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Appendix A

IN THE SUPREME COURT OF MISSOURI

May Session, 2017

[FILED AUG 22 2017]

State ex rel. Bobby Bostic,

Relator,

No. SC93110 HABEAS CORPUS
Texas County Circuit Court No. 12TE-CC00188
Southern District Court of Appeals No. SD32302

Ronda Pash,

Respondent.

Now at this day, on consideration of the petition for a writ of habeas corpus herein to the said respondent, it is ordered by the Court here that the said petition be, and the same is hereby denied.

STATE OF MISSOURI-Sct.

I, BETSY AUBUCHON, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the May Session thereof, 2017, and on the 22nd day of August, 2017, in the above-entitled cause.

WITNESS my hand and the Seal of the Supreme Court of Missouri, at my office in the City of Jefferson, this 22nd day of August, 2017.

/s/ Betsy AuBuchon, Clerk

/s/ Lori S. Knaebel, Deputy Clerk

[SEAL]

Appendix C

**IN THE CIRCUIT COURT OF TEXAS COUNTY
STATE OF MISSOURI**

[FILED JUL 03 2012]

BOBBY BOSTIC,)	
)	
Petitioner,)	
)	
v.)	
)	
MICHAEL BOWERSOX,)	
)	
Respondent.)	
)	
12TE-CC00188)	

**DECISION, JUDGMENT, AND ORDER
DENYING PETITION FOR THE WRIT OF
HABEAS CORPUS**

Bobby Bostic is confined the South Central Correction Center in Licking, Texas County, Missouri. Michael Bowersox, is the warden of that facility. The Circuit Court of St. Louis City sentenced Bostic to consecutive sentences totaling 241 years for seventeen felonies and one misdemeanor.

Bostic alleges that the general sentencing statute, §557.036 RSMo, is unconstitutional as applied to juveniles because it denies the jury an opportunity to consider mitigating evidence when deciding on a sentence (Petition at 1). The petition also

alleges that the sentencing court violated the Eighth and Fourteenth Amendments to the United States Constitution and Article I Section 21 of the Missouri Constitution by using unspecified “false information” (Petition at 1). Bostic states that this Court may review the case because “Relator has filed no petition, application or certiorari in any higher court previously to this petition relating to the issues herein.” (Petition at 2).

In the “Grounds For the Writ” section of his petition Bostic argues that in light of *Graham v. Florida*, 130 S.Ct. 2011 (2010), overturning a life without parole sentence for a Florida juvenile offender, “a national consensus has developed against petitioner’s sentence his sentence is now cruel and unusual punishment and in violation of the Eighth Amendment to the United States Constitution and Relator must be given a new sentencing hearing.” (Petition at 3). Bostic argues that in light of *Graham v. Florida* he had a right to present mitigating evidence (presumably his age) to a jury as opposed to having judicial sentencing under §557.036 RSMo (Petition at 3). Bostic also argues that the sentencing judge used false information to sentence petitioner, and that he is entitled to a reconsideration of the question of punishment in light of the true facts (Petition at 4). Bostic does not favor this Court with the specific “false information” allegedly relied on by the sentencing court.

Missouri Supreme Court Rule 91.02 requires that a petition for habeas corpus be made in the circuit court of the county of confinement. But Missouri Supreme Court Rule 91.22 bars a lower court from granting a writ of habeas corpus if a petition has been

denied by a higher court unless the order in the higher court denying the writ is without prejudice to proceeding in a lower court. *See Hicks v. State*, 719 S.W.2d 86, 88 (Mo. App. S.D. 1986) (order by Missouri Supreme Court denying habeas petition bars review by lower court unless the order states that the denial is without prejudice to proceeding in a lower court), *State v. Thompson*, 723 S.W.2d 76, 90 (Mo. App. S.D. 1987).

Bostic now raises two claims:

- 1) Section 557.036 RSMo is unconstitutional under *Graham v. Florida*, 130 S.Ct. 2011 (2010) because the statute allowed a Missouri court to judicially sentence Bostic to what amounts to life without parole for a non-homicide offense;
- 2) The sentencing judge relied on unspecified “false information” in sentencing Bostic.

Ground 1: Bostic’s first ground alleges that the sentencing statute is unconstitutional because it permitted a sentence that violates the Eighth Amendment ban on cruel and unusual punishment in light of the decision in *Graham v. Florida*. In *State ex. rel. Bostic v. Bowersox*, SC91910 the Missouri Supreme Court rejected Bostic’s argument that his sentence violates the Eighth Amendment ban on cruel and unusual punishment in light of *Graham v. Florida* (Resp. Exh. 1). Bostic is again making essentially the same claim already rejected by the Missouri Supreme Court. He has merely tweaked the wording to allege that the sentencing statute as opposed to the sentence itself violates the Eighth Amendment in light of *Graham*.

Bostic’s current claim is barred by Missouri

Supreme Court Rule 91.22, which bars a lower court from granting a writ of habeas corpus if a petition has been denied by a higher court. *See Hicks v. State*, 719 S.W.2d (Mo. App. S.D. 1986); *State v. Thompson*, 723 S.W.2d 76, 86, 88, 90 (Mo. App. S.D. 1987). Bostic is in reality raising the same claim that has already been rejected by the Missouri Supreme Court and attempting to convince this Court to overrule the Missouri Supreme Court's rejection of his claim. He cannot do that under Missouri Law.

Ground 2: Bostic alleges his sentence is improper because it is based on unspecified "false information." In his direct appeal Bostic alleged that his sentence was the result of bias and a lack of impartiality (Resp. Exh. 5 18-23). The Missouri Court of Appeals rejected the claim.

In his federal habeas corpus petition, in *Bostic v. Kemna*, 4:00CV1069 FRB (Resp. Exh. 4), Bostic made the same bias argument, and added a claim that the sentencing court was punishing Bostic for going to trial (Resp. Exh. 4 15-22). The United States, District Court for the Eastern District of Missouri agreed with the Missouri Court of Appeals that the claim of bias by the sentencing court is without merit and found that the claim that the sentencing court punished Bostic for going to trial is procedurally barred because Bostic did not present that theory to the Missouri Court of Appeals on direct appeal (Resp. Exh. 4 at 15-22).

In *Bostic v. Bowersox*, 12 TE-CC00021, Bostic argued to this Court that his long sentence was punishment for taking his case to trial and that he was not properly certified for trial as an adult (Resp. Exh. 2). This Court denied Bostic's petition on May

25, 2012, finding the claims to be procedurally barred and without legal merit. Now Bostic has changed his claim that his sentence was based on bias, or was punishment for going to trial, to a claim that the sentence was based on unspecified “false information.”

Insofar as Bostic is raising the same theory that he already presented in his direct appeal, this Court is bound by the decision of the Missouri Court of Appeals. Insofar as the claim that the sentencing decision was based on “false information” is different from the already rejected claim that the sentence was based on bias, the claim is procedurally barred. Bostic was bound to present the claim on direct appeal.

The petition for the writ of habeas corpus is denied. Bostic should not be allowed to make unending challenges to his conviction and sentence by litigating claims through the state and federal courts systems then tweaking his claims slightly and starting over again. “Out of concern over ‘duplicative and unending challenges to the finality of a judgment’ a person cannot utilize a writ of habeas corpus to raise - procedurally barred claims - those could have been raised, but were not raised on direct appeal or in a post-conviction proceeding.” *Clay v. Dormire*, 37 S.W.3d 214, 217 (Mo. banc 2000).

7-3-12

/s/ Mary W. Sheffield

Date

The Honorable Mary W.
Sheffield

Appendix D
IN THE SUPREME COURT OF MISSOURI
May Session 2011

[FILED AUG 30 2011]

State ex rel. Bobby Bostic,

Relator,

No. SC91910 **HABEAS CORPUS**
Texas County Circuit Court No. 11TE-CC00177
Southern District Court of Appeals No. SD31467

Michael Bowersox,

Respondent.

Now on this day, on consideration of the petition for writ of habeas corpus herein to the said respondent, it is ordered by the Court here that the said petition be, and the same is hereby denied.

STATE OF MISSOURI-Sct.

I, Bill L. Thompson, Interim Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full and complete transcript of the judgment of said Supreme Court, entered of record at the May Session thereof, 2011, and on the 30th day of August, 2011, in the above-entitled cause.

WITNESS my hand and the Seal of the Supreme Court of Missouri, at my office in the City of Jefferson this 30th day of August, 2011.

/s/ Bill L. Thompson Interim Clerk

/s/ Kathy K. Fletchall Deputy Clerk

Appendix F

**In the CIRCUIT Court
Texas
COUNTY OF TEXAS**

[FILED JUN-7 2011]

Bobby Bostic

vs.

Michael Bowersox

NO. 11TE-CC00177

MEMORANDUM

Court reviews in chambers entire file, incl.
State's Response to Petition & Petitioner's Reply to
Response & determines that Habeas Corpus is not a
proper remedy for π complaint.

