

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of General Sessions  
Doyet A. Early, III, Circuit Court Judge

SC Court of Appeals

Case No. 2013-GS-020-1664  
Appellate Case No. 2014-000344

State of South Carolina .....Respondent,

versus

Frank Muns .....Appellant.

SUPPLEMENTAL RECORD ON APPEAL

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INDEX

TESTIMONY

AARON LEMASTER

Direct Examination by Mr. Slocum.....1

KIM TURNER

Direct Examination by Ms. Sheftall.....2

CERTIFICATE OF COUNSEL.....12

DIRECT EXAMINATION OF AARON LEMASTER BY MR. SLOCUM

51

1 saw and observed. I don't know whether he's going  
2 to be allowed to give opinions as to anything.

3 What's your position, Mr. Routzong?

4 MR. ROUTZONG: I agree, Your Honor. I think he  
5 can talk about what he saw. That's what he's here  
6 for. He's got a report, he made the notes about  
7 what he saw. I think we can stick with that.

8 THE COURT: You can ask him direct questions.  
9 I'm not going to allow him to give opinions about --  
10 I mean, I don't know what your questions are going  
11 to be.

12 MR. SLOCUM: Very fine, Your Honor. I'll move  
13 forward.

14 THE COURT: Just ask him what he saw and  
15 observed.

16 MR. SLOCUM: Yes, sir.

17 BY MR. SLOCUM:

18 Q. Mr. Lemaster, how did you become involved in  
19 this case?

20 A. My EMS unit was dispatched to the location.

21 Q. What location was that?

22 A. 121 Riverbend Drive in Beech Island.

23 Q. And on what date did this happen?

24 A. April the 6th of 2013.

25 Q. And that previous address, is that in Aiken

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

103

1 looked and when I looked up, he had the gun pointed  
2 at me to shoot me again. And I realized that --  
3 seen the bullet hole. I realized he had shot me or  
4 shot at me. I wasn't even sure I was shot right at  
5 that second. But I knew he was going to try and  
6 shoot me again and that he meant to kill me, so I  
7 was trying to put the car in reverse and it wouldn't  
8 go in reverse, it just went straight into drive.

9 And then before it hit him and the car door, I  
10 jumped -- I just kept flooring it. And I floored it  
11 and I jumped over -- there was a power pole in the  
12 yard right in front of a burn pile. And I jumped  
13 over the power pole and went halfway over the burn  
14 pile and I flew behind my trailer and opened the  
15 door and was blowing the horn and yelling for  
16 somebody to come out to call that he had shot me.

17 And my daughter came out, which I wasn't even  
18 sure if it was her or my daughter-in-law. At the  
19 time all I said was call -- call the police, he shot  
20 me. And when I looked back, he was still yelling at  
21 me and coming at me with the gun. So I shut the  
22 door and I took off again and went all the way  
23 through his mother's yard and went out her side  
24 entrance and I went around the block. And I was  
25 sitting there, I trying to think -- trying to --

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

104

1 where can I go to call where he wouldn't chase after  
2 me. I was scared he was going to chase after me and  
3 keep trying to shoot me. And I was thinking crazy  
4 at the time. I was like, calm down, calm down. I  
5 could feel the bullet and I could tell then -- I  
6 knew he had shot me. I felt it, it was hot and  
7 burning in my chest. And I didn't have a lot of  
8 blood coming from it.

9 Later the doctor said -- told me it corterized  
10 me. But I felt the spray in my arm and on my chest  
11 and -- and I was trying to tell myself to calm down,  
12 that -- I kept thinking like it was a snake bite,  
13 that it might spread or blow up inside me or  
14 something.

15 But I went around the drive and I knew he was  
16 still there, and I was shaking and I was nervous and  
17 I didn't know where to go. But I went ahead and I  
18 flew past the house and his truck was still there.  
19 But I flew about 80 miles an hour and I kept  
20 thinking, where do I go. And I had already been on  
21 the phone with Lisa and I knew she was right around  
22 the corner. And she was more his friend than me.  
23 He probably liked her a lot better than he liked me.  
24 And I went over there thinking that somebody there  
25 would stop him from shooting me again if he followed

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

105

1 me over there. And I laid on the horn and opened up  
2 the car door because I couldn't roll my window down  
3 because the glass was splattered or whatever, I  
4 didn't even try to roll it down. But I opened the  
5 car door and then laid on the horn and a bunch of --  
6 her and her friends and boyfriend and all came out  
7 and I told them to call 911, that he had shot me.

8 Q. Thank you. And I realize that that all  
9 happened about as fast as you were just able to tell  
10 the jury. But what I'd like to do to make sure that  
11 we -- that it's all very clear to the jurors what  
12 exactly happened to you, I want to slow that time  
13 down, if that's okay with you. And take me back a  
14 little bit. So at the point where y'all are  
15 arguing, where are you?

16 A. I was sitting in the driver's side of my car.

17 Q. And where was the defendant?

18 A. He was standing outside of the car right by my  
19 window.

20 Q. And you said he had a gun?

21 A. He had the gun pointing at me.

22 Q. Okay. And what was me doing with the gun?

23 A. He was pointing it at me. He told me he was  
24 going to kill me.

25 Q. Okay. And you said, I think, initially, that

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

106

1 he hit the window with the gun.

2 A. He was trying to break the car window out. And  
3 I kept thinking he had already ripped the mirror  
4 out, my mother is going to kill me for that. So  
5 that's why I rolled the window thinking it would  
6 keep him from busting it out.

7 Q. And it's your mother's car?

8 A. Yes.

9 Q. Okay. All right. So at the point where you  
10 realize that you've been shot, you -- I believe you  
11 testified that you realized at that point that you  
12 thought he was going to kill you.

13 A. I did.

14 Q. Okay. You take off in your car over a power  
15 pole; is that what you said?

16 A. It was a power pole. I call it a telephone  
17 pole because it looked like the old telephone poles.

18 Q. Laying on the ground?

19 A. Yes.

20 Q. Okay. And you head towards the back door to  
21 the trailer --

22 A. Right.

23 Q. -- honking your horn; is that what you said?

24 A. I did. And I had the door open and I looked  
25 back and I kept thinking, he shot me, he's

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

107

1 definitely going to take off. But instead of taking  
2 off, he came back at me.

3 Q. And you saw someone, you don't remember --

4 A. I don't.

5 Q. -- because this is all happening very fast, I'm  
6 sure. But you saw someone come out and you yelled  
7 at them, is that correct, to call the police?

8 A. Yes.

9 Q. Okay. And you just said that you saw the  
10 defendant still coming at you?

11 A. He was still hollering and calling me a bitch  
12 and still coming at me.

13 Q. Was he on foot or was he --

14 A. He was on foot.

15 Q. Okay. So you told the jury then that you took  
16 off again in your car.

17 A. I did.

18 Q. Through the rest of the property. And we're  
19 going to show them a map in a minute so they can  
20 understand. You go through the rest of the  
21 property, get out on the road. Tell me what you did  
22 then.

23 A. After I went out of his -- out of the -- off  
24 the property, I took a right. And the -- Oak Drive  
25 is here. His mother owns the property from Oak to

1 Beard Road. And Oak loops all the way around Beard  
2 Road. And I turned around on Oak and I kept  
3 thinking -- I even seen the guy across the street,  
4 Chris, walking on the street. And, like, a lot  
5 happened in a short period of time, but I kept  
6 thinking to myself, where can I go to call.

7 Q: Why didn't you stop there at Chris?

8 A: They don't have -- Chris don't have a  
9 telephone. And all of those people in that  
10 neighborhood are his friends or whatever. And then  
11 I don't really -- I didn't really know -- I knew  
12 Ms. Black lived right next door.

13 And then I didn't really know -- I didn't know  
14 who to stop. I thought about stopping at one of the  
15 other houses and blowing the horn there and trying  
16 to get them to call 911, but I kept thinking he  
17 could jump in that truck and follow me. And I  
18 thought he was going to come after me and try to  
19 shoot me again, so I wanted to try and get away from  
20 there. I don't know, I just -- I just wasn't  
21 thinking rational, period. But the only thing I  
22 kept thinking -- the only closer -- the closest  
23 person I knew where they lived was Lisa. And I had  
24 just talked to her, and I guess that's why it was in  
25 my mind to go to Lisa's house. And I went over

1           there thinking that at least she would stop him from  
2           trying to hurt me because, like I said, I think  
3           he -- she's an ex-girlfriend of his. So I figured  
4           he liked her a lot more than he cared about me. So  
5           he -- somebody there -- he had friends there and  
6           they were his friends, that somebody there would  
7           stop him from coming at me and shooting me again.

8           Q.    Okay. So you pull up in Lisa's yard and  
9           tell -- and honk the horn. And you told Lisa and  
10          Lisa told us all earlier -- you were in here for  
11          that -- that she called 911.

12          A.    Right.

13          Q.    Was that your voice on the 911 tape?

14          A.    Yes, ma'am.

15          Q.    Okay. How were you feeling when you pulled up  
16          in Lisa's yard?

17          A.    I was scared, I was angry. I was a lot of  
18          things. I couldn't believe he shot me. I wouldn't  
19          believe that he would shoot me. We were 15 years  
20          old when we started going together and we'd been  
21          married and divorced three times and we had four  
22          children and four grandchildren. And even with him  
23          sticking the gun in my face, I didn't think he was  
24          going to shoot me, that's why I rolled my window  
25          down.

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

110

1 MS. SHEFTALL: Your Honor, permission to  
2 approach?

3 THE COURT: Certainly.

4 (State's Exhibit No. 28 marked for  
5 identification.)

6 BY MS. SHEFTALL:

7 Q. Ms. Turner, I'm going to show you what's been  
8 previously marked for identification purposes as  
9 State's Exhibit 28. If you'll tell me if you  
10 recognize that, please, ma'am.

11 A. Yeah, I recognize it.

12 Q. What do you recognize it to be, Ms. Turner.

13 A. It's an aerial photo of Beard Road and Oak  
14 Drive.

15 Q. How do you recognize it?

16 A. Because that's where I used to live with my  
17 children and that's where my mother-in-law lives.

18 Q. Is it a fair and accurate representation of  
19 that area?

20 A. Yes, it is.

21 Q. Any alterations, changes, deletions that you  
22 can tell?

23 A. No.

24 Q. Okay.

25 MS. SHEFTALL: Your Honor, the State would move

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

111

1 at this time to admit Exhibit 28 into evidence. ---

2 THE COURT: Any objection?

3 MR. ROUTZONG: Did she take that picture, Your  
4 Honor? Has that been authenticated by law  
5 enforcement or whoever took that?

6 THE COURT: Any objection?

7 MR. ROUTZONG: I do. I don't think she can  
8 authenticate it.

9 MS. SHEFTALL: Your Honor, it's an aerial map  
10 of the area where she lived for quite a while.

11 THE COURT: I'll allow it in. Overruled.

12 MS. SHEFTALL: Thank you, Your Honor.

13 (State's Exhibit No. 28 admitted into  
14 evidence.)

15 BY MS. SHEFTALL:

16 Q. All right. Ms. Turner, I'm going to give you  
17 this marker. And what I want you to do is use that  
18 marker to draw on that map the path that you took  
19 from the time that you turned off of Atomic Road  
20 onto Beard Road to access the property. And then at  
21 the first point where you stopped your car because  
22 the defendant blocked your way, I want you to put  
23 the number one, please, right where that happened.

24 A. (Witness complies).

25 Q. And then from there, if you'll draw a line to

DIRECT EXAMINATION OF KIM TURNER BY MS. SHEFTALL

112

1 where the next place you stopped behind the trailer  
2 and where you stopped that second time, put a number  
3 two, please, ma'am.

4 A. (Witness complies).

5 Q. And then from there, continue drawing your path  
6 through the rest of the property to the point where  
7 you exited onto Oak Drive.

8 A. (Witness complies).

9 Q. Thank you.

10 MS. SHEFTALL: Your Honor, permission for  
11 Ms. Turner to step down and publish this to the  
12 jury?

13 THE COURT: Yes, ma'am.

14 BY MS. SHEFTALL:

15 Q. I'm going to have you stand right there on that  
16 side so that the jury can all see and hear. I'll  
17 give you this marker. Don't draw on the TV, just  
18 use it to point when we get the picture up. Show us  
19 what you just drew for me on this picture.

20 A. Okay. I came in through here --

21 THE COURT: Speak up for us, please.

22 A. I came in down Beard Road this way. That's  
23 my -- that was my home right there. It was a --  
24 there's a driveway right here, and that was what he  
25 had cabled off, and that's what was cabled off, so I

CERTIFICATE OF COUNSEL FOR APPELLANT

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

May 15, 2015

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