

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

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

THE STATE,

RESPONDENT,

V.

AKEVIUS DAYQUAN LINDSEY,

APPELLANT

APPELLATE CASE NO. 2025-000317

RECORD ON APPEAL

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT 16 (USB DRIVE (9-1-1-CALLS))]

1 a quasi lesser-included offense of arson. Receiving stolen goods
2 is not a lesser included offense of arson; thus, the judge
3 properly limited the scope of defense counsel's closing argument
4 to matters which were relevant to the issues at trial.

5 Now, I recognize, Ms. Messer, that, yes, the Court does note
6 that, well, receiving stolen goods is not a lesser-included
7 offense, but I don't read this -- and again, this is my -- I'm
8 just reading it here, up here at the bench after it's been
9 provided -- I don't think that was the holding of the case, is
10 that you could not do it, because in this case it's not a
11 lesser-included offense.

12 I think I get out of the opinion from the Court of Appeals
13 is that whether it's a lesser-included offense or not, you can't
14 argue a comparison charge when the facts do not warrant one. And
15 I have ruled that the facts do not warrant a charge of
16 manslaughter, voluntary manslaughter, and so that fits within the
17 framework of the holding there in this case and *State v. Good*,
18 315 S.C. 135, because it does, as the Court says here -- Supreme
19 Court cautioned that requiring a comparison charge when the facts
20 do not warrant one opens the door for every criminal defendant to
21 create a quasi lesser-included offense for which they could not
22 be convicted.

23 Now, I agree that it is a grand larceny and receiving stolen
24 goods case in *Condrey*, *State v. Condrey* -- C-o-n-d-r-e-y,
25 Cathy -- but I'm not sure that's really the holding. I think the

1 holding and the warning from the Supreme Court was do not argue a
2 lesser-included offense when that's not a charge, nor do the
3 facts warrant it.

4 Now, the question then turns to, my question turns to, the
5 State on contemporaneous objections. That is our Supreme
6 Court's, and longstanding, law, that an objection has to be
7 contemporaneously made at the time. That differs somewhat from
8 the federal rule, having tried cases in federal court, too, but
9 that is our rule here. Our Supreme Court and Court of Appeals
10 have been fairly strict on that through the years that it does
11 require a contemporaneous objection, so I will hear you out,
12 though, give you the opportunity on that.

13 SOLICITOR SCOTT: I do believe it still does not bar me
14 requesting the Court to ask for a curative instruction even
15 though, if my objection was not timely, I think it still does not
16 preclude me from asking you to instruct the jury not to consider
17 this, the defense argument, to manslaughter.

18 THE COURT: Well, my analysis of it is is that it was an
19 improper argument, and it was being made -- I made a mental note
20 when that argument was being made. However, it was not objected
21 to. And I, too, I understand exactly where you're coming from,
22 Ms. Scott. Standing up and objecting can, from a strategy
23 standpoint, it puts us trial lawyers in a difficult position
24 because you want to protect the record on the legal issue yet do
25 not want to upset a jury or whatever strategy reason. That

1 sometimes is one of the reasons that I used to always
2 contemplate. I don't want to object and tick off the jury for me
3 objecting.

4 But our courts have been fairly solid over the years, over
5 decades, in that it does require contemporaneous objection,
6 contemporaneous meaning at the time that the improper evidence or
7 improper argument is made.

8 Again, do I find that it was an improper argument because I
9 noted in my mind when it was being made, and having reviewed
10 *Condrey* -- now, I have not reviewed any other cases that have
11 been cited so I'm at a disadvantage of whether or not there's
12 anything else that would shed light on it, but I think that
13 probably is the correct analysis because that was the thought I
14 had in my mind when the argument was being made to the jury.

15 So having said all that, I do find it was improper argument;
16 however, the objection was not contemporaneously made.

17 My charge does reflect that he is being charged with murder,
18 and that's what the case is about, and I don't think, based on
19 the contemporaneous objection issue, that I can give an
20 instructive, or curative instruction, charge on it, but I will --
21 I think my charge should or does contemplate that it is, this is
22 the charge he is charged with and that and that alone.

23 All right. Anything? I want to give both of you an
24 opportunity to make any argument. I want to give you that
25 opportunity. So, Ms. Scott, anything else?

1 SOLICITOR SCOTT: No, Your Honor. I do want to check one
2 more thing.

3 THE COURT: All right. While she's doing that, yes, sir.

4 ATTORNEY EPPES: Judge, you could cure it by charging
5 manslaughter.

6 THE COURT: There are no --

7 ATTORNEY EPPES: I understand.

8 THE COURT: As I ruled before, there is no evidence in this
9 case, in my opinion, that warrants a charge of manslaughter.

10 ATTORNEY EPPES: Just preserving the record, Your Honor.

11 THE COURT: Yes, sir.

12 SOLICITOR SCOTT: Your Honor.

13 THE COURT: Yes, ma'am.

14 SOLICITOR SCOTT: That's all that the State can produce, is
15 that we believe that a curative instruction could still be
16 provided to the jury regarding not to consider it manslaughter.

17 I do understand your general instructions. You do say that
18 he's charged with murder and that's what he is to be considered
19 for. We would just ask you to highlight that, in particular,
20 they should disregard that portion of defense counsel's argument.
21 And we will respect whatever the Court's ruling is at this time.

