

**VOLUME TWO OF TWO**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Anderson County

R. Lawton McIntosh, Circuit Court Judge

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**RECEIVED**

OCT - 7 2014

**S.C. Supreme Court**

SAMMY LEE SCOTT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000748

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**APPENDIX**

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1           **THE DEFENDANT:** YES, SIR.

2           **THE COURT:** WHERE THEY GET ON THE STAND ON  
3 TELEVISION AND TAKE THE FIFTH AMENDMENT TO CERTAIN  
4 QUESTIONS. YOU EITHER TAKE THE FIFTH AMENDMENT AND  
5 DON'T TESTIFY, OR YOU GET ON THE WITNESS STAND AND  
6 TESTIFY. DO YOU UNDERSTAND?

7           **THE DEFENDANT:** YES, SIR.

8           **THE COURT:** HAS ANYBODY FORCED YOU OR  
9 THREATENED YOU OR INTIMIDATED YOU SO YOU WILL MAKE THE  
10 DECISION NOT TO TESTIFY?

11          **THE DEFENDANT:** NO, SIR.

12          **THE COURT:** DO YOU UNDERSTAND WHAT I HAVE  
13 TOLD YOU ABOUT YOUR RIGHT TO TESTIFY?

14          **THE DEFENDANT:** YES, SIR.

15          **THE COURT:** I UNDERSTAND YOU DO NOT HAVE A  
16 PRIOR CRIMINAL RECORD; IS THAT CORRECT?

17          **MS. HUEY:** YES, SIR, YOUR HONOR.

18          **THE COURT:** SO THERE WILL BE NO IMPEACHMENT  
19 FROM PRIOR CRIMINAL HISTORY. DO YOU UNDERSTAND?

20          **THE DEFENDANT:** YES, SIR.

21          **THE COURT:** ALL RIGHT. DO YOU WANT TO  
22 CONSULT ABOUT YOUR RIGHT TO TESTIFY WITH YOUR ATTORNEY  
23 ANY FURTHER?

24          **THE DEFENDANT:** NO.

25          **THE COURT:** DO YOU HAVE ANY QUESTIONS ABOUT

1 WHAT I HAVE EXPLAINED TO YOU?

2 THE DEFENDANT: NO, SIR.

3 THE COURT: ALL RIGHT. DO YOU WISH TO  
4 TESTIFY?

5 THE DEFENDANT: NO, SIR.

6 THE COURT: ALL RIGHT. THANK YOU SO VERY  
7 MUCH.

8 MR. POTTER: THANK YOU, JUDGE.

9 THE COURT: ANYTHING ELSE, MR. POTTER, THAT  
10 YOU WOULD LIKE ME TO ASK YOUR CLIENT CONCERNING THE  
11 RIGHT TO TESTIFY?

12 MR. POTTER: NO, YOUR HONOR.

13 THE COURT: OKAY.

14 MR. POTTER: JUDGE, BEFORE YOU CALL THE JURY  
15 BACK AND THE STATE HAS RESTED, WE WOULD ACTUALLY MOVE  
16 FOR THE RECORD FOR A DIRECTED VERDICT ON ALL  
17 INDICTMENTS.

18 THE COURT: DENIED. ANYTHING ELSE?

19 IS THE STATE READY? ARE YOU GOING TO OPEN  
20 IN FULL OR ARE YOU GOING TO WAIVE?

21 MS. HUEY: UNFORTUNATELY, JUDGE, I THINK  
22 HE'S ENTITLED ---

23 THE COURT: HAVE YOU ALL TALKED ABOUT IT?

24 MS. HUEY: I THINK HE'S ENTITLED TO LAST  
25 ARGUMENT.

1           THE COURT: WELL, HE'S ENTITLED TO LAST  
2 ARGUMENT SINCE HE'S NOT PUTTING UP ANY TESTIMONY.

3           MS. HUEY: YES, SIR.

4           THE COURT: OKAY. YOU'RE RIGHT.

5           ANYTHING ELSE BEFORE WE BRING THE JURY? ARE  
6 YOU READY FOR CLOSING ARGUMENTS?

7           (DISCUSSION OFF THE RECORD.)

8           THE COURT: YOU NEED FIVE MINUTES? OKAY.

9           (BRIEF RECESS.)

10          THE COURT: BRING US THE JURY, PLEASE.

11          (WHEREUPON, THE JURY ENTERED THE COURTROOM AT  
12 9:59 A.M.)

13          THE COURT: DOES EVERYBODY HAVE THEIR  
14 NOTEPADS AND PENS? ALL RIGHT. LADIES AND GENTLEMEN,  
15 THE STATE HAS RESTED, AND THAT MEANS THAT THEY ARE NOT  
16 GOING TO CALL ANY ADDITIONAL WITNESSES.

17          AND THE DEFENDANT HAS CHOSEN NOT TO TESTIFY  
18 AND THE DEFENDANT IS NOT GOING TO OFFER ANY TESTIMONY.

19          AND I WANT TO TELL YOU BEFORE WE HAVE  
20 CLOSING ARGUMENTS AND THE CHARGE, IN SOUTH CAROLINA  
21 UNDER THE FIFTH AMENDMENT OF THE CONSTITUTION, NO ONE IS  
22 REQUIRED TO TESTIFY AGAINST THEMSELVES. THE STATE IS  
23 OBLIGATED TO PROVE THE DEFENDANT GUILTY BEYOND A  
24 REASONABLE DOUBT. THE DEFENDANT DOES NOT HAVE ANY  
25 RESPONSIBILITY TO PROVE HIS INNOCENCE. IT IS THE

1 STATE'S RESPONSIBILITY. THEREFORE, A PERSON DOES NOT  
2 HAVE TO TESTIFY IN A CRIMINAL TRIAL.

3 NOW, THAT'S HIS CONSTITUTIONAL RIGHTS. YOU  
4 ARE NOT TO CONSIDER THE FACT THAT HE FAILED TO OFFER  
5 TESTIMONY OR TESTIFY IN ANY MANNER WHATSOEVER IN YOUR  
6 DELIBERATIONS. IT IS NOT ANY INDICATION OF HIS GUILT.  
7 IT'S A CONSTITUTIONAL RIGHT THAT HE IS ENTITLED TO AND  
8 HE HAS EXERCISED.

9 NOW, THERE HAS BEEN A LOT OF TESTIMONY  
10 CONCERNING LARICKY HARKNESS, WHO I BELIEVE IS REFERRED  
11 TO AS "BOOT." THERE'S BEEN TESTIMONY THAT THERE ARE  
12 CRIMINAL CHARGES AGAINST HIM. HE IS REPRESENTED BY AN  
13 ATTORNEY. HE ALSO HAS CLAIMED THE FIFTH AMENDMENT  
14 RIGHT. IN OTHER WORDS, HE HAS REFUSED TO COME TESTIFY,  
15 AND YOU CANNOT MAKE HIM TESTIFY. SO THAT IS THE REASON  
16 HE HAS NOT TESTIFIED, IS BECAUSE HE HAS EXERCISED HIS  
17 FIFTH AMENDMENT RIGHTS BECAUSE OF THE CRIMINAL CHARGES  
18 THAT ARE PENDING AGAINST HIM. IT'S NOT BECAUSE THE  
19 STATE DIDN'T WANT HIM HERE OR IT'S NOT BECAUSE THE  
20 DEFENDANT DID NOT WANT HIM HERE. HE CHOSE TO EXERCISE  
21 HIS CONSTITUTIONAL RIGHT NOT TO TESTIFY AND TAKE THE  
22 FIFTH AMENDMENT.

23 WHEN YOU TAKE THE FIFTH AMENDMENT, YOU  
24 EITHER DECIDE TO TESTIFY OR NOT TESTIFY. YOU CAN'T  
25 TESTIFY AND PICK AND CHOOSE WHAT YOU ARE GOING TO CHOOSE

1 TO TAKE THE FIFTH AMENDMENT TO. YOU EITHER TAKE THE  
2 FIFTH AMENDMENT AND DON'T TESTIFY OR YOU TESTIFY.

3 I WANTED TO EXPLAIN THAT TO YOU BEFORE WE  
4 STARTED THE CLOSING ARGUMENTS. THE STATE WILL HAVE  
5 CLOSING ARGUMENTS FIRST AND THE DEFENDANT WILL FINISH  
6 WITH CLOSING ARGUMENTS, AND AFTER THAT HAPPENS, I WILL  
7 CHARGE YOU ON THE LAW THAT'S APPLICABLE TO THIS  
8 PARTICULAR CASE.

9 SOLICITOR?

10 MS. HUEY: THANK YOU. MAY IT PLEASE THE  
11 COURT.

12 CLOSING ARGUMENT ON BEHALF OF THE STATE:

13 MS. HUEY: REVENGE. THAT IS WHY SAMMY SCOTT  
14 DROVE TO ANDERSON ON JULY 10TH, 2006. HE WAS LOOKING  
15 FOR LARICKY HARKNESS. HE WANTED TO GET REVENGE ON  
16 LARICKY HARKNESS. HE HAD HAD AN ONGOING FEUD WITH HIM.  
17 HE HAD FOUGHT WITH HIM BEFORE, AND LARICKY HAD EVEN SHOT  
18 AT HIM BEFORE. AND LARICKY'S NICKNAME, AGAIN, IS BOOT.

19 THAT IS WHY THIS DEFENDANT WENT AND BOUGHT A  
20 SHOTGUN FROM A CRACK HEAD THAT DAY. THAT'S WHY HE GOT  
21 SHOT SHELLS FROM THE CRACK HEAD. THAT'S WHY HE PUT IT  
22 IN HIS CAR AND DROVE TO ANDERSON LOOKING FOR WHERE  
23 PEOPLE WERE GOING TO BE. HE KNEW PEOPLE WOULD HANG OUT  
24 AT CLUB MALLEY, AND AFTER CLUB MALLEY CLOSED, THEY'D GO  
25 HANG OUT IN PARKING LOTS. SPECIFICALLY HE WAS LOOKING

1 FOR BOOT.

2 HE WENT TO THE WAL-MART PARKING LOT. BY  
3 THEN THE POLICE WERE RUNNING EVERYBODY OFF. SO THEN HE  
4 WENT TO THE PUBLIX PARKING LOT. HE PULLED INTO THE  
5 PUBLIX PARKING LOT. THERE, YOU HEARD JOSH BLACK  
6 TESTIFY, A MATTER OF 30 SECONDS, LIKE THAT, SEES BOOT  
7 WAY ACROSS THE PARKING LOT, AS YOU'VE HEARD TESTIMONY.

8 THE DEFENDANT COMES IN HERE. BOOT IS OVER  
9 HERE. THE CROWD OF PEOPLE IS IN THE MIDDLE.  
10 (INDICATING).

11 HE SEES BOOT. BECAUSE THAT CAR, IT STICKS  
12 OUT. YOU CAN'T MISS THAT CAR, REAL TALL, DELTA '88. HE  
13 TAKES HIS CHANCE TO GET REVENGE. HE PULLS THAT SHOTGUN  
14 OUT, AND HIS REVENGE IS SO GREAT, HIS NEED FOR IT IS SO  
15 GREAT, THAT HE FIRES THAT SHOTGUN THROUGH A CROWD OF  
16 INNOCENT PEOPLE AIMING AT BOOT.

17 BUT WE KNOW HE DIDN'T HIT BOOT. HE DIDN'T  
18 KILL BOOT AND HE DIDN'T INJURE BOOT. NOWHERE CLOSE.  
19 WHAT HE DID DO WHEN HE SHOT THAT SHOTGUN FILLED WITH  
20 BUCKSHOT, WHICH IS THE EQUIVALENT, AS YOU HEARD  
21 TESTIMONY YESTERDAY, OF NINE PEOPLE FIRING .32 CALIBER  
22 HANDGUNS AT THE SAME TIME AT THE SAME TARGET. THAT IS  
23 HOW POWERFUL IT IS, THAT'S HOW STRONG IT IS, THAT'S,  
24 THAT'S HOW LETHAL IT IS. HE FIRED THAT SHOTGUN AT LEAST  
25 THREE TIMES INTO THAT CROWD TO GET AT BOOT, AND HE HIT

1 AND KILLED JAVARIS CLINKSCALES. HE HIT AND INJURED FOUR  
2 OTHER INDIVIDUALS THAT NIGHT. AND THAT'S WHY WE ARE ALL  
3 HERE.

4 THE DEFENDANT WAS CHARGED WITH MURDER. HE  
5 WAS CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO  
6 KILL, FOUR COUNTS. HE WAS ALSO CHARGED WITH GUN CHARGES  
7 ASSOCIATED WITH EACH OF THOSE CHARGES.

8 THE JUDGE IS GOING TO CHARGE YOU THAT MURDER  
9 IS THE UNLAWFUL KILLING OF ANOTHER WITH MALICE  
10 AFORETHOUGHT. HE'S GONNA CHARGE YOU THAT ASSAULT AND  
11 BATTERY WITH INTENT TO KILL IS THE UNLAWFUL TOUCHING  
12 WITH EXPRESS OR IMPLIED MALICE. MALICE IS THE WORD THAT  
13 STICKS OUT. THAT IS WHAT HAS TO BE PROVED FOR ALL OF  
14 THESE CHARGES. AND MALICE IS ILL WILL. IT IS A WICKED,  
15 DEPRAVED SPIRIT INTENT ON DOING WRONG.

16 I SUBMIT TO YOU THAT WHEN SAMMY SCOTT,  
17 BROUGHT A SHOTGUN WITH BUCKSHOT TO ANDERSON ON JULY 10,  
18 2006, AND FIRED INTO THAT CROWD OF PEOPLE TO GET AT  
19 BOOT, TO KILL BOOT, HE HAD MALICE IN HIS HEART. HE WAS  
20 ACTING WITH MALICE AFORETHOUGHT.

21 MALICE CAN ALSO BE IMPLIED OR INFERRED FROM  
22 THE USE OF A DEADLY WEAPON. AND AGAIN, HOW DEADLY IS A  
23 SHOTGUN?

24 NOW LET'S TALK ABOUT LARICKY HARKNESS.  
25 OBVIOUSLY, THERE IS EVIDENCE THAT LARICKY HARKNESS HAD A

1 GUN. BUT HE HAD A .25 CALIBER GUN. THERE IS EVIDENCE  
2 THAT HE SHOT THAT GUN. HE HAD GUNSHOT RESIDUE ON HIS  
3 HANDS RIGHT AFTER THE INCIDENT. THE GUN WAS FOUND IN  
4 HIS POSSESSION. AND THERE WAS EVEN TESTIMONY THAT  
5 PEOPLE SAW BOOT SHOOTING. SO WE KNOW THAT.

6 BUT WHAT KILLED JAVARIS CLINKSCALES? WHAT  
7 INJURED THE FOUR OTHERS, SYDNEY CHESTER, INDIA GALLOWAY,  
8 JAMES BURNS, SHANQUIL MARTIN? WHAT INJURED ALL OF THOSE  
9 PEOPLE AND KILLED JAVARIS CLINKSCALES? AND WE KNOW THAT  
10 IS BUCKSHOT, BUCKSHOT THAT CAME FROM A SHOTGUN.

11 NOW, SPECIFICALLY, DR. WOODARD TESTIFIED  
12 THREE BUCKSHOTS TO JAVARIS'S BRAIN, THAT THOSE WERE THE  
13 FATAL SHOTS THAT KILLED HIM, ALMOST INSTANTLY THAT HE  
14 WAS BRAIN DEAD. WE KNOW THAT BUCKSHOT IS WHAT KILLED  
15 JAVARIS. NOT ONLY DID DR. WOODARD SAY HE DIED AS A  
16 RESULT OF BUCKSHOT FROM HIS EXPERT OPINION, BUT THOSE  
17 BUCKSHOTS WERE COLLECTED FROM JAVARIS'S BODY AND SENT TO  
18 S.L.E.D. IN COLUMBIA, SOUTH CAROLINA LAW ENFORCEMENT  
19 DIVISION, WHERE THEY WERE TESTED.

20 YOU HEARD EXPERT TESTIMONY FROM KEN WHITLER,  
21 AND HE SAID, YES, IN HIS OPINION THOSE PROJECTILES,  
22 THOSE BUCKSHOT PELLETS THAT CAME FROM JAVARIS'S BODY  
23 WERE MOST CONSISTENT WITH BUCKSHOT IN HIS EXPERT  
24 OPINION. SO JAVARIS WAS KILLED BY A SHOTGUN.

25 NOW THE FOUR OTHERS. SHANQUIL MARTIN, SHOT

1 IN THE NECK. HE REQUIRED SURGERY TO REMOVE HIS  
2 BUCKSHOT. THAT WAS REMOVED FROM HIS BODY AND AGAIN SENT  
3 TO S.L.E.D. KEN WHITLER TESTIFIED THAT THAT WAS MOST  
4 CONSISTENT WITH BUCKSHOT.

5 THE TWO OTHER INDIVIDUALS, WHERE IT WOULD  
6 HAVE BEEN MORE DANGEROUS FOR THE DOCTORS TO REMOVE THE  
7 PROJECTILES, JAMES BURNS AND SYDNEY CHESTER'S, YOU SAW  
8 THEIR X-RAYS. DR. WOODARD TESTIFIED THAT HE REVIEWED  
9 THOSE X-RAYS, AND IN HIS EXPERT OPINION, BOTH THOSE  
10 INJURIES OCCURRED FROM BUCKSHOT.

11 INDIA GALLOWAY. SHE RECEIVED A GRAZING  
12 WOUND. BUT THE EVIDENCE AS TO WHAT HAPPENED TO HER CAR  
13 WHERE SHE WAS GRAZED IS THAT HER CAR WAS HIT BY  
14 BUCKSHOT.

15 LARICKY HAS A BAD AIM. HE DIDN'T HIT  
16 ANYBODY, HE DIDN'T HIT ANYTHING. NO SHELL CASINGS WERE  
17 FOUND IN THE PARKING LOT CONNECTING LARICKY TO THE .25  
18 CALIBER.

19 NOW, WHAT PUTS THE DEFENDANT WITH THE  
20 SHOTGUN, THEN, AND SHOOTING THE SHOTGUN?

21 WELL, FIRST OF ALL, YOU HEARD KYLE DUNCAN  
22 TESTIFY, AND KYLE DUNCAN TESTIFIED THAT HE PULLED IN  
23 BEHIND SAMMY SCOTT OVER HERE (INDICATING). SAMMY SCOTT,  
24 TROY VERNER, AND JOSH BLACK ARE IN ONE CAR, THEY'RE IN  
25 SAMMY'S MOM'S BLACK KIA.

1 FOLLOWING THEM IS WHITNEY, SHE'S DRIVING HER  
2 CAVALIER. NICKI SCOTT, SAMMY'S SISTER, IS IN THE CAR,  
3 AND KYLE DUNCAN IS IN THE CAR.

4 YOU HEARD KYLE DUNCAN TESTIFY THAT AS THEY  
5 PULLED IN BEHIND SAMMY SCOTT AT THE PUBLIX PARKING LOT,  
6 HE SAID ALMOST IMMEDIATELY SAMMY SCOTT PULLED OUT THAT  
7 SHOTGUN OUT OF THE WINDOW OF HIS CAR AND SHOT INTO THE  
8 CROWD OF PEOPLE, PULLED OUT A LONG GUN.

9 NOW, THEY TOOK OFF OUT OF THE PUBLIX PARKING  
10 LOT AGAIN IN UNDER A MINUTE. BRANDON KEASLER, MARKESHA  
11 SMITH, PATRICE GAINES PATRICIA DURHAM AND BRITTANY YOUNG  
12 WERE IN THE CAR, THEY WERE IN BRANDON'S CAR. THEY WERE  
13 PARKED IN THE BANK PARKING LOT ACROSS FROM PUBLIX.

14 THEY HEARD GUNSHOTS. WITHIN SECONDS THEY  
15 SEE SAMMY SCOTT IN HIS MOM'S CAR PULLING OUT OF THE  
16 PUBLIX PARKING LOT. THEY FOLLOWED SAMMY SCOTT. SAMMY  
17 SCOTT PULLS A LONG GUN ON THEM. AGAIN, HE HAS SO MUCH  
18 MALICE AND ILL WILL THAT HE'S WILLING TO PULL A SHOTGUN  
19 ON A CAR COMING UP BEHIND HIM. HE DIDN'T KNOW WHO THEY  
20 ARE. HE'S SPEEDING DOWN THE ROAD, WE HEARD TESTIMONY,  
21 80, 90 MILES AN HOUR. THAT'S HOW RECKLESS HE WAS. HE  
22 WAS WILLING TO SHOOT A SHOTGUN WHILE HE WAS DRIVING 80  
23 OR 90 MILES AN HOUR. SHOOT FIRST, ASK QUESTIONS LATER.

24 LUCKILY, MARKESHA SMITH WAS ABLE TO CALL  
25 TROY VERNER IN THE DIFFERENT CAR AND SAY, HEY, IT'S US.

1 YOU KNOW US. PUT THE GUN DOWN.

2 BUT YOU HEARD BRANDON AND MARKESHA AND  
3 BRITTANY YOUNG SAY THEY ALL SAW SAMMY SCOTT WITH A LONG  
4 GUN THAT NIGHT WITHIN MINUTES OF THE PUBLIX SHOOTING.  
5 YOU ALSO HEARD PATRICIA DURHAM SAY SHE WAS SO SCARED,  
6 SHE HAD HER HEAD DUCKED DOWN IN THE CAR, AND PEOPLE WERE  
7 SCREAMING "NO, NO, NO" AROUND HER AND TALKING ABOUT  
8 SAMMY.

9 AND THEN PATRICE GAINES AGAIN HEARS KESHA  
10 TALKING ABOUT SAMMY WITH A GUN. AND WHEN THEY GET TO  
11 EDGEWOOD APARTMENTS, SOME OF THEM TALK ABOUT NICKI SCOTT  
12 GRABBING A LONG GUN FROM SAMMY'S CAR AND TAKING IT INTO  
13 HER APARTMENT.

14 SO WE HAVE THOSE PEOPLE THAT SAY SAMMY HAD A  
15 LONG GUN, A LONG GUN, A SHOTGUN.

16 NOW, JOSH BLACK TESTIFIED. AND JOSH BLACK  
17 WAS ACTUALLY IN THE CAR WITH SAMMY SCOTT. AND, YES,  
18 JOSH BLACK WAS CHARGED HIMSELF ORIGINALLY. AND AS THE  
19 JUDGE TOLD YOU JUST A MINUTE AGO, IF SOMEONE IS CHARGED,  
20 THEY DO NOT HAVE TO TESTIFY AT ALL. THAT IS THEIR RIGHT  
21 AGAINST SELF-INCRIMINATION.

22 THE STATE MADE A DEAL WITH JOSH BLACK SO HE  
23 WOULD TESTIFY. BUT HE COOPERATED TWO YEARS AGO. HE  
24 GAVE A STATEMENT TO POLICE TWO YEARS AGO, AND HE  
25 TESTIFIED TO THAT SAME STATEMENT ON THE STAND TUESDAY.

1 AND WHAT HE SAID WAS SAMMY AND BOOT DIDN'T LIKE OTHER.  
2 THEY DISAGREED, THEY GOT IN A FIGHT AT A CLUB, AND,  
3 YEAH, BOOT HAD EVEN SHOT AT SAMMY THE WEEK BEFORE. THEY  
4 DIDN'T LIKE EACH OTHER.

5 HE SAID THAT HE'D NEVER SEEN SAMMY WITH A  
6 SHOTGUN BEFORE THAT NIGHT, BUT HE SAW HIM WITH ONE THAT  
7 NIGHT AND IT WAS IN THE CAR. IT WAS IN THE CONSOLE OR  
8 NEXT TO THE CONSOLE BETWEEN THE DRIVER'S SEAT AND THE  
9 CONSOLE, IN THAT SPACE THERE.

10 THEY PULLED INTO ANDERSON, TRIED TO GO TO  
11 WAL-MART, THE CARS WERE LEAVING FROM THERE, SO THEN THEY  
12 WENT TO PUBLIX PARKING LOT. THEY WEREN'T EVEN AT THE  
13 PUBLIX PARKING LOT 30 SECONDS, AND SAMMY IS SHOOTING A  
14 SHOTGUN OUT THE WINDOW. IT'S SO LOUD THAT HE CAN'T HEAR  
15 IN HIS EAR NOW. THAT'S HOW LOUD IT WAS.

16 HE TESTIFIED THAT, YEAH, HE HEARD SOME  
17 GUNSHOTS. HE COULDN'T TELL WHERE THEY WERE COMING FROM,  
18 THOUGH, WHO WAS SHOOTING THEM, NOTHING ABOUT IT. JUST  
19 THEY HEARD SOME GUNSHOTS AND SAMMY SHOT OUT THE WINDOW.

20 AND REMEMBER, JOSH BLACK IS SAYING HE CAME  
21 IN HERE, OFF SALEM CHURCH ROAD, PULLED IN HERE  
22 (INDICATING), BAM-BAM-BAM, AND LEAVES AS QUICKLY AS  
23 THAT. THE CROWD IS HERE, BOOT IS OVER HERE  
24 (INDICATING).

25 JOSH BLACK ALSO TALKS ABOUT SAMMY PULLING

1 THE GUN ON BRANDON KEASLER'S CAR ON THE WAY BACK TO  
2 EDGEWOOD APARTMENTS. JOSH BLACK PUTS SAMMY SCOTT WITH A  
3 SHOTGUN AND WITH FIRING THAT SHOTGUN.

4 AND THEN ULTIMATELY WE HAVE A CONFESSION.  
5 SAMMY SCOTT GAVE A CONFESSION SAYING, YEAH, I DID IT. I  
6 WAS MAD AT BOOT. I HAD TO SHOW THOSE ANDERSON BOYS I  
7 WASN'T SCARED. THEY'RE NOT GONNA TELL ME WHERE I CAN'T  
8 GO. I'M GONNA SHOW THEM. I'M GONNA GET MY SHOTGUN AND  
9 I'M GONNA SPECIFICALLY GO BUY IT FROM A CRACK HEAD, AND  
10 I'M GONNA TAKE THAT SHOTGUN LOADED WITH BUCKSHOT TO  
11 ANDERSON. AND I'M GONNA GET BOOT. I'M GONNA SHOW HIM.

12 HE DOESN'T TALK ABOUT BEING SCARED. HE  
13 DOESN'T TALK ABOUT BOOT SHOOTING AT HIM OR ANYONE  
14 SHOOTING AT HIM. HE SAYS HE HEARS GUNSHOTS SO HE  
15 SHOOTS. HE WAS LOOKING FOR A FIGHT.

16 HIS STATEMENT AGAIN TALKS ABOUT GOING  
17 SPECIFICALLY WHERE THEY KNEW IT WAS GOING DOWN, WHERE  
18 THEY KNEW SOMEONE WAS ABOUT TO FIGHT. HE WANTED TO GET  
19 IN ON THE ACTION TO SHOW HOW BIG AND BAD HE WAS WITH HIS  
20 SHOTGUN LOADED WITH BUCKSHOT. THAT'S ALL IN HIS  
21 STATEMENT.

22 NOW, INDIVIDUALS AT THE PUBLIX PARKING LOT  
23 YOU HEARD TESTIMONY FROM: TORREY ACKER, JAMES BURNS,  
24 SYDNEY CHESTER, SHANQUIL MARTIN, PETE DIAL, JEREMI DIAL,  
25 INDIA GALLOWAY. AND OF COURSE JAVARIS WAS THERE, AS

1 WELL. THEY WERE ALL IN CLOSE PROXIMITY TO JAVARIS WHEN  
2 HE WAS KILLED.

3 THEIR TESTIMONY IS THAT THEY HEARD SHOTGUN  
4 SHOTS FIRST. REALLY LOUD BOOMS. THEY RECOGNIZED THAT  
5 TO BE A SHOTGUN. THAT'S WHAT THEY HEARD FIRST. THAT'S  
6 WHAT THEY HEARD WHEN THEY SAW THEIR FRIEND CRUMBLE, HIS  
7 HAT FLY OFF, THE EARRING GET KNOCKED OUT OF HIS EAR, AND  
8 SAW HIM LYING IN HIS BLOOD. THAT'S WHAT THEY HEARD  
9 FIRST.

10 NOW, SPECIFICALLY, JEREMI DIAL TALKS ABOUT  
11 HEARING THOSE LOUD BOOMS COMING FROM SALEM CHURCH ROAD.  
12 THAT DIRECTION. WHICH AGAIN, JOSH BLACK SAYS HE AND  
13 SAMMY AND TROY PULLED IN SALEM CHURCH ROAD. THAT'S  
14 WHERE THEY WERE IN THE PARKING LOT. THAT'S WHERE THOSE  
15 LOUD BOOMS CAME FROM.

16 JEREMI'S CAR IS ALL SHOT UP. YOU SAW  
17 PICTURES OF THAT. YOU HEARD TESTIMONY OF HOW THE  
18 SHOTGUN, WHEN IT'S SHOT, THE PELLETS ARE IN A CONE AND.  
19 THEY JUST DISPERSE, AND THEY CAN GO ALL DIRECTIONS.

20 THE VEHICLES SHOW THAT A SHOTGUN WAS USED.

21 NOW, ADDITIONALLY. ALL THESE PEOPLE AGAIN  
22 TESTIFIED THAT THEY HEAR THE LOUD SHOTGUN SHOTS FIRST.  
23 THEY ALSO TESTIFY ABOUT LARICKY, ABOUT BOOT. BUT THEIR  
24 TESTIMONY IS BOOT IS IN FRONT OF THEM. WE KNOW THESE  
25 PEOPLE WERE SHOT IN THE SIDE OR IN THE BACK. LARICKY IS

1 IN FRONT OF THEM, AND OTHER TESTIMONY SHOWS SAMMY SCOTT  
2 IS BEHIND THEM. THEY'RE IN THE MIDDLE. THEY ARE IN A  
3 CROWD OF PEOPLE JUST HANGING OUT, TALKING TO THEIR  
4 FRIENDS.

5 NOW, THE DEFENSE BROUGHT UP DEMETRIUS EVANS  
6 YESTERDAY. AND DEMETRIUS EVANS WAS PULLED OVER SHORTLY  
7 AFTER THE PUBLIX INCIDENT BECAUSE HE WAS DRIVING  
8 ERRATICALLY. BUT COME TO FIND OUT, HE WAS THERE BECAUSE  
9 HE HAD JUST HEARD THAT SOMEONE HE KNEW HAD BEEN SHOT.  
10 HE WAS PULLED OVER AND HE DID HAVE A SHOTGUN. BUT THE  
11 G.S.R. WAS PERFORMED ON HIM WITH NO GUNSHOT RESIDUE. HE  
12 WAS NOT EVEN AT THE PUBLIX PARKING LOT.

13 THE SHOTGUN LOOKED LIKE IT HADN'T BEEN FIRED  
14 RECENTLY. AND ULTIMATELY THE SHOTGUN HAD BIRDSHOT. AND  
15 REMEMBER, ALL OF THE EVIDENCE, ALL THE PROJECTILES FROM  
16 THE VICTIMS, FROM THE VEHICLES, FROM THE PARKING LOT,  
17 ALL THE BUCKSHOT. AND BIRDSHOT AND BUCKSHOT ARE TWO  
18 DIFFERENT THINGS. SO THAT'S JUST TO THROW YOU OFF.

19 NOW, THE JUDGE IS GONNA CHARGE YOU ON  
20 TRANSFERRED INTENT. AND WHAT THAT MEANS IS THAT WHEN  
21 SAMMY WAS INTENDING TO KILL BOOT, BECAUSE HE HIT AND  
22 KILLED JAVARIS AND HIT AND INJURED FOUR OTHERS, THE  
23 MALICE HE HAD TOWARD BOOT TRANSFERRED TO THOSE INNOCENT  
24 PEOPLE. THEY GOT IN THE WAY OF HIS REVENGE AND THEY ARE  
25 THE ONES WHO FELT HIS MALICE. HIS INTENT TO KILL WAS

1 TRANSFERRED TO THEM. THE JUDGE IS GONNA CHARGE YOU ON  
2 THAT.

3 NOW, THE JUDGE IS ALSO GONNA CHARGE YOU ON  
4 SELF-DEFENSE. NOW, THERE ARE FOUR ELEMENTS THAT HAVE TO  
5 BE MET FOR SELF-DEFENSE TO BE PRESENT. THE FIRST IS  
6 THAT THE DEFENDANT MUST BE WITHOUT FAULT IN BRINGING ON  
7 THE DIFFICULTY. THAT'S THE FIRST ELEMENT THAT HAS TO BE  
8 MET.

9 NOW, I SUBMIT TO YOU, LADIES AND GENTLEMEN,  
10 AND AGAIN YOU ARE GONNA HAVE THE DEFENDANT'S STATEMENT  
11 BACK THERE WITH YOU, BUT I PULLED PORTIONS OF HIS  
12 STATEMENT. HE HAS TO BE WITHOUT FAULT IN BRINGING ON  
13 THE DIFFICULTY.

14 PEOPLE SAID -- THIS IS FROM HIS STATEMENT --  
15 LET'S GO GET THESE NIGGERS BECAUSE THEY THINK WE ARE  
16 SCARED TO GO TO THE CLUB. AND JOSH BLACK TESTIFIED THAT  
17 SAMMY HAD BEEN HAVING AN ONGOING FEUD AND THAT BOOT HAD  
18 SHOT AT HIM THE WEEKEND BEFORE.

19 HE GOES ON TO SAY IN HIS STATEMENT: I  
20 STARTED THINKING AND PEOPLE WERE BOASTING MY HEAD UP.

21 HE HAS TO BE WITHOUT FAULT.

22 ON THE WAY TO ANDERSON I WENT TO THE WOODS  
23 AND GOT THE SHOTGUN.

24 REMEMBER, JOSH BLACK SAID HE HAD NEVER SEEN  
25 THE SHOTGUN BEFORE.

1 I GOT THE GUN EARLIER THAT DAY AND PUT IT  
2 THERE. I GOT THE GUN FROM PENDLETON, I GOT THE GUN FROM  
3 SOME CRACK HEAD IN PENDLETON. I PAID \$45 FOR IT. IT  
4 HAD ONE SHELL IN IT, AND I GOT TWO MORE SHELLS FROM THE  
5 CRACK HEADS.

6 AFTER WE WERE NEAR THE MALL AND SOME GIRLS  
7 YELLED OUT IT WAS GOING DOWN AT WAL-MART. I SAW ALL  
8 KINDS OF CARS COMING OUT. THEY WERE ALL SAYING IT WAS  
9 GOING DOWN OVER HERE ACROSS THE STREET.

10 ACROSS THE STREET MEANING PUBLIX.

11 WE FOLLOWED THEM TO A STORE WITH GREEN  
12 WRITING ON IT. WE PULLED INTO THE PARKING LOT AND  
13 STOPPED. BOOT WAS OUT OF THE CAR IN FRONT OF US. THERE  
14 WAS PEOPLE MEETING UP LIKE THEY WERE ABOUT TO FIGHT.

15 HE HAS TO BE WITHOUT FAULT. AND WE ALL KNOW  
16 HE WAS LOOKING FOR IT. HE WAS LOOKING FOR IT. HE  
17 WASN'T WITHOUT FAULT. HE WANTED TO DO IT.

18 NOW, THE SECOND ELEMENT. THE DEFENDANT WAS  
19 ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY  
20 INJURY OR BELIEVED HE WAS. NOW, IN HIS STATEMENT AGAIN  
21 HE SAYS, I SHOT ONE OFF BEHIND US. AND HE HAD JUST SAID  
22 IN HIS STATEMENT BOOT IS IN FRONT OF HIM.

23 I SHOT IN THE AIR ONCE AND THEN I TRIED TO  
24 SHOOT BOOT TWO TIMES. I TRIED TO SHOOT BOOT TWO TIMES.  
25 TROY WAS DRIVING OFF AND THAT WAS WHEN I TRIED TO SHOOT

1 AT BOOT. I KNOW WHAT I WAS AIMING AT AND IT WAS BOOT'S  
2 CAR. BECAUSE REMEMBER BOOT'S CAR IS VERY DISTINCTIVE.  
3 HE KNEW THAT WAS BOOT OVER THERE.

4 HE HAD TO HAVE ACTUALLY BELIEVED HE WAS IN  
5 IMMINENT DANGER. HE DIDN'T KNOW WHERE THE SHOTS WERE  
6 COMING FROM. THE ONE PERSON HE MAY HAVE BEEN SCARED OF,  
7 BECAUSE OF PREVIOUS INCIDENTS, WOULD HAVE BEEN BOOT, BUT  
8 BOOT WAS IN FRONT OF HIM.

9 NOW, THE THIRD ELEMENT: A REASONABLY  
10 PRUDENT PERSON WOULD HAVE THE SAME BELIEF.

11 AGAIN, HE DIDN'T KNOW WHO WAS SHOOTING AND  
12 THE SHOTS WERE COMING FROM BEHIND. AND THAT'S  
13 ALLEGEDLY, THAT'S ACCORDING TO HIM. REMEMBER, ALL OF  
14 JAVARIS'S FRIENDS SAY THEY SEE A SHOTGUN FIRST.

15 NOW, IF YOU ARE ACTING IN SELF-DEFENSE,  
16 WOULD YOU ARM YOURSELF WITH A SHOTGUN LOADED WITH  
17 BUCKSHOT AND JUST FIRE THAT INTO A CROWD OF PEOPLE JUST  
18 BECAUSE YOU HEAR GUNSHOTS? IS THAT REASONABLE? WOULD A  
19 REASONABLY PRUDENT PERSON DO THAT? AND IF YOU WERE SO  
20 SCARED OF BOOT, WHY WOULD YOU GO LOOKING FOR HIM? WHY  
21 WOULD YOU GO LOOKING FOR HIM ARMED WITH A SHOTGUN?

22 AND THE FINAL ELEMENT -- AGAIN, THIS IS THE  
23 BIGGIE -- THERE WAS NO OTHER WAY FOR HIM TO AVOID THE  
24 DANGER.

25 HOW COULD HE HAVE AVOIDED THE DANGER? NOT

1 GO, NUMBER ONE. NOT GO WITH A LOADED SHOTGUN. HOW  
2 ABOUT ONCE HE GETS THERE AND HE SUPPOSEDLY HEARS THESE  
3 GUNSHOTS. HE'S IN A CAR AND HE CAN GET OUT. LEAVE.  
4 LEAVE. AND REMEMBER, NO DAMAGE WAS DONE TO HIS CAR. NO  
5 GUNSHOT, NO EVIDENCE OF GUNSHOTS IN HIS CAR.

6 LADIES AND GENTLEMEN, THIS IS NOT  
7 SELF-DEFENSE. THIS IS REVENGE. HE WAS NOT WITHOUT  
8 FAULT. HE WAS NOT IN IMMINENT DANGER. A REASONABLE  
9 PERSON WOULDN'T THINK SO EITHER. AND HE CERTAINLY COULD  
10 HAVE AVOIDED THIS SITUATION. HE COULD HAVE AVOIDED IT  
11 BY NEVER BUYING THE SHOTGUN TO BEGIN WITH, NEVER  
12 LOADING IT, NEVER TAKING IT TO ANDERSON, AND CERTAINLY  
13 BY NEVER SHOOTING IT INTO A CROWD OF PEOPLE. THAT SHOWS  
14 SUCH RECKLESSNESS AND INDIFFERENCE FOR HUMAN LIFE. THAT  
15 SHOWS MALICE AND ILL WILL.

16 THE DEFENDANT, SAMMY SCOTT, IS GUILTY BEYOND  
17 A REASONABLE DOUBT OF MURDER. HE MURDERED JAVARIS  
18 CLINKSCALES. HE IS GUILTY OF ASSAULT AND BATTERY WITH  
19 INTENT TO KILL ON SYDNEY CHESTER, ON JAMES BURNS, ON  
20 SHANQUIL MARTIN, ON INDIA GALLOWAY. THE EVIDENCE PROVES  
21 TO YOU BEYOND A REASONABLE DOUBT THAT THIS DEFENDANT HAD  
22 MALICE IN HIS HEART. HE WAS NOT ACTING IN SELF-DEFENSE.  
23 HE HAD MALICE BEYOND A REASONABLE DOUBT. THANK YOU VERY  
24 MUCH.

25 THE COURT: MR. POTTER?

1                   MR. POTTER: THANK YOU, YOUR HONOR, MAY IT  
2 PLEASE THE COURT.

3 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT:

4                   MR. POTTER: I APPRECIATE Y'ALL'S ATTENTION.  
5 I APPRECIATE YOU LISTENING TO THE TESTIMONY, LOOKING AT  
6 THE WITNESSES, HEARING WHAT THEY HAD TO SAY. BUT WHEN  
7 YOU GET BACK IN THAT JURY ROOM, YOU HAVE TWO THINGS YOU  
8 HAVE TO DO.

9                   ONE: YOU HAVE TO MAKE A DETERMINATION  
10 WHETHER THE STATE HAS PROVEN THE CASE AGAINST SAMMY  
11 SCOTT BEYOND A REASONABLE DOUBT. THAT'S THE FIRST STEP  
12 YOU HAVE TO TAKE. IF YOU COME BACK AND SAY, WELL, YEAH,  
13 HE DID IT, THEN YOU NEED TO DETERMINE WHETHER OR NOT  
14 SELF-DEFENSE APPLIES.

15                   LET'S TALK ABOUT THAT. LET'S TALK ABOUT  
16 REASONABLE DOUBT. WHAT IS REASONABLE DOUBT? JUDGE  
17 NICHOLSON IS GONNA INSTRUCT YOU ON THAT. WHAT CAUSES A  
18 REGULAR, ORDINARY, PRUDENT PERSON TO HESITATE TO ACT?  
19 NOW, HOW WOULD YOU SAY HESITANT? I TAKE A STEP AND THEN  
20 TAKE A STEP? IS THAT HESITATION SUPPOSED TO BE A  
21 MINUTE, A SECOND, A NANOSECOND? I SUBMIT TO YOU IT'S A  
22 NANOSECOND, THAT HESITATION BEFORE YOU SAY "GUILTY."

23                   REASONABLE DOUBT, LET'S TALK ABOUT THAT.  
24 WHY HASN'T THE STATE MET THEIR BURDEN? WHY IS THERE  
25 REASONABLE DOUBT ON THIS CASE? LET'S GO THROUGH THE

1 STEPS.

2 NO ONE SAW SAMMY SCOTT SHOOT JAVARIS. NO  
3 ONE GOT UP ON THAT STAND, SWORE ON THE BIBLE, AND SAID,  
4 I SAW SAMMY PULL THE TRIGGER, PULL THE SHOTGUN, AIM IT  
5 AT JAVARIS AND SHOOT JAVARIS. NOT ONE WITNESS GOT UP  
6 THERE AND SAID THAT. WHY NOT? THEY DON'T HAVE A  
7 WITNESS TO SAY THAT. NO ONE GOT UP THERE AND SAID,  
8 SAMMY POINTED A GUN AT JAVARIS. NO ONE GOT UP THERE AND  
9 SAID, SAMMY PULLED THE TRIGGER. NOT ONE.

10 WE'VE GOT 50 TO 60 PEOPLE IN THE PARKING  
11 LOT, AND NO ONE SAW ANYTHING. NO ONE SAW A BLACK KIA.  
12 ALL WE DID, NO ONE SAW ANY OTHER WEAPONS. ARE THEY  
13 COVERING FOR SOMEBODY? THOSE ARE THINGS YOU HAVE TO  
14 CONSIDER: BIAS. WHETHER THEY'VE GOT SOME REASON TO SAY  
15 SOMETHING AND NOT SAY SOMETHING TO THE POLICE. THOSE  
16 ARE THINGS YOU NEED TO CONSIDER. NO ONE SAW A BLACK  
17 KIA. GOING BACK TO THE PARKING LOT, NO ONE SAW SAMMY  
18 SHOOT JAVARIS.

19 DETECTIVE OWENS ADMITS THAT THEY DID NOT GET  
20 STATEMENTS FROM EVERYONE THAT WAS THERE. THERE WERE A  
21 LOT OF PEOPLE THERE AND THEY DIDN'T GET ALL THE  
22 STATEMENTS. DID THEY HAVE EVERYBODY'S STORY? DID THEY  
23 HAVE THE FULL STORY? HAS THE STATE GIVEN YOU THE FULL  
24 STORY? THEY DON'T HAVE THAT. THERE ARE WITNESSES OUT  
25 THERE THAT KNOW SOMETHING ABOUT THIS CASE THAT THE

1 POLICE HAVEN'T TALKED TO.

2 WE DON'T KNOW HOW MANY GUNS WERE THERE AT  
3 THE TIME OF THE SHOOTING. WE HAVE TESTIMONY THAT WE  
4 HEARD LOTS OF SHOTS. WE HEARD TESTIMONY THAT WE HEARD  
5 LOUD SHOTS. BUT WE DON'T KNOW HOW MANY GUNS WERE THERE.  
6 IT'S REASONABLE TO KNOW THAT IF YOU'VE GOT 40 OR 50 OR  
7 60 PEOPLE, IT'S GOING DOWN AT PUBLIX, AS JOSH BLACK AND  
8 OTHER PEOPLE HAVE TESTIFIED, WE DON'T KNOW HOW MANY GUNS  
9 WE HAVE THERE. THERE COULD BE TWO. THERE COULD BE TEN.  
10 WE DON'T KNOW. HOW MANY WERE THERE? THAT QUESTION  
11 HASN'T BEEN ANSWERED.

12 WE DON'T KNOW IF SAMMY HAD BIRDSHOT OR  
13 BUCKSHOT IN THAT GUN. HE COULD HAVE HAD BIRDSHOT.  
14 SOMEBODY ELSE COULD HAVE HAD A SHOTGUN WITH BUCKSHOT.  
15 WE DON'T KNOW THAT QUESTION; WE DON'T KNOW THE ANSWER TO  
16 THAT QUESTION.

17 THESE POINTS SHOW THAT THE STATE HASN'T MET  
18 THEIR BURDEN TO YOU. THEY NEED TO GO FROM A TO Z,  
19 CONNECT THE DOTS. MAYBE THEY'VE GONE FROM A TO B, MAYBE  
20 GONE FROM C TO D. BUT THAT NEXUS, THAT FORMULA THAT  
21 THEY WERE GOING TO PRESENT TO YOU, A TO D, HAS NOT BEEN  
22 MET. THEIR FORMULA THEY'VE PRESENTED TO YOU HAS HOLES  
23 IN IT. IT DOESN'T ADD UP.

24 AND AGAIN, GOING BACK TO WE DON'T KNOW HOW  
25 MANY GUNS WERE THERE. EVERYONE HEARD A LOT OF SHOTS.

1 WE DON'T KNOW HOW MANY SHOOTERS THERE WERE. WE HAVE  
2 SOME TESTIMONY THAT WE SAW BOOT. WE HAVE A TON OF  
3 TESTIMONY SAYING, I HEARD SHOTS. BUT WE DON'T KNOW HOW  
4 MANY SHOOTERS THERE WERE.

5 G.S.R. G.S.R. DOES NOT SHOW UP IF SOMEBODY  
6 HELD A GUN, WAS BRANDISHING A GUN AT THAT SCENE, G.S.R.  
7 WILL NOT SHOW THAT. I DIDN'T HEAR ANY TESTIMONY OF ANY  
8 OF THE OTHER VEHICLES BEING SEARCHED. THERE WERE  
9 VEHICLES SEARCHED THAT WERE SUPPOSEDLY DAMAGED, BUT WE  
10 KNOW THERE WERE NUMEROUS VEHICLES THERE. I DIDN'T HEAR  
11 ANY TESTIMONY ABOUT ANY OF THOSE VEHICLES BEING SEARCHED  
12 FOR WEAPONS.

13 BRANDISHING A GUN WILL NOT GET YOU A G.S.R.  
14 G.S.R. CAN BE COMPROMISED BY SOMEONE WASHING THEIR HANDS  
15 OR CLEANING THEIR HANDS. WE ALSO KNOW, AND I BELIEVE  
16 CHRISTOPHER SCOTT TESTIFIED, CERTAIN GUNS CAN BE FIRED  
17 AND THERE WON'T BE A G.S.R.

18 WHAT'S INTERESTING IS SAMMY SCOTT FIRED HIS  
19 GUN THREE TIMES, BUT THEY FOUND FOUR WADDINGS AT THE  
20 SCENE. HOW CAN YOU SHOOT THREE TIMES, YET HAVE FOUR  
21 WADDINGS? THAT DOESN'T MAKE SENSE. THAT DOESN'T FIT.  
22 SAMMY TESTIFIED THROUGH HIS STATEMENT, I SHOT THREE  
23 TIMES, BUT WE'VE GOT FOUR WADDINGS. WE ALSO DON'T KNOW  
24 HOW MANY WADDINGS WERE THERE THAT THEY DIDN'T FIND OR  
25 GOT COMPROMISED BECAUSE THEY DIDN'T SECURE THE SCENE.

1 WE ALSO KNOW THAT SCENE WAS NOT SECURE.

2 SO IT BEGS THE QUESTION: WHO FIRED THE  
3 FOURTH SHOT? THAT'S A PROBLEM. WAS THAT FOURTH SHOT  
4 FIRED BY SOMEBODY ELSE, THE ONE THAT KILLED JAVARIS?

5 IT'S A DEGRADED SCENE. IT'S A LARGE PARKING  
6 LOT, BUT IT WAS IN THE MIDDLE OF THE NIGHT, NO ONE WAS  
7 THERE EXCEPT THESE KIDS. THEY COULD HAVE EASILY SEALED  
8 IT OFF. CALLED UP PUBLIX AND SAID, DO NOT OPEN IT  
9 BECAUSE WE HAVE THIS INVESTIGATION GOING. THEY COULD  
10 HAVE SEALED IT OFF, BUT THE DIDN'T. THEY LET CUSTOMERS  
11 COME DRIVING THROUGH. THERE'S PHOTOGRAPHS OF T.V. VANS  
12 THERE IN THE PARKING LOT WHERE THE SHOOTING HAPPENED.

13 WHAT KIND OF EVIDENCE COULD HAVE BEEN LOST?  
14 SHOTGUN SHELLS, MAYBE? WEAPONS, MAYBE? COULD SOMEBODY  
15 HAVE COME BACK AFTER THE POLICE LEFT AND PICKED UP  
16 SOMETHING? WE DON'T KNOW. THAT SCENE WAS NOT SECURE  
17 UNTIL THEY COULD DO A GOOD SEARCH UNTIL DAYLIGHT CAME.  
18 HOW HARD WOULD THAT HAVE BEEN? HOW HARD WOULD THAT HAVE  
19 BEEN? NOT REAL DIFFICULT. AS A RESULT WE DON'T KNOW  
20 WHAT THEY MISSED. WE DON'T KNOW.

21 CONNECT THE DOTS. YOU CAN'T. THE FORMULA  
22 DOESN'T ADD UP. IT DOESN'T. THESE ARE THE PROBLEMS  
23 WITH THE STATE'S CASE.

24 SYDNEY CHESTER TESTIFIED THAT HE SAW BOOT  
25 SHOOT HIS GUN, HIT JAVARIS, AND THEN HEARD A SHOTGUN.

1 HE TESTIFIED TO THAT. YOU WATCHED HIM. THERE'S NO  
2 REASON NOT TO BELIEVE HIM. THERE WAS NO REASON TO SIT  
3 THERE AND SAY HE'S LYING. HE WAS HONEST, HE WAS  
4 SINCERE.

5 PETE DIAL HEARD FIVE TO TEN SHOTS AROUND THE  
6 TIME HE HEARD THE SHOTGUN. FIVE TO TEN SHOTS. AGAIN,  
7 HOW MANY GUNS WERE THERE? HOW MANY SHOOTERS WERE THERE?  
8 I WISH I KNEW. THAT WOULD ANSWER A LOT OF QUESTIONS.

9 THAT'S REASONABLE DOUBT. THOSE ARE  
10 REASONABLE DOUBTS. THESE ARE REASONS WHY A REASONABLE,  
11 PRUDENT PERSON WOULD HESITATE TO FIND SOMEONE GUILTY.

12 JEREMI DIAL WROTE OUT A STATEMENT THE NIGHT  
13 OF THE SHOOTING RIGHT AFTER THE SHOOTING, SAYING HE  
14 HEARD FIVE TO SIX SHOTS BUT DIDN'T SAY WHETHER THEY WERE  
15 LOUDER SHOTGUN SHOTS, BUT THE STORY CHANGED ON THE  
16 STAND. THE NIGHT OF THE SHOOTING HE GAVE A STATEMENT  
17 SAYING HE HEARD FIVE OR SIX SHOTS, BUT DIDN'T CLARIFY OR  
18 QUALIFY WHAT THOSE SHOTS WERE LIKE. HE JUST SAID FIVE  
19 TO SIX SHOTS. HE DIDN'T SAY ANYTHING ABOUT A LOUD SHOT.  
20 HE DIDN'T SAY ANYTHING ABOUT A SHOTGUN SHOT. AND HE  
21 KNEW HE HAD TO TELL THE POLICE EVERYTHING HE KNEW AT  
22 THAT TIME. BUT THEN HIS STORY CHANGED.

23 INDIA GALLOWAY HEARD ONLY ONE TYPE OF SHOT  
24 AND DIDN'T KNOW WHAT IT WAS.

25 DR. WOODARD TESTIFIED THAT AT LEAST THREE

1 PASSTHROUGH SHOTS WENT THROUGH JAVARIS, BUT HE COULDN'T  
2 TELL YOU WHAT TYPE OF CALIBER WAS THERE. HE COULDN'T  
3 TELL YOU. AND AGAIN, WAS SAMMY, DID THE SHOTGUN SHOOT  
4 BIRDSHOT OR BUCKSHOT, OR WAS THERE ANOTHER TYPE OF SHOT?

5 KEN WHITLER, THE S.L.E.D. EXPERT -- EXCUSE  
6 ME, I'M SORRY -- (MOVES PAGE) -- THE S.L.E.D. EXPERT  
7 TESTIFIED THAT HE FOUND BUCKSHOT BUT HE ALSO FOUND  
8 FRAGMENTS THAT COULD BE FROM ANOTHER SOURCE. THEY  
9 SEEMED LIKE THEY WERE BUCKSHOT, BUT THEY COULD BE FROM  
10 ANOTHER SOURCE. ANOTHER PROBLEM. WHAT'S THAT OTHER  
11 SOURCE? COULD IT BE BIRD SHOT? COULD IT BE A REGULAR  
12 ROUND FROM A PISTOL OR A RIFLE? WE DON'T KNOW. HE  
13 COULDN'T TELL US THAT. ANOTHER SOURCE. REASONABLE  
14 DOUBT. THAT QUESTION IS UNANSWERED.

15 ULTIMATELY THE STATE'S CASE COMES DOWN TO  
16 DIRECT EVIDENCE VERSUS CIRCUMSTANTIAL EVIDENCE. LET ME  
17 GIVE YOU A DESCRIPTION OF WHAT DIRECT EVIDENCE IS.  
18 DIRECT EVIDENCE IS THIS. (BREAKS PENCIL). I JUST BROKE  
19 A PENCIL. YOU JUST SAW ME BREAK THAT PENCIL. THAT'S  
20 DIRECT EVIDENCE BECAUSE YOU SAW ME TAKE A PENCIL AND  
21 BREAK IT.

22 CIRCUMSTANTIAL EVIDENCE IS THIS. I HAVE A  
23 PENCIL IN MY HAND (LEAVES COURTROOM AND RETURNS). I  
24 COME BACK WITH A BROKEN PENCIL. DID I BREAK THAT  
25 PENCIL? DID SOMEBODY ELSE BREAK THAT PENCIL? DID I

1 DROP THE PENCIL? DID IT BREAK? OR WAS IT THE EXACT  
2 SAME PENCIL THAT I SHOWED YOU EARLIER? THAT'S WHAT THE  
3 PROBLEM WITH CIRCUMSTANTIAL EVIDENCE IS. CIRCUMSTANTIAL  
4 EVIDENCE IS THE ONLY TYPE OF EVIDENCE WHERE EVERYBODY  
5 COULD BE BELIEVED AND AN INNOCENT PERSON COULD STILL BE  
6 CONVICTED.

7 YOU HAVE TO GET PAST REASONABLE DOUBT.  
8 QUESTIONS REMAIN UNANSWERED. THOSE QUESTIONS HAD TO BE  
9 ANSWERED BY THE GOVERNMENT, AND THEY HAVE NOT DONE THAT.  
10 AND THEY HAVE TO DO THAT. WHEN THEY GATHER YOU AND SEAT  
11 YOU IN THAT JURY-BOX, THEY MAKE A DEAL. WE WILL PRESENT  
12 TO YOU PROOF BEYOND A REASONABLE DOUBT BEFORE YOU CAN  
13 SAY ANYTHING ABOUT YOUR FELLOW CITIZEN. BEFORE YOU CAN  
14 PASS JUDGMENT ON ANY FELLOW CITIZEN, WE'LL MAKE A DEAL  
15 WITH YOU. WE'LL SHOW IT BEYOND A REASONABLE DOUBT.

16 THAT BURDEN HASN'T BEEN MET. IT HASN'T BEEN  
17 MET. SAMMY IS NOT RESPONSIBLE FOR JAVARIS'S SAD DEATH  
18 AND THOSE INJURIES TO THOSE OTHER PEOPLE. THE DOTS  
19 DON'T CONNECT, THE FORMULA DOESN'T WORK. AS MUCH AND AS  
20 HARD AS THEY'VE TRIED, THE NUMBERS DON'T ADD UP. AND  
21 YOU HAVE TO HOLD THEM TO THAT BURDEN. THAT IS YOUR  
22 SWORN DUTY. THANK YOU.

23 THE COURT'S CHARGE:

24 THE COURT: MADAM FORELADY AND MEMBERS OF  
25 THE JURY. THE STATE OF SOUTH CAROLINA CHARGES THE

1 DEFENDANT, SAMMY L. SCOTT, WITH ONE COUNT OF MURDER,  
2 FOUR COUNTS OF ASSAULT AND BATTERY WITH INTENT TO KILL,  
3 AND FIVE COUNTS OF POSSESSION OF A FIREARM DURING THE  
4 COMMISSION OF A VIOLENT CRIME.

5 I'LL GIVE YOU A COPY OF THESE INSTRUCTIONS  
6 IN WRITTEN FORM. DURING YOUR DELIBERATIONS YOU MAY  
7 REFER TO THE INSTRUCTIONS TO GUIDE YOUR DECISION-MAKING.  
8 YOU MUST CONSIDER THE INSTRUCTIONS AS A WHOLE AND NOT  
9 FOLLOW SOME AND IGNORE OTHERS. MADAM FORELADY, AFTER  
10 YOU HAVE REACHED A VERDICT, PLEASE RETURN THE CHARGE  
11 BACK TO THE COURT.

12 AS TO THESE INDICTMENTS THE DEFENDANT HAS  
13 ENTERED A PLEA OF NOT GUILTY, WHICH PLACES UPON THE  
14 STATE THE BURDEN OF PROVING THE DEFENDANT GUILTY. THE  
15 PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN  
16 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF  
17 INNOCENT.

18 I CHARGE YOU THAT IT IS A VITAL IMPORTANT  
19 RULE OF THE LAW OF EVIDENCE THAT A DEFENDANT IN A  
20 CRIMINAL TRIAL, NO MATTER HOW GREAT OR SERIOUS MAY BE  
21 THE OFFENSE WITH WHICH HE IS CHARGED, MUST ALWAYS BE  
22 PRESUMED INNOCENT UNTIL HIS GUILT HAS BEEN PROVEN BEYOND  
23 A REASONABLE DOUBT. THIS PRESUMPTION OF INNOCENCE  
24 REMAINS WITH THE DEFENDANT AT ALL TIMES, FROM THE MOMENT  
25 OF HIS APPEARANCE IN THIS COURT, THROUGHOUT THE TRIAL,

1 AND UNTIL YOU, THE JURY, HAVE, UPON THE TESTIMONY AND  
2 EVIDENCE PRESENTED, REACHED A VERDICT OF GUILTY BEYOND A  
3 REASONABLE DOUBT. FOR IT IS THE SOLEMN DUTY OF THE  
4 JURY, IF NOT CLEARLY CONVINCED OF HIS GUILT BEYOND A  
5 REASONABLE DOUBT, TO ACQUIT THE DEFENDANT.

6 SO THE BURDEN OF PROOF IS UPON THE STATE TO  
7 ESTABLISH BY EVIDENCE TO YOUR SATISFACTION THE GUILT  
8 BEYOND A REASONABLE DOUBT OF THIS DEFENDANT.

9 WHAT IS REASONABLE DOUBT? A REASONABLE  
10 DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE  
11 PERSON TO HESITATE TO ACT. IF YOU HAVE SUCH A DOUBT AS  
12 TO THE GUILT OF THE DEFENDANT, HE WOULD BE ENTITLED TO A  
13 VERDICT OF NOT GUILTY. REASONABLE DOUBT MAY ARISE FROM  
14 EVIDENCE WHICH IS IN THE CASE, OR FROM THE ABSENCE OR  
15 LACK OF EVIDENCE IN THE CASE.

16 YOU ALONE MUST MAKE A DETERMINATION OF  
17 WHETHER OR NOT REASONABLE DOUBT EXISTS AS TO THE GUILT  
18 OF THE DEFENDANT.

19 THE TERM REASONABLE DOUBT SHOULD BE GIVEN  
20 ITS EVERYDAY, PLAIN AND ORDINARY MEANING. PROOF BEYOND  
21 A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY  
22 CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW  
23 THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE  
24 CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT  
25 REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF

1    BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE  
2    FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE  
3    CRIME CHARGED, YOU MUST FIND HIM GUILTY.  IF, ON THE  
4    OTHER HAND, IF YOU ARE NOT FIRMLY CONVINCED OF THE  
5    DEFENDANT'S GUILT, YOU MUST GIVE HIM THE BENEFIT OF THE  
6    DOUBT AND FIND HIM NOT GUILTY.

7                    THE EVIDENCE FROM WHICH YOU ARE TO DECIDE  
8    WHAT THE FACTS CONSIST OF:

9                    (1) THE SWORN TESTIMONY OF WITNESSES, BOTH  
10    ON DIRECT AND CROSS-EXAMINATION, REGARDLESS OF WHO  
11    CALLED THE WITNESS;

12                   (2) THE EXHIBITS THAT HAVE BEEN RECEIVED IN  
13    EVIDENCE; AND.

14                   (3) ANY FACTS TO WHICH THE LAWYERS HAVE  
15    AGREED AND STIPULATED.

16                   WHAT IS NOT EVIDENCE?  CERTAIN THINGS ARE  
17    NOT EVIDENCE AND YOU MAY NOT CONSIDER THEM IN DECIDING  
18    WHAT THE FACTS ARE.  I WILL LIST THEM FOR YOU:

19                   (1) ARGUMENTS AND STATEMENTS BY THE LAWYERS  
20    ARE NOT EVIDENCE.  THE LAWYERS ARE NOT WITNESSES.  WHAT  
21    THEY HAVE SAID IN THEIR OPENING STATEMENTS, CLOSING  
22    ARGUMENTS AND AT OTHER TIMES IS INTENDED TO HELP YOU  
23    INTERPRET THE EVIDENCE, BUT IT IS NOT EVIDENCE.  IF THE  
24    FACTS, AS YOU REMEMBER THEM, ARE DIFFERENT FROM THE WAY  
25    THE LAWYERS HAVE STATED THEM, YOUR MEMORY CONTROLS.

1           (2) QUESTIONS OR OBJECTIONS BY LAWYERS ARE  
2 NOT EVIDENCE. ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO  
3 OBJECT WHEN THEY BELIEVE THE QUESTION IS IMPROPER UNDER  
4 THE RULES OF EVIDENCE. YOU SHOULD NOT BE INFLUENCED BY  
5 THE OBJECTION OR BY THE COURT'S RULING ON IT.

6           (3) TESTIMONY THAT HAS BEEN EXCLUDED OR  
7 STRICKEN, OR THAT WHICH YOU HAVE BEEN INSTRUCTED TO  
8 DISREGARD, IS NOT EVIDENCE AND MUST NOT BE CONSIDERED.

