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**Jun 10 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TOMMY L. LONG,

APPELLANT

APPELLATE CASE NO. 2023-001183

RECORD ON APPEAL

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1 of walked into that whole thing about his glasses, not  
2 having glasses on. How he couldn't really see this or  
3 that. Which, I think, I was able to point out that that  
4 made no sense for just minutes before he talked about he  
5 didn't have his glasses. Couldn't be sure. He couldn't  
6 be sure where he shot Prince and that's because he didn't  
7 have his glasses on. Now, he was shot twice, shot hit him  
8 in the chest. Maybe it was just a bad shot. Didn't help  
9 Prince.

10 So, you know, I have the upmost respect for  
11 the solicitors involved in this case. They've done their  
12 job. And I would propose to you that they've done a great  
13 job but that job is really -- what they've proven is their  
14 case against Natasha, against Jevonda, against Darius and  
15 against Jaylan. I mean, but that's already a done deal.  
16 So, I mean, the majority of what we've heard and seen just  
17 reiterates the four of their involvement.

18 Okay, so let's get back to the whole why  
19 we're here. Your duty. And I promise I'm about to wrap  
20 up. But, you know, Mr. Johnson, you know, in his closing,  
21 you know, it's like he said this is why you're here. You  
22 know, and it painted the picture, what I got is, you're  
23 here to convict Tommy Long. That's not why you're here.  
24 Okay. That's why they're here, okay. That's their job,  
25 not yours. You know, they serve you up a incomplete cake,

1 you don't have to eat it. And certainly don't have to go  
2 find flour and try to put it in there to make it a cake,  
3 okay. It's not your role to convict anybody. It's your  
4 role to weigh and consider all the evidence. Not just --  
5 what does that do for The State's case, by the way? It's  
6 great, I love it. It's very impressive.

7                   But, again, now The State's got a lot of  
8 money and a lot of power. And they threw a lot into this  
9 case. And they made a big bang. They got these pictures,  
10 they got the gun, all this evidence. But you have to ask  
11 yourself how much of that evidence, actually, directly  
12 implicates him? Again, it still gets back to two  
13 co-defendants, that are -- we've already -- I'm not going  
14 to sit here and keep repeating about these guys, that are  
15 what they are, you can't rely on anything they say. They  
16 lied about everything. They will continue to do so. If  
17 they thought they could get five days off their sentence,  
18 they'd probably point at any one of you. Maybe their own  
19 grandmother. Certainly, their own brother. But you're  
20 not here to convict anybody. You're here to listen to all  
21 of it. Not only what they presented but what we have.

22                   And I'm here to tell you, it did not go  
23 well for them with those co-defendants. You all sat here  
24 and watched what happened. When I got a chance to talk to  
25 them and question them about it and pin them down, it did

1 not go well. What have you, actually, learned? You know,  
2 Mr. Johnson made a comment that he had a sneaking  
3 suspicion, you know, talking about, you know, we believe  
4 that Tommy was at Motel 6. And then two and a half hours  
5 later he drops Jaylan off over at Jevonda Dillard's. You  
6 know, I got a sneaking suspicion that Tommy was with them  
7 throughout the whole two and a half hours and did this and  
8 did that, it's not about any kind of suspicion in this  
9 context. I mean, you made -- again, it's hard to prove  
10 with certainty anything that happened in this case, okay.  
11 Let alone who the shooter was.

12                   But it's really hard to prove any  
13 individual piece, other than what I would say the four  
14 co-defendants they've already done their little deed and  
15 performed. We can probably rely on a lot of what they're  
16 saying now but either one of those co-defendants, at the  
17 robbery, are admittedly killers, criminals. Neither one  
18 of them could say that he was the shooter. In fact, they  
19 said otherwise. Okay. So it boils down to, okay, what  
20 [indiscernible]. Well, we've talked a lot about how his  
21 identification developed over three and a half years.  
22 And, again, you know, I'm sure his heart is in the right  
23 place, I'm not trying to say he's making it up. But  
24 again, get bombarded with the stuff long enough, you see  
25 that guy's face, Tommy's face, Tommy's face, Tommy's face,

1 Tommy Long, Tommy Long, Tommy Long. You got to start  
2 making those connections. You know, when your friend's  
3 dead, you want justice for him, maybe you're willing to --  
4 maybe it's a little bit easier to make those jumps for a  
5 guy like that. I don't fault him, I just know that he's  
6 mistaken. And we know the [indiscernible].

7                   Again, you know, so much of it is based on  
8 partial truths, partial evidence. This is not -- again,  
9 partial, it's got to all be there, complete set, all four  
10 corners. Any of it missing [indiscernible]. And, you  
11 know, they got some video, they got testimony that he was  
12 there at Motel 6 talking about the plan. Well, if you  
13 believe that he was there and planned that but you don't  
14 believe that could prove the stuff in between, you know,  
15 you think he showed up later dropping off Ratio, yeah,  
16 maybe you have a conspiracy, maybe there's a conspiracy.  
17 That doesn't reach all the other stuff they got, okay.  
18 You need to look at that. Look at those elements very  
19 closely.

20                   But when we have all these questions, and  
21 again, I think you still have a lot of questions. I know  
22 I do so I'm guessing you do. I'm betting that y'all do.  
23 In our system, when we can't be certain, we can't be sure,  
24 we don't convict people. So we don't convict them of  
25 sitting on the sidewalk [verbatim] without proof beyond a

1 reasonable doubt on stuff like this. I mean, they really  
2 haven't proven their case against Tommy with everything  
3 they tried to say because they can't. You can't make  
4 something out of nothing. There's a lot of connections  
5 being made, they done a great job with what they could.  
6 But, you know, you look at it and you say, hey, well, they  
7 got all theses witnesses, they got all these exhibits.  
8 Well, that's great but how many of them directly have any  
9 proof of what they're saying about him? Then there is  
10 [indiscernible] this cake, they can't do it. There is too  
11 much missing.

12                   So like that analogy that might have been a  
13 bad one, but there is no cake folks. There's a missing  
14 ingredient. Again, it might be something you can choke  
15 down if you tried, but it's certainly not, you know, Betty  
16 Crocker's best recipe. Okay. Don't do their job for  
17 them. Even if you think there's something to this, even  
18 if you think it's probably more than likely that he did  
19 what they said or I bet he did. Or you know what, I'm  
20 pretty sure he did it. You may even think, it doesn't  
21 look good. You know what, that's why we have beyond a  
22 reasonable doubt because you got to be able to go a lot  
23 further. You got to be able to [indiscernible] your life,  
24 okay.

25                   And I just don't know how anybody in good

1 conscious who sat there and listened to everything really,  
2 really, really put eyes on it and focused, I don't know  
3 how any of y'all couldn't have more questions and answers  
4 about this thing. And that just adds up to not guilty.  
5 Thank you.

6 THE COURT: All right, ladies and gentlemen, we  
7 are at the last stage and that's my instructions on  
8 the law. Here's what I'm going to do. I'm going to  
9 give you a short five minute recess, let you use the  
10 restroom, stretch your legs. This is not going to be  
11 a regular break. This is going to be a, just a  
12 short, like I say, five minutes or so. Give you --  
13 whoever needs to use the restroom, use it. Then I'm  
14 going to bring you right back in, I'm going to give  
15 you the instructions and I'm going to give you the  
16 case. So I'm going to excuse you for just a brief  
17 recess, please don't discuss the case yet.

18 (WHEREUPON, the jury left open court at  
19 approximately 3:44 p.m.)

20 THE COURT: All right, this is only just a short  
21 recess, let them use the restroom. Anybody need --  
22 this is not a regular break.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: All right, anything before we bring  
25 the jury in?

1 MR. JOHNSON: No, Your Honor.

2 MR. PRINGLE: No, Your Honor.

3 THE COURT: All right, let's bring them in.

4 (WHEREUPON, the jury entered open courtroom at  
5 approximately 3:57 p.m.)

6 JURY CHARGE

7 THE COURT: All right, ladies and gentlemen, we  
8 have reached the last stage before I give you the  
9 case to deliberate. You have paid attention this  
10 whole time and I sure do appreciate it, the parties  
11 appreciates it. And if I can just get your attention  
12 here for the last little bit for my charges on the  
13 law, then I'll give you the case.

14 As I told you earlier when we started this case,  
15 there are several indictments and several charges  
16 that The Defendant has been charged with. They are  
17 murder, possession of a weapon during the commission  
18 of a violent crime, assault and battery first degree,  
19 conspiracy, kidnapping, burglary first degree and  
20 attempted armed robbery. And I remind you the fact  
21 that The Defendant was arrested, charged and indicted  
22 in this case is not evidence. And cannot be  
23 considered by you as evidence of guilt in this case.  
24 Nor does it create any presumption or inference of  
25 guilt. These documents are simply the formal written

1 instruments which contains the charges made against  
2 this Defendant. They are just the formal documents  
3 by which the case is brought before you this week.

4 I also want to remind you that you and I have  
5 had certain duties to perform during this trial. As  
6 the trial judge, it has been my responsibility to  
7 preside over the trial. And I also had the duty to  
8 rule on the admissibility of the evidence which has  
9 been offered during this trial. You are to consider  
10 only competent evidence before you. If there was any  
11 testimony stricken, which I don't believe there was,  
12 but if there was some testimony that I ordered  
13 stricken from the record, then you must disregard  
14 that testimony. You are to consider, again, only the  
15 testimony which has been presented from this witness  
16 stand right here and any exhibits which have been  
17 made a part of the record in this trial.

18 I have the additional duty now to charge you the  
19 law applicable to this case. As the presiding Judge,  
20 I am the sole judge of the law in this case. And it  
21 is your duty, as jurors, to accept it and apply it as  
22 I now state it to you. If you already have an idea  
23 as to what that law is or what the law ought to be  
24 and it does not agree with what I now tell you that  
25 the law is, then you must abandon that idea. Because

1           you are sworn to accept the law as I now give it to  
2           you.

