

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHNATHAN RAKIM BRIGHT,

APPELLANT

APPELLATE CASE NO. 2020-000076

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry) 2019-GS-26-00561, 00562,
00563, AND 04767

STATE OF SOUTH CAROLINA,)
)
Plaintiff,) **Transcript of Record**
)
vs.)
) January 8-9, 2020
)
JOHNATHAN RAKIM BRIGHT,)
)
Defendant.)

B E F O R E :

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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

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Kay H. Richardson
Circuit Court Reporter

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1 **JANUARY 8, 2020 - DAY ONE - 11:50 A.M.**

2 (REPORTER'S NOTE: Jury enters courtroom @ 11:53 A.M.)

3 VOIR DIRE:

4 THE COURT: All right. Ladies and gentlemen, I apologize
5 for bringing you in and then shuffling you out, but the jury
6 on other case is deliberating and they had a question for the
7 Court that I had to answer, so they could continue
8 deliberations in the first case.

9 In this particular matter, the State of South Carolina
10 has charged the defendant, Johnathan Rakim Bright, with
11 certain offenses. Now, I am going to read to you from the
12 four indictments. Now, before I do that, I'll remind you and
13 tell you that the indictments are merely the charging
14 document, the document which brings the matter to court. The
15 indictment is not evidence. It cannot be considered by anyone
16 as evidence in this case. The only reason I'm reading the
17 information to you is to see if you know anything about these
18 particular cases.

19 Now, the State of South Carolina has charged the
20 defendant, Johnathan Rakim Bright, with the offense of
21 possession of a stolen pistol. Charged that Johnathan Rakim
22 Bright did, in Horry County, on or about November 6th, 2018,
23 knowingly buy, sell, transport, pawn, receive, or possess a
24 stolen pistol or one from which the original serial number has
25 been removed or obliterated, all being in violation of the

1 Code of Laws for the State of South Carolina, 1976, as
2 amended.

3 The State of South Carolina has also charged the
4 defendant, Johnathan Rakim Bright, with another charge of
5 possession of a stolen pistol. Again, that Johnathan Rakim
6 Bright did, in Horry County on or about November 6th, 2018,
7 knowingly buy, sell, transport, pawn, receive, or possess a
8 stolen pistol or one from which the original serial number has
9 been removed or obliterated, again in violation of the Code of
10 Laws, State of South Carolina, 1976, as amended.

11 The State of South Carolina has also charged the
12 defendant, Johnathan Rakim Bright, with the offense of
13 unlawful carrying of a pistol. That Johnathan Rakim Bright
14 did, in Horry County, on or about November 6th, 2018, carry
15 about the person a pistol, such carrying no being authorized
16 by law in violation of the Code of Laws, State of South
17 Carolina, 1976, as amended.

18 The State of South Carolina has also charged the
19 defendant, Johnathan Rakim Bright, with the crime of unlawful
20 possession of a pistol. That Johnathan Rakim Bright did, in
21 Horry County, on or about November 6th, 2018, knowingly
22 possess or acquire a pistol, after having been convicted of a
23 crime of violence previously as defined in the Code of Laws,
24 State of South Carolina, 1976, as amended.

25 Is there any member of the jury panel that knows anything

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MOTIONS

1 Thank you very much. You are now excused.

2 (REPORTER'S NOTE: Remaining Jury Venire exits courtroom @
3 12:20 P.M. The following takes place outside the presence of
4 the jury.)

5 THE COURT: All right. Any matters from the state at
6 this point in time?

7 MR. TERRELL: No, sir, Your Honor.

8 THE COURT: From the defense, Mr. Hiller?

9 MR. HILLER: Your Honor, are you wanting to me move
10 directly into pretrial motions or do you want ---

11 THE COURT: Yes, sir, if you have any pretrial motions,
12 I'll be glad to hear from you at this time.

13 MOTIONS:

14 MR. HILLER: Your Honor, my motions are fairly brief and
15 probably somewhat predictable. But first and foremost, I
16 would ask the Court to -- or I'd make a motion in limine to
17 suppress any reference to any other charges that are pending
18 in Horry County at this time against my client, Mr. Johnathan
19 Bright. He does have a charge that both predates this charge.
20 He's represented by Morgan Martin on that charge. And he has
21 a charge that I represent him on that post-dates this charge.

22 THE COURT: All right. Let me hear from you, solicitor?

23 MR. HILLER: So, we're here today on just the one charge.

24 THE COURT: All right. So, Solicitor, I would expect
25 that you have talked to your witnesses and that they will not

1 be discussing any matters that do not involve the cases being
2 brought here today?

3 MR. TERRELL: That's correct, Your Honor.

4 THE COURT: All right. Very good.

5 MR. HILLER: Your Honor, I would just briefly move that
6 the state's witnesses be sequestered during the course of the
7 trial. I understand that the chief prosecuting witness has
8 the right to be here for the entire time, but I do believe
9 there will be several other witnesses that would ask to be
10 sequestered until ---

11 THE COURT: All right. As I understand that the state
12 has two police officers -- is that correct -- that would
13 testify?

14 MR. TERRELL: Yes, sir, Your Honor.

15 THE COURT: And which one is the one that's responsible
16 or in charge of this particular prosecution?

17 MR. TERRELL: That would be Officer Schoonmaker.

18 THE COURT: All right. So, Schoonmaker will be allowed
19 to stay in the courtroom and Vasquez will be sequestered.

20 MR. TERRELL: Yes, sir.

21 THE COURT: All right. Thank you very much.

22 MR. HILLER: Your Honor, my third and final motion
23 involves the indictment for the, basically the prohibited
24 person indictment?

25 THE COURT: Yes, sir. That's just so the record in

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MOTIONS

1 clear, that's 2019-GS-26-563, correct?

2 MR. HILLER: As the Court read to the panel during the
3 selection -- and, of course, I appreciate the Court instructed
4 them that that's not evidence, it's just simply a charging
5 document -- but that indictment does state that my client has
6 been convicted of what is termed a crime of violence. And of
7 course, the defense has a concern that that information
8 presented to the jury during the course of the trial will be
9 more prejudicial than probative as to the possession of a
10 stolen pistol charges times two and then the unlawful carry
11 charge. I would make a motion to respectfully bifurcate the
12 trial so the jury reaches a decision on the three indictments,
13 two unlawful possession of a stolen pistol charges and an
14 unlawful carry. And if the jury does reach a verdict on that,
15 then to -- or an adverse verdict on that, then to forward with
16 -- or no matter what the jury's verdict is, then to move
17 forward with the third part, which would basically keep the
18 state from presenting evidence that my client's been convicted
19 -- is a convicted felon during the case in chief.

20 THE COURT: All right, sir. I, I appreciate the
21 defense's concern, and certainly when the state brings forward
22 any evidence of the prior conviction, the Court will, at that
23 point in time, and also in the final charge to the jury if the
24 case goes that far but, certainly, at that point in time, I
25 will instruct the jury that that is only being produced as an

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MOTIONS

1 element of the crime, that it cannot be used for any other
2 purpose. They cannot use it to find the defendant guilty of
3 the crimes charged. I will explain to them the sole and only
4 purpose that it's being introduced and that they are
5 prohibited from using it in any other fashion. But I will
6 certainly do that at the time the state attempts or brings in
7 any evidence of the prior crime and at the closing
8 instructions to the jury if we are at that stage. But I do
9 not believe it is proper to bifurcate. The state has charged
10 the defendant with this particular crime and it is an
11 obligation of the state, if they are to proceed on that, which
12 they have the right to do, to prove all of the elements of the
13 crime. And one of the elements of this crime is the prior
14 conviction of the crime of violence. And therefore, the Court
15 would respectfully decline to bifurcate or separate out those
16 charges, but I will certainly instruct the jury, I believe
17 properly as to its sole and only purpose.

18 MR. HILLER: Yes, sir, Your Honor.

19 THE COURT: Thank you, sir.

20 MR. HILLER: Very clearly understood.

21 For the record, the defense would be willing to stipulate
22 to that charge if permitted.

23 THE COURT: And I -- all right, sir. I appreciate that.
24 Is -- regarding that, as I understand it from the state,
25 Solicitor, the state wishes to proceed with that charge and

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MOTIONS

1 introduce evidence of the prior offense; is that correct?

2 MR. TERRELL: That is my intention, yes, sir.

3 THE COURT: All right, sir. Very good. All right.

4 Thank you very much.

5 MR. HILLER: Your Honor, may I put the plea record on the
6 record.

7 THE COURT: Please, yes.

8 Solicitor, if you would, if you could tell the Court the
9 prior plea offer that has been extended to the defendant?

10 MR. TERRELL: Yes, sir, Your Honor. The plea offer that
11 was extended to this defendant was for him to plead guilty to
12 the charges that he's currently on trial for, as well as one
13 count of attempted murder, which he has pending in another
14 case. In exchange for that guilty plea, the state would be
15 making a recommendation of five years on the weapons charges.
16 They carry five years, one year on the unlawful carry of a
17 pistol and a time-served plea offer for the attempted murder.

18 THE COURT: All right. Very good.

19 MR. HILLER: And that would also dismiss the ---

20 MR. TERRELL: Yes, the other charges pending would be
21 dismissed.

22 THE COURT: There's a pending burglary charge would be
23 dismissed; is that correct?

24 MR. TERRELL: Yes, sir.

25 THE COURT: All right. Very good.

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OPENING BY TERRELL

1 decision as to whether or not the state has proven him guilty
2 beyond a reasonable doubt. I am certain as are counsel that
3 has selected you for this particular case, that you will carry
4 about those duties properly and render a proper verdict in
5 this matter.

6 Solicitor?

7 MR. TERRELL: Thank you, Your Honor, may it please the
8 Court?

9 THE COURT: Yes, sir.

10 OPENING BY TERRELL:

11 MR. TERRELL: Early on the morning of November 6, 2018,
12 officers with the Myrtle Beach Police Department were called
13 to a filling station in Myrtle Beach in reference to a
14 possibly intoxicated individual. Officer pulls up, he sees
15 this defendant sitting in his car, almost unresponsive, not --
16 not saying anything, tries to make contact with him. During
17 the course of that encounter, he determines that he's
18 intoxicated and he's a danger to himself and possibly to
19 others if he were to get in his car. He was placed under
20 arrest. He was placed under arrest for public intoxication,
21 and because of it is was taken to Myrtle Beach Police
22 Department to be booked in on those charges.

23 Now, we're here in on gun charges and you might be
24 wondering where does this come in. Before officers are able
25 to tow the vehicle, out of concern for the safety of the

1 individual they've arrested and their belongings, they do an
2 inventory of the vehicle, find out what's in it, so that if
3 they're any discrepancies they can say, hey, this is what we
4 found in your vehicle, this is what we're returning to you in
5 your vehicle, just so everybody is on the same page.

6 During an inventory of that vehicle, officers find two
7 weapons. They find one under the driver's seat and they find
8 one in the trunk. They're both hand guns, both fire arms.
9 He's charged today, we're here today for four different
10 charges based on these two guns. Both of these guns, they
11 were able to do a history on and run through what they call
12 NCIC, basically do a check and make sure that the gun is not
13 stolen. Both of these guns -- both of these guns did in fact
14 come back stolen. You'll hear about that process. That --
15 that's the two charges for possession of a stolen vehicle, or
16 sorry, possession of a stolen firearm. He was in possession
17 of these two firearms and they both came back stolen.

18 I'm not gonna try and overcomplicate this. That's --
19 that's what this charge is. He knew that they were stolen or
20 he should have known that they were stolen and he was in
21 possession of them.

22 He was also charged with one count of unlawful carrying
23 of a firearm. South Carolina law mandates that, if you're
24 going to carry a firearm around your person, you have to have
25 it stored in a certain way. If you're in your vehicle, it has

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OPENING BY TERRELL

1 to be stored in a certain way and that -- that varies somewhat
2 based on whether or not you have a concealed weapons permit.
3 You'll hear an officer testify that when they did background
4 check on this defendant, and he does not have a concealed
5 weapons permit. Therefore, he is not allowed to carry a
6 weapon in the manner in which he did. That being under his
7 car seat. The final charge is for a prohibited person being
8 in possession of a firearm. Basically, that this defendant
9 has been convicted of a, what South Carolina calls a crime of
10 violence. That means that he's not allowed to own or possess
11 a firearm and, being in possession of firearms, he was also
12 charged with that offense.

13 Like I said, I'm not gonna try and overcomplicate this
14 for you. We've got a few witnesses. You'll see the entire
15 encounter that involves this defendant from when officers
16 arrived to when the defendant is arrested and taken to jail.
17 You'll see the search of his vehicle. You'll see the officers
18 pull the weapons out where they get them from.

19 I wouldn't imagine this case to last probably a couple of
20 hours. We should be done with it this afternoon. Being so
21 short, I would encourage you to please play very close
22 attention to what the witnesses say, to what you're gonna see
23 in the dash cam videos, what you're gonna see in the bodycam
24 video, and take it all into account, because it all is very
25 important and I am confident that by the end of the day, when

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OPENING BY HILLER

1 I ask you to go back and deliberate on what you were able to
2 hear today, that you will find this defendant guilty of the
3 two crimes or the four crimes that he's been charged with.

4 THE COURT: All right. Mr. Hiller?

5 MR. HILLER: May it please the Court?

6 THE COURT: Yes, sir.

7 MR. HILLER: Thank you, Your Honor.

8 OPENING BY HILLER:

9 MR. HILLER: Good afternoon. It really is a simple case
10 and what's gonna control the jury, each and every one of you
11 jurors' unanimous decision today is what you infer from the
12 facts about my client, Mr. Johnathan Bright's knowledge of
13 what was in that vehicle.

14 I didn't look under my seat before I sat down, but the --
15 the point here is the state has to prove beyond a reasonable
16 doubt to each and every one of you that Mr. Bright knew that
17 he was in possession of a stolen firearm. You're gonna hear
18 evidence today as to the ownership of that vehicle. You're
19 gonna hear that the officers ran the registration, found out
20 who the actual owner of that vehicle is. They'll tell you who
21 that person is, or they should.

22 At the end of the case, I'm gonna ask you just to listen
23 to every piece of evidence withhold any prejudging of the
24 case. Remember your oath; remember that it is the state's job
25 to prove Mr. Johnathan Bright guilty beyond a reasonable

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BY THE COURT

1 doubt. He sits here as innocent as the bailiff, as I, as
2 anyone in the courtroom in support of him. Every member of
3 this -- every entity, every human being in this room right
4 now, many of us don't know each other, but we're all presumed
5 under the law innocent until proven guilty. That is not a
6 theoretical concept; that is like the lifeblood of our system.
7 It's not like Law and Order, where we kind of know at the
8 minute of the movie, or the episode that he's gonna get
9 convicted; they're gonna bust the case open. It's not like
10 that; it's an actual -- this is theoretical, but it's robe of
11 righteousness that's on Mr. Johnathan Bright right now and
12 it's solicitor, it's the solicitor's job to compare to
13 convince you beyond a reasonable doubt that that -- that this
14 American citizen deserves to have that robe of righteousness
15 ripped off his shoulders. That's what we're here about.

16 I do want to, obviously, withhold my -- my argument until
17 the end. Please do pay attention. Take the burden of proof
18 seriously. Take your duty seriously. I know you will. This
19 shouldn't take the afternoon really and I look forward to
20 talking to you again a little bit later. Thank you.

21 BY THE COURT:

22 THE COURT: All right, Solicitor, your first witness,
23 please, sir.

24 MR. TERRELL: Yes, sir.

25 May I approach, Your Honor?

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RAYMOND SCHOONMAKER - DIRECT BY TERRELL

1 THE COURT: Please, sir. All right. Let's go forward
2 with the witnesses and I will -- there is be one thing we need
3 to put on the record outside the presence of the jury. I'll
4 call them in and then we'll allow the state's exhibit to come
5 into evidence at that time.

6 MR. TERRELL: Yes, sir.

7 THE COURT: All right. Thank you.

8 MR. TERRELL: The state calls Officer Schoonmaker.

9 THE COURT: All right, sir, please come around.

10 CLERK: Raise your right hand and put your left hand on
11 the Bible.

12 OFFICER RAYMOND SCHOONMAKER, HAVING BEEN
13 DULY SWORN TESTIFIES AS FOLLOWS:

14 CLERK: Please step around. State and spell your name
15 for the Court?

16 MS. SCHOONMAKER: Spell it, sir?

17 CLERK: Yes, please.

18 MR. SCHOONMAKER: It's Officer Schoonmaker and it's S-C-
19 H-O-O-N-M-A-K-E-R.

20 THE COURT: Go ahead, Solicitor.

21 DIRECT EXAMINATION OF RAYMOOND SCHOONMAKER BY MR. TERRELL:

22 Q: Officer Schoonmaker, where are you employed, sir?

23 A: City of Myrtle Beach Police Department.

24 Q: What is your title; what's your position?

25 A: I'm a police officer for the department.

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RAYMOND SCHOONMAKER - DIRECT BY TERRELL

1 Q: What do your duties include?

2 A: To enforce the laws and policies through the state of
3 Horry County -- through the State of South Carolina, Horry
4 County and the City of Myrtle Beach.

5 Q: How long have you been employed with the Myrtle Beach
6 Police Department?

7 A: Just over three years, sir.

8 Q: Were you working in this capacity on November 6th, 2018?

9 A: Yes, sir.

10 Q: Were you -- do you remember being called to an incident
11 at a filling station in the early morning hours that morning?

12 A: Yes, sir.

13 Q: Tell the jury why you were called?

14 A: We had a call that was called in by a civilian that
15 someone was intoxicated possibly and had been sleeping out in
16 their vehicle for about 20 minutes at the gas pump.
17 Basically, dispatch calls us and we have to respond to it.

18 Q: So, did you have any preconceived notion; what were you
19 expecting going in?

20 A: Just possibly what was said in our CAD notes. Basically,
21 we get a call over -- onto our computer that gives us the
22 notes of the call, and I was expecting to go deal with
23 something similar to that nature.

24 Q: So, if you remember, about what time did you arrive on
25 scene?

1 A: Exactly, it was 02:07.

2 Q: So, just after 2 o'clock in the morning?

3 A: Yes.

4 Q: And where was this filling station?

5 A: It was right at 21st Avenue North and Robert Grissom
6 Parkway. The exact address is actually 1274 21st Avenue
7 North. It's the city limits of Myrtle Beach and it's also
8 located in Horry County.

9 Q: That's an Exxon station if I'm not mistaken, right?

10 A: Yes. Well, I believe the direct name is Scotchman.

11 Q: Scotchman?

12 A: Yes.

13 Q: What do you see when you get on the scene?

14 A: I see the car. We were told there was a white Chevy
15 Cavalier at the pump. I saw that car. I drove my car around
16 to set up like perfectly on it. I adjusted my camera. When I
17 got up to the car, I noticed Mr. Bright with his head down in
18 the vehicle.

