray Young, Jr., Alisha Wakefield, and/or Donald Seagraves, without the authority of law. This is in violation of §16-03-0910 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

ARREST WARRANT

1-478628

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

09-110427

against

Ryan Antonio Chapman

Address:

1 Dr.

Greenville, SC 29617-

Phone: 864199

SSN:

Sex: M

Race: B

Height: 5

8

Weight: 145

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency:

Greenville County Sheriffs Office

Prosecuting Officer:

David Weiner - 0630

Offense:

Kidnapping / Kidnapping

Offense Code:

0095

Code/Ordinance Sec:

16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant RYAN CHAPMAN

on

7-14-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant David Weinerbeing duly sworn deposes and says that defendant Ryan Antonio Chapmandid within this county and state on or about 07/11/2009

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / KidnappingI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

In the early morning hours of 7-11-09 the defendant and a codefendant did plan and conspire to commit an armed robbery. The defendant and codefendant did approach several employees of the Burger King located at 6515 White Horse Rd, while they were exiting the business and locking the doors. The codefendant stated he was armed with a gun and demanded the night deposit. The employees did not have the deposit so the defendant and codefendant forced the four employees back into the store, against their will, and into the back of the business. Once in the business the four employees were held against their will while the defendant and codefendant assaulted several employees. Eventually the defendant and codefendant left the business without any property of the victims or the business. The entire incident was captured on video surveillance. This defendant has given a written confession to this incident. This occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee StreetGreenville, SC 29601-Affiant's Telephone (864)467-5252

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/11/2009defendant Ryan Antonio Chapman

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/☐ Municipality ofGreenvilleDESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his or her arrest, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 07/14/2009

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031Judge's Address 4 Mcgee Street, Room 116-BGreenville, SC 29601-Judge's Telephone (864)467-5302Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516

AFFIDAVIT

COMPUTER ENTERED

JUL 15 2009

GREENVILLE COUNTY
SHERIFF'S OFFICE