

Volume II of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Thomas A Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V

GREGORY D DANIELS,

APPELLANT

RECORD ON APPEAL

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1 the right thing now I guarantee you and I'll be the
2 first one to tell you, he's no saint These aren't good
3 people These activities they are involved in are not
4 good activities, but a man doesn't deserve to get killed
5 on Dargan Street for any reason We got Gary Bostic's
6 phone number Gregory Daniels wrote Nyrena a letter said
7 Eddie Barefoot, my bondsman, will take \$2,000, call Gary
8 he was the one in the van that morning that dropped us off
9 at the room It's in the letter Y'all have the letters,
10 y'all can read them, pass them around and read them
11 They've got guilt written all over them Well, that's
12 Gary's phone number, it's in his phone as G A He writes
13 it, that's Gary's phone number, that's who's in the van
14 and drove us to the room that morning That's the guy who
15 Andre Bradley told you paid him a \$1,000 to kill the man
16 It is clear And between 9-5 and 9-9 they called each
17 other 41 times, 41 times

18 Let's look at the calls between Gregory Daniels
19 and Nyrena Goodman This is between Nyrena's phone
20 number, Nyrena Goodman and Gregory Daniels phone before he
21 change the number, okay These are into evidence He
22 called her at 3 04 in the morning He called her at 4 28
23 He called her at 5 21 These are all leading up to her
24 get up let's go, we got to get in the room, that's where
25 we been all night But all night is over with and so was

1 the killing and he killed him, okay Well, you looked at,
2 you go from 5 21 to 8 15 All of this does is back up
3 what Nyrena told you She told you he left and I told you
4 what he did when he left He had some business he had to
5 take care of, all right And then you got these other
6 phone calls between He said that he laid in that bed
7 until check out, it is a lie An innocent man has no
8 reason to tell a lie, that's a fact Innocent man has no
9 reason to tell a lie This is the last phone call Corey
10 Byrd ever made between him and Shavonne Gass Call
11 started around 4 53 in the morning, he's walking down
12 Dargan Street What did she say that he said? The last
13 words that anybody knows -- except for maybe Gregory
14 Daniels, but the last words that anybody knows that Corey
15 Byrd said before he got shot in the back of head was that
16 that guy from the cookout is behind me It's Gregory
17 Daniels he was in the neighborhood, he was dressed in all
18 black He was seen before the murder He was seen after
19 the murder He killed him for \$500 And he told us just
20 before he died, the man from the cookout was behind me
21 Now, y'all heard about a beer can that was right
22 there around the body, that was some distance away from
23 the body, testified to by the crime scene guys And you
24 heard from Dr Schandl, doctor from MUSC She read in the
25 toxicology reports and ain't no question that Corey Byrd

1 been drinking all day, okay His blood alcohol was -- I
2 can't remember exactly what it was, it is into evidence
3 But he had blood -- he had alcohol in his system

4 Ladies and gentlemen, Bo Myers from the crime
5 scene Mr Lawson asked him he said, Investigator Myers or
6 Corporal Myers, how did that beer can appear, did it
7 appear to be fresh to you? Yes, sir, it did As a matter
8 of fact, when I first arrived on the scene I smell an odor
9 of alcohol Well, use your common sense I'm not saying
10 that man wasn't being truthful, but if you walk up on a
11 beer can in an open environment on the side of the road, I
12 don't care how long it's been there, I just don't think
13 you can smell it I mean, it's a beer can on the side of
14 the road I honestly believe the odor he detected
15 probably came from Corey Byrd, okay

16 Now, there's DNA taken from the beer can and it
17 doesn't come back to Corey Byrd It doesn't come back to
18 Gregory Daniels, no surprise he wasn't drinking He was
19 there to do a job Shavonne Gass told you there might
20 have been 80 to 100 come to the cookout that day, it's in
21 the neighborhood There's people in the neighborhood
22 There's testimony there's a fish fry going on somewhere
23 else, that beer can could have come from anywhere It's
24 not relevant in this case, it's not relevant We know
25 it's not the killer's beer can because Gregory Daniels DNA

1 didn't come back on it And we know it's not Corey Byrd's
2 beer can We don't know who's beer can it is, it's not a
3 strange thing to find on the side of the road anywhere, I
4 am sorry to say in our community But I imagine you can
5 probably find a beer can about anywhere you want to And
6 I just will tell you that I don't believe you can walk up
7 and smell a beer can I don't think so, it could have
8 been fresh It was 80 people at her cookout, there was
9 another fish fry going on could have been somebody who
10 came through there and threw it out that morning I don't
11 know Could have been there for weeks nobody know

12 What we do know is that the evidence is
13 substantial No matter what he writes in his letters, we
14 have substantial evidence We don't need a gun We don't
15 need bloody clothing We got all this other evidence We
16 got his coverup We got his letters We got his phone
17 calls Forty-one phone calls between him and the man who
18 hired him to kill Corey Byrd We got the phone calls
19 between him and Goodman, Nyrena You know, if they were
20 in that room all night like he says they were, why is he
21 calling her? If you are in a hotel room with somebody,
22 you don't need to call them It don't add up

23 As a matter of fact, everything that he has
24 offered to investigators, in his letters and off of his
25 phone records doesn't add up Everything that everybody

1 else has offered in this case has been corroborated, it
2 does add up It adds up Andre Bradley told you he call
3 me right before the news, he came and watched the news
4 Jasmine Barrett she's a victim, okay She's got Andre
5 Bradley living with her maybe loves him, you know We all
6 love people who got problems When she found out what's
7 up, she told you what she did Andre Bradley told you
8 what she did This guy got to get out of my house Yeah,
9 she hold this information back for a couple of years, she
10 got kids He told you she be afraid to tell this
11 information under any other circumstances Andre Bradley
12 told you, it's dangerous to come in here and testify But
13 the evidence shows without a doubt, it's firmly convincing
14 that Gregory Daniels killed Corey Byrd September the 5th
15 shortly after five o'clock, firmly convinced, absolute
16 certainty is not required The judge will tell you that
17 It is not beyond any doubt, it's beyond a reasonable
18 doubt I doubt that will make somebody hesitate to act to
19 do something But he will tell you absolute certainly is
20 not require, you just must be firmly convinced and this
21 evidence would firmly convince you to speak the truth as
22 the word verdict, got to give a true verdict in this case
23 Now, ladies and gentlemen, I want to just close
24 take a few more minutes of your time to make sure I hadn't
25 miss anything because this is an important case, it is the

1 killing of a human being So please just give me just a
2 second

3 I like to read to you these letters just before
4 I close This letter dated October the 10th 2008 These
5 letters are between the killer and Nyrena Goodman, his
6 girlfriend, who he tried to base his alibi on Our
7 stories are not the same I told them we left off Carver
8 Circle in a green van cab with an old driver We were on
9 the computer But I will tell them I was still playing
10 dominos when you went home to get clothes and I came and
11 got you from there, no times though, make sure dude know
12 this story State Taxi We know it wasn't a taxi It was
13 a green van, but it was Gary Bostic driving it

14 This is dated October the 15th Some things I
15 need to say to you I can't write down or say on the phone,
16 you feel me Someone told me how you can help with me
17 getting out of here I don't know what you told them
18 people, but all I need is for you to say is I was with
19 you I was with you at the time they say that this
20 happened I told you that when we went to the room,
21 remember I said we was together at the setting up, but you
22 told them you was sleep and I came and picked you up in a
23 van He got trouble He's got trouble We know he's
24 trying to cover it up They ain't got no gun, no bloody
25 clothes, no shells, nothing Those are the main things

1 they need to actually convict me It doesn't matter how
2 many people say I did it or we argue Without the
3 accurate substantial evidence, they ain't got nothing, you
4 feel me P S Luck Andre Bradley is Luck
5 Get his address for me P S Luck, get
6 his address for me
7 Letter dated October the 16th They can't put
8 me at the scene cause I was at the setting up and at the
9 room Letter dated November the 12th 2008 I need you to
10 call this number and talk to Mr Jack Lawson, as my
11 lawyer, tell him that you are my girl and we were at the
12 room during this time they said this occurred You can
13 still tell them that I picked you up in a van and we went
14 to the room But tell them that you were waiting on me at
15 your sister's house, but you left because I took too long
16 If they ask you a time, just say you don't know what time
17 it was But you were sleep and we was at the room sleep
18 when the report on the news said at 5 00 a m But anyways
19 you don't have to, but it will help me at my bond hearing
20 You are who I was with when they found me P S call Luck
21 tell him I said to get at dude that's running
22 his mouth
23 Letter dated February 19th 2009, anyways I got
24 my motion of discovery on yesterday, it's got a lot of
25 different stories on what happened on that day If I see

