

RECEIVED

Sep 26 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH DECORİYUS BURTON,

APPELLANT

APPELLATE CASE NO. 2021-000619

RECORD ON APPEAL

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

JULIANNA E. BATTENFIELD
Assistant Attorney General
S.C. Bar No. 103135

Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-6305

DUFFIE STONE
Solicitor, Fourteenth Judicial Circuit

P.O. Box 1880
Bluffton, South Carolina 29910
(843) 779-8477

ATTORNEYS FOR RESPONDENT

INDEX

| | |
|---|-----|
| INDEX | i |
| TRIAL TRANSCRIPT DATED JUNE 1-3, 2021 | 1 |
| JURY QUALIFICATION | 4 |
| PRE-TRIAL MOTIONS | 5 |
| TESTIMONY | |
| JEFFREY MAXWELL | |
| Direct Examination by Mr. Lee | 43 |
| Cross-Examination by Ms. Jones..... | 53 |
| Re-Direct Examination by Mr. Lee | 56 |
| DYLAN HIGHTOWER | |
| Direct Examination by Mr. Lee | 57 |
| Cross-Examination by Ms. Jones..... | 63 |
| PRE-TRIAL MOTIONS (CONT'D) | 64 |
| OPENING REMARKS BY THE COURT | 75 |
| OPENING STATEMENT BY MS. JONES | 85 |
| OPENING STATEMENT BY MR. LEE | 90 |
| TESTIMONY | |
| ALLISON MOREIRA | |
| Direct Examination by Ms. Jones | 97 |
| Cross-Examination by Mr. Lee..... | 99 |
| ZACHARIAH CUSHMAN | |
| Direct Examination by Ms. Jones | 100 |
| Cross-Examination by Mr. Jones..... | 111 |
| BRIAN KAASE | |
| Direct Examination by Ms. Jones | 113 |
| Cross-Examination by Mr. Lee..... | 118 |
| WALLACE CROWLEY | |
| Direct Examination by Ms. Jones | 121 |

| | |
|--|----------|
| ERIK HARDY | |
| Direct Examination by Ms. Jones | 123 |
| Cross-Examination by Mr. Lee..... | 127 |
| DANIEL KILLIAN | |
| Direct Examination by Ms. Jones | 130 |
| Cross-Examination by Mr. Lee..... | 135 |
| MOTION TO EXCLUDE JAIL CALLS..... | 142; 145 |
| RULING BY THE COURT..... | 144 |
| TESTIMONY | |
| CHRISTINE MARTINEZ | |
| Direct Examination by Ms. Jones | 167 |
| CHRISTINE MARTINEZ (IN CAMERA) | |
| Direct Examination by Ms. Jones | 207 |
| CHRISTINE MARTINEZ | |
| Direct Examination by Ms. Jones | 211 |
| Cross-Examination by Mr. Lee..... | 217 |
| CRYSTAL HOBBS | |
| Direct Examination by Ms. Jones | 223 |
| Cross-Examination by Mr. Lee..... | 237 |
| SETH REYNELLS | |
| Direct Examination by Ms. Jones | 242 |
| Cross-Examination by Mr. Lee..... | 272 |
| Re-Direct Examination by Ms. Jones | 321 |
| DONNA M. BROOME | |
| Direct Examination by Ms. Jones | 324 |
| JAMES GREEN | |
| Direct Examination by Ms. Jones | 327 |
| Cross-Examination by Mr. Lee..... | 335 |
| JEFFREY MAXWELL | |
| Direct Examination by Ms. Jones | 335 |
| Cross-Examination by Mr. Lee..... | 338 |
| STEVEN KENYON, JR. | |
| Direct Examination by Ms. Jones | 341 |

