

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

ORIGINAL

In The Court of Appeals

APPEAL FROM SALUDA COUNTY

William P. Keesley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VICTOR ANTHONY JONES,

APPELLANT

APPELLATE CASE NO. 2012-213343

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

IN THE FAMILY COURT

STATE OF SOUTH CAROLINA,
PLAINTIFF,

2011-GS-41-0150

-vs-

TRANSCRIPT

VICTOR ANTHONY JONES, JR.,
DEFENDANT.

OCTOBER 30-31, 2012,
& NOVEMBER 1-2, 2012.
SALUDA, S. C.

BEFORE:

HONORABLE WILLIAM P. KEESLEY, JUDGE.

APPEARANCES:

ERVIN J. MAYE
Assistant Solicitor
Eleventh Judicial Circuit
Attorney for the State.

BENJAMIN A. STITELY
Lexington, S. C.
Attorney for Defendant.

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1 MR. STITELY: Judge, my client has asked me repeatedly
2 that he wanted to speak to the Court before we did
3 anything. It's his position, of course, he doesn't want to
4 plead guilty. He's told me from the get-go that he's not
5 guilty of armed robbery very specifically. There's been no
6 other offer besides armed robbery in this case. I've tried
7 to explain to him that our options are, of course, a trial
8 or a plea. I've also explained to him that, if he did
9 not -- he can't say he's not guilty, or he can't say he's
10 not guilty during a plea. He doesn't want a trial. He's
11 told me he definitively does not want a jury trial. He's
12 asked me if he could have the opportunity to talk to the
13 Court before anything goes forward. I told him I would ask
14 the Court. I told him I don't know if there's any
15 provision for that, but that's what he'd like to do. It's
16 his position that, of course, he doesn't want to plead
17 guilty because he says he's not, in fact, guilty of what
18 he's charged with. There's been no other option. I can't
19 do an *Alford* plea because there's been no offer that even
20 would make *Alford* applicable. There's no benefit to be
21 received there, so I can't even go into that theory. But
22 he does not want a trial. He tells me he does not want a
23 jury to consider his case. We've talked about it, and I
24 told him that we have the option to ask for a bench trial
25 in which case you would be the trier of fact and law. That

1 pointing their finger at me. And I'm the youngest one out
2 of everybody in this situation.

3 THE COURT: Well, I cannot force -- There's a
4 separation of powers. The judge is in the Judicial Branch;
5 the prosecutor's in the Executive Branch. I can't do their
6 job for them, and I can't tell them what plea offers that I
7 might think would be appropriate. That's their job. Now,
8 the things about sentencing, if you were convicted of
9 something, then the things about your family and your age
10 and how old the case is and all those things, I could take
11 it into consideration in sentencing; but, if you get
12 convicted of armed robbery, I cannot give you less than 10
13 years.

14 DEFENDANT: I understand, Your Honor. But all I'm
15 saying, sir, is I did not commit armed robbery. It might
16 have been common-law robbery or such maybe, but it's not no
17 armed robbery.

18 THE COURT: Well, the only remedy for that is a trial.

19 DEFENDANT: And, if I go to trial and I lose, then I
20 be the rest of my life gone, the rest of my life. I don't
21 want to go back to prison. I'm done with living like that.
22 I don't want to go do no 30 years, no 20 years, no 18, 19,
23 10. I done served time. I came home and did right. If my
24 parole officer was out here, he'd even let you know that I
25 came home and I did exactly right, I worked every day, I

1 your lawyer's sitting in; I've been a public defender. I
2 stood in this very courtroom when Judge Baggett sentenced
3 one of my clients to 30 years in prison; and I thought, as
4 much as I respected and admired Judge Baggett, it's the
5 only time he did something that I thought was completely
6 unjustified. There was nothing I could do about it except
7 object. The system is set up so, when they charge
8 somebody, they have to find probable cause which they've
9 done. They go before the Grand Jury; the Grand Jury has to
10 find probable cause which they've done. The first
11 opportunity you get to really have a trial jury consider
12 anything is at this stage. The State has to prove you
13 guilty beyond a reasonable doubt to all 12 jurors, and
14 they've got to prove every essential element. And I'm not
15 naive enough to sit here and think that sometimes they let
16 people get away with things that I think they ought to nail
17 them on and sometimes they nail people on things that I
18 think aren't that significant. My power comes in the
19 sentencing, but it only occurs if you're found guilty.

20 DEFENDANT: I just need another chance. I know. I
21 understand.

22 THE COURT: I have sent people to prison that probably
23 are completely different people now. I've sent them for
24 the rest of their lives. I understand what you're saying.
25 I really -- On a human level, I have sympathy and empathy

1 you on any of that. The only thing I know is he can plead
2 no contest.

3 MR. STITELY: Judge, his holdup is the gun. His
4 position is there isn't one. That's where we're running
5 afoul. And I guess, in our theory of the case, that'll
6 come out. But there's a different story out there. That's
7 really the holdup, and that's why he doesn't think he's
8 guilty of armed robbery. I mean, if Your Honor will take a
9 no-contest plea, if that's what he wants to do, of course,
10 I'm at his mercy on that call.

11 MR. MAYE: May it please the Court, Your Honor, I'm
12 compelled at this point in time -- This is such an unusual
13 circumstance. He faces two sets of armed robbery charges
14 and a drug charge. He potentially could face life without
15 parole if he's found guilty of these two armed robbery
16 cases. I've never offered him anything short of armed
17 robbery. He has consistently rejected all plea offers. My
18 offer has never been less than pleading to one count of
19 armed robbery. Like I said, he has three separate sets of
20 charges; and I have notified them that, in the event that
21 he's found guilty of this armed robbery, I would intend to
22 go forward with the second armed robbery at a later time.
23 Your Honor, there are just no plea offers on the table.
24 He's been through three attorneys. He's consistently
25 rejected every offer. We've had to bench warrant him and

1 (Mr. Stitely confers with defendant.)

2 THE COURT: Do you need to talk to your lawyer?

3 MR. STITELY: If you can give us one minute, Judge. I
4 apologize.

5 THE COURT: We'll be at ease.

6 (Brief Recess.)

7 THE COURT: Where are we, Mr. Stitely?

8 MR. STITELY: Your Honor, at this time, he would ask
9 for a trial and he would waive, at this time, his
10 constitutional right to a trial by a jury of his peers and
11 would like, rather ask, the Court to try both law and fact.

12 THE COURT: Is the State insisting on a jury trial?

13 MR. MAYE: No, sir, Your Honor. The State consents.
14 We'll be happy for Your Honor to hear it.

15 THE COURT: Mr. Jones, I have to cover some things
16 with you. It's fine with me if you sit, but I need you to
17 raise your right hand.

18 **VICTOR ANTHONY JONES, JR.,**

19 **having been duly sworn, testified as follows:**

20 THE COURT: All right. Now, Mr. Jones, your lawyer
21 advises me that you are asking the Court to conduct a bench
22 trial on indictment 2011-GS-41-0150. Is that correct?

23 DEFENDANT: Yes, sir.

24 THE COURT: You have an absolute right to have a jury
25 trial. You know that?

1 DEFENDANT: Yes, sir.

2 THE COURT: There are 12 jurors at this type of court,
3 and we would seat 12 jurors eventually. You would have
4 twice as many strikes as the State would have; so they
5 would have five strikes; you would have ten to set aside
6 jurors if you wish and if you felt as though a juror was
7 not qualified to serve either because of some conflict or
8 not being indifferent to the cause. Your lawyer could
9 raise that issue, and I could set that juror aside so that
10 that juror could not even be considered. Do you understand
11 all that?

12 DEFENDANT: Yes, sir.

13 THE COURT: Now, the jury would be instructed that you
14 are presumed to be innocent, that the charge that's been
15 made against you is not evidence, it's just a charging
16 paper, the indictment. The jury would be instructed that
17 you have no burden to prove anything at all and that the
18 State has the entire burden of proof and the State has to
19 prove you guilty beyond a reasonable doubt to all 12 of
20 those jurors in order for them to convict you of anything.
21 Do you understand?

22 DEFENDANT: Yes, sir.

23 THE COURT: Now, again, I don't know anything about
24 your case just off the top of my head. If I've dealt with
25 other co-defendants, it may come back to me as we go

1 THE COURT: And, if you were to choose not to testify,
2 I would tell that jury that they cannot hold your silence
3 against you in any way at all, that they're not to talk
4 about that, the fact that you've elected not to testify,
5 they're not to discuss it in the jury room, they're not to
6 even let it enter their minds in making their decision of
7 whether you're guilty or not guilty. Do you know all that?

