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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Honorable R. Knox McMahon, Circuit Court Judge

CAMERON HAMMONDS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001810

APPENDIX

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE STATE OF SOUTH CAROLINA PLAINTIFF vs. CAMERON HAMMONDS DEFENDANT	COURT OF GENERAL SESSIONS 2007-GS-23-9564 **ORIGINAL** TRANSCRIPT OF RECORD

November 30, 2009
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge; and a jury.

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

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SYLVIA HARRISON, ESQ.
Attorneys for the State

BILL GODFREY, ESQ.
Attorney for the DEFENDANT

APRIL HERRON
Official Court Reporter

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MS. HARRISON: Your Honor, we have a stipulation that Dr. Ward be allowed to testify to Dr. Christiansen's autopsy and findings to save the State the money from flying Dr. Christiansen in from Arizona.

THE COURT: From Arizona?

MS. HARRISON: From Arizona, yes, sir.

THE COURT: He moved to Arizona?

MS. HARRISON: Yes, sir.

THE COURT: Well they were partners at the time weren't they?

MS. HARRISON: That wasn't any issue because Dr. Christiansen actually did the autopsy, Dr. Ward has reviewed it and will not testify outside the scope of it.

THE COURT: Well I guess y'all want the stipulation marked as an Exhibit?

MS. HARRISON: Court's Exhibit, yes, sir.

(WHEREUPON, Court's Exhibit No. 1 was marked for identification and received into evidence.)

THE COURT: Well is there any reason why we can't pick jury then do it?

MR. CAMPBELL: No, Your Honor.

THE COURT: Okay, let's bring them up.

All right, ladies and gentlemen, welcome up to courtroom number four. I appreciate your patience downstairs, I hope you had a nice break. We've been up

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here handling other matter and so I just appreciate y'all being patient waiting for us. I want to tell you that we, as I told you downstairs, we're going to begin the qualification process to determine whether or not you are qualified to serve on this particular case. So I'm going to introduce the case to you then I'm going to ask the attorneys to introduce themselves to you then I'll ask a series of questions.

But I want to tell you that this is a case of the State of South Carolina vs. Cameron Hammonds, Indictment 07-9564. It is a two count indictment. Count one is for murder. It alleges that Cameron Hammonds did in Greenville County on or about the 21st day of June 2007, unlawfully and with malice aforethought, kill Lee Kinard by means of shooting him numerous times and that will Lee Kinard died as a proximate result thereof. Counsel two, possession of a weapon during the commission of a violent crime. It alleges that Cameron Hammonds did in Greenville County on or about the 21st day of June, 2007, possess or visibly display a gun during the commission or attempted commission of a violent crime, that is murder.

I want to tell you, ladies and gentlemen, to these charges Mr. Hammonds has pled not guilty. And as such, certain rights attached to every citizen who is charged with a crime. And that is that each citizen charged with

a crime is presumed innocent unless and until the State, who has the burden of proof, proves that person guilty beyond a reasonable doubt of each and every element of each offense that the person is charged with. Please keep that in mind throughout the course of these proceedings. Also, please keep in mind that this indictment is nothing more than what it appears to be. It is just a piece of paper. It is not evidence. It is the document which allows this case to be brought into court for disposition. It is not evidence and you should take no presumption or inference from the fact that it has made these allegations.

Now before I get into -- go any further, I would like to ask the attorneys to stand and introduce themselves to you.

Mr. Campbell.

MR. CAMPBELL: Good morning, ladies and gentlemen, my name is George Campbell, assistant solicitor with the solicitor's office. This is assistant solicitor, Sylvia Harrison. This is my paralegal, Connie Loewer.

THE COURT: Mr. Godfrey.

MR. GODFREY: Good morning, ladies and gentlemen, my name is Bill Godfrey. I'm an attorney here in Greenville County and practice in the Greenville and Pickens and Spartanburg.

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Please stand up, sir. This is Cameron Hammonds, this is my client.

THE COURT: All right. Thank you, very much.

Now, ladies and gentlemen, is there any member of the jury panel who is related by blood or marriage or have a business, personal or social relationship with any of the attorneys involved in this case or any member of their respective offices? If so, please stand.

There was no response.

Is there any member of the jury panel related by blood or marriage or have a business, personal or social relationship with Mr. Cameron Hammonds? If so, please stand.

There was no response.

Is there any member of the jury panel who has a business, social or had a business, social or personal relationship with the victim, the alleged victim in this case, Mr. Lee Kinard? If so, please stand.

There was no response.

Now I will read to you a list of potential witnesses in this case. Please listen because I'm going to want to know the same about these folks. Detective T. Conroy with the Greenville Police Department. Detective C. Flavell with the Greenville Police Department. Kelvin Harris, Stephon Brewster, Dr.{~}Michael Ward and Brandon Brown.

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Is there any member of the jury panel related by blood or marriage or have a business, personal or social relationship with any of those persons whose names I just read? If so, please stand.

There was no response.

Is there any member of the jury panel who has any knowledge about any of the events that have been alleged in the indictment? If so, please stand.

There was no response.

Is there any member of the jury panel, any family member or close friend who has ever been the victim of or charged with this type of offense? If so, please stand.

There was no response.

Is there any member of the jury panel--

Yes, ma'am.

PROSPECTIVE JUROR: Well my aunt was murdered at the grocery store, Coker's Grocery Store in 1986.

THE COURT: All right, your name, ma'am?

PROSPECTIVE JUROR: It's Jenny Horton.

THE COURT: All right, Ms. Horton. Would the fact that your aunt suffered that, would that impair your ability to be fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Could you follow the law as I would give it to you throughout the course of the trial?

PROSPECTIVE JUROR: Yes, sir.
THE COURT: All right. Thank you, ma'am.
PROSPECTIVE JUROR: I'm sorry, I didn't realize situation similar.
THE COURT: Yes, ma'am, your name first?
PROSPECTIVE JUROR: Carla Bradford.
THE COURT: Yes, ma'am.
PROSPECTIVE JUROR: My uncle was murdered in '82.
THE COURT: All right. And your name, ma'am?
PROSPECTIVE JUROR: Carol Bradford.
THE COURT: The lady behind you.
PROSPECTIVE JUROR: Ruby Cain. Would you repeat the question, please?
THE COURT: Well is there any member of the jury panel or any family member or close friend who has been charged with or the victim of this type of offense.
Your name, ma'am?
PROSPECTIVE JUROR: Ruby Cain.
THE COURT: Okay.
PROSPECTIVE JUROR: My brother was charged with.
THE COURT: Yes, ma'am, your name?
PROSPECTIVE JUROR: Dianna Loudermilk.
THE COURT: Yes, ma'am.
PROSPECTIVE JUROR: And my nephew was murdered 20 years ago.

THE COURT: All right, now those you responded to the question, is the fact that you have been involved as you have described, would that impair your ability to be fair and impartial in this case? Is there anyone who could not be fair and impartial in this case?

There was no response.

THE COURT: Is there any member who responded who could not follow the law as I would give it to you throughout the course of the trial?

There was no response.

THE COURT: Okay. Is there any member of the jury panel that has such strong, personal feelings about firearms that you could not be fair and impartial in a case involved the alleged use or illegal possession of a firearm? If so, please stand.

There was no response.

Is there any member of the jury panel who is aware of any bias or prejudice towards either the State or the defense? If so, please stand.

There was no response.

Is there any member of the jury panel who is a member or contributor to a group whose primary concern is the promotion of law enforcement or victim's rights such as MADD, SADD OR CADE? If so, please stand.

There was no response.

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Is there any member of the jury panel who knows of any reason whatsoever why you should not serve in this case with particular inferences on your ability to be fair and impartial and to judge the case on the merits of the evidence and the law as presented in this courtroom? If you cannot do that, please stand.

There was no response.

THE COURT: Okay, anything else from the State?

MR. CAMPBELL: Nothing further from the State, Your Honor.

THE COURT: From the defense?

MR. GODFREY: Nothing, Your Honor.

THE COURT: Okay.

Renee.

We're going to strike the jury.

THE CLERK: When I call your name please come forward.

THE COURT: No, I tell you, just stand in place. Okay.

THE CLERK: Number 61, Jean Horton.

(Jean Horton, a white female, came forward.)

What says the State?

MR. CAMPBELL: Please seat this juror.

MR. GODFREY: Please excuse the juror.

THE CLERK: Thank you, you're excused from this case.

Number 110, Leslie Schmidt.

(Leslie Schmidt, a white female, came forward.)

What says the State?

MR. CAMPBELL: Please seat this juror.

THE CLERK: What says the defense?

MR. GODFREY: Seat the juror.

THE CLERK: Please have a seat in the jury box.

Number 71, Eldo Knoke.

(Eldo Knoke, a white male, came forward.)

What says the State?

MR. CAMPBELL: Please swear Mr. Knoke.

THE CLERK: What says the defense?

MR. GODFREY: Please seat the juror.

THE CLERK: Please have a seat in the jury box.

Number 67, Linda Johnson.

(Linda Johnson, a black female, came forward.)

What says the State?

MR. CAMPBELL: Please swear Ms. Johnson.

THE CLERK: What says defense?

MR. GODFREY: Please seat the juror.

THE CLERK: Please have a seat in the jury box.

Number 77, Dianna Loudermilk.

(Dianna Loudermilk, a white female, came forward.)

What says the State?

MR. CAMPBELL: Please swear Ms. Loudermilk.

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THE CLERK: What say the defense?
MR. GODFREY: Please excuse Ms. Loudermilk.
THE COURT: You're excused from this jury.
Fifty-five, Sandra Harper.
(Sandra Harper, a white female, came forward.)
What says the State?
MR. CAMPBELL: Please swear Ms. Harper.
THE CLERK: What says defense?
MR. GODFREY: Please swear the juror.
THE CLERK: Please have a seat in the jury box.
Number 12, Carla Bradford.
(Carla Bradford, a black female, came forward.)
What says the State?
MR. CAMPBELL: Please swear Ms. Bradford.
THE CLERK: What says the defense?
MR. GODFREY: Please excuse Ms. Bradford.
THE CLERK: You're excused from this jury.
Number 95, Grover Pepper.
(Grover Pepper, a black male, came forward.)
What says the State?
MR. CAMPBELL: Please swear Mr. Pepper.
THE CLERK: What says defense?
MR. GODFREY: Please seat the juror.
THE CLERK: Please have a seat in the jury box.
Number 80, Michael Martin.

(Michael Martin, a white male, came forward.)
What says the State?
MR. CAMPBELL: Please swear Mr. Martin.
THE CLERK: What says the defense?
MR. GODFREY: Please excuse Mr. Martin.
THE CLERK: You're excused from this case.
Ninety, Tracey Moore.
(Tracey Moore, a white female, came forward.)
What says the State?
MR. CAMPBELL: Please swear Ms. Moore.
THE CLERK: What says the defense?
MR. GODFREY: Please seat Ms. Moore.
THE CLERK: Please have a seat in the jury box.
119, Isaac Shinneman.
(Isaac Shinneman, a Asian male, came forward.)
What says the State?
MR. CAMPBELL: Please seat Mr. Shinneman.
THE CLERK: What says the defense?
MR. GODFREY: Please seat the juror.
THE CLERK: Please have a seat in the jury box.
109, James Russell.
(James Russell, a black male, came forward.)
THE CLERK: What says the State?
MR. CAMPBELL: Please swear Mr. Russell.
THE CLERK: What says the defense?

MR. GODFREY: Please seat Mr. Russell.
THE CLERK: Please have a seat in the jury box.
Number 30, Brian Daly.
(Brian Daly, a white male, came forward.)
What says the State?
MR. CAMPBELL: Please swear Mr. Daly.
THE CLERK: What says the defense?
MR. GODFREY: Excuse Mr. Daly.
THE CLERK: You're excused from this case.
139, David Porter.
(David Porter, a white male, came forward.)
What says the State?
MR. CAMPBELL: Please swear Mr. Porter.
THE CLERK: What says the defense?
MR. GODFREY: Please seat Mr. Porter.
THE CLERK: Please have a seat in the jury box.
136, Cynthia Jarrell.
(Cynthia Jarrell, a white female, came forward.)
What says the State?
MR. CAMPBELL: Please swear Ms. Jarrell.
THE CLERK: What says the defense?
MR. GODFREY: Please swear the juror.
THE CLERK: Please have a seat in the jury box.
51, Ira Goldberg.
(Ira Goldberg, a white male, came forward.

What says the State?

MR. CAMPBELL: Swear Mr. Goldberg.

THE CLERK: What says defense?

MR. GODFREY: Please seat Mr. Goldberg.

THE CLERK: Please have a seat in the jury box.

Number 82, Christopher McCarrell.

(Christopher McCarrell, a white male, came forward.)

What says the State?

MR. CAMPBELL: Please swear Mr. McCarrell.

THE CLERK: What says the defense?

MR. GODFREY: Please excuse Mr. McCarrell.

THE CLERK: You're excused from this case.

84, Susie Meek.

(Susie Meek, a white female, came forward.)

What says the State?

MR. CAMPBELL: Please swear Ms. Meek.

THE CLERK: What says defense?

MR. GODFREY: Please excuse Ms. Meek.

THE CLERK: You're excused from this case.

23, Douglas Cone.

(Douglas Cone, a white male, came forward.)

What says the State?

MR. CAMPBELL: Please swear Mr. Cone.

THE CLERK: What says the defense?

MR. GODFREY: Seat Mr. Cone.

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THE CLERK: Please have a seat in the jury box.

THE COURT: All right, we'll pick one alternate. One and two.

THE CLERK: Number 64, Tamara Houston-Hamilton.

(Tamara Houston-Hamilton, a black female, came forward.)

What says the State?

MR. CAMPBELL: Please swear Ms. Hamilton.

THE CLERK: What says the defense?

MR. GODFREY: Excuse Ms. Hamilton.

THE CLERK: You're excused from this case.

Number 18, Ruby Cain.

(Ruby Cain, a black female, came forward.)

What says the state?

MR. CAMPBELL: Please swear Ms. Cain.

THE CLERK: What says the defense?

MR. GODFREY: Please excuse Ms. Cain.

THE CLERK: You're excused from this case.

Number 91, Ronda Nessler.

(Ronda Nessler, a white female, came forward.)

What says the State?

MR. CAMPBELL: Please swear Ms. Nessler.

THE CLERK: What says the defense?

MR. GODFREY: No challenge.

THE COURT: Okay, seat her.

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THE CLERK: Please have seat in the jury box.

THE COURT: All right, any exception or objections to the jury as impaneled pursuant to Batson or Jebb?

MR. CAMPBELL: None from the State, Your Honor.

MR. GODFREY: None from the defense, Your Honor.

THE COURT: All right. Thank you.

Well we got two groups of people in here. And I think I know and I guess you can say one group thinks they won the lottery and one thinks they lost the lottery. I think most everybody would probably think that the group out here thinks they won the lottery. But I want to tell you that is not my sentiment. I think this group is the -- are the fortunate ones because they get to participate in our justice system. It's a very -- it's a privilege and it's a great responsibility. I hope that you all who did not get selected today will have an opportunity at some point to serve on a jury. Because it is an experience that I think you can be proud of and you will not forget.

But at this time, I hate to do this in front of this group but you all are free to go. I believe call back after 6:00 o'clock tonight to find out when next you need to report. Thank you.

All right, ladies and gentlemen, I meant what I said, I really think that you all are the fortunate ones. It's

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not an easy job that you've got but it's also not one that many people ever get the opportunity to fulfill. And when you're done you can stand up and be proud of your civic duty, the civic duty you've performed. And so I think you will find it to be a very rewarding experience both this week and on down through the rest of your lives. I hope it will be.

I want to tell you that we have a dispute about the facts in the case. And it could not be resolved in any other fashion other than to ask a jury to come up, listen to the facts and make a decision about how to resolve that dispute. And you all must wonder, well exactly how do we do that? What's our -- what do we measure it against? How do we make that decision? Well I've already told you once about that but it bears repeating. They are the fundamental building blocks of one the reasons we have such a free country. And that is that every person who is charged with a crime is presumed to be innocent unless and until the State can prove them guilty to each of your satisfaction, beyond any reasonable doubt of each and every element of each offense that they are charged with. Keep that in mind throughout the course of the proceedings. Those are rights which form the basis of our criminal justice system and they are rights that belong to every citizen in this country.

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I also want to emphasize, again, that the indictment is not evidence and you should not consider it as evidence. You should make no inference, take no presumption from the fact that an indictment is issued in this case. It is just a piece of paper which allows this case to wind its way through the system and arrive here in court for a resolution. So keep that in mind as well.

Now, you can divide a trial into as many parts as you'd like. If you watch T.V., read novels, books and that sort of thing, people are dissecting trials all the time. But I break it into five parts so that you all will have sort of a road map as to where we are in the course of the proceeding. The five parts are not of equal length but at least you'll know procedurally where we are. The first part we'll engage in, I guess we're engaging in it now, that's opening statements. The attorneys will make their opening statements to you. The second part is the meat and potatoes of every case. And that is the presentation of the testimony and the evidence. And that can be presented to you in one of three ways. One would be oral testimony here presented in the courtroom. Subject to cross-examination. It could also be some form of documentary or physical evidence that is introduced into evidence. And then the third way would be by way of stipulation of the attorneys. When they agree that some

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fact is beyond dispute and you all should accept it as true. So those are the three ways that evidence is presented in court.

The third part of the trial will be after all the testimony and evidence is introduced. The attorneys will make their closing arguments to you and advocate their positions and urge you to resolve the dispute in their favor. The fourth part of the trial will be my charge to you on what the law is in this case. And then the fifth part of the case will be when you all retire to the jury room to deliberate this matter and resolve the dispute. So those are the five parts. And as I said, they are not of equal length but at least you will know procedurally where we are.

I'll ask you to do probably many things but there are three very important things I ask every jury to do. That is to keep an open mind. We went through the process of qualifying you all to serve in this case. And the purpose for that was to make sure that you have an open mind. That you are impartial, unbiased and fair witnesses. So don't make up our mind after I've make these comments or after the attorneys make their opening comments or not after the first witness, not after the last witness. Wait until you're back in your jury room and you've heard everything in the case and you're deliberating with your

fellow jurors to make your decision in this case.

And I ask you to pay attention. That's the second main thing. It's very easy, for me anyway, to daydream and just sort of tune out what's going on around me. And that's human nature. We all know that it is. But I ask you to guard against that. Because when you're back deliberating with your fellow jurors, if you did that, you may have missed a vitally important piece of testimony or evidence and you would be at a severe disadvantage in the deliberations. So please pay attention.

I cannot answer questions, ma'am. Not at this point, okay.

Finally, I ask you all to not talk about this case with anyone. When we break, y'all go back to your room, don't talk about it with your fellow jurors. Don't talk about it with the bailiffs. We break for lunch, don't talk about it with whoever you speak to. Family member or friend, someone you see on the street. Because even an innocent comment from someone like that might impact your mindset. And we don't want that. We're not interested in what someone outside this courtroom thinks about this case. We want your decisions and your deliberations and no one else's. If you were to do that it would be unfair to the parties here in this case, it would be unfair to your fellow jurors and it would be unfair to yourself to

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allow someone outside of this courtroom, who is not making the sacrifices that you are making to have any input in the outcome of this trial. So please keep that in mind throughout that course of the proceedings.

You, ladies and gentlemen, are the sole judges of the facts. You determine credibility, what to believe, who to believe, all those types of issues. The jury is the sole judges of the facts. So I'm not allowed to have an opinion about that facts so please don't think by anything I might say or do throughout the course of the trial that I have an opinion because the law doesn't allow it and I do not. You all are the sole judges of the facts. That same law that makes me the sole judge of the law. So if you have some idea what about you think the law is or what the law should be and it conflicts with what I tell you the law is throughout the course of the case and at the end of the trial, then you will swear an oath momentarily, to set that opinion aside and apply the law precisely as I give it to you. Okay.

Now I'm done with my comments. One of the hardset things I have to do is try to logistically organize this thing so you all aren't waiting unnecessarily and we can move and the witnesses get a chance to testify without breaking things up. What I think we're going to do is I have some pretrial matters I need to go over with the

attorneys. So what we're going to do in just a moment, ask y'all to stand, place you under oath and then we'll dismiss you for lunch. When you come back from lunch I'm going to ask you to do the first thing. Another thing. And that is to elect a foreperson. We need one of you to be the jury's spokespersons in the courtroom if that becomes necessary or -- and to be the moderator of the discussions at the end of the case during deliberations. It's a promotion without a pay raise. Having said that, what we'll do is -- I'm going to ask y'all to be back in your jury room at 2:00. That should give us plenty of time to hear the matters that we need to hear, let y'all have lunch and be back. If you would be back and elect a foreperson.

Now I'm going to ask you stand and take the oath.

THE CLERK: Please raise your right hand. The correct response to the oath is I will.

(WHEREUPON, the jury was sworn.)

THE COURT: All right, ladies and gentlemen, you are now free to go. Before y'all go, let me say this. I notice a couple of y'all taking notes, it is fine with me for you all to take notes. I want to say that each one of you has to have the opportunity to take notes so if you didn't have a pad or pencil with you, tell the bailiffs, they're going to get one for each one of you. We want you

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to take the notes on court provided material. And let me just caution you that when you take notes, one you might not watch a witness and it might -- you might miss part of their demeanor, so be aware of that. It might be important. And the second thing is at the end of the case, one juror's notes are no more valuable than another juror's recollection. Okay. With that y'all go to lunch and we'll you at 2:00. Thank you.

And if y'all have questions, give them to your foreperson and I'll answer them as best I can. I can't do it verbally in open court.

(WHEREUPON, the jury left open court at approximately 12:10 p.m.)

THE COURT: Okay. What y'all got pretrial?

MR. CAMPBELL: Pretrial, Your Honor, we have Jackson v. Denno hearing on the defendant's statements to police and we also a Neal vs. Biggers photograph line-up.

THE COURT: Okay.

MR. CAMPBELL: Which ever one you would like to start with first. I have got both of my detectives in here.

THE COURT: Mr. Campbell, is the solicitor's office turning over control of the docket to the judicial branch?

MR. CAMPBELL: No, Your Honor.

THE COURT: You call which ever motion you want to call, it doesn't matter to me.

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MR. CAMPBELL: We'll start Detective Conroy.

THE CLERK: Please raise your right hand, place your left hand on the Bible.

T. CONROY, after being duly sworn, testified as follows:

THE CLERK: Please have a seat.

MR. GODFREY: May it please the Court?

THE COURT: Yes, sir.

MR. GODFREY: Could we take just a 30 second break to get my client's family back in the courtroom?

THE COURT: Yes, absolutely.

Just hang on, don't start your testimony.

THE BAILIFF: You Honor, the victim's family wanted to come in here.

THE COURT: Yeah, they're welcome now, we're all done with that jury.

(WHEREUPON, State's Exhibit No.s 1 & 2 were marked for identification only.)

DIRECT EXAMINATION

MR. CAMPBELL: May it please the Court?

THE COURT: Yes, sir.

BY MR. CAMPBELL:

Q Detective Conroy, please state your place of employment?

A Greenville Police Department.

Q What is your position there?
A Detective.
Q Okay. Did you -- were you assigned as detective to investigate a murder on June 21st, 2007?
A Yes, sir, I was.
Q That was at [redacted] or around [redacted] [redacted] Street in Greenville County?
A Yes, sir.
Q Did you encounter the Defendant, Cameron Hammonds, during the course of that investigation?
A Yes, I did.
Q Did he provide a written statement?
A Yes, sir.
Q Was Detective Flavell present during all these questions?
A He was.
Q When did you encounter him for that statement?
A Early part of July.
Q Okay. And where did you interview Cameron Hammonds?
A The Greenville Police Department in the interview room.
Q How did he get there?
A He transported by uniform patrol or other officers.
Q Okay. When you interviewed him was he in custody?
A He was.

Q Okay. How did you identify yourself to Mr. Hammonds?
A I advised him that I was Detective Conroy with the Greenville Police Department.
Q Prior to speaking with Mr. Hammonds about the case, what rights did you advise him of?
A I advised him his rights and read him the waiver of rights as well.
Q Okay. How did you present those rights to him?
A I read him the form. Prior to reading the form I got his -- asked him his full name, I wrote it at the top, left corner. Asked him if he could read and write, his educational level, his social security number.
Q Did you go over a waiver of rights form with him?
A Yes, I did.
Q Okay. And could you -- you did determine if he could read or write?
A I did. He stated he could read.
Q Did he appear under the influence of alcohol, drugs or anything that would impair his ability to understand those rights?
A No, sir.
Q Okay. Did he appear alert and was he able to understand what you were saying to him?
A Yes.
Q How did you present your rights and waiver of rights

forms?
A First I asked him to read the first line to me out loud. Which he did so. Then I read the -- I continued to read the rest of the form to him.
Q Did he indicate that he understood those rights?
A Yes, he did. He initialed by each line.
Q Did he sign the form and agree to waive his rights and speak with you?
A Yes, he did.
Q At any time during the explanation of his rights did you force, threaten, force him in any way in an effort to get him to waive his rights?
A No, sir.
Q Were any request such as a bathroom breaks, smoke breaks or anything of the like denied to him while you were explaining his rights?
A No.
Q Did he at any time ask to stop or ask for an attorney?
A No, sir.
Q Where there any promise of leniency or hopes of reward held out in order to get him to waiver his rights?
A No.
Q In your opinion, did the defendant freely, voluntarily and knowingly waive his rights and agree to

give you a written statement about what happened in this case?

A Yes, sir.

Q Okay. I'd like to show you what's been marked as State's Exhibit 1. Would you please tell the Court what that is?

A This is the rights form and the waiver of rights.

Q How can you identify it?

A Cameron's name is at the top as well his initial beside each line and his signature and my signature as well as Detective Flavell's.

Q Okay. I'd also like to show you State's Exhibit No. 2. What is that document?

A This is Mr. Hammonds statement.

Q How did you create that document?

A I asked Cameron if he wanted to talk, he agreed to. I took notes. After we went over all the notes I went back to my computer and typed this statement.

Q How did Mr. Hammonds indicate that what you had typed is what he wanted in his statement?

A He initialed each the beginning and last of the paragraph and also signed it.

Q Did he indicate that everything was true and correct in the statement.

A He did, yes, sir.

Q Did you at any time force, threaten or coerce him to initial or sign his statement?
A No, sir.
Q Did you deny any request to him whatsoever while he was giving his statement?
A No.
Q Did he at any time ask to stop or ask for an attorney while he was giving the statement?
A No, sir.
Q Were there any promises of leniency or hopes of reward held out to him in order to get him to sign that statement?
A No.
Q Did he appear to fully understand what he was saying and what was contained in the statement?
A Yes, he did.
Q In your opinion did the defendant freely, knowingly and voluntarily give you this statement and sign it as true and correct?
A Yes.
Q Is this your signature on the -- as witness to the statement?
A Yes, it is.
Q Did you give Mr. Hammonds a copy of the statement?
A Yes, sir.

Q Was anyone else present while you gave Mr. Hammonds a copy and signed statement?

A Detective Flavell.

Q Did Detective Flavell witness the entire proceeding?

A Yes, sir.

Q Okay. Did you have any other involvement in this murder investigation?

A Yes, sir.

Q Okay. All right.

MR. CAMPBELL: That's all for Detective Conroy at this time?

THE COURT: All right.

Cross-examination.

MR. GODFREY: May it please the Court.

CROSS-EXAMINATION

BY MR. GODFREY:

Q Detective Conroy, this interviewed occurred about 4:12 in the afternoon?

A Yes, sir.

Q How long did the interview take?

A Best of my recollection about an hour or two.

Q And you were in a room at the Greenville Police Department?

A That is correct.

Q Who else was in the room with you?

A Detective Flavell.
Q Was he there the entire time?
A Yes, sir.
Q Were you there the entire time?
A Yes, sir.
Q Was Cameron Hammonds handcuffed during that period of time?
A I believe it was handcuffed to a chair, yes, sir.
Q So he had one harm handcuffed to a chair, the other was free?
A That is correct.
Q On the statement itself, up at the top, next to the case number and the date July 2, 2007, there's 16:30 hours there, what is that?
A 4:30.
Q Is that when the -- he signed the statement?
A That should be when we started the statement.
Q Do you have any indication of time on here when the signature on the statement was taken?
A No, sir.
Q Don't you all normally put the signature -- I mean the time of beginning and end?
A That's not my common practice, no, sir.
Q But you were present in the room the entire time?
A Other than typing the statement, yes, sir.

