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STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM NEWBERRY COUNTY

SC Court of Appeals

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MANDY LENORE SMITH,

APPELLANT

APPELLATE CASE NO. 2013-002209

RECORD ON APPEAL

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1 argument was that if there is any possibility, do you  
2 have, there is a possibility at all and I think he threw  
3 this picture up at you, any possibility at all that this  
4 was the last thing that John Mayers saw that you had to  
5 find the defendant not guilty. That is just not an  
6 accurate statement, folks. You are going to hear the  
7 Judge charge you, the Judge will charge you on what the  
8 burden of proof is. Any possibility is not the standard.  
9 You will hear that. The defense wants you to believe that  
10 that is the standard. And why do you think he put this  
11 picture up on here. To scare you. We have an expert from  
12 the State Law Enforcement Division to come up here to  
13 testify to you this week that this gun here, .9 millimeter  
14 pistol, semiautomatic is the gun that ended Mr. John Henry  
15 Mayers life. Does that look like the same gun. Of course  
16 it is not. So there is no way that that is the last thing  
17 John Henry Mayers saw. He knows that. But this is to get  
18 your emotions stirred. To make you think, well, maybe Tim  
19 Wise acted alone and Mandy had nothing to do with John  
20 Henry Mayers death. Maybe it is possible, any possibility,  
21 that is not the standard here. But it is the tactics that  
22 are used when you have got nothing. There is something in  
23 the world of logic and reason being you may heard this  
24 concept before, it is called the strong man argument.  
25 Essentially if you can build up this strong man and knock

1 him down, the strong man is something that doesn't exist.  
2 Well that is exactly what the defense has done here.  
3 Because they want you to believe that to find Mandy Smith  
4 guilty that you have to believe every word that came out  
5 Timmy Wise's mouth in court on those statements. That is  
6 just not true. That is not what the law is and it is not  
7 what the standard is, it is not what the facts are that  
8 you have heard in the courtroom this week. The only way  
9 and this is the question that I think you will have when  
10 you are back in this jury room. The only way that this  
11 defense holds any water whatsoever that Mandy Smith didn't  
12 have anything to do with this and Tim Wise acted alone,  
13 the plan to kill John Henry Mayers, the only way that is  
14 possible is if you believe every word that came out of her  
15 mouth in this courtroom. That is it. We know and you  
16 will have these in the jury room, I am not going to go  
17 over them line by line. You will have these to look at  
18 when you go back. You will have your memory of what you  
19 heard from this witness stand back in the jury room. I  
20 don't need to go over every witness. I saw you folks pay  
21 great attention in this trial. Thank you for doing that,  
22 it has been a long case and you all have been attentive  
23 and diligent and I am proud to see 12 citizens, 14  
24 citizens of Newberry County here in this courtroom this  
25 week attentively listening to this case so you can find

1 truth and find justice. Mandy Smith has two diametrically  
2 opposed statements that she has given. And yet she wants  
3 you to believe every word that comes out of her mouth on  
4 this witness stand. Don't have to believe everything that  
5 Tim Wise said. In fact the Judge will tell you, you can  
6 believe part of a witnesses testimony, all of it or none  
7 of it. We have five written statements given after being  
8 read Miranda rights, three by Tim Wise, two by Mandy  
9 Smith, that all probably have a little bit of truth in it  
10 and a lot of deception. It has not been the State's  
11 contention all week that you should believe every word  
12 that comes out of Tim Wise's mouth. I don't think that  
13 just because we called him as a witness, folks. Captain  
14 Dennis said, come to Jesus. Does that make you turn Mandy  
15 Smith lose and say she didn't have nothing to do with  
16 this. She is the one that got Tim Wise there in the first  
17 place. Been texting all day, that is one thing that is  
18 consistent in these statements. All the statements are  
19 relatively consistent that there was text messaging going  
20 on. Why do you think Tim Wise was there. If all she was  
21 there for that night was just to get lucky and have sex  
22 all night long. But yet she texted Tim Wise several times  
23 throughout the night. She will give you whatever she  
24 needs to give you to get out of this. She has done it  
25 from the beginning. Like my Grandma said, if you throw

1 enough jello against the wall something is going to stick.  
2 She spent almost and you can read this in the jury room.  
3 She spent her first confession, her first statement given  
4 on the day that she is brought into custody. She spends  
5 the better part of the whole thing, you see it is almost  
6 to the end completely trashing and disgracing the memory  
7 of John Henry Mayers. Calls him a rapist, calls him an  
8 abuser. Mr. Verner says we are not here this week to  
9 demonize John Mayers. Well, that is the majority of what  
10 we have seen this week. And then when it is convenient  
11 Mandy Smith is going to demonize Tim Wise. It is  
12 convenient to change her story and it is time to go to Tim  
13 Wise. At that point she is is lovey dovey with John and  
14 he is a great guy, she is in love with him, he is the love  
15 of my life, he is a big teddy bear. Which is it. I still  
16 don't know if she has figured it out yet. I submit to you  
17 about the last two hours in this court what has been an  
18 effort to throw a bunch of smoking mirrors, mudding the  
19 waters so you can't see the truth. Mr. Verner says it is  
20 not our job here to find the truth. I disagree with that.  
21 But he has got to get you to believe that this isn't about  
22 the truth. Talked about his daughter too. My son plays  
23 baseball and I played baseball my entire life. Played in  
24 college, coached my son the last five or six years and if  
25 any of y'all have been out to a baseball field and heard

1 this term many of times, keep your eye on the ball. How  
2 many times have you heard that. The coach is constantly  
3 telling, keep your eye on the ball, don't look over at the  
4 concession stand of the drink you are going to get after  
5 the game and the cotton candy and the parents taking  
6 pictures of you. Keep your eye on the ball. And I am not  
7 going to stand up here and go over every line of testimony  
8 and every statement and all of her testimony. You will  
9 have the testimony and the statements and the evidence  
10 back in the jury room. We are going to spend a couple of  
11 minutes here and point out a few important things in this  
12 case to get our eye back on the ball. What are some of  
13 the things that was used by the defense to try to cloud  
14 your vision and keep your eye off the ball. This thing  
15 about the moon. We spent a lot of time here talking about  
16 the moon phase, when the moon set. Even by Mandy Smith by  
17 her own testimony, folks, said it was sometime around  
18 midnight. The moon didn't set there until 20 after 12:00.  
19 Even if it was a cloudy night and it was a moon and there  
20 wasn't one star in the sky all of you know by your common  
21 sense when you go out at night, outside and the lights are  
22 cut off and your eyes have a couple of minutes to adjust  
23 to the darkness you can see things. They weren't in a  
24 cave, they were out in the middle of the woods but they  
25 weren't in a cave where there was absolutely no black.

1 Use your common sense, you don't need me to tell you that.  
2 It is something to get your eye off the ball. What about  
3 the fact that they, constantly said that Mandy was trying  
4 to call law enforcement every day. That is what one of  
5 the things that Mr. Verner said in his opening statement.  
6 He promised you that he would deliver you evidence that  
7 Mandy every day while law enforcement was trying to get  
8 her to come in and talk, she was calling them and burning  
9 up their phone to tell them she was coming in. She didn't  
10 even testify to that. The testimony is is she called one  
11 time, she was going to come in and bring a lawyer in. Did  
12 she do that, no. Mr. Boland had to go up there in  
13 Greenville at her mama's house and get her. She had no  
14 intention to come in and talk to these guys. Why.  
15 Because she killed John Henry Mayers. The first thing out  
16 of her mouth when they get there, call it plan A, plan B  
17 or plan C. What was plan A, Elvis Pee Wee Hill. Y'all  
18 heard his name a few times. The first time that Major  
19 Boland goes over to Tim Wise's house and talks to Mandy  
20 Smith what name does she throw out there. I haven't seen  
21 John but I think I saw him get in the car with Elvis Hill.  
22 She goes on the run and finally they get her back into  
23 custody about six or seven days later. What is the first  
24 thing that Captain Dennis says that comes out of her  
25 mouth. Well, I didn't see him on that Saturday but I saw

1 him get into a PT Cruiser with Elvis Hill. And little did  
2 she know these guys had already talked to Elvis Hill and  
3 talked to Elvis Hill's girlfriend, there was an  
4 investigation and a crime scene investigation of that PT  
5 Cruiser. They had already cleared Elvis Hill of what  
6 happened to John. She didn't know that so she was still  
7 sticking with plan A. And when confronted by Robert  
8 Dennis of these things she moves to plan B. What is plan  
9 B. State's exhibit 19 which I submit to you, ladies and  
10 gentlemen, they have been in the works ever since April  
11 the 8th where she went and got the restraining order  
12 against John Henry Mayers. And she borrowed the gun from  
13 Timmy Wise. And she was already laying the ground work  
14 for this. When push comes to shove I can tell them that  
15 he beat on me, that he raped me and he subjected me to all  
16 kinds of horrific things and I killed him to protect  
17 myself. Mandy is charged with murder, realizes nobody is  
18 buying this story about me needing to take John Henry  
19 Mayers life because of all of this, I need to protect  
20 myself so she sends a letter to Captain Dennis. She says,  
21 sir I need to talk to you and goes over there and she  
22 moves on plan C. Plan C, Timmy Wise did it. John and  
23 Mandy were hugging on each other and we were just having a  
24 nice time, we were trying to be intimate with each other  
25 and all of a sudden Timmy Wise is there out of nowhere

1 uninvited blasting John Henry. So which is it, ladies and  
2 gentlemen, she has obviously settled here this week in  
3 court to you on plan C. Based on her prior history and  
4 all of these different statements she has given do you  
5 think she is telling the truth. Now maybe Timmy Wise knew  
6 what was going to happen that night, maybe that is why he  
7 is there. Maybe he was the perfect fall guy to borrow a  
8 gun from and invite out to the scene of the crime, help  
9 her dispose of the evidence ten days later. And then if  
10 all else fails and nobody believes my story about he beat  
11 on me and all of this former stuff about John Henry then I  
12 can blame all of it on Timmy Wise. Lies and manipulation.  
13 She has done it her whole life. Mr. Verner says there is  
14 no evidence that this gun or a gun like it was ever in  
15 Mandy Smith's hands. What about Donte Kessler who is a  
16 friend of Mandy's by the way. Used to come over to her  
17 house all the time. Donte Kessler. Donte told you she  
18 had the gun with her that looked very similar to this, he  
19 couldn't say it was the exact one with the serial number.  
20 It says, yes, it looks like the gun that I saw that day.  
21 What did he say Mandy says, John Henry puts his hand on me  
22 again I am going to kill him. There again, laying the  
23 foundation, she is already laying that defense so she can  
24 see law enforcement and to see you when she comes to the  
25 courtroom. Mandy has manipulated or leached off about

1 every man that has ever come into her life from her  
2 teenage years on. Timmy Wise pulls in for a one night  
3 sexual encounter and becomes friends with him and gets him  
4 and comes over to her house and spends time with her and  
5 gives her anything she needs. Allow her to move to his  
6 property, she didn't have anywhere to go. About Don  
7 Buford, let's back up. How about her husband. She says  
8 he marries just so she can get a trip to Germany and get  
9 out of town. She said that from her own mouth. And then  
10 when he is off fighting, there is problems and she gets a  
11 divorce and who does she end up with, on the internet with  
12 Don Buford. When she moves back to Little Mountain it is  
13 Don Buford every weekend and John Henry Mayers, Kris  
14 Hansen and whoever, whatever other man she wanted to hang  
15 out with. The habit was supported by Don Buford. He  
16 would give her anything she wanted. You are telling me  
17 that he couldn't have paid for, she keeps saying I was  
18 trying to talk to an attorney. Well, first of all why  
19 does she need an attorney if she had just witnessed a  
20 killing that she had nothing to do with. Secondly she is  
21 on the run everywhere in the world but doesn't go see Don  
22 Buford and say, listen I might be in some trouble, can you  
23 help me get a lawyer. He paid for everything else in her  
24 life. Why didn't she go to Don Buford, because she didn't  
25 want to tell Don Buford that she had murdered John Henry

1 Mayers. There is no advice to get out of that from Don  
2 Buford. About John Henry. John Henry Mayers weaknesses  
3 were crack cocaine and Mandy Smith. Do you think that she  
4 took advantage of those on him. Terry told you he was  
5 thinking about going to rehab, the family had talked to  
6 him about his crack addiction and he was almost to the  
7 point where he was going to go to rehab and try to get  
8 clean from this crack cocaine addict. And he gets a call  
9 from Mandy Smith, let's go out to Judy B. Road and we can  
10 smoke crack together. Of course he went with her, he had  
11 a problem with crack cocaine. And he was still with her,  
12 she knew she could get him out there to that remote  
13 location and do exactly what she had planned all along.  
14 And even brought Timmy Wise along the way to help her  
15 cover up. It has been lies and manipulation the whole  
16 time. Now she is trying to lie and manipulate to you, lie  
17 to you. And believing that this was all just, I confessed  
18 to the murder because I was scared what Timmy might do to  
19 my dogs. I don't believe anybody in this room with a  
20 reasonable mind would go and confess to a murder and then  
21 they didn't do it. It is your job to not find the truth  
22 Mr. Verner says. I submit that it is. You have an  
23 opportunity to go back in that jury room and consider all  
24 of these statements, consider all of this evidence and all  
25 of the testimony you have heard in this case and find the

1 truth and do justice. Timmy Wise testified here this week  
2 that he still has charges in this case and his day is  
3 coming. Your decision today, tonight you are firmly  
4 convinced that Mandy Smith had a hand in the death of that  
5 man on the screen. You have an opportunity to find her  
6 guilty. You have been here a long time this week so I am  
7 going to sit down and shut up here in a second but I am  
8 going to leave you with one thought. You heard from  
9 Clarence Curry, John Henry's son. Clarence described the  
10 Mayers family as to one that wouldn't close the door on  
11 anybody. They didn't do that to Mandy Smith. Took her in  
12 when she was a runaway and didn't want to be at home and  
13 took care of her. They wouldn't close the door on anybody  
14 and they didn't. How does she repay that, plays on John  
15 Henry Mayers crack cocaine addiction and years down the  
16 road puts him in the grave. You, the jury, tonight have  
17 the opportunity to do what these good folks out here  
18 didn't do 20 years ago when they had the good heart not to  
19 do, they had the opportunity to close the door on Mandy  
20 Smith. Thank you.

21 THE COURT: Thank you very much, Solicitor. As you  
22 know we are in temporary quarters this week, we are not in  
23 the main court house in the main courtroom. This  
24 courtroom does not have a jury box, I don't like not being  
25 able to see all members of the jury, particularly when I

1 charge the jury. I am at the point now, we are at the  
2 point in the trial where I am going to charge you or  
3 instruct you the law that applies to this case. The way I  
4 charge the law is I charge a general criminal law that  
5 applied to all criminal cases in South Carolina first.  
6 Second I will charge the specific elements of the offenses  
7 charged in each indictment in this order, murder,  
8 possession of a weapon during the commission of a violent  
9 crime and desecration of human remains. After that I will  
10 charge the formal verdict. It will take thirty minutes to  
11 charge this.

12 Ladies and gentlemen, of the jury panel, the  
13 indictments charge the defendant with murder, possession  
14 of a weapon during the commission of a violent crime and  
15 desecration of human remains. I remind you again the fact  
16 that the defendant was arrested, charged and indicted in  
17 this case is not evidence in this case and cannot be  
18 considered by you of evidence of guilt in the case. Nor  
19 does it create any presumption or inference of guilt.  
20 These documents, these indictments are simply the formal  
21 written instruments which contains the charges that have  
22 been brought against the defendant. They are the formal  
23 documents by which this case is brought into court.

