

1.  
SOUTH CAROLINA COURT  
OF APPEALS

APPEAL COURT  
CASE NO:

TYRONE LORENZA ROBINSON 2014-002138

VS.  
STATE OF SOUTH CAROLINA

RECEIVED

JUN 04 2015

SC Court of Appeals

PRO SE  
BRIEF

CITING ARGUMENTS APPEAL-  
-ANT DEMANDS ATTORNEY  
TO ARGUE ON DIRECT APPEAL.  
WHO IS THE ATTORNEY THIS COURT  
APPOINTS TO REPRESENT APPELL-  
-ANT ON DIRECT APPEAL.

PRO SE BRIEF

I TYRONE LORENZA ROBINSON DEMAND THAT  
THIS SOUTH CAROLINA COURT OF APPEALS AND  
ITS CLERK JENNY ABBOTT KITCHINGS:  
GIVE A CERTIFIED COPY OF THIS PRO SE BRIEF  
AND ALL ARGUMENTS AND CONTENTS TO THE  
ATTORNEY, WHO THIS COURT OF APPEALS  
APPOINT TO REPRESENT I TYRONE LORENZA  
ROBINSON ON APPEAL, AND INSTRUCT THE  
ATTORNEY WHO THIS COURT APPOINTS TO REPR-  
-SENT I TYRONE LORENZA ROBINSON ON APPEAL,  
TO ARGUE ALL ISSUES ARGUED INSIDE  
OF THIS PRO SE BRIEF FOR I TYRONE LORENZA  
ROBINSON ON APPEAL AND I ASK THE JUDGES  
OF THIS COURT TO DECIDE ON ALL ISSUES  
ARGUED INSIDE OF THIS PRO SE BRIEF ON  
APPEAL, TO STOP UNCONSTITUTIONAL, UNLAWFUL  
AND ILLEGAL IMPRISONMENT FROM CURRENTLY  
BEING COMMITTED AGAINST I TYRONE L. ROBINSON.

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### STATUTES

5TH Amendment Right to due process  
which states "quote" no person shall  
be deprived out of liberty without  
due process of law

5TH Amendment Right which states  
"quote" no person shall be held to  
answer for a capital or  
otherwise infamous crime,  
unless on a presentment or  
indictment of grand jury

5TH Amendment Right to be free  
from double jeopardy

### STATEMENT OF ISSUE ON APPEAL

#### 1ST ISSUE APPEALED

THE TRIAL JUDGE COMMITTED FATAL ERROR  
BY FAILING TO AWARD TYRONE LORENZO  
ROBINSON A REDIRECTED VERDICT OF  
NOT GUILTY

## 2nd ISSUE APPEALED

THE TRIAL JUDGE COMMITTED FATAL ERROR BY FAILING TO DISMISS INDICTMENT # 2012-GS-07-1935 FOR INSUFFICIENCY OF INDICTMENT. BECAUSE INDICTMENT # 2012-GS-07-1935 THAT CHARGES TYRONE ROBINSON WITH THE PARTICULAR THEORY AND CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY IS INSUFFICIENT TO CONVICT TYRONE LORENZA ROBINSON ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY. THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON, AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGING TYRONE ROBINSON WITH AND THAT IS NOT CHARGED OR ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935

## 3rd ISSUE APPEALED

THE TRIAL JUDGE ERRORED BY NOT AWARDEING TYRONE LORENZA ROBINSON. A REDIRECTED VERDICT AND OR A DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE AS TYRONE LORENZA ROBINSON REQUESTED

## STATEMENT OF THE CASE

Appellant TYRONE LORENZA ROBINSON was indicted during the October 18th, 2012 term of the Beaufort County Grand Jury for felony murder by the felony murder rule.

Appellate TYRONE LORENZA ROBINSON was tried before Judge Cooper and a jury on September 15th thru to 19th 2014. The jury did not find TYRONE ROBINSON GUILTY ON felony murder by the felony murder rule.

Theory. That TYRONE ROBINSON was arrested on indicted on and tried on before the jury at trial on indictment # 2012-GS-07-1935.

However the jury found TYRONE ROBINSON GUILTY OF the UNINDICTED offense of common law murder by the doctrine of transferred intent. That is not charged or alleged in indictment # 2012-GS-07-1935. Also that the Grand Jury did not indict TYRONE ROBINSON ON the Grand Jury did not issue a indictment charging TYRONE ROBINSON WITH and the Grand Jury did not hear evidence of. That TYRONE ROBINSON was convicted on, in violation of TYRONE LORENZA ROBINSON 5th Amendment RIGHTS OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

## STATEMENT OF FACTS

Aaron Scott Young Senior and Aaron

SCOTT YOUNG JUNIOR, CONSPIRACY AND acting together, committed the ongoing felony and crime of conspiracy to murder TYRONE LORENZA ROBINSON. That KHALIL SINGLETON death is a probable or natural consequence of.

ON FEBRUARY OF 2015 A JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF CONSPIRACY TO MURDER TYRONE LORENZA ROBINSON. AT THE IMMEDIATE time and same location KHALIL SINGLETON WAS SHOT AND KILLED AT. IN ADDITION THE JURY FOUND THAT AARON SCOTT YOUNG JUNIOR, AND AARON SCOTT YOUNG SENIOR, FELONY OF CONSPIRACY TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON. IS THE ONGOING FELONY THAT KHALIL SINGLETON death is a probable or natural consequence of. That as a proximate result caused KHALIL SINGLETON to be shot and killed. AS A RESULT THE JURY DETERMINED THAT AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR VIOLENT DANGEROUS FELONY OF CONSPIRACY TO MURDER TYRONE LORENZA ROBINSON WITH A deadly weapon. IS RESPONSIBLE FOR THE DEATH OF KHALIL SINGLETON. AS A RESULT, THE JURY FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF MURDER OF KHALIL SINGLETON, AND IN DOING SO. THE JURY DETERMINED THAT IT IS ACTUALLY AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR WHO ARE RESPONSIBLE FOR KHALIL SINGLETON death by the theory and crime of felony murder by the felony murder rule.

THEORY WHICH ELEMENTS ARE EXPLAINED  
 IN THE JURY CHARGE FOR THE FELONY  
 MURDER RULE, PROVING AS THE  
 VICTIM WHO AARON SCOTT YOUNG JUNIOR  
 AND AARON SCOTT YOUNG SENIOR WERE  
 ATTACKING AND CONSPIRING TO MURD-  
 ER WITH A DEADLY WEAPON, AND  
 COMMITTING THE DANGEROUS VIOLENT  
 FELONY OF CONSPIRACY TO MURDER  
 WITH A DEADLY WEAPON AGAINST, THAT  
 CAUSED KHALIL SINGLETON TO BE SHOT  
 AND KILLED, THAT KHALIL SINGLETON  
 DEATH IS A PROBABLE OR NATURAL  
 CONSEQUENCE OF AND A PROXIMATE  
 RESULT OF. AS A MATTER OF LAW  
 TYRONE WRENZA ROBINSON IS NOT  
 GUILTY OF FELONY MURDER BY THE  
 FELONY MURDER RULE THEORY AND  
 TYRONE ROBINSON WAS UNCONSTITUT-  
 -IONALLY, UNLAWFULLY AND ELLEGALLY  
 CONVICTED AND IS CURRENTLY BEING  
 HELD UNCONSTITUTIONALLY, UNLAWFULLY,  
 AND ELLEGALLY RESTRAINED, DETAINED AND  
 DEPRIVED OUT OF HIS LIBERTY AND FREED-  
 OM WITHOUT DUE PROCESS OF LAW.  
 ON THE UNINDICTED THEORY AND CRIME OF  
 COMMON LAW MURDER BY THE UNINDICTED  
 THEORY OF THE DOCTRINE OF TRANSFERRED  
 INTENT, THAT THE GRAND JURY DID NOT INDICT  
 TYRONE ROBINSON ON THE GRAND JURY DID  
 NOT GIVE A INDICTMENT CHARGING TYRONE  
 ROBINSON WITH AND THAT IS NOT CHARGED  
 OR ALLEGED INSIDE THE WRITTEN WRITE  
 UP OF INDICTMENT # 2012-65-07-1935.  
 IN VIOLATION OF TYRONE WRENZA ROBIN-  
 -SON 5TH AND 14TH AMENDMENT RIGHTS.

ARGUMENT

THE TRIAL JUDGE COMMITTED FATAL ERROR BY FAILING TO AWARD TYRONE ROBINSON A REDIRECTED VERDICT OF NOT GUILTY

because TYRONE LORENZA ROBINSON PROVED TO THE JURY THAT HE IS NOT GUILTY OF THE PARTICULAR CRIME AND OFFENSE OF ~~THE FELONY MURDER RULE~~ FELONY MURDER BY THE JURY DID NOT FIND TYRONE ROBINSON GUILTY. ON THE PARTICULAR CRIME AND OFFENSE OF ~~THE FELONY MURDER RULE~~ FELONY MURDER BY THE JURY WAS ARRESTED ON, INDICTED ON AND TRIED BEFORE THE JURY AT TRIAL ON. INDICTMENT # 2012-GS-07-1935, IN THIS CASE AS A MATTER OF LAW TYRONE ROBINSON CONVICTION ON THE UNINDICTED CRIME AND OFFENSE OF COMMON LAW MURDER BY THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT AGAINST TYRONE ROBINSON FOR VIOLATES TYRONE ROBINSON 5th Amendment Right to DUE PROCES

BECAUSE THE STATE OF SOUTH CAROLINA HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT EVERY ELEMENT AND FACT NECESSARY THAT CONSTITUTE THE PARTICULAR CRIME AND OFFENSE OF ~~THE FELONY MURDER RULE~~ FELONY MURDER BY THE JURY WAS ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL ON INDICTMENT # 2012-GS-07-1935. BECAUSE THIS MATERIAL VARIANCE VIOLATES TYRONE ROBINSON SUBSTANTIAL RIGHT TO BE TRIED ONLY ON THE PARTICULAR CRIME AND OFFENSE OF ~~THE FELONY MURDER RULE~~ FELONY MURDER BY THE JURY AT TRIAL ON INDICTMENT # 2012-GS-07-1935 THIS VIOLATION CONSTITUTES FATAL ERROR AND WARRANTS A REVERSAL ON APPEAL OF TYRONE ROBINSON CONVICTION ON THE UNINDICTED CRIME AND OFFENSE OF TRANSFERRED INTENT THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT AGAINST TYRONE ROBINSON FOR AND THATS NOT ALLEGED IN INDICTMENT # 2012-GS-07-1935

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## CASE LAW merits

SUPREME COURT OF SOUTH CAROLINA  
CASE LAW OF  
LUCAS BAILEY VS. STATE OF SOUTH CAROLINA  
OPINION NO: 26975 "QUOTEING"  
WHEN THE INDICTMENT FACIALLY  
CHARGES A COMPLETE OFFENSE AND THE  
STATE PRESENTS EVIDENCE WHICH CONVICTS  
UNDER A DEFERANT THEORY THAN THAT  
ALLEGED. A CONVICTION UNDER THE LATTER  
CIRCUMSTANCES VIOLATES PRINCIPLES OF  
DUE PROCESS BECAUSE THE STATE HAS FAILED  
TO PROVE BEYOND A REASONABLE DOUBT  
EVERY FACT NECESSARY TO CONSTITUTE  
THE CRIME WITH WHICH A DEFENDANT  
WAS CHARGED. A MATERIAL VARIANCE  
THAT VIOLATES A DEFENDANTS SUBSTANTIAL  
RIGHT TO BE TRIED ONLY ON CHARGES  
PRESENTED IN AN INDICTMENT CONSTITUTES  
FATAL ERROR AND WARRANTS A REVERSAL  
ON AN APPEAL OF A JUDGEMENT OF  
CONVICTION OF THE OFFENSE NOT CHARGED  
IN THE INDICTMENT.

## NO JURY VERDICT ON INDICTMENT # 2012-GS-07-1935

ON SEPTEMBER 15TH, 16TH, 17TH, 18TH AND 19TH  
OF 2014. TYRONE ROBINSON WAS TRIED BEFORE  
THE JURY ON INDICTMENT # 2012-GS-07-1935  
ON THE FELONY MURDER RULE FOR FELONY  
MURDER. ALLEGED AND CHARGED IN THE  
WRITTEN WRITE UP OF INDICTMENT # 2012-  
GS-07-1935.  
ON THE FACE OF INDICTMENT # 2012-GS-07-  
1935 WERE IT STATES VERDICT INDICT.  
THE FORE PERSON OF THE JURY DID NOT  
WRITE A JURY VERDICT IN ON INDICTMENT #  
2012-GS-07-1935. PROVEING THAT AS A MATTER  
OF LAW. THE JURY DID NOT FIND TYRONE  
ROBINSON GUILTY ON INDICTMENT # 2012-  
GS 07 01935 AND FELONY MURDER BY  
THE FELONY MURDER RULE THATS

ALLEGED AND CHARGED IN THE WRITTEN  
 WRITE UP OF INDICTMENT # 2012-GS-07-1935.  
 AS A MATTER OF LAW PROVEING THAT THE  
 JURY FOUND TYRONE ROBINSON NOT GUILTY  
 ON INDICTMENT # 2012-GS-07-1935 AND  
 FELONY MURDER BY THE FELONY MURDER  
 RULE INDICTMENT # 2012-GS-07-1935  
 ALLEGES AND CHARGES TYRONE LORENZA  
 ROBINSON WITH

## PRE TRIAL HEARING

TRIAL IN THIS CASE BEGAN IN BEAUFORT  
 COUNTY GENERAL SESSION COURT ROOM  
 IN SOUTH CAROLINA ON SEPTEMBER 15TH,  
 2014 THRU SEPTEMBER 16TH, 17TH, 18TH  
 UNTIL SEPTEMBER 19TH OF 2014. AFTER THE  
 JURY WAS SEATED AND PICKED INSIDE THIS  
 CASE, THE TRIAL JUDGE HELD A PRE TRIAL  
 HEARING OUTSIDE THE PRESENCE OF THE JURY.  
 INSIDE PRE TRIAL HEARING ATTORNEY ARIE  
 DAVID BAX AND THE PUBLIC DEFENDER  
 OFFICE, MOTIONED TO DISMISS THE INDICT-  
 -MENT FOR INSUFFICIENCY OF INDICTM-  
 -ENT, BECAUSE THE STATE OF SOUTH CAROLINA  
 COULD NOT TRY TYRONE ROBINSON ON THE  
 FELONY MURDER RULE THAT TYRONE ROBINSON  
 WAS ARRESTED AND INDICTED ON, ON INDICTM-  
 -ENT # 2012-GS-07-1935 AND ARREST WAR-  
 -RANT # 2012 A0720300114  
 BECAUSE THE WHILE ENGAGED IN A ONGOING  
 GUN BATTLE AN INHERENTLY DANGEROUS  
 FELONY, IS NOT CLASSIFIED AS A FELONY BY  
 S.C. STATUTE CODE OF LAW, FOR PURPOSES OF  
 THE FELONY MURDER RULE. ALSO BECAUSE  
 TYRONE ROBINSON WAS NOT ACTING ALONG  
 WITH AARON SCOTT YOUNG SENIOR AND AARON  
 SCOTT YOUNG JUNIOR, TO COMMITTE THE ONGOING  
 FELONY OF CONSPIRACY TO MURDER TYRONE  
 ROBINSON AT THE IMMEDIATE TIME KITALIL  
 SINGLETON WAS SHOT AND KILLED, WHICH IS  
 THE ONGOING FELONY ALLEGED IN THE INDICT-  
 -MENT AND ARREST WARRANT. THAT THE  
 STATE OF SOUTH CAROLINA, SOLICITOR ISSIAE  
 MC. DUFFIE STONE, POLICE SGT. LAUREL ALBER-  
 -TIN AND BEAUFORT COUNTY SHERIFF DEPART-  
 -MENT CHARGED AND ALLEGED IS THE

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ongoing felony that proximately caused Khalil Singleton to be shot and killed. In return the state of South Carolina argued that they could try Tyrone Robinson on the felony murder rule. As a result the trial judge decided and determined on court record at pre trial hearing. That the state of South Carolina could and would try Tyrone Robinson. On the felony murder rule. For felony murder by the felony murder rule only that Tyrone Lorenza Robinson was arrested on and indicted on, on indictment # 2012-GS-07-1935 and arrest warrant # 2012-A0720300114. Therefore as a matter of law the audio recorded recording of Tyrone Robinson pre trial hearing in this case reveals and proves that the trial judge Cooper decided and determined on court record at pre trial hearing. That the state of South Carolina could and would try Tyrone Robinson. On the felony murder rule. For felony murder by the felony murder rule only that Tyrone Lorenza Robinson was arrested on and indicted on, on indictment # 2012-GS-07-1935 and arrest warrant # 2012-A0720300114. Therefore as a matter of law the audio recorded recording of Tyrone Robinson pre trial hearing in this case reveals and proves that the trial judge Cooper decided and determined on court record at pre trial hearing. That Tyrone Lorenza Robinson would be tried by the state of South Carolina before the jury at trial. On the felony murder rule only. That Tyrone Lorenza Robinson was indicted on, and arrested on, on indictment # 2012-GS-07-1935 and arrest warrant # 2012-GS-07-1935. At pre trial judge Cooper decided that Tyrone Robinson would be tried on the particular crime and offense of felony murder by the felony murder rule only. Trial proceeded & Tyrone Lorenza Robinson was tried before the jury. For the particular crime and offense of felony murder by the felony murder rule only. That Tyrone Lorenza Robinson was indicted on and arrested on, on indictment # 2012-GS-07-1935 and arrest warrant # 2012-A0720300114.

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**FELONY MURDER  
RULE THEORY ONLY**

BECAUSE THE STATE OF SOUTH CAROLINA CHARGED AND ALLEGED THAT KHALIL SINGLETON DEATH OCCURRED BY THE FELONY MURDER RULE THEORY ONLY. THAT THE STATE OF SOUTH CAROLINA, SOLICITOR ISSAC MC. DUFFIE STONE, SPT. LAUREL ALBERTIN AND BEAUFORT COUNTY SHERIFF DEPARTMENT CHARGED AND ALLEGED IN THE WRITTEN WRITE UP. OF INDICTMENT # 2012-GS-07-1935 AND ARREST WARRANT # 2012 A07 20300114. THAT TYRONE ROBINSON WAS ARRESTED ON AND INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL. AS A MATTER OF LAW THE STATE OF SOUTH CAROLINA MUST PROVE EACH AND EVERY ELEMENT TO THE FELONY MURDER RULE ONLY. IN ORDER TO PROSECUTE AND CONVICT TYRONE ROBINSON FOR THE DEATH OF KHALIL SINGLETON. THEREFORE THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROOF TO PROVE BEYOND A REASONABLE DOUBT. THAT TYRONE ROBINSON IS RESPONSIBLE FOR KHALIL SINGLETON DEATH. BY THE FELONY MURDER RULE THEORY ONLY. THAT IS CHARGED AND ALLEGED IN THE ARREST WARRANT # 2012-GS-07-1935 AND INDICTMENT # 2012-A07-20300114. THAT TYRONE ROBINSON WAS ARRESTED ON, INDICTED ON, AND TRIED ON BEFORE THE JURY AT TRIAL. IN ORDER TO PROSECUTE, CONVICT AND SENTENCE TYRONE ROBINSON TO PRISON TIME FOR THE DEATH OF KHALIL SINGLETON. AS DECIDED BY THE SOUTH CAROLINA SUPREME COURT IN THE CASE OF LUCAS BAILEY VS. THE STATE OF SOUTH CAROLINA OPINION NO: 26975 FOR PROOF REVIEW

CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT CASE LAW OF. LUCAS BAILEY VS. THE STATE OF SOUTH CAROLINA OPINION NO: 26975 "QUOTEING" BY INCLUDING A MORE SPECIFIC DESCRIPTION, THE STATE UNDERTOOK THE BURDEN OF PROVING THE SPECIFIC ALLEGATIONS TO OBTAIN A CONVICTION.

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The TEXAS COURT OF APPEALS agreed with CASTILLO'S argument, finding the trial court erred in enlarging the indictment by adding "shaking" as an additional manner and means of committing the charged offense. ~~And so~~ ruling the court recognized that a defendant may only be tried and convicted of the crimes alleged in the indictment and the state is bound by the theory alleged in the indictment. ~~And~~ we agree with the reasoning in CASTILLO and apply its analysis to the facts of the instant case. We conclude that the trial judge's instructions improperly "enlarged" the indictment by instructing the jury that it could convict BAILEY of a crime not alleged in the indictment.

TRIAL JUDGE COOPER JURY CHARGE AND INSTRUCTION TO THE JURY. ON THE UNINDICTED CRIME AND OFFENSE OF COMMON LAW MURDER BY THE DOCTRINE OF TRANSFERRED INTENT THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGEING TYRONE ROBINSON WITH

ON SEPTEMBER 19TH 2014 INSIDE OF BEAUFORT COUNTY GENERAL SESSION COURT HOUSE BEFORE JUDGE COOPER. AFTER THE STATE OF SOUTH CAROLINA AND THE DEFENSE FINISHED THERE CLOSING ARGUMENT. TRIAL JUDGE COOPER SPECIFICALLY STATED ON COURT RECORD THAT HE WAS CHARGEING THE JURY ON THE PARTICULAR CRIME AND OFFENSE OF "COMMON LAW MURDER". AFTER DOING SO TRIAL JUDGE COOPER THEN CALLED THE JURY INSIDE THE COURT ROOM AND INSTRUCTED THE JURY AND CHARGED THE JURY TO DECIDE ON THE PARTICULAR UNINDICTED CRIME AND OFFENSE OF COMMON LAW MURDER AND THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT AGAINST TYRONE LORENZA ROBINSON CHARGEING HIM WITH. THE TRIAL JUDGE THEN INSTRUCTED THE JURY ON THE ELEMENTS TO THE UNINDICTED CRIME AND OFFENSE OF COMMON LAW MURDER BY DOCTRINE OF TRANSFERRED INTENT THAT

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The GRAND JURY did not issue a indictment against TYRONE LORENZA ROBINSON charging him with. As a result TYRONE ROBINSON was UNCONSTITUTIONALLY, ILLEGALLY and UNLAWFULLY convicted and sentenced to prison time. On the UNINDICTED crime and offense of common law murder by the doctrine of TRANSFERRED intent. That the GRAND JURY did not issue a indictment against TYRONE ROBINSON for and the GRAND JURY did not issue a indictment charging TYRONE LORENZA ROBINSON with, that there are not any indictment charging TYRONE ROBINSON with.

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## LAW AND ANALYSIS FOR ELEMENT TO PROVE A PERSON IS GUILTY OF FELONY MURDER BY THE FELONY MURDER RULE

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### CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT CASE  
LAW OF:  
State vs. Crowe, 258 S.C. 258, 265, 188 S.E.  
2d. 379, 382 (1972) "quoteing"  
two or more combine together to commit  
an unlawful act, such as robbery, and  
in the execution of that criminal act,  
a homicide is committed by one of the  
actors, as a probable or natural con-  
sequence of the acts done in pursua-  
-nce of the common design, all present  
participating in the unlawful under  
takeing are as guilty as the one who  
committed the fatal act.

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### 1ST ELEMENT

The state of South Carolina must prove  
in order to prove FELONY MURDER BY  
THE FELONY MURDER RULE. The state of  
South Carolina indicted and tried  
TYRONE ROBINSON before the jury on IS.  
The state of South Carolina must prove  
that TYRONE LORENZA ROBINSON AARON

SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR, ALL did WILLFULLY and UNLAWFULLY Act together and CONSPIRE together to committe the exact same FELONY and common design. The State of South Carolina must PROVE That AARON SCOTT YOUNG SENIOR, AARON SCOTT YOUNG JUNIOR and TYRONE ROBINSON all agreed together to committe the one same FELONY together and while doing so all acted together The element of Acting together is a element That must be proved beyond a reasonable doubt. IN ORDER FOR The State of South Carolina to INDICT and TRY TYRONE ROBINSON before the JURY ON the FELONY MURDER RULE TYRONE ROBINSON WAS INDICTED ON

1st  
DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE "DISPROVES" THE FIRST element to the CRIME and OFFENSE OF FELONY MURDER by the FELONY MURDER RULE

AS A MATTER OF LAW The direct evidence and circumstantial evidence in this case. PROVES That TYRONE ROBINSON did NOT WILLFULLY, INTENTIONALLY and UNLAWFULLY, ACT together along with AARON SENIOR & AARON JUNIOR. to CONSPIRE to MURDER himself TYRONE ROBINSON with a deadly weapon at the immediate time KHALIL SINGLETON WAS SHOT AND KILLED.

AS A MATTER OF LAW The direct evidence and circumstantial evidence in this case PROVES That AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR. WILLFULLY, INTENTIONALLY, and UNLAWFULLY Acted together against TYRONE ROBINSON. to CONSPIRE to MURDER TYRONE ROBINSON at the immediate time KHALIL SINGLETON WAS SHOT AND KILLED, without any help from TYRONE ROBINSON to committe the FELONY OF CONSPIRACY to MURDER TYRONE ROBINSON with a deadly weapon. That The State of South Carolina

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and Investigator Sgt. LAUREL ALBERTIN and BEAUFORT COUNTY Sheriff Department and Solicitor ISSAC MC. DUFFIE STONE. determined and charged IS the ongoing FELONY that KHALIL SINGLETON death is a PROBABLE and NATURAL consequence of. AS a matter of LAW the direct evidence and circumstantial evidence in this case. DISPROVES the first element to the FELONY murder RULE. PROVEING TYRONE ROBINSON IS NOT guilty of FELONY murder by the FELONY murder RULE.

## 2ND ELEMENT

The State of SOUTH CAROLINA must PROVE in order to PROVE FELONY murder by the FELONY murder RULE. The State of SOUTH CAROLINA indicted and tried TYRONE ROBINSON before the JURY IS:  
 The State of SOUTH CAROLINA must PROVE that TYRONE ROBINSON, AARON SCOTT YOUNG SENIOR, and AARON SCOTT YOUNG JUNIOR came to a agreement they all were gone murder himself TYRONE ROBINSON with a deadly weapon. because the State of SOUTH CAROLINA charged in indictment and arrest warrant. That the FELONY of CONSPIRACY to murder TYRONE ROBINSON. IS the FELONY that KHALIL SINGLETON death IS a PROBABLE and NATURAL consequence of.  
 Also because the elements to PROVE the FELONY of CONSPIRACY to murder IS. two or more people came to a agreement to commit a crime. The element of came to a agreement to commit the crime of murder of TYRONE ROBINSON. IS a element that the State of SOUTH CAROLINA must PROVE by the evidence in order for the State of SOUTH CAROLINA to indict and try TYRONE ROBINSON before the JURY on the FELONY murder RULE. TYRONE WAS indicted and tried before the JURY ON

2Nd

direct evidence and circumstantial evidence disproving the second element to the crime and offense of FELONY murder by the FELONY murder rule

AS A MATTER OF LAW THE DIRECT EVIDENCE IN THIS CASE PROVES THAT AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR CAME TO A AGREEMENT TO CONSPIRE TO MURDER TYRONE ROBINSON WITHOUT TYRONE ROBINSON AGREEING WITH AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR TO CONSPIRE TO MURDER HIMSELF WITH A DEADLY WEAPON AND WITHOUT TYRONE ROBINSON HELPING AARON SENIOR AND AARON JUNIOR CONSPIRE TO MURDER HIMSELF WITH A DEADLY WEAPON

THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE PROVES AARON SENIOR AND AARON JUNIOR CONFESSED THAT THERE INTENTIONS WERE TO KILL TYRONE ROBINSON, & THEY WERE TRYEN TO KILL TYRONE ROBINSON FIRST CHANCE THEY GOT. HOWEVER THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE PROVES TYRONE ROBINSON WAS FLEEING, RUNNING AND HIDEING FROM AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR TO AVOID FROM BEING SHOT AND KILLED BY AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR, AND TYRONE ROBINSON DID NOT TRY TO MURDER HIMSELF. THEREFORE AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE "DISPROVES" THE SECOND ELEMENT TO THE FELONY MURDER RULE. PROVEING TYRONE ROBINSON IS NOT GUILTY OF FELONY MURDER BY THE FELONY MURDER RULE.

## 3rd ELEMENT

The state of South Carolina must prove in order to prove felony murder by the felony murder rule. The state of South Carolina indicted and tried TYRONE ROBINSON before the jury is: TYRONE LORENZA ROBINSON, Aaron Scott Young Senior, and Aaron Scott Young Junior. were in the process and commission of conspiring to murder himself TYRONE LORENZA ROBINSON with a deadly weapon in a ongoing felony of conspiracy to murder himself TYRONE LORENZA ROBINSON.

