

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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OCT 06 2021

APPEAL FROM GREENVILLE COUNTY

SC Court of Appeals

13<sup>th</sup> Judicial Circuit Court

GENERAL SESSION

LEITITIA H VERDIN CIRCUIT COURT JUDGE

APPELLATE CASE NO 2020-001421

STATE OF SOUTH CAROLINA GREENVILLE COUNTY: - RESPONDENT

✓

THE STATE OF SOUTH CAROLINA ROBERT WATKINS - APPELLANT

RECORD ON APPEAL

Robert Watkins 243863

Q3B 221

Perry Corr. Inst

430 Oaklawn Rd

Pelzer SC, 29669

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

page 1 of 2

APPEAL FROM GREENVILLE COUNTY  
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APPELLATE CASE NO 2020-001421

THE STATE OF SOUTH CAROLINA GREENVILLE COUNTY - RESPONDENT

THE STATE OF SOUTH CAROLINA ROBERT WATKINS - APPELLANT

DESIGNATION OF MATTERS TO BE  
INCLUDED IN THE RECORD ON APPEAL

- (1) Pro-se litigant Robert M Watkins Independent Motion to vacate September 24, 2008 Conviction and Sentence on grounds that the Judgment is void and the Court lacked personal and subject matter jurisdiction to convict and sentence pro-se litigant Under a void Judgment and Due process and equal

Protection violation of S.C. Const. article 1 section 3,  
USCA 5<sup>th</sup> 14.

- (2) Trial transcript pages 47-53, pages 165-258, pages 509 through page 529, of September 22-24, 2008 Jury trial of Indictment 2002-GS-23-1063 Before the Honorable Judge Larry R. Patterson
3. Warrant NO 2002-GS-23-1063 iOrder denying Defendants Motion on October 5, 2020.
4. Exhibit #1 through 8

Robert M. Watkins  
pro-se litigant

✓  
The State of South Carolina

Greenville County

Respondent

In the 13<sup>th</sup> Judicial Circuit Court  
of Greenville County  
Court of General Sessions

Criminal Case Indictment #

2002-6S 23-1063

9-21-2020

20 SEP 29 PM 3:16  
Paul Wackermeister DDS GUL SC

Pro-se litigant Robert M. Watkins Independent Motion  
to Vacated September 24, 2020. Conviction and sentence  
on grounds that the indictment is void and the court  
lacked personal and subject matter jurisdiction to  
convict and sentence pro-se litigant under an  
void indictment, and Due process and equal protection  
violation of SC Const article 1 section 3, USCA 5<sup>th</sup> 14<sup>th</sup>

Respectfully submitted by  
Pro-se litigant Robert M. Watkins  
243803 Unit 10 cell 109  
Tyger River Corr Inst  
200 Prison Rd  
Enoree SC 29335

ROA pages

page 1 of 21

Argument

Due Process violation of S.C Constitution Article 1 section 3 and 5<sup>th</sup>, 14<sup>th</sup> Amendment of the United States Constitution

On February 19<sup>th</sup> 2002 The Grand Jurors of Greenville County returned an Bill of Indictment 2002-GS-23-1063 for County one Armed Robbery and Count two Possession of a weapon during the commission of or attempt to commit a violent Crime see Id as exhibit (# 1.) attached and enclosed.

In reference to armed Robbery, the indictment alleged that ROBERT MAX WATKINS did in Greenville County, on or about the 19<sup>th</sup> day of December, 2001, while armed with a deadly weapon, or while alleging, either by action or words, or both, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon did, by use of force, threats or intimidation, take and carry away the property of another, to wit: U.S. currency from chuckie cheese This is in violation of § 16-11-330 of the South Carolina Code of laws (1976) as amended.

see Id in exhibit # (1) attached and enclosed

The 13<sup>th</sup> Judicial Circuit Solicitor office of Greenville County, assistant Solicitor Lucas Marchant pursuant to S.C 1976 Code of law § 16-7-330 schedule indictment # 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed on the General Session Court docket of Greenville County.

for and on September 22, 2008 for trial before the Honorable Judge Larry R. Patterson. Representing Pro-se litigant Robert Max Watkins were Stephen John Henry of the Defenders Corporation of Greenville County, Inc, of whom Judge Larry R. Patterson appointed on May 30<sup>th</sup>, 2008. During a Pretrial Motion: due to Watkins indigency.

On September 22, 2008 the day of trial Pro-se litigant Robert Max Watkins informed his counsel Mr. Stephen John Henry that he has never been arraigned on Indictment 2002-GS-23-1063, in which his counsel Mr. Henry informed Judge Larry R. Patterson that Pro-se litigant Robert Max Watkins had never had an arraignment on Indictment 2002-GS-23-1063. In which Judge Larry R. Patterson informed Mr. Watkins that he was still under oath, and arraigned Mr. Watkins in reference to Indictment # 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed., as follows:

The Court: and Mr. Watkins, in this indictment you are charged within Greenville County, on the 19<sup>th</sup> day of December of 2001, while armed with a deadly weapon, either by action, words, or both, you -- or using a representation of a deadly weapon, or an object which a person presented during the commission of a robbery reasonably believed to be a deadly weapon, that you used force, threats, or intimidation to take away the property, U.S. currency, from Chuck E-cheese in violation of section 16-11-330 of the South

Carolina code of laws. You're charged with army robbery  
Do you understand that charge?

Mr. Watkins: Yes, sir

The Court: Mr. Watkins, how do you plead to that  
charge.

Mr. Watkins: Not guilty

The Court: And how do you want to be tried?

Mr. Watkins: A jury. see Id in exhibit # (2) trial transcript page 47 line 8 through page 49 line 1. In which Judge Patterson arraigned Mr. Watkins in reference to Indictment # 2002-GS-23-1063 attached and enclosed.

Putting Mr. Watkins on Notice of the charge he must be prepared to defend himself against. In which Mr. Watkins plead not guilty to, because chuckie cheese as named in the indictment 2002-GS-23-1063 Id as exhibit # 1 is not a person, but a company, and a company can't testify.

During the jury trial, Assistant Solicitor Lucas Marchant through state witness Marcus Scarabino, introduced into evidence that chuck-E-cheese is a company. see Id in exhibit # 2 trial transcript page 165 line 20 attached and enclosed

After hearing the testimony introduced into evidence by Assistant Solicitor Lucas Marchant, through State witnesses

Marcus Scarabino Id in exhibit # (2) trial transcript page 164  
line 20 through page 194 line 3 and State Witness

Jimmy Skelton Id in exhibit # 2 trial transcript page 194  
line 5 through page 214 line 20, and State Witness Jeannie

Pineda Id in exhibit # 2 trial transcript page 226 line 7  
through page 258 line 17, Assistant Solicitor Lucas

Marchant proved a different offense or charge, than the  
one charged in Indictment 2002-GS-23-1063. Id as exhibit # 1

attached and enclosed, then, that return as a true bill of  
Indictment by the Grand Jury for Greenville County on February  
19, 2002. Judge Larry R. Patterson based on the evidence

introduced into evidence by the assistant Solicitor Lucas  
Marchant created a fatal Variance, that deprived

Prose litigant Robert M. Watkins of a fair Notice of the  
charges and exposed him to the risk of double Jeopardy

in which is grounds for reversing a conviction. Judge Patterson  
in his charge to the jury would alter the indictment 2002

GS-23-1063 as follows: Now ladies and gentlemen  
in this case the defendant, Robert Max Watkins, is

charged with armed robbery, which he has pled not guilty  
to. The allegations are that he, in Greenville County, on or

about the 19th day of December of 2001, while armed with  
a deadly weapon, either by action, or words, or both, and

representing the use of that weapon, that he by force

threats, or intimidation took property that belonged to  
 chuck-E-cheese in violation of the laws of this State,  
 namely United States currency. They allege that was  
 armed robbery. The state must prove each and every element  
 that they've alleged beyond a reasonable doubt. see  
Id in exhibit # 2 trial transcript page 509 line 21 through  
page 510 line 7 attached and enclosed

Indictment 2002-GS-23-1063 Id as Exhibit # 1 attached and  
enclosed does not allege or charge Mr. Watkins

with "while armed with a deadly weapon either by  
 action, or words or both, and representing the use of that  
 weapon, that he by force, threats, or intimidation took  
 property that belonged to chuck-E-cheese in violation  
 of the laws of this state, namely United States currency.

Judge Patterson further constructively amended indictment  
 # 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed

in his charge to the jury that. Now in this case in order  
 to prove this offense the state must prove beyond a reasonable  
 doubt that the defendant took personal property from the person  
 or presence of another person. Property is in the presence  
 of a person if it is within that person's reach, his  
 inspection, his or her observation or control, so that that  
 person could, if not overcome with violence or  
 prevented by fear, keep possession of that property.

The state must also prove beyond a reasonable doubt that the defendant carried the property away, intending to permanently deprive the owner of that property and keep the property for his own use.

Now, the taking and carrying away of the property must have been done with violence, by putting the owner of the property in fear of violence, and that must be proven beyond a reasonable doubt. Finally the state must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon during the robbery.

A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

And you have to be -- you are the sole finders of facts and circumstances. Under our law examples of deadly weapons are a pistol, shotgun, knife, and things of that nature. see Id in exhibit (2) trial transcript page 510 line 13 through page 511 line 13 attached and enclosed.

Indictment # 2002-08-23-1063 Id as exhibit # 1 attached and enclosed does not allege or charge Mr. Watkins with what Judge Larry R. Patterson charged the jury, with Id in exhibit # 2 trial transcript page 509 line 21 through page 511 line 13 attached and enclosed.

A sufficient indictment must do more than merely recite the elements of the offense charged. The indictment must also contain sufficient factual allegations to permit the accused Mr. Watkins to know whether he may Plead an acquittal or conviction thereon. Fairness and due process requires that a criminal defendant receive sufficient notice of the charges against him to prepare a defense. State v Baker 411 S.L. 583, 796 S.E.2D 860.

Judge Larry R Patterson's constructive amendment to Indictment # 2002-GS-23-1063 Id as exhibit #1 attached and enclosed, Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 16 attached and enclosed deprived Mr. Watkins of his substantial right to be tried only on charges presented in the indictment returned by a grand jury. A constructive amendment - also known as a fatal variance happened when Assistant Solicitor Lucas Murchint through his presentation of evidence through state witness Scarabino, Jimmy's Kellm, and Jeannie Pineda Id, and the court Judge Larry R Patterson instructions to the jury broaden the bases for conviction beyond those charged in the Indictment # 2002-GS-23-1063 Id as exhibit # 1. attached and enclosed

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A constructive amendment changes the charge, while evidence remains the same a variance changes the evidence while the charge remains the same.

Specially, a constructive amendment of an indictment which violates the rule prohibiting the broadening of an indictment through amendment except by the grand jury, occurs when the charging terms of the indictment are altered, either literally or in effect, by the prosecutor or a court after the grand jury has last passed upon them, while a variance occurs when the charging terms of the indictment are left unaltered but the evidence offered at trial proves facts materially different from those alleged in the indictment

In reference to Indictment # 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed. Assistant Solicitor Lucas Muchant offered into evidence through state witnesses Searchine, Jimmy Skelton, Jeannie Pineda Id in exhibit # 2 trial transcript page 194 line 3 through page 258 line 17 that proves facts materially different from those alleged in the indictment. 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed Violation of the 5<sup>th</sup> 14<sup>th</sup> Amendment Grand Jury Clause. No person is named in indictment 2002 GS 23-1063, unless the grand jury construed

Chuckie cheese as a person. And no where in the indictment  
 # 2002-GS-23-1063 Id as exhibit # 1 attached and enclosed  
 is Mr Watkins charged with the material fact that  
 while armed with a deadly weapon, either by action  
 or words, or both, and representing the use of that  
 weapon, that he by force, threats, or intimidation  
 took property that belonged to chuckie-cheese  
 as Judge Patterson charged the jury Id in exhibit # 2  
trial transcript page 509 line 25 through page 510  
line 5 attached and enclosed Judge Patterson charge  
 to the jury Id in exhibit # 2 trial transcript page 509  
line 21 through page 511 line 13 charged a different  
 offense than that alleged in the indictment Id  
as exhibit # 1 attached and enclosed, resulting in Mr. Watkins  
 being convicted of an uncharged offense, and in which  
 he was never provided notice of, violating his due  
 process and equal protection of the Grand Jury clause  
 of S.C. Const article 1 section 3; U.S.C.A 5<sup>th</sup>, 14<sup>th</sup>  
 As well as S.C. constitution article 1 section 11. in which  
 no person shall be held to answer for any crime  
 where the punishment exceeds a fine of two hundred  
 dollars or imprisonment for (30) thirty days  
 unless on a presentment or indictment of a  
 grand jury of the county where the crime shall

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have been committed: S.C. 1976 Code of Law § 17-19-10

No person shall be held to answer in any court for an alleged crime or offense, unless upon indictment by a grand jury, except in the following cases:

- (1) when prosecution by information is expressly authorized by statute
- (2) In proceeding before a police court or magistrate and
- (3) In proceeding before court martial

The were no true bill of Indictment by a grand jury of Greenville County charging Mr. Watkins with the charge that Judge Larry R. Patterson charged the jury with. Id in exhibit # 2 trial transcript page 509 line 21 through page 511 line 13 attached and enclosed in which the petit jury found Mr. Watkins guilty of on September 24 2008 in reference to Indictment 2007-68-23-1063 see Id as exhibit # 3 Sentencing sheet and Commitment order attached and enclosed, and also Id in exhibit # 2 trial transcript page 522 line 22 line 19 through page 523 line 3 attached and enclosed.

The executive branch of the state Government of the state of South Carolina Greenville County 13<sup>th</sup> Judicial Circuit Solicitors office prepares the charging document, informal Indictments in which it alleges a citizen has violated

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The laws of this state; interference to a felony or offense that exceeds a fine of two hundred dollars or exceeds 30 days imprisonment, no person (citizen) may be held to answer unless on a presentment or indictment of a grand jury of the county in which the crime has allegedly been committed. Due process clause of the 5<sup>th</sup>, 14<sup>th</sup> Amendment requires that probable cause be established by a grand jury of the county where the crime has been committed in which the grand jury of that county will return a true bill of indictment S.C. Const. article 1 section 16. Judge Larry R. Patterson altering; constructive amendment, that broaden the charging terms of Indictment # 2002-GS-23-1063. is unconstitutional violation of S.C. Constitution Article 1 section 8 separation of Powers. He acted as the executive branch in his charge to the jury Id in exhibit # 2 trial transcript page 509 line 21 through page 511 line 13, as well as the grand jury, displaying a Judicial Bias and prejudice against Mr. Watkins in which his impartiality might reasonably be questioned, denying Mr. Watkins of his due process and equal protection of right to a fair trial and to be convicted of an indictment returned by a legal constituted grand jury. Mr. Watkins was not found guilty of Indictment 2002-GS-23-1063.

But found guilty of an uncharged offense: inviolation of S.C. constitution Article 1 section 11. and S.C. Const. article 1 section 3, and USCA 14<sup>th</sup> of the Due process clause in which Mr. Watkins was never put on Notice of the charge Judge Patterson charged the jury with Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 13, in which pursuant to SC Const article 1 § 11 and SC 1976 Code of Laws, Mr. Watkins should not have been held to answer for an uncharged offense, of for an offense Judge Patterson charged the jury with: Inviolation of SC Const article 1 section 8 Separation of Powers, in which was not return by a grand jury of Greenville County, in which the petit jury found him guilty of.

Lack of Subject Matter Jurisdiction

The trial Court lacked subject Matter jurisdiction to convict Mr Watkins upon the charge in which Judge Patterson charged the jury with, Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 13 attached and enclosed. Although the state used indictment # 2002-GS237063 to invest the General Sessions Court with its criminal trial Court Jurisdiction, pursuant to S.C. Const Article V § 11 Id as exhibit #1 attached and enclosed General Sessions Court was divested of its subject

Matter jurisdiction to convict Mr. Watkins under  
 Indictment #2002-GS-23-1063 Id as exhibit #1 attached  
and enclosed, when Judge Larry R. Patterson constructively  
 amended Indictment #2002-GS-23-1063 in his charge to  
 the jury that broaden the bases of conviction to include  
 predicate offense not alleged in the indictment see  
Id in exhibit #2 trial transcript page 509 line 21  
through page 511 line 13 attached and Enclosed  
 citing U.S. v Randall, 171 F3d 195, 210 (4th Cir 1999)  
 impermissible amendment because government  
 broadens bases of conviction to include predicated  
 offense not alleged in indictment, and there was  
 not true bill of indictment or waiver of presentment  
 before the jury was sworn, nor was Mr. Watkins  
 put on Notice of such charge to the jury. Id in  
exhibit #2 trial transcript page 509 line 21 through  
page 511 line 13 in which he was found guilty of  
 Violation of USCA 5<sup>th</sup> 14<sup>th</sup> s.c. Const, article 1 section 3  
U.S v Cotton, 535 US 629 (2002) (subject matter jurisdiction  
 claim preserved though not raised at trial.  
 Lack of subject matter jurisdiction can be raised  
 at any time Brown v State 343 SC 342, 540 S.E.2d  
846, 848-49 (2001)

The trial Court Lacked subject Matter jurisdiction to convict me based on Judge Larry R. Patterson charge to the jury Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 13, when there was no true bill of Indictment return by the Grand Jurors of Greenville County prior to the jury being sworn. Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 13 attached and enclosed. Once the trial Judge charged the jury with that charge, the Court was divested of its jurisdiction over Indictment # 2002-65-23-1063. to Convict and Sentence M. Watkins for an uncharged offense.

Absent an True bill of Indictment stating sufficiently the cause of action in which a citizen is being charged with or a waiver of presentment, the General Sessions Court cannot obtain its criminal jurisdiction under SC Const article V § 11, unless an True bill of Indictment showing a statutory violation of a criminal offense has been alleged and committed base on probable cause determination of a grand jury of the county where the crime has been committed or such waiver of presentment SC Const article 1 section 11. Absent a filing of an Indictment or waiver of a presentment, stating statutory criminal offense, the Court of General Sessions would lack jurisdiction to entertain a criminal

prosecution under S.C. Const. article V § 11; The Indictment is the cause of action in which a trial Court receives its authority to try and convict and sentence a citizen. I disagree with Gentry that Indictment has nothing to do with the General Session Court jurisdiction. When the subject matter is based on the nature of the offense alleged in the indictment to determine if the General Sessions or Circuit Court has jurisdiction over the subject matter alleged in the indictment, to try, convict and sentence an accused defendant.

The Indictment is the cause of action or contains the cause of action in which the accused is brought before the court to be put on Notice, to enter a plea of guilty or not guilty and to proceed to trial. No Indictment stating a cause of action the circuit court under S.C. Const. article V § 11 has not been invested with its criminal jurisdiction. If the indictment or waiver of presentment, does not determine if the circuit Courts have subject matter jurisdiction, then what is the circuit Court exercising its criminal jurisdiction over to try and convict and sentence an accused?