24 Presumption of innocence. The defendant has pled not  
25 guilty to these indictments. And that plea puts the

1 burden on the State to prove a defendant guilty. A person  
2 charged with committing a criminal offense in South  
3 Carolina is never required to prove herself innocent. I  
4 charge you that it is an important rule of the law that a  
5 defendant in a criminal trial, no matter what the  
6 seriousness of the charge may be will always be presumed  
7 to be innocent of the crime or crimes for which the  
8 indictments were issued unless guilt has been proven by  
9 evidence satisfying you, the jury, of that guilt beyond a  
10 reasonable doubt. This presumption of innocence does not  
11 end when you begin your deliberations but it accompanies  
12 the defendant throughout the trial until you reach a  
13 verdict or verdicts of guilt based on evidence satisfying  
14 you of that guilt beyond a reasonable doubt. The  
15 presumption of innocence has been said to be like a robe  
16 of rightnesses placed about the shoulders of a defendant  
17 which remains with a defendant until it has been stripped  
18 from the defendant by evidence satisfying you of the  
19 defendant's guilt beyond a reasonable doubt. Presumption  
20 of innocence, ladies and gentlemen, is not a mere legal  
21 theory, it is not just a legal phrase. It is a  
22 substantial right to which every defendant is entitled  
23 unless you, the jury, are satisfied from the evidence of  
24 the defendant's guilt beyond a reasonable doubt.

25 What is a reasonable doubt in the law. A reasonable

1 doubt is the kind of doubt that would cause a reasonable  
2 person to hesitate to act. The State has the burden of  
3 proving the defendant guilty beyond a reasonable doubt.  
4 Some of you may have served as jurors in civil cases in  
5 the past where you were told that it is only necessary to  
6 prove that a fact is more likely true than not true which  
7 is known as 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. Proof beyond a reasonable doubt is proof that  
11 leaves you firmly convinced of the defendant's guilt.  
12 There are very few things in this world that we know with  
13 absolute certainty. And in criminal cases the law does  
14 not require proof that overcomes every possible doubt  
15 which based on your consideration of the evidence you are  
16 firmly convinced that the defendant is guilty of the crime  
17 or crimes charged you must find the defendant guilty. On  
18 the other hand you think there is a real possibility that  
19 the defendant is not guilty you must give the defendant  
20 the benefit of that doubt and find her not guilty.

21 Duties of jury and trial Judge. I remind you that  
22 during this trial you and I have certain duties to  
23 perform. As the trial Judge it is my responsibility to  
24 preside over the trial of this case and I also have the  
25 duty to rule on the admissibility of the evidence offered

1 during the trial. You are to consider only the competent  
2 evidence before you. If there was any testimony ordered  
3 stricken from the record in this case during this trial  
4 you must disregard that testimony. You are to consider  
5 only the testimony which has been presented from this  
6 witness stand, any exhibits which have been made a part of  
7 the record in this case and any stipulations of counsel.  
8 I have the additional duty to instruct you on the law that  
9 applies to this case. As the presiding Judge I am the  
10 sole Judge of the law of this case. And it is your duty,  
11 under your oath as jurors to accept and apply the law  
12 exactly as I now state it to you. If you already have any  
13 idea of what you think the law is or what you think the  
14 law ought to be and it does not agree with that I now tell  
15 you the law is, you must abandon your idea because you are  
16 sworn to accept and apply the law exactly as I state it to  
17 you. Every case tried in this court before a jury the  
18 jury becomes the sole and exclusive judge of the facts in  
19 a case. A trial Judge cannot intimate, state, comment on  
20 or make any statement to a trial jury about the facts in a  
21 case. Since you, the jury, are the sole judge of the  
22 facts in this case you are not to infer from what I have  
23 said during the progress of this trial in ruling upon the  
24 admissibility of evidence or otherwise or anything that I  
25 say now during the course of this instruction to you that

1 I have any opinion about the facts in this case. The law  
2 does not allow me to have an opinion about the facts in  
3 this case. That is a matter solely for you, the jury, to  
4 determine. As jurors it is your duty to determine the  
5 effect, the value, the weight and the truth of the  
6 evidence that has been presented during this trial.

7 Direct and circumstantial evidence. There are two  
8 types of evidence generally presented during a trial,  
9 direct evidence and circumstantial evidence. Direct  
10 evidence is the testimony of a person who claims to have  
11 actual knowledge of a fact such as an eyewitness or an ear  
12 witness. It is evidence which immediately establishes the  
13 main fact to be proved. Circumstantial evidence is proof  
14 of a chain of facts and circumstances indicating the  
15 existence of a fact. It is evidence which immediately  
16 establishes collateral facts from which the main fact may  
17 be inferred. Circumstantial evidence is based on  
18 inference and not on personal knowledge or observation.  
19 The law, our law makes absolutely no distinction between  
20 the weight or the value to be given to either direct or  
21 circumstantial evidence nor is there a greater degree of  
22 proof required or certainty required of circumstantial  
23 evidence than of direct evidence. You should weigh all of  
24 the evidence in the case. After weighing all the evidence  
25 if you are not convinced of the guilt of the defendant

1 beyond a reasonable doubt you must find the defendant not  
2 guilty. If after weighing all of the evidence you are  
3 convinced of the guilt of the defendant beyond a  
4 reasonable doubt you must find the defendant guilty.

5       Credibility of the witnesses. Necessarily you must  
6 determine the credibility of the witnesses who have  
7 testified in this case. As you all know credibility  
8 simply means believability. It becomes your duty as  
9 jurors to analyze and to evaluate the evidence and  
10 determine which evidence convinces you of its truth using  
11 your good judgment and your common sense. In determining  
12 the believability of witnesses who have testified in this  
13 case. You may believe one witness over several or several  
14 witnesses over one. You may believe a part of the  
15 testimony of a witness and reject the remaining part of  
16 the testimony of that same witness. You may believe the  
17 testimony of a witness in its entirety or reject the  
18 testimony of a witness in its entirety. You may consider  
19 whether any witness has exhibited to you, before you, any  
20 interest, any biased, any prejudice or any other motive in  
21 this case. You may also consider the manner, the  
22 appearance, the demeanor of a witness while on the witness  
23 stand.

24       Expert witnesses and you have heard me state a  
25 version of this during the course of the trial. The rules

1 of evidence do not ordinarily permit witnesses to testify  
2 to opinions or conclusions. An exception to this rule  
3 exist for witnesses that we call expert witnesses. A  
4 witness who by education or experience who has become  
5 expert in some art, science, profession or calling may  
6 state an opinion as to relevant and material matter in  
7 which the witness claims to be an expert and may also  
8 state the reasons for holding that opinion. You should  
9 consider any expert opinion received in evidence in this  
10 case, like in any other evidence, give it the weight that  
11 you think it deserves. If you decide that the opinion of  
12 an expert is not based on sufficient education or  
13 sufficient experience or if you conclude that the reasons  
14 given in support of the opinion are not sound or that the  
15 opinion is outweighed by other evidence you may disregard  
16 the opinion entirely. An expert witnesses testimony is to  
17 be given no greater weight than that of any other witness  
18 simply because the witness is an expert witness. Further  
19 you are not required to accept an expert's opinion even  
20 though it may be uncontradicted.

21 Ladies and gentlemen, please continue to give me your  
22 complete and undivided attention. I assure you the end of  
23 my instruction may be in sight shortly. Statement of the  
24 defendant. A statement or statements alleged to have been  
25 made by the defendant has been admitted into evidence in

1 this case. While the Court has determined that the  
2 statements are admissible I instruct you that you make the  
3 ultimate decision of whether or not the defendant made the  
4 statements. If the defendant did make the statements you  
5 must determine whether the statements were made by the  
6 defendant voluntary and of her own free will. This means  
7 that the statements were not caused by pressure, force,  
8 fear, threats, coercion, intimidation, hope or promise of  
9 leniency or reward of any kind. In determining whether  
10 the statements were voluntary and you analyze the  
11 statements separately and distinctly. I am pluralizing  
12 the term because there were two introduced. In  
13 determining whether the statements were voluntary you  
14 should consider both, the characteristics of the defendant  
15 and the details of the question. Some of the factors that  
16 you must consider are the age of the defendant, the  
17 defendant's education or lack of education, the  
18 defendant's mental ability or capacity. The defendant's  
19 eye cue or intelligence, the defendant's background and  
20 environment, the place and length of detention, the nature  
21 of the question and the advice or lack thereof of the  
22 defendant, of her constitutional rights including but not  
23 limited to the right to remain silent, that any statement  
24 could be used against her in a court of law, the right to  
25 have a lawyer present, that if she could not afford a

1 lawyer a lawyer would be appointed to represent her  
2 without any cost and that she could stop making a  
3 statement at any time. You must carefully consider all of  
4 the surrounding circumstances before you give any weight  
5 to any alleged statement. The State has the burden of  
6 proving beyond a reasonable doubt the alleged statement  
7 was voluntary. If you determine it was voluntary you may  
8 give the statement any other consideration that you deem  
9 proper. You must decide what weight, if any, should be  
10 given to any alleged statement. If you determine the  
11 alleged statement was not the free and voluntary statement  
12 of the defendant you should not consider the statement at  
13 all.

14 Intent. In order to establish criminal liability  
15 criminal intent is required. For example, the mental  
16 state required to be proven by the State for a particular  
17 crime might be purpose, intent, knowledge, recklessness or  
18 criminal negligence. Criminal intent must be proven by  
19 the State beyond a reasonable doubt. Criminal intent is  
20 always a matter that must be determined by the jury from  
21 all the circumstances surrounding the situation and or  
22 event. There is no way to prove intent to a mathematical  
23 certainty. There is no way medical science can dissect a  
24 person's brain and determine what the person had in mind.  
25 So the law says that criminal intent may be inferred from

1 the circumstances shown to have existed. This is how you  
2 make a determination of whether or not the element  
3 requiring intent was present. It is not necessary to  
4 establish intent by direct evidence but intent may be  
5 established by inference in the same way as any other fact  
6 by taking into the consideration the acts of the parties  
7 and all the facts and circumstances surrounding the case.  
8 Criminal intent is a mental state, a conscious wrongdoing.  
9 It is up to you determine what the defendant intended to  
10 do based on the circumstances shown to have existed. That  
11 is the general criminal law that applies to all criminal  
12 cases of this type in South Carolina. I am now going to  
13 move into the three specific charges in the indictment.

14 I want to begin with murder. The defendant is  
15 charged with murder. The State must prove beyond a  
16 reasonable doubt that the defendant killed another person  
17 with malice aforethought. Malice is hatred, ill will, or  
18 hostility towards another person. It is the intentional  
19 doing of a wrongful act without just cause or excuse and  
20 with an intent to inflict an injury or under circumstances  
21 that the law will infer an evil intent. Malice is hatred,  
22 ill will or hostility towards another person. It is the  
23 intentional doing of a wrongful act without just cause or  
24 excuse. Malice aforethought does not require that malice  
25 exists for any particular period of time before the act

1 was committed but malice must exist in the mind of the  
2 defendant just before and at the time, at the time the act  
3 is committed. Therefore there must be a combination of  
4 the previous evil intent and the act. Now malice  
5 aforethought may be expressed or inferred. These terms  
6 expressed and inferred do not mean different kinds of  
7 malice but merely the manner in which malice may be shown  
8 to exist. That is either by direct evidence or by  
9 inference of the facts and circumstances which surround  
10 and are proven in the case. Expressed malice is shown  
11 when a person speaks words which express hatred or ill  
12 will for another or when the person prepared beforehand to  
13 do the act which was later accomplished. For example,  
14 lying in wait for a person or any other act of  
15 preparation going to show that the deed was in the  
16 defendant's mind would be expressed malice. Malice may be  
17 inferred from the conduct shown, in showing a total  
18 disregard of human life. If facts are proven beyond a  
19 reasonable doubt sufficient to raise an inference of  
20 malice to your satisfaction this inference would be simply  
21 an evidentiary fact to be considered by you, the jury,  
22 along with the other evidence in the case and you may give  
23 it the weight and the value you decide it should receive.  
24 So it is the unlawful killing of another human being with  
25 malice aforethought, malice being expressed or implied.

1       Hand of one, the hand of all. If a crime is  
2 committed by two or more people who are acting together in  
3 committing a crime the act of one is the act of all. A  
4 person who joins with another to commit an unlawful act is  
5 criminally responsible for everything done by the other  
6 person which happens as a probable and natural consequence  
7 of the acts done in carrying out the common plan and  
8 purpose. For example. If two people set out to rob a  
9 convenient store and one goes in the store with the gun  
10 and the other stays outside as the lookout. There may be  
11 just one in there with the gun, armed robbery, the other  
12 may be outside as the lookout. But as the natural and  
13 probable consequence the hand of one is the hand of all  
14 and both are guilty of the crime of the armed robbery  
15 although only one robber went into the convenient store.  
16 If two or more people are together, acting together,  
17 assisting each other in committing the offense, the act of  
18 one is the act of all or as it is said under our law  
19 sometimes, the hand of one is the hand of all. Prior  
20 knowledge that a crime is going to be committed, without  
21 more is not sufficient to make a person guilty of that  
22 crime. Mere knowledge that another person is going to  
23 commit a crime, even if the defendant is present when the  
24 crime is committed is not sufficient to convict a  
25 defendant as a principal. Guilt as a principal is shown

1 by actual or constructive presence at the scene as a  
2 result of prior arrangement. Therefore a finding of a  
3 prior arranged plan or common scheme is necessary for a  
4 finding of guilt as a principal. The State must prove  
5 beyond a reasonable doubt by competent evidence the theory  
6 of the hand of one is the hand of all. A principal in a  
7 crime is one who either actually commits the crime or who  
8 is present aiding, abetting or assisting in the commission  
9 of the crime. When a person does an act in the presence  
10 of and with the assistance of another the act is done by  
11 both. Where two or more people acting with a common plan  
12 or intent are present at the commission of a crime it does  
13 not matter who actually commits the crime, all are guilty.  
14 Again, the hand of one is the hand of all. Presence at  
15 the commission of a crime means to be sufficiently near to  
16 aid, abet and assist in the commission of the crime.  
17 However, mere presence at the scene of a crime is not  
18 sufficient to convict one as a principal on the theory of  
19 aiding and abetting. Intent is also a necessary element.  
20 For there must have been a common design or intent to  
21 commit the crime and the crime must have been committed  
22 pursuant thereto with the person aiding and abetting by  
23 some overt act. Intent means intending the result which  
24 actually occurred, not accidentally or involuntary intent.  
25 Intent may be shown by acts and conducts of the defendant

1 and other circumstances from which you may naturally and  
2 reasonably infer intent. The State must prove these  
3 elements beyond a reasonable doubt.

4 The next indictment and now, ladies and gentlemen, I  
5 assure you the end of my instruction is in sight, is  
6 possession of a weapon during the commission of or attempt  
7 to commit a violent crime. That is a statute in South  
8 Carolina. The defendant is charged with possession of a  
9 weapon during the commission of or attempt to commit a  
10 violent crime. The State must prove beyond a reasonable  
11 doubt that the defendant was in possession of a firearm or  
12 visibly displayed what appeared to be a firearm during the  
13 commission of a violent crime. A firearm means a machine  
14 gun, automatic rifle, revolver, pistol, or any weapon  
15 which will or is designed or may be readily converted to  
16 expel a projectile. In order to find the defendant guilty  
17 of possession of a weapon during the commission of a  
18 violent crime you must first find that the defendant is  
19 guilty of either committing a violent crime or attempting  
20 to commit a violent crime. Murder is a violent crime  
21 under South Carolina law. The State must prove beyond a  
22 reasonable doubt that the weapon further advanced or  
23 helped in the commission of a crime. And, of course,  
24 ladies and gentlemen, my instruction, I will not repeat it  
25 on the hand of one, hand of all would apply to possession

1 of a weapon during the commission of a violent crime.  
2 However, you could not find the defendant guilty of  
3 possession of a weapon during the commission of a violent  
4 crime unless you find the defendant guilty of committing  
5 the violent crime of murder.

