

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Richland County
Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAYLEN WESTLY BELL,

APPELLANT

APPELLATE CASE NO. 2022-001541

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

**DEFENDANT’S EXHIBIT NO. 1 (PHOTOGRAPH)
STATE’S EXHIBITS NOS. 4, 9, 10, 12, 16, 17 (PHOTOGRAPHS)**

1 what are your thoughts?

2 MS. BRUCK: Judge, I, I think it sounds, from the
3 contents of the note, like they're not very close. And, of,
4 of course, they should be told there's, there's no time
5 limit. It is suppertime, and as far as the -- them doing
6 searches on this case in particular, I'm not concerned about
7 it. There's no---

8 THE COURT: There's really not much stuff out there.

9 MS. BRUCK: There -- there's not much out there.

10 THE COURT: Right.

11 MS. BRUCK: And the---

12 THE COURT: well, why don't we -- let me do this.

13 Let me go there and say -- kind of say, number one,
14 there's no time limit, right, and they're welcome to stay
15 here as late as they want to stay tonight. I'm not gonna --
16 you know, if they tell me they want to keep working tonight,
17 I'm gonna let them but I have no way to feed them.

18 The alternative is let's work for another hour or so
19 and, you know, if they haven't reached a decision, then we
20 could -- they can come back in the morning and I'll bring
21 them in here and admonish them that they can't do all those
22 things we know they can't do and then kind of let them
23 decide how they want to do it.

24 Is that okay with the State?

25 SOLICITOR SCOTT: Yes, sir, just remind them the facts

1 of the case will never be as fresh as they are right now.

2 THE COURT: All right. And with -- is that okay with
3 the defense?

4 MS. BRUCK: Yes, sir, Your Honor.

5 THE COURT: Okay. All right. That sounds good.

6 All right. Hang tight. Y'all just stay here. I'm
7 gonna -- I'm gonna report back on what information I get.

8 (WHEREUPON, a short recess was taken at this time.)

9 THE COURT: Keep your seats.

10 All right. I don't -- number one, I think they're,
11 they're consciously working through things and, and I
12 mean -- just from what I can see in the room, they're,
13 they're obviously constant -- they're, they're working
14 through things, processing through things, and what they
15 said is they would like to work for about the next hour or
16 so, and I said there's no point in setting a timer. You
17 know, I said either come to a decision where you have a
18 verdict or come to a decision where you made it as far as
19 you think you can make it tonight and just let me know
20 either one. And then if they don't have a verdict, then
21 I'll bring them in here and give them all the normal
22 instructions and start them in the morning.

23 So -- and a couple of them needed to call home and text
24 home just to kind of say this is where we are and this is
25 why we're not home. And so I told them they could do that

1 but all deliberations would need to stop until they were all
2 12 in the room. And then I also told them that there is no
3 time limit. There's no, you know, they have to be done by X
4 or they're, you know, some big bell's gonna go off and they
5 don't -- if they don't make their decision in a certain
6 amount of time.

7 So, I stressed that to them and I think they understood
8 that and they were all very cordial and polite. And so, it
9 wasn't, you know -- but in -- after I explained everything
10 to them, I exited the room and then they came back and said
11 we'd like to work for about another hour or so. That's what
12 we're doing.

13 Okay. All right. So don't go too far. Don't get
14 locked in any other rooms.

15 MS. BRUCK: Thank you, Your Honor.

16 (WHEREUPON, the jury returned with another question at
17 8:12PM.)

18 THE COURT: They, they want to go home.

19 So let's get him seated and we'll bring them in.

20 Bring in the jury.

21 All right. So we got a note from the jury that said
22 they want to go home for the evening and come back tomorrow
23 morning. We've marked that as a Court's Exhibit.

24 (WHEREUPON, the note from the jury was marked as
25 Court's Exhibit No. 3 and received into evidence at this

1 time.)

2 THE COURT: So I'm gonna bring them in and tell them
3 not to do all the things you're not suppose to do and then
4 they'll be back tomorrow morning and then, Deputy Doe, you
5 got somebody that can walk with them to their cars?

6 THE OFFICER: We do.

7 THE COURT: Bring them in.

8 (WHEREUPON, the following takes place within the
9 presence of the jury.)

10 THE COURT: All right. Come on in, ladies and
11 gentlemen.

12 Thank you very much. I got your note and kind -- as we
13 discussed earlier, that's perfectly fine. You've been going
14 for about four hours. So you're kind of -- I think you're
15 kind of at a natural, natural break anyway.

16 So I'm gonna release you for the evening.

17 Okay. Now, we don't normally do this. Let's put it
18 that way.

19 Okay. And kind of the timing this afternoon, we, we
20 were pretty close to the time where I would of just stopped
21 and started tomorrow morning but I thought we were early
22 enough to where we were okay. So, this is perfectly fine.
23 It happens. I've done it before. You're not the first jury
24 I've done it with. You won't be the last but it's not
25 normal.

1 okay. So, I'm gonna have deputies walk you to your
2 car.

3 Okay. That has nothing to do with this case in any
4 way, shape, or form period. Not up for discussion. This is
5 purely because we're in downtown Columbia and we're in a
6 major city. You're walking into a parking garage. It's
7 dark. It's not really lit the way that it should be.

8 So, if any -- in all my cases whenever I release jurors
9 and it's after dark, I release -- I send them with the
10 deputies with them and that's just for your safety. But it
11 has nothing to do with this case at all. That's -- so you
12 make sure I know you get to your cars safely and you get
13 home to your family.

14 I want to say thank you very much for your hard work
15 today. You did a great job of paying attention to everybody
16 and I'm know -- it's clearly and it's obvious that you've
17 been working diligently for the past four horse.

18 So, we'll see you tomorrow morning at 9:30. Let's
19 follow all of those instructions that I gave you and thank
20 you for your hard work today.

21 All right. Everyone else just stay where you are.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: Okay. Anything from the State before we
25 break?

1 SOLICITOR SCOTT: No, Your Honor.

2 THE COURT: From the defense?

3 MS. BRUCK: No, sir, Your Honor. I just want to make
4 sure that no jurors are gonna see Jaylen escort -- being
5 escorted to the main --.

6 THE COURT: Yeah, I'm down with that.

7 MS. BRUCK: Okay.

8 THE COURT: Yeah, I'm down with them not seeing him.
9 So, we just need to make sure no one -- none of the jurors
10 need to see him being escorted or getting in a van or any
11 shackles or anything like that.

12 THE OFFICER: Yes, Your Honor, absolutely.

13 THE COURT: Okay.

14 THE OFFICER: We'll make sure that doesn't happen.

15 THE COURT: Okay. All right. Good.

16 Okay. We'll get -- we'll let them get clear and then
17 we'll -- then they can move him.

18 MS. BRUCK: Thank you, Your Honor.

19 THE COURT: Okay. All right. You're very welcome.

20 All right. See y'all tomorrow morning. You can be in
21 here if you want to or you can be in your offices, either
22 one. Just as long as I can -- Janie can find you when she
23 needs to call you.

24

25 (WHEREUPON, Court was in recess for the evening.)

1 Friday, September 9th, 2022

2

3 (WHEREUPON, the jury began deliberations again at
4 9:30AM and sent out a note at 10:54AM.)

5 THE COURT: Okay. So we've received a note from the
6 jury, which we've marked as Court's Exhibit No. 4.

7 (WHEREUPON, the note from the jury was marked as
8 Court's Exhibit No. 4 and received into evidence at this
9 time.)

10 THE COURT: And the attorneys -- I just showed it to
11 attorneys. What the note says is could we get clarity on
12 the second charge as far as what possession means.

13 Does it mean before the event or in his hand during the
14 event?

15 I'm open to thoughts. One thought process is to charge
16 them on the law of possession. I can define actual
17 possession and constructive possession for them. I mean the
18 crime is possession of a weapon during the commission of a
19 violent crime. So, I'm, I'm little -- I can refer them back
20 to the charge cause it's -- I mean it's -- clearly says
21 the -- I, I don't have the charge cause I gave it to them
22 obviously.

23 But it says the firearm has to be in their possession
24 and it has to be used in furtherance of the crime. You just
25 can't, you know, have it in your pocket and never pull it

1 out and never use it. So, I mean I think that's in there.

2 I'm also happy to define possession. That would be a
3 definition of actual possession and constructive possession
4 or I'm happy just to tell them you have the charge on the
5 law of possession of a weapon during the commission of a
6 violent crime.

