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**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Pickens County

Honorable G.D. Morgan, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JONATHAN RICHARD RACKLEY,

APPELLANT.

APPELLATE CASE NO. 2021-001141

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RECORD ON APPEAL

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**[STATE’S EXHIBIT #19 (911 CALL) AND STATE’S EXHIBIT #58 (DVD OF INTERVIEW OF THE DEFENDANT AT THE POLICE STATION) ARE ON FILE WITH THIS COURT]**



1 opinion about the facts in this case, as I do not. The  
2 law does not allow me to have an opinion about the facts.  
3 This is a matter solely for you the jury to determine. As  
4 jurors, it is your duty to determine the effect, value and  
5 weight of the evidence presented during this trial.

6 The indictments in this case allege several different  
7 offenses against the defendant. As I've told you, the  
8 charges are murder and possession of a weapon during the  
9 commission of a violent crime. Each indictment charges a  
10 separate and distinct offense. You must decide each  
11 indictment separately on the evidence and the law  
12 applicable to it uninfluenced by your decision as to any  
13 other indictment. The defendant may be convicted or  
14 acquitted on any or all of the offenses charged. You will  
15 be asked to write a separate verdict of guilty or not  
16 guilty for each indictment.

17 Now, the defendant has pled not guilty to these  
18 indictments, and that plea puts the burden on the State to  
19 prove the defendant guilty. A person charged with  
20 committing a criminal offense in South Carolina is never  
21 required to prove himself innocent. I charge you that it  
22 is an important rule of the law that the defendant in a  
23 criminal trial, no matter what the seriousness of the  
24 charge may be, will always be presumed to be innocent of  
25 the crime for which the indictment was issued unless guilt

1 has been proven by evidence satisfying you of that guilt  
2 beyond a reasonable doubt.

3 This presumption of innocence does not end when you  
4 begin your deliberations, but it accompanies the defendant  
5 throughout the trial until you reach a verdict of guilt  
6 based on evidence satisfying you of that guilt beyond a  
7 reasonable doubt.

8 The presumption of innocence is like a robe of  
9 righteousness placed about the shoulders of the defendant  
10 which remains with the defendant until it has been  
11 stripped from the defendant by evidence satisfying you of  
12 the defendant's guilt beyond a reasonable doubt.

13 The presumption of innocence is not mere legal  
14 theory, it is not just a legal phrase. It is a  
15 substantial right to which every defendant is entitled  
16 unless you the jury are satisfied from the evidence of the  
17 defendant's guilt beyond a reasonable doubt.

18 What is a reasonable doubt in the law? A reasonable  
19 doubt is the kind of doubt that would cause a reasonable  
20 person to hesitate to act. The State has the burden of  
21 establishing every fact necessary to prove the defendant  
22 guilty beyond a reasonable doubt. The law presumes every  
23 person charged with a crime to be innocent, and the burden  
24 of establishing guilt is placed solely on the State.

25 Some of you may have served as jurors in civil cases

1 where you were told that it is only necessary to prove  
2 that a fact is more likely than not true such as by the  
3 greater weight or preponderance of the evidence. Other  
4 civil cases use the clear and convincing evidence  
5 standard. In those cases, it is necessary to prove that a  
6 fact is highly probable. But this, ladies and gentlemen,  
7 is a criminal case, and the State's proof must also be  
8 more powerful than those burdens of proof that I just  
9 mentioned in civil cases. In criminal cases, the State's  
10 proof must be more powerful than that. It must be beyond  
11 a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves  
13 you firmly convinced of the defendant's guilt. There are  
14 very few things in this world that we know with absolute  
15 certainty, and in criminal cases, the law does not require  
16 proof that overcomes every possible doubt. If, based on  
17 your consideration of the evidence, you are firmly  
18 convinced the defendant is guilty of the crimes as  
19 charged, you must find the defendant guilty. The  
20 defendant is not required to prove his innocence.

21 If, on the other hand, you think there is a real  
22 possibility that the defendant is not guilty, you must  
23 give the defendant the benefit of every reasonable doubt  
24 and find him not guilty.

25 There are two types of evidence which are generally

1 presented during a trial: direct evidence and  
2 circumstantial evidence. Direct evidence directly proves  
3 the existence of a fact and does not require deduction.  
4 Circumstantial evidence is proof of a chain of facts and  
5 circumstances indicating the existence of a fact.

6 Crimes may be proven by circumstantial evidence. The  
7 law makes no distinction between the weight or value to be  
8 given to either direct or circumstantial evidence.

9 However, to the extent the State relies on circumstantial  
10 evidence, the circumstances must be consistent with each  
11 other, and when taken together, point conclusively to the  
12 guilt of the accused beyond a reasonable doubt. If these  
13 circumstances merely portray the defendant's behavior as  
14 suspicious, the proof has failed.

15 The State has the burden of proving the defendant  
16 guilty beyond a reasonable doubt. This burden rests with  
17 the State regardless of whether the State relies on direct  
18 evidence, circumstantial evidence, or any combination of  
19 the two.

20 You've seen a number of witnesses testify in this  
21 trial. Necessarily, you must determine the credibility of  
22 the witness who had testified in this case from this  
23 witness stand. Credibility simply means believability.  
24 It becomes your duty as jurors to analyze and to evaluate  
25 the evidence.

