

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM BERKELEY COUNTY
Court of General Sessions

JUN 26 2023

SC Court of Appeals

The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS,

APPELLANT.

RECORD ON APPEAL

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CLOSING ARGUMENT - BY MS. WILLIAMS

1 those swabs, and they match Mr. Capers, tells you
2 that Mr. Capers' semen was in victim's
3 mouth.

4 Also, again, the sweatshirt, even if
5 you believe somehow that the swabs from her mouth
6 were compromised, and they weren't, how do they
7 explain the sweatshirt?

8 Because after Lindsey Wright leaves the
9 scene, the victim leaves the scene, she leaves the
10 scene, Wendy Myers goes to the scene, she searches,
11 she collects evidence, she documents everything she
12 does, she collects the sweatshirt, and that is
13 taken separately, put into evidence, and taken up
14 to SLED.

15 She never goes to the search warrant.
16 She never goes to Golding. She never goes to
17 Old Dominion. So there really is no explanation
18 for the sperm on the sweatshirt except the truth,
19 which is that victim wipes her mouth with
20 it, his semen got on it, they tested it at SLED,
21 and he was identified as the donor.

22 Let's talk about that. The chances of
23 it not being Aaron Capers is 1 in 7.9 octillion.
24 That is a pretty strong match. That is 27 zeros.

25 Jasmyn Richardson. Jasmyn Richardson

CLOSING ARGUMENT - BY MS. WILLIAMS

1 was his girlfriend, she loved him, obviously,
2 didn't want to be here testifying. She showed you
3 that she brought him the Nike hat; she identified
4 the Nike hat, the gray sweats. She said he was
5 wearing gray sweats, white shirt, Nike hat at the
6 Speedway gas station.

7 She confirmed that the car -- picture
8 of the car that was next to the pump where the card
9 was used was her car. She was there with Aaron
10 Capers.

11 The receipts. This is hard evidence
12 that *victim's* card was used at the Speedway
13 at 5:05. You're going to see the Speedway receipts
14 used at pump two, which the clerk from Speedway
15 told you that when the person with the gray sweats,
16 the white shirt, a Nike hat, Aaron Capers, walked
17 over to use that pump at 5:05; but it was *victim's*
18 *card* that he was using.

19 So how does he get *1 victim's*
20 card? No explanation is given for that. He didn't
21 rob her; he wasn't in the house. Why does he have
22 her card?

23 During opening Mrs. Capers said
24 something about it was a very expensive lesson that
25 he got. That he bought a card and it was a very

CLOSING ARGUMENT - BY MS. WILLIAMS

1 expensive lesson. There's been no testimony about
2 anything except from *victim's* that he stole
3 her card. And sure enough, he's using her card two
4 hours later.

5 So let's go through some of what could
6 be the defense's theory in this case. The DNA
7 swabs from the victim's mouth are not good. Well,
8 they're good enough to find semen that match Aaron
9 Capers, 1 in 7.9 octillion.

10 So does that seem reasonable to you?
11 Does it seem reasonable to you that the DNA swabs
12 from the victim's mouth are not good evidence in
13 this case? I would submit to you that that does
14 not seem reasonable.

15 Another big theme for the defense is
16 that we should have tested more things. We could
17 have tested things all day long. We could have
18 tested the DNA on the little drawer pulls. We
19 could have tested DNA on the door knobs.

20 We could have gone on and on, but that
21 doesn't negate the fact that his DNA is in the
22 victim's mouth. It doesn't. I mean, even if
23 someone else's fingerprints were somewhere in the
24 house -- probably a lot of people have been in the
25 house, and it still doesn't erase his DNA from

CLOSING ARGUMENT - BY MS. WILLIAMS

1 being in places that it should not have been.

2 It doesn't erase the fact that he's
3 using her card at the Speedway two hours later, and
4 it sure doesn't erase the fact that he wrote
5 letters to an inmate trying to have her killed. So
6 that is not reasonable.

7 It was mentioned that he might have
8 bought the debit card from someone. You can
9 consider only evidence that was presented to you in
10 the case. Not argument. There is no evidence of
11 that. None whatsoever. So it's not reasonable
12 that he bought this debit card from someone else
13 because there's no evidence of it.

14 Jesse Gill. Jesse Gill is a bad person
15 that did a good thing. I find it very interesting
16 that there was so much testimony about how Jesse
17 Gill bragged about having people killed. That's
18 what he does.

19 He's not afraid to go to jail, not
20 afraid to kill people, not afraid to do a lot of
21 things. He almost seemed proud of his record, but
22 isn't that just the kind of person that you would
23 approach to have someone killed.

24 If you were in a cell with the other
25 two that testified and Jesse Gill, who is the guy

CLOSING ARGUMENT - BY MS. WILLIAMS

1 that you're going to ask to have someone killed?
2 So is Jesse Gill a bad person? Yeah. But he's not
3 wrong because some of the things he shows you are
4 verified with forensic evidence.

5 He tells you that the defendant gives
6 him letters asking him to kill this woman. Well,
7 we have a handwriting analyst that says that's his
8 writing. He also tells you he handed him the
9 letter. His fingerprints are on the letter.

10 And, also, there are things on that
11 letter -- on the letters that only Aaron Capers
12 would know. Even the map that Wendy Myers drew on
13 the stand -- she is a crime scene forensic
14 specialist -- her map was not as good as his map.

15 He had so many more details on it, and
16 she had been in the house. And you know what's
17 very clear? He has been in the house. So that's
18 not a good theory. Jesse Gill is a bad person, but
19 he's not wrong.

20 They are also arguing that the letters
21 mean nothing. They would have you believe that
22 somehow Jesse Gill pilfered through his things,
23 read this much of his discovery; he's a master
24 forger because he can trick the SLED analyst who's
25 been working for 3500 cases for 30 years and forges

CLOSING ARGUMENT - BY MS. WILLIAMS

1 these letters, and it's not Aaron Capers that wrote
2 them. That's ridiculous.

3 The letters mean everything. When you
4 read those letters -- they're not just evidence
5 that he wanted her killed. They are evidence that
6 he committed the crime. They are a confession.
7 And I encourage you to read those. They are
8 chilling. I would encourage you to read them. So
9 that's not a reasonable theory.

10 The problem for the defense in this
11 case is that they cannot overcome the evidence.
12 And I'm not going to go through every piece of
13 evidence because that's your job when you go back
14 there, but let's just go through some of the
15 evidence that is very, very important to the
16 State's case.

17 I refuse to put up those humiliating
18 pictures of victim : to show you the bruises
19 on her arms, breasts and shoulders because I don't
20 want to put her through that again. But this is
21 the room where it happened. (Indicating)

22 She showed you that she was sitting on
23 the edge of the bed as he was standing in front of
24 her, but the bruises tell you everything because
25 they corroborate what she said. The evidence is on

CLOSING ARGUMENT - BY MS. WILLIAMS

1 her body and you will have those pictures to look
2 at in the jury room.

3 The sweatshirt, there was no way to get
4 around the sweatshirt. His sperm is on the
5 sweatshirt and it matches him. There's just no way
6 to get around that. And it's exactly where she
7 said it was. She said she ran to the front door
8 and dropped it by the laundry room, and that's
9 where they found it.

10 The receipts. You will get a closer
11 look at this in the jury room. It's kind of hard
12 to see here, but basically that tells you what pump
13 victim's card was used, what time it was and
14 how much was charged on it.

15 And then you had the Speedway clerk
16 showing you the person that used the card at that
17 time, and then you had two people that really like
18 the defendant -- I think Ludielle Rodriguez said
19 she had nothing bad to say about him, but she had
20 to admit the person on that video was Aaron Capers.

21 The Wells Fargo receipt, which again is
22 how they figured out where the card was being used,
23 the Nike hat, and there is a pair of gray sweats
24 under there that were identified by Jasmyn
25 Richardson as the items that she gave him for

CLOSING ARGUMENT - BY MS. WILLIAMS

1 Christmas that were found at Old Dominion. And
2 those are the things that he was wearing when he
3 was using the stolen credit card.

4 Now, the State had a lot of evidence in
5 this case, but I would submit to you that most of
6 the evidence came from this man right here, Aaron
7 Capers. He is the best evidence we have, because
8 of these letters. And you're going to get to look
9 at these letters.

10 Probably the most chilling is this map.
11 There is no mention of a ditch in the records of
12 Wendy Myers, but he knows about the ditch because
13 that's the ditch he ran through when he was trying
14 to get away and go to Golding.

15 He knows about the neighbors. He knows
16 that the nights are quiet. He knows it's a middle
17 class neighborhood because he lives in the
18 neighborhood.

19 I don't know how I want it done yet.
20 If they can't find her, will the charges still get
21 dropped or do they need to find a body? I can get
22 it paid on the streets.

23 I don't know how I want it done. I
24 just need it done. I just need it not traceable
25 back to me. I'm hundred. I can pay 2500 when I'm

CLOSING ARGUMENT - BY MS. WILLIAMS

1 out.

2 There is a note with a phone number for
3 J.R. defense counsel repeatedly asked about J.R.
4 and brought out the fact that several attempts were
5 made to contact J.R. who did not drop off the
6 money, but clearly J.R. was involved.

7 He writes the note -- you will get to
8 see it, where he gives his phone number and talks
9 about making arrangements to get the money paid. I
10 can give you my homeboy's number with the bread and
11 you set up the meeting on the outside.

12 Yo, La Don, I really need a favor. I
13 don't want to put my life on the line. You see
14 what they're offering me. You got any hitters that
15 will drop the victim for a couple of bands. I can
16 have the money for sure, I just need a price.
17 Also, do you think it would be traced back to me?

18 I think the answer is, yes, at this
19 point.

20 Think about it and we will talk later.

21 And then some of the ones that are
22 really disturbing is 81-year-old Asian Japanese,
23 *victim* , lives alone, one dog, small, no
24 bark. I'll try to find the address online, if I
25 can get it by next week. I should have it though.

CLOSING ARGUMENT - BY MS. WILLIAMS

1 He's just reduced this woman to just
2 this thing. He's her stats, get it done, get rid
3 of her. In the final one, she lives alone, four
4 neighbors, two front, two sides, but I robbed her
5 daylight. She's old so knock her off so it looks
6 natural or make her disappear. I don't care. I
7 need her gone. She's the only witness.

8 I hope and pray that someday the memory
9 of this event will not stay with victim. . . I
10 hope that she has time to heal. I hope that she
11 has time to forget about what happened, because she
12 was underestimated.

13 She almost died. He almost killed her,
14 because she had a heart attack on the way, and then
15 he almost got rid of her here; but he clearly
16 underestimated this 4 foot 10, 90-pound woman
17 because she made it and she testified and she told
18 you what happened.

19 Probably the defining most horrible
20 thing in her life, and she told you what happened
21 because it was her time to do that, to be
22 courageous and stand up and to tell the truth.
23 That's what she did. He underestimated her, and
24 now it is his time.

25 It is his time to have all of this

CLOSING ARGUMENT - BY MS. CAPERS

1 evidence evaluated and your time to look at it. It
2 is time for justice. It is time for justice for
3 her. It is time for you to look at all the
4 evidence and evaluate it and decide the only
5 conclusion that you can come to, that Aaron Capers
6 is guilty.

7 THE COURT: Thank you, Solicitor.
8 Ms. Capers.

9 MS. CAPERS: May it please the Court?

10 THE COURT: Yes, ma'am.

11 MS. CAPERS: Counsel.

12 Members of the jury, thank you for --
13 thank you so much for your time this week.

14 Let me start off by saying we don't
15 dispute something happened to Ms. ~~Victim~~ We just
16 don't -- it's just not Aaron Capers. Every
17 defendant is entitled to a fair trial.

18 Every defendant is entitled to believe
19 that when evidence is collected it will be tested,
20 and those in charge of prosecuting will follow the
21 truth wherever it may lead. That did not happen in
22 this case.

23 The State made a decision in January of
24 2018 -- this happened December 21st of 2017. And
25 the State made a decision in January of 2018 to not

CLOSING ARGUMENT - BY MS. CAPERS

1 test anything that would not match. Because in
2 January 2018, they sent one fingerprint from the
3 glass door of *victim's* s house that they were
4 sure was the assailant's print.

5 And that print did not match. It
6 excluded Aaron Capers 100 percent, and that's the
7 last piece of evidence that they tested, because
8 then they got the DNA.

9 And I'm going to remind you the DNA
10 came from the sweater collected by Goose Creek and
11 it came from the two swabs collected by Goose
12 Creek. That's it. Those are the items collected
13 by Goose Creek. We don't know when they dropped
14 them off. We don't know where they went.

15 We have to rely 100 percent on what
16 they are saying, because I asked them each when did
17 you drop this off? When? And you know what they
18 said? It's almost laughable. We don't know what
19 time. We don't even log it on the report when we
20 drop it off. What?

21 You mean to tell me that every report
22 you have has the time, the date, a stamp, where you
23 put it, when you put it, who you gave it to and
24 when you gave it to them. Not theirs. Theirs only
25 said I collected it this time, and it leaves

CLOSING ARGUMENT - BY MS. CAPERS

1 completely open when it actually got put in a
2 refrigerator or put in a locker.

3 There's no time on anything. And they
4 told you, maybe around seven. Well, I took it to
5 the station and I dropped it there, but I don't
6 know what time. Both Ms. Wright and Ms. Myers told
7 you that with regard to the sweatshirt and the
8 swabs.

9 Ms. Wright told you that she collected
10 her swabs, did not dry them like the SANE nurse
11 told you should have been done, stuck them in a box
12 in a case, closed it up, followed an ambulance,
13 went downtown to MUSC, held it in her possession,
14 and then turned it in hours later, which also
15 happened to be the exact night of the search,
16 1:00 in the morning.

17 Now, I never thought that we would be
18 trying a criminal sexual conduct case and nothing,
19 nothing collected by the SANE nurse has been
20 tested. Nothing.

21 Well, there is one thing. They opened
22 the kit and they took out the buccal swab that only
23 identifies Ms. *Victim*. That's all it's supposed to
24 do. She told you that.

25 And if you don't know how significant

CLOSING ARGUMENT - BY MS. CAPERS

1 that is, I'm going to explain it to you. In every
2 criminal sexual conduct case, there is a sexual
3 assault kit done. This is collected and it is done
4 specifically by a SANE nurse.

5 If you recall, Mrs. Hughes was on that
6 stand. She got up there, they had to talk to her
7 about her training and her expertise and everything
8 extra that she had to do to be accredited as a SANE
9 nurse. They did that.

10 And then the judge qualified her as an
11 expert. And then she completed that, and she was
12 very thorough. And you know one thing she told
13 you? Specifically, she said, you know, I was
14 really surprised when I saw that the officer had
15 taken her own swabs. She said that. She said she
16 was surprised.

17 And she said, we do it and we dry it
18 immediately because water or wetness is not your
19 friend and neither is heat. So how is carrying
20 swabs around on your -- in a case better than one
21 collected by a SANE nurse?

22 Why are you checking swabs only from
23 Goose Creek and not the ones by the SANE nurse.
24 She is the only independent witness.

25 Goose Creek is prosecuting this case.

CLOSING ARGUMENT - BY MS. CAPERS

1 The purpose of a SANE nurse is to get everything
2 collected. She has no interest in the case. She
3 has no reason to tamper with anything. And you
4 know what they said? Let's see, what did she
5 collect.

6 She collected swabs from her mouth.
7 The same ones, be clear, the same ones that Goose
8 Creek collected. She collected from her upper gum,
9 the lower gum.

10 She said there was spit in her hair.
11 She collected the swabs from the spit in her hair;
12 she collected a swab from under her breast because
13 it would have DNA -- or possibly have DNA. She
14 collected suspected bodily fluids, saliva from the
15 hair. And it says, oral swabs.

16 She took another swab from the face.
17 That's what she said. And you know what they said?
18 You know what the State said to that expert, the
19 only person who is designated to be checking
20 victims after a sexual assault and collecting that
21 evidence? You know what they said? Pass. We
22 don't want this stuff.

23 And every time you think about that, I
24 want you to wonder why. Why? Why would you not
25 collect -- at least test the kit. It's called a

CLOSING ARGUMENT - BY MS. CAPERS

1 sexual assault kit. This is a criminal sexual
2 conduct case. But you are not testing anything in
3 it. And think about that, why?

4 And I'm going to tell you why. Because
5 you don't know what it says in here. You know what
6 Goose Creek swab said. Goose Creek collected them.
7 You don't know what this kit says. And they have
8 had the opportunity to test this kit since February
9 of 2018. And did they do it? No.

10 And not only did they not do it with
11 regard to her kit, they had a mask that the
12 assailant had on the entire time. They said they
13 collected it from the defendant's house. That's
14 what they said. They didn't show it to the victim.

15 They said they collected it, and then
16 they didn't just not test it, it wasn't accidental,
17 they e-mailed each other about it. Don't you think
18 it would be of value to test this mask? Well,
19 remember, it may be of some value, but the
20 description of the person running into the house is
21 vague. Do you remember that e-mail? It's vague.

22 And there's another black male in the
23 house. And you know what? We don't need to know
24 that. We don't need to know that. Why don't you
25 need to know that? It is a search for the truth.

CLOSING ARGUMENT - BY MS. CAPERS

1 You don't want to know the truth. You
2 are here and you are saying -- and it's -- it's so
3 upsetting. He spit in the victim's face.

4 Well, if he spit in the victim's face,
5 she got a swab for it. Test it. You don't want to
6 know.

7 What else didn't they test from the
8 house? Because Ms. Victim got a little confused
9 and she didn't remember some things, but we
10 ultimately figured out that the assailant did not
11 have on gloves. Right. They dusted every place in
12 the house. They got fingerprints off the jewelry
13 box, off the drawers that he touched, off the
14 doorknobs.

15 Where else did they get? They
16 collected what -- 19 -- wait. Twenty-two pieces of
17 evidence. Twenty-two. They tested three, the ones
18 we talked about. The ones from Goose Creek. They
19 didn't test anything else. If you -- and it wasn't
20 just regular fingerprints. It was the
21 DNA-collecting one. Remember that?

22 So if the assailant touched it, you
23 have his DNA. Are we going to check it? Nope. We
24 don't need to know that. But you know what they
25 did need to know? They didn't put very much effort

CLOSING ARGUMENT - BY MS. CAPERS

1 -- they didn't put any effort into confirming or
2 denying.

3 You know, wouldn't you -- if you got
4 that first test and it was however many zeros, 27
5 zeros at the end, if you got that test, and you
6 wanted to be sure, you would get that mask and you
7 would test that mask and you would say, look, not
8 only was it here, but here is his DNA here.

9 You would test these things so you
10 would be 100 percent sure, and there would be no
11 arguing to this Court about this. None. Because
12 then we wouldn't have an argument at all.

13 And every time you think about this you
14 need to be thinking, why not? And it's because you
15 don't want to know the truth. You refuse to give
16 truth a chance. You refuse to let the evidence
17 show that it is not the defendant.

18 But when he runs into -- or when he
19 becomes Jesse Gill's next get-out-of-jail-free
20 card -- because we know from the evidence today
21 that that is what Jesse Gill does. Right? Jesse
22 Gill goes from cell to cell trying to figure out
23 who he can set up so he can get out of jail.
24 That's what he does. And he intimidates everyone
25 and he's good at it. And he knows what he's doing.

CLOSING ARGUMENT - BY MS. CAPERS

1 But Jesse Gill sat there with Aaron
2 Capers -- and we are not excusing anything -- be
3 very clear, we're not excusing anything that Aaron
4 Capers did, said, or wrote. We are saying that
5 writing those things is not consciousness of guilt.
6 It's called fear. It's called manipulation.

7 There is a reason they put a
8 43-year-old man in the cell with three boys who had
9 never been convicted of anything. Eighteen, 19 and
10 20 years old, never been convicted. And they put
11 this serial sex offender and robber, and anything
12 -- do you remember that rap sheet? They stopped me
13 before I finished. That was a book, and it was all
14 bad. And some of it was worse than what you heard.

15 He did this, set up this thing with
16 Aaron so that he could get a deal and get out of
17 jail in May. And then he walked right back in here
18 in stripes. Come on.

19 You know what he's doing right now?
20 Preying on his next victim. Trying to find
21 probably some young child like Aaron Capers or like
22 Jerron Simmons to say I can help you out. Let me
23 tell you what you need to do to make this go away.

24 And do you know what an 18-year-old who
25 has never been in trouble before, never been in

CLOSING ARGUMENT - BY MS. CAPERS

1 jail before, who is sitting there saying I didn't
2 do this, and I know that I got this card that I
3 should not have gotten, I didn't do it. How is my
4 DNA there? I did not do this and I can't get out
5 of jail. These people are framing me.

6 And you know what Jesse Gill is
7 standing there saying? Yeah. Yes, sir, they are.
8 And what is he saying; no face, no case. No face,
9 no case. He's sitting over there in that jail
10 month after month after month. The person told you
11 every time he has a legal visit they are
12 strip-searching him. They are violating him in
13 every way they know how, and he can't figure it
14 out.

15 He just wants to get out of jail. This
16 is not consciousness of guilt. This is, oh, my
17 God, thank you, Mr. Gill, for giving me this
18 chance. Just tell me, you need a map? Hold on.
19 You know what I can do? I can read. I'm a smart
20 guy. I have 200 pages of discovery and nothing but
21 time. Tell me what you need.

22 And you saw, just like I did today,
23 there was no prep there. She didn't know she was
24 being called to the stand. Sure, she was in the
25 house. She took the paper and, within three

CLOSING ARGUMENT - BY MS. CAPERS

1 minutes, read her notes and drew that map out like
2 it was nothing.

3 Everything that is on that map is in
4 the discovery. He's trying his best to get out of
5 jail. His best. And is that a bad thing? It is
6 terrible. It is horrible. I'm embarrassed. It
7 doesn't make any sense. But, again, people make
8 bad decisions when they are desperate and when they
9 feel like there is no way out.

10 And if he truly believes he did not do
11 this, and that everybody is really plotting against
12 him, or planning against him, and he doesn't see a
13 way out, this is what you do when you have the bad
14 influence around you.

15 This is what you do when you have
16 somebody whispering in your ear. It's not the
17 right thing, but it's certainly a thing that
18 children do. When I say children, young men do.
19 Young people do. They make bad decisions, and
20 there is nothing good about that and there is
21 nothing that we can say.

22 Those notes are chilling. They are.
23 But does it mean that he did this? No, it doesn't.
24 Is that the only thing you can come to? Is that
25 the only decision you could come to? It absolutely

CLOSING ARGUMENT - BY MS. CAPERS

1 is not. It is not. To be considered one second,
2 one second, what he must feel like in that cell.

3 And I know this case is about Mitsue
4 Listak. It is. But at the same time, they're
5 talking about this defendant and what he is doing
6 and why he's doing it. And here's the thing, this
7 isn't -- the biggest thing that we have talked
8 about in this case is these notes.

9 This isn't a solicitation trial. It
10 isn't about whether or not Mr. Capers wrote those
11 notes. It isn't. Because there is more than one
12 conclusion that you can come to. It's not
13 consciousness of guilt. It's I'm scared.

14 Jesse Gill helped him with this. Jesse
15 Gill said, I can help you, I can do this, I can
16 make this go away. And he said, okay. I'm going
17 to write what you -- and he -- he -- what did
18 Jerron say to you today? He said Aaron never came
19 to Jesse Gill. Never.

20 And Jesse Gill sat there and told you,
21 oh, no, he just randomly walked up to me and said,
22 can you find a hitter. Does that even sound right?
23 No. And Jesse Gill said, I never wrote a note. Do
24 you remember that? I never wrote him any notes.

25 Well, he was writing them and he was

CLOSING ARGUMENT - BY MS. CAPERS

1 flushing them down the toilet and keeping the ones
2 from Aaron that he knew could -- would get him out
3 of jail.. And you know the thing of it is -- we've
4 talked about it so much, and the State has talked
5 about it so much, and here's the thing, they took
6 -- since we're talking about evidence.

7 They sent -- to be very clear, every
8 time that they wanted -- got a note, or got
9 something, they sent it to SLED to be tested.

10 If they got those letters and they were
11 inconclusive, guess what they did? They went back
12 and got some more letters to compare them to to see
13 if the analyst could identify him that way. And
14 when they didn't work, they went and got the known
15 standards from the jail to see if those would work.

16 They did everything they could do to
17 prove that he wrote those notes. Every single
18 thing they could do. And then when they finished,
19 they sent the fingerprints. But even before they
20 finished, do you know how many times the experts
21 saw those notes? He saw them so many times he
22 forgot he started accepting them electronically.
23 He didn't remember that somebody got them out of
24 the box.

25 They took all that effort and time. I

CLOSING ARGUMENT - BY MS. CAPERS

1 don't even know how many fingerprints they tested.
2 I am not sure how many fingerprints they tested,
3 but they went on and on and on. And you know what
4 else they did that is significant? They named
5 Jerron, Aaron, Bradley Berry, and remember they
6 redacted Jesse Gill's name?

7 They put all of them -- all of these in
8 there so that they could make sure that it was
9 Aaron Capers. They needed to exclude everybody
10 else. That's what they did for those writings.
11 And they put a ton in there for them too.

12 And that's not even what this case is
13 about, but that's what they put their effort into.
14 When there's an opportunity for them to exclude
15 Aaron Capers on the CSC, did they do that? Did
16 they? Did they even give it a fair shot?

17 And I suggest to you that the answer is
18 no. You know that the answer is no. Remember, you
19 got 22 items, 19 of them untested. And that is a
20 big deal. Because you don't know what they say.
21 And they don't want to know what they say. And
22 that's reasonable doubt. All by itself.

23 No matter what happened to Ms. Victim
24 no matter what you think, you've got to realize you
25 don't have anything except what Goose Creek gave

CLOSING ARGUMENT - BY MS. CAPERS

1 you. Anything independent they refused to test.
2 That is reasonable doubt.

3 Every time you look at one of those
4 items and say, you should be thinking why not? Why
5 didn't they test these things?

6 When we look at our cases, we also look
7 at the credibility of the witnesses. And we always
8 try to establish who is credible and who is not, or
9 who is most credible. And I would suggest to you
10 that the most credible witness in this case is the
11 SANE nurse.

12 And I think that you should consider
13 what the SANE nurse said, but you can't. They have
14 precluded you from doing that. So what are you
15 supposed to do now? Nothing? Just ignore it? Say
16 what they did collect matches. That's not how it
17 works.

18 That should never be how it works. You
19 follow the truth wherever it may lead, and if you
20 send those things in and they match somebody else,
21 oh, well. And if I send them in and they match the
22 defendant, very good. Very good for you.

23 Ryland Kowalski talked to you. Did he
24 identify Aaron Capers? No. He saw a black male in
25 black running down the street. Ms. Listak's house

CLOSING ARGUMENT - BY MS. CAPERS

1 is here and their house is here. And they would
2 have you to believe that somehow or another, Aaron
3 Capers left Ms. *Victim's* house and came all the way
4 around here, tried to stop at this person's
5 house -- we don't know who it is -- and decided he
6 would go to his own. (Indicating)

7 Well, here's the problem with the
8 running home because everybody is forgetting this
9 detail. They went to his home. Remember? Right
10 after the attack, the officers went to the house.
11 They spoke to Emi Davidson. She was there with her
12 son. Remember? It was a half day.

13 And what did they tell you? They
14 opened the door and Ichi was nervous and Emi was
15 nervous and they interviewed them later. Aaron
16 wasn't there. So if he left -- if he committed the
17 offense over here, ran around in a few minutes and
18 went to his house, he would have been there when
19 the police got there. But he wasn't.

20 How are we forgetting that? How are we
21 forgetting that? Is there a chance that somebody
22 dropped the card? Is there? Is there a chance
23 that he got a card from somebody? They were
24 running in the neighborhood.

25 And you remember -- here's another

CLOSING ARGUMENT - BY MS. CAPERS

1 point. Do you remember that we -- we, the defense,
2 had to call -- had to give you the information that
3 two other black males were in the neighborhood?

4 Don't you remember that when they put their
5 witnesses on the stand they didn't tell you that?

6 Know what else they didn't tell you?

7 They had a whole dog track going the opposite way.
8 Why? Why are you hiding that? Didn't they tell
9 you, wait. This morning, what did he tell you?
10 Yeah, there was a black man and he had on gray.

11 And then he said, well, yeah, there was
12 a black male and he had on black. And then he
13 said, well, I think maybe the description changed.
14 No. They were two black males in the neighborhood
15 at the same time. Remember? They put Officer Hart
16 up here in their case in chief and they let him
17 testify about whatever they wanted to testify to.

18 But you know what they didn't ask
19 Officer Hart? Remember that whole exchange up here
20 about me trying to ask who did you talk to? And he
21 said, well, she told me about two men, but wouldn't
22 give me a description. Why are they hiding that
23 from you? It happened at the same time. Could it
24 have been either of those two men? I don't know.

25 That person was in -- one was in black

CLOSING ARGUMENT - BY MS. CAPERS

1 and one was in gray. Ms. ~~Victim's~~ assailant is in
2 black running somewhere. It's a lot going on in
3 that neighborhood at the same time. A lot.

4 Jerron Simmons and Bradley Berry came
5 in to talk to you about Aaron Capers. They didn't
6 really have anything to gain. I think Mr. Simmons
7 was a little upset at Mr. Gill, but what's clear is
8 that they were both afraid. They were both still
9 afraid of him, and is it unreasonable to believe
10 that Mr. Capers would be afraid of him as well?

11 I just want to say too that we did
12 introduce evidence, and we didn't introduce it
13 because we had anything to prove because it's not
14 our burden. We don't have anything to prove to
15 you. They have to prove beyond a reasonable doubt
16 that he did what they say he did.

17 We only put up evidence to complete the
18 picture because they refused to complete it and
19 they still refuse to complete it. We don't have a
20 burden to prove. We were just saying, wait a
21 minute. If you're putting these notes in here,
22 there may be another explanation. There is another
23 explanation.

24 If you are telling us about one
25 assailant, why don't you tell us about -- why don't

CLOSING ARGUMENT - BY MS. CAPERS

1 you give us the whole picture? Tell us everybody
2 who is in the neighborhood. Why are you hiding
3 that from us?

4 Ms. *Victim* did not identify Aaron
5 Capers. Nobody identified Aaron Capers. And the
6 only defining thing -- the only major thing she
7 said was he was a dark, dark man. A dark, dark
8 man. He's not a dark, dark man. That's the only
9 description she gave. And if we gotta match it,
10 does that match? It does not.

11 They talked to you about the knife, but
12 interestingly enough they collected two, but they
13 didn't show them to you. They didn't show them to
14 you because they don't match. Anything that
15 doesn't match what Goose Creek gave us, they don't
16 want to hear about. And that's unfortunate.
17 That's really unfortunate. It's unfortunate for
18 Ms. *Victim*; and it's really unfortunate for
19 Mr. Capers.

20 The defense is entitled, as I said, to
21 a fair trial. And he's entitled for you to
22 consider the evidence that was presented and the
23 evidence that wasn't presented. And I think that
24 if you look and you really think about this thing,
25 and you say, did they really follow the truth?

CLOSING ARGUMENT - BY MS. WILLIAMS

1 Yeah, they had this result; but if you excluded
2 that result, if you excluded those three items,
3 what would you have? Nothing. Nothing.

4 We are asking you to find the defendant
5 not guilty on each and every count. We believe
6 that he's entitled to the benefit of the doubt, and
7 we believe he was entitled to a fair trial and the
8 right to have all evidence heard. And that was not
9 done here.

10 Thank you.

11 THE COURT: Thank you, Ms. Capers.
12 Solicitor.

13 MS. WILLIAMS: I'm sorry. What is the
14 theory now about the notes? That Mr. -- they did
15 write the notes. They did go along with wanting to
16 have her killed, but that Mr. Gill convinced him to
17 do it. So that means that the notes are authentic,
18 even admitted by the defense right now in her
19 closing argument, but somehow Mr. Gill is also
20 implicated. Okay.

21 That doesn't mean anything. That
22 doesn't take away the fact that Aaron Capers wrote
23 the notes asking Mr. Gill to try to have this woman
24 killed. He did not look through all of the
25 discovery, memorize it, and write the notes. He

CLOSING ARGUMENT - BY MS. WILLIAMS

1 wrote the notes because he had knowledge of the
2 crime. And that's evident when you look at the
3 notes.

4 One of the most telling things about
5 that is that he knew that she was an 81-year-old
6 woman, that she was Japanese. That's not in the
7 discovery. That's all blacked out, that's
8 redacted. All of these descriptions of the victim
9 is redacted. He knew just what he did. And if
10 Jesse Gill is also a bad person, we agree.

11 That doesn't take away from the fact
12 that he thought so little of another human being
13 that he wants her gotten rid of so that he could
14 get away with this disgusting crime.

15 The SANE nurse. She said that DNA --
16 that heat and time are not DNA's friend. She also
17 said that if you collect evidence closer to the
18 crime, it's going to have a better chance of
19 yielding DNA. And that's what happened here.

20 Two swabs were collected by Victim
21 : before all of that time went by. Six hours
22 later is when the next set of swabs were collected.
23 So a decision was made which ones to test. And
24 guess what? The ones that were tested did yield
25 DNA.

CLOSING ARGUMENT - BY MS. WILLIAMS

1 So I guess time and heat were not an
2 enemy of those two swabs. The fact that the other
3 swabs were not tested does not take away from the
4 ones that were.

5 Is there some implication that Ichi did
6 it? He's a nine-year-old kid living in that house.
7 When they go interview Ichi and his mom, Emi, they
8 don't see Aaron Capers. They don't go in the
9 house. They don't search the house. We know that
10 he was there when she picked him up at 4.

11 And we know he ran to the house because
12 the boys see him. So to say that he wasn't there
13 is just not supported by the evidence.

14 Two black males were in the
15 neighborhood. Okay. There was probably three
16 black males in the neighborhood, maybe four. That
17 doesn't mean that Aaron Capers did not run from her
18 house to where the dog tracked him, around where
19 the boys saw him, and back to Golding.

20 This mask was never shown to the victim
21 and I will not show it now. I am not going to do
22 that. I am not going to make her look at that
23 again.

24 Ms. Capers said 27 zeros and then they
25 didn't go further. Is 1 in 7.9 octillion not

CLOSING ARGUMENT - BY MS. WILLIAMS

1 enough? That's not enough evidence that he did it?
2 How about this? How about the fact that his hat,
3 his sweatpants that he was wearing when he was
4 using the victim's card, which there is no
5 explanation for that, were found at his house?

6 How about the fact that he was
7 identified using her card? How about the fact that
8 -- forget about the swabs that were taken from her
9 mouth. How about the sweatshirt that the poor
10 woman was wearing? Why is his sperm on this
11 sweatshirt? And how is taking fingerprints from
12 the glass door going to make that go away? That's
13 not enough evidence either?

14 And all of the notes are not evidence,
15 that he knows everything about the crime including
16 a map of the house and the back area where he ran?
17 That's not enough evidence? There is only one
18 victim in this crime, and that's *victim*.
19 Not Aaron Capers.

20 And to have you believe that this poor
21 innocent kid was put in a cell with mean old Jesse
22 Gill, they put Jesse Gill in a cell with someone
23 who had assaulted an 81-year-old woman.

24 I agree completely with one of the
25 things that Ms. Capers said; let's follow the truth

JURY CHARGE

1 and see where it leads. So look at all this
2 evidence, all of it, consider it, think about the
3 evidence that you heard and see where it leads.
4 Because you know where it leads? Right here to
5 Aaron Capers.

6 THE COURT: Thank you, ladies and
7 gentlemen. It now becomes my responsibility as the
8 judge to give you the law that you have promised to
9 accept and apply fairly and impartially to the
10 facts that you will determine very shortly when you
11 are instructed to begin your deliberations.

12 And after being instructed, we expect
13 -- we meaning everyone in the court, certainly the
14 parties and the attorneys, expect that you will, as
15 you promised, conscientiously apply your common
16 sense, your sense of logic and reason in deciding
17 what you believe to be the truth -- in determining
18 what you find to be the true and credible facts.
19 And then to those facts, take the law and apply it
20 fairly and impartially.

21 When you have done that, you will have
22 honored the oath that you took in every respect.

23 During my instruction, ladies and
24 gentlemen, you may hear me use the term or the
25 word, defendant, from time to time. In fact, you

JURY CHARGE

1 weapon. And of course a knife is defined as a
2 deadly weapon.

3 And then in a criminal sexual conduct,
4 I mentioned the first one about aggravated force,
5 which of course doesn't have to prove both of
6 these; either is sufficient.

7 The victim -- I said submitted to
8 sexual battery under circumstances which the victim
9 is also the victim of forcible confinement or
10 kidnapping. It would also be the victim of a
11 robbery, burglary, house breaking, or any similar
12 offense.

13 If they proved any of those, those
14 would also be an element of burglary. If you find
15 that, that would establish burglary in the first
16 degree, assuming that the other elements were
17 present.

18 With that additional instruction, you
19 may now retire to your jury room, but wait for the
20 exhibits before commencing your deliberations.

21 I would ask that the alternates now not
22 rejoin them in the jury room. They will take you
23 to another room. Okay.

24 (Jury out, 5:06 p.m.)