| | |
|--|-----|
| Cross-Examination by Mr. Lee..... | 345 |
| VAN ALAN GAUBY | |
| Direct Examination by Ms. Jones..... | 345 |
| ANTHONY J. CLARK | |
| Direct Examination by Ms. Jones..... | 351 |
| STATE RESTS..... | 362 |
| MOTION FOR DIRECTED VERDICT..... | 363 |
| RULING BY THE COURT..... | 364 |
| OBJECTION TO JURY INSTRUCTION..... | 369 |
| RULING BY THE COURT..... | 373 |
| TESTIMONY | |
| JOSPEH BURTON | |
| Direct Examination by Mr. Lee..... | 376 |
| Cross-Examination by Ms. Jones..... | 397 |
| MOTION TO STRIKE..... | 414 |
| RULING BY THE COURT..... | 415 |
| TESTIMONY | |
| JOSEPH BURTON | |
| Re-Direct Examination by Mr. Lee..... | 416 |
| DEFENSE RESTS..... | 420 |
| RENEWED MOTION FOR DIRECTED VERDICT..... | 421 |
| RULING BY THE COURT..... | 422 |
| RENEWED MOTION REGARDING JURY INSTRUCTION..... | 423 |
| RULING BY THE COURT..... | 425 |
| CLOSING ARGUMENT BY MR. LEE..... | 428 |
| CLOSING ARGUMENT BY MS. JONES..... | 458 |

JURY INSTRUCTIONS.....474

RENEWED OBJECTION TO THE JURY INSTRUCTION495

ADDITIONAL JURY INSTRUCTION497

JURY QUESTION.....501

ADDITIONAL JURY INSTRUCTION507

VERDICT510

RENEWED MOTION FOR DIRECTED VERDICT511

RULING BY THE COURT.....512

SENTENCING519

INDICTMENTS & SENTENCE SHEETS522

CERTIFICATE OF COUNSEL527

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 15 (COPY OF SURVEILLANCE DISK)
STATE’S EXHIBIT NO. 16 (COPY OF SURVEILLANCE DISK)**

1 THE COURT: All right. We will be at
2 ease until we hear from the jury.

3 (A break was taken from 1:42 p.m. to 2:00 p.m.)

4 THE BAILIFF: All rise. Court is back in
5 session. If you want the defendant here, it's
6 going to take a while because he's in the middle
7 of eating lunch.

8 MR. LEE: Do you know what the question
9 is?

10 THE COURT: There is a question. I've
11 got it. Yes.

12 MR. LEE: I'm happy to waive his
13 presence, unless it's something significant.

14 THE COURT: Well, you know, significant
15 is a relative term in this situation. You know
16 what I'm saying?

17 MR. LEE: Yes, sir.

18 THE COURT: I mean, I may find this very
19 insignificant.

20 MR. LEE: Sure.

21 THE COURT: And you can find this very
22 significant. So if you're ready to move
23 forward --

24 MR. LEE: I'm willing to waive his
25 presence. I can fill him in when he does get over

1 here.

2 THE COURT: All right. So the question
3 that I received says, "Can you clarify degrees of
4 murder that this charge includes?" That is the
5 question that is signed by the foreperson.

6 Any objection to my making this note a
7 court exhibit from the State?

8 MS. JONES: No, sir.

9 THE COURT: From the defense?

10 MR. LEE: No, sir.

11 THE COURT: Okay. I want to make this
12 note a court's exhibit.

13 (COURT EXH. 6, Note from the jury, was
14 marked and entered into the record.)

15 THE COURT: I mean, I think they only --
16 my thoughts are that the only thing they can
17 consider is the charge of murder that I provided
18 them. And, to that extent, they are not to
19 consider other matters. I would be open to --
20 basically instruct them that I've received the
21 note, and I will instruct them on murder as given
22 to them in the charge, but I don't think -- I
23 don't know. I don't think anything beyond that
24 other than to tell them this is the charge.

25 State, what do you --

1 MS. JONES: I think that's appropriate.
2 Just recharging them on murder. This is the law
3 of South Carolina.

4 THE COURT: Defense?

5 MR. LEE: If you want to include, hey,
6 there are no degrees of murder. In South
7 Carolina, murder is this. I'll just ask for
8 that.