1 you this weekend, I will tell you what they saying But
2 your statement can hurt me in court because they saying
3 you told them it was not a taxi and that it was a young
4 dude driving We all know these are coverups You know
5 the truth You heard the facts The van -- there's a
6 young dude driving the van and also that you was sleep and
7 I was on the phone talking to somebody about dude, but
8 that is got to be when my phone started ringing and that I
9 left you and didn't come back until 6 00 a m But they
10 say dude was dead at 5 17 and the receipt from the room
11 show us checking in at 5 34, but the clerk saying he
12 didn't see me But to cover that up, I will just tell
13 them I was smoking a cigarette He's covering up stuff he
14 don't need to cover up What difference does it make?
15 The only difference it makes is that he told Tim Compton
16 he walked in there and checked in with Nyrena Goodman, but
17 now he's got to cover it up He's got bigger problems
18 than these little lies he told He's got a murder charge,
19 that he's guilty of He is worried about the van, the
20 taxi driver, tell them it was a taxi van, it was an old
21 dude driving

22 Nyrena told us the truth, she said that it was a
23 young guy driving And then there's a letter, the very
24 next letter She told you it was a green van, but it was
25 a young guy driving He's says no, no, no, it's a taxi

1 It's a taxi, it's a green State Taxi van and there's an
2 old man driving We checked it out, Sergeant Compton
3 checked it out They didn't pick him up Green taxi van
4 did not pick him up The call that's Gary
5 Bostic's phone number This is the very next letter
6 Call and tell Gary that you're calling for me and
7 let him know that Eddy Barefoot said he'll take two grand,
8 \$2,000 and come get me out tell him, I mean, tell him my
9 momma need a 1,000, that's who dropped us off at the room
10 Call Gary that's who dropped us off at the room

11 All these letters are into evidence Y'all gone
12 have them back there if you need to read them Just look
13 at this evidence, it all point to one thing It all
14 points to Gregory Daniels killing Cory Byrd, he shot him
15 in the back of the head five something in the morning,
16 been together all day He was hired to do it and he did
17 it for a thousand dollars must have had trouble getting
18 the second \$500 because I can't imagine he called Gary
19 Bostic 40 something times in two days after the murder,
20 must have had trouble, but he did the job

21 Andre Bradley didn't think he do it, he wasn't
22 that kind of person, he was talking about it for a month
23 Andre says he believes he had the first 500 He's in a
24 bad spot then, these guys aren't anything to play with
25 You take first 500, you got do it He lied in wait, had

1 express malice He killed a man with a 22 He knows
2 there weren't any shells there He knows there weren't
3 any bloody clothes, he knows there ain't no gun cause he
4 knows what he did with it Those things are probably in
5 the very place today that they were when he got rid of it
6 We will never know

7 What we do know beyond a reasonable doubt, we
8 are firmly convinced that that man killed Corey Byrd You
9 taken a duty You taken a sworn oath in this courtroom
10 today He took it back on Monday, I believe that you give
11 a verdict that speaks the truth And there's only one
12 verdict that speaks the truth in this case and that's he
13 is guilty

14 And there's another he's charged with is
15 possession of a weapon during a violent crime The judge
16 is going to tell you the crime of murder is a violent
17 crime You heard that he was killed with a gun You find
18 him guilty for murder, he is guilty of possession of a
19 weapon during a violent crime He is guilty of murder
20 He is guilty everybody's story adds up except for his He
21 covered it up from the day he did it He's guilty of
22 murder Please, please take this case serious, take as
23 much time as you need to, consider all the evidence, look
24 at all the evidence that's into evidence, make your
25 decision fairly But you are firmly convinced beyond a

1 reasonable doubt, he did it There's no other answer in
2 this case Please find him guilty He killed Corey Byrd
3 and he is guilty Thank you, very much I appreciate
4 your attention

5 THE COURT Thank you, Mr Deberry

6 Ladies and gentlemen, we are going to take a
7 very short break, give you an opportunity if you need to
8 use the restroom and grab something to drink This is
9 going to be just a short break, so please retire to your
10 jury room, have no conversation about the case We will
11 get you back out here in about five minutes

12 (WHEREUPON, the jury retire to the jury room)

13 THE COURT We are going to take just long
14 enough if anyone needs to use the restroom

15 (WHEREUPON, a break was taken)

16 THE COURT We ready to bring the jury out?

17 MR JEPERTINGER Yes, sir, State's ready

18 THE COURT Okay

19 (WHEREUPON, the jury came into open court)

20 THE COURT Ladies and gentlemen, when I sent
21 you out, I fully intended to take just five minutes let
22 you use the restroom and come back out, then it dawned on
23 me this might be a good opportunity to get your lunch
24 orders because the county is going to buy your lunch
25 today We did take the extra time to get that done, so

1 thank you for your patience You heard from the State
2 with their closing remarks And at this time, we
3 recognize Mr Lawson on behalf of the defense

4 MR LAWSON May it please the Court

5 THE COURT Yes, sir

6 MR LAWSON Mr Jepertinger, Mr Deberry
7 Madam forelady and members of the jury, first of all, I
8 want to thank you for your time and attention in this
9 case I know it's been a long situation that has taken us
10 the full duration of the week and it's taken a lot of your
11 time But as it is a very important matter to my client,
12 Gregory Daniels, and to the State of South Carolina And
13 as I said in opening and I want to take this opportunity
14 to thank each and every one of you for the time and the
15 effort that you put forward in this case For without
16 people like you, our system of justice would not operate
17 and it is because of people like you, that we have
18 probably the best system of criminal justice that's ever
19 been devised by mankind in the long history that we been
20 on this earth

21 It is only by the concept of our forefathers
22 when the government decides to make charges against an
23 individual citizen, it is only when a jury is impaneled, a
24 jury of regular people, people from the community to come
25 in listen to the evidence and then having heard the

1 evidence, being charged with the law, render a verdict
2 based on that evidence You in effect are the judges of
3 the evidence Your Honor is the judge of the law He
4 will inform you of the law that applies in this case at
5 the conclusion of my argument And then you will retire
6 to your jury room and render a verdict or a judgment if
7 you will on the evidence Because it is only after you
8 decide that the State has brought forth evidence to prove
9 guilt beyond a reasonable doubt The judge will charge
10 you first and foremost that any citizen in these United
11 States, in this the State of South Carolina who's accused
12 of a crime is presumed to be innocent and that presumption
13 of innocence is a real presumption And it follows an
14 individual all the way into the jury room and the
15 presumption of innocence is not removed until you, the
16 jury, determine by the evidence beyond a reasonable doubt
17 that the State has proven their case beyond a reasonable
18 doubt that the accused is guilty of the crimes

19 Now, the judge will charge you in relation to
20 the presumption of innocence He will charge you in
21 relation to the burden of proof that being beyond a
22 reasonable doubt And in other words, the State must
23 bring forth evidence that convinces you of the guilt of
24 the accused and that the defendant, Gregory, has no burden
25 of proof whatsoever It is not incumbent upon a citizen

1 to come into court and prove that they didn't do
2 something For that, ladies and gentlemen, is an
3 impossible burden in a lot of cases And in most
4 circumstances, it is difficult, if not impossible, to
5 prove you didn't do something So instead of requiring an
6 individual citizen to prove such a ridiculous presumption
7 as that, our forefathers decided that the government would
8 be required to bring forth evidence to prove guilt that
9 firmly convinces the jury, firmly convinces the jury of
10 guilt If you are not firmly convinced by this evidence,
11 firmly convinced, if you are not firmly convinced, then
12 the defendant, Gregory Daniels, is entitled to a verdict
13 of not guilty by your oath

