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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL

Appeal from Lexington Court
General Sessions

The Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

Respondent,

v.

BRANDON LEE CORDER

Appellant

Appellate Case No. 2023-001543

RESPONSE TO MOTION TO REMAND TO ATTEMPT RECONSTRUCTION
AND TO PRESERVE AUDIO RECORDINGS AND RECORDS

By motion filed April 30, 2025, Appellant, Brandon Lee Corder, moved to remand for reconstruction a portion of the mistrial record and also to preserve “audio recordings and records” from the mistrial proceedings. After reviewing the transcripts as provided by Appellant, Respondent, the State, largely opposes the motion, but is in narrow, partial agreement for a limited remand as described below:

1. Appellant, Brandon Lee Corder, was convicted by a Lexington County jury on September 27, 2023, of the murder of Joanie Youmans. The Honorable Debra R. McCaslin sentenced him to 45 years imprisonment. Since the timely service of his notice of appeal on

September 29, 2023, Appellant has been in the process of securing transcripts for the direct appeal. Appellant does not contend there is any issue or infirmity in the transcript of the September 2023 trial proceedings. However, Appellant contends the transcript from the February 27-28 and March 1, 2023, prior trial, which ended in a mistrial, is insufficient for fair review in the current direct appeal. Appellant's position is significantly weakened because the complaints rests on the completeness of the record of the mistrial proceeding, not the trial proceeding.

2. Specifically, as to Appellant's assertion that the missing portions go to a potential argument of "goading" and a potential Double Jeopardy bar, (Mtn. at 1-2), the State disagrees. The defense (without prior objection) moved for a mistrial at the end of the State's closing argument. The State's closing argument, the defense argument for mistrial, and the trial court's ruling granting the mistrial is available and part of the generated transcript from the prior proceedings. Thus, the pertinent record is present and sufficiently allows review. (*See* Attachment 1, pp. 456-489). Notably, the trial judge found, without any objection from the defense, that the error determined in the State's argument was not intentional. (Attachment 1, p. 487).¹ To the extent that Appellant maintains that the record is not sufficient to review in conjunction with the September 2023 denial of the defense's motion to bar retrial under Double Jeopardy, the State disagrees and does not join in the motion.

3. Without question, the mistrial proceedings are a nullity. *See, e.g., State v. Woods*, 382 S.C. 153, 158, 676 S.E.2d 128, 131 (2009) ("A mistrial is the equivalent of no trial and leaves the cause pending in the circuit court."). Even so, the State's closing argument in the prior

¹ "A 'court's finding concerning the prosecutor's intent is ... a factual one which we must accept unless it is clearly erroneous.'" *State v. Mathis*, 359 S.C. 450, 460, 597 S.E.2d 872, 877 (Ct. App. 2004), quoting *United States v. Borromeo*, 954 F.2d 245, 247 (4th Cir.1992). Judge McCaslin was the judge for both the March mistrial and the subsequent September trial, so the same judge ruled on the motion for mistrial and the motion based on double jeopardy.

proceeding does reference evidence, particularly the evidence presented at that trial as compared to Appellant's own statements. (*See* Attachment 1, pp. 461-466). Therefore, the transcript of the Feb./March proceedings is not wholly without use; however, because of the limitation of its use, the need for specific and total reconstruction diminishes. That said, and in contrast to Appellant's requests, the State suggests the following:

a. A limited remand for specific determination. Appellant submits that transcript is "missing" some "three hours of proceedings during the mistrial...." (Mtn. at 2). Yet the record shows that portion is during trial, not during the mistrial motion or the argument upon which the mistrial motion was based. Moreover, upon information and belief, that is incorrect as far as three hours of any proceedings.² However, the official transcript does reflect a note indicating a change of court reporters on March 1, 2203 (though it does not confirm additional proceedings). (Mtn. Exhibit A, Tr. p. 48). To ensure that this matter is settled on the record and in a timely fashion, and in order to avoid additional contest(s), Respondent agrees that a limited remand to Judge McCaslin to determine what if anything occurred during the time period from 11:28 AM to 2:37 PM on March 1st, would completely put the matter to rest.

b. An order to direct modification of the transcript to include sufficient headers and index. Appellant also submits that "the Legal Eagle transcript is not adequately formatted in accordance with the Court Reporter's manual." (Mtn. at 4). The State agrees. However, that does not warrant a remand. Further, the

² In particular, undersigned counsel consulted with the prosecuting assistant solicitor and compared witnesses names to conclude no witness appears to have been omitted from the transcript.

“inaudible” other notations or other errors are not tied to any point that could impact a review of the mistrial motion – the only point that could possibly be at issue in the prior mistrial proceedings.

Thus, Respondent limits its agreement to these two discrete measures and opposes all other requested relief.

4. Specifically, Appellant also submits reconstruction is necessary because of two official transcripts for March 2, 2023. (Mtn. at 3). Respondent disagrees that reconstruction is necessary. Since both portions are authorized and have been produced, both may be referenced if necessary. As Applicant notes, there are no particular differences of note. (Mtn. at 3). Again, the prior proceedings are a nullity, *see Woods, supra*, and the only possible relevance could be the State’s closing argument, the defense motion, and the findings and conclusions regarding the mistrial.

5. As to the exhibits previously referenced in the mistrial, State’s Exhibits 31, 32, 33, Applicant asserts the exhibits were not retained by the court and/or clerk but returned (correctly) to the State given the declaration of a mistrial. (*See* Mtn. at 3). Applicant contends that the exhibits, at least 31 and 43, “were ultimately the basis for the trial court’s decision to give an involuntary manslaughter instruction.” (Mtn. at 3). He admits these exhibits were not introduced at the subsequent trial. (Mtn. at 3). Again, the prior trial is a nullity. *Woods, supra*. There is no basis for attempting to “reconstruct” regarding these exhibits, and the exhibits cannot post-trial be made a part of the September trial. Later in his motion, Appellant asserts that Exhibit 31 may be necessary to review for a potential Double Jeopardy argument. (*See* Mtn. at 5). Notably, the defense would have a copy of any recorded statement so Appellant is not without a way to review his own statement again. Moreover, the exact redactions for the mistrial proceedings are irrelevant.