1           In determining the believability of witnesses who  
2 have testified in this case, you may believe one witness  
3 over several witnesses or several witnesses over one  
4 witness; you may believe a part of the testimony of a  
5 witness and reject the remaining part of the testimony of  
6 that same witness; you may believe the testimony of a  
7 witness in its entirety or reject the testimony of a  
8 witness in its entirety; you may consider whether any  
9 witness has exhibited to you any interest, bias, prejudice  
10 or other motive in this case; you may also consider the  
11 appearance and manner of a witness while on the witness  
12 stand.

13           Now, you've seen some expert witnesses come before  
14 you. And as I explained to you each time that witness  
15 came up, that they were under a little bit of a different  
16 standard in that they could give an opinion. The rules of  
17 evidence ordinarily do not permit witnesses to testify to  
18 opinions or conclusions. An exception to this rule exists  
19 for witnesses we call expert witnesses. A witness who, by  
20 education and experience, has become expert in some art,  
21 science, profession or calling, may state an opinion as to  
22 relevant and material matter in which the witness claims  
23 to be an expert and may also state the reasons for that  
24 opinion. You should consider any expert opinion received  
25 in evidence in this case, and like any other evidence,

1 give it the weight you think it deserves.

2 If you decide that the opinion of an expert witness  
3 is not based on sufficient education and experience, or if  
4 you conclude that the reasons given in support of the  
5 opinion are not sound, or that the opinion is outweighed  
6 by other evidence, you may disregard the opinion entirely.  
7 An expert witness's testimony is to be given no greater  
8 weight than that of other witnesses simply because the  
9 witness is an expert. Further, you're not required to  
10 accept an expert's opinion even though it is not  
11 contradicted.

12 I instruct you, ladies and gentlemen, and emphasize  
13 the fact that the defendant did not testify in this case  
14 -- I emphasize that he did not testify is not a factor to  
15 be considered by you in any way in your deliberation, in  
16 your consideration on the question of the guilt or  
17 innocence of the defendant. It must not be considered by  
18 you in any manner whatsoever. A defendant has the  
19 constitutional right to remain silent, and the assertion  
20 of this right must not be considered by you in your  
21 deliberations. I repeat, under your oath, you are to draw  
22 no conclusion whatsoever from the fact that the defendant  
23 in this case did not testify. The fact that this  
24 defendant did not testify should not even be discussed in  
25 the jury room. The burden of proof, as I have stated to

1 you, is on the State. The defendant is not required to  
2 prove his innocence. The burden of proof remains on the  
3 State to prove guilt beyond a reasonable doubt.

4 There has been evidence presented in the trial this  
5 week that witnesses have made prior statements which are  
6 not consistent with the witness's present testimony. You  
7 may use this evidence to decide whether to believe the  
8 witness. You may also use evidence of the earlier  
9 contradictory statements to determine the truth of those  
10 statements. It is up to you to decide whether to believe  
11 the earlier statements or the testimony given at trial.

12 If a witness is shown to have knowingly testified  
13 untruthfully concerning any material matter, you may  
14 consider this in determining whether to trust the  
15 witness's testimony as to other matters. You may reject  
16 all testimony of that witness or give all or part of the  
17 testimony the weight you think it deserves.

18 In order to establish criminal liability, criminal  
19 intent is required. For example, the mental state  
20 required to be proven by the State for a particular crime  
21 might be purpose, intent, knowledge, recklessness, or  
22 criminal negligence.

23 Criminal intent must be proven by the State beyond a  
24 reasonable doubt. Criminal intent is always a matter that  
25 must be determined by you the jury from the circumstances

1 surrounding the situation.

2           There is no way to prove intent to a mathematical  
3 certainty. There is no way medical science can dissect a  
4 person's brain and determine what the person had in mind,  
5 so the law says that criminal intent may be inferred from  
6 circumstances shown to have existed. This is how you make  
7 a determination of whether or not the element requiring  
8 intent was present.

9           It is not necessary to establish intent by direct and  
10 positive evidence, but intent may be established by  
11 inference in the same way as any other facts taken into  
12 consideration, the acts of the parties, and all the facts  
13 and circumstances of the case.

14           Criminal intent is a mental state, a conscious  
15 wrongdoing. It is up to you to determine what the  
16 defendant intended to do based on the circumstances shown  
17 to have existed. Criminal intent can arise from action or  
18 a failure to act. It may arise from negligence,  
19 recklessness or an indifference to duty or to consequences  
20 that is considered by the law to be the equivalent of  
21 criminal intent.

22           The defendant is charged with murder. The State must  
23 prove beyond a reasonable doubt that the defendant killed  
24 another person with malice aforethought.

25           Malice is hatred, ill will or hostility towards

1 another person. It is the intentional doing of a wrongful  
2 act without just cause or excuse and with an intent to  
3 inflict an injury or under circumstances that the law will  
4 infer an evil intent.

5 Malice aforethought does not require that malice  
6 exists for any particular time before the act is  
7 committed, but malice must exist in the mind of the  
8 defendant just before and at the time the act is  
9 committed. Therefore, there must be a combination of the  
10 previous evil intent and the act.

11 Malice aforethought may be express or inferred. The  
12 terms "express" and "inferred" do not mean different kinds  
13 of malice, but merely the manner in which malice may be  
14 shown to exist, that is, either by direct evidence or by  
15 inference from the facts and circumstances which are  
16 proved.

17 Express malice is shown when a person speaks words  
18 which express hatred or ill will for another or when the  
19 person prepared beforehand to do the act which was later  
20 accomplished.

