

No. _____

In the
Supreme Court of the United States

RICKIE ISAIAH GIBSON, JR.,

Petitioner,

v.

STATE OF ARIZONA,

Respondent.

On Petition for a Writ of Certiorari to the
Arizona Court of Appeals

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

Kevin D. Heade
Counsel of Record
Arizona State Bar #029909
Pinal County Public Defender Office
PO Box 2457
Florence, Arizona 85132
(520) 866-7199
Kevin.Heade@Pinal.gov

Counsel for Petitioner

Index to Appendices

Index to Appendices.....	App-002
Appendix A: Decision of the Arizona Court of Appeals.....	App-003
Appendix B: Minute Entry of the Pinal County Superior Court	App-012
Appendix C: Order of the Arizona Supreme Court Denying Review.....	App-016
Appendix D: Portion of Trial Transcript with Confrontation Clause Ruling..	App-018
Appendix E: State’s Motion in Limine-C.G.	App-031
Appendix F: Defense Response to Motion in Limine-C.G.	App-034
Appendix G: Portion of Trial Transcript with C.G.’s Testimony	App-039
Appendix H: Judgement and Sentence of the Pinal County Superior Court	App-081

Appendix A

Decision of the Arizona Court of Appeals:
State of Arizona v. Rickie Isaiah Gibson, Jr.,
No. 2 CA-CR-25-0012 (Jan. 16, 2026)

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

RICKIE ISAIAH GIBSON JR.,
Appellant.

No. 2 CA-CR 2025-0012
Filed January 16, 2026

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Appeal from the Superior Court in Pinal County
No. S1100CR202300906
The Honorable Jason R. Holmberg, Judge

AFFIRMED

COUNSEL

Kristin K. Mayes, Arizona Attorney General
Alice M. Jones, Deputy Solicitor General/Section Chief of Criminal Appeals
By Joshua C. Smith, Assistant Attorney General, Phoenix
Counsel for Appellee

Kate Milewski, Pinal County Public Defender
By Kevin D. Heade and Tamara Brooks Primera, Defender Attorneys,
Florence
Counsel for Appellant

STATE v. GIBSON
Decision of the Court

MEMORANDUM DECISION

Vice Chief Judge Eppich authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Staring concurred.

E P P I C H, Vice Chief Judge:

¶1 Rickie Gibson Jr. appeals his conviction and sentence for manslaughter. He argues the trial court violated his Sixth Amendment rights to present a defense and confront witnesses when it precluded impeachment evidence for two witnesses and precluded evidence as hearsay. For the following reasons, we affirm his conviction and sentence.

Factual and Procedural Background

¶2 We view the evidence in the light most favorable to upholding the jury's verdict. *State v. Mangum*, 214 Ariz. 165, ¶ 3 (App. 2007). In March 2023, on the day of the homicide, the victim, M.M., reported his bicycle had been stolen. M.M. told a Pinal County Sheriff's Office sergeant that he believed Gibson, who had been doing yard work for him, had stolen it. Gibson sold the bike to C.S.

¶3 According to Gibson, as he was walking down the street, M.M. drove up to him, got out of his truck, accused him of stealing the bicycle, and threatened him with a baseball bat in his right hand and a pistol in his left. During the altercation, Gibson believed M.M. was going to retrieve the pistol he had thrown into his truck, but M.M. turned around and hit Gibson in the stomach and neck with the bat before reaching his truck. Gibson blacked out and when he came to, he was "in a full swing with the bat" and unable to stop hitting M.M. Gibson fled the scene in M.M.'s truck, running over M.M. as he did so. Gibson drove to the home of one of his friends, C.G., and told him "somebody was trying to kill him, or people were chasing him." He gave M.M.'s pistol to C.G., though the pistol was never recovered.

¶4 M.M. died from his injuries, and Gibson was arrested and charged with first-degree murder. At his jury trial, Gibson asserted a claim of self-defense. He was found guilty of the lesser-included offense of manslaughter by sudden quarrel or heat of passion. The trial court

STATE v. GIBSON
Decision of the Court

sentenced him to an aggravated term of seventeen years' imprisonment.¹ This appeal followed. We have jurisdiction pursuant to article VI, § 9 of the Arizona Constitution and A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A).

Discussion

I. Confrontation Clause

¶5 Gibson claims that the trial court's ruling precluding cross-examination about C.G.'s "pending federal gun charges" violated his Sixth Amendment rights to confront a witness and present a defense. He separately argues that those same rights were violated when the court precluded cross-examination regarding a material witness subpoena.

A. Impeachment of C.G.

¶6 In November 2024, the state filed a motion in limine requesting to preclude Gibson from "asking any questions or bringing up [C.G.'s] pending federal case."² In its motion, the state argued C.G. could not be impeached under Rule 609, Ariz. R. Evid., because "the pending case is not a conviction." In his response, Gibson argued that cross-examination of C.G. regarding the pending firearm charges would be necessary to show motive to lie as C.G. would want to "appear in the best possible light in order to enhance the possibility of his receiving a favorable plea and sentences in the future."

¶7 The state argued that the nature of C.G.'s charges should be precluded under Rules 609, 401, 403, and 404, Ariz. R. Evid. Gibson argued that he had a "right to fully cross-examine" C.G. about two motives to lie: "[S]etting himself up for a tampering-with-evidence problem" and "cooperating" with the state to show good character to the federal court. Gibson argued that Rules 403, 404, 608, and 609 were not implicated.

¶8 The trial court stated: "In 608 you can ask about the collateral matter, you just can't present any – you are kind of stuck with the witness's answer." The court then disagreed with Gibson that he should be able to address that the case involves firearms. Gibson responded, stating, "the

¹Not relevant to his appeal, Gibson was also indicted and pleaded guilty to one count of possession of drug paraphernalia.

²C.G. was facing charges of making false statements during firearm purchases in which he acted as a strawman buyer.

STATE v. GIBSON
Decision of the Court

fact of [C.G.] admitting to another gun charge is particularly motivating,” to which the court ruled that Gibson could cross-examine C.G. “say[ing] he has pending felony charges” but could not “get into what those charges are.” The court further ruled that there would be no restriction on cross-examining C.G. regarding the missing pistol in the case at issue.

¶9 On appeal, Gibson reiterates that he should have been permitted to elicit that C.G.’s pending charges were related to firearms to show C.G. had motive to lie to avoid repercussions in his federal case. Gibson further claims preclusion of such testimony violated his Sixth Amendment right to confront C.G. as the testimony was relevant to support Gibson’s self-defense theory that M.M. in fact had a gun – which was later given to C.G. – and deadly force was necessary to protect himself from M.M.’s attack. We review de novo rulings that implicate the Confrontation Clause, including whether a defendant’s right to confront a witness or present a defense has been infringed. *State v. Almaguer*, 232 Ariz. 190, ¶ 22 (App. 2013); *State v. Parkinson*, 258 Ariz. 601, ¶ 13 (App. 2024).

¶10 Although the Sixth Amendment gives a defendant a right to confront witnesses, *see Parkinson*, 258 Ariz. 601, ¶ 15, “a trial judge retains wide latitude to impose reasonable limits on cross-examination,” *State v. Adams*, 155 Ariz. 117, 121 (App. 1987). “Distinctions between reasonable limitations on the scope of cross-examination and unnecessary restrictions on the right to confront witnesses are, however, difficult to draw and must be considered on a case-by-case basis.” *State v. Fleming*, 117 Ariz. 122, 125 (1977). “Unless there has been a clear abuse of discretion and prejudice occurs, questions concerning the admissibility of evidence will not be disturbed on appeal.” *State v. Navarro*, 132 Ariz. 340, 342 (App. 1982). The test for determining reasonable scope of cross-examination is “whether the defendant has been denied the opportunity of presenting to the trier of fact information which bears either on the issues in the case or on the credibility of the witness.” *Fleming*, 117 Ariz. at 125.

¶11 Although C.G.’s testimony about Gibson’s actions and statements directly after the homicide played an important role in the prosecution’s case, other evidence of C.G.’s bias was presented to the jury. Gibson in fact attacked C.G.’s credibility by questioning him about the pending charges and a pending plea deal and by arguing that C.G. would be motivated to testify in favor of the state for personal benefit. *See State v. Smith*, 250 Ariz. 69, ¶¶ 86-87 (2020) (no Confrontation Clause violation when defendant was able to attack credibility on several matters); *State v. Schrock*, 149 Ariz. 433, 438 (1986) (limits on cross-examination permissible

STATE v. GIBSON
Decision of the Court

when “trial judge allowed ample cross-examination on relevant matters for the jury to assess the credibility of . . . [the] witness”), *criticized on other grounds by State v. Amaral*, 239 Ariz. 217, ¶ 10 (2016). We find persuasive the state’s argument that while C.G.’s criminal charges were relevant to whether he had a motive to testify for the state in order to secure a more favorable resolution, the specific nature of those charges was not. At most, the nature of the charges was marginally relevant for impeachment purposes, and the trial court was within its discretion to preclude such evidence. *See Adams*, 155 Ariz. at 121 (a trial court may pose reasonable limits on cross-examination based on concerns of interrogation that is “only marginally relevant”).

¶12 Moreover, even if the trial court erred in precluding the inquiry, any error was harmless in light of Gibson’s opportunity to challenge C.G.’s credibility as discussed above, such that the additional detail of the nature of the charges would not have affected the verdict.³ For the same reason, Gibson has not established fundamental error or prejudice. *See Navarro*, 132 Ariz. at 342.

B. Material Witness Subpoena

¶13 For the first time on appeal, Gibson makes a separate Confrontation Clause argument regarding witness C.S. who he argues should have been questioned about her motive to testify. C.S. was detained pursuant to a material witness warrant. During trial, before calling C.S. to the stand, the court issued a limiting instruction to the jury stating, “[t]he next witness is in custody. You are not to speculate or guess why.” Because Gibson did not object to the instruction, we review for fundamental error. *See State v. Escalante*, 245 Ariz. 135, ¶ 12 (2018).

¶14 Gibson argues the trial court’s instruction limited his Sixth Amendment right to fully cross-examine C.S. We disagree. While Gibson had the right to question C.S. regarding her motive to testify, *see State v. Hallman*, 137 Ariz. 31, 36 (1983), the court’s jury instruction in no way inhibited Gibson from questioning her custody status. Gibson could have

³Accordingly, we need not address Gibson’s claims that the trial court erred in its evidentiary analysis precluding the evidence. And Gibson’s supporting argument, based in federal sentencing guidelines raised for the first time on appeal, that C.G. was especially motivated to lie because his testimony could be used in his sentencing is of no consequence to our analysis.

STATE v. GIBSON
Decision of the Court

questioned C.S. regarding the matter but did not. *See State v. Parris*, 144 Ariz. 219, 222 (App. 1985) (defendant's election to cross-examine is a tactical decision). Where the court did not explicitly limit his right and Gibson did not elect to question C.S. regarding the subpoena, the trial court has not erred. *See State v. Lee*, 142 Ariz. 210, 215 (1984) ("[T]he power to decide questions of trial strategy and tactics rests with counsel."); *Escalante*, 245 Ariz. 135, ¶ 21 ("[T]he first step in fundamental error review is determining whether trial error exists."). Because Gibson has not established error, he has not met his burden of demonstrating fundamental error occurred. *See Escalante*, 245 Ariz. 135, ¶ 21.