25 THE COURT: Any other exceptions?

1 MS. WILLIAMS: No exceptions, Your
2 Honor.

3 THE COURT: Very good.
4 Anything else, Ms. Capers?

5 MS. CAPERS: No, sir, Your Honor.

6 THE COURT: Very good. We will be at
7 ease.

8 (Jury deliberating)

9 THE COURT: Thank you very much.

10 (Defendant in, 5:29 p.m.)

11 THE COURT: All right. Bring them in.

12 (COURT'S EXH. 1, Jury note, was marked
13 for identification.)

14 (Jury in, 5:31 p.m.)

15 THE COURT: Thank you very much, ladies
16 and gentlemen, and presiding juror. What is
17 Court's Exhibit 1 is a note that says, can you give
18 elements of burglary in the first degree again and
19 clarify that?

20 As I mentioned to you, burglary in the
21 first degree of course requires the State prove
22 beyond a reasonable doubt that Mr. Capers entered
23 the dwelling without the consent of the person who
24 was involved -- in possession of that dwelling.

25 In proving that, they don't have to

1 The violent crime in this case would be
2 criminal sexual conduct, first degree kidnapping,
3 armed robbery, or burglary in the first degree.
4 Any of those.

5 So we have to find him guilty of those
6 crimes before you can find him guilty of being in
7 possession of a weapon during the commission of a
8 violent crime.

9 Okay. Thank you. You may retire.

10 (Jury out, 5:51 p.m.)

11 THE COURT: Any exceptions or additions
12 from the State?

13 MS. WILLIAMS: No exceptions, Your
14 Honor.

15 THE COURT: Any exceptions or additions
16 from the defense?

17 MS. CAPERS: None, Your Honor.

18 THE COURT: We'll be at ease again.

19 (Jury deliberating)

20 THE COURT: All right. We have been
21 advised the jury has reached a verdict. Is the
22 State ready to proceed?

23 MS. WILLIAMS: State is ready, Your
24 Honor.

25 THE COURT: The defendant is ready to

VERDICT

1 proceed?

2 MS. CAPERS: Yes, Your Honor.

3 THE COURT: Very well. And I thank
4 everybody for being here, and I appreciate you're
5 observing very respectful decorum. I would ask
6 that you continue to maintain that regardless of
7 the verdict; and if you feel you would be unable
8 to, I understand that, but I would just ask that
9 you exit now because I will expect everybody to
10 honor that please.

11 Okay. Let's bring in our jury.

12 (Jury in, 6:21 p.m.)

13 THE COURT: Thank you very much, ladies
14 and gentlemen. And presiding juror, I understand
15 the jury has reached its verdict.

16 THE FOREPERSON: Yes, we have.

17 THE COURT: If you would pass the
18 verdict forms please to Mr. Grainger.

19 Thank you, sir.

20 The verdict forms have been properly
21 completed.

22 I would ask the defendant to please
23 rise.

24 The State of South Carolina v. Aaron
25 McKenzie Capers; we, the jury, by unanimous

VERDICT

1 consent, find the Defendant Aaron McKenzie Capers
2 on the charge of criminal sexual conduct in the
3 first degree guilty. Signed by the presiding juror
4 and dated March 21st, 2019.

5 We, the jury, in the next verdict form
6 -- and I'm not going to publish the requisite
7 numbers; it's reflected on the form. We, the jury,
8 by unanimous consent, find the Defendant Aaron
9 McKenzie Capers on the charge of kidnapping guilty.
10 Signed by Ms. Martin as our presiding juror, dated
11 today's date.

12 We, the jury, by unanimous consent,
13 find the Defendant Aaron Capers on the charge of
14 burglary in the first degree guilty. Signed by the
15 presiding juror, Ms. Martin, and dated today's
16 date.

17 We, the jury, by unanimous consent,
18 find the Defendant Aaron McKenzie Capers on the
19 charge of possession of a weapon during the
20 commission of a violent crime guilty. Signed again
21 by the presiding juror and dated today's date.

22 And then lastly, we, the jury, by
23 unanimous consent find the Defendant Aaron McKenzie
24 Capers on the charge of armed robbery guilty.
25 Signed again by the presiding juror and dated

VERDICT

1 today's date.

2 Ladies and gentlemen, if the Court has
3 accurately published your verdict, please indicate
4 that by raising your right hand.

5 THE JURY: (Raised hands)

6 THE COURT: Thank you. You may put
7 them down. Let the record reflect that each juror
8 raised his or her right hand in response to the
9 Court's inquiry.

10 Anything further from the jury panel
11 from the State?

12 MS. WILLIAMS: Not from the State.

13 THE COURT: Anything further from the
14 defendant?

15 MS. CAPERS: We would request an
16 individual polling.

17 THE COURT: Very well. And you may be
18 seated. Thank you very much.

19 Ladies and gentlemen, what is going to
20 happen now is the clerk is going to call your name
21 and she's going to ask you basically two questions:
22 Number one, were those your verdicts and are they
23 -- and number two, are they still your verdicts?

24 And if you will just respond to her
25 questions, it won't take that much longer. Thank

VERDICT

1 you.
2 THE CLERK: Juror 103, is this your
3 verdict?
4 JUROR NO. 103: Yes.
5 THE CLERK: Is it still your verdict?
6 JUROR NO. 103: Yes.
7 THE CLERK: Juror 131, is this your
8 verdict?
9 JUROR NO. 131: Yes.
10 THE CLERK: Is it still your verdict?
11 JUROR NO. 131: Yes.
12 THE CLERK: Juror 94, is this your
13 verdict?
14 JUROR NO. 94: Yes.
15 THE CLERK: Is this still your verdict?
16 JUROR NO. 94: Yes.
17 THE CLERK: Juror 132, is this your
18 verdict?
19 JUROR NO. 132: Yes.
20 THE CLERK: Is this still your verdict?
21 JUROR NO. 132: Yes.
22 THE CLERK: Juror 29, is this your
23 verdict?
24 JUROR NO. 29: Yes.
25 THE CLERK: Is this still your verdict?

VERDICT

1 JUROR NO. 29: Yes.

2 THE CLERK: Juror 62, is this your
3 verdict?

4 JUROR NO. 62: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NO. 62: Yes.

7 THE CLERK: Juror 173, is this your
8 verdict?

9 JUROR NO. 173: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NO. 173: Yes.

12 THE CLERK: Juror No. 3, is this your
13 verdict?

14 JUROR NO. 3: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NO. 3: Yes.

17 THE CLERK: Juror 175, is this your
18 verdict?

19 JUROR NO. 175: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR NO. 175: Yes.

22 THE CLERK: Juror 49, is this your
23 verdict?

24 JUROR NO. 49: Yes.

25 THE CLERK: Is it still your verdict?

VERDICT

1 JUROR NO. 49: Yes.

2 THE CLERK: Juror 20, is this your
3 verdict?

4 JUROR NO. 20: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NO. 20: Yes.

7 THE CLERK: And, Juror 23, is this your
8 verdict?

9 JUROR NO. 23: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NO. 23: Yes.

12 THE CLERK: Your Honor, I have polled
13 the jury and the verdict stands.

14 THE COURT: It does. And I thank you,
15 ladies and gentlemen, very much. I would ask you
16 to please retire to the jury room for a few
17 minutes. I will be in very shortly to speak to
18 you. Thank you.

19 (Jury out, 6:38 p.m.)

20 THE COURT: Any motions from the State
21 at this time?

22 MS. WILLIAMS: None at this point.

23 THE COURT: Any motions from the
24 defendant?

25 MS. CAPERS: None, Your Honor.

1 THE COURT: Well, you -- you don't want
2 to make a motion for a new trial?

3 MS. CAPERS: Oh, I'm sorry, yes.

4 THE COURT: That's all right. I
5 figured you probably do for the reasons stated
6 previously?

7 MS. CAPERS: Yes, sir.

8 THE COURT: And that the evidence does
9 not support the verdict?

10 MS. CAPERS: Yes, sir.

11 THE COURT: Very well. As I think I
12 articulated in both situations, I think there was
13 an abundance of evidence to support the verdict in
14 each case, and I will respectfully deny that.

15 I assume we're going to do sentencing
16 tonight.

17 MS. WILLIAMS: Yes, please, Your Honor.

18 THE COURT: All right.

19 MS. WILLIAMS: We just went to get the
20 sentencing sheets.

21 THE COURT: That's fine. I'm going to
22 go speak to the jury. We'll be at ease for a few
23 moments.

24 (A recess transpired.)

25 THE COURT: They're welcome to come

1 take a seat in the jury box.

2 (Jury in, 6:48 p.m.)

3 All right, Solicitor.

4 MS. WILLIAMS: Yes, Your Honor.

5 THE COURT: Happy to hear from you and
6 anyone else.

7 MS. WILLIAMS: Yes, sir.

8 The defendant has no convictions -- no
9 prior conviction. *Victim* is here in the
10 courtroom, but she's asked me to speak on her
11 behalf.

12 THE COURT: Absolutely.

13 MS. WILLIAMS: Her daughter is here, as
14 well as her friend. Your Honor, *Victim* has
15 been impacted by this crime so powerfully.
16 Culturally, generationally there has been a lot of
17 shame. Every time I met with her, she wanted to
18 explain to me why she didn't fight back.

19 I tried to explain to her that nobody
20 would be expected to fight any harder considering
21 the circumstances.

22 She was already struggling with some
23 health issues, and after this happened she had so
24 many more health issues. She has collapsed several
25 times just due to bleeding ulcers, stress.

1 And then when the solicitation for
2 murder charges came about, the police had to go to
3 her house, get her to pack up all of her things,
4 and she had to go to another state because nobody
5 knew who else was involved or whether she was safe.

6 She is four feet, ten, but she is one
7 of the bravest victims I've ever had. She's had
8 such an impact on all of us because of the courage
9 she has shown, and I just want to make sure the
10 Court understands the profound affect this has had
11 on her.

12 She will never be the same. What
13 should have been her sunset years where she would
14 have been able to enjoy her life and reminisce
15 about the things that she's done, she is constantly
16 focused on this. She sees the images over and over
17 again in her mind. Fortunately, MUSC has a program
18 and we're trying to provide her some intense
19 counselling.

20 With regard to the defendant, I can't
21 imagine how his family feels. Clearly, he has a
22 loving and supportive family, but it's for that
23 reason that he's so dangerous to society. He's had
24 every advantage, every advantage.

25 And what he has done is so cold and so

1 calculating and so dangerous that we are asking for
2 the Court to put him away long enough that he can
3 never hurt anyone again; because for him to do this
4 to an 81-year-old-woman and then try to have her
5 killed, is just beyond the pale.

6 So we would ask the Court to please
7 impose a sentence that removes him from society so
8 that the rest of us can be safe.

9 THE COURT: Thank you, Solicitor. I
10 appreciate that.

11 All right. Mrs. Capers.

12 MS. CAPERS: Yes, Your Honor.

13 THE COURT: Would you turn your mic on?

14 MS. CAPERS: As the Solicitor has told
15 you, Aaron is 18 years old. I don't know what to
16 say really, Your Honor. He's 18 years old. He was
17 a freshman -- he was actually a junior at the
18 University of South Carolina, a true freshman, but
19 a junior that had already received his associate's
20 degree.

21 He has been -- he's been a good kid,
22 and I'm not sure what exactly is going on. I know
23 that he was -- you know, at the time he was not
24 with me. I know that there was some
25 experimentation with some drugs and some things

1 that he should not have been into. Me being a
2 parent, it's just baffling to reason and to
3 understand.

4 I think you know --

5 THE COURT: I do.

6 MS. CAPERS: -- that we were not raised
7 this way, and that this is a mistake, a horrible
8 mistake. And he has suffered. As you know, Your
9 Honor, he's not been home one day, he's not been
10 out of jail since this occurred; he's had no bond.

11 And the Court understands that -- that
12 -- we're just asking you for mercy. And I
13 understand that the victim is elderly. I'm sure
14 that Mr. Capers did not know that at the time.

15 We're just -- just asking you for mercy
16 and leniency, Your Honor.

17 In addition, I know that you are
18 prepared to impose sentencing. I think we have
19 discussed before that I wasn't prepared to continue
20 this and I did not have a mitigation expert.

21 THE COURT: Well, he's 18. Well, he's
22 under 18. It's under 18 that Byars comes in, isn't
23 it?

24 MS. CAPERS: No, sir, I think Byars
25 comes in -- I thought it was 18 and under. He was

1 18 as of June 21st, and so that will have been --
2 not sure.

3 MS. WILLIAMS: He was 16 at the time
4 the crime was committed.

5 MS. CAPERS: We would just ask, Your
6 Honor, that you give us an opportunity to retain a
7 mitigation expert to give the Court some guidance
8 on sentencing as opposed to just sentencing based
9 on that.

10 THE COURT: What's the State's position
11 on that?

12 MS. WILLIAMS: Your Honor, we would ask
13 you to impose sentence today. This victim has been
14 through videotaped testimony, this trial has been
15 continued once, and we would please ask you to give
16 her closure and the State closure and impose
17 sentence today.

18 THE COURT: Okay.

19 MS. CAPERS: We are not suggesting,
20 obviously, Your Honor --

21 THE COURT: Well, Byars only kicks in
22 if the life sentence is imposed.

23 MS. CAPERS: Yes, sir.

24 THE COURT: It doesn't kick in unless
25 the life sentence is imposed, correct?

1 MS. CAPERS: Yes, sir.

2 THE COURT: All right. Thank you.

3 Anything else?

4 Does Mr. Capers wish to say anything?

5 THE DEFENDANT: Your Honor, I've done a
6 lot of reflection -- really, to the whole court, I
7 have done a lot of reflection; I've had a lot of
8 growth as a man.

9 I can't begin to explain how -- how I
10 feel right now. It's not about me, but, you know,
11 I just took so many things for granted in life. As
12 the prosecutor said, and my mother said, I had a
13 very good upbringing; I had ample opportunity to be
14 successful.

15 In high school, even middle school, I
16 excelled through academics and athletics, but, you
17 know, one mistake and I'm in a courtroom with
18 handcuffs behind my back. One mistake, you know,
19 my family and my friends they can't even look at me
20 the same way. And it's not even them, it's
21 inmates, jury, guards.

22 I just want to -- I just want to
23 apologize, you know. And not only that, I would
24 like to ask for forgiveness and, ultimately, I hope
25 that the victim has the opportunity to heal.

1 That's all I have to say.

2 THE COURT: Thank you, sir.

3 MS. MCQUEEN: Your Honor, I have known
4 Aaron all of his life. All of his life. And
5 everything that you have heard is true. I've also
6 practiced law in this court for a long time, and I
7 do understand the victim's position and her
8 family's position.

9 I think, ultimately, though that I
10 would like to ask the Court to consider that one
11 thing in this system today is that we need -- we
12 need -- we need for the crime to stop, but we need
13 an opportunity for people to have a second chance.

14 I know that there has to be punishment
15 by the Court, but one thing as an attorney that
16 always frustrated me, if I saw a client back and I
17 felt that there was no growth, no reflection, no
18 way -- and it made me feel like we had failed.

19 He is 18 years old, and I am -- I am
20 hoping that the Court will consider that so that he
21 has an opportunity to contribute to society. I
22 know that you have to -- that there has to be a
23 sentence imposed, but I think that when you reflect
24 upon what he has said and the facts of this case,
25 you know, I am just -- I'm asking that Aaron have

SENTENCING

1 an opportunity to come back and be a contributing
2 member to society.

3 THE COURT: Okay. Thank you.
4 Anything else?

5 MS. CAPERS: No, Your Honor.

6 MS. WILLIAMS: No, Your Honor.

7 THE COURT: I'm not going to impose a
8 life sentence, so I don't need to have mitigation.
9 I understand, though, it is 15 years to life, which
10 gives me discretion. So I'm going to not impose
11 life and give you a chance at some point in time,
12 but I can't in good conscience to my oath do what
13 maybe I could have done in a different setting.

14 But the jury considered this case, very
15 deliberatively considered this case, and assessed
16 all of the evidence; they asked a number of
17 questions which was really impressive to the Court,
18 and confirmatory that they truly considered and
19 felt that the State had met its burden of proof to
20 each of these crimes.

21 And while I understand that this is
22 your first time, but it brings to mind something
23 that I have tried to do in my 26 years of this. I
24 think I had been on the bench about three months,
25 and I was living here in Moncks Corner. And my

SENTENCING

1 son, I'd picked him up from something and we were
2 riding back to the house.

3 And he made the comment to me, he said,
4 I guess, if I get in trouble I'll get probation.
5 And I quickly responded to him, and said, no, no, I
6 would sentence you more harshly because -- and I
7 think it's Luke that says that; to whom much is
8 given, much is expected.

9 And that -- I said, I know what you've
10 had. I know what opportunities you've had. And I
11 couldn't in good conscience give you any kind of a
12 discount, notwithstanding it was your first
13 offense.

14 And in this one, with all candor,
15 there's one other case, oddly enough Ms. Williams
16 was the prosecutor in that one, that made -- I'm
17 not sure which one is worse, but that involved the
18 death and killing of a three-year-old-child by
19 hitting consecutively by the parents.

20 I imposed a life sentence in that and
21 made the comment -- and I don't derive any pleasure
22 by taking anybody's freedom, and I pray that as
23 long as I'm able to do this job I never derive any
24 pleasure from that; because it is not something
25 that I enjoy doing, but it's my obligation.

SENTENCING

1 In this one, the punishment that I'm
2 going to hand out I believe is deserved. I wish
3 because -- and I would tell you this, Mr. Capers,
4 I'm not going to impose a life sentence. You might
5 deserve it, but I'm not going to impose it; I'm
6 going to give you a chance.

7 But if I thought for one second that
8 giving you a life sentence could restore that
9 lady's life, I would do it. But I know that the
10 sentence is not going to do that. What you took
11 from her never will be restored. And the
12 indignities -- no civilized society can tolerate
13 that for a second.

14 And as you'll -- and I know -- I've had
15 the pleasure of knowing your mother for a long
16 time. And I have nothing but the greatest respect
17 for both of your lawyers. I've known Mrs. Capers a
18 little bit longer than I have Mrs. McQueen, but
19 from the standpoint of -- I know what you've come
20 from, and it speaks to me.

21 You were at USC and excelled. And
22 that's a credit to you, but it also says you need
23 to use your God-given, and what's been given to you
24 -- God-given being born into this family that have
25 done everything they could to help you achieve.

SENTENCING

1 So this punishment is harsh, but it
2 also makes a statement, I hope, to society that
3 when you make this decision -- and you made a
4 decision. What was really -- I think the other
5 part was the callousness of it all to go out with
6 your girlfriend with no hesitancy about using the
7 card.

8 And then what transpired over here at
9 Hill-Finklea is just repulsive. It really was.
10 And so I've got to make a statement. Whether or
11 not this does, I don't know, but we'll see.

12 The sentence of the Court on the
13 burglary first is that you be committed to the
14 Department of Corrections for a term of 50 years.

15 The sentence of the Court on the
16 criminal sexual conduct -- and this is intentional
17 because of the atrocities -- that you be committed
18 to the Department of Corrections for a term of
19 30 years, and it's consecutive to 2018-529.

20 The sentence of the Court on 2018-531
21 is 30 years, it's concurrent; 2018-530 is 30 years,
22 it is concurrent; 2018-528 is five years and it
23 also is concurrent.

24 Good luck to you, sir. God bless you.

25 (These proceedings were concluded at

SENTENCING

- 1 7:07 p.m.)
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September 21, 2022

Mark R. Farthing Senior Assistant Attorney General

Rembert C. Dennis Building

Post Office Box 11549

Columbia, SC 29211-1549

RE: State v. Aaron McKenzie Capers

Mr. Farthing:

I was contacted by Court Administration in re the formal challenge of the trial transcript of State v Capers. I have checked my tapes. Page 793, Deputy Solicitor Anne Williams stated: He was 18 at the time the crime was committed. The trial transcript incorrectly indicated he was 16 at the time the crime was committed. That was my error in transcription.

Thank you,

Denise J. Lauder, RPR

Denise J. Lauder, RPR

Cc: Tara Shurling , Esquire (via electronic service)

Deputy Solicitor Anne Williams, Ninth Judicial Circuit Solicitor's Office (via electronic service)

Michelle L. Sears 09/21/2022



000557

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BERKELEY	)	DOCKET NO. 2018-GS-08-0528
	)	2018-GS-08-0529
	)	2018-GS-08-0530
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
AARON MCKENZIE CAPERS	)	
	)	
Defendant	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

January 6, 2020
Charleston, South Carolina

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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

ANNE WILLIAMS, ESQ.
BRYAN ALFARO, ESQ.
Attorneys for the State

SHARON CAPERS, ESQ.
Attorney for the Defendant

JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Transcript Provided for: Tara D. Shurling, Esq.]

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000559

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Motion for New Trial, Motion to Reconsider Sentence
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PROCEEDINGS

THE COURT: Thank you. Please be seated. Okay, we have two motions. My thought is that we hear the Motion for a New Trial first, which would make sense because if I grant that obviously the Motion to Reconsider Sentence becomes moot. So I'll be happy to hear from you Ms. Capers on your Motion for a New Trial.

MS. CAPERS: Yes sir, Your Honor ---

THE COURT: --- excuse me; let the record reflect that Mr. Capers is present. Thank you. Excuse me for interrupting.

MS. CAPERS: Your Honor, we believe that the Defendant is entitled to a new trial for a couple of reasons; the first being the admission of the statements by the jailhouse informant, confidential informant.

THE COURT: Right.

MS. CAPERS: And I understand that the Court introduced those statements under Edwards indicating initially under Edwards that made the analysis that they were not -- that they were more probative than prejudicial.

However, Your Honor, as the evidence came out the statements were much more prejudicial I think than anyone could have anticipated. And not only were they more prejudicial but they were shocking I believe to the

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1 conscience and I believe that they're -- it provided
2 outrage to the jurors and made the jurors outraged which
3 of course is error or can be considered error when the
4 evidence that is produced provokes juror outrage and
5 renders the admission of the evidence highly prejudicial
6 to the Defendant.

7 I don't think that there is any way we could look at
8 the evidence as it was presented and doubt in any way
9 that those particular statements were at least as
10 inflammatory if not more inflammatory than the actual
11 charge itself as presented. So on that basis, Your Honor
12 we would say that it is more prejudicial than probative.

13 And additionally, Your Honor, some of the evidence
14 or the completeness of the evidence was used to identify
15 the Defendant as the person who committed these offenses.
16 And I believe at some point on the record you indicated
17 Your Honor that there was no way that he could have known
18 those things unless he was the perpetrator, which
19 definitely goes to the identity of the victim; I mean to
20 the identity of the perpetrator.

21 I will note for the record Your Honor that no one
22 has described the Defendant and the mask that was
23 allegedly used has not been identified as belonging to
24 the Defendant. And that the mask as worn shows
25 characteristics of the Defendant that the victim could

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1 not identify, did not identify. And, in fact, the things
2 that she did say were not consistent with the identity of
3 the Defendant. And identity is a key issue in this case,
4 Your Honor. And I do understand that the other evidence
5 of him using the victim's credit card hours later would
6 seem to connect him in a way to that victim's credit
7 card. But it is not the only way that he could have come
8 into possession of the credit card.

9 I would remind the Court that there was testimony
10 about the Defendant. The Defendant in the picture where
11 he is wearing, where he used the credit card the
12 Defendant is in a pair of grey pants and a white shirt.
13 And the testimony which was limited, again by the Court,
14 was that there were two males in the neighborhood; one
15 male with a grey pair of pants on and I believe a white
16 shirt and there was another male in the same area at the
17 same time in all black.

18 We would note that the victim and I think one or two
19 juveniles indicated that the person that they saw leaving
20 the residence was in all black. So the Defendant could
21 very well have been the person in the grey and would have
22 been not the assailant, the person in the black.

23 I would also add, Your Honor, that the Defendant was
24 also prejudiced by our inability to cross-examine the
25 police officers regarding those facts and those

1 individuals. We objected to -- or did not allow the
2 testimony saying that it was hearsay when in fact those
3 things were police activity; a result of the
4 investigation that was occurring.

5 Identity is also an issue. We contested the
6 identity, Your Honor. I do recognize there were two
7 items of DNA that were found. We have said before and I
8 think established on the record per the reports that
9 there were actually 22 items of evidence that were taken
10 and only two match that of the Defendant.

11 Both of those items were in possession, taken by and
12 in possession of the Goose Creek Police Department. Any
13 other item of evidence that was taken by someone else was
14 not tested. I believe that that puts a cloud on it. I
15 understand the Court had indicated previously that the
16 State does not bear the burden of testing every single
17 item of evidence.

18 But this is a case, Your Honor, of a CSC where the
19 State did not test any of the evidence. And in criminal
20 sexual conduct cases Your Honor, as Your Honor knows, the
21 primary method of determining whether sexual assault
22 occurred is usually presented by the SANE nurse. None of
23 that evidence was tested.

24 The only item of evidence that actually was tested
25 was tested prior to the DNA and that was a fingerprint

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1 from the house where the victim said the Defendant
2 definitely touched. And that fingerprint was not that
3 of the Defendant. So identity is an issue.

4 The next issue, Your Honor as to that DNA that was
5 taken Your Honor I requested and you denied my request to
6 admit the video tape of the officer who took the DNA.
7 That officer had testified as part of the State's case.
8 We sought to -- they did not enter that videotape into
9 evidence. And we recalled him and asked him and
10 attempted to introduce that videotape and the Court
11 disallowed that.

12 We would just say, Your Honor, that that was
13 extremely -- I think that that in and of itself was
14 really grounds for a mistrial; in and of itself grounds
15 for a new trial. In any thing as simple as a DUI case in
16 order to prosecute a DUI case you must have a victim of
17 the Defendant driving or performing the sobriety --
18 driving and/or performing the field sobriety test.

19 And you must also in that same room videotape the
20 actual taking of the breathalyzer for the sole purpose of
21 making sure that it is done correctly. By excluding that
22 evidence, Your Honor there is no way to verify or even
23 validate how that sample was taken. The mere fact that
24 the officer testified that he took it is not I believe
25 you ruled it was cumulative and therefore you would not

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1 admit it nor allow him to play it. That is not
2 cumulative, Your Honor. That is evidence for the jury to
3 see. It is not just enough for him just to say this is
4 the way I did it and for the Court to say the Defendant
5 is not even allowed to show you how he did it.

6 We don't know what a juror may or may not have seen
7 when he looked at that video and the taking of that
8 whether it was -- whether it was a good swab, whether
9 there was anything suspicious going on in the tape. The
10 jury will never know because they never saw it. And the
11 Court did not even allow the opportunity to play it to
12 see whether it was something that could be beneficial for
13 the jury to see.

14 That video in addition to showing the actual taking
15 of the DNA Your Honor contains the statement or at least
16 the consent to take his DNA while he was at the Goose
17 Creek Police Department. Our initial, our first motion
18 Your Honor was with regard to the taking of the DNA while
19 the Defendant was unlawfully detained.

20 We filed a motion asking to exclude that evidence
21 initially because the Defendant -- because the officers
22 came to our house. They were there for two or three
23 hours in the middle of the night and refused to leave
24 when they did not have a warrant. I do understand that
25 the Court ruled against us on those motions but we are,

1 of course, still maintaining that there was no valid
2 basis for doing so. Additionally, Your Honor the
3 Defendant had counsel at the time. The police officers
4 knew it and they were advised not to do anything other
5 than to arrest the Defendant.

6 Instead of so doing, Your Honor, they took the
7 Defendant to the police station and got the DNA while
8 they were there contrary to the advice of counsel or to
9 what counsel had instructed them not to do. That advise
10 and consent Your Honor is on that same tape that you
11 refused to allow.

12 A jury could have seen that tape and determined that
13 maybe this was not consensual; we don't know. And I
14 believe that that is grounds for a new trial as well,
15 Your Honor. But I've said a lot of things so I guess I
16 should give the State a chance to ---

17 THE COURT: --- most of these things were argued at
18 the trial level. But I'll be happy -- anything else or
19 you can respond to Ms. Williams' argument or Mr. Alfaro's
20 ---

21 MS. WILLIAMS: --- I would like to respond.

22 THE COURT: Oh yes, I'll give you an opportunity to
23 reply to hers, okay. Thank you. All right?

24 MS. WILLIAMS: Thank you, Your Honor. May it
25 please the Court? The basis for the Motion for a New

1 Trial that was stated in the motion was that the evidence
2 of solicitation to commit murder was too prejudicial. As
3 Your Honor knows the Court denied the State's motion to
4 actually have the jury consider the charge, solicitation
5 to commit murder.

6 But with some of the evidence of that, and there was
7 so much evidence of that, the Court let the State
8 introduce it. And that was mainly because the evidence
9 of solicitation to commit murder was also evidence of
10 consciousness of guilt and direct evidence of the crime.

11 For example, one of the letters read she lives
12 alone. I robbed her at daylight. She's old; knock her
13 off so it looks natural. Make her disappear. I don't
14 care. I need her gone. She's the only witness, which
15 clearly he's talking about what he just did so it's not
16 just evidence to commit, solicitation to commit murder
17 but its evidence of the original crime.

18 And the Court relied on many cases not the least of
19 which was Goodson and Edward to show consciousness of
20 guilt. So that evidence is squarely within what the case
21 law says is relevant and probative; and far more
22 probative than prejudicial.

23 With regard to some of the other points that Ms.
24 Capers has brought up, I'm not going to go into all of
25 them because as Your Honor just pointed out we hashed

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1 those out at trial. But she has misstated a lot of
2 things in the record. The officers did have a search
3 warrant for Mr. Capers' DNA and that's why they went to
4 the home. They were invited in. There was so much
5 evidence of identity and clearly identity is important
6 for the State to introduce at trial.

7 So the suggestion that it shouldn't be introduced it
8 just falls in the face of logic. But there was DNA from
9 the victim's mouth that matched the DNA and semen from
10 the Defendant. There was DNA on a sweatshirt that was
11 his semen that matched the Defendant that was in her
12 home.

13 He was seen on videotape using her credit card. The
14 clothing he was wearing on a videotape was identified by
15 his girlfriend, found in his home as the clothing that he
16 was wearing that day.

17 There was a confidential informant who testified
18 that he asked to have the victim killed. We have letters
19 that he wrote to the confidential informant. There were
20 maps that he drew of the home. We had an expert come in
21 and identify the handwriting as Aaron Capers.

22 So there was a lot of evidence in this case that
23 went to his identity and that was far more probative than
24 prejudicial. And as far as the evidence of solicitation
25 to commit murder it is our argument that that evidence

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1 was far more probative than prejudicial.

2 THE COURT: Thank you. Any response, Ms. Capers?

3 MS. CAPERS: Yes sir, Your Honor, just briefly as
4 to the search warrant. There was in fact I believe -- I
5 don't even think that's correct with regard to the search
6 warrant ---

7 THE COURT: --- Ms. Capers, excuse me for
8 interrupting. But the beauty of all of that is there was
9 an argument made to suppress it and that's all on the
10 record. That's part of the record of this case. So the
11 rulings made were stated and the reasons therefore. So I
12 mean it's protected. That will be a matter for some
13 other Court.

14 I appreciate and y'all can agree to disagree on what
15 it says or doesn't say. The Court ruled on it based on
16 the search warrant and clearly that has already been
17 preserved and protected for review. So I appreciate
18 that. What else do you want to argue?

19 MS. CAPERS: Yes, Your Honor. That under the Rule,
20 Your Honor, 609 of course is permits admission of
21 convictions it does not permit admission of the charges
22 itself. And he was in fact charged at that time with the
23 solicitation to commit a felony until the State chose not
24 to pursue those charges combined for I guess a variety of
25 reasons. And in so doing -- in not doing so Your Honor

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1 what they did, what in fact happened was you -- there was
2 a violation I believe of the Defendant's right to not
3 incriminate himself because under certain circumstances
4 Your Honor the Defendant could decide that he did not
5 want to testify in one setting, in one fact pattern on an
6 initial set of charges but that he would want to avail
7 himself to testify against the confidential informant,
8 the jailhouse informant.

9 And requiring him to rebut those charges regarding
10 the solicitation, the notes that were written and the
11 conversations the Defendant could not do so without
12 waiving his right on the other charge. So in other words
13 he had to choose which -- whether he wanted to testify or
14 not.

15 And of course you do not want to testify in a case
16 against an 81 year old woman. But you might have some
17 defenses or something to say with regard to the
18 conversation that you had or the reasons for speaking
19 with your cellmate, the jailhouse informant, Your Honor.

20 In addition to -- I'm not sure that we even really
21 discussed this but the point of all of this evidence
22 against with regard to the jailhouse informant the
23 Defendant because he was charged but not being tried for
24 that crime he didn't have the benefit of arguing
25 entrapment. He did not have the benefit of arguing

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1 duress ---

2 THE COURT: --- he doesn't have to though Ms.
3 Capers because he wasn't facing the charge.

4 MS. CAPERS: Yes, Your Honor. But because of the
5 evidence he wasn't, he wasn't faced with the ---

6 THE COURT: --- Ms. Capers, you argued as I recall
7 you argued against the creditability of the informants
8 and all of those persons, which you have the right to do.
9 With respect to his testimony he certainly had a right to
10 testify and he chose not to testify.

11 And with respect that he doesn't have to and I so
12 told, I instructed the jury of that fact and you
13 challenged the veracity of it and I think pointed out
14 some of the reasons that they may want to give that
15 testimony.

16 But when you're arguing something that didn't,
17 wasn't even really pertinent because they didn't go
18 forward on it, as I recall, did you elect to do it? I
19 don't remember. Was it -- did you want to present it and
20 I refused that?

21 MS. WILLIAMS: Yes, Your Honor. We filed a Motion
22 to Consolidate and the Judge, and you denied our motion.

23 THE COURT: So it wasn't them electing; I refused
24 to let it go forward.

25 MS. CAPERS: Right, Your Honor ---

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1 THE COURT: --- okay ---

2 MS. CAPERS: --- and even in doing so Your Honor
3 the point is still the same ---

4 THE COURT: --- no, it's ---

5 MS. CAPERS: --- that the Defendant is still in
6 effect being -- he was charged and tried ---

7 THE COURT: --- he's not confronted with that
8 charge, Ms. Capers. You can argue that to the Supreme
9 Court but that doesn't -- I don't think he was. Thank
10 you, ma'am, okay.

11 MS. CAPERS: Okay.

12 THE COURT: We just have to agree to disagree on
13 that particular issue. Anything else on this motion?

14 MS. CAPERS: Just one second, Your Honor.

15 THE COURT: Sure. Take your time.

16 [Whereupon, Ms. Capers confers with the Defendant]

17 MS. CAPERS: Third party guilt, Your Honor. We --
18 third party guilt Your Honor, we had briefly discussed
19 that in chambers. And I think -- Your Honor with regard
20 to two other individuals being in the area and you not
21 allowing us to fully ---

22 THE COURT: --- well, third party has a requirement
23 does it not that it has to be more than just suspect. It
24 has to be something that would lead somebody to a logical
25 conclusion. Being in the area but again, I ruled on

1 that. That is preserved for the purpose of review. You
2 made that, I ruled on it and we don't need to argue again
3 for a new trial because that's just restating.

4 What typically I hear, and I'm not belittling this,
5 but just about every time I've closed a criminal case the
6 defense counsel says I move for a directed verdict on all
7 -- for these reasons with your rulings on all of my
8 objections and everything that I've restated.

9 So, that's preserved. So you have that for purposes
10 of review. You don't need to preserve it for a new
11 trial. I've already ruled and I haven't heard anything
12 that really and truly -- I may be wrong. That will be up
13 for the Court of Appeals or the Supreme Court to rule on.

14 MS. CAPERS: Yes sir, Your Honor.

15 THE COURT: But I'm comfortable with what I did and
16 the reasons stated for it so. Anything else you want to
17 argue on the new trial?

18 MS. CAPERS: Just a moment.

19 [Whereupon, Ms. Capers confers with the Defendant]

20 MS. CAPERS: Okay. I think we've covered it.

21 THE COURT: Okay, good. Motion for new trial is
22 denied. All right. Let's hear Motion to Reconsider.

23 MS. CAPERS: Yes sir, Your Honor. We -- I've
24 already provided the State with copies of letters.

25 THE COURT: You did. And I -- do we have it?

1 [Whereupon, the Court confers with the law clerk]

2 THE COURT: We do not. That's fine. If you will,
3 submit that. And I believe you said there is an
4 evaluation that is in the process of being prepared ---

5 MS. CAPERS: --- yes, Your Honor. We have it ---

6 THE COURT: --- thank you very much.

7 [Whereupon, Ms. Capers proffers documents to the
8 Court]

9 THE COURT: Have you had these marked?

10 MS. CAPERS: No ma'am -- no sir.

11 THE COURT: We'll mark them as a Court's exhibit
12 for purposes of this proceeding. Any objection,
13 Solicitor?

14 MS. WILLIAMS: No objection, Your Honor.

15 THE COURT: Very well. Court's exhibit 1, a packet
16 of letters has been handed for my review. Okay.

17 [Whereupon, Court's exhibit number 1 is marked by
18 the court reporter]

19 MS. CAPERS: Yes sir, Your Honor, and of course we
20 would not -- we -- most of our relatives and friends are
21 not from this area so we've gotten the letters from them.

