

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Edgefield County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BARRY WAYNE JONES,

APPELLANT

APPELLATE CASE NO. 2022-000046

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**

**FROM THE SEPTEMBER 7-8, 2021 PRETRIAL HEARING: DEFENDANT’S EXHIBIT NO. 1 (POOL ROOM ENHANCED VIDEO); DEFENDANT’S EXHIBIT NOS. 2-4 (PHOTOGRAPHS); DEFENDANT’S EXHIBIT NO. 11 (POOL ROOM ORIGINAL VIDEO); DEFENDANT’S EXHIBIT NO. 12 (PHOTOGRAPH); STATE’S EXHIBIT NO. 1-3 (VIDEO CLIPS); STATE’S EXHIBIT NOS. 4-19 (PHOTOGRAPHS).**

**FROM THE DECEMBER 3-13, 2021 TRIAL: STATE’S EXHIBIT NO. 8 (KATHMANN DASH CAMERA VIDEO); STATE’S EXHIBIT NO. 13 (POOL ROOM VIDEO); STATE’S EXHIBIT NO. 14 (POOL ROOM VIDEO); STATE’S EXHIBIT NO. 60 (DENSMORE BODY CAMERA VIDEO); DEFENDANT’S EXHIBIT NO. 71 (CD OF PHOTOGRAPHS); DEFENDANT’S EXHIBIT NO. 96 (CD OF VIDEO); DEFENDANT’S EXHIBIT NO. 97 (PHOTOGRAPH).**

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JAN 11 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 COUNTY OF EDGEFIELD )  
 )  
 The State of South Carolina, )  
 )  
 vs. )  
 )  
 )  
 Barry Jones, )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 WARRANT NUMBERS: 2018A1910100216,  
 2018A1910100226-30

AMENDED  
 ORDER DENYING IMMUNITY

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 COURT

This matter came before the Court at a hearing on September 7, 2021 in Edgefield County regarding Defendant Barry Jones’s Motion seeking immunity from prosecution for the charge of Murder based on the provisions of the Protection of Persons and Property Act (“the Act”), S.C. Code Ann. § 16-11-410, *et. seq.* and based on the common law principles of self-defense. The Defendant is currently charged with murder and possession of a weapon during the commission of a violent crime from an incident that occurred at the Johnston Pool Room (Pool Room) on May 7, 2018. The Defendant is also charged with two counts of Attempted Murder, one count of discharging a firearm into a vehicle, and one count of possession of a weapon during the commission of a violent crime from an incident that occurred on Log Creek Road (Log Creek) shortly thereafter on May 7, 2018.

The Court heard arguments on this motion at a hearing held in Edgefield County on September 7<sup>th</sup>, 2021. This Court heard testimony from witnesses, both video and documentary evidence, and closing arguments from counsel for both parties. Defendant was present at the hearing and represented by Luke Shealy, Esquire and Brian Shealy, Esquire. Solicitor Rick Hubbard and Assistant Solicitor Robert McNair, of the Eleventh Circuit Solicitor’s Office, appeared on behalf of the State.

Both parties were allotted time to prepare and submit proposed orders upon completion of the hearing. After careful consideration of the arguments and exhibits presented by counsel, as

well as a review of the documents submitted by counsel, the Court hereby denies the Defendant's motion for immunity.

### **FACTUAL BACKGROUND**

This immunity hearing arises out of a shooting incident that occurred on May 7, 2019, at the Johnston Pool Room ("Pool Room"), located at 158 Lee Street, Johnston, South Carolina. Witnesses testified at the hearing that the Defendant and Milledge Hall had a history of confrontation, which came to a head on the date of the incident.

The Defendant and Milledge Hall first became acquainted with each other back in 2017 when Clayton Hall took ownership of the Pool Room. Evidence was presented at the hearing that Milledge Hall was an investor in the Pool Room, grandfather of Clayton Hall, and second cousin to Angie Smith, Defendant's girlfriend at the time. Defendant testified that he and Milledge Hall did not have much of a relationship; however, approximately one month prior to the shooting incident on May 7, 2018, he learned that Milledge Hall was spreading rumors to people at the Pool Room, indicating that he had been fired from the Savannah River Site. The Defendant worked for the Savannah River Site for 27 years and retired shortly after his wife died, prompting his move to Johnston, South Carolina. The Defendant testified he took offense to this rumor being spread and attempted to speak directly to Mr. Hall to find out if the rumor was true. The Defendant testified that Milledge Hall was unapologetic, combative, and threatening in response. The Defendant testified that he was afraid of Milledge Hall due to his physical stature and his reputation for fighting. At the hearing, the Court heard testimony from Tony Friar indicating that Mr. Friar and the Defendant worked together at the Savannah River Site for several years. Mr. Friar testified that he was aware of Milledge Hall's reputation for fighting when he was in elementary school. Additionally, Mr. Friar testified that about a month before the shooting incident, Milledge Hall

made a threatening gesture to him indicating that he wanted to fight the Defendant and stated that he "had something for him." Mr. Friar testified that he never relayed this threat to the Defendant. Mr. Friar also testified that the Defendant was not afraid of confrontation or to fight.

The State called Milledge Hall's wife who testified to being present during this initial incident at the Pool Room. She testified that the Defendant approached Milledge Hall about "some rumors" and stated that Hall sternly told the Defendant to sit down. She denies Hall making any threats or gestures towards the Defendant.

Following this incident at the Pool Room, the Defendant testified that he reached out to Officer Joseph Mathis, a friend who worked for the Johnston Police Department, in an attempt to speak with him regarding the threat by Milledge Hall. The Defendant indicated that he never ended up speaking with Officer Mathis. This testimony was not confirmed or corroborated by Officer Mathis at the immunity hearing.

The Defendant testified that on May 7, 2018 he went to the Pool Room after running errands earlier in the day. He explained that when he arrived, Angie Smith, his girlfriend at the time, was upset with him for going to the Pool Room without her. The Court was provided copies of messages from Angie Smith to the Defendant stating that she was "really pissed now" and that she was willing to "come show out" at the Pool Room. The Defendant testified that they had been having somewhat of a tumultuous relationship and that he was ready to end the relationship with her. The Defendant testified that Angie arrived shortly after the series of messages and sat by Milledge Hall across the bar. The Defendant testified that he decided to leave the bar in an attempt to avoid conflict with Angie. He further explained that this was the final straw in their relationship, and he was going to her house to collect his belongings.

Surveillance footage showed the Defendant leaving the Pool Room and getting into his Silver Mercedes parked outside of the Pool Room. As the Defendant was leaving in his vehicle, Milledge Hall is seen walking outside and tapping the rear of the Defendant's car with his hand in an apparent attempt to get the Defendant to stop. Clayton Hall testified that he had asked his grandfather, Milledge Hall, to tell the Defendant not to come back to the Pool Room. He indicated that his grandfather would not have done this inside the bar and would have initiated a private conversation with the Defendant to avoid causing a scene, on par with what was shown in the surveillance footage. The Defendant did not stop and continued to drive off.

After leaving the bar and collecting his items from Angie's home, the Defendant sent a text to Joe Mims, a close friend of his, asking that he "come calm him down." Jones testified that this message was an attempt to diffuse the complicated situation he was having with Angie and his frustrations with Milledge Hall. Additionally, the Defendant sent another text to Joe Mims at 6:49 p.m., approximately 11 minutes before returning to the Pool Room stating "I'm gonna kill that Be Boy." The Defendant testified that Be Boy was the nickname of Milledge Hall. Joe Mims did not reply to these messages. The Defendant, testified he then reached out to Officer Mathis asking if he was available, explaining that he wanted someone to assist him in avoiding conflict with Hall; however, Officer Mathis did not respond.

Following these messages, the Defendant returns to the Pool Room. He testified that he only returned to break up with Angie Smith and thought a public place would be the best place to do so. When he arrived at the Pool Room, the Defendant parked in front of Pool Room. As evident from surveillance footage presented at the hearing, Mr. Hall exited the Pool Room and approached the driver side door of the Defendant's car. The Defendant and Mr. Hall begin engaging in what appeared to be a heated conversation. The entire interaction between the two lasted approximately

nine minutes. The Defendant testified that he rolled his window down about 6 inches to hear what Milledge Hall was saying. He testified that Milledge Hall was vocalizing his disdain for him. He further explained that Milledge Hall wanted him to get out of the car to fight. The Defendant testified that Milledge Hall pulled the handle of his door and stated that he "had something for him" and "could make him get out to fight." The Defendant alleged that Milledge Hall was armed with a gun and that he brandished a cellphone located in his waistband. It is undisputed that Milledge Hall had a cellphone on the right side of his waistband. The State called several witnesses who testified that they did not know Milledge Hall to carry a gun and that no guns were located on or around him after the shooting. The Defendant testified that after he saw what he believed to be a gun, he retrieved a gun out of a bag he had on the seat which contained several guns collected from Angie Smith's house and put it in his lap.

In the video, Mr. Hall appears agitated and can be seen walking back and forth. Several times during the conversation, Mr. Hall gestures for the Defendant to leave the premises. At one point, Mr. Hall is seen on video turning his back to the Defendant and walking in the opposite direction of the Defendant. Mr. Hall continued to gesture for the Defendant to leave as he walked away. Despite the numerous requests to leave, the Defendant remained in the parking lot of the Pool Room. Mr. Hall, makes a final gesture for the Defendant to leave and then turned around and began walking in the direction of the Defendant's vehicle. The Defendant testified that he believed he had to act in that moment. As Mr. Hall approached the front of the Defendant's car, Defendant exited his vehicle, stood behind his car door, and fired two shots at Milledge Hall. Milledge Hall is seen on video falling backwards when the Defendant fired the second shot.

The Defendant returns to his vehicle and leaves the parking lot driving away in the opposite direction from which he arrived. The Defendant testified that he was afraid of what the people

inside the Pool Room would do if he remained on the scene. Numerous bar patrons and staff exit to come to Milledge Hall's aid. The Defendant did not notify law enforcement and did not stop after seeing a patrol car following him. The Defendant proceeded to drive to a remote location off of Log Creek Road, and shot himself in an apparent suicide attempt.

#### STANDARD OF REVIEW

A defendant is entitled to immunity from prosecution under the Protection of Persons and Property Act. *State v. Scott*, 424 S.C. 463 (2018) (quoting *State v. Curry*, 406 S.C. 364 (2013)). According to the Supreme Court, "a trial court should first consider whether the defendant has proven the elements of self-defense by a preponderance of the evidence." *Glenn*, 429 S.C. at 118, 838 S.E.2d at 496.

To establish self-defense, four elements must be present: (1) the defendant must be without fault in bringing on the difficulty; (2) the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury, or he must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury; (3) if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief, or if the defendant was actually in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life; and (4) the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in the particular instance. *State v. Hendrix*, 270 S.C. 653, 657-658, 244 S.E.2d 503, 505-506 (1978); see also *State v. Davis*, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984).

In 2006, the South Carolina General Assembly promulgated the Protection of Persons and Property Act to provide immunity from prosecution to persons acting in defense of themselves or others if they are found to be justified in using deadly force. S.C. Code Ann. § 16-11-450 (2015). The Act codified the common law Castle Doctrine and extended its reach to include an occupied vehicle and a person's place of business. S.C. Code Ann. § 16-11-420(A) (2015). Our Supreme Court has made clear that immunity under the Act "is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence." *State v. Curry*, 406 S.C. 364 (2013). However, under the Castle Doctrine, an individual who is attacked without fault and on his own premises, has the right, in establishing his plea of self-defense, to claim immunity from the law of retreat, which ordinarily is an essential element of that defense." *Id.* at 117 (citing *State v. Jones*, 416 S.C. 283 (2016)). In cases where the defendant has not proved the duty to retreat element by a preponderance of the evidence, the court should then consider whether section 16-11-440(A) or (C) of the Act is applicable.

16-11-440(A) provides:

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

- (1) against whom the deadly force is used *is in the process of unlawfully and forcefully entering*, or has unlawfully and forcibly entered a dwelling, residence, *or occupied vehicle*, or if he removes or *is attempting to remove another person against his will from* the dwelling, residence, or *occupied vehicle*; and
- (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

S.C. Code Section 16-11-440(C) provides:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, *including* deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

#### ANALYSIS

*A. Compliance with Statutory Immunity under the Protection of Persons and Property Act, S.C. Code Ann. §16-11-410, et seq.,*

Here, the Court must first address the Defendant's self-defense claim, starting with whether the Defendant was at fault in bringing upon the difficulty. It is without dispute that the Defendant left the Pool Room and returned with multiple guns. It is also without dispute that the Defendant sent a message to Joe Mims, minutes before returning to the pool room stating "I'm going to kill that Be Boy," despite the Defendant's contention that these messages were not to be interpreted literally. The evidence in the record indicates that Mr. Hall ordered the Defendant to leave numerous times. The Defendant refused to adhere to this request. This Court finds that Defendant's refusal to leave upon the request of Mr. Hall, with the ability to do so, supports the finding that he was at fault in bringing on the difficulty and his claim for self-defense fails.

Even assuming arguendo, the Defendant was not at fault in bringing on the difficulty, the Court finds Defendant's claim of self-defense fails under the next two elements. There has not been sufficient evidence showing that the Defendant was in actual imminent danger nor that he reasonably believed he was in imminent danger. The Defendant testified that he wanted to leave the Pool Room, however, he felt that using his hands to operate his vehicle and taking his eyes off Hall for an instant would expose him to further harm. Additionally, the Defendant alleged that Mr. Hall brandished and threatened him with a gun that day. However, The State provided testimony establishing that the defendant armed himself prior to returning to the Pool Room. The State had

several witnesses testify that they did not know Mr. Hall to carry a gun. The only apparent item Mr. Hall had on him or in his hand was a cell phone. In addition, no gun was ever seen or recovered around Mr. Hall's body after the shooting.

The defense also argued that the Defendant was not required to retreat "if by doing so he would increase his danger of being killed or suffering serious bodily injury." See *State v. Fuller*, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989). However, as previously discussed, the Court finds that the defendant was not in actual imminent danger, and that his belief that he was, was not reasonable. Subsequently, the Court finds that the Defendant in the instant case did not establish by a preponderance of the evidence the common law principles of self-defense. The court continued its analysis to determine whether the Defendant established immunity under 16-11-440 (A) or 16-11-440(C).