II. Preclusion Of Hearsay Evidence

¶15 Gibson argues that the trial court erred by prohibiting him from questioning "officers about whether they had received information alleging [Gibson] possessed a gun." We review evidentiary rulings for an abuse of discretion. *State v. Copeland*, 253 Ariz. 104, ¶ 21 (App. 2022).

¶16 Before trial, the state filed a motion in limine to preclude testimony from a detective that during an interview with a woman who knew Gibson, she revealed that another man, R.S., had told her that Gibson tried to "jack" R.S. using a gun. Gibson responded that he should be permitted to question the detective to elicit whether knowledge of the story influenced his decision to look for a firearm.

¶17 At a hearing on the motion, Gibson argued that he would offer the testimony to establish "what pushed along" the investigation. The trial court precluded the testimony as double-hearsay and rejected the argument that the testimony was not being offered for the truth of the matter asserted.

¶18 On appeal, Gibson argues the trial court erred because he should have been permitted to offer the testimony to establish "effect on the listener" in that investigating officers searched for a gun because they had information that Gibson "possessed a gun the same day that law enforcement was searching for one." And for the first time on appeal, he argues that preclusion of this evidence violated his Sixth Amendment right to present a defense, which we review for fundamental, prejudicial error. *See State v. Alvarez*, 213 Ariz. 467, ¶ 7 (App. 2006) ("A 'hearsay' objection does not preserve for appellate review a claim that admission of the evidence violated the Confrontation Clause.").

STATE v. GIBSON
Decision of the Court

¶19 Hearsay—an out-of-court statement offered for the truth of the matter asserted—is generally not admissible. Ariz. R. Evid. 802. “[R]elevant, extrajudicial ‘words or writings offered to prove the effect on the hearer or reader are admissible where offered to show their effect on one *whose conduct is in issue.*’” *State v. Barr*, 183 Ariz. 434, 441 (App. 1995) (quoting *State v. Rivera*, 139 Ariz. 409, 414 (1984)) (emphasis added). But Gibson fails to convincingly explain how the officers’ conduct was at issue. Indeed, his rationale for offering the hearsay—to show that officers had information that he possessed a gun on the same day they were searching for one—appears relevant for the sole purpose of establishing that he in fact had a gun, the very truth of the matter asserted. The trial court did not err in concluding the statement was indeed hearsay.

¶20 Gibson alternatively argues that even if the evidence constituted inadmissible hearsay, we should nevertheless find fundamental, prejudicial error insofar as the preclusion of the evidence denied him his Sixth Amendment right to present a defense, citing *Chambers v. Mississippi*, 410 U.S. 284 (1973). To be sure, *Chambers* and other cases cited by Gibson hold that application of evidentiary rules may, in certain circumstances, result in constitutional deprivations. See *State v. Machado*, 224 Ariz. 343, ¶ 13 (App. 2010) (discussing *Chambers*’ exhortation that rules designed to assure fairness and reliability must not be applied mechanistically to defeat the ends of justice), *aff’d*, 226 Ariz. 281 (2011). But this case does not involve the mechanistic application of arbitrary rules such as those typically at issue in the cases upon which Gibson relies. Rather, the court correctly applied the firmly rooted prohibition on double hearsay to ensure the reliability of the evidence being considered. Moreover, Gibson was permitted to try to establish that he had possessed a gun on the day in question by other means, notably through his own testimony and his, albeit unsuccessful, cross-examination of C.G.⁴ And, even if the hearsay had been admitted, it is unlikely it would have changed the verdict considering the alleged “jack” occurred hours before the altercation between M.M. and Gibson.

⁴Gibson has not explained why he could not have also called the person who claimed to have seen him with the gun on the day in question to testify.

STATE v. GIBSON
Decision of the Court

Disposition

¶21 For the reasons above, we affirm Gibson's conviction and sentence.

Appendix B

Minute Entry of the Pinal County Superior Court Re:
Confrontation Clause Ruling:

State of Arizona v. Rickie Isaiah Gibson, Jr.,

S1100CR202300906 (Nov. 12, 2024)

IN THE SUPERIOR COURT

PINAL COUNTY, STATE OF ARIZONA

Date: 11/12/2024

THE HON JASON HOLMBERG,

Courtroom **3C**

Court Reporter: Traci Reed

REBECCA PADILLA, CLERK

By Deputy Clerk: Ashley Kendall

THE STATE OF ARIZONA,

Plaintiff,

VS.

RICKIE ISAIAH GIBSON

Defendant(s).

S1100CR202300906

MINUTE ENTRY ACTION:

QUALIFICATION OF JURORS and JURY TRIAL – DAY ONE

9:17 a.m. Court convenes.

PRESENT: Plaintiff appearing by counsel, Jennifer Dent and Stephen Bridger, Deputy County Attorneys.

State's Case Agent, Detective Andrew Converse.

Defendant appearing in person in the custody of the Pinal County Sheriff's Office and with counsel, Anne Elsberry and Michael Nachmanson, Deputy Public Defenders.

Victim Representative appearing with Victim Advocate.

The Court announces that this is the time set for a Pretrial Conference.

Discussions are held regarding scheduling.

Oral arguments of Counsel as to pending motions.

IT IS HEREBY ORDERED granting State's Motion In Limine to Preclude Hearsay Testimony as to Kathy Bray and Roberto Soto filed on November 4, 2024.

IT IS FURTHER ORDERED Defense shall be permitted to ask the witness Christopher Gilbertson if he has pending Federal Charges; however, Defense shall not be permitted to elicit testimony and mention specifics as to what those charges involve.

[Settling of Preliminary Jury Instructions]

9:55 a.m. recess.

10:29 a.m. reconvene. Prospective jurors and the parties previously identified are once again present.

The Court announces that this is the time set for Jury Trial.

Counsel announces ready.

All Jurors present are sworn by the Clerk.

Voir dire examination of prospective jurors.

11:58 p.m. Prospective jurors are admonished and excused for the lunch recess.

Arguments of Counsel.

12:05 p.m. recess.

1:39 p.m. reconvene. The parties previously identified are once again present, outside the presence of the Prospective Jurors.

Juror #15 is now present in the courtroom, voir dired and excused.

Juror #6 is now present in the courtroom, voir dired and excused.

2:11 p.m. All Prospective jurors are now present in the courtroom.

Voir dire examination of prospective jurors continues.

Counsel passes the panel.

Prospective jurors not reached are thanked for their service and excused.

16 persons selected are sworn to act as trial juror in this cause.

3:27 p.m. recess.

3:49 p.m. reconvene. The Jury and parties previously identified are once again present.

The Indictment is read to the Jury by the Clerk and advised Defendant has entered a plea of "not guilty" to the charge therein.

Preliminary Jury Instructions are read to the Jury by the Court.

Opening statements.

4:49 p.m. The Jurors are reminded of the admonition, advised to return to the jury room by 9:00 a.m. tomorrow morning and are excused for the evening recess.

The Court directs Counsel to appear by 8:45 a.m. tomorrow.

4:49 p.m. evening recess.

Mailed/distributed copy: 12/13/2024

OFFICE DISTRIBUTION:
COUNTY ATTORNEY/DENT & BRIDGER
PUBLIC DEFENDER/ELSBERRY & NACHMANSON
PCSO - JAIL
VICTIMS ASSISTANCE
JUDGE/HOLMBERG

Appendix C

Order of the Arizona Supreme Court Denying Review
State of Arizona v. Rickie Isaiah Gibson, Jr.,
CR-26-0035-PR (Entered May 06, 2026)



Supreme Court

STATE OF ARIZONA

ANN A. SCOTT TIMMER
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

AARON C. NASH
Clerk of the Court

May 6, 2026

RE: STATE OF ARIZONA v RICKIE ISAIAH GIBSON JR.
Arizona Supreme Court No. CR-26-0035-PR
Court of Appeals, Division Two No. 2 CA-CR 25-0012
Pinal County Superior Court No. S1100CR202300906

GREETINGS:

The following action was taken by the Arizona Supreme Court on
May 5, 2026, regarding the above-referenced cause:

**ORDERED: Petition for Review to the Arizona Supreme Court =
DENIED.**

Aaron C. Nash, Clerk

TO:
Alice Jones
Joshua C Smith
Kevin D Heade
Lisa V Howell
ck

Appendix D

Portion of Trial Transcript with Confrontation Clause Ruling
November 12, 2024
State of Arizona v. Rickie Isaiah Gibson, Jr.,
S1100CR202300906

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF PINAL

3
4 STATE OF ARIZONA,)

5)
6 Plaintiff,)

7 vs.)

2 CA-CR 2025-0012

CR202300906

8 RICKIE GIBSON, JR.,)

9 Defendant.)
10 _____)

11
12 **REPORTER'S TRANSCRIPT OF TRIAL DAY ONE**

13
14 November 12, 2024
15 Florence, Arizona

16
17 **BEFORE: THE HONORABLE JASON R. HOLMBERG,**
18 **SUPERIOR COURT JUDGE, PRESIDING.**

19
20
21
22 **ORIGINAL**
23 **FOR COURT**

24 TRACI J. REED, RPR
25 Certified Reporter, 50466

1 APPEARANCES: Ms. Jennifer Dent and
2 Mr. Stephen Bridger
3 Deputy County Attorneys
4 Representing the State
5
6 Ms. Anne Elsberry and
7 Mr. Michael Nachmanson
8 Deputy Public Defenders
9 Representing the Defendant
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 out.

2 MS. ELSBERRY: And that was never going to get
3 into what the statements were.

4 THE COURT: You can still talk about the other
5 things that I allow you to talk about. Mr. Moore's habit of
6 carrying it, and there's a missing firearm. And you can follow
7 up with the police what they did. You can do that. But what
8 you can't do is use a hearsay statement and say: "See yet --
9 for the truth of the matter asserted."

10 All right. The next motion in limine -- and I
11 think we already dealt with this -- is the federal case, the
12 misdemeanor conviction, in regards to Christopher Gilbertson.
13 I thought we dealt with that.

14 MS. DENT: No. I don't think we have.

15 THE COURT: Okay. Well, we'll deal with it now.

16 MS. DENT: It's the State's position that
17 Mr. Gilbertson has not been convicted in that federal case, so
18 it's not admissible under Rule 609. It's also not relevant
19 under Rule 401 through 403. And it's an other act under
20 Rule 404 that would not be admissible for any purpose.

21 I have read defense's response, and I do not
22 think that you can ask somebody about a -- their pending case
23 because they are testifying in the hopes that that's going to
24 help them when there's no sort of benefit to them that has been
25 told.

1 So if I understand her response correctly, she
2 wants to get into Mr. Gilbertson's pending case because she
3 believes that Mr. Gilbertson is hoping that he can tell his
4 federal prosecutor that he was cooperative here and came to
5 trial and testified.

6 If that were the case, that's the case in every
7 case where somebody has a pending case of any sort. And that's
8 not permissible. I'd also point out that Mr. Gilbertson was
9 served with a subpoena that told him that if he didn't show up,
10 we might arrest him, and that was way before he was arrested on
11 his federal case. So he has the same reason to show up and
12 testify that everybody does, which is if you don't, we may
13 arrest you.

