

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Florence County

Honorable D. Craig Brown, Circuit Court Judge

SHEMAINE M. ROBERSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2021-000433

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE) 2017-GS-21-00529

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

January 22, 2018

SHAMAINE ROBERSON,)

Defendant.)

B E F O R E:

Honorable D. Craig Brown
Florence County Courthouse
Florence, South Carolina

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

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VOIR DIRE

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1 **JANUARY 22, 2018 - 11:16 A.M.**

2 VOIR DIRE:

3 THE COURT: Thank you. Be seated please.

4 All right. The state ready to proceed?

5 MR. JEPERTINGER: The state's ready, Your Honor.

6 THE COURT: Defense counsel?

7 MS. CRAYTON: We're ready, Your Honor.

8 THE COURT: All right. Call your case, please, sir.

9 MR. JEPERTINGER: Your Honor, the state would call 2017-
10 GS-21-529, the State against Shamaine Martrell Roberson,
11 charging him with the crime of kidnapping, possession of a
12 weapon during the commission of violent crime, and carjacking.

13 THE COURT: All right. Ladies and gentlemen -- excuse me
14 -- the state has called the case the State of South Carolina
15 versus Shamaine Martrell Roberson. Mr. Roberson is charged by
16 indictment, which I hold in my hand, with the offense of
17 kidnapping, possession of a weapon during the commission of a
18 violent crime, and carjacking. The indictment, as far as the
19 kidnapping, alleges that Shamaine Martrell Roberson did in
20 Florence County, on or about December 3, 2016, unlawfully
21 seize, confine, inveigle, decoy, kidnap, abduct, or carry away
22 one, Shaquawna Riggins, by threat of -- by threat of force, by
23 holding a gun to her head during the theft of her vehicle,
24 forcing her into a vehicle, and driving off with her without
25 authority of law in violation of Section 16-3-910 of the South

1 Carolina Code of Laws.

2 The count in the indictment for possession of a weapon
3 during the commission of a violent crime, alleges that
4 Shamaine Martrell Roberson did in Florence County, on or about
5 December 3, 2016, possess a firearm or visibly display what
6 appeared to be a firearm or visibly displayed a knife during
7 the commission or attempted commission of a violent crime, to
8 wit, kidnapping or carjacking in violation of Section 16-23-
9 490 of the South Carolina Code of Laws.

10 And finally, the count alleging carjacking, alleges that
11 Shamaine Martrell Roberson, did in Florence County, on or
12 about December 3, 2016, take and/or attempt to take a 2000
13 Chevrolet Malibu from Shaquawna Riggins by force and violence
14 or by intimidation, while said victim was operating and/or in
15 the vehicle in violation of Section 16-3-1075(b)(1) of the
16 South Carolina Code of Laws.

17 Now, ladies and gentlemen, the indictment that I hold in
18 my hand is simply the charging document, which brings this
19 case into this court. It is by no means evidence in this
20 case. To these charges, the defendant has pled not guilty.
21 Therefore, the State of South Carolina bears the burden of
22 proving his guilt beyond a reasonable doubt.

23 Now, before we move forward with selecting a jury, there
24 are certain questions that I must ask of you. Please listen
25 very carefully, excuse me, to these questions. Is there any

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VOIR DIRE

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1 member of the jury panel that has ever been related by blood,
2 connected by marriage, had a close, personal, business, or
3 social relationship with Mr. Shamaine Martrell Roberson or Ms.
4 Shaquawna Riggins? If so, please stand.

5 (REPORTER'S NOTE: No response.)

6 THE COURT: All right. The following, ladies and
7 gentlemen, is a list of potential witnesses in this case.
8 They include, Christine Princler, Investigator Roger Tilton,
9 Deputy Scott King, Contessa James, Sergeant Andrew Clendenin,
10 Deputy Clay Lowder, Lieutenant Alvin Powell, Lieutenant Hicks,
11 Jolly Hicks -- I'm assuming that's the same person, Ms.
12 Crayton?

13 MS. CRAYTON: Yes, Your Honor.

14 THE COURT: Deputy Sarah Miller, Dajha Felder, Nolan
15 Corbitt, Patricia Roberson, Ashley Gardner, Erica Montgomery,
16 Willaree Roberson, Erica Hammonds, Stacy Hettinghouse, Dr.
17 Steve Halus, Rolanda Richardson, Trooper Bradley Hyatt. Is
18 there any member of the jury panel that has ever been related
19 by blood, connected by marriage, had a close personal,
20 business or social relationship with any of those potential
21 witnesses? If so, please stand.

22 (REPORTER'S NOTE: No response.)

23 THE COURT: All right. If at this time, the attorneys
24 would stand and introduce themselves; the state followed by
25 defense counsel, please.

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VOIR DIRE

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1 MR. JEPERTINGR: Good morning, ladies and gentlemen of
2 the jury, my name is John Jepertinger. I'm a deputy solicitor
3 here in the Twelfth Circuit. That's Florence and Marion
4 County. Seated at the table are your solicitor, Mr. Ed
5 Clements, and David Richardson, Senior Assistant Solicitor,
6 will be helping me with this trial.

7 MS. CRAYTON: Good morning, my name is Emily Crayton. I
8 work with the Twelfth Circuit Public Defender's office.
9 Seated with me is Elizabeth Neyle. Also in our office is
10 Scott Floyd, Vic Meetze, Karen Parrott, Rick Jones, Tamara
11 Greer, Jay Jordan, and Daniel Jordan.

12 THE COURT: Has anyone on the jury panel ever been
13 related by blood, connected by marriage, had a close personal,
14 business, or social relationship, or ever been represented by
15 any of the attorneys involved in this case? If so, please
16 stand.

17 Yes, sir, your name and number please?

18 JUROR 138: I don't know my number.

19 My name is Henry Thomas.

20 THE COURT: Okay. Can you come up here, Mr. Thomas,
21 please, sir?

22 Juror Number 138.

23 (REPORTER'S NOTE: Bench conference is held on the record in
24 the presence of but outside the hearing of the jury.)

25 THE COURT: How are you doing today? Hold on just a

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VOIR DIRE

9

1 second. Yes, sir?

2 JUROR 138: Ed Clements was my lawyer.

3 THE COURT: All right. When he practiced law?

4 JUROR 138: Huh?

5 THE COURT: When he used to practice law?

6 JUROR 138: Yes, sir.

7 THE COURT: Okay.

8 JUROR 138: At Saleeby Law Firm.

9 THE COURT: Let me ask you this. If you -- and that was
10 years ago. How long you been the Solicitor, Ed?

11 MR. CLEMENT: Twenty year, 18 years.

12 THE COURT: Okay.

13 JUROR 138: It's been about 30 years now, ain't it?

14 MR. CLEMENT: It hasn't been quite that long.

15 JUROR 138: At least 25.

16 THE COURT: Let me ask you this and I didn't know what
17 you were going to say. That's why I called you up here. I
18 didn't want you to say somebody represented you or say
19 something that could embarrass anybody.

20 JUROR 138: Yes, sir.

21 THE COURT: The fact that he represented you 20-plus
22 years ago, if you were selected as a juror in this case, could
23 you be fair and impartial ---

24 JUROR 138: Yes, sir.

25 THE COURT: --- to the state and the defense?

VOIR DIRE

1 JUROR 138: Yes, sir.

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

3 Thank you.

4 MS. CRAYTON: Judge, I made an error on my witness list,
5 Patricia's last name is not Roberson, it's actually Capers. I
6 apologize. Patricia, it's number 13 on my list; it's actually
7 Capers, not Roberson. I apologize, but she did stand up,
8 she's in the courtroom and she stood up when her name was
9 called.

10 THE COURT: Okay. I looked at both of y'all's list and I
11 didn't know if I covered it or not.

12 MS. CRAYTON: You did.

13 MR. JEPERTINGER: You did, yes, sir.

14 (REPORTER'S NOTE: End of bench conference.)

15 THE COURT: All right. Ladies and gentlemen, one
16 additional potential witness is a Ms. Patricia Capers,
17 Patricia Capers. Is there any member of the jury panel that's
18 ever been related by blood, connected by marriage, had a close
19 personal, business or social relationship with Ms. Patricia
20 Capers? If so, please stand.

21 (REPORTER'S NOTE: No response.)

22 THE COURT: All right. Can the lawyers approach a
23 minute, I'm sorry.

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

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VOIR DIRE

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1 THE COURT: All right. Is there any member of the jury
2 panel or their immediate family, been the victim of a violent
3 crime? If so, please stand.

4 (REPORTER'S NOTE: No response.)

5 THE COURT: All right. Is any member of the jury panel
6 a member of or contributor to any group, which has its primary
7 concern the promotion of law enforcement; those groups might
8 include but certainly are not limited to MADD, SADD, or CAVE,
9 Citizen Against Violent Crime? If so, please stand.

10 (REPORTER'S NOTE: No response.)

11 THE COURT: Is any member of the jury panel -- is there
12 any member of the jury panel, their immediate family or close
13 personal friend work in any attorney's office? If so, please
14 stand.

15 (REPORTER'S NOTE: No response.)

16 THE COURT: Is any member of the jury panel or their
17 immediate family or close personal friend currently employed
18 with law enforcement? If so, please stand.

19 Yes, ma'am, your name and number, please?

20 JUROR 13: Amy Brown, 13.

21 THE COURT: Yes, ma'am?

22 JUROR 127: Tameika Smith, 127.

23 THE COURT: I'm sorry, what was your number again?

24 JUROR 127: 127.

25 THE COURT: Family member or close personal friend, Ms.

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VOIR DIRE

12

1 Brown?

2 JUROR 13: Family member.

3 THE COURT: What agency?

4 JUROR 13: Florence County Sheriff's Department.

5 THE COURT: If you were selected as a juror in this case,
6 could you be fair and impartial to both the state and the
7 defense?

8 JUROR 13: Yes, sir.

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

10 Yes, ma'am?

11 JUROR 127: I have a close friend. He's an
12 attorney/judge.

13 THE COURT: I'm sorry.

14 JUROR 127: I have a close friend. He's an
15 attorney/judge.

16 THE COURT: All right. If you were selected as a juror
17 in this case, could you be fair and impartial to both the
18 state and the defense?

19 JUROR 127: Yes.

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

21 Does any member of the jury panel have any religious or
22 philosophical objection to judging a fellow citizen charged
23 with a crime or crimes? If so, please stand.

24 (REPORTER'S NOTE: No response.)

25 THE COURT: Does any member of the jury panel have a

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VOIR DIRE

1 immediate family or close family member, who has been
2 prosecuted by state -- by the state or federal government for
3 any criminal matter? If so, please stand.

4 Tell me your name, please, ma'am?

5 JUROR 126: Jessica Shuford, 126.

6 THE COURT: Is it a state or federal matter?

7 JUROR 126: Federal.

8 THE COURT: If you were selected as juror in this case,
9 could you be fair to both the state and the defense?

10 JUROR 126: Yes.

11 THE COURT: Fair and impartial?

12 JUROR 126: Yes, sir.

13 THE COURT: Thank you, ma'am, you may be seated.

14 Yes, ma'am, 113?

15 JUROR 13: Number 13.

16 THE COURT: 13, I'm sorry. State or federal?

17 JUROR 13: State.

18 THE COURT: All right. If you were selected as a juror
19 in this case, could you be fair and impartial to both the
20 state and the defense?

21 JUROR 13: I guess.

22 THE COURT: Can you approach, please, ma'am?

23 JUROR 13: Sir?

24 THE COURT: Can you approach?

25 JUROR 13: Yes, sir.

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VOIR DIRE

14

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

3 THE COURT: How are you doing?

4 JUROR 13: Good, how are you.

5 THE COURT: You seemed a little unsure in your response
6 to me, a little hesitation? If you can't, I mean, I
7 understand, but I just need to know whether or not you can be
8 fair and impartial to both sides.

9 JUROR 13: I really -- there is an investigator on this
10 case that I really don't care to even be involved.

11 THE COURT: That would be Tilton. Correct?

12 JUROR 13: Yeah. It's a big ---

13 THE COURT: Well, let me ask you this, if I set you aside
14 for this case, there's a very good possibility that you could
15 picked on another case without that individual involved ---

16 JUROR 13: That's fine.

17 THE COURT: --- could you be fair and impartial?

18 JUROR 13: Yes.

19 THE COURT: To both the state and the defense?

20 JUROR 13: Yes, that would be fine.

21 THE COURT: I'm going to set her aside for the trial of
22 this case. Thank you.

23 JUROR 13: So, I can leave?

24 THE COURT: No, you've got to stay. When I finish
25 picking here, I'm sending y'all downstairs to get picked on

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VOIR DIRE

15

1 another jury, maybe. You got to stay.

2 JUROR 13: Okay. Thank you.

3 THE COURT: Ms. Brown, Ms. Brown, I'm sorry, come here
4 for just a minute. Don't see anything to any of the other
5 jurors.

6 JUROR 13: Okay.

7 (REPORTER'S NOTE: End of bench conference.)

8 THE COURT: All right. Any member of the jury panel --
9 is there any member of the jury panel who is a member of any
10 civic, fraternal, or any type of social group of which any of
11 the attorneys involved in this case are a part of? If so,
12 please stand.

13 (REPORTER'S NOTE: No response.)

14 THE COURT: Any additional voir dire from the -- well,
15 from the state, specifically?

16 MR. JEPERTINGER: No, sir.

17 THE COURT: Defense counsel?

18 MS. CRAYTON: No, Your Honor.

19 THE COURT: All right. I have a few more questions, but
20 I just wanted to ask that.

21 All right. Ladies and gentlemen, is there any member of
22 the jury panel that's formed or expressed an opinion about any
23 issue or matter involved in this case? If so, please stand.

24 (REPORTER'S NOTE: No response.)

25 All right. Is any member of the jury panel aware of any

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VOIR DIRE

16

1 bias or prejudice toward either the state or the defendant in
2 this case? If so, please stand.

3 (REPORTER'S NOTE: No response.)

4 THE COURT: All right. Does any member of the jury panel
5 know of any reason, any reason whatsoever, why he or she
6 should not serve as a juror in this case with particular
7 emphasis being placed upon your ability to be fair and
8 impartial to both the state and the defense? If so, please
9 stand.

10 (REPORTER'S NOTE: No response.)

11 THE COURT: All right. Once again, any further voir dire
12 from the state?

13 MR. JEPERTINGER: None from the state, Your Honor.

14 MS. CRAYTON: Your Honor, may we approach for just a
15 minute?

16 THE COURT: Yes.

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

19 THE COURT: Make that a Court's exhibit.

20 COURT'S EXHIBIT NUMBER 1

21 MARKED FOR IDENTIFICATION

22 THE COURT: All right. Anything further from the state
23 before we move forward selecting a jury?

24 MR. JEPERTINGER: No, sir.

25 THE COURT: Defense counsel?

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17

JURY SELECTION

1 MS. CRAYTON: No, Your Honor.

2 THE COURT: All right. Five and five on the strikes; one
3 alternate sufficient?

4 MR. JEPERTINGER: I think that should be sufficient, Your
5 Honor.

6 MS. CRAYTON: Yes, sir.

7 THE COURT: Ladies and gentlemen, what's happening now is
8 a list is being generated of potential jurors for this case.
9 I'm assuming that my deputy clerk went out to get the copy
10 that she just printed off, so just bear with us. Okay?

11 JURY SELECTION:

12 CLERK: Okay. When I call your name, please come to the
13 front of the courtroom. Bring all of your belongings with
14 you.

15 81, Edwin Legg. Just stand right there and face the back
16 of the courtroom, please.

17 What say the state?

18 MR. JEPERTINGER: Please present Mr. Legg?

19 CLERK: What say the defendant?

20 MS. CRAYTON: Please excuse Mr. Legg from this trial,
21 Your Honor.

22 CLERK: You've been excused from this trial only, sir.
23 You may return to your seat.

24 50, Rosa Gerald.

25 What say the state?

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JURY SELECTION

18

1 MR. JEPERTINGER: Please present Ms. Gerald.
2 CLERK: What say the defendant?
3 MS. CRAYTON: Please seat Ms. Gerald.
4 CLERK: Please have a seat in the jury box, ma'am.
5 107, Michael Pfleger.
6 What say the state?
7 MR. JEPERTINGER: Please present Mr. Pfleger.
8 CLERK: What say the defendant?
9 MS. CRAYTON: Please seat Mr. Pfleger.
10 CLERK: Please have a seat in the jury box, sir.
11 138, Henry Thomas.
12 What say the state?
13 MR. JEPERTINGER: I beg the Court's indulgence one
14 second.
15 Please present Mr. Thomas.
16 CLERK: What say the defendant?
17 MS. CRAYTON: Court's indulgence.
18 Please excuse Mr. Thomas from this trial.
19 CLERK: You have been excused from this trial only, sir.
20 You may return to your seat.
21 126, Jessica Shuford.
22 What say the state?
23 MR. JEPERTINGER: Please present Ms. Shuford.
24 CLERK: What say the defendant?
25 MS. CRAYTON: Please seat Ms. Shuford.

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19

JURY SELECTION

1 CLERK: Please have a seat in the jury box, ma'am.

2 79, Joe Lee.

3 What say the state?

4 MR. JEPERTINGER: Please excuse Mr. Lee for the purposes
5 of this trial only.

6 CLERK: You've been excused from this trial only, sir.

7 You may return to your seat.

8 89, Sophia McClary.

9 What say the state?

10 MR. JEPERTINGER: Please present Ms. McClary.

11 CLERK: What say the defendant?

12 MS. CRAYTON: Please excuse Ms. McClary from this case,
13 Your Honor.

14 CLERK: You've been excused from this trial only, ma'am.

15 You may return to your seat.

16 80, Robert Lee.

17 What say the state?

18 MR. JEPERTINGER: Please present Mr. Lee.

19 CLERK: What say the defendant?

20 MS. CRAYTON: Please seat Mr. Lee.

21 CLERK: Please have a seat in the jury box, sir.

22 18, Dennis Caraway.

23 What say the state?

24 MR. JEPERTINGER: Please excuse Mr. Caraway for the
25 purposes of this trial only.

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JURY SELECTION

20

1 CLERK: You've been excused from this trial only, sir.
2 You may return to your seat.
3 29, Teddric Davis.
4 What say the state?
5 MR. JEPERTINGER: Please excuse Mr. Davis for the
6 purposes of this trial only.
7 CLERK: You've been excused from this trial only, sir.
8 You may return to your seat.
9 151, Rachel Windham.
10 What say the state?
11 MR. JEPERTINGER: Please present Ms. Windham for the
12 purpose -- please present Ms. Windham. I got caught up in
13 that cycle.
14 CLERK: What say the defendant?
15 MS. CRAYTON: Please seat Ms. Windham.
16 CLERK: Please have a seat in the jury box, ma'am.
17 28 Naydaydra Davis.
18 What say the state?
19 MR. JEPERTINGER: Please present Ms. Davis.
20 CLERK: What say the defendant?
21 MS. CRAYTON: Please seat Ms. Davis.
22 CLERK: Please have a seat in the jury box, ma'am.
23 145, Lynn Weaver.
24 What say the state?
25 MR. JEPERTINGER: Please present Ms. Weaver.

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21

JURY SELECTION

1 CLERK: What say the defendant?

2 MS. CRAYTON: Please excuse Ms. Weaver from this trial,
3 Your Honor.

4 CLERK: You've been excused from this trial only, ma'am.
5 You may return to your seat.

6 102, Stephany Morris.

7 What say the state?

8 MR. JEPERTINGER: Please present Ms. Morris.

9 CLERK: What say the defendant?

10 MS. CRAYTON: Please seat Ms. Morris.

11 CLERK: Please have a seat in the jury box, ma'am.

12 62, Avery Hewitt.

13 What say the state?

14 MR. JEPERTINGER: Please present Mr. Hewitt.

15 CLERK: What say the defendant?

16 MS. CRAYTON: Please seat Mr. Hewitt.

17 CLERK: Please have a seat in the jury box, sir.

18 83, Di Liao.

19 What say the state?

20 MR. JEPERTINGER: I'm not even going to attempt it.

21 Please present the juror.

22 CLERK: What say the defendant?

23 MS. CRAYTON: Please seat the juror.

24 CLERK: Please have a seat in the jury box, sir.

25 125, James Shaw.

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JURY SELECTION

22

1 What say the state?

2 MR. JEPERTINGER: Please present Mr. Shaw.

3 CLERK: What say the defendant?

4 MS. CRAYTON: Please seat Mr. Shaw.

5 CLERK: Please have a seat in the jury box, sir.

6 121, James Seastrunk.

7 What say the state?

8 MR. JEPERTINGER: Please present Mr. Seastrunk.

9 CLERK: What say the defendant?

10 MS. CRAYTON: Please seat Mr. Seastrunk.

11 CLERK: Please have a seat in the jury box, sir.

12 135, Miranda Strickland.

13 What say the state?

14 MR. JEPERTINGER: Please present Ms. Strickland.

15 CLERK: What say the defendant?

16 MS. CRAYTON: Please present Ms. Strickland.

17 CLERK: Please have a seat in the jury box, ma'am.

18 70, Matthew Jeffords.

19 What say the state?

20 MR. JEPERTINGER: We'll excuse Pastor Jeffords for the

21 purposes of this trial only.

22 CLERK: You've been excused from this trial only, sir.

23 You may return to your seat.

24 74, Samuel Jordan.

25 What say the state? Does the state wish to challenge the

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BY THE COURT

1 juror for cause?

2 MR. JEPERTINGER: No, please present Mr. Jordan.

3 CLERK: What say the defendant?

4 MS. CRAYTON: Please seat Mr. Jordan.

5 CLERK: Please have a seat in the jury box, sir.

6 THE COURT: All right. Are there any matters of law that
7 we need to take up with regards to jury selection from the
8 state?

9 MR. JEPERTINGER: No, sir.

10 THE COURT: Defense counsel?

11 MS. CRAYTON: No, Your Honor.

12 BY THE COURT:

13 THE COURT: All right. Ladies and gentlemen, you all
14 have been selected as fair and impartial jurors in this case.
15 What we're getting ready to do is I'm gonna let you all go
16 ahead and go to lunch. There's some matters that we need to
17 take up outside of your presence and rather than have you sit
18 here, it's probably gonna take about an hour or so. What I'm
19 gonna do is I'm gonna let you go to lunch, and I'm gonna ask
20 you to be back at 2:30, 2:30, at 2:30 on the 5th floor. When
21 you get on the elevator, hit the number 5, it'll take you to
22 the 5th floor. One of my bailiff's, I'm not sure who will be
23 down there on the 5th floor waiting on you, but somebody will
24 be right outside the elevator waiting on you and, and instruct
25 you where to go. But report back to the 5th floor at 2:30.

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1 Now, as I said a minute ago, you all have been selected
2 as fair and impartial jurors in this case. You are not to
3 discuss -- you know very little about this case. You are not
4 to discuss this case at all, at all with anyone until you are
5 instructed to do so. Furthermore, you are not, you are not to
6 do any independent investigation on your own. You are to
7 decide the case based solely upon the evidence and testimony
8 that's presented during the course of this trial, during the
9 course of this trial.

10 At this time, I'm gonna let you go. Please be back at
11 2:30 on the 5th floor and I'll see you then.

12 Everybody else remain seated while this panel exits the
13 courtroom.

14 BAILIFF: Follow me please.

15 (REPORTER'S NOTE: Jury exits courtroom @ 12:00. The
16 following takes place outside the presence of the jury.)

17 THE COURT: All right. Ladies and gentlemen, those of
18 you are seated out in the audience, those jurors that are
19 still seated in the courtroom, you all were not selected on
20 this particular jury, but that doesn't mean you're not gonna
21 get selected. What I'm going to do now, is I'm gonna ask that
22 you all -- is that okay with you to send them down to 5 or do
23 you want me to -- yeah. I need you all to go down to the 5th
24 floor, to the 5th floor courtroom. There will be a bailiff
25 once you get off on the 5th floor, instructing you where to

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1 go, but you all are going to the 5th floor courtroom with
2 Judge Nettles and he's gonna pick a jury in a case that's
3 gonna be tried in front of him. So, if you all will go down
4 there immediately, pick a jury down there and then he'll let
5 you all go to lunch then.

6 (REPORTER'S NOTE: Remaining Jury Venire exits courtroom.)

7 THE COURT: All right. In this case, I need court
8 personnel back on the 5th floor at 1:15, at 1:15, because
9 we've got some pretrial stuff that we need to deal with in
10 this case.

11 **RECESS - 12:02 P.M.**

12 *****OFF THE RECORD*****

13 **(On the Record - 1:23 P.M.)**

14 MR. JEPERTINGER: If it please the Court, Your Honor?

15 THE COURT: Yes, sir.

16 MR. JEPERTINGER: Before we start, I think I need to put
17 on the record. Through the discovery procedure, Defense asked
18 for medical records of the defendant arising out of this
19 incident. We've procured those medical records to the
20 defendant, it was pursuant to the consent of the victim in
21 this case, Ms. Shaquawna Riggins. She orally consented in our
22 office, and she's here if you want -- so there's no violation
23 of HIPPA, she said we could provide those to the defense. Is
24 that correct, Ms. Riggins?

25 MS. RIGGINS: Yes, sir.

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1 MR. JEPERTINGER: Thank you.

2 And we need to put that on the record.

3 Secondly, Your Honor, we have marked certain exhibits,
4 State's 1, 2, and 3. They are aerial photographs of the
5 various locations involved in this incident and those aerial
6 photos will be in evidence without objection from the defense.

7 MS. CRAYTON: Correct, Your Honor.

8 THE COURT: All right. So admitted.

9 STATE'S EXHIBITS NUMER 1, 2, AND 3

10 ADMITTED INTO EVIDENCE

11 STATE'S EXHIBIT NUMBER 4

12 MARKED FOR IDENTIFICATION

13 MR. JEPERTINGER: Okay. Item 4, Exhibit 4, is a Bryco
14 380 semi-automatic pistol, Judge. It is only going to be
15 offered -- we've got it pre-marked at this time for
16 identification. One of the things that concerns me currently
17 and we're trying to find it, there's no gun lock on that gun
18 and I'm -- I would ask that the Court look at it and maintain
19 it.

20 THE COURT: I've got one in my truck.

21 MR. JEPERTINGER: If we could get it at the 3:30 break,
22 that would be helpful.

23 DEPUTY: We're trying to get one right now, Your Honor.

24 THE COURT: Okay. All right.

25 MR. JEPERTINGER: All right. And is there a zip tie on

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1 it, Judge?

2 THE COURT: There is a zip tie on it.

3 MR. JEPERTINGER: Okay. That, that should qualify then.

4 THE COURT: No, we're gonna to have more than a zip tie
5 on it.

6 MR. JEPERTINGER: Okay. Thank you very much.

7 STATE'S EXHIBIT NUMBER 5

8 MARKED FOR IDENTIFICATION

9 MR. JEPERTINGER: Finally, State's Exhibit 5, in for
10 identification only at this point is the clothing belonging to
11 the defendant that was procured at one of the scenes, where
12 police conducted a search.

13 THE COURT: All right. Is that admitted without
14 objection?

15 MS. CRAYTON: No, Your Honor. We have a motion that will
16 have to be heard on that. It's regarding a lot of stuff that
17 we're asking for a suppression hearing on.

18 MR. JEPERTINGER: That's all we've agreed on at this
19 stage, Your Honor.

20 THE COURT: Suppression ---

21 MS. CRAYTON: Yes, Your Honor.

22 THE COURT: Suppression dealt with -- your motion says
23 motion to suppress a statement, do you have other ---

24 MS. CRAYTON: No, this is something that we didn't work
25 up a written, but it's regarding the several things that were

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1 found after a search of a cell phone.

2 THE COURT: All right.

3 Anything else, Mr. Jepertinger?

4 MR. JEPERTINGER: Nothing from the state, Your Honor.

5 We're ready to proceed with her motion. I would -- I would
6 say, and I've been doing this for a while, is everyone seated
7 at the tables, Judge, there was an out-of-court
8 identification. The -- a photograph array shown to the
9 victim. I know the defense -- I don't think they're making a
10 motion to suppress that, but out of an abundance of caution,
11 Judge, if this gentleman is convicted, I don't want this to be
12 an issue at appeal that that should've been raised at trial.
13 I would ask that we proceed with a *Neil v. Biggers* hearing.

14 THE COURT: All right. Let's ---

15 MS. CRAYTON: Yeah, I mean, that is not a motion that we
16 filed. He have no problem going forward with a *Biggers*
17 hearing if Mr. Jepertinger feels it's appropriate just to
18 cover all bases.

19 THE COURT: Well, let's go ahead then.

20 Mr. Jepertinger?

21 NEIL V. BIGGERS HEARING:

22 MR. JEPERTINGER: Okay. We call Shaquawna Riggins to the
23 stand. Okay. You're going to go up in that black chair and
24 there's a Bible up there somewhere.

25 THE COURT: Place your hand on the left -- place your

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1 left hand on the Bible and raise your right hand, please. I'm
2 sorry.

3 You gonna swear her or do you want me to?

4 CLERK: It doesn't matter.

5 THE COURT: Go ahead?

6 SHAQUAWNA RIGGINS, HAVING BEEN DULY
7 SWORN TESTIFIES AS FOLLOWS:

8 CLERK: Thank you.

9 THE COURT: Please state your full name for the record?

10 MS. RIGGINS: Shaquawna Shaneka Riggins.

11 THE COURT: You need her to spell it, Ms. Kay?

12 COURT REPORTER: The middle name?

13 MS. RIGGINS: S-H-A-N-E-K-A.

14 COURT REPORTER: Thank you.

15 THE COURT: Thank you, ma'am.

16 Mr. Jepertinger?

17 DIRECT EXAMINATION OF SHAQUAWNA SHANEKA RIGGINS BY MR.

18 JEPERTINGER:

19 Q: Ma'am, I want to take you back to the evening of December
20 2nd and December 3rd, 2016. Do you recall ---

21 A: Uh-huh, (affirmative response).

22 Q: --- that evening time?

23 A: Uh-huh, (affirmative response)

24 Q: On December the 2nd, okay?

25 A: Uh-huh, (affirmative response).

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1 Q: Did you happen to find yourself at a birthday party at a
2 local establishment by the name of Que Time?

3 A: Uh-huh, (affirmative response).

4 THE COURT: Hold on a minute. Hold on before we go any
5 further. Ms. Riggins ---

6 A: Yes, sir.

7 THE COURT: --- when you answer a question, whether it be
8 from Mr. Jepertinger or one of the defense lawyers, I need a
9 yes or no.

10 A: Okay.

11 THE COURT: If it's whatever ---

12 A: Yes, sir.

13 THE COURT: --- it warrants, so my record is clear,
14 because what this young lady is doing, is she is recording
15 what's being said in here.

16 A: Okay. Yes, sir.

17 THE COURT: So, it's not confusing when she goes back and
18 listens to the tape, I don't want it confusing as whether it
19 was a uh-huh or an huh-uh.

20 A: Okay.

21 THE COURT: You got me?

22 A: Yes, sir.

23 THE COURT: So, give me a yes or no please, ma'am.

24 A: All right.

25 THE COURT: Thank you. Mr. Jepertinger, you may

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1 continue?

2 MR. JEPERTINGER: Yes.

3 BY MR. JEPERTINGER:

4 Q: Who went with you to the party?

5 A: It was me and my friend Contessa James and a friend of
6 hers, we all rode together; we left her house.

7 Q: The friend that she rode with was another female?

8 A: Yes, sir.

9 Q: And what vehicle were you in?

10 A: My car, a 2000 Chevy Malibu.

11 Q: All right. And did you go by yourselves or did someone
12 else accompany you in another vehicle to that party?

13 A: It was just -- we left her house first.

14 Q: Contessa's?

15 A: Yes, sir; me, Contessa, and her friend, we left her house
16 and went to Que Time.

17 Q: All right. When you -- what time did you get there
18 approximately?

19 A: I can say -- because I got off work at 10:30, so I can
20 say about 12:00, midnight.

21 Q: Midnight?

22 A: Yes, sir.

23 Q: All right. And while you were at the Que Time, was there
24 anything unusual going on at the party?

25 A: Oh, no, sir.

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1 Q: Okay. Did you have any alcohol to drink that evening?

2 A: I probably chad like one or two drinks or whatnot, but
3 other than that, no.

4 Q: All right. Now, did your friend, Contessa ---

5 A: Huh-huh, (affirmative response).

6 Q: --- stay there with you the whole time or did she leave
7 before you or what was the situation?

8 A: They left before I did.

9 Q: That would be Contessa and her friend?

10 A Contessa and her friend, yes, sir. Because when we got
11 there, you know, we got there, then her boyfriend and them --
12 her boyfriend and his friends or whoever came as well or
13 whatnot, after we got there. And so, we was there, they left
14 before I did. Okay. So, I just decided to stay a little
15 longer.

16 Q: Approximately, how long do you estimate that you stayed?

17 A: Another hour or two.

18 Q: Okay. All right. Now, I will take that this is the
19 morning hours of December the 3rd, 2016 at that time?

20 A: Yes, sir.

21 Okay. Do you leave the Que Time establishment by yourself?

22 A: No, I didn't leave -- well, when I was leaving out the
23 door, I left by myself. I was going to my car.

24 Q: Okay. That's what I meant to ask?

25 A: Yes, sir. When I left out the Que Time, I went to my car

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1 by myself.

2 Q: Okay. And where was your car parked?

3 A: My car was parked right beside the barber shop, the

4 building. It's like Que Time was in front and then it's a

5 building behind it and I was parked far to the right. So, at

6 the end of Que Time in the next parking lot.

7 Q: Okay. What were the lighting conditions at -- what was

8 this 4:00 in the morning, a little after 4:00?

9 A: Uh-huh, (affirmative response); yes, sir.

10 Q: Okay. What were the lighting conditions like?

11 A: It was dark in the area I was in. It was dark because

12 they didn't have any lights where, where I was parked.

13 Q: Okay. Now, you got to your car?

14 A: Yes, sir.

15 Q: Okay. And you used the keys to enter it?

16 A: Yes, sir.

17 Q: Okay. Now, how are your keys situated? Do you have a

18 separate car key or do you have, like I do, I carry several

19 keys on a ring?

20 A: Uh-huh, (affirmative response). I have -- my key, my key

21 and my house key and I have a big ole furry purple ball, all

22 that's connected on one key.

23 Q: Okay. So, is your house key also attached to this car

24 key, correct?

25 A: Yes, sir.

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1 Q: All right. Now, when was the first time that you noticed
2 Shamaine Roberson?
3 A: When he was walking towards my car.
4 Q: Had you ever seen Shamaine Roberson in your life up to
5 that point in your life?
6 A: No, sir.
7 Q: Was he a complete stranger to you?
8 A: Yes, sir.
9 Q: Was he at the Que Time club that evening?
10 A: I didn't see him.
11 Q: All right. Did he associate with any of your friends
12 that you would've seen at all -- at all at that occasion
13 arose?
14 A: No, sir.
15 Q: Where were you the first time you noticed him?
16 A: Sitting in my car.
17 Q: And what were you doing sitting in your car?
18 A: I was on my phone scrolling through Facebook. I have a
19 habit of sitting in my car sometimes when I'm leaving places
20 and I just get on my phone and I just scroll through Facebook
21 or whatever like that, and that's what I did that night. I
22 was just ---
23 Q: Did you have your door -- while you were doing that, did
24 you have your door open or your door closed?
25 A: It was closed.

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- 1 Q: Okay. What happened then?
- 2 A: He had stepped up -- Mr. Roberson had stepped up to my
3 car and tapped on my window and asked for a light and I ---
- 4 Q: Did you roll down the window or did you open the door to
5 have that conversation with him or did he speak through the
6 window?
- 7 A: I opened the door because my driver window don't come
8 down.
- 9 Q: All right. And when you opened the door, did the inside
10 light, dome light, of the car come on?
- 11 A: Yes, sir.
- 12 Q: Okay. And when the inside dome light of the car came on,
13 were you able to distinguish what he looked like at that time?
- 14 A: Uh-huh, (affirmative response); yes, sir.
- 15 Q: And what did he look like at that time?
- 16 A: He had dreads, and his face -- like I remember his face,
17 his eyes, and a white t-shirt or whatnot and that was it.
- 18 Q: Okay. Approximately how close was to -- how close was he
19 to you when he asked for that light?
- 20 A: He was -- tell me when to stop; how does that sound?
- 21 Q: Okay.
- 22 A: He come on this side right here. By door open and come a
23 little closer, right there.
- 24 Q: Less than two feet?
- 25 A: Yes, sir.

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1 Q: Okay. When he asked for the light, what did you do?

2 A: I gave him a light. He asked for a light to light up his

3 blunt because he say he was about to roll up a blunt and I was

4 like, that's fine. I gave him a lighter ---

5 Q: Let's stop right there.

6 A: Okay.

7 Q: When he asked that, was any other individual?

8 A: No, sir.

9 Q: He was alone then?

10 A: Yes, sir.

11 Q: Okay. I'm sorry; go ahead.

12 A: And when I gave his light -- when I gave my lighter or

13 what not, he started conversation. So, we were just like --

14 he was just asking questions like who I came here with -- and

15 what else he say -- he asked who came here with and what I was

16 about to do or whatnot and just having a normal conversation

17 like just sparking up a conversation while he was doing --

18 rolling up his blunt, so he could use my lighter.

19 Q: All right. And at that time, were you suspecting

20 anything, kind of out of the way, out of the ordinary?

21 A: No, sir.

22 Q: Okay. Was there anything about the blunt and the lighter

23 that kind of gave you a little bit of suspicion that something

24 might not be right?

25 A: So, when -- when he got done rolling up his blunt, he --

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1 he did use my lighter to light it up.
2 Q: How could you tell?
3 A: Because it was lit.
4 Q: Could you see the glow end or ---
5 A: Yes, sir, I saw the glow end of the blunt; it was lit.
6 And when I saw that, I asked for my lighter back. I was like,
7 can I have my lighter back now because I'm about to go home,
8 go pick my daughter up and go home. He was like, all right,
9 all right. That's when he was stalling and walking towards
10 like the end of my car. And when I seen that, my assumption
11 was he's trying to see if anybody's around because it was
12 dark. Like I said, it was dark; we didn't have no light
13 nowhere. He was trying to see if anyone's around and so ---
14 Q: What did you do?
15 A: I turned -- when I turned around to my right to look at
16 my phone, I turned back to the left, he done walked up to me
17 with a gun in my face.
18 Q: What type of gun?
19 A: It was some kind of silver gun. I don't know, you know,
20 guns or whatever, but I know how it looked.
21 Q: Silver?
22 A: Yes, sir.
23 Q: And was it in a holster or was it extended out towards
24 you or how ---
25 A: Oh, yeah, it was extended out in my face.

1 Q: Okay. And did he say anything to you at that time?

2 A: He was like, he asked if I had any money. He was like,

3 shut the F up or whatnot and I was like okay, just don't --

4 you know, just don't shoot me or whatever like that. Whatever

5 it is you want, I'll give it to you. So, at that time, while

6 he was doing that, I was reaching over to my passenger seat to

7 get my cell phone. He saw me trying to get my cell phone and

8 told me to give him my phone.

9 Q: So, what did you do?

10 A: I gave him my phone.

11 Q: Okay.

12 A: He told me to slide over to in the passenger seat.

13 Q: Okay. And now I take it these are bucket seats, correct?

14 A: Uh-huh, (affirmative response).

15 Q: There two individual seats, it's not like a bench?

16 A: Uh-huh, (affirmative response).

17 Q: Correct?

18 A: Yes, sir.

19 Q: I don't think they've made those type cars in a while.

20 A: Yes, sir.

21 Q: And ---

22 A: I climbed over the arm rest ---

23 Q: Okay.

24 A: --- or whatnot and got in the passenger seat.

25 Q: All right. Then what happened?

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1 A: When that happened, he still had a gun in my face. He
2 was telling me ---

3 Q: At this time, the dome light is still on, correct?

4 A: Uh-huh, (affirmative response).

5 THE COURT: Is that a yes?

6 A: Yes, sir.

7 THE COURT: Thank you.

8 BY MR. JEPERTINGER:

9 Q: Okay. And you can observe him clearly at this stage?

10 A: Yes, sir.

11 Q: All right. Anything, anything blocking your point of
12 view that he has a gun to your face and that this is the guy
13 that's doing this to you?

