

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CLARENDON COUNTY

William Jeffrey Young, Circuit Court Judge

RECEIVED  
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JONATHAN CODY NEWMAN,

APPELLANT

APPELLATE CASE NO. 2015-000091

RECORD ON APPEAL

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INDEX

INDEX.....i

TRIAL TRANSCRIPT (dated January 6-9, 2015) ..... 1

OPENING BY THE COURT .....5

OPENING STATEMENT BY MR. DURANT ..... 14

OPENING STATEMENT BY MR. CARTER ..... 17

OPENING STATEMENT BY MR. DEVOE ..... 21

TESTIMONY

    JASON THOMPSON ..... 24

    LEON COLEMAN..... 39

    MONTAG WEBB ..... 55

    KEVIN SLATER..... 150

    AMY DURSO ..... 190

    SONIA DANIELS ..... 207

    ERIC ROSDALL..... 260

    MARK ALLEN JONES ..... 286

EXPLANANTION OF FIFTH AMENDMENT RIGHTS TO MR. NEWMAN ..... 297

EXPLANANTION OF FIFTH AMENDMENT RIGHTS TO MR. SAMUELS ..... 299

MOTION FOR A DIRECTED VERDICT ON ISSUE OF BURGLARY BY MR. CARTER ..... 302

RESPONSE BY MR. FINNEY ..... 304

RESPONSE BY MR. CARTER..... 304

RULING BY THE COURT .....	306
MOTION FOR A DIRECTED VERDICT ON MURDER CHARGE BY MR. CARTER.....	306
RESPONSE BY MR. FINNEY .....	308
RESPONSE BY MR. CARTER.....	309
RULING BY THE COURT .....	309
RESPONSE BY MR. DEVOE .....	310
RESPONSE BY MR. FINNEY .....	311
RULING BY THE COURT .....	311
TESTIMONY	
JONATHAN CODY NEWMAN .....	312
TESTIMONY	
LETROY SAMUELS.....	372
SONIA DANIELS.....	418
MOTION BY MR. CARTER.....	422
RESPONSE BY MR. FINNEY .....	422
RULING BY THE COURT .....	423
RENEWED MOTIONS BY MR. CARTER.....	423
RULING BY THE COURT .....	423
CHARGE CONFERENCE.....	424
CLOSING ARGUMENT BY MR. DURANT .....	427
CLOSING ARGUMENT BY MR. CARTER.....	435
CLOSING ARGUMENT BY MR. DEVOE.....	464
REPLY CLOSING BY MR. FINNEY .....	468
JURY CHARGE.....	479

VERDICT .....	495
RESPONSE BY MR. DURANT .....	498
RESPONSE BY MR. CARTER.....	499
STATEMENT FROM CHRISTOPHER JOHN NEWMAN .....	502
RESPONSE BY MR. FINNEY .....	503
SENTENCING OF JONATHAN CODY NEWMAN .....	504
PRE-TRIAL TRANSCRIPT (dated January 5, 2015).....	507
JURY QUALIFICATION .....	509
STRIKING OF THE JURY .....	522
<u>JACKSON V. DENNO HEARING</u> .....	536
TESTIMONY	
SONIA DANIELS .....	536
INDICTMENT .....	562
CERTIFICATE OF COUNSEL.....	564

1 point of an expectation of a home evasion would be, you  
2 know, there just wasn't, and however, the jury found they  
3 planned to go in and rob this man out of his house and  
4 home, rob him of his money. If the Court believes there  
5 was a plan to rob him of a gun or take a gun from him,  
6 again, the traditional sense of a burglary, the  
7 traditional sense of somebody plotting and planning and  
8 actually killing and committing a murder. That just  
9 wasn't the plan. That's not even what they expected to  
10 happen. That's not --- I mean it is what happened but  
11 we'd ask the Court to give that some consideration. They  
12 are bound by the results of their action. But it just  
13 wasn't something that they plotted and planned. As the  
14 Court received the testimony, His Honor, heard the  
15 testimony, you know, he was breathing at all times and if  
16 the court believes that he was there they left him  
17 breathing knowing he was breathing. If you take the  
18 testimony of Mr. Slater, who says that he was gargling a  
19 little bit and if they were trying to kill him they would  
20 not have allowed that actually be what was left. I'd ask  
21 the Court to look at what kind of murder this is. What  
22 kind of a burglary that it is and consider the fact that  
23 he has no prior records. No prior convictions in his  
24 adult life. He really was just getting started out in  
25 life because he was 19 years old when he went to jail and

1 he's been there almost 2 years now and I'd ask the Court  
2 to give that consideration. Thank you, sir.

3 The Court: Would any of his family members like to  
4 speak?

5 Mr. Newman: I would, sir.

6 The Court: State your name for the record.

7 Mr. Newman: My name is Christopher John Newman. I'm  
8 Jonathan's father. I was stationed here many years ago.  
9 I left her in PCS to the Air Force Base and Jonathan  
10 accompanying me there. I sent him here when he was 15  
11 years old to live with his mother. I took the approach  
12 raising Jonathan just as my father took with me. If you  
13 can't help someone by all means don't hurt them. I think  
14 Jonathan always practiced that. He always lived by that  
15 means. The night in question, I don't --- I can only  
16 speculate what happened. I wasn't there. I don't know.  
17 But I can tell you that the Jonathan that I know, the  
18 Jonathan that I raised wouldn't just go and hurt someone  
19 like that. He would do anything in his power to help  
20 them. I would just ask the Court to have mercy in  
21 sentencing him. Thank you for your time, sir.

22 The Court: Thank you. Would your client like to say  
23 anything?

24 Mr. (Jonathan) Newman: No, sir.

25 The Court: Anything further from the Solicitor?

1           Mr. Finney: Judge, Chris and I have spoken together  
2 a minute ago about recommending. On behalf of the State  
3 we worked very hard to resolve this case with Mr. Newman  
4 and his lawyer before trial at a lower level than murder  
5 and we were not able to do that. Obviously, once we  
6 tried the case and got everything we were on the record,  
7 we were very acceptable that Mr. Webb and Mr. Newman  
8 planned this event, went in the house and that the  
9 consequences were that Mr. Wimberly died. I don't, I  
10 don't object to the Court giving him some leniency  
11 because of his age and his lack of prior record. I  
12 certainly would think that with a minimum of thirty years  
13 on the murder and a minimum of fifteen on the burglary  
14 he's looking at consecutive time for that because there  
15 were two distinct acts because he could have broken in  
16 without hurting the man, he could have hurt the man  
17 without breaking in, he did both. We are not objecting  
18 to that but we do feel that since the jury has found him  
19 guilty of murder, he had an opportunity to resolve it on  
20 a lower level that he should be given a substantial ...

21           The Court: Well, the Court does not punish someone  
22 for exercising their constitutional right to go to trial.

23           Mr. Finney: No, sir. That's right.

24           The Court: All right. Anything further?

25           Mr. Finney: No, sir.

1           The Court: I've listened to the testimony over this  
2 last five days and it's a been a long and hard trial.  
3 Again, I've done a lot of murder trials but this was just  
4 the inhumanity of everybody involved. It's just  
5 horrible. For the neighbors who new this man was  
6 unconscious, to not do anything. There's no law that  
7 makes them do something but it certainly bothers me that  
8 we have humans in our society who walk around who even  
9 wouldn't pick up the telephone to call to help this man.  
10 Had it happened, there's a possibility that this may have  
11 been an attempted murder situation, but that in no way  
12 lessens what the jury has found this defendant guilty of.  
13 No question that what the jury found was that he threw  
14 the punch and it put the man unconscious to the point  
15 that he died two months later. And nobody was forcing.  
16 This was certainly appeared to be a common scheme and  
17 plan between these two defendants and the jury found that  
18 Mr. Samuels was really kind of where he shouldn't have  
19 been. In this situation I certainly don't think this  
20 warrants the maximum sentence of life but it certainly  
21 does not warrant the minimum sentence of thirty years.