14 On the other hand, if the government had brought
15 forth evidence in this case that firmly convinces you of
16 the guilt of the accused, then the State is entitled to a
17 verdict of guilty at your hands, that is your duty to
18 judge the evidence and to hold it under the most stringent
19 burden of proof that we have in the law and that's beyond
20 a reasonable doubt And no citizen will ever be found
21 guilty of any crime until a jury finds and judges the
22 evidence to that degree You must be convinced firmly of
23 the guilt of Gregory Daniels by the evidence, not by
24 supposition, not by what we wish it would be, not by some
25 whim or fanciful situation It's a -- has to be a firmly

1 convinced position that you hold that the State has proven
2 guilt firmly

3 Now, I listen to the case I listen to the
4 evidence I listen to the arguments We will hear the
5 charge It seems to me that the government is looking at
6 different evidence than I have observed in this trial
7 Number one, I see no physical evidence There is none
8 The exact same evidence that they had September the 5th of
9 2008, the same evidence that was presented to you a beer
10 can, a body, some blood drippings at the scene, cell phone
11 and that's it There is no gun There is no bloody
12 clothes There is no DNA evidence matching Gregory
13 Daniels to anything that was recovered in and around this
14 scene

15 Now, you have to judge the evidence and you can
16 be firmly convinced or not firmly convinced by the
17 evidence or by the lack of evidence There's also a
18 concept in the law that if missing evidence can rise to
19 the level of a reasonable doubt, if there is evidence
20 that's not in the record, that evidence also can lead to a
21 reasonable doubt So when I ask the DNA expert about DNA
22 because if you recall, there was unidentified DNA in
23 certain aspects of the case that they found They could
24 match some to Corey Byrd None was match to Gregory
25 Daniels Some was to an unidentified individual Never

1 was the data base consulted that we know of to determine
2 who that person was or if there was another person that
3 could have been identified from that evidence information
4 They had a data base, you heard that testimony They had
5 a data base with fingerprints They had a data base with
6 DNA They had a data base with bullets All of which is
7 there for the purpose of identifying unknown samples Did
8 we have unknown samples in this case? Yes Were they
9 submitted to the data base to determine who those samples
10 maybe? No Or we don't know We know that there was no
11 identifications made To our understanding and from what
12 we heard, none of the data bases were consulted But why
13 is that important? Because when you have two DNA's, one
14 of which is identified and one of which is not and the one
15 that's identified is Corey Byrd in this case Then it is
16 extremely important to know who that other one belongs to
17 And we know it doesn't belong to Gregory Deleon Daniels,
18 we know that We know that

19 The government in this case taking that paint
20 can that we heard so much about and they flashing that
21 paint up on the wall And they're standing back and they
22 are watching it run down the wall And when it gets to
23 the bottom, they looking back up there and they're saying
24 isn't that a beautiful picture of Gregory Daniels we just
25 painted for you And that's exactly what they want you to

1 do, exactly what they want you to do because there is no
2 real evidence

3 We have a federal inmate someone charged with a
4 federal drug violation that carries what he assumes to be
5 20 to life After finding out that he was charge with a
6 crime that carry 20 to life, he began investigating ways
7 that he could help himself One way he could help himself
8 apparently was to give information on somebody else It
9 just so happens that someone he knows is charged with
10 murder and all of a sudden that person confess to him
11 And that confession, ladies and gentlemen, is the only
12 evidence in this case that links Gregory Daniels to this
13 crime The letter -- you take that -- we will talk about
14 that in a little bit, but all -- as far as this crime,
15 this crime, it happen on September the 5th 2008

16 One piece of evidence and it is a guy that's
17 looking at life, possible life in prison looking for a
18 deal with the government that comes in and tells you that
19 the defendant Gregory Daniels confess to him before the
20 crime even happened that he was gone get paid for killing
21 someone we see no money Nobody testifies about anybody
22 having any money Nobody testifies about anybody paying
23 any money or anybody having any money None of that --
24 all of that is left out We do know that this individual
25 was supposedly told the victim was shot and it was three

1 shots fired Only one was heard, only one wound But our
2 informant tells us three shots Our informant tell us he
3 doesn't have a deal, but he wouldn't go so far as to say
4 he didn't think he might get a deal and that he was
5 looking for a deal That evidence does not rise to the
6 firmly convinced letter to convince you of a crime so
7 horrible as murder Why would somebody write a letter and
8 ask someone to call me? My name is on the letter because
9 I am a lawyer Why and what inference would be drawn from
10 the fact that I am a lawyer and people know things about
11 their case They know evidence They know what's there,
12 what's not there, just use your common sense as to how
13 those things happen You have a lawyer, your lawyer's
14 working on your case, you would assume you have interviews
15 and those kind of things So it is not a big mystery, but
16 the State would have you wonder, Well, why in the world
17 would somebody write a letter like that How they know?
18 How they know what evidence they have They know it
19 because they did it No they know it because they have a
20 lawyer, that's no big trick It's just like everything
21 else in this case It is a house of cards It is paper
22 It does not stand the test of critical judgment Bostic
23 supposedly paid someone to hit someone, he is never
24 interviewed He is never accused He is never
25 confronted Do we know if he even had a vehicle matching

1 the description that the State poses as being his vehicle
2 There's records at the highway department of the vehicle
3 and ownership, that could have come into evidence The
4 lack of evidence, the lack of evidence, the lack of what
5 they are suppose to do in order to get a verdict of
6 guilty They must be held to their burden of proof They
7 must be held

8 The government they're our friend They make so
9 much about it is dangerous for what Mr Informant did to
10 come in and testify Who he's scared of? I submit the
11 person that has him charged, that has him dressed in that
12 uniform is the one that has him up here testifying, the
13 government He may be more afraid of the government than
14 he is about any individual out in the street It is the
15 government that's holding life in prison over his head
16 Not any individual, not any of us We don't have that
17 power or that authority, but the government does So he's
18 afraid, but I submit, he's afraid not of Gregory Daniels,
19 obviously, came in and testified against Gregory Daniels
20 He's afraid of the government and what they may do, what
21 they will do They've already done

22 He has three prior convictions for drugs in
23 state court And now he's in federal court on drug
24 charges, major drug violation if I remember That's
25 extremely dangerous for him as far as the rest of his life

1 is concern He had to do something to help himself Is
2 he above fabricating something? Three shots that should
3 tell you That should tell you The call in the morning
4 nowhere documented Supposedly, there's a call, he
5 testified from his own mouth there was a call early in the
6 morning, no where documented, that call is not documented
7 There's a call in the afternoon, 5 30 in the afternoon was
8 it unusual for Gregory Daniels to come to your house, no
9 He came there a lot, came there regularly That's not
10 unusual in the afternoon The morning would have been
11 unusual apparently, there's no more phone call,
12 documentation, lack of evidence My client is charged
13 with one of the most serious crimes you can be charged
14 with In order to convict him, make the government bring
15 the evidence to this courtroom and show it to you beyond a
16 reasonable doubt Do not into fall into a fanciful
17 situation of believing everything or anything that they
18 want you to believe, look at the evidence critically,
19 harshly and judge it And judge it with the presumption
20 of innocence always in mind Always in mind for you, the
21 citizen, we, the citizen, have a right to believe that we
22 will be judged by that standard, that we will not be
23 convicted unless there's evidence that proves guilt beyond
24 a reasonable doubt

25 Let me ask you, it is amazing to me the State

1 says, okay, there were fights at the cookout, but Gregory
2 Daniels never had a fight with anybody He had a
3 disagreement with Corey Byrd and that disagreement
4 escalated into murder But if you don't believe that,
5 then believe our informant who says a month earlier way
6 back here in sometime in September and to August back here
7 in August he's already planning to kill Corey Byrd over
8 here sometime in September As a matter of fact, he takes
9 500 over here as a down payment So if you don't believe
10 that, then you can always come back over here and believe
11 that the murder was because they had an argument See
12 because I'm going to tell you something, if you believe
13 this story over here that he got \$500 here to commit this
14 crime over here, then you can't believe that there was any
15 arguments at that cookout Who in their right mind would
16 plan a murder and get in an argument with the guy not
17 once, not twice, but all through the evening in front of
18 everybody that's there up to 80 or 100 people knowing,
19 knowing that later that night you gone off the guy Who
20 in the world would do that? Why would you plan a paid for
21 killing go and create witnesses that you had conflicts
22 with the person Why would you do that? You would sit
23 back and let everybody else argue with the guy all they
24 wanted to because everyone that argues with him is a
25 suspect They would be if I were investigating the case

