

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2012-212989

THE STATE,

Respondent,

vs.

JEFFREY E. MORTON,

Appellant,

RECORD ON APPEAL

MELINDA INMAN BUTLER
Butler Law Firm, LLC
Post Office Box 248
Union, South Carolina 29379
864) 427-8805

ROBERT M. DUDEK
Chief Appellate Counsel
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201
(803) 734-1330

Attorneys for Appellant

ALAN WILSON
Attorney General

DAVID A. SPENCER
Senior Assistant Attorney General

DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
Post Office Box 1525
Orangeburg, South Carolina 29116

J. CROOM HUNTER
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
Post Office Box 1525
Orangeburg, South Carolina 29116

Attorneys for Respondent

INDEX

Motion hearing to determine the admissibility of testimony regarding prior conduct.....1

TESTIMONY

DWAYNE ROBINSON

Direct Examination by Mr. Sorenson.....6

Cross Examination by Mr. Mellard.....13

JACKIE ROBINSON

Direct Examination by Mr. Sorenson.....14

Cross Examination by Ms. Hinds.....16

CRAIG DAVIS

Direct Examination by Mr. Sorenson.....17

TERRY SMITH

Direct Examination by Mr. Sorenson.....20

Cross Examination by Mr. Mellard.....22

STEVEN THOMPSON

Direct Examination by Mr. Sorenson.....23

RICHARD CHILDERS

Direct Examination by Mr. Sorenson.....26

WILLIAM KETCHERSIDE

Direct Examination by Mr. Sorenson.....27

JEFFREY MORTON

Direct Examination by Mr. Mellard.....29

VERDICT.....36

INDICTMENT.....37

CERTIFICATE OF COUNSEL.....39

1 2010.

2 THE COURT: All right.

3 MR. MELLARD: It's an incident report for unlawful
4 communication.

5 THE COURT: Is it a conviction or was that just a
6 charge?

7 MR. MELLARD: It was a charge, Your Honor.

8 THE COURT: Okay.

9 MR. MELLARD: Mr. Morton was listed as the suspect in
10 this case. These are complaints about text messaging that
11 was done about 10 months before this incident took place.

12 THE COURT: To the victim?

13 MR. MELLARD: Well, that's what he says, yes, ma'am. I
14 will tell the court that we have seen no text messages. We
15 have seen no pictures. This is just an allegation that was
16 made. It was reported to police but to my knowledge no
17 action was taken. It is our position that this stuff, this
18 is just an allegation that was made. It was reported to
19 police but to my knowledge no action was taken no, no
20 arrests were made. Our position is that at the time of this
21 stuff, Mr. Morton was married to the allege victims new
22 wife. So this was done during the divorce period when
23 emotions were very high. It is our position that they don't
24 have a text, they do not have the pictures and it's -- it's
25 double hearsay is what it is. We ask -- it's not relevant

1 to this particular case and number two it's an evidentiary
2 matter that should not be let in.

3 THE COURT: All right. I'm assuming you're looking at
4 this from a 404(b) exception; is that correct?

5 MR. SORENSON: Yes, ma'am, and kind of really what I'd
6 like to be able to get into through deep victim, obviously,
7 a background from him and his wife about, you know, about
8 when they got married and when Mrs. Robinson was married to
9 Mr. Morton and the fact that there was some animosity when
10 they got together, where he was not happy with that and had
11 made threats over a period of time to Mr. Morton leading up
12 to this incident that allegedly occurred on November 7,
13 2011.

14 THE COURT: So what exception of 404(b) are you wanting
15 to use, and, as you know, if it's not a result of a
16 conviction it has to be able to be proven by clear and
17 convincing evidence.

18 MR. SORENSON: Yes, ma'am.

19 THE COURT: So --

20 MR. SORENSON: And I would concede, I mean the only
21 specific witness I would have would be the victim, Mr.
22 Robinson, testified that he had received -- and I'm not even
23 certain, at this point in time, if I want to even get into
24 the specifics, but other than just given the fact that Mr.
25 Morton had threatened him in the past, I think is what I'd

1 like to get into. I think that would go to show malice,
 2 basically. I mean, he had threatened him in the past and I
 3 had kind of planned on leaving it at that and obviously if
 4 he takes stand, I made basically change what I specifically
 5 want to get into.

6 THE COURT: So, what are we looking at? Are you
 7 looking at and motive, are you looking at intent?

8 MR. SORENSON: I believe it would be intent would be
 9 the exception under 404(b).

10 THE COURT: Okay.

11 MR. SORENSON: Would be dealing with his intent.

12 THE COURT: All right.

13 MR. MELLARD: We even say that it's not an intent per
 14 se. This was during a divorce action. This is not some sort
 15 of a threat he made -- number one, we don't even know if he
 16 was the person who sent the text. I mean, we note the text
 17 came but we don't know that -- what phone they came from. We
 18 don't have any of that kind of stuff. So it's a matter of
 19 --

20 THE COURT: I'm hearing Mr. Sorenson say that he's not
 21 specifically using that incident, that he just wants to be
 22 able to show intent in the case and that he had threatened
 23 him in the past. Is that correct?

24 MR. SORENSON: Yes, ma'am.

25 THE COURT: So not necessarily -- no one is going to

1 introduce the police report to say he had gotten threatening
2 text from him in the past; is that correct?

3 MR. SORENSON: Yes, ma'am.

4 THE COURT: Is that when I understand you are saying?

5 MR. MELLARD: It would be my position that they can't
6 say that it came from his phone, Mr. Morton. It might have
7 come from a phone that is similar to his, but they can't say
8 that it comes from Mr. Morton's. It could be somebody else
9 or are his --

10 THE COURT: Well he can say that he received, and I say
11 he, the victim, - the victim can say that he was threatened
12 by who he believes to be Mr. Morton, coming from Mr.
13 Morton's cell phone, threatening him. I think that's fair
14 game. That does show intent. I don't know how else he's
15 going to show malice in this case.

16 MR. MELLARD: Well, it would be our position that the
17 state of mind some 10 months before this incident does not
18 show malice at the time of this incident.

19 THE COURT: All right. Well, respectfully I think
20 under 404(b) is exactly what it's designed for. This is not
21 a character issue as to your client. This goes to prove
22 intent. This was not an accident, this was not a mistake.
23 My understanding, according to the attorneys when you all
24 came back in office today, apparently the victim was able
25 to, when this alleged incident occurred, was able to

1 restrain the defendant and kept him they are. This is not
2 necessarily an identity issue; is that correct?

3 MR. MELLARD: That is correct.

4 THE COURT: All right. Respectfully, I also think it
5 is relevant. Clearly, he can -- I think the probative value
6 outweighs the prejudice under 403. So I'm going to allow
7 it.

8 MR. MELLARD: The next thing that we were handed is an
9 accident report about malicious injury to personal property.
10 I'm going to hand you a copy of that. This was a report
11 that was made a couple of months before this incident. If
12 the court will notice the suspect is unknown. It's our
13 position that they can't prove the defendant is the person
14 who did whatever act they're claiming in this report. It's
15 also our view that this would go to character, not any sort
16 of identity or 10 or anything like that. Common scheme or
17 plan. Nothing like that. So it's our position that it
18 should not come in for those reasons, Your Honor.

19 MR. SORENSON: Again, what I would be seeking to get in
20 this kind of along the same lines of the threatening
21 messages that he received was that in the months leading up
22 to this incident in November, basically they'd had a whole
23 bunch of stuff going on. I mean, they'd had tires slashed,
24 sugar putting their gas spike of their vehicle. Ultimately
25 leading to the point in time where they ended up putting a

1 did the two of y'all get married?

2 A August 2, 2011.

3 Q August 2, 2011. Let me ask you this, do you know the
4 defendant, Jeffrey Morton?

5 A Yes. Yes.

6 Q Okay. And what relation is the defendant, Mr. Morton,
7 to your current wife, Jackie?

8 A Her ex-husband.

9 Q Okay. And do you know when they got divorced?

10 A I think it was around June -- June of 2010.

11 Q And let me ask you, do you and Ms. Robinson have any
12 children together?

13 A Yes, sir, we do. We have a son.

14 Q Okay. How old is your son?

15 A My son is two months.

16 Q Two months?

17 A Correct, sir.

18 Q And how about -- do you know how many children does
19 your wife have with Mr. Morton?

20 A Two twins.

21 Q Okay.

22 A Twin girls.

23 Q And how old are they now?

24 A They're 11.

25 Q Okay. And who has custody of those twin girls?

1 A My wife.

2 Q They live with you and your wife?

3 A Yes, sir.

4 Q How long have they lived with you and your wife?

5 A It's going on two years, now.

6 Q Okay. Did she have custody from the time that she
7 separated from Mr. Morton?

8 A Correct. Correct.

9 Q Okay. All right. Now, back in November, 2011, some 10
10 months or so ago, did you have a good relationship with Mr.
11 Morton?

12 A We had no relationship at all.

13 Q Now, were you aware during that time period leading up
14 to November, 2011, whether he had made some threats towards
15 you?

16 A Correct. He did.

17 MR. MELLARD: And, Your Honor, we would object to that.

18 THE COURT: Okay. Overruled.

19 BY MR. SORENSON:

20 Q Now, back in November, 2011, Mr. Morton, (sic) where
21 were you living at that time, sir?

22 A In 2011?

23 Q Yes. Back when this happened, last November?

24 A At 776 Kings Road Apartment --

25 Q Okay. And showing you State's Exhibits No. 7, 8, 9,

1 Q As you testified earlier that camera was present back
2 on the night of November 7, 2011?

3 A Yes. Correct.

4 Q Did you have any other cameras outside your apartment,
5 Mr. Morton, (sic)?

6 A What I did was I had camera's at the front at the top.
7 If you look over the room --

8 Q Let me show you that picture and you can kind of point
9 out where.

10 A The room at the top corner here, at the top corner of
11 the building. I had a camera up there first and the camera
12 got cut and so I had to put it in the inside.

13 Q Initially you put one up here?

14 A That was the first camera that was initially added.

15 Q What happened to that camera?

16 A It got cut. Someone came and cut it.

17 Q Cut the camera or --

18 A Cut the cord, you know, to keep it from actually
19 working. So instead of me putting it back again, I put it
20 up to be a dummy and used the one in the window. I never
21 initially put another one up. I just left it like that and
22 put one on the inside.