22 THE COURT: Ms. Messer, let me ask you, what -- I mean, the
23 improper argument's made. And how about, is it proper that the
24 State's objection after the closing, is that timely?

25 ATTORNEY MESSER: I don't think so, Your Honor, because if

1 she had objected at the time that it was first raised then the
2 rest of my argument would have not kept going. It would have
3 been timely at the time it was raised because then the jury
4 wouldn't have heard it. And so bringing it up after the jury's
5 already out, closing statement's done. It's not timely.

6 THE COURT: My concern is when argument's made and, in my
7 opinion at this point based on my review, an improper argument,
8 that unfortunately the party who makes the improper argument gets
9 the benefit if there's not a contemporaneous objection, that has
10 always been a concern of mine and something I've never liked, but
11 I feel that the law does require that contemporaneous objection.

12 Well, let me ask you this, Ms. Messer. Even though it's a
13 contemporaneous objection, let's look at it from this angle.
14 It's a contemporaneous objection for appellate purposes, now, our
15 case law on contemporaneous objections is whether there's a
16 preservation issue. That's why that rule is in effect. It is a
17 preservation issue for appellate purposes.

18 But is it out of that, is this issue here -- or not issue,
19 this situation here is not really within the context of issue
20 preservation; it's a matter of giving a curative instruction
21 based on arguments made, and it doesn't have to have,
22 necessarily, a contemporaneous objection? Is that a possible
23 argument that the State has?

24 ATTORNEY MESSER: Your Honor, I don't know the case law, and
25 I've said that, and I apologize for not being prepared for that,

1 but if there was a period in the trial where one of the witnesses
2 said something that I felt like it needed to be objected to, if I
3 raised it after the witness got off the stand it would not be
4 proper and it would not be something that would be - I wouldn't
5 get a curative instruction on it.

6 And so I think the timeliness of it -- I think the
7 timeliness specifically in this case makes a difference because,
8 again, if it had been raised at the time that it was brought up
9 then the argument would have changed. It poisons the argument
10 that they haven't met their burden - a curative instruction
11 would. Excuse me.

12 THE COURT: Ms. Scott, as I said, I do believe it was an
13 improper argument, but I believe I'm just bound by the
14 requirement from my courts that say the objection has to be
15 contemporaneously made, I think my charge will -- I don't think
16 the charge necessarily cures it but my charge will be just based
17 on the murder which is the only thing he's charged with. But I
18 think I'm just bound by the argument that it has to be
19 contemporaneous to get a curative instruction.

20 Again, I pose the question to you, Ms. Messer, as to whether
21 or not there's a way that that's not necessarily -- it's an
22 appellate issue preservation and not necessarily limit, does not
23 necessarily limit, me from still giving an instructive, a
24 curative instruction, to the jury.

25 Yes, it may be for appellate purposes, possibly, but does it

1 still gives the Court the opportunity because it's not
2 necessarily an issue of preservation for appellate purposes and
3 it's an improper argument issue that demands a curative
4 instruction.

5 ATTORNEY MESSER: Your Honor, I stand by what I said
6 earlier. If there was a witness on the stand and I waited until
7 after they got off I would not get a curative instruction. That
8 curative instruction would only come out if I objected to it and
9 they had to change it immediately. I would not be given that if
10 I did that.

11 THE COURT: All right. Well, as I said, I do believe it was
12 improper but I also feel bound by the law that requires a
13 contemporaneous objection, so I will not give a curative
14 instruction.

15 All right. Anything else we before we bring the jury in?
16 Anything from the State? Anything from the defense?

17 ATTORNEY MESSER: No, Your Honor.

18 THE COURT: Let's bring them in.

19 (Jury seated in the courtroom at 1:30 p.m.)

20 JURY CHARGE

21 THE COURT: All right. Ladies and gentlemen, I apologize
22 for the delay. We just had some matters I had to address. So we
23 are now ready for me to instruct you on the law.

24 First of all, I want to thank you for your attention this
25 week. All of you have paid attention, and I do appreciate that.

1 Unfortunately for you all you have to look at me the whole time,
2 but it does give me the opportunity to look at you all, and I
3 noticed all of you paying attention, so I really appreciate that,
4 the parties appreciate that, the lawyers appreciate that. And
5 I'm going to ask you for just a few more moments of your
6 attention, and I then will give the case to you here in a few
7 minutes.

8 All right. Ladies and gentlemen, the indictment in this
9 case charges the defendant with murder and possession of a weapon
10 during the commission of a violent crime. I remind you the fact
11 the defendant was arrested, charged, and indicted in this case is
12 not evidence and cannot be considered by you as evidence or guilt
13 in this case. That document is simply the formal written
14 instrument which contains the charges made against the defendant.
15 It is the formal document by which this case is brought into this
16 court.

17 Now, I remind you that you and I have had different
18 responsibilities in this case. As the trial judge, it has been
19 my responsibility to preside over the trial of this case, and I
20 have also had the duty to rule on the admissibility of the
21 evidence which has been offered during this trial. You are to
22 consider only the competent evidence before you, and that
23 evidence is the evidence and testimony from the witness stand and
24 the exhibits that are on that table right there that you will
25 have before you.