22 THE COURT: That's fine. I'm going to read
23 everything you submit to me.

24 MS. CAPERS: Yes sir, Your Honor. The people who
25 were able to make it today, I did contact a lot of the

1 people who said they had issues with regard to
2 babysitting or picking up or doing whatever and could not
3 commit to being here after 3 o'clock. I did tell them
4 Your Honor that the hearing would be between 1:00 and
5 3:00 and, of course, you know we did not get started
6 until 4 o'clock.

7 THE COURT: Okay. I was ready to go at 1:00 but we
8 had a little problem.

9 MS. CAPERS: Yes, sir.

10 THE COURT: Okay.

11 MS. CAPERS: But my witnesses were people who may
12 have spoken -- some were not available to stay here past
13 3 o'clock.

14 THE COURT: Let the record be correct so that the
15 Court doesn't say well, I didn't allow those people I
16 told you if you wanted to waive his presence we could
17 take the testimony.

18 MS. CAPERS: Yes, sir.

19 THE COURT: But you were not comfortable doing that
20 and I don't fault you for that, so thank you.

21 MS. CAPERS: Yes, sir. That's fine.

22 THE COURT: Okay.

23 S. CAPERS: I'm just putting it on the record ---

24 THE COURT: --- all right ---

25 MS. CAPERS: --- because we spoke outside -- we

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1 were not on the record when we were speaking.

2 THE COURT: No, we were not.

3 MS. CAPERS: Okay. Your Honor, we have submitted
4 to you, of course I think 35 letters from family and
5 friends. We have several of our family members here, my
6 family members, Aaron's family members here and we also
7 have our Pastor James BBRODON [phonetic] present and each
8 would like to address the Court.

9 THE COURT: I'll be delighted to hear from them.

10 MS. CAPERS: We would ask Andrea Gilmore.

11 [Whereupon, Ms. Gilmore comes forward to the Bar]

12 MS. CAPERS: Your Honor, this is my sister Andrea
13 Gilmore.

14 THE COURT: You can just stand right there
15 [indicates].

16 MS. GILMORE: Right here? My apologies.

17 THE COURT: No apology necessary; that's just
18 protocol ---

19 MS. GILMORE: --- I should know better. I just have
20 to look over here and look at my nephew. I'm sorry.
21 Okay. First and foremost, Your Honor, I appreciate you
22 giving us the opportunity to appeal to your sense of just
23 humanity and tell you a little bit about my nephew,
24 Aaron. I also would like to give my sincere thoughts and
25 prayers to the victim. Honestly, I am so, I am deeply

1 wounded that you all had the unfortunate happenstance to
2 meet a person that we love dearly that we don't even --
3 we don't recognize nor whom do we know. And that person
4 is my nephew Aaron McKenzie Capers who always from the
5 time he was a little boy singing his birthday June 21st,
6 he just did so once again ---

7 THE COURT: --- ma'am, you're going to need -- this
8 court reporter needs to hear you. I appreciate what
9 you're doing but you need to observe the proper protocol
10 here ---

11 MS. GILMORE: I just wanted to -- no worries, no
12 worried ---

13 THE COURT: --- thank you. Okay.

14 MS. GILMORE: So now that I've gotten that and
15 thank you for receiving that packet of love. It is a
16 bundle of love.

17 THE COURT: Yes, ma'am.

18 MS. GILMORE: With that said I would like to read a
19 couple of letters just to let you know who Aaron is as a
20 person and not let this one unfortunate heinous situation
21 define who he is.

22 He is a child of God. He is my nephew. He is kind.
23 He is everything. These are from my children; they all
24 grew up together. Aaron was raised in a beautiful home.
25 This first letter I would like to read is from my oldest

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1 son who is a firefighter and a graduate of Florence Hill
2 University and very close to Aaron Capers, his little
3 cousin. He says:

4 [Reading] My cousin, Aaron is a human being who made
5 a mistake and it cost him his freedom. It pained me
6 deeply when I found out what had occurred. I didn't know
7 what to think of the situation but now I know what to
8 think of the situation as time has steady gone by.

9 I see a kid that did something that he would not
10 have normally done especially as an adult. My cousin
11 acted out of morals that he was not raised on and almost
12 created a life that his parents and God did not put forth
13 for him.

14 Aaron was a freshman in college and it tore our
15 entire family apart on his Christmas break. Your Honor,
16 this is not the Aaron that we know or love. I can't name
17 one person in the world who would believe that Aaron
18 would fall victim to his peers and his new surroundings.

19 Mr. Capers, Aaron Capers, in this world would be,
20 would not be in jail. It's not a liability, Your Honor,
21 instead a person who can share his joy and encourage
22 others to do better on the outside.

23 I believe that Lord -- or Your Honor Dennis; excuse
24 me. That is from my son Trevor, Trevor Gilmore. The
25 next letter I would like to read is from my daughter.

1 She is a school teacher. She has made us grandparents
2 and she just thinks -- she knows Aaron; they have all
3 grown up together. This is from Brittany Gilmore, Your
4 Honor. Brittany says: .

5 [Reading] Your Honor, I am writing on behalf of my
6 first cousin Aaron McKenzie Capers. I have known Aaron
7 all 19 years of his life. During those years I have
8 known him to be kind, loving, smart, a funny young man
9 with the brightest future ahead of him.

10 The last time I saw Aaron was at his high school
11 graduation by his friends and family when he received his
12 diploma actually before he received -- he received his
13 Associate's Degree actually before he received his
14 diploma.

15 I along with the rest of my family was shocked and
16 in disbelief six months later when I heard about this
17 incomprehensible action, his actions. But no bigger
18 shock and in disbelief hit me harder than hearing a
19 maximum death sentence of 80 years, Your Honor.

20 In no way am I excusing or asking for time served;
21 no way am I asking for that. But 80 years for a first
22 offender seems like a final -- it seems like a final
23 death sentence. People serve less for heinous
24 premeditated murder. I have been made aware of some
25 personal difficulties that have made -- that might have

1 compromised Aaron's means to cope with, cope properly
2 during his time away at college. It has never been in
3 his character to behave in such a way or commit such acts
4 against any person, Your Honor. Aaron thus far has shown
5 steadfast resolute demeanor in atoning for his past
6 mistakes and as constructively successfully as possible.

7 I have no doubt with rehabilitation and counseling
8 he can again develop proper skills that he needs to not
9 make such costly mistakes. Your Honor, I hope and pray
10 that you will consider a lesser sentence to allow a young
11 man a chance for redemption. Sincerely, Brittany
12 Gilmore.

13 The last letter is from my son Tyler Gilmore. He is
14 my youngest son. Tyler says:

15 [Reading] Dear Judge Dennis, I understand you will
16 be conducting a hearing for Aaron Capers on January the
17 6th, 2020 and I appreciate your time and service. I do
18 not know you and you do not know me but I know my cousin
19 Aaron Capers.

20 And I'm trusting you to show him your human side and
21 help him learn from his mistakes as he has made some
22 wrong decisions. Now, I would be lying to you if I said
23 that he did nothing wrong. But the fact of the matter is
24 the law is supposed to be just and not cruel and unusual,
25 Your Honor. Aaron, my cousin, and I grew up all of our

1 lives together with similar paths until this point
2 something changed. Aaron has always been smart and he
3 always will be. I am a few years older than he is and
4 have always been -- we have always been close.

5 All that being said it makes me question his most
6 recent decisions. We were raised with great parents,
7 nothing short of great upbringing. He has not acted with
8 a character recently and has landed himself where he is
9 now.

10 However, it is not to say that just -- that he just
11 decided to do the wrong thing. He got sidetracked in
12 college and did something he just shouldn't have done due
13 to the surroundings and the people that he was surrounded
14 by who clearly did not have his best interests at heart.

15 Now, the question is what kind of punishment is
16 appropriate for a young black male in America with no
17 criminal history and being his first offense. When I
18 heard the sentence of 80 years my heart sank and I
19 immediately thought about the fact that I would never --
20 we would never be able to have our kids play together.

21 And we would never grow old as the men of our
22 generation not to mention my Aunt Sharon, his mother, not
23 even being able to -- not being in the same part of his
24 life again supporting him through a commissary instead of
25 love, compassion, and the desire to see her son rise to

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1 his full potential. I went to his high school graduation
2 a few years ago. When I was there I had just begun to
3 realize what a wonderful job our parents had done and the
4 opportunities that they had created for us especially as
5 young black men in America.

6 I am now a federally accredited aircraft mechanic
7 with American Airlines with a very prosperous job and
8 career. He would have -- Aaron would have been shortly
9 behind me at any university of his choice and he could
10 have gone to any of his choice.

11 I could go on and on about my cousin, my family, my
12 blood, my young black brother. But he made a mistake and
13 he does not deserve to be an inmate number for the rest
14 of his life and never get the chance to capitalize on his
15 own life. And Tyler closes with:

16 [Reading] 80 years in prison without taking another
17 life individually seems absolutely uncalled for. And I
18 am asking you as a human to think about the life he could
19 have made for himself and grant him the chance to be a
20 functioning member of society once again and create a
21 future for himself.

22 I would love -- I would like to give you my word
23 Your Honor that I will be by his side as we always have
24 been. Once again, I know that the subject at hand isn't
25 black and white but I don't believe that 80 years in

1 prison is a lesson learning opportunity but it's only a
2 chance to rot in a concrete dungeon. Thank you in
3 advance for your assistance Judge Dennis.

4 On behalf of the Gilmore family we thank you for
5 your consideration for a lesser reduced sentence.

6 THE COURT: Thank you, ma'am.

7 MS. GILMORE: You're very welcome.

8 MS. CAPERS: Thank you, Your Honor. I would ask
9 Doctor Carolyn Rogers to come forward, Your Honor.

10 THE COURT: Okay.

11 MS. CAPERS: Just for the record I was raised, when
12 I turned eight years old I moved in with Doctor Rogers
13 and so I was raised by Doctor Rogers.

14 THE COURT: Thank you.

15 MS. CAPERS: And she will be coming forward to
16 speak with you.

17 [Whereupon, Doctor Rogers approaches the Bar]

18 THE COURT: Thank you, Doctor Rogers. I'll be
19 happy to hear from you. If you will, speak loudly so
20 that this lovely lady seated next to me can hear you.

21 DOCTOR ROGERS: I should be able to; I was a school
22 principal.

23 THE COURT: I bet you can. I qualified the jury
24 today and one of the ladies stood up in the back and when
25 she opened her mouth it was like, wow. And she was a

1 schoolteacher and when she was asked to be excused as
2 they are entitled. And I said ma'am, you have the
3 greatest voice in the world and it's obvious you do a
4 great job. So please, you have the floor.

5 DOCTOR ROGERS: Okay. Thank you. My name is
6 Doctor Carolyn Rogers. I have been in education for more
7 than 39 years. I have worked as a teacher, principal,
8 school coordinator, executive director superintendent of
9 schools. I've also worked in K-12 education as a college
10 professor, an associate dean and a dean. I'm also a
11 consultant. I consult in troubled schools for troubled
12 children and for failing schools. So that's a little bit
13 about my credentials.

14 In addition I have spoken at an educational -- I had
15 educational opportunities in China and I spoke at the
16 education -- there. In different parts of Africa I've
17 spoken in several; in Toko and Nigeria and South Africa.
18 Much of what I enjoy today is things that I've done
19 during my career.

20 I've represented and served and participated in
21 court opportunities to speak on behalf of some of my
22 students. And as a result over the years I've been
23 considered an expert and called on as an expert witness
24 for children who have been misguided or have taken wrong
25 paths. And, in addition, on the flip side of that I've

1 also been called on to speak for some of my students who
2 have gone on to become attorneys, doctors, and lawyers.
3 I am going to read several letters to you today. And I'm
4 going to speak for one.

5 And I won't read them line by line but I wanted to
6 speak to the heart of these letters. Each one of these
7 people we all understand when a crime is committed there
8 are two sides and both sides are hurting. Both sides are
9 hurting deeply because of the person that was injured and
10 the person who did that. But when you come from a family
11 that is loving, is caring, as professional as ours you
12 just don't expect that to happen in your backyard.

13 You think that something like this would happen, and
14 I've seen it in other cases, but not with my Aaron. My
15 Aaron was destined for greatness. He has always been
16 extremely intelligent. He has always been a person who
17 is loving and caring and would give you the shirt off of
18 his back. So when I heard this I'm like no, it can't be
19 Aaron; not my Aaron.

20 Aaron's mother came moved to South Carolina with me
21 when she was in third grade; extremely intelligent, very
22 bright and she raised her children to be God fearing
23 Christian children. So I'm still in shock. I'm standing
24 here and even though I was in the Court and heard the
25 sentence I'm still, it's still hard for me to believe.

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1 And when I was in other courtrooms and -- it's just never
2 ever good whether I'm the aunt slash grandmother of the
3 person or one of my students. It's never ever good
4 because I see that as a failure on my part.

5 My son who was here but had to leave he's in
6 Houston, Texas and I just want to read a little excerpt
7 from it. These children grew up together so everybody is
8 hurting deeply. And we are just still so, it's still a
9 shock for us. Frederick Hunter Rogers who lives in
10 Houston, Texas he is a medical engineer. He wrote:

11 [Reading] I'm thoroughly astonished and devastated.
12 I was thoroughly astonished and devastated when I heard
13 the news about Aaron's case. He has always been caring,
14 honest, and a humble young man. Aaron is a smart man who
15 has always displayed leadership and dedication throughout
16 his work ethics. He has two siblings and his older
17 sister has always been close with him and looked up to
18 him. His younger brother who he has always been a role
19 model to.

20 At family functions Aaron has always been the person
21 that you can call on to do almost anything. It is
22 unfortunate that he has made some bad decisions and maybe
23 even gotten with the wrong crowd resulting in the case
24 and convictions against him. But he is a vital member of
25 our family. He is deeply remorseful for his actions and

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1 takes full responsibility for the result and negative
2 impact to his family and community and the pain caused to
3 and suffered by the victim. I believe in his ability to
4 pay his debt to society. However, he is a young man and
5 fully capable of rehabilitation and becoming a
6 contributing member of his community.

7 In addition to my son his niece has also wrote, I
8 have two sons, and his nieces one is in fourth grade at I
9 started to say Spanish American, she's at Chinese
10 speaking school, a Mandarin school. And she just simply
11 says:

12 [Reading] Aaron has always been there. He is the
13 cousin that I love, the cousin that I look up to, and the
14 cousin that I thought and hope that I will see again.

15 My other granddaughter wrote and I would not allow
16 her to miss school today. I always tell my children
17 there is one thing they can have and it's perfect
18 attendance. And so she wrote this letter. She said:

19 [Reading] I am Aaron Capers little cousin Amari
20 [phonetic] Rogers. When I found out my cousin was
21 incarcerated on December 21st, 2017 I was devastated but
22 most of all it was abnormal and extremely unexpected.
23 Aaron was definitely not himself that night. Aaron is my
24 favorite cousin; always has been and always will be.
25 He's my favorite cousin because he's always been there

1 for me. I honestly can't think of one bad moment with
2 him. The Aaron that I know has always been willing to
3 help with anything. I would love to talk to him about; I
4 could always talk to him about anything. I hope you can
5 find it, Judge Dennis, in your heart to reduce his 80
6 year sentence. He's been nothing but good up until that
7 point. Sincerely, Amari [phonetic] Rogers.

8 There is a childhood friend that he's had and he met
9 him in elementary school at Windsor Hill in North
10 Charleston. His name is Deondre Anderson. Deondre is
11 currently a student at Georgia Southern University in
12 Statesboro, Georgia. Deondre writes several paragraphs
13 but I'm going to speak to this one:

14 [Reading] I understand the serious trouble that
15 Aaron has gotten into. And I must say that this incident
16 is completely out of character. He is an intelligent,
17 humorous and bright young man who unfortunately made a
18 terrible mistake. Aaron is one of the few friends that
19 my family accepted into their household and they treated
20 him as family as well.

21 Over the years Aaron Capers has shown his good
22 nature countless times. If I ever needed anything --
23 with any -- needed help with anything I know I could call
24 on Aaron. He would come over sometimes just to help me
25 out with chores and yard work if needed. If I was hungry

1 I know I had a plate to eat with Aaron.

2 There is an evangelist in our family that has been
3 with us, in fact she was my oldest son, who is 40 years
4 old, she was his babysitter. She says:

5 [Reading] My name is Sandra Graham. I have known
6 Aaron Capers from birth. A family friend for 39 years I
7 was both troubled and surprised to hear about his recent
8 case. I've always known Aaron to be a family and
9 community oriented young person.

10 Raised in the church he has worked hard to become
11 well-rounded, academically focused and a good person in
12 society. By no means am I making light of the case. I
13 only ask you, Your Honor, that you show leniency. My
14 prayer is for healing in the lives of everyone involved.

15 Aaron has also volunteered -- I used to be principal
16 in Dorchester 2 -- Dorchester 4; I'm sorry and he came
17 down and he did volunteer work there. And the teacher
18 that he worked with spoke on his behalf. Her name is
19 Tracy Leonard, Doctor Tracy Leonard. Also, here is a
20 letter from his coach:

21 [Reading] Greetings. My name is Jamar Snow
22 [phonetic]. I have been coaching in North Charleston
23 area since 2009. Through my ten plus years of coaching I
24 have come across many young men and women in the
25 community, none of which have been more respectful than

1 Aaron Capers. I became a part of his life in his early
2 teen years first coaching him. As he became older he
3 assisted me in coaching younger men. He was always
4 genuine and took a keen interest in teaching the kids to
5 play better and demonstrated to them by his can do
6 attitude and also do better in life attitude.

7 Aaron is at the core a good young man with a good
8 heart that of which was demonstrated at an early age in
9 my eyes. I believe if given the opportunity Aaron will
10 once again become an asset to the community teaching
11 others the correct path to chart by giving testimony on
12 his mistakes.

13 This country, this nation, and this Bible that we
14 put on our hands -- put our hands on before testimony are
15 all beacons of hope through forgiveness. I strongly hope
16 and pray that Aaron will get his chance at redemption at
17 some point in his life. And I feel in my heart if given
18 that opportunity he will not let the community down.

19 We have another letter from a family friend. I will
20 not read it in its entirety. I simply wanted to put for
21 the record Reginald Brown. He says:

22 [Reading] I would like for you to consider reducing
23 this sentence as this whole experience has been a
24 profound impact on him. He deeply regrets his actions
25 and has learned from his experience of being arrested and

1 in jail. An extended jail sentence will seriously damage
2 the family life and derail his plans to continue his
3 education and his career path. I am positive Aaron along
4 with his family would welcome the decision of a reduced
5 sentence or anything else you deem appropriate rather
6 than spending an extended period of time in prison.

7 Some of you may know Debbie Littlejohn. She is an
8 attorney in the area. Debbie Littlejohn also wrote a
9 letter on Aaron's behalf. She has been a family friend:

10 [Reading] I am writing this letter in support of
11 Aaron Capers and his family. I have known Aaron and all
12 of Sharon's children all of their lives. Aaron is an
13 intelligent young man and he has had conversations about
14 all sorts of things from multiple authors to micro
15 economics.

16 While I first learned about this situation involving
17 Aaron -- when I first learned about this situation
18 involving Aaron I was stunned. While it is unfortunate
19 that Aaron made some bad decisions I do not think that he
20 would reoffend. It is my sincere hope that the Court
21 will take this letter into consideration and will show
22 mercy on Aaron and his family.

23 Just a portion of this letter I will read. It is
24 from Terry Davenport also from this area, Hanahan, South
25 Carolina:

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1 [Reading] I have known the Capers family, been in
2 their home, grieve with the family in their challenges
3 and celebrated their successes since Aaron was eight
4 years old. I have witnessed Aaron's upbringing first
5 hand.

6 I knew him as a quiet, studious, academically gifted
7 student surrounded on both sides by two equally endearing
8 siblings. I personally believe with all my heart that
9 for every choice or decision there is a consequence;
10 positive or negative.

11 I also believe with all my heart in forgiveness,
12 redemption, and rehabilitation. A lesser sentence would
13 allow Aaron the opportunity to reach full adult manhood
14 while still being accountable for his actions by offering
15 him an opportunity for another chance to live the life
16 his family prepared and prayed over for him.

17 The last two letters I wanted to leave you with are
18 from his siblings. His oldest sister, Christina Capers,
19 is a graduate of the Citadel and she is now stationed in
20 the United States Air Force in Lakenheath, England.
21 Christina writes:

22 [Reading] I am a recent Citadel graduate and a
23 commissioned officer in the world's greatest Air Force.
24 I was born and raised in Charleston, South Carolina and
25 the oldest of three children. Growing up I was smart but

1 not the smartest child in my family. The smartest was my
2 younger brother Aaron. Have you ever met a person who
3 can pass any test without studying? Well, that was my
4 little brother, the professor, of which I nicknamed him
5 when he was ten.

6 She goes on to talk about his giftedness, his
7 brightness and all and then she ends by saying:

8 [Reading] I haven't hugged my little brother since
9 my sophomore year in college and I never had the chance
10 to have our Christmas break chat. He didn't get to
11 attend my graduation or say goodbye as I moved to
12 England. It is hard to process the fact that I will
13 never see my brother walk the earth again.

14 If I marry he won't be there. If I have kids he
15 won't be there. When I deploy he won't be there. And if
16 I die in the process of securing the beauty and the
17 blessings of liberty before time he won't be able to say
18 goodbye at my funeral.

19 I ask you Judge Dennis 80 years in prison his life
20 ends faster than it begins. It is even -- life isn't
21 even a life worth living. All I ask is for the
22 opportunity to create more memories with my little
23 brother.

24 And the last letter I have to read is from his
25 little brother:

1 [Reading] Honorable Judge Markley Dennis, my name is
2 Moses Capers. My big brother is Aaron Capers. This
3 letter is the hardest thing I have ever written. I am
4 still in shock and disbelief that my brother is behind
5 bars.

6 I have always looked up to Aaron. We played
7 basketball and football together. We laughed late into
8 the night, played videos, and swam together. We attended
9 church, vacations, and loved eating out together. I'm
10 still trying to figure out when did it actually move from
11 happy times to this moment in time.

12 Judge Dennis, I ask you to please reduce my
13 brother's sentence. Allow him to make the changes to his
14 life that I know he can and will do. Allow him to come
15 home and return to college. Aaron is so good. He made a
16 terrible, horrible mistake; but 80 years without allowing
17 him to do anything but waste away.

18 Judge Dennis I love my brother. If you can see
19 clear to help him come home after serving some time like
20 a fraction of 80 years I know he will never return to
21 that side of the law again. I am asking for me to have a
22 chance again with my brother. Thank you for your
23 consideration.

24 I'd like to end with a statement that I've written
25 in this letter. But before that I want to just tell you

1 that since Aaron has been incarcerated he has not had any
2 disciplinary infractions. He has completed a hospice
3 training course and has received a certificate. He has
4 completed anger management class.

5 In addition Aaron has read more than 10 books.
6 Because we have an Amazon account that keeps so that he
7 can read self-help books and books just to strengthen in
8 his mind and keep his mind sharp.

9 Without a doubt I know that my Aaron was not himself
10 on the day of the incident. Aaron was operating in a
11 space that was not his norm and not of his understanding.
12 The Aaron who I know is a person that I do not have to
13 guess or decide based on him or misinformation. Aaron is
14 a person who I have watched grow up. A young man that I
15 saw just weeks prior to the incident since he was in
16 school at the University of South Carolina in Columbia
17 and that is where I reside.

18 Aaron graduated from Trident Technical College in a
19 dual enrollment program prior to getting his high school
20 diploma. I was there in the stands cheering him on and
21 other family members as well. Aaron is a highly
22 intelligent young man with a caring heart.

23 He loves his family and friends. He does not seek
24 to harm or to injure. The Aaron that I know had wandered
25 from his belief. The devil had intervened in a mighty

1 way and only God could provide the light that this storm
2 has created and has revealed. Having said all this
3 please know that I believe we all must pay for the errors
4 of our ways. And like the Court I believe the system is
5 designed to help us understand and reform.

6 Judge Dennis, God has given you the ultimate charge
7 to direct the future of so many. I ask that you take
8 this letter into consideration and reflect on the many
9 options you have at hand and to give Aaron a chance to
10 right his wrong. Please reduce his sentence and see your
11 way clear to give him another chance at life. Thank you.

12 THE COURT: Ms. Capers?

13 MS. CAPERS: Yes, sir?

14 THE COURT: I've heard all -- we've heard -- this
15 now is becoming cumulative as to rehabilitation. That's
16 one aspect of any sentence. I'll hear anything else
17 concerning punishment or the other aspect is to deter
18 others from committing a crime; all of those are factors
19 in fashioning a sentence that I've tried to adhere to and
20 follow every day of my life as a judge, sometimes not
21 very successfully maybe in the eyes of so many.

22 But I want to say something to everybody here. I
23 don't expect anything other than what I've heard about
24 this young man because I know his mother. And I don't --
25 and that's one of the issues that I have to deal with as

1 a judge; to whom much is given much is expected. And
2 I've tried to follow that philosophy because I think it's
3 important. I've also had victims come in and have this
4 courtroom packed with victims talking about punishment.

5 And my comment has been it is horrible that this
6 crime has affected so many people. But punishment needs
7 to be related to the crime itself. Would a person who is
8 basically homeless and is the victim of a crime should
9 they be punished, should the person be punished less
10 because nobody was affected? That has nothing to do with
11 it. That would be abhorrent. I don't do that.

12 I've also heard black mentioned several times. I'll
13 assure you of something and I'll confess growing up in
14 Berkeley County and when I went to high school and I
15 begged for forgiveness for those thoughts years and years
16 ago in the '50s and '60s.

17 But one of the things that I've tried to do
18 intentionally in my life is to see people as people. I
19 don't care whether you're black, white, or polka-dot. In
20 fact I've stopped using in describing somebody that was a
21 white person or a black person. That was a person; it
22 doesn't have to be.

23 So I've heard that mentioned several times and I
24 assure you that is something that I have -- I pray God I
25 can honestly say I have never done that and I don't

1 believe I have but you may can prove that otherwise. But
2 the other part of a sentencing which is everything that
3 is addressed is something that you'll wrestle with when
4 you sit where I'm sitting.

5 And that is what is the appropriate punishment,
6 punishment, just sheer punishment for the crime because
7 that's an aspect of it. It has nothing to do with
8 whether you can be rehabilitated or whether it will deter
9 a soul. Personally I've had to impose it. I'm not --
10 I'm opposed to the death penalty because I don't think it
11 deters anybody other than that individual.

12 But it's the law and I've had to impose it. I
13 didn't like it. I didn't relish it one bit. And I don't
14 relish the punishment that I've meted out here. But I
15 thought about it and I've given thought and my rationale
16 behind it I mean it's all of those factors that I tried
17 to address.

18 But I'll be happy to hear anybody else. But I know
19 everybody here is going to talk about what a fine person
20 he is. And he is. There is no question about that. And
21 there is no question that this was a total departure from
22 everything he's known.

23 And it just brings back to mind I've said it numbers
24 of times in my career I'm glad I had the conversation
25 with my son when he was in school. I became a judge and

1 he was still in high school. And we were riding back
2 coming home and he said well, I guess since you're a
3 judge now if I commit a crime I'll get probation. I said
4 no, I'll probably put you in jail. Do you know why?
5 Because I know what you've had. I know what you've been
6 given and I'm going to hold you more accountable than I
7 would somebody else.

8 That's the part that public at large talks about
9 well, you're too light or too lenient on that when
10 persons have had lives that not a soul can possibly
11 identify with. Let me give you this example. I'm glad
12 it happened to me when I went the National Judicial
13 College in 1994.

14 There was a gentleman, a young man who there was a
15 program on sentencing oddly enough. And at every aspect
16 we had people that were involved with probation,
17 solicitors, public defenders, defense counsel, people
18 that had been multiple offenders; some serious crimes.

19 And I'll never forget this young man. He impressed
20 me and he doesn't know how much he's made an impact on my
21 life. I was 46 years old and I'm embarrassed to confess
22 in this courtroom what I'm about to say but it's worthy
23 of confessing because I have to own it. Each one was
24 given an opportunity to make a statement about -- before
25 we started the panel discussion. And he got up and his

1 statement was what did you want to be when you grew up?
2 And of course it was a rhetorical question. And he
3 looked around the room and he said I know, doctors,
4 lawyers, stock brokers. He said you know what I wanted
5 to be? I wanted to be a drug dealer just like my old
6 man. I was 13 and he was selling drugs and he had cars,
7 women, and money. And I thought man, that's what I want.

8 And for the first time in my life I consciously
9 thought wait a minute. You are going to apply a standard
10 that you've enjoyed in your life that other people would
11 have given their right arm to have. And you're going to
12 have to be fair. And I'm glad I did because it was six
13 months into my job and I have never as you can see never
14 forgotten it. And I will pray if I am fortunate to do
15 this more years I never forget that because it's
16 important to me.

17 But anyhow, that being said I'll be happy to hear --
18 now you're going to submit a report, I've got the letters
19 but I'll be happy -- I don't want to deprive anybody from
20 making statements but if they're going to talk about what
21 an impact he has been, and I know he has, and I will
22 assure you something.

23 I derive no pleasure whatsoever -- in fact I have a
24 letter on my desk right now. I think it occurred in
25 Berkeley, I can't find it in Charleston, a grandmother

1 who I had apparently tried, and I don't remember it,
2 tried this person and it sounds like a reckless homicide
3 or a felony DUI. It was an accident she said and
4 somebody -- she didn't say he died or anything else.

5 But she said I'm the mother-in-law of the victim I
6 think. And I just feel for his children and his family.
7 They aren't getting to see him. Is there anything you
8 can do to reduce that sentence? So I assure you that's
9 something I have to live with every day.

10 And it's not something that I enjoy but it's as I
11 told some people in a talk I gave to a rotary club years
12 ago I got into my comments and I realized I was kind of
13 negative about it. And I said wait a minute, nobody told
14 me I had to do this. I chose to do this so I'll stop
15 being negative about it. I chose -- and whatever, it
16 goes with the territory.

17 But I'll be delighted to hear from you. I just
18 would like the next ones to address those two other
19 issues; shear punishment, which is one aspect of it, and
20 deterrence which is another major aspect.

21 And from what I've heard I would say there is
22 already a bunch of deterrents that are floating around
23 from the comments that have been made for people that
24 know him and the sentence has affected that. But please,
25 feel free to continue.

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1 MS. CAPERS: Yes, sir. I'm actually just going to
2 speak just to ---

3 THE COURT: --- absolutely. And please understand
4 you've been gracious, and I'm sorry we had to qualify the
5 Grand Jury but thank you for your patience with the Court
6 today.

7 MS. CAPERS: I'm going to speak just a little bit
8 to what you just said.

9 THE COURT: Sure. .

10 MS. CAPERS: And it may not even be related to what
11 you just requested.

12 THE COURT: Okay.

13 MS. CAPERS: But I'm just going to speak to it
14 because you just said it. With regard to Aaron everybody
15 somewhere in there I think it was so much niceness and
16 goodness that made me missed some of the underlying
17 things. And with regard to the black man I think what
18 they are referring to is the fact that he was a leader in
19 our community, that he did do things to make black people
20 proud ---

21 THE COURT: --- and he should be proud. Please
22 understand something. I'm not -- I do not suggest that
23 he shouldn't feel proud of that. He should because he's
24 had to overcome as you have from the standpoint of double
25 -- woman and black. So I appreciate what you've

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1 accomplished too.

2 MS. CAPERS: Thank you. But the struggle is -- it
3 is a struggle, Your Honor, to be gifted and smart and
4 have an idea of trying to fit it at the same time while
5 you're being so smart. I laugh at him now or used to
6 laugh at him because when he was little he was not slim.
7 He wasn't -- he was a little chunky.

8 And that letter from Deondre it breaks my heart
9 because they've been -- I think they started in 2nd grade
10 or something like that at Windsor Hill both of them in
11 the gifted and talented program there. And they stayed
12 together until Deondre moved to Augusta. But he told
13 Aaron that he was fat. And Deondre is this little
14 [indicates]. He told Aaron that he was fat. And you
15 know children don't really ---

16 THE COURT: --- oh, I know. Let me interrupt you
17 to say I empathize with him and I can truly emphasize. I
18 bought my share of husky dungarees. And my mother told
19 me one time, and I'll never forget it. She has -- and
20 Mom, I'm sorry but she told me one day, she had a lot of
21 pain and she was not well all the time and she was
22 probably in a bad mood.

23 We were getting breakfast and I walked in and she
24 said boy, you look like a potato sack tied in the middle.
25 And let me tell you something I never forgot that.

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1 MS. CAPERS: Yep.

2 THE COURT: That stuck. And so I get it. I
3 understand what you're talking about. I just wanted to
4 share that with you and say I'm with you; I understand
5 it.

6 MS. CAPERS: Well, it stuck. And so that's one of
7 the things. And so his struggle is to always try to
8 balance the coolness because I don't want to say it's a
9 black thing but to -- I really don't want to say it that
10 way but to ---

11 THE COURT: --- you don't have to be offended by
12 that. And you're not offending me; I assure you ---

13 MS. CAPERS: --- and he wanted to balance certain
14 things and his whole life has been a struggle trying to
15 do those things. And I think a lot of our issues because
16 you know it's the reality thing. Aaron is kind; just
17 kind. And he fits with everybody because he is kind but
18 he has to always struggle with that self-esteem issue in
19 trying to fit in and trying to be things that he is not.

20 And when you're 17 you're out of the house, you're a
21 college [sic] graduate, you're out, there are things that
22 people do; drugs and experimenting. I don't do drugs. I
23 barely drink. But experimentation is real. And
24 sometimes I think things get out of control. And I'm
25 not blaming anything because I recognize that assuming he

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1 has been found guilty and so you just assume that. You
2 just don't know what is going to happen to you when you
3 experiment. I don't even really believe that Aaron even
4 recognizes the -- what happened if that makes any sense.
5 I know that he deserves to be punished because this is a
6 horrendous, horrific thing.

7 With the letters you know I can even -- I can see
8 the writing style and the differences in trying to
9 connect with someone who was 47 years old. I know the
10 struggle. I know how he felt trapped in there just with
11 nothing but the possibility of a 50 year sentence, which
12 I guess at the time 18 then, 18 years if you say you're
13 going to spend 50 years in jail is the rest of your life.

14 And that doesn't excuse anything but I will tell you
15 judge that it's argumentative so I won't get into the
16 facts but I do believe that he tried to correct that. I
17 think that he set out on a path, realized that it was
18 wrong and tried reverse it and could not do it. It does
19 not negate the fact that he needs to be punished. But,
20 Your Honor, everything that he was convicted of is an 85
21 percent offense.

22 THE COURT: I understand that.

23 MS. CAPERS: Its 85 percent. And at 80 years that
24 means that he will be 68 -- no, he will serve 68 years on
25 the low end of his life at which point he will be 88

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1 years old. So in other words he will die in prison.
2 There is no question, Your Honor, that he is an asset,
3 that he is of value, that he can add value to the lives
4 of other people.

5 THE COURT: I agree with you.

6 MS. CAPERS: And to deprive not just him but our
7 community of the assistance for things that he can
8 provide and help I think would be just not -- I don't
9 know that it would benefit anyone. I think that he can
10 contribute.

11 I don't doubt that he should be punished. I think
12 even if you gave him 20 years -- a 20 year sentence would
13 still make him 30 -- I can't add -- it would still make
14 him 40 years old or at least 38 when he got out. He
15 would be fully grown having lost all of his good years if
16 you would believe that they are the good years.

17 I think that that is a punishment that if he had to
18 serve 20 years people would understand. You know you
19 went in a child and you came out older than my Dad, you
20 know. You came out an old guy because I think young
21 people think 38 is pretty old. That is a -- 20 years is
22 a long time. 80 years is a death sentence.

23 I have a picture that Aaron drew. He didn't draw
24 it; he took a photography class and he -- it's a picture
25 that he took downtown by one of the churches and it's a

1 light post. And you can see it through the trees and
2 there is just the slightest light coming out of it. And
3 it says he printed this, this is his: Light always
4 shines. Light shines even in the darkness or something
5 like that. And it's just a beautiful picture.

6 And when I think of him that's what I think of that
7 honestly, Your Honor, this is the worst thing because I
8 will not ever get to spend time with my child. But I
9 understand punishment but I also understand redemption.
10 And I understand contributions to society. I think that
11 you can fashion a sentence that will allow him to
12 ultimately contribute.

13 I don't think that you've heard nor are you going to
14 hear anything about him reoffending again. And I think
15 that is really the point of you've got to be punished but
16 we want to make sure that you don't do this again. A 20
17 year sentence would accomplish that. I believe that God
18 has a plan for him. And I don't know what that plan is.

19 But I do know that whatever, wherever he is he will
20 shine and he will contribute something. But I thank you
21 for your consideration.

22 THE COURT: Certainly.

23 MS. CAPERS: And I thank you for understanding that
24 even though our family was pretty decent just like any
25 other family Aaron has had his struggles; every other

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1 child he is no different. But at the end of it all Your
2 Honor he is a good kid but he needs to be punished for
3 what he did. And I think a lower end on the scale would
4 definitely accomplish that.