9 THE COURT: I don't want to -- I'm just
10 going to instruct them on what I charged them,
11 which was the definition of murder. I mean,
12 unless the State wants me to get into saying that
13 there's no degrees of murder in South Carolina. I
14 mean, that's up to you. That's up to -- I mean,
15 if you guys --

16 MS. JONES: I mean, I'm happy if you
17 say -- I think it would be appropriate to say that
18 South Carolina has the law of murder. Murder in
19 South Carolina is as follows.

20 MR. LEE: I'm okay with that. I mean,
21 maybe they need to be recharged. Maybe they
22 don't. I don't know. You can ask them if they
23 want to be recharged on the law of murder in
24 South Carolina.

25 THE COURT: All right. And that's fine,

1 but let me write this down. I don't want to mess
2 anything up.

3 So, Solicitor, what were you saying?
4 What were you thinking?

5 MS. JONES: South Carolina -- the
6 defendant has been charged with the crime of
7 murder. Murder in South Carolina is defined as,
8 and then the charge. Or has been indicted with
9 the crime of murder.

10 THE COURT: I'm going to redo this. The
11 defendant has been indicted with the crime of
12 murder. In South Carolina murder is defined as...

13 MS. JONES: I think that's simple.

14 THE COURT: Is that acceptable to you,
15 Solicitor?

16 MS. JONES: Yes.

17 MR. LEE: And defined as the killing of
18 another with malice either expressed or implied.

19 THE COURT: I need my charge. I need my
20 charge. Monica, took a few moments to go to
21 lunch. How dare her.

22 All right. I'm looking at this charge,
23 it reads, "The defendant is charged with murder,"
24 then it goes to say, "The State must prove beyond
25 a reasonable doubt that the defendant killed

1 another person with malice aforethought." I mean,
2 I think that's accurate as to the charge of
3 murder.

4 So what I've done here is I put, "The
5 defendant is charged with murder. In
6 South Carolina murder is defined as the killing of
7 another person with malice aforethought."

8 MS. JONES: Yes.

9 THE COURT: Is that adequate?

10 MS. JONES: The unlawful killing of
11 another person with malice aforethought. I just
12 think that's what the statute reads.

13 MR. LEE: The statute doesn't say
14 unlawful.

15 MS. JONES: It doesn't say unlawful?

16 MR. LEE: The killing of another person
17 with malice aforethought.

18 MS. JONES: Oh, okay. Then I stand
19 corrected.

20 THE COURT: My charge -- in my charge, I
21 didn't say unlawful.

22 MS. JONES: Okay. Then I stand
23 corrected.

24 THE COURT: Welll, I'm not saying it is
25 or isn't. I haven't looked it up. I mean, if you

1 want -- I mean, it's whatever you want to do.

2 MS. JONES: Killing is fine. Killing is
3 fine, Your Honor.

4 THE COURT: Is that all right, Mr. Lee?

5 MR. LEE: Yes, sir.

6 THE COURT: All right. I'm going to
7 acknowledge the -- I'm going to acknowledge the
8 question and I'm going to tell them that in
9 response to the question, the defendant is charged
10 with murder. In South Carolina, murder is defined
11 as the killing of another person with malice
12 aforethought.

13 MR. LEE: Yes, sir.

14 MS. JONES: Yes, sir.

15 MR. LEE: Your Honor, my client is on the
16 way. They had to get him out of lunch. Could we
17 just maybe wait for him to get back before the
18 jury comes in? Just so he's here for that.

19 THE COURT: I'm so agreeable.
20 Absolutely. Even though it's you. I'm teasing.
21 That's fine.

22 MR. LEE: I'm the one that's going to
23 hear about it.

24 THE COURT: We have no problem waiting
25 for your client. Solicitor, is that fine?

1 MS. JONES: No problem at all,
2 Your Honor.

3 THE COURT: All right. Thank you.

4 (Defendant is back in courtroom at 2:13 p.m.)

5 THE COURT: Are we ready for the jury?

6 MR. LEE: Yes, sir.

7 THE COURT: Bring us the jury. Thank
8 you.

9 THE BAILIFF: Jury is entering the
10 courtroom, Your Honor.

11 (Jury enters the courtroom at 2:15 p.m.)