1 Now, there were a few exhibits that were initially admitted
2 but have been withdrawn by the parties by consent, agreement of
3 the parties, a few exhibits, but you have all of the competent
4 evidence before you, and that is what you are to base your
5 decision on, the evidence from the witness stand and those
6 exhibits.

7 Now, I have the additional duty to charge you the law which
8 is applicable to this case. As the presiding judge, I am the
9 sole judge of the law, and it is your duty, as jurors, to accept
10 and apply the law as I now state it to you. If you already have
11 any idea as to what the law is or what the law should be and it
12 does not agree with what I'm about to tell you, then you must
13 abandon that idea because you are sworn to accept the law and
14 apply the law exactly as I state it to you now.

15 In every case tried in this court a jury becomes the sole
16 and exclusive judge of the facts. A trial judge like myself
17 cannot state, cannot comment on, cannot make any statement to
18 you, the jury, about the facts in this case since you, and you
19 alone, are the sole judges of the facts. You are not to infer
20 anything that I have said or any ruling that I have made that I
21 have any opinion about the facts in this case because I do not.
22 In fact, the law does not allow me to have any opinion about the
23 facts in this case. That is your job and your job alone.

24 Now, the defendant has pled not guilty to these charges, and
25 that plea puts the burden on the State to prove the defendant

1 guilty. A person charged with committing a criminal offense in
2 South Carolina is never required to prove himself innocent. I
3 charge you that it is an important rule of law that the
4 defendant, in a criminal trial, no matter what the seriousness of
5 the charge will be, will always be presumed to be innocent of the
6 crime for which the indictment was issued unless guilt has been
7 proven by evidence satisfying you of the defendant's guilt beyond
8 a reasonable doubt.

9 This presumption of innocence does not end when you begin
10 your deliberations here in a few minutes, but it accompanies the
11 defendant throughout this trial until you're able to, if so,
12 reach a verdict of guilty based on the evidence satisfying you of
13 that guilt beyond a reasonable doubt. The presumption of
14 innocence is like a robe of righteousness that's placed about the
15 shoulders of the defendant, and it remains with that defendant
16 until it has been stripped from the defendant by the evidence
17 satisfying you of the defendant's guilt beyond a reasonable
18 doubt.

19 The presumption of innocence is not a mere legal theory,
20 it's just not a legal phrase - it's a substantial right which
21 every defendant is entitled unless you, the jury, are satisfied
22 from the evidence of the defendant's guilt beyond a reasonable
23 doubt. Now, as I've said, the State has that burden.

24 Some of you may have served on a civil jury which is, of
25 course, different from a criminal trial. In a civil jury, if you

1 have served on a civil jury, then the burden there is much
2 different, it's a preponderance of the evidence, or the greater
3 weight of the evidence. In a criminal case it is more than a
4 preponderance of the evidence; it is guilt beyond a reasonable
5 doubt.

6 It is beyond -- proof beyond reasonable doubt is proof that
7 leaves you firmly convinced of the defendant's guilt. There are
8 very few things in this world that we know with absolute
9 certainty, and in criminal cases the law does not require proof
10 that overcomes every possible doubt. If, based on your
11 consideration of the evidence, you are firmly convinced that the
12 defendant is guilty of the crime charged, crimes charged, you
13 must find the defendant guilty. If, on the other hand, you think
14 there is a real possibility the defendant is not guilty, you must
15 give the defendant the benefit of the doubt and find him not
16 guilty.

17 Now, the following things are not evidence and you must not
18 consider them in deciding the facts in this case. One is the
19 statements, and the closing arguments of the lawyers, and any of
20 the questions asked, or any objections that may have been raised
21 by the lawyers.

22 Now, there are two types of evidence in a trial, direct and
23 evidence circumstantial evidence. Now, direct evidence directly
24 proves the existence of a fact. Direct evidence directly proves
25 the existence of a fact and does not require any deduction.

1 Circumstantial evidence is proof of a chain of facts and
2 circumstances that indicate the existence of a fact, proof of a
3 chain of facts and circumstances indicating the existence of a
4 fact.

5 Now, crimes may be proven by circumstantial evidence. The
6 law makes no distinction between the weight or the value to be
7 given to either direct or circumstantial evidence. However, to
8 the extent the State relies on circumstantial evidence, all of
9 the circumstances must be consistent with each other and, when
10 taken together, point conclusively to the guilt of the defendant
11 beyond a reasonable doubt. If these circumstances merely portray
12 the defendant's behavior as suspicious, the proof has failed.
13 The State has that burden, and it rests with the State regardless
14 of whether the State relies on direct evidence, circumstantial
15 evidence, or a combination of the two.

16 Now, in deciding the facts in this case you necessarily must
17 determine the credibility of the witnesses who have testified in
18 this case. Credibility simply means believability. It becomes
19 your duty as jurors to analyze and to evaluate the evidence.

20 In determining the believability of the witnesses who have
21 testified in this case you may believe one witness over several
22 witnesses, or several witnesses over one witness; you may believe
23 a part of the testimony of a witness, and reject the remaining
24 part of the testimony of that same witness; you may believe the
25 testimony of a witness in its entirety, or you may reject the

1 testimony of that witness in its entirety; you may consider
2 whether any witness has exhibited to you any interest, bias,
3 prejudice, or other motive in this case; you may also consider
4 the appearance and the manner of a witness while on the witness
5 stand.