5 THE COURT: Thank you, Ms. Capers.

6 MS. CAPERS: I do want to because I have had Pastor
7 Brodon [phonetic] here since 1 o'clock ---

8 THE COURT: --- oh, sure absolutely.

9 MS. CAPERS: Pastor Brodon [phonetic] would you
10 mind...

11 THE COURT: I'll be delighted to hear from you.
12 Thank you so much for being here and thank you for your
13 patience as well, sir.

14 PASTOR BRODON: Well, Your Honor, good afternoon.

15 THE COURT: Good afternoon.

16 PASTOR BRODON: And thank you for your willingness
17 to hear. I heard your heart and I heard your story.
18 This is difficult for everybody.

19 THE COURT: It is.

20 PASTOR BRODON: I'm telling you, your job is
21 difficult; the job of counsel is difficult ---

22 THE COURT: --- those folks too it's very
23 difficult.

24 PASTOR BRODON: Yes, law enforcement and family.
25 I'm sitting and I'm listening. And you said something

1 that really peeked my ears when you talked about
2 decisions you were in -- when you were young and it made
3 me go back to my childhood. As I stand here today
4 because Aaron is a very, very, very close friend to my
5 family. Him and Deondre are very close. I'm glad you
6 stated you already know his mother so you know what was
7 bred into him.

8 THE COURT: Absolutely.

9 PASTOR BRODON: One of the things that stand out to
10 me even when we talk about sentencing. I'm not saying at
11 all that a person should not pay for their crime. One of
12 the things I do also is I'm very involved in prison
13 ministry.

14 THE COURT: Thank you.

15 PASTOR BRODON: I'm at Lieber, I'm at MacDougall.
16 As a matter of fact I live in Goose Creek now but I'm
17 from North Charleston. A little bit of my story I come
18 from a great family of 12. I'm an Army brat from Army
19 bases in Massachusetts and Maryland.

20 And when my mother and dad broke up and we moved
21 down south my mother became a single parent. I lived in
22 the baddest housing project in North Charleston. And
23 guess what? I got with the wrong crowd. I made a wrong
24 decision. But why I'm standing here today is because of
25 the mercy of somebody else involved in law enforcement

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1 and the judicial system that went to bat for me. And
2 because of that I was able to go into the military. I
3 went into the Navy and made rank and came out of that and
4 joined the fire department and ended up being a fire
5 captain.

6 Now I stand as a minister of the gospel. What we're
7 about to do now is launch a church in North Charleston.
8 And what I'm going to be working on, Your Honor and I
9 know you probably see a lot of guys from North Charleston
10 and ---

11 THE COURT: --- unfortunately I do, sir ---

12 PASTOR BRODON: is in the neighborhood trying to be
13 a deterrent and trying to get these young guys in a
14 different course of thinking. But decisions are affected
15 in some lives sometimes from our experiences. I went
16 through some of the things that I went through as a
17 result of the breakup of my mother and my father. And it
18 was catastrophic.

19 So I was trying to find my way and I made decisions
20 that were really, really could have affected my life.
21 But the thing I want to interject today is grace and
22 mercy; somebody's grace and somebody's mercy on me. And
23 this law enforcement and this judicial system that's why
24 today I have a great respect for law enforcement. The
25 law enforcement that is out here today makes Goose Creek

1 a great place to live. I mean all the crime that I've
2 experienced in North Charleston I have a great respect
3 for them. But my stance today is just the mercy of God
4 and just the mercy in the heart of a person that could
5 make a decision and affect a life.

6 And I in no way at all take your job very, very
7 literal or even the things that you ponder in your heart.
8 But my heart goes out to everybody in this courtroom
9 today and my heart goes out to young Aaron because I once
10 sat in that place. But I thank God for the mercy that
11 was bestowed upon me from a system that said hey, he's a
12 young guy and gave me a chance.

13 And there was also those guys that were there for me
14 to even follow up with me and walked me through. I don't
15 know if he is still in law enforcement; that was years
16 ago. His name was Officer Newsom and I will never forget
17 Officer Newsom because he really cared about me and he
18 knew that I made a wrong decision.

19 And that's the biggest thing that I'm talking about
20 is the mercy and grace that God has extended upon us all
21 when you know things that we should have deserved this
22 but we got grace, we got mercy that gave us another
23 chance and a second win at life. I'm taking my chance.
24 I'm going out in those neighborhoods and I'm trying to
25 reach everybody that I can reach that's on the wrong path

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1 so we don't have so much coming in from North Charleston
2 into this Court system. I just thank you so much for
3 your time and I thank everybody for their time today.
4 It's just the mercy of God and the grace of God is the
5 thing that is upon my heart today.

6 THE COURT: Thank you so much. And thank you for
7 the work that you're doing and will do. And I was proud
8 and happy for your Chief of Police in North Charleston
9 for getting the promotion but sad for the community ---

10 PASTOR BRODON: --- yes, sir ---

11 THE COURT: --- because I think he had from day one
12 he had the right idea; you've got to get involved with
13 the people.

14 PASTOR BRODON: Yes, sir.

15 THE COURT: And I had a lady come in and I will use
16 it because she was talking about a black person that
17 killed a black man and she was black as well. And she
18 made the most profound statement but at the end she
19 really the passion was incredible. She said we've got to
20 stop killing each other.

21 PASTOR BRODON: Exactly.

22 THE COURT: We've got to stop this. And until we
23 understand it's not law enforcement that's going to stop
24 it; we've got to stop it ---

25 PASTOR BRODON: --- we got to stop it ---

1 THE COURT: --- and I pray God that we can do that
2 sir, I really do. But people like you we're on the right
3 track.

4 PASTOR BRODON: Thank you, sir.

5 THE COURT: Thank you, sir. God bless you.

6 PASTOR BRODON: God bless you.

7 MS. CAPERS: Yes sir, Your Honor I think Donna
8 McQueen wanted to say a few words.

9 THE COURT: I'll be happy to hear from Donna.

10 MS. CAPERS: Yes, sir.

11 MS. MCQUEEN: Good afternoon, Your Honor.

12 THE COURT: Good afternoon, Ms. McQueen.

13 MS. MCQUEEN: I know you know me and I know you.

14 For those of us who don't us I want to say to you that I
15 am a person who has sat in as a Public Defender and an
16 Assistant Solicitor. I've represented victims of sexual
17 assault, domestic violence, and stalking for five years
18 as a Department of Justice lawyer for the South Carolina
19 Legal Services.

20 In addition to that what most people don't know
21 other than my mother who is now no longer with me is that
22 I also can closely align with the victim because I know
23 what that feels like. I remember when I first started
24 practicing law there was a Judge, and I won't name him,
25 but one of the things that he used to say is that he has

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1 been on the bench long enough that he has probably
2 forgotten more law that I'll ever know. I personally
3 took offense to that but he said it to everybody. And I
4 think what he was talking about is the art of the law;
5 what you see.

6 What I would -- the thing that I have come to see,
7 now I try to look at this whole picture. You've heard
8 about Aaron. I know Aaron. I've known I know all his
9 siblings. I remember when he was born. I held him when
10 he was first born. I've held him to my chest and I've
11 felt the heart within him. And I'm not going to belabor
12 all those things that you've already heard about him
13 because I believe that you have taken that to heart.

14 THE COURT: I have.

15 MS. MCQUEEN: But then also as a leader in youth
16 church I had a little kid ask me one time when I was
17 talking about the disciples which one of them was a good
18 guy. And the fact of the matter is like we do swear on
19 the Bible and like we do have on our money In God We
20 Trust the one thing I do know is that along with that we
21 have all sinned and fallen short of what God's promise
22 is.

23 And I know also as a person who has had my relative
24 murdered how that feels. So I don't take it lightly what
25 people experience. But then I know that with justice,

1 justice is a scale. It is not a definitive red line. If
2 you cross this then you are nothing. Justice is a scale.
3 And the lady that sits on that scale is supposed to be
4 blind because she is weighing; justice weighing the
5 factors.

6 And when I was in that courtroom during the trial I
7 listened intently to what the victim had to say; what her
8 words were. And I know you know from practicing and
9 weighing the law all the time it is important what the
10 person has to say.

11 And so often when we look at crime we say well, that
12 person didn't have to go that far. Why did they have to
13 do that? Why do people sit there -- when my little
14 cousin was senselessly murdered over his car we all
15 wanted to say why did you have to go that far?

16 In this case I think some little indications of who
17 Aaron is was what he did not do. He is not experienced
18 as a criminal. I believe and you heard testimony that
19 indicated all the things that I'm sure you typically hear
20 that happened in these kinds of situations did not happen
21 here.

22 The offense itself was bad enough and I don't
23 minimize that in any way because as I said I can relate
24 to her. I know what that feels like. But he -- it is
25 the fact that in this case we can sit back and say at

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1 least, our victim is here; at least she can heal as much
2 as possible because nothing will ever take it away. No
3 matter what we do with his sentence let's face it even in
4 our own lives we know that we do things and you can
5 never, ever take it back. You have to atone and adjust
6 for it and then you have to move forward. Just as those
7 of us who are Christians believe that God will do with
8 us. But at least in this case we have a victim who is
9 strong and was able to move forward.

10 And I am very -- I took into consideration her exact
11 words about what happened. And so I ask the Court to
12 take into consideration at least we have a victim here
13 who can heal, who can move forward. It can never be
14 erased nor excused and I don't ask the Court to do that.

15 But I do ask that we take into full account the
16 whole wide stretch of this situation and we decide -- and
17 that you can reconsider if you will what will, what is a
18 reflective of this situation itself, of the situation
19 itself.

20 And yes, with the span of our lifetimes and I know
21 you've heard over and over again how 80 years is
22 effectively let's face it; a lifetime. But can Aaron
23 move forward? Does he have what it takes to move
24 forward? Can he atone for that? I think that we can all
25 agree that he can. The only question is will he have

1 that chance. We can debate from now until the cows come
2 home whether or not anything effectively deters anything.

3 But we can say that we can look at this individual
4 situation, this individual defendant, this individual
5 victim and then try to find a place where we feel that
6 justice has been served. But also we give him the
7 opportunity to contribute to this society that we love so
8 dearly because at least we are all here to move forward.

9 And not without reflecting on the victim you keep
10 hearing about what he means to everybody else. This
11 young man one thing that I noticed absent from the
12 courtroom and even from these proceedings is a father;
13 absent from a lot of his life. There are things that
14 obviously went wrong. Nobody wakes up and decides to do
15 this thing. There are things that are wrong that he can
16 learn from.

17 I'm glad he took anger management. There are a lot
18 of things that he can benefit from so that what makes
19 those decisions possible can be addressed. And when
20 those things are addressed then you have an individual
21 that is ready to move forward.

22 And I think that we have this opportunity here to
23 show that justice is a scale. It is not a definitive red
24 line where once you cross that you just throw away the
25 key. So I appreciate the fact that you have listened to

1 what my feelings are, Your Honor. I understand the
2 decision that you have. But I do say that justice is a
3 scale and I just ask you to balance Aaron's life on that
4 scale.

5 THE COURT: Thank you, Ms. McQueen. Anything
6 further?

7 MS. CAPERS: I think that concludes it, Your Honor.
8 But I did want to just mention just generally that he did
9 get accepted into a program at Lee which as you know is
10 probably the harshest facility in the State. Because of
11 his classification he is excluded from most everything.

12 But for some reason, Your Honor, I think we call
13 favor he was accepted into a program that is really
14 designed to step you down and give you the skills that,
15 because a lot of people don't have it, to make sure that
16 you don't reoffend. And so that is a whole process and
17 he is in that as well, Your Honor.

18 And obviously you know that is an early skill
19 because I do expect you to sentence him appropriately. I
20 shouldn't say appropriately, I expect you to sentence him
21 and of course the minimum that you could actually give
22 him would be 15 years anyway. So this is early but I
23 assure you Your Honor he is at least taking the steps and
24 doing what he needs to do.

25 THE COURT: Thank you, Ms. Capers. I appreciate

1 that. Solicitor, anything you want to put up ---

2 MS. WILLIAMS: --- very briefly, Your Honor.

3 THE COURT: Sure.

4 MS. WILLIAMS: First of all I would like to pass up
5 a packet of letters from the community in which the
6 victim lived ---

7 THE COURT: --- absolutely. That will be Court's
8 exhibit 2.

9 MS. WILLIAMS: Yes. And Ms. Capers has these as
10 well.

11 [Whereupon, Ms. Williams proffers documents to the
12 Court]

13 THE COURT: Thank you.

14 [Whereupon, Court's exhibit number 2 is marked by
15 the court reporter]

16 MS. WILLIAMS: Your Honor, with your permission I
17 would like to make a very, very brief couple of brief
18 statements ---

19 THE COURT: --- certainly ---

20 MS. WILLIAMS: --- and there are two people that
21 would like to address the Court ---

22 THE COURT: --- I'll be happy to hear from them.

23 MS. WILLIAMS: A police officer from Goose Creek, a
24 neighbor, and then I have a very short letter to read
25 from the victim's daughter.

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1 THE COURT: No problem.

2 MS. WILLIAMS: Your Honor, I was moved by the
3 Pastor's comments and I was struck by how much we hear
4 that in this courtroom. People come before us and we
5 prosecute people all the time and we hear they didn't
6 have the advantages, they didn't have the opportunities,
7 they didn't have the resources and they took a different
8 path.

9 In this case Mr. Capers was living with his father
10 who was an IT executive at the time I remember the victim
11 telling me that she used to watch his little brother
12 carry his band instrument home every day, that it was a
13 nice house.

14 He has a wonderful mother. This has been
15 heartbreaking to watch his family go through this. They
16 are good people. And he has been given so many
17 advantages. The whole thing is heartbreaking. We take
18 no pleasure in this.

19 But quite frankly it scares the heck out of me that
20 somebody that had all of this going on chose to do this.
21 It has been characterized probably not purposely but just
22 now as a mistake, bad decision, he fell victim to, we're
23 sorry that she met him that way. She didn't meet him.
24 He sexually assaulted her and she didn't survive it. She
25 did not survive it, Ms. McQueen. She had a stress

1 induced heart attack after he assaulted her. She has
2 never been the same. I've heard them say at least he
3 didn't kill her. Essentially he did. He took her life
4 away. She has no security. She cannot feel safe in her
5 home. She is now in a wheelchair. She has had health
6 crisis after health crisis and she has lived an exemplary
7 life and doesn't deserve this. She is never going to be
8 the same.

9 And just a fact that I think is very important for
10 Your Honor to understand because I don't know if this
11 came out at trial but I think it is important. There was
12 no effort to undue this. After Mr. Capers tried to hire
13 the MS 13 gang member to kill her he arranged for a
14 vehicle to be delivered as payment for the murder.

15 So there was an FBI agent, a SLED agent involved.
16 They posed as the would be assassin and he arranged for
17 his friend to deliver a vehicle as payment for that
18 murder. So you know because that was severed, we didn't
19 get to present that evidence but I do think it's relevant
20 to this proceeding.

21 I think that but for the fact that she ran out of
22 that garage and the MS 13 gang member for some reason had
23 a moment of conscience that she may not be here today.
24 But our heart breaks for all of these people. However, I
25 know Your Honor and I've been practicing in front of you

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1 for some time and you don't take these decisions lightly.
2 And it seems to me it was a deliberate, careful decision
3 based on some extraordinary facts.

4 I know that Your Honor had mentioned Aiken v Byars a
5 couple of times and the analysis that goes into that. It
6 is our contention that Mr. Capers doesn't necessarily
7 fall into those cases because he was 18 -- under 18. But
8 I would also mention that two 2019 cases, State v Slocomb
9 and State v Finley both grappled with young people that
10 did horrendous things and whether or not really serious
11 sentences were a violation of the 8th Amendment. And in
12 Slocomb I think that the Defendant got a consolidated
13 sentence of 130 years.

14 In Finley he got life with the possibility of parole
15 after 30 years. And the Supreme Court said both of those
16 were not a violation of the 8th Amendment. So I would
17 just mention those just in terms of the Court's analysis
18 if you're going to look at the Aiken v Byars analysis.

19 Your Honor, this was an unbelievably scary crime.
20 Not only did he break into her home in the middle of the
21 day with a mask, sexually assaulted her, bruised her
22 breast, made her take off her shirt, stole her credit
23 card. And then while she was having a stress induced
24 heart attack at the hospital he was using her credit card
25 taking his girlfriend to the movies, having sex with his

1 girlfriend; just moving on. And it just has always
2 struck me as such a callous and unnecessary. I don't
3 know why this person chose to do this but this was not a
4 mistake. This was not a fit of bad judgment. This was
5 just an unbelievably savage and scary crime.

6 And then to add to that trying to have her
7 eliminated because she was the only witness, to talk
8 about her like she was just an obstacle. It just shocks
9 the conscience. I will be quiet now and I will ask with
10 Your Honor's permission Nicholas Powell who is with the
11 Goose Creek Police Department to address the Court.

12 I would also like Your Honor to know that the Chief
13 of Police for Goose Creek, Chief Roscoe is here and
14 Captain Soderberg who heads up the Department of
15 Investigations are both here. And they have been very,
16 very faithful to this process from the beginning to the
17 end. And we appreciate their presence and the
18 dedication that they have shown in this case and in all
19 their cases. But if Nicholas Powell could -- where would
20 you like him to stand?

21 THE COURT: He can stand right at the corner.

22 MR. POWELL: Thank you, Your Honor.

23 THE COURT: Thank you, Mr. Powell.

24 MR. POWELL: Your Honor, I have worked for the
25 Goose Creek Police Department for the last 13 years and

1 it's been my pleasure to serve the citizens there. Ten
2 years of that has been spent just in investigations. And
3 I will say that out of all the cases that I've worked
4 this is probably one of the more horrendous cases that
5 I've had to investigate both on the initial response and
6 the secondary investigation working with SLED.

7 I recall responding to the scene and initially
8 interviewing the victim in this case Ms. Mitsue and just
9 the look on her face is indescribable. And again I've
10 never personally been a victim of this but just to see it
11 on her face was -- it just leaves left me speechless.

12 But the outpouring of the community on that day them
13 coming out and being supportive of her that day and
14 throughout this whole process has been amazing. It would
15 be the agency's position just to affirm his current
16 sentencing on this. This was a systematic event both in
17 the initial and then the follow-up to continue to
18 terrorize the victim in this case.

19 And so from our position based off of his actions
20 again taking whatever person he is, again I don't know
21 him personally, out of it just viewing his actions alone
22 would affirm the sentencing as Your Honor handed down.
23 And we would just like to ask you to please just affirm
24 that sentence.

25 THE COURT: Thank you, Mr. Powell. And thank you

1 for your service and all the others present for what you
2 do to help provide safety and comfort and the comfort of
3 being -- knowing that you are there. And thank you for
4 the risk that you take every day for each of us, sir.

5 Thank you.

6 MR. POWELL: Thank you, Your Honor.

7 MS. WILLIAMS: Next, Your Honor, we would like Mark
8 Floyd to address the Court. He is a neighbor of Ms.
9 *Victim* and every since this has occurred he has had to
10 live in his home because she's afraid to live alone.

11 THE COURT: Yes sir?

12 MR. FLOYD: My name is Mark Floyd. I have been a
13 neighbor of Ms. *Victim* for about 26 years. And during
14 that time she has become like a mother to me and my wife.
15 She's a grandmother to my daughter. She was in my
16 daughter's wedding so we're very close to her.

17 So I heard about this assault. When I came home
18 from work she was sitting on the front porch crying.
19 Ambulance was waiting for her and they helped her onto
20 the ambulance. And I couldn't figure out why she was
21 having so much trouble; because she was having a heart
22 attack at the same time.

23 So I couldn't believe it would happen to anyone let
24 alone an 81 year old. So Ms. *Victim* is like a
25 grandmother, mother, aunt, sister to all the neighbors.

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1 She used to walk the neighborhood and talk to everyone;
2 she knows everyone. Since this crime she has had to
3 leave her house and go into hiding, live behind locked
4 doors, never going outside without worrying about who's
5 around the corner, who's going to ring on the door.

6 This has changed her life totally and our
7 neighborhood. Ms. Victim's health has declined I believe
8 because of stress. She has had to have counseling and
9 had continuous nightmares. Ms. Victim has been a
10 treasure for our neighbor and all of us have been better
11 because we know her.

12 And her innocence has been lost, her golden years.
13 She is always going to be in fear because of this crime.
14 We ask that the sentence remain because if he will do
15 this to her he will do it to someone else. Thank you.

16 THE COURT: Thank you so much. And thank you for
17 what you've been to her and for just being there for her.
18 I appreciate that.

19 MS. WILLIAMS: Your Honor, lastly I would like to
20 read a letter into the record from Tina Baker who is the
21 victim's daughter.

22 [Reading] This came -- this crime has completely
23 changed my Mom's life. She was a vibrant, trusting,
24 outgoing member of her community and now she lives in
25 constant fear in her home that she has lived in for over

1 25 years. She fights every day to make her life as
2 normal as possible. Having to be here today has brought
3 back a trauma she is trying so hard to get through. It
4 is so difficult for her loved ones to watch her struggle
5 and overcome over and over again.

6 I've seen glimpses of the vibrant person she used to
7 be but I don't think she will ever be the same. Please
8 do not reduce his sentence or grant him a new trial.
9 Sincerely, Tina Baker.

10 And that is all that we have, Your Honor.

11 THE COURT: Thank you. Anything else, Ms. Capers?

12 MS. CAPERS: Nothing, Your Honor.

13 THE COURT: All right. Of course I will wait for
14 the report and I appreciate everybody's remarks and I
15 appreciate you being here. One of the things that
16 certainly you try to factor in is balancing all those
17 things that everybody has addressed.

18 And one of the factors, and Ms. McQueen I couldn't
19 agree with you more that is one of the battles that I
20 know I have fought for 26 years and I hope I'll always
21 fight. I hope it always is a struggle because if it
22 doesn't, if it's not a struggle then I'm shirking my
23 responsibility because it is awesome, it's incredible.

24 It was mentioned recently at a function I attended a
25 friend of mine who was my boss lady, and I say that

1 sincerely and lovingly, she was the only administrative
2 assistant I've ever had in my life. She was with me for
3 46 years. And she reminded me of something that I really
4 had forgotten about.

5 And I had to impose a death sentence and it was in
6 Berkeley and it was a horrible case because it involved a
7 highway patrolman. And I felt for the -- although I
8 didn't hear much it just hurt me and hit me. So I went
9 in the office and I just started crying like a baby. The
10 jury had imposed it; he deserved it based on everything
11 that was there. But you just take it -- it's just hard;
12 it's difficult.

13 But one of the things that we all have to do when we
14 impose sentences and when we mete out punishment at least
15 for me there are several crimes that in my career I've
16 been fairly consistent with sentencing in these two, one
17 is affecting offending children. I think we have a duty
18 to protect children; I do.

19 The other is elderly people. I think we have a duty
20 to protect elderly people. And in that vein the crimes
21 in this one still baffles me and I probably will never be
22 able to logically reconcile this. Of all the potential
23 punishments we have, we have murder; that's 30 years to
24 life, kidnapping zero to 30. But this one burglary first
25 is 15 years to life. Now what in the world are the

1 factors that makes you gravitate from 15 years to life?
2 And I think that's where you have to look at the effect
3 of the crime because one of the things that I have always
4 felt and I say it, I've said it from day one and I think
5 the first burglary case I ever had you never get over
6 that, ever.

7 And one thing that I will also defend and I try to
8 in burglary is God blesses our home, it's our refuge,
9 it's where we can be and we deserve the peace and
10 tranquility of that. And when somebody breaks in and
11 does acts they take that away. And it never comes back.
12 And I think that's part of the crime and that's part of
13 why the sentence is as broad as it is.

14 But I am going to consider all of it and I will
15 advise you once I receive the report, Ms. Capers. Thank
16 you very much and again thank you all for your patience
17 with the Court. We will be adjourned now.

18 MS. CAPERS: Thank you, Your Honor.

19 MS. WILLIAMS: Thank you.

20 *****END OF TRANSCRIPT OF RECORD*****
21
22
23
24
25

000629

State v Aaron Capers
Certificate of the Court Reporter
January 6, 2020

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, 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
the Court of General Sessions for Berkeley County, South
Carolina on the 6th day of January, 2020.

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

April 1, 2020

Joyce C. Rueger, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA,
PLAINTIFF,

vs.

AARON MCKENZIE CAPERS,
DEFENDANT.

COURT OF GENERAL SESSIONS

2018-GS-08-00528

2018-GS-08-00529

2018-GS-08-00530

2018-GS-08-00531

2018-GS-08-00532

TRANSCRIPT OF RECORD

February 16, 2021
Via WebEx

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JUDGE.

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

ANNE M. WILLIAMS, ESQ.
Attorney for the Plaintiff

SHARON BERNICE CAPERS, ESQ.
Attorney for the Defendant

DENISE LAUDER
Official Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

1
2 THE COURT: All right. I'll be happy to hear from you
3 and -- I guess the best thing is to let you speak, then have
4 the solicitor, and then you can reply to the solicitor's
5 remarks, okay?

6 MS. CAPERS: Yes, sir, Your Honor. I think we had a
7 full hearing before at the sentencing and made several
8 motions. You did not rule on those motions and I certainly
9 would renew them today and ask for a finding on those
10 motions with regard to notwithstanding the verdict and a
11 motion for a new trial. Just for the purposes of the
12 record, Your Honor, because you didn't specifically make a
13 finding.

14 I know that we are here for a motion for
15 reconsideration of the sentencing. We were here, I believe
16 it was January 3rd of 2020, and you heard evidence,
17 character witnesses and you also received, I think, some 30
18 some letters --

19 THE COURT: I did.

20 MS. CAPERS: -- in support of Aaron Capers. And at
21 that time, you were gracious enough to allow us to get a
22 psychological evaluation done. And that was, in fact,
23 completed by Dr. Donna Maddox and the Court has a copy of
24 that report. I believe it presents the mitigating
25 circumstances, Your Honor, and some things that shed a

1 little light on Aaron and the circumstances surrounding this
2 event. And I think the report, perhaps, might -- it would
3 provide some new circumstances for Aaron Capers.

4 Certainly, there were some things in the report that I
5 was not aware of, Your Honor, and could not have presented
6 to the Court at the time with regard to things that occurred
7 in the last six months or so leading up to this event, such
8 as the death of his grandmother, me being away from the
9 home, some domestic violence as indicated in the report and
10 some trauma that he experienced while he was away at school
11 as well as drug use, excessive drug use.

12 We would just ask, Your Honor, that you consider the
13 things that are in this report along with what Dr. Maddox
14 has indicated, that he had suffered from, I believe she said
15 PTSD, which, of course, I certainly was not aware of and the
16 fact that, you know, there is the ability for him to be
17 rehabilitated as well as I believe it shows that he is still
18 growing. Obviously, his brain is not fully formed and that
19 he will likely make better decisions in the future.

20 I do think that he can become -- I do think that he's
21 an asset to the community, Your Honor. He is not a danger
22 to the community, Your Honor. I believe that this was an
23 isolated incident. And I think that he can contribute.

24 The sentence was certainly -- was harsh. It was an
25 80-year sentence for an 18-year-old at the time. He was 20

1 at the time of the sentencing, but 18 at the time of the
2 commission of the crime. This does amount to a life
3 sentence as Dr. Maddox points out.

4 Aaron has adapted while he's been in prison. He has
5 had some incidents there, but he has been also moved to --
6 due to his behavior there, moved to a program there called
7 VERA. It is a positive program designed to help the
8 offender adjust to the outside and to, hopefully,
9 reintegrate into society. I know that he's completed
10 several programs such as -- he's actually taken a hospice
11 course and has been certified in that. Aaron will have to
12 speak to the rest of the things that he's done. He's taken
13 several classes while he's there.

14 Your Honor, I just would ask that you consider the
15 report in full and, perhaps, have a little more mercy and be
16 a little more lenient towards Aaron and reduce the sentence.

17 THE COURT: Thank you, Ms. Capers.

18 Ms. Williams.

19 MS. WILLIAMS: Very briefly, Your Honor.

20 THE COURT: Mr. Capers, I'll hear from you after I've
21 heard from counsel, sir.

22 You may proceed.

23 MS. WILLIAMS: I take no joy in my position on this
24 case. This was a hard case to prosecute and I feel a lot of
25 empathy for Ms. Capers.

1 I read the report by Ms. Maddox. The heinous crimes
2 that were perpetrated against the victim in this case are
3 hard to wrap your mind around, but I think for me, what
4 really tops it off and what underscores the danger to the
5 community is that after Mr. Capers was incarcerated, he went
6 to great pains to try to hire someone to kill her. And
7 that, quite frankly, is chilling. I'm sure the Court
8 remembers the maps of her house and all of that. That,
9 coupled with showing up at her house with a mask. Some of
10 the factors of this case are just chilling.

11 And I would also add that not only did it destroy Ms.
12 Victim's life, but it had a chilling effect on this
13 community. You know, this neighborhood is not the same. It
14 really -- when something like that happens, it makes
15 everybody not secure in their home. And I'm not being
16 dramatic when I tell you that the people that came and
17 witnessed these events, whether it was the aftermath of the
18 victim running across the street or hearing about it, it
19 really affected them. And so I would just underscore that.
20 And then, Your Honor, sat through the trial and you know
21 that well.

22 The other thing is, I just want to bring to the Court's
23 attention that Mr. Capers was in a hospice program and was
24 enrolled in some programs, but he was also disciplined
25 already. He was disciplined in 2020 for exhibition of

1 public masturbation and was punished with some loss of
2 canteen privileges and loss of visitation privileges. So I
3 would just inform the Court about that.

4 I also just for the record want to let you know that
5 although it doesn't say so on the screen, the victim, Ms.
6 **Victim** is present. I think it says Revonda Hardesty on
7 the screen and that's because the name of our victim witness
8 coordinator and she is with her at that computer.

9 THE COURT: I appreciate her presence during this
10 hearing as well.

11 MS. WILLIAMS: Thank you, Your Honor.

12 THE COURT: All right. Mr. Capers, you wanted to
13 speak. I'll be happy to hear from you, sir.

14 THE DEFENDANT: I just wanted to let you know about
15 some of my growth since being incarcerated. As my mother
16 mentioned earlier, my attorney --

17 THE COURT REPORTER: I'm sorry, Mr. Capers, I'm sorry.

18 Can y'all mute so I don't get that feedback. Thank
19 you.

20 THE COURT: Everybody mute.

21 THE COURT REPORTER: Thank you.

22 THE DEFENDANT: Yeah, as I was saying, I've been in the
23 VERA program now for about a year. I have had some
24 disciplinaries, but I've -- because I've been incarcerated
25 for nearly three years now. I made my way up from the worst

1 dorms on a level 3 yard to F1 to F2 to F3 and now to F4 in
2 this VERA program, where we learn about restorative justice,
3 accountability. They educate us on trauma and healing,
4 impact of crime, effective communication, all the things
5 that I lacked when I was on the street and free. Granted, I
6 was a smart individual, but I had no knowledge of the things
7 I do now.

8 Touching on the hospice certification, I'd like to
9 mention that. I did lack empathy. Like I said, I'm
10 educated on trauma now. I was going through a lot of
11 things. And, you know, everyone has to heal. There's
12 healing in certain ways, healing for me and healing for the
13 victim. As far as restorative justice, I can only educate
14 myself further and ask for leniency from you so I can become
15 a better man and eventually impact my community in a
16 positive way.

17 THE COURT: Thank you, sir. Appreciate it, Mr. Capers.
18 Anything from anyone?

19 MS. CAPERS: Yes, sir, Your Honor. And it goes without
20 saying that we are not in any way ignoring the victim.
21 We're not trying to minimize that she has experienced.

22 THE COURT: Well, let me just respond, first of all,
23 I'm glad to hear and was glad to read from Dr. Maddox's
24 report the things that are available in the Department of
25 Corrections and I'm very glad that Mr. Capers is taking part

1 in all of those and he will become a better person for that.

2 One of the concerns I think we all have, I had as a
3 lawyer and I've had as a judge that we put people in prison
4 and all we end up doing is putting them in a warehouse and
5 they haven't had a chance to do anything to make their lives
6 better, but it sounds as though there's some programs
7 finally available and I'm grateful for that.

8 It just brings to mind something that -- one of the
9 things in Dr. Maddox's report, in fact, I highlighted it for
10 my purposes, so you'll see a highlight in the file copy. He
11 had stated he had no memory of raping the victim. And I'm
12 sure, given what she describes, that's probably is an
13 accurate statement. I have no reason to dispute that. But
14 what --

15 One of the things we do as judges and I'm -- certainly,
16 I'm a human and I make mistakes and I try not to do it, but
17 we do the best we can. But in fashioning a sentence, one of
18 the things I have always tried to do is deal with the many
19 facets -- and you and I, we all know, I think law school
20 stressed three, I think they probably could be subdivided,
21 but one is rehab, the other is deterring others, a sentence
22 that deters others, and one is something that we don't ever
23 -- I never liked to talk about it when I was a lawyer and I
24 don't harp on when I'm a judge, but one is just pure
25 punishment, just to punish somebody for what they did, for

1 the wrong committed.

2 And I would agree with you to a degree, Ms. Capers, if
3 it stopped with the rape, but it didn't. It continued,
4 continued going with use of the card. But where the real
5 continuation came was with the solicitation that took place.
6 And that evidence was overwhelming to me and it was
7 incredible and it gave me grave concern. And, frankly,
8 warranted the punishment. I may have given him less time,
9 total time, but the maximum for the victim, that was -- and
10 for the kidnapping, I understand the consecutive aspect of
11 it, it just -- I think the punishment is appropriate for the
12 crime that was committed and the actions taken thereafter.
13 And I can't remove that from my head, that's what it is. I
14 think there was overwhelming evidence to support the
15 verdict.

16 I'm not sure, I don't think there is a motion in the
17 criminal case for a trial NOV, but just for the sake of
18 ruling, I do not grant that either. The evidence, again,
19 was overwhelming and I think the jury made the correct
20 decision in every respect. So your motions are denied and
21 the motion to reduce the sentence is likewise denied. Thank
22 you.

23 Ms. Williams, if you'll prepare an order in conformance
24 with my rulings, please.

25 MS. WILLIAMS: Thank you, Your Honor. I will.

1 THE COURT: Thank you very much.
2 Good luck to you, Mr. Capers. Thank you.
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete Transcript of Record of the proceedings had and the
evidence introduced in the hearing of the captioned case,
relative to appeal, in General Sessions Court for Berkeley
County, South Carolina, on the 16th day of February, 2021.