3           In every case that's tried before a jury like  
4           yourselves, the jury is the sole and exclusive judge  
5           of the facts. A trial Judge, like myself, cannot  
6           state anything, cannot comment on anything or make  
7           any statement to a trial jury about the facts in this  
8           case. Since you, the jury, are the sole judges of  
9           the facts in this case, you're not to infer what I  
10          may have said or ruled upon in this case, that I  
11          would have any opinion about this case. I do not  
12          have any opinion about the facts in this case. Nor  
13          am I allowed to have an opinion about the facts in  
14          this case. That is solely your exclusive  
15          responsibility. You are to determine the value and  
16          the weight of all the evidence in reaching your  
17          decision.

18          Now, The Defendant has pled not guilty to these  
19          indictments. And as a result, that puts the burden  
20          of proof on The State. They have the burden to prove  
21          The Defendant guilty beyond a reasonable doubt. A  
22          person charged with committing a criminal offense in  
23          South Carolina is never required to prove himself  
24          innocent. It is an important rule of law that the  
25          defendant in a criminal trial, no matter what the

1           seriousness of the charge may be, will always be  
2           presumed to be innocent of the crime for which the  
3           indictments were issued, unless guilt has been proven  
4           by evidence satisfying you of that guilt beyond a  
5           reasonable doubt.

6           This presumption of innocence does not end when  
7           you begin your deliberations. But it accompanies The  
8           Defendant throughout the trial until you reach a  
9           verdict of guilt based on the evidence, satisfying  
10          you of that guilt beyond a reasonable doubt. The  
11          presumption of innocence is like a robe of  
12          righteousness placed about the shoulders of The  
13          Defendant, which remains with The Defendant until it  
14          has been stripped from The Defendant by evidence  
15          satisfying you of The Defendant's guilt beyond a  
16          reasonable doubt. The presumption of innocence is  
17          not mere legal theory. It is not just a legal  
18          phrase. It is a substantial right to which every  
19          defendant is entitled to unless you, the jury, are  
20          satisfied from the evidence of The Defendant's guilt  
21          beyond a reasonable doubt.

22          As I said, The State has that burden. Some of  
23          you may have served on a jury in a trial that  
24          involved a civil case. Where you may have been told  
25          that it's only necessary to prove that a fact is more

1           likely true than not true. Like the greater weight  
2           of the evidence or the preponderance of the evidence.  
3           Proof beyond a reasonable doubt is proof that leaves  
4           you firmly convinced of The Defendant's guilt. There  
5           are very few things in this world that we know with  
6           absolute certainty. In criminal cases, the law does  
7           not require proof that overcomes every possible  
8           doubt. If based on your consideration of the  
9           evidence you're firmly convinced that The Defendant  
10          is guilty of the crimes charged, you must find The  
11          Defendant guilty. If on the other hand, you think  
12          there is a real possibility that The Defendant is not  
13          guilty, you must give The Defendant the benefit of  
14          the doubt and find him not guilty.

15                 The following things are not evidence. The  
16                 arguments of the lawyers. The questions and the  
17                 objections that the lawyers have made. And any  
18                 testimony that I may have instructed you to  
19                 disregard.

20                 Now, ladies and gentlemen, there are two types  
21                 of evidence, direct evidence and circumstantial  
22                 evidence. Direct evidence directly proves the  
23                 existence of a fact. And does not require any  
24                 deduction. Again, direct evidence directly proves  
25                 the existence of a fact and does not require

1 deduction. Circumstantial evidence, on the other  
2 hand, is proof of a chain of facts and circumstances  
3 indicating the existence of a fact. Crimes may be  
4 proven by circumstantial evidence. The law makes no  
5 distinction between the weight or the value to be  
6 given to either direct or circumstantial evidence.

7 However, to the extent that The State does rely  
8 on circumstantial evidence, all of the circumstances  
9 must be consistent with each other. And when taken  
10 together, point conclusively to the guilt of The  
11 Defendant beyond a reasonable doubt. If the  
12 circumstances merely portray The Defendant's behavior  
13 as suspicious, the proof has failed. The State has  
14 the burden of proving The Defendant guilty beyond a  
15 reasonable doubt. And this rests with The State  
16 regardless of whether The State relies on direct  
17 evidence, circumstantial evidence or some combination  
18 of the two.

19 Now, in making your decision and determination  
20 in this case, you must determine the credibility of  
21 the witnesses who have testified in this case.  
22 Credibility simply means believability. It becomes  
23 your duty, as jurors, to analyze and to evaluate the  
24 evidence. In determining the believability of  
25 witnesses who have testified in this trial, you may

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

12 Now, we had an expert witness testify today.  
13 And I gave you a little explanation about expert  
14 witnesses. The rules of evidence ordinarily do not  
15 permit witnesses to testify to opinions or  
16 conclusions. An exception to this rule exists for  
17 witnesses who we call expert witnesses. An expert  
18 witness is a witness who by education and experience  
19 has become an expert in some art, science, profession  
20 or calling. And they may state an opinion as to  
21 relevant and material matters in this case. In which  
22 that witness claims to be an expert. And they may  
23 give the reasons to support that opinion. You should  
24 consider any expert opinion received in this case  
25 just like any other evidence -- and any other

1 evidence and give it the weight you think it  
2 deserves.

3 If you decide that the opinion of the witness is  
4 not based on sufficient education and experience or  
5 if you conclude that the reasons given in support of  
6 the opinion are not sound or the opinion is  
7 outweighed by other evidence, you may disregard the  
8 opinion entirely. An expert witness' opinion or  
9 testimony is to be given no greater weight than that  
10 of other witnesses simply because that witness is an  
11 expert. You are not required to accept an expert's  
12 opinion, even though it's uncontradicted.

13 Now, I want to emphasize the fact that The  
14 Defendant did not testify in this case. And that is  
15 not a factor at all to be considered by you in any  
16 way in your deliberations. And in your consideration  
17 on the question of the guilt or the innocence of The  
18 Defendant. It must not be considered. A defendant  
19 has the Constitutional right to remain silent. And  
20 the assertion of this right must not be considered by  
21 you at all in your deliberations. Again, under your  
22 oath, you are to draw no conclusion, whatsoever, from  
23 the fact that The Defendant in this case did not  
24 testify. The fact that he did not testify should not  
25 even be discussed in the jury room. The burden of

1 proof, as I've stated, is on The State. The  
2 Defendant is not required to prove his innocence.  
3 The burden of proof remains on The State to prove his  
4 guilt beyond a reasonable doubt.

5 Now, in order to establish criminal liability in  
6 a criminal case, which is what we have here, criminal  
7 intent is required. For example, the mental state  
8 required to be proven by The State for a particular  
9 crime might be purpose, intent, knowledge,  
10 recklessness or criminal negligence. Criminal intent  
11 must be proven by The State beyond a reasonable  
12 doubt. Criminal intent is always a matter that must  
13 be determined by the jury from the circumstances  
14 surrounding the situation. There is no way to prove  
15 intent to a mathematical certainty. There's no way  
16 medical science can dissect a person's brain and  
17 determine what the person had in mind.

18 So the law says that criminal intent may be  
19 inferred from the circumstances shown to have  
20 existed. This is how you make a determination of  
21 whether or not the element requiring intent was  
22 present. It is not necessary to establish intent by  
23 direct and positive evidence. But intent may be  
24 established by inference, the same way as any other  
25 fact, by taking into consideration the acts of the

1 parties and all of the facts and circumstances of  
2 this case. Criminal intent is a mental state, a  
3 continuous wrongdoing. It is up to you, the jury, to  
4 determine what The Defendant intended based on the  
5 circumstances shown to have existed. Criminal intent  
6 can arise from action or a failure to act. It may  
7 arise from negligence, recklessness or an  
8 indifference to duty or to consequences that is  
9 considered by the law to be equivalent to criminal  
10 intent.

11 Now, an issue in this case, in this trial this  
12 week, that has risen is the identification of The  
13 Defendant as the person who committed the crime  
14 charged. The State has the burden of proving  
15 identity beyond a reasonable doubt. You must be  
16 satisfied beyond a reasonable doubt of the accuracy  
17 of the identification of The Defendant before you may  
18 convict The Defendant. Identification testimony is  
19 an expression of belief or impression by a witness.  
20 You must determine the accuracy of the identification  
21 of The Defendant. You must consider the  
22 believability of each identification witness in the  
23 same way as any other witness. You may consider  
24 whether the witness had an adequate opportunity to  
25 observe the offender at the time of the offense.

1 This will be effected by things like how long or how  
2 short a time was available, how far or how close the  
3 witness was, the lighting conditions and whether the  
4 witness had the chance to see or know the person in  
5 the past.

6 Once again, I instruct you the burden is on The  
7 State and it extends to every element of the crime  
8 charged. And this, specifically, includes the burden  
9 of proving beyond a reasonable doubt the identity of  
10 The Defendant as the person who committed the crime.  
11 If after examining the testimony you have a  
12 reasonable doubt as to the accuracy of the  
13 identification, you must find The Defendant not  
14 guilty.

15 Now, The Defendant is charged with murder. The  
16 State must prove, again, beyond a reasonable doubt  
17 that The Defendant killed another person with malice  
18 aforethought. Malice is hatred, ill will, or  
19 hostility towards another person. It is the  
20 intentional doing of a wrongful act without just  
21 cause or excuse. And with an intent to inflict an  
22 injury or under circumstances that the law will infer  
23 an evil intent. Malice aforethought does not require  
24 that malice exists for any particular time before the  
25 act is committed. But malice must exist in the mind

1 of The Defendant just before and at the time the act  
2 is committed. Therefore, there must be a combination  
3 of the previous evil intent and the act.

4 Malice aforethought may be expressed or  
5 inferred. The terms expressed and inferred do not  
6 mean different kinds of malice. But merely the  
7 manner in which malice may be shown to exist. That  
8 is either by direct evidence or by any inference from  
9 the facts and the circumstances which are proven.  
10 Expressed malice is shown when a person speaks words  
11 which express hatred or ill will for another. Or  
12 when the person prepared beforehand to do the act  
13 which was later accomplished.

14 For example, lying in wait for a person or any  
15 other acts of preparation going to show that the deed  
16 was within The Defendant's mind, would be expressed  
17 malice. Malice may be inferred from conduct showing  
18 a total disregard for human life. If facts are  
19 proven beyond a reasonable doubt sufficient to raise  
20 an inference of malice to your satisfaction, this  
21 inference would be simply an evidentiary fact to be  
22 considered by you, along with the other evidence in  
23 this case. And you may give it the weight you decide  
24 it should receive.

