

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Oct 27 2023

SC Court of Appeals

Appeal from Jasper County
Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

OSMAN UVALDO JIMENEZ BENITEZ,

APPELLANT

APPELLATE CASE NO 2021-001500

RECORD ON APPEAL

BREEN RICHARD STEVENS
Appellate Defender

ALAN WILSON
Attorney General

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

MARK R. FARTHING
Senior Assistant Deputy Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

ISAAC McDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

Post Office Box 1880
Bluffton, SC 29910
(843) 255-588

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
PRE-TRIAL HEARING TRANSCRIPT DATED NOVEMBER 4, 2023.....	1
MOTION FOR BOND REDUCTION	4
RULING BY THE COURT.....	10
MOTION FOR SPEEDY TRIAL.....	11
RULING BY THE COURT.....	11
TRIAL TRANSCRIPT DATED DECEMBER 6-9, 2023.....	12
JURY QUALIFICATION	16
JURY SELECTION.....	43
PRE-TRIAL MOTIONS.....	54
<u>JACKSON V. DENNO</u> HEARING.....	70
TESTIMONY	
FRANK LEMUS	
Direct Examination by Ms. Lempesis.....	71
Cross-Examination by Ms. Carmody.....	78
Re-Direct Examination by Ms. Lempesis.....	91
THOMAS HUBBARD	
Direct Examination by Ms. Lempesis.....	93
Cross-Examination by Ms. Carmody.....	106
JAIRO SOLANO	
Direct Examination by Ms. Carmody.....	114
PRE-TRIAL MOTIONS (CONT'D).....	
OPENING STATEMENT BY MS. LEMPESIS.....	124
OPENING STATEMENT BY MS. CARMODY	126

TESTIMONY

RHONDA WATSON

Direct Examination by Ms. Lempesis.....	128
Cross-Examination by Ms. Carmody.....	141

MATTER OF LAW	146
---------------------	-----

TESTIMONY

RHONDA WATSON (CONT'D)

Cross-Examination by Ms. Carmody.....	149
---------------------------------------	-----

<u>JACKSON V. DENNO HEARING (CONT'D)</u>	169
--	-----

TESTIMONY

JAIRO SOLANO

Direct Examination by Ms. Carmody	170
---	-----

COLLOQUY.....	178
---------------	-----

RULING BY THE COURT.....	190
--------------------------	-----

COLLOQUY.....	191
---------------	-----

TESTIMONY (IN-CAMERA)

THOMAS HUBBARD

Cross-Examination by Ms. Carmody.....	196
---------------------------------------	-----

COLLOQUY.....	200
---------------	-----

RULING BY THE COURT.....	203
--------------------------	-----

TESTIMONY

RHONDA WATSON (CONT'D)

Cross-Examination by Ms. Carmody.....	205
---------------------------------------	-----

Re-Direct Examination by Ms. Lempesis.....	232
--	-----

COLLOQUY.....	235
---------------	-----

TESTIMONY

LAURA BAYNE

Direct Examination by Ms. Lempesis.....239

PHILLIP COTHRAN

Direct Examination by Ms. Lempesis.....243

Cross-Examination by Ms. Carmody.....249

Re-Direct Examination by Ms. Lempesis.....254

SARA ROBLERO MORALES

Direct Examination by Ms. Lempesis.....254

Cross-Examination by Ms. Carmody.....260

Re-Direct Examination by Ms. Lempesis.....266

ANIBAL BERDUGO BERDUGO

Direct Examination by Ms. Lempesis.....266

MATTER OF LAW285

RULING BY THE COURT.....286

TETSIMONY

ANIBAL BERDUGO BERDUGO (CONT'D)

Direct Examination by Ms. Lempesis.....287

Cross-Examination by Ms. Carmody.....294

COLLOQUY.....327

TESTIMONY

ANIBAL BERDUGO BERDUGO (CONT'D)

Cross-Examination by Ms. Carmody.....328

COLLOQUY.....343

TESTIMONY

ANIBAL BERDUGO BERDUGO (CONT'D)

Cross-Examination by Ms. Carmody.....350

COLLOQUY.....363

MOTION FOR MISTRIAL371

RULING BY THE COURT.....374

COLLOQUY.....375

TESTIMONY

 THOMAS HUBBARD

 Direct Examination by Ms. Lempesis.....379

 Cross-Examination by Ms. Carmody.....421

 Re-Direct Examination by Ms. Lempesis.....457

MATTER OF LAW459

RULING BY THE COURT.....463

TESTIMONY

 TIMOTHY FRENCH

 Direct Examination by Ms. Lempesis.....464

 Cross-Examination by Ms. Carmody.....478

 SUSAN PRESNELL

 Direct Examination by Ms. Lempesis.....483

 Cross-Examination by Ms. Carmody.....491

STATE RESTS493

MOTION FOR DIRECTED VERDICT.....494

RULING BY THE COURT.....501

CHARGE CONFERENCE.....503

DEFENSE RESTS506

CLOSING ARGUMENT BY MS. LEMPESIS507

CLOSING ARGUMENT BY MS. CARMODY521

CHARGE ON THE LAW534

VERDICT550

SENTENCING563

POST-TRIAL HEARING TRANSCRIPT DATED FEBRUARY 18, 2022565

MOTION FOR A NEW TRIAL568

RENEWAL OF MOTION FOR DIRECTED VERDICT570

RENEWAL OF ALL MOTIONS.....570

RULING BY THE COURT.....572

NOTICE OF MOTION AND MOTION FOR BOND AND NOTICE OF MOTION AND
MOTION FOR SPEEDY TRIAL573

BOND ORDER.....574

NOTICE OF MOTION AND MOTION TO DISMISS – SPEEDY TRIAL VIOLATION575

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS – SPEEDY TRIAL
VIOLATION.....576

INDICTMENT.....579

SENTENCE SHEET.....581

ARREST WARRANT583

CERTIFICATE OF COUNSEL584

1 verdict motion.

2 THE COURT: All right. I agree this is a
3 question of fact for the jury. This is,
4 obviously, a very circumstantial case and those
5 are to be, obviously, fact-based to be for the
6 jury, for them to give whatever weight they wish
7 to give it. But there is enough evidence to
8 surpass a directed verdict. And so we'll send the
9 case to the jury.

10 All right. What we're going to do at this
11 point in time, is you-all are going to stick around.
12 I'm going to give you -- I'm sorry.

13 All right. Will you ask him to please
14 stand. Ask him if he's had ample opportunity, or
15 enough opportunity to decide whether in fact he
16 wishes to put up a defense or testify in his own
17 behalf.

18 MR. JIMENEZ-BENITEZ: I prefer to remain
19 silent.

20 THE COURT: All right. Tell him that I
21 will get his final decision when we return from
22 lunch. So I'm going to give him one more hour to
23 think about. For right now, I understand his
24 position, but I'll give him one more opportunity
25 to change his mind. Okay?

1 MR. JIMENEZ-BENITEZ: Okay.

2 THE COURT: All right. Miss Carmody, do
3 you plan on putting up any witnesses, other than
4 if he decides to testify?

5 MS. CARMODY: Provided that he does not
6 testify, Your Honor, no. I do have two written
7 requests to charge.

8 THE COURT: What I'm going to do is this:
9 You-all are going to stay here and make sure you
10 get all your electronics and everything up and
11 ready for your closings.

12 Miss Carmody, when we come back, I'm
13 going to allow you to rest in front of the jury.
14 I am going to give you my jury charges, which I
15 have already done and printed in the order in
16 which I will read them. I want you to go over
17 them. I want you to either agree or not agree on
18 them. I want you to give me yours now. I will
19 take a look at them. We will come back and we
20 will have about a two-minute charging conference.
21 We'll bring the jury back out and we'll get
22 rolling. Okay?

23 MS. CARMODY: Your Honor, there's the one
24 that I did not write out, the requesting the
25 jury --

1 THE COURT: We didn't put the statement
2 in, so we're not going to charge that one.

3 MS. CARMODY: These are mine. We'll go
4 over them together. This one is Logan and this is
5 for negligence.

6 THE COURT: All right.

7 (A break was taken from 12:47 p.m. to 1:53 p.m.)

8 THE COURT: All right. Any objection as
9 to the jury charges that I allowed you-all to look
10 over?

11 MS. LEMPESIS: Not from the State, Your
12 Honor.

13 MS. CARMODY: Your Honor, as I requested,
14 the two charges --

15 THE COURT: Right. That one was
16 circumstantial and direct evidence, which I have
17 in there. And the other one, spoliation. She's
18 talking about the issue as to the 911 tape that
19 has been removed. I'm not going to directly
20 reference that, but I have no problem with reading
21 spoliation. It just says that there's an
22 inference that it could have been beneficial.

23 MS. LEMPESIS: Judge, the only thing I
24 would say -- I would object to any sort of
25 spoliation charge being included, because what was

1 testified to was that it wasn't lost. Nothing was
2 lost. It was that they didn't have the ability to
3 record the calls. They were taking them in and
4 putting all the information in an Excel spread
5 sheet and developing reports. So there was no 911
6 call to lose. It doesn't exist. They couldn't
7 record it.

8 THE COURT: All right. I mean, it
9 doesn't really -- I don't think it's overly
10 prejudicial or harmful to the State for that.
11 And, again, it is missing. At no fault of the
12 State, and you can even address that in your
13 closing, but I'll charge it.

14 MS. CARMODY: Your Honor, one thing, I
15 believe Logan more accurately, you know, talks
16 about the difference between direct and
17 circumstantial evidence. I would request the
18 Logan charge specifically, Your Honor.

19 THE COURT: We added it into ours. Did
20 you read ours.

21 MS. CARMODY: Yes, Your Honor, I did.

22 And, in addition, Your Honor, after I
23 read the charge, I would also request a charge on
24 mere suspicion.

25 THE COURT: No, I'm not going to charge

1 that.

2 MS. CARMODY: Your Honor, could I pass up
3 these two Court's exhibits?

4 THE COURT: You gave them to me, correct?

5 MS. CARMODY: I gave them to you, yes.
6 These are the two defense request to charge. The
7 mere suspicion charge is there. I'm passing up
8 Court's 10 and Court's 11. Defendant's requested
9 charge Number 1 on the Logan charge, and Number 2
10 is for the negative inference, Your Honor.

11 (COURT EXH. 10, Logan charge, was marked for
12 identification.)

13 (COURT EXH. 11, Negative inference charge,
14 was marked for identification.)

15 THE COURT: All right. Anything else
16 before we get started?

17 MS. CARMODY: No, Your Honor.

18 THE COURT: Did you pass up the direct
19 and circumstantial evidence one here, or do I
20 still have it back there?

21 MS. CARMODY: I gave it to you and I also
22 passed up as a Court's exhibit.

23 THE COURT: Let me see, Madame Court
24 Reporter, please. I'm going to go over it to make
25 sure it matches up with ours while they're doing

1 their closings.

2 All right. Bring them out.

3 (Jury enters the courtroom at 1:58 p.m.)

4 THE COURT: All right. Ladies and
5 gentlemen, thank you for being back on time. We
6 did work. We got everything sorted out, so we are
7 ready to move forward.

8 Miss Carmody, would you like to call your
9 first witness?

10 MS. CARMODY: Your Honor, the defense
11 rests.

12 THE COURT: All right. Ladies and
13 gentlemen, the defense has rested in the case.
14 Therefore, at this point in time we are going to
15 allow for closing arguments. As I indicated at
16 the beginning of the case, I'm going to allow both
17 of them to give what was called an opening
18 statement, which is what I told you and indicated
19 that they thought what the evidence was going to
20 show throughout this trial. This is now a closing
21 argument. They are going to argue to you as to
22 what the evidence has shown. It is not to be
23 considered as evidence by yourself at all. These
24 are just simply arguments of the attorney.

