

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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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.

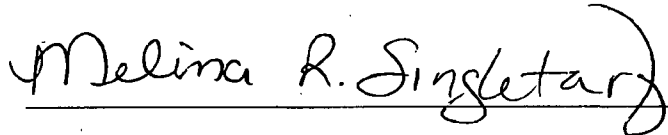
6 **(This ends this hearing for the week)**
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CERTIFICATE

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.

A handwritten signature in cursive script, reading "Melissa R. Singletary", written over a horizontal line.

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

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 Assistant Solicitor

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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. Vanwynsberghe (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

1 research. And what I tell people when they are on
2 juries like this is don't go out and tell everybody
3 you run into that you got jury duty because then
4 they're gonna say, well, you know, I was on a jury
5 one name and this is what happened in our case.
6 Well, you don't need to hear all that. You need to
7 keep your mind clear so the evidence that you hear
8 from this courtroom will be the only thing that you
9 consider.

10 So ladies and gentlemen, have a nice
11 evening and I'll see y'all back here at 9:30
12 tomorrow morning. All right, thank you.

13 (Whereupon, the jury was removed from the courtroom
14 at 12:25 p.m.)

15 THE COURT: Is there anything that we need
16 to take up, any pre-trial motions, gentlemen?

17 MR. DURANT: Judge, I assume we need to
18 have a Batson hearing -- I'm sorry, a Jackson v.
19 Denno hearing, in regards to defendant Letroy
20 Samuels' statement to law enforcement which we would
21 potentially like to use.

22 THE COURT: Okay. Why don't we take a 15
23 minute recess and then we'll come back and do that
24 hearing. Y'all have any other motions that you want
25 to take up?

1 MR. DURANT: The other thing that I would
2 ask these two lawyers to consider, Your Honor, it's
3 no secret this is a case of who done it; and the
4 issue is going to be who inflicted the injuries that
5 caused the victim's death. I would ask the two
6 lawyers to stipulate to some medical testimony so I
7 don't have to bring a doctor from the trauma unit in
8 Columbia to come here and testify.

9 THE COURT: That will be up to them.

10 MR. DURANT: Thank you, Your Honor.

11 THE COURT: All right, let's take a 15
12 minute recess and then we'll do our Jackson versus
13 Denno.

14 (WHEREUPON, a recess was taken from the
15 proceedings.)

16 THE COURT: The State ready to proceed?

17 MR. DURANT: Yes, sir, Your Honor.

18 THE COURT: All right.

19 MR. DURANT: The State calls Detective
20 Sonia Daniels.

21 THE CLERK OF COURT: Raise your right
22 hand, place your left hand on the Bible. State your
23 name.

24 THE WITNESS: Sonia Daniels.

25 WHEREUPON,

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1 **SONIA DANIELS,**
2 having been duly sworn by the Clerk of Court,
3 testified as follows:

4 **DIRECT EXAMINATION**

5 BY MR. DURANT:

6 Q Detective Daniels, where do you work?

7 A Manning Police Department.

8 Q How long have you worked there?

9 A Ten years.

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

12 A I'm a detective.

13 Q How long have you served in that capacity?

14 A Five years.

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

18 A That's correct.

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

22 A That's correct.

23 Q And how did that investigation come about?

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

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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?

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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?

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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

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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

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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

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 ---

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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

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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

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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

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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.

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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.

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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?

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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.

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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.

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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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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South
Carolina, this 7th day of June, 2015.

S/Frances B. Ray

FRANCES B. RAY, RPR

WITNESSES

Sonia Daniels Manning Police Department

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, 1ST DEGREE

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:

ERNEST A. FINNEY, III, SOLICITOR

562

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

(AMENDED) INDICTMENT FOR

MURDER

BURGLARY, 1ST 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

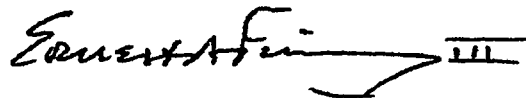
That Jonathan Cody Newman, Letroy Samuels and Montag Lamall Webb did in Clarendon County, on or about May 26, 2013, willfully, feloniously, and intentionally kill the victim, Anthony Wimberly, with malice aforethought, either express or implied, by severely beating the victim, and the victim did die 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, 1ST 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



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



Robert M. Dudck
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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MAY 27 2016

SC Court of Appeals

564

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May 27th, 2016



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ATTORNEY FOR APPELLANT