The defense argued that he is entitled to a presumption of reasonable fear under Section 16-11-440(A) because he was in his vehicle and alleges Mr. Hall tried to forcibly remove him from his vehicle.<sup>1</sup> The defendant testified that while sitting in his car at the Pool Room, he felt threatened by Mr. Hall and felt he had to protect himself. The Defendant and Mr. Hall's interaction lasted for over nine minutes. During that time, Mr. Hall does not do anything that appears overtly threatening.

---

<sup>1</sup> A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

The defense argued that the Defendant feared for his safety when Mr. Hall pulled on his door handle. Despite Mr. Hall's contact with the door handle of the Defendant's car at some point during the argument, the video showed that when the Defendant exited his vehicle and subsequently fired the first shot, Mr. Hall was at the front of the vehicle not in the process of entering his car. Additionally, evidence provided showed Mr. Hall stopping and taking a step back prior to the defendant firing the first shot. Betty Edwards testified on behalf of the state that she heard the defendant call Mr. Hall's name just prior to hearing gun shots. The video also corroborates that testimony showing something occurred that caused Mr. Hall to abruptly turn around as he was walking back towards the front door of the Pool Room. As a result, the Court finds the Defendant is not entitled to the presumption of reasonable fear.

The Defendant also argued that he was entitled to immunity under Subsection 16-11-440(C). This portion of the Act specifically does away with any common law duty to retreat<sup>2</sup>, so long as an individual can prove he 1) was not engaged in an unlawful activity, 2) was attacked, 3) was in a place where he had a right to be, and 4) reasonably believed the use of deadly force was necessary to prevent death or great bodily injury to himself or another person. *Scott*, 424 S.C. 463 (2018). There was no allegation on the record that the Defendant was acting unlawfully at the time of this incident. The defense argued that because the Defendant was in his vehicle when this incident occurred, that he was in a place he lawfully had a right to be. The Court disagrees with this contention.

Although the defendant was lawfully present at the Pool Room initially, when he was asked to leave by Mr. Hall, he was stripped of that right and became a trespasser. *See Wright v. United*

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<sup>2</sup> Although as set forth in *State v. Fuller*, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989), one is not required to retreat under the common law when doing so would increase the danger.

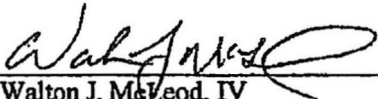
*Parcel Service, Inc.*, 315 S.C. 521 (Ct. App. 1994) (Although entry by a person on the premises of another may initially be lawful, a person becomes a trespasser when they fail to depart after being asked by the owner to leave). In addition, S.C. Code Section 16-11-620 provides that “any person who, without legal cause or good excuse . . . fails and refuses . . . to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative” is a trespasser. S.C. Code Section 16-11-620 (1976, as amended).

Clayton Hall, owner of the Pool Room, testified that Mr. Hall was tasked with asking the Defendant not to return to the Pool Room. As a business proprietor and agent of the Johnston Pool Room, Mr. Hall had the right to eject the Defendant from the premises. Additionally, the testimony of Laynce Hatcher established that Mr. Hall ordered the Defendant to leave one minute after he arrived at the Pool Room. From the moment the Defendant was asked to leave and failed to do so, he no longer had a right to be there, whether he was in his vehicle or not. Thus, he was not entitled to use deadly force. Accordingly, the Court finds the Defendant failed to meet his burden by a preponderance of the evidence and would not be immune from prosecution under 16-11-440(C).

#### CONCLUSION

Accordingly, in light of all the facts and circumstances, the Court finds that the Defendant did not have a right to be at the Pool Room at the time of the shooting and that he was not absolved of his duty to retreat; therefore, he did not establish a case of self-defense by a preponderance of the evidence necessary to claim statutory immunity under The Act. Therefore, Defendant’s Motion for Statutory Immunity under the Protection of Persons and Property Act, S.C. Code Ann. §16-11-410, et seq., is DENIED.

**IT IS SO ORDERED.**

  
Walton J. McLeod, IV  
Presiding Judge  
Eleventh Judicial Circuit

Lexington, South Carolina

October 15, 2021

STATE OF SOUTH CAROLINA )  
 COUNTY OF EDGEFIELD )  
 2018A1910100226-30 )  
 The State of South Carolina, )  
 )  
 )  
 vs. )  
 )  
 )  
 )  
 )  
 Barry Jones, )  
 )  
Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 Warrant Numbers: 2018A1910100216,

DEFENDANT'S OBJECTION TO  
 ORDER GRANTING IMMUNITY

JAN 11 2022

SC Court of Appeals

A pre-trial immunity hearing was held in Edgefield, SC, on September 7<sup>th</sup>, 2021 through September 8<sup>th</sup>, 2021 in accordance with *State v. Duncan*, 329 S.C. 404 (2011). The Honorable Judge McLeod issued his Order Denying Immunity and an Amended Order Denying Immunity issued October 14, 2021 and October 15, 2021, respectively, denying Mr. Jones immunity under the Protection of Persons and Property Act (the "Act"), found in Section 16-11-410, *et seq.*, of the S.C. Code (2006). Defendant respectfully objects to the Honorable Judge McLeod's orders denying immunity under the Act, and respectfully believes Judge McLeod misapprehended the law and facts in this case. The defense believes immunity was proven by a preponderance of the evidence under the Act, and applicable law, and asserts that a correct application of the law to the facts can be found *infra*.

**FACTS**

The shooting incident subject to defense's motion for immunity occurred May 7, 2018, at the Johnson Pool Room ("Pool Room"), located at 158 Lee Street, Johnston, South Carolina. The Defense called five witnesses to prove its case, and they consisted of (1) Tony Friar, (2) Randy Yonce, (3) Doug Lacey, (4) Dr. David Eagerton and the Defendant. Mr. Friar and Mr. Yonce were lay witnesses, while Mr. Lacey and Dr. Eagerton were qualified as expert witnesses and

testified in the fields of forensic video enhancement and forensic toxicology/pharmacology respectively. The evidence shows that Mr. Barry Jones ("Jones") was from Johnston, SC and attended Lander University after high school, where he earned a degree in Business Management. He testified that after college he was offered a job at the Savannah River Site ("SRS"), and he would ultimately work there for twenty-seven years. It was there that he met his wife as well as witness Tony Friar, who were both employed at SRS. Jones testified that his wife died after a grueling eight-year battle with cancer, and the depression from that experienced forced him to take an early retirement at a reduced pension, as he could no longer bear to work where he used to work with his wife. Jones testified that after his retirement he eventually moved back to Johnson to help take care of his father in the fall of 2017. Jones described Johnson as a small town with little in the way of restaurants and entertainment, and the Pool Room was one of the few places where you could get a good meal, drink a beer, and watch sports. When Jones first moved back to Johnson the Pool Room was owned by a man named Jerry Holloway, and he described the Pool Room as being well run with quality food and service. He was a regular patron, and it was at this time that he met Angie Smith ("Angie"), another Johnston local, and they started dating and would continue to date until the May 7<sup>th</sup>, 2018 incident. While at the Pool Room Jones also struck up a friendship with Johnson Police Officer Joseph Mathis, and they exchanged cell phone numbers and were on friendly terms.

In the winter of 2017 Jones testified that the Pool Room was sold and under new management by the Hall family. Specifically, that Clayton and Madison Hall were the owners, and it was at this time that Jones met the decedent in this case, Milledge Hall, who he only knew as "B-Boy." Evidence was presented that Milledge Hall ("Hall") was an investor in the business, grandfather of Clayton Hall, as well as the second cousin of Jones' then girlfriend Angie. Jones

testified that he really had no interaction with Hall initially, as they did not have much in common other than the fact that he dated Hall's second cousin. Jones described a sharp decline in the quality of the food and service at the Pool Room since the Halls had assumed ownership. He specifically testified to inconsistent quality of food, inappropriately cold inside temperature which forced patrons to wear their winter coats, warm beer and miscalculation of bar tabs by staff. Jones described addressing his complaints over the quality of service to Clayton Hall and other staff members; however, he indicated that his complaints were ignored. Jones claimed that he wanted the Pool Hall to succeed, as there were few other restaurant and entertainment options in Johnston, and he felt that if the Pool Room did not improve the quality of its service, it would likely lose business and shut down.

During the spring of 2018 Jones testified to a specific threat of violence by Hall approximately one month prior to the May 7<sup>th</sup> shooting incident. He described how he was sitting at the bar in the Pool Room with Angie, and she informed him that Hall was telling people that he was fired from SRS rather than retired. Jones described this as upsetting, given the early retirement he took after his wife's death, and he took the opportunity to go over to Hall, who was also sitting at the bar, and find out if this was true. He testified that he inquired of Hall if he was telling people that he was fired from SRS, as this was not true, and he wanted to know who told him this. He described how Hall was unapologetic, refusing to provide information regarding where he heard this, and that Hall jumped up out of his seat and physically backed Jones away over the course of several feet and threatened, "I'm going to beat your little ass all about this bar." He described being afraid of Hall, as he was a much larger man who physically looked down on him and was roughly three hundred pounds. He felt he had the physical capacity to hurt him, and he had also been warned from his friend Tony Friar that Hall had a reputation for

fighting his entire life. During this confrontation Jones denied getting angry or heated himself, and he testified that he quickly got his bar tab and he and Angie left. Jones stated that this event changed the way he viewed Hall, as they previously had little interaction, and that from this point on he was wary of Hall. He began sitting on the other side of the bar when at the Pool Room, and he also testified that he and Angie began traveling out of town to a bar called Foley's in Saluda, SC in an effort to avoid Hall. Jones also described and reviewed text messages between himself and Officer Joseph Mathis, approximately one month prior to the shooting incident, where he sought out a time to talk in person with Officer Mathis shortly after Hall's threat. Although he never ended up speaking with Officer Mathis, he stated it was his concern over this incident that he wanted to discuss. Animus and threats of violence by Hall towards Jones were also corroborated by witness Tony Friar. He described a day about one month prior to the shooting incident when he happened to be at the Pool Room, which he rarely patronized. He was unaware that Jones had moved back into town and upon seeing Jones the two men talked and caught up. During this conversation he described how Jones brought up his concern regarding Hall spreading rumors that he was fired versus retired from SRS, and Friar testified that he took the opportunity to speak to Hall about this as he was also in the Pool Room at the time. When Friar confronted Hall over the false rumor<sup>2</sup>, Hall was unapologetic and stated that he did not like Jones and that he "had something for him" while making a fist with one hand and pounding it into the other. Friar also testified that he had grown up going to school with Hall and he knew him to have a reputation in the community for fighting and violence. In the State's case Hall's widow was called purportedly to dispute the specific threat of violence by Hall; however, she corroborates Jones' account of the genesis of the conflict. She described an earlier dispute where she acknowledged Hall was telling people at the Pool Room that Jones had been fired rather than

retired from SRS. She described how Jones approached Hall to discuss this and that Hall turned in his bar stool and ordered Jones to “sit down,” but denies that he got up or offered any specific threat of violence. Although the testimony varied somewhat about the timeframe of this dispute, it is clear that the source of the dispute was Hall’s spreading of false information regarding the circumstances of Jones’ departure from SRS.

Jones testified that by the day of the May 7<sup>th</sup>, 2018 shooting incident, his relationship with Angie had soured, as she was “smothering” him and drinking excessively. The text messages in evidence support this, and it was also testified to that during the early morning hours of May 6<sup>th</sup>, 2018 that Jones texted Officer Mathis again – this time to have him come to he and Angie’s shared residence to calm her down. Jones testified that Officer Mathis did arrive at their home and was successful in calming her down without further incident. The State presented evidence through Clayton Hall, that the night of May 5<sup>th</sup>, 2018 Jones and Angie were in the Pool Room and Jones was angry over a miscalculation in his tab concerning fifty cents. Clayton Hall described Jones as becoming belligerent to the point that he made a decision that Jones would not be welcome in the Pool Room again. Clayton Hall claimed he did not want to inform him that night, purportedly to not escalate the situation, and he testified that Jones left peaceably on his own accord. Jones testified that he recalled this incident, and that there was a miscalculation over his bar tab; however, after he voiced his complaint to Clayton it was ignored and that he chalked it up to just another issue with the Pool Room’s service. He also testified that he left without incident and was not advised that he was no longer welcome to patronize the Pool Room. Clayton Hall testified that he made a decision to task Hall with informing Jones that he was no longer welcomed at the Pool Room the next time he saw him. Clayton also acknowledged that he kept his gun behind the bar for protection, and that several employees who were responsible for

closing the bar knew of its whereabouts, but he denied that Hall knew where the gun was — even as a part owner of the bar and someone that was tasked with protecting the bar and putting unruly patrons on trespass notice. Clayton Hall also acknowledged he had put three patrons on official trespass knowledge using local law enforcement, but Jones was not on this list.

The day of May 7<sup>th</sup>, 2018 was a Monday and Jones described how he started off running errands but went by the Pool Room for his “meeting,” and this was an afternoon session with several friends at the Pool Room to talk about their weekends. Hall’s widow described how Hall would also meet with friends on Mondays for a similar purpose, and that he had been doing this for over forty years. It is very clear from the text messages that Angie is upset that Jones went to the Pool Room without her, texting that she “is really pissed now” and that she’ll “come show out.” Jones described that at this point he had made up his mind to end the approximately eight-month relationship that he had with Angie. He described how a short while later Angie arrived at the Pool Room, but rather than talk to him where he was seated with friends by the bar near the door, she sat next to Hall who was on the other side of the bar. Given Angie’s mental state, Jones stated he was concerned that she would start a conflict with him at the Pool Hall, so he made a decision to leave and go to her house and grab any valuables and toiletries he would need to move out. Randy Yonce also testified to Jones’ concern over Angie and recalled Jones asking him to “watch his back” regarding Angie. Mr. Yonce and Jones testify consistently that Jones had no interaction with Hall at this point, and Mr. Yonce identified himself on surveillance video leaving at the same times as Jones. Yonce also denies that he had ever seen Jones unruly or disrespectful at the Pool Hall. The surveillance video<sup>3</sup> at 5:30PM shows Jones casually walking out to his Mercedes sedan parked on the far side of the parking lot facing the IGA. As Jones is slowly backing up and positioning himself to exit the parking lot, Hall can be seen in both

interior and exterior surveillance footage coming out of the Pool Room and walking to Jones' car. While Jones is attempting to turn out of the parking lot Hall can be seen striking the back right of Jones' car with an open hand, and while Jones continues to drive away Hall is seen holding his hands out gesturing. Jones testified that he was shocked and afraid when Hall came out and "beat on" his car. He said the loud strike caught his attention, and that Hall's gesture clearly indicated a desire to initiate a physical confrontation, although Jones did not know why, as they'd had no interaction that day. Jones left the parking lot without engaging Hall, but he testified that he was upset and concerned by Hall's aggressions, as he was already wrestling with the difficult decision to break up with Angie. Hall can be seen re-entering the Pool Room and smiling at unknown people outside the view of the video.