14 THE COURT: And, State, you're under an ethical
15 obligation that if there was a deal cut with this witness, you
16 would have to disclose that to the defense; is that correct?

17 MS. DENT: That is correct, and I -- I mean, I
18 know his federal prosecutor. His federal prosecutor is Patrick
19 Chapman, who helped me find his --

20 THE COURT: Well, that's quite a wrinkle, isn't
21 it, that one of your ex-prosecutors is now the federal
22 prosecutor in this case?

23 MS. DENT: Yes. But I talked to Chapman about
24 any kind -- I'm not aware of any deal, I have not talked to
25 Chapman about any kind of deal. He gave me the contact

1 information for Mr. Gilbertson.

2 THE COURT: To the best of your knowledge is
3 there a potential deal?

4 MS. DENT: No. I mean, well, not in relation to
5 this case. So when we interview --

6 THE COURT: Tell me about the potential deal
7 that doesn't have to relate to this case.

8 MS. DENT: Well, I assume that they potentially
9 are going to offer him a plea. I don't know, though. But
10 that's pretty typical for all court cases, so I don't want to
11 say, "No, he's definitely going to trial," because I don't
12 know. But most cases do plea, so there's definitely a
13 potential for --

14 THE COURT: Are you going to play a role in that
15 plea in any way or didn't they ask you: "Hey, did our guy show
16 up at your trial? How did he do?"

17 MS. DENT: No. I would be surprised if he asked
18 that. Really, it was just a matter of he picked him up and
19 took him into federal custody, and if someone is in federal
20 custody, the way that we get them as the State is to reach out
21 to the federal prosecutor and say: "Can we borrow him?"

22 THE COURT: Is he currently in custody now?

23 MS. DENT: He is not.

24 THE COURT: Ms. Elsberry.

25 MS. ELSBERRY: Well, Your Honor -- pardon me if

1 I don't stand up, but --

2 THE COURT: That's fine.

3 MS. ELSBERRY: -- I'm having -- having some knee
4 issues.

5 So Mr. Gilbertson was given a firearm by
6 Mr. Gibson. He did not admit that fact to -- he left that out
7 of his story to the police. He has since been charged with 18
8 counts of -- basically acting -- acting as a straw man for
9 weapons purchases.

10 THE COURT: It is your position that the weapon
11 that was given to Mr. Gilbertson is the weapon in question,
12 Mr. Moore's weapon --

13 MS. ELSBERRY: Yes.

14 THE COURT: -- or is this an unrelated weapon?

15 MS. ELSBERRY: No, this is not an unrelated
16 weapon.

17 THE COURT: Okay.

18 MS. ELSBERRY: It's the weapon in this case.

19 He was out on release. He was not surprisingly
20 pulled in by the feds about a month -- two months ago, and he
21 is now on release in a treatment facility. I don't know whether
22 or not he has been offered a plea in his federal case. I would
23 assume that he'd be once -- you know, at a certain point he
24 will be and he'll be facing sentencing.

25 He has two motives to lie in this particular

1 case, and that's certainly what this questioning goes to. And
2 I believe that under both the federal Constitution and the
3 Arizona Constitution I have the right to fully cross-examine
4 him, and this does not --

5 THE COURT: Within limits.

6 MS. ELSBERRY: Within limits. But it doesn't --
7 but it doesn't -- it really does not implicate either 404 or
8 403. The -- his motive to lie is: One, he may be setting
9 himself up for a tampering-with-evidence problem here in the
10 county. And so that is likely one of his motives for him not
11 to tell the truth. And that was probably his motive not to
12 tell the truth back in April of '23.

13 THE COURT: So, I mean, sorry. I'm going to
14 pause you just for a second. I want to hear your second
15 reason. But basically your first reason is there's a prior
16 inconsistency. He leaves out a part of the story and later on
17 tells that part of the story.

18 MS. ELSBERRY: No, he has not told that part of
19 the story, so -- it's not a prior inconsistent statement. It
20 is that -- it is our position that that is something he left
21 out of his story, but I get to cross-examine him on it.

22 THE COURT: But his charges stem from that?

23 MS. ELSBERRY: No. His charges stem from buying
24 at least 18 different weapons for person or persons unknown
25 while making false statements on those applications.

1 The other part of his motive to lie is that
2 he -- while there may not be any sort of deal -- there
3 certainly isn't a deal with Ms. Dent, and there may not be any
4 sort of deal with the prosecutor in his federal case --
5 certainly if his defense attorney is worth her salt -- and I
6 think she is -- she has told him: "You need to look like a
7 very good boy." And looking like a very good boy --

8 THE COURT: -- is lying under oath in this case?

9 MS. ELSBERRY: It may be you --that we are --
10 you know, that you're helping out the State, you're --
11 you're -- you're cooperating -- you're doing what you need to
12 do. And so he has a motive to look like a choir boy.

13 And leaving out the fact that he traded a gun
14 from Mr. Gibson certainly makes him look better than he might
15 otherwise look, given that he basically had a business buying
16 and selling weapons to people of dubious repute in here.

17 And so I gave you in my response the *State versus*
18 *Parkinson*, which came out of Division Two back in July, which
19 clearly states there's wide latitude to bring in the motive to
20 lie, the bias of a witness, that many of the protections that
21 we pop out of our mouths, 404 and everything, are meant to
22 protect the defendant, they are not to protect witnesses.

23 And the fact is is that -- I mean, we often get
24 this thrown at us as defense attorneys -- is that the fact that
25 it may look -- make a witness look bad is not undue prejudice.

1 That is not -- it's not a 403 problem here. And it's really
2 not a 609 problem, either.

3 What -- the issue here is: Does -- is there a motive
4 for him to lie and can I cross-examine him about his --

5 THE COURT: Well, I mean, it's -- it's not
6 really 609, right? Isn't it more 608?

7 MS. ELSBERRY: I think you're right. I think I
8 probably --

9 THE COURT: -- a conviction --

10 MS. ELSBERRY: I think you're correct.

11 THE COURT: And then under 608 you're not
12 supposed to be allowed to bring in collateral matters, right?

13 MS. ELSBERRY: Well, and that's where Parkinson,
14 I think, is really -- is if that collateral matter is something
15 that goes to a motive for to lie or his bias, then it's
16 allowable, and that the standard --

17 THE COURT: In 608 you can ask about the
18 collateral matter, you just can't present any -- you are kind
19 of stuck with the witness's answer because we're not going to
20 have a separate mini trial.

21 MS. ELSBERRY: No, we're not.

22 THE COURT: Okay. So --

23 MS. ELSBERRY: But the fact is is there's an
24 indictment out there.

25 THE COURT: So if -- if I allow you to say that

1 this witness has pending charges with the federal government,
2 not say what those charges are, so we are not going to get into
3 the straw purchases of all these guns for other people, isn't
4 that enough?

5 MS. ELSBERRY: I think that I should be able to
6 get in the fact that it also involves guns.

7 THE COURT: No. I don't. Why do you think --
8 why do you think you're allowed to do that, to show -- to show
9 performative conduct?

10 MS. ELSBERRY: To show that there is a distinct
11 bias and motive to lie here because --

12 THE COURT: Isn't that -- I'm giving you that
13 with he has pending federal charges.

14 You want to go into the nature of the charges.
15 Why? To prove what?

16 MS. ELSBERRY: Because if he is trying to avoid
17 getting into trouble because of all of these gun charges that
18 he's got, the fact of him admitting to another gun charge is
19 particularly motivating.

20 THE COURT: Yeah, I'm not giving you that far.
21 I'll give you -- you can cross him, say he has pending felony
22 charges. You're not to get into what those charges are.
23 You're not to get into, "You like buying guns for other people,
24 so here you were taking a gun from my client," or something
25 like that. Huh-uh. And you can argue he has a motive to lie

1 to the jury. I'm not preventing you by doing any questioning
2 in connection with this missing gun in this case. I'm just
3 talking you can't bring up --

4 MS. ELSBERRY: okay.

5 THE COURT: -- the nature of the felony charges
6 that he's been indicted on and the underlying -- alleged
7 underlying facts with those.

8 MS. DENT: May I be heard on that briefly?

9 So that's the -- so the question of whether he
10 has any deal came up in Mr. Gilbert's sentence interview, which
11 was Defense 9, Page 44. And his response to that -- so what he
12 was asked is: "Do you expect to get something in return for
13 your testimony in this case?" And he said, "I'm not -- I mean,
14 I'm not like looking for anything, but I'm not -- I mean, not
15 expecting anything, but, I mean, like that's a weird question."

16 And then defense clarified: "I guess is there a
17 plea deal you're going to be offered in the federal case in
18 exchange for your testimony on this case?"

19 And his attorney, I believe, cut in and said:
20 "There's no agreement. There's no agreement for him to do
21 this; he chose to do this."

22 THE COURT: Okay.

23 MS. DENT: I just feel like that's relevant
24 information given our --

25 THE COURT: Am I preventing you from --

1 MS. DENT: No, no.

2 THE COURT: -- redirect asking him if there was
3 a deal?

4 MS. DENT: No. I just -- I believe we already
5 have the answer to that question based on his interview.

6 THE COURT: Yeah. They believe it's not a
7 truthful, and they decide credibility of the jury. So I --

8 MS. DENT: Okay.

9 THE COURT: I mean, if you've got to go in and
10 submit on the police reports, I'll go back and I'll just read
11 them.

12 Okay. I made my ruling on that one.

13 Anything else outstanding from the State?

14 MS. DENT: I do not believe so.

15 THE COURT: Anything from the defense?

16 MS. ELSBERRY: Your Honor -- and I don't know if
17 it's going to be a concern or not -- it's certainly not at this
18 moment -- but we have had the experience in the past where
19 there is a victim or an involvement of somebody who is a former
20 or current law enforcement officer, and I would -- if we end up
21 with a bunch of officers here in uniform, I would just like to
22 register my concern about that happening and the effect on the
23 jurors and intimidation.

24 THE COURT: Intimidation? I mean, it's a public
25 courtroom, Ms. Elsberry. I'm not going to prevent people from

Appendix E

State's Motion in Limine-C.G

November 04, 2024

State of Arizona v. Rickie Isaiah Gibson, Jr.,

S1100CR202300906

**KENT VOLKMER
PINAL COUNTY ATTORNEY**

Jennifer Dent
Deputy County Attorney
State Bar No. 025438
Post Office Box 887
Florence, Arizona 85132
jennifer.dent@pinal.gov
(520) 866-5500
Attorney for the State of Arizona

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PINAL

THE STATE OF ARIZONA,

Plaintiff,

vs.

RICKIE ISAAH GIBSON, JR,

Defendant.

CR 202300906

**MOTION IN LIMINE-CHRISTOPHER
GILBERTSON**

Honorable Jason Holmberg

The State moves to preclude Defendant from asking any questions or bringing up Christopher Gilbertson's pending federal case or his prior misdemeanor conviction for disorderly conduct. Mr. Gilbertson's pending case and prior misdemeanor conviction are irrelevant under Ariz. R. Ev. 401, 402, and 403, and cannot be used to impeach Mr. Gilbertson under Ariz. R. Ev. 609. The pending case is not a conviction, and disorderly conduct is not a dishonest act or false statement. Therefore, the State asks that Defense be precluding from bringing up Mr. Gilbertson's pending case or criminal history.

RESPECTFULLY SUBMITTED this 3rd day of November, 2024.

KENT VOLKMER
PINAL COUNTY ATTORNEY

By



Jennifer Dent
Deputy County Attorney

ORIGINAL of the foregoing filed and
COPY of the foregoing mailed/delivered
this 3rd day of November, 2024, to:

Clerk of the Superior Court
PO Box 2730
Florence, Arizona 85132

The Honorable Jason Holmberg
Judge of the Superior Court

Anne Elsberry
Pinal County Public Defenders Office
P.O. Box 2457
Florence, AZ 85132
Attorney For Defendant

BY tfb
JD/tfb

Appendix F

Defense Response to Motion in Limine-C.G

November 04, 2024

State of Arizona v. Rickie Isaiah Gibson, Jr.,

S1100CR202300906

1 KATE MILEWSKI
2 PINAL COUNTY PUBLIC DEFENDER
3

4 Anne Elsberry
5 Defender Attorney
6 P.O. Box 2457
7 971 N Jason Lopez Circle, Building G
8 Florence, Arizona 85132
9 (520) 866-7199
10 PCPublicDefender@pinalcountyz.gov
11 State Bar No. 017312
12 Attorney for Defendant
13

14 IN THE PINAL COUNTY SUPERIOR COURT OF THE STATE OF ARIZONA

15
16 IN AND FOR THE COUNTY OF PINAL

17			
18	THE STATE OF ARIZONA,	)	
19		)	No. S1100CR202300906
20	Plaintiff,	)	
21		)	
22	vs.	)	RESPONSE TO STATE'S MOTIONS
23		)	IN LIMINE
24	Rickie Gibson,	)	
25		)	Hon. Jason Holmberg
26	Defendant.	)	
27			

28 COMES NOW Defendant, RICKIE GIBSON, by and through undersigned counsel, and
29 responds to the State's Motions in Limine to (1) prevent the introduction of hearsay testimony
30 regarding "Wetto" and Mr. Gibson; and (2) prevent the introduction of witness Christopher
31 Gilbertson's pending federal felony charges and previous misdemeanor convictions.

32 **I. HEARSAY TESTIMONY**

33 Defendant agrees that he may not elicit the exact statements made by "Wetto" (Robert Soto)
34 to Kathy Bray then repeated by Ms. Bray to Deputy Dudish. However, Defendant may ask
35 whether, in the course of his investigation, Dep. Dudish learned of the possible existence of a
36 firearm in Defendant's possession, and whether that knowledge influenced deputies' decision to
37 look for a firearm.

38 **II. WITNESS GILBERTSON'S PENDING CHARGES**

39 Christopher Gilbertson is currently pending trial in federal court on an indictment in CR23-
40 00794-PHX-JJT (ESW) on 18 counts related to false statements made during the purchase of

1 firearms, in effect, acting as a strawman buyer of firearms. He currently on release and in
2 treatment facility, pending a plea or trial in his case.

3 It is the defense's position that Mr. Gilbertson accepted a handgun, owned by Mr. Moore,
4 from Mr. Gibson on the afternoon of Mr. Moore's death. Mr. Gilbertson left this detail out of his
5 story and has since denied it. It is within Mr. Gibson's 6th and 14th Amendment rights under the
6 U.S. Constitution and Article 2, §§ 4 and 24 to cross-examine Mr. Gilbertson and show his
7 motive to lie. *See State v. Parkinson*, 127 Ariz. 4, ¶¶ 15, 16 (App. 2024). Specifically, although
8 Mr. Gilbertson has not been offered a benefit in exchange for his testimony here, he has likely
9 been told by counsel that he needs to be cooperative and appear in the best possible light in order
10 to enhance the possibility of his receiving a favorable plea and sentence in the future. An
11 admission that he accepted a weapon, which may have been tied to a crime, then hiding that
12 weapon from the police, would not serve that purpose and is a motive to lie about the existence
13 of the weapon and what happened to it. "Exposure of a witness' motivation in testifying is a
14 proper and important function of the constitutionally protected right of cross-examination."
15 *Davis v. Alaska*, 415 U.S. 308, 316-17 (1974). Bias includes "all forms or partiality that may be
16 proven by extrinsic evidence," including interest and motive. *State v. Dunlap*, 187 Ariz. 441, 456
17 (App. 1996). The "right of cross-examination is more than a desirable rule of trial procedure. It is
18 implicit in the constitutional right of confrontation, and helps assure the 'accuracy of the truth-
19 determining process.'" *Chambers v. Mississippi*, 410 U.S. 284, 295 (1973), quoting *Dutton v.*
20 *Evans*, 400 U.S. 74, 89 (1970).

21 *****

1 Thus, Defendant has both a federal and a state constitutional right to present testimony which
2 probes a witness' biases and motivation to lie, including pending criminal charges which are
3 directly related to the conduct at hand.

4 RESPECTFULLY SUBMITTED Wednesday, November 13, 2024.

5
6 KATE MILEWSKI
7 PINAL COUNTY PUBLIC DEFENDER

8
9 */s/Anne Elsberry*

10
11 Anne Elsberry
12 Defender Attorney
13
14
15
16
17

18 COPIES of the foregoing
19 delivered Wednesday, November 13, 2024.
20 to:

21
22 Hon. Jason Holmberg
23 Pinal County Superior Court
24

25 Jennifer Dent
26 Pinal County Attorney's Office
27

28
29 By: */s/Anne Elsberry*
30 Anne Elsberry
31
32
33
34
35
36
37
38
39

1
2
3
4
5

Appendix G

Portion of Trial Transcript with C.G's Testimony
November 13, 2024
State of Arizona v. Rickie Isaiah Gibson, Jr.,
S1100CR202300906

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF PINAL

3 STATE OF ARIZONA,)

4 Plaintiff,)

5 vs.)

6 RICKIE ISAIAH GIBSON, JR.,)

7 Defendant.)

) 2 CA-CR 2025-0012

) CR202300906

8
9
10
11 BEFORE: THE HONORABLE JASON R. HOLMBERG
12 Judge of the Superior Court

13 Florence, Arizona
14 November 13, 2024

15
16 REPORTER'S TRANSCRIPT OF PROCEEDINGS
17 (JURY TRIAL, DAY 2 - MORNING SESSION)
18
19
20
21
22

23 Reported By:
24 SONIA FELIX VACA, RPR
25 Arizona Certified Reporter 50536
Official Court Reporter

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

2 For the Plaintiff:

3 PINAL COUNTY ATTORNEY'S OFFICE
4 By: Jennifer Dent and Stephen Bridger
Deputy County Attorneys
5 PO Box 887
Florence, Arizona 85132

6 Also Present:

7 Andrew Converse, Case Agent

8
9 For the Defendant:

10 PINAL COUNTY PUBLIC DEFENDERS
By: Anne Elsberry and Michael Nachmanson
Deputy Public Defenders
11 PO Box 2457
Florence, Arizona 85132

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	I N D E X	
2	WITNESSES:	PAGE
3	DEYLYNN MOORE	
4	Direct Examination by Ms. Dent	18
5	Cross-Examination by Ms. Elsberry	26
6	Redirect Examination by Ms. Dent	34
7	Juror Questions	37
8	WILLIE EDWARD MULDROW III	
9	Direct Examination by Ms. Dent	39
10	Cross-Examination by Ms. Elsberry	58
11	Redirect Examination by Ms. Dent	68
12	Juror Questions	70, 72
13	Examination by Ms. Elsberry	71
14	CHRISTOPHER GILBERTSON	
15	Direct Examination by Mr. Bridger	74
16	Cross-Examination by Ms. Elsberry	87
17	Redirect Examination by Mr. Bridger	95
18	Recross-Examination by Ms. Elsberry	102
19	Re-redirect Examination by Mr. Bridger	103
20	Juror Questions	103
21	Examination by Ms. Elsberry	105
22		
23		
24		
25		

1 If a lawyer asks you a question that calls for a
2 yes, please say "yes" instead of "yeah" or "uh-huh." If
3 it calls for a no, please say "no" instead of "nah" or
4 "uh-huh."

5 If a lawyer asks you a question you don't
6 understand, it's okay to tell them you do not understand
7 their question, and they'll ask it in a different way.

8 If there's an objection to a question, do not
9 answer it until I allow you to answer it.

10 THE WITNESS: Okay.

11 THE COURT: When you are ready.

12 MR. BRIDGER: Thank you, Judge.

13

14 **DIRECT EXAMINATION**

15 **BY MR. BRIDGER:**

16 Q. Good morning, Mr. Gilbertson.

17 A. Good morning.

18 Q. Would you please state and spell your name for
19 this record.

20 A. My name is Christopher Gilbertson.
21 C-h-r-i-s-t-o-p-h-e-r. G-i-l-b-e-r-t-s-o-n.

22 Q. And how old are you?

23 A. 34.

24 Q. Did you grow up in Randolph in an area near
25 Twilight Trails?

1 A. I lived in Twilight Trails for about six years.

2 Q. Okay. Prior to this incident?

3 A. Yes.

4 Q. What's that area like? Would you describe it for
5 these members of the jury?

6 A. It's very, like, a tight-knit community. It's --
7 there's really -- it's just a little neighborhood where I
8 lived in. It's like in the middle of the desert. It's
9 like a little trailer park in the middle of the desert
10 about a mile away from Randolph. And just a lot of farms
11 around there and really not much to do around there.

12 Q. Who did you live there with?

13 A. I lived there with my mom and my stepdad.

14 Q. And you lived in their home?

15 A. Yes.

16 Q. Okay. Did you know a person by the name of
17 Rickie Gibson?

18 A. Yes.

19 Q. Is that person in the courtroom today?

20 A. Yes.

21 Q. Would you please point out where that person is
22 sitting for this record?

23 A. Right there.

24 Q. Would you describe an article of clothing that
25 they're wearing?

1 A. A purple uniform, purple shirt.

2 MR. BRIDGER: Your Honor, will the record reflect
3 that the witness has identified the defendant?

4 THE COURT: It will.

5 Q. BY MR. BRIDGER: How do you know the defendant,
6 Rickie Gibson?

7 A. I met him in the neighborhood, and we just
8 started hanging out and got to know each other.

9 Q. Were you two friends?

10 A. Yeah.

11 Q. Were you two friends up until this date?

12 A. Correct.

13 Q. Until this occurred?

14 A. Yeah.

15 THE COURT: Is that a "yes"?

16 A. Yes.

17 THE COURT: Thank you.

18 Q. BY MR. BRIDGER: What sort of things did you do
19 together?

20 A. Just hang out and pass the time. Just talked.

21 Q. Had he ever come over to your house before?

22 A. He has.

23 Q. What did he come over there for?

24 A. Just for -- just to hang out, a place to just get
25 away from everything.

1 Q. Without giving the reason why, was he still
2 welcome at your home, or was he not allowed to be there
3 anymore?

4 A. My parents asked him not to come back over there
5 after a couple times.

6 MS. ELSBERRY: Objection.

7 THE COURT: It's sustained.

8 MR. BRIDGER: Withdrawn.

9 Q. BY MR. BRIDGER: Let me ask you this. Well,
10 first, before we get into what happened on this date. Do
11 you have a pending federal case going on?

