

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRAVIS LAMONT GATHERS,

APPELLANT

APPELLATE CASE NO 2018-001727

RECORD ON APPEAL

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State of South Carolina.,)	In the Court of General
)	Sessions for York
County of York.,)	Case No.: 2017-GS-46-04786
)	2017-GS-46-04787
)	2017-GS-46-04788
)	2017-GS-46-04789
)	2017-GS-46-04790

State of South Carolina.,)	
)	
Plaintiff.,)	
)	
-vs-)	Transcript of Record
)	
Travis Lamont Gathers.,)	
)	
Defendant.)	

August 21, 22, 23rd, 2018
York, South Carolina

B E F O R E:

The Honorable Daniel D. Hall, Judge, and a jury.

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INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON
PRETRIAL SUPPRESSION HEARING

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1 Hill Police Department on March 14th of 2017?

2 A. I was.

3 Q. And at that time you were not -- You are on the Drug
4 Unit now, correct?

5 A. Yes, ma'am.

6 Q. At that time you were -- Violent Crimes Unit?

7 A. Yes, ma'am.

8 Q. And you were not actually involved in the
9 investigation at the armed robbery location at First
10 Citizen?

11 A. No, ma'am.

12 Q. Never went there?

13 A. No, ma'am.

14 Q. But you were at Brittany Place Apartments which is
15 also located in Rock Hill later that night sometime after
16 nine o'clock?

17 A. Yes, ma'am.

18 Q. And why were you at Brittany Place Apartments?

19 A. I had been contacted by my lieutenant. Our criminal
20 investigation division had developed Mr. Gathers as a
21 suspect in an armed robbery along with the vehicle he was
22 believed to be driving at the time. And so we went to that
23 location which was believed to be his girlfriend's
24 residence where he may also be staying to look out for him
25 in trying to contact Mr. Gathers.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON
PRETRIAL SUPPRESSION HEARING

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1 Q. And did you actually make contact with Mr. Gathers
2 that night?

3 A. I did.

4 Q. And was that at the apartment complex?

5 A. Yes, ma'am.

6 Q. And was he driving the car fitting the description
7 that you were told he would be driving?

8 A. Yes, ma'am.

9 Q. And what was that?

10 A. It was a 2005 gold Ford Explorer.

11 Q. Was he the only occupant of that car?

12 A. He was.

13 Q. Did you actually stop him?

14 A. Mr. Gathers pulled into the parking complex and
15 parked his vehicle in a parking spot at which time I made
16 contact with him.

17 Q. What kind of car were you in at the time?

18 A. I was in a silver Nissan Altima.

19 Q. Any indication from how you dressed that you were law
20 enforcement?

21 A. Yes, ma'am. I had a badge visible at the time.

22 Q. Did you immediately identify yourself as law
23 enforcement to Mr. Gathers?

24 A. Yes, ma'am.

25 Q. And was anyone -- When you first made contact with Mr.

1 Gathers was anyone else with you?

2 A. Investigator Philson and Investigator -- Lieutenant
3 Culbreath.

4 Q. Were there when you first talked with him or did
5 they show up?

6 A. No, I initiated contact with him. Investigator
7 Philson was probably about ten seconds after me or so.

8 Q. So both Investigator Culbreath and Investigator
9 Philson were also in and around the area waiting for Mr.
10 Gathers to return home?

11 A. Yes, ma'am.

12 Q. Sort of detail your first few moments of conversation
13 with Mr. Gathers for the Court.

14 A. I made contact with Mr. Gathers, ask him if he had a
15 -- an ID card to identify himself or a driver's license.
16 He immediately -- Of course it was night time, I had my
17 flashlight out looking, using my flashlight to speak with
18 Mr. Gathers and also to see if there was anyone else in the
19 vehicle, or anything of weapons, or anything in plain view,
20 but noticed there was an open container of alcohol in the
21 rear passenger magazine holder for the passenger seat in
22 plain view. And Mr. Gather's I believe gave me his
23 driver's license at that time.

24 Q. And so you saw an open container in plain view. Mr.
25 Gather's gave his driver's license. At this point he was

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON
PRETRIAL SUPPRESSION HEARING

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1 cooperative?

2 A. Yes, ma'am.

3 Q. And also at this point give the information that was
4 provided to you by CID that he was involved in an armed
5 robbery, so reason to believe that he could have a weapon
6 in his possession?

7 A. Yes, ma'am.

8 Q. Is that correct?

9 A. Yes, ma'am.

10 Q. After he gave you the ID, did you get him out of the
11 car?

12 A. Yes, I requested he step out of the vehicle and speak
13 with me.

14 Q. At that point did you do a Terri frisk of his person?

15 A. Yes, ma'am. I did ask Mr. Gathers if he had an issue
16 - if he had any weapons on him; if he had an issue -- if he
17 minded that I check to make sure he didn't have any weapons
18 on his person. He stated that he did not. And I also ask
19 him if he minded if I reach into his pockets and search his
20 pockets.

21 Q. And you did not find any weapons or any drugs or
22 anything on his person?

23 A. No, ma'am.

24 Q. Do you remember if he had any money?

25 A. I believe he did have some cash money in his pockets.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON
PRETRIAL SUPPRESSION HEARING

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1 Q. But you did not take possession of that cash?

2 A. No, ma'am.

3 Q. And at this point Investigator Culbreath and
4 Investigator Philson are on scene; is that correct?

5 A. Yes, ma'am.

6 Q. Did you ask for consent to search the vehicle?

7 A. Yes, ma'am.

8 Q. And were you given consent?

9 A. No, ma'am.

10 Q. Eventually you did search the vehicle?

11 A. Yes, ma'am.

12 Q. And what was the reasons for that search?

13 A. The first reason for the open container of alcohol
14 inside the vehicle; searched for any other open containers
15 of alcohol. And then the second was we were aware that Mr.
16 Gathers was on parole at the time. Lieutenant Culbreath at
17 that time contacted Dwight Burns with the Department of
18 Probation and Parole, Director for the county, and spoke
19 with him about the situation and gave us permission at that
20 time to search the vehicle.

21 Q. And Mr. Gathers also admitted to being on parole at
22 that time?

23 A. Yes, ma'am.

24 Q. And after confirming with Dwight Burns that -- that it
25 is lawful to for law enforcement to search a person who is

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON
PRETRIAL SUPPRESSION HEARING

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1 on parole, did you being a search of the car?

2 A. Yes, ma'am.

3 Q. And what did you find during your search?

4 A. Located a stack of cash. I think it was roughly
5 eleven hundred dollars.

6 Q. Now did you actually count it then?

7 A. No, I did not no, ma'am.

8 Q. So you just saw it --

9 A. It was -- Yeah, ---

10 Q. So you just saw cash?

11 A. --- just visually a stack of cash; folded up cash in
12 between the center console and the passenger seat. And
13 then there was a bill, a currency bill in the center
14 console in a cup holder that had some cocaine inside of it
15 roughly about a half of gram I believe. And then in the
16 rear passenger seat magazine holder there was a Newport
17 carton of cigarettes. No cigarettes inside but it was just
18 an empty carton which at the time believed to be crack
19 cocaine. I believe it tested as cocaine.

20 Q. Do you remember if that was the only pack of Newports
21 in the car?

22 A. There was another pack also.

23 Q. And that had cigarettes in it?

24 A. Yes, ma'am.

25 Q. And did Mr. Gathers make any statements about the

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH
PRETRIAL SUPPRESSION HEARING

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1 A. He was still seated in his vehicle.

2 Q. Right. And you ask him for identification, ---

3 A. Yes, sir.

4 Q. --- right? And he provided you with that
5 identification?

6 A. Yes, sir.

7 Q. And then you did ask him to step out of his vehicle?

8 A. Yes, sir.

9 Q. And you ask if you could search him for weapons?

10 A. Yes, sir.

11 Q. And you had him face the vehicle, right?

12 A. Yes, sir.

13 Q. And you searched him for weapons?

14 A. Yes, sir.

15 Q. And you didn't find any weapons?

16 A. No, sir.

17 Q. And at some point after that is when the other
18 investigators came up, right, Philson and Culbreath?

19 A. Yes, sir.

20 Q. And at that point in time you had not located a
21 weapon?

22 A. No, sir.

23 Q. You had not located any narcotics?

24 A. No, sir.

25 Q. You were just doing what you had been told to do in

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH
PRETRIAL SUPPRESSION HEARING

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1 Mr. Gathers was also a suspect and I was the investigating
2 officer on those but because I worked back in criminal
3 investigations I was familiar with those cases.

4 Q. When you say you're familiar though, what specific
5 facts in any of those cases would you say linked Mr.
6 Gathers to any particular case?

7 A. The vehicle matched his vehicle that was used or the
8 vehicle that was used at the armed robbery also matched the
9 same vehicle description that was used at a robbery at
10 Lebo's in Rock Hill. And then some of the surveillance cam
11 footage at the various armed robbery locations matched the
12 physical description of Mr. Gathers also.

13 Q. Okay. Well let's talk about the vehicle first.

14 You're aware that in this case the vehicle description
15 was a white SUV?

16 A. Yes, sir.

17 Q. Not a 2005 Ford Explorer, right?

18 A. I know that was the vehicle that was stopped was a
19 2005 ---

20 Q. Right.

21 A. --- Ford Explorer.

22 Q. But the vehicle description was a white SUV?

23 A. Yes, sir.

24 Q. So when you talking about a specific fact that you
25 could point to as to why this vehicle needed to be stopped,

1 it was a light SUV that was reported from the armed
2 robbery?

3 A. Okay.

4 Q. And when you say that Mr. Gathers matched the physical
5 description, in what way did he match the physical
6 description? What specifics?

7 A. Height and weight from the video surveillance. We
8 knew that Mr. Gather's girlfriend had a vehicle that
9 matched the description in some previous armed robberies,
10 and that was what I was told that day that it was a similar
11 vehicle description that was involved in the First Citizen
12 bank robbery. The document said height, weight,
13 description, race, what not.

14 Q. So when you say height and weight, what height and
15 weight were you aware of?

16 A. Similar that would match Mr. Gathers.

17 Q. Average size black male?

18 A. Five ten, hundred and eighty, ninety pounds.

19 SOLICITOR SHELTON: Your Honor, I'm going to object.
20 He's not their -- Allen Canty is here, basically what these
21 witnesses relate to is we have developed Travis Gather's as
22 a suspect. Based on our investigation he lives at this
23 address drives this type of car. The details of what those
24 things are that led CID to believe that Mr. Gather's was a
25 suspect could be better testified to by Investigator Canty.

1 side?

2 MR. BARROWCLOUGH: Yes, sir, your Honor.

3 THE COURT: Any objection to any of the questions?

4 SOLICITOR SHELTON: No, sir, your Honor.

5 MR. BARROWCLOUGH: No, sir, your Honor.

6 THE COURT: I'll ask all of those in some form or
7 fashion.

8 MR. BARROWCLOUGH: Thank you, your Honor.

9 (WHEREUPON, JURY ENTERS COURTROOM 11:37 AM.)

10 THE COURT: Ladies and gentlemen, thank you for your
11 patience this morning. We are -- Well let me do this.

12 Solicitor, lets on the record again call your case.

13 SOLICITOR SHELTON: Yes, your Honor.

14 Your Honor, the State at this time would call *State*
15 *versus Travis Lamont Gathers* for the charges of possession
16 with intent to distribute cocaine Indictment No. 2017-GS-
17 46-0-4-7-8-6. And armed robbery and possession of a weapon
18 during in the commission of a violent crime Indictments No.
19 2017-GS-46-0-4-7-9-0 and 0-4-7-9-0(A).

20 THE COURT: All right. Ladies and gentlemen of the
21 jury panel, we're about to begin this trial the *State*
22 *versus Travis Lamont Gathers*. There are several questions
23 I need to ask you before we get started to determine your
24 qualifications to serve on this particular jury. As I
25 instructed you yesterday there's three parts to jury

1 qualifications, this is the third part which we call voir
2 dire and we're gonna ask you some specific questions about
3 your fitness to serve on this particular case.

4 Representing the State is Assistant Solicitor Misti
5 Shelton. Mrs. Shelton, if you would introduce yourself and
6 your co-counsel.

7 SOLICITOR SHELTON: Misti Shelton with the York County
8 Solicitor's office. Co-counsel is Sharon Ohayon also with
9 the York County Solicitor's office.

10 THE COURT: Representing Mr. Travis Gathers is BJ
11 Barrowclough. Mr. Barrowclough, if you'd introduce
12 yourself, your client, and your co-counsel.

13 MR. BARROWCLOUGH: Yes, sir. My name is BJ
14 Barrowclough with the York County Public Defender's office.
15 My co-counsel is Mr. Phil Smith also with the York County
16 Public Defender office. And this is our client Travis
17 Gathers.

18 THE COURT: All right, thank you. You may be seated.

19 Is there any member of the jury panel ever been
20 represented by any of the attorneys that have just been
21 introduced to you, or, have a close personal business, or,
22 professional relationship with either the attorneys present
23 here in the courtroom, or, any attorneys in the Public
24 Defender's office, or, the Solicitor's Office in York; if
25 so, please stand?

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1 Thank you. No one stands.

2 SOLICITOR SHELTON: Your Honor, you may need to ask
3 that question again just to --

4 THE COURT: All right. I'll divide it up. Any member
5 of the jury panel have a close business, personal, or
6 professional relationship with any attorney that works in
7 the York County Solicitor's office?

8 (WHITE MALE STANDS.)

9 THE COURT: Yes, sir, your number?

10 A. 221.

11 THE COURT: All right. Help me pronounce your last
12 name.

13 JUROR 221: Wacaster.

14 THE COURT: Mr. Wacaster. And who do you know?

15 MR. WACASTER: Mrs. Shelton.

16 THE COURT: All right. The fact that you know Mrs.
17 Shelton would that affect your ability to be fair and
18 impartial to the state, or, the defense in this case?

19 MR. WACASTER: Yes. We're pretty close.

20 THE COURT: All right. Then I'm gonna excuse you in
21 this particular case. You can just have your seat and stay
22 with us.

23 Let me, the other part of that question, is there any
24 member of the jury panel have a close business or personal
25 relationship with any of the attorneys, Mr. Barrowclough,

1 or Mr. Smith, or any attorney that work in the York County
2 Public Defender's Office; if so, please stand?

3 Thank you. No one stands.

4 Has any member of the jury panel either presently or
5 in the past ever been employed by or volunteered with any
6 city, county, state, or federal law enforcement agency, or
7 law enforcement's Victim Witness Assistance Program? If
8 you've been employed by law enforcement in any form or
9 fashion in the past, or presently, please stand?

10 Thank you. No one stands.

11 Is there any member of the jury panel related by blood
12 or marriage, or close personal friends with any person
13 who's now employed, or, volunteered with any city, state,
14 or federal law enforcement agency, or the court? In other
15 words if you're kin or related to law enforcement officers,
16 have friends that are law enforcement officers, or someone
17 who works in the court system on any type of law
18 enforcement; if so, please stand?

19 Let's see, we'll start here on my left on the front.

20 Your number?

21 (WHITE FEMALE STANDS.)

22 A. 96.

23 THE COURT: I'm sorry.

24 A. 96.

25 THE COURT: All right. Ms. Hoover.

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1 MS. HOOVER: Yes, sir.

2 THE COURT: Ans what is your -- Who do you know?

3 MS. HOOVER: Buddy Brown and Heath Clevenger.

4 THE COURT: All right. The fact that you know them,
5 would that affect your ability to be fair and impartial to
6 both the state and the defense in this case?

7 MS. HOOVER: No, sir.

8 THE COURT: Okay, thank you. You may be seated.

9 (WHITE MALE STANDS.)

10 THE COURT: Yes, sir, on the front. Your number.

11 A. 174. I know Steve Gozzy from -- he's a sheriff in
12 Conway County.

13 THE COURT: In Caldwell County?

14 JUROR 174: Conway. Or Conway.

15 THE COURT: I'm sorry. In Conway, Horry County.

16 The fact that you know a sheriff's deputy in Horry
17 County would that affect your ability to be fair and
18 impartial in this case?

19 JUROR 174: Yes, I believe it would.

20 THE COURT: All right. You're excused. Please be
21 seated.

22 (WHITE MALE STANDS.)

23 THE COURT: Your number?

24 A. 112, your Honor.

25 THE COURT: Is it Koehl?

1 JUROR 112: Yes, sir.

2 THE COURT: Yes, sir.

3 JUROR 112: I'm good friends with a David Dawson.
4 He's a FBI agent.

5 THE COURT: Would that fact effect your ability to be
6 fair and impartial to both the state and the defense in
7 this case?

8 JUROR 112: No, your Honor.

9 THE COURT: Thank you. You may be seated.

10 (WHITE FEMALE STANDS.)

11 THE COURT: Yes, ma'am. Yes, ma'am, on my left, your
12 number.

13 A. 6.

14 THE COURT: Yes, Ms. Archie.

15 JUROR 6: There's several different ones. Scott
16 Bennett is with the State Troopers, Philip Aldridge is with
17 the York County Sheriff's Department, and Jonathan Hughes
18 is with the state transport police.

19 THE COURT: All right, the fact that you know them
20 would that affect your ability to be fair and impartial to
21 both the defense and the state in this case?

22 JUROR 6: No, it would not.

23 THE COURT: Thank you. You may be seated.

24 (WHITE FEMALE STANDS.)

25 THE COURT: Yes, ma'am, your number?

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1 A. 13.

2 THE COURT: Yes, Ms. Blair.

3 JUROR 13: I know Detective Joey Wallace and Justin
4 Moore.

5 THE COURT: What that fact affect your ability to be
6 fair and impartial to both parties in this case?

7 JUROR 13: No, sir.

8 THE COURT: Thank you. You may be seated.

9 (WHITE FEMALE STANDS.)

10 THE COURT: Yes, ma'am, on the front. Your number?

11 A. 144. I have a second cousin with the FBI out of
12 Charlotte, Chris Williams.

13 THE COURT: Would that fact affect your ability to be
14 fair and impartial to both the state and the defense in
15 this case?

16 JUROR 144: No.

17 THE COURT: You may be seated. Thank you.

18 (BLACK FEMALE STANDS.)

19 THE COURT: Yes, ma'am, your number?

20 A. 193. I know Twana Burris out of Rock Hill.

21 THE COURT: I'm sorry, who?

22 JUROR 193: Twana Burris.

23 THE COURT: And she is an attorney in Rock Hill.

24 Would that fact affect your ability to be fair and
25 impartial to both the state and the defense in this case?

1 JUROR 193: No, sir.

2 THE COURT: Thank you. You may be seated.

3 (WHITE MALE STANDS.)

4 THE COURT: Yes, sir, your number?

5 A. 245. And friends with Steve Bennett of the Fort Mill
6 Police Department.

7 THE COURT: Would that fact affect your ability to be
8 both fair and impartial to both the state and the defense
9 in this case?

10 JUROR 245: No, sir. Also in addition, my neighbor
11 and friend Greg Belcher is -- I'm not sure what his -- He's
12 law enforcement but he's not full-time law enforcement.

13 THE COURT: All right. Would you be able to be fair
14 and impartial to both parties in this case?

15 JUROR 245: Yes, sir.

16 THE COURT: Thank you. You may be seated.

17 (WHITE MALE STANDS.)

18 THE COURT: Yes, sir, your number?

19 A. 29.

20 THE COURT: Yes, Mr. Campbell.

21 JUROR 29: Tommy Pope.

22 THE COURT: And would the fact that you know Mr. Pope
23 would that affect your ability to be fair and impartial to
24 both parties in this case?

25 JUROR 29: No.

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1 THE COURT: Thank you. You may be seated.

2 (WHITE MALE STANDS.)

3 THE COURT: Yes, sir, your number.

4 A. 56. My uncle was a sheriff's deputy in Orangeburg,
5 Phil Large, and then I know a handful of sheriff's deputies
6 in York County.

7 THE COURT: All right, would that fact affect your
8 ability to be fair and impartial for both parties in this
9 case?

10 JUROR 56: No, sir.

11 THE COURT: Thank you, you may be seated.

12 Has any member of the jury panel either presently or
13 in the past ever been employed by, or volunteered with any
14 city, county, state, or federal prosecutor's office, or
15 prosecutor's Victim Witness Assistance Program; if so,
16 please stand?

17 Thank you. No one stands.

18 Is any member of the jury panel ever contributed to,
19 or volunteered time with Mother's Against Drunk Driving,
20 Students Against Drunk Driving, Citizen Against Violence
21 everywhere, or Victim Witness Assistance Program, or any
22 other organization that lobbies on behalf of victims for
23 tougher sentences for criminal offenders; if so, please
24 stand? In other words, if you had any relationship or
25 contributed to MADD, SADD, CAV, or other similar type.

1 (WHITE FEMALE STANDS.)

2 THE COURT: Yes, ma'am, your number?

3 A. Yes, MADD.

4 THE COURT: And your --

5 A. 144.

6 THE COURT: All right. And would the fact that you
7 contributed to MADD, would that fact affect your ability to
8 be fair and impartial to both the state and the defense in
9 this case?

10 JUROR 144: No.

11 THE COURT: Thank you. You may be seated.

12 Has any member of the jury panel ever contributed
13 money to the Fraternal Order of Police, or the South
14 Carolina Law Enforcement Officer's Association, or any law
15 enforcement organization, or an organization which supports
16 the police or law enforcement? If you contributed to
17 Fraternal Order of Police or South Carolina Law Enforcement
18 Officer's Association; if so, please stand?

19 (WHITE MALE STANDS.)

20 THE COURT: Yes, sir, your number again?

21 A. It's 245.

22 THE COURT: And to whom have you contributed?

23 JUROR 245: I have contributed to the Fraternal Order
24 of Police. My last contribution was probably eight years
25 ago.

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1 THE COURT: Would that fact affect your ability to be
2 fair and impartial in this case?

3 JUROR 245: No, sir.

4 THE COURT: Thank you. You may be seated.

5 (BLACK MALE STANDS.)

6 THE COURT: Yes, sir, your number?

7 A. Number 67.

8 THE COURT: Mr. Frazier?

9 JUROR 67: Yes.

10 THE COURT: Yes. And who have you contributed to?

11 JUROR 67: Fraternal Order of Police last year.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial to both the state and the defense in
14 this case?

15 JUROR 67: No, sir.

16 THE COURT: Thank you. You may be seated.

17 (WHITE MALE STANDS.)

18 THE COURT: Yes, sir, tell me your number again.

19 A. 112, sir.

20 THE COURT: Mr. Koehl.

21 JUROR 112: Yes, sir. Fraternal Order of Police in
22 Pennsylvania. Actually I used to live in Pittsburgh,
23 multiple times.

24 THE COURT: Would that fact affect your ability to be
25 fair and impartial to both the state and the defense in

1 this case?

2 JUROR 112: No, your Honor.

3 THE COURT: Thank you. You may be seated.

4 Does any member of the jury panel believe that the
5 police arrest a person that that person is probably guilty
6 of something; if so, please stand?

7 Thank you. No one stands.

8 Does any member of the jury panel have strong feelings
9 about the use, abuse, and or the selling of illegal drugs?
10 If you have strong feelings about that; if so, please
11 stand?

12 Thank you. No one stands.

13 Has any member of the jury panel ever had any personal
14 experience or been friends with a family member with a drug
15 addiction; if so, please stand?

16 I know some of you have already stood before but
17 you're gonna still need to give us your numbers again.

18 And I'll start here on my right this time.

19 Your number?

20 (BLACK FEMALE STANDS.)

21 A. 193.

22 THE COURT: I'm sorry.

23 A. 193.

24 THE COURT: Yes, Ms. Smith.

25 JUROR 193: Yes, sir.

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1 THE COURT: Would that fact affect your ability to be
2 fair and impartial in this case?

3 JUROR 193: No, sir.

4 THE COURT: Thank you. You may be seated.

5 (WHITE MALE STANDS.)

6 THE COURT: Your number again?

7 A. 245. My sister-in-law.

8 THE COURT: Would that fact affect your ability to be
9 fair and impartial in this case?

10 JUROR 245: No, sir.

11 THE COURT: All right. Thank you.

12 (WHITE FEMALE STANDS.)

13 THE COURT: On my right. Yes, ma'am, your number?

14 A. 163.

15 THE COURT: And I'm not asking you to go into details
16 about that but just tell me what relationship you have with
17 the person who had that issue.

18 JUROR 163: A distant ex-boyfriend.

19 THE COURT: Would that fact affect your ability to be
20 fair and impartial in this case?

21 JUROR 163: No, sir.

22 THE COURT: Thank you.

23 (WHITE FEMALE STANDS.)

24 THE COURT: Yes, ma'am, on my right.

25 A. Step-brother.

1 THE COURT: And your number?

2 A. 179.

3 THE COURT: Would that fact affect your ability to be
4 fair and impartial?

5 JUROR 179: No, sir.

6 THE COURT: Thank you. You may be seated.

7 (BLACK FEMALE STANDS.)

8 THE COURT: Yes, ma'am.

9 A. 41.

10 THE COURT: And whom?

11 JUROR 41: My son.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial in this case?

14 JUROR 41: No, sir.

15 THE COURT: Thank you.

16 (WHITE MALE STANDS.)

17 THE COURT: Yes, sir, your number.

18 A. 238.

19 THE COURT: And to whom?

20 JUROR 238: My nephews.

21 THE COURT: Would that fact affect your ability to be
22 fair and impartial in this case?

23 JUROR 238: No, sir.

24 THE COURT: Thank you. You may be seated.

25 (WHITE MALE STANDS.)

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1 THE COURT: Yes, sir.

2 A. 29.

3 THE COURT: I'm sorry.

4 A. 29.

5 THE COURT: Yes. And your relationship?

6 JUROR 29: Son.

7 THE COURT: Would that fact affect your ability to be
8 fair and impartial in this case?

9 JUROR 29: No, sir.

10 THE COURT: Thank you. You may be seated.

11 (WHITE MALE STANDS.)

12 THE COURT: Yes, sir, your number.

13 A. 230. My sister-in-law.

14 THE COURT: Would that fact affect your ability to be
15 fair and impartial in this case?

16 JUROR 230: No.

17 THE COURT: Thank you. You may be seated.

18 (WHITE MALE STANDS.)

19 THE COURT: Yes, sir, your number?

20 A. 115. My cousin.

21 THE COURT: Can you be fair and impartial in this
22 case?

23 JUROR 115: Yes, sir.

24 THE COURT: Thank you.

25 (WHITE MALE STANDS.)

1 A. 112. Yes.

2 THE COURT: Yes.

3 JUROR 112: And my aunt.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial in this case?

6 JUROR 112: No, your Honor.

7 THE COURT: Thank you. You may be seated.

8 (WHITE FEMALE STANDS.)

9 THE COURT: Yes, ma'am.

10 A. 13. My half brother.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial in this case?

13 JUROR 13: No, sir.

14 THE COURT: Thank you.

15 (WHITE FEMALE STANDS.)

16 THE COURT: Yes, ma'am.

17 A. 87. Brother.

18 THE COURT: Your brother?

19 JUROR 87: Yes.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial in this case?

22 JUROR 87: No, sir.

23 THE COURT: Thank you. You may be seated.

24 Has any member of the jury panel ever personally been
25 the victim of a robbery; if so, please stand?

1 (WHITE FEMALE STANDS.)

2 THE COURT: All right. Yes, ma'am. Your number?

3 A. 195.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial in this case?

6 JUROR 195: No, sir.

7 THE COURT: Thank you. You may be seated.

8 (WHITE FEMALE STANDS.)

9 THE COURT: Yes, ma'am.

10 A. 6.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial in this case?

13 JUROR 6: No, your Honor.

14 THE COURT: Thank you.

15 (WHITE MALE STANDS.)

16 THE COURT: Yes, sir, your number?

17 A. 183.

18 THE COURT: All right. Would the fact that you've
19 been a victim of a robbery, that you have been --
20 personally been the victim of a robbery would that affect
21 your ability to be fair and impartial in this case?

22 JUROR 183: No, sir.

23 THE COURT: Thank you. We'll start at the back then.

24 (WHITE MALE STANDS.)

25 A. 26.

1 THE COURT: 26?

2 JUROR 26: Yes, sir.

3 THE COURT: Would that fact affect your ability to be
4 fair and impartial?

5 JUROR 26: No, sir.

6 THE COURT: Thank you.

7 (BLACK FEMALE STANDS.)

8 THE COURT: Yes, ma'am, your number?

9 A. 193.

10 THE COURT: Would that fact affect your ability to be
11 fair and impartial in this case?

12 JUROR 193: No, your Honor.

13 THE COURT: Thank you.

14 (WHITE MALE STANDS.)

15 THE COURT: Your number?

16 A. 149.

17 THE COURT: Yes, sir. Would that fact affect your
18 ability to be fair and impartial in this case?

19 JUROR 149: No, your Honor.

20 THE COURT: Thank you. You may be seated.

21 Does any member of the jury panel have any family
22 member or close friend who has been the victim of a robbery
23 then please stand?

24 (WHITE FEMALE STANDS.)

25 THE COURT: Yes, ma'am, your number?

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1 A. 146.

2 THE COURT: In light of that would you be able to be
3 fair and impartial in this case?

4 JUROR 146: Yes.

5 THE COURT: Thank you.

6 (WHITE FEMALE STANDS.)

7 THE COURT: Yes, ma'am, and your number again.

8 A. 6

9 THE COURT: You know, I know you're getting tired of
10 me asking your number again but we have to make a complete
11 record. Yes, ma'am, would that fact affect your ability to
12 be fair and impartial?

13 A. No, your Honor.

14 THE COURT: All right. Thank you.

15 (WHITE FEMALE STANDS.)

16 THE COURT: Yes, ma'am.

17 A. 13.

18 THE COURT: Would that fact affect your ability to be
19 fair and impartial?

20 JUROR 13: No, sir.

21 THE COURT: Thank you.

22 (BLACK FEMALE STANDS.)

23 THE COURT: Yes, ma'am, your number?

24 A. 63.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial in this case?

2 JUROR 63: No, sir.

3 THE COURT: Thank you, you may be seated.

4 (WHITE FEMALE STANDS.)

5 A. 187. No, sir.

6 THE COURT: Would that fact affect your ability to be
7 fair and impartial in this case?

8 JUROR 187: No, sir.

9 THE COURT: Thank you.

10 (BLACK FEMALE STANDS.)

11 THE COURT: Yes, ma'am.

12 A. 175.

13 THE COURT: The fact that you've got a friend that's
14 been a victim of a robbery would that affect your ability
15 to be fair and impartial in this case?

16 JUROR 175: No, sir.

17 THE COURT: Thank you.

18 (WHITE MALE STANDS.)

19 A. 183.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial in this case?

22 JUROR 183: No, sir.

23 THE COURT: Thank you, you may be seated.

24 Does any member of the jury panel bank at First
25 Citizen's Bank; if so, please stand?

1 (WHITE FEMALE STANDS.)

2 THE COURT: Yes, ma'am, your number?

3 A. 160.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial in this case?

6 JUROR 160: No, sir.

7 THE COURT: Thank you.

8 (WHITE FEMALE STANDS.)

9 THE COURT: Yes, ma'am, your number again.

10 A. 144.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial in this case?

13 JUROR 144: No.

14 THE COURT: Thank you. Does any member of the jury
15 panel have a close friend or family member who works as
16 a bank teller; if so, please stand?

17 (WHITE FEMALE STANDS.)

18 THE COURT: Yes, ma'am, your number again?

19 A. 6.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial in this case?

22 JUROR 6: No, your Honor.

23 THE COURT: Thank you.

24 (WHITE MALE STANDS.)

25 A. 112, sir.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial?

3 JUROR 112: No, your Honor.

4 THE COURT: Thank you.

5 (WHITE FEMALE STANDS.)

6 A. 144. She's a branch manager.

7 THE COURT: Would that fact affect your ability to be
8 fair and impartial in this case?

9 JUROR 144: No, sir.

10 (WHITE FEMALE STANDS.)

11 THE COURT: Yes, ma'am.

12 A. 187. I am personably employed by a bank institution.

13 THE COURT: Would that fact affect your ability to be
14 fair and impartial in this case?

15 JUROR 187: It might, yeah.

16 THE COURT: All right. Again, your number?

17 JUROR 187: 187.

18 THE COURT: All right, we will excuse you in this
19 particular case. Just stay with us.

20 (WHITE MALE STANDS.)

21 THE COURT: And your number?

22 A. 56.

23 THE COURT: Yes, sir.

24 JUROR 56: No, not a bit.

25 THE COURT: All right. You can be fair and impartial

1 in this case?

2 JUROR 56: Yes, sir.

3 THE COURT: Thank you. You may be seated.

4 Has any member of the jury panel or your immediate
5 family member ever been arrested for an offense involving
6 allegations of theft or robbery? If you or a family member
7 have been arrested for allegations of theft or robbery,
8 then please stand?

9 (WHITE FEMALE STANDS.)

10 THE COURT: Yes, ma'am, your number again?

11 A. 6.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial?

14 JUROR 6: No, your Honor.

15 THE COURT: Thank you.

16 (BLACK FEMALE STANDS.)

17 THE COURT: Yes, ma'am, your number?

18 A. 63.

19 THE COURT: Would that fact affect your ability to be
20 fair and impartial?

21 JUROR 63: No, sir.

22 THE COURT: Thank you.

23 (BLACK MALE STANDS.)

24 THE COURT: Yes.

25 A. 241.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial?

3 JUROR 241: No, your Honor.

4 THE COURT: Thank you.

5 (WHITE MALE STANDS.)

6 THE COURT: Yes, sir.

7 A. 245.

8 THE COURT: Would that fact affect your ability to be
9 fair and impartial?

10 JUROR 245: No, sir.

11 THE COURT: Thank you.

12 (WHITE MALE STANDS.)

13 THE COURT: Yes, your number?

14 A. 155.

15 THE COURT: Would that fact affect your ability to be
16 fair and impartial?

17 JUROR 155: No, your Honor.

18 THE COURT: Thank you.

19 (BLACK FEMALE STANDS.)

20 THE COURT: Yes, ma'am, your number again.

21 A. 193.

22 THE COURT: Would that fact affect your ability to be
23 fair and impartial?

24 JUROR 193: No, your Honor.

25 THE COURT: Thank you.

1 (BLACK FEMALE STANDS.)

2 THE COURT: Yes, ma'am.

3 A. 41.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial?

6 JUROR 41: No.

7 THE COURT: Thank you. You may be seated.

8 Is there any member of the jury panel have any beliefs
9 religious or otherwise that prevents you from rendering
10 judgment against another person; if so, please stand?

11 Thank you. No one stands.

12 The allegation in these indictments allege that this
13 happened on or about March the 14th of 2017 in York County
14 at a First Citizen Bank on March 14th, 2017. Is there any
15 member of the jury panel that has any knowledge of this
16 incident or formed or expressed any opinion about any
17 matter in this case; if so, please stand?

18 Thank you. No one stands.

19 Is there any member of the jury panel that's aware of
20 any bias or prejudice toward either the state or the
21 defendant in this case; if so, please stand?

22 Thank you. No one stands.

23 Is there any member of the jury panel that knows of
24 any reason whatsoever why he or she should not serve as a
25 juror in this case with particular emphasis being placed on

1 their ability to be fair and impartial to both the state
2 and the defendant; if so, please stand?

3 Thank you. No one stands.

4 Anything further from the State?

5 SOLICITOR SHELTON: Nothing from the State, your
6 Honor.

7 THE COURT: From the Defense?

8 MR. BARROWCLOUGH: Your Honor, I didn't know if the
9 Court wanted to inform the jury pool of the list of
10 witnesses.

11 THE COURT: I'm sorry. Thank you.

12 I'm gonna read a list of potential witnesses in this
13 case. There is a number on here, I'll probably go in about
14 ten names at a time, and after I read those names my
15 question for you, if you have a close personal, business or
16 professional relationship with any of these individuals
17 whose names that I call I'm gonna ask that you stand.

18 Sergeant Allen Canty from Rock Hill P.D.; Detective
19 Ryan Thomas, Rock Hill P.D.; Lieutenant Will Rivera, Rock
20 Hill P.D.; Investigator Daniel Popov, Rock Hill P.D.;
21 Investigator Arthur Philson from Rock Hill P.D.; Lieutenant
22 Carlos Culbreath, Rock Hill P.D.; Investigator Luke Boling,
23 Rock Hill P.D.; Investigator Allyson Elman, Rock Hill P.D.

24 Anyone related by blood or marriage, or have a close
25 business or professional relationships with any of those

1 potential witnesses then please stand?

2 (WHITE MALE STANDS.)

3 THE COURT: Yes, sir, your number?

4 A. 182.

5 THE COURT: And who do you know, sir?

6 JUROR 182: I work for the city of Rock Hill and I
7 know Philson fairly well.

8 THE COURT: All right. And what's your roll at the
9 city of Rock Hill?

10 JUROR 182: I am the operations director for the city
11 of Rock Hill and Parks and Recreation Tourism Department.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial to both the State and the Defense in
14 this case?

15 JUROR 182: No, sir.

16 THE COURT: Thank you. You may be seated.

17 (WHITE MALE STANDS.)

18 THE COURT: Yes, sir, your number?

19 A. 115.

20 THE COURT: And who do you know?

21 JUROR 115: Most of the Rock Hill guys. I work for
22 the city of Rock Hill as a fireman.

23 THE COURT: Would that fact affect your ability to be
24 fair and impartial to both the state and the defense in
25 this case?

1 JUROR 115: No, sir.

2 THE COURT: Thank you. You may be seated.

3 Investigator John George from Rock Hill P.D.,
4 Investigator Rebecca Kilburg Rock Hill P.D.; Investigator
5 Brandon Avidon Rock Hill P.D.; Becky Pryor from Rock Hill
6 P.D.; Scottie Marsengill from Rock Hill P.D.; Kevin
7 Sullivan from Winthrop Police Department; Brian Bagwell
8 with the York County Forensic Services Unit.

9 Is anyone related by blood or marriage, have a close
10 business or professional relationship with any of those
11 individuals then please stand?

12 Thank you. No one stands.

13 Detective Kris Quate from Rock Hill P.D.; Mike
14 Smothers, Jessica McNabb, Barbara Aiton, Leena Reeder,
15 Corey Bell; Bob Wetherell; if anyone related by blood or
16 marriage, or have a close business or professional
17 relationship with any of those individuals then please
18 stand?

19 Thank you. No one stands.

20 Kayla Brown, Germaine Cogman, Ulonda Myles,
21 Investigator Jim Lubben, Larry Zivkovich from SLED; Tom
22 Slavinski; Pat Keifer, anyone related by blood or marriage
23 or have a close personal or business relationship with any
24 of those individuals then please stand?

25 Thank you. No one stands. All right.

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1 Thank you, Mr. Barrowclough, anything else?

2 MR. BARROWCLOUGH: No, sir, your Honor.

3 THE COURT: All right. Madam Clerk, give us a jury.

4 Let me do this. Let's take just about five minutes,
5 y'all look at your list.

6 And, ladies and gentlemen, we're gonna just be at ease
7 for about five minutes. I'm gonna give the attorneys the
8 opportunity to look at the list that's been provided to
9 them by the Clerk of Court, and we'll proceed in about five
10 minutes.

11 (COURT AT EASE AT 12:05 P.M.)

12 THE COURT: Madam Clerk, give us a jury. The strikes
13 are five and ten, we need two alternates.

14 MADAM CLERK: If your name is called, please bring any
15 personal belongings that you have and come stand by the
16 bailiff.

17 Juror 162, Trent Poling.

18 (WHITE MALE COMES FORWARD.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR SHELTON: Please present this juror.

21 MADAM CLERK: Defense?

22 MR. BARROWCLOUGH: Please swear the juror.

23 MADAM CLERK: Please have a seat in the jury box.

24 27, Randy Burton.

25 (WHITE MALE COMES FORWARD.)

1 MADAM CLERK: What say you for the State?

2 SOLICITOR SHELTON: Please present this juror.

3 MADAM CLERK: Defense?

4 MR. BARROWCLOUGH: Please excuse the juror.

5 MADAM CLERK: Please have a seat. You've been excused
6 from this case.

7 183, Christopher Sheppard.

8 (WHITE MALE COMES FORWARD..)

9 MADAM CLERK: What say you for the State?

10 SOLICITOR SHELTON: Please present this juror.

11 MADAM CLERK: Defense?

12 MR. BARROWCLOUGH: Please swear the juror.

13 THE COURT: Please have a seat in the jury box.

14 177, Ivan Salmond.

15 (WHITE MALE COMES FORWARD.)

16 MADAM CLERK: What say you for the State?

17 SOLICITOR SHELTON: Please present this juror.

18 MADAM CLERK: Defense?

19 MR. BARROWCLOUGH: Please swear the juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 205, Daniel Targett.

22 (WHITE MALE COMES FORWARD.)

23 MADAM CLERK: What say you for the State?

24 SOLICITOR SHELTON: Please present this juror.

25 MADAM CLERK: Defense?

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1 MR. BARROWCLOUGH: Please excuse the juror.

2 MADAM CLERK: Please have a seat. You've been excused
3 from this case.

4 67, Joseph Frazier.

5 (BLACK MALE COMES FORWARD.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR SHELTON: Please present this juror.

8 MADAM CLERK: Defense?

9 MR. BARROWCLOUGH: Please swear the juror.

10 MADAM CLERK: Please have a seat in the jury box.

11 193, Tanasha Smith.

12 (BLACK FEMALE COMES FORWARD.)

13 MADAM CLERK: What say you for the State?

14 SOLICITOR SHELTON: Please excuse this juror.

15 MADAM CLERK: Please have a seat. You've been excused
16 from this case.

17 110, Rodney Knight.

18 (WHITE MALE COMES FORWARD.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR SHELTON: Please excuse this juror.

21 MADAM CLERK: Please have a seat. You've been excused
22 from this case.

23 175, Carmaria Ryan.

24 (BLACK FEMALE COMES FORWARD.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR SHELTON: Please excuse this juror.

