

RECEIVED

May 29 2026

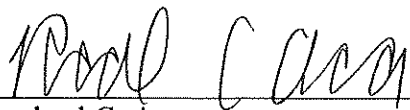
SC Court of Appeals

STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA
) COURT OF APPEALS
 COUNTY OF CHARLESTON) Indictment No(s): 2023-GS-10-05197, 2025-GS-10-
) 00812
)
) Charge(s): Murder, Criminal Conspiracy
 STATE OF SOUTH CAROLINA)
)
) vs.)
) REQUEST FOR REPRESENTATION
) ON APPEAL
 JAVAR MITCHELL,)
)
) Defendant)
)

On behalf of the request of the above-named Defendant, to be represented by the South Carolina Commission of Appellate Defense, the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the defendant-appellant in the above captioned case. The defendant-appellant was placed in custody immediately following conviction and sentence and was not available to personally sign this Request.
2. The defendant-appellant was represented by the Charleston County Public Defender's Office as an indigent, pursuant to the Defense of Indigent Act.
3. The defendant-appellant has been informed that he may request assistance from the South Carolina Commission of Appellate Defense in perfecting his appeal.
4. A timely Notice of Appeal has been filed on the defendant's-appellant behalf.
5. The defendant-appellant has been informed that nothing requires that office to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the defendant-appellant requests the aid of the South Carolina Commission of Appellate Defense in perfecting his appeal to the South Carolina Court of Appeals.


 Rachael C. Arora
 Senior Assistant Public Defender
 Charleston County Public Defender

Charleston, South Carolina

Dated: MAY 29, 2026.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #: 2023GS1005197
2025GS1000812

vs.

JAVAR MITCHELL,

DEFENDANT.

VERDICT FORM

- I. We the jury unanimously find the Defendant, Javar Mitchell, as to the charge of **Murder**:

GUILTY

NOT GUILTY

- II. We the jury unanimously find the Defendant, Javar Mitchell, as to the charge of **Criminal Conspiracy**:

GUILTY

NOT GUILTY

Please sign and date.

Paige H. Hon
Jury Foreperson

July 10, 2025
Date

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SC Court of Appeals

TFF/0404686
WITNESSES

DOCKET NO. 2023-GS-10-05197

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May 29 2026

SC Court of Appeals

Charleston County Sheriff Office

The State of South Carolina

County of Charleston

Bay M. Halstead / BARRY N. GOLDSTEIN

AGENCY CASE NUMBER

2021-009328

ARREST WARRANT NUMBER

2023-GS-10-05197

DATE OF ARREST

10/29/2021

ACTION OF GRAND JURY

TRUE BILL

Mentha Woodward NOV 06 2023
Foreperson of Grand Jury Date:

VERDICT

Paige Hilton 7/10/25
Foreperson of Petit Jury Date:

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2023

THE STATE

VS.

JAVAR MITCHELL

DOB: [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

RECEIVED

May 29 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened November 2023, the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County, South Carolina on or about July 19, 2021, the defendant, Javar Mitchell with malice aforethought did kill and murder [REDACTED] by means of a firearm, and [REDACTED] did die in Charleston County as a proximate result thereof on or about July 19, 2021 in violation of §16-3-10 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.


TIMOTHY FINCH
ASSISTANT SOLICITOR

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

May 29 2026

SC Court of Appeals

STATE vs.
Javar Mitchell

AKA:
RACE: [REDACTED]

SEX: [REDACTED]

SSN: [REDACTED]

DOB: [REDACTED]

) INDICTMENT/CASE#: 2025-GS-10-00812
) AWF#: 2025-GS-10-00812
) Date of Offense: 07/19/2021
) S.C Code§: 16-17-0410
) CDR Code #: 0049
) Range of Offense: Criminal Conspiracy (NMT 5 Years or NMT \$5,000)

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Criminal Conspiracy Range of Offense Pled: (NMT 5 Years or NMT \$5,000)

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

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS MANDATORY GPS § 17-25-45 (CSC w/minor 1* or CSC w/minor 3**)

The charge is: As Indicted Lesser Included Offense Defendant Waives Presentment to Grand Jury

The plea is: w/o Rec/Negotiations Negotiated _____ Recommendation _____

vs Timothy Finch 78223 /s Rachael C. Arora 102915
Solicitor SC Bar # Attorney for Defendant 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 YOANTE _____ 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 let 60 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 See Separate Order (20% per S.C. Code §24-21-490(B))

