

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL D'ANGELO JACKSON,

APPELLANT

APPELLATE CASE NO. 2011-199666

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBIT #24 (SNACK WRAPPER), STATE'S EXHIBIT #85
(PHOTOGRAPH), STATE'S EXHIBIT #86 (PHOTOGRAPH)**

1 (A PAUSE.)

2 MR. WILDER: At 9:03, my client requested that the
3 interview be terminated, okay. Is that ---

4 MR. MEADORS: Your Honor.

5 THE COURT: I don't think that's ---

6 MR. MEADORS: I don't think that's -- I don't think
7 that time is right. I'm not...

8 THE COURT: That's what he...

9 MR. WILDER: Oh.

10 MR. MEADORS: 9:25.

11 MR. WILDER: 9:25.

12 THE COURT: Mr. Wilder, let me see you. Let me see
13 the attorneys real quick.

14 (OFF-THE-RECORD BENCH CONFERENCE.)

15 THE COURT: Objection is sustained.

16 Mr. Wilder, proceed as directed by this court.

17 MR. WILDER: All right.

18 THE COURT: For the last time.

19 MR. WILDER: Mr. Jackson requested at 9:25 that the
20 interview terminate.

21 THE COURT: That's correct.

22 MR. WILDER: And I apologize if I got the time wrong.

23 All right, and again, I don't, I don't want you to do
24 anything except take what you've heard from this witness
25 stand and decide what the evidence proves.

1 Ladies and gentlemen, I appreciate you being here. I
2 appreciate our jury system is the finest way we've got.
3 It's not perfect. It's an imperfect system. It's the
4 finest way we've got away, trying to establish what the
5 truth of something is and what a proper verdict should be
6 in a case.

7 I submit that the State of South Carolina has not
8 proven Daniel Jackson guilty of murder or armed robbery.
9 That he, he, he is, he is not guilty. That you should find
10 him not guilty, and that's what I'm asking you to do.
11 Weigh this evidence. Look at it. Please return a verdict
12 of not guilty. Thank you.

13 THE COURT: Thank you.

14 We've been going for an hour and a half. We'll take a
15 ten minute recess before we continue.

16 Thank you, ladies and gentlemen. Please do not
17 discuss anything while you're in the jury room.

18 (THE JURY EXITS AT 5:08 P.M.)

19 THE COURT: Court will be in recess ten minutes.

20 MR. MEADORS: Thank you.

21 (OFF THE RECORD.)

22 THE COURT: All right, please take a seat. All right,
23 let's bring our jury in.

24 (THE JURY ENTERS AT 5:21 P.M.)

25 CLERK OF COURT: All the jurors are present in the

1 courtroom.

2 THE COURT: Thank you, Mr. Bradley.

3 Mr. Meadors for the state.

4 MR. MEADORS: May it please Your Honor?

5 THE COURT: Yes, sir.

6 MR. MEADORS: Ladies and gentlemen, seven words.

7 Seven words that speak volumes. Reginald Canty, Reginald
8 Canty. Seven words: It wasn't supposed to happen that way.
9 It wasn't supposed to happen that way. What wasn't? The
10 robbery.

11 Mr. Deas asked Burnish yesterday. Was there anything
12 that put your client close to where Mr. Flexon was seen?
13 Yes, ma'am. Yes, sir. He did. After his momma and
14 Dominick West said -- after he told them, he said the other
15 person had a revolver. And both of them said how could you
16 tell it was a revolver from the front porch? You couldn't
17 see it from there. It wasn't supposed to happen that way.

18 And what does he says they did after that? And your
19 body, your body shows so much when he's testifying. I
20 asked Dominick. What? Did he do anything with his body?
21 He dropped his head. He started to cry.

22 That's real. That puts him there. He had no way to
23 know unless he could -- was there to know there was a
24 revolver. That the agent would come in later and say you
25 know what? It's a .357 or .38. I wish we had it. But Mr.

1 Canty knew what it was that first -- on the 17th when he
2 finally told, started telling some of the truth.

3 Did he fire the gun? He very well could have. Was he
4 there when it was fired? No question about it. Even if he
5 didn't, he agreed to do the robbery. He went with him, and
6 he was there, present when it happened. He basically told
7 them with his words and with his body. The hand of one is
8 the hand of all.

9 You know, Sergeant Burnish said something. I'm going
10 to disagree. I'm going to get him mad at me. He said it
11 seems like sometimes you're going to say more when the
12 parents aren't around. I think Mr. Canty said more when
13 his momma was there because the first two statements -- and
14 he's saying the statements were basically the same. Read
15 them. I don't think so. And first two, he doesn't say
16 anything about going to Cherryvale Grocery. Doesn't say
17 anything about seeing a revolver. Doesn't say anything
18 about being another person when they went and made the
19 phone call to Sambino's that he heard. Second statement,
20 he doesn't say anything about that.

21 Then we get to the 15th when his mother is there, and
22 he starts telling a little bit more, and I'm going to go
23 over them in a minute. And the 17th when he says I could
24 actually see a revolver there, and another person shot him,
25 and he tells a little more. And then the statement the

1 25th, another person shot.

2 Credibility, believability is the key to all cases.
3 Y'all have to decide that; that's what you're the judges
4 of, credibility, believability.

5 This case is serious. There's nothing more serious,
6 and all we're allowed to argue is what the evidence is and
7 reasonable inferences. That's what we have to do. I
8 apologize for objecting so much, but that's what we have to
9 do. These, these cases, evidence is presented, and that's
10 what you have to focus on, by law you have to focus on.

11 Defense attorneys -- some, not all -- respectfully, I
12 submit, will try to take you away from this to over here
13 and other issues. I call them smoke screens. I'm going to
14 go through a few that I think, that I know were argued to
15 y'all. Going to show you why I think they're smoke
16 screens, and then I'm going to go down through the
17 witnesses and try to sum this up as quick as I can.

18 The first is the time at the Cherryvale. We spent I
19 don't know how long arguing over whether it wasn't even an
20 hour off where everybody testified it's an hour off. They
21 forgot to fall back.

22 John Baldwin, did it -- was it an hour off? It was an
23 hour off. How do you know? I was looking at my clock when
24 I was looking at the video. Is there any question it's an
25 hour off? That's an example of not a reasonable doubt. It

1 was an hour off.

2 Was it exactly an hour off from the clock, the world
3 clock? I don't know, but it was an hour off. And now, now
4 it's a Swiss clock apparently. It's right on time.

5 But what I want to submit is taking you away from the
6 actual evidence, if you'd look at Tanya. Took a picture,
7 8:04. She took a picture. Said she showed it to law
8 enforcement that night. I don't know. She said she showed
9 them this actual thing. Gave it to me a few months ago,
10 but that time would never change, will never change. And
11 what does she do? She says on this slip, and this never
12 changed, and she testified to 8:06 was when it was over
13 after she'd taken it. That can never change.

14 He said something else. Law enforcement focused on
15 that. It's 8:04 and 8:04. That could never change.
16 That's beyond all doubt.

17 And if you look at the log, if you look at the video,
18 the video shows them leaving the store at 8:04:33 and the
19 call coming in to Sambino's at 8:04:55, you don't get any
20 better evidence than that did. What he's tried to do is
21 take you, said, oh, it's 8:06. No, ma'am, no, sir. They
22 leave there at 8:05:33. They take a right. You can't tell
23 where they go, and a phone call is made twenty-something
24 seconds later. That's good evidence.

25 Now, why is that important? Well, first of all, Mr.

1 Canty says he and another person went outside the store,
2 and he heard another person make a phone call ordering
3 three large pizzas: just what Tanya said they ordered to
4 lot number , lot number , O.C. Mobile Home Trailer Park.
5 Tanya asked him. Where you calling from? Well, I'm
6 calling from a pay phone, calling from a pay phone. Well,
7 number comes up 415.

8 You remember, you remember Mack? What did Mack say?
9 I said Mack, you remember that phone number? All I know is
10 I used to play the lottery with 415. That's pretty good
11 circumstantial evidence right there, ladies and gentlemen.

12 Is there any doubt that that phone call came to Tanya
13 from Cherryvale? No, ma'am, no, sir, at that time. Is
14 there any doubt these two individuals were there? No,
15 ma'am. No, sir.

16 They come out. Now, that's important because we later
17 learn he said yes, I want to do the robbery, Mr. Canty did.
18 He's out there at the phone; he's at the phone at that
19 point. Now what happens next? And just very briefly,
20 Tanya sees Bill Flexon leave.

21 Here's what I forgot. I don't know. This hit me last
22 night, but I think I can argue it, and I don't mean it bad
23 because my dad is a friend, friend of this person. Been
24 overseas with him to try to get some hostages one time, and
25 I don't mean this bad against this person I'm fixing to

1 tell you. But you start to wonder, but it just hit me.
2 You ask a name. You ask a name. What's the name? Where
3 did he get the name Jesse? Was he trying to be funny,
4 Jesse Jackson? And I don't mean that funny, but it's that
5 ironic. That just hit me. I don't know. I don't know.
6 Jesse. The call comes.

7 You know another thing I'm going to go over in a
8 minute. In one of his statements, Canty says he sees the
9 pizza man sitting there three minutes waiting and getting
10 out. Well, that's not in the first statement, second
11 statement, third statement. See him three minutes. Is he
12 a lookout? Is he up front with him? I don't know. I
13 don't know.

14 Bill Flexon is there. He's killed. Law enforcement
15 responds. Where do they go? They go first there. Tanya
16 tells Ernest, who she knew from a previous incident, y'all
17 need to go to Cherryvale. There's a pay phone there. This
18 thing came from a pay phone. They go to a pay phone. They
19 get a video. Mackessy had said, well, anything unusual
20 happen? Well, these two folks came in. I checked one of
21 them one time. Thought they'd taken something. They came
22 out of this video. That's what starts the investigation.

23 Anitta Shannon now, what does she say? I know that
24 fellow. Used to date somebody in my family. That's
25 Deangelo Jackson, Daniel Deangelo Jackson.

1 Burnish is coming out. Canvasses the neighborhood.
2 Happens to run into Reginald Canty. Takes two statements
3 from him, you remember, on the 13th. One, two I've already
4 talked about. Doesn't mention anything about Cherryvale.
5 Doesn't mention anything later about seeing the shooting,
6 seeing another person.

7 They then call Curt Gowdy. They then go to the
8 autopsy to learn there are two bullets. Two bullets killed
9 him. They're informed of that. Law enforcement wants to
10 know. They know there are two guns that now have killed
11 Bill Flexon.

12 They go back again and talk to Mr. Canty on the 15th.
13 After he talks about not being -- and you're going, you're
14 going to have these back there -- not being under the
15 influence, on the night of the shooting:

16 Another person asked my cousin, cousin Desmond
17 Canty to take him to Cherryvale grocery store. I
18 went along because I needed batteries. After
19 arriving at the store, me and another person got
20 out the car and went to use the pay phone. So, I
21 stood beside him swinging my phone, and I
22 overheard him stating he wanted to order three
23 large pizzas: one all pepperoni, one all cheese,
24 and one, I didn't hear the other one.

25 Is there any doubt who was at the phone when the phone

1 call was made? He told them while on the phone with the
2 order that the address is Cherryvale Drive, lot .
3 Yes, I want to help with the armed robbery.

4 He got off the phone and we went on to the store.
5 That isn't in here. I'm just saying that from later. You
6 remember he agreed to do it later. He's there listening to
7 this. Knows this is an abandoned trailer park.

8 I went to look for some batteries and brought a
9 snack cake.

10 Excuse me.

11 He got off the phone and we went in the store. I
12 went to look for some batteries, and another
13 person brought a snack cake. While I was in the
14 store, the manager approached and asked what I
15 took. I told him nothing. That I had my phone.
16 Another person was standing at the door waiting
17 for me. After we left the store, we was going
18 back home, and another person asked to be dropped
19 off at Oaklawn, but we already had passed it.
20 So, we went back home, and another person left
21 walking. I went inside and then came back
22 outside to sit on the porch. As I came out the
23 house, I saw another person walk by, and I asked
24 him where he's going. He stated nothing and
25 walked toward the back of the mobile home park.

1 Toya, who stays beside, said she told me to watch
2 her house while she was from home.

3 Now, what you have to remember in all these cases,
4 ladies and gentlemen, you can believe some of what a
5 witness says or part of what a witness says. And Mr. Deas
6 said earlier or Mr. Wilder when can you determine Mr.
7 Canty's credible? I think it's when his body shows it when
8 he's with his mother.

9 I don't know. He's given different statements. He's
10 putting his credibility in issue. There's no question
11 about that. Y'all have to decide what the truth is; y'all
12 have to. He's put it in, and now he's saying:

13 I went to the house, got something to drink and
14 sat on the porch, and I saw car lights where lot
15 number is.

16 And one time when Mr. Deas was talking in his closing,
17 he said Ms. Canty, bless her, she said he just left. I
18 don't know where he went. And then he said she saw Toya.
19 I didn't hear some of that testimony he was offering. It
20 didn't come out. Ms. Canty said I don't know where he
21 went. He left and came back. Then he left and came back.

22 One thing she did say. After the shooting, she went
23 down the side entrance and went out to see what's
24 happening. When she came back in, then she saw him come
25 in, and then he went back out. I submit that could have

1 been one of the shell casings, when it got in there. I
2 don't know, but there's a shell casing in his bedroom that
3 ties him to that gun which ties him to an armed robbery.
4 You want evidence?

5 I saw a white man wrestling with a tall black man
6 over a gun, and the black man told him to stop,
7 and then I heard a gunshot. Another person was
8 standing next to the van looking at the guys
9 wrestling. The other guy had a handgun that
10 looked like a revolver. After the gun fired,
11 everyone ran. I ran in the house. I told my
12 moms whatever I saw later on that night. I
13 wasn't truthful to law enforcement at the
14 beginning because I was nervous and scared
15 because I'd never saw anyone get killed before.

16 That's the 15th. Law enforcement gets a warrant for
17 Jackson. They go and start to look for Jackson. They go
18 to Wedgefield. They go to his aunt's house. They go
19 there. They talked to Ms. Russell, and y'all remember Ms.
20 Russell. She came in. Said law enforcement came. Yes,
21 she did. They searched. Was he there? No. What did she
22 tell you? He'd been there. Law enforcement came. He
23 left. Law enforcement. He came back; he came back.

24 Ms. Russell says that as she was vacuuming, she found
25 a gun, this rifle, and these cartridge cases. Calls law

1 enforcement. Kipp Coker comes and told you he got them.
2 No dispute about that, none whatsoever. He gets the rifle
3 and the shell casings.

4 Now, first of all, it was under a futon hidden. I
5 mean, why? And then later -- oh, and she says she calls
6 Angela Boyd, and Angela Boyd says turn it over. The
7 family, when enough's enough, sometimes they know it. The
8 family did the right thing: called law enforcement. They'd
9 been there looking for him. You now find a rifle. The
10 word's out there's a murder warrant. That's what they
11 testified to. Call them. It's tough to do the right thing
12 sometimes. His family did.

13 It's hidden. What happens next? She's going through
14 a tough time, Ms. Russell. She's made the turn, though.
15 Said she'd just left recovery. She's made it now. Maybe
16 yesterday, the day before was when she finally gets over
17 the top. What she does do? I said, you remember when I
18 said you like peanut butter? I like peanut butter, and I
19 do like peanut butter. She said yeah. I was going through
20 a rough time. I didn't have much money, and I was eating
21 peanut butter. I didn't have much. Peanut butter's
22 filling. Did you eat peanut butter that morning? Yes,
23 sir, I sure did. And after that, did all this happen where
24 Daniel came, police came, Daniel came, police came, Daniel
25 left, police left, Daniel came back? She said yes, sir.

1 And then you found this rifle? Yes, sir. Did you eat some
2 more peanut butter that night? Yes, sir. Was the peanut
3 butter jar the same as it was earlier that morning? No,
4 sir. What was the difference? There was a cartridge
5 casing in the peanut butter.

6 That is direct, direct because it matches this gun,
7 and circumstantial both. Why in heaven's name would you
8 put a cartridge in peanut butter? When the police are
9 looking for you. That is direct evidence of guilt.

10 Then with all due respect to Mr. Wilder, who asked
11 thirty-five minutes of questions on the time and everything
12 else, you know how many questions he asked Ms. Russell
13 about that shell casing in that peanut butter jar? Zero.
14 It kind of speaks for itself.

15 The gun that shot Mr. Sexton -- Mr. Flexon, I
16 apologize, the bullets were in his aunt's house that he hid
17 when he ran when the police came.

18 Now let's talk about who else in that family, and I
19 know it's tough on family. He called Isaac Boyd, his
20 uncle. Called Isaac Boyd and said would you come get me
21 and bring me back? Isaac did. And guess where they went?
22 Of all the places in the world, where did he ask Isaac to
23 take him? That St. Paul's Church Road to that trailer
24 home, of all the places in the world. And when -- the
25 first statement Isaac gave back in '08, he said he got him.

1 He went in. When he came, he didn't have a rifle. Mr.
2 Boyd, what happened next? Well, took him back to Sumter --
3 back to Summerton. Took him to Piggly Wiggly. Then he
4 went to Ms. Russell's house. That's where he took the gun
5 which she found later and gave the police. And it was, it
6 was tough testimony for him. You could kind of see he was
7 fighting. It was tough to be up here. It's got to be
8 tough to talk about that for your nephew, but doing the
9 right thing is tough sometimes.

10 And what did he say? Of course he said now that this
11 other fellow Curtis Wheeler was just out there. Wasn't
12 Curtis Wheeler's trailer. I think he's next door.

13 Said you put that in your statement? No, sir. Did
14 you talk to Deangelo, Mr. Jackson? Says no. Then I asked
15 him. Said, well, I did talk to him a few months ago, and
16 that's when he reminded me about Curtis Wheeler. No
17 evidence at all in this record that Curtis Wheeler had
18 anything to do with this, or Marcus. What's his last name?
19 None. Marcus Branch, no evidence whatsoever, no evidence
20 in the record, so he shouldn't be able to argue it.
21 Nothing to do with this case. That's a smokescreen.
22 There's no -- not a reasonable doubt. It can't be.

23 But what does he tell Mr. Boyd? And Mr. Boyd said the
24 other day, and this had to be tough, but it kind of wrecks
25 with the truth. He said lie for me. You remember that?

1 He asked his uncle to lie for him. Now, why would he do
2 that? Why would he do that? Tell them you brought me up
3 here that night. It was Saturday night. Well, Saturday
4 night's when he was involved in killing Bill Flexon. Lie
5 for me, Uncle. Tell them you brought me here Saturday
6 night. No, sir. No, ma'am. Thank goodness Isaac Boyd
7 didn't lie for him and he told the police, and that again
8 is evidence of guilt.

9 And you know what came out yesterday? I didn't know
10 it. Stayed with Ms. Canty. I like Ms. Canty. She got up.
11 Yeah, he stays with me. Gave a statement. Yeah, I don't
12 know where he was earlier in the day, but he got back at
13 3:00 in the morning. Do you like having guns in your
14 house? No.

15 He took the gun there. Went to her house. Had Isaac
16 Boyd get him the next day to take him back there. He was
17 hiding the gun. That all makes sense. But she didn't know
18 where he'd been before 3:00 in the morning, and she didn't
19 try to lie and say she had.

20 Then we get to the 17th. The rights are read, and I
21 wish I still had my momma here, but Ms. Canty -- you see,
22 nobody, nobody asked her about the time she was with
23 Dominick. No cross or anything. Well, did he try to cheat
24 or take advantage of you? She was right there, and she
25 signed the rights. Nobody even crossed her about that. I

1 submit that's because I don't think there was anything to
2 cross about.

3 And when we get to the 17th statement, the oral
4 statement with the Waiver of Rights, go look at them. I'm
5 not going to go over it now. You decide because Mom was
6 there. She's going to make sure his rights were read. You
7 think his momma's not going to ask for a lawyer and they're
8 not going to give it if she wants them to?

9 Dominick says:

10 I advised him that his stories in the past was
11 inconsistent. That he needed to be truthful from
12 here on out. Reginald began telling the story of
13 the events that happened on how he was at home,
14 and another person approached him and asked him
15 whether he wanted to make any money by robbing
16 the pizza man, and he told him yes.

17 Now, this is at home. He said yes.

18 Reginald then stated he asked his cousin Canty to
19 take him and another person to the store.

20 Okay, gets his cousin to take him in on the store.
21 They put it in motion. They put it in motion. Take them
22 to the store, Cherryvale, where he stated: Another person
23 made the telephone call to Sambino's Pizza.

24 Well, why? Why call Sambino's Pizza? Because we're
25 going to rob the pizza man. That's what they're doing.

1 Saying he didn't do anything. Are you kidding me? Yes,
2 I'll do it. Come on, cousin. Let's go. Let's go to the
3 store. Phone call's made. He's taking steps. His own
4 cousin drove him there that made the phone call that killed
5 Bill, his cousin.

6 Reginald then stated they went inside the store
7 and he wanted to buy some batteries, but they did
8 not have the kind he wanted. Reginald stated
9 another person bought a Debbie snack cake and
10 left the store. I then asked what did they do
11 next, and he stated they went back to his house.
12 Then another person walked back to the rear of
13 the mobile home park, and he watched until the
14 pizza man drove up in the van. Couldn't see it
15 from his front.

16 Undisputed. He couldn't see it from his front.

17 He began to say he stood in his yard by the gate
18 and saw a black male struggling with the pizza
19 man and another person, another black male
20 holding a revolver. I, Dominick, asked him how
21 he knew it was a revolver and it being dark with
22 no lighting on.

23 And one of the witnesses today, I can't remember which
24 one it was, said no, you really can't see in the back.
25 Y'all remember that, she said today?

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1 I asked him how he knew it was revolver, it being
2 dark with no lighting on. He said it was a glare
3 coming from the gun. He then stated it was not,
4 it was not supposed to happen that way. He got
5 his cousin. They drove back, and I asked him
6 what did he meant by that, and he stated the
7 pizza man was not supposed to get shot.

8 Didn't do anything? Cousin takes you. You're there
9 when the call is made. You come back. It wasn't supposed
10 to be that way. This is classic, we submit, what the law
11 says. You go rob somebody, it goes bad. It goes real bad
12 for Bill: he's dead. Classic hand of one, hand of all.

13 He stated it was an accident. That's telling you.
14 That's telling you. Yeah, we were going to rob them. He
15 wasn't supposed to die. I'm going to get back to no way it
16 was an accident.

17 His mother then asked, his mother then asked, his
18 mother then asked how he knew it was an accident,
19 and you said you weren't there, and how you know
20 it was a revolver and it was dark outside.

21 Now Momma asked him that. His momma asked him that.
22 That's when he began to cry. That's real, that's credible
23 when Momma says how do you know that, son.

24 But then he stated he didn't shoot to kill him.
25 He kept saying it was an accident. He kept

1 saying he wasn't there, so I asked him. There's
2 no way you can say it was an accident if you
3 weren't there.

4 You were right there. He said it was an accident, but
5 then he wasn't there. It's an accident, but then he wasn't
6 there.

7 The body speaks louder than words:

8 And then he put his head on the table and
9 continued to cry. He then stated the subjects
10 ran away, and he ran in the house.

11 Didn't do anything afterwards. He agreed.

12 Couple other matters. We called these witnesses. I
13 had them subpoenaed; he had them subpoenaed. He had them.
14 I called them. We called them. The state called them.
15 Put up the DNA evidence. That's, that's, that's -- it's a
16 smoke screen. We put it up. That's one unidentified
17 profile underneath the fingernails. We never said it was,
18 and the other's a female. No evidence of female involved
19 in this at all.

20 There's blood in the trailer which nobody lives in.
21 No evidence at all it's linked to this, but we brought it
22 in. Good gosh, can you imagine if we hadn't brought it in
23 how much that would have been jammed down our throat? We
24 brought it in. Who is it? Unidentified.

25 The fingerprints. Here's what I want you to think

1 about, these unidentified or these prints on the shell
2 casing and the gun and all that. It came from his house.
3 He had the rifle. He was there. His aunt gave it over.
4 Is there any question who had the gun? And the prints that
5 were developed were not AFIS compatible. You can't just go
6 in there and print everybody. A smokescreen.

7 The prints from -- Ms. Hodge testified to, all
8 negative. One she said wasn't AFIS comparable. There's
9 nothing else she could do. The state brought in the
10 witnesses. They tried. Pizza boxes, think how many people
11 have handled that. I asked Tanya. Yes, a lot of people
12 handled that pizza box. They get one print that's not --
13 they ship it back to Marie Hodge, and she says it wasn't of
14 AFIS quality. Even the people that handled its prints
15 aren't on there. The elements affect it, porous, but at
16 least they checked. What if they hadn't checked?

17 Jason, the Dickeys, the Pattersons, all those, they
18 didn't witness, witness it. They were complaining
19 witnesses that were coming back from Cherryvale and just
20 ran out -- ran into the -- from the incident report, they
21 saw three black males running away. That's all they saw.

22 Were there two or three people involved in on this? I
23 don't know. I know there were two involved, and I know
24 there were two guns, and that's what you're focusing on
25 today, these two individuals.

1 And the final thing before I start to conclude
2 smokescreen. Stay focused. The little shoe print inside
3 the trailer. I think Ray Mackessy said you couldn't hardly
4 take a picture of it. It's in there; go look at it. The
5 other shoe print out there, I don't ever remember any
6 testimony coming in about Timberlands except Mr. Wilder's
7 questions in arguments. But anyway, they said that wasn't
8 cast. Well, they couldn't make a cast of it.

9 Debbie snack cake, clearly Mr. Jackson's got a Debbie
10 snack cake. Now, is that his Debbie snack cake that's out
11 there? I don't know, but there's a Debbie snack cake there
12 and a Debbie snack cake there. If that's all we had, I'd
13 say let him go. But it's another piece of evidence
14 circumstantially that can put him there.

15 Now, ladies and gentlemen, the gunshot residue. Mr.
16 Wilder said he could have had a gun. You heard Joe Powell,
17 the SLED agent, who documented and started a lot of these
18 programs. Well, you could, but if somebody fired
19 something, I would expect to find something inside and
20 outside. You remember that? I would really expect
21 somebody -- is that common sense?

22 And during the questioning, which I didn't hear in
23 closing, but what, what if there was an accident? What if
24 he was pulling, and it went back like this, with this?
25 Then it could have gone off. Well, Agent Powell, if you

1 grab the gun, if you just grab it, he said you'd probably
2 expect to find some on it. But if you grabbed it and it
3 went off, would there be something on the hands inside
4 inward? Yeah, I would expect to find that. You know where
5 they find it on his right? Outside. And is that
6 consistent -- left out -- is that consistent with getting
7 shot?

8 And they talked about distance, Mr. Wilder and Mr.
9 Deas talked about maybe there was a fight, maybe he had a
10 gun. There was no stippling; there was no tattooing. They
11 didn't give him a chance to fight. They just shot him. He
12 was delivering a pizza, y'all. They didn't get close
13 enough to him where he could defend himself. That's what
14 the gunshot residue shows.

15 The phone, they said it was broken. They couldn't
16 check it. It was a Virgin phone. You can't track it
17 anyway.

18 Toya Rush , said did he ask for gloves or socks? I
19 don't know. I'd never heard it before yesterday. That may
20 explain why his weren't there. Consider it if you want to.
21 I don't know.

22 Linda McDuffie, Linda McDuffie. Did you kill him?
23 No, sir. Did you see her? You remember Linda? No. She
24 have anything to do with this? She used the pay phone, the
25 only identifiable print. We went and found what we could

1 with Linda.

2 You didn't heard directly -- hear directly, but you
3 heard from Bill through Dr. Ross, and he saved this
4 evidence for you. It's really what spearheaded this.
5 Really Bill is what brought it all together because he
6 showed us, spoke to us through the autopsy: said two people
7 shot me.

8 I don't know if that rifle was shot off twice. You
9 remember when somebody asked Tracy Thrower, said wouldn't
10 you -- what, what do you expect? Said he could have shot
11 twice and missed.

12 But there are two guns that shot him, and that bullet
13 in his body, please listen to this. That bullet in his
14 body came back to this gun, this rifle. Came back to him.
15 That that rifle shot this bullet that killed Bill, the
16 same, the same rifle, the same rifle that Mr. Jackson asked
17 his uncle to take him to St. Paul Church Road. Of all
18 places in the world, a pizza box was there. One of their
19 pizza boxes was there. That's the armed robbery and the
20 murder. Of all the houses in this Sumter County, he had to
21 go to a house that has a pizza box. And you can't make
22 that up because Isaac Boyd ends up taking law enforcement
23 back there and finds the pizza box. And then he says this
24 is where I took him to get the gun. That's the gun. Is
25 there any doubt about that? And then that gun is taken

1 back and eventually comes through Russell and back to us.

2 And there's the revolver that Reginald said it wasn't
3 supposed to happen that way. It wasn't supposed to happen
4 that way. He could just see it from the porch. Wasn't
5 supposed to happen that way.

6 Sometimes, ladies and gentlemen, the reasonable doubt,
7 the judge will charge it on you. I learned this a long
8 time ago. You know, in life you have questions. Sometimes
9 in cases there may be questions about this or that, but
10 questions sometimes are just questions. It's not a
11 reasonable doubt. I submit to you there's not reasonable
12 doubt in this case. The state's burden is beyond a
13 reasonable doubt. You must be firmly convinced. I submit
14 the evidence is here.

15 Ladies and gentlemen, you remember we started, we
16 started this trial and till today, till right now, right
17 now they sit presumed innocent, cloaked with innocence.
18 And I asked you then. I said remember that cloak, and
19 that's going to stay with them until to you walk back
20 there, until His Honor gives you the law. And it's going
21 to stay with them until you get all this evidence back
22 there, you start looking and going through it, and I ask
23 you to. And it's going to stay there until then.

24 And then as you start thinking and looking through
25 this evidence, the gun, the bullets -- don't let me forget.

1 You remember they both had a shell casing which matched
2 that gun. The hand of one is the hand of all. The act of
3 one is the hand of all. The bullet of one is the bullet of
4 all. Ask Bill.

5 But as you go back to look through that evidence,
6 slowly start taking the, taking the cloaks off because
7 that's what you'll be doing. Take them off, and don't
8 throw them away. Please don't throw them away because in
9 this case, justice -- because you've got to follow that
10 oath Mr. Bradley gave you. If you believe the facts, you
11 follow the law and you believe the facts and the law, bring
12 that cloak back in here. Bring them both back in, both of
13 them with your verdict. And with your verdict of guilty of
14 murder, throw that cloak over Bill Flexon's body. Give him
15 some symbolic warmth. And bring that cloak of that armed
16 robbery and throw it on this, and throw it in this
17 courtroom.

18 It's like the Wild West out there literally with the
19 rifles. Gunfire, and he was delivering pizza and he wasn't
20 supposed to. The luckiest man in the world was Al. Al
21 would be dead. That's how random this is. Bill said I'll
22 take it on the way home. I'll take care of it; I'll get
23 it.

24 This has got to stop today, here in this courtroom.
25 We respectfully, respectfully on behalf of the state and

1 the Flexon family ask that you return a verdict that says
2 on January 12, 2008, Bill Flexon was just working,
3 delivering a pizza. He was set up by a planned agreement
4 that was carried out when they went to Cherryvale and made
5 a phone call, Mr. Canty and Mr. Jackson, and they came back
6 and they waited on him. And one had a rifle and one had a
7 revolver, or was right there where it was, or was acting as
8 a lookout. It doesn't matter, and that Bill Flexon was
9 gunned down. And then with those verdicts and the shell
10 casings that were found in both of them, the rifle which
11 matched. It wasn't supposed to happen this way.

12 Your greatest power is your power to choose. They
13 chose to rob the pizza man. As a result of that, he's
14 dead. It's now time for you to exercise your greatest
15 power. We ask that you come back with your verdict of
16 guilty of murder and armed robbery. Thank you.

17 THE COURT: The bailiffs will secure the courtroom.

18 (A PAUSE.)

19 *JURY CHARGE*

20 THE COURT: Thank you, Mr. Bradley and bailiffs.

21 All right, ladies and gentlemen, all of the evidence
22 and the testimony and the evidence that is going to be
23 presented to you in this case has now been presented to
24 you, and the attorneys have given you their closing
25 arguments. Now is the time where I will give you the law

1 which is to be applied in this case.

2 Ladies and gentlemen, I remind you that during this
3 trial, you and I have certain duties to perform. As the
4 trial judge, it is my responsibility to preside over the
5 trial of this case, and I have the duty to rule on the
6 admissibility of evidence that has been offered during this
7 trial.

8 You are to consider only the competent evidence before
9 you. If there was any testimony ordered stricken from the
10 record in this case during this trial, you must disregard
11 that testimony. I remind you you are to consider only the
12 testimony which has been presented from this witness stand,
13 any exhibits that have been made a part of this record, and
14 any stipulations of counsel.

15 Ladies and gentlemen, as I told you, I have the
16 additional duty to charge you the law that is applicable in
17 this case, and it is your duty as jurors to accept and
18 apply the law as I state it to you now. If you already
19 have an idea as to what the law is or what the law ought to
20 be, and it does not agree with what I now tell you the law
21 is, you must abandon that idea because you were sworn to
22 accept the law and apply the law exactly as I state it to
23 you.

24 Now, ladies and gentlemen, in every case tried in this
25 court before a jury, the jury becomes the sole and

1 exclusive judge of the facts of the case. As a trial
2 judge, I cannot intimate, state, comment, or make any
3 statement to you during this trial about the facts in this
4 case. Since you are the jury, you are the sole judges of
5 the facts in this case. You are not to infer from anything
6 that I've said during the progress of this trial in ruling
7 upon the admissibility of evidence or otherwise, or
8 anything that I say now during the course of these
9 instructions that I have any opinion about the facts in
10 this case. The law does not allow me to have an opinion
11 about the facts in this case. This is a matter solely for
12 you, the jury, to determine. And as jurors, it is your
13 duty to determine the effect, the value, the weight, and
14 the truth of the evidence presented during this trial.

15 Now, ladies and gentlemen, the indictment charges the
16 defendants with various crimes. And I remind you the fact
17 that the defendants were arrested, charged, and indicted in
18 this case is not evidence in this case, and cannot create
19 any presumption or inference of guilt. The indictment is
20 simply the formal written instrument which contains the
21 charges made against the defendants. It is simply the
22 formal documents by which the charges are brought into this
23 court.

24 Now, ladies and gentlemen, the indictment in this
25 cases alleges two different offenses against the

1 defendants. The charges are under indictment
2 2008-GS-43-993. Under count one: murder. Under count two:
3 armed robbery.

4 Each charge is a separate and distinct offense. You
5 must decide each count of the indictment separately on the
6 evidence and the law applicable to it, uninfluenced by your
7 decision as to the other charge in the indictment. The
8 defendants may be convicted or acquitted on either of the
9 offenses charged. You will be asked to write a separate
10 verdict of guilty or not guilty on each charge in the
11 indictment.

12 Ladies and gentlemen, I also charge you that there are
13 two defendants in this case. Daniel, Daniel Deangelo
14 Jackson is charged with murder and armed robbery. Reginald
15 Canty is also charged with murder and armed robbery. The
16 case of each defendant and the evidence and the law
17 concerning that defendant should be considered separately
18 and individually. Your verdict does not have to be the
19 same for each defendant. The fact that you may find one
20 defendant guilty or not guilty should not control your
21 verdict as to the other defendant where more than one
22 person is charged with the crime. If the evidence
23 warrants, you may convict one and acquit the other, or you
24 may acquit both, or you may convict both. It will depend
25 upon your view of the testimony and the evidence, and you

1 must take each defendant and consider the evidence as to
2 that defendant and my instructions to you on the law. You
3 will then write on a separate verdict form which I have for
4 each individual defendant.

5 Now, ladies and gentlemen, the defendants have pled
6 not guilty to the charges in the indictment, and their plea
7 puts the burden on the state to prove the defendants
8 guilty. A person charged with committing a crime,
9 committing a criminal offense in South Carolina is never
10 required to prove his innocence. I charge you that this is
11 an important rule of law that the defendant in a criminal
12 trial, no matter how serious the charge may be, will always
13 be presumed to be innocent of the crime which the
14 indictment was issued unless guilt has been proven beyond
15 by -- or by evidence that satisfies you of that guilt
16 beyond a reasonable doubt.

17 This presumption of innocence does not end when you
18 begin your deliberation, but it accompanies the defendants
19 throughout this trial until you reach a verdict of guilt
20 based upon evidence satisfying you, the jurors, of that
21 guilt beyond a reasonable doubt.

22 The presumption of innocence is like a robe of
23 righteousness placed about the shoulders of the defendants
24 which remain with the defendants until it has been stripped
25 from the defendants by evidence satisfying you of the

1 defendants' guilt beyond a reasonable doubt. The
2 presumption of innocence is not a mere legal theory. It is
3 not just a legal phrase, but it is a substantial right to
4 which every defendant is entitled unless you, the jurors,
5 the jury are satisfied from the evidence of the guilt
6 beyond a reasonable doubt.

7 Now, ladies and gentlemen, I instruct you and I
8 emphasize the fact that the defendants did not testify is
9 not a factor to be considered by you in any way in your
10 deliberations and in your consideration on the question of
11 the guilt or innocence of the defendants. It must not be
12 considered by you in any manner whatsoever. A defendant
13 has the constitutional right to remain silent, and the
14 assertion of this right must not be considered by you in
15 your deliberations. I repeat. Under your oath, you are to
16 draw no conclusion whatsoever from the fact that the
17 defendants in this case did not testify.

18 The fact that the defendants did not testify should
19 not even be discussed by you in the jury room. The burden
20 of proof, as I have stated, is on the state. The defendant
21 is not required to prove his innocence. The burden of
22 proof remains on the state to prove guilt beyond a
23 reasonable doubt.

24 That always begs the question: what is reasonable
25 doubt in the law? A reasonable doubt is the kind of doubt

1 that would cause a reasonable person to hesitate to act.
2 The state must prove, the state has the burden of proving
3 the defendants guilty beyond a reasonable doubt.

4 Some of you may have served as jurors in a civil case
5 where you were told that the -- it's only necessary to
6 prove that a fact is more likely true than not true, such
7 as by the greater weight or the preponderance of the
8 evidence. In criminal cases, the state's proof must be
9 more powerful than that. It must be beyond a reasonable
10 doubt.

11 Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of the defendants' guilt. Ladies and
13 gentlemen, there are very few things in this world that we
14 know with absolute certainty. And in criminal cases, the
15 law does not require proof that overcomes every possible
16 doubt. If, based upon your consideration of the evidence,
17 you are firmly convinced that the defendants or defendant
18 is guilty of the crime charged, you must find the defendant
19 guilty. If, on the other hand, you think that there is a
20 real possibility that the defendant is not guilty, you must
21 give the defendant the benefit of the doubt and find him
22 not guilty.

23 Now, ladies and gentlemen, there are two types of
24 evidence which are generally presented during trial. There
25 is direct evidence and there's circumstantial evidence.

1 Direct evidence is the testimony of a person who claims to
2 have actual knowledge of a fact, such as an eyewitness. It
3 is evidence which immediately establishes the main fact to
4 be proved.

5 Circumstantial evidence is proof of a chain of
6 circumstances indicating the existence of a fact. It is
7 evidence which immediately establishes collateral facts
8 from which the main fact may be inferred. Circumstantial
9 evidence is based on inference and not personal knowledge
10 or observation, and the law makes absolutely no distinction
11 between the weight or value to be given to either direct or
12 circumstantial evidence. Nor is there a greater degree of
13 certainty required of circumstantial evidence than of
14 direct evidence.

15 Ladies and gentlemen, you should weigh all the
16 evidence in this case. And after weighing all of the
17 evidence, if you are not convinced of the guilt of the
18 defendants beyond a reasonable doubt, you must find the
19 defendants not guilty.

20 Now, ladies and gentlemen, necessarily you must
21 determine the credibility of the witnesses who have
22 testified in this case. Credibility simply means
23 believability, and it becomes your duty as jurors to
24 analyze and evaluate the evidence, and determine which
25 evidence convinces you of its truth.

1 In determining the believability of a witness who has
2 testified in this case, you may believe one witness over
3 several witnesses, or several witnesses over one witness.
4 You may believe a part of the testimony of a witness, and
5 reject the remaining parts of the testimony of the same
6 witness. You may believe the testimony of a witness in its
7 entirety, or reject the testimony of a witness in its
8 entirety.

9 You may consider whether the witness has exhibited to
10 you any interest, bias, prejudice, or other motive in this
11 case. You may also consider the appearance and the manner
12 of a witness while on this witness stand.

13 Now, ladies and gentlemen, the rules of evidence, as I
14 have told you several times during this, ordinarily do not
15 permit a witness to testify to opinions or conclusions. An
16 exception to this rule is people we call expert witnesses.
17 A witness who by education and experience has become expert
18 in some art, science, profession, or calling may state an
19 opinion as to relevant and material matter in which the
20 witness claims to be an expert, and may also state the
21 reason for the opinion.

22 You should consider any expert opinion received in
23 evidence in this case, and like any other evidence received
24 in this case, give it the weight that you think it
25 deserves. If you decide that the opinion of the expert is

1 not based on sufficient education and experience, or if you
2 conclude that the reasons given in support of the opinion
3 are not sound, or that the opinion is outweighed by other
4 evidence, you may disregard the opinion entirely.

5 An expert witness's testimony is not to be giving --
6 to be given any greater weight than any other witness
7 simply because the witness is an expert. Further, you are
8 not required to accept an expert's opinion even though it's
9 not contradicted.

10 Now, ladies and gentlemen, the defendants are charged
11 with murder. The state must prove beyond a reasonable
12 doubt that the defendants killed another person with malice
13 aforethought. Malice is hatred, ill will, or hostility
14 towards another person. It is the intentional doing of a
15 wrongful act without just cause or excuse, and with intent
16 to, intent to inflict or injure -- an injury, or under
17 circumstances that the law will infer an evil intent.

18 Malice aforethought does not require that malice exist
19 for any particular time before the act is committed. But
20 malice must exist in the mind of the defendant just before
21 and at the time the fact is committed. Therefore, there
22 must be a combination of a previous evil intent and the
23 act.

24 Malice aforethought may be expressed or inferred.
25 These terms expressed and inferred do not mean different

1 kinds of malice, but merely the manner in which the malice
2 may be shown to exist. That is either by direct evidence
3 or by inference from the facts and circumstances which are
4 proved.

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

11 Malice may be inferred by conduct, showing total
12 disregard for human life. Inferred malice may also arise
13 when the deed is done with a deadly weapon. A deadly
14 weapon is any article, instrument, or substance which is
15 likely to cause death or great bodily injury, injury, harm.

16 Whether the instrument has been used as a deadly
17 weapon depends on the facts and the circumstances of each.
18 The following are examples of instruments which may be
19 deadly weapons: a pistol or a rifle. A gun may be a deadly
20 weapon even it is not operable.

21 Each defendant in this case, ladies and gentlemen, is
22 also charged with armed robbery. In order to prove this
23 offense, the state must first prove beyond a reasonable
24 doubt that the defendant took personal property from the
25 person or presence of another person. Property is in the

1 presence of a person if it is within the person's reach,
2 inspection, observation, or control so that the person
3 could, if not overcome with violence or prevented by fear,
4 keep possession of the property.

5 The state must also prove beyond a reasonable doubt
6 that the defendant carried the property away, intending to
7 permanently deprive the owner of the property and to keep
8 the property for the defendant's own use.

9 The slightest removal of the property or the complete
10 possession of the property, even for an instant, by the
11 defendant is sufficient to show a taking and carrying away
12 of the property. The taking and carrying away of the
13 property must have been done with violence, or by putting
14 the owner of the property in fear of violence.

15 Finally, the state must prove beyond a reasonable
16 doubt that the defendant was armed with a deadly weapon
17 during the robbery. A deadly weapon is any article,
18 instrument, or substance which is likely to cause death or
19 great bodily harm. Whether the instrument has been used as
20 a deadly weapon depends on the facts and the circumstances
21 of each case. The following examples are instruments which
22 may be a deadly weapon: a pistol, a shotgun, or a rifle.
23 And as I said, a gun may be a deadly weapon even if it is
24 not operable.

25 Ladies and gentlemen, if a crime is committed by two

1 or more people who are acting together in committing a
2 crime, the act of one is the act of all. A person who
3 joins with another to accomplish an illegal purpose is
4 criminally responsible for everything done by the other
5 person which occurs as a natural consequence of the acts
6 done in carrying out the common plan and purpose.

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

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

20 Guilt as a principle is shown by actual or
21 constructive presence at a scene as a result of a prior
22 agreement. Therefore, finding a prior agreement, arranged
23 plan, or common scheme is necessary for a finding of guilt
24 as a principle.

25 The state must prove beyond a reasonable doubt by

1 competent evidence the theory of the hand of one is the
2 hand of all. The principal in a crime is who either
3 actually commits the crime, or who is present aiding and
4 abetting or assisting in the committing the crime. When
5 the person does an act in the presence of and with the
6 assistance of another, the act is done by both.

7 Where two or more are acting with a common plan or
8 intent are present at the commission of a crime, it does
9 not matter who actually commits the crime: all are guilty.
10 The hand of one is the hand of all. And present at the
11 commission of a crime means to be sufficiently near to aid
12 and abet and assist in the commission of the crime.

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

19 Intent means intending the result which actually
20 occurs, not accidentally or involuntarily. Intent may be
21 shown by acts and conduct of which the defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent. The state must prove these elements beyond a
24 reasonable doubt.

25 Now, ladies and gentlemen, there are two possible

1 verdicts for each defendant which you may find in the case
2 on the charges of murder and armed robbery. As to
3 defendant Reginald Canty under indictment 2008-GS-43-993,
4 count one on the charge of murder, you may find -- and you
5 will have this verdict form in the jury room with you, but
6 I'll go through it with you on this. You'll find not
7 guilty or guilty. As to defendant Reginald Canty under
8 indictment 2008-GS-43-993, count two on the charge of armed
9 robbery: not guilty or guilty.

10 As to defendant Daniel Deangelo Jackson under
11 indictment 2008-GS-43-993 on the charge of murder: not
12 guilty or guilty. As to defendant Daniel Deangelo Jackson
13 under indictment 2008-GS-43-993 on count two of the charge
14 of armed robbery: not guilty or guilty.

15 Now, ladies and gentlemen, there is no significance
16 whatsoever in the order which I state the possible verdict.
17 It's simply that one must be stated first.

18 Now, ladies and gentlemen, your verdict must be a
19 unanimous one. All twelve of you must agree on the
20 verdict. Your decision must not be based on sympathy,
21 passion, prejudice, or emotion, or any other consideration
22 that is not in evidence in this case.

23 Mr. Foreperson, when the jury reaches a verdict, you
24 will then write the verdict, check each box. You write in
25 the verdict, and then you sign your name as foreperson.

1 Then please knock on the jury room door. Inform the
2 bailiff that you have reached a verdict, and at that time
3 you will be received back here into the courtroom for the
4 publication of your verdict.

5 Now, ladies and gentlemen, I ask that you now return
6 to the jury room, but please do not begin your
7 deliberations until you are told to do so by the clerk or
8 the bailiff to do so. There are some matters that must be
9 discussed with the attorneys before we begin our
10 deliberations.

11 Now, ladies and gentlemen, we anticipated that you
12 would be going back there early, earlier, and I think your
13 supper is already back there, so you won't have to wait
14 long to eat. And I guess you may, if you want to, start
15 eating while they gather up all the evidence to the back
16 there, you may start doing so. Thank you, ladies and
17 gentlemen.

18 (THE JURY EXITS AT 6:24 P.M.)

19 THE COURT: Are there any objections from the state
20 for the closing argument? Excuse me, on the charge on the
21 law?

22 MR. MEADORS: No, sir. Judge, I don't want to make
23 things difficult, but it just hit me here, and I don't know
24 if it was requested. Was a charge of voluntariness? I
25 didn't know if that was -- it may not have been requested.

