

CERTIFIED TRUE COPY
2023 SEP 21 PM 1:47
CLOSED IN TIME
CANCELLED
ANGIE M. BRYANT
CLERK OF COURT
YORK COUNTY, SC

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

FILED-RECEIVED
2023 SEP 25 AM 10:42
ANGIE M. BRYANT
C.C.P. & GS
YORK COUNTY, SC

Appeal from York County Court of General Sessions

The Honorable Eugene C. Griffith, Jr.

Indictment Nos. 2023GS4605165, 2023GS4605165A

RECEIVED
Nov 01 2023
SC Court of Appeals

The State of South Carolina.....Respondent,

v.

John Kenneth Totherow.....Appellant

NOTICE OF APPEAL

The Appellant, John Kenneth Totherow, by and through undersigned counsel William G. Yarborough III, hereby appeals his conviction and sentence in the above-captioned case. The Appellant pleaded guilty and was sentenced on September 12, 2023 before the Honorable Eugene C. Griffith, Jr.

STATEMENT OF ISSUES PURSUANT TO RULE 203(d)(1)(B)(iv)

I. The Appellant was a fourteen (14) year old juvenile when the alleged crimes were committed. He was sentenced two days after his 16th birthday. The Appellant's guilty plea was not knowingly or voluntarily entered because he was not adequately informed of or did not understand the constitutional rights he was waiving by pleading guilty, including the right to be

adjudicated in family court as a juvenile or challenging the waiver to the Court of General Sessions to be prosecuted as an adult. Counsel will file the sentencing sheets with this Court upon receipt.

Respectfully submitted,

By: s/ William G. Yarborough
South Carolina Bar No. 10271
William G. Yarborough III, Attorney at Law
308 West Stone Avenue
Greenville, South Carolina 29609
(864) 331-1612

CERTIFIED TRUE COPY
2023 SEP 21 PM 1:47
IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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ANGIE M. DRYANT
CLERK OF COURT
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ANGIE M. DRYANT
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YORK COUNTY, SC

Appeal from York County Court of General Sessions

The Honorable Eugene C. Griffith, Jr.

Indictment Nos. 2023GS4605165, 2023GS4605165A

The State of South
Carolina.....Respondent,

v.

John Kenneth
Totherow.....Appellant

CERTIFICATE OF SERVICE & NOTICE OF FILING WITH LOWER COURT

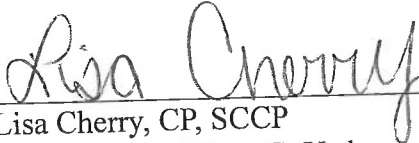
The undersigned hereby certifies that the Notice of Appeal filed in the above-captioned case was served upon the Respondent State of South Carolina by USPS mail to the office of the Assistant Solicitor John Cleveland Anthony and to the Honorable Alan Wilson located at the following address:

16th Circuit Solicitor's Office
Moss Justice Center
1675 York Highway
York, SC 29745

The Honorable Alan Wilson
P.O. Box 11549
Columbia, S.C. 29211

The undersigned further certifies that a copy of the Notice of the Appeal filed in this case was filed with the York County Clerk of Court.

This day, the 19th day of September 2023.



Lisa Cherry, CP, SCCP
Paralegal to William G. Yarborough, III

STATE OF SOUTH CAROLINA

COUNTY OF YORK

STATE VS.

JOHN TOTHEROW

AKA: Race: W Sex: M Age: 16
DOB: SS#
Address: 825 Sutton Springs Road
City, State, Zip: York, SC 29745
DL#* SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023-GS-46-05165A

A/W#:
Date of Offense: 09/07/2023
S.C. Code §: 16-23-0490
CDR Code #: 0549

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: Possession of a Weapon During the Commission of a Violent Crime (5 years)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
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: 5 years concurrent

/s John C. Anthony 7116 /s John Totherow Attorney for Defense 74943
Solicitor SC Bar # Defendant SC Bar #

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

for a determinate term of 60 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: 2023 GS 46-5165

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.

497 days/months To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

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

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:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	_____	_____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ 125.00

Presiding Judge: _____
Judge Code: Griffith 2154
Sentence Date: September 12, 2023

Clerk of Court/Deputy Clerk: Angie Bryant
Court Reporter: A. Butler

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK

STATE VS.

INDICTMENT/CASE#: 2023-GS-46-05165

JOHN TOTHEROW

A/W#:

AKA:
Race: W Sex: M Age: 16
DOB: _____ SS# _____
Address: 825 Sutton Springs Road
City, State, Zip: York, SC 29745
DL#* _____ SID# _____

Date of Offense: 09/07/2023
S.C. Code §: 16-03-0010
CDR Code #: 0116

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: Voluntary Manslaughter (2-30 years)

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

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: 336 months

/s John C. Anthony 7116 /s John Totherow [Signature] 74943
Solicitor SC Bar # Defendant Attorney for Defense SC Bar #

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

for a determinate term of 339 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: 2023 GS 46-5165A

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.
497 days/months
 To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

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

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:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	_____	_____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100
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3% to County (if paid in installments)	TBD		\$
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ 125.00

Clerk of Court/Deputy Clerk: Angie Bryant
Court Reporter: A. Butler

Presiding Judge: _____
Judge Code: Griffith 2154
Sentence Date: September 12, 2023

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on September 21, 2023, the Grand Jurors of York County present upon their oath:

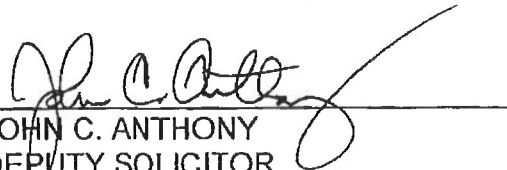
COUNT ONE: MURDER

John Kenneth Totherow did, in York County, South Carolina, on or about May 3, 2022, unlawfully and with malice aforethought, either express or implied, kill Alethea "Lisa" Puckett Totherow by means of shooting her, and the victim died as a proximate result thereof, all in violation of Section 16-3-10, *Code of Laws of South Carolina* (1976), as amended.

COUNT TWO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

John Kenneth Totherow did, on or about May 3, 2022, in York County, South Carolina, while committing the violent crime of Murder, possess a Firearm, all in violation of 16-23-0490, *Code of Laws of South Carolina* (1976), as amended.

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


JOHN C. ANTHONY
DEPUTY SOLICITOR

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

Direct Indictments
DOCKET NO. 2023-GS-46-05165
2023-GS-46-05165a

WITNESSES

YCSO

Witnessing Officer: WONG

ARREST WARRANT NUMBER

COUNT ONE: Direct Indictment
COUNT TWO: Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

SEPTEMBER 21ST, TERM 2023

THE STATE

VS.

JOHN KENNETH TOTTEROW

INDICTMENT FOR

COUNT ONE: MURDER

SC Code: § 16-03-0050
CDR Code: 0116

COUNT TWO: POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

Defendant

I John Totterow
hereby appear in my own proper
person and plead guilty to the within
indictment or to
Voluntary Manslaughter
& PWDCVC

John Totterow
Defendant

Witness:

C.C.C. PLS. AND G.S.