Q Okay. So the computer that you used to type the statement was not present in the interview room?
A That is correct.
Q And when you left the room who feels with Mr. Hammonds?
A I don't know if Detective Flavell was or another or if the doors were left open.
Q What was your understanding regarding my client's educational background?
A I believe he stated he went to a year and a half of college at Greenville Tech.
Q Now on the word, looking at the waiver form, where he initialed. On the Waiver of Rights, the word coercion is circled. And it appears that Cameron Hammonds initialed that?
A Yes, sir.
Q Would you explain that please?
A Yes, sir. I asked him if he understood what the word coercion meant. I stated it could be mental or physical pressure trying to get him to do or say something that he did not want to do or say.
Q So you believe he understood what coercion meant?
A Yes, sir.
Q Now, did you all offer him anything to get him to give a statement?

A No, sir.
Q Did you threaten him in any way in order to get him to give a statement?
A No, sir.
Q Did you tell him, look if you give us a statement we'll talk to the solicitor, we'll try to be lighter on you?
A No, sir.
Q Nothing was said at all?
A No, sir.
Q So how did you begin this interview with Cameron, what did you ask him?
A When he came into the room I advised him I wanted to talk to him about a robbery that occurred the night before and a murder -- the night before the murder and the murder. Prior to doing that I was going to have to advise him of his rights.
Q And after you advised him of his rights and he knew what the purpose of the interview was about, how did you begin the interview?
A I just asked him if he wanted to tell his side of story or if he wanted to do answer/question.
Q Did you ever, before Cameron made a statement or told you anything, did you give the State's version of what happened?

A Excuse me?
Q Before Cameron talked to you about the facts of that incident, before that occurred, did you advise Cameron what the State's evidence was or what the State's position was on that?
A No, sir.
Q So you just asked him what happened?
A Yes, sir.
Q And what you typed up on the computer, based on your notes from the interview, is what Cameron told you?
A That is correct.
Q And after you got this typed up, then you went back into the room where Cameron was?
A Yes, sir.
Q Now when you went back into the room with the statement, was Detective Flavell there?
A Yes, sir.
Q So Detective Flavell was there when you left and he was to type the statement and he was there when you got back?
A Correct. I don't know if he stayed in the room the entire time but we were in there together.
Q Now, did Cameron Hammonds read the statement?
A Yes, sir.
Q And then he initialed at the beginning and at the

end?
A That is correct.
Q And he signed his name?
A Yes, sir.
Q Now, after the statement was taken, didn't Cameron Hammonds say that he wanted to have a lawyer?
A That is correct. After he signed the statement.
Q Doesn't happen before then but it was after?
A That is correct.
Q What did you do at that point in time?
A At that point in time I told him I couldn't talk to him any further and I brought him to detention.
Q Were you intending on talking to him any further?
A Not once he said he wanted an attorney. I had some other questions I wanted to ask but I didn't ask him.

MR. GODFREY: Nothing further.

THE COURT: All right, any redirect?

MR. CAMPBELL: No, Your Honor.

THE COURT: Okay, you can step down.

MR. CAMPBELL: State would now call Detective Flavell.

C. FLAVELL, after being duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Detective Flavell, please state your place of employment position?

A I'm an investigator with the Greenville City Police Department.

Q Okay. And employed in that capacity were you assigned to assist or investigate a murder on or about June 21st, 2007?

A Yes, I was.

Q That was the murder around [redacted] Street in Greenville County?

A Yes.

Q And during the course of that investigation did you encounter the Defendant, Cameron Hammonds?

A I did.

Q Have you been in the courtroom this entire time during this hearing?

A Yes.

Q And that was during the same investigation and interrogation process that Detective Conroy just testified to?

A Yes, sir.

Q And you were present during all those questions?

A Yes.

Q Okay. And during the course of that interview did you identify yourself to Cameron Hammonds?
A I did.
Q And you were there as Detective Conroy advised him of his rights?
A Yes.
Q Did Mr. Hammonds stop any time or indicate that he could not understand those rights?
A No, he did not.
Q Did he indicate that he could read and write?
A He did.
Q That he could understand what you were saying that he knew who you were?
A He did.
Q Okay. I'm going to show you State's Exhibit No. 1, can you identify that document?
A That's the rights -- Waiver of Rights form.
Q How can you tell that's what it is?
A It's got the waiver rights on it, the waiver, it's got Cameron Hammonds name at the top, my signature and Detective Conroy's signature at the bottom.
Q Mr. Hammonds initialed each one of those rights indicating that he understood them?
A That is correct.
Q Okay. And so in your opinion did he knowingly,

freely and voluntarily waive his rights and agree to talk to you and Detective Conroy about this case?

A Yes, he did.

MR. CAMPBELL: Your Honor, at this time the State would move the Waiver of Rights, State Exhibit No. 1 into evidence.

MR. GODFREY: Without objection.

THE COURT: Okay.

(WHEREUPON, State's Exhibit No. 1 was admitted into evidence.)

THE COURT: For purposes of this hearing only?

MR. CAMPBELL: Yes, Your Honor.

THE COURT: Okay.

BY MR. CAMPBELL:

Q Now Detective Flavell, I want to show you another document. Can you tell me what that is?

A That's a statement form.

Q How can you tell what it is?

A It's a Greenville Police Department statement form, it's got Cameron Hammonds name on it. It's got his signature, my signature, Defendant's Conroy's signature at the bottom along with the case number.

Q Okay. At any time during the creation of that statement, did -- and while Mr. Hammonds was talking to you, did he indicate that he wanted to stop or he wanted

an attorney?
A No, he did not.
Q Were any breaks, bath room breaks, smoke breaks, hunger breaks, anything denied to him during the course of this interview?
A No.
Q And were there any promises of leniency or hopes or reward held out to him?
A No.
Q Was there any coercion on your behalf or behalf of Detective Conroy?
A No, there was not.
Q In your opinion did he freely, voluntarily and knowingly give this statement?
A Yes, he did.
Q Signed it as true and correct?
A He did.
Q Was Mr. Hammonds given a copy of this statement?
A Yes.
MR. CAMPBELL: Your Honor, at this time the State would move State's Exhibit No. 2, the statement of Cameron Hammonds into evidence.
MR. GODFREY: Without objection.
THE COURT: All right.

(WHEREUPON, State's Exhibit No. 2 was admitted into evidence.)

THE COURT: For the purposes of this hearing only.

MR. CAMPBELL: Thank you, Your Honor. That's it for Detective Flavell at this time.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. GODFREY:

Q Detective Flavell you were present the entire time that Cameron Hammonds was at your office?

A Yes, sir.

Q So this interview began about 16:12?

A I'll have too look at the form to see the time on it. Yes, sir, that's what indicated on the Rights Waiver.

Q Now, how long did the interview take?

A Exactly I don't know how long it took until completion. I'd say no more than an hour, hour and a half.

Q Now, on the statement itself, Exhibit 2, 16:30 is at the top. Is that when the interview began?

A That would be when the statement began, yes.

Q Okay. So from 16:12 to 16:30, that was just the Waiver of Rights and the Rights Form, the Miranda warnings?

A That would have been the explanation of the rights

and the preparation of the, yes.

Q Now, were you present during the entire interview of Cameron Hammonds?

A Yes.

Q When Detective Conroy went out to type the statement from his notes, were you still in the room?

A I probably didn't stay in the room with him. The way -- we moved our offices now but the way it was is our interview room is directly across from our office. I can sit at my desk and see the interview room. So when Detective Conroy went out to type the statement, I might have walked back to my office. But I could see the defendant siting in the interview room.

Q Now at some point Cameron Hammonds requested an attorney, correct?

A He did.

Q When was that?

A It was after he signed the statement.

Q What happened at that point in time?

A We stopped the interview, we explained to him that we had some more questions for him. And indicated to us that he would -- he might after he talked with his attorney contact us to finish the interview.

Q Okay. So you had interview notes and a statement was taken and signed?

A Correct.
Q And then you still had other questions for Cameron Hammonds?
A Follow-up questions, yes, sir.
Q And that's the point when he said he wanted to have an attorney?
A That's correct.
Q And you all stopped the interview?
A Yes, sir.
Q Detective Flavell, did you tell Cameron Hammonds that if he would give a statement, give his side of it that y'all would go easier on him?
A No, sir.
Q Did you tell him that you would talk to the solicitor's office for him?
A I did not, no, sir.
Q Was there any type of coercion or pressure put on him to give a statement?
A No.
Q Did he appear to be rested and sound mind?
A He did.
Q Did he appear to be under the influence of any alcohol, medication or drugs?
A He did not.
Q Was he cooperative with you?

A Yes, sir.

MR. GODFREY: Nothing further.

THE COURT: Any redirect?

MR. CAMPBELL: None from the State, Your Honor.

THE COURT: All right, thank you, sir, you can step down.

No, you may not, they got to stay with her now.

MR. CAMPBELL: Yes, sir.

THE COURT: Okay. They've been introduced into evidence for the purposes of this hearing.

MR. CAMPBELL: Your Honor, at this time we'd like to do a hearing with regards to photo line-up, we call Detective Conroy.

THE COURT: Well, I mean, we can do that in a minute. Any objection to the admission of the statement versus the -- I mean, anything you want to tell me?

MR. GODFREY: Solicitor, do you have anything to say.

THE COURT: He thinks it freely, voluntarily and intelligently made. Do you have any?

MR. GODFREY: We just stand on the testimony.

THE COURT: All right. I'm going to find there's been no violation that would require suppression of the statement, okay.

MR. CAMPBELL: Thank you, Judge.

THE COURT: Who you want up here?

MR. CAMPBELL: Detective Conroy.

THE COURT: Conroy. You're still under oath.

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Detective Conroy, you're employed with the Greenville Police Department?

A I am.

Q You were involved in the investigation of a murder that occurred around or about [redacted] Street in Greenville County 2007?

A Yes, sir.

Q Okay. During the course of that investigation, did you put together a photographic line-up?

A Yes, I did.

Q How did you generate the line-up?

A I used five other people with similar characteristics, age.

Q How many photographs were displayed in the line-up?

A Six total.

Q Was the defendant in the line-up?

A He was.

Q Where the other five people all of similar, physical description as the defendant?

A They were.

Q To whom did you show this line-up?

A Stephon Brewster.
Q And do you recall on what date that occurred?
A I believe it was 6/21/07.
Q And where were you when you showed Mr. Brewster the line-up?
A Greenville Police Department.
Q Was anyone else present when you showed it to him?
A I believe Detective Flavell was.
Q How did you present this line-up to Mr. Brewster?
A I asked him if he has ever looked at a line-up before. He stated he had.

I said, He may -- the person we're talking about may or may not be in the photo line-up.

Q Okay. Did you tell him the suspected person was probably in the line-up?
A No, sir.
Q Did you any way lead Mr. Brewster to believe that he had to pick or should pick somebody out of the line-up?
A No, I did not.
Q Did you suggest to him which photograph to pick?
A No.
Q Did Mr. Brewster select a photograph of the person he thought committed the crime?
A He did.
Q Whose photo did he select?

A Mr. Hammonds.
Q Did he say anything when he selected the photo?
A He said that's the person he knows as C.
Q Okay. And how certain or confident did he appear?
A He was very certain.
Q Did you ask him to prepare any documents to indicate his choice?
A I had him sign the line-up itself.
Q Okay. And I'm going to show you what has not been marked yet as an Exhibit but --

THE COURT: Well get it marked.

(WHEREUPON, State's Exhibit No. 3 was marked for identification only.)

BY MR. CAMPBELL:
Q Let me show what's been mark as State's Exhibit No. 3--

MR. GODFREY: May I see, that please.

BY MR. CAMPBELL:
Q Now Mr. Godfrey has seen the line up, can you identify that document?
A Yes. This is the photo line-up I showed Mr. Brewster.
Q How do you recognize it?
A Mr. Brewster signed the line-up.
Q What did you do with the line-up after showing it to

Mr. Brewster?

A I placed it in property and evidence.

Q Has it been in the continuous custody, care, control of property and evidence ever since?

A Yes, it has.

Q Did you bring it with you to court today?

A I did.

Q And is this photographic line-up in substantially the same condition as it was when you used it on June 21st, 2007?

A Yes, sir.

MR. CAMPBELL: That's all from the State at this time, Your Honor.

THE COURT: All right, any examination?

MR. GODFREY: Just a couple of questions, Detective.

CROSS-EXAMINATION

BY MR. GODFREY:

Q You had just interviewed Stephon Brewster, is that correct?

A That is correct.

Q And Stephon Brewster had just told you that he knew Cameron Hammonds, right?

A He knew him, yes, sir.

Q Well, in fact, they had been together, right?

A That is correct.
Q So he knew Cameron Hammonds by name and sight?
A Not full name.
Q Well he knew his name was C?
A Correct.
Q Right? Okay. And, in fact, Stephon Brewster talked about Cameron Hammonds being over at Stephon Brewster's grandma's house; is that correct?
A Yes, sir.
Q It was after this interview that you prepared the photo line-up?
A Yes, sir.
Q And in the photo line-up you put Cameron Hammonds picture?
A Yes, sir.
Q Now when you gave the photo line-up -- you are the officer that gave it Brewster?
A Yes, sir.
Q I'm going to hand you State's Exhibit 3, please show us how you would have given that to Brewster?
A I would have just handed it to him -- or first I asked him if he's ever seen one, the person may or may not be in this line-up. Then I would just place it on the table in front of him.
Q Now, is -- what were these black lines across here

for?
A His hair was done different. I was trying to mark his hair out.
Q What's the black line down at the bottom?
A I believe maybe a different color shirt or something.
Q Okay. So the black lines were there to try to make everybody look similar?
A That is correct.
Q And Stephon Brewster had given you a statement about the incident and talked about C?
A Yes, sir.
Q And you show him a photo line-up and he picks out C?
A That is correct.

MR. GODFREY: Nothing further.

THE COURT: Any redirect?

MR. CAMPBELL: No, Your Honor.

THE COURT: Okay, thank you, you can step down. Anything else?

MR. CAMPBELL: Nothing from the state, Your Honor. Just move that this photographic line-up be admissible into evidence.

THE COURT: Any objection?

MR. GODFREY: No objection.

THE COURT: All right. Well, I don't see any reason -- find it was coerced in any way, so.

All right, anything else before we break for lunch?

(WHEREUPON, State's Exhibit No. 3 was admitted into evidence.)

MR. CAMPBELL: That's all we has, Your Honor. I trust you received a copy of the stipulation?

THE COURT: I did. I put it into evidence.

MR. CAMPBELL: Yes, sir.

THE COURT: Court's Exhibit.

Anything from the defense?

MR. GODFREY: Nothing, Your Honor. Well, if we're going to break for lunch, Judge, my client has been out on bond this whole time since 2007. I would respectfully request that the Court allow him to remain free and not take him into custody. The case has started but he's always come to court, he's here now, this is his family and friends behind him.

THE COURT: Well, it's my policy, particular in a case of this seriousness that I revoke the bond at this time. So we're going to take him into custody.

Be back at 2:00 o'clock.

MR. GODFREY: May it please the Court?

THE COURT: Yeah.

MR. GODFREY: My client is a insulin dependent diabetic and needs to take insulin four times a day. Can somebody in his family -- his insulin is in the car, can

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somebody--

THE COURT: Yeah, they'll have him --

Jimmy, y'all going to keep him downstairs?

THE DEPUTY: Downstairs.

THE COURT: Yeah, Mr. Godfrey, you can tell them where to -- okay. All right.

(WHEREUPON, a lunch break was taken.)

THE COURT: Okay, our foreperson is Leslie Schmidt. Is that right?

THE BAILIFF: Yes, sir.

THE COURT: All right, if you would, let's make that part of the record.

(WHEREUPON, Court's Exhibit No. 2 was marked for identification and received into evidence.)

(WHEREUPON, the jury came into open court at approximately 2:05 p.m.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope y'all had and a pleasant lunch. And as I told you, we're about to begin what I have termed as the first part of the trial, the opening statements of the attorneys.

Mr. Campbell.

OPENING STATEMENT

MR. CAMPBELL: May it please the Court.

Mr. Godfrey.

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Good afternoon, ladies and gentlemen. I have good news and I have bad news. The good news is, Judge Miller already told you, you have an opportunity today to be part of this country's most sacred institution. That is a fair trial, by impartial jurors, that is yourselves, where we, the State, have a burden of proving beyond a reasonable doubt, that Cameron Hammonds, that man sitting right over there, shot and killed Lee Kinard nine times, two different guns, on or about June 21st, 2007.

The bad news is this ain't CSI. This ain't T.V. like Judge said, T.V. goes out the window once we get here in the real world. We don't have DNA, we don't have thermographic imagining, we don't have hair samples, we don't have some neat little scientific gismo that we can type on that pops up everyone's picture in the world. What we do have is good police work and eye witness testimony from people who know Cameron Hammonds when this occurred. It was 3:00 in the afternoon. Broad daylight on a hot summer afternoon.

But we're going to start first with our policemen. Detectives Conroy and Flavell are going to get on that stand and they're going to tell you what happened. When they got the call, how they were assigned to the case, what they saw at the scene. And then we're going to start to put the pieces of the puzzle together. You're then

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going to hear testimony from Stephon Brewster who was present that day. Who knew Cameron. And then you're going to hear testimony from Kelvin Harris who lived across the street. Who was sitting out on his porch and saw the whole show from start to finish.

Then lastly we're going to Dr. Ward come up here. He's a Greenville County medical examiner. And he's going to testify to the medical examine that was performed and explain to you how these wounds occurred. He's going to tell you that they were gunshots. And he's going to tell you that those gunshots caused the death of Lee Kinard. A young guy who was only 27 years old. Thank you.

THE COURT: Mr. Godfrey.

OPENING STATEMENT

MR. GODFREY: May it please the Court.

Solicitor.

My client, Cameron Hammonds, is seated right there. And he is in this courtroom because the State has indicted him for murder, possession of a weapon during the commission of a violent crime. Serious charges. Serious charges need to have serious evidence. In this case they have a couple of eye witnesses and a couple of police officers. Ladies and gentlemen, as jury people, you need to look very carefully at these people as they take the stand and as they testify. When people testify, questions

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that should be before you is what does someone have to again or lose by their testimony? Does somebody have an acts to grind with someone else? Why are people statements inconsistent? Why are statements from the same person to police inconsistent? And exactly what is going on here? What are the relationships of the everyone involved in this?

You need to keep an opened mind throughout the entire case. You need to listen carefully to each and every witness. You need to look at these folks and try to figure out through their demeanor what they're really saying. That's what Cameron Hammonds wants you to do. Cameron Hammonds wants everything to be heard here in court. He wants you to hear it. And he wants you to consider everything. Because the State, at this table, has to prove beyond a reasonable doubt that Cameron Hammonds committed a murder. Cameron Hammonds will submit to you that based upon the evidence that you're going to here, and based upon what you're not going to hear, after you go back and deliberate, there's only one decision that you could come up with. And that is not guilty. Thank you.

THE COURT: All right, call your first witness.

MR. CAMPBELL: State calls Detective Tim Conroy with the Greenville Police Department.

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THE CLERK: Please raise your right hand, place your left hand on the Bible.

TIM CONROY, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Detective Conroy, would you, please, state your place of employment and your position?

A I'm a detective at the Greenville Police Department.

Q And were you employed in that capacity in June of 2007?

A Yes, I was.

Q As a detective at that time did you handle murder cases?

A I did.

Q Were you assigned to a reported murder that happened on or about June 21st, 2007 at [redacted] Street in Greenville County?

A Yes, sir.

Q Can you tell us how you got involved with that investigation and what your first actions were responding to the scene?

A I got a call that said there was a gunshot victim at [redacted] Street. I was in my vehicle, I drove over there. Upon arrival I witnessed EMS working on an

individual and it appeared to me that he was -- he had been shot numerous times. In the front yard there were several shell casings.

Q Okay. So when you got there did you see the victim?

A Yes, sir.

Q Where was the victim when you arrived?

A He was actually being loaded on to a stretcher by EMS in the front yard.

Q When you say EMS, that ambulance, ambulance drivers?

A Yes, sir, that is correct.

Q And could you see the gunshot wounds?

A I could see numerous marks on his body that appeared to be gunshot wounds.

Q Was that based on your training and experience as a police officer?

A Yes, sir.

Q Did you see one, multiple, were you able to count, do you know?

A I saw several wounds on his body.

Q Was he laying on his back or was he on his stomach?

A He was on his back on a stretcher.

Q Okay. What did you do next at that point?

A There was an individual standing on the front porch, I approached him and began speaking with him about what he observed that day.

Q Okay. Did you talk with everyone that was present at the scene?
A Yes, sir.
Q And then during the course of your investigation, did you file any reports? What was your next step as a detective?
A After we cleared the scene we went back to the law enforcement center to discuss what we learned and what our next step would be.
Q Okay. And did you get any leads once you were back at the law enforcement center?
A Yes, sir.
Q What -- tell us, what was your first lead, what happened?
A There was several of us sitting in the office and I received a phone call that someone was at front desk that wanted to talk to us about the murder.
Q Who was that person?
A Stephon Brewster.
Q Did you interview this person?
A I did.
Q And did he give you a statement or anything? Did he write anything down?
A He did give a statement, yes, sir.
Q What's contained in that statement when you do

something like that?
A Um.
Q I mean, does he have to go through and tell you what happened, does he have to sign anything?
A Yes. We brought him up to the office and I asked him exactly what happened. Took his notes, I typed them and he gave the facts about that day.
Q Okay. And was anyone else in the room at that time?
A Detective Flavell was.
Q Okay. And did Detective Flavell witness everything that happened?
A Yes, sir.
Q And did you have any procedure for witnessing that this same statement or this same document that you created was that person present?
A There's a case number and the form is also signing by two detectives that were present in the room.
Q Okay. And after you got done with his interview -- was that the only time you interviewed him, one time?
A No, sir. A couple days after that we spoke to him again.
Q Okay. And during the course of your investigation with Mr. Brewster, did he substantiate or further indicate any leads as to who the possible shooter was?
A Yes, sir, he did.

Q Okay. Did he give you a name?
A Yes, he did.
Q Did he identify the shooter any other way beside a statement?
A I put Mr. Hammonds in a photo line-up and Stephon picked him out of a photo line-up.
Q Okay. I'm going to show you what's been marked as State's Exhibit No. 3, can you identify that document?
A Yes, sir. This is the photo line-up that I showed Stephon Brewster.
Q How can you tell what it is?
A Mr. Brewster signed this and also made a note of which he saw this person did.
Q Okay. When you presented that document to him, how did you create the photo line-up?
A I got five people with similar characteristics to Mr. Hammonds, placed him in this photo line-up. When I showed it to Mr. Brewster I asked him -- I stated that the person who we were speaking of may or may not be in this photo line-up. And not to feel obligated to pick someone out.
Q Okay. How many photographs were displayed in that line-up?
A There were six total.
Q Okay. And was the Defendant, Cameron Hammonds, in

the line-up?
A Yes, sir.
Q Are the other five people as you stated, were they all similar, physical description?
A They are.
Q And what day was this that you showed Mr. Brewster the photo line-up?
A This was on the 21st of June 2007.
Q Okay. Was anyone else present when you showed him this line-up?
A Detective Flavell was.
Q What did you tell him when you showed him the line-up?
A I stated that he may or may not be in this line-up.
Q Okay. And when you presented him the line-up did you just hand him the piece of paper, did you indicate or suggest anything to him?
A No, sir I just I handed him the piece of paper and he picked out Mr. Hammonds out without hesitation.
Q Okay. Was anyone else -- Detective Flavell was in the room, did he suggest anything to Mr. Brewster?
A No, sir.
Q And was Stephon Brewster confident in his selection?
A Yes, sir.
Q And is that photographic line-up in substantially the

same condition as it was when you created it on June 21st of 2007?

A Yes, it is.

Q Has there been any changes or alterations whatsoever?

A No, sir.

MR. CAMPBELL: Judge, at this time without objection we'd like to move State's Exhibit No. 3 into evidence.

THE COURT: Without objection?

MR. GODFREY: Without objection.

THE COURT: Okay.

(WHEREUPON, State's Exhibit No. 3 was entered in a previous hearing outside of the presence of the jury.)

BY MR. CAMPBELL:

Q Now Detective Conroy, during the course of your investigation, did you ever encounter the Defendant, Cameron Hammonds?

A I did.

Q Okay. And had he already been charged with the crime at that point?

A Yes, he had been.

Q Did he give you a statement?

A Yes, sir, he did.

Q Now, when did you encounter him?

A July 2nd, 2007.

Q Okay. So this was a couple days, maybe 10 days after, 10, 11 days after?
A Yes, sir.
Q Did you identify yourself to Mr. Hammonds?
A I did.
Q Prior to speaking with him, what rights did you tell him about?
A I advised him his rights and read him his Waiver of Rights as well.
Q Okay. And did you go over -- you said Waiver of Rights, is that a form?
A It is. It is. I asked Mr. Hammonds his full name which is documented on the top of the form. Asked him his educational level, if he could read and write, his social security. Which he answered and I documents all those on the form.
Q Did you determine if he could read and write?
A I did. I asked him to read the first line out loud to me.
Q Did he appear under the influence of any alcohol or drugs or anything that might impair his ability to understand what was going on?
A No, sir, he was fine.
Q And did he appear alert?
A Yes, sir.

Q Understand what you were saying to him?
A Yes, sir.
Q So he knew where he was?
A That's correct.
Q He knew what he was doing?
A That is correct.
Q How did you present these forms to him?
A I laid them on the table after he read the first line out loud. I continued to read the rest of the form to him. I asked him if he understood it to initial beside each line which he did.
Q Okay. Did he indicate that he understood everything?
A Yes, he did.
Q And at any time during the explanation of these rights did you force, threaten or coerce him in any way?
A No, sir.
Q And did he make a request for food or bath room break that were denied to him?
A No, sir.
Q And did he stop and ask for a lawyer at any time?
A Not during the statement, no, sir.
Q Were there any promises of leniency or hope of reward made to him?
A No, sir.
Q Now in your opinion, did he freely, knowingly and

voluntarily waive his rights and agree to talk to you?
A Yes, he did.
Q Okay. I'm going to show you another document that has been marked as State's Exhibit No. 1. Can you tell me what that is?
A That is his Rights Form.
Q Okay. And did he indicate -- how can you tell what it is?
A His name is at the top, his initials beside each line. And he also signed the form as well as myself and Detective Flavell.

MR. CAMPBELL: Okay. Your Honor, at this time I'd like to move State's Exhibit No. 1 into evidence.

MR. GODFREY: Without objection.

THE COURT: No objection.

(WHEREUPON, State's Exhibit No. 1 was entered in a previous hearing outside of the presence of the jury.)

BY MR. CAMPBELL:
Q And now I'm going to show you State's Exhibit No. 2. What's that?
A This is a statement taken from Cameron Hammonds.
Q And how did you create that statement?
A Well I was talking to Cameron Hammonds I was taking notes regarding what he was telling me. After our

conversation was done I went to my office, typed them up and put them this statement form.

Q Okay. Did Mr. Hammonds indicate to you that what you had typed was correct?

A He did.

Q Did he read it?

A He did. He also initialed at the beginning and end of a paragraph and also signed it.

Q Did you force, threaten or coerce him at any time during this whole process?

A No, sir.

Q Did you offer him any reward or promises of leniency just to make a statement?

A No.

Q Did you deny any of his request such a break, stop to get something to eat or go to the bath room?

A No.

Q Did he ask for a lawyer at any time during all this?

A Not during the statement.

Q Okay. And did he appear fully to understand what -- where he was and what he was doing?

A Yes, he did.

Q In your opinion, did he freely, knowingly and voluntarily waive his rights, give you that statement and indicate that it was all true and correct?

A Yes.
Q Did you give Mr. Hammonds a copy of the statement?
A Yes, sir.
Q And is your signature there on the statement as well?
A It is.
Q Was anyone else present in the room when the statement was given?
A Detective Flavell was.
Q And did Detective Flavell witness that that statement was true and correct?
A Yes, sir.
Q Okay. And did Mr. Hammonds get a copy of the statement?
A Yes, sir.
Q Okay. At this point did you talk with anyone else in this investigation?
A No, sir.
Q Okay. Did you interview anyone who was at the scene or did anyone call you to tell you they had anything more to add to the statement?
A Yes, sir.
Q To the investigation?
A Yes, sir.
Q Who called you?
A Kelvin Harris.

Q Kelvin Harris. And did you interview him?
A Yes, sir, I did.
Q Did you take a statement from him?
A I did.
Q Did he indicate that he had knowledge as to the crime and what happened?
A Yes, sir.
Q Did he give you information or based on your investigation with Kelvin Harris, did you get suspect or did it confirm a suspect for you?
A Confirmed a suspect, yes, sir.
Q Who did your investigation confirm as a suspect?
A Cameron Hammonds.
Q Okay.

MR. CAMPBELL: That's all the questions I have for you right now.

MS. HARRISON: Just one moment.

MR. CAMPBELL: That's it. Please answer any questions Mr. Godfrey may have for you.

