

EXHIBIT 28

#15C

STATE OF INDIANA
MARION COUNTY, ss:

IN THE MARION SUPERIOR COURT
CRIMINAL DIVISION

THE STATE OF INDIANA

vs.

Joseph M. Webster B/M [REDACTED]
CAUSE NO.49G019903CF053965
(AS TO COUNT(S) I)

) AMENDED INFORMATION
) COUNT I
) BATTERY, CLASS C FELONY
) I.C. 35-42-2-1

On this date, M. Donahue came before the Prosecuting Attorney of the Nineteenth Judicial Circuit and, being duly sworn (or having affirmed), stated that in Marion County, Indiana:

COUNT I

Joseph M. Webster, on or about December 24, 1998, did knowingly touch Samuel Kendrick in a rude, insolent, or angry manner, that is: threw Samuel Kendrick to the ground, which resulted in serious bodily injury, that is: fractured eye socket, requiring reconstructive surgery, to Samuel Kendrick;

all of which is contrary to statute and against the peace and dignity of the State of Indiana.

I swear or affirm under penalty of perjury as specified by IC.
35-44-2-1 that the foregoing representations are true.

Maureen Maher
Affiant

March 30, 1999
Date

SCOTT C. NEWMAN
Marion County Prosecutor
19th Judicial Circuit

Scott C. Newman
Deputy Prosecuting Attorney

State's Witnesses:
S. GATHIER IPD G3290
B. MILLS IPD M6415
R. REMEL IPD R3135
TIMOTHY DEPP, JR.
SAMUEL KENDRICK
SHIRLEY GASKINS
db

FILED

MAR 30 1999

Jack M. Taylor
CLERK OF THE
MARION COUNTY COURT

AFFIDAVIT FOR PROBABLE CAUSE

STATE OF INDIANA, COUNTY OF MARION, SS:

Steven R. Guthrie
swears (affirms) that:

This affiant interviewed the victim, Samuel Kendrick Jr., B/M/41, DOB [redacted] in reference to Indianapolis Police Department Case# 830673G. Kendrick stated that on 12-24-98 at approximately 8:00 P.M. he was walking westbound on E. 16th St. approaching N. Pennsylvania St. when a vehicle pulled up next to him. Kendrick stated that the driver was a black male known to him as "Will". The passenger of the vehicle was a tall black male who was not known to the victim. Kendrick stated that "Will" and the tall black male got out of the car and approached him. "Will" then told Kendrick several times to get into the car. Kendrick said that "Will" was holding a black object in his hand. At the time Kendrick believed the object to be a gun because "Will" told him he would shoot Kendrick. Kendrick said he ran away and was chased by the pair, who caught up with him in the 1500 block of N. Delaware St. Kendrick stated that "Will" had driven southbound on Delaware St. in order to catch him. Delaware St. is a one-way northbound street at that point. "Will" and the tall black male then physically forced Kendrick into the vehicle.

He was driven to the rear of the nearby apartment building at 1309 N. Pennsylvania St. where he was forced inside and up to the third floor. At that point Kendrick saw another black male known to him as "Looney". The unknown tall black male suspect began telling "Looney" and the others that Kendrick owed him money although Kendrick denied that and stated he did not even know that person. "Looney" made comments to the effect that Kendrick better pay back the money.

Kendrick was then taken back outside where "Will" shocked him several times in the side and back with the black object which turned out to be an electronic "taser" device. "Will" and the tall black male began striking Kendrick in the face and kicked him after he was down on the ground.

Mr. Kendrick stated that "Looney" then came over to him and physically picked him up and slammed him back down to the ground causing pain and subsequent bruising to Kendrick's back.

A black female known to the victim as "Shirley" had approached him at that point and said to the others, "watch this". She then ran up to the victim and jumped on his chest while he

I swear (affirm), under penalty of perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

Steven R. Guthrie
AFFIANT

DATED: 2-25-99
Nancy A. [Signature]
DEPUTY PROSECUTING ATTORNEY
NINETEENTH JUDICIAL CIRCUIT

JUDGE

1309 N. Penn St.

Affidavit for Probable Cause

From: Steven R. Guthrie

lay on the ground. Kendrick said that "Shirley" grabbed him around the throat from behind and began choking him. She then struck him in the left eye with her elbow several times. Kendrick said that his left eye was swollen closed after that occurred. Kendrick stated that "Shirley" got up, leaving him on the ground, and got into the car with "Will". The pair drove off. Kendrick did not see where the others went. He then was able to get up and called 911 for medical and police assistance. He was transported to Methodist Hospital where he was admitted for treatment.

Mr. Kendrick advised that prior to the incident he had been in possession of approximately \$8.00. After the beating he found that the money was missing from his pocket. He could not identify which suspect had taken the money from his pocket during the incident.

* Mr. Kendrick said that as a result of the beating he sustained fractures of the left eye socket, which required surgery to remove bone fragments. He also received other abrasions and contusions about the head and back as well as bruised ribs.

On February 16th, 1999, I spoke with the attending surgeon, Dr. Burgett, Ophthalmic Plastic Surgery. He advised that the victim sustained a "fracture of the left orbital floor". Surgery was required under general anesthesia. Bone fragments had to be removed from the area and a plastic plate was implanted to repair the area fractured.