After Jones left to move out of Angie's house, he also testified and reviewed several texts he received from Angie where she expresses her anger and embarrassment about him leaving the Pool Room without speaking to her. He describes how he is both wrestling with how to go about ending the relationship with Angie, and also how to perform the act of breaking up without leaving himself exposed to further conflict, as he was the night before when he had to call for Officer Mathis. This matter has been complicated in his mind by the unprovoked aggression from Hall, and Jones testified that he begins reaching out to people he believes can help him with this situation. He texts a friend by the name of Joe Mims, who he describes as tough guy who he did not think Hall would start a conflict with if around, and he asks Mims to "come calm him down." He also texts that he was "gonna kill that be boy" and that he was out on bond and "don't need this bs." Jones testified that he did not make a literal plan to kill Hall, but rather he was just venting his frustrations via text at Hall's aggressive posturing occurring at the same time he had made plans to end the relationship with Hall's cousin Angie. He stated he was trying to defuse

the situation by trying to enlist his friend Mims, and explained that when asserting he didn't need "that bs" he meant any conflict with Hall. When it was clear Mims would not or could not come to his aid he again texted Officer Mathis and asked, "are you available?" He testified that he was looking for any figures of authority that would assist him in avoiding conflict with Hall, and by this time Angie had texted "CU soon. No fighting." After Angie's text Jones testified that he decided the Pool Hall was the best place to break up with Angie, ideally with a private conversation in the car, and with her latest text appearing more calm he felt this could be accomplished.

Jones can be observed arriving back at the Pool Hall at approximately 6:06pm per surveillance video. He parks in front of the Pool Hall, and he testified that with the large windows making up the front of the Pool Room he expected Angie to see him arrive and that she would come out to his car. The video shows him waiting in his car for approximately forty seconds before Hall exits and walks over to his driver's side window. Jones testified to the dread he felt as he saw Hall approach, compounded by the earlier act of aggression that day as well as the threat of violence one month prior. Hall's encounter at Jones' driver side window lasts approximately nine minutes, and can objectively be described as one that increases in agitation and aggression. Jones testified that when Hall approached, he locks the doors of his vehicle and only rolls down the window about six inches so that he can hear what Hall is saying but not allow him access to his person. Jones testified that Hall begins airing his personal grievances with Jones, including his treatment of his cousin Angie, which included calling Officer Mathis on her the night before. He also described Hall admonishing him for taking Angie and their business to other bars such as Foley's, as well as his dislike for Jones' "know it all" attitude concerning the running of the Pool Hall. Jones described Hall's breath as smelling of alcohol and

also testified to his slurred speech. Dr. Eagerton, the former head of SLED Toxicology and current chair of pharmacology at Campbell University testified that his expert opinion of Hall's blood alcohol content during this encounter was between a .10 to .13, and when cross examined on the matter his expert opinion was that he believed Hall had more than six beers. He also described how this level of intoxication could lesson inhibitions, diminish judgement, and cause aggression. Jones testified that Hall wanted Jones to get out of the car to fight, and that he used expletives when Jones refused. Jones described how Hall repeatedly attempted to open the door by pulling on the handle, and that his demeanor became more and more angry. Jones says that Hall advised he "had something for him" and could "make him get out" to fight. It was at this point that Jones described in great detail how Hall began brandishing a gun, and at one point saw him lift up his shirt to show him the gun in his waistband. The actions Jones testified to can clearly be seen at 6:14pm on the exterior surveillance video. Zoomed in and enhanced videos and still images of the gun brandishing were entered into evidence through expert witness Doug Lacey. Jones identifies on the video and photos how he sees Hall resting his right hand on his cell phone in a case clipped to his right pocket, while using his left hand to lift up his shirt to reveal a black gun in his waistband. Jones described this point in the encounter as "taking it to a new level," and he felt like his life was in danger. It was at this point that he reached over and retrieved a gun out of a bag he had on the seat which contained several guns collected from Angie's house. He advised it was a gun he had purchased for his wife and was unfamiliar with, but he put it in his lap and it was not visible to Hall due to the tinted windows. By this time in the encounter Jones' headlights can be seen as on, having initially been off, and he states that he started up the car to leave but Hall stated he would not let him leave until he got out to fight. Jones testified he repeatedly told Hall to calm down, and that if he would just go back inside he

would in turn leave. Jones testified that with Hall angrily wanting to fight while armed with a gun and trying to get him out of his car, he did not feel that it would be safe to turn his back on Hall and operate the vehicle to attempt a retreat. Eventually, after Hall is unsuccessful in getting Jones out of the car to fight, Jones testifies that Hall begins to walk away and he is hopeful that he will reenter the Pool Hall. He says that only at this point does Hall begin to tell him to leave<sup>4</sup>, making consistent hand gestures; however, he still does not feel safe to leave until Hall is back inside. The video shows Hall appear certain to reenter the Pool Hall; however, at approximately 6:16:34PM he can be seen turning quickly and moving again in the direction of Jones' vehicle. He can be seen pausing briefly before moving again quickly past a yellow bollard towards the driver's door, while Jones quickly opens the door and stands up shooting twice, at a distance of approximately four feet per his testimony. Hall can be seen falling backwards, and Jones then leaves the parking lot at a high rate of speed. Numerous bar patrons and staff exit to come to Hall's aid, and it is uncontroverted that Jones did not call police after the shooting. Hall would die at the hospital the following day.

### CONCLUSIONS OF LAW

#### A. **Standard of Review**

As our Supreme Court noted in State v. Jones, 416 S.C. 283, 296, 786 S.E.2d 132, 139 (2016), "the Legislature clearly enunciated its intent and reasons for promulgating the Act in section 16-11-420." The complete text of S.C. Code Ann. § 16-11-420 provides:

(A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle **and to extend the doctrine to include an occupied vehicle** and the person's place of business.

(B) The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

(C) **The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.**

(D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.

(E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, **nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.**

(emphasis added).

In order to accomplish the objectives set forth in section 16-11-420, the Legislature enacted section 16-11-440. Jones, 416 S.C. at 296, 786 S.E.2d at 139. This section “identifies the circumstances for which a person may invoke the protection of the Act.” Id. Specifically, subsection (A) of section 16-11-440 provides:

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used ***is in the process of unlawfully and forcefully entering***, or has unlawfully and forcibly entered a dwelling, residence, ***or occupied vehicle***, or if he removes or ***is attempting to remove another person against his will from*** the dwelling, residence, or ***occupied vehicle***; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

Subsection (c) of section 16-11-440 provides:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground **and meet force with force, including deadly force**, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

(emphasis added).

The General Assembly created a statute providing for immunity from prosecution to “[a] person who uses deadly force as permitted by the provisions of this article or another applicable provision of law.” S.C. Code Ann. § 16-11-450(A). The phrase “another applicable provision of law” found within the Act “includes the common law of self-defense.” State v. Glenn, 429 S.C. 108, 117, 838 S.E.2d 491, 496 (2019). “A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard.” State v. Curry, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013). Thus, a person who proves by a preponderance of the evidence that he satisfied (1) the elements of common law self-defense *or* (2) the elements of the Act is entitled to immunity from prosecution.

According to the Supreme Court, “a trial court should first consider whether the defendant has proved the elements of self-defense by a preponderance of the evidence.” Glenn, 429 S.C. at 118, 838 S.E.2d at 496. “If the defendant has failed to meet the elements of reasonable fear or the duty to retreat, the court should then determine whether section 16-11-440(A) or (C) is applicable.” Id. Thus, “in cases where the defendant has not proved the duty to retreat element by a preponderance of the evidence, the court should then consider whether section 16-11-440(C) is applicable because the provision was enacted to extend the protections of the Castle Doctrine to other places where he has a right to be.” Id. at 118-119, 838 S.E.2d at 496. “Where this section is applicable, it replaces the duty to retreat element required to establish self-defense.” Id. at 119, 838 S.E.2d at 497. “In determining whether a defendant satisfies section 16-11-440(C), the circuit court must analyze whether, at the time of the incident, he was engaged in an unlawful activity and was attacked in another place where he had a right to be.” Id. Pursuant to Glenn, if it is determined that the defendant was in a place he had no right to be, or was acting unlawfully,

analysis must be conducted to determine if either of these two issues is the proximate cause of the shooting. Id. at 123.

Additionally, the case law had made clear that witness testimony is likely to differ concerning issues of fact during the course of an immunity hearing. This does not in and of itself create a “quintessential jury question” such that immunity should be denied. Rather, it is more the norm than the exception that both parties will present evidence that is factually incompatible with each other, and it is the Court’s duty to sit as fact finder and reach a conclusion regarding immunity under the Act. See State v. Cervantes-Pavon, 426 S.C. 442, 451 (2019).

**B. Jones is immune from prosecution under the common law elements of self defense**

To establish self-defense, four elements must be present: (1) the defendant must be without fault in bringing on the difficulty; (2) the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury, or he must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury; (3) if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief, or if the defendant was actually in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life; and (4) the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in the particular instance. State v. Hendrix, 270 S.C. 653, 657-658, 244 S.E.2d 503, 505-506 (1978); see also State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984).

An individual has the right to act on appearances. State v. Starnes, 340 S.C. 312, 531 S.E.2d 907 (2000); see also State v. Jackson, 277 S.C. 271, 87 S.E.2d 681 (1955). One may act on

appearances. He may be mistaken. The law does not hold him to a *refined assessment* of the danger, provided, of course, he acted as the person of ordinary coolness and courage would have acted or should have acted in meeting the appearance of danger. He doesn't have to wait until his assailant gets the drop on him, he has a right to act under the law of self-preservation and prevent his assailant getting the drop on him; if it is apparent, or reasonably apparent his assailant is taking steps to get the drop on him, he must take steps first to prevent such assailant from getting the drop on him. State v. Rash, 182 S.C. 42, 50 (1936), Starnes at 322. Furthermore, an individual has the right to judge the conduct of his assailant more harshly if he has had prior difficulties with his assailant or is aware of their reputation for violence. State v. Day, 341 S.C. 410, 535 S.E. 2d 431 (2000).

Additionally, “words accompanied by hostile acts, may, depending on the circumstances, establish a plea of self-defense.” State v. Harvey, 220 S.C. 506, 68 S.E.2d 409 (1951). Furthermore, “when a person is justified in firing the first shot, he is justified in continuing to shoot until it is apparent that the danger to his life and body has ceased.” Hendrix, 270 S.C. at 661, 244 S.E.2d at 507. In Douglas v. State, 332 S.C. 67, 72-73, 504 S.E.2d 307, 309-10 (1998), the Supreme Court noted the judge had charged that if the defendant was justified in firing the first shot he was justified in continuing to shoot until any danger to his life and body had ceased.

State v. Douglas, 411 S.C. 307, 768 S.E.2d 232 (Ct. App. 2014) is instructive. Douglas and his friend, Charles Smith, had spent the day on the golf course drinking. Id. at 312, 768 S.E.2d at 236. After leaving the golf course, the two went to Douglas' home and continued drinking. Id. at 313, 768 S.E.2d at 236. Smith found a bottle of Douglas' anti-anxiety medicine and began teasing Douglas about it. Id. When Douglas grew angry, Smith “snapped” and “went crazy.” Id. Smith grabbed Douglas by his arms and threw him against the refrigerator. Id. When Douglas

fell to the floor, Smith got on top of him and struck him in the eye. Id. at 314, 768 S.E.2d at 236. Although Douglas told Smith to leave, Smith refused, but did go into another room. Id. Douglas crawled to his bed and got a pistol from the nightstand. Id. Douglas, returning to the kitchen, again told Smith to leave. Id. Instead, Smith advanced toward Douglas. Id. Douglas lifted the pistol to scare Smith. Id. When Smith was two feet away, Douglas fired the pistol. Id. A bullet hit Smith, and he died within minutes. Id.

This Court held Douglas proved by a preponderance of the evidence that he reasonably believed shooting Smith was necessary to prevent great bodily injury to himself, and that he acted in self-defense. Id. at 319, 768 S.E.2d at 239. Of importance as that the physical evidence was consistent with Douglas' testimony, showing that Smith was in close proximity when the pistol was fired. Id. at 319-320, 768 S.E.2d at 239. This Court noted that Douglas was injured in the altercation prior to the fatal shot, and that in light of Smith's lack of serious injury, Douglas' belief that Smith was about to inflict serious bodily injury upon him if he did not act to protect himself was reasonable. Id. at 320, 768 S.E.2d at 240. This Court also considered evidence that several years prior to the shooting, Smith assaulted Douglas by slamming him against a wall and choking him. Id.

In the present case, Jones cannot be said to have brought about the difficulty. Jones was preoccupied with his decision to break-up with Angie, his girlfriend of eight months, and he and Hall had no interaction the day of the shooting incident until Hall walked out after Jones and aggressively struck his car. This caused Jones renewed fear of Hall after the recent threat by Hall against Jones, coupled with Jones' knowledge of Hall's reputation for violence. Jones' decision to come back to the Pool Room was not unlawful or intended to start a conflict with Hall, but was merely the best option under the circumstances to end the relationship with Angie. The State asserts

Jones' texts are literal and show his intention to "kill that B Boy;" however, read as a whole, common sense dictates that Jones is seeking help from Mims and Officer Mathis to assist in avoiding the situation – however unartfully. When Jones arrives at the Pool Hall it is telling that he remains in his car and does not get out looking for a conflict with Hall. Hall comes to him, and the entire course of the video is consistent with Jones' account of airing of grievances by Hall to Jones that are personal in nature. The State claims that Jones told to leave by Hall early in the encounter and therefore is at fault in bringing about the difficulty when he refuses. This assertion is not convincingly proven by the evidence<sup>5</sup>, and even if clear proof is made of Hall's demand of Jones to leave, not instantly fulfilling that request does not make one guilty of bringing about the difficulty. Jones testified that as Hall's aggression escalated, he wanted to leave as shown by his headlights coming on when he started his car; however, he felt that using his hands to operate his vehicle and taking his eyes off Hall for an instant would expose him to further harm. Jones was not required to retreat "if by doing so he would increase his danger of being killed or suffering serious bodily injury." See State v. Fuller, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989). It is clear from the testimony and video surveillance that Jones was in an actual threat of imminent danger of death or great bodily injury. If a picture is worth a thousand words than a video is worth a million words, and there can be no other conclusion based on the evidence that Hall brandished and threatened Jones with a gun that day. The moment when Hall lifts up his shirt to show Jones the black object in his waistband is almost universally recognized as a boast that one is armed, and to conclude otherwise would defy reason. The State asserts that Hall was unarmed and that all that is captured on surveillance video is his phone. The State relies on the testimony of Hall's grandson Clayton to support this assertion, as well as its other witnesses, to say they never saw Hall with a gun that day<sup>6</sup>. The claim from Clayton Hall that Hall served as a protector of the Pool Hall, and was

specifically tasked with informing Jones to leave, yet he is unaware of the existence or location of the gun behind the bar is unconvincing. However, belief in this claim is unnecessary, as even if Jones was not in actual danger, based on the words and actions of Hall coupled with his prior threat and reputation for violence, Jones reasonably would have been entitled to believe his life was in danger. He would have been entitled step out of his car and strike the fatal blow in order to prevent Hall from getting the drop on him, and even if Hall did not appear to have a gun raised in the moment Jones shot, he would have been entitled to judge Hall's actions more harshly based on prior threats and reputation. See Day at 535, Rash at 50, Starnes at 322.