12 THE BAILIFF: Jury is seated,
13 Your Honor.

14 THE COURT: Counsel, be seated.

15 Madame Forelady, Ladies and Gentlemen of
16 the jury, I received your note. It's dated 3,
17 June, 2021. It says, "Can you clarify the degrees
18 of murder that this charge includes," signed by
19 the forelady.

20 Ladies and Gentlemen, "The defendant in
21 this case is charged with murder. In the state of
22 South Carolina, murder is defined as the killing
23 of another person with malice aforethought." I
24 will read that again. "The defendant is charged
25 with murder. In South Carolina, murder is defined

1 as the killing of another person with malice
2 aforethought."

3 All right. Any exception?

4 MS. JONES: Not from the State,
5 Your Honor.

6 THE COURT: Anything from the defense?

7 MR. LEE: No, sir.

8 THE COURT: I'd ask you to, please, to
9 return to the jury room and continue with your
10 deliberations.

11 (Jury exits the courtroom at 2:17 p.m.)

12 THE BAILIFF: The jury is clear,
13 Your Honor.

14 THE COURT: All right. We'll be at ease.
15 (A break was taken from 2:17 p.m. to 2:27 p.m.)

16 THE BAILIFF: All rise. Court is back in
17 session.

18 THE COURT: It's my understanding we have
19 a verdict, and so we're going to get the defendant
20 and we're going to get the court reporter.

21 COURT REPORTER: I'm here.

22 THE COURT: Excuse me. The clerk of
23 court. I apologize.

24 (Off the record.)

25 THE COURT: All right. My understanding

1 is that the jury has reached a verdict. I want
2 anyone who cannot or does not think that they will
3 be able to keep their emotions in tact when this
4 verdict a read to leave the courtroom now, because
5 I do not want any -- I do not want any
6 interruptions or any disorder once this verdict is
7 announced.

8 Does everyone in the courtroom understand
9 that? If anyone does not understand that, please
10 stand up and I'll try to make it clearer. All
11 right.

12 All right. Bring the jury.

13 (Jury enters the courtroom at 2:29 p.m.)

14 THE BAILIFF: Jury is entering the
15 courtroom, Your Honor.

16 THE COURT: All right. Madame Forelady,
17 I understand you all reached a verdict.

18 MADAME FORELADY: We have.

19 THE COURT: All right. Please be seated.
20 If you will hand that to the bailiff, who will, in
21 turn, hand it to me, please.

22 Thank you.

23 THE BAILIFF: Yes, sir.

24 THE COURT: All right. I'm going to ask
25 the clerk to please publish this verdict.

1 THE CLERK: State of South Carolina vs.
2 Joseph Decoriyus Burton, indictment
3 2018-GS-07-01273 and 2019-GS-07-00262, we, the
4 jury, in the above captioned case on the charge of
5 murder of Christopher Shaun Fells unamiously find
6 Joseph Decoriyus guilty.

7 We, the jury, in the above captioned case
8 on the charge of possession of a weapon during a
9 violent crime unamimously find Joseph Decoriyus
10 Burton guilty.

11 THE COURT: All right. Thank you.

12 Are there any motions from the State
13 before I make some brief final comments to the
14 jury and then discharge them?

15 MS. JONES: Nothing from the State,
16 Your Honor.

17 THE COURT: All right. Anything from the
18 defense before I make some brief comments to the
19 jury and discharge them?

20 MR. LEE: I would respectfully ask that
21 the jury be polled, Your Honor.

22 THE COURT: All right. Yes, sir.

23 Madame Clerk, would you please pole the jury?

24 THE COURT: Juror Number 86, if you can
25 please stand. Is this your verdict?

1 you.

