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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County

John C. Hayes, III, Circuit Court Judge

JAMAR LAVERT BELK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001067

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) SIXTEENTH JUDICIAL CIRCUIT
 COUNTY OF YORK) CASE NO.: 2010-GS-46-3072
 3074, 3074(A), 3075

STATE OF SOUTH CAROLINA)
)
 vs.) TRANSCRIPT OF RECORD
)
 JAMAR LAVERT BELK)

November 7, 2012
 York, South Carolina

BEFORE THE HONORABLE LEE S. ALFORD

APPEARANCES:

KEVIN BRACKETT, SOLICITOR
 YORK, SOUTH CAROLINA

WILLY THOMPSON, DEPUTY SOLICITOR
 YORK, SOUTH CAROLINA

ATTORNEYS FOR THE STATE

MICHAEL BROWN, ESQUIRE
 ROCK HILL, SOUTH CAROLINA

ATTORNEY FOR THE DEFENDANT

SHIRLEY BROOM
 16TH Circuit Court Reporter

I-N-D-E-X

NO TESTIMONY TAKEN

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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NO EXHIBITS

1 MR. BRACKETT - Good afternoon, Your Honor. May
2 it please the Court.

3 THE COURT - Solicitor, yes, sir.

4 MR. BRACKETT - Yes, sir. Your Honor, we're back
5 on the record in regards to Indictments 2010-GS-46-3072,
6 3074, 3074(A) and 3075. These are all true billed
7 Indictments charging Mr. Jamar Lavert Belk with
8 respectively in the order that I called them out, charging
9 murder, armed robbery, possession of a firearm during the
10 commission of a violent crime and criminal conspiracy. The
11 defendant is present in the courtroom and represented by
12 counsel, Mr. Michael Brown of the York County Bar. As Your
13 Honor is aware, the defendant has previously entered a
14 guilty plea to these charges and sentencing was deferred.
15 The plea was entered and accepted, however, sentencing was
16 deferred in order to give the family of the victim in this
17 case, Mr. Joseph Fatigato, in order to give his family time
18 to come here. They are scattered throughout the United
19 States and have flown in from all over the United States to
20 be here today. They are present in the courtroom, Your
21 Honor, and at the appropriate time they wish to be heard.
22 As Your Honor is aware, this was a negotiated guilty plea
23 of defendant, in entering pleas to these charges has
24 acknowledged his responsibility and culpability for the

1 death of Mr. Fatigato and is -- understands that he will be
2 sentenced to a 30 year sentence, no parole, day-for-day 30
3 year sentence on the murder and the other charges to run
4 concurrent. I believe also, Your Honor, just so that the
5 record is clear, I believe Your Honor was provided
6 transcripts of the guilty pleas in this matter as well as
7 all the other matters and have had an opportunity to review
8 those. In those transcripts, of course, we reviewed the
9 facts and we will just detail those for you briefly. If
10 you need any more information on them, we'll certainly be
11 willing to provide it, but essentially, Your Honor, this
12 was an armed robbery at the Anyday Payday Lending, which is
13 located on Highway 21 North in Fort Mill, South Carolina,
14 right there at Carowinds, just at the State line. The
15 robbery took place October 8th, 2008. The defendants
16 entered the store and robbed Mr. Fatigato who was tending
17 the store at that time. He was an employee there during
18 the course of the robbery and this defendant pulled a
19 firearm, firing and killing Mr. Fatigato during the course
20 of that robbery. All three of the defendants who were
21 present at this time -- this defendant, Jamar Belk and his
22 brothers, Curtis and Tyree fled at that time and were
23 apprehended in Charlotte some time later, arrested there
24 and extradicted back down here and they've gone through a
25 variety of attorneys and there were a number of issues

1 related to getting transcripts from statements that were
2 made to law enforcement in North Carolina which extended
3 the normal length of time that we take to prosecute these
4 kind of cases, but we're in a position now to resolve this
5 matter, and as I indicated, the victims would like to be
6 heard.