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

August 12, 2021

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

Issuing court:	Magistrate	X	Municipal		Circuit
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BAIL set by

Judge James W. Blum

On 12-23-17

Type and Amount: Bond Denied

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

On _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

On _____

By _____

(indicate jury trial, bench trial, plea, nol. Pros, etc)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

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Address: _____

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Name: _____

Address: _____

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Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

000643

ARREST WARRANT AFFIDAVIT
2017A0820200881

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
CITY OF GOOSE CREEK

OCA: 2017-6176

Personally appeared before me the affiant, **Inv. L. Wright** who being duly sworn deposes and says that defendant, **Aaron McKenzie Capers**, did within the City and State on **December 21st, 2017**, violate the criminal laws of the State of South Carolina (or ordinance ___ County/ **X** Municipality of Goose Creek) in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-490 of The South Carolina Code of Laws, as amended; 1976 "Possession of a Weapon during the Commission of a Violent Crime"

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: **That on December 21st, 2017, while at : Isherwood Dr., which is located within the city limits of Goose Creek, South Carolina, the defendant did violate 16-23-490 of The South Carolina Code of Laws, as amended; 1976, "Possession of a Weapon during the Commission of a Violent Crime" to wit; The defendant, Aaron McKenzie Capers, did willfully, knowingly, unlawfully and feloniously commit a robbery while armed with a knife. The above facts are true and believable based on an investigation conducted by the affiant Inv. Wright: (1) On December 21st, 2017, at approximately 1347 hours officers with the Goose Creek Police Department responded to Isherwood Drive, Goose Creek, SC, 29445 in reference to a home invasion and sexual assault. (2) Upon arrival, contact was made with victim , who advised the unknown suspect rang her doorbell and when she opened the door, he pushed her inside while armed with an unopened pocket knife, locking the door behind him. (3) Victim described the suspect as a tall, skinny, black male, wearing a halloween mask with large teeth, a dark colored long sleeve top, black pants, and black boxers with a white waistband and a white design (4) Victim stated the suspect forced her to provide him money from her pocketbook that was located in the kitchen, and after providing him approximately one hundred dollars and all of her loose change, the suspect said she must have more money elsewhere. (5) Victim advised the suspect instructed her to take him into the bedroom and she escorted him into the guestroom where he forced her to remove her shirt and began fondling her left breast as he masturbated. (6) Victim advised the suspect put his penis inside of her mouth and forced her to perform oral sex until he ejaculated. (7) Victim advised the suspect then locked her in the master bedroom closet as he went through her dresser and jewelry box searching for more money and other valuable items such as jewelry, specifically her wedding ring. (8) The suspect asked victim where her money was and she said she had to go to the bank at which time he obtained her debit card. (9) Victim recalled telling the suspect she did not know her pin number, and she would have to take him to the bank, but as the garage door opened victim fled to a neighbor's house. (10) During a canvas of the victim's neighborhood, Inv. Hart**

17 DEC 27 PM 4:48

FILED
 EBF
 MCH

made contact with three witnesses who observed a black male wearing a black jacket, black pants, and a bookbag sprinting between . . . and . . . Isherwood Drive, Goose Creek, SC, 29445 in the direction of . . . Golding Lane, Goose Creek, SC, 29445 between 1300 and 1400 hours that day. (11) A property search returned Christopher Capers as the homeowner to the property. (12) Inv. Hart observed a surveillance camera installed at that location and confirmed with Christopher Capers that he has a surveillance system installed at his residence. (13) A background investigation was conducted on Christopher Capers which yielded in locating his son, Aaron Capers. (14) On December 22, 2017, at approximately 1022 hours Inv. Hart and Inv. Wolfsen returned to Golding Ln. in reference to conducting a follow-up. Inv. Hart observed a white in color Ford Focus in the driveway and provided the tag number to dispatch, 3291KD, which returned to a 2014 Ford Focus registered to Walter Todd and Jasmyn Richardson. (15) A query conducted through Facebook determined that Aaron Capers is friends with Jasmyn Richardson and both listed themselves as students at USC. (16) Information was received later that date that a purchase was made using the victim's stolen card on December 21, 2017, at approximately 1505 hours while at 8620 Dorchester Road, North Charleston, SC, 29420 (Speedway) to obtain fuel at pump 2. (17) Inv. Dodson obtained surveillance footage which showed a black male walking from a white in color sedan at the gas pump wearing a white t-shirt, grey sweatpants, sandals, and a black Nike hat. (18) Interior footage from the register area shows a portion of the individuals boxers which are similar to the pattern described by victim . . . during the attack. (19) Exterior footage shows the white sedan which is determined to be a Ford Focus. (20) The same individual is observed meeting with two other vehicles in the parking lot before entering the gas station and making a cash purchase. (21) SCDMV was used to provide a current address for Christopher Capers of . . . Pandora Drive, Goose Creek, SC, 29445. (22) Contact was made with Ludielle Rodrigues at that residence, who identified the male in the surveillance video as Aaron Capers, who she knew by sight. (23) A search warrant was executed at . . . Golding Lane, Goose Creek, SC, 29445, where defendant Aaron Capers was said to reside by Emi Davidson. (24) The search warrant yielded a Halloween mask that matched the description of the one worn by the suspect during the incident. (25) Emi Davidson stated that Defendant Aaron Capers was at . . . Golding Lane the date of the incident. All against the form of the statute in such cases made and provided for; and, all against the peace and dignity of the City of Goose Creek and State of South Carolina.

Sworn to and subscribed before me
on 12/23/17

[Signature]
Signature of Issuing Judge

RETURN
Defendant, Aaron Capers

[Signature]
Signature of Constable/Law Enforcement Officer

[Signature]
Signature of Affiant

Affiants Address 519 N. Goose Creek Blvd.
Goose Creek, SC 29445

Affiants Telephone 843-863-5200

FILED
CLERK OF COURT
GOOSE CREEK COUNTY, S.C.

17 DEC 27 PM 4:4

FILED

AMW/0338020
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2017-6176

ARREST WARRANT NUMBER

2018-GS-08-00528

DATE OF ARREST

12/23/2017

ACTION OF GRAND JURY

True Bill

Bryan Abould
Foreperson of Grand Jury

3/1/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00528

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS
B/M DOB:

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED
18 MAR -7 PM 12:53
CLERK OF COURT
BERKELEY COUNTY, S.C.

000646

000647

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened March 2018, the Grand Jurors of Berkeley County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Berkeley County, South Carolina, on or about December 21, 2017, the Defendant, Aaron McKenzie Capers, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Criminal Sexual Conduct in the First Degree; and/or Kidnapping; and/or Armed Robbery; and/or Burglary in the First Degree; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

COUNTY OF BERKELEY

CLERK OF COURT FOR THE NINTH JUDICIAL CIRCUIT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA

CASE NUMBER: 2018-GS-08-00528

VS.

VERDICT FORM

AARON MCKENZIE CAPERS

Defendant.

We, the Jury, by unanimous consent, find the Defendant,

AARON MCKENZIE CAPERS, on the charge of POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME,

X GUILTY

 NOT GUILTY


Presiding Juror

March 21, 2019

000649

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

AARON MCKENZIE CAPERS

AKA:

Race: Black/African AmericanSex: M

DOB: ()

SS#: ()

Address: 1oneCity, State, Zip: Goose Creek, SC 29445

DL#

SID# SC02315441*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn 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:

76463

64303

Anne M. Williams, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ 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 (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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75

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: _____

Clerk of Court/Deputy Clerk: L. HillCourt Reporter: Denise ZanderPresiding Judge: [Signature]Judge Code: 2560Sentence Date: 3/21/19

BAIL set by

Judge

James W. Hansen

On

12-23-17

Type and Amount:

Bond Denied

Name of Surety:

PRELIMINARY HEARING held by

Judge

On

Defense Attorney:

Decision:

DISPOSITION before

Judge

On

By

(indicate jury trial, bench trial, plea, nol. Pros, etc)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

Name:

Address:

Telephone

CODEFENDANTS

000651

ARREST WARRANT AFFIDAVIT
2017A0820200882

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
CITY OF GOOSE CREEK

OCA: 2017-6176

Personally appeared before me the affiant, **Inv. L. Wright** who being duly sworn deposes and says that defendant, **Aaron McKenzie Capers**, did within the City and State on **December 21st, 2017**, violate the criminal laws of the State of South Carolina (or ordinance ___ County/ X Municipality of Goose Creek) in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-311 of The South Carolina Code of Laws, as amended; 1976 "Burglary 1st Degree"

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: **That on December 21st, 2017, while at Isherwood Dr., which is located within the city limits of Goose Creek, South Carolina, the defendant did violate 16-11-311 of The South Carolina Code of Laws, as amended; 1976, "Burglary 1st Degree" to wit; The defendant, Aaron McKenzie Capers, did willfully, knowingly, unlawfully and feloniously unlawfully enter the victim's residence while displaying a knife with the intent to commit a crime therein (armed robbery). The above facts are true and believable based on an investigation conducted by the affiant Inv. Wright:** (1) On December 21st, 2017, at approximately 1347 hours officers with the Goose Creek Police Department responded to Isherwood Drive, Goose Creek, SC 29445 in reference to a home invasion and sexual assault. (2) Upon arrival, contact was made with victim , who advised the unknown suspect rang her doorbell and when she opened the door, he pushed her inside while armed with an unopened pocket knife, locking the door behind him. (3) Victim described the suspect as a tall, skinny, black male, wearing a halloween mask with large teeth, a dark colored long sleeve top, black pants, and black boxers with a white waistband and a white design (4) Victim stated the suspect forced her to provide him money from her pocketbook that was located in the kitchen, and after providing him approximately one hundred dollars and all of her loose change, the suspect said she must have more money elsewhere. (5) Victim advised the suspect instructed her to take him into the bedroom and she escorted him into the guestroom where he forced her to remove her shirt and began fondling her left breast as he masturbated. (6) Victim advised the suspect put his penis inside of her mouth and forced her to perform oral sex until he ejaculated. (7) Victim advised the suspect then locked her in the master bedroom closet as he went through her dresser and jewelry box searching for more money and other valuable items such as jewelry, specifically her wedding ring. (8) The suspect asked victim where her money was and she said she had to go to the bank at which time he obtained her debit card. (9) Victim recalled telling the suspect she did not know her pin number, and she would have to take him to the bank, but as the garage door opened victim fled to a neighbor's house. (10) During a canvas of the victim's neighborhood, Inv. Hart made contact with three witnesses who

17 DEC 27 PM 4:48

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A. M. H.

observed a black male wearing a black jacket, black pants, and a bookbag sprinting between 133 and 135 Isherwood Drive, Goose Creek, SC, 29445 in the direction of Golding Lane, Goose Creek, SC, 29445 between 1300 and 1400 hours that day. (11) A property search returned Christopher Capers as the homeowner to the property. (12) Inv. Hart observed a surveillance camera installed at that location and confirmed with Christopher Capers that he has a surveillance system installed at his residence. (13) A background investigation was conducted on Christopher Capers which yielded in locating his son, Aaron Capers. (14) On December 22, 2017, at approximately 1022 hours Inv. Hart and Inv. Wolfson returned to Golding Ln. in reference to conducting a follow-up. Inv. Hart observed a white in color Ford Focus in the driveway and provided the tag number to dispatch, 3291KD, which returned to a 2014 Ford Focus registered to Walter Todd and Jasmyn Richardson. (15) A query conducted through Facebook determined that Aaron Capers is friends with Jasmyn Richardson and both listed themselves as students at USC. (16) Information was received later that date that a purchase was made using the victim's stolen card on December 21, 2017, at approximately 1505 hours while at 8620 Dorchester Road, North Charleston, SC, 29420 (Speedway) to obtain fuel at pump 2. (17) Inv. Dodson obtained surveillance footage which showed a black male walking from a white in color sedan at the gas pump wearing a white t-shirt, grey sweatpants, sandals, and a black Nike hat. (18) Interior footage from the register area shows a portion of the individuals boxers which are similar to the pattern described by victim during the attack. (19) Exterior footage shows the white sedan which is determined to be a Ford Focus. (20) The same individual is observed meeting with two other vehicles in the parking lot before entering the gas station and making a cash purchase. (21) SCDMV was used to provide a current address for Christopher Capers of Pandora Drive, Goose Creek, SC, 29445. (22) Contact was made with Ludielle Rodrigues at that residence, who identified the male in the surveillance video as Aaron Capers, who she knew by sight. (23) A search warrant was executed at Golding Lane, Goose Creek, SC, 29445, where defendant Aaron Capers was said to reside by Emi Davidson. (24) The search warrant yielded a Halloween mask that matched the description of the one worn by the suspect during the incident. (25) Emi Davidson stated that Defendant Aaron Capers was at Golding Lane the date of the incident. All against the form of the statute in such cases made and provided for; and, all against the peace and dignity of the City of Goose Creek and State of South Carolina.

Sworn to and subscribed before me
on 12/23/17

[Signature]
Signature of Issuing Judge

RETURN
Defendant, Aaron Capers

[Signature]
Signature of Constable/Law Enforcement Officer

[Signature]
Signature of Affiant

Affiants Address 519 N. Goose Creek Blvd.
Goose Creek, SC 29445

Affiants Telephone 843-863-5200

MAURY P. BROWN
CLERK OF COURT
SHERBEE COUNTY, S.C.

17 DEC 27 PM 4:48

FILED

AMW/0338020
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2017-6176

ARREST WARRANT NUMBER

2018-GS-08-00529

DATE OF ARREST

12/23/2017

ACTION OF GRAND JURY

True Bill

Gregory A. Gould
Foreperson of Grand Jury

3/1/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00529

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS
B/M DOB:

Indictment for

BURGLARY FIRST DEGREE

SC Code: § 16-11-0311
CDR Code: 0079

FILED
18 MAR -7 PM 12:53
CLERK OF COURT
BERKELEY COUNTY SC

000654

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened March 2018, the Grand Jurors of Berkeley County present upon their oath:

BURGLARY FIRST DEGREE

That in Berkeley County, South Carolina on or about December 21, 2017, the Defendant Aaron McKenzie Capers, did enter the dwelling of Confidential Victim without consent and with the intent to commit a crime therein. That, in addition, the defendant caused physical injury to a person who was not a participant in the crime; and/or the defendant displayed what was or appeared to be a knife, pistol; and/or the defendant used or threatened the use of a dangerous instrument; and/or the defendant was armed with a deadly weapon or explosive; in violation of § 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

FILED

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY)
CLERK OF COURT)
BERKELEY COUNTY, SC)
FOR THE NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA) CASE NUMBER: 2018-GS-08-00529

vs.)

VERDICT FORM

AARON MCKENZIE CAPERS)

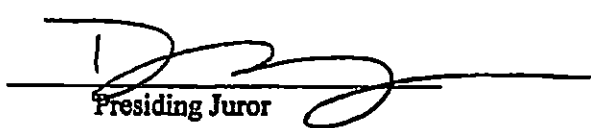
Defendant.)

We, the Jury, by unanimous consent, find the Defendant,

AARON MCKENZIE CAPERS, on the charge of BURGLARY FIRST DEGREE,

☒ GUILTY

☐ NOT GUILTY


Presiding Juror

March 21, 2019

000657

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

AARON MCKENZIE CAPERS

AKA:

Race: Black/African AmericanSex: M

DOB:

SS#: 1

Address:

LaneCity, State, Zip: Goose Creek, SC 29445

DL

SID# SC02315441*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Burglary First DegreeIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0072☐ 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

Anne M. Williams, Assistant Solicitor 76463
SC Bar #

Defendant

Attorney for Defendant

64303
SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections ☐ County Detention Center, for a determinate term of 1 1/2 years day/months/years or ☐ under the Youthful Offender Act not to exceed 50 years and/or to pay a fine of \$ 100.00; provided that upon the service of 1 1/2 years days/months/years and or payment of \$ 100.00 plus costs and assessments as applicable*; the balance is suspended with probation for 1 1/2 years months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ 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 (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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine: _____

§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)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

AMW/0338020
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2017-6176

ARREST WARRANT NUMBER

2018-GS-08-00530

DATE OF ARREST

12/23/2017

ACTION OF GRAND JURY

THREE

Margaret A. Howard
Foreperson of Grand Jury

3/1/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00530

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS

B/M DOB:

Indictment for

KIDNAPPING

SC Code: § 16-03-0910

CDR Code: 0095

FILED
18 MAR - 7 PM 12:53
CLERK OF COURT
BERKELEY COUNTY S.C.

000658

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened March 2018, the Grand Jurors of Berkeley County present upon their oath:

KIDNAPPING

That in Berkeley County, South Carolina on or about December 21, 2017, the Defendant, Aaron Mckenzie Capers, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the Confidential Victim, without authority of law; all in violation of Section 6-3-910 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

FILED

STATE OF SOUTH CAROLINA 19 MAR 21 PM 7 COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY LEA)
 CLERK OF COURT FOR THE NINTH JUDICIAL CIRCUIT
 BERKELEY COUNTY, SC)

STATE OF SOUTH CAROLINA)

CASE NUMBER: 2018-GS-08-00530

vs.)

VERDICT FORM)

AARON MCKENZIE CAPERS)

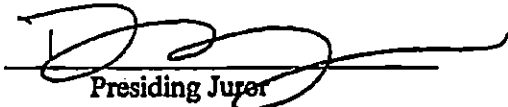
Defendant.)

We, the Jury, by unanimous consent, find the Defendant,

AARON MCKENZIE CAPERS, on the charge of KIDNAPPING,

☒ GUILTY

☐ NOT GUILTY


 Presiding Juror
March 21, 2019

000661

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.AARON MCKENZIE CAPERS

AKA:

Race: Black/African AmericanSex: M

DOB:

SS#:

Address:

City, State, Zip: Goose Creek, SC 29445

DL#

SID# SC02315441*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: KidnappingIn violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☐ As indicated,☐ 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:

76463

64303

Anne M Williams, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2018-03-13-12-01-55-00 (Bw)☒ 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 (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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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 _____ days/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fee

Other: _____

Recipient: _____

*Fine:

§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)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(I) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: Denise StanderPresiding Judge: V. M. O. DwyerJudge Code: 2900ASentence Date: 3/21/19

BAIL, set by

Judge James W. Hanson Jr

On 12-23-17

Type and Amount: Bond Danilo

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

On _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

On _____

By _____

(indicate jury trial, bench trial, plea, nol. Pros, etc)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

Name: _____

Address: _____

Telephone _____

CODEFENDANTS

000663

ARREST WARRANT AFFIDAVIT
2017A0820200880

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
CITY OF GOOSE CREEK

OCA: 2017-6176

Personally appeared before me the affiant, **Inv. L. Wright** who being duly sworn deposes and says that defendant, **Aaron McKenzie Capers**, did within the City and State on **December 21st, 2017**, violate the criminal laws of the State of South Carolina (or ordinance ___ County/ **X** Municipality of Goose Creek) in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-330(A) of The South Carolina Code of Laws as amended, 1976, "Armed Robbery"

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: That on **December 21st, 2017**, while at **Isherwood Dr.**, which is located within the city limits of Goose Creek, South Carolina, the defendant did violate **16-11-330(A) of The South Carolina Code of Laws as amended, 1976, "Armed Robbery"**, to wit; **The defendant, Aaron McKenzie Capers, did willfully, knowingly, unlawfully and feloniously committ a robbery while armed with a deadly weapon. The above facts are true and believable based on an investigation conducted by the affiant Inv. Wright:** (1) On **December 21st, 2017**, at approximately 1347 hours officers with the Goose Creek Police Department responded to **Isherwood Drive, Goose Creek, SC, 29445** in reference to a home invasion and sexual assault. (2) Upon arrival, contact was made with victim **_____**, who advised the unknown suspect rang her doorbell and when she opened the door, he pushed her inside while armed with an unopened pocket knife, locking the door behind him. (3) Victim **_____** described the suspect as a tall, skinny, black male, wearing a halloween mask with large teeth, a dark colored long sleeve top, black pants, and black boxers with a white waistband and a white design (4) Victim **_____** stated the suspect forced her to provide him money from her pocketbook that was located in the kitchen, and after providing him approximately one hundred dollars and all of her loose change, the suspect said she must have more money elsewhere. (5) Victim **_____** advised the suspect instructed her to take him into the bedroom and she escorted him into the guestroom where he forced her to remove her shirt and began fondling her left breast as he masturbated. (6) Victim **_____** advised the suspect put his penis inside of her mouth and forced her to perform oral sex until he ejaculated. (7) Victim **_____** advised the suspect then locked her in the master bedroom closet as he went through her dresser and jewelry box searching for more money and other valuable items such as jewelry, specifically her wedding ring. (8) The suspect asked victim **_____** where her money was and she said she had to go to the bank at which time he obtained her debit card. (9) Victim **_____** recalled telling the suspect she did not know her pin number, and she would have to take him to the bank, but as the garage door opened victim **_____** fled to a neighbor's house. (10) During a canvas of the victim's neighborhood, Inv. Hart made contact with three witnesses who observed a black male wearing a black jacket, black pants, and a bookbag sprinting

17 DEC 27 PM 4:47
 CLERK OF COURT
 COUNTY, S.C.

FILED
 17 DEC 27 PM 4:47

between _____ and _____ Isherwood Drive, Goose Creek, SC, 29445 in the direction of _____, Golding Lane, Goose Creek, SC, 29445 between 1300 and 1400 hours that day. (11) A property search returned Christopher Capers as the homeowner to the property. (12) Inv. Hart observed a surveillance camera installed at that location and confirmed with Christopher Capers that he has a surveillance system installed at his residence. (13) A background investigation was conducted on Christopher Capers which yielded in locating his son, Aaron Capers. (14) On December 22, 2017, at approximately 1022 hours Inv. Hart and Inv. Wolfson returned to _____ Golding Ln. in reference to conducting a follow-up. Inv. Hart observed a white in color Ford Focus in the driveway and provided the tag number to dispatch, 3291KD, which returned to a 2014 Ford Focus registered to Walter Todd and Jasmyn Richardson. (15) A query conducted through Facebook determined that Aaron Capers is friends with Jasmyn Richardson and both listed themselves as students at USC. (16) Information was received later that date that a purchase was made using the victim's stolen card on December 21, 2017, at approximately 1505 hours while at 8620 Dorchester Road, North Charleston, SC, 29420 (Speedway) to obtain fuel at pump 2. (17) Inv. Dodson obtained surveillance footage which showed a black male walking from a white in color sedan at the gas pump wearing a white t-shirt, grey sweatpants, sandals, and a black Nike hat. (18) Interior footage from the register area shows a portion of the individuals boxers which are similar to the pattern described by victim _____ during the attack. (19) Exterior footage shows the white sedan which is determined to be a Ford Focus. (20) The same individual is observed meeting with two other vehicles in the parking lot before entering the gas station and making a cash purchase. (21) SCDMV was used to provide a current address for Christopher Capers of 305 Pandora Drive, Goose Creek, SC, 29445. (22) Contact was made with Ludielle Rodrigues at that residence, who identified the male in the surveillance video as Aaron Capers, who she knew by sight. (23) A search warrant was executed at _____ Golding Lane, Goose Creek, SC, 29445, where defendant Aaron Capers was said to reside by Emi Davidson. (24) The search warrant yielded a Halloween mask that matched the description of the one worn by the suspect during the incident. (25) Emi Davidson stated that Defendant Aaron Capers was at _____ Golding Lane the date of the incident. All against the form of the statute in such cases made and provided for; and, all against the peace and dignity of the City of Goose Creek and State of South Carolina.

Sworn to and subscribed before me
on 12/23/17

D. Wil
Signature of Issuing Judge

RETURN
Defendant, Aaron Capers

A. H. #06
Signature of Constable/Law Enforcement Officer

[Signature]
Signature of Affiant

Affiants Address 519 N. Goose Creek Blvd.
Goose Creek, SC 29445

Affiants Telephone 843-863-5200

MAKAY BROWN
CLERK OF COURT
GOOSE CREEK, S.C.

17 DEC 27 PM 4:47

FILED

AMW/0338020
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2017-6176

ARREST WARRANT NUMBER

2018-GS-08-00531

DATE OF ARREST

12/23/2017

ACTION OF GRAND JURY

True Bill

Gregory A. Arnold
Foreperson of Grand Jury

3/7/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00531

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS
B/M DOB:

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

FILED
18 MAR -7 PM 12:53
CLERK OF COURT
BERKELEY COUNTY, S.C.

00666

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened March 2018, the Grand Jurors of Berkeley County present upon their oath:

ARMED ROBBERY

That on or about December 21, 2017, in Berkeley County, South Carolina, the Defendant, Aaron McKenzie Capers, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of a Confidential Victim with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

FILED

19 MAR 21 PM 7:05

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 CLERK OF COURT)
 COUNTY OF BERKELEY)
 BERKELEY COUNTY, SC) FOR THE NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CASE NUMBER: 2018-GS-08-00531

vs.)

VERDICT FORM

AARON MCKENZIE CAPERS)

Defendant.)

We, the Jury, by unanimous consent, find the Defendant,

AARON MCKENZIE CAPERS, on the charge of ARMED ROBBERY,

☒ GUILTY

☐ GUILTY OF LESSER INCLUDED OFFENSE
 STRONG ARMED ROBBERY

☐ NOT GUILTY


 Presiding Juror

March 21, 2019

000669

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.AARON MCKENZIE CAPERS

AKA:

Race: Black/African AmericanSex: MDOB: 1SS#: 1Address: 1City, State, Zip: Goose Creek, SC 29445

DL#

SID# SC02315441*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or☐ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ 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:

76463

64303

Anne M. Williams, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ 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 (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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine:

\$ _____

§14-1-206 (Assessments 107.5%)

\$ _____

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$ _____

§56-5-2995 (DUI Assessment)

\$12

\$ _____

§56-1-286 (DUI Breath Test)

\$25

\$ _____

Proviso (Public Def/Probation)

\$500

\$ _____

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$ _____

§50-21-114 (BUI Breath Test Fee)

\$50

\$ _____

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$ _____

3% to County (if paid in installments)

\$

\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

[illegible]

BAIL set by

Judge James W. Benson
On 12-23-17
Type and Amount: Bond Denied
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
On _____
Defense Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
On _____
By _____
(indicate jury trial, bench trial, plea, nol. Pros, etc)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

000671

ARREST WARRANT AFFIDAVIT
2017A0820200879

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
CITY OF GOOSE CREEK

OCA 2017-6176

Personally appeared before me the **affiant, Inv. Wright**, who being duly sworn deposes and says that **Defendant Aaron McKenzie Capers**, did within this county and state on December 21st, 2017, while at **Isherwood Drive**, which is located within the city limits of **Goose Creek, SC**, violate the Criminal Laws of the State of South Carolina by using aggravated force to engage the victim in sexual battery.

DESCRIPTION OF OFFENSE: 16-03-0652 of The South Carolina Code of Laws as amended, 1976, Criminal Sexual Conduct – 1st Degree:

The above is true and believable based on the following facts: (1) On December 21st, 2017, at approximately 1347 hours officers with the Goose Creek Police Department responded to **Isherwood Drive, Goose Creek, SC, 29445** in reference to a home invasion and sexual assault. (2) Upon arrival, contact was made with victim **[REDACTED]**, who advised the unknown suspect rang her doorbell and when she opened the door, he pushed her inside while armed with an unopened pocket knife, locking the door behind him. (3) Victim **[REDACTED]** described the suspect as a tall, skinny, black male, wearing a halloween mask with large teeth, a dark colored long sleeve top, black pants, and black boxers with a white waistband and a white design (4) Victim **[REDACTED]** stated the suspect forced her to provide him money from her pocketbook that was located in the kitchen, and after providing him approximately one hundred dollars and all of her loose change, the suspect said she must have more money elsewhere. (5) Victim **[REDACTED]** advised the suspect instructed her to take him into the bedroom and she escorted him into the guestroom where he forced her to remove her shirt and began fondling her left breast as he masturbated. (6) Victim **[REDACTED]** advised the suspect put his penis inside of her mouth and forced her to perform oral sex until he ejaculated. (7) Victim **[REDACTED]** advised the suspect then locked her in the master bedroom closet as he went through her dresser and jewelry box searching for more money and other valuable items such as jewelry, specifically her wedding ring. (8) The suspect asked victim **[REDACTED]** where her money was and she said she had to go to the bank at which time he obtained her debit card. (9) Victim **[REDACTED]** recalled telling the suspect she did not know her pin number, and she would have to take him to the bank, but as the garage door opened victim **[REDACTED]** fled to a neighbor's house. (10) During a canvas of the victim's neighborhood, Inv. Hart made contact with three witnesses who observed a black male wearing a black jacket, black pants, and a bookbag sprinting between **[REDACTED]** and **[REDACTED]** Isherwood Drive, Goose Creek, SC, 29445 in the direction of **[REDACTED]** Golding Lane, Goose Creek, SC, 29445 between 1300 and 1400 hours that day. (11) A property search returned Christopher Capers as the homeowner to the property. (12) Inv. Hart observed a surveillance camera

17 DEC 27 PM 4:47

FILED
A.M.H.

000673

installed at that location and confirmed with Christopher Capers that he has a surveillance system installed at his residence. (13) A background investigation was conducted on Christopher Capers which yielded in locating his son, Aaron Capers. (14) On December 22, 2017, at approximately 1022 hours Inv. Hart and Inv. Wolfson returned to Golding Ln. in reference to conducting a follow-up. Inv. Hart observed a white in color Ford Focus in the driveway and provided the tag number to dispatch, 3291KD, which returned to a 2014 Ford Focus registered to Walter Todd and Jasmyn Richardson. (15) A query conducted through Facebook determined that Aaron Capers is friends with Jasmyn Richardson and both listed themselves as students at USC. (16) Information was received later that date that a purchase was made using the victim's stolen card on December 21, 2017, at approximately 1505 hours while at 8620 Dorchester Road, North Charleston, SC, 29420 (Speedway) to obtain fuel at pump 2. (17) Inv. Dodson obtained surveillance footage which showed a black male walking from a white in color sedan at the gas pump wearing a white t-shirt, grey sweatpants, sandals, and a black Nike hat. (18) Interior footage from the register area shows a portion of the individuals boxers which are similar to the pattern described by victim during the attack. (19) Exterior footage shows the white sedan which is determined to be a Ford Focus. (20) The same individual is observed meeting with two other vehicles in the parking lot before entering the gas station and making a cash purchase. (21) SCDMV was used to provide a current address for Christopher Capers of 500 Pandora Drive, Goose Creek, SC, 29445. (22) Contact was made with Ludielle Rodrigues at that residence, who identified the male in the surveillance video as Aaron Capers, who she knew by sight. (23) A search warrant was executed at 111 Golding Lane, Goose Creek, SC, 29445, where defendant Aaron Capers was said to reside by Emi Davidson. (24) The search warrant yielded a Halloween mask that matched the description of the one worn by the suspect during the incident. All against the form of the statute in such cases made and provided for; and, all against the peace and dignity of the City of Goose Creek and State of South Carolina.

Sworn to and subscribed before me
on December 23, 2017

[Signature]
Signature of issuing Judge

RETURN
Defendant, **Aaron Capers**

[Signature] 12-23-2017
Signature of Constable/Law Enforcement Officer

[Signature]
Signature of Affiant

Affiants Address 519 N. Goose Creek Blvd.
Goose Creek, SC 29445

Affiants Telephone 843-863-5200

FILED
CLERK OF COURT
SARASOTA COUNTY, S.C.

17 DEC 27 PM 4:47

[Signature]

AMW/0338020
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2017-6176

ARREST WARRANT NUMBER

2018-GS-08-00532

DATE OF ARREST

12/23/2017

ACTION OF GRAND JURY

True Bill

Gregory Akoned
Foreperson of Grand Jury

3/1/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-00532

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS
B/M DOB:

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST
DEGREE

SC Code: § 16-03-0652
CDR Code: 0160

FILED
18 MAR -7 PM 12:53
CLERK OF COURT
BERKELEY COUNTY, S.C.

000674

000675

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

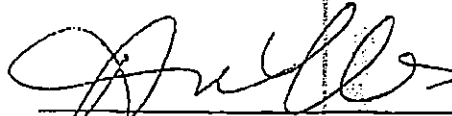
INDICTMENT

At a Court of General Sessions, convened March 2018, the Grand Jurors of Berkeley County present upon their oath:

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

That in Berkeley County, South Carolina, on or about December 21, 2017, the Defendant, Aaron McKenzie Capers, did commit a sexual battery upon the Confidential Victim, accompanied by one or more of the following circumstances: (1) the defendant used aggravated force to accomplish the sexual battery and/or (2) the victim submitted to sexual battery under circumstances where the victim was also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act. This is in violation of Section 16-3-652, South Carolina Code of Laws (1976) as amended).

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



ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

FILED

STATE OF SOUTH CAROLINA MAR 21 PM 7:05 COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY LEA: SUPRE
 CLEIN OF COURT FOR THE NINTH JUDICIAL CIRCUIT
 BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA)

CASE NUMBER: 2018-GS-08-00532

vs.)

VERDICT FORM

AARON MCKENZIE CAPERS)

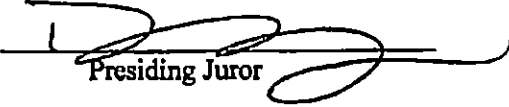
Defendant.)

We, the Jury, by unanimous consent, find the Defendant,

AARON MCKENZIE CAPERS, on the charge of CRIMINAL SEXUAL CONDUCT FIRST
 DEGREE,

☒ GUILTY

☐ NOT GUILTY


 Presiding Juror

March 21, 2019

000677

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.AARON MCKENZIE CAPERS

AKA:

Race: Black/African AmericanSex: M

DOB

SS#: _____

Address: _____

City, State, Zip: Goose Creek, SC 29445

DL# _____

SID# SC02315441*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Criminal Sexual Conduct First DegreeIn violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160☐ 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:

Ann M. Williams 76463
Ann M. Williams, Assistant Solicitor SC Bar #

Defendant

Attorney for Defendant

64303
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2018-05-08-0529☐ 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 (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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fines:

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso (Public Def/Probation)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/Deputy Clerk: L. HillCourt Reporter: Denise LanderPresiding Judge: J. M. AndersonJudge Code: 2060Sentence Date: 3/21/17

AMW/0343125
WITNESSES

State Law Enforcement Division

AGENCY CASE NUMBER

31180030

ARREST WARRANT NUMBER

2018-GS-08-01146

DATE OF ARREST

05/14/2018

ACTION OF GRAND JURY

True Bill

Mary P. Brown
Foreperson of Grand Jury

5/28/18
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-08-01146

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MAY TERM 2018

THE STATE

VS.

AARON MCKENZIE CAPERS
B/M DOB:

Indictment for

SOLICITATION / SOLICITATION TO
COMMIT A FELONY

SC Code: § 00-00-0000

CDR Code: 0795

FILED
2018 MAY 23 PM 12:57
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

000678

000679

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

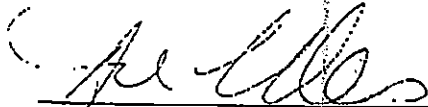
INDICTMENT

At a Court of General Sessions, convened May 2018, the Grand Jurors of Berkeley County present upon their oath:

SOLICITATION / SOLICITATION TO COMMIT A FELONY

That Aaron McKenzie Capers did in Berkeley County, South Carolina on or between March 29, 2018 and May 14, 2018, advise or agree with or urge or hire or in some way aid, counsel, or encourage and thereby solicit the agency of another, to wit: providing identifying information about Jane Doe and her location to another person and offering to pay \$2500 dollars in several increments to that person, for the commission of a completed felony against Jane Doe, to wit: Murder. This is in violation of the Common Law of the State of South Carolina.

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


ANNE M. WILLIAMS
SENIOR ASSISTANT SOLICITOR

000680

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

vs.

AARON MCKENZIE CAPERS.

DEFENDANT.

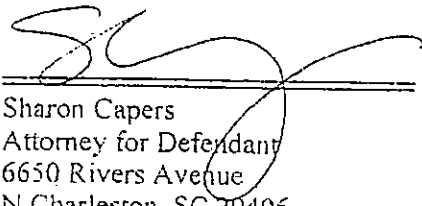
Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
Indictment #2018-GS-08-00530
Indictment #2018-GS-08-00531
Indictment #2018-GS-08-00532

Motion to Reconsider Sentence

Now comes the Defendant, Aaron Capers through his undersigned attorney, Sharon Capers requesting This Honorable Court to Reconsider the Sentences imposed on March 21, 2019. The Defendant was sentenced as follows: Burglary 1st, Indictment #2018-GS-08-00529, 50 Years Imprisonment, Criminal Sexual Conduct 1st Offense, Indictment # 2018-GS-08-00532, 30 Years imprisonment Consecutive to Indictment #2018-GS-08-00529, Armed Robbery, Indictment #2018-GS-08-00531, 30 Years, Kidnapping Indictment #2018-GS-08-00530, 30 Years and Possession of a Weapon During the Commission of A Violent Crime, Indictment #2018-GS-08-00528, 5 years Concurrent.

Defendant's Counsel would request that they be allowed to present mitigating evidence on behalf of the Defendant which was not readily available at the end of the trial. Additionally, Defendant would argue that the sentence is excessive given the Defendant's age and lack of prior record.

Defendant respectfully requests to be heard on this matter.


Sharon Capers
Attorney for Defendant
6650 Rivers Avenue
N Charleston, SC 29406
843-576-1433

000681

ATTACHMENT
Page 2 of 2

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

vs.

AARON MCKENZIE CAPERS,
DEFENDANT.

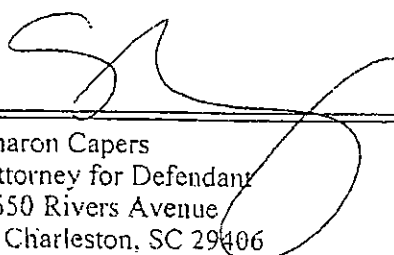
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Indictment #2018-GS-08-00532

Motion For New Trial and
Motion for Judgement Nor Withstanding the Verdict

Now comes the Defendant, Aaron Capers through his undersigned attorney, Sharon Capers moving This Honorable Court for a Judgment Notwithstanding the Verdict on all charges pursuant to Rule 50, SCRCP or in the alternative to grant a New Trial pursuant to Rule 59 SCRCP. The Defendant was convicted by a jury on March 21, 2019 of Burglary 1st, Indictment #2018-GS-08-00529, Criminal Sexual Conduct 1st Offense, Indictment # 2018-GS-08-00532, Armed Robbery, Indictment #2018-GS-08-00531, Kidnapping Indictment #2018-GS-08-00530, and Possession of a Weapon During the Commission of A Violent Crime, Indictment #2018-GS-08-00528. He was sentences to 80 years imprisonment.

Defendant would assert that allowing evidence on the Solicitation charge was unduly prejudicial to the defendant and prohibited him from receiving a fair trial on the underlying cases.

Defendant would respectfully request that they be heard on this issue.


Sharon Capers
Attorney for Defendant
6650 Rivers Avenue
N Charleston, SC 29406
843-576-1433

FILED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

2019 APR 15 PM 12:02

COUNTY OF BERKELEY

NINTH JUDICIAL CIRCUIT

LEAGUE CITY DISTRICT
CLERK OF COURT
BERKELEY COUNTY, S.C.

STATE OF SOUTH CAROLINA

STATE'S RESPONSE TO DEFENSE MOTION TO
RECONSIDER

vs.

AARON MCKENZIE CAPERS,

DEFENDANT

Indictment #2018-GS-08-00528

Indictment #2018-GS-08-00529

Indictment #2018-GS-08-00530

Indictment #2018-GS-08-00531

Indictment #2018-GS-08-00532

The State has been served with a copy of the Defendant's Motion for Reconsideration of the sentence imposed by this Court. The State files this Response.