6 Now, we have had an expert witness testify in this court,
7 and I gave you a brief instruction about that the other day when
8 she testified. Now, the rules of evidence ordinarily do not
9 permit witnesses to testify to opinions or conclusions. An
10 exception to this rule exists for witnesses we call expert
11 witnesses who, by education and experience, has become an expert
12 in some art, science, or calling, and they may state an opinion
13 as to relevant and material matters in the case in which that
14 witness claims to be an expert, and they may also give the
15 reasons for the opinion. You should consider any expert opinion
16 received as evidence in this case just like any other evidence.
17 Give it the weight you think it deserves. If you decide that the
18 opinion of an expert witness is not based on sufficient education
19 and experience, or if you conclude that the reasons given in
20 support of the opinion are not sound, or that the opinion is
21 outweighed by other evidence, you may disregard the opinion
22 entirely.

23 An expert witness's testimony is to be given no greater
24 weight than that of any other witnesses who have testified in
25 this trial simply because they are designated as an expert

1 witness. Further, you are not required to accept an expert's
2 opinion even though it is uncontradicted.

3 Now, the defendant has not testified in this case. I
4 instruct you and emphasize that the fact that the defendant did
5 not testify is not a factor to be considered by you in any way in
6 your deliberation and in your consideration on the question of
7 the guilt or the innocence of the defendant. It must not be
8 considered by you in any manner whatsoever.

9 A defendant has the constitutional right to remain silent,
10 and the assertion of that right must not be considered by you in
11 your deliberations. I repeat, under your oath you are to draw no
12 conclusion whatsoever from the fact that the defendant in this
13 case did not testify. The fact that this defendant did not
14 testify should not even be discussed in the jury room or
15 mentioned in the jury room. The burden of proof, as I've stated
16 to you, is on the State, and that burden of proof remains on the
17 State to prove guilt beyond a reasonable doubt.

18 Now, in order to establish criminal liability, criminal
19 intent is required. For example, the mental state required to be
20 proven by the State for a particular crime might be purpose,
21 intent, knowledge, recklessness, or criminal negligence.
22 Criminal intent must be proven by the State beyond a reasonable
23 doubt. Criminal intent is always a matter that must be
24 determined by you, the jury, from the circumstances surrounding
25 the situation.

1 There is no way to prove intent to a mathematical certainty.
2 There is no way medical science can dissect a person's brain and
3 determine what the person had in mind, so the law says that
4 criminal intent may be inferred from the circumstances shown to
5 have existed. This is how you make a determination of whether or
6 not the element requiring intent was present.

7 It is not necessary to establish by direct and positive
8 evidence, but intent may be established by inference in the same
9 way as any other fact by taking into consideration the acts of
10 the parties and all of the facts and circumstances in this case.

11 Criminal intent is a mental state, a conscious wrongdoing.
12 It is up to you to determine what the defendant intended to do
13 based on the circumstances shown to have existed. Criminal
14 intent can arise from action or a failure to act. It may arise
15 from negligence, recklessness, or an indifference to duty or to
16 consequences that is considered by the law to be the equivalent
17 of criminal intent.

18 Now, the defendant is charged with murder. The State must
19 prove beyond a reasonable doubt that the defendant killed another
20 person with malice aforethought. Malice is hatred, ill will, or
21 hostility towards another person. It is the intentional doing of
22 a wrongful act without just cause or excuse and with an intent to
23 inflict an injury or under circumstances that the law will infer
24 an evil intent.

25 Malice aforethought does not require that malice exist for

1 any particular time before the act is committed but malice must
2 exist in the mind of the defendant both just before and at the
3 time the act is committed. Therefore, there must be a
4 combination of the previous evil intent and the act.

5 Malice aforethought may be express or it may be inferred.
6 These terms express and inferred do not mean different kinds of
7 malice but merely the manner in which malice may be shown to
8 exist, that is, either by direct evidence or by inference from
9 the facts and the circumstances which are proven.

10 Express malice is shown when a person speaks words that
11 express hatred or ill will for another, or when the person
12 prepared beforehand to do the act which was later accomplished.
13 Malice may be implied or inferred when circumstances demonstrate
14 a person had a wanton or a reckless disregard for human life, or
15 a reasonably prudent man would have known that, according to
16 common experience, there was a strong likelihood that death would
17 follow from the contemplated act.

18 The Defendant is also charged with possession of a weapon
19 during the commission of a violent crime. The State must prove
20 beyond a reasonable doubt that the defendant was in possession of
21 a firearm or visibly displayed what appeared to be a firearm
22 during the commission of a violent crime. A firearm can mean any
23 machinegun, automatic rifle, pistol, revolver, or any weapon
24 which will, or is designed to, or may be readily converted to
25 expel a projectile.

1 In order to find the defendant guilty of possession of a
2 weapon during the commission of a violent crime you must first
3 find the defendant guilty of committing a violent crime. Murder
4 is a violent crime. The State must prove beyond a reasonable
5 doubt that the weapon further advanced or helped in the
6 commission of the crime.