1 THE COURT: There was no request for that.

2 MR. MEADORS: We have no objection.

3 MR. DEAS: A charge for what again? I didn't hear.

4 THE COURT: Voluntariness.

5 MR. DEAS: Voluntary? Oh.

6 THE COURT: Any objection, Mr. Deas?

7 MR. DEAS: No objection, Your Honor.

8 THE COURT: Mr. Wilder?

9 MR. WILDER: Your Honor, we respectfully except on the
10 failure to charge the accident which we asked for.

11 THE COURT: Yes, sir.

12 MR. WILDER: And also to fail to charge the accessory
13 after the fact.

14 THE COURT: Thank you, and I've already, I've ruled on
15 that.

16 MR. WILDER: And those are the only two exceptions to
17 the charge, Your Honor.

18 THE COURT: Yes, sir, and I find that there was no
19 necessity to charge on those because there was no evidence
20 presented of that. All right, thank you.

21 MR. MEADORS: Thank you.

22 THE COURT: All right, court will be at ease until the
23 call of the court.

24 MR. MEADORS: Thank you.

25 MR. DEAS: Yes, sir.

1 okay? If you think you need to leave, now is the time to
2 do it. All right, thank you.

3 Let's bring our jury in.

4 (THE JURY ENTERS AT 8:49 P.M.)

5 CLERK OF COURT: All jurors are present in the
6 courtroom.

7 THE COURT: Thank you.

8 Mr. Foreman, I understand the jury has reached a
9 verdict. Is that correct?

10 FOREPERSON: Yes, sir.

11 THE COURT: Is it unanimous?

12 FOREPERSON: Yes, sir.

13 THE COURT: All right. Thank you. Please pass it to
14 the bailiff.

15 (A PAUSE.)

16 THE COURT: Please publish the verdict. Defendants
17 will rise as the verdicts are read.

18 VERDICT

19 CLERK OF COURT: For the State of South Carolina,
20 County of Sumter, in the court of General Sessions,
21 indictment number 2008-GS-43-993, the *State of South*
22 *Carolina vs. Reginald Canty and Daniel Deangelo Jackson,*
23 defendants. We, the jury, unanimously find the defendant
24 as follows. Number one, as to the defendant Reginald
25 Canty, under indictment 2008-GS-43-993, count one on the

1 charge of murder: guilty. As to the defendant Reginald
2 Canty under indictment 2008-GS-43-993, count two on the
3 charge of armed robbery: guilty.

4 As to number three as to defendant Daniel Deangelo
5 Jackson under indictment 2008-GS-43-993 on the charge of
6 murder: guilty. As to defendant Daniel Deangelo Jackson
7 under indictment 2008-GS-43-993 on count two on the charge
8 of armed robbery: guilty. Signed John Holland, foreman,
9 dated August the 12th, 2011.

10 Ladies and gentlemen of the jury, is this your
11 verdict? So say you all by raising your right hand,
12 please.

13 (THE JURORS COMPLY.)

14 CLERK OF COURT: Thank you.

15 THE COURT: You may be seated.

16 Does the state request polling of the jury?

17 MR. MEADORS: The state does not, sir.

18 THE COURT: Mr. Deas, does Mr. Canty request polling
19 of the jury?

20 MR. DEAS: Yes, sir, Your Honor.

21 THE COURT: All right, please poll the jury.

22 CLERK OF COURT: Yes, sir, Judge.

23 *POLLING OF THE JURY*

24 CLERK OF COURT: Ladies and gentlemen of the jury,
25 when I call your name, raise your hand and answer my two

1 questions, please.

2 Juror number 60, Sherry Glasscho, is this your
3 verdict? It still your verdict?

4 MR. WILDER: Your Honor, I hate to interrupt, but may
5 we request separate polling for each defendant?

6 THE COURT: You may.

7 MR. WILDER: Thank you.

8 THE COURT: Separate polling for each. We'll do Mr.
9 Canty first, and then we'll do Mr. Wilder's client, Mr.
10 Jackson.

11 CLERK OF COURT: All right, sir.

12 THE COURT: So, this will be as to Mr. Canty only.

13 CLERK OF COURT: This is polling for Defendant Canty.
14 Juror number 100, Michael Knight, is this your verdict? Is
15 still your verdict?

16 JUROR: Yes, it is.

17 CLERK OF COURT: Thank you.

18 Juror number 115, Kelley McMillan, is this your
19 verdict? It still your verdict?

20 JUROR: Yes, it is.

21 CLERK OF COURT: Thank you.

22 Juror number 120, Charles Mullins, is this your
23 verdict? Still your verdict?

24 JUROR: Yes, sir.

25 CLERK OF COURT: Thank you.

1 Juror number 124, Thomas Nissen, is this your verdict?

2 Still your verdict?

3 JUROR: Yes, sir.

4 CLERK OF COURT: Thank you.

5 Juror number 6, Erin Anderson, is this your verdict?

6 Still your verdict?

7 JUROR: Yes, it is.

8 CLERK OF COURT: Thank you.

9 Juror number 155, Marcus White, is this your verdict?

10 It still your verdict?

11 JUROR: Yes.

12 CLERK OF COURT: Thank you.

13 Juror number 82, Johnnie Holland, is this your

14 verdict? It still your verdict?

15 JUROR: Yes, sir.

16 CLERK OF COURT: Thank you.

17 Juror number 132, Robert Rogers, is this your verdict?

18 It still your verdict?

19 JUROR: Yes, sir.

20 CLERK OF COURT: Thank you.

21 Juror number 144, Wendy Stickle, is this your verdict?

22 Still your verdict?

23 JUROR: Yes, sir.

24 CLERK OF COURT: Thank you.

25 Juror number 17. She's the alternate. Don't call her

1 name.

2 Juror number 145, Lakeishia Stubbs, is this your
3 verdict? Still your verdict?

4 JUROR: Yes, sir.

5 CLERK OF COURT: Did I call everyone's name as far as
6 Canty? What's your name, ma'am?

7 JUROR: Connie Davis.

8 CLERK OF COURT: Juror number 34, Connie Davis, is
9 this your verdict? It still your verdict as far as Mr.
10 Canty?

11 JUROR: Yes.

12 CLERK OF COURT: Thank you.

13 THE COURT: All right, please poll the jury concerning
14 Mr. Jackson.

15 CLERK OF COURT: Juror number 60, Sherry Glasscho, is
16 this your verdict and still your verdict?

17 JUROR: Yes, sir.

18 CLERK OF COURT: Thank you.

19 Juror number 100, Michael Knight, is this your
20 verdict? Still your verdict?

21 JUROR: Yes, sir.

22 CLERK OF COURT: Thank you.

23 Juror number 115, Kelley McMillan, is this your
24 verdict? Still your verdict?

25 JUROR: Yes, it is.

1 CLERK OF COURT: Thank you.

2 Juror number 120, Charles Mullins, is this your
3 verdict? Still your verdict?

4 JUROR: Yes, sir.

5 CLERK OF COURT: Juror number 124, Thomas Nissen, is
6 this your verdict and still your verdict?

7 JUROR: Yes, sir.

8 CLERK OF COURT: Juror number 6, Erin Anderson, is
9 this your verdict? Still your verdict?

10 JUROR: Yes, it is.

11 CLERK OF COURT: Thank you.

12 Juror number 34, Connie Davis, is this your verdict
13 and still your verdict?

14 JUROR: Yes, sir.

15 CLERK OF COURT: Thank you.

16 Juror number 155, Marcus White, is this your verdict?
17 Still your verdict?

18 JUROR: Yes.

19 CLERK OF COURT: Thank you.

20 Juror number 82, Johnnie Holland, is this your verdict
21 and still your verdict?

22 JUROR: Yes, sir.

23 CLERK OF COURT: Thank you.

24 Juror number 132, Robert Rogers, is this your verdict
25 and still your verdict?

1 JUROR: Yes, sir.

2 CLERK OF COURT: Thank you.

3 Juror number 40 -- 144, Wendy Stickle, is this your
4 verdict? Still your verdict?

5 JUROR: Yes, sir.

6 CLERK OF COURT: Thank you.

7 Juror number 145, Lakeishia Stubbs, is this your
8 verdict? Still your verdict?

9 JUROR: Yes, sir.

10 CLERK OF COURT: Thank you.

11 Your Honor, the jury has been polled as far as Canty
12 and Jackson goes, and the verdict stands.

13 THE COURT: All right, thank you. The verdict does
14 stand.

15 Ladies and gentlemen of the jury, let me take this
16 opportunity to thank you. Not everybody is brought in to a
17 five day case as you have been in this situation, and I
18 want to thank you for your timeliness, your patience, and
19 your willingness to do the job that was tasked to you.

20 As you now realize, the burden of doing justice and
21 coming up with a verdict is a heavy burden that most people
22 in society will never know what you went through. Do not
23 let anybody second-guess what you have done here today
24 because they did not hear the evidence that you heard.
25 They do not know what you've been through.

1 be held criminally liable under the hand of one, hand of
2 all theory for either murder or armed robbery. And we'd
3 ask the court based on that to issue a judgement
4 notwithstanding the verdict of not guilty as to both
5 charges.

6 THE COURT: Mr. Meadors.

7 MR. MEADORS: The state would ask Your Honor not to do
8 that. We thought we gave evidence to go forward, direct
9 and circumstantial, for the murder and armed robbery
10 against Mr. Canty.

11 He said yes, got his cousin to drive them there. Was
12 at the phone with Mr. Jackson. We believe that testimony.
13 Came back and then gave a statement that kind of put
14 himself at the incident where it happened where he said he
15 could see the revolver.

16 All that was presented and argued to the jury, and
17 they came back with a verdict. And we'd respectfully ask
18 Your Honor to let the verdict stand.

19 THE COURT: All right, as to Mr. Canty, I find that
20 the jury, just from some of the questions that came back,
21 analyzed that concerning Mr. Canty. And, therefore, the
22 verdict will stand. Your motion is respectfully denied.

23 Mr. Wilder.

24 MR. WILDER: Your Honor, at this time we would also
25 move the court to grant a motion for a directed verdict of

1 not guilty or judgement notwithstanding the verdict.
2 Sometimes it's been called an arrested verdict motion, Your
3 Honor. We make that motion, or in the alternative for a
4 mistrial. We renew that motion. And we'd also, you know,
5 make an alternative motion, if those two are not granted,
6 for a new trial.

7 And, Your Honor, the grounds for this would be the
8 court sitting as the thirteenth juror, we would urge the
9 court to take a view of the redacted statements.
10 Obviously, the jury must have used something in those
11 statements as evidence against my client because there is
12 no other evidence, I would submit, before the court that
13 would show his activities between the time he left the
14 store and the time he arrived at home at 3 that morning I
15 think was the next testimony, or whatever time he got home.
16 So, other than the redacted statements, that's the only
17 explanation for what, what happened during that time period
18 insofar as Mr. Jackson was concerned.

19 So, we would submit that the only logical inference
20 would be that the jury must have decided to use those
21 statements that Mr. Canty gave against Mr. Jackson, which
22 we don't believe should be permitted under the law of
23 Bruton, the confrontation of issues. The right that he has
24 under the United State Constitution and constitution of our
25 state, Your Honor. We believe that those rights were not

1 afforded him because of the joint trial, the nature of the
2 joint trial, and the denial of our motion for severance.

3 Your Honor, we would also ask that the court grant
4 this relief because of the various denials of the motions
5 that I made during the course of the case, not the least of
6 which was my motion for dismissal at the very beginning of
7 the case due to the lack of a speedy trial.

8 But also we raised various issues in our written
9 motions about Rule 5 violations, about the failure of the
10 state to turn over certain evidence which we felt was Rule
11 5 material in a timely fashion.

12 And, and then, Your Honor, the various things that we
13 attempted to put into evidence that Mr. Meadors objected
14 to. And very respectfully, Your Honor, we would make a
15 motion for the record that those -- the new trial be
16 granted on grounds that had the court allowed those things
17 to go before the jury, there would have *per se* been a
18 reasonable doubt. Or that would have gotten a trial that
19 was substantially fairer under our system of justice.

20 And all of those reasons, Your Honor, we would ask the
21 court to grant us a new trial if the mistrial motion is not
22 granted and the directed verdict of not guilty, judgement
23 NOV, is not granted. Thank you for hearing us, Your Honor.
24 We appreciate that.

25 THE COURT: Mr. Meadors, would you like to respond?

1 MR. MEADORS: Yes, sir. If it please the court, I
2 respectfully just differ in the view of the evidence.
3 There's evidence, we think direct and circumstantial, that
4 Mr. Jackson made that phone call. No question about it.
5 There was evidence of the use of the firearm. There's
6 evidence that he had the rifle, that he took his uncle to
7 get the rifle. That he -- the projectile, the rifle, and
8 the shell casings were in his aunt's house. He left, came
9 back. She found it. He'd hid it. Hid it in the peanut
10 jar, Judge, which we think was direct and circumstantial
11 evidence of guilt. And then, Judge, what I forgot to argue
12 at the end: when he said how can I be charged with armed
13 robbery if I didn't take any money from the pizza man.

14 We think all of those, there's plenty of evidence for
15 the jury, and we respectfully -- we respect the verdict,
16 and we ask Your Honor to let the verdict stand. Thank you.

17 THE COURT: Thank you. All right, I find that the
18 jury had sufficient evidence for both charges, actually
19 probably more than sufficient evidence based upon what I
20 observed in the court. And, therefore, I respectfully deny
21 your motion for mistrial and a new trial at this time.

22 All right, I will give the attorneys approximately
23 fifteen minutes to speak with their clients and any family
24 members that they need to, and then I will hear arguments
25 from the state and the defendants concerning sentencing.

1 MR. MEADORS: Your Honor, we need to get the paperwork
2 ready.

3 THE COURT: Right. Y'all need to do that as well.
4 We'll be in recess for fifteen minutes. So, that means
5 y'all need to be back in here by that clock twenty minutes
6 after 9:00.

7 (OFF THE RECORD.)

8 MR. DEAS: Your Honor.

9 THE COURT: Yes, sir.

10 MR. DEAS: For the record, I don't know if I actually
11 moved for a new trial or not, but if I didn't, I want to
12 make that motion.

13 THE COURT: Okay.

14 MR. DEAS: Just to protect the record.

15 THE COURT: Denied.

16 MR. DEAS: Yes, sir.

17 THE COURT: All right, Mr. Solicitor.

18 MR. MEADORS: Would Your Honor like, and I apologize
19 in advance, to hear from the family first?

20 THE COURT: Would be fine.

21 MR. MEADORS: Your Honor, first Michelle Principato.
22 Michelle is the sister of Bill, William Flexon, and would
23 like to address the court.

24 THE COURT: Yes, ma'am

25 MS. PRINCIPATO: First and foremost, I would like to

1 thank the jurors for their service. I have served in this
2 very court on a murder trial as a juror, and I know their
3 decision did not come lightly. I thank them for this
4 service in the case and bringing justice for my brother and
5 my brother's family. I thank them for my nephews who could
6 not be here: Bill Suggs, one serving in Afghanistan at the
7 moment, and one who's still home and could not be here. I
8 thank Your Honor for overseeing this trial for us.

9 And I just want to say on behalf of Bill and our
10 family that this has been a great tragedy for our family.
11 It has left a huge, huge hole in our family with our -- for
12 the boys, for Bill's grandkids, for my mother and my
13 brother, myself.

14 And, but I have to say at this time that I believe
15 justice has been served. I thank the community who was
16 wonderful to us when this happened. I thank the community
17 and their, their quick service and their diligence on this
18 case.

19 I pray for anybody who leaves this courtroom today
20 with a broken heart as we have and had to deal with. And I
21 just want to take one final moment to thank the community
22 and these officers, and this prosecution team did a
23 wonderful job on our case.

24 THE COURT: Thank you for your comments, ma'am.

25 MR. MEADORS: He's got a brother here, Jerry Flexon,

1 who would like to approach, Your Honor.

2 MR. FLEXON: She has spoken what needs to be said.

3 Thank you.

4 MR. MEADORS: Thank you. Obviously the family,
5 there's some who could, could not be here. Bill is in
6 their prayers, and I want to thank them publicly for their
7 patience. It took a long time to get here, and it wasn't
8 their fault. And I want to thank them for putting up with
9 us and for being as easy to deal with as they were. Judge,
10 obviously they love him and miss him.

11 In my quarter century of prosecuting, this is probably
12 as senseless a killing as I've ever been involved in. Just
13 delivering pizza, and it was a waste. And Al, wherever Al
14 is, is a lucky man or he'd be dead.

15 Judge, as far as the prior record, Mr. Jackson has a
16 juvenile record, Judge. Assault with intent to commit CSC,
17 he got a suspended commitment for in 2001. Malicious
18 injury to property in two thousand and -- excuse me.
19 Strike that, Your Honor. Simple assault and battery 2004,
20 probation. Malicious injury to property in 2004,
21 probation. That was the juvenile record.

22 Malicious injury to property 2006 as an adult.
23 Burglary second degree, five years suspended to five years'
24 probation. Malicious injury to a place of worship, five
25 years, five years' probation. Then another malicious

1 injury to property, 2007, September 2007. And then it
2 appears I guess while he was in, he had a malicious -- an
3 assault on corrections employee, convicted and got a year.
4 Malicious injury to personal property. Got convicted on
5 that, I think, and another malicious injury to property
6 April of '08. And I think that's why he was in waiting on
7 these charges because I do believe he got moved to Lee
8 Correctional Institute from the local facility.

9 Judge, as far as Mr. Canty, he has no prior record.

10 Judge, I, too, publicly want to thank the jury for
11 their verdict. I want to thank these set of fine officers.
12 I know it seems like a lot of these cases, the officers get
13 put on trial. And not to say that it's not a strategy and
14 I don't mean this ill toward these fine attorneys. But
15 they did a fantastic job, all of them. And Burnish,
16 Dominick, and I just want to thank them publicly. It was a
17 pleasure to work with them, and that's all we have.

18 THE COURT: Thank you.

19 Mr. Deas for Mr. Canty.

20 MR. DEAS: Your Honor, do you want us here?

21 THE COURT: Y'all may come forward.

22 MR. DEAS: May it please the court?

23 THE COURT: Yes, sir.

24 MR. DEAS: Your Honor, this job that we do is a
25 different one. It's a situation where you have a

1 participated in.

2 THE COURT: Thank you.

3 MR. DEAS: Thank you.

4 THE COURT: You may be seated.

5 Mr. Wilder, Mr. Jackson.

6 MR. WILDER: May it please the court?

7 THE COURT: Yes, sir.

8 MR. WILDER: Your Honor, my client is now twenty-three
9 years old. At the time that this took place, I think he
10 was nineteen or twenty.

11 Your Honor, when he was born, his mother was fourteen
12 years old, and his father shortly thereafter was sent to
13 prison. And, Your Honor, his mother took up with another
14 man, and they lived together until Daniel was six or seven
15 years old. And during that period of time, the man that
16 his mother had met at that time was abusive to him.

17 At age eleven, he was placed in a group home by Child
18 Protective Services after his mother was found -- abused
19 him and neglected him. They had taken him away from his
20 mother because she abused him.

21 He moved around to a variety of group homes and, Your
22 Honor, one reason we elected, and I did advise him not to
23 testify. One, you heard about the record that he had for
24 the burglary, and it seemed that that might inflame someone
25 to be holding that against him.

1 But he also tested for the IQ of 85 and a verbal IQ of
2 86 and a performance IQ of 87, and that falls in the low
3 average range of human intelligence. And I didn't think
4 that he would be able to articulate well enough to speak in
5 front of the jury.

6 When he was eleven, the report that I received says
7 that he was molested by a family member on his mother's
8 side, and that had happened just before he was sent to live
9 in a group home.

10 The jobs he's had, Your Honor, he worked at the Fort
11 Jackson commissary, and he had a job for about two weeks at
12 a car wash. But they tell me he was unable to hold down a
13 job, and I think that was because of his IQ.

14 The report says that he came from an abusive, chaotic
15 childhood, and I'm not trying to excuse anything that the
16 jury may have found that he did. That, that certainty is
17 every bit of what Mr. Meadors has made it out to be. But,
18 Your Honor, my client has always indicated to me that that
19 night when Mr. Canty went in the direction back to O.C.,
20 that he went another way, and that he was not present when
21 any of this happened. And that's what I presented to the
22 jury. That's what I argued to the court. That's what I
23 think that the evidence shows, the competent evidence, the
24 reliable evidence, the evidence that should have been
25 considered.

1 So, not to quarrel with the verdict of the jury, which
2 we know is there, but to say that Mr. Jackson has not had
3 too much of a good start in life and now faces what is
4 probably the worst or most serious kind of offense that we
5 have in our criminal justice system. And I'm asking you to
6 have mercy on him as you fashion your sentence.

7 At twenty-three years old, a life sentence is a long
8 time. I ask you to consider that one day he would like a
9 opportunity to get back and reunite with what remains of
10 the family that cares about him.

11 I would like you to hear from Angela who's here, and
12 she, she does care for him, Your Honor.

13 THE COURT: Yes, Ms. Boyd.

14 MS. BOYD: First, I would like to -- my family would
15 like to send our condolences to Mr. Flexon's family because
16 I know it's been hard. I know it's been hard. I respect
17 what the jury has decided, and I'm mad at my own self
18 because I wasn't able to be there for my nephew.

19 And I ask that you have mercy on him at this time
20 because I really remember being able to be there when he
21 was three years old, and I took him to a kindergarten class
22 I was working for. He was my favorite nephew.

23 My sister, his mother, wasn't able to be here -- she's
24 in Ohio -- because of financial difficulties. And it's
25 hard for me to imagine because when my mom passed away in

1 '07, I just wasn't strong enough to be there. I have five
2 of my own kids and my other sister's, too. And I wanted to
3 be there, and at every opportunity that I did have to be
4 with Daniel, I was there. It just wasn't enough.

5 And I'm asking you to have mercy on him, and to
6 remember that I and my family have told the truth no matter
7 how hard it was to do. And that Daniel, out of all the
8 people in my family that have come to me and asked me for
9 advice, he did not. He asked me to take him and bring him
10 up here. I did not know where the police department was.
11 I got lost coming to court a couple of times.

12 But I ask you to have mercy on him because I would
13 love to have the opportunity at some time in my life just
14 to be with him. Thank you.

15 THE COURT: Thank you, Ms. Boyd.

16 MR. WILDER: And, Your Honor, he has been incarcerated
17 on this warrant since the day he turned himself in to law
18 enforcement, and I ask whatever sentence, you give him
19 credit for the time he's served.

20 THE COURT: Does he wish to make a statement to the
21 court?

22 MR. WILDER: Daniel, do you want to talk?

23 MR. JACKSON: Yes, sir. May I begin? Your Honor,
24 since day one, all I been asking is that I be judged
25 according to the law, and also whatever someone else thinks

1 of me or believes to be true, that my constitutional rights
2 not be violated in any type of way.

3 Your Honor, I can't say too much, but I not commit
4 this crime. I never shot anybody, not a day in my life. I
5 never robbed anybody. I didn't take anything from nobody.
6 I never, never had no reason. And I admit I was wrong by
7 accepting that weapon and doing, you know what I'm saying,
8 taking when I know I'm not supposed to have no weapon in
9 the first place.

10 But, you know, I have family out there that I really
11 want to be with. I have a son I hadn't seen yet. I really
12 want to be home with my family.

13 Now I understand the consequences. I should never
14 accept that weapon, but I did. Your Honor, I do apologize
15 for that.

16 I did time for the crime that I did commit because I
17 was guilty of those charges. Some of them got dismissed
18 because I was not guilty. Your Honor, I'm not guilty of
19 this charge here.

20 THE COURT: Thank you.

21 Anything further, Mr. Wilder?

22 MR. WILDER: No, Your Honor.

23 THE COURT: All right. Thank you. You may be seated.

24 MR. WILDER: Thank you.

25 THE COURT: Give me a few minutes.

1 towards the end or after it happened there was remorse.
2 But it still doesn't take away the fact that no matter how
3 much remorse you have after that, Bill Flexon was still
4 dead, and his family did not have the right to have him
5 with them as they should have.

6 Concerning the armed robbery under indictment
7 2008-GS-43-993, sentence of the court is that you be
8 committed to the State Department of Corrections for a
9 period of thirty years. As to the charge of murder under
10 count 1 of indictment 2008-GS-43-993, it is the sentence of
11 this court that you be committed to the State Department of
12 Corrections for a period of thirty years. You may step
13 back.

14 MR. DEAS: Thank you, Your Honor.

15 THE COURT: Mr. Jackson, Mr. Wilder.

16 These shall run concurrently.

17 MR. DEAS: And credit for time served?

18 THE COURT: Credit for time served.

19 THE COURT: Mr. Daniel Deangelo Jackson, you made a
20 statement that you wanted to be with your family. I'm sure
21 Bill Flexon wanted to be with his family; I'm sure his
22 family wanted to be with him. He was a man who was just
23 trying to eek out a living, do the right thing. He
24 actually volunteered to do what he wasn't required to do.
25 And because of someone like you, who put this together, I

1 find that he didn't get to have that. He was murdered. He
2 was gunned down like a dog. And I find, based upon what I
3 heard in the testimony, that you were heavily involved with
4 this. I think to a large extent, Mr. Canty was probably a
5 follower. But I find, I see no remorse.

6 And the sentence of this court is on the armed robbery
7 charge under indictment 2008-GS-43-993 that you be
8 committed to the State Department of Corrections for a
9 period of thirty years. As to the charge under indictment
10 2008-GS-43-993 on the charge of murder, the sentence of
11 this court is that you shall spend the rest of your life
12 behind bars separated from the rest of humanity because I
13 don't think you can live with humanity. Good luck.

14 MR. MEADORS: Thank you, Your Honor.

15 MR. DEAS: Thank you.

16 THE COURT: All right, we need to separate the
17 families. The lady jurors and the jurors, let the jurors
18 leave. We'll hold y'all here and then we'll escort y'all.

19 --- END OF TRANSCRIPT OF RECORD ---

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

2011 AUG 16 PM 3: 36

2008-GS-43-993

State of South Carolina,

Plaintiff,

vs.

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

MOTION FOR RECONSIDERATION
Judgment NOV (Arrested Verdict),
Mistrial and Motion
For a New trial

Daniel Deangelo Jackson
Defendant

Your defendant by and through counsel would now move the court to reconsider its rulings with respect to his motions for a judgment n.o.v. of not guilty (arrested verdict), mistrial, and motion for a new trial entered upon the record on Friday, August 12, 2011 in open court.

The grounds for this reconsideration motion would be as previously stated upon the record in open court and the following additional grounds:

1. That the courts failure to grant defendant's motion for recusal resulted in the defendant's not receiving a fair and impartial trial. Defendant elected to not testify. The defendant was aware that the State's witness list had been amended at the last minute to include a potential witness who is facing the death penalty, who is now represented by Boyd Young, nephew of the trial judge. Jeff Young. The defendant's decision not to testify was on information and belief chilled because of the knowledge of the relationship of this witness with the trial Judge. On information and belief the failure of the trial judge to recuse himself resulted in defendant's right to testify being chilled, and violated his Fifth Amendment rights to a fair trial.
2. That the courts failure to grant a dismissal and otherwise grant the defendant relief for the States failure to timely turn over evidence under Rule 5 and the principles of Brady denied him a fundamentally and substantially fair trial for the following reasons: a. the State had in its possession an incident report from a few days before January 12, 2008 which indentified the names and addresses of a group of participants in a robbery at the same location where the robbery on trial occurred on January 12, 2008. Further testimony revealed that law enforcement had in its possession information that Marcus Branch had been a suspect and Law Enforcement further failed to even send Branches fingerprints to SLED for comparison to certain evidence which excluded Canty and Jackson. The names and addresses of the participants in that robbery included Marcus Branch who was listed as a suspect on many of the reports which were not turned over to the defendant until during 2011, and Tonya Rush, (a member of the family of another of those participants, Anthony Rush) actually testified during trial that a car parked the night of January 12, 2008 immediately in front of the victims car was often driven by Anthony Rush. The dates that each report were turned over to the defendant's attorney in 2011 are detailed in the previous motions both filed with this court, handed up to the court during argument before the trial commenced and the contents of which are now incorporated herein by reference. Defendant placed these names on his witness list

Handwritten signature

which was given to the court at the being of the case and those names were published to the jury as being potential witnesses. However, though defendant had issued subpoenas for Anthony Rush, Marcus Branch, Detrone Jenkins, Rayshawn Holmes and Donovan Shields, who were all placed on defendants witness list, identified in the law enforcement report which proffered by the defendant at trial, but objected to by the State and disallowed in evidence before the jury by the court, the defendant, due to the delay of the State and violation of RULE 5 and Brady was deprived of the opportunity from January of 2008 to June of 2011 of being able to investigate, locate, serve and obtain for court information and testimony from any of these witnesses- who the incident report reveals in 2008 were participants in a gang led by Anthony Rush operating in the OC Mobile Home Park at lot 19 around the date of the incident- which gang did not include defendant Jackson.

b. The State also had in its possession DNA evidence which included a report that had developed a minor contributor of DNA under the victims fingernails which minor contributor had loci on the report that did not match Jackson's. By failing to turn this Brady information over to defendant, defendant was unable to independently investigate the DNA findings, the gang activity and was also deprived of the opportunity to locate the witnesses for trial (see the attached affidavit of investigator JOHN DAVIS). Defendant therefore was denied a substantially fair trial by the States failure to turn all of the above information to the defendant in a timely fashion. c. Had the State given Jackson a speedy trial as he requested a year earlier in 2010- and of necessity given the late arriving disclosures to defendant that arrived in late May and June of 2011 and even up until the Friday before trial, defendant would have had a better chance of locating the members of Anthony Rush's gang, the O.G. (original gangster) Curtis Wheeler, and the witnesses on law enforcement own incident report Regina Patterson the Dykes, who were not called by the STATE and the other witnesses named on defendants witness list that he was not able to find before trial in August of 2011. The defendant was therefore denied a substantially fair trial because of the failure to give him a speedy trial- had the State tried him a year ago (months before he requested that he be given a mental evaluation- or had to request in 2011 a months delay because of already late arriving discovery it would have been clear that the State was withholding information vital to the defendants case and which the state elected to present in its case in chief at trial; and the State's failure to turn over Brady and Rule 5 material to the defendant. (The states failure to turn over the information reveals on information and belief that they had no intention in 2010 of trying the defendant at that time.)

3. The failure of the court to grant defendant's Jackson motion to sever the trial denied him a substantially fair trial in that Codefendant Canty failed to testify, however Canty's statements' were allowed into evidence over Defendant Jackson's objections. Defendant Jackson was therefore prevented from cross examining Canty as to his motives for giving the statement in the first place. Other witness established the family relationship between Anthony Rush and Canty and also between Desmond Canty, the driver of the vehicle which, according to Canty's statement took Canty to the Cherryvale Grocery. The evidence circumstantially proves that, if portions of Cantys statement are believed that the only member of Canty's party traveling to the grocery store not on the video tape who could have placed the phone call to order Piza from Sambinos to set up the robbery- would have been DESMOND CANTY and that this call would have been placed while Canty and Jackson were in the store. By depriving Defendant Jackson of the opportunity of confronting and cross examining Canty, Jackson was deprived of the only method he had of showing to the jury that Reginald Canty's motive in naming Jackson in his statements to law enforcement rather than Desmond was to protect Desmond Canty from

Att'd 2

being identified as the person who ordered the Pizza from Sambinos. Jackson was denied his Constitutional right to confront Canty, though Canty's statement to law enforcement were used against him and therefore Jackson was deprived of a fair trial. The redaction of Canty's statement failed to remove the identifying surrounding information as to who Canty was talking about and so was still prejudicial to Defendant Jackson. Also, Canty when testifying before the court in his suppression hearing admitted under oath having written another statement, which was mailed to Investigator Burnish and marked as a court's exhibit, but which was suppressed by the Court, and, had Canty testified, defendant Jackson would have had the opportunity to show that Canty wrote in his own handwriting another completely separate different statement, which would have proven to the jury (as officer Burnish agreed during his testimony during the suppression hearing) that whenever Canty's lips were moving he was lying. The failure to sever also resulted in the Codefendant Canty's attorney forfeiting for Jackson's counsel the last argument by moving evidence in during the State case. At no point during the State's case did defendant Jackson's attorney offer any exhibits into the record before the jury.

4. The failure of the Court to allow defendant Jackson to enter those exhibits into evidence which had been marked for ID during the State's case and which he moved into evidence during the Defendant's case deprived defendant Jackson of a fair trial and an opportunity to present his defense to the jury. These included Chain of custody receipts which would help the jury to understand when specific items of evidence were actually collected by law enforcement and in addition included sworn statements by Dominic West and Investigator Burnish which were inconsistent with testimony that they had given on the stand. Jackson's counsel, merely waiting for the time of his case to be open in order to move them into evidence, was denied a fair trial as he was denied the opportunity to place the evidence already marked for identification during the State's case into the record. The portions of the statements offered from search warrants were not offered to challenge the validity of the search warrants but to prove inconsistent statements given under oath by the testifying witness. They were offered for impeachment purposes and therefore should not have been ruled out by the court. By disallowing this evidence the defendant was specifically denied a fair trial and an opportunity to demonstrate the lack of credibility of the officers who had questioned him, regarding the specific information that he had allegedly told them during his interview. This was extremely prejudicial to the defendant because whether the jury believed those officers that Jackson had made the specific statement "How could I be guilty of armed robbery when I didn't take anything" was an important issue during the trial and only offered through the testimony of those two witnesses, Burnish and West. At issue was whether or not the defendant had turned himself in or whether he was fleeing law enforcement.
5. Failure to allow the testimony of Robin Krebs into evidence was also an information and belief error.

6. And further defendant would state that all the Court's rulings upon defendant's motions which were denied by the court, and the objections by the State which were sustained, and the objections by the defendant which were overruled, so individually and collectively prejudiced the defendant and destroyed the fairness of the trial that the defendant did not receive a substantially fair trial and his Constitutional rights under the 5th and 6th amendment and his rights under both US and State Constitutions were violated.

PHW3



Arthur H. Wilder, Jr.
Sumter County Public Defender's Office
Courthouse, Room 102
141 N. Main Street
Sumter, South Carolina 29150
(803) 436-2424 Office

Ann 4

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

2008-GS-43-993

State of South Carolina,

Plaintiff,

vs.

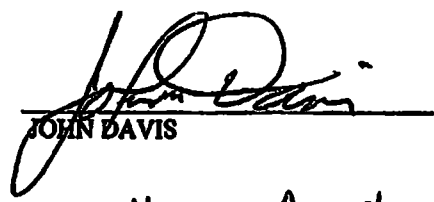
AFFIDAVIT

Daniel Deangelo Jackson
Defendant

PERSONALLY appeared before me John Davis, a licensed private investigator employed by the Sumter County Public defender's office to investigate the above captioned case who, being duly sworn, states as follows.

On June 15, 2011 I was given the attached subpoenas for service along with many others for service. Although I made a diligent search and continuing diligent effort to serve these particular subpoenas I was unable to locate, speak with and or serve the following individuals to effect any service of the subpoenas. These witnesses no longer live at the addresses listed on the law enforcement reports from 2008 and or the addresses on the face of the subpoenas where I attempted service and their present location is unknown:

- Anthony Rush
- Ray Dickey
- Jennifer Dickey
- Regina Patterson
- Donovan Shields
- Rayshawn Holmes
- Detrone Jenkins and
- Marcus Branch.


JOHN DAVIS

SWORN TO BEFORE ME THIS 16th August day of 2011


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES:

1/30/2012

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
Indictment: 2008-GS-43-993

2011 AUG 24 AM 11:32

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

State of South Carolina,

Plaintiff,

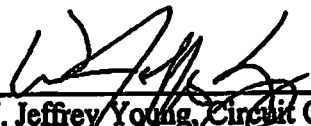
vs.

Daniel Deangelo Jackson

Defendant.

ORDER

This matter is before the Court pursuant to the defendant's timely filed motion for reconsideration. The defendant seeks to have this Court reconsider its rulings with respect to his motions entered upon the record on Friday, August 12, 2011, in open court. No hearing was held on the instant motion. After carefully considering the arguments made by the defendant, the motion is denied.



W. Jeffrey Young, Circuit Court Judge
Third Judicial Circuit

Date: August 23, 2011
Sumter, SC

WITNESSES

SCSO

Burnish

DOCKET NO. 2008-GS-43-993

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2008

THE STATE

vs.

REGINALD CANTY

Derry

DANIEL DEANGELO JACKSON *and*

ARREST WARRANT NUMBER

J292665; J292666

D/A: 01/25/08

ACTION OF GRAND JURY

True Bill

William Soule

Foreperson of Grand Jury

Date: *9/11/08*

VERDICT

Indictment for

MURDER, ARMED ROBBERY

Foreperson of Petit Jury

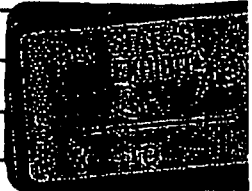
Date:

C. KELLY JACKSON, SOLICITOR



VOLUNTARY STATEMENT

LAST NAME <u>Canty</u>		FIRST NAME <u>Reginald</u>		MIDDLE NAME <u>Rashard</u>	AGE <u>16</u>	D.O.B. <u>1-1-1...</u>
NICKNAME/AKA		M <input checked="" type="checkbox"/> F <input type="checkbox"/>	SSN	STREET ADDRESS		
CITY <u>Sumter</u>		STATE <u>SC</u>	ZIP <u>29150</u>	MAILING ADDRESS IF DIFFERENT		
HOME TELEPHONE	WORK TELEPHONE	CELL TELEPHONE		OCCUPATION		
EMPLOYER			EMPLOYER ADDRESS			
DRIVER'S LICENSE NUMBER/STATE			DATE AND TIME OF INTERVIEW <u>1/15/08 10:35 am</u>			
LOCATION OF INTERVIEW <u>Sumter LEC</u>						
INTERVIEWING AGENT <u>D. West</u>	DEPARTMENT <u>Inv</u>	INTERVIEWING AGENT	DEPARTMENT			



RC I, Reginald Canty understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 7th grade in school.

This statement is being written by Inv. D. West by the request of Reginald Canty. I am not currently under the influence of any alcohol or drugs that may make me give any false information in this statement. On the night of the shooting ~~another person~~ asked my cousin (Desmond Cantey) to take him to Cherryvale Grocery Store. I went along cause I needed batteries. After arriving at the store me and ~~another person~~ got out the car and went to use the payphone so I ~~stands~~ stood beside him swinging my phone and I overheard him stated he wanted to order 3 large pizzas (1) all pepperoni and (1) all cheese and I didn't hear the other one. He told them while on the phone with the order that the address 1128 Cherryvale Dr. Lt 7. He got off the phone and we went in the store, I went to look for some batteries and ~~another person~~ brought a snack cake. While I was in the store the manager approached me and asked what I took and I told him nothing that I had my phone. ~~Another person~~ was standing to the door waiting for me. After we left the store we was going back home and ~~another person~~ asked to be dropped off at Oaklawn but we already had past it so we went back home and I

RC I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct. R.C

Date: 1-15-08 Time: 11:25 AM Reginald Canty
Signature of person giving voluntary statement

WITNESS: Dominick West WITNESS: _____

I certify that I have been given a copy of this statement consisting of 2 pages.

VOLUNTARY STATEMENT SUPPLEMENTAL

Statement of, continued

RC ~~Matthew Anderson~~ left walking. I went inside and then came back outside to sit on the porch. As I came out the house I saw _____ walk by and I asked where were he going and he stated nothing and walked towards the back of the mobile home park. Taya Rush who stays beside she told me to watch her house while she was gone. I went to the house and got something to drink and sat on the porch and I saw car lights where lot 7 is and I went to my fence I saw a white man wrestling with a tall black man over a gun. The black man told him to stop and then I heard a gunshot. ~~Matthew Anderson~~ was standing next to the van looking at the guys wrestle. The other guy had a handgun that looked like a revolver. After the gun fired everyone ran, I ran in the house. I told my moms what I saw later on that night. I wasn't truthful to law enforcement at the beginning because I was nervous and scared, because I never saw anyone get killed before. R.C.

RC

R.C

Witness: Don [Signature]

Reynolds County
Signature of person giving voluntary statement

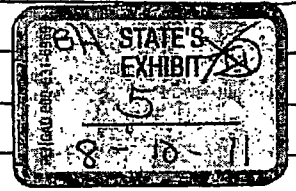
Witness: _____



CASE # 08-004893 ¹⁰⁷⁷

VOLUNTARY STATEMENT

LAST NAME <u>Conty</u>		FIRST NAME <u>Reginald</u>		MIDDLE NAME <u>Rashard</u>	AGE <u>16</u>	D.O.B.
NICKNAME/AKA		M <input checked="" type="checkbox"/> F <input type="checkbox"/>	SSN	STREET ADDRESS		
CITY <u>Sumter</u>		STATE <u>SC</u>	ZIP <u>29150</u>	MAILING ADDRESS IF DIFFERENT		
HOME TELEPHONE	WORK TELEPHONE	CELL TELEPHONE	OCCUPATION			
EMPLOYER		EMPLOYER ADDRESS				
DRIVER'S LICENSE NUMBER/STATE			DATE AND TIME OF INTERVIEW <u>1/17/08 3:34pm</u>			
LOCATION OF INTERVIEW <u>Sumter LCC</u>						
INTERVIEWING AGENT <u>D. West</u>		DEPARTMENT <u>Inv</u>	INTERVIEWING AGENT		DEPARTMENT	



Reginald Conty understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 7th grade in school.

This statement is being written by Inv. D. West by the request of Reginald Conty in the presence of his mother Dorothy Conty. I am currently not under the influence of any alcohol or drugs. I was standing by the mailboxes in DC Mobile Home Park when another person I know him by another name came up to me and ask whether I want to be part of robbing a pizza man and I said yes cause I didn't want the other guys to laugh and pick at me. Another person told me to ask my cousin to take us to the store I was going to get batteries. My cousin name is Desmond Contey. He told me he was going to call Sambino's and order some pizzas. We went to Cherryvale Grocery another person used the payphone right next to the trash can (green) and called Sambino's. Another person order 3 large pizzas (pepperoni + cheese) is all I heard he asked for. We then went in the store and I looked for the batteries but they didn't have any. Another person brought a Debbie Snack Cake (Dannut Sticks). We went back to my house and he went to the back where the trash cans were and I sat on the blue capuc next to Toya's house. Toya stays next door to us, Toya asked me to watch her house while she was gone. Toya left I then went to sit on my porch until the

RC I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct. RC

Date: 1/17/08 Time: 4:44 pm Reginald Conty
Signature of person giving voluntary statement

WITNESS: Dominick West WITNESS: _____

I certify that I have been given a copy of this statement consisting of 2 pages.

VOLUNTARY STATEMENT SUPPLEMENTAL

Statement of, continued

Re. pizza man came. I saw a silver in color Chrysler van pulled up and pulled to the back where ~~another person~~ ^{person} was. The pizza man stayed in his vehicle for approximately 3 minutes and he then got out went to the abandoned residence (Lt. 7) and saw the door open and turn around went back to his vehicle real fast. The pizza man was met by 3 males with hoodies, ~~another person~~ was one of the males and I don't know who the other two were. The pizza man was trying to take the gun (rifle) away from the black male. The black male told the pizza man to stop and then the gun fired. After I saw the man got shot I ran in the house and told my moms I heard a gunshot. R.C

RL

RL

Witness: DL Wint

Witness: _____

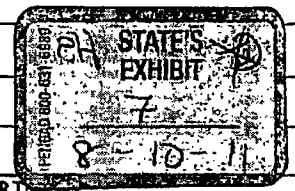
Keyinda Cowdy
Signature of person giving voluntary statement



CASE # 08004893 ¹⁰⁷⁹

VOLUNTARY STATEMENT

LAST NAME <u>Canby</u>		FIRST NAME <u>Reginald</u>		MIDDLE NAME <u>RASHARD</u>	AGE <u>16</u>	D.O.B. <u>1-22</u>
NICKNAME/AKA		M <input checked="" type="checkbox"/> F <input type="checkbox"/>	SSN		STREET ADDRESS	
CITY <u>Sumter</u>		STATE <u>SC</u>	ZIP <u>29154</u>	MAILING ADDRESS IF DIFFERENT		
HOME TELEPHONE	WORK TELEPHONE <u>481-7161</u>	CELL TELEPHONE		OCCUPATION		
EMPLOYER			EMPLOYER ADDRESS			
DRIVER'S LICENSE NUMBER/STATE			DATE AND TIME OF INTERVIEW <u>01/25/08</u>			
LOCATION OF INTERVIEW <u>Sumter Sheriff's Office</u>						
INTERVIEWING AGENT <u>Sgt. Robert P. Smith</u>		DEPARTMENT <u>5250</u>		INTERVIEWING AGENT		DEPARTMENT



I, Reginald Canby understand I do not have to say anything, and I volunteer the following information of my own free will for whatever purposes it may serve. I can read and write and completed the 7th grade in school.

RC When we got home another person went ^{to} the back of the trailers and he wait at the back for the pizza man to come. when the pizza man came they started to rob the man, the pizza man was trying to take the gun from ~~another person~~ and ~~another person~~ said stop and order he said stop he shot the pizza man and then he stay ther for a second then he ran. It look like it was ~~RC~~ another person running away with him around the car. RC

RC

RC

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 1/25/08 Time: 12:06 pm Reginald Canby
Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: _____

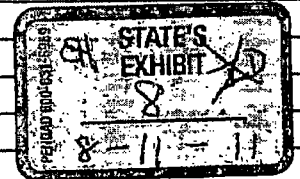
I certify that I have been given a copy of this statement consisting of 1 pages.

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

I, Reginald Canty am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Sgt. Robert Bernick. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purpose it may serve.

I am 16 years of age, and I live at Dr. Sumter
I can not read and write and completed the 1st grade in school. DOB: 7-10-91

I leave to a house and she ask me to watch her house when she leaves so I went and sat on my step and I seen light so I went to see who it was and then that's when I see two people fighting and I hear somebody said no stop then I hear the gun fire. so I went into the house and told my mother. The gun look like a rifle and the person that was holding the gun had a hoody but I ~~can~~ couldn't see his face. RRC



RRC

I have read each page of this statement consisting of 1 page(s), each page of which bears my initials, and I certify that the facts contained herein are true and correct, and I have received a copy of my statement.

This statement was completed at 4:55 P.M. on the 13th day of January, 2007.

Reginald Canty
Signature of person giving voluntary statement

Witness: _____

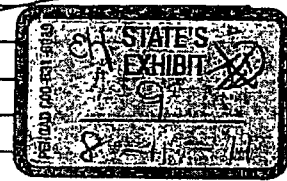
Witness: Sgt. Robert Bernick

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

I, Ronald Canty am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Sgt. Robert Burnick. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purpose it may serve.

I am 16 years of age, and I live at Dr. Sumter SC. I can cannot read and write and completed the 7th grade in school. DOB

I Leave Toys house and she ask me to watch her house when she leave. So I went and sit on my stee and I seen a light so I went to the ~~to~~ the end of my gate and I seen ~~the~~ the two people fighting and I hear the gun fire and I seen the man fall on the ^{ground} ~~grass~~ and the bad guy, can he look like he could be James or J-boy because he had a black hoody with a dragon ^{gold} on the back with short pants with blue ~~denim~~ ^{denim} on the pockets and the front of the hoody look like it zips up with a black bandana on his face. I think it got to be j-boy because he was out there around 3:00 pm that day he shot the man with a long rifle then ran ^{around} ~~around~~ the ~~car~~ then I hear more than one foot steps running.



I have read each page of this statement consisting of 1 page(s), each page of which bears my initials, and I certify that the facts contained herein are true and correct, and I have received a copy of my statement.

This statement was completed at 6:00 P.M. on the 13th day of JANUARY, 2008.

Ronald Canty
Signature of person giving voluntary statement

Witness: _____

Witness: Sgt. Robert Burnick

CERTIFICATE OF COUNSEL FOR APPELLANT

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

March 5th, 2014



Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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