8 DEFENDANT: Yes, sir.

9 THE COURT: It's a fundamental right to have a person
10 judged by his peers. And I have no way of knowing whether
11 a jury would be more sympathetic to your position or not,
12 but it is a fundamental right. If you're giving that up,
13 you're giving up something that is really one of the
14 bedrocks of the judicial system and the personal rights you
15 have. Do you understand that?

16 DEFENDANT: Yes, sir.

17 THE COURT: Are you sure you want to do this without
18 having a jury consider your case?

19 (Mr. Stitely confers with defendant.)

20 MR. STITELY: He says he thinks a jury would be
21 better.

22 THE COURT: Okay. Well, I'm going to tell you I've
23 done a few bench trials in 21 years. I hope I've been fair
24 in all of them; I've tried to be. But giving up a jury
25 trial right is a big deal. You want a trial by a jury now,

1 listen carefully to the question I ask of you and answer
2 that question. All right, Solicitor, call your case.

3 MR. MAYE: May it please the Court, Your Honor, the
4 State now calls for trial indictment 2011-GS-41-0150, the
5 State vs. Victor Anthony Jones, an indictment for armed
6 robbery. It was true billed by the Grand Jury of Saluda
7 County at the February term of 2011. The State now calls
8 this case for trial.

9 THE COURT: Mr. Stitely, your client has been
10 arraigned or waives arraignment. Is that correct?

11 MR. STITELY: That's correct, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury panel,
13 please give me your attention. We're about to qualify a
14 jury to hear a case that is captioned the State of South
15 Carolina vs. Victor Anthony Jones, Jr. Mr. Jones is
16 charged in this indictment with the offense of armed
17 robbery. The indictment alleges that Victor Anthony Jones,
18 Jr., along with others, did in Saluda County on or about
19 July 9th, 2009, while armed with a pistol -- specifically,
20 it's alleged that Victor Anthony Jones, Jr., feloniously
21 took from the person or presence of Jerrell Bookman, by
22 means of force or intimidation, goods or monies of Jerrell
23 Bookman described as speakers and 750 dollars in United
24 States currency with the intent to deprive the owner
25 permanently of that property which is alleged to be in

1 THE COURT: All right. The defendant, Mr. Jones, will
2 be represented by Mr. Ben Stitely who is with Williams,
3 Hendrix, Steigner and Brink. Thank you, sir.

4 MR. STITELY: And also, with me, this is Wade Downtin.
5 He's a lawyer in Columbia. He's not directly involved;
6 he's just watching this case. But I wanted everyone to
7 know who he is.

8 THE COURT: Thank you. Glad to have you with us.

9 MR. DOWTIN: Thank you, Your Honor.

10 THE COURT: All right. The following persons have
11 been identified as potential witnesses for the State. If
12 any of these people are present at this time, I need for
13 that person to stand as his or her name is called and face
14 the jury. Charles Holloway, Amber Salaam. Is she here?

15 MR. MAYE: She is not present in the courtroom, Your
16 Honor. She is here but not present in the courtroom.

17 THE COURT: Bring her in. Jerrell Bookman.

18 MR. MAYE: Ask Mr. Bookman to step in as well.

19 THE COURT: Toby Horne, is he here?

20 MR. MAYE: No, sir, Your Honor. Your Honor, I would
21 have one additional witness. It would potentially be
22 Acting Chief Brett Long of the Saluda Town Police
23 Department.

24 THE COURT: Brett Long? Thank you. Just stand right
25 there. Are you Amber Salaam?

1 on this case, Ms. Watkins. You stay with us for other
2 instructions. All right?

3 MS. WATKINS: All right, sir.

4 THE COURT: 187 is set aside on the trial of this
5 case. Anybody else?

6 (Juror stands.)

7 THE COURT: Yes, sir, what's your name?

8 MR. RIKARD: Will Rikard.

9 THE CLERK: 151.

10 THE COURT: Mr. Rikard is juror number 151. What's
11 your situation?

12 MR. RIKARD: I'm actually related to Officer Horne.
13 I'm not sure quite, you know, the closeness, but my
14 grandmother--

15 THE COURT: I can't understand him either. You're
16 related to Officer Horne?

17 MR. RIKARD: Yes, sir, but I'm not really close to
18 him. I'm just --

19 THE COURT: I'm going to set you aside on this trial.
20 Stay with us for other instructions. 151 is set aside on
21 this trial. Anybody else?

22 (There was no response.)

23 THE COURT: All right. The State will be represented
24 by Mr. Ervin Maye who is a solicitor, assistant solicitor,
25 with the Eleventh Judicial Circuit Solicitor's office.

1 or any entity involved in this case currently or formerly,
2 please let us know about it.

3 (Jurors stand.)

4 THE COURT: What's your name?

5 MS. BOLAND: Lisa Boland. I'm friends with Toby
6 Horne.

7 THE CLERK: Number 16.

8 THE COURT: Ms. Boland's juror number 16. You're
9 friends with Mr. Horne?

10 MS. BOLAND: Yes, sir.

11 THE COURT: Ms. Boland, I need to ask you some
12 questions, and I need you just to answer yes or no, and I
13 just want you to be truthful.

14 MS. BOLAND: Okay.

15 THE COURT: All right. If you need to go beyond yes
16 or no to give me the proper explanation, come down front
17 and give me a full explanation. All right? Don't just
18 blurt out the answer if it's other than yes or no.

19 MS. BOLAND: Okay.

20 THE COURT: If you're a juror on this case, you will
21 have to evaluate the credibility, the believability, of
22 every witness who testifies. You understand that?

23 MS. BOLAND: Yes, sir.

24 THE COURT: So, if Mr. Horne is a witness, you have to
25 evaluate his credibility, his believability, along with all

1 THE COURT: All right. All of y'all are going to
2 probably have the same type of question, so it's the same
3 situation. If you need to go beyond yes or no, come down
4 front. All right?

5 MS. DERRICK: (Juror nods head.)

6 THE COURT: You need to speak your answers. If you
7 shake your head, she can't take down a shake of your head.
8 All right?

9 MS. DERRICK: Yes, sir.

10 THE COURT: Now, Ms. Derrick, if you're a juror on
11 this case, you understand you have to evaluate the
12 credibility, the believability, of every witness who
13 testifies?

14 MS. DERRICK: Yes, sir.

15 THE COURT: So, if Mr. Long is a witness in the case,
16 you have to evaluate his credibility, his believability,
17 along with all the other witnesses. You understand?

18 MS. DERRICK: Yes, sir.

19 THE COURT: Have you ever formed in your own mind or
20 have you ever expressed to anyone else an opinion as to
21 whether he's believable or not?

22 MS. DERRICK: No, sir.

23 THE COURT: Can you decide the case without regard to
24 what he may think of your decision?

25 MS. DERRICK: Yes, sir.

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THE COURT: Were you her supervisor there?

MS. YOUNG: Yes, sir.

THE COURT: Let me come back to you. Okay?

MS. YOUNG: Yes, sir.

THE COURT: Let me finish with the others, and I'll
come back to you. Okay?

MS. YOUNG: Yes, sir.

THE COURT: What's your name, sir?

MR. FARMER: Jeremy Farmer, juror 68.

THE COURT: What's your situation, Mr. Farmer?

MR. FARMER: Me and Toby Horne went to church
together. I also know the Solicitor, Mr. Ervin, and my
father used to be the Chief of Police in Saluda.

THE COURT: Let me ask the last question first and
then work my way back.

MR. FARMER: Yes, sir.

THE COURT: Do you have any doubt at all about your
ability to be a fair and impartial juror in the case?

MR. FARMER: No, sir.

THE COURT: And you go to church with Mr. Horne?

MR. FARMER: Yes, sir.

THE COURT: And you're a friend of the Solicitor?

MR. FARMER: Correct, sir.

THE COURT: And what was the other thing?

MR. FARMER: My father used to be the Chief of Police

1 be a fair and impartial juror in the case?

2 MR. FARMER: There is not.

3 THE COURT: You can decide the case without regard to
4 what he may think of your decision?

5 MR. FARMER: Yes, sir.

6 THE COURT: You won't be concerned about it the next
7 time y'all encounter one another?

8 MR. FARMER: No, sir.

9 THE COURT: In your relationship with the Police
10 Department, is there anything at all about that that
11 affects your ability to be a fair and impartial juror in
12 the case?