25 The State gets an opportunity to go

1 first, and then Miss Carmody will get her
2 opportunity, and then the State will have a short
3 rebuttal after that.

4 All right. Miss Lempesis.

5 MS. LEMPESIS: Your Honor, I believe I do
6 not believe I have rebuttal.

7 THE COURT: Oh, that's in a civil case.
8 I've been in civil court for a year. This is my
9 second criminal trial that I've had in a year.
10 She does not.

11 MS. LEMPESIS: Thank you, Your Honor.
12 May it please the Court?

13 CLOSING ARGUMENT

14 MS. LEMPESIS: When I stood in front
15 you-all on Monday afternoon, what I told you was
16 that it is my job as the prosecutor in this case
17 to prove to you beyond a reasonable doubt that the
18 defendant, Osman Jimenez-Benitez, is guilty of the
19 crime of hit and run with death resulting. In
20 order to prove that, I have to prove beyond a
21 reasonable doubt that the defendant was the driver
22 of a vehicle involved in an accident, and that
23 person died as a result of that accident, and that
24 the defendant did not perform his duties as
25 required by law to either stay at the scene, or to

1 leave and, if he leaves, to immediately call for
2 assistance, and then to return to the scene.

3 So, in the evidence and the testimony
4 that you have heard these last two days, that is
5 what you have seen, that is what has been proven.

6 You have heard from the defense, from
7 Miss Carmody, and you've heard her line of
8 questioning and heard from the witnesses in
9 response to those questions. And what you have
10 heard in response to those questions has just been
11 a distraction. I'd ask you to remember that. The
12 defense has been trying to distract you from what
13 the truth is and from the proof in this case
14 shows. In fact, in the cross-examination of
15 Anibal, about two and a half hours was spent
16 getting the same exact story that came during the
17 Anibal's direct testimony. It was distractions.
18 It's been nit picky. And it's distracting you,
19 attempting to distract you from the truth and what
20 we can proof beyond a reasonable doubt.

21 And so we're going to go through, and I'm
22 going to spend my time in front you now, to bring
23 your attention to the facts in evidence, the
24 testimony, and what proves beyond a reasonable
25 doubt that the defendant, Mr. Benitez, is guilty

1 of this crime.

2 First of all, I have to prove that he was
3 the driver. We know from the testimony of
4 Officer Hubbard and the records custodian from the
5 Department of Motor Vehicles, that Dodge Avenger
6 is registered to Osman Jimenez-Benitez. It was
7 registered in late 2018 prior to this incident.
8 It belongs to him. It's registered to him. It's
9 the car that you saw over and over in the
10 surveillance footage at the Octane Gas Station.
11 The defendant driving it. It's the car that you
12 see on Haynesville Road rushing up past the
13 victim's vehicle.

14 We know that the defendant was the driver
15 of that car because, Number 1, it was registered
16 to him. We have the witness testimony that the
17 defendant was driving his car that night. We see
18 again on that evidence, that surveillance footage,
19 that Osman Benitez is getting in and out of the
20 driver's side door of that vehicle and driving to
21 and from the gas station at about two o'clock in
22 the morning, going inside of the gas station,
23 buying beer with Anibal, and then leaving and
24 driving away. We know that, not just from what we
25 saw from on the video surveillance, but we know it

1 from Anibal's testimony that the defendant was
2 driving, that they left that gas station went back
3 to the defendant's briefly, and then left again.
4 They drove around for awhile. He doesn't quite
5 know where, but the defendant was driving crazy
6 and they wanted him to just take them home.

7 So, again, he is seen on video getting in
8 and out of that driver's seat of his car. He's
9 also seen, again, on Haynesville Road, exactly as
10 Anibal told you. Anibal left on foot. Yobani
11 picked him up in his white Suburban. And then
12 Mr. Benitez came chasing after them in his Dodge
13 Avenger rushing up next to Yobani's car, driving
14 at a fast rate of speed. You saw that yourself.
15 He rushes up next to their car because there had
16 been an argument. He was angry. He was chasing
17 after them. And so they continue to drive down
18 Haynesville Road until they get to Young Street
19 where this all happens.

20 We also know that Mr. Benitez is the
21 driver of that car and that he is the person who
22 was driving when the accident happened because
23 Anibal, when he returned back up to that
24 intersection, he identified Benitez, Osman, as the
25 person who said to him, *Get out of here or the*

1 *same thing that happened to your friend is going*
2 *to happen to you. A lot was made of Anibal's*
3 *ability to see him when he made -- when Osman made*
4 *that threat to him and whether or not Anibal could*
5 *clearly see Osman at that time.*

6 He told you, Anibal told you that this is
7 what the defendant said to him. He knew Osman.
8 He didn't know him that well. He met him that
9 night. He knows Yobani and he was hanging out
10 with Yobani and Osman all night. He had the time
11 to see him, be with him, to know him, not
12 necessarily by name right away, but to be the
13 person that he had been with all that night, going
14 to the gas station, the defendant driving the
15 defendant's car, and the person that threatened
16 him, that scared him to death, and told him, *Get*
17 *out of here. I'm going to do to you what I did to*
18 *your friend.*

19 Miss Carmody has made what I assume to
20 be -- well, what was a distraction, to try to
21 point out that Anibal was the driver when this
22 happened. That Anibal was, perhaps, the person
23 who ran Yobani over and caused him to die. Anibal
24 told you when he testified for the State on
25 direct, I asked him, because we're not trying to

1 hide it, were you truthful with the police right
2 away? He said he wasn't. You saw him, you had
3 the opportunity to assess his credibility. He's
4 21 years old now. He was 19 years old at the
5 time. He is tiny. He is scared and young. He's
6 hanging out with people who are older than him and
7 he has just been threatened by this man who had
8 previously tried to beat him up, and he's scared,
9 and he doesn't immediately tell the police the
10 absolute truth. He admitted to that and we're not
11 trying to hide it.

12 He willingly went to the police to tell
13 him what happened that next morning. He was not
14 necessarily right there at the scene while fire
15 and EMS were there, but he was close by at the
16 house on Young Street where he lived with Yobani.
17 He came back. He went with the police willingly.
18 He told them what was initially not the truth, not
19 the full truth. But then later, when interviewed
20 again, he admitted, I was scared, I was there, I
21 was with the defendant all night long, this is
22 what happened. And we know that's what happened
23 because we don't have to just count on Anibal. We
24 see it on the surveillance footage. We see the
25 defendant driving. We see him with Anibal.

1 Everything Anibal said is corroborated by
2 the other testimony and evidence that you have
3 seen and heard.

4 You also -- we learned from
5 Officer Hubbard that Anibal, first, that he heard
6 the tires screeching when he was back at
7 ■ Young Street. So that's what he went back to
8 see what happened. That's when he's threatened by
9 the defendant and that's when he leaves again
10 running away scared because he tripped and fell
11 when he's running frantically back to his home
12 terrified. He sees the defendant right there next
13 to his car, next to the defendant's car and he
14 doesn't see Yobani.

15 Officer Hubbard told you that Anibal from
16 the search of Anibal's phone that Anibal called
17 Yobani called twice after, around the time of this
18 incident. I believe he said around the time of
19 this incident. If Anibal had just run him over or
20 was involved in this -- was the driver of this
21 car, why is he calling Yobani?

22 Anibal's DNA, you heard from Tim French,
23 it is not -- it is excluded from the top and the
24 bottom of the gear shift of that car. He wasn't
25 there. He was not in the driver's seat. If the

1 defense is going to blame this on Anibal, it
2 doesn't make any sense. His DNA is not there.

3 The defendant's DNA however, Tim French
4 told you, is excluded from the driver's side rear
5 interior door and the front passenger door
6 interior door handle. So if he was in the back
7 seat or if he was in the passenger seat, his DNA
8 should be there and it's not.

9 But, importantly, focus on the fact that
10 Anibal's DNA is not on that -- in that driver's
11 seat. That's because he didn't drive the car.
12 That's because he was with Osman that night and he
13 was terrified, he was threatened, and he ran. And
14 he didn't tell the truth immediately, but he's not
15 driving that car. He was not the driver of that
16 car. Yobani certainly wasn't the driver. He
17 couldn't have run himself over. And we know from
18 that video surveillance that they are together
19 that night and the defendant, Osman Benitez, is
20 driving the car.

21 The next thing that I have to prove to
22 you is that the victim, Yobani, died as a result
23 of being hit by the defendant's car. He died as a
24 result of this accident. We know that Yobani died
25 underneath Osman's car. We know that he was

1 pinned under the car, that all you can see are his
2 legs coming out from underneath the front bumper.
3 But he's there face down with his legs clearly
4 sticking out of the front. The car, as testified
5 to, was in a ditch. And Yobani is pinned
6 underneath that car. He has bruises and burns and
7 lacerations, none of which are fatal. None of
8 which would have killed him. He died from
9 mechanical asphyxiation. So his body being
10 underneath that car, under the pressure of that
11 engine suffocated him to death. It might taken up
12 to four minutes; maybe less, maybe more. But we
13 know that he was under the car, left there to die.

14 Finally, we know that the defendant left
15 the scene of this accident. And he left, but it
16 wasn't to go to get help. It wasn't to call 911.
17 It wasn't to go knock on a door and get one of the
18 people who lived close by to call 911 for him. We
19 know he left. We know that he first threatened
20 Anibal and said, *Get out of here. I'm going to do*
21 *what I did to your friend.* And then he actually
22 had the wherewithal to lock his car doors and run
23 from the scene. And then not another sighting of
24 Osman Benitez. He's not on scene when
25 Deputy Watson arrives. He's not on scene when

1 Officer Hubbard's goes and takes over the
2 investigation. He's no where. He's no where to
3 be found. They figure out who he is because they
4 run the registration on his car. They run the
5 tags, and it's registered to him. And then they
6 go with that address from his car registration and
7 Officer Hubbard investigates and finds he doesn't
8 live there anymore but he does live at a house on
9 Phillips Street.

10 That house that Anibal told you they had
11 been at that evening that he had gone and met
12 Yobani at, they had been drinking at, that house
13 that you can see from the security footage from
14 Palmetto Trucking -- you can't see the house, but
15 you can see the cars from that driveway. We know
16 that Officer Hubbard went to that house and spoke
17 to the defendant's wife who said that her husband
18 had been there the evening before and was not
19 there at the time, and that's the next morning.
20 And, still, no call for help for the victim by
21 Osman Benitez.

22 We know that Anibal told you and Sara
23 also told you that they heard tires screeching.
24 And we know from the autopsy from Dr. Presnell
25 that the victim had on his left arm severe

1 lacerations to his arm. And we know from the
2 pictures that there was blood and it's the
3 victim's blood, which we know, from Tim French,
4 there's blood all around that tire. And I submit
5 to you it's because Osman was in that car, trying
6 to get it off of the victim, screeching those
7 tires while it's turning on Yobani's arm while
8 he's face down in the dirt. He get his car moved
9 and so just gets out, locks the doors, and runs
10 while Yobani is left to suffocate to death.

11 We know that -- again, Osman was not on
12 scene when the deputies got there. And when Sara
13 got there to find her brother, he wasn't there
14 then either.

15 So Sara is the first person to come up to
16 the car and there's nobody around. She told you
17 also the car was locked. They were desperately
18 trying to do something to get this car off her
19 brother, and Osman is no where to be found.

20 We also know from Phillip Cothran, the
21 Jasper County Sheriff's Office dispatcher, that
22 there was only one 911 call.