25 If one intentionally kills another during the

1           commission a felon, the inference of malice may  
2           arise. If facts are proved beyond a reasonable doubt  
3           sufficient to raise a inference of malice to your  
4           satisfaction, this inference would simply be an  
5           evidentiary fact to be taken into consideration by  
6           you, along with all the other evidence in the case.  
7           And you may have give it the weight that you decide  
8           it should receive.

9           The Defendant is also charged with first degree  
10          burglary. The State must prove beyond a reasonable  
11          doubt that The Defendant entered a dwelling without  
12          consent. A dwelling is a building or portion of a  
13          building in which a person ordinarily sleeps. A  
14          building constructed as a dwelling, that has never  
15          been occupied, cannot be considered a dwelling for  
16          purposes of burglary. When a building is a dwelling,  
17          if a residence, even temporary, absent from the  
18          building. In order to prove that The Defendant  
19          entered the dwelling, The State does not have to show  
20          that The Defendant's entire body entered the  
21          dwelling. The smallest entry is sufficient. It may  
22          be any part of the body. Such as a hand or a foot or  
23          even an instrument. Such as a hook or other  
24          instrument.

25          In addition, The State does not have to prove

1           that force was used to gain entry. The State must  
2           prove also beyond a reasonable doubt that The  
3           Defendant intended to commit this crime at the  
4           time -- to commit a crime either a felony or  
5           misdemeanor at the time of the entry. The mere entry  
6           into a dwelling without consent is not burglary. If  
7           the intent to commit a crime is formed after the  
8           entry, it is not burglary. On the other hand, if The  
9           Defendant intended to commit a crime at the time of  
10          the entry it is burglary. Even if the intent was  
11          abandoned after the entry. That does not matter that  
12          the intended crime was not completed. Intent may be  
13          shown by acts and conduct of The Defendant and other  
14          circumstances from which you may naturally and  
15          reasonably infer intent.

16                 And finally, The State must prove beyond a  
17                 reasonable doubt, regarding this charge, that when  
18                 entering while in the dwelling or when fleeing, The  
19                 Defendant or an accomplice was armed with a deadly  
20                 weapon. A deadly weapon is any article, instrument  
21                 or substance which is likely to cause death or great  
22                 bodily harm. Whether an instrument has been used as  
23                 a deadly weapon, depends on the facts and  
24                 circumstances of each case. Or when entering while  
25                 in the dwelling or when fleeing, that The Defendant

1 or an accomplice caused physical injury to anyone not  
2 participating in the crime. Or The defendant entered  
3 or remained in the dwelling in the nighttime.

4 Nighttime is the period between sunset and sunrise,  
5 during which there is not enough daylight to  
6 recognize a person's face, except by artificial light  
7 or the moonlight.

8 The Defendant is charged with kidnapping. The  
9 State must prove beyond a reasonable doubt that The  
10 Defendant knowingly and unlawfully seized, confined,  
11 inveigled, decoyed, kidnapped, abducted or carried  
12 away another person without authority of law. To do  
13 a thing unlawfully, is to do it willfully against the  
14 law. Knowingly means with knowledge, consciously,  
15 not accidentally. Seize means to take hold. Take  
16 hold of it, sudden or forcefully. Confined means to  
17 limit, restrict or enclose within bounds. In prison  
18 or shut or keep in. Inveigle means to lure, entice  
19 or lead astray by false representations or promises  
20 or other deceitful means. Decoy means to lure by or  
21 as if by decoy. And decoy is something to entice a  
22 person into a trap. Kidnapping is to remove a person  
23 against his will by unlawful force or by fraud.  
24 Abduct means to carry off secretly or by force or an  
25 illegal purpose. And carry away simply means remove.

1           The State does not have to prove that The  
2 Defendant did all of these things. Instead, if you  
3 find beyond a reasonable doubt that The Defendant did  
4 any of these things, then you may find The Defendant  
5 guilty of kidnapping. Something done without  
6 authority of law is something which the law does not  
7 sanction, permit, allow, condone or provide  
8 justification for. The kidnapping does not have to  
9 be for any personal or monetary gain for any illegal  
10 purpose. But may be for any reason whatsoever.

11           The Defendant is also charged with assault and  
12 battery first degree. A person may commit the  
13 offense of assault and battery in the first degree if  
14 The Defendant unlawfully offers or attempts to injure  
15 another person with the present ability to do so.  
16 And the act either is accomplished by means likely to  
17 produce death or great bodily injury or occurred  
18 during the commission of a robbery, burglary,  
19 kidnapping or theft. Great bodily injury means  
20 bodily injury which causes a substantial risk of  
21 death. Or which causes serious permanent  
22 disfigurement or protracted loss or impairment of the  
23 function of a bodily member or organ.

24           Now, The Defendant is charged with conspiracy.  
25 The State must prove, again, beyond a reasonable

1       doubt that The Defendant, combined with one or more  
2       persons, for the purpose of committing an unlawful  
3       act or committing a lawful act by unlawful means.  
4       There must be a mutual understanding, agreement or  
5       common intention and plan. Mere passive knowledge of  
6       or consent to the criminal conduct of another is not  
7       enough to make a person a conspirator. There must be  
8       guilty knowledge and participation. Similarly, the  
9       mere fact that The Defendant may have associated with  
10      another person or met with another person and  
11      discussed common aims and interests, does not  
12      necessarily establish proof of the existence of a  
13      conspiracy. Or that The Defendant was involved in a  
14      conspiracy.

15             On the other hand, it is not necessary that the  
16      agreement be a formal one. That it be in writing.  
17      That the persons hold a meeting, expressly stating  
18      the terms of the common plan. Or that the agreement  
19      be stated in words between them. The agreement of a  
20      criminal conspiracy may come in to be through an  
21      implied, mutual understanding. The willful intention  
22      and knowing adoption by two or more persons of a  
23      common plan is sufficient. No overt acts need to be  
24      shown to establish a conspiracy. A conspiracy may be  
25      shown by circumstantial evidence and the conduct of

1 the parties. In order to convict The Defendant of  
2 conspiracy, The State must prove beyond a reasonable  
3 doubt, not only that The Defendant knew of the  
4 unlawful conduct but that The Defendant agreed to  
5 combine with the other persons for the purpose of  
6 accomplishing the unlawful conduct.

7 Now, The Defendant is charged with the attempted  
8 armed robbery. Now, armed robbery is the taking of  
9 personal property from the person or presence of  
10 another. It's to permanently deprive the owner of  
11 the property and to keep the property for The  
12 Defendant's own use. The slightest removal of the  
13 property or the complete possession of the property,  
14 even for an instance by The Defendant, is sufficient  
15 to show a taking and carrying away of the property.  
16 The taking and carrying away of the property must  
17 have been done with violence or by putting the owner  
18 of the property in fear of violence. And it is the  
19 taking of the property armed with a deadly weapon  
20 during the attempted robbery.

21 A deadly weapon is any article, instrument or  
22 substance which is likely to cause death or great  
23 bodily harm. Whether an instrument has been used as  
24 a deadly weapon depends on the facts and  
25 circumstances of each case. But again, The Defendant

1 is charged with attempted armed robbery. An attempt  
2 is an effort to accomplish a crime which does not  
3 succeed. An attempt includes a specific intent to do  
4 a particular criminal act, along with an act falling  
5 short of the act intended. The State must show more  
6 than mere preparation and intent. There must be some  
7 overt act committed in the effort to commit a crime.

8 And finally, The Defendant has been charged with  
9 possession of a weapon during the commission of or an  
10 attempt to commit a violent crime. The State must  
11 prove beyond a reasonable doubt that The Defendant  
12 was in possession of a firearm or visibly displayed  
13 what appeared to be a firearm during the commission  
14 of a violent crime. A firearm means any machine gun,  
15 automatic riffle, revolver, pistol or any weapon  
16 which will or is designed to or may be readily  
17 converted to expel a projectile. In order to find  
18 The Defendant guilty of possession of a weapon during  
19 the commission of a violent crime, you must first  
20 find The Defendant guilty of either committing a  
21 violent crime or attempting to commit a violent  
22 crime. Murder, first degree burglary, kidnapping,  
23 and attempted robbery are violent crimes. The State  
24 must prove beyond a reasonable doubt that the weapon  
25 furthered, advanced or helped in the commission of

1 the crime.

2 Now, ladies and gentlemen, as I told you, the  
3 evidence -- or the decision that you make must be  
4 based on the evidence that's been presented from this  
5 witness stand right here and any of those exhibits  
6 that you will have back in the jury room. It cannot  
7 be based on sympathy, passion, prejudice or any  
8 emotion or any other consideration that has not --  
9 that is not in evidence.

10 Now, if a crime is committed by two or more  
11 people, you are acting together in committing a  
12 crime, the act of one is the act of all. A person  
13 who joins with another to commit an unlawful act is  
14 criminally responsible for everything done by the  
15 other person which happens as a probable or natural  
16 consequence of the acts done in carrying out the  
17 common plan and purpose. If two or more people are  
18 together, acting together, assisting each other in  
19 committing the offense, the act of one is the act of  
20 all. Or as it is sometimes said, the hand of one is  
21 the hand of all.

22 Prior knowledge that a crime is going to be  
23 committed without more is not sufficient to make a  
24 person guilty of that crime. Mere knowledge that  
25 another person is going to commit a crime, even if

1           The Defendant is present when the crime is committed,  
2           is not sufficient to convict The Defendant as a  
3           principle. Guilt as a principle is shown by actual  
4           or constructive presence at the scene, as a result of  
5           a prior arrangement. Therefore, a finding of a prior  
6           arranged plan or common scheme is necessary for a  
7           finding of guilt as a principle.

8           The State must prove beyond a reasonable doubt  
9           by competent evidence the theory of the hand on one  
10          the hand of all. A principle in a crime is one who  
11          either, actually, commits the crime or is present  
12          aiding, abetting or assisting in committing the  
13          crime. When a person does an act in the presence of  
14          and with the assistance of another, the act is done  
15          by both. Where two or more, acting with a common  
16          plan or intent, are present at the commission of a  
17          crime, it does not matter who actually commits the  
18          crime, all are guilty. The hand of one is the hand  
19          of all. Present at the commission of a crime means  
20          to be sufficiently near to aid and abet and assist in  
21          the commission of the crime.

22          However, mere presence at the scene of the crime  
23          is not sufficient to convict one as a principle on  
24          theory of aiding and abetting. Intent is also a  
25          necessary element or there must have been a common

1 design or intent to commit the crime. And the crime  
2 must have been committed pursuant thereto with the  
3 person aiding and abetting by some overt act. Intent  
4 means simply the result which actually occurs. Not  
5 accidentally or involuntary. Intent may be shown by  
6 acts and conduct of The Defendant and other  
7 circumstances from which you may naturally and  
8 reasonably infer intent. The State must prove these  
9 beyond a reasonable doubt.

10 Now, let me tell you something about  
11 deliberations. I'm about to give you the case.  
12 Deliberations has often been defined as the act of  
13 thinking about or discussing something and deciding  
14 carefully. The great thing about our jury system,  
15 folks, is that it allows 12 good people like  
16 yourself, men and women from 12 different  
17 backgrounds, life experiences and perspectives to  
18 consider the evidence in this case. To talk about it  
19 and, ultimately, reach a verdict. We call them  
20 deliberations for a reason. You are to consider the  
21 evidence in this case carefully and deliberately.  
22 And discuss it in a calm, courteous and thorough  
23 manner.

24 Remember, you're are not partisans or advocates  
25 favoring one side or other the other in this case.

1 You are -- remember what I have told you, you are the  
2 judges of the facts. Listen to the views of all your  
3 fellow jurors. Consider other peoples points of  
4 views and talk through and discuss .the evidence. And  
5 remember, if you are doing something deliberately,  
6 you're not in a big hurry. And you should not be in  
7 a big hurry here. This case is very important to all  
8 of the parties in this case. And this is their only  
9 day in court.

10 Now, when you retire to the jury room here in a  
11 minute, discuss the case with your fellow jurors to  
12 reach an agreement, if you can do so; and your  
13 verdict must be unanimous. Each of you must decide  
14 the case yourself. But you should do so only after  
15 you have impartially considered all of the evidence,  
16 discussed it fully with your fellow jurors and listen  
17 to the views of your fellow jurors. Do not be afraid  
18 to change your opinion if the discussion persuades  
19 you that you should. But do not come to a decision  
20 to simply -- simply because other jurors think it is  
21 right. It is important that you attempt to reach a  
22 unanimous verdict. But, of course, only if each of  
23 you can do so after having made your own decision.  
24 Do not change an honest belief about the weight and  
25 the effect of the evidence that you have before you.

1           Simply just to reach a verdict. In other words,  
2           don't change your opinion solely for the sake of  
3           reaching a unanimous verdict.

4           Now, there are two possible verdicts for each of  
5           the charge. They are guilty and not guilty. Now,  
6           the verdict form, Mr. Foreman, is self-explanatory.  
7           It has a list of the charges. And under each one  
8           there is a blank for guilty, a blank for not guilty.  
9           Do not take into consideration the order, I simply  
10          have to put one before the other. Either guilty or  
11          not guilty. I do it by alphabet, guilty is G and not  
12          guilty is NG, that's simply the reason. So do not  
13          take into consideration that one is in front of the  
14          other.

15          Now, as I said, if you are able to reach a  
16          verdict it must be unanimous. And when you do reach  
17          a verdict and you checked all the appropriate blanks  
18          on here, sign it, knock on the door and let the  
19          bailiffs know that you have reached a verdict. Now,  
20          if you have any questions, also knock on the door or  
21          ring the bell, buzzard, and let the bailiffs know  
22          that you have a question. And what I'm going to ask  
23          you to do is write it down. There are -- there is  
24          going to be some paper and a pen or pencil in there,  
25          and so if you have any questions, any of the jurors

1 have any questions, write it on that piece of paper.  
2 Let the bailiffs know and they will provide that to  
3 me. And I will discuss that with the lawyers and I  
4 may need to bring you back out and explain an answer  
5 to your question. Or I may can just write the answer  
6 on the piece paper. I'll just make that decision  
7 when I see your question, if you have any questions.  
8 And I'll also have a discussion with the lawyers.

9 Now, I am -- I'm going to excuse you to go back  
10 to the jury room now. I've got to just have a  
11 discussion with the lawyers and make sure that I  
12 covered everything. And if I did, then I will have  
13 the bailiffs bring the evidence to you and give you  
14 the go ahead to start your deliberations. If there's  
15 something I missed or the lawyers think I should have  
16 explained something else, I may have to bring you  
17 back in here. Hopefully, I won't. But if there is  
18 an issue I may have to bring you back out here just  
19 to give you a supplemental charge. But if I don't  
20 and I will let the bailiffs know when they give you  
21 the exhibits to begin your deliberations. So I'm  
22 going to excuse you to retire back in the jury room.

23 (WHEREUPON, the jury left open court at  
24 approximately 4:40 p.m.)

25 THE COURT: All right, any exception from The

1 State?

2 MR. JOHNSON: Nothing from The State, Your  
3 Honor.

4 THE COURT: Any from The Defendant?

5 MR. PRINGLE: No, Your Honor.

6 THE COURT: All right, if y'all would take a  
7 look at the exhibits, make sure everything is there.

8 Mr. Coefield, if you'd bring out the alternates.

9 MR. JOHNSON: Your Honor, we may have missed it  
10 but was there a beyond a reasonable doubt charge?

11 THE COURT: Yeah.

12 MR. JOHNSON: Okay.

13 THE COURT: Several times.

14 MR. JOHNSON: Okay, thank you, Your Honor.

15 THE COURT: Beyond a reasonable doubt was given  
16 a lot.

17 MR. JOHNSON: I must have been note taking.

18 THE COURT: All right, ladies, I want to thank  
19 you for your service, unfortunately, whichever way  
20 you look at it, your service has ended because we  
21 didn't need to switch out anybody. A lot of times we  
22 really need alternates. And sometimes we need both  
23 alternates. During a trial somebody may get sick or  
24 some issue may come up. And so we have to use  
25 alternates. So y'all are a very important part in a

1 trial. And in this case nobody got sick and nobody  
2 had to drop out and there weren't any issues. And as  
3 a result, you are not -- do not have to go any  
4 further. I'm sorry that you are not. I know you sat  
5 through the trial and I'm sorry you're not able to  
6 see it all the way through but your service was so  
7 important, nonetheless.

8 Let me tell you this, too, you are free to talk  
9 about it with anyone now. Now, if somebody wants to  
10 talk with you about it and you don't want to talk  
11 with them and they keep asking you or they keep  
12 contacting you or whatever, you let the court know  
13 and they will get word to me and I will take care of  
14 it right away. So if that happens you just let me  
15 know. Again, I don't anticipate that happening but I  
16 just want to let you know just in case somebody wants  
17 to talk with you about it and you don't want to talk,  
18 you're certainly free not to. But you're also  
19 certainly free to talk with anybody about it if want  
20 to. And now you can talk to family members or  
21 whoever if that ask you about it, you can talk all  
22 you want. You're certainly free to remain here or  
23 you can go home.

24 Now, you're going to get a big check here this  
25 week. So I'm sure you're looking forward to that.

1           Some other good news is I'm going to excuse y'all for  
2           the week. We do have another trial, I'm starting  
3           another trial tomorrow. But we're going to --  
4           because y'all have sat through this trial, I'm going  
5           to let y'all go and you're excused for the week. And  
6           you're excused for three years. If you get called  
7           again in the next three years here in circuit court,  
8           just let them know that you served on the jury. Did  
9           either one of you ever served on jury duty before?

10                   (The alternates shook their heads.)

11                   Well, I hope it was a good experience. And  
12           again, I want to thank you for your participation and  
13           your involvement. Without y'all the judicial system  
14           cannot function, you're so important. So thank you  
15           for your service and best of luck to you.

16                   ALTERNATE JUROR: Thank you.

17                   THE COURT: Thank you.

18                   All right, if y'all would take a look at the  
19           exhibits and make sure everything's there.

20                   (WHEREUPON, deliberations began at approximately  
21           4:50 p.m. and court was in recess awaiting a  
22           verdict.)

23                   THE COURT: All right, we got a question.

24                   The question is, Can we have the definitions of  
25           murder and hand of one is hand of all, according to

1 the law?

2 All right, anything neither one of you -- my  
3 intention is to just simply bring them in and  
4 recharge them on murder and hand of one and hand of .  
5 all. Hand of one is the hand of all. Anyone,  
6 anything?

7 MR. JOHNSON: Your Honor, The State stipulates,  
8 since they are lengthy, we're not opposed to sending  
9 back a printed copy of the entire charge.

10 THE COURT: Well, there's a case out there about  
11 14, 15 years ago, that cautions the bench in sending  
12 the charges back to the jury. In sending all of  
13 them. You know in federal court that's what they do:  
14 But there's a case out there, it's the Covert case,  
15 that says that you shouldn't do that. They caution  
16 the bench in doing that. And then there's a sentence  
17 at the end that says, But you should never send only  
18 part of a charge.

19 MR. JOHNSON: Yes, sir.

20 THE COURT: So -- so really -- and it's a  
21 criminal case. And just it really is a good thing to  
22 do, a lot of people do it, a lot of people are  
23 unfamiliar with it. But so based on that, I don't  
24 think the Supreme Court would favor me doing that.

25 MR. JOHNSON: Understood.

1           THE COURT: So I think what I have to do is  
2 bring them out here and recharge them as opposed to  
3 giving them a copy.