THE COURT: Cross-examination.

MR. GODFREY: May it please the Court.

CROSS-EXAMINATION

BY MR. GODFREY:
Q Good afternoon, Detective Conroy?
A Hello.

Q Were you the chief investigating officer on this case?
A Yes, sir.
Q And when you got to the crime scene, what did you do?
A I observed the victim being loaded on a stretcher by EMS. I observed several shell casings, spoke with individuals at the crime scene.
Q Did you direct other officers in what they were supposed to do?
A Yes, sir.
Q Did you ask officers to canvas the neighborhood?
A Officers did speak with neighbors to see if they saw anything, yes, sir.
Q And was that the neighbors on that street?
A Yes, sir.
Q Do you know if Kelvin Harris was spoken to that day?
A I do not know that for sure.
Q Now you said when you got there you saw Mr. Kinard and you said you went up on the porch and talked to somebody?
A Yes, sir.
Q Who did you talk to?
A Brigman Young.
Q And was he able to provide you with any information?
A He stated he was inside and heard what was going on

but did not see anything.

Q Okay. Now, did you talk to Stephon Brewster that day?

A Later that day, yes, sir.

Q Okay. Did you talk to him on the scene?

A No, sir.

Q How was it that you came in contact with Stephon Brewster?

A Mr. Brewster went to the front desk of the law enforcement office and stated he had information about this.

Q Okay. So at that point in time were you able to see him right then?

A Yes, sir.

Q And was the Detective Flavell with you?

A During the interview, yes, sir, he was.

Q And when you talked with Stephon Brewster, he gave you a statement about what he says happened?

A That's correct.

Q And in that statement, the initial statement, that was the statement taken the date of the incident so that would have been June 21st, 2007.

A Yes, sir.

Q At the end of the statement, did you ask him some questions, right?

A I did.
Q Did you ask him what C's real name is?
A I did.
Q He told you he thinks it's Cameron or something like that?
A That's correct.
Q Did you go into Stephon's relationship with Cameron, how he knew him?
A A little, yes, sir.
Q What did he tell you?
A He said that they were friends. He had a friend that was Stephon's half brother or step brother.
Q Now, there was an occasion -- that was on June 21st and Stephon Brewster was back at your office on June 22?
A Yes, sir.
Q And that was at your request?
A Yes, sir.
Q You wanted to have him back because why? Something in the investigation didn't add up?
A That's correct.
Q And so you wanted to have him back to re-question him?
A Yes, sir.
Q And at the time of re-questioning, he said that everything was correct except that Cameron Hammonds didn't

hold a gun on him and make him drive him away.
A Yes, sir.
Q Now, you know that he did not apparently tell you the truth on June 21st about what actually happened or how it happened. And then on June 22, because of your investigation, and the good work that you do, you thought, just not right, we need to talk to him again. How do you know what happened on the 22nd is the truth?
A It was still an on-going investigation.
Q So he doesn't tell you everything on the 21st and on the 22nd you're satisfied and that's the end of this statement with Stephon Brewster, right?
A I was satisfied at that point, yes, sir.
Q You were satisfied at that point, are you satisfied now?
A Yes, sir.
Q Now, you did not talk to Kelvin Harris on the scene?
A That is correct.
Q And did you review your officers notes that were out there helping with the investigation? Did any one of them talk to Kelvin Harris on the scene?
A I do not recall.
Q Didn't you ask Kelvin Harris why he didn't tell anything to the news cameras that day?
A Yes, sir, I did.

Q And Kelvin Harris said I'm not stupid, I have to live over here, I didn't want everybody to know what happened?
A Yes, sir.
Q So you knew, and I'm going from a supplemental report that was prepared by you on June 27th, are you familiar with the report if I hand it to you?
A I believe I am.
Q Just so we'll be clear.
A Okay.
Q Now, you knew at the time that somebody had talked to Kelvin Harris on the scene. Whether it was you or somebody, one of other officers or perhaps a news -- something -- you knew somehow that he didn't know anything the day of the incident. That's what I get from that question, is that correct?
A From the news, yes, sir.
Q Okay.
A Yes, sir, the news spoke with him.
Q Okay. Now, how did you know that he didn't tell anything to the news people?
A When he was on the news he did not give any information to the news. He stated he didn't see anything.
Q Okay. So he was actually on the evening news?
A That's correct.

Q Local evening news. And you watch that routinely or was it just an accident that saw it?
A I don't even know if I saw it that night.
Q Okay. And then later Kelvin Harris contacts your office, right?
A Yes, sir.
Q And he says he wants to give some information?
A Yes, sir.
Q And he came in and he talked to you?
A Yes, sir.
Q And he gave a written statement too, didn't he?
A Yes, sir.
Q Now, what's his relationship to Stephon Brewster?
A I think he'd seen him grow up. I don't know if there's any blood relationship or not.
Q Well I'll ask it a different way because I know you can't remember every single thing. In the statement of -- in the statement wasn't it said that Stephon Brewster was his cousin?
A I believe so.
Q So Stephon Brewster and Kelvin Harris are cousins?
A Yes, sir.
Q Now, you had a photo line-up that you showed, wherever it is, that you showed to Stephon Brewster, right?

A Yes, sir.
Q Stephon Brewster, based on your knowledge, knew Cameron Hammonds by name and sight, right?
A Yes, sir.
Q I mean, they had been associates, they had been friends, they had been seen in the neighborhood together?
A Yes, sir.
Q In that six person photo line-up, was there anybody else in it that Stephon Brewster knew?
A I don't know if he knew anybody but he picked him out.
Q Well certainly he picked out Cameron Hammonds, he knew him by name and sight?
A Yes, he did.
Q Did he know anybody else?
A He didn't say he knew anybody else in the line-up.
Q How long was it before Mr. Kelvin Harris came in to give a statement? Do you recall? Was it after Brewster, both of Brewster's statements?
A It was after both of them, yes, sir.
Q And was it shortly after?
A I think it was about four days after Stephon's second statement.
Q And then what, from what I understand you're saying is that Kelvin's -- Kelvin Harris' statement confirmed

some information that you had from Brewster's?

A Yes, sir.

Q Is that right? And at that point in time was the investigation pretty much closed?

A No, sir, I still wanted to talk to Mr. Hammonds.

Q Okay. Then after that was the investigation closed?

A For the most part, yes, sir.

MR. GODFREY: Okay, thank you, nothing further.

THE COURT: Any redirect?

MR. CAMPBELL: Not at this time, Judge.

THE COURT: All right, thank you, sir, you can step down.

Call your next witness.

MR. CAMPBELL: State now calls Detective Flavell to the stand.

THE CLERK: Raise your right hand, place your left hand on the Bible.

C. FLAVELL, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Detective Flavell, please state your place of employment and your position.

A Greenville City Police department in the detective division.

Q Were you employed in that capacity in 2007 in the summertime?

A Yes, I was.

Q Were you assigned to work on a murder that occurred about June 21st, 2007?

A Yes.

Q Was that the one over on [redacted] Street in Greenville County?

A [redacted] Street, yes, sir.

Q Okay. During the course of your investigation, did you encounter the Defendant, Cameron Hammonds?

A I did.

Q And where was your first encounter with him?

A At the LEC in the detective division in a interview room.

Q Interview room. And what was the purpose of y'all meeting in a interview room?

A To interview him about the murder.

Q And did you identify yourself?

A I did.

Q Did you tell Mr. Hammonds who you were?

A I did.

Q Were you present -- was this the same one that Detective Conroy just testified to a few minutes earlier?

A Yes, it was.

Q So were you present when Detective Conroy advised him of his rights?
A Yes.
Q Did Cameron Hammonds indicate that he understood all those rights?
A He did.
Q Did he look incoherent or under the influence of any drugs?
A No, he did not.
Q Did he understand where he was, what he was doing?
A Yes.
Q Did he read and understand everything in the Waiver of Rights form?
A He read the first line out loud. We do that to make sure the person can read and write. Once he initialed that Detectives Conroy read the rights to him, asked him if he understood it, if he understood to initial each line as he read it. He did so without question.
Q Okay. Let me hand you State's Exhibit No. 1, what is that?
A This is the Greenville Police Department Rights Form.
Q Okay. And is that any particular Rights Form?
A Cameron Hammonds.
Q How do you know that's what it is?
A Has Cameron's name written at the top with his

education level. Has the date, time, my signature Detective Conroy's signature along with Mr. Hammonds signature.

Q In your opinion, as detectives, decide that Mr. Hammonds freely and voluntarily waived his rights and agreed to talk with you, Detective Conroy?

A Yes, he did.

MR. CAMPBELL: At this time the State moves Exhibit No. 1 into evidence.

MR. GODFREY: Without objection.

THE COURT: All right. State's Exhibit 1.

(WHEREUPON, State's Exhibit No. 1 was previously entered.

BY MR. CAMPBELL:

Q After Mr. Hammonds waived his rights, did you actually get a statement from him?

A Yes, we did.

Q Okay. After he got through talking to you, how -- did you write the statement down?

A We take notes when we're talking talk to him, take handwritten notes. Once the interview's over we go out to our computers, type it up, take it back in, have him read it. If he agrees to it he initials at the beginning and at the end to indicate that he agrees to the statement

that's contained within his initials and then he signing the statement form as being true and correct.

Q Did Mr. Hammonds do all that?

A He did.

Q Did he ask to stop or anything else?

A No, he did not.

Q Can you identify State's Exhibit No. 2?

A This is Cameron Hammonds statement that we took.

Q Okay. Did he -- did Cameron Hammonds make any request whatsoever during the course of your taking that statement?

A No.

Q Did -- he didn't ask to stop, to go to the bath room or get some food?

A No.

Q He didn't ask to see a lawyer while you were taking the statement?

A No.

Q Did he ask to see a lawyer at some point?

A He did. After we signed the statement we went back in for a follow-up interview and he indicate at that point that he wanted to talk to his attorney before he answered anymore questions.

Q But he gave you that whole statement without once ever saying the word lawyer or the word attorney?

A Yes.
Q Did you coerce or threaten him in any way?
A No.
Q Did you hold out any promise or reward for him if he would give you a statement?
A No.
Q Did he appear to fully understand everything you were saying, where he was and what he was doing?
A Yes, he did.
Q And in your opinion, did he freely knowingly and voluntarily waive his rights to give you that statement and indicate that everything in there was true and correct?
A Yes, he did.
MR. CAMPBELL: Your Honor, at this time State moves Exhibit No. 2 into evidence.
MR. GODFREY: Without objection.
THE COURT: All right.
(WHEREUPON, State's Exhibit No. 1 was entered in a previous hearing outside of the presence of the jury.)
BY MR. CAMPBELL:
Q Did you talk to anyone else during the course of this murder investigation?
A Yes.

Q Did you talk to a man named Stephon Brewster?
A Yes, we did.
Q How did you come into contact with Stephon Brewster?
A After we had cleared the scene the day of murder, we were back at the office, everybody kind of convened to compare notes to see where we were going. We got a message that Stephon Brewster was at the front desk of the law enforcement center wishing to speak to the investigators.
Q Okay. And did you get the opportunity to talk to him?
A We did. We went down and got him and brought him up and interviewed him.
Q Did he give a statement?
A He did.
Q Did he sign a Waiver a Rights form?
A Yes, he did.
Q Was it freely, knowingly and voluntarily and intelligently made?
A Yes.
Q So he appeared coherent and he knew what he was doing?
A Yes.
Q And you didn't -- he didn't make any request or ask you to stop, you didn't coerce or threaten him in any way

to make that statement?
A No, he came to us.
Q Okay. And after you took Mr. Brewster's statement, did you get any other leads on -- well let me back up. Did he see a photo line-up?
A Yes, he did.
Q Was that photo line-up of people of similar physical description?
A Yes.
Q Was there anything that seemed suggestive about it?
A No.
Q Did he indicate who the shooter was in this murder?
A He did.
Q He hesitate at all?
A I'm sorry?
Q Did he hesitate at all?
A No, he immediately picked him out.
Q Did he know the shooter by name?
A He knew him by C.
Q Okay. Based on that evidence, did you talk to anybody else?
A I did.
Q Okay. Did you talk to a man name Kelvin Harris?
A Detective Conroy spoke with Harris.
Q Okay. Did you have any other further involvement in

this investigation?

A At this point after that no. But previous yes. We spoke with several people on the scene that day.

Q Okay. How quickly did you get on scene? Was the victim still there?

A The victim had already been transported when I arrived.

Q Okay. And is there anything else you want to tell the jury at this point?

A No.

MR. CAMPBELL: Okay, that's all the questions I have for your right now, detective.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. GODFREY:

Q Good afternoon, Detective Flavell?

A Good afternoon.

Q Now, when did you receive the dispatch call to go to a potential murder scene or shooting scene?

A The day of the incident.

Q And when you got there Lee Kinard had already been transported by EMS?

A Yes.

Q Now Detective Conroy is chief investigating officer?

A Yes.

Q Is that right? And what were your job duties working with Detective Conroy?

A To assist him. Once we got there, once I arrived, they already had the crime scene taped up trying to protect the scene. I saw several of our vice investigators who were inside the crime scene who arrived first. They were the first investigator there because they were out in that area working. Detective Conroy was on the porch speaking with the gentleman. Of course, that time of day there was probably 50, 60 people already gathered outside the tape. So there was a lot going on. So we're trying to figure out who was there when the incident happened. Who were the potential witnesses, start gathering that kind of information to follow up on it.

Q Did you talk to any potential witnesses while you were there?

A I spoke with several witnesses while I was there.

Q Did you speak with a Ms. Owens?

A I did.

Q And she had a passenger in the car that she was in that was?

A I believe it was her husband.

Q Her husband?

A I believe so.

Q That's Mr. Hampton?
A Yes.
Q And did you personally talk with them?
A I personally spoke with both of them on the scene. Once I spoke with them I had other investigators get with them, take their written statements on scene.
Q So did Ms. Owens and Mr. Hampton tell you they saw what happened?
A Ms. Owens did, yes.
Q And did Mr. Hampton as well?
A I believe investigator Hamlett took his statement.
Q And did you talk to anybody else on the scene?
A I did.
Q And did any of those people say they actually saw what happened?
A No.
Q But Ms. Owens did?
A Ms. Owens was in a vehicle driving in front of the house when the incident occurred, yes. She didn't know anybody. She didn't know anybody involved. She was stopping at a stop sign when she looked she saw an altercation. When she saw the gunshots she panicked, she puts her car in reverse, is we got with her. She was trying to back up the street and she actually backs into another vehicle from a man, Mr. Styles, I believe, from

North Carolina that was in the neighborhood lost. He comes around the corner and Ms. Owens backs into him. She's trying to get away from the incident.

Q Did you talk to Mr. Styles?

A Yes.

Q And because of the timing, he didn't know, he didn't see anything, did he?

A He did not see any of the actually incident take place, no.

Q Did you take a written statement from Ms. Owens?

A I believe I did. Once I got back to the law enforcement center, yes.

Q Okay. Now, during your investigation, at the time of the shooting, was there somebody on the porch of that house?

A There was indication that somebody was on the porch at the time of the shooting, yes.

Q Who was that?

A I believe his name was JT or TJ.

Q And did you interview him?

A I did not. Detective Conroy did. When I arrived Detective Conroy was on the porch talking to him.

Q Did you have any other information that -- from other people that he was on the porch? That JT was on the porch during the incident?

A I believe when I spoke with the victim's girlfriend, Regina Irby, she stated that when she left -- she had left right before the shooting occurred. Her and friend of hers was going to get pizza. And she stated by this time she had heard vehicle descriptions that people were talking about. And she stated that when they left to go get the pizza, when she backed out of the driveway there was a car matching the description stopped in the road and let her back out. She then continued on to get the pizza. And I believe she said when she left TJ or JT was on the porch when she left.

Q And who else was on the porch, anybody; did she say?

A To my knowledge, no.

Q Okay. Was the fella on the porch any help to you?

A I did not interview him, Detective Conroy did.

Q Was the fella on the porch any help to the investigation?

A I don't believe so.

Q Was the fella on the porch charged with a crime?

A He was.

Q What was that crime?

A Misprision.

Q What does that mean?

A You have information of a crime, when you're asked about it you don't divulge information.

Q When you talked with my client, Cameron Hammonds, was he cooperative with you?
A Yes.
Q Was he cooperative throughout?
A Yes.
Q Did you have any problems with him at all?
A While we had him?
Q Yeah.
A No.
MR. GODFREY: Thank you, nothing further.
THE COURT: Any redirect?
MR. CAMPBELL: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. CAMPBELL:
Q Detective, Mr. Godfrey asked you about learning further investigation about someone being on the porch at the time of the shooting. Where did that information come from in your investigation? That there was someone on the porch.
A The first information I got was from Regina Irby, the girlfriend. That when she left there was somebody on the porch. And when I arrived, I spoke to with Detective Conroy. He was interviewing, I believe it was TJ Townes. And Detective Conroy indicated that he had information that he was on the porch at the time of the incident.

Q Okay. Did anyone else confirm that information or did?

A I believe they did.

Q Or did Cameron Hammonds indicate?

MR. GODFREY: Objection, leading.

THE COURT: Don't lead.

THE WITNESS: There was another witness on the scene that stated there was somebody sitting on the porch at the time. And when we interviewed Cameron Hammonds, yes, he did indicate that somebody was on the porch.

MR. CAMPBELL: Okay. Your Honor, at this time we'd like to publish the statement of Cameron Hammonds to the jury.

THE COURT: Okay.

BY MR. CAMPBELL:

Q Detective, it looks like our media equipment is not cooperating so I'm going to have you briefly go through and read this. Would you briefly run through that list of rights and then read to the jury the statement that was given to you by Cameron Hammonds?

A The rights waiver as well?

Q Pardon?

A The rights waiver as well?

Q Yes, sir, just run through the rights briefly.

(WHEREUPON, State's Exhibit No. 1 was read into

the record.)

A That's the Miranda rights and then we have an additional waiver.

(WHEREUPON, State's Exhibit No. 1 was continued to be read into the record.)

Q Appears we're back online now so I'm going to show that to the jury real quick. Is that what you just read to the jury?

A Yes, it is.

Q And that's your signature as a witness down there in the bottom left-hand coroner?

A It is.

Q Okay. Now, Detective Conroy (sic), if you can see okay from there you can sit there or if want to come down a little bit to see better. We got the statement here, I'm going to zoom in as best I can. Could you read there starting with beginning of the statement?

A Do you have another copy?

Q Oh, I'm sorry. Yes, I'll get you one.

(WHEREUPON, State's Exhibit No. 2 was read into the record.)

BY MR. CAMPBELL:

Q Detective Flavell, would you read one more time starting at the fourth line from the bottom? Together and he pulled out a gun.

A Together he pulled out a gun out of his -- and was fumbling it. He didn't drop it. I grabbed his gun from him, he had a revolver.

Q Okay, that's what we needed to hear. Now, during the course of your investigation, did you find any bullet holes toward the porch?

A Of the residence?

Q On the house, were there any bullet holes or did it look like anybody had been shooting at the porch?.

A To my knowledge there was no bullet holes in the house.

Q Okay. Where there bullets in the victim's body? Had the victim been shot?

A Yes.

Q But you didn't find any bullet holes up on the porch where Tibias Townes might have been standing?

A To my knowledge, no. I left before forensics got there.

Q Okay. But based on your investigation you didn't see any holes on the porch?

A No.

MR. CAMPBELL: Okay. Detective, that's all I have for you right now.

MR. GODFREY: May it please the Court?

THE COURT: Yeah.

RECROSS-EXAMINATION

BY MR. GODFREY:

Q Did you ever find either one of the guns?

A No.

MR. GODFREY: Thank you.

THE COURT: Thank you, you can step down.

MR. CAMPBELL: State now calls Stephon Brewster to the stand.

THE CLERK: Please raise your right hand, place your left hand on the Bible.

STEPHON BREWSTER, after being duly sworn, testified as follows:

THE CLERK: Please have a seat.

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Mr. Brewster, please state your name and age for the record?

A Stephon Demarcus Brewster, 24 years old.

Q Mr. Brewster, where do you work?

A I'm unemployed.

Q Okay. Were you in Greenville County around the day of June 21st, 2007?

A Yes, sir.

Q Did you see the Defendant, Cameron Hammonds, on that day?

A No, sir.
Q You did not?
A No, sir.
Q Okay. Did you talk to the police regarding a murder at [redacted] Street on June 21st, 2007?
A Yes, sir.
Q You did. Okay. Did you give a statement to the police?
A Yes, sir.
Q What did you tell them?
A I told them I had saw the murder happen on [redacted] Street.
Q But you don't see the Defendant, Cameron Hammonds?
A No, sir.
Q Were you at [redacted] Street?
A I was around the area but I never--
Q Did you actually see a murder?
A No, sir.
Q You didn't?
A No, sir.
Q So what you're telling me is that you went to the police and told them you saw something that you really didn't see?
A Yes, sir. Because I seen my car on the news. That's why I went to detectives. I went and told them that I

witnessed this murder in order the get them off my back. Because I know they was going to be coming at me because the description gave of the car on the news was mine.

Q Okay. Let me show you State's Exhibit No. 3. Do you recognize that?

A Yes, sir.

Q What is it?

A It's a photo line-up.

Q You signed that photo line-up?

A Yes, sir.

Q Did you pick anybody out of it?

A Yes, sir.

Q Who did you pick out?

A C.

Q C. Who's C?

A Right there.

Q Can you state his name, please?

A Cameron Hammonds.

Q Cameron Hammonds. So you picked C out of a photo line-up, why did you pick C?

A I mean, that's what everybody was saying, that's what I was hearing happened. That why I picked C.

Q So you're saying you didn't really know?

A No.

Q You wanted to send an innocent man -- excuse me, let

me back up. You didn't know, just to clarify your answer, you didn't know who had done the murder?

A No, sir.

Q You didn't see anybody?

A No, sir. All I knew is what I had heard afterwards.

Q Did you intend to falsely accuse someone?

A No, sir.

MR. CAMPBELL: Your Honor, the State intends to treat this witness as a hostile if there's no objection.

THE COURT: Well, go ahead.

BY MR. CAMPBELL:

Q Mr. Brewster, you didn't go down and give a statement to police?

A Yes, sir, I went and gave a statement to the police.

Q And you didn't tell them that you were with Cameron that day?

A I did tell them that.

Q Okay. And you didn't -- okay well, you told them you were with Cameron that day?

A Yeah, I told the police that.

Q And where were you with Cameron?

A I told them, if I recall, I told them that we was at Tyron's apartment. Which was a lie.

Q Okay. What did you tell them after that?

A That -- that I seen -- I guess that I seen him murder

the victim.

Q Okay. And you didn't drive over by [redacted] Street and see Cameron Hammonds?

A No.

Q Okay.

A I told them I was around that area. After I heard the shots -- I was at Tyron's apartment.

Q So you were at Tyron's apartment?

A I was at Tyron's apartment but not at the scene.

Q Well was it Cameron and Tyron's apartment?

A No.

Q He wasn't there?

A No.

Q Oh, okay. So then you -- you were around the scene and you heard shots go off?

A I heard shots.

Q What did you do next?

A I say about three minutes later I drove around there. When I seen like -- I seen a light-skin dude sitting on porch. And I seen a dude like laying in the bushes. And I drove on off and went to my grandma house.

Q But you didn't see any of the shooting occur?

A No, sir.

Q You were at Tyron's house before?

A Yes, sir.

Q But Cameron wasn't there with you?
A Not when I was there.
Q Were you the only one in the car?
A Yes, sir, I was in the car by myself.
Q Nobody else was in there with you?
A No, sir.
Q You didn't tell police that Cameron put a gun to your head and made you drive away?
A I did tell them that the first day.
Q Okay. Then you went back to tell them a different story?
A They actually came and got me the second day because they knew I was lying on the first statement I gave.
Q Okay.
A The only reason I kept lying because when I got in there, detective Conroy and the other detective saying, Oh, Mr. Brewster, you know we're about to charge you with murder. You know we got enough to charge you the with murder. So I kept on with my lie in order to keep them off of my back.
Q Did you sign a Waiver of Rights form?
A Yes, sir. This was all -- this was my first time going through any of this. So this basically was all new to me.
Q Okay. And in that Waiver of Rights Form, were you

told you had some rights?
A Yes, sir.
Q Were you told you had a right to remain silent?
A Yes, sir.
Q Were you told anything you say can be used against you in court?
A Yes, sir.
Q Were you told you had a right to talk to a lawyer?
A Yes, sir.
Q Were you told you had the right to stop answering at any time?
A Yes, sir.
Q Did you sign and initial a paragraph that says, I don't want a lawyer, I know what I'm doing, no promise or threats have been made against me?
A Yes, sir.
Q So you said then that nobody threatened you?
A Nobody -- I never said anybody threatened me.
Q You just said that the detective?
A I said this was on the second day. I didn't say he threatened. I just said he stated. He stated that, Mr. Brewster, you know, we can charge you with murder, we got enough to charge you with murder. I never stated that threatened me.
Q I'm just trying to understand what you're saying.

Are you saying that the detective threatened you?
A No, sir.
Q Okay. So he did not threaten you at all?
A No, he stated. He made the statement to me, Mr. Brewster, do you know we can charge you with murder, we have enough to charge you with murder.
Q So did you feel compelled to testify?
A Yes, sir.
Q You did? But you said -- you signed a paragraph that said no pressure or coercion of any kind has been used against me.
A I signed it but. If you hearing me--
MR. CAMPBELL: That's all we need.
THE COURT: He can --
Go ahead, you can explain your answer.
THE WITNESS: If you sitting here and a person who has the right to charge you with murder, telling you, Oh, I'm about to charge you with murder, I got enough to charge you with murder, anybody going to get scared. I mean.
BY MR. CAMPBELL:
Q Knowing all this you still drove to the law enforcement center.
A Yes, sir. Because I seen my car on the news.
Q Where was your car?

A I was driving my car.

Q How did your car get on the news?

A They said -- people had said they seen my car around in the area.

Q How did you know it was your car?

A Because the description they gave. My car was about the only car in Greenville at that time that had no paint on it, it was primed down.

Q So you're telling us that your car is the only one in Greenville that has a shock coat of primer.

A That would be around that area.

Q Oh, that would be around that area. And you knew for certain that you had to get to the LEC no matter what?

A Exactly. To get the heat off of my back. So they wouldn't come after me.

Q Well then if -- why did everybody get a description of your car?

A Because I told you, I was at Tyron's apartment. And after the shooting happened I drove my car around there. And everybody know in the neighborhood, if there some witnesses saying that they seen Mr. C shoot this dude, everybody know me and Mr. C probably -- we'd be together most of the time. That's exactly the reason I went up to the police department.

Q You and Mr. C weren't there?

A No. Me and him was not together that day at all.

MR. CAMPBELL: Okay, please answer any questions Mr. Godfrey may have for you.

THE WITNESS: Yes, sir.

THE COURT: Cross.

MR. GODFREY: Just a couple of questions.

CROSS-EXAMINATION

BY MR. GODFREY:

Q Mr. Brewster, as I understand it, you had -- you have a Chevorlet, right?

A I had a Chevorlet, yes, sir.

Q You had a Chevorlet. Did you get rid of it because all the heat that came out of this?

A Yes, sir.

Q So you had a Chevorlet at the time?

A Yes, sir.

Q And it was primed up?

A Yes, sir.

Q And your Chevorlet was the only one in that area that was primed up, is what you're saying?

A Yes, sir. Really the only one I've ever seen primed down. I've never seen another onè like mine.

Q So when you heard about the news reports and the description of the car, you just automatically assumed it was yours?

A Yes, sir.
Q You thought you were about to get questioned or dragged by the police?
A Yes, sir. That's why I went to them first.
Q So you came up with a statement?
A Yes, sir. From the hearsay that I had heard around the neighborhood.
Q Okay.
A I was figuring if I tell them what they wanted to hear, I could get them off my back. And I wouldn't have to worry about the situation no more.
Q Did it work?
A Yes, sir.

MR. GODFREY: Nothing further.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CAMPBELL:
Q So your testimony today is that you said, correct me if I'm wrong, but you said that you and C were always around together, you were normally with him?
A I didn't say always. We probably hang out like every couple of days or whatever.
Q You said people would assume that you were with him?
A Yeah because they would see us together. When he was in our neighborhood he was with me.

Q So every time he was in your neighborhood he was with you?
A Yes, sir.
Q Okay.
A Except for the day in question.
Q Okay.
A Yes, sir. Because I know that's what you fixing to say.
Q Okay. So -- but your testimony today is that you would drive all the way down to the law enforcement center, just to get the heat off your back for something you say you didn't do and implicate your best friend?
A I never stated that he was my best friend.
Q Oh, he's not?
A No, sir.
Q Okay. Y'all just spend a lot of time together?
A Like I say, like every other day, probably.
Q Were you his go to man in the neighborhood?
A No, sir.
Q Okay. But every time he was there, except for June 21st, y'all were together?
A That's what I assumed. If he was friends with somebody else in neighborhood, I can't say. Because I don't know.
Q Okay. All right.