23 Now, unfortunately, the Jasper County
24 Sheriff's Office was hacked during this time. A
25 fact that is just -- it's just hard to even make

1 up. But they didn't have any ability to record
2 911 calls, unfortunately. They were doing the
3 best they could and they were recording all the
4 information that came in. They, unfortunately,
5 just do not have that 911 call which would allow
6 you to hear Sara's distress. You saw Sara and you
7 heard how she called the police, and she told you
8 she called the police, and Phil Cothran told you
9 that only one person called the police, and only
10 one call came in about this accident. And that is
11 in the records that we submitted and are entered
12 into evidence. One call, and that's from Sara.
13 Her brother is under the car. Osman did not call
14 anyone. He ran.

15 Osman's actions were intentional. He
16 didn't get his car stuck in a ditch, not able to
17 get it out, and then leave. He didn't not know
18 that Yobani was stuck under his car. His legs
19 were sticking out from the front of it. He
20 threatened Anibal and said, *Get out of here or I'm*
21 *going to do what I did to your friend.* He knew
22 that he had run over, run onto, who knows. It's
23 not -- it doesn't have to be that he hit him and
24 ran him over. It's that, however his car came
25 upon Yobani's body, he has been involved now in an

1 accident. There's a person dying underneath his
2 car, and he has a duty to leave -- he has a duty
3 first to call the police. If he can't do that, he
4 needed to leave and immediately seek help, and
5 then return. He did not do those things. It was
6 intentional. He did it on purpose. He ran.

7 So, you've seen and heard all of the
8 evidence. Anibal is not the person who committed
9 this crime. Anibal is a distraction. We didn't
10 try to hide the fact that Anibal was not
11 forthcoming and truthful initially. That's not
12 what it this is about.

13 We are here about Osman and what he
14 didn't do purposely that night. He drove around
15 all night. Drove up to the gas station, bought
16 more beer. Left. Drove around crazy. Fought.
17 Tried to fight Anibal. Rushed up beside them
18 while they're just trying to leave the house to go
19 home. And then, ultimately, ends up in an
20 accident where Yobani dies. And he doesn't go,
21 doesn't seek help, doesn't call the police. He
22 leaves him there to die. It's his intentional
23 acts that make him guilty of this crime. He was
24 the driver. It's his car. Anibal identified him.
25 Officer Hubbard identified him. His wife told

1 you, through Officer Hubbard, that he was there
2 home the night before and he wasn't there the next
3 morning.

4 And then the DNA tells you that Anibal
5 wasn't driving. Yobani wasn't driving. He's
6 dying underneath the car.

7 Osman, the man on video driving the car
8 that night, the man identified over and over by
9 Anibal, by the officer, the owner of the vehicle,
10 he's the one who was driving that night. He's the
11 one that is responsible for Yobani's death. He's
12 the one who didn't call for help, didn't go seek
13 help, and he's the one who is guilty of this
14 crime.

15 I'm going to ask you that when you go
16 back into the deliberation room that you take all
17 of these things into account and you consider all
18 the evidence, that you disregard the distractions,
19 and that you come back and find the defendant
20 guilty of hit and run with death.

21 Thank you.

22 THE COURT: All right. Miss Carmody.

23 MS. CARMODY: Thank you, Your Honor. May
24 it please the Court?

25 THE COURT: Yes, ma'am.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CLOSING ARGUMENT

MS. CARMODY: Good afternoon, everyone.
I thank you-all for being here. I appreciate your service as jurors in this case. My client appreciates your service as jurors as well. This case is several years old, and we would not be able to come to a resolution without all of you being here. I want to say thank you.

The first thing I want to talk to you about is that -- Number 1, is that we have this great thing in our country. It's called the presumption of innocence. Okay? What the presumption of innocence means is that the defendant in this case, Mr. Benitez, is presumed innocent. Which means that, as he sits over there right now, he has the presumption of innocence. The State has the burden to prove to you beyond a reasonable doubt each and every element of the charge.

What is beyond a reasonable doubt? Doubt that would cause a reasonable person to act. You have to be firmly convinced of the evidence. The State has to prove each and every element, not there's no leap that you can make and things like that.

1 For example, let's assume we have like a
2 ravine or a big hole, okay, the State is required
3 to build a bridge from one side to the other.
4 Okay? And if you can imagine them building that
5 bridge, they'll have to build a bridge with pieces
6 of wood or planks. Okay? And if all the facts
7 and circumstances don't line up, you end up with
8 holes. You, as jurors, are not allowed to make a
9 leap from one to the next in order to get to
10 beyond a reasonable doubt. All the facts and
11 circumstances all have to line up to conclusively
12 lead you to your results.

13 So, the evidence in this case, the State
14 is asking you to make a lot of assumptions. Okay?
15 Let's start initially with the first element as
16 the solicitor has laid out as well. Okay?

17 The State has to prove to you beyond a
18 reasonable doubt that Mr. Benitez was the driver
19 of a vehicle that was involved in an accident. I
20 want you to think about that for a second. The
21 driver of a vehicle, which implies movement.
22 Okay? We being an owner of the vehicle does not
23 mean that I'm the driver. Okay? Just because,
24 you know, I have my vehicle sitting out there
25 right now does not mean that I'm the driver of

1 that vehicle. It means that I'm here talking to
2 you and my vehicle is outside. Just because I own
3 it doesn't mean I'm driving it right now. The
4 State has to prove to you that he was the driver
5 of a vehicle that was involved in an accident.
6 That is going to require you to make -- to
7 speculate and make a jump that we talked about
8 earlier.

9 Additionally, we have to think about the
10 moment in time that we're talking about. We're
11 not talking about, you know, whether he's on video
12 with Yobani hours earlier. We're not talking
13 about, you know, whether his wife could say, well,
14 he was at home hours earlier. We're talking about
15 at the moment that this is alleged to have
16 occurred where he was the driver of the vehicle at
17 that time that resulted in an accident. If you
18 think about that, it's going to require you to
19 make a huge leap. There's absolutely no evidence
20 whatsoever that's been presented to tell you that
21 he was driving the vehicle at the time that this
22 happened. There isn't.

23 You heard from Anibal. Well, the most I
24 can say about Anibal is that he actually finally
25 admitted that he doesn't remember what happened.

1 I mean, he's a wrong kid and he was out drinking
2 that night. I mean, he says about eight beers,
3 and you can -- you know, normally people will say,
4 oh, I had eight beers. I mean, he probably
5 doesn't even remember how much he had to drink
6 that night, to be honest with you. He does not
7 remember what happened.

8 I asked him specifics. Can you give me
9 my type of description or any type of -- you know,
10 what color house was it? He didn't know. He
11 didn't even know the person who supposedly gave
12 him a ride to the Dollar General. He said it was
13 a friend. He doesn't remember the man's name. He
14 doesn't remember things like, you know, what
15 people were wearing. He has no idea. Actually,
16 he couldn't even tell you that the person he was
17 with was with Osman Benitez because law
18 enforcement told you that they actually provided
19 the name to him because the man does not remember.
20 He does not remember.

21 And, instead, what he did is, he gave an
22 elaborate story to law enforcement the first time.
23 I was sleeping. You know, I get up, and I saw
24 Yobani last night. I was in bed. All of a
25 sudden, I hear a noise. I go outside. I couldn't

1 see anybody. It was dark. I was groggy. I
2 didn't know what was going on.

3 And then law enforcement is, well, you
4 know what -- the second statement -- that's not
5 actually true because we know that you are at a
6 store buying beer with him that night. When he's
7 confronted with what law enforcement -- they
8 looked at videos and they think they know what's
9 going on. They're looking at the videos. When
10 he's confronted with that information, he's like,
11 well, okay. So he's agreeing with them. But he's
12 agreeing with them because he doesn't know. The
13 kid does not remember.

14 When I asked him, is it fair to assume
15 that you don't recall what happened that night?
16 Si. Yes. He does not remember. So if the kid
17 does not remember, how credible and how
18 trustworthy is his information he's providing.
19 Who is the information coming from. Is it coming
20 from Anibal. Is it coming from what law
21 enforcement thought happened. I mean, Anibal told
22 you himself he just does not remember.

23 Additionally, in terms of, like I said,
24 he has to be the driver of a vehicle that was
25 involved in an accident. There was actually no

1 evidence in this case to tell you that Yobani was
2 struck by a vehicle. Think about this for a
3 minute. The solicitor has told you, well, you
4 know, he was speeding down the road, he was
5 driving fast. You know, he intended this to
6 happen. That is absolutely ridiculous.

7 If you look at what officer --
8 Detective Hubbard testified to, there is no damage
9 to the external portions of the vehicle that would
10 suggest that this vehicle had just hit a person.
11 Okay? There is -- the air bag control module did
12 not pick up any event. Why? Because it wasn't
13 involved in an accident. It didn't hit a person.
14 I don't even know if the vehicle was running at
15 the time.

16 There is no evidence to say the -- from
17 Dr. Presnell who did the autopsy, she also said
18 there's no evidence to say he was actually struck
19 by a vehicle. You would expect, like, bumper
20 fractures she talked about. He doesn't have any
21 of those. He has scratches and things like that
22 to the external portion of his body which would
23 indicate he was under a car. But how did he get
24 there? We don't know. I don't know. I can't
25 tell you how the man ended up under a car. But

1 what I can tell you is that the State has not
2 presented evidence to you to tell you how it
3 happened, and that's what they're required to do.
4 They're required to prove to you beyond a
5 reasonable doubt that he was the driver of a
6 vehicle that was involved in an accident. That's
7 going to require a huge leap. That's going to
8 require jumping over, you know, the holes that we
9 talked about and ran into the ravine.

10 Additionally, they also have to prove
11 that the accident resulted in injury or death of a
12 person. Okay, there is no doubt whatsoever that
13 Yobani has passed away. And, as I told you in the
14 beginning, this is a very, very sad case. Okay?
15 His sister, you know, lost her brother. It's a
16 very, very sad case. All right? But that does
17 not mean that this was an intentional act. Okay?

18 Yobani, when she did the autopsy, she
19 actually testified his that his alcohol level was
20 three times the limit. What happens when your
21 alcohol is three times the limit. Ladies and
22 gentlemen, I can't even imagine. You know,
23 just -- if I just picture, you know, even a couple
24 drinks, I'm stumbling and things like that. Did
25 he fall? I don't know.

1 The MAIT team actually suggested that he
2 was lying in the road when he had been -- when the
3 car ran over him. I don't know. I don't know
4 that's what happened. Like I said, I don't even
5 know that the car was even in movement.

6 If you think about it, just looking at
7 the evidence in this case for so long, if you
8 think about it, the car was actually, you know,
9 going into a ditch. All the officers testified to
10 that. You know, did something happen where the
11 car went into a ditch and Anibal is out there, you
12 know, and they're trying to push the car
13 backwards. You know, not even if the car was
14 running. But they're trying to move it backwards
15 out of a ditch and backed up over him. I don't
16 know.

17 There was also is a tire iron on the
18 scene. The officers didn't investigate. They
19 didn't do anything with it. Was it related? I
20 don't know. You know, a car that's partially in a
21 ditch and a tire iron out there you have to
22 wonder. Was this part of it? I mean, Anibal is
23 not reliable. He doesn't know. Law enforcement
24 doesn't know. They don't have any evidence to
25 tell you what actually happened on scene.

