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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Deadra L. Jefferson, Circuit Court Judge

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Appellate Case No: 2014-001714

SEP 30 2015

SC Court of Appeals

THE STATE

RESPONDENT,

v.

CHRISTOPHER TEREILL GILYARD

APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

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1 the procedural way that a case is brought into this
2 court. It is not in any sense evidence of any of the
3 allegations it contains. It is simply what we call a
4 notice document probably akin to a summons and complaint
5 in a civil case.

6 The defendant has pled not guilty to the indictment.
7 The State, therefore has the burden of proving each of
8 the elements of the indictment beyond a reasonable doubt.
9 And it will be your duty ladies and gentlemen to decide
10 whether the State has met that burden or not.

11 Your purpose as jurors is to find and determine the
12 facts. You are the sole judges of the facts. If at any
13 time I make any comment regarding the facts you must
14 disregard it. You are to determine the facts from the
15 testimony you hear and the other evidence that will be
16 introduced in court. It is up to you then to determine
17 the inferences which you feel may be properly drawn from
18 that evidence.

19 It is especially important that you perform your
20 duty diligently and conscientiously because ordinarily
21 there is no way to correct an erroneous determination of
22 facts made by a trial jury. On the other hand, and with
23 equal emphasis, the same law that makes you the judges of
24 the facts makes me the Judge of the law. The law as
25 given by the court is the only law you may consider. You

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1 must accept and follow it even though you may disagree
2 with the court about it. I cannot tell you what the
3 facts are you cannot disagree with the court about what
4 the law is or what the law should be. Your
5 responsibility, ladies and gentlemen, is to take the law
6 as I instruct it and apply it to the facts as you find
7 them from the testimony of the witnesses and any other
8 evidence that is introduced. After doing that you will
9 render your verdict; a true and just verdict under the
10 solemn oath that you have taken as jurors in this case.

11 Until I advise you to begin your deliberations you
12 must not discuss this case with anyone, that includes
13 among yourselves, your family members, or friends or
14 anyone else who may be involved in this case. After the
15 case is submitted to you you must discuss it only among
16 your twelve in your jury room during your deliberations
17 among your fellow jurors.

18 The attorneys and the parties have been advised that
19 they should not speak with you at all. So if you should
20 run into them in the garage or about the courthouse, the
21 hallways, the elevator, or otherwise, snack bar and they
22 don't speak with you please don't think they are being
23 ugly or untoward. They are simply following the court's
24 instruction. Again, we would not want an innocent
25 conversation to be observed and misinterpreted. In other

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1 words we would not want someone to think that you are
2 discussing the facts and circumstances of this case.
3 During the trial you are not to read, watch, or listen to
4 any media accounts about this case. That includes
5 anything that is in the newspaper, radio, television, or
6 Internet and you are strictly instructed that you are not
7 to do to any independent searches on the Internet. That
8 includes any word searches, name searches, Google type
9 searches, satellite searches of locations or otherwise or
10 anything that is material to this case on the Internet.

11 You are bound by your oath not to have read, or
12 heard anything about this case outside the courtroom
13 whether before or during this trial and you are bound to
14 decide this case only according to the testimony that you
15 hear from the lips of the sworn witnesses and the other
16 evidence that will be introduced during the trial.

17 It is essential that you maintain an open mind and
18 not decide any issue in this case until you have heard
19 all of the evidence, the parties have made their closing
20 arguments and I have instructed you on the law applicable
21 to this case.

22 It is your solemn responsibility to determine the
23 guilt or innocence of the defendant and your verdict must
24 be based solely on the evidence as it will be presented
25 to you in this trial and on the law as I will instruct

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1 you during and at the close of this trial. In just a
2 moment the Solicitor will make an opening statement in
3 which she will explain to you what she believes the
4 issues to be in this case. The attorney for the
5 defendant may also make an opening statement although he
6 is not required to do so.

7 Keep in mind, ladies and gentlemen, that what the
8 attorneys tell you during their opening statements is
9 only their contention as to what they believe the
10 evidence in this case will show. I would ask that you
11 give them your undivided attention but keep in mind that
12 what they say is not evidence.

13 The evidence in this case will be presented to you
14 by the testimony of sworn witnesses from the witness
15 stand and by exhibits that may be introduced into
16 evidence. From time to time during the trial you will
17 hear the attorneys say Your Honor, I object. Just as in
18 sports, business, or any other structured activity there
19 are certain rules that we must obey in the presentation
20 of evidence.

21 These rules have a definite purpose; they ensure
22 that you receive the most trustworthy and reliable
23 evidence available. An objection is the procedure that
24 is used to call a possible violation of these rules to my
25 attention as the Judge of this court. And for this

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1 reason you should never hold an attorney's objection
2 against them nor should you conclude from the court
3 overruling or sustaining an objection that I favor one
4 side or the other.

5 Also during the course of the trial you will hear
6 the attorneys sometimes say Your Honor, we have a matter
7 of law to take up or they may ask to approach the bench,
8 or I may ask them to approach the bench. Sometimes it
9 may even be necessary for us to exclude you from the
10 courtroom for a short while while we discuss matters of
11 law. And the reason we do this is because as I've
12 explained you are the finders of the facts.

13 And sometimes when I'm discussing matters of law
14 with the attorneys it might be necessary for me to make
15 some comment about the facts in connection with ruling
16 whether a statute or a rule of evidence or a procedural
17 rule applies. And for this reason we exclude you from
18 the courtroom so that in no way will you be influenced by
19 anything that the court may say or do in connection with
20 the facts of this case.

21 In determining what the true facts are in this case
22 you must decide whether or not the testimony of a witness
23 or witnesses is believable. It is my responsibility to
24 rule as a matter of law as to whether certain testimony
25 is admissible at all or not. But once it is admitted,

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1 ladies and gentlemen, whether or not you believe it is
2 solely a matter for you to determine in your fact finding
3 province. In determining whether to believe a witness
4 you have a right to consider the interest of any witness,
5 the bias of any witness, the prejudice of any witness,
6 the opportunity for the witness to have seen the things
7 and matters about which the witness may testify, and the
8 way the witness acts on the witness stand; something we
9 commonly refer to as their demeanor.

10 You have a right to consider anything that is in the
11 record that will help you evaluate the testimony of the
12 witnesses. That means, ladies and gentlemen, that it is
13 your duty to pay close attention to the witnesses, to
14 observe them, to listen to them, and to pay close
15 attention to the attorneys and the court.

16 Although I know it is very difficult please do not
17 allow your thoughts to wander but give strict attention
18 to the testimony so that at the end of the testimony
19 after the arguments of the attorneys and the charge on
20 the law given by the court you will then be in a position
21 to determine what the true facts are and apply the law to
22 those facts and thus render a true and just verdict in
23 this case. During the course of this trial you will be
24 given the opportunity to take notes. Note taking is a
25 privilege that you may choose to exercise or choose not

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1 to exercise. Please don't feel you are required to take
2 notes. Not everyone finds note taking helpful to them.
3 If you should decide to take notes please don't try to
4 write down everything that is said; it's physically
5 impossible. Even the average person speaks about 200
6 words a minute and as you can well imagine it would be
7 almost impossible verbatim to take that down.

8 And as I've explained because you are the finders of
9 the facts it is essential that you rely on your powers of
10 observation in determining the believability and
11 creditability of witnesses. So please do not allow note
12 taking to become a distraction to you. You may want to
13 keep an outline, the main points that are being made, so
14 that when you begin to deliberate regarding this case you
15 can review those notes in order to refresh your memory
16 regarding the arguments that have been made and the
17 general evidence that has been presented.

18 Please be reminded that your notes are for your
19 specific and your individual purposes. They are not to
20 be shared with anyone else. They are only to be used to
21 refresh your memory. And also be reminded that your
22 notes should not be considered any more reliable than
23 someone else's memory. Someone else's memory should be
24 considered just as reliable as notes that may have been
25 taken by a fellow juror. During breaks and recesses your

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1 notes will be left in your seats and we do that to ensure
2 there is no premature deliberation in the case or any
3 temptation to discuss anything that may have been heard
4 prior to any breaks or recesses.

5 Mr. Foreman, it is your responsibility to fill out
6 the verdict form and to write out any questions that the
7 jury has during deliberations, but I will give you
8 further instructions regarding that in the court's final
9 instructions.

10 Ladies and gentlemen, your Foreperson is an
11 administrative function. That person does not have any
12 greater vote or voice than you do. Again, it is purely
13 administrative and it is a random process that the court
14 employs in selecting a Foreperson so that a random
15 portion or a cross section of the community is
16 represented in that capacity. Again, I emphasize, that
17 person does not have any greater vote or voice than you
18 do in the deliberation process.

19 In order to preserve everyone's rights I'm going to
20 give the attorneys the opportunity to take exception to
21 anything that the court has said by way of opening
22 instruction. Any exception from the State?

23 MS. ELLIOTT: No, Your Honor.

24 THE COURT: From the defense?

25 MR. COCHRAN: No, Your Honor.

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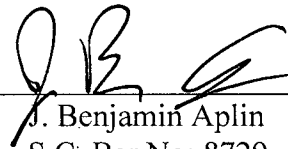
SEP 30 2015

SC Court of Appeals

CERTIFICATE OF COUNSEL

Counsel for Appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

BY: _____



J. Benjamin Aplin
S.C. Bar No: 8729

September 30, 2015