As a matter of law the direct evidence and circumstantial evidence in this case proves that Aaron Scott Young Senior, Aaron Scott Young Junior and Jonty Singleton were riding around with a gun looking for TYRONE ROBINSON. Then Aaron Senior and Aaron Junior dropped Jonty Senior off on 17 Old Wild Horse Road and Aaron Senior and Aaron Junior drove off and went looking for TYRONE to shoot kill and murder TYRONE ROBINSON again. Then Aaron Scott Young Senior and Aaron Scott Young Junior came back to 17 Old Wild Horse Road after trying to shoot and kill TYRONE ROBINSON on Oak View Road. Then Aaron Scott Young Senior and Aaron Scott Young Junior got back in their grey 1995 F-150 truck, and drove to Allen Road and attacked and tried to shoot and kill TYRONE ROBINSON in his neighborhood on Allen Road and Aaron Scott Young Senior and Aaron Scott Young Junior were in the process and commission of riding together with their guns, conspiring and trying to murder TYRONE ROBINSON with a deadly weapon. at the immediate time KHALIL SINGLETON was shot and killed. As a matter of law the direct evidence and circumstantial evidence prove that TYRONE was not in the process and commission of committing the ongoing felony of conspiracy to murder himself

TYRONE ROBINSON with a deadly weapon at the immediate time KHALIL SINGLETON was shot and killed and TYRONE ROBINSON was not in the process and commission of committing a ongoing felony along with ARON SCOTT YOUNG SENIOR and ARON SCOTT YOUNG JUNIOR at the immediate time KHALIL SINGLETON was shot and killed. AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE PROVES THAT TYRONE ROBINSON IS THE "VICTIM" WHO ARON SCOTT YOUNG SENIOR AND ARON SCOTT YOUNG JUNIOR WERE IN THE PROCESS AND COMMISSION OF COMMITTING THE ONGOING FELONY CONSPIRACY TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON AGAINST TYRONE ROBINSON AT THE IMMEDIATE TIME KHALIL SINGLETON WAS SHOT AND KILLED. AS SGT. LAUREL ALBERTIN, BEAUFORT COUNTY SHERIFF DEPARTMENT, THE STATE OF SOUTH CAROLINA AND SOLICITOR FESSIA MC. DUFFIE STONE. ARRESTED AND INDICTED AND CHARGED ARON SCOTT YOUNG SENIOR AND ARON SCOTT YOUNG JUNIOR WITH DOING AN ARREST WARRANT AND INDICTMENT. ALSO AS THE EVIDENCE AT TRIAL IN THIS CASE PROVES AS A MATTER OF LAW THE DIRECT EVIDENCE IN THIS CASE. "DISPROVES" THE THIRD ELEMENT TO THE FELONY MURDER RULE. PROVEING TYRONE ROBINSON IS NOT GUILTY OF FELONY MURDER BY THE FELONY MURDER RULE

## 4th ELEMENT

THE STATE OF SOUTH CAROLINA MUST PROVE IN ORDER TO PROVE FELONY MURDER BY THE FELONY MURDER RULE. THE STATE OF SOUTH CAROLINA INDICTED AND TRIED TYRONE ROBINSON ON FS. THE STATE OF SOUTH CAROLINA MUST PROVE THAT KHALIL SINGLETON WAS SHOT AND KILLED AT THE IMMEDIATE TIME AND SAME LOCATION

TYRONE ROBINSON, AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR, were allegedly acting together and conspiring together in process and commission of an ongoing felony conspiracy to murder himself TYRONE LORENZA ROBINSON. WITH a deadly weapon at the immediate time and same location KHALIL SINGLETON was shot and killed.

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With direct evidence and circumstantial evidence disproves the fourth element to the crime and offense of felony murder by the felony murder rule. The state of South Carolina indicted and tried TYRONE ROBINSON ON

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The direct evidence and circumstantial evidence in this case. proves that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR. were in the process and commission of committing the ongoing dangerous felony. of conspiracy to murder TYRONE ROBINSON with a deadly weapon at Allen Road in TYRONE ROBINSON neighborhood against TYRONE ROBINSON without any help from TYRONE ROBINSON. conspiring to murder himself with a deadly weapon. Along with AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR at the immediate time and same location KHALIL SINGLETON was shot and killed at.

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As a matter of law the direct evidence and circumstantial evidence in this case. disproves the fourth element to the felony murder rule, proving TYRONE ROBINSON IS NOT GUILTY OF felony murder by the felony murder rule.

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## 5th ELEMENT

The State of South Carolina must prove in order to prove FELONY murder by The FELONY murder rule. The State of South Carolina indicted and tried TYRONE ROBINSON on before the jury is.

The State of South Carolina must prove that TYRONE ROBINSON, AARON SCOTT YOUNG SENIOR, and AARON SCOTT YOUNG JUNIOR were conspiring to murder himself TYRONE ROBINSON with a deadly weapon. That KHALIL SINGLETON death is a probable and NATURAL consequence of

## 5th

direct evidence and circumstantial evidence "DISPROVES" The Fifth element to the crime and offense of FELONY murder by The FELONY murder rule. The State of South Carolina indicted and tried TYRONE ROBINSON on.

The direct evidence and circumstantial evidence in this case prove. That if AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR would not have drove from there neighborhood on 17 old wild horse road, and would not had been conspiring and tryen to shoot kill and murder TYRONE ROBINSON with a deadly weapon. In TYRONE ROBINSON neighborhood at the time KHALIL SINGLETON was shot and killed then KHALIL SINGLETON would of not gotten shot and killed and KHALIL SINGLETON would of had still been alive today

## CONFESSIOIN

At trial police investigator LAUREL ALBERTIN testified that AARON SCOTT YOUNG JUNIOR confessed to her that "quoteing" IF we would of never went down there the lil boy would of never died

AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE "DISPROVES" THE FIFTH ELEMENT TO THE FELONY MURDER RULE. PROVEING TYRONE ROBINSON IS NOT GUILTY OF FELONY MURDER BY THE FELONY MURDER RULE.

## 6TH ELEMENT

THE STATE OF SOUTH CAROLINA MUST PROVE IN ORDER TO PROVE FELONY MURDER BY THE FELONY MURDER RULE. THE STATE OF SOUTH CAROLINA INDICTED AND TRIED TYRONE ROBINSON BEFORE THE JURY ON IS.

THE STATE OF SOUTH CAROLINA MUST PROVE THAT TYRONE ROBINSON WAS ACTING TOGETHER AND CONSPIRING ALONG WITH AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR TO CONSPIRE TO MURDER HIMSELF TYRONE ROBINSON WITH A DEADLY WEAPON THAT DID "CAUSE" KHALIL SINGLETON TO BE SHOT AND KILLED.

AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE PROVES THAT WHILE TYRONE ROBINSON WAS ON ALLEN ROAD BEFORE KHALIL SINGLETON WAS SHOT AND KILLED. TYRONE ROBINSON WAS NOT COMMITTEING ANY CRIMES OR ACTS OR FELONIES THAT PROXIMATELY CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED. THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE PROVES.

THAT IF AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR WOULD OF NEVER DROVE FROM THERE NIEGHBOORBOORHOOD ON 17 OLD WILD HORSE ROAD AND WENT AND ATTACKED CONSP- IRED AND TRIED TO SHOOT AND MURDER TYRONE ROBINSON IN TYRONE NIEGHBOORHOOD HE LIVED IN ON ALLEN ROAD. KHALIL SINGLETON WOULD OF NOT GOT SHOT AND KILLED. AS AARON SCOTT YOUNG JUNIOR CONFESSED.

AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE PROVES THAT AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR FELONY THEY WERE COMM- ITEING AGAINST VICTIM TYRONE ROBINSON CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED.

and proximately caused KHALIL SINGLETON to be shot and killed. AS POLICE SGT. LAUREL ALBERTIN, BEAUFORT COUNTY SHERIFF DEPARTMENT, THE STATE OF SOUTH CAROLINA, ISSUED MC. PUFFIE STONE ARRESTED, CHARGED AND INDICTED AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR WITH DOING. ALSO AS EVIDENCE IN THIS CASE PROVES PROVEING TYRONE ROBINSON ABSOLUTELY WAS NOT COMMITTING THE FELONY ALONG WITH AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. THAT PROXIMATELY CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED. AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE "DISPROVES" THE SIXTH ELEMENT TO THE FELONY MURDER RULE, PROVEING TYRONE ROBINSON IS NOT GUILTY OF FELONY MURDER BY THE FELONY MURDER RULE. AS A MATTER OF LAW

## 5th Amendment RIGHT TO DUE PROCESS

IN CRIMINAL CASES, DUE PROCESS REQUIRES THE STATE TO ESTABLISH EACH ELEMENT OF EACH OFFENSE BY PROOF BEYOND A REASONABLE DOUBT. IN RE WINSHIP, 397 U.S. 358, 90 S. CT 1068, 25 L. ED. 2D 368 (1970). SOUTH CAROLINA HAS LONG RECOGNIZED THE WEIGHT AND EXTENT OF THE STATE'S BURDEN. STATE V. ORR, 131 S.C. 276, 126 S.E. 766 (1925). THE REASON THE GUILT OF THE ACCUSED MUST BE PROVEN BEYOND A REASONABLE DOUBT IS THAT ALL PRESUMPTIONS OF LAW, INDEPENDANT OF THE EVIDENCE, ARE IN FAVOR OF INNOCENCE, AND EVERY PERSON IS PRESUMED TO BE INNOCENT UNTIL HE IS PROVEN GUILTY. STATE V. HYDER, 242 S.C. 372, 131 S.E. 2D 96 (1963)

# COLLATERAL ESTOPELL

## ON UNDISPUTABLE JURY decision

### AND JURY VERDICT OF GUILTY AGAINST

#### ATTACKER AARON SCOTT YOUNG JUNIOR

ON FEBRUARY OF 2015 A JURY AT TRIAL ULTIMATELY FOUND AARON SCOTT YOUNG JUNIOR GUILTY ON THE ONGOING VIOLENT CRIME AND FELONY OF CONSPIRACY TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON AT 1648 HOURS AT A LOCATION NEAR ALLEN ROAD. AT THE SAME LOCATION AND SAME IMMEDIATE TIME. KHALIL SINGLETON WAS SHOT AND KILLED AT.

WHICH IS THE ONGOING DANGEROUS FELONY, THE JURY DETERMINED KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF, THAT AS A PROXIMATE RESULT CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED. THE JURY DETERMINED THAT AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR ACTIONS OF ONGOINGLY CONSPIRING TO MURDER VICTIM TYRONE ROBINSON WITH A DEADLY WEAPON. THAT THE JURY FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING, AGAINST VICTIM TYRONE ROBINSON, AT SAME LOCATION AND SAME TIME. KHALIL SINGLETON WAS SHOT AND KILLED AT. IS RESPONSIBLE FOR KHALIL SINGLETON DEATH AND IS THE ONGOING VIOLENT DANGEROUS FELONY. THAT KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF.

AS A RESULT THE JURY ALSO FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF MURDER OF KHALIL SINGLETON. BECAUSE THE JURY DETERMINED THAT, AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR ONGOING DANGEROUS, VIOLENT FELONY, OF CONSPIRACY TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON. IS THE ONGOING DANGEROUS VIOLENT

FELONY. THAT CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED AS A PROXIMATE RESULT AND IS THE ONGOING DANGEROUS, VIOLENT FELONY, THAT KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF.

THE WRITTEN WRITE UP OF THE CHARGE AND ONGOING DANGEROUS, VIOLENT FELONY. OF CONSPIRACY TO MURDER VICTIM TYRONE ROBINSON WITH A DEADLY WEAPON AT 1648 HOURS AT THE SAME LOCATION AND SAME AND IMMEDIATE TIME KHALIL SINGLETON WAS SHOT AND KILLED AT. THATS CHARGED AND ALLEGED IN THE WRITTEN WRITE UP OF, ARREST WARRANT # 2012 A072030-0115 THAT THE GRAND JURY INDICTED AARON SCOTT YOUNG JUNIOR ON AND THAT THE JURY AT HIS TRIAL. FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING AGAINST VICTIM TYRONE ROBINSON. STATES "QUOTE"  
THAT ON 09-01-12 AT APPROXIMATELY 1648 HOURS

THE DEFENDANT, AARON SCOTT YOUNG JUNIOR AND CO-DEFENDANT DID WILLFULLY AND UNLAWFULLY CONSPIRE TO MURDER THE VICTIM TYRONE ROBINSON. THE DEFENDANT AND CO-DEFENDANT DID TRAVEL, WHILE ARMED WITH A DEADLY WEAPON, TO MANY LOCATIONS ON HILTON HEAD ISLAND, S.C. LOOKING FOR THE VICTIM. THIS INCIDENT OCCURED NEAR ALLEN ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, S.C. THE AFFIANT AND OTHERS ARE WITNESS TO PROVE SAME.

AS A MATTER OF LAW THE STATE OF SOUTH CAROLINA IS COLLATERAL ESTOPPED FROM ARGUING AGAINST THESE ISSUES. THAT THE STATE OF SOUTH CAROLINA GOT THE JURY TO FIND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING AGAINST VICTIM TYRONE ROBINSON AND VICTIM KHALIL SINGLETON.

ONLY  
MAIL

CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT CASE  
LAW OF.

THE STATE V. MICHAEL ANTHONY MARTIN  
OPINION NO: 25093 "QUOTING"

THE PROSECUTION FAILED TO PROPERLY ALLEGE  
OR PROVE A CONSPIRACY OR ACCESSORY  
THEORY UNDER WHICH BOTH DEFENDANTS  
COULD BE FOUND GUILTY OF THE MURDER.  
HAD THE STATE CHARGED DEFENDANT WITH CONSPIRACY, IT COULD HAVE PERSUED CONVICTIONS  
AGAINST BOTH DEFENDANTS UNDER THE HAND  
OF ONE, THE HAND OF ALL THEORY. UNDER  
THIS THEORY ONE WHO JOINS WITH ANOTHER  
TO ACCOMPLISH A ILLEGAL PURPOSE IS LIABLE  
CRIMINALLY FOR EVERYTHING DONE BY HIS  
CONFEDERATE INCIDENTAL TO THE EXECUTION  
OF THE COMMON DESIGN AND PURPOSE TO  
ADMIT EVIDENCE UNDER THIS THEORY. THE  
EXISTANCE OF THE COMMON DESIGN AND PARTICIPATION OF THE ACCUSED AGAINST WHOM  
THE EVIDENCE IS OFFERED SHOULD FIRST BE  
SHOWN ID.

HOWEVER, THE STATE DID NOT CHARGE THE DEFENDANTS WITH CONSPIRACY SO THIS APPROACH WAS  
UNAVAILABLE AT TRIAL. HAD THE STATE PLACED  
BOTH DEFENDANTS IN THE APARTMENT AT THE  
TIME OF THE MURDER AND SHOWN A CONSPIRACY  
BETWEEN THE TWO DEFENDANTS, THEN IT WOULD  
NOT BE NECESSARY TO SHOW WHICH DEFENDANT ACTUALLY KILLED VICTIM.  
UNDER ACCOMPLICE LIABILITY

THEORY A PERSON MUST PERSONALLY COMMIT  
IT THE CRIME OR BE PRESENT AT THE SCENE  
OF THE CRIME AND INTENTIONALLY, OR THROUGH  
A COMMON DESIGN, AID, ABET, OR ASSIST IN  
THE COMMISSION OF THAT CRIME THROUGH  
SOME OVERT ACT.

"FURTHER QUOTING"

IT IS IMPOSSIBLE TO HOLD THE  
INDIVIDUAL DEFENDANTS COLLECTIVELY  
GUILTY OF VICTIMS MURDER UNDER THE  
LEGAL THEORIES USED BY THE STATE SINCE  
NEITHER CONSPIRACY NOR ACCOMPLICE

LIABILITY WERE CHARGED TO THE JURY.

### CONCLUSION

WE REVERSE THE TRIAL COURT'S DENIAL OF DIRECTED VERDICT. ACCORDINGLY WE NEED NOT ADDRESS THE OTHER ISSUES ON APPEAL

### CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT CASE  
LAW OF.

THE STATE VS. TED LEE HEATH 635 S.E.

2018 "QUOTING"

A DEFENDANT IS ENTITLED TO A DIRECTED VERDICT WHEN THE STATE FAILS TO PRESENT EVIDENCE OF THE OFFENSE CHARGED. IN DETERMINING WHETHER THE TRIAL COURT ERRED IN DENYING A MOTION FOR DIRECTED VERDICT, THE APPELLATE COURT MUST VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE "FURTHER QUOTING"

### CONCLUSION

ACCORDINGLY, WE REVERSE APPELLANT'S CONVICTION BECAUSE THE STATE FAILED TO ESTABLISH AN ESSENTIAL ELEMENT OF THE CRIME CHARGED.

BECAUSE AS A MATTER OF LAW TYRONE LORE-  
 -NZA ROBINSON PROVED AT TRIAL.  
 THAT HE IS NOT GUILTY OF FELONY MURDER  
 BY THE FELONY MURDER RULE. THAT TYRONE  
 ROBINSON WAS ARRESTED ON INDICTED ON  
 AND TRIED ON BEFORE THE JURY AT TRIAL.  
 AS A MATTER OF LAW THE TRIAL JUDGE WAS  
 ENTITLED TO GRANT TYRONE ROBINSON HIS  
 REQUEST FOR A REDIRECTED VERDICT OF NOT  
 GUILTY. AS DECIDED BY THE SUPREME COURT  
 OF SOUTH CAROLINA IN THE CASE OF STATE  
 VS. PATERSON 287 S.C. 244, 335 S.E. 2d 800 (1985)  
 CASE LAW MERITS

SUPREME COURT OF SOUTH CAROLINA CASE  
 LAW OF.  
 STATE VS. PATERSON 287 S.C. 244, 335 S.E. 2d  
 800 (1985) THE COURT STATED:  
 THE TRIAL JUDGE'S CHARGE WAS A CORRECT  
 STATEMENT OF THE GENERAL LAW OF THIS  
 JURISDICTION CONCERNING ACCOMPLICE LIABILITY  
 IN THE PRESENT CASE, HOWEVER, THE JURY  
 REASONABLY COULD HAVE FOUND THAT THE MURDER  
 WAS NOT THE PROBABLE OR NATURAL CONSEQUENCE  
 OF THE LARCENY OF A MOTOR VEHICLE.  
 HAD THE JURY DETERMINED THAT EITHER APPE-  
 LLANT CONSPIRED ONLY TO COMMIT AN UNARMED  
 LARCENY OF A CAR, AND HAD IT FURTHER  
 CONCLUDED THAT THE STATE FAILED TO ESTABLISH  
 BEYOND A REASONABLE DOUBT THAT A HOMICIDE  
 WAS THE NATURAL OR PROBABLE CONSEQUENCE  
 OF A PLAN TO STEAL THE VICTIM'S CAR THE  
 APPELLANT WOULD HAVE BEEN ENTITLED TO AN  
 ACQUITTAL ON THE CHARGE OF MURDER. IT  
 WAS THEREFORE ESSENTIAL UNDER THE  
 FACTS AND CIRCUMSTANCES OF THIS CASE THAT  
 THE JURY BE INSTRUCTED THAT IT HAD TO  
 FIND THAT THE HOMICIDE WAS A NATURAL  
 OR PROBABLE CONSEQUENCE OF THE ACTS  
 ACTUALLY AGREED ON BY THE APPELLANTS  
 BEFORE THE LAW WOULD HOLD HIM RESPONSIB-  
 -BLE FOR SUCH A HOMICIDE.  
 THE FAILURE OF THE TRIAL JUDGE TO SO  
 INSTRUCT WAS ERROR

29.  
CONFESSIO

AT TRIAL POLICE SGT. LAUREL ALBERTIN testified that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR. CONFESSED to her that they were rideing around trying to find TYRONE ROBINSON IN his nieghborhood he live in ON ALLEN ROAD and in nieghbor-hoods TYRONE ROBINSON IS KNOWN to hang out in. FOR THE PURPOSE OF KILLING TYRONE ROBINSON

CONFESSIO

AT TRIAL POLICE SGT. LAUREL ALBERTIN testified that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR. CONFESSED to her that there intentions were to kill TYRONE ROBINSON

CONFESSIO

AT TRIAL POLICE SGT. LAUREL ALBERTIN testified that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR CONFESSED to her that he pulled and aimed a gun at TYRONE ROBINSON, while TYRONE ROBINSON was ridein in his car on OAKVIEW ROAD and tryed to shoot and kill TYRONE IN his car on oakview road. but the gun jammed.

CONFESSED

AT TRIAL ATTORNEY JESSICA SAXON READ AARON SCOTT YOUNG SENIOR CONFESSIO he made to SOLICITOR JESSICA MC. DUFFIE STONE, were AARON SCOTT YOUNG SENIOR CONFESSED to SOLICITOR JESSICA MC. DUFFIE STONE that IF he had got the chance to he was gone KILL TYRONE ROBINSON

CONFESSED

AT TRIAL JONATHAN SINGLETON JUNIOR testified that he JONATHAN SINGLETON JUNIOR, AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR all were rideing around together with a gun tryin to find TYRONE ROBINSON to shoot TYRONE ROBINSON

ONLY  
MAIL

30.  
CONFESSED

At trial CHARLESE JACKSON testified that she heard gun shooting going on. Then TYRONE ROBINSON came to her house and said man they shooting at me

CONFESSTION

At trial TYRONE DELANEY testified that TYRONE told him some people in a truck were shooting at him

CONFESSTION

At trial BENNY HAMILTON testified that TYRONE told him some people were shooting at him + tryen to kill him and they shot a lil boy

CONFESSTION

At trial police BOB BROMAGE testified that he retrieved a master piece ARMS nine millimeter gun with a thirty two round clip and suppressor. From AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR and AARON SCOTT YOUNG SENIOR confessed. That he AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR were tryen to shoot and kill TYRONE ROBINSON with the master piece ARMS nine millimeter gun that he retrieved from AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR.

CONFESSTION

At trial police OFFICER FOR BEAUFORT COUNTY SHERIFF DEPARTMENT testified that they found atleast nine bullet holes in TYRONE ROBINSON CAR

CONFESSTION

At trial The STATE OF SOUTH CAROLINA FORENSIC EXPERT DAN DAFRESE testified that all of the fired bullets retrieved from out of the bullet holes on TYRONE ROBINSON CAR were determined to be positively matched to and fired thru the barrel of the master piece ARMS nine millimeter gun with the thirty two round clip and suppressor that police OFFICER BOB BROMAGE retrieved from AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR

CONFESSED

At trial police SGT. LAUREL ALBERTIN testified that AARON SCOTT YOUNG JUNIOR confessed to her "quoteing" IF we would of never went down there the lil boy would of never died by AARON SCOTT YOUNG JUNIOR VERY OWN CONFESSTION. AARON SCOTT YOUNG JUNIOR CONFESSED.

31.

That he Aaron Scott Young Junior and Aaron Scott Young Senior very own actions. of driving from there neighborhood on 17 Old Wild Horse Road. to go Act against Attack conspire and try to shoot kill and murder Tyrone Robinson with a deadly weapon on Allen Road. Is the ongoing felony of conspiracy to murder Tyrone Robinson. That Khalil Singleton death is a probable and natural consequence of

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1st Act  
of retreat from being attacked by  
Attackers

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The conclusive evidence in this case proves. That Tyrone Robinson retreated from Aaron Scott Young Senior and Aaron Scott Young Junior on 17 Old Wild Horse Road. To avoid a altercation and to avoid from being shot and killed by Aaron Scott Young Senior and Aaron Scott Young Junior who were acting against Tyrone Robinson. As the conclusive evidence proves.

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2nd Act  
of retreat from being attacked by  
Attackers

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The conclusive evidence in this case proves. That Tyrone Robinson retreated from Aaron Scott Young Senior and Aaron Scott Young Junior on Oakview Road. to avoid from being shot and killed in his car by Aaron Scott Young Senior and Aaron Scott Young Junior. who were acting against Tyrone Robinson. As the conclusive evidence in this case proves

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3rd Act  
of retreat from being attacked by  
Attackers

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The conclusive evidence in this case proves. That Tyrone Robinson retreated from Aaron Scott Young Senior and Aaron Scott Young Junior on Allen Road. To avoid from being shot and killed by Aaron Scott Young Senior and Aaron Scott Young Junior.

ONLY  
MAIL

32.  
who were acting against TYRONE ROBINSON  
AS THE CONCLUSIVE EVIDENCE IN THIS CASE  
PROVES.

4th ACT  
OF RETREAT FROM BEING ATTACKED BY ATTACKER

AT TRIAL WITNESS CHARLESE JACKSON  
TESTIFIED. THAT SHE HEARD GUN SHOOTING AND  
THEN TYRONE ROBINSON CAME TO HER HOUSE  
AND SAID MAN THEY SHOOTING AT ME.

CONCLUSIVE  
EVIDENCE  
THE CONCLUSIVE EVIDENCE IN THIS CASE  
PROVES. THAT TYRONE LORENZA ROBINSON  
WAS HIDING AND RUNNING AWAY FROM  
AARON SCOTT YOUNG SENIOR AND AARON SCOTT  
YOUNG JUNIOR TO AVOID BEING SHOT AND  
KILL. PROVING THAT TYRONE ROBINSON WAS  
NOT CONSPIRING AND TRYING TO MURDER  
HIMSELF AS THE CONCLUSIVE EVIDENCE PROVES.

AFTER THE STATE OF SOUTH CAROLINA AND  
THE DEFENSE RESTED THEIR CASE. BECAUSE AS A  
MATTER OF LAW THE DIRECT EVIDENCE AND  
THE CIRCUMSTANTIAL EVIDENCE IN THIS CASE  
PROVED TYRONE LORENZA ROBINSON WAS NOT GUILTY  
OF FELONY MURDER. BY THE FELONY MURDER RULE  
TYRONE LORENZA ROBINSON WAS ARRESTED ON  
INDICTED ON AND TRIED ON BEFORE THE JURY AT  
TRIAL.

INSTEAD OF AWARDING TYRONE LORENZA ROBINSON  
A DIRECTED VERDICT OF NOT GUILTY. ON THE FELONY  
MURDER OFFENSE, BY THE FELONY MURDER RULE.  
TYRONE LORENZA ROBINSON WAS ARRESTED ON,  
INDICTED ON, TRIED ON BEFORE THE JURY ON,  
AND THE DIRECT EVIDENCE AND CIRCUMSTANTIAL  
EVIDENCE. PROVES TYRONE LORENZA  
ROBINSON WAS INNOCENT OF AS A MATTER OF LAW.  
ON INDICTMENT # 2012-GS-07-1935.  
THE TRIAL JUDGE STATED ON COURT RECORD  
THAT HE WAS GONE CHARGE THE JURY TO  
DECIDE ON THE UNINDICTED OFFENSE OF COMMON  
LAW MURDER

AFTER DOING SO, THE TRIAL JUDGE CHARGED  
AND INSTRUCTED THE JURY TO DECIDE ON THE  
UNINDICTED COMMON LAW OFFENSE, OF COMM-  
ON LAW MURDER AND DOCTRINE OF TRANSFERRED

INTENT, AND THE ELEMENTS REQUIRED  
TO PROVE THE UNINDICTED OFFENSE.  
OF COMMON LAW MURDER BY DOCTRINE  
OF TRANSFERRED INTENT. WITHOUT  
A INDICTMENT TO DO SO AGAINST  
 TYRONE LORENZO ROBINSON. IN VIOLATION  
 OF TYRONE ROBINSON FIFTH AMENDMENT  
 RIGHTS OF THE CONSTITUTION OF THE  
 UNITED STATES OF AMERICA.  
 AS A MATTER OF LAW THE ELEMENTS  
 REQUIRED TO PROVE THE UNINDICTED  
 COMMON LAW OFFENSE OF COMMON  
 LAW MURDER BY THE UNINDICTED  
 THEORY OF THE DOCTRINE OF TRANS-  
 FERRED INTENT. ARE TOTALLY DIFF-  
 ERANT ELEMENTS THAT REQUIRE  
 TOTALLY DIFFERANT AGGRAVATING CIRCUM-  
 STANCES FROM THE ELEMENTS REQUIRED  
 TO PROVE THE PARTICULAR OFFENSE  
 OF FELONY MURDER BY THE FELONY MURDER  
 RULE THEORY. THAT TYRONE ROBINSON  
 WAS ARRESTED ON INDICTED ON AND  
 TRIED ON BEFORE THE JURY AT TRIAL.  
 ON INDICTMENT # 2012-GS-07-1935  
 AND ARREST WARRANT # 2012 A072-  
 -03 00114 THAT I WAS INDICTED ON.