14 A: Oh, no, sir, nothing was blocking me.

15 Q: Okay. And then what happened?

16 A: Once he -- once I got over in the passenger seat and he
17 got in the driver's seat, he still had a gun pointed in my
18 face and he went on to say, I was gonna, you know, like give
19 him like sexual acts, like give him head or whatever like
20 that, and I said, well, whatever it is, just don't shoot me,
21 you know. I just want to go back home to my daughter.

22 Whatever it is that you want, I'll give it to you.

23 Q: Okay. At this point now, are you -- are your keys in the
24 ignition or are they on your person or in the car?

25 A: They were in the ignition. My car wasn't cranked up;

1 they were just in the ignition.

2 Q: All right. And then what happened after he said those
3 things, after you told him please don't shoot me, I want to go
4 home to my daughter?

5 A: He cranked up my car and he proceeded to put it in drive
6 and drove off out of Que Time.

7 Q: Which way did he go? Did he go towards Lake City on 52
8 or ---

9 A: He made a right on Irby Street like going towards Lake
10 City.

11 Q: Okay. And what are you doing this time while -- while
12 this is going on?

13 A: At this time, it's still like registering in my mind like
14 what's going on, because I'm still looking at this gun and so,
15 I started a conversation like, you know, well, you know, just
16 don't shoot me. What is it that you want? You know, I just
17 want to go back home to my daughter.

18 Q: What was his response to you when you said don't -- don't
19 shoot me?

20 A: He was like, when I said that and I asked him like what
21 was he gonna do, he was like, I don't know. I don't know what
22 I want to do.

23 Q: All right. And so, you're going down Irby Street, and
24 you still have a chance to have a conversation with him?

25 A: Uh-huh (affirmative response).

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- 1 Q: You keep observing him, correct?
- 2 A: Yes, sir.
- 3 Q: And at, at -- at this point, does he continue down Irby
- 4 Street or does he eventually make a turn off of Irby Street?
- 5 A: He eventually, once we got to Irby Street, you know where
- 6 South Florence Exxon is, we went through that light and he
- 7 made a right on John Paul Jones Road.
- 8 Q: John Paul Jones Road?
- 9 A: Uh-huh, (affirmative response).
- 10 Q: Okay. Okay. Now you're going down John Paul Jones Road
- 11 and what happens then?
- 12 A: While we're going down that road, I'm just thinking like,
- 13 what do I need to do to get out of this car, because I don't
- 14 know if he's gonna shoot me, I don't know if he going to rape
- 15 me, kill me, whatever it is he want to do. So, in the midst
- 16 of that, I reached over to the right, watching him, trying to
- 17 see if my door was locked or unlocked.
- 18 Q: What was it?
- 19 A: It was locked. So, what I did was, I pushed it in and I
- 20 pulled it out, the lock switch.
- 21 Q: Yes.
- 22 A: When I did that, I jumped out the car.
- 23 Q: All right. Now, once you jumped out of the car, I, I
- 24 think you did something else, correct?
- 25 A: Uh-huh (affirmative response).

1 Q: Did you see what he did with your vehicle once you jumped
2 out?

3 A: Once I jumped out, I rolled, I rolled -- I jumped out in
4 the street and rolled over into the ditch. That's when I came
5 to a stop. When I came to a stop, I got up and I saw my car,
6 like he slowed down and I thought like he was gonna, you know,
7 back up, but he drove, he continued to drive. So, when he --
8 when I saw he continued to drive, I started, you know, running
9 to go get help. I saw when he made a U-turn. We saw he made
10 that U-turn, I ran back and hid myself in the ditch like
11 snuggled down in the ditch so where he wouldn't be able to see
12 me. And while I'm in the ditch, I heard a car drive past me,
13 but stopped a couple of -- a few feet up. When he did -- when
14 the car stopped, I heard him get out of the car and he was
15 like, bitch, saying -- he was mumbling on, going on because I
16 jumped out the car.

17 Q: Okay. Go ahead.

18 A: He couldn't find me.

19 Q: Did he -- do you know if he closed the passenger door
20 that you jumped out of?

21 A: No, it closed when -- when I jumped out, that had closed
22 by itself. When he got out the driver's side to look for me
23 and he didn't see me, he got back in the car, I heard the door
24 close and I heard him drive off.

25 Q: All right.

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1 A: When I heard that he drove off and that's when I got up
2 out the ditch and ran to the nearest house.

3 Q: Okay. That'll be fine in terms of the identification.
4 You never saw him again, correct, after that?

5 A: No, sir.

6 Q: Other than do you recognize the individual that did all
7 the things to you ---

8 A: Uh-huh (affirmative response).

9 Q: --- today, is he -- where is he?

10 A: He's right there. He just got a haircut.

11 Q: Okay. And he's sitting between Ms. Crayton and Ms.
12 Neyle?

13 A: Yes, sir.

14 Q: Okay. Now, what I do want to ask you is you had to go
15 eventually to Carolinas Hospital for injuries, did you not?

16 A: Yes, sir.

17 Q: Okay. Now, while you were at Carolinas Hospital, did
18 Investigator Tilton come to you with six photo array of
19 individuals?

20 A: Yes, sir; he did.

21 Q: Okay. I'll have this marked as Court's Exhibit at this
22 stage for the purposes of this hearing.

23 COURT'S EXHIBIT NUMBER 2

24 MARKED FOR IDENTIFICATION

25 BY MR. JEPERTINGER:

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1 Q: And I want to show you Court's Exhibit 2. Can you
2 identify Court's Exhibit 2?
3 A: Yes, sir. He's right here, photo number 6.
4 Q: All right. And I see a signature and a date of 12/3/16;
5 whose signature is that?
6 A: That's my signature.
7 Q: And this person that made the circle is who?
8 A: Me, Shaquawna Riggins.
9 Q: And you signed it?
10 A: Yes, sir.
11 Q: All right. Did Investigator Tilton let you know that the
12 guy's picture was gonna be in this photo or did he ask you if
13 you could identify anybody off this ---
14 A: Yes, sir; he asked me if I could identify the gentleman
15 in the photo -- in this -- on the paper.
16 Q: Okay. He didn't tell you who to pick, did he?
17 A: No, sir; he didn't say who to pick.
18 Q: Okay. Thank you. That's all the questions I have in
19 terms of this issue. Please answer any questions that Ms.
20 Crayton or Ms. Neyle may have for you.
21 A: Okay.
22 THE COURT: Cross examination?
23 MS. CRAYTON: Thank you.
24 CROSS EXAMINATION OF SHAQUAWNA SHANEKA RIGGINS BY MS. CRAYTON:
25 Q: Hi, Ms. Riggins, how are you?

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- 1 A: I'm good, yes, ma'am.
- 2 Q: Good. I was trying to make sure I have all this clear.
- 3 So, I may -- I may go back and ask you some questions that Mr.
- 4 Jepertinger already asked you. So, you arrived around
- 5 midnight -- you're not exactly sure, but around midnight?
- 6 A: Yes.
- 7 Q: And you were driving your car?
- 8 A: Yes, ma'am.
- 9 Q: Okay. And Ms. Contessa, as well as another female, were
- 10 riding with you?
- 11 A: Yes, ma'am.
- 12 Q: How -- do you remember about what time Contessa and her
- 13 friend left?
- 14 A: No, ma'am.
- 15 Q: Do you remember how long -- about how long y'all had been
- 16 at the bar by the time they left?
- 17 A: Maybe about two hours. I'm not sure because we was just
- 18 like in the middle of the floor just dancing or whatnot and
- 19 like I said, I didn't know, you know, I didn't see when they
- 20 had left or whatnot.
- 21 Q: So, they didn't tell you they were leaving?
- 22 A: No, ma'am.
- 23 Q: Okay. So, at some point, you just realized they weren't
- 24 there?
- 25 A: Yes, ma'am.

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1 Q: Okay. And you decided to stay, I think you said for an
2 hour or two after that?
3 A: Yes, ma'am.
4 Q: And what were you doing?
5 A: Dancing and talking to friends.
6 Q: Did you have friends at the bar there?
7 A: Well, I seen some friends that I used to work with at my
8 old job. I saw they were there.
9 Q: Where was that?
10 A: Honda.
11 Q: At Honda. And who were those friends?
12 A: My friend Deedee. James, Deandra James.
13 Q: And who else?
14 A: I can't remember who else, but I know she was one of the
15 people that was there.
16 Q: Okay. And how many drinks did you have?
17 A: Like two.
18 Q: Okay. So, over the course of like four hours, you think
19 you had two?
20 A: Yes, ma'am.
21 Q: Two drinks, two shots, two liquor drinks, two beers?
22 A: Two shots.
23 Q: Okay. And that's it, two shots over the course of the
24 four hours?
25 A: Yes, ma'am.

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- 1 Q: Okay. Now, the way you were describing where you were
2 parked, it seems like you were kind of far away from the --
3 the Que Time?
- 4 A: Yes, ma'am.
- 5 Q: Okay. So, you were like as far -- almost as far away as
6 you could park?
- 7 A: Yes, ma'am, because it was packed out there like and I
8 didn't have ---
- 9 Q: Packed?
- 10 A: Yeah, I didn't have anywhere else to park but on that
11 side.
- 12 Q: Okay. So, when you got there it was packed?
- 13 A: Yes, ma'am.
- 14 Q: And when you went and got back in your car, were there
15 still cars around?
- 16 A: Yes, ma'am.
- 17 Q: There were a bunch of cars around?
- 18 A: Yes, ma'am, where I parked.
- 19 Q: So, it was still pretty packed?
- 20 A: Yes, ma'am.
- 21 Q: Okay. And you're not exactly sure what time you went out
22 to the car, but we're talking 3:00-4:00, sometime early
23 morning hours, 3:00 or 4:00?
- 24 A: It was after 4 o'clock.
- 25 Q: Probably after 4 o'clock in the morning?

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- 1 A: Yes, ma'am.
- 2 Q: Okay. And there's still a bunch of cars out there?
- 3 A: Yes, ma'am.
- 4 Q: What time does Que Time close?
- 5 A: They don't close till maybe like, I think like 6:00.
- 6 They stay open late.
- 7 Q: Okay. All right. And you were getting in your car and
- 8 then you were gonna go where?
- 9 A: I was gonna pick my daughter up from my mom's house and
- 10 take her home. Because at that time, I was staying in Quinby.
- 11 Q: Okay. All right. And you were sitting in your car
- 12 messing with your phone?
- 13 A: Yes, ma'am, scrolling through -- on Facebook.
- 14 Q: Okay. Now, when, when you say Mr. Roberson came up to
- 15 you in the car, were there people around at all when he came
- 16 up to you the first time?
- 17 A: No, ma'am.
- 18 Q: Okay. So, you were the only person -- you and Mr.
- 19 Roberson were the only people outside the club?
- 20 A: Yes, ma'am.
- 21 Q: Okay. Where were you working at this point?
- 22 A: At Johnson Control.
- 23 Q: Is that where you work now?
- 24 A: No, ma'am. I work at The Waffle House now.
- 25 Q: Oh, okay.

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1 Court's indulgence, Your Honor?

2 THE COURT: Yes, ma'am.

3 Q: You said you gave Mr. Roberson your lighter; were you
4 smoking outside the car as well or inside the car?

5 A: No, ma'am.

6 Q: Okay. Were you a smoker back then?

7 A: Yes, ma'am.

8 Q: Okay. But you weren't smoking at the time?

9 A: No, ma'am.

10 Q: How did he know you had a lighter?

11 A: He asked me if I had one.

12 Q: He asked you if you had one?

13 A: Yes, ma'am.

14 Q: Before you gave it to him?

15 A: Yes, ma'am.

16 Q: What were you smoking?

17 A: What do you mean what was I smoking?

18 Q: I mean, were you smoking cigarettes or ---

19 A: I wasn't smoking in the car. You talking about the time
20 I used to smoke?

21 Q: Yeah?

22 A: Oh, I used to smoke cigarettes and marijuana.

23 Q: Okay.

24 No further questions, Your Honor.

25 MR. JEPERTINGER: Nothing to add, Judge.

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ROGER TILTON - DIRECT BY JEPERTINGER

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1 THE COURT: Ma'am, you may step down. Thank you.

2 MR. JEPERTINGER: We'd call Roger Tilton up to the stand
3 just briefly, Your Honor.

4 CLERK: Place your left hand on the Bible and raise your
5 right hand.

6 ROGER WILLIAM TILTON, HAVING BEEN
7 DULY SWORN TESTIFIES AS FOLLOWS:

8 CLERK: Please be seated in the witness box and state
9 your name for the record.

10 MR. TILTON: My name is Roger William Tilton.

11 THE COURT: Okay.

12 DIRECT EXAMINATION OF ROGER WILLIAM TILTON BY MR. JEPERTINGER:

13 Q: Investigator Tilton, you're the chief investigating
14 officer in this -- this case?

15 A: Yes, sir.

16 Q: Okay. Did you prepare this photographic lineup in terms
17 of Court's Exhibit 2?

18 A: I did; yes, sir.

19 Q: Okay. And in terms of preparing this lineup, what are
20 the -- do you use a program or do you just pick the photos
21 yourself?

22 A: Our records management system has software that allows us
23 to create photo lineups on our desktop computers.

24 Q: Okay. So, in terms of the information that you received
25 from Ms. Riggins, were you looking for an African-American

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1 male with dreads?

2 A: Yes.

3 Q: All right. And it looks like some also have some facial
4 hair; did you get that as well from the victim in this case?

5 A: Yes, I did.

6 Q: Okay. And in that regard, what did you do in terms of
7 the six photos on this state's exhibit or court's exhibit?

8 A: These six photos, I went into the system, entered the
9 description, height, weight, hair, type hair length, skin-tone
10 into the system, and it comes back with all the pictures of
11 individuals that match that description. I went through them
12 and tried to find the six that looked most like what she
13 described.

14 Q: Okay. Now, I noticed here that they're enumerated photo
15 1, photo 2, photo 3, photo 5, photo 6, and photo 7. There is
16 no photo 4. Is there any reason for that, sir?

17 A: The system is created to do as many photos as show up and
18 I just click on the ones that I wanted and the number
19 associated with them, click to show up.

20 Q: Very good.

21 A: So, the number 4, I would've not clicked on that one.

22 Q: Okay. When you showed her this photo array, where did
23 you show it to her?

24 A: I believe she was still at the hospital.

25 Q: Okay. When you showed it to her, was there any -- did

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1 she equivocate or hesitate or any of that business in circling
2 number 6, signing it, and dating it December 3rd, 2016?

3 A: None whatsoever.

4 Q: Did you suggest to her at any way that the individual who
5 committed these crimes against her was in this photo array?

6 A: No, sir.

7 Q: All right. I'm gonna show these photos to the Judge and
8 let you answer any questions that the defense attorney may
9 have for you.

10 THE COURT: Ms. Crayton?

11 MS. CRAYTON: Thank you, Your Honor. I have no questions
12 of Investigator Tilton. Thank you.

13 THE COURT: Sir, you may step down. Thank you.

14 MOTIONS:

15 MR. JEPERTINGER: Your Honor, that's all the state has
16 that concerns the pre-trial identification of the victim and
17 would ask that the victim would be allowed to identify in open
18 court the defendant in this case in front of the jury?

19 THE COURT: Ms. Crayton?

20 MS. CRAYTON: Your Honor, we don't have an objection to.
21 It wasn't my motion ---

22 THE COURT: Well, based upon -- for what it's worth, I do
23 not find that the identification decision was unduly
24 suggestive, nor do I find that it was in any way suggestive in
25 this case, or impermissibly suggested, do not find such.

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1 Therefore, I'll allow the identification of the defendant
2 photo lineup and well as in-court identification.

3 Next?

4 MR. JEPERTINGER: That would be all for the state in
5 terms of motions.

6 THE COURT: Yes?

7 MS. CRAYTON: And, Your Honor, I just wanted to put on
8 the record that we would renew our Rule 5 and Brady requests
9 ask that nothing be delivered after now. I'm sure Mr.
10 Jepertinger doesn't plan to, but just for the record.

11 THE COURT: Mr. Jepertinger, any response?

12 MR. JEPERTINGER: Judge, as far as I'm aware, we have
13 delivered everything to Ms. Crayton that we have. Of course,
14 the Rule 5 is an ongoing rule, but I've been told by law
15 enforcement that's all they have and that's all we have to
16 give.

17 THE COURT: Okay.

18 MS. CRAYTON: Thank you. And it's my understanding that
19 the *Jackson v. Denno*, Mr. Jepertinger told me that he wanted
20 to do that tomorrow because I think we have an officer who is
21 missing, who's in the sheriff's office, I think.

22 MR. JEPERTINGER: Yes, and that would be ---

23 MS. CRAYTON: Mr. Lowder, Clay Lowder.

24 MR. JEPERTINGER: Mr. Lowder, Clay Lowder, yes, I'm
25 sorry, Judge, and he will be here tomorrow morning to go over

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1 Miranda and ---

2 THE COURT: Okay.

3 MS. CRAYTON: Your Honor, I have -- the other thing that
4 I just wanted to clarify was there is a statement that --
5 obviously, there is a statement which is why we're having a
6 *Jackson v. Denno* hearing, that the defendant makes to
7 Investigator Tilton and this -- there's an in-car camera that
8 captures the entire statement. At several points during that,
9 I think that the defendant and Investigator Tilton sort of
10 talk about prior history that they have had, and I just wanted
11 to exclude any talking of prior criminal history that the two
12 may've had. Well, any sort of prior investigation that Tilton
13 might've done or contact.

14 MR. JEPERTINGER: This will warm the cockles of Ms.
15 Crayton's heart, but Mr. Richardson, I, and Mr. Godbolt spent
16 our weekend redacting this disc and we will provide her -- we
17 have a copy -- well, the one we intend to introduce, but we'll
18 give it to her so she can listen to it during any break we
19 have in this trial.

20 MS. CRAYTON: Your Honor, and ---

21 THE COURT: All right.

22 MS. CRAYTON: --- regarding suppression, law enforcement
23 used the cell phone of the victim to search for location of
24 the defendant and arrest him. At that time, they -- it looks
25 like Investigator Tilton filled out a form with T-Mobile,

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1 essentially asking for the current location of the phone and
2 we are asking that that be excluded as well as any evidence
3 derived after that, meaning the gun, the clothing, I think
4 credit cards and the ID, and his statement as well. So, we're
5 asking for all that to be suppressed as a result of a
6 warrantless search of his cell phone.

7 THE COURT: Let me ask this question and maybe I misheard
8 you here. Was it his cell phone?

9 MS. CRAYTON: It was not his cell phone, Your Honor.

10 THE COURT: What standing does he have to challenge the
11 consent of the alleged victim -- what standing -- am I missing
12 something here?

13 MS. CRAYTON: No, Your Honor, I think that this is a
14 little different set of circumstances than normal. They were
15 not intending to search the victim's phone, Ms. Riggins'
16 phone, because they wanted anything internal regarding to her
17 privacy. They were specifically using it as a GPS tracker for
18 Mr. Roberson. So, it's a little different, I think, than
19 normal what we're asking. I think that ---

20 THE COURT: What's the difference in that and the GPS
21 tracking devices, for instance, that are maybe on my truck out
22 there if somebody steals it, and I say, law enforcement, have
23 at it, whatever y'all need to do to find my truck and they
24 utilize that? I mean, how is that different?

25 MS. CRAYTON: Well, I mean ---

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1 THE COURT: Are you saying now that they have to go get a
2 warrant and not have my own consent to look for my ---

3 MS. CRAYTON: I'm not sure that ---

4 THE COURT: Hold on, let me finish.

5 MS. CRAYTON: I'm sorry.

6 THE COURT: That's okay. And look for my own automobile,
7 or in this case, look for her phone or location of the
8 defendant. He's allegedly stolen her car.

9 MS. CRAYTON: Yes, Your Honor, that is what is alleged
10 and they're -- and they're interested in his location.
11 They're not trying to locate her cell phone. They're not
12 trying to locate the car. They're trying to locate him
13 particularly. And I don't believe that they did receive her
14 consent. I don't have -- there's nothing in the report or
15 anything on this form. I'll be happy to hand this up. This
16 is what was provided in discovery.

17 THE COURT: Well, let me ask this, do they have to have
18 her consent at that point?

19 MS. CRAYTON: Well, I mean ---

20 THE COURT: They're not searching the -- internally
21 searching the phone ---

22 MS. CRAYTON: Yes, Your Honor.

23 THE COURT: Do they have to have her consent? If she
24 reports a car stolen and her phone stolen, you know, unless
25 law enforcement gets a warrant, I mean, they're gonna have her

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1 consent anyway to use that information?

2 MS. CRAYTON: They didn't get a warrant and they didn't
3 have her consent; they did neither. But they did fill out
4 this form, which I think is, is not accurate.

5 THE COURT: Well, what expectation of privacy does he
6 have in her phone?

7 MS. CRAYTON: I don't think he does have an expectation
8 in her phone. I think he has an expectation of privacy in his
9 location. They were not using it as a phone to determine ---

10 THE COURT: Well, if he's a suspect at that point -- help
11 me out here. Am I missing something? And I'm certainly fully
12 respecting your argument here on this, understand ---

13 MS. CRAYTON: It's a little different than normal ---

14 THE COURT: Right.

15 MS. CRAYTON: I mean, they're not -- we're not looking
16 for a contact in her phone, we're not looking -- which I think
17 -- still think they would've needed a warrant or her consent,
18 which they had neither. But they're looking for Mr. Roberson
19 and his location, which, you know, using the GPS of the phone.
20 I think that although he's not the owner, he does have an
21 expectation of privacy in his location, which is why we're
22 asking for it to be suppressed.

23 THE COURT: Do you have any case law you want me to look
24 at?

25 MS. CRAYTON: Not on point, because it's very different

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1 obviously, so I don't have anything on point, and I don't know
2 that there is.

3 THE COURT: All right. Anything else on that argument?

4 MS. CRAYTON: No, Your Honor.

5 THE COURT: Well, having heard from you, Mr. Jepertinger,
6 let me hear from you in response to that.

7 MR. JEPERTINGER: Mr. Richardson is going to handle this
8 motion.

9 THE COURT: All right. Mr. Richardson, happy to hear
10 from you?

11 MR. RICHARDSON: Judge, I think -- we haven't taken any
12 testimony on the issue, but I think that if we did the
13 testimony would be that Ms. Riggins provided her phone number
14 and her service provider to law enforcement because they
15 didn't know what her phone number was and had no way of
16 knowing prior to her reporting the phone stolen. At the time,
17 they didn't know who Mr. Roberson was; they didn't have a
18 suspect at the time, so they were looking for Ms. Riggins'
19 phone, her vehicle, her keys, her personal identifying
20 information in the car, that sort of thing. It just so
21 happened that, when they located the phone, the suspect
22 happened to have possession of these items that came along
23 with it. So, the telephone had no connection whatsoever to
24 Mr. Roberson; it was the sole property of Ms. Riggins. She
25 provided the information to law enforcement and they used that

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1 to track down his location. He has no reasonable expectation
2 of privacy in that device. Ms. Riggins has all of it and she
3 gave them the information.

4 We have several cases, I think that are on point here.
5 *Rakas v. Illinois*, which is R-a-k-a-s v. Illinois, that's 439
6 U.S. 128, it's a 1978 case. It just stands for the
7 proposition that a -- the defendant must show he had a
8 reasonable expectation of privacy or a propriety interest in
9 the property searched in order to have a successful
10 constitutional challenge, and this is just -- is nowhere
11 close. I mean, the property is solely the possession of the
12 victim in the case and it just so happened, where it was found
13 happened to be in a place that wasn't very helpful to the
14 defendant.

15 THE COURT: All right. Last word, Ms. Crayton, anything
16 else?

17 MS. CRAYTON: No, Your Honor. We do have one other
18 motion.

19 THE COURT: All right. I'm going to rule on this one
20 first. All right?

21 MS. CRAYTON: Okay.

22 THE COURT: With all due respect, I'm going to
23 respectfully deny your request to suppress. I do not believe
24 that he had a reasonable expectation of privacy here. Again,
25 respecting your argument and it being so noted for the record.

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1 MS. CRAYTON: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. CRAYTON: And the last one, I think, Ms. Neyle is
4 going to handle.

5 MS. NEYLE: Thank you, Your Honor.

6 THE COURT: Yes, ma'am.

7 MS. NEYLE: Your Honor, we would respectfully ask that
8 any reference to Ms. Riggins further in this trial through
9 jury charges by the state or by Your Honor, any witnesses,
10 that she be referred to by her given name and not as victim,
11 Your Honor. It's our position that the carjacking and
12 kidnapping didn't happen and so -- therefore, there was no
13 crime, Your Honor, and therefore no victim. And we feel that
14 any reference to her as a victim would only serve to bolster
15 her credibility for the jury.

16 THE COURT: Mr. Jepertinger?

17 And this has come up before, but I -- the Court, and when
18 I say Court, I'm referring to me, I've never called one victim
19 or anything else other than Ms., in this case for instance,
20 Ms. Riggins. I certainly don't want the jury to infer in any
21 way, shape, or form that I believe anything is going. That's
22 for the jury to make a decision on, not me. And it may be
23 impermissible to comment on the facts from me.

24 Mr. Jepertinger, anything in response?

25 MR. JEPERTINGER: Judge, we are alleging that crimes were

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1 committed, and if there's now a mention of a crime, there's an
2 alleged victim, I mean, and that's just a point of English
3 logic.

4 MS. NEYLE: Your Honor, our position is that there was no
5 -- the commission of a crime was in dispute. So, even if
6 there was an allegation, we think that by calling her a
7 victim, only serves to, you know, vouch for her credibility.

8 THE COURT: Well, I'm going to respectfully deny, but I'm
9 gonna let them make their arguments. I'm going to allow it.
10 However, Mr. Jepertinger has tried many cases, many cases in
11 front of me. I mean, I've never seen him go overboard in any
12 way. So, I'm gonna allow that.

13 MS. NEYLE: Thank you, Your Honor.

14 THE COURT: All right. Anything else?

15 MS. CRAYTON: No, Your Honor, I think you've covered
16 everything with plenty of time, Judge. Good job.

17 THE COURT: That's what I was just looking at. That's
18 great.

19 Yes, sir, anything else, Mr. Jepertinger? It looked like
20 you wanted to get up and say something.

21 MR. JEPERTINGER: No, Mr. Richardson needed a little
22 break here.

23 THE COURT: We'll stand down.

24 **RECESS - 2:09 P.M.**

25 *****OFF THE RECORD*****

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BY THE COURT

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1 **(On the Record - 2:42 P.M.)**

2 BY THE COURT:

3 THE COURT: Thank you. Be seated, please.

4 All right. There was a lock in my truck we can put on
5 this weapon. I will expect it back at the conclusion of this
6 trial.

7 All right. Anything from the state before I bring the
8 jury out?

9 MR. JEPERTINGER: No, sir.

10 THE COURT: All right. One of the things we talked about
11 and I, before I ask defense one of the things we talked about
12 in chambers and my ruling pertaining to the state referencing
13 Ms. Riggins; is that right?

14 MS. CRAYTON: Yes, Your Honor.

15 THE COURT: Ms. Riggins as the -- as a victim. The state
16 made an objection or had a motion, a pretrial motion
17 concerning referencing her as a victim, which I overruled.
18 However, defense counsel brought to my attention in chambers
19 that they did not want to make an objection every time such
20 occurs, if in fact it occurs by the state during the course of
21 this trial. So, I will say for the record, the state --
22 excuse me -- defense counsel is objecting and for purposes of
23 this trial, an objection is so noted throughout the trial if
24 such is made so the defense does not have to keep getting up
25 every time it takes place. Again, the defense -- excuse me --

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BY THE COURT

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1 the state has indicated that they don't intend to utilize that
2 term, but if in fact it occurs, the objection is so noted, Ms.
3 Crayton.

4 MS. CRAYTON: Thank you, Your Honor.

5 THE COURT: All right. Anything else from defense
6 counsel?

7 MS. CRAYTON: No, Your Honor.

8 THE COURT: All right. I'm gonna address the issue
9 pertaining to the service dog of one of the witnesses -- which
10 witness is it, Mr. Jepertinger?

11 MR. JEPERTINGER: Ms. Princler.

12 THE COURT: And what I may do is I'm gonna address that
13 when they first come out. So, if there are any jurors that
14 need to move to the back of the jury box, we'll go ahead and
15 do that, so they don't -- so it doesn't interrupt anything as
16 we proceed with the trial of the case.

17 All right. If you'll bring me the jury, please.

18 BAILIFF: Yes, sir.

19 (REPORTER'S NOTE: Jury enters courtroom @ 2:45 P.M.)

20 THE COURT: All right. Ladies and gentlemen, I hope you
21 all had a nice lunch and ready to proceed this afternoon.
22 Before we get started, there are a couple of things I want to
23 address.

24 One of the witnesses involved in the case that will be
25 called by the state, I think is going to be their third

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BY THE COURT

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1 witness, will be accompanied by a service animal. Okay? And
2 the reason I'm advising you of such, is there anyone on the
3 jury panel that is terrified or afraid of animals? If so,
4 just raise your right hand, because if you are, I'm gonna have
5 you move to the back of the jury box. Okay? All right. No
6 one appears to be raising their hand. It's not unusual, I
7 mean, those things happen, but I wanted to just address that
8 with you all before I brought that witness in here with a
9 service animal, I wanted to ask or inquire about it and didn't
10 want to put anybody in an uncomfortable situation.

11 Also, I think that's it before we start. Anything else
12 from the state before I begin?

13 MR. JEPERTINGER: Nothing from the state, Your Honor.

14 THE COURT: Defense counsel?

15 MS. CRAYTON: No, Your Honor; thank you.

16 THE COURT: Madam Clerk, would you swear the jury please?

17 CLERK: Members of the jury, please stand and raise your
18 right hand.

19 (REPORTER'S NOTE: Jury is duly sworn.)

20 THE COURT: All right. Ladies and gentlemen, we are
21 about to try the case of the State of South Carolina versus
22 Mr. Shamaine Roberson. Now, before we begin the trial, I want
23 to tell you, this trial will probably be different from what
24 you might expect. Many people do not have the chance to
25 attend actual court sessions as you're doing now and may think

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1 from watching television, reading books or watching movies
2 that trials are always full of intense action and riveting
3 circumstances and high drama. Now, while all of those things
4 may be true at times, this trial, ladies and gentlemen, is not
5 for entertainment. It is a fundamental part of our democracy,
6 an effort to make sure that justice is done between the
7 parties before the Court. In making sure that justice is done
8 between the parties, the process is often slow, deliberate,
9 and repetitive, the opposite of what you may have seen on
10 television, in movies or read in books. This courtroom,
11 ladies and gentlemen, is a place of honor dedicated to the
12 protection and preservation of citizens' rights through what
13 many have called the greatest justice system ever created.

14 The attorneys appearing before you, ladies and gentlemen,
15 are advocates for the parties that they represent but, first
16 and foremost, they are officers of the court, sworn to uphold
17 the integrity and fairness of our judicial system. You should
18 expect them to be professional, competent, and ethical in the
19 representation of their clients' interest.

20 Now, what I will now say to you, ladies and gentlemen, is
21 intended to serve as an introduction to the trial of this
22 case. These remarks, ladies and gentlemen, are not a charge
23 on the law in this case. I will instruct you on the law
24 applicable to this case at the end of the trial before you
25 retire to consider your verdict. This is merely an

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1 explanation of the procedure that we will follow in the trial
2 of this case so that you may better understand what may be
3 happening.

4 The defendant, ladies and gentlemen, is charged by an
5 indictment filed in this court with the crimes of kidnapping,
6 possession of a weapon during the commission of a violent
7 crime, and carjacking, the elements of which will be explained
8 to you later. The indictment, as I told you from the outset,
9 is simply the charging document by which this case is brought
10 into this court and it is not, and I say again, it is not in
11 any sense evidence of any of the allegations that it contains.
12 The defendant in this case, ladies and gentlemen, has pled not
13 guilty to this indictment. The state, therefore, has the
14 burden of proving each of the elements of the indictment
15 beyond a reasonable doubt and it will be your duty, ladies and
16 gentlemen, to decide whether the state has met that burden.

17 Your purpose as jurors is to find and determine the
18 facts. You, you are the sole and exclusive judge of the
19 facts. If at any time, I make any comment regarding the
20 facts, you must disregard it. You are to determine the facts
21 from the testimony that you hear from this witness stand and
22 other evidence that may be introduced during the course of
23 this trial. It is up to you to determine the inferences which
24 you feel may properly be drawn from the evidence. It is
25 especially important that you perform your duty of determining

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1 the facts diligently and conscientiously because ordinarily
2 there is no way to correct an erroneous determination of the
3 facts by a jury. On the other hand, and with equal emphasis,
4 the same law that makes you the judge of the facts, makes me
5 the judge of the law. The law as given to you by this Court,
6 is the only law that you may consider. You must accept and
7 follow it even though you may disagree with it. I cannot tell
8 you all what the facts are and you cannot disagree with me
9 about what the law is or should be. Your job is to take the
10 law as I give it to you and apply it to the facts as you all
11 find them from the testimony of the witnesses and any other
12 evidence that is introduced. After doing that, you will
13 render your verdict under the solemn oath that you just took
14 as jurors.

15 Now, until I tell you to begin your deliberations, you
16 must not discuss this case with anyone, including your fellow
17 jurors, friends, family members, and anyone involved in the
18 case. The attorneys and parties in this case have been
19 advised that they are not to talk to you at all. So, if you
20 see anyone involved in this case and they do not speak to you,
21 they are not being unfriendly; they're simply following this
22 Court's instructions.

23 Now, during your deliberations, ladies and gentlemen, you
24 may only discuss the case in the jury room with your fellow
25 jurors, because they have seen and heard the same evidence

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1 that you have. You must not discuss the case with anyone
2 other than your fellow jurors until you have returned a
3 verdict and the case is at an end. I remind you that you must
4 decide this case based solely on the evidence presented in
5 this courtroom. This means that during the trial, you must
6 not conduct any independent research about the case, the facts
7 of the case, the evidence presented in the case, or the people
8 or organizations involved in any way in the case. Please, do
9 not try to find out information from any source outside of
10 this courtroom. In other words, you must not look at
11 dictionaries or other reference materials, search the
12 internet, websites or blogs, or use any other electronic tools
13 to get information about this case to help you decide the
14 case. You may not use computers, telephones, cell phones,
15 smart phones, smart watches, tablets, the internet, or other
16 tools of technology with communication capabilities at any
17 time while you are in the courtroom or during your
18 deliberations. Now, during your breaks for meals or
19 overnight, if necessary, you may use those devices. However,
20 you must not use those devices to communicate with anyone
21 about the case until the case is over. This means that you
22 must not use phone calls, emails, text messages, instant
23 messages, twitter, or any blogs, chatroom, or website,
24 including Facebook, Google Plus, My Space, Linked, YouTube, or
25 any social media websites to send or receive information about

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1 this case. This includes information about a party, a
2 witness, an attorney, or a court officer, news accounts about
3 the case, if there are any, research on topics raised, any
4 topics you may think would be helpful in deciding the case, or
5 any testimony presented by any witness. During the trial, I
6 do not think there's going to be any, but you're instructed
7 not to read, listen to, or watch any news reports about the
8 case. This includes anything that may be in the newspapers or
9 on the internet, radio, or television. You must not consider
10 anything that you may've read or heard about this case outside
11 the courtroom, whether before or during trial. Information on
12 television, radio, the internet, or from other sources might
13 be wrong or incomplete.

14 In our judicial system, in our judicial system, it is
15 important that you are not influenced by anything or anyone
16 outside of this courtroom. If you become aware of another
17 juror's violations of these instructions, please advise the
18 Court immediately. It is important, ladies and gentlemen,
19 that you keep an open mind and not decide any issue in the
20 case until all of the evidence has been presented, the parties
21 have made their closing arguments, and I have instructed you
22 on the law applicable to this case. It is your solemn
23 responsibility to determine the guilt or innocence of the
24 defendant and your verdict must be based solely on the
25 evidence as it is presented in this trial and on the law as I

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1 instruct you during and at the close of the trial.

2 Now, in just a moment, the solicitor or prosecutor, will
3 make what is called an opening statement in which the
4 solicitor will explain to you the issues in this case or at
5 least what the solicitor thinks the issues are in this case.
6 The attorney for the defendant may also make an opening
7 statement, although they are not required to do so. What the
8 attorneys tell you during their opening statements is not
9 evidence in this case. It is only their contention as to what
10 the issues are in this case. The evidence, ladies and
11 gentlemen, in this case, will be presented to you by the
12 testimony of sworn witnesses from the witness stand and/or by
13 exhibits that may be introduced into evidence during the
14 course of this trial.

15 Now, from time to time during the trial, ladies and
16 gentlemen, you may hear one of the attorneys say something
17 like, Your Honor, I believe that we have a question of law or
18 a matter of law to discuss with you or, Your Honor, may we
19 approach the bench, or sometimes, I, myself, might find it
20 necessary to excuse you from the courtroom for a short while
21 so the attorneys and I can discuss a matter of law. The
22 reason for this is because you, ladies and gentlemen, are the
23 judge of the facts in this case and sometimes, when I am
24 discussing matters of law with the attorneys, it might be
25 necessary for me to make some comment as to the facts in

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1 connection with ruling whether or not a particular law
2 applies. I am not, I am not supposed to tell you what the
3 facts are, so, I will excuse you from the courtroom during
4 such discussions, so that in no way, so that in no way, will
5 you be influenced by anything that I might say or do in
6 connection with the facts.

7 Now, in determining what the facts are in this case, you
8 must decide whether or not the testimony of the witnesses is
9 believable. It will be my responsibility to rule as a matter
10 of law as to whether certain testimony is admissible or not.
11 But once the testimony is admitted, whether or not you believe
12 it, is solely for you to determine. Now, in deciding whether
13 to believe a witness, you have the right to consider the
14 interest of any witness, the bias of any witness, the
15 prejudice of any witness, the opportunity for the witness to
16 have seen the matters and things about which the witness may
17 testify, and the way the witness acts on the stand. You have
18 the right to consider anything that is in the record that will
19 help you evaluate the testimony of the witnesses. That means,
20 that it is your duty, ladies and gentlemen, to pay close
21 attention to these witnesses, to observe the witnesses, to
22 listen to the witnesses, and to pay close attention to the
23 attorneys and to the Court. Please do not let your thoughts
24 wander, but give strict attention to the testimony in this
25 case so that at the end of all the testimony, after the

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OPENING BY RICHARDSON

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1 arguments of counsel and the charge on the law by the Court,
2 you will then be in a position to determine what the facts are
3 and to apply the law to those facts and thus render a verdict.

4 Now, later in this case, ladies and gentlemen, a
5 foreperson will be selected to preside over deliberations in
6 the jury room. It will be the foreperson's added duty to be
7 the jury spokesperson here in court. It will also be the
8 foreperson's duty to write the verdict, but I will give the
9 foreperson further instructions about that at the conclusion
10 of the case.

11 Now, in order to preserve everyone's rights, I will give
12 the attorneys an opportunity to object to anything that I have
13 said to you all, the jury.