Cause is dismissed w/o prejudice.

ATTORNEY FOR PLAINTIF –
ATTORNEY FOR DEFENDANT – [SEAL]
SO ORDERED –

JUDGE /s/ *Tracy L. Storie*

Appendix G

BOARD OF PROBATION AND PAROLE

Time 13:42:44

Date 5/26/11

DOC ID: 526795 **Cycle:** 19970303

DOC Name: BOSTIC, BOBBY

Institution/Housing Unit SCCC/006

Minimum Mandatory Release Date 01/05/2091

RELATING TO RELEASE CONSIDERATIONS

- 1. You have been scheduled for a parole hearing 01/00/2089.
- 2. At your request, your case has been closed to further parole consideration.
- 3. You have been given parole consideration in a parole hearing.
- 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan.

The release decision is:

Guideline Below Guideline Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ___ 5. Your previously set release date has been cancelled.
- ___ 6. Your conditional release date has been extended to .
- ___ 7. The Board has reviewed your appeal. It is the decision of the board to your appeal.
- ___ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

****THIS DECISION IS NOT SUBJECT TO APPEAL.**

MPT REVIEW.

Hearing rescheduled.

If you have any questions regarding this decision, please contact your Institutional Parole Officer.

JEH /s/ *JEH*/ BAL (Date Created: 05/26/11)

State of Missouri v. Michael Bowersox
11TE-CC0177

Appendix H

IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT

Appeal No. ED72164

[Filed JUN 23 1997]

STATE OF MISSOURI,)
)
 Respondent,)
)
 vs.)
)
 BOBBY LEE BOSTIC,)
)
 Appellant.)

IN THE CIRCUIT COURT OF THE CITY OF ST.
LOUIS, STATE OF MISSOURI
Honorable Evelyn M. Baker

Cause No. 951-4205A

STATE OF MISSOURI,)
)
 Plaintiff,)
)
 vs.)
)
 BOBBY LEE BOSTIC,)
)
 Defendant.)

TRANSCRIPT ON APPEAL
VOLUME I

MR. JEFFREY HILLIARD

Assistant Circuit Attorney
1320 Market Street
St. Louis, MO 63103
on behalf of the State of Missouri;

MR. RICHARD MORAN

Assistant Public Defender
1320 Market Street
St. Louis, MO 63103
on behalf of the Defendant

ALICE M. BAKER
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT

[Transcript Vol. I, pages 11-13]

THE COURT: Members of the panel, this is Cause No. 951-4205A, State of Missouri versus Bobby Bostic. Today's trial for which you have been called for jury service is a criminal case. The State of Missouri has charged the defendant in this matter, Bobby Bostic, while acting with another, on or about the 12th day of December, 1995, at approximately 5:30 p.m., in the area of 4017 McRee, in the City of St. Louis, State of Missouri, committed under County I of the offense of robbery in the first degree, which the victim was a Chris Pezzimenti, and the offense of armed criminal action in conjunction with the offense of robbery in the first degree.

In Count III he is charged with the offense of assault in the first degree. And in conjunction with the offense of assault in the first degree he is charged under Count IV with the offense of armed criminal action.

Under Count V, the defendant, while acting with **[page 12]** another, is charged with the offense of robbery in the first degree, said victim being Leo Matthew. Count VI, the offense of armed criminal action in connection with the offense of robbery in the first degree.

Count VII he is charged with the offense of assault in the first degree, again the victim is Leo Matthew. Count VIII he is charged with the offense of armed criminal action in connection with the offense of assault in the first degree.

Count IX, defendant is charged with the offense of attempted robbery in the first degree, the victim

being Kim Brown. I'm sorry. That's Count XI. Count XII he is charged with the offense of armed criminal action in connection with the offense of assault in the first degree.

Count XIII the defendant is charged with the offense of attempted robbery in the first degree, the victim being a Leslie Harding. And Count XIV he is charged with the offense of armed criminal action in connection with the offense of attempted robbery in the first degree. With all of these matters he is charged **[page 13]** with acting with another.

The State further alleges again on December the 12th, 1995, at approximately 6:17 p.m., in the area of 2221 Thurman, in the City of St. Louis, State of Missouri, the defendant, while acting with another, committed the offense under XV of robbery in the first degree, the victim being Regina Davis. Count XVI is the offense of armed criminal action in connection with the offense of robbery in the first degree. Count XVII he is charged with the offense of kidnapping while acting with another, the victim being Regina Davis. And in County XVIII he is charged with the offense of possession of marijuana under 35 grams, a misdemeanor.

Appendix I

IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT

[Filed JUN 23 1997]

Appeal No. ED75939 [originally filed in ED72164]

STATE OF MISSOURI,)
)
 Respondent,)
)
 vs.)
)
 BOBBY LEE BOSTIC,)
)
 Appellant.)

IN THE CIRCUIT COURT OF THE CITY OF ST.
LOUIS, STATE OF MISSOURI
Honorable Evelyn M. Baker

Cause No. 951-4205A

STATE OF MISSOURI,)
)
 Plaintiff,)
)
 vs.)
)
 BOBBY LEE BOSTIC,)
)
 Defendant.)

TRANSCRIPT ON APPEAL
VOLUME II

MR. JEFFREY HILLIARD

Assistant Circuit Attorney
1320 Market Street
St. Louis, MO 63103
on behalf of the State of Missouri;

MR. RICHARD MORAN

Assistant Public Defender
1320 Market Street
St. Louis, MO 63103
on behalf of the Defendant

ALICE M. BAKER
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT

[Transcript Vol. II, pages 199-204]

Q Ma'am, would you please state your name?

A Regina Lee Davis

Q Ma'am, I want to direct your attention back to the evening of December 12, 1995, at about 6:15 that evening. Do you recall that evening?

A Yes.

Q And about 6:15, what were you doing, ma'am?

A Getting toys out of my Volvo.

* * *

Q And why is it you were at the location getting [page 200] toys out?

A I was giving some toys to some kids -- some needy kids in the building.

* * *

Q And when you first got there, what, if anything, did you do?

A When I first got there, I got out of the car to open up my trunk.

Q And what happened then?

A Two guys walked up, put guns to my head.

* * *

[page 201]

A They told me to drop everything back in the trunk and get inside the car.

Q And what did you do?

A I dropped everything, and he took the keys out

of my hand and forced me in the back seat of the car.

* * *

Q (By Mr. Hilliard) Okay. Now ma'am, you stated that the defendant was the one who took -- before you stated that one was darker and one was lighter. The defendant, is he the darker one or the lighter one that you're referring to?

A He's the darker one.

[page 202]

Q Okay. What happened next, ma'am?

A Once -- well, the darker one, he stood right there until the light skinned one got on the passenger's side. And after that he -- after they forced me in the car, that one put the gun to my head. One had the gun to my head until the other one got in the car. And then once me and him got in the car, the one on the passenger's side put the gun to my head.

Q That would be the lighter one?

A That would be the lighter one. And he drove off.

Q Which one drove off?

A The darker one.

Q The defendant?

A Yes.

Q What happened then?

A We drove around the neighborhood, and he was asking me for money.

Q Which one was asking you for money?

A The light one. How much money did I have? He told me to take my earrings off, take my coat off. He was asking me how much money I had. I gave him my purse and everything that I had, and we drove around for a while. I guess I didn't have enough. I was like "I don't have any more money, I don't have any more money." **[page 203]** He was asking me for more money. So he put his hand down in my pants to check to see if I had some money.

MR. MORAN: Objection to the narrative, your Honor.

THE COURT: I'll sustain as to the narrative.

Q (By Mr. Hilliard) Let me back up a little bit. He was asking you for money?

A. Yes.

Q At this point, is his gun still on you?

A Yes.

Q Does he ever take his gun off of you?

A No.

Q And does he look through your purse?

A Yes.

Q Does he take any money out?

A Yes.

Q At any point does he say, "Hey, stop what you're doing"?

A No.

Q The other one then at some point does what to your clothes?

A He put his hands in my pants to check and see if I had some money down in my drawers.

[page 204]

Q Is that what he said to you?

A Yes, he was checking for money.

Q Okay.

A And then he put his hand in my boots to check and see if I had any money. He touched my breasts. But then we was in an alley.

MR. MORAN: Objection, narrative.

THE COURT: Objection sustained.

Q (By Mr. Hilliard) What happened then?

A We was in an alley.

Q You stopped in an alley?

A Yes.

Q Or the defendant stops driving in an alley?

A Yes.

Q Do you stay in the car or get out of the car?

A Well, when he first stopped, we was still in the car.

Q Okay. What happened while you were still in the car but stopped.

A The passenger was checking me, and the defendant, him, he said, "Just let her go." And they was arguing back and forth should they let me go or not.

Q Then what happened?

A He finally -- well, he checked me again and the driver got him to let me go.

[Transcript Vol. II, page 210]

[Testimony of Regina Lee Davis]

A That guy over there didn't demand anything. He was just doing all the driving.

Q Right.

A But he helped force me in the car, but the peanut butter guy demanded everything.

Q Right. And the peanut butter guy put you in fear of being raped, didn't he?

A Yes.

Q But the dark skinned guy prevented that from happening?

A Yes.

Q By arguing with him and forcing him back in the car?

A Yes.

[Transcript Vol. II, pages 211-16]

LINDA GSCHAAR, having been first duly sworn by the deputy clerk, testified:

DIRECT EXAMINATION BY MR. HILLIARD:

* * *

Q Ma'am, I want to direct your attention back to **[page 212]** December 12, 1995. Do you remember that date?

A Yes, I do.

Q First I want to direct your attention to the

afternoon hours. What, if anything were you doing that afternoon, ma'am?

A That afternoon we were – my company had adopted one of the Hundred Neediest Cases and we were wrapping gifts and getting everything finalized for delivery that we were going to make that evening. That afternoon we unexpectedly had a couch donated, and I had contacted my boyfriend and asked if he could pick it up. And so what we did is we separated. Certain people did various tasks, and we were all to meet where the couch was to be picked up and then we were going to go as a group from there.

Q And did you meet at that location?

A Yes, we did.

Q How many vehicles were involved?

A There were three vehicles.

Q And whose vehicles were they?

A The officer manager, Leslie. She had a van, and she picked up the Christmas tree, so the tree was on top of the van. My car, and then the truck that Chris drove to pick up the couch.

Q And where did you go from there?

[page 213]

A From there we drove to the person's house to where we were supposed to bring the gifts.

Q Would that be in the 4000 block of McRee?

A Yes.

Q Here in the City of St. Louis?

A Yes.

Q And who was leading?

A We followed Leslie, and so the van went first, I was in the middle, and the truck was behind.

Q And upon arrival there, what, if anything -- what's the first thing that happened?

A Well, first off we passed it, and it was a one-way street, and so we ended up circling the block. And then we just -- we parked on the side of the street in that order. And I had my purse and I put it on the passenger's side because we were going to be carrying a lot of gifts. I popped the trunk from within and I locked the car and I walked around the side of the car, opened the trunk and started pulling out the cushions because I had those in the trunk.

MR. MORAN: Objection, narrative.

THE COURT: I'll sustain.

Q (By Mr. Hilliard) Okay. Then what happened?

A As I was pulling the cushions from the trunk, I was approached.

[page 214]

Q By whom? How many people approached you?

A There were two people. The man who was directly in front of me had a gun and he pointed it at my head and he asked me -- he told me to give him all of my money or he was gonna shoot me.

Q All right. Let me stop you there, Linda. You say that two people approached you?

A Yes

Q Can you describe them?

A Yeah. I was --

Q Were they both males?

A They were both males.

Q What was their race?

A They were black.

Q And were there any features about either one of them that you noticed?

A The one that was in front had gold teeth.

Q Was that the one with the gun?

A Yes.

Q What happened then?

A He -- I was shocked by what he said, and I said what, and then he came toward me closer with the gun. And as he did, I started to walk back away from him around my car.

Q Why did you do that?

[page 215]

A Because he was coming at me with the gun.

Q Were you trying to put the car between you and him?

A Yes.

MR. MORAN: Objection, leading.

THE COURT: I'm going to overrule. I'll let the answer stand.

Q (By Mr. Hilliard) What happened then?

A Well, what then happened was the person in the truck -- people started then to see what was

happening. Up until then I was in between the cars and no one really knew. And the headlights went off and Chris jumped out of the truck and he started yelling at them to get away from me.

Q Now Chris was your boyfriend?

A Yes.

Q Then what happened?

A They left me alone and they went after him.

Q And what happened then?

A He started as if he was going to grab them and he turned the gun on him, and at that point they started to walk him -- back him up away. And I remember just looking around and I heard something and they had hit him, and then he started coming -- and then so I went **[page 216]** toward him to see what was going on and to help him.

[Transcript Vol. II, pages 226-29]

[Testimony of Christopher Pezzimenti]

Q And did you have occasion to go to the 4000 block of McRee with the other vehicles?

A Yes.

Q Now upon your arrival there, what's the first thing that you observed?

A Well, we all three pulled up in a line in front of the house and --

Q What were you doing as you pulled up?

A I was on my phone.

Q And what's the next thing that happened?

A Matt had gotten out of the truck as I was getting ready to end my conversation, and as I got out of the door I saw one of the gentleman chasing Linda around her car.

Q And when you saw this, what, if anything, did you do?

A I went after him.

Q Why was that?

A I didn't want to see her get hurt.

Q Linda was your girlfriend?

A Yes.

Q And what's the next thing that happened?

[page 227]

A He turned on me with the gun.

* * *

Q (By Mr. Hilliard) When the defendant turned on you with the gun, what's the next thing that happened?

A Him and his partner wanted my money.

Q What did you do?

A At first I told him I didn't have any.

Q What happened then?

A The other one hit me in the face and said, "We're not kidding," and then he shot the ground next to me.

Q When this occurred, what did you do?

A Linda had told me to surrender my money, and that's when I did.

Q Do you recall how much it was?

[page 228]

A Five hundred and change maybe. A little over.

Q What happened then?

A He shot me in the side.

Q After you gave the money up?

A Uh-huh.

Q And then what happened?

A They had split up, and I believe it was he went after the leather coat on Kim.

Q Okay. Now are you watching this?

A Pretty much so.

Q Okay. I just want you to testify to what you saw.

A Right.

Q What's the next thing you saw?

A I remember looking over and seeing the -- what's his name -- Donald on my truck with the gun pointing at Matt. Matt was standing at the bed of my truck.

Q So that would be the other person, not the defendant?

A Right.

Q And then what happened?

A He told him to give him his wallet, and Matt said, "You can have it" and threw it at him.

Q And you're seeing this?

[page 229]

A Yes.

Q And then what happened?

A Then he shot at him.

* * *

Q And you stated you were shot in the side?

A Yes.

* * *

Q And did you have to go to the hospital?

A The day after.

Q And was it a serious injury or --

A No. They gave me a tetanus shot.

Q Did it break the skin?

A Just a little, not much.

[Transcript Vol. II, pages 237-43]

[Testimony of Kim Latice Brown Chisum]

THE WITNESS: That afternoon we were getting presents and things together for the family.

Q (By Mr. Hilliard) And did you ride along with someone.

A Yes, I did.

Q And who was that?

A I rode along with Leslie Harding.

* * *

Q And directing your attention at about 5:30 or so that evening, did you all arrive there on McRee?

A Yes, we did.

[page 238]

Q Was that in the City of St. Louis?

A Yes, it is.

Q And when you first arrived there, what, if anything, did you do, ma'am?

A When we first arrived -- well, we actually drove past the house at first, and we had to come back to it. But we all parked behind each other. The social worker that was there, Leslie greeted her.

* * *

Q What happened next?

A Then Leslie got out of the car and she spotted the social worker and she went to shake the social worker's hand.

Q And what did you do?

A I got out the passenger's side of the van.

Q And what happened next?

A Then Linda got out of her car. And I had explained to Linda before we got to McRee to also put her purse underneath her seat.

[page 239]

Q And what's the next thing that you saw/

A I saw two gentlemen walk down the street, and I don't know if they walked around the block or if they just turned around, came back down the street. But they came and they approached Linda.

* * *

Q And when you saw them come back, ma'am, the defendant and this other person, what's the next thing you saw?

A I saw them ask Linda for her belongings and then he pulled a gun and pointed it at her head.

Q Now when this happened, the social worker you all met there, what did she do?

A She was gone. She was gone.

[page 240]

Q And what happened next?

A Linda stated that she didn't have anything and began to back away from the guy with the gun.

Q And where were you located when this was going on?

A I was standing in the street between the back of the van and the front of Linda's car.

Q And what did you see next?

A I saw -- as she was backing up, she was keeping herself in between she and him, and Chris came over.

Q Then what happened?

A Chris wanted to find out what was going on, and he approached the guy.

Q And what did you see next?

A I saw them get into a little confrontation, and the guy punched Chris and then asked Chris for his belongings.

Q Then what happened?

A He pulled a gun, shot it at the ground once, and then shot -- pointed at Chris and pulled the trigger and shot Chris.

Q What's the next thing that happened?

A He approached -- one of the guys, I'm not sure which, approached Leslie, asked Leslie for her belongings. She stated that she didn't have anything and [page 241] walk past me.

Q Then what happened?

A At that time I asked Leslie to grab her car phone and to call the police.

* * *

Q And did she make the call?

A Yeah. We made the call, the phone was still ringing, but we weren't able to talk to them.

Q What happened next?

A Then -- I mean it was like it all happened so fast. After that we started to finish unloading the van, you know. of the --

Q Was that after they left?

A Yes, after they had left.

Q Okay. Let me backtrack a little bit. Did either one of them approach you?

[page 242]

A Yes.

* * *

Q And what did he do?

A He just walked up to me and suggested that I

give him my coat, and I told him no.

Q Okay. Did he touch you in any manner?

A He grabbed my coat. He grabbed me around the collar of my coat and asked me for my coat.

Q So he suggested it by grabbing your coat and giving him your coat?

A Yeah.

Q What did you do?

A I looked at him.

Q How tall are you?

A I'm six one.

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Q And did you look down at him?

A Yes.

Q And what did he do?

A He kind of looked up and backed away.

Q Other than grabbing your coat, was he able to get anything from you?

A No.

[Transcript Vol. II, pages 247-48]

[Testimony of Matthew Leo]

Q (By Mr. Hilliard) Okay. Now was it the defendant or his buddy that pulled the gun on you?

A It was his buddy who actually pulled the gun on me.

Q And what did he ask?

A Give me your wallet.

Q And what did you do?

A I gave him my wallet.

Q And then what happened?

A They made some comments, shot their gun at me, and then they turned around and left.

* * *

[page 248]

Q Were you injured?

A No, sir.

[Transcript Vol. II, pages 284-85]

[Testimony of Detective Rubin Haman]

A [Bostic] said he observed a group of persons on McRee and then Donald Hutson and him approached this group. He told me that Donald Hutson was armed with a revolver and that he had a pistol. He said that they robbed this particular group and then during this robbery Donald Hutson shot two white guys.

* * *

Q What else did he say?

A He said after they left this particular robbery, they seen a black lady getting into her vehicle and then made her drive them around in the vehicle. They stopped the car, Donald Hutson made her leave the vehicle, at which time Donald Hutson put his hands in her bra and down her pants looking for money.

After that, they forced this vehicle -- or they forced the victim out of her vehicle and then left with the victim's vehicle. He said they drove on the east

side and used the money to buy marijuana, drove back to St. Louis and was driving around when the police chased them. And during this chase they were caught.

Q Did he indicate that they had done anything with the guns?

[page 285]

A They said as they were going across the bridge that they tossed the guns in the river.

[Transcript Vol. II, page 334]

SENTENCING

THE COURT: The Court has before it Cause No. 951-4605A, State of Missouri versus Bobby Lee Bostic. On January the 24th of 1997, a jury found Mr. Bostic guilty on a total of 18 counts. Those offenses being robbery in the first degree, armed criminal action, assault in the first degree, armed criminal action, robbery in the first degree, armed criminal action, assault first degree, armed criminal action, attempted robbery first degree, armed criminal action, attempted robbery first degree, armed criminal action, attempted robbery first degree, armed criminal action, robbery first degree, armed criminal action, kidnapping, and Count XVIII, possession of marijuana under 35 grams.

[Transcript Vol. II, page 340-48]

THE COURT: Mr. Bostic, I sat through this trial, I saw your family everyday of the trial. I saw them beg with you, plead with you, try to convince you into

entering a plea of guilty in a case in which the evidence was overwhelming. And you dismissed them because your friends in the workhouse knew far more than the people who love and care about you. I have received -- I saw your lawyer and people from his office trying to talk to you, and you dismissed them because you knew more than these trained legal minds because of your brilliant friends in the workhouse who wouldn't be there if they were so smart.

* * *

[page 341] You don't listen to anyone. You write me these letters. It's the victim's fault. It's the police fault. It's your mother's fault. It is your fault. You put yourself in the position to be standing in front of me facing 241 years in the Department of Corrections. You did it to yourself.

You write me these letters how brilliant you are, how intelligent you are, how you are smarter than everybody else in the world. You are the biggest fool who has ever stood in front of this Court. You have expressed no remorse. You feel sorry for Bobby. Bobby doesn't want to do this time. Bobby doesn't want to do this. Bobby's feelings are hurt. Poor little Bobby.

Well, Bobby, you terrorized a group of people that night. It could have been worse, because you could be standing in front of me awaiting sentence on capital murder because if those bullets had just strayed a different way there could have been two dead people out **[page 342]** there.

But you still don't care. Everything is about Bobby. You have hurt your family. I have seen these people sit there and cry because you will not listen to them. You have hurt them badly. You have put so

many years on your mother right now it's not even funny.

You know, your mother wrote me one of the most beautiful letters I have ever received from a parent. She talked about her love for her children, her unconditional love for her children and her desire to at least have them with her so she could touch them, hold them, kiss them, feel them, tell them how she loved them.

I feel nothing for you. I feel the same thing for you that you apparently felt for those victims and you feel for your family. Everything is about Bobby. Bobby, Bobby, Bobby. Not once in one of these letters do you express any remorse for what you did. You're only sorry that you're gonna be locked up.

Your mother begged and pleaded with me in this letter to at least give you enough time so that you could come out as an adult male, have a chance to have a life outside the department walls. She didn't ask me to put you on probation. She just asked me not to give you 241 years. Give you enough time so maybe when you're in your **[page 343]** thirties or your forties that you can come out and make a life for yourself.

You're a bright young man, but you're certainly not as bright as you think you are, because your problem is you think you're smarter than everyone else in the world. You're as smart as your friends in the workhouse. You couldn't listen to your mother, you couldn't listen to your father, you couldn't listen to your sisters and your brothers. Your brother in the wheelchair begged and pleaded with you so that you could remain a part of his life, and you dismissed him too. You knew the conditions under which he was shot.

You knew what was going on, and still you persisted in this pattern of behavior. You made your choice, and you're gonna die with your choice because Bobby Bostic, you will die in the Department of Corrections. Do you understand that? Your mandatory date to go in front of the parole board will be the year 2201. Nobody in this room is going to be alive in the year 2201.

Bobby Bostic, on the jury finding you guilty under Count I to the offense of robbery in the first degree, it is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 30 years.

[page 344]

On the jury finding you guilty under Count II to the offense of armed criminal action, it is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with the sentence imposed under Count I.

On the jury finding you guilty under Count III to the offense of assault in the first degree, it is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the sentences imposed under Counts I and II.

On the jury finding you guilty under Count IV to the offense of armed criminal action in connection with the offense of assault in the first degree, it is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will

run consecutively with the sentences imposed under Counts I, II, and III.

As to Count V, the jury found you guilty of the offense of robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 30 years. Said sentence will run consecutively with the sentences imposed under Counts I through IV.

[page 345]

As to Count VI, the jury found you guilty of the offense of armed criminal action in connection with the offense of robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with the sentences imposed under Counts I through V.

As to Count VII, the jury found you guilty of the offense of assault in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the sentences imposed under Counts I through VI.

As to Count VIII, the jury found you guilty of the offense of armed criminal action in connection with the offense of assault in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the sentences imposed under Counts I through VII.

As to Count IX, the jury found you guilty of the offense of robbery in the first degree. It is hereby the

judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the **[page 346]** sentences imposed under Counts I through VIII.

As to Count X, the jury found you guilty of the offense of armed criminal action in connection with the offense of attempted robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with the sentences imposed under Counts I through IX.

As to Count XI, the jury found you guilty of the offense of attempted robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the sentences imposed under Counts I through X.

As to Count XII, the jury found you guilty of the offense of armed criminal action in connection with the offense of attempt to commit robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with the sentences imposed under Counts I through XI.

As to Count XIII, the jury found you guilty of the offense of attempt to commit robbery in the first **[page 347]** degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15

years. Said sentence will run consecutively with the sentences imposed under Counts I through XII.

As to Count XIV, the jury found you guilty of the offense of armed criminal action in connection with the offense of attempted robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with the sentences imposed under Counts I through XIII.

As to Count XV, the jury found you guilty of the offense of robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 30 years. Said sentence will run consecutively with the sentences imposed under Counts I through XIV.

As to Count XVI, the jury found you guilty of the offense of armed criminal action in connection with the offense of robbery in the first degree. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of five years. Said sentence will run consecutively with **[page 348]** the sentences under Counts I through XV.

As to Count XVII, the jury found you guilty of the offense of kidnapping. It is hereby the judgment and sentence of this Court you be committed to the Missouri Department of Corrections for a period of 15 years. Said sentence will run consecutively with the sentences imposed under Counts I through XVI.

As to Count XVIII, the jury found you guilty of the offense of possession of marijuana, a misdemeanor offense. It is hereby the judgment and sentence of this

Court you be committed to the Medium Security Institution for a period of one year. Said sentence will run consecutively with the sentences imposed under Counts I through XVII, for a total or aggregate sentence of 241 years in the Department of Corrections.

* * *

THE COURT: Before I go through this, I hope this will be a message to the other young men and women out there. Listen to your families or your lawyers, **[page 349]** otherwise you will face the consequences of your actions.