In the course of my investigation I learned that another robbery had occurred at the same address on January 5th, 1998, involving a suspect with the name of "Will Hill". The victim in that case did not wish to participate in prosecution. In addition I had personal knowledge of two persons, who frequented that area, by the names of Shirley Gaskin and Joseph "Looney" Webster. As a result I prepared three photo arrays which Mr. Kendrick viewed on February 2nd, 1999.

W The first array, affixed with the number '23999' consisted of six photographs of black males with similar physical characteristics. Mr. Kendrick positively identified the top row middle photograph as the person known to him as "Will" who was involved in the incident. This photograph is one of a William E. Hill, B/M, DOB [REDACTED] Gallery# 529148.

The second photo array, affixed with the number '23889' consisted of six photographs of black females. Mr. Kendrick positively identified the bottom row middle photograph as the person known to him as "Shirley" who was involved in the incident. This photograph is one of a Shirley A. Gaskin, B/F, DOB [REDACTED] Gallery# 290078.

[The third and final photo array, numbered '22512' consisted of six photographs of black males. Kendrick positively identified the top row middle photograph as the person known to him as "Looney" who was involved in the incident. This photograph is one of a Joseph M. Webster, *]

I swear (affirm), under penalty of perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

Steven R. Guthrie
AFFIANT

DATED: 2-25-99

Mary A. K.
DEPUTY PROSECUTING ATTORNEY
NINETEENTH JUDICIAL CIRCUIT

[Signature]
JUDGE

Affidavit for Probable Cause

From: Steven R. Guthrie

B/M, DOB [REDACTED] Gallery# 529053.

Samuel Kendrick further stated that at one point during the incident that he had overheard the subjects involved stating that they were also going to "get Tim in # [REDACTED]". Kendrick advised that he was aware of a black male subject named Tim who lived in the [REDACTED] address in apartment [REDACTED]

On the day following Mr. Kendrick's incident, December 25th, 1998, a Timothy Depp Jr., B/M/29, DOB [REDACTED] had reported having been robbed and beaten under Indianapolis Police Department case# 830719GA. At the time Mr. Depp lived at [REDACTED]

On February 10, 1999, I interviewed Timothy Depp Jr. who stated that he had observed a portion of the incident on December 24th, 1998 in which Mr. Kendrick was beaten. Depp said that he saw a black male subject known to him as "Will" touch Mr. Kendrick with a small black electronic taser several times on the back, legs and sides. Depp further stated that he observed a black male subject, known to him as "Looney", bend down and pick Mr. Kendrick up from the ground and slam him back down on his back. Depp also stated that he observed a black female known to him a "Shirley" jump up and down on Mr. Kendrick's head while Kendrick was on the ground. Depp said that he saw all three subjects kicking and hitting Kendrick during the incident.

Timothy Depp Jr. further stated that in the evening hours on the next day he was outside at the back of the 1309 N. Pennsylvania address when he was approached by "Will" who was armed with a small gray semi-automatic handgun. Also present with "Will" was "Looney" and "Shirley" as well as two other unidentified black males.

"Will" demanded money from Depp who refused. "Will" then struck Depp in the back of the head and in the right ear with the handgun. When Depp fell to the ground he was kicked and beaten by "Will" and other subjects, however, Depp was unable to see whom these other people were at the time. Depp said that "Will" then removed approximately \$40. in U.S. currency from Depp's front pants pocket. All of the persons present then left the area leaving Mr. Depp there on the ground. As a result of the incident, Depp received a laceration to the right ear, a contusion to the back of the head and other abrasions and contusions about the body.

On February 10th, 1999, Timothy Depp Jr. viewed the above described photo arrays and positively identified William Hill, Gallery# 529148, as the person known to him as "Will"; Shirley Gaskin, Gallery# 290078, as the person known to him as "Shirley"; and Joseph Webster, Gallery# 529053, as the person known to him as "Looney".

On February 15, 1999, I interviewed Shirley Gaskin, B/F/39, DOB [REDACTED] Gaskin wa advised of her Miranda Rights, signed a rights waiver form and agreed to give an audio taped statement regarding the incident. Gaskin stated that she had an argument with the victim,

I swear (affirm), under penalty of perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

Steven R. Guthrie
AFFIANT

DATED: 2-25-99
[Signature]
DEPUTY PROSECUTING ATTORNEY
NINETEENTH JUDICIAL CIRCUIT

[Signature]
JUDGE

Affidavit for Probable Cause

From: Steven R. Guthrie

Samuel Kendrick, inside the building at 1309 N. Pennsylvania St. on or about December 24th, 1998. She stated that a short time later she came outside of the rear of the building and saw two to three people beating and kicking Samuel Kendrick who was on the ground. Gaskin said one of the persons was "Looney", who she identified from the above described photo array. She could not identify the other two suspects.

Gaskin further stated that, while Kendrick was still laying on the ground, she struck him in the head with her fist and kicked him in the face with her foot. She stated that Kendrick had not struck or otherwise assaulted her in any way to provoke her attack. She stated that she was still angry with him over the earlier argument. She stated that she did not take anything from him nor did she see anyone else take anything from Kendrick at the time.

All above events occurred in Marion County, Indiana.

*Spiller - advised
test*

I swear (affirm), under penalty of perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

Steven R. Guthrie
AFFIANT

DATED: 2-25-99

Moey R. H.
DEPUTY PROSECUTING ATTORNEY
NINETEENTH JUDICIAL CIRCUIT

JUDGE