13 MR. FARMER: No, sir.

14 THE COURT: Do you have any doubt whatsoever about the
15 answers you've given me to any of these questions?

16 MR. FARMER: No, sir.

17 THE COURT: Thank you. Mr. Farmer is 68. He's
18 eligible to serve.

19 THE COURT: What's your name, ma'am?

20 MS. SANDISH: Kathleen Sandish, 159.

21 THE COURT: Ms. Sandish is juror number 159. What's
22 your situation, please?

23 MS. SANDISH: I'm not real sure because you didn't
24 list him, but he is in the courtroom. Jesse Quattlebalm is
25 my neighbor.

1 MS. YOUNG: No, sir.

2 THE COURT: Is there anything about your relationship
3 that affects your ability to be a fair and impartial juror
4 in the case?

5 MS. YOUNG: No, sir.

6 THE COURT: Have you ever formed in your own mind or
7 expressed to anyone else an opinion as to whether she's
8 believable or not?

9 MS. YOUNG: No, sir.

10 THE COURT: Do you understand that, if she is a
11 witness, you have to evaluate her believability?

12 MS. YOUNG: Yes, sir.

13 THE COURT: Can you decide the case without regard to
14 your prior experiences with her or your relationship with
15 her?

16 MS. YOUNG: Yes, sir.

17 THE COURT: Any doubt in your mind about your ability
18 to be fair and impartial?

19 MS. YOUNG: No, sir.

20 THE COURT: All right. Thank you, ma'am. Ms. Young
21 is juror number 200. She's eligible to serve.

22 (End of bench conference.)

23 THE COURT: Anybody else?

24 (There was no response.)

25 THE COURT: All right. I'm going to pose a multiple-

1 THE COURT: Did the person take it from you directly
2 or --

3 MS. STOUDEMAYER: No. It was in my vehicle.

4 THE COURT: Somebody broke in your car and took your
5 pocketbook and some other things? Was that in Saluda
6 County?

7 MS. STOUDEMAYER: Yes, sir.

8 THE COURT: What happened to the case?

9 MS. STOUDEMAYER: I'm not sure. I think they found a
10 couple of guys, but I never got -- Well, I got my
11 pocketbook back, but my camera's still missing.

12 THE COURT: Okay. You understand that this
13 gentleman's charged with armed robbery?

14 MS. STOUDEMAYER: Uh-huh.

15 THE COURT: Is that a yes?

16 MS. STOUDEMAYER: Yes, sir.

17 THE COURT: Is there anything at all about your
18 experience that affects your ability to be a fair and
19 impartial juror in this case?

20 MS. STOUDEMAYER: I don't think so.

21 THE COURT: Ma'am?

22 MS. STOUDEMAYER: No, sir.

23 THE COURT: You sure?

24 MS. STOUDEMAYER: Yeah.

25 THE COURT: Did you have to come to court at all?

1 MS. YOUNG: Yes, sir.

2 THE COURT: What's your brother's name?

3 MS. YOUNG: Freddie Roberson.

4 THE COURT: And you said your cousins, your nephews?

5 MS. YOUNG: Yes, sir.

6 THE COURT: What are their names.

7 MS. YOUNG: David Garvin.

8 THE COURT: And who else?

9 MS. YOUNG: Nikeem Roberson.

10 THE COURT: Were the charges brought by the Sheriff's

11 Department or the city police or do you know?

12 MS. YOUNG: I really don't know which one, sir.

13 THE COURT: Are you involved in the case in any way?

14 MS. YOUNG: No, sir.

15 THE COURT: Is there anything at all about your
16 relationship with them or their situation that affects your
17 ability to be a fair and impartial juror in this case?

18 MS. YOUNG: No, sir.

19 THE COURT: Any doubt in your mind?

20 MS. YOUNG: No, sir.

21 THE COURT: Do you understand that, if there are
22 charges in Saluda County, that the same people will be
23 prosecuting them that's prosecuting this gentleman? You
24 understand that?

25 MS. YOUNG: Yes, sir.

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MR. CLARK: No, sir.

THE COURT: Any doubt in your mind?

MR. CLARK: No, sir.

THE COURT: If the same people prosecuted your brother that's prosecuting this man, would that affect your ability to be fair and impartial?

MR. CLARK: No, sir.

THE COURT: All right. Thank you very much. Mr. Clark is juror number 44. He's eligible to serve. Yes, sir. What's your name?

MR. EDWARDS: Christopher Edwards, number 61.

THE COURT: Mr. Edwards is juror number 61. Yes, sir, what's your situation?

MR. EDWARDS: My son was involved in a robbery at Burger King a couple weeks ago. He worked there.

THE COURT: The one down here?

MR. EDWARDS: Yes, sir.

THE COURT: Okay. Have they caught -- I don't know anything about that. Have they caught anybody?

MR. EDWARDS: I don't know.

THE COURT: That's in the city limits, isn't it?

MR. EDWARDS: Yes, sir.

THE COURT: I'm going to set you aside on this trial, Mr. Edwards. You stay with us. 61, Mr. Edwards, is set aside on this trial. Yes, sir?

1 MR. FARMER: Yes, sir.

2 THE COURT: Okay. Thank you, sir. 68, Mr. Farmer is
3 eligible to serve. What's your name?

4 MS. BOSKET: Debbie Bosket.

5 THE CLERK: Juror number 18.

6 MS. BOSKET: 18, yes.

7 THE COURT: Ms. Bosket's juror number 18. What's your
8 situation?

9 MS. BOSKET: I have a son that was charged one time
10 for having a gun, but it was throwed out.

11 THE COURT: Charged with a gun?

12 MS. BOSKET: Yes, but it was throwed out.

13 THE COURT: What's your son's name?

14 MS. BOSKET: Thomas Tolan.

15 THE COURT: Thomas what?

16 MS. BOSKET: Tolan, T-O-L-A-N.

17 THE COURT: Was that here in Saluda?

18 MS. BOSKET: Yes, sir.

19 THE COURT: Was he charged with just possessing a gun
20 or using it or what?

21 MS. BOSKET: The last charge he had, he had had one;
22 but it was a felony. But this last time, it was the guy
23 had stole -- broke in some houses and stole stuff.

24 THE COURT: Possession of a stolen pistol?

25 MS. BOSKET: Yes, yes.

1 former reserve deputy for the Sheriff's Department.

2 THE COURT: Number 80, Mr. Gilliland. You were a
3 reserve deputy when?

4 MR. GILLILAND: Ten years ago, sir.

5 THE COURT: Is there anything about that relationship
6 or experiences that affects your ability to be a fair and
7 impartial juror in the case?

8 MR. GILLILAND: No, sir.

9 THE COURT: Any doubt in your mind?

10 MR. GILLILAND: None.

11 THE COURT: Thank you, sir. Juror number 80's
12 eligible. Yes, sir?

13 MR. FARMER: Jeremy Farmer, Juror 68. I worked with
14 Saluda County Detention Center for approximately three
15 months in 2007.

16 THE COURT: Anything about your relationship or that
17 experience that affects your ability to be a fair and
18 impartial juror in the case?

19 MR. FARMER: No, sir.

20 THE COURT: Any doubt in your mind?

21 MR. FARMER: No, sir.

22 THE COURT: Thank you. Juror number 68 is eligible to
23 serve. Is anybody close to you employed in any capacity in
24 the prosecution or in law enforcement -- that could be a
25 relative; that could be a very close friend -- that you

1 of armed robbery, anything at all about that that affects
2 your ability to be a fair and impartial juror in this case?

3 If so, please stand.

4 (There was no response.)

5 THE COURT: Are any of you members of or financial
6 contributors to any organization that has as a primary
7 purpose the support of law enforcement or victim's rights?
8 That would include such things as Mothers Against Drunk
9 Driving, Students Against Violent Crime, working at a
10 shelter for abused persons, any kind of organization that
11 has as a primary purpose the support of law enforcement or
12 the assistance of victims. If so, please stand.

13 (There was no response.)

14 THE COURT: Have any of you formed or expressed any
15 opinions about this case? If so, please stand.

16 (There was no response.)

17 THE COURT: Are any of you aware of any interest, bias
18 or prejudice that you might have for or against the State,
19 for or against Mr. Jones, the defendant, for or against
20 anyone or any entity in the case? If so, please stand.

21 (There was no response.)

22 THE COURT: Can each of you give both the State of
23 South Carolina and the defendant, Victor Jones, a fair and
24 impartial trial? If you know of any reason why you cannot,
25 please stand now.

1 because your next stop may be over here in the jury box.

2 THE COURT: All right. Madame Clerk, give us a jury,
3 please.

4 THE CLERK: Number 101, Quincy T. Kenley, come down
5 front, please.

6 (Whereupon, Quincy T. Kenley, a black male, was called
7 forward.)