7 THE COURT - All right. I'll be glad to hear from
8 the victims now.

9 MR. BRACKETT - Sam Fatigato and Katy Fatigato.
10 For the record, the spelling on that is F-a-t-i-g-a-t-o.
11 And stepping up to speak to the Court first is Ms. Katy
12 Fatigato.

13 MS. KATY FATIGATO - Good afternoon, Your Honor.
14 My name is Katy Fatigato. I'm here today speaking on
15 behalf of my older sister, Nichol, my older brother, Joey
16 and my younger sister, Amy, all of which weren't able to
17 make it here today. I want to -- I appreciate the
18 opportunity to speak out loud on behalf of them all. I
19 want to recognize Mr. Kevin Brackett, Mr. Willy Thompson
20 and Ms. Latonya Walker in addition to the North and South
21 Carolina police officers for their dedication to this case,
22 their compassion throughout all of this whole difficult
23 process and I want them to know that each of our family
24 members are very, very appreciative for their efforts. The
25 victim in this case is my father, Joseph Fatigato. He was

1 a loving son, the oldest of four brothers, a twin, father
2 of four and a friend to anybody that he met. He was always
3 the guy that others looked up to, but never acted too
4 proud. In high school he played and coached football and
5 baseball. He volunteered spending time with local orphans
6 and he was even named prom king of his high school. As an
7 adult not much changed. At family parties he would always
8 make people laugh so hard they cried, and he was always the
9 first and last on the dance floor at any wedding. My
10 father wasn't a perfect man. He was a human with faults
11 and shadows in this past like each of us in this room
12 today, but he genuinely loved and cared for people of all
13 walks of life with a fire-like intensity. He also loved
14 and feared the Lord just as much. He even held Bible
15 studies after hours in the very same place the defendant
16 shot him and left him there bleeding on the floor. Your
17 Honor, in Curtis Belk's letter to our family which we
18 received earlier today, he included the following passage:
19 Real love is helping other for Jesus' sake even if they can
20 never return the favor. There is absolutely no help or
21 favors I have to offer, but for Jesus' sake I believe they
22 should learn Psalm 51 and take their guilt and mercy up
23 with God, not with me or with my family. I won't sit here
24 and list off all the birthdays and weddings, including my
25 own that were also robbed of my father that day, but I am

1 grateful that that man taught me humility and honesty and
2 to fear our Lord. Thank you very much.

3 MR. SAM FATIGATO - Your Honor, my name is Sam
4 Joseph Fatigato, and Joseph was my twin brother. He's not
5 here and he can't speak for himself today, but as you heard
6 from his daughter, Katy, my mother's here, another one of
7 my brothers. He has people who love him came a long way
8 from Illinois and from Texas to speak for him. First of
9 all, as Katy said, we want to thank the investigating
10 officers and the solicitors for doing their job so well.
11 Your Honor, these men who are coming in front of you today
12 did not give my brother the chance that society gives them
13 now, the chance to continue to live, even if confined. He
14 cooperated and they shot him anyway, cavalierly. When you
15 establish their punishment, Your Honor, we ask that you
16 consider my brother's life cut short violently and the pain
17 and grief we will forever have for his horrific murder. As
18 for the three cowards who hid behind masks and a gun, all I
19 can say is that they took the life of a real man, one who
20 worked hard for a living who loved with all his heart and
21 soul who gave to others, friends and strangers, black and
22 white, rich and poor. I can only hope that while these men
23 are in prison, that any of their baby mamas or their
24 children might find real men in their lives, men like Joe
25 Fatigato who will take care of them and be a better example

1 of how to live as a contributing member of society, not
2 like the takers that you are. You may have beget children
3 but you can't be called fathers any more than you can be
4 called brothers even though you have blood between you.
5 Real fathers, brothers and sons have courage, compassion
6 and character like the man you killed. Hopefully you will
7 stay in prison long enough to understand the stark
8 difference.