22           I find that this defendant shall be sentenced to the  
23 State Department of Corrections for a period of thirty-  
24 five (35) years on the Murder charge and on the Burglary  
25 charge he shall be sentenced to the State Department of

1 Corrections for a period of thirty (30) years. So,  
2 that's thirty-five and thirty. Because they all happened  
3 within probably a two to three minute time frame I'm  
4 going to run the sentences concurrent. That's the  
5 sentence of the Court on Mr. Jonathan Cody Newman.

6 **(This ends this hearing for the week)**  
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**CERTIFICATE**

This is to certify that the transcript in the matter of Jonathan Cody Newman vs. The State of South Carolina, consisting of Five Hundred Six (506) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 23rd day of August, 2015.

Melina R. Singletary

Melissa R. Singletary  
Certified Court Reporter

STATE OF SOUTH CAROLINA)  
 )  
 COUNTY OF CLARENDON )

IN THE COURT OF  
 GENERAL SESSIONS

STATE OF SOUTH CAROLINA)  
 )  
 STATE, )

v. )

TRANSCRIPT OF RECORD  
 13-GS-14-0293

JONATHAN C. NEWMAN, )  
 AND LETROY SAMUELS )  
 \_\_\_\_\_ )  
 DEFENDANT. )

January 5, 2015  
 Manning, South Carolina

**B E F O R E :**

THE HONORABLE W. JEFFREY YOUNG, JUDGE;  
 AND JURY

**A P P E A R A N C E S:**

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 Solicitor

CHRISTOPHER R. DURANT, ESQ.  
 Assistant Solicitor

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**INDEX**

	Page
Qualifying of jury panel	3
Striking of the jury	16
Jackson v. Denno hearing	30
Sonia Daniels	30

**EXHIBITS**

## COURT'S:

No.	Description	Page
1	Interview transcript of Samuels	47

1 THE COURT: All right, Solicitor.

2 MR. FINNEY: Your Honor, the State of  
3 South Carolina calls the State versus Jonathan Cody  
4 Newman and Letroy Samuels, indictment number  
5 2013-GS-14-293, and both defendants are charged with  
6 murder and burglary in the first degree.

7 THE COURT: All right, thank you.

8 Ladies and gentlemen, I'm sorry for the  
9 delay but we had to do some preliminary things and I  
10 just -- we're ready to take on this case of Jonathan  
11 Cody Newman and Letroy Samuels. They are charged  
12 with murder and burglary in the first degree and the  
13 indictment reads as follows: That Jonathan Cody  
14 Newman and Letroy Samuels did in Clarendon County on  
15 or about May 26th, 2013, willfully and feloniously  
16 and intentionally kill the victim Anthony Wimberly  
17 with malice aforethought, either expressed or  
18 implied, by severely beating the victim and the  
19 victim did die as a proximate result of the injuries  
20 then and there sustained on or about July 29th,  
21 2013, in Clarendon County in violation of Section  
22 16-3-10 of the South Carolina Code of Laws. Count  
23 two reads that Jonathan Cody Newman and Letroy  
24 Samuels did in Clarendon County on or about  
25 May 26th, 2013, enter the dwelling of Anthony

1 Wimberly located at  
2 Manning, South Carolina, without consent and with  
3 the intent to commit a crime therein and the  
4 entering or remaining in the dwelling occurred in  
5 the night time or when effecting entry or while in  
6 the dwelling or any immediate flight the defendants  
7 caused physical injury to a nonparticipant in the  
8 crime and/or were armed with a deadly weapon or did  
9 use or threaten the use of a dangerous instrument  
10 all in violation of Section 16-11-311(a) of the  
11 South Carolina Code of Laws. Now Ladies and  
12 Gentlemen, let me remind you, the fact that the  
13 defendants were arrested, charged, and indicted in  
14 no way is indicative that they are guilty of these  
15 charges. Ladies and gentlemen, the defendants have  
16 pled not guilty; and therefore, the State has the  
17 burden of proving each and every allegation of each  
18 charge beyond a reasonable doubt.

19 Now ladies and gentlemen, one of the  
20 reasons I'm gonna remind you that you are still  
21 under oath and one of the reasons that you're under  
22 oath as I ask these questions is because this is  
23 such a crucial stage of the trial. You know, just  
24 like a building must have a firm foundation to be  
25 strong and protective of those who live in it, so

1 must a jury be strong as the basis of a fair and  
2 impartial trial for those who participate, the  
3 solicitor for the State and the defendants who are  
4 on trial. And your answers to these questions will  
5 be the foundation by which these attorneys build a  
6 jury and they're relying on your truthful answers to  
7 these questions to help them strike an unbiased jury  
8 who will diligently and listen to the facts and  
9 deliver a just verdict. So ladies and gentlemen,  
10 thank you again for your complete and truthfulness  
11 as I ask you these questions.

12           The first question is, has any member of  
13 the jury panel ever been related by blood or  
14 marriage or had a close personal or business  
15 relationship with the defendant Jonathan Cody Newman  
16 would you please stand, or Letroy Samuels, please  
17 stand, or the alleged victim Anthony Wimberly, if so  
18 please stand.

19           Y'all may be seated now.

20           (There was no response.)

21           THE COURT: All right, thank you, no one  
22 is standing. Ladies and gentlemen, this is a list  
23 of possible witnesses in this case and I'll go  
24 through the whole list and then I'll ask you some  
25 questions. Lieutenant Sonia Daniels of the Manning

1 Police Department, Corporal Jason Thompson of the  
2 Manning Police Department, Investigator Eric Rosdail  
3 of the Clarendon County Sheriff's Office, Lester  
4 Lemon, Yolanda Torres, Kevin Slater, Montag Webb,  
5 Doctor Mark Jones, Doctor Amy Durso, and Leon -- is  
6 that Olderman?

7 MR. FINNEY: Coleman.

8 THE COURT: Leon Coleman. Has any member  
9 of the jury panel ever been related by blood or  
10 marriage or have a close personal or business  
11 relationship with any of these potential witnesses,  
12 if so, please stand.

13 (There was no response.)

14 THE COURT: Thank you, no one is standing.  
15 Ladies and gentlemen, the attorneys who will be  
16 handling this case will be Solicitor Chip Finney and  
17 Mr. Chris Durant.

18 Mr. Finney, would you like to introduce  
19 your staff?

20 MR. FINNEY: Thank you, Your Honor. My  
21 name is Chip Finney, I'm the Solicitor. My main  
22 office is in Sumter although we also have an office  
23 in Clarendon. Chris Durant runs the office in  
24 Clarendon. He's also a part-time lawyer with  
25 William Johnson in a private law firm.

1           THE COURT: Mr. Devoe, would you like to  
2 introduce yourself?

3           MR. DEVOE: Thank you, Your Honor. My  
4 name is Harry Devoe; I'm a private attorney. You  
5 can tell from my accent I'm not from here  
6 originally. My wife is from Clarendon County. I  
7 went to law school in Virginia so I don't think  
8 so that on my Clements tried Samuels innocent  
9 charges and happy to have this trial. Thank you.

10          THE COURT: Mr. Carter, would you like to  
11 introduce yourself?

12          MR. CARTER: Thank you, Your Honor. My  
13 name is Eleazer Carter. I'm from right here in  
14 Manning, South Carolina. I'm actually from  
15 Summerton, South Carolina, but I practice here,  
16 right here in town, Manning, South Carolina, and I'm  
17 representing Mr. Jonathan Cody here and we really  
18 appreciate having the opportunity to present our  
19 case to you so that you can review it and make a  
20 correct decision. Thank you very much.

21          THE COURT: Thank you.

22                Ladies and gentlemen, has any member of  
23 the jury panel ever been related by blood or  
24 marriage or had a close, personal, or business  
25 relationship or ever been represented by any of

1 these attorneys, if so, please stand.

2 (There was no response.)

3 THE COURT: Thank you, no one is standing.  
4 Has any member of the jury formed or expressed an  
5 opinion about any issue or matter involved in this  
6 case or anybody who knows anything about this case,  
7 please stand at this time.

8 (There was no response.)