A I'm doing, usually tending my business, that's it.

MR. CAMPBELL: Thank you, Mr. Brewster, nothing further.

THE WITNESS: Yes, sir.

THE COURT: Anything else?

All right, madam forelady, ladies and gentlemen of the jury, we've been going for a pretty good while after lunch so let's take a short right break. Please remember not to talk about the case and we'll get back with you shortly. Thank you.

(WHEREUPON, the jury left open court at approximately 3:11 p.m.)

THE COURT: All right, we'll take about a ten minute break. I'm not releasing Mr. Brewster from his subpoena. Okay.

MR. BREWSTER: May I be excused from the courtroom, sir?

THE COURT: You're not released from your subpoena.

MR. BREWSTER: I can go to the bath room?

THE COURT: You can leave the courtroom but you cannot leave the courthouse.

MR. BREWSTER: Yes, sir. No problem.

THE COURT: All right. All right.

Let me talk to the lawyers from a second.

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(WHEREUPON, a bench conference was held.)

THE COURT: All right, I have some concern about Mr. Brewster's testimony. He was asked the question, Did you sign a Waiver of Rights Form?

Answer: Yes. It was -- this was my first time going through any of this.

This summer I put him on two years on the home incarceration for a conviction of guilty plea to assault and battery high and aggravated. He's got a conviction in May of '08 for DUS, he's got at least two criminal domestic violence convictions, some other arrests. And I'm not exactly sure how I'm going to handle it. But I'll say this. If you want to put him back on the witness stand and examine him with respect to his statement, that this was the first time he'd been through any of this, I'll allow you to do. I'm not going to tolerate people getting up here, taking an oath to tell the truth and lying. So that's a strategic decision that you can make. As far as what I'm going to do, I'm just not sure at this point. So if you want a few minutes to think it over, that's fine.

MR. CAMPBELL: We have a moment, Your Honor, please?

THE COURT: Sure.

(WHEREUPON, State's Exhibit No. 4 was marked for identification only.)

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MR. CAMPBELL: Your Honor, may it please the Court, the State would like to proceed with testimony from additional witnesses and possibly call Mr. Brewster after the conclusion of those witnesses.

THE COURT: All right. And I may -- I'm considering calling him as a Court's witness pursuant to Rule 614. But we'll just see how it develops. One other thing I want to caution everybody, that more outbursts in the courtroom, okay.

All right, let's bring the jury.

(WHEREUPON, the jury came into open court at approximately 3:33 p.m.)

THE COURT: All right, call your next witness.

MR. CAMPBELL: The state calls Kelvin Harris.

THE CLERK: Raise your right hand, place your left hand on the Bible.

KELVIN HARRIS, after being duly sworn, testified as follows:

THE CLERK: Please have a seat.

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Good afternoon, Mr. Harris?

A How you doing?

Q Need you to speak up clear into the microphone, please, so everyone can hear you. Where do you work?

A Greenville Sanitation Commission.
Q I'm sorry?
A Greater Greenville Sanitation.
Q Okay. And what do you do at Greater Greenville Sanitation?
A I'm a helper.
Q I'm sorry?
A I'm a helper.
Q Helper?
A Yes, sir.
Q Okay. What does that normally entail, what are your duties?
A Pick up the garbage.
Q Okay. So you riding on a garbage truck?
A Yes, sir.
Q Okay. How long have you worked for Greater Greenville Sanitation?
A This year will be 10 years.
Q Ten years?
A Yeah.
Q Okay. What time do you normally go to work in the morning?
A About 6:00 o'clock.
Q 6:00 o'clock. And what time do you return home?
A Anywhere from 12:00 to 2:00.

Q Twelve to two?
A (The witness nods.)
Q And where do you live?
A [redacted] Street.
Q Do you have a porch or patio at your house?
A Porch.
Q Do you ever go outside?
A Yes, sir, be out there a lot.
Q What can you see from the porch?
A Everything.
Q Can you see [redacted] Street?
A Yes, sir.
Q Is that -- who lives there?
A That's where Regina and what they Cam was staying at.
Q Who's the one they call Cam?
A That's the one that got killed.
Q He got killed?
A Yes, sir.
Q Okay. Now, before -- were you -- well, before we get into the whole reason why we're here, let's go ahead and get something out. This is not your first time being in a courtroom, is it?
A No, sir.
Q Did you get any trouble when you were younger?
A I been in plenty of trouble.

Q Okay. Did you ever go to prison?
A Yes, sir.
Q Did you have any problems?
A I have plenty problems, still got them.
Q Did you ever run into drugs?
A Yes, sir, I'm a recovering addict right now today.
Q Did you go through a program to help you with drugs?
A Yes, sir.
Q What was that program called?
A Drug court.
Q Drug court?
A Yes, sir.
Q Can you tell us how drug court works?
A It's a extensive program. You go to classes three, four times a week. And you go in front of the Judge on Thursday and see how you doing. You mess up you go back to the penitentiary.
Q How long did it take you to complete drug court?
A One year.
Q One year?
A Yes, sir.
Q And you had to do those things -- did you have to do those things every week that year?
A Three time a week whole year.
Q Have you been in trouble since then?

A No, sir.
Q How long ago was that?
A Going on 10 years.
Q Ten years ago?
A Yes, sir.
Q Ever since you been working from Greenville Sanitation?
A Yes, sir.
Q Now, back to why we're here, were you outside on June 21st, 2007 at your house?
A Yes, sir.
Q What were you doing outside?
A Just sitting on the porch.
Q Do you remember the weather?
A It was hot.
Q Hot. Were you out there that afternoon?
A Yes, sir.
Q Did you see the defendant Cameron Hammonds that afternoon?
A Yes, sir.
Q Did you recognize him?
A Yes, sir.
Q Did you know who he was?
A I just know him from being with my cousin.
Q Who is your cousin?

A Stephon.
Q Who is Stephon?
A Stephon Brewster.
Q Stephon in the courtroom today?
A Yes, sir.
Q Did you see Stephon that day?
A Yes, sir.
Q Where was Stephon?
A He was in the car.
Q He was in the car. Was it Stephon's car?
A Yes, sir.
Q Tell me what happened when you saw Stephon in his car?
A I seen a man get killed.
Q Saw him get killed?
A Yeah.
Q Did -- so you say you saw Stephon drive up, was anyone with Stephon in Stephon's car?
A C.
Q C was with Stephon?
A Yes, sir.
Q How do you know it was Stephon in the car?
A Because the windows were cracked I saw him.
Q So you saw him through the cracked window?
A Stephon.

Q When they pulled up to [redacted] Street -- did they pull up to [redacted] Street?

A Yes, sir. There was another car behind them.

Q There was another car behind him?

A Two cars.

Q Okay. What happened when they pulled up?

A I scene Cameron, one they call Cam, he was in the front yard. I think he went to the car. Was walking to the car. And they had a few words. I don't know what it was about because I couldn't hear that. But by that time Cam was trying to get back to the house. And C got out the car shooting.

Q Got out of the car shooting?

A Yes, sir.

Q Do you know how many times he shot?

A No, I don't.

Q What was the victim doing when he got shot?

A He was trying to get back to the house.

Q Did the victim have a gun?

A I didn't see one.

Q Did anyone else in the yard have a gun?

A I didn't see nobody with a gun.

Q Was anyone on the porch?

A I couldn't exactly see on the porch. But after he had shot him, I seen a -- I don't know who the dude was,

he run out the house across -- I can't really recall their names right. Cam was over in the hedges.

Q The victim?

A Yes, sir. I don't know where the dude come -- was he on the porch or not. But I know when he was laying over in the bushes the boy run out there. You know, where he was laying at and then run back in the house -- run back on the porch. I can't say if he went in the house or stayed on the porch. Because from my house to where he was you can't see on the porch.

Q Did -- how many times did the defendant shoot?

A I don't know. I was -- I was in a daze, I don't know. I don't know how many times he shot.

Q You said the victim was trying to get back to house?

A Yes, sir.

Q Did he make it?

A No.

Q Did he fall down?

A He got shot down.

Q What happened after he fell down?

A He fell over in the hedges and pistol stop shooting and he start shooting at one.

Q Another gun?

A Yes, sir.

Q How many times did he shoot the second gun?

A I don't know. I never did count. Can't count that.
Q How would you describe what you saw?
A How would I describe it? Really, might sound hard, you know, real harsh but a dog don't deserve to be shot down like that.
Q I'm sorry, I couldn't hear you.
A I said a dog don't deserve to be shot down like that. Because it's messing with me. Mentally. I can't -- that's the first time I ever saw something like that and it bothers me.
Q Do you have any doubt in your mind that that's what happened?
A I know that's what happened. I sat there and saw it. I know that's what happened.
Q And the victim didn't have a gun?
A I didn't see one.
Q He didn't shoot back?
A No, sir.
Q At Cameron Hammonds?
A No, sir.

MR. CAMPBELL: Please answer any questions Mr. Godfrey may have.

CROSS-EXAMINATION

BY MR. GODFREY:

Q Mr. Harris, where is your house in relation to 502

[redacted] where this incident occurred? It is directly across the street like I'm in line with you?

A Off to the side.

Q Off to the side?

A Right across the street, two houses up.

Q Two houses up?

A Yes, sir.

Q So about how far -- what would the distance be, do you think?

A Should be about from here to the end of the hall -- not all the way to the end but when you go back to the left.

Q Okay. So you're talking about out this door?

A Yes, sir.

Q And then -- did you say and to the left?

A Go back to the left. It's not even 100 yards.

Q Now, you'd come home from work, right? On June the 21st?

A I got off from work.

Q You were off from work?

A Yes, sir, I had been home.

Q So you didn't go to work at all that day, you were off.

A No, I went to work.

Q Okay. You had come home from work, right?

A Yes, sir.
Q And it was a hot day and you were sitting on the porch?
A Yes, sir.
Q Right? Was there anybody on the porch with you?
A No, sir.
Q And when you say that you couldn't see the porch at [redacted] is that because of the angle were your porch is to where the house is down the street?
A You can see the steps but you can't see up on the porch.
Q Okay. So it's not a tree or bush or something that's blocking the view, it's actually the angle of where you're sitting and where the other house is?
A It's just how they front porch is made, it set back.
Q Okay. Now, how long had you been on the porch?
A I don't know. I can't say.
Q Well how long had you been home since getting back from work?
A I don't know that. I don't even remember what time I got off from work that day.
Q You don't?
A No, sir.
Q Did you have lunch?
A Yes, sir.

Q Were you drinking a beer?
A I don't drink, I'm a recovering addict.
Q So your addiction was alcohol?
A Alcohol and crack.
Q Alcohol and crack?
A Yes, sir.
Q You been clean for 10 years?
A Yes, sir.
Q That's fantastic?
A Thank you.
Q You were sitting on the porch just having a nice afternoon?
A Just sitting there, yes, sir.
Q In your neighborhood is there a problem with people shooting or firing guns or loud talking or fighting, things like that?
A It was one time but not like that no more.
Q Back in 2007 what was it like?
A 2007. Tell you the truth, I didn't know because I was on drugs. Somewhere along in there. I ain't never really know what was going on when I was on drugs.
Q I'm sorry. Did you say you were drugs in 2007?
A Somewhere along in there. Let me see, I graduated drug court -- no what I'm talking about. Got off drugs in -- no, I wasn't on no drugs in no 2007, no.

Q Okay. You went through drug court about 10 years ago, right?
A Yes, sir.
Q Did you just tell me that you relapsed on drugs around 2007?
A No, I ain't never relapsed.
Q Okay.
A I ain't never relapsed on no drugs.
Q Does the City of Greenville or -- you work for Greater Greenville Sanitation, do they -- well strike that. When you were sitting there on the porch, did you see Stephon's car come by, Stephon Brewster?
A It didn't come by my house, it come down the opposite side.
Q Okay.
A I live on this end of [redacted] Street, it come down this other end.
Q All right. I'll ask it a different way. I'm not trying to be tricky, I just want to know when you were sitting there on the porch, how many times did you see Stephon Brewster's car?
A One.
Q Just one?
A One time.
Q Describe his car?

A It was a gray Impala.
Q I'm sorry, you have to...
A Gray Impala.
Q Gray Impala. And the gray is because of the primer?
A Primer. Had black, black and gray or whatever, black spots on it.
Q Okay. How well did you know the fella you call Cam?
A I don't. Only thing--
Q Don't know him at all?
A No, sir. The only thing I know him from walking up and down the street.
Q Did you know Cameron Hammonds before this date?
A Did I know him before this date?
Q Before June the 21st of 2007, did you know Cameron Hammonds?
A I just know him from being around my cousin.
Q Being around your cousin?
A I don't really know him. I just know him when I see him, I don't know him.
Q Well, he's -- Cameron Hammonds never worked where your work to your knowledge?
A Who him?
Q Yeah?
A Not that I know of. I don't know. I've been there 10 years.

Q Okay. Now, you're sitting on the porch but you don't know for how long, right?

A No, sir. I don't know how long I had been sitting there.

Q A you're just watching the traffic, were you listening to music or something?

A No, I sit on my front porch all the time.

Q Just sitting--

A Just sitting there.

Q Just looking?

A Yes, sir.

Q And I believe you said that Stephon's car drove up in front of the [redacted] Street, [redacted] [redacted] Street?

A Yes, sir.

Q Now how do you know that it was Stephon that was in there?

A You can see him, the windows were cracked.

Q So the windows were rolled down?

A The windows is sort of tinted.

Q So the windows were rolled down?

A It was roll down far enough where you can see.

Q Okay. And you saw a fella you saw, Cam, come out in yard, right?

A He never did come all the way out the yard.

Q Okay, what did he do?

A He come to the car but he never did come all the way out of his yard.
Q Okay. He left his porch and walked down into his yard, is that correct?
A He was standing down there at the end of the step, then he went down to the car.
Q Then he went down to the car?
A Uh-huh.
Q Okay.
A That's where I saw him coming from.
Q Okay, was the talking pretty loud?
A I just hear them say something, I couldn't understand what they were saying.
Q Well, could you tell from the sound or from the action, was it an argument?
A I can't say it was argument or not. Because I don't know what they was saying.
Q Okay. Now, at this time when you say it's Cameron Hammonds, when he was talking to the fella you call Cam, was he outside of his car? Outside of Stephon Brewster's car?
A He had got out.
Q He had gotten out?
A He was getting out then.
Q Now, the passenger side door, did it open to 502

[redacted] or was it on the other side of the road? In other words, did the car--

A The passenger side was on the other side of the road. The driver's side was up to the house.

Q Okay. The drive's side was on your side?

A No. The driver's side was up by the house, the passenger side was on the road.

Q Okay. So--

A Really the car was on the wrong side of the road.

Q Okay. So it had parked wrong way on the wrong side of the road?

A Yes, sir.

Q Okay. So for Cameron Hammonds to talk to the fella you call Cam, he had to walk around the car?

A Yes, sir. He had to come around the car.

Q All right. Now, you testified that you don't know or did not see if Cam had any type of weapon, is that correct?

A I said he didn't have -- I didn't see nothing, that's what I said, I didn't see nothing.

Q You didn't see anything?

A No, sir.

Q Now, while this was happening did some other car pull up?

A Yes, sir.

Q What car was that?
A Was a burgundy Impala.
Q And did you know who was driving that car?
A No, sir, I don't.
Q Had you ever seen the person before?
A I don't know who was driving it then. But I have saw the car to know who car it is but I don't know who was driving it that day.
Q Well did the person that was driving that car get out of it that day?
A I didn't see no driver get out but I saw another fella standing out there got out of the car.
Q So somebody got out of the second car?
A Uh-huh.
Q Okay. And you don't know who it was that got out of the second car?
A Yeah, I know it was.
Q Who was that?
A I don't know his name but I know him when I see him. I don't know his name. I can't recall his name. But they show me a picture of him, I picked him up out the thing but I don't his name, I can't recall his name.
Q Okay. Well what did that person do?
A He was standing outside of the car.
Q Did he have anything in his hand?

A A shotgun.
Q A shotgun?
A Uh-huh.
Q Then what happened?
A What you mean, then what happened?
Q What happened next?
A He didn't do nothing.
Q Okay. So while all this is going on you're still sitting on your porch?
A Yeah, I'm sitting on my porch, yeah.
Q And you're testifying that you see gunshots or hear gunshots and see somebody being shot, right?
A Yeah, I saw that.
Q And you're still sitting on your porch?
A I'm standing right there on my porch.
Q Did you want to go inside to be safe?
A He wasn't shooting down this way, he was shooting straight over. This house up here. I'm down here, he shooting straight this way. He not shooting down towards my house.
Q So you're just sitting there?
A Yeah.
Q Well, did you go in and call the police.
A I didn't call the police, I don't know who called the police.

Q You didn't call the police?
A No, sir.
Q Did any of the officers talk to you the day of this incident?
A No, sir.
Q Did you try to talk any of the officers the day of this incident?
A No, I did not. No, I did not.
Q Did you talk to any news coverage people the day of the incident?
A They come down there, I told them I didn't see what happened.
Q You told them you didn't see what happened.
A I did not see nothing, that's what I told them.
Q Now, why was that?
A Beg your pardon?
Q Why did you tell them that, you're sitting here today saying you saw something.
A I'm not stupid man, I wasn't to get on no national TV and say this and say that.
Q So you think it's save to -- you called the police the next day?
A I didn't call the police. I told you that. I did not call the police.
Q How did you get in contact with the officers?

A I went to work the next day and I had -- it was bothering me so bad I had to talk to somebody and I talked to my supervisor. And he took me off my route and brought me -- he the one that contacted them.
Q And he brought you what?
A Brought me back to the yard.
Q And what happened when you got back to the yard?
A The detective was there.
Q I'm sorry, sir.
A The detectives was there.
Q Okay. So you're saying your boss called the detectives --
A Yes, sir. Because I had told him about. Because I wanted somebody to talk to so I talked to him about it.
Q Do you hang around much with your cousin Stephon Brewster?
A No, sir.
Q How often do you see Stephon Brewster.
A I can't say.
Q Well do you see him once a week?
A No, not all the time.
Q At this, back in 2007, he was living with his Grandma, right?
A I don't know where he live at. We don't -- I don't know where he live. When I see him he be down at his

Grandma house, that's when I do see him.
Q Okay. So before today, I know you saw him court, before today, when was the last time you seen Stephon Brewster?
A I don't know.
Q Now, you claim to have seen all this stuff happen, the shooting; right.
A Don't put it like that, it's not no claim.
Q Well you testified that you a shooting, is that right.
A Yes, sir.
Q And you just at there on your porch?
A Uh-huh.
Q And you didn't call the police?
A No, I did not call the police.
Q How many times have you ever seen Cameron Hammonds?
A Being in a day about three or four times at the most.
Q Three or four times?
A At the most.
Q Including today?
A Yes, sir.
Q And where you were sitting was about 100-yards from where the house was where Cam was?
A It's not 100 yards.
Q Well, I'm sorry, I thought you said it was about 100

yards previously.
A I say it's not 100 yards, really.
Q Okay. But -- and you couldn't see the porch because of the angles, the way the porch was built?
A This didn't happen on the porch.
Q I understand that. But the question is you couldn't see the porch because of the angle --
A No, sir, I could not see the porch. The only thing you can see was the steps going up.
Q So, if your boss had not or somebody from Greater Greenville Sanitation had not called the officers, you never would have made a statement?
A I didn't say that.
Q Well I'm asking.
A I don't -- I don't recall know. I can't say I that would have, I don't know.
Q You worked that day and you were home from work?
A When that happened?
Q Right. When this happened you had gone to work that day and you had finished your work--
A No, sir, I didn't finish the work. See this happened one day, I went to work the next day.
Q Well I'm just talking about this one particular day--
A I was off from work when this happened, I was off from work.

Q Right. So you had gone to work.
A The next morning.
Q No, on June the 21st, before the shooting, you had worked that morning, right?
A Yes, sir, I had worked that day.
Q And then you finished with your work and you went home?
A Uh-huh.
Q But you have no idea how long you were on the porch?
A No, I don't.
Q And you don't know when you got off from work?
A I can't recollect what time I had got off from work.
Q And you seen Cameron Hammonds three, four times max; right?
A Yes, sir.

MR. GODFREY: Nothing further.

THE COURT: All right, any redirect?

MR. CAMPBELL: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q Okay. Kelvin, do you have air conditioning in your house?
A Yes, sir.
Q But it is still your practice to sit outside?
A Yes, sir.

Q And you were sitting outside that afternoon?
A Yes, sir.
Q You said you cannot remember who the individual was that got out of the burgundy car with the shotgun. Would it help you to refresh your memory if I provided you with a copy of your statement that you gave to police?
A Oh, yeah. As a matter of fact I remember his name now since you said that, it was Tyron.
Q I'm sorry?
A Tyron.
Q Tyron?
A That's the one driving -- that's the burgundy car belong to.
Q Who was Tyron?
A I don't know who he is. I don't really know nothing about him but he hangs around with Marcus. Stephon rather.
Q He hangs around with Stephon?
A Uh-huh.
Q Were you present in court when the detectives were testifying?
A Yes, sir.
Q I'm going to show you State's Exhibit No. 2 which is the statement of Cameron Hammonds. If you could read the first line out loud to the jury, please?

A Which part you talking about?
Q I'm sorry. The part that begins the actually statement.
A Right here?
Q Yes, sir.
A This say -- talking about years old and -- which part? Oh, right here, down here?
Q Yes, the part where he begins the actually statement. Not his age and education.
A Say, The night before the incident occurred, Tyron, who was my step-brother -- step-brother got his car stolen. Got his car stolen and beat up.
Q Okay. Thank you. One more question for you, Kelvin. Did Cameron Hammonds shoot -- excuse me, did he shoot at anybody else? You say he shot at the victim, did he shoot at anyone else?
A No, sir.
Q Could you describe to the jury the direction in which he was shooting and also the direction of the porch?
A Straight. This way straight.
Q So he was shooting -- was that the same direction at the porch?
A Yes, sir.
Q From were your?
A Oh, you talking about from my porch?

Q Right.
A No, my house down here.
Q Right.
A This house sitting up here.
Q Show me which way -- please show the jury which way Cameron Hammonds was shooting from the way you saw it?
A From the way I saw it he was shooting right where the house out.
Q Who was in front of Cameron Hammonds when he began shooting?
A Cam.
Q Who is Cam?
A That's the one that got killed.
Q That's the one that got killed. But that's different from Cameron Hammonds?
A Oh, yeah.
Q Did you see him shoot at anyone else?
A No, sir.
Q Okay.

MR. CAMPBELL: That's all the questions I have for you at this time.

THE COURT: All right, thank you, sir, you may step down. Thank you, very much.

All right, call your next witness.

MR. CAMPBELL: The State would call Dr. Ward.

THE CLERK: Please place your left hand on the Bible, raise your right hand.

MICHAEL WARD, after being duly sworn, testified as follows:

THE CLERK: Please have a seat.

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Good afternoon, Dr. Ward. Please state your name for the record?

A Michael Eugene Ward.

Q Where do you work?

A I'm employed by Pathology Associates of Greenville here in Greenville County and also by the County of Greenville as the chief medical examiner.

Q How many medical examiners do we have here in Greenville?

A There are two.

Q How long have you held your position?

A I've been chief medical examiner for 14 years.

Q What is your profession?

A I'm a licensed physician in the State of South Carolina and a forensic pathologist --

Q Can you tell the jury about your educational background, please?

A Certainly. I received my Bachelor's Degree in

biology from the University of Alabama. My Master Degree in forensic science from the University of Alabama in Birmingham. My medical degree is from the University of South Alabama in mobile. I did a four anatomic pathology residency at the Medical University of South Carolina, in Charleston. And a one year fellowship in forensic pathology at the University of New Mexico in Albuquerque.

Q Are you board certified?

A I am. I'm board certified by the American Board of Pathology in both anatomic and forensic pathology.

Q In addition to your educational background, do you have any other prior work experience and training in forensic pathology?

A I was the assistant medical examiner for the State of New Mexico from 1993 to 1995 prior to coming to Greenville.

Q Tell please tell the jury what is forensic pathology, what do you do?

A Pathology is the study of disease and disease processes and how they effect man. Forensic pathology takes that one step further including disease, disease processes as well as trauma. How they effect man, specifically how and why people die. And the presentation of that information in the judicial process.

Q Have you -- how many forensic autopsies have you ever

done before?

A I've performed over 2000 medical legal autopsies.

Q Have you ever testified in court?

A Yes, I have.

Q Have you been qualified as an expert in forensic pathology?

A Yes, I have.

Q Do you have any idea how many times?

A At least 100 times.

MR. CAMPBELL: At this point the State would offer Dr. Ward as an expert in forensic pathology.

MR. GODFREY: Without objection.

THE COURT: All right, so qualified.

BY MR. CAMPBELL:

Q Did you perform an autopsy on Lee Kinard?

A I did not.

Q Who did?

A Eric Christiansen. Dr. Christiansen was the associate medical examiner for five years here in Greenville. He left in July of 2008 to become the associate medical examiner for the State of Utah.

Q How long did you work with Dr. Christiansen?

A Five years.

Q Did Dr. Christiansen make any records of the autopsy, his finding and conclusions?

A Yes, he did.
Q Are these records regularly kept by medical examiners?
A Yes, they are regularly kept in our office.
Q Have you thoroughly reviewed Dr. Christiansen's records?
A Yes, I have.
Q Have you done any work beyond these records?
A I have.
Q And can you tell us, based on the records in your own understanding of them, do you agree with Dr. Christiansen's conclusion?
A Yes, I do.
Q Are you comfortable testifying to the same records and conclusions in court?
A Yes, I am.
Q What did and time was the autopsy?
A The autopsy was performed on June 22, 2007 and began at 9:15 a.m.
Q Where did the autopsy take place?
A The autopsy was performed at the Greenville County autopsy facility on the campus of the Greenville Memorial Hospital.
Q Where did the body come from?
A I'm sorry?

Q Where did the body -- was the body brought in from some where else?

A Yes, following pronouncement of death the body was transported from the scene to our autopsy facility, placed in storage, in a locked facility until the next morning when the autopsy was performed.

Q Was anyone -- could you tell from the records whether anyone else was present at the time?

A At the time of autopsy?

Q Yes.

A There was a representative from the Greenville City Police Department, Dan Fuller, Susan Ikapelle, who is our autopsy assistant and Sharon Knight who is also our autopsy assistant.

Q And to get into the findings, what were the dimension of Kinard's body?

A Mr. Kinard weight 147 pounds and was 72 inches in height. Which is also 6-foot. He appeared compatible with his stated age of 27 years.

Q Was he dressed?

A Yes, sir. He was wearing a pair of gray boxer, brief style underwear.

Q Was there any evidence of injury or trauma?

A Yes, there were.

Q What type to injury?

A There were multiple gunshot wounds of entry and exit.
Q How many?
A There were nine gunshot wounds.
Q Are the wounds numbered in those records?
A Yes, they are.
Q Is there any significance to the sequence of the numbering?
A There is not. The numbers do not indicate order of occurrence.
Q Did you prepare that diagram for use in court today?
A Yes, I did.
Q Would it help you explain your testimony to the jury?
A Yes, it would.
Q I'm going to put this on the overhead projector. If you need to move to see it better, please let us know.
THE COURT: You can step down, sir.
BY MR. CAMPBELL:
Q Is that sufficient, doctor?
A Yes, it is.
Q I have a laser pointer here if it will assist you. Please start with gunshot wound number one and explain these wounds to the jury.
THE COURT: Hold on one second.
(WHEREUPON, a cell phone rang.)
THE COURT: All right, thank you, Dr. Ward.

BY MR. CAMPBELL:

Q Thank you, please go ahead.

A Gunshot wound number one is located here in the right chest. It enters through the skin and musculature of the right chest entering into the right chest cavity passing through the lower left right lung and impacting the bone of the fifth thoracic vertebrae. So it goes from Mr. Kinard's right to his left and ending up basically within the midline of the body. Entering approximately here and ended up within the midline, impacting the bone of the fifth thoracic vertebrae.

From there Dr. Christiansen recovered a medium caliber jacketed bullet. Within the right chest cavity, where there is supposed to be only lung, there was 400 mills of blood which had hemorrhaged from the lung into the right chest cavity. So it goes from Mr. Kinard's right to his left and is recovered deep within the body, roughly this position.