7 Now, ladies and gentlemen, your verdict in this case, as I
8 have told you, must be based solely on the evidence before you,
9 and that evidence is the testimony that has come from this
10 witness stand and the exhibits right there that you will have
11 back in the jury deliberation room for your consideration, and
12 that is it, that is the only evidence that you are to consider.
13 It cannot -- I emphasize, it cannot be based on any sympathy, any
14 passion, any bias, any emotion, or anything else other than what
15 the evidence is about.

16 Many of you may have seen the symbol of the justice system,
17 it's the Lady of Justice, and she is holding a set of scales that
18 weighs the evidence. But there is something that a lot of people
19 don't recognize when they look at the Lady of Justice, and that
20 is that she is blindfolded and the only thing she does is to
21 weigh the evidence. She is blindfolded. She doesn't know the
22 emotions, doesn't know the parties, or doesn't know anything
23 associated with anything other than what is the evidence. She
24 weighs the evidence. And that is what you do, and will do during
25 this case, and that is, weigh the evidence.

1 Now, let me say something about deliberations. It's often
2 been defined as the act of thinking about or discussing something
3 and deciding carefully. The great thing about our jury system is
4 that it brings 12 good people like yourselves, men and woman,
5 young and old, different backgrounds, different life experiences,
6 different perspectives of life to consider the evidence in this
7 case. You need to talk about it and ultimately reach a verdict.
8 We call them deliberations for a reason. You are to consider the
9 evidence in this case carefully and deliberate and discuss it in
10 a calm, thorough, and courteous manner. Remember, you are not
11 partisans or advocates for either the State or the defendant in
12 this case. Remember, you are the judges in this case, the judges
13 of the facts. Listen to the views of all of your fellow jurors,
14 consider other peoples' points and points of view, talk about it,
15 talk it through, and discuss it. And remember, if you are doing
16 something deliberately you are not in a big hurry, and you should
17 not be in a big hurry here. This is an important day for all of
18 the parties. This is their day, their only day, in court.

19 Now, when you do retire to the jury room here in a few
20 minutes, as I said, you should discuss this case with your fellow
21 juror in an attempt to reach a verdict if you can do so. Your
22 verdict must be unanimous. Each of you must decide the case for
23 yourself but you should do so only after impartially considering
24 all of the evidence and, as I have said, discussed it fully with
25 your fellow jurors and listen to the views of your fellow jurors.

1 Do not be afraid to change your opinion if the discussion
2 persuades you that you should, but do not, do not, come to a
3 decision simply because other jurors think it is right.

4 It is important that you attempt to reach a unanimous
5 verdict but, of course, only if each of you have can do so after
6 having made your own decision in this case. Do not change an
7 honest belief about the weight, any effect of the evidence simply
8 to reach a verdict; in other words, do not change your opinion
9 solely for reaching a unanimous verdict.

10 Now, madam foreman and ladies and gentlemen, you will have a
11 verdict form back there. It is a straightforward, simple verdict
12 form, and it has two questions. The first question as to the
13 charge of murder: We, the jury, unanimously find the defendant,
14 Akevious Lindsey - and then it has two places to check, one guilty
15 or one not guilty. And let me mention this: I do not have that
16 in any particular order for any reason. I have to put either
17 guilty or not guilty first, and I just do it because of the
18 alphabet. G comes before N. That is the sole reason I do that,
19 so do not take that into consideration.

20 The second question: As to the charge of possession of a
21 weapon during the commission of a violent crime, we, the jury,
22 unanimously find the defendant, Akevious Lindsey - again, either
23 guilty or not guilty. Sign it, and then knock or hit the button,
24 let the bailiffs know that you have reached a verdict.

25 Now, if you have any questions, Mr. Foreman, if you would

1 write it down on a piece of paper, the question, if you do have
2 any questions, and let the bailiffs know that you have a
3 question. Or if you wanted to read/hear some testimony -- it
4 would not be a witness re-testifying, but it would be the
5 recorded testimony of any witness if you wanted to hear, also
6 write that down and ask the bailiffs, or tell the bailiff you've
7 got a question, and they'll give it to me.

8 Now, what I'll do is, I'll, of course, review it, and I'll
9 let the lawyers know the question, and then I will make a
10 decision on how I want to respond. I'll do one of two things: I
11 may just write the answer on a piece of paper and send it back to
12 you. But if it does require me to maybe bring you out to explain
13 a little bit further, I may need to do that as well. So I'll
14 just have to make that call. I'll talk with the lawyers and get
15 their opinions and responses, and then I'll either, again, either
16 write the answer or I'll bring you back out.

17 All right. Now, I'm going to excuse you right now. Don't
18 discuss the case yet. I'm required, under the law, to go over
19 what I've just told you as to what the law is, and the lawyers
20 have the opportunity to take exception or object to any charge
21 that I may have given you. If there is no objection then I will
22 have everybody gather up the exhibits there, and the bailiff will
23 bring the exhibits in to you and tell you to start deliberating.
24 If I need to bring you back out, I'll do that.

25 But I'm going to excuse you now, and please don't discuss

1 it. I believe lunch is back there. All right.

2 (Jury escorted out of the courtroom at 1:55 p.m.)

3 THE COURT: All right. Any exceptions to the charge? From
4 the State?

5 SOLICITOR SCOTT: No, Your Honor.

6 THE COURT: Any from the defendant?

7 ATTORNEY MESSER: Yes, Your Honor. We renew our objection
8 to the --

9 ATTORNEY EPPES: You don't note the objections to charges,
10 but you can renew everything else.

11 ATTORNEY MESSER: Oh. I don't have any objections to the --
12 I'm sorry, I said it wrong. I don't have any objections to the
13 charge that you just gave other than my objection that I believe
14 that voluntary manslaughter should have been charged. And I
15 renew all of my former objections.

16 THE COURT: All right. So noted. My rulings still stand.
17 All right. If you all would, please, take a look at the
18 exhibits, make sure that all of it is there.

19 (Counsel responds.)

20 THE COURT: If you would bring the alternates out,
21 Mr. Cleary.

22 (The Court excuses the alternate jurors at 2:05 p.m.)

23 (Court recessed at and reconvened at 3:16 p.m., without the
24 jury.)

25 THE COURT: All right. I understand we have a verdict.

1 THE BAILIFF: Yes, sir.

2 THE COURT: First of all, those of you in the audience, I do
3 not want any reaction one way or the other, whatever this verdict
4 is. If you do not think that you can maintain your emotions,
5 then I want you to leave now. You can stay if you can maintain
6 your emotions, but I don't want to have any outburst on any side.
7 Again, I'll give you the opportunity now to leave if you don't
8 think you can handle that. Otherwise, bring in the jury.

9 (Jury seated in the courtroom at 3:21 p.m.)

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

12 THE FOREPERSON: Yes, sir.

13 THE COURT: Please just hand it to the bailiff there.

14 (The Court inspects the verdict form.)

15 THE COURT: All right. Clerk, publish the verdict.

16 CLERK OF COURT: Case No. 2023-GS-23-04555, The State of
17 South Carolina versus Akevious Lindsey; as to the charge of
18 murder, we, the jury, unanimously find the defendant, Akevious
19 Lindsey, guilty; as to the charge of the possession of a weapon
20 during the commission of a violent crime, we, the jury,
21 unanimously find the defendant, Akevious Lindsey, guilty.

22 Ladies and gentlemen, if you agree this is the verdict you
23 reached in your deliberation room, please raise your right hand.

24 (Jurors respond.)

25 CLERK OF COURT: Thank you.

1 THE COURT: All right. Ladies and gentlemen, that will
2 conclude your service in this case. I'm going to ask that you
3 step back in the jury room, gather your things, your phones and
4 all, and I'm going to step out and just speak with you for just a
5 few minutes. So I will see you back there in a few minutes.
6 Thank you.

7 (Jury is dismissed at 3:23 p.m.)

8 THE COURT: All right. I'm going to step back and speak
9 with the jury just for a few minutes. That will give you all an
10 opportunity to gather for sentencing, and I'll come back and we
11 will do sentencing.

12 SOLICITOR SCOTT: Thank you, Your Honor.

13 ATTORNEY EPPES: Thank you, Your Honor.

14 (Court recessed at 3:21 p.m. and reconvened at 3:28 p.m.)

15 THE COURT: All right. Are the parties ready for
16 sentencing? The State ready?

17 SOLICITOR SCOTT: Yes, Your Honor.

18 THE COURT: All right. The defense ready?

19 ATTORNEY MESSER: Yes, Your Honor.

20 THE COURT: First of all, how many days of credit does he
21 have? Do we have that?

22 SOLICITOR SCOTT: 646, Your Honor.

23 THE COURT: 646, okay. I'll hear from the State.

24 SOLICITOR SCOTT: Your Honor, the State --

25 ATTORNEY MESSER: Your Honor, we were going to come up here.

1 Is that okay?

2 THE COURT: I don't mind if you stay there.

3 ATTORNEY EPPEES: Okay.

4 SOLICITOR SCOTT: Your Honor. --

5 THE COURT: All right. Yes, ma'am.

6 SOLICITOR SCOTT: The State would like to first just present
7 to the Court his criminal history. And that being said, because
8 the jury was unable to hear that and they still found him guilty
9 of murder, but it's important for the Court to know that in 2021
10 he was convicted of an assault and battery, third degree. That
11 was on a woman that he previously had dated where he followed
12 after her to her apartment where he then beat her, and he pled
13 guilty to that. Then in 2022 this deceased victim, Ms. Genesys
14 Rice, reported that she was assaulted by him, in the Mauldin
15 Police Department. She then also told Laurens County Sheriff's
16 Office she was assaulted by him where he was convicted of a
17 domestic violence, second degree. That was in 2023.

18 THE COURT: 2022, is that the same -- you said he was
19 arrested in 2022?

20 SOLICITOR SCOTT: No, sir. He was not arrested until --
21 yes, he was arrested -- sorry -- in October of 2022 for domestic
22 violence. It's actually -- it's a high and aggravated nature.

23 THE COURT: And that was in 2023?

24 SOLICITOR SCOTT: I will start over. And I apologize,
25 Judge.

1 THE COURT: I apologize, because it may be me -- go ahead.

2 SOLICITOR SCOTT: It's me.

3 THE COURT: Okay.

4 SOLICITOR SCOTT: 2021, assault and battery, third, with a
5 different woman.

6 THE COURT: All right.

7 SOLICITOR SCOTT: She made a complaint in Mauldin in 2022.

8 THE COURT: That was 2022.

9 SOLICITOR SCOTT: But it did not result in a conviction,
10 Your Honor.

11 THE COURT: Okay. I gotcha. Okay.

12 SOLICITOR SCOTT: However, she made a complaint, and it did
13 result in an arrest, in October of 2022 in Laurens County. He
14 was charged with domestic violence, high and aggravated nature,
15 and at the time had minimal criminal record, and the Laurens
16 County Solicitor's Office offered him a DV, second, in which he
17 pled to. And just for the record, Your Honor, she was six
18 months' pregnant when that domestic violence, high and aggravated
19 nature, occurred.

20 Now, given that he pled to it in 2023, Your Honor, he was
21 currently on probation when this murder occurred. He pled
22 guilty -- may I see the NCIC? She's got it -- and was on
23 probation starting January of 2023 for that domestic violence,
24 second degree, which again was reduced from a domestic violence,
25 high and aggravated nature. That is January.

1 In May this incident occurred.

2 Your Honor, the State is requesting a maximum sentence for
3 this defendant. We do want you to hear from the victims, but
4 particularly as a part of the domestic violence unit, this
5 pattern of his behavior beginning from 2021 up until 2023, it's
6 deliberate, it's foreseeable, and we do not believe he should
7 have any rehabilitation status.

8 At this time I would like the victim to speak.

9 THE COURT: All right.

10 MS. LISANDRA HENDRICKS: My name is Lisandra Hendricks, and
11 I'm am the mother of Genesys Elizah Rice.

12 THE REPORTER: I need some volume, please.

13 MS. LISANDRA HENDRICKS: My name is Lisandra Hendricks, and
14 I'm the mother of Genesys Elizah Rice. Genesys was the mother of
15 two beautiful girls. She was a daughter, sister, and a friend.
16 On May 6, 2023, our hearts were broken and our lives were
17 shattered when we lost Genesys to the senseless act and rage of
18 Akevious Lindsey.

19 Genesys was radiant, full of life, beautiful, and she loved
20 her girls.

21 Going through this trial has been beyond hard for me and my
22 family. We had to endure and relive the night of losing our
23 Genesys. We have sat here listening to things that we have not
24 been exposed to, and it was like listening to nails moving across
25 a chalkboard. It's been sickening listening to the testimonies

1 of people who had selective memory, of people who claim they
2 believe in God but didn't want to tell the truth. It's amazing
3 how people protect their family at any means necessary. It seems
4 they're more committed to Akevius than than being committed to
5 God by not being truthful about what happened. They were more
6 worried for his safety and wellbeing instead of his actions
7 towards Genesys.

8 For Akevius to mention he did what his uncle did has been a
9 thorn in my flesh as if he reached an accomplishment. How sick
10 can a person be to have that be the focal point of your action?

11 With that said, I'd ask the Court to consider the evidence,
12 consider the circumstances, consider my family, consider my
13 grandbabies that no longer have their beautiful, loving mama.
14 There was no mercy and there was no grace when Akevius selfishly
15 took Genesys away from us so please consider not having any mercy
16 for Akevius Lindsey, and we're asking that you give him life.

17 THE COURT: Thank you, ma'am.

18 SOLICITOR SCOTT: I understand the court reporter may have
19 had some issues with understanding her. This is what she read
20 for you to have. Nothing further from the State, Your Honor.

21 THE COURT: All right. Let me hear from defense.

22 ATTORNEY EPPES: Your Honor, we've represented Mr. Lindsey
23 since a very short time after this incident in his arrest. With
24 us, he has always been the polite, young man you see you here. I
25 realize where we are and I realize what the Court has heard, but

1 he has been nothing but humble, and thoughtful, and considerate
2 with us.

3 He has a lot of potential. He comes, as the Court has seen,
4 from a good family, and he stands before you asking for some
5 mercy now.

6 As an initial matter, I oppose the State's request for the
7 maximum sentence, and I do that for one simple reason. I've had
8 this come up a lot -- not a lot, but a number of times -- with
9 young men. Regardless of whether the State believes that he can
10 be redeemed, our society and our laws believe that people should
11 get a chance to be redeemed regardless of where they are, and I
12 would ask that you forego a life sentence for the simple reason
13 that someone his age can be exposed to a lot of programs in the
14 Department of Corrections that are prohibited if it's a life
15 sentence.

16 So I ask Your Honor, if you're considering an extensive
17 sentence, that it be the most expensive sentence of sentencing
18 years and not life for the simple reason that he will have a
19 chance then to redeem himself during his sentence.

20 I would finally, Judge, ask that you consider a sentence
21 between 30 and 45 years for the simple reason that some sentence
22 in that range would get him out between the ages of 50 and 65
23 where he might actually breathe fresh air one more time, or for a
24 period of time in this live.

25 I don't know any other way to say it than to say that we're

1 just asking for you to consider everything and show some mercy.

2 Thank you, Your Honor.

3 THE COURT: All right. Thank you. Anything else from the
4 State?

5 SOLICITOR SCOTT: No, Your Honor.

6 THE COURT: Mr. Lindsey, in your time that you will spend in
7 the Department of Corrections I hope it will give you an
8 opportunity to reflect on your conduct and your actions and what
9 they have caused here.

10 To the family, I hope that this gives, to some degree, some
11 closure. I know it will never close it all together but
12 hopefully at some point you will be able to put it behind you to
13 some degree. Again, I know that won't be all the way
14 100 percent, but the memory of your daughter, friend, and
15 relative will always be there, you will always remember her and,
16 again, I hope you can at least put some closure to some degree to
17 it.

18 As to the count of murder, the sentence of the Court, under
19 2023-GS-23-4555, is 50 years with the Department of Corrections.
20 As to the possession of a weapon during commission of a violent
21 crime, 2023-GS-23-4555, is a concurrent sentence of five years.
22 The defendant will have 646 days of credit. That is the sentence
23 of the Court. And we are adjourned.

24 SOLICITOR SCOTT: Thank you, Your Honor.

25 ATTORNEY MESSER: Thank you, Your Honor.

(End of Transcript of Record.)

CERTIFICATE OF REPORTER

I, Cathy J. Provost, Official Court Reporter for the Fourteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial/proceedings of the captioned case in the Court of General Sessions for Greenville County, South Carolina, on the 13th day of February, 2025.

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

Date: June 1, 2025

\s\ Cathy J. Provost
Cathy J. Provost, RMR
Official Circuit Reporter

DOCKET NO. 2023-GS-23-

BDS

004555

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

July

TERM 2023

THE STATE

vs.

AKEVIUS DAYQUAN LINDSEY

ACTION OF GRAND JURY

TRUE BILL

Dea C. Johnson
Foreperson of ~~GRENVILLE~~ GRAND JURY

VERDICT

guilty

Thomas McGinley
Foreperson of Petit Jury
Date: *2/13/2025*

WITNESSES

Simpsonville Police Department

5/8/2023

ARREST WARRANT NUMBER

2023A2320400219

2023A2320400220

Indictment for

✓0116
✓0549

MURDER

VIOLATION § 16-03-0010
POSSESSION OF WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME
VIOLATION § 16-23-0490

ENTERED ACCT *WM*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE-MURDER
COUNT TWO-POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

JUL 25 2023

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

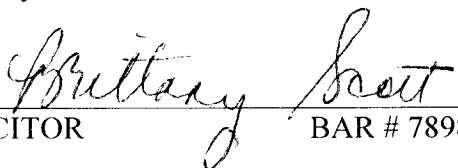
COUNT ONE-MURDER

That AKEVIUS DAYQUAN LINDSEY did in Greenville County, on or about the 6th day of May, 2023, unlawfully and with malice aforethought kill GENESYS RICE by means of shooting her, and that GENESYS RICE died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

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

That AKEVIUS DAYQUAN LINDSEY did in Greenville County, on or about the 6th day of May, 2023, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


 SOLICITOR BAR # 78989

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GreenvilleINDICTMENT/CASE#: 2023 - GS - 23 - 04555

STATE vs.

A/W#: 2023A2320400220Date of Offense: 5/6/2023S.C. Code § 16-23-0490

Akevious Dayquan Lindsey

AKA: SSN: [REDACTED]

CDR Code #: 0549RACE: BLACK SEX: M DOB: [REDACTED]

Range of Offense:

In disposition of the above indictment comes now the Defendant who was
TO: Weapons / Poss. Weapon During Viol☒ CONVICTED OF or
Range of Offense Pled☐ PLEADSin violation of § 16-23-0490of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As Indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ RecommendationBrittany Scott 78989
Scott, Brittany SC Bar #Frank L. Eppes 07839
EPPES, FRANK L. SC Bar#

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
 for a determinate term of 5 days/months/years/Time Served ☐ YOA NTE _____ years and/or shall pay a fine
 of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____; plus costs and assessments as applicable*; balance is suspended with probation for _____ months/years
 and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.
 The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDC.
646 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- ☐ PTUP _____
☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

 Restitution \$
 FINE: \$
☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-190(B))

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

 Fine/Costs and Assessments are to be paid to the
 Clerk of Court within _____ days/months

\$	
\$100	\$ <u>100.00</u>
\$100	\$
\$12	\$
\$25	\$
\$25	\$ <u>25.00</u>
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ <u>3.75</u>
\$500	\$
\$40	\$
TOTAL	\$ <u>128.75</u>

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

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

Clerk of Court/Deputy Clerk

Provost
 Court Reporter

2773
 Judge Code

2/13/2025
 Sentence Date

[Signature]
 Presiding Judge

 SCCA217B
 01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

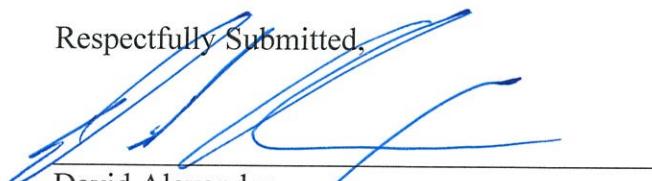
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised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

RECEIVED

Dec 04 2025

SC Court of Appeals

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

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

ATTORNEY FOR APPELLANT

This 4th day of December 2025.