

# VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM EDGEFIELD COUNTY

R. Knox McMahon, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JULIO ANGELO HUNSBERGER,

APPELLANT

APPELLATE CASE NO. 2012-207290

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RECORD ON APPEAL

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1           But the defense in this case, they hung their  
2 hat on this is a case of just completely mistaken  
3 identification. It wasn't Julio Hunsberger. It had  
4 to have been somebody else.

5           Who else had connection with that property but  
6 Julio and Alex Hunsberger that was involved in this?  
7 Nobody. It's right there in their backyard. When  
8 he got arrested in this case, he was still down  
9 there right there at that property, the only one  
10 that had any connection.

11           And these individuals that came up here and  
12 cooperated, as you'll hear, oh, a evil thing they  
13 cooperated. Thank goodness they did. What possible  
14 motive would they have to pick Julio Hunsberger of  
15 all the people on God's green earth? Did any of  
16 these individuals tell you that they had any  
17 connection with him, that they had any bad blood  
18 with him that they would have put him in a murder?

19           Good Lord, they've all already pointed the  
20 finger at each other, testified, told on them, all  
21 three of them had. They have absolutely no motive,  
22 no incentive to drag Julio Hunsberger into this  
23 except for the fact that he did it. Nothing.  
24 You've not heard one thing. All the evidence comes  
25 from the stand up here, not one thing. And you can

1           bet if there was any connection with anybody else,  
2           you would have heard about that, but you didn't  
3           because it's not there. It's the simple truth.

4           Got a lot of smart people, but I submit to you,  
5           the 12 of you that go back in that jury room to  
6           deliberate in this case, no one person anywhere on  
7           earth has more intelligence than the collective  
8           wisdom of the 12 of you that go back in that jury  
9           room and deliberate because you bring into this  
10          courtroom the sum total of all of your life  
11          experiences.

12          And this isn't a complicated case. It is a  
13          horrible, horrible case. It is a murder of the  
14          worst magnitude. It is a totally senseless murder  
15          of Sam Sturup. No reason for it. It is just pure  
16          evil, pure meanness, pure malice that would have  
17          never occurred here in Edgefield County if it hadn't  
18          have been for Julio Hunsberger.

19          The defense told you at the outset of this  
20          case, Julio Hunsberger comes into this courtroom  
21          cloaked in innocence. The State told you at the  
22          outset of this case, we've got the burden of proof  
23          and we welcome it. With each piece of evidence that  
24          came in, each word of testimony that came forward  
25          from this stand over the last few days, the State

1 submits to you it's been stripped away from him.

2 And as we sit here in this courtroom, all of  
3 the 12 of you that are going to go back in that jury  
4 room and deliberate, there he sits, Julio  
5 Hunsberger, naked in his guilt, all of that cloak  
6 stripped away from him. He's had his day in court.  
7 This is his day to be judged in this case and you're  
8 the judges of the facts.

9 Again, all that we ask that you do is go back  
10 in that jury room, come back with a verdict that  
11 speaks the truth and does justice for everybody  
12 involved in this case, including Samuel Sturup that  
13 is forever part of Edgefield County as all that was  
14 flesh and blood of him bleached out in the ground  
15 right here.

16 **THE COURT:** Thank you, Solicitor.

17 Mr. Williams.

18 **MR. WILLIAMS:** Thank you, Your Honor.

19 Mr. Foreman, ladies and gentlemen of the jury,  
20 at the outset of this case, one of the things that I  
21 was most concerned about was that you would  
22 absolutely listen to the instruction of the Court  
23 and hold the State to its burden, the burden of  
24 proof beyond a reasonable doubt. And one of the  
25 things that I consider most valuable in this, our

1 free society, is the presumption of innocence.

2 Now, I married a pretty tough ol' girl from the  
3 low country and if I were to be walking down the  
4 street with her and the night before I worked late  
5 and I said, sweetie, I'm working late, the next day  
6 she and I are walking in the mall and somebody sees  
7 me and they say, Randy, that's not the woman I saw  
8 you with last night, who is this, well, how could I  
9 prove to my wife that I wasn't out with some other  
10 woman? And I submit to you my wife is a pretty  
11 tough ol' girl and I would probably have a hard time  
12 trying to prove or disprove that it wasn't me out  
13 with some other woman.

14 In a free society, in our free society, we  
15 don't have to prove our innocence. We're presumed  
16 innocent. And I submit to you my client remains  
17 cloaked in a robe of righteousness even right now.

18 Mr. Foreman, ladies and gentlemen, I submit to  
19 you that the Solicitor has given you quite a bit of  
20 information regarding the unfortunate death of  
21 Samuel Sturup, Jr. It's tragic beyond measure.  
22 But nothing I say right now can hurt Samuel Sturup,  
23 nothing that any of us say right now could hurt him  
24 anymore.

25 I submit to you that the information you have

1 will keep you busy. It's just like a rocking chair,  
2 it will keep you busy, but it's not going to get you  
3 a step closer to being able to believe that my  
4 client had anything to do with his death. The  
5 information that the Solicitor and all its witnesses  
6 have given you from that stand, they've given you a  
7 lot to keep you busy, it's just like a rocking  
8 chair, but it's not going to move one bit. It's not  
9 going to get you closer to knowing or believing that  
10 my client is guilty of any crime.

11 Mr. Foreman, ladies and gentlemen of this jury,  
12 I grew up over in Saluda, South Carolina, not very  
13 far from here and I'm the youngest of six children.  
14 I have three older brothers and they're all much  
15 more athletic. They were good basketball, football  
16 players. And they're all better looking, I would  
17 submit, than I am. But now that I'm over 40 years  
18 old, I realized something, we're all different and  
19 we're all judged by our own actions, not by the  
20 actions of other people, just our own.

21 One thing that even I've had a hard time having  
22 to prove is that I'm just me. I'm not like my  
23 brother, I'm just me. I'm not like my brother.  
24 I've got three of them and they're all some  
25 characters I can assure you.

1           And I submit to you that my client is just  
2 himself. There's been quite a bit of talk about his  
3 brother. I submit to you that the evidence that you  
4 have, you consider it as it relates to my client,  
5 Julio Hunsberger, and Julio Hunsberger alone.

6           Ladies and gentlemen, there have been four  
7 witnesses in this case who have implicated my client  
8 in some manner. Each of the four witnesses that  
9 took this stand took it in a prisoner's jumpsuit.

10           Now, Grover Dais said that my client talked  
11 about the contamination of the crime scene. Well,  
12 he's been in trial after trial and never bothered to  
13 tell anybody anything who investigated this thing  
14 until late Friday evening after he received a  
15 subpoena from me. I submit to you that there's  
16 nothing credible about what he's told you.

17           Where did that come from? Why would he do  
18 that? What happens when people are in trouble?  
19 They will do most anything. Some people will sell  
20 their own mother to try to save themselves.

21           I submit to you that Grover Dais, Richard Cave,  
22 Antonio Griffin and Charlene Thatcher all understand  
23 one thing, if I help the State, if I assist in the  
24 prosecution, it's going to prove to be helpful to  
25 me. Each of them have done that.

1           Charlene Thatcher, she did it. Eighteen years,  
2 she had a kidnapping charge, armed robbery, two  
3 counts of kidnapping, she could have been facing two  
4 life sentences in the State of Georgia. She don't  
5 want no part of that. I'll say what I need to say.

6           I'd submit to you that she got the information  
7 that she's given you from one Investigator Richard  
8 Roundtree after his communication with Investigator  
9 Doran. Hey, we found this body over here on this  
10 property, Hunsberger property. They got Hispanic  
11 names, Julio, Julio, Chico, Rico, Hispanic names.  
12 Hey, we believe these guys got something to do with  
13 it.

14           Investigator Roundtree, hey, this is the  
15 witness, talks to her. Believe it's Hunsberger,  
16 isn't it, Julio? Oh, yeah, that's who it is. It's  
17 Julio Hunsberger. It's Alex Hunsberger, that's who  
18 it was. Never knew my client, never knew my client  
19 before, but, yeah, it was him.

20           Richard Cave. Nah, I haven't been hanging  
21 around Steven Barnes. But, nah, I never saw this  
22 guy before until that night. Oh, really? Yeah, I  
23 saw him that night, that's him, ain't no doubt in my  
24 mind. But in a trial in Georgia while under oath,  
25 he says, I told them from the jump, I did not

1 recognize him. That's what he said under oath.

2 One thing that's fairly peculiar was Griffin  
3 says he thought they were white guys. He admitted  
4 that.

5 One thing's peculiar about them, they never  
6 said they were short, never said they were tall,  
7 never said they were skinny, just light skin, white  
8 guys. Now, all of a sudden, I have no doubt in my  
9 mind, it's that man sitting right there.

10 Well, that's easy, that's easy. I have no  
11 doubt in my mind that that's Julio Hunsberger  
12 because he's sitting there, ain't nobody else at the  
13 table with me but him. That's him, ladies and  
14 gentlemen, that's him. That's Julio Hunsberger.

15 But if we go back, let's go back to the time of  
16 the crime, I thought they were white guys. I told  
17 them from the jump I didn't recognize them. I  
18 thought they were light skin. Not how did he sound,  
19 did he speak as though he may have had a Hispanic  
20 heritage, was he tall, was he fat, was he skinny?  
21 None of that. That's him. That's easy.

22 Well, I'm facing a kidnapping charge in the  
23 State of Georgia. It carries a life sentence. I  
24 think I better help myself. I better get that life  
25 sentence out from over my head. Let me help myself

1 and say what I need to say.

2 Charlene Thatcher, a misguided young lady, to  
3 quote the prosecutor. No doubt in my mind she's  
4 misguided, no doubt. Misguided, probably abused,  
5 probably neglected, perhaps abandoned, all of that.

6 And if I seemed like I was beating up on her, I  
7 wasn't, ladies and gentlemen. I hope you understand  
8 that I was not trying to do that in any manner. But  
9 what I was trying to get at was that this gal is a  
10 manipulator, okay. She is a manipulator. She's  
11 part and parcel of the wares she pedalled. She's a  
12 manipulator. Ladies and gentlemen, she has  
13 manipulated the system. She's continuing to try to  
14 manipulate the system at the expense of my client.

15 Ladies and gentlemen, I asked you early on to  
16 consider the source of the information that you've  
17 received. I asked you to consider the weight and  
18 the credibility of the witnesses that have come  
19 before you.

20 I submit to you that if either of those  
21 individuals who showed up in the jumpsuits offering  
22 testimony implicating my client into this horrible  
23 crime, if that person was a surgeon about to do  
24 surgery on your loved one and you saw them as they  
25 appear, you would say, oh, no. If they were pilots

1 of an airplane that you were going to get on, you  
2 would say, oh, no, I'm not going to fly with that  
3 person, because your very life would depend on them,  
4 your very life.

5 Look at them. Look at Grover Dais. He says  
6 he's in an ATU unit. You want him doing surgery on  
7 your loved one? You want him flying a plane for  
8 you? Because your very life would be in his hands.

9 I submit to you that that's the very position  
10 that my client is in. His life is in the hands of  
11 these people who have absolutely no credibility.  
12 They've said this thing, they've said that thing and  
13 they'll say another thing if they believe it's going  
14 to help them. My client's life is on the line at  
15 the word of these people.

16 Charlene Thatcher, she told you reluctantly,  
17 yeah, I was investigated through an internal affairs  
18 group about these things that went on between me and  
19 Richard Roundtree. Something inappropriate.

20 Ladies and gentlemen, there has been a horrible  
21 tragedy and the tragedy has been to Samuel Sturupp  
22 and his mother. It's nothing, again, I could say to  
23 hurt Samuel Sturupp now, but I certainly wouldn't  
24 want to say anything to hurt his mother as she sits  
25 here.

1           I submit to you, ladies and gentlemen, that you  
2           don't want to compound the tragedy by sending an  
3           innocent man to a fate that he doesn't deserve.. I  
4           ask that you would find my client not guilty. I ask  
5           that you'll hold the State to its burden. I ask  
6           that you consider the evidence that's against my  
7           client, you consider the source, as I have asked you  
8           from the very outset, of the evidence against my  
9           client.

10           Before I sit, there's one thing that my pastor,  
11           my former pastor, used to always say and I thought  
12           it was the most compelling thing. He used to say  
13           that there's so much good in the worst of us and  
14           there's so much bad in the best of us that there  
15           leaves little room for any of us to stand in  
16           judgement of the rest of us. But that's exactly  
17           what we're here asking you to do, to stand in  
18           judgment.

19           I ask you to judge the State's case, judge it  
20           in accordance with the law that the Judge is going  
21           to give you. And once you've done that, I believe  
22           you will render a verdict of not guilty. Thank you.

23           **THE COURT:** Thank you very much, Mr. Williams.

24           CHARGE OF THE COURT

25           **THE COURT:** Mr. Foreman, ladies and gentlemen

1 of the jury panel, I'm now going to charge you or  
2 instruct you on the law that applies to the facts of  
3 this case. The manner in which I do this is I cover  
4 the general law that applies to all criminal  
5 offenses of South Carolina; thereafter, I will cover  
6 the charge in the indictment of murder and I will  
7 then cover the form of the verdict.

8 Typically, when I go from one topic to the  
9 next, I will give you the caption of the topic that  
10 I'm fixing to cover. If you would please give me  
11 your complete and undivided attention.

12 The indictment in this case charges Julio  
13 Angelo Hunsberger, the defendant, with murder. I  
14 remind you that the fact the defendant was arrested,  
15 charged and indicted in this case is not evidence  
16 and cannot be considered by you as evidence of his  
17 guilt, nor does it create any presumption or  
18 inference of guilt.

19 The indictment. This document is simply the  
20 formal, written instrument which contains the charge  
21 made against the defendant. It's the formal  
22 document by which the case is brought into this  
23 court.

24 Presumption of innocence. The defendant has  
25 pled not guilty to the indictment and that plea puts

1 the burden on the State to prove the defendant  
2 guilty. A person charged with committing a criminal  
3 offense in South Carolina is never required to prove  
4 himself innocent.

5 I charge you that it is an important rule of  
6 the law that a defendant in a criminal trial, no  
7 matter what the seriousness of the charge may be,  
8 will always be presumed to be innocent of the crime  
9 for which the indictment was issued unless guilt has  
10 been proven by evidence satisfying you of that guilt  
11 beyond a reasonable doubt. This presumption of  
12 innocence does not end when you begin your  
13 deliberations, but it accompanies the defendant  
14 throughout the trial until you reach a verdict of  
15 guilt based on evidence satisfying you of that guilt  
16 beyond a reasonable doubt.

17 The presumption of innocence is like a robe of  
18 righteousness placed about the shoulders of the  
19 defendant, which remains with the defendant until it  
20 has been stripped from the defendant by evidence  
21 satisfying you of the defendant's guilt beyond a  
22 reasonable doubt.

23 The presumption of innocence is not a mere  
24 legal theory. It is not just a legal phrase. It is  
25 a substantial right to which every defendant is

1 entitled unless you, the jury, are satisfied from  
2 the evidence of the defendant's guilt beyond a  
3 reasonable doubt.

4 What is a reasonable doubt? A reasonable doubt  
5 is the kind of doubt that would cause a reasonable  
6 person to hesitate to act.

7 The State has the burden of proving the  
8 defendant guilty beyond a reasonable doubt. Some of  
9 you in the past may have served as jurors in civil  
10 cases where you were told that it is only necessary  
11 to prove that a fact is more likely true than not  
12 true, such as by the greater weight or preponderance  
13 of the evidence. In criminal cases, the State's  
14 proof must be more powerful than that, it must be  
15 beyond a reasonable doubt.

16 Proof beyond a reasonable doubt is proof that  
17 leaves you firmly convinced of the defendant's  
18 guilt. Now, there are very few things we know in  
19 this world with absolute certainty and, in criminal  
20 cases, the law does not require proof that overcomes  
21 every possible doubt.

22 If, based on your consideration of the  
23 evidence, you are firmly convinced that the  
24 defendant is guilty of the crime charged, you must  
25 find the defendant guilty. If, on the other hand,

1       you think there is a real possibility that the  
2       defendant is not guilty, you must give the defendant  
3       the benefit of the doubt and find him not guilty.

4               Duties of the jury and the trial judge. I  
5       remind you that during this trial, you and I have  
6       certain duties to perform. As the trial judge, it  
7       is my responsibility to preside over the trial of  
8       this case. And I also have the duty to rule on the  
9       admissibility of the evidence offered during the  
10      trial.

11              You are to consider only the competent evidence  
12      before you. If there was any testimony ordered  
13      stricken from the record in this case, you must  
14      disregard that testimony. You are to consider only  
15      the testimony which has been presented from this  
16      witness stand and any exhibits which have been made  
17      part of the record.

18              I have the additional duty of charging you or  
19      instructing you on the law that applies to the case.  
20      As the presiding judge, I am the sole judge of the  
21      law of this case and it is your duty as jurors to  
22      accept and apply the law as I now state it to you.  
23      If you have any idea as to what the law is or what  
24      the law ought to be and it does not agree with what  
25      I tell you the law is, you must abandon your idea

1 because you are sworn to accept the law and apply  
2 the law exactly as I state it to you.

3 In every case tried in this court before a  
4 jury, the jury becomes the sole and exclusive judges  
5 of the facts in the case. A trial judge cannot  
6 intimate, state, comment on or make any statement to  
7 a trial jury about the facts of the case.

8 Since you, the jury, are the sole judge of the  
9 facts in this case, you are not to infer from what I  
10 have said during the progress of the trial in ruling  
11 on the admissibility of evidence or otherwise or  
12 anything that I now say to you during the course of  
13 this instruction that I have any opinion about the  
14 facts in this case. The law does not allow me to  
15 have an opinion about the facts in this case, that  
16 is a matter solely for you, the jury, to determine.

17 As jurors, it is your duty to determine the  
18 effect, the value, the weight and the truth of the  
19 evidence that has been presented during this trial.

20 Direct and circumstantial evidence. There are  
21 two types of evidence that are generally presented  
22 during a trial, direct evidence and circumstantial  
23 evidence. Direct evidence is the testimony of a  
24 person who claims to have actual knowledge of a  
25 fact, such as an eyewitness or an ear witness. It

1 is evidence which immediately establishes the main  
2 fact to be proved.

3 Circumstantial evidence is proof of a chain of  
4 facts and circumstances indicating the existence of  
5 a fact. It is evidence which immediately  
6 establishes a collateral fact from which the main  
7 fact may be inferred. Circumstantial evidence is  
8 based on inference and not on personal knowledge or  
9 observation.

10 The law, our law makes absolutely no  
11 distinction between the weight or the value to be  
12 given to either direct or circumstantial evidence,  
13 nor is there any greater degree of certainty  
14 required of circumstantial evidence than of direct  
15 evidence. You should weigh all of the evidence in  
16 the case. After weighing all of the evidence, if  
17 you are not convinced of the guilt of the defendant  
18 beyond a reasonable doubt, you must find the  
19 defendant not guilty.

20 Credibility of the witnesses. Necessarily,  
21 you, ladies and gentlemen, must determine the  
22 credibility of the witnesses who have testified in  
23 this case. As you know, credibility simply means  
24 believability.

25 In using your good judgment and your common

1 sense, it becomes your duty as jurors to analyze and  
2 to evaluate the evidence and determine which  
3 evidence convinces you of its truth.

4 In determining the believability of witnesses  
5 who have testified in this case, you may believe one  
6 witness over several witnesses or several witnesses  
7 over one. You may believe a part of the testimony  
8 of a witness and reject the remaining part of the  
9 testimony of that same witness. You may believe the  
10 testimony of a witness in its entirety or reject the  
11 testimony of a witness in its entirety. You may  
12 consider whether any witness has exhibited to you  
13 any interest, bias, prejudice or other motive in  
14 this case. You may also consider the demeanor, the  
15 appearance, the manner of the witness while  
16 testifying before you.

17 Your goal is to determine the facts and to seek  
18 the truth from whatever source that truth may come.

19 Expert witnesses. The rules of evidence, as  
20 you heard me say during the trial, ordinarily do not  
21 permit witnesses to testify to opinions or  
22 conclusions. An exception to this rule exists for  
23 witnesses that we call expert witnesses. A witness  
24 who, by education or experience, has become expert  
25 in some art, science or profession may state an

1 opinion as to relevant and material matter in which  
2 the witness claims to be an expert and may also  
3 state the reason for that opinion.

4 You should consider any expert opinion received  
5 in evidence in this case like any other evidence,  
6 give it the weight you think it deserves. If you  
7 decide that the opinion of the expert is not based  
8 on sufficient education or experience or if you  
9 conclude that the reasons given in support of the  
10 opinion are not sound or that the opinion is  
11 outweighed by other evidence, you may disregard the  
12 opinion in its entirety.

13 An expert witness' testimony is to be given no  
14 greater weight than that of other witnesses simply  
15 because the witness is an expert. Further, you are  
16 not required to accept an expert's opinion even  
17 though it is uncontradicted.

18 Identification. An issue in this case is the  
19 identification of the defendant as the person who  
20 committed the crime charged. The State has the  
21 burden of proving identification beyond a reasonable  
22 doubt. You, the jury, must be satisfied beyond a  
23 reasonable doubt of the accuracy of the  
24 identification of the defendant before you may  
25 convict the defendant.

1           Identification testimony is the expression of  
2           belief or impression by a witness. You must  
3           determine the accuracy of the identification of the  
4           defendant. You must consider the believability of  
5           each identification witness in the same way as you  
6           would any other witness. You may consider whether  
7           the witness had an adequate opportunity to observe  
8           the offender at the time of the offense. This will  
9           be affected by things like how long or how short a  
10          time was available, how far or how close was the  
11          witness, the lighting conditions and whether the  
12          witness had a chance to see or know the person in  
13          the past.

14          Once again, I instruct you the burden of proof  
15          is on the -- on the State, it extends to every  
16          element of the crime charged. And this specifically  
17          includes the burden of proving beyond a reasonable  
18          doubt the identity of the defendant as the person  
19          who committed the crime. If, after examining the  
20          testimony, you have a reasonable doubt as to the  
21          accuracy of the identification, you must find the  
22          defendant not guilty.

23          Intent. In order to establish criminal  
24          liability, criminal intent is required. For  
25          example, the mental state for a particular crime

1 required might be purpose, intent, knowledge,  
2 recklessness or criminal negligence. Criminal  
3 intent must be proven by the State beyond a  
4 reasonable doubt. Criminal intent is always a  
5 matter that must be determined by the jury from the  
6 circumstances surrounding the situation.

7 Now, ladies and gentlemen, we know there is no  
8 way to prove intent to a mathematical certainty.  
9 There is no way medical science can dissect a  
10 person's brain and determine what that person had in  
11 mind. So the law says that criminal intent may be  
12 inferred from the circumstances shown to have  
13 existed. This is how you make your determination of  
14 whether or not the element requiring intent was  
15 present.

16 It is not necessary to establish intent by  
17 direct and positive evidence, but intent may be  
18 established by inference in the same way as any  
19 other fact by taking into consideration the acts of  
20 the parties and all of the facts and circumstances  
21 of the case.

22 Criminal intent is a mental state, a conscious  
23 wrongdoing. It is up to you to determine what the  
24 defendant intended to do based on the circumstances  
25 shown to have existed. Criminal intent can arrive

1 from -- can arise from action or a failure to act.

2 Ladies and gentlemen, if you would please  
3 continue to give me your complete and undivided  
4 attention, I am now going to cover the charge of  
5 murder and accomplice liability. This charge will  
6 not be as lengthy as the general charge that I just  
7 instructed you on; however, there are certain terms  
8 that you may not be familiar with that I will  
9 define.

10 Murder. The defendant is charged with murder.  
11 The State must prove beyond a reasonable doubt that  
12 the defendant killed another person with malice  
13 aforethought.

14 Malice is hatred, ill will or hostility towards  
15 another person. Malice is the intentional doing of  
16 a wrongful act without just cause or excuse and with  
17 an intent to inflict an injury or under  
18 circumstances that the law will infer an evil  
19 intent.

20 Malice aforethought does not require that  
21 malice exist for any particular period of time  
22 before the act is committed, but malice must exist  
23 in the mind of the defendant just before and at the  
24 time the act is committed; therefore, there must be  
25 a combination of the previous evil intent and the

1 act.

2 Malice aforethought may be expressed or  
3 inferred. These terms expressed or inferred do not  
4 mean different kinds of malice, but merely the  
5 manner in which malice may be shown to exist, that  
6 is either by direct evidence or by inference from  
7 the facts and circumstances which are proved.

8 Expressed malice is shown when a person speaks  
9 words which express hatred or ill will for another  
10 or when the person prepared beforehand to do the act  
11 which was later accomplished, for example, lying in  
12 wait for a person or any other acts of preparation  
13 going to show that the deed was within the  
14 defendant's mind would be an expressed malice.

15 Malice may be inferred from conduct showing a  
16 total disregard for human life.

17 Now, as to the charge of murder, there's also a  
18 charge known as the hand of one or accomplice  
19 liability. If a crime is committed by two or more  
20 people who are acting together in committing a  
21 crime, the act of one is the act of all.

22 A person who joins with another to commit an  
23 unlawful act is criminally responsible for  
24 everything done by the other person which happens as  
25 a probable or a natural consequence of the acts done

1 in carrying out the common plan and purpose. For  
2 example, two people could be guilty of armed robbery  
3 when only one of the people went into the location  
4 to be robbed armed with a deadly weapon and the  
5 other person stayed out as a lookout.

6 If two people, two or more people are together,  
7 acting together, assisting each other in committing  
8 an offense, the act of one is the act of all or it  
9 is sometimes said the hand of one is the hand of  
10 all. Two people can be guilty of killing another  
11 person when only one of the two had a gun, there was  
12 only but one bullet and only one of the two fired  
13 the shot that caused death.

14 Prior knowledge that a crime is going to be  
15 committed without more is not sufficient to make a  
16 person guilty of that crime. Mere knowledge that  
17 another person is going to commit a crime even if  
18 the defendant is present when the crime is committed  
19 is not sufficient to convict the defendant as a  
20 principal.

21 Guilt as a principal is shown by actual or  
22 constructive presence at the scene as a result of  
23 prior arrangement. Therefore, a finding of a prior  
24 arranged plan or common scheme is necessary for a  
25 finding of guilt as the principal. The State must

1       prove beyond a reasonable doubt by competent  
2       evidence the theory of the hand of one is the hand  
3       of all.

4               A principal in a crime is one who either  
5       actually commits the crime or who is present aiding,  
6       abetting or assisting in committing the crime.

7               When a person does an act in the presence of  
8       and with the assistance of another, the act is done  
9       by both. Where two or more acting with a common  
10      plan or intent are present at the commission of the  
11      crime, it does not matter who actually commits the  
12      crime, all are guilty, the hand of one is the hand  
13      of all. Present at the commission of a crime means  
14      to be sufficiently near to and aid and assist in the  
15      commission of the crime.

16              However, mere presence at the scene of the  
17      crime is not sufficient to convict one as a  
18      principal on the theory of aiding and abetting.  
19      Intent is also a necessary element. For there must  
20      have been a common design or intent to commit the  
21      crime and the crime must have been committed  
22      pursuant thereto with the person aiding and abetting  
23      by some overt act.

24              Intent means intending the result which  
25      actually occurs not accidentally or involuntarily.

1 Intent may be shown by acts or conduct of the  
2 defendant and other circumstances from which you may  
3 naturally and reasonably infer intent.

4 The State must prove these elements beyond a  
5 reasonable doubt.

6 Ladies and gentlemen, that is the charge on  
7 murder, on the hand -- the general charge, the  
8 charge on murder, the charge on accomplice  
9 liability, the hand of one is the hand of all, mere  
10 knowledge and mere presence. I'm going to provide  
11 you with a copy of these instructions. You may look  
12 at them during the deliberations, Mr. Foreman,  
13 ladies and gentlemen of the jury. I would ask at  
14 the conclusion of your deliberations, you return  
15 them to the Court. I do have to make corrections on  
16 several typos in that regard, but I will provide  
17 those to you.

18 And, finally, in conclusion, ladies and  
19 gentlemen, there are two possible verdicts which you  
20 may find in this case, guilty or not guilty.  
21 There's absolutely no significance whatsoever in the  
22 order in which I stated those possible verdicts.  
23 It's simply that one must be stated first.

24 Mr. Foreman, ladies and gentlemen of the jury,  
25 your verdict must be a unanimous one, all 12 of you

1           must agree.

2           Mr. Foreman, when the jury reaches a unanimous  
3           verdict, you will have the indictment in there with  
4           you and you will see, and again I've told you the  
5           indictment's not evidence, but you will see an area  
6           down here entitled verdict. If, after your  
7           consideration of the evidence and testimony and  
8           items presented in this case comparing those to the  
9           law as I've instructed you the law is, you find that  
10          the State has met its burden of proving its case  
11          beyond a reasonable doubt and your unanimous verdict  
12          is guilty, all 12 of you have agreed, then, Mr.  
13          Foreman, you would write the word guilty and then  
14          sign foreperson of the petit jury, your name, and  
15          the date.

16          If, on the other hand, based on your evaluation  
17          of the testimony, determination of the facts in the  
18          case, comparing those to the law as I have  
19          instructed you, you find that the State has not met  
20          its burden of proving its case beyond a reasonable  
21          doubt and you find a unanimous verdict of not  
22          guilty, you would write those two words, not guilty,  
23          sign it as foreperson of the jury and the date.

24          Once you have reached that unanimous verdict,  
25          if you would then knock on the jury room door,

1       inform the bailiff you have reached a verdict. At  
2       that time, we'll receive you back into the  
3       courtroom.

4               I'm going to ask you momentarily to return to  
5       your jury room. Do not begin your deliberations  
6       until you are directed to do so by the Clerk. The  
7       law requires I must meet outside of your presence  
8       one final time with the attorneys. They will also,  
9       at that time, review the items of evidence and make  
10      sure all those items were marked properly.

11              If I do not have to bring you back out here for  
12      further deliberations, everyone looks like great,  
13      then what would happen is our alternates would come  
14      out of the jury room, the items, the photographs and  
15      the like, will be delivered to you and you would  
16      then be instructed by the Court to begin your  
17      deliberations.

18              Mr. Foreman, if, during the course of your  
19      deliberations, you have any questions, if you would  
20      just write out a note for me. I know you know how  
21      to write out notes because I've received one  
22      already. If you'd write out a note for me and knock  
23      on the jury room door, the bailiff will bring it to  
24      my attention.

25              You may take your notes with you at this time.

1 Again, I'm going to ask you -- instruct you do not  
2 begin your deliberations at this time, do not begin  
3 them until you're instructed to do so, but you may  
4 take your notes with you at this time.

5 Thank you very much. If you'll now go with the  
6 bailiff.

7 (The jury retires to the jury room.)

8 **THE COURT:** All right. Solicitor.

9 **MR. MAYE:** No exceptions or additions from the  
10 State, Your Honor.

11 **MR. WILLIAMS:** Your Honor, on behalf of the  
12 defense, I would just ask the Court to remind the  
13 jurors that since they do have notes, that they're  
14 to not rely upon one set of notes more than the  
15 other.

16 **THE COURT:** I'll do that. And I just realized  
17 I didn't charge failure to testify. It just didn't  
18 make it to my -- it made it to my handwritten notes,  
19 it didn't make it to my printed out charge. I'm  
20 going to bring them back out and charge that. Just  
21 give me a moment to print that out and I will remind  
22 them about the notes also.

23 Any other exceptions?

24 **MR. WILLIAMS:** No, sir, Your Honor. And that  
25 should have been one as well.

1           **THE COURT:** Sir?

2           **MR. WILLIAMS:** And that should have been one as  
3 well.

4           **THE COURT:** Well, sometimes attorneys don't  
5 want that charge. It just -- but I'll bring them --  
6 I realized that as they were walking out that it  
7 wasn't in my materials.

8                   (Pause.)

9           **THE COURT:** All right. Bring us our jury,  
10 please.

11                   (The jury returns to the courtroom.)

12           **THE COURT:** Mr. Foreman, ladies and gentlemen  
13 of the jury, there was one area I failed to address  
14 with you and the attorneys astutely pointed it out  
15 to me. I'm going to instruct you further, it's just  
16 one page, but I will advise that the fact that I  
17 bring you back out and just charge this one area  
18 should not overemphasize this one area. It's all  
19 encapsulated as part of the total charge.

20                   I instruct you and emphasize the fact that the  
21 defendant did not testify is not a factor to be  
22 considered by you in any way in your deliberation  
23 and in your consideration on the question of the  
24 guilt or the innocence of the defendant. It must  
25 not be considered by you in any manner whatsoever.

1 A defendant has the constitutional right to remain  
2 silent and the assertion of this right must not be  
3 considered by you in your deliberations.

4 I repeat, under your oath, you are to draw no  
5 conclusions whatsoever from the fact that the  
6 defendant in this case did not testify. The fact  
7 that this defendant did not testify should not even  
8 be discussed in the jury room.

9 The burden of proof, as I have stated to you,  
10 is on the State. The defendant is not required to  
11 prove his innocence. The burden of proof remains on  
12 the State to prove guilt beyond a reasonable doubt.

13 I would also remind you, it's not going to be  
14 printed in this charge, but I would remind you of my  
15 instructions at the beginning of the case concerning  
16 your notes. One juror's notes are no better than  
17 the recollection or the memory of another juror.  
18 I've heard it said, you can't say, well, look, I've  
19 got it written down here, and that trump the  
20 recollection of another juror. A juror's  
21 recollection is just as good as another juror's  
22 notes. So please keep that in mind.

23 I also received your note, your request.

24 The jury requests, Solicitor and Mr. Williams,  
25 a chalk or dry easel board along with -- well, chalk

1 or dry easel board to illustrate names, places, et  
2 cetera. The Clerk is going to make arrangements for  
3 the dry board to go into the jury room.

4 All right. Again, if you would return to your  
5 jury room. Do not begin your deliberations until  
6 you are instructed to do so by the Clerk. Thank you  
7 very much. You may return to your jury room.

8 (The jury retires to the jury room.)

9 **THE COURT:** All right. Y'all may check the  
10 exhibits if you had not completed that process,  
11 Solicitor.

12 **MR. MAYE:** Thank you, Your Honor. And no  
13 exceptions, additions to anything else.

14 **THE COURT:** Thank you very much, Solicitor.  
15 Any exceptions?

16 **MR. WILLIAMS:** No, sir, Your Honor.

17 **THE COURT:** All right. If y'all would check  
18 the exhibits.

19 (Pause.)

20 **MR. MAYE:** Your Honor, it's my understanding  
21 we're satisfied with all of the -- that we have an  
22 accounting of all of the exhibits. On the part of  
23 the State, I am satisfied. I'll leave it to the  
24 defense.

25 **MR. WILLIAMS:** On the part of the defense,

1 we're satisfied as well, Your Honor.

2 **THE COURT:** All right. Thank you very much.

3 Madame Clerk, if you would have the exhibits  
4 delivered along with the indictment and the charge.

5 You have no objection to the charge going in,  
6 Solicitor?

7 **MR. MAYE:** No, sir, Your Honor, I do not.

8 **THE COURT:** Mr. Williams?

9 **MR. WILLIAMS:** No, sir, Your Honor.

10 **THE COURT:** All right. If you would deliver  
11 those and have the alternates removed from the jury  
12 room, step out from the jury room.

13 (The jury commences its deliberations at  
14 3:07 p.m.)

15 (Whereupon, the alternates enter the  
16 courtroom.)

17 **THE COURT:** These are our two alternates that  
18 have been released from the jury room.

19 I would like to thank you very much for your  
20 service this week. Momentarily, I'm going to  
21 release you from your jury service for the remainder  
22 of the day and for the remainder of the week. You  
23 do not have to call back, you do not have to come  
24 back.

25 Quite frankly, I wasn't sure how long the case

1           might last. You would be surprised how often we dip  
2           into our alternate pool and they have to go from the  
3           status of an alternate to one of the main jurors.  
4           And rather than go through days of testimony, it's  
5           -- I have generally one -- at least one and  
6           sometimes two, I've had as many as five alternates  
7           and used as many as three of them.

8                     Thank you very much for your service. I'm sure  
9           if you need anything for your work, Madame Clerk  
10          will take care of that for you if you need anything  
11          further. But, again, thank you very much for being  
12          with us this week. It's been my pleasure and  
13          privilege. You're now excused. Thank you very  
14          much.

15                    (The alternates were excused.)

16                    **THE COURT:** I'm having the two notes marked,  
17          one I received from the jury this morning concerning  
18          the news man and this one concerning the chalk  
19          board.

20                    All right. We'll be awaiting our jury verdict.  
21          Thank you very much.

22                    (Court's Exhibit Numbers 3 and 4, jury  
23          notes, marked for identification purposes.)

24                    (A recess transpired.)

25                    (The following occurred at 4:34 p.m.)

1           **THE COURT:** All right. I understand we have a  
2 verdict. I would advise any of the spectators if --  
3 many times when a verdict is rendered, it can be  
4 very emotional for one side, the other or both. If  
5 you feel that you cannot control your emotions, I  
6 would ask you to please leave at this time because I  
7 would ask the Sheriff to take anyone into custody  
8 that remains in the courtroom and has the inability  
9 to control their emotions.

10           **MR. WILLIAMS:** Your Honor.

11           **THE COURT:** Sir?

12           **MR. WILLIAMS:** While we were at the break, I  
13 learned some information that concerned me from one  
14 of the members of my client's family that she  
15 overheard from one of the bailiffs regarding the  
16 composition of our jury. And, essentially, that  
17 information was that one of the jurors may have been  
18 the victim of a violent crime or one of their family  
19 members may have been the victim of a violent crime.

20           **THE COURT:** All right. Well, that question was  
21 not asked at voir dire. No one requested the Court  
22 to ask that question.

23           **MR. WILLIAMS:** Yes, sir.

24           **THE COURT:** And with that being said, that does  
25 not disqualify anyone. Even if the response is,

1       yes, I was a victim of a violent crime, the question  
2       becomes, given the fact you were a victim of a  
3       violent crime, could you set that aside and make  
4       your decision based on what you hear in this  
5       courtroom.

6               What are you asking me to do, I guess, is my  
7       question to you?

8               **MR. WILLIAMS:** Well, Judge, it was information  
9       that came to me from one of the family members. And  
10       I believe -- I just believe that -- I couldn't  
11       remember the record, but I can recall, and, of  
12       course, I observed the first trial and I  
13       participated in this trial and my participation is  
14       far more essential in this trial than it was in the  
15       observation of the first, but I thought that  
16       question was asked and I can't be certain that it  
17       was.

18               **THE COURT:** I do not ask that question unless  
19       I'm requested to ask that question depending on the  
20       type of trial that's being conducted in front of me.

21               Now, with that being said, my memory is not  
22       infallible and we can certainly go back and check  
23       the record in that regard back to voir dire. I  
24       don't have any objection to doing that.

25               **MR. WILLIAMS:** Well, if it's not your custom to

1 ask it, I certainly -- I should have requested that  
2 you ask it. I would indicate here on the record  
3 that if I didn't, that I take the position that I  
4 probably should have.

5 **THE COURT:** And the other thing, of course,  
6 that goes both ways. In other words --

7 **MR. WILLIAMS:** Certainly, I don't know what the  
8 verdict is, but I just want to --

9 **THE COURT:** Nor do you know what a person who  
10 has been a victim of a violent crime, how they would  
11 vote in a particular case.

12 I think many times attorneys assume that if  
13 they, you know, criticism of them, that if a  
14 person's been a victim of a violent crime, then they  
15 cannot be a fair and impartial juror in the trial of  
16 a case which involves a violent crime. Well, no one  
17 may have been charged in their case or, you know, no  
18 one -- the police might not have responded  
19 appropriately in their mind. I've had victims of  
20 violent crimes come in front of me at sentencing and  
21 asked me to be merciful to the defendant that  
22 committed the violent crime. So it's just a whole  
23 array out there. It's just very hard to specify how  
24 an individual would do.

25 But if you let me know, we'll certainly allow

1 you to investigate that and check on the record in  
2 that regard. And, again, I don't know what the  
3 verdict is. It may be --

4 **MR. WILLIAMS:** And neither do I. But, in any  
5 event, I suspect that with the -- well, with the  
6 folks who assisted in the trial of the case, that  
7 was probably known to them and not to me.

8 **THE COURT:** And, of course, if an individual --  
9 all right. I'll leave it at that. And like I say,  
10 you can certainly follow up on it.

11 All right. Bring us our jury, please.

12 (The jury returns to open court to report  
13 its verdict at 4:40 p.m.)

14 **THE CLERK:** Mr. Foreman, have you reached a  
15 verdict?

16 **MR. FOREMAN:** Yes, ma'am.

17 **THE CLERK:** Would you please pass it to the  
18 bailiff?

19 (The bailiff hands the verdict to the  
20 Judge.)

21 **THE COURT:** Madame Clerk, if you would publish  
22 our verdict, please.

23 Will the defendant please stand?

24 VERDICT OF THE JURY

25 **THE CLERK:** Indictment number 2002-GS-110, the

1 State of South Carolina versus Julio Angelo  
2 Hunsberger, verdict is guilty, signed by the  
3 Foreperson, Dan Henderson. And it's an indictment  
4 for murder.

5 Mr. Foreman, ladies and gentlemen of the jury,  
6 is this your verdict? Please raise your hand.

7 All hands are raised.

8 **THE COURT:** Thank you, Madame Clerk.

9 Anything further for the jury from the State?

10 **MR. MAYE:** Nothing from the State, Your Honor.  
11 Thank you.

12 **THE COURT:** From the defense?

13 **MR. WILLIAMS:** We would just request the  
14 polling of the jury, Your Honor.

15 **THE COURT:** All right. Mr. Foreman, ladies and  
16 gentlemen of the jury, the defense has requested  
17 that the jury be polled, which they have the right  
18 to do and I will authorize that.

19 Polling of the jury, the Clerk will call your  
20 name. When your name is called, if you'll just  
21 raise your hand, your right hand, so that we can  
22 identify you. She will ask two questions, is this  
23 your verdict and is it still your verdict. And your  
24 answer, of course, is whatever your answer is. Is  
25 this your verdict and is it still your verdict.

1 All right. Madame Clerk, if you would conduct  
2 the polling procedure, please.

3 **THE CLERK:** Mr. Daniel Henderson. Was this  
4 your verdict and is it still your verdict?

5 **MR. FOREMAN:** Yes.

6 **THE COURT:** All right. And if you would answer  
7 out loud for me so that our court reporter can  
8 record your responses. Thank you, Mr. Henderson.

9 **THE CLERK:** Susan L. Phillips. Was this your  
10 verdict and is it still your verdict?

11 **JUROR:** Yes.

12 **THE CLERK:** David V. Hamilton. Was this your  
13 verdict and is it still your verdict?

14 **JUROR:** Yes.

15 **THE CLERK:** Charles M. McGee. Was this your  
16 verdict and is it still your verdict?

17 **JUROR:** Yes, ma'am.

18 **THE CLERK:** Michael F. Storey. Was this your  
19 verdict and is it still your verdict?

20 **JUROR:** Yes, ma'am.

21 **THE CLERK:** Nicholas R. Holmes. Was this your  
22 verdict and is it still your verdict?

23 **JUROR:** Yes.

24 **THE CLERK:** Lauren B. Sellers. Was this your  
25 verdict and is it still your verdict?

1           **JUROR:** Yes, ma'am.

2           **THE CLERK:** Willie H. Blocker. Was this your  
3 verdict and is still your verdict?

4           **JUROR:** Yes.

5           **THE CLERK:** Judith M. Franco. Was this your  
6 verdict and is it still your verdict?

7           **JUROR:** Yes.

8           **THE CLERK:** Jonathan T. Harling. Was this your  
9 verdict and is it still your verdict?

10          **JUROR:** Yes, ma'am.

11          **THE CLERK:** Shelby A. Stoll. Was this your  
12 verdict and is it still your verdict?

13          **JUROR:** Yes, ma'am.

14          **THE CLERK:** Jan G. Norris. Was this your  
15 verdict and is it still your verdict?

16          **JUROR:** Yes, ma'am.

17          **THE CLERK:** Thank you.

18          **THE COURT:** All right. Anything further,  
19 Mr. Williams?

20          **MR. WILLIAMS:** No, Your Honor.

21          **THE COURT:** All right. Anything further for  
22 the jury from the State?

23          **MR. MAYE:** Nothing from the State, Your Honor.

24          **THE COURT:** All right. Mr. Foreman, ladies and  
25 gentlemen of the jury, once again, I'm going to ask

1 you to return, momentarily, with your bailiff to  
2 your jury room. If you will do so, please.

3 (The jury retires to the jury room.)

4 **THE COURT:** All right. Before I release the  
5 jury, Mr. Williams, what, if anything, do you want  
6 to put on the record concerning the matter that you  
7 brought up prior to the return of the jury?

8 **MR. WILLIAMS:** Your Honor, I would just  
9 indicate, I'd just like to put it on the record that  
10 I think it would have been a relevant question to  
11 ask the jury panel and I certainly should have  
12 requested that the Court ask it and I failed to do  
13 so. And I just put it on the record.

14 **THE COURT:** All right. So you have no  
15 objection then to the Court releasing the jury  
16 panel?

17 **MR. WILLIAMS:** No, Your Honor, I do not.

18 **THE COURT:** All right. Thank you very much.  
19 The jury may be brought back, please.

20 Mr. Williams, any reason sentence should not be  
21 imposed at this time?

22 **MR. WILLIAMS:** Your Honor, I just want to renew  
23 -- basically, renew my motions before the Court.  
24 Certainly, we don't believe that there were any --  
25 was credible evidence before the court from which a

1 reasonable jury could conclude the guilt of my  
2 client. We would ask the Court to arrest of  
3 judgment that has been rendered by the jurors and  
4 impose a 13th juror standard and find him not guilty  
5 on that basis.

6 **THE COURT:** I would respectfully deny that  
7 motion. I believe there was sufficient evidence for  
8 which a jury to have reached a verdict which they  
9 returned.

10 **MR. WILLIAMS:** Thank you, Your Honor.

11 **THE COURT:** Thank you.

12 (The jury returns to the courtroom.)

13 **THE COURT:** All right. Mr. Foreman, ladies and  
14 gentlemen of the jury, momentarily, I'm going to  
15 release you from your jury service for the remainder  
16 of the day and the remainder of the week. You do  
17 not have to call back. You do not have to come  
18 back.

19 I do want to take the opportunity to thank you  
20 for your service this week. I realize that you're  
21 conscripts, that you are not volunteers. I do  
22 understand that. However, I would advise you that  
23 without the participation of citizens throughout  
24 South Carolina, we would not be able to be about the  
25 very important business of administering your and

1           our criminal and civil justice system.

2           I never criticize nor condemn a jury for its  
3 verdict. However, if you find yourself ever part of  
4 the system again, and I hope you do not in any  
5 capacity, but if you ever do, a witness or  
6 otherwise, I hope that the jury that is selected for  
7 the trial of that case is composed of citizens such  
8 as yourselves that are attentive, that are willing  
9 to sit and perform their jury duty, that are  
10 patient, that are thoughtful.

11           I would imagine that each of you had other  
12 things to do this week, important things of a  
13 personal or professional nature. And perhaps we  
14 could have scoured Edgefield County and found 12  
15 people that had nothing better to do than come sit  
16 on the jury. Well, that's not what you want sitting  
17 on a jury, 12 people that don't have anything better  
18 to do.

19           People have responsibilities in their lives  
20 whether it's to their friends, their family, their  
21 profession, their community. You have accepted that  
22 challenge and have shown all the parties complete  
23 and undivided attention and I thank you.

24           I have had the privilege of being a member of  
25 various groups during the course of my life. I have

1 had no higher privilege or honor than serving as a  
2 Circuit Court Judge for the State of South Carolina  
3 because of the wonderful people I get to serve with,  
4 both the citizens of the various communities I go  
5 to, the wonderful court personnel that you have, the  
6 wonderful Bar that we have in South Carolina that  
7 always, both the prosecutors and the defense  
8 attorneys, that always steps up to the plate that  
9 perform such a valuable service in protecting our  
10 American way of life.

11 With that being said, momentarily, I am going  
12 to listen to and perhaps sentence Mr. Hunsberger  
13 this afternoon. You are welcome to stay if you  
14 choose to do so. If you choose not to do so, you  
15 are now excused at this time. Again, thank you very  
16 much for your service. You may now exit the  
17 courtroom if you would like.

18 All right. I take that, that y'all will remain  
19 for sentencing. Anyone want to leave?

20 (There was no response.)

21 **THE COURT:** All right. With that being said,  
22 Solicitor, anything further from the State?

23 **MR. MAYE:** Your Honor, of course, recognizing,  
24 as always, the decision on sentencing lies strictly  
25 with Your Honor. I will put on the record, at this

1 point in time for the purposes of sentencing, his  
2 record:

3 He has a 1996 giving false information as to  
4 name, address or birth date to a law enforcement  
5 officer. He received a 12-month probationary  
6 sentence in 1996 for that offense. He has a theft  
7 by receiving stolen property out of Georgia from  
8 January the 30th of 1998 and a DUI on that same day.  
9 He got three years of probation on that charge in  
10 1998.

11 I also see that he has a conviction for  
12 burglary February the 13th of 1998. He received  
13 three years confinement and three years of  
14 probation. Those charges were apparently taken care  
15 of at the same time that the theft by receiving  
16 stolen property and the DUI was adjudicated.

17 The Court certainly has within its discretion,  
18 given the range of sentencing here from 30 years to  
19 life, the power to ensure that Julio Hunsberger is  
20 not released from incarceration. I would only ask  
21 that the Court consider constructing a sentence that  
22 would result in him not being released.

23 The Court is certainly, I think, aware in this  
24 case also that he was convicted of the kidnapping  
25 over in Georgia in 1996 that was the taking into --

1 or taken against his will, Samuel Sturup, over in  
2 Augusta, Georgia, and the events that led to this  
3 murder. I will --

4 **THE COURT:** That was 2006.

5 **MR. MAYE:** Yes, 2006, excuse me. I think that  
6 was the 12th of 2006 of September.

7 I leave the discretion of the -- sentencing to  
8 the wise discretion of the Court, Your Honor.

9 **THE COURT:** Now, if he had a burglary  
10 conviction February 13th of 1998 with three years  
11 confinement, when was he released from that  
12 confinement?

13 **MR. MAYE:** I do not know, Your Honor. It only  
14 shows on here that he got three years active and  
15 three years of probation on that charge and it was  
16 an identical sentence and an identical disposition  
17 date to the theft by receiving stolen property and  
18 the DUI. Those were apparently done at the same  
19 time. And I don't know if he had any pretrial  
20 confinement or what happened there, that's what the  
21 sentence indicates here, confinement for three years  
22 and probation for three years.

23 **THE COURT:** Thank you. Thank you very much,  
24 Solicitor.

25 Now, as to the Victim's Bill of Rights, does

1 Ms. Sturrup care to address the Court?

2 **MR. MAYE:** Your Honor, Ms. Sturrup is aware,  
3 it's my understanding, that she has the right to  
4 address the Court. She declines to do so and  
5 certainly leaves sentencing to the discretion of  
6 Your Honor.

7 **THE COURT:** All right. Thank you, Solicitor.  
8 Mr. Williams.

9 **MR. WILLIAMS:** Your Honor, if it pleases the  
10 Court. My client presents himself to the Court 34  
11 years old today. He's the father of one child who  
12 is nine years old. Judge, he is supported by a very  
13 large family. He has a great deal of familial  
14 support.

15 Your Honor, certainly the jury has spoken and  
16 we realize that the nature of the offense for which  
17 he has been convicted is very serious. We also  
18 realize that he's presently serving a life sentence  
19 in the State of Georgia for the kidnapping of this  
20 same victim. Judge, we ask that this Court would be  
21 as merciful as it can be given the circumstances.

22 **THE COURT:** Would y'all come around to the  
23 microphone, please?

24 **MR. WILLIAMS:** Yes, sir.

25 **THE COURT:** Did any member of his family wish

1 to address the Court, Mr. Williams?

2 **MR. WILLIAMS:** I'm not certain, Judge. I  
3 hadn't even had an opportunity to ask.

4 **THE COURT:** You can do so if you would like.

5 (Pause.)

6 **THE COURT:** Tell me your name, please.

7 **MS. MCCULLEN:** My name is Jamilla McCullen.

8 **THE COURT:** All right. I'll be glad to hear  
9 from you.

10 **MS. MCCULLEN:** I'm Mr. Hunsberger's godsister.  
11 I just wanted to say that I know the nature of the  
12 crime and what he's been convicted of is severe.

13 And my condolences to your family.

14 I just would like if you can have some mercy  
15 because he does have a family and we support him.  
16 And he is serving a life sentence that he is serving  
17 in Georgia now, but to at least sentence him for  
18 what has happened, but to give him the opportunity  
19 to -- if he is able to do something with his life  
20 and take care of his family. I just wanted to say  
21 those things. Thank you.

22 **THE COURT:** Thank you for being here.

23 Anything further, Mr. Williams?

24 **MR. WILLIAMS:** Your Honor, we certainly  
25 understand the Court's discretion in this matter.

1           And we would, again, just ask that justice would be  
2           tempered with mercy.

3           **THE COURT:** All right. Anything you'd like to  
4           say, Mr. Hunsberger?

5           **DEFENDANT:** Yes, sir.

6           **THE COURT:** All right. I'll be glad to hear  
7           from you.

8           **DEFENDANT:** I understand that I've been  
9           convicted today. I'd like to -- I feel sympathy for  
10          the victim's mother. The jury spoke. I guess  
11          that'll be all, sir.

12          **THE COURT:** Sir?

13          **DEFENDANT:** And I hope that you give me the  
14          benefit of the doubt, sir.

15          **THE COURT:** I've listened to this case twice  
16          now. I listened to State versus Barnes part of  
17          November 2010. It was different evidence, different  
18          testimony.

19                 There's no doubt in my mind that Mr. Barnes was  
20          the king pin, that he was motivated by power and  
21          control of other individuals, including both women,  
22          many of them young women that were runaways, came to  
23          find themselves under his control, and young men  
24          that perhaps had not matured and had the judgment to  
25          realize how fast they should have gotten away and

1           how far they should have gotten away from  
2           Mr. Barnes.

3           I just find it incredible, though, that you and  
4           your brother, Mr. Hunsberger, would respond to a  
5           call from Mr. Barnes when y'all were not even on  
6           Cherry Street. I don't know where y'all were when  
7           you got that call. I don't know if you were in  
8           Edgefield County or in Augusta or somewhere in  
9           between, but I know when he called, you responded.

10          And I've tried to figure out in my mind about  
11          how far it would be from Cherry Street off of  
12          Washington Road in Georgia to Lakeview Road, or  
13          street or hayfield, off of Community Road off of  
14          Highway 25 in South Carolina. It would seem to me  
15          that it would take some period of time, I don't  
16          know, 15 minutes, 20 minutes, I'm not sure. I know  
17          Washington Road is the third exit off of I-20. You  
18          got the rest area and you got River Watch, then  
19          Washington Road. You say you go a mile north of 20  
20          or a mile before you get to Cherry.

21          I never was clear what route y'all took back to  
22          South Carolina, if you took the downtown bridge or  
23          you came back I-20.

24          That car y'all were in, you know what that car  
25          was, it was a hearse. And you know what was in the

1 trunk of that car, a living corpse. It wasn't  
2 hardly enough for her to bury. And you had the  
3 power to do something about that because the  
4 testimony is you and your brother were in that car  
5 with Sam. So it's no -- it doesn't matter how bad  
6 Mr. Barnes was, you controlled that person's destiny  
7 for that entire trip. You and your brother were the  
8 funeral directors. You're an intelligent young man.

9 Our legislature has enacted a statute, some  
10 cases in South Carolina are eligible to be exposed  
11 to a death sentence on some cases of murder, others  
12 are eligible to receive a sentence of not less than  
13 30 years nor more than life. The facts dictate the  
14 sentence -- is there a sentencing sheet?

15 **MR. MAYE:** Your Honor, I removed the sentencing  
16 sheet from the indictment. I can retrieve the  
17 sentencing sheet.

18 **THE COURT:** All right.

19 (Pause.)

20 SENTENCE OF THE COURT

21 **THE COURT:** Indictment 2002-GS-19-110, the  
22 State of South Carolina versus Julio Angelo  
23 Hunsberger, the jury having returned a verdict of  
24 guilty of murder in the death of Samuel Sturup, the  
25 defendant is committed to the State Department of

1 Corrections for a determinant term of life. Good  
2 luck to you, Mr. Hunsberger.

3 (Whereupon, the defendant is taken from the  
4 courtroom.)

5 **THE COURT:** Again, ladies and gentlemen of the  
6 jury panel, thank you very much for your service  
7 this week. You're now excused from your jury  
8 service.

9 If all others would remain seated until the  
10 jury exits the building. Thank you very much.

11 (The jury was excused.)

12 **THE COURT:** Anything further from the State?

13 **MR. MAYE:** None from the State, Your Honor.

14 **THE COURT:** From the defense?

15 **MR. WILLIAMS:** No, sir, Your Honor.

16 **THE COURT:** Court will be in recess until 9:30  
17 in the morning. Thank you very much.

18 (Court's Exhibit Number 5, jury note, marked  
19 for identification purposes.)

20

21

END OF PROCEEDINGS

22

23

24

25

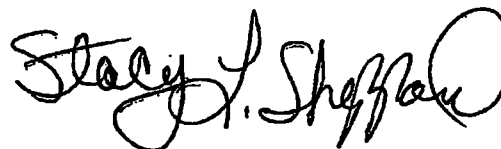
## C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF EDGEFIELD

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Edgefield County, South Carolina, on the 9th - 11th of January, 2012.

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

May 10, 2012



Stacy L. Sheppard, RPR  
Circuit Court Reporter

WITNESSES

Doran

ECSO

ARREST WARRANT NUMBER

G-679758

ACTION OF GRAND JURY

Issue Bill

Man C. McKie

Foreperson of Grand Jury

Date: 5-25-02

VERDICT

Guilty

Don Henderson

Foreperson of Petit Jury

Date: Jan - 11, 2012

DOCKET NO. 2002-GS-19- 110

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

MARCH TERM 2002

THE STATE

vs.

JULIO ANGELO HUNSBERGER

CDR# 0116

Indictment for

MURDER

DONALD V. MYERS, SOLICITOR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL WHICH IS ON FILE IN THE OFFICE OF THE CLERK OF COURT OF EDGEFIELD COUNTY, SC

*Shirley F. Newby*

SHIRLEY F. NEWBY, CLERK OF COURT OF GENERAL SESSIONS AND COMMON PLEAS, E.C.S.C.

*1/11/12*  
DATED

STATE OF SOUTH CAROLINA )  
COUNTY OF EDGEFIELD )

INDICTMENT FOR  
MURDER

At a Court of General Sessions, convened on March 25, 2002 the Grand Jurors of Edgefield County present upon their oath:

That JULIO ANGELO HUNSBERGER did in Edgefield County on or about September 3, 2001, feloniously, wilfully and with malice aforethought, kill one Samuel J. Sturup by means of shooting Mr. Sturup with a handgun and that the said victim died as a proximate result thereof, in violation of Section 16-3-10 of the South Carolina Code of Laws, as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield )  
STATE VS. )

INDICTMENT/CASE#: 2002GS190010

Julio Angela Hunsberger )

A/W#: G679758

AKA: )  
Race: Hispanic Origin Sex: M Age: 34 )

Date of Offense: ~~10/2003~~ 3 Sept 01

DOB: SS#: )

S.C. Code § : 16-03-0010

Address: )

CDR Code #: 0116

City, State, Zip: Augusta, GA 309060000 )

SENTENCE SHEET

DL#: SID#: )

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

CONVICTED OF or  PLEADS

In disposition of the said indictment comes now the Defendant who was TO: MURDER

in violation of § 16-3-010 of the S.C. Code of Laws, bearing CDR Code # 0116

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

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: Solicitor SC Bar# 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 LIFE w/ PAROLE 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:  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 § 17-25-133.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:  RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

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

Set by SCDPPPS \_\_\_\_\_ Obtain GED  Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

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

\*Fine: \$ \_\_\_\_\_ Substance Abuse Counseling  Random Drug/Alcohol testing

§ 14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 \$ \_\_\_\_\_ paid to Public Defender Fund

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_ Other: \_\_\_\_\_

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§ 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00 Presiding Judge \_\_\_\_\_ Judge Code: 2145  
§ 14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
§ 50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00  
3% to County (if paid in installments) \$ 3.90  
TOTAL \$ 133.90  
Clerk of Court/ Deputy Clerk Spurley J. Newby

# The Williams Law Firm

201 Buncombe Street - Post Office Box 70  
Edgefield, South Carolina 29824

(803) 637-4902 (Telephone)  
Randall DeWitt Williams\*

(803) 637-9634 (Facsimile)  
\*also admitted in North Carolina

October 11, 2010

Mr. Julio Hunsberger  
#959417  
Smith State Prison  
Post Office Box 726  
Glennville, GA 30427

RE: **PENDING CHARGE IN EDGEFIELD COUNTY**

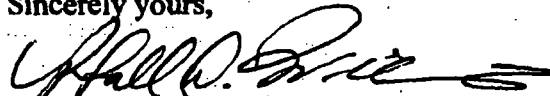
Charge: Murder

Dear Mr. Hunsberger:

It was a pleasure meeting you on September 22, 2010. After meeting with you, I informed the prosecutor here in this county, that you did not have any information regarding the facts and circumstances of the alleged murder. He then informed that he intends to try all parties who have chosen not to cooperate with the prosecution of one, Steven Barnes. Furthermore, he has asserted that he will call your case to trial at the next available opportunity.

I look to hear your response to this overture made by the Solicitor's Office.

Sincerely yours,

  
Randall DeWitt Williams



EDGEFIELD COUNTY  
CLERK OF COURT  
SHIRLEY F. NEWBY

2011 OCT 19 AM 11:28

~~ORDER~~ *WAC*

STATE OF SOUTH CAROLINA )	
)	IN THE COURT OF GENERAL SESSIONS
)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD )	
THE STATE OF SOUTH CAROLINA )	
)	ORDER UPON MOTION FOR
)	CONTINUANCE
VS. )	
)	
JULIO HUNSBERGER )	INDICTMENT NOS. 2005-GS-19-471
)	2002-GS-19-1110
Defendant )	

PRESIDING JUDGE: William P. Keesley  
 ATTORNEY FOR DEFENDANT: Randall Dewitt Williams  
 ATTORNEYS FOR THE STATE: Ervin J. Maye and H. Franklin Young  
 COURT REPORTER: Stacy L. Sheppard

*WAC*  
#1

At a hearing held before the undersigned on October 3, 2011, the Attorney for the Defendant moved for a continuance through the end of the current term of court. The State indicated that it was prepared to call this case for trial when the Petit Jury was to appear on October 4, 2011. The request for continuance is granted for the reasons stated below.

**FACTUAL BACKGROUND AND CONSIDERATIONS**

This case involves the murder of one Samuel Stirrup, a teenager whose remains were discovered in Edgefield County in November of 2001. According to the allegations, Mr. Stirrup had been reported missing sometime after Labor Day weekend 2001; subsequent investigation by Edgefield and Richmond County GA authorities led to kidnapping charges in Georgia and murder charges in South Carolina against this Defendant and a number of others, all stemming from the discovery of Mr. Stirrup's remains. One of these defendants, Steven Louis Barnes, was convicted of the Georgia

kidnapping of Samuel Stirrup in 2003. The Solicitor pursued the detainer placed on Mr. Barnes for the capital murder of Samuel Stirrup of which he was convicted and sentenced to death in 2010. This defendant was also convicted for the kidnapping of Mr. Stirrup and was serving the sentence on that charge when the Solicitor sought his return to South Carolina under the Interstate Act on Detainers. Pursuant to the IAD, the defendant was returned to South Carolina on September 30, 2011 for disposition of the pending indictment for the murder of Samuel Stirrup. The State has not noticed this defendant of its intent to seek the death penalty.

The Attorney for the Defendant has indicated to the Court that he has had very little opportunity to consult with his client given the circumstance of the defendant's incarceration in Georgia prison(s). The pending murder charge is among the most serious offenses and subjects the defendant to the potential for life imprisonment without the possibility of parole. The Court is informed that an extensive record of trial is available and has been created in the prior capital murder case of State v. Steven Louis Barnes. Many of the exhibits and witnesses are expected to be similar and/or the same in the trial of this defendant. Notwithstanding this potential similarity as an aid to preparation, the Court accepts as persuasive that the Attorney for the Defendant should and must have additional opportunity to consult with his client in order to give adequate meaning to the client's right to consult with and receive the advice of counsel.

Accordingly, and as part of this order granting a continuance::

1. The Attorneys shall schedule and meet in status conference with the Chief Administrative Judge for General Sessions (Honorable R. Knox McMahon) as soon as possible following the conclusion of the current term of court in order to schedule the trial and/or resolve by hearing or otherwise any necessary matters which will lead to the earliest possible trial of the current indictment(s).

2. There is no such motion for speedy trial now before the Court, <sup>Da</sup> nor has any ~~such motion been previously filed in this case.~~ Therefore, no part of this Order is

*Da*

WPA  
#2

intended to apply to or address any matter of speedy trial. Likewise, this order is not intended to prejudice any future right the defendant may have to make such a motion.

3. Pursuant to the IAD, the State is under an obligation to bring the defendant to trial within 180 days. For those purposes, the 180 day time period is tolled by virtue of my granting the defendant's request for continuance.

AND IT IS SO ORDERED:



WILLIAM P. KEELSEY  
Presiding Judge  
Eleventh Judicial Circuit

October 18, 2011  
Edgefield, SC

#3

Respectfully submitted:

H. FRANKLIN YOUNG  
Assistant Solicitor  
Eleventh Judicial Circuit

---

DEFENSE OF INDIGENTS ACT

FORM NO. 1

A STATEMENT OF THE RIGHTS OF AN ACCUSED

You have been arrested and charged with the crime of Kidnaping, Murder

You are advised:

- (a) You have a right to employ counsel to represent you.
- (b) In the event you are financially unable to employ counsel, the State will provide you with counsel by appointment or with the services of the Public Defender of this County. If you desire the State to provide you with counsel, you may make application for counsel on a form which I will give to you.

This form has been read to the accused, Julio Angel Hernandez

in my presence, at 11:10 m o'clock p. m. - a. m., this 29 day of Jan, 192002

[Signature]  
Clerk of Court or other Officer

(If the accused cannot employ counsel and does not wish the State to provide him with counsel at this time, he shall be asked to execute the following statement.)

WAIVER OF RIGHT TO HAVE APPOINTED COUNSEL OR SERVICES OF PUBLIC DEFENDER

The undersigned certifies that he has been informed of the charges against him and the nature thereof, and that he is unable to employ counsel. However, the undersigned now states that he does not at this time desire to apply for the appointment of counsel or for the services of the Public Defender, and expressly waives his desire to services of counsel provided by the State at this time, which he understands he has a right to do.

\_\_\_\_\_  
Defendant

Executed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Signature of Clerk of Court or Officer

DEFENSE OF INDIGENTS ACT

FORM NO. II

563

STATE OF SOUTH CAROLINA )

COUNTY OF \_\_\_\_\_ )

AFFIDAVIT OF INDIGENCY  
AND  
APPLICATION FOR COUNSEL

STATE vs. \_\_\_\_\_

CRIMINAL CASE NO. \_\_\_\_\_

(Insert when known)

1. Are you presently employed? Yes \_\_\_ No   
a. If "yes", state the amount of your salary or wages per month, and give the name and address of your employer. \_\_\_\_\_

b. If "no", state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month. \_\_\_\_\_

2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support. none

3. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?

Yes \_\_\_ No

b. Rent payments, interest or dividends?

Yes \_\_\_ No

c. Pensions, annuities or life insurance payments?

Yes \_\_\_ No

d. Gifts or inheritances?

Yes \_\_\_ No

e. Any other sources?

Yes \_\_\_ No

If the answer to any of the above is "yes", describe such source of money and state the amount received from each during the past twelve months. \_\_\_\_\_

# DEFENSE OF INDIGENTS ACT

## FORM NO. IV

In the Court of General Sessions

STATE OF SOUTH CAROLINA

County of Edgefield

Docket No. \_\_\_\_\_

STATE OF SOUTH CAROLINA

vs.

Julius Angelo Krenberger  
Defendant

ORDER OF APPOINTMENT OF LEGAL  
COUNSEL FOR INDIGENT DEFENDANT

The defendant contends that he is indigent and in need of services of an attorney as contemplated by law.  
THEREFORE, C Lee Sturkey Attorney-at-Law, is appointed as counsel  
for the defendant.

This 29 day of Jan, 19002

at \_\_\_\_\_ (a.m. ~~XXXX~~)

Allen Brown

May 03, 04

Julio Hunsberger

The Honorable Judge William Keesley  
Judge of the eleventh Judicial Circuit

Edgefield, S.C. 29824

Re: To Pending Charges in  
Edgefield County

Dear Honorable Keesley

To my understanding your Honor, in a Court Written order you informed my Brother Alexander Hunsberger that if this case is not prosecuted in the next court term, that my Brother may move again for Bond.

I am under the impression that this applies to myself as well, due to the fact that my Brother and I are going to have a joint-trial. I would like to bring to your attention your Honorable Judge Keesley but I must and will protect my own personal interest. Therefore I would also like for the court to take notice that I have been detained since the about date given 01/02/02. Until the present date of this letter 05/03/04.

Through my incarceration, I have been unable to obtain access to my counselor. Which prevent me from being able to take the appropriate pre-trial procedures as for a preliminary hearing, a motion for production, a motion for bond, or a motion for discovery.

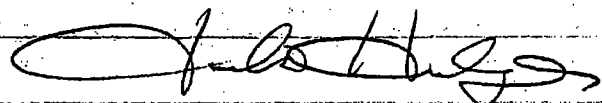
This are motion that I would like to have filed but do to the fact that I have not been seen by my counselor. I am unable to exercise these pre-trial procedures. As well as prepare my defense more adequate. Therefore I request that the court under the section code 16-3-26 B(4), allows me to be appointed two counselors of the law for my defense.

So that I may have adequate representation before the next court term. Which is scheduled for June 21; through the following week on the about date June 28, 2004.

Therefore I thank the Honorable Judge Keesley in advance for the Honorable Keesley time and consideration to my request. I would be very thankful to hear from the Honorable Keesley at the court's earliest convenience.

My best regards

In respect to the court,



Julio Hunsberger

May 04, 04

Julio Humbberger

The Clerk of Court Mr. Allen Dunn

Mr. Allen Dunn, Clerk of Court

Sheffield, SC 29824

Re: That the court under the  
 section code 16-3-26 B(2)  
 appointed two counselor of the law  
 for my defense

Dear Mr. Dunn

I would like to bring this before the attention of Clerk of Court  
 Mr. Allen Dunn. That I will protect my own interest. Therefore I would also  
 like for the Clerk of Court to take notice that I have not been seen by any  
 counselor that the state provides for one listed as the Indigent Defense  
 commission.

As given I am hereby notifying the Clerk of Court Mr. Allen Dunn  
 that the court to take notice that I have been detained since the about  
 date given of January 22, 02. Until the present date of this letter  
 written on the about date given May 04, 2004.

Through my incarceration, I have been unable to discuss with my attorney to obtain material about my case. Which prevents me from being able to take the appropriate measures in my case.

Now I ask of the Clerk of Court Mr. Dunn to acknowledge the fact this is cruel and unusual punishment. An also that I am intitled to have two representation of counselor under the section code 16-3-26 B(1).

Also under the section code 16-3-26 B(2); and the provision of law that I am intitled to the proper representation by law. An under the section code 16-3-26 C(1); that I am esquire the proper counseling and P.T. as well. I am an need of adequate legal service that is provided by the state service under the act of the Indigent Defense Commission.

The attorney Mr. O. Lee Sturkey has failed to communicate with the his client. He was assigned to me as my attorney. Mr. Dunn may I address to the Clerk of Court that I would like to relieve and dismiss the attorney Mr. Sturkey of all duties concerning my case.

An ask of the Clerk of Court to assigned me new representation immediately. I went for bond hearing on the about date given April 29, 2004. There I was inform that the Assistant Solicitor Joe Mizzell and Deputy Solicitor Ervin Mays that they had no document filed stating the fact as to whom was my attorney. I was told Mr. Sturkey my representative. I would rather relieve him of his duties.

Page 3 of 3

Then afterward they said he was not scheduled to appear before the Honorable Judge Keesley; I would like to address the Clerk of Court that he failed to appear. I'm notify the Clerk of Court that the Honorable Keesley; called my name that is evidence there enough to remove the assigned counselor off my case. He has deliberately decline to complied with court orders.

Mr. Dunn, I hereby put notice that the solicitors are suppose to take us to trial next court term. I need the Clerk of Court to take affirmative action as soon as possible.

Therefore I thank the Clerk of Court Mr. Allen Dunn in advance for the Clerk of Court's time and consideration to my request. I would be very thankful to hear from the Clerk of Court at the next earliest convenience.

My best regards

In respect to the court,

Julia Hunsberger

Julia Hunsberger

EDGEFIELD COUNTY  
CLERK OF COURT  
ALLEN H. DURN

2004 MAY 11 AM 10:55



**The Circuit Court of South Carolina**  
Eleventh Judicial Circuit  
William P. Keesley  
Resident Judge

**COPY**

Edgefield, SC 29824

Email:

Telephone:

Fax:

**Acknowledgement & Response**

To: Mr. Julio Hunsberger  
Edgefield County Jail

Edgefield, SC 29824

Re: State vs. Julio Hunsberger  
Edgefield County Charge - Murder

Date: May 10, 2004

This office received a letter from you dated May 3, 2004, and the Clerk of Court has shown me a letter that you forwarded to him.

You are requesting in the letter to me that you be appointed two attorneys. While I acknowledge that a judge has the inherent power to appoint two attorneys, the statute you are citing applies to cases where the Solicitor has given notice of an intention to seek the death penalty. I do not believe that the Solicitor has filed such a notice at this point. If he does, then Court Administration will designate one judge to handle all matters related to that case.

You also mention that you are assuming that rulings I made concerning your brother's case apply to your case, as well. You cannot make that assumption. Further, if a death penalty notice is given, the decision about granting bail to you or your brother, as well as any speedy trial or other motions, would then be in the jurisdiction of the judge assigned to handle the case.

Your brother, Alex, was brought before me for a bond hearing at a one-day term of court that we put together on very short notice after I learned during that week that we were not going to use all the court days scheduled for McCormick Civil Court. It was set up quickly in an effort to deal with any matters that we could reach related to people incarcerated in the Edgefield County jail.

In the letter to Mr. Dunn, you complain that you did not get to have a hearing on that day because Mr. Sturkey did not appear. The information supplied to me at the time (which has not changed) is that we were unable to get notice to Mr. Sturkey about that day of court. He has always appeared during scheduled terms and unscheduled terms; and, in fact, several weeks ago, we put together a similar term of court and Mr. Sturkey canceled a trip to Kansas that he had planned.

You indicate in your letter to me that you want certain motions filed, but are unable to file them because your attorney has not communicated with you. It is true that we do not have hybrid representation in South Carolina, so almost every motion would have to be filed by your lawyer. However, there is an exception for requests to relieve counsel. If you want Mr. Sturkey relieved as your attorney, you may file a motion and request that a hearing will be scheduled.

By copy of this letter, I am instructing the Solicitor to get with Mr. Sturkey to allow you to appear before the first available judge in the circuit.

Technically, all these matters should be addressed to the Honorable Marc H. Westbrook, Chief Judge for Administrative Purposes. So, I am sending him a copy of the letter that you sent to me, so that he can address your request for two attorneys in the manner he deems fit. If you need to communicate with Judge Westbrook, his address is Lexington County Judicial Center, Lexington, SC 29072.

As for the requests that you made to the Clerk of Court, he cannot act upon those requests without a court order, and it is not his place to seek the court orders. You or Mr. Sturkey would need to see that appropriate motions are filed related to any concerns you have expressed in your letter to the Clerk of Court.

cc: Hon. Marc H. Westbrook w/copy of letter from Hunsberger  
✓ Clerk's file w/original letter from Hunsberger  
O. Lee Sturkey, Esquire )

EDGEFIELD COUNTY  
CLERK OF COURT  
SHIRLEY F. NEWBY

Jan. 4<sup>th</sup>, 2005

2005 JAN 19 PM 4: 23

Julio Hunsberger

Edgefield, S.C. 29824

The Clerk of Court Mrs. Hartwick

Edgefield, S.C. 29824

RE: For new counsel; to relieve Mr. O Lee Sturkey

Dear Mrs. Hartwick,

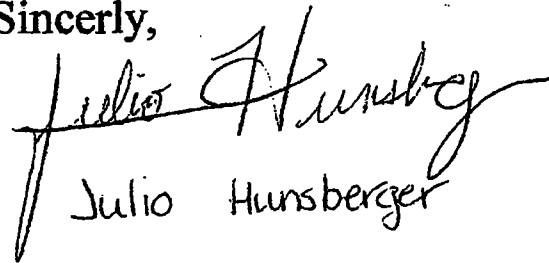
My name is Julio Hunsberger. I have been held in Edgefield County Detention Center since my arrest date of January 22<sup>nd</sup>, 2002. I have never been seen by me state appointed attorney Mr. O Lee Sturkey at all.

If you may be so kind to review my docket. It will show on June of '04 that Mr. Allen Dunn reassigned Mr. O Lee Sturkey for my representation. My question is as to why on the paper work that I have obtained from the Chief Deputy Clerk the Honorable Brenda Shealy, stating that my court appointed attorney has spoken with me on a matter. The paper is dated on Sept. 17<sup>th</sup>, 2004. Mr. Sturkey states that he had spoken with me. Mrs. Hartwick, this is in fact untrue, Mr. Sturkey has never discussed anything with me. If Mr. Sturkey were to walk into the

same room with me, I would not know who he is. I have never met Mr. Sturkey in person. He has come to Edgefield County Jail on many occasions to visit other inmates on his case load. During those times that Mr. Sturkey was at the Detention Center I have requested to the C.O. that I would like to speak with him. Mr. Sturkey needs to be relieved of his duties to my case. Mrs Hartwick, I have paper work that I am willing to show you where Mr. Sturkey is telling Mrs. Shealy that he does not want anything to do with my case. It is my impression that I am getting from reading the paper work that he has sent to Mrs. Shealy who in return sends me these copies. I am pleading with you please investigate these matters.

I would like a response with in a ten working day period. I Thank the Clerk of Court Mrs. Hartwick in advance for the courts time and consideration to my request.

Sincerely,


A handwritten signature in cursive script that reads "Julio Hunsberger". The signature is written in dark ink and is positioned above the printed name.

Julio Hunsberger

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 18th, 2013

  
Kathrine H. Hudgins  
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