The ruling in State v Gentry 610 SE 2d 488

that an Indictment has nothing to do with the subject matter jurisdiction of the circuit court pursuant to S.C. Const article V § 11 is wrong. It is shocking to the universal sense of justice, if the state of South Carolina Greenville

County, Circuit Solicitors Office can use Indictment # 2002-GS-23-1063 to give the 13<sup>th</sup> Judicial Circuit Court of General Sessions of Greenville County personal and subject matters jurisdiction pursuant to S.C. Const. article 1 section 11 and S.C. Const. article 15 11 to hold Mr. Watkins to answer for and deprive him of his Due process and equal Protection of right to liberty and life, then present evidence that proves a different charge, in which the trial judge heard, and in his charge to the jury impermissibly constructively broaden the Bases of Conviction to include predicated offense not alleged in the indictment 2002-GS-23-1063, issue Id in exhibit # 2 trial transcript page 509 line 21 through page 511 line 13. resulting in Mr. Watkins being convicted of an uncharged offense. Probable cause wasn't never established for this offense charged to the jury, How can Mr. Watkins on the same day of his arraignment, exercise his compulsory process, in obtaining witnesses in his favor to impeach the state witnesses, to study the rules of evidence all criminal procedures so he can make proper objection and preserve them for review by the S.C. Court of Appeals? How can Mr. Watkins prepare a defense for a charge that he was not put on Notice of? Id in exhibit # 2 trial transcript page 509 line 21 through page 511 line 13

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when he didn't become aware of the change until the trial Judge Larry R. Patterson charged the jury after all the evidence had been introduced into evidence and the state closed its case. Id in exhibit #2 trial transcript page 509 line 21 through page 511 line 13.

Indictment 20026523-1063 is void and the Court of General Sessions Greenville County lacked subject matter jurisdiction to convict and sentence him on an Indictment, that was obtained by a county court grand jury pursuant to S.C. 1976 Code of law § 14-9-210 as Id in exhibit (#3) attached and enclosed at a court of General Sessions Greenville County on February 19<sup>th</sup> 2002 which was outside the terms of Court of General Sessions Greenville County, but during the term of Court of Pickens County, pursuant to S.C. 1976 Code of law § 14-5-790(1)(a) (2). see Id in exhibit (#4) attached and enclosed

Back on October 16<sup>th</sup> 2001 judge John C. Few issued an order for the illegal convening of the county grand jurors for Greenville to convene at a court of General Session on February 19<sup>th</sup> 2002 see Id as Exhibit # (5) attached and enclosed, in which was outside the terms of Court of General Sessions Greenville County pursuant to S.C. 1976 Code

of law § 14-5-970 (1)(a) but during the terms of Court of General Session  
 Pickens County through which on February 19, 2002: Indictment 2002-GS-23-1063  
 through presiding Judge John C. Few, presented to the  
 county grand jurors of Greenville, at a court of General Sessions  
 Indictment 2002-GS-23-1063; in which on February 19, 2002  
 The grand jury foreman presented to Judge John C. Few the  
 Grand jury findings in a presentment, in which Judge  
 John C. Few accepted and signed off on and gave to  
 The clerk of Court of General Session Court for filing  
 see Id as exhibit # (6) The presentment. Indictment  
 2002-GS-23-1063 was included in Indictment 2002-GS-23-848  
 through 1201.

§ 14-9-210 is abolished pursuant

S.C. 1976 Code of Law § 22-3-510 see Id as exhibit # 8  
 attached and enclosed. The grand jury of Greenville County  
 that convened on February 19<sup>th</sup> 2002 pursuant to Judge John C.  
 Few October 16<sup>th</sup> 2001 order Id as exhibit # (5) attached  
 and enclosed, convened the county grand jury of Greenville  
 County, that has been abolished and which was illegal  
 at a court of General Session outside the terms of Court  
 of General Sessions Greenville County where the crime  
 had allegedly occurred, but during the terms of court  
 of Pickens County Court of General Sessions

The General Session Court of Greenville County, lacked personal

and subject Matter jurisdiction to try and Convict and Sentence  
 Pro-se litigant Robert M Watkins using an Indictment that were  
 issued by a County Grand Jury pursuant to SC 14-9-200, which has  
 been abolished, that convened and was empaneled at a  
 Court of General Sessions during the terms of Court of General Sessions  
 Pickens County on February 19, 2002 pursuant to SC 1976  
 Code of Law 14-5-790 (2) outside the terms of Court of General  
 Session Greenville County pursuant to SC 1976 Code of Law  
 § 14-5-790 (1)(c) in which where the crime had allegedly been  
 committed, in which pursuant to SC 1976 Code of Law § 22-3-570  
 The procedure in which Indictment 2002-GS-23-1063 was  
 issued, obtained has been abolished, making Indictment  
 2002-GS-23-1063 void and the trial, conviction and sentence is  
 void. Plus no indictment may be truebilled by a  
 grand jury where circuit Courts lacks jurisdiction, since  
 grand juries jurisdiction is coextensive with criminal  
 jurisdiction of court in which it is impaneled and for  
 which it is to make inquiry State v. McClure, 289 S.E.2d 158  
 277 S.E. 432. General Session Court for Greenville County  
 was not in session at February 19, 2002, when the County  
 grand jury of the county of Greenville convened at a term  
 of Court Pickens County pursuant to SC 1976 Code of  
 Law § 14-5-790 (2) pursuant to § 14-9-200 which has  
 been abolished pursuant to § 22-3-520. And in which

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A County Grand Jury for Greenville County although by order of circuit Judge John C. Far of October 16, 2002 see Id as exhibit # (5) authorized the county grand jury for Greenville County to convene on Feb. 19 2002 outside the terms of Court of General Sessions Court Greenville County, to present upon it Oath Indictment 2002-GS-23-1063 on the bill of Indictment pursuant to S.C. 1976 Code of Law § 14-9-210 in Id as exhibit # (3) in which has been abolished pursuant to S.C. 1976 Code of Law § 22-3-520 see Id as exhibit # (7).

Based on the argument presented by Pro se litigant Robert M. Watkins, He request the relief in the form of vacating the conviction and sentence Under Indictment # 2002-GS-23-1063 of September 24 2008 Id in exhibit # (1).

2-11-09

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C E R T I F I C A T E

I, the undersigned Mary E. DiGirolamo, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 11th day of September, 2008.

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

April 20, 2009

*Mary DiGirolamo*

Mary E. DiGirolamo

Official Court Reporter

*[Handwritten mark]*

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WITNESSES

W.C. BRUCE

*Owens/A*

GPD

12/19/01

ARREST WARRANT NUMBER

G 865977

G 865988

ACTION OF GRAND JURY

TRUE BILL

*John Holman*

FOREMAN GRAND JURY

Representative of Grand Jury

VERDICT

COUNT ONE: *Guilty*

COUNT TWO: *Guilty*

*[Signature]*  
Foreperson of Petit Jury

*10/25/02*  
Date:

DOCKET NO. 2002-GS-23-

TJQ

*C1063*

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2002

THE STATE

vs.

ROBERT MAX WATKINS

*Guilty*

*9-24-08*  
**GUILTY**

Indictment for

0139 ARMED ROBBERY  
VIOLATION § 16-11-330

0549 POSSESSION OF A WEAPON DURING  
THE COMMISSION OF OR THE ATTEMPT TO  
COMMIT A VIOLENT CRIME  
VIOLATION § 16-23-490

ENTERED  
ACCT.  
*[Signature]*

*273*

ENTERED  
ACCT.  
*[Signature]*

SCANNED

*Exhibit #1*

*L8*

*[Handwritten marks]*

*23*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
COUNT ONE -ARMED ROBBERY  
COUNT TWO- POSSESSION OF A WEAPON DURING  
THE COMMISSION OF OR THE ATTEMPT TO COMMIT  
A VIOLENT CRIME

At a Court of General Sessions, convened on FEBRUARY 19, 2002 the  
Grand Jurors of Greenville County present upon their oath:

COUNT ONE – ARMED ROBBERY

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001,  
while armed with a deadly weapon, or while alleging, either by action or words or both, he was armed  
while using a representation of a deadly weapon or any object which a person present during the  
commission of the robbery reasonably believed to be a deadly weapon did, by use of force, threats or  
intimidation, take and carry away the property of another, to wit: U.S. currency from Chuckie Cheese.  
This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF OR THE  
ATTEMPT TO COMMIT A VIOLENT CRIME

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001,  
possess or visibly display a handgun during the commission or attempted commission of a violent crime,  
to wit: Armed Robbery. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as  
amended.

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

Thomas J. Quinn  
SOLICITOR

P. 23

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

25

COUNTY OF Greenville
STATE VS. Robert Watkins

INDICTMENT/CASE#: 2002GS2301063
A/W#: G865988
Date of Offense: 12/19/2001 - 1/19/2004
S.C. Code § : 16-23-0490
CDR Code #: 0549

AKA:
Race: B Sex: M Age: 42
DOB: SS#:
Address:
DL#: SID#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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:
Marchant, Lucas Defendant Attorney for Defendant SC Bar#

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

CONCURRENT or CONSECUTIVE to sentence on: September 24, 2008 for armed robbery
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:
Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

TOTAL \$
Paul B. Wickensamer Clerk of Court/ Deputy Clerk
Court Reporter: M. D. Ardano

PRESIDING JUDGE
Judge Code: 20315
Sentence Date: September 24, 2008
SCCA/217 (07/2008)

29

STATE OF SOUTH CAROLINA )  
 COUNTY OF Greenville )  
 STATE VS. )  
 Robert Watkins )  
 AKA: )  
 Race: B Sex: M Age: 42 )  
 DOB: SS# )  
 Address: )  
 DL#: D#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2002GS2301063  
 A/W#: G865977  
 Date of Offense: 12/19/2001 - 1/19/2004  
 S.C. Code § : 16-11-0330(A)  
 CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: ROBBERY, ARMED WITH A DEADLY WEAPON (GS)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: *Jn CMA* Marchant, Lucas Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 25 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_ ; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_ ; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

Payment Terms:  set by SCDPPPS 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 \$ \_\_\_\_\_ beginning  
 \$ \_\_\_\_\_ paid to Public Defender Fund

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
§ 90.11 TP (SCCJA Surcharge)	\$5	\$
TOTAL	\$	\$

Other:  Appointed PD or appointed other counsel. §35.13 TP Requires \$500 be paid to Clerk during probation.

*Paul B. Wickens*  
 Clerk of Court/ Deputy Clerk  
 Reporter: *M. D. Gidoms*

PRESIDING JUDGE *Ray R. Pelt*  
 Judge Code: *20315*  
 Sentence Date: *September 24, 2008*  
 SCCA/217 (07/2008)

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA :

:

-vs-

:

TRANSCRIPT OF RECORD

:

ROBERT WATKINS :

:

September 22-24, 2008

Greenville, South Carolina

B E F O R E:

HONORABLE LARRY R. PATTERSON, Judge.

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

LUCAS MARCHANT, ESQ.

Attorney for the Plaintiff

STEPHEN HENRY, ESQ.

Attorney for the Defendant (Standby)

MARY E. DIGIROLAMO

Court Reporter

1 reason to believe at this point that these other  
2 witnesses would have anything to say that would be  
3 different from the three witnesses that testified. It  
4 may be a different matter if these witnesses have  
5 anything that would exculpate Mr. Watkins.

6 But absent that, this case has been pending for so  
7 long, and it's not that I want to rush into any trials or  
8 anything, but we've all known and been trying to get this  
9 case tried for a long time now. It should be in the  
10 record as to all the dates that we had lawyers and what  
11 not. But at this particular point I'm just inclined to  
12 deny a -- the motion absent -- it's just speculative at  
13 this point whether it would be -- if there's anything  
14 that's going to be prejudicial to Mr. Watkins. So I  
15 would deny the motion.

16 Okay. Let's select -- I'm going to bring the jurors  
17 up. We're going to have 36 maybe, or 35. Do you know  
18 how many we got.

19 THE CLERK: Thirty-six.

20 THE COURT: Thirty-six. We may need some space in  
21 the courtroom. And of course this lady can stay because  
22 she's been here the whole time. She's with Mr. Watkins.  
23 Okay. You have a witness list?

24 THE CLERK: Yes, sir, I put it up on the bench. You  
25 should have one from both sides.

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THE COURT: I'm sorry?

THE CLERK: You should have one from both sides.

THE COURT: Okay.

THE CLERK: And voir dire from the defense.

THE COURT: I got it. Yeah.

THE CLERK: This is the old list here. This is the new list.

MR. HENRY: Judge, I'm not sure if you want to do this now or later, I don't want to interrupt you, but Mr. Watkins says he would like to be arraigned at some point. He says he's not been arraigned. I don't know if that's a fact or not, but he's says he's not been arraigned on this indictment.

THE COURT: Okay. All right. Mr. Watkins, would you stand up, and I placed you under oath earlier today. You are under oath, okay?

MR. WATKINS: Yes, sir.

THE COURT: You are Robert Max Watkins?

MR. WATKINS: Yes, sir.

THE COURT: And Mr. Watkins, in this indictment you are charged within Greenville County, on the 19th day of December of 2001, while armed with a deadly weapon, either by action, words, or both, you -- or using a representation of a deadly weapon, or an object which a person presented during the commission of a robbery

1 reasonably believed to be a deadly weapon, that you used  
2 force, threats, or intimidation to take away the  
3 property, US currency, from Chuck E Cheese in violation  
4 of section 16-11-330 of the South Carolina code of laws.  
5 You're charged with army robbery. Do you understand that  
6 charge?

7 MR. WATKINS: Yes, sir.

8 THE COURT: Mr. Watkins, how do you plead to that  
9 charge?

10 MR. WATKINS: Not guilty.

11 THE COURT: And how do you want to be tried?

12 MR. WATKINS: A jury.

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

14 MR. WATKINS: Your Honor, could I get a copy ---

15 THE COURT: Now, you're also charged with the  
16 possession of a weapon during the commission of a crime.  
17 They allege that during that -- on December the 19th,  
18 2002 (sic), you were in possession of a handgun during  
19 the commission of the crime. Do you understand that  
20 charge?

21 MR. WATKINS: Yes, sir.

22 THE COURT: And how do you plead to that charge?

23 MR. WATKINS: Not guilty.

24 THE COURT: And how do you wish to be tried on that  
25 charge?

1 MR. WATKINS: A jury.

2 THE COURT: Okay. Now, I've got the old indictment.  
3 You've got a copy of that. That's the one I have.

4 MR. WATKINS: Is it clock stamped by the clerk of  
5 court? Has it been filed with the clerk of court? It  
6 has to be filed or processed with clerk of court as a  
7 court of competent jurisdiction, under criminal procedure  
8 rule 3. It has to be filed and processed with the Court  
9 in order to get -- I guess it's personal jurisdiction.  
10 For the Court to have personal jurisdiction on me it has  
11 to be processed.

12 (A discussion was held off the record.)

13 THE COURT: It was reported out by the grand jury on  
14 February the 19th of 2002, and it was given a case number  
15 by the clerk of court, 2002-GS-23-C1063 at the February  
16 term. And it's -- the indictment I have was the same  
17 indictment you were tried on the first time you were  
18 tried.

19 MR. WATKINS: Yes, I mean, but object to the  
20 indictment because it was never filed. Can I hand this  
21 to the officer to hand to you about rule 3 where it says  
22 procedures supposed to be followed on indictment ---

23 THE COURT: It -- well, that's in a motion that your  
24 attorney would need to make.

25 MR. HENRY: Judge, I think the motion has been

1 previously made and ruled upon, if I'm not mistaken, when  
 2 he was representing himself. What he's saying I think is  
 3 that rule 3, criminal procedure rule 3 was not followed,  
 4 it was not properly clocked in in the clerk's office and  
 5 therefore he didn't -- you don't have jurisdiction over  
 6 him individually, as a person. I did not file that  
 7 motion, but I think it's already been heard and decided.

8 THE COURT: Okay. I'm not familiar with the clerk  
 9 clocking in the indictments. They do give them a case  
 10 number, an indictment number, and they open a file and  
 11 it's reported to court administration and all the cases  
 12 are -- come out on a list.

13 MR. WATKINS: Yes, sir, I have a copy of the  
 14 procedures right there. It's at the bottom with the  
 15 indictment.

16 THE COURT: Well, the procedure in Greenville is for  
 17 the indictments to be prepared and the clerk -- they're  
 18 given an indictment number and they are numbers assigned  
 19 by the clerk of court. And the procedures require the  
 20 clerk of court to keep the indictment. The indictments  
 21 are presented to the judge, usually in open court. He  
 22 accepts the presentments, puts it into the record, and  
 23 the indictment are then delivered to the clerk of court,  
 24 and the cases are called for trial by the solicitor.

25 Now, I don't know what the basis of your motion is,



1 but the procedure -- the case was given a number by the  
 2 clerk of court. It was presented to the grand jury and  
 3 filed, and since that time it's been kept in your case  
 4 file. And I do not know what your objection is right  
 5 now. I can't see where it violates any -- where it  
 6 violates rule 3.

7 MR. WATKINS: When it's filed with the clerk of  
 8 court it's clock stamped, time and date. I can show you  
 9 where the -- how the clerk clock stamped the indictment I  
 10 have. On the indictment I have ---

11 THE COURT: Well ---

12 MR. WATKINS: The clerk receives the indictment they  
 13 then clock stamp it. He receives it to show that it's  
 14 been filed.

15 MR. MARCHANT: Your Honor, I would just like to make  
 16 clear, at this time I believe that you appointed Mr.  
 17 Henry, I believe he's the one that's ---

18 THE COURT: I did. Mr. Henry should be making the  
 19 motion, but he did this during the arraignment. And  
 20 the -- rule 3 is the disposition of arrest warrants. It  
 21 does not address indictments. And there is a -- the  
 22 indictment was presented on February the 19th of 2002, by  
 23 the grand jury of Greenville County, turned over to the  
 24 clerk of court. And therefore I find that there has been  
 25 no violation of rule 3, which addresses arrest warrants.

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Okay.

Now, Mr. Watkins has been arraigned, and we're going to go forward with the jury selection. Okay. Bring the rest of them in.

(The jury panel entered the courtroom at 2:23 p.m.)

THE COURT: All right. Ladies and gentlemen, we're going to select a jury now in this case of the State of South Carolina and Robert Max Watkins. Mr. Watkins, would you stand up, please, and face the jury panel? Do any of you, ladies and gentlemen, know Mr. Robert Max Watkins, who is standing before you?

(No response from the jury panel.)

THE COURT: Okay. Thank you, Mr. Watkins. Ladies and gentlemen, first of all, I'm going to ask you if you know anything, if you've heard anything, or have you read anything, I don't know if anything has been written about it, but have you ever known anything, or heard anything about this case. The allegations are, and Mr. Watkins has pled not guilty to those charges, that's the reason you and I are here, and the charges are, and the allegations are armed robbery on December the 19th of 2002, at Chuck E Cheese, I believe that was a restaurant located where?

MR. HENRY: 2001, Your Honor.

THE COURT: Where?