- §14-1-206 (Assessments 107.5%)
- §14-1-211 (A)(1) Conv. Surcharge
- §14-1-211 (A)(2)(DUI Surcharge)
- §56-5-1995 (DUI Assessment)
- §56-1-286 (DUI Breath Test)
- §14-1-212 (Law Enforcement 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)
- Appointed PD or appointed other counsel. Proviso requires \$500 to be paid to Clerk during probation and shall be collected before any other fees
- §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution	\$ _____
FINE:	\$ _____
	\$ _____
	\$ _____
	\$ 100.00
	\$ _____
	\$ 100
	\$ _____
	\$ 12
	\$ _____
	\$ 25
	\$ _____
	\$ 25
	\$ 25.00
	\$ _____
	\$ 150
	\$ _____
	\$ 41
	\$ _____
	\$ 50
	\$ _____
	\$ 40/ea
	\$ _____
	TBD
	\$ 3.75
	\$ _____
	\$ 500
	\$ _____
	\$ 40
	\$ _____
TOTAL	\$ 128.75

/s Clerk of Court Shelly Lott
Clerk of Court Deputy Clerk

Viviane Torres /s Melissa Singletary
Court Reporter Judge Code
2786

5/26/26
Sentence Date

[Signature]
Presiding Judge

SCCA217B
01/27/2025

DEFERRED SENTENCE (Plea Accepted) - Jury Trial/Guilty
Judge: [Signature]
Date: 7/11/25

TFF/0404686
WITNESSES

DOCKET NO. 2025-GS-10-00812

RECEIVED

May 29 2026

SC Court of Appeals

Charleston County Sheriff Office

The State of South Carolina

B. M. Goldstein / BARRY N. GOLDSTEIN

County of Charleston

AGENCY CASE NUMBER

2021-009328

ARREST WARRANT NUMBER

2025-GS-10-00812

DATE OF ARREST

10/29/2021

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2025

ACTION OF GRAND JURY

TRUE BILL

THE STATE

VS.

JAVAR MITCHELL

DOB: [REDACTED]

Laura Lloyd FEB 03 2025
Foreperson of Grand Jury Date:

VERDICT

Indictment for

CRIMINAL CONSPIRACY

SC Code: § 16-17-0410
CDR Code: 0049

Paige Hillman 7/10/2025
Foreperson of Petit Jury Date:

RECEIVED

May 29 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2025, the Grand Jurors of Charleston County present upon their oath:

Criminal Conspiracy

That in Charleston County, South Carolina on or about July 19, 2021, the Defendant, Javar Mitchell, did combine, conspire, confederate, agree or have tacit understanding with another or others for the purpose of accomplishing an unlawful object or a lawful object by unlawful means (to wit: Murder) in violation of Section 16-17-410 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.



TIMOTHY FINCH
ASSISTANT SOLICITOR

FILED

STATE OF SOUTH CAROLINA)
IN THE COUNTY OF CHARLESTON)

2025 JUL 21 PM 3: 36

JULIE J. ARMSTRONG)
CLERK OF COURT)

BY ME)

IN THE COURT OF GENERAL SESSIONS)
FOR THE NINTH JUDICIAL CIRCUIT)

Indictment Nos.: 2023-GS-10-05197, 2025-GS-10-00812

Charge(s): Murder, Criminal Conspiracy

STATE OF SOUTH CAROLINA)

vs.)

JAVAR MITCHELL,)

Defendant.)

DEFENSE'S MOTION FOR NEW TRIAL)
PURSUANT TO RULE 29(A))

The Defendant, Javar Mitchell, moves for a new trial pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure, following his convictions for Murder and Conspiracy at trial.

PROCEDURAL HISTORY

When Javar was only [REDACTED] the Charleston County Sheriff's Office detained him on the charge of Murder. Due to his age at the time of the incident, he was originally charged in Family Court as a juvenile. On November 1, 2021, shortly after his detention, the Ninth Circuit Solicitor's Office filed petition seeking to transfer jurisdiction of Javar's case from the Family Court to the Court of General Sessions and to prosecute him as an adult. Nearly two years later, the Honorable Mandy W. Kimmons presided over a Transfer Hearing on August 14 and 15, 2023. On the same day that testimony concluded, Judge Kimmons issued a verbal ruling ordering that jurisdiction be transferred to the Court of General Sessions. On November 6, 2023, the Ninth Circuit Solicitor's Office directly indicted Javar for Murder. He was subsequently served with that indictment on December 19, 2023, at a bond hearing. The State later indicted him in February

2025, on the charge of Conspiracy, an offense that was not part of a waiver hearing in Family Court.