23 Q Now, the initial camera was on the outside?

24 A It was initially -- the initial camera was on the
25 outside.

1 in I'll just go ahead and eat and take a shower and go from
2 there. That particular morning, what I did that night when
3 I got home, I actually took a shower. I got off at 10:45, I
4 drove -- I got home probably about 11:20. I took a shower.
5 When I got home my wife, the kids, everybody was asleep. I
6 didn't bother to wake them up. I took a shower and I ate.
7 I laid on the couch until about 2:00 o'clock. About 2:00
8 o'clock I got a little tired and so then I laid in the bed
9 beside her. 4:00 o'clock her alarms go off. So when the
10 alarm went off I got up. Normally, I usually get up and
11 just flip the TV and check the weather or walk outside. So
12 this particular morning I walked outside. When I walked
13 outside that's when I heard a person behind -- I never knew
14 who it was, I heard a person behind the vehicles, but he
15 just jumped -- you know when you startle somebody it's like
16 a noise on the pavement. So I was like, who's that, like
17 that, and he ducked down. An individual was just ducking
18 down. I never knew, you know, it was Mr. Morton at that
19 time. Only thing I know is like I was busy having vehicles
20 damaged and however it was, I wasn't about to try to just
21 let the person get away. So what I did was, I reached down
22 to try to get a brick or something in my hand. So what I
23 did was, I said, I called my wife and I said, call 911. I
24 said, call 911. The person looked like they was going to
25 run and on the back end of the vehicle they kept moving to

State v. Morton 9/18/12 - 9/19/12

98

1 the side back and forth. So the person, you know, I said,
2 what you doing. And it was like, you know, he was getting
3 hisself set. But I let him -- You know, I didn't rush right
4 then, I was just sitting there. I was like -- so I was like
5 -- when I turned around then I said, get my gun. When I
6 said, get my gun, that's when the individual rushed -- the
7 individual rushed between the two vehicles I used my force
8 when he was running to launch him across me. So I grabbed
9 him, I grabbed him up and when I grabbed him, that's when
10 the individual stuck me in the side. When I threw him over
11 my head he hit the apartment and we tussled and he jugged me
12 again. By that time, we were tussling and I got the -- I
13 wrestled the person all the way back to the window where you
14 can see the camera. That's when I looked and I seen it was
15 Jeffrey Morton. I was like, you came all the way over here
16 to stab me. All he was saying was -- he was out of breath.
17 He was like, I'm going to jail. I'm going to jail. When I
18 get out I'm going to kill you. My family. At that
19 particular time only thing I could do was just hold him and
20 restrain him. I didn't think to try to get back at him or
21 do anything or whatever like that. My that time, God was
22 actually talking to me, like, let him live. Let him live.
23 Just hold him. By that time the cops came. They cops came
24 and told him, you know, drop the knife, drop the knife.

25 Q Who had the knife at that point in time?

1 A At that particular time Mr. Morton had the knife and I
2 had his hand at that particular time. The officer arrived
3 and I had him up against the window that's beside of the
4 apartment. At that particular time the officer arrived and
5 tell him to drop the knife.

6 Q Okay. Did they take him into custody at that time?

7 A Yes. They took him into custody. What they did was,
8 when they told him to drop the knife, you know, they made
9 him get on the ground. When he got on the ground, they
10 turned him around and, you know, put his hand and they
11 handcuffed him. By that time they was walking him up to the
12 backside or the front of the vehicles. The other officer
13 was arriving and it was like, what's going on here. And I
14 said that the victim came to stab my tires, and at that
15 particular time that's when he come out and said, no, I
16 didn't come to stab your tires, I came to take care of you.
17 And the officer said, oh, so you're going to say that in
18 front of us? And it went from there. From that time they
19 took me in the ambulance and took pictures of me and took me
20 to the hospital.

21 Q Let me show you, you talked about when you first came
22 out that you heard somebody and saw somebody kind of behind
23 your vehicles. In State's Exhibit No. 10, kind of point out
24 where you're talking about?

25 A When I came out the door I was standing on the corner.

- 1 Q -- that right there?
- 2 A Correct.
- 3 Q And you said he got you again?
- 4 A In my shoulder. After I flipped him over we was
5 tussling and he stabbed me again.
- 6 Q Okay.
- 7 A By that time I got a chance to restrain him and hold
8 him.
- 9 Q You said earlier that when the cops got there and
10 restrained him and all that, the ambulance ultimately come?
- 11 A Correct.
- 12 Q Did they take a couple of pictures of you there before
13 you left?
- 14 A Correct.
- 15 Q All right. I'll show you State's Nos. 2, 3 and 4 and
16 ask you if you recognize those photographs?
- 17 A Yes, sir, I do.
- 18 Q Are those the photographs that were taken of you that
19 night out at your house?
- 20 A Correct, sir.
- 21 MR. SORENSON: At this time, we'd offer State's 2, 3,
22 and 4.
- 23 MR. MELLARD: Your Honor, we'd renew our objection to
24 No. 2.
- 25 THE COURT: Thank you. The other two are fine; correct?

1 I didn't know he had anything in his hand at all.

2 Q Until after you got locked up together?

3 A After he done stabbed me with it the first time.

4 Q Gotcha.

5 A Then he stabbed me again.

6 Q Where -- well, let me ask you this, Mr. Robinson, the
7 person that rushed you, that stabbed you in the abdomen,
8 stabbed you in the back, that you got the mask off and
9 detained for the cops; do you see him here in the courtroom?