Gunshot wound number two enters on the left side, is positioned here, passes through the skin and musculature of the left side of the chest, passes through the diaphram. Which is muscle that we use to breathe on the left side. Then it passes through organs of the abdomen, the spleen, to stomach, the liver then back through the diaphram in this position here. Pass through the heart,

roughly here and existed the anterior chest here. So the entrance is here, direction this way. So from left to right, back to front and upward. Within the -- excuse me within the right chest -- I'm sorry, within the left chest there was 200 milliliters of blood. Within the sack surrounding the heart there was 250 milliliters of blood. Again, where there should be no blood. At approximately 500 milliliters of blood present within the abdominal cavity. So from this gunshot wound we have blood within the left chest, the sack surrounding the heart and the abdominal cavity.

Gunshot wound number three is located on the left forearm, on the front part of the left forearm just below the bend intend in your arm. So this is the entrance wound here, it passes through the muscle of the left forearm and exits the back of the left forearm just above the wrist. So it goes from Mr. Kinard's front to his back and downward. Entrance and exit. Gunshot wound number four is present on the right forearm, again, just below the bend in the right arm. Entrance here, passes through skin and musculature. A relatively superficial course as it did not extend down to underlining bone. Through the skin and muscle beneath the skin and exits the right upper arm just above the elbow on the front. So it goes from Mr. Kinard's below upward in a very superficial course.

Gunshot wound number five is on the back of the right forearm, in this region here, this is the entrance. Again, here's the elbow so it's just below the elbow on the right, nearest the body. It passes through skin and muscle of the right posterior arm or the back of the right arm, to exit the back of the right arm just beneath the elbow. So entrance, exit. So this wound goes from Mr. Kinard's left to his right and then upward. Gunshot wound number six is on the left hip. This is drawn in two dimensions. It's actually more on the left side of the him then what appears to be the front of the hip. It's on the left side of the hip entering here, passing through skin and muscle of the left hip to exit the front of the left hip, more in the groin region. So this wound goes from Mr. Kinard's from his left to his right, from back to front and upward.

Gunshot wound number seven is listed in the left upper buttock or left lower back within this region here. This is entrance to gunshot wound number seven which goes through the skin and musculature of the midback through the bones of the vertebral column called the sacrum. Which is the lowest part of the vertebral column. It passes deep into the body, into the region of the pelvis, passing very close but not impacting the rectum. And it's recovered -- a bullet is recovered from the soft tissue

adjacent to the rectum within the pelvis. And from this region here, deep within the body is recovered a medium caliber, jacketed missile. So the direction of this wound is from Mr. Kinard's back to front, very slightly from right to left. So it's going in this direction and downward. Back to front, right to left and downward.

Gunshot wound number eight has an entrance in the left buttock here, passing through skin and muscle of the left buttock to exit here. It goes essentially from Mr. Kinard's right to his left. Again a superficial gunshot wound. Gunshot wound number nine is present on the outside of Mr. Kinard's left knee here. Passing through skin and musculature here, to exit the lower part of the left upper leg. This is the upper leg, this is the lower leg. So here's the knee. Entrance, exit. This wound goes from Mr. Kinard's back to his front, from his left to his right. And those are the wounds on Mr. Kinard.

Q Could you tell the Court, based on those records Dr. Ward, could you tell the range of the shots?

A Based on the autopsy report there is no description of gunshot residue present on the body of Mr. Kinard. This being said, when no gunshot residue is identified, these are described as distant range gunshot wounds of entry which are greater than two to three feet.

Q Whether there any other signs of trauma or injury to the victim?

A There was no acute trauma. There was radiographic and subsequently dissection evidence of a remote or old shotgun wound with old shotgun pellets being seen on x-ray and then subsequently discovered within the scalp and skin of the chest.

Q Where there any other substances in the diseased body, anything else that could have caused death?

A There was nothing that could cause death, no. A toxicological analysis of the decedent's blood was performed which demonstrated a very low level of ethanol, essentially a negative level and a small acetaminophen or Tylenol.

Q Were you able to form an opinion, based on these records, to a reasonable degree of medical certainty as to the cause of Lee Kinard's death?

A Yes, I was.

Q Please tell us what your opinion is?

A Mr. Kinard died as a result of multiple gunshot wounds.

MR. CAMPBELL: Your Honor, at this time the State would like to move Dr. Ward's diagram into evidence.

MR. GODFREY: Without objection.

THE COURT: Without objection.

(WHEREUPON, State's Exhibit No. 4 was admitted into evidence.)

MR. CAMPBELL: Please answer any questions Mr. Godfrey may have for you, Dr. Ward?

THE COURT: Okay.

MR. GODFREY: I don't have any questions for Dr. Ward.

THE COURT: All right, thank you, sir, you can step down.

MR. GODFREY: Would you like to approach?

MR. CAMPBELL: Yeah.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, thank you for your patience. As I said, one of the difficult parts of organizing a trial from where I sit is to try to get everything logistically correct so that we don't waste time or stay too late or anything. I think if we were to call another witness it might take us well past five o'clock. It's unusual we're going to quit early but let's stop for the day. And would again instruct you, do not talk about the case. I promise you, the deeper into the case you get, the more you're going to want to talk about it. You're going to want to talk to people who you trust

to get their feedback. But that, you have sworn an oath not to do that. And I hope I have fully explained why. Those people would not have been in the courtroom, they would not have scene and heard the testimony that you all scene and heard. It would be unfair as I said to the parties to do that. Unfair to your fellow jurors and most particularly unfair to yourselves. We don't want their ideas, we want you. Okay. So y'all have a pleasant evening, we'll see you back, if you can be in your jury room about 9:30. Thank you, very much.

(WHEREUPON, the jury left open court at approximately 4:30 p.m.)

THE COURT: All right, before we break for the evening, I want to talk to Mr. Hammonds about his right to testify. So Mr. Hammonds, would you stand, please, raise your right hand. Let me place you under oath.

CAMERON HAMMONDS, after being duly sworn, testified as follows:

THE COURT: Now, you can sit down. You understand that every person charged with a crime has an absolute right to testify in their case. And they also have an equal Constitutional right to remain silent. You don't have to testify, you don't have to present any evidence whatsoever. The burden never shifts from the State to you. It will always remain on the State. And there are

strategic reasons to testify or not testify. If you decide not to testify, if you request, I give a strong instruction to the jury that they are not to consider that in any fashion in their deliberations. But I'm not going to ask for your decision now whether or not you're going to testify. I'll let you think about it overnight, discuss with your attorney what the various ramifications are and you can let me know your decision tomorrow.

Now the State has not rested yet and I don't know if they are going to or not. But in the morning we'll address this again. If you have questions now that you would like to ask me, if you do I'll be happy to answer any questions with respect to that right. Or if you have some tomorrow morning I'll be happy to talk to you about it at that time. Okay. All right.

Okay, anything else before we break?

MR. GODFREY: May it please the Court, I just want to check one thing. His wife --

Do you have pills or something?

MS. HAMMONDS: I don't have them yet.

THE COURT: All right, well y'all -- you talked to the LEC?

MR. GODFREY: I have not called LEC but.

THE COURT: All right.

MR. GODFREY: We know...

THE COURT: Well, Jimmy, y'all can pass that message on.

THE DEPUTY: Yes, sir.

THE COURT: All right, very good.

Now I want Mr. Brewster back up here in the morning. Okay. All right. Y'all have pleasant night.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on November 31st, 2009.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Session for Greenville County, South Carolina, on the 30th day of November, 2009.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 27, 2010

April P. Herron

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) 2007-GS-23-9564
)
)
)
State of South Carolina) TRANSCRIPT OF RECORD
)
-vs-)
)
Cameron Hammonds)
)

ORIGINAL

December 1, 2009
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWDARD MILLER, Judge.

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

George Campbell, Esquire
Sylvia Harrison, Esquire
Assistant Solicitor,
Attorney for the State

Bill Godfrey, Esquire
Attorney for Defendant

CAROLINE HISKELL
Circuit Court Reporter

State versus Cameron Hammonds

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT
Cameron Hammonds	10	31	---

E X H I B I T S

NUMBER	DESCRIPTION	ID	IN EVD.
C-1	Juror Note	07	07
C-2	Jury Question	81	81
C-3	Jury Question	83	83

P R O C E E D I N G S

THE BAILIFF: All rise. The Honorable Edward Miller presiding.

THE COURT: Please be seated.

Can I see the lawyers up here for a minute.

(Whereupon, there was a bench conference outside the presence of the jury.)

(Whereupon, there was an in-chambers on-the-record conference.)

Hello, Mr. Cohen. How are you doing?

MR. COHEN: Good. Thank you.

THE COURT: We got to do everything by the book.

MR. COHEN: Sure.

THE COURT: Can you tell me -- I've got your note and you said that you could have been biased by a conversation.

MR. COHEN: It's probably just more built up in my mind, but the gentleman who was the -- the fellow who was on the porch who saw everything. That's what he said.

THE COURT: Right.

MR. COHEN: He was talking to the bailiff in the hall about 1:55 yesterday as I was arriving and he made some statements about his employment that made me

feel some sympathetic feelings for him without knowing his involvement in the case. So as he was on the stand, I may have had some feelings about him before the trial started.

I feel like I could set that aside. I feel comfortable with that. I just want to make sure that was out there and in the open.

THE COURT: Well, I appreciate you telling us. The key is that you would be able to be completely impartial and unbiased coming into the case. So do you remember exactly what was said?

MR. COHEN: He was just making a statement that he just had to take time off and his employer wasn't paying him and he was having to take time off, and being self-employment myself, I felt sorry for him.

THE COURT: That's probably a lot of jurors feel the same.

MR. COHEN: And I didn't know at that time his relationship to the case, so it didn't bias me at that time, but I did feel some sympathy -- you know, understandably.

THE COURT: But you do think you could set that aside and be an objective juror?

MR. COHEN: Sure.

THE COURT: Weigh the evidence based on what you've heard in the courtroom?

MR. COHEN: Yes.

THE COURT: Don't mention this to any other jurors. Let's keep that -- just tell them when it's over, it's no big deal, but I would instruct you not to talk about it. We'll get cranked up in just a little bit.

Thank you.

MR. COHEN: Thank you very much.

(Whereupon, Juror Cohen, returned to the jury room.)

MR. GODFREY: I realize he said that he could set it aside and be fair and impartial, yet he overheard through no fault of his own, comments that were being made that made him feel sympathetic to Kelvin Harris. Kelvin Harris appears to be, in my opinion, the best witness for the State. And even though he says he could set it aside, you can't unring a bell, and I just don't think that he should remain on the jury. I think we should have the alternate.

MR. CAMPBELL: I want to simply respond by saying had it been a substantive matter at issue in the trial that would be one thing, but I don't think it rang a bill simply to say he was having to take leave from work to testify here today, because everyone here who isn't the lawyers or the judge, is having to take leave to be here.

THE COURT: Well, he's not going to discuss

it with any of the fellow jurors so there's no immediate need to have him removed.

MS. HARRISON: He did say he could set it aside.

THE COURT: He did say he could set it aside, but the question may come up as an issue on appeal. We have qualified jurors -- jurors who are qualified.

Let's go ahead and relieve him now.

Bring him back.

(Whereupon, Juror Cohen returns to in-chamber conference.)

Mr. Cohen.

MR. COHEN: Yes.

THE COURT: Sorry to make you up and down. I know and I think everyone here believes you feel certain you could set it aside, but we do have an alternate. I hate to do it to you, but I think I'm going to ask you to step aside for this case. I really appreciate your honesty and forthrightness in coming forward ---

MR. COHEN: It's an important part of the system to me.

THE COURT: We'll set the alternate and go forward, although, I think you'll be fine but that could be, down the line, an issue. So we'll avoid that and try to keep it just as smooth as we possible can. I wish I

could tell you you're done for the week, but I can't do that. I think you're suppose to call that number after noon.

Thank you.

MR. COHEN: Thank you very much.

(Whereupon, the Court and the parties returned to the courtroom.)

THE COURT: We had an in-chambers conference as a result of a note I received from one of the jurors who had indicated yesterday on his way back from lunch he overheard a conversation between a bailiff and a person who later turned out to be a witness, not talking about the substance of the case, but this juror was concerned that because of the conversation would be sympathetic to that witness's testimony. And while he said, and I believe he could have, set it aside in the interest of total fairness I have excused him and I will seat the alternate. We'll make this note a part of the record.

(Juror's Note marked as Court's Exhibit No. 1 for identification and admitted into evidence.)

Anything else?

MR. CAMPBELL: Nothing from the State, Your Honor.

MR. GODFREY: Judge, at this time the defense would move for a Directed Verdict.

THE COURT: Well, wait a minute, he hasn't rested yet. You want to put that in open court for the record?

MR. CAMPBELL: Yes, Your Honor. At this time the State rests.

THE COURT: I will give you an opportunity to do that in front of the jury if you would like to, but due to judicial economy, we will entertain any motions that you might have.

MR. GODFREY: Motion for Directed Verdict taken the evidence in most light favorable to the State, we do not believe they have made out a prima fascia case.

THE COURT: I'm going to deny that evidence. I think there's substantial evidence in which a jury could reasonable infer guilty beyond a reasonable doubt.

Any other business we need to take care of?

(No response.)

Let's talk about to Mr. Hammonds. Mr. Hammonds, please consider yourself still under oath from yesterday. We had a discussion with you as to your right to testify as opposed to your right to remain silent. Have you made a decision in that regard? Well, before I ask you if you've made a decision, let me ask you do you have any questions about that right?

MR. HAMMONDS: No, sir.

THE COURT: Have you made a decision?

MR. HAMMONDS: Yes, sir.

THE COURT: And have you me with you attorney often enough to know what that decision should be?

MR. HAMMONDS: Yes, sir.

THE COURT: You're fully satisfied with the decision you've made?

MR. HAMMONDS: Yes, sir.

THE COURT: You want to tell me what it is.

MR. HAMMONDS: Yes, sir. I'm going to testify.

THE COURT: Let's get the jury back in.

(Whereupon, jury returns to the courtroom.)

Ladies and gentleman, before we proceed with the case, y'all deserve an explanation about why your number has been reduced to 12. It has absolutely nothing to do with the case. It was a matter outside the record of the case, and your fellow juror came forward and spoke to me about an issue; no reflection on him or anything like that, no funny business. When the case is over, we can explain it to you fully, but right now, we're going to just proceed.

Mr. Nessler, you've been promoted.

Mr. Campbell.

MR. CAMPBELL: The State rests at this time.

THE COURT: All right. Mr. Godfrey.

MR. GODFREY: The defense calls Cameron Hammonds to the stand.

THE COURT: Come on around and be sworn.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

CAMERON RASHAWN HAMMONDS, JR., having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GODFREY:

Q. What is your name?

A. Cameron Rashawn Hammonds, Jr.

Q. And how old are you?

A. Twenty-nine.

Q. Where do you live?

A. [redacted] Street, Apartment [redacted] Greenville, South Carolina 29601.

Q. Who do you live with?

A. My wife, my stepson and my mother.

Q. How long have you been married?

A. I got married October 4, 2009.

Q. Is your wife here?

A. Yes, sir.

Q. Are members of your family and friends here?

A. Yes, sir.

Q. How far did you go in school?

A. I graduated high school and have a year-and-a-half at Greenville Technical College.

Q. And how is your health.

A. Not good.

Q. Tell us about your health?

A. I became a diabetic at the age of 15. I take six shots a day, two different kinds of insulin, hypertension, diabetic neuropathy, diabetic seizures from low and high blood sugars.

Q. Back in 2007, were you employed?

A. Yes, sir.

Q. Where were you employed?

A. City of Greenville, Beautification.

Q. What did you do for the City of Greenville?

A. Make Greenville look good; cut the grass, plant the flowers, trim the trees.

Q. How long had you held that job?

A. For six months.

Q. When you were arrested on this charge, what happened to your job?

A. I lost my job.

Q. Since that time, have you been employed?

A. No, sir.

Q. Have you looked for employment?

A. Yes, sir.
Q. Can't find anything?
A. No, sir.
Q. Is your wife employed?
A. Yes, sir.
Q. Now, the incident that you're here for occurred on the 21st.
A. Yes, sir?
Q. Let's go back to the 20th. Did you work on June the 20th, the day before this incident?
A. Yes, sir.
Q. Do you remember about what time you got off from work?
A. 2:00, 2:30.
Q. What did you do when you got off from work?
A. I drove my mother's green van home and I walked up Ms. Anders how, which is Stefan Brewster's grandmother.
Q. Do you know about time you got to Stefan Brewster's house?
A. No, sir.
Q. Was it around -- were you there at supper time?
A. No, sir. I was back home before supper time.
Q. When you were at Stefan Brewster's grandma's house, who was there?
A. His grandmother, his uncle, his brother, my

stepbrother -- really a little bit of everybody goes by there and usually she would cook us something.

Q. When did you leave there?

A. It was right before supper because I had to get back to take my insulin.

Q. What time do you consider supper?

A. Between 6:00 and 8:00.

Q. What did you do when you got home?

A. Check my blood sugar, take my insulin and eat dinner.

Q. Then what did you do?

A. Then I came back out.

Q. What did you do then?

A. Went back to Stefan Brewster's house.

Q. How long were you there that time?

A. Around about maybe 10:00, maybe 9:30.

Q. And who was there then?

A. Same crowd.

Q. When did you leave?

A. Probably about 10:00 or 9:30.

Q. What did you do then?

A. I went home because I had to go to bed and get ready for work in the morning.

Q. What time did you have to report to work?

A. 5:30, 6:00.

Q. So did you go to bed?
A. Yes, sir.
Q. What happened after you went to bed?
A. I was woke by a banging at the door around 2:00 in the morning so I got up and go check the front door.
Q. Who was at the front door?
A. My stepbrother.
Q. And why was he there?
A. When I opened the door, he was bleeding from the face?
Q. Why was he bleeding?
A. I found out from the police that he was beaten in the face with a shotgun.
Q. What did you do then?
A. Called the police and I went back to Stefan Brewster's house to see if they knew anything about it, if anybody had followed him home or whatever.
Q. How did you get to Stefan Brewster's place?
A. I drove the green van.
Q. And when you got to Stefan Brewster's house what happened?
A. They said they didn't see nobody. They said that he had left and they didn't see nobody follow him or nothing like that.
Q. What did you do after you left Stefan Brewster's

house?

A. I got in the car with Stefan Brewster because he wanted to check on Tyrone, too, and I was coming back to my house.

Q. Who is Tyrone?

A. That's my stepbrother.

Q. And when you say you were going to check on him, what were you going to do?

A. He was coming to see how he was feeling, what he was looking like.

Q. Where was Tyrone?

A. The ambulance had already taken him to Greenville Memorial Hospital.

Q. So you got into the Stefan Brewster's car to go to the hospital with him?

A. Yes, sir.

Q. What kind of a car does Stefan Brewster have?

A. It's like the color of this thing right where you're standing at.

Q. It's grey?

A. Like a primer -- like it's been sanded down or primed or something.

Q. Did anything happen on the way to the hospital?

A. Yes, sir.

Q. What happened?

A. I went to the hospital, I don't know if it was coincidence or whatever, but the way Stefan road, we road right to my brother's car -- right past his car.

Q. And who spotted your stepbrother's car?

A. I did.

Q. What did you do then?

A. My instinct, I went straight to the car and opened it up to see if anything was missing. The car was just ransacked. It wasn't nothing missing.

Q. Then what did you do?

A. I called the police.

Q. Did the police come?

A. Yes, sir, about an hour later but they came.

Q. Where were you when the police got there?

A. I was standing right there by the car. They told me not to touch the car, but I touched the car as soon as I went to it.

Q. And how long were you there?

A. About like another hour.

Q. Then what did you do?

A. We went over to the -- the police said they was going to fingerprint the car and then went over the Greenville Memorial Hospital.

Q. When you say "we", you mean you and Stefan Brewster?

A. Yes, sir, and his brother.

Q. And his brother?

A. Yes, sir.

Q. When you got to the hospital, when did you find?

A. Tyrone was already coming out of the hospital. He had the patch on his eye, but by the time we got there, the police was calling me back.

Q. And what did you learn?

A. They said they was through fingerprinting the car and they would release the car to me.

Q. Did you have a key for the car?

A. No, sir.

Q. Did Tyrone have a key for the car?

A. No, sir. His keys were taken.

Q. So did you get the car?

A. Yes, sir.

Q. How were you able to do that?

A. His older brother had a spare key and he gave me his key.

Q. Now, when you first saw the car when you were on you way to the hospital, did you notice anything unusual while you were waiting for the police?

A. Yes, sir.

Q. And what did you see?

A. There was a beige car with a red drive-out tag

and a black strip missing on the right passenger front door and it circled around the block two times.

Q. Now, did you tell the police about that?

A. No, sir.

Q. Who took you back to the car?

A. Stefan Brewster.

Q. When you got back to the car, what did you do?

A. I went to the police and they told me I was free to take it home.

Q. So did you drive it home?

A. Yes, sir.

Q. Did you drive it back to your house?

A. Yes, sir.

Q. What did Stefan Brewster do?

A. They went home.

Q. Did you see them again that evening?

A. No, sir.

Q. Do you recall about what time it was when you got home with your brother's car?

A. Probably about 5:00 in the morning, 4:45, 5:00 in the morning.

Q. When you got home, did you see anything unusual?

A. Yes, sir.

Q. What did you see?

A. As I was backing the car into the driveway, that

same car rode past my house -- slowly pass my house.

Q. Had you ever seen that car in the neighborhood before?

A. No, sir.

Q. Had you ever seen that car parked anywhere in your neighborhood before?

A. Yes, sir.

Q. And where was that?

A. At [redacted] Street when I was on my way home.

Q. So you pass by -- on your way home, you went by [redacted] Street?

A. Yes, sir. That's the way I travel. I got up Pendleton Street and a right on [redacted] Street, across Prairie Avenue straight down [redacted] Street, across the bridge to my house on [redacted] Street.

Q. Now, how did you know it was the same car?

A. Because of the red drive-out tag.

Q. Tell us what a red drive-out tag is?

A. It's when you don't have a license plate. It was red with white trimming with writing on it.

Q. So when you got home it was about 5:00?

A. Yes, sir.

Q. What did you do then?

A. I went in the house and called me job and told them what happened. I told them I probably wouldn't make

it in.

Q. Then what did you do?

A. Went to sleep.

Q. When did you wake up on the 21st?

A. Woke up about 9:00 that morning, maybe 10:00.

Q. What did you do when you got up?

A. Checked on Tyrone but he was still sleeping I guess because of the medication he was on, so I went to his house where his dad had changed the locks on his doors and stuff.

Q. When you went to Tyrone's house, who was with you?

A. Nobody.

Q. Did you go into Tyrone's house?

A. No, sir.

Q. You just wanted to see that the locks were there?

A. Yes, sir.

Q. After you left Tyrone's house, what did you do?

A. Walked back home.

Q. When you got home, who was there?

A. My mother, Tyrone. My stepfather wasn't there yet.

Q. About what time was it when you got back home?

A. 10:45, something like that.

Q. When you got home, what did you do?

A. Laid back down.
Q. Did you go back to sleep?
A. Yes, sir.
Q. When did you get up again?
A. About 1:00.
Q. What did you do when you got up?
A. I took my insulin for my lunch.
Q. Then what?
A. I ate and then I put in my shoes, my pants. It was hot that day so I just wore a tank top.
Q. When you say you put on your shoes, what kind of shoes did you put on?
A. Black house shoes.
Q. And after you took your insulin and got dressed, what did you do?
A. I took off walking.
Q. Where were you walking to?
A. Stefan's grandmother's house.
Q. Why were you going to go over there?
A. Because that's what we usually do, that's where we hang out.
Q. You say you took out walking?
A. Yes, sir.
Q. So what direction were you walking?
A. [redacted] Street, across the Wayne Street

Bridge towards Barnerd(ph), made a left on Barnerd and then a right on [redacted] Street.

Q. And you were in house shoes?

A. Yes, sir.

Q. Did you notice anything while you were walking along?

A. Yes, sir.

Q. What did you see?

A. It was two guys at [redacted] Street.

Q. And where were the two guys at [redacted] Street?

A. One was on the porch and one was standing in the yard.

Q. Was the car that you saw the night before there?

A. Yes, sir.

Q. Did you know the people at [redacted] Street?

A. No, sir.

Q. Well, what did you do when you saw them?

A. When I seen the guy in the yard, I went and asked questions.

Q. You asked what now?

A. I went to ask questions.

Q. And what question did you ask him?

A. I asked the guy in the yard: Why y'all rob my little brother?

Q. And what did he say?

A. He said: Fuck your little brother, he know how I get down.

Q. Then what happened?

A. I said: We don't do nothing to nobody, my brother don't bother nobody, we don't do nothing to nobody.

Q. What happened next?

A. He said: Fuck your little brother.

Q. Then what happened?

A. I said: My kids could have been in that car.

Q. What happened next?

A. The guy on the porch pulled a gun.

Q. Did you know the guy's name on the porch?

A. No, sir.

Q. What happened when he pulled the gun?

A. My in the guy in the yard sort of jumped to my right which would be his left.

Q. How did you feel at that point in time?

A. Scarred.

Q. After you all jumped or while you all were jumping, did anything else happen?

A. Yes, sir.

Q. What else happened?

A. The guy that was in the yard with me he tried to pull his gun.

Q. When he tried to pull his gun, what happened?
A. He fumbled the gun and I caught it.
Q. When you say he "fumbled" it, what are you talking about?
A. I guess where ever he was pulling it from, he like pulled it and it like fumbled.
Q. And you caught it with what hand?
A. My left hand.
Q. What happened next?
A. As I caught it with my left hand, I turned and I pulled my gun too. I turned and I started running and shooting.
Q. Now, you had a gun?
A. Yes, sir.
Q. What type of gun was it?
A. 308 semi-automatic.
Q. Was the gun registered to you?
A. Yes, sir.
Q. You didn't have a license to carry a concealed weapon, did you?
A. No, sir.
Q. Why did you have a gun with you?
A. Because of the community we was in.
Q. A lot of things happen there?
A. Yes, sir.

Q. You routinely carried a gun?
A. Yes, sir.
Q. So you saw the fella on the porch pull a gun?
A. Yes, sir.
Q. Go ahead and state again what happened?
A. As the person on the porch pulled the gun, me and the guy in the yard jumped towards the right, my right and his left. As we jumped, he tried to pull his gun and he fumbled it and I caught the gun. And as I caught the gun, I turned and I pulled mine at the same time. I started shooting back as I was running out the yard.
Q. How did you feel at that particular time?
A. Scarred. I wanted to get home to my three babies.
Q. Did you think you were in danger?
A. Yes, sir.
Q. What did you think could happen to you?
A. Thought I'd be killed.
Q. Is that why you shot?
A. Yes, sir.
Q. When you were running, what happened to your shoes?
A. I ran out of my house shoes.
Q. What did you do with the gun?
A. I dropped the guns in the yard.

Q. At [redacted] Street?
A. Yes, sir.
Q. Did you have any injury?
A. I broke my left big toe running.
Q. Where did you go when you left [redacted] Street?
A. I ran home.
Q. When you got home, who was there?
A. Nobody.
Q. What did you do?
A. I put on some shoes and I kept running.
Q. Where did you run to?
A. I ran all the way home to Knoxville, Tennessee.
Q. You say home is Knoxville, Tennessee?
A. Yes, sir.
Q. Is that where you were born?
A. Yes, sir.
Q. You still have family there?
A. All of my family except for my mother.
Q. How long had you been living in Greenville?
A. Since 1998.
Q. Had you always lived at the same place in Greenville?
A. No, sir.
Q. At the house you were living in on June 21, 2007, how long had you been there?

A. Probably like a year.

Q. Now, Stefan Brewster, you went to his house a couple of times. Back in 2007, what was your relationship with Stefan Brewster.

A. He was my brother's best friend -- my stepbrother's best friend.

Q. And how did you meet Stefan Brewster?

A. I met him like when him and my brother was like in the sixth grade.

Q. And how often back in 2007 did you see Stefan Brewster?

A. Almost every day.

Q. Now, after this incident, how often did you see Stefan Brewster?

A. I seen him like three times since I been out.

Q. Now, the three times that you saw him, when was that?

A. When I first came home I seen him. When he had got into a situation, I seen him. I had talked to him. I'm the one who drove him to the police station and told him to turn his self in.

Q. So did you see him -- you say you saw him about three times?

A. Yes, sir.

Q. When did you stop seeing him?

A. I don't go in the area. I don't go in the community no more.

Q. Has it been months since you seen him?

A. Probably.

Q. When you were given the written discovery in this case, did you see that he was one of the witnesses against you?

A. Yes, sir.

Q. Was that one of the reasons you didn't want to be around him?

A. Yes, sir.

Q. What about Kelvin Harris, do you know him?

A. No, sir. I ain't never seen him a day in my life.

Q. You seen him in court yesterday, right?

A. Yes, sir.

Q. Had you met him anywhere before?

A. No, sir.

Q. When you went to Knoxville, Tennessee, did you end up getting arrested there?

A. Yes, sir.

Q. Did you waive extradition to come back to South Carolina?

A. Yes, sir.

Q. When you got back to South Carolina, did you meet

with Detective Flavil and Detective Conway?