9           (4) ANYTHING YOU MAY HAVE SEEN ON  
10 TELEVISION, READ IN THE NEWSPAPER, OR HEARD FROM OTHERS  
11 WHEN THE COURT WAS NOT IN SESSION IS NOT EVIDENCE. YOU  
12 ARE TO DECIDE THIS CASE SOLELY ON THE EVIDENCE RECEIVED  
13 IN TRIAL.

14           UNDER OUR CONSTITUTION AND CODE OF LAWS,  
15 ONLY YOU -- THE JURY -- CAN MAKE THE FINDINGS OF FACTS  
16 IN THIS CASE. I AM NOT PERMITTED TO INDICATE TO YOU HOW  
17 I MAY FEEL ABOUT THE TESTIMONY AND EVIDENCE WHICH HAS  
18 BEEN PRESENTED. AND THROUGHOUT THIS TRIAL, IT HAS BEEN  
19 MY INTENTION TO BE FAIR AND IMPARTIAL TOWARD EACH OF THE  
20 PARTIES INVOLVED.

21           TO DETERMINE THE FACTS IN THIS CASE YOU HAVE  
22 TO EVALUATE THE CREDIBILITY -- WHICH MEANS THE  
23 BELIEVABILITY -- OF EACH WITNESS. SOME OF THE THINGS  
24 YOU MAY CONSIDER AS YOU DECIDE WHETHER OR NOT TO BELIEVE  
25 A WITNESS'S TESTIMONY ABOUT A PARTICULAR MATTER INCLUDE:

1           FIRST, WHAT WAS THE MANNER AND APPEARANCE OF  
2 THE WITNESS WHO TESTIFIED? WAS HE OR SHE  
3 STRAIGHTFORWARD OR HESITANT IN ANSWERING?

4           SECOND, WAS THE TESTIMONY OF A WITNESS  
5 CONSISTENT -- OR INCONSISTENT?

6           THIRD, HOW DID THE WITNESS COME TO KNOW THE  
7 FACTS THAT HE OR SHE TESTIFIED TO? WAS THE PERSON  
8 PRESENT DURING THE INCIDENT, OR DID HE HAPPEN ON THE  
9 SCENE AFTER IT HAD OCCURRED?

10          FOURTH, IS THERE SOME REASON A WITNESS WOULD  
11 WANT TO GIVE TESTIMONY WHICH WOULD HELP -- OR HURT --  
12 ONE SIDE OR THE OTHER? IN OTHER WORDS, WAS THE WITNESS  
13 BIASED OR PREJUDICED?

14          FIFTH, WAS THE TESTIMONY OF A WITNESS  
15 STRENGTHENED -- OR WEAKENED -- BY OTHER TESTIMONY OR  
16 EVIDENCE?

17               YOU CAN BELIEVE AS MUCH OR AS LITTLE OF EACH  
18 WITNESS'S TESTIMONY AS YOU THINK PROPER. YOU MAY  
19 BELIEVE THE TESTIMONY OF A SINGLE WITNESS AGAINST THAT  
20 OF MANY WITNESSES -- OR JUST THE OPPOSITE.

21               OF COURSE, YOU DO NOT DETERMINE THE TRUTH  
22 MERELY BY COUNTING THE NUMBER OF WITNESSES PRESENTED BY  
23 EACH SIDE.

24               THROUGHOUT THIS PROCESS YOU HAVE BUT ONE  
25 OBJECTIVE -- TO SEEK THE TRUTH, REGARDLESS OF ITS

1 SOURCE.

2 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE  
3 GENERALLY PRESENTED DURING A TRIAL: DIRECT EVIDENCE AND  
4 CIRCUMSTANTIAL EVIDENCE.

5 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON  
6 WHO ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A  
7 FACT, SUCH AS AN EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS  
8 PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING  
9 THE EXISTENCE OF A FACT.

10 THE LAW MAKES ABSOLUTELY NO DISTINCTION  
11 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT  
12 OR CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF  
13 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF  
14 DIRECT EVIDENCE.

15 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE  
16 CASE. ON A CONTESTED FACTUAL ISSUE, YOU MAY HAVE SOME  
17 DIRECT EVIDENCE AND SOME CIRCUMSTANTIAL EVIDENCE.

18 TO DETERMINE THE FACTS IN THIS CASE, YOU  
19 WILL HAVE TO EVALUATE THE CREDIBILITY, WHICH MEANS THE  
20 BELIEVABILITY, OF EACH WITNESS.

21 THE RULES OF EVIDENCE ORDINARILY DO NOT  
22 PERMIT WITNESSES TO TESTIFY AS TO THEIR OPINIONS OR  
23 CONCLUSIONS. AN EXCEPTION, HOWEVER, TO THIS RULE DOES  
24 EXIST AS TO THOSE WHOM WE CALL "EXPERT WITNESSES."  
25 EXPERT WITNESSES ARE WITNESSES WHO, BY EDUCATION AND

1 EXPERIENCE, HAVE BECOME EXPERT IN SOME ART, SCIENCE,  
2 PROFESSION OR CALLING. THESE WITNESS MAY STATE THEIR  
3 OPINIONS AS TO RELEVANT AND MATERIAL MATTER, IN WHICH  
4 THEY PROFESS TO BE AN EXPERT, AND MAY ALSO STATE THEIR  
5 REASONS FOR THE OPINION.

6 YOU SHOULD CONSIDER EXPERT OPINION RECEIVED  
7 INTO EVIDENCE IN THIS CASE, AND GIVE IT SUCH WEIGHT AS  
8 YOU THINK IT DESERVES. IF YOU SHOULD DECIDE THAT THE  
9 OPINION OF AN EXPERT WITNESS IS NOT BASED UPON  
10 SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU SHOULD  
11 CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE  
12 OPINION ARE NOT SOUND OR IF YOU FEEL IT IS OUTWEIGHED BY  
13 OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

14 I CHARGE YOU FURTHER THAT THE FACT THAT A  
15 DEFENDANT ELECTS NOT TO TESTIFY ON HIS OWN BEHALF CANNOT  
16 AND MUST NOT BE CONSIDERED AGAINST HIM UNDER ANY  
17 CIRCUMSTANCES OR IN ANY MANNER WHATSOEVER.

18 THE DECISION OF ANY DEFENDANT NOT TO TAKE  
19 THE WITNESS STAND AND TESTIFY IN HIS OWN BEHALF DOES NOT  
20 CREATE ANY INFERENCE AGAINST HIM, AND I TELL YOU NOW  
21 THAT YOU MUST NOT PERMIT THAT FACT TO WEIGH IN EVEN THE  
22 SLIGHTEST DEGREE AGAINST THE DEFENDANT. YOU SHOULD NOT  
23 PERMIT THIS FACT TO ENTER INTO THE DISCUSSIONS OR  
24 DELIBERATIONS OF THE ISSUES IN THIS CASE.

25 THE SAME CONSTITUTION AND LAWS WHICH

1 DESIGNATE AND MAKE YOU THE FINDERS OF THE FACTS -- AS I  
2 JUST EXPLAINED -- ALSO MAKE ME THE SOLE INSTRUCTOR OF  
3 THE LAW. YOU SHOULD ACCEPT STATEMENTS OF THE LAW AS I  
4 GIVE THEM TO YOU. THE LAWYERS ARE NOT THE INSTRUCTORS  
5 OF THE LAW. PLEASE BASE YOUR DECISION-MAKING ON WHAT  
6 THE LAW IS AND NOT WHAT YOU THINK THE LAW SHOULD BE.

7 THE DEFENDANT'S STATEMENT. WHILE THE COURT  
8 GENERALLY DETERMINES THE ADMISSIBILITY OF EVIDENCE, I  
9 INSTRUCT YOU THAT AS REGARDING THE ALLEGED STATEMENT BY  
10 THE DEFENDANT THAT YOU LADIES AND GENTLEMEN OF THE JURY  
11 MAKE THE ULTIMATE DETERMINATION OF WHETHER OR NOT THE  
12 DEFENDANT MADE SAID STATEMENT, AND IF HE DID MAKE IT,  
13 WHETHER HE WAS WARNED OF HIS CONSTITUTIONAL RIGHTS, AND  
14 WHETHER HE KNOWINGLY AND INTELLIGENTLY WAIVED HIS  
15 CONSTITUTIONAL RIGHTS, AND WHETHER IT WAS MADE BY THE  
16 DEFENDANT VOLUNTARILY AND OF HIS OWN FREE WILL; AND  
17 FINALLY, JUST WHAT WEIGHT, IF ANY, SHOULD BE GIVEN TO  
18 THE STATEMENT.

19 I CHARGE YOU THAT YOU MUST DETERMINE IF THE  
20 ALLEGED STATEMENT WAS A RESULT OF AN ESSENTIALLY FREE  
21 AND UNCONSTRAINED CHOICE BY ITS MAKER. IF YOU DETERMINE  
22 THAT IT WAS, AND THE BURDEN IS UPON THE STATE TO PROVE  
23 THIS FACT, AS ALL OTHER FACTS, BEYOND A REASONABLE  
24 DOUBT, THEN YOU MAY GIVE IT SUCH OTHER CONSIDERATION AS  
25 YOU DEEM PROPER. IF YOU DETERMINE THE ALLEGED STATEMENT

1 WAS NOT THE FREE AND VOLUNTARY WILLED EXPRESSION OF THE  
2 DEFENDANT, YOU SHOULD NOT CONSIDER IT AT ALL.

3 IN DETERMINING WHETHER A DEFENDANT'S WILL  
4 WAS OVERCOME IN OBTAINING A STATEMENT, YOU SHOULD  
5 CONSIDER BOTH THE CHARACTERISTICS OF THE ACCUSED AND THE  
6 DETAILS OF INTERROGATION, WHICH IS OFTEN REFERRED TO AS  
7 THE "TOTALITY OF THE CIRCUMSTANCES."

8 SOME OF THE FACTS THAT YOU MAY CONSIDER ARE:  
9 THE AGE AND YOUTH OF THE ACCUSED;  
10 HIS EDUCATION OR LACK THEREOF;  
11 HIS MENTAL ABILITY OR CAPACITY: HIS I.Q. OR  
12 INTELLIGENCE;.

13 HIS BACKGROUND AND ENVIRONMENT;

14 THE ADVICE, OR LACK THEREOF, TO THE ACCUSED  
15 OF HIS CONSTITUTIONAL RIGHTS, INCLUDING BUT NOT LIMITED  
16 TO THE PROCEDURAL SAFEGUARDS KNOWN AS THE MIRANDA  
17 WARNINGS CONCERNING THE RIGHT TO REMAIN SILENT, THAT A  
18 STATEMENT COULD BE USED AGAINST HIM IN A COURT OF LAW,  
19 THE RIGHT TO HAVE A LAWYER PRESENT, IF HE WAS INDIGENT,  
20 THAT IS, HE COULD NOT AFFORD A LAWYER, THEN A LAWYER  
21 WOULD BE APPOINTED TO REPRESENT HIM AND COULD STOP THE  
22 STATEMENT AT ANY TIME.

23 OTHER FACTORS TO CONSIDER ARE THE PLACE AND  
24 LENGTH OF HIS DETENTION AND THE NATURE OF THE  
25 QUESTIONING.

1           YOU, THE JURY, MUST CAREFULLY SCRUTINIZE ALL  
2 OF THE SURROUNDING CIRCUMSTANCES, AND BEFORE YOU GIVE  
3 ANY WEIGHT TO THE ALLEGED STATEMENT, YOU MUST BE  
4 SATISFIED BEYOND A REASONABLE DOUBT THAT IT WAS MADE BY  
5 THE ACCUSED, UNINFLUENCED BY PROMISE OR REWARD OR THREAT  
6 OF INJURY.

7           THE DEFINITION OF MURDER. WHAT IS MURDER BY  
8 DEFINITION? MURDER MAY BE DEFINED AS THE WILLFUL,  
9 FELONIOUS KILLING OF A HUMAN BEING WITH MALICE  
10 AFORETHOUGHT, THAT MALICE EITHER BEING EITHER EXPRESS  
11 MALICE OR IMPLIED MALICE.

12           THE DEFINITION OF MALICE. MALICE IS A WORD  
13 SUGGESTING WICKEDNESS, HATRED, AND A DETERMINATION TO DO  
14 WHAT ONE KNOWS TO BE WRONG WITHOUT JUST CAUSE OR EXCUSE  
15 OR ILLEGAL PROVOCATION.

16           MALICE NEED NOT BE IN THE MIND OF THE ONE  
17 DOING THE KILLING FOR ANY PARTICULAR LENGTH OF TIME  
18 BEFORE THE ACT.

19           ITS PRESENCE WOULD BE SUFFICIENT TO RENDER  
20 THE KILLING MURDER. MALICE IS SAID TO BE EXPRESS WHERE  
21 THERE IS MANIFESTATION OF VIOLENT DELIBERATE INTENTION  
22 UNLAWFULLY TO TAKE AWAY THE LIFE OF ANOTHER HUMAN BEING.  
23 MALICE IS IMPLIED WHERE ONE INTENTIONALLY AND  
24 DELIBERATELY DOES AN UNLAWFUL ACT WHICH HE THEN KNOWS TO  
25 BE WRONG AND IN VIOLATION OF HIS DUTY TO ANOTHER, AND

1 WHERE NO EXCUSE OR LEGAL PROVOCATION APPEARS AND WHEN  
2 THE CIRCUMSTANCES ATTENDING A KILLING SHOW AN ABANDONED  
3 HEART, A MALIGNANT HEART FATALLY BENT UPON MISCHIEF.

4 MALICE MAY BE EXPRESSED, AS WHERE THERE ARE  
5 PREVIOUS THREATS OF VENGEANCE, OR LYING IN WAIT, OR  
6 OTHER CIRCUMSTANCES SHOW DIRECTLY THAT AN INTENT TO KILL  
7 WAS ENTERTAINED. THE JURY MAY ALSO CONCLUDE BY  
8 DEDUCTIVE REASONING THAT UNDER CERTAIN CIRCUMSTANCES,  
9 MALICE ARISES EVEN THOUGH THERE IS NO EXPRESS OR DIRECT  
10 EVIDENCE OF AN INTENT TO KILL.

11 THOUGH NO EXPRESSED INTENT TO KILL IS PROVEN  
12 BY DIRECT EVIDENCE, MALICE MAY BE INFERRED FROM THE  
13 FACTS AND CIRCUMSTANCES WHICH ARE PROVED. MALICE MAY BE  
14 INFERRED BY THE WILLFUL, DELIBERATE AND INTENTIONAL  
15 DOING OF AN UNLAWFUL ACT, WITHOUT JUST CAUSE OR LEGAL  
16 EXCUSE. IN OTHER WORDS, MALICE MEANS THE DOING OF A  
17 WRONGFUL ACT INTENTIONALLY, WITHOUT JUSTIFICATION OR  
18 LEGAL EXCUSE. EVEN IF FACTS PROVED ARE SUFFICIENT TO  
19 RAISE AN INFERENCE OF MALICE, THIS INFERENCE WOULD BE  
20 SIMPLY AN EVIDENTIARY FACT TO BE TAKEN INTO  
21 CONSIDERATION BY YOU.

22 THE USE OF A DEADLY WEAPON PERMITS YOU TO  
23 INFER MALICE, BUT IT DOES NOT REQUIRE YOU TO INFER  
24 MALICE. IN OTHER WORDS, IF SUCH CONDUCT RESULTS  
25 DIRECTLY IN THE DEATH OF ANOTHER, AND SUCH CONDUCT WAS

1 SO CULPABLE AND INEXCUSABLE, SO AGGRAVATED AND GROSSLY  
2 RECKLESS AS TO SHOW AN ACTIVE INTENTIONAL DISREGARD OF  
3 THE CONSEQUENCES OF HUMAN LIFE, THUS DENOTING A  
4 MALIGNANT SPIRIT, A HEART DEVOID OF SOCIAL DUTY AND  
5 FATALLY BENT ON MISCHIEF, AN IMPLICATION OF MALICE MAY  
6 ARISE.

7 ASSAULT AND BATTERY WITH INTENT TO KILL.  
8 THE DEFENDANT IS CHARGED WITH ASSAULT WITH INTENT TO  
9 KILL [SIC]. IN ORDER TO PROVE ASSAULT WITH INTENT TO  
10 KILL, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT  
11 THAT THE DEFENDANT HAD MALICE AFORETHOUGHT WHEN HE  
12 UNLAWFULLY ATTEMPTED OR OFFERED TO COMMIT A VIOLENT  
13 INJURY UPON ANOTHER PERSON AND HAD THE PRESENT ABILITY  
14 TO COMPLETE THE ATTEMPTED INJURY. AN ASSAULT IS THE  
15 INTENTIONAL CREATION OF A REASONABLE FEAR OF IMMEDIATE  
16 BODILY HARM. IT IS NOT NECESSARY THAT THE ATTEMPTED  
17 INJURY OR HARM ACTUALLY TAKE PLACE. FOR EXAMPLE, IF I  
18 WALK UP TO YOU AND WE ARE WITHIN ARM'S REACH, AND I DRAW  
19 BACK TO HIT YOU, THAT IS AN ASSAULT.

20 A BATTERY IS THE UNLAWFUL TOUCHING OF  
21 ANOTHER PERSON BY THE PERSON WHO HAS COMMITTED THE  
22 ASSAULT. AN UNLAWFUL TOUCHING CAN BE CAUSED BY A PART  
23 OF THE ACCUSED'S BODY OR BY ANY OBJECT THAT THE ACCUSED  
24 PUTS IN MOTION. A BATTERY IS THE COMPLETION OF THE  
25 ASSAULT BY USING APPLYING FORCE TO ANOTHER PERSON,

1   HOWEVER SLIGHT, IN A RUDE, ANGRY, OR RESENTFUL MANNER  
2   WITHOUT LEGAL JUSTIFICATION IN DOING SO. USING MY  
3   EARLIER EXAMPLE, IF I CARRY THROUGH THE ASSAULT BY  
4   HITTING YOU, THAT IS A BATTERY.

5           I HAVE ALREADY CHARGED YOU AS TO THE MEANING  
6   OF MALICE AFORETHOUGHT. THE SAME DEFINITION OF MALICE  
7   AFORETHOUGHT IN MURDER CHARGE APPLIES TO ASSAULT AND  
8   BATTERY WITH THE INTENT TO KILL. MALICE MAY BE INFERRED  
9   FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.  
10   INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE  
11   WITH A DEADLY WEAPON. I HAVE ALREADY CHARGED YOU AS TO  
12   THE MEANING OF "DEADLY WEAPON."

13           IF FACTS ARE PROVED BEYOND A REASONABLE  
14   DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR  
15   SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN  
16   EVIDENTIARY FACT TO BE CONSIDERED BY YOU, THE JURY,  
17   ALONG WITH THE OTHER EVIDENCE IN THE CASE, AND YOU MAY  
18   GIVE IT THE WEIGHT YOU DECIDE IT SHOULD RECEIVE.

19           A SPECIFIC INTENT TO KILL IS NOT AN ELEMENT  
20   OF ASSAULT AND BATTERY WITH INTENT TO KILL, BUT THERE  
21   MUST BE A GENERAL INTENT TO COMMIT SERIOUS BODILY  
22   INJURY. INTENT MEANS INTENDING THE RESULT WHICH  
23   ACTUALLY OCCURS; NOT ACCIDENTALLY OR INVOLUNTARY.  
24   INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF DEFENDANT AND  
25   OTHER CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND

1 REASONABLY INFER INTENT. EVIDENCE OF THE CHARACTER OF  
2 THE ASSAULT, THE CHARACTER OF THE INSTRUMENT USED, THE  
3 MANNER IN WHICH IT WAS USED, THE PURPOSE TO BE  
4 ACCOMPLISHED, AND THE RESULTING WOUNDS OR INJURIES MAY  
5 BE CONSIDERED TO DETERMINE THE INTENT WITH WHICH THE  
6 ASSAULT WAS COMMITTED. INTENT MAY BE INFERRED WHEN IT  
7 IS DEMONSTRATED THE DEFENDANT VOLUNTARILY AND WILLFULLY  
8 COMMITS AN ACT, THE NATURAL TENDENCY OF WHICH IS TO  
9 DESTROY ANOTHER'S LIFE.

10 TRANSFERRED INTENT. IF THE DEFENDANT, WITH  
11 MALICE AFORETHOUGHT, ATTEMPTS TO KILL ANOTHER PERSON,  
12 BUT BY MISTAKE, INJURES OR KILLS A DIFFERENT PERSON, THE  
13 DEFENDANT STILL HAS THE INTENT TO KILL. THE INTENT TO  
14 KILL IS MERELY TRANSFERRED FROM THE ORIGINAL PERSON THE  
15 DEFENDANT ATTEMPTED TO KILL TO THE ACTUAL PERSON KILLED  
16 OR INJURED. A DEFENDANT SHALL BE GUILTY OF ASSAULT AND  
17 BATTERY WITH INTENT TO KILL JUST AS IF THE ATTEMPT HAD  
18 RESULTED IN THE DEATH OR INJURY OF THE PERSON THE  
19 DEFENDANT ATTEMPTED TO KILL, AS WELL AS TRANSFERRED  
20 MALICE AFORETHOUGHT IN MURDER.

21 POSSESSION OF A WEAPON DURING THE COMMISSION  
22 OF, OR ATTEMPT TO COMMIT, A VIOLENT CRIME. THE  
23 DEFENDANT IS CHARGED WITH POSSESSION OF A WEAPON DURING  
24 THE COMMISSION OF, OR ATTEMPT TO COMMIT A VIOLENT CRIME.  
25 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE

1 DEFENDANT WAS IN POSSESSION OF A FIREARM OR VISIBLY  
2 DISPLAYED OR WHAT APPEARED TO BE A FIREARM DURING THE  
3 COMMISSION OF A VIOLENT CRIME.

4 A FIREARM MEANS ANY MACHINE GUN, AUTOMATIC  
5 RIFLE, REVOLVER, OR PISTOL. IN ORDER TO FIND THE  
6 DEFENDANT GUILTY OF POSSESSION OF A WEAPON DURING THE  
7 COMMISSION OF A VIOLENT CRIME, YOU MUST FIRST FIND THE  
8 DEFENDANT GUILTY OF COMMITTING A VIOLENT CRIME OR  
9 ATTEMPTING TO COMMIT A VIOLENT CRIME.

10 ASSAULT AND BATTERY WITH INTENT TO KILL,  
11 KIDNAPPING, ARMED ROBBERY, AND FIRST-DEGREE BURGLARY ARE  
12 ALL DEFINED AS VIOLENT CRIMES IN THE STATE OF SOUTH  
13 CAROLINA.

14 SELF-DEFENSE. THE DEFENDANT HAD RAISED THE  
15 DEFENSE OF SELF-DEFENSE. SELF-DEFENSE IS A COMPLETE  
16 DEFENSE AND, IF IT IS ESTABLISHED, YOU MUST FIND THE  
17 DEFENDANT NOT GUILTY. THE STATE HAS THE BURDEN OF  
18 DISPROVING SELF-DEFENSE BY PROOF BEYOND A REASONABLE  
19 DOUBT. IF YOU HAVE A REASONABLE DOUBT OF THE  
20 DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE,  
21 INCLUDING EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND  
22 THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF YOU  
23 HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER  
24 CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF  
25 SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

1           THERE ARE FOUR ELEMENTS REQUIRED BY LAW TO  
2 ESTABLISH WHAT IS REFERRED TO AS SELF-DEFENSE IN THIS  
3 CASE.

4           FIRST, THE DEFENDANT MUST BE WITHOUT FAULT  
5 IN BRINGING ON THE DIFFICULTY.

6           SECOND, THE DEFENDANT MUST HAVE ACTUALLY  
7 BELIEVED HE WAS IN IMMINENT DANGER OF LOSING HIS LIFE OR  
8 SUSTAINING SERIOUS BODILY INJURY, OR HE ACTUALLY  
9 BELIEVED HE WAS IN DANGER.

10           A DEFENDANT MUST SHOW THAT HE BELIEVED THAT  
11 HE WAS IN IMMINENT DANGER, NOT THAT HE WAS ACTUALLY IN  
12 SUCH DANGER, BECAUSE HE HAD THE RIGHT TO ACT ON  
13 APPEARANCES, AND UNDER THE CIRCUMSTANCES AS THEY  
14 APPEARED TO HIM, HE BELIEVED HE WAS IN SUCH DANGER. A  
15 PERSON MAY ACT ON APPEARANCES AND IF THE APPEARANCES ARE  
16 SUCH THAT A PERSON OF ORDINARY COURAGE, FIRMNESS, AND  
17 PRUDENCE WOULD HAVE BEEN JUSTIFIED IN COMING TO THE  
18 CONCLUSION THAT THE NECESSITY DID THEN AND THERE EXIST  
19 TO STRIKE TO SAVE HIMSELF FROM SERIOUS BODILY HARM OR  
20 DEATH, THAT WOULD BE SUFFICIENT, ALTHOUGH IT TURNED OUT  
21 AFTERWARDS THAT THERE WAS NO ACTUAL DANGER PRESENT, AND  
22 THAT THE NECESSITY TO STRIKE DID NOT EXIST.

23           THIRD, IF THIS DEFENSE IS BASED UPON THE  
24 DEFENDANT'S BELIEF OF IMMINENT DANGER, A REASONABLY  
25 PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD

1 HAVE ENTERTAINED THE SAME BELIEF. IF THE DEFENDANT  
2 ACTUALLY WAS IN IMMINENT DANGER, THE CIRCUMSTANCES WERE  
3 SUCH AS WOULD WARRANT A PERSON OF ORDINARY PRUDENCE,  
4 FIRMNESS AND COURAGE TO STRIKE THE FATAL BLOW IN ORDER  
5 TO SAVE HIMSELF FROM SERIOUS BODILY HARM OR LOSING HIS  
6 OWN LIFE.

7 FOURTH, THE DEFENDANT HAD NO OTHER PROBABLE  
8 MEANS OF AVOIDING THE DANGER OF LOSING HIS OWN LIFE OR  
9 SUSTAINING SERIOUS BODILY INJURY OTHER THAN TO ACT AS HE  
10 DID IN THIS PARTICULAR INSTANCE. THESE ARE THE ELEMENTS  
11 OF SELF-DEFENSE.

12 IF YOU HAVE A REASONABLE DOUBT OF THE  
13 DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE,  
14 INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST  
15 FIND HIM NOT GUILTY. ON THE OTHER HAND, IF YOU HAVE NO  
16 REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER  
17 CONSIDERING ALL THE EVIDENCE, TO INCLUDE THE EVIDENCE OF  
18 SELF-DEFENSE, YOU MUST FIND HIM GUILTY.

19 PRIOR INCIDENTS OF VIOLENCE BY THE VICTIM  
20 MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT  
21 ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR  
22 SERIOUS BODILY HARM OR WAS ACTUALLY IN IMMINENT DANGER.

23 WORDS ACCOMPANIED BY HOSTILE ACTS MAY,  
24 DEPENDING ON THE CIRCUMSTANCES, ESTABLISH SELF-DEFENSE.

25 THE RELATIVE SIZES, AGES, AND WEIGHTS OF THE

1 DEFENDANT AND THE VICTIM MAY BE CONSIDERED IN DECIDING  
2 THE APPARENT OR ACTUAL NEED FOR FORCE IN SELF-DEFENSE  
3 AND AMOUNT OF FORCE NEEDED.

4 YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL  
5 JURORS, SWORN TO IMPARTIALLY TRY AND DETERMINE THE FACTS  
6 OF THIS CASE, AND WHEN YOU COMPLY WITH YOUR OATH TO DO  
7 SO, THEN NO ONE WILL HAVE THE RIGHT TO CRITICIZE YOUR  
8 VERDICT, AND YOU WILL HAVE FULLY DISCHARGED YOUR DUTY AS  
9 JURORS. YOU ARE TO DECIDE THIS CASE ACCORDING TO THE  
10 TESTIMONY THAT YOU HAVE HEARD FROM THE LIPS OF THE SWORN  
11 WITNESSES, ALONG WITH OTHER EVIDENCE INTRODUCED.

12 I CHARGE YOU THAT AS JURORS YOU MUST DECIDE  
13 THE ISSUES IN THIS PROCEEDING WITHOUT BIAS AND WITHOUT  
14 PREJUDICE TO ANY PARTY AND NOT ALLOW YOURSELF TO BE  
15 GOVERNED BY SYMPATHY, BY PREJUDICE, BY PASSION, BY  
16 PUBLIC OPINION OR ANY OTHER ARBITRARY FACTOR.

17 BOTH THE STATE AND THE DEFENDANT HAVE THE  
18 RIGHT TO EXPECT THAT EACH OF YOU WILL CAREFULLY AND  
19 IMPARTIALLY CONSIDER ALL OF THE EVIDENCE IN THE CASE AND  
20 THAT YOU WILL FOLLOW THE LAW AS I HAVE EXPLAINED IT TO  
21 YOU.

22 NOTHING THAT I MAY HAVE SAID OR DONE DURING  
23 THE COURSE OF THIS TRIAL HAS BEEN IN ANY WAY INTENDED TO  
24 EXPRESS OR SUGGEST A VIEW OF THE CASE OR AN OPINION AS  
25 TO THE FACTS, THE WEIGHT OF THE EVIDENCE OR THE

1 CREDIBILITY OF THE WITNESSES. IF ANY OF MY ACTIONS OR  
2 WORDS HAVE SEEMED TO SO INDICATE, YOU WILL DISREGARD  
3 SUCH AND FORM YOUR OWN OPINION AS TO THESE MATTERS.

4 LADIES AND GENTLEMEN, YOUR VERDICT HAS TO BE  
5 UNANIMOUS. ALL 12 OF YOU HAVE TO AGREE. IT IS A  
6 COLLECTIVE REASONING PROCESS. ALL 12 OF YOU HAVE TO  
7 REASON THROUGH THE FACTS AND THE EVIDENCE AND ARRIVE AT  
8 A LAWFUL AND JUST VERDICT. AND AS I JUST TOLD YOU, IT  
9 HAS TO BE UNANIMOUS, MADAM FORELADY, ALL 12 OF YOU HAVE  
10 TO AGREE. AND I WOULD ASK YOU TO RESPECT EACH OTHER'S  
11 OPINIONS, REVIEW THE EVIDENCE, AND TO DISCUSS THE CASE  
12 AMONGST YOURSELVES.

13 MADAM FORELADY, I HAVE PREPARED FIVE VERDICT  
14 FORMS, AND THE FIRST ONE HAS AT THE TOP THE CAPTION OF  
15 THE CASE, THE STATE VERSUS SAMMY L. SCOTT, THE CASE  
16 NUMBER, AND IT SAYS: WE, THE JURY, FIND THE DEFENDANT,  
17 SAMMY L. SCOTT, GUILTY OF THE MURDER OF JAVARIS  
18 CLINKSCALES.

19 WE, THE JURY, FIND THE DEFENDANT, SAMMY L.  
20 SCOTT, NOT GUILTY OF THE MURDER OF JAVARIS CLINKSCALES.

21 AND MADAM FORELADY, IT SAYS: IF YOU FIND  
22 THE DEFENDANT, SAMMY SCOTT, NOT GUILTY OF THE MURDER OF  
23 JAVARIS CLINKSCALES, DO NOT PROCEED ANY FURTHER. IF YOU  
24 FIND THE DEFENDANT GUILTY OF MURDER, PROCEED BELOW.

25 BELOW: WE, THE JURY, FIND THE DEFENDANT,

1 SAMMY L. SCOTT, GUILTY OF POSSESSION OF A FIREARM DURING  
2 THE COMMISSION OF A VIOLENT CRIME AS TO THE MURDER OF  
3 JAVARIS CLINKSCALES. WE, THE JURY, FIND THE DEFENDANT,  
4 SAMMY L. SCOTT, NOT GUILTY FOR THE POSSESSION OF A  
5 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME AS TO  
6 MURDER OF JAVARIS CLINKSCALES. THERE'S A PLACE FOR THE  
7 DATE AND A PLACE FOR THE FOREPERSON TO SIGN.

8 NOW, THE NEXT FOUR ARE CONCERNING THE  
9 ASSAULT AND BATTERY WITH INTENT TO KILL ON THE FOUR  
10 VICTIMS. WE, THE JURY, FIND THE DEFENDANT, SAMMY L.  
11 SCOTT, GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL  
12 JAMES BURNS. WE, THE JURY, FIND THE DEFENDANT, SAMMY L.  
13 SCOTT, NOT GUILTY OF ASSAULT AND BATTERY WITH INTENT TO  
14 KILL JAMES BURNS. IF YOU FIND THE DEFENDANT SAMMY SCOTT  
15 NOT GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL,  
16 DON'T PROCEED ANY FURTHER. IF YOU DO, THEN YOU GO  
17 ANSWER THE QUESTIONS ABOUT THE GUN DURING THE COMMISSION  
18 OF A VIOLENT CRIME, GUILTY OR NOT GUILTY.

19 THE NEXT VERDICT FORM IS ASSAULT AND BATTERY  
20 WITH INTENT TO KILL INDIA GALLOWAY. IT'S THE SAME  
21 FORMAT, THE SAME LANGUAGE AS THE ASSAULT AND BATTERY OF  
22 JAMES BURNS.

23 THEN WE HAVE THE THIRD ONE, ASSAULT AND  
24 BATTERY WITH INTENT TO KILL SHAQUIL MARTIN, THE SAME  
25 FORMAT AS THE OTHER TWO.

1                   LASTLY, WE, THE JURY, FIND THE DEFENDANT  
2 CONCERNING INTENT TO KILL SYDNEY CHESTER. THE SAME AS  
3 THE OTHER THREE VERDICT FORMS ON ASSAULT AND BATTERY.

4                   MADAM FORELADY, YOU HAVE FIVE VERDICT FORMS.  
5 IF YOU CAN FIND THE DEFENDANT INNOCENT OF ALL FIVE, YOU  
6 CAN FIND HIM INNOCENT OF ONE, TWO, OR WHATEVER, HOWEVER  
7 YOU VIEW THE VERDICT. YOU CAN FIND HIM GUILTY OF ONE,  
8 INNOCENT OF FOUR, HOWEVER YOU VIEW THE FACTS AS YOU MAKE  
9 A DETERMINATION AS TO THE FACTS. YOU DON'T HAVE TO FIND  
10 HIM GUILTY OF ALL FIVE OR YOU DON'T HAVE TO FIND HIM  
11 INNOCENT OF ALL FIVE. IT'S HOWEVER YOU VIEW THE FACTS  
12 UNDER THE CIRCUMSTANCES AS YOU HEARD THEM AND APPLY THE  
13 LAW AS I JUST CHARGED YOU.

14                  MADAM FORELADY, I NEED TO TAKE MY CHARGE UP  
15 WITH THE LAWYERS, AND I'M GOING TO ASK YOU TO GO TO THE  
16 JURY ROOM. BUT BEFORE YOU BEGIN YOUR DELIBERATIONS,  
17 PLEASE WAIT FOR THE BAILIFF TO BRING ALL THE EXHIBITS  
18 THAT HAVE BEEN ADMITTED INTO EVIDENCE, THE CHARGE BOOK  
19 WITH THE VERDICT FORMS TO TELL YOU TO BEGIN YOUR  
20 DELIBERATIONS, AND THAT WILL PROBABLY TAKE FIVE OR TEN  
21 MINUTES.

22                  PLEASE DON'T DISCUSS THE CASE UNTIL THE.  
23 BAILIFF BRINGS THE DOCUMENTS TO YOU. YOU MAY TAKE YOUR  
24 NOTEPADS WITH YOU TO THE JURY ROOM AND FOLLOW THE  
25 BAILIFF TO THE JURY ROOM.

1 (THE JURY LEFT THE COURTROOM AT 11:10 A.M.)

2 THE COURT: AND THE ALTERNATE, JUST STAY  
3 WHERE YOU ARE, PLEASE.

4 (THE ALTERNATE JUROR RETURNS TO COURTROOM.)

5 THE COURT: MR. BROWN, YOU CAN JUST HAVE A  
6 SEAT.

7 ANY EXCEPTIONS TO THE CHARGE FROM THE STATE?

8 MS. HUEY: NO, SIR, YOUR HONOR.

9 THE COURT: ANY FROM THE DEFENDANT?

10 MR. POTTER: JUDGE, JUST FOR THE RECORD, WE  
11 WOULD ASK YOU TO CHARGE INVOLUNTARY. THE STATUTE UNDER  
12 MANSLAUGHTER, SOUTH CAROLINA CODE OF LAWS 16-3-50  
13 INDICATES: MANSLAUGHTER. A PERSON CONVICTED OF  
14 MANSLAUGHTER, AN UNLAWFUL KILLING OF ANOTHER BY MALICE,  
15 EXPRESS OR IMPLIED, TALKS ABOUT THOSE ELEMENTS AS  
16 OPPOSED TO THE ELEMENTS SET FORTH IN THE CASE LAW, SO  
17 RESPECTFULLY WE WOULD ASK YOUR HONOR TO DO THAT.

18 THE COURT: I UNDERSTAND. BUT BASED ON THE  
19 STATE VERSUS CHILDRESS, THE COURT INTERPRETS THAT IS WE  
20 CANNOT TRANSFER INTENT OF ILLEGAL PROVOCATION TO A THIRD  
21 PARTY THEREFORE, UNDER THE STATE VERSUS CHILDRESS, S.C.  
22 645 S.E.2D 233, THE COURT DENIES THAT REQUEST TO CHARGE  
23 ON VOLUNTARY MANSLAUGHTER. ANYTHING ELSE?

24 MR. POTTER: NO, YOUR HONOR.

25 THE COURT: ALL RIGHT. COME LOOK AT THE

1 EXHIBITS, PUT ON THE RECORD THAT THEY ARE ALL PRESENT,  
2 AND I'LL TELL THE BAILIFF TO BEGIN THEIR DELIBERATIONS  
3 AFTER YOU HAVE MADE SURE THAT EVERYTHING IS PRESENT.

4 (DISCUSSION OFF THE RECORD.)

5 THE COURT: LET'S PUT ON THE RECORD THAT ALL  
6 EXHIBITS ARE THERE AND ARE READY FOR THE JURY  
7 DELIBERATION.

8 (THE JURY STARTS DELIBERATING AT 11:25 A.M.)

9 (THE JURY WENT TO LUNCH WITH BAILIFFS TO  
10 ESCORT THEM AT 12:37 P.M., AFTER WHICH THE  
11 JURY RETURNED TO THE JURY ROOM AND CONTINUED  
12 THEIR DELIBERATIONS. A VERDICT WAS REACHED  
13 AT APPROXIMATELY 2:15 P.M.)

14 THE COURT: THEY HAVE REACHED A VERDICT.  
15 ANYTHING FROM THE STATE?

16 MS. HUEY: NO, SIR, YOUR HONOR.

17 THE COURT: ANYTHING FROM THE DEFENDANT?

18 MR. POTTER: NO, YOUR HONOR.

19 THE COURT: VERY GOOD. BRING US A JURY,  
20 PLEASE.

21 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT  
22 2:41 P.M.)

23 VERDICT OF THE JURY:

24 THE COURT: MADAM FORELADY, I UNDERSTAND YOU  
25 HAVE REACHED A VERDICT; IS THAT CORRECT?

1 THE FORELADY: WE HAVE.

2 THE COURT: WOULD YOU HAND THE VERDICT FORMS  
3 TO THE BAILIFF, PLEASE, MA'AM?

4 THE FORELADY: (COMPLIES.)

5 THE COURT: THANK YOU, MA'AM.

6 HAVE YOU GOT THE INDICTMENTS?

7 THE CLERK: NO, SIR.

8 (DISCUSSION OFF THE RECORD.)

9 THE COURT: MADAM FORELADY, I HAVE WRITTEN  
10 ON THE INDICTMENTS YOUR VERDICT, AND I'M GOING TO ASK  
11 YOU TO SIGN OUT BESIDE IT WHERE IT SAYS FOREMAN. WE  
12 DON'T HAVE A FORM THAT SAYS FORELADY. IF YOU DON'T MIND  
13 SIGNING IT, PLEASE, MA'AM.

14 THE FORELADY: (COMPLIES.)

15 THE COURT: THANK YOU, MA'AM.

16 MADAM CLERK, YOU MAY PUBLISH THE VERDICT,  
17 MA'AM.

18 THE CLERK: INDICTMENT 2006-GS-04-3261, THE  
19 STATE OF SOUTH CAROLINA VERSUS SAMMY L. SCOTT, VERDICT  
20 OF THE JURY: WE, THE JURY, FIND THE DEFENDANT, SAMMY L.  
21 SCOTT, GUILTY OF THE MURDER OF JAVARIS CLINKSCALES.

22 COUNT 2: WE, THE JURY, FIND THE DEFENDANT,  
23 SAMMY L. SCOTT, GUILTY OF POSSESSION OF A FIREARM DURING  
24 THE COMMISSION OF A VIOLENT CRIME AS TO THE MURDER OF  
25 JAVARIS CLINKSCALES. THAT'S SIGNED SUNNY OWENS,

1 FOREPERSON.

2 INDICTMENT TWO-THOUSAND- ---

3 THE COURT: CATHY?

4 THE CLERK: YES, SIR.

5 (THE COURT AND THE CLERK HELD A DISCUSSION  
6 OFF THE RECORD.)

7 THE COURT: 2006-GS-04-3265, THE STATE OF  
8 SOUTH CAROLINA VERSUS SAMMY L. SCOTT, VERDICT OF THE  
9 JURY: WE, THE JURY, FIND THE DEFENDANT, SAMMY L. SCOTT,  
10 GUILTY OF THE ASSAULT AND BATTERY WITH INTENT TO KILL OF  
11 SYDNEY CHESTER.

12 COUNT 2. WE, THE JURY, FIND THE DEFENDANT,  
13 SAMMY L. SCOTT, GUILTY OF POSSESSION OF A FIREARM DURING  
14 THE COMMISSION OF A VIOLENT CRIME AS TO THE ASSAULT AND  
15 BATTERY WITH THE INTENT TO KILL OF SYDNEY CHESTER.

16 INDICTMENT 2006-GS-04-3262, THE STATE OF  
17 SOUTH CAROLINA VERSUS SAMMY L. SCOTT. WE, THE JURY,  
18 FIND THE DEFENDANT, SAMMY L. SCOTT, GUILTY OF THE  
19 ASSAULT AND BATTERY WITH INTENT TO KILL OF JAMES BURNS.

20 AS TO COUNT 2. WE, THE JURY, FIND THE  
21 DEFENDANT, SAMMY L. SCOTT, GUILTY OF POSSESSION OF A  
22 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME AS TO  
23 THE ASSAULT AND BATTERY WITH INTENT TO KILL OF JAMES  
24 BURNS.

25 2006-GS-04-3263, THE STATE OF SOUTH CAROLINA

STATE V. SCOTT -- 9/11/2008

1 V. SAMMY L. SCOTT, WE, THE JURY, FIND THE DEFENDANT,  
2 SAMMY L. SCOTT, GUILTY OF THE ASSAULT AND BATTERY WITH  
3 INTENT TO KILL OF INDIA GALLOWAY.

4 AS TO COUNT 2. WE, THE JURY, FIND THE  
5 DEFENDANT, SAMMY L. SCOTT, GUILTY OF POSSESSION OF A  
6 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME AS TO  
7 THE ASSAULT AND BATTERY WITH THE INTENT TO KILL OF INDIA  
8 GALLOWAY.

9 2006-GS-04-3264; STATE OF SOUTH CAROLINA V.  
10 SAMMY L. SCOTT, WE, THE JURY, FIND THE DEFENDANT, SAMMY  
11 L. SCOTT, GUILTY OF ASSAULT AND BATTERY WITH INTENT TO  
12 KILL OF SHANQUIL MARTIN.

13 AS TO COUNT 2. WE, THE JURY, FIND THE  
14 DEFENDANT, SAMMY L. SCOTT, GUILTY OF POSSESSION OF A  
15 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, AS TO  
16 THE ASSAULT AND BATTERY WITH INTENT TO KILL OF SHANQUIL  
17 MARTIN.

18 LADIES AND GENTLEMEN OF THE JURY, IF THESE  
19 ARE YOUR VERDICTS, WOULD YOU PLEASE INDICATE BY RAISING  
20 YOUR RIGHT HANDS.

21 ALL HANDS RAISED. VERDICT OF THE JURY, YOUR  
22 HONOR.

23 THE COURT: THANK YOU VERY MUCH.

24 IS THERE ANYTHING FROM THE STATE AS FAR AS  
25 THE JURY IS CONCERNED?

1 MS. HUEY: NO, SIR, YOUR HONOR.

2 THE COURT: ANYTHING FROM THE DEFENDANT AS  
3 FAR AS THE JURY IS CONCERNED?

4 MR. POTTER: YOUR HONOR, WE THANK THE JURY  
5 FOR THEIR SERVICE.

6 THE COURT: PARDON?

7 MR. POTTER: WE THANK THE JURY FOR THEIR  
8 SERVICE.

9 THE COURT: ANY MOTIONS AS FAR AS THE JURY?

10 MR. POTTER: NO, YOUR HONOR.

11 THE COURT: OKAY. ALL RIGHT, LADIES AND  
12 GENTLEMEN OF THE JURY, WHAT I'M GOING TO ASK YOU TO DO,  
13 IF YOU WILL GO TO THE JURY ROOM, AND THE CLERK WILL BE  
14 DOWN IN JUST A FEW MINUTES TO GIVE YOU SOME LETTERS FOR  
15 YOUR EMPLOYERS, AND SHE'LL BE UP TO IN JUST A MINUTE AND  
16 A HALF. IF YOU WILL FOLLOW THE BAILIFF TO THE JURY  
17 ROOM.

18 ALL RIGHT. AS FAR AS THE STATE IS  
19 CONCERNED, CAN YOU GET THE SENTENCING SHEETS PREPARED?  
20 ARE THEY ALREADY PREPARED?

21 MS. HUEY: YOUR HONOR, IF YOU WILL GIVE ME  
22 JUST A MINUTE.

23 THE COURT: ALL RIGHT. DEFENDANT, ARE THERE  
24 ANY MOTIONS? OR I'D BE HAPPY TO GIVE YOU THE TEN DAYS  
25 FOR THE POST-TRIAL.

1                   MR. POTTER: JUDGE, WE WILL TAKE THE TEN  
2 DAYS.

3                   THE COURT: YOU WANT TEN DAYS? ANY  
4 POST-TRIAL MOTIONS YOU WANT TO MAKE, AND I'LL GIVE YOU  
5 TEN DAYS.

6                   ALL RIGHT. WHILE EVERYBODY ELSE IS IN THE  
7 COURTROOM, I'M GOING TO LEAVE THE BENCH FOR ABOUT FIVE  
8 OR TEN MINUTES WHILE THE STATE IS GETTING THE SENTENCING  
9 SHEETS PREPARED.

10                  WOULD THE STATE GET WHATEVER VICTIMS, THREE  
11 OR FOUR PEOPLE, THAT THEY WANT ME TO HEAR FROM?

12                  MR. POTTER, AS FAR AS THE DEFENDANT IS  
13 CONCERNED, I WOULD LIKE TO HEAR FROM HIM OR ANY OF THE  
14 FAMILY THAT YOU WANT ME TO HEAR FROM, YOU GET THOSE  
15 PEOPLE LINED UP WHILE I'M OUT OF THE COURTROOM.

16                  I DON'T WANT ANYONE LEAVING THE COURTROOM.  
17 EVERYBODY KEEP YOUR SEATS. I'LL BE BACK IN ABOUT FIVE  
18 OR TEN MINUTES. WE'LL STAND AT EASE UNTIL THAT HAPPENS.

19                  (THE COURT LEFT THE COURTROOM AT 2:50 P.M.

20                  AND RETURNED AT 3:00 P.M.)

21 SENTENCING OF DEFENDANT:

22                  THE COURT: ALL RIGHT. WOULD THE DEFENDANT  
23 COME AROUND? I WOULD BE GLAD TO HEAR FROM ANYBODY YOU  
24 WOULD LIKE FOR ME TO HEAR FROM, MR. POTTER, FROM HIS  
25 FAMILY OR HIS, IF ANYBODY WOULD LIKE TO SAY ANYTHING.

1           MR. POTTER: YOUR HONOR, IF IT PLEASES THE  
2 COURT, I DON'T THINK THERE WAS ANYBODY FROM THE FAMILY  
3 WHO WISHES TO ADDRESS YOU, YOUR HONOR. I CHECKED WHILE  
4 YOU WERE GONE FROM THE BENCH, YOUR HONOR.

5           THE COURT: ALL RIGHT. DO THEY UNDERSTAND  
6 THIS IS PROBABLY THE LAST OPPORTUNITY THAT THEY WILL  
7 HAVE TO ADDRESS ANYONE?

8           MR. POTTER: I ASSUME THEY DO.

9           THE COURT: PARDON?

10          MR. POTTER: I'M SURE THEY DO, YOUR HONOR.

11          THE COURT: IF YOU WOULD LIKE TO COME  
12 FORWARD AND ADDRESS THE COURT CONCERNING SENTENCING,  
13 HE'S LOOKING AT ANYWHERE FROM 30 YEARS TO LIFE. NOW, I  
14 WILL BE GLAD TO HEAR YOU. YOU WILL NOT GET ANOTHER  
15 OPPORTUNITY TO SPEAK TO ANYONE CONCERNING SENTENCING.  
16 (NO RESPONSE.)

17          THE COURT: NOW, IS THERE ANYBODY FROM THE  
18 VICTIM'S SIDE THAT YOU WOULD LIKE FOR ME TO HEAR FROM?

19          MS. HUEY: YOUR HONOR, THEY DO NOT WISH TO  
20 ADDRESS THE COURT.

21          THE COURT: ALL RIGHT, MR. POTTER, WE CAN  
22 START WITH YOU.

23          MR. POTTER: YOUR HONOR, IF IT PLEASES THE  
24 COURT, SAMMY WAS 17 YEARS OLD WHEN THIS OCCURRED, HE IS  
25 19 NOW. HE HAD JUST COMPLETED THE ELEVENTH GRADE AND

1 DANIEL HIGH SCHOOL AND HE WAS SET TO START HIS SENIOR  
2 YEAR AT DANIEL HIGH.

3 THERE IS OBVIOUSLY NO ADULT CONTACT, THERE'S  
4 NO ADULT RECORD AT ALL. HE HAD ONE CONTACT AS A  
5 JUVENILE WHICH TO MY UNDERSTANDING WAS HANDLED IN  
6 JUVENILE COURT. IT IS MY UNDERSTANDING THERE WERE NO  
7 SANCTIONS OR COMMITMENT TO D.J.J. OR ANYTHING OF THAT  
8 SORT.

9 YOUR HONOR, WHAT I WOULD ASK YOU TO CONSIDER  
10 THIS. THIS IS A TRAGIC CRIME, OBVIOUSLY. HE WAS ONLY  
11 17 YEARS OLD WHEN THIS HAPPENED. YOUR HONOR, AS YOU  
12 KNOW, MOST 17-YEAR-OLDS DON'T NECESSARILY THINK ABOUT  
13 THE CONSEQUENCES OF THEIR ACTIONS, AND THAT'S BEEN  
14 PROVEN AND BORNE OUT THROUGH THE SCIENTIFIC STUDIES AND  
15 THINGS OF THAT SORT. AND IT DOESN'T MATTER WHERE THAT  
16 17-YEAR-OLD COMES FROM. WE ALL KNOW THAT. 17-YEAR-OLD  
17 MALES, FEMALES, EVERYBODY, THEY DON'T SIT AND THINK  
18 ABOUT THE CONSEQUENCES OF WHAT THEY ARE ABOUT TO DO  
19 UNTIL AFTER THE SITUATION AND THEY REALIZE WHAT THE  
20 CONSEQUENCES WERE.

21 AND I THINK THAT'S THE SITUATION THAT  
22 HAPPENED HERE. HIS HEAD KIND OF GOT LOOSE, AND HE WENT  
23 AHEAD AND THIS HAPPENED. HE DIDN'T THINK ABOUT THE  
24 CONSEQUENCES IF HE DID FIRE THAT SHOTGUN, HE DIDN'T  
25 THINK ABOUT THE CONSEQUENCES THAT OTHER PEOPLE COULD GET

1 HURT, AND THAT PERSON COULD HAVE BEEN POTENTIALLY  
2 ANYBODY.

3 YOUR HONOR, WHAT WE WOULD ASK YOU TO DO IS  
4 CONSIDER THE AGE OF SAMMY. I'M OBVIOUSLY NOT ASKING YOU  
5 TO NOT TAKE INTO ACCOUNT THE AGE OF JAVARIS. BUT WE'D  
6 ASK YOU TO FASHION A REASONABLE AND JUST SENTENCE BOTH  
7 FOR SAMMY AND FOR JAVARIS.

8 AND I WOULD JUST NOTE -- AND AGAIN, I  
9 CERTAINLY DON'T WANT TO KEEP REPEATING MYSELF -- IS  
10 17-YEAR-OLDS JUST DON'T THINK LIKE ADULTS.

11 THE COURT: TELL ME A LITTLE BIT ABOUT HIM.  
12 HOW FAR DID YOU GO IN SCHOOL?

13 MR. POTTER: ELEVENTH GRADE, YOUR HONOR. HE  
14 COMPLETED THE ELEVENTH GRADE AND WAS FIXING TO START  
15 12TH GRADE AT DANIEL HIGH. LIKE I SAID BEFORE, HE HAD  
16 NO TROUBLE EXCEPT FOR ONE ---

17 THE COURT: HAD HE BEEN KICKED OUT OF  
18 SCHOOL? WAS HE STILL IN SCHOOL WHEN THIS OCCURRED?

19 MR. POTTER: HE WAS STILL IN SCHOOL, YOUR  
20 HONOR. HE HAD NOT BEEN EXPELLED OR KICKED OUT OF  
21 SCHOOL. HE WAS DOING SPORTS. HE WAS PLAYING FOOTBALL  
22 AND BASKETBALL.

23 LIKE I SAID, HE HAD ONE PRIOR MINOR CONTACT  
24 WITH D.J.J. THERE WAS NO COMMITMENT, NO EVALUATION AT  
25 R&E OR ANYTHING OF THAT SORT ASSOCIATED WITH THAT

1 CONTACT.

2 IT SEEMS TO BE A SITUATION WHERE IT WAS  
3 SOMETHING THAT WAS NOT NECESSARILY SOMETHING THAT COULD  
4 HAVE BEEN FORESEEN BY PRIOR BEHAVIOR. AS FAR AS I'M  
5 AWARE OF, HIS SCHOOL RECORDS WERE FINE. I MEAN, IT WAS  
6 NOT A SITUATION WHERE WHEN HE WAS A JUVENILE HE WAS  
7 DOING DRUGS, ROBBING AND THINGS LIKE THAT; HE WASN'T.  
8 HIS HOUSEHOLD WAS SPLIT UP. HIS MOTHER WAS MAINLY  
9 RESPONSIBLE FOR RAISING HIM. I DON'T KNOW IF THERE'S  
10 ANY MUCH MORE WE CAN ADD.

11 THE COURT: OKAY. THANK YOU VERY MUCH.

12 MA'AM, YOUR NAME?

13 THE DEFENDANT'S SISTER: NICKI SCOTT.

14 THE COURT: MS. SCOTT, ARE YOU HIS MOTHER?

15 THE DEFENDANT'S SISTER: I'M HIS SISTER.

16 THE COURT: YOU'RE HIS SISTER, NICKI SCOTT?

17 THE DEFENDANT'S SISTER: YES, SIR.

18 THE COURT: IS THERE ANYTHING YOU WOULD LIKE  
19 TO TELL ME ABOUT YOUR BROTHER?

20 THE DEFENDANT'S SISTER: THIS IS MY LITTLE  
21 BROTHER. HE TELLS ME EVERYTHING. HE'S JUST A CHILD.

22 THE COURT: HE'S WHAT?

23 THE DEFENDANT'S SISTER: HE'S A GOOD BOY.  
24 EVERYBODY THAT KNOWS HIM LIKE I KNOW HIM, AND I AIN'T  
25 NEVER SEEN HIM CRY, NEVER SEEN HIM CRY, AND HE CRIED

1 BECAUSE OF ME BECAUSE I'M CRYING.

2 THE COURT: WHAT DO YOU THINK GOT INTO HIM  
3 THIS NIGHT WHEN HE GOES OUT AND SHOOTS A SAWED-OFF  
4 SHOTGUN OF BUCKSHOT INTO A GROUP OF 60 PEOPLE? I MEAN,  
5 HOW CAN WE TOLERATE THAT KIND OF ACTIVITY IN THIS  
6 COMMUNITY?

7 THE DEFENDANT'S SISTER: I DON'T KNOW.

8 THE COURT: I MEAN, IT'S JUST ABSOLUTELY  
9 TOTALLY RECKLESS DISREGARD FOR HUMAN LIFE, FIRING A  
10 SHOTGUN, SAWED-OFF, WITH BUCKSHOT, AND 60 PEOPLE. I  
11 MEAN, TELL ME HOW. TELL ME WHY DO YOU THINK HE DID  
12 THAT?

13 THE DEFENDANT'S SISTER: MY MOM HAD THE  
14 HOUSE SHOT UP WHEN HE WAS IN THERE.

15 THE COURT: WELL, WHAT DID THAT HAVE TO DO  
16 WITH HIM SHOOTING PEOPLE?

17 THE DEFENDANT'S SISTER: YOU CAN TAKE, YOU  
18 CAN TAKE SO MUCH FROM SOMEBODY. YOU CAN REALLY TAKE SO  
19 MUCH.

20 THE COURT: WELL, THEN, TELL ME WHAT WAS  
21 GOING ON.

22 THE DEFENDANT'S SISTER: HE HAD PEOPLE  
23 SHOOTING UP THE HOUSE. THE PEOPLE WERE JUST DOING IT TO  
24 HIM.

25 THE COURT: WELL, TELL ME WHO WAS SHOOTING

1 UP YOUR HOUSE?

2 THE DEFENDANT'S SISTER: I DON'T KNOW. I  
3 COULDN'T TELL YOU THAT. FIRST PERSON HE CALLED AND  
4 SAID, MOM'S HOUSE GOT SHOT UP. HE WAS IN THERE. HE HAD  
5 JUST CAME FROM A GAME, A FOOTBALL GAME.

6 THE COURT: WHEN DID THIS OCCUR?

7 THE DEFENDANT'S SISTER: I DON'T KNOW.

8 THE COURT: HOW LONG BEFORE THE SHOOTING?

9 THE DEFENDANT'S SISTER: I DON'T KNOW.

10 THE COURT: YOU SAY THE SHOOTING OCCURRED ON  
11 JULY THE 10TH, 2006. HOW LONG BEFORE THAT TIME PERIOD  
12 DID THE HOUSE GET SHOT UP?

13 THE DEFENDANT'S SISTER: I DON'T KNOW.

14 THE COURT: A WEEK, TWO WEEKS, A MONTH, SIX  
15 MONTHS?

16 THE DEFENDANT'S SISTER: I GUESS THE TIME --

17 THE COURT: PARDON?

18 THE DEFENDANT'S SISTER: I GUESS THE TIME  
19 BEFORE THAT. I DON'T KNOW.

20 THE COURT: OKAY. ANYTHING ELSE YOU WANT TO  
21 TELL ME ABOUT YOUR BROTHER, SAMMY SCOTT?

22 THE DEFENDANT'S SISTER: (NO RESPONSE.) CAN  
23 I HUG MY BROTHER, PLEASE?

24 THE COURT: YOU CAN HUG YOUR BROTHER.

25 (SAMMY AND NICKI SCOTT HUG EACH OTHER AND

1 BOTH WERE CRYING.)

2 THE COURT: OKAY, MR. SCOTT, MS. SCOTT.

3 MS. SCOTT, THANK YOU VERY MUCH. GO HAVE A SEAT.

4 YES, SIR, YOUR NAME?

5 THE DEFENDANT'S FATHER: LARRY SCOTT, I'M HIS  
6 FATHER.

7 THE COURT: YOU ARE SAMMY'S FATHER?

8 THE DEFENDANT'S FATHER: YES.

9 THE COURT: YES, MR. SCOTT.

10 THE DEFENDANT'S FATHER: I HAD BEEN A PART  
11 OF SAMMY'S LIFE, I'D BEEN IN AND OUT TO SEE HIM. I  
12 WOULD LIKE TO ASK THE FAMILY TO FORGIVE HIM, BECAUSE I  
13 HAVE, FORGIVE WHAT WE HAVE DONE. BECAUSE WE'RE ALL IN  
14 THIS THING TOGETHER, ON ONE SIDE OR THE OTHER, WE ARE  
15 THE SAME.

16 I ASK YOU TO HAVE MERCY ON HIM. HE WAS ONLY  
17 17 WHEN THIS HAPPENED. HE NEEDED ME TO BE THERE WITH  
18 HIM ALL THE TIME, AND I DIDN'T GIVE THAT TO HIM. I'M  
19 ASKING YOU TO HAVE MERCY ON HIM TO, FOR THE REST OF HIS  
20 LIFE BECAUSE THE REST OF HIS LIFE DEPENDS ON WHERE HE --  
21 I'M ASKING YOU, YOUR HONOR, WITH THE MERCY IN MY HEART  
22 AND JESUS CHRIST TO HAVE MERCY ON HIM AND GIVE HIM  
23 ANOTHER START TO SHOW THAT HE CAN BE PRODUCTIVE FOR HIS  
24 LIFE, THE REST OF THE LIFE HE HAS. JUST HAVE MERCY ON  
25 HIM.

1           **THE COURT:** YOU SHOULD HAVE THOUGHT ABOUT  
2 THAT ABOUT 18 YEARS AGO AND TRIED AND GIVE HIM SOME  
3 DIRECTION.

4           **THE DEFENDANT'S FATHER:** I DID THAT, THE  
5 SECOND WHEN I READ THE PAPER. BUT I CAN'T BE AROUND HIM  
6 ALL MY LIFE. I'M AN OLD MAN STANDING HERE. I'M ASKING  
7 YOU TO HAVE MERCY ON HIM.

8           **THE COURT:** THANK YOU VERY MUCH, MR. SCOTT.

9           **THE DEFENDANT'S BROTHER:** HOW ARE YOU DOING,  
10 YOUR HONOR?

11           **THE COURT:** WHAT'S YOUR NAME?

12           **THE DEFENDANT'S BROTHER:** SHAQUAN (PHONETIC)  
13 OWENS, HIS HALF-BROTHER.

14           **THE COURT:** SHAQUAN OWENS? BE GLAD TO HEAR  
15 FROM YOU.

16           **THE DEFENDANT'S BROTHER:** HOW YOU DOING,  
17 JUDGE? I'M -- OH, BOY. AS FAR AS THE FAMILY, BEING OR  
18 HIS BROTHER AND THINGS LIKE THAT. IF I PLAY SPORTS, AND  
19 THINGS LIKE THAT. BUT I JUST ASK YOU MERCY FOR THE  
20 COURT. BECAUSE AS FAR AS BACK, I WANT HIM BACK. I SAID  
21 FOR HIM TO COME TO HIS SENSES. I JUST WANT HIM BACK.  
22 SINCE -- I JUST ASK YOU TO HAVE MERCY OF THE COURT  
23 BEFORE YOU SENTENCE HIM.

24           **THE COURT:** THANK YOU SO VERY MUCH. I  
25 APPRECIATE IT.

1 (THE DEFENDANT AND HIS BROTHER HUG.)

2 THE COURT: OKAY, MR. SCOTT.

3 YES, MA'AM. YOUR NAME?

4 DEFENDANT'S MOTHER: SHARON OGLESBY.

5 THE COURT: WHAT?

6 DEFENDANT'S MOTHER: SHARON OGLESBY.

7 THE COURT: AND WHAT IS YOUR RELATIONSHIP TO  
8 THE DEFENDANT?

9 DEFENDANT'S MOTHER: THAT'S MY SON.

10 THE COURT: YOUR SON? OKAY, I'D BE GLAD TO  
11 HEAR FROM YOU, MS. OWENS [SIC].

12 DEFENDANT'S MOTHER: FIRST OF ALL, I WANT TO  
13 SAY I'M SORRY TO THE MOTHER OF HER SON. BUT I DON'T  
14 WANT TO LOSE MY SON. HE'S HUMAN, AND HE HAVE A SECOND  
15 HOME. I KNOW WHATEVER HAPPENS, OR WHATEVER HE DID, IF  
16 YOU JUST GIVE HIM ANOTHER CHANCE. HE HAS HIS WHOLE LIFE  
17 AHEAD OF HIM.

18 (DEFENDANT AND DEFENDANT'S MOTHER HUG.)

19 THE COURT: OKAY, MR. SCOTT.

20 MRS. OWENS [SIC], THANK YOU VERY MUCH.

21 THANK YOU, MS. OWENS.

22 THE COURT: ALL RIGHT. MR. SCOTT, IS THERE  
23 ANYTHING YOU WOULD LIKE TO SAY? SPEAK INTO THE  
24 MICROPHONE.

25 THE DEFENDANT: GOD BLESS YOU ALL, AND I

1 PRAY THAT JAVARIS IS IN A BETTER PLACE.

2 THE COURT: ANYTHING ELSE?

3 THE DEFENDANT: NO, SIR, YOUR HONOR.

4 THE COURT: OKAY. MR. POTTER, IS THERE  
5 ANYTHING YOU WOULD LIKE TO ADD?

6 MR. POTTER: NO, YOUR HONOR.

7 THE COURT: IS THERE ANYTHING THE STATE  
8 WOULD LIKE TO SAY? I'LL BE HAPPY TO HEAR FROM ANY OF  
9 THE VICTIMS' FAMILIES, IF THEY WOULD LIKE TO SAY  
10 SOMETHING.

11 MS. HUEY: YES, SIR, YOUR HONOR, I BELIEVE  
12 WE DO HAVE SOME THAT WOULD LIKE TO SAY SOMETHING.

13 THE COURT: ALL RIGHT, I'D BE GLAD TO HEAR  
14 FROM THEM. I'M NOT TRYING TO CUT ANYBODY OFF.

15 I'D BE GLAD TO HEAR ANYTHING FROM THE STATE  
16 ON SENTENCING.

17 MS. HUEY: THANK YOU, JUDGE.

18 THE COURT: YES, MA'AM. YOUR NAME?

19 MS. CLINKSCALES: SHARON CLINKSCALES.

20 THE COURT: YES, MA'AM.

21 MS. CLINKSCALES: I THANK YOU FOR HEARING  
22 FROM JAVARIS'S FAMILY. HE WAS A WONDERFUL YOUNG MAN.  
23 HE WAS 15 YEARS OLD WHEN SAMMY DECIDED TO SHOOT INTO A  
24 CROWD. WE FEEL IT'S LIKE COLUMBINE WHEN THE YOUNG  
25 PEOPLE WALKED IN AND JUST SHOT RANDOMLY INTO THE CROWD.

1 LIKE HIS FAMILY WAS GIVEN PERMISSION TO HUG HIM, WE CAN  
2 NO LONGER DO THAT.

3 I WOULD LIKE FOR YOU TO PLEASE SHOW THE  
4 COMMUNITY THAT GUNS ARE NOT TOYS. YOU DON'T PICK ONE  
5 UP. YOU DON'T RIDE WITH ONE. YOU DON'T GO IN A  
6 DIRECTION UNLESS YOU ARE PLANNING ON KILLING OR HURTING  
7 SOMEBODY, YOUR HONOR.

8 THE COURT: THANK YOU, MS. CLINKSCALES, I  
9 APPRECIATE IT.

10 THE COURT: SOLICITOR, DO YOU KNOW IF  
11 THERE'S ANYBODY ELSE WITH THE FAMILY THAT WOULD LIKE TO  
12 SAY ANYTHING? I'D BE GLAD TO HEAR THEM.

13 MS. HUEY: I THINK THAT'S IT, YOUR HONOR.

14 THE COURT: ANYTHING YOU WOULD LIKE TO ADD?

15 MS. HUEY: YES, SIR, YOUR HONOR.

16 MR. SCOTT SHOWED A COMPLETE DISREGARD FOR  
17 HUMAN LIFE WHEN HE FIRED THAT SHOTGUN. AND HONESTLY,  
18 JUDGE, IT'S AMAZING THAT WE'RE NOT HERE ON ANOTHER  
19 MURDER, THAT ONLY ONE PERSON WAS SHOT AND KILLED.

20 HE SHOWED A COMPLETE DISRESPECT FOR HUMAN  
21 LIFE. HE ACTED LIKE AN ADULT WHEN HE DID THAT. HE  
22 NEEDS TO REALIZE THAT THERE ARE CONSEQUENCES FOR THIS.  
23 HE HAS FAILED TO ACCEPT RESPONSIBILITY FOR THIS. HE IS  
24 A MENACE TO SOCIETY AND HE DESERVES A LIFE SENTENCE.

25 THE COURT: HOW LONG DID HE SPEND IN JAIL?

1 MR. POTTER: JUDGE, HE WAS -- THAT NUMBER I  
2 DO NOT KNOW.

3 MS. HUEY: JULY 11TH, 2006.

4 THE COURT: 26 MONTHS AGO.

5 SENTENCE OF THE COURT:

6 THE COURT: ALL RIGHT, MR. SCOTT.

7 INDICTMENT NUMBER 3265, POSSESSION OF A WEAPON DURING  
8 THE COMMISSION OF A VIOLENT CRIME, YOU ARE SENTENCED TO  
9 THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF FIVE  
10 YEARS. THAT'S CONCURRENT WITH ALL THE OTHER  
11 INDICTMENTS. GIVE HIM CREDIT FOR 26 MONTHS.

12 CONCURRENT MEANS RUNS TOGETHER.

13 INDICTMENT NUMBER 3265, ASSAULT AND BATTERY  
14 WITH INTENT TO KILL, YOU ARE SENTENCED TO THE STATE  
15 DEPARTMENT OF CORRECTIONS FOR 20 YEARS, THAT'S  
16 CONCURRENT WITH ALL INDICTMENTS. GIVE HIM CREDIT FOR 26  
17 MONTHS.

18 INDICTMENT NUMBER 3264, POSSESSION OF A  
19 WEAPON, YOU ARE SENTENCED TO DEPARTMENT OF CORRECTIONS  
20 FOR FIVE YEARS, THAT'S CONCURRENT TO ALL OTHER  
21 INDICTMENTS. GIVE HIM CREDIT FOR 26 MONTHS.

22 INDICTMENT NUMBER 3264, ASSAULT AND BATTERY  
23 WITH INTENT TO KILL, SENTENCED TO THE STATE DEPARTMENT  
24 OF CORRECTIONS FOR A PERIOD OF 20 YEARS, THAT IS  
25 CONCURRENT TO THE OTHER INDICTMENTS. GIVE HIM CREDIT

1 FOR 26 MONTHS.

2 INDICTMENT NUMBER 3263, POSSESSION OF A  
3 WEAPON, SENTENCED TO THE STATE DEPARTMENT OF CORRECTIONS  
4 FOR FIVE YEARS, CONCURRENT WITH THE OTHER INDICTMENTS,  
5 GIVE HIM CREDIT FOR 26 MONTHS.

6 INDICTMENT NUMBER 3263, ASSAULT AND BATTERY  
7 WITH INTENT TO KILL, SENTENCED TO THE STATE DEPARTMENT  
8 OF CORRECTIONS FOR A PERIOD OF 20 YEARS, THAT'S  
9 CONCURRENT WITH ALL OF THE INDICTMENTS, GIVE YOU CREDIT  
10 FOR 26 MONTHS.

11 INDICTMENT NUMBER 3265, THAT'S THE  
12 POSSESSION OF WEAPON, SENTENCED TO THE STATE DEPARTMENT  
13 OF CORRECTIONS FOR FIVE YEARS, CONCURRENT WITH ALL  
14 INDICTMENTS, GIVE HIM CREDIT FOR 26 MONTHS.

15 INDICTMENT NUMBER 3262, ASSAULT AND BATTERY  
16 WITH INTENT TO KILL, SENTENCED TO THE STATE DEPARTMENT  
17 OF CORRECTIONS FOR A PERIOD OF 20 YEARS, THAT'S  
18 CONCURRENT WITH THE OTHER INDICTMENTS, GIVE HIM CREDIT  
19 FOR 26 MONTHS.

20 INDICTMENT NUMBER 3261, THAT'S POSSESSION OF  
21 A WEAPON, SENTENCED TO THE STATE DEPARTMENT OF  
22 CORRECTIONS FOR A PERIOD OF FIVE YEARS, CONCURRENT WITH  
23 ALL OTHER INDICTMENTS, GIVE HIM CREDIT FOR 26 MONTHS.

24 INDICTMENT NUMBER 3261, MURDER, SENTENCED TO  
25 THE STATE DEPARTMENT OF CORRECTIONS FOR 55 YEARS, GIVE

1 HIM CREDIT FOR 26 MONTHS. THAT'S CONCURRENT WITH ALL  
2 THE OTHER INDICTMENTS.

3 GOOD LUCK TO YOU, AND MAY GOD HAVE MERCY ON  
4 YOUR SOUL.

5 THANK YOU VERY MUCH.

6 MR. POTTER: THANK YOU, JUDGE.

7 DEFENDANT'S FRIENDS AND FAMILY: LOVE YOU.  
8 LOVE YOU.

9 THE COURT: EVERYBODY ON MY RIGHT SIDE MAY  
10 LEAVE. EVERYBODY ON THE LEFT KEEP YOUR SEAT.

11 (VICTIM'S FRIENDS AND FAMILY MEMBERS LEFT THE  
12 COURTROOM AT 3:32 P.M.)

13 THE COURT: EVERYBODY THAT'S LEFT IN THE  
14 COURTROOM, SERGEANT CLEVELAND IS GOING TO TELL YOU WHEN  
15 TO LEAVE. JUST SIT TIGHT, KEEP YOUR SEATS UNTIL HE  
16 TELLS YOU WHEN TO LEAVE.

17 COURT IS ADJOURNED.

18 (WHEREUPON, THE TRIAL IN THE MATTER OF THE  
19 STATE OF SOUTH CAROLINA V. SAMMY SCOTT WAS  
20 CONCLUDED ON THURSDAY, SEPTEMBER 11TH, 2008,  
21 AT 3:33 P.M.)

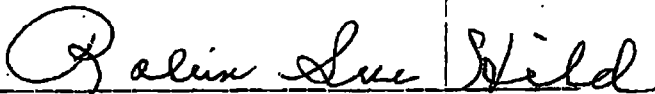
22 \*\*\*\*\* END OF REQUESTED TRANSCRIPT \*\*\*\*\*  
23  
24  
25

## CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR,  
OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT  
OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT  
THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE  
TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND THE  
EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,  
RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR  
ANDERSON COUNTY, SOUTH CAROLINA, ON THE 8TH, 9TH, 10TH,  
AND 11TH DAY OF SEPTEMBER, 2008.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,  
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

FEBRUARY 13, 2009

  
ROBIN SUE HILD, FCRR, RPR  
CIRCUIT COURT REPORTER

DOCKET NO. 2006-65-04-3261

WITNESSES

ACSDT OWENS

571

The State of South Carolina,  
County of ANDERSON

COURT OF GENERAL SESSIONS

10-24-01 *Room* TERM

THE STATE  
CAT

ARREST WARRANT NO. J420148  
J420157

vs.  
SAMMY L. SCOTT

ACTION OF GRAND JURY  
TRUE BILL

OCT 24 2006

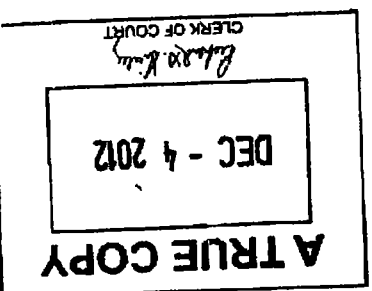
Foreman of Grand Jury *[Signature]*  
Foreperson

VERDICT

*Guilty*

*Sammy Owens/11/06*  
Foreman of Petit Jury Date:

Indictment for  
Count One - MURDER  
16-3-10/16-3-20 [0116]  
Count Two - POSSESSION OF A FIREARM DURING  
THE COMMISSION OF A VIOLENT CRIME  
16-23-490 [0549]



09-11-08 *[Signature]*

FORM 32 (12/87)

STATE OF SOUTH CAROLINA )  
 ANDERSON )  
 COUNTY OF \_\_\_\_\_ )

A TRUE COPY

DEC - 4 2012

INDICTMENT FOR

Ct. One - Murder *Richard X. Hiley*  
 Ct. Two - Possession of a Firearm During  
 The Commission of a Violent Crime

At a Court of General Sessions, convened on 10-24-06 *DR*

the Grand Jurors of ANDERSON County present upon their oath:

**COUNT ONE****MURDER**

That Sammy L. Scott did in Anderson County, South Carolina, on or about July 10, 2006 feloniously, wilfully and with malice aforethought, kill one Javaris Clinkscales by means of shooting him with a shotgun and the said victim died as a proximate result thereof.

**COUNT TWO****POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME**

That Sammy L. Scott did in Anderson County, South Carolina, on or about July 10, 2006, possess a firearm during the commission of a violent crime, to wit: Murder. All in violation of Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

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

*Catherine J. Hiley*  
 SOLICITOR

DOCKET NO. 2006-GS-04-3262

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS

10-24-06 - 16<sup>th</sup> TERM

THE STATE

CAT vs.

SAMMY L. SCOTT

Indictment for

ASSAULT AND BATTERY  
WITH INTENT TO KILL  
16-03-0620 [0014]  
POSSESSION OF A FIREARM DURING  
THE COMMISSION OF A VIOLENT CRIME  
16-23-0490 [0549]

WITNESSES

AGSD J. T. OWENS

ARREST WARRANT NO. 1420159  
DIRECT

TRUE BILL

067-2-4-2008  
Foreman of Grand Jury  
Foreperson

VERDICT  
Guilty

Sammy Owens 9/11/08  
Foreman of Petit Jury Date:

COMMITTEE  
09-11-08/emp

A TRUE COPY  
DEC - 4 2012  
Richard D. Bailey  
CLERK OF COURT

FORM 32 (12/87)

A TRUE COPY

DEC - 4 2012

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

INDICTMENT FOR  
CLERK OF COURT

ASSAULT AND BATTERY WITH INTENT TO KILL

16-03-0620 [0014]

POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

16-23-0400 [0540]

10-24-06 (DR)

the Grand Jurors of ANDERSON County present upon their oath:

**ASSAULT AND BATTERY WITH INTENT TO KILL**

That Sammy L. Scott did in Anderson County on or about July 10, 2006, with malice aforethought, commit an assault and battery upon James Burns, to wit: by shooting the victim with a shotgun. All in violation of Section 16-3-620, Code of Laws of South Carolina, (1976), as amended.

**POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME**

That Sammy L. Scott did in Anderson County on or about July 10, 2006 possess a firearm during the commission of a violent crime, to wit: Assault and Battery With Intent to Kill in violation of Code Section 16-3-10/16-3-20, Code of Laws of South Carolina, (1976), as amended.

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

Catherine J. Hays  
SOLICITOR

DOCKET NO. 2006-GS-04-3263

WITNESSES

ACSD - J. T. OWENS

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS

10-24-06 P.M. TERM

THE STATE

CAT vs.

SAMMY L. SCOTT

ARREST WARRANT NO. J420706L

DIRECT

ACTING FOREMAN  
TRUE BILL

OCT 24 2006

Foreman of Grand Jury

VERDICT

Guilty

Sammy Owens 9/11/08  
Foreman of Petit Jury

Date:

09.11.08/engp

A TRUE COPY

DEC - 4 2012

Richard R. Kelly  
CLERK OF COURT

575

Indictment for

ASSAULT AND BATTERY  
WITH INTENT TO KILL

16-03-0620 [0014]

POSSESSION OF A FIREARM DURING  
THE COMMISSION OF A VIOLENT CRIME

16-23-0490 [0549]

FORM 32 (12/87)

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

**A TRUE COPY**  
DEC - 4 2012  
INDICTMENT FOR  
ASSAULT AND BATTERY WITH INTENT TO KILL  
16-03-0620 (0014)  
POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME  
16-23-0400 (0540) 10-24-06 DR

At a Court of General Sessions, convened on 16-23-0400 (0540),  
the Grand Jurors of ANDERSON County present upon their oath:

**ASSAULT AND BATTERY WITH INTENT TO KILL**

That Sammy L. Scott did in Anderson County on or about July 10, 2006, with malice aforethought, commit an assault and battery upon India Galloway, to wit: by shooting the victim with a shotgun. All in violation of Section 16-3-620, *Code of Laws of South Carolina*, (1976), as amended.

**POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME**

That Sammy L. Scott did in Anderson County on or about July 10, 2006 possess a firearm during the commission of a violent crime, to wit: Assault and Battery With Intent to Kill in violation of Code Section 16-3-10/16-3-20, *Code of Laws of South Carolina*, (1976), as amended.

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

Catherine J. Huey  
SOLICITOR

WITNESSES

ACSD - J. T. OWENS

DOCKET NO. 2006-GS-04-3264

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS

10-24-06 TERM

THE STATE

CAT vs.

SAMMY L. SCOTT

ARREST WARRANT NO. J420160  
DIRECT

ACTION OF GRAND JURY  
TRUE BILL

OCT 24 2006

Foreman of Grand Jury  
Foreperson

VERDICT

Guilty

Sammy Owens 09/11/08  
Foreman of Petit Jury Date:

Indictment for

ASSAULT AND BATTERY  
WITH INTENT TO KILL  
16-03-0620 [0014]  
POSSESSION OF A FIREARM DURING  
THE COMMISSION OF A VIOLENT CRIME  
16-23-0490 [0549]

09-11-08/cmp

A TRUE COPY  
DEC - 4 2012  
CLERK OF COURT

FORM 32 (12/87)

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )

**A TRUE COPY**

DEC - 4 2012  
 INDICTMENT FOR

ASSAULT AND BATTERY WITH INTENT TO KILL

16-03-0620 (0014)

POSSESSION OF A FIREARM DURING THE  
 COMMISSION OF A VIOLENT CRIME

16-23-0400 (0540)

At a Court of General Sessions, convened on

10-24-06 ORthe Grand Jurors of ANDERSON

County present upon their oath:

**ASSAULT AND BATTERY WITH INTENT TO KILL**

That Sammy L. Scott did in Anderson County on or about July 10, 2006, with malice aforethought, commit an assault and battery upon Shanquil Martin, to wit: by shooting the victim with a shotgun. All in violation of Section 16-3-620, Code of Laws of South Carolina, (1976), as amended.

**POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME**

That Sammy L. Scott did in Anderson County on or about July 10, 2006 possess a firearm during the commission of a violent crime, to wit: Assault and Battery With Intent to Kill in violation of Code Section 16-3-10/16-3-20, Code of Laws of South Carolina, (1976), as amended.

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

Catherine J. Huey  
 SOLICITOR

WITNESSES  
ACSD - J. T. OWENS

DOCKET NO. 2006-ES-D4-3265

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS

10-24-06

TERM

THE STATE

CAT

vs.

ARREST WARRANT NO. J420158  
DIRECT

SAMMY L. SCOTT

ACTION OF GRAND JURY  
TRUE BILL

OCT 24 2006

Foreman of Grand Jury  
Foreperson

VERDICT

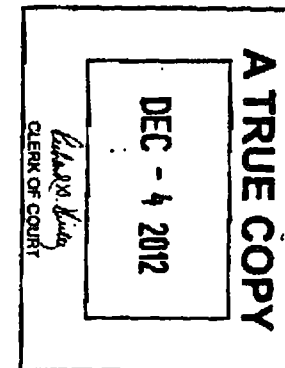
Guilty

Sammy Owens 9/11/06  
Foreman of Petit Jury Date:

Indictment for

ASSAULT AND BATTERY  
WITH INTENT TO KILL  
16-03-0620 [0014]  
POSSESSION OF A FIREARM DURING  
THE COMMISSION OF A VIOLENT CRIME  
16-23-0490 [0549]

COMMITMENT  
09-11-08/cmp



FORM 32 (12/87)

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )

A TRUE COPY

DEC - 4 2012

INDICTMENT FOR

ASSAULT AND BATTERY WITH INTENT TO KILL

16-03-0620 (10914) JRT

POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIMEAt a Court of General Sessions, convened on 16-23-0490 (0549) 10-24-06 dethe Grand Jurors of ANDERSON County present upon their oath:**ASSAULT AND BATTERY WITH INTENT TO KILL**

That Sammy L. Scott did in Anderson County on or about July 10, 2006, with malice aforethought, commit an assault and battery upon Sydney Chester, to wit: by shooting the victim with a shotgun. All in violation of Section 16-3-620, *Code of Laws of South Carolina*, (1976), as amended.

**POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME**

That Sammy L. Scott did in Anderson County on or about July 10, 2006 possess a firearm during the commission of a violent crime, to wit: Assault and Battery With Intent to Kill in violation of Code Section 16-3-10/16-3-20, *Code of Laws of South Carolina*, (1976), as amended.

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

Catherine J. They  
 SOLICITOR

## STATE OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.Sammy Scott

AKA: \_\_\_\_\_

Race: B Sex: M Age: 18  
DOB: [REDACTED] SS#: 000-00-0000Address: [REDACTED]  
CLEMSON, SC 29631

DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043261A/W#: J420148Date of Offense: 7/10/2006S.C. Code § : 16-03-0010.0020CDR Code #: 0116ENTERED  
CLERK

## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☒ PLEADS TO: MURDERin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

13413  
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: W/ ALL INDICTMENTS  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 26 mos.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |                        |
|----------------------------------------|------------------------|
| § 14-1-206 (Assessments 107.5 %)       | \$                     |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100 \$ <u>100.00</u> |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100 \$               |
| § 56-5-2995 (DUI Assessment)           | \$12 \$                |
| § 35.13 (Public Def/Prob)              | \$500 \$               |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25 \$ <u>25.00</u>   |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100 \$               |
| § 50-21-114(BUI Breath Test Fee)       | \$50 \$                |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$             |
| 3% to County (if paid in installments) | \$                     |
| § 90.11 TP (SCCJA Surcharge)           | \$5 \$ <u>5.00</u>     |

TOTAL: \$130.00Catherine J. Huey  
Clerk of CourtCourt Reporter: R. Wild

SCCA /217 (07/2008)

CC: 100 00.15.02/0000

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling beginning 4-2012

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: \_\_\_\_\_

Sentence Date: 9/11/06

STATE OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 19

DOB: SS#: 000-00-0000

Address: CLEMSON, SC 29631

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

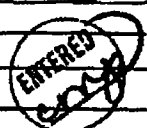
INDICTMENT/CASE#: 2006GS043261

A/W#: J420157

Date of Offense: 7/10/2006

S.C. Code §: 16-23-0490

CDR Code #: 0549



SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

*Catherine J. Huey*  
Solicitor:

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictments  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 26 mos.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine: \$  
§ 14-1-206 (Assessments 107.5 %) \$  
§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$100.00  
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$  
§ 56-5-2995 (DUI Assessment) \$12 \$  
§ 35.13 (Public Def/Prob) \$500 \$  
§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$25.00  
§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$  
§ 50-21-114(BUI Breath Test Fee) \$50 \$  
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$  
3% to County (if paid in installments) \$

§ 90.11 TP (SCCJA Surcharge) \$5 \$5.00

TOTAL *Cathy Phillips* 130.00

Clerk of Court/ Deputy Clerk

Court Reporter *C. Wild*  
SCCA 1217 (07/2008)  
00.12.00.00.121

PTUP

days/hours Public Service Employment  
A TRUE COPY  
Obtain GED  
Attend Voc. Rehab. or Job Corp.  
May serve W/E beginning DEC 4 2012  
Substance Abuse Counseling  
Random Drug/Alcohol testing  
Fine may be pd in equal, consecutive weekly/monthly pmts. of \$ beginning  
\$ paid to Public Defender Fund  
Other:

☐ Appointed PD or appointed other counsel §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

*[Signature]*  
9/2/11/06  
*[Signature]*

## STATE OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 18DOB: [REDACTED] SS#: 000-00-0000Address: [REDACTED]  
CLEMSON, SC 29631DL#: [REDACTED] SID#: [REDACTED]

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043262A/W#: J420159Date of Offense: 7/10/2006S.C. Code § : 16-03-0620CDR Code #: 0014

## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Assault / Assault and battery with Intent to Kill (ABWIK)in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: W/All indictments  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections. 26 mos.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |                  |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100   | \$ <u>100.00</u> |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$               |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$               |
| § 35.13 (Public Def/Prob)              | \$500   | \$               |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25    | \$ <u>25.00</u>  |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100   | \$               |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| 3% to County (if paid in installments) | \$      |                  |
| § 90.11 TP (SCCJA Surcharge)           | \$5     | \$ <u>5.00</u>   |

TOTAL Cathy M. Phillips \$ 130.00

Clerk of Court/ Deputy Clerk

Court Reporter [Signature]

SCCA /217 (07/2008)

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Random Drug/Alcohol Testing beginning 2012Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_\$ \_\_\_\_\_ paid to Public Defender Fund  
CLERK OF COURT

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel §35.13 TP  
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 12140Sentence Date: 9/11/06

584 OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 19

DOB: [REDACTED] SS#: 000-00-0000

Address: [REDACTED]  
CLEMSON, SC 29631

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043262

A/W#: DIA2006GS043262

Date of Offense: 7/10/2006

S.C. Code § : 16-23-0490

CDR Code #: 0549



SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime. if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine H. Hays  
Solicitor:

[REDACTED]  
Defendant

[REDACTED]  
Attorney for Defendant

13413  
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: W/ all indictments

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                             |       |                  |
|---------------------------------------------|-------|------------------|
| § 14-1-206 (Assessments 107.5 %)            | \$    |                  |
| § 14-1-211(A)(1) (Conv Surcharge)           | \$100 | \$ <u>100.00</u> |
| § 14-1-211(A)(2) (DUI Surcharge)            | \$100 | \$               |
| § 56-5-2995 (DUI Assessment)                | \$12  | \$               |
| § 35.13 (Public Def/Prob)                   | \$500 | \$               |
| § 73.3, 1B TP (Law Enforce. Funding)        | \$25  | \$ <u>25.00</u>  |
| § 33.7, 1B TP (Drug Court Surcharge)        | \$100 | \$               |
| § 50-21-114(BUI Breath Test Fee)            | \$50  | \$               |
| § 56-5-2942(J) (Vehicle Assessment) \$40/ea | \$    | \$               |
| 3% to County (if paid in installments)      | \$    | \$               |
| § 90.11 TP (SCCJA Surcharge)                | \$5   | \$ <u>5.00</u>   |

TOTAL \$ 130.00

Cathy M. Phillips  
Clerk of Court/ Deputy Clerk

Court Reporter: [REDACTED]

SCCA/217 (07/2008)

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab or beginning

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing beginning

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: [REDACTED]

Sentence Date: 9/11/06

## STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS <sup>585</sup>COUNTY OF  
STATE

Anderson

VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 18

DOB: [REDACTED] SS#: 000-00-0000

Address:

CLEMSON, SC 29631

DL#: SID#:

INDICTMENT/CASE#: 2006GS043263

A/W#: J420161

Date of Offense: 7/10/2006

S.C. Code § : 16-03-0620

CDR Code #: 0014

ENTERED

## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Assault / Assault and battery with Intent to Kill (ABWIK)

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictments☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv Surcharge)

\$100

\$100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$25.00

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$5.00

TOTAL \$130.00

Cathy M. Phillips  
Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA 217 (07/2008)

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning

\$ \_\_\_\_\_ paid to Public Defender Fund

Other:

Richard R. Kelly  
CLERK OF COURT☐ Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/11/08

586 OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 19

DOB: SS#: 000-00-0000

Address: CLEMSON, SC 29631

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043263

A/W#: DIA2006GS043263

Date of Offense: 7/10/2006

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET



In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictments  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

|                                        |                |
|----------------------------------------|----------------|
| *Fine:                                 | \$             |
| § 14-1-206 (Assessments 107.5 %)       | \$             |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100 \$100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100 \$       |
| § 56-5-2995 (DUI Assessment)           | \$12 \$        |
| § 35.13 (Public Def/Prob)              | \$500 \$       |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25 \$25.00   |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100 \$       |
| § 50-21-114(BUI Breath Test Fee)       | \$50 \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$     |
| 3% to County (if paid in installments) | \$             |
| § 90.11 TP (SCCJA Surcharge)           | \$5 \$5.00     |

TOTAL \$130.00

Cathy M. Phillips Clerk of Court/ Deputy Clerk

Court Reporter: R. Hild

SCCA /217 (07/2008)

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/Probation

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in installments, beginning weekly/monthly pmts. of \$

\$ paid to Public Defender Fund

Other:

CLERK OF COURT

☐ Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date: 9/11/06

## STATE OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.Sammy Scott

AKA: \_\_\_\_\_

Race: B Sex: M Age: 18DOB: 0 SS#: 000-00-0000Address: CLEMSON, SC 29631

DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043264A/W#: J420160Date of Offense: 7/10/2006S.C. Code § : 16-03-0620CDR Code #: 0014

## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Assault / Assault and battery with Intent to Kill (ABWIK)in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictments  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections. 26 mo.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |
|----------------------------------------|---------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100   |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   |
| § 56-5-2995 (DUI Assessment)           | \$12    |
| § 35.13 (Public Def/Prob)              | \$500   |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25    |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100   |
| § 50-21-114(BUI Breath Test Fee)       | \$50    |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea |
| 3% to County (if paid in installments) | \$      |
| § 90.11 TP (SCCJA Surcharge)           | \$5     |

TOTAL: Cathy M. Phillips \$ 130.00

Clerk of Court/Deputy Clerk

Court Reporter: R. Wild

SCCA /217 (07/2008)

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

CLERK OF COURT

☐ Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: \_\_\_\_\_

Sentence Date: 9/11/08

STATE OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.  
Sammy Scott

AKA:

Race: B Sex: M Age: 19

DOB: 9 SS#: 000-00-0000

Address: CLEMSON, SC 29631

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043264

A/W#: DIA2006GS043264

Date of Offense: 7/10/2006

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Weapons / Poss. weapon during violent crime. if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)  
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor

Sammy Scott  
Defendant

Att. 13413  
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictment

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |                  |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100   | \$ <u>100.00</u> |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$               |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$               |
| § 35.13 (Public Def/Prob)              | \$500   | \$               |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25    | \$ <u>25.00</u>  |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100   | \$               |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| 3% to County (if paid in installments) | \$      | \$               |
| § 90.11 TP (SCCJA Surcharge)           | \$5     | \$ <u>5.00</u>   |

TOTAL Cathy M. Phillips \$ 130.00

Clerk of Court/ Deputy Clerk

Court Reporter: R. Hild

SCCA 2/17 (07/2008)

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing beginning 2012

Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE J. Nichols

Judge Code: 121171

Sentence Date: 9/11/08

## STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Anderson

VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 18

DOB: [REDACTED] SS#: 000-00-0000

Address: [REDACTED]  
CLEMSON, SC 29631

DL#: [REDACTED] SID#: [REDACTED]

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043265

A/W#: J420158

Date of Offense: 7/10/2006

S.C. Code § : 16-03-0620

CDR Code #: 0014



## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Assault / Assault and battery with Intent to Kill (ABWIK)

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 26 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictment☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |                |
|----------------------------------------|----------------|
| § 14-1-206 (Assessments 107.5 %)       | \$             |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100 \$100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100 \$       |
| § 56-5-2995 (DUI Assessment)           | \$12 \$        |
| § 35.13 (Public Def/Prob)              | \$500 \$       |
| § 73.3, 1B TP (Law Enforce. Funding)   | \$25 \$25.00   |
| § 33.7, 1B TP (Drug Court Surcharge)   | \$100 \$       |
| § 50-21-114(BUI Breath Test Fee)       | \$50 \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$     |
| 3% to County (if paid in installments) | \$             |
| § 90.11 TP (SCCJA Surcharge)           | \$5 \$5.00     |

TOTAL Cathy M. Phillips 130.00

Clerk of Court/ Deputy Clerk

Court Reporter: B. Wild

SCCA /217 (07/2008)

100.00. 9.10.08 (ama)

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Random Drug/Alcohol testing \_\_\_\_\_

Fine may be pd. in equal consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Clerk of Court

☐ Appointed PD or appointed other counsel §35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: \_\_\_\_\_

Sentence Date: \_\_\_\_\_

590 OF SOUTH CAROLINA

COUNTY OF Anderson  
STATE VS.

Sammy Scott

AKA:

Race: B Sex: M Age: 19

DOB: SS#: 000-00-0000

Address: CLEMSON, SC 29631

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043265

A/W#: DIA2006GS043265

Date of Offense: 7/10/2006

S.C. Code § : 16-23-0490

CDR Code #: 0549

ENTERED

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime. if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine J. Huey  
Solicitor:

Defendant

Attorney for Defendant

SC Bar # 13413

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all indictments

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine:

|                                        |                |
|----------------------------------------|----------------|
| § 14-1-206 (Assessments 107.5 %)       | \$             |
| § 14-1-211(A)(1) (Conv Surcharge)      | \$100 \$100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100 \$       |
| § 56-5-2995 (DUI Assessment)           | \$12 \$        |
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| § 33.7, 1B TP (Drug Court Surcharge)   | \$100 \$       |
| § 50-21-114(BUI Breath Test Fee)       | \$50 \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$     |
| 3% to County (if paid in installments) | \$             |
| § 90.11 TP (SCCJA Surcharge)           | \$5 \$5.00     |

TOTAL

Cathy M. Phillips 130.00  
Clerk of Court/ Deputy Clerk

Court Reporter R. Wild

SCCA /217 (07/2008)

cc: del. a11sne.com

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equl, conse weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/11/08

FORM 5

2012 - CP - 04 - 03713

STATE OF SOUTH CAROLINA

COUNTY OF AndersonSammy Lee Scott 330564#  
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
POST-CONVICTION RELIEFFILED - CLERK'S OFFICE  
ANDERSON SC  
2012 DEC - 4  
COMMON PLEAS AND  
GENERAL SESSIONS  
45**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make reference to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention LEE CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence Anderson County General Session
3. Name(s) of co-defendant(s) (if any) Troy Verner, Josh Black
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2006-GS-04-3262A 3263A
  - (b) 3264A 3265 3261
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) September 8, 9, 10, 11 2008
  - (b) 30yrs for murder, 20yrs for 1st DEGREE, 3.5yrs for firearm

Revised 3/2003

- (c) during the commission of a violent crime
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Trial
- (b) after a plea of not guilty Trial
- (c) after a plea of nolo contendere Trial
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. State of South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Affirming my conviction
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. Heard November 3, 2011
- ii. Filed November 30, 2011
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A
- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel  
 (b) Insufficient evidence (See attached sheet)  
 (c) Hearsay testimony

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) (See attached sheet)  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO  
 (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:  
 i. N/A  
 ii. N/A  
 iii. N/A  
 iv. N/A  
 (b) the name and location of the Court in which each was filed:  
 i. N/A  
 ii. N/A  
 iii. N/A  
 iv. N/A  
 (c) the disposition thereof:  
 i. N/A  
 ii. N/A  
 iii. N/A

- iv. N/A
- (d) the date of each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

- (b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) N/A
- (b) N/A
- (c) N/A

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? N/A
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? \_\_\_\_\_

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. Andrew potter Public defender office
- ii. PO BOX 81002
- iii. Anderson SC 29622
- (b) the proceedings at which each such attorney represented you:
- i. a.j.c
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

(See attached sheet)

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA

County of

)  
)  
)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

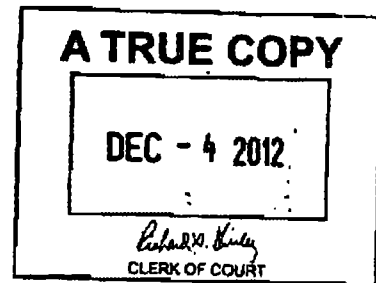
Sammy Lee Scott  
SAMMY L. SCOTT

SWORN to and subscribed before me this 28  
day of Nov, 2012

Debra Sines (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

FILED-CLERK'S OFFICE  
ANDERSON SC  
2012 DEC -4 A 9 45  
COMMON PLEAS AND  
GENERAL SESSIONS



**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

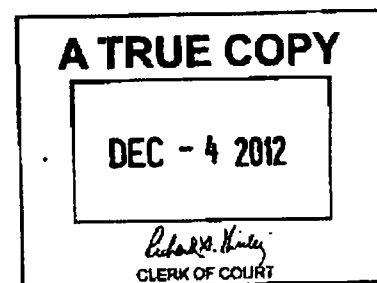
Sammy Lee Scott  
Applicant

SWORN or affirmed to and subscribed before me this

28 day of Jan, 2012.  
Dubne Sides  
Notary Public

My Commission Expires: 1-4-2015

FILED-CLERK'S OFFICE  
ANDERSON SC  
2012 DEC -4 A 9 46  
COMMON PLEAS AND  
GENERAL SESSIONS



598

County of Anderson / Tenth Judicial Circuit

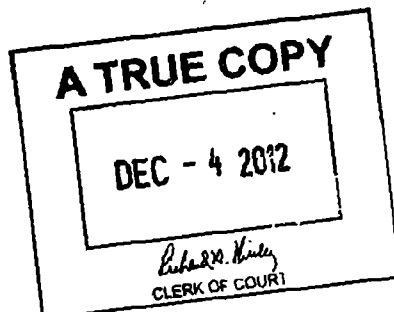
Attached Sheet From 1061 1103 page 3; 19, page 6

mmy. Lee. Scott # 330564  
Applicant, proseApplication for  
Post-Conviction-Relief  
§ 17-27-10

vs.

State of South Carolina  
Respondent

The applicant herein was arrested, went to trial and was found guilty upon indictment for murder, six counts of ABK, and two counts of a firearm during the commission of a violent crime. He was represented by attorney as indicted attorney Applicant submit/contents provided ineffective - assistance in controvention/degradation of Applicant's rights, protections; Guarantees pursuant to the Sixth Amendment to the United States Constitution, South Carolina Constitution Art 1, § 14; South Carolina Code 17-23-60; - Strickland v. Washington 46 U.S. 668, 668, 104 S.Ct. 2052 3065, 80 L.ED 2d 674 (1984) Counsel's representation fell below objective ~~representational~~ standards of reasonableness and but for Counsel's unprofessional errors a reasonable probability exist that the result of proceeding would have been different. There is a reasonable probability that Applicant would have insisted on proceeding to plead guilty on matter instead of going to trial if not for Counsel's erroneous advice.

State of South Carolina - County  
AndersonWherefore, Applicant justly demand the reversal of his  
convictions.St. Sammy Lee Scott  
Applicant Pro Se

FILED-CLERK'S OFFICE  
ANDERSON SC  
2012 DEC - 4 A 9 45  
COMMON PLEAS AND  
GENERAL SESSIONS

|                          |   |                                              |
|--------------------------|---|----------------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS                 |
|                          | ) | FOR THE TENTH JUDICIAL CIRCUIT               |
| COUNTY OF ANDERSON       | ) |                                              |
|                          | ) | Case No. 2012-CP-04-3713                     |
| Sammy Lee Scott,         | ) |                                              |
| S.C.D.C. #330564         | ) |                                              |
|                          | ) |                                              |
| Applicant,               | ) |                                              |
|                          | ) |                                              |
| v.                       | ) | <b>RETURN</b> (request counsel be appointed) |
|                          | ) |                                              |
| State of South Carolina, | ) |                                              |
|                          | ) |                                              |
| Respondent.              | ) |                                              |
|                          | ) |                                              |

---

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed December 4, 2012, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the November 2006 term of the Court of General Sessions for Anderson County for murder and possession of a firearm during the commission of violent crime (2006-GS-04-3261) and four counts of assault and battery with intent to kill (2006-GS-04-3262, -3262, -3263, -3264). He was represented by Andrew Potter, Esquire. On September 8, 2008, Applicant proceeded to trial after which he was found guilty as charged. He was sentenced by the Honorable J.C. Nicholson, to confinement for a period of fifty five years (55) years for murder and five (5) years for possession of a firearm during the commission of violent crime (2006-GS-04-3261) and five (5) years for each assault and battery with intent to kill (2006-GS-04-3262, -3262, -3263, -3264). The sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The Applicant was represented by Robert M. Dudek, Esquire. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Sammy Scott, Op. No. 2009-UP-540 (2011-UP-518 filed November 30, 2011). The Remittitur was filed December 21, 2011.

Attached herewith and incorporated herein by reference are the records of the Anderson County Clerk of Court regarding the subject conviction(s), and the transcript of the proceeding against Applicant. Respondent reserves the right to amend its return upon the receipt of other relevant records.

## II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel;
  - a. Would have entered a guilty plea but for counsel's advice
2. Insufficient Evidence
3. Hearsay Testimony

## III.

The Applicant's first claim is an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as

having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Applicant raises additional direct appeal allegations. These allegations are not proper matters for PCR. Simmons v. State, 264 S.C. 417, 215 S.E.2d 833 (1975). Therefore Applicant's direct appeal allegations must be summarily dismissed.

V.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VIII.

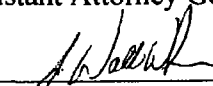
WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

WALT WHITMIRE  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

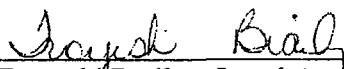
June 5<sup>th</sup>, 2013

|                           |   |                              |
|---------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA   | ) | IN THE COURT OF COMMON PLEAS |
|                           | ) | IN THE TENTH CIRCUIT         |
| COUNTY OF ANDERSON        | ) |                              |
|                           | ) | 2012-CP-04-3713              |
|                           | ) |                              |
| Sammy Lee Scott, # 330564 | ) |                              |
|                           | ) |                              |
| Applicant,                | ) |                              |
|                           | ) |                              |
| vs                        | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                           | ) |                              |
| STATE OF SOUTH CAROLINA,  | ) |                              |
|                           | ) |                              |
| Respondent                | ) |                              |
| _____                     | ) |                              |

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and request for counsel in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Sammy Lee Scott, # 330564**  
**Lee Correctional Institution**  
**990 Wisacky Highway**  
**Bishopville, SC 29010**

DATED this 5th day of June, 2013

  
 \_\_\_\_\_  
 Troyesh Brailey, Legal Assistant  
 For Respondent

State of South Carolina

County of Anderson

**In the Court of Common Pleas**

Sammy Lee Scott,

**Applicant,**

-VS-

State of South Carolina,

**Respondent.**

2012-CP-04-03713

September 17, 2014

## Transcript of Record

**BEFORE:**

The Honorable R. Lawton McIntosh, Judge

APPEARANCES:

Hugh Welborn, Esquire  
Attorney for the Applicant

**John W. Whitmire, Esquire**  
**Assistant Attorney General**  
**Attorney for the State**

**Renee H. Tollison**  
**Circuit Court Reporter**

INDEX

| WITNESSES       | DIRECT | CROSS | REDIRECT | RECROSS |
|-----------------|--------|-------|----------|---------|
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| Andrew Potter   |        |       |          |         |
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&lt;&lt; -- &gt;&gt;

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|-------------------------|------|
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| Closing Arguments       |      |
| Welborn                 | 42   |
| Whitmire                | 43   |
| Certificate of Reporter | 51   |

EXHIBITS

| No | DESCRIPTION                                          | ID | EV |
|----|------------------------------------------------------|----|----|
|    | <i>No exhibits were presented during the hearing</i> |    |    |

1                                   **September 17, 2013**

2           (WHEREUPON, court convened with all parties present,  
3           and the following proceedings were had commencing at  
4           approximately 2:13 p.m.)

5                   MR. WHITMIRE: May it please the Court, Your  
6 Honor.

7                   THE COURT: Yes, sir.

8                   MR. WHITMIRE: The matter before this Court at  
9 this time is Sammy Scott v. State of South Carolina,  
10 2012-CP-04-3713. And Your Honor, I was going to make a  
11 motion to amend my return. There's some scrivener's  
12 errors. It does not account for the murder indictment  
13 and also lists the wrong term, assault and battery with  
14 intent to kill.

15                   THE COURT: Say what your amendment is.

16                   MR. WHITMIRE: Just to conform my -- the  
17 State's return in this case has scrivener's errors in it.  
18 A review of the case, the murder indictment was not  
19 listed.

20                   THE COURT: Any objection to that amendment?

21                   MR. WELBORN: No, sir.

22                   THE COURT: All right. Granted.

23                   MR. WHITMIRE: Thank you, Your Honor.

24                   Mr. Scott was indicted for murder and use of a  
25 weapon during a violent offense, four counts of assault

1 and battery with intent to kill. Mr. Scott was  
2 represented by Andrew Potter. The State called this case  
3 to trial on September 8th of 2008. Mr. Scott was found  
4 guilty as indicted. Judge Nicholson sentenced Mr. Scott  
5 to an aggregate term of fifty-five years imprisonment,  
6 all charges to run concurrent.

7 A notice of appeal was filed on Mr. Scott's behalf,  
8 perfected by Robert Dudek at the Office of Appellate  
9 Defense. The Court of Appeals affirmed Mr. Scott's  
10 conviction in an unpublished opinion.

11 Mr. Scott did file a timely application for post-  
12 conviction relief. He is present and represented by Mr.  
13 Welborn. The current allegations before this Court are  
14 insufficient evidence and failure to object to hearsay.  
15 On the first allegation, Your Honor, we'd ask for summary  
16 dismissal. That's an incognizable claim in post-  
17 conviction relief.

18 On the second allegation, failure to object to  
19 hearsay, I also believe misleading. I would just ask the  
20 Court to summarily dismiss any potential claim that  
21 results from statements made by Nikki Scott and Troy  
22 Brown (phonic) on pages 116 and 117. Those issues were  
23 handled on direct appeal.

24 THE COURT: Are those the statements that, you  
25 ain't seen nothing?

1 MR. WHITMIRE: Yes, Your Honor.

2 THE COURT: And what was the other one?

3 MR. WHITMIRE: You ain't seen nothing and I  
4 believe that this is some real gangster stuff. The Court  
5 of Appeals ruled that it was not hearsay.

6 THE COURT: All right. As to the insufficient  
7 evidence grounds, would you agree, Mr. Welborn, that  
8 that's not a claim cognizable under the P.C.R. statute?

9 MR. WELBORN: Yes, sir, I would.

10 THE COURT: Okay. I'll grant your motion for  
11 summary dismissal on that ground.

12 Now, Mr. Welborn, would you tell me what you contend  
13 the grounds are, please, sir?

14 MR. WELBORN: Judge, my client's alleging  
15 ineffective assistance of counsel. He has alleged that  
16 counsel -- he would have entered a guilty plea except for  
17 the advice of his counsel, which according to my client,  
18 is going to be that he could go to trial. And there's a  
19 lot of hearsay testimony along with leading issues. Even  
20 though it doesn't say leading, it ties in with the  
21 hearsay. And our position would be those are the issues.

22 I would also ask the Court, on behalf of my client,  
23 to continue this matter. A couple of reasons. This was  
24 filed back in December 2012. It's not exactly a young  
25 case, but it's a most serious case. And my client's

1 alleging he needs more time to talk with me to look over  
2 this.

3 I will also tell the Court that even though I've got  
4 quite a list of things to go through, I just noticed a  
5 couple of pages that should have been on this list that  
6 weren't on this list. And as the Court knows, sometimes  
7 these things fall through the cracks. And I don't want  
8 anything to fall through the cracks for this young man  
9 who's trying to put his life back on track.

10 And I don't generally come up here and ask for  
11 continuances on these types of hearings, but it's a very  
12 serious case and it's a lengthy transcript. It's several  
13 hundred pages. And he feels like he needs to have more  
14 time to go over this with me. And so that's his motion.

15 THE COURT: What pages do you contend that you  
16 haven't -- that's slipped through the crack, so to speak?

17 MR. WELBORN: Well, Your Honor, I had page  
18 numbers written down on issues that should be on here.  
19 And I've noticed that something -- my secretary, my  
20 paralegal didn't get some of these pages, a couple of  
21 them, written down. One of them a moment ago that we  
22 just went over. And I was wondering. Well, I thought  
23 that should be on here. I didn't see it on here. And  
24 it's important that I get all -- every issue. And I've  
25 also noticed there was some misnumbering on some pages.

1 Some of them were just perfect, but I'm a little confused  
2 about some of this. And that's -- I take responsibility  
3 for that. That's my staff. But you know, you delegate  
4 and you hope that they're doing what they're supposed to  
5 do. And that's where I am.

6 THE COURT: I tell you what. Let's go forward.  
7 I'll give you some time and you can sit down and review  
8 those, and then we'll cross that bridge after we take  
9 some testimony. Okay?

10 MR. WELBORN: Yes, sir.

11 THE COURT: Okay. So going back, the  
12 inefficient evidence ground is admittedly not  
13 appropriate, and so that's being dismissed.

14 MR. WELBORN: That would be an appeal issue.

15 THE COURT: Sir?

16 MR. WELBORN: That would be an appeal issue.

17 THE COURT: Then you have ineffective  
18 assistance of counsel on failure to object and continuing  
19 leading throughout the course of the trial.

20 MR. WELBORN: That's correct.

21 THE COURT: And you also have that the  
22 Applicant would have pled guilty but for the advice of  
23 his counsel?

24 MR. WELBORN: Yes, sir.

25 THE COURT: Okay. Very good. Let's go ahead

1 and call your first witness, please, sir.

2 MR. WHITMIRE: Your Honor, just briefly, I'd  
3 like to put on the record that Patricia Clinkscales, the  
4 victim in this case, whose mother is attending and  
5 present.

6 Also, regarding the transcript, the transcript we  
7 received in our office was that Appellate Defense put  
8 together. I've ordered the original about a week ago,  
9 and they were able to send the missing motions hearing  
10 from the transcript, along with the sentencing hearing, I  
11 believe, at the end. And I don't believe it relates to  
12 any of the allegations Mr. Scott has before this Court  
13 today. And I've attached amended portions of the  
14 transcript for Your Honor ---

15 THE COURT: Well, now, let's do this. It's  
16 hard to frame an allegation if you can't read it and see  
17 what it is. And so I'm going to give Mr. Welborn a  
18 chance to review those, and we'll cross that later on.  
19 But you're protected on the record.

20 All right. Mr. Welborn?

21 MR. WELBORN: If it please the Court, we'd call  
22 Sammy Scott.

23 (WHEREUPON, Sammy Lee Scott was duly sworn.)

24 MR. WELBORN: May it please the Court?

25 THE COURT: Yes, sir.

1                                   **SAMMY LEE SCOTT,**

2                   BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3                                   DIRECT EXAMINATION

4   BY MR. WELBORN:

5   Q.   All right.  You're Sammy Scott?

6   A.   Yes, sir.

7   Q.   All right.  Mr. Scott, you were before this Court  
8   sometime back a few years ago, and you were -- you asked  
9   for a trial on various charges, and you were convicted of  
10  murder and several other charges, including assault and  
11  battery with intent to kill and possession of a firearm  
12  during the commission of a violent crime.  Is that  
13  correct?

14  A.   Yes, sir.

15  Q.   And you were given a total of around fifty-five  
16  years, a total sentence; is that correct, sir?

17  A.   Yes, sir.

18                   MR. WHITMIRE:  I beg the Court's indulgence.

19  May we approach really quick, Your Honor?

20                   THE COURT:  Yes, sir.

21                   (WHEREUPON, a bench conference was held off the  
22  record.)

23                   MR. WHITMIRE:  Thank you, Your Honor.

24  Q.   And I believe as a result of that, you appealed that  
25  particular sentence; is that correct?

1 A. Yes, sir.

2 Q. Now, that appeal was not granted. And in fact, you  
3 continue to be incarcerated after the denial of that  
4 appeal; is that correct?

5 A. Yes, sir.

6 Q. Now, who represented you at the time of your trial?

7 A. Andrew Potter.

8 Q. How many times did you meet with Mr. Potter?

9 A. Say that again?

10 Q. How many times did you meet with Mr. Potter,  
11 roughly?

12 A. Out of twenty-six months, probably three or four  
13 times. Three or four times.

14 Q. Three or four times. Okay. Now, during that period  
15 of time, did he go over these various charges and answer  
16 your questions regarding these issues?

17 A. Yes, sir.

18 Q. Did you have any complaints about how he was  
19 representing you when he would come out and visit you?

20 A. No, sir.

21 Q. Did you feel prepared when you went to trial?

22 A. No, sir.

23 Q. And why did you not feel prepared?

24 A. Because I had wanted a changed of venue.

25 Q. Why did you want a change of venue?

*Sammy Lee Scott - Direct Examination by Mr. Welborn*

11

1 A. Because it would be impossible for me to win -- it  
2 would be impossible for me to win in Anderson County.  
3 I'm not from Anderson County.

4 Q. So you're not from here, and you felt that that  
5 would be a prejudice against you if you didn't have a  
6 change of venue?

7 A. Yes, sir, because all the jury would be from Belton  
8 and Honea Path.

9 Q. Did you talk to your attorney about that?

10 A. Yes, sir. Me and my brother and my dad.

11 Q. And did he do anything about requesting a change of  
12 venue?

13 A. He told me it wasn't going to work.

14 Q. Well, was there any extensive publicity about this  
15 case? In the newspaper, was there any extensive  
16 publicity?

17 A. Yes, sir. It was everywhere.

18 MR. WHITMIRE: Objection. Hearsay.

19 THE COURT: Overruled.

20 Q. So you felt because of the publicity and the fact  
21 that you weren't from here, you needed to have a change  
22 of venue; is that correct?

23 A. Yes, sir.

24 Q. Now, just for the Court's knowledge -- and I know  
25 the Court reads these transcripts -- this involved a

1 shooting that took place at Publix; is that correct?

2 A. Yes, sir.

3 Q. In the parking lot of Publix?

4 A. Yes, sir.

5 Q. And it was alleged that you had gone to some club  
6 and there was an altercation of some sort from a week or  
7 so earlier. And then a bunch of y'all, a bunch of  
8 teenagers, you included, went to the Publix parking lot  
9 later on and there was a shooting; is that correct?

10 A. Yes, sir.

11 Q. And as a result of that shooting, you were charged  
12 with murder because of an alleged shotgun that killed a  
13 fifteen-year-old person; is that correct?

14 A. Yes, sir.

15 Q. And then there were several other people that were  
16 injured as well from gunshots; is that correct?

17 A. Yes, sir.

18 Q. Now, let's talk more specifically then, besides the  
19 change of venue, about the things that you are concerned  
20 about. Do you remember when -- there were witnesses that  
21 started testifying in the trial that had been at the  
22 club. These were young people that were teenagers. Do  
23 you remember those people testifying at the start of your  
24 trial?

25 A. Yes, sir.

1 Q. Now, at any time were there any questions by Ms.

2 Huey that you felt were leading and suggestive? Do you

3 understand my question?

4 A. (No verbal response)

5 Q. Let me rephrase my question.

6 A. Can I look at the paper, my paper that I got written

7 down beside the transcript?

8 Q. You want your paperwork?

9 A. Yes, sir.

10 MR. WELBORN: Your Honor, may I approach the

11 bench?

12 THE COURT: Yes, sir.

13 (WHEREUPON, Mr. Welborn handed documents to the

14 witness.)

15 A. Now, explain it to me again.

16 Q. I'm sorry. What did you say, sir?

17 A. I said, can you repeat that again?

18 Q. Did the prosecutor, Ms. Huey, ever make any type of

19 suggestive questions to witnesses that would cause them

20 to have an answer that they should be saying?

21 A. Yes, sir.

22 Q. And did she ever ask for these witnesses to say

23 things that someone else said?

24 A. Yes, sir.

25 MR. WELBORN: Now, I'm going to call the

1 Court's attention to -- if the Court will bear with me.

2 I call the Court's attention to page 122 of the trial  
3 transcript.

4 Q. That's the small number to the right of the page,  
5 and down to line 11. Line 10, actually. And this is  
6 from Ms. Huey. And why did you go to the Walmart parking  
7 lot? Answer -- this is from her witness that Ms. Huey's  
8 asking -- we heard that Jamal Watson told me that Sammy  
9 had a beef with somebody. Do you contend that was  
10 hearsay?

11 A. Yes, sir.

12 Q. And did your attorney make an objection to that?

13 A. (No verbal response).

14 Q. Do you want to look -- do you want me to show you  
15 the transcript?

16 A. Yes, sir.

17 Q. Okay. Do you see anywhere after that question that  
18 I've highlighted and that answer I've highlighted, do you  
19 see anywhere where Mr. Potter objected and said that's  
20 hearsay? It's not there, is it?

21 A. No, sir.

22 Q. Okay. Now, were there other situations where the  
23 same type of questions were answered?

24 A. Yes, sir.

25 Q. I call your attention to page ---

*Sammy Lee Scott - Direct Examination by Mr. Welborn*

15

1 MR. WELBORN: The Court's attention to page  
2 124, line 2.

3 Q. Actually, I'll start at the bottom of 123, line 25.  
4 This is a question from the prosecutor. What do you  
5 mean? What do you think was going to go down? Answer,  
6 well, it appears Boot had shot in the air, so I figured  
7 something was going on here. This is not my people. Was  
8 there -- did you allege that there was some hearsay or  
9 speculation about asking what did you think was going to  
10 go on?

11 A. (No verbal response).

12 Q. Is that speculative?

13 A. Yes, sir.

14 Q. And did your attorney object to that?

15 A. No, sir.

16 Q. Now, I'm asking you ---

17 MR. WELBORN: If the Court will bear with me.

18 Q. I call your attention to page 130. And I'll ask you  
19 this question, Mr. Scott. Who was Nikki?

20 A. My sister.

21 Q. And your sister was referred to in this transcript  
22 several times during the trial, wasn't she?

23 A. Yes, sir.

24 Q. And she did not testify, did she?

25 A. No, sir.

1 Q. Now, referring to Nikki in this transcript on page  
2 130 ---

3 MR. WELBORN: And I call the Court's attention  
4 to line 7.

5 Q. Question -- now this is the prosecutor asking one of  
6 these witnesses that saw the shooting. Question, now  
7 what, if anything, did you see Nikki do? Nikki's your  
8 sister, again; is that correct?

9 A. Yes, sir.

10 Q. Now, I'm going to ask that you follow me down to  
11 line 14. What, if anything, did she say to you when she  
12 was taking the gun? That was Nikki they're referring to  
13 that said something. Answer, she said, y'all didn't see  
14 nothing. Did Mr. Potter object and say, that's hearsay.  
15 Nikki's not testifying. Nikki's not here. That's what  
16 she's saying. Did anybody object?

17 A. No, sir.

18 Q. And do you think so far these things as I've  
19 mentioned prejudiced the outcome of this case, Mr. Scott?

20 A. Yes, sir.

21 Q. I'll continue. On page 142 of the trial transcript.  
22 This is the prosecutor asking a question to his witness,  
23 one of the teenagers that was at the Bi-Lo, line 23. All  
24 right. Now, when you were in shock after all of this  
25 happened and you got back to the complex, what, if

1 anything, did Nikki Scott say to you? Answer at the top  
2 of page 143, you don't know nothing. You didn't see  
3 nothing. Now, did your attorney object to those answers  
4 as hearsay, Mr. Scott?

5 a. No, sir.

6 Q. And again, Nikki didn't testify in this trial at  
7 all, did she?

8 A. No, sir.

9 MR. WELBORN: I call the Court's attention to  
10 page 147 of the trial transcript, line 21.

11 Q. The prosecutor asking questions of her teenage  
12 witness. Line 21, we seen him -- this is an answer --  
13 and as he was going down the road, I heard Marquica on  
14 the phone saying something about pointing a gun, but I  
15 didn't see nothing. Did your prosecutor -- excuse me --  
16 did your attorney object on grounds of hearsay when that  
17 was said?

18 A. No, sir.

19 MR. WELBORN: I call everyone's attention to  
20 page 149 of the trial transcript, line 15.

21 Q. The prosecutor's asking questions to a teenage  
22 witness, line 15. Question, okay. Well, let me show you  
23 that statement. I want you to take a look at this, that  
24 last paragraph, and tell me what Nikki told you. Did  
25 your attorney object on the grounds of hearsay that that

1 particular statement coming in and Nikki didn't testify?

2 A. No, sir.

3 MR. WELBORN: I call the Court's attention to  
4 page 156, line 16.

5 Q. This is from the prosecutor with another witness.

6 What were they saying though? Answer, I don't know.

7 Down to line 20. Okay. Do you remember giving a

8 statement to the police? 22, yes. Line 23, okay. I

9 show you a statement from July 11th. Look at that last  
10 paragraph and see if that refreshes your memory. At the

11 top of page 157, line 1, they were talking about Sammy.

12 Did your attorney object on the grounds of hearsay when  
13 that was stated?

14 A. No, sir.

15 Q. On the same page, 157 of the trial transcript, line

16 22, question by the prosecutor, but in the car you heard

17 people screaming, no, no, no, and talking about Sammy; is

18 that right? Answer, uh-huh (affirmative). Did your

19 attorney object on the grounds of hearsay or leading at

20 that particular question?

21 A. No, sir.

22 Q. And the next page, page 158, line 6, question from

23 the prosecutor to another witness, and what did Nikki

24 tell you? Answer, she was saying in general you didn't

25 see anything. Did your attorney object on grounds of

1 leading and hearsay when that question came out?

2 A. No, sir.

3 Q. Line 13, page 158, question, and what Nikki --

4 that's what Nikki said to say? Answer, uh-huh

5 (affirmative). Did your attorney object on the grounds

6 of hearsay when that question was asked?

7 A. No, sir.

8 Q. Page 159 ---

9 MR. WHITMIRE: Your Honor, I have no problems  
10 stipulating to the list of potential allegations relating  
11 to hearsay or leading questions. Just a matter of  
12 efficiency.

13 THE COURT: That's all right. Overruled.

14 MR. WELBORN: And Your Honor, for the Court's  
15 edification, I'm not going to go through a thousand pages  
16 of this. Just giving him a flavor, although I appreciate  
17 his objection.

18 MR. WHITMIRE: And opposing counsel has shared  
19 all those allegations with me, so I'm on complete notice.

20 Q. Page 159, line 4, which, again, you didn't see Sammy  
21 shooting or you didn't see him with a gun? Did your  
22 attorney object on the grounds that that was a leading  
23 question to a witness?

24 A. No, sir.

25 Q. Line 7, question from the prosecutor, but you were

1 in the car that was behind him but your head was ducked  
2 down most of the time. Did your attorney object to the  
3 leading in that one?

4 A. No, sir.

5 Q. Line 10, same page. Question, you heard people in  
6 the car screaming, no, no, no. Did your attorney object  
7 on hearsay?

8 A. No, sir.

9 Q. Question on line 13 on the same page, they were  
10 talking about Sammy? That's the prosecutor asking that.  
11 Answer, yes. Question on line 15, that's all true? Line  
12 16, yes. Did your attorney object on the grounds of  
13 hearsay on those questions?

14 A. No, sir.

15 Q. And when -- in line 15, the question was, that's all  
16 true -- did your attorney say, that's the truth of the  
17 matter asserted, it's hearsay? Did he say anything like  
18 that at all?

19 A. No, sir.

20 Q. Now, on page 162, line 16, they were just driving at  
21 the Walmart -- and this is the prosecutor. Answer, uh-  
22 huh (affirmative). Line 18, and then everyone was going  
23 to Publix? Answer, uh-huh (affirmative). Question, but  
24 you didn't go to Publix? Did your attorney object to the  
25 leading questions to a witness at that point?

1 A. No, sir.

2 Q. Page 163, line 21. We were going down the road and  
3 we pulled up next to Sammy and then -- and them and they  
4 started screaming, saying that they saw gun. Did your  
5 attorney object to hearsay when that statement came out  
6 of them screaming saying they saw a gun?

7 A. No, sir.

8 Q. Page 165. You're back at the apartment in Clemson  
9 at this time. Line 15, question from the prosecutor, all  
10 right. But was everyone talking about what had happened?  
11 17, no, ma'am. Line 18, everyone pretended like nothing  
12 happened?

13 THE COURT: What page and line is this?

14 MR. WELBORN: This is 165. It is line --  
15 starting at 15 going through line 20.

16 Q. I'll rephrase it. Line 15, all right. That's from  
17 the prosecutor. But was everyone talking about what had  
18 happened? Answer, no, ma'am. Question, everyone  
19 pretended like nothing happened? Answer, yes, ma'am.  
20 Question, even though you'd just heard gunshots and seen  
21 this guy point a gun at you? Answer, yes. Did your  
22 attorney object to leading and speculation on that  
23 question?

24 A. No, sir.

25 Q. On page 171, line 6, question from the prosecutor.

1 Again, another witness. Somebody took shots at you?

2 Answer, yes, ma'am. Down to line 13, who do you think  
3 was doing it? Line 14, I mean, everybody was saying it  
4 was Boot. Did your attorney object on line 13 to who do  
5 you think was doing it, that being speculation? Was  
6 there an objection?

7 A. No, sir.

8 Q. Did he object to hearsay when it said, I mean,  
9 everybody was saying it was Boot?

10 A. No, sir.

11 Q. And Boot was a character in all of this particular  
12 shooting; is that correct?

13 A. Yes, sir.

14 Q. And page 173, line 13 from the prosecutor to a  
15 witness. Question, had Boot and Sammy had words before?  
16 Did your attorney object to leading on that particular  
17 question?

18 A. No, sir.

19 Q. Page 177, line 13 from the prosecutor. Okay. So  
20 you saw Sammy shoot the shotgun out the window? Did your  
21 attorney object to a leading question on that?

22 A. No, sir.

23 Q. Page 181, line 8, question from the prosecutor to a  
24 witness. He shot into the crowd, didn't he? Did your  
25 attorney object to that as being a leading question and

1 call for speculation?

2 A. No, sir.

3 Q. Page 189, line 2, question from the prosecutor to a  
4 witness, now, you also talked about Sammy and Boot not  
5 really liking each other. Answer, yes, ma'am. Did your  
6 attorney object to leading on that particular question?

7 A. No, sir.

8 Q. Page 209 of the trial transcript, starting line 1  
9 from the witness, I heard two loud shots. Line two by  
10 Ms. Huey, question, like a shotgun? Answer, yeah, real  
11 loud. A big bang. Question, did you hear the gunshots  
12 before the shotgun shots? Answer, uh-huh (affirmative).  
13 Question, line 8, after the shotgun shots, you saw Little  
14 Ricky shoot? Answer, uh-huh (affirmative). Line 12 --  
15 excuse me. That's as far as I'm going with that. Did  
16 your attorney object that there were leading questions in  
17 all of that questioning right there?

18 A. No, sir.

19 Q. Page 221, line 3 question from the prosecutor to a  
20 witness who's been shot, did they tell you what was in  
21 your back? Answer, yeah, they said two buck shots or  
22 whatever. Did your attorney object to hearsay, leading  
23 and speculation?

24 A. No, sir.

25 Q. Page 229, line 22 the prosecutor, okay. And did

1 they tell you what was inside your ankle? Answer, yes,  
2 ma'am. Line 25, was it a pellet? At the top of page  
3 230, well, the thing that came from the shotgun. Did  
4 your attorney object on the grounds of hearsay about  
5 somebody telling him what was inside your ankle?

6 A. No, sir.

7 Q. And did he object on speculation about what it could  
8 have been?

9 A. No, sir.

10 Q. Page 247, line 20, question from the prosecutor to a  
11 witness, okay. And had everyone decided to go to Walmart  
12 then? Answer, yes, ma'am. Question, okay. And so you  
13 all went to Walmart and y'all didn't stay very long,  
14 right? Answer, yes, ma'am. Top of the next page. And  
15 then everyone decided to go to Publix? Answer, yes,  
16 ma'am. Did your attorney object to the leading questions  
17 in that series right there?

18 A. No, sir.

19 Q. And page 250, line 20 from the prosecutor, okay. So  
20 you heard shots from that direction. Answer, yes, ma'am.  
21 Question, which was from a shotgun? And then there's a  
22 nodded head. Did your attorney object on grounds of  
23 leading and speculation of those questions?

24 A. No, sir.

25 Q. Page 276, line 5 from a detective, we had received a

1 tip. I didn't receive the tip. Someone in the office  
2 had received the tip that Sammy Scott had been involved  
3 in the shooting. And we were told to go try to locate  
4 him at this residence. The fact that someone's mentioned  
5 there had been a tip, it might have been you and they  
6 didn't say who it was, did your attorney object on  
7 grounds of hearsay?

8 A. No, sir.

9 Q. Page 284, line 17 from the prosecutor -- this is  
10 where the investigator's gone to your mother's apartment.  
11 Question, were there voices? Answer, there was.  
12 Question, I mean -- and did they seem very loud? Answer,  
13 yes, they were. The mother was actually telling Mr.  
14 Scott, we need to go. We need to go. The police want to  
15 talk to you, so we've got to get you out of here. Did  
16 your attorney object on grounds of hearsay and leading  
17 with that question going on to your mother?

18 A. No, sir.

19 Q. Now, if you take the totality of those ...

20 MR. WELBORN: If the Court will bear with me.

21 Q. Mr. Scott, I've spent quite a bit of time going over  
22 these questions that you've answered, and I appreciate  
23 that. Is it your contention that because of your  
24 lawyer's failure to object on these various grounds,  
25 leading questions, speculation, hearsay, is it your

1 allegation that he failed to be an effective attorney  
2 related to standards in this community?

3 A. Yes, sir.

4 Q. And do you think the possible outcome because of all  
5 of these various objections that were never raised, do  
6 you think that could have changed the outcome of this  
7 trial had your lawyer properly objected?

8 A. Yes, sir.

9 Q. Are you asking the Court for a new trial?

10 A. Yes, sir.

11 Q. Do you understand, as I told you earlier, if you get  
12 a new trial and if you are convicted of murder, you may  
13 get a worse sentence than what you've got right here? Do  
14 you understand that?

15 A. Yes, sir.

16 Q. And knowing that, are you still asking this Court to  
17 find that you are entitled to post-conviction relief and  
18 should get a new trial?

19 A. Yes, sir.

20 Q. Thank you. Answer anything opposing counsel has.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION

23 BY MR. WHITMIRE:

24 Q. Good afternoon, Mr. Scott. Isn't it true when Mr.

25 Potter was representing in your case you'd already given

1 several statements to the police?

2 A. Yes, sir.

3 Q. Your first statement, didn't you tell Detective

4 Tribble that you were never in Anderson when Mr.

5 Clinkscates was killed?

6 A. Yes, sir.

7 Q. And didn't you tell Detective Tribble that Troy Burn

8 (phonic) was your alibi?

9 A. Yes, sir.

10 Q. Your second statement, didn't you tell Detective

11 Vaughn ...

12 MR. WHITMIRE: Page 196, Your Honor.

13 Q. ... that you did, in fact, go to Anderson on the

14 night in question?

15 A. Yes, sir.

16 Q. And didn't you tell Detective Vaughn that you went

17 to Anderson to confront Mr. Harkness? Little Ricky?

18 A. No, sir.

19 Q. You didn't say that?

20 A. Who?

21 Q. You didn't tell him you purchased the shotgun the

22 day of?

23 A. Yes, sir.

24 Q. And didn't you tell him on the third day you went

25 and sought out Mr. Harkness in the Publix parking lot?

1 A. Sought out? What you mean by that?

2 Q. You went to find him?

3 A. Yes, sir.

4 Q. And then from there, you said your testimony was --

5 I believe your testimony, your statement, you said there

6 was -- a fight was about to break out; is that correct?

7 A. Yes, sir.

8 Q. And then you heard a shot?

9 A. Shots.

10 Q. And as a result, you opened up fire into a crowd of

11 people; is that correct?

12 A. No, sir.

13 MR. WHITMIRE: Your Honor, page 196 reflects

14 the ---

15 THE COURT: 190 what?

16 MR. WHITMIRE: 196, Your Honor, of the trial

17 transcript.

18 Q. And didn't Mr. Duncan testify that he was in the car

19 with you when you fired shots into the open crowd?

20 A. He was not in the car with me.

21 MR. WHITMIRE: It's page 112, Your Honor.

22 THE COURT: 112?

23 Q. Did you tell your attorney he wasn't in the car with

24 you?

25 A. Yeah. He was not in the car with me.

1 Q. And you reviewed that with your attorney before  
2 trial, that statement; is that correct?

3 A. Yes.

4 Q. So you knew he was going to testify that he was in  
5 the car with you?

6 A. No, I didn't know he was going to testify.

7 Q. And didn't Joshua Black, on page 183, also testify  
8 that he was in the car with you when he heard you fire  
9 those shots into the crowd?

10 A. Yes, sir.

11 Q. So we have your statement plus two of your  
12 passengers testify that you had been firing into the  
13 crowd; is that correct?

14 A. (No verbal response).

15 Q. It's not a complicated question, Mr. Scott. Didn't  
16 you ---

17 A. I never said I shot in the crowd. I said I shot  
18 towards the crowd in the air twice. I never said I shot  
19 at the crowd.

20 Q. And didn't you shoot in the direction of Mr.  
21 Harkness?

22 A. Yes, sir.

23 Q. It just so happened that there was certain people in  
24 between Mr. Harkness and you; is that correct?

25 A. No, sir.

1 Q. And after this occurred, didn't you drive back  
2 really fast to Clemson?

3 A. Yes, sir.

4 Q. And didn't your attorney advise you that that could  
5 be used against you at trial as evidence of guilt?

6 A. No, sir.

7 Q. And at trial didn't a Johnny Mahaffey testify  
8 against you?

9 A. Yes, sir.

10 Q. Do you recall who Johnny Mahaffey is?

11 A. Yes, sir.

12 Q. And didn't he tell the police that you disposed of  
13 the gun you used in Lake Hartwell?

14 A. Yes, sir.

15 Q. And as a result, did the police discover that gun in  
16 Lake Hartwell?

17 A. Yes, sir.

18 Q. Recall -- didn't Mr. Mahaffey testify that it really  
19 resonated with him because that was the same place he  
20 disposed of a gun after he killed somebody?

21 A. Yes, sir.

22 Q. And was your attorney able to keep out that gun at  
23 trial?

24 A. Say again?

25 Q. Wasn't your attorney able to keep out that sawed-off

1 shotgun at trial? Keep it out from the jury seeing it?

2 A. I don't really know. It stayed on the stand.

3 Q. And isn't it true that none of the Anderson

4 witnesses in that Publix parking lot knew you?

5 A. Yes, sir.

6 Q. And none of the Anderson witnesses were able to even

7 identify you as the shooter; isn't that correct?

8 A. Yes, sir.

9 Q. And as a result, didn't you and Mr. Potter discuss a

10 trial strategy of showing that a lot of people might have

11 been shooting guns that night?

12 A. Yes, sir.

13 Q. And didn't one of those witnesses even testify that

14 they saw Mr. Harkness appear with a handgun that night?

15 A. Yes, sir.

16 Q. Do you recall the pathologist, Dr. Woodward,

17 testified that Mr. Clinkscales was killed when a buckshot

18 pellet severed his brainstem?

19 A. I remember him saying he didn't know the cause of

20 death, but I don't remember him saying that. I remember

21 he said he didn't know the cause of death.

22 Q. If the record reflected that, that's what he

23 testified to. Do you remember?

24 A. Yes, sir.

25 Q. And the other victims, they were injured by buckshot

1    too; is that correct?

2    A.    Yes, sir.

3    Q.    And inevitably, weren't you the only person  
4    identified at the scene of all those people to have a  
5    shotgun?

6    A.    No, sir.

7    Q.    So who else had a shotgun that night?

8    A.    Somebody -- somebody had one in the trunk or  
9    something like that.

10   Q.    Did you share this with Mr. Potter?

11   A.    He the one told me about it.

12   Q.    But all the witnesses that testified, twenty plus  
13   witnesses, they all said they didn't see anyone with a  
14   shotgun that night?

15   A.    Say that one more time?

16   Q.    All of these twenty witnesses that testified at  
17   trial, none of the witnesses testified that anyone else  
18   besides you had a shotgun that night; is that correct?

19   A.    Correct.

20   Q.    Did Mr. Potter advise you of transferred intent?

21   A.    Transferring intent? What do you mean?

22   Q.    Did he advise you that just because you shot in the  
23   crowd and weren't aiming at the inevitable victim, that  
24   you still could be charged with murder?

25   A.    No, sir.

1 Q. And didn't Mr. Potter convey the State's twenty-year  
2 plea offer to you?

3 A. Yes, sir.

4 Q. And you rejected that; is that correct?

5 A. It depends on which plea. He came with like three  
6 pleas.

7 Q. You rejected all three?

8 A. Yeah, I rejected all three.

9 THE COURT: You say you did reject all three?

10 THE WITNESS: I rejected all three.

11 Q. Did Mr. Potter discuss with you a trial strategy in  
12 having -- allowing the witnesses to testify to hearsay  
13 about Boot?

14 A. About who?

15 Q. That information about Boot.

16 A. Yes, sir.

17 Q. And Mr. Scott, the first six to eight witnesses,  
18 weren't they all your friends?

19 A. Yes, sir.

20 Q. They're all from Pendleton and Clemson; is that  
21 correct?

22 A. Yes, sir.

23 Q. And those witnesses were Randall Duncan, Marquica  
24 Smith, Brandon Keeler, Patrice Gaines, Patricia Durham  
25 and Joshua Black?

1 A. Yes, sir.

2 Q. Did Mr. Potter explain to you that when a witness  
3 turns adverse, you can approach them in a different  
4 manner at trial?

5 A. I don't understand the question.

6 Q. The solicitor had some of those witnesses to read  
7 their statements; is that correct?

8 A. Yes.

9 Q. And that's what you're complaining about today in a  
10 good number of these allegations, correct?

11 A. Correct.

12 Q. Did Mr. Potter explain to you that when those  
13 witnesses turn against the State, the State can approach  
14 them in a different manner?

15 A. No, sir.

16 MR. WHITMIRE: I beg the Court's indulgence.

17 No further questions, Your Honor.

18 THE COURT: Redirect?

19 MR. WELBORN: None, Your Honor.

20 THE COURT: Thank you, sir. You may step down.

21 MR. WELBORN: That's our case, Your Honor.

22 THE COURT: Would you step out and see if you  
23 see Mr. Potter?

24 (WHEREUPON, Mr. Potter entered the courtroom.)

25 THE COURT: Come around and be sworn, please,

1    sir.

2                   THE WITNESS:   Yes, sir.

3                               **ANDREW POTTER,**

4                   BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5                               DIRECT EXAMINATION

6   BY MR. WHITMIRE:

7   Q.    Good afternoon, Mr. Potter.  Do you recall your  
8   preliminary discussions with Mr. Scott in the initial  
9   investigation of his case?

10  A.    I'm going to have to refer to my notes.  Not  
11  particularly offhand.  Is there a specific question  
12  related to that or ...

13  Q.    Just your initial investigation discussions.  
14  Briefly recall the circumstances surrounding them.

15  A.    Typically, what I would do is meet with the client,  
16  discuss with them the nature and the facts and  
17  circumstances regarding what he's being charged with.  It  
18  looks like I met with him August 14th, 2006.  We  
19  discussed that I filed for discovery.  We requested a  
20  preliminary hearing.  He told me about he being  
21  interviewed by the police and signing a statement.  We  
22  talked about the warrants.  We talked about what the case  
23  was about, whether he had a juvenile record and things of  
24  that sort.  It looks like we talked a little about his  
25  family and things of that sort.

1 Q. Did you have a chance to review statements made from  
2 the incident -- the witnesses who were at the incident?

3 A. I had not received -- at that initial meeting, I had  
4 not had any copies of any witness statements or anything  
5 of that sort.

6 Q. Do you recall reviewing the witness statements and  
7 discussing them with Mr. Scott?

8 A. He was provided all discovery during the -- as the  
9 case progressed down the pipeline, so to speak. I don't  
10 know if we necessarily sat down and spoke about every  
11 specific statement being made against him. There were  
12 sixteen or seventeen statements related to this  
13 particular case. So we may have touched briefly when we  
14 were discussing the case about one statement or another.  
15 But offhand I don't specifically remember anything going  
16 through each statement particularly with him.

17 Q. In this case, the eyewitnesses are broken into two  
18 camps, the people from Anderson who knew the victim and  
19 then the people from Pendleton and Clemson who were  
20 associated with Mr. Scott; is that correct?

21 A. That's what I remember, yes.

22 Q. Did you discuss the State's evidence with Mr. Scott?

23 A. We had discussions about the case against him.

24 There was an offer made on the case. We talked about  
25 that, talked about whether he should take the offer or

1 not.

2 Q. Do you recall your advice on the first offer?

3 A. There was an offer to plead to a voluntary with a  
4 twenty-year recommended sentence from the State. I  
5 encouraged him to take that. And he initially -- after  
6 multiple discussions with him, he did agree to accept it.  
7 We brought him over to court for a plea in front of Judge  
8 Maddox.

9 On that particular day, I met with him in the  
10 detention holding area downstairs. That's when he told  
11 me he didn't want to go up, he didn't want to accept the  
12 offer. So we had him brought up in front of Judge Maddox  
13 and put on the record that the offer was being made and  
14 he did not wish to accept the offer and that the case  
15 would have to be tried.

16 Q. Were you able to formulate a trial strategy around a  
17 Mr. Ricky Harkness?

18 A. If I could have a moment. Let me -- honestly, that  
19 may have been my strategy. Offhand, I do not recall that  
20 specifically.

21 Q. Moving along, page 106 of your opening statement you  
22 said, Mr. Harkness is to blame for the victim's senseless  
23 death. Do you recall who Mr. Harkness was?

24 A. Say again?

25 Q. Do you recall who Mr. Harkness -- or do you recall

1    who that was?

2    A.    He was another person at the scene.  My

3    understanding is, you know, looking at his statement, he

4    got his gun out of the trunk because he was being

5    cautious, saw a group of people.  There was a loud

6    exhaust that was up by K-Mart and most of the group was

7    down by the Publix.  I was still driving when I heard the

8    first noise.  It sound like a shotgun.  I slowed down,

9    took my gun out of my pocket, aimed at the crowd.  But

10   then he claims he aimed it away and fired it at an empty

11   spot of the parking lot.

12   Q.    This was a four-day trial; is that correct?

13   A.    I believe so.

14   Q.    Twenty witnesses, around twenty witnesses?

15   A.    There were a lot of witnesses.

16   Q.    And there's several dozen eyewitnesses that

17   testified too; is that correct?

18   A.    I'm sorry.  Say again.

19   Q.    There was about a dozen eyewitnesses that testified

20   too; is that correct?

21   A.    Yes.

22   Q.    Did you make an effort to focus your objections on

23   testimony that implicated Mr. Scott's involvement or

24   alleged involvement in the incident?

25   A.    This was a frustrating case because he had made a

1 statement. Which there was a Jackson v. Denno hearing,  
2 and it was going to be heard by the jury. So you know,  
3 any objections being made, you know, I would hazard a  
4 guess, were made for strategic reasons or not made for  
5 strategic reasons at the time.

6 Q. And the first six witnesses, Mr. Scott's associates  
7 from Pendleton and Clemson, when they referenced Mr.  
8 Harkness through hearsay statements, why didn't you  
9 object?

10 A. Well, again, we were hopeful that we can have some  
11 success in pointing the finger at Mr. Harkness.

12 Q. In fact, didn't you object -- well, when the first  
13 State's witness, Duncan, testified to statements made by  
14 Mr. Scott's sister and Troy Brown, page 116 ...

15 A. I'm sorry. Okay. So page 116 of the appellate?

16 Q. The trial transcript.

17 A. The trial transcript?

18 Q. I'm sorry. The appellate. I do apologize. I  
19 marked that down wrong.

20 A. Okay.

21 Q. Mr. Welborn and I are having the same problems.

22 A. So the question was?

23 Q. Well, didn't you object to alleged hearsay  
24 statements made by the State's first witness, Duncan,  
25 regarding statements made by the Applicant's sister?

1 A. If it's in the transcript I objected, then I did.

2 Q. You objected when the State had, I believe, Mr.

3 Black read from his statement on page 187; is that

4 correct?

5 A. Yes. Again, if that's what the transcript

6 indicates, then that's what I did.

7 Q. Do you feel like you presented Mr. Scott's case to

8 the best of your ability?

9 A. I thought I did.

10 Q. Just one last line of questions. Did you and Mr.

11 Scott discuss a change in venue?

12 A. No, he never brought that up. And there was no

13 undue publicity involved in this case immediately leading

14 up to trial. I didn't think that that was an issue,

15 having a jury that would be tainted in any way.

16 Q. And if Mr. Scott wanted to pursue a guilty plea,

17 would you have gone through with it?

18 A. Well, he was given the opportunity. He was offered

19 twenty years on voluntary. He rejected that. There were

20 no other offers made short of a straight-up plea to

21 murder after he rejected that twenty-year offer.

22 MR. WHITMIRE: No further questions, Your

23 Honor.

24 Thank you, Mr. Potter.

25 THE COURT: Cross-examination?

1 CROSS-EXAMINATION

2 BY MR. WELBORN:

3 Q. Mr. Potter, you would agree that there were a number  
4 of -- let me rephrase the question. You were outside  
5 when I had my guy on the stand; is that correct?

6 A. Yes.

7 Q. You would agree that there were a number of  
8 witnesses that, for whatever reasons, you allowed hearsay  
9 testimony in. Would you agree to that?

10 A. Well, again, if I didn't object on the record, then  
11 I didn't object to it. And at the time, if I'd made the  
12 decision not to object to, it may have been related to  
13 strategic reasons. It may have been in the sense that I  
14 didn't feel that it was harmful at that point in time if  
15 I didn't object. So if I did object, then I felt it was  
16 necessary to object. And again, if I didn't object, I  
17 didn't think it was necessary to object.

18 Q. And as you said earlier, if it's in the transcript,  
19 you don't dispute it?

20 A. No.

21 Q. So if there are areas in there that the Court at  
22 some point feels like, well, that should have been  
23 objected to, you're not going to say, well, I object to  
24 that because it's in there; you would agree it's there?

25 A. You, as counsel, know that there's sometimes you

1 want hearsay admitted. There's sometimes hearsay helps  
2 you. There's sometimes hearsay you can use to twist  
3 other peoples' statement to your benefit. It's not  
4 always appropriate to object anytime there's hearsay  
5 involved.

6 Q. Thank you. Nothing else.

7 THE COURT: All right. Any redirect?

8 MR. WHITMIRE: None, Your Honor.

9 THE COURT: May this witness be excused?

10 MR. WHITMIRE: Yes, Your Honor.

11 MR. WELBORN: Yes, sir.

12 THE COURT: Thank you, sir.

13 THE WITNESS: Thank you, Judge.

14 THE COURT: Call your next witness.

15 MR. WHITMIRE: Your Honor, the State rests.

16 We'd be happy to answer any questions you may have.

17 THE COURT: Any reply?

18 MR. WELBORN: (Shook head side to side in the  
19 negative)

20 THE COURT: I'll be glad to hear arguments, Mr.  
21 Welborn?

22 CLOSING ARGUMENT

23 BY MR. WELBORN:

24 Your Honor, if it please the Court. In this  
25 particular case, I've written down and called out the

1 various pages of the hearsay. And it is our contention  
2 that there's so much hearsay, there's so many leading  
3 questions that in my opinion the answers that were  
4 suggested did not help my client and actually assisted  
5 the State. I won't repeat these objective statements to  
6 the Court. I know the Court's written those numbers  
7 down. But my position reading these and why I made such  
8 copious notes about where they were was that every one of  
9 them seemed to harm my client. They seemed to show he  
10 was the shooter, he was in the car. He was the one that  
11 did whatever bad things happened. And there were no  
12 objections. And because there were no objections, that  
13 particular performance by his attorney fell below a  
14 reasonable objective standard.

15 But for the overwhelming number of hearsay issues  
16 and leading questions, if those had not been allowed in,  
17 there might have been a different result. And we think  
18 my client was prejudiced by those questions because  
19 there's so many. It's not just two or three or four.  
20 There's numbers and numbers and numbers of pages. And we  
21 think that he's entitled to a new trial.

22 THE COURT: All right. Mr. Whitmire?

23 CLOSING ARGUMENT

24 BY MR. WHITMIRE:

25 Your Honor, the vast majority of these allegations

1 stem from the first six witnesses who testified at trial.  
2 These six witnesses were Mr. Scott's friends who were  
3 compelled to testify. They turned hostile, and Judge  
4 Nicholson allowed Solicitor Huey to treat them as hostile  
5 witnesses within that context.

6 Other allegations referenced to Mr. Harkness in  
7 which when directed trial counsel's strategy, strategy  
8 showing he's a bad actor, someone who possibly had a gun  
9 to detract from the fact that three witnesses, two  
10 witnesses including Mr. Scott's statement, all put him  
11 firing into a crowd. And even if -- presuming every  
12 single one of these instances constituted some sort of  
13 error, there's been no showing that Mr. Duncan's  
14 testimony, the first witness, or Mr. Scott's statement  
15 wouldn't come in with him firing into the crowd.

16 The victim who died as a result died of a wound due  
17 to buckshot. The other victims were injured by buckshot.  
18 No one else testified at trial. There are no statements  
19 that anybody had a shotgun except Mr. Scott. So there's  
20 overwhelming evidence of guilt.

21 As Mr. Potter testified to, his objections, decision  
22 not to object were made within his trial strategy of the  
23 case. There was a lot going on in this situation.  
24 There's a group of witnesses from Anderson, a group from  
25 Clemson, a group that are hanging out in the club, a

1 group that were in the Publix parking lot, and some of  
2 them ended up going back to Clemson. A lot of outside  
3 facts that were not germane to Mr. Scott's involvement in  
4 this case. And Mr. Potter stated he objected when he  
5 felt it was necessary.

6 THE COURT: All right. Thank you.

7 Anything in reply to that, Mr. Welborn?

8 MR. WELBORN: Judge, I know you normally make  
9 rulings from the bench. I would ask that you not ---

10 THE COURT: I'm not going to in this case  
11 except for a few issues. This is a thick transcript.  
12 I'm going to look at it.

13 MR. WELBORN: I think that there is so much  
14 that if you read and put it into context -- as I've tried  
15 to be as brief as I can -- these hearsay allegations hurt  
16 my client every time. They never helped him  
17 strategically as alleged.

18 THE COURT: All right. I am going to rule on  
19 several issues, one as to venue. My understanding on the  
20 law of venue and change of venue, that has to be at the  
21 time of trial when -- during the selection of jury  
22 process or during the jury selection process if it  
23 becomes evident that because of pre-trial publicity or  
24 otherwise that you can't find a fair and impartial jury.

25 In this case, I was looking at the jury list. It

1 was forty-some-odd jurors who have appeared after voir  
2 dire from the court who essentially stated they could be  
3 fair and impartial. So therefore, the issue of venue is  
4 denied.

5 If you'd make notes on that, please, Mr. Whitmire.

6 MR. WHITMIRE: Yes, Your Honor.

7 THE COURT: The claim of insufficient evidence  
8 has been dismissed at the beginning of the trial or  
9 hearing.

10 Mr. Welborn, in the record that we have, is there,  
11 in fact, a rejection of the plea offer by Mr. Scott to  
12 the twenty-year voluntary manslaughter charge?

13 MR. WELBORN: Judge, I don't recall ever seeing  
14 that in this transcript anywhere. And I've reviewed it  
15 several times. But I've reviewed a lot of them lately.  
16 But I don't recall that in here.

17 MR. WHITMIRE: Your Honor, it's not in the  
18 transcript. The first I learned of it was when I  
19 consulted about the case with Mr. Potter and through the  
20 Applicant's testimony.

21 THE COURT: All right. I told you at the  
22 beginning of trial -- you mentioned that you needed some  
23 time to look at your transcript ---

24 MR. WELBORN: I corrected those errors. I'm  
25 finished.

1           THE COURT: You feel you've had sufficient  
2 time?

3           MR. WELBORN: I've had sufficient time. Yes,  
4 sir.

5           THE COURT: Okay. Very good.

6           All right. As to the insufficient evidence -- I  
7 mean -- excuse me. Not insufficient evidence, failure to  
8 object on a cumulative basis being overall deficient and  
9 causing prejudice. And I'm going to ask counsel, number  
10 one, if you agree with my interpretation of the law on  
11 that is in determining whether there's deficient  
12 performance, you can see that a cumulative effect and  
13 failure to object can constitute deficient performance.

14          However, on the other hand, you go to the next prong  
15 of the Strickland case that says prejudice. And then you  
16 look at the case from a perspective of evidence or  
17 overwhelming evidence of guilt or lack of evidence of  
18 guilt. Now, do you agree with that?

19          MR. WHITMIRE: Your Honor, cumulative errors  
20 are not recognized in P.C.R. in Walker and Green.  
21 However, when ---

22          THE COURT: Hold on. You say cumulative errors  
23 are not recognized in P.C.R.?

24          MR. WHITMIRE: No, Your Honor.

25          THE COURT: Can you give me a case cite to that

1 effect?

2 MR. WHITMIRE: It is Walker v. State, a 2012  
3 case. It came out of Richland County. I can't give you  
4 a cite at this time, but I can provide you ---

5 THE COURT: Walker v. State.

6 MR. WHITMIRE: And Green v. State was 2002.

7 THE COURT: Okay.

8 MR. WHITMIRE: However, as far as a direct  
9 appeal issue when you do look at failure to object to  
10 hearsay, I think there might be a different analysis in  
11 regard to a hearsay-type or bolstering-type claim. But  
12 ineffective assistance of counsel, it's never been  
13 recognized.

14 THE COURT: Okay.

15 Mr. Welborn, do you disagree?

16 MR. WELBORN: Your Honor, he's an officer of  
17 the Court. If he ---

18 THE COURT: I tell you what ---

19 MR. WELBORN: Those cases -- I can't disagree  
20 with those case.

21 THE COURT: I'll give you a week to give me a  
22 case that contradicts this Walker versus State that I  
23 assume that he's saying that they don't recognize  
24 cumulative error.

25 All that being said, I'm going to look at it from

1 the perspective that it's being presented. If it's  
2 wrong, I'll tell you that I'm wrong and see, number one,  
3 whether cumulative failure to object would constitute  
4 deficient performance and then look at it from the  
5 perspective of prejudice versus overwhelming evidence.  
6 Okay? And it is a lot of information in this file. I  
7 have not read it, so I intend to do so before I issue a  
8 ruling.

9 MR. WHITMIRE: And Your Honor, I'd be happy to  
10 provide a quick memo next week to you on the issue of  
11 failure to object to hearsay, leading questions,  
12 speculation once I have a chance to thoroughly look at  
13 all the case law.

14 THE COURT: Okay. All right. I'm thinking in  
15 terms too of like the Cromer case, which I think that is  
16 a direct appeal case. But all things said and done, I  
17 want to make sure that Mr. Scott has a fair opportunity  
18 to have his application heard. I'm going to look at  
19 that, look at it from the perspective of overwhelming  
20 evidence in this matter and prejudice. All right.

21 Anything further from the State?

22 MR. WHITMIRE: Nothing, your Honor.

23 THE COURT: Anything further from the  
24 Applicant?

25 MR. WELBORN: No, sir.

1                   THE COURT: All right. Thank you, Gentlemen.  
2 Thank you for your presentation, and I'll give you my  
3 decision.

4                   Good luck to you, Mr. Scott.

5                   (WHEREUPON, the hearing ended at approximately 3:22  
6 p.m.)

7                   \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

1

## CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court  
3 Reporter for the Tenth Judicial Circuit of the State of  
4 South Carolina, do hereby certify that the foregoing is a  
5 true, accurate, and complete transcript of record of all  
6 the proceedings had and evidence introduced in the  
7 trial/hearing of the captioned case, relative to appeal,  
8 in the Circuit Court for Anderson County, South Carolina,  
9 on the 17th day of September 2013.

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11 material is reproduced as read by the speaker.

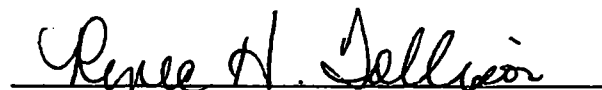
12 I do further certify that I am neither of kin,  
13 counsel, nor interest to any party hereto.

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April 30, 2014

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A handwritten signature in cursive script, reading "Renee H. Tollison", is written over a horizontal line.

17

Circuit Court Reporter

STATE OF SOUTH CAROLINA )  
 COUNTY OF ANDERSON )

Sammy Lee Scott,  
 S.C.D.C. No. #330564

**A TRUE COPY**

APR - 3 2014

*Richard King*  
 CLERK OF COURT

IN THE COURT OF COMMON PLEAS  
 FOR THE TENTH JUDICIAL CIRCUIT  
 Case No. 2012-CP-04-3713

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL**

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 COMMON PLEAS AND  
 GENERAL SESSIONS

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed October 20, 2011. Respondent made its Return. An evidentiary hearing into the matter was convened on September 17, 2013 at the Anderson County Courthouse. Applicant was present and was represented by Hugh W. Welborn, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General. Applicant and trial counsel testified at the hearing.

### PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the November 2006 term of the Court of General Sessions for Anderson County for murder and possession of a firearm during the commission of violent crime (2006-GS-04-3261) and four counts of assault and battery with intent to kill (2006-GS-04-3262, -3262, -3263, -3264). He was represented by Andrew Potter, Esquire. On September 8, 2008, Applicant proceeded to trial after which he was found guilty as charged. He was sentenced by the Honorable J.C. Nicholson, to confinement for a period of fifty five years (55) years for murder and five (5) years for

possession of a firearm during the commission of violent crime (2006-GS-04-3261) and five (5) years for each assault and battery with intent to kill (2006-GS-04-3262, -3262, -3263, -3264). The sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The Applicant was represented by Robert M. Dudek, Esquire. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Sammy Scott, Op. No. 2009-UP-540 (2011-UP-518 filed November 30, 2011). The Remittitur was filed December 21, 2011.

At the PCR hearing, Applicant moved forward on the following allegations:

1. Ineffective assistance of counsel:
  - a. failure to successfully have Applicant's statement suppressed;
  - b. failure to have venue changed for trial;
  - c. failure to object to inadmissible hearsay testimony;
  - d. failure to object to the solicitor's use of improper leading questions.

#### SUMMARY OF TRIAL TESTIMONY

Joshua Black testified he was a passenger in Applicant's vehicle when the victim was shot and killed. Black detailed the past animosity his group had with the "Anderson Boys," particularly "Boot." Black could not recall who shot first, but he remembered hearing Applicant fire his shotgun from the vehicle into the crowd. Black detailed the past animosity his group had with the "Anderson Boys," particularly "Boot." After that, Applicant turned his mother's car around and they left Publix. As Applicant was headed back to Clemson, at speeds between 80 and 90 m.p.h., Blacked turned around and saw another car catching up to them. Black thought that someone might be coming to shoot his group. Therefore, he warned Scott and Verner. He laid down in the back seat and Applicant pointed the shotgun out of the window at the other vehicle, which was Brandon Keasler driving his mother's jeep. The other car slowed down and

someone in it identified the occupants of the jeep. Applicant soon arrived at the apartment complex where Applicant's sister lived, as did the other cars. Black testified that the trip from Anderson had only lasted ten minutes. After he went into Applicant's sisters apartment and used the bathroom, Black went to his girlfriend's house. He went to Scott's residence the next day. Scott and others were watching the news. That was when Black learned that Javaris C. "victim" had been killed.

Kyle, Whitney and Nicki, Applicant's sister, got into Whitney's car and they followed Applicant, Josh Black and Troy Verner into Anderson. Scott was driving his mother's black Kia SUV. Kyle did not know why they were headed to Anderson. The group first went to the Wal-Mart parking lot. However, the police were running people out of the parking lot. So, both cars left that location and they went to the Publix parking lot. "It was packed full of cars and people standing everywhere." Almost as soon as the car in which Kyle was riding pulled up, "that's when everything started, all the shooting and everything." Kyle heard gunshots as soon as his group stopped. When he looked, he saw Scott stick a "long gun" out of the driver's window of the Kia and fire shots into the crowd of people in the parking lot. As soon as Scott had stopped shooting, he sped out of the parking lot. Kyle testified Applicant's sister later told him that he "didn't see shit." Verner also made a contemporaneous statement regarding the course of events. Kyle turned hostile which led to his impeachment from a prior statement provided to police.

Markesha Smith testified that she was twenty at the time of trial. She knows Scott, his mother and Nicki. On the night of July 9, 2006, she rode with her cousin, Latoya, to Club Maley, in Anderson. When the club closed early in the morning of July 10<sup>th</sup>, she got rode in Brian Keasler's car to the Wal-Mart parking lot. Patrice Gaines, Patricia Durham and Brittany Young were also in Brian car. She had been told that Scott "had a beef with somebody" named "Boot"

and everyone was to meet at Wal-Mart." She noted most of the partygoers that night ended up in the Walmart parking lot. She told Brian to park his car at a nearby location due to prior instances of assaultive conduct that involved Boot. The car remained in a nearby bank parking lot. She testified she heard gunshots. Brian followed the two other vehicles that left the scene: the car driven by Whitney, and the Applicant's vehicle. When Brian pulled alongside the Kia, Scott "leaned out the car and pointed a [long] gun at us" because he did not recognize his friends and he thought that someone had followed him from Publix. He did not withdraw his weapon until Markesha reached Verner on his cell phone and told him to put the weapon down. Although Markesha and the others in Brandon's car were scared and Markesha thought she was going to die, Keasler followed his friends to Nicki's apartment. In all, the trip to Nicki's had only lasted fifteen or twenty minutes. After all three vehicles were parked and the various people exited them, Nicki took the gun out of the Kia and into her apartment and told everyone, "[y]'all didn't see nothing." When Nicki returned, she said that she had the gun. Scott then "apologized for pointing the gun at us[, a]nd Troy . . . walked up to the car and he was like, 'Yeah, I don't know about this gangster shit.' " She left shortly after and was unaware someone was killed in Anderson.

Brandon Keasler's testimony mostly followed Markesha's testimony. He recalled parking his vehicle in the bank parking lot for the same reason provided by Markesha. He also recalled Applicant pull a gun at his vehicle. Afterwards, Brandon followed his friend's back to Nicki's apartment. In line with Kyle, he testified Applicant's sister told the group, "[y]ou don't know nothing. You didn't see nothing." He witnessed Applicant's sister take Applicant's gun into her apartment.

Patrice Gains testified to being in the vehicle with Brandon and Markesha. Patrice recalled Markesha's startling phone conversation in the ride out of Anderson. Similarly, Patrice

testified that Nicki told them not to say anything and they agreed not to tell. Nicki then took the gun from the Kia and take it into her apartment. Patrice thought that the gun was two or three feet long. Patricia Durham's testimony mirrored Gains' testimony. Patricia did not see the shooting, but testified Applicant's sister telling the group at her apartment that "you didn't see anything." Brittany Young was the final occupant in Brandon's car to testify. She recalled hearing gunshots. As they were driving back, their car "pulled up next to" Applicant's vehicle, and someone riding with Brittany screamed that Applicant was holding a gun out of the window. She then saw Scott pointing a gun out of the window of his car.

The victim's friends at the murder scene testified. Torrey Acker testified that a lot of people soon came to the lot, but most were still in their cars when the trouble began. He testified Torrey and the victim were getting out of their cars when he heard two shotgun blasts. The first shot hit the victim. The second shot hit James Burns. He knew that Shanquil Martin had been shot in the neck but he did not know who had fired the shots. However, he was certain that the shotgun blasts were fired from behind him because he felt glass and debris hit him from behind, and that he saw Harkness "Boot" in front of him seconds later. Torrey looked up several seconds later. At that point, he saw "Boot" driving the Delta 88, "circle "right around in front of us, and pointing a [handgun]." Boot returned fire.

James Burns' testified to the shooting. He testified that the shots he heard were fired by a shotgun and "sounded like 12-gauge buckshot. He identified persons in his social circle at the scene: Pete Dial, Jeremy Dial, the victim, and "Boot." James saw the victim, who was four feet in front of him, get hit in the head by the first shot and fall. James was also struck in the top of his back and the top of his shoulder by a blast. He immediately panicked and ran until he

collapsed. His friends got him into a car and took him to the hospital. Because of a risk of bleeding to death or paralysis, doctors did not remove the buckshot pellets from his body.

Sydney Chester was present at the murder scene. He testified he heard a shot that "sounded like a shotgun," and the shots fired from the brown car sounded like they were from a .22 caliber pistol. Due to the excitement created by the events, he was unsure about sequence. He identified the shots fired from the brown car to sounding like that of the presumed .22 caliber pistol. Sydney immediately began running when he heard the shots. He was hit in the ankle. Shanquil Martin was also present at the murder scene and recalled hearing the sound of separate guns being fired. He testified the shots that created a "loud boom" preceded the subsequent quieter shots. He was shot in the neck, as he ran to Pete Dial's truck. He testified that medical personnel removed shotgun pellets from his body.

Pete Dial testified to his friendship with the victim. He was present at the Publix parking lot when shooting occurred. Neither Pete nor his brother exited their parked vehicle. He initially heard a loud shotgun blast followed by shots he believed came from a handgun. He testified that he heard five to ten shots in total. Jeremi Dial offered similar testimony. Jeremi testified that he did not hear any other gunshots prior to hearing the shotgun being fired. After this, he heard more shots that "sounded like a handgun." Jeremi thought that the shotgun was fired from behind him because he did not see anything in front of him. He never saw anyone with either a shotgun or a handgun.

India Galloway testified to being present at the murder scene. She testified that there were a lot of cars and a lot of people in the lot. Everyone "was sitting there talking," until "Boots" Delta 88 went by in front of her. "After that, that's when the shooting had started."

Although she did not know what kind of gun was being used, the shots were louder than a handgun. Also, they were coming from one gun and from behind her.

In Applicant's initial statement to police, he claimed an alibi defense. However, after his arrest, he admitted his guilt.

I was at Brock's Trailer Park in Pendleton. My mom went to Wal-Mart in . . . Clemson. She picked me up from Brock's around 8 or 9 p.m. Me, my momma, Troy Vernon and Darion (phonetic) went back to my house in Clemson. I asked momma could I see the car. She said yes.

As soon as I went home, I got in the car. Me and Troy went to Creekwood Apartments. Troy was driving. We went there to pick up Josh. People said [""]Let's go to these n-----s' house,[""] n-----s because they think we're scared to go to the club. I started talking, I started thinking and people were boasting my head up. [(Sic)].

On the way to Anderson I went to the woods and got the shotgun. The gun was in the woods near my house . . . I got the gun earlier that day and . . . put it there. I got the gun from . . . some crack head in Pendleton. I paid \$ 45 for it. It had one shell in it I got two more from the crack heads.

After I got it out of the woods, we went straight to Anderson. As soon as we got there in Anderson, we was near the mall and some girls yelled out of the window , it was going down at Wal-Mart.

Troy was still driving. He turned around and went to Wal-Mart on Liberty Highway. I saw all kinds of cars coming out. They were saying it was going down over here across the street. Troy was still driving and we followed them to a store with the green word written on it. We pulled in the parking lot and stopped.

Boot was out of the car in front of us. There [were] people meeting up like they were about to fight. A shot went off behind us. I shot in the air once and tried to shoot Boot two times. Troy was driving off and that was when I tried to shoot at Boot.

Nicki and Brittany [were] following us when I was shooting. I did not know she was behind us until I saw everybody leaving.

We then drove to Nicki's apartment. Nicki took the car from me, from Troy because she said we [were] not supposed to have it. Nicki took the car to mama's house and Whitney followed her. Nicki and Whitney came back and I stayed at Nicki's house. I did not get any shells out of my mama's car.

I know what I was aiming at and it was Boot's car. I am going to work with police and try to get the gun back.

The pathologist testified that the victim died as a result of three buckshot wounds to his person. Police recovered pieces of shotgun shells at the murder scene. A SLED ballistics expert testified that four lead pellets retrieved at autopsy were "most consistent with aught or double aught buckshot pellets. Furthermore, A pellet recovered from Shanquil Martin "was consistent with being an aught pellet or larger." Projectile parts found, which had been recovered from the parking lot, were "most consistent with the plastic-over-powder wads that are loaded into some 12-gauge Remington brand shot shells that are used with buckshot pellets;" and a lead fragment recovered in the lot was consistent with being a fragment of a buckshot pellet. Lead fragments recovered from the trunk of the victim's car, the passenger side door jamb of Pete's Explorer, and the front right fender of India's car were" could possibly have come from buckshot pellets, or been buckshot pellets or fragments from pellets." Johnny Mahaffey, an inmate housed with Applicant at the Anderson County Detention Center, testified Applicant detailed the shooting to him.

#### **SUMMARY OF PCR TESTIMONY**

Applicant alleged counsel was ineffective for failing to object to nearly two dozen instances of improper hearsay testimony and the solicitor's improper use of leading questions. Applicant also alleged counsel was ineffective for failing to make a motion for a change of venue. Applicant testified he met with counsel three or four times prior to his trial. Counsel reviewed the State's evidence with him. Yet, Applicant felt that counsel was not fully prepared to take his case to trial. Applicant desired a change of venue because the victim's family and the rival faction in the underlying offense were from Anderson County. Applicant discussed this issue with his family prior to trial. As a result, Applicant alleged counsel was ineffective for

failing to make a motion for a mistrial. Last Applicant alleged counsel could have done a better job in moving to suppress Applicant's statements.

At the PCR hearing, counsel testified to his course of conduct during the representation. He independently reviewed the State's evidence and discussed his impressions of the strength of the State's case. Counsel explained that only reasonable defense available would be self-defense. Counsel explained the doctrine of transferred intent to Applicant. Applicant's statements and the plethora of the State's evidence of Applicant's guilt constricted counsel's ability to pursue other possible defenses. Counsel testified that this was a "frustrating case" because Applicant made a damaging statement. Counsel noted that trial itself was grueling four day long exercise where over twenty witnessed testified. There were over a dozen eye-witnesses. The eyewitnesses were bifurcated into the group of persons from Clemson who were associated to Applicant and the group of persons from Anderson. Most of the later group had no knowledge of Applicant's identity. The common denominator was Ricky "Boot" Harkness. "Boot" was at the forefront of the feud between the factions. As a result, counsel developed a strategy to emphasis "Boot's" role in the shooting that resulted in injury to innocent third-party bystanders. Counsel strategically decided not to object to favorable hearsay testimony that complemented Applicant's version of the facts. Counsel testified that not find it useful to object just for the sake of making an objection. He testified, "sometimes hearsay helps you" where it can be twisted to the client's benefit. Instead, counsel focused on making important objects to improper testimony that directly concerned Applicant's involvement in the murder. Counsel executed the best performance he could in representing Applicant at trial. He moved to suppress Applicant's statement and moved for a change in venue among other things.

#### **APPLICABLE LAW**

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 668, 104 S.Ct. at 2064. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland, supra. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court's records regarding the subject

convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and exhibits from the prior proceedings, and, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a general matter, this Court finds counsel's performance sound. Counsel's preparations were fastidious and proficient. This Court finds counsel's testimony more credible than Applicant's testimony. He independently evaluated the State's evidence. Under the circumstances, counsel tried Applicant's case to best of his ability. Although counsel did not make several timely objections to minor improper hearsay testimony and the solicitor's use of leading questions, undoubtedly Applicant received the benefit of credible counsel. Furthermore, Applicant's conviction was supported by overwhelming evidence of guilt.

#### A.

This Court finds Applicant failed to meet his burden to prove counsel was ineffective for failing to successfully have his statements suppressed at trial. "As a general rule, it is an exception to the hearsay rule that a defendant's out of court statement may be testified to by the witness who heard an oral statement, or received a written statement." State v. Hambright, 310 S.C. 382, 426 S.E.2d 806 (Ct. App. 1992). "Anything that a defendant has stated, which is relevant to any question involved in the trial, is admissible in evidence against him." State v. Pittman, 137 S.C. 75, 134 S.E.514 (1926); This is true, so long as the statement, if made to police during custodial interrogation, was voluntarily made. State v. Childs, 299 S.C. 471, 385 S.E.2d 839 (1989). In determining whether a defendant's statement should be admitted, the trial judge should not rely on whether the statement is in fact true, only whether it is voluntary and legally admissible. Rogers v. Richmond, 365 U.S. 534, 81 S.Ct. 735 (1961). This Court finds counsel's

performance here reasonable. Counsel independently evaluated Applicant's statements and discussed possible suppression defenses with Applicant. A Jackson v. Denno<sup>1</sup> hearing was convened in Applicant's case where counsel challenged the voluntariness of the statements and sufficiency in the administration of Miranda. (App.pp.67-95). Applicant has failed to produce any credible evidence to show what else counsel could have done here to merit suppression. Regardless this allegation rests on mere speculation. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) ("The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice."). Additionally Applicant does have standing to challenge the admission of statements he made prior to being in custody. (App.p.284). Therefore, this allegation is denied and dismissed.

#### B.

This Court finds Applicant's allegation that counsel was ineffective for failing to make a motion for a change of venue is without merit. A motion to change venue is addressed to the sound discretion of the trial judge and will not be disturbed on appeal absent an abuse of discretion. State v. Manning, 329 S.C. 1, 495 S.E.2d 191 (1997). This Applicant presented no evidence that showed he did not receive a fair trial nor could have received a fair trial in Anderson County. See Sheppard v. State, 357 S.C. 646, 655, 594 S.E.2d 462, 467 (2004) ("Applicant presented no evidence that showed he did not mere exposure to pretrial publicity does not automatically disqualify a prospective juror. Instead, the relevant question is not whether the community remembered the case, but whether the jurors had such fixed opinions that they could not judge impartially the guilt of the defendant.") (internal citations omitted). A change of venue is only necessary in the few circumstances. Applicant has failed to show this or

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<sup>1</sup> Jackson v. Denno, 378 U.S. 368 (1964).

PCR action resulted in an ordinate amount of publicity for this circuit. In comparison to numerous other murder prosecutions in Anderson County, Applicant's case received nominal publicity. Therefore this allegation is denied and dismissed.

### C.

Applicant raised eighteen (18) separate allegations that counsel was ineffective for failing to object to hearsay. Additionally Applicant raised several allegations regarding counsel's failure to object to the solicitor's improper use of leading questions. This Court finds Applicant failed to prove counsel was ineffective on each instance at issue. " 'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Rule 801(c), SCRE. Conversely, statements offered not for the truth of the matter asserted, but rather as evidence of notice, do not constitute hearsay. Player v. Thompson, 259 S.C. 600, 610, 193 S.E.2d 531, 535 (1972). "[I]mproper admission of hearsay testimony constitutes reversible error only when the admission causes prejudice." State v. Vick, 384 S.C. 189, 199, 682 S.E.2d 275, 280 (Ct.App. 2009). "Such error is deemed harmless when it could not have reasonably affected the result of the trial, and an appellate court will not set aside a conviction for such insubstantial errors." Id. An insubstantial error is harmless when guilt is proven by competent evidence such that no other rational decision could be reached or when the evidence is merely cumulative of other evidence. Id. at 199–200, 682 S.E.2d at 280.

First, this Court finds Applicant's allegation that counsel was ineffective for not objecting to Detective Tribble's improper hearsay testimony is without merit. (Trial Transcript p.276). Investigative testimony does not constitute hearsay. See Caprood v. State, 338 S.C. 103, 111, 525 S.E.2d 514, 518 (2000) ("An out of court statement is not hearsay if it is offered for the limited purpose of explaining why a government investigation was undertaken.").

This Court finds Applicant's allegations that counsel was ineffective for not objecting to improper hearsay statements from his companions who traveled in a separate car from the murder scene to be without merit. Applicant raised six separate instances of counsel's alleged failure to object here: (1) Patrice's testimony that everyone in the car "started screaming" where the discussion revolved around Applicant; (2) Patrice's repeated testimony on cross-examination; (3) Brittany's testimony that people in the car were screaming exclaiming that Applicant was presenting a weapon at them from adjourning vehicle; (4) Markesha's testimony regarding her conduct during the drive. (5) Brittany's testimony that Applicant's companions behaved frantically after the murder at his sister's apartment. (Trial Transcript p.157; p.159; p.162; p.125; p.165). Applicant failed to prove that any of the above testimony warranted an objection. Furthermore, every person in Brandon's vehicle at the relevant time testified at Applicant's trial. See State v. Davis, 371 S.C. 170, 178, 638 S.E.2d 57, 62 (2006). An excited utterance is a "statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition" and may be admitted at trial as an exception to the hearsay rule. Rule 803(2)."); see also State v. Garcia, 334 S.C. 71, 77, 512 S.E.2d 507, 510 (1999) ("Under Rule 803(1), SCRE, a statement describing or explaining an event or condition is admissible if "made while the declarant was perceiving the event or condition, or immediately thereafter."). Last, this Court finds counsel's decision to cross-examine Brittany to attack the reliability of the testimony based upon the chaos of the event to constitute sound trial strategy. See Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992) ("Courts must be wary of second-guessing counsel's trial tactics; and where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.").

Next, this Court finds Applicant's allegation that counsel was ineffective for failing to

object to James' and Sydney's testimonies regarding receiving medical treatment for gunshot injuries to be without merit. (Trial Transcript p.221; p.229). Both victim witnesses testified offered generic testimony to being treated for gunshot injuries. It is certainly admissible for a lay witness to testify to retrieval of a commonly identified pellet projectile from his body. Lay witnesses are permitted to offer opinion testimony when such testimony is rationally related to the witness's perception, does not require special knowledge, and may assist the jury's understanding of the witness's testimony. See Rule 701, SCRE.State v. Blurton, 342 S.C. 500, 509, 537 S.E.2d 291, 296 (Ct. App. 2000) rev'd (on other grounds).

This Court finds Applicant failed to meet his burden to prove counsel was ineffective for failing to object to several instances where hearsay testimony was offered regarding past animosity the group of friends had with the "Anderson Boys." In particular, Applicant claims counsel should have objected to Markesha's and Black's testimonies regarding the group's prior and continued altercations with "Boot." (App.p.119; p.124; pp.170-71; p.189). As a result of overwhelming evidence of guilt, counsel rationally brought out the theory of theory of third-party causation during trial. The defense theory at least suggested possible diminished culpability despite evidence to the contrary. This Court finds that certainly counsel's decision to not object here benefited Applicant's case. See Whitehead, 308 S.C. at 122, 417 S.E.2d at 531.

This Court finds Applicant failed to meet his burden to prove counsel was ineffective for not renewing objections to Markesha, Brandon, and Patricia's testimonies that Applicant's sister directive and them to not cooperate with police and her conduct as a co-conspirator. (Trial Transcript p.130; pp.142-43; p.158). Counsel provided no valid reason why he abandoned the object after objecting on the matter during Kyle's testimony. (Trial Transcript p.115). As a result of counsel failure to renew the objection to this particular testimony throughout the trial, the

issue was found to be unpreserved on appeal. Regardless Applicant has not met his burden to prove that he would have succeeded on the appeal had the issue been properly preserved. Additionally, any detrimental impact was cumulative after the trial judge sustained counsel's original objection. Therefore, these allegations are denied and dismissed.

Last, this Court finds Applicant failed to meet his burden to prove counsel was ineffective for failing to object to leading questions posed by the solicitor. "The true test of whether a question is leading and therefore improper on direct examination is whether, as said by the Court, it suggests the answer." State v. Cook, 204 S.C. 295, 28 S.E.2d 842, 846 (1944) "The law gives the trial judge wide discretion when ruling on an objection to a question on the ground that it is leading." State v. Goolsby, 275 S.C. 110, 268 S.E.2d 31, (1980). "A case will rarely be reversed on the ground that the trial judge permitted leading questions, and then only if there has been a clear abuse of discretion resulting in prejudice to the objecting party." Belue v. City of Greenville, 226 S.C. 192, 84 S.E.2d 631 (1954). Applicant cites to several instances from the solicitor's direct examination of Joshua Black to support the allegation. (App.p.177; p.181). However, this Court finds the leading was permissible in this instance. See State v. Hoffman, 257 S.C. 461, 470, 186 S.E.2d 421, 425 (1972) ("The reason for the rule permitting leading questions to an adverse witness on cross-examination is the assumed hostility of such witness to the cross-examiner's cause; and where an adverse witness is shown to be friendly toward or biased in favor of the cross-examiner the reason for the rule ceases to exist and leading questions may not be used in examining such witnesses."). Additionally, Applicant cites to the solicitor's re-direct examination of Torrey Acker in support of the allegation. (Trial Transcript p.209). This Court notes the question was impermissible, but that it was cumulative to the witness's testimony on direct examination. (Trial Transcript p.200). Therefore, these allegations are denied and

dismissed.

D.

This Court also finds Applicant's conviction and sentence were supported by overwhelming evidence of guilt. "When guilt is conclusively proven by competent evidence, such that no other rational conclusion could be reached, this Court will not set aside a conviction for insubstantial errors not affecting the result." State v. Livingston, 282 S.C. 1, 6, 317 S.E.2d 129, 132 (1984). Numerous eyewitnesses and Applicant himself established Applicant shot into a crowd and injured several persons and killing one person. The State's pathologist and SLED ballistics expert corroborated that a shotgun was the murder weapon. This Court finds Applicant's assertion that counsel's continued failure to object during the trial compounded together to warrant relief is unfounded. Respondent correctly noted that a cumulative error analysis has not been recognized in this South Carolina. See Walker v. State, 397 S.C. 226, 723 S.E.2d 610 (2012). This Court further notes that even if South Carolina allowed relief to be granted based on combined prejudicial effects of one or more errors, Applicant still would not have met his burden to prove prejudice under Strickland's second prong.

E.

Except as discussed above, this Court finds that the Applicant affirmatively abandoned the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's

failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

### CONCLUSION

Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 27 day of March, 2014.

Anderson, Sr.  
(RCH)

  
R. LAWTON MCINTOSH  
Presiding Judge  
Tenth Judicial Circuit

\_\_\_\_\_, South Carolina

*Hugh W. Welborn*

Attorney at Law  
Post Office Box 173  
913 Carolina Circle  
Anderson, South Carolina 29622

Office (864) 226-5787  
Fax: (864) 224-3738

email to:  
hughwelborn@bellsouth.net

April 7, 2014

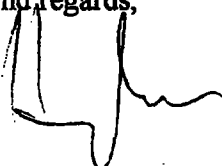
South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

Dear Sir/Madam:

In Re: Sammy Lee Scott #330564 vs State of South Carolina

Please find enclosed herewith the original and one (1) copy of the Appellant's Notice of Appeal in connection with the foregoing matter which I ask that you file for record, returning the clocked copy to my office. I also enclose a copy of the Order of Dismissal and the original Proof of Service on Walt Whitmire, Esquire, Office of the Attorney General. Please use the enclosed self-addressed envelope to return the clocked copy to my office.

With kind regards,



Hugh W. Welborn

HWW/bmg

cc: Office of the Appellate Defense  
cc: Office of the Attorney General  
cc: Client

*Hugh W. Welborn*

Attorney at Law  
Post Office Box 173  
913 Carolina Circle  
Anderson, South Carolina 29622

Office (864) 226-5787  
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email to:  
hughwelborn@bellsouth.net

April 7, 2014

Sammy Lee Scott #330564  
Lee Correctional Institution  
990 Wisacky Hwy.  
Bishopville, SC 29010

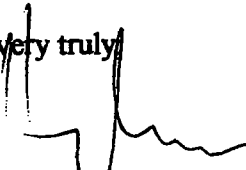
Dear Mr. Scott:

In RE: Sammy Lee Scott #330564 vs State of South Carolina  
(PCR)

In connection with the foregoing matter, please find enclosed herewith a copy of the Order of Dismissal from the Court. I have already filed the necessary paperwork regarding your Appeal. I have notified the State Supreme Court that you intended to appeal Judge McIntosh's ruling. I have also referred this matter to the South Carolina Appellate Defense as I have not been appointed to handle your Appeal. The South Carolina Appellate Defense Office will now assign an attorney to represent you in the Appeal.

Copies of these documents and my correspondence are enclosed for your records.

Yours very truly,



Hugh W. Welborn

HWW/bmg  
Enclosures

*Hugh W. Welborn*

Attorney at Law  
Post Office Box 173  
913 Carolina Circle  
Anderson, South Carolina 29622

Office (864) 226-5787  
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email to:  
hughwelborn@bellsouth.net

April 7, 2014

Walt Whitmire, Esquire  
Office of Attorney General  
State of South Carolina  
Post Office Box 11549  
Columbia, South Carolina 29211

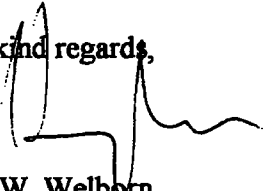
Dear Walt:

In Re: Sammy Lee Scott #330564, vs State of South Carolina

Please find enclosed herewith a copy of the Appellant's Notice of Appeal and Proof of Service in connection with the foregoing matter. I also enclose copies of correspondence to the Appellate Defense Office and the Supreme Court. I have also forwarded copies of all documents to Mr. Ware.

If you have any questions, please do not hesitate to contact my office.

With kind regards,

  
Hugh W. Welborn

HWW/bmg

Enclosures

cc: Office of the Appellate Defense  
cc: South Carolina Supreme Court  
cc: Client

STATE OF SOUTH CAROLINA IN THE COURT OF (Select one.)  
 COUNTY OF ANDERSON FILED - CLERK'S OFFICE ANDERSON COMMON PLEAS ☐ FAMILY COURT  
 ) 10<sup>th</sup> JUDICIAL CIRCUIT

Sammy Lee Scott, 2013 JUN 11 ) CASE NO.: 2012-CP-04-3713

Plaintiff(s),

-vs-

State of South Carolina,  
 Defendant(s).

APPOINTMENT OF COUNSEL OR GAL  
 (Select one.)  
☒ ORDER  
☐ AMENDED ORDER

A TRUE COPY

JUN 11 2013

TYPE OF CASE/PROCEEDING: (Check one.)

- |                                                                              |                                                    |                                            |
|------------------------------------------------------------------------------|----------------------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/> Post-Conviction Relief (PCR)/habeas case | <input type="checkbox"/> Adoption                  | <input type="checkbox"/> Juvenile          |
| <input type="checkbox"/> SVP case                                            | <input type="checkbox"/> Custody and/or Visitation | <input type="checkbox"/> Abuse and Neglect |
| <input type="checkbox"/> Minor Name Change                                   | <input type="checkbox"/> Other:                    |                                            |

CLERK OF COURT

It appears that Sammy Lee Scott, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☐ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: \_\_\_\_\_
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained \_\_\_\_\_, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other:

Therefore, it is ordered that Hugh W. Welborn, Sr., hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem  
 for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that \_\_\_\_\_, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS

11<sup>th</sup>

DAY OF

June, 2013.

☐ Circuit Judge

☒ Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

*Hugh W. Welborn*

Attorney at Law  
Post Office Box 173  
913 Carolina Circle  
Anderson, South Carolina 29622

Office (864) 226-5787  
Fax: (864) 224-3738

email to:  
hughwelborn@bellsouth.net

April 7, 2014

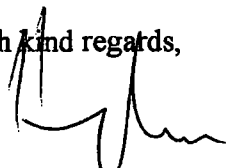
South Carolina Office of Appellate Defense  
P. O. Box 11589  
Columbia, South Carolina 29211-1509

Dear Sir or Madam:

In Re: Sammy Lee Scott #330564 vs State of South Carolina

In connection with the foregoing matter, please be advised that I was the Court Appointed Attorney and enclose herewith a copy of my appointment. I also enclose copies of all documents you requested for filing a copy of the Appellant's Notice of Appeal in this matter together with a copy of the Order of Dismissal and Proof of Service. I ask that your office assume representation of this indigent Applicant.

With kind regards,



Hugh W. Welborn

HWW/bmg

Enclosures

cc: Supreme Court

cc: Attorney General Office

cc: Client

RECEIVED

APR 10 2014

SC OFFICE OF  
APPELLATE DEFENSE