1 MR. MARCHANT: Two things, Your Honor. The year was  
2 2001.

3 THE COURT: What did I say?

4 MR. MARCHANT: 2002.

5 THE COURT: Oh, it was 2001, I'm sorry.

6 MR. MARCHANT: Chuck E Cheese is located on Congaree  
7 Road.

8 THE COURT: On Congaree Road. Have any of you,  
9 ladies and gentlemen, heard anything, and there's also a  
10 charge of possession of a deadly weapon, or handgun, I'm  
11 sorry, during the commission of that crime. Have any you  
12 heard anything about this case, or do you know anything  
13 about these allegations in regard to an alleged robbery  
14 at Chuck E Cheese on December the 19th of 2001? If you  
15 have heard anything or know anything about this case,  
16 would you please stand?

17 (No response from the jury panel.)

18 THE COURT: Okay. Now, ladies and gentlemen, do you  
19 or -- do you have any friends or relatives who work in  
20 law enforcement, or specifically with the Greenville City  
21 Police Department? If you have friends or relatives in  
22 law enforcement, would you please stand? Yes, ma'am,  
23 would you stand up, please? What is your name?

24 MS. MILLER: Patricia Miller.

25 THE COURT: Okay. Ms. Miller.

1 A Not that I'm aware of, no.

2 MR. WATKINS: Okay. Thank you no more questions.

3 THE COURT: Mr. Marchant?

4 MR. MARCHANT: Just one, Your Honor.

5 REDIRECT-EXAMINATION

6 BY MR. MARCHANT:

7 Q Do you recall the name of the person that you had  
8 secured in your vehicle?

9 A Off the top of my head I do not, I'm sorry.

10 Q Do you recall of the sex of that person?

11 A It was a black female.

12 MR. MARCHANT: Thank you. No further questions.

13 Ask that this witness be excused.

14 THE COURT: Thank you, sir. Mr. Marchant?

15 MR. MARCHANT: The State calls Marcus Scarabino.

16 THE CLERK: Please pause at the end of the bench.

17 Please place your left hand on the Bible and please raise  
18 your right hand.

19 MARCUS SCARABINO

20 Having been first duly sworn, testified as follows:

21 THE CLERK: Thank you. Please be seated. Sir,  
22 please state your full name for the record and would you  
23 please spell your last name.

24 THE WITNESS: Marcus Scarabino, S-c-a-r-a-b-i-n-o.

25 THE CLERK: Thank you.

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DIRECT EXAMINATION

BY MR. MARCHANT:

Q Good morning, Mr. Scarabino. Scarabino, excuse me.  
Where are you employed?

A Chuck E Cheese, on Congaree Road.

Q Are you presently employed there?

A Yes.

Q Were you employed there in 2001?

A Yes.

Q In December of 2001?

A Yes.

Q What were your duties in December of 2001?

A My title was general manager.

Q And what are the general manager's responsibilities?

A It includes all of the operations of the store,  
every aspect of everything we do. We oversee the entire  
operation.

Q Do you have a supervisor or someone you report to at  
the store?

A Absolutely. Chuck E Cheese is a company, so we have  
a district manager, regional managers, on up.

Q Okay. And on December the 19th of 2001, were you  
working that evening?

A Yes.

Q Okay. And what time would the store normally close

1 during the week?

2 A We normally close at 10 o'clock during the week, and  
3 eleven o'clock on Friday and Saturday nights.

4 Q So this being a -- December the 19th, a Tuesday,  
5 being 18th, this incident happened on -- right after  
6 midnight, the store would have closed at 10:00?

7 A Correct.

8 Q And did y'all have any special responsibilities that  
9 required to you stay late that evening?

10 A We were having a visit from some higher ups, and we  
11 were doing extra little cleaning things, touch up  
12 painting, just little things just to make things look  
13 really good for the visit.

14 Q Okay. How many people were with you during this  
15 cleaning?

16 A Just for the cleaning part, not counting people that  
17 would have been there, just for regular running of the  
18 store, there were five people.

19 Q Okay. Do you recall which five people were there  
20 with you?

21 A I'll try. Let's see. Jimmy, Jeannie, Matt, I'm  
22 missing a couple.

23 Q Would Krystyna Reilly been one of those people?

24 A Yes.

25 Q Okay. Now, did you assign each one of those people

1 specific duties that evening?

2 A Honestly, I don't remember, but that would be  
3 something I would do.

4 Q Now, do you recall how long y'all stayed after hours  
5 that night participating in cleaning?

6 A Quite a while. I don't remember the exact time, but  
7 we were there past one o'clock obviously.

8 Q Did you have any outside services that you brought  
9 in to assist in the cleaning?

10 A We had carpet cleaners that came in that night.

11 Q Okay. Is this a routine thing with the carpet  
12 cleaners?

13 A Typically we do carpet cleaning once a month. And  
14 in this type of situation we typically would contact our  
15 carpet cleaners and say, you know, we're having an  
16 inspection, could you maybe come on this night so it will  
17 look real good, you know, the day after, or you know a  
18 couple days after.

19 Q Okay. Do you recall how many carpet cleaners were  
20 there that evening?

21 A I really don't remember.

22 Q Do you recall what time they showed up to clean?

23 A I'm not sure when they started, no.

24 Q Okay. Do you recall when they left?

25 A They left sometime when we were eating. We had

1 specific duties that evening?

2 A Honestly, I don't remember, but that would be  
3 something I would do.

4 Q Now, do you recall how long y'all stayed after hours  
5 that night participating in cleaning?

6 A Quite a while. I don't remember the exact time, but  
7 we were there past one o'clock obviously.

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14 in this type of situation we typically would contact our  
15 carpet cleaners and say, you know, we're having an  
16 inspection, could you maybe come on this night so it will  
17 look real good, you know, the day after, or you know a  
18 couple days after.

19 Q Okay. Do you recall how many carpet cleaners were  
20 there that evening?

21 A I really don't remember.

22 Q Do you recall what time they showed up to clean?

23 A I'm not sure when they started, no.

24 Q Okay. Do you recall when they left?

25 A They left sometime when we were eating. We had

1 stopped to take a break and were eating, and they left  
2 sometime during that time.

3 Q Okay. Show you what's been marked as State's Number  
4 3, ask if you recognize this document?

5 A This is a diagram of the ---

6 Q Wait, do you recognize it?

7 A Yes.

8 Q And how is it that you recognize that?

9 A Because it's -- I'm very familiar with it. It's  
10 Chuck E Cheese's -- the front of the house at Chuck E  
11 Cheese.

12 Q Okay. And is that accurate depiction of the layout  
13 of Chuck E Cheese in December, 2001?

14 A Yes, it is.

15 MR. MARCHANT: Okay. I would move State Number 3  
16 into evidence.

17 THE COURT: Okay. Let Mr. Watkins see it.

18 MR. MARCHANT: I showed it to him before I  
19 approached the witness.

20 THE COURT: Okay. Without objection, it's in  
21 evidence. It can be marked. Is it marked?

22 MR. MARCHANT: It's marked, Your Honor.

23 THE COURT: Okay.

24 (State's Exhibit Number 3 was filed.)

25 BY MR. MARCHANT:

1 Q Well, once the carpet cleaners left, you stated you  
2 were eating dinner?

3 A Yes.

4 Q Correct? And do you recall who went and got you  
5 diner?

6 A Jeannie and Krysti, I believe.

7 Q Do you recall what you were having?

8 A I believe we had Steak and Shake. There's not a lot  
9 of choices that late at night.

10 Q So now, once they got back with the dinner, did  
11 y'all sit down to eat together, or were you eating as you  
12 were cleaning?

13 A No, we sat down. We all stopped and sat down  
14 together.

15 Q Okay. Did you sit down at one table or different  
16 tables?

17 A I believe we sat down at one table with like a chair  
18 at the end so we could all fit, yes.

19 Q Okay. Do you recall which table you sat at?

20 A It would be the table that would have been facing  
21 this half of the wall.

22 Q Okay. Is that table depicted on that diagram?

23 A Yes.

24 Q Okay. I would ask that you make a mark next to that  
25 table that you were sitting at. Now, do you recall

1 specifically where you were sitting at that table?

2 A I don't know specifically other than I was towards  
3 the wall as opposed to my back being towards it. I was  
4 facing that direction. I don't know if I was on the end  
5 of the booth, or in the chair at the end, or ---

6 Q Okay. Well. If you're sitting at the end of the  
7 booth, what are you staring at ahead of you?

8 A Mostly the hallway, the hall area, across from that  
9 is the wall and beverage area.

10 Q Okay. And behind the wall, beverage area, what's in  
11 the room behind that?

12 A That goes into the kitchen.

13 Q Okay. So if you're -- is it fair to say you were  
14 staring at the kitchen?

15 A The wall, yeah.

16 Q Okay. To your right is that the front or the rear  
17 of the building?

18 A To my right would have been the front.

19 Q Okay. To the left would have been the back?

20 A Correct.

21 Q Okay. How many entrances are there in the rear of  
22 the building?

23 A In the front of the house there's one.

24 Q In the front of the store?

25 A No, no. Well, without going into the kitchen

1 there's one.

2 Q Okay. And where is that entrance located?

3 A In -- keep going straight down the hallway.

4 Q Okay. If you would make an X, on the mark, place an  
5 X on the document where the rear entrance to the building  
6 is. All right. Now, so there's an exit -- entrance/exit  
7 at the rear of the building. Is that available for  
8 public use?

9 A Not really. It's got an emergency bar on it, so I  
10 mean it could be utilized in case of an emergency to exit  
11 the building, but it's not an in and out door.

12 Q Is it a service door?

13 A It can be.

14 Q That evening, was there someone that had access to  
15 that door, other than the employees that were working  
16 with you?

17 A The carpet cleaners were using that door.

18 Q Now, do you recall when they left whether or not  
19 they shut the door?

20 A I do not.

21 Q Now, as you're sitting down to have dinner, what if  
22 anything did you notice was out of the ordinary?

23 A When we were sitting down to eat, you know, we were  
24 just relaxing, being very casual, because we had been  
25 kind of working hard, a lot of things we were doing were

1 scrubbing and cleaning, so it's nice to have a little  
2 break. So we were just kind of relaxing. And then  
3 somebody walked up the back hallway and was approaching  
4 us.

5 Q Do you recall -- or do you know where that person  
6 came from?

7 A I wouldn't know 100 percent, but they would have had  
8 to have come from either a rest room or that back door.

9 Q Okay. To your knowledge were the other doors locked  
10 that evening?

11 A Other doors, you're referring to the front doors?

12 Q The front door of the restaurant?

13 A I don't remember.

14 Q But it's your testimony this subject came from  
15 either the rest rooms or the back hallway?

16 A Right, from my left.

17 Q Okay. What if anything did you notice about this  
18 person that was walking in?

19 A That basically -- I mean, the first thing you notice  
20 is it just seems very out of place. You know, why is  
21 somebody else in the building. And then as the person  
22 gets closer you notice that it's not, you know, a joke or  
23 anything, that this person -- they were dressed and  
24 carrying a handgun, so I mean, you basically get, you  
25 know, the chills, you start to realize something is

1 wrong.

2 Q How soon -- or how far away were they when you  
3 realized this was not a joke?

4 A Maybe 10 feet.

5 Q And what if anything was said by that individual to  
6 let you know it was not a joke?

7 A I don't remember the exact wording.

8 Q Is there anything that would refresh your memory  
9 about what he may have said?

10 A I believe we have police statements from the night.

11 Q Okay.

12 A We were asked to write this stuff down.

13 Q Did you write this information down immediately  
14 after this event?

15 A Yes.

16 Q And was the information fresh in your mind?

17 A At that time.

18 Q Okay. I'd like to see if you recognize that?  
19 Review it and let me know when you've finished reviewing  
20 it.

21 A This is the statement I gave to the police officers  
22 that night.

23 Q Okay. After reviewing that is your memory  
24 refreshed? And what if anything did the person say to  
25 you?

1 A He asked us where the money was.

2 Q What was your response to him?

3 A Explained that it was in -- you know, it would be in  
4 the office in the safe.

5 Q Now, you stated he asked, why are you saying it's a  
6 he?

7 A Just from general build.

8 Q Okay. Please describe his build to the jury?

9 A You know, you're looking you notice a chest as  
10 opposed to, you know, more female like features.

11 Q Was there anything about the way he talked?

12 A His voice would be deeper than you would -- you  
13 know, than a female's would.

14 Q Okay. And how was this person dressed?

15 A I really don't remember. From the statement I wrote  
16 on that night, dark clothes, with a hooded jacket, with a  
17 ski mask.

18 Q Okay. When you say ski mask, can you explain to the  
19 jury what you mean by ski mask?

20 A An article of clothing that was covering your face  
21 with the exception of your eyes and mouth.

22 Q Okay. Do you recall what color it was?

23 A I wrote black.

24 Q Now, after he approached and talked about the money,  
25 where did y'all go?

- 1 A We went to the office.
- 2 Q Okay. And what's in the office?
- 3 A That's where the safe would be.
- 4 Q Okay. If you would write an S on this document  
5 depicting the location of the safe for me, please, sir.  
6 Okay. Can you please describe for the jury approximately  
7 how large this office is?
- 8 A About the size where I'm at right now, just -- yeah,  
9 not much bigger.
- 10 Q Okay. Who has access to the office?
- 11 A The office door is always kept locked and there's --  
12 the key is for managers, so managers.
- 13 Q Who has access to the safe?
- 14 A The managers.
- 15 Q Okay. Do you recall how many managers were working  
16 that evening?
- 17 A At that time I believe myself and Jimmy would have  
18 been the manager.
- 19 Q Okay. And was Jimmy working with you this evening?
- 20 A Yes.
- 21 Q Okay. So he was there when this whole thing  
22 happened?
- 23 A Yes.
- 24 Q Okay. When you got back to the office, what did you  
25 do?

1 A We all kind of piled into the office and then just  
2 proceeded to give money to the person.

3 Q Now, where did the money come from that you were  
4 handing over to the robber?

5 A It was in a safe, and more specifically it was in  
6 the drawer. We call it a change drawer. We organize our  
7 money so that it's easily accessible. We have a specific  
8 drawer that we would take rolled -- rolled, banded money  
9 and put in certain patterns so that it's very organized.

10 Q Okay. Now, when you say bound money explain to me  
11 what you mean?

12 A Because we are somewhat of a vending business too,  
13 people are putting money in our bill changers, and so we  
14 have to pull that money out, and then we have to take  
15 that money. And what we do is recirculate it and then we  
16 will count it. In the example of like fives, we count 20  
17 fives, or \$100, and we'll wrap it with a strap that says  
18 100. We count 50 ones and wrap it with a strap that says  
19 50. And then typically we would take that money and put  
20 it in the safe so that we would then have fives and ones  
21 when we needed change. And we would replace that with  
22 larger bills, and we would do deposits and take the  
23 larger bills to the bank and we would keep our smaller  
24 bills that we've wrapped and bound in that drawer. Sort  
25 of organized.

1 Q Typically on any given occasion how much money is in  
2 the safe?

3 A Two thousand five hundred.

4 Q Okay. Is that the way you balance it at the end of  
5 every night?

6 A That's what we call the safe fund. And it should be  
7 always 2,500. It may be, you know, more ones or more  
8 fives, or more quarters, or more nickels, but it's really  
9 just an operating safe fund so it shouldn't ever change.

10 Q Do you have any occasion to keep petty cash of  
11 miscellaneous money in there aside from the 2500?

12 A We are not supposed to.

13 Q Now, when you were standing at this safe door, where  
14 was the subject?

15 A Behind me. I can't really remember if it was more  
16 like this way or more like this way, but I was -- the  
17 doors are pretty large and pretty heavy, and I was kind  
18 of edging in there enough to, you know, get stuff, and so  
19 I would have to turn to hand it.

20 Q Okay. And when you were handing him the money,  
21 where was he placing it?

22 A In a pocket, a pouch type thing.

23 Q In his clothing?

24 A Yes.

25 Q Okay. Did he have a bag, or a duffel bag, or

1 anything like that?

2 A No.

3 Q A bank bag?

4 A Not that I recall, no.

5 Q Okay. Now, what if anything did you notice about  
6 his hands when he was stuffing the money into his  
7 pockets?

8 A There was no like gloves, there was no covering.

9 Q Okay. And do you recall what color his hands were?

10 A They were black.

11 Q Did you give the police information about how tall  
12 you felt this robber was?

13 A I believe I wrote that in my statement.

14 Q Do you recall what it says?

15 A No. He appeared five ten.

16 Q How much did he appear to you to weigh?

17 A 180, 190.

18 Q Okay. Now, what opportunity did you have to see  
19 this gun that he was carrying?

20 A We saw -- you know, any time we were looking  
21 directly toward that area. It was visible most of the  
22 time. It was visible all the time.

23 Q Do you recall if he ever put the gun up when he was  
24 stuffing money in his pockets?

25 A I don't.

1 Q Now, do you recall what the gun looked like? Was it  
2 big or small?

3 A Small.

4 Q Was it light or dark?

5 A I would say metallic.

6 Q Okay. Show your statement one more time.

7 A I wrote that it was silvery and old looking.

8 Q Do you recall whether -- well, do you know the  
9 difference between a revolver and an automatic?

10 A Not really.

11 Q Okay.

12 A I know a revolver has a little western look to it.

13 Q Did it have a western like to it?

14 A No.

15 Q Okay. Now, you stated that there were five of you  
16 working that evening, is that correct?

17 A That's correct.

18 Q Jimmy Skelton, Jeannie Pireda, Matthew McCoy, and  
19 Krystyna Reilly and yourself?

20 A Yes.

21 Q Okay. Ones ---

22 MR. WATKINS: I object, Your Honor. He never stated  
23 that. He didn't recall -- he only named three. He gave  
24 the other witness' name.

25 THE COURT: Okay. I would sustain the objection as

1 to leading. You can ask him ---

2 MR. MARCHANT: Very good.

3 BY MR. MARCHANT:

4 Q The people that you had working there that evening,  
5 there were five of you, correct?

6 A Correct.

7 Q Okay. After this incident took place, if you know,  
8 who called 911?

9 A I don't remember.

10 Q Okay. Do you know if you called 911?

11 A I did not.

12 Q So you have no idea what was relayed to the 911  
13 operator?

14 A No.

15 Q Okay. The information that you provided in your  
16 statement, is it substantially the same as to what you  
17 gave to the officer that responded that evening, the  
18 officer that showed up at Chuck E Cheese?

19 A I'm not sure what you mean, honestly.

20 Q Okay. Did you tell the officer that showed up, did  
21 you tell them anything different than what's written in  
22 your statement?

23 A No.

24 Q Okay. Now, after the 911 call was made and the  
25 officer showed up at your restaurant, did you make

1 available to him everyone that was there that evening?

2 A No.

3 Q Okay. And who did you not make available to him?

4 A Krystyna Reilly.

5 Q And why is it that you did not make her available?

6 A She was in some type of trouble with running away  
7 from home type of thing.

8 Q And once this whole incident happened, how did she  
9 act if you remember?

10 A I don't remember.

11 Q Okay. And did you tell her to go somewhere or  
12 did -- answer that first.

13 A I really don't remember that.

14 Q Well, did the four of you, not including Krystyna,  
15 talk about what you were going to tell the police?

16 A In regards to her you mean?

17 Q Yes.

18 A I don't remember.

19 Q Okay. Had you ever made her known to law  
20 enforcement?

21 A I have not.

22 Q Did you give law enforcement an exact count of the  
23 money that was taken that evening?

24 A Yes, they did ask us to do that.

25 Q And do you recall how much money was taken?

1 A I don't. I believe it's in my statement. \$250 in  
2 ones, \$300 in fives, \$110 in quarters, \$55 in dimes, and  
3 about \$12 in nickels.