12 A. I do.

13 Q. Okay. That hasn't been resolved?

14 A. It's in the middle of being resolved.

15 Q. It has nothing to do with this case here today?

16 A. Correct.

17 Q. Okay. What were you doing on the morning of
18 March 29th, 2023?

19 A. I was just at home, just hanging out with my mom
20 and my stepdad.

21 Q. Okay. At some point did the defendant come to
22 your house?

23 A. Yes.

24 Q. Do you recall about what time that was?

25 A. I'm not exactly sure, but I'd say like around

1 noon or a little bit after noon maybe.

2 Q. Okay. In the early afternoon?

3 A. Yeah.

4 Q. How did the defendant come to your house? Did he
5 knock on the front door? What happened?

6 A. He knocked on my window, and he was, like,
7 frantic. He was telling me somebody was trying to kill
8 him, or people were chasing him. And I could see that he
9 genuinely had fear, so I snuck him into my room.

10 Q. Okay. Had he come in through your window before?

11 A. Not into my window, no. I let him in the front
12 door, and he went in my room.

13 Q. In past times, but in this time he came in
14 through your window?

15 A. No, he didn't come in through the window. He
16 came in -- I let him in through the front.

17 Q. Okay. And you took him into your room?

18 A. Yeah.

19 Q. What happened when he got into your room?

20 A. He was just very emotional and distraught and
21 just, like, just saying, like, just saying to God, like,
22 that he's sorry and to forgive him and just kind of just
23 ranting a little bit. And I didn't know what was going on
24 at the moment.

25 Q. Okay. What was his demeanor or body language

1 during that time?

2 A. He was just acting like very, very emotional,
3 just like rocking back and forth on the bed and then
4 laying back on the bed and then just saying, like, "Oh,
5 God." "I'm sorry." "I'm sorry." And, like, like, just
6 repeating that, and he just seemed very, very emotional.

7 Q. Okay. You said that he was asking God to forgive
8 him. Did you ever find out what he wanted God to forgive
9 him for?

10 A. Not right away, because I didn't understand what
11 was going on, but like during the time that he was in
12 there, he was basically, like, telling me that he hurt
13 somebody.

14 Q. What else did he say?

15 A. During the time that we were talking, and he was,
16 like, just, like, praying out loud and, like, just saying
17 stuff out loud to God. And he was just saying how he --
18 that there was an incident that occurred and that
19 somebody, like, came at him to try to hurt him with a bat,
20 and he -- and somehow he got the bat and hit the guy with
21 the bat. And then I believe he said that he ran, like,
22 hit him with the car or something or ran him over and,
23 like, that's, like, what he was saying. And he was crying
24 and saying this and just kept -- just being very, very
25 emotional about it.

1 Q. Did he tell you who he hit with the bat?

2 A. No. He didn't tell me who.

3 Q. Did you since learn who was hit with the bat and
4 who was run over with the truck?

5 A. Yes.

6 Q. Did you know Melvin Moore?

7 A. I have met him one time. I was introduced to him
8 in Randolph, but I've only met him one time.

9 Q. How would you describe Melvin Moore?

10 A. He's an older -- he was an older man, very
11 respectful. And I could tell either he had military
12 experience, or he was just disciplined. I could tell by
13 his demeanor. He was just very respectful towards me when
14 I was speaking with him.

15 Q. When the defendant was telling you what happened
16 in your room, did it make you uncomfortable?

17 A. It was making me uncomfortable just because I was
18 just seeing how frantically emotional he was and then,
19 like, finding out what happened, you know. I just was
20 worried just because I didn't know if something else could
21 happen or, you know, I just -- I just -- from my
22 perception I could tell that something had happened
23 that -- that he was in just -- just an uncontrollable
24 emotional state of mind at that moment and just dealing
25 with, like, the thoughts that were overwhelming him. And

1 I was concerned for, like, my mom or, like, they didn't
2 know he was there, but just -- I was just concerned
3 because I just didn't fully understand what was going on.

4 Q. Yeah. In speaking with your -- this person that
5 you considered to be your friend, did you ask clarifying
6 questions to find out more of the story of how it
7 happened?

8 A. No, I didn't.

9 Q. Did the defendant ask to change his clothing?

10 A. I don't remember if he asked me or not, that
11 question.

12 Q. I'm going to show you what's marked as State's
13 Exhibit 62, and I'm going to have you read this. Do you
14 recall doing an interview with both the prosecution and
15 the defense in this case?

16 A. Yes, I do.

17 Q. I'm going to have you start at that bottom there.
18 And let me know if you recognize that.

19 A. You want me to read it out loud?

20 Q. I apologize. Did you have an interview with
21 Detective Converse here?

22 A. I believe so.

23 Q. Okay. Do you recall giving that interview at the
24 police station?

25 A. Yes.

1 Q. That 62 is a transcript of that recording. Would
2 you read the bottom of that and see if this reflects your
3 recollection?

4 THE COURT: And do not read it out loud. Read to
5 it to yourself, sir.

6 THE WITNESS: Okay.

7 Q. BY MS. BRIDGER: And it continues on to the next
8 page when you're done with that.

9 A. You want me to read this full page?

10 Q. After you've read the next page, your statement
11 there, I'll take that from you.

12 A. Okay.

13 Q. Do you remember what you told Detective Converse?

14 A. Yes, I do.

15 Q. What did you tell him?

16 A. I told him that when he was telling me what
17 happened, that basically on a dirt road when he was
18 walking towards my house or -- either towards Randolph or
19 towards my house, I don't know which direction, on a dirt
20 road, that's when somebody pulled up on him and jumped out
21 of a truck and was trying to hit him with a bat. And
22 that's when he dodged the bat and got the bat back from
23 him and then hit him with the bat and -- in the head and
24 then jumped in the truck and then ran him over and then
25 drove that vehicle to Twilight Trails, which is my

1 neighborhood, and parked it near somebody's house, which
2 is like a block away.

3 And then that's when he came to my house, so
4 that's the -- I do remember that now because at that time
5 when he was saying that people were coming to get him,
6 like, that's the moment, right, when he, you know, just
7 parked the vehicle down the street and then came to my
8 house, which is what I later learned while we were in my
9 room when we were talking.

10 Q. Okay. So the defendant comes into your bedroom.
11 He's distraught. He's praying to God asking for
12 forgiveness, and slowly his story comes out that somebody
13 came at him with a bat. He took the bat, hit that person
14 in the head with the bat, ran over that person with the
15 truck, dropped the vehicle nearby in Twilight Trails, and
16 then came into your house. That's what the defendant told
17 you?

18 A. That's correct.

19 Q. Okay. And that's the story that you gave to the
20 police right after you and the defendant were apprehended
21 together?

22 A. Correct.

23 Q. And you gave that story to the police immediately
24 after this event happened?

25 A. Yes.

1 Q. Okay. Let's talk about that. I asked you
2 earlier if the defendant changed clothes. What happened
3 with that, with his changing the clothes?

4 A. He -- he -- I gave him one of my jackets, and he
5 did change clothes and the other -- the clothes that he
6 changed out of I put in a bag in the kitchen by the trash,
7 you know, because I didn't know what to do in the moment.

8 And then after that is when I didn't know how to
9 proceed in the situation. And I just knew that I needed
10 to somehow remove the situation from my house and so
11 that's --

12 Q. Let me stop you there. After you learned what
13 you learned, did you feel uncomfortable having the
14 defendant in your parents' home?

15 A. Yes, I did.

16 Q. Okay. Did you feel that it was best to have the
17 defendant leave your home?

18 A. Yes.

19 Q. How did you accomplish that?

20 A. That's when -- that's when I said that, you know,
21 basically I was just trying to make him feel comfortable
22 to leave because he was very nervous and just very
23 emotional, and I didn't want anything to happen. I didn't
24 want any bursts of anger or just anything in that
25 situation to accelerate into any type of danger so . . .

1 Q. Let me ask you that. You said that you didn't
2 want any personal anger or anything like that. There in
3 your room did the defendant tell you he had anger problems
4 or that he had warned Melvin Moore that he had anger
5 issues?

6 A. Yes. He was stating that he's like, see, I told
7 you. I told him this would happen. I warned him that
8 this would happen and then it fucking happened. And --
9 and that's one of the reasons why I was trying to think of
10 how to, you know, to have him leave my house.

11 Q. Okay. So you were also fearful of his anger
12 problems then?

13 A. At that moment, yeah.

14 Q. How did you leave the house?

15 A. He didn't want to go. He didn't want to leave,
16 so I told him that I would go with him. And so I said,
17 "Let's jump out the window right now." And I said, "I'll
18 jump out first."

19 And so basically I jumped out the window, and
20 then he jumped out with me, and we started walking away.
21 And that's when, like, 20 -- like, ten to 15 undercover
22 vehicles came pulling up to my house.

23 Q. At that point were you and the defendant taken
24 into custody?

25 A. Yeah. At that point I didn't know that they

1 were, like, police, and they kind of startled me, so I ran
2 back into my house. And Rickie -- the police just let him
3 kind of walk, like, right through all the cars and stuff.
4 And he walked over towards a friend of ours, JJ's house,
5 which is like four houses down. And that's where they
6 apprehended him and apprehended me inside my house when
7 they came.

8 Q. And when police took custody of you, that's when
9 you gave your statement of that story that was told to you
10 to the detectives?

11 A. That's correct.

12 Q. One moment.

13 If you know why, why did the defendant change his
14 clothes?

15 A. I'm not 100 percent sure, but probably just to
16 change his -- the way that he looked.

17 Q. Were his clothes that he came in on dusty and
18 dirty?

19 A. I don't remember that.

20 Q. Okay. Did he ask you once or more than once to
21 help him change his clothes?

22 A. Just once, I think.

23 MR. BRIDGER: Okay. No further questions.

24 THE COURT: Any cross-examination?

25 MS. ELSBERRY: Yes. Thank you, Your Honor.

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. ELSBERRY:

Q. Now, you said that Rickie Gibson was a friend of yours, right?

A. That's correct.

Q. But when you did your interview with Detective Converse, you tried to tell him "Well, Rickie wasn't really a friend of mine. We just hung out every once in a while"?

A. No. He was a friend. We didn't know each other for very long, but we were friends. We hung out a few times and got to know each other.

Q. Why would you have told Detective Converse that he wasn't really your friend?

A. I don't know.

Q. Was it that you didn't want to be tied with him when you thought maybe he was in trouble?

A. Maybe.

Q. You didn't want to get yourself in trouble, right?

A. Yeah.

Q. Okay. Now, when you talked to Detective Converse, this little bit about the anger issues, you never told Detective Converse about that, did you?

A. I don't -- I don't remember if I told him that or

1 not.

2 Q. Okay. You didn't say anything about that until,
3 what, when you and I talked a couple of weeks ago,
4 correct?

5 A. I guess so, yeah.

6 Q. So you waited a year and a half before you let
7 anybody know about the -- supposedly Rickie saying
8 something about anger issues?

9 A. Yeah.

10 Q. Okay. Now, was your memory the day of the
11 incident clearer than your memory is now?

12 A. Can you restate that question?

13 Q. Was your memory clearer about what happened that
14 day on the day, or is it clearer now a year and a half
15 later?

16 A. Probably on the day.

17 Q. Okay. And on that day you said nothing about
18 Rickie talking about anger issues, correct?

19 A. Correct.

20 Q. Now, when Rickie came to your house sometime
21 after 1 o'clock in the afternoon, what was he wearing?

22 A. I don't remember. I don't remember that.

23 Q. Don't remember that it was a black sweatshirt or
24 pants?

25 A. I don't remember.

1 Q. Okay. But you do remember him asking to help him
2 change out, right?

3 A. Yeah, because I remember putting the clothes in
4 the kitchen.

5 Q. Okay. So you put the clothes into a black
6 garbage bag, correct?

7 A. No, I don't think so. I don't remember that
8 actually. I don't remember. I just remember moving.

9 Q. So you don't know how the clothes got into a
10 black garbage bag?

11 A. I don't.

12 Q. But you're the one who took them from the bedroom
13 and put them in the kitchen on top of the dog food
14 container?

15 A. That's correct.

16 Q. Okay. Do you remember that Rickie Gibson came to
17 your house and he had in his possession a gun?

18 A. No, I don't remember that.

19 Q. You don't remember a .357 silver gun with a white
20 handle?

21 A. No.

22 Q. You remember all these other things, but you
23 don't remember that?

24 A. Yeah. I don't remember that.

25 Q. Now, I think you told the State that you're

1 currently pending charges in federal court; is that
2 correct?

3 A. That's correct.

4 Q. And you have an attorney, right?

5 A. Yes.

6 Q. Do you have a plea yet in that deal?

7 A. I do. I haven't signed it yet.

8 Q. Okay. Have you talked about whether or not you
9 need to appear to be cooperating with the State?

10 A. No, I haven't.

11 Q. Your attorney hasn't talked to you about that at
12 all?

13 A. No.

14 Q. Okay. Has she told you you need to be telling
15 the truth today?

16 A. Yes.

17 Q. And why would you need to be telling the truth
18 today?

19 A. Because it's the right thing to do.

20 Q. But it also makes you look better in front of the
21 judge and the prosecutor, doesn't it?

22 A. Yeah, but my judge doesn't even know anything
23 about this.

24 Q. Not yet, right?

25 A. Unless somebody here says something to them. I

1 don't plan on doing that. That's not why I'm here.

2 Q. You were pretty frightened when you got picked up
3 by the police when you were leaving out that window,
4 right?

5 A. Yeah.

6 Q. You were afraid you were in trouble?

7 A. No. I just was just afraid of the situation,
8 like.

9 Q. Well, you had just helped somebody hide clothes
10 that might be evidence, right?

11 A. Correct, but I was doing that so that I could
12 help the situation of helping him to get out of the house.

13 Q. But you tampered with evidence, right? Potential
14 evidence.

15 MR. BRIDGER: Objection.

16 THE COURT: It's sustained. Rephrase your
17 question.

18 Q. BY MS. ELSBERRY: Was there a possibility in your
19 mind that you could get in trouble for having touched
20 evidence?

21 A. I never thought of it like that because I didn't
22 think I was doing anything wrong. I was just trying to
23 have him -- to leave my house, to trust me so that he
24 would leave. Leave.

25 Q. And admitting that you'd taken a gun that might

1 have been involved in a crime, that might have gotten you
2 in trouble too?

3 A. If that were to happen, but that didn't happen.

4 Q. Okay. And now coming back and telling us the
5 truth and telling us that, yes, you had the gun, that
6 could get you in trouble?

7 MR. BRIDGER: Objection.

8 THE COURT: It's overruled.

9 A. Can you restate the question?

10 Q. So if you -- if your lawyer told you, hey, you
11 need to tell the truth because it's the right thing to do,
12 right?

13 A. Correct.

14 Q. So if you decided today to do the right thing and
15 admit that you took a gun from Rickie Gibson that day,
16 that could get you in trouble, couldn't it?

17 A. I believe so.

18 Q. Okay. So you know that if you admitted to having
19 that gun, you might get in trouble?

20 A. Okay.

21 Q. Are you afraid you might go to prison?

22 A. For what? The -- my federal case?

23 Q. Yup.

24 MR. BRIDGER: Objection.

25 THE COURT: Sustained.

1 THE WITNESS: What exactly does "sustained" mean?

2 THE COURT: It means you don't have to answer
3 that question.

4 THE WITNESS: Okay.

5 Q. BY MS. ELSBERRY: So just to recap, Rickie Gibson
6 came to your house, right?

7 A. Correct.

8 Q. You let him in the front door, took him back to
9 your bedroom. He was obviously freaked out about
10 something. He was crying, right?

11 A. Correct.

12 Q. He was really upset because something bad had
13 really happened?

14 A. Correct.

15 Q. Okay. And how long was he there; two hours,
16 three hours?

17 A. I'd say maybe a couple hours.

18 Q. Okay. At some point in that time he tells you
19 what happened?

20 A. Correct.

21 Q. You didn't call the police?

22 A. I didn't -- actually I don't -- didn't own a
23 phone I don't think and so . . .

24 Q. So who else is in the house with you that day?

25 A. My mom and my stepdad.

1 Q. And your mom's bedbound, right? She's in her
2 room?

3 A. Correct.

4 Q. And your stepdad is there with you -- with her?

5 A. Yeah, she's in -- he's in there with her.

6 Q. And was your girlfriend at the time in the house
7 too?

8 A. No, she wasn't.

9 Q. Kathy wasn't there?

10 A. Huh-uh.

11 Q. So there's three people.

12 So did your mom have a phone?

13 A. Yeah.

14 Q. And your dad -- stepdad had a phone?

15 A. Yeah.

16 THE COURT: Is that a yes?

17 A. Yes.

18 Q. And you walked out of your bedroom because you
19 took the clothes into the kitchen, correct?

20 A. Correct.

21 Q. So you could have gone into your mom's room and
22 asked for a phone, correct?

23 A. Correct.

24 Q. But in that two or three hours you never said,
25 you know, this is bad. I probably ought to call the cops

1 about it?

2 A. I just didn't want anything to escalate in my
3 house in case if the police came. I didn't want anything
4 to escalate.

5 Q. And so instead of walking out the front door with
6 Rickie, you decided that sneaking out the window was the
7 best option, right?

8 A. That's correct.

9 MS. ELSBERRY: I don't have any other questions,
10 Your Honor.

11 THE COURT: Any redirect?

12 MR. BRIDGER: Yes, Judge.

13

14 **REDIRECT EXAMINATION**

15 **BY MR. BRIDGER:**

16 Q. Christopher, how is your mom doing?

17 A. She is doing okay.

18 Q. Does she have any medical conditions?

19 A. Yeah. My mom has multiple sclerosis.

20 Q. Isn't that because she's bedridden and not able
21 to move?

22 A. Yes, 100 percent.

23 Q. Would that be a reason that you didn't want to
24 barge in there and bug her because the defendant came into
25 your home to ask for a phone?

1 A. Correct.

2 Q. In fact, also the defendant wasn't allowed to be
3 in your home?

4 A. Correct.

5 Q. Okay. Miss Elsberry asked you a bunch of
6 questions about you maybe being nervous or upset when the
7 police came. Is it fair to say that you were nervous that
8 day?

9 A. I was.

10 Q. Do you often have friends come into your home and
11 confessing to murder or killing somebody?

12 A. No.

13 Q. Is that an occurrence that occurs pretty often
14 that you're able to deal with?

15 A. No.

16 Q. Okay. So you were upset and you were nervous?

17 A. Yes.

18 Q. And when the 15 and 20 police cars came, is that
19 also something that you deal with on a daily basis?

20 A. No.

21 Q. Would that have made you nervous or agitated with
22 them coming?

23 A. Yeah. Yes.

24 Q. But notwithstanding that nervousness or
25 agitation, you told the police what you remembered and

1 what occurred, right?

2 A. Correct.

3 Q. Now, Miss Elsberry asked you that -- she said
4 that you possibly did evidence tampering, right? Do you
5 recall that?

6 A. I recall that.

7 Q. But you told the police about that clothing?

8 A. Correct.

9 Q. So the fact that you put some clothing in a trash
10 bag, you then told the police what you did and where it
11 was. You weren't covering for the defendant?

12 A. Correct.

13 Q. So you told the police about when this happened,
14 about where it happened, about how it happened short in
15 time after it happened telling them the full story; is
16 that correct?

17 A. Correct.

18 Q. Okay. And that was when you were in custody with
19 the police, right?

20 A. Correct.

21 Q. Now, between the time that you had this initial
22 interview right after it happened, and then you had an
23 interview with us a few weeks ago, have you given any
24 other official statements of this event?

25 A. No.

1 Q. Okay. Is it fair to say that you gave the true
2 and best of your knowledge -- that's what your statement
3 was on both of these right after it happened and with our
4 interview?

5 A. Yes.

6 Q. Okay. Did you purposely mislead anybody?

7 A. No.

8 Q. Was there a gun involved at all?

9 A. No.

10 Q. Okay. If there had been a gun involved, just
11 like the other things that were involved, would you have
12 told police about that?

13 A. Yes.

14 Q. If there had been a gun involved, is that
15 something that you would have remembered?

16 A. Yes.

17 Q. If the defendant who just confessed to killing
18 somebody had come to your window in a state of frantic,
19 asking for forgiveness, giving slow but details about the
20 different strikes and then the way that he killed this
21 person, but also included the fact that he had a gun, is
22 that something that you would have told the police?

23 A. Yeah. Yes.

24 Q. But he never told you any of that, did he?

25 A. No.

1 Q. During this event, after the defendant came into
2 your window, were you scared of the defendant? Were you
3 scared of Rickie?

4 A. Yes.

5 MR. BRIDGER: No further questions.

6 THE COURT: Are there any questions by the jury
7 for this witness?

8 MS. ELSBERRY: Your Honor, may I ask one question
9 on recross?

10 THE COURT: No. We'll have a sidebar.

11 (There was a bench conference.)

12 THE COURT: Thank you. We'll have a sidebar.

13 (The following discussion was held at sidebar,
14 outside the presence of the jury:)

15 THE COURT: Let's pick up. You asked for --

16 MS. ELSBERRY: Just one question on recross.

17 THE COURT: What was your question?

18 MS. ELSBERRY: The question was going to be so
19 did Rickie ever tell him he had killed somebody or whether
20 he had hurt somebody.

21 THE COURT: Go back and I'll allow it.

22 First juror question: Had the defendant ever
23 displayed any type of anger problems during the duration
24 of your friendship?

25 MS. ELSBERRY: I'm going to object to that one.

1 THE COURT: I will not ask that.

2 Next question: Were you ever fearful of the
3 defendant other than this situation?

4 MS. ELSBERRY: Again, I'm going to object.

5 THE COURT: I won't ask those questions.

6 Next set. Why was Rickie no longer allowed in
7 your parents' home?

8 MS. ELSBERRY: We're not going there. We already
9 agreed that we weren't going there.

10 THE COURT: State?

11 MR. BRIDGER: That was in the motions in limine.
12 We agreed we're not going to.

13 THE COURT: Okay. Next question. Was there
14 blood spatter present on Rickie at the time he showed up
15 at your house?

