

Bryan Mitchell, 398642
Perry Correctional
Q1B-115
430 Oaklawn Road
Pelzer, SC 29669

August 17, 2026

SC Court of Appeals
Jenny Abbott Kitchings, Clerk
Columbia, SC 29211

RECEIVED
AUG 20 2026
SC Court of Appeals

RE: Appellate Case NO. 2025-001914

Dear Clerk of Court,

Enclosed you will find a copy of my response to the initial brief that my attorney, Molly M. Keegan submitted August 6, 2026. Your help in filing my response will be greatly appreciated. I have sent to my attorney on file and the court. Please send a stamp copy back to me.

Respectfully Submitted,

Bryan Mitchell

Bryan Mitchell

Bryan T. Mitchell 398642
PCI Q1B-115
430 Oaklawn Road
Pelzer SC, 29669

August 17, 2026

Molly M. Keegan
1330 Lady Street, Suite 401
Columbia, SC 29211-1589

RE: Appellate Case NO. 2025-001914

Dear Attorney Keegan,

I am writing in response to your letter dated August 6, 2026. You responded to the letter that I wrote you on April 20, 2026 regarding the jury instruction that "malice may be inferred from conduct showing a total disregard for human life" (See Tr. 723). You stated "there was no objection to the jury instructions, so any issue concerning a jury instruction is unpreserved for appellate review (See Tr. 730).

I have to disagree based on the following:

The jury received constitutionally defective instructions on inferred malice that conflicted with the statutory self defense instruction that was also given. The inferred malice instruction relieved the State of its burden to prove actual malice and violated my due process.

A judgment is void when the court lacks jurisdiction, or the courts act is without Constitutional Authority.

Here, the judgment is void because:

A. The Jury was not Constitutionally Empowered to Decide Guilt.
The jury was instructed that it could presume malice while being told deadly force was justified through self defense.

This Contradiction nullified the Jury's Constitutional Role.
Under Sullivan v. Louisiana, a verdict rendered under unconstitutional standards is no verdict at all.

B. The Inferred Malice Instruction is Structural Error
The inferred Malice instruction relieved the State of its burden in violation of Sandstrom v Montana, State v. Burdette, and State v Belcher. Structural error eliminated the court's Constitutional authority to enter judgment.

State v. Burdette, 427 S.C.490, 832 S.E.2d 575 (2019) Court held that giving an implied malice instruction in violation of Belcher is not subject to harmless error analysis. It is structural error requiring automatic reversal.

Hall v. Kelso, 892 F.2d 1541(11th Cir.1990) Federal Case that recognizes that misleading jury instructions on malice can violate due process.

RECEIVED
AUG 20 2026
SC Court of Appeals

Further, State v Burdette held:

regardless of the evidence presented at trial, a trial court shall not instruct the jury that it may infer the existence of malice when the deed was done with a deadly weapon.

C. The Courts Omissions of Mandatory Limiting Instructions Resulted in Structural Error.

At the time of trial, South Carolina law required that ANY inference of malice be expressly conditioned upon the absence of mitigating circumstances supported by the evidence. By removing that mandatory limitation, the court transformed a permissive inference into an unconstitutional presumption on an essential element of malice. This instruction foreclosed the jury's ability to lawfully reject malice, relieved the State of its burden of proof, and denied the jury of its constitutional functions as fact finder.

Because the jury was not empowered to decide guilt under lawful standards, no valid verdict was returned, and the trial court lacked constitutional authority to enter the judgment. Under Johnson v. Zerbst, proceedings without constitutional safeguards are void.

A Void judgment may be attached at ANY Time.

Hill v. Robertson, 1 Strob. 1

Bull v. Rowe, 13 S.C. 355

Hood v Cannon 178 SC 94, 182 S.E.306 (1935)

A void judgment may be attacked directly or collaterally at any time.

Woods v Bryan 41 SC 74, 19 S.E.21 (1984)

When the infirmity appears on the record itself, the judgment is a nullity.

Thomas & Howard Co. v. TW Graham & CO. ,318 SC 286,457 S.E.2d 340 (1995)

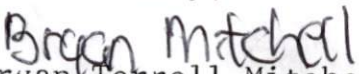
A judgment entered without fundamental constitutional authority is void.

Sullivan v Louisiana, 508 U.S. 275 (1993)

A verdict rendered under unconstitutional standards is no verdict at all.

Please amend my Appellate Brief and add the implied / inferred malice argument so that it is on the record.

Respectfully,


Bryan Terrell Mitchell



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Wanda H. Carter, Chief Appellate Defender

August 6, 2026

Mr. Bryan Mitchell, #398642
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your Case

Dear Mr. Mitchell:

Enclosed is a copy of the Initial Brief of Appellant in your case, which I have filed with the South Carolina Court of Appeals.

Thank you for the letter you sent me regarding your case. I have reviewed your letter dated April 20, 2026 while drafting your brief. Regarding the issue you raised concerning inferred malice from a deadly weapon, the jury was instructed that "malice may be inferred from conduct showing a total disregard for human life." (*See* Tr. 723). Additionally, there was no objection to the jury instructions, so any issue concerning a jury instruction is unpreserved for appellate review. (*See* Tr. 730).

Please do not hesitate to call or write if you have any additional questions.

Sincerely,

Molly M. Keegan
Appellate Defender

MMK/kpw

Enclosure

Bryan Terrell Mitchell #398642
PCI Q1B-119
430 Oaklawn Road
Pelzer SC, 29669

April 20, 2026

Molly Keegan Esquire
SC Comm. on Indigent Defense
1330 Lady Street Suite 401
Columbia SC 29201

Dear Molly Keegan Esquire,

I am writing in response to your letter received April 17, 2026. Please review the following concern:

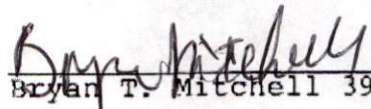
The jury was instructed that malice could be inferred from the use of a deadly weapon, while the charge omitted the required limiting principle that such an inference is not permitted where evidence of legal mitigation exists. By removing that limitation, the trial Court allowed the jury to treat malice as established from the use of a weapon without requiring a constitutionally proper determination of the element under the full governing law. As a result, the jury was not empowered to determine guilt under lawful constitutional standards.

A verdict returned under an unconstitutional framework on an essential element is no lawful verdict at all. In the absence of a lawful verdict, the trial court lacked constitutional authority to enter judgment, and the resulting conviction is void.

This defect is structural in nature. It is not cured by waiver or harmless-error analysis. An affirmance cannot supply constitutional authority that was absent when judgment was entered.

I am respectfully requesting that you consider whether my conviction rest upon a void judgment entered without a constitutionally valid verdict and request relief as law and justice require. I look forward to your full briefing on this issue and any other meritorious grounds that you find to argue.

Respectfully,


Bryan T. Mitchell 398642

Bryan Mitchell 398642
PCZ QIB-115
430 Oaklawn Road
Pelzer SC 29669

RECEIVED

AUG 18 2026

PCI MAILROOM

LEGAL MAIL

Jenny Kitchings Abbott, Clerk
SC Court of Appeals
1220 Senate Street
Columbia SC 29201

RECEIVED

AUG 20 2026

SC Court of Appeals