8 THE CLERK: What say you for the State?

9 MR. MAYE: Beg the Court's indulgence.

10 (Pause.)

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please swear the juror.

14 THE CLERK: Please have a seat over here in the jury
15 box. Number 80, Brenton D. Gilliland.

16 (Whereupon, Brenton D. Gilliland, a white male, was
17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Please return to your seat. 36, Ashley W.
24 Buzhardt.

25 (Whereupon, Ashley W. Buzhardt, a white male, was

1 forward.)

2 THE CLERK: What say you for the State?

3 MR. MAYE: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. STITELY: Please swear the juror.

6 THE CLERK: Please have a seat in the jury box. 100,

7 Austin H. Jumper.

8 (Whereupon, Austin H. Jumper, a white male, was called

9 forward.)

10 THE CLERK: What say you for the State?

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please swear the juror.

14 THE CLERK: Please have a seat in the jury box. 186,

15 Langley K. Wash.

16 (Whereupon, Langley K. Wash, a white female, was

17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. STITELY: Please swear the juror.

22 THE CLERK: Please have a seat in the jury box. 76,

23 Mary U. Gantt.

24 (Whereupon, Mary U. Gantt, a white female, was called

25 forward.)

1 called forward.)

2 THE CLERK: What say you for the State?

3 MR. MAYE: Please excuse the juror from the trial of
4 this case.

5 THE CLERK: Please return to your seat. 83, Willie L.
6 Gray.

7 (Whereupon, Willie L. Gray, a black male, was called
8 forward.)

9 THE CLERK: What say you for the State?

10 MR. MAYE: Please excuse the juror from the trial of
11 this case.

12 THE CLERK: Please return to your seat. 107, Jennifer
13 L. Lake.

14 (Whereupon, Jennifer L. Lake, a white female, was
15 called forward.)

16 THE CLERK: What say you for the State?

17 MR. MAYE: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. STITELY: Please swear the juror.

20 THE CLERK: Please have a seat in the jury box. 115,
21 Robert C. Lybrand.

22 (Whereupon, Robert C. Lybrand, a white male, was
23 called forward.)

24 THE CLERK: What say you for the State?

25 MR. MAYE: Please present the juror.

1 Mr. Farmer. The Court finds you are not indifferent to the
2 cause.

3 THE CLERK: 77, Whitney L. Gardner.

4 (Whereupon, Whitney L. Gardner, a white female, was
5 called forward.)

6 THE CLERK: What say you for the State?

7 MR. MAYE: Please present the juror.

8 THE CLERK: What say you for the defense?

9 MR. STITELY: Please excuse the juror from the trial
10 of the case.

11 THE CLERK: Please return to your seat. 159, Kathleen
12 A. Sandish.

13 (Whereupon, Kathleen A. Sandish, a white female, was
14 called forward.)

15 THE CLERK: What say you for the State?

16 MR. MAYE: Please present the juror.

17 THE CLERK: What say you for the defense?

18 MR. STITELY: Please excuse the juror from the trial
19 of the case.

20 THE CLERK: Please return to your seat. 96, Ann C.
21 Holstein.

22 (Whereupon, Ann C. Holstein, a white female, was
23 called forward.)

24 THE CLERK: What say you for the State?

25 MR. MAYE: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STITELY: Please seat the juror.

3 THE CLERK: Please have a seat in the jury box. 145,
4 Allison L. Rauton.

5 (Whereupon, Allison L. Rauton, a white female, was
6 called forward.)

7 THE CLERK: What say you for the State?

8 MR. MAYE: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MR. STITELY: Please excuse the juror from the trial
11 of the case.

12 THE CLERK: Please return to your seat. 125, Michael
13 D. Miles.

14 (Whereupon, Michael D. Miles, a black male, was called
15 forward.)

16 THE CLERK: What say you for the State?

17 MR. MAYE: Please excuse the juror from the trial of
18 this case.

19 THE CLERK: Please return to your seat. 127, Johnnie
20 R. Miller.

21 (Whereupon, Johnnie R. Miller, a white male, was
22 called forward.)

23 THE CLERK: What say you for the State?

24 MR. MAYE: Please present the juror.

25 THE CLERK: What say you for the defense?

1 THE COURT: Are there any matters to take up,
2 including composition of the jury, prior to the jury being
3 sworn from the State?

4 MR. MAYE: None from the State.

5 THE COURT: From the defense?

6 MR. STITELY: None from the defense, Your Honor.

7 THE COURT: Thank you very much. Ladies and
8 gentlemen, I'm going to have to ask you to step into the
9 jury room. I realize what time it is. We're going to let
10 you go to lunch shortly, but I have to give you some
11 instructions before I can let you go and I have to give the
12 balance of the panel some instructions too. So I'm going
13 to ask you to step into the jury room. Do not discuss this
14 case in any way at all. Don't talk about the people
15 involved in the case, the type of case it's alleged to be.
16 Don't talk about the case whatsoever. If you'll follow the
17 bailiffs, I'll get back to you momentarily.

18 (The jury retires to the jury room.)

19 THE COURT: Do y'all have any idea how long this case
20 will take?

21 MR. MAYE: Two days.

22 MR. STITELY: Judge, we have at least two pretrial
23 motions to take up after lunch.

24 THE COURT: All right. Ladies and gentlemen, those of
25 you not selected on this case, what I need to do is to put

1 don't know if I'll see you again. If I do not see you
2 again, thank you very much. I appreciate your service. If
3 you work a third-shift job or you're a long-distance truck
4 driver or something like that, I can't have you coming in
5 dead on your feet; in other words, you can't stay up all
6 night and then come in the next day to serve on a jury all
7 day. So stay and talk to me if you have one of those types
8 of occupations, and I'll tell you what we normally do with
9 folks like third-shift workers and long-distance truck
10 drivers. Any questions about what you're supposed to do?

11 (There was no response.)

12 THE COURT: Call tonight after 6:00. Follow the
13 instructions. All right? If you're here for jury duty,
14 you're free to go. Get your telephone number and call
15 tonight after 6:00. Thank you.

16 (Whereupon, the remaining jury venire was excused.)

17 (Bench conference on the record.)

18 THE COURT: What's your name, sir?

19 JUROR: Sherome Clark.

20 THE COURT: 44, Sherome Clark. You work third-shift
21 work?

22 MR. CLARK: Yes, sir.

23 THE COURT: And what's your name, sir?

24 MR. LESTER: 110, Michael Lester.

25 THE COURT: Mr. Clark, you work at Milliken?

1 THE COURT: Well, let me tell you what I usually do.
2 You tell me if this will work. If not, I can cut you loose
3 like I did with him because I've got plenty of jurors and I
4 don't know if we're going to reach another case or not.
5 With third-shift workers, what I typically do is I tell
6 them to tell their employer's that they have to be treated
7 as though they have to come up here every day. But you
8 don't actually come up here unless the message tells you to
9 come up here. So we would give you an excuse at the end of
10 the week for each day that you were on call; but, once I
11 turn the whole jury loose, then you don't get the excuse
12 anymore. You understand?

13 MR. CLARK: Yes, sir.

14 THE COURT: Do you want to try to do that or you want
15 to just --

16 JUROR: I'll try to do that because they won't give me
17 no vacation time.

18 THE COURT: Well, I don't blame you. Doris, 44,
19 Mr. Clark, he's a third-shift worker. So you tell them --
20 Don't go into work tonight.

21 MR. CLARK: Okay. Just call in at 6:00. Call this
22 number at 6:00.

23 THE COURT: And it's probably going to tell you not to
24 come back tomorrow. But I won't know until after I finish.
25 Things change on me so much, you know; and, if I need to

1 and sit around and wait until 4:00 o'clock. So we'll have
2 you come back in the morning. I'll stay here and work on
3 those matters; and then, if they have some other cases that
4 don't require a jury trial that I can work on, I'll do
5 those. But I expect it's going to take me at least an hour
6 to an hour and a half to get through what I need to get
7 through, and I have to let everybody go to lunch. Before I
8 let you go for the day, I have to give you some
9 instructions. When you come back tomorrow, you're going to
10 take a different oath. You're going to take an oath of a
11 trial jury; and, in that oath, you're going to promise us
12 that you're going to decide the case based on the evidence
13 and the law. And those things are going to come to you in
14 the courtroom, so I need to give you some instructions
15 about what you're not to do. Do not discuss this case in
16 any way with anybody else until this week is over and
17 you've been excused from jury duty completely. Now, you
18 have to be able to tell a spouse or a friend or an employer
19 that you're on a jury. That's perfectly fine. But you
20 cannot tell them what type of case it's alleged to be or
21 who's in it or anything like that. So don't discuss the
22 case with anybody else at all. Don't discuss the case
23 among yourselves until I tell you to. You won't have any
24 doubt about when I tell you to begin your deliberations.
25 So, during any of these breaks or when y'all are together,

1 jury to a scene if we need to; but, if a jury just goes out
2 there, individual juror or jurors on their own, we don't
3 know what they saw, we don't know if it's the same
4 situation that it was when the wreck occurred, we don't
5 know if they completely changed the intersection. You've
6 avoided all the protections that we have built into the
7 system if you do independent investigation. I used to tell
8 jurors not to look up law. Now, typically that was pretty
9 limited; but, as I'm going to explain to you in a moment,
10 with the advent of the internet, that's all changed. So
11 don't do any independent investigation. Don't go out and
12 look around once you find out where this is alleged to have
13 occurred. Don't go try to do any word searches. Don't
14 look up law. All those things will be covered in your oath
15 where you'll be promising us that you'll decide the case
16 based on the evidence and the law. And, as I mentioned to
17 you a moment ago, that comes in the courtroom and the law
18 comes from me. So I have to tell each jury at the end of
19 the case what the law is that applies to the case, and then
20 you decide how to apply the law to the facts. So don't do
21 any independent investigation. Now, I have to read to you
22 this directive from our State Supreme Court; and it kind of
23 gets redundant, but I have to do it one time. You are
24 instructed that, until your jury service is concluded,
25 you're not to discuss the case with others including other

1 walked out of the door and screamed it to the masses.
2 Don't do that. Now, folks, I want you back here tomorrow
3 at 10:00 o'clock in the jury room. When you come back,
4 don't come in the courtroom until you're sent for. When
5 you go out, when you leave in a moment, you're going to go
6 back through that door and they're going to show you the
7 other door, how to get here and where to report. When you
8 get to the courthouse tomorrow, if you're one of these
9 people that arrives early, please come on up. The bailiffs
10 will be here; they'll put you in the jury room. They'll
11 try their best to attend to your comfort. It's real
12 problematic if we have jurors just kind of standing around
13 in the hallways. It will be cool tomorrow out in the
14 parking lots, things like that. So come on up when you get
15 here. If you have some true emergency that arises that
16 prevents you from being here, please have somebody call and
17 let us know because I cannot do anything until I account
18 for all 14 of you. If you're not here, I have to stop and
19 find you. So please let somebody call us if you get sick
20 or you have some true emergency that arises. All right.
21 They told me that they expect the trial to take a couple of
22 days; so, if that is true to form, you probably will get
23 the case Thursday. I'll keep you abreast of any updates as
24 far as anticipated schedule. But, just for preliminary
25 planning, it looks like you'll probably get the case

1 MR. MAYE: Yes, sir, Your Honor, that would be my
2 preference.

3 THE COURT: Call your witness.

4 MR. MAYE: The State calls Investigator Charles
5 Holloway.

6 THE COURT: Come around, please.

7 **CHARLES HOLLOWAY,**

8 **having been duly sworn, testified as follows:**

9 **DIRECT EXAMINATION**

10 BY MR. MAYE:

11 Q Investigator Holloway, identify yourself for the
12 record, please.

13 A My name's Charles Holloway. I'm employed with the
14 Batesburg-Leesville Police Department.

15 Q Approximately June 10th of 2009, did you become
16 involved in this case which is now State vs. Victor Jones?

17 A Yes, sir.

18 Q What were the circumstances that involved you in this
19 case? What was the first contact you had with anyone?

20 A Jerrell Bookman and his grandmother came to the Police
21 Department on June 10th. He advised me that he had come to
22 Saluda to buy some rims from someone that Amber Salaam
23 knew. And he advised that, while he was up here, they
24 robbed him at gun point, took his money and his speakers
25 from him.

1 that he wanted to speak with you, did you go and talk with
2 him at the jail?

3 A Yeah, I went to the jail; and, due to the privacy up
4 there, I transported him back to the Police Department.

5 Q Did he indicate -- When you went up there, did he
6 indicate that he wanted to speak to you? Did he make
7 contact with you and indicate that he wished to speak with
8 you?

9 A Yes, sir.

10 Q Did you subsequently then take him back to the jail?

11 A Yes, sir.

12 Q Okay. Who initiated the contact though? Did you
13 attempt to question him or did he advise you that he wanted
14 to speak with you?

15 A He advised that he wanted to speak to me.

16 Q Okay. On July 24th of 2009 prior to speaking with
17 him, did you execute a written waiver of rights with Victor
18 Jones?

19 A Yes, sir.

20 Q Okay. Is Victor Jones here in the courtroom? Could
21 you point him out if he's present?

22 A Yes, sir. He's sitting right there at the defense
23 table with the blue shirt (indicating).

24 Q Okay. Please go through the written waiver of rights
25 and indicate to the Court exactly the procedure that you

1 Q You witnessed him initial that and he understood it?

2 A Yes, sir.

3 Q What else?

4 A The third one is, I have the right to talk to a lawyer
5 and to have a lawyer here with me now to advise and help me
6 before and during questioning. He initialed that one.

7 Q Okay.

8 A The next one, number four, if I want to have a lawyer
9 with me before and during questioning but cannot afford to
10 pay a lawyer, one will be provided to me at no cost. He
11 initialed that one.

12 Q Okay.

13 A Number five, if I decide to answer questions now
14 without a lawyer here, I still have the right to stop
15 answering questions whenever I want to. He initialed that
16 one.

17 Q Okay.

18 A Number six, I also have the right to stop answering
19 questions until I have talked to a lawyer. He initiated
20 that one.

21 Q Okay.

22 A I read, I understand my rights as explained to me by
23 the officer; I now state that I do wish to answer questions
24 at this time and I do not wish to have a lawyer here before
25 or during questioning; my decision to answer questions now,

- 1 Q Okay. Did he indicate that he could read there? Did
2 he underline that he could read?
- 3 A Yeah, he said that he could read.
- 4 Q Investigator Holloway, you went through all of those
5 rights with him in writing. He initialed them, and he
6 indicated that he understood them. Is that correct?
- 7 A Correct.
- 8 Q Okay. Outside of this written document, did you make
9 any threats to him?
- 10 A No, sir.
- 11 Q Did you attempt to coerce him to give you a statement?
- 12 A No, sir.
- 13 Q Okay. Did you promise him anything in exchange for
14 him making a statement to you?
- 15 A No, sir.
- 16 Q Did you do anything at all to influence his decision
17 of whether or not he waived his rights and gave a statement
18 to you?
- 19 A No, sir.
- 20 Q Okay. Did he subsequently execute a written
21 statement? Did he talk with you then and execute a written
22 statement?
- 23 A Yes, sir.
- 24 Q Okay. Do you have the original of that statement?
- 25 A Yes, sir.

1 A Yes, sir.

2 Q Okay. Publish the upper part of that statement where
3 he went through the information filled in with his name and
4 information.

5 A The statement of Victor Jones, date 7/24/2009, address
6 , Columbia South Carolina, officer
7 taking the statement Commander Holloway, case number
8 090700419-T, I, Victor Anthony Jones, am 20 years old; my
9 date of birth is ; I have finished the ninth grade
10 in school and can read or write; I freely choose to write
11 this statement myself or I elect to have myself write this
12 statement; I have not been forced or coerced to write this
13 statement and declare that this statement is true to the
14 best of my knowledge.

15 Q Okay. And that's the statement that he gave you
16 chronicling his involvement in the robbery of Jerrell
17 Bookman?

18 A Yes, sir.

19 Q Okay. At that time, did he give you any details on
20 who these supposed other individuals -- How many
21 individuals did he tell you that were there?

22 A He said there was himself and two other individuals
23 that were from Columbia. He called them Carlos, Little Tim
24 and Carlos from the St. Andrews area in Columbia.

25 Q Did you inquire of him any information or identifying

1 A He pretty much said that, after they made their lick,
2 they went back to Columbia and divided the money up and
3 Amber received two hundred dollars from the robbery is what
4 he told me.

5 Q Did he confirm that they were there? Did he talk
6 about the arrangement between them and getting the rims and
7 that's what they lured the victim there for?

8 A Yes, sir.

9 Q Okay. And did he confirm that?

10 A Yes, sir.

11 Q Can you think of anything else he told you after being
12 advised of his rights?

13 A No, sir. Just pretty much what's on the statement is
14 what he told me.

15 Q Okay. Again, did you threaten him, coerce him,
16 promise him anything in order to get him to give the
17 statement?

18 A No, sir.

19 Q Who initiated the contact and began -- Who let you
20 know that he wanted to speak with you?

21 A The jail contacted me.

22 Q Okay. And, when you arrived there, did he confirm
23 that---

24 A Yes, sir.

25 Q ---he wished to make contact with you?

1 A Based on the description that I was given by the
2 victim, Jerrell Bookman, I contacted Officer Long. I gave
3 him the description that was given to me, and he provided
4 me with the name Victor Jones.

5 Q So that didn't come from Ms. Amber?

6 A No, sir.

7 Q Okay. And you took Mr. Jones from the jail to the
8 Saluda Police Department?

9 A Yes, sir.

10 Q Is the Saluda Police Department equipped with
11 videotaping or audiotaping equipment?

12 A No, sir, we don't have any. We have recorders, but we
13 didn't use any.

14 Q Do you have a room that you typically use for
15 interrogations or questioning?

16 A Either we go in the conference room, squad room or
17 office.

18 Q None of those are specifically wired for sound
19 recording?

20 A No, sir.

21 Q But y'all do have, as one of your standard issue
22 items, a recorder?

23 A Yes, sir.

24 Q Was a recorder utilized in this case when you talked
25 with Mr. Jones?

1 A EMS.

2 Q Is he in Saluda County?

3 A Yes, sir.

4 Q Okay. You said that you did a follow-up with Richland
5 County on the name of Carlos. Is that correct?

6 A Yes, sir.

7 Q Is there any reason why none of that appears in any of
8 the discovery materials, your reports or anything else
9 along those lines?

10 A I don't control discovery. I give the case file to
11 the Solicitor's office, and whatever you get is what you
12 have.

13 Q Are there notes somewhere of yours about this
14 interview that includes items that aren't specifically on
15 the statement, like an incident report or supplemental
16 report that talks about other details that you claim he
17 made statements as to?

18 A You should have everything except for, if you want to
19 look at these two pieces of paper that I got handwritten
20 notes on, you're more than welcome to look at them.

21 Q Now, his statement that you took, the written
22 statement which is State's Number 2, doesn't talk about
23 these details involving going to Columbia, Amber getting
24 two hundred dollars, texting after the fact or anything
25 like that. Is that correct?

1 Q I don't want to misstate your rank. Is it patrolman
2 now?

3 A Just call me Charles.

4 MR. STITELY: No other questions, Your Honor.

5 THE COURT: Redirect?

6 MR. MAYE: Nothing else, Your Honor.

7 THE COURT: Thank you, sir. You may step down. Do
8 you have any other witnesses on *Denno*?

9 MR. MAYE: No, sir, Your Honor, we don't have anything
10 else, just the officer's testimony about the written
11 statement and waiver.

12 THE COURT: Do you have any witnesses on the *Denno*
13 hearing?

14 MR. STITELY: Your Honor, I would call Chief Long
15 actually to the stand.

16 THE COURT: Okay. Come around, please.

17 **BRETT LONG,**

18 **having been duly sworn, testified as follows:**

19 **DIRECT EXAMINATION**

20 BY MR. STITELY:

21 Q How are you, Chief Long?

22 A Good.

23 Q He said Sergeant Long. I'm sorry. Mr. Holloway said
24 Sergeant Long earlier. Would that be you back then?

25 A Yes.

1 statement; and, if you have the capability, you would use a
2 recorder if you have it there with you at the time.

3 Q Is there any reason why, if two officers were there,
4 only one of them would sign as a witness?

5 A I can't answer for someone else's actions.

6 Q Would standard procedure in your Department be, if you
7 were there to witness a statement, you would sign off as a
8 witness to the statement?

9 A Most of the times, yes.

10 Q Okay. To your knowledge as acting chief and as
11 sergeant back then, were individuals equipped with the
12 ability to record conferences?

13 A In 2009 -- I can't answer for every officer. I can
14 say for myself. I had a digital recorder at the time.

15 Q And did most of the detectives? Do you know?

16 A I was just a road sergeant. So the capabilities that
17 Mr. Holloway had at the time, he was above me in rank so I
18 can't answer.

19 Q Okay. Would it have been possible to ask say someone
20 for a recording device? So there were some within the
21 Department?

22 A Yeah, there was some within the Department; but who
23 was there I don't know because I wasn't there.

24 Q Okay. Your name was brought up as the individual who
25 made Victor Jones as a suspect. Were you given specific

1 MR. STITELY: I have no other questions for the acting
2 chief. Thank you, sir.

3 THE COURT: Any questions of the witness from the
4 State?

5 MR. MAYE: Nothing from the State. Thank you.

6 THE COURT: Thank you, sir. You may step down. Any
7 other witnesses on *Jackson v. Denno* from the defense?

8 MR. STITELY: Not from the defense, Your Honor.

9 THE COURT: Any argument or position?

10 MR. STITELY: Yes, sir.

11 THE COURT: Go ahead.

12 MR. STITELY: Your Honor, I actually don't have a
13 specific objection to the written item, Exhibit Number 2.
14 I would object to the use of any alleged statements outside
15 that document. It's pretty clear what's detailed in there.
16 I can make it part of the court record by specifically
17 saying nowhere in the incident reports, supplemental
18 incident reports, is there ever any mention of any alleged
19 oral statements outside the scope of what is in this
20 written statement. There's been no other testimony to show
21 that anything other than this written statement was what
22 they have. It's never showed up before today. There's not
23 been any talk about these other extraneous statements. I
24 would argue that the only thing we can get into at this
25 point is the specific written statement that's Court's

1 in this statement; none of it was contained in any of the
2 incident reports, supplemental reports, the notes that I
3 received on the file. All that I had is this document. So
4 I would object to anything they're alleging he now said
5 outside the four corners of this document as being his
6 statement in this case.

7 THE COURT: Solicitor?

8 MR. MAYE: Your Honor, I have page 11 of the discovery
9 materials that were provided to them on July 24th, 2009.
10 Commander Holloway, along with Officer Horne and V.A.
11 Romero, interviewed suspect Jones and provided the
12 arresting officers with details of the robbery; he
13 implicated others involved with the robbery; he also
14 advised that Amber Salaam contacted him, Little Tim and
15 Carlos to rob Bookman, warrants will be obtained for their
16 arrest. Your Honor, they were placed on notice here that
17 he gave them details involving the robbery. He gave a
18 written statement in this case, Your Honor, but he also
19 gave other information which we submit to you, Your Honor,
20 they were advised that he gave details of the robbery.
21 That's all Officer Holloway testified to were the details
22 surrounding the robbery in this case. I don't think that
23 we've got to write verbatim every single word that he said,
24 but we did apprise them that he gave them details
25 surrounding the robbery and we did provide them with a

1 MR. MAYE: I don't have the entire discovery response,
2 but I do have the page that I made.

3 THE COURT: Well, I'm only interested in this portion
4 as far as I know.

5 MR. STITELY: You want the statement?

6 THE COURT: I want to know what he claims --

7 MR. STITELY: May I approach?

8 THE COURT: -- what the Solicitor claims was
9 responsive under Rule 5.

10 MR. STITELY: I'm looking at what he had. That's the
11 paragraph that he referred to.

12 (Pause.)

13 THE COURT: All right. We need to make a copy of this
14 and put it in the record. Put it as a court's exhibit.
15 Rule 5 provides, under subsection A-1-a, that, upon
16 request, the State has to provide defense with the
17 substance of any oral statement which the prosecution
18 intends to offer in evidence at the trial made by the
19 defendant whether before or after arrest in response to
20 interrogation by any person then known to the defendant to
21 be a prosecution agent. The written statement is dated
22 July 24th, 2009; the oral statement that has been testified
23 about is the same date. The response that I've been handed
24 is a supplemental incident report narrative. It reads on
25 November -- I'm sorry -- on July 24th, 2009, Commander

1 could have one; he could have an attorney present with him
2 at all times; if he did not have the money to hire an
3 attorney, then one will be appointed for him; that he had
4 the right to have the attorney present specifically during
5 the interviews and interrogations; that he had the right to
6 consult with his attorney prior to any interrogations and
7 during any interrogation; that he had the right to stop
8 answering questions at any time, stop the interrogation at
9 any time; he had the right to ask for an attorney at any
10 time. The State has proven that the defendant knowingly
11 and intelligently waived his rights under the Fifth and
12 Sixth Amendments and the *Miranda* safeguards and that the
13 alleged incriminating statement or confession was obtained
14 from the defendant freely and voluntarily without duress,
15 without coercion, without undue influence, without reward
16 or promise or hope of reward or leniency, without the
17 threat of any injury or compulsion or inducement of any
18 kind that would be improper, and that the statement was the
19 voluntary product of the free and unconstrained will of the
20 defendant. The written statement is admissible in
21 evidence. The jury will be instructed that they have to
22 make the findings necessary beyond a reasonable doubt. The
23 motion, as previously stated, related to the matters which
24 are not contained in the written statement is granted.
25 That does not mean that the State is not allowed to testify

1 him at gun point, an individual that was armed with a gun
2 that came there actually to rob him on that date in Saluda
3 that he reported?

4 A Yes, sir, he did.

5 Q What description? Give the details of the description
6 that he gave to you.

7 A He described the suspect as being a light-skinned
8 black male. He advised that he had a white tank top on, a
9 red hat and some tattoos around his chest and collarbone
10 area.

11 Q Okay. Did he give the description of the vehicle that
12 he was driving?

13 A Yes, he advised that he was driving a four-door faded
14 gold in color vehicle with no hub caps.

15 Q Okay. Based on that information, did you then talk
16 with then Sergeant Long in regard to any possible suspect
17 that might potentially fit that description?

18 A Yes, sir, I did.

19 Q Okay. What information did he give you in that regard
20 as a suspect, a potential suspect?

21 A He advised me that Victor Jones -- Sergeant Long
22 advised me that Victor Jones drove a gold in color car with
23 no hub caps on it. He also told me that he normally wears
24 the white tank tops, the wifebeaters, and a red ball cap.

25 Q Okay. Let me ask you this. Did you then subsequently

1 way that that was generated, or is that what they generated
2 and sent back to you?

3 A Yes, sir.

4 THE COURT: Wait a minute. That was a multiple-part
5 question.

6 Q Did you direct --

7 THE COURT: You asked him if he did anything improper,
8 and he answered it.

9 MR. MAYE: I'm sorry, Your Honor.

10 THE COURT: He said, yes, sir. I don't know what he
11 meant.

12 MR. MAYE: Excuse me.

13 BY MR. MAYE:

14 Q Did you direct how they prepared the lineup?

15 A No, sir.

16 Q Okay. Did you ask them to put them in any particular
17 order or do anything in particular in generating that
18 lineup at all?

19 A No, sir.

20 Q On June 14th of 2009, did you bring the victim in this
21 case, Mr. Bookman, back in to talk with him?

22 A I talked to him, but I actually went to his residence
23 in Newberry.

24 Q You went to his residence in Newberry?

25 A Yes, sir.

1 Q Okay. Did you do anything to indicate to him that any
2 particular person's picture was contained in the lineup?
3 Did you give him any information at all as to any of the
4 individuals that were contained in the lineup?

5 A No, sir.

6 Q Did you tell him in any regard that someone that was a
7 suspect was in that lineup?

8 A Yes. Say that again now?

9 Q Did you inform him that anyone that was even a suspect
10 was in that lineup?

11 A No, no, sir.

12 Q Did you give him any information?

13 A No, sir.

14 Q Okay. You just simply handed him the photo array and
15 he identified --

16 A Yes, sir.

17 Q -- number three, Victor Jones?

18 A Yes, sir.

19 Q Did he have any hesitation in picking him out?

20 A No, sir. It was immediately.

21 Q Okay. Investigator Holloway, let me ask you this.

22 Did you also have an occasion to show a photographic lineup
23 to an individual that was charged in this case, Amber
24 Salaam, a photo lineup?

25 A Yes, sir.

1 A Not in July she didn't. She just said that, hey, I
2 don't recognize anyone. And that was pretty much it.

3 Q Okay. And she did not indicate that she was in any
4 way involved in this and didn't give you any information?

5 A Right.

6 Q After Victor Jones implicated Amber Salaam,
7 afterwards, did you obtain arrest warrants for Amber Salaam
8 as being a principal, an individual that was involved in
9 this armed robbery afterwards?

10 A Yes, sir, I did.

11 Q Okay. What were the circumstances? Did you go back
12 to her after she was placed into custody and did you speak
13 with her?

14 A Yes. I had to go to the Orangeburg County Detention
15 Center to pick her up.

16 Q Okay.

17 A We got back to the jail in Saluda, and she told me
18 that she wanted to come clean about the incident.

19 Q She advised you that she wanted to come clean?

20 A Yes, sir.

21 Q Okay. What did you do in regard -- Did you again show
22 her a photographic array or did you show her the
23 photographic array that's marked as State's 4 in this case?

24 A Yes, sir.

25 Q Who did she identify at that time?

1 her? Did you tell her anything at all about that?

2 A No, sir.

3 Q Okay. She just told you that she wanted to come
4 clean --

5 A Yes, sir.

6 Q -- and gave you and related to you details involving
7 the robbery?

8 A Yes, sir.

9 Q Who did she indicate was involved in the robbery and
10 what details did she give you?

11 A Victor Jones. She referred to him as T.J. Tony Jones
12 is what she knew him by.

13 Q Okay.

14 A She knew that he was involved in it and she didn't
15 know -- She advised she didn't know the other two gentlemen
16 but she knew that Victor Jones was one of them.

17 Q What information did she give you at that time?

18 A She provided another statement.

19 Q Okay. Did she then detail her involvement and Victor
20 Jones's involvement at that point in time?

21 A Yes, sir.

22 Q Okay. But, again, when she did the subsequent
23 identification, did you do anything to emphasize one
24 photograph over another or do anything in order to
25 influence anything about her pick?

1 to how this lineup was generated?

2 A No, sir.

3 Q Okay. Do you know if that's going to be offered with
4 this today?

5 A Excuse me now?

6 Q Do you know if any of that is going to be offered with
7 this today?

8 A No, sir. You'll have to speak with the Solicitor
9 about that.

10 Q All right. When you said that you talked to
11 Mr. Bookman, you said that was on 7/14 of 12. Correct?

12 A Correct.

13 Q And that's when you say you received this back from
14 SLED. Correct?

15 A Correct.

16 Q Now -- And I want to ask you because I think phrasing
17 is very specifically important here. What exactly did you
18 tell him when you told him you wanted to come and see him?

19 A I just told him I had a lineup and I needed him to
20 look at it.

21 Q Okay. Did you tell him it was a lineup of what?

22 A He and I had been talking back and forth, and I
23 advised him that I would get a photo lineup matching the
24 description that he gave me of the suspects.

25 Q All right. At any point, did you tell him about the

1 Ms. Salaam on 7/14?

2 A On 7/14, I went to her house. I think it was Ola
3 Street.

4 Q Okay. And then she told you definitively that she
5 didn't know anyone in that lineup. Correct?

6 A Correct.

7 Q And so it's essentially the same lineup card even
8 though it's just the black and white?

9 A Yes, sir.

10 Q Number 4, State's Number 4 versus State's Number 3,
11 it's the same thing, just not a color picture?

12 A Correct.

13 Q Okay. And she said she didn't know anybody in that
14 one?

15 A Yes, sir.

16 Q Okay. But later in August she does identify Mr. Jones
17 as being number three. Correct?

18 A Yes, sir.

19 Q What does she indicate his involvement being at that
20 point?

21 A What does she indicate?

22 Q Correct.

23 A (Witness viewing document.)

24 Q In your initial investigation -- Maybe I can clear
25 this up. In your initial investigation, she says that the

1 A All right. In the first statement, she lists three
2 dudes; the one in July she lists three dudes.

3 Q Uh-huh. On the top of page two, she says, two dudes
4 hopped out with guns.

5 A Which statement are you referring to? I'm looking at
6 the July 10th one now.

7 Q Right, and I'm looking at page two of two where she
8 says, two dudes hopped out with guns and rushed the car
9 telling us not to move.

10 A Okay. I got you.

11 Q Okay. She didn't identify my client as one of those
12 two dudes when you showed her the photo lineup. Correct?

13 A Correct.

14 Q Okay. And Mr. Bookman, you said later he said that
15 three guys got out of the car. But, in his statement, he
16 talks about two guys as well. Correct? I'll refer you
17 straight to it. It's on his statement, likewise on page
18 two, eight lines down, that two guys got out of the car.

19 A Yes, sir.

20 Q And it's your position today that on the 14th he
21 pointed out Mr. Jones as being one of those guys who got
22 out of the car and specifically came to his window?

23 A Yes, sir.

24 MR. STITELY: I have no other questions at this time,
25 Judge.

1 lineup or the photo array that he brought to you?

2 A Yes, sir.

3 Q Okay. Did Investigator Holloway do anything to
4 indicate any information about that lineup prior to showing
5 it to you or did he just hand you a photo array and ask you
6 if anyone that participated in the robbery or robbed you
7 was in that photo array?

8 A Yes, sir.

9 Q Okay. He just told you that, if there was anyone in
10 the photo array that participated in the robbery --

11 A Yeah, he just told me --

12 THE COURT: You've got to quit asking multiple-part
13 questions and getting a yes or no answer and expect me to
14 know what the witness means. Ask him a question that I can
15 understand, please. You asked him both sides of the
16 questions, and he says yes.

17 BY MR. MAYE:

18 Q Did Investigator Holloway ask you to look at that
19 lineup?

20 A Yes, sir.

21 Q Okay. Did he ask you to identify anyone that robbed
22 you if you saw them?

23 A Yes, sir.

24 Q Okay. Which individual did you identify or which
25 number on there did you identify as being the individual

- 1 Q Did you give him any information involving what kind
2 of vehicle he was in or got out of?
- 3 A Yes, sir.
- 4 Q What was that? What did you tell him?
- 5 A It was a gold faded car with no hub caps.
- 6 Q Gold faded car with no hub caps?
- 7 A Yes, sir.
- 8 Q Okay. When you picked out number three out of the
9 lineup in there, were you absolutely certain that that was
10 the individual that robbed you?
- 11 A Yes, sir.
- 12 Q How many days after the robbery did you do that lineup
13 identification? How many days afterwards was it?
- 14 A Five.
- 15 Q About five days?
- 16 A It was about five.
- 17 Q Okay. You're absolutely certain the person that is
18 number three in that photograph is the individual that
19 robbed you?
- 20 A Yes, sir.
- 21 Q Okay. Did Investigator Holloway do anything to
22 influence the pick, of who you picked out in the lineup?
- 23 A No, sir.
- 24 Q Okay. Did you pick that out based on your
25 observations of the person that robbed you at the scene of

1 A Yeah, right there.

2 Q You looked up at him I'm taking it?

3 A Yes, sir.

4 Q Okay. You said he had neck tattoos?

5 A Yeah, like right there (indicating).

6 Q Okay.

7 THE COURT: Speak up. What was your answer? She's
8 taking down everything we say, so you've got to speak up.

9 A Oh, yes, sir.

10 THE COURT: You didn't say yes a minute ago.

11 MR. STITELY: I'll re-ask the question.

12 THE COURT: Ask the question again.

13 BY MR. STITELY:

14 Q And you said specifically he had neck tattoos.

15 Correct?

16 A Yes, sir.

17 Q Okay. And you got a pretty good look?

18 A Not exactly.

19 Q Okay. There wasn't anything specific about the tattoo
20 on his neck that would have jumped out to you that you
21 could have used to describe him?

22 A No, sir.

23 Q Okay. How about the gun? Could you describe it?

24 A It was all chrome.

25 Q Did you describe it to the officer?

1 A No, sir.

2 Q Did you talk to anyone else about the individuals
3 involved?

4 A No, sir.

5 Q Could you describe the other two gentlemen at all?

6 A Not exactly, no, sir.

7 Q Who did you talk to at the Burger King? Was it the
8 individual you marked as number three or was it someone
9 else?

10 A I didn't talk to them.

11 Q Okay. Do you remember giving a written statement on
12 July 10th?

13 A Yes, sir.

14 Q Okay. And you said two guys got out of the car at
15 that time?

16 A It was three.

17 Q Okay.

18 MR. STITELY: May I approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. STITELY:

21 Q Do you remember giving this statement? Is this your
22 handwriting?

23 A Yes, sir.

24 Q Okay. And, on the second page, you said, and two of
25 the guys got out of the car. Is that correct?

1 MR. STITELY: I actually have no other questions,
2 Judge.

3 THE COURT: Let the record reflect that he was
4 pointing to the left side of his neck. Anything else?

5 MR. MAYE: Nothing else. Thank you.

6 THE COURT: Thank you, sir. You may step down. Call
7 your next witness.

8 MR. MAYE: The State calls Amber Salaam.

9 **AMBER SALAAM,**

10 **having been duly sworn, testified as follows:**

11 THE COURT: What's your name?

12 MS. SALAAM: Amber.

13 THE COURT: Your last name?

14 MS. SALAAM: Salaam.

15 THE COURT: Spell your last name.

16 MS. SALAAM: S-A-L-A-A-M.

17 THE COURT: Thank you.

18 **DIRECT EXAMINATION**

19 BY MR. MAYE:

20 Q Ms. Salaam, let me ask you this. In July of 2009, did
21 Investigator Holloway talk with you about the robbery that
22 took place on June 9th of 2009 here in Saluda?

23 A Yes, sir.

24 Q Were you present in the vehicle with the victim in
25 this case, Mr. Bookman, on July -- or excuse me -- on June

1 Q You knew him as T.J.?

2 A Yes, sir.

3 Q Okay. How long had you known him?

4 A About eight, nine months.

5 Q Had you seen him on multiple occasions?

6 A Yes, sir.

7 Q Okay. Did you have discussions with him prior to June
8 9th of 2009 about him having some rims? Tell the Court or
9 testify as to what he told you about having some rims?

10 A He just told me he had some rims he had got and, if I
11 knew somebody wanted to buy some rims, to let him know and
12 he was going to look out for me, he was going to give me
13 half.

14 THE COURT: He was going to do what?

15 A He was going to give me --

16 THE COURT: Can you get closer to that microphone?

17 Say that again what you said.

18 A He said he had some rims he had got from next door and
19 he told me, if I knew somebody wanted to buy some rims, to
20 get at him and he was going to split the money with me.

21 So --

22 Q So he told you that he had some rims and that he was
23 going to give you some money if you could get them sold for
24 him. Is that correct?

25 A Correct.

1 or not you knew anybody. Right?

2 A Correct.

3 Q Okay. On the day that you were initially shown this
4 lineup, you knew T.J. or Victor Jones and had known him for
5 a long time?

6 A Correct.

7 Q But you lied to Investigator Holloway initially?

8 A Correct.

9 Q Okay. After you got charged and Investigator Holloway
10 came back to you, did you tell him that you wanted to come
11 clean on the robbery?

12 A Yes, sir.

13 Q Okay. Did Investigator Holloway subsequently show you
14 the same photographic lineup at that time?

15 A Yes, sir.

16 Q Okay. Who did you pick out?

17 A Number three.

18 Q Who is number three?

19 A T.J.

20 Q Okay. And that's someone that you knew previously.

21 Correct?

22 A Correct.

23 Q Okay. Let me ask you this. The day that the robbery
24 took place, the individual that came around with a gun and
25 stuck the gun on Mr. Bookman, did you have an opportunity

1 A Yes, sir.

2 Q Is there anything about him showing you that lineup
3 the first time when you lied, is there anything about you
4 seeing it then that made any difference about you picking
5 him out the second time?

6 A No, I just -- I just -- I just lied. I ain't want to
7 be no snitch and I ain't -- I just lied. I knew who he was
8 the whole time, but I lied.

9 Q Okay. The second time when Investigator Holloway
10 showed you this lineup, did he do anything to suggest one
11 photo over another?

12 A No, sir.

13 Q Okay. Did he just ask you to pick out the person that
14 had committed the crime that day if you saw anybody?

15 A No. He was just like, I'm going to show you this
16 again, can you point whoever out. And I was like, yes,
17 sir.

18 MR. MAYE: Answer any questions the defense has for
19 you.

20 THE COURT: Cross?

21 MR. STITELY: Yes, sir, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. STITELY:

24 Q Ms. Solomon --

25 A Salaam, sir.

1 of any of these things if she has charges in there, but I'm
2 going to preserve my objection to that until the
3 appropriate time.

4 THE COURT: Well, there's nothing for me to rule on.
5 I'll rule at the appropriate time if I need to, if y'all
6 need to address this issue in camera. But, if the
7 defense's position is that this is something other than
8 what it's being purported to be, if she admits she's a drug
9 dealer, he can ask her that. Go ahead.

10 BY MR. STITELY:

11 Q How did you know T.J.?

12 A I met him through my cousin.

13 Q Drug dealers. Correct?

14 A I don't know nothing about him being no drug dealer,
15 but I met him through my cousin.

16 Q Did you know about drugs in that relationship?

17 A Me and Tony ain't never talked about no drugs.

18 Q You never had any drug dealings with T.J., the
19 defendant?

20 A No, sir.

21 Q Did you have an intimate relationship?

22 A No, sir.

23 Q No intimate relationship?

24 A No, sir.

25 Q Okay. How did you know Mr. Bookman?