1 That's why I want to know where are some of these people

2 You know, it's interesting Miss Gass asked -- is

3 asked who was arguing, Cooper had an argument Well, no

4 it was Mr Daniels had an argument No, no, sir, it was

5 Cooper Mr Daniels was talking to Cooper Cooper was

6 arguing with Corey Byrd Cooper was arguing with Corey

7 Byrd, not my client, not Gregory She's repeatedly said

8 that They wanted her to say that Gregory Daniels was

9 arguing with Corey Byrd at that particular instance, but

10 it wasn't It was Cooper that was arguing with him

11 Would Cooper not be -- sounds like they had a pretty

12 heated argument over somebody had stolen Mr Cooper's car

13 I believe Two groups of people get in a fight, a fight

14 so vicious that they pull hand guns on each other

15 Mr Byrd breaks that up Neither one of those sides

16 presumably mad enough to seek any retribution as a result

17 of that interference in their conflict

18 Fish fry didn't hear anything about it except

19 that it happened There was a fish fry Well, how do we

20 know or not know whether there were any arguments at the

21 fish fry Apparently arguments follows Mr Byrd around

22 He certainly had a number of them on this particular

23 evening and not just with Gregory Daniels What about the

24 fish fry were there any arguments there? What about Gary

25 Bostic? Was he not interviewed? Why not? It's another

1 Bostic that wasn't interviewed It's a lot of things that
2 cause you to question this evidence There's a lot of
3 things that are missing There are a lot of things that
4 don't add up Okay, you write a letter and you tell your
5 girlfriend to contact your lawyer, that's a horrible
6 thing, I guess Why would you tell the police this, this
7 and this, look at what's happened You're a poor black
8 man and you're charged with murder Where were you every
9 minute of the day? Don't use times, why not? Because
10 most people don't pay attention to times tell you the
11 truth I can tell you about what time I got to work
12 today But I didn't punch a clock and I don't know what
13 time it was exactly when I got to work But if something
14 had happened last night and I were interviewed by the
15 police, they would want to know what time I got to work
16 today And would I tell them 7 45, 7 46, 7 48 and a half
17 No, I wouldn't tell them that because I know And that's
18 what they like to do in questioning is get you to commit
19 to something as inconsequential as it may be a time And
20 then go back and say you lied about that You know at
21 7 45 and a half you were standing at your car at the
22 complex, we got a picture of that All of sudden I am a
23 liar because I didn't tell them the right time The only
24 scrutiny in this case, the only scrutiny in this case is
25 placed on that man, Gregory Daniels Nobody else got

1 scrutiny that he got If anybody else had it, they may
2 well be sitting in this courtroom today Cause I submit
3 to you, there's no evidence, real evidence that Gregory
4 Daniels did anything And his girlfriend said an
5 interesting thing on the witness stand, an interesting
6 thing She said, I guess, I was his alibi That did not
7 seem like a term that she would just pronounce It seemed
8 as though it was something that had been said to her or
9 recommended to her She had been threatened with arrest
10 She too had been threatened to be arrested By the way,
11 the informant had also been told he may be charged with
12 this offense

13 MR DEBERRY Objection, Your Honor, that is not
14 into evidence

15 MR LAWSON Well, I'll quite the argument then,
16 I thought he did admit that

17 THE COURT Just argue the facts that are in
18 evidence

19 MR LAWSON If I say anything that disagrees
20 with what you remember from the evidence, please go with
21 what you remember I'm not trying to mislead you You
22 know, beauty is in the eye of the beholder I've heard So
23 when I look at something, I may see it one way and when
24 you look at something you may see the other, that doesn't
25 mean you are lying or I am lying That means you may be

1 seeing something one way and I may be seeing it the other
2 simply because of our background, our training, our
3 learning, the way we look at things Our prejudice, our
4 bias things that we come up with the way grow up We may
5 be looking at things differently So please, please you
6 are called on to be a collective unit There's 12 of you
7 to have one mind working in conjunction You will work
8 together and your verdict will come out and it be will one
9 verdict for all 12 of you, must be unanimous If you
10 can't reach a verdict, then there would not be a verdict
11 If it's 11 to one, it wouldn't be a verdict The verdict
12 means in of part -- a verdict means that all of you have
13 to agree, so you all must agree So please the evidence
14 is what you judge And you judge it based on your good
15 common sense not, mine not Mr Deberry or Mr Jepertinger
16 or Mr Compton but yours And you look at it in your good
17 common every day sense of life and general how you conduct
18 yourself And you look and see if there's evidence in
19 this case that proves guilt beyond a reasonable doubt or
20 if anything again, your verdict is guilty But if you are
21 not firmly convinced by the evidence and not by the
22 supposition that I may draw or someone else may wish to
23 draw supposition what you judge that evidence to be If
24 you are not firmly convinced, if you're not convinced
25 beyond a reasonable doubt, if you're not convinced to a

1 moral certainly, if you are not convinced beyond every
2 reasonable doubt, firm, you got evidence that you can grab
3 onto and firmly convinces you of guilt, that's one thing
4 But if you don't, if there's anything that anything in the
5 evidence or the lack of evidence that causes you to doubt,
6 then the defendant is entitled to a verdict of not guilty

7 I ask you to look at this evidence I ask you
8 to judge it and judge it critically I ask you to use
9 your good common sense I ask you to please remember that
10 the government must prove a citizen guilty and they must
11 prove it beyond a reasonable doubt They must prove to
12 you the evidence and they have to bring it forward and
13 they can't bring it forward by if and ands or by this must
14 have happen so nothing else could, it's not that way
15 They have to prove what they say about you, I or citizens,
16 that's what makes this country so great I rely on you
17 now to judge the evidence, judge the evidence Thank you

18 THE COURT Thank you, Mr Lawson

19 Ladies and gentlemen, I come down here to give
20 you the charge on the law When we started this case, as
21 I told you you are the judges of the facts of the case and
22 I am not to have any involvement in that at all So it's
23 been appropriate that I have been on the bench out of the
24 way, out of the area here where the attorneys have been
25 presenting evidence to you because the evidence and the

1 weight that you give the evidence is solely for your
2 decision But we have reached the point of the trial
3 where you and I are in this together You as the judges
4 of the facts and me as the judge of the law So it's just
5 more appropriate to come and be with you to give you the
6 charge on the law

7 Madam forelady, this -- I am going to read this
8 charge directly from my charges here I'm not going to ad
9 lib it, I'm going to read it to you directly and I put it
10 in this notebook and I'm going to send this back into the
11 jury room so you will have this in your jury room, but I
12 would ask that you to please give me your close and
13 undivided attention as I tell you the law that is
14 applicable to this case

15 Madam forelady and members of the jury, you have
16 heard all of the evidence and heard arguments of both
17 parties I will now explain to you the law which applies
18 to this action The indictment charges the defendant
19 Gregory Daniels with the charge of murder and possession
20 of a weapon during the commission of a violent crime I
21 remind you that the fact that the defendant was arrested,
22 charged and indicted in this case is not evidence in this
23 case and it cannot be considered by you as evidence of
24 guilt in this case Nor does it create any presumption or
25 inference of guilt The indictment is simply the formal

1 written instrument which contains the charge made against
2 the defendant It is the formal document by which this
3 case is brought into this court The defendant has pled
4 not guilty to this indictment and this charge -- to this
5 indictment and the charges and that plea puts the
6 defendant excuse me -- that plea puts the burden of proof
7 on the State of South Carolina to prove the defendant
8 guilty A person charged with committing a criminal
9 offense in South Carolina is never required to prove him
10 or herself innocent I charge you that it is an important
11 rule of law that the defendant in a criminal trial no
12 matter what the seriousness of the crime may be will
13 always be presumed to be innocent of the crime for which
14 the defendant was issued -- for which the indictment was
15 issued unless guilt has been proven by evidence satisfying
16 you of that guilt beyond a reasonable doubt This
17 presumption of innocence does not end when you begin your
18 deliberations But it accompanies the defendant
19 throughout the trial until you reach a verdict of guilt
20 based on evidence satisfying you of that guilt beyond a
21 reasonable doubt The presumption of innocence is not a
22 mere legal theory It is not just a legal phrase, but it
23 is a substantial right to which every defendant is
24 entitled unless you, the jury, are satisfied from the
25 evidence of the defendant's guilt beyond a reasonable

1 doubt

2 So what is a reasonable doubt in the law? A
3 reasonable doubt is the kind of doubt that would cause a
4 reasonable person to hesitate to act The State has the
5 burden of proving the defendant guilty beyond a reasonable
6 doubt

7 Now, some of you may have served as jurors in
8 civil cases where you were told that the only -- that it
9 is only necessary to prove that a fact is more likely true
10 than not true such as by the greater weight or the
11 preponderance of the evidence In criminal cases, the
12 State's proof must be more powerful than that It must be
13 beyond a reasonable doubt Proof beyond a reasonable
14 doubt is proof that leaves you firmly convinced of the
15 defendant's guilt

16 Now, there are very few things in this world
17 that we know with absolute certainty And in criminal
18 cases, the law does not require proof that overcomes every
19 possible doubt If based on your consideration of the
20 evidence you are firmly convinced that the defendant is
21 guilty of the crime charged, you must find the defendant
22 guilty If on the other hand, you think there is a real
23 possibility that the defendant is not guilty, you must
24 then give the defendant the benefit of that doubt and find
25 him not guilty

1 I remind you that during this trial you and I
2 have certainly duties to perform As the trial judge, it
3 is my responsibility to preside over this trial and I also
4 have the responsibility and the duty to rule on the
5 admissibility of the evidence that is offered during this
6 case You are to consider only the competent evidence
7 that is before you You are to consider only the
8 testimony which has been present from the witness stand
9 and any exhibits which may have been part of the record in
10 this case and any stipulations or agreements of counsel
11 I have the additional duty to charge you the law that is
12 applicable to this case

13 As the presiding judge, I am the sole judge of
14 the law of this case and it is your duty as jurors to
15 accept and to apply the law as I now state it to you If
16 you already have an idea as to what the law is or what the
17 law ought to be and it does not agree with what I now tell
18 you the law is, you must abandon your idea because you are
19 sworn to accept the law and to apply the law exactly as I
20 state it to you In every case tried in this court before
21 a jury, the jury becomes the sole and the exclusive judge
22 of the facts of the case A trial judge can intimate,
23 state, comment on or make any statement to a trial jury
24 about the facts in a case

25 Since, you, the jury, are the sole judge of all

1 the facts in this case, you are not to infer from what I
2 have said during the progress of this trial in ruling upon
3 the admissibility of evidence or otherwise or anything
4 that I say now during the course of this instruction to
5 you that I have any opinion about the facts in this case
6 The law does not allow me to have an opinion about the
7 facts in this case This is a matter solely for you, the
8 jury, to determine As jurors it is your duty to
9 determine the affect, value, weight and truth of the
10 evidence presented during this trial

11 Now, there are two types of evidence which are
12 generally presented in a trial There's direct evidence
13 and there's circumstantial evidence Direct evidence is
14 the testimony of a person who claims to have actual
15 knowledge of a fact such as an eyewitness It is evidence
16 which immediately establishes the main fact to be proven
17 Circumstantial evidence is proof of a chain of facts and
18 circumstances indicating the existence of a fact It is
19 evidence which immediately establishes collateral facts
20 from which the main fact may be inferred Circumstantial
21 evidence is based on inference and not personal knowledge
22 or observation

23 Now, the law makes absolutely no distinction
24 between the weight or value to be given either to direct
25 or circumstantial evidence Nor is there a greater degree

1 of certainty required of circumstantial evidence then of
2 direct evidence You should weigh all of the evidence in
3 this case After weighing all of the evidence if you are
4 not convinced of the guilt of the defendant beyond a
5 reasonable doubt, you must find the defendant not guilty
6 However, if after weighing all of the evidence, you are
7 convinced of the guilt of the defendant beyond a
8 reasonable doubt, then you must find the defendant guilty
9 Necessarily, you must determine the credibility of
10 witnesses who have testified in this case And
11 credibility, ladies and gentlemen, simply means
12 believability It becomes your duty as jurors to analyze
13 and to evaluate the evidence and to determine which
14 evidence convinces you of its truth In evaluating eye
15 witness testimony, you should remember that the State must
16 prove the identity of the defendant as the person who
17 committed the crime beyond a reasonable doubt In
18 determining the believability of witnesses who have
19 testified in this case, you may believe one witness over
20 several witnesses or several witnesses over one You may
21 believe a part of the witness' testimony and reject the
22 remaining part of a witness' testimony You may believe
23 the testimony of a witness in its entirety or reject the
24 testimony of a witness in its entirety You may consider
25 whether any witness in this case is exhibited to you any

1 interest, bias, prejudice or some other motive that is in
2 this case You may also consider the appearance and the
3 manner of a witness while on the witness stand

4 Now, a person who has a past criminal record is
5 competent to testify during a trial A past record does
6 not affect the ability of that witness to testify The
7 past record may only be considered by you if at all in
8 determining the witnesses believability Remember you are
9 the sole judges of the facts in this case and of the
10 believability of any and all of the witnesses who have
11 appeared in this trial

12 Now, the rules of evidence ordinarily do not
13 allow or permit a witness to testify to opinions or
14 conclusions There's an exception to this rule that exist
15 for witnesses that we call expert witnesses A witness
16 who by education and experience has become an expert in
17 some art, science, profession or calling may state an
18 opinion as to relevant and material matter in which the
19 witness claims to be an expert and may also state the
20 reasons for that opinion You should consider any expert
21 opinion received in evidence in this case and like any
22 other evidence give it the weight that you feel it
23 deserves If you decide that the opinion of an expert
24 witness is not based on sufficient education and
25 experience or if you conclude that the reasons given in

1 support of the opinion are not sound or that the opinion
2 is outweighed by other evidence, you may disregard the
3 opinion entirely

4 On the other hand, if you decide that the
5 opinion of an expert witness is based on sufficient
6 education and experience or if you conclude that the
7 reasons given in support of the opinion are sound, then
8 you may accept that opinion in its entirety An expert
9 witness' testimony is to be given no greater weight than
10 that of other witness simply because the witness has been
11 classified as an expert And further you are not required
12 to accept an expert's opinion even though it is not
13 contradicted

14 Now, a statement allege to have been made by the
15 defendant has been admitted into evidence in this case
16 While the Court has determine that the statement is
17 admissible, I instruct you that you make the ultimate
18 decision of whether or not the defendant made the
19 statement If the defendant did make the statement, you
20 must determine whether the statement was made by the
21 defendant voluntarily or of his own freewill This means
22 that the statement was not caused by pressure, force,
23 fear, threats or coercion or intimidation or by hope or a
24 promise of leniency or a reward of any kind

25 In determining whether the statement was

1 voluntary, you should consider both the characteristics of
2 the defendant and the details of the questioning Some of
3 the factors that you must consider are the age of the
4 defendant, the defendant's education or lack of education,
5 the defendant's mental ability or capacity, the
6 defendant's IQ or intelligence, the defendant's background
7 and environment, the place and the length of detention,
8 the nature of the questioning, and the advice or lack
9 thereof of the defendant -- or to the defendant of his
10 Constitutional Rights including but not limited to the
11 right to remain silent, that any statement could be used
12 against him in a court of law The right to have a lawyer
13 present That if he could not afford a lawyer, a lawyer
14 would be appointed to represent him without any cost And
15 that he could stop making a statement at any time You
16 must carefully consider all of the surrounding
17 circumstances before you give any weight to an alleged
18 statement The State has the burden of proving beyond a
19 reasonable doubt that the allege statement was voluntary
20 If you determine it was, you may give the statement any
21 further consideration that you deem proper You must
22 decide what if any weight should be given to the allege
23 statement If you determine the allege statement was not
24 free and voluntary statement of the defendant, you should
25 not consider the statement at all

1 Now, I instruct you and I emphasize that the
2 fact that the defendant did not testify is not a factor to
3 be considered by you in anyway in your deliberation and in
4 your consideration on the question of the guilt or
5 innocence of the defendant It must not be considered by
6 you in any manner whatsoever A defendant has a
7 Constitutional Right to remain silent And the assertion
8 of this right must not be considered by you in your
9 deliberations I repeat under your oath you are to draw
10 no conclusions whatsoever from the fact that the defendant
11 in this case did not testify The fact that this
12 defendant did not testify should not even be discussed in
13 the jury room The burden of proof as I stated to you is
14 on the State The defendant is not required to prove his
15 innocence The burden of proof remains on the State to
16 prove guilt beyond a reasonable doubt

17 Now, Mr Gregory Daniels is charged with the
18 crime of murder The State must prove beyond a reasonable
19 doubt that the defendant killed another person with malice
20 aforethought Malice is hatred, ill will or hostility
21 toward another person It is the intentional doing of a
22 wrongful act without just cause or excuse and with the
23 intent to inflict an injury or circumstances or under
24 circumstances that the law will infer an evil intent
25 Malice aforethought does not require that malice exist for

1 any particular time before the act is committed But
2 malice must exist in the mind of the defendant just before
3 and at the time of the act that is committed Therefore,
4 there must be a combination of the previous evil intent
5 and the act itself

6 Malice aforethought may be expressed or
7 inferred These terms expressed and inferred do not mean
8 different types of malice, but merely the manner in which
9 malice may be shown to exist, that is either by direct
10 evidence or by inference from the facts and circumstances
11 which are proved Express malice is shown when a person
12 speaks words which express hatred or ill will for another
13 or when the person prepared beforehand to do the act which
14 was later accomplish For example, lying in wait for a
15 person or any other acts of preparation going to show that
16 the deed was within the defendant's mind would be express
17 malice Malice may be inferred from conduct showing a
18 total disregard for human life The defendant is also
19 charged with possession of a weapon during the commission
20 of a violent crime

21 The State must prove beyond a reasonable doubt
22 that the defendant was in possession of a firearm or
23 visibly display what appeared to be a firearm during the
24 commission of a violent crime A firearm means any
25 machine gun or automatic rifle, revolver, pistol or any

1 weapon which is design to or may be readily converted to
2 expel a projectile In order to find the defendant guilty
3 of possession of a weapon during the commission of a
4 violent crime, you must first find that the defendant was
5 guilty of either committing a violent crime or attempting
6 to commit a violent crime Under South Carolina law,
7 murder is classified as a violent crime

8 Now, madam forelady and ladies and gentlemen, as
9 you retire to begin your deliberations, I wish to express
10 to you the hope that each of you will be mindful of the
11 importance of your responsibility You are not called to
12 serve as jurors very often And the proper performance
13 of the duty requires each of you to reach the hitherto
14 freeing your mind of all improper influences You and I
15 are acting for the community and that is why we must see
16 to it that this trial is fair and that the verdict is
17 just

18 You have observed that the presiding officer of
19 this court is always addressed as Your Honor Well, the
20 reason is not because of the person wearing this robe, but
21 that this court is entrusted with the honor of this
22 community, the honor of this state, and honor of this
23 country in seeking that every case that is tried here
24 receives fair and impartial justice And do not get the
25 idea that I'm trying to intimate to you how I might think

1 you should decide this case As I've already told you
2 under the laws of the State of South Carolina, you, the
3 jury, are the sole judge of all questions of fact It
4 will be highly improper for me to influence you in the
5 performance of that duty But as the presiding officer of
6 this court, I am vitally concern that whatever your
7 verdict that you find will be the result of your going
8 into the jury room, confining your consideration to the
9 evidence, and to the law that you have in this courtroom
10 weighing it fairly and impartially as I have every
11 confidence you will do

12 Your verdict in this case is not to be based on
13 sympathy, compassion, prejudice or some other emotion or
14 other consideration that is not found in the evidence
15 This court is of the confirmed opinion that whatever
16 verdict you reach will represent truth and justice for all
17 parties that are involved in this case Madam forelady,
18 remember that the jury's verdict must be unanimous, all of
19 you must agree on the verdict

20 Now, as I told you, I'm going to send this
21 notebook back into the jury room with you and in the front
22 cover of the notebook is the verdict form Madam
23 forelady, you will be in charge of the verdict form And
24 the verdict form is very simple, it just -- it list the
25 caption of the case And then as to the count of murder,

1 you will either find that the defendant is not guilty or
2 guilty And if you find -- next is the possession of a
3 weapon during the commission of a violent crime And
4 again two options are either guilty or not guilty You
5 are to make no inference from the order which the verdict
6 forms are listed It's just any time that you list more
7 than one item, you have to list one before the other, so
8 there's no significance in anyway to how these items are
9 listed just that they are on the verdict form

10 Now, ladies and gentlemen, I am going to ask you
11 to step into your jury room and I hope and I don't know
12 for sure, but I hope for the last time I am going to send
13 you in there and I'm going to ask you do not talk about
14 the case yet Because what I'm going to do is I'm going
15 to ask you to step in the jury room I'm going to review
16 quickly with the attorneys if I have covered everything in
17 the law that needs to be covered If there's anything
18 that I have admitted or left out or I need to change, I
19 will bring you back out and I will charge you on that If
20 the charge is in fact complete and done, then I'll gather
21 the exhibits which came into evidence during the course of
22 the trial and I'll send those exhibits and this notebook
23 into the jury room

24 Madam forelady, when the exhibits and the
25 notebook are sent into the jury room, that's going to be

1 your que to begin deliberations And at that point, you
2 may begin your deliberations I am going to get you to
3 begin your deliberations once you receive these items and
4 then as soon as your food gets here, we'll send that in to
5 you and you can eat Whether you want to eat and continue
6 deliberating or whether you want to break deliberations
7 and eat and then start back, that's up to y'all to decide
8 But we will send your food in as soon as it arrives So
9 if you would please retire to your jury room and do not
10 begin your deliberations until you receive the exhibits in
11 this notebook

12 (WHEREUPON, the jury retire to the jury room)

13 THE COURT Are there any exceptions or
14 objections to the Court's charge by the State?

15 MR JEPERTINGER No, sir

16 THE COURT Any by the defense other than what
17 we discussed during the

18 MR SMITH That's all, Your Honor

19 THE COURT All right Gentlemen, if y'all
20 would, come look through these exhibits and go over them
21 with Keshia to make sure that everything that's suppose to
22 go back does and anything that's not suppose to doesn't

23 (WHEREUPON, the jury began deliberations at
24 12 23 p m)

25 THE COURT Ma'am, I want to thank you for your

1 serving on this case Unfortunately, and I tell this to
2 all the alternates An alternate is a tough position to
3 be in because you have to be here You have to hear
4 everything, you got to listen to everything You got to
5 be ready because as you saw from this case, we lost one of
6 our main jurors and we had substitute one of the two
7 alternates And so in this case, it was Mr Roberts, so
8 it was necessary to hear everything and to be posed to
9 everything because he's now part of the main panel If we
10 would have lost another juror, then you would have been
11 substituted in So the alternates is kind of like that
12 football player that practices all week and then when it
13 comes time to play, the coach want let him play, okay
14 But it does seem that everybody is healthy and ready to
15 continue, so I'm going to excuse you You ordered
16 something? You welcome to stay and get it or you can go
17 and we will take it, whatever you want to do But thank
18 you for your service

19 (WHEREUPON, the alternate is excused)

20 (WHEREUPON, court in recess while the jury
21 deliberates)

22 THE COURT I'll read the question to them to
23 let them know I understand the question, but that this is
24 an issue dealing with the facts or the testimony during
25 the course of the trial And that I cannot comment on the

1 facts, that they have to take the facts as they heard
2 them That I can replay certain testimony if they in fact
3 want to hear that, but as far as answering this question,
4 I can't answer this question