2 MADAM CLERK: Please have a seat. You've been excused
3 from this case.

4 7, Erik Baddeley.

5 (WHITE MALE COMES FORWARD.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR SHELTON: Please present this juror.

8 MADAM CLERK: Defense.

9 MR. BARROWCLOUGH: Please excuse the juror.

10 MADAM CLERK: Please have a seat. You've been excused
11 in this case.

12 29, Jimmy Campbell.

13 (WHITE MALE COMES FORWARD.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR SHELTON: Please present this juror.

16 MADAM CLERK: Defense.

17 MR. BARROWCLOUGH: Please excuse the juror.

18 MADAM CLERK: Please have a seat. You've been excused
19 from this case.

20 29, Jimmy Campbell.

21 (WHITE MALE COMES FORWARD.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR SHELTON: Please present this juror.

24 MADAM CLERK: Defense?

25 MR. BARROWCLOUGH: Please excuse the juror.

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1 MADAM CLERK: Please have a seat. You've been excused
2 from this case.
3 86, Davonta Hemphill.
4 (BLACK MALE COMES FORWARD.)
5 MADAM CLERK: What say you for the State?
6 SOLICITOR SHELTON: Please excuse this juror.
7 MADAM CLERK: Please have a seat. You've been excused
8 from this case.
9 212, Jeffrey Todd.
10 (WHITE MALE COMES FORWARD.)
11 MADAM CLERK: What say you for the State?
12 SOLICITOR SHELTON: Please present this juror.
13 MADAM CLERK: Defense?
14 MR. BARROWCLOUGH: Please swear the juror.
15 MADAM CLERK: Please have a seat in the jury box.
16 163, Holly Potter.
17 (WHITE FEMALE COMES FORWARD.)
18 MADAM CLERK: What say you for the State?
19 SOLICITOR SHELTON: Please present this juror.
20 MADAM CLERK: Defense?
21 MR. BARROWCLOUGH: Please swear the juror.
22 MADAM CLERK: Please have a seat in the jury box.
23 178, Melissa Salyer.
24 (WHITE FEMALE COMES FORWARD.)
25 MADAM CLERK: What say you for the State?

1 SOLICITOR SHELTON: Please present this juror.

2 MADAM CLERK: Defense?

3 MR. BARROWCLOUGH: Please swear the juror.

4 MADAM CLERK: Please have a seat in the jury box.

5 39, Kendra Cohen.

6 (WHITE FEMALE COMES FORWARD.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR SHELTON: Please present this juror.

9 MADAM CLERK: Defense?

10 MR. BARROWCLOUGH: Please excuse the juror.

11 MADAM CLERK: Please have a seat. You've been excused
12 from this case.

13 155, Matthew Owens.

14 (WHITE MALE COMES FORWARD.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR SHELTON: Please present this juror.

17 MADAM CLERK: Defense?

18 MR. BARROWCLOUGH: Please swear the juror.

19 MADAM CLERK: Please have a seat in the jury box.

20 137, Jim Moore. Tim Moore. Sorry.

21 (WHITE MALE COMES FORWARD.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR SHELTON: Please present this juror.

24 MADAM CLERK: Defense?

25 MR. BARROWCLOUGH: Please excuse the juror.

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1 MADAM CLERK: Please have a seat. You've been excused
2 from this case.

3 87, Donna Henderson.

4 (WHITE FEMALE COMES FORWARD.)

5 MADAM CLERK: What say you for the State?

6 SOLICITOR SHELTON: Please present this juror.

7 MADAM CLERK: Defense?

8 MR. BARROWCLOUGH: Please swear the juror.

9 MADAM CLERK: Please have a seat in the jury box.

10 179, Danielle Scandy.

11 (WHITE FEMALE COMES FORWARD.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR SHELTON: Please present this juror.

14 MADAM CLERK: Defense?

15 MR. BARROWCLOUGH: Please swear the juror.

16 MADAM CLERK: Please have a seat in the jury box.

17 198, Sherry Guenther.

18 (WHITE FEMALE COMES FORWARD.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR SHELTON: Please present this juror.

21 MADAM CLERK: Defense?

22 MR. BARROWCLOUGH: Please excuse the juror.

23 MADAM CLERK: Please have a seat. You've been excused
24 from this case.

25 224, Mac Wallace.

1 (WHITE MALE COMES FORWARD.)

2 MADAM CLERK: What say you for the State?

3 SOLICITOR SHELTON: Please present this juror.

4 MADAM CLERK: Defense?

5 MR. BARROWCLOUGH: Please excuse the juror.

6 MADAM CLERK: Please have a seat. You've been excused
7 from this case.

8 26, Jesse Burford.

9 (WHITE MALE COMES FORWARD.)

10 MADAM CLERK: What say you for the State?

11 SOLICITOR SHELTON: Please present this juror.

12 MADAM CLERK: Defense?

13 MR. BARROWCLOUGH: Please excuse the juror.

14 MADAM CLERK: Please have a seat. You've been excused
15 from this case.

16 149, Josh O'mara.

17 THE COURT: Will the lawyers approach?

18 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
19 THE JURY AT 12:28 P.M.)

20 MADAM CLERK: What say you for the State?

21 MR. BARROWCLOUGH: I'm sorry, Madam Clerk, what number
22 was it?

23 MADAM CLERK: 26. Oh, I'm sorry, 149.

24 SOLICITOR SHELTON: Will you please present this
25 juror.

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1 MADAM CLERK: Defense?

2 MR. BARROWCLOUGH: Please swear the juror.

3 MADAM CLERK: Please have a seat in the jury box.
4 182, Mark Sexton.

5 (WHITE MALE COMES FORWARD.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR SHELTON: Please present this juror.

8 MADAM CLERK: Defense?

9 MR. BARROWCLOUGH: Please excuse the juror.

10 MADAM CLERK: Please have a seat. You've been excused
11 from this case.

12 10, Brian Beckham.

13 (BLACK MALE COMES FORWARD.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR SHELTON: Please present this juror.

16 MADAM CLERK: Defense?

17 MR. BARROWCLOUGH: Please swear the juror.

18 MADAM CLERK: Please have a seat in the jury box.

19 From here on out it will be an alternate.

20 THE COURT: Strikes are one and two.

21 MADAM CLERK: 144, Freida Muscatell.

22 (WHITE FEMALE COMES FORWARD.)

23 MADAM CLERK: What say you for the State?

24 SOLICITOR SHELTON: Please swear the juror.

25 MADAM CLERK: Defense?

1 MR. BARROWCLOUGH: Please excuse the juror.

2 MADAM CLERK: Please have a seat. You've been excused
3 from this case.

4 9, Aaron Beaupre.

5 (WHITE MALE COMES FORWARD.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR SHELTON: Please present this juror.

8 MADAM CLERK: Defense?

9 MR. BARROWCLOUGH: Please excuse the juror.

10 MADAM CLERK: Please have a seat. You've been excused
11 from this case.

12 13, Kristy Blair.

13 (WHITE FEMALE COMES FORWARD.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR SHELTON: Please present this juror.

16 MADAM CLERK: Defense?

17 MR. BARROWCLOUGH: Please swear the juror.

18 MADAM CLERK: Please have a seat in the jury box.

19 238, Rick Wilfong.

20 (WHITE MALE COMES FORWARD.)

21 MADAM CLERK: What say you for the State?

22 SOLICITOR SHELTON: Please present this juror.

23 MADAM CLERK: Defense?

24 MR. BARROWCLOUGH: Please swear the juror.

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

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1 THE COURT: Will lawyers approach?

2 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
3 THE JURY AT 12:33 P.M.)

4 THE COURT: Ladies and gentlemen of the jury, those of
5 you who have not been selected for service on this
6 particular jury, I'm gonna allow you, I want you to go back
7 downstairs to the jury room.

8 Mr. Bailiff, if you'll take them back down to the jury
9 assembly room and as soon as we get to the appropriate
10 place here then you can release them, but I want them --
11 for lunch -- and the Clerk will give you instructions.

12 But everyone remain seated while this big jury panel
13 is excused to go downstairs to the jury assembly room.

14 (REMAINING JURY POOL EXITS COURTROOM AT 12:34 P.M.)

15 THE COURT: Ladies and gentlemen, those of you who
16 have been selected as jurors, potential jurors in this
17 case, I need to take up a matter outside your presence.
18 I'm gonna allow you to go back to the jury room, the
19 bailiff will take you back there. You've been hearing
20 instruction throughout this trial to not discuss the case
21 at all. Don't discuss the case at all; I'll talk to you
22 about that again in a little bit, but you can go back to
23 your jury room to refresh yourselves and we should have you
24 back in here in just a few moments. Thank you.

25 Everyone remain seated while this panel goes back to

1 the jury room.

2 (PETIT JURY EXITS COURTROOM AT 12:36 P.M.)

3 THE COURT: All right, thank you.

4 SOLICITOR SHELTON: Your Honor, before we start, can I
5 have a really quick run to the restroom?

6 THE COURT: Yes.

7 SOLICITOR SHELTON: Thank you.

8 THE COURT: Yes. Take a quick break.

9 (COURT AT EASE AT 12:36 P.M.)

10 (COURT BACK IN SESSION AT 12:40 P.M.)

11 THE COURT: Thank you. Remain seated.

12 All right, anything further from the State as far as
13 jury selection?

14 SOLICITOR SHELTON: No, sir, your Honor.

15 THE COURT: All right. From the Defense?

16 MR. BARROWCLOUGH: Your Honor, we would make an
17 inquiry under *Batson* with regards to the State's strikes of
18 in particular No. 175 and No. 86. I note for the record
19 that the State used 3 of their 4 strikes on African-
20 Americans. One I think I know why, No. 193. The other
21 two, I kind of wonder why I have any reasons. And as far
22 as, you know, the pool goes, there are only I think really
23 five African Americans called all together. Three of them
24 were struck, so I was just making an inquiry, your Honor.

25 THE COURT: All right. This is a *Batson* hearing. The

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1 State's alleged that the State has struck two members of a
2 cognizable racial group and is requesting a hearing so,
3 Solicitor, I'll be glad to hear your rational.

4 SOLICITOR SHELTON: Your Honor, Ms. Ryan I struck; she
5 is a twenty-year-old full time college student. In my
6 experience I've had two jurors, two jury pools where a
7 young female has hung my jury or, on one case, and come
8 close to hanging a jury on another case in serious charges.
9 I have concerns that in my experience with young females
10 with serious cases they have a hard time making those
11 decisions, and that was my reason for striking her.

12 I would note for the record that she has a -- she
13 stood up to say that she had a friend or family member who
14 was a victim of a robbery. I weighed that in my
15 consideration but ultimately struck her because she is
16 young.

17 THE COURT: All right. And tell me about No. 86.

18 SOLICITOR SHELTON: No. 86 is Davonta Hemphill I
19 believe. Mr. Hemphill was a prior victim with the
20 Solicitor's office who was not compliant and did not care
21 for our office and that was the reason for striking him.

22 He was actually my victim and was not compliant and
23 did not care for me.

24 THE COURT: All right. Thank you.

25 SOLICITOR SHELTON: And I can give my reasons for --

1 THE COURT: No. Mr. Barrowclough, any response?

2 MR. BARROWCLOUGH: No, your Honor.

3 THE COURT: All right. I find that the reasons that
4 the State has given for the strike of Juror No. 175 and 86
5 are not race based related; has a clearly articulable
6 reason for striking those two jurors, and so I'm gonna any
7 Batson motion as far as a qualification to this jury.

8 Anything further?

9 MR. BARROWCLOUGH: No, sir, your Honor.

10 THE COURT: All right, let's do this. Let's release
11 the jury downstairs and then let's bring the other jury in.
12 I'm gonna release 'em to go to lunch but I need to give 'em
13 some preliminary instructions before they go.

14 MR. BARROWCLOUGH: Yes, sir, your Honor.

15 THE COURT: Let's bring the jury in.

16 SOLICITOR SHELTON: Your Honor, just to, if you're
17 gonna swear them when they come back from lunch; is that
18 correct?

19 THE COURT: I'd rather not swear them until after
20 lunch.

21 SOLICITOR SHELTON: That's what I would request just
22 in case.

23 THE COURT: I'll wait and swear them once they get
24 back in.

25 SOLICITOR SHELTON: Thank you.

BARBARA AITON: REDIRECT BY SOLICITOR SHELTON

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1 BARBARA AITON BY SOLICITOR SHELTON:

2 Q. And Mr. Arthur is he employed with the bank at this
3 time?

4 A. He is not employed with the bank and he was behind
5 us.

6 Q. And he -- Why is he no longer employed with the bank?

7 A. He retired at the end of the year.

8 Q. And he was not involved in the actual robbery?

9 A. He was not. His office is behind where everything
10 was happening.

11 SOLICITOR SHELTON: Thank you.

12 THE COURT: Any recross?

13 MR. BARROWCLOUGH: No, your Honor.

14 THE COURT: Thank you, Ms. Aiton, you can step down.
15 Thank you.

16 (WITNESS LEAVES WITNESS STAND.)

17 THE COURT: Solicitor, call your next witness.

18 SOLICITOR SHELTON: Your Honor, at this time the State
19 would call Ms. Jessica McNabb.

20 (WHEREUPON, JESSICA MCNABB,
21 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

22 MADAM CLERK: Thank you.

23 DIRECT EXAMINATION

24 JESSICA MCNABB BY SOLICITOR SHELTON:

25 Q. State your name for the record please.

1 A. Jessica McNabb.

2 Q. And, Ms. McNabb, where are you employed?

3 A. First Citizen Bank.

4 Q. And how long have you been with First Citizen's Bank?

5 A. Seven years.

6 Q. And what do you do there?

7 A. I'm currently the operations service supervisor. I
8 run the teller line and everything in between.

9 Q. What did you -- How were you -- What were your duties
10 back in March, March 14th of 2017?

11 A. I was the sales service rep, teller-line duties.

12 Q. So you worked the teller line?

13 A. Uh-huh.

14 Q. And other things?

15 A. Yes.

16 Q. And can you briefly describe to the jury what happened
17 the afternoon of March 14th of 2017?

18 A. Yes. I was behind the teller line, I was working a
19 deposit at the money counter, which is closest to the
20 drive-through window, and I was looking out the window and
21 I saw a masked man jump over the fence and I yelled to my
22 co-worker that we are about to get robbed, and I just kept
23 saying it, and she jumped up and she proceeded to the door.