Had some issue been detected with the exhibit, it would be the defense's responsibility to make that part of the record at the September proceeding, which was apparently not done. Again, Appellant cannot add or modify the motion that was made in September 2023 based on supplementation at this point. *See, e.g., State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court]."); *State v. Nichols*, 325 S.C. 111, 120, 481 S.E.2d 118, 123 (1997) ("An issue may not be raised for the first time on appeal, but must have been raised to the trial [court] to be preserved for appellate review.").

6. Lastly, Applicant seeks an order directed to "Court Administration to preserve all records and audio recordings from this case." (Mtn. at 6). Respondent sees no need for the Court to take this step but leaves it to the discretion of the of the Court in light of the ultimate disposition of Apellant's motion.

WHEREFORE, having made its response to the motion, Respondent, the State, submits that the only potential relief should be a limited remand as suggested in 3(a) above, and an order to modify the transcript to include appropriate headers and a corrected index as suggested in 3(b) above. All other relief should be denied.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

May 12, 2025

ATTACHMENT 1

Transcript pages

456-489

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1 these printed.

2 All right. I'm going to bring the jury back in.
3 Are we ready for closings? Or y'all need a quick break
4 right quick?

5 MS. FULLER: I do. I just need to run to the
6 restroom.

7 (Simultaneous speaking)

8 THE COURT: Take a quick break then I'm going to
9 bring the jury in. We're do closings and I'll charge.

10 (Off the record)

11 (BEGIN RECORDING SEGMENT E)

12 THE COURT: All right. We're going to bring the
13 jury in.

14 MS. FULLER: The state's ready, Your Honor.

15 MR. STITELY: Yes, ma'am.

16 THE COURT: Let's bring them in.

17 (Jury enters courtroom).

18 THE COURT: Mr. Foreman, is the jury ready?

19 FOREMAN: Yes, Your Honor.

20 THE COURT: Let me talk to the jury just for --- for
21 a moment. The parties have stipulated and when they
22 stipulate, that is evidence, and you are to treat it as a
23 true fact. The stipulation is it is unlawful pursuant to
24 Federal law for the defendant, Brandon Corder to possess
25 or receive any firearm or ammunition. Okay?

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1 All right. State's rested. Let me turn to the
2 defense. You may, but you certainly are not required to
3 present to a defense.

4 MR. STITELY: Ma'am, the defense rests.

5 THE COURT: All right. Thank you. Any motions?

6 MR. STITELY: Judge we renew our pretrial
7 motions --- motions for the trial, and the subsequent
8 motion made after the State's case with the caveat now
9 all evidence is in the record.

10 THE COURT: Okay. And as my previous ruling that
11 motion is denied. And all your objections are preserved
12 for the record. Thank you.

13 We're going to move to closing arguments. Is the
14 State ready?

15 MS. FULLER: The State's ready, Your Honor. May I
16 proceed?

17 THE COURT: Yes, ma'am.

18 MS. FULLER: Brandon Corder told Joanie that he
19 would blow her head off and that's exactly what he did.
20 That man Brandon Corder threatened Joanie, not once, not
21 twice, but you heard the testimony. A couple of times
22 that he will murder her. His words. That he will blow
23 her head off. His words.

24 Just because you love someone, just because you may
25 cry and vomit after you've killed them does not mean you

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1 get away with it. Love and killing are not mutually
2 exclusive. Period. You can love someone, and you can
3 kill them. It's not a defense. Period.

4 Now, you heard the testimony. We weren't here long.
5 It's not like on TV. We're in Lexington, where cases go
6 on for a long time but you've gotten, received all of the
7 evidence in this case and the Judge will charge you on
8 that.

9 You got to hear the witnesses, you've gotten to
10 receive this. And you'll have all of this back in the
11 jury room with you.

12 The Judge will tell you that you are the judges ---
13 the sole judges of the credibility and the believability
14 of each and every witness that takes that stand. Not the
15 State, not the defense, and respectfully not even the
16 judge. And she'll tell you that. You all get to decide
17 what the facts are. You all get to say what happened.
18 No, we're not saying you were there and you witnessed it.
19 But you all get to decide based on what you heard, what
20 you saw, what you believe. You all get to determine what
21 happened.

22 Now, heard different things --- different statements
23 from the defendant --- and I know this trial wasn't long,
24 and you just heard them. So but I --- I have to go over
25 them again. The reason is once I sit down I can't get

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1 back up. Once you go back out there --- go in there, I
2 know you might (unintelligible) a couple times, like, oh
3 one more question. I can't come knock on the door and
4 say, hey, I forgot to tell you that. So please be
5 patient with me and bear with me as I go through this. I
6 won't be long.

7 So you heard this happened on December 27th. This
8 will be in evidence for you to have and look at. 3:09 is
9 when the 911 call came in. And it's reported by Lee ---
10 you saw Lee Bowerman, the neighbor down the street. He
11 didn't want to be here. That was obvious from his body
12 language. You guys get to see that, you guys get to
13 judge that.

14 He testified that he told 911 what Brandon said.
15 And then in the recording he tells him the other
16 statement Brandon said.

17 But he said Brandon said his girlfriend shot
18 herself, committed suicide. They did --- he said he ---
19 he doesn't know where the shot came from. Lee has no
20 reason to come in here and make that up. He had no
21 reason to make it up that day on the phone with 911, and
22 he had no reason to come in here and tell you all that
23 again.

24 Now, defense attorney's questions are not evidence.
25 You guys remember that. Okay? Just because he asked a

1 question doesn't mean it's evidence in the case. What is
2 evidence, the answers that you heard out the mouth of the
3 witnesses. That is important.

4 Why is that important? Because there's times where
5 he asked a question, kind of just throwing something out
6 there, the answer was no. For suggesting something in
7 his question, that's not evidence in this case. The
8 evidence is the words, the evidence --- yeah. The words
9 coming out of the witnesses mouth. So you all get to
10 determine if you believe Lee.

11 Then Brandon calls 911. We put that in. Didn't
12 keep it from you. We put in his statements, you heard it
13 all. Okay? He says there's a gunshot, she got hit in
14 the head. I don't know where the bullet came from. His
15 words. His words. Which we know turned out to be a lie.
16 Not true. His words.

17 Now, what we did point out or overemphasize, but I
18 want you guys to think about this, the gun is later found
19 inside. Remember that, right? So you mean to tell me in
20 that short time frame, from you heard Billy Dowd, his
21 neighbor walk around the fence, come out, and he sees
22 Brandon going in that side door. And he comes back out,
23 or he's in the doorway somewhere. In that short amount
24 of time, you saw the diagram of the house, he walked and
25 hid the gun. Why? Why? He hid the gun.

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1 But he's crying and he's vomiting and he's upset.
2 And I'm not saying he's not upset. I'll --- I --- I
3 played it. Y'all heard it. But that tells you what kind
4 of man he is. You know what kind of man that is? A
5 selfish man. He only cared about himself.

6 Before calling 911, you have a neighbor down the
7 street that was able to call at 3:09, walking. And you
8 could hear him walking on the phone.

9 But he took the time to go hide the gun when he
10 could have immediately just dialed 911. And we might ---
11 you know, you might hear, oh, it's just two minutes
12 later, it's just three minutes later. But set your
13 watch. I'll stand here for ten seconds. Sorry, it's
14 been 11. That's a long time after you've just
15 witnessed --- or didn't mean to do something to not get
16 in the house and call 911.

17 In that situation. Two to three minutes may not
18 seem like a long time. Oh, he eventually called. He
19 called. He tried to call. There was some discussion
20 about maybe a hang-up and a call back, but it was
21 still --- still nearly three minutes after Lee Bowerman
22 who is down the street called 911. That is a long time.

23 When you get back there, set your clock for three
24 minutes. Actually, I apologize. You're not allowed to
25 even do that. But if you just sit there and think about

1 it, you know what that time feels like. But he took the
2 time to try to protect himself.

3 You heard from both Billy and Elise. They said they
4 recognized the shot immediately. 3:57. They knew
5 exactly what kind of gun it was. Why? Because Brandon
6 Corder shot the gun before. Billy's testimony, I believe
7 was every other day. He knew the sound of that 357.

8 The gun is right here. The testimony said it's
9 two-pound --- two --- I think 2.7 or 75, but it's not ---
10 it's a big gun.

11 They heard the shot and they knew exactly where it
12 was coming from and so does Lee when he walked down the
13 street. He knew how to handle that gun.

14 You heard some of the questions, suggesting to the
15 SLED expert remember that? You know, going through that?
16 You wonder why they were asking those questions? Not
17 evidence, remember that. But if I'm anticipating to
18 suggest well, he's not an expert in guns. He's not a gun
19 expert. He doesn't know the cardinal rules. Give me a
20 break. They teach you gun safety since you're a kid.
21 Simple. As society we don't point loaded guns at people.
22 Period. You don't need to be an expert in anything to
23 know not to do that.

24 Elise and Billy said they heard shots. Elise
25 specifically on her 911 call says, I heard my male

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1 neighbor. I hear my neighbor shot in the --- the back
2 yard. And he's screaming out mama. They thought
3 maybe --- I don't know, maybe something happened to his
4 mom. He was calling for mama's help to come open the
5 door. And she does. But then why take so long to report
6 it? Why take the time to go hide the gun, if you did
7 nothing wrong, like he wants y'all to believe?

8 Law enforcement gets on scene. He then tells the
9 officer she shot herself. Okay. So let's say defense
10 doesn't want you to believe Lee, that Lee made up the
11 suicide call. That police didn't --- they weren't
12 responding really to a suicide, that Lee made that up.
13 Then why did the --- why did he tell the officer the same
14 thing?

15 Then in the same breath say --- suggest that he
16 didn't know where it came from just shortly after that.
17 He's making it up as he goes. He couldn't commit to one.
18 He says we were chopping wood, brought it back here. I
19 was throwing wood in the pile, I heard a shot and then I
20 heard her fall. I tried to help her. We know there's
21 blood on his pants. I'm not saying he didn't try to ---
22 he didn't run over to her body. Never argued that. I
23 won't argue that.

24 You know, the questions were like, well, why wasn't
25 this recorded? He explained his role. He doesn't have a

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1 camera. But this was an officer just responding to a
2 scene. He didn't know who, what, where, when, anybody
3 did anything. And he testified he documented in his
4 report. He had no reason to make up that Brandon Corder
5 said she shot herself. None. This Cameron Sherban, you
6 heard from him. He's speaking to Corder under the
7 pretense that this is a suicide. That's the
8 conversation. He may not have said that to start the
9 conversation, but that's what they were responding to.

10 And then once he starts, and you listen to the
11 audio, once he starts getting there, Brandon says, no,
12 she wouldn't hurt herself. Then he says, I'm --- at some
13 point in the conversation, I'm thinking maybe the bullet
14 came from somewhere from down the road, or through the
15 woods, or something. I don't know. That's the only
16 thing I could think of.

17 And then he said something like I saw her kind of
18 turn a little bit. She went over to the car to get
19 cigarettes, never found these cigarettes. And I saw her
20 turn and that's when I heard the bang. And when she
21 looked at me, I saw it. She was going down to the
22 ground, and I didn't really know what happened at that
23 point. And this early in the investigation.

24 Then he talks about Fred. Did you think while you
25 were listening to that, why is he bringing up Fred? What

1 is Fred --- in all the people in the world, why is he
2 talk --- why is she talking --- why is he talking about
3 Fred? I'll get to that shortly. Because Fred was on his
4 mind. Fred was in his head. That's why he was talking
5 about Fred, just rambling on. He was like, well, Fred, I
6 guess she went back to him during that interview, and
7 have it back there for you to listen to it again. He
8 says, we were going to work things out. He says, I don't
9 know why this would happen to her.

10 And he says why to me? Why to me? I don't know if
11 you caught that when you listened to it. That's a
12 selfish person. Joanie is dead. And he's worried about
13 why it would happen to him. Something he caused?
14 Something he did? And they did after they moved the
15 body, or --- and realized there's no gun. Because
16 despite his story going back and forth, they're, like,
17 well, we have to rule it out. Let's see maybe based on
18 how she fell, maybe the gun is under her body. You know?
19 They have to make sure they rule it all out.

20 And shortly after Sergeant Creech goes and talks to
21 him. He's like I didn't do it. I didn't kill her. I
22 didn't kill her. I did and I didn't. I was pulling it
23 out. I was pulling it out to take it off of me, and went
24 off in my hand.

25 And Sergeant Creech asked, I asked him, what did you

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1 understand that to mean? That it was on his person. And
2 in the same conversation it changes. I was pulling it
3 out to take it off of me. And it went off in my hand.

4 Now, I know this might not be something easy to look
5 at, but this is where common sense comes into play.

6 (Background noise) --- the gun off pulling it out, taking
7 it off of me, and it went off in my hand. Let's say
8 she --- he was facing her. Pulling it out. How does
9 that work? How do you get this? And --- and we know
10 Joanie's head could have been any direction. She could
11 have had it up, bodies move. But pulling it out and it
12 went off in my hand. The gun still facing the ground.
13 How does that create an upward angle in her head? So no.

14 He says they weren't arguing. He's then adamant
15 about that. Then he says we were getting wood out the
16 car --- he's --- he's there's a burn pile. Not
17 disputing --- sorry. Not disputing that. I was going to
18 put the gun inside its holster. I went to go put it in
19 the holster, my finger got clipped. It got caught on the
20 side part of the holster. And when I pushed on it, I ---
21 it --- it pulled the trigger. It's all it pulled the
22 trigger.

23 So let's look at that. Let's say he's facing
24 Joanie, he goes to do whatever. He went to go put it in
25 the holster, my finger clipped. Still holding it

1 down --- okay? So we're holstering this way. Still this
2 way. Now, if you holster a firearm like that and if you
3 guys choose to believe that --- again, y'all are the
4 judge of the facts. But I submit to you this is not a
5 normal way to holster a firearm. But why is your finger
6 even close to the trigger?

7 And you heard about the trigger pull --- wait.
8 He --- yeah, I've never --- I've never put --- never put
9 sand in evidence before. But I --- I don't want you guys
10 to be misled. Don't --- don't do weights with it. Hold
11 it out and pull back. Don't act like you're lifting
12 weights, that's not it. That's not what we're saying.
13 Hold it out and you pull back. And you'll feel the
14 amount of pressure that he had to have put on that
15 trigger to take Joanie's life. Okay?

16 Let's say he --- he's not familiar with guns, he
17 didn't know the hammer was cocked. You wouldn't --- the
18 testimony from Creech you wouldn't holster a gun with the
19 hammer pulled back, right? But if it is at that point
20 single action. So don't pull up, hold it out and pull
21 the trigger. Pull. And feel it still. It's easier, but
22 the --- the hammer, you heard the testimony of Suzann
23 Cromer. The hammer block --- the hammer block worked.

24 No matter how many different ways you try to ask the
25 question, the hammer block worked. And now you wonder

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1 why that video was up there. So what you get to see the
2 inner mechanisms of how a revolver works. Cannot take it
3 for granted. I don't know how many of you use guns. But
4 to show that, you have to be able to --- you have to pull
5 the trigger. And that was the testimony from the expert.

6 He says he was walking towards the house. And ---
7 and that's the one that's kind of to really make that
8 work, that means his back is to Joanie. We know where
9 her body was. There was a question by defense like he
10 could have moved her body. Look at the photos, there's
11 no dragging from in front of the house to the back. That
12 didn't happen. Okay? Because that's what that --- that
13 would have to have happened for him to be with her back
14 to the car. Remember that. His back to the car walking
15 away to put it up, and was going to put it in its
16 holster. Still that way or down. Not to Joanie.

17 Then he said in the trigger guard area while he was
18 holstering. I can't tell you if it's possible to get
19 your finger that's with a glove inside of a holster
20 keeping your finger --- I don't know. We never found the
21 holster to test it that he claims he had. Never found
22 it. But if you can get your gloved hand inside of the
23 holster while it's on the trigger while the hammer is
24 back, you guys tell me what the facts are. But he said
25 he had his gloves on. Here's his burn pile. And this is

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1 what I want you guys to remember. The house is this way.
2 Any version of what he says, does not make sense.

3 And that's where your common sense comes into play.
4 If he's walking away, his back is to her. Joanie fell on
5 her back. So that means at the very least, even if her
6 back was facing Brandon for her to fall on her back, her
7 head had to have been turned at some point. Her head
8 faced the gun. Here. They searched --- he said the gun
9 and the holster would be in the same spot. None. The
10 firearm was loaded. Treat all firearms if they are
11 loaded. But they were --- this one was loaded. And he
12 knew that. It's his gun.

13 You wonder why I put in --- let me go here. I put
14 in photos of that gun box to show you the ammunition
15 wasn't a full box. This is his house, his gun that he
16 claimed, and the testimony is that he shot that gun every
17 other day. There was barely anything left in that. He
18 knew it was loaded. Never point a firearm at anyone or
19 anything you are not going to destroy. Keep your finger
20 off the trigger and know your target.

21 Now, later on he interviewed with that special
22 agent. And what did he tell that agent? I have a copy
23 of his Miranda. He waived his right to speak again. He
24 wanted to explain himself yet again. And he said, I made
25 up the story about the holster, not true. There was no

1 holster anyway. But let's say if --- it doesn't work.
2 But then he tells the agent he made it up. It wasn't
3 true.

4 He said he was frustrated that Joanie had been
5 seeing another man named Fred. Here we go with Fred
6 again. Fred, Fred, Fred. And you got to hear from Fred.
7 Fred said, Brandon, they met, they'd been dating for a
8 few months. She would go back and forth between them.
9 And any time that Joanie went with Fred, he had a problem
10 with it. At one point in an interview with Creech, he
11 says --- I believe it was Creech --- one of the
12 interviews I don't want to misquote in. I think it was
13 Creech. He says, I've been in the situation before where
14 I was torn between two people. I wanted her to --- I
15 believe --- I wanted her to love me instead of Fred.

16 It's in there, listen to it. So he tells this agent
17 who doesn't know him, doesn't work for the Lexington
18 County Sheriff's Department, that he was frustrated that
19 she was seeing another man named Fred.

20 Now we'll know the complete truth, right? Only two
21 people know. And this our burden, the defense does not
22 have to put up a case. And that's how it should be.
23 That's the way our system works. But Joanie's not here
24 to tell you what happened. He said he got the gun from
25 underneath the seat in his car and walked around the rear

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1 of his vehicle and trailer. He removed the gun from the
2 holster point it at Joanie and pulled the hammer back.
3 And then he said the gun fired. Still not taking
4 responsibility, because he still says, I'm not a shooter.

5 Make it make sense. Make it make sense. In
6 Lexington County, that you can come in --- you can tell
7 the police that I pointed the gun at her and pulled back
8 the hammer. Make it make sense. But I'm not a shooter.
9 That's what he said. And you have it. He said he was
10 just trying to scare her. He wanted her to know that he
11 was mad and hoped to signal to her to stop playing with
12 me. He pointed that gun at Joanie. And the testimony
13 from the doctor is that a yard, three feet at least away.
14 Is that any close to what he told Beeler? That he was on
15 the other --- he was walked around the trailer and we
16 know from crime scene, it says it appears that Joanie was
17 shot in the apex of that door.

18 So what does that look like? This is the door,
19 we'll have to switch sides here. Joanie in the door,
20 Brandon in the driver's side. Gets the gun, Joanie's
21 here. He walked around, and I'll switch. On the other
22 side of the car. We're getting closer to closer. Closer
23 and closer to how this angle happened. Whether or not
24 Joanie was looking forward or angeled, she knows we ---
25 she was shot in the apex of that car door. And then body

1 collapsed. No holster found. No cigarettes. The gun
2 would be.

3 You heard on some of the audios he says it was an
4 accident, it was an accident. It wasn't an accident, not
5 possible. You heard the SLED expert saying the gun was
6 working just fine. There was no manufacturer malfunction
7 on that gun.

8 So it's not legally an accident it's not a defense
9 and you'll know that because the Judge is not going to
10 charge you. You cannot point a gun at someone, pull the
11 hammer back and then say it wasn't on purpose, that you
12 did exactly what you threatened. Where does that happen?
13 Can't point a gun at someone after you've threatened
14 repeatedly that I will blow their head off. Do exactly
15 what he said he would do, and then say it wasn't on
16 purpose.

17 This is the definition of murder. It's the killing
18 of any person with malice aforethought. The intentional
19 doing of a wrongful act. The intentional doing of a
20 wrongful act. Aforethought, the time when evil is
21 conceived. There doesn't have to be a (unintelligible)
22 this is other --- like other (unintelligible) it's not
23 like anywhere else. It could be that moment.

24 I submit to you that we --- Joanie was killed here
25 in Lexington and we'll talk about express and implied.

1 But in this case we have express malice.

2 Now, malice. Malice is hatred, it's ill will or
3 hostility towards another person. It is the intentional
4 doing of a wrongful act without just cause or excuse.
5 And with an intent to inflict an injury, or under
6 circumstances that the law will infer an evil intent.
7 That's evil in your heart. And there's no greater
8 evidence that a man's intent than when he expressed what
9 he would do and then he does it.

10 Malice must simply exist in the mind of that man
11 just before and at the time he does that intentional act.
12 Express malice, and this is the law in South Carolina,
13 express malice is shown when a person speaks words which
14 express hatred or ill will for another. Or when the
15 person prepared beforehand to do the act which was later
16 accomplished, speaks words.

17 So why not involuntary manslaughter? You've heard
18 that thrown around. And the judge is going to charge you
19 on the law of that. But this is why it's not
20 involuntary. This is a unique situation for the jury
21 where he admits to do something and you all have to
22 decipher the law. Involuntary is a lesser included of
23 murder.

24 So in South Carolina there's murder and then there's
25 a statute for manslaughter that includes two different

1 levels. And this is the --- the lesser one. It is
2 defined as the unintentional killing of another without
3 malice. That's what distinguishes in South Carolina,
4 murder and manslaughter.

5 Malice. And that's while engaged in either the
6 commission of some unlawful act, not amounting to a
7 felony and not naturally tending to cause death or great
8 bodily harm or the doing of a lawful act with a reckless
9 disregard for the safety of others.

10 Now, we don't even get to there, because it has to
11 be an intentional killing. And in this case he did
12 exactly what he intended to do and exactly what he
13 threatened. It has to be without malice. So if you guys
14 get here that means you'll determine that he had no
15 malice.

16 So but if you get here the first prong an unlawful
17 act. I submit to you take all of the facts as you heard
18 them here coupled with him not allowed to possess a
19 firearm. He is acting unlawfully. So then you look at
20 the second one, do an unlawful act. Well, he's
21 processing a firearm when he's not supposed to.

22 So if you work through the analysis, don't even get
23 there because there's malice in this case and you all get
24 to determine that.

25 Malice, I will blow your head off. That's express

1 malice. I will murder you. Malice. You heard that
2 audio. Pointed a loaded revolver. Malice. You don't
3 get to involuntary. You don't --- you don't get to do
4 all those things and say all those things and say, well,
5 it was involuntary. No malice, hatred, ill will or
6 hostility towards another person, the intentional doing
7 of a wrongful act. Period.

8 Now, we have to prove this to you beyond a
9 reasonable doubt. As he sits there today, he is presumed
10 innocent. The presumption of innocence is like a robe of
11 righteousness cloaked on his shoulders. That is the law
12 that is the way it should be until the State has met
13 their burden of proof beyond a reasonable doubt.

14 Now, proof beyond a reasonable doubt is not proof
15 beyond all doubt. There is very few things in life that
16 we are absolutely certain of. It's simply proof that
17 leads you firmly convinced of that man's guilt. Remember
18 that. You have to be reasonable in what to expect.
19 There is nothing in life that we know with absolute
20 certainty. Nothing.

21 Now, proof can be proven with direct and
22 circumstantial evidence. That's the law. There's no
23 greater weight to what it is. Direct evidence if someone
24 witnessed a crime, right? Or the person's own words.

25 Circumstantial, you can look at the crime scene,

1 look at the gun and what it would take to fire this gun,
2 take his words and his prior threat to do exactly what
3 happened and link it all together.

4 Brandon Corder --- sorry. (Unintelligible). Almost
5 done, I promise. Brandon Corder did exactly what he said
6 he would do. And if y'all got board in this case, or if
7 I did anything wrong, please don't hold that against
8 Joanie. It's like I said, once I sit down, I can't get
9 back up. And so I'm sorry that y'all have to sit through
10 this and deal with everything that happened, because
11 there's, you know, delays in the trial.

12 So this is important. This is really important.
13 You all get to speak a verdict that speaks the truth in
14 this case. Now, I'm asking you to deliver justice for
15 Joanie. This is no greater evidence of a man's intent,
16 what's in his heart.

17 (Audio playing)

18 MS. FULLER: I ask you to find Brandon Corder guilty
19 for doing exactly what he said he would do. He told
20 Joanie that he was murder her. That he will blow her
21 head off. Right is right, wrong is wrong. Joanie took
22 her last breath by a burn pile, trash. You can't outrun
23 a bullet. You can't outrun a bullet.

24 You can love someone, you can cry, you can vomit,
25 they're not mutually exclusive. Thank you.

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1 THE COURT: Thank you, Ms. Fuller.

2 MR. STITELY: Judge, I have matters of law to take
3 up before I start my closing.

4 THE COURT: Sure. Shall I excuse the jury?

5 MR. STITELY: Yes, ma'am.

6 THE COURT: All right. Mr. Foreman, ladies and
7 gentlemen of the jury, please don't discuss this case yet
8 amongst yourselves. Let me take up a matter of law with
9 the lawyers.

10 (Jury exits courtroom)

11 THE COURT: All right. First let me ask y'all, was
12 that a juror's snoring?

13 MR. STITELY: Which one?

14 THE COURT: I heard it, but I --- is it the one in
15 the white t-shirt?

16 MR. STITELY: No.

17 MS. FULLER: Is was the --- the woman in blue. I
18 don't know what she was wearing, but I don't know. She's
19 the one with the glasses, the black lady in front. Tamia
20 Gorham sorry. Things like that happen. I saw her
21 (unintelligible).

22 THE COURT: I mean, was she sleeping?

23 MS. FULLER: No, she was just fighting it the whole
24 time.

25 THE COURT: We'll take that matter up in just a

1 second.

2 All right. Let me hear your matter of law.

3 I had to rearrange the first. I didn't change
4 anything in the jury instructions, only the order so it
5 would read right.

6 MR. STITELY: Judge it's a motion for mistrial and
7 it's three very specific things. One, the solicitor, not
8 once, not twice, but three times told the jury make it
9 make sense. That is a direct shift compelling the jury
10 to make sense of a situation. That is saying that they
11 have to find something. The jury doesn't have to find
12 anything. The burden relies on the State.

13 She said, make it make sense. Make all the facts
14 make sense. Make it make sense is a direct burden shift
15 that she did three times in a row.

16 Second, Your Honor, she said to the jury, you know
17 it's not an accident, because the Judge won't charge it.
18 You can't tell them that. You can't say you know it's
19 not because the Judge isn't going to say. There is no
20 affirmative defense of accident, but nothing bars the
21 jury from making any determination as to whether the act
22 was deliberate or unintentional.

23 By saying you know it's not because the Judge won't
24 charge it, is a mischaracterization of the law and a flat
25 and compelling statement to the jury that's telling them

1 they can't do something which is their purview.

2 And third, she said jury, you have to decipher the
3 law. The jury does not decipher the law. The jury
4 decides the facts and applies them to the law. It is
5 improper to tell the jury that they have anything to do
6 with the law aside from determine the facts. That is not
7 the jury's role.

8 All three independent of each other would have been
9 a mistrial. All three together, absolutely a mistrial.

10 THE COURT: All right. Ms. Fuller, let me hear you
11 on that.

12 MS. FULLER: Yes, Your Honor. Beg the Court's
13 indulgence. Want to make sure I find the right things.

14 MR. STITELY: And --- and --- and for the record,
15 Judge, the reason I waited till the end is I --- I didn't
16 want to interrupt, but I still think I'm protected at
17 least as far as making my objections.

18 MS. FULLER: Thank you, Your Honor. Your Honor,
19 looking at the law, obviously, I know Your Honor knows
20 the granting of a mistrial is an extreme measure in this
21 case which should be taken only if it's so --- was
22 egregious, prejudicial, that cannot be removed in any
23 other way.

24 Your Honor, first taking his first comment about
25 make it make sense. Your Honor, I believe appropriately,

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1 the facts are to be determined by the jury. And so I'm
2 telling them to make it make sense, like they are
3 supposed to determine the facts. And I --- I don't find
4 anything improper about that. If there is, Your Honor,
5 there needs to be a curative instruction. I believe you
6 typically charge the jury that what we say in opening and
7 closings are not --- not the evidence to be considered,
8 they're just arguments of counsel.

9 But make it make sense is just a colloquialism to
10 apply to just determine the facts in this case. And
11 that's what the State intended when they made that
12 comment.

13 In terms of not an accident, Your Honor, I thought
14 it was appropriate that I need to address that since I
15 put it in his statement and audio he kept saying it was
16 an accident, an accident, and the testimony was in terms
17 of what an accident is was a malfunctioning in the gun.
18 And I said, you guys know that because --- and they can
19 play it back, but I know what I intend --- where I was
20 going with that was in terms of the expert's testimony is
21 an accidental discharge means the gun is malfunctioned or
22 something wrong with it. And then I said ---

23 (Simultaneous speaking)

24 THE COURT: --- testimony in the trial on that.

25 MS. FULLER: Right. From Susan Cromer. And then I

1 also indicated that it's not a defense in this case
2 because you won't hear the judge charge that. I've never
3 been told that's inappropriate. I don't know any case
4 law that says that this isn't the law in this case.

5 It's --- it's --- I've --- I've always said this is
6 what the law in South Carolina says what it's not. I
7 don't find that any different in how I phrased that,
8 especially since there's --- I --- I know at least three
9 or four times in the defendant's statement, he said it
10 was an accident, it was an accident.

11 This does not impact whether or not they consider
12 involuntary in the sense of a negligent, you know, the
13 testimony from the expert was an unintentional,
14 accidental. There's a distinction, and I believe --- Ms.
15 Williams handled that. I was like, oh, I didn't know
16 there was two and learned that in that moment. And so I
17 thought it was perfectly appropriate for me to address
18 the accident because I can anticipate this maybe jury
19 asking, well, can we consider accident? Accident is ---
20 is different than involuntary manslaughter and I didn't
21 comment on that.

22 In terms of the jury decipher the law, my
23 understanding from opening arguments is defense said that
24 we --- I wasn't here, but what I was told was he said we
25 agree with the State the difference is the charge or

1 something along that lines that it's involuntary
2 manslaughter versus a murder. That's essentially telling
3 the jury you have to distinguish the law. It's not
4 saying he's now guilty of doing this or pulling the
5 trigger or how this happened. It was determining between
6 the law.

7 And I told them this is a unique case that they have
8 to decipher the law. I don't know how that is improper.
9 I'll definitely take guidance from the Court on that. I
10 definitely don't believe that's ground for a mistrial,
11 because you are going to charge them on two different
12 laws and they're going to have to apply the facts to them
13 and determine that.

14 THE COURT: You mean, the meaning between ---

15 MS. FULLER: Murder and ---

16 THE COURT: --- whether it's murder or ---

17 MS. FULLER: --- involuntary. Because this isn't
18 a --- a --- and I was --- I tried to be careful on how I
19 phrased my sentences, heard me because at certain points,
20 because I didn't want to do anything that suggests that
21 the defense has to put up a case or what he said.

22 I --- I kept my comments and my argument to what is
23 in the record, and what statements were put in. But
24 they're asking for in voluntarily manslaughter of this
25 jury. The jury's going to have to decipher the law. I

1 don't know that's --- that's truth.

2 And if that was improper, I will apologize to the
3 Court. But I really don't think it's ground for a
4 mistrial. That is an extreme measure here. If they're
5 going to receive curative instruction, but I believe your
6 charge says if you believe the statements --- and maybe
7 there might be words, but if you believe the State has
8 failed to meet their burden of murder, you may consider
9 the lesser included offense of involuntary manslaughter.

10 If that's --- if deciphering is the offended ---
11 offensive word then I won't use that in the future. But
12 I don't know how else to describe what they're asked to
13 do and what counsel asked them to do in opening
14 arguments --- opening statements.

15 So I respectfully request that the Court deny the
16 defense's motion for mistrial. And I don't believe that
17 anything was in violation of the law, or our case law.
18 And if Your Honor feels that any statement, any one of
19 those independently does violate the law that there's
20 nothing a curative instruction can't fix. But I stand by
21 that none of --- none of those three that he has
22 identified violates the law of South Carolina.

23 MR. STITELY: Just --- just briefly, Judge. I
24 do --- I do think the third one, the --- if you just
25 emphasize that it is not the jury's job to deal with the

1 law. They deal with the facts, I deal with the law. I
2 think I'm --- I think your charge will fix a lot of that
3 one.

4 The problem with the second thing that this was not
5 an accident because the judge won't charge it. The
6 expert was talking about what an accidental discharge is
7 in the terms of a firearm in loading a bullet. My client
8 didn't --- in nowhere in the facts does it say that he
9 was arguing it was an accidental discharge. He says the
10 entire incident was an accident.

11 So there --- there --- when she keeps talking about
12 the expert, she was talking about what an accidental
13 discharge is in terms of a gun. He kept saying this
14 whole thing was an accident.

15 So by saying that Judge, it's almost like it can't
16 be real because the judge isn't going to tell you.
17 That's almost like asking the jury to rely on what you
18 say in the opening. You can't infer from things I say
19 that I have any interpretation as to what the facts are,
20 what I say, or simply comments on the law you cannot
21 interpret from my rulings anything. The Court is not
22 allowed to take a position on what the facts are.

23 THE COURT: Or to have an opinion.

24 MR. STITELY: Correct. So that's --- that's my
25 problem with it is she's kind of saying, we can't say it

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1 was an accident because the judge ain't going to say
2 that. Well, that's saying the judge has some bearing on
3 what facts the jury can consider.

4 MS. FULLER: And Your Honor, respectful, I --- I did
5 not say that, nor suggest that to the jury. I mean, I'm
6 going to double-check now, but ---

7 THE COURT: Yeah, let me --- I'm ---

8 MS. FULLER: I'm pretty sure in the opening
9 remarks ---

10 (Simultaneous speaking)

11 MS. FULLER: --- the duties of the trial judge
12 clearly states that and it says, I am the sole judge of
13 the law of this case. So telling you that you're not
14 charging defense of like accident as the law, I don't
15 know how that --- you're --- you're telling the --- the
16 jury that you're the judge of the law. That has nothing
17 to do with the facts.

18 They heard the word accident. And I --- I --- I
19 believe had to explain that because that's not a defense
20 in this case. I --- I --- I --- I truly respectfully ---

21 THE COURT: Let's --- let's get back on the record,
22 and Lisa, can we look at the part about you know it is
23 not an accident because the judge won't charge it.

24 MR. STITELY: I want to say that almost verbatim.

25 MS. FULLER: I said legally, like it's ---

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1 MR. STITELY: While she's looking, can I
2 (unintelligible).

3 THE COURT: Yes, and I'll be right back.

4 MR. STITELY: Two seconds, while she's pulling it
5 back.

6 (Off the record)

7 (BEGIN RECORDING SEGMENT F)

8 THE COURT: Well, then can I go ahead and hear
9 something for Ken and Kelly right quick?

10 MR. STITELY: Yes, ma'am.

11 (Off the record)

12 THE COURT: All right. Let me get back to this
13 case. I hate it, but I'm going to grant your mistrial
14 and this is why, the --- the solicitor's comment of the
15 accident because the judge won't charge it. I feel that
16 it brings the judge right into the jury's deliberations,
17 and it gives them the impression that I made some ruling
18 that I haven't made.

19 And, you know, it's easy for us lawyers to sit here
20 and talk about accident, but we're talking about the
21 legal sense of accident as to whether he is entitled to a
22 defense or not. They don't know that. They think
23 accident as something totally different. And in this
24 case particularly, I've heard the word accident several
25 times in the defendant's own statement. And I feel like

1 he would be absolutely prejudiced. I --- I don't know
2 how to fix it. I don't know how to unring the bell on
3 that particular thing.

4 Also there's the other two instances. Even if I
5 could, I'd be fixing this thing three different ways that
6 I think is totally confusing to the jury.

7 You have to decipher the law. Well, I could
8 probably fix that with a jury instruction if that was the
9 only thing, that would be an easy fix.

10 But and then I've got make it make sense of all the
11 facts, it needs to make sense. I can probably fix that
12 with another jury instruction, but at some point, I think
13 it --- it --- it turns on being prejudicial to the
14 defendant. Therefore I don't know how to fix it. I'm
15 sorry.

16 I --- I know nothing was done intentionally, this
17 Court does not believe it was done intentionally. It
18 just happened. And, you know, sometimes it does happen.
19 So I'm declaring a mistrial. Thank you.

20 MR. STITELY: Just briefly, we respect that we ---
21 we do --- would reassert our motion for bond. I know we
22 don't want to hear that today. But not to say that we
23 have no idea how we get this back on the trial docket.
24 As Your Honor knows very well we are six solid months out
25 on week-long trials. He is entitled to a bond, I would

1 believe.

2 So I --- I would just request that we get that
3 somewhere on the radar to do sooner rather than later.
4 Because once again, I don't know when they can try this
5 again, because I know that we're booked through July, so
6 that --- that --- putting it out.

7 THE COURT: Well, don't ever say never. Because I
8 just had to do one that I had started and then I had to
9 come back and do it again. I'm going to tell you, you
10 know, you know it, Mr. Stitely, as well as I do, as Ms.
11 Fuller and Mr. McNair, you know, sometimes those lead
12 cases breakdown. This could be a backup case to any
13 other.

14 We've already been through it, it ought be easy so
15 step right back in. So don't get rid of all your notes,
16 all your stuff, because it will be sooner than later.

17 MR. STITELY: Yes, ma'am.

18 THE COURT: Okay. Thank you.

19 MR. STITELY: Thank you.

20 THE COURT: I'm going to bring the jury --- or can I
21 bring jury in or can I just go back and tell them?

22 MR. STITELY: I'm --- I'm okay with you telling
23 them.

24 MR. MCNAIR III: --- (unintelligible) Judge.

25 MS. FULLER: You can bring them in.

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1 THE COURT: Okay. Let's bring them right quick.

2 (Jury enters courtroom)

3 THE COURT: All right. Ladies and gentlemen, I hope
4 you enjoyed lunch.

5 (Multiple answers)

6 THE COURT: You're welcome. I figured y'all were
7 enjoying lunch.

8 Let me tell the jury I've declared a mistrial in
9 this case, so you won't be deliberating. But I just want
10 to thank you for your service. Thank all of y'all for
11 being attentive, and listening, and what will end up
12 happening. Instead we'll have to retry this case another
13 day with another jury.

14 So but I just want to thank y'all so much. Okay?
15 I'm going to let y'all go back to your jury room, and I'm
16 going to come back and talk to you and dismiss you.
17 Thank you.

18 (Jury exits courtroom)

19 THE COURT: Thank y'all.

20 (TRIAL CONCLUDED)

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22

23

24

25

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL

RECEIVED
May 12 2025
SC Court of Appeals

Appeal from Lexington Court
General Sessions

The Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

Respondent,

v.

BRANDON LEE CORDER

Appellant

Appellate Case No. 2023-001543

CERTIFICATE OF SERVICE

I, Angela Brown, am an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the *Response to Motion to Remand to Attempt Reconstruction and to Preserve Audio Recording and Records*, and Certificate of Service has been forwarded to Appellant's counsel, Jordan Wayburn, Esquire via email today, May 12, 2025 to JWayburn@sccid.sc.gov, and to his assistant Chris Stock, at CStock@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 12th day of May, 2025.

s/ Angela Brown

Angela Brown
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General

Angela Brown

From: Angela Brown
Sent: Monday, May 12, 2025 12:52 PM
To: Jwaybrun@sccid.sc.gov; cstock@sccid.sc.gov
Cc: Melody Brown
Subject: The State v. Brandon Corder (2023-001543)
Attachments: Corder, Brandon - Response to Motion to Remand.pdf

Mr. Wayburn, please find attached the State's Response to the Motion to Remand to Attempt Reconstruction and to Preserve Audio Recordings and Records in the above referenced appeal. The response will be electronically filed with the Court of Appeals on today's date.

Thank you,

Angela Bennett Brown, Administrative Coordinator II
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