1 Then we get to, you know, did the State
2 prove to you beyond a reasonable doubt that he did
3 not call 911. Ladies and gentlemen, this is the
4 same exact thing. There is no evidence to say he
5 didn't. The State has to prove to you with
6 evidence. We live in the United States of
7 America. This is not, you know, another country.
8 We have presumption of innocence here that
9 requires evidence. We can't assume what happened.
10 Even an assumption is not -- we don't do that
11 here. We don't put people in prison based on the
12 assumptions. Okay? That is mere suspicion. We
13 can't do that. There is no evidence to say he did
14 not call 911. What could they have done? I don't
15 know. They got a search warrant for a vehicle.
16 They got a search warrant for DNA that we'll talk
17 about in a minute. Why not check his cell phone?
18 That would have helped, right? That would have
19 helped the State prove to you whether he called
20 911 or not. Pull the cell phone records. That's
21 all. They didn't do that. I don't know why they
22 didn't do it. There's a lot of things the
23 officers in this case didn't do.

24 So, initially, we have Officer Watson,
25 the first officer on scene, and she told you that.

1 I asked her a very, very basic question.
2 Officer Watson, you're the first person on scene.
3 You know a man is under a vehicle. Did you check
4 for pulse? No, I didn't check for a pulse. Why
5 not? Are you trained in CPR? Yeah, I'm trained
6 in CPR, but I don't know how to check for a pulse.
7 You got to be kidding me. I mean, I know how to
8 check for a pulse. You feel to determine if
9 someone has a pulse or not. It's one of the first
10 questions that someone asks you if you call 911.
11 Are they breathing? Do they have a pulse? That
12 was the first thing.

13 And then there was a lot of witnesses.
14 There was a lot people on scene. She sent some of
15 them away. There was a guy there with a dog,
16 loose, off a leash. She sent them all away. We
17 don't know who was actually on scene because they
18 didn't contain the scene. They didn't put up any
19 type of crime scene tape. Even when
20 Detective Hubbard arrived, he said there was no
21 crime scene tape. So this is literally a free for
22 all going on out there. There's all kinds of
23 spectators coming out from their houses and
24 everybody is looking to see what's going on, and
25 nobody is keeping track of anything. That's law

1 enforcement's job. Their job is to track of the
2 scene to maintain the scene. To maintain the
3 credibility of the evidence. So that way, when we
4 come into a courtroom, the State is able to prove
5 their case beyond a reasonable doubt. That didn't
6 happen here.

7 As I said right out of the gate, the
8 first officer on scene and she can't even be
9 bothered to check for a pulse. Which is actually
10 extremely sad, because the doctor testified that,
11 you know, he probably couldn't breath. So had she
12 had checked the pulse, I don't know, maybe he
13 would still be here. I don't know.

14 Sara testified. And as I told you
15 before, this is Yobani's sister. She didn't see
16 anything. She didn't see what happened. I'm
17 sure, you know, she would love to know what
18 happened. We all would. I would love to know
19 what happened, but the State has not met their
20 burden in proving to you what happened. She
21 didn't who the driver was. She didn't even know
22 whose car it was.

23 Then, we get to the DNA. Okay, this goes
24 right back to what I just told you about law
25 enforcement. I want you to think about something

1 for a minute. If you look at the DNA report, and
2 it's actually in evidence. Okay. So
3 Detective Hubbard --

4 MS. LEMPESIS: Objection. The DNA report
5 is not in evidence.

6 THE COURT: All right. I'll sustain the
7 objection.

8 MS. CARMODY: Thank you.

9 So they didn't put the DNA report in.
10 But anyway, they testified to the DNA report. So
11 the DNA report says that Anibal cannot be -- can
12 be excluded as a contributor to DNA on the
13 passenger side of the vehicle. The passenger in
14 the front. I want you to think about something
15 for a minute. When law enforcement went through
16 great pains to show you the video, where he is
17 coming out? He's coming out of the front
18 passenger seat of the vehicle. So I have a
19 question. How reliable is the DNA evidence? The
20 DNA technician, actually he told you, he says, he
21 had nothing to do with the collection of the
22 evidence. He can only go by what's been presented
23 to him. It makes no sense to me, whatsoever.
24 Either we see the man on video coming out of the
25 car, or we believe the DNA, but the two are

1 inconsistent.

2 That goes right back to the same thing I
3 told you, law enforcement did not do their job in
4 investigating this case. All the way from
5 checking for a pulse to going and processing DNA
6 evidence. Anything that happened in between, I
7 don't know -- we don't know what happened.

8 The other thing, they asked you -- he
9 said -- he talked to you about, you know,
10 Mr. Benitez, you know, he could not be -- I'm
11 sorry. Let me make sure I get this right.

12 That he could not be excluded as a
13 contributor. Okay? So think about that for a second.
14 Number 1, even he's making an assumption. He's making
15 an assumption based on what law enforcement told him,
16 oh, the man, he's the registered owner of the car so
17 that means that you have to assume his DNA is going to
18 be there. That is, yet, another assumption that they
19 made. And that came directly from law enforcement.

20 So all the evidence in the case comes
21 right back to the police department. We have the
22 officers on scene, didn't collect any witness
23 statements from people, from anybody that was
24 around. We don't know who was there. We don't
25 know what happened. They're not able to give us

1 that information. And the State put up their star
2 witness, Anibal, and I honestly don't know what to
3 think about that.

4 So, in closing, your time is valuable and I'm
5 not going to stand up here for a long time. I just
6 wanted to, again, say thank you for your time. I
7 appreciate it. We cannot hold jury trials without
8 you. And I'm asking that you find my client not
9 guilty.

10 Thank you.

11 THE COURT: All right. Ladies and
12 gentlemen, it is now my responsibility to charge
13 you on the law. As I indicated before, I am the
14 sole judge of the evidence and the law in this
15 case and you are the sole judges of the facts. So
16 I am now going to give you the law of which you
17 are to apply the facts and evidence in this case
18 during your deliberations. It's going to be a lot
19 of information, so please give me your full
20 attention. However, don't freak out if you miss a
21 part because I'm going to allow you to have this
22 in this in the if you need it. All right? So if
23 you want to refer back to something that I charged
24 you on, you will have the opportunity to do that.

25 I remind you that, during this trial, you

1 and I have certain duties to perform. As the
2 trial judge, it is my responsibility to preside
3 over the trial of this case, and I also have the
4 duty to rule on the admissibility of the evidence
5 offered during this trial.

6 You are to consider only the competent
7 evidence before you. You are to consider only the
8 testimony which has been presented from this
9 witness stand, any exhibits which have been made a
10 part of the record in this case, and any
11 stipulations of counsel. I have the additional
12 duty to charge you the law applicable to this
13 case. As the presiding judge, I am the sole judge
14 of the law of this case. And it is your duty as
15 jurors to accept and apply the law as I now state
16 it to you. If you already have any idea as to
17 what the law is or what the law ought to be and it
18 does not agree with what I now tell you, the law
19 is, you must abandon that idea because you are
20 sworn to accept the law and apply the law exactly
21 as I state it to you.

22 In every case tried in this court before
23 a jury, the jury becomes the sole and exclusive
24 judge of the facts in the case. A trial judge
25 cannot intimate, state, comment on, or make any

1 statements to a trial jury about the facts in a
2 case. Since you, the jury, are the sole judge of
3 the facts in this case, you are not infer from
4 what I have said during the progress of this trial
5 in ruling upon the admissibility of evidence, or
6 otherwise, or anything that I say now during the
7 course of this instruction to you that I have any
8 opinion about the facts in this case. The law
9 does not allow me to have any opinion about the
10 facts in this case, whatsoever. This is a matter
11 solely for you, the jury, to determine as jurors.
12 It is your duty to determine the effect, value,
13 weight, and truth of the evidence presented during
14 this trial.

15 The indictment charges the defendant with
16 hit and run with death resulting. I remind you
17 that the fact the defendant was arrested, charged,
18 and indicted in this case is not evidence in this
19 case, and you cannot consider by -- and is not to
20 be considered by you as evidence of guilt in this
21 case, nor does it create any presumption or
22 inference of guilt. This document simply is the
23 formal written instrument which contains the
24 charge made by against the defendant. It is the
25 formal document by which the case is brought into

1 that courtroom for trial.

2 The defendant has pled not guilty to this
3 indictment and this plea puts the burden on the
4 State to prove the defendant guilty. A person
5 charged with committing a criminal offense in
6 South Carolina is never required to prove himself
7 innocent. I charge you that is an important rule
8 of the law that the defendant in a criminal trial,
9 no matter what the seriousness of the charge may
10 be will always be presumed to be innocent of the
11 crime for which the indictment was issued unless
12 guilt has been proven by evidence satisfying you
13 of that guilt beyond a reasonable doubt. This
14 presumption of innocence does not end when you
15 begin your deliberations, but it accompanies the
16 defendant throughout the trial until you reach a
17 verdict of guilt based on evidence satisfying you
18 of that guilt beyond a reasonable doubt.

19 The presumption of innocence is like a
20 robe of righteousness placed about the shoulders
21 of the defendant which remains with the defendant
22 until it has been stripped from the defendant by
23 evidence satisfying you have the defendant's guilt
24 beyond a reasonable doubt.

25 The presumption of innocence is not

1 merely a legal theory. It is not just a legal
2 phrase. It is a substantial right to which every
3 defendant is entitled unless you, the jury, are
4 satisfied from the evidence of the defendant's
5 guilt beyond a reasonable doubt.

6 All right. What is reasonable doubt in
7 the law? A reasonable doubt is the kind of doubt
8 that would cause a reasonable person to hesitate
9 to act. Proof beyond a reasonable doubt is proof
10 that leaves you firmly convinced of the
11 defendant's guilt. We know very few things in
12 this world with absolute certainty. And in
13 criminal cases, the law does not require proof
14 that overcomes every possible doubt. If, based on
15 your consideration of the evidence, you are firmly
16 convinced that the defendant is guilty of the
17 crime charge, you must find the defendant guilty.
18 On the other hand, if you think a real possibility
19 exists that the defendant is not guilty, you must
20 give the defendant the benefit of that doubt and
21 find him not guilty.

22 There are two there are two types of
23 evidence generally presented during a trial.
24 There is direct evidence and circumstantial
25 evidence. Direct evidence directly proves the

1 existence of a fact and it does not require
2 deduction. Direct evidence is the testimony of a
3 person who claims to have actual knowledge of a
4 fact, such as an eye witness. It is evidence
5 which immediately establishes the main fact to be
6 proven.

7 Circumstantial evidence is proof of a
8 chain of fact and circumstances indicating the
9 existence of a fact. It is evidence which
10 immediately establishes collateral facts from
11 which the main fact may be inferred.
12 Circumstantial evidence is based on inference and
13 not on personal knowledge or observation. It is
14 proof that does not actually establish the
15 effecting question, but that asserts or describes
16 something else from which you may reasonably infer
17 the truth of the fact, or at least reasonably
18 infer an increase in the probability that the fact
19 is true. For circumstantial evidence to be
20 sufficient to warrant the finding of a fact, the
21 circumstances must lead to that fact with
22 reasonable certainty. The facts and circumstances
23 should be considered in light of ordinary
24 experience and common sense. The existence of a
25 fact cannot be based on speculation, surmise, or

1 conjecture.

2 The law makes absolutely no distinction
3 between the weight or value to be given to either
4 direct or circumstantial evidence. All of the
5 circumstances must be consistent with each other,
6 and, when taken together, point conclusively to
7 the guilt of the accused beyond a reasonable
8 doubt. If these circumstances merely portray the
9 defendant's behavior as suspicious, the proof has
10 failed; nor is a greater degree of a certainty
11 required of circumstantial evidence than direct
12 evidence. The State has the burden of proving the
13 defendant guilty beyond a reasonable doubt. This
14 burden rests with the State regardless of whether
15 the State relies on direct evidence,
16 circumstantial evidence, or some combination
17 thereof.

