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**ORIGINAL**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Edward W. Miller, Circuit Court Judge

**RECEIVED**

DEC 19 2016

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

LESTER MEVARIA MOSELY JR,

APPELLANT

APPELLATE CASE NO. 2014-002064

SUPPLEMENTAL RECORD ON APPEAL

KATHRINE H. HUDGINS  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
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Division of Appellate Defense  
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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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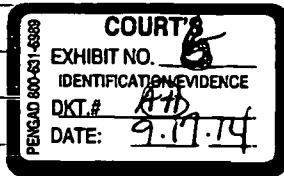
What is murder?

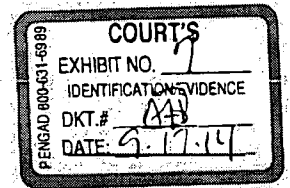
~~Does someone~~<sup>75</sup>

Does the defendant have to  
pull the trigger to consider  
it murder?

Can we have a copy of  
the law?

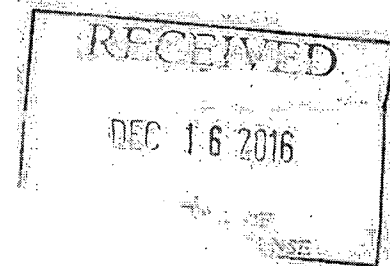
Andrew Stephens 9/17/14





## *HAND OF ONE*

IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER TO ACCOMPLISH AN ILLEGAL PURPOSE IS CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON WHICH OCCURS AS A NATURAL CONSEQUENCE OF THE ACTS DONE IN CARRYING OUT THE COMMON PLAN AND PURPOSE. FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF KILLING ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS ONLY ONE BULLET, AND ONLY ONE OF THE TWO FIRED THE SHOT THAT CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE OFFENSE, THE ACT OF ONE IS THE ACT OF ALL OR, AS IT IS SOMETIMES SAID, "THE HAND OF ONE IS THE HAND OF ALL".



## **MURDER**

THE DEFENDANT IS CHARGED WITH MURDER. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR LENGTH OF TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR

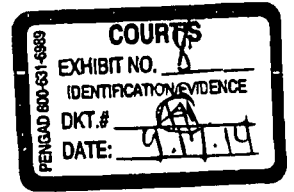
WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED.

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

IF FACTS ARE PROVED BETOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN EVIDENTIARY FACT TO BE CONSIDERED BY YOU ALONG WITH THE OTHER EVIDENCE IN THE CASE, AND YOU MAY GIVE IT THE WEIGHT YOU DECIDE IT SHOULD RECEIVE.

## **FELONY MURDER INFERENCE**

IF ONE INTENTIONALLY KILLS ANOTHER DURING THE COMMISSION OF A FELONY, THE INFERENCE OF MALICE MAY ARISE. IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS INFERENCE WOULD SIMPLY BE AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU, ALONG WITH ALL OTHER EVIDENCE IN THE CASE, AND YOU MAY GIVE IT THE WEIGHT THAT YOU DECIDE IT SHOULD RECEIVE.



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## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Kathrine H. Hudgins  
Appellate Defender

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

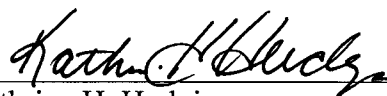
ATTORNEY FOR APPELLANT

This 19th day of December, 2016.

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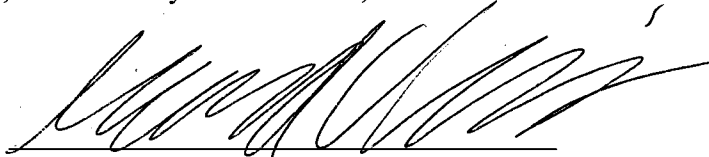
V.

LESTER MEVARIA MOSELY JR,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Supplemental Record on Appeal in the above-referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 19th day of December, 2016.



George Vlasis  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 19th day of December, 2016.

Christian Ford (L.S.)

Notary Public for South Carolina  
My Commission Expires March 1, 2026