**C. Hall brought about the difficulty by attempting to put Jones on trespass notice while acting in bad faith.**

A business proprietor has a right to eject a trespasser from his premises. State v. Brooks, 252 S.C. 504, 510, 167 S.E.2d 307, 310 (1969) (citing State v. Rogers, 130 S.C. 426, 126b S.E. 329 (1925)). If the proprietor is “engaged in the *legitimate exercise in good faith* of his right to eject, he would in such case be without fault in bringing on the difficulty...” *Id.* (citing Rogers, 130 S.C. at 426, 126 S.E. at 329) (emphasis added); State v. Wiggins, 330 S.C. 538, 547, 500 S.E.2d 489, 494 (1998) (testimony that appellant threatened to “kick both [victim’s and sister’s] a—es” raised a jury question as to whether appellant was exercising good faith in ejecting victim)). However, “no man has the right...to kill an invited guest without any notice to leave and one so killing does not occupy the position of one who slays in defense of the castle, and for similar reasons excessive force, or a needless battery, resulting in the death of one, employed in the ejection of such person from the dwelling house cannot be excused.” State v. Bradley, 126 S.C. 528, 534, 120 S.E. 240, 242 (1923). Additionally, “where one, although forbidden to enter, went in peaceably, the occupant had no right to kill him upon a failure to instantly obey an order

to leave, and that such act was murder.” Id. Finally, “[i]f [the occupant] attempted to do what he had no right to do, to kill the trespasser in order to get him off the premises, the right of the trespasser to rely upon the plea of self-defense was unaffected by the fact that the deceased was on his own premises.” Id.

In State v. Dickey, the S.C. Supreme Court found that defendant Dickey, a self-armed apartment security guard who shot and killed a trespasser while attempting to eject the trespasser, had not brought about the altercation and had legitimately exercised in good faith his right to eject the alleged victim. State v. Dickey, 394 S.C. 491, 500, 716 S.E.2d 97, 101 (2011). Dickey “did not know [the victim] prior to his attempt to eject him and only did so in his capacity as a security guard...” Id. Additionally, “[Dickey] routinely carried the concealed weapon, and did not deliberately arm himself in anticipation of a conflict that evening.” Id. To eject the trespasser, Dickey first “called the police before ejecting [the trespassers]...” and did not approach the trespassers until he mistakenly believed officers had arrived. Id. After requesting in good faith that the trespassers leave, Dickey only discharged his firearm once the trespasser “began advancing in an aggressive manner.” Id. The Court stated “[h]ad [Dickey] accompanied the ejection with threatening words or posture” a question of bad faith would arise. Id. at 501 (citing State v. Wiggins, 330 S.C. at 547, 500 S.E.2d at 494).

In State v. Wiggins, the S.C. Supreme Court affirmed Wiggins conviction of voluntary manslaughter finding the existence of a question of fact as to whether Wiggins was exercising good faith in attempting to eject an individual who twice had been informed that he was not allowed at Wiggins business. State v. Wiggins, 330 S.C. 538, 542, 500 S.E.2d 489, 491 (1998). After Victim had been told to leave, Victim’s Sister and Brother arrived at the Wiggins’ business to express their displeasure over victim’s ejection from the establishment. Id. Sister testified

that after arriving at Wiggins place of business Victim arrived at the motel informing Wiggins that “he did not come looking for trouble; he had only come to get Sister.” Id. Wiggins told both victim and sister that he would “kick both of [their] asses.” Id. Victim responded “‘we’ll settle this,’ and turned to get out of the car” at which point Defendant began shooting. Id.

Hall’s actions during the confrontation are more akin to Wiggins, if not substantially more egregious, than to Dickey. Hall, like Dickey and Wiggins, had some right to eject Jones so long as that right was legitimately exercised in good faith like Dickey and unlike Wiggins. Like Wiggins and unlike Dickey, Hall knew Jones and, in fact, had prior disputes with Jones regarding the false rumor Hall had spread. The day of the incident, unlike Wiggins who had previously put the victim on trespass notice, Hall took the opportunity to air those grievances prior to personally requesting that Jones leave instead of using law enforcement to put Jones on trespass notice like other Pool Hall patrons. The confrontation began when Hall, who was intoxicated, approached Jones sitting in his vehicle in front of the Pool Hall with no intention of exiting his car and entering the Pool Hall. The evidence offered by the State is that Hall did not routinely carry a gun; however, the enhanced photos entered into the record by the Defense clearly depict a gun, which is separate and distinct from the cell phone clipped to Hall’s pants. Unlike Dickey, Hall armed himself specifically for his confrontation with Jones. Once Hall was situated in front of Jones’ passenger driver door, Hall began making verbal threats against Jones like Wiggins; however, Hall did not make just one verbal threat like Wiggins. Hall spent roughly eight minutes verbally threatening Jones telling him he “had something for him” and could “make him get out” to fight. While making various threats, Hall attempted to open Jones’ door which was locked. As Hall’s anger escalated, Hall pulled up his shirt to show Jones the gun tucked in his waistband and brandished the aforementioned gun. All while Jones remained in his

vehicle. Finally, Hall walked away from Jones' vehicle, still yelling and waiving his hands in an aggressive manner, only to swiftly turn back around to advance in an aggressive manner towards Jones like the victim in *Dickey* resulting in Jones need to utilize self-defense. Hall was not exercising good faith in his attempt to eject Jones from the Pool Hall when Hall armed himself for the confrontation, was intoxicated, and aired unrelated grievances while threatening Jones all while Jones remained in his vehicle to avoid a physical confrontation. Subsequently, Hall was at fault for bringing about the difficulty.

While Hall had a right to eject Jones from the Pool Hall, Hall only had a right to do so if he was exercising good faith in attempting to eject Jones. State v. Brooks, 252 S.C. 504, 510, 167 S.E.2d 307, 310 (1969); State v. Rogers, 130 S.C. 426, 126b S.E. 329 (1925). Otherwise, Hall was the party bringing about the difficulty entitling Jones to legally exercise his right to self-defense. Id. Furthermore, Hall did not have an unfettered right to use excessive or lethal force where Jones came to the Pool Hall peaceably and remained in his vehicle. See, State v. Bradley, 126 S.C. 528, 534, 120 S.E. 240, 242 (1923). Hall's verbal and physical threats are not deemed legally sound just by virtue of Hall's presence at his establishment where he failed to exercise good faith in attempting to eject Jones and subsequently, Jones' right to rely on a plea of self-defense is unaffected. Id.

**D. Jones would also be immune under 16-11-440(A).**

The above analysis confirms that Jones is entitled to immunity pursuant to common law principles of self-defense; however, for the purposes of argument, even if Jones' self-defense claim failed in one ore more respects, he would then be entitled to seek immunity by looking to the Act in either 16-11-440 (A) or (C). Glenn at 118. Section 16-11-440(A) is applicable in this

case based on the evidence, and it provides the Act's strongest protections. 16-11-440(A)

provides:

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used ***is in the process of unlawfully and forcefully entering***, or has unlawfully and forcibly entered a dwelling, residence, ***or occupied vehicle***, or if he removes or ***is attempting to remove another person against his will from*** the dwelling, residence, or ***occupied vehicle***; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(Emphasis added). It is clear from the testimony of Jones, who was the sole testifying witness to the context of the dispute, that Hall demanded Jones get out of his car to fight him while pulling at his door handle in an attempt to get him out of the vehicle. He describes how Hall's frustrations had boiled over, based on Jones' refusal to get out, and that he was going to make him get out and fight, at gun point if necessary. Jones also asserts it was his belief that Hall intended to force his removal from his vehicle, as he came towards him "with steam," just prior to Jones making the decision to shoot. This act by Hall is supported by the video evidence and falls squarely within the prohibition of 16-11-440 (A) against attempting to remove another against his will from his occupied vehicle. This portion of the Act states, even in the absence of an obvious attack, that the act of attempting to remove an individual against his will from his vehicle creates a presumption of reasonable fear of imminent death or great bodily injury such that he can use deadly force against his assailant. State v. Duncan, 392 S.C. 404. 709 S.E.2d 662 (2011). Jones has established immunity under 16-11-440(A) by a preponderance of the evidence.

**E. Jones would also be immune under the provision of 16-11-440 (C)**

Although immunity has been established by a preponderance of the evidence under common law principles of self-defense and pursuant to the Act under 16-11-440 (A), for the sake of argument and in keeping with the holding from Glenn, if 16-11-440 (A) was not applicable Jones has established immunity under 16-11-440 (C). This section states:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground **and meet force with force, including deadly force**, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

(emphasis added). This portion of the Act specifically does away with any common law duty to retreat<sup>7</sup>, so long as an individual can prove he was attacked while acting lawfully and in a place he had a right to be. There has been no claim by the State that Jones was acting unlawfully at the time of his fatal encounter with Hall, and Jones was in a place where he had right to be while sitting in his car in the Pool Hall parking lot, as discussed supra. Factually consistent with findings of immunity in cases like State v. Douglas and State v. Jones, 416 S.C. 283, S.E.2d 132 (2016), Jones had a right to use deadly force in the face of an attack by an intoxicated Hall, who was determined to fight and armed with a gun to accomplish his aim. Jones' use of his own gun to combat the threat of an armed attack by Hall was an appropriate "force for force" response to end the attack and prevent death or great bodily injury to himself. He had no duty to retreat pursuant to the Act. Jones has met his burden by a preponderance of the evidence and would be immune from prosecution under 16-11-440(c).

CONCLUSION

Jones has proven his immunity by a preponderance of the evidence pursuant to both the common law principles of self-defense as well as the text of the Act in both 16-11-440(A) and (c), and therefore, Jones' actions are immune from prosecution under the Act, as interpreted by State v. Glenn and Jones is immune from prosecution for murder for the shooting of Hall on May 7<sup>th</sup>, 2018 that ultimately resulted in his death.

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The Defense filed an objection to the Order and Amended Order Denying Immunity on November 22, 2021.

The shooting incidents for which Jones is on trial occurred May 7, 2018. On that date Jones was at the Johnson Pool Room ("Pool Room"), located at 158 Lee Street, Johnston, South Carolina. After leaving the Pool Room, Jones returned to the parking lot at approximately 6:07pm. While sitting in his 2007 silver Mercedes ("Vehicle") at the Pool Room, Hall came outside and approached the Vehicle. Per surveillance video, Hall approaches the driver's door of Jones' vehicle and takes an aggressive and confrontational posture towards Jones. Several times throughout the conversation, Hall is seen throwing his hands in the air, pacing, and leaving and returning to the vehicle. Jones remained in his Vehicle throughout the conversation, even as Hall's visible aggression and agitation escalates, ultimately brandishing what Jones asserts is a gun. At approximately 6:16pm, Hall begins to walk back towards the front entrance of the Pool Room as he continuing to yell at Jones. However, instead of walking inside, Hall spins around, and begins to approach Jones' vehicle at a rapid pace while continuing to confront Jones again. Jones can be seen on video exiting his car, standing behind his open car door, and shooting Hall two times using a handgun. Jones leaves the scene as Pool Room patrons call 911.

By approximately 7:50pm, Officers had identified Jones as a suspect and encountered his vehicle parked in a clearing off of Log Creek Road, Edgefield, South Carolina. As Officer Florida of the Edgefield County Sheriff's Department drove past the clearing, he alleges that Jones began firing at his vehicle. Officer Kathmann, with the Edgefield Police Department, followed closely to support Officer Florida. Both Officers fired at Jones. During the exchange of gunfire, Jones suffered gunshot wounds to the abdomen and the neck.

### STANDARD

“The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice.” *State v. Douglas*, 369 S.C. 424, 429, 632 S.E.2d 845, 847-48 (2006). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” *Id.* at 429-30, 632 S.E.2d at 848.

### RULE

Generally, “[a]ll relevant evidence is admissible...” Rule 402, SCRE. “[E]vidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 401, SCRE. Although generally admissible, “relevant[] evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.” Rule 403, SCRE. “The determination of the prejudicial effect of the evidence must be based on the entire record and the result will generally turn on the facts of each case.” *State v. Gillian*, 373 S.C. 601, 609, 646 S.E.2d 872, 876 (2007). “Evidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an improper basis, such as an emotional one.” *State v. Wilson*, 345 S.C. 1, 7, 545 S.E.2d 827, 830 (2001).

Additionally, relevant “[e]vidence of a person’s character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion...” Rule 404(a), SCRE. Furthermore,

[e]vidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be

admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

Rule 404(b), SCRE.

The South Carolina Supreme Court considered suicide-attempt evidence for the first time in *State v. Cartwright* implementing a rigorous framework by which suicide-attempt evidence could properly be admitted after finding that “suicide-attempt evidence is fraught with the potential for extreme prejudice” and that “[e]vidence of attempted suicide is not easily analogized to evidence of guilt.”<sup>1</sup> *State v. Cartwright*, 425, S.C. 81, 91 (S.C. 2018). The *Cartwright* Court instructs that the trial court must conduct a hearing outside of the jury’s presence to determine whether the State has proven by clear and convincing evidence that:

(1) a jury could reasonably find that a suicide attempt occurred; (2) the defendant was aware of the occurrence of the alleged crimes at the time of the suicide attempt; and (3) an ***unmistakable*** nexus exists by clear and convincing evidence linking the suicide attempt to a guilty conscience derivative of the offense for which the defendant is on trial. If the trial court concludes that the three factors have been established, the evidence is relevant and may be admitted, subject to a Rule 403, SCRE analysis. The suicide-attempt evidence may be admitted only when all three factors have been met, and the evidence survives a Rule 403 analysis. We recognize that in view of our rigorous framework, ***suicide-attempt evidence will rarely be admitted.***

*State v. Cartwright*, 425, S.C. 81, 93 (S.C. 2018) (emphasis added). “Clear and convincing evidence is that degree of proof which will produce in the mind of the trier of facts a firm belief as to the allegations sought to be established.” *In re Dickey*, 395 S.C. 336, 354 (S.C. 2011) (citation omitted).

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<sup>1</sup> Contradicting the Court of Appeals in *State v. Orozco* where the Court reasoned that “[a suicide attempt] is easily analogized to other types of circumstantial evidence guilt based on the accused’s behavior after the crime.” *State v. Orozco*, 392 S.C. 212, 218, 708 S.E.2d 227 (Ct. App. 2011).

## ARGUMENT

### I. *Cartwright* Framework

As a preliminary matter, the State, not the Defense, holds the burden of proving by clear and convincing evidence the three factors in the *Cartwright* framework. *State v. Cartwright*, 425, S.C. 81, 93 (S.C. 2018).

- a. The only evidence that a suicide occurred are based on statements allegedly made by Jones according to two different law enforcement officers on scene after the shooting incident. Neither alleged statement ascribes any guilt by Jones regarding the shooting events, and Jones' purported suicide attempt cannot be proven forensically or ballistically by projectile comparison.

The State cannot prove by clear and convincing evidence that Jones attempted to commit suicide, as Jones was shot multiple times by law enforcement with at least two different weapons. Jones disputes the existence of an unmistakable nexus between the attempted suicide allegation and the charges for which Jones is on trial.

Consequently, the trial court has no need to further analyze the following second and third factor because all three factors must be established for suicide-attempt evidence to be admitted, however, the Defense further considers the second and third factors in the following sections.

- b. At the time of the alleged suicide attempt, Jones was aware that he had shot Hall in self-defense.

The second factor is whether the defendant was aware of the occurrence of the alleged crimes at the time of the suicide attempt. At the time of the alleged suicide attempt, Jones was

unaware that Hall had passed away from gunshot wounds but was aware of the fact that he had shot Hall, albeit in self-defense<sup>2</sup> and therefore, not considered a criminal act.

- c. An unmistakable nexus does not exist by clear and convincing evidence linking the alleged suicide attempt to a guilty conscience derivative of the offense for which Jones is on trial.

The third factor is whether an unmistakable nexus exists linking the alleged suicide attempt to a guilty conscience derivative of the offense for which the defendant is on trial. In *Cartwright*, the S.C. Supreme Court did find an unmistakable nexus between Cartwright's attempted suicide and a guilty conscience derivative of Cartwright's charge for criminal sexual conduct where Cartwright admitted that he attempted suicide after he became aware of the new charges and Cartwright had threatened to commit suicide if the victims told anyone about the sexual abuse. The Court held that, "[t]he fact that Cartwright acted on his threat and attempted suicide enhance[d] the probative value of the evidence." *Cartwright*, 425 S.C. at 93.

In this case, Jones will face a trial for offenses stemming from two separate incidents. Each incident should be considered separately when determining whether an unmistakable nexus exists. Further, Jones' attempted suicide allegation is unlike that of Cartwright's where Jones did not threaten to commit suicide or commit suicide upon learning of the charges currently being levied against him. Instead, even under the light most favorable to the State, Jones allegedly chose to commit suicide after being shot at and shot by Law Enforcement, indicating that Law Enforcement did not see the shooting of Hall as Jones saw it which was one out of necessity for self-defense and further indicating that Jones faced imminent incarceration at best and death by Law Enforcement at worst. "Accusation and threat of prosecution and punishment may impel a

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<sup>2</sup> The Defense respectfully refers this Honorable Court to Defense's filed Objection to the Honorable Judge McLeod's Order Denying Immunity.

defendant to attempt suicide...Instead of seeking to avoid punishment, a defendant who attempts suicide may, for reasons unrelated to the crime charged, choose to inflict upon himself or herself a punishment more severe than that following a conviction of the charge.” *State v. Mann*, 132 N.J. 410, 422, 625 A.2d 1102, 1108 (N.J. 1993)<sup>3</sup>.

Furthermore, Jones’ alleged attempted suicide is not evidence of a guilty conscience from having to defend himself against Hall. First, Jones’ encounter with Law Enforcement serves as a break in the causal chain between Jones shooting Hall in self-defense and then attempting to commit suicide where almost an hour passed between the encounter and the attempt during which Jones did not attempt or contemplate suicide. Second, Jones testifying in his own defense at the immunity hearing held before the Honorable Judge McLeod on September 7<sup>th</sup>, 2021 and September 8<sup>th</sup>, 2021 is incongruous with a guilty conscience. At the immunity hearing, Jones testified in depth about his shooting of Hall, specifically, how his actions were out of necessity and not malice or an intention to shoot Hall without sufficient provocation. Jones’ ability to speak about his shooting of Hall and his justification behind shooting Hall is contradictory to a guilty mind. Not only does Jones’ justification of his shooting of Hall prevent a showing of an *unmistakable*<sup>4</sup> nexus by clear and convincing evidence, but it prevents a showing of a nexus at all where the State cannot establish a guilty conscience.

The State will not be able to show by clear and convincing evidence that an unmistakable nexus exists linking the alleged suicide attempt to a guilty conscience derivative of the offenses for which Jones is on trial where Jones freely testified regarding his justified shooting of Hall in

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<sup>3</sup> Since the S.C. Supreme Court’s decision in *Cartwright*, no S.C. court has had an occasion to apply the *Cartwright* framework; however, in deciding *Cartwright*, the Court found *State v. Mann*, 132 N.J. 410, 625 A.2d 1102, 1107 (N.J. 1993), to be “instructive insofar as the admissibility of such evidence is concerned.” *Cartwright*, 425 S.C. at 91.

<sup>4</sup> “[N]ot capable of being mistaken or misunderstood.” Merriam-Webster’s New World Dictionary (11<sup>th</sup> Ed. 2003).

self-defense and where Jones was being shot at by Law Enforcement and was shot by Law Enforcement immediately preceding his alleged suicide attempt. As such, the State, who carries the burden, fail to meet the *Cartwright* framework and Jones' alleged suicide attempt is not admissible to show a guilty conscience.

## II. Rule 403, SCRE, Analysis

Even if the Honorable Court finds the suicide-attempt allegation admissible under the *Cartwright* Framework, the evidence should properly be excluded under Rule 403, SCRE because its probative value is substantially outweighed by its unduly prejudicial effect and its tendency to confuse the jury and invite a verdict on an improper basis.

First, the Defense finds no probative value in the suicide-attempt evidence as proven by the Defenses application of the *Cartwright* framework. The only permissible use of suicide-attempt evidence, per *Cartwright*, is where there exists an unmistakable nexus between the attempted suicide and the offenses for which the Defendant is on trial to prove a guilty conscience. However, the *Cartwright* Court did not draft an easily met framework and instead drafted one which would rarely admit suicide-attempt evidence recognizing the low probative value of such evidence in the majority of cases such as this one. The suicide-attempt evidence has no probative value in this case because it does not make it more or less true that Jones shot Hall with malice aforethought where Jones testified under oath that he shot Hall out of self-defense or that Jones shot at Law Enforcement with malice aforethought where Jones is alleged to have attempted suicide after being shot at and potentially shot by Law Enforcement.

Second, evidence of Jones' attempted suicide is, as the *Cartwright* Court aptly described, "fraught with the potential for extreme prejudice." *State v. Cartwright*, 425, S.C. 81, 91 (S.C.

2018). Specifically, Jones would be prejudiced by jury animus because of moral or religious beliefs towards the act of suicide. Suicide is considered morally reprehensible in many different religions and thus, evidence of an attempted suicide may sway a juror who religiously objects to the practice to decide the case based on emotion rather than evidence. Furthermore, suicide has been mistakenly associated with cowardice. See *Wash. v. Glucksberg*, 521 U.S. 702, 712 (1997) (quoting Blackstone's Commentaries as referring to suicide as "the pretend heroism, but real cowardice, of the Stoic philosophers, who destroyed themselves to avoid those ills which they had not the fortitude to endure"). For similar reasons, other individuals could have moral objections or believe false connotations causing the juror to decide the case on an improper basis.

Third, evidence of attempted suicide is "highly equivocal and circumstantial" such that its admissibility "may introduce remote, secondary concerns that might confuse the jury." *State v. Onorato*, 171 Vt. 577, 762 A.2d 858 (2000). The State's use of suicide-attempt evidence is a crude tool of persuasion that attempts to create a deceptive and dangerous parallel to flight evidence where the S.C. Supreme Court has already held that "[e]vidence of attempted suicide is not easily analogized to evidence of guilt." *State v. Cartwright*, 425, S.C. 81, 91 (S.C. 2018). Unfortunately, suicide is a leading cause of death in America<sup>5</sup> and therefore, not so easily summarized into one motive or reasoning. Attempting to do so will just needlessly confuse the jury by introducing remote, secondary concerns which the Defense will be forced to combat further distracting the jury from the central issues at trial.

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<sup>5</sup> *Suicide*, NAT'L INST. OF MENTAL HEALTH, <https://www.nimh.nih.gov/health/statistics/suicide>.

Evidence of Jones' alleged attempted suicide serves no probative value and is fraught with the potential for prejudicial effect as well as the tendency to confuse the jury about the central issues of the case and thus, should be excluded under Rule 403, SCRE.

### III. Rule 404, SCRE, Analysis

Evidence of Jones' alleged attempted suicide is inadmissible as impermissible character evidence and, more specifically, as evidence of a crime, wrong, or act used to prove the character of Jones in order to show that he acted in conformity therewith. Suicide was a felony at common law and was sometimes considered "self-murder." See *Wash. v. Glucksberg*, 521 U.S. 702, 710-17, 117 S. Ct. 2258, 117 S. Ct. 2302, 138 L. Ed. 2d 772 (1997) (summarizing the Anglo-American common law tradition of criminal suicide). Furthermore, in *State v. Levelle* a S.C. Judge opined that "[i]n the eye of the law, self-destruction—suicide—is an offence; it is an unlawful act, and if a man with a deadly weapon undertakes to take his own life, he is doing an unlawful act...[,]" and the S.C. Supreme Court affirmed holding that "in this State...suicide...retain(s) its common law character as a felony." *State v. Levelle*, 34 S.C. 120, 130-131, 13 S.E. 319, 321 (SC 1891), *overruling on other grounds by State v. Torrence*, 305 S.C. 45, 69 fn 5 (S.C. 1991); see also, *State v. Jones*, 86 S.C. 17, 47 (S.C. 1910); see also, *Davis v. Collins*, 69 S.C. 460, 465 (S.C. 1904). Subsequently, evidence of Jones' attempted suicide is inadmissible because it constitutes a crime, wrong or bad act which the State is offering to prove that since Jones alleged attempted to take his own life, he acted similarly in unlawfully taking the life of Hall and attempting to take the life of Law Enforcement.

**CONCLUSION**

For the foregoing reasons, this Court should issue an Order to exclude the admission of any suicide-attempt evidence at trial.

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This 30th day of November, 2021  
Columbia, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF EDGEFIELD )

IN THE COURT OF GENERAL SESSIONS  
Warrant Number: 2018A1910100216

The State of South Carolina, )  
)  
)

vs. )  
)  
)

Barry Jones, )  
Defendant. )

MOTION FOR ~~NEW TRIAL~~ RECEIVED

JAN 11 2022

SC Court of Appeals

Barry Wayne Jones was found guilty at trial on the charge of murder and not guilty on the charge of attempted murder on December 13<sup>th</sup>, 2021. He was sentenced to thirty-five years that same day. At this time, the defense renews all previous motions and objections and respectfully requests that a new trial be granted in this case. The denial of the following motions prevented Mr. Jones from receiving a fair trial:

**(1) The Defense Motion for Immunity on the murder charge should have been granted pursuant to the Protections of Persons and Property Act**

A hearing was held September 7<sup>th</sup> -8<sup>th</sup>, 2021 to determine whether Mr. Jones was immune from prosecution, and the Court held an evidentiary hearing and later denied immunity by written order on October 1<sup>st</sup>, 2021 and also by amended order dated October 15<sup>th</sup>, 2021. Defense counsel filed a written objection to the Court's orders denying immunity and believes that the Court misapprehended the facts and the law in this case, and believes immunity should have been granted as to the charge of murder.

**(2) The Defense Motion to Sever should have been granted**

During the hearings held September 7<sup>th</sup>- 8<sup>th</sup>, 2021 the defense also argued and filed a written motion seeking severance on the murder charge from the attempted murder case. The Court denied the motion for severance by original written order dated October 1<sup>st</sup>, 2021 and then

by later amended order dated October 15<sup>th</sup>, 2021. It was clear from the trial that the murder and attempted murder charges did not (1) arise out of a single chain of circumstances [or single course of conduct], (2) were not proved by the same evidence, (3) were not of the same general nature, and (4) a real right of the defendant has been prejudiced.” *State v. Beekman*, 415 S.C. 632, 636, 785 S.E.2d 202, 204 (2016) (citing *State v. Tucker*, 324 S.C. 155, 164, 478 S.E.2d 260, 265 (1996)). It was clear during deliberations that the jury was split, and they indicated via a note that they were deadlocked. After being Allen charged the jury came back within thirty minutes with the guilty verdict on murder but not guilty on attempted murder. It appears clear that the jury was overwhelmed and confused by the task of considering both cases, and the prejudice of hearing the attempted murder allegation against a police officer left them unable to properly consider the facts and evidence of the murder allegation.

**(3) The Court should have granted the defense motion to exclude evidence of attempted suicide pursuant to Cartwright.**

The South Carolina Supreme Court considered suicide-attempt evidence for the first time in *State v. Cartwright* implementing a rigorous framework by which suicide-attempt evidence could properly be admitted after finding that “suicide-attempt evidence is fraught with the potential for extreme prejudice” and that “[e]vidence of attempted suicide is not easily analogized to evidence of guilt.”<sup>1</sup> *State v. Cartwright*, 425, S.C. 81, 91 (S.C. 2018). The *Cartwright* Court instructs that the trial court must conduct a hearing outside of the jury’s presence to determine whether the State has proven by clear and convincing evidence that:

- (1) a jury could reasonably find that a suicide attempt occurred; (2) the defendant was aware of the occurrence of the alleged crimes at the time of the suicide attempt; and (3) an ***unmistakable*** nexus exists by clear and convincing evidence

<sup>1</sup> Contradicting the Court of Appeals in *State v. Orozco* where the Court reasoned that “[a suicide attempt] is easily analogized to other types of circumstantial evidence guilt based on the accused’s behavior after the crime.” *State v. Orozco*, 392 S.C. 212, 218, 708 S.E.2d 227 (Ct. App. 2011).

linking the suicide attempt to a guilty conscience derivative of the offense for which the defendant is on trial. If the trial court concludes that the three factors have been established, the evidence is relevant and may be admitted, subject to a Rule 403, SCRE analysis. The suicide-attempt evidence may be admitted only when all three factors have been met, and the evidence survives a Rule 403 analysis. We recognize that in view of our rigorous framework, *suicide-attempt evidence will rarely be admitted.*

A pretrial hearing was conducted concerning the attempted suicide evidence, and the Court abused its discretion by ruling this evidence could be considered by the jury, as there was not an unmistakable nexus by clear and convincing evidence of Mr. Jones' attempt at suicide being due to his guilt from the underlying crimes. Law enforcement witnesses proposed no belief as to why he attempted to take his own life, and at trial, Mr. Jones testified that it was not due to any guilty over the crimes he was on trial for, but rather due to the fact that excessive force was being used against him by Officer Florida, and he felt he would rather take his own life than being hunted down like an animal by this officer. Allowing this evidence to be considered by the jury was highly prejudicial, should have been precluded under SCRC 403, and prevented Mr. Jones from receiving a fair trial in this case.

**(4) The Court refused to ask any voir dire questions concerning police officer credibility and insufficient questions regarding attempted suicide**

The defense moved for supplemental attorney conducted voir dire due to the aggravated nature of this case, and that request was denied by the Court. In the alternative the defense sought for specific questions to be asked of the jury concerning their beliefs regarding whether a police officer was more credible or more reliable than a regular witness or even the Defendant. The Court refused to ask any version of this question, in a case where the state theory was that Mr. Jones shot at two police officers in the line of duty, and this prevented the defense from ascertaining the true beliefs of the jurors on a critical issue in the case. Additionally, the Court

refused to ask defense proposed voir dire regarding whether a juror might consider evidence of attempted suicide as evidence of guilty by a Defendant. The Court only asked a generic and insufficient question regarding juror ability to be fair and impartial if suicide came up in the case, which is not adequate under the facts of this case and how the State sought to use this evidence to show Defendant's "guilty conscious."

**(5) The Court should have granted the Defense motion pursuant to Batson v. Kentucky**

During jury selection the state struck two young African American males, both with dreadlock style hair, without insufficient race neutral reasons for their excusal. Solicitor Hubbard, in striking juror Brannon even called him "the Defendant." Defense counsel made a motion objecting to the jury pursuant to Batson and that motion was denied by the Court. This was a structural error by the Court.

**(6) The Court refused to allow the Defense to present a complete and full defense by disallowing any mention of the fact that the State was not going forward on Officer Kathmann's Attempted Murder case.**

Shortly before trial began the State informed the Court and defense counsel that it would not be going forward on the attempted murder allegation concerning Officer Kathmann. During the prior motion to sever, held months prior, the State relied heavily on the fact that this charge, plus the attempted murder allegation against Officer Florida, was integral to their case and had to be joined with the murder case. Even in the light most favorable to the State, the only evidence in the record that the Defendant shot at Officer Florida came from Officer Florida, who the state contends was lying to cover his own actions of excessive force in shooting first at the Defendant. When Officer Kathmann took the stand as a witness the defense sought to question him regarding his attempted murder charge not being tried and the State's objection was sustained.

This line of questioning was proffered, where the State inappropriately objected but was sustained, regarding if Officer Kathmann was ever advised why his case was not being pursued. To not be allowed to explore why Kathmann's charge was not being brought, particularly when the only evidence of attempted murder on Kathmann came from Officer Florida, directly impugned the defense's right to present a complete and full defense as well as challenge the version of events set forth by Officer Florida. This was an abuse of discretion by the Court, violating the fundamental tenants of Due Process and the right to present a complete and full defense of the 6<sup>th</sup> Amendment. See Kyles v. Whitley, 514 U.S. 419 (1995).

**(7) Admission of all of Defendant's guns into evidence was error under SCRE403, 404(B)**

At the time the Defendant was taken into custody he testified he had just moved out of his girlfriend's house where he had hurriedly put his clothes, toiletries and valuables in his car, including all of his guns. The State's own witness, Crime Scene Investigator Tankersley, confirmed that only two of Defendant's guns were used that day. His rifle was used to return fire at Officer Florida and his Taurus .38 special revolver was used to shoot Milledge Hall at the Pool Room and later in an attempt to take his own life after the shootout with Officer Florida. The State sought and was successful, over defense counsel's objection, in admitting numerous other guns and knives into evidence that were found in his car. None of these other weapons were used or alleged to have been used by the Defendant, and many of them were inaccessible to him during the incident and completely irrelevant to this case. It was error to allow them into evidence and violates SCRE 403 and 404(B).

**(8) The Court abused its discretion in allowing the improper victim impact testimony of the decedent's wife, Brenda Hall.**

Over defense counsel's objection, the Court allowed improper victim impact testimony

into evidence that would normally only be allowed during the penalty phase of death penalty cases. The State claimed that it needed to offer Ms. Hall's testimony to establish the time of death, as she was there with her husband when he died; however, the State had already had the pathologist testify and could have easily gotten this information through that witness. The State sought this information so that it could get extremely sympathetic testimony before the jury, from the wife of the decedent, in order to make an emotional impact. She testified that she was there with him at the end as chest compressions were being performed in an attempt to save his life. This violates 16-3-1550, as described in State v. Hill, 331 SC 94 (1998) and Payne v. Tennessee, 501 U.S. 808, 111 S. Ct. 2597, 115 L. Ed. 2d 720 (1991).

**9. The Court abused its discretion in limiting the testimony of defense witness Tim Cornwell.**

Throughout its case in chief the State elicited from almost every lay witness that the alleged murder victim, Milledge Hall, was a peaceful man who never carried guns. Whether Mr. Hall had a gun or not was a central issue to the murder case. Through his wife, Brenda Hall, they even asked her "he wasn't the type of guy to carry guns?" The state put the alleged victim's character for peace into evidence repeatedly throughout their case under SCRE 404(a)(2). With defense witness Tim Cornwell the defense was able to elicit evidence of the alleged victim's reputation within the community for violence; however, the Court would not allow the defense to elicit testimony of a specific instance of violent conduct as the Court ruled it was too remote in time. It was proffered that Tim Cornwell observed the alleged victim attempt to start a violent confrontation approximately fifteen years ago at a turkey shoot, where he threatened two other men with physical violence regarding a construction dispute. This evidence should have been allowed to be heard by the jury under SCRE 405(b), as the alleged victim's trait for violence was an essential element of the defense, and it was already put into evidence by the prosecution to

attempt to show he was peaceful. This was error.

**(9) The Court should have given a curative instruction, or in the alternative granted a mistrial after claims by the State that attacked Mr. Jones' right to counsel.**

During cross examination by the State of Mr. Jones the State questioned Mr. Jones about South Carolina's laws on trespass, to which Mr. Jones replied he did not know the law. The State then responded that he seems to know all of the laws concerning self-defense but just not regarding trespass, thereby attacking his right to counsel and insinuated that he was coached in the law that was important to his case. Defense counsel asked that the jury be excused and then argued that a curative instruction should be given and in the alternative a mistrial should be granted. The Court refused to provide a curative instruction and denied defense counsel's motion for a mistrial. This was error.

**(10) The Court should not have precluded defense evidence of a shooting reconstruction sought to be admitted through their crime scene expert.**

The defense offered and had admitted witness Christopher Robinson as an expert in crime scene investigation, reconstruction, and firearms. He was allowed to testify regarding the bullet trajectory analysis he performed, as well as his identification of which gun was being shot first as captured on Officer Kathmann's dash camera. Of critical importance to this case was whether Mr. Jones shot first at Officer Florida with his AR-15 styled rifle or whether Officer Florida shot first with his Glock 22 .40 pistol. During a hearing out of the jury's presence, Mr. Robinson testified about a shooting recreation that was performed to show the different sounds of an AR-15 rifle versus a .40 caliber pistol as recorded by a dash cam similar to Officer Katmann's. Mr. Robinson performed this reconstruction experiment to aid the jurors in identifying the sounds coming from the individual guns, as well as to show that the .40 pistol could be shot from within a moving vehicle without the barrel of the gun being seen out the

driver's side window and without leaving shell casings on the ground. The fact that no gun was visible from Officer Florida's window and no shell casings were found on the ground in the area of where he would have first shot was repeatedly asserted in the State's case as evidence that he did not fire first. The state asserted that this reconstruction video evidence should be precluded, namely because the conditions used in the reconstruction were not exactly identical to the shooting conditions the day of the incident, and they cited SCRE 403 as the evidence being "prejudicial." The Court agreed with the State; however, the Court seems to misunderstand the rule in that relevant evidence may be excluded if the probative value is substantially outweighed by the danger of unfair prejudice. The Court conducted no balancing test, and just simply ruled with the state. This evidence was critical in aiding the jurors in determining who shot first based on a recreation that would aid them in hearing the distinctive nature of the different firearms being shot in a controlled setting.


**(11) The Court erred in denying defense jury charges.**

There was evidence in the record, through Mr. Jones' testimony, that Mr. Hall while engaged in a lengthy and escalating confrontation at Mr. Jones' car window, attempted to open his car as part of his effort to get Mr. Jones out to fight. My Jones testified, and was corroborated by Laynce Hatcher, that he only rolled his driver's door window down approximately six inches for fear of what Mr. Hall might do as he engaged him at this door for approximately ten minutes. Mr. Jones stated his door was locked, which prevented Mr. Hall from getting him out of his vehicle, and he later testified that as Mr. Hall was brandishing his gun he was told by Hall that "he could make him get out" of his vehicle. Given this evidence in the record defense counsel sought specifically through their proposed charge number 15, a charge encompassing a citizen's right to defend his occupied vehicle. This law is contained under 16-11-440 (a) of the Protections

of Persons and Property Act and provides that a person is presumed to have a reasonable fear of imminent peril of death or great bodily injury if someone attempts to remove them from their occupied vehicle. The Protections of Persons and Property Act has codified defense of habitation law and also extended it to a person's occupied vehicle. The Court misapprehended the law in South Carolina and therefore did not feel it should be charged even though there is evidence in the record. This is reversible error. The Court committed additional error concerning jury charges in not charging all of defense counsel's charges on self-defense, and it omitted from its charges the critical language contained in defendant's proposed charge number 6, "he doesn't have to wait until his assailant gets the drop on him. He has a right to act under the law of self-preservation and prevent his assailant getting the drop on him; if it is apparent, or reasonably apparent his assailant is taking steps to get the drop on him, one who acts in self-defense must take steps first to prevent such assailant from getting the drop on him." See State v. Rash, 182 S.C. 42, 50 (1936), State v. Starnes, 340 S.C. 312, 322 (2000). Additionally, the Court refused to charge defense counsel's proposed charges numbers 17 and 18, regarding trespass and the right to expel a trespasser, as this was a right the State repeatedly asserted the victim had to tell Mr. Jones to leave the Pool Hall. They argued strenuously that this precluded Mr. Jones from claiming self-defense, and accordingly the jury should have been charged on these areas of law. These errors in jury charges are an abuse of discretion.

For all of the aforementioned reasons a new trial should be granted in this case.

This 24<sup>th</sup> Day of December  
Columbia, SC

  
Luke A. Shealey  
Attorney for the Defendant  
The Shealey Law Firm  
1507 Richland Street  
Columbia, SC 29201

**RECEIVED**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF EDGEFIELD )  
 )  
 State of South Carolina, )  
 )  
 vs. )  
 )  
 Barry Jones, )  
 )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 ELEVENTH JUDICIAL CIRCUIT

JAN 11 2022

SC Court of Appeals

Indictment Nos.: 2018GS1900418

**ORDER DENYING DEFENDANT'S MOTION FOR NEW TRIAL**

This matter comes before this Court on Defendant's Motion for New Trial filed on December 20, 2021. Jury selection for this trial was completed on Friday, December 3, 2021. Trial began on Monday December 6, 2021 after completion of remaining pretrial motions. On Monday, December 13, 2021, an Edgefield County jury found Defendant guilty of Murder and not guilty on the charge of Attempted Murder. Following the verdict, victim impact statements, and Defendant's mitigation presentation, Barry Jones was sentenced to thirty-five (35) years in prison for Murder.

On December 20, 2021, Defendant timely filed a substantive Motion for New Trial based on the following: (1) Denial of Defendant's Motion for Immunity pursuant to the Protection of Persons and Property act, (2) Denial of Defendant's Motion to Sever, (3) Denial of Defense Motion to exclude evidence of attempted suicide, (4) the Court's refusal to ask all proposed voir dire questions, (5) Denial of Defense's Batson violation motion, (6) the Court's failure to allow Defense to present a complete defense by disallowing any mention of the State not going forward on an additional Attempted Murder Case, (7) The Court's admission of all Defendant's guns under SCRE403 and 404(B), (8) the Court's Admission of improper victim impact testimony, (9) the Court's decision to limit the testimony of defense witness Tim Cornwell, (10) the Court's lack of a curative instruction regarding the Defendant's right to counsel, (11) the Court's exclusion of a

shooting reconstruction sought to be admitted through a crime scene expert, and (12) the Court's denial of defense requested jury charges.

In light of all the facts and circumstances, and in reviewing the record, this Court finds:

- 1) As to Defendant's basis #1, the Defendant did not establish a case of self-defense by a preponderance of the evidence necessary to claim statutory immunity under The Act.
- 2) As to Defendant's basis #2, the events alleged in the indictments (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) that no real right of the defendant has been prejudiced. Thus, as the factual circumstances of the indictments were so inextricably intertwined that severance was not appropriate.
- 3) As to Defendant's basis #3, the attempted suicide evidence was properly admitted under the factors enumerated in *State v. Cartwright*.<sup>1</sup> During the hearing, the Court heard the testimony of individuals who were in contact with Defendant on the night of the incident. The Defendant admitted to law enforcement that he shot himself in the neck. Additionally, there was testimony that the wound on Defendant's neck was consistent with a self-inflicted wound, satisfying the first element. The Defendant was also aware of the alleged crimes at the time of the suicide attempt. The Defendant admitted he knew law enforcement was pursuing him following the shooting at the Johnston Pool Room. Lastly, there was an unmistakable nexus established that the

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<sup>1</sup> In determining whether or not evidence of a suicide attempt are admissible, South Carolina trial courts are to conduct a hearing outside the presence of the jury to determine whether the State has proven that (1) a jury could reasonably find that a suicide attempt occurred; (2) the defendant was aware of the occurrence of the alleged crimes at the time of the suicide attempt; and (3) an unmistakable nexus exists by clear and convincing evidence linking the suicide attempt to a guilty conscience derivative of the offense for which the defendant is on trial. If the trial court concludes that the three factors have been established, the evidence is relevant and may be admitted, subject to a Rule 403, SCRE analysis. *State v. Cartwright*, 425, S.C. 81, 91 (S.C. 2018).

suicide attempt was a guilty conscience derivative of the murder of Milledge Hall and the alleged attempted murder of James Florida. While in law enforcement custody, the Defendant addressed the unsuccessful suicide attempt and told officers "you should have just killed me." The evidence showed that the Defendant had suicidal ideations, acted on those ideations and continued to express his desire to die after the unsuccessful attempt. Unlike Cartwright, the Defendant's suicide attempt occurred before he was detained and confined. He fired the self-inflicted shot after he was no longer able to run from the police. These circumstances, coupled with the statements of the Defendant after he was detained satisfied the elements enumerated in *Cartwright* and survived a Rule 403 analysis.

- 4) As to Defendant's basis #4, attorney conducted voir dire was not warranted. Additionally, while the Court did not ask the exact questions submitted by the Defense, it asked sufficient questions regarding juror ability to be fair and impartial to suicide.<sup>2</sup>
- 5) As to Defendant's basis #5, after conducting a hearing on this motion, the State provided race neutral reasons for the excusal of juror 193 and juror 21.
- 6) As to Defendant's basis #6, the Court found testimony regarding the case called to trial by the Solicitor to be irrelevant and not in accordance with SCRE 403, as it would cause unnecessary confusion of the issues for the jurors on the charges to which what they were responsible for adjudicating.
- 7) As to Defendant's basis #7, the guns were properly admitted into evidence.

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<sup>2</sup> "The manner in which these questions are pursued and the scope of any additional voir dire is within the sound discretion of the trial court. The trial court is not required to ask every question submitted by counsel." *Wilson*, 315 S.C. at 438, 434 S.E.2d at 291.

- 8) As to Defendant's basis #8, the testimony of Brenda Hall did not amount to a victim impact statement and the testimony was properly admitted as evidence of a prior dispute and ill feelings between the victim and the Defendant. This was relevant to establish appellant's motive to commit the crime and his identity as the perpetrator. Also, prior to Ms. Hall's testimony, the Court did limit the scope of what the State could elicit from the witness.
- 9) As to Defendant's basis #9, the testimony the Defense intended to elicit from Tim Cornwell was from 15 years ago, did not involve the Defendant and the victim, and was inadmissible and outside the appropriate scope of time necessary for use under Rule 405(a), SCRE.<sup>3</sup>
- 10) As to Defendant's basis #10, neither a curative instruction nor a mistrial was warranted in this instance. While the facts surrounding the reconstruction were relevant, the probative value was substantially outweighed by the danger of misleading the jury as the conditions of the reconstruction were not consistent with the conditions involved in the incident.<sup>4</sup>
- 11) As to Defendant's basis #11, the Court denied Defendant's claim for statutory immunity pursuant to the Protection of Persons and Property act. Thus, the jury instruction was not warranted.<sup>5</sup>

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<sup>3</sup> In the murder prosecution of one pleading self-defense against an attack by the deceased, evidence of other specific instances of violence on the part of the deceased are not admissible unless they were directed against the defendant or, if directed against others, were so closely connected at point of time or occasion with the homicide as reasonably to indicate the state of mind of the deceased at the time of the homicide, or to produce reasonable apprehension of great bodily harm. *State v. Day*, 341 S.C. 410, 419-20, 535 S.E.2d 431, 436 (2000).

<sup>4</sup> In the Motion for a New Trial, the Defense had two #9 in their grounds for appeal. The numbers in this order have been adjusted accordingly.

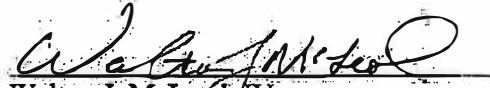
<sup>5</sup> *State v. Curry*, 406 S.C. 364, 752 S.E.2d 263(2013).

12) As to Defendant's basis #12, the charge given to the jury adequately addressed the substance of Defense counsel's charge request and addressed all issues properly raised at trial.

Based upon review of the arguments presented, this Court finds there is an insufficient basis for a new trial on the grounds made in Defendant's motion or any other grounds. In addition, this Court finds that Defendant's Motion for New Trial is appropriately adjudicated and without the need for oral argument pursuant to Rule 29(a), SCRCrimP.

THEREFORE, this court DENIES Defendant's Motion for New Trial.

**IT IS SO ORDERED.**

  
Walton J. McLeod, IV  
Presiding Judge  
Eleventh Judicial Circuit

Lexington, South Carolina

January 7, 2022

COPY

Start Time: 1/9/2018 7:11:17 PM(UTC-5)  
 Last Activity: 5/7/2018 6:52:28 PM(UTC-4)  
 Participants: +17068405260 Barry Jones, +18037612464 Johnston Police Joseph Mathis  
 From: From: +17068405260 Barry Jones  
 Timestamp: 1/9/2018 7:11:17 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:  
 Hey this is Barry Jones with the ZR1.  
 What day/night are you off duty ?

Barry W Jones

-----  
 From: From: +18037612464 Johnston Police Joseph Mathis  
 Timestamp: 1/9/2018 8:13:47 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:

Hey Mr Barry, I'm actually working tonight, and the next 6 nights in a row, we're down 2 officers and had another 1 quit today, so we're short staffed as hell, so i figured as the Sergeant i would step up!!

-----  
 From: From: +17068405260 Barry Jones  
 Timestamp: 1/9/2018 8:58:43 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:

Proud of you !  
 Let me know when you go eat at the Pool Room.  
 I'll continue to pray for you and your staff....

-----  
 From: From: +18037612464 Johnston Police Joseph Mathis  
 Timestamp: 1/9/2018 9:09:19 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:

Thank you sir!!

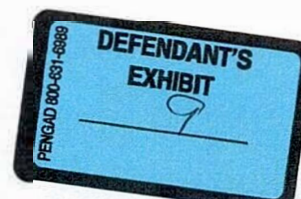
-----  
 From: From: +17068405260 Barry Jones  
 Timestamp: 1/12/2018 7:28:40 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:

I'm at the pool room if you have time to come eat. I got you covered.

-----  
 From: From: +18037612464 Johnston Police Joseph Mathis  
 Timestamp: 1/12/2018 7:50:42 PM(UTC-5)  
 Source App: iMessage: +17068405260  
 Body:

I would come but I'm actually goin to triangle to eat with my Lieutenant! Maybe next time tho!

-----  
 From: From: +17068405260 Barry Jones  
 Timestamp: 1/12/2018 7:53:30 PM(UTC-5)  
 Source App: iMessage: +17068405260



Body:

That sounds great !

Enjoy and let me know when you are off. I'm going to put the ZR1 back in storage soon.

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 1/12/2018 8:07:32 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

I'm goin to deff try to get with you b4 you put it up!!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/12/2018 9:20:50 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

I would love that .

Be smart and careful.

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/14/2018 7:52:34 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

What is the hottest .223

ammo out there now ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 1/14/2018 7:54:42 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

I'm nt real sure, i dnt even own a 223! I'll ask round and see what i can find out for you tho!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/14/2018 7:55:59 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Thanks my friend. My Dad wants some.

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/15/2018 6:49:12 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

I can't keep track of your schedule. Update me

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 1/15/2018 6:50:12 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Wrkn the next 4 in a row!!! Sucks, Be we short handed 😞

From: From: +17068405260 Barry Jones  
Timestamp: 1/15/2018 6:52:04 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Be careful...  
You are on nights right ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/15/2018 6:52:55 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Yes sir!!!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/15/2018 7:11:01 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
👍

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/15/2018 7:18:36 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Are you Clemson or SC

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/16/2018 8:48:41 AM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
I don't really have a preference, I'll watch whoever and enjoy the game, i know that sounds crazy!! Lol!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/19/2018 10:25:40 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Are you on tonight ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/20/2018 4:31:52 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
I was off last night, I'm working tonight tho!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/20/2018 4:32:21 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
10-4  
-----

From: From: +17068405260 Barry Jones  
Timestamp: 1/22/2018 4:16:42 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Can you meet me and let's take the ZR1 for a ride ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/22/2018 4:18:52 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

I'm over in Edgefield for court right now!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/22/2018 4:30:46 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Ouch 😊

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/22/2018 4:31:31 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Lol, i know right!!!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/22/2018 4:37:55 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

I'm at the pool room if you can stop by

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/22/2018 4:39:08 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Ok, i should be done with court soon!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/22/2018 4:39:51 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Cool

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 1/22/2018 7:01:15 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

Are you wanting to drive the ZR1 without coming into the pool room ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 1/22/2018 7:01:51 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

We're actually headed there now for supper!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/22/2018 7:02:06 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Wow 😊

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 1/22/2018 7:02:55 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Lol, I've been in the office with my Lieutenant and Chief! Me and Lieutenant headed there now!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/22/2018 7:04:15 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Great

-----  
From: From: +17068405260 Barry Jones

Timestamp: 1/24/2018 9:07:18 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Are you working tonight ?

-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:35:23 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Are you working tonight ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 2/24/2018 8:36:08 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Who is this?

-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:37:13 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Barry

ZR1

Miranda is at the Pool Room closing and has no males present

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 2/24/2018 8:37:54 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Oh ok, my phone didn't save you for some reason! Yes sir I'm workin, what time is she closing?

-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:40:21 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

She says Clayton is coming back, but 12:00  
And thanks !

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 2/24/2018 8:41:10 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Ok, i dnt mind if i need to ride up there, if you wanna give her my number, I'm good with that!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:45:35 PM(UTC-5)

Source App: iMessage: +17068405260

Body:



-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:47:58 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

What is your official title and complete name and I will forward it. Angie and I just got home .

Thanks for protecting us !

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 2/24/2018 8:53:13 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Sergeant Joseph Mathis

Not a problem sir!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 2/24/2018 8:57:52 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

I will send that to Miranda and thanks for your service !

I've got a CTS-V here at the house for you to drive ! Cadillac 556 hp

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 2/24/2018 9:00:58 PM(UTC-5)

Source App: iMessage: +17068405260

Body:

Yes sir!! Oh wow, i bet that thing will fly!!

---

From: From: +17068405260 Barry Jones  
Timestamp: 2/24/2018 9:04:04 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

I have video of 180 ..  
I will send my friend doing it in Arizona

---

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 2/24/2018 9:07:30 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

Oh wow!!!

---

From: From: +17068405260 Barry Jones  
Timestamp: 2/24/2018 9:24:50 PM(UTC-5)  
Source App: iMessage: +17068405260

Attachments:

#1: chats\iMessage  
+17068405260\attachments13\Attachmentd2de7850-7445-45c4-b85c-29d0f390f438.mov

Body:

---

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 2/24/2018 9:25:40 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

WOW!!!!

---

From: From: +17068405260 Barry Jones  
Timestamp: 2/24/2018 9:26:21 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

Come by and see the car , I'm at 206 Edisto behind the Triangle...

---

From: From: +17068405260 Barry Jones  
Timestamp: 2/24/2018 9:26:44 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

The ZR1 is in storage

---

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 2/24/2018 9:27:18 PM(UTC-5)  
Source App: iMessage: +17068405260

Body:

Ok, I'll try this evenin, if not, i work 2mar night also!

---

From: From: +17068405260 Barry Jones  
Timestamp: 2/24/2018 9:28:27 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:

It's pearl white under the overhang  
-----

From: From: +17068405260 Barry Jones  
Timestamp: 2/28/2018 4:12:15 PM(UTC-5)  
Source App: iMessage: +17068405260  
Attachments:  
#1: chats\iMessage  
+17068405260\attachments13\Attachment6bc267a7-cd08-4150-9d0a-4542e91a3c78.JPG  
Body:

Here is a picture of my friend that works for Richmond County.  
Be careful out there. His hands were all cut up also.  
-----

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 2/28/2018 4:13:21 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
What happened?  
-----

From: From: +17068405260 Barry Jones  
Timestamp: 2/28/2018 4:14:51 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Give me a few.  
-----

From: From: +17068405260 Barry Jones  
Timestamp: 2/28/2018 4:37:37 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Domestic abuse call.  
The black man was strung out on something. It took 3 people and 2 stun guns.  
He said his body cam restricted him from not taking more force earlier in the  
situation 🙄  
-----

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 2/28/2018 4:38:35 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
Oh damn!! Glad he's ok!! Domestic calls are one of the most dangerous!!!  
-----

From: From: +17068405260 Barry Jones  
Timestamp: 2/28/2018 4:58:09 PM(UTC-5)  
Source App: iMessage: +17068405260  
Body:  
For sure  
-----

From: From: +17068405260 Barry Jones

Timestamp: 3/27/2018 7:24:26 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Have you been doing well ?

-----

From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 3/27/2018 7:25:04 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Yessir! And yourself?

-----

From: From: +17068405260 Barry Jones

Timestamp: 3/27/2018 7:26:51 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

We have !

You working nights ?

-----

From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 3/27/2018 7:28:00 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

I do, be back 2mar night and thurs night

-----

From: From: +17068405260 Barry Jones

Timestamp: 3/27/2018 7:32:20 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Great

We need to get together soon. I pray for all of officers in the county.

Chris Wash is a great friend of mine. Do you know him ?

-----

From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 3/27/2018 7:38:31 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Yes we do! I do knw him!!

-----

From: From: +17068405260 Barry Jones

Timestamp: 3/27/2018 9:16:11 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Cool 😊

-----

From: From: +17068405260 Barry Jones

Timestamp: 4/7/2018 10:11:02 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Ru working ?

-----

From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 4/7/2018 10:25:40 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Yessir!

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 4/7/2018 10:26:41 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Loud music, we handled it bout 5 min ago!

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 4/7/2018 10:27:11 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Handled!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 4/7/2018 10:27:18 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
It's all good now.  
Thanks

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 4/7/2018 10:28:03 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Yes  
My neighbor

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 4/7/2018 10:28:37 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Cool  
You be careful !  
Good night

-----  
From: From: +18037612464 Johnston Police Joseph Mathis  
Timestamp: 4/7/2018 10:29:33 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:  
Will do!!!

-----  
From: From: +17068405260 Barry Jones  
Timestamp: 4/9/2018 10:59:40 PM(UTC-4)  
Source App: iMessage: +17068405260  
Body:

When you are one days and have time I need to talk you ....

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 4/10/2018 2:39:37 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

Ok sir, i rarely work days, I'll be back Wednesday on nights, I'm usually there round 530PM, call me round that time and I'll come by!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 5/6/2018 1:27:03 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

Are you working tonight ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 5/6/2018 1:27:28 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

Yessir i am!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 5/6/2018 1:29:21 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

Can you come by 206 Edisto to calm down my girl friend ?

-----  
From: From: +18037612464 Johnston Police Joseph Mathis

Timestamp: 5/6/2018 1:29:37 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

Yessir, on the way!

-----  
From: From: +17068405260 Barry Jones

Timestamp: 5/6/2018 1:30:06 AM(UTC-4)

Source App: iMessage: +17068405260

Body:

👍

-----  
From: From: +17068405260 Barry Jones

Timestamp: 5/7/2018 6:52:28 PM(UTC-4)

Source App: iMessage: +17068405260

Body:

Are you available ?

## SMS Messages (605)

\* These details are cross-referenced from this device's contacts

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
1	Inbox	<b>To</b> +17068405260 Barry Jones* <b>From</b> +18643211246 Chris Stancel * <b>Direction:</b> Incoming	5/9/2018 9:26:45 AM(UTC-4)		Unread	Are you okay	
2	Inbox	<b>To</b> +17068405260 Barry Jones* <b>From</b> +18032265713 Jo Jo Mims* <b>Direction:</b> Incoming	5/9/2018 9:26:44 AM(UTC-4)		Unread	I'm not sure what you mean	
3	Sent	<b>To</b> +18032265713 Jo Jo Mims* <b>Direction:</b> Outgoing	5/7/2018 6:56:57 PM(UTC-4)		Sent	Can you help me ? I'm out on two bonds and I don't need that bs	
4	Inbox	<b>From</b> +18032265713 Jo Jo Mims* <b>Direction:</b> Incoming	5/7/2018 6:51:48 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:55:40 PM(UTC-4)	Read	Yeah they talked shit the last time me and my brother was in there but that's all I'm saying	
5	Sent	<b>To</b> +18032265713 Jo Jo Mims* <b>Direction:</b> Outgoing	5/7/2018 6:49:51 PM(UTC-4)		Sent	I'm gonna kill that be boy	
6	Sent	<b>To</b> +18032265713 Jo Jo Mims* <b>Direction:</b> Outgoing	5/7/2018 6:49:25 PM(UTC-4)		Sent	Can you come calm me down ?	



#	Folder	Party	Time	All timestamps	Status	Message	Deleted
7	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 6:47:05 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:48:28 PM(UTC-4)	Read	C u soon. No fighting	
8	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 6:33:49 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:48:28 PM(UTC-4)	Read	Everyine stared at me	
9	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 6:33:29 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:48:28 PM(UTC-4)	Read	You couldn't even come and speak	
10	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 5:58:22 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:48:53 PM(UTC-4)	Read	That's y I fly by myself	
11	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/7/2018 5:27:21 PM(UTC-4)		Sent	I'm getting sick of Angie's shit .....	
12	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:25:23 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	I'll come show out	
13	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:24:48 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	Answer me...	

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
14	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:22:27 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	If you don't come talk to me it won't be pretty when you get home	
15	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:21:57 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	I am really pissed now	
16	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:21:34 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	You told me we weren't going anywhere all right I got ready and went with you	
17	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:21:15 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	We're not going to make it like this you need to come talk to me	
18	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:20:46 PM(UTC-4)	<b>Read:</b> 5/7/2018 6:00:54 PM(UTC-4)	Read	What I cant belive you	
19	Sent	<b>To</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Outgoing	5/7/2018 5:17:33 PM(UTC-4)		Sent	Sorry didn't here the phone. Headed for my meeting. What are you doing ?	

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
20	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:15:49 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:15:58 PM(UTC-4)	Read	Hello	
21	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 5:12:51 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:12:59 PM(UTC-4)	Read	Ok	
22	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/7/2018 5:12:29 PM(UTC-4)		Sent	Cool Let's check for tomorrow .... 	
23	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 5:08:39 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:10:56 PM(UTC-4)	Read	Maybe 7 or 8 but you know me something may come up	
24	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/7/2018 5:07:37 PM(UTC-4)		Sent	What time you going to be back ?	
25	Inbox	<b>From</b> +18034308734 Angie Smith Johnston*  <b>Direction:</b> Incoming	5/7/2018 5:06:07 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:15:58 PM(UTC-4)	Read	Everything ok	
26	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 5:06:05 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:07:02 PM(UTC-4)	Read	Didn't know I was even coming down but said fuck it k just let me know	

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
27	Sent	<b>To</b> +18032265713 Jo Jo Mims*	5/7/2018 5:00:23 PM(UTC-4)		Sent	I'm ready !	
		<b>Direction:</b> Outgoing					
28	Inbox	<b>From</b> +18032265713 Jo Jo Mims*	5/7/2018 5:00:03 PM(UTC-4)	<b>Read:</b> 5/7/2018 5:00:15 PM(UTC-4)	Read	Well we will have to do it one day when you get a chance	
		<b>Direction:</b> Incoming					
29	Sent	<b>To</b> +18032265713 Jo Jo Mims*	5/7/2018 4:59:16 PM(UTC-4)		Sent	I would enjoy that 😊	
		<b>Direction:</b> Outgoing					
30	Inbox	<b>From</b> +18032265713 Jo Jo Mims*	5/7/2018 4:56:15 PM(UTC-4)	<b>Read:</b> 5/7/2018 4:56:15 PM(UTC-4)	Read	I know just get tired of sitting around edgfield I'll come down here for happy hour and have a couple of pictures and head back 😊 😊	
		<b>Direction:</b> Incoming					
31	Sent	<b>To</b> +18032265713 Jo Jo Mims*	5/7/2018 4:54:51 PM(UTC-4)		Sent	SOB you !	
		<b>Direction:</b> Outgoing					
32	Inbox	<b>From</b> +18032265713 Jo Jo Mims*	5/7/2018 4:54:32 PM(UTC-4)	<b>Read:</b> 5/7/2018 4:54:36 PM(UTC-4)	Read	At the pub	
		<b>Direction:</b> Incoming					
33	Sent	<b>To</b> +18032265713 Jo Jo Mims*	5/7/2018 4:54:25 PM(UTC-4)		Sent	K	
		<b>Direction:</b> Outgoing					

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
34	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 4:53:56 PM(UTC-4)	<b>Read:</b> 5/7/2018 4:54:03 PM(UTC-4)	Read	St	
35	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/7/2018 4:53:48 PM(UTC-4)	<b>Read:</b> 5/7/2018 4:54:03 PM(UTC-4)	Read	I'm on board Sr. Right now	
36	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/7/2018 4:49:13 PM(UTC-4)		Sent	You available a little later ?	
37	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/5/2018 10:52:35 PM(UTC-4)		Sent	10-4	
38	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/5/2018 10:51:51 PM(UTC-4)	<b>Read:</b> 5/5/2018 10:51:51 PM(UTC-4)	Read	Ok just let me know	
39	Sent	<b>To</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Outgoing	5/5/2018 10:51:25 PM(UTC-4)		Sent	I will be in touch	
40	Inbox	<b>From</b> +18032265713 Jo Jo Mims*  <b>Direction:</b> Incoming	5/5/2018 10:48:09 PM(UTC-4)	<b>Read:</b> 5/5/2018 10:48:10 PM(UTC-4)	Read	Got company can get together tomorrow or Monday whatever is easier	

DOCKET NO. 2018GS1900418

**The State of South Carolina**  
County of Edgefield

**COURT OF GENERAL SESSIONS**  
**OCTOBER TERM 2019**

**THE STATE**  
**vs.**  
**Barry Wayne Jones**

CDR #: 0116

**Indictment for**

**MURDER**  
**§ 16-03-0010**

**S.R. Hubbard III, SOLICITOR**

WITNESSES

Edgefield County Sheriff's Department

James C Smith

Law Enforcement Case #: 1805115

REM

**ARREST WARRANT NUMBER**

**2018A1910100216**

**ACTION OF GRAND JURY**

**TRUE BILL**

  
Foreperson of Grand Jury  
Date

**VERDICT**

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA    )  
   )  
 COUNTY OF EDGEFIELD        )  
   )

INDICTMENT FOR  
 MURDER

§ 16 03 0010

At a Court of General Sessions, convened on OCTOBER 2019, the Grand Jurors of Edgefield County present upon their oath:

That **Barry Wayne Jones** did in Edgefield County on or about May 7, 2018, unlawfully kill one Milledge Hall, Jr. with malice aforethought, either express or implied, to wit: did shoot the victim with a firearm, in violation of §16-3-10, 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.




---

ASSISTANT SOLICITOR

DOCKET NO. 2018GS1900420

**The State of South Carolina**

County of Edgefield

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2018**

**THE STATE  
vs.**

**Barry Wayne Jones**

CDR #: 3410

**Indictment for**

**ATTEMPTED MURDER**

**§ 16-03-0029**

**S.R. Hubbard III, SOLICITOR**

WITNESSES

Edgefield County Sheriff's Department

James C Smith

Law Enforcement Case #: 1805115

REM

**ARREST WARRANT NUMBER**

**2018A1910100227**

**ACTION OF GRAND JURY**

**HAVE BILL**

Foreperson of Grand Jury

Date:

**VERDICT**

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA    )  
   )  
 COUNTY OF EDGEFIELD        )  
   )

INDICTMENT FOR  
 ATTEMPTED MURDER

§ 16-03-0029

At a Court of General Sessions, convened on OCTOBER 2018, the Grand Jurors of Edgefield County present upon their oath:

That **Barry Wayne Jones** did in Edgefield County, South Carolina, on or about May 7, 2018, with the intent to kill, attempt to kill another person with malice aforethought, either express or implied, to wit: did shoot at Sgt. James Florida multiple times with a rifle, in violation of §16-03-0029 of the South Carolina Code of Laws of 1976, as amended.

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

  
 \_\_\_\_\_  
 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield

STATE

VS.

INDICTMENT/CASE# 2018-GS 19 00418

Barry Wayne Jones

AW# 2018A1910100216

AKA: \_\_\_\_\_

Date of Offense 5/7/2018

Race: White Sex: M Age: 57

S.C. Code §: 16 03 0010

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

CDR Code # 0116

Address Edisto Street

City, State, Zip Johnston SC 29832

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

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: Murder / Murder

n violation of § 16 03 0010 of the S.C. Code of Laws, bearing CDR Code # 0116

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

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:

[Signature] 72860 [Signature] [Signature] 75391  
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

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

for a determinate term of 35 days/months/years Time Served  Youthful Offender Act not to exceed \_\_\_\_\_ years

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

of \$ \_\_\_\_\_ plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

The sentence shall run

CONCURRENT or  CONSECUTIVE to sentence on \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SC DOC

1,317 (3) months

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

The Defendant Shall be Released from County Detention Center

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

STATE VS. Barry Wayne Jones INDICTMENT/CASE# 2018 - GS - 19 - 00418

SPECIAL CONDITIONS:

- PTUP after \_\_\_\_\_ months/years  
And Other Terms Listed Below:
- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing
- Attend Voc Rehab Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program
- Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
- Other \_\_\_\_\_

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms \_\_\_\_\_  Set by SCDPPPS

Recipient \_\_\_\_\_

\*Fine:

Fine may be pd. in equal consecutive weekly/monthly prnts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)			\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)			\$100	\$ _____
§56-5-2995 (DUI Assessment)			\$12	\$ _____
§56-1-286 (DUI Breath Test)			\$25	\$ _____
§14-1-212 (Law Enforce Funding)			\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)			\$150	\$ _____
§34-11-70(b)and(c) and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)			\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)			\$40/vea	\$ _____
3% to County (if paid in installments)			TBD	\$ <u>3.75</u>

- Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees      \$500      \$ \_\_\_\_\_
- § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund      TBD      \$ \_\_\_\_\_

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Charles Reed  
Court Reporter: Alexa Lesbone

Presiding Judge: Wab Miller  
Judge Code: 2769  
Sentence Date: 12-13-2021

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

**RECEIVED**

**Sep 14 2023**

**SC Court of Appeals**

s/ Lara M. Caudy

Lara M. Caudy  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 14th day of September, 2023.

**RECEIVED**

**Sep 14 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Edgefield County

Honorable Walton J. McLeod, IV, Circuit Court Judge

\_\_\_\_\_  
THE STATE,

RESPONDENT,

V.

BARRY WAYNE JONES,

APPELLANT

APPELLATE CASE NO. 2022-000046

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies that a true copy of the Record on Appeal in the above referenced case has been served upon Julianna E. Battenfield, Esquire, at her primary e-mail address listed in the Attorney Information System (AIS), this 14th day of September, 2023.

s/ Lara M. Caudy \_\_\_\_\_

Lara M. Caudy  
Appellate Defender

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

ATTORNEY FOR APPELLANT

**From:** [Bryant, Hannah](#)  
**To:** [JuliannaBattenfield@scag.gov](mailto:JuliannaBattenfield@scag.gov); [williamcorbett@scag.gov](mailto:williamcorbett@scag.gov); [Caudy, Lara](#)  
**Subject:** Barry Jones Appellate Case No. 2022-000046 Record on Appeal  
**Date:** Thursday, September 14, 2023 3:01:26 PM

Dear Ms. Battenfield,

Please find attached for service the Record on Appeal and Proposed Transportation Order in the above referenced case, which will be filed with the Court of Appeals today.

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#### Files attached to this message

Filename	Size
Proposed Transportation Order Barry Jones Appellate Case No. 2022-000046.pdf	199 KB
Barry Jones Appellate Case No. 2022-000046 Record on Appeal Vol I.pdf	19 MB
Barry Jones Appellate Case No. 2022-000046 Record on Appeal Vol II.pdf	18.9 MB

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