6 And finally, ladies and gentlemen, desecration of  
7 human remains. It is unlawful for a person willfully and  
8 knowingly and without proper legal authority to one,  
9 destroy or damage the remains of a deceased human being.  
10 Or two, remove a portion of the remains of a deceased  
11 human being from a burial ground where human skeletal  
12 remains are buried. Or three, desecrate human remains.  
13 The term, desecrate human remains means to disturb, move,  
14 remove, conceal or destroy a dead human body or any part  
15 of it or to dismember a dead human body to any extent or  
16 damage or detach any party or a portion of a dead human  
17 body. Human remains means any dead human body in any  
18 condition of decay or any significant part of a dead human  
19 body including any limb, organ or bone. Now as to this  
20 charge desecration of human remains in this charge only,  
21 the defendant has raised the defense of coercion or  
22 duress. Coercion or duress is when a person makes another  
23 commit a crime against someone else's person or property  
24 by the threat of immediate physical violence. This is a  
25 defense which the defendant has raised. The coercion or

1 duress must be present, imminent and of the type to create  
2 a well grounded fear of death or serious bodily harm if  
3 the act is not done. The fear of injury must be  
4 reasonable. Coercion or duress is not a defense if there  
5 is any reasonable way other than committing the crime for  
6 the defendant to escape the threat or harm. The defendant  
7 must prove the defense of duress by a preponderance of the  
8 evidence. If you find that the defendant was coerced into  
9 committing the crime, the only crime I am referring to now  
10 is destruction of human remains, you must find the  
11 defendant not guilty.

12 Finally, ladies and gentlemen, as to the form of the  
13 verdict. As to each charge, there are two possible  
14 verdicts as you may find to each charge, guilty or not  
15 guilty. Mr. Foreman, you will have this form of verdict  
16 along with all of the evidence and exhibits in the  
17 courtroom with you and I have listed them in the same way  
18 I have instructed y'all this evening, murder, possession  
19 of a weapon and desecration of human remains. There is no  
20 significance whatsoever the order in which I have placed  
21 or stated these verdicts on this form, one must be stated  
22 before the other. If after your consideration and your  
23 deliberation of the evidence you find, unanimously find  
24 the State has met its burden of proving its case as to the  
25 charge of murder beyond a reasonable doubt, Mr. Foreman I

1 would ask you to check to the left of the word, guilty and  
2 circle both the checkmark and the word, guilty. If you  
3 find that the State has failed to prove its, present  
4 evidence to you as to the murder, proof beyond a  
5 reasonable doubt I would ask you to check to the left of  
6 the two words, not guilty and then circle both your  
7 checkmark and the two words, not guilty. And it would be  
8 the same as to the weapons charge, the same as to the  
9 human remains charge. Please remember my instructions.  
10 If you find the defendant not guilty as to the murder  
11 charge you must find the defendant not guilty as to the  
12 possession of a weapon during the commission of a violent  
13 crime charge because you would not have found her guilty  
14 of the violent crime. And then the same, not the same as  
15 that, this is a separate and distinct charge, desecration  
16 of human remains, she can be found guilty or not guilty on  
17 any of these charges. However if you found not guilty on  
18 the murder she must be found not guilty on the possession  
19 of a weapon during the commission of a violent crime.  
20 Ladies and gentlemen, your verdicts must be unanimous.  
21 Mr. Foreman, after the jury agrees on the verdicts you  
22 will follow my instructions in recording the verdicts,  
23 sign and date the form as the foreperson, knock on the  
24 jury room door and inform the bailiff you have reached  
25 your verdicts and at that time we will receive you back in

1 the courtroom. The law requires I meet with the attorneys  
2 one final time outside of your presence in case I have  
3 forgotten anything or in case I have to add anything of  
4 that nature. So right now I am going to send all 14 of  
5 you into the jury room, if I do not have to bring you out  
6 for further instructions our two alternates will come out  
7 and the evidence will be presented to you along with the  
8 verdict form you may then begin your deliberations. Do  
9 not begin your deliberations until you are instructed to  
10 do so by the Clerk. If you have any questions during the  
11 course of your deliberations, Mr. Foreman, write out a  
12 note and knock on the jury room door, and I will respond  
13 as timely as I can. Thank you.

14 (Whereupon, the jury is excused from open court.)

15 THE COURT: Any objections, exceptions, additions  
16 from the State?

17 MR. STUMBO: No, Your Honor.

18 THE COURT: The defense?

19 MR. VERNER: Your Honor, I renew my objection on the  
20 charge of hand of one, hand of all. Although that can be  
21 reached by inference I still submit that the inference has  
22 to be based on the facts submitted and there has been no  
23 factual testimony in which they can reach that inference.

24 THE COURT: Well, I would renew my trial ruling. I  
25 think that in reviewing the evidence the text itself makes

1 no common sense to me that someone is out for the evening  
2 to potentially have sex all night and text a third party  
3 saying this is where I am going. I think that can be  
4 interpreted as a conspiracy. And then him meeting them  
5 there. Mr. Wise also assisted her along with Mr. Hansen  
6 of the restraining order. Mr. Wise also testified that he  
7 gave her a weapon. So I would respectfully deny your  
8 motion.

9 MR. VERNER: I would just ask to review the verdict  
10 form.

11 THE COURT: Oh, yes sir. Back on the record, y'all  
12 have checked the exhibits, right, Solicitor?

13 MR. STUMBO: Yes, sir.

14 THE COURT: Mr. Verner?

15 MR. VERNER: Yes, sir.

16 THE COURT: And y'all are satisfied that the proper  
17 exhibits have been delivered to the jury?

18 MR. STUMBO: They are, Your Honor.

19 MR. VERNER: Have they been delivered to the jury?

20 THE COURT: Yes, sir.

21 MR. VERNER: Yes, sir.

22 THE COURT: You saw them collected and you were  
23 satisfied that those were the exhibits to go to the jury?

24 MR. VERNER: Yes sir, I saw them accurately assembled  
25 but I didn't know that they had been delivered already.

1 THE COURT: All right, well we will be at ease  
2 awaiting our jury's verdict. Spectators, prepare yourself  
3 of the emotions of the verdict. I expect everyone to  
4 handle it with dignity and grace. I do not allow any show  
5 of emotion to the jury, I don't want any cheers or tears.  
6 Keep that in mind. We will be at ease awaiting the jury's  
7 verdict or questions. Thank you very much.

8 (Whereupon, the jury started deliberations at  
9 approximately 7:35 p.m.)

10 (Whereupon, the alternates were excused from the  
11 trial of the case.)

12 THE COURT: We have a note from the jury, can we have  
13 a copy of the statement regarding the hand of one, the  
14 hand of all. I am going to reread that part of the charge  
15 to the jury and make a few additional comments to them and  
16 ask them if they want a copy of the charge. If they do I  
17 will allow y'all to review it and then send it in. Bring  
18 our jury.

19 (Whereupon, the jury came into open court at  
20 approximately 11:05 p.m.)

21 THE COURT: Mr. Foreman, ladies and gentlemen of the  
22 jury, I received your note. Can we have a copy of the  
23 statement regarding the hand of one, hand of all. I am  
24 going to read it to you on the record and then I will make  
25 a copy of it. I have some notes down at the bottom so I

1 need to redact or delete my notes. But you will have in  
2 the jury room with you exactly what I read to you now  
3 which is exactly what I read to you before.

4 If a crime is committed by two or more people who are  
5 acting together in committing a crime the act of one is  
6 the act of all. A person who joins with another to commit  
7 an unlawful act is criminally responsible for everything  
8 done by the other person which happens as a probable or  
9 natural consequence of the acts done in carrying out the  
10 common plan and purpose. For example. The example I used  
11 was two people could be guilty of the crime of armed  
12 robbery although only one went into the convenient store  
13 armed with a weapon and the other stayed outside as a  
14 lookout. Both would be guilty of the crime of armed  
15 robbery although only one went into the store armed with a  
16 weapon because the hand of one is the hand of all. If two  
17 or more people are together, acting together, assisting  
18 each other in committing the offense, the act of one is  
19 the act of all or as it is sometimes said the hand of one  
20 is the hand of all. Prior knowledge that a crime is going  
21 to be committed without more is not sufficient to make a  
22 person guilty of that crime. Mere knowledge that another  
23 person is going to commit a crime, even if the defendant  
24 is present when the crime is committed is not sufficient  
25 to convict a defendant as a principal. Guilt as a

1 principal is shown by actual or constructive presence at  
2 the scene as a result of prior arrangement. Therefore a  
3 finding of a prior arranged plan or common scheme is  
4 necessary for a finding of guilt as a principal. The  
5 State must prove beyond a reasonable doubt by competent  
6 evidence the theory of the hand of one is the hand of all.  
7 A principal in a crime is one who either actually commits  
8 the crime or who is present aiding, abetting or assisting  
9 in the commission of the crime. When a person does an act  
10 in the presence of and with the assistance of another the  
11 act done, excuse me, let me start that sentence over.  
12 When a person does an act in the presence of and with the  
13 assistance of another the act is done by both. Where two  
14 or more people acting with a common plan or intent are  
15 present at the commission of a crime it does not matter  
16 who actually commits the crime all are guilty. The hand  
17 of one is the hand of all. Present at the commission of a  
18 crime means to be sufficiently near, to aid and abet and  
19 assist in the commission of the crime. However, mere  
20 presence at the scene of a crime is not sufficient to  
21 convict one as a principal on the theory of aiding and  
22 abetting. Intent is also a necessary element. For there  
23 must have been a common design or intent to commit the  
24 crime and the crime must have been committed pursuant  
25 thereto with the person present aiding, abetting by some

1 overt act. Intent means intending the result which  
2 actually occurred, not accidentally or involuntarily. Intent  
3 may be shown by acts and conduct of the defendant and  
4 other circumstances from which you may naturally and  
5 reasonably infer intent. The State must prove these  
6 elements beyond a reasonable doubt. Now, when I said I  
7 had other comments, you can't, this is the law of the hand  
8 of one is the hand of all. However, that law must be  
9 deliberated in light of the entire charge that I gave. In  
10 other words, both on the general principals of criminal  
11 law that I gave to you and also on the specific charges in  
12 the indictment, murder, possession of a weapon during the  
13 commission of a violent crime, that could be actual or  
14 constructive possession, that could be hand of one, hand  
15 of all or desecration of human remains. So you have to,  
16 you can't look at just this charge in a vacuum, it is  
17 incapsulated within my entire charge that I gave to you  
18 earlier this evening. Do you have any other questions at  
19 this time, Mr. Foreman or you want to go back to the jury  
20 room and discuss that and if you do just write me out  
21 another note.

22 MR. FOREMAN: I have no questions of what you had  
23 read if we can have that statement.

24 THE COURT: I will have to redact and it will take a  
25 few minutes to do that and as soon as I get it redated I

1 will send it in to you. The redaction, do not read  
2 anything into or out of the redacted portion. My example  
3 will not be in the version I send in to y'all. The  
4 example in here will be redacted and then my notes on the  
5 bottom, just don't read anything into or out of my  
6 redaction. Okay. If you have any more questions please  
7 write me a note. Please go with the bailiff.

8 (Whereupon, the jury continued deliberations at  
9 approximately 11:15 p.m)

10 THE COURT: The part that I am going to redact is the  
11 example used in here is the example of two people being  
12 guilty of killing another person but only one of the two  
13 had a gun and there was only one bullet. The law is such  
14 that you do not charge, when given examples be sure that  
15 they do not constitute a charge of the facts of the case  
16 and that is why I used the armed robbery. So I am going  
17 to have to get that out of there. And then at the bottom  
18 of each of the pages it cites certain cases and I am going  
19 to take the cites out. Any objection to anything I told  
20 the jury, Solicitor?

21 MR. STUMBO: No, sir.

22 MR. VERNER: Do we have a photo copier in here. I  
23 think we can do that right here, Judge. We can do that  
24 here.

25 (Whereupon, a break was taken waiting on the jury's

1 verdict.)

2 THE COURT: The jury has another note. Please bring  
3 the jury in, please.

4 (Whereupon, the jury came into open court with a  
5 question at approximately 12:23 a.m.)

6 THE COURT: Welcome back, Mr. Foreman and ladies and  
7 gentlemen of the jury panel. I received your second note.  
8 In agreeing that she is guilty is that saying, in agreeing  
9 that she is guilty, is that saying we think she actually  
10 shot John. When you look at the or consider the charge as  
11 a whole and consider the verdict form, the verdict form  
12 lists the three charges in the indictment, as you all  
13 know, murder, possession of a weapon during the commission  
14 of a violent crime and desecration of human remains. They  
15 don't and I don't separate out a murder charge to murder,  
16 we think she is guilty of murder as the shooter and then  
17 have a separate guilty or not guilty or we think she is  
18 guilty of murder as accomplice liability or the hand of  
19 one is the hand of all. You can be guilty of murder,  
20 either as the individual who fired the shot or under the  
21 theory of accomplice liability. Either one of those  
22 theories you are guilty as a principal. Two people could  
23 be guilty of the charge of murder even though only one  
24 weapon was used even though only one round was shot. And  
25 I say, I have not taken the verdict form and separated

1 those theories out. I have informed y'all that is the law  
2 in South Carolina because that is the law in South  
3 Carolina that you must follow, that you have taken an oath  
4 to follow. Whether you agree with it or disagree with it  
5 is not relevant. If you disagree with it you still must  
6 follow it, whether you think it should be different is  
7 irrelevant, you still must follow it because that is the  
8 law of the State of South Carolina that you are sworn to  
9 follow. So that is the theory of triggerman or trigger  
10 person versus accomplice liability. Present, aiding and  
11 abetting, both are guilty, all are guilty. Now, Mr.  
12 Foreman, do you, one further thing, as far as the form of  
13 the verdict also, your verdicts must be based on the  
14 evidence, facts as you find them to be, the reasonable  
15 inferences to be drawn from the facts, the law as I tell  
16 you the law is. Your verdicts cannot be based on passion,  
17 prejudiced, biased, emotion or any other factor that is  
18 not in evidence in this case. Mr. Foreman, is that  
19 responsive to your question. Do you want to discuss that  
20 with your fellow jurors in the jury room and respond back  
21 to me in writing.

22 MR. FOREMAN: If we have any other questions can we  
23 state them now. I don't personally have a question.

24 THE COURT: I would prefer, if y'all are going to  
25 discuss any issues in the case that y'all return to your

1 jury room and discuss it amongst yourselves because I  
2 don't think it is proper for me or any of us to privy to  
3 any of y'all's jury discussions. Thank you. Please go to  
4 your jury room and continue your deliberations.

5 (Whereupon, the jury continued deliberations at  
6 approximately 12:29 a.m.)

7 THE COURT: Any objections, Solicitor?

8 MR. STUMBO: No, Your Honor.

9 THE COURT: Mr. Verner?

10 MR. VERNER: Yes, sir. Respectfully, my concern is  
11 the Court, I think made the assumption it is the murder  
12 charge that was the point of their letter and did not  
13 address the other two charges which I think could unfairly  
14 emphasize the murder charge to the jury. The same  
15 argument but that would also apply to the gun charge as  
16 well as to the desecration. All three of which she would  
17 be or could be found guilty of accomplice. The Court only  
18 addressed the murder charge which I think could unfairly  
19 prejudice the jury. And if the Court is inclined to  
20 recharge them as that then I think it is proper to charge  
21 if you find that, factually she would be guilty of the gun  
22 and the murder charge together, Your Honor. There has  
23 been no evidence other than that John Henry was killed but  
24 by a gun and the accomplice liability would apply to the  
25 gun charge. I can't recall whether the later specifically

1 said murder was what they couldn't reach a verdict on or  
2 just that--

3 THE COURT: It does not say that. It says, in  
4 arguing that she is guilty is that saying we think she  
5 actually shot John.

6 MR. VERNER: And I agree that that would exclude the  
7 desecration charge but not necessarily the use of the  
8 weapon during the violent crime charge.