9 THE COURT: Thank you. No one is  
10 standing. Has any member of the jury panel ever  
11 been the victim of or charged with a violent crime,  
12 if so, please stand.

13 (There was no response.)

14 THE COURT: Thank you. No one is  
15 standing. Is any member of the jury panel aware of  
16 any bias or prejudice towards either the State or  
17 any of the defendants in this case, if so, please  
18 stand.

19 (There was no response.)

20 THE COURT: Thank you. No one is  
21 standing. Is there any member of the jury panel who  
22 is also a member of the grand jury that indicted  
23 this case, if so, please stand.

24 (There was no response.)

25 THE COURT: Thank you. No one is

1 standing. Is there any member of the jury panel who  
2 is a member of or a contributor to any group which  
3 has as its primary concern the promotion of law  
4 enforcement, and these groups would include but  
5 certainly would not be limited to, Mother's Against  
6 Drunk Drivers, Students Against Drunk Drivers, or  
7 Citizens Against Violent Crime. If so, please  
8 stand.

9 (There was no response.)

10 THE COURT: Thank you. No one is  
11 standing. Does any member of the jury panel know of  
12 any reason whatsoever why he or she should not serve  
13 as a juror in this case with particular emphasis  
14 being placed on your ability to be fair and  
15 impartial to both the State and the Defendant, if  
16 so, please stand.

17 (There was no response.)

18 THE COURT: Yes, ma'am, come forward  
19 please.

20 (Potential juror approached the Bench for an  
21 on-the-record discussion.)

22 THE BAILIFF: Juror number 139.

23 THE POTENTIAL JUROR: I know that King  
24 Cutter has been working on this case and he is  
25 working on this case as a public defender, and he is

1 a client and good friend of mine.

2 THE COURT: Okay, but he's not on this  
3 particular case.

4 THE POTENTIAL JUROR: Oh, I thought he  
5 was.

6 THE COURT: Well, I mean, he's not on this  
7 trial.

8 THE POTENTIAL JUROR: Okay. Okay.

9 THE COURT: You think you can be fair and  
10 impartial?

11 THE POTENTIAL JUROR: Oh, yeah.

12 MR. CARTER: What's the juror number?

13 THE COURT: What's your juror number?

14 THE POTENTIAL JUROR: 139.

15 (End of on-the-record Bench conference.)

16 THE BAILIFF: Juror number 3.

17 THE COURT: Yes, ma'am, state your name  
18 and number for the court reporter.

19 THE POTENTIAL JUROR: Angela Aguirre,  
20 number 3.

21 THE COURT: Yes, ma'am.

22 THE POTENTIAL JUROR: I do know the  
23 defendant and also one of the witnesses.

24 THE COURT: You know one of the  
25 defendant's? Why didn't you say something earlier?

1 THE POTENTIAL JUROR: Well, I don't  
2 personally know him or have a relation, but I do  
3 know him as high school friends so I just wanted to  
4 run that by you.

5 THE COURT: Do you think you can -- you  
6 knew him in high school, you still think you can be  
7 fair and impartial and listen to the evidence in  
8 this case?

9 THE POTENTIAL JUROR: Well, that's the  
10 thing, I know his father to be a friend's child. I  
11 don't know if my emotions or sentiments would be  
12 involved in that.

13 THE COURT: You don't think you can be  
14 fair and impartial?

15 THE POTENTIAL JUROR: I don't think so.

16 THE COURT: I'll strike her for cause  
17 then. Thank you.

18 THE POTENTIAL JUROR: Thank you.

19 (End of on-the-bench discussion.)

20 THE BAILIFF: Juror number 25.

21 (Potential juror approached the Bench for an  
22 on-the-record discussion.)

23 THE COURT: Good morning. What's your  
24 name?

25 THE POTENTIAL JUROR: My name is Joyce

1 Conyers, number 25.

2 THE COURT: Joyce Conyers, yes, ma'am.

3 THE POTENTIAL JUROR: I went to school  
4 with him and stuff.

5 THE COURT: The fact you went to school  
6 with the defendant, one of the defendants, make it  
7 so that you can't be fair and impartial to the State  
8 or the Defendant in this case?

9 THE POTENTIAL JUROR: No, that doesn't  
10 make it.

11 THE COURT: You think you can be fair and  
12 impartial and listen to the evidence?

13 THE POTENTIAL JUROR: Yes.

14 THE COURT: Okay, very good. Thank you,  
15 ma'am.

16 (End of on-the-record Bench discussion.)

17 THE BAILIFF: Juror 106.

18 (Potential juror approached for an on-the-record  
19 discussion.)

20 THE COURT: Yes, sir, what's your name  
21 again?

22 THE POTENTIAL JUROR: My name is Amin  
23 Paumilbhai.

24 THE COURT: Yes, sir.

25 THE POTENTIAL JUROR: I know the boy but I

1 don't know his name. His momma, she was my regular  
2 customer coming to my gas station and I know them  
3 that way.

4 THE COURT: By the fact that you've seen  
5 them around town, know him, or know him as a  
6 customer, could you still be fair and impartial,  
7 listen to the evidence, and make your decision based  
8 upon the evidence?

9 THE POTENTIAL JUROR: Actually, I'm not  
10 sure what I -- two things, because I know why the  
11 boy is here, and I don't want to do like, you know,  
12 might be, you know ---

13 THE COURT: He says he can't be fair and  
14 impartial so I'm gonna let you sit this one out and  
15 we may call you for another one. Thank you.

16 (End of on-the-record Bench discussion.)

17 THE BAILIFF: Juror number 92.

18 (Potential juror approached the Bench for an  
19 on-the-record Bench discussion.)

20 THE COURT: Yes, ma'am, what's your name?

21 THE POTENTIAL JUROR: Janice McFadden.

22 THE COURT: Ms. McFaddin, yes, ma'am.

23 THE POTENTIAL JUROR: I just want to make  
24 sure that it would be okay to serve as a juror  
25 because I used to be with child protective service

1 as supervisor for Clarendon DSS and certainly in the  
2 past I've heard cases of a different nature in front  
3 of you.

4 THE COURT: But could you listen to the  
5 evidence in this case and make your decision solely  
6 on the evidence that's presented in this case?

7 THE POTENTIAL JUROR: Yes, sir, I could do  
8 that.

9 THE COURT: All right, then you're  
10 qualified.

11 (End of on-the-record Bench discussion.)

12 THE BAILIFF: Juror 101.

13 (Potential juror approached the Bench for an  
14 on-the-record discussion.)

15 THE COURT: Good morning, what's your  
16 name, sir?

17 THE POTENTIAL JUROR: Eddie Myers. I  
18 heard y'all mention Montag Webb and I've known his  
19 family and sisters, went to school together for a  
20 while.

21 THE COURT: He's a potential witness.

22 THE POTENTIAL JUROR: He is a potential  
23 witness so.

24 THE COURT: But could you listen to the  
25 evidence in this case and make your decision based

1 upon the evidence?

2 THE POTENTIAL JUROR: I'd do my best, yes,  
3 sir.

4 THE COURT: So that will be a yes?

5 THE POTENTIAL JUROR: Yes, sir.

6 THE COURT: Thank you.

7 THE POTENTIAL JUROR: 101.

8 THE COURT: Thank you, Mr. Myers.

9 Does the State have additional questions  
10 that would like for me to ask?

11 MR. FINNEY: No, sir, Your Honor.

12 THE COURT: Does Defense have any  
13 additional questions you'd like for me to ask?

14 MR. CARTER: None, Judge.

15 THE COURT: Mr. Devoe?

16 MR. DEVOE: None, Your Honor.

17 THE COURT: Ladies and gentlemen, what's  
18 gonna happen now is the computer is going to  
19 generate a list of names. If your name is called  
20 please come forward, stand up here by the podium and  
21 face the other jurors. The State and the Defense  
22 will have an opportunity to strike you. Please  
23 don't take it personally if you're stricken from  
24 this case. Each side has an idea as to what would  
25 be the best jury for them, and they can strike you

1 for any reason or no reason except for they can't  
2 strike you for your gender or your race. And when  
3 you come forward please bring your personal items in  
4 case you're selected as a juror, then you'll go  
5 straight to the jury box. All right.

6 MR. CARTER: Your Honor...

7 THE COURT: Yes.

8 (WHEREUPON, counsel approached the Bench for an  
9 off-the-record discussion.)

10 THE CLERK OF COURT: Ladies and gentlemen  
11 of the jury, as I call your name come through the  
12 aisle here, walk up to the desk, turn around and  
13 face the tables and I'll tell you what to do. Okay.  
14 All right, number 103, Tina M. Ocasio (white  
15 female). Turn around and face those tables. Stand  
16 there till I tell you what to do.

17 What saith the State?

18 MR. FINNEY: Please swear the juror.

19 THE CLERK OF COURT: What say the Defense?

20 THE COURT: Be specific as to which..

21 THE CLERK OF COURT: Defendant Newman.

22 MR. CARTER: Seat the juror.

23 MR. DEVOE: Please swear this juror for  
24 this trial.

25 THE CLERK OF COURT: You may have a seat

1 in the jury box, ma'am.

2 Number 92, Janice McFaddin (white female).

3 What say the State?

4 MR. FINNEY: Please swear the juror.

5 THE CLERK OF COURT: What say Defendant  
6 Newman?

7 MR. CARTER: Defendant Newman strikes the  
8 juror.

9 THE CLERK OF COURT: Okay, have a seat  
10 back in the jury panel.

11 MR. CARTER: That was number 91?

12 THE CLERK OF COURT: Number 92.

13 Number 105, Timothy P. Oliver (white  
14 male).

15 MR. CARTER: What number?

16 THE CLERK OF COURT: 105. What say the  
17 State?

18 MR. FINNEY: Please swear the juror.

19 THE CLERK OF COURT: Defendant Newman?

20 MR. CARTER: Seat the juror.

21 THE CLERK OF COURT: Defendant Samuels.

22 MR. CARTER: Please strike this juror for  
23 trial.

24 THE CLERK OF COURT: You may have a seat  
25 back with the jury panel.

1           Number 46, Christen N. Floyd (white  
2 female). What says the State?

3           MR. FINNEY: Please swear the juror.

4           THE CLERK OF COURT: Defendant Newman?

5           MR. CARTER: Swear the juror. Seat the  
6 juror.

7           THE CLERK OF COURT: Samuels?

8           MR. DEVOE: Please strike this juror from  
9 this trial.

10          THE CLERK OF COURT: Have a seat back in  
11 the jury pool, thank you.

12          Number 84, Kerri A. Mankin (white female).  
13 Number 84, what say the State?

14          MR. FINNEY: Please swear the juror.

15          THE CLERK OF COURT: What says Newman?

16          MR. CARTER: Yes, swear the juror.

17          THE CLERK OF COURT: Samuels?

18          MR. DEVOE: Please swear the juror.

19          THE CLERK OF COURT: Number 43, Nicholas  
20 Erickson (white male). What say the State?

21          MR. FINNEY: Please swear the juror.

22          THE CLERK OF COURT: Defendant Newman?

23          MR. CARTER: Strike the juror.

24          THE CLERK OF COURT: You may have a seat  
25 back in the jury pool, sir.

1           Number 135, Steven Walls (white male),  
2 135. What says the State?

3           MR. FINNEY: Please swear the juror.

4           THE CLERK OF COURT: Defendant Newman?

5           MR. CARTER: Seat the juror.

6           THE CLERK OF COURT: Defendant Samuel?

7           MR. DEVOE: Please swear this juror.

8           THE CLERK OF COURT: Have a seat in the  
9 jury box.

10           Number 121, Joanne Simpson (white female).  
11 What say the State?

12           MR. FINNEY: Please swear the juror.

13           THE CLERK OF COURT: Defendant Newman?

14           MR. CARTER: Please seat the juror.

15           THE CLERK OF COURT: Have a seat in the  
16 jury box.

17           Number 51, Lonnie W. Freeman (white male).  
18 What says the State?

19           MR. FINNEY: Please swear the juror.

20           THE CLERK OF COURT: Defendant Newman?

21           MR. FINNEY: What number was that,  
22 Ms. Roberts?

23           THE CLERK OF COURT: That's number 51.

24           MR. CARTER: Strike the juror.

25           THE CLERK OF COURT: You may have a seat

1 back in the jury pool.

2 Number 61, Krishauna D. Hart (black  
3 female). What says the State?

4 MR. FINNEY: Please swear the juror.

5 THE CLERK OF COURT: Defendant Newman?

6 MR. CARTER: Swear the juror.

7 THE CLERK OF COURT: Samuels?

8 MR. DEVOE: Please swear this juror for  
9 this trial.

10 THE CLERK OF COURT: You may have a seat  
11 in the jury box.

12 Number 143, Belinda L. York (black  
13 female). What says the State?

14 MR. FINNEY: Please swear the juror.

15 THE CLERK OF COURT: Defendant Newman?

16 MR. CARTER: Seat the juror.

17 THE CLERK OF COURT: Defendant Samuels?

18 MR. DEVOE: Please swear the juror for  
19 this trial.

20 THE CLERK OF COURT: You may a seat in the  
21 jury box.

22 Number 48, Helen Floyd (white female).  
23 What says the State?

24 MR. FINNEY: Please swear the juror.

25 THE CLERK OF COURT: Defendant Newman?

1 MR. CARTER: Seat the juror.

2 THE CLERK OF COURT: Defendant Samuel?

3 MR. DEVOE: Please swear this juror for  
4 this trial.

5 THE CLERK OF COURT: Have a seat in the  
6 juror box.

7 Number 112, Earl E. Richardson (black  
8 male). What says the State?

9 MR. FINNEY: Please swear the juror.

10 THE CLERK OF COURT: Defendant Newman?

11 MR. CARTER: Please strike the juror.

12 THE CLERK OF COURT: All right, have a  
13 back in the jury pool, please, ma'am.

14 Number 17, Michael S. Brunson (white  
15 male). What say the State?

16 MR. FINNEY: Please swear the juror.

17 THE CLERK OF COURT: Defendant Newman?

18 MR. CARTER: Strike the juror.

19 THE CLERK OF COURT: Have a seat back in  
20 the jury pool. Thank you.

21 Number 14, Anthony Briggs (black male).  
22 What says the State?

23 MR. FINNEY: Please swear the juror.

24 THE CLERK OF COURT: Defendant Newman?

25 MR. CARTER: What number was that?

1 THE CLERK OF COURT: Number 14.

2 MR. CARTER: Please strike the juror.

3 THE CLERK OF COURT: You said strike?

4 MR. CARTER: Strike.

5 THE CLERK OF COURT: Okay, have a seat  
6 back in the jury pool.

7 Number 101, Eddie G. Myers (black male).

8 What say the State?

9 MR. FINNEY: Please swear the juror.

10 THE CLERK OF COURT: Defendant Newman?

11 MR. CARTER: Seat the juror.

12 THE CLERK OF COURT: Samuel?

13 MR. CARTER: Please seat the juror, sir.

14 THE CLERK OF COURT: Have a seat in the  
15 jury box, sir.

16 Number 76, Mark C. Lee (white male). What  
17 say the State?

18 MR. FINNEY: Please swear the juror.

19 THE CLERK OF COURT: The defendant Newman?

20 MR. CARTER: Swear the juror.

21 THE CLERK OF COURT: Samuel?

22 MR. DEVOE: Please swear this juror.

23 THE CLERK OF COURT: Have a seat in the  
24 jury box. Thank you, sir.

25 Number 136, Edna M. Walters (black

1 female).

2 MR. CARTER: What number?

3 THE CLERK OF COURT: 136. What say the  
4 State?

5 MR. FINNEY: Please swear the juror.

6 THE CLERK OF COURT: Defendant Newman?

7 MR. CARTER: Please strike this juror.

8 THE CLERK OF COURT: Have a seat back in  
9 the juror pool. Thank you.

10 Number 133, Donna S. Vanwysberghe (white  
11 female). What says the State?

12 MR. FINNEY: Please swear the juror.

13 THE CLERK OF COURT: Defendant Newman?

14 MR. CARTER: Seat the juror.

15 THE CLERK OF COURT: Defendant Samuel?

16 MR. DEVOE: Please strike this juror.

17 THE CLERK OF COURT: Have a seat back in  
18 the jury pool.

19 Number 37, Ann Drago (white female).

20 MR. CARTER: That's 137?

21 THE CLERK OF COURT: No, 37. What say the  
22 State?

23 MR. FINNEY: Please swear the juror.

24 THE CLERK OF COURT: Defendant Newman?

25 MR. CARTER: Seat the juror please.

1 THE CLERK OF COURT: Defendant Samuel?

2 MR. DEVOE: Please strike this juror.

3 THE CLERK OF COURT: Have a seat -- you  
4 said strike, right? I didn't hear you.

5 MR. DEVOE: Yes.

6 THE CLERK OF COURT: Number 122, Norma T.  
7 Sinkler (black male).

8 MR. CARTER: 72?

9 THE CLERK OF COURT: 122. What say the  
10 State?

11 MR. FINNEY: Please swear the juror.

12 THE CLERK OF COURT: Defendant Newman?

13 MR. CARTER: That was 72?

14 THE CLERK OF COURT: 122.

15 MR. CARTER: Strike the juror.

16 THE CLERK OF COURT: You can have a seat  
17 back in the jury pool. Thank you.

18 Number 55, Shanequa C. Green (black  
19 female). What says the State?

20 MR. FINNEY: Please swear the juror.

21 THE CLERK OF COURT: Defendant Newman?

22 MR. CARTER: Seat the juror.

23 THE CLERK OF COURT: Defendant Samuel?

24 MR. DEVOE: Please swear this juror.

25 THE CLERK OF COURT: Have a seat in the

1 jury box. Thank you.

2 Number 25, Joyce Conyers (black female).

3 What says the State?

4 MR. FINNEY: Please swear the juror.

5 THE CLERK OF COURT: Defendant Newman?

6 MR. CARTER: Seat the juror.

7 MR. DEVOE: Please swear this juror.

8 THE CLERK OF COURT: Have a seat in the  
9 jury box, ma'am. Thank you.

10 Number 72, Latasha L. Kennedy (black  
11 female). What says the State?

12 MR. FINNEY: Please swear the juror.

13 THE CLERK OF COURT: Defendant Newman?

14 MR. CARTER: Seat the juror.

15 THE CLERK OF COURT: Defendant Samuel?

16 MR. DEVOE: Please swear this juror.

17 THE CLERK OF COURT: Have a seat in the  
18 jury box.

19 Number 79, Phillip Lovelady (white male).

20 What says the State?

21 MR. FINNEY: Please swear the juror.

22 THE CLERK OF COURT: Defendant Newman?

23 MR. CARTER: Seat the juror.

24 THE CLERK OF COURT: Samuel?

25 MR. DEVOE: Please swear this juror.

1 THE CLERK OF COURT: Have a seat in the  
2 jury box.

3 THE COURT: Two alternates.

4 THE CLERK OF COURT: Number 90, Dustin  
5 C. McElveen (white male).

6 MR. CARTER: Number?

7 THE CLERK OF COURT: 90, Number 90. What  
8 says the State?

9 MR. FINNEY: Please swear the juror.

10 THE CLERK OF COURT: Defendant Newman?

11 MR. CARTER: Seat the juror.

12 THE CLERK OF COURT: Samuel?

13 MR. DEVOE: Please strike this juror.

14 THE CLERK OF COURT: Number 59, Kenneth L.  
15 Hampton (black male). What says the State?

16 MR. FINNEY: Please excuse the juror from  
17 this trial.

18 THE CLERK OF COURT: You can have a seat  
19 back in the jury pool.

20 Number 108, Ella M. Prince (black female).

21 MR. CARTER: 108?

22 THE CLERK OF COURT: 108. What says the  
23 State?

24 MR. FINNEY: Please swear the juror.

25 THE CLERK OF COURT: Defendant Newman?

1 MR. CARTER: Please excuse the juror.

2 THE CLERK OF COURT: Have a seat back in  
3 the jury pool.

4 Number 73, Alvin H. Koenig, III (white  
5 male). What says the State?

6 MR. FINNEY: Please swear the juror.

7 MR. CARTER: Seat the juror.

8 THE CLERK OF COURT: Samuel?

9 MR. DEVOE: Please swear this juror.

10 THE CLERK OF COURT: Go over there, sir.

11 Number 139, Savanna E. Welch (white  
12 female). What say the State?

13 MR. FINNEY: Please swear the juror.

14 THE CLERK OF COURT: Defendant Newman?

15 MR. CARTER: Swear the juror.

16 MR. DEVOE: Please seat this juror for  
17 this trial.

18 THE CLERK OF COURT: Have a seat, thank  
19 you.

20 THE COURT: Please call out the names of  
21 all the jurors.

22 THE CLERK OF COURT: As I call your name  
23 please raise your hand for me. Tina Ocasio, Steven  
24 Welch, Kerri Ann Mankin, Krishuana D. Hart, Belinda  
25 York, Helen Floyd, Eddie G. Myers, Mark C. Lee,

1 Shanequa Green, Joyce Conyers, Latasha Kennedy,  
2 Phillip Lovelady. Alternates are Alvin H. Koenig,  
3 III, and Savanna Welch.

4 THE COURT: Let me see the attorneys up  
5 here real quick.

6 (WHEREUPON, counsel approached the Bench for an  
7 off-the-record discussion.)

8 THE COURT: Any objection to the manner in  
9 which the jury has been selected or the manner which  
10 they've been selected? By the State?

11 MR. FINNEY: No, not from the State.

12 THE COURT: From Defendant Newman?

13 MR. CARTER: Nothing from Defendant  
14 Newman, Judge.

15 THE COURT: Defendant Samuels?

16 MR. DEVOE: Nothing from Defendant  
17 Samuels.

18 THE COURT: Then y'all will be our jury.  
19 Y'all have been selected as jurors in this case. We  
20 don't anticipate that the trial will begin before  
21 tomorrow morning so we have some other things that  
22 we need to take care of this afternoon so I'm gonna  
23 release you for the afternoon with instructions that  
24 you not speak to anyone about this case at all.  
25 Don't go out asking any questions, do not do any





Jackson v. Denno

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**SONIA DANIELS,**

having been duly sworn by the Clerk of Court,  
testified as follows:

**DIRECT EXAMINATION**

BY MR. DURANT:

Q Detective Daniels, where do you work?

A Manning Police Department.

Q How long have you worked there?

A Ten years.

Q And what is your job title at the police  
department?

A I'm a detective.

Q How long have you served in that capacity?

A Five years.

Q Okay. And as part of your job as detective are  
you assigned to investigate criminal matters here in  
Clarendon County?

A That's correct.

Q Did you have occasion to investigate an assault  
that occurred at back on May  
the 26th of 2013?

A That's correct.

Q And how did that investigation come about?

A Officers responded to that location in reference  
to an assault. Once the officers, responding

## Jackson v. Denno

1 officers arrived, they noticed that it was more than  
2 just a simple assault and at that time they called  
3 for investigators to also respond to that scene.

4 Q And you responded to the scene that evening?

5 A That's correct.

6 Q And during the course of your investigation did  
7 you develop Letroy Samuels as a person of interest  
8 in that case?

9 A That's correct.

10 Q And as part of your investigation did you have  
11 occasion to sit down and interview Mr. Letroy  
12 Samuels?

13 A Yes, I did.

14 Q Do you remember when that took place?

15 A I spoke with him a couple of times I believe the  
16 20-- I'm not sure, that date was what again? The  
17 20---

18 Q The 26th.

19 A 26th. I spoke with him -- the incident actually  
20 happened early morning, late night, early morning,  
21 so we were out that next day all day so I think I  
22 might have spoken with him that day, the 28th. It  
23 was a couple of different times I spoke with him.

24 Q Do you remember speaking to him on the 28th, a  
25 couple of days later?

## Jackson v. Denno

1 A That's correct.

2 Q And do you remember whether or not investigator,  
3 or Detective Rosdail, was involved in that  
4 interview?

5 A He was present in that interview.

6 Q And where did that interview take place?

7 A The Manning Police Department in my office.

8 Q In your office?

9 A Yes, sir.

10 Q And at this point you had already spoken to Mr.  
11 Samuels?

12 A That's correct.

13 Q When you brought Mr. Samuels into your office  
14 that day, was anybody there besides you or  
15 Investigator Eric Rosdail?

16 A Not present during the interview, no.

17 Q And was the defendant Mr. Samuels in custody  
18 during that interview?

19 A I think at that time he had been placed into  
20 custody, yes, sir.

21 Q Okay. He was under arrest?

22 A Yes, sir.

23 Q All right. When you brought him in to question  
24 that day did you read him what is commonly referred  
25 to as his Miranda right?

## Jackson v. Denno

1 A I did not read him his Miranda warnings; however,  
2 Detective Rosdail did.

3 Q Was it in your presence?

4 A It was in my presence.

5 Q You actually saw and heard him ask, ---

6 A Yes, sir.

7 Q ---advise the defendant? Do you know whether or  
8 not Investigator Rosdail advised Mr. Samuels that he  
9 had the right to remain silent?

10 A He did.

11 Q Did he tell him that anything he said could and  
12 would be used against him in court?

13 A He did.

14 Q Do you recall whether or not Detective Rosdail  
15 told Mr. Samuels he had a right to talk to an  
16 attorney and to have that attorney present with him  
17 during questioning if he so desired?

18 A He did.

19 Q Did you -- do you recall whether or not Detective  
20 Rosdail told Mr. Samuels that if he couldn't afford  
21 to hire an attorney that one would be appointed to  
22 represent him during questioning?

23 A Yes, sir, he did.

24 Q All right. And do you recall whether or not he  
25 was advised that he could choose to exercise those

## Jackson v. Denno

1 rights at any time and to not make any statements or  
2 answer any further questions?

3 A That's correct.

4 Q Did he indicate that he understood those rights?

5 A He indicated that he understood those rights, and  
6 he would wish to talk to us.

7 Q And after advising him of those rights and did  
8 you and Detective Rosdail take a statement from Mr.  
9 Samuels?

10 A We did.

11 Q And that was recorded by audio ---

12 A It was audio recorded.

13 Q And do you know whether or not that statement has  
14 been transcribed?

15 A It has been.

16 Q Have you had an opportunity to review it?

17 A I have.

18 Q And based upon your review, do you confirm those  
19 Miranda warnings were given to the defendant?

20 A That's correct.

21 Q During the course of that interview did Mr.  
22 Samuels implicate himself as being at the scene of  
23 this crime that evening?

24 A He did.

25 Q Okay. Did he tell you who the other players

## Jackson v. Denno

1 were, who else was there?

2 A He did.

3 Q Okay. Did he indicate himself as being involved  
4 in this incident?

5 A He did.

6 Q Okay. And I don't need to tender right now what  
7 he told you did; but based upon the statement you  
8 got from Mr. Samuels, he was arrested and charged in  
9 this case?

10 A That's correct.

11 Q What was he charged with?

12 A Originally he was charged with attempted murder  
13 and burglary first.

14 Q Okay. Why attempted murder at that time?

15 A The victim was still alive.

16 Q Okay. And the victim ---

17 A Has since ---

18 Q ---passed away ---

19 A That's correct.

20 Q ---from those injuries?

21 A Uh-huh.

22 MR. DURANT: Beg the Court's indulgence.  
23 Your Honor, I don't have any further questions for  
24 Detective Daniels.

25 THE COURT: Mr. Carter, do you have any

## Jackson v. Denno

1 questions?

2 MR. CARTER: I don't, Judge.

3 THE COURT: Mr. Devoe?

4 MR. DEVOE: A couple of questions, Your  
5 Honor.

6 **CROSS-EXAMINATION**

7 BY MR. DEVOE:

8 Q Today you testified or you talked to my client  
9 Letroy Samuels, I think the solicitor was asking you  
10 whether or not you read the rights, gave him  
11 warnings about having an attorney present; is that  
12 correct?

13 A Yes, sir.

14 Q And I have a copy, I believe, of the first audio  
15 recorded interview of Letroy Samuels. I take it  
16 that that interview, his warnings were given at that  
17 time before the first interview?

18 A You said the first interview?

19 Q Any interview that took place on May 27th, 2013.

20 A No, his Miranda warning may not have been read to  
21 him on that day.

22 Q I thought you just testified they were given to  
23 him?

24 A On the 28th.

25 Q So you told ---

## Jackson v. Denno

1 A I spoke with Mr. Samuels on more than one  
2 occasion.

3 Q All right. Well, the occasion on the 21st then  
4 which I have a copy of, the 27th, I'm sorry, the  
5 rights were not given as far as I could tell from,  
6 if that's a word for word transcribed statement.  
7 You talked at length without giving his rights; is  
8 that correct?

9 A During one of the interviews, yes, sir.

10 Q Well, how many interviews did you have with him?

11 A I'd spoken with Mr. Samuels on more than one  
12 occasion.

13 Q Were all these interviews transcribed?

14 A They should have been, yes, sir.

15 Q You know which dates they were?

16 A I don't have them right in front of me, but they  
17 were on different occasions and the transcribed does  
18 have the dates on there.

19 Q We're doing a murder trial here, not just a  
20 casual break-in or more obvious, something like  
21 that. In my discovery from the State I have a  
22 straight transcription of what happened, the first  
23 audio recorded interview, the first, May 27th.

24 A Okay.

25 Q And there's nothing here that he's told that has

## Jackson v. Denno

1 his rights to have an attorney, and have attorney  
2 present, he has the right to talk, and all that,  
3 right?

4 A I don't have one in front of me.

5 Q You don't have it. You're testifying to  
6 something?

7 A You're asking me about the 27th. I believe that  
8 the interview that his Miranda warning was read was  
9 on the 28th.

10 Q So you talked at length on the 27th? Now this  
11 is, the transcription I have is 25 pages of casual  
12 conversation.

13 A If I'm correct, I think on the 27th he came in  
14 voluntarily to speak with me.

15 Q It's 41 pages actually, 41 pages of casual  
16 conversation. He asked to talk to you. You talked  
17 to him about giving his rights first; is that right?

18 A That's correct.

19 Q You then told him his right to have an attorney  
20 before ---

21 A It was a casual conversation.

22 Q Well, I don't think 41 pages of conversation is  
23 exactly what I would call casual. I don't think you  
24 do either. Did you ever read him his rights ever?

25 A I did not read him his Miranda warning; but

## Jackson v. Denno

1    however, Detective Rosdail did.

2    Q   Well, aren't you a team?

3    A   We are, but ---

4    Q   Aren't you a team at that point?

5    A   We were.

6    Q   So when did he read the rights?

7    A   I believe it's gonna be on the 28th, second  
8    interview.

9    Q   So the first interview of 45 pages no rights, 41  
10   pages. You take that as being the jumping off point  
11   of the next interview the next day?

12   A   Did I take it as what, sir?

13   Q   You take that as being the jumping point for the  
14   next interview of the next day?

15   A   I'm not sure I understand what you're saying.

16   Q   I think -- as far as I understand your training,  
17   law enforcement training, when you talk to a suspect  
18   you give him his rights, his right to have attorney  
19   present and so on, and then ---

20           THE COURT: Hold on one second. Would you  
21   please go tell the people who are talking back there  
22   to please zip it.

23           THE WITNESS: Can you repeat the question?

24   BY MR. DEVOE:

25   Q   I'm saying, you came, went to the jail on the

## Jackson v. Denno

1 27th of May and you talked to my client at length  
2 and it was recorded.

3 A I never spoke with your client at the jail.

4 Q You brought him from the jail to your office on  
5 the 27th of May, and you talked to him at length.  
6 And you had it transcribed and that was -- and that  
7 was 41 pages of interview without reading him his  
8 rights. You didn't show you read them in the  
9 transcription which I assume is a word for word  
10 accurate transcription of what happened in your  
11 office. Nothing was done with the lights off before  
12 or afterwards at some point in there; is that  
13 correct?

14 A That's correct.

15 Q All right. Now you're saying that the next day  
16 he was brought up and maybe the trans-- maybe his  
17 rights are read at that point? I don't know. You  
18 have a copy of that?

19 A I do, but I don't have it in front of me, sir.

20 Q But you're testifying to something right now,  
21 right?

22 A I am.

23 Q Well, which -- from which transcription, the  
24 first or the second was ---

25 THE COURT: Mr. Durant, hold on.

## Jackson v. Denno

1 MR. DURANT: May I provide the witness a  
2 copy?

3 THE COURT: You can, certainly.

4 (Document tendered to the witness.)

5 THE COURT: He's questioning her and she  
6 doesn't have anything in front of her.

7 MR. CARTER: I understand.

8 THE WITNESS: Okay. What I have in front  
9 of me is the interview on the 28th.

10 BY MR. DEVOE:

11 Q 28th?

12 A Uh-huh.

13 Q The question is, do I have that interview?  
14 Court's indulgence.

15 THE COURT: I wouldn't know.

16 BY MR. DEVOE:

17 Q Well, I also have a copy of the 28th interview.  
18 Did you at that point, did you or Mr. Rosdail give  
19 him his Miranda rights?

20 A That's correct.

21 Q Well what page was that?

22 A It should be the first page. It states interview  
23 by Mr. Rosdail.

24 Q It does, first paragraph.

25 A Uh-huh.

## Jackson v. Denno

1 Q But you didn't use anything on the first  
2 interview to use on the second interview the next  
3 day?

4 A You mean anything he had said to me?

5 Q Yes.

6 A I think on the 27th, if I'm correct, I  
7 interviewed him alone. I didn't interview him with  
8 my partner. My partner was not there at that time.  
9 If I could have the copy of 27th in front of me.

10 (Document tendered to the witness.)

11 THE WITNESS: If I can recall, on the date  
12 that Detective Rosdail assisted me in interviewing  
13 Mr. Samuels, again, I stated that I previously  
14 interviewed him it looks like alone. Mr. -- excuse  
15 me, Detective Rosdail came in and he did an  
16 interview. I assisted him on the date that he read  
17 him his Miranda warning so it was almost like a new  
18 interview but it was conducted by Detective Rosdail  
19 so at that time he did not have what I had in front  
20 of me 'cause those were previous interviews.

21 Q Did he have the opportunity to review what my  
22 client had said the day before to you?

23 A He did not.

24 Q Was it available for him to interview before he  
25 talked?

## Jackson v. Denno

1 A It was.

2 Q Are you basically saying that the first interview  
3 was just meaningless and ---

4 A The first interview that I interviewed ---

5 Q Let me finish my question.

6 A Okay, sorry, sir.

7 Q You're basically saying that the first interview  
8 was meaningless as you just sort of went over it  
9 again from scratch the next day?

10 A No, sir, I'm not saying it was meaningless.

11 Q Did you have a chance to talk to Mr. Rosdail  
12 before you talked to my client?

13 A I did.

14 Q Based upon what you talked about the day before?

15 A What I gave Mr. Rosdail was a rundown of what we  
16 had prior to him returning to work.

17 Q And a rundown what you talked to him about?

18 A I gave him a rundown of everybody that I'd spoken  
19 with prior to him returning to work.

20 Q Well, I'm talking specifically on my client.

21 A Not on your client.

22 Q Did you give him a rundown what when you talked  
23 to my client about on the 27th?

24 A I can't recall exactly what our conversation was  
25 on that day.

## Jackson v. Denno

1 Q Well, did you take notes?

2 A Yes, sir, I did.

3 Q Did you supply the notes to Mr. Rosdail before he  
4 started talking to my client?

5 A I don't believe I did.

6 Q You're saying Mr. Rosdail's interview lasted 45  
7 pages -- I'm sorry, 65 pages. And you're saying  
8 that he didn't use anything from the day before?

9 A He might -- again, I can't recall what I  
10 specifically told him about my interview with  
11 Mr. Samuels; however, I did explain to him  
12 everything we had up until that point, witnesses,  
13 suspects, so it wasn't just Mr. Samuels'  
14 information.

15 Q All right. Did Mr. Samuels waive his rights for  
16 an attorney for interview with Mr. Rosdail?

17 A No, he indicated that he didn't -- he would like  
18 to speak with us.

19 Q Where did he say that in this interview  
20 transcript?

21 A If you read after the first it says interviewed  
22 by Mr. Rosdail. He reads him his Miranda warning  
23 and asked him did he understand, he says yes, sir.

24 Q Where do you see that on the transcript?

25 A It would be on line 14.

## Jackson v. Denno

1 Q Well, to be exact I think, I think what he said  
2 was, Mr. Rosdail in his questions at my client said,  
3 you can decide at any time to exercise those rights  
4 and not answer any questions or make any statements.  
5 Did you understand that? Yes, sir. In case you  
6 tell me something off the wall you're supposed to  
7 come and see us. No where you said, and that's all.  
8 He never exactly waived his rights, did he?

9 A Yes, sir, I see the same thing that you see.  
10 Yes, sir.

11 Q So you said so sort of roll through it and  
12 continuing questioning?

13 A I'm sorry, can you repeat that.

14 Q I'm saying he just sort of rolled through it. I  
15 mean, he said, you do not have to answer any  
16 questions or make any statements, did you understand  
17 that?

18 A That's correct.

19 Q But he just never got the answer so he rolled  
20 through it. And this is part of the record so  
21 everyone can make up their own mind about it but.  
22 But it seems to me it wasn't -- we made an offer  
23 that an attorney would be gotten for him.

24 A Yes, sir.

25 Q I'm not trying to misstate this but that's my ---

## Jackson v. Denno

1 A I have the same transcript, yes, sir.

2 Q This is part of the record, this transcript?

3 A It is.

4 Q Your Honor, is this made part of the record, this  
5 transcript?

6 MR. DURANT: I have the original I'll  
7 provide the Court.

8 THE COURT: Okay. It will be -- this will  
9 be a Court exhibit for this hearing.

10 MR. DEVOE: Just for this hearing?

11 THE COURT: Just for this hearing.

12 MR. DEVOE: All right.

13 (Court's Exhibit Number 1 was marked  
14 and made a part of the record.)

15 BY MR. DEVOE:

16 Q Don't you normally ask the client suspect if he  
17 wants to have an attorney, say wait, we can get one  
18 for you?

19 A Yes, sir, he was advised of that, yes, sir.

20 Q I don't see any place in that transcript where  
21 ---

22 THE COURT: Please answer the question,  
23 Mr. Devoe. You don't get to testify. If you got a  
24 question to ask you can ask it.

25 BY MR. DEVOE:

## Jackson v. Denno

1 Q Did my client specifically tell you he wanted an  
2 attorney or did not want an attorney either way?

3 A I just remember your client stating that he would  
4 like to speak with us ---

5 Q All right.

6 A ---after being read Miranda warnings, sir.

7 MR. DEVOE: I have no further questions.

8 Thank you.

9 THE COURT: Any redirect, Mr. Durant?

10 MR. DURANT: Just briefly.

11 **REDIRECT EXAMINATION**

12 BY MR. DURANT:

13 Q Detective Daniels, did Mr. Samuels respond that  
14 he understood his rights after they were read to him  
15 by Detective Rosdail?

16 A He did.

17 Q And he proceeded with the interview after those  
18 rights were advised to him?

19 A Yes, sir.

20 Q Okay.

21 MR. DURANT: Your Honor, I don't have any  
22 further questions.

23 THE COURT: Any redirect?

24 MR. DEVOE: Yes, Your Honor.

25 **RECROSS-EXAMINATION**

## Jackson v. Denno

1 BY MR. DEVOE:

2 Q The Solicitor just asked you whether or not  
3 Mr. Samuels informed you he didn't want to have an  
4 attorney; is that correct?

5 A He stated that he would speak with us without an  
6 attorney, yes, sir.

7 Q And my question then in this transcript that you  
8 have on page 2, where in that, the page 2 part of  
9 the transcript, where does that show that he gave up  
10 his rights to have an attorney?

11 A He was read the Miranda warnings and asked did he  
12 understand his rights and he stated yes.

13 Q When he said yes was he -- where on page 2 that  
14 does it say that he gave up his rights to have an  
15 attorney?

16 MR. DEVOE: Your Honor, these questions  
17 have been asked and answered.

18 THE COURT: Sustained. You've already  
19 gone over that. This is redirect -- or re-cross.

20 MR. DEVOE: All right, I have no further  
21 questions. Thank you.

22 THE COURT: Thank you. You may step down.

23 MR. DEVOE: Your Honor, I have a condensed  
24 copy of that transcript. The original is in my  
25 office. I'd be happy to provide the Court with it.

1 It's under seal. Would you like to see a condensed  
2 version at this time or just ---

3 THE COURT: The condensed version will be  
4 fine. My eyes aren't that bad yet. Anything  
5 further?

6 MR. DURANT: Not from the State, Your  
7 Honor.

8 THE COURT: Mr. Carter?

9 MR. CARTER: Your Honor, I didn't have any  
10 questions for him; but I just wanted to add in that  
11 as the Court is well aware that understanding your  
12 rights is something totally different from waiving  
13 your rights. And from this transcript and according  
14 to the court questions Mr. Devoe just asked, he made  
15 it clear that the officer only asked him do you  
16 understand your rights and there's a yes, sir, I  
17 understand what you're saying. It's not that, okay,  
18 I waive them, I understand it and waive them 'cause  
19 most officers always ask and do you waive your  
20 rights and wish to talk to us and that never  
21 happened here.

22 THE COURT: Mr. Devoe?

23 MR. DEVOE: Your Honor, what Mr. Carter  
24 says is what I was going to be saying. I don't  
25 believe he waived his rights. He may have

1 understood them, but not waived the rights  
2 specifically. I think it's a very important  
3 distinction.

4 THE COURT: Thank you.

5 Mr. Durant.

6 MR. DURANT: Your Honor, I, of course,  
7 would argue his participation in interview and  
8 willingness to answer questions further after having  
9 been thoroughly advised of his rights was a knowing  
10 and voluntarily waiver of his rights.

11 THE COURT: Yeah, I don't think the law  
12 says you actually have to express it. I mean, you  
13 can express it by your actions specifically. I  
14 mean, he was read his rights. He was asked did he  
15 understand them and then he proceeded for 65 pages  
16 later to discuss it with him and he could have  
17 stopped at any particular time that he wanted to so  
18 I find that the proper foundation is laid, that this  
19 statement will come into evidence.

20 MR. DURANT: Thank you, Your Honor.

21 THE COURT: Thank you. Anything else?

22 MR. DURANT: Not from the State, Judge.

23 MR. CARTER: Beg the Court's indulgence,  
24 Your Honor.

25 THE COURT: Yes, sir.

1 (Pause.)

2 MR. DEVOE: Your Honor, I just want to add  
3 one thing to that. I don't think that my client was  
4 ever sworn in or while that procedure was ---

5 THE COURT: I don't know if he has to be  
6 sworn in. He just has to be sworn in here. He  
7 doesn't have to be sworn in front of the officers.  
8 Most of the time officers don't have the power to  
9 swear somebody in.

10 MR. CARTER: Judge, isn't that even more  
11 reason that the statement is not a statement sworn  
12 to under oath? I mean, they're asking you to let  
13 them present this and put it in evidence.

14 THE COURT: Well, I mean, at the proper  
15 time it comes in. It's a statement against his  
16 interest. This is his statement. All they have to  
17 do, the law requires that they give him his Miranda  
18 rights. He says he got them, no question about  
19 that, and he says he understood them. That's all  
20 that's necessary. And then he proceeded to talk  
21 with them for 60 something pages.

22 MR. CARTER: All right, I understand what  
23 you're saying, Your Honor, but just for  
24 clarification. So as I understand it, if this  
25 statement is allowed in it will be allowed in if and

1 if this witness, if this defendant testifies?

2 THE COURT: It depends on how they present  
3 it. I mean, there's other issues that could come  
4 up. But right now this statement, as it is  
5 presented in this hearing, I don't know what is  
6 gonna happen during the trial; but as it's stated  
7 right now, if the proper foundation is laid, the  
8 statement has been made freely, voluntarily,  
9 knowingly and intelligently after having been given  
10 his Miranda rights, okay. Thank you.

11 MR. CARTER: Judge, and I do apologize to  
12 you. Just for clarification again, so the State  
13 will not be able to pick the statement up, put it  
14 into evidence, hand it to a jury, without something  
15 more?

16 THE COURT: Without -- with the right  
17 foundation laid may be able to do that.

18 MR. CARTER: With the right foundation?

19 THE COURT: Correct.

20 MR. CARTER: Very good.

21 THE COURT: That's with every piece of  
22 evidence.

23 MR. CARTER: Yes, sir.

24 THE COURT: You always have to have the  
25 right foundation laid.

1 MR. CARTER: Yes, sir.

2 THE COURT: Thank you. Court is adjourned  
3 until 9:30 tomorrow morning.

4

5 \* \* \* END OF REQUESTED TRANSCRIPT OF RECORD \* \* \*

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WITNESSES

Sonia Daniels Manning Police Department

ARREST WARRANT NUMBER

2013A1420100230 2013A1420100232  
2013A1420100156

2013A1420100194 2013A1420100157

2013A1420100231

ACTION OF GRAND JURY

True Bill

*J Cabanette*  
Foreperson of Grand Jury  
Date: 2/27/14

VERDICT

Foreperson of Petit Jury  
Date:

569

DOCKET NO. 2013-GS-14-0293

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

February TERM 2014

THE STATE

vs.

JONATHAN CODY NEWMAN

LETROY SAMUELS

MONTAG LAMALL WEBB

(AMENDED) Indictment for

MURDER

BURGLARY, 1<sup>ST</sup> DEGREE

*Ernest A. Finney III*

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CLARENDON )

(AMENDED) INDICTMENT FOR  
 MURDER  
 BURGLARY, 1<sup>ST</sup> DEGREE

At a Court of General Sessions convened on February 27, 2014, the Grand Jurors of CLARENDON County present upon their oath:

**COUNT ONE - MURDER**

That Jonathan Cody Newman, Letroy Samuels and Montag Lamall Webb did in Clarendon County, on or about May 26, 2013, willfully, feloniously, and intentionally kill the victim, Anthony Wimberly, with malice aforethought, either express or implied, by severely beating the victim, and the victim did die as a proximate result of the injuries then and there sustained on or about July 29, 2013 in Clarendon County, in violation of Section 16-03-0010, S. C. Code of Laws (1976), as amended.

**COUNT TWO - BURGLARY, 1<sup>ST</sup> DEGREE**

That Jonathan Cody Newman, Letroy Samuels and Montag Lamall Webb, did in Clarendon County on or about May 26, 2013 enter the dwelling of Anthony Wimberly located at \_\_\_\_\_, Manning, South Carolina, without consent and with the intent to commit a crime therein and the entering or remaining in the dwelling occurred in the nighttime and/or when, in effecting entry or while in the dwelling or in immediate flight, the defendants caused physical injury to a non-participant in the crime and/or were armed with a deadly weapon and/or did use or threaten use of a dangerous instrument, all in violation of Section 16-11-0311(A), S.C. Code of Laws (1976), as amended.

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

Solicitor

*Ernest A. Finney III*

RECEIVED

MAY 27 2016

SC Court of Appeals

564

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."

May 27th, 2016



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Robert M. Dudek  
Chief 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

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SC Court of Appeals

564

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May 27th, 2016



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ATTORNEY FOR APPELLANT