2 THE BAILIFF: Jury is clear. Door is
3 closed, Your Honor.

4 THE COURT: Thank you. Please be
5 seated.

6 All right. Solicitor, I'm happy to hear
7 from you in regards to sentencing on this
8 matter.

9 MS. JONES: Absolutely, Your Honor.

10 MR. LEE: Your Honor?

11 THE COURT: Yes, sir.

12 MR. LEE: Can I go ahead and make
13 post-trial motions?

14 THE COURT: Yes, sir. Absolutely. And I
15 apologize for that. Go right ahead.

16 MR. LEE: Judge, I will, at this time,
17 make a post-trial motion. I will renew my
18 previous directed verdict motions suggesting the
19 State did not prove malice. I also would renew my
20 motion -- or my objection to the jury charge
21 involving the malice, the language in that. The
22 complaint that we talked about was the -- I'll get
23 it. Just one second.

24 The language was on page 26. "Malice may
25 be shown from conduct showing a total disregard

1 for human life." That was left in.

2 The prosecutor brought up the term "total
3 disregard for human life" during her
4 cross-examination of my client, as well as in her
5 closing argument. Again, I think that put
6 unnecessary and improper emphasis on that part of
7 the charge. It appears, from the question they
8 asked, perhaps malice was an important portion of
9 what they were considering. And, therefore, we
10 believe that was an error and respectful move for
11 a new trial.

12 THE COURT: I understand. Solicitor.

13 MS. JONES: Your Honor, I still feel that
14 the charge is appropriate. I do not believe that
15 it was a comment on the facts, and I do not think
16 it rises to the level of Your Honor granting a new
17 trial.

18 THE COURT: All right. I'm going to deny
19 your motions for a JNOV and all other motions that
20 you made. I think you adequately protected the
21 record. Thank you.

22 All right. Any objection to moving
23 directly into sentencing, sir?

24 MR. LEE: No, sir. I know that there was
25 some talk about maybe having to his children be

1 know, ask for mercy.

2 Judge, you heard a little bit about
3 Mr. Burton. He's 27 years old. He's sort of
4 married. He's got an 11-year-old and a
5 17-year-old. I've been seeing him for almost
6 three years since he's been in jail on this
7 charge.

8 I agree with Miss Jones' recitation of
9 his prior record. The attempted armed robbery, as
10 you know, he was 10 days into being 17 years old.
11 It did involve a BB gun. Just to put a little bit
12 of a mitigation spin on that.

13 Again, you heard, kind of, him on the
14 stand. He's a very talented -- he was a very
15 talented amateur boxer and really enjoyed doing
16 that. He worked hard. Played hard. Hanging
17 around with a lot of people he shouldn't have hung
18 around with. They started as friends when they
19 were a lot younger.

20 And he's prepared to take his medicine,
21 Your Honor. It's just a shame for everybody, in
22 my opinion, that he is the one here and he is the
23 one who fired the fatal shot, because, I think
24 there's a lot of people in that video that have a
25 lot less going for them than Joe-Joe. It's sad

1 that it came to that.

2 Of the two groups you're talking about, I
3 think he was the best of his group and I think
4 Fells was clearly the best of his group. And for
5 it to end up that way is truly unfortunate, but it
6 did.

7 I know he's thought about this a lot. I
8 know he's remorseful. I know he hates, in so many
9 ways and so many reasons, that it came down to
10 this.

11 You put himself out there. He got to
12 tell his story for the first time in almost three
13 years, which is what he wanted to do and he told
14 the story. Unfortunately for us, the jury, for
15 whatever reason, either didn't believe him or
16 believed that his story, if true, did not satisfy
17 a sufficient defense in the state of South
18 Carolina for murder.

19 I would like to put on the record
20 briefly, we did discuss, he and I, briefly about
21 asking for a defense of others charge based on his
22 testimony. However, we decided that, in order to
23 prevail on that, we would essentially have to put
24 Joe-Joe into the shoes of Derrick Frazier and/or
25 Shaquille Green and we thought, stragedy-wise,

1 that that was not the thing to do, that him being
2 around those guys had harmed him enough. We
3 didn't think that it was smart to try to muddy the
4 waters or to try to carry that burden.

5 So, Judge, I know his sister Sarah is
6 here, his mom Rhonda, and Chrissie Martinez are
7 all here. I don't know if they would like to
8 speak or not.

9 But I will tell you that this case,
10 Miss Jones and I both inherited this case from
11 other lawyers. The offer prior to either one of
12 us being involved was 40 on murder. Which, as you
13 know, murder, there is no parole. There's no
14 credit for good time. It literally is day per
15 day. Obviously, that offer was untenable. He was
16 25 when he went in. If he took that offer, he
17 would be 65 when he was released. And for all
18 practical purposes, that's a life sentence. Your
19 life expectancy goes way, way down when the hit
20 the department of corrections. For him, it
21 certainly would have been a life sentence for him.
22 Just to put that out there.

23 I don't know if you will allow or would
24 like to hear from family members or from
25 Mr. Burton.

1 MR. LEE: The last thing that I would ask
2 or tell you is, like I say, the offer was for day
3 for day. Murder carries 30 to life. You know, my
4 understanding the new policy in the solicitor's
5 officer is no deals and your offer is what it is
6 whether it's pretrial or after trial. And, you
7 know, they have bumped up their recommendation.
8 And I would ask that -- how that would appear to
9 some people would be as if he's being punished for
10 exercising his constitutional right to a jury
11 trial. And so I certainly hope that his having
12 this trial in no way affects your decision.

13 THE COURT: Absolutely not. It will not
14 enter my decision a lick, sir. I want to state
15 that for the record. I want to let you know
16 that.

17 MR. LEE: I understand.

18 THE COURT: I absolutely am not going to
19 hold anything against the defendant who exercises
20 his rights to jury trial. In fact, that's why I
21 am here. All right, sir.

22 MR. LEE: Finally, we would respectfully
23 ask, under the circumstances, that you sentence
24 him to the minimum. Unfortunatly, the minimum is
25 30 and no less. We think that that would be an

1 appropriate sentence. He would be 55 years old
2 when he gets out. No ifs, ands, or buts. There's
3 no early release. There's no parole. There's no
4 work credit. It literally is day for day. And
5 doing another 27 years in SCDC is going to be a
6 tough time, obviously. And, you know, hopefully
7 he'll live through it, but your life span shortens
8 dramatically when you go up the road. Thank you.

9 THE COURT: All right, Mr. Lee.

10 Solicitor, was there something you wanted
11 to say?

12 MS. JONES: I just have the sentencing
13 sheets, Your Honor.

14 THE COURT: If you could have the
15 sentencing sheets passed up to me.

16 Solicitor, I just want to confirm, it's
17 my understandiing that the defendant, having been
18 convicted of murder, that the minimum sentence --
19 a mandatory minimum sentence is 30 years; is that
20 correct?

21 MS. JONES: Yes.

22 THE COURT: This is, in fact, I think as
23 Mr. Lee outlined, a day-for-day sentence. There
24 is no parole, early parole, good time credits,
25 work credits, and things of this nature; is that

1 correct?

2 MS. JONES: I believe the first 30 years
3 is day for day. Anything on top of that is
4 different.

5 THE COURT: Okay. Let me ask you this:
6 Concerning the commission with a firearm, is it my
7 understanding that that is consecutive, that it
8 has to be consecutive to the murder charge?

9 MS. JONES: That's been my understanding
10 of it, Your Honor.

11 THE COURT: Mr. Lee, what is your
12 understanding as to whether the -- I believe it
13 carries up to five years.

14 MR. LEE: I believe that used to be the
15 case. I'm not --

16 THE COURT: Hold on. My question is: Is
17 that -- do I have to impose a consecutive sentence
18 on that charge?

19 MR. LEE: I do not think so, but I do not
20 feel comfortable enough to say that is the law. I
21 certainly can look it up and figure it out.

22 THE COURT: I'm going take a few minutes
23 and I'll be back with you folks in just a little
24 minutes. We'll be at ease.

25 (Off the record from 2:53 p.m. to 3:07 p.m.)

1 THE BAILIFF: All rise. Court is back in
2 session.

3 THE COURT: Thank you. You can be
4 seated.

5 Do we know how many days he served as it
6 relates to credit for time served?

7 MR. LEE: I think it calcuates -- 1032,
8 maybe 31.

9 THE DEPUTY: 33.

10 THE COURT: 1033. Solicitor, is that
11 fine?

12 MS. JONES: Yes, sir.

13 THE COURT: All right. Please stand.

14 All right, sir. It is the order of this
15 court that the defendant is committed to the State
16 Department of Corrections -- I apologize.

17 This is indictment number
18 2019-GS-07-00262 for murder. It's the order of
19 the Court that the defendant is committed to the
20 State Department of Corrections for a term of
21 40 years, and he is to be given credit of 1033
22 days for that which he has spent in jail awaiting
23 the charge.

24 He is also given on 2018-GS-07-01273,
25 possession of a weapon during a violent crime, I'm

1 going to sentence him to two years on that charge
2 with the State Department of Corrections, and I'm
3 going to order that it run concurrent with
4 2019-GS-07-00262. That's the order of this
5 court.

6 MS. JONES: Thank you, Your Honor.

7 MR. LEE: Thank you.

8 THE COURT: Anything further from the
9 State?

10 MS. JONES: No, Your Honor.

11 THE COURT: Anything further from the
12 defense?

13 MR. LEE: No.

14 THE COURT: All right. We stand
15 adjourned.

16 (The trial was concluded at 3:09 p.m.)
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

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

I, SHARON G. HARDOON, Official Circuit Court Reporter for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

September 26, 2021



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

WITNESSES

Reynells - BCSO

ARREST WARRANT NUMBER

2018A0720600159

ACTION OF GRAND JURY

True Bill

Michael L.

Foreperson of Grand Jury

Date: JAN 17 2013

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date: 3 June 2021

INDICT

DOCKET NO. 2018GS0701273

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

January Term 2019

THE STATE

vs.

JOSEPH DECORIYUS BURTON

Indictment For

**Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

JUN 09 2021

SC Court of Appeals

Certified - A True Copy

[Signature]
Jerrilyn Rosehead - Clerk of Court
Beaufort County, SC - Jennifer Peirce

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2018GS0701273

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about August 4, 2018, the Defendant, JOSEPH DECORIYUS BURTON, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime and JOSEPH DECORIYUS BURTON was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

118 0117

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

) INDICTMENT/CASE#: 2018GS0701273

VS.

JOSEPH DECORIYUS BURTON

) A/W#: 2018A0720600159

AKA: Joe Joe

) Date of Offense: 08/04/2018

Race: Black Sex: Male Age: 24

) S.C. Code §: 16-23-500(A)

DOB: 12:00:00 AM SS#: [REDACTED]

) CDR Code #: 3434

Address: Hilton Head Isl, SC 29926

) SENTENCE SHEET

DL# * SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession of weapon during violent crime

In violation of § 16-23-500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS MANDATORY GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

M. E. Jones 100353 (Solicitor) (SC Bar #) Joseph Burton (Defendant) South W. Lee 66471 (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is admitted to the State Department of Corrections County Detention Center, for a determinate term of 28 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: Concurrent to 2019GS0700262

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Set by SCDPPPS

Recipient: _____

| | | | |
|--|-----------|----|-----|
| *Fine: | | \$ | |
| §14-1-206 (Assessments 107.5%) | | \$ | |
| §14-1-211 (A)(1)(Conv. Surcharge) | \$100 | \$ | 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | \$100 | \$ | |
| §56-5-2995 (DUI Assessment) | \$12 | \$ | |
| §56-1-286 (DUI Breath Test) | \$25 | \$ | |
| Proviso 61.6 (Public Def/Prob) | \$500 | \$ | |
| §14-1-212 (Law Enforce. Funding) | \$25 | \$ | 25 |
| §14-1-213 (Drug Court Surcharge) | \$150 | \$ | |
| §50-21-114 (BUI Breath Test Fee) | \$50 | \$ | |
| §56-5-2942(J) (Vehicle Assessment) | \$40/each | \$ | |
| 3% to County (if paid in installments) | | \$ | 375 |

TOTAL

Clerk of Court/Deputy Clerk: Sharon Hardon

MP-SCCA/217 (04/2018)

- Obtain GED
 - Attend Voc. Rehab. Or Job Corp. _____
 - May serve W/E beginning _____
 - Substance Abuse Counseling _____
 - Random Drug/Alcohol Testing _____
- Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: Robert J. Bauls
Judge Code: 2770
Sentence Date: 6/3/21

RECEIVED
JUN 09 2021
SC Court of Appeals

WITNESSES

Reynells - BCSO

DOCKET NO. 2019GS0700262

The State of South Carolina
County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

February Term 2019

I
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

DIRECT INDICTMENT

THE STATE

vs.

JOSEPH DECORIOUS BURTON

ACTION OF GRAND JURY

True Bill

Direct Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

Defendant

Witness:

C.C.C. PLS. and G.S.

Michael L.

Foreperson of Grand Jury

Date: FEB 14 2019

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date: 3-June-2021

INDICT

RECEIVED

JUN 09 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF BEAUFORT

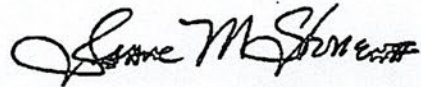
DIRECT
INDICTMENT
2019GS0700262

At a Court of General Sessions, convened on February 14, 2019, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about August 4, 2018, the Defendant, JOSEPH DECORIYUS BURTON, did, with malice aforethought, kill Christopher Fells and Christopher Fells did die as a proximate result of JOSEPH DECORIYUS BURTON's actions, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor **Gene M. Stewart**

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

) INDICTMENT/CASE#: 2019GS0700262

VS.

JOSEPH DECORIYUS BURTON

) A/W#: DIRECT INDICTMENT

AKA: Joe Joe

) Date of Offense: 08/04/2018

Race: Black Sex: Male Age: 24

) S.C. Code §: 16-3-10

DOB: 12:00:00 AM SS#: [REDACTED]

) CDR Code #: 0116

Address: [REDACTED], Hilton Head Isl, SC 29926

) SENTENCE SHEET

DL# * SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS MANDATORY GPS §17-25-45 (CSC w/minor 1* or CSC w/minor 3**)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (def's initials) Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Mary C. Roney (Solicitor) 10035-3 (SC Bar #) [Signature] (Defendant) [Signature] (Attorney for Defendant) 66471 (SC Bar #)

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 90 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 1035 days
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Set by SCDPPPS

Recipient: _____

| | | | |
|--|-----------|----|-----|
| *Fine: | | \$ | |
| §14-1-206 (Assessments 107.5%) | | \$ | |
| §14-1-211 (A)(1)(Conv. Surcharge) | \$100 | \$ | 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | \$100 | \$ | |
| §56-5-2995 (DUI Assessment) | \$12 | \$ | |
| §56-1-286 (DUI Breath Test) | \$25 | \$ | |
| Proviso 61.6 (Public Def/Prob) | \$500 | \$ | |
| §14-1-212 (Law Enforce. Funding) | \$25 | \$ | 25 |
| §14-1-213 (Drug Court Surcharge) | \$150 | \$ | |
| §50-21-114 (BUI Breath Test Fee) | \$50 | \$ | |
| §56-5-2942(J) (Vehicle Assessment) | \$40/each | \$ | |
| 3% to County (if paid in installments) | | \$ | 375 |

Obtain GED
 Attend Voc. Rehab. Or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL

Clerk of Court/Deputy Clerk: [Signature] 12975
Court Reporter: [Signature]

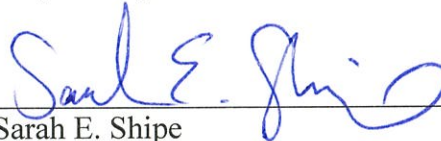
Presiding Judge: Robert J. Bonds
Judge Code: 2770
Sentence Date: 6/3/21

RECEIVED
JUN 09 2021
SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

RECEIVED

Sep 26 2022

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of September, 2022.