THE FELONY MURDER RULE  
THEORY ELEMENTS EXPLAINED  
IN THE JURY CHARGE TO A ACCOMPLICE  
LIABILITY, THAT THE STATE OF  
SOUTH CAROLINA HAS A BURDEN OF  
PROOF TO PROVE THAT THE TRIAL  
JUDGE MUST CHARGE THE LAW  
TO THE JURY ON: FOR A PERSON  
ARRESTED ON, INDICTED ON AND  
TRIED BEFORE THE JURY AT TRIAL  
ON THE PARTICULAR THEORY  
AND CRIME OF FELONY  
MURDER BY THE FELONY MURDER  
RULE

BECAUSE TYRONE LORENZA ROBINSON WAS ARREST-  
-ED ON ARREST WARRANT # 2012 A020300114,  
AND INDICTED ON INDICTMENT # 2012-GS-  
-07-1935 FOR CRIME AND OFFENSE OF ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ FELONY MURDER BY THE  
FELONY MURDER RULE THEORY ONLY, AND  
TRIED BEFORE THE JURY AT TRIAL - ON THE  
PARTICULAR CRIME AND OFFENSE OF ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ FELONY MURDER BY THE  
FELONY MURDER RULE THEORY ONLY, WHICH  
ELEMENTS TO PROVE ARE EXPLAINED IN  
THE JURY CHARGE FOR ACCOMPLICE LIABIL-  
-ITY, AS DECIDED BY THE SUPREME COURT OF  
SOUTH CAROLINA IN THE CASE OF STATE VS.  
CROWE 188 S.E.2d 379 AS EXPLAINED BY THE  
SOUTH CAROLINA COURT OF APPEALS IN THE CASE  
OF STATE VS. THADDEUS CURRY 636 S.E.2d 649  
OPINION NO: 4159

THE CORRECT JURY CHARGE AND INSTRUCTION  
THE TRIAL JUDGE WAS SUPPOSED TO INSTRUCT  
THE JURY ON THE ELEMENTS OF, FOR THE  
FELONY MURDER RULE THEORY. THAT IS  
CHARGED AND ALLEGED IN THE WRITTEN  
WRITE UP OF ARREST WARRANT # 2012 A07-

203 00114 and the written write up of indictment # 2012-GS-07-1935. That TYRONE LORENZA ROBINSON was arrested on, indicted on and tried on before the jury at trial on indictment # 2012-GS-07-1935. Is the jury charge and instruction on accomplice liability which is the correct jury charge and instruction, to instruct the jury on at trial, for a defendant who is arrested on, indicted on and tried before the jury at trial on. ~~felony murder~~ felony murder by the felony murder rule theory only. That is charged and alleged in the written write up of arrest warrant and indictment the person is tried on before the jury at trial. As TYRONE LORENZA ROBINSON was. As decided by South Carolina Court of Appeals in the case of the state vs. Thaddeus CURRY 636 S.E.2d 649 opinion no. 4159. were the South Carolina Court of Appeals stated "quote in" more over, in state vs. CROWE 188 S.E.2d 379 our Supreme Court approved the following charge for accomplice liability, two or more combine together to commit an unlawful act, such as robbery, and a homicide is committed by one of the actors, as a probable and natural consequence of the acts done in pursuance of the common design, all present participating in the unlawful undertaking are as guilty as the one who committed the fatal act.

**UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT INVOLVES DETERMINATION OF STATE OF MIND A DEFENDANT WAS ALLEGEDLY IN TO CONVICT A DEFENDANT ON**

Because the evidence in this case proves  
 that TYRONE ROBINSON IS INNOCENT AND NOT  
 GUILTY, OF THE PARTICULAR CRIME AND THEORY  
 OF ~~THE FELONY MURDER~~ FELONY MURDER BY  
 THE FELONY MURDER RULE THEORY. THAT  
 TYRONE LORENZA ROBINSON WAS ARRESTED ON,  
 INDICTED ON AND TRIED ON BEFORE THE JURY  
 AT TRIAL ON INDICTMENT # 2012-GS-07-  
 -1935 AND ARREST WARRANT # 2012 A07203-  
 -00114 THAT TYRONE ROBINSON WAS INDICTED  
 ON, ON INDICTMENT # 2012-GS-07-1935  
 THE TRIAL JUDGE COMMITTED FATAL  
ERROR AND UNCONSTITUTIONALLY CHARGED  
 AND INSTRUCTED THE JURY TO DECIDE  
 ON THE UNINDICTED THEORY AND CRIME OF  
 COMMON LAW MURDER BY THE UNINDICTED  
 THEORY OF THE DOCTRINE OF TRANSFERRED  
 INTENT. THAT THE GRAND JURY DID NOT  
 ISSUE A INDICTMENT CHARGING TYRONE  
 ROBINSON WITH, AND THAT IS NOT CHARGED  
 OR ALLEGED, IN THE WRITTEN WRITE UP  
 OF ARREST WARRANT # 2012 A0720300114  
 AND INDICTMENT # 2012-GS-07-1935. THAT  
 SPECIFICALLY CHARGES TYRONE ROBINSON,  
 WITH THE PARTICULAR CRIME AND OFFENSE  
 OF ~~THE FELONY MURDER~~ FELONY MURDER  
 BY THE FELONY MURDER RULE THEORY. THAT  
 TYRONE LORENZA ROBINSON WAS ARRESTED ON,  
 INDICTED ON AND TRIED ON BEFORE THE JURY  
 AT TRIAL ON INDICTMENT # 2012-GS-07-  
 -1935 AND ARREST WARRANT # 2012 A07203-  
 -00114 THAT TYRONE LORENZA ROBINSON WAS  
 INDICTED ON, ON INDICTMENT # 2012-GS-07-  
 -1935. HOWEVER THIS COURT AND NO OTHER  
 COURT CAN KNOW WHETHER THE GRAND  
 JURY WOULD HAVE INCLUDED IN ITS  
 INDICTMENT KHALIL SINGLETON DEATH  
 OCCURED BY THE UNINDICTED THEORY OF  
 THE DOCTRINE OF TRANSFERRED INTENT.  
 BECAUSE THEORY OF THE DOCTRINE OF  
TRANSFERRED INTENT INVOLVES THE  
 DETERMINATION OF THE STATE OF MIND  
 THE DEFENDANT IS IN. WHICH INVOLVES

The ALLEGATION OF A ACT BEING COMMITTED AGAINST  
 SOMEONE OTHER THAN THE VICTIM THAT  
 INVOLVES THE THEORY OF THE DOCTRINE  
 OF TRANSFERRED INTENT. FOR PROOF REVIEW  
CASE LAW MERITS

ROBERTO DELA ROSA VS. JAMES A. LYNAGH  
817 F.2d 259 (5th CIR. 1987) "QUOTEING"  
PAGE 262 THE STATE PROSECUTED DELA ROSA  
FOR THE MURDER OF RODRIGUEZ UNDER  
A "THEORY" OF TRANSFERRED INTENT AND  
CONCLUDED DURING ORAL ARGUMENT THAT  
THE JURY NECESSARY BASED ITS VERDICT  
ON TRANSFERRED INTENT FURTHER "QUOTEING"  
PAGE 262

THE COURT ALSO INSTRUCTED THE JURY ON  
ALL INCLUDED OFFENSES UNDER A "THEORY"  
OF TRANSFERRED INTENT, UNDER THE  
STATES TRANSFERRED INTENT "THEORY"

THE JURY INQUIRY WAS DELA ROSA'S  
CONDUCT AND INTENT TOWARD LEE WHEN  
BOTH SHOTS WERE FIRED. THE FACT THAT DE  
LA ROSA MISSED AND STRUCK A BYSTANDER  
WITH ONE SHOT ALLOWS HIS STATE OF MIND  
TOWARDS HIS INTENDED VICTIM TO BE  
TRANSFERRED TO THE ACTUAL VICTIM.  
FURTHER QUOTEING PAGE 263

THE RELEVANT INQUIRY IN BOTH CASES.  
DUE TO THE STATES USE OF TRANSFERRED  
INTENT, IS WHAT DELA ROSA'S STATE OF  
MIND WAS TOWARD LEE AT TWO DIFFERANT  
POINTS IN TIME. IN OTHER WORDS DID  
DELA ROSA FIRE AT LEE WITH THE INTENT

to kill Lee once with adequate cause  
for sudden passion and once without  
adequate cause for sudden passion  
further "quoting page 268"

IN LIGHT OF THE PLEADINGS, EVIDENCE,  
CHARGE TO THE JURY, AND ARGUMENTS  
OF COUNSEL, WE HAVE DETERMINED THAT  
THE JURY VERDICT IN THE RODRIGUEZ  
CASE, UNDER A "THEORY" OF TRANSFERRED  
- INTENT, NECESSARILY DETERMINED  
THAT DELAROSA WAS ACTING AS A RESULT  
OF SUDDEN PASSION ARISING  
FROM AN ADEQUATE CAUSE IN FIRING  
THE VOLLEY OF SHOTS WHICH KILLED  
BOTH VICTIMS. THE STATE IS THEREFORE  
COLLATERALLY ESTOPPED UNDER THE  
PRINCIPLE OF ASH V. SWENSON FROM RE-  
- LITIGATING THE ISSUE OF DELAROSA'S  
REDUCED STATE OF MIND FOR THE MURDER  
OF LEE. REVERSED.

# NOT GUILTY

AS A MATTER OF LAW ON THE  
PARTICULAR THEORY AND CRIME  
OF FELONY MURDER BY THE FELONY  
MURDER RULE. THAT TYRONE  
LORENZA ROBINSON WAS INDICTED  
ON AND TRIED ON BEFORE THE JURY  
AT TRIAL ON INDICTMENT # 2012-  
- GS-07-1935

---

BECAUSE THE JURY FOUND TYRONE ROBINSON  
GUILTY ON THE UNINDICTED THEORY AND  
CRIME OF COMMON LAW MURDER BY THE  
UNINDICTED THEORY OF THE DOCTRINE OF  
TRANSFERRED INTENT. THAT THE GRAND  
JURY DID NOT INDICT TYRONE ROBINSON  
ON AND THE GRAND JURY DID NOT ISSUE  
A INDICTMENT CHARGING TYRONE ROBINSON  
WITH.

AS A MATTER OF LAW THE JURY AT TRIAL  
FOUND TYRONE LORENZA ROBINSON  
"NOT GUILTY" ON THE PARTICULAR  
THEORY AND CRIME OF FELONY MURDER  
BY THE FELONY MURDER RULE THEORY.  
THAT TYRONE LORENZA ROBINSON WAS  
ARRESTED ON, INDICTED ON AND TRIED  
ON BEFORE THE JURY AT TRIAL ON  
INDICTMENT # 2012-GS-07-1935  
IN THIS CASE

BECAUSE AS A MATTER OF LAW THE  
VERDICT OF GUILTY ON THE UNINDICTED  
THEORY AND CRIME OF, COMMON LAW  
MURDER BY THE UNINDICTED THEORY  
OF THE DOCTRINE OF TRANSFERRED

INTENT. THAT THE GRAND JURY did  
 NOT INDICT TYRONE ROBINSON ON  
 AND THE GRAND JURY did NOT ISSUE  
 A INDICTMENT AGAINST TYRONE  
 ROBINSON FOR. IS THE EQUIVALENT  
 TO A FINDING OF NOT GUILTY BY  
 THE JURY ON THE PARTICULAR THEORY  
 AND CRIME OF FELONY MURDER BY  
 THE FELONY MURDER RULE THEORY.  
 THAT TYRONE ROBINSON WAS ARRESTED  
 ON INDICTED ON AND TRIED ON BEFORE  
 THE JURY AT TRIAL, IN THIS CASE ON  
 INDICTMENT # 2012-GS-07-1935  
 BECAUSE THE JURY SILENCE AND THE  
 JURY FAILURE TO DECIDE ON THE PART-  
 ICULAR THEORY AND CRIME OF FELONY  
 MURDER BY THE FELONY MURDER RULE  
 THEORY. THAT TYRONE ROBINSON WAS  
 ARRESTED ON, INDICTED ON INDICTMENT #  
 2012-GS-07-1935 AND TRIED BEFORE THE  
 JURY IN THIS CASE ON INDICTMENT #  
 2012-GS-07-1935. CONSTITUTES  
 IMPLIED ACQUITTAL FOR TYRONE ROB-  
 INSON ON THE PARTICULAR THEORY  
 AND CRIME OF FELONY MURDER BY THE  
 FELONY MURDER RULE THEORY. THAT'S  
 CHARGED AND ALLEGED INSIDE OF THE  
 WRITTEN WRITE UP OF INDICTMENT #  
 2012-GS-07-1935 THAT TYRONE ROBINSON  
 WAS INDICTED ON AND TRIED ON BEFORE  
 THE JURY AT TRIAL IN THIS CASE. FOR  
 PROOF REVIEW

### CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT OF  
 APPEALS CASE LAW OF.

THE STATE VS. LOUIS EMMETT FULLER

552 S.E.2d 282 CASE NO: 25334

QUOTE FROM

IF ACCESSORY AFTER THE FACT IS

not charged in the indictment, but is instructed to clarify mere presence, a finding of accessory after the fact is the equivalent to a finding of not guilty!"

The real impact of the instruction is that it permits the jury to reach a compromise verdict on a non-charged offense. Moreover, to require an accessory instruction on these facts opens the door for every criminal defendant to create a lesser-included offense for which they could not be convicted.

Appellant was not entitled to a charge on accessory after the fact. First he was not entitled to the charge because he was not indicted as an accessory and accessory after the fact is not a lesser-included offense to murder.

## CASE LAW MERITS

4TH CIRCUIT COURT OF APPEALS CASE LAW OF.

LIVINGSTON VS. MURDAUGH 183 F.3d 300, 301 (4TH CIR. 1999) "QUOTING"

DOUBLE JEOPARDY BAR TO RETRIAL FOR RECKLESS HOMICIDE CHARGE AFTER JURY CONVICTED DEFENDANT FOR FELONY DUI BECAUSE JURY SILENCE ON RECKLESS HOMICIDE WAS IMPLIED ACQUITTAL

42.  
5th Amendment VIOLATIONS  
OF RIGHT TO DUE PROCESS

because TYRONE LORENZA ROBINSON proved to the JURY that he is NOT GUILTY OF THE PARTICULAR crime and OFFENSE OF ~~felony murder~~ by the FELONY murder rule and because the JURY did not find TYRONE ROBINSON GUILTY ON THE PARTICULAR crime and OFFENSE OF ~~felony murder~~ FELONY murder by the FELONY murder rule. That TYRONE ROBINSON was arrested on, indicted on and tried before the JURY at trial on, on indictment # 2012-GS-07-1935.

- AS a matter of LAW TYRONE ROBINSON conviction on the unindicted crime and OFFENSE OF common law murder by the doctrine of TRANSFERRED INTENT. That the GRAND JURY did not issue a indictment against TYRONE ROBINSON FOR VIOLATES TYRONE ROBINSON 5th Amendment RIGHT TO DUE PROCESS

because the state of SOUTH CAROLINA has failed to prove beyond a reasonable doubt every element and fact necessary that constitute the PARTICULAR crime and OFFENSE OF ~~felony murder~~ FELONY murder by the FELONY murder rule, that TYRONE ROBINSON was arrested on, indicted on and tried on before the JURY at trial on indictment # 2012-GS-07-1935.

Because this material variance violates TYRONE ROBINSON substantial right to be tried ONLY ON THE PARTICULAR crime and OFFENSE OF ~~felony murder~~ FELONY murder by the FELONY murder rule presented in indictment # 2012-GS-07-1935. This violation constitutes a fatal error and warrants a reversal on appeal of TYRONE ROBINSON conviction on the unindicted crime and OFFENSE OF common law murder by the doctrine of TRANSFERRED INTENT that the GRAND JURY did not issue a indictment against TYRONE ROBINSON FOR and that not charged in indictment # 2012-GS-07-1935. As decided by South Carolina Supreme Court in the case of LUCAS BAILEY v. STATE OF SOUTH CAROLINA OPINION NO. 26975 "quoting" A material variance that violates a defendants substantial right to be tried ONLY ON CHARGES presented in an indictment constitutes fatal error and warrants a reversal on an appeal of a judgement of conviction of the OFFENSE not charged in the indictment

43.  
CASE LAW MERITS

SUPREME COURT OF SOUTH CAROLINA CASE  
LAW OF.

LUCAS BAILEY V. STATE OF SOUTH CAROLINA  
OPINION NO. 26975 "QUOTEING"  
IN SOUTH CAROLINA IT IS A RULE OF UNIVERSAL  
OBSERVANCE IN ADMINISTERING THE CRIMINAL  
LAW THAT A DEFENDANT MUST BE CONVICTED,  
IF CONVICTED AT ALL, OF THE PARTICULAR OFFENSE  
CHARGED IN THE BILL OF INDICTMENT.  
A MATERIAL VARIANCE BETWEEN CHARGE AND  
PROOF ENTITLES THE DEFENDANT TO A DIRECTED  
VERDICT

ONE OF THE TWO WAYS AN INDICTMENT CAN BE  
IMPROPERLY MODIFIED IS THROUGH "A VARIANCE,"  
WHEREBY THE CHARGING TERMS OF THE INDICTMENT  
ARE LEFT UNALTERED, BUT THE EVIDENCE OFFERED  
AT TRIAL PROVES FACTS MATERIALLY DIFFERENT  
FROM THOSE ALLEGED IN THE INDICTMENT."  
WHEN THE INDICTMENT FACIALLY CHARGES  
A COMPLETE OFFENSE AND THE STATE PRESENTS  
EVIDENCE WHICH CONVICTS UNDER A DIFFERENT  
THEORY THAN THAT ALLEGED.

A CONVICTION UNDER LATTER CIRCUMSTANCES  
VIOLATES PRINCIPLES OF DUE PROCESS

BECAUSE THE STATE HAS FAILED TO PROVE BEYOND  
A REASONABLE DOUBT EVERY FACT NECESSARY  
TO CONSTITUTE THE CRIME WITH WHICH A DEFEND-  
-ANT WAS CHARGED.  
A MATERIAL VARIANCE THAT VIOLATES A DEFEND-  
-ANTS SUBSTANTIAL RIGHT TO BE TRIED ONLY  
ON CHARGES PRESENTED IN AN INDICTMENT  
CONSTITUTES FATAL ERROR AND WARRANTS A  
REVERSAL ON AN APPEAL OF A JUDGEMENT OF  
CONVICTION OF THE OFFENSE NOT CHARGED IN THE  
INDICTMENT."

CASE LAW MERITS

STATE VS. MCFADDEN, 342 S.C. 629, 539 S.E.2d  
387(2000) SEE ALSO STATE VS. ROOF, 298 S.C. 351,  
380 S.E.2d 828(1989) "QUOTEING"  
DEFENDANT CANNOT BE CONVICTED OF  
CRIME FOR WHICH HE IS NOT INDICTED  
IF IT IS NOT LESSER INCLUDED OFFENSE  
TO THAT CHARGED IN INDICTMENT

BASED ON THE FACTS EXPLAINED THIS COURT MUST  
AWARD TYRONE ROBINSON HIS REDIRECTED VER-  
-DICT OF NOT GUILTY

XINO  
ATTORNEY

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Lucas Bailey, Petitioner,

v.

State of South Carolina, Respondent.

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ON WRIT OF CERTIORARI

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Appeal From Aiken County  
Doyet A. Early, III, Circuit Court Judge

Opinion No. 26975  
Submitted March 16, 2011 - Filed May 9, 2011

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REVERSED AND REMANDED

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Tara Shurling, of Columbia, for Petitioner.

Attorney General Alan Wilson, Chief Deputy  
Attorney General John W. McIntosh,  
Assistant Deputy Attorney General Salley W.  
Elliott and Assistant Attorney General Mary  
S. Williams, of Columbia, for Respondent.

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**JUSTICE BEATTY:** After his conviction for homicide by child abuse[1] was affirmed on direct appeal, Lucas Bailey filed an application for post-conviction relief (PCR). We granted a petition for a writ of certiorari to review the denial of PCR. Bailey contends the judge erred in denying PCR as trial counsel was ineffective in failing to object to supplemental jury instructions that allowed the jury to convict him for an act that was not alleged in the indictment. We reverse and remand for a new trial.

45.

## I. Factual/Procedural Background

This case arises from the tragic death of sixteen-month-old Charles Devon Allen ("Victim"). At the time of his death, Victim lived with his mother, Amy Hughes, her boyfriend, Bailey, and Victim's two sisters, who were then five and six years old, respectively. [2]

Around 6:00 p.m. on Thursday, April 26, 2001, Bailey called 9-1-1 and reported that Victim was not breathing. When Aiken County emergency personnel arrived, they found Victim lying face down on the bed. The coroner pronounced Victim dead as his body was "cool to the touch" and *rigor mortis* had begun to set in. Based on the history presented by Bailey and Hughes, investigators initially believed that Victim might have died from an accidental overdose of cold medications. However, upon examining Victim's body, the coroner noticed three "circular marks" or "discolorations" on the child's abdomen.

The next day, Dr. Joel Sexton, a forensic pathologist, performed an autopsy. Dr. Sexton noted visible bruises on Victim's abdomen. Upon further examination, he discovered "extensive internal injuries in the abdominal region and in the head region." Injuries to the intestines and the mesentery arteries and veins indicated multiple blows had torn the areas by compression against the spine. As to Victim's head, Dr. Sexton noted that "there were numerous small round contusions . . . in the front, on the top of the head, on the right side of the head and in the back," which resulted in swelling of the brain. According to Dr. Sexton, the contusions were consistent with a fist or a knuckle-sized object hitting the head. He believed the head injuries contributed to Victim's death and were consistent with some of the symptoms exhibited by Victim prior to his death. He explained that a head injury leads to swelling of the brain, which in turn causes vomiting, lethargy, a "limp" body, and eyes that "roll back" into the head.

Ultimately, Dr. Sexton opined the abdominal injuries were the primary cause of Victim's death. He believed that at least one of the abdominal injuries had occurred hours before death. He concluded that the later abdominal injuries could have caused Victim's death within minutes due to the loss of blood. The cause of death was "listed as blood loss which we refer to as exsanguination due to laceration of these mesentery arteries and veins . . . due to blunt force injury to the abdomen due to a beating." Although Dr. Sexton could not definitively pinpoint Victim's time of death, he opined that it occurred sometime after 2:30 p.m. on Thursday, April 26, 2001. Dr. Sexton believed Victim's injuries were inflicted by an adult as a child would not have had the "force" to cause these injuries. Finally, he did not believe the cold medications given to Victim prior to his death caused or contributed to the death.

Law enforcement interviewed Hughes and Bailey. Subsequently, an Aiken County grand jury indicted Bailey for homicide by child abuse.

At trial, Hughes testified for the State. Hughes testified that she had worked on the Monday and Tuesday preceding Victim's death. According to Hughes, Victim was cared for by Bailey on Monday and then went to daycare on Tuesday. Because Victim had a cold on Wednesday, Hughes stayed home from her job to care for him. Hughes recalled that she and Victim went to sleep in the same bed around 8:00 p.m. Around 12:00 or 12:30 a.m., Bailey took Victim into the kitchen to feed him. Hughes, who had remained in bed, heard a "loud noise" coming from the kitchen followed by Victim crying out. Although

Hughes did not get up to check on Victim, she asked Bailey what had happened, to which Bailey responded, "Nothing." When Bailey returned to bed around 12:50 a.m., he told Hughes that he had put Victim in the bed with his sisters.

Hughes stated that her oldest daughter came in the next morning and reported that Victim had thrown up. According to Hughes, Bailey got up and when he returned he told Hughes that Victim was fine and that he had cleaned him up and placed him in his crib. When Hughes checked on Victim later on Thursday morning, she observed that Victim was unusually quiet and did not stand up in his crib. After taking her daughter to school, Hughes returned and gave Victim some medicine for his cold, but Victim was unable to keep it down. Hughes stayed home from work to care for Victim and called a friend to bring additional cold medication. Hughes stated that Victim was unable to keep this medication down and that he was weak and "wasn't moving." She then took Victim into the bedroom where she laid down with him and Bailey. When Hughes's mother arrived around noon, Hughes left Victim with Bailey. While she was talking with her mother, Hughes heard a "loud sound" from her bedroom. Hughes then asked her daughter to get Victim, but her daughter reported that Bailey told her "no."

Approximately twenty or thirty minutes later, Hughes's daughter took Victim out of the bedroom and brought him to Hughes. Hughes described Victim as "droopy," unable to sit up on his own, and that his eyes rolled back into his head. Around 2:00 p.m., Hughes's friend returned with a different cold medication that Victim was able to tolerate. Hughes testified that Victim fell asleep and Bailey then put him to bed. After she laid down with Victim for approximately thirty minutes to an hour, she got up and checked that Victim was breathing normally.

Around 5:00 p.m., Hughes left the home to drive Bailey's mother to the store. When Hughes returned home around 6:00 or 6:30 p.m., she found emergency personnel at her home. At that time, she was informed that Victim was dead. Hughes ultimately claimed that Bailey had struck Victim, resulting in his death.

During his testimony, Bailey adamantly denied hitting Victim or causing his death. Although Bailey recounted essentially the same timeline as Hughes, he claimed that he and Hughes discussed taking Victim for medical treatment but decided to see if Victim felt better after taking medication on Thursday. He further testified that he checked on Victim after Hughes left on Thursday afternoon and discovered that Victim was not breathing.

In his jury charge, the judge instructed the jurors on the offense of homicide by child abuse by reading the applicable statutory language.[3]

Approximately one hour into deliberations, the jury sent a note to the judge with several questions concerning evidentiary issues. Additionally, the jury asked "the difference between the indictment and the last statement on the indictment form"[4] and "whether the neglect has to directly contribute to the death." In response to the notes, counsel believed that recharging the statute on the offense of homicide by child abuse would be appropriate.

When the jury returned to the courtroom, the foreman referenced the last sentence of the indictment and explained that the jury "wanted to get an understanding of the meaning of the indictment." After the judge read the last sentence of the indictment, the foreman

responded:

Well, the definition was the question we [were] asking for. Also, our verdict to . . . to say this person did that last statement . . . you're talking two different . . .

Before the foreman finished his statement, the judge explained the purpose of the indictment was to "state the charges with enough specificity so that the defendant knows what he has to defend against." The judge then re-read the applicable provisions of the homicide by child abuse statute and gave the jury a printed copy of the statute.

Approximately thirty minutes later, the jury sent out another note, stating:

Does the State have to prove beyond a reasonable doubt: that the defendant caused the death of the child and does the neglect or abuse have to have caused the death?

Counsel and the judge debated the meaning of the jury's question. When the jury returned to the courtroom, the judge explained that "in this case, the only allegations are that [the defendant] caused the death of the child by neglect and abuse," and that under the statute several acts qualified as "neglect and abuse," but the State was required to prove only one of them.

In response, the foreman stated:

We see . . . as a jury, total jury, we see the neglect in the parents, but we fail to see evidence that Lorenzo struck the child. There was no evidence to us that Lorenzo struck this child. There was neglect, yes, on both parties, but we fail to see that - - - and that's written in that document that we didn't see any evidence. We didn't see any evidence . . . And the definition of your homicide has a combination of both. I know [its] a part of that definition, but we fail to see any evidence that he did that.

The judge then instructed the jury to refer to the language of the homicide by child abuse statute.

Out of the presence of the jury, defense counsel indicated her concern over the "emphasis on the neglect to the possible exclusion of the rest of the statute;" however, she believed the jury understood the judge's explanation.

When the jury returned to the courtroom, the judge issued supplemental instructions that stated in part:

[I]f you are distinguishing some acts that you would call abuse and some that you would call neglect, that's up to you as long as you kind of go by the statute here. The statute doesn't really . . . It says it can be abuse or neglect, and it doesn't say which acts might be which, but it says that abuse or neglect is an act or omission which causes harm.

So if there is an act or omission which causes harm then that is abuse or neglect, by definition under this statute. Any act which causes, any act or omission, or failure to act, which causes harm to the child's health, that would be by this statute abuse or neglect,

without getting into the difference of which is which, it doesn't matter.

The judge further explained that:

So you have to find that [the defendant] either did something or failed to do something . . . that caused the death of the child. Either his doing something which is an act, or failing to do something which is an omission. And that that conduct on his part, either the act or the omission, caused the death of this child.

Moments later, a juror approached the bench and, in an off-the-record discussion, expressed her concern to the judge over the definition of the word "caused." [5] The judge then gave an instruction on proximate cause. In part, the judge stated: "You must find that the State has convinced you beyond a reasonable doubt that either an act or failure to act on the part of this defendant is a proximate cause of the death of this child."

Nine minutes later, the jury returned with a guilty verdict. The judge denied counsel's motion for a new trial and sentenced Bailey to twenty-five years' imprisonment.

Bailey appealed his conviction and sentence to the Court of Appeals, alleging the trial judge erred in declining to direct a verdict of acquittal. The court affirmed Bailey's conviction and sentence, concluding that "substantial circumstantial evidence" supported a finding that Bailey abused Victim. State v. Bailey, Op. No. 2003-UP-744 (S.C. Ct. App. filed Dec. 17, 2003).

Subsequently, Bailey filed a timely PCR application. After a hearing, the PCR judge denied Bailey's application. As to trial counsel's performance, the PCR judge found, in part, that counsel was not ineffective for failing to object to certain jury instructions. In so ruling, the PCR judge concluded that counsel's decision constituted trial strategy and that even if counsel's performance was deficient, Bailey had not proven prejudice.

## II. Discussion

### A.

Bailey contends the judge erred in denying his PCR application as his trial counsel was ineffective in failing to object to the trial judge's supplemental jury instructions. In support of this contention, Bailey claims the instructions allowed the jury to convict him for "an act alternative to the one specified with particularity in the indictment." Because "the infliction of physical injuries was the specific act alleged in the indictment," Bailey asserts the jury was limited to a determination of whether he committed this act. Based on the foreman's statement that the jury found no evidence that Bailey struck the child, Bailey claims the jury found "a material variance between the act alleged in the indictment and the State's proof." Specifically, Bailey avers the jury convicted him of an unindicted crime as the jury found evidence of neglect rather than the specifically-alleged acts of abuse. Given that the judge's erroneous instructions precipitated this result, Bailey asserts his trial counsel was ineffective in failing to object to these supplemental instructions.

### B.

\* The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

\* The United States Supreme Court has established a two-pronged test to establish ineffective assistance of counsel by which a PCR applicant must show (1) counsel's performance was deficient, and (2) the deficient performance prejudiced the defendant. Strickland, 466 U.S. at 687; Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). Under the second prong, the PCR applicant "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland, 466 U.S. at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Simmons v. State, 331 S.C. 333, 503 S.E.2d 164, 166 (1998).

This Court will uphold the findings of the PCR judge when there is any evidence of probative value to support them, and will reverse the decision of the PCR judge when it is controlled by an error of law. Suber v. State, 371 S.C. 554, 558-59, 640 S.E.2d 884, 886 (2007).

### C.

As a threshold matter, the State claims Bailey's issue is not preserved for appellate review given it was not raised to and ruled upon by the PCR judge. We disagree.

In his PCR application, Bailey characterized the trial judge's instructions as erroneous and confusing because the jury was misled regarding the homicide by child abuse statute and the indictment. Additionally, Bailey argued that trial counsel was ineffective in failing to object to certain instructions.

During the PCR hearing, Bailey testified that his trial counsel failed to object to the improper jury instructions. In explaining this claim, Bailey referenced the trial judge's supplemental instructions and the judge's discussions with the jury regarding its questions. Trial counsel admitted that she did not object to these instructions and contended her decision constituted trial strategy. Finally, in his written order, the PCR judge addressed Bailey's allegation of "ineffective assistance of counsel for failing to object to jury charges."

Based on the foregoing, we find Bailey's argument was properly preserved for this Court's review. See State v. Moore, 357 S.C. 458, 593 S.E.2d 606 (2004) (holding an issue must be raised to and ruled upon by the trial court to be preserved for appellate review).

### D.

Having found that Bailey's issue is properly before this Court, we turn to the merits.

\* "In South Carolina, [i]t is a rule of universal observance in administering the criminal law that a defendant must be convicted, if convicted at all, of the particular offense charged in the bill of indictment." State v. Gumm, 313 S.C. 124, 136, 437 S.E.2d 75, 82 (1993) (quoting State v. Cody, 180 S.C. 417, 423, 186 S.E. 165, 167 (1936)). "A material variance between charge and proof entitles the defendant to a directed verdict; such a

variance is not material if it is not an element of the offense." Id. (citation omitted); see 41 Am. Jur. 2d Indictments & Informations § 252 (2005) (stating that one of the two ways an indictment can be improperly modified is through "a variance, whereby the charging terms of the indictment are left unaltered, but the evidence offered at trial proves facts materially different from those alleged in the indictment").

"[W]hile a conviction may be sustained under an indictment which is defective because it omits essential elements of the offense, such is not true when the indictment facially charges a complete offense and the State presents evidence which convicts under a different theory than that alleged." Thomason v. State, 892 S.W.2d 8, 11 (Tex. Crim. App. 1994) (citations omitted). "A conviction under the latter circumstance violates principles of due process . . . because the State has failed to prove beyond a reasonable doubt every fact necessary to constitute the crime with which a defendant was charged." Id. (citations omitted); see 41 Am. Jur. 2d Indictments & Informations § 256 (2005) ("A material variance that violates a defendant's substantial right to be tried only on charges presented in an indictment constitutes fatal error and warrants a reversal on an appeal of a judgment of conviction of the offense not charged in the indictment.").

In a case involving similar facts to the instant case, the Texas Court of Appeals found error in the trial judge's jury instructions that permitted the jury to convict the defendant of an act not alleged in the indictment. Castillo v. State, 7 S.W.3d 253 (Tex. Ct. App. 1999). In Castillo, the defendant was charged with the felony offense of intentionally and knowingly causing serious bodily injury to a child and convicted of the lesser-included offense of reckless injury to a child pursuant to section 22.04(a)(1) of the Texas Penal Code. Id.; Tex. Penal Code Ann. § 22.04(a)(1) (1994) ("A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes a child . . . serious bodily injury."). The one-count indictment charging Castillo with this offense provided that Castillo:

[d]id then and there intentionally and knowingly cause serious bodily injury to Triston Castillo, a child 14 years or younger by then and there striking the child with a deadly weapon, to wit: the defendant's hands or by striking the child's head against a deadly weapon, to wit: a wall or a floor.

Id. at 255. In prefacing its analysis, the Texas Court of Appeals noted that "[b]y including a more specific description, the State undertook the burden of proving the specific allegations to obtain a conviction." Id.

At trial, the child's mother testified that the morning the child was taken to the hospital, she was taking a shower when she heard the child "crying out loudly" while in Castillo's care. When she went to check on the child, she observed that he was "in a daze," "seizing," and "limp." Id. at 255. Although Castillo admitted to shaking the child because he was having difficulty breathing, he expressly denied that the child hit or struck a wall. Id. at 257.

On appeal, Castillo raised several issues, including an argument that the trial judge egregiously erred by adding, through a lesser-included offense charge, a theory of prosecution ("shaking") that was not supported by the indictment. Id. at 254. The Texas Court of Appeals agreed with Castillo's argument, finding the trial court erred in "enlarging" the indictment by adding "shaking" as an additional manner and means of committing the charged offense. Id. at 260. In so ruling, the court recognized that a defendant may only

be tried and convicted of the crimes alleged in the indictment and the State is bound by the theory alleged in the indictment. Id. at 258-59. [6]

In light of its holding, the court declined to reach Castillo's claim of ineffective assistance of counsel. The court, however, noted the claim would "loom large on the scene, given the failure to move for an instructed verdict and to object to the charge which enlarged the indictment." Id. at 262.

We agree with the reasoning in Castillo and apply its analysis to the facts of the instant case. We conclude that the trial judge's instructions improperly "enlarged" the indictment by instructing the jury that it could convict Bailey of a crime not alleged in the indictment.

Here, the indictment charging Bailey with homicide by child abuse specifically alleged that Bailey "inflicted upon [Victim] physical injuries to his abdomen resulting in exsanguination and consequently the death of the child." By its express terms, the indictment alleged that Bailey's "act" resulted in Victim's death. Significantly, it did not allege that Victim's death was the result of an "omission" on the part of Bailey.

Thus, the indictment apprised Bailey that he had to defend only against the allegation that he inflicted the physical injuries resulting in Victim's death. See Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005) ("The primary purposes of an indictment are to put the defendant on notice of what he is called upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronounce if the defendant is convicted."); State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005) ("The indictment is a notice document.").

A careful review of the jury's questions and the ensuing discussion with the judge reveals that the jury focused on the terms of the indictment and recognized the alternative elements in the homicide by child abuse statute, i.e., an "act" versus an "omission." The foreman of the jury then stated the jury found "no evidence" that Bailey struck the Victim. [7] Based on this statement and the reference to the last line of the indictment, it is evident the jury was inquiring as to whether a finding of "neglect" on the part of Bailey was sufficient for a conviction under the statute.

The judge's supplemental instructions, which were confusing and contradictory, resulted in the erroneous directive that the jury could find Bailey guilty of homicide by child abuse if it found an act of "abuse or neglect." Such an instruction was in direct contravention of the specific act alleged in the indictment and, thus, constituted a material variance or a "constructive amendment" to the indictment.

We find that trial counsel not only failed to object to these jury instructions, but also acquiesced in the judge's erroneous interpretation. Thus, counsel's failure to object did not constitute a valid trial strategy. Cf. Padgett v. State, 324 S.C. 22, 484 S.E.2d 101 (1997) (finding trial counsel's failure to challenge first-degree burglary indictment did not constitute valid trial strategy where counsel did not recognize the distinction between a "barn" and a "dwelling" for the purposes of first-degree burglary).

Having found that trial counsel's performance was deficient, the question becomes whether Bailey was prejudiced by counsel's errors. [8] Because the supplemental

instructions created a material variance between the State's evidence and the allegations in the indictment, we conclude that Bailey was prejudiced by trial counsel's failure to object as this deficiency undermined confidence in the outcome of his trial. Accordingly, we hold trial counsel rendered ineffective assistance. See *McKnight v. State*, 378 S.C. 33, 48-49, 661 S.E.2d 354, 361-62 (2008) (finding trial counsel rendered ineffective assistance when she failed to object to the supplemental jury charge on the measure of criminal intent required for a conviction under the Homicide by Child Abuse statute; reasoning that the supplemental charge: (1) did not clarify the particular mental state and served to "further confuse the jury;" (2) "attained a special significance in the minds of the jurors;" and (3) was "prejudicial in fact" as the jury returned a guilty verdict five minutes after the supplemental charge).

### III. Conclusion

In conclusion, we find Bailey's issue was preserved for appellate review as it was raised to and ruled upon by the PCR judge. In terms of the merits, we hold trial counsel was deficient in failing to object to the supplemental jury instructions as the judge perpetuated the jury's confusion that they could convict Bailey of homicide by child abuse based on an unindicted allegation of neglect. We find that a confluence of the lone specific allegation of physical abuse in the indictment and the jury's expressed confusion about the necessity of evidence of physical abuse by Bailey with the insufficient jury instructions created a structural due process defect that deprived Bailey of a fair trial. We conclude that Bailey was prejudiced by counsel's deficient performance. Accordingly, we reverse the order of the PCR judge and remand for a new trial.

**REVERSED AND REMANDED.**

**TOAL, C.J., PLEICONES, KITTREDGE and HEARN, JJ., concur.**

[1] S.C. Code Ann. § 16-3-85 (2003).

[2] Bailey was not the biological father of Victim or Hughes's other children; however, Hughes was pregnant with Bailey's child at the time of Victim's death.

[3] Specifically, the judge read the following provisions of section 16-3-85:

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life;

....

(B) For purposes of this section, the following definitions apply:

(1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;

(2) "harm" to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

S.C. Code Ann. § 16-3-85(A)(1), (B) (2003).

[4] The text of the indictment provided:

That LUCAS LORENZO BAILEY did in Aiken County on or about April 26, 2001, commit the crime of Homicide By Child Abuse in violation of South Carolina Code Ann. Section 16-3-85, in that the defendant did cause the death of Charles D. Allen, a child two (2) years of age, while committing child abuse or neglect as defined by South Carolina Code Section 20-7-490, and the death of said child occurred under circumstances manifesting an extreme indifference to human life, in that Lucas Lorenzo Bailey was responsible for the welfare of said child and the defendant did inflict physical harm to the child, to wit: **The defendant inflicted upon said child physical injuries to his abdomen resulting in exsanguination and consequently the death of the child.**

[5] We take this opportunity to caution the bench against engaging in off-the-record discussions with members of the jury. Here, the record does not reveal whether the attorneys were present during the exchange that culminated in the jury charge regarding proximate cause. Thus, we are troubled that the decision regarding the jury instruction may have been made without the judge conferring with the attorneys. Because this was not an issue raised for our consideration on appeal, we do not address any arguments challenging the procedure employed by the judge. However, we emphasize that we do not condone a judge's off-the-record discussion with a juror.

[6] Notably, the court stated in its conclusion that its decision did not prevent "the State from seeking a new indictment charging injury to a child and alleging a different manner and means of committing the offense such as 'shaking,' and trying appellant on the new indictment." Id. at 262.

[7] By his statement, the foreman was conveying the jury's deliberations as to whether there was "direct evidence" that Bailey struck Victim. Thus, we believe it would have been prudent and more appropriate for the trial judge to instruct the jury on "circumstantial evidence" in order to resolve the jury's confusion.

[8] We reject any contention that the Court of Appeals' opinion affirming Bailey's conviction negates a finding of prejudice as the court only considered the evidence in the context of a directed verdict motion. Although we agree there was sufficient evidence to submit the case to the jury, the issue in this case requires a consideration of the evidence after the submission of the case to the jury.

## ISSUE APPEALED

THE TRIAL JUDGE COMMITTED FATAL ERROR by FAILING to DISMISS INDICTMENT # 2012-GS-07-1935 FOR INSUFFICIENCY OF INDICTMENT. BECAUSE INDICTMENT # 2012-GS-07-1935 THAT CHARGES TYRONE ROBINSON WITH THE PARTICULAR THEORY AND CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY IS INSUFFICIENT TO CONVICT TYRONE WRENZON ROBINSON. ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON, AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGING TYRONE ROBINSON WITH AND THAT IS NOT CHARGED OR ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935

## ARGUMENT

AT PRE TRIAL HEARING ATTORNEY ARIE DAVID BAX MOTIONED THE COURT TO DISMISS INDICTMENT # 2012-GS-07-1935 FOR INSUFFICIENCY OF INDICTMENT.

WHILE ATTORNEY ARIE DAVID BAX WAS ARGUING TO DISMISS THE INDICTMENT FOR INSUFFICIENCY OF INDICTMENT, THE TRIAL JUDGE COOPER COMMITTED FATAL ERROR. BY THE TRIAL JUDGE DECIDING AND DETERMINING THAT THE STATE OF SOUTH CAROLINA COULD USE A UNINDICTED FELONY TO CONVICT TYRONE

ROBINSON ON. THAT THE GRAND JURY DID NOT  
 INDICT TYRONE ROBINSON ON AND THAT IS NOT  
 CHARGED OR ALLEGED INSIDE OF THE WRITTEN  
 WRITE UP OF INDICTMENT # 2012-GS-07-  
 1935. THE TRIAL JUDGE DECISION THAT THE  
 STATE OF SOUTH CAROLINA COULD USE A UNIND-  
 ICTED FELONY TO CONVICT TYRONE ROBINSON  
 ON, RESULTED IN THE TRIAL JUDGE  
 MISLEADING THE JURY TO CONVICT TYRONE  
 ROBINSON ON THE UNINDICTED THEORY  
 AND CRIME OF COMMON LAW MURDER BY  
 THE UNINDICTED THEORY OF THE DOCTRINE  
 OF TRANSFERRED INTENT. IN VIOLATION  
 OF TYRONE ROBINSON 5th Amendment  
RIGHT WHICH STATES "A QUOTE" NO PERSON  
SHALL BE HELD TO ANSWER FOR A CAPITAL  
OR OTHERWISE INFAMOUS CRIME ACCEPT  
UPON PRESENTMENT OR INDICTMENT  
OF GRAND JURY

ALSO IN VIOLATION OF TYRONE ROBINSON  
 5th Amendment RIGHT TO DUE PROCESS  
WHICH STATES "A QUOTE" NO PERSON SHALL  
BE DEPRIVED OUT OF LIBERTY WITHOUT  
DUE PROCESS OF LAW.

ALSO IN VIOLATION OF TYRONE ROBINSON  
 5th Amendment SUBSTANTIAL RIGHT TO BE  
 TRIED ONLY ON CHARGE OF FELONY MURDER  
 BY THE FELONY MURDER RULE THEORY AND  
 ELEMENTS. THATS CHARGED AND ALLEGED  
 INSIDE OF THE WRITTEN WRITE UP OF  
 INDICTMENT # 2012-GS-07-1935.  
 ATTORNEY ARIE DAVID BAX ARRIVED IN  
 TYRONE ROBINSON DEFENSE. THAT BY  
 ALLOWING THE STATE OF SOUTH CAROLINA  
 TO USE A UNINDICTED FELONY TO CONVICT  
 TYRONE ROBINSON ON INDICTMENT #  
 2012-GS-07-1935, WOULD PREJUDICE  
HIS CLIENT TYRONE ROBINSON BY KETCHING  
 HIS CLIENT BY SURPRISE AND DEPRIVING

his client TYRONE ROBINSON out of "NOTICE" of what PARTICULAR FELONY he is called upon to defend himself against and by DEPRIVING his client TYRONE ROBINSON out of the right and ability to be able to prepare a ample defense to defend himself against the UNINDICTED FELONY.

Because Attorney Arie David Bax Argued against the TRIAL Judge decision to CONVICT TYRONE ROBINSON on a UNINDICTED FELONY. ALSO because Attorney Arie

DAVID BAX preserved his ARGUMENTS made at pre TRIAL hearing on motion to DISMISS Indictment # 2012-GS-07-1935 for INSUFFICIENCY OF Indictment, FOR THIS SOUTH CAROLINA COURT OF APPEALS to REVIEW on DIRECT APPEAL, and BECAUSE Attorney Arie David Bax REINSTATED his motion and ARGUMENT made at pre TRIAL hearing even AFTER the JURY VERDICT was READ.

THE ISSUE OF THE TRIAL Judge deciding THAT TYRONE ROBINSON could UNCONSTITUTIONALLY be CONVICTED on a UNINDICTED FELONY and CRIME, IS PRESERVED IN THIS COURT RECORD BY

Attorney Arie David Bax and must be decided on and corrected by THIS SOUTH CAROLINA COURT OF APPEALS. WHICH I TYRONE LORENZA ROBINSON ARGUE and address THIS ISSUE IN my ARGUMENT set FORTH AS FOLLOWS.

### CASE LAW MERITS

4TH CIRCUIT COURT OF APPEALS case law OF.  
U.S.V. RANDALL, 171 F.3d 195, 203 (4TH CIR.

1999) "QUOTE"

57.

CONSTRUCTIVE Amendment perse REVERS-  
-ABLE ERROR and must be corrected  
ON APPEAL even if defendant did  
NOT PRESERVE issue by objection

ALSO REVIEW  
CASE LAW MERITS

U.S. V. MARQUEZ, 605 F.3d 604, 605 (8th Cir.  
2010)

PLAIN ERROR REVIEW OF JURY INSTRUCT-  
-IONS because issue FIRST RAISED  
ON APPEAL

THE 5TH AMENDMENT SUBSTANTIAL RIG-  
-HT OF THE CONSTITUTION OF THE UNITED  
STATES OF AMERICA STATES "QUOTE" NO  
PERSON SHALL BE HELD TO ANSWER FOR  
A CAPITAL OR OTHERWISE INFAMOUS  
CRIME, UNLESS ON A PRESENTMENT OR  
INDICTMENT OF GRAND JURY.

THE 5TH AMENDMENT OF THE CONSTITU-  
-TION OF THE UNITED STATES OF AMER-  
-ICA ALSO STATES "QUOTE" NO PERSON  
SHALL BE DEPRIVED OUT OF LIFE, LIBERTY  
OR PROPERTY WITHOUT DUE PROCESS OF  
LAW.

THEFORE THE 5TH AMENDMENT OF THE  
CONSTITUTION OF THE UNITED STATES OF  
AMERICA, RIGHT TO DUE PROCESS OF LAW:  
AFFORDS TYRONE ROBINSON THE SUBSTANTIAL  
RIGHT TO BE TRIED AND CONVICTED &  
CONVICTED AT ALL. ON CHARGES PRESENTED  
IN AN GRAND JURY ISSUE INDICTMENT.  
THAT HAS BEEN ISSUED BY THE GRAND JURY  
ONLY. AS A RESULT THE 5TH AMENDMENT  
OF THE CONSTITUTION OF THE UNITED STATES

OF AMERICA. PROTECTS TYRONE ROBINSON  
 FROM BEING UNCONSTITUTIONALLY CONVICTED,  
 ON A ALLEGED INFAMOUS CRIME NOT  
 PRESENTED TO THE GRAND JURY ON INDICT-  
 -MENT AND THAT THE GRAND JURY DID NOT  
 ISSUE AN INDICTMENT AGAINST ME  
 FOR. FOR PROOF REVIEW.

### CASE LAW MERITS

UNITED STATES SUPREME COURT OF APPEALS  
 CASE LAW OF,  
 MACKIN V. U.S. #77 188, 65 CT 777, 117 U.S. 351,  
 29 L. ED. 909. SEE ALSO, EX PARTE MCLUSKEY, 117  
 ARK. 1899, 40 F. 71 "QUOTE IN"

THIS AMENDMENT PROTECTS EVERYONE  
 FROM BEING PROSECUTED IN A COURT OF THE  
 UNITED STATES, WITHOUT THE INTERVENT-  
 -ION OF A GRAND JURY, FOR ANY CRIME  
 WHICH IS SUBJECT BY LAW TO AN INFAMOUS  
 PUNISHMENT, NO DECLARATION OF CONGRESS  
 IS NEEDED TO SECURE, OR COMPETENT TO  
 DEFEAT, THE CONSTITUTIONAL SAFE GUARD

AT PRE TRIAL HEARING THE STATE OF SOUTH  
 CAROLINA ARGUED TO THE TRIAL JUDGE THAT  
 THE STATE OF SOUTH CAROLINA COULD TRY TYRONE  
 ROBINSON BEFORE THE JURY AT TRIAL. ON  
 THE FELONY MURDER RULE THEORY ONLY  
 THATS CHARGED AND ALLEGED IN INDICTMENT  
 # 2012-GS-07-1935 FOR THE DEATH OF KHALIL  
 SINGLETON.

AS A RESULT THE TRIAL JUDGE DETERMINED  
 AND STATED ON COURT RECORD, THAT THE STATE  
 OF SOUTH CAROLINA WOULD TRY TYRONE  
 ROBINSON AT TRIAL. ON THE FELONY MURDER  
 RULE THEORY ONLY, THATS CHARGED AND  
 ALLEGED IN THE WRITE UP OF INDICTMENT #  
 2012-GS-07-1935 FOR THE DEATH OF KHALIL  
 SINGLETON.

INDICTMENT # 2012-GS-07-1935

THE WRITER WRITE UP OF INDICTMENT

2012-GS-07-1935 That CHARGES TYRONE LORENZA ROBINSON WITH THE PARTICULAR THEORY, CRIME AND OFFENSE - OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY STATE "QUOTE" THAT IN BEAUFORT COUNTY ON OR ABOUT SEPTEMBER 7, 2012 WHILE ENGAGED IN AN ONGOING GUN BATTLE, AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED IN THE AREA OF MARSHLAND DRIVE AND ALLEN ROAD, HILTON HEAD ISLAND, S.C. AND THAT KHALIL SINGLETON DID DIE IN BEAUFORT COUNTY AS A PROXIMATE RESULT THEREOF ON SEPTEMBER 7, 2012, IN VIOLATION OF SECTION 16-3-10 OF THE SOUTH CAROLINA CODE OF LAW (1976), AS AMENDED

## CONSTRUCTIVE AMENDMENT

S.C. STATUTE CODE OF LAWS 16-9-10 STATES "QUOTE" IT IS UNLAWFUL FOR A PERSON TO WILLFULLY GIVE FALSE MISLEADING INFORMATION ON A DOCUMENT OR RECORD REQUIRED BY THE LAWS OF THIS STATE

AT THE BEGINNING OF TRIAL THE TRIAL JUDGE GOT A COPY OF INDICTMENT # 2012-GS-07-1935 AND PRETENDED TO READ A DESCRIPTION OF THE OFFENSE, THEORY AND CRIME CHARGED. WHILE THE TRIAL JUDGE HAD A COPY OF INDICTMENT # 2012-GS-07-1935 IN HIS HAND. READING A COPY OF INDICTMENT # 2012-GS-

- 07-1935 to the JURY. The TRIAL JUDGE  
 LIED to the JURY by stating to the JURY  
 THAT INDICTMENT # 2012-GS-1935 STATES,  
TYRONE ROBINSON did WILLFULLY, UNLAWF-  
ULLY and with malice aforethought  
SHOOT the victim KHALIL SINGLETON.  
 WHILE reading a COPY of INDICTMENT  
 # 2012-GS-07-1935 to the JURY. THE  
 TRIAL JUDGE LIED and TRICKED and decie-  
 -VED the JURY INTO THINKING, THAT  
 THE WRITTEN WRITE UP OF THE DESCRIPTION  
 OF THE CHARGE, CHARGED and alledged in  
 the WRITTEN WRITE UP OF INDICTMENT #  
 2012-GS-07-1935, STATES THAT TYRONE ROBIN-  
 -SON did WILLFULLY, UNLAWFULLY, and  
 WITH malice and AFORETHOUGHT SHOOT  
 the VICTIM KHALIL SINGLETON.  
 HOWEVER "CONTRADICTORY" to what the  
 TRIAL JUDGE LIED and TRICKED and  
 decieved the JURY INTO THINKING THE  
 WRITTEN WRITE UP OF INDICTMENT # 2012-  
 -GS-07-1935 STATES.  
 A COPY OF THE WRITTEN WRITE UP OF INDICT-  
 -ment # 2012-GS-07-1935, REVEALS THAT  
 THE ACTUAL WRITTEN WRITE UP AND  
 DESCRIPTION OF THE CHARGE, CHARGED  
 and alledged in the WRITTEN WRITE UP  
 OF INDICTMENT # 2012-GS-07-1935  
 ACTUALLY STATES "QUOTE" WHILE ENGAGED  
 IN AN ONGOING GUN BATTLE, AN INHER-  
 -ENTLY DANGEROUS FELONY, TYRONE  
 ROBINSON did WILLFULLY and with malice  
 aforethought CAUSE the victim KHALIL  
 SINGLETON to be SHOT and KILLED IN THE  
 AREA OF MARSHLAND DRIVE AND ALLEN  
 ROAD, Hilton Head Island, S.C. and THAT  
 KHALIL SINGLETON did die in BEAUFORT  
 COUNTY as a proximate result thereof.

by the TRIAL JUDGE LIEING to the JURY  
 by TRICKING and decieving the JURY  
 INTO THINKING. the INDICTMENT # 2012-  
 -GS-07-1935 he was reading to the JURY.  
 Stated "Quote" TYRONE ROBINSON WILLF-  
 -ULLY, UNLAWFULLY, and with malice  
 aforethought shot the victim KHALIL  
 SINGLETON.

The TRIAL JUDGE LIED to the JURY and  
 TRICKED and decieved the JURY INTO  
 BELIEVING. That TYRONE ROBINSON  
 was charged, indicted and being tried  
 before the JURY at TRIAL. ON A UNIND-  
 -ICTED charge crime and ACT. That the  
 GRAND JURY did NOT INDICT TYRONE ROBIN-  
 -SON ON AND THE GRAND JURY did NOT  
 hear evidence OF.

by the TRIAL JUDGE changing the THEORY  
 ACT and NATURE and elements of the offense  
 charged and ALLEDGE IN INDICTMENT #  
 2012-GS-07-1935. FROM "Quote"

WHILE ENGAGED IN AN ONGOING GUN  
 battle, AN INHERENTLY DANGEROUS  
 FELONY, TYRONE ROBINSON did WILLFULLY,  
 UNLAWFULLY, and with malice afore-  
 -thought cause the victim KHALIL  
 SINGLETON to be shot and killed in  
 the area of MARSHLAND DRIVE AND  
 ALLEN ROAD, HILTON HEAD ISLAND, S.C.  
 and That KHALIL SINGLETON did die  
 IN BEAUFORT COUNTY AS A PROXIMATE  
 RESULT THEREOF

TO THE UNINDICTED THEORY CRIME ACT  
 and charge of "Quote"  
 TYRONE ROBINSON did WILLFULLY, UNL-

- AWFULLY AND WITH MALICE AFORETH-  
-OUGHT SHOOT THE VICTIM KHALIL SINGLE-  
-TON.

by the written write up and description of  
 the offense charged in indictment #2012-  
 -GS-07-1935. TYRONE ROBINSON ONLY HAD  
 TO PROVE TO THE JURY THAT KHALIL SINGLETON  
 death was a PROBABLE AND NATURAL  
 consequence of a FELONY AARON SCOTT  
 YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR  
 WERE IN THE PROCESS AND COMMISSION  
 OF COMMITTING AGAINST TYRONE ROBINSON  
 AT THE IMMEDIATE TIME KHALIL SINGLETON  
 WAS SHOT AND KILLED. IN ORDER TO PROVE  
 TO THE JURY THAT he "TYRONE ROBINSON" WAS  
 NOT GUILTY OF MURDER OF KHALIL SINGLETON.  
 by the FELONY MURDER RULE THEORY  
 elements. THAT ARE ALLEGED INSIDE OF  
 THE WRITTEN WRITE UP OF INDICTMENT #  
 2012-GS-07-1935 THAT TYRONE ROBINSON  
 WAS TRIED ON BEFORE THE JURY AT TRIAL.  
 THAT IS EXPLAINED BY THE SUPREME COURT  
 OF SOUTH CAROLINA IN THE CASE OF STATE V.  
 CROWE 1985. E.2d 379 "QUOTEING" TWO OR MORE  
 ACTS SUCH AS ROBBERY, AND, IN THE EXECUTION  
 OF THAT CRIMINAL ACT, A HOMICIDE IS COM-  
 -MITTED BY ONE OF THE ACTORS AS A PROB-  
 -ABLE OR NATURAL CONSEQUENCE OF THE  
 ACTS DONE IN PURSUANCE OF THE COMMON  
 DESIGN ALL PRESENT PARTICIPATING IN  
 THE UNLAWFUL UNDERTAKING ARE AS  
 GUILTY AS THE ONE WHO COMMITTED THE  
 FATAL ACT.

## CONTRADICTIONARY

by the description of the UNINDICTED

CRIME, ACT AND THEORY THE TRIAL JUDGE LIED, TRICKED AND DECEIVED THE JURY INTO BELIEVING TYRONE ROBINSON WAS INDICTED ON AND BEING TRIED BEFORE THE JURY ON INDICTMENT # 2012-65-07-1935 FOR TYRONE ROBINSON HAD TO PROVE TO THE JURY THAT HE ACTUALLY DID NOT SHOOT AND KILL KHALIL SINGLETON IN ORDER TO PROVE TO THE JURY THAT HE WAS NOT GUILTY OF MURDER OF KHALIL SINGLETON.

### UNINDICTED CRIME ACT THEORY AND OFFENSE

THERE ARE ABSOLUTELY NO GRAND JURY ISSUED INDICTMENTS THAT CHARGE AND ALLEGE THAT TYRONE LORENZA ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AND AFORETHOUGHT SHOOT THE VICTIM KHALIL SINGLETON. AND THE STATE OF SOUTH CAROLINA CAN NOT SUBMIT ANY INDICTMENTS TRUE BILLED AND ISSUED BY THE GRAND JURY TO PROVE OTHERWISE. FOR THE RECORD AT THIS TIME TYRONE LORENZA ROBINSON DEMAND THE STATE OF SOUTH CAROLINA AND THIS COURT OF APPEALS TO PRODUCE AND PRESENT TYRONE LORENZA ROBINSON WITH A TRUE BILL COPY OF THE GRAND JURY ISSUED INDICTMENT THAT CHARGE AND ALLEGE IN ITS WRITTEN WRITE UP THAT TYRONE LORENZA ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT SHOOT THE VICTIM KHALIL SINGLETON.

BECAUSE THERE IS ABSOLUTELY NO SUCH INDICTMENT. THE TRIAL JUDGE ACTIONS EXPLAINED. CAUSED TYRONE ROBINSON TO BE TRIED BEFORE THE JURY AT TRIAL ON A UNINDICTED THEORY, CRIME, ACT AND OFFENSE

That the GRAND JURY did NOT INDICT TYRONE ROBINSON OR, That the GRAND JURY did NOT ISSUE a indictment charging TYRONE ROBINSON with and that is not charged or alleged in the written write up of indictment # 2012-GS-07-1935 TYRONE ROBINSON was tried on before the JURY at trial. IN VIOLATION OF TYRONE ROBINSON 5th Amendment substantial right to be tried only on the PARTICULAR FELONY MURDER RULE THEORY which elements are explained in the JURY charge for accomplice liability. That is charged and alleged in the write up of indictment 2012-GS-07-1935.

IN SOUTH CAROLINA it is a rule of universal observance in administering the criminal law that a defendant must be convicted, if convicted at all, of the PARTICULAR OFFENSE charged in the bill of indictment.

A material variance between charge and proof entitles the defendant to a directed verdict.

One of the two ways an indictment can be improperly modified is through "a variance, whereby the charging terms of the indictment are left unaltered, but the evidence offered at trial proves facts materially different from those alleged in the indictment. When

The indictment factually charges a complete offense and the state presents evidence which convicts under a different theory than that alleged.  
A conviction under the latter circumstance violates principles of due process because the state has failed to

PROVE beyond a reasonable doubt every fact necessary to constitute the crime with which a defendant was charged.

A material variance that violates a defendant's substantial right to be tried only on charges presented in an indictment constitutes fatal error and warrants a reversal on an appeal of a judgment of conviction of the offense not charged in the indictment!"

AS decided by The South CAROLINE SUPREME COURT IN THE CASE OF LUCAS BATLEY VS. STATE OF SOUTH CAROLINA OPINION NO: 26975

**THE FELONY MURDER RULE**  
 THEORY ELEMENTS EXPLAINED IN  
 THE JURY CHARGE TO ACCOMPLICE  
 LIABILITY, THAT THE STATE OF  
 SOUTH CAROLINA HAS A BURDEN OF  
 PROOF TO PROVE THAT THE TRIAL JUDGE  
 MUST CHARGE THE LAW TO THE JURY ON  
 FOR A PERSON ARRESTED OR INDICTED  
 ON AND TRIED BEFORE THE JURY AT  
 TRIAL ON THE PARTICULAR CRIME AND  
 OFFENSE OF ~~THE~~ FELONY  
 MURDER BY THE FELONY MURDER RULE  
 THEORY

BECAUSE TYRONE LORENZA ROBINSON WAS  
 ARRESTED ON ARREST WARRANT # 2012 A0203-  
 00114, AND INDICTED ON INDICTMENT #  
 2012-GS-07-1935 FOR CRIME AND OFFENSE  
 OF ~~THE~~ FELONY MURDER  
 BY THE FELONY MURDER RULE THEORY  
 ONLY, AND TRIED BEFORE THE JURY AT  
 TRIAL ON THE PARTICULAR CRIME AND

OFFENSE. OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. WHICH ELEMENTS TO PROVE ARE EXPLAINED IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY, AS DECIDED BY THE SUPREME COURT OF SOUTH CAROLINA IN THE CASE OF STATE VS. CROWE 1885.E.2d 379 AS EXPLAINED BY THE SOUTH CAROLINA COURT OF APPEALS IN THE CASE OF STATE VS. THADDEUS CURRY 636S.E.2d 649 OPINION NO. 4159

THE CORRECT JURY CHARGE AND INSTRUCTION FOR THE TRIAL JUDGE WAS SUPPOSED TO INSTRUCT THE JURY ON THE ELEMENTS OF, FOR THE FELONY MURDER RULE THEORY, THAT IS CHARGED AND ALLEGED IN THE WRITTEN WRITE UP OF ARREST WARRANT #2012 A0720300114 AND THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-1935. THAT TYRONE LORENZA ROBINSON WAS ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL ON INDICTMENT #2012-GS-07-1935. IS THE JURY CHARGE AND INSTRUCTION ON ACCOMPLICE LIABILITY WHICH IS THE CORRECT JURY CHARGE AND INSTRUCTION, TO INSTRUCT THE JURY ON A TRIAL, FOR A DEFENDANT WHO IS ARRESTED ON, INDICTED ON AND TRIED BEFORE THE JURY AT TRIAL ON, STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. THAT IS CHARGED AND ALLEGED IN THE WRITTEN WRITE UP OF ARREST WARRANT AND INDICTMENT THE PERSON IS TRIED ON BEFORE THE JURY AT TRIAL AS TYRONE LORENZA ROBINSON WAS. AS DECIDED BY SOUTH CAROLINA COURT OF APPEALS IN THE CASE OF THE STATE VS. THADDEUS CURRY 636S.E.2d 649 OPINION NO. 4159 WERE THE SOUTH CAROLINA COURT OF APPEALS STATED "QUOTING" MORE OVER, IN STATE VS. CROWE 1885.E.2d 379 OUR SUPREME

COURT APPROVED THE FOLLOWING CHARGE  
 FOR ACCOMPLICE LIABILITY, TWO OR MORE  
 COMBINE TOGETHER TO COMMIT AN UNLAW-  
 -FUL ACT, SUCH AS ROBBERY, AND A HOMIC-  
 -IDE IS COMMITTED BY ONE OF THE ACTORS,  
 AS A PROBABLE OR NATURAL CONSEQUENCE  
 OF THE ACTS DONE IN PURSUANCE OF THE  
 COMMON DESIGN, ALL PRESENT PARTICI-  
 -PATING IN THE UNLAWFUL UNDERTAKING  
 ARE AS GUILTY AS THE ONE WHO COMMITTED  
 THE FATAL ACT.

UNINDICTED THEORY OF THE  
 DOCTRINE OF TRANSFERRED  
 INTENT, INVOLVES DETERMINATION  
 OF STATE OF MIND A DEFENDANT WAS  
 ALLEGEDLY IN TO CONVICT A DEFEN-  
 -DANT ON

BECAUSE THE EVIDENCE IN THIS CASE  
 PROVES THAT TYRONE ROBINSON IS INNOCENT  
 AND NOT GUILTY, OF THE PARTICULAR CRIME  
 AND THEORY OF STATUTORY 16-03-0010 FELONY  
 MURDER BY THE FELONY MURDER RULE THEORY.  
 THAT TYRONE LORENZA ROBINSON WAS  
 ARRESTED ON, INDICTED ON AND TRIED  
 ON BEFORE THE JURY AT TRIAL. ON  
 INDICTMENT # 2012-65-07-1935 AND  
 ARREST WARRANT # 2012 A0720300114  
 THAT TYRONE ROBINSON WAS INDICTED ON,  
 ON INDICTMENT # 2012-65-07-1935  
 THE TRIAL JUDGE COMMITTED FATAL  
 ERROR AND UNCONSTITUTIONALLY CHARGED  
 AND INSTRUCTED THE JURY TO DECIDE

68.  
ON THE UNINDICTED THEORY AND CRIME OF  
COMMON LAW MURDER BY THE UNINDICTED  
THEORY OF THE DOCTRINE OF TRANSFER-  
RED INTENT. THAT THE GRAND JURY DID  
NOT ISSUE A INDICTMENT CHARGING  
TYRONE ROBINSON WITH, AND THAT IS  
NOT CHARGED OR ALLEGED, IN THE  
WRITTEN WRITE UP OF ARREST WARRANT  
# 2012 A0720300114 AND INDICTMENT #  
2012-GS-07-1935. THAT SPECIFICALLY CHARGES  
TYRONE ROBINSON, WITH THE PARTICULAR  
CRIME AND OFFENSE OF STATUTORY 16-03-0010  
FELONY MURDER BY THE FELONY MURDER  
RULE THEORY. THAT TYRONE LORENZA ROB-  
-INSON WAS ARRESTED ON, INDICTED ON  
AND TRIED ON BEFORE THE JURY AT TRIAL  
ON INDICTMENT # 2012-GS-07-1935 AND  
ARREST WARRANT # 2012 A0720300114 THAT  
TYRONE LORENZA ROBINSON WAS INDICTED  
ON ON INDICTMENT # 2012-GS-07-1935.  
HOWEVER THIS COURT AND NO OTHER COURT  
CAN KNOW WHETHER THE GRAND JURY  
WOULD HAVE INCLUDED IN ITS INDICTM-  
-ENT, KHALIL SINGLETON DEATH OCCURRED  
BY THE UNINDICTED THEORY OF THE DOCTR-  
-INE OF TRANSFERRED INTENT. BECAUSE  
THE THEORY OF THE DOCTRINE OF TRANSF-  
-ERRED INTENT INVOLVES THE DETERMINAT-  
-ION OF THE STATE OF MIND THE DEFEND-  
-ANT IS IN, WHICH INVOLVES THE ALLE-  
-GATION OF A ACT BEING COMMITTED AGAINST  
SOMEONE OTHER THAN THE VICTIM THAT  
INVOLVES THEORY OF THE DOCTRINE OF  
TRANSFERRED INTENT FOR PROOF REVIEW  
CASE LAW MERITS

ROBERTO DE LA ROSA VS. JAMES A. LYNNAUGH  
817 F.2d 259 (5th CIR. 1987) "QUOTING PAGE 262"  
THE STATE PROSECUTED DE LA ROSA FOR THE

MURDER OF RODRIGUEZ UNDER A "THEORY"  
 OF TRANSFERRED INTENT AND CONCLUDED  
 DURING ORAL ARGUMENT THAT THE JURY  
 NECESSARY BASED ITS VERDICT ON  
 TRANSFERRED INTENT FURTHER QUOTING  
 PAGE 262

THE COURT ALSO INSTRUCTED THE JURY  
 ON ALL INCLUDED OFFENSES UNDER A  
 "THEORY" OF TRANSFERRED INTENT,  
 UNDER THE STATES TRANSFERRED  
 INTENT "THEORY"; THE JURY'S INQUIRY  
 WAS DE LA ROSA'S CONDUCT AND INTENT  
 TOWARD LEE WHEN BOTH SHOTS WERE  
 FIRED. THE FACT THAT DE LA ROSA MISSED  
 AND STRUCK A BYSTANDER WITH ONE  
 SHOT ALLOWS HIS STATE OF MIND TOWARD  
 HIS INTENDED VICTIM TO BE  
 TRANSFERRED TO THE ACTUAL VICTIM.  
 FURTHER QUOTING PAGE 263

THE RELEVANT INQUIRY IN BOTH CASES,  
 DUE TO THE STATES USE OF TRANSFERRED  
 INTENT, IS WHAT DE LA ROSA'S STATE OF  
 MIND WAS TOWARD LEE AT TWO DIFFERENT  
 POINTS IN TIME. IN OTHER WORDS DID  
 DE LA ROSA FIRE AT LEE WITH THE INTENT  
 TO KILL LEE ONCE WITH ADEQUATE  
 CAUSE FOR SUDDEN PASSION AND ONCE

WITHOUT ADEQUATE CAUSE FOR SUDDEN  
PASSION FURTHER" QUOTING PAGE 268"

IN LIGHT OF THE PLEADINGS, EVIDENCE,  
CHARGE TO THE JURY, AND ARGUMENTS  
OF COUNSEL, WE HAVE DETERMINED THAT  
THE JURY VERDICT IN THE RODRIGUEZ  
CASE, UNDER A "THEORY" OF TRANSF-  
ERRED INTENT, NECESSARILY DETERMINED  
THAT DELEROSO WAS ACTING AS A RESULT  
OF SUDDEN PASSION ARISING FROM AN  
ADEQUATE CAUSE IN FIRING THE  
VOLLEY OF SHOTS WHICH KILLED  
BOTH VICTIMS. THE STATE IS THERE-  
FORE COLLATERALLY ESTOPPED UNDER  
THE PRINCIPLE OF ASH V. SWENSON  
FROM RELITIGATING THE ISSUE OF DELA  
ROSA'S REDUCED STATE OF MIND FOR  
THE MURDER OF LEE. REVERSED

THE THEORY OF THE DOCTRINE OF  
TRANSFERRED INTENT IN THIS CASE IS  
A UNINDICTED THEORY, CRIME ACT  
AND CHARGE THAT THE GRAND JURY DID  
NOT INDICT TYRONE ROBINSON, AND THE  
GRAND JURY DID NOT ISSUE AN INDICTMENT  
CHARGING TYRONE ROBINSON WITH THAT  
IS A TOTALLY DIFFERENT THEORY TO  
PROVE. THAT IS TOTALLY DIFFERENT  
FROM THE THEORY OF THE FELONY MURDER  
RULE THEORY, AND IS TOTALLY DIFFER-  
ENT FROM THE ELEMENTS THE STATE  
OF SOUTH CAROLINA HAS THE BURDEN OF

PROOF TO PROVE. THATS EXPLAINED IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY, FOR

THE FELONY MURDER RULE THEORY CHARGED AND ALLEGED, INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935 THAT TYRONE ROBINSON WAS TRIED ON BEFORE THE JURY AT TRIAL.

CONSTITUTING A MATERIAL VARIANCE AND OR A CONSTRUCTIVE AMENDMENT. THAT VIOLATES TYRONE LORENZA ROBINSON 5TH AMENDMENT SUBSTANTIAL RIGHT. TO BE TRIED ONLY ON THE SPECIFIC AND PARTICULAR CRIME AND OFFENSE OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY. THATS CHARGED ALLEGED AND PRESENTED, IN THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935 AND ARREST WARRANT # 2012 A0720300114. THAT TYRONE ROBINSON WAS ARRESTED ON INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL, ON INDICTMENT # 2012-GS-07-1935. CONSTITUTING FATAL ERROR WARRANTING A REVIEW AND REVERSAL AND VACATE OF TYRONE ROBINSON CONVICTION AND PRISON SENTENCE. THREE APPELLATE COURT PLAIN ERROR RULE. ON THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT AND THE UNINDICTED THEORY AND OFFENSE OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGING TYRONE ROBINSON WITH THEREFORE TYRONE ROBINSON CONVICTION ON THE UNINDICTED THEORY AND OFFENSE

OF COMMON LAW MURDER BY THE UNINDICTED-  
 -ED THEORY OF THE DOCTRINE OF TRANSFER-  
 INTENT. VIOLATES TYRONE ROBINSON  
 FEDERAL 5TH AMENDMENT RIGHT OF THE  
 CONSTITUTION OF THE UNITED STATES  
 OF AMERICA WHICH STATES "QUOTE"  
 NO PERSON SHALL BE HELD TO ANSWER  
 FOR A CAPITAL, OR OTHERWISE INFAMOUS  
 CRIME, UNLESS ON A PRESENTMENT  
 OR INDICTMENT OF GRAND JURY  
 FOR PROOF REVIEW  
 CASE LAW MERITS

U.S. V. MURPHY, 406 F.3d 857, 860-71 (7th  
 Cir 2005) "QUOTING" (CONSTRUCTIVE  
 amendment by IMPROPER JURY  
 INSTRUCTIONS VIOLATED 5th Amend-  
 -ment GRAND JURY CLAUSE

ALSO TYRONE ROBINSON CONVICTION ON  
 THE UNINDICTED THEORY AND CRIME.  
 VIOLATES TYRONE ROBINSON 5th Amend-  
 -ment SUBSTANTIAL RIGHT TO DUE PROCESS.  
 BECAUSE THE STATE OF SOUTH CAROLINA HAS  
 FAILED TO PROVE BEYOND A REASONABLE  
 DOUBT. EVERY ELEMENT AND FACT  
 NECESSARY TO CONSTITUTE THE CRIME  
 AND OFFENSE OF STATUTORY 16-03-0010.  
 FELONY MURDER BY THE FELONY MURDER  
 RULE THEORY BY THE ELEMENTS EXPLAINED  
 IN THE JURY CHARGE FOR ACCOMPLICE  
 LIABILITY. THATS PROVIDED BY THE SUPRE-  
 -ME COURT OF SOUTH CAROLINA IN THE  
 CASE OF STATE VS. CROWE 188 S.E.2d 379  
 WHICH STATES "QUOTE"

BECAUSE THE GRAND JURY ISSUED INDICTMENT # 2012-GS-07-1935. CHARGING TYRONE ROBINSON WITH STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY PERTAINING TO THE DEATH OF KHALIL SINGLETON.

TYRONE ROBINSON CAN ONLY BE TRIED AND CONVICTED IF CONVICTED AT ALL ON THE PARTICULAR CRIME AND OFFENSE OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. THATS CHARGED AND ALLEGED IN THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935. THAT TYRONE LORENZA ROBINSON WAS TRIED ON BEFORE THE JURY AT TRIAL, THAT THE GRAND JURY ISSUED AGAINST TYRONE, AND THE STATE OF SOUTH CAROLINA IS BOUND BY AND CAN ONLY TRY TYRONE LORENZA ROBINSON AND CONVICT TYRONE ROBINSON IF HE IS CONVICTED AT ALL. ON THE FELONY MURDER RULE THEORY ONLY, BY THE ELEMENTS EXPLAINED BY THE SUPREME COURT OF SOUTH CAROLINA IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY THAT IS CHARGED AND ALLEGED IN THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935 AND ARREST WARRANT # 2012 A0720300114 THAT TYRONE ROBINSON WAS ARRESTED ON INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL. FOR PROOF REVIEW

## CASE LAW MERITS

SUPREME COURT OF SOUTH CAROLINA  
CASE LAW OF,  
LUCAS BAILEY VS. STATE OF SOUTH CARO-  
LINA OPINION NO. 26975 "QUOTEING"

BY INCLUDING A MORE SPECIFIC  
DESCRIPTION, THE STATE UNDERTOOK THE  
BURDEN OF PROVING THE SPECIFIC  
ALLEGATIONS TO OBTAIN A CONVICTION.  
ON APPEAL CASTILLO RAISED SEVERAL  
ISSUES, INCLUDING AN ARGUMENT  
THAT THE TRIAL JUDGE EGREGIOUSLY  
ERRED BY ADDING, THROUGH A LESSER-  
INCLUDED OFFENSE CHARGE, A  
"THEORY" OF PROSECUTION "SHAKING")  
THAT WAS NOT SUPPORTED BY THE INDICTM-  
ENT. THE TEXAS COURT OF APPEALS  
AGREED WITH CASTILLO'S ARGUMENT,  
FINDING THE TRIAL COURT ERRED IN  
"ENLARGING THE INDICTMENT BY ADD-  
ING "SHAKING" AS AN ADDITIONAL  
MANNER AND MEANS OF COMMITTING  
THE CHARGED OFFENSE. IN SO RULING,  
THE COURT RECOGNIZED THAT A  
DEFENDANT MAY ONLY BE TRIED AND  
CONVICTED OF THE CRIMES ALLEGED IN  
THE INDICTMENT AND THE STATE IS BOUND  
BY THE "THEORY" ALLEGED IN THE INDICTMENT  
WE AGREE WITH THE REASONING  
IN CASTILLO AND APPLY ITS ANALYSIS  
TO THE FACTS OF THE INSTANT CASE. WE  
CONCLUDE THAT THE TRIAL JUDGES

INSTRUCTIONS IMPROPERLY "ENLARGED" THE INDICTMENT BY INSTRUCTING THE JURY THAT IT COULD CONVICT BAILEY OF A CRIME NOT ALLEGED IN THE INDICTMENT.

THE JUDGES SUPPLEMENTAL INSTRUCTIONS WHICH WERE CONFUSING AND CONTRADICTORY, RESULTED IN THE ERRONEOUS DIRECTIVE THAT THE JURY COULD FIND BAILEY GUILTY OF HOMICIDE BY CHILD ABUSE IF IT FOUND AN ACT OF "ABUSE OR NEGLECT." SUCH AN INSTRUCTION WAS IN DIRECT CONTRAVENTION OF THE SPECIFIC ACT ALLEGED IN THE INDICTMENT AND THUS, CONSTITUTED A MATERIAL VARIANCE OR A CONSTRUCTIVE AMENDMENT TO THE INDICTMENT.

**NOT GUILTY ON**  
INDICTMENT # 2012-GS-07-1935  
AND CRIME AND OFFENSE OF STATUTORY  
16-03-1935 FELONY MURDER BY THE FELONY  
MURDER RULE THEORY ONLY, THATS  
CHARGED AND ALLEGED IN INDICTM-  
ENT # 2012-GS-07-1935 THAT TYRONE  
ROBINSON WAS TRIED ON BEFORE  
THE JURY AT TRIAL AS A MATTER  
OF LAW

DEFENDANTS AARON SCOTT YOUNG SENIOR  
AND AARON SCOTT YOUNG JUNIOR, WERE ALSO  
CHARGED, WITH THE SAME OFFENSE OF  
STATUTORY 16-03-0013 FELONY MURDER BY  
THE FELONY MURDER RULE THEORY ONLY,

FOR THE DEATH OF KHALIL SINGLETON ON SEPER-  
-ate INDICTMENTS.  
AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG  
JUNIOR WERE ALSO CHARGED WITH CONSPIRING  
TO MURDER TYRONE LORENZA ROBINSON. WITH  
A DEADLY WEAPON AT THE IMMEDIATE TIME  
AND SAME LOCATION KHALIL SINGLETON WAS SHOT  
AND KILLED AT. AS A RESULT IN FEBRUARY OF  
2/015 A JURY FOUND AARON SCOTT YOUNG  
JUNIOR GUILTY ON CHARGE OF CONSPIRACY  
TO MURDER TYRONE ROBINSON WITH A DEADLY  
WEAPON. THE JURY ALSO FOUND AARON SCOTT YOUNG  
JUNIOR GUILTY OF MURDER OF KHALIL SINGLETON.  
AND THE JURY DETERMINED THAT THE VIOLENT  
DANGEROUS FELONY OF CONSPIRACY TO MURDER  
TYRONE ROBINSON WITH A DEADLY WEAPON.  
IS THE FELONY THAT KHALIL SINGLETON DEATH  
IS A PROBABLE AND NATURAL CONSEQUENCE  
OF THAT CAUSED KHALIL SINGLETON TO BE SHOT AND  
KILLED AS A PROXIMATE RESULT. AS THE  
EVIDENCE INSIDE OF TYRONE LORENZA  
ROBINSON TRIAL ALSO PROVED AGAINST  
AARON SCOTT YOUNG JUNIOR AND AARON SCOTT  
YOUNG SENIOR.

BECAUSE THE EVIDENCE THE STATE OF SOUTH  
CAROLINA PRESENTED AT TRIAL IN THIS  
CASE. PROVE THAT AS A MATTER OF LAW  
TYRONE LORENZA ROBINSON IS NOT GUILTY  
ON STATUTORY 16-03-0010 FELONY MURDER  
BY THE FELONY MURDER RULE THEORY, THATS  
CHARGED AND ALLEGED IN THE WRITTEN  
WRITE UP OF INDICTMENT # 2012-65-07-  
-1935 AND ARREST WARRANT # 2012 A0720300114.  
THAT TYRONE ROBINSON WAS TRIED ON BEFORE  
THE JURY AT TRIAL.  
AS A MATTER OF LAW THE JURY DID NOT FIND  
TYRONE ROBINSON GUILTY ON INDICTMENT #  
2012-65-07-1935 AND AS A MATTER OF LAW THE  
JURY DID NOT FIND TYRONE ROBINSON GUILTY  
ON THE PARTICULAR CRIME AND OFFENSE.  
OF STATUTORY 16-03-0010 FELONY MURDER BY  
THE FELONY MURDER RULE THEORY. THAT  
TYRONE ROBINSON WAS TRIED ON BEFORE THE  
JURY AT TRIAL ON INDICTMENT # 2012-65-

- 07-1935, AS A RESULT THE JURY AND FOREPERSON OF THE JURY did not write a JURY VERDICT IN ON THE JURY VERDICT FORM ON INDICTMENT # 2012-65-07-1935. AS A MATTER OF LAW THE UNINDICTED

CRIME AND OFFENSE OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. IS NOT A LESSOR INCLUDED OFFENSE TO STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY.

BECAUSE THE JURY FOUND TYRONE ROBINSON GUILTY ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY did not INDICT TYRONE ROBINSON ON AND THE GRAND JURY did not issue a indictment charge-ING TYRONE ROBINSON WITH.

AS A MATTER OF LAW THE JURY FOUND TYRONE ROBINSON "NOT GUILTY" ON INDICTMENT # 2012-65-07-1935 AND AS A MATTER OF LAW THE JURY FOUND TYRONE ROBINSON "NOT GUILTY" ON THE PARTICULAR CRIME AND OFFENSE OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THAT TYRONE ROBINSON WAS TRIED ON BEFORE THE JURY AT TRIAL ON INDICTMENT # 2012-65-07-1935.