PROCEDURAL HISTORY

On December 23, 2017, the defendant, Aaron Capers was arrested for Burglary First Degree, Armed Robbery, Possession of a Weapon During the Commission of a Violent Crime, and Criminal Sexual Conduct First Degree against an eighty-one-year-old female neighbor of the defendant's father. On December 27, 2017, Attorney, Sharon Capers entered her appearance as Counsel for the Defendant; two days later (On December 29) Attorney, Steve Schmutz filed his appearance as Counsel for the Defendant. On February 20, 2018 The Honorable R. Ferrell Cothran, Jr. denied Defendant's request to set a bond. On March 7, 2018, the above mentioned charges were presented to a Grand Jury in addition to a direct indictment for Kidnapping. All five charges were True Billed. On May 14, 2018, the Defendant was arrested for Solicitation to Commit a Felony (Murder); after an investigation by the South Carolina Law Enforcement Division

(SLED) and the Federal Bureau of Investigations (FBI) uncovered the Defendant attempting to hire another inmate to arrange the killing of the eighty-one-year-old victim in the original case. On May 15, 2018, the State filed a Motion for an Expedited Trial Date of July 30, 2018, or as soon after as possible, due to the victim's advanced age and fragile health. On May 23, 2018, Steve Schmutz was relieved as the attorney of record. On June 14, 2018, The Honorable Deadra Jefferson appointed Attorney, Chad D. Shelton counsel for the Defendant and relieved Sharon Capers as the attorney of record. On June 21, 2018, due to Mr. Shelton's recent appointment, the State amended its previous request for a trial date certain to a requested date of September 17, 2018 or as soon after is possible. On August 22, 2018, with no date certain set, the State filed a motion to schedule video-taped testimony of the victim pursuant to S.C. Code §§ 16-3-1550(E), 16-3-660; due to the age of the victim and her deteriorating health. Affidavits from the victim's cardiologist and general practitioner were included in the motion. On August 31, The Honorable Deadra Jefferson ordered that videotaped testimony be scheduled. She requested a stipulation or proposed Order as to the agreed upon specifications and admissibility issues regarding the proceeding. On August 31, 2018, the State and Defense agreed on a date of November 2, 2018, for video-taped and transcribed testimony of the victim; attorney Chad Shelton documented his objection to said testimony in a motion filed on September 28, 2018. He also filed a Motion to Set Bond on October 1, 2018, which was denied by the Honorable Maite Murphy. On October 29, 2018, Attorney, Chad Shelton notified the State that his client was requesting that Attorney, Sharon Capers represent him, and that Chad Shelton be relieved. The videotaped testimony was rescheduled to December 17, 2018 and an Order of Substitution appointing Ms Capers as attorney for the defendant was eventually filed. The video-taped testimony did not go forward due to a delay in the substitution of counsel.

The State and the Defendant agreed to a trial date of February 11, 2019, and the Court approved a Scheduling Order reflecting such. On February 8, 2019, pre-trial motions were heard by the Honorable R. Markley Dennis, and the Court granted Defendant's Motion to sever the charge of Solicitation to Commit a Felony (Murder). On February 11, 2019, The Court granted Defendant a Continuance, but also granted the State's renewed motion for video taped testimony of the victim; which was taken that day with the defendant present, and both direct and cross-examination conducted. This testimony was never presented to a jury, as the victim was able to testify at trial. The trial of this case began on March 18, 2019 and the Defendant was found guilty of all charges. He was sentenced to fifty years on Burglary in the First Degree which was ordered to run consecutive to thirty years on Criminal Sexual Conduct in the First Degree, for a total of eighty years. The Court also imposed the concurrent penalties of thirty years each on Kidnapping and Armed Robbery, and five years on the charge of Possession of a Weapon During the Commission of a Violent Crime.

FACTS

On December 21, 2017, at approximately 2:00 pm, the Defendant, Aaron Capers, rang the doorbell of the eighty-one-year-old victim. When the victim answered the door, he pushed her inside while armed with a knife, and locked the door behind him. He was wearing a Halloween mask that had large teeth and covered his face. He forced the victim to give him money from her purse, which was about \$100.00. He then made her go into her guest bedroom where he forced her to remove her shirt, groped and bruised her breast, and forced his penis into her mouth until he ejaculated. The victim had bruises on her breast, arms, forehead, and shoulder. The victim then attempted to run to the front door, but the Defendant grabbed her and put her in a closet as he rifled

through her jewelry and other valuable possessions. He then took her debit card, and told her to give him her PIN number. When she told him she did not know it, he brought her into the garage and told her they were going to the bank. Fortunately, as the garage door opened, she was able to distract him and run to a neighbor's house. The victim was transported to MUSC to have a sexual assault examination, but had a stress-induced heart attack and was admitted to the hospital. Later, tests on forensic evidence taken from the victim's mouth and a sweatshirt that she spit into, tested positive for semen that matched the DNA profile of the defendant, Aaron Capers. Capers was also identified on videotape using the victim's debit card, and a search warrant executed on his residence yielded a mask which matched the description of the mask described by the victim. On or about April 9, 2018, an inmate at the Hil Finklea Detention Center came forward with evidence of Aaron Capers' plot to kill the eighty-one-year-old victim. The inmate turned over letters written by the Defendant, requesting to hire the inmate to kill the victim. At that point, (SLED) began an investigation, with assistance from the FBI. This investigation yielded evidence of Caper's significant steps to carry out the murder-for-hire plan, including the transfer of funds for said purpose and the relaying of information regarding the victim's identity, whereabouts, and habits.

ANALYSIS

The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). The Court's sentence is appropriate under the facts of this case. This Court had ample opportunity to view the Defendant and consider his mitigation at the time of sentencing and the Defendant was provided an unfettered opportunity to present mitigating circumstances. In addition, the

defendant and both of his attorneys spoke on the defendant's behalf during sentencing. All things considered, this Court imposed an appropriate, well-reasoned sentence.

CONCLUSION

The Defendant has outlined no sound reason for this Court to change the sentence imposed. Pursuant to Rule 29, SCRCrimP., the State respectfully requests that this Court summarily deny the Defendant's Motion for Reconsideration without a hearing. If this Court does not summarily deny the Defendant's Motion, the State respectfully requests 10 days notice of the hearing so that the victim can be notified and scheduled to appear. The State also requests that the Defendant be compelled to outline the specific grounds supporting the Motion for Reconsideration of Sentence at least 10 days before any scheduled hearing.

Respectfully Submitted,


for Anne M. Williams
Anne M. Williams
Assistant Solicitor
Ninth Judicial Circuit

Moncks Corner, South Carolina
April 15, 2019

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

vs.

AARON MCKENZIE CAPERS,
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

**STATE'S RESPONSE TO DEFENSE
MOTION FOR RECONSIDERATION AND
CONTINUANCE OF HEARING**

Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
Indictment #2018-GS-08-00530
Indictment #2018-GS-08-00531
Indictment #2018-GS-08-00532

2020 JAN -3 PM 1:39
BERKELEY COUNTY SC

The State objects to the Defendant's request for continuance for a hearing on his Motion for Reconsideration of the sentence imposed by this Court. The State asserts that the victim has a right to attend the hearing under S. C. Code § 16-3-1545§ -16-3-1550; and continuous delay of the hearing will deprive the victim of her right to attend given her age and health status.

PROCEDURAL HISTORY FOR HEARING DATE

The following is a summary of the timeline of continuances for the hearing on two motions filed by Defendant.¹ The requests to continue the hearing were all communicated via email; not by filing.

03-21-2019 Defendant is sentenced.
04-01-2019 Motion to reconsider filed and Motion for a new Trial are filed.
04-15-2019 State files a response; Judge Dennis scheduled Hearing for 4-18-19.
04-15-2019 Continuance requested by appellate attorney Tara Shurling; Ms. Shurling informed

¹ Defense Motions to Reconsider Sentence and Defense Motion for a new Trial filed April 1, 2019 are Attached State's Exhibit's one and two

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HA

the Court that she prematurely filed an appeal causing lower court to lose jurisdiction, so continuance is requested until her appeal is dismissed.

- 04-15-2019 Continuance is granted
- 04-18-2019 Case has been remanded, Judge Dennis scheduled the hearing for 5- 28-2019.
- 04-25-2019 Continuance requested by Ms. Capers and Ms. Shurling. They inform the Court that Ms. Shurling is going to handle the Motion to Reconsider, but because she does not know anything about the trial, she will need more time to get a transcript and she also has surgery scheduled so they request the hearing to be scheduled in June or July. Over the State's objection the continuance is granted but no new date is set. Judge Dennis' Clerk asks Ms. Shurling to let the Court know when she was ready.
- 07-10-19 The State inquires about Ms. Shurling's status and when she might be ready to schedule the hearing.
- 11-04-19 State learns that Ms. Shurling is no longer representing Mr. Capers on the Motion to Reconsider and the Motion for a New Trial; and Ms. Sharon Capers is again Defendant's attorney for purposes of the motions. The State requests a hearing date.
- 11-05-19 Ms. Capers requests a January 2020 date as she needs time to prepare and Judge Dennis schedules the hearing for January 6, 2020.
- 01-02-19 Continuance requested by Ms. Sharon Capers for the Motion to Reconsider Sentence.

Procedural History of the Case

Please see State's prior Response to Motion to Reconsider attached as State's Exhibit Three.

FACTS of the Case

Please see State's prior Response to Motion to Reconsider attached as State's Exhibit Three

ANALYSIS REGARDING CONTINUANCE

The State and the Victim have an interest in the motions being decided so that the case can move forward. The Courts have addressed the right of the State to judicial expediency in the context of the issue of a speedy trial.

In *Barker v. Wingo*, the Supreme Court articulated interests other than those of the accused in discussing the issue of a speedy trial. *Barker v. Wingo*, 407 U.S. 514 (1972). The Court stated: "In addition to the general concern that all accused persons be treated according to decent and fair procedures, there is a societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused." *Id.* at 519.

The State understands that the trial has concluded and we are not dealing specifically with a speedy trial issue, but until the Motion to Reconsider Sentence and the Motion for a new Trial are decided, the matter is not final.

In *Flanagan v. U.S.*, the Court again discussed the guarantee of a speedy trial, this time in the context of the final judgement rule. *Flanagan v. U.S.*, 465 U.S. 259, 264 (1984). The Court clearly expressed the interest of the State, in addition to that of the Defendant:

Promptness in bringing a criminal case to trial has become increasingly important as crime has increased, court dockets have swelled, and detention facilities have become overcrowded. As the Sixth Amendment's guarantee of a Speedy Trial indicates, the accused may have a strong interest in speedy resolution of the charges against him. In addition, "there is a societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused." *Barker v. Wingo*, 407 U.S. 514, 519, 92 S.Ct. 2182, 2186, 33 L.Ed.2d 101 (1972). As time passes, the prosecution's ability to meet its burden of proof may greatly diminish: evidence and witnesses may disappear, and testimony becomes more easily impeachable as the events recounted become more remote. . . Finally, when a crime is committed against a community, the community has a strong collective psychological and moral interest in swiftly bringing the person responsible to justice. Prompt acquittal of a person wrongly accused, which forces prosecutorial investigation to continue, is as important as prompt conviction and sentence of a person rightly accused. Crime inflicts a wound on the community, and that wound may not begin to heal until criminal proceedings have come to an end." *Id.* at 264.

In addition to the State's right to a fair trial, South Carolina law also protects victims' access to the Courts. The victim in the present case is now eighty-three years old and of poor health.² Continuous delay of this hearing increases the chance that she may not be here for the next setting, or will be too ill to attend. The law recognizes victims' rights to be notified and have full access to hearings, trial, and other proceedings. South Carolina Law dictates that: "The circuit or family court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant." *S.C. Code Ann. § 16-3-1550 (D)*

ANALYSIS REGARDING RECONSIDERATION

The Defendant has outlined no sound reason for this Court to change the sentence imposed.

The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed. *Wasman v. United States*, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d . The Court's sentence is appropriate under the facts of this case. The State also asserts that the Defendant's sentence does not fall within the meaning of *Aiken v. Byars*, 410 S.C. 534, 544, 765 S.E.2d 572, 577 (2014), cert. denied, 135 S. Ct. 2379, 192 L. Ed. 2d 179 (2015), as the Defendant was eighteen at the time he committed the crime(s) and *Byars* specifically defines juveniles as individuals under the age of eighteen. "In South Carolina, pursuant to Section 63-19-20 of the South Carolina Code (2010), a juvenile is a person less than seventeen years of age. However,

² An extensive record was made at trial both in filings and on the record regarding the victim's health issues. The Victim had a stress induced heart attack at the time of the crime and the Court also examined letters from her cardiologist and general practice physician regarding her health. Medical personal and a doctor also testified at trial about the victim's hospital stay and health issues

Miller extends to defendants under eighteen years of age and therefore for the purposes of this opinion we consider juveniles to be individuals under eighteen." Byars at 537.

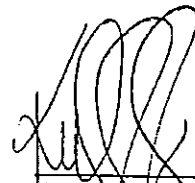
Additionally, The South Carolina Supreme Court has recently ruled that even in a case where the Defendant is a juvenile, an eighty year sentence does not violate the Eighth Amendment to the Constitution. *State v. Slocumb*, 426 S.C. 297 (2019)

Because the Defendant's motion refers in general terms to the prejudicial nature of the Solicitation to Commit Murder evidence as a basis for reconsideration; the State has attached as States Exhibit four the Trial Brief (submitted at the time of trial). Pages 8-12 address this issue under the section entitled "Motion to Consolidate". The State also submits *State v. Edwards*, 383 S.C 66 (2009) which is not cited in the State's Trial Brief but was argued at trial. *Edwards* specifically found that evidence of Defendant saying he would put a "hit" out on the victim was relevant as consciousness of guilt.

CONCLUSION

The State respectfully requests the Court to deny Defendant's Motion for a Continuance as this would prejudice both the victim and the State. The State also respectfully requests that the Court deny Defendant's motions for a new trial and a new sentence as there is no basis for the Court to grant a new trial and the sentence that the Court imposed was appropriate given the facts of the case.

Respectfully Submitted,


 for Anne Williams.
 Anne M. Williams
 Assistant Solicitor
 Ninth Judicial Circuit

Moncks Corner, South Carolina
January 3, 2019

EXHIBIT ONE

FILED
 STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA COUNTY, SC

vs.

AARON MCKENZIE CAPERS,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

Indictment #2018-GS-08-00528

Indictment #2018-GS-08-00529

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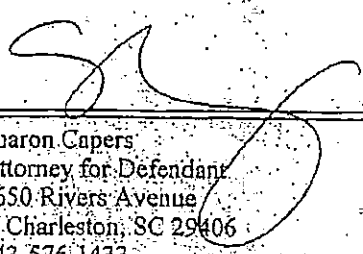
Indictment #2018-GS-08-00532

Motion For New Trial and
 Motion for Judgement Not Withstanding the Verdict

Now comes the Defendant, Aaron Capers through his undersigned attorney, Sharon Capers moving This Honorable Court for a Judgment Notwithstanding the Verdict on all charges pursuant to Rule 50, SCRPC or in the alternative to grant a New Trial pursuant to Rule 59 SCRPC. The Defendant was convicted by a jury on March 21, 2019 of Burglary 1st, Indictment #2018-GS-08-00529, Criminal Sexual Conduct 1st Offense, Indictment # 2018-GS-08-00532, Armed Robbery, Indictment #2018-GS-08-00531, Kidnapping Indictment #2018-GS-08-00530, and Possession of a Weapon During the Commission of A Violent Crime, Indictment #2018-GS-08-00528. He was sentenced to 80 years imprisonment.

Defendant would assert that allowing evidence on the Solicitation charge was unduly prejudicial to the defendant and prohibited him from receiving a fair trial on the underlying cases.

Defendant would respectfully request that they be heard on this issue.


 Sharon Capers
 Attorney for Defendant
 6650 Rivers Avenue
 N Charleston, SC 29406
 843-576-1433

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EXHIBIT TWO

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA COUNTY, SC

vs.

AARON MCKENZIE CAPERS,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

Indictment #2018-GS-08-00528
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Defendant respectfully requests to be heard on this matter.


 Sharon Capers
 Attorney for Defendant
 6650 Rivers Avenue
 N Charleston, SC 29406
 843-576-1433

EXHIBIT THREE

JRG
FILED

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY 2019 APR 15 PM 12:02 NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA
vs.
AARON MCKENZIE CAPERS,
DEFENDANT

STATE'S RESPONSE TO DEFENSE MOTION TO
RECONSIDER

Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
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FACTS

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through her jewelry and other valuable possessions. He then took her debit card, and told her to give him her PIN number. When she told him she did not know it, he brought her into the garage and told her they were going to the bank. Fortunately, as the garage door opened, she was able to distract him and run to a neighbor's house. The victim was transported to MUSC to have a sexual assault examination, but had a stress-induced heart attack and was admitted to the hospital. Later, tests on forensic evidence taken from the victim's mouth and a sweatshirt that she spit into, tested positive for semen that matched the DNA profile of the defendant, Aaron Capers. Capers was also identified on videotape using the victim's debit card, and a search warrant executed on his residence yielded a mask which matched the description of the mask described by the victim. On or about April 9, 2018, an inmate at the Hil Finklea Detention Center came forward with evidence of Aaron Capers' plot to kill the eighty-one-year-old victim. The inmate turned over letters written by the Defendant, requesting to hire the inmate to kill the victim. At that point, (SLED) began an investigation, with assistance from the FBI. This investigation yielded evidence of Capers' significant steps to carry out the murder-for-hire plan, including the transfer of funds for said purpose and the relaying of information regarding the victim's identity, whereabouts, and habits.

ANALYSIS

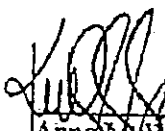
The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). The Court's sentence is appropriate under the facts of this case. This Court had ample opportunity to view the Defendant and consider his mitigation at the time of sentencing and the Defendant was provided an unfettered opportunity to present mitigating circumstances. In addition, the

defendant and both of his attorneys spoke on the defendant's behalf during sentencing. All things considered, this Court imposed an appropriate, well-reasoned sentence.

CONCLUSION

The Defendant has outlined no sound reason for this Court to change the sentence imposed. Pursuant to Rule 29, SCRCrimP., the State respectfully requests that this Court summarily deny the Defendant's Motion for Reconsideration without a hearing. If this Court does not summarily deny the Defendant's Motion, the State respectfully requests 10 days notice of the hearing so that the victim can be notified and scheduled to appear. The State also requests that the Defendant be compelled to outline the specific grounds supporting the Motion for Reconsideration of Sentence at least 10 days before any scheduled hearing.

Respectfully Submitted,

 for Anne M. Williams
Anne M. Williams
Assistant Solicitor
Ninth Judicial Circuit

Moncks Corner, South Carolina
April 15, 2019

000702

EXHIBIT FOUR

000703

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

VS.

AARON MCKENZIE CAPERS,
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE'S TRIAL BRIEF

Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
Indictment #2018-GS-08-00530
Indictment #2018-GS-08-00531
Indictment #2018-GS-08-00532
Indictment #2018-GS-08-01146

THE HONORABLE R. Markley Dennis

South Carolina Circuit Court Judge, Ninth Judicial Circuit
Appearances:

For the State: Anne Williams, Assistant Solicitor
Bryan Alfaro, Deputy Solicitor

For the Defendant: Sharon Capers, Esquire

CLERK OF COURT
BERKELEY COUNTY, SC

2018 JUN 10 PM 4:58

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- II. PROPOSED VOIR DIRE

I. STATEMENT OF THE CASE

A. Procedural History

1. On December 23, 2017, the defendant, Aaron Capers was arrested for Burglary First Degree, Armed Robbery, Possession of a Weapon During the Commission of a Violent Crime, and Criminal Sexual Conduct First Degree against an eighty-one-year-old female neighbor of the defendant's father.
2. On December 27, 2017, Attorney Sharon Capers, who is the mother of the Defendant, entered her appearance as Counsel for the Defendant.
3. On December 29, 2017, Attorney Steve Schmutz filed his appearance as Counsel for the Defendant.
4. On February 20, 2018, The Honorable R. Ferrell Cothran, Jr. denied Defendant's request to set a bond.¹
5. On March 7, 2018, the above mentioned charges were presented to a Grand Jury in addition to a direct indictment for Kidnapping. All five charges were True Billed.
6. On May 14, 2018, the Defendant was arrested for Solicitation to Commit a Felony (Murder); after an investigation by the South Carolina Law Enforcement Division (SLED) and the Federal Bureau of Investigations (FBI) uncovered the Defendant attempting to hire another inmate to arrange the killing of the eighty-

¹ Judge Cothran denied Defendant's request for bond in General Sessions court; Defendant's bond was previously denied in Magistrate Court on December 24, 2017.

one-year-old victim in the original case.

7. On May 15, 2018, the State filed a Motion for an Expedited Trial Date due to the victim's advanced age and fragile health. The State requested a trial date of July 30, 2018, or as soon after as possible.
8. On May 23, 2018, Steve Schmutz was relieved as the attorney of record.
9. On June 14, 2018, The Honorable Deadra Jefferson appointed Attorney Chad D. Shelton as counsel for the Defendant and relieved Sharon Capers as the attorney of record.
10. On June 21, 2018, due to Mr. Shelton's recent appointment, the State amended its previous request for a trial date certain to a requested date of September 17, 2018 or as soon after is possible.
11. On August 22, 2018, with no date certain set, the State filed a motion to schedule videotaped testimony of the victim pursuant to S.C. Code §§ 16-3-1550(E), 16-3-660; due to the age of the victim and her deteriorating health. Affidavits from the victim's cardiologist and general practitioner were included in the motion.
12. On August 31, The Honorable Deadra Jefferson facilitated a conference call between herself and both the State and the Defendant's attorneys and requested that videotaped testimony be scheduled. She requested a stipulation or proposed Order as to the agreed upon specifications and admissibility issues regarding the proceeding.

13. On August 31, 2018, the State and Defense agreed on a date of November 2, 2018, for videotaped and transcribed testimony of the victim's statement.
14. On September 28, 2018, Defendant's Attorney, Chad Shelton, filed an Objection to the State's Motion for Deposition (videotaped testimony).²
15. On October 1, 2018, Defendant's Attorney, Chad Shelton, filed a Motion to Set Bond, requesting that bond be set.
16. On October 25, 2018, The Honorable Maite Murphy denied the Defendant's request to set bond stating that the passing of time would not be considered a change of circumstance in the future as the State had been requesting a trial date for six months.
17. On October 29, 2018, Attorney Chad Shelton notified the State that his client was requesting that Sharon Capers represent him and that Chad Shelton be relieved. The videotaped testimony was rescheduled to December 17, 2018, by the State and Attorney Sharon Capers, who presented a Substitution Order to The Honorable Deadra Jefferson.
18. On December 17, 2018, the Clerk of Court did not have an Order of Substitution on file for Ms. Capers by mid-morning and no Order had been signed and filed

² This Motion contends that the Prosecutor "refused a request for a January 2019 Trial date". The State can find no such request and has filed two motions and repeatedly requested the Court to set a trial date on requested dates or "or as soon after, as is possible".

regarding the videotaped testimony. Consequently, the videotaped testimony proceeding did not go forward.

19. The State and the Defendant have agreed to a trial during the General Sessions term of February 11, 2019 pending the Court's approval of a Scheduling Order.

The Defendant will move to sever the Solicitation to Commit a Felony (Murder) charge from the original charges and the State will move to consolidate all charges. If the Court approves the February 11, 2019 trial date then the State's

Motion for a Trial Date Certain and States Motion for Victim's Videotaped Testimony will be moot.

B. Factual History

On December 21, 2017, at approximately 2:00 pm, the Defendant, Aaron Capers, rang the doorbell of the eighty-one-year-old victim. When the victim³ answered the door, he pushed her inside while armed with a knife, and locked the door behind him. He was wearing a Halloween mask that had large teeth and covered his face entirely. He forced the victim to give him money from her purse, which was about \$100.00. He then made her go into her guest bedroom where he forced her to remove her shirt, groped and bruised her breast, and forced his penis into her mouth until he ejaculated. The victim had bruises on her breast, arms, forehead, and shoulder. The victim

³ The eighty-one year-old victim was four feet ten inches tall and weighed about 100 pounds. She lived alone.

then attempted to run to the front door, but the Defendant grabbed her and put her in a closet as he rifled through her jewelry and other valuable possessions. He then took her debit card, and told her to give him her PIN number. When she told him she did not know it, he brought her into the garage and told her they were going to the bank. Fortunately, as the garage door opened, she was able to distract him and run to a neighbor's house. The victim was transported to MUSC to have a sexual assault examination, but had a stress-induced heart attack and was admitted to the hospital.⁴ Later, tests on forensic evidence taken from the victim's mouth and a sweatshirt that she spit into, tested positive for semen that matched the DNA profile of the defendant, Aaron Capers. Capers was also identified on videotape using the victim's debit card, and a search warrant executed on his residence yielded a mask which matched the description of the mask described by the victim. On or about April 9, 2018, an inmate at the Hil Finklea Detention Center came forward with evidence of Aaron Capers' plot to kill the eighty-one-year-old victim. The inmate turned over letters written by the Defendant, requesting to hire the inmate to kill the victim. At that point, (SLED) began an investigation, with assistance from the FBI. This investigation yielded evidence of Caper's significant steps to carry out the murder-for-hire plan, including the transfer of funds for said purpose and the relaying of information regarding the victim's identity, whereabouts, and habits.

C. Evidentiary Issues

⁴ The victim remains medically fragile, due to her advanced age and the trauma of the crime.

1. **State's Motions in Limine**

a. **Compliance with Rape Shield**

Pursuant to S.C. Code § 16-3-659.1(1), the State moves to ensure that all references or any line of inquiry regarding sexual activity or reports of sexual assault regarding the victim in compliance with the "Rape Shield Statute" be prohibited. This includes, but is not limited to, references made during summation, argument, or witness examination. The State knows of no other reports of sexual assault or otherwise relevant sexual acts regarding this victim, but wishes to prevent inferences that could be drawn from argument or inquiries in violation of the Statute. Furthermore, pursuant to SC Code § 16-3-659.1(2), before any such evidence which the defense believes is an exception to the law can be presented, the Statute requires notice be given to the State and such evidence be proffered before the Court and reviewed *in camera*.

b. **Motion to Consolidate**

The State will move to consolidate the charge of Solicitation to Commit a Felony (Murder) with the other aforementioned charges, and admit evidence of the Defendant's attempts to hire another inmate to kill the victim. The evidence of the defendant's attempts to have the victim killed is proper for consolidation and also independently relevant and admissible in the trial involving the original charges (i.e. Burglary First Degree, CSC First Degree, Kidnapping, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime)⁵. In addition to meeting the criteria for consolidation, the evidence of each set of charges is

⁵ "The Defendant's first arrest on 12/21/17 for Burglary First Degree, CSC First Degree, Kidnapping, Armed Robbery and Possession of a Weapon during the Commission of a Violent Crime" will be referred to as the "original charges" in this Brief

independently admissible in the other; as direct evidence, and under the theory of *Res Gestae*. Additionally, evidence of the Solicitation to Commit a Felony (Murder) charge is also evidence of consciousness of guilt.

With regard to consolidation, the State will rely on case law, which has established factors for the proper consolidation of charges. These factors are: that the case facts: (1) arise out of a single chain of circumstances, (2) are proved by the same evidence, (3) are of the same general nature and (4) no real right of the defendant has been prejudiced. *State v. Rice*, 368 S.C. 610, 615 (Ct. App. 2006); *State v. Harris*, 351 S.C. 643 (2002); *State v. Tucker*, 324 S.C. 155 (1996). The State contends that the charges are interconnected; they arise out of a single chain of circumstances. Indeed, while in jail for the original charges, the Defendant soon began to solicit another inmate in a plot to kill the victim. During this time, the Defendant repeatedly described the original crime scene, the victim, and aspects of the previous crime. He also explained that he needed to eliminate the only witness.⁶ Additionally, the original set of charges and the Solicitation charge are proved by the same evidence. Evidence that supports the Solicitation to Commit a Felony (Murder) charge is directly relevant to prove the original charges, and the evidence that supports the original charges is relevant to the Solicitation charge as they provide motive. The Court in *Rice* specifically stated:

"Where the offenses charged in separate indictments are of the same general nature involving connected transactions closely related in kind, place and character, the trial judge has the power, in his discretion, to order the indictments tried together if the defendant's substantive rights would not be prejudiced. Offenses are considered to be of the same general nature where they are interconnected". *Id.* at 369.

⁶ Please see State's Exhibit One

The evidence in the Solicitation charge is so interconnected with the original charges, that it expressly refers to the original offenses. The Defendant handed letters to the would-be killer (in the Solicitation charge) that contained specific details about committing the original crimes. One letter contained a diagram of the inside of the victim's home⁷, another letter states in part⁸:

"She lives alone, but I robbed her daylight, She's old so knock her off so it looks natural or make her disappear. I don't care I need her gone she's the only witness".

Indeed, this letter is not only an admission about the Defendant's commission of the original charges; but in the same letter he also admits that he is committing the crime of solicitation because the victim is the only witness to his original crimes. In addition to the physical evidence being relevant to both set of charges, the testimonial evidence is also relevant to both. SLED Forensic Scientist, John Jamieson, of the Questioned Document Department, will testify that Aaron Capers was the writer of these documents⁹. The individual that the Defendant tried to hire to kill the victim will testify about the specific information he relayed about the crime scene, the victim, her neighbors, and his motive. Likewise, evidence of the original crimes, like the layout of the home, the time of day it occurred, and characteristics of the victim; are essential to prove the Solicitation charge because this evidence shows knowledge (as expressed in the Defendant's letters) and motive.

⁷ Please see State's Exhibit One

⁸ Please see State's Exhibit One

⁹ Mr. Jameison concluded that the writer of documents submitted as known documents written by Aaron Capers is the same person who wrote these letters. A later submission of known writings by the Defendant pursuant to an Order for Exemplars was not analyzed as the analyst deemed them to be "not freely and naturally executed" and therefore of very limited comparison value. Several of the "known Documents" also have fingerprints identified as those of Aaron Capers.

Furthermore, there is no prejudice to the Defendant as the evidence of each set of charges would be independently relevant and admissible to the other, regardless of the indictment(s). Letters requesting the victim be killed, which contain admissions to the original charges and knowledge of the crime scene, would be material and relevant to the original charges even if the defendant was not charged with Solicitation to Commit a Felony. Likewise, evidence of the original crimes is relevant to the Solicitation to Commit a Felony charge because it establishes motive. Such evidence explains why he would want to kill the victim to begin with. The Defendant would have no motive to hire someone to kill the victim, if he was not concerned about her testifying against him (i.e. "*I don't care I need her gone she's the only witness*").¹⁰ The evidence for all of the charges is overlapping and interwoven.

In the alternative, the aforementioned evidence should be deemed admissible under the long-standing doctrine of *Res Gestae* so as to provide context of the crime and aid the fact finder by presenting a full picture of the surrounding events. The Court in *State v. Simmons*, held that:

"when such evidence 'furnishes part of the context of the crime' or is necessary to a 'full presentation' of the case, or is so intimately connected with and explanatory of the crime charged against the defendant and is so much a part of the setting of the case and its 'environment' that its proof is appropriate in order 'to complete the story of the crime on trial by proving its immediate context or the 'res gestae' " or the "uncharged offense is 'so linked together in point of time and circumstances with the crime charged that one cannot be fully shown without proving the other ...' [and is thus] part of the res gestae of the crime charged." *State v. Simmons*, 352 S.C. 342, 352 (Ct. App. 2002).

The doctrine of *Res Gestae* has long been applied in South Carolina law and is appropriate for specific scenarios such as the one before the Court now. It is paramount that the fact finders of this case be afforded the opportunity to learn the full factual surroundings prior to,

¹⁰ See State's Exhibit One

and immediately after the Defendant's original charges, as well as the Defendant's actions subsequent to his incarceration on those original charges.

Finally, the evidence of the Defendant's attempts to have the victim killed are proof of his consciousness of guilt. The admissibility of evidence of consciousness of guilt is firmly rooted in South Carolina law. The Defendant attempted to hire someone to kill the victim in order to cover up his crime. South Carolina Courts have held that trying to prevent a witness from testifying against them is admissible as proof of consciousness of guilt. The Court in *State v. Goodson*, in a concurring opinion stated "Evidence that a person charged with a crime procured or attempted to procure [the] absence of a witness or to bribe or suppress testimony against him tends to show unrighteousness of defendant's cause and a consciousness of guilt." *State v. Goodson*, 225 S.C. 418, 429 (1954).

In Conclusion, for the aforementioned reasons, the State requests that the Solicitation to Commit a Felony (Murder) indictment be consolidated with the Defendant's original charges (Burglary First Degree, CSC First Degree, Kidnapping, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime) and that they be allowed to be tried together.

c. Motion to Exclude Evidence of Third Party Guilt

The State moves that the Court prohibit testimony that another person could have committed the above-mentioned offenses, as it is not relevant to the charges against Defendant, Aaron Capers, and is not inconsistent with his own guilt. The State also requests that any third-party guilt evidence be proffered outside the presence of the jury.

South Carolina has repeatedly held that evidence of third-party guilt can be excluded if the proffered evidence is not limited to facts that are inconsistent with the defendant's own guilt. In fact, the standard for what is admissible under third-party guilt is well settled in South Carolina law and the rule was adopted early in *State v. Gregory*:

"...evidence offered by accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible." *State v. Gregory*, 198 S.C. 98, 104 (1941); *State v. Burgess*, 391 S.C. 15, 22 (Ct. App. 2010); *State v. Cope*, 385 S.C. 274, 292 (Ct. App. 2009).

Later in *State v. Swafford*, the Court relied on the core principle asserted in *Gregory* to reject evidence that another person committed the crime of felony driving under the influence resulting in death. *State v. Swafford*, 375 S.C. 637 (Ct. App. 2007). In *Swafford*, two eye witnesses identified the defendant as the driver at the scene and testified at trial. Conversely, the Court excluded evidence of an eye witness who claimed to have seen the defendant an hour before the accident in the passenger side of the vehicle while another person (matching the description of the third party) was driving, as well as evidence of incriminating statements made by the third party. The Court reasoned that the proffered evidence raised a "mere" suspicion that the third party may have been driving an hour before the accident.

In the present case, the victim gave a detailed account of the offenses and her account is corroborated by the physical evidence collected from the scene. The victim disclosed that the Defendant forced her to perform oral sex and that she spat his semen into a sweatshirt. The Defendant's semen was identified from the sweatshirt and a swab collected from the victim's mouth. The victim also disclosed that the Defendant was wearing a mask with large teeth. A mask

with large teeth was collected from the Defendant's home down the street from the victim. The victim disclosed that the Defendant stole her debit card. The victim's debit card was used at a gas station where the Defendant was identified on video camera at the same period of time that the card was used. The vehicle identified on the tape at the gas station was also parked at the home of the Defendant's father- where he was staying.

The Court in *Gregory* stated: "...Furthermore, to be admissible, evidence of third-party guilt must be "limited to such facts as are inconsistent with [the defendant's] own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence." *Id.* at 104.

This rule continues to be consistently applied throughout South Carolina case law. In *State v. Parker*, the Court rejected evidence that the person who found the victim and reported the crime to the police was the guilty party. The Court stated:

"Remote acts, disconnected and outside the crime itself, cannot be separately proved for such a purpose. An orderly and unbiased judicial inquiry as to the guilt or innocence of a defendant on trial does not contemplate that such defendant be permitted, by way of defense, to indulge in conjectural inferences that some other person might have committed the offense for which he is on trial, or by fanciful analogy to say to the jury that someone other than he is more probably guilty." *State v. Parker*, 294 S.C. 465, 467 (1988).

Another 2008 Court of Appeals case, *State v. Rice*, articulated that the proper standard for admission of third-party guilt evidence is that "there must be proof of connection with the crime, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party". *State v. Rice*, 375 S.C. 302, 322 (Ct. App. 2008), overruled on other grounds by *State v. Byers*, 392 S.C. 438 (2011).

In the present case, there is no "train of facts or circumstances" linking any third party to the victim or to evidence in the case. The evidence leads squarely back to the defendant.

Even after *Holmes v. South Carolina*¹¹, a case that was reversed for keeping out evidence of third party guilt, our courts have preserved the *Gregory* rule by distinguishing *Holmes* to maintain the *Gregory* precedent. *Holmes v. South Carolina*, 547 U.S. 319 (2006). In *Miller v. State*, the Court explained *Holmes*' effect on the third party guilt doctrine this way:

"*Holmes* essentially permits a defendant to introduce evidence of third-party guilt regardless of the strength of the State's case if the evidence offered by the accused as to the commission of the crime by another person is limited to such facts as are inconsistent with his own guilt and that raise a reasonable inference or presumption as to his own innocence." *State v. Miller*, 379 S.C. 108, 114 (2008).