4 Q Okay. Let's talk about that change for a minute.  
5 How is it that you come in possession of quarters?

6 A Quarters come through out bill changers. People put  
7 them in our games. We have to pull them out of games and  
8 the bill changers, and then we just, like the ones and  
9 fives, have to roll them and put them in \$10 rolled  
10 wrappers.

11 Q You roll them yourselves?

12 A Yes.

13 Q Do you have an occasion to get bank rolled quarters?

14 A Yes.

15 Q Okay. When you roll them yourselves do you mark the  
16 date and time that they've been rolled and they belong to  
17 the Chuck E Cheese?

18 A No.

19 Q Is there any identifying marks you place on any of  
20 the change?

21 A No.

22 Q Okay. Do you place any identifying marks on the  
23 wrapped dollars bills?

24 A No.

25 MR. MARCHANT: Okay. I have no further questions.

1 Please answer any questions Mr. Watkins may have.

2 CROSS-EXAMINATION

3 BY MR. WATKINS:

4 Q How you doing, sir?

5 A Good.

6 Q My name is Robert Watkins. I have a copy of your  
7 statement here. Can you tell me which statement was  
8 given first?

9 A I don't know. I don't know if -- is there two  
10 statements or just -- I mean, I don't know.

11 Q You have one -- what's the age you got on this  
12 statement right here?

13 A Thirty-three.

14 Q And what's the age you got on this statement right  
15 here?

16 A Thirty-three.

17 Q No, right here.

18 A That's -- that's just poor penmanship.

19 Q Okay. Is this your signature?

20 A Yes, it is.

21 Q Both signatures on the statement?

22 A Yes.

23 Q Okay. Okay. Did you give these statements at  
24 the -- where did you give these statement at?

25 A At Chuck E Cheese.

1 Q Did you ever give a statement down at the police  
2 station?

3 A I don't remember.

4 Q You don't remember? Okay. You said -- let me see.  
5 Well, the person that committed the crime, would he be  
6 six feet tall?

7 A You know, I don't really remember honestly.

8 Q Okay. What did he weigh, 100- -- 220 pounds?

9 A No, I don't think he was that big.

10 Q How much do you think I weigh?

11 MR. MARCHANT: Your Honor, I'm going to object,  
12 relevance.

13 THE COURT: I would overrule the objection. How  
14 much do you think he weighs?

15 THE WITNESS: Probably at least 200.

16 BY MR. WATKINS:

17 Q Okay. How tall do you think I am?

18 A Five eleven. I'm not a very good judge of that,  
19 so ---

20 Q The jury can decide. All right. About what time  
21 did you give these statements to law enforcement?

22 A I'm not 100 percent sure, but it was, you know,  
23 between the time that the police arrived and then the  
24 time it was all wrapped up, which we were there quite a  
25 while into the night.

1 Q Okay. You gave the denominations of the money that  
2 you handed to the person that committed the robbery,  
3 which were come up to, if you add it up, to \$727. Can  
4 you explain why the difference to why you give the  
5 denominations to the -- that you say you handed the  
6 person, but said now \$182 was missing, but when you add  
7 it up the person -- the denominations only came up to  
8 \$727.

9 A Sure. There was so much money that was rolled in  
10 coinage. There was so much money that was actually  
11 banded in hundred or fifty strips. After that there's  
12 extra money it might be we didn't have 50 ones, we only  
13 had 40, or you know, anything like that. So we always  
14 have a stack of extra money that's -- it's not at the  
15 point where we would want to band it or whatnot. So  
16 there is other money there. That basically makes up the  
17 difference between what is ready to go for usable change  
18 and what is the difference for the 2500.

19 Q Okay. What I'm saying is you have an exact amount  
20 that you say was taken, and then you recall saying this  
21 is what you had handed him -- exactly what you handed  
22 him. But when you add it up ---

23 A Well, that's exactly what was handed in each of  
24 those denominations, but we also handed the extra money.

25 Q Extra money. Okay.

1 A It wouldn't be an exact amount because it wouldn't  
 2 be wrapped and tagged, or anything. It would just be  
 3 what's left over to make up the 2500 safe fund.

4 Q Okay. At the -- when you gave -- when you gave the  
 5 statement -- right when the officer came and asked you  
 6 for a statement, when did you count the money to know  
 7 what was missing, before or after you gave the statement?

8 A I don't remember that.

9 Q You have to count the money before you give the  
 10 officer the statement?

11 A I would have to count the safe and take the  
 12 difference from 2500 to find out what was left in  
 13 miscellaneous bills.

14 Q Before they asked you what was missing?

15 A Well, I would imagine they would. Again, I don't  
 16 really remember, but I would imagine they would have to  
 17 ask me what was missing, and I would be able to tell them  
 18 the banded amounts just from memory, after which I would  
 19 have to then subtract the difference of 2500 to come up  
 20 with what was left.

21 Q Okay. When you were handing the person that  
 22 committed the -- the crime, did you see the gun at the  
 23 time that you were handing the person that money?

24 A I don't remember.

25 Q You're saying the person approached you, did you see

600 285

1 the side of the gun when the person was approaching you?

2 A No, it was being -- at that point it was being kind  
3 of held in the hand and kind of covered which just the  
4 nozzle.

5 Q So you never seen -- you can say -- you can't tell  
6 the jury whether or nor you seen the handle either then?

7 A I don't believe I did.

8 Q So the only thing you possibly could have seen was  
9 the edge of the barrel?

10 A The barrel, yes.

11 Q How many holes did this gun have in the barrel?

12 A I don't remember.

13 Q You don't remember. So how do you actually know it  
14 was a gun?

15 A You just do. I mean, it's -- you can ---

16 Q You assume?

17 A No, it's not that you assume. You -- you can tell.

18 I mean ---

19 Q Well, can I ask -- can I just say you assume based  
20 upon the way the person was dressed that it was a gun?

21 A No, no, I was certain it was a gun.

22 Q And by what details -- I'm asking you by what  
23 details did you know it was a gun? Could it have been a  
24 pipe or ---

25 A I'm not a gun expert, but I have seen guns, and it

1 was a gun.

2 Q Okay. Were you ever taken down to -- when you went  
3 down to the police station, were you ever at any time  
4 shown a gun, or a mask, or a coat, or anything at the  
5 police station?

6 A I don't remember.

7 Q And you think you was intimidated by the person?

8 A Intimated, I mean, you're scared.

9 Q Did you ever see where that person went when he  
10 exited the building?

11 A No.

12 Q Did you ever tell law enforcement that he went  
13 towards the apartment complex behind there, or towards  
14 385, or that you seen him get in a white Ford Taurus?  
15 Did you ever tell the police any of that?

16 A No.

17 Q Did you ever see a white Ford Taurus that seemed  
18 suspicious prior to that crime being committed?

19 A Honestly, I don't remember the whole situation with  
20 that.

21 Q Well, this was mentioned before to you though,  
22 somewhere about a Taurus?

23 A I can't be 100 percent sure. I can't remember, you  
24 know.

25 Q Okay. Do you -- do you hand roll dimes or nickels?

1 A No.

2 Q So dimes and nickles was never been in the safe, or  
3 be a part of the evidence -- or stuff that you would hand  
4 the robber, that was hand rolled?

5 A Dimes and nickels would be in the safe, but they  
6 wouldn't be like the ones they hand roll. They would be  
7 bank type style.

8 Q Okay. So -- okay. So any dimes and nickles that's  
9 hand rolled would not be money that belonged to Chuck E  
10 Cheese?

11 A Well, banks hand roll stuff too. They just  
12 typically look a little neater.

13 Q No, I'm not asking you what banks do. I'm asking  
14 you, in Chuck E Cheese you say you don't have hand rolled  
15 your dimes and nickels. So if you handed the person that  
16 was supposed to have commit the robbery, there would be  
17 no hand rolled dimes and nickels that belonged to the  
18 Chuck E Cheese that the robber would have in his  
19 possession if he -- understand what I'm saying?

20 A No, I can just tell you that we do not hand roll our  
21 dimes. We do not hand roll our nickels.

22 Q Do you know approximately how many one dollar bills  
23 that you handed the person that committed the robbery?

24 A I wouldn't know exactly, because there's going to be  
25 an undetermined amount that would have been in the

1 miscellaneous.

2 Q Did you hand the person any miscellaneous money?

3 A Yes.

4 Q Do you know ---

5 A We emptied -- the change drawer, we emptied it  
6 straight across.

7 Q Okay. You say you have a safe -- safe deposit fund,  
8 25 -- was it 2500?

9 A Correct.

10 Q And where is that kept at?

11 A In the safe.

12 Q Is it like one bundle, or is it consistent of all  
13 the money in the safe?

14 A It's all the money in the safe.

15 Q Okay. And do you have like money that goes to the  
16 bank, a deposit that goes to the bank and stuff like  
17 that? Is that included in the safe deposit -- I mean in  
18 the safe fund?

19 A The safe fund, no.

20 Q Okay, sir. Where would the money that you handed  
21 the person, where would it come from out of the safe,  
22 what part of the safe was it?

23 A Top right hand.

24 Q Okay. All right. And looking at me right now can  
25 you say beyond a reasonable doubt identify me as the

1 person that committed this crime?

2 A I can't remember, you know, hardly anything.

3 It's -- it's been quite a long time.

4 Q I'm showing you the property and evidence sheet, the  
5 clothing that I was arrested in, that Greenville County  
6 detention center arrested me in. Can you tell me if this  
7 coat ---

8 MR. MARCHANT: Your Honor, I would object. He has  
9 no knowledge of this statement or what the statement --  
10 document represents, and he can't testify to its  
11 authenticity.

12 THE COURT: I would sustain the objection as to  
13 what's in that statement. That's not his statement.

14 BY MR. WATKINS:

15 Q Okay. It's not. Did the person that committed the  
16 robbery have on black -- black sweat pants, white tennis  
17 shoes, a yellow t-shirt, a yellow jacket with a yellow  
18 hat?

19 A No, there wasn't yellow, I mean. But again, this  
20 was a long time ago. I don't remember these things.

21 Q Well, let me show you what you said. In your  
22 statement it doesn't say anything about a yellow jacket,  
23 yellow shirt, black sweat pants, or white Nike tennis  
24 shoes?

25 A It says dark cloth with a hooded jacket, ski mask

1 that was black.

2 Q Okay. Could -- could -- let's say -- is it possible  
3 that the person could have had a scarf wrapped around  
4 here? You know, have you ever seen like on TV where they  
5 talk about gangs and stuff, how the gangs wear their  
6 scarfs around there. Is it possible it could have been a  
7 scarf and not a ski mask?

8 A It's been a long time.

9 Q So how do you know it was a mask if it's been a long  
10 time?

11 A I would say that if I wrote ski mask at that time  
12 when it was fresh in my memory, I would have been pretty  
13 capable of knowing it was a ski mask at that time.

14 Q Can you -- can you describe how the ski mask looked?

15 A A ski mask goes over your head, has holes for, you  
16 know, eyes and mouth.

17 Q So -- okay. That's the description of the ski mask  
18 that you say that person was wearing?

19 A No, that's a description of a ski mask.

20 Q Well, I'm asking you for a description of the ski  
21 mask you said the ---

22 A I can't remember specifics from that far, you know,  
23 in the past.

24 Q But if I showed you a ski mask, or a gun in  
25 reference to what you really couldn't identify that

1 night, it would more like suggest to you what -- really  
2 you didn't have an appearance to be -- you know, you  
3 didn't have an appearance to see what it is (sic). Would  
4 that suggest to you if I showed a gun, showed you a mask,  
5 now would say, well, okay, that looks like it? Would  
6 that be more reasonable?

7 A No. I would simply say that on that night we wrote  
8 statements of things that were clear in our mind. So if  
9 I wrote that it was a black ski mask I'm comfortable in  
10 saying that at that time I knew it was a black ski mask.

11 Q I ask ---

12 A Today I'm not going to remember.

13 MR. WATKINS: Okay. With the two eyes and the mouth  
14 cut out? Okay. That's all.

15 THE COURT: Okay.

16 MR. WATKINS: No further questions from him.

17 MR. MARCHANT: I don't have any further questions.

18 Ask that the witness be excused.

19 THE COURT: All right. Thank you, sir. Any  
20 objection to him being excused, Mr. Watkins?

21 MR. WATKINS: No, sir.

22 THE COURT: All right. You may be excused or you  
23 can stay, whatever you want to do.

24 THE WITNESS: Okay.

25 THE COURT: It's up to you.

1 MR. MARCHANT: The State would call Jimmy Skelton.

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

4 JIMMY SKELTON

5 Having been first duly sworn, testified as follows:

6 THE CLERK: Thank you. Please be seated. Please  
7 state your full name for the record.

8 THE WITNESS: James Skelton.

9 THE CLERK: Thank you.

10 DIRECT EXAMINATION

11 BY MR. MARCHANT:

12 Q Good morning, Mr. Skelton. Back in 2001, were you  
13 employed with Chuck E Cheese?

14 A Yes, I was.

15 Q And what were your duties at that time?

16 A I was a manager.

17 Q Okay. Did you have the same managerial  
18 responsibilities as Mr. Scarabino?

19 A No, I did not. I actually worked for him.

20 Q So he was like your supervisor?

21 A Correct.

22 Q Okay. And basically what were your duties December  
23 of 2001?

24 A I was a manager, basically I was -- basically we ran  
25 shifts, you know, like we were over a group of

1 individuals that would be working during that time frame.

2 Q Okay. Do you recall the reason we're here tonight,  
3 were you working that evening?

4 A Yes.

5 Q Okay. And what were your responsibilities that  
6 evening?

7 A Well, that night I was the actual closing manager.  
8 And then following that I was staying with Marcus and the  
9 others to help clean.

10 Q Okay. And why is it that you were staying after  
11 closing time?

12 A We were anticipating a visit the following day and  
13 so we were just doing some specific detail cleaning,  
14 painting, cleaning floors, things like that.

15 Q Okay. And do you recall where you were stationed  
16 doing the cleaning that evening?

17 A I believe I was painting a -- I mean, we did several  
18 things, but I think one of the things that sticks out in  
19 my mind, I was painting a half wall by the front of the  
20 building under the windows.

21 Q Okay.

22 A It's like a wall under the window.

23 Q You said you were painting it not just cleaning it?

24 A Yeah, I believe we were painting it.

25 Q Okay. And is there a window or anything that's --

1 you were cleaning near?

2 A Pardon me?

3 Q I'm sorry.

4 A I wasn't cleaning windows.

5 Q Where you were painting, was there ---

6 A Yeah, the wall comes up, you know, I don't remember  
7 how high, but you know, only so high and the rest is  
8 windows going up to the -- towards the ceiling.

9 Q Okay. Let me show you what's been put into evidence  
10 as State's Number 3. Do you recognize this?

11 A Yes.

12 Q Okay. Would you please write your initials on here  
13 where it is you were cleaning -- excuse me, painting that  
14 evening?

15 A It was somewhere in this vicinity. I don't know --  
16 you know, it was -- your pen doesn't work.

17 Q Now, where you marked is that at the front of the  
18 building or the rear of the building?

19 A It's at the front.

20 Q Now, why you were doing this painting, did there --  
21 was there anything unusual that drew your attention  
22 outside?

23 A At some point during the night while I was over here  
24 in this area we had a white Ford Taurus pull through the  
25 front parking lot and slowed to pretty much a crawl. You

1 couldn't see anything, you know, in the windows or  
2 anything in the car, but drove through the parking lot.  
3 It looked kind of -- it wasn't out of the ordinary  
4 because we had a lot cars that would come through there,  
5 but just the way it slowed right in front of the large  
6 windows was kind of odd.

7 Q Okay. Is this the first time you had seen a white  
8 Ford Taurus in the parking lot?

9 A We had seen it once before previous, I don't  
10 remember when, that had drawn attention to itself just  
11 by -- I think that's why I drew such a conclusion when I  
12 saw it that night because we had seen the car driving  
13 through previously.

14 Q Okay. Now, on any occasion that you saw this white  
15 Ford Taurus, could you tell, one, how many people were  
16 inside the vehicle?

17 A No.

18 Q Could you tell the sex of any individual in the  
19 vehicle?

20 A No.

21 Q Could you tell the race?

22 A No.

23 Q Okay. Now, how is the parking lot lit?

24 A What do you mean, how is it lit?

25 Q Well, do ---

1 A Is it lit, is that what you're asking?

2 Q Yes.

3 A Yes, it's got parking lot lights.

4 Q Okay.

5 A Not including the, you know, awning lights and the  
6 large sign on the front of the building that lights up.

7 Q So when this car drove through the front that  
8 evening, approximately how far was it from you as you're  
9 standing inside the building?

10 A I'm not sure, you know, distance wise. I'm not good  
11 with feet. But you know, there's the building, the  
12 sidewalk, and then the road. So I mean, you know, maybe  
13 from here to that banister, I'm not sure.

14 Q Now, after you saw this vehicle, did you inform  
15 anybody about that?

16 A I don't remember to be honest with you. I remember  
17 us talking about it, but I don't remember if it was that  
18 night or if it was on the previous occasion that we  
19 talked about it. I don't really remember.

20 Q Okay. After you finished your cleaning duties,  
21 painting duties, did you have an opportunity to sit down  
22 and eat that evening?

23 A Yeah, we were -- we never got to finish our stuff,  
24 but half way through we did sit down to eat, yes.

25 Q Okay. And did all of you sit at one table or were

1 you seated at different tables?

2 A Yeah, well, we sat, you know, at one table, with  
3 Marcus sitting in the chair on the end.

4 Q And which direction were you facing?

5 A In the booth I was sitting on the inside on the end,  
6 I'm not sure who was sitting to the left of me, and I was  
7 facing the back of the building towards the show room,  
8 what we call it, the rest rooms, anything towards the  
9 back of the building is what I was looking at.

10 Q Okay. When y'all were sitting down to eat, had the  
11 carpet cleaners already left?

12 A Yes.

13 Q Do you recall how long the carpet cleaners had been  
14 gone?

15 A It hadn't been long, maybe 10, 15 minutes, I'm not  
16 really sure of the exact time, but it had not been long  
17 at all.

18 Q Okay. Do you recall whether the carpet cleaners  
19 were male or female?

20 A I believe it was two males.

21 Q Do you recall whether they were white or black?

22 A I believe they were white.

23 Q Okay. Now, what brought your attention to the rear  
24 of the business as you were eating dinner?

25 A A gentleman, or at the time, you know, I didn't

1 really know who it was, came up the hallway because --  
2 you know, I actually thought it was a joke at first.

3 Q Why -- okay.

4 A Well, it was so instantaneous of the carpet cleaners  
5 leaving, you know, and it just -- it was -- I had never  
6 been -- seen somebody come up the hallway like that. So  
7 I just assumed it was somebody joking or someone just  
8 coming back from somewhere. I didn't know who it was at  
9 first, but I tried to laugh it off at first.

10 Q Okay. And what changed it from a joke to a serious  
11 nature?

12 A Well, I mean, we got more nervous, you know. I was  
13 telling them, I was like, guys, there's somebody coming  
14 up the hallway. And of course, you know, they first  
15 didn't believe me because I was laughing about it. But  
16 as the person got closer -- really once he got right up  
17 to the table and he pulled his hand out, you know, we,  
18 you know, kind of realized it wasn't a joke.

19 Q And what did you notice in his hand?

20 A The barrel of a gun.

21 Q Okay. Do you recall what color the gun was?

22 A I don't.

23 Q Okay. Do you recall how this person was dressed?

24 A I remember it -- all I remember is the -- like a  
25 jacket type, maybe pull-over type, a hoodie type shirt,

1 type thing. And I remember what looked to me like maybe  
2 the hoodie may be pulled up over his head, and he had a  
3 mask covering parts of his face.

4 Q Okay. Do you recall what color pants or shoes he  
5 was wearing?

6 A I don't.

7 Q Do you recall what color coat, or pull-over he was  
8 wearing?

9 A I just remember it was dark colored. I think he had  
10 boots on, I'm not 100 percent sure, to remember, but I  
11 just remember it was dark clothing.

12 Q Okay. Now, let's jump ahead real quick. After this  
13 whole thing happened, did you call 911 or did someone  
14 else?

15 A Yes, I did.

16 Q Okay. And once law enforcement arrived, were you  
17 asked to write a statement?

18 A Yes.

19 Q And at the time you wrote this statement was it  
20 fresh in your mind?

21 A Yes.

22 Q Okay. I'm going to show you your statement. I'd  
23 ask you to review it and tell us from that what the  
24 description of his clothing was.

25 A A dark blue coat with a hood, a black mask over his

1 face, and a gun in the palm of his hand.

2 Q Now, from your memory, can you recall whether or not  
3 you could see his eyes?

4 A I believe this part of his face was opened up, but I  
5 don't remember looking into his eyes, no.

6 Q Okay. Could you tell whether or not it was a male  
7 or female?

8 A I could tell just by the way he talked, you know, it  
9 seemed obvious that he was a male.

10 Q Okay. Could you tell what the race of the  
11 individual was?

12 A I got a glimpse of his hands though I don't really  
13 remember. I do remember seeing his hands, but I don't  
14 remember identifying him, you know, by race by looking at  
15 his hands.

16 Q Okay. So your testimony is that you believe it to  
17 be a male but you're not able to say ---

18 A Correct.

19 Q --- whether or not what race they were?

20 A Correct.

21 Q Okay. Okay. Once the robber got to the table and  
22 you realized it wasn't a joke anymore, what happened?

23 A He asked us where the money was and he had us get up  
24 in a single file line and take us to the back of the --  
25 into the kitchen where the office was.

1 Q Okay. When you say us who are you talking about?

2 A It was me, Matt, Krysti, Jeannie and Marcus.

3 Q Okay. Now, when you say Krysti, who is ---

4 A Krystyna, sorry.

5 Q Okay. And do you recall in what order you were  
6 taken to the safe?

7 A I believe Marcus was first. I don't remember how  
8 long it was. I was in the back.

9 Q Okay. And as you were walking into the safe where  
10 was the robber?

11 A Behind me.

12 Q Okay. And what was making you go into the safe?  
13 Why didn't you just stop and ---

14 A He had a gun to the back of my head.

15 Q Okay. How do you know it was a gun?

16 A I didn't really feel it. He verbally said that  
17 something about don't do anything, I've got a gun to his  
18 head, or something like that. I don't really remember  
19 exactly what he said.

20 Q Okay. And in the office where the safe is, did you  
21 observe how much money was given over?

22 A No.

23 Q Okay. Did you go back and do a count after the  
24 fact?

25 A I don't remember how we came to the conclusion. I

1 remember giving my statement as to how much money was  
2 missing. I don't remember if I went to the safe and  
3 counted it to know what the difference was because I had  
4 closed that evening, but I don't exactly remember how I  
5 came to the exact amount.

6 Q Okay. Well, in your statement did you give law  
7 enforcement the denominations of what was taken?

8 A Yes, I did.

9 Q Do you recall those denominations?

10 A I do not.

11 Q Okay.

12 A Two hundred fifty in ones, 300 in fives, 110 in  
13 quarters, 55 in dimes, \$20 in nickels and some  
14 miscellaneous money.

15 Q And why did you write miscellaneous money? What  
16 does that mean?

17 A We have a change fund that we keep in the safe that  
18 could be anywhere from 20s, 10s, 5s, 1s, and I believe  
19 that was handed over. So you know an exact knowledge of  
20 how many 1s, 5s, 10s were there, there would be no way of  
21 knowing the exact amount of each denomination.

22 Q And after that money was turned over in the office,  
23 where did y'all proceed next?

24 A I'm -- after what now?

25 Q After the money was taken from the office, where did

1 y'all go?

2 A He took us back out to the main area where we were  
3 actually eating in.

4 Q Okay. And did he make any comments to y'all at that  
5 time?

6 A I believe he asked for the girls' purses and then he  
7 told us never mind that we worked too hard for our money,  
8 and then he left.

9 Q Which direction did he exit the building?

10 A Out the back door.

11 Q Okay.

12 A The emergency exit.

13 Q Once he left out the back, do you know whether he  
14 went straight, right, left?

15 A I have no idea.

16 Q Do you recall whether or not seeing the white Taurus  
17 after?

18 A After, no.

19 Q Okay. Now, there has been mention of Krysti?

20 A Um-hm.

21 Q And did you tell law enforcement that she was there  
22 that evening?

23 A I did not.

24 Q Okay. Do you recall whether or not in your 911 call  
25 you stated there were four or five of you?

1 A I believe I told the operator there were actually  
2 five of us.

3 Q Okay. And why did you not let law enforcement know  
4 that she was there that evening?

5 A Because Krysti, you know, I'm not 100 percent sure  
6 on the situation, but I know that she was custody of the  
7 State, whatever her situation was, and she was a runaway,  
8 and so she did not want the police to recognize her and  
9 take her back to, you know, custody of the State. So we  
10 hid her, or she hid.

11 Q Do you know where she hid?

12 A I believe she was in the back in what we call the  
13 Chuck E room. It's the back closet where the walk-around  
14 character is that the people go to get dressed up as  
15 Chuck E.

16 Q Okay. Now, after this incident occurred and you  
17 called 911, did you have an opportunity to get in a  
18 patrol vehicle and leave the Chuck E Cheese?

19 A Did I get in a police car?

20 Q Yes.

21 A No.

22 Q Okay. Were you ever shown anyone as a possible  
23 suspect for identification?

24 A I was not, no.

25 MR. MARCHANT: Okay. I have no further questions.

1 Please answer any questions Mr. Watkins may have.

2 CROSS-EXAMINATION

3 BY MR. WATKINS:

4 Q Okay. You testified that you did not assist in  
5 counting the money. You don't know what money was --  
6 that Marcus gave to the person that committed the  
7 robbery. So if he don't know what was taken, or you  
8 didn't count it, how did you know to put the exact amount  
9 that he puts on his statement?

10 A Well, I believe what I said was I don't remember if  
11 we went to the safe and counted to find out how much  
12 money was exactly missing. I don't remember how I came  
13 to the conclusion. I definitely wouldn't have just, you  
14 know, made up a bunch of numbers just to put.

15 Q You can't remember what night you counted -- you  
16 can't remember whether or not you counted money?

17 A It was seven years ago, I really don't -- you know,  
18 I don't remember how we come to the conclusion. I don't  
19 remember if I just knew, or if I went to the back and  
20 counted. I had to have gone back there and counted it in  
21 order to tell the police. I mean, there really wouldn't  
22 have been any other way for us to know the exact amount  
23 that was missing.

24 Q So in other words, you went and counted the money  
25 before you gave your statement? Before the police came

1 and arrived you were already counting the money?

2 A Yeah, I can't really remember how we came to that  
3 conclusion.

4 Q So this is evidence that's supposed to have been  
5 tampered with, and you're back there counting the money?

6 A I didn't tamper with any evidence.

7 Q Then how did you come up with the amount to be able  
8 to give the police in your statement the amount of money  
9 that was missing?

10 A I don't really remember.

11 Q By reference to Krystyna Pireda -- Krystyna Reilly?

12 A Um-hm.

13 Q You said that she -- in other words, she was a  
14 fugitive from the law?

15 A I don't know that she would have worded it that way.  
16 I don't really know to be honest with you. I mean, I  
17 don't know. I'm not familiar with the law in the  
18 situation that she was in.

19 Q So if she was to be able to give evidence, she would  
20 actually be concealing evidence, hiding evidence so she  
21 wouldn't be able to come forth? If the police was there  
22 doing an investigation and the crime is committed,  
23 wouldn't it be important for everybody to be there?

24 MR. MARCHANT: Your Honor, I'm just going to object  
25 to the form of the question. I'd ask that the witness

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1 have an opportunity to answer the first question before  
2 he moves to the next.

3 THE COURT: All right. Ask him one question and let  
4 him answer it.

5 BY MR. WATKINS:

6 Q All right.

7 A Okay. Could you repeat the question? I'm sorry, I  
8 don't ---

9 Q Okay. Do you think it was important that she give a  
10 statement with officers as well as y'all give statements?

11 A Yes, I think that she probably should have.

12 Considering her circumstances, you know, I guess it's  
13 just a ---

14 Q Did the officers ever ask was there any more  
15 witnesses here?

16 A No, I don't believe so.

17 Q All right. In reference to you saying the person  
18 came with a gun. Did you ever see the cocking mechanism  
19 of the gun?

20 A I'm sorry, the what?

21 Q The cocking mechanism, like, you know, you cock --  
22 like a western gun, they cock it back like this.

23 A No, I didn't see that, no.

24 Q Did you see the handle?

25 A I don't recall seeing it, no.

1 Q Did you ever see the side of the gun?

2 A He was holding it kind of like this and it fit  
3 perfectly in the palm of his hand, so ---

4 Q So you never ---

5 A The only thing I saw was the barrel and then felt it  
6 up against my head.

7 Q Okay. So was it -- could it have been a pipe?

8 A Well, I guess. Anything is possible. I mean, it  
9 sure didn't look like a pipe, but ---

10 Q If you just seen the barrel, how many holes did it  
11 have in it?

12 A Just one.

13 Q One hole. Okay. In reference to the description  
14 you gave you're saying his face was covered. Could it  
15 have been a scarf across his face?

16 A It looked like something maybe that fit quite  
17 perfectly around the head, which is the reason why I said  
18 a ski mask. A scarf would have just maybe tangled, or  
19 just kind of tied -- you know, tied in there. So that's  
20 the reason why I felt like I was able to remember the  
21 difference.

22 Q Did you see the ski mask up in this part or was it a  
23 hat, or ---

24 A I believe the hoodie was up over the head, I  
25 believe.

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1 Q Okay. You said it had a pouch on it, front of it?

2 A No, I don't remember a pouch.

3 Q Okay. Did you -- after the person committed the  
4 crime, did you ever tell the police you seen him get into  
5 a white Ford Taurus?

6 A Did I -- no, I didn't follow him out of the  
7 building.

*Didn't see  
suspect  
get into  
white Taurus*

8 Q So in reference to you saying you draw suspicion of  
9 the white Ford Taurus, when you seen the Ford Taurus, had  
10 a crime already been committed?

11 A What? No, I saw the Taurus beforehand. And then  
12 the 911 operator asked if we had seen any suspicious  
13 vehicles in the area lately, that's when I told her that  
14 we had seen a white Ford Taurus.

*see  
Greenville Police incident  
dispatch Detail  
Report*

15 Q So this Taurus, did you get a look at the license  
16 plate?

*Exhibit  
#3*

17 A No, I did not. I don't remember.

18 Q Do you know if it was a two door or one door? I  
19 mean, two door or four door, excuse me?

20 A Four door, I believe it was.

21 Q Okay. Do you know if the windows were tinted or not  
22 tinted?

23 A I don't remember.

24 Q Did you get a look at the person that was inside the  
25 white Ford Taurus?

*58*

1 A I did not. You're talking about on the previous  
2 occasion, right?

3 Q Previous occasion?

4 A Yeah. No, I did not.

5 Q So you say you was never taken to the scene with  
6 another witness to identify -- to try to identify the  
7 suspect that they had in custody by a white Ford Taurus?

8 A I don't remember going out. I mean, I remember the  
9 police putting someone in a car and taking I think  
10 Jeannie out to look. I don't remember who it was. But I  
11 don't believe I went out there.

12 Q Okay. On the night -- let me see. Okay. Can  
13 you -- can you tell the jury today if you can say I was  
14 actually the one that committed that crime that night?  
15 Can you -- beyond a reasonable doubt can you tell the  
16 jury that I was the one that actually committed that  
17 crime?

18 A No.

19 Q Okay. Do I fit the height and the weight of the  
20 person that came in?

21 A Well, I don't really remember how much the person  
22 weighed seven years ago, but the height, build -- I mean,  
23 I just remember the person was taller than me.

24 Q Okay. Do you remember -- you got to see his eyes or  
25 anything, do you remember the color of his eyes?

1 A I don't really remember.

2 Q When you went down to the -- did you ever go down to  
3 the police department?

4 A Yes.

5 Q Did they ever show you a gun, or a mask, pictures of  
6 a gun, or a mask, or a chart or anything?

7 A They showed us pictures of different guns.

8 Q Did they show you a picture of small guns?

9 A Yes.

10 Q Did they show you pictures of any masks, or anything  
11 feasible that looked like a mask or anything?

12 A I don't remember seeing pictures of masks.

13 Q Did they show -- did they ever show you a jacket, a  
14 big blue jacket with white strips down the sleeves?

15 A I don't remember seeing one.

16 Q So at no point did you ever see the clothing, or  
17 tell the police that clothing -- that you seen clothing  
18 matching the description of the robber?

19 A I'm sorry. You're asking me do I remember what was  
20 on the person that ---

21 Q In other words, were any evidence, anything shown to  
22 you that the police could say, hey, this ---

23 A I don't recall being shown anything, no.

24 Q Okay. You never told the officers that the same  
25 Taurus that you seen driving around the business prior to

1 that when -- you say you never went the scene to see the  
2 Taurus that the person was stopped in?

3 A That's correct, I did not.

4 Q So you never would be the one to say that's the same  
5 car?

6 A No, I didn't go.

7 MR. WATKINS: Okay. All right. Thank you. No  
8 further questions.

9 THE WITNESS: Thank you.

10 MR. MARCHANT: Just one question.

11 REDIRECT-EXAMINATION

12 BY MR. MARCHANT:

13 Q When you were giving your statement, your written  
14 statement to the police that evening, were you seated at  
15 a table with everybody else or were y'all separated?

16 A No, they separated us.

17 MR. MARCHANT: Okay. Thank you. Ask that this  
18 witness be excused, Your Honor?

19 THE COURT: Any objection to him being excused, Mr.  
20 Watkins?

21 MR. WATKINS: No, sir.

22 THE COURT: Okay. You can stay or you can leave,  
23 Mr. Skelton, either way. Okay. We'll take a short  
24 recess at this time. Just relax. Do not discuss the  
25 case. And we'll resume in about 15 or 20 minutes. I'm

1 going to let y'all go ahead and order your lunch, okay,  
2 while you're out.

3 (The jury exited the courtroom at 11:08 p.m.)

4 THE COURT: Okay. We'll be in recess for 20  
5 minutes.

6 (A short recess was taken, after which, the trial  
7 continued as follows:)

8 THE COURT: Okay. You can bring the jury in.

9 (The jury entered the courtroom at 11:30 a.m.)

10 THE COURT: All right. Mr. Marchant.

11 MR. MARCHANT: May it please the Court? The State  
12 calls Krystyna Reilly.

13 THE CLERK: Ms. Reilly, if you'll please stop at the  
14 bench there. Please place your left hand on the Bible  
15 and raise your right hand.

16 KRYSTYNA REILLY

17 Having been first duly sworn, testified as follows:

18 THE CLERK: All right. Please be seated. Please  
19 state your full name for the record.

20 THE WITNESS: Krystyna Lee Reilly.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. MARCHANT:

24 Q Good morning, Ms. Reilly?

25 A Good morning.

1 Q Ms. Reilly, where are you living now? Don't give me  
2 your specific address, but are you in the area?

3 A Pickens County.

4 Q Now, back in 2001, were you living in Greenville or  
5 Pickens County?

6 A I believe Greenville County.

7 Q Okay. And when this incident happened in December  
8 of 2001, where were you living then?

9 A With my friend Caroline.

10 Q Okay. And prior to living with Caroline, where were  
11 you living?

12 A In a group home.

13 Q Okay. Where was that group home?

14 A Pendleton Street.

15 Q Is that here in Greenville?

16 A Greenville, Smith House.

17 Q Okay. Would you tell the jury why you were in a  
18 group home?

19 A When I was younger I was sexually abused by my  
20 step-father and I was removed from the home and my mom  
21 chose to be with my step-father and signed over rights on  
22 me and I was -- went to the State.

23 Q Okay. And how long had you stayed at this group  
24 home?

25 A I had been in several group homes.

1 heard them.

2 Q Okay.

3 A I mean, we just got robbed.

4 Q Did the person that committed the robbery have on a  
5 blue striped jacket?

6 A I can't remember.

7 Q Did -- you said you see that he had a mask on. Do  
8 you know if the mask had a hole in the mouth and the eyes  
9 out?

10 A I believe -- I believe the eyes were out. I'm not  
11 positive about the mouth.

12 Q Okay. Could it have been a scarf?

13 A I'm pretty sure it was a mask.

14 Q Now, prior to you coming here to testify today, did  
15 anybody tell you -- basically tell what you needed to say  
16 on the stand?

17 A No, just tell the truth.

18 MR. WATKINS: Tell the truth, okay. No further  
19 questions.

20 MR. MARCHANT: I have no further questions, Your  
21 Honor, ask that she be excused.

22 THE COURT: All right. Thank you ma'am. You may  
23 come down. Any objection to her being excused, Mr.  
24 Watkins?

25 MR. WATKINS: No, sir.

1 THE COURT: Okay. You can stay or you may leave.  
2 Thank you.

3 THE WITNESS: Thank you.

4 MR. MARCHANT: State calls Jeannie Pireda.

5 THE CLERK: Ma'am, if you'll please place your left  
6 hand on the Bible and raise your right hand.

7 JEANNIE PIREDA

8 Having been first duly sworn, testified as follows:

9 THE CLERK: Thank you. Please be seated. Would you  
10 please state your full name for the record.

11 THE WITNESS: Jeannie M. Pireda.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. MARCHANT:

15 Q Good morning, Ms. Pireda. How are you?

16 A I'm good.

17 Q Where are you presently working?

18 A Chuck E Cheese.

19 Q Okay. And when did you begin your employment with  
20 Chuck E Cheese?

21 A January of 2001.

22 Q And where did your employment begin, which store?

23 A Greenville, South Carolina.

24 Q And are you presently in the Greenville store?

25 A No.

1 Q Okay. And what is your role with Chuck E Cheese at  
2 this time?

3 A I'm a manager.

4 Q Okay. Were you working the night of December 19th  
5 of 2001?

6 A Yes.

7 Q And at that time what was your role with Chuck E.  
8 Cheese?

9 A I was a birthday coordinator.

10 Q Okay. Tell me what a birthday coordinator does?

11 A Okay. There is four areas of the restaurant,  
12 kitchen, cash, game room and show room. The birthday  
13 coordinator oversees all the show room people and makes  
14 sure birthday parties go smoothly, calls and confirms  
15 birthday parties, all of that.

16 Q Okay. Did you have other duties about collecting  
17 tickets, tokens, money, or anything of that nature?

18 A I did game pool. We used to do it on Sunday nights  
19 and it would be after close. It would normally start  
20 around 11:00. It could take until 2:00, 3:00, 3:30, it  
21 just depends on how many people you have.

22 Q Okay. Now, if this happened during I believe a  
23 Tuesday or Wednesday, would you have been doing game pool  
24 that Sunday?

25 A That Sunday, yes.

1 Q Okay. Was there anything that was unusual, or  
2 brought your attention to outside the building that  
3 Sunday night you were working?

4 A Yes. The -- that Sunday we were doing game pool,  
5 and there was a white Ford Taurus that pulled into the  
6 parking lot, and it was creeping slowly. And I was young  
7 at the time and so of course I get scared when cars are  
8 coming into the parking lot after hours. And then -- so  
9 it slowly crept around the side of the building. And  
10 when you walked down our hall, how it used to be, there  
11 used to be a side room with like maybe five or six games,  
12 and there was a large window there. So I walked over  
13 there to the side room and I saw the white Ford Taurus.  
14 It was stopped beside our -- one of the exit doors from  
15 the kitchen.

16 Q Okay. I would ask that you step down for a moment,  
17 please. And please show the jury on State's Number 2  
18 where you first -- or where you were when you were  
19 looking at this vehicle, which side of the building?

20 A Okay. When I first saw it I was right about in  
21 here, and there's large windows there and there. So ---

22 Q And so then once you saw it there, where did you go  
23 to view it again?

24 A Okay. Then once it pulled around to the side, your  
25 side room is about here, the windows are here, and your

1 back door is somewhere like right there. And so this was  
2 about where I was.

3 Q Okay. And this was on a Sunday?

4 A This was on Sunday, game pool.

*Crime Happen  
on Wed 12-19-01*

5 Q Okay. Once you saw it on that side of the building,  
6 did you see it again that night?

7 A The only time I saw it, after, you know, like a  
8 minute -- it was about two minutes it started driving  
9 again. And then I saw it leave the parking lot.

10 Q Okay. Now, do you recall what time of the evening  
11 this was? You can have a seat.

12 A Okay. I'm not sure.

13 Q Were you able to determine how many people were  
14 inside the vehicle?

15 A No.

16 Q Okay. So did you make any phone calls to your  
17 manager or anything about this?

18 A I'm pretty sure that a manager was doing game pool  
19 with me because I would not have access to an alarm code  
20 as a birthday coordinator. So -- and it was Jimmy that  
21 used to do game pool with me. So ---

22 Q Okay. Can you say with certainty you notified  
23 somebody that evening about this vehicle?

24 A I can say that I'm -- oh, that I notified -- I  
25 talked to the people that were there at game pool. They

1 saw it too, but I'm not sure who was there.

2 Q All right. Going to the evening that this incident  
3 happened. Were you working that night?

4 A I wasn't working like the shift while we were open,  
5 but I came in after close. I don't remember if I was  
6 working before then, but I know for a fact I came in  
7 after close to work.

8 Q And why did you come in to work?

9 A Because we were cleaning for the guy, a big guy  
10 coming the next day.

11 Q Did you have an opportunity to leave that evening  
12 prior to this incident happening?

13 A What do you mean?

14 Q Once you came in to clean, did you ever leave and  
15 come back?

16 A Oh, yes, yes.

17 Q Before the robber came?

18 A I did.

19 Q And where did you go?

20 A I went to Steak N Shake, and I went to BiLo.

21 Q Who went with you?

22 A Krysti, or Krystyna Reilly.

23 Q Okay. Now, as you were leaving, did you notice  
24 anything unusual in the parking lot?

25 A Yes. When I -- when we left, there was a white Ford

1 Taurus in the parking lot, and it was ---

2 Q Okay.

3 A --- almost -- okay. I'm sorry.

4 Q I'm sorry. Would you please step down and show the  
5 jury where you saw the Taurus as you were leaving?

6 A It was -- let's see. It was about right in this  
7 area. So on the side.

8 Q Could you tell the jury which way it was pointed,  
9 meaning which way was its headlights were directed?

10 A I would be facing the car, the windshield, the front  
11 of it. So when I walked out I -- well, the front of it  
12 was facing, like the license plate was in the back.

13 Q So were you able to see the tag?

14 A When they drove out I just -- I couldn't see it well  
15 enough. I mean, I might have caught a glimpse.

16 Q All right. Could you tell at that time how many  
17 people were in the victim?

18 A Yes, there were two people.

19 Q Could you tell whether they were male or female?

20 A Yes, there was one male and there was a female.

21 Q Could you tell whether they were white or black?

22 A I could not. I only saw shadows.

23 Q Okay. So your testimony is that they were male and  
24 female from their silhouette?

25 A Yes, exactly.

- 1 Q Could you see their faces?
- 2 A No.
- 3 Q So are you certain that it was one male and one  
4 female?
- 5 A I'm 100 percent certain.
- 6 Q Okay. How long did it take you to go out and get  
7 food?
- 8 A It took about 20 minutes.
- 9 Q And how many people were left inside the Chuck E  
10 Cheese when you went to get food?
- 11 A Three.
- 12 Q And who were those people?
- 13 A Matt McCoy, Jimmy and Marcus.
- 14 Q And when you got back, what did y'all do?
- 15 A Krysti and I gathered everyone to sit at a booth  
16 together so we could eat. And Marcus pulled up a chair.
- 17 Q What happened after y'all began eating?
- 18 A Just like a minute after we started eating, I was  
19 facing the front entrance of the restaurant, so I didn't  
20 see him walking in, but after he said where's the money,  
21 I turned and then -- I guess everybody was in shock. I  
22 don't know if we didn't believe it. And then he said it  
23 more firm. And I saw the gun. I saw him, you know.
- 24 Q Okay. Why is it you say it was a him?
- 25 A Because the voice was definitely deep. It sounded

1 like a man's voice. The build was a man's silhouette.

2 So ---

3 Q Okay. What about his build was ---

4 A You know, I honestly can't tell about the build. I  
5 mean, I know he was around five 10, five 11. I'm not  
6 sure. I could see his hands. I could see his eyes and  
7 the skin around his eyes. So ---

8 Q Okay. Do you recall what type of clothing he was  
9 wearing that evening?

10 A Yes. He was wearing a dark, dark blue jacket. And  
11 he had the hood pulled over his head. Under the hood he  
12 had like a black, you know, the hat things, the -- and  
13 then he had something covering his -- this part of his  
14 face, the bottom part of his face, exposing his eyes of  
15 course. But it seemed like it was the same material now.  
16 I mean, the way it was pulled around I don't know if it  
17 was, you know, a mask or a scarf. I'm not sure. But it  
18 was the same material.

19 Q Okay. Did you give a statement to law enforcement  
20 that evening?

21 A Yes, I did.

22 Q And was everything fresh in your mind at that time?

23 A Yes.

24 Q Okay. Now, you don't recall -- am I correct you  
25 don't recall whether it was a scarf or a mask, is that

1 correct?

2 A Yes, I don't know.

3 Q Okay. Now, let you take a look at your statement  
4 and see if that refreshes your memory.

5 A Okay.

6 Q Do you know -- by reading that, does that refresh  
7 your memory of what you thought it was that evening?

8 A Yes.

9 Q And what did you write down in your statement that  
10 evening?

11 A That it was a black cotton hat, and then he had a  
12 black cotton type material, scarf, wrapped around that  
13 part.

14 Q Okay.

15 A Over part of his face. His mouth and nose.

16 Q Did you ever make mention that it was a ski mask?

17 A No.

18 Q Okay. Do you recall what the pants or boots looked  
19 like?

20 A The pants were dark black. They were wide. The  
21 boots I did not see very well. They were definitely  
22 boots. They were dark.

23 Q From everything you saw that night, could you tell  
24 whether the male was white or black?

25 A I could tell he was a black male.

1 Q And how could you tell it was a black male?

2 A Because you could see the skin around the eyes and  
3 you could see his hands.

4 Q Now, what did he instruct y'all to do?

5 A After, you know, he had -- he asks us for the money,  
6 and Marcus, you know, pointed and said it's in the safe.  
7 And he had us get up and then we went in a line. Marcus  
8 was in front. I was behind Marcus. I'm not sure of the  
9 order after that. And he had us go in through the  
10 kitchen to where the office was. And the kitchen he, I  
11 guess, got nervous, because there's a very large pizza  
12 knife that was right there, and he told us to put our  
13 hands up, don't touch anything.

14 Q Do you recall who opened the door to get into the  
15 kitchen?

16 A He actually opened the door.

17 Q Okay.

18 A But he didn't put his fingers on it. He only  
19 touched it with his knuckles.

20 Q Going into the kitchen, how does the door operate?  
21 Does it swing in or pull out?

22 A I don't remember, honestly.

23 Q Okay. Were you able to see what was going on with  
24 Marcus handing the robber the money?

25 A I was behind the robber, and all I could see was him

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1 putting the money in the pouch type thing. I mean, he  
2 didn't have a bag. It was part of his jacket. So ---

3 Q Are you sure he was getting money?

4 A Yes, 100 percent.

5 Q Did you see it?

6 A Yes, I saw the money. I saw him taking it.

7 Q Do you have any idea of how much money was taken?

8 A Absolutely not.

9 Q Where did you go -- or where were you instructed to  
10 go once the transaction happened in the office?

11 A To go out of the office and go out of the kitchen  
12 back into the main hallway.

13 Q And what happened when you got back to the main  
14 hallway?

15 A Our purses were up on a ledge and he asked how much  
16 money was in our purse. And then he said, no, forget it,  
17 y'all work too hard for it. And then he took off towards  
18 the back emergency exit.

19 Q Did you physically see him leave the building?

20 A I didn't see him leave the building. I saw him  
21 going in that direction.

22 Q Is there any way to exit that building besides this  
23 emergency door you're speaking of?

24 A Not in the back, no.

25 Q What if anything did he say on his way out?

*rebbot taking money out of safe*

1 A He said we were stupid for leaving the back door  
2 open.

3 Q Now, when did you first see the gun that he had?

4 A When he first asked where's the money, I saw it in  
5 his hand.

6 Q Do you recall what it looked like?

7 A Yes. It was extremely small, fit in the palm of his  
8 hand. You could see the barrel. It was a very small  
9 gun. You could see the barrel. You could see the color  
10 of it. It was faded grayish, silverish, antique looking.

11 Q Could you tell whether or not it was an automatic or  
12 a revolver? Do you know the difference?

13 A I wouldn't say I know the difference. The only  
14 thing I know from an automatic is I thought you put the  
15 thing into it, you know.

16 Q Was -- was it that big?

17 A Oh, it definitely was not that big.

18 Q Once the person left, did you call law enforcement?

19 A No. *Didn't call all*

20 Q Well, at some point in time did law enforcement  
21 arrive?

22 A Yes.

23 Q Okay. Did you speak with the officer that arrived  
24 that evening?

25 A The only thing I remember him telling us right away

1 was to fill out, you know, exactly what happened while it  
2 was fresh in our mind.

3 Q And where were you positioned when you were filling  
4 out this information?

5 A We were all put at separate tables. I'm not sure  
6 which table I was at.

7 Q Did you know Ms. Reilly prior to this incident?

8 A Prior to the incident, yes, because we worked  
9 together.

10 Q Did you have any other interactions with her?

11 A We were friends and I guess we hung out a few times.

12 Q Did you know her situation?

13 A I just knew she came from a bad background and her  
14 situation was bad.

15 Q Did you tell her to hide?

16 A No, I don't remember saying that.

17 Q Do you remember how it came to be that she got into  
18 the back room, the Chuck E room?

19 A I'm not sure. I know where she was like in the back  
20 room, but I don't remember how it came to be, like if  
21 somebody told her to go back there, I don't know.

22 Q Did you know at that time that she had run away from  
23 the group home?

24 A Yes.

25 Q Now, once the officer arrived, did you have an

1 occasion to get in a patrol car and leave the Chuck E  
2 Cheese?

3 A Yes.

4 Q Okay. Where did you go?

5 A We were -- I was taken to the entrance of, I believe  
6 they're called , I don't know, to the  
7 apartments behind Chuck E Cheese, and right to the  
8 entrance where the white Ford Taurus was. And they  
9 shined a light on the guy and they asked if that was him.  
10 And I could not 100 percent identify him. I was -- I was  
11 like I think it's him but just going off of eyes and  
12 eyebrows, you can't identify someone, and you know.

13 Q Okay. Was the person that you were shown that  
14 evening, were they clothed the same as the person that  
15 had robbed the store?

16 A I don't remember.

17 Q Were they the same height?

18 A Same build, same height. That's why I said I think  
19 so, so ---

20 Q You cannot say with 100 percent certainty?

21 A No.

22 Q Okay. Now, let's talk about the parking lot of the  
23 Chuck E Cheese. How many entrances and exits are there  
24 into that parking lot?

25 A There's two.

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1 Q Okay. Would you step down and point out those two,  
2 please?

3 A You can enter right there and right there as well,  
4 so ---

5 Q Now, it appears that there are two other buildings  
6 above it. Is there a way to get from the Chuck E Cheese  
7 parking lot to those buildings in a vehicle?

8 A No, you would have to drive over that big piece of  
9 cement curb thing.

10 Q Behind the Chuck E Cheese is the apartment complex?

11 A Yes.

12 Q Is there a way to get a vehicle from the back  
13 parking lot into that apartment complex?

14 A Not a vehicle, no.

15 Q Okay. Is there a way to get something else from the  
16 back parking lot?

17 A If you're traveling by foot you can easily go back  
18 here. I used to live in these apartments. So I used to  
19 cut through all the time.

20 Q Was there -- was there a fence?

21 A I can't remember.

22 Q Were you living in these apartments when this  
23 incident happened?

24 A No.

25 Q Were you ever taken down to the law enforcement

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1 center and shown a diagram of guns?

2 A No, I don't -- no.

3 Q Do you recall what time you and Krystyna got back to  
4 the Chuck E Cheese?

5 A Ten minutes before 1:00.

6 Q Why is it that you recall that?

7 A Because I have a clock in the -- in my car, in the  
8 middle, and it was getting late. I was wondering how  
9 long we were going to be there cleaning and so I looked  
10 at the time.

11 Q From the time you got back to the time this incident  
12 took place, how long was that?

13 A A couple minutes, about 10 minutes, five minutes,  
14 I'm not sure.

15 Q When you returned with the food, do you recall  
16 seeing the white Taurus at that time?

17 A No.

18 Q I'm going to show you State's Number (21.) It's not.  
19 in evidence, but I'm going to ask you if you recognize  
20 what is strapped in this box?

*Gun & Mask*

21 A Yes, definitely.

22 Q Okay. When you say definitely, how is it that you  
23 recognize that item?

24 A I remember the gun like exactly. That's the thing I  
25 remember the most.

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1 Q Okay. Are you saying that that's the same one?

2 A Yes, and that hat is the same exact material, it's a  
3 cheap cotton hat, or whatever.

4 MR. MARCHANT: I have no further questions. Please  
5 answer any questions Mr. Watkins may have.

6 CROSS-EXAMINATION

7 BY MR. WATKINS:

8 Q The night you seen the white Ford Taurus in the  
9 parking lot, how many people did you see in the car?

10 A Which night? On the Sunday?

11 Q Yeah.

12 A The previous night?

13 Q The night you said the car was parked right in front  
14 of here, facing this way and you came out?

15 A On the night of the robbery there were two people in  
16 the car.

17 Q Two people in the car. Can I have -- this is her  
18 statement. Can she read her own statement? I want you  
19 to read your own statement.

20 A Okay.

21 Q And read right here where you put ---

22 A Which one? Right here?

23 Q Yeah, all the way to the parked car.

24 A The car was a white Taurus. He always stayed  
25 towards the left side of the parking lot. Every time I

|||

1 saw in the car, I guess I was writing too fast, it was  
2 only one person.

3 MR. MARCHANT: Your Honor, I would ask that she stop  
4 at that time. There is other information in that  
5 statement that I don't believe is admissible. If we need  
6 to take the jury out to talk about that I suggest we can  
7 do that. I don't know how far he's going.

8 THE COURT: Let me see that. I'll let y'all step  
9 out just for a minute. Let me go over this with the  
10 lawyers. Let me see what they have to say about it.

11 (The jury exited the courtroom at 12:09 p.m.)

12 THE COURT: I don't know. What is it, Mr. Marchant?

13 MR. MARCHANT: Your Honor, I'm not sure where he's  
14 going. I'm just concerned about the -- midway down where  
15 it says, I could probably say he's robbed maybe a couple  
16 gas stations but didn't have too much experience. Now,  
17 it would certainly help me if she put that information  
18 out there, but I think for the circumstances of this case  
19 I didn't want her getting into that.

20 MR. WATKINS: I think that's relevant to the jury  
21 hearing this, what she stated in her statement, because  
22 her whole statement based upon the police establishing  
23 probable cause to issue arrest warrants and things like  
24 that. It's part of their investigation. And it's part  
of the reason that I'm here today.

1 THE COURT: Well ---

2 MR. WATKINS: It -- it goes to the credibility of  
3 the witness' testimony.

4 THE COURT: Well, if he wants to ask her about it, I  
5 guess y'all are entitled to go into it, Mr. Marchant.

6 MR. MARCHANT: Very good. Thank you, Your Honor.

7 MR. WATKINS: Thank you, Your Honor.

8 THE COURT: Okay.

9 MR. MARCHANT: Your Honor, I would ask that the  
10 exhibit be marked since he's ---

11 THE COURT: So you're -- you're really not objecting  
12 to it?

13 MR. MARCHANT: No, sir, I just asked that it be  
14 marked so it will be clear in the record, and if he's  
15 going to cross her on it I'd ask that it be submitted  
16 into evidence.

17 THE COURT: Okay. Statements should be either used  
18 for impeachment purposes or if they're going to be  
19 introduced into evidence they need to be put in evidence.  
20 And the fact that she's testified from it means it is in  
21 evidence. So it needs to be marked, Mr. Watkins. Okay.

22 MR. WATKINS: I need it to cross-examine. Can I  
23 hand it over?

24 THE COURT: Give it to her and let her mark it and  
25 then you can have it back. I'm not sure at this time if

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1 you're asking her questions to contradict something she's  
2 already testified to, or what your purpose is for -- in  
3 publishing from this statement, but ---

4 MR. WATKINS: Okay. It was -- that part was  
5 impeaching, because she said two witnesses in the car,  
6 but her statement was totally different from that. She  
7 said every time she seen the car it was one person in the  
8 car.