9 THE COURT: You want me to bring them out?

10 MR. VERNER: Yes sir, and recharge that that applies  
11 equally to the and if the Court does it I would ask them  
12 to, to me the two charges. There is no other evidence but  
13 that, somebody shot John Henry.

14 THE COURT: Let me ask you this question, Mr. Verner.  
15 I got a communication that the jury may have some  
16 follow-up questions. Just by the body language and  
17 movement of the foreperson. You want to wait a few  
18 moments and see if we get another note or do you want me  
19 to bring them back out now.

20 MR. VERNER: Respectfully my preference is to go  
21 ahead and bring them back.

22 THE COURT: Bring the jury back out.

23 (Whereupon, the jury came into open court at  
24 approximately 12:32 a.m.)

25 THE COURT: Mr. Foreman, ladies and gentlemen of the

1 jury, thank you for coming back out at my request. I do  
2 want to make another comment or two. In rereading your  
3 note very closely and agreeing that she is guilty, is that  
4 saying we think she actually shot John. I directed my  
5 comments primarily to the first count on the form of the  
6 verdict as to murder. You never in this note, never used  
7 the word, murder, or never specified that that was the  
8 only charge you were talking about. I do want to  
9 reemphasize that as far as possession of a weapon during  
10 the commission of a violent crime, you could have either  
11 actual or constructive possession. In other words you  
12 could have actually held the weapon or you could be in  
13 constructive possession of the weapon and there would also  
14 be accomplice liability. In other words, the hand of one  
15 is the hand of all as to the possession of a weapon during  
16 the commission of a violent crime. Since I did not  
17 comment specifically on that second indictment, that is  
18 why I brought you back out here. I did not want to unduly  
19 emphasize the law, having you think it only applies to the  
20 murder charge. It also applies to the possession of a  
21 weapon during the commission of a violent crime. I am not  
22 going to address the desecration of human remains because  
23 there is no indication in this note that you have a  
24 question about that charge. All right. Thank you and you  
25 may now return to your jury room and continue your

1 deliberations.

2 (Whereupon, the jury continued deliberations at  
3 approximately 12:32 a.m.)

4 THE COURT: Any objection, Solicitor?

5 MR. STUMBO: No, Your Honor.

6 THE COURT: Mr. Verner?

7 MR. VERNER: No, Your Honor.

8 THE COURT: Thank you.

9 (Whereupon, a break was taken waiting on the jury's  
10 verdict.)

11 THE COURT: All right, be seated. Good morning. All  
12 right, before we bring our jury in, ladies and gentlemen,  
13 I will remind those of you in the audience that as I have  
14 said several times, I do not allow any show of emotions  
15 upon the return of the verdict. I know it is an emotional  
16 time for all parties. I have commended you throughout the  
17 course of this trial but the conduct that y'all have shown  
18 to the Court and to the judicial system. I would ask you  
19 to please continue that. If you feel like you cannot  
20 contain your emotions I would ask that you leave now. If  
21 you do not contain your emotions I will have the sheriff  
22 to take you in custody, you will have a contempt of court  
23 hearing for which you can be sentenced to up to six months  
24 and up to a \$10,000.00 dollar fine, no right to a jury  
25 trial. Keep that in mind. If you feel you cannot contain

1 your emotions I would ask you to leave at this time.

2 Please bring our jury in.

3 (Whereupon, the jury came into open court at

4 approximately 1:04 a.m.)

5 THE COURT: The jury has reached a verdict. Madam  
6 Clerk.

7 CLERK OF COURT: Mr. Foreman, have you reached a  
8 verdict?

9 MR. FOREMAN: Yes, Your Honor.

10 THE COURT: All right, the verdict appears to be in  
11 the proper form. Madam Clerk, will you publish the  
12 verdict for us, please.

13 CLERK OF COURT: The State of South Carolina versus  
14 Mandy Lenore Smith, indictment number 2011-GS-36-505, as  
15 to murder. We, the jury, unanimously find the defendant  
16 guilty.

17 Indictment number 2011-GS-36-504 as to possession of  
18 a weapon during the commission of a violent crime. We,  
19 the jury, unanimously find the defendant not guilty.

20 Indictment number 2011-GS-36-503 as to desecration of  
21 human remains. We, the jury, unanimously find the  
22 defendant guilty.

23 And that is signed Ronald C. Charette, Foreperson.  
24 Mr. Foreman and ladies and gentlemen, if this is your  
25 verdict please indicate by raising your right hand.

1 THE COURT: All hands are raised, Madam Clerk?

2 CLERK OF COURT: Please raise them high. Thank you.

3 Yes, sir.

4 THE COURT: Anything further for the jury from the  
5 State, Solicitor?

6 MR. STUMBO: No, sir.

7 THE COURT: From the defense, Mr. Verner?

8 MR. VERNER: Yes sir, I would ask for the jury to be  
9 polled.

10 THE COURT: Madam Clerk, will you explain to the jury  
11 panel the process of polling the jury and then poll the  
12 jury for me, please.

13 CLERK OF COURT: As I call your name please raise  
14 your hand and just answer the question that I ask you.

15 THE CLERK: Melanie Caldwell, was this your verdict  
16 and is it still your verdict?

17 THE COURT: And make it pluralized. Was it your  
18 verdict.

19 CLERK OF COURT: And please respond affirmatively  
20 or--

21 THE COURT: However your response is.

22 JUROR: Yes.

23 THE CLERK: Dean Willard, was this your verdict and  
24 is it still your verdict?

25 JUROR: Yes ma'am, guilty.

1 THE CLERK: Anthony Martin, were these your verdicts  
2 and are they still your verdicts?

3 JUROR: Yes, Ma'am.

4 THE CLERK: Wanda Garland, were these your verdicts  
5 and are they still your verdicts?

6 JUROR: Yes, Ma'am.

7 THE CLERK: Susan Rohde, were these your verdicts and  
8 are they still your verdicts?

9 JUROR: Yes.

10 THE CLERK: Austin Dycus, were these your verdicts  
11 and are they still your verdicts?

12 Juror: Yes, Ma'am.

13 THE CLERK: Jannette Wheeler, were these your  
14 verdicts and are they still your verdicts?

15 JUROR: Yes.

16 THE CLERK: Kimyada Suber, were these your verdicts  
17 and are they still your verdicts?

18 JUROR: Yes.

19 THE CLERK: Ronald Charette, were these your verdicts  
20 and are they still your verdicts?

21 JUROR: Yes.

22 THE CLERK: Kimberly Long, were these your verdicts  
23 and are they still your verdicts?

24 JUROR: Yes.

25 THE CLERK: Angelia Gallman, were these your verdicts

1 and are they still your verdicts?

2 JUROR: Yes.

3 THE CLERK: Brianna Coleman, were these your verdicts  
4 and are they still your verdicts?

5 JUROR: Yes, ma'am.

6 CLERK OF COURT: Thank you.

7 THE COURT: Mr. Verner, the jury has now been polled.  
8 Is there anything for the jury panel from the defense?

9 MR. VERNER: For the jury panel, no, Your Honor.

10 THE COURT: All right. Momentarily, ladies and  
11 gentlemen, I am going to release you from your jury  
12 service. You have had a long and trying week. My  
13 observation you have been focused and been very attentive  
14 to all of the parties, all the witnesses, to all the  
15 attorneys and to the court. I think you and I commend you  
16 for your conduct and for your fulfilling your civic duties  
17 in such a manner. I never criticize nor commend a jury  
18 for their verdict or verdicts but I do say I have never  
19 worked with a harder working, more attentive, more focused  
20 group of individuals than yourselves. It has been an  
21 honor to serve with you during this week. On behalf of  
22 the citizens of Newberry County and on behalf of the  
23 judicial system thank you very much for your service. You  
24 are released. Again thank you very much. You may come  
25 back in the courtroom and remain if you would like. If

1 not you would be escorted to the vehicles by members of  
2 the sheriffs office. Thank you.

3 (Whereupon, Court's Exhibit numbers 2, 3 and 4 were  
4 marked for identification only.)

5 (Whereupon, the jury was excused from open court.)

6 THE COURT: All right, Mr. Verner, you have some  
7 motions?

8 MR. VERNER: Yes, sir.

9 THE COURT: Here is what I would like to do, Mr.  
10 Verner. Given that it is after 1:00 in the morning, I  
11 have your motions to hear and then rule on them. Perhaps  
12 thereafter I have to address the issue of sentencing. I  
13 would have to hear from the Solicitor and any member or  
14 members of the victims family if they want to address me.  
15 And I would certainly hear from you and any member of  
16 friends of Ms. Smith and Ms. Smith. It would be my  
17 preference to sentence Ms. Smith, hear your motions Monday  
18 at 2 p.m. in Laurens County. Would that be appropriate or  
19 agreeable by both the State and the defense?

20 MR. STUMBO: Your Honor, we can make that happen,  
21 that is not a problem.

22 THE COURT: Do you have any objections to that, Mr.  
23 Verner?

24 MR. VERNER: No, sir. I was going to recommend, I  
25 thought the Court was going back to Lexington but I was

1 going to ask that Monday would probably be appropriate  
2 than today.

3 THE COURT: I will go back to Lexington but I have an  
4 assignment at Laurens next week. That would give the  
5 Mayers family some time alone and then be able to present  
6 Monday afternoon and also Ms. Smith's family to spend time  
7 together also. Ms. Smith, is in the custody of the  
8 Newberry County Sheriffs Department. Y'all may transport  
9 her Monday to be there by 2:00 p.m. If everyone would  
10 remain seated, as we leave we will leave as groups, one  
11 family will be first and then the other family. Sheriff,  
12 please take Ms. Smith into custody, please.

13 \*\*\* END OF PARTIAL REQUESTED TRANSCRIPT OF RECORD \*\*\*

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STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
 )  
 PLAINTIFF, )  
 )  
 )  
 -VS- )  
 )  
 MANDY L. SMITH )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

11-GS-36-00503  
10-GS-36-00503  
SENTENCING HEARING  
TRANSCRIPT OF RECORD

OCTOBER 14, 2013  
NEWBERRY, SOUTH CAROLINA

BEFORE:

THE HONORABLE R. KNOX MCMAHON

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

DAVID STUMBO, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CHARLES VERNER, ESQUIRE

TARA T. SCOTT  
CIRCUIT COURT REPORTER

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(No exhibits were presented during this hearing)

1 THE COURT: Mr. Verner, I believe you had some motions.

2 MR. VERNER: Judge, at this point I think we're ready to  
3 go to the sentencing. I think the proper motions have been  
4 made and denied.

5 THE COURT: Solicitor, anything further from the state?

6 MR. STUMBO: Your Honor, we do have one person to come  
7 speak from Mr. Mayer's family and victim impact when the  
8 court is ready. I believe, Your Honor, prior record  
9 involved a marijuana charge out of Michigan that was  
10 discussed during the trial last week, a misdemeanor,  
11 possession of marijuana charge. That's the extent of Ms.  
12 Smith's record. We do have victim impact when the court is  
13 ready.

14 THE COURT: All right. If you would have whoever that  
15 is that's going to speak on behalf of the family perhaps if  
16 they would come over to the microphone for me, please.

17 MR. STUMBO: Your Honor, this is Mr. Robert Wright. He  
18 is the nephew of Mr. John Henry Mayer, who is the victim in  
19 this case. He would like to address Your Honor at this  
20 time.

21 THE COURT: All right. Yes, sir, I'll be glad to hear  
22 from you.

23 MR. WRIGHT: Yes, sir, Your Honor. My name is Robert  
24 Wright. I am John's nephew. This my father's brother. And  
25 I would like to say, Your Honor, you know, first of all I'd

1 like to thank the Lord that my grandmama wasn't hear to hear  
2 any of that trial on the process. The thing is, you know,  
3 there's a whole lot going to be said, you know, as far as  
4 the family-wise, and we apologize that my uncle is not here,  
5 you know. I'm really kind of short for words. I have to  
6 apologize for the guy that built his case on him painting  
7 the picture so bad for him, and he's really a good guy.  
8 And, of course, she knows he's a good guy. And really the  
9 mercy -- that they have no mercy on him even after he passed  
10 away, as far as messing with his body, and not leaving him  
11 in peace after the fact it's just so much that the family  
12 has gone through on account of this. You know, my grandma's  
13 health has been -- has done dropped extremely since this  
14 right here has been going on. He was the one taking care of  
15 my grandma and my grandfather as far as everything around  
16 the house-wise. I'm looking to say, you know, I'm hoping  
17 you have no mercy on this case even though being that she  
18 knew him so well, being that after this right here had  
19 happened how we sat around -- sit there and talking and sit  
20 there with a smile on her face, you know, like if you didn't  
21 have a clue how it have carried on out. I'd like to thank  
22 the family for taking patience to not to taking -- letting  
23 the law do their job and have you guys do it the right way.  
24 And just it's a whole lot -- we miss him, Your Honor, you  
25 know. It's somebody who was very close to us that somebody,

1 you know, you're used to seeing him everyday and just like  
2 that he's just vanished and gone, which, of course, you  
3 know, even though she's getting sentenced, she will still  
4 get to speak to her family and stuff like that. We just  
5 don't have him no more period. You know, they had no mercy  
6 on him when they did this. And I'm hoping you see them to  
7 the max and to however you see that. But, you know, I'm  
8 kind of lost of words right now. It's a whole lot the  
9 family want to say, but, like I say, you know, we're hoping  
10 you see it to the max on whatever the case may be, you know.  
11 But, you know, it just -- it hurts the way we sat around  
12 after this incident happened like as if nobody didn't have a  
13 clue. I'd like to apologize for my grandfather back there  
14 for going through this, along with the brother to the  
15 daughters to the whole family, you know. We've very  
16 supportive. We're a very strong family. And yes we did  
17 take Mandy in once upon a time. So we done took other  
18 people in, too, but nobody's past -- we all had troubled  
19 past, we all go through things in life and that's no excuse  
20 this situation here today. And I hope you see it to the  
21 max.

22 THE COURT: Thank you. Thank you very much Mr.  
23 Wright.

24 MR. STUMBO: And, Your Honor, just to recognize for the  
25 court, a lot of these folks, it's very emotional for them

1 today and they do not wish to address Your Honor. But I do  
2 want to recognize for the record them being here, Mr.  
3 Charles Mayer, who is John Henry Mayer's father, is in the  
4 courtroom today if he will raise his hand. This is very  
5 difficult for him. His wife, John Henry's mother, is not  
6 here because of her health issues, Your Honor. And she's at  
7 home today with us in spirit. Clarence Curry, who testified  
8 at trial. He is here again today. He's John Henry's son.  
9 We have Stephanie here. Where is Stephanie?

10 MR. STUMBO: Okay. Courtney and Cassandra are here,  
11 too. Those are John Henry Mayer's daughters, Your Honor.  
12 They are here today in the gallery watching. There again,  
13 they both indicate -- they've all indicated to me this is  
14 very difficult. Mr. Rob Wright felt like he was strong  
15 enough to get up here and talk to Your Honor, but they are  
16 here today. And Christopher as well. Christopher, John  
17 Henry's other son, his fourth child, is here as well.  
18 Judge, just behalf of the family and from the state's  
19 perspective today, this is a life sentence type case and we  
20 would ask the Court to sentence Ms. Smith to life in prison.  
21 Judge, it's our position here that mercy in homicide cases  
22 are warranted for folks who come before the court, take  
23 responsibility after they've committed a crime. Your Honor,  
24 it's -- mercy is not warranted in cases where defendants  
25 evade justice, run from the law enforcement officials and

1 then go out and desecrate the body of the person that  
2 they've had a hand in murdering. Here the fact that Ms.  
3 Smith went out two weeks later with Mr. Wise and removed the  
4 head from the victim's body and put it in the river, Your  
5 Honor, shows a series lack of remorse for what she did in  
6 this case. And, Your Honor, we would ask the Court to  
7 sentence Ms. Smith to life in prison without parole.

8 Your Honor, I believe Clarence Curry, Mr. Mayer's son  
9 has changed his mind. He would like to come and address  
10 Your Honor.

11 THE COURT: All right. He may come around. I'll be  
12 glad to hear from him. State your full name for the record,  
13 please, Mr. Curry.

14 MR. Curry: Clarence Perez Curry.

15 THE COURT: I'll be glad to hear from you, Mr. Curry.

16 MR. CURRY: I appreciate it, sir. I could sit up here  
17 all day long and go on about my father. But he's always  
18 been a very close family man from teaching me how to fish,  
19 teaching me how to ride a bike, my current love for ATVs and  
20 motorcycles right now. I was taught all that by him. How  
21 to cook. He's always been a family man, just had -- he  
22 actually had two grandkids, one of which will be three in  
23 November and the other one which will be seven in January,  
24 which he spent a lot of time with. A lot of time, Your  
25 Honor. He had a lot of demons in his life in the past, just

1 as well as she has, you know. But thought -- you know, I  
2 have to listen to my niece a lot of times, and she called  
3 him Pop Pop and recently here we visited his grave and stuff  
4 and she continuously has to ask where her Pop Pop is without  
5 actually being able to get an answer, you know, because we  
6 -- they're just so young, you know, we don't want to --  
7 they're not at the proper age to know that right now. She  
8 just knows that he's in heaven. And I'm sure she can tell  
9 you. You know, she'd pay -- she'd trade anything, all of us  
10 would trade a life sentence in jail just to be able to speak  
11 to each other, communicate again, which I don't think that's  
12 excusable. But, you know, we have a law you guys have put  
13 here to set that in place. And there's a lot of different  
14 ways that -- and you heard in the case, my father never --  
15 he never followed to be her or never pursued any kind of way  
16 whatsoever. It was always consistent to her coming back  
17 over and over again, which she pursued she was always  
18 accepted back, sir. Always, regardless of how long she left  
19 or how she came back or what the circumstances were she was  
20 always taken back in and well loved. And, with the  
21 sentencing, I just -- I can't see -- I mean, there's a law.  
22 You guys are here to serve and protect and she could have  
23 taken that a lot more serious than what she did instead of  
24 trying to take matters into her own hands. So, I just --  
25 I'm a God fearing man. I believe in God. I'm a church

1 regular. I just don't -- I don't see it fit any kind of way.  
2 just to allow her to be able to be free again and go about  
3 the world and we will never be able to see him again.

4 THE COURT: Thank you. Thank you veery much, Mr.  
5 Curryy.

6 MR. CURRY: I appreciate your time, as well, sir. I  
7 appreciate you listening to me.

8 THE COURT: Yes, sir. Thank you. Anything further,  
9 solicitor?

10 MR. STUMBO: That's all.

11 THE COURT: Thank you very much. Mr. Verner, would you  
12 and Ms. Smith please come around?

13 (Complied.)

14 THE COURT: All right. Yes, sir, I'll be glad to hear  
15 from you, Mr. Verner.

16 MR. VERNER: May it please the court, Your Honor? Mandy  
17 is 36 years old, Your Honor. As the court was aware, she's  
18 in pre-trial confinement continuously since May 25, 2011.  
19 And certainly any sentence that she gets that would be the  
20 appropriate date that the sentence would start. She is 36  
21 years old, Your Honor. As the court's aware, she was born  
22 in Seneca, South Carolina, and she moved to Chapin --

23 THE COURT: Walhalla.

24 MR. VERNER: Walhalla, and my understanding was in that  
25 -- the Walhalla/Seneca area. Moved to Chapin probably as a  
26 first grade, second grade student. And has been, for the

1 most part, other than when she met the soldier and moved to  
2 Germany for the most part has lived a life that centered  
3 around South Carolina. She did go to Michigan, I think, for  
4 a short period of time. But other than that it's been  
5 largely South Carolina and Germany for a year. The -- as  
6 the court is aware, as the Solicitor argued, not only is her  
7 only prior record just a simple possession of marijuana in  
8 Michigan in the year 2000, there are no other indications of  
9 any prior arrests since that date, too. Obviously, there's  
10 been some testimony, of course, where some repetitive drug  
11 use over the periods of the years, primarily for marijuana,  
12 but this an out of characteristic non-recidivist defendant  
13 before the court today. The -- I don't -- no real motive  
14 for the crime, Your Honor, other than, I guess, the revenge  
15 factor testified. She certainly wouldn't have benefitted  
16 economically or any other way, so it would have been an  
17 emotional situation. I do submit to the court, Your Honor,  
18 that the appropriate sentence for the murder charge would be  
19 30 years, just no prior history of violence, no prior  
20 history of crimes at all. And the court has heard the rocky  
21 relationship tale. At most, she was 15 at the time. And  
22 the defendant would have -- the victim, John Henry, would  
23 have been 24, 25. The did live together for three years.  
24 The court's heard some of the history there. It's clearly  
25 domestic abuse, at least for periods of time during that  
26 relationship. In fact, that wasn't really even denied at

1 trial. I understand the solicitor in his closing argument  
2 did -- talked and deny it without actual testimony, Your  
3 Honor. It was largely uncontroverted that there was some  
4 history of domestic violence. The incident of March 24th  
5 alone, I believe the court, if the court was a trier of fact  
6 in that case and I think that largely came through the  
7 testimony of I think it was Chris Henson -- .

8 THE COURT: Hanson.

9 MR. VERNER: Hanson, yes. The attack through the  
10 window. I certainly believe a court would have found him  
11 guilty of domestic violence for that incident alone. There  
12 was a restraining order that was in affect as of April 8th.  
13 Of course, blatantly disregarded by Mandy, as it was by John  
14 Henry Mayer. The family who loves her, love of animals, the  
15 -- with Mandy I don't think that there's a real fear of  
16 recidivist violent acts in the future. Just I understand  
17 she's had a turbulent life but this -- there appears to be a  
18 low recidivism chance. She's 36. The only turbulent  
19 relationship in her life was John Henry. Ordinarily I would  
20 think that the desecration would be considered separately,  
21 Your Honor, and possibly would justify consecutive sentence.  
22 In a crime of emotion like this, out of panic, to hide the  
23 remains, it didn't appear to have been done to demean the  
24 body in such a way. It did appear to be done in a way to  
25 hide the crime type of way. The court was very -- it was --  
26 I was surprised when the court recited the Anderson case by

1 name on the inconsistent verdict, Your Honor.

2 THE COURT: Alexander.

3 MR. VERNER: The Alexander case, yes, sir. I apologize.  
4 I pulled it up. And the interesting thing about that case  
5 was the State Supreme Court and I read the US Supreme Court  
6 that they cited in that case, too. Usually in -- if Mandy  
7 killed John Henry herself that she should have been found  
8 guilty of the gun charge logically consistently. And if she  
9 was an accessory she should have been found as an accessory  
10 under the gun charge logically. Now, I understand the court  
11 accepts jury's verdicts and doesn't get into  
12 inconsistencies. A verdict is a verdict. But just -- as I  
13 was reading the case, the thing that struck me was the cited  
14 reason that juries typically reach inconsistent verdicts and  
15 one is that they are confused by profound issues of law, and  
16 I think the court saw the jury. It was a good jury. I  
17 don't think they were confused about the law. But the other  
18 reasons are sympathy for the defendant or an attempt to get  
19 lenity, lenience for a defendant. I do think, Your Honor,  
20 that the jury was attempting to convey to the court that  
21 they did not believe that Mandy was the actual person who  
22 killed John Henry, but that she was complacent in his death  
23 and guilty as an accomplice. That that's not a factor that  
24 the judge would strongly weigh in trying to figure out what  
25 a jury is trying to do. It did appear to be a competent  
26 jury, and I do think that that was an attempt for the jury

1 to indicate to the court that there was some sympathy  
2 towards Mandy in the case. And, of course, the -- it wasn't  
3 the jury's emotional reading that verdict. Of course, it's  
4 a murder case. That could be in any factor. But I do think  
5 that the jury found Mandy a sympathetic figure. And I do  
6 think that they were intending to show that they did not  
7 believe that she is the actual person who was responsible  
8 for the murder, but that she was guilty as an accomplice or  
9 aider and abetter.

10 We would strongly ask for the 30 year sentence, Judge,  
11 in this with the sentences to run concurrently. I think  
12 that there has been credible evidence presented at the trial  
13 that Mandy has been a victim of domestic abuse. She has  
14 been a household member of John Henry Mayer's which would  
15 qualify her under the domestic abuse statute. I would ask  
16 the Court to make a finding on the sentence sheet that Mandy  
17 has been a victim of domestic abuse by the victim. But we  
18 would ask for the 30 year sentence for her, Your Honor. I  
19 would prefer at this time and ask the Court to entertain  
20 anything that Mandy may say or her family members.

21 THE COURT: I'll be glad to hear from anyone you'd like  
22 me to hear from, Mr. Verner.

23 MR. VERNER: Thank you.

24 THE COURT: Is any member of her -- I prefer to hear  
25 from her last. Is any member of her --

26 MR. VERNER: Do y'all have a spokesman or do you want to

1 speak individually? Your Honor, this is Ms. Vicky McCartha.

2 THE COURT: All right, if you would come around, Ms.

3 McCartha.

4 (Complied.)

5 MR. VERNER: As the Court recalls, this is Mandy's  
6 mother.

7 MS. MCCARTHA: Yes, Your Honor, I'm Vicky McCartha,  
8 Mandy's mother. Like everyone else I really don't know what  
9 else. I'm really sorry for their loss. I'm sorry for your  
10 loss. Mandy is a good person. She's always been very, very  
11 good to me and our family. We've never had an issue as far  
12 as her being bad to us. She's loved her animals as her  
13 children. You know, she calls them my grand dogs. I know a  
14 lot that has happened to Mandy is because of my father. All  
15 the sexual abuse he did. And I feel guilty for that because  
16 I should have seen it, and I didn't in time. And I just --  
17 she has gone through a lot of abuse over the years. A lot  
18 of men, different things. A lot I didn't know. And I just  
19 ask you please, you know, I respect the courts and I respect  
20 the jurors and everybody else that has been such a part of  
21 it. And they've all been really nice to me and our family.  
22 But just help her. I mean I don't think she deserves life.  
23 I mean, she's such a good person. I know this doesn't show  
24 much of it, but she really is. And I need my daughter. I  
25 know they need their father, but I need my daughter, too.  
26 And I will respect you in whatever you decide. If it's --

1 it's up to you.

2 THE COURT: Thank you. Thank you very much, Ms.  
3 McCartha. Anyone else?

4 MR. VERNER: No, Your Honor. Your Honor, respectfully I  
5 think the family met and decided that they would try to keep  
6 it to this.

7 THE COURT: All right. Anything you would like to say  
8 Ms. Smith?

9 MS. SMITH: Yes, sir, I would. First off, I want to  
10 thank you for your patience for last week. It was a very  
11 long trial. I'm very remorseful for the Mayer's family  
12 because they were really good to me through pretty much my  
13 whole life. The only really only reason I know a lot of  
14 things in my life, cook, clean, those such things is because  
15 of the Mayer's family, and I can honestly say I am the best  
16 cook in my family because of that. I am very sorry that  
17 they have to go through -- that they had to go through all  
18 this and that John is not here anymore because I know they  
19 loved him. I'm very sorry for my family having to go  
20 through this. Through all of this, I don't like other  
21 people in pain. And it's really killing me that all of them  
22 have had so much pain to go through all this. I ask you for  
23 some kind of sympathy.

24 THE COURT: You ask me for what?

25 MS. SMITH: For some kind of sympathy with my

1 sentencing. I thank you, Judge.

2 THE COURT: Thank you. Thank you very much, Ms. Smith.  
3 Anything further, Mr. Verner?

4 MR. VERNER: Yes, sir, please. I forgot to the statute  
5 I was referring to about the domestic violence would be  
6 under 16-25-90. The standard of proof is on our side  
7 defense to show beyond a greater than likely or more likely  
8 than not would be the standard that the Court would have to  
9 accept that there was evidence of a history of -- credible  
10 history of domestic abuse.

11 THE COURT: Thank you. Thank you, Mr. Verner. I have  
12 reviewed 16-25-90 and also the definition of household  
13 member under 16-25-10. I further reviewed State v. Haws.  
14 and the state cited therein State v. Blackwell Salim, 707  
15 Southeast Second 426. In State v. Haws, which was Judge  
16 Addy's trial, he wrote very eloquent, I would say, opinion  
17 in finding that Haws was entitled to sentencing under  
18 16-25-90. And he defined what history was. The court  
19 determined that he took into account the legislative intent  
20 behind 16-25-90, but they neither accepted nor rejected that  
21 definition and stated in some future case the Court of the  
22 Supreme Court may be required to specifically define a  
23 history to resolve the controversy before the court. In  
24 reviewing that, I find that the incident April 23rd --

25 MR. VERNER: March 23rd --

1 THE COURT: March 23rd is a credible incident of  
2 criminal domestic violence. However, I do not find there is  
3 credibility as far as other instances of criminal domestic  
4 violence. There was no police reports presented to the  
5 court of other instances. There was no medical records  
6 presented. There were no photographic evidence presented.  
7 I realize a restraining order was issued April 2011 in  
8 regard to the incident March, but I find no other credible  
9 evidence. In fact, other evidence seems to indicate that  
10 John Henry Mayers had somewhat of a mild manner about him up  
11 -- but for the crack -- but for the taking into account how  
12 crack/cocaine change his or may have changed his demeanor at  
13 times. But I don't see a history of any other evidence  
14 whereby the defendant has met her burden under 16-25-90.  
15 So, I do refuse to sentence her under that section.

16 I would observe that I certainly have heartfelt  
17 sympathy for the Mayer's family and for the family of Ms.  
18 Smith. It's obvious they are all pain stricken as a result  
19 of these instances. It appears that she had a family -- Ms.  
20 Smith has family and friend support that love her very much,  
21 that it has very much affected her mother and her mother's  
22 guilt feelings, which she testified to not only before me  
23 today, but during the trial. But it appears the Mayer's  
24 have really done nothing but love Ms. Smith for decades.  
25 Took her into her home, taught her many skills, tried to

1 help her, tried to help her get on the right path. And she  
2 just chose a different path. She's very -- she's a very  
3 intelligent young lady. May not be necessarily a educated  
4 as far as finishing high school or beyond, but she is very  
5 intelligent.

6 I find she's also very manipulative. I believe there  
7 is many people in her life that she manipulated and chose to  
8 do what Mandy wanted to do. In this case, she has attempted  
9 to spread the blame. She's blamed her grandfather, DSS, her  
10 mother, drugs, Epworth Children's Home, Tim Wise, John Henry  
11 Mayer and perhaps others. At some point in time you should  
12 take -- one should take personal responsibility for one's  
13 actions.

14 One fact that always struck me during the course of the  
15 trial was the ballistics on the nine millimeter pistol where  
16 she indicates that on that day in May when she and Mr. Wise  
17 went out there to -- the day that the body was desecrated  
18 and the head removed and thrown into the Enoree River, that  
19 he was armed with a pistol and she did that at -- as a  
20 result of coercion or duress. I assume, and I assume the  
21 attorneys assumed, that pistol was that same nine millimeter  
22 pistol. Well, I'm not going to take a non-functioning  
23 pistol to a gun fight. I'm not going to threaten somebody  
24 with a pistol that I know doesn't operate. That shell  
25 flipped around, got in there backwards and the next round

1 went into it and it took an armorer almost to clear that  
2 pistol. Could have been another pistol. I don't know. But  
3 I find it incredible that it was another pistol and I find  
4 it incredible that Mr. Wise would have taken that pistol to  
5 threaten him when it was not safe and when it wouldn't fire.  
6 You know, you hear all the time why take a knife to a gun  
7 fight. Well, why take a weapon you're going to threaten  
8 somebody with that won't operate?

9 Besides one time, all I saw was crocodile tears, and  
10 that one time is when the verdict came back. I think she  
11 was crying for herself. I don't think on the stand she  
12 cried a time for John Mayer. Not a time. 11-GS-32-0505,  
13 Mandy Lenore Smith, the jury having convicted her of murder.  
14 The defendant is committed to the State Department of  
15 Corrections to a determinative term of 40 years. 11-GS-36-  
16 0503, Mandy Lenore Smith, having been convicted of  
17 desecration of human remains, the defendant is committed to  
18 the State Department of Corrections determinative term of ten  
19 years. Those are to run consecutive. She has credit for  
20 time served from 25 May, 2011. Good luck to you, Ms. Smith.  
21 Thank you Mr. Verner.

22 MR. VERNER: Your Honor, may I just be heard on one  
23 small --

24 THE COURT: Yes, sir.

25 MR. VERNER: I heard the court make specific findings of

1 fact as to 16-25-90 to support its decision. Just I would  
2 ask the court I do submit a factor that was not addressed by  
3 the court that could also address that. It was largely  
4 conceded that the -- that Mandy was 15 at the time that she  
5 began the sexual relationship with John Henry Mayer, which  
6 would be second degree criminal sexual conduct. And I do  
7 believe that that would be a factor that the court could  
8 consider under 16-25-90 the -- and I understand the court  
9 ruled, but the failure was on our end not to prove beyond  
10 evidence. But that point was conceded, and I don't believe  
11 I heard any testimony contradicting any domestic violence.

12 THE COURT: I took into account, although I didn't state  
13 it, of all of the testimony that was presented during the  
14 course of the trial, both by the state, by the defense in  
15 both direct, cross, re-direct and re-cross. And that fact  
16 specifically or that statement specifically, Mr. Verner..

17 MR. VERNER: Thank you for letting me make that point,  
18 sir.

19 THE COURT: Yes, sir. Certainly. Thank you. Good luck  
20 to you, Ms. Smith.

21 MR. STUMBO: Thank you, Your Honor.

22 THE COURT: Thank you, Solicitor. Good luck to the  
23 Mayer family and to the Smith family and to Mr. Beauford.

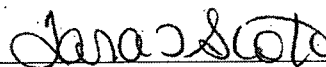
24 - - - END OF TRANSCRIPT OF RECORD - - -

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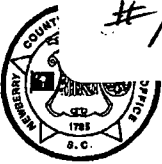
## Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Newberry County, South Carolina, on the 14th day of October, 2013.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto. Transcribed on January 12, 2014.



Tara T. Scott, CVR  
Circuit Court Reporter  
Greenwood, South Carolina



#19 OLD EVD

NEWBERRY COUNTY SHERIFF'S OFFICE

YOUR RIGHTS

DATE: 05-26-11		TIME: 3:51 PM	
NAME: Mandy Lenore Smith	SS #: [REDACTED]	DOB: [REDACTED]	
ADDRESS: [REDACTED]	CITY: Newberry	STATE: SC	ZIP: 29108
HOME PHONE: [REDACTED]	WORK PHONE: [REDACTED]	OTHER PHONE: [REDACTED]	

I, Mandy Lenore Smith (please print), am 34 years old. My address is [REDACTED] address) [REDACTED] (city, state)  
 I have finished the 8th grade in school and Can  / Cannot  read.

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can and will be used against you in a court of law.

You have the right to a lawyer for advice before we ask you any questions, and to have him or her present with you during any questioning.

If you have no money for lawyer's fees, the court will appoint one to represent you without cost to you if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop the questions at any time. You also have the right to stop answering questions at anytime until you talk with a lawyer.

I have read this statement of my rights, and I understand what my rights are.

Mandy Smith  
Signature

05-26-11  
Date

Waiver

I **am** willing to make a statement and answer questions. I **do not** want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me, and no pressure or coercion has been used against me.

Mandy Smith  
Signature

05-26-11  
Date

Witnessed By:

[Signature]  
Witness Signature

05-26-11  
Date

Witness Signature

Date



# NEWBERRY COUNTY SHERIFF'S OFFICE

## VOLUNTARY STATEMENT

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

PAGE NO. 1 OF 3 PAGES

PERSONALLY appeared before me Lt Robert Dennis, Mandy L Smith, who states:

"My name is Mandy L. Smith. My address is 2038 Hwy 76, Newberry SC 29108

Date of Birth [redacted] Social Security Number [redacted] Phone [redacted]

I completed the 8<sup>th</sup> grade in school and Can  / Cannot  read and write."

Before answering any questions or making any statements Lt Robert Dennis

a person who identified himself as NCSO Investigator

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any persons whomsoever.

Saturday, May 7<sup>th</sup> 2011 around 11pm I picked John up hoping to have a good time ~~to~~ after picking John up John did his normal ~~mental~~ and hitting abuse. I tried to ~~take~~ to take him back home but he would not let me. He said he did not leave house for nothing and he wanted sex. I have not wanted to deal with John but he would show up at house on Wheeland School Rd on his own and would come out of woods and come to house and abuse me mentally and physically. He kept me kidapped in my house for 3 days mid April. 3 days full of beatings, sexual and mental abuse. I ~~have~~ have been trying to move this whole past year. ~~John~~ John threatened me alot and had me almost dead ~~ms~~ more then a few times. I have been carrying gun around for the past few weeks I have feared my life for almost 20 years now. I dealt with john when I was almost 16, 17 and almost 18 years of age and he had me severely addicted to crack cocaine, beat me regularly and he would sell my body to many people either it be one guy at a time or many guys at one time.

I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advise or presence of a lawyer before or during any part of this statement, nor any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 7:37 PM (time) on the 26<sup>th</sup> day of MAY, 20 11.

Mandy L Smith  
Signature of person giving voluntary statement

SWORN TO AND SUBSCRIBED TO BEFORE  
ME THIS        DAY OF       , 20       

Robert Dennis  
Witness Signature

NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES:       

Walt Boners  
Witness Signature

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

        
Signature

NCSO VOLUNTARY STATEMENT (SUPPLEMENTAL)

STATEMENT of, Continued I have been in fear of my life

for almost 20 yrs. I have tried really hard not to come back to South Carolina to live since I was almost 18. I have had to move back a few times but never stayed long in fear of John. He has always found me and <sup>made</sup> my life Hell. When I was married ~~me~~ and was living at Wheeland School Rd. John had seen me at gas station and followed me home and raped and beat me, and ~~me~~ threatened my life for me not to tell anyone. I never did tell my Husband now ex husband. ~~me~~ <sup>ms</sup>

This past 2 yrs while I have lived at Wheeland School Rd. I have avoided Chapin as much as possible and even thought my life was going decent and had been dating the same wonderful man for a whole year until John came back in my life by his sister seeing me at a gas station and passing the word on that she had seen me to John. John started asking around about me and found out I was back at Wheeland School Rd. He came to the house one afternoon, I was outside with the dogs. He approached me in his "Happy form" and said he wanted to talk. I told him ok since I was totally startled by seeing him there. John and I sat outside with dogs and talked for a bit which ~~me~~ had him asking me questions of where I have been and who I have been seeing. John asking me questions and wanting detailed answers is normal even though my answers to his questions was never good enough and always lead to him abusing me mentally and physically. I had asked John many times to stay out of my life but he said he will never leave me alone and in fear of my life I kept dealing with him with no choice of not having him in my life. The past few months have had me trapped in my house on 30 acres and being home alone 95% of the time with window shades down, ~~me~~ doors locked and scared to walk my dogs without someone presents, thinking John was going to just pop up on me. which he has done many times and even creped upon my property with lights of car off and assaulted me and my boyfriend of a year. I had gotten a restraining order against him and he told me nothing would keep him away from me, and nothing did keep him away from me. ~~me~~ I have been <sup>now</sup> ~~me~~ as "crack head" since I was 16 years old and I have worked hard with my addiction ~~me~~ since I left South Carolina when I was almost 18 yrs old and never went back to crack until the past few months with dealing with John. John did not like the fact that I had changed and did not need crack and he tried very hard to turn me into what I was almost 20 yrs ago. He has tried pimping me out over the past few months

Person giving statement to place initials behind last word of statement as appears on last page.

Nancy Smith  
Signature of person giving voluntary statement

NCSO VOLUNTARY STATEMENT  
(SUPPLEMENTAL)

STATEMENT of, Continued I did not let this "pimping out" happen instead I took many beatings and mental abuse just not to have my body violated and more then it already has been and would continue until I felt as though I left South Carolina, I was dead or John was dead. I did NOT want to end his life but I felt that it was me or John that night. He had been smoking crack and drinking that night. Many people know how John had been treating me including his family his friends and my family and friends. John's family was telling him to stay away from me and my friends ~~and~~ and myself have tried to keep him away. I was even in the process of moving to Newberry the first week of May. John did not like the fact of me moving said he liked me close in Little Mountain. The first week of May was very hard on me with trying to avoid John knowing where I was moving to and when I was moving. He found out I was actually moving the night of May 7th 2011. Which started a one sided argument with me. I believe that it was him or me that night and it was almost me. I stayed away from everyone for the next week or so to hide my bruises and black eyes. I can never heal my mind and heart totally over this whole thing. The gun used I had gotten from Tim shortly after the restraining order was given. John knew I had the gun since then but knew I did have the heart to use the gun. I don't remember a portion of what happen, I blacked out after John had hit me numerous times and when I came out of blackness I was holding gun and he was lifeless on ground in front of me. I sat there on my knees crying and trying to figure out what I did for 15 mins or so before I left. I tried to ~~resuscitate~~ms revive him though mouth to mouth when I first realized what I had done and when I couldn't bring him back I was so scared so I left. Donald Buford had nothing to do with what went on and had NO knowledge of this. ~~ms~~ I just ~~ms~~ used his truck. Timothy Wise had no knowledge of what happen till it was done and he freaked out and left. ~~ms~~ A week later I went back to where this took place and removed head from John and took it to near by river ~~ms~~

~~ms ms ms ms~~

Person giving statement to place initials behind last word of statement as appears on last page.

*Mandy Sato*  
Signature of person giving voluntary statement



NEWBERRY COUNTY SHERIFF'S OFFICE

YOUR RIGHTS

DATE: 06-10-11 TIME: 11:35 PM

NAME: Mandy Lenore Smith SS # [REDACTED]

ADDRESS: [REDACTED] CITY: [REDACTED]

HOME PHONE: [REDACTED] WORK PHONE: [REDACTED] OTHER PHONE: [REDACTED]

I, Mandy Lenore Smith (please print), am 34 years old. My address is  
 [REDACTED] (street address) Newberry SC 29108 (city, state)  
 I have finished the 8th grade in school and Can  / Cannot  read.

Before we ask you any questions, you must understand your rights.

**You have the right to remain silent.**  
**Anything you say can and will be used against you in a court of law.**  
**You have the right to a lawyer for advice before we ask you any questions, and to have him or her present with you during any questioning.**  
**If you have no money for lawyer's fees, the court will appoint one to represent you without cost to you if you wish.**  
**If you decide to answer questions now without a lawyer present, you will still have the right to stop the questions at any time. You also have the right to stop answering questions at anytime until you talk with a lawyer.**

I have read this statement of my rights, and I understand what my rights are:

Mandy Smith Signature 6/10/11 Date

Waiver

I **am** willing to make a statement and answer questions. I **do not** want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me, and no pressure or coercion has been used against me.

Mandy Smith Signature 6/10/11 Date

Witnessed By: [Signature] 6/10/11 Date

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_



# NEWBERRY COUNTY SHERIFF'S OFFICE

## VOLUNTARY STATEMENT

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

PAGE NO. 1 OF 2 PAGES

PERSONALLY appeared before me Lt. Robert Dennis, Mandy Kenore Smith, who states:

My name is Mandy Kenore Smith. My address [REDACTED]

Date of Birth [REDACTED] Social Security Number [REDACTED] Phone [REDACTED]

I completed the 8th grade in school and Can  / Cannot  read and write.

Before answering any questions or making any statements Lt. Robert Dennis  
a person who identified himself as NCSO Investigator

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any persons whomsoever.

MS May 7th, 2011 I Mandy Smith texted Tim Wise around 10pm to call John Mayers so he would come hang out with me. I picked John up about a hour and half later. I texted Tim and let him know where I was going. I always let Tim know where I was going. Always! When John and I got there Tim was there. I asked Tim why he was there and he said he had a feeling of need to be there. I just thought he was being protective. John, Tim and I talked and laughed for awhile ~~MS~~ John and I was standing together, John was behind me holding on to me and we was talking ~~MS~~ and looking up at the night sky. From out of no where ~~MS~~ I was pushed and I fell to the ground and I heard a shot when I looked up John and Tim was struggling with each other. I screamed out to Tim "NO IC NO" John took off running. He went between the trucks and down the road. I got my feet and ran after them. Tim chased him down. When I came past the trucks there was a second shot. I seen Tim in the woods. I ran to where Tim was and seen John on the ground laying on his back. I went to where John

I have read each page of this statement consisting of two page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advise or presence of a lawyer before or during any part of this statement, nor any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1:40PM (time) on the 10 day of June, 20 11.

Mandy Smith  
Signature of person giving voluntary statement

Robert Dennis  
Witness Signature

SWORN TO AND SUBSCRIBED TO BEFORE  
ME THIS      DAY OF     , 20     

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:     

Witness Signature

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

NCSO VOLUNTARY STATEMENT  
(SUPPLEMENTAL)

STATEMENT of, Continued was on the ground. I was so scared and crying and screaming. Tim grabbed me and pulled me away from John. I tried to go back to John but Tim wouldn't let me. He kept pulling me away. Tim pulled me to Don's truck and told me to get in. I was so scared and in shock. Tim closed the door of truck and went back to where John was. I don't know what he did when he went back. When Tim came back to the truck Tim told me that he would kill me and ~~the~~<sup>ms</sup> my kids (Animals) if I told anyone and that I had to be ready to sleep in the shed at his house by Sunday night. Tim followed me out of that place and I am sure he followed me home. I had given Tim the gun back a couple of weeks before the 7<sup>th</sup> of May. I have never shot that gun before. Around the 18<sup>th</sup> of May or so Tim took me for a ride which ended up back at the place where John was and he made me get his head and put it in a bucket then went to a river and Tim tossed it in. Tim was Not suppose to be there that night. Was suppose to be just John and I. I Love John and yes he was a mean mean person most of the time but he did not deserve to die by Tim's hand. This whole situation has caused me alot ~~of~~<sup>ms</sup> mental haem. This past week I found out that Tim is "in love" with me and has been working at ~~the~~ destroying my life over the past 3-4 months. He destroyed my relationship with my landlord, my boyfriend (Kris), my relationship with Don and he hated John. When Tim first met my mom he took her out for breakfast and asked as if almost drilled her for information about me and my past. My mom told him many things about my past such as my moms dad sexually abusing me and the trouble I went thru with that she told Tim about me being in Epworth Children's home and the struggle with that. I feel as though Tim has preyed on my ~~past~~<sup>ms</sup> mental status when it comes to men and he "played" me. I never knew he was in love with me. If I would have I would not of been so close of friends with him. Tim used me for some sick Twisted game

ms  
ms  
ms  
ms

Person giving statement to place initials behind last word of statement as appears on last page.

*Maryel Swift*  
Signature of person giving voluntary statement

June 7, 2011

Lieutenant Robert Dennis,

I have tried to reach you on Phone thru family.  
I would really like to talk to you in person and Revise My  
statement. Please let me know something. I have been trying  
for ~~2~~ over a week now.

Thanks,

Mandy J. Smith



# Lexington County Sheriff's Office

## Missing Person

May 11, 2011

STATE'S EXHIBIT  
#23

NAME: John Henry Mayers

NICKNAME:

CASE #:

11020680

STATUS: Missing

DOB:

AGE:

RACE/SEX:

43

B/M

HT:

WT:

HAIR:

EYES:

5'10"

240 lbs.