In conclusion, the State moves that the Court prohibit testimony that any other person committed the above-mentioned crimes and that any third party guilt evidence be proffered outside the presence of the jury.

d. Motion for Trial Date Certain

For its Motion, the State requests that the Court set a date certain for trial for the above named indictments for the February 11, 2019, term of Court or as soon after, as is possible. The victim in the State's case is eighty-one years old and medically fragile. Additionally, while in jail awaiting trial on the charges of Criminal Sexual Conduct in the First Degree, Burglary First Degree, Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, and Kidnapping, the Defendant attempted to hire an accomplice to kill the victim. The State has concerns about losing a material witness for this case and respectfully requests a trial date certain

¹¹ In *Holmes*, the trial court erroneously considered not only the proffered third-party guilt evidence, but weighed the strength of the State's forensic evidence against that proffered third party evidence. In the present case, third-party guilt evidence is inadmissible on its own.

in consideration of the State's right to a fair trial, and the victim's rights to notice and participation in this court proceeding under S.C. Code Ann. § 16-3-1545.

The victim in this case, Mitsue Listak, is essential to the State's case. She is a material witness, necessary to meet the State's burden of proof. She is of advanced years and her health is fragile. Additionally, she can no longer return to her home for fear that another attempt will be made on her life. After suffering a stress induced heart attack after the initial assault; her inability to return to her home and her support system, has negatively impacted her mental and physical health further. In this case, justice delayed truly may be justice denied, as the victim may not be available to testify if the trial date is set too far in the future. The Defendant's right to a fair and speedy trial is a sound principle grounded in the Constitution; but the State also has a right to a fair trial, and to delay the trial date in this matter could deny the State that right. Indeed, The United States Supreme Court has underscored this fundamental truth in several opinions.

In *Barker v. Wingo*, the Supreme Court articulated interests other than those of the accused in discussing the issue of a speedy trial. *Barker v. Wingo*, 407 U.S. 514 (1972). The Court stated: "In addition to the general concern that all accused persons be treated according to decent and fair procedures, there is a societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused." *Id.* at 519.

In *Flanagan v. U.S.*, the Court again discussed the guarantee of a speedy trial, this time in the context of the final judgement rule. *Flanagan v. U.S.*, 465 U.S. 259, 264 (1984). The Court clearly expressed the interest of the State, in addition to that of the Defendant:

"Promptness in bringing a criminal case to trial has become increasingly important as crime has increased, court dockets have swelled, and detention facilities have become overcrowded. As the Sixth Amendment's guarantee of a Speedy Trial indicates, the accused may have a strong interest in speedy resolution of the charges

against him. In addition, "there is a societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused." *Barker v. Wingo*, 407 U.S. 514, 519, 92 S.Ct. 2182, 2186, 33 L.Ed.2d 101 (1972). As time passes, the prosecution's ability to meet its burden of proof may greatly diminish: evidence and witnesses may disappear, and testimony becomes more easily impeachable as the events recounted become more remote... Finally, when a crime is committed against a community, the community has a strong collective psychological and moral interest in swiftly bringing the person responsible to justice. Prompt acquittal of a person wrongly accused, which forces prosecutorial investigation to continue, is as important as prompt conviction and sentence of a person rightly accused. Crime inflicts a wound on the community, and that wound may not begin to heal until criminal proceedings have come to an end." *Id.* at 264.

In addition to the State's right to a fair trial, South Carolina law also protects victims' access to the Courts. The law recognizes victims' rights to be notified and have full access to hearings, trial, and other proceedings. South Carolina Law dictates that: "The circuit or family court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant." S.C. Code Ann. § 16-3-1545; *State v. Gillian*, 360 S.C. 433 (Ct. App. 2004); *State v. Mizzell*, 349 S.C. 326 (2002).

Our Courts have also recognized the special needs of our most vulnerable victims: "circuit or family courts must treat sensitively witnesses who are very young, elderly, handicapped, or who have special need by using closed or taped sessions when appropriate." S.C. Code Ann. § 16-3-1545.

This section enumerates specific ways to make our courts accessible to elderly victims- the intent is clearly to emphasize the importance of equal access to our judicial system for all victims. This victim does not require closed or taped sessions but will lose her access to the courts if her trial is not expedited, due to her advanced age and medical problems.

Without an expedited trial date, there is a substantial chance that the victim and material witness, will not be able to testify, thus depriving the victim of her day in court and the State of a fair trial.

For the foregoing reasons, State requests that the Court set a trial date certain for the week of February 11, 2019, to ensure that the State and victim receive a fair trial.

c. Motion to Schedule Videotaped Testimony of Victim Pursuant to
S.C. Code Sections 16-3-1550 (E), 16-3-660

Please take notice that the undersigned Attorney for the State requests that this Honorable Court, pursuant to S.C. Code §§ 16-3-1550 (E), 16-3-600; *Maryland v. Craig*, 497 U.S. 836 (1990); *State v. Johnson*, 422 S.C. 439 (2018); and *State v. Murrell*, 3303 S.C. 77 (1999); schedule videotaped testimony of the victim in the above-captioned case, by February 11, 2019, if the case is not tried by that date, or as soon thereafter as this matter can be heard.

South Carolina law allows for videotaped testimony and depositions in certain circumstances: The specific statutes that cover this issue include:

S. C. Code § 16-3-1550(E), provides: "The circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration."

S.C. Code § 16-3-660, provides: "Before or during the trial of a person charged with rape or assault with intent to ravish, when the female who is alleged to have been assaulted is a witness, the judge of the court in which the case is to be tried may, in his discretion, by an order direct that

the deposition of such witness be taken at a time and place designated in such order within the county in which the trial is to be had upon such notice to the accused as the judge may direct."

S.C. Code § 16-3-670, provides: "Such deposition shall be taken by the clerk of the court of general sessions for the county in which the case is to be tried or by such other officer as the presiding judge may name in his order, at the taking of which the accused shall be present and shall have the same rights in regard to the examination of the witness as if she were testifying in open court. No persons other than the attorneys for the State and accused shall be present unless expressly admitted by the judge, and the accused shall have the right to object to the admissibility of the testimony of such witness, either at the time of the taking of the deposition or when the same is offered in evidence on the trial in open court."

Further, the procedures for attendance of the parties, securing of the deposition, reading of the deposition and destruction of the deposition are detailed in S.C. Code §§ 16-3-680, 16-3-690, 16-3-700, 16-3-710, and 16-3-720.

In the present case, the victim is of advanced age and her health is fragile. At eight-two years old, she suffers from chronic obstructive pulmonary disease, chronic anxiety, takotsubo cardiomyopathy, hyperlipidemia, carotid artery stenosis, peripheral arterial disease, osteoarthritis, interstitial lung disease, osteoporosis and hypertension. She also suffered from stress induced heart failure after the sexual assault on December 21st, 2017. The victim is followed regularly by her cardiologist, Dr. Ghazala Javed, and has multiple cardiac risk factors.

Should the case not be tried during the February 11, 2019, Term of Court, the State requests videotaped testimony of the victim be scheduled at that time or as soon thereafter as this matter can be heard; so that the State does not lose the opportunity to present a material piece of evidence,

and the victim is not deprived of her statutory right to access this trial. The State, like the Defendant, has a right to a fair and speedy trial; See *Barker v. Wingo*, 407 U.S. 514 (1972); *Flanagan v. United States*, 465 U.S. 259, 264-265 (1984); and *Snyder v. Com. of Mass.*, 291 US 97, (1934). Additionally, South Carolina law protects victims' access to the Courts. The law recognizes victims' right to be notified and have full access to hearings, trial and other proceedings. S.C. Code Ann. § 16-3-1550 (D), (E).

Specifically, with regard to S.C. Code § 16-3-1550 (E), the Court in *State v. Johnson*, has held:

"South Carolina has not specifically addressed the tension between two-way video testimony and a defendant's rights under the Confrontation Clause. However, South Carolina has recognized modifications to the traditional presentation of testimony may be appropriate in certain situations involving vulnerable witnesses." *State v. Johnson*, 422 S.C. 439, 452 (2018).

The Court went on to say:

"The Fourth Circuit has indicated the generalized conviction of criminal offenses is not sufficient to dispense with in-court confrontation and other courts have generally permitted such testimony only in cases in which the witness's health prevents him or her from traveling or possibly when a witness is beyond the subpoena power of the court." *Id.* at 451.

The Court recognized the need for modifications to the traditional presentation of testimony for vulnerable victims in some situations, but rejected the use of two-way video for a police officer's testimony in the *Johnson* case. The present case is distinguished from *Johnson*, in that the State is requesting testimony with the victim in person; the State is not requesting testimony via skype or two-way video. The State requests that the Defendant be present and able to face the witness, cross-examine her and preserve all of his objections. Also distinguishable from *Johnson*, is the basis of the State's motion. This request is not based on a goal of generalized conviction of

a criminal offense; but rather, to protect this victim's access to the process and afford the State a fair trial by preserving a material piece of evidence should the victim pass away or become otherwise unable to testify due to any of her medical conditions. The *Johnson* case discusses the "Craig test" referring to *Maryland v. Craig*, in which the Supreme Court found that testimony taken of a young child outside the presence of the defendant was proper where a case specific finding was made as to the need for such testimony. *Maryland v. Craig*, 497 U.S. 836 (1990). Here, the State is not requesting that testimony be taken outside the presence of the Defendant. Here, the request is for testimony to be taken in advance of trial, but in the presence of the Defendant due the victim's advanced age and health conditions. The State has provided letters and records of the victim as exhibits to this motion but can have witnesses available should the Court wish to take testimony in order to make a case specific finding.

The State has already filed a Motion to Set a Trial Date Certain in this case and requested this Court to schedule this trial for the February 11, 2019, Term of Court or as soon thereafter that the Court sees fit. The State has also sent Defendant's attorney a trial notice for September 17, 2018 and Defendant has requested a continuance. Should the Court decline to grant the State's previous motion, and/or continue the case; the scheduling of this videotaped testimony will preserve this evidence without depriving the Defendant of his Sixth Amendment right to confront witnesses. Indeed, the Defendant will be present and have the opportunity to confront and cross-examine the witness. The Defendant will also maintain the right to object to the admissibility of the testimony of the victim, either at the time of the taking of the deposition or when the same is offered in evidence on the trial in open court.

For the foregoing reasons, the State moves to take a videotaped testimony of the victim, pursuant to S.C. Code §§ 16-3-1550 (E), 16-3-600; *Maryland v. Craig*, 497 U.S. 836 (1990); *State v. Johnson*, 422 S.C. 439 (2018); and *State v. Murrell*, 3303 S.C. 77 (1999); if the case is not heard during the February 11, 2019 Term of Court or as soon thereafter as the matter can be heard.

D. Potential Witnesses

The State anticipates its case-in-chief will take three (3) days. The following is a list of *potential* witnesses. The State does not anticipate calling all of the witnesses on this list.

1. Mitsue Listak
2. Ryland Kowalski
3. Logan Carpenter
4. Sam Witman,
5. Emi Davidson,
6. Ichiwa Davidson,
7. Violet Walsh
8. Investigator Lindsey Wright Goose Creek Police Department (GCPD)
9. Officer Justin Hart, GCPD
10. Sgt Ted Davis, GCPD
11. Officer Kent Johnson,
12. Investigator Nick Powell, GCPD
13. Investigator Charles Dodson, GCPD
14. Sgt David Banks GCPD
15. Sandra Favero GCPD
16. Investigator Paul Tremblay, GCPD
17. Captain Dave Aarons, GCPD
18. Investigator Robert Logan Wolfson, GCPD
19. PFC Alexander Erickson GCPD
20. Ptl. Daniel Morrison, GCPD
21. Lt. William Ramirez, GCPD
22. Sgt Christopher McElman, GCPD
23. Cpl David Mitchum GCPD
24. Cpl Chad Moree, GCPD
25. PFC Bryan Carlson, GCPD
26. Ptl Tracy Cowee, GCPD
27. Ptl Bryan Hughes, GCPD
28. Sgt David Coffey, GCPD

29. Ptl. David Bucci, , GCPD
30. Ptl. Ahmad Sabbah, GCPD
31. Officer Edward Clemens, GCPD
32. Lt Dobbs, Hil Finklea Detention Center
33. Wendy Myers, GCPD
34. Jesse Gill,
35. Ryan Kelly, South Carolina Law Enforcement Division (SLED)
36. Kathryn Leisy, Forensic Scientist, SLED
37. Courtney Thompson, Forensic Scientist, SLED
38. Andrena Harrison, SLED
39. Officer Holbrook,
40. Karen Hughes, RN, MUSC
41. Marie Krywko, MD, MUSC
42. Daniel Weiberg,
43. Brian Johnson,
44. Christopher Capers
45. Ludielle Rodriguez
46. Jasmyn Richardson
47. Danny Conyers, Wells Fargo Bank
48. Candace Basnillo, Speedway Gas Station
49. Danny Mizzell, Hil Finklea Detention Center

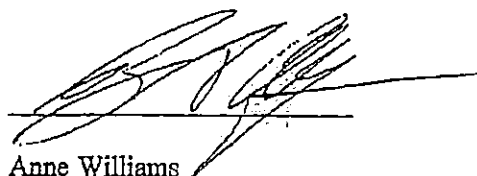
II. PROPOSED VOIR DIRE

1. Have you, your relatives or your close friends had any contact with law enforcement officials that might prejudice you against law enforcement?
2. Is there anybody here who would vote "not guilty" no matter what the evidence indicates, merely because this crime may result in a prison sentence?
3. Is there anyone who holds religious, moral, ethical or philosophical beliefs that would prevent you from sitting in judgment of your fellow human being in a criminal case?
4. Have you or anyone you know been falsely accused of a crime?
5. Do you watch the Television Program CSI, Law and Order, and do you realize these shows are fictional?
6. Have you, any member of your family, or a personal friend, been falsely accused of a

crime?

7. Have you, any member of your family, or a personal friend, been accused of a sexual assault?
8. Is there anyone that has previously been a witness in a civil or criminal case?
9. Have you or any member of your family, or a personal friend, been involved with law enforcement or the legal system in any case of sexual assault or physical assault?
10. Have you or any member of your family ever had any criminal charges adjudicated by or currently pending with the Charleston or Berkeley County Solicitor's Office?
11. Have you or any member of your family ever been represented by Sharon Capers?

Respectfully submitted,


Fen Anne Williams
Assistant Solicitor
Ninth Judicial Circuit

Charleston, South Carolina
January _____, 2019

000727

STATE OF SOUTH CAROLINA

FILED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY

NINTH JUDICIAL CIRCUIT

2021 FEB 19 PM 1:31

STATE OF SOUTH CAROLINA

LEAH GUERRY, DUPLICATE
CLERK OF COURT

ORDER DENYING DEFENDANT'S MOTIONS

vs.

BERKELEY COUNTY, SC

Indictment #2018-GS-08-00528

Indictment #2018-GS-08-00529

Indictment #2018-GS-08-00530

Indictment #2018-GS-08-00531

Indictment #2018-GS-08-00532

AARON MCKENZIE CAPERS,

DEFENDANT.

Charges: Possession Of A Weapon During The Commission
Of A Violent Crime, Burglary First Degree, Kidnapping,
Armed Robbery, Criminal Sexual Conduct First Degree

SC Court of Appeals

APR 02 2021

RECEIVED

This matter came before the Court on February 17, 2021 for a final hearing on the following motions filed by Defendant: Motion to Reconsider Sentence; Motion for a New Trial, and Motion for Judgement Not Withstanding the Verdict. Present for the WebEx Virtual Hearing was the Defendant, Aaron McKenzie Capers, Counsel for the Defendant, Sharon Capers, and Counsel for the State, Anne Williams.

On March 21, 2019, the Defendant was sentenced to the following at the conclusion of a Jury Trial: Indictment #2018-GS-08-00528, Possession of a Weapon during the Commission of a Violent Crime: five (5) years; Indictment #2018-GS-08-00529, Burglary First Degree: fifty (50) years; Indictment #2018-GS-08-00530, Kidnapping: thirty (30) years; Indictment #2018-GS-08-00531; Armed Robbery: thirty (30) years; Indictment #2018-GS-08-00532, and Criminal Sexual Conduct in the First Degree: thirty (30) years.

The fifty (50) year sentence on Indictment #2018-GS-08-00529, Burglary First Degree was ordered to run consecutive to the thirty (30) year sentence on Indictment #2018-GS-08-00532, Criminal Sexual Conduct in the First Degree, for a total of eighty (80) years, and all other sentences were ordered to run concurrent to these charges and to each other, for a total of eighty (80) years in the South Carolina Department of Corrections.

On April 1, 2019, the Defendant, through his Counsel, filed a Motion to Reconsider Sentence, Motion for a New Trial, and Motion for Judgement Not Withstanding the Verdict. On April 15, 2019, the State filed a Response to Defendant's Motion to Reconsider Sentence. On January 6, 2020, a hearing was conducted and the Court heard testimony and arguments from both the Defendant and the State, along with testimony of multiple witnesses. At the Defendant's request, the Court delayed a ruling until the Defendant could schedule and undergo a psychiatric evaluation and submit a report of such to the Court.

On December 2, 2020, the Court and the State were provided with a report of the psychiatric evaluation of the Defendant performed by Dr. Donna S. Maddox along with Dr. Maddox's Curriculum Vitae. On February 17, 2021, having reviewed the psychiatric evaluation submitted by Defendant, the Court had a final hearing whereby the Defendant addressed the Court and final arguments were made by the Defendant's Attorney, Sharon Capers, and Counsel for the State, Anne Williams.

Having considered all of the evidence, testimony and arguments presented in this matter, the Court orders as follows: Defendant's Motion to Reconsider Sentence, Motion for a New Trial, and Motion for Judgment Not Withstanding the Verdict are hereby all denied.

IT IS SO ORDERED:

The Honorable R. Markley Dennis, Jr.

2/19/21

Orders Group (E)

The South Carolina Court of Appeals

The State, Respondent,

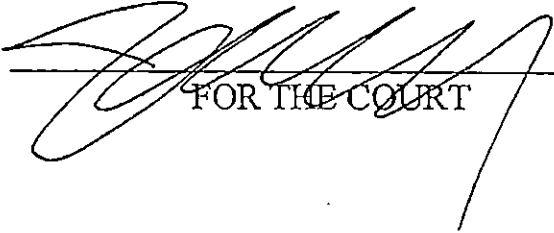
v.

Aaron Mckenzie Capers, Appellant.

Appellate Case No. 2019-000511

ORDER

On March 22, 2023, Appellant moved (1) to file a psychiatric evaluation that was submitted to the court of general sessions under seal in the court of appeals as part of the record on appeal, (2) to submit agreed upon documents in lieu of Court's Exhibit #1 from the January 6, 2020, hearing held in the court of general sessions, and (3) to extend the deadline for filing the record on appeal to thirty days from the date of this order. After careful consideration of Appellant's motion to seal and the factors set forth in *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006), the request to file the psychiatric evaluation under seal is denied. The request to submit the agreed upon documents in lieu of Court's Exhibit #1 is granted. Finally, the request to extend the deadline for filing the record on appeal is granted; the record on appeal is due thirty days from the date of this order.



FOR THE COURT

Columbia, South Carolina

cc:

Tara Dawn Shurling, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds Farthing, Esquire
Scarlett Anne Wilson, Esquire

FILED
May 11 2023



Donna S. Maddox, MD, LLC
Consulting Forensic Psychiatrist

Aaron McKenzie Capers
DOB: 6/21/99
Date of Evaluation: 6/30/20
Date of Report: 8/25/20

Dear Mrs. Capers,

Thank you for referring Aaron for psychiatric evaluation. I examined him virtually via Microsoft Teams on 6/30/20 for two hours. He was incarcerated at Lee Correctional Institution at the time. I also spoke with you at length prior to his psychiatric evaluation to determine his developmental and family history and to get details about his trauma history. I spoke to you again to obtain further history subsequent to his evaluation after your daughter disclosed domestic violence in the household.

I reviewed the trial and sentencing transcript with particular attention to his sentencing. Solicitor Williams presented his lack of prior criminal history but did present details about the victim's health deteriorating and the detrimental effects of moving and finding safety regarding the solicitation to kill her.

I reviewed his Trident Tech and USC transcripts. I interviewed his sister Christina Capers. I have reviewed his SCDC records.

You presented that he was 18 years old and a true freshman at University of South Carolina during his sentencing. You reported he had already obtained an Associate's degree. You stated that you had not prepared mitigation and asked for time to prepare mitigation according to the standard of Aiken v Byars. The solicitor objected because there had already been one continuance. Judge Dennis replied he was not imposing a life sentence which would obviate Aiken v Byars.

Judge Dennis sentenced Aaron to 50 years for the Burglary first and a consecutive 30 years for the Criminal Sexual Conduct and a 30-year concurrent sentence for the Kidnapping and Armed Robbery. He was also sentenced to 5 years concurrent for possession of a firearm during the commission of a violent crime.

Review of the SCDC Inmate Offender Summary indicates his projected release date is 11/25/2085. He will be at 86 years old at that time, which is tantamount to a life sentence given the shortened life expectancy of South Carolina inmates. Research shows that each year spent in prison reduces life expectancy by two years. The Dose-Response of Time Served in Prison on Mortality: New York State, 1989-2003. Evelyn Patterson American Journal Public Health Association March 2013.

The following is a list of factors and other information that should have been presented to Judge Dennis for sentencing.

1. At the age of 18, Aaron did not have complete brain development. He also was treated as an infant for Failure to Thrive which can have adverse effects on brain development. Additionally, he had some mild closed head injuries which may have slowed his brain development compared to other 18-year old peers without this history. Finally, Aaron was using drugs which further deteriorated his judgment.
 - a. The CDC reports that older teenagers show more independence from their parents. They have a deeper capacity to develop intimate relationships. They often feel a lot of sadness and depression, which can lead to poor grades, substance use, unsafe sex and other problems. 18-year olds do not have complete brain development. Their frontal lobes are beginning to develop, but their prefrontal cortex does not develop until their mid 20s.
 - b. *The American Academy of Child and Adolescent Psychiatry Teen Brain: Behavior, Problem Solving and Decision Making No. 95, September 2016* notes that adolescents occasionally behave in an impulsive, irrational or dangerous way. The amygdala is responsible for immediate action including fear and aggressive behavior. This region develops early in adolescents. The frontal cortex which is the area of the brain that controls reasoning develops later.

1. The actions of teenagers are guided more by emotional and reactive amygdala and less by the logical frontal cortex. Adolescents are more likely to act on impulse, misread social cues and emotions, get into accidents of all kinds, get involved in fights and engage in risky and dangerous behavior. Exposure to drugs can delay or change this development.
 2. Teenagers are less likely to think before they act, consider consequences or change their behavior.
- c. ncbj.nlm.nih.gov refers to a study: Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy published in the Journal of Adolescent Health in 2009. The article summarized what is known about adolescent brain development and what remains unknown. Studies demonstrate that the neural connections between the amygdala (a limbic structure involved in emotional processing, especially fear and violence), and the frontal lobe cortexes become denser during adolescence. The three behavior changes amongst teens seen across cultures are increased novelty seeking, increased risk taking and peer-based associations. They develop better impulse control and long-term planning by the age of 17.
 - d. Aaron was referred for a neuropsychological evaluation by Dr. Gordon Teichner. Because of restrictions in his practice and limitations of SCDC to accommodate visits, the evaluation was not completed.
 - e. Aaron reported a closed head injury and has a scar over his left eye which coincides with his report. He reported while at camp during his childhood, he was not wearing his glasses and hit a rock while zip lining.
 - f. He reported a "couple of head injuries while play fighting in high school." He reported a friend, who was a wrestler would often play fight with him.
 - g. He reported numerous head injuries due to "offensive charges" while he played basketball. He reported he fell backwards and hit his head a few times.
 - h. He reported he broke his ribs in middle school from a sports accident and was treated at Summerville medical.
 - i. He was involved in a car wreck and sustained a whiplash injury. He stated his family was on the interstate and he was in the back seat.
 - j. He reported he was hit by the front of a car while jogging with his dogs.

- k. He reports infrequent headaches on the right side of his head. He stated he sees: "little stars."
- l. Aaron's mother, Sharon reported that she was 33 years old when she gave birth to Aaron. She noted that Aaron was born breach and very early on treated for Failure to Thrive (FTT). Failure to thrive can delay development of mental and social skills (Johns Hopkins...hopkinsmedicine.org).
- m. Aaron reported he was using approximately one ounce of marijuana every two weeks. He reported he could not get high and study at school. He also admitted to using LSD socially. He denied tracers or LSD flashbacks. He also admitted to using Xanax on occasion and "blacking out."

2. The dysfunction in Aaron's family and home environment was minimized. He was exposed to verbal and perhaps physical abuse from his father and may have witnessed or been exposed to domestic violence and the physical abuse of his brother.

- a. Aaron is the second of three children. His sister Christine is 1.5 years older and is a 2nd Lt. in the United States Air Force. She graduated from the Citadel in 2019 and lives in England. His brother, Moses is 3 years younger and will attend the Citadel after Covid restrictions are lifted.
- b. Mrs. Capers reported Aaron had difficulty adjusting in kindergarten because his teacher frequently yelled. She described him as a quiet child who got extremely nervous ("walking on tiptoes") when exposed to the teacher. She noted she withdrew him after he was punished after telling the teacher another child spit on him.
- c. Aaron stated he was five years old when his parents separated.
- d. Mrs. Capers reported she filed for divorce after her husband beat Moses (age 3) naked with a belt. Mrs. Capers reported Aaron was present but has suppressed the memory.
- e. Mrs. Capers reported that Aaron and Christina held an unspoken resentment towards Moses regarding the divorce.
- f. Interview with Christina Capers revealed that Mrs. Capers was physically abused by her husband. Christina reported that she would see the aftereffects of abuse such as her mother crying but never saw her father physically harm her.

- g. Mrs. Capers reported three instances of physical abuse. She reported Mr. Capers pushed her when her daughter Christina was 18 months old, but before Aaron was born. She reported an episode when Mr. Capers would not let her exit their vehicle when Aaron was two months old. She reported he grabbed her arm during an argument after he assaulted Moses. She called 911 immediately. Aaron was five years old. She recalled her ex-husband Chris verbally "laying Aaron out" for not knowing how to spell "dad" in kindergarten. She stated Aaron told Chris he didn't know how to spell it because he was never around.
- h. Aaron nor Sharon Capers reported the domestic violence to the undersigned during their initial interviews.
- i. Christina Capers reported that her father abused alcohol. Mrs. Capers reported that her ex-husband was not a heavy drinker but could not control his drinking once he started. This form of alcoholism is known as gamma alcoholism.
- j. Mrs. Capers reported Aaron attended St. John's private school in Moncks Corner.
- k. Christina reported that she and Aaron were close.
- l. Christina reported that Aaron was physically abused by his father at times. She reported he would be hit for not saying please or thankyou as an example.
- m. She has vague memories of Moses being beaten naked. "That was a long time ago." She reported that if she was in the room, Aaron would have been also.
- n. Aaron reported witnessing his sister's boyfriend hit her once.
- o. Aaron denied physical abuse.

3. Aaron has features of Post-Traumatic Stress Disorder that were not presented.

- p. Aaron experienced a number of traumatic events while at USC.
- q. Aaron reported he was molested in college. He reported he was molested by a large female while drunk at a college party. "It bothered me that people thought it was a joke when I told them. I don't let myself get out of control anymore. I don't drink."
- r. Aaron began avoiding behaviors associated with the molestation. He reported he no longer drank for fear of losing control. He also refused visits while detained to avoid being strip searched.

- s. His sister Christina noted that when he returned home from USC for Christmas Break, he was a "completely different person."
 - t. She reported he often had a vacant look in his eyes.
 - u. He reported he has had a gun fired at him. "I was in the wrong place at the wrong time." He reported while at USC in Columbia, he drove to pick up some freshman girls. He stated some males on Bluff Road fired a gun at him.
 - v. He reported he witnessed a stabbing at Lee since his confinement.
 - w. Aaron's grandmother died on 8/26/17. She was diagnosed with cancer six months before her death. His mother reported she was absent from the home during this time because she was caring for her mother.
 - x. Christina reported that Aaron and his grandmother were especially close. She stated Aaron never discussed his grandmother's death with her.
 - y. Aaron has some features of dissociation. His mother reported he was present at age 5 when his father physically abused Moses. Aaron does not recall the abuse.
 - z. When obtaining a school history, Aaron was unable to name all of his teachers including his first-grade teacher nor his third-grade teacher.
- 4. Aaron's recent cognitive examination demonstrates good development of his frontal lobes which is associated with the capacity for better judgment. His brain development will continue until his mid-twenties.**
- a. Aaron completed a trail making test which is a measure of frontal lobe function.
 - b. He did well on tests that measured visuospatial skills.
 - c. He had no errors on tests of concentration and attention.
 - d. He performed well above average on a test of verbal fluency which is a frontal lobe function.
 - e. He was able to abstract similarities between objects.
 - f. He did exhibit an error of confabulation on a memory task.
 - g. He also had some perseveration on a Luria examination.
- 5. Aaron is adjusting to confinement.**
- a. He was involved in a Mentee work program called VERAS. This is known as the Restoring Promise Program. The program uses mentors, classes

and community meetings to change the prison experience. It is a pilot program implemented to address young inmates in high security prisons.

- b. He reported he is "making the most" from his sentence. He reported: "I am not comfortable. I read, work out and have found peace."
- c. He reported he gets along with his current roommate. "He's quiet."
- d. He had one disciplinary for Indecent Exposure on May 2020. He stated while working out, he was accused of exposing himself. He has appealed this charge and reported he was hiding a radio in his pants.

6. Aaron's sexual history was not presented. He has had high risk sex which was associated with his young age and brain development.

- a. He had consensual sex in 8th grade.
- b. He reported more than 20 partners.
- c. He reported he was molested in college. "I didn't drink like that. I went to a friend, Dante Craig's dorm. The girls came. There was a girl there. I was not trying to get with her. Later that night, they got me out of her bed. It bothers me, that people think it is a joke when I told them."

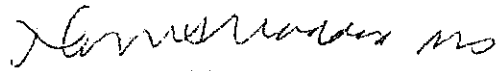
7. Aaron reported he was intoxicated at the time of the offense.

Aaron reported on the night of the offense, he was with "other" people he knew from home and school. He said they tried "something different." He thinks the two or three blunts they rolled had Xanax in them. "I had never been that high before." He admitted he had smoked spice laced with wax in the past, and this was different. He stated he got dizzy. He reported he remembered pumping gas, riding around and getting cigars to roll more weed. He stated he had no memory of raping the victim.

Conclusions:

Aaron had had no prior history of violence. He has been convicted of a single aberrant act. His behavior was caused by a multitude of factors. He has been exposed to prior trauma and had recent trauma prior to his offense. He has a paternal genetic predisposition to substance abuse. His maternal grandparents also abused substances. Substance abuse rates are also elevated in persons with pre-existing trauma. He reports he was intoxicated and has poor memory for the offense which is not uncommon in persons with previous trauma exposure. **Note:** He does not recall his brother being beaten while naked, although his mother

reported he was there. His lack of brain maturity also contributed to poor judgment and reckless behavior. He is a good candidate for rehabilitation. He is educated and has a supportive family. His frontal lobe function is good. He was participating in the Veras program through SCDC which is designed to help the younger offenders and should resume that program in September 2020.



Donna S. Maddox, MD

Consulting Forensic Psychiatrist

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County
Honorable R. Markley Dennis, Jr. Circuit Court Judge
Appellate Case No. 2019-000511

The State of South Carolina,

Respondent,

v.

Aaron McKenzie Capers,

Appellant.

**AFFIDAVIT
OF
SHARON CAPERS, ESQUIRE**

I, Sharon Capers, (print name), being duly sworn, do hereby attest to the following:

1. I am the mother of Aaron McKenzie Capers, Defendant in the above captioned General Sessions matter; hereafter Appellant.

2. I represented Appellant, on five charges in the Berkeley County Court of General Sessions which included the following: Burglary 1st degree, Armed Robbery, Criminal Sexual Conduct 1st degree, Kidnapping, and Possession of a Weapon During the Commission of a Violent Crime.

3. Appellant was convicted as charged on March 21, 2019 and was sentenced by the Honorable R. Markley Dennis, Presiding Circuit Judge, to an aggregate sentence of eighty (80) years.

4. After Appellant was convicted and sentenced, I served and filed a Motion for a New Trial and Motion to Reconsider Sentence with the Berkeley County Clerk of Court on Appellant's behalf.

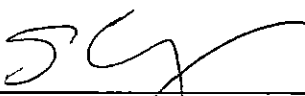
5. A hearing on these motions was held on January 6, 2020 before The Honorable R. Markley Dennis. During that proceeding, I submitted for the Court's consideration a packet of letters that had been given to me by individuals wishing to show their support for the Motion to Reconsider Sentence.

6. The letters provided to the Court during the January 6, 2020 hearing were, at the instruction of Judge Dennis, marked as Court's Exhibit No. 1.

7. I have recently been advised that **Court's Exhibit No. 1** is missing and that all efforts to locate it have failed. I have specifically been advised that the Berkeley County Clerk of Court's office, the Court Reporter, and the Solicitor's Office have been contacted concerning this missing exhibit and have each advised that they do not have it. Attorney Shurling has further informed me that she has personally spoken with Judge Dennis to determine whether he, or his staff, may have found this missing exhibit when his office was cleared out at the time of his recent retirement. Ms. Shurling has informed me that Judge Dennis specifically told her that it was his policy while on the bench to never to take possession of exhibits and that he did not do so in this case. My son's appellate lawyer, Tara Dawn Shurling, Esquire, contacted me and asked that I search my files to be certain that this Court's Exhibit had not been inadvertently packed up with my files at the conclusion of this hearing.

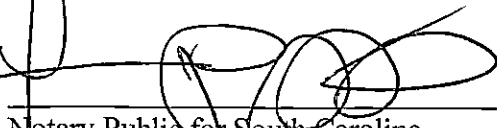
8. At Attorney Shurling's request, I have diligently searched my files and confirmed that I am not in possession of Court's Exhibit No. 1. I was, however, able to locate my copies of this group of letters and have attached a copy of those letters to this affidavit as **Attachment A**. I hereby certify that the letters contained in **Attachment A** are, to the best of my recollection, the same letters that were marked as Court's Exhibit No. 1 during the hearing held on January 6, 2020.

I hereby certify that all the above information is true to the best of my knowledge and recollection.


 Sharon Capers
 Attorney at Law
 Date: 3/28/23

SWORN TO before me this 28th day

of March, 2023.


 _____ (L.S.)
 Notary Public for South Carolina

000739

Latoya D. Scott

Printed Name of Notary Public

My Commission Expires:

7/9/2031

January 5, 2020

Attachment A

**Reconstructed Court's Exhibit 1:
Numbers on each of the 33 letters
Comprising this exhibit have been
Added for clarity**

Honorable Markley Dennis
Berkeley County South Carolina County Court Judge

David Gilmore

Travelers Rest, South Carolina 29690

Honorable Markley Dennis, I am writing this letter on behalf of Inmate Aaron Capers and request a reduction to the latest sentencing he received of eighty (80) years. Aaron, who is my nephew and have known since his birth, came up in an extremely loving, caring, and nurturing family. Aaron's upbringing provided by his parents had him to understand the benefits of a complete and well-rounded education and to give his best to society. He excelled in academics, sports, and was an outgoing young person who was admired and valued by many; especially his immediate and extended family. Aaron's character and behavior was that of kindness, helpfulness, and one of gratitude. He is loved and loved others!

We all know that in life, mistakes will be made with some larger than others. Aaron is completely understanding of his mistake and action, accepts responsibility and knows he has to serve an imprisonment time for those actions. He regrets his act and has been prayerful for forgiveness. It will not take an 80 year sentence for him to understand what he's done, and the lessening of these years would give him an opportunity to be the product of society he's destined for, goodness and kind to others.

I am asking you take into consideration a leniency in his time to be served, and allow this young man to be closer to being a young man when his time has been served, so that he can be a man of integrity to serve his family, community and country! Thank you in advance for your consideration and thank you for giving me the opportunity to express myself to you.

Very Respectfully V/R

David Gilmore

17200

2.

January 5, 2020

Andrea Moses-Gilmore

Travelers Rest, South Carolina 29690

Honorable Markley Dennis
Berkeley County South Carolina County Court Judge

Your Honor, my name is Andrea Moses-Gilmore and I am an aunt of Aaron McKenzie Capers. I have known Aaron his entire 19 years of life. These 19 years have been filled with the fondest of times. Times where his love of friends and family has showcased all of his core values. It has been a blessing and a pleasure to watch Aaron's academic accomplishments unfold and his love of family shine.

At family gatherings, Aaron was always the first to greet me with "Hi Aunt Ann, how are you," and before he was off to engage with his cousins and siblings. Most kids send a thank you text, Aaron put pen to paper and wrote a thank you note for any and every gift sent to him big or small.

I am grateful that Aaron is remorseful and deeply saddened for the strain that he has placed upon the victim and his family. Only God knows what thought process took over his mind in this isolated incident. I know that the son my sister raised in no way reflects this temporary lapse in judgement.

In closing, this letter was written with great truth, sincerity, and honesty, and on behalf of my nephew Aaron, it is my personal appeal for understanding, and a lighter and more appropriate sentencing. Eighty years in my opinion is far too harsh on this young man's life. A reduction in sentencing would restore my faith in fairness and equality in the judicial system. Thank you in advance.