18 Necessarily, you must determine the
19 credibility of witnesses who have testified in
20 this case. Credibility simply just means
21 believability. It becomes your duty as jurors
22 analyze and to evaluate the evidence and determine
23 which evidence convinces you of its truth. In
24 determining the believability of witnesses who
25 have testified in this case, you may believe one

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

13 As I indicated earlier to you, the rules
14 of evidence ordinarily do not permit witnesses to
15 testify to opinions or conclusions. An exception
16 to this rule exists for witnesses we call expert
17 witnesses. A witness who, by education and
18 experience, has become an expert in some art,
19 science, or profession may give an opinion as to
20 the subject the witness claims to be an expert in,
21 and may also give the reasons for that opinion.
22 You should consider any expert opinion given by a
23 witness, and, like any other evidence, give it the
24 weight you think it deserves. If you decide that
25 an expert witness's opinion is not based on

1 sufficient education and experience, or, if you
2 decide that the reasons given in support of the
3 opinion are not sound, or that the opinion is
4 outweighed by other evidence, you may disregard
5 the opinion entirely. An expert witness's
6 testimony is to be given no greater weight than
7 that of other witnesses simply because the witness
8 has been deemed an expert. And you do not have to
9 accept an expert's opinion even though it may be
10 uncontradicted.

11 In this case, you heard testimony of
12 witnesses or a witness who testified in Spanish.
13 Some of you may have some knowledge of Spanish.
14 However, you cannot rely on your own knowledge of
15 the language. Even if you disagree with the
16 interpreter's translation, you must accept the
17 translation of the witness's testimony by that
18 interpreter.

19 An issue in this case is the
20 identification of the defendant as the person who
21 has committed the crime charged. The State has
22 the burden of proving identity beyond a reasonable
23 doubt. You must be satisfied beyond a reasonable
24 doubt of the accuracy of the identification of the
25 defendant before you may convict him.

1 Identification testimony is an expression or
2 belief or impression by a witness. You must
3 determine the accuracy of the identification of
4 the defendant. You must consider the
5 believability of each identification witness in
6 the same way as any other witness. You may
7 consider whether the witness had an adequate
8 opportunity to observe the offender at the time of
9 the offense. This will be effected by the things
10 like how long, or how short a time was available.
11 How far or close was the -- how close to the
12 witness they were. The lighting conditions. And
13 whether the witness had the chance to see or know
14 the person in the past. Once again, I instruct
15 you, again, the burden of proof is on the State
16 and extends to every element of the crime charged,
17 and this specifically includes the burden of
18 proving beyond a reasonable doubt the identity of
19 the defendant as the person who committed the
20 crime. If, after examining the testimony, you
21 have a reasonable doubt as to the accuracy of the
22 identification, you must find the defendant not
23 guilty.

24 In this case, there are some allegations
25 of spoliation or destruction of evidence. The

1 State not only has the burden of proof of guilt,
2 but also it has the burden of producing evidence
3 which could establish the innocence of the
4 defendant. When evidence is lost or destroyed by a
5 party, you may infer that the evidence which was
6 lost or destroyed by that party would have been
7 adverse to that party. If you find, first, that
8 evidence was spoiled or destroyed, and if you
9 further find that the evidence could have helped
10 establish the innocence of the defendant, you may
11 consider those facts in deciding whether or not
12 the State has met its burden.

13 In order to establish criminal liability,
14 criminal intent is required. For example, the
15 mental state required to be proven by the State
16 for a particular crime might be purpose, intent,
17 knowledge, recklessness, or criminal negligence.
18 Criminal intent must be proven by the State beyond
19 a reasonable doubt. Criminal intent is always a
20 matter that must be determined by the jury from
21 the circumstances surrounding the situation.
22 There is no way to prove intent to mathematical
23 certainty. There is no way medical science can
24 dissect a person's brain and determine what the
25 person had in mind. So the law says that criminal

1 intent may be inferred from the circumstances
2 shown to have existed at the time.

3 This is how you make a determination of
4 whether or not the element requiring intent was
5 present. It is not necessary to establish intent
6 by direct and positive evidence. But intent may
7 be established by inference in the same way as any
8 other fact by taking into consideration the acts
9 of the parties and all of the facts and
10 circumstances of the case. Criminal intent is
11 mental state. A conscious wrongdoing. It is up
12 to you to determine what the defendant intended to
13 do based on the circumstances shown to have
14 existed. Criminal intent can arise from an action
15 or a failure to act. It may arise from
16 negligence, recklessness, or an indifference to
17 duty, or to consequences that is considered by law
18 to be the equivalent of criminal intent.

19 In this case, the defendant is charged
20 with leaving the scene of an accident causing
21 death to another person. The State must prove
22 beyond a reasonable doubt that, one, the defendant
23 was driving a vehicle, two, the vehicle was
24 involved in the accident, three, the accident was
25 the cause of death to another person, and four,

1 the defendant did not stop or he failed to return
2 and remain at the scene, five, the defendant
3 failed to give his name, address, and vehicle
4 registration number, and, if asked, failed to show
5 his driver's license, and six, the defendant
6 failed to give reasonable assistance to the
7 injured person. Reasonable assistance includes
8 taking the person to the doctor or hospital, or
9 making arrangements to have the person taken if it
10 is apparent that the treatment is needed, or if
11 the injured person asks for the treatment. The
12 State must also prove beyond a reasonable doubt
13 that the defendant knew or should have known that
14 the accident happened. This may be shown by
15 evidence of circumstances and conditions which
16 would cause an ordinary, reasonable person to
17 believe the vehicle had been involved in an
18 accident resulting in death to another person.

19 Ladies and gentlemen, lastly, I instruct
20 you and emphasize that the fact that the defendant
21 did not testify is not a factor to be considered
22 by you in any way in your deliberation and in your
23 consideration on the question of the guilt or the
24 innocence of the defendant. It must not be
25 considered by you in any manner whatsoever. A

1 defendant has the constitutional right to remain
2 silent. And the assertion of this right must not
3 consider by you in your deliberations. I repeat:
4 Under your oath, you are to draw no conclusion
5 whatsoever from the fact that the defendant in
6 this case did not testify. The fact that this
7 defendant did not testify should not even be
8 discussed whatsoever in the jury room. The burden
9 of proof, as I have stated several times, is on
10 the State. The defendant is not ever required to
11 prove his innocence. The burden of proof remains
12 on the State to prove guilt beyond a reasonable
13 doubt.

14 All right. Ladies and gentlemen of the
15 jury, in a couple minutes I'm going to ask you to
16 retire to the jury room. But I'm going to ask you
17 to hold off on your deliberation so we can get the
18 evidence together. Make sure we have everything
19 that was submitted in this case so we can submit
20 it back to you for your review. But before we do
21 that, I just need to, kind of, go over a couple
22 things with how we're going to proceed during the
23 deliberations.

24 So, Mr. Foreman, as I indicated earlier
25 in the trial that I would explain your role and

1 duty at a date, I charge you with this as the
2 foreman: This is the State of South Carolina vs.
3 Osman Jimenez-Benitez. It's indictment number
4 2019-GS-0819. This is the verdict form. As you
5 will from the verdict form it says, as to the
6 charge of hit and run with death resulting on
7 October 26, 2019, we, the jury, unanimously find
8 the defendant not guilty/guilty. Don't worry
9 about the order I put them. One has to come first
10 before the other. So don't infer anything from
11 that. It says foreperson and you date it.

12 What I charge you is that this has to be
13 a unanimous verdict. All right? All 12 have to
14 agree on this. So if someone has go to the
15 restroom, if someone has a emergency phone call,
16 please stop the deliberations.

17 Now, I'll remind you, some people will
18 participate a lot in the deliberations. Some
19 people will participate very little. That's okay.
20 It just need to be open for everyone to have the
21 opportunity to participate, because, again, it
22 must be a unanimous verdict. All right?

23 Once you have come up with a unanimous
24 verdict simply just indicate what it is on the
25 verdict form and sign it and date it and you can

1 just knock on the door and bring it out and I will
2 bring you back out.

3 If, at any time, there is any questions
4 that you may have -- I'm not sure what those may
5 or may not be during this case. But if there are,
6 your job is simply to reduce those to writing as
7 to any of the jurors and submit it to the bailiff
8 and they will bring it to me and I promise you I
9 will answer your question. Now, I tell all jurors
10 that you may not like the answer I give you
11 because it may not be the answer that you want,
12 but I will give an answer. Okay? Fair enough?

13 All right. If you all retire to the jury
14 room and in just a couple moments I'll bring
15 everything back and I'll tell the bailiffs to have
16 you-all begin deliberating.

17 Will you bring me the two alternates
18 whenever they get settled and get their stuff?

19 THE CLERK: Christopher White and Asia
20 Williams.

21 THE COURT: All right. While we're still
22 on the record, anything as to the charges from the
23 State?

24 MS. LEMPESIS: Not from the State, Your
25 Honor.

1 THE COURT: From the defense?

2 MS. CARMODY: Just my previous charging
3 request.

4 THE COURT: Right. I added your charge
5 as to --

6 MS. CARMODY: Logan.

7 THE COURT: Logan on to mine, as you saw.
8 And then other one, obviously we didn't charge
9 mere presence.

10 MS. CARMODY: Mere suspicion.

11 THE COURT: Mere suspicion. All right.
12 We'll be at recess.

13 (Exhibits go back to the jury; deliberations
14 begin at 3:05 p.m.)

15 (Verdict in at 4:01 p.m.)

16 THE COURT: Bring them out.

17 (Jury enters the courtroom at 4:02 p.m.)

18 THE COURT: All right. Mr. Foreman, it's
19 my understanding you-all have a verdict.

20 FOREMAN: Yes.

21 THE COURT: If you'll hand it up to
22 Miss Bostick and I'll take a look at it.

23 Thank you.

24 All right. Mr. Benitez, if you'll stand.
25 State of South Carolina vs. Osman Jimenez-Benitez,

1 indictment number 2019-GS-27-0819. As to the
2 charge of hit and run with death resulting on
3 October 26, 2019, we, the jury, unanimously find
4 the defendant guilty. Signed by the foreperson
5 December 8th, 2021.

6 Is this your verdict?

7 FOREMAN: Yes.

8 THE COURT: Is it still your verdict?

9 FOREMAN: Yes.

10 THE COURT: And was it unanimous?

11 FOREMAN: Yes.

12 THE COURT: All right. We obviously do
13 not have sentencing sheet at this point in time,
14 but would you-all like to go ahead and proceed
15 with sentencing today, or do you-all want to
16 withhold it until tomorrow because I'm going to be
17 here.

18 MS. CARMODY: Tomorrow, Your Honor, if we
19 can.

20 THE COURT: All right.

21 MS. LEMPESIS: I think today. I can get
22 a sentencing sheet.

23 MS. PRICE: We have mitigation, so I
24 don't know if you want to take a few minutes.

25 MS. CARMODY: Review it today and do

1 sentencing tomorrow.

2 THE COURT: What do you have? Just some
3 documents and stuff.

4 MS. PRICE: Just a report, yes.

5 THE COURT: That's fine. Bring them over
6 tomorrow and we'll sentence him tomorrow.

7 All right. Ladies and gentlemen, that
8 concludes you-all's service. As I always say, and
9 it's always very interesting, as you all know,
10 yes, I know you can hear me sometimes when you-all
11 are back there. Yes, I know I'm loud. But I can
12 hear you-all as well. I can't you-all's laughter.
13 You-all have gotten along. And so I hope you
14 enjoyed this experience as being jurors. It's
15 oftentimes a lot more enjoyable than what you may
16 see.

17 With that being said, I think so very
18 much for your service and you are free to go.

19 THE COURT: All right. Anything else as
20 to the verdict from the State?

21 MS. LEMPESIS: Not in the State.

22 THE COURT: From the defense?

23 MS. CARMODY: No, Your Honor.

24 THE COURT: Well, I'll see both of
25 you-all tomorrow. I thank you-all so very much

1 for being prepared and being here. If you just
2 submit whatever you want, we'll take a look at it
3 and we'll bring him over tomorrow.

4 MS. LEMPESIS: Did we say 10:00?

5 THE COURT: I say whenever you say.

6 MS. LEMPESIS: I say 10:00.

7 THE COURT: 10:00.

8 (The trial was adjourned at 4:05 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF JASPER COUNTY

4 The State of South Carolina,

5 vs. Transcript of Record
6 2019-GS-27-00819

7 Osman Uvaldo Jimenez-Benitez,
8 Defendant.

9
10 December 9, 2021
11 Jasper, South Carolina
12 Volume IV of IV

13 B E F O R E:

14 The HONORABLE BENTLEY PRICE

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

16 Mary Jordan Lempesis, Prosecutor

17 Carolyn Carmody, Representing the Defendant

18
19
20
21
22
23
24
25

1 THE COURT: Bring him out.

2 MS. LEMPESIS: Your Honor, we are here
3 for the sentencing of Osman Jimenez Benitez. We
4 don't need to go over the facts of the case since
5 you were the trial judge. I'm going to hand up
6 the sentencing sheet for Your Honor.

7 Your Honor, there are members of the
8 victim's family here. Sara Morales, she would
9 like to address the Court. That was the victim's
10 sister. And his son is here as well. His son's
11 name is Almir Morales, and he would like to
12 address the Court as well.

13 THE COURT: All right. I'll be happy to
14 hear from any member.

15 MS. LEMPESIS: Thank you, Your Honor.
16 Your Honor, Maria Norega is here and she is going
17 to translate for the victims, if that's okay?

18 THE COURT: Sure.

19 MS. LEMPESIS: If you can tell his name
20 to the Court.

21 EDMOND MORALES: Edmond Morales.

22 THE COURT: You can take your mask down
23 so we can read your lips and hear you.

24 EDMOND MORALES: My name is Edmond
25 Morales Roblero. I'm scared. I'm still scared,

1 what happened to my father. I am the older
2 brother. I have siblings. There's six of us and
3 my mother. It was painful losing my father, his
4 losing his life like he did. The moment, you
5 know, it was supposed to come, but not like it
6 happened. Right now, I'm the older brother. I'm
7 like a father to my siblings. I'm fighting for
8 them, to feed them, school. I had a dream to
9 become somebody in life, starting, but I can't.
10 So I can continue to feed my siblings, I have to
11 travel to this country so I can help my family.
12 And well, it's losing your father, somebody you
13 love. Thank you.

14 THE COURT: Thank you.

15 MS. LEMPESIS: Your Honor, Almir is 17
16 years old. This is Sara Morales.

17 SARA MORALES: Good morning. My name is
18 Sara Morales. I am the sister of Yobani Morales.
19 The same, lost a brother. I have a father and a
20 mother who cries every day for their son. I'm
21 scared. I have a family. I have children. I
22 have nephews. If anything that happens to me -- I
23 don't know -- the family of -- who knows. That's
24 all I needed to say, and thank you.

25 THE COURT: All right. Thank you.

1 MS. LEMPESIS: Your Honor, Mr. Benitez
2 has a prior record here, and he does have an ICE
3 hold. The recommendation from the State would be
4 for 20 years.

5 THE COURT: All right.

6 MS. CARMODY: Thank you, Your Honor. May
7 it please the Court? Your Honor, my client,
8 Mr. Benitez, is from Honduras, Your Honor. He had
9 lived in the United States for five years prior to
10 his arrest. He was educated in Honduras. He
11 actually received a 5th grade Honduran education.
12 Nothing even close to what we have in the United
13 States. I don't know. It would probably be
14 something, kindergarten or first grade. He did
15 not have a consulate at the time he gave a
16 statement to law enforcement.

17 And the reason I'm bringing that up now,
18 and I do believe that had he had the right to a
19 proper interpreter, his case might have come out
20 differently because he would have been given more
21 options. That's important. And I want to make
22 sure that's put on the record, again, that he
23 wasn't informed that he had a right to contact a
24 consulate or to even get an interpreter.

25 My client, Mr. Benitez, Yobani, and

1 Anibal, none of them are U.S. citizens. This
2 explains why he didn't call the police. It's the
3 same reason that Anibal didn't call the police.
4 That happened in the middle of the night. It was
5 after four o'clock in the morning. He's in a
6 foreign country and he's scared. Like I said,
7 it's the same reason that Anibal is scared as
8 well.

9 There is no evidence whatsoever that this
10 was an intentional act. I'm not even sure that
11 Yobani was even hit with the car. The MAIT team
12 report indicated that he was likely lying in the
13 road. There's no damage to the car to indicate
14 that he had actually struck him, and there is no
15 bumper fractures to his legs.

16 Your Honor, I think that this is an
17 unfortunate accident in the middle of the night.
18 And it's a shame that there was no evidence that
19 he called 911, or that somebody called 911. But I
20 believe if he didn't call 911, your Honor, that it
21 was because he is in a foreign country. He's been
22 here for five years. He's not educated. He's
23 scared. The same reason that Anibal was scared.
24 And Anibal took off and ran back home as well.

25 Your Honor, he's going to be subject to

1 deportation. He has an ICE hold. I mean -- I
2 believe, Your Honor, that -- he's not going to be
3 allowed re-entry into the United States with a violent
4 felony. He does have an immigration attorney. I've
5 been informed that this is going to bar re-entry
6 absent a significant change in the law.

7 Given that, Your Honor, I would recommend
8 less time and not keep him in a United States
9 prison. He's not going to be allowed back into
10 the country under the current law. And, you know,
11 send him back to Honduras.

12 And, Your Honor, my client wants to give
13 a statement as well. I also have Heather Price
14 here from mitigation. She's a mitigation
15 specialist with our office, and she would like to
16 address the Court as well, Your Honor.

17 THE COURT: All right.

18 MS. PRICE: I'll go ahead. Just to
19 reiterate that he's pretty much uneducated. This
20 was a friend. They both were drinking all
21 night.

22 MS. LEMPESIS: Your Honor, and I
23 appreciate Miss Price in her mitigation specialist
24 role with the public defender's office, but I will
25 ask that Miss Price be limited to talking about

1 mitigation as far as the defendant is concerned,
2 not the facts of the case.

3 THE COURT: Okay.

4 MS. LEMPESIS: Miss Carmody has done
5 that, and I just think it's not appropriate.

6 THE COURT: I have received your
7 mitigation packet and I have read it.

8 MS. PRICE: Okay.

9 THE COURT: I obviously know that he was
10 -- he began working in the fields when was eight
11 years of age. He is the second oldest son of -- I
12 believe you-all said eight children. His father
13 was killed by a drunk driver, if I recall,
14 Obviously, drugs and alcohol have been a staple in
15 his life, unfortunately, for years. He has a son,
16 if I'm not mistaken, who is eight years old. The
17 same age as he was when he began working in the
18 fields. He ultimately came to the United States
19 to try to make a better life for himself. His son
20 is in school currently here and being educated,
21 and I believe that's everything I read.

22 MS. PRICE: That's pretty good.

23 THE COURT: Okay.

24 MS. CARMODY: Your Honor, I just want to add
25 one thing to that. His family lives here. His wife

1 is here. His mother. You saw his mother here in the
2 courtroom. I mean, he's got family here, and he's
3 being deported out of the United States and not going
4 to be allowed back in. Your Honor, that is a
5 significant penalty for him. He has no criminal
6 report.

7 And, as I said, they were friends. This is
8 an unfortunate situation. There was no intent to harm
9 him. And I think the circumstances as such is why
10 we're here. The after effect of him, you know, not
11 calling the police is because of the circumstances at
12 the time. The same reason that Anibal didn't call the
13 police.

14 I would ask, Your Honor, for five years
15 and give him credit for the time that he's been in
16 the jail. His jail credit right now, Your Honor,
17 is -- his jail credit as of December 8th and 768
18 days, Your Honor.

19 THE COURT: All right. Anything you'd
20 like to tell me?

21 MR. JIMENEZ-BENITEZ: Yes. Good morning,
22 everyone. I want to say that I'm very sorry for
23 what happened. It has not been easy for me either
24 because I never had any intention of hurting
25 anyone. I still don't understand how this

1 happened, but I know the situation. I don't know
2 if I fell asleep or what. But when I woke up in
3 my car, I didn't realize there was anyone under
4 the car. I tried to get my car out without
5 realizing that there was anyone under the car.
6 That's when I was trying to get my car out and it
7 wouldn't come out. That's when I got out and I
8 saw someone under the car, and then I was really
9 afraid and nervous. I didn't know what to do. I
10 was just frightened and I couldn't do anything.
11 That's all.

12 I want forgiveness from Yobani's family.
13 I want them to know that I never had any
14 intention, ever. I never wanted to harm him. I
15 ask for forgiveness from them. I want them to
16 know we were out drinking together, and everything
17 that happened was because of drinking.

18 I trust God. I trust him to find
19 justice. And I trust in the United States Justice
20 as well. And I trust in the judge. I hope that
21 you keep in mind that I never meant to harm
22 anyone. That's all I have to say.

23 THE COURT: All right. Anything else
24 from the defense?

25 MS. CARMODY: No, Your Honor.

1 THE COURT: Well, Mr. Benitez, this is
2 exactly what everybody has said, it's a tragic
3 accident. And I understand that you understand
4 that we have laws in the United States. And,
5 unfortunately, you violated a very serious one. I
6 also was a lawyer, and I haven't been too far
7 removed to know what it's like to have clients
8 that are going to be deported, and so I understand
9 the plight that you're going to find yourself in
10 once you get deported. Because, unfortunately,
11 they simply just take you to an airport and they
12 just -- on an airplane and let you out with no
13 money, no family, no phone, no nothing. So you're
14 going to have to deal with those struggles at some
15 point in time in life as well. And I understand
16 that's going to be difficult on you.

17 I appreciate you accepting responsibility
18 at this point, and, you know, your sympathy for
19 the victim, but I understand it was an accident.
20 But I also understand that you're going to have to
21 be deported as well and start a life again back in
22 your home country. And, unfortunately, only your
23 son will be able to visit you because he's an
24 American citizen, I assume.

25 All right. Knowing all that, Mr. Benitez,

1 and knowing that the deportation, I believe, is going
2 to be the biggest sentence that I can probably impose
3 upon you, you are going to have to get some things
4 sorted out before you're actually deported, so I'm
5 going to submit you to the State Department of
6 Corrections for a term of four years. I'll give you
7 760 days credit.

8 Good luck to you.

9 (The trial was concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
2	COUNTY OF JASPER	14th JUDICIAL CIRCUIT

3 _____

4 STATE OF SOUTH CAROLINA,

5	vs.	CASE NO.: 2019-GS-27-00819
---	-----	----------------------------

6		
7	OSMAN UVALDO JIMENEZ BENITEZ,	TRANSCRIPT OF MOTION HEARING

8		
9	Defendant.	

10
11

12	HEARING BEFORE:	THE HONORABLE BENTLEY PRICE
13	DATE:	FEBRUARY 18, 2022
14	REPORTED BY:	KYMBERLEE M. WILLIAMS, CSR/RPR

15
16

16 APPEARANCES:

17
18

18 Attorney for the State

19 Mary Jordan Lempeis, Esq.
 20 Assistant Solicitor
 21 State of South Carolina Solicitor's Office
 22 14th Judicial Circuit
 23 102 Ribault Road
 24 Beaufort, South Carolina 29902

22
23

23 Attorney for the Defendant

24 Carolyn Carmody, Esq.
 25 Assistant Public Defender
 State of South Carolina Public Defender's Office
 262 Third Avenue
 Ridgeland, South Carolina 29936

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

FRIDAY, FEBRUARY 18, 2022

BEAUFORT, SOUTH CAROLINA

* * *

(The following proceedings were held in open court. The defendant was present along with his attorney as well as the attorney for the State of South Carolina.)