16 MS. ELSBERRY: I don't object to the question. I
17 don't think he can answer it but . . .

18 MR. BRIDGER: Yeah, I agree.

19 THE COURT: Okay. So you would agree that he
20 can't answer it or --

21 MR. BRIDGER: I agree that you can answer it, but
22 I don't think the witness can answer it.

23 THE COURT: Okay. I'll ask it.

24 Next question: How long was Rickie at Chris'
25 house?

1 MR. BRIDGER: That can be asked.

2 MS. ELSBERRY: Yeah. I think he already did.

3 THE COURT: I'll ask it again.

4 Next set of questions. You said you were home
5 with your parents, and Rickie was not allowed in your
6 home. You said Rickie came through the front door. Where
7 were your parents?

8 MR. BRIDGER: It can be asked.

9 MS. ELSBERRY: I think if we ask it, then just
10 take out the "not allowed in your home."

11 THE COURT: You guys already stated that a bunch
12 of times.

13 MS. ELSBERRY: Never mind. Never mind. I'm
14 sorry. Thinking three steps ahead where I shouldn't.

15 THE COURT: Next question. Your parents did not
16 hear you and Rickie talking, question mark.

17 MS. ELSBERRY: I don't have any -- I'm okay with
18 that question.

19 MR. BRIDGER: Same.

20 THE COURT: Do you live in a mobile home,
21 question mark.

22 MR. BRIDGER: It can be asked.

23 MS. DENT: I think we need to modify that to did
24 you live in a mobile home at the time.

25 MR. BRIDGER: Yes.

1 MS. ELSBERRY: I'm fine with that.

2 THE COURT: Okay. Next question. Why didn't you
3 call 911?

4 MR. BRIDGER: It can be asked.

5 MS. ELSBERRY: Okay.

6 THE COURT: We're going to go back in. I'll
7 allow you to ask your question, and then I'll ask the
8 juror questions.

9 MS. ELSBERRY: Thank you.

10 (End of sidebar discussion.)

11

12 **RECROSS-EXAMINATION**

13 BY MS. ELSBERRY:

14 Q. Mr. Gilbertson, I have one other question. I
15 apologize.

16 THE COURT: Sonia, are you ready?

17 Go ahead, Miss Elsberry.

18 Q. BY MS. ELSBERRY: One other question for you. So
19 when Rickie came to your house, did he tell you that he
20 had killed somebody, or did he tell you that he had hurt
21 somebody?

22 A. He told me that he killed somebody.

23 Q. Okay. That he knew that somebody was killed?

24 A. Yeah.

25 Q. Or did he just tell you that I hit somebody and I

1 ran them over?

2 A. He was assuming that he killed them.

3 Q. So it was your belief that he made the assumption
4 that the person was dead?

5 A. Correct.

6 Q. Okay. But didn't know for certain, correct?

7 A. Correct.

8 MS. ELSBERRY: Thank you.

9 THE COURT: Any re-redirect?
10

11 **RE-REDIRECT EXAMINATION**

12 **BY MR. BRIDGER:**

13 Q. The defendant told you that he had killed him?

14 A. Yeah.

15 MR. BRIDGER: No further questions.

16 THE COURT: Okay. Is that a "yes"?

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

19 There's some juror questions.
20

21 **JUROR QUESTIONS**

22 THE COURT: How long was Rickie at your house on
23 the day that they're discussing, March 29th?

24 THE WITNESS: I'd say a few hours. I don't
25 remember exactly how long. It was quite an emotional

1 situation, so I just know a couple hours.

2 THE COURT: Any follow-up from the State?

3 MR. BRIDGER: No, Judge.

4 THE COURT: Any from the defense?

5 MS. ELSBERRY: No, Your Honor.

6 THE COURT: Next question: Was there blood
7 spatter present on Rickie at the time he showed up at your
8 house?

9 THE WITNESS: No.

10 THE COURT: Any follow-up from the State?

11 MR. BRIDGER: No, Judge.

12 THE COURT: Any from the defense?

13 MS. ELSBERRY: No, Your Honor.

14 THE COURT: Next question: You said you were
15 home with your parents, and Rickie was not allowed in your
16 home. You said Rickie came through the front door. Where
17 were your parents?

18 THE WITNESS: My mother is disabled. She was
19 bedridden in the back bedroom, and my father stays in
20 there with her, so they're both in their bedroom, and so
21 they did not know that I let him in the house.

22 THE COURT: Next question: Your parents did not
23 hear you and Rickie talking?

24 THE WITNESS: That's correct.

25 THE COURT: Next question: Did you live in a

1 mobile home on March 29th of 2023?

2 THE WITNESS: It's a manufactured home.

3 THE COURT: And next question: Why didn't you
4 call 911?

5 THE WITNESS: Because I was nervous and scared
6 that either he would act out or do something violent, and
7 I didn't want that to happen in my mom's home. My concern
8 was to get him out of the house.

9 THE COURT: Any follow-up from the State?

10 MR. BRIDGER: No, Judge.

11 THE COURT: Any from the defense?

12

13 **EXAMINATION**

14 BY MS. ELSBERRY:

15 Q. Now, we talked a couple weeks ago. You mentioned
16 that you thought maybe the cartel was involved, correct?

17 A. Correct.

18 MR. BRIDGER: Objection.

19 THE COURT: Yeah. We'll have a sidebar.

20 (The following discussion was held at sidebar,
21 outside the presence of the jury:)

22 THE COURT: There was an objection. State?

23 MR. BRIDGER: Judge, this is way beyond any of
24 what the questions are. This is subject matter that we've
25 said we're not getting into whatsoever. It's only used to

1 paint the scenario as to something nefarious that we're
2 not allowed to touch. This is napalm that's not related
3 to that question. Miss Elsberry knows better, should know
4 better, has been instructed to do better, and then threw
5 this out there.

6 THE COURT: Miss Elsberry?

7 MS. ELSBERRY: So, Your Honor, during our
8 interview Mr. Gilbertson said he was afraid because he was
9 afraid that there was a cartel involved. He never said
10 that "I was afraid that Rickie would do something." He
11 said, "I was afraid because I didn't know who was involved
12 in this." So it's impeachment.

13 MR. BRIDGER: How does this --

14 MS. ELSBERRY: I'm not going into why he thought
15 it was the cartel. I'm not going into what his dealings
16 with the cartel were. I'm just saying that "you had
17 another reason that you told me about why you were afraid
18 of what was going on."

19 THE COURT: This line of questioning isn't new
20 for the jury. I think you asked it yourself. You talked
21 about the phone, how he didn't have a phone, why didn't he
22 use his mom's phone. And it was, like, you got your
23 answers, and he was pretty consistent on what he was
24 saying. He was afraid. He didn't want things to go down
25 in his house, and then you threw up a cartel question.

1 I'm going to allow the witness to answer. I want you to
2 rephrase your question.

3 MS. ELSBERRY: Okay.

4 THE COURT: And that will be the end of it.

5 MS. ELSBERRY: Okay. That was my only question.

6 THE COURT: I mean, next time I would ask for a
7 sidebar. I don't -- I don't, you know, when I told you
8 guys in the beginning don't lob that stuff out there to
9 the jury when you think the door's been open, but you do.
10 And that's in -- the jury is no place to test your
11 question. You test your question with me, not them, and
12 this is where we end up.

13 MR. BRIDGER: Judge --

14 THE COURT: Go ahead, Mr. Bridger.

15 MR. BRIDGER: The State's fear is this leaves the
16 jury with only the possibilities of negative views beyond
17 that which we can correct allowing Miss Elsberry to -- and
18 frankly, I don't want to besmirch her, but clean this up
19 with a question. I have some doubts that that's going to
20 happen. I understand that's -- we're limited on remedies,
21 but it leaves the State wanting more.

22 THE COURT: But it is a prior inconsistent
23 statement. She's saying that your witness who just said
24 "I'm afraid of the defendant" did not tell Miss Elsberry
25 that in a prior interview.

1 MS. DENT: He did.

2 MR. BRIDGER: She asked it multiple, different
3 ways. He said that he was afraid of Rickie. This is not
4 a prior inconsistent statement. This is a way to
5 back-door his gun charges or that he's a bad person or
6 impeach his -- on everything else. There's nothing in
7 line with what she's doing that that's proper under the
8 rules.

9 THE COURT: This interview. Were you present at
10 this interview?

11 MR. BRIDGER: Yes.

12 THE COURT: Where did the cartel come up then?

13 MR. BRIDGER: With talking about his federal
14 charges because his gun stuff, and he was afraid of the
15 cartel possibly involved with his other gun issues.

16 MS. ELSBERRY: But it also came up when he said
17 Rickie came in and said people were chasing him and that
18 he was in trouble. And so he said I thought that might --
19 maybe it was the cartel was involved.

20 THE COURT: I mean, that was different from the
21 answer and the question that was just asked. You're able
22 to ask that question just the way you phrased it.

23 MS. ELSBERRY: Okay.

24 THE COURT: Did he come in and say people were
25 chasing him and then you initially thought. And after

1 that, that's it. We're putting it to bed.

2 MS. ELSBERRY: Okay.

3 THE COURT: Okay.

4 (End of sidebar discussion.)

5 THE COURT: Miss Elsberry, when you're ready.

6 MS. ELSBERRY: Thank you, Your Honor.

7 Q. BY MS. ELSBERRY: Now, when Rickie first came to
8 your house, he was scared, right?

9 A. That's correct.

10 Q. And he was saying people were chasing him?

11 A. Correct.

12 Q. And you got scared too, right?

13 A. Correct.

14 Q. Because you didn't know who was chasing him?

15 A. Correct.

16 Q. And you thought that maybe there was somebody
17 else out there that was trying to get you?

18 A. Correct.

19 Q. And that perhaps it was cartel involved?

20 A. I didn't think that right at front. I just
21 thought that -- the reason why I thought that is because
22 of the way that the police officers, like, came out of
23 nowhere with all these undercover vehicles because the
24 neighborhood has a lot of, like, activity like that.

25 MS. ELSBERRY: No other questions, Your Honor.

1 THE COURT: All right. May this witness be
2 excused?

3 MR. BRIDGER: Yes, Judge.

4 THE COURT: All right. Thank you.

5 Folks, that's going to bring us right up to the
6 noon hour, so we're going to go ahead and break for lunch.
7 I'm going to ask that you be ready to come back in the
8 courtroom at 1:30. Please enjoy your lunch, and remember
9 the admonition.

10 (The jury exited the courtroom.)

11 THE COURT: Thank you. Go ahead and have a seat.
12 Anything the State needs to put on the record?

13 MR. BRIDGER: Not now, Judge.

14 THE COURT: Anything from the defense?

15 MS. ELSBERRY: No, thank you, Your Honor.

16 THE COURT: Okay, guys. Come back at maybe 1:20.
17 I'll pop in and see if you need to put anything on the
18 record. And if not, then we'll just resume at 1:30.
19 Enjoy your lunch.