The Ninth Circuit Solicitor's Office noticed Javar for trial for the term of July 7, 2025, along with a codefendant, [REDACTED]. The trial was scheduled in front of the Honorable Thomas William McGee, III. Prior to picking a jury, the Court heard and ruled on two significant motions from the Defense for Javar: (1) Motion to Remand Jurisdiction to Family Court and (2) Motion to Sever. In addition, the defense team for codefendant [REDACTED] moved to sever the trial. Following arguments from the parties, the Court denied the Motion to Sever and ordered that Javar be tried alongside [REDACTED]. The Motion to Remand Jurisdiction to Family Court was also denied, and a jury was subsequently seated. Several additional pretrial motions from both Defendants were addressed and ruled on prior to the start of any testimony.

A jury trial was held, in which the State prosecuted both Defendants together, and ultimately both Defendants were found guilty of Murder and Conspiracy on July 11, 2025. Given the lengthy jury deliberations and late hour at which a verdict was returned, the Court graciously permitted the parties to file written post-trial motions instead of making them that evening. Due to Javar's age, sentencing in this matter has been deferred in order for the Defense to prepare for an individualized sentencing hearing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), *cert. denied*, 135 S. Ct. 2379 (2015) and *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455 (2012). This motion is filed pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure.

ARGUMENT FOR NEW TRIAL

In making his motion for the new trial, the Defense for Javar renews all pretrial motions, objections made during trial, and motions for directed verdict. In addition, the Defense offers the

following additional arguments related to those pretrial motions, as well as additional grounds as follows.

I. The Defendant's Motion to Remand Jurisdiction to Family Court should have been granted.

A Motion to Remand Jurisdiction to Family Court was filed by the Defense on May 30, 2025. The Defense argued that S.C. Code Section 63-19-1210(6) is unconstitutional; that the *Kent* factors relied upon in waiving jurisdiction of Javar's case to General Sessions Court violated his due process rights under the federal and state constitutions; that charging Javar as an adult violated his rights under the equal protection clause; and that prosecuting him as an adult violated his rights under the 8th Amendment of the United States Constitution and Article 1, Section 15 of the South Carolina Constitution. The Court denied the motion.

At trial, there was clear testimony that Javar was only [REDACTED] at the time of the incident that led to him being arrested and charged. In addition, Detective McCauley testified that when he attempted to get Javar to consent to providing a buccal swab (without a search warrant) that he refused and ran to his room, locking his door. When the SWAT team and U.S. Marshalls appeared along with the police, all fully armed, to detain him for murder in October 2021, Javar, still [REDACTED] did not come out immediately. This testimony by Detective McCauley supported that Javar's young age and immaturity were a factor in the months following the incident and by default his youthful immaturity would have existed in July 2021. There was no testimony that he was more mature or sophisticated than the average [REDACTED]

[REDACTED] For these reasons, along with the constitutional grounds raised in the Defense's pretrial motion, the Court should grant the Defense's Motion for New Trial and remand jurisdiction to the Family Court.

II. The Defendant, Javar Mitchell, was substantially prejudiced by being tried along side codefendant, [REDACTED] and he was not afforded a fair trial in violation of his due process rights under both the United States and South Carolina constitutions.

Prior to jury selection, the Court heard arguments on the Motion to Sever filed by both the Defense for Javar and the Defense for codefendant [REDACTED]. The State strategically offered to the Court not to call a witness named [REDACTED], due the impact it would have on the ability to have a joint trial. Despite additional arguments offered by counsel for the Defense, the Court denied the Motion to Sever, a jury was selected, and the State proceeded with a joint trial. While Defense for Javar argued both in its written motion and in oral arguments that a joint trial would substantially prejudice him and violate his rights under the 6th Amendment of the United States Constitution and Article 1, Section 14 of the South Carolina Constitution, the Defense had no ability to predict the reality and profound impact of being tried alongside [REDACTED]. Defense counsel for Javar argued that [REDACTED] would testify that she saw [REDACTED] in the black truck on the day of the murder but not Javar and that the jury could assume that Javar was also in that truck. [REDACTED] did testify and identified [REDACTED] as being in the truck. The Defense for [REDACTED] undermined Javar's defense, and often undermined any momentum or progress gained by Javar's defense team during subsequent cross-examination of witnesses. While the undersigned attempted to distance Javar's defense from [REDACTED] defense and representation, the fact that they were tried together, inescapably subjected Javar to the jury's perceptions of [REDACTED] counsel and defense strategy. Javar's right to a fair trial was substantially hurt by [REDACTED] trial counsel's performance. Therefore, the Defense requests that a new trial be granted and that he be tried separately from [REDACTED] and be judged by a jury only focused on his individual guilt or innocence.

III. During the testimony of [REDACTED] there is a possibility that his attorney was signaling or making head movements with answers to the questions posed by attorneys.

During the trial, the State called [REDACTED] as a witness. [REDACTED] is a cooperating codefendant and charged with Murder and Conspiracy in the same incident as Javar. [REDACTED] attorney was present in the courtroom and seated in the first row in the gallery during his testimony. The Defense has become aware that [REDACTED] attorney may have been making head movements during the questioning of [REDACTED] that could be construed as signaling answers to his client. It is unclear whether this was intentional or not, and at this time, it is unclear whether [REDACTED] viewed the alleged activity by his attorney. Because the Defense was not aware of the allegation during [REDACTED] testimony, the Defense could raise no objection contemporaneously with the alleged conduct. The Defense is working to investigate the allegation, and once additional information is gathered on this issue, the Defense intends to supplement this Motion for New Trial. Should this information be verified, it would undermine the integrity and credibility of [REDACTED] testimony and violate Javar's right to a fair trial under both the 5th and 14th Amendments of the United States Constitution and Article 1, Section 3 of the South Carolina Constitution.

IV. The Court should have instructed the jury with the Defense's Proposed Jury Instruction of the Reasonable Juvenile Standard for Hand of One Hand of All.

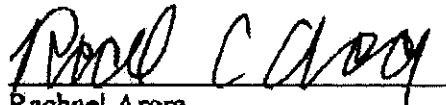
Prior to instructing the jury, the Court held a jury charge conference on the record. As part of that conference, the Court heard arguments regarding the Defense's request that the Court adopt and charge a Reasonable Juvenile Standard for Hand of One Hand of All. A written Jury Charge Request and Memorandum in Support of that request were submitted and made a Court's Exhibit. The Defense relies on its written materials and all oral arguments made and asks the

Court to reconsider its decision to not give the proposed charge and allow the charge to be instructed at a new trial in this matter.

CONCLUSION

For the reasons outlined in this motion, the Defense for Javar Mitchell respectfully requests that a hearing be scheduled in this matter for the Court to hear arguments and any potential testimony regarding the request for a new trial pursuant to Rule 29.

Respectfully Submitted,



Rachael Arora
Senior Assistant Public Defender



Megan Ehrlich
Charleston County Public Defender

ATTORNEYS FOR JAVAR MITCHELL

FILED

2025 JUL 21 PM 3:36

JULIE J. ARMS TRONG
CLERK OF COURT

BY: MK

Charleston, South Carolina

Dated: 7/21/25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
IN THE COUNTY OF CHARLESTON) FOR THE NINTH JUDICIAL CIRCUIT

FILED
2025 AUG 21 PM 1:24
JULIE J. ARMSTRONG
CLERK OF COURT

Indictment Nos.: 2023-GS 10-05197, 2025-GS-

00812

Charge(s): Murder, Criminal Conspiracy

BY SS

STATE OF SOUTH CAROLINA)

vs.)

JAVAR MITCHELL,)

Defendant.)

DEFENSE ADDENDUM TO MOTION
FOR NEW TRIAL PURSUANT TO RULE
29(A)

The Defendant, Javar Mitchell, moves to supplement his motion for a new trial pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure, following his convictions for Murder and Conspiracy at trial.

PROCEDURAL HISTORY

A jury trial was held, in which the State jointly prosecuted both Defendants, Javar Mitchell and [REDACTED] and ultimately both Defendants were found guilty of Murder and Conspiracy on July 11, 2025. A motion for a new trial on behalf of Javar Mitchell was filed pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure on July 21, 2025. The State filed their response on August 5, 2025, in the form of a joint response to both Mitchell's Motion for New Trial and Defendant [REDACTED] Motion for New Trial.

Subsequent to the filing of the State's response, The Defendant, Javar Mitchell, moved for an order from the Court for the production of courtroom video surveillance in the possession of the Charleston County Clerk of Court that is relevant to his Motion for New Trial. This motion was filed on August 8, 2025. The State filed their response on August 15, 2025.

On August 18, 2025, Judge McGee issued a ruling in an email ordering that the parties should receive a copy of the video testimony of [REDACTED] and with instructions that the video should remain under seal . A proposed order has been drafted and circulated by the undersigned, and Defense has also provided this proposed order to Judge McGee.

The Clerk of Court has moved forward in making the video available to the parties, including mailing a copy to the trial judge, and Defense Counsel for Mitchell picked up the video from the Clerk of Court office on August 19, 2025.

SUPPLEMENTAL INFORMATION

In their Motion for New Trial, Defense argued that during the testimony of [REDACTED] there is a possibility that his attorney was signaling or making head movements with answers to the questions posed by attorneys. While the State argued in its response that the Defense failed to make a contemporaneous objection, the Defense attorneys for Mr. Mitchell were unaware of the conduct when it was occurring behind them, and therefore, had no ability or information to make such an objection, raise it to the court, or move for a mistrial at that time. Following the conviction, the Defense investigated the allegation and was able to gather information on this issue.

Defense was able to gather three affidavits from witnesses who were in the gallery of the courtroom during [REDACTED] testimony. These affidavits are attached as Exhibit One, Exhibit Two and Exhibit Three. Each affidavit indicates that [REDACTED] attorney was making head movements to indicate "yes" or "no" during his testimony.

Defense was also able to review the video surveillance footage from the courtroom of [REDACTED] testimony in the Clerk of Court's office prior to moving for an order to have

the video produced. In viewing the video, the attorney makes one head movement during the Direct Examination of [REDACTED]. It is not until the Cross Examination and Redirect that the movements are visible and noticeable upon review of the video. Defense believes that the approximate times listed below are relevant and support the affidavits that [REDACTED] attorney was making head movements of yes and no during [REDACTED] testimony.

1. 3:56:15 – Attorney moves positions in the courtroom
2. 4:09:06 – Attorney moves head and raises hand
3. 4:18:34 – Attorney shakes head yes
4. 4:18:40 – Attorney shakes head yes
5. 4:18:59 – Attorney shakes head no
6. 4:19:03 – Attorney shakes head no
7. 4:19:50 – Attorney shakes head no
8. 4:19:58 – Attorney shakes head yes
9. 4:25:02 – Attorney appears to be writing a note
10. 4:33:53 – Attorney shakes head yes
11. 4:35:22 – Attorney shakes head no
12. 4:38:28 – Attorney passes the note to solicitor Timmy Finch
13. 4:44:10 – Attorney shakes head no
14. 4:44:45 – Attorney shakes head yes
15. 4:44:50 - Attorney shakes head no
16. 4:44:54 – Attorney shakes head no
17. 4:44:57 – Attorney shakes head no
18. 4:45:08 – Attorney shakes head no

19. 4:45:13 – Attorney shakes head no
20. 4:45:20 - Attorney shakes head no
21. 4:45:30 – Attorney shakes head no
22. 4:45:44 – Attorney shakes head yes
23. 4:45:52 – Attorney shakes head no
24. 4:45:56 – Attorney shakes head no

██████████ testimony was a key part of the State's case. Whether his testimony was coached by his attorney or influenced by inadvertent head movements from the gallery must be given real consideration by the Court in deciding whether Javar Mitchell's right to a fair trial was violated. ██████████ answered questions on cross and re direct about whether he had received his discovery. The reason the line of questioning about discovery was important is because it shows that ██████████ could have studied his discovery to bolster his story prior to meeting with the State to proffer and that goes towards his credibility. It also shows that he was able to listen to ██████████ interview and prepare to have this testimony match that of ██████████ ██████████


The issue of witness coaching has been addressed in *State v. Smith*, 383 S.C. 159 (2009). In this case, the Defendant's counsel moved for a mistrial after it was made aware that the aunt was making motions and mouth movements towards the child witness during their testimony. After the defendant was convicted, Defendant's counsel moved for a new trial with respect to the issue of the aunt's coaching during the testimony. The trial judge granted the motion. In reviewing this decision, the Court stated they were guided by the following principle, "When it is made to appear that anything has occurred which may have improperly influenced the action of the jury,

the accused should be granted a new trial" *Id* at 168 quoting *State v. Britt*, 235 S.C. 395, 425, (1959).

Here, there is evidence that [REDACTED] attorney was making head movements indicating yes or no during his testimony. The movements may have improperly influenced [REDACTED] testimony and the actions of the jury. Therefore, a new trial should be granted.

CONCLUSION

For the reasons outlined in this addendum, the Defense for Javar Mitchell respectfully requests that a hearing be scheduled in this matter for the Court to hear arguments and any potential testimony regarding the request for a new trial pursuant to Rule 29.

FILED
2025 AUG 21 PM 1:25
JULIE J. ARMSTRONG
CLERK OF COURT
BY 

Respectfully Submitted,



Rachael C. Arora
Senior Assistant Public Defender

ATTORNEY FOR JAVAR MITCHELL

Charleston, South Carolina

Dated: August 21, 2025

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May 29 2026

SC Court of Appeals

EXHIBIT ONE

STATE OF SOUTH CAROLINA
IN THE COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Indictment Nos.: 2023 GS 10 05197, 2025 GS
10 00812

Charge(s): Murder, Criminal Conspiracy

STATE OF SOUTH CAROLINA

vs.

JAVAR MITCHELL,

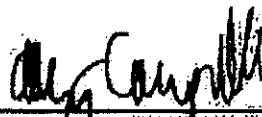
Defendant.

AFFIDAVIT OF ABBEY CAMPBELL

PERSONALLY APPEARED before me, Abbey Campbell, who after being duly sworn, deposes and says:

1. I am Abbey Campbell.
2. From May to August 2025, I was a summer law clerk for the Charleston County Public Defender's Office.
3. During the week of Monday, July 6, through Friday, July 11, of 2025, I was in regular attendance at the trial of Javar Mitchell.
4. One of the witnesses, [REDACTED] called to testify in the case was the client of attorney Jim Smiley.
5. On the day that [REDACTED] was called to testify, I was sitting in the second row of the gallery of the courtroom.
6. Mr. Smiley was sitting in the first row of the gallery, almost directly in front of me.
7. When [REDACTED] was called to the stand, Mr. Smiley moved in the gallery to the center of the pew he was in. It appeared to me that Mr. Smiley arranged himself to be in the direct line of sight of [REDACTED] when he was testifying.
8. While [REDACTED] was testifying, Mr. Smiley appeared to react to every question that was asked of his client by nodding or shaking his head no emphatically.
9. I did not see whether [REDACTED] ever made eye contact with Mr. Smiley or saw Mr. Smiley's reactions to the questions.
10. The answers that the client gave appeared to be in line with the responses that Mr. Smiley was indicating with his head motions.

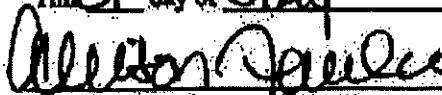
FURTHER THE AFFIANT SAYETH NOT!



Abbey Campbell, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME

This 3rd day of July, 2025.



Notary Public for South Carolina

My Commission Expires: 4/25/2034

RECEIVED

May 29 2026

SC Court of Appeals

EXHIBIT TWO

STATE OF SOUTH CAROLINA
IN THE COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Indictment Nos.: 2023 GS 10-05197, 2025 GS
10-00812

Charge(s): Murder, Criminal Conspiracy

STATE OF SOUTH CAROLINA

vs.

JAVAR MITCHELL,

Defendant.

AFFIDAVIT OF ALYSSA RAE
HAMILTON, ESQ.

PERSONALLY APPEARED before me, Alyssa Rae Hamilton, Esq., who after being duly sworn, deposes and says:

1. My name is Alyssa Rae Hamilton, Esq. and I am currently employed at the Charleston County Public Defender's Office.
2. I am an attorney who works primarily in our family court division representing juveniles under the age of eighteen (18) in criminal matters.
3. On the date of July 7, 2025, the trial of *State of South Carolina vs. Javar Mitchell* began.
4. This trial lasted approximately four (4) days, and I was present at various points throughout those four (4) days.
5. On July 9, 2025, I was present for the testimonies of Co-Defendant's, [REDACTED] and [REDACTED].
6. I was seated in the front row of the gallery, with Taylor Currin, Esq. to my right. Directly next to Ms. Currin was Jim Smiley, Esq. and next to Mr. Smiley was Ashley Berry, Esq.
7. It is my understanding that Mr. Smiley is the attorney of record for Co-Defendant [REDACTED] while Ms. Berry is the attorney of record for Co-Defendant [REDACTED].
8. Co-Defendant [REDACTED] testified first.
9. During Co-Defendant [REDACTED] testimony, Mr. Smiley made audible comments regarding the lines of questioning and Co-Defendant [REDACTED] responses.
10. For example, the defense asked Co-Defendant [REDACTED] during cross examination whether he had been given a cigarette break during his last meeting with the solicitor's office. Mr. Smiley sighed loudly and stated, "that's not going to work."

11. Additionally, the defense asked Co-Defendant [REDACTED] several questions about what the conditions and rules would be if he were to go to SCDC. Mr. Smiley audibly stated "give me a break" while waving around what looked to be a vape.
12. Mr. Smiley was asked by court room deputies at least two (2) times to put away his vape as he was holding it in his hand throughout the afternoon.
13. He continuously sighed loudly and made noises that, to me, indicated displeasure and annoyance.
14. These comments and noises were distracting and loud enough that others in rows behind me were able to hear them.
15. Once Co-defendant [REDACTED] finished his testimony and after a short break, Mr. Smiley's client, Co-Defendant [REDACTED] took the stand to begin his testimony.
16. Mr. Smiley shifted over in the first bench so that he could be better visible to his client on the stand.
17. During the direct examination of Co-Defendant [REDACTED] there were times where Mr. Smiley nodded (to indicate yes) or shook his head (to indicate no) in an exaggerated manner.
18. Based on our positioning, these gestures would be clearly visible to his client and clearly visible to members of the jury.
19. During the cross-examination of Co-Defendant [REDACTED] the defense asked Co-Defendant [REDACTED] about whether he had viewed or been provided the discovery prior to making his statement to law enforcement or the solicitor's office. Co-Defendant [REDACTED] stated that he had.
20. After this question, Mr. Smiley went into his briefcase looking for a legal pad. Once he found one, he wrote a note stating: "Did not give [REDACTED] discovery. Did not have reports."
21. He then folded that note up and attempted to get the attention of Solicitor Timmy Finch.
22. Mr. Finch walked over towards the gallery and Mr. Smiley passed him the note.
23. During the re-direct of Co-Defendant [REDACTED] Mr. Finch asked Co-Defendant [REDACTED] specifically whether he had reviewed any discovery prior to his proffer.
24. Co-Defendant [REDACTED] began to verbally say that he had, but as he was responding, Mr. Smiley was shaking his head to indicate "no" in an exaggerated manner. Co-Defendant [REDACTED] then quickly stated that he had not reviewed anything.
25. Mr. Finch attempted to clarify this answer by asking again whether he reviewed any discovery prior to his proffer.
26. Co-Defendant [REDACTED] briefly mentioned the video of Co-Defendant [REDACTED] interview with law enforcement but as he was answering, Mr. Smiley, again, was very clearly shaking his head to indicate "no."
27. These gestures were distracting and consistent through his client's testimony.

28. It was clear that Co-Defendant [REDACTED] was able to see Mr. Smiley make these gestures as Co-Defendant [REDACTED] answers changed at times to align with Mr. Smiley's gestures as detailed above.

FURTHER THE AFFIANT SAYETH NOT!

Lyssa Rae Hamilton
LYSSA RAE HAMILTON, Affiant

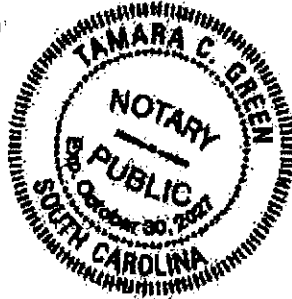
SWORN TO AND SUBSCRIBED BEFORE ME

This 29th day of July, 2025.

[Signature]

Notary Public for South Carolina

My Commission Expires: 10/30/2027



RECEIVED

May 29 2026

SC Court of Appeals

EXHIBIT THREE

STATE OF SOUTH CAROLINA
IN THE COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT

) Indictment Nos.: 2023 GS 10 05197, 2025 GS
) 10 00812
) Charge(s): Murder, Criminal Conspiracy

STATE OF SOUTH CAROLINA

vs.

JAVAR MITCHELL,

Defendant.

AFFIDAVIT OF
KARLA MARTINEZ

PERSONALLY APPEARED before me, Karla Martinez, who after being duly sworn, deposes and says:

1. I am an attorney at the Charleston County Office of the Public Defender and have been employed here for the last five years.
2. This affidavit summarizes the behavior I observed from Mr. James Smiley in the courtroom when his client testified for the State on July 9, 2025, in the State v. Javar Mitchell and [REDACTED] trial.
3. I am aware that this case involved four co-defendants who were charged with the same offense, and that only two, Javar Mitchell and [REDACTED] chose to exercise their right to a jury trial.
4. The other two co-defendants (I do not recall their names) testified for the State in the trial of Javar Mitchell and [REDACTED].
5. As I recall, I was available to observe trial proceedings during the afternoon of July 9, 2025. When I walked into the courtroom, I sat down in the third row of the pews, almost near the middle of the row. I saw Mr. Smiley sitting in the first row and noticed him by his ponytail.
6. I observed part of one of the co-defendant's direct testimony, which was followed by the other co-defendant (witness) I later realized was being represented by Mr. Smiley.
7. Although I was not immediately aware of the relationship between Mr. Smiley and this witness, the relationship became clear to me throughout the State's direct examination.

8. When Mr. Smiley's client offered direct testimony, I noticed that he (Mr. Smiley) was nodding when the State asked questions that called for "yes" answers and shaking his head when asked questions that called for "no" answers.
9. I initially associated the behavior - nodding and shaking of the heads - to Mr. Smiley, intently observing and following the trial testimony.
10. As the direct examination continued, the State asked Mr. Smiley's client a line of questions related to the receipt of discovery or a box of discovery. During this line of questioning, I noticed Mr. Smiley shook his head for "no" and his client answering in the affirmative. When the State attempted to clarify this answer and Mr. Smiley's client responded in the affirmative again, Mr. Smiley shook his head for "no" again. This is where I realized (or believed) that Mr. Smiley's nods and shakes of the head, might have been suggesting the answers to the questions on direct examination.
11. Mr. Smiley did not nod or shake his head during cross examinations by the defense.
12. From where I was sitting, I could see that the witness stand was almost diagonally across and within direct view of where Mr. Smiley was sitting.
13. I noticed one of the jurors seeing this behavior.

FURTHER THE AFFIANT SAYETH NOT!



Karla Martinez, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME

This 30 day of July, 2025.



Notary Public for South Carolina

My Commission Expires: 12-9-31

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

FILED
2025 SEP 15 AM 11:45

STATE OF SOUTH CAROLINA

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

vs.

BY

Handwritten signature

Arrest Warrant #s 2023-GS-10-05197 &
2025-GS-10-00812

JAVAR MITCHELL,

Indictment #s 2023-GS-10-05197 &
2025-GS-10-00812

DEFENDANT.

THIS MATTER came before the Court on August 22, 2025, for a hearing on the Defendant's Motion for a New Trial. The Defendant was convicted of Murder and Criminal Conspiracy by a Charleston County jury on July 10, 2025. Due to the late hour of the verdict, Judge McGee granted the Defense 10 days to file any Post-Trial Motions.

The Defense timely filed its Motion for a New Trial on July 21, 2025, citing four grounds for a new trial: 1) Defendant's Motion to Remand Jurisdiction to Family Court should have been granted; 2) Defendant was prejudiced by being tried with co-Defendant [REDACTED] 3) there was a possibility that during Co-Defendant [REDACTED] testimony that Defendant [REDACTED] attorney was signaling answers to questions, and; 4) that the Court should have instructed the Defense's Proposed Jury instruction of a Reasonable Juvenile Standard for "the Hand of One is the Hand of All."

The State filed a reply to the Defendant's Motion on August 5, 2025. On August 8, 2025, the Defendant filed a Motion for Production of Video Surveillance to augment its Motion and submit supporting exhibits for its Motion to the Court. This relief was granted, and video of the relevant portion of the trial was produced under seal. On August 21, 2025, the Defense filed an addendum to its Motion to include other supporting evidence for the Court's consideration.

With the consent of all parties, the hearing on the Motion was conducted in Judge McGee's Sealed Courtroom via Webex. Rachael Arora appeared on behalf of the Defendant, and Timothy Finch appeared on behalf of the Ninth Circuit Solicitor's Office. With the consent of both the Defendant and his attorney, the Defendant attended the hearing virtually from the Sheriff Al Cannon Detention Center.

The Court heard argument from both parties regarding each of the grounds for a new trial. Grounds 1, 2, and 4 had been decided during Pre-Trial Motions and, as the arguments were

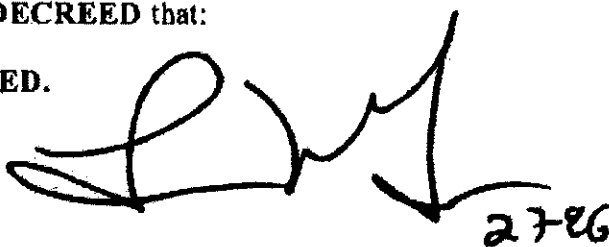
substantially the same, the Court denied the each on the same grounds. As to the third ground for a new trial—that there was a possibility [REDACTED] attorney was signaling answers during [REDACTED] testimony—the Court heard extensive argument, viewed the supplied surveillance video footage taken during the trial from four vantage points, and reviewed each affidavit filed by the Defense. After thorough argument by both sides, the Court found that there was insufficient evidence to support a claim of influence by [REDACTED] attorney during [REDACTED] testimony.

First, Defendant's counsel conceded that it was not known whether [REDACTED] ever saw his attorney's alleged movements. Second, even if there was evidence that the witness made eye contact with his attorney—which was not possible to determine by the video provided—it was unknown whether the answer given by [REDACTED] occurred before or after his attorney's movements. Of course, if [REDACTED] never saw his attorney or only looked at him after answering a question, there could be no influence over the witness's responses. Third, the Court granted the Defense and Solicitor additional time to conduct any discovery they felt was helpful or relevant to this ground for a new trial, such as interviewing [REDACTED] and/or his attorney, questioning other witnesses, etc., and no party submitted further evidence. Lastly, while the affidavits submitted by the Defense stated Defendant's attorneys and others from the Public Defender's office were aware of this issue at or shortly after [REDACTED] testimony, this issue was not brought to the Court's attention by way of objection or otherwise at the time it occurred or before the verdict was given.

After hearing from the Defendant and the State, the Court finds it appropriate, and it is therefore **ORDERED, ADJUDGED, AND DECREED** that:

The Motion for a New Trial is DENIED.

AND IT IS SO ORDERED!



The Honorable T. William McGee III
PRESIDING JUDGE, 9TH JUDICIAL CIRCUIT

Columbia, South Carolina

DATE: September 11, 2025

BY JK
JULIE J. ARMSTRONG
CLERK OF COURT
2025 SEP 15 AM 11:45

FILED