21 Malice may be implied or inferred when circumstances  
22 demonstrate a person had a wanton or reckless disregard  
23 for human life or a reasonably prudent man would have  
24 known that, according to common experience, there was a  
25 strong likelihood that death would follow from the

1 contemplated act.

2 The defendant is charged also with possession of a  
3 weapon during the commission of or attempt to commit a  
4 violent crime. The State must prove beyond a reasonable  
5 doubt that the defendant was in possession of a firearm or  
6 visibly displayed what appeared to be a firearm during the  
7 commission of a violent crime.

8 A firearm means any machine gun, automatic rifle,  
9 revolver, pistol or any weapon which will, is designed to  
10 or may be readily converted to expel a projectile.

11 In order to find the defendant guilty of possession  
12 of a weapon during the commission of a violent crime, you  
13 must first find the defendant guilty of either committing  
14 a violent crime or attempting to commit a violent crime.

15 Murder is a violent crime.

16 The State must prove beyond a reasonable doubt that  
17 the weapon furthered, advanced or helped in the commission  
18 of the crime.

19 Ladies and gentlemen, a verdict in this case cannot  
20 be based upon sympathy, passion, prejudice or emotion, or  
21 some other consideration not found in the evidence that  
22 has been presented before you.

23 Now, ladies and gentlemen and Madam Foreperson, you  
24 will get -- in addition to the evidence that you will get  
25 back there in the jury room, you will get the verdict

1 form. And, Madam Foreperson -- Madam Forelady, the  
2 verdict has two questions on it. And it says -- once you  
3 get back there you'll see it's not a complicated form.  
4 The first question -- well, the first thing is your  
5 verdict must be unanimous. When the jury agrees on a  
6 verdict, Madam Forelady, you will write the verdict on  
7 this form, sign your name as the foreperson, and then  
8 knock on the jury room door and inform the bailiff that  
9 you have reached a verdict. At that time, we will then  
10 receive you back into the courtroom to read the verdict.

11 Now, as I said, the verdict form has two questions.  
12 Number 1, as to the charge of murder, we the jury  
13 unanimously find the defendant, Jonathan Richard Rackley,  
14 and then it has two blanks: "guilty" the first blank,  
15 "not guilty" the second. Now the order, there's no reason  
16 that order is there. You have to pick one or the other,  
17 and that's the only reason that order is there. So please  
18 don't infer anything from that, that just because one is  
19 in front of the other.

20 The second question is: As to the charge of  
21 possession of a weapon during a violent crime, we the jury  
22 unanimously find the defendant, Jonathan Richard Rackley,  
23 and, again, it will have check marks there for you to  
24 check either "guilty" or "not guilty."

25 And then you will sign your name at the bottom there.

1 And, again, as I said, knock on the door, let the bailiff  
2 know that you have reached a verdict.

3 I am going to excuse you here, and don't deliberate  
4 yet. I've got to take up some issue with the lawyers to  
5 make sure that I said what I was supposed to say, and they  
6 may have some objections or not. And if they have some  
7 objection, I need to bring you back in, I'll bring you  
8 back in. But if not, we will send word to you that you  
9 may begin your deliberations, and we will gather up the  
10 evidence that's been admitted into evidence and we'll send  
11 that back to you.

12 But, again, please do not deliberate until you have  
13 received the official word. And if I don't have to bring  
14 you back, then you can begin deliberations.

15 All right. I'll excuse you back to your jury room.  
16 And the two alternates, if you can hang with me for a  
17 minute here. Well, I'll tell you, go on out with them  
18 right now. Go on out with them right now. And then I may  
19 have to bring you two back out, okay?

20 (WHEREUPON, the jury exits the courtroom at 11:40 a.m.)

21 THE COURT: All right. Any objection from the State  
22 on the charges?

23 MS. ODOM: None from the State.

24 THE COURT: Any objection from the defendant?

25 MR. DE BRUIN: No, Your Honor.

1 THE COURT: All right. How about if y'all would look  
2 through all the evidence.

3 Now, one thing, I don't want to send the gun and the  
4 bullets back to the jury room together. So ---

5 MS. ODOM: I think the gun box is taped shut, so I'd  
6 say send the bullets back first and then let them know if  
7 they want the gun, then the clerk of court can ---

8 THE COURT: I think that's -- is that okay with you,  
9 Mr. DeBruin?

10 MR. DE BRUIN: Sounds good to me, Your Honor.

11 THE COURT: Okay. Let's do that. Because I just  
12 don't want them back there both at the same time.

13 All right. If y'all would, if each of you would look  
14 at the evidence, make sure that everything is there, and  
15 then we can give them back to the jury.

16 Bring the alternates back in.

17 (WHEREUPON, the two alternate jurors re-entered the  
18 courtroom at 11:42 a.m.)

19 THE COURT: All right. Mr. Hudson and Mr. Kelley,  
20 now that we're finished and everybody stayed with us here,  
21 y'all provided a vital role. I mean, because sometimes  
22 what happens is a juror may get sick or something happens  
23 and then y'all will fill in for them to sit in the  
24 remainder of the case and deliberate. But everybody made  
25 it, everybody stayed with us all week. And so I want to

1 thank you for your participation. Your participation is  
2 as important as the other 12 on the jury.

3 Y'all are obviously excused for the week. You'll get  
4 a whopping check, I'm sure, for your service on the jury.  
5 And you are free to go. You can stick around, you can do  
6 whatever you want to do.

7 UNIDENTIFIED JUROR: Do we get any kind of paperwork  
8 or anything?

9 THE COURT: I don't ---

10 THE CLERK: If you need a statement for work, you can  
11 stop by my office on the first floor and tell that you're  
12 a juror. They'll fill one out for you.

13 THE COURT: Thank you both, gentlemen. Sure do  
14 appreciate it.

15 MR. JOHNSON: And, Your Honor ---

16 THE COURT: Yes, sir.

17 MR. JOHNSON: Depending on how long deliberations  
18 take, I wrote down all counsel's phone numbers.

19 THE COURT: Okay. Thank you.

20 I want to tell all three of you it was a pleasure  
21 trying this case in front of you. All three of you did a  
22 great job. Both of your clients can be extremely proud of  
23 the job you did. It's not always the case. But I can  
24 tell you, all three of you did a great job. You handled  
25 yourselves professionally, and I appreciate that more than

1 everything. But I think the jury did, too. And I commend  
2 you on all three of you's performance.

3 (WHEREUPON, a recess is taken at 11:49 a.m., and the jury  
4 begins deliberations.)

5 JURY QUESTION

6 THE COURT: All right. It looks like we've got  
7 several questions from the jury. And I'll just kind of,  
8 on the record, first of all, make it an exhibit, and then  
9 I'll say on the record, and then I'll let y'all take a  
10 look at it.

11 All right. Additional information is needed. We  
12 wish to see and touch the gun. Would like to see several  
13 videos. And they list the interrogation of Jonathan by  
14 Detective Mr. Daniel, et cetera, as to where the gun was;  
15 video of Ring One camera of the cars coming in and out of  
16 neighborhood, period; second officer's body cam; written  
17 definition for juror to read as to defining malice and to  
18 read the meaning of the charges; video/information on  
19 ranges of being shot from pathologist;  
20 information/timeline of the shot text to Barry; call to  
21 9-1-1; a vehicle coming in and when the police came.  
22 Signed Wanda Debnam, 9/24/2021.

23 So I'll let y'all take a look at it. And we will  
24 make that a Court's exhibit.

25 (Pause in proceedings.)

1 THE COURT: All right. Let's bring the jury back in.

2 (WHEREUPON, the jury entered the courtroom at 1:24 p.m.)

3 THE COURT: It's a maze. Y'all have maneuvered it  
4 well. Early in the week you were hitting it a lot of  
5 times. Now you kind of do a lot better.

6 Yes, ma'am?

7 JURY FOREPERSON: Are we able to take notes at this  
8 time?

9 THE COURT: No notes. Still no notes.

10 Okay. Ladies and gentlemen, I've been handed a paper  
11 with some questions on it, and I'm going to read them  
12 again on the record in front of you.

13 You have requested additional information. We wish  
14 to see and touch the gun. We would like to see several  
15 videos: interrogation of Jonathan by Detective  
16 Mr. Daniel, et cetera, as to where the gun was; video of  
17 Ring One camera of the cars coming in and out of the  
18 neighborhood, period; second officer's body cam; written  
19 definition for juror to read as to defining malice and to  
20 read the meaning of the charges; video/information on  
21 ranges of being shot from pathologist; and  
22 information/timeline of the shot text to Barry, call to  
23 9-1-1, a vehicle coming in and when the police came.

24 Did I read those accurately?

25 JURY FOREPERSON: Yes, sir.

1           THE COURT: Okay. All right. Let me tell you what  
2 we can do. And I'll just start, I'll go down a little  
3 bit.

4           On the definition of malice, I will reread that to  
5 you. I'll recharge the definition of malice. I can't  
6 give you the written charges. Our procedures don't allow  
7 that. So I can reread, and it's very short. it won't take  
8 very much time. But I can reread the charge on malice and  
9 tell you that.

10          As for the videos, we have a laptop that can show the  
11 videos. And Ms. Outten, my law clerk -- and I never did  
12 introduce you. Y'all may have been wondering what this  
13 lady is up here who's been giving me all the advice during  
14 the trial. She is my law clerk. She is a graduate from  
15 law school and is waiting on her bar results. And so she  
16 is about to become a lawyer here soon, and she will be my  
17 law clerk for the next year. So that is who she is.

18          And she will go into the jury room with you and will  
19 play the videos that y'all have requested so that y'all  
20 can view them and talk with -- among yourselves while  
21 you're looking at them. So we'll do that with the  
22 interrogations -- the interrogation of Jonathan, which was  
23 a statement, the video of the Ring One camera, the second  
24 officer's body cam. And so those are it as far as the  
25 videos.

1 All right. Now, as far as the question on  
2 video/information on ranges of being shot from  
3 pathologist, what I can do if you want me to do, we can  
4 have the testimony of the pathologist replayed for you if  
5 that's what you want to have done. The court reporter --  
6 if that's what you want to do, we can do that. Just let  
7 us know and the court reporter will replay the testimony  
8 for you here.

9 And then finally, as to the last one, the  
10 information/timeline of the shot, the text to Barry, the  
11 call to 9-1-1, a vehicle coming out and when the police  
12 came, those are factual questions that I cannot answer for  
13 you. You can only consider the testimony and the  
14 documents in evidence that have been put before you for  
15 the purposes of your deliberation.

16 And now if you want to hear some more testimony  
17 regarding those issues, you can let me know. But I can't  
18 give you a summary or any information about those  
19 questions. Again, I can play some testimony if you want  
20 that done, just like you may want to do it with the  
21 pathologist, but I can't provide you any information or  
22 any summary of any of those issues that you want. Again,  
23 we can replay the testimony or the calls to 9-1-1 or any  
24 of that information. I just can't comment on the facts, I  
25 can't give you the facts. You've heard the testimony,

1 you've got the evidence, and so you can analyze it and  
2 determine the issues you may have with it. Or, again, we  
3 can replay some of the testimony if you so desire. So  
4 that's what we'll do.

5 What I'll do right now, I'll go ahead and read the  
6 definition of malice to you, again, and then I'll have  
7 Ms. Outten come in there with the equipment and look at  
8 any videos that y'all may want to look at when she gets  
9 back -- when we get through the malice charge and we get  
10 back in there.

11 All right. The defendant is charged with murder.  
12 The State must prove beyond a reasonable doubt that the  
13 defendant killed another person with malice aforethought.

14 Malice is hatred, ill will or hostility towards  
15 another person. It is the intentional doing of a wrongful  
16 act without just cause or excuse and with an intent to  
17 inflict an injury or under circumstances that the law will  
18 infer an evil intent.

19 Malice aforethought does not require that malice  
20 exists for any particular time before the act is  
21 committed, but malice must exist in the mind of the  
22 defendant just before and at that time the act is  
23 committed. Therefore, there must be a combination of the  
24 previous evil intent and the act.

25 Malice aforethought may be express or inferred.

1       These terms "express" and "inferred" do not mean different  
2       kinds of malice, but merely the manner in which malice may  
3       be shown to exist, that is, either by direct evidence or  
4       by inference from the facts and circumstances which are  
5       proved.

6               Express malice is shown when a person speaks words  
7       which express hatred or ill will for another or when the  
8       person prepared beforehand to do the act which was later  
9       accomplished.

10              Malice may be implied or inferred when circumstances  
11       demonstrate a person had a wanton or reckless disregard  
12       for human life or a reasonable prudent man would have  
13       known that, according to common experience, there was a  
14       strong likelihood that death would follow from the  
15       contemplated act.

16              All right. So there's your definition of malice.  
17       Ms. Outten will come back with the videos.

18              The other thing, you wanted the gun. And we've  
19       gotten the bullets back. So I was not going to have -- I  
20       didn't want to have the bullets and the gun back there at  
21       the same time. So we're going to switch them out. We'll  
22       give you the gun to take a look at now, and we'll have the  
23       videos back there for you to go over.

24              Does that answer all the questions, Madam Forelady?

25              JURY FOREPERSON: Yes, sir.

1 THE COURT: And, again, if you have any questions at  
2 all, that's what I'm here for. So if you have any  
3 questions, write them out just like you did. That was  
4 very good. Knock on the door of the bailiff, and I'll  
5 answer them as much as I can, okay?

6 All right. Thank you very much. You can retire back  
7 to the jury room.

8 (WHEREUPON, the jury exits the courtroom at 1:33 p.m.)

9 THE COURT: All right. Anything from the State?

10 MR. JOHNSON: Yes, Your Honor. I believe there was  
11 that one question about testimony of where the gun was.  
12 Forgot to mention while we were up there. I believe that  
13 would be Chad Brooks, Chief Chad Brooks's testimony. He  
14 was a short witness. I believe if they have a question  
15 about that . . .

16 THE COURT: Well, it looks like what the question --  
17 it says interrogation of Jonathan by Detective Mr. Daniel,  
18 et cetera, as to where the gun was.

19 MR. JOHNSON: Oh, okay. Okay. I misunderstood that.

20 THE COURT: Yeah. So I think that's the way I'm  
21 reading that. Is that ---

22 MR. JOHNSON: And, Your Honor, in regards to that, I  
23 believe they're asking about -- if they're asking about  
24 the interview, the portion that was -- that was muted.  
25 And I would just ask for another instruction of why that

1 was muted, I guess what we were discussing yesterday  
2 about, you know, falling into this potential situation,  
3 just to explain to them why that's out.

4 THE COURT: You're talking about the muted part of  
5 the interrogation ---

6 MR. JOHNSON: Yes, sir. Assuming ---

7 THE COURT: --- or the muted part on the body cams?  
8 Interrogation?

9 MR. JOHNSON: The interrogation about -- because that  
10 was where it kind of got choppy talking about the gun.

11 THE COURT: I'll retell them what I did yesterday. I  
12 said, look, there are certain parts of that video that  
13 have been muted based on my -- certain decisions that I  
14 have made and agreement among the parties as well. I can  
15 do that.

16 MR. JOHNSON: I would ask that it would be in  
17 agreement, but whatever you think is best.

18 THE COURT: Well, I mean, I believe y'all did agree,  
19 though, to the extent of some of the ---

20 MR. JOHNSON: Yes, Your Honor.

21 THE COURT: --- because the only part I think that I  
22 really made the decisions on, and correct me if I'm wrong,  
23 regarding the Billy Bush deal and all that.

24 MR. JOHNSON: Yeah. That's correct. That's correct,  
25 Your Honor.

1           THE COURT: Because y'all had already -- six of the  
2 seven I remember. Six of the seven redactions y'all had  
3 agreed on. The seventh was the Billy Bush deal; is that  
4 right?

