

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

JAN 13 2015

APPEAL FROM KERSHAW COUNTY

SC Court of Appeals

R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLIFTON D. COOKE,

APPELLANT

APPELLATE CASE NO. 2014-001175

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW) COURT OF GENERAL SESSIONS
2006-GS-28-00116

State of South Carolina,)
Plaintiff,)
vs.) TRANSCRIPT OF RECORD
Clifton D. Cooke,)
Defendant.)

March 6, 2014
Camden, South Carolina

B E F O R E :

THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE.

A P P E A R A N C E S :

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Attorney for the Plaintiff

JASON D. KIRINCICH, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

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I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called during these proceedings.)

E X H I B I T - S

(WHEREUPON, no exhibits were introduced during these proceedings.)

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MARCH 6, 2014

MR. HUTCHINSON: Clifton Cooke.

THE CLERK: Would you raise your right hand,
please?

(Defendant complies.)

THE CLERK: Do you swear to tell the truth,
the whole truth, and nothing but the truth, so help
you God?

THE DEFENDANT: Yes, ma'am.

THE CLERK: Thank you.

MR. HUTCHINSON: May it please the Court, Your
Honor?

THE COURT: Yes, sir.

MR. HUTCHINSON: Standing before you is
Clifton Cooke. Originally indicted for murder, he
is here today pleading to voluntary manslaughter
without recommendation or negotiation.

THE COURT: Okay. Mr. Cooke, do you want to
plead guilty?

THE DEFENDANT: Yes, sir.

THE COURT: Have you had enough time to talk
to your lawyer about this?

THE DEFENDANT: Yes, sir.

THE COURT: Are you satisfied with his
representation?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Has anybody promised you anything
3 or threatened you in any way to get you to plead?

4 THE DEFENDANT: No, sir.

5 THE COURT: So are you pleading freely and
6 voluntarily?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand I can give you
9 up to 30 years in prison?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And this is a no parolable
12 offense. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you under the influence of
15 alcohol or drugs today?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you got any mental diseases
18 that would keep you from understanding what you are
19 doing?

20 THE DEFENDANT: No, sir.

21 THE COURT: Have you got any complaints with
22 the Solicitor's Office as far as discovery or any
23 information in this case you don't think they have
24 given you?

25 THE DEFENDANT: No, sir.

1 THE COURT: You have got to speak up.

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you under the influence of
4 alcohol or drugs today?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you have any mental diseases
7 that would keep you from understanding what you are
8 doing today?

9 THE DEFENDANT: No, sir.

10 THE COURT: In pleading you are giving up your
11 right to remain silent under the Fifth Amendment.
12 Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you are also giving up your
15 right to a jury trial on these charges and your
16 right to confront witnesses, to cross-examine
17 witnesses, and subpoena witnesses to testify in
18 your behalf. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And if you went to trial the State
21 would have to prove you guilty of these charges
22 beyond a reasonable doubt to all 12 jurors. Do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you are giving up any appeal

1 that could come out of that trial by pleading
2 guilty today. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And if you want to appeal this
5 guilty plea today you have got to file it, you or
6 your lawyer, with the Clerk of Court within ten
7 days of today's date, but you give it up. Do you
8 understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: The Solicitor is going to tell me
11 about the facts.

12 MR. HUTCHINSON: Thank you, Your Honor.

13 On January 5th, 2002, Troy Keitt was at his
14 mother's house at [REDACTED] in Lugoff,
15 South Carolina.

16 There were family members there as well as
17 others: Troy's wife, Althea; his mother, Tiller
18 Keitt; his sister, Makeitha Hollis; neighbors,
19 Calvin Moore and Cynthia Green; and also several
20 children were there present.

21 At some point in the evening, between 7:00 and
22 8:00 p.m., there was a knock on the door. Althea
23 turned on the porch light and answered the door.
24 And there was a black male there whose identity was
25 not known at the time who asked to speak to Troy

1 Keitt.

2 Troy was in the restroom, but Althea told him
3 to come to the door, and he went outside to speak
4 with the person at the door.

5 A few moments later Troy Keitt's mother, who
6 was playing cards with a neighbor, also glanced
7 outside to see a black male speaking to Troy Keitt.

8 Your Honor, all three ladies were there going
9 about their normal business when they heard
10 gunshots. At the time they didn't know if it was
11 gunshots or firecrackers, so they did run outside.

12 Makeitha ran outside to see two individuals
13 running towards a vehicle, and Troy was sitting on
14 the ground near the front of the yard clutching
15 himself.

16 Althea also came outside to see two
17 individuals running away from Troy Keitt and also
18 to see Mr. Keitt on the ground clutching himself.

19 Troy's mother was inside calling 9-1-1
20 actually after she did hear the shots.

21 Your Honor, all three heard the victim say
22 that, in response to who shot him, It was Clifton
23 and Weasel. Weasel is a nickname for someone by
24 the name of Talmadge Dixon.

25 Your Honor, Talmadge Dixon later learned the

1 police were looking for him by a family member. At
2 first -- and he did turn himself in to law
3 enforcement. At first he denied ever being there,
4 but then eventually he gave a statement to law
5 enforcement.

6 According to Talmadge Dixon, he, the
7 Defendant, and another person, that he knew only as
8 Wess or West, decided go to [REDACTED].
9 According to Mr. Cooke, he knew someone there who
10 had drugs.

11 According to Dixon, all three got into a Honda
12 and went over to [REDACTED], and Clifton
13 got out of the vehicle by himself -- this is
14 according to Mr. Dixon -- and went to knock on the
15 door and asked for Troy Keitt.

16 Dixon stated that he was in the vehicle and
17 saw Cooke talking to Troy on the step. The
18 Defendant began to argue with Troy and then pulled
19 out a revolver. They wrestled. And at that time
20 the Defendant shot him and continued to shoot him.

21 According to the autopsy, there were seven
22 shots in his back, chest, ankle, knees, and legs.

23 A GSR analysis was done by SLED, and neither
24 Mr. Dixon nor the victim in this case had anything
25 on their hand, indicating they did not have a gun.

1 Your Honor, this case did originally go to
2 trial. The Defendant was found guilty and
3 sentenced to 40 years.

4 He was -- and this case was overturned by
5 Judge Kinard on February 29th, 2012, on a PCR
6 motion, due to another witness that it was claimed
7 that said -- had another recollection of the facts.
8 And that is why we are here today.

9 THE COURT: Okay.

10 MR. HUTCHINSON: And, Your Honor, there are
11 family members here of the victim who would like to
12 address the Court at the appropriate time.

13 THE COURT: Okay. And a revolver was used in
14 this shooting?

15 MR. HUTCHINSON: Yes, Judge.

16 THE COURT: And what caliber? Do you know?

17 THE SOLICITOR: It was a .32, Judge. And if
18 you are wondering about seven -- is that -- you are
19 wondering about seven shots?

20 THE COURT: Yes. Most revolvers only have
21 six. Some have as many as nine. So I was just
22 trying to figure out the caliber.

23 MR. HUTCHINSON: At the original trial there
24 was an indication by law enforcement by someone the
25 State had that there did -- there was such a

1 revolver that existed that would have at least
2 seven shots, Judge.

3 THE COURT: And some have as many as nine,
4 but that isn't a lower caliber, so that is why I
5 was wondering.

6 And this is an Alford plea?

7 MR. KIRINCICH: Yes, sir, Your Honor.

8 THE COURT: Mr. Cooke, you understand that
9 those are the facts that the State would present if
10 this case went to trial? Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And they have offered you a plea
13 to a lesser included offense of murder to
14 manslaughter. Do you want me to accept your plea
15 under North Carolina vs. Alford?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you understand if I accept it
18 it is just like a guilty plea as far as the
19 punishment is concerned and the time I give you,
20 even though you are pleading under Alford. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. And I find there is a
24 factual basis for your plea; it is freely and
25 voluntarily entered into; and that you have had the

1 advice of competent counsel whom you tell me you
2 are satisfied with. And I will accept your plea.

3 And I'll be glad to hear from the victims.

4 MS. HOLLIS: Hi. I'm Makeitha Keitt Hollis.
5 I am the victim's sister. I was present during the
6 altercation. I am his baby sister.

7 I had -- during the time when my brother was
8 laying on the ground, I asked him who did this to
9 him.

10 And he stated, Clifton Cooke and Weasel.

11 I said, Who shot you?

12 He stated again, Clifton Cooke.

13 I didn't know who Clifton Cooke was, but I
14 constantly kept asking him until he actually passed
15 out.

16 I did CPR on him. And he woke up again. And
17 I asked him again. And I told him to keep talking
18 to me.

19 Our family hasn't been the same. The home is
20 not the same. I mean, he came to my parents' home
21 where we all go on Saturdays and we get together as
22 family.

23 And he came and he shot him cold-blooded.

24 There is something I would never forget. My family
25 won't forget. My children was there. His children

1 was there. So, you know, for anyone to do
2 something like that regardless, it takes a
3 cold-hearted person to actually do that. And shoot
4 him that many times.

5 I was the one that ran out the door because I
6 thought it was firecrackers. But his last words
7 was to me. There is something I won't forget.

8 And I'm asking, I'm pleading -- it is going to
9 happen again if this man is let out -- for the
10 maximum.

11 THE COURT: Thank you, ma'am. Anyone else?

12 MS. EVANS: Yes. I'm Rosetta Evans. I'm
13 Troy's sister as well. I was not there that day.
14 I actually was sick with the flu and strep throat.
15 I remember that day because the snow was clearing.
16 And I had just come from the doctor and diagnosed
17 with the flu.

18 And my brother was a great brother. He was a
19 protector. He loved his family and he loved his
20 children. And he will never get the chance to meet
21 my daughter. She is ten months old. She will
22 never get to know her uncle. He would have loved
23 her so much.

24 We are just hoping that Clifton gets the
25 maximum sentence held by South Carolina law for the

1 damage that he caused to our family.

2 It is hard to understand why someone will
3 disrespect the life -- a human life. It doesn't
4 matter what your disagreement is, no one deserves
5 to be murdered like my brother was. He was shot
6 seven times. It is just unconscionable.

7 And I plead and beg the Court to please give
8 him the maximum sentence allowable.

9 THE COURT: Thank you, ma'am.

10 MS. KEITT: My name is Tiller Keitt. I'm his
11 mother. I was there. When he passed, it took a
12 part of me with him. I ain't been right since he
13 gone. He come to the house every morning and get
14 his grits. And I look for him to come to the door.

15 That is my baby boy. He was a good boy. He
16 been a boy who had respect.

17 I wish -- I'm pleading too that he get the
18 maximum, because if he don't, it going to happen
19 again to somebody else's family.

20 THE COURT: Thank you, ma'am.

21 MS. KEITT: Thank you.

22 THE COURT: Anything else?

23 MR. HUTCHINSON: Judge, just a couple more
24 things I wanted to bring to the Court's attention.

25 Your Honor, after this incident happened, the

1 Defendant did go to New York where he had to be
2 extradited. He was there for two years. He was
3 extradited two years later.

4 Your Honor, his prior record, a simple assault
5 from 1999 from South Carolina; and from New York a
6 criminal possession of a loaded firearm, third
7 degree, in 1999 as well.

8 THE COURT: Okay. Yes, sir?

9 MR. KIRINCICH: Thank you, Your Honor.

10 Your Honor, just to reiterate, Mr. Cooke is
11 entering this as an Alford plea. We understand the
12 statements that the State has made as to what they
13 would present as the facts.

14 And, Your Honor, with all due respect to the
15 Keitt family, because this should not have happened
16 to their brother, I feel like once again the State
17 is leaving out some very important information; and
18 that was the reason that Judge Kinard found that
19 this case should be overturned on post-conviction
20 relief, because in his mind there was exculpatory
21 evidence that the State knew about.

22 The State referenced in their opening
23 statement and in their witness list that they were
24 going to call Gloria Moore and Deputy Rob Evans.
25 Deputy Rob Evans was the responding officer.

1 Gloria Moore is the neighbor that lived across the
2 street from the Keitts. She had known Troy since
3 he was a young man.

4 Your Honor, during the trial, Solicitor John
5 Meadors in his opening said that Gloria Moore would
6 be called. He asked other witnesses about Gloria
7 Moore. When it came time to call her, he decided
8 not to do it.

9 Your Honor, whenever Mr. Cooke was convicted,
10 he filed his appeal, and that was denied at
11 post-conviction relief.

12 Jeremy Thompson hired Dave McDougall, who
13 recently passed. Dave had an opportunity to speak
14 with Ms. Moore. She told him that she had talked
15 with investigators previously, investigators from
16 the Sheriff's Office. She told them that she heard
17 the gunshots while she was inside on the phone.
18 She went outside. When she went outside she saw
19 Troy sitting there holding himself talking with his
20 family.

21 At that point she heard him say, Weasel shot
22 me. She didn't hear anything about Clifton Cooke.

23 She wrote a statement, Your Honor, to four
24 investigators the night this happened. She said
25 she heard him say, I don't believe I'm going to

1 make it.. I also heard the victim say the name
2 Weasel. She got on the phone and then called
3 9-1-1.

4 Your Honor, Deputy Rob Evans, the first one on
5 the scene, responded. He took some notes down. He
6 later put those notes into an incident report. His
7 incident report is based on a statement he got from
8 Mr. -- I believe it is Mr. Keitt's wife, Althea
9 Keitt. She stated the victim told her Subject
10 Number 1 shot him.

11 Your Honor, on the incident report, Subject
12 Number 1 is Talmadge Dixon. There is no other
13 indication that Deputy Rob Evans heard from anybody
14 that Clifton Cooke shot Mr. Keitt.

15 This was a case, Your Honor, where they said
16 they had gunshot residue tests on both these
17 individuals, Mr. Keitt and Mr. Dixon, to show that
18 they didn't have any gunshot residue on them.

19 Your Honor, that test was not done on
20 Mr. Dixon immediately. As we all know, those tests
21 are not reliable after a certain amount of time.
22 If somebody changes their clothes, washes their
23 hands, washes their body, other gunshot material
24 washes off..

25 Your Honor, also it was not said today that

1 Mr. Dixon, even though he is named in everybody's
2 statements -- and I'll go ahead and put it out
3 there that Althea Keitt did write a statement; she
4 said, I saw Troy on the ground. Makeitha asked him
5 who did it. He said, Weasel and Clifton.

6 And the statement from Makeitha, who is here
7 today, who indicated she heard him say, Clifton
8 Cooke. He was telling me who shot him. He said,
9 Weasel, Talmadge Dixon, and Clifton. I had him
10 repeat it twice after that. He said, Talmadge
11 Dixon and Clifton. They shot him.

12 Your Honor, Mr. Dixon then in some fashion --
13 and I don't know exactly how it happened, I have
14 never been privy to any conversations that occurred
15 between Mr. Dixon, his attorney, and the
16 Solicitor's Office -- managed to work out a deal
17 after he initially lied to investigators, after he
18 made up a third person that was there who has never
19 been located, he has never been identified, he
20 worked out a deal where he testified at Mr. Cooke's
21 trial that Mr. Cooke was the one who shot him.

22 As part of that deal, Your Honor, Mr. Dixon
23 was later sentenced to time served of just over a
24 year to accessory after the fact. This was
25 somebody who was named in multiple statements as

1 the one that shot Mr. Keitt. And he got time
2 served of a year.

3 Your Honor, I started by saying that what
4 happened to Troy Keitt should not have happened. I
5 think that there was a miscarriage of justice in
6 this case, and I think the Keitt family has every
7 right to be upset with, not necessarily Mr. Cooke,
8 but with the Solicitor's Office in the way
9 Mr. Dixon's case was handled.

10 I can't see any reason that a Prosecutor would
11 make that deal with someone when they have evidence
12 from multiple witnesses that he was the one that
13 shot Mr. Keitt.

14 Your Honor, Mr. Cooke has been in jail 3,454
15 days -- 9 years, 5 months, and 14 days. He was
16 initially taken into custody September of 2004. He
17 made mistakes after this happened. He doesn't deny
18 that he was there. He has testified at his own PCR
19 that he was there, that it was Talmadge Dixon who
20 shot Mr. Keitt.

21 I have talked with Mr. Cooke about it. He
22 realizes that he shouldn't have run.

23 At the time, though, Your Honor, he was a
24 young man. He was scared. He was 23, 24 years old
25 and didn't know what the right thing to do was.

1 Your Honor, he is joined today by a number of
2 family members: Kenyatta Washington, a good
3 friend, girlfriend is here; plus a cousin -- excuse
4 me -- Tasha Stevens, his cousin; Barbara Miles, an
5 aunt; Nita Watkins, a cousin; Anthony Cooke, his
6 brother; and Wayne Garrett, is his father.

7 Your Honor, they have all been very active in
8 checking on Clifton. They are all very concerned
9 about him.

10 I would respectfully disagree with Mr. Keitt's
11 family that if Your Honor was to sentence him to
12 anything less than the max that this is going to
13 happen again.

14 There is -- like I said, there is nothing that
15 I have ever gotten from Mr. Cooke that this is
16 going to happen again or he wasn't remorseful about
17 what happened or the way it was handled.

18 Your Honor, we're standing here before you
19 today. It is a tough place for us to be.
20 Mr. Cooke has pled under Alford. This is a case
21 that he and I both wanted to try. We thought there
22 was a lot of evidence that should have come out the
23 first time. And it is very unfortunate that it
24 didn't. And I'm glad that Judge Kinard ruled the
25 way he did to say that he believed that there was

1 possibly exculpatory evidence to hear not only from
2 Ms. Moore, who specifically was there, but also I'm
3 concerned about the statements that were given to
4 Deputy Evans and why he was not called.

5 Unfortunately, within the last few months,
6 Deputy Evans passed away. He had a heart attack
7 while directing traffic at the Wateree Elementary
8 School.

9 And, unfortunately, as I discussed with
10 Mr. Cooke, two investigators in this case,
11 including Dave McDougall, have passed away. So as
12 time goes on, this case not only gets harder for
13 the State, but it also gets harder for Mr. Cooke.
14 And that is one of the reasons that he is pleading
15 today.

16 Your Honor, again, I talked about it with him
17 a number of times. We believe that Mr. Cooke
18 should have been given the benefit of the accessory
19 after the fact, Your Honor. He knows that that is
20 not what he is pleading to.

21 So, for that reason, Your Honor, I'm going to
22 respectfully ask that you consider a sentence of no
23 more than 15 years. I think that is the
24 appropriate thing to do.

25 But, quite frankly, after discussing the case

1 with Mr. Cooke, going through all the evidence,
2 Your Honor, it is not an easy thing to do because
3 unfortunately we do have a true victim in this case
4 and the victim's family is here. But, Your Honor,
5 Mr. Cooke's family has also not had him around. He
6 has not been available to them. He has not
7 experienced life outside of confinement for the
8 last 9 years, 5 months, and 14 days. So if Your
9 Honor would consider it, I would ask you for a time
10 served sentence.

11 I know Mr. Cooke would like to say something
12 at this time. And his family would like to speak.

13 THE COURT: Yes, sir?

14 THE DEFENDANT: I want to tell the family that
15 I'm sorry, but I did not shoot Troy Keitt. The
16 only reason why I'm pleading guilty to this is
17 because I fear for my life. I feel like I ain't
18 got a chance of winning.

19 THE COURT REPORTER: I'm sorry, I didn't hear
20 you.

21 THE DEFENDANT: Like I ain't got a chance of
22 winning. So that's why I'm going to go ahead and
23 plead guilty. But Talmadge Dixon shot Troy Keitt.
24 And I'm sorry to the Keitt family.

25 And I would just ask you to sentence me to no

1 more than 15 years.

2 MR. COOKE: My name is Anthony Cooke. And
3 Clifton Cooke is my brother. I feel sorry for the
4 Keitt family, but we destroyed too. We need my
5 brother back. I haven't had my brother in almost
6 ten years. And I do feel sorry for the family.

7 And can you please be lenient on my brother,
8 sir? Thank you.

9 THE COURT: Thank you.

10 MS. STEVENS: My name is Tasha Stevens. And
11 I'm Clifton's cousin. I'm currently living in
12 North Carolina. I went to school with the Keitts.
13 And I'm very sorry for what happened to Troy.

14 And I would ask that you be lenient on my
15 cousin. So much of our family members passed away
16 the last few years that he has been here. He has
17 missed family -- he has missed -- all of our
18 grandparents have passed, our aunts and uncles have
19 passed, cousins too.

20 We would ask(crying)...

21 MR. KIRINCICH: Your Honor, one more family
22 member.

23 THE COURT: Okay.

24 MS. MILES: Good afternoon. My name is
25 Barbara Miles. And I just want to stay to the

1 Keitt family, I am so sorry about what happened.
2 And I really don't believe that my nephew killed
3 Troy. And I have known Tiller all my life. We're
4 classmates. And I just want her to know that I
5 love her family, and I'm just so sorry about what
6 happened. But I really don't believe my nephew
7 pulled that trigger.

8 And please have mercy on my nephew.

9 THE COURT: Thank you, ma'am.

10 MR. KIRINCICH: Your Honor, I don't know if I
11 already said it, and if I repeat myself, I
12 apologize.

13 For one thing, I want to put out there for
14 Your Honor to consider and have on the record, we
15 were just told minutes before this plea that Mr.
16 Talmadge Dixon has refused to cooperate with law
17 enforcement further, which, again, it is
18 unfortunate that his case was handled the way it
19 was, but it puts both the State and the Defense in
20 a very bad position going forward. And that is why
21 Mr. Cooke, as he indicated, he doesn't feel like he
22 has a great shot at trial. He already knows what
23 happened one time.

24 And I think we've explained why we have asked
25 for no more than 15 years. And I hope I have laid

1 out a good enough reason for you to consider a time
2 served sentence, Your Honor.

3 Thank you.

4 THE COURT: Okay. The sentence of the Court
5 is you are committed to the State Department of
6 Corrections for a term of 20 years. I am giving
7 you credit for time served.

8 Good luck to you.

9 MR. HUTCHINSON: Thank you, Your Honor.

10 (WHEREUPON, the proceedings were concluded.)

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(END OF TRANSCRIPT)

	ankle [1] 8/22	charges [2] 5/15 5/21
.32 [1] 9/17	another [3] 8/7 9/6 9/7	checking [1] 19/8
0	answered [1] 6/23	chest [1] 8/22
00116 [1] 1/2	Anthony [2] 19/5 22/2	children [4] 6/20 11/25 11/25 12/20
1	anybody [2] 4/2 16/13	Circuit [2] 25/9 25/23
12 [1] 5/22	anyone [2] 12/1 12/11	claimed [1] 9/6
14 [2] 18/15 21/8	apologize [1] 23/12	classmates [1] 23/4
15 [3] 20/23 22/1 23/25	appeal [4] 5/25 6/4 15/10 25/13	clearing [1] 12/15
█ [3] 6/14 8/8 8/12	appropriate [2] 9/12 20/24	Clerk [1] 6/6
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<p>S</p> <p>s/Deborah [1] 25/21 said [12] 9/7 11/11 15/5 15/24 16/15 16/25 17/4 17/5 17/8 17/10 19/14 23/11 same [2] 11/19 11/20 satisfied [2] 3/24 11/2 Saturdays [1] 11/21 saw [3] 8/17 15/18 17/4 say [7] 7/21 15/21 15/25 16/1 17/7 19/25 21/11 saying [1] 18/3 scared [1] 18/24 scene [1] 16/5 school [2] 20/8 22/12 sentence [8] 12/25 13/8 19/11 20/22 21/10 21/25 24/2 24/4 sentenced [2] 9/3 17/23 September [2] 18/16 25/19 served [5] 17/23 18/2 21/10 24/2 24/7 SESSIONS [2] 1/1 25/14 seven [5] 8/21 9/18 9/19 10/2 13/6 several [1] 6/19 she [21] 7/20 12/21 12/21 15/2 15/14 15/14 15/16 15/16 15/17 15/18 15/18 15/18 15/21 15/22 15/23 15/24 15/25 16/2 16/9 17/3 17/7 Sheriff's [1] 15/16 shoot [3] 8/20 12/3 21/15 shooting [1] 9/14 shot [16] 7/22 8/20 11/11 11/23 13/5 15/21 16/10 16/14 17/8 17/11 17/21 18/1 18/13 18/20 21/23 23/22 shots [4] 7/20 8/22 9/19 10/2 should [5] 14/15 14/19 18/4 19/22 20/18 shouldn't [1] 18/22 show [1] 16/17 sick [1] 12/14 silent [1] 5/11 simple [1] 14/4 since [2] 13/12 15/2 sister [4] 6/18 11/5 11/6 12/13 sitting [2] 7/13 15/19 six [1] 9/21 SLED [1] 8/23 snow [1] 12/15 SOLICITOR [3] 1/17 6/10 15/4 Solicitor's [3] 4/22 17/16 18/8 somebody [3] 13/19 16/22 17/25 someone [5] 7/23 8/9 9/24 13/2 18/11</p>	<p>T</p> <p>taken [1] 18/16 takes [1] 12/2 talk [1] 3/21 talked [3] 15/14 18/21 20/16 talking [3] 8/17 11/17 15/19 Talmadge [9] 7/24 7/25 8/6 16/12 17/9 17/10 18/19 21/23 23/16 Tasha [2] 19/4 22/10 telling [1] 17/8 ten [3] 6/6 12/21 22/6 term [1] 24/6 test [1] 16/19 testified [2] 17/20 18/18 testify [1] 5/17 tests [2] 16/16 16/20 Thank [12] 3/10 6/12 12/11 13/9 13/20 13/21 14/9 22/8 22/9 23/9 24/3 24/9 that [102] that's [1] 21/22 their [8] 7/9 8/25 14/16 14/22 14/23 16/22 16/22 16/23 there [36] they [16] 4/23 7/9 7/10 7/11 8/19 8/25 10/12 14/12 14/23 16/15 16/16 16/18 17/11 18/11 19/7 19/8 thing [4] 18/25 20/24 21/2 23/13 things [1] 13/24 think [5] 4/23 18/5 18/6 20/23 23/24 third [2] 14/6 17/18 this [31] Thompson [1] 15/12 though [3] 10/20 17/1 18/23 thought [2] 12/6 19/21 threatened [1] 4/3 three [3] 7/8 7/21 8/11 throat [1] 12/14 through [1] 21/1 Tiller [3] 6/17 13/10 23/3 times [3] 12/4 13/6 20/17 today [12] 3/16 4/15 5/4 5/8 6/2 6/5 9/8 16/25 17/7 19/1 19/19 20/15 today's [1] 6/7 together [1] 11/21 told [6] 7/2 11/17 15/14 15/16 16/9 23/15 too [3] 13/17 22/4 22/19 took [2] 13/11 16/5 tough [1] 19/19 towards [1] 7/13</p>	<p>U</p> <p>uncle [1] 12/22 uncles [1] 22/18 unconsciousable [1] 13/6 under [6] 4/14 5/3 5/11 10/15 10/20 19/20 understand [13] 4/8 4/12 5/12 5/18 5/23 6/2 6/8 10/8 10/10 10/17 10/21 13/2 14/11 understanding [2] 4/18 5/7 unfortunate [2] 19/23 23/18 unfortunately [3] 20/5 20/9 21/3 until [1] 11/14 upset [1] 18/7 used [1] 9/13</p> <p>V</p> <p>vehicle [3] 7/13 8/13 8/16 very [6] 14/17 19/7 19/8 19/23 22/13 23/20 victim's [2] 11/5 21/4 victims [1] 11/3 voluntarily [2] 4/6 10/25 voluntary [1] 3/16</p> <p>W</p> <p>wanted [2] 13/24 19/21 was [76] washes [3] 16/22 16/23 16/24 Washington [1] 19/2 wasn't [1] 19/16 Wateree [1] 20/7 Watkins [1] 19/5 way [5] 4/3 18/8 19/17 19/25 23/18 Wayne [1] 19/6 we [14] 9/8 11/21 11/21 12/24 14/11 16/20 19/21 20/17 21/3 22/4 22/4 22/20 23/14 23/24 we're [2] 19/18 23/3 we've [1] 23/24 Weasel [7] 7/23 7/23 11/10 15/21 16/2 17/5 17/9 Wess [1] 8/8 West [1] 8/8 what [13] 4/18 5/7 9/16 13/4 14/12 18/3 18/25 19/17 20/20 22/13 23/1 23/5 23/22 whenever [1] 15/9 WHEREUPON [3] 2/4 2/13 24/10 while [2] 15/17 20/7 whole [1] 3/7 whom [1] 11/1 whose [1] 6/24 why [8] 9/8 10/4 13/2 20/4 21/16 21/22 23/20 23/24 wife [2] 6/17 16/8 will [4] 11/2 12/20 12/21 13/2 winning [2] 21/18 21/22 wish [1] 13/17</p>

W

within [2] 6/6 20/5
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York [2] 14/1 14/5
you [79]
young [2] 15/3 18/24

FILED FOR RECORD

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

MAY 23 AM 11:00

IN THE GENERAL SESSIONS COURT
Indictment Number: 2006-GS-28-00116

The State of South Carolina

JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

vs.

Clifton D. Cooke,

Defendant.

ORDER DENYING MOTION
TO RECONSIDER

On March 6, 2014, Defendant pleaded guilty, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to Voluntary Manslaughter. He was sentenced to twenty years in the South Carolina Department of Corrections.

Pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure, Defendant, Clifton D. Cooke, requested a hearing for a Motion to Reconsider his sentence imposed on March 6, 2014. After an *in camera* hearing with Defendant's attorney, Jason D. Kirincich and Assistant Solicitor Curtis R. Hutchinson as to what would be presented, the court finds that:

Defendant sought to have his sentence reconsidered based on the State's untimely disclosure that its key witness, the one-time co-defendant of Mr. Cooke, was no longer cooperating with the State in its prosecution of Mr. Cooke. Defendant was informed that his co-defendant would not cooperate in his prosecution minutes before he entered his plea. Being that he was informed before the plea, even if it was only minutes before the plea, Defendant could have taken any number of actions based on the disclosure and I find that the disclosure was not untimely.

Therefore, Defendant's Motion to Reconsider is hereby DENIED.

Mauney, South Carolina
May 20, 2014

R. Ferrell Cothran, Jr.
R. Ferrell Cothran, Jr.,
Circuit Court Judge

ATTEST True, Correct & Certified
Copy of Original on File in this
Court

Joyce McDonald
Clerk of Court
Kershaw County

38

WITNESSES

Tisdale, KCSD

ARREST WARRANT NUMBER

G649621

ACTION OF GRAND JURY

TRUE BILL



Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-28-0116

The State of South Carolina

County of Kershaw

COURT OF GENERAL SESSIONS

April TERM 2006

THE STATE

vs.

Clifton Delane Cooke

Indictment for

MURDER

SC Code: 16-3-10

CDR Code:0116

Class FEL/EXM(V)

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

Defendant

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

Defendant

Witness:

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

2006 APR 25 AM 10:56
CLERK OF COURT
KERSHAW COUNTY, S.C.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 13, 2015



Tiffany L. Butler
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

JAN 13 2015

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

R. Ferrell Cothran, Jr., Circuit Court Judge

RECEIVED

JAN 13 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CLIFTON D. COOKE,

APPELLANT.

APPELLATE CASE NO. 2014-001175

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 13th day of January, 2015.

Brandon Hall
Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
This 13th day of January, 2015.

Tala McKee (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022