

STATE OF SOUTH CAROLINA
IN THE GENERAL SESSIONS
COUNTY OF BEAUFORT

RECEIVED

Oct 16 2026

SC Court of Appeals

The State of South Carolina,

vs. Transcript of Record
2025-GS-07-00294,
2025-GS-07-00295,
2025-GS-07-00296,
2025-GS-07-00297,
2025-GS-07-00298,

Messiah Anderson,
Defendant.

August 24, 2026
Beaufort, South Carolina

B E F O R E:

The HONORABLE MARVIN DUKES

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

Isaac McDuffie Stone, III, Solicitor
Sean Thortorn, Deputy Solicitor

David E. Rigney, Representing the defendant

SHARON G. HARDOON, CSR
Official Circuit Court Stenographer, III

INDEX

EXHIBITS

Exhibit	Description	Page	Line
PLF. EXH.	COURT EXH. 1, Foreperson	1	48
PLF. EXH.	COURT EXH. 2, Memorandum; Alexander	7	13
Certificate of Reporter		Page	Line
		32	1

1 (COURT EXH. 1, Foreperson, was marked for
2 identification.)

3 THE BAILIFF: All right. The Honorable Marvin Dukes
4 presiding. Court is now in session.

5 THE COURT: You-all be seated, thanks.

6 We're back on the record in the State vs. Anderson. I
7 asked the jury to pick a foreperson tomorrow morning. They
8 were so eager, they went ahead and picked a foreperson and I
9 believe the clerk as Court's 1 the selection.

10 Mr. Solicitor, happy to hear from you, sir.

11 MR. STONE: Your Honor, there are two issues that we
12 need to cover this afternoon. The first one, though,
13 involves Mr. David Alexander who is a lawyer here from
14 indigent defense, and I think we should probably take that
15 up first since he is not attached to the trial other than by
16 this manner.

17 He represents a witness in this case that we seek to
18 call by the name of Jimmie Green. Mr. Green started out as
19 a co-defendant in this case on May the 8th, 2023. He
20 entered a guilty plea. He pled as charged to murder, mob
21 violence first degree which results in the death of someone,
22 mob violent second degree which results in serious bodily
23 injury, and mob third for someone who is injured but not
24 seriously. He also pled guilty to two counts of attempted
25 murder. This was, again, in May of 2023.

1 He did not appeal those convictions or that guilty
2 plea. He did, however -- after the appeal time lapsed, he
3 did file a post-conviction relief. That has now been denied
4 by the South Carolina -- excuse me, by the Circuit Court.
5 There is no current pending matter as far as the
6 post-conviction relief other than I believe the defense has
7 asked for time to file a request for writ. I don't think
8 that matters regardless.

9 I tried to meet with the witness last week. He did not
10 want to talk to me without his lawyer, Mr. Alexander, who we
11 finally found out that Mr. Alexander represented him. We
12 contacted him. Mr. Alexander tells me that he intends --
13 Mr. Jimmie Green intends to come here. If we put him up on
14 the witness stand, which we intend to do, and he will
15 declare that he had a Fifth Amendment right not to testify.

16 The issue before you, Your Honor, is whether or not he
17 has a Fifth Amendment right.

18 Now, Mr. Alexander, he handed you up to brief earlier,
19 so if you rather hear from me or from him first, it makes no
20 difference. The State's position in this, I believe, is
21 that he does not have a Fifth Amendment right. He has no --
22 he has no -- he is not facing any further incrimination.

23 We had discussed back in chambers whether or not I
24 would give him immunity for his testimony. South Carolina
25 *State vs. Thrift* has made it very clear that the prosecutor

1 does not use immunity. We only have transactional immunity,
2 which I believe Mr. Alexander actually stated in his memo.

3 The problem with that is, I can't give him, and I'm not
4 going to give him transactional immunity. If for whatever
5 reason he was to turn around somewhere down the line, get
6 another trial, I wouldn't be able to prosecute him on the
7 initial crime using the initial evidence. I think *Thrift*
8 has put us in a little bit different position with that.

9 However, as an officer of this court, Your Honor, I
10 think the defense has brought up the concept that he was --
11 he could have potentially faced a distribution of marijuana
12 charge. Certainly in this case and what Your Honor will
13 learn as we go forward with the facts of the case, the
14 witness -- some of our witnesses met with Jimmie Green,
15 Messiah Anderson, Ty'leic Chaneyfield for the purpose of
16 witness getting marijuana from Jimmie Green, so there is
17 certainly an allegation that Jimmie Green distributed.

18 We do not, however, have the marijuana, we never had
19 the marijuana, we don't have an amount, we don't have any
20 confirmation that it was marijuana, and we're, quite
21 frankly, not interested in pursuing that.

22 Secondly, the issue is whether or not using the
23 concept of the hand of one is the hand of all is whether or
24 not Mr. Green could be charged with possession of a firearm
25 during the commission of a felony. We did not pursue that

1 at trial; and, again, I have no interest in pursuing that.

2 So, as an officer of the court, I will tell you this:
3 I'm not charging Jimmie Green with any other charges,
4 period. He is currently in prison for 40 years. He
5 receives a day-for-day sentence on that. I have no
6 intention of pursuing anything against Jimmie Green for
7 anything he would say. But I want to make it clear to the
8 Judge, to Your Honor, I already have all the evidence I need
9 for Jimmie Green. I'm not interested in him giving
10 additional evidence that could help me in a future
11 proceeding against Mr. Green.

12 I have no belief, I have no concern that Jimmie Green
13 is going to get his case overturned. I have no concern if
14 he, for whatever reason, did that I'd be able to prosecute
15 him on the evidence I already have. So I'm not interested
16 in using that, and I tell you that as an officer of the
17 court.

18 I cannot, however, stand here and tell you I'm giving
19 him immunity because I don't think that's allowed in South
20 Carolina.

21 So really the issue boils down to this: Can the
22 defendant take the witness stand and claim the Fifth
23 Amendment? And I don't believe he can. I think the case
24 law is out there in our favor, but I will let Mr. Alexander,
25 if he would like to brief first and cover that, I have the

1 cases. I'm ready to go forward. So whichever one you'd
2 rather hear from.

3 THE COURT: I thought I was hearing from you.

4 MR. STONE: Well --

5 THE COURT: I'm happy to hear from you, sir. And I'll
6 get to you.

7 MR. ALEXANDER: Thank you, Your Honor. Nathan
8 Alexander from the Office of Appellate Defense representing
9 Jimmie Green. May it please the Court?

10 I previously handed up a memorandum to Your Honor and
11 to the other parties. I'd like to make that Court's Exhibit
12 2, if that's okay with Your Honor.

13 THE COURT: Court's Exhibit 2.

14 (COURT EXH. 2, Memorandum; Alexander, was marked for
15 identification.)

16 MR. ALEXANDER: And I appreciate the Solicitor's
17 representations as an officer of the court that he has no
18 interest in further prosecuting Mr. Green, but those
19 representations, frankly, Your Honor, aren't good enough.
20 It's not that I'm disputing Mr. Stone's words, it's the
21 potential for jeopardy that it matters. And he absolutely
22 faces jeopardy on the weapons charge, which is actually the
23 easiest one to determine.

24 Something that came to light since I wrote this memo,
25 Your Honor, is that they actually charge Mr. Green with the

1 weapons charge but didn't bring up it up at the sentencing.
2 I think it was dismissed without an indictment. So they had
3 actually charged him with the thing for which he faces
4 jeopardy today. So anything he says under the hand of one
5 hand of all, he could incriminate himself on that charge.

6 As I laid out in the memo, there are other crimes with
7 which they could have charged him. I don't think I can,
8 with my duties to my client in open court, give the
9 solicitor some ideas about how they could prosecute him.
10 That's why I cited *State v. Lawrence* in which a ex-parte
11 determination was made by the trial judge with the lawyer
12 for the witness present, but excluding the State and the
13 lawyer for the co-defendant.

14 And the other thing I would like to remind Your Honor
15 is, it's not just the Solicitor's questions we have to worry
16 about. We also have to worry about cross-examination from
17 Mr. Anderson's counsel. I don't know what Mr. Anderson's
18 defense is going to be, but if I were defending Mr. Anderson
19 as the minor, I'm certainly going to be pointing the fingers
20 at the older people who the State says is involved in this,
21 and that could expose him to further things.

22 So I don't even think we need to get to, as we
23 discussed, kind of the law review question of collateral
24 review, does that preserve Fifth Amendment. The law is
25 murky on that. There is no definite law in South Carolina

1 on that. The law in other jurisdictions is mixed.

2 I think the more persuasive argument is, you get a PCR
3 and the PCR appeal is a matter of right. And until that is
4 concluded, you should not be forced to incriminate yourself
5 otherwise it eviscerates that statutory right and it
6 eviscerates the Sixth Amendment right to counsel.

7 THE COURT: Thank you very much.

8 MR. STONE: I did want him to go first, Your Honor,
9 because I wanted to make sure I had the facts as he had it
10 right, and I also wanted to make sure that we were in
11 agreement, and I think we are, as far as most of the
12 concepts of the case.

13 Let me first start with this: The analysis on Fifth
14 Amendment, Your Honor, will come from -- and I think the
15 defense -- I keep calling him the defense. He's actually a
16 lawyer for a witness -- starts with the United States
17 Supreme Court case in *United States vs. Mitchell*. This was
18 cited as well, I believe, in Mr. Anderson's brief as well.

19 This establishes, sort of, the first ground rules when
20 you're dealing with the Fifth Amendment and whether or not
21 that is applicable. I will call your attention, Your Honor,
22 to page -- let me get this right -- page 7. We would start
23 at page 7. What Mitchell stands for the proposition of is,
24 in that case, the defendant pled guilty but had not been
25 sentenced. Now, this is in federal court, and as Your Honor

1 knows, that set up is a little bit different. In federal
2 court you plead guilty or you are convicted and then there
3 is a pre-sentence report that's given to the federal judge.
4 The federal judge reviews that and comes back later and
5 sentences.

6 In *Mitchell*, during that time period between conviction
7 and sentence, the defendant in that case *Mitchell* did not
8 want to give any further testimony. The judge held it
9 against him and actually put that on the record. The
10 Supreme Court came back and, *No, your Fifth Amendment rights*
11 *apply through conviction, but also through sentencing.*

12 So, basically, what *Mitchell* says is this, and it goes
13 back again to page 7. I think it's the very top of page 7.
14 *As a general rule, where there can be no further*
15 *incrimination, there is no basis for assertion of the*
16 *privilege. So, in other words Fifth Amendment doesn't apply*
17 *if there isn't any further incrimination. That principle*
18 *applies to sentences in which the sentence has been fixed,*
19 *and the judgment of the conviction has become final. And*
20 *they cite Rihanna as well as -- I think there are a couple*
21 *other cases that they talk about -- more on that.*

22 Then if you go to page 2 in that same opinion, the
23 Court has -- and this is the second paragraph: "The Court
24 has already objected the proposition incrimination is
25 complete once the guilt has been adjudicated." So again,

1 going back to Mitchell, the whole concept is, he's already
2 been adjudicated guilty, does that privilege go forward, and
3 the Court says, We've already decided that through *Estelle*
4 *vs. Smith*. *It, however, does apply only to cases in which*
5 *the sentence has been fixed and the judgment of conviction*
6 *has been final*. So that's what Mitchell -- the United
7 States Supreme Court basically comes down to that two-prong
8 analysis.

9 Number 1, has he been convicted, has he been sentenced,
10 and has that sentence become final? In this case in front
11 of Your Honor, he's already pled guilty. He's been
12 sentenced. His appeal is over. The next case, I will hand
13 you goes a little bit further than that, and this is a
14 Fourth Circuit, Court of Opinions case. This is the *United*
15 *States vs. Kennedy*. I can give these to you as well. The
16 Fourth Circuit clarified a little bit about what the issue
17 of finality was. The issue there is, okay, we know it goes
18 through sentencing. We know it includes guilt. At what
19 point is a case final? On one, there is also an issue of
20 perjury, which I think hits on another issue that we need to
21 talk about.

22 But this, you go to page 4, and the Court in that says,
23 "We have held in no uncertain terms" -- this is paragraph 4:
24 "We have held in no uncertain terms the defendant's right to
25 invoke the Fifth Amendment as to events to which he has been

1 convicted extends to the period during which the conviction
2 is pending appeal."

3 Again, in the case in front of Your Honor. He did not
4 appeal. The appeal time has lapsed. He did file a post
5 conviction relief, which none of these cases mention post
6 conviction relief. That doesn't seem to be in the
7 parameters.

8 And, again, "Until the conviction -- and this is still
9 in that Fourth Paragraph, "Until the conviction has been
10 affirmed on appeal." Jimmie Green's conviction has already
11 been affirmed on appeal. He didn't appeal. The time to
12 appeal has lapsed.

13 I thought when I first argued this, when I first
14 started researching it, I thought the South Carolina, the
15 State Supreme Court, was silent on it. They actually
16 weren't.

17 I'm going to hand you up *State vs. Jenkins*. This is a
18 South Carolina Supreme Court case. Let me give this to
19 Mr. Alexander. In *State vs. Jenkins*, this was an opinion
20 written by Justice Few for the Court. The Court was
21 unanimous in this decision. If you will go to footnote 12
22 on page 7, you will find Justice Few writing when it comes
23 to the rule on unavailable witnesses, 804(b)(3). Justice
24 Few notes: "Jenkins argues on appeal the statement was
25 admissible under 804(b)(3)."

1 He then goes onto say: "Rule 804(b)(3) applies only if
2 the defendant is unavailable as a witness."

3 "McKinley was present by subpoena," as is Mr. Green
4 today, "had already pled guilty to murder and armed
5 robbery . . ." -- Mr. Green has pled guilty to murder, three
6 counts of mob, and two counts of attempted murder -- ". . .
7 and has been sentence to 45 years." Mr. Green has been
8 sentenced to 40 years. "In prison at the time of Jenkins
9 trial. Thus McKinley was not unavailable." And then
10 Justice Few cites the exact case that I started this
11 argument with, which is *Mitchell vs. United States*, and he
12 states: "Where there can be no further incrimination, there
13 is no basis for the assertion of the privilege."

14 In short, Mr. Green doesn't have a Fifth Amendment
15 right. The Supreme Court doesn't say he has this right.
16 The Fourth Circuit Court of Appeals extending it even
17 through appeal at this point doesn't give him that right.
18 And Justice Few in a footnote on the South Carolina Supreme
19 Court, in which every member of the Court agreed, says that
20 somebody in Mr. Green's position doesn't have that Fifth
21 Amendment right.

22 In short, Judge, the parameters are set by the United
23 States Supreme Court, by the Fourth Circuit and by the State
24 of South Carolina, and Mr. Green is outside of all of that.
25 He does not have a Fifth Amendment right.

1 The other thing that I will just offer up to Your Honor
2 which I thought was interesting, South Carolina code section
3 19-11-50 -- I got a copy of that too. "Testimony of a
4 defendant in a criminal case shall not be afterwards used
5 against the defendant in any other criminal case except for
6 perjury." I don't believe that Mr. Green can take the
7 witness stand and perjure himself and avoid further
8 prosecution. I do, however, think that he can take the
9 stand and testify, and, as long as he doesn't commit
10 perjury, I couldn't use that against him in another case
11 against him later on if I wanted to. 19-11-50 precludes me
12 from doing it.

13 So as a practical matter, there is nothing I can do to
14 use the statement that he says in court.

15 Number 2, he doesn't have a Fifth Amendment right, and
16 that's the only way he can testify. Whether he wants
17 something else from me or not is not relevant. The only
18 issue is, does he have a Fifth Amendment right? And you go
19 to a Supreme Court case, a Fourth Circuit Court of Appeals
20 case and a South Carolina Supreme Court case that all say he
21 does not.

22 Thank you, sir.

23 MR. ALEXANDER: May I reply, Your Honor?

24 THE COURT: Yes.

25 MR. ALEXANDER: The Solicitor has aptly stated the

1 floor at which the United State Supreme Court has spoken,
2 and it is not really in dispute that the defendant's Fifth
3 Amendment right proceeds through the conclusion of the
4 direct appeal. That's what *Mitchell* stands for.

5 The question that's before Your Honor today is, does it
6 extend further into collateral review. And there are courts
7 outside of South Carolina that have held that it doesn't,
8 but those courts, they make the point that defendant could
9 keep his Fifth Amendment right by filing PCR after PCR after
10 PCR. That's a valid concern but that's what we have here.
11 Mr. Green has filed his first PCR. His PCR as of a right, a
12 statutory right. He has sought a review of that as is his
13 statutory right by the South Carolina Supreme Court. The
14 Jenkins case, that's a hearsay case. That's a death penalty
15 case. That's a nice footnote as it relates to the specific
16 hearsay issue, but it's not apparent from that decision that
17 any of the issue before Your Honor as far as collateral
18 review were addressed in that case in the trial. There's no
19 record on which to make any of that.

20 But, again, we're arguing about what is the hard
21 question. The solicitor still has not gotten past the fact
22 he faces jeopardy on the weapons charge, possible marijuana
23 charges, and if Your Honor needs to hear any further
24 charges, I'm happy to disclose those.

25 But I think the solicitor has got to get around it.

1 And the fact that he won't offer him immunity, well, tells
2 us that he still faces jeopardy. That decision right there,
3 I think is all Your Honor needs to hear.

4 THE COURT: Thank you very much. I'm going to need to
5 read all this, of course. I will have something for you-all
6 before we gather tomorrow morning and see what we can do.

7 MR. STONE: Thank you, Your Honor.

8 MR. DAVIS: Thank you, Your Honor.

9 (Hearing adjourned.)

10 (Motion continued from 8/24/26; Jimmie Green.)

11 THE BAILIFF: All rise. Judge Marvin Dukes
12 presiding.

13 THE COURT: Good morning. Be seated.

14 All right. Back on the record in State vs. Anderson.
15 Yesterday we had part of a motion with regard to Mr. Green.
16 I'm happy to hear anything else from you, sir.

17 MR. ALEXANDER: Thank you, Your Honor. I just wanted
18 to recap the reasoning that the State gave Your Honor as a
19 basis to rule that Mr. Green doesn't have a Fifth Amendment
20 right.

21 Their first point was that Mr. Green does not have a
22 Fifth Amendment right because he pled guilty, he didn't
23 appeal, he has no shot in getting his conviction overturned
24 on collateral review.

25 And then in response to our argument saying that he

1 could face incrimination on a charge with which they
2 actually charged him, the weapons charge, they said, *Well,*
3 *we're not interested in prosecuting him. He can just trust*
4 *us.*

5 And then the next point is, they won't grant him
6 immunity. They won't put the force of law behind that
7 promise and Mr. Green just has to accept non-binding
8 representations.

9 Then fourth, Your Honor, they say the reason they're
10 giving him immunity is so they can prosecute him if he does
11 get his convictions overturned, which contradicts the point
12 that they made in the first argument.

13 So we would ask you to find that Mr. Green's Fifth
14 Amendment rights remain intact and he should not be called
15 as a witness under the *Hughes* case just for the purpose of
16 asserting his Fifth Amendment rights.

17 THE COURT: Is it accurate to say that there is no case
18 law in South Carolina that deals directly with that
19 situation?

20 MR. ALEXANDER: Not as to the second argument, Your
21 Honor, as far as collateral review maintains a defendant's
22 rights.

23 But as to the first part of the argument, I would look
24 at the *Lawrence* case which is cited in the brief that talks
25 about if there is any incrimination possibility, and that

1 extends to anything that could provide a leak in the chain
2 of evidence, chain of custody, Your Honor, then the Fifth
3 Amendment applies.

4 The State has done nothing to overcome that. The only
5 way they could do that is transactional immunity under *State*
6 *vs. Thrift*, and they've indicated they are unwilling to do
7 so, so my client's Fifth Amendment right remains.

8 THE COURT: Thank you very much.

9 Mr. Stone, happy to hear from you, sir.

10 MR. STONE: Yes, sir. First of all, those are two
11 different things. The Fifth Amendment is with one issue and
12 the immunity is the second issue.

13 Just tackling the immunity right off the bat, my
14 position is, Jimmie Green is a witness. He's not a
15 defendant right now. He's a witness. And we've already
16 prosecuted him. He has no Fifth Amendment right. And if
17 you were to rule that he has no Fifth Amendment right, then
18 he would be the same as every witness that takes the witness
19 stand.

20 Imagine if the State were required to give immunity to
21 every witness that takes the witness stand because they
22 might mention something about a crime somewhere that they
23 may commit. And that's what the defense is asking me to do,
24 and I'm not willing to do that.

25 But the issue is not that. The issue is whether or not

1 he has a Fifth Amendment right. Because if he has a Fifth
2 Amendment right, then none of this matters. If he has a
3 Fifth Amendment right, I can't even call him to the witness
4 stand for him to say he has a Fifth Amendment right. The
5 basis of our argument is based on United State Supreme Court
6 case law, Fourth Circuit Court of Appeals law, and granted
7 it's a footnote, but at least it gives us a view of a court
8 in South Carolina, the South Carolina Supreme Court, the
9 opinion *State vs. Jenkins*, which I handed up to you earlier,
10 was written by Justice Few. It is a unanimous decision and
11 Justice Few describes exactly the argument that we have
12 here, which is the defendant in that case -- or the witness
13 in that case that the defendant wanted to call, Justice Few
14 said he was absolutely available. You subpoenaed him, just
15 like we subpoenaed Mr. Green. He has already pled guilty.
16 In that case, he pled guilty to murder and armed robbery.
17 In this case, Mr. Green has pled guilty to murder and mob
18 violence and attempted murder. And that he's already
19 received a 46-year sentence. And, in this case, Mr. Green,
20 received a 40-year sentence. And according to Justice Few
21 in this footnote, again, writing for the opinion of the
22 entire court in an unanimous decision, he states, *He's not*
23 *unavailable. You can call him.* And then he cites back to
24 -- and I think this is relevant as well. He cites back to
25 the United States Supreme Court decision of which we base

1 our opinion on, which is *United States vs. Mitchell*, which
2 says that there can be no further incrimination and the case
3 is final.

4 And the case is final is really the issue. When does
5 the case become final? In *Mitchell*, it's final when the
6 appeals have ended, when the sentence is in place, and when
7 the guilt has been determined. And that's exactly the
8 situation that Green is in right now.

9 Green has been sentenced. He has been adjudicated
10 guilty. He has exhausted his appeals. He filed post
11 conviction relief and that was denied. And I did not argue
12 this yesterday, but post conviction relief is a collateral
13 matter. I had to actually go look that up in Black's
14 Dictionary to make sure I understand what it was, but that's
15 some ancillary matter. That's not a direct appeal. It's
16 not part of the direct appeal. It is a collateral matter.
17 But that's already been denied.

18 What they're asking the Supreme Court to do right now
19 is come back and reconsider it. Under that theory the case
20 never dies. It just -- he lives with his Fifth Amendment
21 right until he dies in prison because the case will never be
22 final. What's next? Well, we're still on appeal because we
23 filed for a writ of habeas corpus. Now we got to go through
24 the federal system. At some point in time the case has to
25 be final. And at that finality is when he loses his Fifth

1 Amendment right.

2 What *Mitchell* says is, that's when he exhausts his
3 appeals.

4 What *Jenkins* says -- it's even more narrow. It's when
5 he gets sentenced and when he's adjudicated guilty.

6 So my position is, he doesn't have Fifth Amendment. It
7 makes him exactly the same as every other witness, and I
8 don't give any witnesses immunity when they just come in and
9 take -- and testify.

10 On top of that, if the argument is, well, he's not a
11 witness, he's a defendant. The 19-11-50 does not allow me
12 to use his statement in the future anyway. And if he's
13 compelled to testify, we can't use that either. So he has
14 basis for incrimination. He has no possibility of
15 incrimination. And that's exactly what *Mitchell* said. You
16 don't have any incrimination. You can't claim the Fifth
17 Amendment.

18 That's our full argument, and I think arguably that
19 includes the collateral issue and the witness issue that we
20 didn't discuss yesterday but I think the other law it is
21 settled.

22 THE COURT: The *Jenkins* case is the footnote case.

23 MR. STONE: Yes, sir. That's footnote 12 of page 7.

24 THE COURT: And that's a hearsay case.

25 MR. STONE: It is. Look, I'm not saying -- I don't

1 want to argue to Your Honor that that's a case directly on
2 point when it comes to the facts of this case. But I do
3 think it says, look -- Justice Few says, look, the rule is
4 unavailability and the defendant in that case says, well,
5 he's unavailable because he's a Fifth Amendment, which is
6 exactly what's going on here. In that case, instead of the
7 State calling him, the defendant wanted to call him. And he
8 said, *Well, he was unavailable*. Well, Justice Few was like,
9 *No, he's not, because you subpoenaed him*, which he did.
10 *He's already pled guilty*, which he did. *He's already*
11 *received a sentence*, which he did. *He's not unavailable*.
12 And then what I think is crucially important is he then
13 references *United States vs. Mitchell*, if there's no
14 incrimination there's no Fifth Amendment.

15 And I think that's even more narrow than what *Mitchell*
16 says, at least it's supposed to go -- or *Kennedy* says it's
17 supposed to go through appeals. *Mitchell* says it goes
18 through sentencing. Because remember in the *Mitchell* case
19 that was the federal court where they adjudicated him guilty
20 but then there's a time gap between guilt and the sentencing
21 phase. And so when they get to the sentencing phase, he's
22 tried to use his Fifth Amendment and the Court of Appeals,
23 the Fourth Circuit Court of Appeals says he still has it
24 because he hasn't been sentenced.

25 So *Kennedy* moves it through appeal, not only had he

1 been sentenced -- *Mitchell* goes through sentencing. *Kennedy*
2 takes it all the way through appeal.

3 And then I think, quite frankly, Justice Few's footnote
4 really narrows it even further back. It doesn't really
5 extend it. It goes back. He doesn't even mention appeal.
6 He just says he was sentenced and he's already been
7 adjudicated guilty. I give him appeal. But PCR is not a
8 part of that direct appeal process, and he's already done
9 with that anyway.

10 THE COURT: As a practical matter, what if he is
11 successful?

12 MR. STONE: In his post conviction relief?

13 THE COURT: And now he's testified here?

14 MR. STONE: Well, I think under that scenario 19-11-50
15 kicks in, which says I can't use it anyway.

16 Plus, if he claimed the Fifth Amendment and the Court
17 were to rule that he doesn't have one and it's compelled, I
18 can't use compelled testimony against him again, number 2.
19 Number 3 is, I don't need it. I don't need it. I've got
20 enough evidence against Jimmie Green. I had the first time,
21 which is why he pled.

22 So as a practical matter, I wouldn't seek to use it
23 because I don't need it. As a legal matter, I don't think I
24 could use it, because of 19-11-50, and because you compelled
25 him to testify because you said he didn't have a Fifth

1 Amendment. If we're wrong, he's compelled. He gets up
2 there and testifies and it's compelled, I can't use it in a
3 subsequent trial anyway. So there's no real down side to
4 him being forced to testify.

5 And, again, when I say "forced to testify," he's forced
6 to take the witness stand and be sworn. We can't make it
7 talk. But I can't put him up if he's got a Fifth Amendment
8 right, nor would I seek to.

9 THE COURT: Thank you so much.

10 MR. STONE: Yes, sir.

11 MR. ALEXANDER: If the solicitor was right about the
12 statutory grounds, there wouldn't be any need for the
13 *Lawrence* case at all. The Fifth Amendment applies. It's a
14 constitutional right that overcomes all of that.

15 As far as the State's *Jenkins* argument, Your Honor, the
16 defendant wanted to get -- it's a death penalty case. They
17 want to get in a statement from a psychiatrist who had
18 treated the co-defendant. They wanted to use it for the
19 purpose of saying that the defendant on trial in a capital
20 case was under the influence of that other person. So it's
21 a hearsay problem, as Your Honor recognized, the scope of
22 hearsay under Rule 703. There is nothing in that opinion
23 that did the case -- any Fifth Amendment analysis was
24 undertaken by that judge. All that was there was that the
25 defendant sort of blanketly said, *Well, this witness is*

1 unavailable, so I want to use the hearsay from the expert.
2 And so Justice Few in the footnote just says, He wasn't
3 unavailable. He was in the courtroom. But the record is
4 silent about the Fifth Amendment in that case. So there's
5 no Fifth Amendment analysis in that case for Your Honor to
6 rely on. And we've heard nothing from the State about the
7 incrimination he faces on the possession of weapons charge
8 or any other crimes. The only thing we've heard is they're
9 not giving him immunity. And without immunity, his Fifth
10 Amendment right survives.

11 THE COURT: All right. Let me tell you what I've done
12 with the jury, I knew we were going to have a few minutes.
13 I didn't want them parked back there in the jury room.
14 They've not been sworn, by the way, just for the record.
15 We've got an unsworn, chosen jury. I've asked for them to
16 call back at one o'clock for further instructions. So we
17 won't do anything with regard to this trial at least. We
18 may have some pleas or something until probably two o'clock
19 at the earliest.

20 So I'm going look over all of this and get back with
21 you-all as quickly as I can and let you know something.

22 MR. STONE: Thank you, sir.

23 THE COURT: Thank you.

24 MR. ALEXANDER: Your Honor, are we in recess until
25 1:00?

1 THE COURT: I may try to get back with you-all before.
2 It will take them a few minutes. That's what time they're
3 going to call back in. We'll be in recess until probably
4 11:30.

5 MR. ALEXANDER: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (A break was taken from 10:20 a.m. to 11:25 a.m.)

8 THE COURT: I got before me the State's motion to
9 require Jimmie Green to waive his rights against
10 self-incrimination.

11 MR. STONE: I'm sorry to interrupt, Your Honor. I
12 apologize. The defendant is not out here.

13 MR. RIGNEY: He is not.

14 THE COURT: I'm sorry.

15 MR. STONE: I apologize. I didn't mean to interrupt
16 you.

17 THE COURT: That's a good interruption. Let's get him.

18 MR. ALEXANDER: Your Honor, we probably need
19 Mr. Green.

20 MR. THORTON: Could we get Jimmie Green out as well,
21 please?

22 (Defendants Green and Anderson enter the courtroom at
23 11:28 a.m.)

24 THE COURT: I think we got everybody.

25 So I have before me the State's motion to require

1 Jimmie Green to waive his rights against self-incrimination.
2 And, of course, I'm charged in this trial not with just Mr.
3 Mr. Anderson's rights and the State's rights but I'm
4 required to look out for Mr. Green's rights as well.

5 Mr. Green pled guilty for murder and other charges on
6 June 15th of '23. He timely filed a PCR on May 7th of '24,
7 which was denied by circuit court on January 16th of '26.
8 An appeal was filed, which is now pending.

9 The solicitor has not granted Mr. Green immunity for
10 his testimony. The State could charge Mr. Green with other
11 crimes. PCRs, of course, is a right based on the right of
12 competent counsel. If the State can force a PCR appellant
13 to testify during the pendency of his PCR, the PCR and the
14 rights associated with it are meaningless.

15 There is no case law to give us guidance here in South
16 Carolina. The State has pointed to the *Jenkins* case,
17 specifically the footnote. But I note also the footnote
18 quoting by *Mitchell vs. United States* says, "If no adverse
19 consequences can be visited upon the convicted person by
20 recent or further testimony, then there is no further
21 incrimination to be here."

22 Well, in this case, it's just the opposite. Adverse
23 consequences can be visited upon a convicted person by
24 recent or further testimony because there is no immunity.
25 Therefore, there is further incrimination to be here.

1 So I think under these circumstances I have no choice
2 but to grant Mr. Green's motion and not require him to waive
3 his Fifth Amendment rights and rights against
4 self-incrimination.

5 Anything from the State?

6 MR. STONE: I don't think there's anything, Your Honor.
7 I do have to say I think that this substantially impairs the
8 ability for the State to go forward at this time and we are
9 going to seek and we'll try to file today an appeal to the
10 Supreme Court on this to rule.

11 I know in the past I've had to ask the Court to
12 reconsider. I don't know if that's something we need to do,
13 but I think you've already reconsidered. I think you've
14 heard it. You heard the evidence yesterday. You took more
15 time today. And so I don't think I need to do that.

16 I do need to state that it substantially impairs the
17 ability for the State to go forward, and, as a result of
18 that, we're going to ask the Supreme Court to hear this.
19 And, at the end of this, we get State law and it tells us
20 what our parameters are that we currently don't have.

21 I thank you, and I respectfully would ask at this point
22 that we release the jury, allow us to go forward with the
23 appeal to the Supreme Court and then we'll come back. Once
24 the Supreme Court decides where we go, we'll know where
25 we're going from there.

1 THE COURT: And the jury, of course, has not been sworn
2 so there will be no problem with releasing that jury.

3 MR. STONE: That is correct, yes, sir.

4 MR. ALEXANDER: A few other points, Your Honor. I
5 think this is probably a matter for the appellate court, but
6 I feel like I need to place this argument on the record. We
7 will likely move to dismiss their appeals interlocutory.
8 They were able to prosecute and obtain a conviction against
9 Mr. Chaneyfield without Mr. Green's testimony.

10 Second, they end all this right now by giving him
11 immunity, they simply don't want to make that hard choice.
12 That does not mean that their ability to prosecute is
13 substantially impaired. It just means they don't want to do
14 so. So that's the ground that we'll be moving to dismiss
15 any appeal they take as interlocutory.

16 Then the second thing I would ask is, based on Your
17 Honor's ruling, I would like that he be released from his
18 subpoena and sent back to the department of corrections.

19 MR. STONE: Yes, sir. I think that's correct.

20 THE COURT: He can be returned to the department of
21 corrections.

22 MR. ALEXANDER: Thank you. Your Honor.

23 THE COURT: Anything?

24 MR. RIGNEY: No, I don't have anything to add to this,
25 Your Honor.

1 THE COURT: How long do you need?

2 MR. STONE: I don't need any time at all.

3 THE COURT: I thought you said you needed time to file
4 your appeal.

5 MR. STONE: We'll notice that today, but we'll do that
6 -- we're going to have that done today. So I don't know
7 that that has to do -- I don't know that we have to keep you
8 here or anything to do that.

9 THE COURT: Well, I'll still be here. I have other
10 matters I'll be hearing.

11 MR. STONE: We got to serve it on the defendant and
12 stuff to.

13 THE COURT: Any objection to releasing the jury?

14 MR. RIGNEY: No, Your Honor.

15 MR. STONE: No, sir. None from the State as well.

16 THE COURT: All right. Well, I think we had calling
17 the telephone number at one o'clock, so we'll just ask them
18 to come back tomorrow. Well, I need to talk to the State
19 about what they have teed up next. But do we need to do
20 anything with regard to his bond situation as he's not --
21 does not have bond at this point?

22 MR. STONE: That's correct.

23 THE COURT: We don't need to do really any
24 modifications.

25 MR. STONE: No, sir. That's still in effect.

1 THE COURT: All right. Anything else for this record
2 then?

3 MR. STONE: No, sir. Thank you, Your Honor.

4 MR. RIGNEY: Just to clarify, Your Honor, we are not
5 having trial this week with Mr. Anderson.

6 THE COURT: That is correct, sir.

7 MR. RIGNEY: Thank you, Your Honor.

8 THE COURT: To be determined.

9 MR. RIGNEY: Yes, sir.

10 (The hearing was concluded.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Stenographer, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

October 11, 2026

A handwritten signature in cursive script, reading "Sharon G. Hardoon".

Sharon G. Hardoon, CSR
Official Circuit Court Stenographer, III