MS. LEMPESIS: This is the State versus Osman Uvaldo Jimenez Benitez. It is Indictment Number 2019-GS-2700819. This is a Jasper County case. Obviously, we are here in Beaufort County hearing this motion. The defense's motion for a new trial was never heard on the record after the trial in December of 2021.

THE COURT: All right. Yes, ma'am.

MS. CARMODY: Thank you, Your Honor. May it please the Court. Your Honor, first I wanted to put on the record that my client is waiving his appearance at the hearing, and also venue as well. The case is being heard in Beaufort County, and it's a Jasper County case.

Your Honor, I submitted a motion for a new trial at the end of Mr. Benitez's trial.

The first issue -- do you want to take these in turn?

THE COURT: Sure.

State of South Carolina v. Osman Uvaldo Jimenez Benitez - 2019-GS-27-00819

1 MS. CARMODY: The first issue, Your Honor, is that
2 I believe that the jury's verdict was contrary to the weight of
3 the evidence. The State did not prove that Mr. Benitez was the
4 driver of the vehicle involved in an accident beyond a
5 reasonable doubt, but rather merely a suspicion of guilt, Your
6 Honor.

7 Your Honor, in this case there was no eyewitness
8 testimony as to who actually hit -- there is no eyewitness
9 testimony. Your Honor, he was evasive at best. He didn't
10 understand a lot of the questions I was asking him.

11 I believe that the issue with Mr. Anabal is that he
12 really did not remember what happened. He was spoon-fed
13 information by law enforcement. He testified to that; that law
14 enforcement had provided him with information that he testified
15 to. In addition, the court reporter -- I made a motion for a
16 mistrial, because the Court reporter was summarizing
17 information or pointing to my client and saying, "His car. Mr.
18 Benitez's car."

19 THE COURT: You mean the interpreter, not the court
20 reporter.

21 MS. CARMODY: I'm sorry, not the court reporter.
22 Yes, Your Honor, the interpreter. So sorry. The Spanish
23 interpreter. I believe her name was Rosie.

24 THE COURT: There was actually. You are talking
25 about the female that came that day.

1 MS. CARMODY: Yes. So when Anabal was testifying,
2 Rosie was talking at the same time that I was. Anabal is
3 listening to me ask a question in English. Rosie is asking him
4 the question in Spanish. A lot of his answers were, "I don't
5 understand. I don't remember."

6 He couldn't even remember his second statement to
7 law enforcement, which I don't believe he was drinking at that
8 time. So that was a huge issue with him. I don't believe his
9 testimony was actually credible. He actually testified that he
10 did not know what happened that night.

11 Hubbard testified regarding the victim -- what he
12 saw on video. Hubbard did not have any first-hand knowledge as
13 to what happened. He was merely speculating what he saw on
14 video. I also asked for a jury charge on mere suspicion that
15 the Court had denied.

16 I believe on the first -- number one, whether the
17 jury's verdict was contrary to the weight of the evidence
18 because it was mere suspicion of guilt, I am asking the Court
19 for a new trial on number one.

20 THE COURT: All right.

21 MS. CARMODY: Your Honor, number two is a speedy
22 trial. Mr. Benitez sat in jail for two years prior to his
23 trial. I believe because two years had passed, witnesses'
24 memories had faded, and that denied him the right to a fair
25 trial. He was not able to elicit testimony from witnesses

State of South Carolina v. Osman Uvaldo Jimenez Benitez - 2019-GS-27-00819

1 closer to the time of the incident.

2 In addition, I filed a motion to suppress the
3 identification. That motion was denied. Detective Hubbard, as
4 I mentioned before, he spoon-fed the information to Anabal.

5 Anabal didn't even know Osman's name. It was a
6 suggestive out-of-court identification, which led to a
7 subsequent in-court ID that was also suggestive. The Court had
8 denied that motion.

9 The DNA evidence, Your Honor, there was no report
10 that was admitted, but the analyst did testify. Anabal -- the
11 DNA expert testified that Anabal was excluded as a contributor
12 to the DNA on the passenger's side of the vehicle. The State
13 put in evidence a video showing Anabal getting out of the
14 passenger's side of the vehicle.

15 Your Honor, I believe that the DNA in this case was
16 unreliable. It was prejudicial as well under 403 because it
17 also excluded Anabal as a contributor to the DNA on the
18 driver's side of the vehicle as well as the passenger's side.
19 So I do not believe that that evidence was reliable.

20 In addition, my client did not consent to the DNA.
21 He didn't understand what was being asked. If Your Honor
22 recalls, we had our defense interpreter who testified that 40
23 to 50 percent of the interpretation of my client's statement to
24 law enforcement was inaccurate. He was not an interpreter. He
25 was law enforcement. He was summarizing what he thought my

1 client said that was inaccurate. I do not believe that he
2 understood when they got his consent to DNA. I was asking that
3 it be suppressed on that as well.

4 I am asking the Court to reconsider admitting
5 photographs of the victim under the vehicle. As the defense
6 argued, those should be excluded under 403, Your Honor. I
7 believe that those were highly prejudicial to my client. We
8 also objected to Detective Hubbard narrating the video. As I
9 mentioned earlier, he did not have firsthand knowledge. It was
10 speculation.

11 I am asking the Court also to reconsider the
12 defense's motion for a directed verdict. I do not believe that
13 there was any eyewitness testimony. My client was convicted on
14 mere suspicion of guilt, Your Honor.

15 THE COURT: All right.

16 MS. CARMODY: In addition, just reconsider all
17 remaining defense motions and objections on the record.

18 THE COURT: All right. Fair enough.

19 Ms. Lempeisis.

20 MS. LEMPESIS: Thank you, Your Honor. I think that
21 what we are looking at in a motion for the new trial. The
22 defendant can move for a new trial based on the argument that
23 there was no evidence to support the conviction. He cannot
24 make a motion that Your Honor entered judgment or acquittal
25 based on that there was insufficient evidence to support the

1 jury's verdict.

2 Instead Ms. Carmody is arguing here that there was
3 just mere suspicion in this case, which obviously we argued the
4 directed verdict at the appropriate time in the case after the
5 State had rested. You denied her motion for a directed verdict
6 and found that there was certainly evidence to suggest that
7 Mr. Jimenez Benitez was the driver of the car that night that
8 hit and killed the victim in the case and then left the scene.

9 So you ruled on that during the trial. The
10 evidentiary rulings that Ms. Carmody has asked you to, I guess,
11 reconsider, that is not the appropriate -- this is not the
12 appropriate time or situation in which to reconsider those
13 rulings. Those were matters, I guess, for an appeal, if there
14 is an appeal of this matter, which I assume there will be.

15 But Your Honor made your ruling based on your
16 assessment of the evidence and the testimony and the witnesses
17 in front of you. Also, of course, you denied their motion for
18 directed evidence. There was evidence that was presented to
19 the jury that could prove to them that Mr. Benitez committed
20 this crime, and that is ultimately what they decided.

21 So we feel like this motion should be denied for
22 those reasons.

23 THE COURT: All right.

24 Anything as a follow-up, Ms. Carmody?

25 MS. CARMODY: No, Your Honor.

1 THE COURT: All right. How much time did I give
2 him?

3 MS. LEMPESIS: Four years, Your Honor.

4 THE COURT: Obviously, I will deny the motion for a
5 new trial. We can just do a short order.

6 MS. LEMPESIS: Thank you, Your Honor.

7 MS. CARMODY: Thank you, Your Honor.

8 (At 11:18 a.m., the proceedings were concluded.)

9 * * *

10 END OF TRANSCRIPT

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)
STATE OF SOUTH CAROLINA)
v.)
OSMAN UVALDO JIMENEZ BENITEZ)
Defendant.)

**IN THE COURT OF GENERAL SESSIONS
FOR THE 14th JUDICIAL CIRCUIT**

Warrant No. 2019A2720100232

**Charges: Traffic / Hit and run, duties of driver
involved in accident with death**

**NOTICE OF MOTION and MOTION FOR
BOND and NOTICE OF MOTION and
MOTION FOR SPEEDY
TRIAL**

2021 OCT 26 AM 9:15
FILED
JASPER COUNTY
CLERK OF COURT

TO: Mary Jordan Lempesis, First Assistant Solicitor, 14TH Judicial Circuit

PLEASE TAKE NOTICE that the Defendant, Osman Uvaldo Jimenez Benitez, by and through his undersigned attorney, Carolyn Carmody, will appear before the Court of General Sessions of the 14th Judicial Circuit, Jasper County, on November 1, 2021 at 9:00 o'clock a.m., or as soon thereafter as counsel can be heard, and will move this Honorable Court for an Order setting Defendant's bond to an amount deemed reasonable by the Court and for an Order granting a Speedy Trial.

This motion is based on the grounds that the Defendant was inappropriately denied bond, in violation of the Constitution of the State of South Carolina and the United States, and further in violation of Section 17-15-10 of the South Carolina code. The Defendant has been incarcerated pre-trial since November 1, 2019. In addition, the Defendant is informed and believes that he is entitled to a speedy trial and hereby demands such, as provided in the Sixth Amendment to the United States Constitution, Article 1, Section 9, of the South Carolina Constitution and Section 17-23-90, of the South Carolina Code of laws as Amended in 1976, and in the alternative moves to be discharged from imprisonment.

Respectfully submitted,
Carolyn S. Carmody

Carolyn S. Carmody
Attorney for Defendant.
Osman Uvaldo Jimenez Benitez

Jasper County, South Carolina
October 25, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF JASPER)

STATE OF SOUTH CAROLINA)

v.)

OSMAN UVALDO JIMENEZ-BENITEZ)

Defendant.)

**IN THE COURT OF GENERAL SESSIONS
FOR THE 14th JUDICIAL CIRCUIT**

Warrant No. 2019A2720100232

Case No. 2019GS2700819

Charges: Traffic / Hit and run, duties of driver
involved in accident with death

**NOTICE OF MOTION and
MOTION DISMISS – SPEEDY
TRIAL VIOLATION**

TO: Mary Jordan Lempeis, First Assistant Solicitor, 14TH Judicial Circuit

PLEASE TAKE NOTICE that the Defendant, Osman Uvaldo Jimenez Benitez, by and through his undersigned attorney, Carolyn Carmody, will appear before the Court of General Sessions of the 14th Judicial Circuit, Jasper County, on December 6, 2021 at 9:00 o'clock a.m., or as soon thereafter as counsel can be heard, and will move this Honorable Court to dismiss the above referenced indictment.

This motion is based on the grounds that the Defendant has been incarcerated pre-trial since November 1, 2019 without bond. Defendant is informed and believes that his right to a Speedy Trial as provided in the Sixth Amendment to the United States Constitution, Article 1, Section 9, of the South Carolina Constitution and Section 17-23-90, of the South Carolina Code of laws as Amended in 1976, was violated by failure to bring his case to trial.

Respectfully submitted,

Carolyn S. Carmody

Carolyn S. Carmody
Attorney for Defendant.

Osman Uvaldo Jimenez-Benitez

Jasper County, South Carolina
December 6, 2021

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE 14th JUDICIAL CIRCUIT
COUNTY OF JASPER)	
)	Warrant No. 2019A2720100232
)	
STATE OF SOUTH CAROLINA)	Case No. 2019GS2700819
)	
)	
v.)	Charges: Traffic / Hit and run, duties of driver
)	involved in accident with death
)	
OSMAN UVALDO JIMENEZ-BENITEZ)	MEMORANDUM OF LAW IN SUPPORT
)	OF MOTION TO DISMISS – SPEEDY
Defendant.)	TRIAL VIOLATION
)	

Defendant, Mr. Osman Uvaldo Jimenez-Benitez respectfully submits this Memorandum in Law in Support of his Motion to Dismiss – Speedy Trial Violation.

PROCEDURAL HISTORY

On November 1, 2019 Mr. Jimenez Benitez was arrested and charged with Hit and Run, duties of driver involved in an accident with death in violation of South Carolina Code of Laws Section 56-05-1210(A)(3). The arrest warrant alleges that Mr. Benitez drove a vehicle and, thereafter, intentionally left the scene of a collision with a pedestrian, Mr. Yobani Morales Roblero that resulted in Mr. Morales Roblero’s death.

Mr. Jimenez-Benitez is a citizen of Honduras and presently has an immigration hold. Mr. Jimenez-Benitez has retained the Law Office of Mark Devine to assist him with matters related to his immigration status. Since Mr. Jimenez-Benitez’s arrest on November 1, 2019, Mr. Jimenez Benitez has been held in pre-trial detention at the Jasper County Detention Center. As of December 1, 2021, Mr. Jimenez-Benitez was held in pre-trial detention, *without bond*, on an *unindicted charge* for over 2 years. As of the date of this filing, the Defendant received an indictment on December 2, 2021.

On December 2, 2019, shortly after his arrest, this Honorable Court denied Mr. Jimenez-Benitez’s bond. On February 2, 2021, Mr. Jimenez Benitez again filed a Motion for Bond which was denied on February 11, 2021. On June 8, 2021, The Honorable Carmen T. Mullen held a status conference on the pending jail cases. Mr. Jimenez-Benitez’s case was set for trial on November 1, 2021. The defense was prepared for trial on November 1st however the State had not indicted the

case and did not seek a continuance. This case was subsequently scheduled for trial on December 6, 2021.

ARGUMENT

The right to a speedy trial is “fundamental” and imposed on the States by the Due Process Clause of the Fourteenth Amendment. *Klopfer v. North Carolina*, 386 U.S. 213 (1967); *Wheeler v. State*, '247 S.C. 393, 147 S.E.2d 627 (1966). Subsequently, in *Wingo*, the Supreme Court outlined the controlling considerations in a Defendant’s right to a speedy trial. *Barker v. Wingo*, 407 U.S. 514 (1972). *State v. Foster*, 260 S.C. 511, 197 S.E.2d 280 (S.C. 1973).

The right to a speedy trial requires a functional analysis in the particular context of each case. *Barker*, 407 U.S. at 530. In arriving at its decision, the Court considered: 1) the length of delay; 2) the reason for the delay; 3) the Defendant’s assertion of his right; and 4) prejudice to the Defendant. *Id.*

I. LENGTH OF DELAY

The length of delay that can be tolerated depends “upon the peculiar circumstances of the case.” *Id.* at 530-31. A delay that can be tolerated for an ordinary street crime is considerably less than for a serious, complex conspiracy case. *Id.* at 531. In this particular case, no new evidence had been received since June 17, 2020. This case, which may, at one point, been considered “more complex” than that of an ordinary street crime, had become very straight forward with age. Furthermore, this case has not been presented to a grand jury for an indictment until December 2, 2021. As such, the particular circumstances of this case, over 750 days old with no new evidence and presentment to the Grand Jury over 2 years post arrest is too long.

II. REASON FOR THE DELAY

This Honorable Court ordered that Mr. Jimenez-Benitez’s case be tried on November 1, 2021. The State did not seek a continuance from this Court. If this Court finds a lack of intentional delay, even a “more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.” *Id.* Nevertheless, the Defendant has not, in any way, contributed to the delay nor has he asked for a continuance.

III. DEFENDANT'S ASSERTION OF HIS RIGHT

“Presuming waiver from a silent record is impermissible.” *Barker*, 407 U.S. at 526. “A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring

that the trial is consistent with due process.” *Barker*, 407 U.S. at 527. The Defendant has not, in any way, requested a continuance in this matter nor has he consented to any continuances or a delay of his trial. To the contrary, the Defendant, through counsel, submitted an email to this Honorable Court on February 23, 2021 rejecting the state’s offer and indicated he was ready and willing to go to trial as soon as jury trials resume.

IV. PREJUDICE TO THE DEFENDANT

Prejudice to the Defendant “should be assessed in light of the interests of defendants which the speedy trial right was designed to protect.” *Barker*, 407 U.S. at 532. These interests, identified in *Barker*, are: “(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.” *Id.*

Mr. Jimenez-Benitez has been held in pretrial confinement for over two years without bond. His case was very recently indicted on December 2, 2021. Despite setting a trial date, Mr. Jimenez-Benitez remained incarcerated under the presumption of innocence. Mr. Jimenez-Benitez’s life was put on hold, he has experienced extreme anxiety and a damage to his reputation as he sat in jail for an indeterminate amount of time despite orders of this Honorable Court to try his case. Additionally, he has suffered great prejudice as evidence that may have been available to him back in 2019 no longer exists and witnesses have since left the area. This *is* the circumstance that the speedy trial right was designed to protect.

CONCLUSION

In consideration of the relevant factors and the peculiar circumstances of this case, the Defendant requests that this Honorable Court find that over a two-year delay in pre-trial confinement is too long and violates Mr. Jimenez-Benitez’s right to a speedy trial.

Respectfully submitted,

Carolyn S. Carmody

Carolyn Carmody, Esq.

Jasper County Public Defender’s Office

Email: carolyn.carmody@bcgov.net

Cell: (843) 592-7256

ATTORNEY FOR DEFENDANT: Osman Uvaldo
Jimenez-Benitez

December 6, 2021
Jasper County, South Carolina

WITNESSES

Hardeeville Police Department

DOCKET NO. 2019GS2700819

The State of South Carolina
County of Jasper

After being fully advised as to my ⁵⁷⁰ legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

December Term 2021

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

ARREST WARRANT NUMBER

2019A2720100232

THE STATE

vs.

Osman Uvaldo Jimenez Benitez

ACTION OF GRAND JURY

Indictment For

Hit and Run with Death Resulting

SC Code: 56-5-1210(A)(3)

CDR Code: 2463

Defendant

M. W. K. [Signature]
Foreperson of Grand Jury
Date: *12/2/21*

Witness:

VERDICT

RUE BILL
BILL
REMAN
TE

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

GV1674
Foreperson of Petit Jury
Date: *12/8/21*
INDICT *[Signature]*

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

INDICTMENT
2019GS2700819

At a Court of General Sessions, convened on December 2, 2021, the Grand Jurors of Jasper County present upon their oath:

Hit and Run with Death Resulting

That in Jasper County, South Carolina, on or about October 26, 2019, the Defendant, Osman Uvaldo Jimenez Benitez, did, as the driver of a vehicle involved in an accident resulting in Yobani Roblero's death, fail to immediately stop the vehicle at the scene of the accident or as close to it as possible, or failed to return to or remain at the scene of the accident until he complied with the requirements of Section 56-5-1230, all in violation of Section 56-5-1210(A)(3), et al. of the Codes of Law of South Carolina.

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



Solicitor

4900

U-25 years and \$10,000 - \$25,000 581

STATE OSMAN UVALDO JIMENEZ BENITEZ INDICTMENT/CASE#: 2019GS2700819

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
STATE)
)
VS.)
)
OSMAN UVALDO JIMENEZ BENITEZ)
AKA:)
Race: Hispanic Sex: Male Age: 31)
DOB: [REDACTED] 1988 SS#:)
Address: St. Phillip Rd, Hardeeville, SC 29927, Jasper)
County)
City, State, Zip:)
DL#* SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2700819

AW#: 2019A2720100232
Date of Offense: 10/26/2019
S.C. Code §: 56-5-1210(A)(3)
CDR Code #: 2463

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: Hit and Run with Death Resulting

In violation of § 56-5-1210(A)(3) of the S.C. Code of Laws, bearing CDR Code # 2463

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

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 4 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 SCDOC. Flaco days/months

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

The Defendant Shall be Released from County Detention Center.
SCCA/217 (07/2021)

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.

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: Table with columns for description, amount, and total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge), §14-1-211 (A)(2)(DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs), §50-21-114 (BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees, § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund. TOTAL \$ 40.00

Clerk of Court/Deputy Clerk: _____ Court Reporter: _____

Handwritten signatures: Margaux Bostick, Sherronda Handson

Presiding Judge: _____ Judge Code: _____ Sentence Date: _____

Handwritten signature and date: 12/9/21

ARREST WARRANT

2019A2720100232

STATE OF SOUTH CAROLINA

County/ Municipality of

Hardeeville

THE STATE

19-01390

against

Osman Uvaldo Jimenez Benitez

Address: St. Phillips Road

Hardeeville, SC 29927-

Sex: M Race: H Height: 5 8 Weight: 180

DL State: DL #:

DOB: 1988 Agency ORI #: SC0270100

Prosecuting Agency: Hardeeville Police Department

Prosecuting Officer: Thomas J Hubbard - S00134

Offense: Traffic / Hit and run, duties of driver involved in accident with death

Offense Code: 2463

Code/Ordinance Sec: 56-05-1210(A)(3)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused

s to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Osman Jimenez-Benitez

on 11-1-19

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 265 Russell Street Po Box 248 Ridgeland, SC 299360248

TRUE COPY MARGARET BOSTICK CLERK OF COURT JASPER COUNTY, SC

DATE: 17 DEC 21

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA County/ Municipality of Hardeeville

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Thomas J Hubbard being duly sworn deposes and says that defendant Osman Uvaldo Jimenez Benitez did within this county and state on or about 10/26/2019 State of South Carolina (or ordinance of County/ Municipality of Hardeeville) in the following particulars:

DESCRIPTION OF OFFENSE: Traffic / Hit and run, duties of driver involved in accident with death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on October 26, 2019 in the city of Hardeeville /county of Jasper, one Osman Uvaldo Jimenez Benitez who was the driver of a motor vehicle did intentionally leave the scene of a vehicle collision versus pedestrian involving the victim, Yobani Jesus Morales Roblero, which resulted in the victim's death, without rendering aid nor calling for 911 assistance. This offense occurred within the city limits of Hardeeville, County of Jasper, State of South Carolina and violated the South Carolina Code of Laws as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of Hardeeville

Affiant's Address P O Box 582 Hardeeville, SC 29927-

Affiant's Telephone

FILED JASPER COUNTY CLERK OF COURT NOV 12 AM 10:00

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/26/2019 defendant Osman Uvaldo Jimenez Benitez did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Hardeeville) as set forth below:

DESCRIPTION OF OFFENSE: Traffic / Hit and run, duties of driver involved in accident with death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 11/1/2019 Signature of Issuing Judge Nancy Gutierrez Judge Code: 8008

Judge's Address Post Office Box 582 Hardeeville, SC 29927

Judge's Telephone (843)784-3366

Issuing Court: Magistrate Municipal Circuit

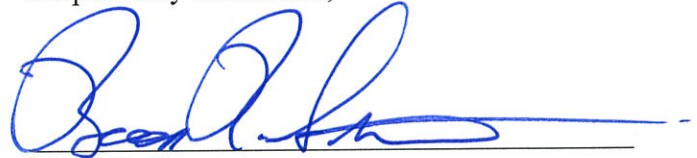
583

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."

RECEIVED
Oct 27 2023
SC Court of Appeals

Respectfully Submitted,



Breen R. Stevens
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of October, 2023.