10 A I sure do.

11 Q Point him out for the jury, please?

12 A Jeffrey Morton. Right there.

13 MR. SORENSON: Your Honor, let the record reflect he's
14 identified the defendant.

15 THE COURT: Thank you.

16 BY MR. SORENSON:

17 Q And Mr. Robinson you testified earlier that they had
18 taken you to the hospital when the ambulance came?

19 A Correct.

20 Q Where did they take you?

21 A Orangeburg Hospital.

22 Q The Regional Medical Center here in Orangeburg?

23 A Correct.

24 Q And you're aware of what kind of injuries you suffered?

25 A What they were saying was, they kept me because I had

1 getting the phone and calling 911, I went to the door and
2 that's when I seen him and Jeffrey like -- I guess they was
3 tussling with each other.

4 Q Prior to that, when you heard Dwayne, your husband,
5 yell for you to call 911, where were you at at that point in
6 time?

7 A I was in the bed. I was in the bed.

8 Q Now, do you have any idea prior to you walking up to
9 the front, do you have any idea what had happened outside?

10 A No, sir. Well, when he went out there, obviously, I
11 thought somebody was robbing the house or did something. I
12 just heard him say 911. When I got there he said call, I
13 got stabbed.

14 Q So you heard -- did you ultimately -- you obviously
15 called 911?

16 A I called 911.

17 Q Did the police show up?

18 A Yes, sir.

19 Q Okay. Did you have an opportunity while you were
20 waiting for the police, did you have an opportunity to see
21 who was outside with your husband?

22 A It was Jeffrey.

23 Q Okay. That's your ex-husband, the defendant?

24 A Yes, sir.

25 Q And did you see, at that point in time, whether your

- 1 Q After the cops came did you see at that point in time
2 that your husband had been injured?
- 3 A Yes, sir.
- 4 Q And did he end up ultimately going somewhere that
5 night?
- 6 A He went to the hospital.
- 7 Q Okay. Let me ask you this, your husband testified
8 earlier, about State's Exhibit No. 11, about this camera
9 that was in the window?
- 10 A Yes, sir.
- 11 Q What room is that?
- 12 A My daughters room.
- 13 Q Your daughters?
- 14 A Yes, sir.
- 15 Q Was that camera there back in November of last year?
- 16 A Yes, sir.
- 17 Q Did you have an opportunity that night to observe that
18 camera, kind of after the fact at all?
- 19 A After the incident happened?
- 20 Q Yes, ma'am.
- 21 A After the incident happened, I just seen that piece of
22 paper that was on the ground.
- 23 Q So there was a piece of paper on the ground?
- 24 A Yeah.
- 25 Q Where was it that you saw that?

1 A I seen that when he went to the -- on my way going to
2 the emergency room that morning.

3 Q Prior to y'all going to bed that night did you -- was
4 there a piece of paper taped up to that window that you had
5 observed?

6 A No, sir.

7 Q Let me ask you this, Ms. Robinson, do you remember how
8 your ex-husband was dressed when you saw him outside that
9 apartment that morning?

10 A No, sir. I don't.

11 Q Okay. That would be all I'd have, Ms. Robinson.
12 Answer any questions Mr. Mellard or Ms. Hinds might have for
13 you.

14 JACKIE ROBINSON - CROSS-EXAMINATION

15 BY MS. HINDS:

16 Q Thank you, Ms. Robinson. I'll try to be brief. I just
17 want to get a couple of things clarified.

18 A Yes, ma'am.

19 Q Your testimony was that on the date in question that
20 Mr. Robinson got up and went to the door; correct?

21 A Yes, ma'am.

22 Q And you're, at that point in time, you're still in the
23 bed?

24 A Yes, ma'am.

25 Q Asleep, awake?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

simultaneously. Him slightly ahead of me.

Q Okay. Describe for the jury when you pulled up on that scene at [REDACTED], what it was that you and -- who was the other officer who was kind of right with you?

A Deputy Smith. Deputy Terrance Smith.

Q Okay. Describe for the jury kind of what it was that you came upon when you got out there?

A Well, we immediately observed two black males struggling. One was covered in blood and the other one was armed with a knife. The subject put the knife -- he was ordered to drop it. At that point we drew our weapons and ordered him to drop the weapon.

Q And at that point in time did he drop the weapon?

A He did.

Q Who was that individual who had the knife when you first got there?

A He was later identified as the defendant.

Q Okay. Mr. Morton, Jeffrey Morton?

A Yes, sir.

Q Okay, and do you recall how Mr. Morton -- describe for the jury, you indicated that the two of them were kind of locked up with each other?

A Yes, sir.

Q And describe for the jury how Mr. Morton was dressed when y'all got there?

1 A He was dressed in all black, had on gloves.

2 Q Okay. Did you observe whether he had anything on his
3 head at ~~that~~ point in time when y'all got there?

4 A No.

5 Q Subsequent to that did y'all ultimately find something
6 out there that was pointed out as him having had on his
7 head?