19 Q: Was it busy that time of night?

20 A: No, sir, there is only one other car in the parking lot.
21 There was no other cars at the gas pumps.

22 Q: And you said something about your camera. Did -- what
23 car were you in?

24 A: Car 60; it's my patrol vehicle.

25 Q: Is that patrol vehicle equipped with a dash camera?

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RAYMOND SCHOONMAKER - DIRECT BY TERRELL

1 A: Yes.

2 Q: Do you know if it was working that night?

3 A: It was.

4 Q: Were you able to record the incident?

5 A: Yes, sir.

6 MR. TERRELL: May I approach the witness?

7 THE COURT: Yes, sir.

8 BY MR. TERRELL:

9 Q: I'll show you what's marked as State's Exhibit 2. Just
10 generally, do you know what that is?

11 A: Yes, sir.

12 Q: What is it?

13 A: It's my in-car camera or dash cam, as we would say.

14 Q: And how do you know that that's what's on this DVD?

15 A: I've watched and initialed it.

16 Q: Okay.

17 COURT REPORTER: Officer, can I have your first name,
18 please?

19 A: Raymond. I'm sorry.

20 COURT REPORTER: Thank you.

21 BY MR. TERRELL:

22 Q: And when you initialed it, you initialed that you had
23 seen it?

24 A: Yes.

25 Q: And it was a true and accurate depiction of what happened

1 that night?

2 A: Yes, sir.

3 Q: Without any alterations or deletions?

4 A: No, sir.

5 MR. TERRELL: Your Honor, we'd ask that State's 2 be
6 moved into evidence at this time?

7 THE COURT: Any objection.

8 MR. HILLER: No, Your Honor, I believe he laid the proper
9 foundation.

10 THE COURT: All right. Very good. State's 2 is into
11 evidence without objection and you may publish it to the jury.

12 STATE'S EXHIBIT NUMBER 2

13 ADMITTED INTO EVIDENCE

14 MR. TERRELL: Thank you, Your Honor.

15 (REPORTER'S NOTE: State's 2 published to the jury. Audio not
16 transcribed herein.)

17 MR. HILLER: Your Honor. Judge John, Your Honor?

18 Your Honor, I apologize, the microphone is not on.

19 THE COURT: I'm sorry. Okay.

20 MR. HILLER: I'm sorry. At this point, I believe he was
21 placed into custody and arrested on the video.

22 THE COURT: All right. And you are objecting to playing

23 ---

24 MR. HILLER: Any further playing of it unless ---

25 THE COURT: All right. Y'all come up here and talk to me

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RAYMOND SCHOONMAKER - DIRECT BY TERRELL

1 for just a second.

2 (REPORTER'S NOTE: Bench conference is held off the record in
3 the presence of but outside the hearing of the jury.)

4 THE COURT: Madam forelady, ladies and gentlemen of the
5 jury, go to your jury room, please. Thank you.

6 (REPORTER'S NOTE: Jury exits courtroom @ 2:39 P.M. The
7 following takes place outside the presence of the jury.

8 THE COURT: All right. Solicitor, as I understand it, at
9 this point in time, in the video, the defendant has been
10 placed in custody, correct?

11 MR. TERRELL: Yes, sir.

12 THE COURT: All right. What remains on this video till
13 its end? What is still left on the video?

14 MR. TERRELL: From this point, Your Honor, he's placed in
15 the rear of the patrol vehicle and he makes numerous
16 statements about that being his vehicle, about ownership of
17 the vehicle, the stuff inside the vehicle. There is --
18 Miranda protects from custodial interrogation. He's not being
19 interrogated at all. The only question, I believe, he's asked
20 through the remainder of the video is whether he wants the
21 money to go with him to the jail for, I believe, for bond
22 purposes and for safekeeping, which he doesn't answer.

23 Nothing is -- is elicited from the officers. They are all
24 just voluntary statements from this defendant that are not in
25 response to anything other than his adamant denial or adamant

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1 admission that that's his stuff and that he doesn't believe
2 officers have the right to go through it.

3 THE COURT: All right. Mr. Hiller, let me hear from you,
4 sir.

5 MR. HILLER: Well, Your Honor, I mean, obviously, I
6 wanted to preserve the issue that he was in custody and I
7 apologize for having to stop the video like that.

8 THE COURT: No. No, don't worry about that. You need to
9 bring the matter to the Court's attention, sir.

10 MR. HILLER: From the defense perspective, he is -- he's
11 in -- he is in custody. I agree this is not a formal
12 interview as such, as if -- as if a detective came in and
13 started interrogating him without advising him of his rights.
14 But there are questions, there is back and forth between them,
15 and some of it -- I've seen the video. Some of it, it could
16 be characterized as, as spontaneous, but the officer also
17 makes it seem like, I'm about to search your vehicle. And
18 that does elicit a response from Mr. Bright. So, certainly
19 it's Your Honor's decision, but I would argue that ---

20 THE COURT: Well, then ---

21 MR. HILLER: --- it is post Miranda and I would ---

22 THE COURT: --- y'all need to move the video back and
23 we'll continue to play it. Mark where it is right now. So,
24 if we have to go back to it, we know exactly where we are.

25 And, Mr. Hiller, if you want to come around, you know,

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1 somewhere over here so you can watch it, too.

2 All right. And is there something on the screen that
3 documents a time or ---

4 MR. TERRELL: Yes, sir, Your Honor.

5 THE COURT: --- a number or something.

6 MR. HILLER: At the bottom is ---

7 MR. TERRELL: Right here ---

8 THE COURT: All right, sir. Copy that down so you know
9 exactly where we are if we have to continue to play it to the
10 jury, we'll start from the exact location it is now.

11 MR. TERRELL: Thank you, Your Honor.

12 THE COURT: All right. Go ahead.

13 (REPORTER'S NOTE: State's 2 published for the Court but
14 outside the presence of the jury.)

15 THE COURT: All right. So, having listened to that, the
16 rest of the video, Mr. Hiller, you're asking that the -- from
17 where we started it, that remainder of that video not be
18 played to the jury; is that what you're asking?

19 MR. HILLER: I wanted to -- yes, sir, Your Honor. He did
20 ask for an attorney twice, Morgan Martin by name. I
21 understand that it's not like an interrogation as such, but,
22 you know, through his interaction with law enforcement, the
23 failure to Mirandize could have prevented him from continuing
24 this colloquy with law enforcement, some of which is innocent
25 enough, all of which is colorful, but that would be my

1 argument, yes, sir.

2 THE COURT: All right. From the state, Solicitor?

3 MR. TERRELL: Yes, sir, Your Honor. The, the case law on
4 Miranda is very specific. It's got to be a custodial
5 interrogation. He's not responding to any of the questions he
6 is being asked and the questions he's being asked are not for
7 interrogative purposes. The -- the video is important because
8 it shows his -- his demeanor and his reaction when they start
9 going through his car. That makes it -- or at least, I would
10 argue that that is evidence that he knows what's in there is
11 something he should not have. I think it's -- it's highly
12 probative of the elements that the state is forced to prove
13 and it's just not a response to being interrogated by law
14 enforcement. It's -- they're voluntary statements.

15 THE COURT: All right. Very good. First, while the
16 defendant is in custody and clearly Miranda was not given to
17 the defendant at the time that he was placed into custody.
18 The portion of the video that the Court would allow does not
19 have any custodial interrogation of the defendant, no
20 questioning of the defendant. Defendant makes voluntary
21 statements at that point in time, and -- I do, in taking an
22 analysis of prejudice over probative value, I do find that the
23 circumstantial nature of the video outweighs any prejudicial
24 value to the defendant. What we'll play for the jury is,
25 you'll start it from where the defendant is in the back of the

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1 patrol car and the two officers have clearly walked away from
2 the patrol car and are approaching his vehicle. You can start
3 it from there and play it to its conclusion at that point in
4 time.

5 So, there will be a portion of whatever interaction the
6 officers had with him, that will be excluded from the jury.
7 You'll start from the time he's in the back of the patrol car
8 and you can see on the video the two officers are -- one is
9 further in front of the other, but they are clearly away from
10 him and going towards the defendant's vehicle.

11 All right? So, if you can find that on the CD, and
12 understanding that -- that is -- that part the Court is, is
13 allowing over the objection of the defense.

14 MR. HILLER: Thank you, Your Honor.

15 THE COURT: All right.

16 (REPORTER'S NOTE: Continue to publish State's 2 for the court
17 but outside the presence of the jury.)

18 MR. TERRELL: This is where you referred to, Your Honor?

19 THE COURT: Yes, sir.

20 Okay. Mr. Hiller, if you -- you see this is what I'm
21 talking about. He's already in the vehicle and the two
22 officers are away from him?

23 MR. HILLER: Yes, sir, Your Honor.

24 THE COURT: Did we find out --- I'm sorry. Sir?

25 CLERK: Sir, hold on one second.

1 THE COURT: One second before you go.

2 Is he related to one of the jurors?

3 DEPUTY: To the alternate.

4 THE COURT: All right, sir. I need to speak to you for a
5 second. If the jury doesn't reach a decision in this case
6 tonight -- you can stop right there is fine. If the jury
7 doesn't reach a decision tonight and the jury goes home, if
8 your -- is it your wife is the alternate?

9 MR. HOLBEN: (Indicates affirmatively.)

10 THE COURT: If your wife is a member of the jury, she's
11 the alternate, is a member of the jury deciding the case, you
12 may not in any fashion whatsoever, talk about this case with
13 her. Do you understand that?

14 MR. HOLBEN: Yes, I understand.

15 THE COURT: You may not bring it up; you may not talk
16 about it. Once it's over, talk about it all you want to, but
17 until it's over with, you can't mention whatsoever to her; you
18 understand that?

19 MR. HOLBEN: I understand.

20 THE COURT: All right. Very good. Thank you. Thank
21 you, sir. I mean, you're free to stay if you want to stay; I
22 don't have a problem. Just understand the instructions.
23 Okay?

24 MR. HOLBEN: All right.

25 THE COURT: Thank you, sir. All right. Ask the jury to

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1 come in, please.

2 (REPORTER'S NOTE: Jury enters courtroom @ 2:59 P.M.)

3 THE COURT: You may proceed, sir.

4 MR. TERRELL: Thank you, Your Honor.

5 (REPORTER'S NOTE: State's Exhibit 2 published to jury. Audio
6 not transcribed herein.)

7 BY MR. TERRELL:

8 Q: Officer Schoonmaker, that accurately reflects the events
9 that happened that night?

10 A: Yes, sir.

11 Q: Now, when you get to the scene, you decide to place this
12 individual under arrest. What is that decision based on?

13 A: He was slurring his words very well; he had open alcohol
14 in the vehicle; he had a strong odor of alcohol coming from
15 him. As you see seen in the video, he's all over the place.
16 His eyes are super glossy. It's basic elements of PI. He
17 refused to get into his vehicle and try to drive away or
18 something like that. He's a danger to other people and
19 himself.

20 Q: So, you all made the decision to, to arrest him and why
21 didn't you take him -- normally, would you stay at the vehicle
22 while it's being inventoried?

23 A: No, as long as another officer is on scene, he can
24 actually do the inventory.

25 Q: Okay.

- 1 A: Just the fact that he was very irate, we wanted to get
2 him to the jail.
- 3 Q: And there was another officer on scene that we were able
4 to see?
- 5 A: Yes, sir, Officer Vasquez.
- 6 Q: And you were also equipped with a body worn camera; is
7 that right?
- 8 A: Yes, sir.
- 9 Q: And that was on and activated that night?
- 10 A: Yes, sir.
- 11 Q: And you've been given a chance to watch that video as
12 well?
- 13 A: Yes, sir.
- 14 Q: And essentially that would show the same thing as your
15 dash cam; is that correct?
- 16 A: Yes, sir.
- 17 Q: So, as we just saw on the video, when -- you're the one
18 who is driving Mr. Bright to the jail; is that correct?
- 19 A: Yes, sir.
- 20 Q: When you're leaving, nothing in the car had been
21 inventoried, correct?
- 22 A: No, sir.
- 23 Q: When does that happen?
- 24 A: Most likely as soon as I left the parking lot.
- 25 Q: After you take this defendant to -- to the Myrtle Beach

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1 Jail, do you then return at some point?

2 A: Yes, sir.

3 Q: What's happening when you return?

4 A: Officer Vasquez is inventorying the vehicle.

5 Q: Approximately how much later is that?

6 A: No more than 15 or 20 minutes.

7 Q: Are you able to keep abreast of the situation while it's
8 going on back at the car while you're taking the defendant to
9 jail?

10 A: I'm sorry, could you repeat?

11 Q: Yeah, do you know what's going on back at the car, what
12 they're finding, while you're taking this defendant?

13 A: I know that they had found a pistol, because they had ran
14 it over the air and I could hear the radio when they're
15 running it. So, I would know at that point that at least
16 found one pistol.

17 Q: When you say running it, what do you mean?

18 A: Whenever a pistol is found, you run the serial number.
19 Every pistol or firearm has a unique serial number attached to
20 it. You run it over NCIC to see if it's clear or not.

21 Q: And when you returned to the scene, what else is found,
22 to your knowledge?

23 A: Officer Vasquez -- there's well over \$1200 that they
24 counted out and then another pistol was located in the trunk
25 of the vehicle.

1 Q: Do you know where the first pistol was located?

2 A: Yes, it was underneath his seat where he was sitting in
3 the driver's seat.

4 Q: Did you, at any point, run a background check on this
5 defendant?

6 A: Yes, sir; we ran a criminal history.

7 Q: And based on that criminal history, would you be able to
8 tell if there was a -- if this individual had a concealed
9 weapons permit?

10 A: Yes. When we ran the criminal history, it actually came
11 back that he was prohibited from possessing a firearm in South
12 Carolina, which would mean that there's no possible way for
13 him to obtain a CWP Permit.

14 Q: And at this point in the investigation, when you're back
15 at the car, you're not showing why he's prohibited; is that
16 right?

17 A: No, sir. I have to actually go back to the police
18 department and pick up that criminal history, which is a piece
19 of -- like a couple of stacks of paper, myself.

20 Q: And so, during the inventory of the vehicle, explain to
21 the jurors, why -- why you all inventory a vehicle when it's
22 being towed.

23 A: Basically, we inventory a vehicle to know everything
24 that's in it, your valuables and everything like that. If
25 you're gonna get your vehicle towed, I'm pretty sure you want

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1 to make sure that everything is in it, because -- it just
2 basically saves you from liability. Same thing if you want to
3 know your possessions are in your vehicle. When it gets to
4 the tow yard, then when you go to finally pick it up, you'd
5 like to know that everything was in there when -- at the time
6 of your arrest or whatever reason the car got towed.

7 Q: So, it's to protect yourself and the department?

8 A: Yes.

9 Q: As well as the owner of the car?

10 A: Yes, the owner of the car and the tow yard.

11 Q: And during that inventory, what all was found in the car?

12 A: There was cash, there was the open beer, there was the
13 pistol -- the two pistols, I'm sorry.

14 Q: And the pistols were found where? You stated it was
15 under the seat?

16 A: Yes, one was under the seat, and one was in the trunk of
17 the vehicle. Right when you open the trunk, it was right in
18 plain view.

19 Q: And you said you ran the one pistol that was under the
20 seat or the back -- the history of the pistol?

21 A: The serial number?

22 Q: Yes.

23 A: Yes, the one that was under the seat, we ran the serial
24 number on that.

25 Q: Okay. And are you -- do you know what the results were

1 from that?

2 A: Yes, it came back stolen.

3 Q: And how, how -- how do you know that it's stolen?

4 A: Basically, when we run the serial number, we run it over;
5 dispatch will clarify that it's stolen. We will send a hit
6 confirmation to the agency that entered it stolen and they
7 will send us back a hit -- send us back a confirmation or a
8 denial. In this case, it was confirmed.

9 Q: And the gun under the seat came back as stolen?

10 A: Yes.

11 Q: Does it come back with a date of when it is stolen?

12 A: Yes, sir. The gun that was under the seat came back
13 stolen 5/7 of 2013.

14 Q: May 7th of 2013?

15 A: Yes, sir.

16 Q: Did you also do a background run on the weapon found in
17 the trunk?

18 A: Yes, sir.

19 Q: What were the results of that?

20 A: Originally, it had come back clear, because Officer
21 Vasquez had ran the wrong number. He ran what the gun was
22 called; he didn't run the serial number. The fact that he had
23 -- he had the gun and he wasn't allowed to possess a gun, even
24 if it's in his trunk, he's still in possession of the gun.
25 So, it was taken for investigative purposes to figure out if

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RAYMOND SCHOONMAKER - DIRECT BY TERRELL

1 he was a convicted felon or not. Back at the Department, I
2 was advised by another officer that they thought he had ran it
3 wrong, and he actually had. We looked at the serial number,
4 ran it, and it actually -- that gun also came back confirmed.

5 Q: Confirmed as stolen?

6 A: Yes, sir.

7 Q: Were you able to get a date of theft on that gun?

8 A: Yes, sir. That one was October 11th of 2018.

9 Q: So, you find the two guns, find the money, you find
10 during the inventory. Also, the registration of the vehicle
11 is found; is that correct?

12 A: Yes, sir.

13 Q: Do you know who the vehicle was registered to?

14 A: I believe it was registered to his mother.

15 Q: And did you find an ID for this defendant

16 A: Yes, sir; it's in the vehicle.

17 Q: And what is the -- was it a driver's license?

18 A: Yes, sir.

19 Q: So, it had this defendant's name?

20 A: Yes, sir.

21 Q: Johnathan Bright. It would've also have the date of
22 birth, right?

23 A: Yes, sir.

24 Q: Do you know what that date of birth was?

25 A: Yes, sir. It was [REDACTED], which is [REDACTED].

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RAYMOND SCHOONMAKER - CROSS BY HILLER

1 Q: Was there anything else of note that was found during
2 that inventory of that vehicle?

3 A: Not that I'm aware of.

4 Q: What do you do with what you inventoried? Does it stay
5 in the car or do you take him back to the police department?

6 A: Well, the money we were asking him on scene if he wanted
7 it and he just wanted an answer. That actually stayed with
8 the vehicle. It was marked on the tow sheet. And the only
9 things that are taken are the guns, because they're related to
10 the offense.

11 Q: I have no further questions. Please answer any questions
12 Mr. Hiller has for you.

13 THE COURT: All right. Cross examination?

14 MR. HILLER: Thank you, Your Honor.

15 CROSS EXAMINATION OF RAYMOND SCHOONMAKER BY MR. HILLER:

16 Q: Officer Schumaker; is that correct?

17 A: Schoonmaker, sir.

18 Q: Schumaker, sorry.

19 Are you the officer who actually took the two pistols
20 into police custody?

21 A: Originally, Officer Vasquez stored them in his patrol
22 vehicle and when I came back on scene, I took custody of the
23 pistols.

24 Q: And you actually -- did you put them into evidence at the
25 police station?

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RAYMOND SCHOONMAKER - CROSS BY HILLER

1 A: Yes, sir.

2 Q: Where are they now?

3 A: At the police department.

4 Q: Okay. So, once they're at the police department, you had
5 access to them, correct?

6 A: Yes, sir.

7 Q: Did you fingerprint the firearms?

8 A: I do not fingerprint them, sir. They are sent off to ---

9 Q: You have a department that does that, right?

10 A: Yes, sir.

11 Q: Did you request that that department fingerprint those
12 firearms?

13 A: Yes, sir. We call it an IBIS form. That's all sent
14 down.

15 Q: So, the weapons were fingerprinted?

16 A: I do not know if they have been yet or not.

17 Q: Okay. But you made the request?

18 A: Yes, sir.

19 Q: Okay. Now, you also -- are you familiar with the concept
20 of touch DNA evidence?

21 A: Yes, sir.

22 Q: Did you request a DNA test be performed on those firearms
23 to see if he had handled them?

24 A: I know the IBIS form fills out most of that. I'm not
25 sure exactly what completely gets done for the IBIS form.

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RAYMOND SCHOONMAKER - CROSS BY HILLER

1 Usually, when a gun is stolen, we fill out the IBIS form and
2 that type of stuff is carried out by another department, not
3 us.

4 Q: Now, you -- did you ever get conduct an interview with, a
5 post-Miranda interview with Mr. Bright after his arrest?

6 A: No, sir.

7 Q: You could've asked him if he knew anything about those
8 guns in the car. I mean, you could have interviewed him if
9 you wanted to?

10 A: Yes, sir.

11 Q: When you and I believe you said that dispatch was able to
12 run the serial numbers. So, I don't want to assume, but is it
13 fair to say the serial numbers were in their -- in good shape,
14 or were they obliterated in any way, as you recall?

15 A: No, sir, they were perfectly clean.

16 Q: Okay. And I believe you testified on direct that the
17 vehicle does not belong to Johnathan Bright?

18 A: Yes, sir.

19 Q: But his ID was in it?

20 A: Yes, sir.

21 Q: But you would normally expect a driver to have their ID
22 along with them in they're the driver of the vehicle; is that
23 the law to have your license with you as you're driving a
24 vehicle?

25 A: It is a law.

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RAYMOND SCHOONMAKER - CROSS BY HILLER

1 Q: So, I mean, if he didn't have license with him, you could
2 have technically ticketed him for that, wouldn't you?

3 A: No, sir.

4 Q: You can't ticket someone for no DL in possession?

5 A: Not if he's not operating the vehicle.

6 Q: Do you -- basically, you arrived on that scene and you
7 saw someone, basically, not operating the vehicle, right?

8 A: No, he was in possession of the vehicle; he was inside of
9 it and the driver, like right in the driver's seat. If he
10 wanted to operate it, he could have.

11 Q: Right.

12 A: But I did not see it moving on the roadway.

13 Q: And I believe you tried to get some video from the
14 Scotchman to see if it -- if you could determine who was
15 driving it?

16 A: Yeah -- no, I wanted to see if he had driven up here
17 exactly because for me, if I'm doing a DUI, I would like to
18 see him operating the vehicle.

19 Q: So, you don't know where the vehicle was coming from,
20 correct?

21 A: As the video depicts, he wouldn't answer me.

22 Q: And obviously, if you don't know who was in it previously
23 or you just -- all you know is that you arrived on scene and
24 that vehicle was there and you found what you found in it?

25 A: That he was in it, yes.

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RAYMOND SCHOONMAKER - CROSS BY HILLER

1 Q: All right.

2 A: And only him.

3 Q: And that's really all you now about it?

4 A: At that time, yes, sir.

5 Q: I don't have any further questions.

6 THE COURT: Any redirect?

7 MR. TERRELL: No, sir, Your Honor. We'd ask that this
8 witness be excused.

9 THE COURT: Any objection?

10 MR. TERRELL: No objection, Your Honor.

11 THE COURT: All right, sir, you're released from your
12 subpoena and may go back to your regular duties.

13 MR. SCHOONMAKER: Thank you, sir.

14 THE COURT: All right, sir, your next witness, please.

15 MR. TERRELL: Yes, sir, Your Honor. It will be Officer
16 Vasquez.

17 THE COURT: Come all the way around up here towards the
18 clerk's representative.

19 MR. VASQUEZ: Yes, Your Honor.

20 CLERK: Raise your right hand and put your left hand on
21 the Bible.

22 JUSTIN VASQUEZ, HAVING BEEN DULY
23 SWORN TESTIFIES AS FOLLOWS:

24 CLERK: Please step around and state and spell your name
25 for the Court.

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JUSTIN VASQUEZ - DIRECT BY TERRELL

1 MR. VASQUEZ: My name is Justin Vasquez; J-U-S-T-I-N,
2 last name is V-A-S-Q-U-E-Z.

3 THE COURT: All right, Solicitor, you may proceed.

4 MR. TERRELL: Thank you.

5 DIRECT EXAMINATION OF JUSTIN VASQUEZ BY MR. TERRELL:

6 Q: Officer Vasquez, where are you employed?

7 A: Myrtle Beach Police Department.

8 Q: And what's your position there?

9 A: I am a police officer.

10 Q: How long have you been employed as a police officer with
11 Myrtle Beach?

12 A: It will be six years next month.

13 Q: Were you employed in your present capacity on November
14 6th of 2018?

15 A: Yes, sir; I was.

16 Q: Do you remember working that morning?

17 A: Yes, sir; I do.

18 Q: Do you remember getting called to the Scotchman on 21st
19 and Grissom that morning?

20 A: Yes, sir; I do.

21 Q: And how did that call come in?

22 A: The call came in as a vehicle that was at gas pump for an
23 extended amount of time. I believe the clerk called it in as
24 suspicious. Officer Schoonmaker arrived on scene and then
25 asked for another unit and I happened to be in the area

1 closest to him.

2 Q: Did he say he was asking for another unit?

3 A: No, sir. He just said just send me another unit to
4 assist him.

5 Q: So, when you arrived on scene, was Officer Schoonmaker
6 already there?

7 A: Yes, sir; he was.

8 Q: And what was going on when you arrived?

9 A: He was speaking with the defendant.

10 Q: When you walked up, what were you able to notice?

11 A: I was able to notice that, upon speaking Officer
12 Schoonmaker at the scene, the defendant, he did have the
13 presence of alcohol. I could just smell it coming off of his
14 body. He seemed to be real agitated, I guess with the
15 situation about us coming out there and talking with him.

16 Q: At some point, Mr. Bright was arrested, correct?

17 A: Yes, sir; he was.

18 Q: And do you know why he was arrested?

19 A: For public intoxication.

20 Q: When -- when he's taken -- when this defendant is taken
21 off scene, what do you do?

22 A: I ended up doing an inventory of his vehicle.

23 Q: Was anybody there with you?

24 A: Yes, the second officer does arrive on scene about three
25 or four minutes after I start an inventory for the car.

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JUSTIN VASQUEZ - DIRECT BY TERRELL

1 Q: Who was that?

2 A: It was Officer Bull.

3 Q: And why were you inventorying the vehicle?

4 A: I was inventorying it because it needed to be towed, so
5 we ended up doing it to protect the assets in the vehicle of
6 whoever it is that is the owner of the car. We ended up
7 putting all valuable stuff on the sheet, a tow sheet, that we
8 give to the tow company, and it's also for us too that the
9 person arrested or the person who owns the vehicle said that
10 we didn't damage the car or take anything out of it and for
11 the tow company as well.

12 Q: During that inventory, were you able to find anything of
13 note?

14 A: Yes, sir; I was.

15 Q: What did you find?

16 A: I ended up finding one handgun underneath the driver's
17 seat and then a second one a little later on in the trunk of
18 the vehicle.

19 Q: What else was in the car?

20 A: There was quite a bit of money on the passenger side seat
21 just kind of spread around and just some random miscellaneous
22 items like clothing, boxes, and stuff like that.

23 Q: And when you're inventorying the vehicle, are there any
24 kind of safeguards to -- basically, look over your shoulder
25 and make sure that you're telling the truth?

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JUSTIN VASQUEZ - DIRECT BY TERRELL

1 A: Yes, sir. We had our body cameras on the entire time
2 that we were searching the vehicle or inventorying the
3 vehicle.

4 Q: So, you were wearing a body camera that night?

5 A: Yes, sir; I was.

6 Q: I show you what's been marked previously as State's
7 Exhibit 3. Do you recognize that?

8 A: Yes, sir.

9 Q: And just generally, what do you recognize that as?

10 A: That's my body worn camera footage.

11 Q: From ---

12 A: From that night.

13 Q: From this incident?

14 A: Yes, sir.

15 Q: Okay. And have there been -- you've been able view this
16 video?

17 A: Yes, sir; I was.

18 Q: Any alterations or deletions made to the video?

19 A: No, sir; there wasn't.

20 Q: So, it's a fair and accurate representation of what
21 happened that night when you were on scene?

22 A: Yes, sir; it was.

23 Q: And it's able to clearly pick up your inventory of the
24 vehicle?

25 A: Yes, sir; it was.

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JUSTIN VASQUEZ - DIRECT BY TERRELL

1 Q: As well as what's happening when you arrived on scene?

2 A: Yes, sir.

3 MR. TERRELL: Your Honor, at this time, I'd like to move
4 State's Exhibit Number 3 into evidence.

5 THE COURT: Any objection?

6 MR. HILLER: No, sir, Your Honor.

7 THE COURT: State's 3 is into evidence without objection.
8 You may publish it to the jury.

9 STATE'S EXHIBIT NUMBER 3

10 ADMITTED INTO EVIDENCE

11 MR. TERRELL: Thank you, Your Honor.

12 (REPORTER'S NOTE: State's 3 published to the jury. Audio not
13 transcribed herein.)

14 BY MR. TERRELL:

15 Q: All right. Officer Vasquez, just for purposes of time,
16 I'm gonna fast forward at this point to when the car with this
17 individual pulls off and get to the inventory of the vehicle.

18 A: Yes, sir.

19 Q: If that's okay.

20 (REPORTER'S NOTE: State's 3 published to the jury. Audio not
21 transcribed herein.)

22 BY MR. TERRELL:

23 Q: Officer Vasquez, so, did that accurately reflect your
24 involvement with this case that night?

25 A: Yes, sir; it does.

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JUSTIN VASQUEZ - DIRECT BY TERRELL

1 Q: So, other than -- run through with me what you
2 inventoried from the vehicle one more time?

3 A: We inventoried the actual money that was in there by
4 having Officer Bull count every single bit that we can
5 actually see and locate, putting that amount on there, and
6 then we ended up securing it in the actual glove box itself,
7 since it wasn't just laid out in the open. We didn't want to
8 just have it laid out like that. And then we inventoried the
9 miscellaneous items in there as well, like a box full of flip
10 flops or whatever else was in there, clothes, and then plus
11 the two firearms that were located in the -- underneath the
12 driver's seat and in the trunk.

13 Q: And are you aware of whether those firearms came back as
14 stolen or not?

15 A: Yes, sir. The first one came back stolen and then the
16 second one came back stolen later on. It was actually, it was
17 a mistake on my part. I actually ran the wrong numbers on the
18 second weapon and that's why it didn't come back right away.

19 Q: Okay. And to your knowledge, when it was run with the
20 correct serial number, it did?

21 A: Yes, sir; it did.

22 Q: And this information you gave to Officer Schoonmaker and
23 y'all arrived about the same time?

24 A: Yes, sir.

25 Q: You were able to view the rest of the bodycam footage

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JUSTIN VASQUEZ - CROSS BY HILLER

1 that's on that video; is that right?

2 A: Yes, sir.

3 Q: And just in the interest of time, what happens between
4 when we turn off the video here and the end of the video?

5 A: I just wrote down -- just wrote down what it is that was
6 inventoried in the vehicle. I ended up filling out the rest
7 of the form at the very top, handed the keys over to the tow
8 truck company, give them their forms, and then that's about
9 it.

10 Q: That was the end of your involved in this case?

11 A: Yeah, that was the end of it; yes, sir.

12 Q: I have no further questions for this officer.

13 Please answer any questions Mr. Hiller has for you.

14 A: Yes, sir.

15 THE COURT: Cross examination.

16 MR. HILLER: Thank you, Your Honor.

17 CROSS EXAMINATION OF JUSTIN VASQUEZ BY MR. HILLER:

18 Q: Officer Vasquez, I think you said at some point during
19 the bodycam footage, that you smelled weed?

20 A: Yes, sir; I did.

21 Q: Did you ever find any on him?

22 A: No, sir; we did not.

23 Q: If you had in fact, you probably could've taken the
24 money?

25 A: It just depends on how it was packaged whether or not we

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JUSTIN VASQUEZ - CROSS BY HILLER

1 take the money or not.

2 Q: And this is -- I'm trying my best to remember your words,
3 but I think you said -- I believe you characterized on direct
4 Mr. Bright's behavior that night as agitated?

5 A: Yes, sir.

6 Q: Did he ever appear nervous to you?

7 A: He seemed anxious to finish our meeting with one another.

8 Q: He was fairly somewhat combative anyway, perhaps?

9 A: Yeah, in some way, yeah.

10 Q: You stated that you completed the inventory search
11 because your colleague was the one who actually took Mr.
12 Bright to the law enforcement center, correct?

13 A: Yes, sir.

14 Q: And when you -- what else -- well, besides the firearm,
15 did you inventory anything else inside the trunk of the
16 vehicle?

17 A: No, sir, there was nothing inside the actual trunk of the
18 vehicle, just the firearm in the middle.

19 Q: So, there was no personal item of Mr. Bright's in
20 proximity to that gun or anything like that?

21 A: No, it was empty.

22 Q: Okay. Did you do any type of -- you towed the vehicle.
23 Did you do any kind of like or request any kind of testing on
24 the vehicle, like maybe fingerprint the trunk?

25 A: No, sir; I did not.

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JUSTIN VASQUEZ - REDIRECT BY TERRELL

1 Q: And of course, that could have showed you perhaps --
2 before you -- and I noticed you were wearing gloves, right?

3 A: Yes, sir.

4 Q: So, for a while you were under the assumption he didn't
5 want you in the vehicle, kind of keep away from the open
6 container, the obvious evidence you saw?

7 A: Yes, that was the main reason why I figured he didn't
8 want us in the car.

9 Q: Fair enough. And then it was only until later when you
10 started doing the inventory search that the case got bigger,
11 perhaps?

12 A: Yes, after the weapons were located.

13 Q: And you never talked about weapons roadside, never ---

14 A: No, sir.

15 Q: --- made any indication there could be weapons in there?

16 A: No, sir.

17 Q: I don't have any other questions. Thank you.

18 THE COURT: Any redirect?

19 MR. TERRELL: Yes, sir, briefly.

20 REDIRECT EXAMINATION OF JUSTIN VASQUEZ BY MR. TERRELL:

21 Q: So, Officer Vasquez, during the entire inventory of the
22 vehicle, nothing -- nothing illegal was found other than these
23 guns; is that correct?

24 A: Yes, sir. That was the only thing, besides just the
25 smell of marijuana, there was nothing else inside that

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BY THE COURT

1 vehicle.

2 Q: And where -- where exactly in the vehicle was the open
3 container?

4 A: The open container was center console.

5 Q: Readily apparent from ---

6 A: Yes, sir.

7 MR. TERRELL: I have no further questions, Your Honor.

8 THE COURT: Anything on those questions?

9 MR. HILLER: Nothing, Your Honor.

10 THE COURT: All right, sir. Do you wish the witness to
11 be excused?

12 MR. TERRELL: We do, Your Honor.

13 THE COURT: Any objection?

14 MR. HILLER: No objection.

15 THE COURT: All right, sir, you are released from your
16 subpoena and may go back to your regular duties. Thank you,
17 sir.

18 All right. Any other live witnesses on behalf of the
19 state?

20 MR. TERRELL: No other testimony, Your Honor.

21 BY THE COURT:

22 THE COURT: All right. So, ladies and gentlemen of the
23 jury, if you'd go to your jury room for just a minute. I need
24 to speak to the lawyers about a proposed exhibit from the
25 state. Thank you.

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BY THE COURT

1 (REPORTER'S NOTE: Jury exits courtroom @ 3:54 P.M. The
2 following takes place outside the presence of the jury.)

3 THE COURT: All right, Solicitor, at the beginning of the
4 trial, you had handed the Court a document labeled State's
5 Exhibit 1. I think you wanted the Court to accept that and I
6 think also wanted to put something in the record about State's
7 Exhibit 1 and why the state believes it to be a crime of
8 violence.

9 MR. TERRELL: Yes, sir, Your Honor.

10 THE COURT: All right. Be glad to hear from you.

11 MR. TERRELL: State's Exhibit 1 is a certified conviction
12 from Columbus County, North Carolina, where Johnathan Rakim
13 Bright with a birth date of October -- [REDACTED], was
14 convicted of the offense of strong-armed robbery. That is a
15 certified conviction for that. And as Your Honor is aware,
16 pursuant to statute, robbery is a crime of violence that is
17 required by 16-23-30.

18 THE COURT: All right. Very good. All right. Any
19 objections to State's Exhibit 1 at this time, Mr. Hiller?

20 MR. HILLER: Well, Your Honor, I guess subject to my
21 previously overruled motion for a bifurcated trial on that
22 charge.

23 THE COURT: All right. Any, any argument under
24 16-23-30 that the defense of common law robbery is a crime of
25 violence as set forth by the statute?

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BY THE COURT

1 MR. HILLER: Well, Your Honor, 16-23-30 does not only
2 pertain to state law, obviously, as it says in subsection
3 (a)(1) applies to any crime of violence in any Court of the
4 United States. I believe this one occurred not in Columbus
5 County, but Cabarrus County.

6 THE COURT: Cabarrus, yes, Cabarrus County, that's
7 correct.

8 MR. HILLER: I did, as, you know, an officer of the
9 Court, I did look the statute up. Obviously, I'm not licensed
10 to practice in North Carolina, but I at least did read on the
11 -- read information available on the web that it is a Class G
12 felony that carries up to 47 months under North Carolina law.
13 Forty-seven months would be just under two years, Your Honor.
14 26 or 16-23-10(3) mentions robbery explicitly. It also
15 mentions any offense that includes an element of assault
16 punishable by more than one year. Any ambiguity I believe
17 should be construed against the state as the drafter of the
18 article, but I do think the law is fairly clear, Your Honor.
19 I don't -- I have a hard time as an officer of the Court
20 arguing that this is clearly not encompassed as a crime of
21 violence for the limited purpose of the prohibitive person
22 statute.

23 THE COURT: All right. Very good. Based upon the
24 examination of 16-23-30 and the examination of the State's
25 Exhibit 1, the conviction of the defendant for the crime of

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BY THE COURT

1 common law robbery, I do find that the defendant -- this is a
2 proper exhibit. I understand the prejudice to the defendant,
3 but it is an element of the crime of possession of a weapon by
4 a person convicted of a felony. I do find that the crime of
5 common law robbery is a felony, both by statute in the State
6 of South Carolina and North Carolina, and therefore, I am
7 gonna allow State's Exhibit 1 in evidence.

8 Besides the introduction of State's Exhibit 1, is there
9 any other presentation of evidence by the state?

10 MR. TERRELL: No, sir, Your Honor.

11 THE COURT: All right. What I'm going to do at this
12 point in time is when I call the jury in, I am gonna tell them
13 I have allowed State's Exhibit 1, the document, certified true
14 copy of the document of the conviction of the defendant in
15 evidence. I am going to charge them that they are not to
16 consider the prior conviction as evidence that the defendant
17 committed any of the crimes for which he is charged, except
18 that it is presented by the state as an element of the offense
19 of possession -- unlawful possession of a pistol by a person
20 convicted of a violent crime. And I will tell them that just
21 because he was convicted of that crime of common law robbery,
22 that does not have any indication that he has committed the
23 offense other than it being presentation of evidence by the
24 state as an element.

25 So, ask the jury to come in, please.

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BY THE COURT

1 MR. TERRELL: Your Honor, would it be appropriate for me
2 to move Exhibit 1 into evidence?

3 THE COURT: When they come in, yes, sir. When the jury
4 comes in, yes, sir.

5 (REPORTER'S NOTE: Jury enters courtroom @ 4:01 P.M.)

6 THE COURT: All right, solicitor, I'll be glad to hear
7 from you?

8 MR. TERRELL: At this point, the state would like to move
9 into evidence State's Exhibit 1.

10 THE COURT: All right. Based upon the presentation by
11 the state and the defense, over the objection of the defense,
12 the state -- the Court will allow State's Exhibit 1 in
13 evidence.

14 STATE'S EXHIBIT NUMBER 1

15 ADMITTED INTO EVIDENCE

16 THE COURT: State's Exhibit 1, ladies and gentlemen is a
17 certified true copy of a document indicating that Johnathan
18 Rakim Bright with birthdate [REDACTED] was convicted in
19 the State of North Carolina, Cabarrus County, of the offense
20 of common law robbery.

21 Now, as to that conviction, the only reason the Court is
22 allowing it in evidence, is allowing it as part of the state's
23 presentation in which they are presenting elements of the
24 crime of unlawful possession of a pistol by a person
25 previously convicted of a crime of violence. You cannot

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1 consider this prior conviction for any other purpose. It does
2 not make the defendant more likely or have any indication that
3 the defendant is guilty of the crimes for which he is now
4 charged. You are simply to consider this prior conviction as
5 part of the elements presented by the state that they have
6 presented to you in trying to make their presentation that the
7 defendant is guilty of the crime of possession of a pistol by
8 a person convicted of a violent offense and it cannot be used
9 for any other purpose or consideration by you in your
10 deliberations and decision.

11 Any further evidence from the state at this point in
12 time?

13 MR. TERRELL: No, sir, Your Honor. The State rests.

14 THE COURT: All right.

15 All right. Ladies and gentlemen, at this point in time,
16 we have received from the state all of the evidence it intends
17 to proceed at this point in time regarding this particular
18 matter. I do need to take up some matters outside your
19 presence regarding motions that have to be -- I have to be
20 more free to discuss those with them and I can't do that in
21 your presence. And so, I have to ask you to go back to your
22 jury room.

23 More likely than not, what we will do is as far as
24 getting to the point where we have the closing arguments and
25 the arguments and the charge on the law from the Court, I'm

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1 gonna reserve that until tomorrow. Because if we go forward
2 with that and we give you the case, it is yours until you make
3 a decision for however long that takes. It's already 4:05. I
4 don't intend to keep you here tonight. I will send you home
5 shortly, but before we do that, I need to talk further with
6 the attorneys before we can reach that point.

7 Please go to your jury room. Thank you.

8 (REPORTER'S NOTE: Jury exits courtroom @ 4:03 P.M. The
9 following takes place outside the presence of the jury.)

10 THE COURT: All right. Mr. Hiller, motions on behalf of
11 the defense?

12 MOTIONS:

13 MR. HILLER: Yes, sir, Your Honor. As the Court is well
14 aware, Mr. Bright is before the Court today on four separate
15 indictments. Two of those indictments charge him with
16 possession of a stolen pistol. My first, certainly would be
17 making a directed verdict motion specifically as to those two
18 indictments first. Those are 2019-GS-26-04767 and 2019-GS-26-
19 00562. The statute implicated by these two indictments, Your
20 Honor, is codified at 16-23-30. It's actually the same
21 statute that Mr. Bright stands before the Court on, on the
22 prohibitive person charge. However, the portion of 16-23-30
23 that I'm specifically arguing now is subsection (c), which
24 states that a person shall not knowingly buy, sell, transfer,
25 pawn, receive, or possess any stolen handgun or one from which

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1 the serial number has been removed or obliterated. The Court
2 heard cogent testimony from the witness stand that the serial
3 numbers were not obliterated and that they were in fact -- the
4 serial numbers were in fact how the officers determined that
5 these weapons were stolen. Therefore, the question is and
6 what the jury would have to conclude is did Mr. Bright
7 knowingly transport a stolen handgun. I would submit to the
8 Court that no evidence was submitted that he knew either that
9 those guns were stolen or even that they were in the vehicle.
10 There's certainly some that's my car, that's my car, that's my
11 car. That, I would say is at best an inference is that he's
12 saying that's my car. It's not a statement that everything in
13 that car, whatever it is, is mine. But I would argue that --
14 that knowingly is the operative word and there's certainly
15 then -- and I have heard no evidence that would even in the
16 light most favorable to the state as is the standard, indicate
17 that Mr. Bright knew any gun was in that car. So, I would
18 move for a directed verdict as to those two indictments, Your
19 Honor.

20 THE COURT: All right. Let's -- we'll deal with it
21 separately rather than all at once. In that particular
22 matter, I mean, just in general, directed verdict, clearly
23 when I'm ruling on a motion for a directed verdict, I'm just
24 looking at the existence or non-existence of evidence, not
25 judging credibility or believability; does the evidence exist.

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1 Looking at the statute, it says subsection (c) under 16-23-30,
2 a person shall not knowingly buy, sell, transport, pawn,
3 receive, or possess any stolen handgun or one from which the
4 original serial number has been moved or obliterated. Here
5 the operative portion is the possession of the stolen handgun.
6 To prove possession, the state has to prove beyond a
7 reasonable doubt that the defendant had the power and the
8 intent to control the disposition or use of the firearm. But
9 possession can be either actual or constructive. Actual
10 possession obviously means that the firearm is in the actual
11 physical custody of the defendant. Constructive possession
12 means the defendant had the dominion and control or the right
13 to exercise dominion or control over either the firearm itself
14 or the property on which the firearm was found. The
15 defendant's knowledge and possession can be inferred when a
16 firearm is found on property under the defendant's control.
17 But that's an inference and an evidentiary fact to be taken
18 into consideration along with all the other evidence in the
19 case.

20 Based upon that, clearly, evidence exists in the record
21 that the firearms were under the dominion and control and the
22 defendant had a right to exercise dominion and control over
23 the firearm or the property on which the firearm was found.
24 Therefore, I respectfully decline to grant your motion for a
25 directed verdict on those two charges.

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BY THE COURT

1 Anything else?

2 MR. HILLER: Your Honor, similar grounds on the other
3 two, but I understand where the Court would be coming from in
4 denying those.

5 THE COURT: All right.

6 MR. HILLER: Prohibitive person and the unlawful carry.

7 THE COURT: All right, sir. Very good. And again, I'm
8 only looking at whether evidence exists or not and clearly,
9 evidence exists in the record that under constructive
10 possession, that the defendant had the dominion and control or
11 the right to exercise dominion and control. And therefore,
12 all the charges are respectfully declined to grant your motion
13 for a directed verdict.

14 Further motions on behalf of the defense?

15 MR. HILLER: No, sir, Your Honor.

16 BY THE COURT:

17 THE COURT: All right. Have you talked to your client,
18 Mr. Hiller, about his right to testify in this matter?

19 MR. HILLER: Over lunch, briefly, Your Honor. I told him
20 that likely we would have -- once we saw the state's case in
21 chief, we would be a better position to evaluate.

22 THE COURT: All right. You want to take a few minutes
23 and talk to him again about that?

24 MR. HILLER: We could, Your Honor.

25 THE COURT: All right. Very good. We'll take a short

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BY THE COURT

1 that point in time the position of the defense, Mr. Hiller,
2 tell me that would be correct that the state -- I'm sorry --
3 the defense rests and then what I'm gonna do is excuse the
4 jury until tomorrow morning 9:30. I appreciate that the state
5 and defense would like to go forward and have this matter have
6 a resolution today. We're -- we have a captive audience and
7 I'm gonna send them home for the evening.

8 Go ahead and bring them in.

9 (REPORTER'S NOTE: Jury enters courtroom @ 4:26 P.M.)

10 THE COURT: All right. Mr. Hiller, what is the position
11 of the defense at this point in time?

12 MR. HILLER: Your Honor, at this time the defense rests
13 its case.

14 THE COURT: All right. Thank you very much.

15 All right. Ladies and gentlemen, we have reached the
16 conclusion of the evidentiary portion of this trial. We'll
17 receive no more evidence in this particular matter. What
18 remains are the closing arguments of the attorneys and the
19 charge on the law and then the submission of the case to you
20 for your deliberations and unanimous decision in this
21 particular matter.

22 We're going to -- I'm gonna let you go home for the
23 evening. We're gonna come back tomorrow morning at 9:30. At
24 that point in time, we will hear the closing arguments of the
25 attorneys. I will give you the charge on the law and then I

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1 will give the case to you for your deliberations and unanimous
2 decision.

3 Now, when you go home for the evening, see your husband,
4 wife, boyfriend, girlfriend, person down the street, you may
5 not talk about this case. Intentionally or unintentionally,
6 they'll give you their opinion; they don't have one. You may
7 not reach a decision until you collectively are together and
8 reach a decision in this matter. So, do not allow anyone to
9 talk to you about this case. Understand, you're not
10 researchers, investigators, you can't look up anything, do any
11 research. You make your decision solely and completely on the
12 facts and evidence you have heard in this courtroom and from
13 no other source.

14 With that, I'll see you back tomorrow morning at 9:30.

15 Thank you very much.

16 (REPORTER'S NOTE: Jury exits courtroom @ 4:27 P.M.)

17 THE COURT: Excuse me. Anything further from the state at
18 this point in time?

19 MR. TERRELL: No, sir.

20 THE COURT: From the defense, Mr. Hiller?

21 MOTIONS:

22 MR. HILLER: Your Honor, I just respectfully at this
23 time, the defense would renew its motion for a directed
24 verdict on the grounds previously stated.

25 THE COURT: All right. And again, I'm basing my decision

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1 on the existence of, or what the Court finds to be existence
2 of the evidence indicating the constructive possession of the
3 weapons by the defendant. I do find that when we look at the
4 evidence presented and giving the state, in viewing the
5 evidence in the light most favorable to the state, as I must
6 when the opposing party, the defense, makes a motion, there is
7 more than sufficient evidence, if the evidence is believed by
8 the jury, to convict the defendant of the charges for which he
9 has been charged by the state. And so, we will -- your
10 renewed motion for directed verdict is denied.

11 Anything else?

12 MR. HILLER: Nothing, Your Honor.

13 THE COURT: All right, sir, then we will resume tomorrow
14 morning, gentlemen, at 9:30.

15 MR. HILLER: Yes, sir.

16 THE COURT: Thank you very much.

17 **RECESS - 4:29 P.M. - END OF DAY ONE**

18 *****OFF THE RECORD*****

19 **JANUARY 9, 2020 - DAY TWO**

20 **(On the Record - 9:36 A.M.)**

21 **CHARGE CONFERENCE:**

22 THE COURT: All right. Counsel, the jury is here ready
23 to go forward with the closing arguments and the charge on the
24 law. I wanted to -- I mean, obviously, regarding the closing
25 arguments, the state will open in full and defense with have

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CHARGE CONFERENCE

1 the final argument.

2 Regarding the charge, we'll talk to the jury about the
3 things that we always talk to them about, credibility,
4 believability, direct and circumstantial evidence. As I
5 indicated in this matter to Mr. Bright, I will talk to the
6 jury about the fact that he did not testify and tell them that
7 that is not a factor in this case and they will not consider
8 it in any fashion. The presumption of innocence; reasonable
9 doubt, the kind of doubt that would cause a reasonable person
10 to hesitate to act; unlawful carrying of a pistol that, you
11 know, unless otherwise specifically set forth, the person in
12 the vehicle, you know, it has to be secured -- a handgun must
13 be secured in a closed glove compartment, closed console,
14 closed trunk or in a closed container secured by a fastener,
15 et cetera. Possession of a stolen pistol, a person shall not
16 knowingly buy, sell, transport, pawn, receive or possess any
17 stolen handgun and the state has to prove beyond a reasonable
18 doubt the defendant knowingly or intentionally received or
19 possessed the stolen handgun. To prove possession, the state
20 must prove beyond a reasonable doubt the defendant had both
21 the power and intent to control the disposition and the use of
22 it. And we'll talk about actual and constructive possession;
23 unlawful possession of a firearm by a person convicted of a
24 violent offense; and I will add to that the fact that the
25 defendant has the prior conviction for common law robbery,

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1 they're not to consider that for any other matter other than
2 whether or not the state has proved beyond a reasonable doubt
3 an element of the crime of possession of a firearm by a person
4 convicted of a violent offense. That's the Court's intention.

5 Anything else from the state?

6 MR. TERRELL: Your Honor, just for clarification, I would
7 ask that instead of referring to it as a violent offense and
8 charges, it would be referred to as a crime of violence. It's
9 a -- it's a fine line, but it is a distinction that I think
10 needs to be made -- made clear in front of the jury.

11 The other thing I would ask would be for a definition of
12 a crime of violence. I believe it's in statute 16-23-10 (3)
13 defines a crime of violence. I would ask that that be read
14 for the jury.

15 THE COURT: Hold on one second. I'm looking at the
16 indictment and it does set forth that in the body of it that
17 the charge is convicted of a crime of violence. I'm sorry,
18 what's the code section you wanted me to look at?

19 MR. TERRELL: 16-23-10 Subsection (3), it defines crime
20 of violence.

21 THE COURT: All right. Hold on one second.

22 All right. Mr. Hiller, any objection to that?

23 MR. HILLER: I do agree with the first thing Solicitor
24 Terrell said and I was gonna ask the Court to do the same
25 thing, change it to crime of violence. I don't know that the

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1 Court needs to both read the definition of crime of violence
2 and tell the jury that he has the requisite offense. I'd say
3 one or the other would be appropriate. Let the jury determine
4 that he has a requisite offense or tell them that he does
5 would be my argument. I don't see the purpose of doing both.

6 THE COURT: All right. So, what you would request then
7 basically is after I've talked about crime of violence, rather
8 than reading to them 16-23-10(3), just say common law robbery
9 is classified as a crime of violence by the State of South
10 Carolina.

11 MR. HILLER: I thought that's what you had said you were
12 intending to do at the beginning.

13 THE COURT: Well, that's what I -- that's what I was
14 going to read, but the solicitor has asked me to actually
15 charge the code section 16-23-10(3).

16 MR. HILLER: Yes, sir. I'm just saying if the Court is
17 inclined to that, then just not tell the jury that it is a
18 crime of violence. Let the jury draw that inference from the
19 evidence presented. That's just my request.

20 THE COURT: Oh, okay. All right. And I'm sorry, I'm
21 confused. The state has asked me to charge 16-23-10(3), which
22 says, crime of violence means murder, manslaughter, except
23 negligent manslaughter arising out of a traffic accident,
24 rape, mayhem, kidnapping, burglary, robbery, housebreaking,
25 assault with intent to kill, commit rape or rob, assault with

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1 a dangerous weapon or assault with intent to commit any
2 offense punishable by imprisonment for more than one year.

3 So, that's what the state has asked me to charge. My
4 intention was to say common law robbery is classified as a
5 crime of violence by the State of South Carolina. So, do you
6 want me to -- do you object to quoting the code section and
7 you're asking me just to say common law robbery is classified
8 as a crime of violence by the State of South Carolina or
9 exactly what is it you want me to do?

10 MR. HILLER: Your Honor, I was gonna say if the Court
11 does read the code section, then to not tell the jury that is
12 a crime of violence.

13 THE COURT: All right. So, do one or the other?

14 MR. HILLER: Yes, sir.

15 THE COURT: Solicitor?

16 MR. TERRELL: I was unaware that that was -- your
17 original intention was to flat out say common law robbery is a
18 crime of violence by statute.

19 THE COURT: Okay.

20 MR. TERRELL: If you're inclined to do that, then there's
21 no sense in reading the statute. That would just be ---

22 THE COURT: So, what I was gonna do after I defined
23 unlawful possession of a firearm by a person convicted of a
24 crime of violence. After I've defined that to them, the last
25 sentence of that charge is common law robbery is classified as

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1 a crime of violence by the State of South Carolina. So, that
2 -- that is what I will do rather than read the code section
3 because it goes into any number of, you know, offenses that
4 have nothing to do with this and I -- there may be some
5 adverse association the jury might make. And so, I don't
6 think it's necessary to read all those other crimes, some of
7 which are obviously extremely serious.

8 MR. TERRELL: Yes, sir.

9 THE COURT: All right.

10 MR. HILLER: We're in agreement, Your Honor. Thank you.

11 THE COURT: All right. Very good.

12 Anything else from the defense, Mr. Hiller?

13 MR. HILLER: No, sir, nothing else.

14 THE COURT: All right. Very good.

15 All right. Is the state ready for the jury to come in?

16 MR. TERRELL: Your Honor, asked me to bring up the clean
17 computer, which I have ---

18 THE COURT: Yes.

19 MR. TERRELL: --- for DVDs and CDs. It's my
20 understanding that's all that computer does.

21 THE COURT: All right.

22 MR. TERRELL: We would have a discussion, about how we
23 would do that this morning.

24 THE COURT: All right. Well, and that's -- and that is a
25 point, Mr. Hiller, we need to talk about. While these videos

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1 have been introduced into evidence, I did instruct the state
2 not to play a portion of that one video that's in evidence.
3 So, if we send the computer in, then they're -- if they start
4 to play it, they would view that section that I told the state
5 not to play. A way we can handle that is to send in the
6 videos and not the computer and if they ask then to see the
7 videos, they can come in the courtroom and watch them again
8 just like they did during the trial. Any problem with that?

9 MR. HILLER: That makes the most sense, Your Honor.

10 THE COURT: All right. Very good. Any problem with
11 that, Solicitor?

12 MR. TERRELL: No, sir.

13 THE COURT: All right. Very good. So, that's what we'll
14 do is we'll send in the videos and if the jury asks, then
15 we'll bring them in and show it to them in the courtroom.

16 MR. TERRELL: Thank you, Your Honor.

17 THE COURT: All right. Very good. Great.
18 Anything else, Solicitor?

19 MR. TERRELL: No, sir.

20 THE COURT: Anything, Mr. Hiller?

21 MR. HILLER: No, sir.

22 THE COURT: Ask the jury to come in please, ma'am.

23 (REPORTER'S NOTE: Jury enters courtroom @ 9:49 A.M.)

24 THE COURT: All right. Ladies and gentlemen, as I
25 explained to you at the conclusion of yesterday, we have ended

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CLOSING BY TERRELL

1 the evidentiary portion of the trial. What remains are the
2 closing arguments by the attorneys and the charge on the law.
3 Remember, regarding the closing arguments, they are important,
4 they're each sides summation to you or argument to you what
5 they believe regarding the evidence that has been already
6 presented to you, but they are not evidence in this particular
7 matter. And after that, I will give you the charge on the law
8 and then submit to the case to you for your liberations and
9 unanimous decision.

10 Solicitor?

11 MR. TERRELL: Thank you, Your Honor.

12 CLOSING BY TERRELL:

13 MR. TERRELL: His car, his keys, his property, his guns.
14 I'm sure you've heard it said, possession is 9/10 of the ball.
15 At the end of the day, that's what we're here for; that's what
16 this whole case is about; it's about possession. Whether or
17 not this defendant possessed these guns in a way that was
18 lawful and whether he was allowed to possess them, period.

19 Let's talk about that and we will talk a little bit about
20 the constructive possession versus actual possession. Actual
21 possession, you have something on you. This is my pen. Right
22 now I'm in actual possession of this pen. This is my box;
23 it's got my initials on it, stuff from that I needed to bring
24 up to the courtroom with me, my box, my book, my pen, my box.
25 I'm still in possession of my pen; it's just now constructive

1 possession. You will hear the Judge in your charge use words
2 like the ability to exercise dominion and control over that
3 pen. I'm still in control of my pen. It's my pen and it's in
4 my box. Although I don't have it on me. And that's what
5 we're talking about with this defendant with his guns. The
6 guns were in his car. You don't have to take my word for it;
7 you watched the video. You watched the entire -- just about
8 the entire track -- it was captured on bodycam and on dash cam
9 and you heard him say, my car, my keys -- I wrote some of them
10 down -- my vehicle, my money, my shit, my property. He says
11 all of those things.

12 Think about it in your own personal life. You might have
13 your wallet on you; you're in actual possession of your
14 wallet. Your umbrella in your car is still your umbrella even
15 though it's in your car. Even though it's in your car, you're
16 in possession of that.

17 Let's go -- let's go through the three different
18 offenses. Unlawful carrying of a pistol. South Carolina law
19 mandates that you require -- mandates that you carry a firearm
20 in your vehicle in a particular manner in some sort. If you
21 don't have a concealed weapons permit, then it has to be in a
22 secured compartment in your vehicle. Under your seat is not
23 in a secured compartment. There are exceptions to that one
24 being if you have a concealed weapons permit, you actually
25 able to conceal it on your person in the vehicle. But, you

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1 heard the testimony, he -- Mr. Bright does not have a
2 concealed weapons permit. So, the gun had to be in a secured
3 compartment inside that vehicle and it was not; it was under
4 his seat.

5 He is charged with unlawful possession by a prohibited
6 person of a firearm. We had to show that he was convicted of
7 a crime of violence and because of that conviction, he is not
8 allowed to possess a firearm in the State of South Carolina.
9 State's Exhibit 1 is a certified conviction from North
10 Carolina, Cabarrus County, in Concord, North Carolina.
11 Johnathan Rakim Bright was -- he pled guilty to common law
12 robbery on, the date is on here, December 15th, 2014. So, on
13 that date, he was convicted of common law robbery, which the
14 Judge will instruct you is a crime of violence. Because he's
15 been convicted of a crime of violence, he's not allowed to
16 possess any kind of firearm, any type of handgun in the State
17 of South Carolina.

18 The final two indictments, the final two charges he's
19 here on, possession of a stolen pistol. We can show that he
20 was in possession, he was knowingly in possession of weapons
21 that he knew were stolen. There are a couple of different
22 ways that you can show that, but at the end of the day, you're
23 -- we can't show what he -- we can't jump inside his mind and
24 tell you what he knew and what he didn't know. What we have
25 to do is look at the circumstances.

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1 For you to purchase a firearm, you go to a firearms
2 dealer and you're able to purchase a firearm as long as you're
3 allowed to and they'll do certain things. They'll run
4 background checks on you, and they'll check your ID and make
5 sure you're allowed to buy a firearm. This is where the dates
6 comes in. This is where the dates are important and I wrote
7 them down, but all of this came out during the testimony.

8 The gun that was found under his seat, was reported
9 stolen, according to the NCIC, the background check of that
10 gun, the history of that gun, is reported stolen May 7th of
11 2013. This defendant's birthday, Mr. Bright's birthday is
12 [REDACTED]. That makes him 17 when the gun was stolen.
13 Now, he cannot buy that gun when it was not stolen at 17;
14 you're not able to buy a handgun. His entire life, when this
15 gun -- when he was allowed to buy a gun, this gun was stolen.
16 Stolen the whole time. You buy a gun for \$50 from a friend,
17 you know something is wrong with that gun. You can infer that
18 something is wrong with that gun, that it's stolen, that you
19 shouldn't have it, you're not getting it from reputable place.

20 The gun in the trunk, there's a similar issue with that.
21 That was reported stolen on October 11th of 2018. October
22 11th, this defendant had turned 18 -- he was 22, he'd just
23 turned 23 actually. The problem with that is he was convicted
24 in 2014 of a crime of violence. Now, if you buy a firearm
25 from a reputable dealer, they're gonna do a background check;

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1 they're gonna see that he's convicted of common law robbery, a
2 felony, a crime of violence, and he's not allowed to buy that
3 handgun, so four years after he was convicted for that
4 offense.

5 The other thing we have to show is that he knew, that he
6 knew that these guns were in his car. I would submit to you
7 that he knew everything that was in that car. He knew about
8 everything because he told you about everything, except for
9 the guns. He was yelling at the officers; we all saw the
10 video. He knew the money was his. The ID was found in his
11 vehicle; he knew that was his. I would submit to you,
12 everything in your car is -- is yours or you know you're in
13 possession of it.

14 The Judge will ask you to use your common sense. You
15 don't have to leave that at the door when you walk in. Just
16 use your common sense. If he didn't know these guns were in
17 his vehicle, his vehicle with the rest of his property that he
18 claims time and time and time again that morning, then what
19 are the other options? The car is registered to his mom. So,
20 is he saying his mom was in possession of those stolen guns?
21 His mom didn't have possession of anything else. He said time
22 and time again, that's his stuff, that's his property, they
23 want to illegally search his property. It wasn't a search,
24 but it was his property.

25 What's the other option if it's not his mom? Someone

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CLOSING BY TERRELL

1 that he knows left their gun in his vehicle and he had no
2 idea. Now, how -- how much sense does that make? I have a
3 couple of friends. I know that these friends all have guns.
4 I know that there's no chance that they would ever leave their
5 gun in somebody else's car for them to ride around with. They
6 certainly wouldn't put it under my seat where I could reach it
7 to just ride around with and I have no idea about it. They
8 wouldn't just leave it in my trunk without telling me.

9 The other option is some, I don't know, some fairy, some
10 spirit, came and just magically placed it there. That didn't
11 happen. Use your common sense. He was in possession of
12 what's in his vehicle, just like all of y'all are in
13 possession of what's in your vehicle, of what's in -- what's
14 in your house. Your T.V. is still yours even though you don't
15 have it on your person, it's back at your house.

16 I'm gonna also ask you to think about his demeanor. Yes,
17 he was intoxicated. When the officer asked him to step out of
18 his car, did you notice that he locked his car? The officers
19 needed the keys to get back in the car. Now, I don't know if
20 anybody has ever been stopped by, by the police, but that
21 doesn't typically happen. You just step out of your car.
22 There's no need to lock your car on the way out to stand by
23 your car.

24 But, the Judge will charge you in his instructions
25 something along the lines of the, the power -- intent to

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1 control the use or disposition of that property. Now, when
2 you step out of your car and you lock the car, you're limiting
3 access to the disposition of the property that's in your car.
4 That was the entire purpose of him locking his car so that
5 officers couldn't get in there to find anything illegal. And
6 you heard the officers say, there was the open -- the open
7 beer can, which was readily apparent, sitting in the cup
8 holder. So, you have to ask yourself, what was in that --
9 what was in that car that he didn't want officers to see?
10 What made his demeanor flip as soon as he was put in the back
11 of that car and he knew the officers were going inside his
12 vehicle. There was something that he knew about illegal
13 inside that vehicle. Multiple officers were there to
14 inventory that vehicle. They found the money, almost 1100,
15 \$1200, somewhere around there. That's not illegal; he's
16 allowed to have that. He's over 21; he's allowed to have
17 alcohol. It shouldn't have been open but he's allowed to have
18 that. There was nothing else illegal found in that car other
19 than the guns that he was adamant the officers not go through
20 and find, because he knew they were there. He knew all along
21 that he had those in his car and that he was not allowed to
22 because he's been convicted of a violent offense and because
23 he knew that there was something wrong with those guns. He
24 wasn't carrying it. He wasn't carrying the one under his seat
25 the way that he should've been, and he knew that those two

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1 firearms were stolen.

2 So, I ask you to take everything together, everything
3 that you've heard here, the videos that you saw, your common
4 sense, and think to yourself when you go back and deliberate,
5 what makes the most sense. What makes the most sense is that
6 he's guilty and he knows that he's guilty. I'd ask you to go
7 back there and return a verdict of guilty on all four of these
8 charges.

9 Thank you.

10 THE COURT: All right. Mr. Hiller?

11 Mr. HILLER: May it please the Court?

12 THE COURT: Yes, sir.

13 CLOSING BY HILLER:

14 MR. HILLER: Trials are always interesting because
15 reasonable minds can differ. Solicitor Terrell gave you his
16 version of what he believes that bodycam evidence and that
17 dash cam footage shows and as the Judge will tell you, you do
18 have the right to go back and watch that again. It may be
19 fresh in your mind from yesterday; you may want to see
20 something again before you enter a judgment in this case of
21 guilty or not guilty. I encourage you to, please, look at any
22 and all evidence that you want to see again before making your
23 decision.

24 I also would ask you to look at Mr. Bright's behavior.
25 He's not on trial for being a butthead. He's, you know, he

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1 showed his butt maybe that day. He may agree to that. He may
2 not be proud of that, but he's not on trial for that. He was
3 arrested for that in fact. He was arrested for exactly what
4 he did, public disorderly conduct. And during the course of
5 that arrest, the officers, as he found out on scene, had the
6 right to go in his vehicle. And what did he do? He became
7 mad. That's what the officer said, he's mad that we're about
8 to go through his stuff. I submit to you, ladies and
9 gentlemen of the jury, that that is not a standard reaction,
10 emotional reaction that somebody who is about to get busted
11 for having stolen guns in his car. I think that's somebody
12 who is mad that the cops are going through his stuff. That is
13 something that you get to decide. You can weigh that version,
14 that presentation, versus the solicitor's presentation of how
15 Mr. Bright behaved. But plenty of times the officers said,
16 both on bodycam and from the stand, he didn't want me to get
17 to that beer can, he didn't want us going through his money,
18 he was belligerent, he was angry, he was mad. He wasn't
19 nervous. Nervousness, when I even get a seatbelt ticket, I'm
20 not enjoying myself, you know, I'm nervous. That is a common
21 reaction to law enforcement.

22 But what did Mr. Bright say man, many times in the back
23 seat of that car? I'm worried about my money. I'm worried
24 about my keys. I'm worried about my stuff. And, we saw some
25 of his stuff and it's scattered around. There was a Nike Air

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1 Jordan box that the officer was wondering if it really
2 contained Nikes. Turns out it didn't, and if you noticed, it
3 contained a pair of slide Adidas sandals. So, no Jordan's in
4 there unfortunately. But that's the stuff that was in the
5 car.

6 What was in the trunk? A gun. Now, if there were a pair
7 of Jordan's that fit him in the trunk, great evidence that Mr.
8 Bright had been in that trunk. If there is a fingerprint on
9 the trunk that matched Mr. Bright, great evidence he might've
10 been in that trunk. It's a little odd to find an empty trunk.
11 I don't want to make him out -- but I also want to plant the
12 obvious fact that most trunks that are of a vehicle that
13 someone possesses, has their stuff in it. That thing just had
14 a gun in it. I, you know, that's -- it is what it is.

15 Now, as far as the my-car thing, it is a proven fact that
16 the registration belongs to his mother, Ms. Bright. We know
17 for a fact that Mr. Bright was driving the car that night or
18 was at least around the car that night. He wasn't technically
19 seen moving, but he was the sole occupant of the vehicle when
20 approached by law enforcement. So, obviously there's some
21 inferences to be made from that. And yes, he said that's my
22 car. And guess what, that's my iPad. Well, it's not; it's
23 owned by Horry County, since I'm a county employee, but it's
24 my iPad. I mean, the point is he's a 24, well, then 23-year-
25 old. We speak in a way that isn't legal ease. It's certainly

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1 my sweater, it's my iPad. Technically, I'm right; I bought
2 this, I didn't buy that, but it's mine. I mean, don't quote
3 him to the standard of a third degree or third-year law
4 student when he says that's my car. It's the car he was
5 driving. Yeah, it's his car, it's his keys. These are my
6 keys, you know. Even if -- well, I guess, they're technically
7 the banks keys, but they're my keys, you know, because they're
8 in my pocket and I'm the one who is gonna go home in that car
9 later today. It's just how we talk. Don't -- don't over-
10 exaggerate the word my. Again, they kind of wrapped that
11 portion of it up. I don't -- I believe the evidence shows
12 that Mr. Bright was not acting like someone who was about to
13 get busted for illegal guns in the car. He was acting like a
14 kid. Respectfully, he was upset that he was getting arrested
15 and put in handcuffs for public intoxication. And I'd ask you
16 to use your common sense on that.

17 But, more importantly than Mr. Bright's behavior, I want
18 to focus on the behavior of law enforcement. It's the state's
19 job, as the Judge will tell you, to prove a defendant beyond a
20 reasonable doubt. Like I said at the beginning, it's not a
21 legal concept, it's not some cloud in the sky, it's an on the
22 ground reality that we, unlike some of the other nations, get
23 to be presumed innocent -- not presumed, we are innocent till
24 proven guilty. That presumption of innocence is real.
25 Presumption doesn't exist in the Middle East and in portions

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1 of Asia. It's something that separates us, that gives us this
2 status as an amazing country to live in, where we're free.
3 Where me as a public defender and my client can actually have
4 a fair shake against the state, all their resources, the
5 entire Myrtle Beach Police force, who can do what they want
6 to, to present the evidence they want to and fail to present
7 other evidence. Now, what evidence would that be? Well, I'll
8 get to that in a minute.

9 Yesterday, you heard from the witness stand that law
10 enforcement has several options when they're testing, when
11 they're doing forensics. It's certainly not the officer who
12 makes the arrest, but there's different departments. There's
13 the forensic department, there's all kinds of different
14 departments, detective agencies, crime scene investigation
15 specialists that are employed at taxpayer expense to prosecute
16 crimes. You can test a gun for touch DNA, that's anytime you
17 touch a gun, your skin cells come off. You can swab it and
18 test it, see who touched it. It's possible. Was it done in
19 this case? No, the officer told you it wasn't done. Could it
20 have been? Yes. Did they have to? No, but their job is to
21 convince you beyond a reasonable doubt that he committed
22 crimes. It's their job. How much of a job do they want to
23 do? Well, you get to decide if they did enough. What else
24 could they have done? They could've knocked on his cell door,
25 Mr. Bright, come out here. Let me tell you your rights.

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1 You've got the right to remain silent, anything you say can be
2 used against you, you have the right to an attorney, but we
3 will get you one if you can't afford one. Would you like to
4 talk to me? Tell me about those guns. Tell me, did you know
5 those guns were in there? Where did they come from? Are they
6 hot? Is there a body on them? You know, what do we need to
7 know about these guns. We just found two guns, you know.
8 They didn't even ask him about it. Could they have? Yes, but
9 they didn't.

10 Now, what did they do? Well, they also, like I mentioned
11 earlier, they didn't fingerprint the trunk. They could've but
12 they didn't. Well, what did they do? The officer yesterday
13 told you that he requested that fingerprints be run on that
14 gun, those guns. What did you not -- who did you not hear
15 from? And you can think about that. You can think about not
16 only the evidence you saw, but the evidence you didn't see.
17 Who didn't you hear from? What report did you not see? You
18 didn't see a fingerprint report. We've made a big deal about
19 the fact that he's got a record. People with records have
20 their fingerprints in the system. We don't have a fingerprint
21 report. That's something for you to weigh, and I would ask
22 you to weigh that. Again, it's not his job to prove himself
23 innocent; it's the state's job to prove him guilty.

24 So, what is a reasonable doubt? It's a doubt that causes
25 you to hesitate to act. It's not -- it's not an impossible

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1 standard; it's not all reasonable doubt. I believe the Court
2 will tell you something very similar. It's a reasonable
3 doubt, but it is the highest standard of evidence that we have
4 in the court system. Car wrecks, 50/50, 49 percent/51. Did
5 -- you called all 9s because got hurt, and it's 51 to 49
6 percent should this insurance company pay or should it not pay
7 or is the at-fault driver -- who's at fault, that kind of
8 stuff. That's just preponderance of the evidence. The scales
9 tilt this way or the other.

10 The next step up is called clear and convincing. We use
11 that downstairs in Family Court, when the state is trying to
12 take a child from a parent, termination of parental rights, by
13 clear and convincing evidence. That standard is lower than
14 the standard than the state has today, beyond a reasonable
15 doubt.

16 Things could've been done in this case that weren't done.
17 I would argue that the state is asking you to bridge the gap
18 between the evidence that resulted in Mr. Bright before the
19 Court today, charged with unproven indictments and the
20 evidence that would actually take you to convict him. When
21 you are deliberating about this, I ask you to -- to remember
22 your oath, weigh the evidence, weigh the law, and ask that you
23 find Mr. Bright not guilty.

24 Thank you.

25 CHARGE TO JURY:

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1 THE COURT: All right. Ladies and gentlemen, it's my
2 duty and responsibility now to give you the law that you will
3 apply to the facts and evidence you've heard in this case. I
4 told you at the very beginning that I would not indicate to
5 you in any fashion, what I thought the facts of this case
6 were, and I've done that. If you came in this courtroom with
7 any preconceived ideas of what the law is or what it ought to
8 be, should be, hoped it would be, you'll disregard that. You
9 will take the law as I now give it to you and apply it to the
10 facts and evidence you've heard in this case.

11 Now, I'll go over this again one more time when I talk to
12 you about the actual verdict form, but remember, the defendant
13 here, Mr. Johnathan Rakim Bright, has been charged with four
14 separate offenses, four crimes. Now, two of them are the same
15 crime, possession of a stolen pistol. But each one is for a
16 separate incident and is a separate crime. And he's also
17 charged with unlawful carrying of a pistol and then unlawful
18 possession of a pistol by a person who has been convicted of a
19 crime of violence. That means you have to make four separate
20 decisions. Just because you decide one way on one of the
21 charges, does not govern how you decide the other charges.
22 Each one is separate, each one has separate facts, each one,
23 as I will talk to you about in just a minute, has separate
24 elements of the crime, different things the state must prove
25 to you beyond a reasonable doubt if you are to find the

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1 defendant guilty of that crime, beyond a reasonable doubt.

2 So, please remember that; four separate indictments, four

3 separate charges, four separate decisions.

4 Now, I told you as judges of the facts in this particular
5 matter, one of your duties and responsibilities would be to
6 judge the credibility and believability of the witnesses that
7 have come before you. You can believe all of what a witness
8 says, you can believe a portion of what a witness says, you
9 can disregard in its entirety the testimony of a particular
10 witness, if you've got a good and sound reason for doing so.
11 You determine whether or not that witness had any kind of
12 motive, bias, prejudice that they might have in giving you the
13 testimony. Obviously, you consider the opportunity for
14 knowledge, how did they come about that information that they
15 gave you. Your verdict can't be the result of any kind of
16 passion, prejudice, or sympathy. You don't have any friends
17 to reward, you don't have any enemies to punish. You're
18 looking at the facts and the evidence in making a decision.
19 Did the state prove the defendant guilty of that crime beyond
20 a reasonable doubt?

21 Regarding evidence, there's two general types of
22 evidence; direct and circumstantial evidence. Direct
23 evidence, that's testimony of a person who claims or asserts
24 to know some fact. This is what took place in my presence.
25 This is what I saw. This is what I heard. This is what

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CHARGE TO JURY

1 happened.

2 Circumstantial evidence is proof of a chain of facts
3 indicating the existence of a fact. The law doesn't make any
4 distinction, greater degree of proof for one or the other is
5 not required. But to the extent the state does rely on any
6 circumstantial evidence, all of the circumstances have to be
7 consistent with each other and, when taken together, point
8 conclusively to the guilt of the defendant beyond a reasonable
9 doubt. If they merely portray the defendant's behavior as
10 suspicious, that proof has failed. The burden rests with the
11 State of South Carolina on all matters and regardless of
12 whether the state uses direct, circumstantial or some
13 combination of the two, that standard applies beyond a
14 reasonable doubt.

15 In this particular matter, the defendant did not testify.
16 I instruct you and I tell you, this is not a fact for you to
17 consider. You may not talk about it in your jury room, you
18 may not use it mentally to make a decision. It is not part of
19 this case. I told you at the very beginning, defendants need
20 not even show up for trial, because they don't have anything
21 to prove to you. The state has to prove its case to you
22 beyond a reasonable doubt and that goes hand in hand with the
23 presumption of innocence I told you about.

24 When the state charged the defendant with these four
25 charges, he pled not guilty. That put the burden of proof on

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CHARGE TO JURY

1 the State of South Carolina to prove the defendant guilty of
2 the charges beyond a reasonable doubt. That presumption of
3 innocence came upon him at that point in time. And that
4 presumption of innocence remains right now. It always remains
5 unless and until you believe the state has presented to you
6 evidence of the guilt of the defendant beyond a reasonable
7 doubt of the crime or crimes charged. We liken the
8 presumption of innocence to a robe of righteousness. It's
9 placed on the shoulders of the defendant and stays on the
10 shoulders of the defendant unless the state rips that robe of
11 righteousness, if it can, from the shoulders of the defendant
12 by evidence proving the defendant guilty of the crime or
13 crimes charged. This is not just some legal theory or legal
14 phrase, it's a substantial right to which every defendant is
15 entitled unless you, the jury, are satisfied from the evidence
16 of the defendant's guilt beyond a reasonable doubt.

17 So, reasonable doubt, the kind of doubt that would cause
18 a reasonable person to hesitate to act. Proof beyond a
19 reasonable doubt is proof that leaves you firmly convinced of
20 the defendant's guilt.

21 Now, there are very few things we can know with absolute
22 certainty. And the law doesn't require the State of South
23 Carolina to give you that kind of proof. But what is required
24 is based upon your consideration of the evidence, your
25 examination of the evidence, you are firmly convinced of the

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CHARGE TO JURY

1 defendant's guilt of the crime charged, you must find the
2 defendant guilty. On the other hand, if based upon your
3 examination of the evidence, you are not firmly convinced of
4 the defendant's guilt of the crime charged, you must give the
5 defendant the benefit of the doubt and find him not guilty.

6 Intent, in order to establish criminal liability,
7 criminal intent has to be proven by the State of South
8 Carolina as with everything else, beyond a reasonable doubt.
9 Now, criminal intent is a matter that has to be determined by
10 you from the circumstances surrounding the situation. There's
11 no way to prove intent to some kind of mathematical certainty.
12 There's no way medical science, at this stage, can look in a
13 person's brain and determine their intent. You have to take
14 into consideration the facts of the case, the actions, the
15 facts and circumstances. Criminal intent, obviously, is a
16 mental state, conscious wrongdoing. It's up to you to
17 determine what the defendant intended, based on the
18 circumstances shown to have existed at that time. And again,
19 the state has to prove it to you beyond a reasonable doubt.

20 So, let's go into the four charges. Again, two of them
21 being the same charge but under different facts, so there's
22 four charges. First one, unlawful carrying of a pistol. The
23 defendant being charged with that crime, the state has to
24 prove to you beyond a reasonable doubt that the defendant
25 carried a pistol about his person, whether concealed or not,

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CHARGE TO JURY

1 except as follows. A person in a vehicle, the handgun must be
2 secured in a closed glove compartment, closed console, closed
3 trunk, or in a closed container, secured by a fastener.

4 Now, the weapon is about the defendant's person, if it is
5 readily accessible and convenient for immediate use, the
6 pistol or the weapon need not be actually touching the person
7 of the accused.

8 Possession of a stolen pistol. Now, remember there are
9 two of those charges under separate facts. A person shall not
10 knowingly buy, sell, transport, pawn, receive, or possess any
11 stolen handgun. The state must prove beyond a reasonable
12 doubt that the defendant knowingly or intentionally received
13 or possessed the stolen handgun. Knowingly means with
14 knowledge, consciously, not accidentally. Intentionally means
15 willfully intending the result which actually occurs. Again,
16 not accidentally or involuntarily. Intent can be shown by the
17 acts and conduct of the defendant and any other circumstances
18 from which you could naturally and reasonably infer intent.
19 To prove possession, the state must prove beyond a reasonable
20 doubt that the defendant had both the power and the intent to
21 control the disposition or use of the handgun, and that can be
22 in two ways.

23 Actual possession. Actual possession means the handgun
24 was in the actual physical custody of the defendant.

25 Constructive possession. Constructive possession means

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CHARGE TO JURY

1 the defendant had the dominion and control or the right to
2 exercise the dominion or control of either the handgun itself
3 or the property on which the handgun was found.

4 The fourth matter, the fourth crime, unlawful possession
5 of a firearm by a person convicted of a crime of violence.
6 The defendant being charged with this, it is unlawful for a
7 person who has been convicted of a crime of violence in any
8 court of the United States or any of the States of the United
9 States or Commonwealth or territories of the United States, to
10 possess or acquire a firearm within this state. Therefore,
11 the state must prove beyond a reasonable doubt that the
12 defendant has previously been convicted of a crime of violence
13 and was in possession of that firearm or visibly displayed
14 what appeared to be a firearm. The firearm means any kind of
15 automatic weapon, rifle, gun, revolver, pistol, or any weapon,
16 which is or will or has been designed to expel a projectile.

17 The offense of common law robbery is classified as a
18 crime of violence by the State of South Carolina.

19 Now, regarding a prior conviction of the defendant, that
20 has been introduced to you for one purpose only, by the state
21 to see if they can prove to you an element of a crime. It
22 cannot be used or considered by you in any other fashion. You
23 cannot hold it against the defendant in any shape, manner, or
24 form. You cannot use it mentally to make a determination.
25 You only consider it to see if it is -- the state has proved

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BY THE COURT

1 to you an element of one of the crimes, that being, unlawful
2 possession of a firearm by a person convicted of a crime of
3 violence.

4 BY THE COURT:

5 THE COURT: So, that, ladies and gentlemen, is the law.
6 Now, regarding the verdict forms in this matter. Each one of
7 them is on a separate page. It has at the top of it the
8 offense, like possession of a stolen pistol and the indictment
9 number. Remember, two charges of that, two separate offenses,
10 unlawful carrying of the pistol and then unlawful possession
11 of a pistol by a person convicted of a crime of violence. On
12 each and every one of them, it says that, We, the jury, by
13 unanimous consent, find the defendant, regarding the
14 particular crime, whichever one it is, there's two choices,
15 not guilty or guilty. Now, I put one before the other on the
16 form because I've got to put one before the other on the form.
17 Don't assign anything to that. Okay? When your jury, Madame
18 Forelady, has reached a unanimous decision on that particular
19 offense, you check the appropriate block, you sign your name,
20 put today's date on that particular form. You must make a
21 decision on each of the four charges. Again, four separate
22 charges, four separate decisions, four separate facts, four
23 separate elements. So, you must make a decision on each one
24 of them and remembering, of course, that your decision on one
25 or several does not govern how you rule and decide on the

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BY THE COURT

1 other. Each one is a separate decision.

2 Now, what I'm gonna ask that you do, ladies and
3 gentlemen, and Madame Forelady, I'm gonna ask that you take
4 your jury -- oh, one other thing. Unanimous, means exactly
5 what you think it means. It's a unanimous decision.
6 Everybody agrees, 12/0, not 11/1, 10/2, any combination
7 thereof. So, again, Madame Forelady, you're checking the box,
8 signing your name, you're telling the Court, every single
9 member of the jury agrees and that's their verdict. So, after
10 the clerk's representative reads the verdict, he will call
11 upon the members of the jury to raise their right hand to see
12 if they affirm that that is the verdict that has been read
13 before the Court.

14 So, take your jury to the jury room. Do not, do not
15 begin your deliberations until the bailiff hands to you the
16 verdict forms and the exhibits. As to the videos, while the
17 actual discs will go in there, if you want to view those
18 again, you will need to write the Court a note, tell us, and
19 we'll bring you in and show it to you on the T.V. screen
20 again. All right?

21 Madame Alternate, if -- excuse me, ma'am. If you would
22 please stay with us. Madame Forelady, take the remainder of
23 your jury to the jury room.

24 Thank you.

25 (REPORTER'S NOTE: Jury exits courtroom @ 10:30 A.M. The

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BY THE COURT

1 following takes place outside the presence of the jury.)

2 THE COURT: All right. As to the -- the alternate in
3 this particular matter, is there any reason from the state
4 that the Court should not excuse the alternate at this time?

5 MR. TERRELL: No, sir. Thank you.

6 THE COURT: From the defense?

7 MR. HILLER: No, sir, nothing.

8 THE COURT: All right. Ms. Holben, I want to thank you
9 for your service. Your job was to step in the shoes of one of
10 the regular members of the jury. They all seemed ready,
11 willing and able to go forward with their duties. I have to
12 tell you, it's often, more often than you would think, we have
13 to substitute an alternate in, somebody gets sick or something
14 happens. It just didn't happen in this case, but I tell you,
15 I always have an alternate because there's -- honestly I can't
16 count how many times last year I had to put in an alternate;
17 it just didn't happen in this case. You had an important duty
18 and responsibility and I appreciate you doing that. I'm gonna
19 excuse you for your jury service from this week and, remember,
20 you've got your three-year exemption from coming back to
21 Circuit Court jury duty. Your local city judge or magistrate,
22 county magistrate or federal judge asks you to see them, you
23 go to go see them, you just don't have to come see us for the
24 next three years. All right?

25 JUROR 151: My coffee and my ---

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BY THE COURT

1 THE COURT: Yes, ma'am. The deputy will take you back to
2 the jury room. They're not deliberating. So, you can get
3 your ---

4 JUROR 151: May I sit to see how they decide?

5 THE COURT: Yes, ma'am, you can come around and have a
6 seat in you'd like to, yes, ma'am.

7 JUROR 151: Thank you.

8 THE COURT: All right. Exceptions, deletions, additions
9 to the charge from the state?

10 MR. TERRELL: No, sir.

11 THE COURT: From the defense?

12 MR. HILLER: No, sir.

13 THE COURT: All right. Very good.

14 All right. With that we'll be at ease. We'll send the
15 verdict forms and the exhibits into the jury, and we'll be at
16 ease until they reach a decision.

17 Thank you very much.

18 MR. TERRELL: Do you have those verdict forms?

19 THE COURT: We do. There was a typo on one of them that
20 we saw, so I sent the clerk to correct that typo and she's
21 printing new ones out.

22 MR. TERRELL: Very good. Thank you.

23 THE COURT: All right. Thank you.

24 (REPORTER'S NOTE: Counsel review and consent to exhibits
25 submitted to jury.)

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VERDICT OF THE JURY

1 RECESS - 10:35 A.M.

2 *****OFF THE RECORD*****

3 (On the Record - 11:04 A.M.)

4 THE COURT: Thank you very much. You may be seated.
5 Thank you.

6 All right. I'm informed that the jury has reached a
7 verdict in this matter.

8 Is the state ready to receive it?

9 MR. TERRELL: Yes, sir, Your Honor.

10 THE COURT: Defense?

11 MR. HILLER: Yes, sir, Your Honor.

12 THE COURT: Ask the jury to come in please.

13 (REPORTER'S NOTE: Jury enters courtroom @ 11:05 A.M.)

14 VERDICT OF THE JURY:

15 THE COURT: All right. Madame Forelady, ladies and
16 gentlemen of the jury, have you reached unanimous verdict on
17 the matters, ma'am?

18 JUROR 4: Yes, sir.

19 THE COURT: Hand the verdict forms to the clerk's
20 representative please, ma'am?

21 Thank you, ma'am.

22 You may publish the verdicts.

23 CLERK: County of Horry, State of South Carolina versus
24 Johnathan Rakim Bright on indictment number 2019-GS-26-04767,
25 on the charge of possession of a stolen pistol, we, the jury,

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VERDICT OF THE JURY

1 by unanimous consent, find the defendant guilty.

2 State of South Carolina, County of Horry versus Johnathan
3 Rakim Bright on indictment number 2019-GS-26-00561, on the
4 charge of unlawful carrying of a pistol, we, the jury, by
5 unanimous consent, find the defendant guilty.

6 State of South Carolina, County of Horry versus Johnathan
7 Rakim Bright, indictment number 2019-GS-26-00563, on the
8 charge of unlawful possession of a firearm by a person
9 convicted of a crime of violence, we, the jury, by unanimous
10 consent, find the defendant guilty.

11 State of South Carolina, County of Horry versus Johnathan
12 Rakim Bright, indictment number 2019-GS-26-00562, on the
13 charge of possession of a stolen pistol, we, the jury, by
14 unanimous consent, find the defendant guilty.

15 Signed by foreperson Jeanne Altman, dated January 9th,
16 2020.

17 Ladies and gentlemen of the jury, if this is your
18 verdict, please signify by raising your right hand.

19 THE COURT: All members of the jury having affirmed their
20 verdict by the raising of their right hand, does the state
21 wish the jury polled?

22 MR. TERRELL: No, sir.

23 THE COURT: Does the defense wish the jury polled?

24 MR. HILLER: No, sir.

25 THE COURT: Thank you very much.

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BY THE COURT

1 BY THE COURT:

2 THE COURT: Ladies and gentlemen, I want to thank you for
3 your service. You did exactly what the Court asked you to do,
4 that is to listen to the facts and evidence and render a
5 unanimous verdict on the charges that have been presented.
6 I'm gonna excuse you from your jury service for this week.

7 Please also remember that you've earned an exemption from
8 coming back to Circuit Court jury duty for three years. If a
9 city judge or county magistrate, federal judge, asks you to go
10 see them, you have to see them; you just don't have to come
11 see us for the next three years.

12 I appreciate your service and, with that, you are now
13 excused.

14 Thank you very much.

15 (REPORTER'S NOTE: Jury exits courtroom @ 11:07 A.M.)

16 THE COURT: All right. As to the -- the verdict, any
17 motions by the defense at this time?

18 MOTIONS:

19 MR. HILLER: Yes, sir, Your Honor. At this time, the
20 defense would renew all motions previously made for a directed
21 verdict. Additionally, I would ask the Court to set aside the
22 jury's verdict and grant a new trial on grounds that the
23 evidence presented was not sufficient for a conviction?

24 THE COURT: All right. Very good.

25 As to the defense's motion for a new trial, I do believe

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MOTIONS

1 and find that there is competent evidence to sustain the
2 jury's verdict. I do believe that the evidence produced,
3 obviously believed by the jury, is more than sufficient as
4 presented by the state to convict the defendant on all the
5 charges beyond a reasonable doubt. Therefore, I respectfully
6 decline to grant your motion for a new trial.

7 Any other motions?

8 MR. HILLER: No, Your Honor.

9 SENTENCING:

10 THE COURT: Is the state ready to proceed with
11 sentencing?

12 MR. TERRELL: If I could have just a minute, Your Honor.
13 May I approach?

14 THE COURT: Yes, sir. Thank you.

15 MR. TERRELL: Yes, sir.

16 THE COURT: All right. Before the Court issues the
17 sentence, any comments from the state?

18 MR. TERRELL: Yes, sir, Your Honor. Your Honor is aware
19 of his previous criminal history. I would also ask during
20 sentencing for Your Honor to keep in mind the fact that he is
21 also -- when these offenses occurred, he was out on bond for a
22 burglary first degree where we went -- he's charged with going
23 into a home and multiple firearms were stolen from that home.
24 He was also, a month after this happened, when he got out on
25 bond for that charge, he is charged with going to what he

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SENTENCE

1 believed was a co-defendant's house from the burglary, who he
2 thought was about to testify against him and turn on him at
3 trial, and shot through that house with a high powered rifle.
4 Your Honor, it's clear that this defendant is a -- is a danger
5 to the community and has easy access to guns and a disposition
6 to use them.

7 I would ask for the maximum in this case, Your Honor.

8 THE COURT: All right. Thank you very much.

9 All right. Mr. Hiller, be glad to hear from you, sir?

10 MR. HILLER: Thank you, Your Honor.

11 Certainly, sentencing is in the sole discretion of the
12 Court. I would, I guess I want to take just a quick moment to
13 explain my client's comment before trial about how he felt
14 like he didn't have any choice but to go to trial. It's true
15 that with the bundle of cases pending in Horry County against
16 him, he's never been offered a piecemeal, you know, plea offer
17 and neither should he. I have no -- I'm not asserting that
18 anything other than the normal course of a plea offer has been
19 taking place in this case, but he's never had an option just
20 to plea to this charge. So, I -- I as his attorney, knowing
21 other cases were pending, could certainly not advise him to
22 take a plea. So, there is a way in which, you know, he did
23 feel like a trial was his only real option.

24 Having said that, the state is correct about the other
25 pending charges. A plea offer as previously extended and

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SENTENCE

1 actually placed on the record, they offered to nolle pros the
2 first charge, the burglary charge.

3 But, Your Honor, what I do want to make sure that I put
4 clearly on the record is the amount of time -- I believe that
5 no matter how the Court sentences, the amount of time, I
6 believe that Mr. Bright is entitled to, specifically, I'm
7 referring to 24-13-40, computation of time served by
8 prisoners. Reported cases that treat that statute state that,
9 and specifically *Allen v. State*, which is -- which is 339 S.C.
10 393, holds or stands for the proposition that an individual
11 who was bonded on one charge, as Mr. Bright was bonded three
12 days after his arrest on the charges he just stood trial on,
13 if they are bonded, released from jail and then re-arrested,
14 as long as, one, they're not under any sentence, and two,
15 they're awaiting trial on all the charges, then all the time
16 counts including the time that he's technically on bond, but
17 still jailed on other charges, if that makes sense.

18 So, in this -- in Mr. Bright's case as that applies, from
19 November 6th to 9th he was jailed on the charges he just stood
20 trial on, and then on December 12th of 2018, he was arrested
21 on the most serious set of charges that he is facing and he
22 was never able to bond -- in fact, he's never been granted a
23 bond on those charges. So, he has been at the jail for the
24 last 393 days on bond -- with no bond, with all charges
25 pending. So, I do believe statutorily, he is entitled to 396

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SENTENCE

1 days of jail credit. That's from the December -- well, that's
2 counting the three days from December 12 to this date is my
3 calculation and that's 396. He does have a very -- well, his
4 record is -- his record, I think there was like a drug charge
5 that wasn't relevant to the trial, but that coupled with a
6 common law robbery is his record, Your Honor.

7 In North Carolina, to say that he was sentenced for that
8 common law robbery is a 47-month offense. We certainly have a
9 15-year felony. The statutory scheme is different there. So,
10 obviously, he did plea to a charge that -- while it made him a
11 prohibitive person, was not as severe of a charge as our
12 common law robbery, the 15-year felony down here. I'd ask the
13 Court to all that into consideration.

14 His mom is -- should be, yeah, she's present here. She
15 has been in full support of him. You know, he's -- I don't
16 know if he would like to address the Court or not, but I would
17 ask ---

18 THE COURT: Mr. Bright, is there anything you want to add
19 to what your attorney has already said, sir?

20 MR. BRIGHT: Yes, sir, Your Honor. I understand that the
21 solicitor over there has told you of my pending charges. I
22 would just like to remind you that I'm innocent until proven
23 guilty.

24 THE COURT: I absolutely -- and I was gonna say that
25 before sentencing. I'm not taking into consideration anything

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SENTENCE

1 other than your record ---

2 MR. BRIGHT: And I just want ---

3 THE COURT: --- what you actually were convicted of, the
4 common law robbery and the drug charges; that's the only thing
5 I'm taking into consideration. I'm not considering anything
6 else.

7 MR. BRIGHT: They offered -- they offered to -- to drop
8 the burglary charge and -- and offered me time served for the
9 other charges.

10 THE COURT: And I appreciate that. You had an option to
11 plead guilty. You declined to do so, you wanted to exercise
12 your constitutional rights and have a jury trial. Again,
13 those are matters that do not affect the Court's sentence in
14 this matter at all. I'm not considering that at all.
15 Whatever the plea bargain was that was offered, and you
16 declined to accept it, that's in the past. That has nothing
17 to do with your sentence.

18 MR. BRIGHT: Okay.

19 THE COURT: Your sentence only is your prior record of
20 what you've been convicted of and the facts and circumstances
21 of this case; that's all I'm considering.

22 MR. BRIGHT: All right. Thank you.

23 THE COURT: All right. Yes, sir.

24 MR. HILLER: Nothing further from the defense, Your
25 Honor.

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SENTENCE

1 THE COURT: All right. Thank you very much.

2 All right. 2019-GS-26-562, State of South Carolina,
3 County of Horry versus Johnathan Rakim Bright, regarding the
4 unlawful possession of a pistol, based upon the facts and
5 circumstances of the case, the Court finds that the maximum
6 sentence of five years is appropriate. The defendant is
7 committed to the State Department of Corrections for
8 determinate term of five years. As far as the calculation of
9 any previous time served, that is to be calculated by the
10 Department of Corrections pursuant to their statutory
11 authority.

12 2019-GS-26-4767, again, unlawful possession of a pistol.
13 The sentence is the same, run concurrent.

14 2019-GS-26-562, another charge also the unlawful
15 possession. The statute is the same, whether it's a stolen
16 pistol or one by a prohibited person and the sentence is the
17 same, run concurrent, 2019-GS-26-562.

18 Regarding 2019-GS-26-561, the unlawful carrying of a
19 pistol, the defendant is committed to the State Department of
20 Corrections for a determinate term of one year concurrent with
21 2019-GS-26-562.

22 Again, as far as the calculation of the credit for any
23 time served, that is to be done by the Department of
24 Corrections.

25 Thank you very much.

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SENTENCE

1 MR. HILLER: Thank you, Your Honor.

2 MR. TERRELL: Thank you, Your Honor.

3 THE COURT: All right. Therefore, the trial of this
4 matter is concluded.

5 Thank you very much.

6 ADJOURNED - 11:22 A.M.

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DOCKET NO. 2019GS2600561

The State of South Carolina

County of Horry

Thomas Groom Tennel, III
CLERK OF COURT
HORRY COUNTY, SC
COURT OF GENERAL SESSIONS

FILED

2020 JAN 16 AM 10:11

RENEE L. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

FEBRUARY, 2019 TERM

ARREST WARRANT NUMBER

2018A2620603691
CDR: 0044 16-23-0020, 0050(A)(2)
DOA: 1/16/2018

THE STATE

vs.

ACTION OF GRAND JURY
FEB 13 2019
TRUE BILL

Johnathan Rakim Bright
B/M



DOB:
SSN

ATTORNEY: James Stanko

Foreperson of Grand Jury
Date:

J Drev

VERDICT

Indictment for

UNLAWFUL CARRYING OF PISTOL

Jimmy A. Richardson, II, Solicitor

Foreperson of Petit Jury
Date:

RECEIVED
JAN 17 2020
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on February 13, 2019, the Grand Jurors of Horry County present upon their oath:

UNLAWFUL CARRYING OF PISTOL

CDR: 0044 16-23-0020,0050(A)(2)

That Johnathan Rakim Bright did in Horry County on or about November 6, 2018, carry about the person a pistol, such carrying not being authorized by law, in violation of Section 16-23-0020, S. C. Code of Laws, 1976, as amended.

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

FILED CERTIFIED COPY
2020 JAN 16 AM 10:11
REBECCAH N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

DOCKET NO. 2019GS2600562

CERTIFIED COPY
The State of South Carolina

County of Horry

RENEE N. ELVIS
Thomas Clayton Farfall, III
18H06243

HORRY COUNTY, SC

COURT OF GENERAL SESSIONS

FEBRUARY, 2019 TERM

THE STATE

vs.

Johathan Rakim Bright
B/M

DOB:
SSN:

ATTORNEY: James Stanko

Indictment for

POSSESSION OF A STOLEN PISTOL

Jimmy A. Richardson, II, Solicitor

Foreperson of Petit Jury
Date:

ORIGINAL

WITNESSES

Raymond W Schoonmaker
Myrtle Beach Police Department

Garrett Spencer

REST WARRANT NUMBER

2018A2620903687

CDR: 2364 18-23-0030, 0050(A)(1)

DOA: 11/6/2018

ACTION OF GRAND JURY
FEB 13 2019
TRUE BILL

Foreperson of Grand Jury
ie.

VERDICT

FILED

2020 JAN 16 AM 10:11

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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JAN 17 2020
SC Court of Appeals

DOCKET NO. 2019GS2800663

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2020 JAN 16 AM 10:11

RENEE M. ELVIS
CLERK OF COURT
Horry County, SC

The State of South Carolina

County of Horry

18108243

Therese Groom Terrell, III

CLERK OF COURT

Horry County, SC

COURT OF GENERAL SESSIONS

FEBRUARY, 2019 TERM

THE STATE

vs.

Johnathan Rakim Bright
E/M

DOB:
SSN:

ATTORNEY: James Stanko

Indictment for

UNLAWFUL POSSESSION OF A PISTOL

Jimmy A. Richardson, II, Solicitor

WITNESSES

Raymond W Schoonmaker
Myrtle Beach Police Department

G. J. [Signature]

ARREST WARRANT NUMBER

2018A2620603890
CDR: 2384 18-23-0030, 0050(A)(1)
DOA: 11/6/2018

ACTION OF GRAND JURY FEB 13 2019

TRUE BILL

[Signature]

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

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JAN 17 2020
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on February 13, 2019, the Grand Jurors of Horry County present upon their oath:

UNLAWFUL POSSESSION OF A PISTOL

CDR: 2364 16-23-0030(B), 16-23-50

That Johnathan Rakim Bright did in Horry County on or about November 6, 2018 knowingly possess or acquire a pistol after having been convicted of a crime of violence defined in Section 16-23-50, S. C. Code of Laws, 2003, as amended, in violation of Section 16-23-0030(B), S. C. Code of Laws, 1976, as amended.

CERTIFIED COPY

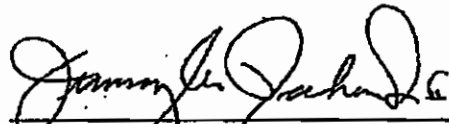
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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

FILED

2020 JAN 16 AM 10:14

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

16-23-0030(B)

DOCKET NO. 2019GS2604767

CERTIFIED COPY
The State of South Carolina

County of Horry

RENEE N. ELVIS
Clerk of Court
18H06243
Horry County, SC

COURT OF GENERAL SESSIONS

OCTOBER, 2019 TERM

THE STATE

vs.

Johnathan Rakim Bright
B/M

DOB:
SSN:

ATTORNEY: James Stanko

Indictment for

POSSESSION OF A STOLEN PISTOL

Jimmy A. Richardson, II, Solicitor

WITNESSES

Raymond W Schoonmaker
Myrtle Beach Police Department

Cenefer Long

AF 3rd WARRANT NUMBER

2018A2620603688
CDR: 2364 16-23-0030, 0050(A)(1)
DOA: 11/6/2018

ACTION OF GRAND JURY

OCT 09 2019

TRUE BILL

Foreperson of Grand Jury

VÉRDICT

Foreperson of Petit Jury

Date:

ORIGINAL

FILED

2020 JAN 16 AM 10:11

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RECEIVED

JAN 17 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on October 9, 2019, the Grand Jurors of Horry County present upon their oath:

POSSESSION OF A STOLEN PISTOL

CDR: 2364 16-23-0030(C), 0050(A)(1)

That Johnathan Rakim Bright did in Horry County on or about November 6, 2018, knowingly buy, sell, transport, pawn, receive, or possess a stolen pistol, or one from which the original serial number has been removed or obliterated, in violation of Section 16-23-0030(C), S. C. Code of Laws, 1976, as amended.

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

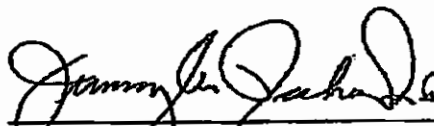
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2020 SEP 16 AM 10:

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF STATE Horry VS.

Johnathan Rakim Bright

AKA:

Race: BLACK Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Unlawful Carrying of Pistol

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2600561

A/W#: 2018A2620603691

Date of Offense: 11/6/2018

S.C. Code § 16-23-0020, 0050(A)(2)

CDR Code #: 0044

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0020, 0050(A)(2) of the S.C. Code of Laws, bearing CDR Code # 0044

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Terrell, III, Thomas Groom SC100776 SC Bar# Defendant Starker, [REDACTED] SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of [REDACTED] years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2019-GS-26-562

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
Proviso (Public Def/Probation)	\$500 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 2.95

TOTAL \$ 128.95

Clerk of Court/ Deputy Clerk Denise Elwis
Court Reporter: Kay Richardson

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 2-9-2020

\$ _____ (paid to Public Defender Fund)
Other: _____
RECEIVED
JAN 17 2020

SC Court of Appeals

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]
Judge Code: _____
Sentence Date: 1/9/2020

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry VS. STATE

Johnathan Rakim Bright

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Unlawful Possession of a Pistol (By Minor/Stolen/etc)

INDICTMENT/CASE#: 2019GS2600562 A/W#: 2018A2620603687 Date of Offense: 11/6/2018 S.C. Code § : 16-23-0030, 0050(A)(1) CDR Code #: 2364

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0030, 0050(A)(1) of the S.C. Code of Laws, bearing CDR Code # 2364 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Terrell, III, Thomas Groom SC Bar# SCB100776 Defendant SCB101376 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge) \$100, §14-1-211(A)(2) (DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114(BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75.

TOTAL \$ 129.75 + 40 169.75

Clerk of Court/ Deputy Clerk Renee Givis

Court Reporter: Kay Richards

Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly pmts. of \$ 25 beginning 2-9-2025

RECEIVED

JAN 17 2020

SC Court of Appeals

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date: 1/9/2020

STATE OF SOUTH CAROLINA

COUNTY OF Horry VS. STATE

Johnathan Rakim Bright

AKA:

Race: BLACK Sex: M Age: 24

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was TO: Unlawful Possession of a Pistol (By Minor/Stolen/etc)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2600563

A/W#: 2018A2620603690

Date of Offense: 11/6/2018

S.C. Code § 16-23-0030, 0050(A)(1)

CDR Code #: 2364

SENTENCE SHEET

[X] CONVICTED OF or [X] PLEADS

in violation of § 16-23-0030, 0050(A)(1) of the S.C. Code of Laws, bearing CDR Code # 2364
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: [Signature] SC100776 Defendant
Terrell, III, Thomas Groom SC Bar# Attorney for Defendant SGB101376 SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center, for a determinate term of 5 years or [] under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[X] CONCURRENT or [] CONSECUTIVE to sentence on: 2019-6P-26-562

[X] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:
[] Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge), §14-1-211(A)(2) (DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), Proviso (Public Def/Probation), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §50-21-114(BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments).

TOTAL \$ 124.75

Clerk of Court/ Deputy Clerk Renee Eivins
Court Reporter: Kay Richerson

Obtain GED []
Attend Voc. Rehab. or Job Corp []
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing []
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 02-9-25
\$ RECEIVED Paid to Public Defender Fund
Other: JAN 17 2020

SC Court of Appeals

[] Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]
Judge Code:
Sentence Date: 1/9/2020

STATE OF SOUTH CAROLINA

COUNTY OF Horry VS. STATE

Johnathan Rakim Bright

AKA:

Race: BLACK Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Unlawful Possession of a Pistol (By Minor/Stolen/etc)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2604767

A/W#: 2018A2620603688

Date of Offense: 11/6/2018

S.C. Code § : 16-23-0030, 0050(A)(1)

CDR Code #: 2364

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0030, 0050(A)(1) of the S.C. Code of Laws, bearing CDR Code # 2364

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Terrell, III, Thomas Groom SC Bar# Defendant SCB101376

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 5 years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2019-GS-26-562

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED Attend Voc. Rehab. or Job, Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing

Set by SCDPPPS Fine may be pd. in equal, consecutive weekly/monthly

Recipient: RECEIVED paid to Public Defender Fund

*Fine: \$

§14-1-206 (Assessments 107.5 %) \$

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§14-1-211(A)(2) (DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$

§50-21-114(BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.95

TOTAL \$ 124.95

Clerk of Court/ Deputy Clerk Renee Chris

Court Reporter: Kay Richards

Presiding Judge

Judge Code:

Sentence Date: 1/9/2020

RECEIVED JAN 9 9 AM 7:46 HORRER COUNTY, SC

RECEIVED paid to Public Defender Fund

Other: JAN 17 2020

SC Court of Appeals

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

STATE OF NORTH CAROLINA
CABARRUS County CONCORD Seat of Court
File No. 13CRS054761 51

NOTE: [This form is to be used for (1) felony offense(s) and (2) misdemeanor offense(s) that are consolidated for judgment with any felony offense(s). Use AOC-CR-310 for DWI offense(s).]
In The General Court Of Justice
District Superior Court Division

STATE VERSUS
Name Of Defendant: BRIGHT, JOHNATHAN, RAKIM
Race: B Sex: M Date Of Birth:
JUDGMENT SUSPENDING SENTENCE - FELONY
PUNISHMENT: COMMUNITY INTERMEDIATE (STRUCTURED SENTENCING)
(For Offenses Committed On Or After Dec. 1, 2011)
G.S. 15A-1341, -1342, -1343, -1343.2, -1346

Attorney For State: TOM D BARCELLONA
Attorney For Defendant: HERBERT J WHITE
Def. Found Not Indigent Def. Waived Attorney Appointed Retained Crf Rptr Initials GCR

Table with columns: File No.(s), Off., Offense Description, Offense Date, G.S. No., F/M, CL., *Pun. CL.
Row 1: 13CRS054761, 51, COMMON LAW ROBBERY, 10/01/2013, 14-87.1, F, G

*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).
The Court has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 01.
Any prior record level point under G.S. 15A-1340.14(b)(7) is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.

- The Court (NOTE: Block 1 or 2 MUST be checked):
1. makes no written findings because the prison term imposed is within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).
2. makes the Determination of aggravating and mitigating factors on the attached AOC-CR-605.
3. makes the Findings of Extraordinary Mitigation set forth on the attached AOC-CR-606.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be (check only one) a habitual felon to be sentenced four classes higher than the principal felony (no higher than Class C).
6. finds enhancement pursuant to: G.S. 90-95(e)(3) (drugs), G.S. 14-3(c) (hate crime), G.S. 50B-4.1 (domestic violence), G.S. 14-50.22 (gang), Other:
7. finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 and therefore imposes the special conditions of probation set forth on the attached AOC-603C, Page Two, Side Two, and makes the additional findings and orders on the attached AOC-CR-615, Side Two.
8. finds the above-captioned offense(s) involve the (check all that apply) physical or mental sexual abuse of a minor.
9. finds that a motor vehicle commercial motor vehicle was used in the commission of the offense and that it shall be reported to DMV.
10. finds this is an offense involving assault, communicating a threat, or an act defined in G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
11. finds the above-designated offense(s) involved criminal street gang activity. G.S. 14-50.25.
12. did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) the defendant refused to consent.
13. finds that the defendant used or displayed a firearm while committing the felony. G.S. 15A-1382.2.
14. (for judgments entered on or after Dec. 1, 2013, only) finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor. G.S. 15A-1382.1(a1).

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned for a minimum term of 10 months for a maximum term of 21 months in the custody of the N.C. DAC.

This sentence shall run at the expiration of sentence imposed in file number
The defendant shall be given credit for 1 days spent in confinement prior to the date of this Judgment as a result of this charge(s) to be applied toward the sentence imposed above.

SUSPENSION OF SENTENCE
Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised probation for 24 months.

- 1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.
3. This period of probation shall begin when the defendant is released from incarceration at the expiration of the sentence in the case below.
4. The defendant shall comply with the conditions set forth in file number
5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

MONETARY CONDITIONS
The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, to the Clerk of Superior Court determined by the probation officer. set out by the court as follows:
RESTITUTION JOINTLY & SEVERALLY DUE W/CO-DEFENDANT MICHAEL SCHILLING #13CRS54760.

Table with columns: Costs, Fine, Restitution, Attorney's Fees, Comm Serv Fee, EHA Fee, SBM Fee, Appt Fee/Misc, Total Amount Due
Row 1: \$ 334.50, \$ 100.00, \$ 200.00, \$ 0.00, \$ 0.00, \$ 0.00, \$ 0.00, \$ 910.00, \$ 1,544.50

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.
The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other:
Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation.
AOC-CR-603C. Rev. 12/14, © 2014 Administrative Office of the Courts

A TRUE COPY
CLERK OF SUPERIOR COURT
CABARRUS COUNTY
BY [Signature]



REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342. The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. If the defendant is on supervised probation, the defendant shall also: (5) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (6) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (7) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (8) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (9) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be required to submit to any other search that would otherwise be unlawful. (10) Submit to warrantless searches by a law enforcement officer of the defendant's person and of the defendant's vehicle, upon a reasonable suspicion that the defendant is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. (11) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used. (12) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction for the actual costs of drug or alcohol screening and testing.

13. The Court finds that the defendant is responsible for acts of domestic violence and therefore makes the additional findings and orders on the attached AOC-CR-603C, Page Two, Side Two.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- 14. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 15. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- 16. Complete _____ hours of community service during the first _____ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is not due because it is assessed in a case adjudicated during the same term of court. to be paid pursuant to the schedule set out under Monetary Conditions on the reverse. within _____ days of this Judgment and before beginning service.
- 17. Report for initial evaluation by _____ participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 18. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with _____ "Contact" includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except _____.
- 19. (for offenses committed on or after December 1, 2012) Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of _____ days, months, the Court having found that a substance abuse assessment has identified defendant's alcohol dependency or chronic abuse.
- 20. Other:
DEFENDANT REPORT FOR DNA ON FRIDAY, 1/30/2015 AT 1PM TO CABARRUS COUNTY COURTHOUSE SECURITY. PROBATION MAY BE TRANSFERRED TO S.C. FOR SUPERVISION. NO CONTACT WITH CO-DEFENDANT OR PROSECUTING WITNESS.
- 21. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603C, Page Two.

ORDER OF COMMITMENT/APEAL ENTRIES

- 1. It is ORDERED that the Clerk deliver **two** certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
12/15/2014	THE HONORABLE MARTIN B MCGEE	 12/16/14

CERTIFICATION

I certify that this Judgment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- | | |
|---|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> 1. Appellate Entries (AOC-CR-350) <input checked="" type="checkbox"/> 2. Judgment Suspending Sentence (AOC-CR-603C, Page Two) (additional conditions of probation) <input checked="" type="checkbox"/> 3. Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605) <input type="checkbox"/> 4. Extraordinary Mitigation Findings (AOC-CR-606) <input type="checkbox"/> 5. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611) | <ul style="list-style-type: none"> <input checked="" type="checkbox"/> 6. Judicial Findings As To Required DNA Sample (AOC-CR-319) <input type="checkbox"/> 7. Judicial Findings And Order For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two) <input type="checkbox"/> 8. Convicted Sex Offender Permanent No Contact Order (AOC-CR-620) <input type="checkbox"/> 9. Additional File No.(s) And Offense(s) (AOC-CR-626) <input type="checkbox"/> 10. Other: _____ |
|---|---|

Date	Date Certified Copies Delivered To Sheriff	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court
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SEAL

Material opposite unmarked squares is to be disregarded as surplusage.

STATE VERSUS

File No.

13CRS054761

51

Name Of Defendant
BRIGHT, JOHNATHAN, RAKIM

NOTE: Use this page with AOC-CR-310C, "Impaired Driving - Judgment Suspending Sentence"; AOC-CR-603C, "Judgment Suspending Sentence - Felony"; AOC-CR-604C, "Judgment Suspending Sentence - Misdemeanor"; AOC-CR-619C, "Conditional Discharge Under G.S. 90-96(a)"; AOC-CR-621C, "Conditional Discharge Under G.S. 14-50.29"; AOC-CR-627C, "Conditional Discharge Under G.S. 90-96(a1)"; AOC-CR-628, "Conditional Discharge Under G.S. 14-204(b)"; AOC-CR-632C, "Conditional Discharge Under G.S. 15A-1341(a4)"; or AOC-CR-633C, "Conditional Discharge Under G.S. 15A-1341(a5)"; for offenses committed on or after Dec. 1, 2011.

COMMUNITY AND INTERMEDIATE PROBATION CONDITIONS - G.S. 15A-1343(a1)

NOTE: The conditions in this section may not be imposed for defendants placed on probation for a sentence under G.S. 20-179.

In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following conditions of probation, which may be imposed for any community or intermediate punishment.

1. Submit to house arrest with electronic monitoring, remain at the defendant's residence for a period of ___ days, ___ months, abide by all rules, regulations, and directions of the probation officer regarding such monitoring, and pay the fees prescribed in G.S. 15A-1343(c) as provided under Monetary Conditions. The defendant may leave the residence for the following purpose(s) and as otherwise permitted by the probation officer:
employment counseling a course of study vocational training.
Other:

2. Complete ___ hours of community service during the first ___ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is
not due because it is assessed in a case adjudicated during the same term of court.
to be paid pursuant to the schedule set out under Monetary Conditions in the "Judgment Suspending Sentence." within ___ days of this Judgment and before beginning service.
Other:

3. Submit to the following period(s) of confinement in the custody of the Sheriff of this County. (other local confinement facility). and pay jail fees. The defendant shall report in a sober condition to serve the term(s) indicated below.

NOTE: Periods of confinement imposed here must be for two-day or three-day consecutive periods, only, for no more than six days in a single month, and in no more than three separate months during the period of probation. To impose special probation under G.S. 15A-1351, see INTERMEDIATE PUNISHMENTS, below.

Table with 3 columns: Date, Hour, AM/PM, for, 2/3 days. Multiple rows for scheduling confinement periods.

4. Obtain a substance abuse assessment, monitoring, or treatment as follows:

5. (for offenses committed on or after December 1, 2012) Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of ___ days, ___ months, the Court having found that a substance abuse assessment has identified defendant's alcohol dependency or chronic abuse.

6. Participate in an educational or vocational skills development program as follows:

7. Submit to satellite-based monitoring, if required on the attached AOC-CR-615, Side Two.

INTERMEDIATE PUNISHMENTS

In addition to complying with the regular and any special, community, or intermediate conditions of probation set forth in the "Judgment Suspending Sentence" or herein for the above case(s), the defendant shall also comply with the following intermediate punishment(s) under G.S. 15A-1340.11(6).

1. Special Probation - G.S. 15A-1351

For the defendant's active sentence as a condition of special probation, the defendant shall comply with these additional regular conditions of probation: (1) Obey the rules and regulations of the Division of Adult Correction governing the conduct of inmates while imprisoned. (2) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

A. Serve an active term of 7 days ___ months ___ hours in the custody of the
N.C. DAC. Sheriff of this County. Other:

(NOTE: Noncontinuous periods of special probation may not be served in DAC. Also, special probation imposed in misdemeanor sentences on or after Oct. 1, 2014, and in sentences under G.S. 20-179 on or after Jan. 1, 2015, may not be served in DAC.)

B. The defendant shall report in a sober condition to begin serving his/her term on:

Table for reporting to begin serving term: Day, Date, Hour, AM/PM, and shall remain in custody until: Day, Date, Hour, AM/PM.

C. The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next consecutive weeks, and shall remain in custody during the same hours each week until completion of the active sentence ordered.

D. This sentence shall be served at the direction of the probation officer within ___ days ___ months of this judgment.

E. Pay jail fees. F. Work release is recommended. G. Substance abuse treatment is recommended.

H. Other: TO BE SCHEDULED BY P.O.

A TRUE COPY
CLERK OF SUPERIOR COURT
CABARRUS COUNTY
BY [Signature]
Assistant District Clerk Superior Court

2. Drug Treatment Court - G.S. 15A-1340.11(3a); 15A-1340.11(6)

Comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and report on a regular basis for a specified time to participate in court supervision, drug screening or testing, and drug or alcohol treatment programs.
Other:

INTERMEDIATE CONDITIONS OF PROBATIONS - G.S. 15A-1343(b4)

If subject to intermediate punishment, the defendant shall, in addition to the terms and conditions imposed above, comply with the following intermediate conditions of probation.
(1) If required by the defendant's probation officer, perform community service under the supervision of the Section of Community Corrections, and pay the fee required by G.S. 143B-708, but no fee shall be due if the Court imposed community service as a special condition of probation and assessed the fee in this judgment or any judgment for an offense adjudicated in the same term of court. (2) Not use, possess, or control alcohol. (3) Remain within the defendant's county of residence unless granted written permission to leave by the court or the defendant's probation officer. (4) Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments by abiding by the rules, regulations, and direction of each program.

Material opposite unmarked squares is to be disregarded as surplusage. (Over)



MANDATORY SPECIAL CONDITIONS FOR SEX OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF A MINOR - G.S. 15A-1343(b2)

NOTE: The following are not defined as intermediate punishments under G.S. 15A-1340.11(6).

NOTE: Select only one of the three sets of conditions below.

1. Special Conditions For Reportable Convictions - G.S. 15A-1343(b2)

NOTE: Impose only for a reportable conviction under G.S. 14-208.6.

The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4) and must

- a. Register as a sex offender and enroll in satellite-based monitoring if required on the attached AOC-CR-615, Side Two.
- b. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- c. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- d. (if the Court finds physical, mental, or sexual abuse of a minor) Not reside in a household with
 - (1) (for sexual abuse) any minor child.
 - (2) (for physical or mental abuse) any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household): _____
- e. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision: child pornography
- f. Other: _____

2. Special Conditions For Offenses Involving The Sexual Abuse Of A Minor - G.S. 15A-1343(b2)

NOTE: Impose if offense involved sexual abuse of a minor but is not a reportable conviction.

The defendant has been convicted of an offense involving the sexual abuse of a minor and must

- a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- c. Not reside in a household with any minor child. (G.S. 15A-1343(b2)(4))
- d. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision: child pornography
- e. Other: _____

3. Special Conditions For Offenses Involving The Physical Or Mental Abuse Of A Minor - G.S. 15A-1343(b2)

NOTE: Impose if offense involved physical or mental abuse of a minor but is not a reportable conviction and did not involve sexual abuse.

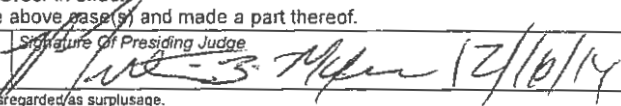
The defendant has been convicted of an offense involving the physical or mental abuse of a minor and must

- a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- c. Not reside in a household with
 - (1) any minor child.
 - (2) any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household): _____
- d. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision: child pornography
- e. Other: _____

ADDITIONAL CONDITIONS FOR DOMESTIC VIOLENCE

- 1. Pursuant to its finding that the defendant is responsible for acts of domestic violence, the Court further finds that:
 - a. there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, who shall:
 - (1) (for supervised probation) attend and complete (check one) (program name) _____
 a program to be identified by the probation officer, and abide by the program's rules. The probation officer shall send a copy of this judgment to the program, which shall notify the officer if the defendant fails to participate or is discharged for violating any of its rules.
 - (2) (for unsupervised probation) attend and complete (check one) (program name) _____
 a program chosen by the defendant, who shall notify the program and the district attorney of that choice within ten (10) days of the entry of this judgment, and abide by the program's rules. The district attorney shall send a copy of this judgment to the program, which shall notify the district attorney if the defendant fails to participate or is discharged for failure to comply with the program or its rules.
 - b. there is no approved abuser treatment program reasonably available. c. it would not be in the best interests of justice to order the defendant to complete an abuser treatment program because _____
- 2. As additional Special Conditions of Probation, the defendant shall:
 - a. not come within _____ feet of _____ at any time.
 - b. comply fully with any G.S. Chapter 50B Domestic Violence Protective Order in effect

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
12/15/2014	THE HONORABLE MARTIN B MCGEE	

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA

File No.

13CRS054761

51

CABARRUS

County

In The General Court Of Justice

District

Superior Court Division

STATE VERSUS

Name Of Defendant

BRIGHT,JOHNATHAN,RAKIM

Offense

COMMON LAW ROBBERY

FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING)

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant: a. induced others to participate in the commission of the offense. b. occupied a position of leadership or dominance of other participants in the commission of the offense.
2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
2a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
3. The offense was committed for the purpose of: a. avoiding or preventing a lawful arrest. b. effecting an escape from custody.
4. The defendant was: a. hired to commit the offense. b. paid to commit the offense.
5. The offense was committed to: a. disrupt b. hinder the lawful exercise of a governmental function or the enforcement of laws.
6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Division of Adult Correction, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
6a. The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal, an assistance animal, or a search and rescue animal (Applies to offenses committed on or after December 1, 2009.) as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties.
7. The offense was especially heinous, atrocious or cruel.
8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
9. (select appropriate option depending on date of offense) a. (use for offenses committed prior to December 1, 2012) The defendant held public office at the time of the offense and the offense related to the conduct of the office. b. (use for offenses committed on or after December 1, 2012) The defendant held public elected or appointed office or public employment at the time of the offense and the offense directly related to the conduct of the office or employment. (NOTE: The court must notify the State Treasurer as required by G.S. 15A-1340.16(f).)
9a. The defendant is a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker. (Applies to offenses committed on or after December 1, 2013.)
10. The defendant: a. was armed with a deadly weapon at the time of the crime. b. used a deadly weapon at the time of the crime.
11. The victim was: a. very young. b. very old. c. mentally infirm. d. physically infirm. e. handicapped.
12. The defendant committed the offense while on pretrial release on another charge.
12a. The defendant has, during the 10-year period prior to the commission of the offense for which the defendant is being sentenced, been found by a court of this State to be in willful violation of the conditions of probation imposed pursuant to a suspended sentence or been found by the Post-Release Supervision and Parole Commission to be in willful violation of a condition of parole or post-release supervision imposed pursuant to release from incarceration. The Court finds this aggravating factor beyond a reasonable doubt. (Applies to offenses committed on or after December 1, 2008.)
13. The defendant involved a person under the age of 16 in the commission of the crime.
14. The offense involved: a. an attempted taking of property of great monetary value. b. the actual taking of property of great monetary value. c. damage causing great monetary loss. d. an unusually large quantity of contraband.
15. The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense.
16. The offense involved the sale or delivery of a controlled substance to a minor.
16a. The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.
16b. The offense is the manufacture of methamphetamine and was committed in a dwelling that is one of four or more contiguous dwellings.
17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
18. The defendant does not support the defendant's family.
18a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D, or E felony if committed by an adult. The Court finds this aggravating factor beyond a reasonable doubt.
19. The victim of this offense suffered serious injury that is permanent and debilitating.
19a. The offense is a violation of G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13, and involved multiple victims. (Applies to offenses committed on or after October 1, 2013.)
19b. The offense is a violation of G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13, and the victim suffered serious injury as a result of the offense. (Applies to offenses committed on or after October 1, 2013.)
20. Additional written findings of factors in aggravation:

A TRUE COPY CLERK OF SUPERIOR COURT CABARRUS COUNTY

BY Assistant Deputy Clerk Superior Court

- The Court accepts the defendant's admission to the aggravating factor(s) noted above and finds the supporting evidence to be beyond a reasonable doubt.
The jury finds these aggravating factors beyond a reasonable doubt.
[X] There are no findings of any aggravating factors.



MITIGATING FACTORS

- 1. The defendant committed the offense under:
 - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
 - a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
 - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
 - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
 - a. substantial restitution to the victim.
 - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
 - a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
- 7. The defendant:
 - a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the State in another prosecution of a felony.
- 8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
 - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
 - a. at an early stage of the criminal process.
 - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION

- 1. The Court finds that:
 - the State provided the defendant with appropriate notice of the aggravating factor(s) in this case.
 - the defendant waived any notice requirements as to the aggravating factor(s) in this case.
- 2. The Court finds that the State included in its criminal pleading the statement required by G.S. 15A-924(a)(7), if necessary.
- 3. The Court, having considered the evidence and arguments presented at the trial and sentencing hearing, and based on the admission(s) and findings of aggravating and mitigating factors as noted above,
 - finds that the factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
 - finds that the factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.
 - makes no determination as to the relative weights of the factors found above, because the sentence imposed is in the presumptive range.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
12/15/2014	THE HONORABLE MARTIN B MCGEE	<i>Martin B. McGehee</i> 12/16/14

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.”

RECEIVED**Apr 07 2021****SC Court of Appeals**

Respectfully Submitted,

s/ Taylor D. Gilliam

Taylor D Gilliam

Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of April, 2021.