BECAUSE AS A MATTER OF LAW THE VERDICT OF GUILTY ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT, THAT THE GRAND JURY did not INDICT TYRONE ROBINSON ON AND THE GRAND JURY did not issue a indictment-AGAINST TYRONE ROBINSON FOR. IS THE EQUIVALENT TO A FINDING OF NOT GUILTY BY THE JURY ON INDICTMENT # 2012-65-07-1935 AND THE PARTICULAR CRIME AND OFFENSE OF STATUTORY

16-03-0010 FELONY MURDER BY THE FELONY  
MURDER RULE THEORY ONLY. THAT TYRONE  
ROBINSON WAS TRIED ON BEFORE THE JURY  
AT TRIAL ON INDICTMENT # 2012-65-07-  
-1935. BECAUSE THE JURY SILENCE ON AND  
THE JURY FAILURE TO DECIDE ON THE PARTIC-  
-ULAR CRIME AND OFFENSE AND THEORY -  
OF STATUTORY 16-03-0010 FELONY MURDER BY  
THE FELONY MURDER RULE THEORY. THAT  
TYRONE ROBINSON WAS ARRESTED ON, INDICT-  
-ED ON AND TRIED ON BEFORE THE JURY AT  
TRIAL, ON INDICTMENT # 2012-65-07-1935.  
IS IMPLIED AS AND CONSTITUTES A "ACQUITTAL"

FOR TYRONE ROBINSON ON INDICTMENT #  
2012-65-07-1935, AND THE STATUTORY 16-03-  
-10 FELONY MURDER BY THE FELONY MURDER  
RULE THEORY. CHARGED AND ALLEGED IN  
THE WRITTEN WRITE UP OF INDICTMENT  
# 2012-65-07-1935 THAT TYRONE ROBINSON  
WAS ARRESTED ON, INDICTED ON AND TRIED  
ON BEFORE THE JURY AT TRIAL.  
AS A RESULT THE 5TH AMENDMENT OF THE  
CONSTITUTION OF THE UNITED STATES OF  
AMERICA. RIGHT TO BE FREE FROM DOUBLE  
JEOPARDY, BARRS THIS APPEALS COURT  
RETRIED. IN A NEW TRIAL, ON INDICTMENT  
# 2012-65-07-1935 AND STATUTORY 16-03-0010  
FELONY MURDER BY THE FELONY MURDER RULE  
THEORY. THAT CHARGED AND ALLEGED IN THE  
WRITTEN WRITE UP OF INDICTMENT # 2012-  
-65-07-1935. THAT TYRONE ROBINSON WAS  
ARRESTED ON, INDICTED ON AND TRIED ON BEFORE  
THE JURY AT TRIAL, AND FOUND NOT GUILTY  
ON AND "AQUITTED" ON BY THE JURY  
SILENCE ON CHARGE AS A MATTER OF LAW -  
FOR PROOF REVIEW  
CASE LAW MERITS

SUPREME COURT OF SOUTH CAROL-  
-INA CASE LAW OF.  
THE STATE VS. LOUIS ENGLISH FULLER

552 S.E.2d 282 (S.C. 2001) OPINION NO. -  
 -25334 "QUOTEING"  
 IF ACCESSORY AFTER THE FACT IS NOT  
 CHARGED IN THE INDICTMENT, BUT IS  
 INSTRUCTED TO CLARIFY MERE PRESENCE,  
 A FINDING OF ACCESSORY AFTER  
 THE FACT IS THE EQUIVALENT TO A  
 FINDING ON "NOT GUILTY"

## ALSO REVIEW CASE LAW MERITS

4TH CIRCUIT COURT OF APPEALS CASE  
 LAW OF.  
 LIVINGSTON V. MURDAUGH 183 F.3d 300,  
 301 4TH CIR 1999 "QUOTEING"  
 DOUBLE JEOPARDY BAR TO RETRIAL  
 FOR RECKLESS HOMICIDE CHARGE  
 AFTER JURY CONVICTED DEFENDANT  
 FOR FELONY DUE BECAUSE JURY  
 SILENCE ON RECKLESS HOMICIDE WAS  
 IMPLIED ACQUITTAL

BECAUSE AS A MATTER OF LAW THE JURY  
 FOUND TYRONE ROBINSON NOT GUILTY, ON  
 INDICTMENT # 2012-GS-07-1935 AND THE  
 PARTICULAR CRIME AND OFFENSE OF  
 STATUTORY 0010 FELONY MURDER BY THE  
 FELONY MURDER RULE THEORY. TYRONE ROBIN-  
 SON WAS TRIED ON BEFORE THE JURY AT  
 TRIAL ON INDICTMENT # 2012-GS-07-1935.  
 AS A MATTER OF LAW TYRONE ROBINSON  
 CONVICTION ON THE UNINDICTED THEORY  
 AND CRIME OF COMMON LAW MURDER BY  
 THE UNINDICTED THEORY OF THE DOCTRINE  
 OF TRANSFERRED INTENT. THAT THE GRAND  
 JURY DID NOT INDICT TYRONE ON AND  
 THE GRAND JURY DID NOT ISSUE A INDICT-  
 -MENT CHARGEING TYRONE ROBINSON

WITH PREJUDICED TYRONE  
ROBINSON AND UNDERMINED CONF-  
-IDENCE IN THE OUTCOME OF TYRONE  
LORENZA ROBINSON TRIAL.

BECAUSE IF THE TRIAL JUDGE WOULD  
 OF NOT UNCONSTITUTIONALLY CHARGED  
 AND INSTRUCT THE JURY TO DECIDE ON  
 THE UNINDICTED THEORY AND CRIME.  
 OF COMMON LAW MURDER BY THE  
 UNINDICTED THEORY OF THE DOCTRINE  
 OF TRANSFERRED INTENT, THEN TYRONE  
 ROBINSON WOULD OF BEEN HOME FREE  
 IN SOCIETY, AND THE OUTCOME OF TYRONE  
 ROBINSON TRIAL AND PROCEEDING  
 WOULD OF BEEN TOTALLY DIFFERANT.

BECAUSE AS A MATTER OF LAW THE JURY  
 FOUND TYRONE "NOT GUILTY" ON

INDICTMENT # 2012-65-07-1935 AND THE  
 STATUTORY 16-03-0010 FELONY MURDER  
 BY THE FELONY MURDER RULE THEORY CRIME,  
 AND OFFENSE. TYRONE ROBINSON WAS  
 TRIED ON BEFORE THE JURY AT TRIAL  
 ON INDICTMENT # 2012-65-07-1935,  
 THEREFORE TYRONE ROBINSON WAS  
 UNCONSTITUTIONALLY DEPRIVED OUT OF HIS  
 RIGHT TO A FAIR TRIAL AND WAS  
 UNCONSTITUTIONALLY DEPRIVED OUT  
 OF A FAIR TRIAL, IN VIOLATION OF HIS  
 5TH AMENDMENT RIGHT TO DUE PROCESS.  
 AND 5TH AMENDMENT RIGHT TO THE GRAND

## JURY CLAUSE OF THE 5TH AMENDMENT

THE UNITED STATES SUPREME COURT CASE OF "BAIN" WHICH HAS NEVER BEEN DISAPPROVED. STANDS FOR THE RULE THAT A COURT CANNOT PERMIT A DEFENDANT SUCH AS TYRONE LORENZA ROBINSON, TO BE TRIED ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF, THE DOCTRINE OF TRANSFERRED INTENT. THAT ARE NOT CHARGED AND ALLEGED IN THE INDICTMENT THE GRAND JURY ISSUE AGAINST ME CHARGING ME WITH. YET THE TRIAL JUDGE AND TRIAL COURT DID UNCONSTITUTIONALLY PERMIT TYRONE LORENZA ROBINSON TO BE CONVICTED. ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT AGAINST TYRONE ROBINSON FOR AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGING TYRONE ROBINSON WITH. INDICTMENT # 2012-65-07-1935 CHARGES TYRONE LORENZA ROBINSON WITH THE PARTICULAR THEORY AND CRIME OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. WHICH ELEMENTS THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROOF TO PROVE. ARE EXPLAINED IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY. BY THE SUPREME COURT OF SOUTH CAROLINA IN THE CASE OF STATE VS. CROWE 1885.E. 2d 379.

INDICTMENT # 2012-65-07-1935 ABSOLUTELY "DO NOT" CHARGE OR ALLEGED THE UNINDICTED THEORY AND CRIME OF

COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT, THAT TYRONE LORENZA ROBINSON WAS CONVICTED ON.

THE GRAND JURY THAT ISSUED INDICTMENT# 2012-GS-07-1935 AGAINST TYRONE ROBINSON, WAS SATISFIED TO CHARGE TYRONE ROBINSON WITH THE PARTICULAR CRIME AND THEORY, OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. WHICH ELEMENTS THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROOF TO PROVE. IT IS EXPLAINED BY THE SUPREME COURT OF SOUTH CAROLINA IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY IN THE CASE OF STATE VS. CROWE 188 S.E.2d 379 WHICH STATES "QUOTE" IF TWO OR MORE COMBINE TOGETHER TO COMMIT AN UNLAWFUL ACT, SUCH AS ROBBERY, AND A HOMICIDE IS COMMITTED BY ONE OF THE ACTORS, AS PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN PURSUENCE OF THE COMMON DESIGN ALL PRESENT PARTICIPATING IN THE UNLAWFUL UNDERTAKING ARE AS GUILTY AS THE ONE WHO COMMITTED THE FATAL ACT.

BUT NEITHER THIS COURT OR ANY OTHER COURT CAN KNOW RATHER OR NOT THE GRAND JURY WOULD HAVE BEEN ~~WILLING~~ TO ISSUE A INDICTMENT CHARGING TYRONE LORENZA ROBINSON, WITH THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT, THAT TYRONE WAS UNCONSTITUTIONALLY CONVICTED ON. AND IT IS OBVIOUS THAT BECAUSE TYRONE LORENZA ROBINSON WAS UNCONSTITUTIONALLY

- UNLAWFULLY CONVICTED ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT, THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON AND THE GRAND JURY DID NOT ISSUE AN INDICTMENT CHARGEING TYRONE ROBINSON WITH TYRONE LORENZA ROBINSON ABSOLUTELY WAS NOT CONVICTED ON. THE PARTICULAR CRIME AND THEORY OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY THAT IS CHARGED AND ALLEGED INSIDE

OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935 THAT THE GRAND JURY INDICTED TYRONE LORENZA ROBINSON ON. THE TRIAL JUDGE UNCONSTITUTIONAL JURY CHARGE AND INSTRUCTION TO THE JURY, INSTRUCTING THE JURY TO DECIDE ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. CONSTITUTED A MATERIAL VARIANCE OR A CONSTRUCTIVE AMENDMENT, THAT DESTROYED TYRONE LORENZA ROBINSON 5th AMENDMENT SUBSTANTIAL RIGHT TO BE TRIED ONLY ON THE PARTICULAR THEORY AND CRIME, OF STATUTORY 16-03-0010 FELONY MURDER BY THE FELONY MURDER RULE THEORY. THATS CHARGED AND ALLEGED AND PRESENTED INSIDE OF INDICTMENT # 2012-GS-07-1935, THAT THE GRAND JURY INDICTED TYRONE ROBINSON ON.

- DEPRIVATION OF SUCH A BASIC SUBSTANTIAL RIGHT IS FAR TOO SERIOUS TO BE TREATED AS NOTHING MORE THAN A VARIANCE AND THEN DISMISSED AS HARMLESS ERROR. THE VERY PURPOSE OF THE REQUIREMENT THAT TYRONE LORENZA ROBINSON BE INDICTED BY THE GRAND JURY IS TO LIMIT TYRONE LORE-

- WENZA ROBINSON JEOPARDY TO OFFENSES CHARGED BY A GROUP OF HIS FELLOW CITIZENS ACTING INDEPENDENTLY OF EITHER PROSECUTING ATTORNEY OR JUDGE. THUS THE BASIC PROTECTION THE GRAND JURY WAS DESIGNED TO AFFORD TYRONE ROBINSON WAS DEFEATED BY A DEVICE OR METHOD WHICH SUBJECTS TYRONE ROBINSON TO PROSECUTION FOR THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON AND THE GRAND JURY DID NOT ISSUE AN INDICTMENT CHARGING TYRONE ROBINSON WITH.

THE RIGHT TO HAVE THE GRAND JURY MAKE THE CHARGE ON ITS OWN JUDGEMENT IS A SUBSTANTIAL RIGHT THAT CAN NOT BE TAKEN AWAY WITH OR WITHOUT COURT AMENDMENT. HERE IN THIS CASE AS IN THE UNITED STATES SUPREME COURT CASE LAW OF "BAIN".

THIS COURT AND NO OTHER COURT CAN KNOW WHETHER THE GRAND JURY WOULD HAVE INCLUDED IN ITS INDICTMENT KATHLIZ SINGLETON DEATH OCCURED BY THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. BECAUSE THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT INVOLVES THE DETERMINATION OF THE STATE OF MIND THE DEFENDANT IS IN. WHICH IS A TOTALLY DIFFERANT THEORY TO PROVE AND CONVICT TYRONE WENZA ROBINSON ON WHICH INVOLVES THE ALLEGATION OF A ACT

being committed against someone other than the victim that involves use of the theory of transferred intent to conviction, which is a UNINDICTED theory and crime. THE JURY CONVICTED TYRONE ROBINSON ON, THAT THE GRAND JURY DID NOT INDICT TYRONE WRENZA ROBINSON ON, THE GRAND JURY DID NOT ISSUE A INDICTMENT AGAINST TYRONE ROBINSON FOR AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGEING TYRONE ROBINSON WITH, THAT IS NOT CHARGED OR ALLEGED IN THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935. ALSO THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT IS A TOTALLY DIFFERANT UNINDICTED THEORY TO PROVE. THATS DIFFERANT FROM THE THEORY OF THE FEWNY MURDER RULE WHICH THEORY MUST BE PROVED BY THE ELEMENTS AND THEORY EXPLAINED IN THE JURY CHARGE FOR ACCOMPLICE LIABILITY. AS DECIDED BY THE SOUTH CAROLINA SUPREME COURT IN THE CASE OF STATE VS CROWE 1885.F.2d379 AND SOUTH CAROLINA COURT OF APPEALS IN THE CASE OF STATE VS THADDEUS CURRY 636S.F.2d649

THEREFORE BECAUSE THE TRIAL JUDGE UNCONSTITUTIONALLY CHARGED AND INSTR-  
 UCTED THE JURY TO DECIDE ON, THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ON AND THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGEING TYRONE ROBINSON WITH, THE

TRIAL COURT CONVICTED TYRONE ROBINSON ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THIS WAS "FATAL ERROR". THEREFORE TYRONE LORENZA ROBINSON CONVICTION ON THE UNINDICTED THEORY AND CRIME OF COMMON LAW MURDER BY THE UNINDICTED THEORY OF THE DOCTRINE OF TRANSFERRED INTENT. THAT THE GRAND JURY DID NOT INDICT TYRONE ROBINSON ONLY AND THAT THE GRAND JURY DID NOT ISSUE A INDICTMENT CHARGING TYRONE ROBINSON WITH. MUST BE REVERSED AND TYRONE LORENZA ROBINSON PRISON SENTENCE MUST BE VACATED. AS DECIDED BY THE UNITED STATES SUPREME COURT IN THE CASE LAW OF STIRONE VS. U.S. PA. 1960, 80 S. CT, 270, 361 U.S. 212, 41 F. D. 2d 252 AND AS DECIDED BY THE SOUTH CAROLINA SUPREME COURT IN THE CASE LAW OF LUCAS BAILEY VS. STATE OF SOUTH CAROLINA OPINION NO. - 26975 FOR PROOF REVIEW

### CASE LAW MERITS

UNITED STATES SUPREME COURT CASE LAW OF.  
STIRONE VS. U.S. PA. 1960, 80 S. CT, 270, 361 U.S. 212, 41 F. D. 2d 252 "Quoting"

THE BAIN CASE, WHICH HAS NEVER BEEN DISAPPROVED, STANDS FOR THE RULE THAT A COURT CAN NOT PERMIT A DEFENDANT TO BE TRIED ON CHARGES THAT ARE NOT MADE IN THE INDICTMENT AGAINST HIM. YET THE COURT DID PERMIT THAT IN THIS CASE. THE INDICTMENT HERE CAN NOT FAIRLY BE READ AS CHARGING INTERFERENCE WITH MOVEMENTS OF STEEL FROM PENNSYLVANIA TO OTHER STATES NOR DOES THE COURT OF APPEALS

APPEAR to so read IT. The GRAND JURY  
 WHICH FOUND THIS INDICTMENT WAS SATISF-  
 -IED TO CHARGE THAT STIRONE CONDUCT  
 -INTERFERED WITH INTERSTATE IMPORT-  
 -ATION OF SAND. BUT NEITHER THIS NOR  
 ANY OTHER COURT CAN KNOW THAT THE  
 GRAND JURY WOULD HAVE BEEN WILLING TO  
 CHARGE THAT STIRONE CONDUCT WOULD  
 -INTERFERE WITH INTERSTATE EXPORTAT-  
 -ION OF STEEL FROM A MILL LATER TO  
 BE BUILT WITH READERS CONCRETE  
 AND IT CAN NOT BE SAID WITH CERTAINTY  
 THAT WITH A NEW BASIS FOR CONVICTION  
 ADDED, STIRONE WAS CONVICTED SOLELY  
 ON THE CHARGE MADE IN THE INDICTM-  
 -ENT THE GRAND JURY RETURNED. ALTHOU-  
 -GH THE TRIAL COURT DID NOT PERMIT A  
 FORMAL AMENDMENT OF THE INDICTMENT,  
 THE EFFECT OF WHAT IT DID WAS THE  
 SAME. AND THE ADDITION CHARGING  
 INTERFERENCE WITH STEEL EXPORTS HERE  
 IS NEITHER TRIVIAL, USELESS, NOR INNOC-  
 -UOUS.

WHILE THERE WAS A VARIANCE IN THE  
 SENSE OF VARIATION BETWEEN PLEADING  
 AND PROOF, THAT VARIATION HAS DESTROY-  
 -ED THE DEFENDANT'S SUBSTANTIAL RIGHT  
 TO BE TRIED ONLY ON CHARGES PRESENTED  
 IN AN INDICTMENT BY A GRAND JURY.  
 DEPRIVATION OF SUCH A RIGHT IS FAR  
 MORE SERIOUS TO BE TREATED AS NOTHING  
 -MORE THAN A VARIANCE AND THEN DISMIS-  
 -SED AS HARMLESS ERROR. THE VERY  
 PURPOSE OF THE REQUIREMENT THAT A MAN  
 BE INDICTED BY GRAND JURY IS TO LIMIT  
 HIS JEOPARDY TO OFFENSES CHARGED BY A  
 GROUP OF HIS FELLOW CITIZENS ACTING  
 INDEPENDENTLY OF EITHER PROSECUTING  
 ATTORNEY OR JUDGE. THUS THE BASIC PROTE-

-CTION The GRAND JURY was designed  
 to AFFORD IS defeated by A device  
 OR method which subjects the defe-  
 -ndant to prosecution for INTERFERAN-  
 -CE WITH INTERSTATE commerce which  
 the grand jury did not charge. Here  
 AS THE TRIAL court charged the  
 JURY there are two essential elem-  
 -ENTS OF Hobbs Act crime. INTERFER-  
 -ANCE WITH commerce, and extort-  
 -ION. Both elements have to be char-  
 -ged "FURTHER QUOTEING"  
 The RIGHT TO HAVE THE GRAND JURY  
 make the charge ON ITS OWN  
 Judgement IS A SUBSTANTIAL RIGHT which  
 can not be taken away WITH OR  
 WITHOUT COURT amendment. Here as  
 IN THE BAIN case. we can not know  
 whether the grand jury would have  
 included IN ITS indictment a charge  
 that commerce IN steel mill had  
 been interfered with. yet because  
 OF THE COURT'S admission OF evidence  
 and UNDER ITS charge this might  
 have been the basis UPON WHICH  
 THE TRIAL JURY CONVICTED PETITIO-  
 -NER. IF SO, he was CONVICTED ON  
 A charge the grand jury never  
 made against him. THIS WAS

**FATAL ERROR REVERSED**

ALSO REVIEW  
**CASE LAW MERITS**

SOUTH CAROLINA SUPREME COURT  
 CASE LAW OF.  
 LUCAS BAILEY VS. STATE OF SOUTH CAROLINA

- NO OPINION NO: 26975 "QUOTE IN" IN SOUTH CAROLINA IT IS A RULE OF UNIVERSAL OBSERVANCE IN ADMINISTERING THE CRIMINAL LAW THAT A DEFENDANT MUST BE CONVICTED IF CONVICTED AT ALL OF THE PARTICULAR OFFENSE CHARGED IN THE BILL OF INDICTMENT.

A MATERIAL VARIANCE BETWEEN CHARGE AND PROOF ENTITLES THE DEFENDANTS TO A DIRECT VERDICT. ONE OF THE TWO WAYS AN INDICTMENT CAN BE IMPROPERLY MODIFIED IS THROUGH "A VARIANCE WHEREBY THE CHARGING TERMS OF THE INDICTMENT ARE LEFT UNALTERED, BUT THE EVIDENCE OFFERED AT TRIAL PROVES FACT MATERIAL DIFFERENT FROM THOSE ALLEGED IN THE INDICTMENT." WHEN THE INDICTMENT FACTUALLY CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED.

## A CONVICTION UNDER LATTER CIRCUMSTANCES VIOLATES PRINCIPLES OF DUE PROCESS

BECAUSE THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT EVERY FACT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH A DEFENDANT WAS

charged.

A material variance that  
violates a defendant's substantial  
right to be tried only on charges  
presented in an indictment  
constitutes FATAL ERROR AND  
WARRANTS A REVERSAL ON APPEAL  
OF A JUDGEMENT OF CONVICTION  
OF THE OFFENSE NOT CHARGED  
IN THE INDICTMENT."

Case law merits

4th Circuit Court of Appeals Case Law of.  
U.S.V. Randall, 171 F.3d 195, 203 (4th Cir. 1999)  
"Quoting"

Constructive Amendment per se reversible error and must be corrected on appeal even if defendant did not preserve issue by objection  
- Impermissible amendment because government broadened basis of conviction to include predicate offenses not alleged in indictment

Case law merits

U.S. McKee, 506 F.3d 225, 231 (3d Cir. 2007)  
(Plain error because jury instruction allowed jury to convict for charges absent from indictment and government could not show with certainty that jury did not convict defendant on that basis);

Case law merits

U.S. V. KASIER, 609 F.3d 556, 567 (2d Cir. 2010)  
(Plain error required remand when erroneous jury instructions may have caused jury to find defendant guilty thereby seriously affecting fairness of proceeding.)

Case law merits

Gates 600 F.3d 333, 341 (4th Cir. 2010) (Plain error required reversal when defendant not given notice of charges and notice of criminal charges and an opportunity to respond to them are bedrock principles in our system of justice)

Case law merits

SOUTH CAROLINA SUPREME COURT CASE  
LAW OF.  
LUCAS BAILEY VS. STATE OF SOUTH CAROLINA  
OPINION NO: 26975 "Quoting"  
A material variance that violates a defendant's substantial right to be tried only on charges presented in an indictment constitutes "FATAL ERROR" and warrants a reversal on an appeal of a judgement of conviction of the offense not charged in the indictment

Case law merits

Livingston v. Murdaugh 183 F.3d 300, 301 (4th Cir. 1999)  
(double jeopardy bar to retrial for reckless homicide charge after jury convicted defendant because jury silence on reckless homicide was implied acquittal)

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TAM

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Lucas Bailey, Petitioner,

v.

State of South Carolina, Respondent.

**ON WRIT OF CERTIORARI**

Appeal From Aiken County  
Doyet A. Early, III, Circuit Court Judge

Opinion No. 26975  
Submitted March 16, 2011 - Filed May 9, 2011

**REVERSED AND REMANDED**

Tara Shurling, of Columbia, for Petitioner.

Attorney General Alan Wilson, Chief Deputy  
Attorney General John W. McIntosh,  
Assistant Deputy Attorney General Salley W.  
Elliott and Assistant Attorney General Mary  
S. Williams, of Columbia, for Respondent.

**JUSTICE BEATTY:** After his conviction for homicide by child abuse[1] was affirmed on direct appeal, Lucas Bailey filed an application for post-conviction relief (PCR). We granted a petition for a writ of certiorari to review the denial of PCR. Bailey contends the judge erred in denying PCR as trial counsel was ineffective in failing to object to supplemental jury instructions that allowed the jury to convict him for an act that was not alleged in the indictment. We reverse and remand for a new trial.

93.

## I. Factual/Procedural Background

This case arises from the tragic death of sixteen-month-old Charles Devon Allen ("Victim"). At the time of his death, Victim lived with his mother, Amy Hughes, her boyfriend, Bailey, and Victim's two sisters, who were then five and six years old, respectively. [2]

Around 6:00 p.m. on Thursday, April 26, 2001, Bailey called 9-1-1 and reported that Victim was not breathing. When Aiken County emergency personnel arrived, they found Victim lying face down on the bed. The coroner pronounced Victim dead as his body was "cool to the touch" and *rigor mortis* had begun to set in. Based on the history presented by Bailey and Hughes, investigators initially believed that Victim might have died from an accidental overdose of cold medications. However, upon examining Victim's body, the coroner noticed three "circular marks" or "discolorations" on the child's abdomen.

The next day, Dr. Joel Sexton, a forensic pathologist, performed an autopsy. Dr. Sexton noted visible bruises on Victim's abdomen. Upon further examination, he discovered "extensive internal injuries in the abdominal region and in the head region." Injuries to the intestines and the mesentery arteries and veins indicated multiple blows had torn the areas by compression against the spine. As to Victim's head, Dr. Sexton noted that "there were numerous small round contusions . . . in the front, on the top of the head, on the right side of the head and in the back," which resulted in swelling of the brain. According to Dr. Sexton, the contusions were consistent with a fist or a knuckle-sized object hitting the head. He believed the head injuries contributed to Victim's death and were consistent with some of the symptoms exhibited by Victim prior to his death. He explained that a head injury leads to swelling of the brain, which in turn causes vomiting, lethargy, a "limp" body, and eyes that "roll back" into the head.

Ultimately, Dr. Sexton opined the abdominal injuries were the primary cause of Victim's death. He believed that at least one of the abdominal injuries had occurred hours before death. He concluded that the later abdominal injuries could have caused Victim's death within minutes due to the loss of blood. The cause of death was "listed as blood loss which we refer to as exsanguination due to laceration of these mesentery arteries and veins . . . due to blunt force injury to the abdomen due to a beating." Although Dr. Sexton could not definitively pinpoint Victim's time of death, he opined that it occurred sometime after 2:30 p.m. on Thursday, April 26, 2001. Dr. Sexton believed Victim's injuries were inflicted by an adult as a child would not have had the "force" to cause these injuries. Finally, he did not believe the cold medications given to Victim prior to his death caused or contributed to the death.

Law enforcement interviewed Hughes and Bailey. Subsequently, an Aiken County grand jury indicted Bailey for homicide by child abuse.

At trial, Hughes testified for the State. Hughes testified that she had worked on the Monday and Tuesday preceding Victim's death. According to Hughes, Victim was cared for by Bailey on Monday and then went to daycare on Tuesday. Because Victim had a cold on Wednesday, Hughes stayed home from her job to care for him. Hughes recalled that she and Victim went to sleep in the same bed around 8:00 p.m. Around 12:00 or 12:30 a.m., Bailey took Victim into the kitchen to feed him. Hughes, who had remained in bed, heard a "loud noise" coming from the kitchen followed by Victim crying out. Although

Hughes did not get up to check on Victim, she asked Bailey what had happened, to which Bailey responded, "Nothing." When Bailey returned to bed around 12:50 a.m., he told Hughes that he had put Victim in the bed with his sisters.

Hughes stated that her oldest daughter came in the next morning and reported that Victim had thrown up. According to Hughes, Bailey got up and when he returned he told Hughes that Victim was fine and that he had cleaned him up and placed him in his crib. When Hughes checked on Victim later on Thursday morning, she observed that Victim was unusually quiet and did not stand up in his crib. After taking her daughter to school, Hughes returned and gave Victim some medicine for his cold, but Victim was unable to keep it down. Hughes stayed home from work to care for Victim and called a friend to bring additional cold medication. Hughes stated that Victim was unable to keep this medication down and that he was weak and "wasn't moving." She then took Victim into the bedroom where she laid down with him and Bailey. When Hughes's mother arrived around noon, Hughes left Victim with Bailey. While she was talking with her mother, Hughes heard a "loud sound" from her bedroom. Hughes then asked her daughter to get Victim, but her daughter reported that Bailey told her "no."

Approximately twenty or thirty minutes later, Hughes's daughter took Victim out of the bedroom and brought him to Hughes. Hughes described Victim as "droopy," unable to sit up on his own, and that his eyes rolled back into his head. Around 2:00 p.m., Hughes's friend returned with a different cold medication that Victim was able to tolerate. Hughes testified that Victim fell asleep and Bailey then put him to bed. After she laid down with Victim for approximately thirty minutes to an hour, she got up and checked that Victim was breathing normally.

Around 5:00 p.m., Hughes left the home to drive Bailey's mother to the store. When Hughes returned home around 6:00 or 6:30 p.m., she found emergency personnel at her home. At that time, she was informed that Victim was dead. Hughes ultimately claimed that Bailey had struck Victim, resulting in his death.

During his testimony, Bailey adamantly denied hitting Victim or causing his death. Although Bailey recounted essentially the same timeline as Hughes, he claimed that he and Hughes discussed taking Victim for medical treatment but decided to see if Victim felt better after taking medication on Thursday. He further testified that he checked on Victim after Hughes left on Thursday afternoon and discovered that Victim was not breathing.

In his jury charge, the judge instructed the jurors on the offense of homicide by child abuse by reading the applicable statutory language.[3]

Approximately one hour into deliberations, the jury sent a note to the judge with several questions concerning evidentiary issues. Additionally, the jury asked "the difference between the indictment and the last statement on the indictment form"[4] and "whether the neglect has to directly contribute to the death." In response to the notes, counsel believed that recharging the statute on the offense of homicide by child abuse would be appropriate.

When the jury returned to the courtroom, the foreman referenced the last sentence of the indictment and explained that the jury "wanted to get an understanding of the meaning of the indictment." After the judge read the last sentence of the indictment, the foreman

responded:

Well, the definition was the question we [were] asking for. Also, our verdict to . . . to say this person did that last statement . . . you're talking two different . . .

Before the foreman finished his statement, the judge explained the purpose of the indictment was to "state the charges with enough specificity so that the defendant knows what he has to defend against." The judge then re-read the applicable provisions of the homicide by child abuse statute and gave the jury a printed copy of the statute.

Approximately thirty minutes later, the jury sent out another note, stating:

Does the State have to prove beyond a reasonable doubt: that the defendant caused the death of the child and does the neglect or abuse have to have caused the death?

Counsel and the judge debated the meaning of the jury's question. When the jury returned to the courtroom, the judge explained that "in this case, the only allegations are that [the defendant] caused the death of the child by neglect and abuse," and that under the statute several acts qualified as "neglect and abuse," but the State was required to prove only one of them.

In response, the foreman stated:

We see . . . as a jury, total jury, we see the neglect in the parents, but we fail to see evidence that Lorenzo struck the child. There was no evidence to us that Lorenzo struck this child. There was neglect, yes, on both parties, but we fail to see that - - - and that's written in that document that we didn't see any evidence. We didn't see any evidence . . . And the definition of your homicide has a combination of both. I know [its] a part of that definition, but we fail to see any evidence that he did that.

The judge then instructed the jury to refer to the language of the homicide by child abuse statute.

Out of the presence of the jury, defense counsel indicated her concern over the "emphasis on the neglect to the possible exclusion of the rest of the statute;" however, she believed the jury understood the judge's explanation.

When the jury returned to the courtroom, the judge issued supplemental instructions that stated in part:

[I]f you are distinguishing some acts that you would call abuse and some that you would call neglect, that's up to you as long as you kind of go by the statute here. The statute doesn't really . . . It says it can be abuse or neglect, and it doesn't say which acts might be which, but it says that abuse or neglect is an act or omission which causes harm.

So if there is an act or omission which causes harm then that is abuse or neglect, by definition under this statute. Any act which causes, any act or omission, or failure to act, which causes harm to the child's health, that would be by this statute abuse or neglect,

without getting into the difference of which is which, it doesn't matter.

The judge further explained that:

So you have to find that [the defendant] either did something or failed to do something . . . that caused the death of the child. Either his doing something which is an act, or failing to do something which is an omission. And that that conduct on his part, either the act or the omission, caused the death of this child.

Moments later, a juror approached the bench and, in an off-the-record discussion, expressed her concern to the judge over the definition of the word "caused."<sup>[5]</sup> The judge then gave an instruction on proximate cause. In part, the judge stated: "You must find that the State has convinced you beyond a reasonable doubt that either an act or failure to act on the part of this defendant is a proximate cause of the death of this child."

Nine minutes later, the jury returned with a guilty verdict. The judge denied counsel's motion for a new trial and sentenced Bailey to twenty-five years' imprisonment.

Bailey appealed his conviction and sentence to the Court of Appeals, alleging the trial judge erred in declining to direct a verdict of acquittal. The court affirmed Bailey's conviction and sentence, concluding that "substantial circumstantial evidence" supported a finding that Bailey abused Victim. State v. Bailey, Op. No. 2003-UP-744 (S.C. Ct. App. filed Dec. 17, 2003).

Subsequently, Bailey filed a timely PCR application. After a hearing, the PCR judge denied Bailey's application. As to trial counsel's performance, the PCR judge found, in part, that counsel was not ineffective for failing to object to certain jury instructions. In so ruling, the PCR judge concluded that counsel's decision constituted trial strategy and that even if counsel's performance was deficient, Bailey had not proven prejudice.

## II. Discussion

### A.

Bailey contends the judge erred in denying his PCR application as his trial counsel was ineffective in failing to object to the trial judge's supplemental jury instructions. In support of this contention, Bailey claims the instructions allowed the jury to convict him for "an act alternative to the one specified with particularity in the indictment." Because "the infliction of physical injuries was the specific act alleged in the indictment," Bailey asserts the jury was limited to a determination of whether he committed this act. Based on the foreman's statement that the jury found no evidence that Bailey struck the child, Bailey claims the jury found "a material variance between the act alleged in the indictment and the State's proof." Specifically, Bailey avers the jury convicted him of an unindicted crime as the jury found evidence of neglect rather than the specifically-alleged acts of abuse. Given that the judge's erroneous instructions precipitated this result, Bailey asserts his trial counsel was ineffective in failing to object to these supplemental instructions.

### B.

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- \* The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).
- \* The United States Supreme Court has established a two-pronged test to establish ineffective assistance of counsel by which a PCR applicant must show (1) counsel's performance was deficient, and (2) the deficient performance prejudiced the defendant.
- \* Strickland, 466 U.S. at 687; Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). Under the second prong, the PCR applicant "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland, 466 U.S. at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Simmons v. State, 331 S.C. 333, 503 S.E.2d 164, 166 (1998).

This Court will uphold the findings of the PCR judge when there is any evidence of probative value to support them, and will reverse the decision of the PCR judge when it is controlled by an error of law. Suber v. State, 371 S.C. 554, 558-59, 640 S.E.2d 884, 886 (2007).

### C.

As a threshold matter, the State claims Bailey's issue is not preserved for appellate review given it was not raised to and ruled upon by the PCR judge. We disagree.

In his PCR application, Bailey characterized the trial judge's instructions as erroneous and confusing because the jury was misled regarding the homicide by child abuse statute and the indictment. Additionally, Bailey argued that trial counsel was ineffective in failing to object to certain instructions.

During the PCR hearing, Bailey testified that his trial counsel failed to object to the improper jury instructions. In explaining this claim, Bailey referenced the trial judge's supplemental instructions and the judge's discussions with the jury regarding its questions. Trial counsel admitted that she did not object to these instructions and contended her decision constituted trial strategy. Finally, in his written order, the PCR judge addressed Bailey's allegation of "ineffective assistance of counsel for failing to object to jury charges."

Based on the foregoing, we find Bailey's argument was properly preserved for this Court's review. See State v. Moore, 357 S.C. 458, 593 S.E.2d 608 (2004) (holding an issue must be raised to and ruled upon by the trial court to be preserved for appellate review).

### D.

Having found that Bailey's issue is properly before this Court, we turn to the merits.

- \* "In South Carolina, it is a rule of universal observance in administering the criminal law that a defendant must be convicted, if convicted at all, of the particular offense charged in the bill of indictment." State v. Gunn, 313 S.C. 124, 136, 437 S.E.2d 75, 82 (1993)
- \* (quoting State v. Cody, 180 S.C. 417, 423, 186 S.E. 165, 167 (1936)). "A material variance between charge and proof entitles the defendant to a directed verdict; such a

variance is not material if it is not an element of the offense." Id. (citation omitted); see 41 Am. Jur. 2d Indictments & Informations § 252 (2005) (stating that one of the two ways an indictment can be improperly modified is through "a variance, whereby the charging terms of the indictment are left unaltered, but the evidence offered at trial proves facts materially different from those alleged in the indictment").

"[W]hile a conviction may be sustained under an indictment which is defective because it omits essential elements of the offense, such is not true when the indictment facially charges a complete offense and the State presents evidence which convicts under a different theory than that alleged." Thomason v. State, 892 S.W.2d 8, 11 (Tex. Crim. App. 1994) (citations omitted). "A conviction under the latter circumstance violates principles of due process . . . because the State has failed to prove beyond a reasonable doubt every fact necessary to constitute the crime with which a defendant was charged." Id. (citations omitted); see 41 Am. Jur. 2d Indictments & Informations § 256 (2005) ("A material variance that violates a defendant's substantial right to be tried only on charges presented in an indictment constitutes fatal error and warrants a reversal on an appeal of a judgment of conviction of the offense not charged in the indictment.").

In a case involving similar facts to the instant case, the Texas Court of Appeals found error in the trial judge's jury instructions that permitted the jury to convict the defendant of an act not alleged in the indictment. Castillo v. State, 7 S.W.3d 253 (Tex. Ct. App. 1999). In Castillo, the defendant was charged with the felony offense of intentionally and knowingly causing serious bodily injury to a child and convicted of the lesser-included offense of reckless injury to a child pursuant to section 22.04(a)(1) of the Texas Penal Code. Id.; Tex. Penal Code Ann. § 22.04(a)(1) (1994) ("A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes a child . . . serious bodily injury."). The one-count indictment charging Castillo with this offense provided that Castillo:

[d]id then and there intentionally and knowingly cause serious bodily injury to Triston Castillo, a child 14 years or younger by then and there striking the child with a deadly weapon, to wit: the defendant's hands or by striking the child's head against a deadly weapon, to wit: a wall or a floor.

Id. at 255. In prefacing its analysis, the Texas Court of Appeals noted that "[b]y including a more specific description, the State undertook the burden of proving the specific allegations to obtain a conviction." Id.

At trial, the child's mother testified that the morning the child was taken to the hospital, she was taking a shower when she heard the child "crying out loudly" while in Castillo's care. When she went to check on the child, she observed that he was "in a daze," "seizing," and "limp." Id. at 255. Although Castillo admitted to shaking the child because he was having difficulty breathing, he expressly denied that the child hit or struck a wall. Id. at 257.

On appeal, Castillo raised several issues, including an argument that the trial judge egregiously erred by adding, through a lesser-included offense charge, a theory of prosecution ("shaking") that was not supported by the indictment. Id. at 254. The Texas Court of Appeals agreed with Castillo's argument, finding the trial court erred in "enlarging" the indictment by adding "shaking" as an additional manner and means of committing the charged offense. Id. at 260. In so ruling, the court recognized that a defendant may only

be tried and convicted of the crimes alleged in the indictment and the State is bound by the theory alleged in the indictment. Id. at 258-59. [6]

In light of its holding, the court declined to reach Castillo's claim of ineffective assistance of counsel. The court, however, noted the claim would "loom large on the scene, given the failure to move for an instructed verdict and to object to the charge which enlarged the indictment." Id. at 262.

We agree with the reasoning in Castillo and apply its analysis to the facts of the instant case. We conclude that the trial judge's instructions improperly "enlarged" the indictment by instructing the jury that it could convict Bailey of a crime not alleged in the indictment.

Here, the indictment charging Bailey with homicide by child abuse specifically alleged that Bailey "inflicted upon [Victim] physical injuries to his abdomen resulting in exsanguination and consequently the death of the child." By its express terms, the indictment alleged that Bailey's "act" resulted in Victim's death. Significantly, it did not allege that Victim's death was the result of an "omission" on the part of Bailey.

Thus, the indictment apprised Bailey that he had to defend only against the allegation that he inflicted the physical injuries resulting in Victim's death. See Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005) ("The primary purposes of an indictment are to put the defendant on notice of what he is called upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronounce if the defendant is convicted."); State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005) ("The indictment is a notice document.").

A careful review of the jury's questions and the ensuing discussion with the judge reveals that the jury focused on the terms of the indictment and recognized the alternative elements in the homicide by child abuse statute, i.e., an "act" versus an "omission." The foreman of the jury then stated the jury found "no evidence" that Bailey struck the Victim. [7] Based on this statement and the reference to the last line of the indictment, it is evident the jury was inquiring as to whether a finding of "neglect" on the part of Bailey was sufficient for a conviction under the statute.

The judge's supplemental instructions, which were confusing and contradictory, resulted in the erroneous directive that the jury could find Bailey guilty of homicide by child abuse if it found an act of "abuse or neglect." Such an instruction was in direct contravention of the specific act alleged in the indictment and, thus, constituted a material variance or a "constructive amendment" to the indictment.

We find that trial counsel not only failed to object to these jury instructions, but also acquiesced in the judge's erroneous interpretation. Thus, counsel's failure to object did not constitute a valid trial strategy. Cf. Padgett v. State, 324 S.C. 22, 484 S.E.2d 101 (1997) (finding trial counsel's failure to challenge first-degree burglary indictment did not constitute valid trial strategy where counsel did not recognize the distinction between a "barn" and a "dwelling" for the purposes of first-degree burglary).

Having found that trial counsel's performance was deficient, the question becomes whether Bailey was prejudiced by counsel's errors. [8] Because the supplemental

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instructions created a material variance between the State's evidence and the allegations in the indictment, we conclude that Bailey was prejudiced by trial counsel's failure to object as this deficiency undermined confidence in the outcome of his trial. Accordingly, we hold trial counsel rendered ineffective assistance. See McKnight v. State, 378 S.C. 33, 48-49, 661 S.E.2d 354, 361-62 (2008) (finding trial counsel rendered ineffective assistance when she failed to object to the supplemental jury charge on the measure of criminal intent required for a conviction under the Homicide by Child Abuse statute; reasoning that the supplemental charge: (1) did not clarify the particular mental state and served to "further confuse the jury;" (2) "attained a special significance in the minds of the jurors;" and (3) was "prejudicial in fact" as the jury returned a guilty verdict five minutes after the supplemental charge).

### III. Conclusion

In conclusion, we find Bailey's issue was preserved for appellate review as it was raised to and ruled upon by the PCR judge. In terms of the merits, we hold trial counsel was deficient in failing to object to the supplemental jury instructions as the judge perpetuated the jury's confusion that they could convict Bailey of homicide by child abuse based on an unindicted allegation of neglect. We find that a confluence of the lone specific allegation of physical abuse in the indictment and the jury's expressed confusion about the necessity of evidence of physical abuse by Bailey with the insufficient jury instructions created a structural due process defect that deprived Bailey of a fair trial. We conclude that Bailey was prejudiced by counsel's deficient performance. Accordingly, we reverse the order of the PCR judge and remand for a new trial.

**REVERSED AND REMANDED.**

**TOAL, C.J., PLEICONES, KITTREDGE and HEARN, JJ., concur.**

[1] S.C. Code Ann. § 16-3-85 (2003).

[2] Bailey was not the biological father of Victim or Hughes's other children; however, Hughes was pregnant with Bailey's child at the time of Victim's death.

[3] Specifically, the judge read the following provisions of section 16-3-85:

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life;

(B) For purposes of this section, the following definitions apply:

(1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;

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(2) "harm" to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

S.C. Code Ann. § 16-3-85(A)(1), (B) (2003).

[4] The text of the indictment provided:

That LUCAS LORENZO BAILEY did in Aiken County on or about April 26, 2001, commit the crime of Homicide By Child Abuse in violation of South Carolina Code Ann. Section 16-3-85, in that the defendant did cause the death of Charles D. Allen, a child two (2) years of age, while committing child abuse or neglect as defined by South Carolina Code Section 20-7-490, and the death of said child occurred under circumstances manifesting an extreme indifference to human life, in that Lucas Lorenzo Bailey was responsible for the welfare of said child and the defendant did inflict physical harm to the child, to wit: **The defendant inflicted upon said child physical injuries to his abdomen resulting in exsanguination and consequently the death of the child.**

[5] We take this opportunity to caution the bench against engaging in off-the-record discussions with members of the jury. Here, the record does not reveal whether the attorneys were present during the exchange that culminated in the jury charge regarding proximate cause. Thus, we are troubled that the decision regarding the jury instruction may have been made without the judge conferring with the attorneys. Because this was not an issue raised for our consideration on appeal, we do not address any arguments challenging the procedure employed by the judge. However, we emphasize that we do not condone a judge's off-the-record discussion with a juror.

[6] Notably, the court stated in its conclusion that its decision did not prevent "the State from seeking a new indictment charging injury to a child and alleging a different manner and means of committing the offense such as 'shaking,' and trying appellant on the new indictment." *Id.* at 262.

[7] By his statement, the foreman was conveying the jury's deliberations as to whether there was "direct evidence" that Bailey struck Victim. Thus, we believe it would have been prudent and more appropriate for the trial judge to instruct the jury on "circumstantial evidence" in order to resolve the jury's confusion.

[8] We reject any contention that the Court of Appeals' opinion affirming Bailey's conviction negates a finding of prejudice as the court only considered the evidence in the context of a directed verdict motion. Although we agree there was sufficient evidence to submit the case to the jury, the issue in this case requires a consideration of the evidence after the submission of the case to the jury.

ISSUE APPEALED

THE TRIAL JUDGE ERRORED BY NOT AWARDDING TYRONE LORENZA ROBINSON. A REDIRECTED VERDICT AND OR DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE AS TYRONE LORENZA ROBINSON REQUESTED

UNDESPUTABLE EVIDENCE

AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR CONSPIRING AND ACTING TOGETHER. COMMITTED THE ONGOING DANGEROUS VIOLENT FELONY AND CRIME OF CONSPIRACY TO MURDER TYRONE LORENZA ROBINSON WITH A DEADLY WEAPON. AGAINST TYRONE LORENZA ROBINSON AT THE SAME TIME, SAME LOCATION AND IMMEDIATE TIME KHALIL SINGLETON WAS SHOT AND KILLED. AS A PROXIMATE RESULT KHALIL SINGLETON DEATH IS THE PROBABLE AND NATURAL CONSEQUENCE OF THE ONGOING VIOLENT FELONY AND CRIME OF CONSPIRACY TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON. THAT AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR WERE ARRESTED AND INDICTED WITH COMMITTING AGAINST "VICTIM" TYRONE LORENZA ROBINSON.

IN FEBRUARY OF 2015 A JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF CONSPIRACY TO MURDER TYRONE ROBINSON. AT THE IMMEDIATE TIME AND SAME LOCATION KHALIL SINGLETON WAS SHOT AND KILLED AT. IN ADDITION THE JURY AT TRIAL FOUND THAT AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR DANGEROUS VIOLENT FELONY OF CONSPIRACY TO MURDER VICTIM TYRONE LORENZA ROBINSON WITH A DEADLY WEAPON. IS THE ONGOING DANGEROUS VIOLENT FELONY, THAT KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF. THAT AS A PROXIMATE RESULT, CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED. AS A MATTER OF LAW PROVEING VICTIM TYRONE LORENZA ROBINSON WHO AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR WERE CONSPIRING TO MURDER WITH A DEADLY WEAPON. IS NOT GUILTY OF MURDER OF KHALIL SINGLETON AND WAS ENTITLED TO A REDIRECTED VERDICT AND OR DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE AT HIS TRIAL.

IN ADDITION THE JURY ALSO FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF MURDER OF KHALIL SINGLETON. BECAUSE THE JURY AT TRIAL FOUND THAT AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG

SENIOR. VIOLENT DANGEROUS FEWNY OF CONSPIRACY TO MURDER & VICTIM TYRONE LORENZA ROBINSON at the immediate time and same location KHALIL SINGLETON WAS SHOT AND KILLED AT, IS THE DANGEROUS AND VIOLENT ONGOING FEWNY AND CRIME. THAT KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF. THAT AS A PROXIMATE RESULT CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED. AS A MATTER OF LAW PROVEING THAT AS THE ATTACK VICTIM WHO AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG JUNIOR WERE CONSPIRING TO MURDER WITH A DEADLY WEAPON, AT THE IMMEDIATE TIME AND SAME LOCATION KHALIL SINGLETON WAS SHOT AND KILLED. & ATTACK VICTIM TYRONE LORENZA ROBINSON AM NOT GUILTY OF MURDER OF KHALIL SINGLETON, AND WAS ENTITLED TO A REDIRECTED VERDICT AND OR DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE AT MY TRIAL.

### IS ELEMENT

PROVEING A CLAIM OF SELF DEFENSE AS A MATTER OF LAW IS:

TYRONE WAS WITHOUT FAULT IN BRINGING ON THE DIFFICULTY.

IN THE CASE OF STATE VS. TAYLOR 589 S.E.2d 2 "QUOTEING" IF THE DEFENDANT IS ENGAGED IN MUTUAL COMBAT SELF DEFENSE IS UNAVAILABLE UNLESS THE DEFENDANT WITH DRAWS FROM THE CONFLICT BEFORE THE KILLING OCCURES

### 1ST ACT OF WITHDRAWAL

THE UNDESPUTABLE EVIDENCE IN THIS CASE PROVES. THAT TYRONE ROBINSON WITHDRAWED FROM THE SITUATION ON 17 OLD WILD HORSE ROAD. BY DOING SO TYRONE ROBINSON FLED FROM AARON SENIOR AND AARON JUNIOR ON 17 OLD WILD HORSE ROAD, AND FLED INTO HIDING AT HIS COUSIN MELVIN HOUSE ON OAKVIEW ROAD WHERE TYRONE WAITED IN HIDING AT HIS COUSIN MELVIN HOUSE ON OAKVIEW ROAD FOR 15 TO 20 MINUTES FOR THE DANGER AARON SENIOR AND AARON JUNIOR POSED TO PASS. THEN TYRONE CALLED HIS COUSIN CEDRICK AND ASKED HIM IF HE COULD COME HIDE OUT TO HIS HOUSE TO AVOID AND HIDE FROM AARON SENIOR AND AARON JUNIOR TO AVOID A ALTERCATION WITH AARON SENIOR AND AARON JUNIOR. ALSO TO AVOID FROM BEING SHOT AND KILLED, AND MURDERED BY AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. PROVEING THAT THRU HIS ACTIONS

TYRONE had communicated that he had withdrawn from the situation on 1701d WILD HORSE ROAD. FAR BEFORE KHALIL SINGLETON WAS SHOT AND KILLED. PROVEING THAT TYRONE ROBINSON WAS WITHOUT FAULT IN BRINGING ON THE DIFFICULTY.

### CONFESSION

PROVEING AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR were at fault in bring on the difficulty. At TYRONE ROBINSON TRIAL POLICE INVESTIGATOR SGT. LAUREL ALBERTIN testified IN TYRONE defense, that AARON SCOTT YOUNG JUNIOR CONFESSED to her quote IF WE WOULD OF NEVER WENT DOWN THERE THE LIL BOY WOULD OF NEVER died

AARON SCOTT YOUNG JUNIOR THROUGH THIS CONFESSION CONFESSED. THAT HE AARON JUNIOR AND HIS FATHER AARON SCOTT YOUNG SENIOR, ACTIONS OF CONSPIRING TO MURDER & VICTIM TYRONE ROBINSON WITH A DEADLY WEAPON. CAUSED KHALIL SINGLETON TO BE SHOT AND KILLED AND IS RESPONSIBLE FOR KHALIL SINGLETON BEING SHOT AND KILLED AND BROUGHT ON THE DIFFICULTY THAT CAUSED KHALIL SINGLETON DEATH AND KHALIL SINGLETON DEATH IS A PROBABLE AND NATURAL CONSEQUENCE OF. AS THE JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF IN FEBRUARY OF 2015, FOR CONSPIRACY TO MURDER & TYRONE ROBINSON WITH A DEADLY WEAPON AND FOR MURDER OF KHALIL SINGLETON. BY THE UNDESUTABLE EVIDENCE AND CONCLUSIVE EVIDENCE AARON SCOTT YOUNG JUNIOR VERY OWN CONFESSION AND JURY VERDICT OF GUILTY AGAINST AARON SCOTT YOUNG JUNIOR. FOR CONSPIRACY TO MURDER & VICTIM TYRONE LORENZA ROBINSON WITH A DEADLY WEAPON AND MURDER OF KHALIL SINGLETON. PROVES TYRONE ROBINSON IS WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. AS A MATTER OF LAW SATISFYING THE FIRST ELEMENT FOR CLAIM OF SELF DEFENSE.

### 2ND AND 3RD ELEMENT

PROVEING A CLAIM OF SELF DEFENSE AS A MATTER OF LAW IS.

THE DEFENDANT MUST HAVE BEEN IN ACTUAL IMMINENT DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY INJURY OR HE MUST HAVE ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY INJURY.

3rd ELEMENT.

a reasonable prudent person of ordinary firmness and courage would have entertained the same belief

CONFESSIO

At trial Police Investigator Sgt. LAUREL ALBERTIN testified that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR confessed to her that their intentions were to kill TYRONE ROBINSON

CONFESSIO

At trial Police Investigator Sgt. LAUREL ALBERTIN testified that AARON SCOTT YOUNG JUNIOR confessed to her, that he pulled and aimed a gun at TYRONE ROBINSON while TYRONE ROBINSON was riding in his car on Oakview Road, and tried to shoot and kill TYRONE ROBINSON but the gun jammed

CONFESSIO

At trial Attorney JESSICA SAXON read AARON SCOTT YOUNG SENIOR confession he made to solicitor ISSAC MC. DUFFIE STONE were AARON SCOTT YOUNG SENIOR confessed to prosecuting solicitor ISSAC MC. DUFFIE STONE. That if he had got the chance to he was gone kill TYRONE ROBINSON.

CONFESSIO

At trial Police Sgt. LAUREL ALBERTIN testified that AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR. Confessed to her that they were riding around trying to find TYRONE ROBINSON for the purpose of killing TYRONE ROBINSON

CONFESSIO

At trial JONTA SINGLETON JUNIOR testified that he AARON SCOTT YOUNG SENIOR and AARON SCOTT YOUNG JUNIOR went riding around with a gun trying to find TYRONE ROBINSON to shoot TYRONE

CONFESSIO

At trial CHARLESE JACKSON testified that she heard gun shooting going on. Then TYRONE ROBINSON came to her house and said man they shooting at me.

CONFESSIO

At trial TYRONE DELANEY testified that TYRONE told him some people in a truck were shooting at him

CONFESSIO

At trial BENNY HAMILTON testified that TYRONE told him. some people were shooting at him trying to kill him and they shot a little boy

CONFESSON

At trial police Sgt. LAUREL ALBERTIN testified that AARON SCOTT YOUNG JUNIOR confessed to her. That he shot TYRONE ROBINSON CAR UP WITH THE MASTER PIECE ARMS NINE MILLAMETER GUN

CONFESSON

At trial police OFFICER BOB BROMAGE testified. That he retrieved a master piece ARMS NINE MILLAMETER GUN WITH A THIRTY TWO ROUND CLIP AND SUPPRESSOR. FROM AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR and AARON SCOTT YOUNG SENIOR confessed that he AARON SENIOR and AARON JUNIOR were TRYEN to shoot and kill TYRONE ROBINSON WITH THE MASTER PIECE ARMS NINE MILLAMETER GUN.

CONCLUSIVE TESTIMONY

At trial police OFFICER FOR BEAUFORT COUNTY SHERIFF DEPARTMENT. testified that they found at least nine bullet holes in TYRONE ROBINSON CAR

CONCLUSIVE TESTIMONY

At trial THE STATE OF SOUTH CAROLINA VERY OWN FORENSIC EXPERT DAN DAFRESE, testified that ALL OF THE FIRED BULLETS, RETRIEVED FROM OUT OF THE BULLET HOLES ON TYRONE ROBINSON CAR. WERE DETERMINED TO BE POSITIVELY MATCHED TO AND FIRED TRUE. THE BARREL OF THE MASTER PIECE ARMS NINE MILLAMETER GUN WITH THE THIRTY TWO ROUND CLIP AND SUPPRESSOR THAT POLICE OFFICER BOB BROMAGE RETRIEVED FROM AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR

REPEATED ATTEMPTS TO MURDER TYRONE ROBINSON

At trial JONTU SINGLETON SENIOR testified. That AFTER he JONTU SINGLETON SENIOR, AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG JUNIOR. Rode AROUND WITH A GUN LOOKING FOR TYRONE ROBINSON IN IS NIEGHBORHOOD ON ALLEN ROAD AND SURROUNDING NIEGHBORHOODS TYRONE IS KNOWN TO BE IN. THEN THEY WENT BACK TO THERE NIEGHBORHOOD AT 17 OLD WILD HORSE ROAD AND AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. LEFT AND WENT LOOKING FOR TYRONE AGAIN A SECOND TIME.

REPEATED ATTEMPTS TO MURDER TYRONE ROBINSON

At trial police Sgt. LAUREL ALBERTIN testified. That AARON SCOTT YOUNG JUNIOR CONFESSED TO HER.

THAT AFTER he Aaron Scott Young JUNIOR and Aaron Scott Young SENIOR pointed and aimed a gun at TYRONE ROBINSON and TRYED to shoot kill and murder TYRONE ROBINSON on oak view road. he Aaron Scott Young JUNIOR and Aaron Scott Young SENIOR. Went back to There neighborhood on 17 old wild horse road and decided to go back looking for TYRONE ROBINSON again at his neighborhood on ALLEN ROAD which would be the third time Aaron Scott Young SENIOR and Aaron Scott Young JUNIOR. Left from There neighborhood on 17 old wild horse road and drove to go Attack TRY to shoot kill and murder TYRONE ROBINSON in his car and in his neighborhood he lived in and be in

### REPEATED Attempts TO MURDER TYRONE ROBINSON

CHARLESE JACKSON testified that she heard multiple gun shots. Then AFTER she heard the gun shots. TYRONE came to her house and said man they shooting at me and then TYRONE left and she heard more gun shots. Then she saw Aaron Scott Young SENIOR and Aaron Scott Young JUNIOR drive past her house in a grey truck. This was on Allen Road.

### REPEATED Attempts TO MURDER TYRONE ROBINSON

TYRONE DELANEY testified at trial that TYRONE ROBINSON told him, that the people in the grey truck were shooting at him TRYEN to shoot him. This was before TYRONE ROBINSON came to Allen Road.

### REPEATED Attempts TO MURDER TYRONE ROBINSON

BENNY HAMILTON testified at trial. That TYRONE ROBINSON told him some people were shooting at him TRYEN to kill him and they shot a lil boy

### CONFESSIO OF RESPONSABILITY

At trial police Sgt. LAUREL ALBERTIN testified in TYRONE ROBINSON defense. That Aaron Scott Young JUNIOR confessed to her "quote" if we would of never went down there the lil boy would of never died

by Aaron Scott Young Junior very own confession. Aaron Scott Young Junior confessed and explained. That he Aaron Scott Young Junior and Aaron Scott Young Senior very own actions. of driving back and fourth from there neighborhood on 17 old wild horse road. to go attack conspire and try to shoot kill and murder Tyrone Robinson with a deadly weapon one of which a master piece ARMS nine millimeter gun. equiped with a thirty two round clip and a suppressor and whatever else gun they had. Is responsible for Khalil Singleton being shot and killed and by Aaron Scott Young Junior very own confession. That "Quote" If we would of never went down there the lil boy would of never died.

Proves by Aaron Scott Young Junior very own confession. That Khalil Singleton death is a probable and natural consequence of Aaron Scott Young Junior and Aaron Scott Young Senior actions of attacking conspireing and tryen to shoot kill and murder Tyrone Robinson. In Tyrone Robinson neighborhood that Tyrone lived at on Allen Road.

### Undesputable evidence

On February of 2/015 a jury at trial. found Aaron Scott Young Junior guilty on charge of. conspiracy to murder Tyrone Lorenza Robinson with a deadly weapon at the same location and immediate time Khalil Singleton was shot and killed at. which is the ongoing dangerous felony. The jury found and determined Khalil Singleton death is a probable and natural consequence of, that as a proximate result caused Khalil Singleton to be shot and killed. The jury found that Aaron Scott Young Junior and Aaron Scott Young Senior actions explained that the jury found Aaron Scott Young Junior guilty on for commiteing against 1 Attack Victim Tyrone Lorenza Robinson. at the same location and immediate time Khalil Singleton was shot and killed. Is ultimately responsible for Khalil Singleton death. As a result the jury also found Aaron Scott Young Junior guilty of murder of Khalil Singleton. because the jury found that Aaron Scott Young Junior and Aaron Scott Young Senior ongoing dangerous, violent felony. of conspiracy to murder Tyrone Lorenza Robinson with a deadly weapon. Is the ongoing dangerous

Violent Felony. That caused KHALIL SINGLETON to be shot and killed as a proximate result and is the ongoing dangerous felony. That KHALIL SINGLETON death is a probable and natural consequence of.

As a matter of law the undisputable evidence and conclusive evidence in this case and Aaron Scott Young Junior trial, that the jury found Aaron Scott Young Junior guilty of committing against Attack Victim TYRONE LORENZA ROBINSON. proves that Attack Victim TYRONE LORENZA ROBINSON is not guilty of murder of KHALIL SINGLETON and is entitled to his request for a redirected verdict and/or directed verdict of not guilty on jury charge of self defense.

### UNDISPUTABLE EVIDENCE

The written write up of arrest warrant #2012-A0720300115 for charge of conspiracy to murder TYRONE ROBINSON with a deadly weapon. That the grand jury indicted Aaron Scott Young Junior on and that the jury at trial found Aaron Scott Young Junior guilty of committing against Attack Victim TYRONE ROBINSON at time KHALIL was killed states that on 09-01-12 at approximately 1648 hours the defendant, Aaron Scott Young Junior and co-defendant did willfully and unlawfully conspire to murder the victim TYRONE ROBINSON. The defendant and co-defendant did travel, while armed with a deadly weapon, to many locations on Hilton Head Island, S.C. looking for the victim. This incident occurred near Allen Road, Hilton Head Island, Beaufort County, S.C. The affiant and others are witness to prove same.

As a matter of law the conclusive evidence and undisputable evidence satisfies the first and second element proving a claim of self defense

### 4th ELEMENT

Proving a claim of self defense as a matter of law is:

The defendant had no other probable means of avoiding the danger. Review South Carolina Supreme Court case law of State vs. Chatman (S.C. 1999) 336 S.C. 149, 519 S.E. 2d 100

## 2ST ACT OF RETREAT FROM ATTACKERS

THE CONCLUSIVE EVIDENCE IN THIS CASE, PROVES THAT TYRONE ROBINSON "RETRACTED" FROM AARON SCOTT YOUNG JUNIOR, FROM 17 OLD WILD HORSE ROAD AND WHILE TYRONE WAS RETREATING FROM AARON SENIOR AND AARON JUNIOR, AARON SENIOR AND AARON JUNIOR SHOT A BULLET INTO TYRONE CAR AT TYRONE AND TRIED TO SHOOT TYRONE IN HIS BACK, WHILE TYRONE WAS DRIVING AWAY DOWN THE ROAD LEAVING 17 OLD WILD HORSE ROAD. TYRONE CONTINUED TO RETREAT FROM AARON SENIOR AND AARON JUNIOR FROM 17 OLD WILD HORSE ROAD AND BY DOING SO, TYRONE FLED AND WENT INTO HIDING AT HIS COUSIN MELVIN HOUSE ON OAKVIEW ROAD, WHERE TYRONE WAITED FOR FIFTEEN TO TWENTY MINUTES UNTIL HE FELT IT WAS SAFE TO LEAVE, TO AVOID A ALTERCATION AND AVOID BEING SHOT AND KILLED BY AARON SENIOR AND AARON JUNIOR, PROVING TYRONE RETREATED BEFORE KHALIL SINGLETON WAS SHOT AND KILLED. AS A MATTER OF LAW SATISFYING THE 4TH ELEMENT FOR CLAIM OF SELF DEFENSE

## 2ND ACT OF RETREAT FROM ATTACKERS

THE CONCLUSIVE EVIDENCE IN THIS CASE, PROVES THAT WHEN AARON SENIOR AND AARON JUNIOR, SHOT MULTIPLE GUN SHOT BULLET ROUNDS INTO TYRONE CAR ON OAKVIEW ROAD, WHILE TYRONE WAS OCCUPIED IN HIS CAR AND RIDING INSIDE OF HIS CAR, AT THE IMMEDIATE TIME AARON SENIOR AND AARON JUNIOR WERE SHOOTING INTO TYRONE CAR AT TYRONE TRYEN TO SHOOT KILL AND MURDER TYRONE. EVEN THOW TYRONE WAS IN THE PREMISES OF HIS OWN MOTOR VEHICLE HE WAS OCCUPIED AND HAD NO DUTY TO RETREAT. TYRONE ROBINSON STILL RETREATED AND FLED TO HIS NEIGHBORHOOD HE LIVED IN ON ALLEN ROAD, TO AVOID A ALTERCATION AND TO AVOID BEING SHOT AND KILLED BY AARON SENIOR AND AARON JUNIOR, PROVING TYRONE RETREATED FOR THE SECOND TIME BEFORE KHALIL SINGLETON WAS SHOT AND KILLED. EVEN THOW HE WAS UNDER NO DUTY TO DO SO. AS A MATTER OF LAW SATISFYING THE 4TH ELEMENT FOR THE SECOND TIME FOR A CLAIM OF SELF DEFENSE.

## 3RD ACT OF RETREAT FROM ATTACKERS

CHARLESE TESTIFIED THAT SHE HEARD GUN SHOTS ON ALLEN ROAD AND THEN TYRONE CAME TO HER HOUSE AND SAID MAN THEY SHOOTING AT ME. THEN TYRONE WENT OUTSIDE AND SHE HEARD MORE GUN

shots. by CHARLESE VERSION OF EVENTS THIS would be the third time TYRONE RETREATED FROM being ATTACKED AND SHOT AT BY AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. AS A MATTER OF LAW SATISFYING THE 4TH ELEMENT FOR THE THIRD TIME FOR A CLAIM OF SELF DEFENSE. 10

### 4TH ACT OF RETREAT FROM ATTACKERS

THE CONCLUSIVE EVIDENCE IN THIS CASE PROVES THAT AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. DROVE DOWN MARSHLAND ROAD FROM SPANNISH WELLS ROAD WAY, AND ATTACKED TYRONE WHILE HE WAS AT HIS COUSIN CHARLESE HOUSE STANDING IN THE FRONT YARD NEXT TO THE HOUSE. AT WHICH TIME TYRONE ROBINSON RETREATED FOR THE FOURTH TIME FROM AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR ATTACK ON HIM.

### UNDESPUTABLE EVIDENCE

THE WRITTEN WRITE UPON ARREST WARRANT # 2012 A07-20300115 FOR CHARGE OF CONSPIRACY TO MURDER VICTIM TYRONE ROBINSON WITH A DEADLY WEAPON. THAT THE GRAND JURY INDICTED AARON SCOTT YOUNG JUNIOR ON AND THAT THE JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING AGAINST ATTACK VICTIM TYRONE ROBINSON AT SAME LOCATION AND IMMEDIATE TIME KHALIL SINGLETON WAS KILLED STATES "QUOTE"

THAT ON 09-01-12 AT APPROXIMATELY 1648 HOURS THE DEFENDANT, AARON SCOTT YOUNG JUNIOR AND CO-DEFENDANT DID WILLFULLY AND UNLAWFULLY CONSPIRE TO MURDER THE VICTIM TYRONE ROBINSON. THE DEFENDANT AND CO-DEFENDANT DID TRAVEL, WHILE ARMED WITH A DEADLY WEAPON, TO MANY LOCATIONS ON HILTON HEAD ISLAND, S.C. LOOKING FOR THE VICTIM. THIS INCIDENT OCCURRED NEAR ALLEN ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, S.C. THE AFFIANT AND OTHERS ARE WITNESS TO PROVE SAME.

AS A MATTER OF LAW THE CONCLUSIVE EVIDENCE AND UNDESPUTABLE EVIDENCE SATISFIES THE FOURTH ELEMENT AS A MATTER OF LAW PROVING A CLAIM OF SELF DEFENSE. AS A MATTER OF LAW PROVING THE TRIAL JUDGE ERRORED BY NOT AWARDED TYRONE ROBINSON HIS MOTION FOR A REDIRECTED VERDICT AND OR DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE. AS MATTER OF LAW PROVING TYRONE ROBINSON IS ENTITLED TO A REDIRECTED VERDICT AND OR DIRECTED VERDICT OF NOT GUILTY ON JURY CHARGE OF SELF DEFENSE AS TYRONE ROBINSON MOTIONED THE COURT FOR.

112.  
CASE LAW MERITS

SPANELL VS. STATE, 83 TEX CRIM 418, 203. W.  
357 (1918) "QUOTING"

ACQUITTAL OF A ON GROUNDS OF SELF  
DEFENSE BARS PROSECUTION FOR MURDER  
OF B KILLED BY ANOTHER BULLET FIRED  
AT A IN SELF DEFENSE

CASE LAW MERITS

SOUTH CAROLINA SUPREME COURT CASE  
LAW OF.

WILLIE LEE DOUGLAS VS. STATE OF SOUTH  
CAROLINA OPINION NO. 24828 "QUOTING"

IF THE DEFENDANT WAS JUSTIFIED IN USING  
FORCE AND FIRING THE FIRST SHOT, HE IS  
JUSTIFIED IN CONTINUING TO SHOOT UNTIL  
IT APPEARS THAT ANY DANGER TO HIS LIFE  
AND BODY HAS CEASED.

THE LAW IN THIS STATE IS THAT THE DEFENDANT  
DOES NOT HAVE TO WAIT UNTIL THE DECEASED GETS  
THE DROP ON HIM OR THE DECEASED BEGINS TO  
SHOOT HIM. HE HAS THE RIGHT TO ACT UPON THE  
LAW OF SELF PRESERVATION AND PREVENT THIS

CASE LAW MERITS

SMART VS. LEEKE 677 F. SUPP 414 "QUOTING"  
DUE PROCESS VIOLATION WHICH OCCURRED IN  
DEFENDANTS TRIAL COULD NOT BE SAID TO BE  
HARMLESS BEYOND REASONABLE DOUBT, NOR  
COULD PREDOMINANTLY CIRCUMSTANTIAL EVIDENCE  
ESTABLISH DEFENDANTS GUILT BEYOND  
REASONABLE DOUBT WHERE REASONABLE  
JURY COULD FIND THAT DEFENDANT HAD  
KILLED VICTIMS IN SELF DEFENSE, AND THERE-  
FORE, WRIT OF HABEAS CORPUS SHOULD BE  
ISSUED.

SIGNATURE: Tyrone Lorenzo Robinson  
PRINT: TYRONE LORENZA ROBINSON  
DATE: JUNE 1ST / 2015

## ARREST WARRANT

2012A0720300116

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

201209010707

THE STATE

against

Aaron Scott Young

Address: 17 Old Wild Horse Rd  
Hilton Head Island, SC 29926-Phone: (843)298-0802 SSN: 249-73-6627  
Sex: M Race: B Height: 5 9 Weight: 195  
DL State: SC DL #: 007381799  
DOB: 5/21/1976 Agency ORI #

Prosecuting Agency: Beaufort County Sheriff Department

Prosecuting Officer: L. Albertin

Offense: Criminal Conspiracy

Offense Code: 00049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the  
☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be  
dealt with according to the law

(L.S.)

Signature of Judge

Date:

## RETURN

A copy of this arrest warrant was delivered to  
defendant  
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions  
101 Ribaut Road Suite 208  
Beaufort, SC 29901

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

## AFFIDAVIT

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SC-CR-510

Personally appeared before me the affiant J. Albertin

being duly sworn deposes and says that defendant Aaron Scott Young

did within this county and state on 09/01/2012

State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of

Hilton Head Island

in the following particulars:

DESCRIPTION OF OFFENSE:

Criminal Conspiracy

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:That on 09-01-12 at approximately 1648 hours the Defendant, Aaron Scott Young Sr. and a Co-Defendant did  
willfully and unlawfully conspire to murder the victim, Tyrone Robinson. The Defendant and Co-Defendant did travel,  
while armed with a deadly weapon, to many locations on Hilton Head Island, SC looking for the victim. This incident  
occurred near Allen Road, Hilton Head Island, Beaufort County, SC. The affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

Affiant's Address: 2001 Duke St

Beaufort, SC 29902-

Affiant's Telephone:

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY.

It appearing from the above affidavit that there are reasonable grounds to believe that

on 09/01/2012 defendant Aaron Scott Young

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of

Hilton Head Island

) as set forth below

DESCRIPTION OF OFFENSE:

Criminal Conspiracy

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or  
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as  
soon thereafter as is practicable

Sworn to and subscribed before me

on 09/06/2012

Signature of Issuing Judge

Judge Court: 6522

Judge's Address: Municipal Court

Hilton Head Island, SC 29928-

Judge's Telephone: (843)341-4670

Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

## ARREST WARRANT

2012A0720300115

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

201209010707

THE STATE

against

Aaron Scott Young, Jr

Address:

17 Wildhorse Rd

Hilton Head Island, SC 29926-

Phone: (843)681-8372

SSN: 295-93-5898

Sex M Race B Height 5 9 Weight 180

DL State: DL #

DOB: 8/30/1993

Agency ORI #:

Prosecuting Agency: Beaufort County Sheriff Department

Prosecuting Officer: L. Albertin

Offense: Criminal Conspiracy

Offense Code: 00049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law

(L.S.)

Signature of Judge

Date:

## RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions  
101 Ribaut Road Suite 208  
Beaufort, SC 29901

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

Personally appeared before me the affiant L. Albertin

being duly sworn deposes and says that defendant Aaron Scott Young, Jr

did within this county and state on 09/01/2012

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE:

Criminal Conspiracy

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts

That on 09-01-12 at approximately 1648 hours the Defendant, Aaron Scott Young, Jr, and a Co-Defendant did willfully and unlawfully conspire to murder the victim, Tyrone Robinson. The Defendant and Co-Defendant did travel, while armed with a deadly weapon, to many locations on Hilton Head Island, SC looking for the Victim. This incident occurred near Allen Road, Hilton Head Island, Beaufort County, SC. The affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

Affiant's Address 2001 Duke St

Beaufort, SC 29902-

Affiant's Telephone

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 09/01/2012

defendant Aaron Scott Young, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of

Hilton Head Island

) as set forth below:

DESCRIPTION OF OFFENSE:

Criminal Conspiracy

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 09/06/2012

Signature of Issuing Judge

Judge Code: 6522

Judge's Address

Municipal Court

Hilton Head Island, SC 29928-

Judge's Telephone

(843)341-4670

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518Beaufort County Sheriff's Office  
copy to be retained with the County Jail for Beaufort County  
Chief Deputy Beaufort County Sheriff's Office

2012A0720300113

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

20120901707

THE STATE  
against

Aaron Scott Young, Jr

Address: 17 Wildhorse Rd  
Hilton Head Island, SC 29926-

Phone (843)681-8372 SSN: 295-93-5898  
Sex: M Race: B Height: 5 9 Weight: 180

DL State: DL #: Agency ORI #:

Prosecuting Agency: Beaufort County Sheriff Department  
Prosecuting Officer: L Albertin

Offense: Murder

Offense Code: 00116

Code/Ordinance Sec: 16-03-0010; 16-03-0020

This warrant is CERTIFIED FOR SERVICE in the  
☐ County/ ☐ Municipality of

The accused  
is to be arrested and brought before me to be  
dealt with according to the law

Signature of Judge

(L.S.)

Date:

### RETURN

A copy of this arrest warrant was delivered to  
defendant on Aaron Scott Young, Jr  
9-6-2012  
[Signature]  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions  
101 Ribaut Road Suite 208  
Beaufort, SC 29901

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

Personally appeared before me the affiant L Albertin

being duly sworn deposes and says that defendant Aaron Scott Young, Jr  
did within this county and state on 09/01/2012

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Hilton Head Island)  
in the following particulars:

DESCRIPTION OF OFFENSE: Murder

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:

That on 09-01-12 at approximately 1648 hrs, the Defendant, Aaron Scott Young Jr, while engaged in an ongoing  
battle, an inherently dangerous felony, did willfully, unlawfully and with malice aforethought, cause the victim, K  
Singleton, to be shot and killed. This incident occurred near Allen Road, Hilton Head Island, Beaufort County,  
The affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Hilton Head Island

Affiant's Address 2001 Duke St  
Beaufort, SC 29902-

Affiant's Telephone

### ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe

on 09/01/2012 defendant Aaron Scott Young, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Hilton Head Island) as set forth below:

DESCRIPTION OF OFFENSE: Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring  
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution,  
soon thereafter as is practicable

Sworn to and subscribed before me

on 09/06/2012

Signature of Issuing Judge

Judge Code: 6522

Judge's Address Municipal Court

Hilton Head Island, SC 29928-

Judge's Telephone (843)341-4670

Issuing Court.

☐ Magistrate

☒ Municipal

☐ Circ

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

Beaufort County Sheriff's Office  
 2012A0720300113  
 Aaron Scott Young, Jr  
 09/01/2012  
 Murder  
 Certified to be a true and correct copy of the original document on file with the Beaufort County Sheriff's Office

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

INDICTMENT  
2012GS0701935

At a Court of General Sessions, convened on October 18, 2012, the Grand Jurors of Beaufort County present upon their oath:

**Murder / Murder**

That in Beaufort County on or about September 1, 2012, while engaged in an ongoing gun battle, an inherently dangerous felony, Tyrone Robinson did willfully, unlawfully and with malice aforethought cause the victim Khalil Singleton to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC, and that Khalil Singleton did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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

*Lawrence M. Shaw*

**WITNESSES**

v. L. Albertin-BCSO

**ARREST WARRANT NUMBER**

012A0720300114

**ACTION OF GRAND JURY**

*11:10 PM*

*Melinda B...*  
represent person of Grand Jury  
date:

**OCT 18 2012**

**INDICT**

represent person of Petit Jury  
date:

**INDICT**

**DOCKET NO. 2012GS0701935**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**October Term 2012**

**THE STATE**

**VS.**

**Tyrone Robinson**

**Indictment for**

**Murder / Murder**

SC Code: 16-03-0010; 16-03-0020  
CDR Code: 0116

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

**Defendant**

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

**Defendant**

**Witness:**

**C.C.C. PLS. and G.S.**

117

116

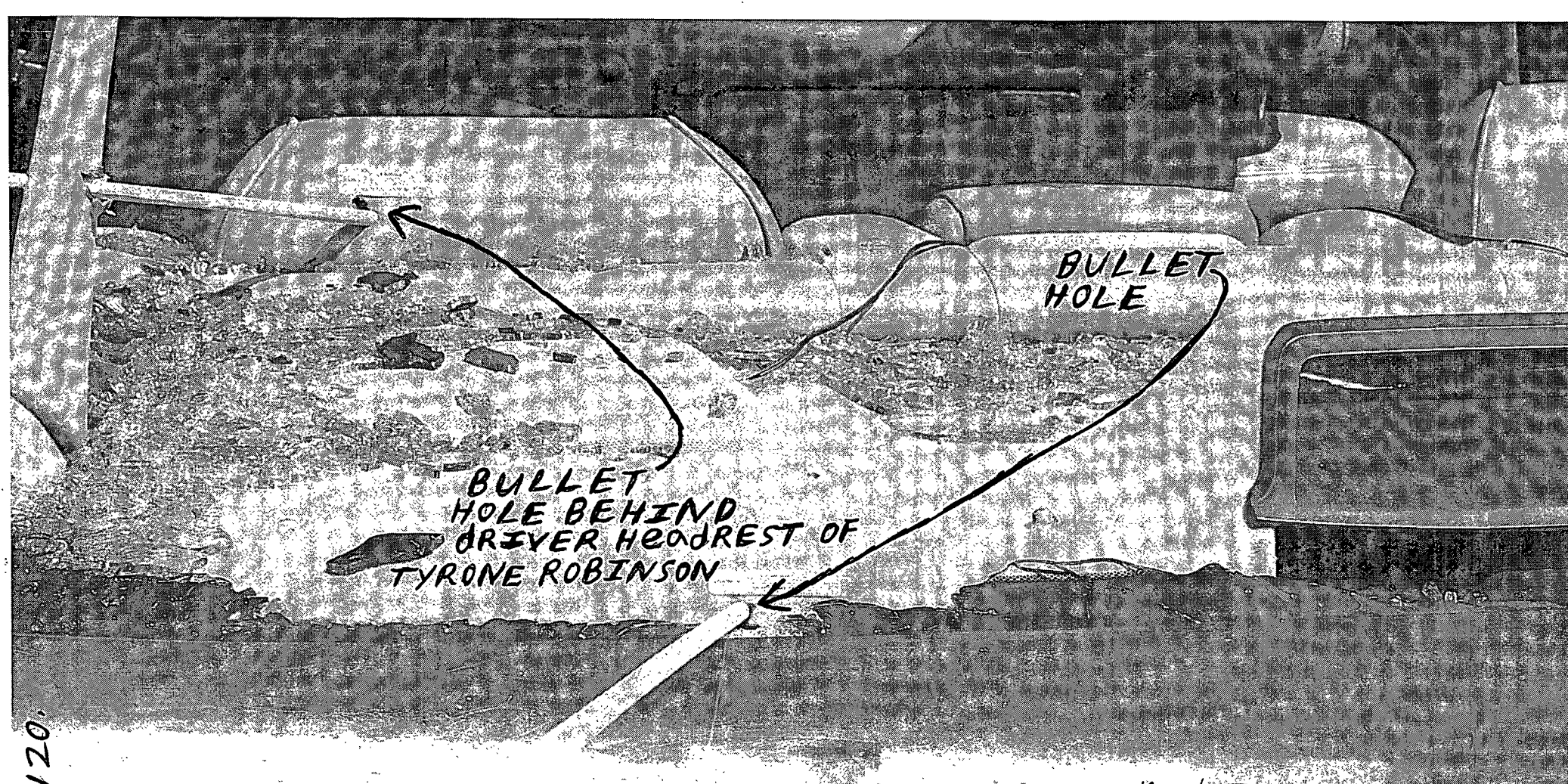
ONE OF GUNS ARONSCOTT YOUNG SENIOR AND ARONSCOTT YOUNG  
JUNIOR WERE ATTACKING CONSPIRING AND TRYEN TO SHOOT KILL  
AND MURDER TYRONE ROBINSON WITH IN THIS CASE  
9mm MASTERPIECE ARMS



BULLET TO YOUNG AARON SCOTT YOUNG  
SENIOR AND AARON SCOTT YOUNG JUNIOR  
WERE ATTACKING CONSPIRING AND TRYING  
TO SHOOT KILL AND MURDER TYRONE  
ROBINSON WITH IN THIS CASE.



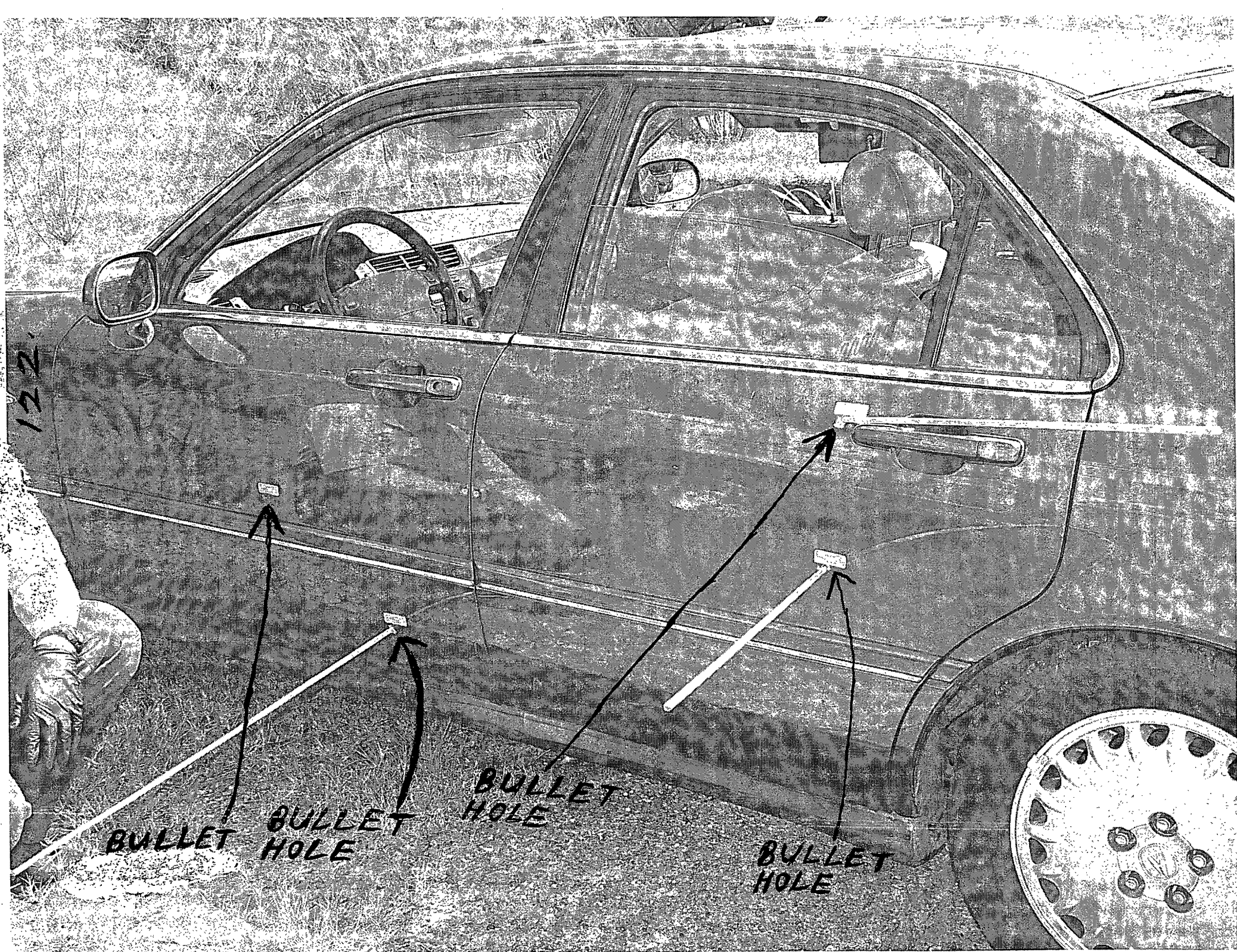
119



120.  
PICTURES OF TYRONE LORENZO ROBINSON  
bullet riddled car. That Aaron Scott Young senior  
and Aaron Scott Young junior shot up at Tyrone  
Lorenzo Robinson while Tyrone was fleeing  
for his life in car



121.



122

BULLET HOLE

BULLET HOLE

BULLET HOLE

BULLET HOLE

# CERTIFICATE OF SERVICE

I TYRONE LORENZO ROBINSON CERTIFY  
THAT ON JUNE 17/2015 I SERVED NOTICE OF  
PROSE BRIEF ON THE SOUTH CAROLINA  
ATTORNEY GENERAL. BY DEPOSITING  
IN THE UNITED STATES MAIL, WITH  
POSTAGE PRE PAID AND ADDRESSED AS  
FOLLOWS.

OFFICE OF THE ATTORNEY GENERAL  
REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211-1549

**RECEIVED**

JUN 04 2015

SC Court of Appeals

SIGNATURE: TYRONE L. ROBINSON  
PRINT: TYRONE L. ROBINSON  
DATE: JUNE 17/2015

TYRONE LORENZA ROBINSON #235104

Q2B-117  
PERRY CORRECTIONAL INSTITUTION  
430 OAKLAWN ROAD  
PELZER, S.C. 29669

RECEIVED

JUN 04 2016

SC Court of Appeals

RECEIVED

JUN 01 2016

P.C.I. MAILROOM

JENNY ABBOTT KITCHINGS  
THE SOUTH CAROLINA COURT OF APPEALS  
POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA, 29211