4           All right, Mr. Pringle, anything?

5           MR. PRINGLE: Well, there's always the risk that  
6 they may focus unduly on one or more aspects of the  
7 charges as opposed to focusing on the totality of the  
8 charges they have been given. I suppose -- I mean--

9           THE COURT: Well, I don't -- I am not inclined  
10 to read the entire charge again. I think it is  
11 appropriate for me when the jury ask about particular  
12 issues of law that were in the instructions or ask  
13 for a definition that were encompassed in the  
14 instructions, for me to recharge them on that area of  
15 the law. And whatever questions or areas that they  
16 want to get either definitions of or tell us what the  
17 law is again. Or read us the charges on a certain  
18 area, I think that is entirely appropriate for me to  
19 do, to read the area. And I do not feel that I am  
20 required to read the entire charge. Plus it would be  
21 a lengthy charge any way.

22           MR. JOHNSON: Your Honor, there's State v.  
23 Lemire, 406 SC 558, Court of Appeals case, that  
24 states what you just ordered. That as long as it's  
25 orally given to the jury, partial charge, if

1 requested, is appropriate.

2 THE COURT: All right.

3 MR. PRINGLE: They're really asking for  
4 clarification on that, is what they're saying?

5 THE COURT: Yeah, I'll read it again.

6 MR. PRINGLE: Thank you.

7 THE COURT: Can we have the definitions of  
8 murder and the hand of one is the hand of all,  
9 according to the law?

10 So I'm going to bring them out here and recharge  
11 them.

12 MR. PRINGLE: Thank you.

13 MR. JOHNSON: Would that be felony murder? All  
14 the murder included, everything under malice?

15 THE COURT: All right. So what I will charge is  
16 my charge on murder, which encompasses the felony  
17 murder charge because that's on the inference. The  
18 felony murder charge is not a separate -- it's really  
19 a -- felony murder is a inference as to malice. So  
20 that goes hand and hand with the definition of  
21 murder.

22 MR. PRINGLE: If I may, shouldn't we be  
23 confining the answers to their question? The actual  
24 question.

25 THE COURT: I think that -- and I understand

1 your inquiry question there but the felony murder  
2 charge is part of the murder. Felony murder is not a  
3 separate charge. Felony murder charge as in  
4 charge -- not request to charge -- felony murder  
5 charge is really an inference. What it is, my charge  
6 on that and the law on felony murder, is felony  
7 murder is a inference as to malice. Felony murder is  
8 involving malice. There's no -- there's no charge or  
9 requirement or anything that we're saying that they  
10 got to prove that there's an indictment for felony  
11 murder. Felony murder is simply a legal theory  
12 relating to malice.

13 MR. PRINGLE: Well, if I may, in this context,  
14 aren't we talking about a killing that occurs during  
15 the commission of a felony?

16 THE COURT: Well, part of the definition of  
17 murder is that The State has the burden to prove  
18 malice. And then part of the definition of malice  
19 are -- you know, part of the definition of malice can  
20 include the felony murder rule, if you have the  
21 evidence that's supports it. And so the felony  
22 murder rule is, as I charged, is an inference as to  
23 malice. And so malice can be in different forms.  
24 You know, the definition as I give in murder, evil  
25 intent. Those kind of hatred, ill will. But malice

1 can also be inferred from -- from a felony murder.

2 MR. PRINGLE: I guess what I'm saying is that  
3 they asked about hand of one and murder--

4 THE COURT: And murder, yeah. All right, malice  
5 is part of murder. Malice is part of murder. Felony  
6 murder is involving malice. Because malice -- felony  
7 murder can be an element that they can determine that  
8 malice existed based upon the felony murder. So  
9 malice is -- it's all intertwined because murder has  
10 to be -- you got to prove malice with murder. And  
11 one way to prove malice, in the law in South  
12 Carolina, is the felony murder inference. Now, what  
13 you can do and what the case law said years ago, was  
14 that you can't say that if there is a felony murder,  
15 that there is malice. The courts have said you can't  
16 say, all right, if you got a felony murder case, then  
17 that means there's malice. What the court has said  
18 is that if you got a felony murder case, you can give  
19 a charge that the jury may infer malice. They don't  
20 have to.

21 MR. PRINGLE: And that's the language--

22 THE COURT: Yeah. And I'll read it for you just  
23 for the record.

24 If one intentionally kills another during the  
25 commission of a felony, the inference of malice may

1           arise.  If facts are proved beyond a reasonable doubt  
2           sufficient to raise an inference of malice to your  
3           satisfaction, this inference would simply be an  
4           evidentiary fact to be taken into consideration by  
5           you, along with all the other evidence in the case  
6           and you may give it the weight that you decide it  
7           should received.

8           So what our courts have allowed us to do -- but  
9           what they have told us not to do is that we can't  
10          give the felony murder inference charge and say if  
11          they find there is a felony murder -- evidence of a  
12          felony murder, that that is automatically malice.  
13          The courts have restricted that use of -- the old  
14          traditional way was years and years and years ago was  
15          if it was a felony murder, then it -- the law's  
16          arguably, that's malice.  And our courts have now  
17          said that, no, that is not the law and cannot charge  
18          that.  But you can charge felony murder as a  
19          inference that the jury can consider.

20          MR. PRINGLE:  So it is maybe similar to the  
21          current analysis of a deadly weapon?

22          THE COURT:  Right, it's all -- we can't -- we  
23          can no longer charge -- yeah, in fact, you can't say  
24          that at all.  Use of deadly weapon is any inference  
25          of malice on that.  That's -- and it's sort of in the

1 same line of cases that have come down and the use of  
2 deadly weapon is the latest in that. No longer can  
3 you charge use of deadly weapon is malice.

4 MR. PRINGLE: Right, okay.

5 THE COURT: And it's telling us, just because  
6 there is felony murder -- evidence of a felony  
7 murder, doesn't mean there's automatically malice.  
8 That's just a evidentiary fact for them to consider  
9 and they may not think it is.

10 MR. PRINGLE: And that's the language that, Your  
11 Honor, would give?

12 THE COURT: And that's the language that I'll  
13 charge.

14 MR. PRINGLE: Thank you.

15 THE COURT: And so I'll charge the murder,  
16 felony murder and the hand of one.

17 MR. PRINGLE: Thank you, Your Honor.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: All right, let's bring them in.

20 (WHEREUPON, Court's Exhibit No. 1 was marked for  
21 identification only.)

22 (WHEREUPON, the jury entered open court at  
23 approximately 6:56 p.m.)

24 THE COURT: All right, Mr. Foreman, I received  
25 your question. The question reads, Can we have the

1 definitions of murder and hand of one is hand of all  
2 according to the law?

3 Did I read that correctly?

4 MR. FOREMAN: Yes, sir.

5 THE COURT: All right, I'm going to respond to  
6 that and give you those definitions. I'm going to  
7 instruct you again on the law. Is that in response  
8 to your questions?

9 MR. FOREMAN: Yes, sir.

10 THE COURT: All right.

11 The Defendant is charged with murder. The State  
12 must prove beyond a reasonable doubt that The  
13 Defendant killed another person with malice  
14 aforethought. Malice is hatred, ill will, or  
15 hostility towards another person. It is the  
16 intentional doing of a wrongful act without just  
17 cause or excuse and with an intent to inflict an  
18 injury or under circumstances if the law will infer  
19 an evil intent. Malice aforethought does not require  
20 that malice exists for any particular time before the  
21 act is committed. But malice must exist in the mind  
22 of The Defendant just before and at the time the act  
23 is committed. Therefore, there must be a combination  
24 of the previous evil intent and the act.

25 Malice aforethought may be expressed or

1           inferred. These terms expressed and inferred do not  
2           mean different kinds of malice but merely the manner  
3           in which malice may have be shown to exist. That is  
4           either by direct evidence or by inference from the  
5           facts and circumstances which are proved. Expressed  
6           malice is shown when a person speaks words, which  
7           express hatred or ill will for another. Or when the  
8           person prepared beforehand to do the act which is  
9           later accomplished. For example, lying in wait for a  
10          person or any other act or acts of preparation going  
11          to show that the deed was within The Defendant's  
12          mind, would be expressed malice. Malice may be  
13          inferred from conduct, showing a total disregard for  
14          human life. If facts are proved beyond a reasonable  
15          doubt, sufficient to raise an inference of malice to  
16          your satisfaction, this inference would be simply an  
17          evidentiary fact to be considered by you, along with  
18          the other evidence in the case. And you may give it  
19          the weight you decide -- you decide it should  
20          receive.

21                 If one intentionally kills another during the  
22                 commission of a felony, the inference of malice may  
23                 arise. If facts are proved beyond a reasonable doubt  
24                 sufficient to raise an inference of malice to your  
25                 satisfaction, this inference would simply be an

1           evidentiary fact to be taken into consideration by  
2           you, along with all the other evidence in the case.  
3           And you may give it the weight that you decide it  
4           should receive.

5           If a crime is committed by two or more people,  
6           who are acting together in committing a crime, the  
7           act of one is the act of all. A person who joins  
8           with another to commit an unlawful act is criminally  
9           responsible for everything done by the other person,  
10          which happens as a probable or natural consequence of  
11          the acts done in carrying out the common plan and  
12          purpose. If two or more people are together, acting  
13          together, assisting each other in committing the  
14          offense, the act of one is the act of all. Or as it  
15          is sometimes said, the hand of one is the hand of  
16          all.

17          Prior knowledge that a crime is going to be  
18          committed, without more, is not sufficient to make a  
19          person guilty of that crime. Mere knowledge that  
20          another person is going to commit a crime, even if  
21          The Defendant is present when the crime is committed,  
22          is not sufficient to convict The Defendant as a  
23          principle. Guilt as a principle is shown by actual  
24          or constructive presence at the scene as a result of  
25          prior arrangement. Therefore, a finding of a prior

1 arranged plan or common scheme is necessary for a  
2 finding of guilt as a principle.

3 The State must prove beyond a reasonable doubt  
4 by competent evidence, the theory of the hand of one  
5 is the hand of all. A principle in a crime is one  
6 who either actually commits the crime or is present,  
7 aiding, abetting or assisting in committing the  
8 crime. When a person does an act in the presence of  
9 and with the assistance of another, the act is done  
10 by both. Where two or more acting within a -- with a  
11 common plan or intent are present at the commission  
12 of a crime, it does not matter who actually commits  
13 the crime, all are guilty. The hand of one is the  
14 hand of all.

15 Present at the commission of a crime, means to  
16 be sufficiently near to aid and abet and assist in  
17 the commission of the crime. However, mere presence  
18 at the scene of a crime is not sufficient to convict  
19 one as a principle on the theory of aiding and  
20 abetting. Intent is also a necessary element but  
21 there must have been a common design or intent to  
22 commit the crime and the crime must have been  
23 committed pursuant thereto with the person aiding and  
24 abetting about by some overt act. Intent means  
25 intending the result which actually occurs. Not

1 accidentally or involuntary. Intent may be shown by  
2 acts and conduct of The Defendant and other  
3 circumstances from which you may naturally and  
4 reasonably infer intent. The State must prove these  
5 elements beyond a reasonable doubt.

6 Is that the definitions that -- those were the  
7 definitions of murder and hand of one is hand of all.

8 MR. FOREMAN: Yes, sir.

9 THE COURT: All right. Again, any other  
10 questions, do the same as you did here. All right,  
11 I'll send you back, retire back to the jury room.

12 (WHEREUPON, the jury left open court and  
13 continued deliberations at approximately  
14 7:04 p.m.)

15 THE COURT: All right, any exception from The  
16 State?

17 MR. JOHNSON: None from The State.

18 THE COURT: Any from The Defendant?

19 MR. PRINGLE: None, Your Honor.

20 THE COURT: All right. We'll be adjourned.

21 (WHEREUPON, court was in recess awaiting.  
22 Verdict.)

23 THE COURT: All right, got another question.  
24 All right.

25 Question is, How many people Malik state were

1 involved in the robbery slash murder in his statement  
2 after the incident? I think they left out the word  
3 did. I think the question reads, How many people did  
4 Malik state were involved in the robbery slash murder  
5 in his statement after the incident?

6 All right. So anything from The State or The  
7 Defendant, I'll hear from you?

8 MR. JOHNSON: Your Honor, with a question like  
9 that and we know the answer, I'm fine with just  
10 sending back the answer which is three. Instead of  
11 bringing them in and trying to play the whole  
12 testimony.

13 MR. PRINGLE: Yeah, it's really hard to recall  
14 all the specifics about his testimony. You're  
15 talking about the morning of the first -- they're  
16 talking about the first statement?

17 THE COURT: It says --

18 MR. PRINGLE: Where he didn't recognize--

19 THE COURT: -- how many people did Malik state  
20 were involved in the robbery/murder in his statement  
21 after the accident?

22 MR. JOHNSON: He told officers two in black that  
23 he -- well, two in black, one in red. The three.

24 MR. PRINGLE: Was that part of his testimony,  
25 though?

1 MR. JOHNSON: Yeah, it was.

2 MRS. LANDSVERK: That part didn't change in both  
3 statements.

4 MR. JOHNSON: Right.

5 THE COURT: Well, normally what I do with a  
6 question like this is that it is a question inquiring  
7 about the evidence in the case. And I normally tell  
8 them that they are simply to recall themselves--

9 MR. PRINGLE: That's what I was going to say.

10 THE COURT: -- based on what they heard as to  
11 answer their question. As opposed to The Court  
12 giving them an answer as to what the evidence is. I  
13 don't think that I can do that from my perspective.  
14 I think, again, I have to tell them that I can't  
15 respond and give them an answer to this question,  
16 they have to recall the answer from their  
17 recollection of the testimony.

18 MR. JOHNSON: Your Honor, I would ask that we  
19 let them know there's an option to read their  
20 testimony. I just don't want them to speculate when  
21 we can easily give them the answer.

22 THE COURT: That would be a good response. We  
23 have an issue that I understand is there is that the  
24 first day of trial there was a different court  
25 report. And he did not leave the thumb drive or

1           whatever it is that they would leave when he left  
2           that day. We have the cross-examination of Malik  
3           because that's when April came yesterday. And he was  
4           cross-examined yesterday. And so I don't recall if  
5           that testimony came out in cross-examination or the  
6           direct or both, I don't remember to be honest with  
7           you.

8           MR. JOHNSON: Your Honor, if we -- I don't know  
9           if Mr. Pringle would consent but if we worked out the  
10          answer, we wouldn't be comfortable with just sending  
11          back the answer?

12          THE COURT: I think if y'all agree to it.

13          MR. PRINGLE: I don't think I can agree to that.  
14          Because I think it runs the risk that they're going  
15          to unduly focus on a really isolated aspect of the  
16          entire potential testimony. And it was, you know,  
17          there was a lot of, I'd say, gray area that was maybe  
18          even created during his testimony about -- especially  
19          his first statement. There was certainly a lot of  
20          untruthfulness and inaccuracy, by his own admission.  
21          And it just seems like if we send back and just say  
22          like, three, for example, you know, I think  
23          reasonable minds could even differ about whether that  
24          was actually -- those are the facts.

25          THE COURT: Well, I'm --

1           MR. PRINGLE: Then, you know -- I think -- think  
2 that -- Your Honor touched on, also, what I was going  
3 to stay initially is, you know, with that type of  
4 thing, it's not a question of law that needs to be  
5 cleared up. I mean, isn't it -- isn't it fairly  
6 standard practice that they would -- that we would  
7 just have them rely -- I mean, there's 12 of them,  
8 rely on their collective recollection of testimony,  
9 as opposed to running that risk?

10           THE COURT: Well, as I said, I do not -- I  
11 don't, when I get these questions, I don't respond  
12 with factual answers to their questions. My response  
13 and answer to juries with these questions, is that I  
14 cannot answer the question, they will have to recall  
15 what the evidence was. Now, normally -- not  
16 normally, but sometimes I then get another question  
17 that says, can we hear the testimony? And that's  
18 normally what we do. However, we have a little issue  
19 that apparently the court reporter here Monday did  
20 not leave whatever thumb drive or whatever he is  
21 supposed to leave that has the testimony from Malik.  
22 Because his direct was on Monday. His cross and  
23 maybe redirect was when April was here yesterday.

24           So here's what I'm going to do. I'm going to  
25 bring them in and I'm going to tell them that I

1 cannot give them the answer, that they have to base  
2 their recollection on what they recall hearing the  
3 evidence was. And then if, in the interim, I'm going  
4 to then excuse them. And I'm going to have April  
5 contact this court reporter and see if there's a way  
6 that we can have that testimony sent to us to be able  
7 to download it, in the interim, if we get a question.  
8 We may not get a question. A lot of times I don't  
9 get a question to hear testimony after that. They  
10 all just say, okay--

11 MR. PRINGLE: You're saying in the event that  
12 they follow up after you tell them what you're going  
13 to tell them, if they follow up and say, well, can we  
14 replay the testimony? Then that's when you would,  
15 maybe, address this?

16 THE COURT: Yeah, well, I'm going to -- April's  
17 going to go ahead and contact him now. Once I give  
18 them my response, give them my answer, send them  
19 back, April is going to contact that court reporter,  
20 hopefully can contact him. And hopefully, there's a  
21 way that he can email and download the testimony. In  
22 the event that we get a follow-up question, we can  
23 hear the testimony. Now, we may not have that  
24 question. And if we don't then--

25 MR. JOHNSON: Your Honor, I think the

1           implication is -- serious prejudice to The State here  
2           because if I was a juror and I heard that response  
3           from, Your Honor, I would assume that I'm unable to  
4           hear the testimony. That it's just a blanket no. I  
5           wouldn't think to ask a follow-up question. I think  
6           that question's very specific. And I think it's key  
7           to The State's case. And if they don't have that  
8           information--

9           THE COURT: No, I disagree with you. I did --  
10          as a lawyer for many years and as a judge on the  
11          bench, when I get these questions or when these came  
12          up when I was a lawyer, the response back is, No, I  
13          can't give -- The Court cannot give you an answer to  
14          that question. And that you have to recall what the  
15          testimony was during the trial. That I can't provide  
16          you an answer to those questions, you've got to  
17          provide those answers yourself, based upon the  
18          testimony. So this happens a lot. I mean, this is  
19          not a rare thing, this happens often. And so that is  
20          my responses as a Judge. And I've gotten a bunch of  
21          cases -- I mean, a bunch of questions like this as a  
22          Judge and those are my responses. And as well as  
23          when I was lawyer for all those years. So that's  
24          what I'm going to do.

25          And again, we may not get the response, the

1 follow-up response requesting that they hear it, the  
2 testimony. So if that's the case, then we will cross  
3 that bridge. But in the interim, April is going to  
4 contact that court reporter to determine if he can  
5 send that testimony to us.

6 MR. PRINGLE: In the event that they ask?

7 THE COURT: In the event that they ask. I am  
8 not going to suggest that.

9 MR. PRINGLE: Thank you, Your Honor.

10 THE COURT: I'm not going to suggest that  
11 because I don't want to open that door.

12 MR. PRINGLE: Thank you, sir.

13 THE COURT: Because a lot of times, again, as I  
14 said, a lot of time when I tell them that, they don't  
15 ask for it. They just shake their head and they go  
16 back.

17 MR. PRINGLE: They try to work it out.

18 THE COURT: And try to do so.

19 MR. JOHNSON: Understood.

20 THE COURT: All right, let's bring them in.

21 (WHEREUPON, Court's Exhibit No. 2 was marked for  
22 identification only.)

23 (WHEREUPON, the jury entered open court at  
24 approximately 8:00 p.m.)

25 THE COURT: All right, Mr. Foreman, I received

1 another question. The question reads, How many  
2 people did Malik state were involved in the robbery  
3 slash murder in his statement after the incident?

4 Did I read that question correctly?

5 MR. FOREMAN: Yes, sir.

6 THE COURT: All right, that is a factual matter  
7 that was put into evidence before you. And I cannot  
8 not provide you answers to those questions. Those  
9 answers have to come from the evidence that came from  
10 the stand and based on your recollection of what that  
11 evidence was at the time. So I can't give you that  
12 answer because I would be commenting and giving you  
13 answers about evidence. So it has to be based on  
14 your recollection from the evidence, all right. All  
15 right, I'm going to ask you to retire again. Thank  
16 you.

17 (WHEREUPON, the jury left open court and  
18 continued deliberations at approximately  
19 8:01 p.m.)

20 THE COURT: All right, anything from The State  
21 or The Defendant?

22 MR. JOHNSON: No, Your Honor.

23 MR. PRINGLE: No, Your Honor.

24 THE COURT: All right, based on that reaction  
25 there, I don't think we're going to get that

1 question.

2 (WHEREUPON, court was in recess awaiting a  
3 verdict.)

4 THE COURT: All right, I understand we have a  
5 verdict?

6 THE BAILIFF: Yes, sir.

7 THE COURT: All right, bring them in.

8 (WHEREUPON, the jury entered open court at  
9 approximately 10:40 p.m.)

10 VERDICT

11 THE COURT: All right, Mr. Foreman, understand  
12 you reached a verdict; is that correct?

13 MR. FOREMAN: Yes, Your Honor, we have.

14 THE COURT: If you would hand it to Mr. Cannon  
15 right there. Thank you.

16 All right, Madam Clerk, if you would publish the  
17 verdict.

18 THE CLERK: Okay, the State of South Carolina  
19 vs. Tommy Lee Long, Indictment 2020-GS-23-00191;  
20 00149; 00159; 00160; 00128; 00125, as to the charge  
21 of murder, we, the jury, unanimously find The  
22 Defendant, Tommy Lee Long, not guilty. As to the  
23 charge of first degree burglary, we, the jury,  
24 unanimously find The Defendant Tommy Lee, guilty. As  
25 to the charge of kidnapping, we, the jury,

1           unanimously find The Defendant, Tommy Lee Long,  
2           guilty. As to the charge of assault and battery in  
3           the first degree, we, the jury, unanimously find The  
4           Defendant, Tommy Lee Long, guilty. As to the charge  
5           of attempted armed robbery, we, the jury, unanimously  
6           find The Defendant guilty. As to the charge of  
7           conspiracy, we, the jury, unanimously find The  
8           Defendant guilty. As to the charge of possession of  
9           a weapon during the commission of or attempt to  
10          commit a violent crime, we, the jury, unanimously  
11          find The Defendant guilty.

12                 Ladies and gentlemen of the jury, if you agree  
13                 this is the verdict you reached in your deliberation  
14                 room, please raise your right hand.

15                 (WHEREUPON, all members of the jury panel raised  
16                 their right hand.)

17                 THE CLERK: Thank you.

18                 THE COURT: All right, any -- anything from the  
19                 parties before I excuse the jury?

20                 Anything from The State?

21                 MR. JOHNSON: Nothing from The State, Your  
22                 Honor.

23                 THE COURT: Anything from The Defendant?

24                 MR. PRINGLE: No, Your Honor.

25                 THE COURT: All right. Ladies and gentlemen,



1 THE COURT: Y'all got sentencing sheets?

2 THE CLERK: Yes, I'm finishing them up now, Your  
3 Honor.

4 THE COURT: Take your time. Take your time.

5 All right, we'll go back on the record, ready to  
6 proceed to sentencing.

7 Mr. Johnson, you're recognized.

8 MR. JOHNSON: Thank you, Your Honor. Your  
9 Honor, the legislature has given us a range from 15  
10 to life. Obviously, the top end for the most heinous  
11 of burglaries. I think what we have here is the  
12 worst burglary you could possibly have. The worst  
13 armed robbery you could possibly have. An 18 year  
14 old was tortured, beaten and killed. And this  
15 Defendant played a central role in that, Your Honor.  
16 So I think with that being said, the top end of that  
17 range is appropriate. And there are victims here  
18 that would like to speak.

19 THE COURT: All right, I'll hear from them.

20 THE VICTIM: My name is Kimberly Norman, Udeh  
21 Prince Osuagwu, Jr. was my son.

22 And, Mr. Tommy Long, I would like to say God  
23 loves you. I love you. I forgive you and meet you  
24 to die own self [verbatim]. And while you're away,  
25 you know, during your sentencing, a scripture came to

1 mind was John 3:16, For God so loved the world that  
2 he gave his only begotten son, that whosoever  
3 forgiveth -- believes in him shall have everlasting  
4 life. Again, for God so loved the world that he gave  
5 his only begotten son, that whosoever believes in God  
6 shall have everlasting life. Always remember, be  
7 true to thy own self. That's all I have to say.

8 And I feel like God's Will is done here today.

9 UNIDENTIFIED WOMAN: You took the beam of life  
10 from us. Prince was someone who was so precious to  
11 everyone he came in contact with. Prince was such a  
12 beautiful burning light. He shined so bright. In my  
13 opinion, you don't value life. You show no remorse  
14 throughout this trial. I think of you murdering  
15 Prince everyday. Literally, from the time I wake up  
16 in the morning until I fall asleep at night. Because  
17 of this, my children, alone with myself, suffer PTSD,  
18 anxiety and panic attacks. Watching you laugh and  
19 smirk only masks me pity you. If I never seen the  
20 devil physically, I did witness it throughout this  
21 trial through you. You, Tommy Lee Long, you. You.  
22 You've not only killed Prince but yet, our entire  
23 family and our friends. You murdered our baby and  
24 also killed a piece of us. You took a life, a life  
25 that was only beginning. To actually live, he had

1           literally just got accepted into college. South  
2           Carolina State University. You took him away from us  
3           physically but thankfully, thankfully, his spirit is  
4           felt daily, literally. Literally. As  
5           [indiscernible] we should still have him here with us  
6           [indiscernible]. You took our son, our brother, our  
7           uncle, and our friend. May God be with you on your  
8           life's journey.

9           THE COURT: All right, anything else from The  
10          State?

11          MR. JOHNSON: Nothing further from The State,  
12          Your Honor.

13          THE COURT: All right. Anything from The  
14          Defendant?

15          MR. PRINGLE: Just briefly. Your Honor,  
16          obviously, this has been a very difficult proceeding.  
17          It's a horrible thing that happened. Certainly, feel  
18          for Prince's family. Of course, I must point out  
19          that triers of fact have found him not guilty of  
20          murder. So as a matter of course, he did not kill  
21          Prince. I'm recognizing that he was convicted of the  
22          balance. And maybe considering what the  
23          co-defendants are anticipating with regard to their  
24          ultimate sanction and sentence, I just ask that The  
25          Court consider that, really, Mr. Long is in the same

1 boat. There's even an argument that they're more  
2 blameworthy than Tommy Long, based on the results  
3 from these folks who had a chance to really examine  
4 the case, the facts very closely.

5 And for those reasons, we'd ask The Court to  
6 consider that any sentence that's imposed on the  
7 balance of the charges, be somewhat in line. And  
8 certainly, I guess, no more or no worst than what  
9 would have been anticipated with those that have pled  
10 and admitted to the actual killer. Thank you.

11 THE COURT: All right, anything else from The  
12 State or Defendant?

13 MR. JOHNSON: Nothing from The State, Your  
14 Honor.

15 MR. PRINGLE: No, Your Honor.

16 THE COURT: All right. As to --

17 Stand up, Mr. Long. You have been found guilty  
18 of burglary first degree, kidnapping, attempted armed  
19 robbery, assault and battery in the first degree,  
20 conspiracy and possession of a weapon during the  
21 commission of a violent crime. As to the charge of  
22 burglary first degree, under 2020-GS-23-00149, the  
23 sentence of The Court is that you be sentenced to the  
24 department of corrections for a period of 30 years.  
25 As to 2020-GS-23-00160, sentence of The Court is that

1           you will be sentenced to the department of  
2           corrections for a period of 30 years. That will run  
3           concurrent. As to 2020-GS-23-00159, sentence of The  
4           Court is that you be sentenced to the department of  
5           corrections for a period of 20 years to run  
6           concurrent. As to 2020-GS-23-00128, sentence of The  
7           Court is that you be sentenced to the department of  
8           corrections for a period of 10 years to be served  
9           concurrent. As to 2020-GS-23-00125, the sentence of  
10          The Court is that you be sentenced to the department  
11          of corrections for a period of five years to be  
12          served concurrent. As to 2020-GS-23-00191, the  
13          sentence of The Court is that you be sentenced to the  
14          department of corrections for a period of five years,  
15          that is to run consecutive.

16                 All right, anything else from The State or The  
17          Defendant?

18                 MR. JOHNSON: No, Your Honor.

19                 THE COURT: All right, that will be the sentence  
20          of the court. Court will be adjourned.

21                 (WHEREUPON, the proceedings were concluded.)  
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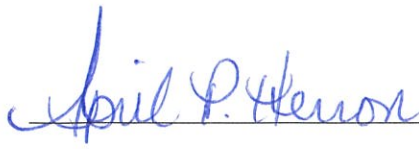
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
COUNTY OF GREENVILLE            )

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 11 & 12 day of July, 2023.

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

October 11, 2023

  
\_\_\_\_\_

APRIL P. HERRON, Court Reporter

DOCKET NO. 2020-GS-23-<sup>ASC</sup> 000160

The State of South Carolina  
County of Greenville

COURT OF GENERAL SESSIONS

January TERM 2020

THE STATE

vs.

TOMMY LEE LONG

WITNESSES

Mary A Blair *AKL*

Greenville Police Department

6/4/2019

ARREST WARRANT NUMBER  
2019A2320602023

ACTION OF GRAND JURY  
TRUE BILL

*Bria C Bell*

FOFEMAN GHAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

KIDNAPPING

√0095

VIOLATION § 16-03-0910

Foreperson of Petit Jury

Date:

ENTISHED  
ACCT. *BM*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
KIDNAPPING

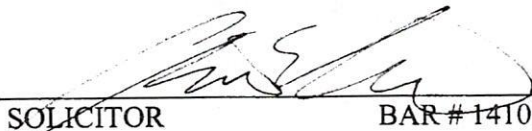
At a Court of General Sessions, convened on  
County present upon their oath:

**JAN 07 2020** the Grand Jurors of Greenville

That TOMMY LEE LONG did in Greenville County, on or about the 11th day of May, 2019, unlawfully seize, abduct, confine, inveigle, decoy or carry away UDEH OSUAGWU, without the authority of law. This is in violation of §16-03-0910 of the South Carolina Code of Laws (1976) as amended.

000000

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

  
\_\_\_\_\_  
SOLICITOR BAR # 14107



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED ARMED ROBBERY

At a Court of General Sessions, convened on

**JAN 07 2020**


the Grand Jurors of Greenville

County present upon their oath:

That TOMMY LEE LONG did in Greenville County, on or about the 11th day of May, 2019, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force or intimidation, goods or monies described as: money from the person or presence of Udeh Osuagwu. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

  
BAR # 14107

AMENDED INDICTMENT  
DOCKET NO. 2020-GS-23-000149  
JEH

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April TERM 2022

THE STATE

vs.

TOMMY LEE LONG

*TSL*  
*04/19/22*

WITNESSES

Mary A Blair

Greenville Police Department

6/4/2019

ARREST WARRANT NUMBER  
2019A2320602020

ACTION OF GRAND JURY

TRUE BILL

*James Fowler*

Foreperson of Grand Jury

VERDICT

Amended Indictment for

✓ 0079

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

Foreperson of Petit Jury

Date:

ENTREPRENEUR  
ACCT. *Or*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
BURGLARY FIRST DEGREE

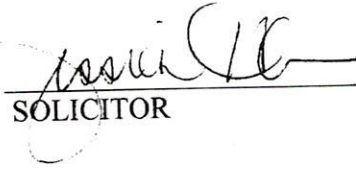
At a Court of General Sessions, convened on  
County present upon their oath:

APR 10 2022

the Grand Jurors of Greenville

That TOMMY LEE LONG did in Greenville County, on or about the 11th day of May, 2019, willfully and unlawfully enter the dwelling of Karen Harrison and/or Dominique Cheatham located at 741 Woodruff Rd., # 2214, Greenville, South Carolina without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: the entering or remaining occurred during the nighttime hours and/or the defendant was armed with a deadly weapon and/or did cause physical injury to a person who was not a participant in the crime. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

BAR # 75182

DOCKET NO. 2020-GS-23-<sup>ASC</sup> 000128

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2020

January

THE STATE

vs.

TOMMY LEE LONG

WITNESSES

Mary A Blair

ARL

Greenville Police Department

6/4/2019

ARREST WARRANT NUMBER

2019A2320602024

ACTION OF GRAND JURY

TRUE BILL

*Blair C Blair*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

§3412

ASSAULT AND BATTERY 1ST DEGREE

VIOLATION § 16-03-0600

Foreperson of Petit Jury

Date:

ENTREPRENEUR  
ACCT. *Om*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ASSAULT AND BATTERY 1ST DEGREE

At a Court of General Sessions, convened on  
County present upon their oath:

JAN 07 2020

the Grand Jurors of Greenville

That TOMMY LEE LONG did in Greenville County, on or about the 11th day of May, 2019, offer or attempt to injure MALIK NORRIS with the present ability to commit the act, and the act was accomplished by means likely to produce death or great bodily injury, or the act occurred during the commission of a robbery, burglary, kidnapping or theft. This is in violation of §16-03-0600 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

BAR # 14107

AMENDED INDICTMENT  
DOCKET NO. 2020-GS-23-000125  
JEH

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2022

TSE

04/19/22

THE STATE

vs.

TOMMY LEE LONG

WITNESSES

Mary A Blair

Greenville Police Department

6/4/2019

ARREST WARRANT NUMBER

2019A2320602025

ACTION OF GRAND JURY

James Fowler

Foreperson of Grand Jury

VERDICT

Amended Indictment for

✓ 0049

CONSPIRACY

VIOLATION § 16-17-0410

Foreperson of Petit Jury

Date:

ENTICED  
ACCT. BM

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

AMENDED INDICTMENT FOR  
CONSPIRACY

APR 19 2022

At a Court of General Sessions, convened on  
County present upon their oath:

the Grand Jurors of Greenville

That TOMMY LEE LONG did in Greenville County, on or about the 11th day of May, 2019, willfully and unlawfully combine with Jaylan Fair, Jevonda Dillard, Darius Rhodes, and/or Natasha Booker for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to commit the crime of Burglary, and /or Attempted Armed Robbery. This is in violation of §16-17-0410 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

BAR # 75182

STATE OF SOUTH CAROLINA  
COUNTY OF Greenville  
STATE \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 00160

VS.

Tommy Lee Long

A/W#: 2019A2320602023  
Date of Offense: 5/11/2019  
S.C. Code § 16-03-0910  
CDR Code #: 0095

AKA: \_\_\_\_\_  
Race: BLACK Sex: M Age: 26  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: Bahan Cir  
City, State, Zip: Taylors, SC 29687-2663  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

SENTENCE SHEET

6-30

\*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: Kidnapping (gs)

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

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

The charge is:  As 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:

AS 100158 Defendant PRINGLE, KRAIG 73694  
Landsverk, Courtney Connell SC Bar # Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Correction,  County Detention Center, for a determinate term of 30 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: 7/12/23

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 OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Tommy Lee Long

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: Bahan Cir

City, State, Zip: Taylors, SC 29687-2663

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 00159

A/W#: 2019A2320602022

Date of Offense: 5/11/2019

S.C. Code § 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

0-20

\*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: Robbery, Attempted Armed Robbery

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

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] 103202 SC Bar # Defendant [Signature] PRINGLE, KRAIG 73694 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Correction,  County Detention Center, for a determinate term of 20 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: 7/12/23

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 OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Tommy Lee Long

AKA: \_\_\_\_\_  
Race: BLACK Sex: M Age: 26  
DOB: [REDACTED] SS#: [REDACTED]  
Address: Bahan Cir  
City, State, Zip: Taylors, SC 29687-2663  
DL#: [REDACTED] SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 00149

A/W#: 2019A2320602020  
Date of Offense: 5/11/2019  
S.C. Code § 16-11-0311  
CDR Code #: 0079

SENTENCE SHEET

*is- life*

\*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: Burglary, First Degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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:

\_\_\_\_\_  
Johnson, Seth SC Bar # 103202 Defendant  
\_\_\_\_\_  
PRINGLE, KRAIG SC Bar# 73694  
Attorney for Defendant

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

for a determinate term of 30 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: 7/12/23

- 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 OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Tommy Lee Long

AKA: \_\_\_\_\_  
Race: BLACK Sex: M Age: 26  
DOB: [REDACTED] SS#: [REDACTED]  
Address: Bahan Cir  
City, State, Zip: Taylors, SC 29687-2663  
DL#: [REDACTED] SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 00128

A/W#: 2019A2320602024  
Date of Offense: 5/11/2019  
S.C. Code § 16-03-0600(C)()  
CDR Code #: 3412

SENTENCE SHEET

6-10

\*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: Assault/Assault and Battery in the First Degree

in violation of § 16-03-0600(C)() of the S.C. Code of Laws, bearing CDR Code # 3412

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] 100158 Defendant [Signature] 73694  
Landsverk, Courtney Connell SC Bar # PRINGLE, KRAIG SC Bar#  
Attorney for Defendant

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

for a determinate term of 10 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: 7/12/23

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 OF SOUTH CAROLINA )  
COUNTY OF Greenville )

IN THE COURT OF GENERAL SESSIONS

STATE )

VS. )

INDICTMENT/CASE#: 2020 - GS - 23 - 00125

Tommy Lee Long )

A/W#: 2019A2320602025

AKA: )

Date of Offense: 5/11/2019

Race: BLACK Sex: M Age: 26 )

S.C. Code § 16-17-0410

DOB: [REDACTED] SS#: [REDACTED] )

CDR Code #: 0049

Address: Bahan Cir )

City, State, Zip: Taylors, SC 29687-2663 )

DL#: [REDACTED] SID#: \_\_\_\_\_ )

SENTENCE SHEET

6-5

\*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: Conspiracy, (gs)

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

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]  
Landsverk, Courtney Connell

100158  
SC Bar #

Defendant

[Signature]  
PRINGLE, KRAIG

Attorney for Defendant

73694  
SC Bar#

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

for a determinate term of 5 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: 7/12/23

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.

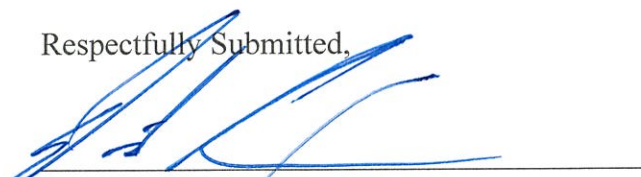
Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

## 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****Jun 10 2024****SC Court of Appeals**

Respectfully Submitted,



David Alexander  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 10th day of June, 2024.

**RECEIVED**  
**Jun 10 2024**  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

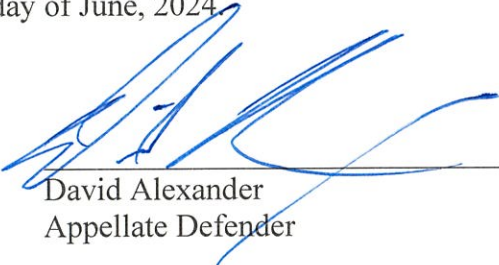
TOMMY L. LONG,

APPELLANT

APPELLATE CASE NO. 2023-001183

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 10th day of June, 2024.

  
\_\_\_\_\_  
David Alexander  
Appellate Defender

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

ATTORNEY FOR APPELLANT

**From:** [Pollard, Shelby](#)  
**To:** [SC - BROWN MELODY; Angela Brown](#)  
**Cc:** [Alexander, David](#)  
**Subject:** 2023-001183 The State v. Tommy L. Long - Record on Appeal - Volume I-II  
**Date:** Monday, June 10, 2024 4:11:00 PM  
**Attachments:** [2023-001183 The State v. Tommy L. Long - Record on Appeal - Volume I.pdf](#)  
[2023-001183 The State v. Tommy L. Long - Record on Appeal - Volume II.pdf](#)

---

Good Afternoon,

Attached for service in the above-referenced case is the Record on Appeal, Volume I-II. This will be filed today, June 10, 2024, with the Court of Appeals via email filing.

Thank you,  
Shelby

**Shelby Pollard**

Administrative Assistant  
South Carolina Commission on Indigent Defense  
Appellate Division  
1330 Lady Street, Suite 401  
PO Box 11589  
Columbia, SC 29201-1589  
(803) 734-1330 – Telephone  
(803) 734-1397 - Fax