20 MR. BRIDGER: Okay.

21 MS. ELSBERRY: Thank you, sir.

22 (The proceedings were recessed at 12:01 p.m.)
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, SONIA FELIX VACA, CR, a Certified Reporter in
the State of Arizona, do hereby certify that the foregoing
pages constitute a full, true, and accurate transcript of
the proceedings had in the matter, all done to the best of
my skill and ability.

SIGNED and dated this 5th day of February, 2025.

/s/Sonia Felix Vaca
SONIA FELIX VACA, RPR, CR
Certified Reporter
Certificate No. 50536

Appendix H

Judgment and Sentence of the Pinal County Superior Court
January 10, 2025
State of Arizona v. Rickie Isaiah Gibson, Jr.,
S1100CR202300906

Date Filed: 1/13/25
Time Filed: 5:10 p.m.
By: BM

IN THE SUPERIOR COURT

PINAL COUNTY, STATE OF ARIZONA

Date: 01/10/2025

THE HON. JASON R. HOLMBERG

Courtroom: **3C**

Court Reporter: LESLIE CRAITH

REBECCA PADILLA, CLERK

By Deputy Clerk: B. MOSES

THE STATE OF ARIZONA,

Plaintiff,

vs.

RICKIE ISIAAH GIBSON, JR

Defendant

) **S1100CR202300906**

) **MINUTE ENTRY ACTION:**

) **CHANGE OF PLEA and SENTENCE OF**
) **IMPRISONMENT AND PROBATION**

Date of birth: 8/23/2002

3:20 p.m. Hearing starts.

PRESENT: Plaintiff appearing by counsel, Jennifer Dent, and Stephen Bridger, Deputy County Attorneys.

Defendant appearing in person in the custody of the Pinal County Sheriff and with counsel, Anne Elsberry and Michael Nachmanson, Deputy Public Defenders.

Adult Probation Officer appearing.

Victim Representative appearing in person with Victim Advocate.

The Court announces that this is the time set for a Change of Plea and Sentencing.

Counsel for Defendant advised that the Defendant wishes to enter a Change of Plea as to Count 2.

Pursuant to PLEA AGREEMENT, Defendant states to the Court the desire to enter a plea of GUILTY to the crime(s) of Count 2 (amended): Possession of Drug Paraphernalia, to wit: foil used with fentanyl, a class 6 Undesignated offense.

The Court advises the defendant as to the range of possible sentence for the offense(s), including whether probation is available and any other conditions imposed by statute, including special requirements for probation, if available. The Court further advises the defendant as to all constitutional rights waived by the Plea Agreement.

The Court further advises the defendant that by entering into a Plea Agreement that he/she waives the right to have the Arizona Court of Appeals review the proceedings by way of a direct appeal and may seek review only by filing a Petition for Post-Conviction Relief, pursuant to Rule 32 within ninety (90) days of entry of judgment and sentencing.

Defendant is advised of all constitutional rights, consequences of the plea, and the range of possible sentence for the offense, including any special conditions imposed by statute.

Defendant pleads GUILTY.

Upon inquiry, the Court FINDS Defendant desires to forgo the constitutional rights, that the defendant has entered the agreement knowingly, intelligently, and voluntarily, and is not the result of force, threats and promises.

That no promises, other than those contained in the PLEA AGREEMENT, force or threats were made in to induce the plea, and that the defendant understands the nature of the charge(s).

That there is a factual basis for the plea.

Therefore, IT IS HEREBY ORDERED the plea of Defendant of GUILTY is accepted and entered of record.

Counsel and Defendant waive the preparation of an Addendum to the Presentence Report.

3:33 p.m. recess.

3:40 p.m. reconvene. All parties previously appearing are once again present.

The Court notes it has reviewed the State's Sentencing Memorandum.

Statements of Counsel as to imposition of sentence.

The Defendant is advised of the charge, the determination of guilt and is given the opportunity to speak.

Pursuant to A.R.S. §13-607, the Court finds as follows:

As to Count 1: JURY VERDICT The determination of guilt was based upon a verdict of guilty after a jury trial.

As to Count 2: WAIVER OF TRIAL The Defendant knowingly, intelligently and voluntarily waived his/her right to a trial with or without a jury, his/her right to confront and cross-examine witnesses, his/her right to testify or remain silent and his/her right to present evidence and call his/her own witnesses after having been advised of these rights. The determination of guilt was based upon a plea of guilty.

Having found no legal cause to delay rendition of judgment and pronouncement of sentence, the Court enters the following judgment and sentence:

AS TO COUNT 1:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of the following crime(s), that upon due consideration of all the facts, law and circumstances relevant here, the Court finds that suspension of sentence and a term of probation are not appropriate and that a sentence of imprisonment with the Department of Corrections is appropriate.

THE COURT FURTHER FINDS that there are circumstances sufficiently substantial to call for a Mitigated, Exceptionally Mitigated, Presumptive or Aggravated or Exceptionally Aggravated term as indicated below or on the following page. These circumstances are stated by the Court on the record.

AS PUNISHMENT, IT IS HEREBY ORDERED that the Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

OFFENSE: COUNT 1: MANSLAUGHTER BY SUDDEN QUARREL OR HEAT OF PASSION

CLASS: 2 FELONY (DANGEROUS, NON-REPETITIVE OFFENSE)

IN VIOLATION OF A.R.S. §: 13-1103(A)(2), 1103(D), and 13-704.

DATE OF OFFENSE: MARCH 29, 2023

SENTENCE: 17 YEARS (AGGRAVATED)

This sentence is to date from January 10, 2025. The Defendant is to be given credit for 653 days served prior to sentencing.

FURTHER ORDERED defendant must serve at least 85% of sentence imposed.

FURTHER ORDERED the term of community supervision shall be waived pursuant to a term of Probation being imposed herein.

AS TO COUNT 2:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of the crime of Count 2 (amended): Possession of Drug Paraphernalia, to wit: foil used with fentanyl, a class 6 Undesignated offense (non-dangerous, non-repetitive offense) in violation of A.R.S § 13-3415, 13-604, 13-610, 13-701, 13-702, 13-707, 13-801, 13-802, and 13-901.01B committed on March 29, 2023.

Upon consideration of the offense, and the facts, law and circumstances involved in this case, the Court finds that the Defendant is eligible for probation. The specific reasons for the granting of probation are stated by the Court on the record.

As punishment for this/these crime(s),

IT IS ORDERED suspending imposition of sentence and placing the Defendant on SUPERVISED probation for a period of **3 YEARS** upon Defendant's release from the Department of Corrections under the supervision of the Adult Probation Department of this Court, in accordance with the formal Judgment and Order suspending sentence and imposing terms of probation signed by the Court.

IT IS ORDERED the Defendant shall abide by the terms and conditions of probation as reflected on the record and in the CONDITIONS OF SUPERVISED PROBATION signed and filed this date.

This sentence is to be served CONSECUTIVE to Count 1, and the reasons therefore are stated by the Court on the record.

FINANCIAL OBLIGATION ASSESSMENTS

FURTHER ORDERED that the defendant shall pay the financial obligations in the amounts and manner as set forth in the formal FINANCIAL JUDGMENT AND ORDER signed and filed this date.

FURTHER ORDERED defendant's total monthly payment shall be **\$125.00** commencing the **first day of the third month prior to release**, plus the One Time Payment fee, if ordered, shall be included with the first monthly payment.

FURTHER ORDERED the Court shall retain jurisdiction over restitution for a period of **180 days** days.

FURTHER ORDERED the Pinal County Sheriff and/or the Arizona Department of Corrections is directed to notify the Clerk of the Superior Court of Pinal County of the Defendant's release date from secured custody; and of the defendant's mailing address at time of release from secured custody; and further, should the defendant move, he is directed to notify the Clerk of the Court, P.O. Box 2730, Florence, AZ 85232, within ten (10) days of the defendant's change of address.

FURTHER ORDERED granting the State's Motion to Dismiss any remaining Counts and/or allegations as per the Plea Agreement.

FURTHER ORDERED, *as a standard order of the Court*, quashing any active Arrest Warrant issued against the Defendant in this matter ONLY and vacating any associated Warrant Review date.

FURTHER ORDERED, *as a standard order of the Court*, exonerating any pending bond posted in this matter not subject to forfeiture.

FURTHER ORDERED, *as a standard order of the Court*, vacating any hearing date set herein.

FURTHER ORDERED authorizing the Sheriff of Pinal County to transport the Defendant to the Arizona Department of Corrections and authorizing the Department of Corrections to carry out the condition of imprisonment.

FURTHER ORDERED that the Clerk of the Superior Court remit to the Department of Corrections a copy of this Order, plus all pre-sentence reports, probation violation reports, medical and psychological reports, IF ANY HAVE BEEN PREPARED AND FILED IN THIS CASE; relating to the Defendant and involving this case.

LET THE RECORD REFLECT Defendant has waived his right to be present at a Restitution Hearing as to Count 1.

The Defendant is advised concerning rights of appeal and restoration of rights and written notice of those rights are provided.

This conviction is a first time felony but includes a *Dangerous or Serious* offense, which makes the defendant eligible for automatic restoration of civil rights, but NOT automatic restoration of firearm rights, pursuant to A.R.S. § 13-907. The defendant is eligible for automatic restoration of civil rights, EXCEPT for firearm rights, upon completion of the sentence, but ONLY if the defendant has paid any court-ordered restitution in full by the date that the sentence is completed. The right to possess a firearm is NOT automatically restored since the is sentence includes a *Dangerous or Serious* offense. For any right that is not automatically restored, the defendant may still file an application for restoration with the Clerk of the Court, and the Court will consider that request.

Pursuant to A.R.S. §13-911; Rule 36.1, Arizona Rules of Criminal Procedure, Defendant is advised that they may apply to have all case records seal in this criminal matter on completion of probation or sentence, including the payment of all monetary obligations and restitution to all victims, and timeframes in A.R.S. § 13-911(E), (F), and (G) have passed.

FILED: Notice of Rights of Review After Conviction and Notice to Defendant of Restoration Rights and Right to Petition to Seal Records, signed by the Defendant.

Defendant's Address: 2060 N TREKELL CASA GRANDE, AZ 85122.

DR No.: Pinal County Sheriff's Office DR#23-0329116

4:14 p.m. Hearing ends.

Mailed/distributed copy: 1/14/25

Office Distribution:

ADULT PROBATION

AZ DOC

COUNTY ATTORNEY/DENT

PUBLIC DEFENDER/ELSBERRY

PUBLIC DEFENDER/ NACHMANSON

FINES/COLLECTIONS

PCSO-EVIDENCE ROOM

PCSO – JAIL

VICTIMS ASSISTANCE

JUDGE/HOLMBERG

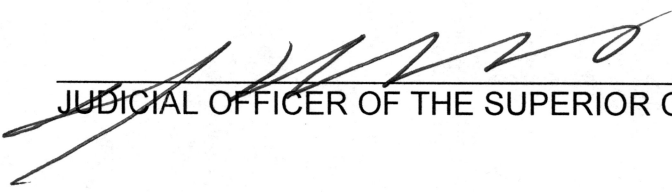
Cause No S1100CR 20A300906

STATE v. Rickie Isaiah Gibson, Jr.

LET THE RECORD REFLECT that the Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.



Signed on the 10 day of January, 2025.


JUDICIAL OFFICER OF THE SUPERIOR COURT