8 A Yes, sir. We discovered a black ski mask laying in the
9 grass.

10 Q Okay. Was that in the vicinity of where the two of
11 them were locked up when you got there?

12 A Yes, sir.

13 Q And what then was done with Mr. Morton?

14 A He was detained. He was detained and they were
15 separated.

16 Q Okay. At that point in time did y'all kind of ask Mr.
17 Robinson what was going on?

18 A We did.

19 Q Okay. And what, if anything, did he tell you?

20 A That the defendant was there to slice his tires.

21 Q Okay. And where was Mr. Morton at when Mr. Robinson
22 was telling that you y'all?

23 A He was out towards the parking lot, towards the front
24 of his vehicle.

25 Q Okay. And at that point in time, did Mr. Morton, did

1 you overhear him respond at all to those comments by Mr.
2 Robinson?

3 A I did.

4 Q And what -- tell the jury what Mr. Morton's response
5 was at that point in time?

6 A That he didn't come to stab his tires, he came to stab
7 him.

8 Q And did you all document that --

9 A I did.

10 Q -- night in your reports?

11 A Yes, sir.

12 Q And you had indicated that Mr. Robinson said there were
13 two individuals, one of them holding a knife who you've
14 identified as the defendant. Describe the other individual
15 out there that he was locked up with?

16 A I recall the man had on a white t-shirt. It was
17 covered with blood.

18 Q I'll show you State's Exhibit No. 2. Is that the
19 photograph that was taken out there that night of him?

20 A Yes, sir.

21 Q That would be Mr. Robinson?

22 A That's correct.

23 Q Okay. Now, ultimately where there other officers that
24 responded out there?

25 A There was.

- 1 A Yes, sir. I observed the subject dressed in all black
2 with a knife in his hand and the other subject without any
3 weapons, which had on a white t-shirt.
- 4 Q And what did you and Lt. Davis do at that point in time
5 when you observed one of them being armed?
- 6 A With one of the subjects being armed we drew out
7 weapons, demanded the subject drop the weapon. Eventually
8 the subject did and the subject was detained.
- 9 Q Okay. Let me show you what's been marked as State's
10 Exhibit No. 17; do you recognize that item?
- 11 A Yes, sir.
- 12 Q Okay. What is that item?
- 13 A It appears to be a pocket knife.
- 14 Q Okay. Where is that item from?
- 15 A It appears to be the knife the subject had in his hand,
16 the subject that had on all black clothes.
- 17 Q Okay. And the person that had on all black and had the
18 knife in his hand, is he in the courtroom?
- 19 A Yes.
- 20 Q Okay. Can you point him out for the jury?
- 21 A It's going to be Mr. Morton.
- 22 Q Mr. Morton?
- 23 A Yes.
- 24 Q Jeffrey Morton. So this is the knife that when you
25 first arrived on the scene he had in his hand?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that night?

A Yes. Yes, he was arrested.

Q You indicated that he was dressed all in black. Did you ultimately find or were you told that he had something on his head, initially.

A Upon speaking with the victim, he advised that the subject was dressed in all black with a ski mask on and during the scuffle he pulled off the ski mask.

Q Okay. And did you find a ski mask on the ground out there in the vicinity of where they were tussling when you arrived?

A Yes, we did.

Q Okay. Showing you State's Exhibit No. 6, is that a picture of it on the ground?

A That's correct.

Q And showing you State's Exhibit No. 18. Is that the item? Yes, sir, it is.

Q You documented that on the bag that you collected it in?

A Yes, sir.

Q Okay.

MR. SORENSON: Your Honor, at this time we'd offer State's Exhibit Nos. 6 and 18 into evidence?

THE COURT: Any objection?

MR. MELLARD: No objection.

1 double checking him for his handcuffs --

2 A Yes, sir.

3 Q -- you found these two items, 20 and 21 in the backseat
4 of your patrol car?

5 A That's correct.

6 Q What are these items?

7 A One is a pair of black and gray gloves.

8 Q State's Exhibit No. 20.

9 A Yes, sir.

10 Q And what, if anything, was with these two gloves?

11 A The clear rubber gloves were within the black and gray
12 gloves.

13 Q Just a pair of clear plastic gloves?

14 A That's right.

15 Q So they were inside the black gloves; is that correct?

16 A That's correct.

17 Q All right. Now, these other items just for the time
18 being here, State's Exhibit Nos, 18, 19 and 22 and -- I'm
19 sorry -- and 23. Were those items turned over to you that
20 day out there?

21 A Yes, sir.

22 Q And did you then take them into -- put them into
23 evidence?

24 A Yes, sir.

25 Q Okay.

- 1 Q Showing you what these items are, State's No. 23, is
2 that a pocket knife?
- 3 A Yes.
- 4 Q Is that correct?
- 5 A Yes, sir.
- 6 Q State's Exhibit No. 19. What is State's Exhibit No. 19?
- 7 A Wire cutters.
- 8 Q Wire cutters?
- 9 A Yes, sir.
- 10 Q And State's Exhibit No. 22, which was identified
11 initially as a roll of scotch tape?
- 12 A Yes, sir.
- 13 Q Let me ask you, Cpl. Thompson, did you while out there
14 that night have an opportunity to -- I'll show you State's
15 Exhibit No. 11 -- to view that window?
- 16 A Yes, sir, I did.
- 17 Q Okay. Did you see the camera that's in the window?
- 18 A Yes, sir, I did.
- 19 Q When you observed that window that night out there was
20 that the condition that things were in when you observed
21 them?
- 22 A No, sir, it was not.
- 23 Q Describe for the jury what the condition was that you
24 observed that night?
- 25 A There was a sheet of paper over the outside of the

1 window which was taped up with what appeared to be scotch
2 tape.

3 Q Cpl. Thompson, did you ultimately end up staying out
4 there on the scene or did you have any other duties that you
5 dealt with that night?

6 A I was on the scene a short while before, assisting and
7 trying to locate Mr. Morton's vehicle in the proximity of
8 the area.

9 Q Okay. And was a vehicle belonging to Mr. Morton
10 located --

11 A Yes.

12 Q -- in that vicinity?

13 A Yes, sir, it was.

14 Q All right. Well, let me show you State's Exhibit No. 5
15 that's been identified as being the apartment complex. I'm
16 not sure if you're familiar with this map or not but are you
17 familiar with kind of the area where that vehicle was
18 located?

19 A Yes, sir, I am. It was located down this dirt road
20 just off of [REDACTED] Road.

21 MR. SORENSON: Your Honor, can I have him kind of put an
22 X in that spot?

23 BY MR. SORENSON:

24 Q Just kind of put an X in that general vicinity of where
25 that was found?

1 A It was about in this vicinity right up in here. It was
2 just off -- back up -- not too far down about mid-ways down
3 that road.

4 Q If you go back, I mean, basically, through these woods
5 you'd come in the back of the apartment there?

6 A Yes, sir. That -- actually the picture makes it look a
7 lot further than what it is.

8 Q Okay. How far do you think it was?

9 A Roughly no more than a half-mile.

10 Q All right. Let me show you State's Exhibit No. 12. Do
11 you recognize that vehicle?

12 A Yes, sir, I do.

13 Q And what is that vehicle?

14 A That's the vehicle we found parked on that dirt road
15 that was registered to Mr. Morton.

16 Q Okay. I'm showing you State's Exhibit No. 13. Does
17 that show the VIN and some corresponding documentation to
18 that effect?

19 A Yes.

20 MR. SORENSON: At this time we'd introduce State's Nos.
21 12 and 13 into evidence.

22 MR. MELLARD: No objection.

23 THE COURT: Without objection.

24 (State's Exhibit No. 12, photo
25 vehicle, marked and entered.)

State v. Morton . 9/18/12 - 9/19/12

161

1 patient, out there at [REDACTED] Road?

2 A Mr. Dwayne Robinson.

3 Q Okay. Could you tell the jury what condition or what
4 injuries Mr. Robinson appeared to be suffering from when you
5 arrived out there that morning?

6 A Well, on the scene, we come up and he was walking
7 around. We seen blood on his shirt and everything. On
8 assessment at the scene, looked like a cut, laceration to
9 the back and also laceration to the side area.

10 Q Okay. All right. You indicated that he did have blood
11 on his shirt, also?

12 A Yes, sir.

13 Q And I'll show you State's Exhibit No. 2; does that
14 appear to be the condition that Mr. Robinson was in that
15 morning --

16 A Yes, sir.

17 Q -- when you encountered him?

18 A Yes, sir.

19 Q You indicated he had two injuries, one to his abdomen
20 and one to his upper right back?

21 A Yes, sir.

22 Q All right. What did you and your partner do as far as
23 treating Mr. Robinson out there at the scene at his
24 residence?

25 A Well, the first thing we did was control the bleeding,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to search for any items that could be related to a stalking or an attempted murder.

Q Okay. Did you have an opportunity to process that vehicle and look for any of those items?

A Yes, I did.

Q And let me show you, first of all, State's Exhibit Nos. 14 and 15. Are those photographs that you took of that vehicle?

A Yes, sir.

Q Okay.

MR. SORENSON: At this time, we'd offer State's Exhibit Nos. 14 and 15 into evidence.

MR. MELLARD: No objection.

THE COURT: Without objection. All right.

(State's Exhibit No. 14, photo, was marked and entered.)

(State's Exhibit No. 15, photo, was marked and entered.)

BY MR. SORENSON:

Q And specifically, I'm going to show you State's Exhibit No. 14. If you could, just kind of what is depicted in State's No. 14; what part of the vehicle and what have you?

A Yes, sir. The rear seat, rear passenger side of the vehicle you can see on the floor board binoculars and some items like calculator and all that. There's also a camera

1 on the back seat. And it looks like some type of material,
2 looks like a stocking ski mask.

3 Q Okay. I'll show you State's Exhibit No. 15. Is that
4 that item kind of spread out on the back seat?

5 A Yes, sir, it is.

6 Q Okay. You also indicated that on the floor board are
7 there appears to be a pair of binoculars; is that correct?

8 A Yes, sir.

9 Q And were those items collected?

10 A Yes, sir, they were collected?

11 Q I'll show you State's Exhibit No. 24 Are those those
12 binoculars?

13 A Yes, sir.

14 MR. SORENSON: At this time, Your Honor, we'd offer
15 State's No. 24 into evidence.

16 MR. MELLARD: No objection.

17 THE COURT: Without objection.

18 (State's Exhibit No. 24,
19 binoculars, was marked and entered.)

20 BY MR. SORENSON:

21 Q That's what was on the floor board of that vehicle?

22 A Yes, sir.

23 Q Also, I believe you pointed out on State's Exhibit No.
24 14, what is that where the finger is on the back seat?

25 A That is a Cannon digital camera.

- 1 A I also worked at AYP.
- 2 Q Okay.
- 3 A For about 15 years.
- 4 Q 15 years. All right. And at some point you were
5 married to Jacqueline Robinson?
- 6 A Yes, sir.
- 7 Q When were y'all married?
- 8 A We was married in 2006, I believe.
- 9 Q And you all had children?
- 10 A Yes. WE had two beautiful girls.
- 11 Q And what are their names?
- 12 A Sa???? and Safira.
- 13 Q And do you love these children?
- 14 A Very much so.
- 15 Q And do these children love you?
- 16 A Very much so.
- 17 Q All right. What school do your children go to?
- 18 A My children went to -- at the time of our separation
19 our children was going to Felton Laboratory on State college
20 campus. Private school.
- 21 Q A private school?
- 22 A Yes, sir.
- 23 Q And how old are your children?
- 24 A My children now are 11 years old.
- 25 Q And at some point you and your Jacqueline separated?

- 1 A Yes, sir.
- 2 Q When did y'all separate?
- 3 A We separate in June of 2010.
- 4 Q And y'all are divorced?
- 5 A Yes, sir.
- 6 Q When did y'all get divorced?
- 7 A We got divorced in April of 2011.
- 8 Q All right. And I believe Jacqueline was given custody
9 of the children?
- 10 A Yes, sir.
- 11 Q And you were given visitation?
- 12 A Yes, sir.
- 13 Q Did you visit with your children?
- 14 A Yes, sir.
- 15 Q How often?
- 16 A I had visitation rights every weekend. Every other
17 weekend, I'm sorry.
- 18 Q That's how often you visited with them?
- 19 A Every other weekend.
- 20 Q Now, at some point Jacqueline married Dwayne Robinson?
- 21 A Yes, sir.
- 22 Q Do you remember when that was?
- 23 A I heard it was in October -- September of 2011.
- 24 Q And did it bother you that she was getting remarried?
- 25 A Not really, no.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q You weren't jealous?

A No, I wasn't jealous. It bothered me as far as the children a little bit, but not really.

Q Now, after Jacqueline and Dwayne were married did your relationship with your children change?

A After they married the only thing that changed was that I seen my children one weekend after they got married, after the time I heard they got married. I seen them one weekend after that and I hadn't seen them since then.

Q All right. Let's talk about the night of November 7, 2011.

A All right.

Q Did you go over to [REDACTED] Road?

A Yes, sir.

Q All right. Why did you go over there?

A I got a text from my daughter Safera's phone. It was kind of a distressing text.

MR. SORENSON: Objection, Your Honor.

THE COURT: Basis.

MR. SORENSON: Hearsay.

MR. MELLARD: He didn't say what the text was.

THE COURT: Okay.

MR. SORENSON: I assume he was getting ready to say what it said.

THE COURT: Go ahead and ask him the next question.

1 MR. MELLARD: All right.

2 BY MR. MELLARD:

3 Q Now, you went over there because of a text?

4 A Yes, sir.

5 Q Okay. I don't want you to say what the text said, but
6 what was the effect on you of that text?

7 A Just made me take great concern for my children's
8 safety.

9 Q Okay. At that point did you go over to [REDACTED] Road?

10 A Yes, sir.

11 Q All right. Did you go to [REDACTED] Road with the intent to
12 kill anybody?

13 A No, sir, definitely not.

14 Q You were going to say something. I didn't mean to
15 interrupt you.

16 A You know, you said that at the time of the text --

17 Q Uh-huh. (Affirmative response.)

18 A -- there was like a night later that just kept me up.

19 Q Okay.

20 A I was working.

21 Q It was after work? Did you go to [REDACTED] Road with the
22 intent to kill anybody?

23 A No, sir. Definitely not.

24 Q Did you go to [REDACTED] Road with the intent to hurt
25 anybody?

1. A Definitely not.

2 THE COURT: You need to speak up, sir.

3 MR. MORTON: Oh, okay.

4 BY MR. MELLARD:

5 Q Now at any time that you were at [REDACTED] Road did you
6 intend to kill anybody?

7 A Oh, no, sir.

8 Q Did you intend to hurt anybody?

9 A No, sir.

10 Q It's my understanding that Dwayne Robinson came outside
11 his house?

12 A Yes, sir.

13 Q And he saw you?

14 A Yes, sir.

15 Q All right. And where were you located?

16 A I was located in between two vehicles sitting down on
17 the ground.

18 Q And what happened next?

19 A And when he came out to the door I got up off the
20 ground. I was facing my daughter's windows and he got -- I
21 got up off the ground and backed up behind the car. He came
22 out the door and we went back forth around the car.

23 Q What do you mean back and forth around the car?

24 A Like when he came one way I was trying to go, I was
25 trying to go the other way away from him and he came and we

1 went back and forth.

2 Q Were you trying to go towards him or were you trying to
3 go away from him?

4 A Away from him. I was trying to go away from him and
5 eventually I ran and I thought I had an opportunity to get
6 away from him, but he grabbed me and hit me and we got in a
7 pursue of struggle. No, sorry. After he hit me, then I
8 stabbed him --

9 Q All right.

10 A -- in his side.

11 Q Okay.

12 A And then we got in the struggle.

13 Q And during the struggle was it your intent to kill
14 anyone?

15 A No, sir, definitely not.

16 Q Were you trying to get away?

17 A I was just trying to get away. They did yell out. He
18 did yell out to his wife, get the gun.

19 Q And what did you do when he yelled that?

20 A That's when I was trying to get away from him.

21 Q Okay.

22 A .Even more so.

23 Q At some point the police came there?

24 A Yes, sir.

25 Q All right. And you were handcuffed?

- 1 A Yes, sir.
- 2 Q All right. Now, we've seen pictures here -- did you see
3 that video that they showed?
- 4 A Yes, sir.
- 5 Q All right. And there's also some pictures taken from a
6 camera in your car?
- 7 A Yes, sir.
- 8 Q Did you take those pictures?
- 9 A Yes, sir.
- 10 Q When did you take those pictures?
- 11 A These pictures was taken during our divorce
12 proceedings, separation and divorce.
- 13 Q It was before the divorce was final?
- 14 A Before the divorce.
- 15 Q All right. Why did you take these pictures?
- 16 A It was for the divorce purposes.
- 17 Q For what purpose?
- 18 A Looking at Dwayne Robinson being with my ex-wife.
- 19 Q For purposes of showing adultery?
- 20 A Yes.
- 21 Q Okay. Just to back up. Did you intend to kill Dwayne
22 Robinson?
- 23 A I definitely didn't intend to kill Dwayne Robinson or
24 anybody ever in my life.
- 25 Q All right. Did you intend to hurt Dwayne Robinson when

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

everyone here can contain themselves when the verdict is read. If, for some reason you think you cannot I'm going to go ahead and ask you to excuse yourselves now, because if there are any outburst or any problems unfortunately I will have to take you into custody. I want to make sure that that doesn't happen.

All right. Let's go ahead and bring the jury in.

Is the State ready and defense ready?

MR. SORENSON: Yes, ma'am.

MR. MELLARD: Yes, ma'am.

THE COURT: All right. Let's go.

(Jury in with verdict at 3:55 p.m.)

THE COURT: All right. Mr. Foreperson, I understand you've reached a verdict, sir?

MR. FOREPERSON: We have, Your Honor.

THE COURT: Would you please hand it to the bailiff.

THE BAILIFF: Your Honor, may I approach?

THE COURT: You may. All right. In the case of the State of South Carolina verses Jeffrey Morton, we the jury unanimously find Mr. Morton guilty of assault and battery of a high and aggravated nature.

Ladies and gentlemen of the jury, if this is your verdict will you please indicate by raising your right hands.

All the jurors have raised their right hands.

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

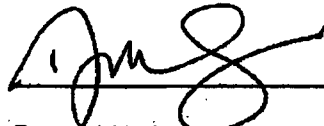
INDICTMENT
2012GS38-0035

At a Court of General Sessions, convened on February 6, 2012 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

That in Orangeburg County, South Carolina, on or about November 7, 2011, the Defendant, Jeffery E Morton, did with the intent to kill, attempt to kill with malice aforethought, either expressed or implied, the victim, Dwayne Robinson, by stabbing him with a knife, and as a result violated Section 16-3-0029, Code of Laws of South Carolina, as amended.

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



Donald N. Sorenson, Solicitor

WITNESSES

TERRANCE SMITH

Orangeburg County Sheriff

**ARREST WARRANT NUMBER
M806255**

Arrested: November 7, 2011

**ACTION OF GRAND JURY
TRUE BILL**
[Signature]
Date: **FEB 08 2012**

Foreperson of Grand Jury
Date: February 8, 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS38-0035

**The State of South Carolina
County of ORANGEBURG**

COURT OF GENERAL SESSIONS

February 6, 2012 TERM

**THE STATE
vs.**

Jeffery E Morton

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

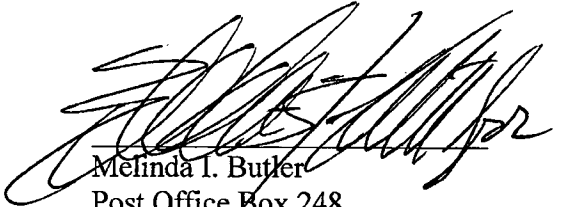
TELETYPE COPY

FILED
CLERK OF COURT
ORANGEBURG COUNTY
2012 FEB - 8 PM 1:04

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."

June 23, 2014



Melinda I. Butler
Post Office Box 248
Union, South Carolina 29379
(864) 427-8805

Robert M. Dudek
Attorneys for Appellant

RECEIVED

JUN 23 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County

Carmen T. Mullen, Circuit Court Judge

ORIGINAL

RECEIVED

JUN 23 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

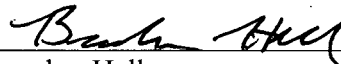
V.

JEFFREY E. MORTON,

APPELLANT

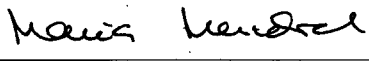
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Croom Hunter, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 23rd day of June, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 23rd day of June, 2014.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.