24 In the meantime I pulled the silent alarms, actually
25 on all the teller windows that I could because I was trying

JESSICA MCNABB: DIRECT BY SOLICITOR SHELTON

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1 to do whatever I could and it felt like forever. I waited
2 essentially to be robbed. Leena went to the door, she had
3 her interaction with him, and then they were in front of my
4 window and that's when I saw the masked man with a gun at
5 Leena's face and he turned towards me.

6 Q. And can you describe the gun?

7 A. It was a silver gun and it was in his hand. It was
8 smaller. I'm not a gun person.

9 Q. And was it pointed at you?

10 A. It went from Leena to me, yes.

11 Q. And can you describe anything physical about the
12 robber that you remember?

13 A. Like his appearance?

14 Q. Yes.

15 Q. He had a hat on, he had dark glasses with like thicker
16 frames. And then he had a bandana across his face. There
17 was a bright-colored bandana very florescent color, and
18 then had a long-sleeved shirt on and dark pants and had --
19 look like gardening gloves on.

20 Q. And could you tell anything about height, weight, or
21 ethnicity of the suspect, of the robber?

22 A. Medium built. I would say around six foot or more,
23 somewhere in there, medium build because my husband is a
24 little over six foot so he's about that height. And ethnic
25 -- I can't say that word -- all I could see was a darker

1 skin right here on the face.

2 (WITNESS INDICATED TOWARD FACE.)

3 Q. And what if anything was he saying to you?

4 A. He wanted large bills.

5 Q. Did you have any large bills?

6 A. Not very many. And he kept demanding more large bills
7 to the point where I pulled my drawer out and I showed him
8 I didn't have any more large bills so then he ask me to
9 give him the twenties and so that's when I gave him the
10 twenties and the dye pack.

11 Q. So when you say large bills, what denomination of
12 bills did you give him?

13 A. Hundreds, fifties, twenties, and I think a few tens
14 got in there also.

15 Q. And going back to you saying you were able to give
16 him the dye pack.

17 A. Uh-huh.

18 Q. What does that mean?

19 A. So in the bank we have a dye pack that has a little
20 box that has a dye pack in it and then there's bills on the
21 top and the bottom so its meant to look like a strap of
22 money and that's what a dye pack is. And when it goes out
23 the door it's supposed to go off.

24 Q. And to your knowledge did it go off?

25 A. Not that I know of.

JESSICA MCNABB: DIRECT BY SOLICITOR SHELTON

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1 Q. What makes it go off when it goes out the door?

2 A. There's a sensor. There's a sensor at the back door
3 and the front door that's supposed to trigger it.

4 Q. And do you know why it didn't go off?

5 A. From my knowledge that equipment wasn't working
6 properly.

7 Q. And do you know approximately how much money you
8 gave him from your drawer?

9 A. Eighteen hundred. It was over a thousand dollars.

10 Q. And did he leave the -- what did he -- Did he have
11 anything with him when he came in?

12 A. A grocery bag, a gray grocery bag.

13 Q. And what happened with that?

14 A. It was left on the counter.

15 Q. And did anyone of you do anything with that bag?

16 A. No. We didn't touch it.

17 Q. Did he make it out of the bank with all the money that
18 you gave him?

19 A. No. He was in a hurry and he dropped some on the
20 lobby floor and then when he got outside he dropped some
21 also.

22 Q. And do you know what happened with that money that
23 was dropped?

24 A. I believe that he -- I'm not sure. Sorry.

25 Q. That's okay.

1 A. Trying to remember. I apologize.

2 Q. That's okay.

3 SOLICITOR SHELTON: Court's indulgence, your Honor.

4 (PAUSE.)

5 Q. Ms. McNabb, I'm going to have you look at something
6 and see if you recognize it.

7 Do you recognize that?

8 A. Yes.

9 Q. And is that a statement -- I know that's not your
10 writing -- but is that a statement that you gave to law
11 enforcement in reference to the robbery right after the
12 robbery occurred, or a few days after the robbery occurred?

13 A. Yes.

14 Q. I'm gonna draw your attention to the bottom part where
15 you're describing what happened. Can you in the
16 description of the robber, and at that time will you read
17 that and see if it refreshes your recollection of how you
18 -- of the physical description that you provided of the
19 robber shortly after the robbery?

20 A. Okay. It says --

21 Q. You don't have to read it out loud but if you could
22 read it.

23 A. Oh. I'm sorry.

24 Q. If you will read it to yourself and then I'm gonna
25 ask you.

JESSICA MCNABB: DIRECT BY SOLICITOR SHELTON

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1 A. I apologize.

2 (WITNESS COMPLIES/READS DOCUMENT.)

3 A. Okay.

4 Q. And do you remember giving that statement?

5 A. I do.

6 Q. And in reading that would you -- Does that change your
7 testimony as to the height of the suspect?

8 A. Yes. I stated on there that it was about five ten and
9 previously I just said six foot or so, so I apologize.

10 Q. And I'm just gonna have you confirm the date that you
11 gave this statement.

12 A. Okay. 3/16/17.

13 Q. And so that would be two days after the robbery you
14 told law enforcement that you believed he would be around
15 five foot ten?

16 A. Yes. I apologize.

17 Q. Thank you. And I'm going to show you what's been
18 previously marked for identification as State's Exhibit
19 No. 26.

20 Do you recognize that?

21 A. Yes.

22 Q. And what is that?

23 A. This is the bait list. It's where we document for the
24 bait and dye-pack money. It's where we document what the
25 denominations are; the serial number and the year, the

1 serial year.

2 Q. And who prepared that form?

3 A. Its prepared by two associates. I prepared it and
4 then its verified by another associate.

5 Q. And what -- In relation to this case what does that
6 document?

7 A. It list the denominations, the year and the serial
8 numbers of the dye pack.

9 Q. And what do you mean of the dye pack? What's put in
10 the dye pack?

11 A. The bills.

12 Q. What denomination of bills?

13 A. Twenties.

14 Q. And did you personally record those serial numbers?

15 A. Yes.

16 Q. By comparing them to the twenties that you put with
17 the dye pack?

18 A. Correct.

19 Q. And what happened, what eventually happened with that
20 dye pack?

21 A. It was given out in the robbery.

22 Q. And had anything changed about the money that was in
23 that dye pack or how that dye pack was prepared from the
24 time that you prepared that form?

25 A. No.

JESSICA MCNABB: DIRECT BY SOLICITOR SHELTON

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1 Q. Was that dye pack and form properly maintained?

2 A. Well we keep it under dual control and -- Are you
3 asking --

4 Q. The time frame.

5 A. Okay. So it does state on it that its supposed to be
6 updated every two years. And so this would have been out
7 of date in regards to that. Is that what you're asking?

8 Q. Yes. And that's an internal policy?

9 A. Yes. They did away with this form but we still had it
10 on file.

11 Q. And when you say it was dual controlled, what does
12 that mean?

13 A. Two people have to verify it so it's prepared by one
14 person and then a second associate has to come in and
15 verify everything single thing on it and then sign it.

16 Q. Who verified that one?

17 A. Leena Reeder.

18 Q. Okay. But you prepared that form?

19 A. Yes, ma'am.

20 Q. And it would be your testimony that the numbers on
21 there are accurate for the twenties that were in your dye
22 pack?

23 A. Correct.

24 Q. The dye pack that ended up with the person who came
25 in and robbed First Citizen on March 14th?

JESSICA McNABB: DIRECT BY SOLICITOR SHELTON

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1 A. Yes, ma'am.

2 SOLICITOR SHELTON: Your Honor, at this time I would
3 ask to move State's Exhibit No. 26 into evidence.

4 MR. BARROWCLOUGH: Without objection.

5 THE COURT: All right. State Exhibit 26 is admitted
6 into evidence without objection.

7 (WHEREUPON, STATE'S EXHIBIT NO. 26, PREVIOUSLY
8 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

9 SOLICITOR SHELTON: Your Honor, I want to publish it
10 to the jury briefly.

11 THE COURT: You may.

12 (WHEREUPON, STATE'S EXHIBIT NO. 26 PUBLISHED TO THE
13 JURY AT 03:10 P.M.)

14 BY SOLICITOR SHELTON:

15 Q. Ms. McNabb, when this comes into focus, can you see
16 it from there? If you need to step down you may.

17 THE COURT: She can step down.

18 A. I can see it, yes, ma'am.

19 Q. Can you explain the top part numbers versus the bottom
20 part numbers and what those two correlate with for the
21 jury?

22 A. Yes. So the top section would have been a separate
23 bait pack that we have and it's just essentially loose
24 twenties that are strapped and stamped and they're verified
25 in the same manner. And then the bottom section is the dye

JESSICA McNABB: DIRECT BY SOLICITOR SHELTON
CROSS BY MR. BARROWCLOUGH

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1 pack itself again with the twenties and the serial number
2 and the year that they were issued. And, again, it's
3 strapped and stamped and verified.

4 Q. And are those the numbers that are recorded up top ---

5 A. Uh-huh.

6 Q. --- the loose bait money.

7 A. Uh-huh.

8 Q. Was that also -- Is it attached with the dye pack
9 money or is two separate things?

10 A. Two separate things.

11 Q. And the dye pack is what you were able to use that
12 day?

13 A. Correct.

14 Q. What happened with the loose bait money?

15 A. It was not given out.

16 Q. So it stayed in your drawer?

17 A. Right.

18 Q. Thank you, Ms. McNabb.

19 SOLICITOR SHELTON: I have no further questions.

20 THE COURT: All right. Mr. Barrowclough.

21 MR. BARROWCLOUGH: May it please the Court.

22 CROSS-EXAMINATION

23 JESSICA McNABB BY MR. BARROWCLOUGH:

24 Q. So, Ms. McNabb, just briefly with regards to the
25 description of the person who robbed you. You said that

1 person was around five ten to six-foot tall?

2 A. Yes. I compare everybody to my husband so.

3 Q. I understand. When you said, I believe, that the
4 person was wearing dark pants that were not jeans?

5 A. Correct.

6 Q. And you said that the person had gardening gloves on,
7 right?

8 A. Yes.

9 Q. Like fabric gloves?

10 A. It was some kind of -- Yeah, they were some kind of
11 like fabric. Yeah, they were gardening gloves.

12 Q. And did you say they were like a light color?

13 A. I would have to read. I don't remember what color
14 they were. I'm sorry.

15 Q. Well it's the same document if it would help you to
16 see it again.

17 A. Yes, that would be good.

18 Q. And I'm referring more closer to the top.

19 A. Thank you.

20 (WITNESS REVIEWING DOCUMENT.)

21 A. Yes. White, off-white white gloves.

22 Q. Right. And also you said there was a bandana
23 involved that was a florescent color?

24 A. Right.

25 Q. Like pink or orange I believe you said?

JESSICA MCNABB: CROSS BY MR. BARROWCLOUGH

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1 A. Correct.

2 Q. And you said that the person was wearing dark glasses?

3 A. Dark frame. Yeah, dark glasses. You couldn't see
4 their eyes.

5 Q. Okay. And I believe you said that you could see the
6 tone of their skin from the skin that was between the
7 glasses and the bandana, right?

8 A. Just a little bit.

9 Q. This area right here?

10 A. Right. Just a little bit.

11 Q. And you do not describe, I don't believe, the robber
12 as having a scar or you witnessing a scar on the robber's
13 face in that area; is that correct?

14 A. I did not.

15 Q. And I don't believe you describe the robber as having
16 any facial hair that you could observe?

17 A. I couldn't see anything. It was completely covered
18 up.

19 Q. And I know that in addition to talking with the FBI,
20 you also talked to some Rock Hill police officers, correct?

21 A. Correct.

22 Q. Like that day?

23 A. There was a lot of people but, yes, I remember meeting
24 and talking with a few different detectives.

25 Q. And was there a Detective Thomas that you gave a

1 description to as well?

2 A. I apologize, I don't know.

3 Q. Okay. And in the description that you would have
4 given the Rock Hill police, whether it was Detective Thomas
5 or somebody else, do you remember saying that the robber
6 was probably in his thirties?

7 A. Middle age, like middle size -- medium-size middle
8 age just because of the voice.

9 Q. And you did say it was a medium-tone voice?

10 A. It was.

11 Q. With a normal accent, right?

12 A. Yes, there wasn't any like defining accents to it or
13 anything.

14 Q. Not like a strong New York accent?

15 A. Not that I observed.

16 Q. Or a strong Southern accent or anything like that?

17 A. Not that I observed.

18 Q. Okay. And you said there was a silver gun, right?

19 A. Yes.

20 Q. And you said the robber was asking for -- originally I
21 think you said larger bills?

22 A. The large bills, yes.

23 Q. Was that like the hundreds?

24 A. Uh-huh.

25 Q. And then at some point the robber ask for fifties?

JESSICA McNABB: CROSS BY MR. BARROWCLOUGH

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1 A. He said the large bills which are consist of hundreds
2 and fifties and then when I showed him I didn't have any
3 more he told me to give him the twenties so I gave him the
4 twenties and some tens that I had.

5 Q. Okay. And the dye pack though was with twenties,
6 right?

7 A. It is.

8 Q. And dye packs usually are not with hundreds, right?

9 A. No, they're not.

10 Q. They are usually with twenties?

11 A. Well you can have 'em anywhere in the drawer but I
12 have mine with the twenties because twenties go on top of
13 'em, so.

14 Q. Okay. Oh, so the dye packs always consist of
15 twenties?

16 A. The dye pack does usually consist of twenties but
17 where you place them in the drawer is really up to --

18 Q. Up to you?

19 A. Yeah.

20 Q. Gotcha. Gotcha.

21 A. I just had 'em with my twenties.

22 Q. All right. One second. And, Mrs. McNabb, I know
23 that you testified that the dye pack, when it was on the
24 screen, the dye pack money is what you provided to the
25 robbery suspect, right?

JESSICA MCNABB: CROSS BY MR. BARROWCLOUGH
REDIRECT BY SOLICITOR SHELTON

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1 A. Correct.

2 Q. But you said that the bait money you did not provide
3 to the suspect?

4 A. Correct.

5 Q. Are you sure that you didn't tell the FBI Agent
6 Strobe something different back at the time this happened?

7 A. In regards to the bait money?

8 Q. Yes, ma'am.

9 A. No, I don't believe so. I'm not sure, I mean I don't
10 believe so because all I had was the dye pack to give out.

11 Q. All right.

12 MR. BARROWCLOUGH: That's all the questions I have.

13 Thank you, Mrs. McNabb.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION

16 JESSICA MCNABB BY SOLICITOR SHELTON:

17 Q. The sheet with the -- the dye pack sheet, when did you
18 first provide that to law enforcement?

19 A. They came and ask for that information. I believe it
20 was a few days later.

21 Q. So close to the time of the robbery?

22 A. Yes, it was within a few days of the robbery.

23 Q. And you had prepared that before the robbery and it
24 was within your drawer?

25 A. I had prepared it well before the robbery. Yeah, it's

JESSICA MCNABB: REDIRECT BY SOLICITOR SHELTON

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1 dated and everything on there when it was prepared.

2 SOLICITOR SHELTON: Thank you.

3 THE COURT: Any recross?

4 MR. BARROWCLOUGH: No, your Honor.

5 THE COURT: All right. Thank you. Ms. McNabb, you
6 can step down.

7 MS. MCNABB: Thank you.

8 (WITNESS LEAVES WITNESS STAND.)

9 THE COURT: The lawyers approach.

10 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING
11 OF THE JURY AT 03:19 P.M.)

12 THE COURT: All right, ladies and gentlemen, we're
13 gonna take about a ten-minute break. And I anticipate
14 after the break we will be back in here in about ten
15 minutes that we should have you out of here about 4:00 or
16 4:15 because we do have a number of other matters not
17 related to this case that we need to take up today.

18 That's just to give you a little heads up on what's
19 ahead, so go ahead back to your jury room. Again, do not
20 discuss anything that you have heard, seen or heard in the
21 courtroom among yourselves or with anyone else, and we'll
22 have you back in here in about ten minutes.

23 Everybody remain seated while this jury panel leaves
24 the courtroom.

25 (PETIT JURY EXITS COURTROOM AT 03:21 P.M.)

1 THE COURT: Anything from the State for the record at
2 this point?

3 SOLICITOR SHELTON: No, sir, your Honor.

4 THE COURT: Anything from the Defense?

5 MR. BARROWCLOUGH: No, sir, your Honor.

6 THE COURT: All right. We'll be at ease for ten
7 minutes.

8 (COURT IN RECESS AT 03:21 P.M.)

9 (COURT BACK IN SESSION AT 03:35 P.M.)

10 SOLICITOR SHELTON: Do you have a note?

11 THE COURT: We have a note. Its simply that they have
12 elected a foreman Mr. Salmond No. 177 Foreman. That's the
13 note. And I guess we need to make that a part of the
14 record.

15 (WHEREUPON, COURT'S EXHIBIT NO. 3, IDENTIFIED AND
16 MARKED, RECEIVED INTO EVIDENCE.)

17 THE COURT: All right. Is the State ready?

18 Is the State ready?

19 SOLICITOR SHELTON: The State's ready, your Honor.

20 I'm sorry.

21 THE COURT: Defense?

22 MR. BARROWCLOUGH: Yes, sir, your Honor.

23 THE COURT: Let's bring the jury in.

24 (JURY REENTERS COURTROOM AT 03:37 P.M.)

25 THE COURT: All right, thank you.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 THE COURT: Okay.

2 (JURY RE-ENTERS COURTROOM AT 10:04 A.M.)

3 THE COURT: All right. Ladies and gentlemen, thank
4 you for your patience. I can assure you we've been working
5 since a little bit after 9:00 taking care of some other
6 matters not related to this case, but we have been using
7 this courtroom for that so we're ready to proceed.

8 At this time, State, call your next witness.

9 SOLICITOR SHELTON: Your Honor, before I call my next
10 witness the State neglected to ask that Detective Kris
11 Quate be excused from the trial yesterday at the conclusion
12 of his testimony. We would ask that at this time.

13 THE COURT: Any objections?

14 MR. BARROWCLOUGH: No, sir, your Honor.

15 THE COURT: Then he's excused.

16 SOLICITOR SHELTON: Your Honor, at this time the State
17 would call Investigator Luke Boling.

18 (WHEREUPON, LUKE BOLING,
19 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 DIRECT EXAMINATION

21 INVESTIGATOR LUKE BOLING BY SOLICITOR SHELTON:

22 Q. State your name, for the record, please.

23 A. Luke Boling.

24 Q. And is it Investigator Boling? Is that correct?

25 A. Yes, ma'am.

1 Q. Where are you currently employed?

2 A. Rock Hill City Police Department.

3 Q. And how long have you worked with Rock Hill City?

4 A. Seven and a half years.

5 Q. And before coming to Rock Hill City what did you do?

6 A. I worked for the South Carolina Governor's office, in
7 Columbia.

8 Q. And you've been there seven and a half years, so you
9 were employed with them in March of 2017?

10 A. Beginning in January.

11 Q. But in 2017?

12 A. Yes, ma'am. Yes, ma'am. I'm sorry, yes, ma'am.

13 Q. And what are you currently assigned to? What --

14 A. Narcotics unit.

15 Q. What were assigned to back in March of 2017?

16 A. Violent crimes unit.

17 Q. And explain to the jury just briefly what the violent
18 crimes unit is.

19 A. We assist our criminal investigation division with
20 violent crimes investigations. We were a plain-clothes
21 unit, so we would assist with surveillance a lot of times,
22 and also fugitive apprehension was a large part of what we
23 did.

24 Q. And as part of that assignment, were you made aware,
25 back on March 14th of 2017, about an armed bank robbery at

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 First Citizens', on Furlong, in Rock Hill?

2 A. Yes, ma'am.

3 Q. And did you become involved in that investigation?

4 A. Yes, ma'am.

5 Q. And at the time were you provided with information
6 that you were to be on the lookout for a light-in-color SUV
7 driven by a medium-build black male?

8 A. Yes, ma'am.

9 Q. And was there any point in the evening that you came
10 in contact with something that fit that description?

11 A. Yes, ma'am. A little after 9:00 o'clock that night.

12 Q. A little after when?

13 A. 9:00 o'clock.

14 Q. And where was that?

15 A. That was in Brittany Place Apartments, right off of
16 West Main Street.

17 Q. And did you see someone loosely fitting that
18 description pull into a parking space there?

19 A. Yes, ma'am.

20 Q. And then what did you do after that?

21 A. I exited my vehicle that I was in at the time, had my
22 badge visible, made contact with the driver of that
23 vehicle.

24 Q. And in making contact with him, did you notice
25 anything in the car that drew your suspicion?

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 A. Yes, ma'am. Well, within -- quickly, like, quickly of
2 making contact with him, I did notice an open container of
3 alcohol in the rear-passenger seat in the magazine holder,
4 so it would've been in the passenger compartment.

5 Q. And based on seeing that open container, did you make
6 the decision to search the car?

7 A. Yes, ma'am.

8 Q. And at that point did you wait for backup to get
9 there?

10 A. Yes, ma'am.

11 Q. And who came as part of backup?

12 A. My partner, who was Investigator Philson at the time,
13 and my lieutenant, Lieutenant Culbreath.

14 Q. So, after making the decision to search the car, what
15 did you do?

16 A. We asked Mr. -- or we asked the driver of the vehicle
17 to exit the vehicle. He stood at the rear of the vehicle
18 with my partner, Investigator Philson, while I searched the
19 vehicle, and then I conducted a full search of the vehicle.

20 Q. And did you determine the identity of the driver of
21 the vehicle?

22 A. I did.

23 Q. And based on -- based on what? How did you determine
24 his identity?

25 A. I requested his driver's license or a state I.D. card,

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 and he provided that to me.

2 Q. And who was the driver of that -- the --

3 A. Travis Gathers.

4 Q. And is that person in the courtroom today?

5 A. Yes, ma'am.

6 Q. Could you point him out, please?

7 A. Yes, ma'am.

8 Q. And describe what he's wearing.

9 A. The blue -- dark blue/light blue sweater-shirt.

10 SOLICITOR SHELTON: Let the record reflect that the
11 witness has indicated Travis Gathers, seated in the
12 courtroom, as the person that he had the consensual
13 encounter with on March 14, 2017..

14 (WITNESS IDENTIFIED DEFENDANT.)

15 BY SOLICITOR SHELTON:

16 Q. I'm going to show you what's been marked for
17 identification as State's Exhibit No. 33.

18 Do you recognize that?

19 A. Yes, ma'am.

20 Q. And how do you recognize it?

21 A. This is a DVD of my body-cam footage from that night?

22 Q. And what about that --

23 A. My signature on it.

24 Q. You signature on it?

25 A. Yes, ma'am, my initials.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 Q. And did you have an opportunity to review this?

2 A. Yes, ma'am.

3 Q. And is it an accurate reflection of what you observed
4 and recorded that night?

5 A. Yes, ma'am.

6 SOLICITOR SHELTON: Your Honor, at this time the State
7 would move State's Exhibit No. 33 into evidence.)

8 MR. BARROWCLOUGH: No objection, your Honor.

9 THE COURT: State's Exhibit 33 is introduced into
10 evidence without objection.

11 (WHEREUPON, STATE'S EXHIBIT NO. 33, IDENTIFIED AND
12 MARKED, RECEIVED INTO EVIDENCE.)

13 BY SOLICITOR SHELTON:

14 Q. Briefly go through initially doing the search of the
15 car, and explain what you found and where you found it.

16 A. Yes, ma'am. So, in the driver's-side door we found a
17 -- there was a single -- a thing like a latex surgical
18 glove in between the center console and the passenger seat.
19 In the front of the vehicle there was some cash, currency,
20 that was in between the seats. In the center console,
21 around where the cup holder was located, there was a bill,
22 a currency bill rolled up that had some powder cocaine
23 beside of that. And then, also, in the rear-magazine rack,
24 where the open container was observed, there was a carton,
25 empty carton, I believe it may have had one cigarette left

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 in it, that contained cocaine, also, inside of that.

2 Q. And when you say you saw -- found some cash, where,
3 exactly, was that?

4 A. It was in between the center console. So, where the
5 driver's seat is, your center console, then your passenger
6 seat, it was stuffed in between the seat; right in between
7 the seat and the center console.

8 Q. And did you collect that -- that cash?

9 A. No, ma'am.

10 Q. Did you do anything with it, other than take note of
11 it?

12 A. No, ma'am.

13 Q. And the drugs, did you collect the drugs?

14 A. No, ma'am.

15 Q. And did you make any kind of determination as to what
16 those -- what those drugs were?

17 A. Appeared to be -- initially I believed the cocaine
18 inside the Newport was crack cocaine, and the -- the powder
19 inside the bill appeared to be cocaine to me.

20 Q. And did you also search Mr. Gathers?

21 A. I did.

22 Q. And did you locate anything on him?

23 A. Nothing illegal, no, ma'am. There was a -- some cash
24 currency in one of his pants pockets, which I left on his
25 person at that time.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 Q. I'm going to show you what's been marked for
2 identification as State's Exhibit No. 10, 9, 11, and 12.

3 I'm going to ask you to look at those, please.

4 A. Okay.

5 Q. Did you take those photos?

6 A. No, ma'am.

7 Q. But do you recognize what's depicted in those photos?

8 A. Yes, ma'am.

9 Q. And is that an accurate depiction of what you saw on
10 the evening of March 14th of 2017, at Brittany Place
11 Apartments?

12 A. Yes, ma'am.

13 SOLICITOR SHELTON: Your Honor, at this time State
14 would ask to move State's Exhibits 9 through 12 into
15 evidence.

16 MR. BARROWCLOUGH: No objection, your Honor.

17 THE COURT: State's Exhibit 9, 10, 11, and 12, are
18 admitted into evidence, without objection.

19 (WHEREUPON, STATE'S EXHIBIT NO. 9, 10, 11, AND 12,
20 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

21 SOLICITOR SHELTON: We would ask to publish to the
22 jury.

23 THE COURT: Yes, you may.

24 (STATE'S EXHIBIT NO. 9 THROUGH 12 PUBLISHED TO THE
25 JURY AT 10:14 A.M.)

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 BY SOLICITOR SHELTON:

2 Q. Investigator Bolin, I'm going to ask you to explain to
3 the jury what this is.

4 A. That was the vehicle which Mr. Gathers was driving
5 that evening, that he was located in when I made contact
6 with him.

7 Q. And what is the color and make of that vehicle?

8 A. It is a gold Ford Explorer. I believe it's a 2005.

9 Q. And to your knowledge, who was the actual owner of
10 that vehicle?

11 A. His girlfriend, Germain Cogman.

12 Q. And was there anyone else in that vehicle when you
13 encountered Mr. Gathers on the evening of March 14th?

14 A. No, ma'am.

15 Q. Explain to the jury what this is.

16 A. Right there in front of the cup holder, or to the rear
17 of the cup holder, is the bill that had the powder cocaine
18 rolled up inside of it. And that's taken from the driver's
19 seat, looking toward a passenger seat of the vehicle.

20 Q. And that's State's Exhibit No. 10. And then, I'm
21 showing you what's been marked, what's been entered into
22 evidence as State's Exhibit No. 11.

23 A. Yes, ma'am. That was the cash currency that I
24 observed in between the center console and the passenger
25 seat of the vehicle.

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 Q. And at this point in time you had no idea what the
2 denominations or anything of those bills?

3 A. No, ma'am.

4 Q. And I'm showing you what's been marked for -- what's
5 been entered into evidence as State's Exhibit No. 12.

6 A. That is behind the passenger seat of the vehicle, a
7 carton of Newport, or Newport carton, a cigarette carton
8 that contained cocaine, also, inside of it.

9 Q. And you did not make this picture that evening?

10 A. No, ma'am.

11 Q. Had you already completely searched the car by the
12 time this picture was made?

13 A. Yes, ma'am.

14 Q. Is there anything missing that, at one point in time,
15 was -- should have been in that picture?

16 A. Right beside the carton of Newports was the open
17 container of alcohol that I originally observed when I made
18 contact with Mr. Gathers.

19 Q. And what did you do with that?

20 A. I laid it in the seat, right to the left, or the way
21 the picture's oriented to the left, so on the rear-
22 passenger seat.

23 Q. Thank you. And going back to the search and locating
24 the drugs that were in the car, did Mr. Gathers make any
25 statements in reference to those -- to those drugs?

INVESTIGATOR LUKE BOLING: DIRECT BY SOLICITOR SHELTON:

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1 A. He did make statements of admission to ownership of
2 the drugs.

3 Q. And did he make any other statements about what the
4 purpose of the drugs were for?

5 A. He stated that he was using narcotics.

6 Q. A user?

7 A. Yes, ma'am.

8 Q. And Brittany Place Apartments, what county is that in?

9 A. York.

10 SOLICITOR SHELTON: Court's indulgence, your Honor.

11 Q. You also -- did you do anything else further in the
12 investigation that night, assist in any way further that
13 night?

14 A. We did. We made -- I believe it was Sergeant Canty,
15 or either my lieutenant that night, made contact with Ms.
16 Cogman, the owner of the vehicle. And an officer spoke
17 with her in her house, and she allowed us to search her
18 house under consent, or her apartment, under consent.

19 Q. And to your knowledge, was there anything found in the
20 apartment relative to the armed robbery at First Citizens'
21 Bank?

22 A. Not to my knowledge. I didn't recover any property
23 from the apartment.

24 Q. Please answer any questions the Defense has. Thank
25 you.

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH

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1 A. Yes, ma'am.

2 MR. BARROWCLOUGH: May it please the Court, your
3 Honor?

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 INVESTIGATOR LUKE BOLING BY MR. BARROWCLOUGH:

7 Q. So, Investigator Boling, you testified that on March
8 14th, after 9:00 p.m., that basically you had what started
9 as a consensual encounter with Mr. Gathers?

10 A. Yes, sir.

11 Q. And when you approached him, you asked him for some
12 I.D.?

13 A. Yes, sir.

14 Q. And ultimately you asked him out of the vehicle?

15 A. Yes, sir.

16 Q. And he was cooperative with you?

17 A. He was.

18 Q. And he didn't get combative?

19 A. No, sir.

20 Q. Didn't try to run away?

21 A. No, sir.

22 Q. Didn't try to fight with you?

23 A. No, sir.

24 Q. And you asked him if he had any weapons on him, on his
25 person?

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH

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1 A. I did.

2 Q. And he told you he did not.

3 A. Yes, sir.

4 Q. And you had him face the vehicle, and you asked him
5 did he mind if you checked him for weapons?

6 A. Yes, sir.

7 Q. And he said he did not mind?

8 A. Yes, sir.

9 Q. And you did check him for weapons?

10 A. Yes, sir.

11 Q. And he did not have any weapons on him?

12 A. No, sir.

13 Q. And at some point after that I believe you testified
14 is when some of your partners came up. Investigator
15 Philson?

16 A. Yes, sir.

17 Q. And your supervisor Lieutenant Culbreath?

18 A. Yes, sir.

19 Q. And so, it was the three of you on scene with Mr.
20 Gathers?

21 A. Yes, sir.

22 Q. At his vehicle, or actually his girlfriend's vehicle?

23 A. Uh-huh.

24 Q. Okay. And it was at some point after that that you
25 searched the vehicle?

1 A. Yes, sir.

2 Q. And that search of the vehicle is documented on this
3 video that you just put into evidence, correct?

4 A. Yes, sir.

5 Q. And you did a thorough search of the vehicle?

6 A. Yes, sir.

7 Q. And one thing that you mentioned that you found was a
8 blue latex-surgical glove, correct?

9 A. I don't recall the color from memory, but it was a
10 surgical glove. Yes, sir.

11 Q. Okay. Like the latex kind?

12 A. Yes, sir.

13 Q. And of course, Mr. Gathers told you he cut hair for a
14 living?

15 A. He did.

16 Q. And of course, there were clippers that were found in
17 the car?

18 A. Yes, sir.

19 Q. You found them in the car?

20 A. Yes, sir.

21 Q. Consistent with cutting hair, right?

22 A. Yes, sir.

23 Q. In fact, I think one of these pictures shows the
24 clippers. Right. State's No. 10.

25 MR. BARROWCLOUGH: Your Honor, may I approach the

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH

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1 witness?

2 THE COURT: Yes, you may.

3 BY MR. BARROWCLOUGH:

4 Q. State's No. 10 shows the clippers.

5 A. Yes, sir.

6 Q. On the passenger seat, right?

7 A. Yes, sir.

8 Q. Okay. And of course, it would make sense, people who
9 cut hair might wear latex gloves while they're cutting
10 customers' hair, correct?

11 A. I don't cut hair for a living.

12 Q. Surely you've gotten a haircut?

13 A. Yes, sir. I've never had anyone give me a haircut
14 with latex gloves.

15 Q. All right.

16 A. Just me, personally.

17 Q. Okay. And you testified in that search that you did
18 locate cocaine?

19 A. Yes, sir.

20 Q. Okay. And you testified that Mr. Gathers told you
21 that he sniffed cocaine?

22 A. Yes, sir.

23 Q. And that he had a drug problem?

24 A. Yes, sir.

25 Q. And that he wanted help?

1 A. I don't specifically recall him saying that.

2 Q. Okay. And he didn't want to go to jail?

3 A. Yes, sir.

4 Q. And he was willing to work with you all?

5 A. Yes, sir.

6 Q. Okay. And you testified that you're on the drug unit
7 now, right?

8 A. Yes, sir, I am.

9 Q. Okay. So you have experience arresting people for
10 drug crimes?

11 A. Yes, sir.

12 Q. And recovering drugs?

13 A. Uh-huh.

14 Q. And things of that sort, right?

15 A. Yes, sir. Yes, sir.

16 Q. And so, in that capacity, then, you surely have seen
17 people who will buy, like, an eight ball, right?

18 A. Yes, sir.

19 Q. For their own personal use?

20 A. Uh-huh. Yes, sir.

21 Q. And an eight ball is a term that refers to an eighth
22 of an ounce, right?

23 A. Yes, sir.

24 Q. Okay. And that would be, like, three-point-something
25 grams, right?

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH

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1 A. Yes, sir.

2 Q. Okay. And in your thorough search of the vehicle, you
3 never did recover a gun, right?

4 A. No, I did not.

5 Q. Mr. Gathers said he did not have a gun, and you didn't
6 find a gun?

7 A. That's correct.

8 Q. And specifically, you did not find a silver handgun?

9 A. No. No weapons in the vehicle.

10 Q. Okay. And then, later you testified that you searched
11 the apartment at Lavington Court, right?

12 A. Yes, sir.

13 Q. And you did that because that's where you were told
14 Mr. Gathers resided?

15 A. That was the information I was given that night. Yes,
16 sir.

17 Q. And again, the apartment at Lavington Court, you did a
18 thorough search, correct?

19 A. Yes.

20 Q. And again, that search is also documented on your body
21 cam video?

22 A. It is.

23 Q. And it was a lengthy search?

24 A. Yes, sir.

25 Q. And you searched along with Investigator Philson?

1 A. Yes, sir.

2 Q. And Lieutenant Culbrith??

3 A. Yes.

4 Q. And as a result of that search, you did not locate a
5 gun?

6 A. No, sir.

7 Q. You did not locate, specifically, a silver handgun?

8 A. No, sir.

9 Q. You did not locate any fabric-style gardening gloves?

10 A. What, now? I'm sorry.

11 Q. Like, fabric gardening gloves?

12 A. Fabric?

13 Q. Gardening gloves made from fabric?

14 A. Okay.

15 Q. Like, a light --

16 A. Okay. I don't recall. No, sir.

17 Q. Okay.

18 A. And I don't recall specifically, myself, finding that.

19 Q. Okay. And you did not locate a fluorescent-color
20 bandana?

21 A. I did not, no.

22 Q. And you did not locate a dye pack?

23 A. No, sir.

24 Q. As you already testified to, when you searched this
25 apartment later that evening, on the 14th, you didn't find

INVESTIGATOR LUKE BOLING: CROSS BY MR. BARROWCLOUGH
REDIRECT BY SOLICITOR SHELTON

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1 anything related to the armed robbery?

2 A. Not that I recovered, no, sir.

3 Q. Not that anyone recovered, that you observed, right?

4 A. Not that I can remember. I didn't recover any
5 evidence personally from the scene that night.

6 Q. Okay.

7 MR. BARROWCLOUGH: One second, your Honor.

8 No further questions. Thank you, Investigator Boling.

9 SOLICITOR SHELTON: Just very briefly.

10 REDIRECT EXAMINATION

11 INVESTIGATOR LUKE BOLING BY SOLICITOR SHELTON:

12 Q. Investigator Boling, what -- At the time of concluding
13 the search, was there a determination made as to what
14 charges Mr. Gathers would be charged for?

15 A. In reference to?

16 Q. Just your search.

17 A. Yes, ma'am.

18 Q. What was that?

19 A. At the time we charged him with possession of cocaine;
20 possession with intent to distribute crack cocaine; and
21 possession with intent to distribute within proximity to a
22 school.

23 Q. And was there any determination about the open
24 container at the time of the search?

25 A. We determined not to charge for the open container,

INVESTIGATOR LUKE BOLING: REDIRECT BY SOLICITOR SHELTON

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1 just due to it being a municipal-level charge.

2 Q. Thank you.

3 A. Yes, ma'am.

4 THE COURT: Any re-cross?

5 MR. BARROWCLOUGH: One second, your Honor.

6 Your Honor, I don't have any questions, but at this
7 time, but I would have a matter of law.

8 THE COURT: All right. Lawyers, approach. I will ask
9 -- Investigator Boling, you can step down.

10 INVESTIGATOR BOLING: Yes, sir.

11 (WITNESS LEAVES WITNESS STAND.)

12 SOLICITOR SHELTON: Your Honor, we would ask that
13 Investigator Boling be excused unless there's an issue with
14 any --

15 THE COURT: All right. He's excused.

16 (BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF
17 THE JURY AT 10:25 A.M.)

18 MR. BARROWCLOUGH: Nothing further, your Honor.

19 THE COURT: All right. Thank you.

20 All right, Solicitor, call your next witness.

21 SOLICITOR SHELTON: Your Honor, the State, at this
22 time, would call Investigator Ryan Thomas.

23 (WHEREUPON, RYAN THOMAS,
24 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION

Q. State your name for the record, please.

1 A. Lawrence Zivkovich. Z-i-v-k-o-v-i-c-h.

2 Q. And where are you employed?

3 A. South Carolina Law Enforcement Division, commonly
4 known as SLED.

5 Q. And do you have a specific title?

6 A. Yes, ma'am.

7 Q. What title?

8 A. I'm a forensic chemist.

9 Q. And how long have you been employed with SLED as a
10 forensic chemist?

11 A. A little over twelve years.

12 Q. And before becoming employed with SLED as a chemist,
13 what did you -- what did you do before that?

14 A. I received a degree in science and chemistry from the
15 University of South Carolina, and then I worked as a
16 chemist over at the Department of Health and Environmental
17 Control. And when I was hired on at SLED, I received
18 training from SLED in forensic chemistry, and was also
19 trained at the University of West Virginia and the DEA.

20 Q. And as part of your training and experience with SLED,
21 what types of cases do you work on?

22 A. I work on controlled substances cases, which is drug
23 cases.

24 Q. And have you been qualified as an expert in court
25 before?

LAWRENCE ZIVKOVICH: DIRECT BY SOLICITOR SHELTON

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1 A. I have.

2 Q. Approximately how many times?

3 A. Forty-eight times.

4 Q. Forty-eight times? And as part of your daily job, you
5 analyze and draw conclusions as to the chemical makeup of
6 illegal substances?

7 A. Yes, ma'am.

8 SOLICITOR SHELTON: Your Honor, at this time we would
9 offer Mr. Zivkovich as an expert in the field of chemical
10 analysis and drug identification.

11 MR. SMITH: No objection, your Honor.

12 THE COURT: All right. I find that he is qualified as
13 an expert in chemical analysis and drug identification.

14 BY SOLICITOR SHELTON:

15 Q. I show you what's marked for identification as State's
16 Exhibit No. 36.

17 Do you recognize that bag? I believe your label is on
18 the other side.

19 A. I believe it's -- okay. It's -- I didn't realize it
20 was open. Yes, ma'am. This is a case that I worked as a
21 forensic scientist at SLED.

22 Q. And you can pull the items out. How do you recognize
23 those items?

24 A. When the items are submitted to SLED, they're given a
25 unique bar code number, which we assign to each case that

1 is submitted. And on the outside of the package, when I
2 receive it from login after it's been checked in to SLED,
3 I'll write that the evidence was intact, and with the date
4 and initials.

5 Q. So the evidence gets checked into SLED, and then you
6 receive custody of that evidence at some point?

7 A. Yes, ma'am.

8 Q. And what do you do with that when you receive custody
9 of it?

10 A. Once I receive custody of it I open the case, and I
11 check to see if it matches the inventory that was
12 submitted. And then, I work the case by doing various
13 preliminary tests and confirmatory tests.

14 Q. And is there -- What would happen if it doesn't match
15 the inventory, or the bag appeared to be tampered with, or
16 anything like that?

17 A. If the bag is tampered with, then we write on a report
18 that the seal was not intact, and I would also write on the
19 actual evidence that the seal was not intact. And also, if
20 the inventory doesn't match, then we will annotate that on
21 our worksheet that it does not match the inventory that was
22 submitted.

23 Q. And based on the paperwork from that evidence that you
24 received, that is -- it was received from Rock Hill Police
25 Department?

LAWRENCE ZIVKOVICH: DIRECT BY SOLICITOR SHELTON

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1 A. Yes, ma'am.

2 Q. And on case ending in 452, it's Item 0-0-7?

3 A. 452, and what did you have with that?

4 A. Item Number 0-0-7?

5 A. Yes, ma'am.

6 Q. And on Case 445 -- I'm sorry 452, 0-0-4?

7 A. Correct.

8 Q. And those were the items that you received in
9 reference to *State versus Travis Gathers*?

10 A. Yes, ma'am.

11 Q. And those are the items that you performed a chemical
12 analysis on?

13 A. That is correct.

14 Q. And exact -- and what did you do to perform that
15 analysis?

16 A. The first thing I did, we do a chemical test. And all
17 that is, is, we take a small portion of the evidence and
18 place it in different chemicals to give us a rough idea of
19 what it might possibly be. It's not a confirmatory test,
20 it's just something we use to give us an idea of what type
21 of solvents we need to extract it. Once we've done that,
22 then I'll do a confirmatory test on our instrumentation.

23 Q. And when all of that was done and performed, did you
24 make a determination as to what that sub -- what those
25 substances were, or are?

1 A. I did.

2 Q. And what was that?

3 A. I found the evidence bag, 004, to contain cocaine,
4 with a weight of 0.2 grams, plus or minus 0.1 grams. And I
5 found evidence bag 007 to contain cocaine, with a weight of
6 2.65, plus or minus 0.01 grams of cocaine.

7 Q. So, both cocaine? Both items were -- tested positive
8 as cocaine?

9 A. That is correct.

10 Q. And what was the total -- if -- of both items
11 together, what was the approximate total weight?

12 A. 2.85 grams.

13 Q. Of both -- of both 004 and 007?

14 A. Combined, yes, ma'am.

15 Q. And then, you prepared a report?

16 A. Yes, ma'am.

17 Q. And do you have that with you here today?

18 A. I do.

19 SOLICITOR SHELTON: Your Honor, let the record reflect
20 that Mr. Zivokovich's report is getting marked as State's
21 Exhibit 39.

22 (WHEREUPON, STATE'S EXHIBIT NO. 39, PREMARKED FOR
23 IDENTIFICATION.)

24 BY SOLICITOR SHELTON:

25 Q. Mr. Zivkovich, that is State's -- been marked for

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1 SOLICITOR SHELTON: I just need to know if I need to
2 go get the clicker, and --

3 THE COURT: Yes.

4 MR. BARROWCLOUGH: Judge, at lunch break you said we'd
5 probably have over thirty minutes.

6 THE COURT: Do what?

7 MR. BARROWCLOUGH: At the lunch break, you said --

8 THE COURT: Okay. All right. Five minutes 'til 3:00,
9 come into my office in about ten minutes, and then I'll
10 give you twenty minutes after we ---

11 MR. BARROWCLOUGH: All right. Thank you, your Honor.

12 SOLICITOR SHELTON: Thank you, your Honor.

13 (COURT IN RECESS AT 02:25 P.M.)

14 (COURT BACK IN SESSION AT 02:55 P.M.)

15 THE COURT: Thank you, please be seated.

16 (DEFENDANT REENTERS COURTROOM.)

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

18 SOLICITOR SHELTON: State's ready, your Honor.

19 THE COURT: Defense?

20 MR. BARROWCLOUGH: Yes, sir, your Honor.

21 THE COURT: All right. I had a discussion in chambers
22 with the attorneys. The State has indicated that they
23 would go forward on Indictment 2017-GS-46-04786 of the
24 lesser-included offense of possession of cocaine. I have
25 amended that indictment to -- struck through with intent to

1 distribute on the face and on the body of the indictment.

2 And is there any objection to that from the State?

3 SOLICITOR SHELTON: No, sir, your Honor.

4 THE COURT: From the Defense?

5 MR. BARROWCLOUGH: No, sir, your Honor.

6 THE COURT: Then I'll show the verdict forms at the
7 close. I do have a verdict form, simply it deals with
8 possession of cocaine.

9 Solicitor, if you would at some point find me the CDR
10 code for possession of cocaine, so I can change the CDR
11 Code.

12 SOLICITOR SHELTON: First offense, your Honor?

13 THE COURT: Yes.

14 SOLICITOR SHELTON: It's -- should be 173, but I'll
15 confirm that.

16 THE COURT: Confirm that at some point.

17 Anything else, for the record?

18 All right. I believe we had also had a discussion
19 about the order we have under the new *Beatty* rule, or
20 applying the case of *State v. Beatty*. In this particular
21 case, the State would normally be required to open on the
22 law and the facts, and then the Defense would have an
23 opportunity to then give their closing. Then the State
24 would have an opportunity to reply.

25 After discussing with the attorneys, Mr. Barrowclough

VERDICT:

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1 THE COURT: All right. All right, looks like we have
2 a verdict. The jury has a verdict.

3 (DEFENDANT REENTERS COURTROOM.)

4 THE COURT: All right, thank you. It looks like we
5 have all the folks in place. The jury has indicated -- the
6 bailiff -- has indicated through him announced that they
7 have a verdict. Let's bring the jury in.

8 (JURY RE-ENTERS COURTROOM AT 06:45 P.M.)

9 THE COURT: All right. Ladies and gentlemen, thank
10 you. Mr. Foreman, has the jury reached a verdict?

11 THE FOREPERSON: Yes, sir, we have.

12 THE COURT: If you would pass the verdict forms to the
13 bailiff.

14 (VERDICT RECEIVED UP THE COURT.)

15 THE COURT: Madam Clerk, if you would publish the
16 verdict.

17 MADAM CLERK: Indictment Number 2017-GS-46-4789, for
18 armed robbery, we, the jury, find -- in the *State of South*
19 *Carolina versus Travis Lamont Gathers*, we, the jury, find
20 the Defendant Travis Lamont Gathers not guilty, signed by
21 foreperson, dated August 23, 2018.

22 *State of South Carolina versus Travis Lamont Gathers*,
23 on 2017-GS-46-04786, possession of cocaine, we, the jury,
24 find the defendant guilty of possession of cocaine. Signed
25 by the foreperson, dated August 23, 2018.

SENTENCING:

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1 Ladies and gentlemen of the jury, if this be your
2 verdict, please say so by raising your right hand.

3 Let the record reflect all jurors affirm this verdict.

4 (ALL JURORS AFFIRMED THE VERDICT BY RAISING THEIR
5 RIGHT HANDS.)

6 THE COURT: All right. Thank you. Anything further
7 from the State?

8 SOLICITOR SHELTON: No, sir, your Honor.

9 THE COURT: Anything from the Defense?

10 MR. BARROWCLOUGH: No, your Honor.

11 THE COURT: Ladies and gentlemen, thank you for your
12 service this week. This is a fairly long trial, three
13 days. At this point you can talk to anybody about the case
14 that you wish. Sometimes lawyers may call and talk to you,
15 want to get information or feedback. They're allowed to do
16 that. On the other hand, you're not required to talk to
17 them. You don't have to say anything to them about the
18 case at all, but you have the freedom to do that if you
19 wish. In fact, you can talk to anybody about the case.
20 But the choice is yours of whether you want to talk to
21 anybody or not. I just wanted to let you know that if you
22 get a call, there's nothing unlawful or untoward about
23 that. However, you do not have to answer any questions at
24 all if you wish.

25 Thank you for your service this week. You are free to

SENTENCING:

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1 leave, and leave -- Mr. Dunlap over here will take your
2 badges and show you where to go. And you all will be free
3 from jury service for another three years. Thank you.

4 MADAM CLERK: I need the foreperson.

5 THE COURT: Yes. Mr. Foreman, if you would come up we
6 need to get you to sign the indictment.

7 (JURY DISMISSED AT 06:49 P.M.)

8 THE COURT: Has the State prepare a sentencing sheet?

9 SOLICITOR SHELTON: Yes, sir, your Honor.

10 THE COURT: All right. Let's bring the Defendant
11 around.

12 (DEFENDANT AND DEFENSE ATTORNEYS APPROACH THE BAR.)

13 THE COURT: All right. Solicitor, while they're
14 working on the paperwork there, give me any prior criminal
15 record.

16 SOLICITOR SHELTON: Your Honor, he has a second degree
17 robbery from 1988; a criminal mischief and petty larceny
18 from 1988; attempted petty larceny from 1988; criminal
19 possession of stolen property and petty larceny from 1988;
20 auto stripping from '88; possession of stolen property from
21 '88; attempted petty larceny from '89; criminal trespass
22 from '89; petty larceny, '89; petty larceny, '89.

23 THE COURT: Where were these?

24 SOLICITOR SHELTON: These are all in New York. Petty
25 larceny in '89; possession of burglary tools in '91;

SENTENCING:

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1 criminal mischief in '92; criminal mischief in '93;
2 burglary degree second, where he received a six-to-twelve-
3 year sentence in 1993; and burglary third degree in 2000,
4 where he received a two-and-a-half to five-year sentence; a
5 disorderly conduct in 2004; a petty larceny in 2005; a
6 burglary third degree in 2006, where he received a three-
7 to-seven-year sentence; and a burglary second degree, times
8 two, in 2011, where he received a six-year sentence, I
9 believe, your Honor, which he is currently on parole for
10 that.

11 THE COURT: This is -- how many days has he been in
12 jail?

13 MR. BARROWCLOUGH: Five hundred and twenty-seven, by
14 my calculation, your Honor.

15 THE COURT: Is there a hold on him from New York? Do
16 we know that?

17 SOLICITOR SHELTON: There are several pending warrants
18 that would keep him here, for at least the time being.

19 THE COURT: All right. Mr. Barrowclough, I'd be glad
20 to hear from you, and then your client.

21 MR. BARROWCLOUGH: May it please the Court.

22 Your Honor, you know most of the facts. Mr. Gathers
23 is forty-eight. He is originally from New York. He did
24 move down here about two years ago.

25 Your Honor, he does have a common-law wife. You know

SENTENCING:

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1 they stay at Brittany Place Apartments. He was working
2 supporting himself, both cutting hair at Thorough Cuts on
3 South Wilson Street in Rock Hill, as well as he did have a
4 side business selling clothes. He would go back and forth
5 picking up clothes, high-dollar brand clothes, probably
6 knock-off high-dollar brand clothes from Atlanta, and then
7 bring them up here and selling them around Rock Hill.

8 Your Honor, he does, as we said in trial, and as, you
9 know, you may have heard, he does have a little problem
10 with cocaine. I know that he -- he has five hundred and
11 twenty-seven days credit for time served, but in talking to
12 him, you know, he did still want me to ask the Court to
13 consider probation. And maybe that would be a way to
14 address the cocaine issue, your Honor.

15 THE COURT: All right. Thank you.

16 Mr. Gathers, anything you want to say?

17 MR. GATHERS: First, I want to thank you. I want to
18 thank God, you know, for vindicating me. But I -- Yes, I
19 want to thank you as well. But I would like to -- I would
20 like to have probation because I don't want to go back to
21 New York. All my family's here. You know, and if I had --
22 if I -- I mean, I'm pretty sure there's going to be a
23 violation, but that could probably be worked out some type
24 way. But I don't have to go back there. You get what I'm
25 saying? Because I don't want to go back there. My family

SENTENCING:

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1 is here. This is where my wife is it, this is where my
2 mother's at, this is where my father's at.

3 I don't know if you seen them in the courtroom,
4 they're older. They older, they need help. My father, he
5 has Alzheimer's. My mother, she -- she just had three
6 strokes a couple of years back and she's still going
7 through some stuff. This is hard for her. This was hard
8 for her and I don't want to go back to New York. That
9 would be the only thing that would keep me here, you know.
10 Even if I have to leave -- eventually leave out of the
11 county, you know, if you don't want me here, you get what
12 I'm saying? But I don't want to go back to New York.

13 THE COURT: All right. Thank you.

14 MR. GATHERS: And I do understand I was hurt. And I
15 do understand, yes, I do have the time in. And like I said
16 I'm crazy but, you know, if I get somewhere I could keep --
17 I could stay here. You know, I don't want to go back
18 there.

19 THE COURT: Well, I don't -- no matter what type of
20 sentence I give you, I certainly can't tell the
21 consequences of what New York may or may not do. I'm
22 certainly not here to determine what New York does or
23 doesn't do. However, you know your record is -- your
24 record is extensive. You're still on parole. That's
25 significant. Based on that, the sentence on 2017-GS-46-

SENTENCING:

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1 4786, Travis Lamont Gathers, having been found guilty by a
2 jury trial of possession of cocaine first offense, the
3 sentence he be committed to the Department of Corrections
4 for a determinat term of three years, credit for five
5 hundred and forty-seven days. Thank you.

6 MR. BARROWCLOUGH: Thank you.

7 SOLICITOR SHELTON: Thank you, your Honor.

8 (DEFENDANT TRAVIS GATHERS EXITS COURTROOM.)

9 THE COURT: All right. Thank you all.

10 MR. BARROWCLOUGH: Thank you, your Honor.

11 SOLICITOR SHELTON: Thank you, Judge.

12 (COURT ADJOURNED AT 06:55 P.M.)

13 (END OF TRANSCRIPT OF RECORD.)
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

RHPD

Witnessing Officer: Vreeland

ARREST WARRANT NUMBER

2017A4620300516

ACTION OF GRAND JURY

TRUE BILL

Eugenia A. Reardon
Foreperson of Grand Jury
Date: 11-9-2017

VERDICT

guilty x
11/23/18
Salmon
Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-46-04786

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

NOVEMBER 9, TERM 2017

THE STATE

VS.

TRAVIS LAMONT GATHERS

INDICTMENT FOR

**POSSESSION WITH INTENT TO
OF ~~DISTRIBUTE~~ COCAINE**

SC Code: § 44-53-370

CDR Code: ~~0176~~

0176

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

106

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

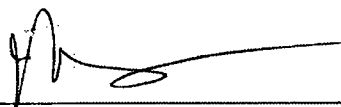
INDICTMENT

At a Court of General Sessions, convened on November 9, 2017, the Grand Jurors of York County present upon their oath:

OF 00H 8-23-18
POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

The defendant, Travis Lamont Gathers, did on or about March 14, 2017, in York County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase cocaine, a schedule II controlled substance narcotic, all in violation of Section 44-53-370, Code of Laws South Carolina (1976, as amended).

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

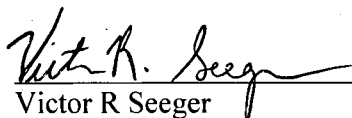


MISTI H. SHELTON
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Victor R Seeger
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 19th day of December, 2019.

RECEIVED
DEC 19 2019
SC Court of Appeals