9 MS. KATY FATIGATO - Thank you, Your Honor.

10 MR. BRACKETT - Phyllis Fatigato, John Fatigato.
11 Your Honor, this is Phyllis Fatigato, Joseph Fatigato's
12 mother.

13 MS. PHYLLIS FATIGATO - I'm sorry. Joe Fatigato
14 is my son. I love him and miss him very much. He is my
15 first thought in the morning and my last thought at night.
16 Joe was a very generous person. He was known as the guy
17 with a heart of gold. He was always ready to help anyone
18 with money, physically or spiritually. Why did they have
19 to take his life? They came for money and he gave it to
20 them. They didn't have to kill him. They ruined my
21 family. He was not only a son, he was also a brother, a
22 father to four wonderful children. Since he has killed --
23 since he was killed he has two grandchildren that will
24 never get to know him. I will never be the same. I try to
25 be strong for my family, but the good Lord knows I am

1 hurting inside. It broke my heart when he took my Joey's
2 life. He was only trying to make a living. Now they want
3 a plea bargain. They didn't give Joey a chance to plead
4 for his life. They killed him and never looked back. I
5 know you are supposed to forgive, but Lord have mercy, I
6 cannot forgive them for what they did. Thank you.

7 MR. BRACKETT - Thank you, Your Honor.

8 THE COURT - Counsel.

9 MR. BROWN - May it please the Court, Your Honor.
10 I'm court-appointed by Your Honor to represent Mr. Belk. I
11 concur in his decision to enter this plea. It is a
12 negotiated plea, Your Honor. Mr. Belk was 19 years of age
13 at the time he did this. He is currently 24 years of age.
14 He was raised by his grandmother. His family is here.
15 They've been supportive throughout this endeavor on his
16 behalf. There is no excuse for what he did, Your Honor,
17 and he's willing to take his punishment. To his credit, as
18 bad as this thing is, he did write a letter after he
19 entered this plea apologizing to the family, and I'd like
20 the Court to take notice of that.

21 THE COURT - Mr. Belk, is there anything you want
22 to say to the Court?

23 MR. BELK - Yes, I want to say something to the
24 family. I know it may not mean nothing. I want to

1 apologize to y'all and may God bless y'all and help y'all
2 through these hard times.

3 THE COURT - Do you know exactly how much time
4 he's served?

5 MR. BROWN - Your Honor ---

6 THE COURT - Is this it on here?

7 MR. BROWN - Yes, Your Honor. The State's
8 provided me a copy of the plea -- it's a negotiated plea --
9 with the number of days' time served.

10 THE COURT - Sixteen hundred and eighty-three
11 days?

12 MR. BROWN - Yes, sir. Yes, sir, Your Honor.

13 MR. BRACKETT - Yes, sir. He's been incarcerated
14 continuously since his arrest in Charlotte.

15 THE COURT - Let me say to the family, my heart
16 goes out to you. You have my sympathies in this matter. I
17 know it's hard to lose someone you love that much, and I
18 appreciate your remarks. In case number 2010-GS-46-3072,
19 Jamar Lavert Belk having pled guilty to murder, the
20 sentence of the Court is he be committed to the State
21 Department of Corrections for a determinate term of 30
22 years. This sentence will be concurrent and he's given
23 credit for sixteen hundred and eighty-three days of jail
24 time served. In case number 2010-GS-46-3074, Jamar Lavert
25 Belk having pled guilty to armed robbery, the sentence of

1 the Court is the same as the previous sentence to run
2 concurrent with credit for time served. Case number 2010-
3 GS-46-3074-A, Jamar Lavert Belk having pled guilty to
4 possession of a weapon during the commission of a violent
5 crime, the sentence of the Court is he be committed to the
6 State Department of Corrections for a determinate term of
7 five years, the sentence is concurrent again with credit
8 for time served. In case number 2010-GS-46-3075, Jamar
9 Lavert Belk having pled guilty to criminal conspiracy, the
10 sentence of the Court is the same as the previous sentence
11 to run concurrent with credit for time served.

12 MR. BROWN - Thank you, Your Honor.

13 (End of transcript)

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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 12 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of State of South Carolina v. Jamar Lavert Belk in the Court of General Sessions of the Sixteenth Judicial Circuit which was taken by me on the 7th day of November, 2012, and provided by me this the 24th day of November, 2013.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina.