

The Honorable Daniel E. Shearouse
Po. Box, 11330
Columbia, S.C. 29211

To: Mr. Daniel E. Shearouse

From: Jonathan M. Campbell #236007

RE: CA. No. 2012-CP-23-07608

Date:

RECEIVED

JUL 03 2014

S.C. SUPREME COURT

Dear Mr. Shearouse,

I went to my P.C.R hearing on April 22, 2012. The judge ruled on a couple of my claims and reserved judgment on one claim until he could do more research on the issue.

When I returned to the institution where I am housed, the law library had finally delivered case law on prosecutorial misconduct I ordered.

I discovered I did have meritorious

claims on prosecutorial misconduct that I had discussed with my attorney and were not raised on P.C.R. trial.

In the initial letter I wrote to my attorney I stated the claims I thought had merit and wanted her to raise on P.C.R.

This was in response to a letter I received from her asking for this information.

In the letter I wrote I touched on the burden shifting, presumption of malice charges, failure to properly impeach state's witness, failure to disclose Rule 5 discovery to client, prosecutorial misconduct, ineffective assistance of direct appeal counsel and a few other claims.

We also discussed these issues on a visit she made to the institution I am housed at.

I have a hard time remembering things and retaining information and knowledge. I have a hard time staying focused and on track especially when things get stressful.

With very little access and no instructions on how to use the law computer, that was just installed Jan. 2013 and the deficient process the law library has for supplying inmates on lock-up with law it's been a constant struggle for me to learn how to defend myself on my claims.

I was heavily relying on my P.C.R. attorney to research all issues and present and argue them at the P.C.R. hearing.

When I got back to the institution and read the law cases I realized the issues I had discussed with her did have merit and that it was not put on the record at trial and the ineffectiveness of Direct appeal counsel claim was not either.

I then wrote a letter to my attorney explaining the problem and presented her with a 59(e) motion I wanted her to file. That letter was sent on April 30, 2014.

On May 6, 2014 I sent another

letter to my attorney asking if she received my letter and 59(e) motion and what was the status of my case because I had not heard from her or received a final judgment to know what claims were ruled on.

On May 18, 2014 I sent another letter to my attorney asking about the judge's final order, the filing of the 59(e) motion and to be notified when she was released from my case so I can file for my Rule 5 discovery myself since I can't ~~get~~ seem to be able to obtain it or get a response about it from anyone.

Whereby I would also like to retain the ability to make any amendments after I have obtained and fully reviewed my Rule 5 discovery.

Jonathan M. Campbell
Asu # 50 LEE Ct
990 Wisacky Hwy
Bishopville, S.C. 29010

Respectfully,
Jonathan M. Campbell

State of South Carolina
County of Greenville

Court of Common
Pleas

Jonathan M Campbell
sec # 236007

Motion to Alter
or Amend
Judgment 59 (e)

v. Applicant,

State of South Carolina
Respondant

CA. No. 202-CP-23-0768

The Applicant proceeding pro se moves before this Honorable Court by way of motion to Alter or Amend Judgment pursuant to Rule 59 (e) SCRPC. Adhere to the following facts.

- 1) On December 5th, 2012 Applicant filed an application for P.C.R.
- 2) Applicant went to P.C.R. hearing in Greenville County on April 22, 2014.
- 3) Applicant would ask the Court to Alter the judgment concerning the burden shifting malice charges.

At trial Applicant presented two burden shifting charges found in Yates v. Evatt, 111 S.Ct. 1884 and used State v. Belcher, (cite unknown) as authority.

Applicant asked the Honorable Court to Rule on these burden shifting, mandatory presumption charges. TR. p 457 Ln. 18-21 and p. 458 Ln. 94-15

The Honorable Court found that trial counsel was ineffective for not objecting to these charges.

The Honorable Court also found these burden shifting charges were prejudicial therefore denying Applicant a fair trial.

The Honorable Court then applied the "Harmless error analysis" and found error was harmless, dismissing Applicant's claim. I believe this was error.

Applicant asks this Honorable Court to Alter the judgment based on the decision in Carter v. State, holding: "Harmless error

analysis is inappropriate where jury could find defendant guilty of lesser offense of voluntary manslaughter.

Carter v. State, 392 S.E. 2d 184 (sc. 1990)
 over ruled on other grounds. Brightman v. State,
 336 S.C. 348, 520 S.E. 2d 614

The South Carolina Supreme Court held that, "the harmless error analysis is inappropriate where, as here there is evidence from which the jury could find the defendant guilty of the lesser offense of voluntary manslaughter is expressly defined as "the unlawful killing of another without Malice". S.C. Code Ann § 16-3-15 (1985) (Emphasis supplied) so that a charge creating a mandatory presumption of malice precludes manslaughter, clearly prejudicial to the defendant.

II

Amendment

Applicant asks this Honorable Court to consider grounds not raised in PCR hearing under,

Martinez v. Ryan, 132 S.Ct. 1309 ineffective assistance of P.C.R. counsel.

i) Ineffective Assistance of Trial and P.C.R. counsel for Failing to Object to Prosecutorial misconduct in Closing Arguments, and Failing to raise the issue in P.C.R.

a) TR. p. 435 Ln. 11-15 [closing arguments]

"Were talking about a robbery, possible robbery, crack heads, crack dealers and all this stuff. But I'm going to just say at the beginning. Jermain Proctor was a human being who did not deserve to die and have his body treated like this".

I was not on trial for robbery, possible robbery being a drug addict or a drug dealer and all this stuff.

These statements by the prosecutor served no other purpose but to discredit the defendant and inflame the passion of the jury based on the mistreatment of the victim's body and this emphasis was improper.

b) TR. p. 438 2-16 [closing argument]

"He's going to define malice aforethought
He's going to tell you something along the
lines that malice aforethought is a evil
heart, evil intention, A person --- A heart that
is bent on doing wrong. Malice is basically
doing something that ain't right. Just meanness,
in my opinion. It's just meanness, just
being mean."

"Like when the defendant said in answer
to his own lawyer's question, do you
have any remorse about the killing?" "Not
about the killing, about me and my family."
"That shows you malice. He could care
less about Serrain Proctor. That's what he
said to his lawyer's question. Do you have
any remorse about the killing?" "Not about
the killing, about me and my family maybe.
That is malice ladies and gentlemen.
That is evidence of malice cause he could
care less.

These remarks constitute a burden
shifting presumption based on the
solicitors fabricated version of test-

emony that is false and misleading as to the respects of malice.

TR. Page 362 Lk. 25 - page 363 Lk. 12
[actual testimony]

Q. "And you want the jury to believe you had nothing to do with the killing"?

A. "Absolutely I had nothing to do with the killing"?

Q. "The other question is why do you remember the details so"?

A. "I can't forget them. It's just burned into my memory. I lay down over at that jail every night and ask God to take that out of my head. And every night it's still there, every day. I'll never forget it."

Q. "Do you feel remorseful about this?"

A. "Yes sir I do." "Not about the killing, but being there afterwards." "I did," but I

didn't think I had any other choice."

It is clearly evident from transcripts that defendant stated that he did have remorse, yet "not about the killing."

The solicitor states twice, there was no remorse "about the killing only about [him and [his] family" which is not supported by the trial records. Furthermore the solicitor states the defendant's lack of remorse "is malice," "cause he could care less."

This is clearly a burden shifting presumption and mandates malice for lack of remorse and left the defendant without any form of rebuttal.

At the P.C.R. hearing the Applicant was asked to clarify his statement about the lack of remorse for the killing. It was to his contention that there was no remorse "about the killing", because as he understood it he thought his attorney was asking him if he had ~~remorse~~ remorse about the killing and to admit remorse would be

to admit he in fact killed Mr. Proctor, when he did not. The simple assertion of lack of remorse cannot constitute malice when the unremorseful did not commit the killing.

c) TR. p. 438 23-24 [closing arguments]

"Did you see how he was smiling, as he said, not about the killing?"
 "Got no remorse about that."

This remark sought no purpose other than to inflame the passion of the jury and was a totally fabricated accusation and a deliberate misstatement of fact, and bolstered his earlier malice claim.

TR. p. 378 Lr. 16-24 [actual testimony]

Q. "And all of a sudden, for no reason Carl hit you in the back of the head with a hammer. Is that what you're telling this jury?"

A. That's exactly what I'm telling the

jury".