9 THE COURT: For impeachment purposes I'll just -- I  
10 wouldn't let it come into evidence then, I'd just let  
11 that statement to show that she said at that time it was  
12 one person. So are you going to go into the statement  
13 any more?

14 MR. WATKINS: Yes, sir, I'm going to use the  
15 statement.

16 THE COURT: Well, then it may have to be admissible.  
17 I don't know.

18 MR. WATKINS: I'm not going to use it. I'm just  
19 going to let her testify to what is in the statement.

20 THE COURT: You want her to read from the statement?  
21 Do you want to put the statement in evidence?

22 MR. WATKINS: No, I'll just ask her questions from  
23 it.

24 THE COURT: You can talk to Mr. Henry about that.  
25 That's a procedural question.

1 (Mr. Watkins talked to Mr. Henry.)

2 THE COURT: Ready?

3 MR. WATKINS: Okay.

4 THE COURT: Just mark it for identification.)

5 (Defendant's Exhibit Number 1 was marked for  
6 identification.)

7 (The jury entered the courtroom at 12:17 p.m.)

8 BY MR. WATKINS:

9 Q On the night -- on the night of the robbery, you  
10 said you seen the suspect have a gun. Did you see the  
11 side of the gun?

12 A I saw part of the side. I saw the barrel, but it's  
13 a very small gun that I saw, so ---

14 Q Did you see -- what did you see at the end of the  
15 barrel?

16 A What do you mean? I don't understand.

17 Q How many holes?

18 A One hole.

*Positive Gun had One  
Hole in Barrel*

19 Q One hole. Positive that it had one hole?

20 A Yes, absolutely positive.

21 Q So if the state -- if you was to see a gun that had  
22 two holes, that wouldn't be the gun that you saw that  
23 night, if it had two holes in the barrel?

24 A Yeah, definitely not.

25 Q Okay. Okay. When you said the robber -- you were

1 going behind the robber, who else -- the robber was in  
2 front going through the door and everybody was behind  
3 him?

4 A I'm not sure. It's been a long time. I don't  
5 remember. I just remember him specifically holding the  
6 door and I remember Marcus in front of me when we went  
7 in. And I was behind Marcus. I don't know who was  
8 behind me, but I know the robber held the door.

9 Q So the robber was holding the door and let y'all  
10 go -- y'all go in, he was first?

11 A He wasn't first going into the kitchen. We all  
12 walked into the kitchen first. He was holding the door,  
13 so ---

14 Q So if he was holding the door then his prints should  
15 be on the door, right?

16 A No, because he touched it with his knuckles. He  
17 didn't -- he never put his fingers on the door.

18 Q Okay. Did you see what Marcus was handing the  
19 robber?

20 A I saw the money. I saw the guy having the money in  
21 his hand and stuffing it into the pouch.

22 Q Do you know whether or not Marcus handed the money  
23 or he got the money himself?

24 A I mean, just from the movements and stuff, I mean,  
25 the way Marcus was positioned, I couldn't really see

1 Marcus because the robber was in front of me, but, you  
2 know, I saw his arms moving, like he was. But I can't  
3 say I saw Marcus with the money.

4 Q Okay. Did you ever tell the police that the  
5 description of the robber had a dark blue, like puffy  
6 coat with blue stripes going down the sleeves?

7 A I said it was a dark, dark blue jacket.

8 Q Did it have white on -- stripes going down the  
9 sleeves?

10 A I don't remember.

11 Q You don't remember. Let me let you see your  
12 statement again.

13 A All I wrote was that he had on a dark, dark blue  
14 heavy jacket.

15 Q Nothing about white stripes?

16 A No, sir.

17 Q Did you ever tell the police officers that you seen  
18 the person that committed the robbery getting into a  
19 white Ford Taurus?

20 A No.

21 Q Could you in any way connect the white Ford Taurus  
22 you seen to the robbery?

23 A I mean, because I personally didn't see the person  
24 step into the vehicle, I mean, I -- I don't know. I  
25 can't, you know.

1 Q The night that you were taken to the scene that  
2 you identified, which was me that was out there, did you  
3 get -- was anybody with you in the car?

4 A I can't remember.

5 Q You don't remember. Do you remember exactly what  
6 you told the police officer that night when they asked  
7 you to identify me?

8 A I said I think it's him, but I said I wasn't 100  
9 percent certain.

10 Q What do you mean, 100 percent sure? Do mean you're  
11 sure it's him or it's not him?

12 A I mean, you know, they were asking you to identify  
13 (sic). I was going based off eyes, eye brows, the build.  
14 That's all I was going off. But of course I can't 100  
15 percent say.

16 Q So does my eyebrows -- eyes look like ---

17 A It's been seven years, I would have no clue.

18 Q How far away were you from me to say the eyebrows  
19 and the eyes from the distance of the police car to me?

20 A I'm not sure, but you know, eyebrows on a person is  
21 a big difference on each person, you know, so ---

22 Q So if the person have on a hat and hood, wouldn't  
23 that kind of shadow his face?

24 A It went down like right to his eyebrows, so -- but  
25 it didn't cover them.

1 Q Okay. How many -- you say you were about 10, 15, 20  
2 feet away from him, the individual?

3 A I don't remember.

4 Q Okay. So you never seen where the person went, so  
5 you never told the police officers that the suspect fled  
6 toward : or never ---

7 A No, I didn't say anything.

8 Q Did you ever -- the car that you seen leaving, at  
9 any time did you notice if it had a tag on the car, was  
10 it a paper tag or a regular tag?

11 A I'm not sure now. I don't know if I told them at  
12 the time like what kind of tag it was, because I did see  
13 the back of the car for only a brief second, but I can't  
14 remember honestly.

15 Q Do you know if was a two door or a four door?

16 A It's a Taurus, a four door, Taurus, white.

17 Q How do you know exactly it was a Taurus?

18 A Because my mom used to have a Taurus, but it was  
19 green.

20 Q Okay. Do you know what year this Taurus was?

21 A No.

22 Q Okay. Do you know if it's a newer model or older  
23 model?

24 A I -- I don't know, because I don't how many models  
25 they've come out with. I -- you know, I don't ---

1 Q That's good. Do you know whether or not the car  
2 that you seen that -- did you tell the officer the car  
3 you seen driving in the parking lot leaving that night  
4 was the same car you seen that I was next to that night?

5 A If ---

6 Q Did you tell the police, yeah, that's the same car?

7 A It was a white Ford Taurus.

8 Q No, I'm saying, did you positively identify and say,  
9 yeah, that's the car I seen earlier and on prior  
10 occasions to the same car I seen that night that you seen  
11 me standing next to?

12 A I don't remember.

13 Q Did you ever discuss about the guns with anybody to  
14 give you any knowledge of guns or anything?

15 A My brother has had gun magazines, that's why like  
16 when I described the gun I said was it was a one bullet  
17 shooter, because I've seen small guns like that. And in  
18 movies, you know, the girls used to have them in their  
19 purse in the old movies.

20 Q So -- but I understand you didn't see the handle and  
21 you didn't see -- how much of the side, did you see the  
22 barrel on the side or ---

23 A Yeah, you saw the barrel on the side. I didn't see  
24 the part where it cocked.

25 Q I mean, the cartridge, the cartridge?

1 A I don't remember, honestly.

2 Q So how was the individual holding the gun?

3 A What?

4 Q How was the individual holding the gun when he  
5 approached y'all?

6 A I don't remember, honestly. You know, I just know  
7 it was pointed at us so ---

8 Q I mean, you said seen the gun in the person's hand,  
9 you said you seen the side, you said you seen the barrel,  
10 so it's -- if you seen it, you know what position the gun  
11 was in and how you was holding the gun?

12 A But you have to understand, you know, we did go  
13 into the kitchen. He did change positions, you know, the  
14 way he turned his hand could have been different, you  
15 know.

16 Q Did you see the gun the whole time, during ---

17 A I saw it going into the kitchen. I saw it in the  
18 office. I don't remember when we came back out. But I  
19 saw it the whole time going into the office.

20 Q Do you ever remember him putting it to the -- any of  
21 the suspect's hair in the place?

22 A Honestly, I do not remember that at all. Like I  
23 don't think he did, honestly.

24 Q Okay. Did the person that committed the robbery,  
25 did he have on black sweat pants, white tennis shoes, a

1 yellow shirt, and a yellow jacket, and a yellow hat?

2 A No.

3 Q The person you seen that night, which was me, was I  
4 not wearing white tennis shoes, black pants, the yellow  
5 jacket and the yellow shirt?

6 A I can't remember. I know the clothes were  
7 different. I do remember that much.

8 Q And would you say how long it was after the robbery  
9 that you went to the scene to view this person?

10 A I'm not sure.

11 Q Would you say five minutes, 10 minutes, three  
12 minutes, two minutes?

13 A I don't remember. I'm sorry, it's been so many  
14 years.

15 Q All right. The person that you referred -- you're  
16 saying the person obviously has been in here before and  
17 you recognized me in your statement, who are you  
18 referring to?

19 A I know I'm not allowed to just assume stuff, but the  
20 person was obviously -- you know, they knew the  
21 surroundings, you know, they knew exactly where to go, I  
22 mean except for the -- with the exception of the office  
23 and the kitchen because that's the back of the house, but  
24 you know, like the person knew what they were doing.

25 Q Okay. So when you say that you remember someone

1 that meets that standard, so therefore you had a picture,  
2 is that standard me?

3 A I don't remember. I, you know, don't remember.

4 Q Okay. In your statement you said he robbed a couple  
5 of -- robbed a couple of gas stations. What do you mean  
6 by that?

7 A The reason I say that is because when we were in the  
8 office he was very calm, he knew exactly what happens in  
9 the event of a robbery. He said you -- he said call the  
10 police, file your reports, it's not your money, don't  
11 worry about it, you know, so ---

12 Q How do you know what a person do when he robs a gas  
13 station?

14 A I don't. I'm just saying like I shouldn't have  
15 assumed. I was young, but you know, how's somebody  
16 that's robbing for the first time going to know exactly  
17 what you do, that you call the police. I mean, I had no  
18 idea what goes on. So I don't know. I was wrong for  
19 saying that definitely.

20 Q At any time when you were at the police  
21 department, the exhibit that's been shown to you by the  
22 prosecutor, have you seen that exhibit down at the  
23 police station?

24 A I can't remember. I just know we were there for  
25 hours, but I don't know what happened there.

1 Q Can you be for like you say 100 percent sure that  
2 that is the -- what you saw in the exhibit what the  
3 person was wearing?

4 A The black hat?

5 Q Yeah, can you be for sure?

6 A Yeah, definitely. That was the exact one I was  
7 talking about. I mean, you know, they're cheap, they --  
8 everybody -- you can buy them anywhere.

9 Q Okay. Do you remember giving the statement that you  
10 didn't know that masks were made that way, you always  
11 thought masks was two holes and a mouth and until you  
12 seen that mask that's when you drew the conclusion, yeah,  
13 that might have been what it was?

14 A Yeah, the only type of mask I've ever seen was where  
15 it was cut out in the eyes and the mouth, but like I said  
16 when I did describe it it was made out of the same  
17 material. So I mean, I didn't know that they had  
18 different types of masks. I had no idea.

19 Q Okay. Do you remember giving a prior testimony that  
20 he had on a hat, a hat with pull over with a scarf, do  
21 you remember?

22 A Yeah, I did describe it as that, because like I  
23 said, I didn't know if there's different types of masks.  
24 I don't -- yeah, that's how I had to describe it.

25 Q So if I was to present two or three masks like that,

1 you would say that looks the exact one? If I presented  
2 two or three masks like to one you seen, you would say  
3 that looked like it? What I'm saying, you can't say 100  
4 percent sure that that is actually the mask that a person  
5 was wearing but it looks like it?

6 A I can say it's 100 percent made out of the same  
7 exact material.

8 Q How do you know this?

9 A How do I know? Because I definitely remember that.  
10 I remember the exact material, like you can tell, you  
11 know.

12 Q Do you know the material of the clothing that the  
13 person had on?

14 A No, I was paying attention to the hat because like  
15 those are cheap hats, you can get them at Wal-Mart.  
16 They're like -- you know.

17 MR. WATKINS: I want to show her ---

18 MR. MARCHANT: Your Honor, it's not a document we  
19 have in evidence. I'm not sure where he's going with  
20 this. She's given her description on several occasions,  
21 so I'm not sure. I'm not saying I object but I'm not  
22 really sure what the relevance is.

23 MR. MARCHANT: The sketch would be like the hood,  
24 and hat, and stuff.

25 THE COURT: If she drew it, you can ask her about

1 it. If she didn't draw it, you can't ask her about it.

2 BY MR. WATKINS:

3 Q Okay. Okay. And -- okay. You said he had a  
4 hood -- or it was a hat. What kind of hat was it?

5 A I -- the hat, not the jacket that I'm talking about  
6 where it's pulled over. I called it a hat because it was  
7 on his head. Like it was black and then he had a hood  
8 over that, so ---

9 Q So a mask, the hat and the hood?

10 A I don't know. Like, I just described what I saw.

11 Q All right. Let me show this and see what you say.

12 A Let's see. You're talking about where I said, when  
13 he approached the man had on a black winter hat, cheap  
14 cotton. I saw his eyes and eyebrows clearly. Under that  
15 he had like a cotton scarf wrapped around his mouth and  
16 nose. Do you want me to keep reading?

17 Q Where you say hat, just read where it says hat.

18 A Yeah, oh, okay. Sorry. He had on a dark, dark blue  
19 heavy jacket with -- with a hood over the other hat. So  
20 when I said the other hat I was talking about the black  
21 thing that he had his thing pulled over.

22 Q Okay. So you -- can you identify me as being the  
23 person that committed the robbery?

24 A No, I can't identify you.

25 MR. WATKINS: Thank you. No more questions.

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REDIRECT-EXAMINATION

BY MR. MARCHANT:

Q Ms. Pireda, the hat that we're talking about in that box, and your description of the hat in your statement, are you referring to like a baseball cap?

A No.

Q So when you're saying hat, what do you mean?

A Like those winter hats that, you know, they could pull all the way over your head, but you usually fold them up and they go over your ears and stuff.

Q Okay. So would it -- would the hat that you're describing and that you in wrote in your statement, did it have a bill on it?

A No.

MR. MARCHANT: Thank you. No further questions. Ask this witness be excused?

THE COURT: Thank you.

THE WITNESS: Okay.

MR. MARCHANT: The State would call Ambrose Skardon.

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

AMBROSE SKARDON

Having been first duly, testified as follows:

THE CLERK: Thank you. Please be seated. Please state your name for the record.

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1 guilty.

2 What is a reasonable doubt? A reasonable doubt is  
3 the kind of doubt that would cause a reasonable person to  
4 hesitate to act. Now, some of you may have served in  
5 civil court. And in the civil court you would be told  
6 that the burden of proof is by the greater weight of the  
7 evidence, or that a fact is more likely true than not  
8 true. In criminal cases the government's proof is more  
9 powerful than that. It's beyond a reasonable doubt.  
10 Proof beyond a reasonable doubt is proof that leaves you  
11 firmly convinced of the defendant's guilt.

12 Now, there are very few things in this world that we  
13 can know with absolute certainty and the -- in criminal  
14 cases the law does not require proof that overcomes every  
15 possible doubt. If based on your consideration of the  
16 evidence you are firmly convinced that the defendant is  
17 guilty of the crime charged, you must find him guilty. If  
18 on the other hand, you think there is a real possibility  
19 that he is not guilty, you must give him the benefit of  
20 the doubt and find him not guilty.

21 Now, ladies and gentlemen, in this case the  
22 defendant, Robert Max Watkins, is charged with armed  
23 robbery, which he has pled not guilty to. The  
24 allegations are that he, in Greenville County, on or  
25 about the 19th day of December of 2001, while armed with

1 a deadly weapon, either by action, or words, or both, and  
2 representing the use of that weapon, that he by force,  
3 threats, or intimidation took property that belonged to  
4 Chuck E Cheese in violation of the laws of this state,  
5 namely United States currency. They allege that was  
6 armed robbery. The State must prove each and every  
7 element that they've alleged beyond a reasonable doubt.

8 They have also charged that he was in possession of  
9 a weapon during the commission of a violent crime. And I  
10 will charge you that -- I'm not indicating anything that  
11 you should find, but I'll tell you that under our law  
12 armed robbery is a violent crime.

13 Now, in this case in order to prove this offense the  
14 State must prove beyond a reasonable doubt that the  
15 defendant took personal property from the person or  
16 presence of another person. Property is in the presence  
17 of a person if it is within that person's reach, his  
18 inspection, his or her observation or control, so that  
19 that person could, if not overcome with violence or  
20 prevented by fear, keep possession of that property.

21 The State must also prove beyond a reasonable doubt  
22 that the defendant carried the property away, intending  
23 to permanently deprive the owner of that property and  
24 keep the property for his own use.

25 Now, the taking and carrying away of the property

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1 must have been done with violence, by putting the owner  
2 of the property in fear of violence, and that must be  
3 proven beyond a reasonable doubt.

4 Finally, the State must prove beyond a reasonable  
5 doubt that the defendant was armed with a deadly weapon  
6 during the robbery. A deadly weapon is any article,  
7 instrument, or substance which is likely to cause death  
8 or great bodily harm. Whether an instrument has been  
9 used as a deadly weapon depends on the facts and  
10 circumstances of each case. And you have to be -- you  
11 are the sole finders of facts and circumstances. Under  
12 our law examples of deadly weapons are a pistol, shotgun,  
13 knife, and things of that nature.

14 Now, you have to determine, ladies and gentlemen, if  
15 the State has proven beyond a reasonable doubt all the  
16 elements of that offense.

17 And in this particular case the defendant has raised  
18 the defense of alibi. In order to establish an alibi it  
19 must be shown that the defendant was at another specified  
20 place at that time. The crime was -- that he was  
21 somewhere else or elsewhere when a crime was committed,  
22 and it was therefore impossible for the defendant to have  
23 been at the scene of the crime.

24 Now, there is no burden on the defendant to prove an  
25 alibi. The burden is on the State to prove beyond a

1 reasonable doubt that the defendant was actually present  
 2 at the scene, actually participated in it, and was not  
 3 somewhere else. Alibi means elsewhere. In other words,  
 4 the State has the burden of disproving the defendant's  
 5 alibi defense.

6 Now, ladies and gentlemen, you should consider, and  
 7 I have written out the verdict form, we the jury by  
 8 unanimous consent find as to armed robbery the defendant  
 9 either guilty or not guilty. If the State has proven  
 10 each and every element of the crime of armed robbery,  
 11 your verdict would be guilty. If the State has failed to  
 12 prove any element of the crime of armed robbery, your  
 13 verdict would be not guilty.

14 Now, you will then next consider the charge of  
 15 possession of a weapon during the commission of a violent  
 16 crime. I will charge you that the State must prove  
 17 beyond a reasonable doubt that the defendant was in  
 18 possession of a firearm, or visibly displayed what  
 19 appeared to be a firearm during the commission of a  
 20 violent crime. In order to find the defendant guilty of  
 21 possession of a weapon during the commission of a violent  
 22 crime, you must first find the defendant guilty of  
 23 committing a violent crime.