14 Any exceptions or any objections
15 to anything that I have said to the jury by the state?

16 MR. JEPERTINGER: No, sir.

17 THE COURT: Defense counsel?

18 MS. CRAYTON: No, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, we will now
20 begin the trial of the case.

21 The state is recognized for opening statements.

22 OPENING BY RICHARDSON:

23 MR. RICHARDSON: Some of the most difficult decisions
24 that we have to make in life are thrust upon us at a time
25 where we least expect we have to make them.

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OPENING BY RICHARDSON

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1 Shaquawna Riggins, who is seated over here, was put in
2 just that dilemma on December 3rd, 2016, here in Florence.
3 She got off work, works into the night, got off work around
4 10:30 or so, met up with some friends to celebrate a birthday
5 of one of her friends. They were at the Que Time Club, which
6 is a place on Irby Street kind of across from the Taco Bell on
7 Irby. There's a little strip there with the Shogun Japanese
8 and it's in that strip there with Shogun, Que Time.

9 She and her friends go to Que Time. They are there for
10 several hours and the friends end up leaving the club before
11 she does. And she faced a situation that we ought not have to
12 face in a civilized society, with any worry anyway, she walked
13 out to her car by herself. She made it to her car, which was
14 parked in a poorly lit or a dark area near Que Time, got in
15 her vehicle and was looking at her phone, had her keys in the
16 ignition prepared to crank and leave when she got a knock on
17 the window. She looked up, saw an individual she did not
18 know. It was man with dreads and he asked her for a lighter.
19 Her window, car window, did not work, so she opened the door
20 to hand him a lighter. He utilized it, again trying to make
21 small take with her. She asked for her lighter back, at which
22 point, he started to walk towards the back of her vehicle and
23 came back with a gun in her face. That was the point where
24 she realized or where she was faced with a difficult decision,
25 many difficult decisions, and she was gonna have to make in a

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OPENING BY RICHARDSON

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1 hurry.

2 Her first decision was gonna be to try to reach for her
3 phone and slowly dial 911 and try to get some help. Because
4 what do you do, you know, what do you do when a gun is in your
5 face? That's not a question any of us ever want to have to
6 answer. Well, that didn't work out for her because he saw
7 what she was doing, ordered to give the gun over, which she
8 did. He then ordered her to get into her passenger seat and
9 made her climb over the armrest, he sat in the driver's seat,
10 indicated that he wanted some sexual act performed on him and
11 he cranked the car and drove off from the Que Time with Ms.
12 Riggins in the passenger seat of her own car.

13 The evidence will show they took a right onto Irby Street
14 and headed out towards South Florence High School. On the
15 way, going down Irby Street, she wanted to know was she gonna
16 be shot. The indication was he didn't know yet; he didn't
17 know what he was gonna do. They make a right turn onto John
18 Paul Jones Road, which is the road that kind of runs out into
19 Irby Street right across from South Florence High School. Got
20 a little ways down John Paul Jones and the most difficult of
21 the decisions she had to make came on that road. Faced with
22 the barrel of a gun, not knowing if she was going to make it
23 out alive, not knowing if she was going to get raped, not
24 knowing what was going to happen, not knowing if she was ever
25 going to see her daughter again, she made the decision to

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OPENING BY RICHARDSON

1 reach to see if her car door was unlocked. With one eye on
2 him and feeling the door, she unlocked it and dove out of her
3 moving vehicle on John Paul Jones Road. She hit the pavement
4 and rolled into a ditch. She noticed the car kept going, she
5 got up, the car turns around, she dives back in the ditch and
6 waits silently. She hears a car door open, she hears words,
7 she hears a car door shut, and the car drive away. She waited
8 until she saw the tail lights take a right back onto Irby
9 Street before she ran to the nearest house to get help. EMS
10 and law enforcement arrive. Thank goodness, the first house
11 she went to, the people answered the door, let her in, and
12 offered her help. She's covered from legs to head in
13 injuries, cuts, lacerations, stuff that might happen if you
14 dive out of a moving car onto a road. She's there at this
15 residence on John Paul Jones Road. Her car is gone, her
16 cellphone is gone, her car keys obviously gone, her debit
17 cards, identification cards, all her property that would've
18 been in her car was gone.

19 Law enforcement responds. They begin to investigate and
20 one of the things I mentioned that was gone was her phone.
21 Luckily for us, modern day phones have GPS capabilities. Law
22 enforcement utilized that, tracked her phone to an address on
23 Woods Bay Road in the town of Olanta, outside the town of
24 Olanta. They go down that road and they see her car sitting
25 in the driveway of a house where that phone is giving them

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OPENING BY RICHARDSON

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1 this signal.

2 They end up getting the defendant, Mr. Roberson, out of
3 the house. At the time, he had dreads, which fit the
4 description of what she provided law enforcement. Eventually,
5 law enforcement recovered from out of the house a gun, which
6 Ms. Riggins had described as silver, her phone, her keys, her
7 cards, all these items that were in or around where Mr.
8 Roberson had been in that house. Having a suspect at this
9 point, law enforcement generated a photo lineup, took it to
10 Ms. Riggins, who was still in the hospital recovering, and she
11 identified the defendant as the person who did this to her.

12 You'll also hear that Ms. Riggins, due to all this,
13 missed her own court date, where she had a traffic ticket that
14 week that caused her license to get suspended, which is
15 neither here nor there for the purposes of this case, but I
16 tell you that to tell you this. Some eight months later, she
17 was pulled over and her license was suspended. In a panic,
18 she gave the officer the name of her sister, rather than her
19 own name. She was found out immediately, charged with giving
20 false information, and subsequently pled to that offense. I
21 tell you that to let you know that that's gonna be addressed
22 from the witness stand but -- and you'll have to judge the
23 credibility of Ms. Riggins, everything she tells you from the
24 stand.

25 But what I ask you to look at in addition to Ms. Riggins

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OPENING BY NEYLE

1 own testimony, her words, photographs of injuries, photographs
2 of her property, testimony of eye witnesses, who know neither
3 or knew neither of these individuals prior to that evening,
4 who have no dog in this fight, so to speak. Testimony from
5 law enforcement, first responders, investigators, EMT's all
6 those things will add up over the course of this trial and I
7 think that when you hear everything that we, the state has to
8 present to you, you're going to have to make your own decision
9 at the end of this trial and I think that the evidence that
10 we'll show you want make it all that difficult. I believe
11 that the evidence with respect to the charges of kidnapping,
12 carjacking, and possession of a weapon during the commission
13 of a violent crime, the evidence will be overwhelming. And,
14 at the conclusion of our case, we're gonna ask you to find the
15 verdict of guilty on all three of those counts.

16 Thank you.

17 THE COURT: Ms. Neyle?

18 MS. NEYLE: Thank you, Your Honor, may it please the
19 Court?

20 THE COURT: Yes, ma'am.

21 OPENING BY MS. NEYLE:

22 MS. NEYLE: Good afternoon. As Ms. Crayton told you all
23 earlier this morning, my name is Elizabeth Neyle and we
24 represent the gentleman seated right over there, Shamaine
25 Roberson. Now, the state has charged Shamaine with the

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OPENING BY NEYLE

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1 offenses of carjacking, kidnapping, and possession of a
2 weapon. He's been charged with those offenses, but as he sits
3 before you he does so an innocent man. Because the state has
4 charged with those offenses, they must prove that he committed
5 each one of those offenses beyond a reasonable doubt.

6 Now, you may be wondering what beyond a reasonable doubt
7 means, and Judge Brown is going to go into much greater detail
8 a little bit later. But, to put it in the simplest terms
9 possible, beyond a reasonable doubt is the type of doubt where
10 after you hear everything and you consider the case, you're
11 simply not sure.

12 What Mr. Richardson just told you sounds horrible. It
13 sounds like every single person's worst nightmare. But that's
14 not why we're here today. We're here because what Mr.
15 Richardson told you was not a story that we know and believe
16 about what happened that night. We know a story of a young
17 man, Shamaine, and a young lady, Ms. Riggins, Shaquawna, who
18 have actually known one another for years. And that night, in
19 the early morning hours of December 3rd, 2016, they saw one
20 another again. They started talking and catching up on all
21 times. After talking for a while, they decided to leave the
22 club later that night. Ladies and gentlemen, we submit to
23 you, there was no carjacking that night and there was no
24 kidnapping. From the beginning, from Shamaine's first
25 encounter with law enforcement, that has been his story. And

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CONTESSA JAMES - DIRECT BY JEPERTINGER

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1 we believe that after you hear all the evidence, after you
2 keep an open mind, wait to form your opinion until you hear
3 the last witness, we believe that you will believe Shamaine
4 and find him not guilty.

5 Thank you.

6 THE COURT: Can the lawyers approach before you call your
7 first witness, please?

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

10 MR. JEPERTINGER: I beg the Court's indulgence?

11 Your Honor, the state would call Contessa James to the
12 stand.

13 THE COURT: All right.

14 CLERK: Place your left hand on the Bible and raise your
15 right hand.

16 CONTESSA JAMES, HAVING BEEN DULY
17 SWORN TESTIFIES AS FOLLOWS:

18 CLERK: Please be seated in the witness box and state
19 your name for the record.

20 MS. JAMES: My name is Contessa James.

21 DIRECT EXAMINATION OF CONTESSA JAMES BY MR. JEPERTINGER:

22 Q: Ms. James, how old are you?

23 A: Twenty-eight -- twenty-nine, I'm sorry; I just had a
24 birthday.

25 Q: That's fine. And do you have any relationship with

1 Shaquawna Riggins?

2 A: Yes, I do; she's a friend.

3 Q: Okay. How long have you been friends?

4 A: Since maybe before 2009, before my daughter was born.

5 Q: Okay. So, we're in 2018 now. Would it be fair to say

6 about eight years?

7 A: Yes.

8 Q: All right. And do y'all socialize together?

9 A: Yes.

10 Q: Okay. How often do you see one another?

11 A: For parties, like parties, when we just get together just

12 to come to the house. It's not -- it's not an everyday thing;

13 it's when we both can be off at the same time.

14 Q: All right. And where do you currently work?

15 A: At Pee Dee Services for Pepsi.

16 Q: Okay. For Pepsi?

17 A: Yes, sir.

18 Q: Okay. Keep your voice up.

19 A: I'm sorry.

20 Q: That's fine. I'm a little hard of hearing -- I know that

21 you're nervous -- type thing that goes with age here.

22 Now, when you say that coming -- going to houses, have

23 you been to her, where she lives?

24 A: Yes.

25 Q: Okay. And back in 2016, had she ever been to your house?

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CONTESSA JAMES - DIRECT BY JEPERTINGER

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1 A: Yes.

2 Q: Okay. Now, I want to take you back to the -- I guess the
3 evening of Friday, December the 2nd to the early morning hours
4 of Saturday, December 3rd, 2016.

5 A: Okay.

6 Q: All right. When was your birthday?

7 A: December [REDACTED]

8 Q: December the [REDACTED]?

9 A: Yes.

10 Q: Did y'all have anything planned for that Friday night,
11 early Saturday morning?

12 A: Yes, we was gonna go to Cue Time for my birthday to
13 celebrate.

14 Q: All right. And if I show you what's in evidence, let's
15 see, as State's Exhibit 2, so the jury can see it here, I
16 guess this is the Taco Bell on South Irby; is that correct?

17 A: Yes.

18 Q: And you have a barber shop over here at this building and
19 then you got, I guess, the Moss Building and Shogan's on this
20 side of the strip mall, is it not?

21 A: Yes, it is.

22 Q: And is Cue Time located where my index finger is right
23 here?

24 A: Yes. I can't really see -- yes, sir.

25 Q: All right. And that's in Florence County, is it not?

1 A: It is.

2 Q: All right. Now, what time did -- how did you get to Cue
3 Time? Excuse me.

4 A: I rode with Shaquawna in her car.

5 Q: Okay. Did she come to pick you up, or do you come -- how
6 did you get -- y'all get together?

7 A: Once she got off from work, she came to my house.

8 Q: And what time was it about?

9 A: Maybe about 11:00, 11ish, I'm not sure. I know we end up
10 leaving my house around 12:00.

11 Q: All right. And she came in her car, correct?

12 A: Yes.

13 Q: Do you remember what type of car she was driving at that
14 time?

15 A: It was a gold, I think it was a Malibu, I'm not sure, what
16 kind -- Impala, I think.

17 Q: Malibu or Impala or -- you're not sure?

18 A: I'm not good with cars.

19 Q: Okay. That's fine. All right. And was -- was she alone?

20 A: Yes.

21 Q: All right. And were you alone or did you have somebody
22 with you that was going to celebrate your birthday at the Cue
23 Time?

24 A: I had -- I had another girlfriend with me as well as some
25 other friends.

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CONTESSA JAMES - DIRECT BY JEPERTINGER

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1 Q: Okay. And did y'all plan as a group to go to Cue Time
2 together?
3 A: Yes.
4 Q: Okay. And did y'all leave your house at the same time?
5 A: Yes.
6 Q: Okay. Who -- how did you get there and did y'all pile
7 into one car or two cars or three cars or what was the deal?
8 A: We had two cars. The girls rode in one and the guys were
9 in another.
10 Q: Okay. So, it would've been you, Shaquawna, and I think
11 you said your friend?
12 A: Another friend, yes.
13 Q: Okay. And y'all went from -- and where were you living at
14 the time?
15 A: On Royal Street.
16 Q: Okay.
17 A: In Florence.
18 Q: You were in Florence?
19 A: Yes.
20 Q: Okay. All right. Now, any of those guys, were any of
21 them Shamaine Roberson?
22 A: No, sir.
23 Q: Had you ever laid eyeballs on Shamaine Roberson?
24 A: No, sir.
25 Q: Okay. Have you ever seen him at any social gathering

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1 where Shaquawna Riggins would be at that you all would be
2 together?
3 A: No, sir.
4 Q: Okay. So, you get to the Cue Time?
5 A: Uh-huh, (affirmative response).
6 Q: All right. Anything interesting happen on the way there?
7 A: No.
8 Q: All right. What time would you say that you got to the
9 Cue Time?
10 A: I know it was after 12:00. I'm not sure if it was 12:30
11 or I can't remember the time exactly.
12 Q: Okay. And is this -- would this be considered some sort
13 of dance club?
14 A: Yes.
15 Q: Okay. And they serve alcohol, correct?
16 A: Yes.
17 Q: All right. So, before I ask you the next question ---
18 A: Uh-huh, (affirmative response).
19 Q: --- did Shaquawna -- were there any injuries visible on
20 Shaquawna that evening?
21 A: No, sir.
22 Q: Did you notice her favoring a leg when she was walking or
23 dancing?
24 A: No, sir.
25 Q: Well, did you hear her complain about any pain or anything

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CONTESSA JAMES - DIRECT BY JEPERTINGER

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1 of that nature?

2 A: No, sir.

3 Q: All right. All right. Now, when you got there, did -- I
4 mean, did you dance and, and, and have something to drink?

5 A: Yes, I did.

6 Q: Okay. How long would you say that you stayed at the -- at
7 the Cue Time?

8 A: Between two or three hours probably.

9 Q: So, would it be safe to say it was somewhere maybe 3ish -
10 --

11 A: Yes.

12 Q: --- by the time you ---

13 A: Decided to leave ---

14 Q: --- you decided to leave?

15 A: Yes.

16 Q: Okay. Now, who did you leave with?

17 A: My boyfriend.

18 Q: All right. When you left with your boyfriend, was
19 Shaquawna still at the club or did she leave with you?

20 A: She was still at the club. She seen a friend of hers and
21 she stayed at the club with her.

22 Q: Okay. Did you -- did you tell her I'm catching a ride,
23 since you came with her?

24 A: I said it -- I don't know if she heard me, but I did let
25 everybody know that when we came to the club, I told them that

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CONTESSA JAMES - CROSS BY NEYLE

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1 I was going to leave.

2 Q: All right. And you did leave the club, correct?

3 A: I did.

4 Q: All right. Now, obviously, did you get in the car and
5 take off ---

6 A: Yes.

7 Q: --- at that stage with your boyfriend?

8 A: No. My boyfriend drove, but yeah, we left after that.

9 Q: All right. When was the next time you saw Shaquawna?

10 A: It could've been three days later, I'm thinking. I just
11 called her the next day when I found out what happened.

12 Q: Okay. And when you saw her three days later, what was her
13 physical condition like?

14 A: She was scraped up and she -- her leg was hurting her.
15 She looked like she was in a lot of pain.

16 Q: All right. Thank you, Ms. James. Please answer any
17 questions that the defense may have for you.

18 A: Okay.

19 THE COURT: Cross examination?

20 CROSS EXAMINATION OF CONTESSA JAMES BY MS. NEYLE:

21 Q: Ms. James, you testified that you and Shaquawna were at
22 your house and there was another girl with you that rode to
23 the club?

24 A: Yes.

25 Q: What's the name of that girl?

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1 A: Monique McCullough.
2 Q: Monique McCullough. Did y'all have any drinks at your
3 house?
4 A: Yes.
5 Q: How many drinks did you have?
6 A: I had maybe three beers before I left.
7 Q: Do you know how many drinks Shaquawna had?
8 A: She wasn't there while we was drinking.
9 Q: Okay. You later testified that when you were at Cue Time,
10 you decided to leave with your boyfriend. Did you leave in
11 your boyfriend's car?
12 A: We left in my car.
13 Q: In your car?
14 A: Yes.
15 Q: How did your car get to the club; did your boyfriend drive
16 it?
17 A: My boyfriend cousin drove the car, yeah.
18 Q: Okay. You also said that you didn't leave -- Ms.
19 Shaquawna didn't leave because she saw a friend, correct?
20 A: Yes.
21 Q: Was that friend male or female?
22 A: It was a female.
23 Q: Female. Are you familiar with the layout of Cue Time;
24 have you been there a few times before?
25 A: I been there twice; that was my second time going.

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CONTESSA JAMES - REDIRECT BY JEPERTINGER

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1 Q: Okay. Are there picnic tables outside of Cue Time?

2 A: Yes.

3 MS. NEYLE: I beg the Court's indulgence? I have no
4 further questions for this witness.

5 THE COURT: Any redirect?

6 MR. JEPERTINGER: Yes, sir.

7 REDIRECT EXAMINATION OF CONTESSA JAMES BY MR. JEPERTINGER:

8 Q: When y'all got to the Cue Time that evening or early
9 morning, was the place packed?

10 A: It was.

11 Q: Did y'all have some difficulty finding a parking spot
12 there?

13 A: Yes, we did.

14 Q: And did you -- did Shaquawna park in front of the club or
15 did she have to park across the street by, I guess, this other
16 building? I'll show you what's been marked as State's Exhibit
17 2. Will you show us where she parked?

18 A: We had to park over here.

19 Q: Okay. By this building?

20 A: Yes, we had to park over here.

21 Q: Okay. You didn't -- if this is the Cue Time, you had to
22 park across this street, correct?

23 A: Yes.

24 Q: Okay. Very good. Thank you so much.

25 A: You're welcome.

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SHAQUAWNA RIGGINS - DIRECT BY JEPERTINGER

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1 MR. JEPERTINGER: That's all the questions I have for
2 this witness.

3 THE COURT: Anything from Defense?

4 MS. NEYLE: No, Your Honor, I don't have any further
5 questions.

6 THE COURT: Ma'am, you may step down, thank you.

7 MR. JEPERTINGER: Your Honor, the state would call
8 Shaquawna Riggins.

9 THE COURT: Ms. Riggins, if you would come around to be
10 sworn, please, ma'am.

11 CLERK: Place your left hand on the Bible and raise your
12 right hand.

13 SHAQUAWNA RIGGINS, HAVING BEEN DULY
14 SWORN TESTIFIES AS FOLLOWS:

15 CLERK: If you'll be seated in the witness box and state
16 your name for the record.

17 MS. RIGGINS: My name is Shaquawna Riggins.

18 DIRECT EXAMINATION OF SHAQUAWNA RIGGINS BY MR. JEPERTINGER:

19 Q: Shaquawna, how old are you?

20 A: I'm 28.

21 Q: Okay. Where do you currently work?

22 A: At the Waffle House.

23 Q: Okay. Before that, where did you work?

24 A: Johnson Control.

25 Q: Okay. And how long did you work for Johnson Control?

1 A: Seem like seven or eight months.

2 Q: Okay. And did you work prior to that at some other place?

3 A: Yes, I was working -- when I started at Johnson Control, I

4 was working at Applebee's.

5 Q: All right. And in terms of family, do you -- do you have

6 any children?

7 A: I do. I have a six-year-old daughter.

8 Q: I see you got one baking in the oven?

9 A: I have one on the way; yes, sir.

10 Q: All right. Okay. I'm want to take you back to the

11 evening of December 2nd, early morning hours of December 3rd.

12 If you could tell the ladies and gentlemen of the jury

13 starting off with picking up Contessa James and then go from

14 there and I'll intersperse it with questions. Okay?

15 A: Okay. Like she said previously, I went to her house and

16 we was going out for her birthday. I got to her house and we

17 left maybe like a quarter till 12:00. We got to Cue Time

18 around 12 o'clock, if I'm not mistaken, around 12 o'clock. We

19 got there, we stayed there for some hours, and she had left

20 before I did and I decided to stay. Cause I wanted to -- you

21 know, I seen a friend I used to work with and I still, you

22 know, I wasn't ready to leave. At that time, I did decide to

23 leave; it was like 4 o'clock in the morning. I was by myself

24 and I was -- I walked to my car.

25 Q: What type of care did you have?

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1 A: I have a 2000 Chevy Malibu, it's gold.
2 Q: Gold color?
3 A: Yes, sir.
4 Q: Okay.
5 A: Faded, you know, paint a little bit. I walked to my car
6 and I got in my car. I have a habit of, you know, when I get
7 in my car, I like to scroll on my phone, go through Facebook
8 or whatever, and that's what I did. In the midst of that, Mr.
9 Roberson had came up to my car.
10 Q: Now, you use his name, let me ask you this, up until that
11 point, had you ever laid eyeballs on Mr. Roberson ever in your
12 life?
13 A: No, sir.
14 Q: Okay. Now, when you open -- when you opened up your car
15 door to get in yourself, did the dome light come on where
16 there was lighting there?
17 A: Yes, sir.
18 Q: Okay. Now, where did you park? I think Contessa was
19 telling us.
20 A: I parked right beside the building that's in front of Cue
21 Time. You know, it's the barber shop, M&M Tech Service and
22 then it's like a parking space right here beside it. That's
23 where I had parked because there was nowhere else to park.
24 And, in that parking area, they don't have any lights. so it
25 was dark.

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1 Q: All right. I'm sorry, go ahead, I just wanted to ask you
2 that.

3 A: Okay. So, when I got in my car, like I said, I was
4 scrolling through my phone, I got a knock on my window from
5 Mr. Roberson. My driver window don't come down. So, I had to
6 open up my door. I opened up my door and he asked for a
7 light.

8 Q: Now, what did he look like at that time?

9 A: He had dreads. He had dreads, a head full of dreads or
10 whatnot.

11 Q: Did, at that point, Cue Time, I guess that was -- what
12 time is it open till?

13 A: At least till 6 o'clock.

14 Q: So, there's still people probably in the club, correct?

15 A: Uh-huh, (affirmative response). It was still people out
16 there in the club.

17 Q: So, did you think it any unusual that a guy came up and
18 tapped on your window at that point?

19 A: No, sir; I didn't. I didn't think any of it, anything of
20 it or whatnot. He just -- when he came and knocked on the
21 window, excuse me, and asked for a lighter, you know, I just
22 told him yeah, I had one, here you go. He asked or a lighter
23 to roll up -- he say he was about to roll up a blunt and he
24 wanted to use my lighter to light his blunt. So, I gave it to
25 him.

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1 Q: What did he do?

2 A: In the midst of that, he was just sparking up a
3 conversation. So, you know me, I was talking back to him ---

4 Q: What was he conversing about?

5 A: Asking me like, who -- who I came here with. I told him I
6 came with my friends or whatnot. I was leaving, you know, I
7 was by myself and so forth and, you know, just sparking just a
8 little conversation or whatnot. In the midst of that, after
9 he finished rolling up his blunt, he did light it. I noticed
10 it was lit because I saw the end burning. When I saw that, I
11 was -- I act -- I told him, I was like well, you can go ahead
12 and give me my lighter because I'm about to go home. I need
13 to pick my daughter up and go to my house, go back home to my
14 house.

15 Q: Where was your daughter?

16 A: She was at my mom's house.

17 Q: Okay.

18 A: My mom was watching my daughter for me while I was out
19 with my friends for her birthday. So, he was stalling like,
20 he was just like hold on for a minute, acting like it wasn't
21 lit. And I was like, come on, man, you know, give me my
22 lighter so I can go home. In the midst of doing that, he
23 walked towards the end of my car, and I looked over to the
24 right -- when I saw him walk towards the end of my car, I
25 looked over to the right to see what time it was and looked at

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1 my phone in my passenger seat to see what time it was, turned
2 around, he had a gun in my face, and I was like ---

3 Q: What color was the gun, if you could see the color?

4 A: It was silver. It was a silver gun, a silver handgun.

5 So, I was like, okay, and he was like, shut the F up, you got
6 money or anything and I was like no, I ain't got no money, I
7 don't have nothing. So, when he was saying that, I was
8 reaching over in my passenger seat trying to grab my phone so
9 I could dial 911. He saw me doing that and he told me to give
10 him my phone. So, I gave him my phone, and he made me slide
11 over. So, I had to go over my armrest and get in the
12 passenger seat. He got in the car. My keys were in the
13 ignition, my car wasn't cranked, my key was just in the
14 ignition.

15 Q: Okay. Let me ask you about the keys. Now, I -- I carry a
16 set of keys on me and I've got, you know, 50 million things on
17 50 million type of keys on them. Did you have just a car key
18 on your key ring?

19 A: No, sir, I had my -- it was car key, my house key, and my
20 key chain. That's all I had up there. I just recently had
21 moved into my house, so it was just two keys, a big ole furry
22 ball on a keychain. That was all that was on it. And when I
23 slide over, he -- before he even cranked up the car, you know,
24 he was telling me, oh, you gonna -- you know, I asked him
25 what, like what was he gonna do, what you want, like anything

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1 you want, I'll give it to you, just don't shoot me. Oh, you
2 gone suck my dick, perform sexual acts on him. So, I was like
3 whatever it is, just don't shoot me. I just want to go back
4 home to my daughter.

5 He proceeded to crank up my car and, when he cranked up
6 my car, he put the car in drive and we drove off.

7 Q: Okay. Which way did y'all drive?

8 A: When he pulled out from Cue Time, we made a right onto
9 Irby Street. You know Irby Street takes you all the way down.
10 We passed by Kangaroo. And in the midst of that, I was just
11 like trying to talk to him, you know, so nothing wouldn't
12 happen, just to keep him, you know me, just think just to keep
13 him calm, like, just don't hurt me. You know, I got a
14 daughter I want to go back home to. I don't want -- I say you
15 can have anything you want. So, I asked him, I was like,
16 well, what is it -- I was like, what are you gonna do, I was
17 like, what is it you're gonna do? I don't know, he said, I
18 don't know, I haven't decided yet. I don't know what I'm
19 gonna do. So, I'm just thinking, I'm like, man, shoot, I was
20 just sitting in the car and when we passed by -- I was sitting
21 there thinking, we done past Kangaroo, South Florence Exxon,
22 passed there, and we get on Paul Jones Road. We went that way
23 on Paul Jones Road. At that night, that road is pitch black.
24 So, I had to think of something quick. Like, I just couldn't
25 sit in this car because I was like, I know if I stay in this

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1 car, I'm either gonna get killed, raped, or something is gonna
2 happen to me where I ain't gone make it back. So, I just
3 thought about my child. I had a friend that was almost in a
4 situation as me and she jumped out the car. So, I was like,
5 I'm gonna jump out the car.

6 Q: Now, let me ask you this, and I hate to interrupt, but do
7 you happen to notice what speed he was driving at while you
8 were going down Paul Jones Road?

9 A: He was going about 50 or 55 miles per hour.

10 Q: All right.

11 A: Before -- before I jumped out, I was still looking at him.
12 I reached over to see if my lock switch was locked or
13 unlocked. I push it in and I pull it out. When I pull it
14 out, I knew definitely it was unlocked and, when I did that, I
15 jumped out the car. I jumped out onto the road, rolled into
16 the ditch when I came to a -- that's when I came to a stop,
17 when I hit the ditch. I got up, and he slowed down, but then
18 he kept on driving. So, when I saw he kept on driving, I was
19 trying to hurry up, run, and get to the closest house I find
20 for some help. I saw that he made a U-turn to come back.
21 When he did that, I turned around and ran back in the ditch
22 and like buried myself and hid so he couldn't find me.

23 Q: Can I ask you something, just a question that interests
24 me, when you jumped out, did -- did the passenger door stay
25 open that you jumped out of or did it close or what?

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1 A: It closed. It closed on its own. When you're going at a
2 certain speed and, say, you try to throw -- you open a door
3 and throw something out, you know the wind is pushing it,
4 pushing the door back closed.

5 Q: Is that what happened?

6 A: Yes, sir.

7 Q: Okay. All right. I'm sorry, go ahead.

8 A: So, when he, like I said, he turned around, I ran and hid
9 back in the ditch. When I hid back in the ditch, I heard him
10 pass by me. So, I knew -- I could tell by the headlights that
11 it was my car. So, I hid, and he passed by me and he stopped.
12 He stopped and got out the car and was fussing like, bitch,
13 you know, fussing cause I got away. He couldn't find me.
14 When he couldn't find me, he got back in the car, drove off.
15 When I heard that he drove off and I looked and I see he was
16 gone, I got up and I ran to the nearest house.

17 Q: All right. Let's stop there. I'm going to show you
18 what's been marked as State's Exhibit 3, which is in evidence.
19 If this John Paul Jones Road ---

20 A: Uh-huh, (affirmative response).

21 Q: --- can -- I believe this is the house -- is that the
22 house you ran to?

23 A: Yes, sir.

24 Q: All right.

25 A: Yeah.

1 Q: And you met, who did you meet there when you knocked on
2 that door?

3 A: It was a lady, I didn't know her name, but it was ---

4 Q: White lady, black lady?

5 A: A white lady. A white lady. Her husband was a tall black
6 man.

7 Q: All right.

8 A: But that's who answered the door, the white lady answered
9 the door. When I -- cause I -- the reason why I knew that
10 house was there because I used to drive down that road to go
11 to work towards Honda. So, the house was green, that's why I
12 remember it. So, when I got up, I ran. I saw cars in the
13 yard and I knocked on her door.

14 Q: This was almost what, almost 5 o'clock by this time?

15 A: Uh-huh, (affirmative response), yep.

16 Q: And can you how the ladies and gentlemen of the jury kind
17 of where, if you remember, where you ditched, where you jumped
18 out of the car?

19 A: It had to be here. It had to be here, right here, this is
20 where I jumped out at and rolled into the ditch.

21 Q: All right. All right. All right. Now, you go to the
22 house, you knock on the door, the white lady and her black
23 husband come to -- come and answer the door, correct?

24 A: Yes, the wife, the lady, she was there. She answered the
25 door. I didn't see the man until after I went in and she was

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1 like -- because he was just getting off work, she said. I was
2 -- I told her, I was like, you know, I was kidnapped at
3 gunpoint, I jumped out the car. She could tell because my
4 clothes were ruined. I was all messed up, clothes ruined.
5 And she was like, just come in, come in. She let me come in
6 and I was hysterical, I was crying. I was crying because I
7 had never been in a situation like that before and just to
8 have, to be like in a life or death, you know, situation where
9 I have to jump out of the car to save my life, it was just --
10 it was just hysterical. It was crazy. But she, she answered
11 the door, I thank God, she answered the door and she let me
12 in. She wrapped me up with a blanket and she called 911. Her
13 husband, she is like -- she sent the husband out there just to
14 make sure that the man was gone, he didn't come back or
15 whatnot because he had just got home. She was like, he just
16 came in the house from work.

17 Q: Okay. Now, I expect the police and -- and/or deputy
18 sheriff in this case, and EMT made it out to you, right?

19 A: Yes, sir.

20 Q: Okay. At that point, after you met with the police there
21 and, and, and the ambulance, did, did the ambulance carry you
22 to one of the hospitals around here?

23 A: Yes, sir; it took me to Carolinas.

24 Q: Okay. Now, I am going to show you a series of
25 photographs. I'm going to show you State's Exhibits 25, 26,

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1 27, 28, 30, and 31. That would be 25, 26, 27, 28, 29, 30, and
2 31. All right? Can you identify these photos?
3 A: Yes, sir. This is -- these are my knees.
4 Q: That would be what, State's Exhibit 25 is a picture of
5 what?
6 A: My legs, my knees.
7 Q: From when?
8 A: From when I jumped out the car.
9 Q: Okay. Were these photos taken at the hospital?
10 A: Yes, sir.
11 Q: Okay. And State's 26?
12 A: Yes, sir; those are my chins.
13 Q: State's 27?
14 A: That's my side of my stomach.
15 Q: State's 28?
16 A: That's the front of my stomach.
17 Q: State's 29?
18 A: That's my thigh area near my cheeks.
19 Q: State's 30?
20 A: That's my arm, my hand.
21 Q: And State's 31?
22 A: That's my face.
23 Q: Do all these photos fairly and accurately represent what
24 you looked like after you jumped out of the vehicle on
25 December the 3rd, 2016 from the car that you were in that

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1 Shamaine Roberson was driving?

2 A: Yes, sir.

3 MR. JEPERTINGER: Okay. I would move State's 25 through
4 31 into evidence at this time.

5 THE COURT: Any objection?

6 MS. CRAYTON: Your Honor, I would just like to note my
7 previous objection for the record.

8 THE COURT: Can you approach, please?

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

11 MR. JEPERTINGER: What is the ruling, Judge?

12 THE COURT: So admitted without objection.

13 STATE'S EXHIBITS NUMBER 25 THROUGH 31

14 ADMITTED INTO EVIDENCE

15 MR. JEPERTINGER: I would like to publish these photos to
16 the jury at this time.

17 THE COURT: Go ahead.

18 BY MR. JEPERTINGER:

19 Q: Ms. Shaquawna ---

20 A: Yes, sir.

21 Q: In terms of your Chevy Malibu, I'm gonna show you two
22 pictures, State's Exhibit 9 and State's Exhibit 10. I'm gonna
23 show you State's Exhibit 9 and 10 and just tell me if you can
24 identify both of those photos, please.

25 A: This is my vehicle, a 2000 Chevy Malibu.

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1 Q: No question?

2 A: No question.

3 Q: Okay. And that's your license tag number on State's
4 Exhibit 9?

5 A: Yes, sir, it was then, because I have a new one now.

6 Q: Okay.

7 A: But, yes, sir.

8 Q: Very good. And do these photos accurately portray what
9 your car looked like in terms of December the 3rd, 2016?

10 A: Yes, sir.

11 Q: Were there -- was there anything -- I saw a window missing
12 on the back of State's Exhibit 10; did you have that window
13 covered up with plastic?

14 A: No, sir, I don't know -- no, sir.

15 Q: So, they are just as accurate as they were when you jumped
16 ---

17 A: Yes, sir.

18 Q: --- out of that vehicle ---

19 A: Yes, sir.

20 Q: --- earlier that morning; is that correct?

21 A: Yes, sir.

22 MR. JEPERTINGER: At this time, we would move State's
23 Exhibit 9 and 10 into evidence?

24 THE COURT: Any objection?

25 MS. CRAYTON: Your Honor, that's subject to my prior

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1 objection. I would just ask to note that for the record.

2 THE COURT: Okay.

3 MR. JEPERTINGER: Okay.

4 MS. CRAYTON: Your Honor, may we approach?

5 THE COURT: Please.

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

8 THE COURT: All right. Over Defendant's prior objection,
9 so admitted.

10 STATE'S EXHIBITS NUMBER 9 AND 10

11 ADMITTED INTO EVIDENCE

12 MR. JEPERTINGER: All right. I don't think I'll publish
13 these at this stage.

14 BY MR. JEPERTINGER:

15 Q: I want to show you -- before I do, let me ask you this.
16 Your cell phone, okay, do you remember what color it was?

17 A: It was a black phone. At that time, I think I had like a
18 purple case, phone case, it was in a phone case.

19 Q: Okay. And how did you -- did you keep any personal
20 identification in that phone, like use it as a wallet, credit
21 cards?

22 A: Yes, sir, it had like -- it was one of those phone cases
23 where you could put your ID, you know, your debit card or what
24 not in the inside of it.

25 Q: Okay. I'm gonna show you State's Exhibit 19 for

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1 identification. Can you identify that, please?

2 A: That's my cell phone.

3 Q: All right. And is that the one that Shamaine Roberson
4 took from you that evening?

5 A: Yes, sir.

6 Q: Okay. And does that photo fairly and accurately depict
7 your cell phone?

8 A: Yeah, that's my phone. I still have that phone to today.

9 Q: Okay. Very good. And I'm gonna show you State's Exhibit
10 15; can you identify those items in that photo?

11 A: My two debit cards and my food stamp card. Those are
12 headphones, but those wasn't my headphones.

13 Q: Okay. Those weren't your headphones. Were the cards
14 yours?

15 A: Yes, sir.

16 Q: Okay. Does this photo fairly and accurately depict your
17 phone and your cards?

18 A: Yeah, those are my cards, yes, sir.

19 MR. JEPERTINGER: Okay. I'd move State's Exhibit 15 into
20 the evidence.

21 THE COURT: Any objection?

22 MS. CRAYTON: Your Honor, the same prior objection.

23 THE COURT: Okay.

24 STATE'S EXHIBIT NUMBER 15

25 ADMITTED INTO EVIDENCE

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1 BY MR. JEPERTINGER:

2 Q: And on this MasterCard debit card here in state's exhibit
3 15, whose name is on that debit card?

4 A: Shaquawna Riggins, that's my name.

5 Q: Thank you. Okay. Did law enforcement give you your phone
6 back?

7 A: Yes, sir.

8 Q: Okay. Did law enforcement give you those debit cards and
9 your food stamp card back to you?

10 A: Yes, sir.

11 Q: Okay.

12 A: I also had my daughter's social security card and my
13 social security card in there as well, but those wasn't in
14 there. So, I had to just get all that over again.

15 Q: All right.

16 A: And my license, my license wasn't in there either.

17 Q: And you did not get that back?

18 A: Hu-huh, (negative response), no, sir.

19 Q: All right. How about your -- your house key that was
20 attached to that big fuzzy ball with your car key?

21 A: All I got back was my car key. That's all I got back.
22 When I received that and I went to my car, it was brand new,
23 clean, everything was gone. It's like he cleaned out my car.
24 When you go to a lot, a brand new car, they vacuum it out,
25 everything, all the way down to my glove department, to my

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1 trunk, my daughter's car seat was gone. Everything I had in
2 there, any insurance papers, everything, my car was cleaned
3 completely out. Like he vacuumed my car out like he was going
4 to keep it, like he just got it off the lot or something.

5 Q: All right. But you did get your car key back?

6 A: Yes, sir.

7 MR. JEPERTINGER: All right. Now, I don't know if I did
8 move State's Exhibit 19 into evidence, which I would move that
9 into evidence as well, which is a picture of her phone?

10 THE COURT: Any objection.

11 MS. CRAYTON: Just the previous -- the same prior
12 objection, Your Honor.

13 THE COURT: Okay. Overruled.

14 STATE'S EXHIBIT NUMBER 19

15 ADMITTED INTO EVIDENCE

16 BY MR. JEPERTINGER:

17 Q: While police were doing whatever police do, you were at
18 the hospital, correct?

19 A: Yes, sir.

20 Q: Okay. Did you have a chance to meet with Investigator
21 Tilton at the hospital?

22 A: Yes, sir; he came in there in my room.

23 Q: And I believe there may've been another officer that you
24 met with who took photos of your injuries?

25 A: Yes, sir.

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1 Q: Okay. A female officer?

2 A: Yes, sir.

3 Q: All right. Did Mr. or Investigator Tilton show you a
4 photo array of six different individuals with similar
5 characteristics to see if perhaps the guy that did this to you
6 was in this photo array?

7 A: Yes, sir.

8 MR. JEPERTINGER: All right. I'd like to have this
9 marked as a state's exhibit for identification and this would
10 be State's Exhibit 32, which was previously Court's Exhibit 2.

11 BY MR. JEPERTINGER:

12 Q: Did Investigator Tilton tell you anything about that the
13 guy was gonna be in this thing?

14 A: No, sir.

15 Q: Okay. Did you circle one of the photographs?

16 A: Yes, sir.

17 Q: And did you sign under that photograph and date it?

18 A: I did, that's my signature.

19 Q: And what was the date?

20 A: The 3rd of December, 2016.

21 Q: Okay. And whose photo did you circle on that photograph?

22 A: Mr. Roberson.

23 MR. JEPERTINGER: At this time, I would move State's
24 Exhibit 32 into evidence?

25 THE COURT: Any objection.

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1 MS. CRAYTON: Your Honor, I think there was -- just I
2 would ask that you note my prior objection.

3 THE COURT: Over prior objections.

4 STATE'S EXHIBIT NUMBER 32

5 ADMITTED INTO EVIDENCE

6 MR. JEPERTINGER: I'd like to publish this one.

7 BY MR. JEPERTINGER:

8 Q: All right. Ms. Riggins, as a result of these injuries
9 that you suffered, did you miss any work because of what you
10 just went through?

11 A: I did. I was out of work for like almost a week. Even
12 when I tried to go back, he sent me back home because they
13 heard what I went through and then they, you know, they saw it
14 on the news. So, my supervisor and my -- she doesn't work
15 there no more, but they were all understanding, and so I
16 missed like almost a week out of work because I couldn't --
17 couldn't really like do much because I was in a lot of pain.
18 I was really sore.

19 Q: Did you have a traffic ticket to pay that week or
20 something that you were supposed to go to court on?

21 A: Yes, sir. I was -- I was supposed to go to court for a
22 traffic ticket for my license. I ended up missing it because
23 I really forgot after all of that -- all of this that had
24 happened, it slipped my mind. So, when I did receive a letter
25 in the mail and I went up there, and the lady told me that my

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1 license were suspended. And I told her that I, you know,
2 missed the court date due to that I was in an incident where I
3 was kidnapped and it just -- I was just -- it just missed my
4 mind so I ended up not being able to pay it.

5 Q: And you never fixed that suspension, correct, you kept on
6 driving?

7 A: Yes, sir.

8 Q: Okay. Now, then did something bad happen to you last
9 summer here in terms of that suspension?

10 A: Yes, sir, I -- I was just leaving -- I was just moving out
11 my house in Quinby and I got stopped by a state trooper. He
12 asked for my license and registration. I told him I didn't
13 have my ID and I ended up giving him my sister name.

14 Q: And that wasn't correct, was it?

15 A: No, it wasn't right. I was just nervous and scared, so I
16 ended up giving him my sister name.

17 Q: As a result of that, they charged you with, I guess,
18 giving false information to a police officer?

19 A: Yes, sir.

20 Q: Okay. And did you settle that issue with the court; did
21 you pay a fine or something like that?

22 A: Yes, sir. I ended up paying everything off to get my
23 license and everything straight.

24 Q: All right. Now, let me ask you this, have you ever, ever
25 loaned your car out for drugs?

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1 A: No, sir. I don't even loan my car -- I hate to give my
2 sister my car. So, I don't -- I was not gonna loan my car out
3 for no drugs. That's crazy.

4 Q: Have you ever laid eyeballs on Shamaine Roberson prior to
5 December 3rd, 2016?

6 A: No, sir.

7 Q: I'm gonna ask you again, the African-American male that
8 came to ask you for a lighter that pulled a silver gun on you,
9 that told you to get over to the passenger seat, the one that
10 told you to give you the cell -- your cell phone to him ---

11 A: Yes, sir.

12 Q: --- the one that demanded sexual acts on him ---

13 A: Yes, sir.

14 Q: --- the one that was undecided of what he was gonna do to
15 you ---

16 A: Yes, sir.

17 Q: --- the one that you avoided by jumping out of your own
18 vehicle at between 50 to 55 miles an hour ---

19 A: Yes, sir.

20 Q: --- the one that caused those injuries we saw in State's
21 Exhibit 25 through 31 ---

22 A: Yes, sir.

23 Q: --- is that man sitting in this courtroom today?

24 A: Yes, sir; he is.

25 Q: And where is he?

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1 A: He's sitting right there on the defendant's side, Mr.
2 Roberson.

3 MR. JEPERTINGER: Let the record reflect that she's
4 identified the defendant.

5 THE COURT: So noted.

6 MR. JEPERTINGER:

7 Q: Thank you. Please answer any questions that the defense
8 attorney may have for you.

9 THE COURT: Cross examination?

10 MS. CRAYTON: Thank you, Your Honor.

11 CROSS EXAMINATION OF SHAQUAWNA RIGGINS BY MS. CRAYTON:

12 Q: Hello again, Ms. Riggins?

13 A: Hello.

14 Q: How are you?

15 A: I'm good.

16 Q: Ms. Riggins, I may repeat some questions. I'm trying to
17 make sure I follow up on everything, so if I repeat something,
18 I apologize. Just bear with me.

19 So, you arrived at Que Time midnightish, we're not sure
20 exactly, but around midnight?

21 A: Yes, ma'am.

22 Q: Okay. And you went with Contessa James and another
23 female?

24 A: Yes, ma'am.

25 Q: And the guys were following behind y'all in a separate

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1 car?

2 A: Yes, ma'am.

3 Q: All right. And what were you doing at Que Time?

4 A: Just hanging out with my friend, Contessa. We had a

5 couple of drinks -- well I had a couple of -- just like two

6 shots, that's it, because I know I had to drive and I don't

7 want to be intoxicated driving. So, that's what we was doing,

8 dancing, having fun.

9 Q: And she said earlier, she decided to leave, and she thinks

10 she told you but she's not sure if you heard, but at some

11 point, she left?

12 A: Yes, ma'am; she did.

13 Q: And you stayed?

14 A: Yes, ma'am.

15 Q: Who did you stay with?

16 A: Well, I stayed by myself, but I seen a friend of mine that

17 was in there that I used to work with.

18 Q: Okay. And who is that?

19 A: Dean James.

20 Q: Okay. Is that a guy or a girl?

21 A: A female.

22 Q: And you stayed to at the bar with her?

23 A: Yeah; yes, ma'am, I stayed. I was at the bar and just

24 dancing, just the normal stuff you do when you go inside a

25 club.

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SHAQUAWNA RIGGINS - CROSS BY CRAYTON

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- 1 Q: And about what time do you think you left?
- 2 A: About 4 o'clock, a little after 4:00.
- 3 Q: And what time does the bar close?
- 4 A: 6:00. They stay open late.
- 5 Q: So, at 6:00 A.M.?
- 6 A: Yes, ma'am, 6:00 A.M.
- 7 Q: Okay. And it was packed that night?
- 8 A: It was.
- 9 Q: You couldn't even find a parking spot?
- 10 A: I couldn't.
- 11 Q: And when you left, was the parking lot still busy?
- 12 A: Yes, it was. It still had a lot of cars. I didn't see
- 13 nobody outside.
- 14 Q: Okay. Any idea how many cars were in the parking lot that
- 15 night?
- 16 A: No, ma'am, I didn't count the cars.
- 17 Q: Okay. And where were you going -- at 4:00 A.M. when you
- 18 were planning on leaving, where were you going?
- 19 A: I was going to my mom's house to go pick up my daughter.
- 20 Q: And where does your mom live?
- 21 A: In South Florence.
- 22 Q: Okay. And you were leaving there at 4:00 -- you were
- 23 going to pick her up at 4:00 A.M.?
- 24 A: Yes, ma'am; I was.
- 25 Q: Okay. So, you were gonna -- how old is your daughter?

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- 1 A: She's six now.
- 2 Q: Okay. So, she was how old then?
- 3 A: She was six. She'll be seven in June, but she was six at
- 4 the time.
- 5 Q: Okay. In December 2016?
- 6 A: Oh, no, she was -- no, she was five.
- 7 Q: Okay. So, in 2016, when she was five, you were going to
- 8 pick her up at 4:00 A.M. and you were going to take her back
- 9 to Quinby?
- 10 A: Yeah, well, home.
- 11 Q: Okay. And you were sitting in your car outside the club
- 12 doing what?
- 13 A: I was sitting in my car scrolling through Facebook on my
- 14 phone.
- 15 Q: Okay. So, you have a Facebook account?
- 16 A: I do.
- 17 Q: And what is that Facebook name?
- 18 A: Neka Miss Juicy Riggins.
- 19 Q: Okay. Neka, is that a nickname?
- 20 A: Yes, ma'am.
- 21 Q: Okay. Is that your middle name; is that part of your
- 22 middle name?
- 23 A: Yes, ma'am.
- 24 Q: Okay. So, do you go by Shaquawna or do you go by Shaneka?
- 25 A: I go by Neka.

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- 1 Q: You go by Neka most of the time?
- 2 A: Yes, ma'am.
- 3 Q: Okay. But I heard Ms. Contessa say earlier that she --
- 4 she called you Shaquawna; does she know you by Shaquawna?
- 5 A: Yes, she does.
- 6 Q: Okay. So, sometimes you go by both names?
- 7 A: Yes, ma'am.
- 8 Q: Okay. All right. And you were sitting in your car and
- 9 you were just sitting there looking through Facebook. I mean,
- 10 did you tell your mom what time you were going to pick up your
- 11 daughter or ---
- 12 A: No, ma'am, I was just going to go, excuse me, I was
- 13 scrolling through my phone and I told her I would just pick
- 14 her up when I leave the place.
- 15 Q: Okay.
- 16 A: I didn't give her a specific time or anything like that.
- 17 Q: Okay. All right. So, you had two shots at the club; do
- 18 you remember what y'all were drinking?
- 19 A: I was drinking Hennessey. That was two shots of Hennessey
- 20 I had. That was it; two shots of Hennessey.
- 21 Q: And you said at some point, you said Mr. Roberson asked
- 22 you for a light?
- 23 A: Yes, ma'am.
- 24 Q: Are you a smoker?
- 25 A: I was then.

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1 Q: You were?

2 A: I was; yes, ma'am.

3 Q: And what did you smoke?

4 A: Cigarettes and marijuana.

5 Q: Okay. And I -- and I know that you told EMS that you were

6 a drug and alcohol user. What all were you talking about when

7 you said that?

8 A: Marijuana.

9 Q: Okay. All right. Any other illegal drugs?

10 A: No, ma'am.

11 Q: Okay. So, you're sitting in the driver's seat of your

12 vehicle and then you end up in the passenger seat. How did

13 you get to the passenger seat?

14 A: I slide over because he told me, while having a gun

15 pointed in my face, to slide over.

16 Q: So, you slid over, over the center console?

17 A: Yes, ma'am.

18 Q: Okay. That probably wasn't easy, but you just ---

19 A: Yeah, I just went, just crossed over the seat, over my

20 armrest in the middle and into my passenger seat.

21 Q: Okay. But you didn't exit the car at that point?

22 A: I did not.

23 Q: What hand was Mr. Roberson holding the gun in; do you

24 remember?

25 A: The right hand.

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- 1 Q: Okay. And was he holding the gun on you the entire time?
- 2 A: Yes, ma'am.
- 3 Q: Did he ever set it down?
- 4 A: No, ma'am.
- 5 Q: Okay. Do you remember how he backed up your vehicle while
- 6 holding the gun?
- 7 A: Yeah, he had a gun, he moved it to his other -- his left
- 8 hand, cranked up my car with his right hand and put my car in
- 9 drive with his right hand.
- 10 Q: And, so you all leave Que Time, you pull out of the
- 11 parking lot, and y'all are on that kind of side street, I
- 12 think they call it, Kansas Drive; is that right?
- 13 A: I'm assuming, I don't know the name of that street.
- 14 Q: Okay. All right. But it's a little street right there
- 15 with Que Time, right?
- 16 A: Yes, ma'am.
- 17 Q: Okay. And then you turned onto Irby?
- 18 A: Yes, ma'am, made a right onto Irby.
- 19 Q: So, he had to -- did he stop to turn onto Irby?
- 20 A: No, ma'am.
- 21 Q: Okay.
- 22 A: He just pulled on out.
- 23 Q: So, he turned onto Irby?
- 24 A: Yes, ma'am.
- 25 Q: And then you're going down Irby. Before you get to John

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1 Paul Jones, do you know how many red lights y'all go through?
2 A: Yes, when you pull out of Que Time, you come to the red
3 light right there at Walmart; that's one light. The next
4 light is down by Kangaroo.
5 Q: Which is Third Loop right there?
6 A: Yeah.
7 Q: Right there at the 24-hour Kangaroo?
8 A: Yes, ma'am. And we went through that light. And the
9 third light was at South Florence.
10 Q: Alligator Road?
11 A: Yes, ma'am, South Florence Exxon there, and went through
12 that light, then turned on Paul Jones Road.
13 Q: Okay. So, and I think you pointed out, there are three
14 convenience stores, one at each light when you're going down;
15 is that right?
16 A: Yes, ma'am. Kangaroo was the only one that was open.
17 Q: Okay. So, the Kangaroo -- and the Kangaroo is what, the
18 second one on Third Loop?
19 A: Yes, ma'am.
20 Q: Okay. All right. And then you go down John Paul Jones
21 over two miles to this house?
22 A: Uh-huh, (affirmative response).
23 Q: Two-point-something miles and -- before you exit the
24 vehicle, correct?
25 A: Yes, ma'am. I don't know how many miles it was, but it

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1 just clicked in my head, I had to get out the car.

2 Q: And it's pitch black on that road?

3 A: It is.

4 Q: And you jumped out of the car before you saw any houses

5 there -- I mean, there's woods there, correct?

6 A: It is, yes, ma'am.

7 Q: Okay. And you jumped out of the house there where there's

8 some woods on one side and I think there's like a field on the

9 other side; is that right?

10 A: Yes, ma'am, there's ---

11 Q: There's not houses on ---

12 A: No, ma'am, there's no houses on the other side either.

13 Q: Okay. And, Ms. Riggins, you say you've never met Mr.

14 Roberson?

15 A: No, ma'am; I never met him.

16 Q: You didn't meet him in 2006 or 2007?

17 A: No, ma'am. I don't -- I don't forget a face.

18 Q: You've never called him Shawn or known him as Shawn?

19 A: No, ma'am.

20 Q: Did you ever have a Myspace account?

21 A: Yes, ma'am.

22 Q: Okay. And you weren't friends with him on Myspace?

23 A: I don't know. I don't remember him. I mean, that was

24 years ago when I was like 16 years old.

25 Q: I mean, I know, Myspace was a long time ago. I might be

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BY THE COURT

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1 showing my age there, but you don't remember if you were
2 friends with him on Facebook or not, I mean on Myspace or not?

3 A: No, ma'am.

4 Q: Okay. All right. And when did you work at Applebee's; do
5 you remember?

6 A: I can't remember when I started, but I was there for about
7 a month before I started at Johnson Controls. I was working
8 both jobs actually. I was working at Applebee's and Johnson
9 Controls.

10 Q: So, you kind of started Johnson Controls and hadn't quit
11 at Applebee's yet?

12 A: Yes, ma'am.

13 Q: Okay. All right.

14 Court's indulgence, Your Honor?

15 DEFENDANT'S EXHIBIT NUMBER 1

16 MARKED FOR IDENTIFICATION

17 MR. JEPERTINGER: We have a matter to take up outside the
18 presence of the jury, Your Honor?

19 BY THE COURT:

20 THE COURT: All right. Ladies and gentlemen, I'm going
21 to ask you to step to the jury room. Do not discuss the case.
22 I'll get you back out here as quickly as possible.

23 Thank you.

24 (REPORTER'S NOTE: Jury exits courtroom @ 4:19 P.M.)

25 MR. JEPERTINGER: Your Honor, my objection is Ms. Crayton

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BY THE COURT

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1 is about to present this to the witness, Ms. Riggins. It is
2 -- is this from Facebook ---

3 MS. CRAYTON: It's her Facebook account, yeah.

4 MR. JEPERTINGER: It's her Facebook account and it's
5 just, just horrible language on there that I think bears no
6 relevancy to this case. And I think under 403, Rule 403,
7 it'd be a waste of time. Its prejudicial effect far outweighs
8 its probative value, because I don't know if it's directed
9 towards any specific individual in this case, Your Honor. I
10 don't see the merit of introducing that into evidence.

11 THE COURT: Ms. Crayton?

12 MS. CRAYTON: Yes, Your Honor. It directly goes with
13 what our -- our theory of the case is, Your Honor. It's
14 directly in line with that.

15 THE COURT: What's your theory? I mean she was ---

16 MS. CRAYTON: That they knew each other and that she was
17 angry at him, which is why she exited the vehicle for
18 essentially this.

19 THE COURT: What does that document -- what does it say
20 that, one, says she knew him?

21 MS. CRAYTON: No, it doesn't say she knew him, Your
22 Honor. We claim that they got into an argument because she --
23 he was speaking with other women and that's exactly what this
24 says is essentially, she would get angry when you're messing
25 with other people. So, that's essentially what we're asking

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1 -- what we're ---

2 THE COURT: I'm gonna sustain the state's objection, but
3 you can certainly make it an exhibit. I mean, you haven't --
4 no foundation has been laid.

5 MS. CRAYTON: Well, I was about to, but -- I wanted -- I
6 didn't want to show it to her prior to showing it to the state
7 and then he immediately ---

8 THE COURT: Why don't you do this. I'll allow you to
9 proffer any testimony you want to make sure your client's
10 interest is protected. But at this point, I'm not gonna allow
11 it. I'll sustain the state's objection ---

12 MS. CRAYTON: Okay.

13 THE COURT: --- but please proffer anything you'd like to
14 ---

15 MS. CRAYTON: Okay. Thank you.

16 PROFFER EXAMINATION OF SHAQUAWNA RIGGINS BY MS. CRAYTON:

17 Q: Ms. Riggins, can you tell me what that is?

18 A: It's a repost of -- when you see something on Facebook, as
19 a matter of fact ---

20 Q: Is that your Facebook account?

21 A: It is.

22 Q: And what did you repost there?

23 THE COURT: Hold on a minute. What is that marked as
24 exhibit for identification?

25 MS. CRAYTON: I'm sorry.

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1 THE COURT: What number is it, Ms. Kay?

2 MS. CRAYTON: 1.

3 COURT REPORTER: Defendant's 1.

4 MS. CRAYTON: Defense 1. It's marked as State's ---

5 THE COURT: Go ahead, I'm sorry.

6 BY MS. CRAYTON:

7 Q: Thank you, Your Honor. And what did you repost?

8 A: I repost -- you want me to read it?

9 Q: Yes.

10 A: Y'all niggas can't handle a bitch who gonna stay on your
11 asses and make y'all respect them. That's why y'all fuck with
12 these weak-minded whores.

13 Q: Okay.

14 THE COURT: Anything else? Objection is sustained.

15 Ms. Riggins, we're gonna take a break at this point. I'm
16 gonna let you step down, but you're not allowed to discuss
17 your testimony with anyone. Okay?

18 A: Okay.

19 THE COURT: When I come back in here, I'll have you
20 retake the stand before I bring the jury back out and then
21 we'll bring the jury back out and we will resume.

22 A: Okay.

23 THE COURT: You can step down for just a moment.

24 RECESS - 4:23 P.M.

25 *****OFF THE RECORD*****

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1 **(On the Record - 4:36 P.M.)**

2 THE COURT: Thank you. Be seated please. All right.
3 Anything before I bring the jury back in from the state?

4 MR. JEPERTINGER: No, sir.

5 THE COURT: Defense counsel?

6 MS. CRAYTON: No, Your Honor.

7 THE COURT: All right. Bring me the jury please, ma'am.

8 (REPORTER'S NOTE: Jury enters courtroom @ 4:37 P.M.)

9 THE COURT: All right. Ms. Crayton, you may continue
10 please, ma'am.

11 MS. CRAYTON: Thank you, Your Honor.

12 CONTINUATION OF CROSS EXAMINATION OF SHAQUAUNA RIGGINS BY MS.

13 CRAYTON:

14 Q: Ms. Riggins, I think I've covered almost everything. When
15 Mr. Jepertinger was asking you questions, he asked you about
16 an instance where you had actually lied to law enforcement; is
17 that correct?

18 A: Uh-huh, (affirmative response). Yes, ma'am. Yes, ma'am.

19 Q: Okay. And you were convicted of giving false information
20 to law enforcement?

21 A: Yes, ma'am.

22 Q: In 2017; is that right?

23 A: Yes, ma'am.

24 Q: Okay. Did you have a -- were you convicted at trial; did
25 you have a trial for that; do you remember?

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SHAQUAWNA RIGGINS - CROSS BY CRAYTON

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1 A: No, I don't think I had a trial. He just like -- I didn't
2 -- he didn't take me to jail that night; I got out. When I
3 went to court that morning and I was -- those are -- that's
4 one of the charges I got charged with, false information.

5 Q: Okay. So, your license was suspended and you knew it was
6 suspended, but you kept on driving, and then you were
7 eventually stopped by a trooper and then you lied about it?

8 A: Yes, ma'am.

9 Q: Okay. But today, you're telling the truth?

10 A: Yes, ma'am.

11 Q: So, you lie when it's convenient for you?

12 A: No, ma'am. I mean, at that time, I did. It wasn't right,
13 I just, like I said before, I was just nervous and scared.
14 I'm not saying it was the right thing to do, but I took care
15 of the situation. I'm not gonna lie about being kidnapped,
16 jumped out a car, my car getting jacked, my phone being
17 stolen. I'm not going to lie about that.

18 Q: Thank you.

19 THE COURT: Any redirect?

20 MR. JEPERTINGER: No, sir.

21 THE COURT: Ma'am, you may step down. Thank you.

22 Can the lawyers approach as she's stepping down, please?

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

25 MR. RICHARDSON: Judge, we call Christine Princler.

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CHRISTINE PRINCLER - DIRECT BY RICHARDSON

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1 THE COURT: Okay.

2 CLERK: Place your left hand on the Bible and raise your
3 right hand.

4 CHRISTINE MARIE PRINCLER, HAVING BEEN
5 DULY SWORN TESTIFIES AS FOLLOWS:

6 CLERK: Please state your name for the record and be
7 seated.

8 MS. PRINCLER: Christine Marie Princler.

9 DIRECT EXAMINATION OF CHRISTINE MARIE PRINCLER BY MR.
10 RICHARDSON:

11 Q: All right. Ms. Princler, how are you doing today?

12 A: Good.

13 Q: Good. Let me ask you, back in December of 2016, where
14 were you living?

15 A: [REDACTED] John Paul Jones Road in Effingham.

16 Q: Okay. And who was living with you at that address?

17 A: Myself, my two children, and my then husband.

18 Q: Okay. Do you still live there?

19 A: No, sir.

20 Q: Okay. And when did you leave; do you remember?

21 A: No, sir.

22 Q: Okay. I'd like to show you a couple of photographs, if I
23 may, these have been marked State's Exhibit 23 for
24 identification, and State's Exhibit 24 for identification.

25 I'll show you that. Do you recognize that? Is that a yes?

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CHRISTINE PRINCLER - DIRECT BY RICHARDSON

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1 A: Yes, sir.

2 Q: Okay. And what is it?

3 A: The house I used to lie in.

4 Q: Okay. And is that a true and accurate depiction of what
5 it looked like back when you lived in it?

6 A: Yes, sir.

7 Q: And State's 24?

8 A: Yes, sir.

9 Q: And do you -- what is that?

10 A: My house I used to live in.

11 MR. RICHARDSON: Your Honor, I'd ask for State's 23 and
12 24 to be entered in evidence?

13 THE COURT: Any objection?

14 MS. CRAYTON: No, Your Honor.

15 THE COURT: Without objection, so admitted.

16 STATE'S EXHIBITS NUMBER 23 AND 24

17 ADMITTED INTO EVIDENCE

18 BY MR. RICHARDSON:

19 Q: Ms. Princler, do you recall back in December of 2016,
20 anything unusual that happened to you in the early morning
21 hours one day?

22 A: Yes, sir, I was sleeping in my living room and I was woke
23 up by banging on my door.

24 Q: All right. And what did you -- what did you when you woke
25 up?

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CHRISTINE PRINCLER - DIRECT BY RICHARDSON

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1 A: I called for my husband to come to the door and I opened
2 the front door and there was a lady standing there.

3 Q: Okay. And what did she look like?

4 A: She was taller me, she was African-American and she looked
5 like she was wet and terrified and she had blood on her.

6 Q: And when you saw this lady standing there, did you know
7 her?

8 A: No, sir.

9 Q: And what did you do?

10 A: For a minute, I was confused because there is apartments
11 behind me. I thought that maybe it was one of the ladies from
12 the back and I asked her what was going on and she said that
13 ---

14 MS. CRAYTON: Objection to hearsay.

15 MR. RICHARDSON: Your Honor, we can move on from there.

16 THE COURT: I'll sustain it. Go ahead.

17 BY MR. RICHARDSON:

18 Q: You can't say anything that anybody else told you.

19 A: Okay.

20 Q: But did you -- when you saw her there, did you slam the
21 door in her face or did you invite her inside?

22 A: I told her to come inside.

23 Q: Okay. And once she came inside, what did you do for her?

24 A: I told her that she could sit down on my couch and I got
25 her a blanket and I told her I was gonna call 911.

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CHRISTINE PRINCLER - DIRECT BY RICHARDSON

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1 Q: And is that what you did?

2 A: Yes, sir.

3 Q: What time -- you mentioned you saw some blood on her?

4 A: Yes, sir.

5 Q: Do you recall whereabouts on her that you saw blood?

6 A: Her arms and on her like on one of the sides of her thighs

7 was cut up.

8 Q: What was the condition of her clothing?

9 A: I don't really remember; I just know that she was wet.

10 Q: It was like all of her clothes were wet or ---

11 A: I don't remember.

12 Q: Okay. And who called 911 that evening?

13 A: I did.

14 Q: Okay. And who responded out to your house; was it an

15 ambulance and ---

16 A: Cops and an ambulance.

17 Q: So, all the above?

18 A: Yes, sir.

19 Q: Okay. Did -- were you present when law enforcement and

20 ambulance came in and -- and started talking to Ms. Riggins or

21 did you know her name by then?

22 A: I don't remember. I just remember the details that she

23 gave me and that I told the people on 911. And then ---

24 Q: So, you conveyed the information to 911 and did you stay

25 on the line with them until law enforcement arrived?

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CHRISTINE PRINCLER - CROSS BY NEYLE

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1 A: I'm not sure.

2 Q: Okay. I beg the Court's indulgence one moment?

3 Based on conversation you had with the lady who came to
4 your door, did you send your -- do you recall whether or not
5 you sent your husband out to look outside?

6 A: I told him to get up and get his gun after I was told what
7 had happened and I don't remember if he looked outside or not.

8 Q: Okay. Very good. Please answer any questions that the
9 defense may have for you.

10 A: Yes, sir.

11 THE COURT: Cross examination?

12 CROSS EXAMINATION OF CHRISTINE MARIE PRINCLER BY MS. NEYLE:

13 Q: Ms. Princler, I'll be very brief with you. John Paul
14 Jones Road, that's a two-lane road, correct?

15 A: Yes, ma'am.

16 Q: Okay. And you went -- when you lived there, you lived in
17 a primarily residential area; were houses around?

18 A: Not really. There's like a bunch of woods and then my
19 house sits there and two apartments behind it. And then I
20 think there's an abandoned trailer park on the other side of
21 it.

22 Q: And they're not street lights on your area where you used
23 to live?

24 A: I don't remember.

25 Q: It was extremely dark at night, correct?

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BY THE COURT

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1 A: Yes, ma'am.

2 Q: Thank you, Ms. Princler. I have no further questions.

3 THE COURT: Any redirect?

4 MR. RICHARDSON: None, Your Honor. We'd ask that she be
5 excused from her subpoena?

6 THE COURT: Any objection? Any objections?

7 MS. NEYLE: No, Your Honor.

8 THE COURT: Ms. Princler, you may step down. You're free
9 to go. You have no further responsibility here. Thank you
10 for being here.

11 A: Yes, sir.

12 MR. JEPERTINGER: Your Honor, I think this would be a
13 good place to stop for the day.

14 THE COURT: Can the lawyers approach for a minute. Let
15 me ask you this off the record.

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

18 BY THE COURT:

19 THE COURT: All right. Ladies and gentlemen, we're going
20 to stop right here for the day. I'm gonna have you be back
21 here tomorrow morning at 10:30, 10:30. There's some matters
22 that we need to take up before you get here and rather than
23 have you sitting back there for an extended period, I'm going
24 to ask that you be back here at 10:30.

25 During your overnight break, do not discuss the case at

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BY THE COURT

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1 all. Do not do any independent investigation on your own. As
2 I said from the outset, you're to decide this case based
3 solely upon the testimony and evidence that's presented in
4 this courtroom and nowhere else.

5 Now, when you come back in the morning, let me ask you to
6 do this. I want you all to select a foreperson when you come
7 back in the morning. Okay? I will tell you that Mr. Jordan
8 cannot be your foreperson. Okay? And whomever, whoever you
9 pick as your foreperson, put it in writing, give it to the
10 bailiff in the morning before you come back out and whoever is
11 the foreperson will sit where this gentleman is, in the orange
12 shirt, throughout the remainder of this trial. The foreperson
13 will have -- the foreperson is the only person that has an
14 assigned seat, so to speak. Okay? I noticed you all as you
15 came back in a few minutes ago, you were jockeying around
16 trying to get back to your original seats that you sat in when
17 you first came in this afternoon. You have no assigned seats.
18 Okay? The only person that will have an assigned seat is my
19 foreman, okay -- is my foreman.

20 I didn't go over some things with you earlier today that
21 I'm going to go over with you now. Please, when you're asked
22 to be here, please be prompt. You were after lunch today and
23 I appreciate that. I say that to say this, if -- if you're
24 supposed to be here at a certain time and you're not here,
25 that holds up everything. Okay? If something comes up, make

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BY THE COURT

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1 sure you call or let somebody in the clerk's office know
2 what's going on. Otherwise, we'll send one of Florence County
3 Deputies looking for you. Okay?

4 Also, we typically run court -- we typically start around
5 9:30 in the morning. I'm pushing it back to 10:30 like I
6 said, because there's something we have to deal with in the
7 morning before you get here. But typically run 9:30 and we'll
8 go about an hour and a half to two hours, have a mid-morning
9 break, resume until about 1 o'clock and try to stop for lunch
10 sometime around 1 o'clock. We typically resume at 2:15, 2:30,
11 it just kinda depends on where we are. I'll give you a little
12 bit longer for lunch, so you're not having to rush in and out
13 of here. I know parking is kind of tight out there right now.
14 It's tight this week because of all the court that we have
15 going on. But, we'll typically, again, start at 2:15, 2:30,
16 same scenario, an hour and a half to two hours and take a
17 break. All right. We typically try to stop around 5:00. I
18 don't sit up here and watch the clock and as soon as it hits
19 5:00 say we're stopping for the day. Okay? It worked out
20 today where we're going -- we're stopping a few minutes before
21 5:00. By the same token, when we have a witness on this stand
22 and it's in the afternoon, it will be my intention to finish
23 that witness for the day. Okay? Rather than stop right at
24 5:00 and make the witness have to come back, et cetera. Under
25 very, very rare circumstances, will you be here beyond 6

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BY THE COURT

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1 o'clock at night. It could happen, but that's gonna be rare.

2 Okay?

3 Having said that, if we're at 4:30 in the afternoon and
4 I'm advised that the next witness is going to be a lengthy
5 witness, I may go on and send you home for the day. Okay?

6 As you serve this week, it looks like it's warmed back up
7 outside fairly well. I'm not sure, I hadn't looked at the
8 weather the rest of the week, but as you sit in the courtroom
9 and you're up here serving with us, I'm pretty hot-natured. I
10 sit up here in an undershirt, shirt, tie, and this thing
11 wrapped around me that's part of my uniform. Okay? So, it's
12 kind of warm up here to me. So, I typically keep it fairly
13 cool in the courtroom. I don't think it's -- it's borderline
14 today for me. All right. Usually my clerk staff over there,
15 they've got heaters under the desk and it's borderline almost
16 hot in here to me today. Okay? And I think part of that is
17 because it's been so cold; they don't know whether to cut the
18 heat on or the air conditioner, you know, and in a building of
19 this size, it's just kind of changes. I want you to be
20 comfortable as you serve up here this week. If you're cold-
21 natured, you know, please bring you a jacket and dress
22 accordingly. If you're hot natured, you can see this
23 gentleman here, he's got a short sleeve shirt on; I see a few
24 of you out there with short sleeves on. I will say, you know,
25 if you're cold-natured, I'll let you put on as much clothes as

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BY THE COURT

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1 you want but, if you're hot-natured, I'm not gonna let you
2 take off but so much now. Okay? But I want you to be
3 comfortable as you serve this week.

4 If -- if while we are in court here, if at any point in
5 time, you need a break or something, you know, I'm gonna push
6 -- we're gonna push through, but just raise your right hand
7 and we'll take a break as quickly as possible. I can't, if
8 somebody needs a break, I can't just send one of you out and
9 the rest of everybody else stay in here. If one of you needs
10 a break, I've got to send all of you out and we'll all take a
11 break at that point. I want you to be as comfortable and as
12 convenient a service this week as you serve up here during the
13 course of this case and possibly other cases. Okay?

14 Anything from the state before I release the jury for the
15 day?

16 MR. JEPERTINGER: No, sir.

17 THE COURT: Defense counsel?

18 MS. CRAYTON: No, Your Honor.

19 THE COURT: All right. If you all will be back at 10:30
20 in the morning, we will resume this case as promptly at that
21 time as possible. Thank you.

22 (REPORTER'S NOTE: Jury exits courtroom @ 4:54 P.M. The
23 following takes place outside the presence of the jury.)

24 THE COURT: All right. If everyone else be here at 9:30
25 in the morning, 9:30, we will have the *Jackson v. Denno*

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BY THE COURT

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1 hearing, I guess at that point, at that time. Should an hour
2 be sufficient?

3 MR. JEPERTINGER: Your Honor, yes, and we have tested the
4 redacted -- what we thought was the proper redaction fair to
5 the state and fair to the defense for her perusal and -- and
6 examination and Mr. Richardson has done that already.

7 THE COURT: Item of evidence, this gun hadn't been
8 introduced. I'm gonna give this back to you all.

9 MR. JEPERTINGER: Even though it's marked?

10 THE COURT: Is it marked?

11 MR. JEPERTINGER: Yes, sir.

12 COURT REPORTER: It's marked for ID.

13 MR. JEPERTINGER: It's 4.

14 THE COURT: The clerk's office can retain it. That's the
15 way they typically do it.

16 MR. JEPERTINGER: Yes. And I will give them my -- can I
17 just give you this folder, just to keep everything; it's stuff
18 that's not in evidence yet.

19 COURT REPORTER: Yes, sir. They'll lock it up.

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

21 **RECESS - 4:56 P.M.**

22 *****OFF THE RECORD*****

23

24

25

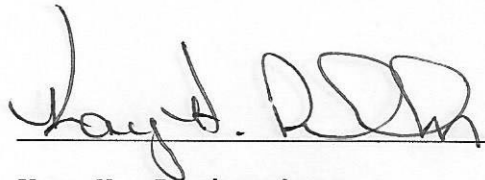
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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Shamaine Roberson, held in the Court of General Sessions for Florence County, Florence County Courthouse, Florence, South Carolina, on January 22, 2018.

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



Kay H. Richardson

Official Court Reporter

December 21, 2018.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
		2016-GS-21-00784
COUNTY OF FLORENCE	)	2017-GS-21-00529
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	(Plea Hearing)
vs.	)	
	)	January 23, 2018
SHAMAINE MARTRELL	)	
ROBERSON,	)	
	)	
Defendant.	)	

B E F O R E:

Honorable D. Craig Brown
 Florence County Courthouse
 Florence, South Carolina

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

John C. Jepertinger, Esquire
Attorney for Plaintiff

Emily M. Crayton, Esquire
 Elizabeth H. Neyle, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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E X H I B I T SNo.IDEV

(No exhibits were marked or admitted.)

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BY THE COURT

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1 **JANUARY 23, 2018 - 9:52 A.M.**

2 MR. JEPERTINGER: Please the Court, Your Honor?

3 THE COURT: Yes.

4 MR. JEPERTINGER: We are here on 2017-GS-21-529, State v.
5 Shamaine Roberson. He's pleading to kidnapping on that
6 indictment. Also, on 2016-GS-21-784, he is pleading to
7 assault and battery first degree.

8 THE COURT: All right.

9 Sir, if you'll raise your right hand to be sworn.

10 SHAMAINE ROBERSON, HAVING BEEN

11 DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE COURT: All right. You can put your hand down.

13 You're Shamaine Martrell Roberson?

14 MR. ROBERSON: Yes, sir.

15 THE COURT: Have you ever been treated for alcohol abuse,
16 drug abuse, or mental illness?

17 MR. ROBERSON: No, sir.

18 THE COURT: Within the last 24 hours, have you taken any
19 medication, drugs, or alcohol?

20 MR. ROBERSON: No, sir.

21 THE COURT: Are you aware of any physical, emotional, or
22 nervous problem that would prevent you or keep you from
23 understanding what's going on here today?

24 MR. ROBERSON: No, sir.

25 THE COURT: All right. The state indicates that you're

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 pleading guilty, that you've chosen to plead guilty to two
2 separate offenses. First being a kidnapping offense; is that
3 correct?

4 MR. ROBERSON: Yes, sir.

5 THE COURT: You understand it carries up to 30 years?

6 MR. ROBERSON: Yes, sir.

7 THE COURT: Second offense being assault and battery
8 first degree; is that right?

9 MR. ROBERSON: Yes, sir.

10 THE COURT: You understand it carries up to 10 years?

11 MR. ROBERSON: Yes, sir.

12 THE COURT: Now, the state has indicated or it's
13 indicated on these sentence sheets that these pleas are being
14 entered into without recommendation or negotiation; is that
15 correct?

16 MR. ROBERSON: Yes, sir.

17 THE COURT: All right. Understanding that these pleas
18 are being entered into without recommendation or negotiation,
19 and understanding that if I saw fit I could give you 40 years
20 today, you still want to go forward and plead guilty to each
21 of these charges?

22 MR. ROBERSON: Yes, sir.

23 THE COURT: All right. Now, Mr. Roberson, you understand
24 that this kidnapping charge that you are pleading guilty to
25 here today is considered under South Carolina law to be a

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 violent offense. You understand that?

2 MR. ROBERSON: Yes, sir.

3 THE COURT: You further understand that it's considered
4 to be a most serious offense.

5 MR. ROBERSON: Yes, sir.

6 THE COURT: You understand that by pleading guilty to a
7 most serious offense, that if upon your release from the
8 Department of Corrections, you are convicted by plea or trial
9 of another, of another most serious offense and the state has
10 properly noticed you of their intent to seek life without
11 parole, that the Court would have no alternative but to give
12 you life; you understand that?

13 MR. ROBERSON: Yes, sir.

14 THE COURT: You still want to plead guilty to this ---

15 MR. ROBERSON: Yes, sir.

16 THE COURT: --- each of these charges?

17 MR. ROBERSON: Yes, sir.

18 THE COURT: All right. You understand that this
19 kidnapping charge is also considered to be a no-parole
20 offense; you understand that?

21 MR. ROBERSON: Yes, sir.

22 THE COURT: In other words, you pretty much count on
23 doing day for day whatever sentence the Court imposes here; do
24 you understand that?

25 MR. ROBERSON: Yes, sir.

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 THE COURT: All right. You still want to plead guilty?

2 MR. ROBERSON: Yes, sir.

3 THE COURT: All right. Now, when you plead guilty, you
4 give up certain important constitutional rights. You have a
5 right to a jury trial. In fact, we picked your jury
6 yesterday, the state started presenting its case. If you
7 wanted to resume that jury trial today, you could have a seat
8 right back at that table with your lawyers, the state would
9 continue to put up witnesses, and your lawyers, whether it be
10 Ms. Crayton or Ms. Neyle would have an opportunity to cross
11 examine those witnesses; you understand that?

12 MR. ROBERSON: Yes, sir.

13 THE COURT: All right. If we continued with your trial,
14 you could sit at that table, you would have a right to remain
15 silent, you wouldn't have to but you could put up a case, but
16 if you sat at that table and if you remained silent, I would
17 tell that jury that they could not, that they could not hold
18 that against you. In fact, I would tell them that they
19 couldn't even discuss the fact that you did not testify in
20 that jury room; do you understand that?

21 MR. ROBERSON: Yes, sir.

22 THE COURT: Now, as I said a minute ago, you have a right
23 to put up a defense but you don't have to. You understand
24 that?

25 MR. ROBERSON: Yes, sir.

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 THE COURT: Now, it's my understanding and the reason we
2 came back here earlier this morning was the lawyers, your
3 attorneys as well as the state had advised me that you had
4 made or given some statement to law enforcement. You
5 understand that?

6 MR. ROBERSON: Yes, sir.

7 THE COURT: And your lawyer had advised me that, Judge,
8 we need to have a hearing on this matter to determine whether
9 or not any statements that Mr. Roberson gave to law
10 enforcement, whether or not it's even admissible, do you
11 understand that?

12 MR. ROBERSON: Yes, sir.

13 THE COURT: Now, if we have that hearing this morning,
14 I'd listen to all the testimony from law enforcement and
15 whoever, if anyone, your lawyers wanted to put up and I'd make
16 a determination as to whether or not those statements are
17 admissible. You understand that?

18 MR. ROBERSON: Yes, sir.

19 THE COURT: And depending upon what my decision was, they
20 may or may not be admitted. Do you understand that?

21 MR. ROBERSON: Yes, sir.

22 THE COURT: All right. Now, you understand when you
23 plead guilty, you give up those rights. You give up your
24 right to a jury trial, that jury trial -- that jury is not
25 gonna come back in here, we're not -- there's not gonna be

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 anymore trial, that'll be it. If you -- when you plead guilty
2 you give up your constitutional trial rights to a jury trial,
3 you give up the right to remain silent, you give up the right
4 to challenge the admissibility of any statements you've given;
5 do you understand that?

6 (REPORTER'S NOTE: Confers with counsel.)

7 MS. CRAYTON: Your Honor, can we have just a moment? Can
8 we step in the hall for just a minute or in the back?

9 THE COURT: Step back in there.

10 (REPORTER'S NOTE: Defendant and counsel exits courtroom
11 briefly and return.)

12 MS. CRAYTON: I apologize, Your Honor, could you repeat
13 the question for him.

14 THE COURT: All right. Mr. Roberson, I explained to you
15 your constitutional trial rights and told you, you know, if
16 you wanted to go forward, we could continue with the trial of
17 your case and this jury could make a decision as to guilt or
18 innocence, but when you pled guilty, if you pled guilty here
19 today there's not gonna be a jury trial. That's gonna be the
20 end of it. And I've explained to you your right to continue
21 with your jury trial. I've explained to you your right to
22 remain silent. And if you did, I'd tell the jury they
23 couldn't hold that against you. I've explained to you your
24 right to put up a defense, although you're not required to do
25 so. And I've explained to you that if you made any

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 incriminating statements, you would have a right to challenge
2 the admissibility of those statements. Do you understand all
3 of those rights?

4 MR. ROBERSON: Yes, sir.

5 THE COURT: All right. Do you understand that if you
6 plead guilty here today, that you'd give up all of those
7 rights?

8 MR. ROBERSON: Yes, sir.

9 THE COURT: Okay. Understanding all of the rights that
10 I've explained to you, and understanding that when you plead
11 guilty you give up those rights, how do you plead to each of
12 these charges here today, guilty or not guilty?

13 MR. ROBERSON: I'm guilty, sir.

14 THE COURT: Now, you're represented by Ms. Crayton and
15 Ms. Neyle. Are you satisfied with your lawyers?

16 MR. ROBERSON: Yes, sir.

17 THE COURT: Have you talked to them enough?

18 MR. ROBERSON: Yes, sir.

19 THE COURT: Have you understood all your talks with them?

20 MR. ROBERSON: Yes, sir.

21 THE COURT: Do you need any more time to talk to them?

22 MR. ROBERSON: No, sir.

23 THE COURT: Do you have any complaints about them?

24 MR. ROBERSON: No, sir.

25 THE COURT: All right. Has anyone promised you anything

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 or held out any hope of reward to get you to plead guilty?

2 MR. ROBERSON: No, sir.

3 THE COURT: Has anyone used any threats, force, pressure,
4 or intimidation to get you to plead?

5 MR. ROBERSON: No, sir.

6 THE COURT: Has anyone mistreated you, whether it be law
7 enforcement or the solicitor's office?

8 MR. ROBERSON: No, sir.

9 THE COURT: Have you had enough time to make up your mind
10 as to whether or not you want to plead guilty to each of these
11 charges or go to trial? Have you had enough time?

12 MR. ROBERSON: Yes, sir.

13 THE COURT: And what do you wish to do?

14 MR. ROBERSON: I want to plead.

15 THE COURT: Are you pleading guilty as to each of these
16 charges of your own freewill?

17 MR. ROBERSON: Yes, sir.

18 THE COURT: Have you understood my questions?

19 MR. ROBERSON: Yes, sir.

20 THE COURT: All right.

21 Mr. Jepertinger?

22 MR. JEPERTINGER: Your Honor, as it relates to 2017-529,
23 the kidnapping charge, this event happened in the early
24 morning hours here in Florence County on December 3rd, 2016.
25 Shaquawna Riggins had been a patron or the Cue Time Club, left

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

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1 that location on Kansas Drive, sat in her car, her vehicle,
2 which was a 2000 Malibu, was parked in the general vicinity of
3 the Cue Time. While she was in her car, checking Facebook
4 messages, there was a rap on the window of the car. Mr.
5 Roberson came up to her car. She identified Mr. Roberson,
6 didn't know him but gave a general identification. He asked
7 to borrow her lighter. She gave him her lighter. Moments
8 passed, there was some conversation that went on, banter. In
9 quick order, Judge, she looked down at her phone, she felt
10 that there was something going on that wasn't right. Next
11 thing she saw was a silver gun. Judge, it was a Bryco .380
12 caliber silver gun with a black handle. Had we gone to trial,
13 Judge, obviously if he had not exposed that gun, there
14 would've been no way for her to know that it had a silver
15 barrel because all you could see was a black handle. But she
16 saw that silver-barreled gun and that'll have some
17 significance here in a second. He pulled it on her, forced
18 her to get over to the passenger seat. Her key was in the
19 ignition, he drove off. There was some conversation of a very
20 adult manner, Judge, and we'll let the trial record speak for
21 what was said during that conversation. The car went south on
22 South Irby. Eventually, it turned right on John Paul Jones
23 Road. At about five miles from the Cue Time in distance,
24 which would've been testified to today had we gone forward,
25 Ms. Riggins made a decision, not knowing whether her life was

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BY THE COURT

12

1 in peril or not, she decided to jump out of the vehicle and
2 the vehicle was traveling about 50 to 55 miles an hour.
3 Because of that, she suffered road rash to the right side of
4 her body. She went up to the closest house after she felt she
5 was safe, after her car and this defendant left the area. She
6 was met there by Christine Princler and her husband. Ms.
7 Princler rendered her aid, called law enforcement. Law
8 enforcement arrived there and they treated her, she wound up
9 Carolinas Hospital System. She eventually, either at the
10 scene of Ms. Princler's house or at Carolinas gave her phone
11 number to police. They pinged on that phone because her phone
12 was taken by this defendant. The phone came back, you know,
13 or the address where it was, was a Woods Bay Road over in the
14 Olanta area. They went out there. Jolly Hicks would've
15 testified had we gone to trial that he saw the vehicle sitting
16 right outside of that residence and this defendant going from
17 that car into the residence. That was not his residence. Mr.
18 Roberson lived at the time of the crime over in Lake City.
19 That was his aunt's residence. She eventually gave consent to
20 search the residence. In that residence, they found the Bryco
21 .380 Arms handgun. They found the telephone that was Ms.
22 Riggins'. They found her debit card and her food stamp card
23 and some other information that belonged to her.

24 When confronted by the police after Mirandas, he
25 maintained that this was some sort of drug deal gone awry that

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BY THE COURT

13

1 she loaned the car out for drugs, which never made any sense
2 because her house key was on the keyring, her -- she certainly
3 didn't loan her phone out, any of that business, Judge. All
4 the facts led to one conclusion and that conclusion was that
5 Ms. Riggins was telling the truth in terms of what happened to
6 her.

7 As a result of this, she missed work. There is still
8 property missing that was taken from her, including her house
9 key at the time. She missed a court date, whether that was
10 his fault or her fault, she'll attribute it to what he did
11 because she still was dealing with the trauma of the event,
12 Judge, and of course that had further implications for her.

13 That's all I have in terms of the facts of this case. I
14 have facts in terms of the other case, Judge, and then I'd
15 like to go over his criminal record.

16 THE COURT: All right. We'll do this. I'm gonna --
17 we'll deal with the facts on this case and then we'll come
18 back to the other case and then we'll go from there. All
19 right?

20 MR. JEPERTINGER: Would you allow Ms. Riggins to say
21 anything or ---

22 THE COURT: Yeah, I'm gonna talk to her after we complete
23 everything here. Before I turn it over to defense counsel,
24 I'll hear from her again, give her that opportunity.

25 MR. JEPERTINGER: Okay. Yes, sir.

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BY THE COURT

14

1 THE COURT: All right. Mr. Roberson, you heard the facts
2 as stated by the prosecutor as it relates to this charge. Do
3 you agree with those facts?

4 MR. ROBERSON: Yes, sir.

5 THE COURT: Are you guilty of this charge?

6 MR. ROBERSON: Yes, sir.

7 THE COURT: And how do you plead, sir, guilty or not
8 guilty?

9 MR. ROBERSON: Guilty, sir.

10 THE COURT: I find that there is a substantial factual
11 basis for this plea. I also find Defendant's decision to
12 plead has been entered into freely, voluntarily, knowingly,
13 and intelligently as it relates to the kidnapping that he has
14 had the advice and counsel of two attorneys with whom he's
15 indicated he's completely satisfied. I'll accept his plea as
16 to the kidnapping charge at this time.

17 At this time, I'm gonna ask you, Ms. Crayton, along with
18 your client to step back here ---

19 MS. CRAYTON: Be happy to.

20 THE COURT: And his mother -- are you his mother?

21 MS. CAPERS: Yes.

22 THE COURT: You can step back there, too, if that's okay.
23 Stand down for just a second.

24 MR. JEPERTINGER: Yes, sir.

25 THE COURT: Let's walk these kids out of here for a

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

15

1 second.

2 (REPORTER'S NOTE: Defendant and counsel exit courtroom.)

3 THE COURT: All right. You can tell them to come back
4 out, please, sir.

5 (REPORTER'S NOTE: Defendant and counsel enter courtroom.)

6 THE COURT: All right. Now, as it pertains to the ---

7 MR. JEPERTINGER: Yes, sir. Deputy Urquhart on ---

8 THE COURT: Hold on Mr. Jepertinger. I'm sorry. And
9 this is on indictment 784?

10 MR. JEPERTINGER: Yes, sir. This is on 2016-784.

11 THE COURT: Thank you. Just want it clear for the
12 record. I'm sorry.

13 MR. JEPERTINGER: Yes, sir. On October the 17th of 2015,
14 Deputy Urquhart responded to [REDACTED] Street, Lot [REDACTED], in the
15 Lake City area of Florence County. In reference to what they
16 thought was a criminal sexual conduct case. It was charged as
17 a AB first. Dispatch advised that the mother, Dorothy
18 Roberson stated her daughter S.R. [REDACTED] was raped by a
19 cousin, Shamaine Roberson, and that S.R. [REDACTED] was passed out.
20 They took photos of her where she's passed out on the bed,
21 Judge.

22 THE COURT: Okay.

23 MR. JEPERTINGER: Okay. Investigator Rhodes and EMS
24 personnel arrived on scene prior to Urquhart. He spoke with
25 Ms. Dorothy Roberson briefly before they transported S.R. [REDACTED] to

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BY THE COURT

16

1 Lake City Hospital. They spoke further once at the hospital.
2 She stated that her daughter had been drinking heavily at the
3 house and she ended up putting her to bed. She was very
4 intoxicated to the point that she vomited and was passed out
5 completely. Ms. Dorothy stated S.R. was back at her room
6 awhile when they heard a thud and thought she may've fallen on
7 the floor. She stated that she went to check on her and saw
8 Shamaine Roberson, S.R.'s cousin, behind her having
9 intercourse. Ms. Dorothy advised that her daughter was not
10 aware during the battery. The subject fled the home with
11 S.R.'s brothers chasing him. There were fluids present on
12 the victim. Judge, they did do a DNA profile on him. And the
13 DNA profile developed from the semen on suspected body fluid
14 swabs on her back confirmed this gentleman as being the
15 contributor to that 1 in 68 quintillion.

16 May I give you his record?

17 THE COURT: Not right now.

18 MR. JEPERTINGER: Okay.

19 THE COURT: Mr. Roberson, you heard the facts as it
20 relates to this particular charge. Do you agree with those
21 facts?

22 MR. ROBERSON: Yes, sir.

23 THE COURT: Are you guilty of this particular charge,
24 assault and battery first degree?

25 MR. ROBERSON: Yes, sir.

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BY THE COURT

17

1 THE COURT: And how do you plead to this charge, sir?

2 MR. ROBERSON: Guilty, sir.

3 THE COURT: All right. I find that there is substantial
4 factual basis for this plea to this particular charge, that
5 being the assault and battery first degree, that this
6 defendant's decision to plead guilty has been entered into
7 freely, voluntarily, knowingly and intelligently, that he has
8 had the advice and counsel of two attorneys with whom he's
9 indicated he's completely satisfied, and I'll accept his plea
10 as to the assault and battery first degree charge.

11 Now, before I bring those kids back in, is there anyone
12 here victim-wise that wishes to speak as it relates to the
13 assault and battery first degree.

14 MR. JEPERTINGER: No. If he pled, they did not want to
15 be here.

16 THE COURT: Okay. All right. Now, we're gonna -- I'm
17 gonna bring the kids back in here and I'll listen to his
18 record and hear from Ms. Riggins, and then sentence will take
19 place. If he wants to step back while the -- in the
20 conference room while they come back in.

21 MS. CRAYTON: We'll step back for a minute, sure.

22 MR. ROBERSON: Can my momma come with us?

23 THE COURT: Yes, sir.

24 All right. Bring the kids back in here now.

25 MR. ROBERSON: Your Honor, can my cousin step back there,

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BY THE COURT

18

1 too?

2 THE COURT: That's up to law enforcement.

3 (REPORTER'S NOTE: Defendant and counsel exit courtroom and
4 there is a brief break in record.)

5 *****OFF THE RECORD*****

6 (On the Record.)

7 (REPORTER'S NOTE: Defendant and counsel enter courtroom.)

8 THE COURT: Mr. Roberson, I want to address one other
9 thing with you, I'm sure your lawyer talked to you about it
10 but I want to make sure it's on the record. By virtue of
11 pleading to this assault and battery first degree, I want you
12 to understand that I could require that you have to register
13 as a sex offender; you understand that?

14 MR. ROBERSON: Yes, sir.

15 THE COURT: You understand that?

16 MR. ROBERSON: Yes, sir.

17 THE COURT: All right. And understanding that, you still
18 want to plead guilty to this charge?

19 MR. ROBERSON: Yes, sir.

20 THE COURT: Okay. All right.

21 MS. CRAYTON: They're bringing the kids back in?

22 THE COURT: Yes.

23 (REPORTER'S NOTE: Defendant and counsel exit courtroom.)

24 *****OFF THE RECORD*****

25 (On the Record.)

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BY THE COURT

19

1 (REPORTER'S NOTE: Defendant and counsel enter courtroom.)

2 THE COURT: Thank you, be seated, please.

3 All right. Prior to me stepping down, I had accepted the
4 defendant's plea as to each of these charges, the assault and
5 battery first degree under indictment 2016-GS-21-784, as well
6 as the kidnapping under indictment 2017-GS-21-00529. Before I
7 turn it over to you, Ms. Crayton, Mr. Jepertinger, if you
8 would, give me the defendant's prior record, please, sir.

9 MR. JEPERTINGER: Yes, sir. He had a manufacturing and
10 distribution or possession with the intent to distribute
11 cocaine first back in March of 2006, his sentence was eight
12 years suspended to 136 days and three years' probation. Then
13 in October of 2008, he had a manufacturing, distribution or
14 possession with the intent to distribute cocaine base, second
15 offense. He was given five years of incarceration, Judge. He
16 also had a driving under suspension in 2014 and a fine in 2015
17 for a DUI ---

18 THE COURT: 2015?

19 MR. JEPERTINGER: For DUI.

20 THE COURT: Okay. Anything else?

21 MR. JEPERTINGER: No, sir.

22 THE COURT: All right. Before I turn it over to Ms.
23 Crayton, anything, Ms. Riggins, or any ---

24 MR. JEPERTINGER: I believe she would like to address the
25 Court.

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BY THE COURT

20

1 THE COURT: Any comments, please direct them to me, okay,
2 Ms. Riggins?

3 MS. RIGGINS: Okay.

4 THE COURT: All right. Happy to hear from you, ma'am.

5 MS. RIGGINS: I just want to say, like, since this
6 incident has happened, it has affected me mentally.

7 THE COURT: Speak up, please.

8 MS. RIGGINS: It has affected me mentally. I'm always
9 cautious or jumpy over at night, when I'm around certain,
10 like, men. I can't have no nobody walk behind me, like sit
11 behind me when I'm driving. And I'm always, I got to think
12 about my daughter's safety. Not only that but my expected
13 child, she's a girl as well, so it's just that it messed me up
14 in my head to where I always got to watch my back now. I
15 still feel, you know, still scared even though he's behind
16 bars, I still, you know, feel like there's a chance -- I don't
17 know, he know people and somebody might see me, you know, it's
18 just -- it's just scary situation for me.

19 THE COURT: Okay. Thank you, ma'am.

20 Anyone else, Mr. Jepertinger?

21 MR. JEPERTINGER: No, I don't think so.

22 THE COURT: Anything further before I turn it over to
23 defense counsel?

24 MR. JEPERTINGER: No, sir.

25 THE COURT: All right. Ms. Crayton?

State v. Roberson - 2016-GS-21-784 and 2017-GS-21-529
BY THE COURT

21

1 MS. CRAYTON: Thank you, Your Honor. Shamaine is 30
2 years old. He received his GED in 2010 and he's -- for the
3 last two years he's been working for James Burial Service. He
4 does have a son, nine years old. He's here with his mom,
5 Patricia Capers. He understands that this is -- he's looking
6 at an excessive amount of time. I mean, this is a lot of time
7 that's violent time, it's no parole time. He understands what
8 all that means and how much time he'll have to do anything
9 that you order. We would ask if you would consider making
10 these offenses concurrent and also we would ask if you would
11 consider having mercy on him and sentencing him to something
12 less than 15 years. He has done 417 days in jail.

13 THE COURT: 417?

14 MS. CRAYTON: 417, Your Honor. You know, and Mr.
15 Jepertinger reading his record, he doesn't have violent
16 offenses on his record, and the most amount of time he's ever
17 done is five years and he knows he's facing a lot more than
18 that today. And we would ask that you have mercy. I would
19 ask that you hear from him as well, as well as his mother,
20 Patricia Capers. His -- he also has a cousin I think in the
21 audience but I don't think she wants to speak.

22 THE COURT: All right. Mr. Roberson, anything you want
23 to tell me, sir?

24 MR. ROBERSON: Yes, sir, Your Honor. I apologize for
25 everything that happened, took place, and I'm sorry for how I

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BY THE COURT

1 make the victims feel but I -- I just want to say I apologize
2 to society, for the Court system, everything. Other than
3 that, Your Honor, I don't have nothing else to say.

4 MS. CRAYTON: And this is Ms. Capers. This is his mom.
5 She would also like to speak.

6 THE COURT: All right.

7 Yes, ma'am, Ms. Capers.

8 MS. CAPERS: Your Honor -- this my son -- he ain't never
9 done nothing like this before. He's a good father and a good
10 son and he's good to the neighborhood. And I don't see why
11 this happened at all but I just want to have mercy on him this
12 morning.

13 THE COURT: Mr. Capers [sic], I know that if you have a
14 prior criminal history, although it's several years back,
15 relating to drugs. You started out with cocaine and cocaine
16 base, and then you had a -- this DUI a few years ago now,
17 almost a few years ago, I'm not exactly sure when in 2015.
18 Drugs or alcohol have anything to do with what you're pleading
19 here today?

20 MR. ROBERSON: No, sir.

21 THE COURT: You weren't under the influence of anything
22 either time?

23 MR. ROBERSON: No, sir.

24 THE COURT: Well, where did things go wrong?

25 MR. ROBERSON: At the bar, sir. Your Honor, I'm gonna

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BY THE COURT

23

1 back up a moment on that. I did smoke a blunt of marijuana.

2 I did smoke a blunt of marijuana on that ---

3 THE COURT: And that's what the testimony was yesterday
4 that you wanted a light to ---

5 MR. ROBERSON: Yes, sir. I smoked a blunt of marijuana
6 and I admit to that, sir.

7 THE COURT: That marijuana have anything else in it?

8 MR. ROBERSON: No, sir.

9 THE COURT: Straight marijuana?

10 MR. ROBERSON: Yes, sir. I don't do no other drugs, sir.
11 I'm being honest with you.

12 THE COURT: How far did you go in school?

13 MR. ROBERSON: I drop out -- I drop out of school --
14 yes, sir, I drop out of school in 9th grade. I went back and
15 got my GED in 2010. If I was to complete high school, it
16 would've been in 2005.

17 THE COURT: What did you quit school for? What did you
18 drop out for?

19 MR. ROBERSON: The street, sir. I had -- when I caught
20 my first distribution at 18 years old, sir. I think 2006,
21 2007 -- I think I was 18 years old.

22 THE COURT: Ms. Capers, has he been staying with you?

23 MS. CAPERS: Yes, sir.

24 THE COURT: Who else stays in that house?

25 MR. ROBERSON: My father -- my father.

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BY THE COURT

24

1 THE COURT: Your dad?

2 MR. ROBERSON: Yes, sir.

3 MS. CAPERS: And his brother.

4 MR. ROBERSON: My little brother.

5 THE COURT: How old is your little brother?

6 MR. ROBERSON: Well, he ain't little; he bigger than me.

7 MS. CAPERS: Twenty-four.

8 MR. ROBERSON: He's 24. He's got -- he work at Nanya, he
9 work at Nanya in Lake City, and Samuel and Richardson Funeral
10 Home in Lake City, South Carolina.

11 THE COURT: What's your dad do?

12 MR. ROBERSON: He's a self-owned painter, sir. He
13 paints, he do his own painting.

14 THE COURT: What's his name?

15 MR. ROBERSON: Timothy Capers.

16 THE COURT: Why is your last name Roberson?

17 MR. ROBERSON: I was born before my mother -- they got
18 married after -- they got married after I was born.

19 THE COURT: So, he's not -- Timothy is not your
20 biological father?

21 MR. ROBERSON: Yes, sir.

22 THE COURT: He's not?

23 MS. CAPERS: He is.

24 THE COURT: He is?

25 MR. ROBERSON: Yes, sir.

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BY THE COURT

25

1 MS. CRAYTON: She was unmarried when they -- her maiden
2 name was Roberson and then they married after.

3 MR. ROBERSON: They my biological parents.

4 THE COURT: Okay. Where is the last place you worked?

5 MR. ROBERSON: James Burial Service for two years. We
6 dig -- we work for 10 funeral homes across the -- five
7 counties across the state of South Carolina. We dig graves
8 for 10 funeral homes across the state of South Carolina from
9 Orangeburg County to Georgetown County to Florence County to
10 -- and I think over into Williamsburg County. Biggest funeral
11 home we been working for was Stoudenmire and Dowling out of
12 Florence and Stephens Funeral Home out of Manning, and Dukes
13 and Harley out of Orangeburg -- out of Orangeburg and then
14 McKenzie out of Georgetown, McKenzie out of Georgetown,
15 Hemingway, and Andrews, and Carolina out of Lake City.

16 THE COURT: Ms. Capers, how long have you and Mr. Capers
17 been married?

18 MS. CAPERS: Twenty-three years, it'll be 24 in July

19 THE COURT: How long have you y'all been together?

20 MS. CAPERS: We separate and we got back together and
21 ever since then. Separate for about three years and then we
22 got back together and been together ever since.

23 THE COURT: All right. On the 2016-784, the A&B first,
24 State have any position on the registry?

25 MR. JEPERTINGER: Judge, I think for good cause shown

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SENTENCE OF THE COURT

26

1 that he needs -- yes, I think he should be on the registry for
2 the A&B first. I think we made a case for good cause shown
3 based on the facts and circumstances of the case.

4 SENTENCE OF THE COURT:

5 THE COURT: All right. You know, Mr. Roberson, lawyers
6 that practice in front of me on a regular basis have heard me
7 say this more times than I'm sure they care to hear me say it,
8 and this can kind of go to -- it applies to everybody, not
9 just you. It applies to everybody in this -- everyone in this
10 courtroom, even Ms. Riggins, who I'll say this -- and this is
11 based upon testimony I heard yesterday -- there is absolutely
12 nothing, nothing good that goes on after midnight, nothing.
13 Now, we got a right to be out all night long if we want to, we
14 got to right to do whatever we want to do, but my momma used
15 to tell me that there is nothing good that goes on after
16 midnight. And when I was young, I thought she was dumb and
17 didn't know. But, the older I've gotten, the more I see how
18 wise she is. These law enforcement officers that work out on
19 the street can tell you, from 12 o'clock till about 5:00,
20 that's probably their busiest time, if I had to guess. When I
21 first got on the bench, and this -- Judge Hayes, John Hayes
22 that just retired, sentencing is the hardest part of this job.
23 I stood in the shoes of your -- same type of shoes as your
24 lawyer Ms. Crayton and Ms. Neyle, I represented many
25 defendants practicing law. Mr. Jeperntinger even worked with

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SENTENCE OF THE COURT

27

1 the public defender's office for -- how long, Mr. Jepertinger?

2 MR. JEPERTINGER: Eight and a half years.

3 THE COURT: Eight and half years. Sentencing is by far
4 the toughest part of this job. And what's even tougher from
5 my standpoint is to see terrible decisions that people make
6 that have such tremendous consequences that can change the
7 course of your life on this earth. You know, when you get out
8 of the Department of Corrections, I think you're still gonna
9 be young fellow. But what you do from there is gonna be up to
10 you.

11 On 2016-GS-21-00784, Defendant is committed to the State
12 Department of Corrections for a period of 10 years, given
13 credit for 417 days. He's to go to the Addictions Treatment
14 Unit if deemed necessary. He shall register as a SO and I'll
15 clarify that on the record in a minute. I'm sure his lawyer
16 knows what that means.

17 MS. CRAYTON: Yes, sir.

18 THE COURT: Upon release from the Department of
19 Corrections, I do find the state has established good and
20 sufficient cause for such registration.

21 On 2017-GS-21-00529, Defendant is committed to State
22 Department of Corrections for a period of 25 years, given
23 credit for 417 days, each of these offenses or sentences are
24 to run concurrent.

25 MS. CRAYTON: Thank you, Your Honor.

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SENTENCE OF THE COURT

28

1 THE COURT: Thank you.

2

3 (ADJOURNED - 10:43 A.M.)

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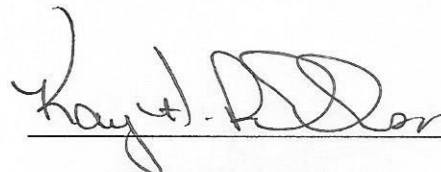
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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Shamaine Martrell Roberson, held in the Court of General Sessions for Florence County, Florence County Courthouse, Florence, South Carolina, on January 23, 2018.

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



Kay H. Richardson

Official Court Reporter

October 23, 2018.

FORM 5

STATE OF SOUTH CAROLINA)

County of FLORENCE)

20 18 CP 21 2034

IN THE COURT OF COMMON PLEAS

SHAMAINE MARTELL ROBERSON)

Full name and prison number (if any) of Applicant
#331079)

v.)

State of South Carolina)

AFFIDAVIT OF FACTS GIVING

JUDICIAL NOTICE;

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention LIEBER C.I. P.O. BOX 205 RIDGEVILLE, S.C.
29472
2. Name and location of Court which imposed sentence FLORENCE COUNTY COURT
OF GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) _____
N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2017-GS-21-00529

FILED

2018 JUL 27 PM 12:30

BOBIS POLLOS CHA
OCCP & GS
FLORENCE COUNTY

- (b) SEE ATTACHED SHEETS
- (c) "
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) JANUARY 23, 2018 TWENTY-FIVE YEARS
- (b) SEE ATTACHED SHEETS
- (c) "
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty XXX
- (b) after a plea of not guilty
- (c) after a plea of nolo contendere
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- NO
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. "
- iii. "
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. "
- iii. "
- (c) the date of each such result:
- i. N/A
- ii. "
- iii. "
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. "
- iii. "
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) COUNSEL WAS INEFFECTIVE. I WAS NOT INFORMED OF

- (b) OR DISCOVERED THIS RIGHTS AND ISSUES UNTIL NOW.
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) 4th., 5th., 6th., 13th. 14th. 15th. AMENDMENT VIOLA-
 (b) TIONS; SUBJECT MATTER JURISDICTION; DUE PROCESS VIOLA-
 TIONS (c) INEFFECTIVE ASSISTANCE OF COUNSEL; FRAUD UPON THE COURT.
11. State concisely and in the same order the facts which support each of the grounds set out in (10): THE PETITIONER INTENDS TO AMEND THIS PCR ONCE LEGAL
 (a) COUNSEL IS APPOINTED. THE PETITIONER WILL SEEK TO
 (b) ADD ADDITIONAL ISSUES ONCE HE RECEIVES A COPY OF THE
 (c) TRIAL TRANSCRIPT. MEMORANDUM OF LAW WILL THEN FOLLOW.
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? N/A
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
 (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. N/A
 ii. "
 iii. "
 iv. "
 (b) the name and location of the Court in which each was filed:
 i. N/A
 ii. "
 iii. "

- iv. _____
" _____
- (c) the disposition thereof:
i. _____ N/A _____
ii. _____ " _____
iii. _____ " _____
iv. _____ " _____
- (d) the date of each such disposition:
i. _____ N/A _____
ii. _____ " _____
iii. _____ " _____
iv. _____ " _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
i. _____ N/A _____
ii. _____ " _____
iii. _____ " _____
iv. _____ " _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

_____ NO _____
_____ u _____

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

- (a) which grounds have been presented:
i. _____ u _____
ii. _____ u _____
iii. _____ u _____
- (b) the proceedings in which each ground was raised:
i. _____ u _____
ii. _____ u _____
iii. _____ u _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) STATE APPOINTED COUNSEL WAS INEFFECTIVE. I DID NOT
 (b) DISCOVER THESE ISSUES UNTIL NOW.
 (c) "

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

- (a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
 N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

- (a) the name and address of each attorney who represented you:
 i. EMILY M. CRAYTON PUBLIC DEFENDER'S OFFICE CITY COUNTY
 COMPLEX 180 N. IRBY STREET FLORENCE, S.C. 29501
 ii.
 iii.
 (b) the proceedings at which each such attorney represented you:
 i. A TRIAL THAT ENDED IN A PLEA.
 ii.
 iii.

ADDITIONAL NOTICE:

PLEASE BE ADVISED. I INTEND TO ATTACK ALL OF MY PRIOR CONVICTIONS BY THIS ACTION DUE TO THEY STILL HAVING AN ADVERSE EFFECT UPON ME IN SEEKING EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES. I AM SEEKING TO VACATE OR VOID THOSE CONVICTIONS IN QUESTION AND HAVE MY RECORD EXPUNGED. THIS INCLUDE THOSE CONVICTIONS FROM APRIL 14, 2004, SEPTEMBER 20, 2005, MARCH 15, 2006, JUNE 29, 2007, SEPTEMBER 22, 2007, JANUARY 3, 2008, OCTOBER 13, 2008, DECEMBER 2, 2015. THESE CHARGES APPEARING ON MY RECORD ARE A HINDERANCE TO MY ABILITY TO BE PRODUCTIVE IN SOCIETY AND TO PURSUE HIGHER GOALS OF EDUCATION AND EMPLOYMENT. THEREFORE, BY THIS FILED ACTION, I SHALL ALSO SEEK TO HAVE THESE PRIOR CHARGES VACATED AND OR REND RED VOID DUE TO UNCONSTITUTIONAL ACTION ON THE PART OF THE ST TE IN ESTABLISHING THEM. I SHALL SEEK TO HAVE MY RECORD OF THEM EXPUNGED.

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

MY CONVICTION VACATED; MY RECORD EXPUNGED; AN ORDER ISSUED
 REMOVING MY NAME AND DNA FROM ANY DEROGATORY FILED; ALL
 MONEY PAID OUT TO THE STATE RETURNED.

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of FLORENCE)

VERIFICATION

I, SHAMAINE MARTRELL ROBERSON

being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

X Shamaine Roberson

SWORN to and subscribed before me this 24th
 day of July 2018.

Luchean Bryant (L.S.)
 Notary Public

My Commission Expires: May 26, 2020

2018 JUL 27 PM 12:25
 BONIS POULOS O'HARA
 OSCP & GS
 FLORENCE COUNTY, SC

FILED

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

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

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

X Shamaine Roberson
Applicant

SWORN or affirmed to and subscribed before me this
24th day of July, 2018.

Lushrean Bryant
Notary Public

My Commission Expires: May 26, 2020

2018 JUL 27 PM 12:25
DAVIS POWERS O'HARA
CCCP & GS
NOTARY PUBLIC, SC

FILED

SHAMAINE MARTRELL ROBERSON
#331079 WANDO B-133
LIEBER C.I. P.O. BOX 205
RIDGEVILLE, S.C. 29472

175

IN RE: TO FILING A PCR APPLICATION.

TO: THE FLORENCE COUNTY CLERK OF COURT,

MAM. ATTACHED YOU WILL FIND MY PCR APPLICATION. CAN YOU PLEASE FILE IT AND RETURN TO ME A CLOCKED STAMPED COPY? FOR THIS I WOULD BE VERY GRATEFUL. THANK YOU IN ADVANCE. ALSO CAN YOU PLEASE CHECK IN CASE 2017-GS-21-00529 AND TELL ME WHETHER OR NOT THERE ARE ANY ORDERS OF CONTINUANCES FILED IN THIS CASE? IF THERE ARE CAN YOU PLEASE SEND ME A COPY OF ALL ORDERS IN QUESTION?

RESPECTFULLY,
SHAMAINE ROBERSON

Shamaire Roberson

DONIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

2018 JUL 27 PM 12:25

FILED

JULY 23, 2018

FORM 5

20 18 CP 21 2179

STATE OF SOUTH CAROLINA)

County of Florence)

IN THE COURT OF COMMON PLEAS

Shamaine M. Roberson 331079

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

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF2018 AUG 13 PM 4:17
DORIS P. O'HARA
CLERK
FLORENCE COUNTY, SC

FILED

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept. of Correction
2. Name and location of Court which imposed sentence 12th Judicial Circuit
181 N. Irby Street Florence, S.C. 29501
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2017-GS-21-00529

(b) See Attached sheets

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 1/23/2018 25 years violent

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. _____

N/A

ii. _____

||

iii. _____

||

(b) the result in each such Court to which you appealed:

i. _____

||

ii. _____

||

iii. _____

||

(c) the date of each such result:

i. _____

||

ii. _____

||

iii. _____

||

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

||

ii. _____

||

iii. _____

||

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) Counsel was InEffective. I was not Informed of

(b) Or Discovered this Rights and Issues until Now.

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) 4th, 5th, 6th, 13th, 14th, 15th, Amendment violations; S.C.

(b) Criminal Rules Violations; Subject Matter Jurisdiction,

(c) Due Process Violations; InEffective Assistance of Counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) The Petitioner Intends to Amend this PCB once Legal Counsel

(b) is Appointed. The Petitioner will seek to Add Additional Issues

(c) Once he receives A copy of the Trial Transcript. Memorandum of Law will then follow

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. ||

iii. ||

iv. ||

(b) the name and location of the Court in which each was filed:

i. ||

ii. ||

iii. ||

- iv. 11
- (c) the disposition thereof:
- i. 11
- ii. 11
- iii. 11
- iv. 11
- (d) the date of each such disposition:
- i. 11
- ii. 11
- iii. 11
- iv. 11
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. 11
- ii. 11
- iii. 11
- iv. 11

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

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

- (a) which grounds have been presented:

- i. N/A
- ii. 11
- iii. 11

- (b) the proceedings in which each ground was raised:

- i. 11
- ii. 11
- iii. 11

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) State Appointed Counsel was In Effective. I didn't
 (b) Discovered these Issues until now.
 (c) _____

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

(a) your arraignment and plea? Yes
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

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

(a) the name and address of each attorney who represented you:
 i. Emily M. Crayton, S.C. Bar # 78236
Public Defenders Office, City County Complex
 ii. 180 N. Erby St. Florence, S.C. 29501
 iii. _____

(b) the proceedings at which each such attorney represented you:
 i. A case that ended in a plea, in the middle
of Trial
 ii. _____
 iii. _____

Attached Sheet

Please be advised, I intend to attach all of my Prior Convictions by this action due to they still having and adverse effect upon me seeking Employment and Educational Opportunities. I am seeking to vacate or void those Convictions in Question and have my Record Expunged. This Include those Conviction from my pass Criminal History, These charges appearing on my Record are a Hinderance to my ability to be productive in Society and to Pursue higher goals of education and employment. Therefore, by this filed action, I shall also seek to have these prior charges vacated and or Rend Red void due to unconstitutional action, on the part of the state in establishing them. I shall seek to have my record of these Expunged.

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

Vacation of the Conviction, Record Expunged, AN Order
Issued removing my Name and DNA from any Derogatory
Filed, All money paid out to the State Returned

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Florence)

VERIFICATION

I, Shamaine M. Roberson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shamaine Roberson

SWORN to and subscribed before me this 9th
 day of August, 2018.

Lubreen Bryant (L.S.)
 Notary Public

My Commission Expires: May 26, 2020

2018 AUG 13 PM 4:17
 DORIS POULOS O'HARA
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

FILED

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

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

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

Shamaine Roberson
Applicant

SWORN or affirmed to and subscribed before me this
9th day of August, 2018.

Luchean Bryant
Notary Public

My Commission Expires: May 26, 2020

2018 AUG 13 PM 4:17
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

FILED

Re: Post-Conviction Relief

!

Dear Mrs. O'Hara,

Enclosed for filing is the (PCR) Applications that you sent to me and I'm returning them to you filled out to the best of my knowledge. And could you please send me a Certified Copy at your earliest convenience for my file.

Thanks you kindly in advance for your assistance and consideration in this matter.

Sincerely,
Shamaine Roberson

8/7/2018

FORM 5

20 18 CP 21 2181

STATE OF SOUTH CAROLINA)

County of Florence)

IN THE COURT OF COMMON PLEAS

Shamaine M. Roberson ⁴ 331079)

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

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2018 AUG 13 PM 4:18
ORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

FILED

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept. of Correction
2. Name and location of Court which imposed sentence 12th Judicial Circuit
181 N. Irby Street Florence, S.C. 29501
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2016-GS-21-00784

(b) See Attached Sheets

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 1/23/2018 10 years Non-Violent

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty Yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. _____

N/A

ii. _____

11

iii. _____

11

(b) the result in each such Court to which you appealed:

i. _____

11

ii. _____

11

iii. _____

11

(c) the date of each such result:

i. _____

11

ii. _____

11

iii. _____

11

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

11

ii. _____

11

iii. _____

11

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) Counsel was InEffective. I was not Informed of

(b) Or Discovered this Rights and Issues ~~unit~~ until Now.

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) 6th, 13th, 14th, 15th Amendment Violations; S.C Criminal Rules

(b) Violations; Subject Matter Jurisdiction, Due Process

(c) Violations, InEffective Assistance of Counsel.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) The Petitioner Intends to Amend this PCB ~~and~~ once

(b) Legal Counsel is Appointed. The Petitioner will seek to add Additional

(c) Issues Once he receives A copy of the Transcript. Memorandum
of Law will then follow.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. ||

iii. ||

iv. ||

(b) the name and location of the Court in which each was filed:

i. ||

ii. ||

iii. ||

- iv. _____ 11 _____
- (c) the disposition thereof:
- i. _____ 11 _____
- ii. _____ 11 _____
- iii. _____ 11 _____
- iv. _____ 11 _____
- (d) the date of each such disposition:
- i. _____ 11 _____
- ii. _____ 11 _____
- iii. _____ 11 _____
- iv. _____ 11 _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____ 11 _____
- ii. _____ 11 _____
- iii. _____ 11 _____
- iv. _____ 11 _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

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

(a) which grounds have been presented:

- i. _____ N/A _____
- ii. _____ 11 _____
- iii. _____ 11 _____

(b) the proceedings in which each ground was raised:

- i. _____ 11 _____
- ii. _____ 11 _____
- iii. _____ 11 _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) State Appointed Counsel was InEffective. I did not
 (b) Discovered these Issues until Now
 (c) _____

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

(a) your arraignment and plea? Yes
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

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

i. Emily M. Crayton, S.C. Bar # 78236
Public Defenders Office, City County Complex
 ii. 180 N. Irby St. Florence, S.C. 29501
 iii. _____

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

i. A Case that was ran Concurrently with another
Case that went to trial and both ended in a plead.
 ii. _____
 iii. _____

Attached Sheet

Please be advised, I intend to attack all of my Prior Convictions by this action due to they still having and adverse effect upon me in seeking Employment and Educational Opportunities. I am seeking to vacate or void those Convictions in Question and have my Record Expunged. This Include those Convictions from my pass Criminal History, These Charges appearing on my Record are a Hinderance to my ability to be productive in Society and to Pursue higher goals of education and employment. Therefore, by this filed action, I shall also seek to have these Prior charges vacated and or Rend Red Void due to unconstitutional action, on the part of the state in establishing them. I shall seek to have my record of these Expunged.

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

Vacation of the Conviction, Record Expunged, AN order
Issued removing my Name and DNA from any Derogatory
Filed, All money paid out to the state Returned

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Florence)

VERIFICATION

I, Shamaine M. Roberson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shamaine Roberson

SWORN to and subscribed before me this 9th
 day of August, 2018.

Luchean Bryant (L.S.)
 Notary Public

My Commission Expires: May 26, 2020

2018 AUG 13 PM 4:18
 DORIS POULOS O'HARA
 CCJP & GS
 FLORENCE COUNTY, SC

FILED

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

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

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

Shamaine Roberson
Applicant

SWORN or affirmed to and subscribed before me this
9th day of August, 2018.

Ludheen Bryant
Notary Public

My Commission Expires: May 26, 2020

2018 AUG 13 PM 4:18
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	FOR THE THELFTH JUDICIAL CIRCUIT
	)	
	)	2018-CP-21-2034
Shamaine Roberson, #331079,	)	2018-CP-21-2179
	)	2018-CP-21-2181
Applicant,	)	
	)	
v.	)	RETURN, MOTION FOR MERGER, &
	)	PARTIAL MOTION TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to Shamaine Roberson's (Applicant) actions for post-conviction relief (PCR) commenced July 27, 2018, and August 13, 2018, the State makes this return:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the June 2016 term of the Florence County Grand Jury for first-degree assault and battery (2016-GS-21-0784). Applicant was also indicted at the April 2017 term of the Florence County Grand Jury for grand larceny, kidnapping, possession of a weapon during a violent crime, and carjacking. (2017-GS-21-0529). Applicant was represented by Emily M. Crayton, Esquire. Applicant's case on the April 2017 charges was called for trial January 22, 2018, before the Honorable D. Craig Brown. However, the following day Applicant pled guilty to kidnapping on the April 2017 charges and first-degree assault and battery on the June 2016 charges. Applicant pled without sentencing recommendations or negotiations. Judge Brown accepted Applicant's plea and sentenced him to concurrent terms of imprisonment of twenty-five years for kidnapping, and ten years for first-degree assault and battery. Applicant did not appeal his convictions or sentence.

II. FACTS

First-Degree Assault and Battery (2016-GS-21-0784)

Applicant's first-degree assault and battery charge stems from an incident that occurred October 17, 2015. Applicant's cousin (Cousin) was the victim. Cousin's mother, Dorothy Roberson, reported the incident to law enforcement. Dorothy reported Cousin had been drinking heavily at Dorothy's house. Dorothy stated Cousin was so intoxicated that she vomited and then passed out. Thereafter, Dorothy put Cousin to bed. Sometime later, Dorothy heard a loud thud come from the room where Cousin was sleeping. Dorothy went to check on Cousin. Dorothy entered the room and witnessed Applicant having sex with Cousin. Cousin was unconscious. (Plea Tr. 15–16).

Kidnapping (2017-GS-21-0529)

Applicant's kidnapping charge stems from an incident that occurred December 3, 2016. Applicant walked up to Shaquawna Riggins' car and asked Riggins if he could borrow her lighter. Riggins lent Applicant her lighter then looked down at her phone. When Riggins looked up from her phone, Applicant was holding her at gun-point. Applicant forced Riggins into the passenger seat, entered the car, and drove away. (Plea Tr. 10–11).

Riggins, scared for her life, jumped out of the moving car and fled to a nearby house where she contacted law enforcement. (Plea Tr. 11–12). Riggins reported the incident and informed law enforcement that her cell phone was still in the car. She gave law enforcement her cell phone number. Law enforcement was able to ping the cell phone's location and dispatched officers to the location. Upon arrival, the responding officer identified Riggins' car parked in the driveway of a residence. The officer also saw Applicant entering the residence. The officer

knocked on the front door, and Applicant's aunt answered. Applicant's aunt stated she owned the residence and subsequently consented to a search of her residence. Law enforcement discovered Applicant inside the residence along with a Bryco .380 Arms handgun and Riggins' cell phone, debit card, food-stamp card, and other personal effects. (Plea Tr. 12).

III. ALLEGATIONS

In his first application (2018-CP-21-2034), Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 4th, 5th, 6th, 13th, 14th, and 15th Amendment violations;
2. Subject Matter Jurisdiction;
3. Due Process Violations;
4. Ineffective Assistance of Counsel; and
5. Fraud upon the Court.

In his second application (2018-CP-21-2179), Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 4th, 5th, 6th, 13th, 14th, and 15th Amendment violations;
2. S.C. Criminal Rules Violations;
3. Subject Matter Jurisdiction;
4. Due Process Violations; and
5. Ineffective Assistance of Counsel.

In his third application (2018-CP-21-2181), Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 6th, 13th, 14th, and 15th Amendment Violations;
2. S.C. Criminal Rules Violations;
3. Subject Matter Jurisdiction;
4. Due Process Violations; and
5. Ineffective Assistance of Counsel.

As requested relief, Applicant requests: his conviction be vacated; his record expunged; an order issued removing his name and DNA from any derogatory file; and for all money paid to the State be returned.

Attached herewith and incorporated herein are the records of the Florence County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the PCR applications, and the partial trial / guilty plea transcript. The State reserves the right to amend this return upon receipt of any relevant materials.

IV. MOTION FOR MERGER

Applicant has filed three applications for post-conviction relief. Applicant filed his first application July 27, 2018 (2018-CP-21-2034), and filed his second and third applications August 13, 2018 (2018-CP-21-2179, & -2181). An applicant is generally not allowed to have two post-conviction relief actions in regard to the same conviction. S.C. Code Ann. § 17-27-90; *Aice v. State*, 305 S.C. 448, 409 S.E.2d 392 (1991). Therefore, the State moves to have the three actions merged and the applications for post-conviction relief filed August 13, 2018 (2018-CP-21-2179, & -2181) be considered amendments to the initial application for post-conviction relief filed July 27, 2018 (2018-CP-21-2034). Additionally, the State moves to merge the three cases, with docket number 2018-CP-21-2034 being the surviving case.

V. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

The State submits Applicant's allegation of ineffective assistance of counsel is without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668,

687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). However, counsel is presumed to have adequately assisted and exercised reasonable professional judgment in making decisions in the case. *Edwards*, 392 S.C. at 456, 710 S.E.2d at 64. “[W]here counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

In the context of a guilty plea, a defendant who entered a plea with the advice of counsel may only attack the voluntary and intelligent nature of the plea. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). To prove prejudice, the applicant must show a reasonable probability he would not have pled guilty and would have insisted on going to trial absent plea counsel’s alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

The State submits Applicant cannot satisfy either requirement of *Strickland*. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the State requests an evidentiary hearing to fully

resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

VI. PARTIAL MOTION TO DISMISS

The State moves to dismiss all allegations outside Applicant's claim of ineffective assistance of counsel. The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). A defendant who entered a plea with the advice of counsel may only attack the voluntary and intelligent nature of the plea. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Here, Applicant pled guilty after conferring with counsel. Therefore, the State requests for this Court to summarily dismiss all of Applicant's allegations except for his claim of ineffective assistance of counsel.

VII. ANY FUTURE AMENDMENTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to the Uniform Post-Conviction Relief Act¹ and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)–(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCPP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCPP.

VIII. RESPONSE TO ANY AND ALL OTHER ALLEGATIONS

¹ S.C. Code Ann. §§ 17–27–10 to –160.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

IX. REQUEST FOR AN EVIDENTIARY HEARING

WHEREFORE, the State requests that an evidentiary hearing be held on the claims of ineffective assistance of counsel.

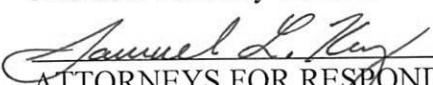
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

SAMUEL L. KEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

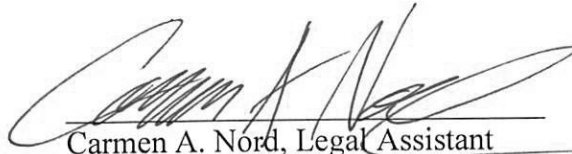
February 25, 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	
	)	
	)	2018-CP-21-2034
	)	2018-CP-21-2179
SHAMAINE ROBERSON, #331079	)	2018-CP-21-2181
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return, Motion for Merger, and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D Waller
Waller Law Group, LLC
1116 Blanding Street
Suite 2B
Columbia, SC 29201

DATED this the 25th day of February, 2019.


Carmen A. Nord, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
)

Shamaine Roberson, #331079,)
) 2018-CP-21-2034
) 2018-CP-21-2179
) 2018-CP-21-2181

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE THELFTH JUDICIAL CIRCUIT

ORDER OF MERGER

2019 AUG -5 PM 1:14
DORIS FOLLOWS
COP 8 09
FLORENCE COUNTY, SC

FILED

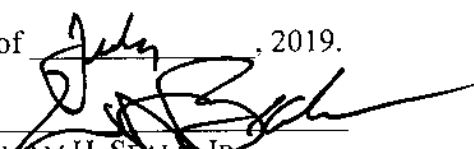
The applicant in the above-captioned matters has filed three applications for post-conviction relief, the first of which was filed July 27, 2018 (2018-CP-21-2034), and second and third on August 13, 2018 (2018-CP-21-2179 & -2181). A motion hearing to merge Applicant's three PCR actions convened on June 24, 2019, before the undersigned at the Florence County Courthouse. Applicant was present and represented by Jonathan D. Waller, Esquire. Assistant Attorney General Samuel L. Key represented the State. The State moved, without objection, for Applicant's three PCR actions to be merged into one action. Since an applicant is not generally allowed to have multiple post-conviction relief proceedings in regard to the same convictions, this Court hereby orders that the three proceedings be merged. The applications for post-conviction relief filed on August 13, 2018 (2018-CP-21-2179 & -2181), will be considered amendments to the initial application for post-conviction relief filed July 27, 2018 (2018-CP-21-2034).

The Clerk of Court is therefore ordered to merge the three cases, with docket number (2018-CP-21-2034) being the surviving case. Hereafter, the word "Application" will refer to

docket number (2018-CP-21-2034); the word "Amendment" will refer to docket numbers (2018-CP-21-2179 & -2181), which will now be considered as an amendments to the application for post-conviction relief

IT IS THEREFORE ORDERED that the Florence County Clerk of Court merge docket numbers 2018-CP-21-2179 & -2181 into docket number 2018-CP-21-2034, with file 2018-CP-21-2034 being the surviving file and all future pleadings shall bear docket number 2018-CP-21-2034. Docket numbers 2018-CP-21-2179 & -2181 will be dismissed upon the merger. It is further ordered that Jonathan D. Waller, Esquire, shall continue to represent Applicant in this PCR action.

AND IT IS SO ORDERED this 30 day of July, 2019.


WILLIAM H. SEALS, JR.
Presiding Judge
Twelfth Judicial Circuit

FILED

2019 AUG -5 PM 1:14

BOBIS POULOS CHAMPA
COOP & OS
FLORENCE COUNTY, SC

FORM 4
FILEDSTATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER **2018CP2102181**

Shamaine M Roberson

2019 AUG -5 PM 2: 54

South Carolina State Of

DORIS POULOS O'HARA

PLAINTIFF(S)

CCCP & GS

DEFENDANT(S)

FLORENCE COUNTY, SC

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

8/5/2019

Date

For Clerk of Court Office Use Only

This judgment was entered on **August 5, 2019**, and a copy mailed first class or placed in the appropriate attorney's box on **August 6, 2019**, to attorneys of record or to parties (when appearing pro se) as follows:

Jonathan D Waller 1116 Blanding Street Suite 2B
Columbia, SC 29201

Samuel Leonard Key Rembert C. Dennis Building 1000
Assembly Street Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Doris P. O'Hara
Doris Poulos O'Hara - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2018-CP-21-02034
	)	
Shamaine Martell Roberson,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

December 17, 2020
Florence, South Carolina

B E F O R E:

The Honorable Walton J. McLeod, IV, Judge

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

Jonathan Waller, Esquire
Attorney for the Applicant

Michael Davidson, Esquire
Attorney for the State

Krystal J. Smith
Circuit Court Reporter

I N D E X

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>

(No Exhibits Presented)

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption

 or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 DECEMBER 17, 2020

2 (WHEREUPON, the proceedings began at 10:02 a.m.)

3 THE COURT: All right. Okay. This is -- we're here on
4 the case of Shamaine Roberson versus the State of South
5 Carolina. It looks like there were three cases -- case
6 numbers here, three applications for post-conviction relief,
7 they being 2018-CP-21-2034, 2179, and 2181.

8 If counsel of record could just identify themselves real
9 quick.

10 MR. WALLER: Thank you, Your Honor. Jonathan Waller for
11 Mr. Roberson.

12 THE COURT: Okay.

13 MR. DAVIDSON: Michael Davidson for the State.

14 THE COURT: All right. Anything we need to discuss
15 before getting started?

16 MR. WALLER: No, Your Honor. Those -- just for the
17 record, those -- those case numbers were all merged in an
18 order of merger filed August 5th, 2019. In this case I think
19 they were all filed pretty close in time together.

20 THE COURT: Ah, yeah.

21 MR. WALLER: But the order states that 2018-CP-21-2034
22 is the official number going forward.

23 THE COURT: All right. I can see that as well. Thank
24 you. How many witnesses do you have today?

25 MR. WALLER: Just one.

1 THE COURT: Okay. Your client?

2 MR. WALLER: Yes, Your Honor.

3 THE COURT: Okay. How about you from the State?

4 MR. DAVIDSON: Just one, Your Honor.

5 THE COURT: Okay. Are y'all ready to proceed?

6 MR. WALLER: Yes, Your Honor.

7 THE COURT: All right.

8 MR. DAVIDSON: Yes, Your Honor.

9 THE COURT: So if you wouldn't mind, just give me a
10 little background for the record as well, please.

11 MR. WALLER: Sure, Your Honor.

12 Before you is Shamaine Roberson. Your Honor, he was
13 indicted and actually begun a trial into allegations
14 regarding a carjacking, kidnapping, armed robbery situation.

15 After, I believe, a full day of trial, Mr. Roberson
16 entered into a plea agreement with the State where he pled to
17 one count of kidnapping and also one count of assault and
18 battery in the first degree for a separate charge that was
19 not part of the trial. Your Honor, he received a sentence of
20 25 years.

21 He subsequently filed, as you've seen, multiple PCR
22 applications alleging various allegations of violations of
23 his constitutional rights. The State filed a motion for
24 merger and a motion for a more definite statement and a
25 partial motion to dismiss.

1 Your Honor, I don't believe we're contesting really the
2 partial motion to dismiss. This is a -- the allegations he's
3 going forward on today are that counsel was in -- ineffective
4 assistance of counsel claim, specifically that counsel was
5 ineffective for failing to fully investigate the facts and
6 circumstances surrounding the allegations in a manner that
7 led to his plea, both of them being involuntarily and
8 unknowingly entered into.

9 And so that's what we're proceeding forward on today,
10 Your Honor. So as far as the State's remaining motion, we're
11 not opposing some of the other things they're trying to
12 strike.

13 THE COURT: Okay. And just to clarify, what are those
14 remaining grounds so we can stipulate to that now?

15 MR. DAVIDSON: Your Honor, in his first application,
16 2018-CP-21-2034, which is the case number that all of these
17 were merged into, we move to dismiss subject matter
18 jurisdiction, due process violations and fraud upon the
19 Court, and 4th, 5th, 6th, 13th, 14th, and 15th Amendment
20 violations.

21 For his second application, 2018-CP-21-2179, we move to
22 dismiss 4th, 5th, 6th, 13th, 14th, and 15th Amendment
23 violations, SC criminal rules violations, subject matter
24 jurisdiction, due process violations.

25 And his third, 2018-CP-21-21 point -- I'm sorry --

1 2018-CP-21-2181, we move to dismiss 6th, 13th, 14th, and 15th
2 Amendment violations, SC criminal rules violations, subject
3 matter jurisdiction, and due process violations.

4 THE COURT: Okay. So we'll proceed only today on --
5 with the stipulation of both parties, understanding that the
6 remaining causes are withdrawn or otherwise stipulation to a
7 dismissal, but the remaining claim will just be the
8 ineffective assistance of counsel. Okay?

9 MR. WALLER: That's correct, Your Honor.

10 One other clarification, I guess. The requested relief
11 he had asked for in his application was that his conviction
12 be vacated, his record be expunged, an order removing his
13 name and DNA from any derogatory file linked to the state to
14 be returned. Additionally, he had asked that the PCR
15 challenge all prior convictions, I think going back several
16 years.

17 He and I have discussed that and he understands that
18 those -- the available relief to him today is potentially the
19 vacation of his sentence. He would have to face the charges
20 all over again. He also understands the statute of
21 limitations regarding his prior convictions and that they are
22 not encompassed in this proceeding.

23 THE COURT: And he understands he's only proceeding
24 forward on having an evidentiary hearing as to the claim for
25 ineffective assistance of counsel?

SHAMAINE ROBERSON - DIRECT

1 MR. WALLER: That's correct, Your Honor.

2 THE COURT: All right. Okay.

3 MR. WALLER: All right. Your Honor, the applicant would
4 call Shamaine Roberson.

5 THE COURT: If you could.

6 THE CLERK: Place your left hand on the Bible and raise
7 your right hand as much as you can. Do you -- do you swear
8 to tell the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE APPLICANT: Yes, ma'am.

11 THE CLERK: Thank you. You can have a seat.

12 THE COURT: All right. Good morning, Mr. Roberson.
13 Please answer any questions the attorneys have for you.
14 Okay?

15 THE APPLICANT: Yes, sir.

16 SHAMAINE ROBERSON, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WALLER:

20 Q: All right. Good morning, Mr. Roberson. How are you
21 this morning?

22 A: Good morning. Good morning to you. I'm all right.

23 Q: Mr. Roberson, I want to take you back, if I can, to when
24 you were first arrested. Do you recall that?

25 A: Yes, sir.

SHAMAINE ROBERSON - DIRECT

1 Q: Okay. And I'm talking about when you were first
2 arrested on the -- the armed robbery or kidnapping and
3 carjacking charge. Do you remember that?

4 A: To the Court, I wasn't charged with no armed robbery.

5 Q: I apologize. The -- the kidnapping and carjacking
6 charges.

7 A: Yes, sir, I do. I done recall that [sic].

8 Q: Okay. When you were -- was -- was these -- the charges
9 that you ultimately pled to the assault and battery, was that
10 pending at that time or did that come later?

11 A: Could you repeat the question?

12 Q: Yes, sir.

13 THE COURT REPORTER: I didn't hear it either.

14 THE COURT: Okay. Yeah. Try -- well, let's -- let's
15 help the court reporter out today and let's try to speak up a
16 little bit more. We're wearing masks. It's already kind of
17 tough to --

18 MR. WALLER: Sure.

19 THE COURT: -- hear people. So let's just work to do
20 that. Okay?

21 MR. WALLER: Sure.

22 BY MR. WALLER:

23 Q: Mr. Roberson, you had a charge or some charges related
24 to the carjacking incident. There was another charge which
25 you ultimately pled guilty to that was an assault and battery

SHAMAINE ROBERSON - DIRECT

1 first-degree charge relating to an assault. Do you remember
2 that?

3 A: No, sir.

4 Q: Okay. There was a charge you pled guilty to that was
5 not part of the trial that you had started. Do you remember
6 that?

7 A: No, sir.

8 Q: Okay. Who was your attorney on the carjacking charge?

9 A: Ms. Emily Crayton.

10 Q: Okay. Did she already represent you when you got the
11 carjacking charge?

12 A: Yes, sir. They -- they was -- I -- I forgot what
13 happened that -- I forgot what happened that day. I remember
14 the carjacking charge I was charged with.

15 Q: Okay. Do you recall an incident occurring October of
16 2015 that you were charged with assault and battery?

17 A: No, sir.

18 Q: Okay. Did Ms. Crayton already represent you when you
19 were arrested on the carjacking?

20 A: She -- she had been my attorney for a long period of
21 time, but I can't remember all the charges that she
22 represented me on.

23 Q: Okay. Do you recall when she started representing you?
24 Was it in 2015 or 2016?

25 A: I think -- I think it been -- I think it been 2016.

SHAMAINE ROBERSON - DIRECT

1 Q: Okay. Let's -- let's look at the -- I want to look at
2 the carjacking charges first. Okay? What -- what did you
3 and Ms. Crayton talk about related to that incident?

4 A: Relating to the incident, she -- of the carjacking, she
5 -- she told me that -- she told me I had to go and plead to
6 those charges basically.

7 Q: Okay. Do you recall -- de you remember what the State
8 was alleging that you did?

9 A: They -- they say I -- they say I kidnapped someone, but
10 to my knowledge I did not kidnap anyone.

11 Q: Okay. What -- what did you tell Ms. Crayton about
12 whether or not you were involved in that incident or not?

13 A: No. I told her -- like I told her at the time, that if
14 she had go out to the -- to the bar that night that I'd been
15 at, the same bar where the incident had supposed to take
16 place, on a Friday or Saturday night and talk to the
17 bartender, that the bartender could be a witness that me and
18 the victim of this crime had walked out together. We left
19 that bar together.

20 Q: Okay. So let me -- let me make sure I got this -- this
21 clear. So in your conversation with Ms. Crayton, you didn't
22 tell her you weren't there. You told her that the situation
23 was different than in the report?

24 A: Yes, sir.

25 Q: Okay. What -- what did she say about that?

SHAMAINE ROBERSON - DIRECT

1 A: When she talked to me, she said she got a whole
2 different story from the victim, but -- but what I told her,
3 it was the truth. If she had went to the bar on a Friday or
4 Saturday night, because that's when the bartender worked that
5 could've placed me at the bar talking to the victim and we
6 walked out together after I bought a bucket of beers from the
7 bartender. I approached back to my friends I went to the bar
8 with and I gave them the beers because me and the victim, we
9 hugged, we talked to each other, we did all this before.

10 Q: Okay. Did you -- you said you asked Ms. Crayton to go
11 talk to the bartender?

12 A: Yes, but --

13 Q: To your knowledge, did she ever do that?

14 A: To my knowledge, no.

15 Q: Okay. Did -- did she tell you she tried to do that?

16 A: No.

17 Q: Okay. All right. After you left the bar -- you said
18 you and the victim walked out together?

19 A: Yes, sir.

20 Q: What did you and Ms. Crayton talk about what happened
21 next?

22 A: I told her -- the victim -- the victim in this case said
23 I had a -- I had a weapon. I didn't have a weapon at the
24 time. I did not draw no weapon. I had a weapon. I told her
25 -- excuse me. I told her I had a weapon, but I did not draw

SHAMAINE ROBERSON - DIRECT

1 no weapon because a life -- I had a prior life in the past.

2 So it was my intention to carry weapons at that time. I had
3 a weapon, but I did not draw my weapon.

4 But if she -- the area where the victim was parked to
5 that night, there was no -- nothing to illuminate the parking
6 lot. There was no pole light lighting up the parking lot
7 because she was parked in a dark area of the club that night,
8 I told her if she'd go see all that -- the victim say she see
9 a silver handgun. How can you see a silver handgun? She
10 said I forced her into the passenger seat by weapon. I did
11 not force her into the seat by weapon. She five -- she five
12 eight, 190 pounds. I couldn't remember what console of her
13 car. Everything in the --

14 THE COURT: Okay. Stop. Do me a favor.

15 THE COURT REPORTER: I missed the last two sentences.

16 THE COURT: It's okay. Now, do me a favor.

17 THE APPLICANT: Yes, sir.

18 THE COURT: Try to talk a little slower.

19 THE APPLICANT: Yes, sir.

20 THE COURT: So we can hear everything you're saying
21 clearly. Okay?

22 THE APPLICANT: Yes, sir.

23 THE COURT: All right. So go back about two sentences.
24 You were -- you were talking about getting her into the car.

25 THE APPLICANT: Yes.

1 BY MR. WALLER:

2 A: It was -- when we -- when we exited the club, we walked
3 to her car. We got in the car. She gave me the keys. She
4 walked around to the driver's side. She walked to the
5 driver's side and then she walked around to the passenger
6 side. I got in the driver's side. She came -- she told a
7 lie that I put her in the car at gunpoint, which I did not.
8 She's five eight, 190 pounds, and said that I forced her over
9 the seat. How? You got a console in the car. You got the
10 steering gear in the middle of the floorboard. You was a big
11 person. How can I force you over all that?

12 Q: Okay.

13 A: She walked. She walked around. I've known Quawna way
14 back high school days. We met at a high school football
15 game.

16 Eventually, she got a call from her boyfriend that night
17 and a video pulled up. When she answered, it been on video
18 chat and I been in the background and she screamed that and
19 she screamed this, but me and her had a fight in the car
20 because I got a call from my girlfriend -- from a friend and
21 I told her I wanted to pick her up as well later. But at
22 that time Quawna got mad at me, calling me names and stuff.
23 We got into arguments in the car. She hit me, I hit her
24 back, and she jumped from the car.

25 Q: Okay. Let me stop you right there. Where -- when

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1 you're saying she jumped out of the car, where did that take
2 place?

3 A: I remember we turned off. I remember we turned off
4 Highway 52. I think we was south, south Florence.

5 Q: Okay. But the -- the argument you were talking about
6 with her boyfriend calling her and your girlfriend calling
7 you, that didn't take place in the parking lots, did it?

8 A: No. It took place in the car.

9 Q: Okay. When you were on the drive?

10 A: Yes.

11 Q: Okay. All right. What happened next? It looks like
12 you said she jumped out of the car.

13 A: Yeah. She jumped out. She jumped out the car. At the
14 time when -- when she hit me, my reflex kicked in. I hit her
15 back. She jumped from the car. I wasn't going no more than
16 probably 40 -- 45 miles per hour at the time she jumped from
17 the car. I went up. I turned around and I came back. I say
18 -- I asked her -- I said -- I was yelling. I said you is
19 crazy. You jumped from a moving car. I didn't see no one.
20 She never showed back up. So I -- I continued driving.

21 Q: Okay. Where did you -- where did you drive?

22 A: I ended up in -- I ended up in Olanta, South Carolina,
23 at my aunt's house for a time being. Then I left from there.
24 I went and picked -- I went and picked up my friend who I say
25 I was going to pick up. We chilled together for a while. I

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1 dropped her back off at home. I ended up back in Olanta,
2 South Carolina, at my aunt's house.

3 Q: Okay. Did you and Ms. Crayton discuss all this?

4 A: No, she did not.

5 Q: Did you tell her that what the State was saying is not
6 the way things happened?

7 A: I told her, but none of this never got onto record
8 because I was coerced into --

9 Q: Okay.

10 A: -- say --

11 Q: What I'm asking you right now is did you and Ms. Crayton
12 talk about this?

13 A: Yes. She knew every detail. She knew every detail.

14 Q: Okay. Did y'all discuss the -- law enforcement found
15 the victim's cell phone in her car, some credit cards inside
16 of the residence. Did you and Ms. Crayton discuss how those
17 things got there?

18 A: No, sir. No, we hasn't.

19 Q: Okay. Did y'all discuss ways that you might have a
20 defense to those allegations?

21 A: No, sir, we haven't.

22 Q: Okay. Did you ask her how y'all were going to challenge
23 those things?

24 A: No, sir, because at the time I didn't know nothing. I
25 didn't know nothing about the law. So I didn't know how to

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1 go forward with it. I went looking for help, but as I see
2 now that things could have been a whole lot different.

3 Q: Okay. Did you ask Ms. Crayton about how to challenge
4 the search of your aunt's house?

5 A: No, sir. Like I said, I didn't -- I didn't know how to
6 proceed with questions about the law.

7 Q: Okay. Did you ask Ms. Crayton what y'all were going to
8 do?

9 A: Yes, sir. I told her I ended up pleading to something
10 that I didn't do.

11 Q: Okay. Well, all right. So you started the trial.
12 Y'all had a full -- a whole day of the trial?

13 A: Yeah.

14 Q: Right? In leading up to that, what did you and Ms.
15 Crayton discuss about what was going to happen at the trial?

16 A: We didn't discuss none of that because what she told me
17 -- she told me that I didn't have a defense, which I did have
18 a defense. If she would have went out and talked to the
19 witnesses that I told her to talk to, then the case would
20 have been a whole lot different.

21 Q: Okay. All right. So the only defense -- the only
22 defense that y'all discussed was you wanted her to talk to
23 the bartender?

24 A: And I gave her the name of some friends that could have
25 placed me and the victim at parties prior to the incident

1 that took place on that night.

2 Q: Okay. And what did you tell Ms. Crayton that would
3 show?

4 A: I gave -- I gave her the name of two people. She tried
5 to located -- she tried to located one of them, but they
6 wasn't at -- but she wasn't at work at the time because her
7 investigator came and told me four days prior to trial that
8 and say she went and searched for one of the witnesses at her
9 job, but to no -- but she got to no avail because the victim
10 -- because the -- excuse me -- because the witness had
11 already left from her job. So --

12 Q: Okay. What -- what did you want Ms. Crayton to -- to
13 find out when she talked to those witnesses? How would they
14 have helped you is what my question is?

15 A: That me and the victim actually knew each other. That
16 we hung out together. We partied together.

17 Q: Okay. And would that make her statement that she didn't
18 know you -- would that make that not as credible?

19 A: Excuse me? Can you repeat that?

20 Q: If you knew each other beforehand, would that make her
21 statement to law enforcement that she didn't know you
22 beforehand -- would that make that less credible?

23 A: It would make it more credible because she -- she knew
24 me. She -- she sit up on this stand and told a lie under
25 oath that she didn't know me.

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1 Q: Okay. So when she said she didn't know you, she was
2 lying?

3 A: She's been lying.

4 Q: Okay. All right. What else did you and Ms. Crayton
5 talk about as far as preparing for the trial? What did you
6 think your defense was going to be because she hadn't talked
7 to these two people you asked her to?

8 A: I think -- I think my -- my defense would have been
9 actually that we actually knew each other. It wouldn't have
10 been nowhere around that we didn't know each other. It
11 wouldn't have been that I kidnapped her because we been in a
12 long-term relationship. Something that I never did, I never
13 put myself in a predicament to kidnap anyone.

14 Q: Okay. What -- what did you tell Ms. Crayton about
15 y'all's prior relationship that would help her show that you
16 had one?

17 A: I didn't -- I didn't catch the whole question.

18 Q: I'm sorry. It wasn't a great question. Did you have
19 any -- anything that would prove that you knew Ms. Riggins
20 before this incident?

21 A: Yes. I had -- I had an old -- I had an old website page
22 that we'd been on together, MySpace, but the reason I didn't
23 give Ms. -- I didn't give her the address to locate the
24 pictures because I had other personal stuff on there that --
25 that needed to be never seen. It been of my past history.

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1 So I felt like I didn't need anyone looking through --

2 looking through a website, which I didn't look through the

3 website no more. So --

4 Q: Okay.

5 A: -- I didn't gave up the password or nothing or the

6 address or nothing. So -- but she -- she did -- Ms. Crayton

7 did ask for the information.

8 Q: Okay. Did you have any text messages or anything like

9 that, emails between you and Ms. Riggins?

10 A: I had -- not -- not as of 2016. No, not prior because

11 when I -- when I buy phones, I, like, give the old phone away

12 and stuff like that or delete all data out of them and give

13 them away, but prior to 2013 and stuff, yes, I did have

14 texts.

15 Q: Okay. But nothing that you would have been able to show

16 to Ms. Crayton?

17 A: Not -- no. No, sir.

18 Q: Okay. When -- before your trial started, there was some

19 pretrial motions. Do you remember that?

20 A: I remember somewhat of it, I mean.

21 Q: Okay. All right. There was a hearing to determine

22 whether Ms. Riggins' identification of you was -- was okay,

23 and there was also a hearing to determine if law enforcement

24 could use what they found in the search because they tracked

25 Ms. Riggins' cell phone. Do you remember those two things?

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1 A: No, sir.

2 Q: Okay. Did you and Ms. Crayton talk about either of
3 those things?

4 A: No, sir.

5 Q: Okay. Did y'all talk about the search?

6 A: No, sir. And when I looked -- when I looked over -- I
7 tried to do my own law work a little bit and when I looked
8 over and I got the understanding then, and the thing that I
9 was supposed to go across with her, then a whole lot would
10 have been different because they -- because during the search
11 the officer proceeded he had seen beyond his limitations. He
12 had seen -- he only asked for -- he only asked for the gun
13 and he had seen beyond that.

14 Q: Okay. You're talking about all on the search warrant?

15 A: On the search, on the search altogether. He -- he only
16 asked for the gun. He only asked permission. When he --
17 when he approached me, he asked me and he asked my aunt and I
18 told him that the way -- the location where the phone was.

19 Q: Okay.

20 A: Because that's all he asked for was the phone and I told
21 him where the phone was. He went and he located the phone
22 after he asked my aunt for permission to search the house.

23 Q: Okay.

24 A: He located the phone, but he came back out. He at where
25 I was sitting to. He did not ask to search that location.

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1 Q: Okay. Did you and Ms. Crayton discuss -- well, let me
2 back up. Did you live there?

3 A: No, I didn't live there.

4 Q: Okay. Did you and Ms. Crayton discuss how you may be
5 able to challenge that search?

6 A: No, sir, we didn't.

7 Q: Okay. Did you discuss with Ms. Crayton that it was your
8 aunt's house?

9 A: No, sir, because prior to trial I don't think me and her
10 -- we didn't sit down and talk.

11 Q: Okay.

12 A: The first time she came to talk to me, she -- she asked
13 me what was I willing to plead to. That's all we talked
14 about.

15 Q: Okay. Let me ask you this. You went through, you had
16 these pretrial motions, a jury was selected, opening
17 statements were given by your lawyer and the State, and a
18 couple of witnesses gave testimony. And then overnight you
19 switched gears and you pled guilty the next morning?

20 A: No. Because I wanted a trial.

21 Q: Okay. What --

22 A: I asked --

23 Q: That's my -- what changed?

24 A: What changed when my mother entered the holding cell
25 where I been at and they both convinced me to go out there

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1 and plead guilty.

2 Q: Who is they both?

3 A: Her and Ms. Emily Crayton.

4 Q: I see.

5 A: Not only was it them, it was Investigator Thomas
6 McKenzie and another older white male, and the only one I
7 felt like that been on my side was Elizabeth Neyle, but she
8 told me it whatever that I wanted to do. We -- that they
9 don't work for me.

10 Q: All right. Let me -- let me back up just a little.

11 A: Well, she say I don't work for them, they work for me,
12 and it what I wanted to do, and that's coming from Attorney
13 Elizabeth Neyle.

14 Q: Okay.

15 A: And I felt like she was the only one trying to see
16 things through. So --

17 Q: Okay. Let me back up just so we can have a clear
18 record. When you say she and you're talking, you know, three
19 or four people, that doesn't make any sense.

20 A: Yeah. That how many people that talked to me that --
21 that morning.

22 Q: I understand. So it was your mother; is that right?

23 A: Yes.

24 Q: Ms. Crayton?

25 A: Yes, sir.

1 Q: Ms. Neyle?

2 A: And Investigator Thomas McKenzie.

3 Q: Okay.

4 A: And another older white male.

5 Q: Okay.

6 A: That he -- he introduced himself, but I didn't catch his
7 name at the time. So --

8 Q: Okay. Was this all at the same time?

9 A: All at the same time. So . . .

10 Q: Okay. So y'all were in a room and all talking at the
11 same time?

12 A: I was in the holding cell. It started out with Ms.
13 Crayton and Ms. Neyle, and she told me to -- she told me that
14 she wasn't going through with another day of trial and to
15 just go out there and plead guilty, and I told her no.

16 Q: Okay.

17 A: And then she stormed -- she left out. She stormed out
18 of the holding cell area and left me and Ms. Neyle back
19 there. Ms. Neyle told me that they doesn't -- that -- how
20 she say it? She say that I don't work for them, they work
21 for me, and it was what I wanted to do and that's when she
22 left out.

23 After she left out -- after Ms. Neyle left out, that
24 when Investigator Thomas McKenzie walked in with the older
25 white male, who I did not know. He introduced himself, but I

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1 didn't catch his name at the time because there was so much
2 going on, which I had wanted a trial.

3 And Investigator Thomas McKenzie told me I should listen
4 at Ms. Crayton and plead. He say I got a good judge. This
5 is a great opportunity. This is a good opportunity to get
6 less time if I would have go out there and pled guilty. He
7 said because if I go to trial, I could be looking at
8 everything, and I told him no as well. He said okay. He
9 said it's your call.

10 So after that, Ms. Emily Crayton -- she returned back
11 with my mother, and that's when she told me that she does --
12 that's when she -- that's when Ms. Emily Crayton told me that
13 she does know that I have a -- what did she say? I can only
14 -- I'm thinking back years of what happened. So give me a
15 moment.

16 Q: Okay.

17 A: She told me that she does know that I didn't have a
18 weapon at the time that I got arrested, but I did told her
19 that I had a gun. All this took place in front of my mother
20 and at the time I froze up because of the things that my
21 mother been hearing and becoming aware of and the things that
22 was being mentioned in front of my mother, who knows who been
23 out there in the hallway, if they were going to return back.
24 The State could have called my mother to be a witness against
25 me, and that would have self-incriminated me.

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1 Q: Mr. Roberson, let me ask you this. Did you -- at that
2 point did you think your lawyers were prepared to continue on
3 with the trial?

4 A: Not after that point.

5 Q: Okay. And you mentioned earlier that you had asked them
6 to interview some witnesses. At that point had they done
7 that?

8 A: If they had done it at that -- at that time, then I
9 would have proceeded to trial.

10 Q: Okay. All right. Turning -- why did you plead to the
11 assault and battery charge that wasn't part of your trial?

12 A: Going back, because she told me if I -- Ms. Emily
13 Crayton told me if I pled guilty, she would recommend from
14 the judge for 15 years. So at the time I'm thinking that I
15 wouldn't get no -- no time at all but the 15 years.

16 Q: Okay. Let me ask it this way. Did you -- did you
17 understand you could have a separate trial on the assault and
18 battery charge?

19 A: No, sir, I didn't understand.

20 Q: Okay. Did you -- you knew that it was a separate
21 allegation of a separate incident they were saying took
22 place?

23 A: No, sir. The only thing that I had understand that they
24 said was she said if I pled guilty to both charges, because
25 at the time she gave me a -- she gave me a paper to sign. It

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1 wasn't -- and told me -- and I give it back. She said, no,
2 you've got to sign this one too. So I signed both and that
3 when both -- both of them been -- both charges and she said
4 that they were going to get run concurrent. So I didn't have
5 no understanding of what I been doing. I just signed the
6 paper.

7 Q: Okay. Did you plead guilty to that charge just to be
8 able to kind of wrap everything all up together?

9 A: After she told me that everything going to get run
10 concurrent.

11 Q: Yes, sir. Are you asking that question or --

12 A: You said did I --

13 Q: I'm -- I'm trying to understand or let the judge
14 understand why you pled guilty to the assault and battery
15 charge that was not part of your trial. What was the -- what
16 was your thinking behind that?

17 A: At the time -- at the time I wasn't thinking.

18 Q: Okay.

19 A: I pled guilty because I was told to plead guilty.

20 Q: Okay. Were you trying to resolve all the charges at one
21 time?

22 A: I ain't know what I been doing. So I just --

23 Q: Okay.

24 A: I just pled guilty.

25 Q: All right. Mr. Roberson, you filed a PCR application.

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1 Actually, you filed a few of them, but they've all been
2 consolidated into one. What -- what are you saying that Ms.
3 Crayton didn't do correctly in representing you?

4 A: She didn't -- what I'm saying she didn't do was go out
5 and talk to reliable witnesses.

6 Q: Okay. All right.

7 A: That she didn't fully investigate and observe the actual
8 crime scene surrounding the kidnapping.

9 Q: Okay.

10 A: She didn't go out and talk to the victim of the assault
11 charges as well.

12 Q: Okay. You're talking now of the first assault charge;
13 right?

14 A: Yes, sir.

15 Q: Okay. All right. If she had done all of those things,
16 would you have -- would you have pled guilty or would you
17 have continued on with your trial?

18 A: I'd have proceeded on with trial.

19 Q: Okay. How about on the assault and battery charge?
20 Would you have gone to trial on that one?

21 A: Yes, sir, I would.

22 Q: Okay. All right. Mr. Roberson, I've asked you all the
23 questions that I have for you. Is there anything you think
24 I've left out or neglected to ask that the judge needs to be
25 aware of of Ms. Crayton's representation of you on?

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1 A: I think Ms. Crayton did a horrible job as representing
2 me prior to the trial because if she'd have -- if she'd have
3 went out and -- like I said before, if she'd have went out
4 and talked to the witnesses on the kidnapping charge -- I
5 mean I didn't know the bartender by name. We only had know
6 each other by -- the bartender by the name because the bar is
7 a strip club so they go by their strip names and stuff like
8 that. So I know about her stripper name because they walk
9 around in bikinis or whatever in there. So I didn't know her
10 by full name. That why I described the bartender to Ms.
11 Crayton.

12 And if she'd have went and talked -- like I said, if she
13 had went and talked to the bartender that night on a Friday
14 or Saturday night, then she would've got the full story that
15 me and the victim of the kidnapping actually been together at
16 that bar. We were hugging and talking after I took the beers
17 back to my friends and we left together out of the bar and
18 entered into the parking lot and I took her to her car. If
19 she would have fully investigated that to the fullest, then I
20 would have proceeded with trial because I had a witness to
21 actually say that me and the victim of the kidnapping
22 actually left the bar together.

23 If she had went and talked to the victim of the assault
24 prior to the kidnapping charge, then everything in that
25 situation was understood. We now had squashed everything.

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1 We now had made up. She said -- I talked to the victim
2 myself. She said she didn't press no charges. She didn't
3 want to. She said she talked to the State prior to trial and
4 she said that she told them she didn't want to go forth with
5 it, and maybe that could've been resolved.

6 I talked to the victim not too long ago prior to this
7 hearing and I told my attorney, Jonathan Waller, about it.
8 So she said she didn't have no transportation, but if she had
9 transportation would have been here today and stood before
10 the Court today and said the same thing.

11 But that's -- that's what really hurt me when Ms.
12 Crayton didn't went forth with talking to the victims and
13 talking to what witnesses in the cases and I was left in
14 trial just not -- I was left with nowhere to turn. I was
15 left with just to go out there and just told me to go out
16 there and plead guilty.

17 I just felt like I just folded my hands. I didn't want
18 to throw the towel in because I had witnesses that could have
19 placed me and the victim prior to all this, partying
20 together, hanging out together, but everything went to no
21 avail. So I ended up in the Department of Corrections
22 serving 25 years that I know that I didn't deserve.

23 Q: All right.

24 MR. WALLER: Mr. Roberson, thank you. Please answer any
25 questions Mr. Davidson has for you.

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1 Thank you, Your Honor.

2 THE APPLICANT: Yes, sir.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. DAVIDSON:

6 Q: Good morning, Mr. Roberson.

7 A: Good morning.

8 Q: How many times would you say that you met with Ms.
9 Crayton prior to your trial?

10 A: I'm going to say -- I would say probably two.

11 Q: And when you met with her, did you guys go over the
12 evidence that the State had against you?

13 A: No. She -- when the first time we met, she -- she
14 talked about the charges and stuff like that. She -- how I
15 found -- I found out about what the State had against me by
16 reading my own paperwork.

17 Q: So you never saw any photos of the victim's injuries?

18 A: The one -- I didn't -- I seen some. I didn't never
19 receive all the photos. They said I had 130 -- I think
20 130-some photos. I only got, like, 12 -- 13 -- 14, something
21 like that. I ain't never see all the photos of the -- of the
22 evidence. I never received nothing.

23 Q: And you testified that you asked her to interview the
24 victim; correct?

25 A: Which -- which victim?

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1 Q: The one in the carjacking incident.

2 A: Yes.

3 Q: Do you recall what she said when you asked her to
4 interview the victim?

5 A: No, I cannot recall that.

6 Q: Did she tell you why she wasn't going to interview the
7 victim?

8 A: She told me why because she -- I think she told me she
9 believed the victim's story or something like that, and
10 that's about it of what I recall of what we talked about
11 because I was so disappointed with Ms. Crayton and it took
12 her so long to come back and visit me. So -- and then that
13 been her second appearance. So that about two or three
14 months prior to trial.

15 Q: You testified earlier that you didn't have a weapon, but
16 that you told the victim that you had a weapon. Why did you
17 tell her that you had a weapon?

18 A: Because Quawna -- she always been afraid of weapons and
19 I had a life prior. I had a life prior to everything. I was
20 once involved in a gang growing up and being a gang member I
21 had -- I made -- I made some enemies and so it was me being
22 foreword telling her that I carried a weapon for my
23 protection, but I'm no longer in a gang as of today and prior
24 to 2016 I was no longer in a gang.

25 So I just kept a gun for my protection. So eventually I

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1 told her that I had a gun. So that, you know, if she
2 eventually would have see it on me later down the line so she
3 wouldn't be, you know, afraid. So I told her that I had a
4 weapon.

5 Q: When did you tell her that you had a weapon?

6 A: When we turned off of Highway 52.

7 Q: Why did you -- excuse me. Was this before or after you
8 guys were fighting?

9 A: Before.

10 Q: Do you recall hearing the victim testify at a hearing
11 prior to the trial starting?

12 A: Could you repeat that?

13 Q: Do you recall hearing the victim testify, give
14 testimony, tell her side of the story?

15 A: I remember she been on the stand telling -- telling --
16 telling her side of the lie.

17 Q: And did you know the purpose of that hearing was to see
18 what she was going to testify to in front of the jury?

19 A: Yes. And I had wanted to tell my side of the story in
20 front of the jury too, but it never made it that far.

21 Q: So the next day you said you met with Ms. Crayton and
22 some other folks, and your mom asked you to plead guilty; is
23 that correct?

24 A: Yeah. She told me to plead because she felt that 15
25 years was less time than 40 years because Ms. Emily Crayton

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1 told me I could have received up to 40 years, and my mother
2 told me to plead because she felt -- because Ms. Emily
3 Crayton said she was going to recommend from the judge for 15
4 years, which she did, but I still received 25.

5 Q: But she didn't promise you that you were going to get
6 15?

7 A: She didn't promise. She just -- she just said she was
8 going to recommend it. And when I went -- and now that I now
9 learned the law, she cannot -- it wasn't hers to recommend
10 nothing. It -- it was the State, the prosecutors that
11 recommend, but she never went and negotiated nothing with the
12 prosecutor. So I was left to -- I was -- basically, just
13 pled -- pled myself away. I ain't -- I ain't know what I'm
14 pleading to. So, I thought I would have got 15 years. I
15 didn't got 15 years. So I found her recommend -- her
16 recommendation didn't -- didn't -- didn't stand. So . . .

17 Q: You said she didn't negotiate, but you realize that you
18 only pleaded to two things that you were charged with? You
19 didn't plead guilty to the possession of a weapon during a
20 violent crime or carjacking; correct?

21 A: The only thing I know is I pled. The only thing I know
22 I pled guilty to the two papers that she told me to sign.
23 And when I went out in front of the judge and that's what --
24 and the two papers that were read off were kidnapping and
25 assault and battery. So . . .

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1 Q: You understand that if you have those five charges and
2 you -- if those charges got dropped, that would mean that she
3 did negotiate; right?

4 A: I have -- I have no clue.

5 Q: Okay. Let's move to the actual plea hearing. Do you
6 recall the judge asking you questions about your
7 constitutional rights?

8 A: No.

9 Q: You don't recall him saying you had a right to a jury
10 trial?

11 A: I recall that he told me I could just sit down and
12 continue my trial.

13 Q: Okay. And do you recall him telling you that you had
14 the right to remain silent?

15 A: No, sir.

16 Q: He didn't tell you that you don't have to take the
17 stand?

18 A: He told me I could have a seat and didn't have to say a
19 word and I could've continued my trial. That's all I could
20 remember.

21 Q: Okay. And do you recall him saying that you had a right
22 to challenge what police officers and investigators said you
23 did?

24 A: No, sir.

25 Q: Do you recall at your plea hearing telling the judge

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1 that you wished to give up those rights and plead guilty?

2 A: No, sir.

3 MR. DAVIDSON: Your Honor, may I approach briefly?

4 THE COURT: Yes, sir.

5 BY MR. DAVIDSON:

6 Q: I'm going to show you a transcript of your hearing to
7 see if it refreshes. If you can start reading at line 9 and
8 end at 14 to yourself.

9 A: You want me to read it or are you about to read it?

10 Q: No. I just wanted to see if that helped you remember
11 that question that I asked.

12 A: No, sir. I -- I don't remember those. I don't -- I
13 didn't remember him asking me those.

14 Q: Do you recall telling the judge that you were satisfied
15 with your attorney's services?

16 A: Going back, it's -- going back to 2018 when I pled
17 guilty to those charges, yes, I told the judge that I was
18 satisfied because she told me to say yes to all his questions
19 that he had for me because at the time I'm thinking that I
20 would've got 15 years because that's what she told me that I
21 would have gotten if she had recommended it from the judge.

22 Q: Do you recall telling the judge you had no complaints
23 with your counsel's performance, with Ms. Crayton's
24 performance?

25 A: I was told to say yes to all his questions; so I said --

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1 I said yes to everything that he had to say.

2 Q: Do you recall telling the plea judge that you wished to
3 plead guilty?

4 A: No. No, sir.

5 Q: You didn't tell the judge that you were pleading guilty?

6 A: I said yes to all his questions because I was told to
7 say yes.

8 Q: Do you recall the judge giving you an opportunity to
9 tell him anything that you wanted to tell him?

10 A: He gave me the opportunity, but at the time I didn't
11 know how to proceed out of my mouth with the words of how to
12 come forth of what took place that day. So I just kept my
13 mouth shut and continued with the yes questions that I was
14 told to say yes to.

15 So to know how to address the judge that day, I didn't.
16 I didn't know how to address the Court; so I just kept my
17 mouth shut and continued to say yes because I thought I would
18 have got 15 years.

19 Q: And when you addressed the judge, you apologized for
20 everything that happened; correct?

21 A: On the -- on the assault? On the assault and battery?

22 Q: If you -- if you want to turn to -- or I'll show you.

23 MR. DAVIDSON: May I approach?

24 THE COURT: Certainly. Show him where the page numbers
25 are so you can --

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1 MR. DAVIDSON: I just didn't know if he could reach it.

2 THE COURT: Hm?

3 MR. DAVIDSON: I didn't know if he could reach up here.

4 THE COURT: Oh, okay.

5 MR. WALLER: Your Honor, I know this is cross-

6 examination and I'm not trying to inhibit Mr. Davidson's

7 cross-examination, but we'll stipulate to the accuracy of the

8 transcript, if it's -- and if that's an issue.

9 THE COURT: I don't think it is at the moment.

10 MR. DAVIDSON: No.

11 THE COURT: I just think he's doing some general cross
12 questions.

13 MR. WALLER: Sure.

14 BY MR. DAVIDSON:

15 Q: All right. So starting on page 21, line 24, if you want
16 to read that to yourself, and on this page too. That's you
17 addressing the Court.

18 A: Yes. But I may have -- but I may have apologized to the
19 Court for how I made the victim feel and the Court and
20 everything. Yes, I -- I felt like I did left her out there
21 alone, but on kidnapping, no. But driving away and leaving
22 her there and not staying there and looking for her, yeah, I
23 felt bad for that. But to say that I kidnapped her, no.

24 That's what I apologize to the Court for because I felt like
25 I could have stayed and helped, but I continued on with my

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1 journey that night. So that's why I apologized to the Court.
2 That's why I apologized to the victim for.

3 To the Court, I apologized to the Court for putting
4 myself in that -- in the position, in that -- in that
5 situation again because I told myself I -- I never -- I told
6 myself I'd never step foot back in a courtroom again and I
7 put myself back in a -- in a position to put me back before
8 the Court. So that's why I apologized.

9 Q: All right. One last question. You said that everything
10 could have changed had Ms. Crayton gone and got the
11 bartender, but is the bartender here today?

12 A: No, sir.

13 MR. DAVIDSON: Nothing further.

14 THE COURT: Redirect?

15 MR. WALLER: Very briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. WALLER:

18 Q: Mr. Roberson, you were just testifying about the amount
19 of time you thought you were going to get or that Mr. Crayton
20 told you you were going to get. You said 15 years; is that
21 right?

22 A: Yes, sir.

23 Q: Okay. Earlier when I asked you if you thought Ms.
24 Crayton was prepared to continue with your trial, you said
25 no. Was your plea based on her not being prepared or was it

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1 based on the number of years you were going to get?

2 A: It was based on the numbers of years that I was going to
3 get.

4 Q: Okay. Did you think that you had good defenses if she
5 had made the preparations that you had asked her to make?

6 A: I think I would have had a better -- a better trial if
7 she -- if she would have went and searched for the victims --
8 excuse me, not the victim -- the witnesses before the trial.
9 I think everything would have been different.

10 Q: Okay. And that would be trying to defend against being
11 convicted at all?

12 A: That would've made it a whole lot different.

13 Q: Okay. But you can't have a sentence, a number of years,
14 whether it's 25 or 15, without -- if you're not convicted; is
15 that right?

16 A: No.

17 Q: Okay. I just want to make sure the judge understands
18 what we're asking for here today. You're not saying that you
19 got 25 years when you should've gotten 15; you're saying that
20 your constitutional rights were violated and you shouldn't
21 have been convicted at all; is that correct?

22 A: Yeah. I shouldn't have been convicted at all, but I
23 just took the 15 because it was less time than the 40 years
24 they were saying, the 25 years they were saying. I just pled
25 guilty because they said -- she told me she would have got --

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1 recommend 15 years. So I just pled guilty because 15 sounded
2 better than 25, 15 sounded better than 40. So --

3 Q: Okay.

4 A: -- I took the plea.

5 Q: Would you have done any of that if she had done the
6 things you asked her to do?

7 A: No. I would have proceeded to trial then.

8 MR. WALLER: Nothing further. Thank you.

9 THE COURT: Recross?

10 MR. DAVIDSON: Nothing.

11 THE COURT: All right. The witness may -- the witness
12 may step down. Thank you.

13 MR. WALLER: Nothing further from the applicant, Your
14 Honor.

15 THE COURT: Very well.

16 Are you doing okay down there, Madam Court Reporter?

17 THE COURT REPORTER: Yes, sir.

18 THE COURT: All right. Is the State ready to proceed
19 with their next witness or their first witness?

20 MR. DAVIDSON: Yes, Your Honor.

21 THE COURT: Their only witness.

22 MR. DAVIDSON: The State would call Ms. Emily Crayton.

23 THE COURT: All right.

24 THE CLERK: Do you swear or affirm that the testimony
25 you give will be the truth, the whole truth, and nothing but

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1 the truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Thank you.

4 THE BAILIFF: I had some tissue over here.

5 THE WITNESS: Okay.

6 THE COURT: Oh, I'm sorry. Did I rush this? Do you
7 need a minute?

8 THE WITNESS: No.

9 THE COURT: No, no, no. If you need to take a minute, I
10 should've thought about that.

11 THE WITNESS: She got it.

12 THE COURT: Okay.

13 THE WITNESS: We're good now.

14 THE COURT: Okay.

15 EMILY CRAYTON, being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. DAVIDSON:

19 Q: Good morning, Ms. Crayton.

20 A: Good morning.

21 Q: How long have you been practicing law, Ms. Crayton?

22 A: About 11 years now, since 2009.

23 Q: And how much of that has been in criminal law?

24 A: All of it.

25 Q: I'm sorry?

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1 A: All of it.

2 Q: All of it? Were you appointed or retained to represent
3 Mr. Roberson?

4 A: I was appointed. I'm with the Public Defender's Office.

5 Q: Do you recall how many times you met with him prior to
6 going to the beginning of trial?

7 A: I don't know exactly how many times. I can tell you I
8 have six or seven notes from the jail in speaking with him,
9 but I don't always write down when I meet with my clients.

10 Q: In the course of your representation, did you file a
11 request for discovery?

12 A: Yes, sir. It's done actually automatically with our
13 office.

14 Q: And did you receive it?

15 A: I did.

16 Q: And did you review those materials?

17 A: Yes. And I provided him a copy in March of 2017.

18 Q: Did you and Mr. Roberson go over them together after he
19 had read through them?

20 A: We did. And then I actually gave him more information
21 closer to trial, that we had received a second batch of, you
22 know, items that came in as well, and we reviewed all of that
23 as well.

24 Q: Did you conduct any additional investigation into the
25 facts after speaking with Mr. Roberson?

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1 A: Mr. Roberson gave me the name of two individuals who he
2 said knew that he knew the victim, Ms. Riggins. Their names
3 were Erica Montgomery and Ashley Gardner. I'm actually
4 looking at my notes. We have an electronic system that we
5 put most of our notes in.

6 He gave me the name of those two witnesses. We tracked
7 those ladies down. I spoke with both of them prior to trial.
8 Both ladies said that they had known Shamaine for a very long
9 time. They had never met the victim. They'd never seen them
10 together. They had no information that -- anything.

11 Now, Erica did say that when this happened there was
12 talking on the street that people had said that they knew
13 each other prior. I asked her could she tell me the name of
14 any -- any person that might have said that, anybody that
15 could verify it. She could not give me any more information.

16 I asked her to go please ask people that she knew, see
17 if she could get me any more information and call me back. I
18 did speak with -- with Ashley again closer to trial and she
19 said she could not provide me any information. She did not
20 know that they knew each other, nor had she ever met the
21 victim.

22 Now, Shamaine also provided me the name of Dejaia [ph]
23 -- I think it's Dejaia Felder. I don't even remember how he
24 said that first name. And he described her as his alibi. We
25 tracked her down. She was actually very upset that he was

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1 trying to use her as his alibi witness and said that, you
2 know, she -- she was not with him at the time.

3 Q: Did you go over all of that information with Shamaine?

4 A: Yes. He was aware of that. I also met with several --
5 I either spoke with or met with all the law enforcement that
6 was involved in the case prior to trial.

7 I met with Contessa James, who rode in the vehicle with
8 the victim that night when she was -- when they were arriving
9 at the bar. They rode together. So I spoke with her as
10 well.

11 I did not speak to the victim. You know, unfortunately,
12 some people don't want to speak to us when they know why
13 they're calling -- why we're calling them. I was never able
14 to make contact with her. She would not return my calls,
15 wouldn't -- just didn't want to have contact with us.
16 Unfortunately, we can't make people speak to us.

17 Q: In your years of criminal law, is that something
18 typical, a victim wouldn't want to speak to the lawyer?

19 A: Yeah. I mean sometimes the victims don't want to speak
20 to us; sometimes they do. You know, sometimes we get lucky.
21 You know, I've had very heinous cases where victims were
22 willing to speak with me and then some that just -- you know,
23 when you tell them, they don't -- you can't force them to
24 speak to them, they automatically do not want to speak to
25 you. So it really depends, but in this case, no, we were not

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1 able to make contact with her.

2 Q: But you did try?

3 A: Yes. We always try to make contact with everybody
4 involved in the case prior to trial. Obviously, you want to
5 speak to everybody.

6 Q: So we've kind of gone over this a little bit, but if you
7 could just give us a brief overview of what the State's
8 evidence against Mr. Roberson was?

9 A: Okay. I mean their main evidence was this victim. She
10 had -- she had jumped from this vehicle, as Shamaine said,
11 and she had just terrible what I call road rash on her body.
12 It was -- her -- her injuries were very severe.

13 They said that they -- she was at this club, which has
14 closed down and, unfortunately, prior to trial was not, you
15 know, open anymore. She arrived at that location with, I
16 believe, two other females. They were kind of going out for
17 a night of drinking. I think one of them was having a
18 birthday.

19 And those individuals had left. She went outside, was
20 sitting in her car. Mr. Roberson walked up to her. Her
21 window did not roll down; so I think she opened her door to
22 speak with him. He asked her for a light for a cigarette, I
23 believe. She provided that to him and at that point I
24 believe she tried -- they tried to engage in a conversation,
25 which she didn't really want to engage into, and then I

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1 believe that's when she said he forced her to the other side
2 of the car so that -- she was in the driver's side -- to move
3 over to the passenger side and drove away with her.

4 They went down Irby Street, turned off of John Paul
5 Jones Road, which is kind of a rural area. Irby is very
6 populated. We're actually on Irby Street right now. And it
7 was kind of a more rural area. At that point she asked Mr.
8 Roberson if he was going to kill her, I believe, and he said
9 he didn't know yet, I think was his response, and at that
10 point she jumped out of the vehicle.

11 It was very hard for us to provide any sort of defense
12 to why a normal person would jump out of a moving vehicle,
13 and with her injuries I do believe that she was going -- they
14 were going pretty fast. Her injuries were pretty severe.
15 And then she hid in a ditch and then ran to the quickest --
16 to the closest house. And when she did end up at that house,
17 I mean she was wet from hiding in the ditch from him.

18 Q: So you just testified that it was hard to come up with a
19 defense. What was your defense?

20 A: Well, I mean his -- his story was that he knew the young
21 lady and that this was not a kidnapping, that she went with
22 him willingly. That was the story that he always insisted
23 upon and said that he -- you know, what he was going to
24 provide to the jury. So, you know, he said that there was
25 some sort of disagreement and she jumped from the vehicle.

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1 You know, we could not prove any of that and we couldn't
2 -- although we tried, we could not prove that they knew each
3 other. I went through all of her Facebook, any of her social
4 media, trying to connect them in any way and was
5 unsuccessful.

6 As Mr. Roberson said, he would not provide me any of his
7 MySpace or any of those accounts so that I could try to get
8 that information. He says it was there. We weren't provided
9 that information; so we don't know.

10 It's why I couldn't -- you know, he never told me about
11 this bartender, but even up here he couldn't provide, you
12 know, the name or any sort of person and that bar was no
13 longer in business. I don't think it was exactly legal at
14 the time. It was sort of a strip club that wasn't really
15 supposed to be a strip club, and so it was shut down prior to
16 his trial.

17 I don't even know if I answered your question now.

18 Q: You did.

19 A: I'm sorry if I didn't.

20 Q: It was -- it was about what your plan was to argue --

21 A: Okay.

22 Q: -- at trial. So you were going to -- you were planned
23 -- I'm sorry. Let me --

24 A: We were trying to connect them. We were. We were
25 trying to connect them the best we could, and we were

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1 unsuccessful at doing that.

2 Q: So your trial strategy from the beginning was to --

3 A: I mean we were following his story and trying to connect
4 them the best we could. Unfortunately, none of the witnesses
5 he gave us would corroborate anything that he said
6 whatsoever.

7 Q: On the first day of the trial, there were some pretrial
8 hearing -- motions hearings and the victim testified?

9 A: She did.

10 Q: And what did you think of her testimony?

11 A: What did I think of her testimony?

12 Q: Or her as a -- going into the trial, did you think you
13 had a strong case?

14 A: No. And I told Mr. -- Mr. Roberson that I did not
15 believe that he was going to be successful at trial.

16 Obviously, he knew it was his choice whether he wanted to
17 have a trial or not, but I did advise him I did think --
18 believe that he was going to be found guilty at trial.

19 I always try to give my honest opinion about that
20 because I don't want somebody to go into a trial not knowing,
21 you know, their -- the likely outcome and I don't want
22 somebody to be shocked by that when they are found guilty.
23 So I want people to have a very realistic expectation of what
24 to expect at trial.

25 Q: And after the victim testified, did your expectations

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1 get better or worse?

2 A: Yeah. I actually thought she was better than I expected
3 her to be. She -- I thought she testified very well. She
4 was compelling and she was believable. She was unwavering in
5 her statements. So yeah, I was disappointed that she didn't
6 give us anything really to work with.

7 Q: So the next day he pled guilty?

8 A: He did.

9 Q: Can you describe how that came about?

10 A: Elizabeth Neyle is the other attorney. I know Shamaine
11 kept saying Elizabeth Neyle. She's the other attorney that
12 was assisting me. She was sitting second chair. She was a
13 newer attorney in our office; so she had not tried a case.
14 So she was sitting with me on that.

15 You know, I had spoken to his mother, who had been
16 sitting in the courtroom the entire time. She saw how bad it
17 was and how the trial was not going in his favor. We spoke
18 with him and he was in a holding cell. This was back when we
19 were in the old courthouse. Judge Brown had a courtroom on
20 the fifth floor, and it had a small holding cell across the
21 hall.

22 We went in and spoke to him and explained that not only
23 is this going bad, it's going worse that we believed it would
24 go and that we felt like it was in his best interest to plead
25 guilty. Shamaine spoke with his mother, decided to plead

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1 guilty.

2 I don't believe I was present when he spoke with his
3 mother. I believe we walked her in. I believe he had a
4 private conversation, if I remember correctly, with his
5 mother. He agreed to plea.

6 I explained to him in the presence of Ms. Neyle exactly
7 what he was pleading to, that he was pleading to the
8 kidnapping, the assault and battery first. That the
9 carjacking and possession of a weapon were being dismissed,
10 and that the kidnapping carried zero to 30, was a violent and
11 most serious, and I actually wrote all this down, but it was
12 -- and I advised him regarding the two-strike rule, as well
13 as the sex offender registry.

14 He expressed that he understood all of his rights and
15 agreed to plead guilty. And again, he had spoken with his
16 mother at that point, but I did advise him of all of his
17 rights in front of Ms. Neyle as well.

18 Q: So whose decision was it to plead guilty?

19 A: It was Mr. Roberson's.

20 Q: Did you force him to plead guilty?

21 A: No. And I don't think I could if I wanted to.

22 Q: Did you think it was in his best interest?

23 A: I did believe it was in his best interest to plea. His
24 mother agreed. She had been sitting in the courtroom and she
25 saw the same thing we did. I don't think there was anybody

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1 sitting in that courtroom that thought it was going our way.

2 The witnesses were just too strong against him.

3 Q: Is there anything I may have missed that you'd like to
4 tell the Court about your representation of Mr. Roberson?

5 A: I did represent him on the -- you know, we haven't
6 talked much about the assault case.

7 Q: Okay.

8 A: The assault case was actually first, and I did represent
9 him on that case. I believe that was initially a -- maybe a
10 2015 warrant.

11 Q: Yeah.

12 A: And so I began representing him then before he got this
13 charge as well. So we had met several times on that charge
14 prior to him getting this one. That was -- that was not a
15 great case either. There was an issue with a relative, a
16 cousin I believe, and I don't think that would have been a
17 good case to try either in his favor.

18 Q: Did -- during the course of your conversation about the
19 plea deal, did he -- did you tell him that case was being a
20 part of the plea deal?

21 A: Yes. Obviously, that was the only assault he had. So
22 we did speak about him pleading to that charge as well.

23 And just to clarify, I couldn't have possibly told him
24 to answer all the questions yes. I mean I've been in front
25 of Judge Brown a hundred times. I don't have to read the

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1 transcript to know that he always asked individuals if they'd
2 been under the influence of any drugs or alcohol in the last
3 24 hours, which you wouldn't want to answer yes.

4 And I know there are several other questions. I've
5 actually been in a room when a private attorney was advising
6 their clients just tell the judge yes to everything, and I
7 had to correct them. No, no, no, they do ask "no" questions
8 too. So I mean I couldn't have possibly told him that and
9 wouldn't have.

10 Q: And during the hearing, was there any time that he asked
11 to speak with you privately?

12 A: Not that I recall, no.

13 I also don't use the word recommendation. We always say
14 that the State makes a recommendation. We'll ask the judge
15 to do this. That's usually my wording, that I'll ask the
16 judge for 15 years or whatever I'm asking for, which I think
17 I -- I believe I did ask the judge for that and he did not
18 agree and gave Shamaine 25, unfortunately.

19 Q: And just to make sure I've covered this, he did know
20 what he was facing on all five charges; correct?

21 A: Yes. So I did tell him and I do have that in my notes
22 that I specifically told him it carries the -- well, the
23 kidnapping carries zero to 30 and as well as the assault and
24 battery first carrying up to 10, as well as it being -- you
25 know, going through the strikes and the serious and the sex

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1 offender registry.

2 We went through all of that with -- with the other
3 attorney present. I like to either have a witness or
4 sometimes we'll -- we'll do a plea -- a guilty plea sheet if
5 we don't have a witness just so we make sure there's somebody
6 there that hears all that.

7 MR. DAVIDSON: Thank you. I have nothing further.

8 THE COURT: Cross-examination.

9 MR. WALLER: Thank you, Your Honor. May it please the
10 Court.

11 THE COURT: Certainly.

12 CROSS-EXAMINATION

13 BY MR. WALLER:

14 Q: Good -- is it still morning? Good morning, Ms. Crayton.
15 How are you today?

16 A: Good morning.

17 Q: Ms. Crayton, I wanted to ask you first why -- the
18 assault and battery charge was older than the kidnapping.
19 Where was it in the process?

20 A: You mean why wasn't it tried first? Is that what you're
21 asking me?

22 Q: Well, that's what I was ultimately going to get to.
23 Where was it? I mean it was over a year older. Where was it
24 in the -- just in the system?

25 A: Yeah. I mean it was just pending.

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1 Q: Okay.

2 A: You know, unfortunately, the solicitors control the
3 docket. So they get to pick their strongest case and, for
4 whatever reason, Mr. Jepertinger felt that this was a
5 stronger case. Probably in speaking with the victim he felt
6 like this was stronger than the other case.

7 Q: Okay. And the other case, the assault and battery
8 charge, had it -- had y'all had plea negotiations? Had you
9 been provided discovery?

10 A: Oh, yes, sir. I'm sorry. I didn't understand that was
11 what you were asking me. Yes, sir. We had had discovery at
12 that point and I don't believe we had had any plea
13 negotiations, but probably because I don't know that Mr.
14 Roberson ever expressed a desire to plead to it.

15 Q: Okay. Had he been arrested on that charge and bonded
16 out or --

17 A: Yes, sir.

18 Q: Okay. All right. And you had represented him on that
19 charge from the beginning?

20 A: Yes, sir.

21 Q: Okay. All right.

22 A: But that case stalled a little. It -- he had a bench
23 warrant and so I don't know if that's why it just kind of
24 stalled out, but --

25 Q: Okay. Did you and -- it's clear in the transcript that

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1 Mr. Roberson told the judge that he was satisfied with your
2 services. Did you all ever have any issues? Did he ever
3 file a motion to have you relieved or anything like that?

4 A: Mr. Waller, I really don't remember. He could have.

5 Q: Do you recall any specific issues that you and he might
6 have had?

7 A: I don't. I'm sorry.

8 Q: Okay. All right. Mr. Davidson asked you about any
9 potential defenses. You challenged or attempted to challenge
10 the search, I guess the location of Mr. Roberson. Did you
11 and he have a chance to discuss how you attempted to do that
12 or was it just in your trial preparations?

13 A: I don't remember. I'm sorry, Mr. Waller. I don't
14 remember if we discussed -- I'm sure we discussed we would
15 try our best to keep out whatever we could, but I'm not sure
16 if we specifically went over the -- that argument of why we
17 were challenging the cell phone location.

18 Q: Okay. Did he have an understanding about the search and
19 the items that were located in the search? Did he know his
20 rights related to that? Did y'all have a discussion about
21 the search of his aunt's home?

22 A: I believe we did, but I don't remember specifics about
23 what we -- what we went over.

24 Q: Okay. What -- I guess, what ultimately changed? From
25 your perspective, what changed from conducting an entire day

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1 of trial to the next morning and pleading him guilty?

2 A: I think that Shamaine thought we were going to be able
3 to connect the vic -- him to the victim. I think he thought
4 we were somehow going to be successful in getting her to
5 either admit that she knew him or that they had some sort of
6 relationship. Without a -- without a witness, we -- we could
7 not do it. We tried but were unsuccessful.

8 Q: Okay. He testified that he had asked you to locate the
9 bartender of this establishment. That was not one of the
10 people you testified that you made contact with; is that
11 correct?

12 A: I don't remember him ever asking me to contact the
13 bartender.

14 Q: Okay.

15 A: I don't -- I don't remember him ever telling us about a
16 bartender. He told me about those two females and that was
17 it. Of course, that bar was not in business at that point.
18 I mean it had been shut down.

19 Q: Okay.

20 A: I mean -- so I don't --

21 Q: Sure. At what point did it shut down or move out?

22 A: I don't remember.

23 Q: Okay.

24 A: I have no idea. Yeah, I don't have any knowledge of
25 that.

1 Q: Okay.

2 A: But I know it was shut down by the time we had trial.

3 Q: Okay.

4 MR. WALLER: I beg the Court's indulgence, please.

5 BY MR. WALLER:

6 Q: All right. Ms. Crayton, obviously, Mr. Roberson was
7 placed on the sex offender registry for the assault and
8 battery charge. Do you recall if there was any specific
9 finding by Judge Brown as to the kidnapping charge?

10 A: I don't know. I'd have to go back and look at the
11 transcript.

12 Q: Okay.

13 A: I'm sorry. I don't remember off the top of my head.

14 Q: Sure. Do you -- okay, kind of the same question. Do
15 you recall asking the judge to make a finding that the
16 kidnapping wasn't of a sexual nature?

17 A: I do not recall whether I did or didn't. I'm sorry.

18 Q: That's fine. Do you believe that would have been an
19 appropriate request?

20 A: Possibly, yes.

21 Q: Okay. I think there were some allegations of some --

22 A: There were.

23 Q: -- adult conversation is, I think, how it was put?

24 A: Yes.

25 Q: But there wasn't any allegations of any --

EMILY CRAYTON - CROSS

1 A: Physical.

2 Q: -- assault?

3 A: Yes. I don't believe there was an allegation of any
4 sort of physical assault, but I believe that that was his
5 intention or what he conveyed to her as his intention.

6 Q: Okay.

7 A: Or what she believed was his intention. I don't know
8 the best way to put that, but I know the victim believed she
9 was going to be sexually assaulted. No sexual contact
10 happened.

11 Q: Okay.

12 A: If that was clear. Of course, the assault charge was
13 very clear that --

14 Q: Right.

15 A: Okay.

16 Q: Mr. Roberson never -- he never alleged that he wasn't
17 with the victim. He never alleged that he -- I mean he
18 testified here today that he hit her and also that he left
19 her out there. So he never -- never said that he wasn't
20 involved at all; is that right?

21 A: No. He did not claim he was not involved.

22 Q: Okay. He just said he didn't kidnap anyone because they
23 knew each other and had left voluntarily together?

24 A: That's what he said, yes.

25 MR. WALLER: Nothing further. Thank you, Ms. Crayton.

1 THE COURT: Redirect?

2 MR. DAVIDSON: I have nothing, Your Honor.

3 THE COURT: All right. The witness may step down.

4 Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: Are you doing okay, Madam Court Reporter?

7 THE COURT REPORTER: Yes, sir.

8 THE COURT: All right. No other witnesses; right?

9 MR. DAVIDSON: No, Your Honor.

10 THE COURT: All right. Well, anyone want to do a brief
11 summation real quick?

12 MR. WALLER: Just very, very briefly, Your Honor.
13 Judge, I think there is some conflicting testimony that --
14 that's ultimately for Your Honor as the finder of fact to
15 determine.

16 Mr. Roberson testified that there were investigative
17 items that he asked Ms. Crayton to do that were not done. He
18 believes that would have had a significant impact not only on
19 his trial but also his decision whether to continue that
20 trial or to ultimately plead guilty, which is what he did.
21 Judge, that's related to the kidnapping charge.

22 I think his testimony was that he was -- once the
23 assault and battery charge just kind of all came together.
24 So I think that -- I don't know what his understanding was of
25 his rights going to that charge, whether he could have

1 proceeded to trial or not, but I interpreted his testimony to
2 believe that that was all parked together to stop his trial.
3 So they were obviously two separate incidents.

4 Judge, I think he has established that he would not have
5 pled guilty but would have continued to trial. So I would
6 ask Your Honor to consider both transcripts you get in this
7 case. Your Honor, there's the first day of trial transcript
8 that should be in your packet as well, his application, and
9 the testimony here today. I'd ask that you grant Mr.
10 Roberson the relief he requests.

11 THE COURT: Okay. Any brief response?

12 MR. DAVIDSON: Thank you, Your Honor.

13 Ms. Crayton testified that from the beginning she was
14 nervous. She didn't say nervous. The case wasn't a very
15 strong case and that she thought he would likely be convicted
16 if he went to trial, and she advised him of that. Yet they
17 still went to trial because that's what he wished to do.

18 After hearing the victim's testimony on the first day of
19 court, Ms. Crayton testified that she felt that the testimony
20 was credible and believed the victim did a good job to
21 strengthen the State's case and that she met with Mr.
22 Roberson to go over that. At that meeting, Ms. Crayton
23 testified she went over all of the charges, all of what he
24 was facing, and suggested that he take the plea deal.

25 After meeting with his mother, he chose to plead guilty,

1 and I think the plea hearing transcript clearly shows that
2 his plea was voluntary and intelligently entered and it was
3 his decision to plead guilty.

4 THE COURT: Okay.

5 MR. WALLER: Judge, I apologize. I neglected to mention
6 that and I think I need to make a motion to amend the
7 pleadings, Your Honor, based on the testimony today because I
8 don't believe it was covered in the application. Judge, the
9 -- there wasn't a specific finding of the sex offender -- sex
10 offender registry made regarding the kidnapping charge.

11 THE COURT: Yeah, he did it with regard to A&B one
12 because he said in the record there was good cause. I
13 remember seeing that.

14 MR. WALLER: That's correct, Your Honor. And from a
15 practical sense, it ultimately may not matter, but since Mr.
16 Roberson is challenging all of these convictions, I want to
17 make sure that, I guess, the record is clear that we believe
18 that Ms. Crayton should have -- should have asked Judge Brown
19 to make the specific finding, if that wasn't sexual in
20 nature, because the default, as Your Honor is aware, is for a
21 person convicted of kidnapping to be placed on the sex
22 offender registry.

23 So I would -- I would move to amend the pleadings. I
24 don't believe there was an objection. I don't believe the
25 State is prejudiced by that -- that addition.

1 THE COURT: Just -- and I don't have my sentencing book
2 in front of me, but if I understand what you told me, the
3 default for kidnapping is you go on the registry; is that
4 correct?

5 MR. WALLER: Yes, sir, Your Honor. From my
6 understanding, you are placed on the registry unless the
7 judge makes a finding that it was not sexual in nature.

8 THE COURT: Okay. And so was he placed on the registry
9 for kidnapping?

10 MR. WALLER: No, Your Honor, not to my -- not to my
11 knowledge and not based on the sentencing sheet.

12 THE COURT: Okay.

13 MR. WALLER: And not based on the transcript.

14 THE COURT: Okay. But he was obviously placed on the
15 registry for the A&B?

16 MR. WALLER: Correct, Your Honor.

17 THE COURT: Which, obviously, in light of the
18 allegations that that was -- it was sexual in nature?

19 MR. WALLER: Yes, sir. I don't think there's any --

20 THE COURT: Okay.

21 MR. WALLER: -- any argument about that.

22 THE COURT: So what is the relief you would want? You'd
23 want -- you'd want the registry to go on the kidnapping
24 sentencing sheet?

25 MR. WALLER: No, Your Honor. I --

1 THE COURT: I --

2 MR. WALLER: I'm not sure --

3 THE COURT: I didn't mean to interrupt you. Sorry.

4 MR. WALLER: No, no, you're certainly not.

5 I want to make sure the Court understands my request. I
6 think that it was -- it was an error for Ms. Crayton not to
7 request that a finding that it was not sexual in nature be
8 placed either in the record or on the sentencing sheet for
9 the kidnapping.

10 THE COURT: Okay. And would the State be amenable just
11 to allowing Mr. Waller to just supplement the record with a
12 written submission? Since we've kind of groveled [sic] it a
13 little bit through the record today, I would like that in
14 writing.

15 MR. WALLER: Certainly, Your Honor.

16 THE COURT: Okay. And it'll just be a supplemental
17 argument.

18 MR. WALLER: Yes, sir, Your Honor, and if the State will
19 allow it.

20 MR. DAVIDSON: I think -- I feel like the claim was --

21 THE COURT: The reason I bring it up is I had a hard
22 time understanding it. So I feel like I would understand it
23 better if it were in writing. So --

24 MR. DAVIDSON: Certainly, Your Honor.

25 MR. WALLER: I'll be happy to prepare a formal motion.

1 MR. DAVIDSON: I just --

2 THE COURT: It's not even a motion really. It's --

3 MR. DAVIDSON: The argument was involuntary guilty plea.
4 I just don't -- don't see their argument.

5 THE COURT: Well, my concern was I don't see what is --
6 what is the relief? I mean the judge didn't make a finding
7 on the kidnapping. I don't know if --

8 MR. WALLER: Your Honor --

9 THE COURT: I don't know if the sentencing statute
10 requires him to since he didn't make it sexual in nature.

11 MR. WALLER: Your Honor, I'll --

12 THE COURT: And there was no -- and the allegation, if I
13 recall, I believe Ms. Crayton testified there wasn't any
14 sexual nature involved with the actual kidnapping. So I just
15 don't get what are we amending? Why are we amending
16 something that appears clear? That's why I mentioned putting
17 it in writing because I have a hard time understanding what
18 we're asking for.

19 MR. WALLER: Your Honor, I believe the appropriate
20 relief would be to remand for clarification to the sentencing
21 Court to make that determination.

22 THE COURT: Okay. All right. I'll write that down.
23 Okay. Anything else?

24 MR. WALLER: Nothing further.

25 THE COURT: All right. I'll have the matter under

1 advisement and review the file and when I make a decision,
2 I'll reach out to both of you. Okay? Thank you, Your Honor.

3 THE COURT: All right.

4 MR. DAVIDSON: Thank you.

5 THE COURT: Anything else for the record?

6 MR. WALLER: Nothing else for the record.

7 THE COURT: All right. Court is adjourned. Thank you.

8 (WHEREUPON, the proceedings ended at 11:42 a.m.)

9

10 --- END REQUESTED TRANSCRIPT ---

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

Court Reporter

February 21, 2021

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STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Shemaine M. Roberson, #331079,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

Case No.: 2018-CP-21-2034

ORDER OF DISMISSAL

FILED
APR -6 AM 9:21
DORIS POULOS O'HARA,
CCCP & GS
FLORENCE COUNTY, SC

FILED

In response to Shemaine M. Roberson's ("Applicant") action for post-conviction relief ("PCR") commenced July 27, 2018, the State made its return on February 28, 2019. The Court convened an evidentiary hearing into the matter on December 17, 2020, at the Florence County Judicial Center in Florence, South Carolina. Applicant was present at the hearing and was represented by Jonathan D. Waller, Esq. Michael D. Davidson, Esq., of the South Carolina Attorney General's Office, represented the State.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Emily Crayton, Esq. ("Counsel") also testified. This Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Clerk of Court regarding the subject convictions, the pleadings, the exhibits introduced at the evidentiary hearing, and a copy of the original PCR evidentiary hearing transcript. This Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted during the June 2016 term of the Florence County Grand Jury for assault and battery in the first degree (2016-GS-21-0784). Applicant was also indicted during the April 2017 term of the Florence County Grand

Jury for grand larceny, kidnapping, possession of a weapon during the commission of a violent crime, and carjacking. (2017-GS-21-0529). Applicant was represented by Emily M. Crayton, Esquire. Applicant's case on the April 2017 charges was called for trial January 22, 2018, before the Honorable D. Craig Brown. However, the following day, Applicant pled guilty to kidnapping on the April 2017 charges and first-degree assault and battery on the June 2016 charges. Applicant pleaded without sentencing recommendations or negotiations. Judge Brown accepted Applicant's plea and sentenced him to concurrent terms of imprisonment of twenty-five years for kidnapping, and ten years for assault and battery in the first degree. Applicant did not appeal his convictions or sentence.

Current Application

In his first application (2018-CP-21-2034), Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 4th, 5th, 6th, 13th, 14th, and 15th Amendment violations;
2. Subject Matter Jurisdiction;
3. Due Process Violations;
4. Ineffective Assistance of Counsel; and
5. Fraud upon the Court.

In his second application (2018-CP-21-2179), which was merged with his first (2018-CP-21-2034) and treated as an amendment by an Order of Merger filed August 5, 2019, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 4th, 5th, 6th, 13th, 14th, and 15th Amendment violations;
2. S.C. Criminal Rules Violations;
3. Subject Matter Jurisdiction;
4. Due Process Violations; and
5. Ineffective Assistance of Counsel.

In his third application (2018-CP-21-2181), which was merged with his first (2018-CP-21-2034) and treated as an amendment by an Order of Merger filed August 5, 2019, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. 6th, 13th, 14th, and 15th Amendment Violations;
2. S.C. Criminal Rules Violations;
3. Subject Matter Jurisdiction;
4. Due Process Violations; and
5. Ineffective Assistance of Counsel.

As requested relief, Applicant requests: his conviction be vacated; his record expunged; an order issued removing his name and DNA from any derogatory file; and for all money paid to the State be returned.

At the evidentiary hearing, Applicant proceeded forward on the "ineffective assistance of counsel claim, specifically that counsel was ineffective for failing to fully investigate the facts and circumstances surrounding the allegations in a manner that led to [Applicant's] plea, both of them being involuntarily and unknowingly entered into." (PCR Tr. 6). Further, PCR Counsel clarified that Applicant understood the relief available if he prevailed on his claims were "potentially the vacation of his sentence" and that "he would have to face the charges all over again." (PCR Tr. 7). Also, PCR Counsel confirmed Applicant understood "the statute of limitations regarding his prior convictions and that they are not encompassed in [the] proceeding." (PCR Tr. 7).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, weighed their credibility and the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to Section 17-27-80 of the South Carolina Code, this Court makes the following findings based upon all of the probative evidence presented.

A. Summation of Record and Credibility Findings

The Court notes the below portions of the record and the testimony presented as particularly relevant to the allegations presented and weighs its credibility and probative value as follows:

1. Plea Proceeding

Near the outset of the plea colloquy, the plea court confirmed that Applicant understood the potential sentence for both offenses, kidnapping and assault and battery in the first degree, and that the potential sentence for the former was thirty years and the latter was ten years. (Plea Tr. 4, ll. 3-12). Upon further inquiry, Applicant confirmed he understood he was entering a plea without recommendation or negotiation and he was facing up to forty years, depending on what the Judge saw as the appropriate sentence. (Plea Tr. 4). Applicant testified that he had discussed the matter with Counsel, that he told Counsel everything he knew about it, that Counsel had answered all of Applicant's questions and done everything she was asked to do, and that Applicant was satisfied with Counsel's services. (Plea Tr. 9).

After advising Applicant of his various rights, the plea court inquired:

Q. All right. Has anyone promised you anything or held out any hope of reward to get you to plead guilty?

A. No, sir.

Q. Has anybody used any threats, force, pressure, or intimidation to get you to plead?

A. No, sir.

Q. Has anyone mistreated you, whether it be law enforcement or the solicitor's office?

A. No, sir.

Q. Have you had enough time to make up your mind as to whether or not you want to plead guilty to each of these charges or go to trial? Have you had enough time?

A. Yes, sir.

Q. And what do you wish to do?

A. I want to plead.

Q. Are you pleading guilty as to each of these charges of your own freewill?

A. Yes, sir.

Q. Have you understood my questions?

A. Yes, sir.

(Plea Tr. 9-10).

After the plea court read the indictment and elicited Applicant's "guilty" plea, the Judge further clarified that he could require Applicant to register as a sex offender under the assault and battery in the first degree charge. (Plea Tr. 18). The plea court again confirmed Applicant understood and confirmed Applicant still wished to plead guilty. (Plea Tr. 18, ll. 8-19).

Counsel offered mitigation near the close of the plea proceeding and asked the plea court to consider taking mercy on Applicant. (Plea Tr. 21). Applicant directly addressed the plea court and expressed his apologies for making the victim feel the way he did and apologized to society and the Court system. (Plea Tr. 22). Applicant's mother addressed the plea court and asked the plea court have mercy on him. (Plea Tr. 22).

2. Evidentiary Hearing

Applicant's Testimony

At the evidentiary hearing, Applicant testified that Ms. Emily Crayton ("Counsel") was his attorney since 2016, but he could not recall what charges she represented him on. (PCR Tr. 10).

Applicant later recalled that Counsel represented him on the kidnapping charge. (PCR Tr. 10). Applicant testified that Counsel told Applicant he had to plead to the kidnapping charge. (PCR Tr. 11). Applicant explained the State alleged that he kidnapped someone, but that Applicant, to his knowledge, had not kidnapped anyone. (PCR Tr. 11). Applicant testified that he told Counsel to go to the bar where the incident supposedly took place and talk to the bartender because the bartender could be a witness proving he and the victim walked out of the bar together; however, Applicant testified that Counsel never tried to do that. (PCR Tr. 11-12). Applicant admitted that he did not tell Counsel he was not at the bar, but rather the situation was different than it appeared in the police report. (PCR Tr. 11).

Applicant testified that he told Counsel that once they walked out of the bar, the victim said he had a weapon, but Applicant stated he did not have a weapon at the time and that he did not draw a weapon. (PCR Tr. 12). Applicant testified that he explained to Counsel that he told the victim he had a weapon, but he did not draw a weapon because he had a prior life in the past. (PCR Tr. 12-13). Applicant then admitted he did have a weapon at the time, but he did not draw his weapon. (PCR Tr. 13). Specifically, Applicant testified as to what he told Counsel happened the night of the incident, as follows:

[W]hen we exited the club, we walked to her car. We got in the car. [The victim] gave me the keys. She walked around to the driver's side. She walked to the driver's side and then she walked around to the passenger side. I got in the driver's side. She came -- she told a lie that I put her in the car at gunpoint, which I did not. She's five eight, 190 pounds, and said that I forced her over the seat. How? You got a console in the car. You got the steering gear in the middle of the floorboard. You was a big person. How can I force you over all that?

....

She walked. She walked around. I've known [the victim] way back high school days. We met at a high school football game. Eventually, she got a call from her boyfriend that night and a video

pulled up. When she answered, it been on video chat and I been in the background and she screamed that and she screamed this, but me and her had a fight in the car because I got a call from my girlfriend -- from a friend and I told her I wanted to pick her up as well later. But at that time [the victim] got mad at me, calling me names and stuff. We got into arguments in the car. She hit me, I hit her back, and she jumped from the car.

....

At the time when -- when she hit me, my reflex kicked in. I hit her back. She jumped from the car. I wasn't going no more than probably 40 -- 45 miles per hour at the time she jumped from the car. I went up. I turned around and I came back. I say -- I asked her -- I said -- I was yelling. I said you is crazy. You jumped from a moving car. I didn't see no one. She never showed back up. So I -- I continued driving.

....

I ended up in -- I ended up in Olanta, South Carolina, at my aunt's house for a time being. Then I left from there. I went and picked - I went and picked up my friend who I say I was going to pick up. We chilled together for a while. I dropped her back off at home. I ended up back in Olanta, South Carolina, at my aunt's house.

(PCR Tr. 14-16). Applicant testified that he told Counsel every detail of the incident. (PCR Tr. 16).

Applicant testified that he and Counsel never discussed defenses as to how the victim's personal belongings got into the car and he never asked her how they would challenge it. Applicant testified that he never asked Counsel about how to challenge the search of his aunt's house because he didn't know how to proceed with questions about the law. Applicant testified that when he asked Counsel what to do, Applicant ended up pleading to something he did not do. (PCR Tr. 16-17).

Applicant testified that leading up to trial, he and Counsel did not discuss what was going to happen at trial because Counsel told him he did not have a defense—however, he believed he did have a defense, and that if Counsel had talked to the witnesses Applicant asked her to talk to, the case would have been a “whole lot different.” (PCR Tr. 17). Applicant testified that, in

addition to the bartender, Applicant gave Counsel the names of two other people. Applicant explained that Counsel had her investigator attempt to locate the witnesses, but four days before trial, the investigator told them he could not find the witnesses. Applicant testified that he wanted these witnesses at trial to establish that he and the victim knew each other, and to question the victim's credibility, because the victim claimed she did not know Applicant. (PCR Tr. 17-18).

Applicant testified that there were other ways to prove he and the victim knew each other before the incident. (PCR Tr. 19). Applicant explained he had an old MySpace page that the two were on together, but when Counsel asked him for the password, he did not give Counsel the address to locate the pictures because he did not want anyone looking through his "personal stuff" on the MySpace page because there were things on it that he did not want anyone to see. (PCR Tr. 19). Applicant admitted that although he and the victim had texted each other prior to 2013, as of 2016, he had no text messages to provide because he had deleted the information on his old phones when he got a new phone. (PCR Tr. 20).

Applicant testified that he did his own research about problems with the search of his aunt's house and he tried to explain to Counsel that "during the search the officer proceeded he had seen beyond his limitations. He had seen -- he only asked for -- he only asked for the gun and he had seen beyond that." (PCR Tr. 21). Explaining further, the following exchange occurred regarding Applicant's issue with the search of his aunt's house:

Q: Okay. You're talking about all on the search warrant?

A: On the search, on the search altogether. He -- he only asked for the gun. He only asked permission. When he -- when he approached me, he asked me and he asked my aunt and I told him that the way -- the location where the phone was.

Q: Okay.

A: Because that's all he asked for was the phone and I told him where the phone was. He went and he located the phone after he asked my aunt for permission to search the house.

Q: Okay.

A: He located the phone, but he came back out. He at where I was sitting to. He did not ask to search that location.

Q: Okay. Did you and Ms. Crayton discuss -- well, let me back up. Did you live there?

A: No, I didn't live there.

Q: Okay. Did you and Ms. Crayton discuss how you may be able to challenge that search?

A: No, sir, we didn't.

Q: Okay. Did you discuss with Ms. Crayton that it was your aunt's house?

A: No, sir, because prior to trial I don't think me and her -- we didn't sit down and talk.

Q: Okay.

A: The first time she came to talk to me, she -- she asked me what was I willing to plead to. That's all we talked about.

(PCR Tr. 21-22).

Applicant testified that he was adamant he wanted a trial, but on the second day of trial, his mother, Counsel, co-counsel Elizabeth Neyle, Investigator Thomas McKenzie and another older white male convinced him to plead guilty. (PCR Tr. 22-23). Applicant testified as follows:

Q: Okay. So y'all were in a room and all talking at the same time?

A: I was in the holding cell. It started out with Ms. Crayton and Ms. Neyle, and she told me to -- she told me that she wasn't

going through with another day of trial and to just go out there and plead guilty, and I told her no.

Q: Okay.

A: And then she stormed -- she left out. She stormed out of the holding cell area and left me and Ms. Neyle back there. Ms. Neyle told me that they doesn't -- that -- how she say it? She say that I don't work for them, they work for me, and it was what I wanted to do and that's when she left out. After she left out -- after Ms. Neyle left out, that when Investigator Thomas McKenzie walked in with the older white male, who I did not know. He introduced himself [sic], but I didn't catch his name at the time because there was so much going on, which I had wanted a trial.

And Investigator Thomas McKenzie told me I should listen at Ms. Crayton and plead. He say I got a good judge. This is a great opportunity. This is a good opportunity to get less time if I would have go out there and pled guilty. He said because if I go to trial, I could be looking at everything, and I told him no as well. He said okay. He said it's your call.

So after that, Ms. Emily Crayton -- she returned back with my mother, and that's when she told me that she does -- that's when she -- that's when Ms. Emily Crayton told me that she does know that I have a -- what did she say? I can only -- I'm thinking back years of what happened. So give me a moment.

Q: Okay.

A: She told me that she does know that I didn't have a weapon at the time that I got arrested, but I did told her that I had a gun. All this took place in front of my mother and at the time I froze up because of the things that my mother been hearing and becoming aware of and the things that was being mentioned in front of my mother, who knows who been out there in the hallway, if they were going to return back. The State could have called my mother to be a witness against me, and that would have self-incriminated me.

(PCR Tr. 24-26).

Applicant testified that after the meeting in the holding cell, he did not think his lawyers were prepared to continue with trial; however, had his lawyers interviewed the witnesses he asked them to interview, he stated that he would have proceeded to trial. (PCR Tr. 26). Applicant testified that he did not understand he could have a separate trial on the assault and battery charge, but that he pleaded guilty to that charge too after Counsel said she would get the assault and battery charge to run concurrent with the carjacking charge. (PCR Tr. 26-27). Applicant explained at the time, he was not thinking and he did not know what he was doing, he just pleaded guilty. (PCR Tr. 27). Applicant testified that had Counsel sought out and talked to reliable witnesses, fully investigated and observed the actual crime scene surrounding the kidnapping, and talked to the victim of the assault charges as well, he would have proceeded to trial for both charges. (PCR Tr. 28).

On cross-examination, Applicant testified that he pleaded guilty after talking to his mother. Applicant testified that Counsel told him she would recommend the judge sentence him for fifteen years, which she did, but he still received twenty-five years. Applicant conceded Counsel did not promise him the fifteen-year sentence; she only said that she would recommend it. Applicant testified that he was told to say "yes" to all of the Judge's questions. Applicant testified that he did not recall telling the judge at the plea hearing that he wished to plead guilty. (PCR Tr. 34-37). Applicant testified that when he addressed the judge at the plea hearing, he "may have apologized for how [he] made the victim feel and the Court and everything." (PCR Tr. 38). Applicant explained, "[He] felt like [he] did left her out there alone, but on kidnapping, no. But driving away and leaving her there and not staying there and looking for her, yeah, [he] felt bad for that." (PCR Tr. 38). Applicant admitted that while his testimony earlier was that everything could have

changed had Counsel gotten in contact with the bartender, the bartender was not present in the courtroom for the evidentiary hearing. (PCR Tr. 39).

On redirect examination, Applicant testified that his plea was based on the number of years he expected to be sentenced to, not on Counsel being unprepared for trial. However, Applicant then testified that if Counsel had made the preparations that Applicant asked her to make, Applicant thought everything would have been different. Applicant testified that he should not have been convicted at all and if she had done the things he asked her to do, he would have proceeded to trial. (PCR Tr. 40-41).

Counsel's Testimony

Counsel testified that she was first appointed to represent Applicant on his assault and battery charge, and was later appointed to represent Applicant on the kidnapping charge. Counsel testified that she met with Applicant several times about the assault case, which Counsel did not view as a strong case. (PCR Tr. 52). Counsel testified that she did not know exactly how many times she met with applicant once she was appointed to represent Applicant on the kidnapping charge, but she had six or seven notes from speaking with him at the jail. Counsel testified that she received discovery and sent it to Applicant to review. Counsel testified that after she and Applicant reviewed it, they discussed it together. (PCR Tr. 43).

Counsel testified that Applicant gave her the name of two individuals, Erica Montgomery and Ashley Gradner, both of whom Applicant said knew him and the victim. Counsel spoke with both witnesses prior to trial and both witnesses said that while they knew Applicant very well, they had never met the victim or seen the two together. Counsel further testified that Montgomery did say that when this incident occurred, she had heard conversations in which people said that Applicant and the victim knew each other prior to the incident. Counsel testified that she asked

Montgomery to give Counsel the name of any person who could verify that the victim and Applicant knew each other; however, Montgomery could not give Counsel any more information. Counsel explained she asked Montgomery to ask people she knew to see if she could get any more information and to call Counsel back. Further, Counsel testified that she spoke with Gradner again closer to trial and Gradner told Counsel that she could not provide Counsel any additional information other than she did not know that Applicant and victim knew each other, nor had she ever met the victim. (PCR Tr. 44).

Counsel testified that Applicant gave her the name of the person he claimed would corroborate his alibi, Dejaia Felder. Counsel testified that when they spoke with her, Felder was very upset that Applicant tried to use her as an alibi witness. Counsel testified that Felder said she was not with Applicant at the time. Counsel discussed all of this with Applicant. (PCR Tr. 44–45). Counsel testified that she spoke with all the law enforcement that was involved in the case prior to trial. Counsel also testified that she met with Contessa James, who rode in the vehicle with the victim the night of the incident on the way to the bar. Counsel testified that she tried to speak with the victim, but the victim would not return her calls and Counsel was never able to make contact with her. (PCR Tr. 45–46)

Counsel testified that it was difficult to come up with a defense that would demonstrate that the victim was in the car willingly because she jumped out of a car going forty-five miles per hour after Applicant threatened her with a gun. Counsel testified that the only defense was Applicant's story: that the victim went with him willingly. Counsel testified that this defense required them to connect the victim to Applicant. Counsel testified that she went through all of the victim's social media trying to connect the victim and Applicant, but was unsuccessful. Further, Counsel testified that Applicant told her he would not provide her with any of his

MySpace or social media accounts, which prevented Counsel from being able to demonstrate the two knew each other. Counsel testified that Applicant never told her about a bartender and emphasized the fact that Applicant could not provide the bartender's name during his direct examination. Additionally, Counsel testified that the club Applicant was at the night of the incident was shut down prior to Applicant's trial. (PCR Tr. 47-48).

Counsel testified that after hearing the victim testify in pre-trial hearings, Counsel told Applicant she did not believe he was going to be successful at trial because the victim's testimony was very compelling and believable. Counsel explained that, while it was Applicant's choice to continue with trial, Counsel told Applicant she thought he would be found guilty if he continued with trial. Counsel explained that on the second day of trial, she and co-counsel, Elizabeth Neyle, spoke with Applicant in his holding cell. Counsel and co-counsel explained to Applicant how badly they felt things were going and told Applicant they believed it was in Applicant's best interest to plead guilty. Counsel testified that Applicant then spoke with his mother in private and decided to plead guilty. (PCR Tr. 49-51).

Counsel explained to Applicant that he was pleading to kidnapping and the first-degree assault and battery, and that the carjacking and possession of a weapon charges were being dismissed. Counsel testified that this conversation happened in the presence of co-counsel. Counsel also informed Applicant of the potential exposure and the collateral consequences of pleading to the charges. Counsel testified that Applicant expressed to her he understood all of his rights and agreed to plead guilty. Counsel testified that it was Applicant's decision to plead guilty and that she did not force him to plead guilty. Counsel testified that she believed it was in Applicant's best interest to plead guilty and Applicant's mother agreed. (PCR Tr. 51). Counsel testified that prior to the plea hearing, she did not instruct Applicant to simply answer "yes" to all

of the Judge's questions. Counsel testified that Applicant did not ask to speak with Counsel privately at any time during the plea hearing. (PCR Tr. 53).

On cross-examination, Counsel explained the reason the kidnapping charge was tried before the assault and battery charge, despite being a newer case, was because the Solicitor controls the docket and solicitors can pick their strongest case. Counsel testified that the Solicitor likely felt the kidnapping charge was a stronger case. Counsel testified that she did not recall any plea negotiations on the assault and battery charge and did not recall Applicant expressing a desire to plead to the assault and battery charge, prior to her appointment on the kidnapping charge. Counsel testified that she could not recall any specific issues Applicant may have had with her. Counsel testified that she would have tried her best to keep whatever evidence she could from being admitted, but Counsel could not recall if she discussed with Applicant specifically challenging how the police located Applicant. Counsel testified that she believed she discussed the search of Applicant's aunt's home with Applicant, but could not recall specifics about that conversation. (PCR Tr. 54-56)

Counsel testified that after the victim testified on the first day of trial, things changed because Counsel originally believed she would be able to connect Applicant to the victim, and that Counsel would somehow get the victim to admit that she knew Applicant or that there was some relationship between the victim and Applicant. However, without any witnesses, Counsel was unable to do so. Counsel testified that she did not recall Applicant asking her to contact the bartender. Counsel testified that she did not recall if there was any specific finding by Judge Brown as to whether the kidnapping charge was or was not of a sexual nature. Counsel further testified that she could not recall if there was any specific finding by Judge Brown regarding Applicant being placed on the sex offender registry for the kidnapping charge. Counsel testified

that Applicant never tried to claim he was not involved; he just claimed he did not kidnap anyone because they knew each other and had voluntarily left together. (PCR Tr. 56–59).

3. Credibility and Weight

This Court finds that the present matter represents an appropriate circumstance to issue broad credibility findings as to the testimony of each of the witnesses at the evidentiary hearing, rather than attempt to parse out in detail which portions of each witness' testimony are credible and which portions are not.

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the evidentiary hearing, weigh their testimony and credibility accordingly. The Court has also reviewed substantive and detailed proposed orders from both parties. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80.

B. Ineffective Assistance of Counsel & Involuntary Guilty Plea

Applicant alleges that "[C]ounsel was ineffective for failing to fully investigate the facts and circumstances surrounding the allegations in a manner that led to [Applicant's] plea, both of them being involuntarily and unknowingly entered into." (PCR Tr. 6). However, this Court finds Applicant's allegations of ineffective assistance of counsel are without merit.

In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied

upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 688). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 8; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112. "The prejudice analysis 'requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.'" *United States v. Basham*, 789 F.3d 358, 371 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

The standards do not establish mechanical rules; "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Strickland*, 466 U.S. at 670. "[A] court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies . . . If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed." *Id.* at 697.

Applicant further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also *Boykin v. Alabama*, 395 U.S. 238, 243-44 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See *Harris v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); *Richardson v. State*, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the

analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

1. Failure to Interview Witnesses

Here, Applicant alleges Counsel was ineffective in failing to adequately interview witnesses in his case. Specifically, Applicant alleges Counsel failed to interview witnesses who could show Applicant and the victim knew each other.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." *Strickland*, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Id.* at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Id.*

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." *Id.* "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." *Id.* "In particular, what investigation decisions are reasonable depends critically on such information." *Id.*

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses the applicant could have requested counsel develop and present had counsel been more prepared. *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998). Furthermore, an

applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Harris v. State*, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

First, Applicant asserts that Counsel was ineffective for failing to interview two female witnesses whose names he gave to Counsel. Applicant argues that if Counsel had gone to talk to the witnesses that Applicant asked her to talk to, then the case would have been a "whole lot different." (PCR Tr. 17) However, Counsel testified that she did interview those witnesses. Specifically, Counsel testified that Applicant gave her the names of two individuals, Erica Montgomery and Ashley Gradner, who Applicant said knew him and the victim. Counsel spoke with both witnesses prior to trial and both witnesses said that, while they knew Applicant very well, they had never met the victim or seen the two together. Counsel further testified that Montgomery did say that when this incident occurred, she had heard conversations in which people said that Applicant and the victim knew each other prior to the incident. Counsel testified that she asked Montgomery to give Counsel the name of any person who could verify the victim and Applicant knew each other; however, Montgomery could not give Counsel any more information. Counsel explained she asked Montgomery to ask people she knew to see if she could get any more information and to call Counsel back. Further, Counsel testified that she spoke with Gradner again closer to trial and that Gradner told Counsel she could not provide Counsel any additional information other than she did not know that Applicant and victim knew each other, nor had she ever met the victim. (PCR Tr. 44).

Second, Applicant also asserts that Counsel should have interviewed the bartender of the club that night. Applicant testified that he told Counsel to go to the bar where the incident took place and talk to the bartender because the bartender could be a witness to support his claim that he and the victim walked out of the bar together; however, Applicant testified that Counsel never tried to do that. (PCR Tr. 11–12). Notably, Applicant could not provide the name of the bartender to Counsel at the time, nor at the evidentiary hearing. In contrast, Counsel credibly testified that Applicant never told her about the bartender and explained the club Applicant was at the night of the incident was shut down prior to Applicant's trial. (PCR Tr. 47–48).

This Court finds Counsel was not ineffective for failing to interview Montgomery and Gradner because Counsel did as Applicant requested, and interviewed the two witnesses Applicant asked Counsel to find. Furthermore, Counsel reasonably determined that the witnesses were not helpful to Applicant's defense because they could not connect Applicant to the victim. *See Strickland*, 466 U.S. at 690 (“[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable . . .”). Additionally, this Court finds Counsel was not ineffective for failing to contact the bartender, because even if Applicant had asked Counsel to do so, Applicant failed to provide identifying information, like the bartender's name, for Counsel to be able to reasonably investigate. *See Strickland*, 466 U.S. at 691 (“The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions.”). Therefore, this Court finds Counsel was not constitutionally ineffective.

Additionally, this Court finds Applicant failed to show any resulting prejudice from Counsel's alleged deficiencies. Other than his own self-serving testimony that had Counsel done what he asked, “That would have made things a whole lot different,” (PCR Tr. 40), Applicant

produced no probative evidence towards meeting his burden of showing how the witnesses' testimony would have resulted in a different outcome. *See Harris v. State*, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief). Counsel, on the other hand, demonstrated through her testimony a thorough command of the facts and circumstances of Applicant's charges, and credibly testified to fully reviewing the evidence against Applicant in its entirety and investigating all reasonable avenues to connect Applicant to the victim.

Ultimately, Applicant has produced no probative evidence towards meeting his burden as to either prong of *Strickland*, and accordingly, his demand for relief by way of this allegation is **DENIED**.

2. Involuntary Guilty Plea

Applicant alleges Counsel was ineffective, and his guilty plea was not voluntarily entered, because Counsel was unprepared for trial which left him no choice but to plead guilty. "To find a guilty plea voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him." *Roddy v. State*, 339 S.C. 29, 33, 528 S.E.2d 418, 421 (2000) (citing *Boykin v. Alabama*, 395 U.S. 238 (1969)). Also, an applicant's statements during the plea hearing are considered "conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth of his statements." *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007). Finally, the plea colloquy can cure any alleged deficiency if counsel did not properly advise an applicant about the consequences of accepting it. *See Wolfe v. State*, 326 S.C. 158, 164-65, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy).

This Court finds that the record of the plea hearing establishes the knowing and voluntary nature of Applicant's plea. Near the outset of the plea colloquy, the plea court confirmed that Applicant understood the potential sentence for both offenses, kidnapping and first degree assault and battery, and that the potential sentence for the former was thirty years and the latter was ten years. (Plea Tr. 4, ll. 3-12). Upon further inquiry, Applicant confirmed he understood he was entering a plea without recommendation or negotiation and he was facing up to forty years, depending on what the Judge saw fit to give him. (Plea Tr. 4). Applicant told the court that he had spoken with Counsel about the matter, told Counsel everything he knew about it, that Counsel had answered all of Applicant's questions and done everything he was asked to do, and that Applicant was satisfied with Counsel's services. (Plea Tr. 9). Applicant confirmed that no one promised him anything, nor did anyone threaten, force, pressure, or intimidate him to get him to plead guilty. (Plea Tr. 9-10). Additionally, Applicant affirmed that he wished to plead guilty and he was doing so of his own freewill. (Plea Tr. 10). After the plea court read the indictment and elicited Applicant's "guilty" plea, the Judge further clarified that he could require Applicant to register as a sex offender under the assault and battery first degree charge. (Plea Tr. 18). The plea court confirmed Applicant understood and confirmed that he still wished to plead guilty. (Plea Tr. 18, ll. 8-19).

This Court finds that the record establishes Applicant had a full understanding of the consequences of his plea and the charges against him. Ultimately, the plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Accordingly, Applicant's claim for relief by way of this allegation is **DENIED**.

III. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g) of the South Carolina Rules of Civil Procedure provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 1 day of APRIL, 2021.

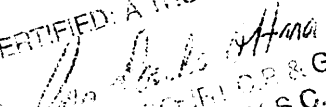

WALTON J. MCLEOD, IV.
Presiding Judge
Twelfth Judicial Circuit

Lexington, South Carolina

FILED

2021 APR - 6 AM 9:21

DORIS POULOS O'HARA,
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY

CLERK OF COURT, CCP & GS,
FLORENCE COUNTY, S.C.

WITNESSES

R W Tilton

Florence County Sheriff

John C Jeperfinger

ARREST WARRANT NUMBER

2016A2110201084

2016A2110201085

2016A2110201087

(2599)
2017GS2100529A

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-21-00529

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

APRIL

TERM

2017

THE STATE

vs.

SHAMAINE MARTRELL ROBERSON

Indictment for

GRAND LARCENY,
KIDNAPPING,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
CARJACKING

FILED

2017 APR -6 PM 1:24

DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 GRAND LARCENY,
 KIDNAPPING,
 POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME
 AND
 CARJACKING

At a Court of General Sessions, convened on APRIL 6, 2017 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- GRAND LARCENY

That **Shamaine Martrell Roberson** did in Florence County on or about December 3, 2016, take and carry away the personal goods of Shaquawna Riggins, valued at more than two thousand (\$2000.00) dollars but less than ten thousand (\$10,000.00) dollars, described as follows: her 2000 Chevrolet Malibu and cell phone, with the intent to deprive the owner permanently of such property and to convert the goods to his/her own use, in violation of Section 16-13-0030(B), S. C. Code of Laws, 1976, as amended.

COUNT TWO- KIDNAPPING

That **Shamaine Martrell Roberson** did in Florence County on or about December 3, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Shaquawna Riggins by threat of force by holding a gun to her head during the theft of her vehicle, forcing her into the vehicle and driving off with her, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

**COUNT THREE - POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME**

That **Shamaine Martrell Roberson** did in Florence County, on or about December 3, 2016, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime to wit: kidnapping or carjacking, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR GRAND LARCENY, KIDNAPPING, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME AND CARJACKING, WITH THE AFORESAID NAMES(S) OF SHAMAINE MARTRELL ROBERSON SHOWN THEREON:

COUNT FOUR- CARJACKING

That **Shamaine Martrell Roberson** did in Florence County on or about the December 3, 2016, take and/or attempt to take one 2000 Chevrolet Malibu from Shaquawna Riggins by force and violence or by intimidation while said victim was operating and/or in the vehicle, in violation of Section 16-3-1075(B)(1), S. C. Code of Laws, 1976, as amended.

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

A handwritten signature in black ink, reading "E.L. Clements, III". The signature is written in a cursive, flowing style with a horizontal line at the end.

E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

WITNESSES

Chad Collins Florence County Sheriff

John C Jeperfinger

ARREST WARRANT NUMBER

2015A2110200979

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 6/9/16

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-21-00784

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JUNE

TERM

2016

THE STATE

vs.

SHAMAINE MARTRELL ROBERSON

Indictment for

ASSAULT AND BATTERY FIRST DEGREE

FILED

2016 JUN -9 PM 1:30

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR
ASSAULT AND BATTERY FIRST DEGREE

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ASSAULT AND BATTERY FIRST DEGREE

That **Shamaine Martrell Roberson** did in Florence County, on or about October 17, 2015, knowingly, willfully and unlawfully injure another person, to wit: **S.R. [REDACTED]**, or attempt to injure a person with the present ability to do so, and the act was accomplished by means likely to produce death or great bodily injury, and the act involved the nonconsensual touching of the private parts of victim, under or above clothing with lewd and lascivious intent; in violation of Section 16-03-0600(C)(1), S.C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

302

Florence

VS.

Shamaine Martrell Roberson

AKA:

Race: Black Sex: M Age: 30

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-21-00529

A/W#: 2016A2110201085

Date of Offense: 12/3/2016

S.C. Code § : 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping (0-30)☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: John C. Jopertinger 9826 Shamaine Roberson 78236
Jopertinger, John C. SC Bar# 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: All plus of 1-23-18
☐ 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. 417 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

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,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2160

Sentence Date: 1-23-18

STATE OF SOUTH CAROLINA

COUNTY OF
STATEFlorence
VS.

Shamaine Martrell Roberson

AKA:

Race: Black Sex: M Age: 30

IN THE COURT OF GENERAL SESSIONS

303

INDICTMENT/CASE#: 2016-GS-21-00784

A/W#: 2015A2110200979

Date of Offense: 10/17/2015

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

TO: Assault / Assault & Battery 1st degree (0-10)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Reporting, John C

9826 SC Bar#

Shamaine Roberson Defendant

Attorney for Defendant

70236 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 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. 417 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

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

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

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

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

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

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

3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk:

Court Reporter: K. Richardson

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

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:

- ATU if deemed necessary
- Defendant shall register as a sex offender☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2160

Sentence Date: 1-23-18