7 SOLICITOR SCOTT: Let me -- I'm just looking at your
8 charge. It -- it's pretty clear. I don't know how we can,
9 can get much more clear. Defendant was in possession of a
10 firearm or visibly displayed what appeared to be a firearm
11 during the commission of a violent crime.

12 THE COURT: Right.

13 SOLICITOR SCOTT: In order to find him guilty of
14 possession, you must find the defendant -- okay. Yeah, the
15 title itself seems to indicate --.

16 THE COURT: Right, they -- answer to their question.
17 Hey.

18 MS. BRUCK: Good morning, Your Honor. I, I agree with
19 that. I think that the instruction on constructive
20 possession might further confuse the issue.

21 THE COURT: Yeah, I'm, I'm not saying I'm doing it.
22 I'm just---

23 MS. BRUCK: Yeah.

24 THE COURT: ---throwing out -- I'm throwing ideas out.
25 This isn't me saying that's -- this is what we're doing.

1 I'm open to suggestions or I'm happy to write them back you
2 have all the law that you need.

3 MS. BRUCK: And maybe even just refer them to that
4 that---

5 THE COURT: Yeah.

6 MS. BRUCK: ---particular portion.

7 THE COURT: Please refer to the portion of the charge
8 where I described the elements of possession of a weapon
9 during the commission of a violent crime.

10 MS. BRUCK: That's fine with us.

11 THE COURT: Is that okay with you?

12 MS. WARTHEN: Yes, sir.

13 THE COURT: Is that okay---

14 SOLICITOR SCOTT: That's fine.

15 THE COURT: ---with you?

16 SOLICITOR SCOTT: Yes, sir.

17 THE COURT: All right. So let's talk through what --
18 exactly what I'm gonna write. I'm gonna say please refer
19 back to the jury charge that I have given you a copy of for
20 the elements that the State must prove for possession of a
21 weapon during the commission of a violent crime.

22 SOLICITOR SCOTT: It's -- let me see. It's on Page 13,
23 Your Honor, if you want to further instruct them.

24 (Pause.)

25 THE COURT: All right. So what I've written is please

1 refer back to the jury charges for the elements that the
2 State must prove for possession of a weapon during the
3 commission of a violent crime.

4 Is that okay?

5 SOLICITOR SCOTT: Yes, sir.

6 THE COURT: Is that okay?

7 SOLICITOR SCOTT: But I say if you want to direct which
8 page number.

9 THE COURT: Page what?

10 SOLICITOR SCOTT: 13.

11 THE COURT: Okay.

12 Is that okay?

13 MS. BRUCK: Yes, sir, Your Honor.

14 THE COURT: Okay. I'll put see Page 13.

15 All right. Okay. Thank you very much.

16 MS. BRUCK: Thank you, Your Honor.

17 (WHEREUPON, the jury returned with a verdict at
18 11:15AM.)

19 THE COURT: Okay. Thanks. Take your seats.

20 All right. It's my understanding that we have a
21 verdict.

22 Let me kind of say this to you if you're in the
23 courtroom. I'm more than happy for you to be here.

24 I understand that this case is emotional. I understand
25 that it's emotion on both sides. I believe you and I

1 okay. All right. Let's bring them in.

2 (WHEREUPON, the following takes place within the
3 presence of the jury.)

4 THE BAILIFF: The jurors are seated, Your Honor.

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen.

7 Madam Forelady, it's my understanding there is a
8 verdict.

9 Is that correct?

10 THE FORELADY: Yes, Your Honor.

11 THE COURT: All right. If you would please hand it to
12 the bailiff.

13 (WHEREUPON, the forelady complies.)

14 THE COURT: All right. I find the verdict is in its
15 proper form and the clerk may publish.

16 THE CLERK: Yes, sir.

17 May it please the Court.

18 In the State of South Carolina, County of Richland, in
19 the Court of General Sessions, the State of South Carolina
20 v. Jaylen Westly Bell, Indictment Numbers 2022-GS-40-2136
21 and 2022-GS-40-2135. Verdict form.

22 We, the jury, by unanimous consent, find the defendant,
23 Jaylen Westly Bell, number one, as to the charge of murder
24 on Indictment 2022-GS-40-10236, guilty is checked.

25 Question -- I'm sorry. Number -- only if you find the

1 defendant guilty of question one, proceed to question two.

2 Question two, as to the charge of possession of a
3 weapon during commission of a violent crime, on Indictment
4 2022-GS-40-02135, guilty is checked.

5 Columbia, South Carolina, September 8th, 2022. Signed
6 foreperson, Samantha Higgins.

7 Madam Forelady, is this your verdict and the verdict of
8 the entire panel?

9 THE FORELADY: Yes, ma'am.

10 THE CLERK: Thank you.

11 THE COURT: All right. Does the State request polling?

12 SOLICITOR SCOTT: The State does not.

13 THE COURT: Does the defense?

14 MS. BRUCK: Yes, Your Honor.

15 THE COURT: Okay. Ladies and gentlemen, the clerk's
16 gonna call, call your numbers and then she will ask you is
17 this your verdict and is it still your verdict and if you
18 will please answer out loud.

19 THE CLERK: I'm gonna call your number.

20 Juror Number 140. You can stand up.

21 Is this---

22 THE COURT: No, they can stay seated. They can stay
23 seated.

24 THE CLERK: You can stay seated.

25 THE COURT: Yeah.

1 But there's no rule that keeps you from discussing it with
2 anyone.

3 I want to thank you very much for your service. We can
4 get anybody that needs a work excuse a work excuse and we
5 can get that for you today and then their checks will be
6 mailed or do you have them today, Janie?

7 THE CLERK: They have debit cards that money will be
8 put on today at five o'clock.

9 THE COURT: Okay. There you go.

10 All right. And so thank you very much. You can head
11 back to your jury room and thank you very much for your
12 service. You'll be released from there.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. When I come back we'll do
16 post-trial motions and sentencing. Just a couple minutes.

17 (WHEREUPON, a short recess was taken at this time.)

18 THE COURT: Yes, ma'am.

19 MS. BRUCK: Thank you, Your Honor.

20 May it please the Court.

21 At this point the defense counsel renews all pretrial
22 motions or stand your ground hearing, all objections, and
23 motions during the trial, Your Honor, and we would make a
24 motion for a mistrial and we would respectfully ask Your
25 Honor for 10 days to file that in writing.

1 THE COURT: Okay. All right. Thank you very much.
2 Your other motions are denied and my ruling upon them
3 would be the same.

4 All right. And do we have members of Mr. Floyd's
5 family that would like to speak?

6 SOLICITOR SCOTT: Yes.

7 THE COURT: Okay. And do you have sentencing sheets,
8 Mr. Scott?

9 SOLICITOR SCOTT: Let me fit -- let me find out
10 which -- Tanisha Jones and Ashley Wright will speak on
11 behalf of the family, Your Honor.

12 MS. WRIGHT: So I just wanted to give a little update.

13 THE COURT: Whoa, whoa, whoa, whoa, whoa, whoa.

14 MS. WRIGHT: Oh.

15 THE COURT: Hold on. One second.

16 MS. WRIGHT: Sorry.

17 THE COURT: Tell me your name please.

18 would you tell me your name please, ma'am?

19 MS. WRIGHT: My name is Ashley Wright.

20 THE COURT: Okay. And what's your relation to
21 Mr. Floyd?

22 MS. WRIGHT: Demetrius Floyd was my best friend. But
23 he was also the godfather of my daughter --

24 THE COURT: Okay.

25 MS. WRIGHT: -- who's 11.

1 THE COURT: All right. Thank you for being here and
2 I'm happy to hear from you, ma'am.

3 MS. WRIGHT: Thank you.

4 So I just wrote a statement about, you know, who
5 basically Demetrius was because it wasn't -- we weren't able
6 to express it much.

7 So Demetrius Antwan Floyd was the oldest son of Shirley
8 Floyd Jones and Isiah Anderson. He was the godfather of
9 Natalie Wright-Wilson and was very involved with most of the
10 children in his family and in his community. He was the
11 eldest brother of his siblings including Dasha Jones.

12 At Goodwill where -- Goodwill where he was employed as
13 a manager he was known for his funny conversations with
14 clientele. Demetrius was also a jack of all trades. He
15 developed a love for landscaping, construction, and outside
16 work. In doing so, he started a company working for Bill
17 Lark and others in the community up-keeping their homes. He
18 was trusted enough to be left in homes for weeks at a time
19 to keep things going while families were away.

20 He was a graduate of 2004 of Columbia High School where
21 he was very popular and well known, known amongst everyone.
22 His nephew and young niece, goddaughter, neighbors, and
23 other children were adored by him. He always would take
24 kids to the store.

25 I mean when they talked a lot about Demetrius walking

1 down the street, but if he saw children, he would say come
2 on, let's go to the store and get you something. I mean
3 if -- he was giving. He's -- he had the best heart ever
4 known.

5 Along with them, he is missed daily by other family and
6 friends and his godmother, Glorida, his closest friends,
7 Clarence, myself, Brandy, Kim, Donnell, we will all continue
8 to miss him and I just want to express that we will pray for
9 the defendant for him to find peace in this. But I do want
10 to express what a journey this has been for all of us, how
11 many nights we missed sleep, how many days my daughter
12 begged for her godfather and I can't never bring him back to
13 her ever again. You know, it's just been rough. She asked
14 for him more than she asked for her own daddy, you know.

15 So I just want y'all to know we fought for him because
16 y'all took something good from us. We -- y'all took
17 something that we'll never get back again. Y'all made --
18 tried to make him look like such a terrible person but he
19 was the opposite of all of that. And I -- if, if I want to
20 leave here today and express only one thing, that's what I
21 want to express. Demetrius was a very good person and he
22 will be very missed.

23 Thank you.

24 THE COURT: Thank you, ma'am, and thank you for your
25 words.

1 UNIDENTIFIED PERSON: Ms. Jones, she won't be speaking.

2 THE COURT: Okay. All right. Thank you.

3 And does anybody else want to speak for Mr. Floyd's
4 family?

5 If you do, you may. You don't have to but I want to
6 give you the opportunity to if you would like to.

7 If you would, please just tell me your name before you
8 start.

9 MS. ROBERTS: My name is Brandy Roberts.

10 THE COURT: Ms. Roberts.

11 MS. ROBERTS: Roberts.

12 THE COURT: Okay. Thank you for being here and I'm
13 happy to hear from you, ma'am.

14 MS. ROBERTS: Okay. I'm, I'm -- my name is Brandy and
15 I'm here -- I was his best friend too. I been knowing him
16 ever since he was in -- we was in middle school.

17 I just want him to know that you took a brother, a son,
18 a godfather, a uncle, a cousin, a friend. I don't think
19 that you realize what you have done. You created so much
20 pain in this family. Our hearts are forever broken.

21 I pray that God finds mercy on your soul for what
22 you've done. But as for me, this is unforgiving. We will
23 never get to see him again. We'll never get to sit with him
24 again. We'll never get to laugh with him again. We'll
25 never get to hear his voice.

1 I just pray, I just pray that you can find peace with
2 this cause I really -- I don't think that you realize what
3 you've done.

4 THE COURT: Thank you, ma'am.

5 All right. Tell me your name please.

6 MS. JONES: My name is Shirley Jones.

7 THE COURT: Ms. Jones.

8 MS. JONES: That's my son. I miss him so much. I
9 never -- I was waiting for them to -- all the years on
10 there -- when they was playing the video, I just want his
11 voice on the last time. It hurt me a lot. That was my
12 oldest child and I thought I would of been gone before him.
13 And every night all I got is a statute of him in my room
14 that I look at every night before I go to bed.

15 I don't think I will never get over it. That's what I
16 have to say. I love him and I miss him so much and they
17 didn't have to do him like that.

18 THE COURT: All right. Thank you all very much and,
19 Mr. Scott, does the State want to be heard on sentencing?

20 Does he have any criminal record other than the filing
21 of police report?

22 SOLICITOR SCOTT: No, no adult record. But, as you
23 know, he -- he's been in jail since he was 18. So that's
24 the only adult record he has.

25 He sits here with no remorse today and no -- and that's

1 just kind indicative of these crimes of violence. Kind of
2 what I talked about in closing. You know, you got these
3 young people who -- I don't know if they expect Demetrius to
4 sprout back up, you know, or they don't really care
5 honestly.

6 But it's, it's, it's too much and it's getting to be
7 too much and we're asking for a sentence that reflects that.
8 Just needless killing such as this. You know, you get to
9 hear from the family. I know Your Honor knows this.

10 But as a prosecutor, your fear is that the jury
11 understand that this person that we only get to hear by name
12 or we get to see a picture of his foot after he's passed on,
13 that was actually somebody's son. That was actually
14 somebody's best friend. That was actually somebody's
15 brother.

16 He, he doesn't know that. He doesn't care. But that,
17 that's my fear trying this case when the defense engages
18 in -- I know it's defense strategy but just the total
19 outright character assassination and just beating on my, my
20 victim who's not here to defend himself after being shot
21 eight times while he's sitting on the bed. The evidence is
22 clear. That man wasn't charging him and, and I think the
23 jury needs to know that.

24 He's a proud member of the Bloods. So he is a gang
25 member. These weren't admitted but he's really proud of his

1 affiliations and he's proud of posting with guns. He's
2 proud of what that means and being menacing.

3 To this day, he has no remorse and he's taken somebody
4 away needlessly and we just ask for a sentence that reflects
5 that just reckless disregard for human life or his.

6 THE COURT: And what is the sentencing range on the
7 weapons charge?

8 I always -- that's one I do not remember.

9 SOLICITOR SCOTT: Five years, Your Honor.

10 THE COURT: And is it -- but is it consecutive?

11 SOLICITOR SCOTT: Yeah, it used to be. I, I think
12 they've amended it where it can run concurrent now.

13 THE COURT: Okay.

14 SOLICITOR SCOTT: But, again, I, I don't have this -- a
15 number in mind, judge. Just, just something that, that,
16 that Richland Court can look at and say, you know, if we
17 keep killing people needlessly, this is the number you might
18 get.

19 THE COURT: All right.

20 SOLICITOR SCOTT: Thank you.

21 THE COURT: Okay. And, Ms. Bruck, happy to hear from
22 anybody and all on your side of the case.

23 MS. BRUCK: Thank you, Your Honor.

24 May it please the Court.

25 I've been appearing in front of Your Honor since 2017

1 and I know that you've seen me say the things about everyone
2 that I've represented and that's my job. And, to be honest,
3 sometimes I'm kind of dig in there. I'm trying to find
4 something nice to say.

5 I can tell you I have represented Jaylen since his
6 arrest at age 18 and he has a certain gravitas about him.
7 He is a serious and caring person. He draws people to him
8 and I'm sure Your Honor kind of understands what the
9 timeline here.

10 He was arrested in November of 2019 when, when life was
11 normal, when going back to the jail was normal, and I saw, I
12 saw his interactions and he did always seem a bit older than
13 his, his age of 18. I had other clients in there who were,
14 who were anxious and panicky and I saw Jaylen look --
15 looking out for those people.

16 So, when the world shut down and when I was incapable
17 of, of seeing my clients and checking on them, I felt
18 absolutely comfortable asking Jaylen to watch out for and to
19 check in on my more venerable, my mentally ill, na -- more
20 intellectually disabled clients and that's not something I
21 would ask of someone who I thought didn't have a heart.

22 I'm essentially -- I knew that I could trust Jaylen
23 with that information. I knew that he would not take
24 advantage of anyone as that jail got worse and worse, as the
25 violence increased. I knew that I could trust Jaylen to

1 always do the right thing when that got hard and I know it's
2 gotten extremely hard for him in the 1,017 days that he's
3 been in custody, Your Honor.

4 I -- despite where we are today, I do want his father
5 to, to hear from, from me, for what it's worth, that he
6 raised a good man and I think he can have an extremely
7 productive future, Your Honor. The, the 30 years that we
8 would be asking Your Honor to give is gonna seem like a
9 lifetime to Jaylen who was only 18 when he was arrested. I
10 know Your Honor probably notices this his family was in the
11 courtroom throughout this trial this week.

12 Today we have his girlfriend, Stephanie Jackson, and,
13 and his father, John Bell. His sister was also here
14 throughout the week, Janiah Wisen, his stepmother, Priscilla
15 Bell.

16 Jaylen is remorseful for taking a life. That fact has
17 never been lost on him and he does know that Demetrius Floyd
18 was -- had people who loved him and cared about him. He had
19 been around him for eight months. He is sorry that someone
20 had passed and he's sorry for the pain that, that has
21 rippled out into the world. He's extremely aware of that.

22 And so, respectfully, Your Honor, we, we would just ask
23 for the 30 years day for day that Jaylen is looking at.

24 THE COURT: Okay. All right. Mr. Bell, you don't have
25 to say anything at all. You have -- you're, you're welcome

1 to say something if you want to. I want to give you an
2 opportunity to. But if you don't want to, that's perfectly
3 fine too. It's completely your decision.

4 THE DEFENDANT: I'm good.

5 THE COURT: Okay. All right. And does anybody from
6 his family need to speak on his behalf?

7 If they want to, I want to give you an opportunity to.
8 You're welcome -- you don't have to but I want to give you
9 an opportunity to if you would like to and I'm -- will note
10 for the record that there have been multiple family -- I
11 assume family members and friends that been here this week
12 to support him.

13 (WHEREUPON, there was no response.)

14 THE COURT: All right. Can somebody give me the
15 sentencing sheets?

16 MS. BRUCK: Does he need to sign them?

17 THE COURT: No, not since it's a trial.

18 (Pause.)

19 THE COURT: All right. The Sentence of the Court on
20 the murder charge, which is Indictment Number
21 2022-GS-40-2136, is that you be committed to the State
22 Department of Corrections for a determinate term of 35
23 years.

24 The Sentence on the weapons charge is that you be
25 convicted -- I mean that you be committed to the State

1 Department of Corrections for five years. Those are to be
2 run concurrent.

3 Best of luck to you, Mr. Bell.

4 Thank you very much.

5 All right. Thank you all for all your hard work this
6 week.

7

8 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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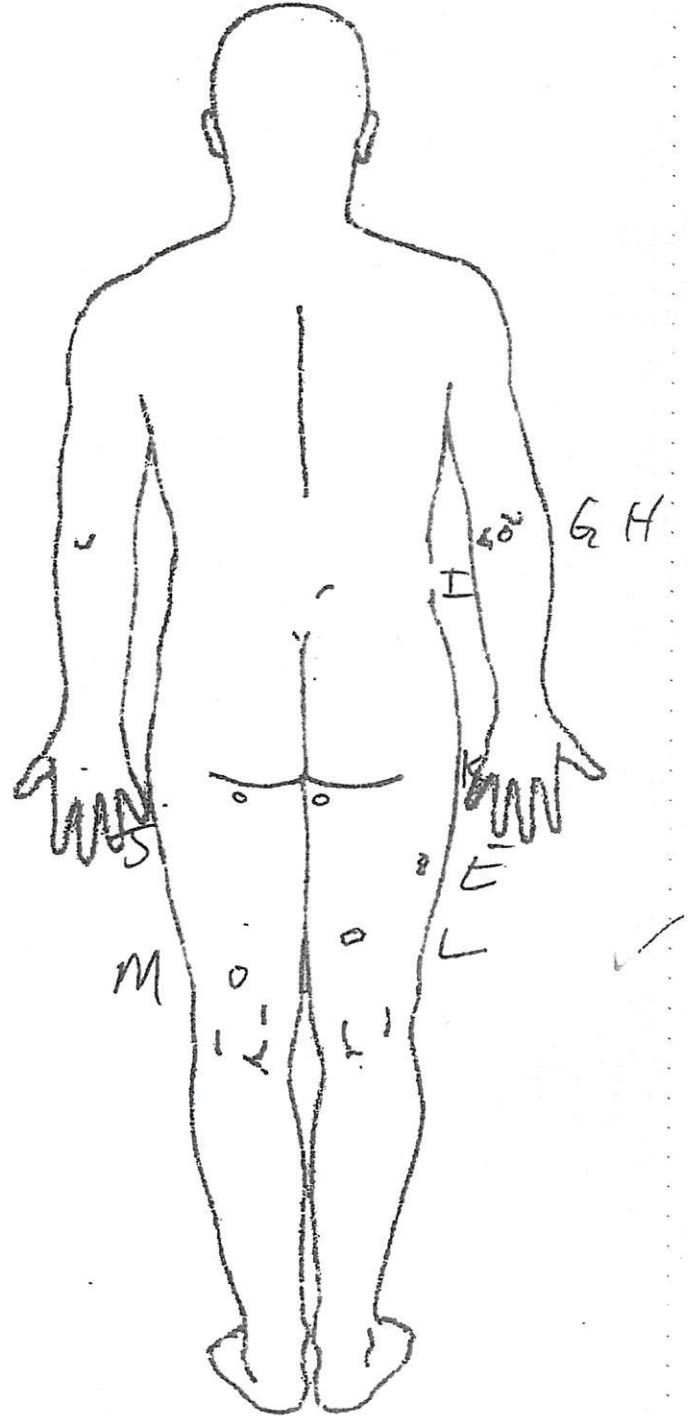
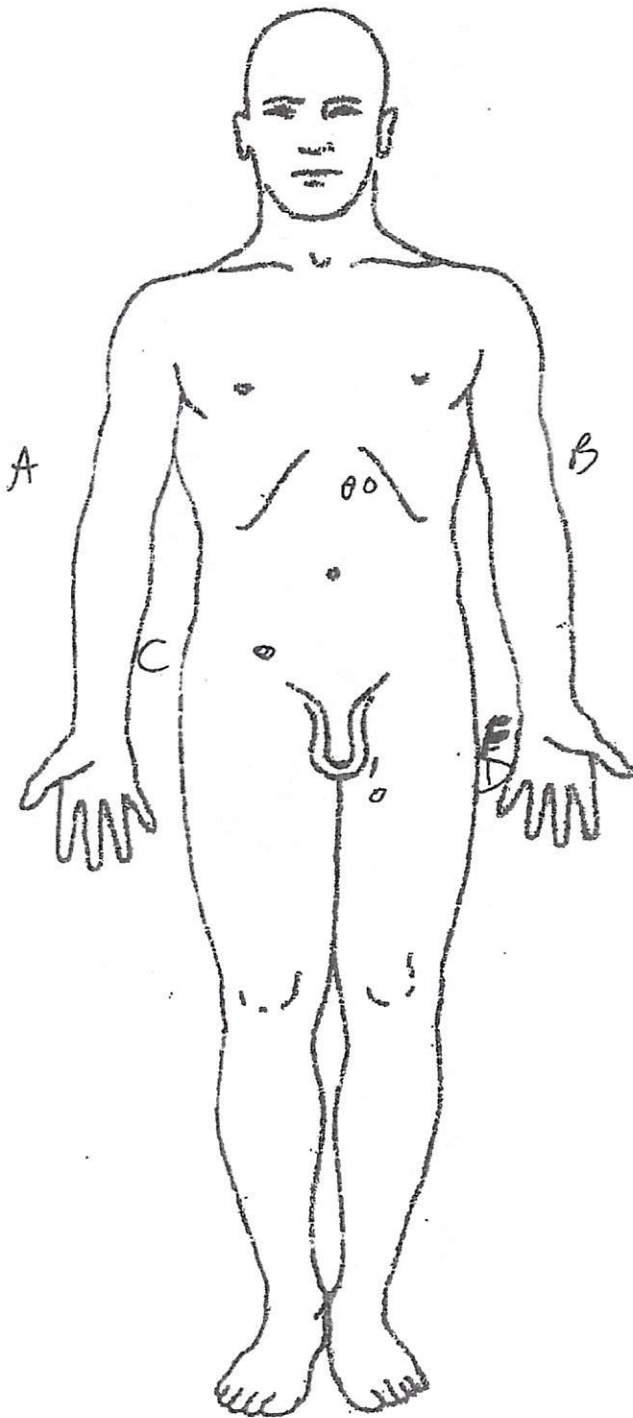
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Weight:
Length:
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Rigor:
Pupils:
Scalp hair:
Facial hair:

Eyes:
Ears:
Nose:
Teeth:
Neck:
Abdomen:
Genitalia:

Demetrius Floyd FA19-400
Contents: DIAGRAM
11/25/2019 8:00 AM
Monroe
RCCO 2019-003471

Florida Department of Pathology and Forensic Science
www.ppspath.com



STATE'S EXHIBIT
13

CASE NO.

NAME

Demetrius Floyd FA19-400

Contents: DIAGRAM

11/25/2019 8:00 AM

Monroe DOB: 5/12/1985

RCCO 2019-003471 Text 478 bod 11/24/2019

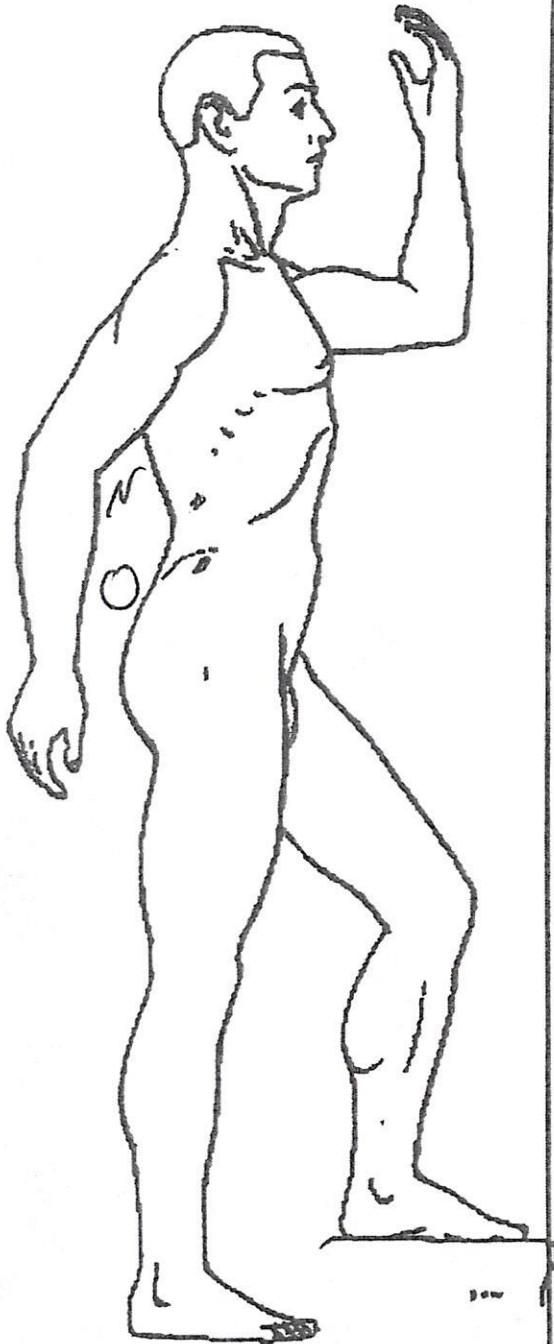


DIAGRAM B

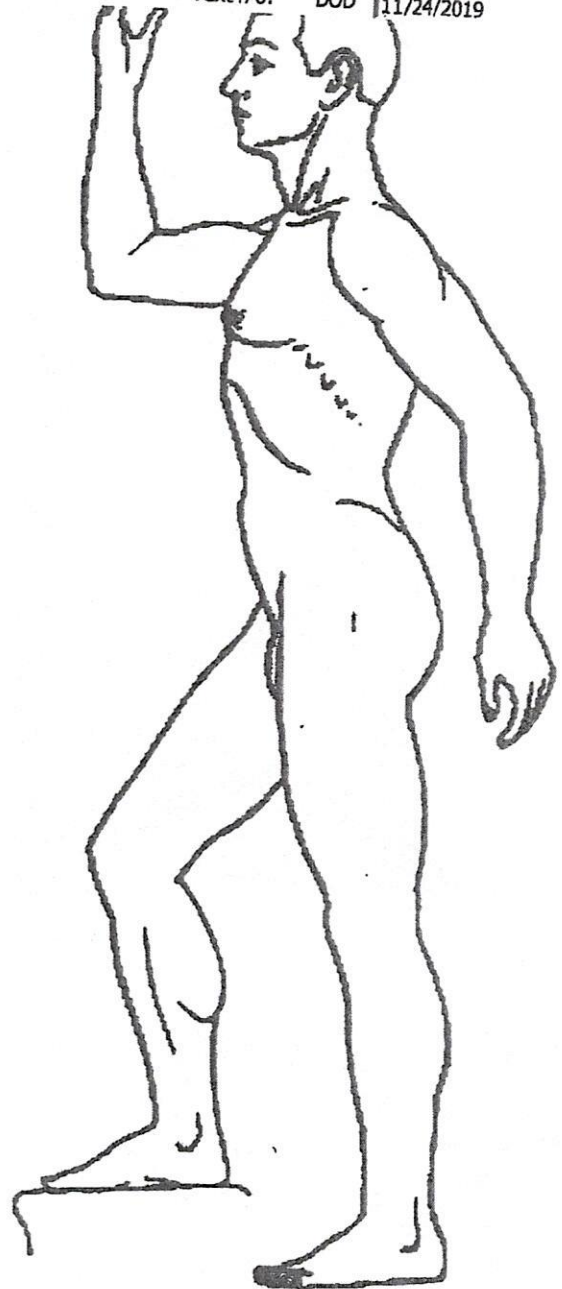


Figure 25 (70)

STATE'S EXHIBIT
 14
 PENNSYLVANIA

Victim appeared to be drunk. They came out of the bedroom and Victim was still fussing at Jaquala, but Jackson tuned them out. Victim had his hands in her face as they argued. Jackson was in the kitchen washing her son's baby bottles and had her back to them when they were arguing but she heard a "pop" noise. Jaquala's minor daughter (a 13 year old) actually witnessed the assault. Jaquala's daughter told Victim he should not put his hands on her mother. Defendant was not present.

Jackson eventually left and got into the car with her infant son, Jaquala's daughter, and Defendant to leave the incident location. She was adamant that she would not have left Jaquala in residence if she was concerned about Jaquala's safety. Jaquala was laughing before Jackson walked outside. Defendant got out of the vehicle to go back inside to pick up some food and to get some clothes for Jaquala's daughter. He re-entered the residence for a period of time before returning to the vehicle. Jackson remained in the car during this time listening to music and heard nothing. After Jaquala's daughter and Defendant got in the car, Defendant at first did not say anything, then he said, "No one should have to go through that." She asked what happened, but no one answered her.

During the ride home to Ridgeway, South Carolina, Defendant appeared calm and collected. Defendant asked her to open one of his playlists through the vehicle's audio system. During the ride, Jackson received a phone call that Victim had been shot. Defendant did not say anything to her about what he did or what happened.

Third, Kevin Selinsky from the South Carolina Law Enforcement Division (SLED) was qualified as an expert witness in the field of forensic toxicology. Vitreous fluid was extracted from Victim's eye and tested. Victim had an alcohol concentration of 0.331% based upon the vitreous fluid. Selinsky opined that this level of alcohol would affect gross motor skills causing sluggishness and motor impairment. Victim's blood was also tested. In Selinsky's opinion, there was no question that Victim was impaired based upon the blood alcohol level of 0.257%. The blood alcohol level is most representative of the condition of the Victim, who would clearly be under the influence in comparison with a blood alcohol level of 0.08%, which is the legal limit to operate a motor vehicle.

A person with a 0.257% level of blood alcohol would be prone to anger, easily agitated, and decreased inhibition. This level of intoxication would also impact a person's decision making ability as well as the person's agility and dexterity. Also, the person would probably be sluggish.

However, Selinsky noted, for a variety of reasons, that a person with an equivalent blood alcohol concentration could still perform basic tasks. There was no evidence of cocaine or ecstasy found in Victim's blood.

The last witness for the defense was Defendant. Defendant testified about his conduct on November 24, 2019 before, during and after killing Victim. Defendant went to the residence to visit family, but left to purchase narcotics at Beltline Boulevard for his cousin Jaquala. Upon returning to the residence, he remained outside. When he got into a vehicle to leave with Jackson and Jaquala's minor daughter, Defendant testified that the minor child disclosed witnessing her mother being assaulted. That information made Defendant angry. Defendant had been privy to prior altercations between Victim and Jaquala that were similar in nature. However, according to Defendant this time was different because the altercation happened in front of Jaquala's minor child. Defendant never had a prior argument with Victim.

Defendant testified to various reasons why he re-entered the residence. He went inside the residence to confront Victim; to give relationship advice to Victim; and to get clothing for Jaquala's daughter who was going to spend the night in Ridgeway. According to his testimony, he entered the residence and spoke with Jaquala in a common area of home. Jaquala would not tell him, "what was going on." He observed a "red mark" on Jaquala's face. Victim was not present during the conversation with Jaquala.

Defendant went to Victim's bedroom and observed Victim laying on the bed. Defendant remained in the doorway and confronted Victim about the altercation with Jaquala in front of her minor daughter. Defendant repeatedly questioned Victim when he did not answer. Victim got upset and raised his voice. According to Defendant, Victim had cocaine in his hand. Victim said he would beat Defendant and charged at him.

They engaged in a pushing match. Victim stumbled and fell on the bed by the pillows near the wall. According to Defendant, Victim reached behind the head of the bed near the pillows, produced a firearm and pointed it at him. Victim was slurring his words and was angry. Defendant had never seen Victim with a hand gun, but immediately identified the weapon as a Smith & Wesson 9mm hand gun. Victim stood up and bragged that he had the upper hand, but got distracted near the doorway where Defendant was standing. Victim was about the same size as Defendant but a little taller. Defendant described in detail how he was able to physically disarm Victim by slipping his finger behind the trigger and taking the gun. Then Defendant pushed him. Victim fell

on the bed but got up and came towards Defendant with closed fists. Defendant testified that he was scared and forced to shoot Victim several times when he came at Defendant with closed fists. Defendant was shooting with his eyes closed and believed he fired the gun eight (8) times at arms-length. However, Defendant re-enacted the deadly encounter and indicated the shooting had occurred at close range.

Defendant testified he was in fear for his life when he shot Victim. The State published Defendant's post-arrest interview at the Richland County Sheriff's Department. In the video, Defendant states he was approximately two feet from Victim when he shot him and that he stopped shooting when Victim hit the bed. Additionally, Defendant stated in the interview, "that shit [disarming then shooting Victim during fight] don't scare me, don't faze me." See State's Ex. 1 Def.'s interview at Richland County Sheriff Department. When confronted about his prior inconsistent statements during his post-arrest interview with Investigator Hinson, Defendant testified that he was only posturing.

After he shot Victim, Defendant testified he left the bedroom and threw the gun on a couch located by the front door. Defendant left the premises and got into the car with Jackson and the others. Jackson dropped him off at the Colony Apartments. He did not surrender to law enforcement despite being encouraged by family and friends. He evaded law enforcement for several days but subsequently turned himself in. He was fully compliant and forthcoming with law enforcement upon arrest.

The State presented three witnesses. First, Investigator Ronnie Hinson, with the Richland County Sheriff's Department, testified about his role as the lead investigator assigned to this case. He identified photos of the bedroom where the Victim was shot. Several spent rounds were found lodged within the bedframe and mattress in Victim's bedroom. Investigator Hinson testified Defendant fired several rounds while pointing the firearm into the bed at a near vertical angle. See State's Ex. 3, Crime Scene Photograph of Mattress with Trajectory Rods.

Second, Dr. Darren Monroe performed the autopsy on the Victim. He was qualified as an expert in Forensic Pathology. According to Dr. Monroe, Victim died as a result of trauma caused by multiple gunshot wounds to the torso. There were nine wounds, two of the gunshots were fatal. Victim suffered a gunshot wound that entered his abdomen from the front and lodged into his right buttock where the full metal jacket was recovered. Additionally Victim suffered a gunshot wound to right side of the torso.

There were numerous other gunshot wounds suffered by Victim. Of specific note was Dr. Monroe's testimony that Victim suffered a gunshot wound that entered the posterior (rear) upper left thigh and a gunshot to his left foot in which the projectile entered the sole of the left heel and exited the medial side of the foot. Dr. Monroe opined that Victim was laying down in the bed when Defendant shot him through the foot. *See State's Ex. 2, Autopsy Photo of GSW to Victim's Heel.* There were several gunshots in which the trajectory was in a downward moving position (traveling from up to down) and at least 2 shots were in an upward trajectory (consistent with someone lying down). There was at least one gunshot to the back.

Dr. Monroe testified about the absence of any soot or stippling on Victim's clothes. Evidence of soot can be found when the gun is fired six inches away and stippling occurs when the gun is fired between six inches to three feet away from the target. No soot or stippling was found on the Victim's body or clothing which creates an inference that Defendant was several feet away from Victim at the time of the shooting.

Last, Jaquala Scipio testified to the events of November 24, 2019. Jaquala and Victim had been living with her at her mother's residence at [REDACTED] Dubard Boyle. Jaquala never observed Victim with a firearm at the residence. She was insistent that her mother did not allow guns in the house and that there were no guns in the house.

Jaquala testified about previous physical altercations with Victim on different occasions that resulted in minor injuries. She was the only person who saw Defendant enter Victim's bedroom and thought he entered Victim's bedroom to "cut pills". She described the size of the bedroom as being small. Prior to the shooting, she did not hear any argument and noted that Victim was generally soft-spoken.

During portions her testimony, about the drug activity, Jaquala frequently looked in the direction of Defendant and family members prior to or while answering questions. Some of her answers appeared more hesitant than statements made to law enforcement the day after the shooting. *See State's Ex. 4, Jaquala Scipio's interview at Richland County Sheriff Department.*

STANDARD OF REVIEW

"A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard." *State v. Curry*, 406 S.C. at 470, 752 S.E.2d at 266. "While the Act may be considered 'offensive' in the sense that the immunity operates as a bar to

prosecution, such immunity is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence.” Id.

[T]he court must sit as the fact-finder at this hearing, weigh the evidence presented, and reach a conclusion under the Act. Thus, the relevant inquiry is not merely whether there is a conflict in the evidence but, rather, whether the accused has proved an entitlement to immunity under the Act by a preponderance of the evidence.

State v. Andrews, 427 S.C. 178, 181, 830 S.E.2d 12, 13 (2019).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds Defendant has failed to meet his burden of proof to warrant relief under the Act. As a matter of general impression, this Court finds that Defendant’s case, in pertinent part, almost solely relies upon the veracity of Defendant’s own testimony that is suspect, mostly unsubstantiated, and contradicted by the credible evidence before the Court. *See State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 262, 265 (2013) (The Protection of Persons and Property Act should not be construed to require a trial court to accept the accused’s version of underlying facts.) Defendant’s testimony that he was merely entering Victim’s bedroom to confront Victim in a ‘peaceful manner’ is not credible. In contrast, this Court affords more evidentiary weight to Jaquala’s testimony that Defendant entered Victim’s room to engage in unlawful narcotics activity. Jaquala’s testimony on this matter was also corroborated by Defendant’s admission against self-interest that he went to unlawfully obtain narcotics for Jaquala hours before the incident. Jaquala was the last person to see Defendant enter Victim’s bedroom before the confrontation and shooting. Additionally, Defendant’s testimony about what happened during the confrontation with Victim was incompatible with the compelling forensic evidence offered by Dr. Monroe and Investigator Hinson.

The evidence before the Court unequivocally establishes that, even if Defendant was a permissive social guest engaging in lawful activity in a place he had a right to be, he failed to produce any credible evidence that he was entitled to immunity pursuant to the Act. A defendant who is a permissive social guest engaging in lawful activity at the time of the killing, must comply with the provisions of the Act. Under Section 16-11-440(C),

to warrant immunity, a movant must show he was without fault in bringing on the difficulty, he actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, and a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. He may also show that he

actually was in imminent danger and the circumstances would have warranted a man of ordinary firmness and courage to strike the fatal blow to save himself from serious harm or death. [Under Section 16-11-440(C),] the movant has no duty to retreat if, at the time of the attack, he was in a place where he has a legal right to be.

State v. Cervantes-Pavon, 426 S.C. 442, 449, 827 S.E.2d 564, 568 (2019). Whether Defendant was or was not engaging in lawful activity at the time of the killing, this Court finds he failed to make a credible *prima facie* showing that he was entitled to immunity from prosecution under Subsection (C) of the Act.

First, Defendant failed to present credible evidence that he was without fault in bringing on the difficulty.

One who provokes or initiates an assault cannot escape criminal liability by invoking self-defense. Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide.

State v. Bryant, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999) (internal citations and quotations omitted) (citing Ferdinand S. Tinio, Comment Note: Withdrawal, After Provocation of Conflict, As Reviving Right Of Self-Defense, 55 A.L.R.3d 1000, 1003 (1974)).

Defendant initiated an isolated encounter with Victim by returning to the house and entering Victim's own bedroom while Victim was lying on his bed with the bedroom door closed. He entered the bedroom to confront Victim about an incident Defendant did not witness. Defendant failed to present credible evidence that Victim presented a legitimate threat of imminent danger to Jaquala, himself, or anyone else at the time of the encounter. All credible evidence shows Defendant, not Victim, brought the firearm to the encounter. Defendant's testimony that the Victim possessed a firearm was not credible. Not a single witness testified that Victim ever possessed a firearm during his residency at the incident location. On the other hand, Defendant was known to carry a concealed firearm, and he testified that he prefers just about any gun that "shoots bullets." Additionally, Defendant testified that he had never seen the Victim with a gun, yet he was able to identify the weapon allegedly produced by the Victim by make, model, and caliber in the fatal encounter that Defendant said lasted mere seconds. *See State v. Williams*, 427 S.C. 246, 250-51, 830 S.E.2d 904, 906 (2019) ("The trial court properly refused to charge self-defense. Williams' act of intentionally bringing a loaded, unlawfully-possessed pistol to an illegal drug transaction was a 'violation of law' that was 'reasonably calculated to produce' violence.

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and
#1

Williams' act 'bars his right to assert self-defense as a[n] ... excuse for a homicide'.") Defendant's testimony that he abandoned Victim's purported gun on the living room couch when he fled the scene is also not credible. The firearm was not at the location where Defendant said he abandoned it when law enforcement arrived soon after the shooting. None of the witnesses who testified at the hearing saw a weapon after Defendant left.

This Court finds Defendant failed to present credible evidence that he was in imminent danger of losing his life or sustaining serious injury or death at time he shot and killed Victim. See *State v. Cervantes-Pavon*, 426 S.C. 442, 450, 827 S.E.2d 564, 568 (2019) ("To warrant immunity, a movant must show . . . he actually believed he was in imminent danger of losing his life or sustaining serious bodily injury[.]"). Victim was impaired at the time of the altercation. The testimony indicated he had slurred speech, was unsteady on his feet and Defendant easily pushed Victim away during the first encounter.

In explaining his version of the killing, Defendant boasted to Investigator Hinson during his post-arrest interview that he was never once in actual fear when he shot Victim multiple times. Defendant testified his eyes were closed while shooting Victim. He reiterated to Investigator Hinson, "that shit [gun violence] doesn't scare me, don't faze me." His mannerisms and demeanor during his interview with law enforcement corroborated the sincerity of these statements to Investigator Hinson. The statements and the conduct exhibited outweigh his self-serving testimony at the immunity hearing. Additionally, Defendant fled the scene after shooting the Victim and evaded law enforcement several days. This Court places import on Jackson's testimony that he was very calm after the shooting.¹ He was not upset or shaken by the events and was calm during the ride to Ridgeway.

This Court finds Defendant failed to present any credible evidence that a reasonable person of ordinary firmness and courage would have believed he was in imminent danger of losing his life or sustaining serious injury or death at the time Defendant confronted and killed Victim. "[T]he third prong of self-defense cannot be established because a reasonable, prudent person of ordinary fitness and courage would not have feared for his life or serious bodily injury under the circumstances of this case." *State v. Santiago*, 370 S.C. 153, 160–61, 634 S.E.2d 23, 27 (Ct. App. 2006).

¹ This majority of Jackson's testimony was inconsequential to the ultimate issues at bar. However, this Court finds Jackson's testimony about her observations of Defendant after the killing to be credible and convincing.

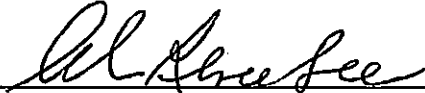
Dr. Monroe's testimony discredits Defendant's version of events. Defendant claims Victim lunged at him; triggering him to unload nine rounds into Victim while he was still standing, and Defendant's eyes were closed. However, Victim was shot numerous times in various bodily locations: in the front, in the back, and once through the bottom of his foot when Victim was lying down. Additionally, the trajectory of the bullets show their passage through the Victim and into the mattress, patently discrediting Defendant's story. This Court finds it is inconceivable and suspect that a person standing in a defensive posture, being lunged at by another person, could shoot someone resulting in so many different entrance points.

Additionally, Defendant's self-serving testimony concerning the sequence of events from the purported struggle with Victim differed from his interview with Investigator Hinson at the time he was arrested. Dr. Monroe's testimony regarding the absence of stippling on the Victim's body or clothing further discredits Defendant's testimony about his proximity to Victim. Lastly, this Court finds that Defendant's testimony as to how he "disarmed" Victim by placing his finger between of the trigger and frame of the gun to be patently absurd.

CONCLUSION

Based upon the foregoing, this Court finds Defendant failed to meet his burden to prove by a preponderance of the evidence that his use of deadly force entitles him to immunity pursuant to S.C. Code Ann. §16-11-450 of the Protection of Persons and Property Act. Therefore, Defendant's Motion for Immunity is **DENIED**.

AND IT IS SO ORDERED.


ALISON RENEE LEE
Presiding Judge

Columbia, South Carolina
June 23, 2022

RECEIVED

Oct 28 2022

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 The State of South Carolina)
)
 -vs-)
)
)
 Jaylen Bell)
)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 FIFTH JUDICIAL CIRCUIT
 SC Court of Appeals

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

Warrant No(s): 2019A4010900280, -81
 Indictment No(s): 2022-GS-40-02135, -36

2022 OCT 28 AM 11:52
 FILED
 RICHLAND COUNTY
 JEANETTE W. SCRIBNER
 C.C.P., S.S. & F.C.

IT APPEARS THAT on September 19, 2022, Jaylen Bell, by and through his attorneys, Zoe Bruck and Kathleen Warthen, filed a Motion for a New Trial pursuant to Rule 29(b). At the conclusion of a four-day trial, Jaylen Bell was convicted of Murder and Possession of a Weapon During a Violent Crime, found guilty by a jury in Richland County, on September 9, 2022. The State was represented by Senior Assistant Solicitor Dale Scott and Assistant Solicitor Walt Whitmire.

IT FURTHER APPEARS THAT this Court has reviewed and considered filings from each party, to include the following: Defendant's Motion for a New Trial, filed on September 19, 2022; and State's Memorandum in Opposition to Defendant's Motion for a New Trial, submitted to this Court on October 4, 2022.

In support of his Motion for a New Trial, Defendant Jaylen Bell, by and through his attorneys, asserts the following grounds for a new trial, which will be addressed in turn.

I. The Trial Court's Rulings on Evidence of Defendant's Prior Gun Possession

The Defense has moved for a new trial in part on the grounds of the Court's admission of evidence regarding Defendant's prior gun possession. First, the Defense asserts that the State used such evidence as propensity evidence during the examination of one of its witnesses during the

trial, as well as the cross-examination of Mr. Bell. Regarding the admissibility of this evidence and the State's use of such evidence during the examination of these witnesses, this Court has ruled upon these issues; therefore, the Defense's Motion for a New Trial on these grounds is **denied**.

II. The State's Use of Evidence of Defendant's Prior Gun Possession in Closing Argument

Next, the Defense asserts in its Motion that the State seized upon the advantage of the Court's admission of this evidence of the Defendant's prior gun possession by referencing it throughout the State's closing argument in various ways.

Authority in South Carolina has addressed the issue of objections raised for the first time in a motion for a new trial. The Supreme Court in *Dicapua* found that a trial court in a criminal case cannot order a new trial on a ground not previously raised by a party to the case. *State v. Dicapua*, 383 S.C. 394, 398, 680 S.E.2d 292, 294 (2009). Instead, "the proper course to be pursued when counsel makes an improper argument is for opposing counsel to *immediately* object and to have a record made of the statements or language complained of and to ask the court for a distinct ruling thereon." *State v. Black*, 319 S.C. 515, 462 S.E.2d 311 (Ct. App. 1995) (citing *Varnadore v. Nationwide Mut. Ins. Co.*, 289 S.C. 155, 345 S.E.2d 711 (1986)) (emphasis added).

This action is essential to preserve an issue for later review, as a trial court will not consider issues not previously raised to and ruled upon by the Court on appeal. *State v. Hopkins*, 431 S.C. 560, 569, 848 S.E.2d 368, 372 (Ct. App. 2020) (citing *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003)). "Unless an objection is made at the time the evidence is offered and a final ruling made, the issue is not preserved for review." *State v. Simpson*, 325 S.C. 37, 42, 479 S.E.2d 57, 60 (1996).

This Court notes that the Defense made timely objections to evidence of the Defendant's prior gun possession during the trial, which were ruled upon by this Court at the time they were raised.

However, this was not done for the following objections now raised in the Defendant's Motion for a New Trial:

"1) the State highlighted the prior gun possession in its closing arguments; 2) the State referred to the legal rulings [of the Court] during closing arguments, arguing that the jury should weigh and consider the fact that the judge overruled the Defense's objections as evidence that the State's factual case should be believed and the Defense's should not; 3) in closing argument, the State repeatedly made references to other cases, shootings, and violence in Richland County in order to ask the jury to consider facts outside the case that would inflame the passion of the jury, while also tying those references to Defendant's past history of gun possession, disposing of firearms on 'the streets,' and leaving firearms circulating in the community; 4) the State tied the [Defendant's] gun possession to problems with youth violence in Richland County and across the country [in closing argument], arguing that the broad group of young people who possess guns, like the Defendant, do not value human life and are inherently more violent than others, therefore making it more likely that this particular defendant committed murder. . ."

The Defense cannot raise and the Court cannot consider new objections to the State's closing argument for the first time in the Defense's Motion for a New Trial. Further, even if the Defense properly preserved these issues for appeal, this Court finds that the statements at issue in the State's closing argument did not rise to the level of improper, "vicious, inflammatory argument resulting in clear prejudice." For these reasons, the Defense's Motion for a New Trial on these grounds is denied.

III. The Trial Court's Allowance of the Use of Certain Materials for Purposes of Impeachment

The Defense has moved for a new trial in part on the grounds of this Court's allowance of certain materials used by the State during the State's cross-examination and impeachment of the Defendant. These materials were photographs and still-shots relating to the Defendant's prior gun possession which the State referenced in its cross-examination of the Defendant. While this Court agrees that the State used these materials in its examination of Mr. Bell to elicit testimony, the materials were not offered nor admitted into evidence. The Court finds that these materials were used for impeachment purposes during the Defendant's cross-examination and represented

cumulative testimony regarding Defendant's prior gun possession, which was established with the testimony of Stephanie Jackson. Further, the photographs were not shown to the jury at any point in the trial. For these reasons, the Court finds that the Defense's Motion for a New Trial on these grounds is **denied**.

CONCLUSION

IT APPEARS THAT upon careful consideration of the oral arguments made by Counsel, as well as the aforementioned filings, the Court has determined that the Defendant's Motion for a New Trial pursuant to Rule 29(b) is denied.

IT IS THEREFORE ORDERED that the Defendant's Motion for a New Trial is now and hereby **DENIED**.

AND IT IS SO ORDERED.



The Honorable Robert E. Hood
Presiding Judge
Fifth Judicial Circuit

Columbia South Carolina
This 20 day of October, 2022

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

Defendant

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

Defendant

Witness:

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

DOCKET NO. 2022GS4002135

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2022

67

THE STATE

vs.

Jaylen Westly Bell

Indictment for
POSS. WEAPON DURING VIOLENT
CRIME, IF NOT ALSO SENTENCED TO
LIFE WITHOUT PAROLE OR DEATH

SC Code: 16-23-0490
CDR Code: 0549

WITNESSES

(S) Ronnie J Hinson
-- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2019A4010900280

ACTION OF GRAND JURY

TRUE BILL

Christinaillard
Foreperson of Grand Jury APR 14 2022

Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

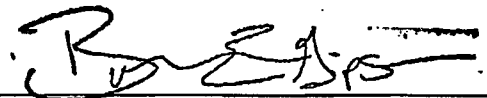
INDICTMENT

At a Court of General Sessions, convened on April 12, 2022, the
 Grand Jurors of Richland County present upon their oath:

**POSSESSION OF A WEAPON DURING THE COMMISSION
 OF A VIOLENT CRIME**

That Jaylen Westly Bell did in Richland County, on or about
 November 24, 2019, possess a firearm, or visibly display what appeared to
 be a firearm, or visibly displayed a knife, during the commission or
 attempted commission of a violent crime, in violation of Section 16-23-
 0490, S. C. Code of Laws, 1976, as amended.

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



BYRON E. GIPSON, SOLICITOR

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

Defendant

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

Defendant

Witness:

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

DOCKET NO. 2022GS4002136

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

April TERM 2022

67

THE STATE vs.

Jaylen Westly Bell

Indictment for MURDER

SC Code: 16-03-0010
CDR Code: 0116

WITNESSES

(S) Ronnie J Hinson
- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2019A4010900281

ACTION OF GRAND JURY

TRUE BILL

Christina Illard

Foreperson of Grand Jury APR 14 2022
Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on April 12, 2022, the Grand Jurors of Richland County present upon their oath:

MURDER

That Jaylen Westly Bell did in Richland County, on or about November 24, 2019, kill the victim, Demetrius Floyd, with malice aforethought, either express or implied, by means of a gunshot, and the victim did die as a proximate result thereof. All in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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


BYRON E. GIPSON, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Richland
STATE

IN THE COURT OF GENERAL SESSIONS

VS.

INDICTMENT/CASE#: 2022 - GS - 40 - 2135

Jaylen Westly Bell

A/W#: 2019A4010900280
Date of Offense: 11/24/2019
S.C. Code § 16-23-0490
CDR Code #: 0549

AKA: _____
Race: BLACK Sex: M Age: 21
DOB: [redacted]-2001 SS#: [redacted]
Address: [redacted] Bush River Rd Apt [redacted]
City, State, Zip: Columbia, SC 29210-7564
DL#: [redacted] SID#: _____

SENTENCE SHEET

5 yrs

*CDL Yes No CMV Yes No Hazmat Yes No

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

Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

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

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

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

ATTEST: [Signature] 73081 SC Bar # Defendant
[Signature] 103145 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center, for a determinate term of 5 ~~years~~ ~~months~~ ~~years~~ ~~months~~ 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. _____ days/months

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

The Defendant Shall be Released from County Detention Center.

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

STATE VS. Jaylen Westly Bell INDICTMENT/CASE#: 2022 - GS - 40 - 2135

SPECIAL CONDITIONS:

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

- RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly prmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5 %)			\$ _____
§14-1-211(A)(1) (Conv. Surcharge)			\$ _____
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)		\$100	\$ _____
§56-1-286 (DUI Breath Test)		\$12	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ _____
§14-1-213 (Drug Court Surcharge)		\$25	\$ <u>25.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$150	\$ _____
§50-21-114(BUI Breath Test Fee)		\$41	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$50	\$ _____
3% to County (if paid in installments)		\$40/ea	\$ _____
<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.		TBD	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		\$500	\$ _____
		TBD	\$ <u>3.75</u>
		TOTAL	\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:

Jeanette M. Bridger
DeeP Red

Presiding Judge:
Judge Code:
Sentence Date:

Refford
2164
Sept 9, 2022

STATE OF SOUTH CAROLINA
COUNTY OF Richland

IN THE COURT OF GENERAL SESSIONS

STATE VS.

INDICTMENT/CASE#: 2022 - GS - 40 - 2136

Jaylen Westly Bell

A/W#: 2019A4010900281

Date of Offense: 11/24/2019

S.C. Code § 16-03-0010

CDR Code #: 0116

RECEIVED

Oct 28 2022

SENTENCE SHEET

SC Court of Appeals

30-LIFE

AKA: _____
Race: BLACK Sex: M Age: 21
DOB: [redacted] 2001 SS#: [redacted]
Address: [redacted] Bush River Rd Apt [redacted]
City, State, Zip: Columbia, SC 29210-7564
DL#: [redacted] SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Murder / Murder

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 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:

[Signature] 73081 Defendant [Signature] 103145 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,
for a determinate term of 35 days/months/years/Time Served Youthful Offender Act not to exceed ___ years
and/or to pay a fine of \$ _____; provided that upon the service of ___ days/months/years/Time Served and or payment
of \$ _____; ; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

The sentence shall run
 CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
SCDOC. _____ days/months
 To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

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

STATE VS. Jaylen Westly Bell INDICTMENT/CASE#: 2022 - GS - 40 - 2136

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

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:

Jeanette McBride
DCLP-Rob

Presiding Judge:
Judge Code:
Sentence Date:

Retford
2-164
Sept 9, 2022

May 03 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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

Respectfully Submitted,



Breen Richard Stevens
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of May, 2024.

RECEIVED

May 03 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAYLEN WESTLY BELL,

APPELLANT

APPELLATE CASE NO. 2022-001541

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 3rd day of May, 2024.



Breen Richard Stevens
Appellate Defender

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

ATTORNEY FOR APPELLANT