24 Now, ladies and gentlemen of the jury, I would ask  
 25 you to consider each verdict separately, and your verdict

1 as to each charge must be unanimous. All 12 of you have  
2 to agree.

3 I told you earlier, every person has an equal voice  
4 and equal input as to what the verdict should be, but  
5 someone must preside and that would be your  
6 responsibility, sir.

7 Now, when you go back to the jury room I'll go over  
8 my charge with the attorneys and Mr. Watkins. If you  
9 have anything else they want me to tell you about the  
10 law, or if I misstated something I'll bring you back out.  
11 If not I'll send word back with the bailiff that you can  
12 begin your deliberations. And I'll send all of the  
13 evidence that's been marked and introduced into evidence  
14 back for your consideration.

15 If y'all would step back to the jury room I'll go  
16 over my charges and send word when you can begin  
17 deliberations.

18 Ladies and gentlemen, if y'all have any questions  
19 about the law or anything of that nature, write it out,  
20 give it to the bailiff and she'll bring it back into the  
21 courtroom, or he will, whichever one is there, and  
22 present it to me and then I will respond to whatever  
23 inquiries that you may have. Okay. And everyone go  
24 back. If the two alternates would just wait outside for  
25 me. Okay.

1 (The jury exited the courtroom at 2:32 p.m.)

2 THE COURT: Okay. Any additions or ---

3 MR. MARCHANT: Nothing else from the State, Your  
4 Honor.

5 MR. WATKINS: Regarding your charge, Your Honor?

6 THE COURT: Yes, sir.

7 MR. WATKINS: No, Your Honor, I think that was the  
8 appropriate charge.

9 THE COURT: I'm sorry?

10 MR. WATKINS: I think that was the appropriate  
11 charge.

12 THE COURT: Okay. Thank you very much. All right.  
13 We'll be in recess until they reach a verdict.

14 MR. WATKINS: Your Honor, I don't have to file any  
15 motions now, renew any motions now do I?

16 THE COURT: Talk to Mr. Henry about that.

17 (Mr. Watkins talked to Mr. Henry.)

18 MR. WATKINS: Thank you, Your Honor.

19 THE COURT: Okay. I'll do a plea if you want. Mr.  
20 Marchant, I'm going to dismiss the alternates.

21 MR. MARCHANT: Yes, sir.

22 THE COURT: I don't know of any authority in South  
23 Carolina that if one of them were to drop out after  
24 deliberations if we could put the alternate back in, one  
25 of the alternates in. Some judges keep them. That's

1 not -- hasn't been my practice.

2 MR. MARCHANT: That's fine, Your Honor.

3 THE COURT: Okay. I'm going to let them go if they  
4 want to go. They may want to stay and hear the verdict.  
5 Okay. We'll be in recess until they reached a verdict.  
6 And then I'll take the guilty pleas. Let me speak to the  
7 alternates first.

8 (The jury began their deliberations at 2:35 p.m.)

9 THE COURT: Y'all have a seat. Okay. I have a  
10 handwritten communication from the jury which I'm  
11 required to publish in open court, dated 9/24/08. Is  
12 there a statement by Officer Bruce or the defendant which  
13 we can read from today's testimony regarding the  
14 defendant admitting, or the officer stating the defendant  
15 said he admitted he had been in the CEC parking lot on  
16 the night of the robbery. Hugh Faulkner, Jr., number  
17 167, the foreperson.

18 MR. MARCHANT: Your Honor ---

19 THE COURT: What does -- do you want to confer with  
20 Mr. Henry, Mr. Watkins? I'll consider this a procedural  
21 matter or a question of law, and he can consult with his  
22 standby counsel.

23 (Mr. Watkins talked to Mr. Henry.)

24 THE COURT: All right. Mr. Marchant, you want to go  
25 first?

1 MR. MARCHANT: Well, Your Honor, there is a -- the  
2 report is not in evidence. Obviously they don't have it  
3 back there to look at it. And Mr. Watkins' statement is  
4 not in evidence. So I think the answer to the question  
5 is there's not a document that they're able to view  
6 because it's not in evidence, but I would advise them or  
7 request that they know that they can come back and listen  
8 to the testimony if that what would clear up anything.

9 MR. WATKINS: Your Honor?

10 THE COURT: Yeah.

11 MR. WATKINS: Your Honor, I object to that. They  
12 asked for a statement ---

13 THE COURT: What now, sir? I'm sorry?

14 MR. WATKINS: Object to them about a tape. They  
15 asked for a statement.

16 THE COURT: Is there a statement which we can read.

17 MR. MARCHANT: Well, Your Honor, there is one, but I  
18 don't think they can read it.

19 THE COURT: Well, there's -- well, everything --  
20 they can consider that anything that's been introduced  
21 into evidence but no more evidence can be introduced, if  
22 any. I don't know. I mean, I just can't remember. We  
23 marked a lot of exhibits and I don't know what was marked  
24 and what wasn't marked. A lot of questions were asked  
25 about statements. I remember the verbal testimony by the

1 answer their questions as best I can. All right. We'll  
2 wait until we hear from them again. Mark this one, Mary.

3 (Court's Exhibit Numbers 4 and 5 were marked and  
4 filed.)

5 (A discussion was held off the record.)

6 (The jury continued their deliberations.)

7 (A short recess was taken, after which, the trial  
8 continued as follows:)

9 THE COURT: Okay. Keep your seat. They tell me  
10 that they've got a verdict.

11 THE BAILIFF: Yes, sir.

12 THE COURT: Okay. You can bring them in.

13 (The jury entered the courtroom at 6:03 p.m.)

14 THE COURT: Mr. Foreman, you've reached a verdict?

15 MR. FAULKNER: Yes, Your Honor, we have.

16 THE COURT: Okay. Would you give it to the bailiff,  
17 please? Thank you, sir.

18 (The bailiff handed the verdict form to the Court.)

19 THE COURT: Okay. Madam Clerk, would you publish  
20 the verdict, please?

21 THE CLERK: All right. Your Honor, this is case  
22 2002-GS-23-1063, the State of South Carolina versus  
23 Robert Max Watkins. On the charge of armed robbery, we  
24 the jury by unanimous decision consent -- consent find  
25 the defendant guilty. On the charge of possession of a

1 Honor.

2 MR. WATKINS: Your Honor, I object to this right  
3 here. Oh, I'm reading the wrong part. Excuse me. Let  
4 me read this part. Okay. I'm sorry, Your Honor. I  
5 apologize. I was reading the top part. Okay. Thank  
6 you.

7 (Another note was brought out from the jury.)

8 THE COURT: Okay. I have question, 9/24/08, two  
9 questions -- not two questions, two requests, I guess.  
10 Please provide a copy of the warrant to show, list the  
11 amount of money, ie, rolls of coins, dollars, five, tens,  
12 et cetera, found in the apartment. Please provide the CE  
13 Cheese inventory of money taken by the robber along with  
14 total amount, ie, number of rolls of nickels, dimes,  
15 quarters, and groups of bills. Hugh Faulkner, number  
16 167. Okay. There can't be any other evidence  
17 introduced. I say, you must decide the case on the  
18 evidence and testimony introduced. Pretty much what I've  
19 already to them.

20 MR. WATKINS: Yes, Your Honor. I have no problem,  
21 yes, sir.

22 THE COURT: No objection. And if you'll mark this  
23 we will return both of the questions back to them. Y'all  
24 read verbally from that, but they don't have the  
25 documents. That's the whole thing and I'm trying to

1 weapon during a violent crime, we the jury by unanimous  
2 consent find the defendant guilty. These are signed by  
3 Hugh Faulkner, our foreperson.

4 Ladies and gentlemen of the jury, if you agree these  
5 are the verdicts you reached in your deliberation room,  
6 would you please raise your right hand?

7 (All jurors raised their right hand.)

8 THE CLERK: Thank you.

9 THE COURT: Okay. Any question as to the form of  
10 the verdict?

11 MR. MARCHANT: None from the State, Your Honor.

12 THE COURT: Mr. Watkins, any question as to the form  
13 of the verdict?

14 MR. WATKINS: Yes, sir, I disagree with the verdict.

15 THE COURT: Okay. Any question about the form of  
16 the verdict? Just the form of the verdict.

17 MR. WATKINS: No questions.

18 THE COURT: Okay. Ladies and gentlemen, I  
19 appreciate your service this week. Since you served I'm  
20 not going to require y'all to come back. You've given us  
21 three days, so I will excuse you tonight. If you need a  
22 statement to show your employer that you were here, the  
23 clerk can provide that to you. Mary?

24 THE CLERK: Yes, sir.

25 THE COURT: You can?

1 THE CLERK: Yes, sir.

2 THE COURT: Okay. And a check will be -- you will  
3 get a check in the mail, that check in the mail thing,  
4 but you will get a check in the mail for your services.  
5 Now, the Court -- and no one has any -- we don't have any  
6 control. We don't set the amount y'all get paid for jury  
7 service. County Council does that. So whatever it is  
8 it's not going to be a lot, but you'll get a check for  
9 that, and your mileage. And I appreciate y'all  
10 performing jury service. And y'all are excused for the  
11 evening. Thank you so much.

12 (The jury exited the courtroom at 6:05 p.m.)

13 THE COURT: All right, Mr. Watkins.

14 MR. WATKINS: May I make my motions?

15 THE COURT: Yeah.

16 MR. WATKINS: At this time, Your Honor, I would like  
17 to make -- Your Honor, at this time I would like to plead  
18 double jeopardy. South Carolina, article 112, and the  
19 United States Constitution 514, to sentence me to any  
20 time -- to confine me in violation of South Carolina 1976  
21 code of laws 16-11-330 and 16-24-490 for armed robbery,  
22 possession of a weapon during a violent crime on  
23 indictment, OG-23-1063 (sic), would be subjecting me to  
24 the same offense I was convicted back in 2002, October  
25 2002, of the date the 25th, by the court of general

1 sessions, the Honorable Judge Victor C. Pyle, to be twice  
2 put in jeopardy of life, limb, and liberty.

3 THE COURT: Okay. Based on that motion your  
4 conviction was set aside and you were given a new trial.  
5 So I would deny that motion, double jeopardy.

6 MR. WATKINS: I object to you denying it.

7 THE CLERK: Thank you, sir.

8 MR. WATKINS: Your Honor, in reference to -- I want  
9 reference to the double jeopardy as far as the case law  
10 that I read. It deals with the criminal proceeding, when  
11 the criminal proceeding is adjudicated, as far as on  
12 direct appeal, they deal direct appeals, doesn't deal  
13 with after -- like on civil, civil procedures, when the  
14 case is overturned in civil it deals with criminal  
15 proceeding, it still continues so the first conviction is  
16 not considered a conviction if you get it reversed on  
17 direct appeal, because the appeal is the last criminal  
18 proceedings. But once you go to direct appeal and if  
19 they found a decision, that's a final judgment, and then  
20 by me being sentenced and serving time on there, then get  
21 my case overturned on civil proceedings, for a  
22 constitutional violation I don't think that applies to  
23 the criminal as far as a directed verdict, as far as  
24 double jeopardy don't apply.

25 THE COURT: Okay. I'm going to deny that motion for

1 double jeopardy. All right, Mr. ---

2 MR. WATKINS: I got one more.

3 THE COURT: All right.

4 MR. WATKINS: I got a motion for a direct verdict  
5 not withstanding the verdict of the jury on the grounds  
6 of evidence that was presented by the State did not prove  
7 its case beyond a reasonable doubt as far as sufficient  
8 evidence, insufficient evidence, or prove the elements  
9 in the indictment. These are written motions. I don't  
10 have -- do I have to file the written motions or can I  
11 make them in court?

12 THE COURT: Well, you really need to make them in  
13 open court.

14 MR. WATKINS: Okay. I make a motion for directed  
15 verdict not withstanding the verdict. Do I need to state  
16 the grounds?

17 THE COURT: You can, but I'll tell you procedurally  
18 the Court cannot grant a judgment not withstanding the  
19 verdict. The only recourse at this point that I can do  
20 is grant a new trial. In a criminal case I can't grant a  
21 judgment JNOV.

22 MR. WATKINS: Okay. Can you grant a direct verdict,  
23 or do I have to go to the Court of Appeals for a direct  
24 verdict? Can I get a new trial based on destruction of  
25 the evidence that the jury wouldn't be able to look at

1 placed to her head. And it was a serious armed robbery.  
2 That's all I have to say about it, Mr. Watkins. I think  
3 you're a very intelligent man, and -- but you -- you  
4 don't have a good record. I'm only taking into  
5 consideration the -- what you were convicted of. I know  
6 nothing about anything that was dismissed. For -- and I  
7 understand the entire case.

8 For the armed robbery I'm going to sentence you to  
9 the State Department of Corrections for 25 years. And  
10 for the possession of a weapon during the commission of a  
11 violent crime I'm going to sentence you to five years  
12 consecutive to the 25 years. Thank you very much.

13 MR. MARCHANT: Thank you, Your Honor.

14 - - -END OF TRANSCRIPT OF RECORD- - -  
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C E R T I F I C A T E

I, the undersigned Mary E. DiGirolamo, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 22 through 24th days of September, 2008.

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

April 24, 2009

*Mary DiGirolamo*

Mary E. DiGirolamo

Official Court Reporter

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EX #3

~~REDACTED~~

Exhibit #3

~~10/10~~

**SECTION 14-9-210.** Indictments for county court cases by grand jury of court of general sessions.

The county solicitor shall prepare and, through the presiding judge of the court of general sessions, submit to the grand jury, while in attendance upon the court of general sessions, bills of indictment in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days, when such cases have not been previously acted on by the grand jury. The grand jury shall act thereon and report its action to the presiding judge of the court of general sessions and said judge shall direct the clerk of the court of general sessions to report the same to the presiding judge of the county court at its next ensuing term. All cases in which bills of indictment are so found shall stand for trial by the county court as though found by the grand jury while in attendance upon the county court.

*This is the procedure used to obtain indictments for arrest warrants issued by county courts. (City Municipal Court - County Magistrate Court for felony offense.)*

*[Handwritten signature]*

EX # 4

~~Exhibit 1-2-3~~

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**SECTION 14-5-790. Terms of court in thirteenth circuit.**

The courts of the thirteenth judicial circuit shall be held as hereinafter provided.

(1) Greenville County.--(a) The court of common pleas for Greenville County shall be held at Greenville on the fourth Monday in January for four weeks, on the fourth Monday in March with two weeks for jury trials and one week for equity cases, followed by two weeks of jury trials, on the third Monday in May for two weeks, the third Monday in June for two weeks, the second Monday in September for two weeks, the second Monday in October for two weeks and the second Monday in November with three weeks for jury trials and one week for equity cases. The court of general sessions for the county shall be held at Greenville on the second Monday in January for two weeks, the second Monday in March for two weeks, the first Monday in May for two weeks, the last Monday in August for two weeks, the fourth Monday in October for two weeks and the first Monday in December for one week.

(b) In addition to the terms of court hereinabove set forth, there shall be held additional terms of the court of common pleas for Greenville County to hear equity matters and any other nonjury matters, as follows: On the second Monday in January, for one week, on the second Monday in May, for one week, and on the first Tuesday in September, for one week.

(c) The terms of court provided for in paragraph (b) of this subsection shall be presided over by a judge other than the resident judge of the thirteenth judicial circuit or the presiding judge regularly assigned at that time to said circuit. Such judge shall be selected by the Chief Justice of the Supreme Court from among the regular circuit judges or the retired circuit judges or the lawyers admitted to practice in the Supreme Court. If found at any time to be unnecessary the terms of court provided for in paragraph (b) of this subsection shall be cancelled in the manner provided by law for cancellation of other terms.

(2) Pickens County. - The court of general sessions for Pickens County shall be held at Pickens on the third Monday in February for one week, the first Monday in June for one week and the fourth Monday in September for one week. The court of common pleas for said county shall be held at Pickens on the fourth Monday in February for two weeks, the second Monday in June for one week and the first Monday in October for one week.

Exhibit # 5

10/22

EX. # 5

*[Handwritten signature]*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 IN RE: )  
 )  
 )  
 )  
 GRAND JURY SESSIONS )  
 JANUARY-JUNE 2002 )

IN THE COURT OF GENERAL SESSIONS

ORDER

IT IS ORDERED that the Grand Jury for Greenville County, South Carolina, shall convene during the month of January – June 2002 as follows:

MONDAY	JANUARY 7, 2002
TUESDAY	FEBRURY 19, 2002
TUESDAY	MARCH 19, 2002
TUESDAY	APRIL 2, 2002
TUESDAY	MAY 7, 2002
TUESDAY	JUNE 25, 2002

IT IS FURTHER ORDERED that the Clerk of Court for Greenville County, South Carolina, shall notify all Grand Jurors of these meeting dates and times.

IT IS SO ORDERED.

*[Handwritten signature]*  
 \_\_\_\_\_  
 Judge, Thirteenth Judicial Circuit

Greenville, South Carolina  
October 16, 2001

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Ex # 6

Exhibit # 6

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
GRAND JURY SESSIONS )  
FEBRUARY 19, 2002 )

IN THE COURT OF GENERAL SESSIONS

PRESENTMENT

TO: THE HONORABLE JOHN FEW  
PRESIDING JUDGE, THIRTEENTH JUDICIAL CIRCUIT

FILED-CLERK OF COURT  
PAUL B. WICKENSIMER  
GREENVILLE, CO. SC  
2002 FEB 19 PM 4:08

The Grand Jury makes the following presentment. We do hereby certify that at least two jurors have reviewed Indictment numbers:

2002-GS-23- 848 THROUGH 2002-GS-23- 1707 and have rendered a true bill on each with the following exceptions:

INDICTMENT NUMBERS

2002-GS-23-1589

ACTION TAKEN

NO BILL

Respectfully submitted,

*Jan Holmes*  
GRAND JURY FOREMAN

I do hereby accept the Grand Jury Presentment.

*John Few*  
PRESIDING JUDGE  
THIRTEENTH JUDICIAL CIRCUIT

Greenville, South Carolina  
2/19, 2002

EX # 7

1/21/16

~~1/21/16~~

**SECTION 22-3-510.** Criminal jurisdiction abolished in counties where county courts established.

The jurisdiction of magistrates in criminal cases in all counties wherein a county court is established under the provisions of Chapter 9 of Title 14 is hereby abolished.

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L-Exhibit # 8

~~10/5~~

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

The State of South Carolina, )

v. )

Robert Watkins, )

Defendant )

IN THE COURT OF GENERAL SESSIONS  
THIRTEENTH JUDICIAL CIRCUIT

Warrant No. : 2002GS231063

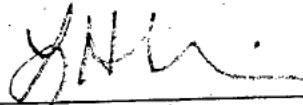
**ORDER DENYING DEFENDANT'S MOTION**

20 OCT 5 PM 1:20  
Paul Wickenshiner CCC GIL SC

The Court is in receipt of Defendant's Motion filed on September 29<sup>th</sup>, 2020. After careful review the Court hereby denies Defendant's motion.

IT IS SO ORDERED.

October 5, 2020



Letitia H. Verdin  
Circuit Judge

A Certified Copy  
Paul B. Wickenshiner  
Clerk of Court C.P. & G.S.  
Greenville County, SC  
Dated 10/6/2020

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