5           MR. JOHNSON: Yes, sir.

6           MR. DE BRUIN: Well, Your Honor, I believe I was  
7 talking the found -- the found part. I wasn't really ---

8           THE COURT: Yeah. You got -- you got the Billy Bush  
9 and the finding it. It went into the found part after  
10 that.

11          MR. JOHNSON: I believe I did concede there at the  
12 final end, so ---

13          THE COURT: All right. Okay. So I think what we'll  
14 need to just listen, if they want any pathologist  
15 testimony read over, if they want to do that. And then if  
16 they want to hear any other testimony regarding the text  
17 to Barry, the call -- the 9-1-1 call, the vehicle coming  
18 in and out, although, that should be encompassed in the  
19 Ring One camera, which I assume that's what they're  
20 wanting to see.

21          So I'll send Ms. Outten back, so we'll -- with the  
22 interrogation part of it. And if you want me to bring  
23 them back out to tell them again on the why it's muted ---

24          MR. JOHNSON: Your Honor, I believe just a quick  
25 instruction back there will be fine.

1 THE COURT: Okay.

2 MR. DE BRUIN: I agree.

3 THE COURT: All right. Anything else?

4 MR. JOHNSON: Nothing further from the State, Your  
5 Honor?

6 THE COURT: Anything from the defense?

7 MR. DE BRUIN: Nothing from the defense, Your Honor.

8 THE COURT: Okay. All right.

9 (WHEREUPON, Court's Exhibit Number 3 was marked for  
10 identification; a recess is taken at 1:37 p.m.)

11 THE COURT: All right. I understand we have a  
12 verdict in the case.

13 First of all, I want everybody to know that whatever  
14 the result of the verdict is, I don't want to have any  
15 outburst in the Court. These are always difficult things.  
16 So if there's anybody that thinks that they can't control  
17 themselves when the verdict is read, I want you to go  
18 ahead and leave now. Otherwise, if you do have any kind  
19 of outburst, we'll have you escorted out. I'm sure  
20 everybody will abide by that and we won't have to worry  
21 about that.

22 All right. Bring the jury in.

23 (WHEREUPON, the jury entered the courtroom at 2:44 p.m.)

24 THE COURT: All right. Ladies and gentlemen of the  
25 jury, I understand that you have reached a verdict; is

1 that correct?

2 JURY FOREPERSON: Yes, Your Honor.

3 THE COURT: If you would, please hand the verdict to  
4 the clerk right here or the bailiff.

5 All right. Clerk, please publish the verdict.

6 VERDICT

7 THE CLERK: As to the charge of murder, we the jury  
8 unanimously find the defendant, Jonathan Richard Rackley,  
9 guilty.

10 As to the charge of possession of a weapon during a  
11 violent crime, we the jury unanimously find the defendant,  
12 Jonathan Richard Rackley, guilty.

13 Is this your verdict and still your verdict so say  
14 you all by raising your right hand?

15 (WHEREUPON, all jurors raised their right hand.)

16 THE CLERK: Thank you very much.

17 THE COURT: All right. Do any -- want the jury  
18 polled, from the State?

19 MR. JOHNSON: Nothing further from the State, Your  
20 Honor.

21 THE COURT: All right. Defendant?

22 MR. DE BRUIN: No, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, I want  
24 to thank you very much for your service this week. You  
25 have all, as I told you before earlier, you did a

1 point in his life. So we're asking for the Court's mercy  
2 and the minimum the Court will allow.

3 SENTENCING

4 THE COURT: All right. It is the sentence of the  
5 Court -- and, Mr. Rackley, if you would please stand. The  
6 jury, having found you guilty of murder and possession of  
7 a weapon during the commission of or intent to commit a  
8 violent crime, the Court sentences you to the South  
9 Carolina Department of Corrections on the charge of murder  
10 50 years, on the charge of possession of a weapon during  
11 the commission or attempt to commit a violent crime, five  
12 years, those sentences to be run consecutively. That's  
13 the sentence of the Court.

14 Anything else from the parties?

15 MR. JOHNSON: Nothing further from the State, Your  
16 Honor.

17 THE COURT: Anything from the defendant?

18 MR. DE BRUIN: No, Your Honor.

19 THE COURT: We will be adjourned.

20 (WHEREUPON, a recess was taken at 2:56 p.m.)

21 MR. JOHNSON: And, Your Honor, we do have a few  
22 things I think we need to clear up for the record.

23 It's our understanding we discussed previously that  
24 we were asking you to go back to inform the jury about the  
25 redactions; however, I believe we agreed that that was not

1 done. And then when your law clerk was back there, it's  
2 my understanding that no communication was had between her  
3 and the jury.

4 THE COURT: And that's correct. My law clerk going  
5 back and just playing the videos from a technological  
6 standpoint, there was no comments made. That was an  
7 agreement by the parties to allow her to do that.

8 MR. JOHNSON: And they were both on mute, correct?

9 THE COURT: Yes, they were.

10 MR. JOHNSON: Okay. Thank you, Your Honor.

11 (Pause in proceedings.)

12 THE COURT: Anything else?

13 MR. DE BRUIN: No, Your Honor.

14 MR. JOHNSON: Nothing further from the State, Your  
15 Honor.

16 THE COURT: Again, thank you for your efforts on both  
17 sides. It was a hard case, and I know tough emotions, but  
18 I want to commend all the lawyers in the case for doing a  
19 good job.

20 (WHEREUPON, proceedings concluded at 3:00 p.m.)  
21  
22  
23  
24  
25

528

STATE OF SOUTH CAROLINA

COUNTY OF Pickens

STATE

VS:

Jonathan Richard Rackley

AKA:

Race: WHITE Sex: M Age: 40

DOB: SS#

Address:

City, State, Zip:

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3902090

AW#: 2019A3910100825

Date of Offense: 7/13/2019

S.C. Code § : 16-03-0010, 0020

CDR Code #: 0116

SENTENCED **RECEIVED**

OCT 06 2021

SC Court of Appeals

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: Murder (gs)

in violation of § 16-03-0010, 0020 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 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:

*Shannon Odom*  
Odom, Shannon

0077891

SC Bar#

Defendant

DEBRUIN, AARON  
Attorney for Defendant

78059

SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,

for a determinate term of 50 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_ provided that upon the service of \_\_\_\_\_ days/months/years/Time Served 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.

The sentence shall run

~~CONCURRENT~~  CONSECUTIVE to sentence on: September 24, 2021

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. \_\_\_\_\_ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jonathan Richard Rackley INDICTMENT/CASE#: 2019GS3902090

SPECIAL CONDITIONS: AWW#: 2019A3910100825

PTUP after months/years

And Other Terms Listed Below:

- Substance Abuse Counseling, Completion of GED, Random Drug/Alcohol testing, Attend Voc. Rehab. or Job Corp, No Contact with, Domestic Violence Intervention Program, Mental Health Counseling, May serve W/E beginning, Sex Offender Registry pursuant to S.C. Code § 23-3-430, Public Service Employment 0 days/hours, Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135, Other:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Term Set by SCDPPPS

Recipient:

\*Fine:

Table with 2 columns: Description of fine and Amount. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge), §14-1-211(A)(2) (DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs), §50-21-114(BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees., § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund.

Clerk of Court/ Deputy Clerk: Harold P. Walker Court Reporter: Cheryl Smith

Presiding Judge: Judge Code: 2773 Sentence Date: 9/27/2021

Harold P. Walker Clerk of Court Pickens County, SC Dated 9/27/2021

530

STATE OF SOUTH CAROLINA

COUNTY OF Pickens

STATE

VS.

Jonathan Richard Rackley

AKA:

Race: WHITE Sex: M Age: 40

DOB: \_\_\_\_\_ SS# \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3902544

AW#: 2019A3910100826

Date of Offense: 7/13/2019

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET **RECEIVED**

OCT 06 2021

SC Court of Appeals

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: Weapons / Poss. Weapon During Violent Cr

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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:

0077891

78059

Odom, Shannon

SC Bar#

Defendant

DEBRUIN, AARON  
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,

for a determinate term of 54 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_ provided that upon the service of \_\_\_\_\_ days/months/years/Time Served 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.

The sentence shall run

~~CONCURRENT~~ or  CONSECUTIVE to sentence on: September 24, 2021

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. \_\_\_\_\_ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

ATE VS Jonathan Richard Rackley INDICTMENT/CASE#: 2019GS3902544

SPECIAL CONDITIONS: A/W#: 2019A3910100826

PTUP after \_\_\_\_\_ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling, Completion of GED, Random Drug/Alcohol testing, Attend Voc. Rehab. or Job Corp, No Contact with, Domestic Violence Intervention Program, Mental Health Counseling, May serve W/E beginning: \_\_\_\_\_, Sex Offender Registry pursuant to S.C. Code § 23-3-430, Public Service Employment 0 \_\_\_\_\_ days/hours, Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135, Other: \_\_\_\_\_

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Term \_\_\_\_\_ Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine: Table with columns for description, amount, and total. Includes items like §14-1-206 (Assessments 107.5 %), §14-1-211(A)(1) (Conv. Surcharge), §14-1-211(A)(2) (DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs), §50-21-114(BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees., § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund. TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Harold P. Walker Presiding Judge: [Signature]
Court Reporter: Cheryl Smith Judge Code: 2773
Sentence Date: 9/24/21

Certified Copy
Harold P. Walker Page 2 of 2
Clerk of Court
Pickens County, SC
Dated 9/27/2021

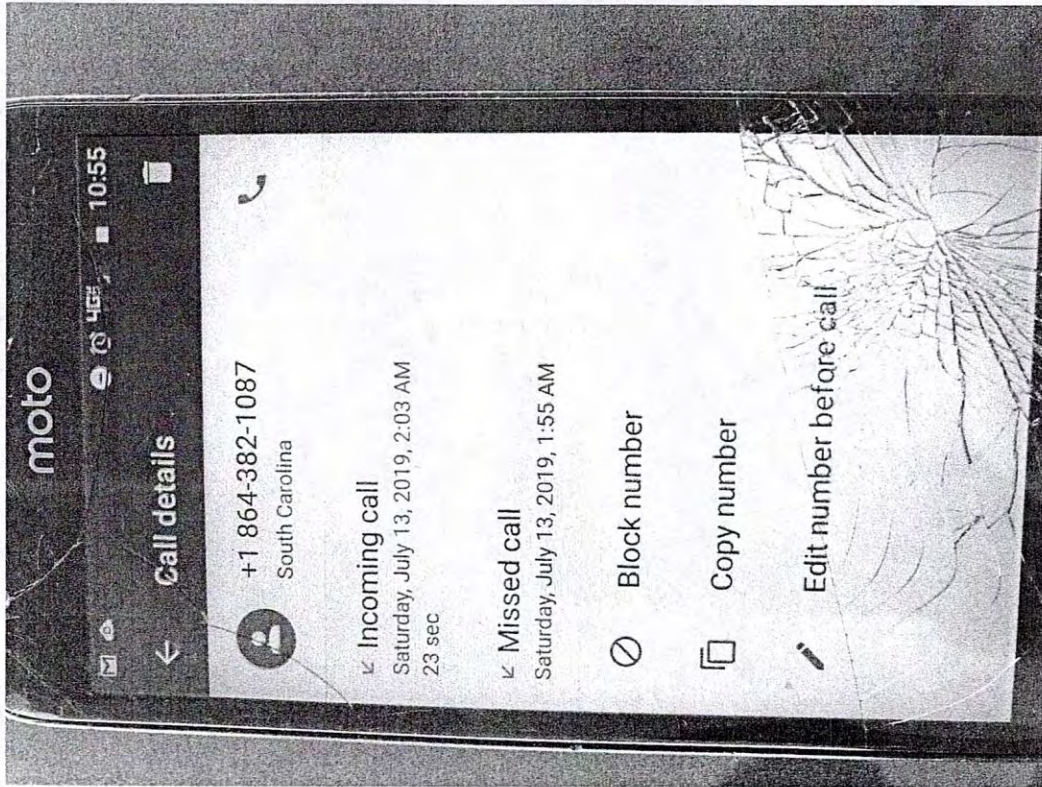


# PICKENS COUNTY SHERIFF'S OFFICE

216 C. DAVID STONE ROAD • PICKENS, SOUTH CAROLINA 29671  
 Incident Report       Communications Report / CAD       Inmate Booking Report

S2019-04213 - Digital Photo - call log (Barry)

Printed on August 7, 2019



call log (Barry)

Comments:

STATE'S EXHIBIT 5  
9-21-21  
PENGAD 800-631-6989



# PICKENS COUNTY SHERIFF'S OFFICE

216 C. DAVID STONE ROAD • PICKENS, SOUTH CAROLINA 29671

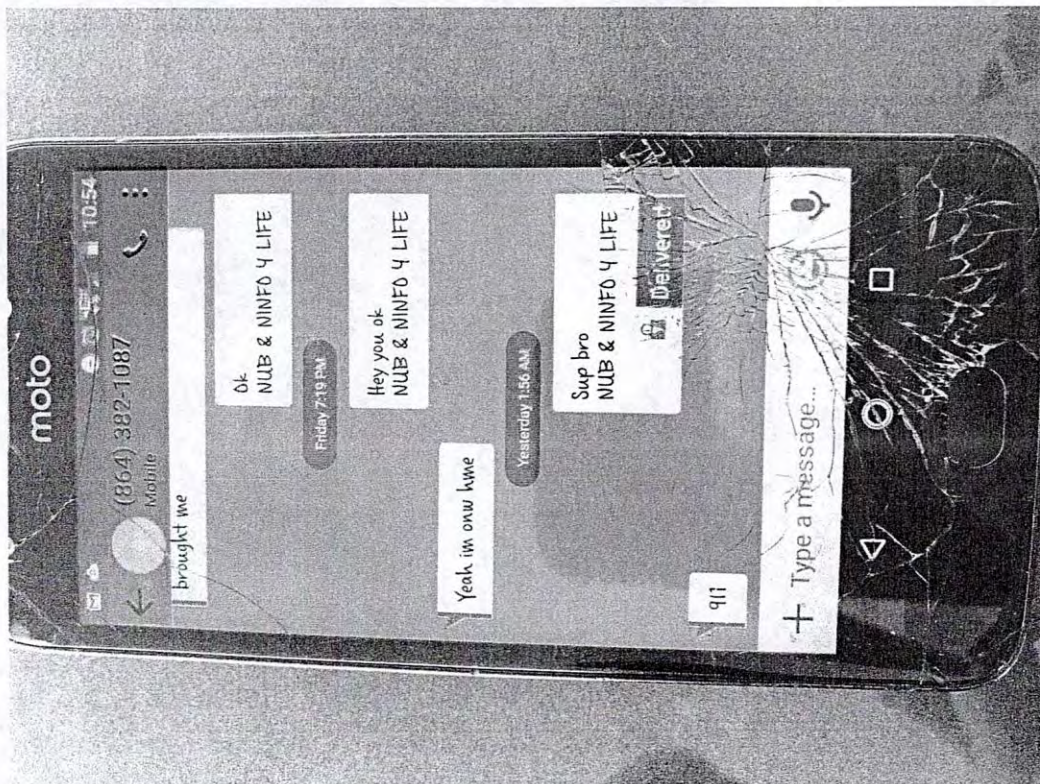
Incident Report

Communications Report / CAD

Inmate Booking Report

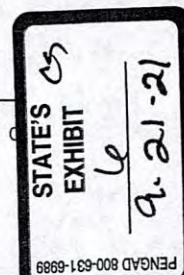
S2019-04213 - Digital Photo - text message (Barry)

Printed on August 7, 2019



text message (Barry)

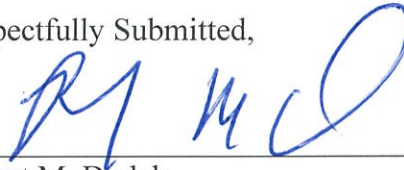
Comments:



## 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,



Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

**RECEIVED**

**Feb 02 2023**

**SC Court of Appeals**

This 2<sup>nd</sup> day of February, 2023.