Black

Brown

CLOTHING: Blue shirt and blue pants

SCARS/TATTOOS: Scar on forehead to left ear

MEDICAL CONDITIONS: N/A

ADDRESS:

Chapin, SC



LAST SEEN: On 05/07/2011 at 0934 hours at [redacted] Chapin leaving with an unknown person in an unknown vehicle

OTHER: Subject has a drug history

ANYONE HAVING INFORMATION AS TO THE POSSIBLE LOCATION OF THIS INDIVIDUAL ARE REQUESTED TO CONTACT:

Lexington County Sheriff's Department  
521 GIBSON RD  
LEXINGTON, SC 29071  
803-785-8230 or 1-800-274-6357

STATE'S EXHIBIT

#30 EJD



# NEWBERRY COUNTY SHERIFF'S OFFICE

## YOUR RIGHTS

DATE: <u>5-20-11</u>		TIME: <u>1612 Hrs</u>	
NAME: <u>Timothy Carroll Wise</u>		SS#: [REDACTED]	
ADDRESS: [REDACTED]		CITY: <u>Wmng</u>	STATE: <u>SC</u>
HOME PHO: [REDACTED]	WORK PHONE: [REDACTED]	OTHER: [REDACTED]	

I, Timothy C. Wise (please print), am 30 years old. My address is  
 [REDACTED] (street address) Wmng SC 29108 (city, state)  
 I have finished the 16<sup>th</sup> grade in school and Can  / Cannot  read.  
BA Wmng College

### Before we ask you any questions, you must understand your rights.

- You have the right to remain silent. TW**
- Anything you say can and will be used against you in a court of law. TW**
- You have the right to a lawyer for advice before we ask you any questions, and to have him or her present with you during any questioning. TW**
- If you have no money for lawyer's fees, the court will appoint one to represent you without cost to you if you wish. TW**
- If you decide to answer questions now without a lawyer present, you will still have the right to stop the questions at any time. You also have the right to stop answering questions at anytime until you talk with a lawyer. TW**

I have read this statement of my rights, and I understand what my rights are.

[Signature] Signature      5-20-11 Date

### Waiver

I **am** willing to make a statement and answer questions. I **do not** want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me, and no pressure or coercion has been used against me.

[Signature] Signature      5-20-11 Date

Witnessed By: [Signature] Witness Signature      5-20-11 Date

[Signature] Witness Signature      5/20/11 Date



# Lexington County Sheriff's Department Statement Form



DATE 5-20-11 PLACE Newberry SO TIME STARTED 6:35 PM

I, the undersigned, Timothy C. Wise am 30 years of age, my date and place of birth being the 9th day of Jan. 19 81 at Newberry Hospital  
My present address is [REDACTED]

I completed 12 grade(s) in school. I can read and write. TW (Initials)  
+ 4 years

CONTACT NUMBERS: [REDACTED] N/A [REDACTED]

ALTERNATE CONTACT: Name \_\_\_\_\_ Phone Numbers: \_\_\_\_\_

Before answering any questions or making any statements, \_\_\_\_\_

a person who identified him/herself as a Lexington County Sheriff's investigator

duly warned and advised me that:

- 1) I HAVE THE RIGHT TO REMAIN SILENT. TW
- 2) ANYTHING I SAY, CAN AND WILL BE USED AGAINST ME IN A COURT OF LAW. TW
- 3) I HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE ASKED ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH ME DURING QUESTIONING. TW
- 4) IF I HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT ME WITHOUT COST TO ME IF I WISH. TW
- 5) IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, I WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. I ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL I TALK WITH A LAWYER. TW

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. TW I MAKE THE FOLLOWING STATEMENT:

In March 2011, I gave Mandy Smith a 9mm handgun after having a restraining order issued on John Mayer for her self protection. In April, the two of us obtained a Bill of Sale from the Newberry DMV. I was told, that Mr. Mayer was going to sign his car over to her. I filled out the top of the Bill of Sale and told her to get him to sign it and I would help her move it. On the 21st of April, I helped her tow the car to Prosperity Metal. That same week, I was told that Ms. Smith needed to move from 1645A Wheeland School Rd., and that TW

[Signature] WCSJ  
Witness [Signature] WCSJ  
Notary Public \_\_\_\_\_

[Signature]  
Person giving Statement  
5-20-11  
Date

## VOLUNTARY STATEMENT

Page 2 of 2 pages.

She had no where to go. The following week, she and I put a down payment on a storage building for her to put her animals in and offered her a place to stay at my residence. We began moving her belongings to my residence on the Saturday morning before Mother's Day and continued through Wednesday of the following week. That Saturday evening she asked me to call Mr. Mayer around 9:45 pm and tell him that she was gonna be leaving the Chapin/Little Mountain area and that she would be safe and didn't need him around her anymore. He told me that was fine and had stuff to do. I didn't hear from her again until that Sunday afternoon. We continued moving her belongings through Wednesday. On Wednesday afternoon, she returned the handgun I had let her borrow. It had a spent shell case lodged in the chamber primer in. I have since tried to dislodge the shell casing without success. She has been increasingly agitated and paranoid since moving and it is my opinion that she has something to do with Mr. Mayer's disappearance. She has exhibited anger issues since I've known her and in her past, she has had trouble with the law. (TCW)

Q: WHERE WAS MANDY WHEN SHE ASKED YOU TO CALL JOHN?

A: To my knowledge Mandy was at 1645A Wheeland School Rd.

Q: WAS ANYONE WITH MANDY AT THAT LOCATION?

A: To my knowledge, Don Buford was there with her.

Q: DID MANDY TELL YOU ANYTHING ABOUT WHAT HAPPENED TO JOHN?

A: She hasn't told me that anything happened to John.

Q: IS MANDY CAPABLE OF HURTING OR KILLING JOHN MAYER?

A: I feel like she would in self defence.

Q: IF SO, WHAT WOULD MANDY'S MOTIVE FOR HURTING OR KILLING JOHN?

A: Fear or blackout rage would be her sole motive.

Q: DID YOU KILL JOHN MAYER OR HAVE ANY PART IN HIS DISAPPEARANCE?

A: No

TCW

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

WIT: B. [Signature]  
B. [Signature]

[Signature]  
Signature of person giving voluntary statement



Newberry County Sheriff's Office

STATE'S EXHIBIT

31 EVD

Your Rights

DATE: 05-25-11 TIME: 12:31  
 NAME: Timothy C Wise  
 ADDRESS: [REDACTED]  
 HOME PH: [REDACTED]

I, Timothy C Wise (please print), am 30 years old. My address is [REDACTED] (street address) Newberry SC 29108 (city, state)  
 I have finished the 16 grade in school and Can  / Cannot  read.

Before we ask you any questions, you must understand your rights.

**You have the right to remain silent.**

**Anything you say can and will be used against you in a court of law.**

**You have the right to a lawyer for advice before we ask you any questions, and to have him or her present with you during any questioning.**

**If you have no money for lawyer's fees, the court will appoint one to represent you without cost to you if you wish.**

**If you decide to answer questions now without a lawyer present, you will still have the right to stop the questions at any time. You also have the right to stop answering questions at anytime until you talk with a lawyer.**

I have read this statement of my rights, and I understand what my rights are.

[Signature] 5-25-11  
 Signature Date

Waiver

I **am** willing to make a statement and answer questions. I **do not** want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me, and no pressure or coercion has been used against me.

[Signature] 5-25-11  
 Signature Date

Witnessed By: [Signature] 5-25-11  
 Witness Signature Date

[Signature] 5-25-2011  
 Witness Signature Date



# NEWBERRY COUNTY SHERIFF'S OFFICE

## VOLUNTARY STATEMENT

PAGE NO. \_\_\_\_\_ OF \_\_\_\_\_ PAGES

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

PERSONALLY appeared before me Timothy C. Wise, who states:

"My name is Timothy C. Wise. My address is \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_

I completed the 16 grade in school and Can  / Cannot  read and write."

Before answering any questions or making any statements \_\_\_\_\_

a person who identified himself as \_\_\_\_\_ duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any persons whomsoever.

TW On May 8<sup>th</sup>, 2011, I was texted by Ms. Smith and asked to call Mr. Mayers since she didn't have minutes on her phone. I called Mr. Mayers and informed him that Ms. Smith was moving from Wheeland School Road, and that she no longer wanted anything to do with him. I told him that she was going to be safe and that she would be happy. Around 1am on May 8<sup>th</sup>, she texted me saying she was on Brasselman's Bridge Rd, and wanted to get to I-26 from there. I told her which direction to go and told her to let me know when she got home. The following Monday, I learned that Mr. Mayers was missing. I became suspicious of Ms. Smith after she started becoming paranoid. When asked where I thought she might have hidden his body, I thought of Judy B. Rd. off of Brasselman's. I agreed to take deputies there because she and I had been to the end of it before and since she was on Brasselman's the night Mr. Mayers disappeared. TW

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advise or presence of a lawyer before or during any part of this statement, nor any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1252 pm (time) on the 25<sup>th</sup> day of May, 20 11.

SWORN TO AND SUBSCRIBED TO BEFORE  
ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: \_\_\_\_\_

[Signature]  
Signature of person giving voluntary statement

[Signature]  
Witness Signature

[Signature]  
Witness Signature

I certify that I have been given a copy of this statement consisting of \_\_\_\_\_ pages. \_\_\_\_\_  
Signature





# NEWBERRY COUNTY SHERIFF'S OFFICE

## VOLUNTARY STATEMENT

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

PAGE NO. 1 OF 2 PAGES

PERSONALLY appeared before me Lt. Robert Dennis, Timothy Carroll Wise, who states:

"My name is Timothy Carroll Wise. My address is [REDACTED]

Date of Birth [REDACTED] Social Security Number [REDACTED]

I completed the 16<sup>th</sup> grade in school and Can  / Cannot  read and write."

Before answering any questions or making any statements Lt Robert Dennis

a person who identified himself as NCSO Investigator

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements:

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any persons whomsoever.

On May 6th, 2011, I took Mandy to Judy B. Rd. near Maybinton. I took her back to my house, where she retrieved the truck she was driving. She left and returned to her residence on Wheeland School Rd. She texted me and asked me to call Mr. Mayers, and tell him that she was going to Mr. J's on 76 outside Chapin. She texted me back and said that she was headed home, that Mr. Mayers had gone with somebody else. Later that evening, she texted me again and asked me to call Mr. Mayers, and tell him she was going to be at the stop sign beside Mr. J's. I called him and told him and sat down to play cards on the computer. Around 1130pm, she texted me again and said that he was in the truck with her, and to meet them at the end of Judy B. I left my house at 1145pm and went out to the end of Judy B. Rd. and waited approximately 25 minutes. They arrived and we stood around talking for about 30 minutes.

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advise or presence of a lawyer before or during any part of this statement, nor any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 430 pm (time) on the 26<sup>th</sup> day of May, 20 11.

[Signature]  
Signature of person giving voluntary statement

SWORN TO AND SUBSCRIBED TO BEFORE  
ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

[Signature]  
Witness Signature

NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: \_\_\_\_\_

[Signature]  
Witness Signature

I certify that I have been given a copy of this statement consisting of \_\_\_\_\_ pages.  
Signature \_\_\_\_\_

NCSO VOLUNTARY STATEMENT (SUPPLEMENTAL)

STATEMENT of, Continued Timothy Carroll Wise

TW At that point, Mr. Mayers walked away from us towards the woods, Mandy pulled out the gun I had loaned her, and fired, hitting Mr. Mayers in the right shoulder area. He ran from her and tried to get away into the woods, she followed and fired one more time and emerged from the woods a couple minutes later, stating that he wasn't going to bother her anymore, that she could feel safe now. She took a bag of crack off of Mr. Mayers and proceeded to light a pipe. I told her that we needed to go, so after she stopped smoking, we both got into our vehicles and left with her leading the way. When we got to the end of Brasselmanns Brdg. Rd., I texted her and told her to get on I-26. She texted back and asked which way to go and then turned in the right direction. I texted her and told her to let me know when she got home she texted me when she made it home and I didn't hear from her again until around noon the following day when she and Jeff arrived with a truck load of her stuff. We didn't discuss what had happened, but she became increasingly paranoid since a deputy lives next door to me. I believe she told another person, named Kris in St. Stephens. On May 19th, 2001, we returned to the end of Judy B., where Mandy removed the skull from Mr. Mayers' body and then drove to the Tyger River landing on Maybinton Rd., where she threw it and the bucket she had put it in, into the river. After we left, she stated that it wasn't going to do any good, because Mr. Mayers was wearing pants with his name in them. We returned to my house and didn't discuss it again. The following day, deputies took me in for questioning, and while at the Sheriff's office, Mandy left town. TW

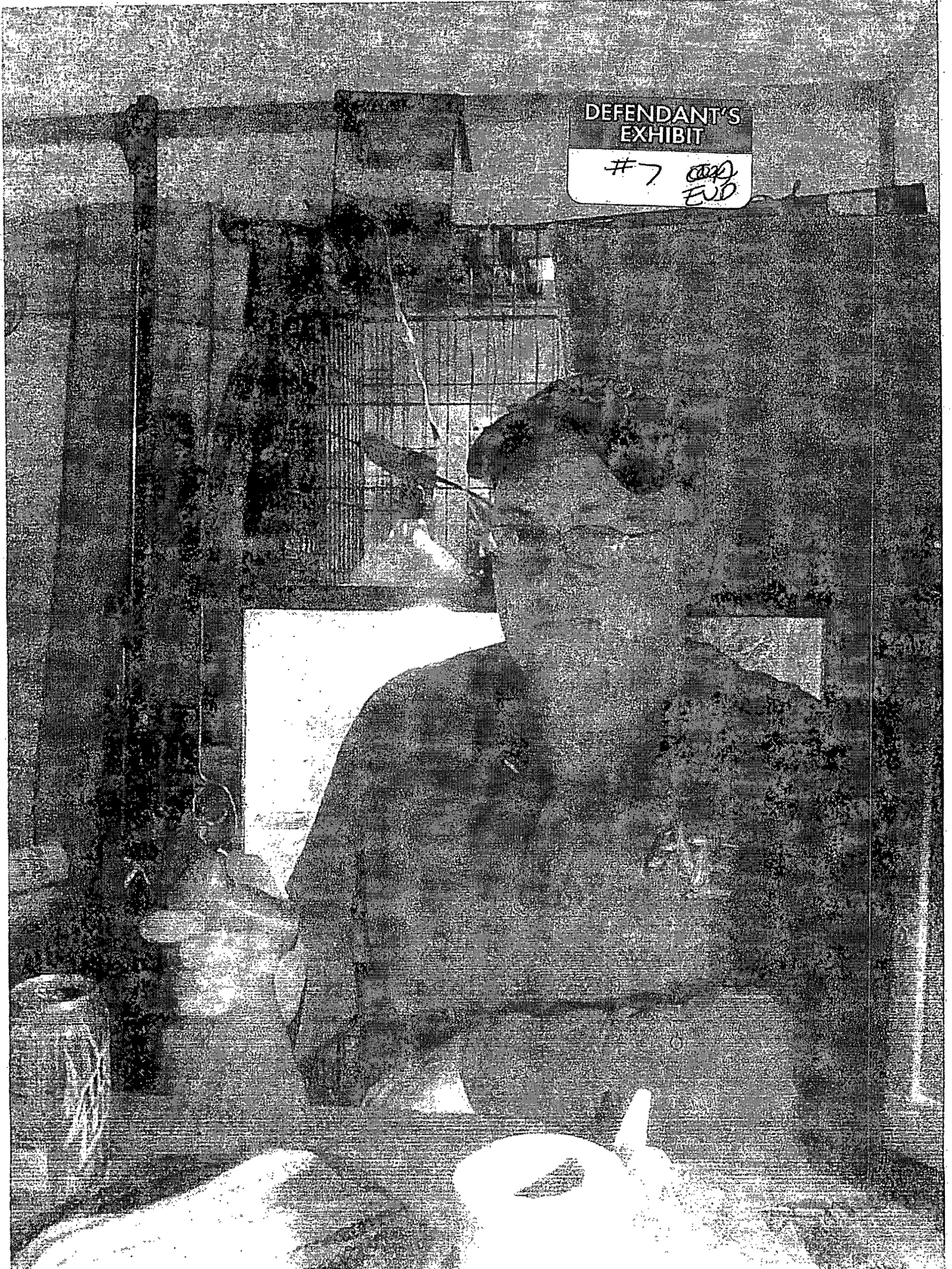
~~TW TW TW TW~~

Person giving statement to place initials behind last word of statement as appears on last page.

