

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DILLON COUNTY

Howard P. King, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ISAAH MARCUS BROWN,

APPELLANT

APPELLATE CASE NO. 2012-210406

RECORD ON APPEAL

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ORIGINAL

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF DILLON)

State of South Carolina,)
)
) PLAINTIFF,)
)
) -VS-)
)
) Isiah Marcus Brown,)
)
) DEFENDANT.)
_____)

GUILTY PLEA
2010-GS-17-494
2010-GS-17-616
2010-GS-17-617
2010-GS-17-618

BEFORE THE HONORABLE HOWARD P. KING, JUDGE

AUGUST 8, 2011

DILLON, SOUTH CAROLINA

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

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For the State

William Grove, Esq.
For the Defendant

REMA K. GANTT THOMAS
CIRCUIT COURT REPORTER

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E X H I B I T S

THERE WERE NO EXHIBITS MARKED TO THIS PROCEEDING.

1 (The defendant, together
2 with counsel, was personally present in the
3 courtroom.)

4 THE COURT: All right, Mr. Grove, I
5 believe there has been a change in the defendant's
6 position and that he wishes to change his plea, is
7 that correct?

8 MR. GROVE: That's correct, Your Honor.

9 THE COURT: All right, do you have the
10 sentencing sheets, Mr. Daniel?

11 MR. SHIPP: Yes, sir.

12 THE COURT: Come around, please.

13 All right, Mr. Daniel, tell me what the
14 situation is with regard to the matter. Is the
15 defendant going to plead to all charges or any
16 change in the charges or any lesser charges, or is
17 he going to plead as indicted?

18 MR. SHIPP: Your Honor, Mr. Brown has
19 several other indictments from things that happened
20 at the jail after he was arrested on these charges.
21 He is only pleading to the four charges resulting
22 from the murder, and he is pleading straight-up as
23 indicted.

24 THE COURT: All right. And what about the
25 other charges? Are they going to be still there?

1 MR. SHIPP: They're still going to be
2 there for now. Mr. Grove and I actually haven't
3 even discussed that, because this has been our
4 focus.

5 THE COURT: All right.

6 All right, Mr. Grove, you've heard the
7 Solicitor announce that Mr. Brown now wishes to
8 plead guilty as indicted without negotiations. Is
9 that what you understand the situation to be?

10 MR. GROVE: That's correct, Judge.

11 THE COURT: And you've explained to him
12 the charges contained in the indictments, the
13 possible punishment, his constitutional rights,
14 including his right to a jury trial, is that
15 correct?

16 MR. GROVE: I certainly have.

17 THE COURT: And in your opinion, does he
18 understand those things?

19 MR. GROVE: I believe so, Judge.

20 THE COURT: And he's indicated to you that
21 he wishes to plead guilty?

22 MR. GROVE: Yes, Judge.

23 THE COURT: Do you agree with that
24 decision?

25 MR. GROVE: I do.

1 THE COURT: All right, you're Isiah Marcus
2 Brown. I know that, of course, Mr. Brown, because
3 we've gone through the process of selecting a jury
4 and have the jury ready to go forward with your
5 case. But before I can accept your plea of guilty,
6 I need to ask you a number of questions.

7 If you don't understand the questions or
8 the words I use, you tell me. I'll be glad to
9 explain them to you. You may talk with your lawyer
10 at any time as we go through this process. You
11 understand that?

12 MR. BROWN: Yes, sir.

13 THE COURT: How old are you?

14 MR. BROWN: Eighteen.

15 THE COURT: And how far did you go in
16 school?

17 MR. BROWN: About 11th grade.

18 THE COURT: Have you ever been treated for
19 the abuse of alcohol or drugs or for mental illness?

20 MR. BROWN: No, sir.

21 THE COURT: Have you taken any medication,
22 drugs, or alcohol in the last 24 hours?

23 MR. BROWN: No, sir.

24 THE COURT: Are you today under the
25 influence of any medication, drugs, or alcohol?

1 MR. BROWN: No, sir.

2 THE COURT: Are you today aware of any
3 physical, emotional, or nervous problem that would
4 prevent you from understanding what you're doing
5 here today?

6 MR. BROWN: No, sir.

7 THE COURT: You heard your attorney tell
8 me that he has explained to you the charges against
9 you, the possible punishment, and your
10 constitutional rights and that you understand these
11 things. Is that correct?

12 MR. BROWN: Yes, sir.

13 THE COURT: All right, let's take a look
14 at each one of these indictments and talk about each
15 one individually. First of all, Indictment Number
16 2010-GS-17-494 is an indictment for murder.

17 And it charges that you did in Dillon
18 County on or about March 22, 2010, willfully,
19 feloniously, and intentionally kill Benny Anderson
20 with malice aforethought, and the charge is one of
21 murder. Do you understand that charge?

22 MR. BROWN: Yes, sir.

23 THE COURT: Do you understand that for
24 that offense that you can get from 30 years to life?

25 MR. BROWN: Yes, sir.

1 THE COURT: The next indictment is an
2 indictment for armed robbery and charges that you
3 did also on that same date, March 22, 2010, while
4 armed with a deadly weapon, take and carry away the
5 personal property of Benny Anderson from or in the
6 immediate presence of Benny Anderson, and the charge
7 is one of armed robbery. Do you understand that
8 charge?

9 MR. BROWN: Yes, sir.

10 THE COURT: Do you understand that for
11 that offense, you can from 10 years to 30 years in
12 prison?

13 MR. BROWN: Yes, sir.

14 THE COURT: You understand, of course,
15 that both murder and armed robbery are considered
16 most serious offenses, which means that if you were
17 to get out of prison at some point in time and you
18 were to have another most serious offense that you
19 would be facing mandatory life in prison. You
20 understand that?

21 MR. BROWN: Yes, sir.

22 THE COURT: Also, they are considered
23 violent offenses, and I'm sure Mr. Grove has
24 explained to you what is meant by violent offenses.
25 Is that correct?

1 MR. BROWN: Yes, sir.

2 THE COURT: Also charged with the
3 indictment is the crime of possession of a weapon
4 during the commission of a violent crime, on that
5 same date that you did have in your possession
6 either a knife or a gun, and it was possession of a
7 pistol or possession of a firearm during the
8 commission of a violent crime. Do you understand
9 that?

10 MR. BROWN: Yes, sir.

11 THE COURT: And I haven't looked it up,
12 but my recollection is that that's a five-year
13 offense. Do you agree with that?

14 MR. GROVE: Yes, sir.

15 MR. SHIPP: Yes, Judge. I believe now it
16 has been amended that it can be sentenced
17 concurrently or consecutively. Previously, it was
18 mandatory consecutive. But under the new law --

19 THE COURT: Yes.

20 Do you understand that that crime carries
21 up to five years in prison? You understand that?

22 MR. BROWN: Yes, sir.

23 THE COURT: And, finally, the final
24 indictment is Indictment Number 2010-GS-17-616, and
25 it charges that you, along with another, did engage

1 in a criminal conspiracy to commit a violent crime,
2 that is, the crime of armed robbery. And that is a
3 charge of conspiracy for which you could get up to
4 five years in prison. You understand that?

5 MR. BROWN: Yes, sir.

6 THE COURT: All right, now, Mr. Brown,
7 when you plead guilty, you give up important
8 constitutional rights. You give up your right to
9 remain silent, that is, your right against self-
10 incrimination, your right to say nothing at all.

11 You cannot be compelled to testify and
12 provide evidence against yourself. You give up your
13 right to have a jury trial, that is, your right to
14 have a jury decide whether or not you're guilty
15 beyond a reasonable doubt.

16 The jury would base their decision upon
17 evidence which the State presents and on any
18 evidence which you might wish to introduce. In a
19 trial, you would be presumed innocent, and the State
20 would have to produce evidence that would convince
21 all 12 members of the jury of your guilt beyond a
22 reasonable doubt.

23 Third, you give up your right to confront
24 the witnesses against you, that is, the right to
25 require the witnesses against you to come into court

1 and testify, have your lawyer cross-examine those
2 witnesses, and the right to subpoena and call
3 witnesses on your own behalf. You understand those
4 constitutional rights?

5 MR. BROWN: Yes, sir.

6 THE COURT: Do you understand that when
7 you plead guilty, you waive or give up those
8 constitutional rights and there will not be a jury
9 trial?

10 MR. BROWN: Yes, sir.

11 THE COURT: Understanding, then, the
12 nature of the charges against you as I have outlined
13 them to you and the consequences of a guilty plea,
14 how do you wish to plead to these charges, guilty or
15 not guilty?

16 MR. BROWN: Guilty.

17 THE COURT: Do you understand that when
18 you plead guilty, you are admitting the truth of the
19 charges against you?

20 MR. BROWN: Yes, sir.

21 THE COURT: Now, you may have defenses to
22 these charges. I don't know whether you do or not.
23 Do you understand that if you plead guilty, you
24 waive or give up any defenses that you may have to
25 these charges?

1 MR. BROWN: Yes, sir.

2 THE COURT: You also may have given an
3 incriminating statement in this case. Again, I
4 don't know whether you have or not. But do you
5 understand that when you plead guilty, you waive or
6 give up your right to contest or challenge whether
7 or not that statement was freely and voluntarily
8 given in accordance with your constitutional rights?

9 MR. BROWN: Yes, sir.

10 THE COURT: Now, in your case, the jury
11 has already been selected. We have got them coming
12 back tomorrow if we need them. Do you understand
13 that if you plead guilty that that jury will be
14 excused and will not take any part in the decision
15 in this case?

16 MR. BROWN: Yes, sir.

17 THE COURT: But that they are here and can
18 hear the evidence in this case and make a decision,
19 if that's what you want. You understand that?

20 MR. BROWN: Yes, sir.

21 THE COURT: And you are waiving your right
22 to a jury trial, is that correct?

23 MR. BROWN: I'm pleading guilty, sir.

24 THE COURT: Sir?

25 MR. BROWN: I'm pleading guilty, sir.

1 THE COURT: Okay, all right. And the
2 State has advised me that there are no plea
3 negotiations in this matter. Has anyone promised
4 you anything or held out any hope of reward to get
5 you to plead guilty?

6 MR. BROWN: No, sir.

7 THE COURT: Has anyone threatened you or
8 used force to get you to plead guilty?

9 MR. BROWN: No, sir.

10 THE COURT: Has anyone used any pressure
11 or intimidation to cause you to plead guilty?

12 MR. BROWN: No, sir.

13 THE COURT: Have you had enough time to
14 make up your mind as to whether or not you wanted to
15 plead guilty?

16 MR. BROWN: Yes, sir.

17 THE COURT: And are you pleading guilty of
18 your own free will and accord?

19 MR. BROWN: Yes, sir.

20 THE COURT: You're represented in this
21 case by Mr. Grove. Are you satisfied with the
22 manner in which Mr. Grove has advised and
23 represented you?

24 MR. BROWN: Yes, sir.

25 THE COURT: Have you talked with him for

1 as often and as long as you feel necessary for him
2 to properly represent you?

3 MR. BROWN: Yes, sir.

4 THE COURT: Do you need any more time to
5 talk with Mr. Grove?

6 MR. BROWN: No, sir.

7 THE COURT: Have you understood your talks
8 with him?

9 MR. BROWN: Yes, sir.

10 THE COURT: Has he done everything for you
11 that you feel he could have or should have done on
12 your behalf?

13 MR. BROWN: Yes, sir.

14 THE COURT: Has he done anything you feel
15 he should not have done?

16 MR. BROWN: No, sir.

17 THE COURT: Is that a "no"?

18 MR. BROWN: Yes, sir.

19 THE COURT: Let me ask you that question
20 again. Has he done anything you feel he should not
21 have done?

22 MR. BROWN: No, sir.

23 THE COURT: Okay. And you're completely
24 satisfied with his services?

25 MR. BROWN: Yes, sir.

1 THE COURT: Do you have any complaint that
2 you want to make about your lawyer, the Solicitor,
3 or any of the police officers?

4 MR. BROWN: No, sir.

5 THE COURT: Have you understood my
6 questions?

7 MR. BROWN: Yes, sir.

8 THE COURT: Have your answers to me been
9 truthful?

10 MR. BROWN: Yes, sir.

11 THE COURT: Is there anything you would
12 like to ask me about what we've been over?

13 MR. BROWN: No, sir.

14 THE COURT: And do you understand that you
15 have the right to appeal the guilty plea and
16 sentence of the Court and that you must do so within
17 10 days?

18 MR. BROWN: Yes, sir.

19 THE COURT: All right, Mr. Solicitor, you
20 want to give me the facts or background, please?

21 MR. SHIPP: Thank you, Your Honor, may it
22 please the Court. And, Your Honor, I'd ask for some
23 patience. This is going to take a minute.

24 It's important that the Court understand
25 the full realm of what took place here. And please

1 keep in mind, Judge, as I'm telling you what
2 happened, the facts as we understand them came from
3 this defendant and one other defendant and by way of
4 their statements.

5 On the evening of March 22, 2010, Isiah
6 Brown, Matthew Cade, and Mikal Bethea conspired to
7 rob a drug dealer at Dover Village Apartments. It
8 is our belief that Isiah Brown provided the gun that
9 was to be used in that armed robbery and was
10 subsequently used in the murder.

11 The three young men go to Dover Village
12 Apartments. They know what apartment they're going
13 to. This guy's a drug dealer that at least one of
14 them had had some dealings with in the past.

15 The plan was for Matthew Cade to knock on
16 the door. The drug dealer knew him best of the
17 three. Isiah Brown and Mikal Bethea were around the
18 corner. The plan was for them to barge in whenever
19 the drug dealer opened the door.

20 At this point, it is our belief that Isiah
21 Brown had the gun. The drug dealer never came to
22 the door when the door was knocked on, so that plan
23 fell through. At that point, Benny Anderson, Jr., a
24 victim in this murder case who was known as BJ to
25 his family and friends, pulled up in a fairly nice

1 car with rims on it.

2 He was coming to Dover Village Apartments.
3 to see a friend of his, Elise Wheeler, who was is
4 known as Lisa. The car backed into one of the
5 parking spaces there at the apartment complex. Lisa
6 came down, sat in the passenger seat, and they were
7 talking.

8 They sat there for 15 or 20 minutes
9 talking, BJ and Lisa. At some point when they were
10 pulling in or shortly after BJ had pulled his car
11 into the apartment complex, we believe Mikal Bethea
12 said -- we believe Mikal, who, again, is one of the
13 defendants here, said, "Well, let's go hit that guy
14 and run his pockets, see what he's got."

15 That plan was hatched. All three --
16 according to the statements, all three agreed that
17 they would rob BJ. The statements tell us that at
18 that time, after they figured out that the doors
19 were unlocked because someone else had approached
20 the car to say hello to somebody and they opened the
21 door, Mikal took the gun from Isiah.

22 Mikal and Isiah approach -- I'm sorry,
23 Mikal approaches the driver's side door. Matthew
24 Cade, the plan was for him to go to the driver's
25 side also, but he didn't. He just kind of stayed

1 back behind the car a little ways.

2 Isiah Brown went to the passenger's side
3 to make sure she couldn't get out of the car. At
4 that point, the door was opened. Mikal pointed the
5 gun at BJ. He ran his pockets. He took five
6 dollars from him. He then asked for his wallet.

7 BJ gave up the wallet. They looked
8 through the wallet and didn't find anything in it,
9 so they threw it down in the parking lot, at which
10 time Mikal told BJ to get out of the car. BJ said,
11 "I don't have any reason to get out of the car. I'm
12 not getting out of the car."

13 And it was at that time that Mikal fired
14 two shots, hitting BJ. Both shots ultimately caused
15 his death a little while later at the hospital. The
16 three boys then run away. They shake hands, say
17 "See you tomorrow," and they separate.

18 They were all three arrested the next day
19 without incident, and I will tell you that now is a
20 good time to say that James Hayes with the Dillon
21 Police Department, he was the investigating officer
22 on the case.

23 The police department, the Sheriff's
24 Department, and SLED all contributed to this
25 investigation, and they all did a fine job. It's

1 unfortunate, of course, that they had to conduct
2 such an investigation, but they did their duty and
3 they did it well.

4 The investigation continued. Obviously,
5 the gun was a target of their investigation. A
6 juvenile named Shaquille Crowley was incarcerated at
7 DJJ for some totally unrelated crimes here in Dillon
8 County. Mr. Crowley was here about 10 days after
9 this happened.

10 He was being interviewed on these other
11 crimes, and he said, "I know something about Isiah
12 Brown's case." Isiah Brown at the time was a
13 juvenile. So, of course, he was being held at DJJ
14 in Columbia and had run into Mr. Crowley.

15 Mr. Crowley wrote a statement saying that
16 Isiah Brown had hidden the gun used in this murder
17 in the attic of his grandmother's house. Also
18 throughout the course of the investigation, I
19 actually received two letters from inmates at the
20 jail, one letter per inmate.

21 And these letters said that Isiah Brown
22 confessed to actually pulling the trigger in the
23 case. And both of these letters gave exquisite
24 detail, and this is stuff that had I chosen to call
25 them, this would have come out at trial.

1 They gave very detailed information as to
2 the crime, where it happened, what color the car
3 was. They actually said that Isiah told them that
4 he had wiped the gun down for prints with a green
5 bandanna, wrapped the gun in that green bandanna.
6 He said that he put the bullets -- the left-over
7 bullets -- in a stocking cap and wrapped those up,
8 and they were in the attic of the house.

9 Well, law enforcement took that
10 information, got a search warrant for the house,
11 found the gun in the attic wrapped in a green
12 bandanna, just like we were told it was going to be.
13 And the bullets were wrapped in a stocking cap, just
14 like we were told it was going to be.

15 I will say that Mr. Brown did give a
16 statement initially to the police wherein he was, I
17 believe, mostly truthful with what had happened. He
18 then contacted law enforcement, asked them to go to
19 Columbia to give another statement, and he did that.

20 At that time, that was a video statement
21 that lasted about 56 minutes. He was mostly honest
22 in that interview. He was not honest about the
23 whereabouts of the gun. At this point, law
24 enforcement already had the gun.

25 He didn't know that, but law enforcement

1 already had the gun. He still denied knowing
2 anything about the gun, denied bringing it, denied
3 knowledge of its whereabouts.

4 During that interview, he gave some
5 information pertaining to the gang that he's in. He
6 talked about some ranking things. He talked about
7 how they wore bandannas. He talked about the colors
8 of the bandannas, what they mean.

9 He went into some detail about those
10 things. Your Honor, it is important that I say here
11 that this victim, Benny Anderson, Jr., was 19 years
12 old. He had never been in any trouble. He had
13 graduated from Mullins High School, wasn't even from
14 here, didn't know anybody here.

15 Well, he knew a few people, but he didn't
16 hang out here. He was about to start with the
17 Marines, and obviously his life was significantly
18 cut short. And, Your Honor, I don't need to tell
19 you how serious this is.

20 The State was prepared to proceed in this
21 case under the accomplice liability hand of one
22 theories. And obviously we believe we would have
23 been successful. The reason that there is no offer
24 in this case is simple.

25 This is a murder case that doesn't deserve

1 an offer. How do you put a number on -- how do you
2 put a number of years for punishment on somebody's
3 life? Who's to say, had Isiah Brown not brought
4 this gun, not introduced this gun to these three,
5 maybe we wouldn't be standing here today?

6 We don't know. What we do know is that we
7 have a victim who is no longer with us, and we have
8 a victim's family who is with us, and they've got to
9 deal with this. With me today is Benny Anderson,
10 Sr., BJ's father; his sister, Marqueta; and his
11 mother, Delores. And they would like to be heard at
12 the appropriate time.

13 THE COURT: All right, sir.

14 Give me just a minute. Let me take care
15 of a couple of matters, and I'll get right back with
16 you, okay?

17 All right, the Court finds that there is a
18 substantial factual basis for the pleas in all four
19 cases, that is, in the murder, the armed robbery,
20 the conspiracy, and the possession of a weapon
21 during the commission of a violent crime.

22 I find that the defendant has freely,
23 voluntarily, knowingly, and intelligently entered
24 into these pleas, that he has been advised by
25 counsel with whom he says he is satisfied, and the

1 Court will accept the pleas.

2 Now let me address the victims just a
3 minute. I want to tell you, first of all, that
4 there is nothing that the Court can really do today
5 that will make your loss any easier. I do hope that
6 these proceedings today will bring some closure to
7 the matter for you.

8 I will also tell you that as the family of
9 the victim in this case, you have the right, of
10 course, to be kept advised of everything that's
11 going on under the Victim's Rights Act. And I'm
12 sure the Solicitor's Office has kept you advised of
13 what's going on with this matter.

14 You also have the right to be present
15 whenever there's anything in court that deals with
16 this matter, and you have the right to address the
17 Court. So I will be glad to hear from you. And if
18 there's anything that you would like to tell you, if
19 you'll just your name to your Court Reporter, I'll
20 be glad to hear from you, all right.

21 MS. ANDERSON: My name is Delores
22 Anderson. I'm the mother of Benny Anderson. And I
23 just wanted to say that I miss my son so much. It's
24 been hard, and it's still hard. It's been over a
25 year, and it's still hard.

1 But I just want to say that I just hope
2 justice is done so I can have some closure for my
3 son. I go every day just about to the graveyard
4 just to talk to him. It's so hard. But I just -- I
5 just want some good, because nobody has to go
6 through something like this.

7 It's so hard for everybody, anybody. My
8 family, it's hard for them, too. My family was
9 here, but they left because they didn't think they
10 was going to get to it today. But I just want some
11 justice, that's all.

12 THE COURT: Okay, thank you.

13 Yes, sir?

14 MR. ANDERSON: My name is Benny Anderson
15 the first. I sadly miss my son. I'm sorry that he
16 had to die over four or five dollars. He had a
17 bright future ahead of him. It was snatched from up
18 under him for no reason at all. I am just looking
19 for justice.

20 THE COURT: Okay, thank you, sir.

21 MR. SHIPP: That's it.

22 THE COURT: All right, thank you two for
23 being here. And as I told you, I certainly
24 empathize with your loss. And I do hope that these
25 proceedings will bring some closure to this matter

1 for you and you will be able to go forward.

2 Mr. Grove?

3 MR. GROVE: Thank you, Judge. I believe
4 the reason we went through the process of drawing a
5 jury today was largely in part because Isiah and I
6 for the past while have wrestled with the idea of
7 accomplice liability.

8 We were -- I certainly understand the
9 State's position with this plea, Judge. We were
10 hopeful for anything else. But things being as they
11 are, and the facts of the case being such, and the
12 law, especially the hand of one, hand of all
13 covering as much ground as it does, we weren't left
14 with many good options, none in fact, this
15 essentially being the lesser of two evils.

16 And before I get too far into it, don't
17 misinterpret anything that I say to undermine the
18 seriousness of the situation or the loss that I'm
19 sure the victim's family is feeling and continues to
20 feel. But hopefully a little perspective into
21 Isiah's life can be considered as well.

22 He is 18, as you heard, hasn't had much of
23 a childhood really. And he understands that largely
24 in part he has himself and his friends to blame for
25 that. He's been continuously incarcerated since

1 March 23, 2010.

2 He spent his 17th and 18th birthdays
3 there. He actually outgrew the clothes that he was
4 going to wear today while he sat in jail, because
5 he's young enough that he is enough continuing to
6 grow.

7 I think he and I have, as I said,
8 struggled with the idea that he was not the ultimate
9 perpetrator but is facing the exact same scenario as
10 the ultimate perpetrator. He essentially, Judge,
11 like I said, wishes that things weren't exactly as
12 they are but understands that, given his two
13 options, this is the better of the two.

14 His mother is here, as well as three of
15 his sisters, Pam, Alicia -- Amelia -- and Alice,
16 sorry. He has other family members who weren't able
17 to be here today. I have -- I would enjoy it more
18 if the outcome were different, but I have enjoyed
19 representing him.

20 He always has a smile on his face. He
21 always seems to be in a good mood despite always a
22 serious situation that we're dealing with. He's
23 very young, Judge, and I'm sure that if he had one
24 decision in his life to ever take back, it would be
25 anything that had to do with March 22, 2010.

1 I think that is pleading today, looking
2 for some element of mercy, some element of
3 compassion, some element of leniency, especially
4 considering the mandatory minimum carried on the
5 murder charge for which he is also entering a plea
6 today.

7 I don't routinely find myself at a loss
8 for words, but I am today.. His mother or his
9 sisters may like to address the Court at the
10 appropriate time.

11 THE COURT: Yes, ma'am. Give me your
12 name.

13 MS. BROWN: My name is Mary Brown, and I'd
14 like to say one thing. I live by God. If you can
15 find it in your heart to forgive Isiah. Isiah knows
16 a mother don't appreciate -- I just lost my mother
17 six years ago. It hurts.

18 It's not a tragedy like y'all's, but it's
19 a hurt. Anytime you take something away -- a
20 anything with my son. If I was an angel, I would
21 put breath back into your son. If I could have went
22 to the graveyard, I would have put a -- from the
23 graveyard.

24 If I was Moses and had a staff, I would
25 part the Red Sea, and none of this would never

1 happen. If y'all can find forgiveness in your heart
2 to do. Isiah -- he is suffering now because he did
3 it, and I can understand. Thank you.

4 MS. BROWN: I would like to say something.

5 THE COURT: Give her your name, please.

6 MS. BROWN: My name is Amelia Brown.

7 Isiah is my brother. I love him. And when it comes
8 down to life and death as far as them losing their
9 son, you know, we still have our brother.

10 What I see is that generations and
11 legacies is still being cut off. You can't change
12 it, can't even apologize for something like that.
13 But just, you know, hopefully -- as far as like for
14 the other boys and, you know -- and everything.

15 But all I say is generations and legacies
16 is still being cut off. They have so much purpose,
17 so much potential, and they're blind to see and
18 realize what they've got in them. They have so much
19 potential.

20 Just like he said that his son had a
21 bright future, I feel my brother had one, too.
22 Throughout the choices and decisions and stuff that
23 they made, we can't change that. We can't. But the
24 only thing I can say to Isiah is encourage him and,
25 you know, that God will have mercy on him and the

1 Court will have mercy on him.

2 And I just continue to pray for that
3 family, their strength, because they hurt too, and
4 we're hurting too and the fact that this happened.
5 We really do from the depths of our soul, we hate
6 this because it should have been the other way
7 around. Something should have been changed.

8 Somebody could have had a better choice
9 and decision when it come down to their young life,
10 college and all this stuff. But I just pray for
11 them that even down to the next generation as far as
12 legacy and everything. All I see is just
13 generations and legacies is just being cut off.

14 THE COURT: Thank you. Anyone else?

15 MR. GROVE: Before we move on, Judge, I do
16 know that Isiah would like to address the Court at
17 the appropriate time. We're asking for the minimum.

18 THE COURT: All right, Mr. Brown, what
19 would you like to tell me?

20 MR. BROWN: I'm sorry for what happened.
21 And if I could go back, I'd rather me die than him.
22 I ain't knew he was going to kill him.

23 THE COURT: Let me ask you something, Mr.
24 Brown. Were you in a gang?

25 MR. BROWN: Yes, sir.

1 THE COURT: Why did you feel like it was
2 necessary for you to be in a gang?

3 MR. BROWN: Just running with the crowd,
4 sir.

5 THE COURT: Anything else, Mr. Grove?

6 MR. GROVE: Certainly nothing short of
7 senseless, Judge. I don't -- as you heard from
8 Isiah, I don't think that there was anything
9 heinous. Certainly a terrible situation and
10 needless without thought.

11 His age, his family background, the
12 seriousness of the charges and those other reasons
13 that I've already mentioned is why, again, we're
14 requesting the minimum of 30 years.

15 THE COURT: All right. Anything else from
16 the State, Mr. Daniel?

17 MR. SHIPP: Nothing, Your Honor.

18 THE COURT: Those that know me have heard
19 me say this before. But I said it when I first got
20 this job almost 16 years ago. My colleagues told me
21 that the most difficult thing that we would have to
22 do would be criminal sentencing.

23 Nothing in the past 16 years has changed
24 that view. I agree that this is the most difficult
25 thing that we have to do. And it's something that I

1 have never over 15, 16 years gotten comfortable
2 with, and I hope that I never get comfortable with
3 it because I think that if you get comfortable with
4 it, it means that you are not taking it seriously or
5 you don't care.

6 And that's not the case at all. But we
7 judges have no crystal ball. We can't see the
8 future. All we can do is listen to the facts as we
9 have heard them, and try to apply the law as we know
10 it, and use our experience and impose a sentence
11 that we think is correct under the circumstances.

12 Sometimes it doesn't satisfy anyone.
13 Rarely does it satisfy everyone. But it is
14 something that we have to do as a part of our job,
15 and it is not something that I take lightly.

16 SENTENCE OF THE COURT

17 I think that the defendant in this case is
18 entitled to some consideration because he is
19 pleading guilty to the crimes, and accepting
20 responsibility, and obviously is remorseful.

21 But the other side of the coin in this
22 case is that the minimum sentence might have been
23 appropriate if the individual who had been killed as
24 a result of this incident had been the drug dealer
25 who was involved in criminal activity and whom they

1 went to rob in the first place.

2 But that's not the case here. Here we
3 have a young man slightly older than this young man
4 but still a very young man who was completely
5 innocent, minding his own business, a completely
6 senseless killing.

7 I've also said this many times, that these
8 street guns are of great concern to me. If it
9 wasn't for the people out there on the street with
10 these guns that they picked up from somebody for
11 \$20, a lot of these instances wouldn't occur, or, if
12 they did, they would be a lot less serious.

13 But when they've got that street gun
14 involved, somebody gets killed, as happened in this
15 situation. And unfortunately it was apparently an
16 innocent, fine young man. I'm also troubled by the
17 fact that as the defendant in this case has admitted
18 to being a member of a gang and that gangs advocate
19 violence.

20 Having said that, I am going to impose a
21 sentence to give him some consideration for the fact
22 that he did plead guilty and he's accepted
23 responsibility and apologized for it. But at the
24 same time, I've got to take into consideration the
25 surrounding circumstances, as I say, the killing of

1 a young man who was minding his own business, unlike
2 the drug dealer that they had gone to deal with and
3 like the fact that they were there with a gun that
4 wouldn't have resulted in a killing had that street
5 gun not been present.

6 I'm going to take these in reverse order
7 just because it's the easiest way to do it. But the
8 sentence on the conspiracy is five years to run
9 concurrent with the murder conviction. The sentence
10 on the possession of a weapon during the commission
11 of a crime is five years concurrent with the murder
12 conviction.

13 And the sentence on the armed robbery is
14 30 years concurrent with the murder conviction.
15 However, the sentence of the Court with regard to
16 the murder, taking everything into consideration on
17 both sides, including the defendant's admitting his
18 guilt and pleading guilty to the crime but also
19 taking into consideration that the victim was
20 innocent and was not involved in any kind of a crime
21 -- the sentence of the Court is that the defendant
22 is committed to the State Department of Corrections
23 for a term of 45 years to run concurrent all with
24 the other sentences.

25 MR. SHIPP: Thank you, Your Honor.

1 THE COURT: All right, the hearing is
2 concluded.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

COURT REPORTER'S CERTIFICATION

I, REMA K. GANTT, OFFICIAL COURT REPORTER, AND NOTARY PUBLIC IN AND FOR 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 ABOVE-CAPTIONED CASE ON AUGUST 8, 2011, IN DILLON, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL AT LEXINGTON, SOUTH CAROLINA, THIS THE NINTH DAY OF NOVEMBER, 2012.



REMA K. GANTT THOMAS
OFFICIAL COURT REPORTER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 11/21/2013

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State of South Carolina
County of Dillon

Court of General Sessions

State)
)
)
 v.)
)
 Isaiah Brown)
)
)
 Defendant.)

Transcript of Record
10-GS-17-494

March 7, 2012
Dillon, South Carolina

B E F O R E:

The Honorable Howard P. King, Judge.

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

W. Shipp Daniel, III, Assist. Solicitor
Attorney for the State

William E. Grove, Assist. Public Defender
Attorney for the Defendant

Stacy L. Sheppard, RPR
Circuit Court Reporter

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I N D E X

WITNESSESDIRECTCROSSREDIRECTRECROSS

(There were no witnesses.)

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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1 (The following proceedings were held on
2 March 7, 2012.)

3 **THE COURT:** All right. Mr. Daniel, what's the
4 matter before the Court?

5 **MR. DANIEL:** Thank you, Your Honor. May it
6 please the Court. Before you is Isaiah Brown on
7 murder indictment 2010-GS-17-494. Your Honor, on
8 August the 8th, 2011, this Court sentenced Mr. Brown
9 to 45 years on murder, 30 years on armed robbery,
10 five years on possession of a weapon during the
11 commission of a violent crime and five years on
12 conspiracy as the result --

13 **THE COURT:** Concurrent?

14 **MR. DANIEL:** Yes, sir, concurrent. As a result
15 of a valid plea.

16 This is before you today on the defense motion
17 to reconsider that sentence, that, I believe, was
18 timely filed.

19 **THE COURT:** All right. The plea was entered on
20 August the 8th of 2011?

21 **MR. DANIEL:** Yes, sir, that's what my records
22 show.

23 **THE COURT:** All right. And, Mr. Grove, you
24 represent the defendant and represented him at the
25 plea as well?

1 **MR. GROVE:** I did, Judge.

2 **THE COURT:** Okay. And it's your motion for a
3 reconsideration of the sentence?

4 **MR. GROVE:** It is.

5 **THE COURT:** All right. Go ahead.

6 **MR. GROVE:** Judge, essentially, it's a motion
7 to reconsider not based on any law that I'm aware
8 of, not based on any case or statute. It's a motion
9 to reconsider based on equity, based on fairness and
10 based on circumstances that were present at the time
11 and circumstances that have arisen subsequent to
12 Isaiah's plea.

13 There were three defendants total charged in
14 this case. I don't think that there was any
15 evidence that suggested that at the time the
16 incident occurred that Isaiah Brown was the shooter.
17 I think that all of the evidence suggested that
18 Mikal Bethea was the actual shooter involved in this
19 case. Isaiah Brown and the other co-defendant,
20 whose name currently escapes me --

21 **THE COURT:** Refresh my memory as to the facts
22 and circumstances surrounding this homicide.

23 **MR. GROVE:** As the Solicitor presented them
24 back in August, Judge, the trial, the Solicitor's
25 case would have presented three co-defendants

1 conspiring to conduct an armed robbery on a local
2 drug dealer. Upon arrival to that particular
3 location, the gentleman was not home. And then
4 following that unsuccessful attempt, they -- the
5 victim in the case arrived at the apartment complex,
6 an attempt to perform an armed robbery on that
7 person would have been shown by the Solicitor's
8 office.

9 I believe that the evidence would have
10 suggested at the very least, if not proven, that
11 Mikal Bethea was holding the gun at the time and
12 Mikal Bethea fired the fatal shot. However, the
13 three gentlemen, would have been shown by the State,
14 to have all three been involved at the time. And
15 the State would have obviously shown that subsequent
16 to the armed robbery and subsequent to a shoot -- I
17 believe one shot, that the victim did die later on
18 that evening or the very next morning.

19 **THE COURT:** All right. I recall some of it
20 now. It's coming back to me. And I'm going to ask
21 Mr. Daniel if he wants to supplement the facts.

22 But as I recall what happened was that three
23 individuals went to an apartment complex to buy
24 drugs or steal from the drug dealer, one or the
25 other, or some way involved in a drug transaction.

1 The individual was not home and so then they
2 attempted to rob the victim who was sitting in a
3 car, if I recall. Is that correct, Mr. Daniel?

4 **MR. DANIEL:** Yes, sir. Benny Anderson, Jr.,
5 the victim, was -- had just gotten off work and had
6 came to see his girlfriend and they were sitting in
7 his car in the parking lot.

8 **THE COURT:** Minding their own business and --

9 **MR. DANIEL:** Minding their own business.

10 **THE COURT:** -- completely innocent.

11 **MR. DANIEL:** Completely innocent. The victim
12 in this case is from Mullins and had finished high
13 school, was going in the Marines, had never -- had
14 no prior record, didn't even know these guys.

15 **THE COURT:** Okay. A fairly young man if I
16 recall.

17 **MR. DANIEL:** Yes, sir. He was 19 at the time
18 of the shooting.

19 **THE COURT:** With his girlfriend, was getting
20 ready to go in the Marine Corps and just -- and they
21 attempted to rob him and --

22 **MR. DANIEL:** Got his wallet and then the victim
23 was shot twice.

24 **THE COURT:** Okay. So after the robbery, I mean
25 there's -- the robbery was successful and he was

1 still shot.

2 **MR. DANIEL:** Correct.

3 **THE COURT:** All right. That's kind of the fact
4 scenario that I just wanted to get back in my mind
5 because I couldn't remember exactly what happened.

6 All right. Go ahead, Mr. Grove.

7 **MR. GROVE:** Sure, Judge. And large in part,
8 the evidence presented by the State would have been
9 by Isaiah's own statement. I think -- in the file,
10 there was one individual near the scene who said
11 they saw someone who they thought looked like Isaiah
12 Brown, that led to his arrest.

13 I think he also had -- at the time, he's
14 obviously a young man. At the time, I think he had
15 a pending juvenile trespass or something like that
16 that he was actually picked up on, then he was
17 questioned about this incident. And it was his
18 information that led to, essentially, almost the
19 entire discovery in the case.

20 **THE COURT:** What would the defenses's -- I
21 mean, the State's proof of the defendant's
22 involvement have been if you'd gone to trial? I
23 mean, how did you have him linked to it?

24 **MR. DANIEL:** This defendant?

25 **THE COURT:** Yes.

1 **MR. DANIEL:** Would have been through his own
2 statements and the statement of one of the other
3 co-defendants.

4 **THE COURT:** Who was cooperating.

5 **MR. DANIEL:** Who had cooperated from day one.

6 **THE COURT:** All right.

7 **MR. GROVE:** But, essentially, Judge, I believe
8 Isaiah was the first arrested, first to make a
9 statement and handed the State their case on a
10 silver platter in a terrible incident, but following
11 the incident, did everything he could to make sure
12 that the truth came out and to make sure that,
13 essentially, that the case -- I don't think that
14 there needed to be an in-depth investigation. There
15 wasn't a manhunt or a tracking anyone down
16 situation. Isaiah's statement and the statement of
17 his co-defendant suggested that Mikal Bethea was the
18 shooter. Mikal Bethea didn't make any statements.

19 And, Judge, as recently as November, I believe,
20 I'm not sure when Mikal Bethea's partial trial
21 began, it was following Isaiah Brown's plea, but it
22 has been a couple of months since Mikal Bethea's
23 case was disposed of, there were issues with
24 witnesses coming forward. The State was kind of
25 caught between a rock and a hard place. And

1 Mr. Bethea pled. I don't remember what the charge
2 was, I wasn't present for that hearing, but he
3 received a sentence of 15 years.

4 The third co-defendant, who, as you heard
5 Mr. Daniel say, had provided substantial cooperation
6 as well, received a sentence of seven or seven and a
7 half years I believe. And, again, I don't know what
8 the charge was. My presumption is voluntary
9 manslaughter or accessory after the fact, something
10 to that effect. I don't know. That's not
11 necessarily relevant for Your Honor's consideration.

12 What is relevant, Judge, is essentially we have
13 what I would consider a nonshooting, less culpable
14 co-defendant charged under the hand of one, the hand
15 of all who's going to, if things remain as they are,
16 serve more than three times the sentence imposed on
17 the person who we would have suggested and very
18 likely the State would have suggested with a
19 successful trial against Mikal Bethea, that Mikal
20 Bethea was the shooter. Mikal Bethea is going to
21 serve somewhere in the range of 85 to 95 percent of
22 a 15-year sentence whereas Isaiah Brown as of today
23 is serving day-for-day on a 45-year sentence, Judge.

24 I pray that the Court consider reducing his
25 sentence to the mandatory minimum of 30 years. That

1 is still an overwhelming amount of time, Judge.
2 That is a day-for-day 100 percent sentence and it
3 will exceed twofold who we would suggest the shooter
4 was in the actual case, the actual culpable party or
5 the more culpable party as it were. And, again,
6 Judge, this isn't based in law, this isn't based in
7 statute, this is based in equity.

8 **THE COURT:** All right. Thank you.

9 Let me -- I'm looking at the documents from the
10 file. They've been handed to me by the Clerk's
11 office. And I see a letter from you, Mr. Grove,
12 dated August the 17th to Ms. Hyatt with a copy to
13 Mr. Daniel for a motion to withdraw the guilty plea,
14 but I don't see a motion for a reconsideration to
15 the sentence.

16 **MR. GROVE:** I apologize, Judge. The same form
17 would apply then for a motion to withdraw the plea.

18 **THE COURT:** All right. So is the motion before
19 me to withdraw or --

20 **MR. GROVE:** Judge --

21 **THE COURT:** -- I guess that's what I'm trying
22 to determine is what's actually before the Court for
23 consideration.

24 **MR. GROVE:** Clearly, my memory is failing me,
25 Judge, or circumstances were different at the time

1 of the filing of the motion. At this time, I would
2 retain everything that I presented to the Court on a
3 motion now to withdraw the plea and I'd also request
4 that the Court consider an untimely motion to
5 reconsider the sentence.

6 **THE COURT:** All right. I understand your
7 position as far as the matter of the motion on the
8 reconsideration as it not being anything from a
9 legal standpoint. It was within the range allowed
10 by the statute. It is primarily based upon an
11 equitable argument with regard to the sentences that
12 were received by the co-defendant for at least the
13 same or more involvement than this defendant.

14 **MR. GROVE:** That's correct, Judge. And I'd be
15 remiss if I didn't give Isaiah's family an
16 opportunity to address Your Honor if you deem it
17 appropriate.

18 **THE COURT:** Yeah, I'll be glad to hear from
19 them.

20 **MR. GROVE:** His mother Mary Brown is here. She
21 may like to address the Court.

22 **THE COURT:** Yes, Mrs. Brown.

23 **MRS. BROWN:** Well, Your Honor, in fairness, I
24 like to do what's right, you know. I live by the
25 Bible. My mama taught me to live by the Bible. She

1 was an Evangelist. And I'm hoping and praying for a
2 miracle today, as well as the people -- I can
3 understand her feelings too and mine's. Nothing
4 more I can say. I can't bear no more pain. I try
5 to carry this burden if it don't kill me.

6 **THE COURT:** Okay. Thank you.

7 Anyone else, Mr. Grove?

8 **MR. GROVE:** No, Judge, that will be it.

9 **THE COURT:** All right. Mr. Daniel, I'll be
10 glad to hear from the State.

11 **MR. DANIEL:** Well, Judge, first of all, I don't
12 know why we're here. I mean, I don't know what
13 motion I'm arguing against if it's to withdraw the
14 plea or reconsider the sentence.

15 **THE COURT:** Actually, it's both I guess. He's
16 got a written -- have a written motion for
17 withdrawal that needs to be addressed and needs to
18 be taken care of and then he's also made a motion
19 for a reconsideration. So, I guess, he's got both.

20 **MR. DANIEL:** Well, as to the withdrawal, I
21 would say, Your Honor, the defendants aren't allowed
22 to plead guilty, not like the sentence, not be happy
23 with what they get, see what the co-defendants get
24 and then say, oh, well, I want to withdraw my
25 completely valid plea. I think that I don't need to

1 spend anymore time arguing that one.

2 As to the untimely now motion to reconsider, I
3 would say that, first of all, Mr. Grove is to be
4 commended for standing up here at all with Mr. Brown
5 given the way -- what unfolded right after the
6 sentencing before. Mr. Grove is a good man.

7 Secondly, I would say that the facts of this
8 case weren't presented to you in their entirety.
9 The State would have pursued and did pursue all
10 three defendants under a theory of hand of one is
11 the hand of all and accomplice liability when it
12 comes to the murder. The gun in question here it
13 was said by the other defendant that did cooperate
14 that that was Isaiah's gun. The gun was found in
15 Isaiah's grandmother's home where he had hidden it
16 in the roof or in the attic area.

17 **THE COURT:** After the murder?

18 **MR. DANIEL:** After the murder. And Mr. Brown
19 was never honest about that even after law
20 enforcement found the gun. Law enforcement went to
21 DJJ at Mr. Brown's request to interview him again
22 and law enforcement already had the gun, had already
23 gotten it from his grandmother's or grandfather's
24 home and asked him where's the gun and he even then
25 said, I have no idea where the gun is, it wasn't

1 mine, I don't know where it is. And all the time he
2 had been the one that had hid it in the home of his
3 grandparent and we knew that because Mr. Brown told
4 a cellmate at DJJ about it who then called us and
5 said, I know where that gun in that murder is.

6 Your Honor, the bottom line is this:
7 Mr. Redmond and I went to Columbia to SCDC to talk
8 to Mr. Brown before the trial of Mikal Bethea and we
9 wanted his cooperation, we wanted his help. We sat
10 him down and said, this was after his plea, we said,
11 Here's what we'll do for you, you've been given 45
12 years. We can motion the Court if you testify for
13 us and we can knock it down as low as we can, which
14 is to 30, which is obviously the minimum of murder,
15 and we will do that. We told him that. With your
16 cooperation, we'll cut 15 years off your sentence,
17 that's the best we can do.

18 He said, Nope, I don't want any part of that.
19 The only thing I will do is I'll get up there and
20 I'll testify if you will let me withdraw my plea and
21 I'll plead to accessory after the fact. That's what
22 he wanted was access -- that's the only thing he
23 would agree to.

24 When he came to Dillon, because we brought him
25 anyway, we transported him to see maybe if he

1 changed his mind. We sent Mr. Grove -- or Mr. Grove
2 went out there to talk to him. We went out there.
3 This was like the week before trial and we went out
4 again and said --

5 **THE COURT:** Before Bethea's trial?

6 **MR. DANIEL:** Before Bethea's trial. Will
7 you --

8 **MR. GROVE:** Real quick, if I can interject,
9 Judge. I did not, someone else from my office did.
10 I believe it may have been Ms. McNeal. I was in
11 another county. I just wanted to --

12 **MR. DANIEL:** Somebody went out there. He was
13 represented.

14 And we went out there and asked him again,
15 Look, Mikal Bethea's trial is next week, will you
16 testify for us? We'll bring it down from 45 to 30.
17 And he said, Yeah, I'll do that if you let me
18 withdraw my plea and plea to accessory after the
19 fact.

20 So the difference is what you see in what
21 happened with Isaiah Brown and what you see with
22 Matthew Cade, who's the defendant who was
23 cooperating with us, both gave statements, Isaiah
24 refused to help after that. Matthew gave a
25 statement and was cooperating, was willing to take

1 the stand, did take the stand in Mikal Bethea's
2 trial and he got seven years. That's the
3 difference.

4 So defendants like Isaiah Brown need to know
5 that if they cooperate, like we went to him and
6 asked, if they cooperate, then we'll help them, but
7 if they don't cooperate, we're not going to help
8 them. And so, certainly, we don't want to set the
9 precedent now that he can come up, just because he
10 got a whole lot of time, he can come up here after
11 not having assisted us like Matthew Cade did, come
12 up here and get his time reduced.

13 He pled to a -- he validly pled to a murder
14 charge. And as the Court said, there is no legal
15 basis for this change in sentencing, there is no --
16 it's an equity situation. And it does seem a little
17 strange that you got 45, 15 and seven, but I've
18 already given the explanation on the seven because
19 he helped. Had Mr. Brown -- he had every
20 opportunity to help himself, but he thumbed his nose
21 at us and didn't want any part of it.

22 Now, as for the other defendant, there were
23 evidentiary issues in that case, in Mikal Bethea's
24 case, with a witness who voluntarily did not answer
25 a subpoena. He has -- that witness has been charged

1 and that charge is pending. We didn't have a choice
2 but to do what we needed to do there.

3 Now, if Mr. Bethea [sic] had agreed to help us,
4 then we wouldn't have needed that witness and the
5 guy who got 15 would have gotten more than that very
6 likely at trial. So Mr. Bethea held a lot of cards
7 in his hand and we offered him a chance to play
8 those cards and to have a 15-year reduction in his
9 sentence that we were going to ask for and he chose
10 not to do it. And so for him to come up now and ask
11 the Court to reduce his sentence is offensive to the
12 State.

13 **THE COURT:** Okay. Thank you, sir.

14 Mr. Grove, would you like to respond?

15 **MR. GROVE:** Briefly, Judge. The Solicitor
16 hasn't said anything that was inaccurate, but that
17 doesn't change the circumstances for why we're here,
18 equity, Judge. I'll readily admit the lack of a
19 legal basis. Your Honor is fully aware of that.

20 The law is designed to be fair, Judge. And in
21 this case, I think it's clear, circumstances being
22 what they were, it is not.

23 His mother has indicated she may like to
24 respond. His sister, Amelia, is also here who may
25 like to say a few words before Your Honor rules.

1 **THE COURT:** Well, I've already given them an
2 opportunity to do that before I heard from the State
3 and I really think that one of them didn't want to
4 say anything. And his mother did tell me what she
5 had to say at the time. So, you know, I'm not sure
6 -- I don't want to cut them off particularly, but I
7 really think that we could go on and on. I'm sure
8 their argument is the basis -- is the fairness
9 argument or the equitable argument that you have
10 made, but I'll give them a chance.

11 Yes, ma'am, what else do you want to tell me,
12 Mrs. Brown?

13 **MRS. BROWN:** Your Honor, I'm Isaiah's mother
14 and I tried to raise him right. The day that trial
15 start, and Mr. Daniel know, in fairness to my heart,
16 the reason my son got 45 years, because I'm his
17 mother. I'm trying to tell him to do what's right
18 in fairness and what I think is right. My son
19 wanted that trial that day.

20 **THE COURT:** Well, the point is that Mr. Daniel
21 has made, and I think it is a very valid point, that
22 your son has had the opportunity to help himself and
23 has declined to do so and, you know, that's a very
24 valid point. He now wants the Court to change its
25 sentence when he was not willing to do that himself.

1 And he had that opportunity when the State's
2 attorneys went over to the department of corrections
3 and talked with him and also when they brought him
4 over here before Mr. Bethea was ever brought to
5 trial and he did not avail himself of those
6 opportunities to get the very thing that he's asking
7 for now, which is a reduction to the minimum
8 sentence.

9 You know, there comes a point when an
10 individual has to himself take advantage of the
11 opportunities that are presented to him and he
12 didn't -- has not and did not do so. I mean, that's
13 what I've got to think about.

14 Yes, anybody else?

15 **MS. BROWN:** Okay. As well as I know --

16 **COURT REPORTER:** I need your name.

17 **MS. BROWN:** Amelia Brown.

18 Okay. They had offered him 30 years. And, you
19 know, I don't know much about the law, I don't
20 understand, but they went to him, offered him 30
21 years. And it's just like something is kind of off
22 because it seemed like all of them would have got,
23 like, the same amount, but he wound up getting the
24 highest sentence.

25 I mean, I don't understand how someone that

1 murdered someone get 15 years, you know, I don't
2 understand that. And, like I say, I don't know the
3 law. You know, I don't know. I'm standing up here,
4 this is new to me, but I just don't understand that,
5 I really don't.

6 It seem like to me all of them would have got
7 the maximum, you know, time because all of them was
8 together, but he got 40 -- first, they offered him
9 30 years and then, you know, he wound up getting 45
10 years and we're coming back and they still want to
11 give him 30 years, I don't understand that. I mean,
12 you know, I don't because how it look to me, it look
13 to me like it's not right. I mean, you know, I
14 don't know what the law is or nothing, but it look
15 to me like it's not right.

16 **THE COURT:** Well, as the State indicated, they
17 had some evidentiary problems with regard to
18 Mr. Bethea's case and they were really giving
19 Mr. Brown a chance to help them with Mr. Bethea's
20 case and he declined to do so. If he had helped
21 them with Mr. Bethea's case, Mr. Bethea may not have
22 gotten 15 years, he may have gotten more. If
23 Mr. Brown had been willing to come in --

24 **MR. DANIEL:** Absolutely.

25 **THE COURT:** -- and tell, then the State

1 wouldn't have had to deal with Mr. Bethea to a point
2 of getting just the 15 years. If Mr. Brown had come
3 in and told, had been willing to help, then it's
4 very possible and probably, I would say, likely that
5 Mr. Brown and Mr. Bethea would have both ended up
6 with 30 years.

7 **MR. DANIEL:** Absolutely, that's what we were
8 going for. And, Your Honor, I don't know what the
9 young lady said about us offering 30 years. There
10 was never a 30-year offer in this case. I don't
11 know where that came from.

12 **MRS. BROWN:** Yes, Your Honor.

13 **THE COURT:** All right. I understand.

14 I recall the facts and I do recall that I was
15 especially offended by the fact in this case that,
16 you know, if they had been gone in there, the drug
17 dealer, and maybe the drug dealer had gotten shot,
18 we would have had a different situation, but when
19 you get a young person with his whole life in front
20 of him, never been in any kind of trouble, sitting
21 there minding his own business and he's attacked by
22 three individuals, and I only had one before me,
23 that's a pretty bad situation. And he was attacked
24 by three individuals, there's no question about it.
25 And not only was he attacked, he lost his life

1 senselessly.

2 (Pause.)

3 **THE COURT:** All right. First of all, there is
4 a written motion in the file to withdraw the timely
5 made -- a motion timely made to withdraw the guilty
6 plea. The Court finds that there is no legal basis
7 for the withdrawal of the guilty plea. It was
8 freely and voluntarily made at the time that it was
9 entered into and no evidence has been presented that
10 it was not anything other than a completely
11 voluntary plea and therefore the motion to withdraw
12 the guilty plea is denied.

13 Also before the Court is an oral motion for
14 reconsideration. And while this is not timely made,
15 is being treated by the Court as timely made by
16 Mr. Grove and an opportunity given for a full
17 presentation and argument made by Mr. Grove. The
18 presentation and positions by defense counsel are
19 sound and well articulated and for purposes of
20 subsequent writs and applications for
21 post-conviction relief, are timely and well
22 presented by competent and experienced counsel.

23 The request for reconsideration is based on
24 equitable as opposed to legal principles,
25 specifically the -- is no legal argument that the

1 sentence imposed was other than what is allowed by
2 law, but the argument is made that the co-defendant
3 Bethea who supposedly or allegedly was the shooter
4 in this horrendous and horrific homicide of a young
5 man who was, from my recollection, a fine young man
6 who was doing nothing but minding his own business
7 and was robbed and killed in the parking lot simply
8 because he was there and they couldn't find the
9 individual they were looking for, but the argument
10 is that that defendant, Mr. Bethea, received a
11 15-year sentence and the other co-defendant a
12 seven-year sentence.

13 The State has offered a valid and legitimate
14 reason for that and has articulated their response,
15 which the Court finds to be very persuasive and well
16 stated. There were evidently problems in
17 Mr. Bethea's case as far as evidentiary problems are
18 concerned. And this defendant was given the
19 opportunity on two occasions to help himself by
20 agreeing to testify against Mr. Bethea to tell
21 exactly what happened, that was when the Solicitor's
22 office went to SCDC where Mr. Brown was incarcerated
23 and he was not willing to accept the offer of the
24 State to request from the Court a downward departure
25 pursuant to the Omnibus Crime Bill to the minimum

1 sentence of 30 years, but wanted to dictate his own
2 terms.

3 He was also given that same opportunity before
4 Mr. Bethea was -- Mr. Bethea's case was called and
5 brought to Dillon. And the same offer was made
6 where the State would request a downward departure
7 for substantial assistance as is allowed by the
8 omnibus bill.

9 And I might say, counsel, that for purposes of
10 this, about three years ago or four years ago, I was
11 appointed by the Chief Justice to head a task force
12 to revise the criminal rules. Our task force has
13 completed our work. And our draft and proposed
14 rules are in the hands of the Supreme Court. They
15 have them under advisement. I don't know what
16 they're going to do with them.

17 But I will say that one of those rules that we
18 proposed was the downward departure at the request
19 of the State within one year based upon Rule 35 of
20 the Federal Rules of Criminal Procedure where a
21 defendant does offer substantial assistance to the
22 State. In fact, Senator Malloy's bill incorporates
23 the very language that we put in the proposed rule
24 that is before the Supreme Court and it was
25 incorporated into the statute of the Omnibus Crime

1 Bill and was adopted by the Legislature and that is
2 the exact language almost that we proposed, that my
3 committee proposed in the amendment to the rules.

4 And the State was willing to do that if
5 Mr. Brown had been willing to testify against
6 Mr. Bethea and he said that he was, but he was going
7 to do it on his terms and not on the terms being
8 offered by the State.

9 I really think that had the State had the
10 evidence of Mr. Brown at the time of Mr. Bethea's
11 case, that Mr. Bethea would have probably ended up
12 with a minimum of 30, if not more, years in prison,
13 but since he did not cooperate, the State had
14 evidentiary problems, they had to get whatever they
15 could get out of it and the best they could get was
16 the 15-year sentence.

17 I say all that to say that Mr. Brown has had
18 ample opportunity to help himself and to have his
19 sentence reduced by one third, but has failed and
20 declined to take advantage of that opportunity and I
21 see no reason that the sentence should be
22 reconsidered. For that reason, the motion to
23 reconsider is denied.

24 **MR. DANIEL:** Thank you, Judge.

25

END OF PROCEEDINGS

C E R T I F I C A T E

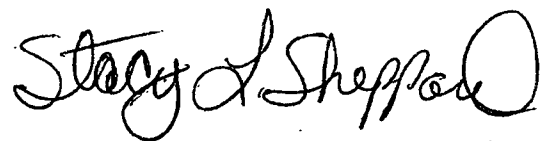
STATE OF SOUTH CAROLINA

COUNTY OF DILLON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Dillon County, South Carolina, on the 7th of March, 2012.

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

April 7, 2012



Stacy L. Sheppard, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DILLON) INDICTMENT FOR
) Conspiracy / Criminal Conspiracy, Common Law
) conspiracy

§16-17-0410

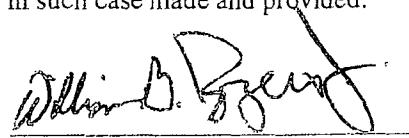
At a Court of General Sessions, convened on August 5, 2010, the Grand Jurors of Dillon County present upon their oath:

CRIMINAL CONSPIRACY

CDR: 0049 16-17-0410

That Isiah Marcus Brown did in Dillon County on or about March 22, 2010 combine with another, and/or with other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

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



 WILLIAM B. ROGERS, JR.
 SOLICITOR

WITNESSES

Hayes

Dillon Police Department

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER
J008799

ARRESTED ON: 2010-03-23

ACTION OF GRAND JURY

TRUE

Robert R. [Signature]

Grand Jury Foreperson

8-7-2011
Date

VERDICT

Petit Jury Foreperson

Date

Amended

DOCKET NUMBER:
2010-GS-17-0616

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2010

THE STATE

vs.

Isiah Marcus Brown

INDICTMENT FOR

Conspiracy / Criminal Conspiracy, Common Law conspiracy

§16-17-0410

CDR Code: 0049

CERTIFIED
TRUE COPY

[Signature]

CLERK OF COURT
DILLON COUNTY

William B. Rogers, Jr., Solicitor

WITNESSES

Hayes

Dillon Police Department

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER
J008797

ARRESTED ON: 2010-03-23

ACTION OF GRAND JURY

TRUE BILL

Kimberly J. Woodell
Grand Jury Foreperson

Date
8-5-10

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2010-GS-17-0618

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2010

THE STATE

vs.

Isiah Marcus Brown

INDICTMENT FOR

Robbery / Armed Robbery, robbery while
armed or allegedly armed

§16-11-0330(A)

CDR Code: 0139

VERIFIED
TRUE COPY

Samuel H. Hester

CLERK OF COURT
COUNTY OF DILLON

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

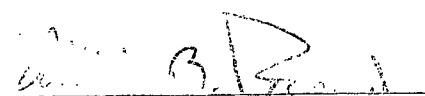
At a Court of General Sessions, convened on June 17, 2010, the Grand Jurors of Dillon County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Isiah Marcus Brown did in Dillon County, on or about March 22, 2010, willfully, feloniously, and intentionally kill the victim, Bennie Anderson, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof on or about March 22, 2010 in Dillon County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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



WILLIAM B. ROGERS JR.
SOLICITOR

WITNESSES

Hayes

Dillon Police Department

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER

J008793

ARRESTED ON: 2010-03-23

ACTION OF GRAND JURY

TRUE BILL

Kinsley J. Woodell
Grand Jury Foreperson

Date
8-5-10

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2010-GS-17-0494

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:

June 2010

THE STATE

vs.

Isiah Marcus Brown

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

RECEIVED
TRUE BILL
[Signature]
CLERK OF COURT
DILLON COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON) Weapns / Poss. weapon during violent crime

INDICTMENT FOR

§16-23-0490

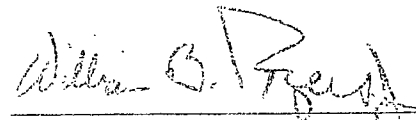
At a Court of General Sessions, convened on August 5, 2010, the Grand Jurors of Dillon County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Isiah Marcus Brown did in Dillon County, on or about March 22, 2010, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Hayes

Dillon Police Department

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER
J008798

ARRESTED ON: 2010-03-23

ACTION OF GRAND JURY

TRUE BILL

Kimberly J Woodell
Grand Jury Foreperson

Date
8-5-10

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2010-GS-17-0617

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2010

THE STATE

vs.

Isiah Marcus Brown

INDICTMENT FOR

Weapons / Poss. weapon during violent crime

§16-23-0490

CDR Code: 0549

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[Signature]

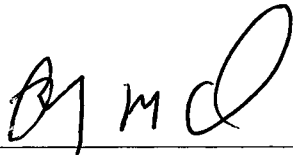
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William B. Rogers, Jr., Solicitor

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 3, 2013



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dillon County

Howard P. King, Circuit Court Judge

RECEIVED

OCT 03 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

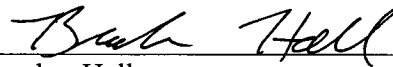
ISAIAH MARCUS BROWN,

APPELLANT

APPELLATE CASE NO. 2012-210406

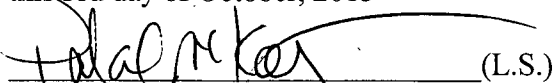
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 3rd day of October, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 3rd day of October, 2013



(L.S.)

Notary Public for South Carolina
My Commission Expires July 24, 2022.