Q. "You smile when you say that. You think it's funny"?

A. "No, Sir. But your implying that I'm lying."

Q. Yes Sir, I am.

A. And I'm not. You asked me a question and I answered it.

This portion of the trial records show the true statements of both parties. The solicitor is vindictively and maliciously fabricating testimony to discredit the defendant, stating that he is smiling while saying, "Not about the killing". "Got no remorse about that."

No where in the trial record is there testimony to support the solicitor's closing arguments and defendant had no rebuttal to this, and trial counsel failed to object.

d) TR. p. 444 ^{Ln.} 24-25 - p 445 Ln. 2-6
 [closing arguments]

"But he wasn't smart enough to know that if I give these crack addicts rocks, there going to smoke it all and then they might not do what their supposed to do." "What self-respecting crack dealer?" Does he think were stupid? "Does he think that everybody else in this world was born at night?" "And they might have been but not last night. We know better than that."

Here the solicitor is inserting his personal opinions and beliefs about dealers while attacking the defendants credibility. Furthermore, he is telling the jury that they are stupid if they believe the defendants testimony.

e) TR. p 445 Ln 17 - p 446 Ln. 1
 [closing arguments]

"And by the way. He said they had more crack. They never said Mr. Proctor said, well hey, give me my crack back. Give me those other two or three rocks you got. Kind of left that out

didn't he? "You know why? Because it's hard to remember a lie".

"My mama used to tell me when I was a child, It's easy to remember the truth because the truth is always the truth, son, you can remember next week, next month, two years later. But when you tell a lie, you got to remember the lie you told and that's what we got from this man."

These remarks are a direct attack to the defendant's credibility through speculation. The solicitor was obligated to ask these questions during cross examination to determine their factual basis and cannot now use them to shift the burden and discredit the defendant where he has no source to refute these conclusive contentions. Furthermore, he gives the jury his mother's personal opinion as well as his own personal beliefs that "it's easy to remember the truth," But when you lie you got to remember the lie you told." Which places in the mind of the jurors

that simply, because the defendant remembers the facts of the incident he must be lying where by discrediting his testimony.

f) TR. p. 449 Lm. 6-22 [closing argument]

"Carl Southerland has taken his responsibility. He cut a deal, No question. And I believe he is just as guilty of murder as that man. But when you lay it out and you try to get convictions against bad people, sometimes you have to do business with bad people.

And the reason were here today is because Carl Southerland was given a deal. He pled guilty to voluntary manslaughter in exchange for his testimony. And we as prosecutors have to make a decision who we thought was more responsible. Not that the other one wasn't, but who is more responsible.

Ultimately I'm going to leave you with this one thing and if you disagree with me, I understand. But I can't imagine this being any other way. What self-respecting man

tells his mother that he killed somebody when didn't. Then puts that on his mothers heart and lets it stay there for three months"?

In these remarks the solicitor is testifying before the jury as to the credibility of the states witness as well as placing the culpability of the crime on the defendant, and giving his own personal opinions.

At defendants P.C.R. hearing, defendant took the stand and testified to a meeting that took place on Saturday, January 10th 2010, two days before trial. The record will show that both co-defendants and representing attorney's were present. Mr. Campbell's attorney Mr. Abdalla said that they were going to try to get us a deal for voluntary manslaughter and 15 years apiece but one of us had to take responsibility for the murder and tell the family why they killed Mr Proctor. The record will show that at that point Mr. Campbell turned to Mr South-~~er~~erland and said "I will not take responsibility for something I didn't do, We were the only two there that night and I didn't

Kill Mr. Proctor you did and if you want this deal you have to take responsibility for what you did. After a few minutes Mr. Southerland spoke up and said "I will stand up in court and tell Mr. Proctor's family I killed him and why for the 15 years"

Everybody was kinda shocked because up until that point Mr. Southerland had been claiming his original statement, that was of a self-defence nature was true.

My attorney Mr. Abdalla then said if your going to take responsibility for the killing and tell the family why nothing else needs to be said. Is that what your going to do and Mr. Southerland said, yes. At that point my attorney and I got up to go to another room. As we were leaving Mr. Posey, Carl Southerland's lawyer asked me how much time I'm willing to accept if the judge would not go with the 15 years. I told him I would take 17. He then said, my client understands he could get up to 30 years for manslaughter and was okay with that. I said, thats because

your client killed Mr. Proctor.

My attorney and I then left the room and went two doors down to another conference room where Mr. Abdalla pulled out his cell phone and called the solicitor Jeff Weston.

He then said into the phone, Jeff this is John. You wanted to know the outcome of this meeting?

I told you I have always thought my client was telling the truth and innocent and he has never wavered from his original story.

Carl Southerland just said he is going to take responsibility for killing Mr Proctor and will stand up in court and tell the family why for 15 years and manslaughter.

They talked a few more seconds and ended the call.

My attorney then told me Mr. Weston would not recommend the plea but if we request it he will not go against us.

Mr Abdalla then told me everything would be alright and he would see me on Monday at trial.

Applicant testified to these facts at

his P. C. R. hearing.

After hearing these facts at P.C.R. the applicants trial attorney Mr. Abdalla took the stand and stated that after hearing these facts his memory had been re-freshed and he did recall the meeting but could not fully remember the conversation and could not say I was lying but if Applicant says that is what happened it must be true.

In light of these facts Applicant does believe the solicitor committed misconduct by testifying to the credibility of the states witness when he knew his witness had given a prior statement then said he would admit to doing the murder and tell the family why he did it and then gave a completely different testimony at trial. So it was improper to vouch for states witnesses credibility and to give opinion as to who he felt was more responsible just to get a conviction. He was supposed to seek justice

Futhermore, the solicitor sought to inflame

the passion of the jury and attacked the defendant's morale & fortitude by claiming he is a man ~~at~~ devoid of self-respect for telling his mother he killed someone when he didn't.

This places arbitrary factors into the deliberation of the jury and deprives the defendant of a fair trial.

The solicitor also knew these facts to be false by his own examination of the witness.

TR. p. 114 LN. 1-14 [actual testimony] [Examination by solicitor]

Q. "So a month --- July, August, September. Three months later he tells you that somebody else did it is that correct?"

A. No, Sir

Q Okay, Now I'm ---

A. That's the ---

Q --- confused again

A. Yes, Sir. I confused you, I guess.

That is not the first time that he told me that he did not kill the man.

That's the first time the first time he gave me details of what happened. He told me several times over the phone that, mama I didn't kill him.

Q. So you have ---

A. While he was in Alabama.

This is the actual testimony from Jonathan Campbell's mother stating she had several conversations with her son where he said, "Mama, I didn't kill that man," from Alabama.

These statements were known false facts of evidence and testimony by the solicitor and is proven by this testimony

g) TR. p 450-451 Ln. 22-1-23 [closing arguments]

"Why on gods earth would Carl Southerland then get up next to him with a screwdriver? He's got a knife. He just killed a man with a knife. Why do you reckon he would tell his mother he's standing here next to me with a ~~knife~~

screwdriver up against me? He would have said, he would have used a knife.

The reason he said screwdriver is because he was making it up as he went along ladies and gentleman. Just think about it? Does that make since? And serew drivers can be very dangerous insterments, But it aint so dangerous from a fifty one year old man if your a thirty one year old man by him, that your going to tell your mama you killed somebody, you are so afraid of him.

Ladies and gentlemen, this story is bogus. The story is insulting. Find Senathan Campbell guilty of the crime he committed, murder.

He killed Jermain Proctor or according to his own [testimony], He held him while Carl Southerland killed him, And either way he is guilty cause this aint about bodies in cars for two days, This aint about burglaries.

This is about two crack heads that robbed a drug dealer and took his money and took his car and failed to even do any thing decent with his body. Thats all this is about. Two

Two crack heads robbing a drug dealer and stealing his money. Thats all this is. Dont let one of the crack heads go. Please.
Thank You.

The prosecutor should have inquired into the facts of these statements and questions he is asking the jury to believe are factual. This shifts the burden to the defendant to prove why Southerland had a screwdriver instead of a knife. And the prosecutors direct opinions and testimony that it would be more probable Southerland had a knife verses a screwdriver and why was an attempt to discredit defendant.

The prosecutors direct statement "the story is bogus", "the story is insulting", would place in the mind of the jurors that to find the defendants story credible would be an attack to their own character.

"Find Jonathan Campbell guilty of the crime he committed, Murder."

This statement gives the jury the

notion and incentive to find the defendant guilty of the crime of murder based on the fact the prosecutor has already done so.

Then the prosecutor sought to confuse the jury and say Southerland killed Mr. Proctor while the defendant held him which the testimony does not support and the "hand of one is the hand of all" so either way the defendant is guilty, creates a conclusive presumption of guilt based on the solicitors own testimony.

Counsels deficient performance fell below professional norm by not objecting to these remarks. Prejudice is shown through the permissive presumption of malice in all of these remarks which introduce an arbitrary factor into the jury deliberations and had it not been for the admission of these remarks there is a possibility Applicant would have been acquitted of murder.

Prejudice is also shown by the prosecutor introducing fabricated burden shifting testimony not supported by the trial record

and testified the credibility of his own witness while discrediting the Applicant depriving him of a fair trial.

Counsel was also ineffective for not objecting to the jury charge of "the hand of one is the hand of All". Nowhere in the trial record is there any testimony to support a common design and purpose to kill Mr. Proctor which is an element of that charge. In fact there is testimony by Applicant and states witness to refute such a claim and counsel should have objected to the charge and P.C.R. counsel did not raise issue in P.C.R. hearing

h) TR p 440 Ln. 14-21 [closing argument]

"All the other stuff I could tell you about. All the other stuff I could try to inflame you with about how there's a body decomposing in the back seat for **two days** and how its a hundred degrees in Alabama in June. I'm not going to get into that. I'm not going to do that to Mr. Campbell's family or to the victims.

because its not relevant... not directly

These remarks were for no other reason than to inflame the passion of the jury just as the prosecutor stated before he made these statements to inflame the passion of the jury.

i) TR p272 LM 2-17

Redirect
Examination
by Mr Weston

Q. Are you changing your whole story?

A. No, Sir

Q. What did you change today?

A. The only thing I really changed that was a lie Sir, was the hammer, the gun, the threat to kill Jon and the body.

Q. In 2005 who did you tell the Alabama authorities killed Termain Proctor?

A. Jon Campbell

Q. And today who are you telling this court under oath killed Termain Proctor.

A. Jon Campbell

Q. Has that changed at any point since you were first arrested?

A. No, it has not.

Q. Thank you Sir.

On pages 13-16 of this motion Applicant talks about a meeting that took place on January 10th 2010. Applicant testified to this meeting at his P.C.R. hearing.

The prosecutor knew this meeting was going to take place and had made no plea offer.

This meeting was designed to find out who had killed Mr. Proctor by telling Co-defendants that who ever killed Mr. Proctor had to take responsibility for the murder and tell the family why they had done it, for a plea the attorney's would try to reach before trial on Monday.

The prosecutor was called and informed of the results of this meeting and agreed not to go against defendants attorney's if they were to ask the judge for a plea of 15 years and Manslaughter.

The last few questions and answers by the states witness and prosecutor on redirect exam-

ination was perjured testimony that the prosecutor knew to be perjury.

The prosecutor led the states witness toward an affirmative answer knowing it to be perjury and then thanked the witness for his cooperation.

The prosecutor was deliberately misleading the jury with known false testimony and specified that the states witness was testifying under oath. This indicated that the witness was telling the truth, even as he was committing perjury that was being elicited by the solicitor.

This was done for no other reason but to discredit defendant and to bolster the credibility of the states witness with the insertion of under oath.

A prosecutors deliberate deception of a court and juries by the presentation of known false evidence is incompatible with rudimentary demands of justice. The failure to correct false evidence is as reprehensible as its presentation and Mr. Weston did both.

Conclusion

Whereby I come before the Honorable Court with the foregoing admmentments and the Applicant prays this Court to Rule upon these issues. If any cannot be conclusively refuted, to grant an evidentiary hearing on these matters.

Jonathan M Campbell
#236007 Asu # 50
LEE CJ
990 Wisacky Hwy
Bishopville S.C. 29018

Respectively,
Jonathan M Campbell

The Honorable Daniel E. Shearouse
Po. Box 11330
Columbia, S.C. 29211

RE: L.A. No. Campbell v. State, 2012-
CP-23-07608

Dear Mr. Shearouse,

Please find enclosed motion
entitled Motion to Alter or Amend Judgment
59 (e) and Certificate of Service
for filing in the above caption matter.

Jonathan M. Campbell
#236007 LEE CI
Asc #50 990 Wisaeky
Hwy Bishopville, S.C.
29010

Respectfully,

Jonathan M. Campbell

CHARGE OF THE COURT

452

1 PERFORM. AND AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO
2 PRESIDE OVER THE TRIAL OF THE CASE AND TO RULE ON THE
3 ADMISSIBILITY OF THE EVIDENCE THAT IS OFFERED DURING THE
4 TRIAL.

5 IT IS ALSO MY DUTY TO CHARGE YOU THE LAW APPLICABLE TO
6 THE CASE. AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY
7 THE LAW AS I NOW STATE IT TO YOU. IF YOU THINK YOU HAVE ANY
8 IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE, AND
9 IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU
10 MUST SET ASIDE YOUR OWN THOUGHTS AND APPLY THE LAW PRECISELY
11 AS I STATE IT TO YOU.

12 I WOULD ALSO REMIND YOU THAT IN EVERY CASE TRIED IN
13 THIS COURT BEFORE A JURY, THE JURY IS THE SOLE AND EXCLUSIVE
14 JUDGE OF THE FACTS. AND A TRIAL JUDGE CANNOT COMMENT ON OR
15 MAKE ANY STATEMENT ABOUT THE FACTS IN A CASE. SO PLEASE DO
16 NOT THINK BY ANYTHING THAT I HAVE SAID OR DONE THROUGHOUT
17 THE COURSE OF THE TRIAL THAT I HAVE AN OPINION ABOUT THE
18 FACTS. THE LAW DOES NOT ALLOW IT. AND I DO NOT HAVE SUCH
19 AN OPINION.

20 I WOULD INSTRUCT YOU, AGAIN, THAT THE FACT THAT THE
21 DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS CASE IS
22 NOT EVIDENCE OF GUILT. NOR DOES IT CREATE ANY PRESUMPTION
23 OR INFERENCE OF GUILT. THESE DOCUMENTS ARE SIMPLY THE
24 FORMAL WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGE MADE
25 AGAINST A DEFENDANT. AND THEY SERVE AS THE FORMAL DOCUMENTS

CHARGE OF THE COURT

1 UP AGAINST ME? HE WOULD HAVE SAID HE WOULD HAVE USED A
2 KNIFE.

3 THE REASON HE SAID SCREWDRIVER IS BECAUSE HE WAS MAKING
4 IT UP AS HE WENT ALONG, LADIES AND GENTLEMEN. JUST THINK
5 ABOUT IT. DOES THAT MAKE ANY SENSE? AND SCREWDRIVERS CAN
6 BE DANGEROUS INSTRUMENTS, BUT IT AIN'T SO DANGEROUS FROM A
7 FIFTY-ONE YEAR OLD MAN IF YOU'RE A THIRTY-ONE YEAR OLD
8 HEALTHY MAN BY HIM, THAT YOU'RE GOING TO GO TELL YOUR MAMA
9 YOU KILLED SOMEBODY, YOU ARE SO AFRAID OF HIM.

10 LADIES AND GENTLEMEN, THE STORY IS BOGUS. THE STORY IS
11 INSULTING. FIND JONATHAN CAMPBELL GUILTY OF THE CRIME HE
12 COMMITTED, MURDER.

13 HE KILLED JERMAINE PROCTOR, OR ACCORDING TO HIS OWN
14 VERSION, HE HELD HIM WHILE CARL SOUTHERLAND KILLED HIM. AND
15 UNDER THE HAND OF ONE IS THE HAND OF ALL, EITHER WAY HE'S
16 GUILTY 'CAUSE THIS AIN'T ABOUT BODIES IN CARS FOR TWO DAYS.
17 THIS AIN'T ABOUT BURGLARIES.

18 THIS IS ABOUT TWO CRACK HEADS WHO ROBBED A DRUG DEALER,
19 AND TOOK HIS MONEY, AND TOOK HIS CAR AND FAILED TO EVEN DO
20 ANYTHING DECENT WITH HIS BODY. THAT'S ALL THIS IS ABOUT.
21 TWO CRACK HEADS ROBBING A DRUG DEALER AND STEALING HIS
22 MONEY. THAT'S ALL THIS IS. DON'T LET ONE OF THE CRACK
23 HEADS GO, PLEASE. THANK YOU.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
25 JURY, DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES TO

1 THE COURT: ALL RIGHT. WELL, GO AHEAD. ASK THE
2 QUESTION.

3 Q. WHEN DO YOU REMEMBER HIM FIRST TELLING YOU THIS STORY,
4 THIS STORY THAT GREG OR, I'M SORRY, MR. SOUTHERLAND KILLED
5 THE MAN? WHEN WAS THE FIRST TIME YOU CAN REMEMBER HIM
6 TELLING YOU THAT?

7 A. THE DETAILS OF THE STORY WAS WHEN HE GOT BACK TO
8 GREENVILLE, YES, SIR.

9 Q. OKAY. AND THAT WAS WHAT I -- THAT WAS WHAT I THOUGHT.
10 OKAY. AND ABOUT HOW LONG AFTER THE FIRST CONVERSATION ON
11 SUNDAY NIGHT WAS THAT? AND I KNOW YOU DON'T REMEMBER
12 EXACTLY. IT MIGHT HAVE BEEN A COUPLE OF WEEKS OR A COUPLE
13 OF MONTHS. JUST GIVE US SOME IDEA.

14 A. THAT HE GOT BACK TO GREENVILLE?

15 Q. THE FIRST TIME YOU TALKED TO HIM 'CAUSE I'M SURE YOU
16 DIDN'T SEE HIM WHEN HE FIRST GOT HERE. BUT WAS IT A COUPLE
17 OF WEEKS AFTER THE INCIDENT, AFTER THE FIRST CALL THAT
18 NIGHT? OKAY. HE CALLED YOU ON SUNDAY NIGHT, SUNDAY
19 MORNING?

20 A. YES, SIR.

21 Q. HOW LONG AFTER THAT DID YOU FIRST SEE HIM IN
22 GREENVILLE?

23 A. I BELIEVE IT WAS SOMETIME IN SEPTEMBER.

24 Q. AND THIS HAPPENED IN JUNE?

25 A. YES, SIR.

1 Q. SO A MONTH -- JULY, AUGUST, SEPTEMBER. THREE MONTHS

2 LATER HE FIRST TELLS YOU THAT SOMEBODY ELSE DID IT, IS THAT

3 CORRECT?

4 A. NO, SIR.

5 Q. OKAY. NOW I'M ---

6 A. THAT'S THE ---

7 Q. --- CONFUSED AGAIN.

8 A. YES, SIR. I CONFUSED YOU, I GUESS. THAT IS NOT THE

9 FIRST TIME THAT HE TOLD ME THAT HE DID NOT KILL THE MAN.

10 THAT'S THE FIRST TIME THAT HE GAVE ME THE DETAILS OF WHAT

11 HAPPENED. HE TOLD ME SEVERAL TIMES OVER THE PHONE THAT,

12 MAMA, I DIDN'T KILL HIM.

13 Q. SO YOU HAVE ---

14 A. WHILE HE WAS IN ALABAMA.

15 Q. YOU HAD MORE PHONE CONVERSATIONS WITH HIM FROM ALABAMA

16 THAT -- WELL, AFTER YOU HAD TOLD HIM, DON'T SAY ANYTHING

17 ELSE, WHEN HE OPENED UP AND TALKED TO YOU ABOUT WHAT

18 HAPPENED?

19 A. NO, SIR. NO, SIR. HE DID NOT OPEN UP AND TALK TO ME

20 ABOUT WHAT HAPPENED. WE WOULD BE TALKING AND JUST I WOULD

21 SAY SOMETHING. AND HE WOULD SAY, MAMA, I DIDN'T KILL THAT

22 MAN. I PROMISE YOU, I DIDN'T KILL THAT MAN. HE TOLD ME

23 THAT ON SEVERAL OCCASIONS JUST IN GENERAL CONVERSATION, - NOT

24 TALKING ABOUT THE CASE OR, I THINK ONE TIME WAS WHEN HE TOLD

25 ME THAT THEY HAD APPOINTED HIM A LAWYER DOWN THERE.

CLOSING ARGUMENTS - MR. WESTON

450

1 CALL HIS MOTHER UP AND SAY, MAMA, I JUST KILLED A MAN? IS
2 THERE ANY WAY THAT THAT'S GOING TO HAPPEN?

3 AND ONCE AGAIN, AS I SAID, THE PROBLEM WITH LYING IS
4 YOU HAVE TO REMEMBER THE LIE. AND WHEN HE TOLD THE STORY
5 ABOUT -- LET ME TRY TO MAKE SURE I TELL IT RIGHT. THAT HE
6 WAS ON THE PHONE WITH HIS MOTHER TRYING TO GET MONEY FIRST.
7 NOW ALL OF A SUDDEN CARL SOUTHERLAND FLIPS AND BECOMES SUPER
8 NAZI, SUPER RADICAL, SUPER RACIST. AND HE, THE MAN WHO HAD
9 NO MEANS TO EVEN SUPPORT HIMSELF, NOW CAN MAKE A PHONE CALL
10 AND KILL HIS MOTHER AND HIM AND EVERYBODY AND TO THE POINT
11 WHERE HE'S AFRAID, SO AFRAID THAT HE TELLS HIS MOTHER HE
12 KILLED A MAN?

13 AND JUST BEFORE I GOT UP HERE MY TRIAL PARTNER, JON,
14 REMINDED ME OF SOMETHING. AND IT'S VERY IMPORTANT.. IF YOU
15 THINK ABOUT IT, IT'S GOING TO MAKE SO MUCH SENSE TO YOU.
16 AND IT'LL SHOW YOU THAT THIS MAN IS LYING.

17 HE HAD JUST, ACCORDING TO HIS STORY, CARL SOUTHERLAND
18 HAD JUST KILLED JERMAINE PROCTOR WITH A KNIFE THAT HE HAD,
19 CARL SOUTHERLAND HAD, ACCORDING TO HIM. HE STABBED HIM
20 EIGHTEEN TIMES ACCORDING TO DR. WARD. AND HE DOESN'T
21 DISPUTE THAT.

22 WHY ON GOD'S EARTH WOULD CARL SOUTHERLAND THEN GET UP
23 NEXT TO HIM WITH A SCREWDRIVER? HE'S GOT A KNIFE. HE JUST
24 KILLED THE MAN WITH A KNIFE. WHY YOU RECKON HE WOULD TELL
25 HIS MOTHER HE'S STANDING HERE WITH A SCREWDRIVER HOLDING IT

1 GUILTY OF HELPING TO MURDER HIM EVEN THOUGH I ADMIT I WAS
2 HOLDING HIM AND I WAS MAD AT HIM AT THE TIME HE WAS STABBED.
3 THAT'S HIS VERSION. SO EVEN IF YOU BELIEVE HIS VERSION,
4 LADIES AND GENTLEMEN, THAT COCAMAMY STORY OF HIS, HE IS
5 GUILTY AS SIN.

6 CARL SOUTHERLAND HAS TAKEN HIS RESPONSIBILITY. HE CUT
7 A DEAL, NO QUESTION. AND I BELIEVE HE IS JUST AS GUILTY OF
8 MURDER AS THAT MAN. BUT WHEN YOU LAY IT OUT AND YOU TRY TO
9 GET CONVICTIONS AGAINST BAD PEOPLE, SOMETIMES YOU HAVE TO DO
10 BUSINESS WITH BAD PEOPLE.

11 AND THE REASON WE'RE HERE TODAY IS BECAUSE CARL
12 SOUTHERLAND WAS GIVEN A DEAL. HE PLED GUILTY TO VOLUNTARY
13 MANSLAUGHTER IN EXCHANGE FOR HIS TESTIMONY. AND WE AS
14 PROSECUTORS HAVE TO MAKE A DECISION WHO WE THOUGHT WAS MORE
15 RESPONSIBLE. NOT THAT THE OTHER ONE WASN'T, BUT WHO'S MORE
16 RESPONSIBLE.

17 ULTIMATELY I'M GOING TO LEAVE YOU WITH THIS ONE THING.
18 AND IF YOU DISAGREE WITH ME, I UNDERSTAND. BUT I CAN'T
19 IMAGINE THIS BEING ANY OTHER WAY. WHAT SELF-RESPECTING MAN
20 TELLS HIS MOTHER THAT HE KILLED SOMEBODY WHEN HE DIDN'T,
21 THEN PUTS THAT ON HIS MOTHER'S HEART AND LETS IT STAY THERE
22 FOR THREE MONTHS?

23 IF A MAN -- IF TWO MEN COMMIT A CRIME AND ONE OF THEM
24 ACTUALLY DOES THE KILLING, ESPECIALLY UNDER THE FACTS THAT
25 HE DID, IS THERE ANY WAY THAT THAT OTHER MAN IS GOING TO

CLOSING ARGUMENTS - MR. WESTON

446

1 LIE YOU TOLD. AND THAT'S WHAT WE'VE GOT HERE FROM THIS MAN.

2 HE LEFT OUT ABOUT WHAT HAPPENED TO THOSE OTHER ROCKS.
3 THEY STILL HAD IT. HE SAID MR. CAMPBELL [SIC] GAVE HIM
4 ABOUT SIX OR EIGHT ROCKS. HE SAID THEY SMOKED ABOUT TWO OR
5 FOUR. SO HE'S GOT TWO OR FOUR ROCKS. THE CRACK DEALER
6 FORGOT ABOUT THAT AND SAID I'M GOING TO GIVE Y'ALL A RIDE
7 HOME, AND NOT EVEN ASK FOR MY OTHER CRACK BACK? HE WANTS
8 YOU TO BELIEVE THAT. THAT'S COCAMAMY.

9 THEN OUT OF THE BLUE HIS BOY -- AND I SAY HIS BOY
10 BECAUSE IT'S IN A COLLOQUIAL, HE'S MY FRIEND, SENSE, AND HIS
11 BOY BECAUSE, HE'S TAKING CARE OF HIM, SENSE. HE HAS BEEN
12 TAKING CARE OF JERMAINE PROCTOR FOR EIGHT, I MEAN, EXCUSE
13 ME, CARL SOUTHERLAND FOR EIGHT DAYS.

14 ALL OF A SUDDEN FOR NO REASON CARL SOUTHERLAND HITS HIM
15 WITH A HAMMER IN THE BACK OF THE HEAD. THEY HAD SMOKED THE
16 MAN'S CRACK. THEY'VE GOT A LITTLE BIT MORE LEFT. HE'S
17 GETTING READY TO TAKE THEM HOME.

18 DID HE EVER EXPLAIN TO YOU WHY? DID HE EVER TESTIFY --
19 AFTER ALL THIS HAPPENS AND THEY'VE BEEN IN THE CAR NOW FOR
20 TWO MORE DAYS TOGETHER, JUST HIM AND CARL, DOES HE EVER SAY,
21 HEY CARL, BY THE WAY, WHY THE HELL DID YOU HIT ME IN THE
22 HEAD? DID HE EVER SAY -- EXPLAIN WHAT HAPPENED? 'CAUSE
23 IT'S A LIE ---

24 MR. ABDALLA: OBJECTION, YOUR HONOR. HE'S COMMENTING
25 ON MY CLIENT'S ...

CLOSING ARGUMENTS - MR. WESTON

445

1 THEY'RE GOING TO SMOKE IT ALL AND THEN THEY MIGHT NOT DO
2 WHAT THEY'RE SUPPOSED TO DO? WHAT SELF-RESPECTING CRACK
3 DEALER DOES THAT? DOES HE THINK WE STUPID? DOES HE THINK
4 THAT EVERYBODY ELSE IN THIS WORLD WAS BORN AT NIGHT? AND
5 THEY MIGHT HAVE BEEN, BUT NOT LAST NIGHT. WE KNOW BETTER
6 THAN THAT.

7 SO THEY GIVE -- THE CRACK DEALER GIVES HIM THE ROCKS TO
8 HOLD. THE CRACK DEALER THEN LETS THEM START SMOKING THE
9 ROCKS AS THEY RIDE AROUND GREENVILLE. THEN THEY BACK OUT OF
10 THE DEAL. SURPRISE. CRACK ADDICTS AIN'T RESPONSIBLE.
11 THEY'RE IRRESPONSIBLE PEOPLE.

12 THE CRACK DEALER DOESN'T GET PAID. OFFERS TO PROVIDE
13 TAXI SERVICE HOME. HE TOLD YOU, HE SAID HE'D DROP US OFF
14 ANYWHERE WE WANTED TO GO. AFTER THEY'D SMOKED HIS CRACK,
15 AFTER THEY SAID, SORRY, WE'RE NOT GOING TO DO WHAT WE TOLD
16 YOU WE WOULD DO, BUT WE DONE SMOKED UP YOUR CRACK.

17 AND BY THE WAY, HE SAID THEY HAD MORE CRACK. THEY
18 NEVER SAID MR. PROCTOR SAID, WELL HEY, GIVE ME MY CRACK
19 BACK. GIVE ME THOSE OTHER TWO OR THREE ROCKS YOU GOT. KIND
20 OF LEFT THAT OUT, DIDN'T HE? YOU KNOW WHY? BECAUSE IT'S
21 HARD TO REMEMBER A LIE.

22 MY MAMA USED TO TELL ME WHEN I WAS A CHILD, IT'S EASY
23 TO REMEMBER THE TRUTH BECAUSE THE TRUTH IS ALWAYS THE TRUTH,
24 SON. YOU CAN REMEMBER NEXT WEEK, NEXT MONTH, TWO YEARS
25 LATER. BUT WHEN YOU TELL A LIE, YOU'VE GOT TO REMEMBER THE

CLOSING ARGUMENTS - MR. WESTON

444

1 FOR THE NEXT TWO HOURS? THAT'S CRAZY. CRACK ADDICTS CAN'T
2 KEEP CRACK, THEY'RE ADDICTS. ADDICTION MEANS IF I'VE GOT
3 MORE, I'M GOING TO DO IT.

4 MR. ABDALLA: OBJECTION, YOUR HONOR. HE'S TESTIFYING
5 TO SOMETHING THAT HAS NOT BEEN IN THE RECORD ABOUT CRACK
6 ADDICTS AND HOW ---

7 THE COURT: GO AHEAD.

8 MR. WESTON: THANK YOU, YOUR HONOR. CRACK ADDICTS
9 CAN'T KEEP CRACK, THEY'RE ADDICTS. BUT THIS MAN WOULD HAVE
10 YOU BELIEVE THAT HE WAS -- THAT THE CRACK DEALER, AND I'M
11 GOING TO COME BACK TO THAT PART TOO 'CAUSE THAT'S EVEN
12 CRAZIER, THE CRACK DEALER GAVE THEM CRACK AT LIKE 12:00 --
13 12:00 AT NIGHT, 1:00 IN THE MORNING. AT EIGHT OR 9:00 THE
14 NEXT MORNING THEY STILL GOT THOSE SIX ROCKS OF CRACK? AND
15 THEY'RE STILL SMOKING FROM THAT CRACK OF SIX OR EIGHT ROCKS
16 AFTER HE'S DEAD? AND HE WOULD HAVE YOU BELIEVE THAT. HE
17 WOULD HAVE YOU BELIEVE THAT.

18 NEXT LET'S TALK ABOUT MR. PROCTOR AS A CRACK DEALER.
19 WORST CRACK DEALER IN THE WORLD. WHAT SELF-RESPECTING CRACK
20 DEALER GIVES THE CRACK ADDICTS THE ROCKS BEFORE HE GETS
21 PAID? THESE ARE ADDICTS.

22 AND THEY'VE ADMITTED, HE ADMITTED THAT, MR. SOUTHERLAND
23 ADMITTED THAT MR. PROCTOR DIDN'T SMOKE. HE WAS SMART ENOUGH
24 TO KNOW NOT TO GET HIGH ON HIS SUPPLY. BUT HE WASN'T SMART
25 ENOUGH TO KNOW THAT IF I GIVE THESE CRACK ADDICT ROCKS,

1 I WAS CONCERNED THAT MR. CAMPBELL WOULD GET ON THAT
2 WITNESS STAND AND TELL YOU THAT HE WAS SITTING IN THE
3 BACKSEAT AND THAT HE HAD NOTHING TO DO WITH THIS, AND THAT
4 THEY STARTED ARGUING, AND THAT THERE WAS THIS ARGUMENT AND A
5 STABBING AND HE WAS JUST SITTING THERE GOING, OH, MY GOD, HE
6 KILLED JERMAINE. AND THEN HE HELPED HIM MOVE THE BODY AND
7 THEN HE JUST HELPED OUT. AS MR. ABDALLA SAID, THEN HE
8 BECOMES THE ACCESSORY AFTER THE FACT.

9 BUT HE DIDN'T TELL YOU THAT. HE BASICALLY WALKED RIGHT
10 INTO TELLING YOU HE'S GUILTY UNDER THE HAND OF ONE IS THE
11 HAND OF ALL. AND THAT'S IF YOU BELIEVE HIS COCAMAMY STORY.

12 LET'S THINK ABOUT THAT FOR A MOMENT 'CAUSE YOU WON'T
13 LEAVE YOUR COMMON SENSE HOME WHEN YOU COME AND SERVE ON A
14 JURY. YOU BRING ALL YOUR DAILY EXPERIENCES OF YOUR DAILY
15 LIFE, ALL THE STUFF YOU SEE ON TV, ALL THE STUFF YOU READ IN
16 THE PAPER, ALL THE STUFF YOU SEE AS YOU ARE -- AS YOU'RE
17 GOING THROUGH LIFE, ALL THE PEOPLE YOU COME IN CONTACT WITH
18 IN YOUR EXPERIENCES.

19 LET'S START WITH THIS WHOLE WORST CRACK DEALER IN THE
20 WORLD SCENARIO HE SET UP. AND WE ALL HAVE PEOPLE EITHER IN
21 OUR EXTENDED FAMILIES, OR IN OUR NEIGHBORHOODS OR PEOPLE
22 THAT HAVE WORKED WITH US THAT HAVE RUN INTO PROBLEMS WITH
23 CRACK OR METHAMPHETAMINE. WE KNOW ABOUT THOSE PEOPLE.

24 HAVE YOU EVER HEARD OF A CRACK ADDICT THAT COULD SMOKE
25 ONE CRACK ROCK AND SAY, I'M NOT GOING TO SMOKE ANOTHER ONE

1 GIVES IT TO YOU, ---

2 A. YES.

3 Q. --- HE THEN GAVE YOU CRACK ON CREDIT AFTER THE THIRD
4 TIME?

5 A. WELL, WE HAD -- WE HAD BROUGHT STUFF -- WE HAD BROUGHT
6 STUFF FROM A PREVIOUS BURGLARY. AND MY WORD TO HIM HAD BEEN
7 GOOD. SO HE ASSUMED THAT WE WERE GOING TO DO THAT JOB. SO,
8 YES, HE GIVE IT TO ME.

9 Q. BUT YOUR WORD WASN'T GOOD, WAS IT, SIR, 'CAUSE YOU
10 BACKED OUT, DIDN'T YOU?

11 A. 'CAUSE I BACK OUT.

12 Q. SO YOUR WORD MEANT NOTHING ONCE YOU GOT THE DRUGS AND
13 GOT THEM IN YOUR SYSTEM?

14 A. NO, THAT'S NOT HOW IT WENT.

15 Q. HOW DID IT GO THEN?

16 A. I BACKED OUT UNTIL A LATER DATE 'CAUSE IT WASN'T A GOOD
17 TIME.

18 Q. SO YOU POSTPONED THE BURGLARY. AND HE -- THE CRACK
19 DEALER SAID, OKAY, LET ME TAKE Y'ALL WHERE YOU WANT TO GO?

20 A. YES, SIR.

21 Q. THAT'S YOUR STORY?

22 A. THAT'S WHAT HAPPENED.

23 Q. ALL RIGHT. LET'S TALK ABOUT THIS HAMMER. YOU'RE
24 SITTING IN THE FRONT SEAT.

25 A. YES, SIR.

1 Q. JERMAINE PROCTOR IS IN THE DRIVER'S SEAT.

2 A. YES, SIR.

3 Q. YOUR FRIEND, CARL, IS BEHIND YOU IN THE BACKSEAT. THE
4 CIRCUMSTANCE IS SUCH THAT Y'ALL HAD JUST BACKED OUT OF THE
5 BURGLARY.

6 A. YES, SIR.

7 Q. Y'ALL HAD SMOKED CRACK TOGETHER.

8 A. YES, SIR.

9 Q. AND YOU HAD GIVEN MR. SOUTHERLAND CRACK ROCKS.

10 A. YES, SIR.

11 Q. Y'ALL WOULD HAVE NOT HAD ANY ARGUMENT.

12 A. NO.

13 Q. AND Y'ALL HAD BACKED OUT OF THE DEAL AND THE DEALER'S
14 GETTING READY TO DRIVE Y'ALL SOMEWHERE.

15 A. YES.

16 Q. AND ALL OF A SUDDEN, FOR NO REASON, CARL HITS YOU IN
17 THE HEAD WITH A HAMMER. IS THAT WHAT YOU'RE TELLING THIS
18 JURY?

19 A. THAT'S EXACTLY WHAT I'M TELLING THE JURY.

20 Q. YOU SMILE WHEN YOU SAY IT. YOU THINK IT'S FUNNY?

21 A. NO, SIR, BUT YOU'RE IMPLYING THAT I'M LYING.

22 Q. YES, SIR, I AM.

23 A. AND I'M NOT. AND YOU ASKED ME A QUESTION, AND I
24 ANSWERED IT.

25 Q. BUT IT'S NOT FUNNY, IS IT, SIR?

1 Q. YOU DON'T REMEMBER TELLING HER THAT?

2 A. NO, SIR.

3 Q. YOU EARLIER TESTIFIED THAT'S WHERE YOU TOLD ---

4 A. YES, SIR, I DID.

5 Q. --- HER YOU LIVED. SO THAT WAS A LIE?

6 A. NO, SIR. IF SHE SAID THAT -- I SAID I DON'T RECALL IT.

7 IF SHE SAID THAT'S WHAT I SAID, THEN THAT'S WHAT I SAID.

8 Q. WERE YOU LIVING AT THE SALVATION ARMY THAT NIGHT WHEN

9 YOU CALLED YOUR MOTHER?

10 A. NO, I WAS NOT.

11 Q. SO YOU LIED TO HER?

12 A. YES, I DID.

13 MR. ABDALLA: YOUR HONOR, HE'S BADGERING THE WITNESS.

14 OBJECTION. HE SAID HE DIDN'T RECALL. AND HE'S CALLING HIM

15 A LIAR. THERE'S A DIFFERENCE.

16 MR. WESTON: HE JUST TESTIFIED, YOUR HONOR, ---

17 THE COURT: OKAY. OVERRULED. GO AHEAD.

18 MR. WESTON: THANK YOU, YOUR HONOR.

19 Q. AND YOU SAID YOU WERE UNEMPLOYED AT THE TIME THIS

20 HAPPENED.

21 A. YES.

22 Q. HOW LONG HAD YOU BEEN OUT OF WORK?

23 A. ABOUT FIVE WEEKS WHEN I LEFT MY MOTHER'S HOUSE. WELL,

24 AFTER A WEEK AFTER THAT 'CAUSE I LOST MY JOB AFTER A WEEK

25 AFTER I MOVED OUT.

1 TO DO WITH THE KILLING?

2 A. ABSOLUTELY I HAD NOTHING TO DO WITH THE KILLING.

3 Q. THE OTHER QUESTION IS WHY DO YOU REMEMBER THE DETAILS
4 SO?

5 A. I CAN'T FORGET THEM. IT'S JUST BURNED INTO MY MEMORY.
6 I LAY DOWN OVER AT THAT JAIL EVERY NIGHT AND I PRAY FOR GOD
7 TO TAKE THAT OUT OF MY HEAD. AND EVERY NIGHT IT'S STILL
8 THERE, EVERY DAY. I'LL NEVER FORGET IT.

9 Q. DO YOU FEEL REMORSEFUL ABOUT THIS?

10 A. YES, SIR, I DO. NOT ABOUT THE KILLING, BUT ABOUT BEING
11 THERE AFTERWARDS, I DID, BUT I DIDN'T THINK I HAD ANY OTHER
12 CHOICE.

13 Q. I HAVE NO FURTHER QUESTIONS. ANSWER ANY QUESTIONS MR.
14 WESTON ---

15 THE COURT: ALL RIGHT. CROSS EXAM.

16 MR. WESTON: MAY IT PLEASE THE COURT?

17 CROSS EXAMINATION BY MR. WESTON:

18 Q. MR. CAMPBELL, LET'S GO BACK -- LET'S BEGIN AND TRY TO
19 DO A LITTLE FILLER HERE BECAUSE THERE'S SOME THINGS THAT I
20 THINK YOU LEFT OUT OR THAT I'M INTERESTED IN IN YOUR STORY
21 THAT WERE NOT ASKED ABOUT. DO YOU REMEMBER TELLING YOUR
22 MOTHER YOU WERE LIVING AT THE SALVATION ARMY AT THE TIME
23 WHEN YOU MADE THAT PHONE CALL TO HER THAT NIGHT?

24 A. NOT LIVING AT THE SALVATION ARMY. NO, I DON'T RECALL
25 THAT.

1 A. YES, SIR.

2 Q. YOU TALKED ABOUT HOW THE MAN WAS KILLED. DO YOU
3 REALIZE CARL -- YOU WERE IN HERE WHEN CARL SAID YOU WERE THE
4 ONE WHO DID THE STABBING?

5 A. YES, SIR.

6 Q. AND YOU'RE TELLING THE COURT NOW THAT CARL WAS THE ONE
7 WHO STABBED HIM?

8 A. YES, SIR.

9 Q. NOW IS IT YOUR TESTIMONY THAT YOU HAD ABSOLUTELY
10 NOTHING TO DO WITH THE ACTUAL KILLING ---

11 A. ABSOLUTELY NOTHING TO DO WITH THE KILLING.

12 Q. AND YOU'RE NOT SAYING THIS JUST TO SAVE YOURSELF?

13 A. NO, SIR.

14 Q. HOW COULD ANYONE UNDERSTAND HOW YOU COULD RIDE AROUND
15 FOR TWO DAYS?

16 MR. WESTON: OBJECTION, YOUR HONOR.

17 THE COURT: YEAH.

18 MR. ABDALLA: ALL RIGHT.

19 THE COURT: HE DOESN'T KNOW THAT.

20 Q. HOW DO YOU RIDE AROUND FOR TWO DAYS WITH A DEAD BODY IN
21 THE CAR?

22 A. AFTER WHAT I HAD JUST SEEN AND HIM BEING AFFILIATED
23 WITH THOSE GROUPS AND THREATENING MY FAMILY, I DIDN'T WANT
24 THE SAME THING TO HAPPEN TO THEM OR ME.

25 Q. AND YOU WANT THE JURY TO BELIEVE THAT YOU HAD NOTHING

1 WE'LL WITHDRAW. DEFENSE WILL WITHDRAW ITS REQUEST TO PLAY
2 THE TAPE, AND I'LL WRAP IT UP.

3 THE COURT: ALL RIGHT. ANYTHING ELSE?

4 MR. ABDALLA: I NEED TO FINISH QUESTIONING HIM. THAT'S
5 ALL.

6 THE COURT: ALL RIGHT. LET'S BRING THE JURY.

7 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 12:26 PM)

8 THE COURT: OKAY.

9 MR. ABDALLA: OKAY, THANK YOU.

10 DIRECT EXAMINATION BY MR. ABDALLA CONTINUED:

11 Q. YOU SAID YOU MADE A CALL?

12 A. YES, SIR.

13 Q. AND YOU CALLED YOUR MOTHER?

14 A. YES, SIR.

15 Q. AND YOU SPOKE TO HER FROM ALABAMA, CORRECT?

16 A. YES, SIR.

17 Q. AND AFTER THE CALL -- HOW LONG WAS IT BEFORE YOU
18 RETURNED TO GREENVILLE?

19 A. ABOUT THREE MONTHS.

20 Q. ALL RIGHT. NOW, MR. CAMPBELL, YOU RELAYED QUITE A
21 DETAILED STORY TO THE JURY ---

22 A. YES, SIR.

23 Q. --- AND THE COURT. YOU STARTED AT THE BEGINNING OF
24 YOUR LIFE PRETTY MUCH, BUT ESPECIALLY THE INCIDENT, THE
25 INCIDENT IN GREAT DETAIL.

1 CAMPBELL, KILLED JERMAINE PROCTOR WITH MALICE AFORETHOUGHT.

2 HE'S GOING TO TELL YOU ABOUT JUDGING THE CHARACTER OF
3 WITNESSES, THAT YOU CAN BELIEVE SOME OF WHAT -- OF A
4 WITNESS' TESTIMONY OR ALL OF A WITNESS' TESTIMONY OR ONE
5 WITNESS OVER ANOTHER.

6 HE'S GOING TO TELL YOU AS MR. ABDALLA SAID ABOUT THE
7 HAND OF ONE IS THE HAND OF ALL. HE'S GOING TO TELL YOU
8 ABOUT PRESUMPTIONS AND BURDENS AND WHAT HAVE YOU. AND AS I
9 SAID, YOU TAKE THE EVIDENCE FROM HIM, NOT FROM ME.

10 HE'S GOING TO DEFINE -- HE'S GOING TO DEFINE REASONABLE
11 DOUBT, BEYOND A REASONABLE DOUBT. AND HE'S GOING TO DEFINE
12 MALICE AFORETHOUGHT, WHAT MALICE IS IN THE DEFINITION OF
13 MURDER UNDER OUR LAW.

14 HE'S GOING TO TALK TO YOU AND YOU TAKE THE DEFINITION
15 OF REASONABLE DOUBT THAT HE GIVES YOU. BUT I WOULD POINT
16 OUT TO YOU THAT HE'S NOT -- HE'S GOING TO TELL YOU SOMETHING
17 ALONG THE LINES OF REASONABLE DOUBT IS NOT ABSOLUTE
18 CERTAINTY. IT IS A DOUBT THAT YOU CAN ASSIGN REASON. A
19 DOUBT THAT WOULD CAUSE A REASONABLE PERSON, SECURELY FIRM IN
20 THEIR CONVICTIONS, TO HESITATE TO ACT. IT'S NOT A FANCIFUL
21 OR WHIMSICAL KIND OF DOUBT OR JUST ANY POSSIBLE DOUBT, IT IS
22 A REASONABLE DOUBT.

23 WE THINK THAT THE EVIDENCE BEYOND A REASONABLE DOUBT IN
24 THIS CASE, AND I'M GOING TO GO IN TO APPLY IT IN JUST A
25 MOMENT, WE THINK IT CLEARLY SHOWS IN THIS CASE THAT MAN IS

CLOSING ARGUMENTS - MR. WESTON

438

1 GUILTY OF MURDER.

2 HE'S GOING TO DEFINE MALICE AFORETHOUGHT. HE'S GOING
3 TO TELL YOU SOMETHING ALONG THE LINES THAT MALICE
4 AFORETHOUGHT IS A EVIL HEART, EVIL INTENTION, A PERSON -- A
5 HEART THAT IS BENT ON DOING WRONG. MALICE IS BASICALLY
6 DOING SOMETHING THAT AIN'T RIGHT, JUST MEANNESS, IN MY
7 OPINION. IT'S JUST MEANNESS, JUST BEING MEAN.

8 LIKE WHEN THE DEFENDANT SAID IN ANSWER TO HIS OWN
9 LAWYER'S QUESTION, DO YOU HAVE ANY REMORSE ABOUT THE
10 KILLING? NOT ABOUT THE KILLING, ABOUT ME AND MY FAMILY.
11 THAT SHOWS Y'ALL MALICE. HE COULD CARE LESS ABOUT JERMAINE
12 PROCTOR. THAT'S WHAT HE SAID IN ANSWER TO HIS LAWYER'S
13 QUESTION. DO YOU HAVE ANY REMORSE ABOUT THE KILLING? NOT
14 ABOUT THE KILLING, ABOUT ME AND MY FAMILY MAYBE. THAT IS
15 MALICE, LADIES AND GENTLEMEN. THAT IS EVIDENCE OF MALICE
16 'CAUSE HE COULD CARE LESS.

17 YOU SAW HOW HE WAS SMILING. AS MR. ABDALLA SAID, CARL
18 SOUTHERLAND WAS PRETTY STOIC, HE'S OLDER, PROBABLY BEEN
19 THROUGH THE RINGER A LOT MORE THAN MR. CAMPBELL. AND I
20 DON'T THINK THAT DETERMINES WHETHER PEOPLE ARE BELIEVABLE OR
21 NOT. I'M NOT GOING TO EVEN ADDRESS THAT, WHETHER HE WAS
22 STOIC, WHETHER HE WAS LITTLE MORE EMOTIONAL.

23 DID YOU SEE HOW HE WAS SMILING AS HE SAID, NOT ABOUT
24 THE KILLING? GOT NO REMORSE ABOUT THAT. TALKED ABOUT -- HE
25 THREW IN HOW MR. SOUTHERLAND SAID ALL THESE RACIST THINGS.

CLOSING ARGUMENTS - MR. WESTON

435

1 A NIGHTMARE THAT HE'LL NEVER ESCAPE. PLEASE FIND HIM NOT
2 GUILTY. THANK YOU VERY MUCH.

3 THE COURT: ALL RIGHT. MR. WESTON.

4 MR. WESTON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
5 COURT?

6 THE COURT: YES, SIR.

7 MR. WESTON: LADIES AND GENTLEMEN, LET ME BEGIN. I'M
8 GOING TO TRY TO GET THIS DONE TO BEGIN WITH. AND I DON'T
9 WANT TO BELABOR IT. BUT I WANT TO SAY AT THE OUTSET, AND
10 I'M NOT GOING TO GO BACK THROUGH THIS AGAIN.

11 WE'RE TALKING ABOUT A ROBBERY, POSSIBLE ROBBERY, CRACK
12 HEADS, CRACK DEALERS AND ALL THIS STUFF. BUT I'M GOING TO
13 JUST SAY AT THE BEGINNING, JERMAINE PROCTOR WAS A HUMAN
14 BEING WHO DID NOT DESERVE TO DIE AND HAVE HIS BODY TREATED
15 LIKE THIS.

16 PLEASE DO NOT LET THE FACT THAT HE WAS INVOLVED WITH
17 THAT MAN AND MR. SOUTHERLAND OR THAT HE OCCASIONALLY SOLD
18 CRACK COCAINE IN ANY WAY GIVE YOU THE UNDERSTANDING, THE
19 FEELING, LIFT ANY GUILT YOU MIGHT HAVE FOR HOLDING THAT MAN
20 AND MR. SOUTHERLAND RESPONSIBLE FOR HIS DEATH.

21 AS I SAID, I WANTED TO JUST SAY THAT AND GET IT OUT OF
22 THE WAY. I'M NOT GOING TO MENTION THAT AGAIN. IT IS WHAT
23 IT IS. AND HE WAS WHO HE WAS. AND HE DEALT WITH WHO HE
24 DEALT WITH.

25 YOU'VE HEARD ALL THE EVIDENCE. AND IN A FEW MOMENTS

CLOSING ARGUMENTS - MR. WESTON

435

1 A NIGHTMARE THAT HE'LL NEVER ESCAPE. PLEASE FIND HIM NOT
2 GUILTY. THANK YOU VERY MUCH.

3 THE COURT: ALL RIGHT. MR. WESTON.

4 MR. WESTON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
5 COURT?

6 THE COURT: YES, SIR.

7 MR. WESTON: LADIES AND GENTLEMEN, LET ME BEGIN. I'M
8 GOING TO TRY TO GET THIS DONE TO BEGIN WITH. AND I DON'T
9 WANT TO BELABOR IT. BUT I WANT TO SAY AT THE OUTSET, AND
10 I'M NOT GOING TO GO BACK THROUGH THIS AGAIN.

11 WE'RE TALKING ABOUT A ROBBERY, POSSIBLE ROBBERY, CRACK
12 HEADS, CRACK DEALERS AND ALL THIS STUFF. BUT I'M GOING TO
13 JUST SAY AT THE BEGINNING, JERMAINE PROCTOR WAS A HUMAN
14 BEING WHO DID NOT DESERVE TO DIE AND HAVE HIS BODY TREATED
15 LIKE THIS

16 PLEASE DO NOT LET THE FACT THAT HE WAS INVOLVED WITH
17 THAT MAN AND MR. SOUTHERLAND OR THAT HE OCCASIONALLY SOLD
18 CRACK COCAINE IN ANY WAY GIVE YOU THE UNDERSTANDING, THE
19 FEELING, LIFT ANY GUILT YOU MIGHT HAVE FOR HOLDING THAT MAN
20 AND MR. SOUTHERLAND RESPONSIBLE FOR HIS DEATH.

21 AS I SAID, I WANTED TO JUST SAY THAT AND GET IT OUT OF
22 THE WAY. I'M NOT GOING TO MENTION THAT AGAIN. IT IS WHAT
23 IT IS. AND HE WAS WHO HE WAS. AND HE DEALT WITH WHO HE
24 DEALT WITH.

25 YOU'VE HEARD ALL THE EVIDENCE. AND IN A FEW MOMENTS

CHARGE OF THE COURT

1 SUFFICIENTLY NEAR TO AID, AND ABET AND ASSIST IN THE
2 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE
3 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A
4 PRINCIPAL ON THE THEORY OF AIDING AND ABETTING.

5 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST HAVE
6 BEEN A COMMON DESIGN OR INTENT TO COMMIT THE CRIME AND THE
7 CRIME MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE
8 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT MEANS
9 INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT ACCIDENTALLY
10 OR INVOLUNTARILY.

11 AN INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE
12 DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY
13 NATURALLY AND REASONABLY INFER INTENT. AND THE STATE MUST
14 PROVE THESE ELEMENTS BEYOND A REASONABLE DOUBT.

15 NOW THE DEFENDANT IS CHARGED WITH MURDER. THE STATE
16 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
17 KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT. MALICE IS
18 HATRED, ILL WILL OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS
19 THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
20 OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER
21 CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

*1st
Erroneous
Charge*

22 AND MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
23 EXISTS FOR ANY PARTICULAR LENGTH OF TIME BEFORE THE ACT IS
24 COMMITTED. BUT MALICE MUST EXIST IN THE MIND OF THE
25 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS COMMITTED.

CHARGE OF THE COURT

1 THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL
2 INTENT AND THE ACT.

3 AND MALICE AFORETHOUGHT MAY BE EITHER EXPRESS OR
4 INFERRED. AND THESE TERMS EXPRESS AND INFERRED DO NOT MEAN
5 DIFFERENT KINDS OF MALICE, BUT MERELY THE MANNER IN WHICH
6 MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT
7 EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES
8 WHICH ARE PROVED.

9 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS
10 WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE
11 PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER
12 ACCOMPLISHED. AND MALICE MAY BE INFERRED FROM CONDUCT
13 SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

14 INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE
15 WITH A DEADLY WEAPON. AND A DEADLY WEAPON IS ANY ARTICLE,
16 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR
17 GREAT BODILY HARM. AND WHETHER AN INSTRUMENT HAS BEEN USED
18 AS A DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF
19 EACH CASE.

20 NOW IF YOU FIND THAT THE STATE HAS FAILED TO PROVE
21 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED
22 MURDER, YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND
23 A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED VOLUNTARY
24 MANSLAUGHTER. TO PROVE VOLUNTARY MANSLAUGHTER THE STATE
25 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK

and
Erroneous
Charge

Caroline M. Horlbeck
101 Whitsett St.
Greenville S.C. 29601

May 18, 2014

RE: Ca. No. 2012-CP-23-07608

Dear Esq Horlbeck,

I'm writing to ask you about the final judgment from the P.C.R. hearing and about the 59 (e) I sent you.

- 1) Did the judge issue a final order and if so can I have a copy.
- 2) Did you file the 59 (e) issues?

If you didn't file the 59 (e) could you please let me know so I can preserve these issues another way if I can.

Also after you file for appeal and get released from my case can you let me know so I can file a motion to get my Rule 5 discovery

Jonathan M Campbell #236007
smo #50 LEE c/z
998 Wisacky Hwy
Bishopville S.C. 29010

Respectfully,
Jonathan M Campbell

20000000 111 Camp 256007

LEE c/o ASU # 50

990 Wisacky Hwy

Bishopville SC. 29010

The Supreme Court of South Carolina

The Honorable Daniel E. Shearouse

Po Box 11330

Columbia, SC. 29211

LEGAL MAIL ONLY.