*[Handwritten Signature]*  
Signature of person giving voluntary statement

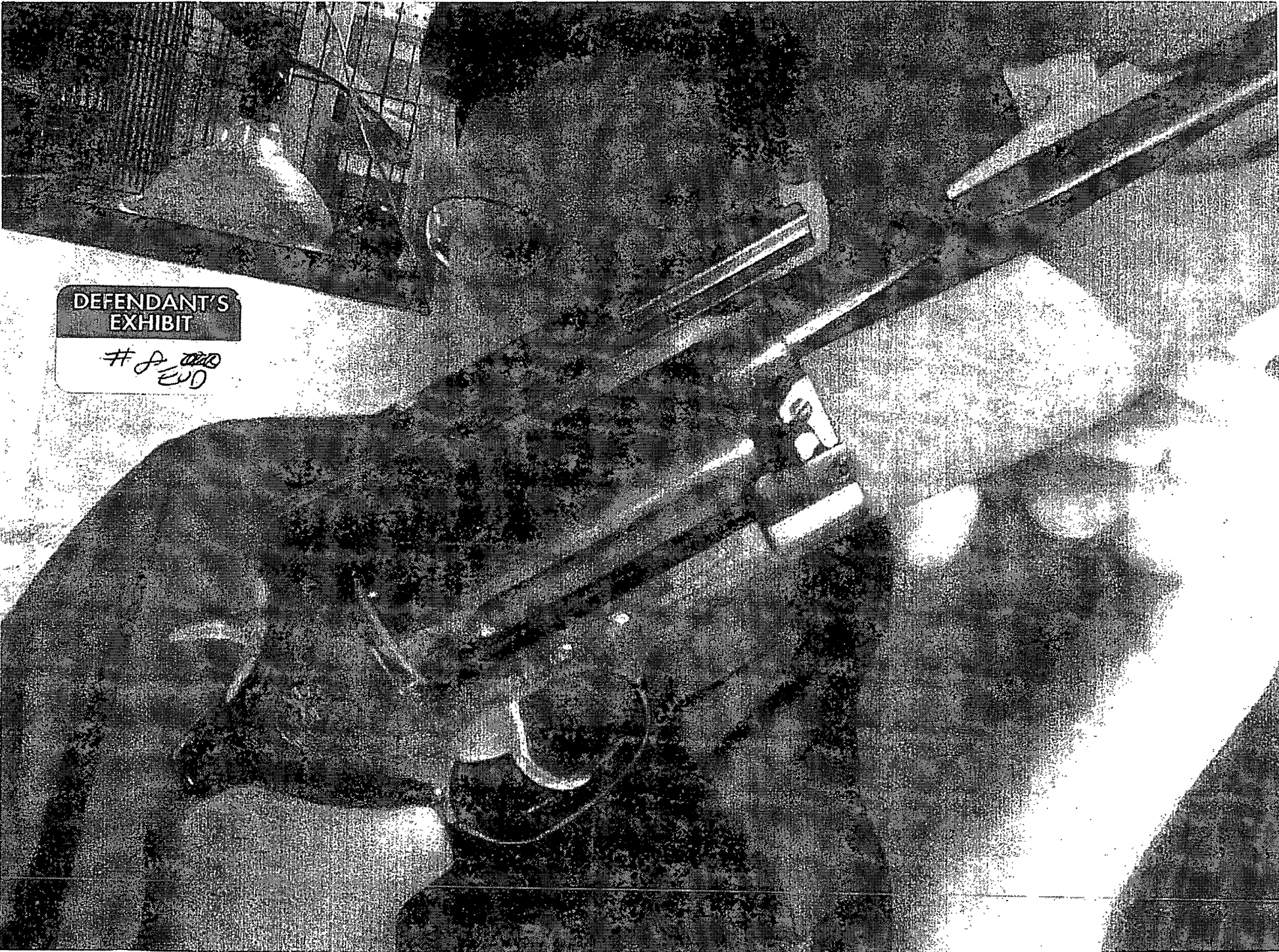
DEFENDANT'S  
EXHIBIT

#7 *QAD*  
EVD



DEFENDANT'S  
EXHIBIT

# *P 1000*  
*EVD*



Can we have a copy of the statement  
regarding The hand of one, Hand of all ?

COURT'S  
EXHIBIT  
#3 10

in agreeing that she is ~~guilty~~  
guilty, is that saying we  
think she actually shot John?

COURT'S  
EXHIBIT

#4 10

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of General Sessions

R. Knox McMahon, Circuit Court Judge

Case No.: 10-GS-36-503 and 10-GS-36-505

~~XXXXXX~~ The State ..... Respondent,

v.

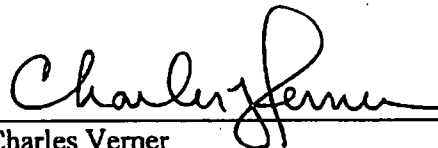
Mandy Lenore Smith ..... Appellant.

FILED  
NEWBERRY COUNTY  
2013 OCT 15 PM 12 09  
JACKIE S. BOWERS  
CLERK OF COURT

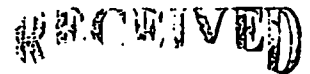
NOTICE OF APPEAL

Mandy Lenore Smith appeals the jury's verdict of guilty on October 11, 2013<sup>1</sup> in Newberry County for the two offenses of Murder and Desecration of Human Remains, in the above trial and the sentences therefore, including the refusal to sentence Defendant under § 16-25-90. Defendant was found Not Guilty on Indictment 10-GS-36-504 (Use of Weapon in a Violent Crime). The appellant was sentenced to forty years imprisonment for Murder and ten years on the Desecration of Human Remains count (consecutive) by the Honorable R. Knox McMahon on October 15, 2013.

October 16, 2013



Charles Verner  
Newberry County Public Defender  
1219 Boyce Street  
P. O. Box 484  
Newberry, South Carolina 29108  
(803) 276-0812  
Attorney for Appellant



OCT 16 2013

SC Court of Appeals

<sup>1</sup> The jury began deliberations on Friday, October 11, 2013, but reached the verdict after midnight on October 12, 2013.

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of General Sessions

R. Knox McMahon, Circuit Court Judge

Case No. 10-GS-36-503 & 505

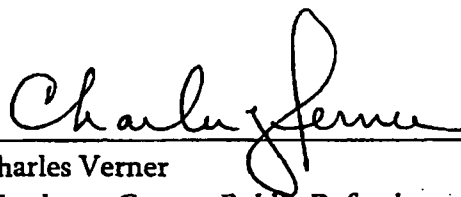
FILED  
NEWBERRY COUNTY  
2013 OCT 15 PM 12 09  
JACKIE S. BOWERS  
CLERK OF COURT

State of South Carolina, . . . . . Respondent,  
v.  
Mandy Lenore Smith, . . . . . Appellant.

PROOF OF SERVICE

I certify that I have served the APPEAL, by mail, postage prepaid to the Honorable David Stumbo, Solicitor of the Eighth Judicial Circuit, Suite 203, Park Plaza, P. O. Box 516, Greenwood, South Carolina 29648, on October 15, 2013; by hand to the Office of the Solicitor at the Newberry County Courthouse, 1309 College Street, Newberry, South Carolina 29108, and to other counsel identified below.

October 15, 2013



Charles Verner  
Newberry County Public Defender  
P. O. Box 484  
Newberry, South Carolina 29108

Other Counsel of Record:

Asst. Dept. Att'y Gen. Sally W. Elliott  
South Carolina Attorney General's Office  
P O Box 11549  
Columbia, South Carolina 29211

RECEIVED  
OCT 16 2013  
SC Court of Appeals

**WITNESSES**

Robert Dennis  
Newberry County Sheriff

**WARRANT NUMBER**

M480852

**TRUE BILL**

*Branda J. Fulmer*

Acting Foreman of the Grand Jury

Date: *8-5-11*

**VERDICT**

*GUILTY*

*Ronald Charles*

Foreman

*10-12-13*

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

**COURT OF GENERAL SESSIONS**

August Term, 2011

Indictment # *11GS36-0505*

**THE STATE**

vs.

Mandy Lenore Smith

**INDICTMENT FOR**

**MURDER**  
16-03-0010

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

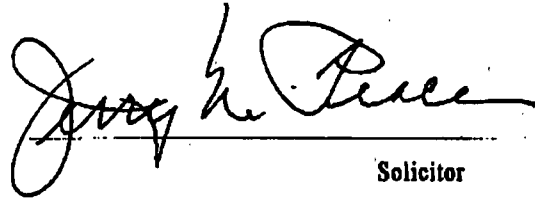
**INDICTMENT FOR**

**MURDER  
16-03-0010**

At a Court of General Sessions, convened on the 5th day of August, 2011 the Grand Jurors of Newberry County present upon their oath:

That Mandy Lenore Smith, did in Newberry County, state aforesaid, on or about the 7th day of May, 2011 willfully, feloniously, and with malice aforethought kill one John Henry Mayers by means of shooting, and that the said John Henry Mayers did die in Newberry County as a proximate result thereof on or about the 7th day of May, 2011, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

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

  
Solicitor

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Newberry )  
STATE VS. )

INDICTMENT/CASE#: 11GS36-0505

Mandy Lenore Smith )

A/W#: M480852

AKA: \_\_\_\_\_ )

Date of Offense: 5/7/2011

Race: W Sex: F Age: 36 )

S.C. Code §: 16-03-0010

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_ )

CDR Code #: 0116

Address: \_\_\_\_\_ )

City, State, Zip: Newberry, SC 29108 )

DL#: \_\_\_\_\_ SID#: \_\_\_\_\_ )

SENTENCE SHEET 30 yrs to life

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

CONVICTED OF or  PLEADS

In disposition of the said indictment comes now the Defendant who was  
TO: Murder / Murder

in violation of § 16-03-0010, of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC)  §17-25-45  
w/minor 1st or Lewd Act

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Scott Dale Sullitor 72105 SC Bar# Mandy Smith Defendant Chandler Attorney for Defendant 10033 SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 40 days/months/years or  under the Youthful Offender Act not to exceed — years  
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment  
of \$ —; plus costs and assessments as applicable\*; the balance is suspended with — probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: 11 65 36 - 0503  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections. Since 25 MAY 2011  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fec: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/F. beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
\*Fine:

§ 14-1-206 (Assessments 107.5%)		\$	<u>04</u>
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	<u>100</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114 (HUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	<u>00</u>
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<u>5</u>
3% to County (if paid in installments)		\$	<u>3</u>
TOTAL:		\$	<u>133 90</u>

Appointed PD or appointed other counsel,  
47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk Elyse  
Court Reporter: Anna Scott

Presiding Judge [Signature]  
Judge Code: 2145  
Sentence Date: 14 Oct 13

**WITNESSES**

Robert Dennis  
Newberry County Sheriff

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

**COURT OF GENERAL SESSIONS**

August Term, 2011

Indictment #. 11GS36-0503

**WARRANT NUMBER**

11-INFO-36-0029

**THE STATE**

vs.

Mandy Lenore Smith

**TRUE BILL**

*Dennis F. Fulmer*

Acting Foreman of the Grand Jury

Date: 8-5-11

**INDICTMENT FOR**

**DESECRATION OF HUMAN REMAINS**

16-17-0600

**VERDICT**

Guilty

*Ronald C. Chatter*

Foreman

10-12-13

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

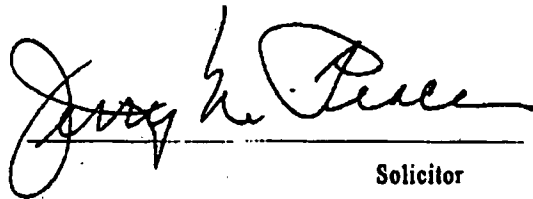
**INDICTMENT FOR**

**DESECRATION OF HUMAN REMAINS  
16-17-0600**

At a Court of General Sessions, convened on the 5th day of August, 2011 the Grand Jurors of Newberry County present upon their oath:

That Mandy Lenore Smith, did in Newberry County, state aforesaid, on or about the 18th day of May, 2011 willfully, unlawfully and knowingly, and without proper legal authority, the said defendant did destroy or damage the remains of a deceased human being; and/or did remove a portion of the remains of a deceased human being from a burial ground where human skeletal remains are buried; and/or desecrated human remains, to wit: that the said defendant did cut off the head of the deceased John Henry Mayers, and throw the head into the river, in violation of Section 16-17-600 of the South Carolina Code of Laws, 1976, as amended.

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

  
Solicitor

1108

STATE OF SOUTH CAROLINA

COUNTY OF Newberry VS. STATE

Mandy Lenore Smith

AKA:

Race: W Sex: F Age: 36

DOB:

Address:

City, State, Zip: Newberry, SC 29108

DL#: SID#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Graves / Destruction, desecration or removal of human remains

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 11GS36-0503

A/W#: 11-INFO-36-0029

Date of Offense: 5/7/2011

S.C. Code § : 16-17-0600(A)

CDR Code #: 0471

SENTENCE SHEET - 10 yrs and/or ≤ \$5K

CONVICTED OF or PLEADS

in violation of § 16-17-0600(A) of the S.C. Code of Laws, bearing CDR Code # 0471
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Scott, Date Solicitor SC Bar# 72105 Mandy Smith Defendant Attorney for Defendant SC Bar# 10533

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 1165 36-0505
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Recipient:

\*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90

Appointed PD or appointed other counsel, 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Elizabeth P. Hall
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge
Judge Code:
Sentence Date: 14 Oct 12

**WITNESSES**

Robert Dennis  
Newberry County Sheriff

**WARRANT NUMBER**

11-INFO-36-0030

**TRUE BILL**

*Brenda F. Fulmer*  
Acting Foreman of the Grand Jury  
Date: 8-5-11

**VERDICT**

NOT GUILTY  
*Ronald C. Smith*  
Foreman  
10-12-13

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

**COURT OF GENERAL SESSIONS**

August Term, 2011  
Indictment # 11GS36- 0504

**THE STATE**

vs.  
Mandy Lenore Smith

**INDICTMENT FOR**

**POSSESSION OF A WEAPON  
DURING THE COMMISSION OF  
A VIOLENT CRIME  
16-23-0490**

**THE STATE OF SOUTH CAROLINA**

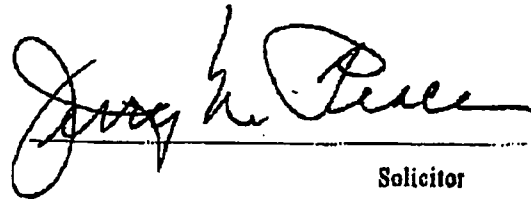
**COUNTY OF NEWBERRY**

**INDICTMENT FOR  
POSSESSION OF A WEAPON  
DURING THE COMMISSION OF  
A VIOLENT CRIME  
16-23-0490**

At a Court of General Sessions, convened on the 5th day of August, 2011 the Grand Jurors of Newberry County present upon their oath:

That Mandy Lenore Smith, did in Newberry County, state aforesaid, on or about the 27th day of May, 2011 possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Murder, or any lesser included violent offense, in violation of Section 16-23-490 of the South Carolina Code of Laws, 1976, as amended.

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

  
Solicitor

## 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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

April 27th, 2015



Laura R. Baer  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT