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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County

Robert E. Hood, Circuit Court Judge

CHRISTOPHER COMMANDER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002690

SUPPLEMENTAL APPENDIX

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1 taken. The State was going to introduce DNA evidence of
2 the fingernail scrapings. Why did you object in that
3 particular circumstance? Do you recall?

4 A Probably foundationally at that point in time.

5 Q So that would have been more about the witness it was
6 coming through.

7 A Right and...

8 Yes, ma'am.

9 Q On page 806 -- I believe that's your
10 cross-examination -- you mention in your cross-examination
11 that a DNA analysis of the fingernail scrapings and the
12 glove from the trash can were submitted for DNA testing.
13 Do I read that correctly?

14 A I see that, uh-huh.

15 Q Okay. You did not offer the DNA analysis into
16 evidence, correct?

17 A Correct.

18 Q The -- so, therefore, the jury knew that DNA was
19 taken from the scene?

20 A Correct.

21 Q The jury never found out the results of the DNA test?

22 A Correct.

23 Q Is there any particular reason why you didn't offer
24 that into evidence?

25 A I don't know what I argued in closing if I touched on

1 that or not in closing. As I sit here right now, presence
2 or absence of someone's DNA, gloves from a trash can is
3 absolutely irrelevant to this case.

4 Your DNA on this piece of paper. My DNA is on a
5 piece of paper. Someone who sat at that desk two months
6 ago's DNA could be on that desk. If it's without some
7 connection to someone at the issue in question, the
8 presence or absence of someone's -- unknown someone's DNA
9 is irrelevant to the case. That's how I look at it at
10 this point in time.

11 If I looked at it differently then and address it in
12 closing, then that's their -- on the record.

13 Q All right. If you'll look with me on page 849.

14 A Forty-nine?

15 Q 849?

16 A Yes, ma'am.

17 Q Lines 18 through 23. This is Solicitor Meadors'
18 closing argument.

19 A Yes, ma'am.

20 Q All right. So in that -- in this closing argument,
21 Solicitor Meadors argues he is cleaning up. There are
22 gloves in there. He tries to make a -- if he tries to
23 make an issue about why anything else wasn't there, DNA
24 for his client, they're cleaning, he is cleaning it up.
25 So Solicitor Meadors made it an issue, correct?

1 A It appears he did, yes.

2 Q Solicitor Meadors infers the reason there is no DNA
3 at the scene is because Christopher Commander was cleaning
4 things?

5 A Correct.

6 Q Solicitor Meadors is aware there is DNA of a person
7 that was not Christopher Commander found on those same
8 gloves?

9 A Right.

10 Q Did you object?

11 A It does not appear that I did.

12 Q Any particular reason why not?

13 A Nope. Dropped the ball, should have.

14 Q Should have. Would you agree that was improper on
15 Mr. Meadors' part?

16 A Improper and not something that I was unused to
17 seeing having happen.

18 Q The jury in this case was given the opportunity to
19 consider voluntary manslaughter as a lesser-included
20 offense. Would you agree with that? Do you recall that?

21 A I think so.

22 Q In the jury instructions, the judge instructed that
23 malice can be inferred when a deed is done with a deadly
24 weapon.

25 A Right.

1 Q Are you familiar with that general instruction?

2 A I am familiar with that and the fact that was the law
3 of the State at that particular point in time.

4 Q Was there any --

5 A Not so much anymore.

6 Q Was there ever any evidence offered in this case of
7 any particular weapon being used?

8 A No.

9 Q Deadly or otherwise?

10 A Correct.

11 Q Was there any evidence presented as to what could
12 have caused possible asphyxiation?

13 A Not that I remember if there was. It would have come
14 from Dr. Nichols. I'm not sure if he gave any opinions or
15 postulated what might have -- how this asphyxiation may
16 have come about.

17 Q Okay. Page 842 through 843, please, sir.

18 A Yes, ma'am.

19 Q This portion of the transcript Solicitor Meadors
20 argued that a jury could infer malice from statements and
21 actions that occurred after the incident, after the murder
22 occurs.

23 A Correct.

24 Q And you did object, correct?

25 A I seem to remember, yes. I objected, yes.

1 Q After the fact Mr. Meadors asked for the judge to
2 include that in the jury instructions and that the Court
3 refused. Did you request a mistrial?

4 A Well, the record will reflect whether I requested a
5 mistrial. I don't remember requesting one.

6 Q When the Solicitor specifically told the jurors that
7 he could -- an incorrect version of the law; that they
8 could use this after -- these after-done acts and
9 statements as malice, should you have requested a
10 mistrial?

11 A Sure, yes.

12 MS. GOLDBERG: All right. No further questions.

13 Thank you, sir.

14 MS. WHITE: Thank you, Your Honor.

15 CROSS-EXAMINATION:

16 BY MS. WHITE:

17 Q Mr. Strickler, on -- if you could just give me a
18 little background, how long have you been practicing law?

19 A Since November of 1981.

20 Q So in 2006, we're looking at about 25 years?

21 A Yes, ma'am.

22 Q Okay. And the majority of that time what percentage
23 has been criminal?

24 A All of that time, 100 percent has been criminal.

25 Q Okay. In criminal defense?