5 MR JEPERTINGER Right And the bumming of the
6 cigarette as I understand it would have been Shavonne
7 Gass' testimony?

8 THE COURT Is that your recollection, Jack?

9 MR LAWSON What it seem to me they're asking
10 is did these people leave before or after that, so I don't
11 think that is necessarily her testimony

12 THE COURT I don't know if that came from her
13 or if it came somebody else

14 MR JEPERTINGER I know in terms of bumming the
15 cigarette probably -- didn't it, Steve?

16 MR DEBERRY It came from her

17 MR JEPERTINGER It came from her

18 MR LAWSON I'm talking about what the question
19 is did those people leave before or after

20 THE COURT Well, I can't answer that I can
21 just tell them that if they know of certain testimony they
22 like to rehear, it can be replayed But I can't, you
23 know, answer the question for them

24 All right Miss Joe, ask the jury to join us
25 Just mark this a Court's Exhibit please

1 (WHEREUPON, Court's Exhibit No 1 was marked for
2 the record)

3 (WHEREUPON, the jury came into open court at
4 12 56)

5 THE COURT Ladies and gentlemen, I received
6 your note and I'm going to address that too But just to
7 kind of give you a heads up on my understanding also is
8 that the van is arriving with your lunch, so that's not
9 far off Let me tell you, I did receive your note and the
10 question that I have is did Evans and Petterson leave
11 before or after Miss Gass bummed a cigarette from
12 Mr Daniels? Let me say, what you've asked is a question
13 concerning the facts in the case And I'm not allowed to
14 make any comment on or answer any questions of fact So
15 the short answer is I'm not able to answer that question
16 for you However, what I can tell you is this, if you
17 know or feel, you know, from what witness that information
18 came from, I do have -- we do have the capability to play
19 back testimony So that if there's certain testimony that
20 you would like us to play back, you know, within the
21 witness' that testified, we can play back their testimony
22 And so if you have that request, you can talk about it and
23 I can do that But as far as me actually answering this
24 question for you, I'm not able to answer questions of
25 fact You either need to go off of your recollection of

1 the testimony or you can request certain portions of
2 testimony to be replayed and I can do that for you, okay
3 I know that's not really satisfactory to your question,
4 but that is all that I can do for you So keeping that in
5 mind, I'm going to ask you to go back into your jury room
6 and continue your deliberations please

7 (WHEREUPON, the jury retire to the jury room at
8 12 58 to continue deliberations)

9 THE COURT All right Any exceptions or
10 objections to the Court's response to the jury's question
11 from the State?

12 MR JEPERTINGER No, sir

13 THE COURT Anything from the defense?

14 MR LAWSON Not from the defense

15 THE COURT If they send something out, I'll
16 certainly give y'all a heads up, but I'm also
17 understanding that their food is here, so they may -- I
18 don't know how they are going to handle it They may take
19 a break and eat

20 (WHEREUPON, court in recess while the jury is
21 deliberating)

22 THE COURT All right Let me have your
23 attention, ladies and gentlemen, I stand here as y'all do
24 that, all I know is that the jury has a verdict and I
25 don't know what it is But whatever it is, there's no

1 doubt about this that one side will be pleased with the
2 verdict, the other side will not So that's true with
3 every case, so what I want you to understand though is
4 this the jury when they were selected, they were selected
5 because of their -- at least what the attorneys felt was
6 their ability to be fair and impartial So I can assure
7 you that whatever the verdict is, it was arrived at in a
8 fair and impartial manner and there's nothing personal
9 involved in it So you need to understand that and you
10 need to understand that they deserve to have their verdict
11 received in a professional manner It is okay to disagree
12 with the verdict, but what is not okay is for you to react
13 loudly or openly If -- in other words bottom line is,
14 I'm not going to tolerate any outburst If there's anyone
15 that cannot control their emotions and keep quiet, then I
16 would suggest that you leave now and someone will let you
17 know what the verdict is because the thing is if there are
18 any outburst or any showing to the jury that you
19 disapprove of their verdict or you greatly approve of it
20 either way, then I'm going to have the officers take you
21 into custody and take you to Effingham, just not going to
22 do it The jury has worked hard this week Whether you
23 agree or disagree with their verdict, it is imperative
24 that their verdict is received in a professional manner
25 So again, if you don't think you can do that or if you

1 think you might not be able do that, you need to step out
2 now and save yourself a trip to Effingham All right

3 State ready to receive the jury's verdict?

4 MR JEPERTINGER State's ready, Your Honor

5 THE COURT Defense ready?

6 MR LAWSON Defense is ready

7 THE COURT Mr Propps, if you would please have
8 the jury join us

9 (WHEREUPON, the jury came into open court at
10 2 41 with a verdict)

11 THE COURT All right, madam forelady, has the
12 jury reached an unanimous verdict, ma'am?

13 JUROR Yes, we have

14 THE COURT All right If you would please pass
15 that to Mrs Bethea

16 All right, the verdict form appears to be in
17 order, if you would please publish that verdict, Mrs
18 Bethea

19 THE CLERK The State of South Carolina, County
20 of Florence in the Court of General Session Twelfth
21 Judicial Circuit, The State of South Carolina vs Gregory
22 Daniels, indictment 2009-GS-21-427 We, the jury, find
23 the defendant, Gregory Daniels, guilty of murder
24 Possession of a weapon during the commission of a violent
25 crime We, the jury, find the defendant guilty of

1 possession of a weapon during the commission of a violent
2 Dated April 16th 2010, signed Nicole Sheeder, forelady
3 Members of the jury, if this is your verdict, please raise
4 your right hand?

5 (WHEREUPON, all jurors raised their hands)

6 THE COURT All right Thank you, ladies and
7 gentlemen I want to thank you for your service this
8 week You have been here all week long from Monday until
9 today And you have -- I think both sides have indicated
10 it in their remark to you at one point or the other, but
11 I have watched you and I have been so impressed with the
12 way you have paid attention to the attorneys, to the
13 witnesses and to the Court As you may have found during
14 this week, jury service can be exhausting not from a
15 muscular standpoint, from a mental standpoint and I want
16 to thank you so much because -- and I'll be candid with
17 you, I have sat in cases and I think all these ladies and
18 gentlemen have seen it in the past where you watch jurors
19 nod off, not necessarily go to sleep, but, you know,
20 they're sitting there with their head down and their eyes
21 close and I didn't see that All I saw was 12 people
22 watching intently and seem to be listening and I just want
23 to tell you how much the Court appreciates your service
24 this week These are not easy questions to answer when
25 you have to answer questions of fact And I just want to

1 there in the jury box while I proceed to sentencing, you
2 are come welcome Also though, you are more than welcome
3 to leave at this time if you wish to do that as well So
4 if everyone would please remain seated, those of you who
5 wish to be -- go and be excused, you're welcome to do
6 that Those of you that wish to remain for sentencing,
7 you're welcome to do that as well, okay

8 (WHEREUPON, the jurors were dismissed)

9 THE COURT Mr Jepertinger, are you prepared to
10 or Mr Deberry either one have any sentencing sheets
11 prepared?

12 MR JEPERTINGER I have I didn't know if you
13 wanted to hear from Mr Lawson at this point

14 THE COURT Well, I'm going to hear --- but

15 MR JEPERTINGER May I approach, Your Honor?

16 THE COURT Yes, sir

17 MR JEPERTINGER Your Honor, would you like to
18 take up any motions?

19 THE COURT At this time, I like to recognize
20 Mr Lawson for the defense with regards to any posttrial
21 motions you may have, sir

22 MR LAWSON Defense renews all motions
23 previously made Also would ask under that I think under
24 the rules we have ten days to file any additional motions
25 that we would wish to file I would ask for that

1 extension Just advise the Court, I like to take that
2 opportunity

3 THE COURT All right, sir I'll certainly give
4 you that opportunity and give you that ten-day extension
5 within which to file any additional motions

6 Is the State ready to proceed?

7 MR JEPERTINGER The State is ready I would
8 point out that there are members of the victim's family
9 here if they could come forward and maybe Mrs
10 Meetze could have them seated in the jury box, Your Honor

11 THE COURT All right, sir

12 MR JEPERTINGER While they are coming forward,
13 Your Honor, I will tell you what his criminal record is
14 Your Honor, he had according to our records three
15 forgeries, it look like they ran concurrently back in
16 January of 2001 He received five years suspended to
17 three years probation, Your Honor Those charges there
18 was a restitution of \$322 02, Your Honor Also, on
19 October the 25th 2001, he had a criminal domestic violence
20 of a high and aggravated nature for which he received
21 three years suspended to looks like 120 days, that was
22 done in front of Judge Harwell At the time, Your Honor,
23 it look like he had a another forgery back in 2003 for
24 which he received forgery more than \$1,000, but less than
25 \$5,000 convicted five years suspended upon two-years

1 probation in 2003 And the other convictions on here, I
2 think, was magistrate court driving type offenses not of
3 any great significance, Your Honor

4 Your Honor, if I could direct your attention to
5 Mrs Meetze, she will introduce the individuals that are
6 here from the victim's family and, of course, they may
7 want to be heard

8 THE COURT I will be happy to hear from anyone
9 who wishes to address the Court

10 MR JEPERTINGER Please state your name?

11 MS EAGLESON Erica Eagleson, I'm Corey Byrd's
12 sister, only sister

13 THE COURT Yes, ma'am

14 MS STENY I'm Barbara Steny, I'm Corey's
15 aunt

16 MR ELLENTON K T Ellenton, I'm his brother

17 MRS ELLENTON Latisha Ellenton, his
18 sister-in-law

19 MR JEPERTINGER I will also point out that I
20 had an opportunity to speak to the decedent's mother,
21 she's going through some health concerns right now and she
22 could not be here But I'm sure that the family will
23 speak on her behalf if they have anything to say Now, is
24 the time to say it if you want to say anything

25 MS EAGLESON Like I said, my name is Erica,

1 I'm Corey's sister I would like to say that I thought
2 today would be the hardest day, but actually speaking at
3 my brother's funeral was more harder than this Our
4 family, I just ask that you just pray for our family
5 This is not going to bring my brother back We just pray
6 that God have mercy on our soul as we want be able to
7 forget this, we want be able to get over it like we
8 thought we would like, we expected, but this has brought a
9 real big hard burden against our family With my mother
10 being sick and with us trying to cope along and, you know,
11 maintain a sense of stability with the lost of our
12 brother, our family member This my brother and this want
13 bring him back but appreciate your time

14 THE COURT Thank you, ma'am

15 MRS MEETZE That will be it, Your Honor

16 Thank you

17 THE COURT Let me just say to all of you that I
18 am very sorry for your loss Obviously, I didn't know
19 your brother, but I've lost a loved one and I know how
20 difficult that is, not in this fashion But I know this
21 has not been an easy week for you And I want to thank
22 you for being up here and being supportive of the
23 prosecution as they presented this case And again,
24 you're right, it want bring your brother back and the
25 hurt's not going to go away But maybe, it will in some

1 way help at least bring some closure to some portion of it
2 as you move on Anyway, I hope it will and I certainly
3 will My wife both very strong believers in the Lord and
4 we will certainly keep you in our prayers

5 Anything further from the State?

6 MR JEPERTINGER No, sir

7 THE COURT Mr Lawson, be happy to hear from
8 you as well as anyone who would wish to address the Court

9 THE DEFENDANT My condolences goes out to the
10 family I feel like the trial went the way I thank
11 the jury for their time Thank you, Your Honor, for what
12 you doing And I still even though the jury has found me
13 guilty, I still am presuming my innocence And I like the
14 family to take in consideration that I am truly sorry
15 about what happened to your family member And I still
16 say I am not the person who done this to your family
17 I've lost a loved one the same way I been through it, I
18 know how it is But I would just like to say that I still
19 presume my innocence

20 THE COURT Thank you, sir

21 MR LAWSON May it please the Court, I would
22 ask, Your Honor, based on the fact he doesn't have a
23 substantial record and nothing anywhere approaching
24 anything in this situation He's 33 years old, about to
25 be 33, been in jail for the last two years basically, went

1 through the 12 grade in school, was unemployed at the time
2 this occurred I would ask, Your Honor, consider the
3 minimum even though that's a lot of years

4 THE COURT All right Mr Lawson, is there
5 anyone else that wishes to address the Court?

6 MR LAWSON No

7 THE COURT All right, sir

8 MR LAWSON I would point out his family is
9 here with him and has been here all week

10 THE COURT And I didn't know that I just
11 assume that that was the case The disturbing thing about
12 this case to me is -- and it's in how you view the
13 evidence and how you view the information that was brought
14 into the court But there was really no -- didn't appear
15 to be any reason for this to occur other than the
16 information that came out that this was basically a murder
17 for hire I don't know that that was the case or not
18 It's the only reason that was given during the course of
19 the trial, of course Then there's a grave concern that
20 the Court has plenty of evidence and documentation whether
21 it any one individual we look at it as a show of guilt or
22 not It's just disturbing that someone would write
23 letters to witnesses asking them to change their story,
24 asking them to support their position regardless of what
25 the true facts are, which I think that was evidence that

1 was very damaging in this case I don't know, I can't
2 speak for the jury

3 With regards indictment 2009-GS-21-427 Count 1
4 of that indictment for murder, sentence of the Court is
5 that you be committed to the State Department of
6 Corrections for the remainder of your natural life Of
7 course, Count 2 of that indictment for possession of a
8 weapon during the commission of a violent crime sentence
9 of the Court is five years However, that sentence is
10 subsumed into the life sentence That's the sentence of
11 the Court

12 MR LAWSON Thank you, Your Honor

13 END OF REQUESTED TRANSCRIPT

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INDICTMENT FOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

MURDER POSSESSION OF WEAPON DURING
 COMMISSION OF VIOLENT CRIME

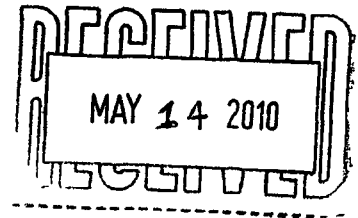
At a Court of General Sessions, convened on APRIL 02, 2009, the Grand Jurors of FLORENCE
 County present upon their oath

COUNT ONE - MURDER

That GREGORY DELEON DANIELS did in FLORENCE County on or about September 05, 2008, violate Sections 16-03-0010, 0020 and 16-01-0060 of the Code of Laws of South Carolina (1976), as amended, in that he did feloniously, wilfully and with malice aforethought kill one Corey Lee Byrd by means of shooting him, and that the said Corey Lee Byrd did die as a proximate result thereof

COUNT TWO - POSSESSION OF WEAPON DURING THE COMMISSION OF VIOLENT CRIME

That GREGORY DELEON DANIELS did in FLORENCE County on or about September 05, 2008, violate Section 16-23-0490 of the Code of Laws of South Carolina (1976), as amended, in that he was in possession of and did visibly display a weapon, to wit a hand gun during the commission of a violent crime, to wit murder



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


 SOLICITOR

Compton

PROS	PSP
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D/O **09-05-2008**



ARREST WARRANT NO

J398790 (1) J398791 (2)

ACTION OF GRAND JURY

TRUE BILL

David S. [Signature]
Foreman of Grand Jury

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date _____

DOCKET NO 2009 - GS - 21 - 00427
The State of South Carolina,
County of FLORENCE

County of FLORENCE

PSP

COURT OF GENERAL SESSIONS

APRIL TERM 2009

THE STATE

vs

GREGORY DELEON DANIELS

Indictment for

**MURDER
POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME**

CERTIFIED A TRUE COPY
Clerk of Court
CLERK OF COURT C P & G S
JENICE COUNTY, SC

2009 APR -2 PM12 33
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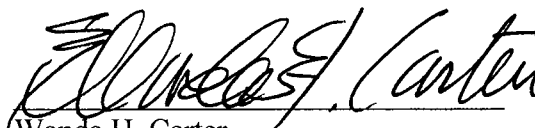
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CERTIFICATE OF COUNSEL FOR APPELLANT

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings"

January 13th, 2012

A handwritten signature in black ink, appearing to read "Wanda H. Carter", written over a horizontal line.

Wanda H Carter

Deputy Chief Appellate Defender

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