Sincerely,

Andrea Moses-Gilmore

Carolyn B. H. Rogers

000742

(3)

Columbia, South Carolina 29212
Carolyn.amari@yahoo.com ~~~~~ (803) .

The Honorable Judge R. Markley Dennis, Jr.
Berkeley County Court Judge
P. O. Box 1800
300 B California Avenue
Moncks Corner, SC 29461-1800

To the Honorable Judge Markley Dennis:

It is with deep sadness that I find my nephew, Aaron McKenzie Capers, at such a dark place in his life. The Aaron that I know is struggling internally trying to rationalize how this has come to be. You see, I have known Aaron since birth. I know him simply as a child of the King. I will remember the call for the rest of my life when the reality of the situation Aaron was facing brought me to a space that was far too difficult for me to take in. I felt shock and helplessness. The only thing I could do was pray.

Judge Dennis, let me introduce myself. I am the person who has been called on often as an expert in the field of education, and a person who truly understands and can identify a person with integrity. I am a career educator at all educational levels. In public education at kindergarten through 12th grade, I have served as a teacher, coordinator of student services, principal, executive director (area superintendent), and educational consultant. At the collegiate level, I have worked as a professor, associate dean, faculty chair, and dean. I have worked with youth in crime ridden areas of Columbia and Florence, SC, Detroit, Michigan, Columbus and Cleveland, Ohio. Through it all, I have worked with others to identify those who have been caught up in the system and deserve an opportunity for reform; which brings me to my nephew, Aaron Capers.

Without a doubt, I know that my Aaron Capers was not himself on that day of the incident. Aaron was operating in a space that was not his norm and not of his understanding. The Aaron who I know is a person that I do not have to guess or decide based on hidden or misinformation. Aaron is a person whom I have watched grow up; a young man that I saw just weeks prior to the incident. Aaron graduated with an associate degree from Trident Technical College prior to receiving his high school diploma. Aaron is a highly intelligent young man with a caring heart. He loves his family and friends. He does not seek to harm or injure. The Aaron that I know had wandered from his belief. The devil had intervened in a mighty way and only God could provide the light that this storm was created to reveal.

Having said all this, please know that I believe we all must pay for the errors of our way, and like the courts, I believe the system is designed to help up understand and reform. Judge Dennis, God has given you the ultimate charge to direct the future of so many. I ask that you take this letter into consideration and reflect on the many options you have at hand to give Aaron a chance to right this wrong. Please reduce his sentence and see your way clear to give him another chance at life

Sincerely,

Carolyn B. H. Rogers

Denise Henderson

Columbus, Ohio 43213

The Honorable Judge R. Markley Dennis, Jr.
Berkeley County Court Judge
P. O. Box 1800
300 California Avenue
Moncks Corner, SC 29461

To the Honorable Judge Markley Dennis:

I have had the opportunity to meet Aaron when he was barely a year old. Aaron was vacating in Columbus, Ohio with his family. From the moment I met him, I saw a vibrant, extremely intelligent and very personable young man. Yet, overtime, life challenges and temptations get in the way of some of the best well raised human being. I can speak to you with authority about the moral condition of Aaron Capers, and I hope your good faith will consider this brief letter when you have to make your wise decision.

Aaron Capers is a great person and a child of God who somehow strayed from his flock. The Aaron that I know was lost, for I know him a person with a lot of integrity and really makes a great effort to make sure that he acts correctly at all times. Since I met him, he has shown to have a generous, kind and devoted character towards others.

I understand how difficult it is for you to have to make a decision of this type and under these circumstances, without really knowing the person in front of you, but I trust in God that you can look at this letter and feel All the support that the family and friends of Aaron Capers are trying to provide you. All this in order to tell you that we trust your wise decision, always considering the best for everyone.

Thank you,

Denise Henderson

Denise Henderson

January 6, 2020

Honorable Markley R. Dennis

Circuit Court Judge

P O Box 1800

300 B California Avenue

Moncks Corner, SC 29461

Dear Judge Dennis:

Please be informed that I have known Aaron Capers since 2005. I worked as a volunteer receptionist for his mother Sharon B. Capers, Esq. at her law firm in Moncks Corner. Over time, my relationship with the Capers family grew stronger and they became my family. I began babysitting Aaron and his siblings for many years and watch them grow. Aaron, as a young boy, was always respectful, well mannered, honest, smart, and very trustworthy. As I watched Aaron grow over the years, I watch him transform into a mature young man with ambition, drive, enthusiasm, and determination. With determination, at age 16 Aaron finished high school and attended Trident Technical College, where he earned his associate degree. What a Great Accomplishment!

Mrs. Capers, Aaron's mom, raised him and his siblings with integrity and character in a God fearing household.

Mrs. Capers, a woman of standard always wanted the best for her children and gave them the best.

Specifically, Aaron, to me, was the smartest of the three children. He always showed a special interest in his studies, along with her work ethic. I have spoken with Aaron personally on many occasions and have always respected his honesty and charisma. I am deeply saddened by the recent events pertaining to his alleged criminal offense. Matter fact, I was stunned to the point of disbelief. Nevertheless, it hasn't and will never change the fact of how proud I have been and am of Aaron. I am confident that this set back will be a comeback in Aaron's life.

I trust that you will find favor in your heart to extend Aaron mercy. Aaron deserves a second chance.

" Micah 7:18-19

18 Who is a God like unto thee, that pardoneth iniquity, and passeth by the transgression of the remnant of his heritage? he retaineth not his anger forever, because he delighteth in mercy.

19 He will turn again; he will have compassion upon us; he will subdue our iniquities; and thou wilt cast all their sins into the depths of the sea."

Mrs. Capers along with his siblings, other family and friends have suffered as a result of his actions. His determination as a young man growing up has inspired many others his age and younger to strive even higher in their educational goals.

Though there's no excuse for the alleged actions, however, I assure you Aaron has learned from his mistake. I believe he deserves much leniency, having no prior criminal record.

With Kindest Regards,

I am,

LaToya D. Scott

January 5, 2020

Judge Dennis:

This letter is in support of the Capers Family seeking a reduced sentence for Aaron Capers. I have known Aaron and the family for well over 15 years where I have been involved with the family through school and recreational activities. Each time I was in Aaron's presence he displayed and exhibited the characteristics of an outstanding young man who was well on his way of doing well in life. He was one of the first students I was introduced to who while completing the requirements towards his high school diploma was also on track to obtain his associate degree from Trident Technical College. He finished in the top tier of both of these classes and had just completed his first semester at the University of South Carolina where he was on the path to do just as well.

I would like for you to consider reducing his sentence as this whole experience has had a profound impact on him. He deeply regrets his actions and has learned from this experience of being arrested and in jail. An extended jail sentence will seriously damage the family life and derail his plans to continue his education for his career path.

I am positive Aaron along with his family would welcome the decision of a reduced sentence or anything else you deem appropriate rather than spending an extended period of time in prison.

Thank you for taking the time to reconsider his sentencing and consider an alternative sentence.

Sincerely,

Reginald K. Brown

Family Friend

From: Ron Gregg <ronandcheryl2020@gmail.com>

Date: January 5, 2020 at 3:56:56 PM EST

To: capers.law@gmail.com

Subject: Aaron Capers Character Letter

Your Honor and the people of the courts. My cousin Aaron is really a great kid. He's very smart and capable of becoming a great man. He's made a terrible mistake as lots of young men do at that pivotal stage in their lives. Alcohol and or drugs will cause a responsible adult to make a very poor choice in the moment. That's even more so with an undeveloped mind of a young man. Should that one mistake take his life away? I think not. Should there be some severe consequences? Yes. I just pray that the consequences will not be so severe that he's not allowed to be given another chance at life and success. In which I'm certain he will succeed after realizing his wrongs and given the chance to right those wrongs. I pray and plead the blood of Jesus over the mercy of your decision to lighten his sentence your Honor. Aaron has an awesome and loving mother, family, and support system. Please, if you could, give our family and Aaron a favorable judgement. I would also like to ask for forgiveness.

Respectfully,

The Gregg family



The Hearts of Men Foundation

January 04, 2020

The Honorable Judge, Markley Dennis,

My name is Travis Hunter, and I am the Founder and Executive Director of The Hearts of Men Foundation, Inc., a 501 (c)(3) non-profit organization focused on advancing the lives of teenagers in the field of education, human services, and the arts. We offer education assistance to youth via our creative writing courses teen book clubs, back to school clothing drive, as well as mentoring to "at risk" teens through our Trouble to Triumph and Job Shadowing Programs. I am also the author of twelve published novels and cousin of Aaron M. Capers.

I have known and been around Aaron his entire life. He has always been a respectful and intelligent young man. Aaron graduated from high school and college in the same week. He also had plans of following in his mother's footsteps and becoming an attorney.

When I heard about the crime, I immediately thought he must have had something in his system that altered his mind to make him act so far out of character. I'm still baffled and heartbroken that such a wonderful young man's life has been altered with an eighty-year sentence in the South Carolina Department of Corrections. My heart also aches for the victim.

I do hope and pray that his sentence can be restructured so that he will have a shot at life as I am sure he will make amends for his transgressions.

Aaron is a fine young man one who is worth saving. We all make mistakes in life and Aaron is no different, but I am sure if he's giving a sentence reduction, he will become an upstanding citizen and make us all proud.

I reside in Atlanta, Georgia and Aaron is always welcomed to come and live with me, because I believe him.

Thank you for your time and consideration.

Sincerely,

Travis Hunter

Jamar Snow

01-04-2020

Jamar.Snow82@gmail.com

Greetings:

Hello, my name is Jamar Snow. I have been coaching in the North Charleston area since 2009. Through my 10+ years of coaching I have come across many young men and women in the community, none of which have been more respectful than Aaron Capers. I became a part of his life in his early teenage years first coaching him, and as he became older he assisted me in coaching younger men. He was always genuine and took a keen interest and teaching the kids to play better, and demonstrating to them by his can do attitude to also do better in life. Aaron is at his core a good young man with a good heart, that of which was demonstrated at an early age in my eyes.

I believe if given the opportunity Aaron will once again become an asset to the community teaching others the correct path to chart by given testimony on his mistakes. This country, this nation, and this bible that we put our hands on before testimony are all beacons of hope through forgiveness. I strong hope and pray that Aaron will get his chance at redemption at some point in this life, and I feel in my heart if given that opportunity he will not let me or the community down.

Best Regards,



Jamar Snow

Kirstin Rogers

Houston, TX 771030

April 12, 2019

Re: Aaron Capers

To: The Honorable Judge Markley Dennis

I, Kirstin Rogers, am writing this letter to you as a character reference for Aaron Capers. I have known Aaron Capers as a family member and friend. I write this letter with full knowledge of the seriousness of Aaron's convictions.

I was both surprised and disheartened about his recent case because he has always been a vibrant, caring, and outgoing young person. While I've known him, he has been a role model to his younger brother as well as his younger cousins. He excelled in high school, graduated with his associate's degree, and was well on his way to becoming an impactful student at the University of South Carolina – Columbia. He participated in national youth basketball tournaments and was optimistic about trying out for USC's men's basketball team. During family gatherings, Aaron was always a source of laughter and light heartedness. He took it upon himself to offer his assistance to family members and always a welcoming person.

While it is unbelievably unfortunate that he has made some bad decisions, thus resulting in the case and convictions against him, he is a vital member of our family. But he is deeply remorseful for his actions and takes full responsibility for the resulting negative impact to his family and community, and the pain caused to and suffered by the victim. I believe in his ability to pay his debt to society; however, he is a young man fully capable of rehabilitation and becoming a contributing member to his community.

It is my sincerest hope that the court takes this letter into consideration at the time of sentencing. Despite the circumstances of the case, he is a valuable member of our family and I believe he is a good human being.

Sincerely,



Kirstin Rogers

Jan 5, 2020

To Whom It May Concern:

Request to Reduce Sentence: AARON CAPERS

My name is Chad Anderson. I am writing this letter as a character reference for Aaron Capers. I have known Aaron his entire life. As a previous barber shop owner and mentor, I have personally cut Aaron's hair the majority of his life. You may view this is a typical service. However, I have utilized my services and experiences to mentor and guide many young African American men in the community. Aaron has become part of my family. He is intelligent, very respectful to his elders and has an extremely bright future. I believe with the continued support of close friends, his parents, church and community, Aaron will continue to exhibit these traits and become the young man we have all grown to love. I am requesting that you please consider a reduction in his sentence to allow Aaron to fulfil his purpose in life. The time he has spent will allow him to mentor other young man to take another path.

I have included my contact information below if I can be of any further assistance.

Sincerely,

Chad Anderson

Fort Mill, SC 29715
Canderson4374@gmail.com

January 5, 2020

Dear Judge:

This letter is written with a heavy and prayerful heart. Aaron McKenzie Capers was convicted, and sentenced to 80 years for multiple crimes last March.

Aaron had plans for the future and was primed to be a productive member of society. All of his hopes and dreams had to do with getting an education. He can still realize his dream and encourage others to do so as well while incarcerated.

Thank you for your time to read this brief letter of support for sentence reduction. Isaiah 5:20 states "Woe to those who say that good is bad and bad is good, Those who substitute darkness for light and light for darkness, Those who put bitter for sweet and sweet for bitter!" Please know that I am not suggesting Aaron's crime did not occur, or asking forgiveness from those affected. Forgiveness does not rest with me.

Aaron is aware of the pain he has caused, and was just as shocked as the rest of us that he was capable of such horror. He will need forgiveness, support, and love to heal. However, most of all right now, he needs hope. Your full consideration of a sentence reduction will be a great start.

Sincerely,

Herbert L. Drayton III

Averee L. Moses

Irmo, South Carolina 29069

January 1, 2020

To the Honorable Judge Markley Dennis,

I'm writing this letter in hopes that it will help you to see what kind of person my nephew, Aaron Capers, is in despite the transgressions that has led us all to this point.

Please see in your heart to reduce my nephew's sentence from 80 years. He does not need to be a burden on the state but a productive member of society. The Aaron who I know has made a mistake. I pray that you will reconsider your sentence for him. I have found Aaron to be extremely kind, thoughtful, insightful, generous, dependable, loving, caring, helpful, supported, and well regarded among his family and friends. I have known Aaron has always been an upright character at our family gatherings and in my home. He has always been there for me for his family.

Aaron is a wonderful young man. He has committed a crime, but I promise you, Aaron is not a criminal. He deserves a second chance. The Aaron I know avoids problems and would give you the shirt off of his back. I love him dearly and know that he deserves a second chance at life. It is my sincere hope that the court will take this letter into consideration at the time of resentencing. Despite the current case, I still believe Aaron Capers to be an honorable individual and a good human being. I am at your mercy to give my nephew a chance at life. Aaron is a good person.

Sincerely,

Averee L. Moses

From: Brittany Gilmore <gilmore1.brittany@gmail.com>

Subject: To Judge Markley Dennis,

To Judge Markley Dennis,

I am writing on behalf of my 1st cousin Aaron Mackenzie Capers. I have known Aaron for all 19 years of his life and during those years I have only known him to be a kind, loving, smart and funny young man with the brightest future ahead of him. The last time I saw Aaron was at his high school graduation surrounded by his friends and family where he received his diploma and as well as his associates degree at 17 years old.

I, along the rest of my family, was in shock and disbelief 6 months later when I heard about his incomprehensible actions. But no bigger shock and disbelief hit me harder than hearing a maximum death sentence of 80 years. In no way am I excusing his actions or asking for no time served but 80 years for a first time offender seems like a final death sentence. People serve less time for heinous premeditated murder.

I have been made aware of some personal difficulties that may have compromised Aaron's means to cope properly during that time. It has never been in his character to behave in such a way or commit such acts against any person.

Aaron has thus far shown a steadfast and resolute demeanor in atoning for his past mistakes as constructively and successfully as possible. I have no doubt that with rehabilitation and counseling he can once again develop the proper skills needed to avoid such costly mistakes.

I hope and pray you will consider a lesser sentence to allow a young man the chance for redemption.

Sincerely,

Brittany Gilmore

St. George, SC 29477

The Honorable Judge R. Markley Dennis, Jr.
Berkeley County Court Judge
P. O. Box 1800
300 B California Avenue
Moncks Corner, SC 29461-1800

To the Honorable Judge Markley Dennis:

I teach in the public schools of Dorchester County. I have known Aaron McKenzie Capers for years. His aunt was the principal at my school. Aaron has volunteered with us at the school. He was a hardworking and very smart young man. I was deeply troubled and very surprise to hear that he had gotten in trouble. There are times when young people lose their way. I ask you to reconsider your sentence of 80 years. Allow Aaron to be punished for his sins, but do not take his life away. He is a good person. Help him to learn from this crime.

I am at your mercy to reduce Aaron's sentence significantly so that he can have a chance at life again.

Educationally yours,



Tracy Lemon

Columbia, SC 29203

The Honorable Judge R. Markley Dennis, Jr.
Berkeley County Court Judge
P. O. Box 1800
300 B California Avenue
Moncks Corner, SC 29461-1800

To the Honorable Judge Markley Dennis:

My name is James Green. I am writing this letter to speak to Aaron Caper's character, and to ask you to reconsider the sentence of 80 years.

Aaron is a kind and decent human being. He is funny and loves reading and art. He has always been a good person.

Aaron is a young man who has made a mistake. I am not sure what was going on in his life at the time, but I know he deeply regrets what has happened. I ask you to think about the opportunity you have to give this young man a chance to redeem himself. Please reconsider your sentence and reduce it so that he can have a chance to right his wrong.



James Green

January 6th, 2020

Judge Dennis

100 Broad Street

Charleston SC 29401

Your Honor:

I am writing you this letter to urge the leniency of my friend Aaron Capers. I have known Aaron for over 10 years. Aaron is my daughter older cousin. He and I are both aware of the gravity of the crime he was convicted of, but it is still hard for me process this situation. This is not the young man I know, and I would like to give you a perspective that shows he is more than the sum of his actions on the day he committed the crime. Aaron has always been there for is younger cousin and other family members, when it comes to lending a hand with everything; from helping his younger cousin with reading, to assisting with pickups and drop offs to and from events when I am unable to do so myself. I have always found Aaron to be a smart individual; especially when I learned he had received is Associates Degree prior to graduating high school.

As you know, this is not only Aaron's first conviction, but his first offense. Given his otherwise clean record, I strongly believe a lesser sentence is most appropriate in this situation.

Sincerely,

La-Shawn Christian

January 5, 2020

To the Honorable Judge Markley Dennis,

I am Aaron Capers little cousin Amari Rogers. When I found out my cousin was incarcerated on December 21, 2017, I was devastated but most of all it was abnormal and extremely unexpected. Aaron was definitely not himself that night. Aaron is my favorite cousin always has been and always will be. He my favorite cousin because he has always been there for me. I honestly can't think of one bad moment with him. The Aaron I know has always been willing to help with anything. I could talk to him about anything. I hope you can find it in your heart to reduce his 80 years sentence. He has been nothing but good up until that point.



Sincerely, Amari Maria Rogers

DEBRA K. LITTLEJOHN

Goose Creek, S.C. 29445

January 5, 2020

Dear Judge Dennis:

I am writing this letter in support of Aaron Capers and his family. I have known Aaron, and all of Sharon's children all of their lives. Aaron is an intelligent young man and we have had conversations about all sorts of things from multiple authors to microeconomics.

When I first learned about the situation involving Aaron I was stunned. While it is unfortunate that Aaron made some bad decisions, I do not think that he would reoffend.

It is my sincerer hope that the Court will take this letter into consideration and will show mercy on Aaron Capers and his family.

Sincerely,

Debra K. Littlejohn

000759

(20)

Tyler Gilmore

Tulsa, OK 74135

tmg1575@gmail.com

5th January, 2020

Judge Markley Dennis

Charleston County Courthouse

Dear Judge Dennis,

I understand you will be conducting the hearing for Aaron Capers on the 6th of January 2020 and appreciate your time and service. I do not know you and you do not know me. I know my cousin Aaron Capers and I'm trusting you to show him your human side and help him learn from his mistakes as he has made some of the wrong decisions. Now I would be lying to you if I said he did nothing wrong, but the fact of the matter is that the law is supposed to be just and not cruel and unusual. Aaron, my cousin, and I have grown up all our lives with rather similar paths and until one point that changed. Aaron has always been a smart kid and he always will be. I am a few years older than he is and we have always been close, all that being said it makes me question his most recent decisions. We were raised with great parents and nothing short of a great upbringing. He has not acted within his character recently and it has landed him where he is now; However, that is not to say that he just decided to do the wrong thing. He was sidetracked in college and did something he just shouldn't have due to his surroundings and the people he was surrounded by, not his friends and not invested in his best interest.

Now the question is what kind of punishment is appropriate for a young black male in America with no criminal history and this being his first offense. When I heard that he was sentenced to eighty years in prison my heart sank and I immediately thought about the fact that we would never be able to have our kids play together and us grow into the men of our generation. Not to mention my Aunt Sharon, his mother and not ever being the same part of his life ever again and supporting him through commissary instead of love, compassion and the desire to see her son rise to his full potential. I went to his high school graduation a few years ago and when I was there I had just begun to realize what our parents had done for us and what opportunities they created for us as young black men in America. I am now a federally certificated aircraft mechanic with a very prosperous job and career, he would've been shortly behind me in his university studies and he could've gone into any other career out there. I could go on and on, about my cousin, my family, my blood, my young black brother. He made a mistake and I don't think he deserves to go on as an inmate number for the rest of his life and never get the chance to capitalize on his own life.

- Eighty years in prison without taking the life of another individual seems absolutely uncalled for. I am asking you as a human, to think about the life he could've made for himself and grant him the chance to be a functioning member of society once again and create a future for himself. I would like to give you my word that I will make sure he honors every part of any deal you're willing to make with him. I would like to be able to help my cousin while he isn't in a position to help himself. He knows that he made a mistake and went down a path that bares very bitter fruit. I know that you have the power to assist him in getting closer to freedom, myself and my family would greatly appreciate your time and diligence with this matter. Once again, I know that the subject at hand isn't black and white but I don't believe eighty years in prison is a lesson or a learning opportunity, but only a chance to rot in a concrete dungeon. Thank you in advance for your assistance Judge Dennis.

Sincerely, Tyler Gilmore

000761

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Fredric Hunter Rogers

Houston, TX 77030

January 5, 2020

Re: Aaron Capers

To: The Honorable Judge Markley Dennis

I, Fredric Hunter Rogers, am writing this letter to you as a character reference for Aaron Capers. I have known Aaron Capers as a family member since he was born. I write this letter with full knowledge of the seriousness of Aaron's convictions.

I was thoroughly astonished and devastated when I heard the news about Aarons' case. He has always been a caring, honest, and a humble young man. Aaron is a smart young man who also displays leadership and dedication through his work ethic. He has two siblings, his older sister who he has always been close with and looked up to, and his younger brother whom he has always been a role model too. At family functions, Aaron has always been the center of attention with his positive attitude and willingness to help out and be around.

In high school, he excelled, graduating with his Associate's degree, the first in our family to do so. He was a student at the University of South Carolina – Columbia, where he had plans to walk on for the USC Men's Basketball team, and be a part of community outreach efforts.

It is unfortunate that he has made some bad decisions, and maybe even got with the wrong crowd, resulting in the case and convictions against him, but he is a vital member of our family. He is deeply remorseful for his actions and takes full responsibility for the resulting negative impact to his family and community, and the pain caused to and suffered by the victim. I believe in his ability to pay his debt to society; however, he is a young man fully capable of rehabilitation and becoming a contributing member to his community.

It is my sincerest hope that the court takes this letter into consideration at the time of sentencing. Despite the circumstances of the case, he is a valuable member of our family and I believe he is a good human being.

Sincerely,

Fredric Hunter Rogers

January 5, 2020

Honorable Judge Markley Dennis:

My name is Moses Capers. My big brother is Aaron Capers. This letter is the hardest thing I have ever written. I am still in shock and disbelief that my brother is behind bars. I have always looked up to Aaron. We played basketball and football together. We laugh late into the night, played video games, and swim together. We attended church, vacationed and loved eating out together. I am still trying to figure out when did it actual move from the happy times to this moment in time.

Judge Dennis, I ask you to please reduce my brother's sentence. Allow him to make the changes to his life that I know he can and will do. Allow him to come home and return to college. Aaron is so good. He made a horrible mistake, but 80 years will not allow him to do anything but waste away.

Judge Dennis, I love my brother. If you can see clear to help him come home after serving some time, like a fraction of 80 years, I know he will never return to that side of the law again. I am asking for me to have a chance again with my brother.

Thank you for your consideration.

Moses Capers

January 5, 2020

Your Honor Judge Markley Dennis:

I appreciate you taking the time to read this letter concerning my dearest little cousin. I would hate to downplay the severity of these crimes by speaking of him this way, but this is the only way I know him. When I heard the crime I immediately was in shock. I will be 40 this year and I have seen my share of bad people in my life, and Aaron Capers IS NOT ONE OF THEM. He comes from a loving home with a loving family. Everything about my little cousin from his smile to his demeanor made you happy. I truly attribute these actions to peer pressure from the wrong crowd. Getting caught up being away from home, maybe designer college drugs, Your Honor I have no idea, but he must need help. I hate that this would affect his entire life as a result. A truly brilliant young man graduating with his associates before graduating high school. I, in no way, could see a life of crime for this young man.

Your Honor I humbly beg for you to see that Aaron did not take anyone's life in this crime. Did he do wrong, YES. However, 80 years is far too much time for the crime. Allow him to rehabilitate and be a productive citizen. So please don't take his life to waste a way for 80 years. I get your point, we all get and understand your point, Your Honor 80 years is to long for a young man that couldn't even buy alcohol.

We as a family beg you to reduce his time so that he may be seen again.

Thanking you in Advance,

Amado Ladorn Rogers

January 5, 2020

To the Honorable Judge Markley Dennis,

Thankyou for taking the time to reconsider my cousin, Aaron Capers, sentence. Aaron has committed a crime, but I know that was not of his Godly mind. The devil moved in and Aaron was in a space with the devil. Stepping away tentatively from your family values would make that happen. However, I know that Aaron is a good person who has done a bad thing. However, he is a young African American male who was caught up in college life. He strayed far away from his family values. Please give him a chance to redeem himself and live a healthy life. I ask for you to please show favor.

Sincerely,

Aaron's cousin, LaShay Moses

January 6, 2020

Judge Markley Dennis
100 Broad Street
Charleston SC 29401

Greetings Judge Markley Dennis:

My cousin, Aaron, is a human being that made a mistake, that cost him his freedom. It pained me deeply when I found out what had occurred; I did not know what to think of the situation. Now, I do know what to think of the situation, as time has so steadily gone by. I see a kid that did something that he would not do as an adult; my cousin acted out of the morals he was raised on and created a life that he is not a part of. Aaron having to endure years in a penitentiary, seems like an alternate reality to me. I could/would have never put 2 and 2 together of my 17 year old, freshman cousin being incarcerated on his first Christmas Break. Aaron is a bright young man, who still has potential in the world outside of a jail cell. Judge, please consider altering the sentence time for a man who has already used his college years inside of a facility, detained.

Mr. Capers in the world outside of jail is not a liability, instead a person who can share his story and encourage a better life for others and himself.

Sincerely,

Trevor Gilmore

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000766

Elizabeth McCleary

Philadelphia, PA 19119

January 5, 2020

Dear Judge Dennis,

My name is Elizabeth McCleary. I am the aunt of Aaron Capers. It is with a heavy heart that I am requesting you consider reducing the sentence for my nephew. We his family love and support him and I know and believe in my heart that given the chance and opportunity he can be the person God our heavenly father created him to be to us his family and his community.

I do understand the seriousness of his crime but please trust and believe that this behavior is clearly not the character of this young man. Whatever led him to commit the crime that he has been convicted of surely is not who he is as a person. I do believe that we must pay for the crimes that we commit, so his being sentenced is truly warranted, I am just asking that you please consider reducing his time from 80 years. We his family is God trusting and God fearing. We believe in the power of God and his ability to save and change us to live according to his written word the BIBLE. My nephew is so young and has a lot to learn, so please allow him the opportunity to right his wrongs by once again becoming a productive member of society.

Sincerely,

Elizabeth McCleary

January 4, 2020

Terry J. Davenport

Hanahan, SC 29410

The Honorable R. Markley Dennis, Jr.
Active/Retired Circuit Court Judge
P O Box 1800
300 B California Avenue
Moncks Corner, SC 29461-1800

Your Honor,

I am writing this letter in support of Aaron M. Capers and his family's request for a reduced sentence in his recent proceeding.

I have known the Capers family, been in their home, grieved with them in their challenges, and celebrated their successes since Aaron was eight years old. I have witnessed Aaron's upbringing firsthand. I knew him as a quiet, studious, academically gifted child surrounded on either side by two equally endearing siblings.

I personally believe with all my heart that for every choice or decision made, there is a consequence; positive or negative. I also believe with all my heart in forgiveness, redemption and rehabilitation. A lesser sentence would allow Aaron the opportunity to reach full, adult manhood while still being accountable for his actions but offering him an opportunity for another chance to live the life his family prepared and prayed over for him.

If requested, I would come and speak with you directly to answer any questions or concerns you may have regarding my enclosed statements. I sincerely thank you for your attention and your positive consideration in this case.

Most respectfully,



Terry J. Davenport

January 6, 2020

Judge Markley Dennis
100 Broad Street
Charleston SC 29401

Greeting your honor,

I come to you today in a plea for mercy on the behalf of my nephew Arron Capers.

Sir I understand that there are consequences when we break the law. However, I also believe that the punishment should fit the crime. I ask that you reconsider his sentence and allow him to serve a more reasonable sentence that will allow him time to return to society and become a productive member.

Aaron is smart but have had adjustment issues in school that took him away from his career path. He understands what he has done was wrong and knows that he will have to repent for his sins. You hold the key for his future, and I know my family and I are at your mercy for you to show favor on Aaron. Please reduce his sentence and let him right this wrong.

James Ravon Moses

Aaron

000769

31

From: Sandra Graham (conniedrive225@gmail.com)

To: carolyn.amari@yahoo.com

Date: Monday, January 6, 2020, 07:55 AM EST

Evangelist Sandra G, Washington

Columbia, SC 29212

January 6, 2020

Re: Aaron Capers

To: The Honorable Judge Markley Dennis

My name is Sandra G. Washington, I have known Aaron Capers from birth. A family friend for thirty-nine years. I was both troubled and surprised to hear about his recent case. I have always known Aaron to be a family and community oriented young person:

Raised in church, he has worked hard to become a well-rounded, academic focused member of society. By no means am I making light of this case. I only ask that your Honor show leniency. My prayer is for healing in the lives of everyone involved.

Respectfully

Sandra G. Washington

Evangelist, Sandra G. Washington

600770

I'm a recent Citadel graduate and a commissioned officer in the World's Greatest Air Force. I was born and raised in Charleston, SC, and am the oldest and only girl of three children. Growing up, I was smart but not the smartest child in my family. The smartest was my younger brother Aaron.

Have you ever met a person who can pass any test without studying? Well, that was my little brother, "Professor" has been his nickname since he was 10. My brothers and I grew up together. Once our parents were divorced, we would spend every other weekend with my dad. Most times, we went fishing. Competing for who could catch the biggest fish. Now, any fish I caught, I would automatically rip out the hook and throw the fish on ice. Aaron on the other hand would carefully remove the hook, pet the fish, and ask what kind of fish it was and either place it back in the ocean or put it in the live well for further observation. But he always let the fish go so it could grow.

In middle school Aaron attended the school of the arts for theatre. I always thought he looked funny on stage, but the audience loved him. Aaron and I are two years apart, so I'd catch a glimpse of us in school together, and then I move on. In high school, my little brother began to struggle with his identity, as every young person does. He was a teacher's pet at heart but smart didn't make "cool" friends. Aaron wanted to be cool. The changes began quickly. He changed his style, not only his fashion, but his music, and his poise; he made the friends (the wrong friends) but nonetheless he graduated high school with not just one degree but two. Associates degree at 17 years old (hey was hilarious).

Aaron has always been my best friend. He would call and write me letters during my hard times at The Citadel. I'm not sure what you know about the school, but let's just say it's tough and will break you down if you don't have the will power and right people to push you forward. Every time he would call he would have a different song, story, or joke to push me through the day. "Hey Christina, remember the time we went to Grandma's house and got chased by chickens?" "I know the men's hall is bad but just think of thanksgiving", "Can you get Chinese food delivered, I'll send it". Aaron was always there for me.

His senior year of high school he got a full scholarship to USC, majoring in biology. He said he wanted to be a veterinarian; go figure (fish boy). His freshman year of college our contact faded a little he was busy making new friends and I was barely staying afloat with my grades. I'm not sure what happened but something was different in Aaron, I couldn't wait for Christmas break so we could have a "get-it-together talk". Then laugh, and eat, and laugh some more.

That's when the nightmare happened. In seconds he was gone, ripped away faster than the hot air from my fish's mouth. Ripped away from me, our family, and his dreams.

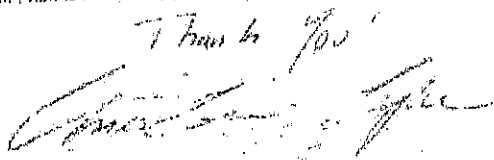
I haven't hugged my little brother since my sophomore year of college, and I never had the chance to have our Christmas break talk.

He didn't get to attend my graduation, or say goodbye as I moved to England. It's hard to process the fact that I will never see my brother walk the earth again. If I marry, he won't be there. If I have kids he won't be there.

When I deploy, he won't be there. And if I die in the process of "securing the blessings of Liberty" years before my time we may not even say goodbye at my funeral.

20 years in prison. His life ended faster than it began. Is it even a life worth living?

All I ask is for the opportunity to create more memories with my little brother.

Thank You


000771

Daulton R. Gantt

North Charleston, SC 29406

January 6, 2019

Honorable Judge R. Markley Dennis
Berkeley County General Sessions

Dear Honorable Judge Dennis:

I am pleased to offer this recommendation on behalf of the family for Aaron Capers, a family disheartened by the charges and conviction of young Master Aaron. I welcome the privilege to speak in their favor.

I have been professionally associated with Mr. Capers' mother, Sharon during my tenure at South Carolina Department Social Services-Child Support Enforcement and with the South Carolina Department of Juvenile Justice. During these years of my affiliation with Ms. Capers, I have found her to be a very supportive and encouraging mother, always attempting to get the best from Aaron and his siblings. I have found Aaron to be one of the brightest and most conscientious and thoughtful young people I have ever met. Granted, Aaron's maturation has not come without its challenges and he was not the perfect child; but I can't recall that there has been one created.

Aaron is well aware of the gravity of the crime he was convicted of, which is still hard for me and his family to wrap our heads around. This is not the young man that this family raised. Aaron is more than the sum of his actions on the day he committed the crime. Unfortunately, the best decisions have not been made on that day and his desperation to fit in with his nefarious surroundings; but as an impressionable youth, all you see is the acceptance by older peers.

To a large extent, the modern American correctional system and its policy of mass incarceration represent the triumph of theories that hold individuals, rather than society, responsible for crime. This view is now so widely embraced that almost political leader disputes it publicly. But its simple emphasis on locking people up is very costly, both in fiscal and in human terms. Aaron should pay the price for what he has done. Forcing him to make amends achieves the goal of retribution and, in the process, should limit his ability to repeat the offending behavior. An effective system of punishment would also be intrinsically rehabilitative, dissuading him from wanting to repeat this behavior in the first place. The current high level of recidivism suggest the justice system isn't punitive enough, since most prisoners aren't broken of their bad habits.

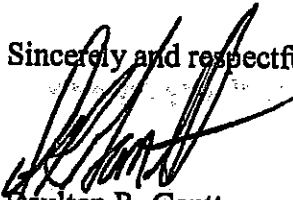
Aaron's sentence should be assigned to maximize punishment rather than to simply warehouse him. He has violated society's standards, but his imprisonment alone will not heal all wounds. Aaron has a whole lot of growing up to do. Reeling him in on this crime

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pg. 1 of 2

and reminding him that does not define what it means to be a man. The benefits of incarceration have also come with enormous costs to the state's finances and to our tradition of individual liberty. A society that is too lenient on those who prey on the law-abiding majority is no more civilized than one that punishes offenders too harshly.

Aaron and his family deserves the opportunity for him to reach his potential. Granted, his youth has been tainted. He is an at-risk youth not looking for a hand out, but a helping hand. The length of time in prison is not really a good measure of the magnitude of the punishment. Mandatory minimums are simply too long, because imprisonment has minimum effective dose. Shorter, shocking stays behind bars sometimes can actually do more to deter future crime than long sentences. In some ways they can be even more unpleasant.

Sincerely and respectfully yours,



Paulton R. Gantt

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions

The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS,

APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned attorney hereby certifies that this Record on Appeal complies with Rule 211(b), SCACR. The undersigned also certifies that this Record on Appeal is in compliance with the August 13, 2007 Order of the Supreme Court of South Carolina relating to the inclusion of personal data identifiers and other sensitive information in documents.

s/ Tara D. Shurling
TARA DAWN SHURLING

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Columbia, SC 29204
(803) 738-8622
Email: tdshurling@aol.com

ATTORNEY FOR APPELLANT.

This 26th day of June, 2023.