A. Yes, sir.

Q. Did they ask you to provide a written statement?

A. Yes, sir -- well, not written. They just asked me some questions. I ain't write nothing down.

Q. Well, in the end, did you sign a written statement after the interview?

A. Yes, sir.

Q. Did you understand what you were doing when you gave that statement?

A. Yes, sir.

Q. You gave the statement freely and voluntarily?

A. Yes, sir.

Q. You cooperated with the officers?

A. Yes, sir.

Q. How long are you?

A. Twenty-nine.

Q. Have you ever been convicted of a crime?

A. No, sir.

Q. Twenty-nine and no record.

A. Yes, sir.

Q. On the day of the incident, why did you shoot the gun?

A. Because I was scarred.

Q. What did you think was going to happen to you?

A. Thought I was going to be killed. I wanted to get home to my children. I thought about my life and my children.

Q. So how would you describe what you did?

A. Say it again?

Q. How would you describe what you did.

A. I can't describe it. I was just turning and shooting, running and shooting.

Q. Were you just trying to get away?

A. Yes, sir.

Q. Please answer any questions the solicitor may have.

A. Yes, sir.

THE COURT: We're going to take a short recess at this time.

Don't discuss the case, ladies and gentleman. We'll get back to you in about 10 or 15 minutes.

(Whereupon, the jury exits the courtroom.)

The reason we broke, I apologize, one of the jurors needed to take a break. I'll be happy to make this note part of the record if anybody thinks it's necessary. They both indicate, no.

We'll take about 10 minutes.

Mr. Hammonds, please do not discuss your testimony.

(Whereupon, there was a brief recess.)

THE BAILIFF: Please remain seated. The court will come to order.

THE COURT: Mr. Godfrey, do you have other evidence or witnesses to put up? I have to tell the other jury something.

MR. GODFREY: No, sir.

THE COURT: Okay. Bring the jury in.

(Whereupon, the jury re-enters the courtroom.)

MR. CAMPBELL: Your Honor, do we have the exhibits?

THE COURT: I don't have them.

THE CLERK: They're here.

THE COURT: Just put them back on the table.

MR. CAMPBELL: Thank you.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. CAMPBELL:

Q. Good morning, Mr. Hammonds. What make was your 380?

A. What do you mean what make?

Q. Who manufactured the gun.

A. High Point. That's the only thing I can tell you.

Q. What kind of magazine did it have?
A. 380 rounds.
Q. Was it an extended magazine?
A. Oh, the clip?
Q. Yes, the clip.
A. Regular.
Q. So how many rounds does that give you? Five.
A. No, sir. I think seven to eight.
Q. Seven with one in the chamber, eight?
A. I think so.
Q. You didn't have a concealed weapons permit?
A. No, sir.
Q. You just carried it for protection, right?
A. Yes, sir.
Q. Did you always carry it in the neighborhood?
A. Yes, sir.
Q. Tell us again, where were you when you were arrested?
A. Knoxville, Tennessee.
Q. And you said you were worried about your wife and kids?
A. Kids.
Q. Were you worried about leaving them to go to Tennessee?
A. Yes, sir.

Q. Why did you go to Tennessee?
A. I ran there out of fear.
Q. I'm sorry?
A. I ran out of fear.
Q. You ran out of fear?
A. Yes, sir. I was still scarred for my life.
Q. From who?
A. From the whole community. I don't know nobody really in Greenville.
Q. How long did you say you'd lived here?
A. Since '98.
Q. So in 2007, you'd been here nine years?
A. Yes, sir.
Q. But you didn't know anybody in Greenville?
A. Not that many people. I stick to myself really.
Q. What did you do with the guns?
A. I dropped them in the yard.
Q. And you know -- is it correct that the police never found the guns?
A. I don't know.
Q. Did you receive discovery on this case?
A. I don't think it was in the files.
Q. But as far as you know, no one ever found them?
A. Yes, sir.
Q. Let's back up a minute to Tyrone's car when you

found it.

A. Yes, sir?

Q. What condition was it in?

A. The inside of the car -- it was messed up.

Q. Did it have a stereo?

A. Yes, sir.

Q. The stereo was still in it, wasn't it?

A. Yes, sir.

Q. It had an amp and subwoffers, didn't it?

A. Yes, sir.

Q. They was still in the car, weren't they?

A. Yes, sir, but the people who broke in the car, they broke the key off in the trunk. I guess they didn't know it was a button up under the dashboard you could pop the trunk.

Q. And the car had rims, didn't it?

A. Yes, sir.

Q. How big were the rims?

A. Twenty-two inch rims.

Q. Are twenty-two inch rims expensive?

A. Yes, sir.

Q. Were the rims still on the car?

A. Yes, sir.

Q. But the door panels had all been ripped off, though?

A. The door panels hadn't been ripped off.
Q. They weren't?
A. No, sir.
Q. You said the car had been messed up inside?
A. Yes, sir.
Q. What did they mess up?
A. They had like CDs had been broken up all in the car like they had been searching through the car. There was an empty bag where he had just came from Seattle, Washington and they was in the back like they had went through the bag.
Q. Who was in Washington?
A. Tyrone.
Q. Do you know what he was doing in Washington?
A. His brother had graduated from college in Portland.
Q. Do you know what Tyrone brought back with him from Washington?
A. No, sir.
Q. And it's your testimony today that the door panels were not ripped off from the car?
A. No, sir.
Q. Why didn't you tell the police about that beige car with the strip missing on the passenger door?
A. Because when it happened, I wasn't really

thinking nothing about it.

Q. You didn't think it was important?

A. Not at the time.

Q. And then the next morning, you got up at 9:00, you said?

A. Yes, sir.

Q. And you did go to Tyrone's house that day?

A. Yes, sir.

Q. Nobody else was over there?

A. The stepfather was doing locks.

Q. The stepfather was over there doing the locks?

A. He had done the locks.

Q. I thought you said no one -- excuse me. So the stepfather was there doing the locks, but you didn't see Stefan?

A. No, sir.

Q. And you didn't see Tyrone?

A. I left Tyrone home sleep.

Q. So Tyrone was staying with you?

A. He stayed at my mother house. He had two twin beds in my mother house that I stayed in. He was in the other bed.

Q. So you didn't see Stefan that day and Tyrone was still back at your mother's house, correct?

A. Yes, sir.

Q. And then you went back home and went to sleep, correct?

A. Yes, sir.

Q. And then you got up at 1:00 or 2:00 in the afternoon?

A. Yes, sir.

Q. So when you went over -- started walking to Stefan's grandmother's house, you saw these guys sitting on the porch, correct?

A. One was sitting on the porch and one was standing in the yard.

Q. Did you recognize the guy standing in the yard?

A. No, sir.

Q. The only way you knew you should say something is because you recognized the car, correct?

A. I had recognized the car being at the house the night before.

Q. How far were you from Lee Konard?

A. Can I stand up and show you?

Q. Let me walk up to you and you can tell me.

A. About this close (demonstrating).

Q. So you were real close to him.

A. Yes, sir.

Q. And how far was it from you and Lee to the porch where the other guy was standing?

A. From me and him, the porch is like right here, like two feet behind.

Q. And y'all two were here and I was the other guy on the porch, I would be about this far from you?

A. I think about one or two steps -- right about there.

Q. Right here.

A. Yes, sir.

Q. Lee Konard was right on you.

A. He was right here.

Q. Because y'all were talking about your little brother?

A. Yes, sir.

Q. And the other guy on the porch was about this far away?

A. Yes, sir.

Q. How high is the porch, like knee high or this high? How many steps, do you know?

A. I don't know.

Q. Can you give me a guess about how high?

A. Probably about three or four steps.

Q. So if I put three or four steps, that would put me up about this high, wouldn't it?

A. I guess so.

Q. About like if I was standing on this table?

A. Probably.

Q. If I was standing on this table, that would mean my chest would be up to here, wouldn't it?

A. I guess so. If you say so.

Q. But then when the guy who was standing up on the table, he pulled a gun first, right?

A. Yes, sir.

Q. And then that shocked y'all, right?

A. Yes, sir.

Q. So y'all jumped back?

A. Jumped to the right.

Q. If he's up there on the porch, y'all jumped this way?

A. Yes, sir.

Q. And then who pulled out a gun next?

A. Mr. Konard tried to pull his.

Q. He tried to pull his but he fumbled it, right?

A. Yes, sir.

Q. Did you pull your gun first or did you grab his gun first?

A. Grabbed his.

Q. So you grabbed his gun first?

A. Yes, sir.

Q. Did you start shooting with his gun first or did you pull yours?

A. I pulled it like the same. Once I got his, I pulled mine and started shooting at the same time.
Q. Which way did you turn?
A. To my right.
Q. So you started running this way?
A. No, to my right. That's my left.
Q. So you started running this way?
A. Yes, sir.
Q. Who were you shooting at?
A. I just started shooting behind me.
Q. So you started running this way?
A. Yes, sir.
Q. And you started shooting behind you?
A. Yes, sir.
Q. What about the guy on the porch with the gun?
A. I didn't look at him.
Q. You didn't look at him.
A. No, sir.
Q. You were just shooting the guy you just took the gun away from, right?
A. I was just shooting.
Q. Okay. Now, you said that that 380 has got eight rounds. Did you carry it cocked and locked or you just carry one in the chamber?
A. Just one on the chamber.

Q. Did it have a safety?
A. Yes, sir.
Q. So you had one in the chamber and did it have a double action or was it purely single action?
A. What's a double action?
Q. You know, where you have to pull it harder on the first shot and the next ones are really easy.
A. I don't know.
Q. You don't know. So, anyway, you had one in the chamber, right?
A. Yes, sir.
Q. So you had one in the chamber and that's eight rounds. And you said he had a revolver, right?
A. Yes, sir.
Q. You ever seen a revolver before?
A. Yes, sir.
Q. Do you know how many bullets they carry?
A. Some carry six and I think some carry eight.
Q. How many did this one carry, do you know?
A. I don't know.
Q. Do you want to say conservatively it had six?
A. I don't know.
Q. Okay. So if you had say six rounds in the revolver and eight rounds in the 380 -- are you right-handed or left-handed?

A. Right-handed.
Q. So you probably had your gun in your right hand?
A. Yes, sir.
Q. Okay. So you were running this way and you managed to shoot behind you and hit Lee Konard nine times; is that right?
A. Yes, sir.
Q. As you were running away with two pistols?
A. Yes, sir.
Q. But you didn't even look at the man on the porch?
A. I was running out of the yard. I didn't look behind me either.
Q. You said you broke your big toe, right?
A. Yes, sir.
Q. Is that because you were running without any shoes?
A. I'm assuming.
Q. How long did it take to heal?
A. It haven't.
Q. It hasn't healed?
A. No, sir.
Q. Because you're diabetic, right?
A. Yes, sir.
Q. You have a tattoo, don't you?
A. Yes, sir.

Q. The tattoo says "Mister C"?
A. Yes, sir?
Q. "187", right?
A. Yes, sir.
Q. What does that mean?
A. It was when I was 15, I wanted to join a gang in Knoxville, Tennessee, but once I got in it, I lost one of my best friends and I didn't want to be in it no more.
Q. So you got the tattoo when you were 15?
A. Yes, sir.
Q. That's all the questions I have for you.
A. Yes, sir.

THE COURT: Anything else?

MR. GODFREY: Just one question, Judge.

REDIRECT EXAMINATION

BY MR. GODFREY:

Q. When you were running away shooting, were you just shooting or were you shooting at someone?
A. I was just shooting.
Q. You were just trying to get away?
A. Yes, sir.

MR. GODFREY: Nothing further.

THE COURT: All right. You can step down.

(Witness leaves the witness stand.)

MR. GODFREY: Your Honor, the defense rests.

THE COURT: Can I see the lawyers up here a second.

(Whereupon, there was a bench conference.)

Ladies and gentleman of the jury, if you remember yesterday there were five parts to a trial. We have just completed the second part so all of the testimony and all of the evidence has now been presented to you. I am going to excuse you to your jury room for a few minutes. The lawyers and I need to discuss some legal matters and we'll get back to you as quickly as we can. Don't start talking about the case yet. Okay.

(Whereupon, the jury exits the courtroom.)

All right, any motions or anything?

MR. CAMPBELL: None from the State, Your Honor.

MR. GODFREY: We would renew the Directed Verdict, Your Honor.

THE COURT: Same ruling. Any request for the charge?

MR. GODFREY: Judge, I would request the Court charge self-defense in this case. I would ask that you also charge the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense. That would be State versus Wigginton and several others.

If self-defense is going to be charged, then pursuant to the recent case of State versus Belcher, I would request that Court not charge that use of a deadly weapon can be an inference of malice.

THE COURT: Mr. Campbell.

Before we get into that, is identification and issue in this case? Mr. Brewster tried to make it an issue. Is it an issue? Do I need to charge identification?

MR. GODFREY: I think identification should be charged.

THE COURT: Based on? Tell me why.

MR. GODFREY: Based on the testimony of Mr. Brewster. Obviously my client gave a statement, but based on what Mr. Brewster said, the factfinder may go a different direction. I think identification should be charged out of abundance of caution.

MR. CAMPBELL: Identification is not an issue in this case based on the direct testimony illicited by Mr. Godfrey after hearing Mr. Brewster's testimony where the defendant admits to being at the scene of the crime and being the shooter in this case; therefore, I don't think --

THE COURT: I think you're right.

MR. CAMPBELL: As to inference of malice,

State versus Belcher did say possession of a deadly weapon does not always constitute inference of malice; however, given the circumstances of this case wherein the victim was shot nine times and two deadly weapons were used in the shooting, I think that may be distinguishing factors.

THE COURT: You got a copy of the cases? I want to use the language directly out of the case -- both cases. You want to show them to Mr. Campbell first.

You know, it's not accident, correct?

MR. GODFREY: Correct.

THE COURT: Your client went to the scene of the crime carrying a pistol. In his own testimony, he went to confront somebody and he knows that the neighborhood is rough. Now, I got some serious question about whether he meets the elements of self-defense even with these bauled assertions that he's made. He never said anybody shot at him and the question is whether he's at fault in bringing on the difficulty. I'll be happy to hear comments on that.

MR. GODFREY: If it please the Court, when my client was walking over to Stefan Brewster's grandma's house, he didn't have any intention of confronting anybody. When he saw the people in the yard, one on the porch and one in the yard, he did go up and ask the question why they had done that to his brother. Now,

while it is true, based on the testimony today, he had a gun in his waistband, according to my client's testimony it was the fella on the porch that pulled the gun first, and then Mr. Konard tried to pull a gun.

Although, the ---

THE COURT: Excuse me for interrupting. He is on the victim's property, correct?

MR. GODFREY: Correct.

THE COURT: Why would not the Castle Doctrine come into play? Why would not the victim have an absolute right to defend himself on his own property?

MR. GODFREY: Under the Castle Doctrine, if there weren't the words between my client and Mr. Konard, Mr. Konard saying: Fuck your brother, he knows how I get down, and my client was not asked to leave. There were hot comments made about my client's stepbrother. Then the guy on the porch pulls the gun, then Mr. Konard tries to pull his gun.

I believe under the Castle Doctrine, my client should have been asked to leave his property. There was a verbal disputed based upon what my client's testimony is, and of course, the person on the porch was no help. He was charged with Misprision of a Felony. My client had no intention of doing anything. He saw the person and he asked a question and things degenerated from

that point.

THE COURT: Are you saying he had no fault in bringing about this difficulty?

MR. GODFREY: He went to ask the question why they did that to his stepbrother. It wasn't his intention to create a fight or a disturbance. That was generated by the other side.

THE COURT: Well, the man is standing -- we don't know who the guy on the porch was. It never came out in evidence so he could have lived there too.

MR. GODFREY: The person on the porch was charged with Misprision of a Felony and right now I can't remember his name, but it was testified to by Detective Flavil or ---

THE COURT: Is that right?

MR. CAMPBELL: He was charged, Your Honor, but that charge was dismissed due to lack of evidence.

THE COURT: But that's not in evidence today.

MR. CAMPBELL: No, Your Honor.

THE COURT: Do we know who that person was in evidence in this trial?

MR. GODFREY: I asked the question of the officer and I know I asked did you charge the person on the porch with Misprision of a Felony and he said, yes. And I asked the officer to tell the jury what Misprision

meant, and he did. I don't have a clear memory whether or not the person's name was called by ---

MR. CAMPBELL: Judge, Detective Flavil did say he name was Tabius Dowels based on my recollection of the testimony.

THE COURT: All right.

MR. CAMPBELL: Judge, if I may briefly respond to Mr. Godfrey's argument for self-defense charge. First the defendant's intention at the time of leaving his home are not at issue here. The defendant's intention at the time he entered the victim's property are at issue here. By the defendant's own testimony, the defendant shot an armed man with two guns after disarming him by his own testimony. Further, it would be hard to believe the Castle Doctrine would required a notice of eviction of an armed man on your property before attempting to defend yourself and your property. And the defendant began shooting perhaps before the opportunity to ask him to leave arose.

THE COURT: Certainly before anybody else fired at him.

MR. CAMPBELL: Yes, sir.

THE COURT: Credibility is just apparently nonexistent in this case.

Do y'all need a little bit of time to think

about your arguments?

MR. GODFREY: The only thing that would prevent me from arguing immediately would be knowing what exactly you're going to charge.

THE COURT: I was seeing if y'all need a little bit of time so I can think about it.

MR. GODFREY: In that case, Judge, I'll take a little time. I would point out that in the self-defense case I gave you about the unlawful weapon, the standard is if there is any evidence before the jury, then the Court is supposed to make the charge. The jury is the factfinder in this case and while the Court may have some difficulty with the self-defense charge, my client is pleading self-defense. He testified to that. The factfinder in my view should be given the law and they should be able to make the decision.

THE COURT: I'm looking at your State v. Wigginton and it says when "evokes or initiates an assault cannot escape criminal liability by evoking self-defense. Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense."

Now, this case is about some guy who armed himself in his own home; is that right? Wigginton I'm

talking about.

MR. GODFREY: The first case I gave you is about the charge on ---

THE COURT: Belcher, I understand that. I'm talking about Wigginton. Do you know where exactly the language was that you were referring to?

MR. GODFREY: No, sir, I don't and I did not highlight because ---

THE COURT: Well, give me a couple of minutes. We'll just stand down about 10 minutes or 15 minutes and let me find this.

3.75 S.C. 25, 649.185 Court of Appeals.

(Whereupon, there was a brief recess.)

I've reviewed the Wigginton case and I presume the language that you're referring to reads, "further a person can be acting lawfully even if he is in unlawful possession of a weapon if he was entitled to arm himself in self-defense at the time of the shooting." Well, that just does not fit these facts so I'm not going to charge that.

Anything else y'all want to tell me about self-defense?

MR. GODFREY: Just for clarification purposes, what are you charging?

THE COURT: Well, I'll tell you -- I'm up in

the air about self-defense. I'm doing the standard duties of the judge and jury, charge, arrest, indictment as not evidence, multiple charges and everything's got to decided on its own. Do you want anything about the statement of the defendant? He never questioned if it was voluntary. I'm going to go charge that. Credibility of the witnesses; do you want anything on expert witnesses? Okay. Presumption of innocence, reasonable doubt, murder and I'm very conflicted about this. It is so think. He's not there lawfully in possession of a weapon.

Mr. Campbell, do you want to help me out?

MR. CAMPBELL: Yes, sir. To further your statement about his possession of a weapon, the Statute for possession of a handgun specifically states that someone must have the landowners permission to carry the gun on that property, otherwise it's prohibited to carry a handgun about the person.

THE COURT: What Statute is that?

MR. CAMPBELL: That is the Statute for carrying a handgun ---

THE COURT: Unlawfully carrying of a pistol?

MR. CAMPBELL: No, sir, I believe it is Subsection 230. It states that anyone who carries a pistol about the person and then it lists exceptions for landowners on their property, hunting and sporting goods

enthusiasts going to their respective activities, licensed people by SLED, et cetera. Further, under the Wigginton case which you cited and which Mr. Godfrey presented to the Court, I can quote directly from the language of that case describing its facts to this case, which is the defendant does not meet the requirement that he be without fault in bringing on the difficulty. "One who provokes or initiates an assault cannot escape criminal liability. Any act to be used in violation of the law such as trespassing on another's property while armed to engage in confrontation, which would be reasonable calculated to produce the occasion, amounts to bringing on the difficulty and bars the right to assert self-defense."

THE COURT: Where is that in the Wigginton case?

MR. CAMPBELL: That is ---

THE COURT: What page?

MR. CAMPBELL: It appears to be Page 32, the end of Page 31, beginning of Page 32, the second paragraph of self-defense.

THE COURT: Where are you talking about?

MR. CAMPBELL: The major heading is Law and Analysis.

THE COURT: Right.

MR. CAMPBELL: No. 1, Self-Defense.

THE COURT: Okay.

MR. CAMPBELL: Then we proceed to the full paragraph there, "If there is any evidence -- "

THE COURT: Right.

MR. CAMPBELL: The next paragraph is "In the instance case failed to meet the two necessary elements of self-defense. First, he does not meet the requirement that he be without fault to bring on the difficulty, one who evokes or initiates assault and not escape criminal liability." And then further, the next quotation is, "Any act of the accused in the violation of the law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or an excuse for homicide."

THE COURT: That stuff about trespassing was just your ---

MR. CAMPBELL: That was my interjection, Your Honor.

THE COURT: You had me confused, Mr. Campbell. Mr. Godfrey.

MR. CAMPBELL: Judge, when he was walking up the street and he saw the person standing in the yard, he didn't go over to try to start anything. He went over and asked why did you do that to my brother -- to my

stepbrother, for which he got a response of I don't care about your stepbrother. And the guy on the porch, according to my client, pulls a gun, and almost simultaneously as they're jumping to the right, then Konard tries to pull a gun. My client went there to ask a question, which is why did you do that to my brother. That's not brining on a difficulty.

THE COURT: This was after he talked about finding his brother's car vandalized, after having called the police, knowing that they were involved. All he had to do was call the police again. He went and initiated the confrontation.

MR. GODFREY: He just asked them why. He didn't ask them to be in a fight. He said why did you do that to my brother.

THE COURT: This is the same man who testified that he carries a gun all the time in the neighborhood because of the type of neighborhood it is, and knowing that he's approaching, he alleges, a man who vandalized his brother's car. A reasonable inference from that would be that he knew there was going to be a confrontation. There's no question he went to confront him about it. If you want to use the term "ask a question," that's fine, but he knew when he confronted this man about a criminal act that he was already called

the police about, he was taking matters into his own hands. How is he without fault in bringing on the difficulty just because he didn't draw his gun first?

MR. CAMPBELL: Judge, the case that sets as an example, the recent case of State v Slater from 2007, illustrates the definition of reasonably calculation and the standard for determining reasonable calculation. Therein the court noted that Slater approached an altercation that was already underway with a loaded weapon by his side and that such activity could be reasonable calculated to bring on the difficulty that arose.

We have a difference here in that the altercation had not yet begun, but assuming that the defendant was correct in recognizing these people as the perpetrators of the robbery, approaching them with a loaded weapon is very similar to the case of Slater.

MR. GODFREY: Bottom line, I think, is that we're all discussing what amounts to be facts of the case. We have the factfinder in the jury room in the back.

THE COURT: I know. I understand all that.

MR. GODFREY: They can determine all the facts.

THE COURT: I'll tell you, credibility is a huge issue in this matter. It has been from the -- I don't know which number he was -- but from when

Mr. Brewster got up here and testified, admitted he lied to the police and then his story doesn't match what Mr. Hammonds says even now.

MR. GODFREY: Well, Judge, my client's statement has been consistent from the time he talked to the officer to his testimony today and through his testimony today. His statement has always been consistent. He hasn't changed it.

THE COURT: He's telling me he threw the guns down in the yard?

MR. CAMPBELL: That was the testimony, Your Honor.

THE COURT: That was his testimony, but was that in his statement?

MR. CAMPBELL: That was in his statement as well, Your Honor.

MR. GODFREY: "After I was done shooting, I dropped" ---

THE COURT: I'm going to charge self-defense and I won't charge that malice can be inferred from the use of a deadly weapon.

Anything else?

MR. CAMPBELL: I would also ask that since there are two varying factual scenarios that could have happened, one being that Mr. Hammonds' and the other being

Kelvin Harris who saw two different things. Mr. Hammonds said there was an altercation (inaudible), Mr. Harris testified that Mr. Hammonds exited the car and began shooting with the first gun, emptied that, pulled out a second gun and continued shooting the deceased. Based on those two factual scenarios, we would ask for instruction for the jury to believe one sequence of events or the other sequence of events.

THE COURT: Well, that's your argument. If I get into that, I would commenting on the facts and that would be inappropriate.

Y'all ready?

MR. GODFREY: Yes, Your Honor.

MR. CAMPBELL: Yes, Your Honor.

(Whereupon, the jury re-enters the courtroom.)

THE COURT: All right, ladies and gentleman. Thank you for your patience. We've handled all the legal matters we needed to handle prior to beginning the next stage of the trial and that is the closing arguments of the attorneys.

Y'all paid very close attention during the trial and I would ask that you continue to do so through the arguments of these find attorneys. Thank you.

CLOSING ARGUMENTS

MR. GODFREY: May it please the Court. Solicitor.

You know, the more I hear about this case, the less I understand about it. Let's review about what happened.

The solicitor started off by saying this is not a CSI case, the real world is not like television, which is true.

We have four items placed into evidence. What don't you have in evidence. You don't have a picture of the crime scene. There were not ballistic reports. They recovered some bullets, but there were not ballistic reports. The guns were never recovered. There were house shoes found out in the yard. They weren't brought in to show you. There's just some absence of any physical evidence whatsoever. And that's a little bit strange. And in another sense, it's not strange.

My client when he was contacted by the police sat down and gave them a statement about what happened. I asked Cameron. I said: Did you give that statement freely and voluntarily? He told y'all this morning that he did. He gave a statement, but we've had description about how high the porch was. If the porch could be seen from Kelvin Harris' house where he was sitting on his porch, but there were no pictures to be seen. Everything

you're doing is almost from words.

Then you have some very strange testimony. You have testimony from Mr. Brewster. Mr. Brewster says that he didn't tell the police the truth when he made his statement. He said he was trying to get the heat off himself. He says, I have this car, I think it was a Chevy, and it had primer on it and it was grey. It was the only car in the neighborhood like that. He said he heard the police was interested in it. What I remember him saying is I'm going to go down to the police department and I'm going to talk to them and give them what they want to hear so I can take the heat off myself. Apparently it worked, he wasn't charged with anything.

And then you have Kelvin Harris which was sitting on his porch. It was a warm day. He got home and he was sitting on his porch as he usually does, and he says that his house -- the house where the shooting occurred was not directly across from him. It was at an angle down the street. And he says he was sitting there and he sees cars come up. He says he sees what appears to be an argument. He sees a shooting and he just sits there on his porch. He doesn't go in; doesn't call the police. He just sits there.

I asked the officers if they sent other officers out to canvas the neighborhood to see if anybody

saw him and they did, but apparently they didn't talk to Mr. Harris. And then based on what the detective says, he saw Mr. Harris on the local evening news talking to the reporter saying he didn't see anything.

And then the next day you have somebody from the sanitation department call in the detectives and then here is Mr. Harris making a statement.

If you think about to what Mr. Harris said. He said that he saw a car that he recognized as his cousin's car, Mr. Brewster, drive down the road and he said he was sure Mr. Brewster was the driver. Then I asked him how, and he said well the windows were cracked. They were tinted but they were cracked. He could see Mr. Brewster. If you remember his testimony, he said the car was parked the wrong way on the street. And he said my client gets out of the passenger side and has to go around the car to get into the yard. Well, if that's true and if Mr. Harris is sitting on his porch and the car drove by and the window was cracked, how did he see Mr. Brewster who was driving, and then he wants to say some other car comes up and a guy gets out of it with a shotgun.

Now, my client gave a statement. My client told the officers what happened. My client admitted that he was there. My client admitted that he had the gun. My

client admitted he shot the gun. I don't know and I will never understand where all this other stuff is coming from. What part did Mr. Brewster have in any of this? And Mr. Harris, he testified -- he seemed some times to be a little bit confused. He went through drug court in '99, been clean for 10 years. At one point he said he was one drugs in 2007. I asked him about it again and he said well he wasn't on drugs in 2007.

I said why didn't you tell the police what you saw, and he said well, I didn't want everybody to know that because of the neighborhood I live in. And then a day later, he's up giving a statement.

The testimony that you heard quite frankly doesn't make any sense. What makes sense is and what I understood is from Cameron's statement. He said that the night before this stuff occurred, that he had been up at Brewster's house. He had gone home to go to bed. There's a knock on the door. His stepbrother is at the door and he has a bloody face, and he tells Cameron that he's been robbed and somebody stole his car and they hit him in the face with the gun.

Cameron calls the police, and then he goes back up to Brewster's house where is the last place he saw his brother to see if they knew anything. They said they didn't. Then from there, my client called the police, the

ambulance came, picked up the brother and he goes up to Brewster's house. And then they want to go to the hospital. On the way to the hospital, they see his brother's car. They call the police.

Eventually, that evening as you know, his brother went home from the hospital back to where Cameron stays and Cameron drove the car. While the car was out there on the scene, he sees this car act suspicious, drive by twice. And then when he's taking his stepbrother's car back to Cameron's house, going down [redacted] Street, he sees this car parked in front of his house.

And then before he gets into the house, goes to bed, he sees that car slowly driving by his house. The next morning, you know what happened, he didn't go to work. He called in because he had got in too late. He went over to Tyrone's apartment where his father was changing locks on the apartment. He goes back home, goes back to bed, and gets up about 2:00. How is he dressed? He told you he got dressed and he's wearing his house shoes and he was going to walk back to Stefan Brewster's grandma's house. On the way, he had to walk by [redacted] I asked him this morning, was that car still there and he said, no.

There was a guy on the porch and there was a guy in the yard. And he decided that he would go up and

say, why did you take my brother's car, why did you do that to my brother. Then you heard what said as the response of the fella that was in the yard. I can't quote it exactly, but I know y'all remember. It was not a nice thing to say.

Cameron said there was a fella on the porch. Unfortunately, I tried to get this out as much as I could yesterday. Mr. Kelvin Harris could not see the porch because he was sitting back from an angle. He didn't know who or what was on the porch. So Cameron says there's this guy on the porch and he pulls a gun. Cameron is shocked, the guy in the yard is shocked, and then they both sort of jump in the same direction.

The guy in the yard tries to pull a gun. He tries to pull it out so fast, as Cameron says, he fumbles it. Cameron is right-handed. He caught the gun from the other fella with his left hand. Cameron thinks he's about to get hurt, thinks he's about to get injured, thinks he's about to get killed. Cameron knows it's a bad neighborhood. He lives there. Cameron told you he takes his gun with him everywhere he goes. The gun was registered to him but he doesn't have a licenses to carry it, but it's sort of a tough neighborhood.

So what happens? He goes up and says why did you do that to my stepbrother? Why did you take his car

and hit him in the face with the gun? And then you have that comment Cameron told you about the guy says. "You know how I get down." The guy on the porch pulls a gun. Cameron was afraid. He told you he was afraid. He wanted to get out of there.

The guy close to him tries to pull his gun and when he does, he tries to pull it out too fast, he fumbles it and Cameron catches it. Cameron tells you that he's running and shooting. He's trying to get out of there. You know why that's a try statement? Dr. Ward testified yesterday, we have State's Exhibit No. 4, if you will look at where those bullets hit, obviously the person firing the weapon was not aiming. A lot of people can't use a pistol very well. Some people can't use a revolver very well, but when you have gun shots from the knees to the chest and arms and all over the place, obviously the person is not aiming. If he was aiming the gun, there would be a closer pattern.

Did he have another gun? Yeah, but did he have an arsenal? Now, realistically, folks, if somebody's going to carry a gun, do they carry one or do they carry two? He had his gun in his waistband. He didn't have the other gun. It had to come from somewhere. Where do you think it came from? People don't carry two guns.

This is a horrible situation. Cameron is 29

years old and he has no convictions for any criminal acts, never been convicted. He lives in a tough neighborhood. He's got good strong family support. His wife is here, his family is here, and if he can take all this back, he certainly would. He wasn't trying or intending to hurt anybody. The biggest mistake of his life is apparent to all of us. He should have called the police again, but he didn't.

He was walking over to Brewster's grandma's house and he sees the people in the yard. He goes up to ask the question, and then everything else happened almost in a blur. He ran so fast his house shoes were in the yard.

Somebody intending to go hurt someone else, are they going to wear their house shoes or are they going to wear some shoes that will do something for them? He was scarred. He knew his stepbrother got slapped in the face and put in the hospital for awhile for the stolen car. He sees a guy on the porch and pull a gun. We know the guy existed because they charged him with Misprision of a Felon.

You know, this case is a difficult case because almost everything that you heard from the stand makes no sense. Brewster's testimony was incredible. His cousin's testimony, Kelvin Harris' testimony was

interesting in itself. He didn't do anything the day of the incident and just basically sat on the porch and almost like watching a show. And then he is related to Mr. Brewster.

Here's my client sitting over here charged with it and when the police talked to my client, he gives them the statement. He didn't come up here and sit up on the stand and say, look, they forced me into doing this, they told me what to say, I really wasn't there, I don't know anything about this, they didn't put down what they told them to put down. He said, yeah, that's my statement. He testified to it today and he told you he gave it freely and voluntarily and he's 29 years old and doesn't have a previous record.

Now, did he do things which were wrong? Yes, he did. We all know you shouldn't carry a weapon, but as a practical matter, there are communities in this State where people do carry weapons most of the time. He should have called the police again when he saw the car outside of [redacted] but he didn't. He should have kept walking on up the street going to Brewster's grandma's house rather than stopping and asking the question why did you do that to my stepbrother, this wouldn't have happened. But he asked the question and it did happen and he got scarred. He saw a gun, he sees another gun, things are

happening lighting speed. He wants to shoot and get away, and he does shoot.

Was he intending on hurting anybody? The answer is, no. He wanted to get away. He was just shooting. There's the diagram of Mr. Konard. There were nine bullet wound entries. They're not even close together. That directly corresponds with Cameron's testimony that he was shooting and running away. He just wanted to get away.

Cameron is before you pleading self-defense. He didn't want any of this to happen, but it did happen. He was scarred. He thought he was going to be injured or killed. He gave a statement to the police in the beginning telling them what happened and he gave he same statement today.

As for Mr. Harris who at times seemed confused and as to Mr. Brewster who was -- I don't know how to describe him. Y'all seen him.

The longer I'm in this case, the less sense that it makes. The only thing that I know for sure is that Cameron Hammonds gave a statement about what happened and gave the same statement today.

I would ask you to consider everything that you have heard and consider the things that you didn't hear or didn't see that should have been placed into

evidence, and consider the fact that Cameron Hammonds was scarred. He knew what had happened to his stepbrother. He had made the mistake of asking the question of people at [redacted] All of a sudden he found himself in it and he was afraid that he was going to get badly injured or killed.

This is a case of self-defense. I'm going to ask you to please consider that when you go to deliberate.

Thank you.

THE COURT: Mr. Campbell.

MR. CAMPBELL: Okay. Let's start at the beginning first with Detective Conway had to say. He told you there was a gunshot victim in Greenville County at [redacted] Street in the middle of the afternoon on June 21, 2007.

He testified that Stefan Brewster voluntarily drove down to the police station and picked the defendant's picture out of the photo lineup and said I know who the shooter was. Then Kelvin Harris came forward and said I saw the whole thing and I'm scarred to death. Then finally Cameron Hammonds was brought back from Tennessee and he gave a statement in which he admitted to shooting a man he had just disarmed.

You heard Detective Flavil get on the stand and you learned about that whole sequence of events and

how the police investigation went and the suspects and what they learned. And as for Mr. Brewster, we know his side of the story. We know why he went running down to the police department. It's just common sense. Kelvin Harris testified he saw Stefan driving over there. He was the get-away driver for a murder. Everyone saw his car in the neighborhood. Everyone saw him drive up to the house. Of course he didn't want anybody to think he was the shooter. He wanted the police to know who the shooter was, Mr. Hammonds. So we know what Mr. Brewster's motive is.

There are a lot of other things he could have said. He could have said I just drove by; I was in the neighborhood. He could have just -- there are five other people here. He may not know these other people, but rather than picking the other five, he picked out his best friend, the one he's with every day except that day; the one whose house he was at the night before; the one whose house he was on his way to allegedly when Mr. Hammonds committed this murder.

And then Mr. Harris got up there and this is where everything makes sense. This is what ties everything together because it explains why Stefan ran down to the police station as fast as he could get there, and it explains this (indicating).

As Mr. Godfrey says most people can't shoot a pistol very well, so if he was able to shoot a pistol as you are running away -- you've got an eight-round 380 and a six-round revolver and that gives you sixteen rounds and to hit 9 out of 16 shoots as you are running away at a 145 pounds male. That's a small target and a lot of movement in the opposite direction.

What this diagram really shows us is that Lee Konard was running for his life. He was dancing, jolting and jiving, doing anything he could to get away from Cameron Hammonds.

And we know why Kelvin Harris didn't want to say anything on the news and Kelvin testified I'm not stupid; I just saw a man shot nine times, got shot down like a dog. I'm not going to go on the national news and say I saw it, I'm a witness, I can identify the shooting and I know everybody involved. He was scarred. He was afraid. He was in shock.

And, then, lastly, you heard Dr. Ward get up here and explain how these nine bullets took the life of a 27-year old boy. Some went in the front; some went in the back; some went in the side. He wasn't standing and shooting. He wasn't attacking Mr. Hammonds. He was doing everything he could to get away from Cameron Hammonds' two guns.

Another thing, even if you believe Mr. Hammonds' story -- we were pretty close up here together and so this altercation took place with them very close together. Even if you believe Mr. Hammonds' story, he's going to take both guns, shoot at the unarmed man when there's a guy on the porch with a gun and he's going to run right in front of the guy on the porch with a gun, if you believe Mr. Hammonds' story. But he's not shooting at the porch, he's not shooting with the man with the gun, the guy Mr. Hammonds claims first pulled a gun. He's shooting at the guy with no gun, no hope, nothing. That cause Lee Konard to lose his life that day.

And like I told you at the beginning CSI won't help us here. We know who the shooter was, he came to the police and admitted it. His best friend picked him out of a photo lineup. Kelvin Harris recognized him and saw him at the scene, there's no question. Physical evidence, forensics and all that stuff is neat, but it doesn't help up. All we need to know is what happened, whether Lee Konard was a (inaudible) or whether or not Lee Konard was the victim of a violent crime.

Mr. Godfrey is right a lot of people don't carry two guns, but that depends on your mission. If you going out to kill somebody, you might need to pack more than one gun. He should have called the police. He could

have called the police. And even if you believed Mr. Hammonds's story, he could have kept walking pass that house and not said one word. But instead, he trespassed onto that man's property without permission carrying a loaded weapon with a round in the chamber ready to fire. He started a fight and Mr. Hammonds ended that fight by killing Lee Konard.

And, lastly, did Lee Konard rob Tyrone Woods? Maybe. But unlike Cameron Hammonds, Lee Konard will never have a fair trial because in the words of Kelvin Harris, Cameron Hammonds "shot that boy down like a dog."

JURY CHARGE

THE COURT: All right, madam forelady, ladies and gentleman of the jury, during this trial you and I have certain duties to perform, and as the trial judge, it is my responsibility to preside over the trial of the case and to rule on the admissibility of the evidence that is offered during the trial.

It is also my duty to charge you the law applicable to the case, and it is your duty as jurors to accept and apply the law as I now stated to you. As I said in my opening comments, if you think you have any idea as to what the law is or what the law ought to be and it does not agree with what I tell you the law is now, you must set aside our own idea because you have sworn an oath

to except the law and apply the law precisely as I state it to you.

I would also remind you that in every case tried in this court before a jury, the jury is the sole and exclusive judge of the facts, and a trial judge cannot comment on or make any statement about the facts in the case. So please do not think anything I may have said or done throughout the course of the trial that I have an opinion about the facts. I do not.

I also instruct you that the fact that the defendant was arrested, charged and indicted in this case is not evidence of guilt nor does it create any presumption or inference of guilt. These documents are simply the formal written instruments which contain the charge made against a defendant. And they serve as the formal documents by which the case is processed and brought into court.

Now, the indictment in this case alleges two separate offenses against the defendant, and the charges are murder and possession of a weapon during the commission of a violent offense.

Each count of the indictment charges a separate and distinct offense and you must decide each count separately on the evidence and the law applicable to it uninfluenced by your decision as to any other count.

The defendant may be convicted or acquitted on any or all of the offenses charged and you will be asked to write a separate verdict of guilty or not guilty for each count.

Now, necessarily, you must determine the credibility or believability of the witnesses who have testified in this case. It becomes your duty as jurors to evaluate the evidence and determine which evidence convinces you that it is true and in determining the believability of the witnesses, you may believe one witness over several or several over one. And you may believe part of the testimony of a witness and reject the remaining part.

You may believe the testimony of a witness in its entirety or reject that say testimony in its entirety, and you may consider whether the witness has an interest in the result of the trial, whether the witness is prejudiced towards either the State or the defendant, the opportunity for the witness to have seen the matters and things about which the witness has testified and the way the witness acts on the witness stand or what we call a witness's demeanor.

Now, the defendant has pled not guilty to the indictment and that plea puts the burden on the State to prove the defendant guilty. A person charged with

committing a criminal offense in South Carolina is never required to prove themselves innocence. And I charge you that it is a cardinal and important rule of the law that the defendant in a criminal trial will always be presumed innocent of the crime for which an indictment has issued unless guilt has been proven by evidence satisfying you, the jury, of guilt beyond a reasonable doubt.

Now, a reasonable doubt is the kind of doubt which would cause a reasonable person to hesitate to act and the State has the burden of proving each and every element of a crime beyond a reasonable doubt, and any reasonable doubt that you may have in your deliberations should be resolved in favor of the defendant.

The defendant is charged with murder and 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 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 expressed or inferred and 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 a person prepared beforehand to do the act which was later accomplished.

Malice may be inferred from conduct showing a total disregard for human life.

Now, the defendant has raised the defense of self-defense. Self-defense is a complete defense and if it is established you must find the defendant not guilty. The State has the burden of disproving self-defense by proof beyond a reasonable doubt. And if you have a reasonable doubt of the defendant's guilt after considering all of the evidence including the evidence of self-defense, then you must find the defendant not guilty.

On the other hand, if you have no reasonable doubt of the defendant's guilt after considering all the evidence including the evidence of self-defense, then you must find the defendant guilty. The following elements are required to establish self-defense.

First, the defendant must be without fault in bringing on the difficulty. If the defendant's conduct was the type which was reasonably calculated to and did provoke a deadly assault, the defendant would be at fault in bringing on the difficulty and would not be entitled to an acquittal based on self-defense. The second element of self-defense is that the defendant was actually in imminent danger of death or serious bodily injury or that the defendant actually believed he was imminent danger of death or bodily injury. If the defendant was actually in imminent danger, it must be shown that the circumstances would have warranted a person of ordinary firmness and courage to strike the fatal blow to prevent death or serious injury.

If the defendant believed he was imminent danger or death or serious bodily injury, it must be shown that a reasonably prudent person of ordinary firmness and courage would have had the same belief. In deciding whether the defendant actually was or believed in imminent danger of death or injury, you should consider all of the facts and circumstances surrounding the crime including the physical condition and characteristics of the defendant and the victim.

The final element of self-defense is that the defendant had no other probable way to avoid the danger or

death or seriously body injury than to act as the defendant did in this particular instance.

In order to be entitled to claim self-defense, the defendant must have had no other probable way to void the danger or death or serious injury including the duty to retreat from the harm if that opportunity exists prior to employing the use of deadly harm to protect oneself.

Now, the defendant is also charged with possession of a weapon during the commission of or attempt to commit a violent crime. The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm during the commission of a violent crime. And a firearm means any machine gun, automatic riffle, revolver, pistol or any weapon which will is designed to or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime. Murder is a violent crime.

Now, madam forelady and ladies and gentlemen of the jury, there are two possible verdicts for each count of the indictment. There is no importance in the order in which I state them, one has got to go first.

Those are guilty and not guilty. We have prepared a verdict form which we will send back into the jury room with you, and I think it's self-explanatory.

I want to tell you that all -- let me explain this, though. In order to find the defendant guilty of the second count, which is possession of a weapon during a violent crime, you must find him guilty of murder.

Now, all 12 of you must agree on the verdict. Your verdict must be unanimous. It cannot be based on sympathy, passion, prejudice, emotion or any other consideration which is not in evidence in the case. Remember you have no friends to reward, you have no enemies to punish.

Madam forelady, I'm going to excuse you to your jury room in just a second. Please don't start your deliberations just yet. When you get the verdict form and the evidence in this case, then you can start. I need to go over my charge on the law to make sure I did not mistake or omit anything during my charge.

So at this time, please retire to your jury room.

(Whereupon, the jury exited the courtroom.)

Any exceptions or objections to the charge?

MR. CAMPBELL: None from the State, Your Honor.

MR. GODFREY: Just one, Your Honor. You ruled that you would not give the charge as I requested. I take exception, but I do believe a charge should have been given that a person should have been acting lawfully even if he is in unlawful possession of a weapon, that he was entitled to arm himself at the time of the shooting.

THE COURT: I think I've discussed that and your exception is noted for the record.

Y'all want to take a look at the verdict form to make sure it's acceptable, go through the evidence, send it back and let them get started.

(Whereupon, the jury began deliberations at 12:25 p.m.)

(Whereupon, there was a note from the jury.)

THE COURT: The jury has a note here requesting lunch. We'll make that a Court's Exhibit.

Get them the lunch menus.

(Jury note marked as Court's Exhibit No. 2 for identification and admitted into evidence.)

(Whereupon, Mr. Brewster returns to the courtroom.)

Anything you want to say?

MR. BREWSTER: I told the truth. Mr. Hammond's statement (inaudible), but I told the truth. I was being investigated but I told the truth. I was no

where around when it happened. I rolled through there afterwards. I'm telling you the truth.

THE COURT: I understand you're on an ankle monitor?

MR. BREWSTER: Yes, sir.

THE COURT: Apparently I'm the one who put you on it.

MR. BREWSTER: Yes, sir.

THE COURT: So you'd better tow the line with that, do you understand me.

MR. BREWSTER: Yes, sir.

THE COURT: All right, you're released from subpoena.

MR. BREWSTER: Thank you, sir.

(Whereupon, trial stood at ease awaiting jury verdict.)

THE COURT: I have a question and it is, "Can we get the definition again of what constitutes self-defense i.e. the three conditions." It might not be complete if I didn't charge murder as well. I'll be happy to hear anybody on that. It is part and parcel of the murder charge.

MR. GODFREY: I don't have any problem of you recharging self-defense and murder. I agree with that.

THE COURT: All right, let's bring them back

in.

(Question from Jury marked as Court's Exhibit No. 3 for identification and admitted into evidence.)

(Whereupon, the jury re-enters the courtroom.)

All right, ladies and gentleman, I have your note where it says you would like to get the definition again of what constitutes self-defense, the three conditions, so I'm going to charge you -- it is part and parcel of the charge on murder so I recharge you on murder and self-defense.

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 wrongful act without just cause or excuse and with an intent to inflict and injury or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice exists for any particular 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 in the act.

Malice aforethought may be either expressed 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.

The defendant has raised the defense of self-defense and self-defense is a complete defense, and if it is established, you must find the defendant not guilty.

The State has the burden of disproving self-defense by proof beyond a reasonable doubt. If you have a reasonable doubt of the defendant's guilt after hearing all the evidence including the evidence of self-defense, then you must find the defendant not guilty.

On other hand, if you have no reasonable doubt of the defendant's guilt after considering all the evidence including the evidence of self-defense, then you must find the defendant guilty.

The following elements are required to establish self-defense. First, the defendant must be

without fault in bringing on the difficulty. If the defendant's conduct was the type which was reasonably calculated to and then provoke a deadly result, the defendant would be at fault in bringing on the difficulty and would not be entitled to an acquittal based on self-defense.

The second element of self-defense is that the defendant was actually in eminent danger of death or serious bodily injury or that the defendant actually believed he was in eminent danger of death or serious injury. If the defendant was actually in eminent danger, it must be shown that the circumstances would have warranted a person of ordinary courage to strike the fatal blow to prevent death or serious injury.

If the defendant believed he was in eminent danger of death or serious injury, it must be shown that a reasonable prudent person of ordinary firmness and courage would have had the same belief. And in deciding whether the defendant actually was or believed he was in eminent danger of death or serious injury, you should consider all the facts and circumstances surrounding the crime including the physical condition and characteristics of the defendant and the victim.

The final element of self-defense is that the defendant had not other probable way to avoid the danger

of death or serious injury than to act as the defendant did in these particular circumstances.

In order to be entitled to claim self-defense, the defendant must have had no other probable way to avoid the danger of death o serious injury including the duty to retreat from the harm if that opportunity exists prior to employing the use of the deadly harm to protect ones self.

Okay. Anything else y'all need, you just let me know.

(Whereupon, the jury exited the courtroom to continue deliberations.)

THE COURT: I have been informed that we have a verdict. Bring the jury in.

(Whereupon, the jury re-enters the courtroom at 2:55 p.m.)

Madam forelady, I understand you've reached a verdict.

MADAM FORELADY: Yes, sir.

THE COURT: Please hand it to the bailiff.

THE CLERK: In the Court of General Sessions, Case No. 2007-GS-23-9564, as to the charge of murder, we the jury find the defendant guilty. As to the charge of possession of a weapon during the commission of a violent crime, we the jury find the defendant guilty.

Anything else for the jury?

MR. GODFREY: Nothing, Your Honor.

MR. CAMPBELL: Nothing from the State.

THE COURT: Okay. Ladies and gentleman of the jury, thank you very much for your service. Y'all have been a great jury and worked very hard. I wish I could give you the rest of the week off but can't do it. I'll have to ask you to call back after 6:00 tonight and find out when you need to report. We have another jury out and have started on another trial, so I'm going to ask you to call back and hope we get to see you later in the week.

Thank you very much.

(Whereupon, the jury was dismissed at 3:00 p.m.)

Anybody got any motions?

MR. GODFREY: Judge, at this time we would move to set the verdict aside and make a motion for a new trial based on the fact that verdict is not supported by the evidence.

THE COURT: Okay. Denied.

Y'all ready.

SENTENCING

MS. HARRISON: Your Honor, with your permission, the victims would like to speak.

THE COURT: That's fine. We need to get the sentencing sheet.

I'll be happy to hear from the victims.

MS. BROWN: Your Honor, my name is Jereeka Brown and I would like to speak on behalf of my brother, Lee Travis Konard. Why my brother, Lee Travis Konard. Must I say the peace, happiness, joy of my loved one's is gone. What is there for my family to do. I hope that justice is served so that my family can try to pick up the pieces. I can't say go on with life knowing my brother's life was taken for no reason. And what must we say to his kids Shamerica and Shanya Konard that would be raised with no dad and a mom and nieces and nephews that are left with only memories and hoping one day to see, hear their loved one again. But until then, may God keep my family, my mom and dad at peace in knowing that justice will be served; that this man that killed my brother, Lee Travis Konard be punished for this crime he has committed. Although it will not bring back my brother, but it may bring closure and his family and loved ones.

THE COURT: Anything else from the victims?

MS. HARRISON: No, Your Honor.

THE COURT: Mr. Godfrey.

MR. GODFREY: Your Honor, if it please the court, Judge, my client is 29 years old and until today

had no conviction record at all. He is supported by his wife and his family. He understands the verdict. Obviously, he is very upset about the verdict. Your Honor, it's one of those situations where my client was truly in the wrong place at the wrong time and did the wrong thing. There is no way that we can make things right. He can say and has said many times that he is sorry about what happened because of how it has affected everyone, not just his family, but everyone else's. We would respectfully request that the Court be merciful in the sentence.

THE COURT: All right.

Anything you want to say? Anybody.

State your name.

MS. WOODS: Willie Mae Woods, the defendant's mother, and I would like to say that I'm sorry that this happened to his family because I'm also a single mother with only just the one child, and I would like to say to this family I'm really very sorry and have mercy on my child.

THE COURT: Thank you, ma'am.

Anything else?

MR. GODFREY: That's all, Judge.

THE COURT: Anything you want to say, Mr. Hammonds?

Wait, we've got somebody else. State your name.

MR. NELSON: James Nelson, the defendant's cousin. I'd like to say that since he was little, he's always been a good kid and try to do the right thing. He didn't have a big brother like I did, so some cousins had to try to come around as much as we could to try to guide him. His father was gone and he didn't have any manhood around him like he needed, so we tried to be there as much as we could as we lived our lives. He was a little younger than us and we took as much time as we could, but when we got older and took on our own lives -- like he said when he was 15 he ran across some wrong things and some times he ran with the wrong people but he's not a bad kid. I'm just begging for the Court's mercy.

THE COURT: Thank you very much.

How about you, Mr. Hammonds, is there anything you want to tell me?

MR. HAMMONDS: To the Konard Family ---

THE COURT: No, sir, you have to address me.

MR. HAMMONDS: I'm sorry.

THE COURT: It's all right.

MR. HAMMONDS: I just want to say if I could have did it another way, I would have. If I could have walked away, I would have. I'm sorry for destroying both

families, mine and theirs.

THE COURT: All right. Well, two families are just torn apart, but this was a brutal murder, and on murder, I'm going to give him life, on the other one, five years.

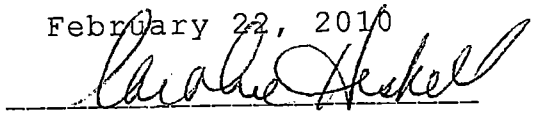
---END OF TRANSCRIPT RECORD---

STATE VERSUS CAMERON HAMMONDS - SENTENCING

I, the undersigned Caroline Hiskell, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court of Greenville County, South Carolina on the 1st day of December, 2009.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 22, 2010



Caroline Hiskell

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CAMERON HAMMONDS,

APPELLANT

FINAL BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUES ON APPEAL

Whether the trial court erred in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense?

STATEMENT OF THE CASE

On November 21, 2007, the Greenville County Grand Jury indicted Cameron Hammonds on the charges of murder and possession of a weapon during the commission of a violent crime. On November 30 – December 1, 2009, Hammonds proceeded to trial before the Honorable Edward Miller and a jury. The jury returned a verdict of guilty on both charges as indicted. Judge Miller sentenced Hammonds to life imprisonment on the murder and five years on the possession of a weapon charge. Hammonds' attorney filed a notice of appeal. This appeal follows.

ARGUMENT

The trial court erred in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense.

Cameron Hammonds was awakened around two o'clock in the early morning of June 21, 2007, by his stepbrother banging on the front door. He had been beaten in the face with a shotgun and was bleeding. Hammonds called the police, and his brother was taken by ambulance to the hospital. R.58, ll. 7 – 25; R.59, ll. 1 – 25; R.60, ll. 1 – 25; R.61, ll. 1 – 25; R.62, ll. 1 – 25; R.63, ll. 11 – 13.

Hammonds then went to Stephon Brewster's house where his brother, Tyrone, had been, to see if they knew what happened. Brewster was one of his brother's best friends. Hammonds and Brewster went to the hospital. R.62, ll. 15 – 25; R.63, ll. 1 – 25. On the way, he saw Tyrone's car so Hammonds stopped and checked the car to see if anything was missing. He saw that the car had been ransacked but nothing was missing. He called the police again. While he was looking at the car, he saw a beige car with a red "drive-out tag", which was a tag in place of the license plate, circle the block two times. After leaving the hospital, the police told him he could take his brother's car home. As he was driving into the driveway, he saw the same beige car drive by slowly. He saw the car in a house on a street he took on his way home. R.64, ll. 1 – 25; R.65, ll. 1 – 25; R.66, ll. 1 – 25; R.67, ll. 25.

The following day, he started walking to Stephon Brewster's grandmother's house because the group usually gathered there. On the way, he saw the same beige car parked in front of the same house. Two men were there; one was on the porch and one was in the yard. The man in the yard he knew only as Killer Cam. R.69, ll. 1 – 25; R.70, ll. 1 – 16.; State's Exhibit 2- Hammonds' Statement.

Hammonds went to ask them questions about his brother. He asked the man in the yard why they robbed his little brother. The man uttered profanity to him and said that his brother knew how this man "gets down." Hammonds said that his kids could have been in that car. Then the man on the porch pulled a gun. When he did, Hammonds and the man in the yard jumped. Hammonds started taking his own gun from his waistband as the man in the yard, who was standing very close to Hammonds, tried to pull his gun. R.71, ll. 1 – 25; R.84, ll. 1 – 23.

As the man was pulling his gun, he fumbled it, and Hammonds caught it with his left hand. Hammonds then turned, started running, and started shooting with his own gun and the other man's gun. He was not shooting at anybody. He was scared as he was afraid he was going to be killed, and he just wanted to get away. He dropped the guns in the yard. R.72, ll. 1 – 25; R.73, ll. 1 – 25; R.74, ll. 1 – 25; R.76, ll. 22 – 25; R.77, ll. 1 – 12; State's Exhibit 2- Hammonds' Statement.

Hammonds' gun was a 308 semi-automatic. He routinely carried a gun because of the dangerous community where he lived. The gun was registered to him, but he did not have a license to carry a concealed weapon. R.76, ll. 13 – 25; R.77, ll. 1 – 2. Hammonds admitted on cross-examination that he did not have a concealed weapons permit to carry the gun. He carried it for protection. R.79, ll. 1 – 16.

The man in the yard was shot nine times, and died as a result of multiple gunshot wounds. R.51, ll. 1 – 5; R.56, ll. 15 – 21. Hammonds was arrested in Knoxville and returned to South Carolina. He cooperated with the police and gave a statement which they wrote, and he signed. In this statement, he admitted to shooting his gun that day. R.75, ll. 19 – 25; R.76, ll 1 – 21.

Detective Tim Conroy of the Greenville Police Department was assigned to investigate this case. His first lead in the case came when Stephon Brewster came to the police department on the day of the incident to provide information about the murder. Brewster identified Cameron Hammonds as the shooter. Brewster told the detective that he was friends with Hammonds and his step brother. Detective Conroy then developed a photo line-up and showed to Brewster who selected Hammonds from the line-up. R.2, ll. 1 – 25; R.3, ll. 1 – 25; R.4, ll.1 – 25; R.5, ll. 1 – 25; R.6, ll. 1 – 25; R.7, ll. 1 – 24; R.15, ll. 7 – 12.

Brewster testified at the trial that while he had told the police he saw the murder, he really did not see it as he was not there. He was in the area, and drove by the scene when he heard the shots, but he did not see the shooting. He told the police he was there just to take the heat off of him because his car was on the news, and he was afraid the police would come after him. He selected Hammonds from the photo line-up because everybody was saying that Hammonds did it, but Brewster did not really know. R.26, ll. 7 – 25; R.27, ll. 1 – 25; R.28, ll. 1 – 24; R.30, ll. 1 – 23.

Detective Conroy stated that Kelvin Harris also called the police to provide information about the shooting. Harris identified Hammonds as the shooter. R.13, ll. 15 – 25; R.14, ll. 1 – 20.

Harris testified that he lived on the same street where the incident occurred, across the street but two houses up. R.41, ll. 24 – 25; R.42, ll. 1 – 16. He was sitting on his front porch on the day of the incident. R.33, ll. 17 – 25; R.37, ll. 1 – 25. He saw Brewster and Hammonds drive up and stop in front of the house where the shooting occurred. He knew them because Brewster was his cousin, and he had seen Hammonds with Brewster. R.37, ll. 9 – 25; R.38, ll. 1 – 25; R.39, ll. 1 – 5.

Harris allegedly saw Hammonds get out of the car shooting. He said Hammonds used a second gun when the first one ran out. The victim was allegedly trying to get into the house. Harris did not see the victim with a gun. Harris could not "exactly see on the porch." R.37, ll. 6 – 25; R.40, ll. 1 – 25; R.41, ll. 1 – 22.

Harris admitted that people from the news came and talked to him the day of the incident, and he told them he did not see anything. Harris denied calling the police, but said that he told his boss at the sanitation department, and that his boss called the police. R.46, ll. 1 – 25; R.47, ll. 1 – 14. Harris admitted that he was a recovering drug addict, and had served time in prison. However, he had been clean ten years. R.36, ll. 1 – 25; R.37, ll. 1 – 8.

Defense counsel asked the judge to give the jury instruction on self-defense and an instruction on the "fact that someone has a gun illegally does not mean that they cannot use the gun in self-defense." Counsel cited the case of State v. Wigington, 375 S.C. 25, 649 S.E.2d 185 (Ct. App. 2007). ; R.91, ll. 20 – 25. Counsel argued that Hammonds was pleading self-defense. Counsel argued that the standard was if there were any evidence before the jury, then the court was supposed to give the charge. , R.92, ll. 2 – 23.

The judge denied counsel's request to give the jury instruction on the illegal possession of a gun. The judge ruled:

> I've reviewed the Wigington case and I presume the language that you're referring to reads: 'further a person can be acting lawfully if he was entitled to arm himself in self-defense at the time of the shooting.' Well, that just does not fit these facts so I'm not going to charge that.

R. 93, ll. 9 – 12.

The judge said that credibility was a huge issue in this case. Brewster admitted that he lied to the police, and that his story did not match Hammonds even after Brewster said he lied. The judge agreed to give the self-defense charge. R. 98, ll. 17 – 25; R. 99, ll. 1 – 21.

After the judge instructed the jury on the charges, defense counsel objected that the judge did not give the requested jury charge, and argued that the charge should have been given that a person that is in unlawful possession of a weapon was entitled to arm himself in self –defense at the time of the shooting. R.121, ll. 23 – 25; R.122, ll. 1 – 8.

Defense counsel argued to the jury that this was a case of self defense. Cameron Hammonds believed he was going to be killed that day. R.110, ll. 1 – 9. Hammonds had never been convicted of a crime, and had strong family support. Counsel said there was a man on the porch because he had been charged with misprision of a felony. R.107, ll. 1 – 25; R.59 – 69.

During jury deliberations, the jury sent a note to the judge asking for the definition again of what constitutes self-defense, the three conditions. The judge said he would charge that again but felt he had to charge murder again also to make it complete. The attorneys agreed. The judge brought the jury back and gave them the two charges again. R.123, ll. 17 – 25; R.124, ll. 1 – 25; R.125, ll. 1 – 25; R.126, ll. 1 – 25; R.127, ll. 1 – 12.

The law to be charged must be determined from the evidence presented at trial. State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). A trial court commits reversible error if it fails to give a requested charge on an issue raised by the evidence. State v. Brayboy, 387 S.C. 174, 691 S.E.2d 482 (Ct. App. 2010). A request to charge a correct statement of the law on an issue raised by the indictment and the evidence presented at trial should not be refused. State v. Austin, 299 S.C. 456, 458, 385 S.E.2d 830, 831 (1989). To

warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant. State v. Gaines, 380 S.C. 23, 31, 667 S.E.2d 728, 732 (2008). A jury charge is sufficient if, when considered as a whole, it covers the law applicable to the case. State v. Curry, 370 S.C. 674, 636 S.E.2d 649 (Ct. App. 2006). Jury instructions should be considered as a whole, and if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error. State v. Smith, 315 S.C. 547, 446 S.E.2d 411 (1994).

A person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting. State v. Crosby, 355 S.C. 47, 584 S.E.2d 110 (2003); State v. Burriss, 334 S.C. 256, 513 S.E.2d 104 (1999); citing State v. McCaskill, 300 S.C. 256, 387 S.E.2d 268 (1990) and State v. Goodson, 312 S.C. 278, 440 S.E.2d 370 (1994).

There was sufficient evidence for the judge to give the charge that a person could be acting lawfully in self –defense even if he was in unlawful possession of the gun. The judge acknowledged that the credibility of the witnesses was an issue. Hammonds voluntarily gave a statement to the police admitting that he shot the gun because he was in fear for his life. His belief that these were the men who beat his brother with a shotgun was reasonable in light of the fact that the same beige car kept appearing, even at 5:00 a.m., and in light of the comment made by one of the men regarding he knew how he "got down." Hammonds already knew these men had a shotgun since that was the weapon used to beat his brother in the face. Hammonds' belief that he was in danger was only reasonable as well as his belief he needed to protect his little brother.

The judge believed there was sufficient evidence to give the charge on self –defense. It was only reasonable for him to then give the charge on the gun since the gun charge required that the person had armed himself in self –defense. It was prejudicial to Hammonds not to give the charge as he admitted he did not have a license to carry the gun.

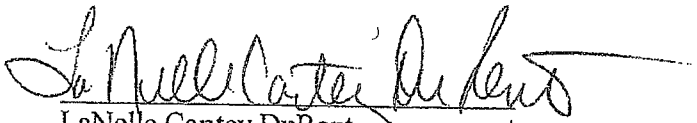
In State v. Burkhart, 350 S.C. 252, 565 S.E.2d 298 (2002), the Supreme Court wrote that because the sole issue in that case was self-defense versus murder, it was prejudicial for the trial judge not to properly instruct the jury on the burden of proof which warranted reversal. As in Hammonds' case, Burkhart admitted to killing the three victims and relied entirely on self-defense at trial. The Supreme Court reversed Burkhart's case for a new trial.

Hammonds' admission that he was carrying the gun illegally because he did not have a permit to carry it made his possession of his gun unlawful. There was a reasonable probability that the jury held that against him especially in light of the fact that the jury asked the second time for the definition of self-defense. The judge should have clarified that Hammonds' gun was lawful to use in self-defense.

CONCLUSION

Based on the foregoing reasons, the convictions and sentences should be reversed, and the case remanded for a new trial.

Respectfully submitted,



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This 8th day of February, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CAMERON HAMMONDS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201, this 8th day of February, 2011.

LaNelle Cantey DuRant
Appellate Defender

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SUBSCRIBED AND SWORN TO before me
this 8th day of February, 2011.

(L.S.)
Notary Public for South Carolina

My Commission Expires: December 4, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

The Honorable Edward Miller, Circuit Court Judge

THE STATE

RESPONDENT,

V.

CAMERON HAMMONDS,

APPELLANT.

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Whether the court erred in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense?

RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

Whether the trial court abused its discretion in denying Hammonds' request for a jury instruction that "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense?"

STATEMENT OF THE CASE

On November 30-December 1, 2009, Appellant Cameron Hammonds ("Hammonds") was tried by a jury for the murder of Lee Kanard and possession of a weapon during the commission of a violent crime. Appellant was tried in the Greenville County Court of General Sessions before the Honorable Edward M. Miller, Circuit Court Judge. Bill Godfrey, Esquire represented Appellant. The State was represented by George Campbell, Esquire, and Sylvia Harrison, Esquire, Assistant Solicitors for the Thirteenth Judicial Circuit. On December 1, 2009, Appellant was convicted of murder and possession of a weapon during the commission of a violent crime. (R. p. 127). He received a life sentence for the murder conviction and five years confinement for the possession of a weapon during the commission of a violent crime conviction. (R. p. 132). Before this Court is Hammonds' direct appeal. He requests this Court reverse his convictions and order a new trial. The State respectfully requests this Court deny Hammonds' appeal and affirm his convictions.

STATEMENT OF FACTS

On June 21, 2007, Appellant Cameron Hammonds ("Hammonds") shot and killed the victim, Lee Kanard, in Kanard's front yard. The victim was shot nine times, and he died as a result of multiple gunshot wounds. (R. pp. 51-56).

The Shooting

Kelvin Harris, a neighbor[1] of the victim who saw the shooting, testified that he saw Hammonds and Stephon Brewster[2] on June 21, 2007. (R. p. 38). Hammonds and Brewster drove up to Kanard's home in a gray Impala.[3] (R. p. 43). Harris testified that Kanard was standing in Kanard's front yard when Brewster and Hammond pulled up. (R. p. 39). Kanard initially walked towards the car when it pulled up. (R. pp. 39, 44). However, he never walked all the way to the car. (R. p. 44). Hammonds and Kanard "had a few words" with one another while Hammonds was in the car. (R. pp. 39, 44). Harris could not hear what the two said to one another, and he could neither confirm nor deny they were arguing. (R. pp. 39, 44).

Shortly thereafter, Hammonds got out of the car. (R. pp. 39, 44-45). Harris testified that Hammonds started shooting when he exited the car. (R. p. 39). Kanard was trying to get back to his house. (R. pp. 39, 40). Hammonds fired several shots. Kanard fell over into the hedges off of his front porch. (R. p. 40). Harris testified that after Kanard fell over, Hammonds stopped shooting with one gun. (R. p. 40). However, Hammonds then pulled out another gun and fired

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[1] Kanard lived across the street and two houses down from Harris. (R. p. 42).
[2] Stephon is Harris' cousin. (R. p. 38).
[3] Several witnesses, including Brewster, indicated that Brewster's car was gray because it had been primed for painting. (R. pp. 31, 32, 43, 63).

it at Kanard multiple times. (R. pp. 40-41). Harris did not know the total number of shots fired. (R. pp. 39, 41).

Harris did not see Kanard with a gun that afternoon. (R. pp. 39, 41, 45). He also did not see anyone else with a gun at the scene before Hammonds started shooting. (R. p. 39). Harris indicated there was a third person in the vicinity of the victim's house that afternoon. (R. pp. 39-40). He did not know who the person was, but he watched the man ran to where Kanard was laying in the bushes, and then ran back either onto Kanard's porch or inside Kanard's house. (R. p. 40).

Detectives Conroy and Flavell of the Greenville Police Department testified that Brewster stopped by the police department and talked with law enforcement about the shooting. (R. pp. 4, 15, 24). A couple days later, Brewster told law enforcement that Hammonds was the shooter.[4] (R. pp. 6-7, 25). Brewster later identified Hammonds in a photo lineup. (R. pp. 6-7, 25). At trial, Brewster admitted that he talked with the detectives, gave them a statement, and identified Hammonds as the shooter. (R. pp. 27, 28). However, he testified that he did not really see the murder, and he initiated contact with the police because he did not want them to think he was involved. (R. pp. 27-28). Brewster was concerned because his car was associated with the shooting on the news. (R. pp. 27, 31).

[4] Detective Conroy testified that Brewster admitted in his second visit with police that some of the facts in his first statement were incorrect. Brewster told Conroy that everything in his first statement was correct except that Hammonds did not hold a gun on him and make him drive away. (R. p. 16).

On July 2, 2007, Detectives Conroy and Flavell took Hammonds' statement. (R. pp. 8-14, 20-23, 133).

Hammonds' Testimony and Statement Regarding the Shooting

Hammonds testified that his stepbrother, Tyrone, was attacked on the early morning of June 21, 2007, and his car was stolen. (R. p. 62). After Tyrone was taken to the hospital by ambulance, Brewster drove Hammonds to the hospital. (R. p. 63). On the way to the hospital, the two passed Tyrone's car. (R. p. 64). The car was ransacked, but nothing appeared to be missing. (R. p. 64). Hammonds testified that he called police. (R. p. 64). While he waited for police to arrive to process his stepbrother's car, he saw a beige car with a temporary license tag circle the block twice around the block where the car was located. (R. pp. 65-66). Hammonds saw the same beige car later that morning, when he was parking his stepbrother's car at Hammonds' house. (R. p. 66-67). Hammonds recognized the car, and he remembered seeing it parked at the victim's address. (R. p. 67).

At approximately 1 p.m. on June 21, Hammonds started walking towards Brewster's grandmother's house. (R. p. 69). Hammonds indicated that when he left his house, he was wearing a tank top, a pair of pants, and black house shoes. (R. p. 69). He also carried a High Point .380 semiautomatic pistol in his waistband. (R. pp. 72, 78-79, 133). During the walk, he passed by the victim's house. (R. p. 70). He noticed two guys were home: one was on the porch and the other was standing in the yard. (R. p. 70). Hammonds stated that he did not know either of them. When Hammonds saw the guy in the yard, he started

asking them, "Why y'all rob my little brother?" (R. p. 70; see R. p. 133). Hammonds indicated the victim responded by saying, "Fuck your little brother, he know how I get down." (R. p. 71). Hammond and the victim then engaged in a verbal exchange. The guy who was standing on the porch pulled a gun. Hammonds and the victim moved to the side. Then, according to Hammonds, the victim tried to pull his gun. (R. p. 71). "He fumbled it, and I caught it . . . As I caught it with my left hand, I turned and I pulled my gun too. I turned and I started running and shooting." (R. pp. 72, 86-87). Hammonds gave law enforcement a similar recount of the events in his statement to police. (R. p. 133).

Hammonds testified that he was scared, and he just wanted to get home to his children. (R. p. 73). He indicated that he dropped the guns in the yard. (R. p. 73). He ran home. Eventually, he left Greenville and drove to Knoxville, Tennessee. (R. p. 74). Hammonds noted that he did not have a concealed weapons permit for his pistol, but he carried the gun because of the dangerousness of the community. (R. pp. 72-73, 79).

ARGUMENT

I. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN DENYING HAMMOND'S REQUEST FOR A JURY INSTRUCTION THAT "THE FACT THAT SOMEONE HAS A GUN ILLEGALLY DOESN'T NOT MEAN THAT THEY CANNOT USE THE GUN IN SELF-DEFENSE."

The trial court did not abuse its discretion in denying Appellant's request for a specific jury instruction on being lawfully armed in self-defense when in unlawful possession of a firearm. The trial court did not err in denying the request; the request was not an accurate statement of South Carolina law, and the facts presented at trial did not support the charge. Furthermore, Hammonds cannot show that he was prejudiced by the denial of the request. The trial court's jury instructions on self-defense adequately and accurately reflected South Carolina law on self-defense. Since the trial court did not err in denying the request, and Hammonds was not prejudiced by the requested charge not being given, the trial court did not abuse its discretion in denying the request.

Argument at Trial

After the defense rested and the motion for a directed verdict was denied, Hammonds requested a self-defense charge and a charge "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense. That would be State versus Wigginton[sic] and several others." (R. p. 91). Hammonds later argued that the standard in Wigington is that if there was any evidence before the jury to support the charge, the court was required to

make it. After brief questioning about the facts and a review of the opinion in Wigington, the trial court reviewed the opinion.

> I've reviewed the Wigginton[sic] case and I presume the language that you're referring to reads, "further a person can be acting lawfully even if he is in unlawful possession of a weapon if he was entitled to arm himself in self-defense at the time of the shooting." Well, that just does not fit these facts so I'm not going to charge that.

(R. p. 93, ll 14-20).

Standard of Review

"'An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion.'" State v. Williams, 367 S.C. 192, 195, 624 S.E.2d 443, 445 (Ct.App.2005) (quoting Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000)). Furthermore, "[t]o warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant." State v. Patterson, 367 S.C. 219, 232, 625 S.E.2d 239, 245 (Ct.App.2006). "The law to be charged must be determined from the evidence presented at trial." Id. If there is any evidence to support the requested charge, the trial court should grant the request. Williams, at 195, 624 S.E.2d at 445. The evidence must be reviewed in the light most favorable to appellant. State v. Cottrell, 376 S.C. 260, 262, 657 S.E.2d 451, 452 (2008). "It is error for the trial court to refuse to give a requested instruction which states a sound principle of law when that principle applies to the case at hand, and the principle is not otherwise included in the charge." Williams, 367 S.C. at 195, 624 S.E.2d at 445 (quoting Cantrell, supra).

"In charging self-defense, the trial court must consider the facts and circumstances of the case at bar in order to fashion an appropriate charge." State v. Harris, 382 S.C. 107, 114, 674 S.E.2d 532, 536 (Ct.App.2009) (citing State v. Starnes, 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000)). Failure to give a requested jury instruction is not prejudicial error where the instructions given afford the proper test for determining issues. Harris, 382 S.C. at 114, 674 S.E.2d at 536 (citing Patterson, supra). If the charge as a whole is reasonably free from error, isolated portions that might be misleading do not constitute reversible error. Id. A trial court's jury charge that is substantially correct and covers the law does not require reversal. Id.

Discussion

A. The trial court did not err in not giving the requested charge: there was no legal authority to support giving the requested instruction to the jury; the requested instruction was not a proper statement of the law, and it was not appropriate based on the facts of the case.

The trial court did not err in not instructing the jury that a person can be lawfully armed in self-defense, even when in unlawful possession of a weapon.

1. There is no legal authority to support instructing the jury as requested.

Hammonds has not presented any legal authority to support a trial court giving the requested instruction, "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense." At trial, defense counsel argued Wigington supported the requested charge. In Wigington, this Court noted in its analysis of the appellant's request for an involuntary manslaughter charge that "'a person can be acting lawfully, even if he is in

unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.'" State v. Wigington, 375 S.C. 25, 35, 649 S.E.2d 185, 190 (Ct.App.2007). Wigington requested that involuntary manslaughter only be charged if the trial court also charged self-defense. Since the trial court properly declined to charge self-defense, and the appellant had failed to present any argument supporting a charge for involuntary manslaughter, this Court affirmed the denial of the request. Id. at 35-6, 649 S.E.2d at 190.

Wigington does not support a finding that the requested instruction should have been given to the jury at Hammonds' trial. First, the issue before this Court in Wigington was whether the defendant was entitled to a self-defense jury instruction and/or an involuntary manslaughter jury instruction. This Court determined the trial court correctly denied the requests for both charges. Second, this statement of law in Wigington was included in this Court's statement of the legal standard for involuntary manslaughter issue, not self-defense. At best, Wigington notes that for the purposes of determining whether a person is engaged in a lawful activity under the second prong for involuntary manslaughter, unlawful possession of a weapon is not an automatic disqualifier. Since Wigington neither addresses the application of the principle in the context of self-defense or address whether it constitutes a proper instruction to be given with a self-defense charge, it did not support Hammonds' request for the charge at trial.

In State v. Slater, the South Carolina Supreme Court noted while it agreed "that 'the mere unlawful possession of a firearm, with nothing more, does not automatically bar a self-defense charge,'" the Court rejected the position "that the

unlawful possession of a weapon could never constitute an unlawful activity which would preclude the assertion of self-defense." State v. Slater, 373 S.C. 66, 70, 644 S.E.2d 50, 52-3 (2007). The Supreme Court also noted the analysis applied in State v. Burriss, 334 S.C. 256, 513 S.E.2d 104 (1999), in deciding whether the fact a defendant was in unlawful possession of a weapon prevented an instruction on the defense of accident also applied to a trial court's decision on whether a self-defense charge should be given. Slater, 373 S.C. at 71, 644 S.E.2d at 53. Thus, "where the defendant's unlawful possession of a weapon is merely incidental to the defendant's lawful act of arming himself in self-defense, the unlawful possession of the weapon will not prevent" the use of self-defense. Id. However, "the unlawful possession of a firearm can, under some circumstances, constitute an unlawful activity so as to preclude [self-defense] if the weapon is the proximate cause of the killing." Id.

While this principle (i.e. one can be acting lawfully even if in unlawful possession of a weapon if he is lawfully armed in self-defense) has been discussed as a matter to be considered by the trial court when deciding if a defendant is entitled to a self-defense jury instruction, it has not been held to be an element of self-defense. To the contrary, the Supreme Court has noted "[t]here is a difference between being lawfully armed in self-defense and acting in self-defense." Burriss, 334 S.C. at 265 n. 10, 513 S.E.2d at 109 n. 10; see State v. Light, 378 S.C. 641, 648 n. 6, 664 S.E.2d 465, 468, n. 6 (2008). Once the trial court has decided that a defendant is entitled to a self-defense jury instruction, the lawfulness of the defendant's possession of a weapon at the time of the

killing is collateral to whether the defendant was acting in self-defense. The trial court would have necessarily decided the unlawful possession of the firearm did not constitute an unlawful activity that would have precluded the jury from finding the defendant acted in self-defense. Thus, since the requested charge is not an element to self-defense, and there is no authority recognizing it is an applicable jury instruction for self-defense, the trial court did not err in declining Hammonds' request for the instruction.

2. The requested instruction was not an accurate statement of South Carolina law.

The trial court did not err in giving the requested instruction, "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense," because it was not an accurate statement of law. As already noted, "where the defendant's unlawful possession of a weapon is merely incidental to the defendant's lawful act of arming himself in self-defense, the unlawful possession of the weapon will not prevent" the use of self-defense. Slater, supra. "[H]owever, that the unlawful possession of a firearm can, under some circumstances, constitute an unlawful activity so as to preclude [self-defense] if the weapon is the proximate cause of the killing." Id.

Hammonds' requested jury instruction was not a correct statement of the law in determining whether a defendant is entitled to an instruction on self-defense. The requested instruction ignores the qualification that the unlawful possession of the weapon must be merely incidental to the defendant's act of arming himself in self-defense for the defendant to be entitled to a self-defense charge. It also ignores the law that a person in unlawful possession of a firearm

would not be entitled to a self-defense instruction when possession of the weapon was the proximate cause of the killing.

Hammonds' reliance upon State v. Burkhart, 350 S.C. 252, 565 S.E.2d 298 (2002), is misplaced. In Burkhart, the trial judge instructed the jury on self-defense, but failed to instruct the jury that the State had the burden to disprove all of the elements of self-defense. Id. at 262, 565 S.E.2d at 303. Instead, the trial court instructed the jury that the defense did not have the burden of proving self-defense, and the burden of proof remained with the State at all times. Id. The Supreme Court reversed, finding that the self-defense charge given did not adequately convey the State's burden of proof in disproving all of the elements of self-defense. Id. Thus, the instructions on self-defense did not afford the jury the proper test for what the Court determined was the most significant issue in the case. Id. at 263-64, 565 S.E.2d at 304.

Hammonds' case is dissimilar in two ways. First, unlike Burkhart, the trial court did give a proper instruction on self-defense. (R. pp. 119-20); see State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984)(outlining elements of self-defense);[5] State v. Jackson 384 S.C. 29, 36, 681 S.E.2d 17, 20 (Ct.App.2009)

[5] First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of

("'Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide.'") (quoting State v. Bryant, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999). The only challenge to the instruction on self-defense made by Hammonds was that it should have included the requested instruction on unlawful possession of a weapon not precluding self-defense. (R. p. 122). Second, as noted in Section B, infra, Hammonds cannot show that he was prejudiced by the charge that was given.

Since the requested instruction was not a correct statement of the law, and the trial court gave a proper instruction on the law of self-defense, the trial court did not err in declining to give the requested charge. Davis, 282 S.C. at 45, 317 S.E.2d at 453; see State v. Kelsey, 331 S.C. 50, 79, 502 S.E.2d 63, 77 (1998)(noting that it was not error for trial court to not give a requested charge when the requested charge did not accurately state the law).

3. The facts did not support the requested charge.

The trial court did not err when it declined to give the jury instruction requested by Hammonds because the instruction was not warranted based upon the facts presented at trial. Hammonds contends that he was entitled to the charge because Hammonds admitted he did not have a permit to carry his pistol.

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avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. If, however, the defendant was on his own premises he had no duty to retreat before acting in self-defense.

He further asserts his testimony informed the jury he was in unlawful possession of a firearm, and thus he was entitled to the requested charge.

This argument is without merit. First, Hammonds' claim that the jury was aware he was in unlawful possession of a firearm is not supported by the record. The jury was instructed that it was the judge's duty to charge them "the law applicable to the case, and it is your duty as jurors to accept and apply the law as I now stated to you." (R. p. 114). The jury never received an instruction defining what constitutes either lawful or unlawful possession of a firearm. Thus, while the jury was aware Hammonds did not have a concealed weapons permit, it was not aware if Hammonds was lawfully carrying his pistol under one of the other exceptions listed in S.C. Code Ann. §16-23-20. Since the jury would not have a basis for finding Hammonds was in unlawful possession of the firearm, the requested charge was not supported by the record.

Furthermore, the trial court correctly determined that the statement in Wigington, 375 S.C. 25, 649 S.E.2d 185 (Ct.App.2007), did not apply to the facts of Hammonds' case. At trial, defense counsel argued Wigington supported the requested charge. In Wigington, this Court noted in its analysis of the appellant's request for an involuntary manslaughter charge that "'a person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.'" Id. at 35, 649 S.E.2d at 190. Since the statement in Wigington was addressing the statement in the context involuntary manslaughter, and the issue before the trial court was whether the statement of law should be given in addition to a self-defense

charge, Respondent submits the trial court reasonably found the statement was not applicable to the facts of Hammonds' case. Hammonds never requested an instruction on involuntary manslaughter. Since there was no discussion regarding an involuntary manslaughter instruction, the trial court did not err in finding the statement in Wigington did not fit the facts of Hammonds' case.

B. The trial court did not abuse its discretion because not giving the charge was not prejudicial

The trial court did not abuse its discretion in not instructing the jury that a person can be lawfully armed in self-defense, even when in unlawful possession of a weapon because Hammonds was not prejudiced. Neither the State nor the defense presented any testimony or argument that Hammonds could not have acted in self-defense because he was in unlawful possession of a firearm when he shot and killed the victim. Nothing in the jury instructions precluded the jury from finding Hammonds acted in self-defense even though he was in unlawful possession of a firearm. In fact, the jury was not even instructed that carrying a firearm without a concealed weapons permit was unlawful.

Hammonds admitted during direct examination that he did not have a concealed weapons permit for the pistol he was carrying on the afternoon of the shooting. (R. p. 72). He also testified that he carried a gun because his neighborhood was not a good one. (R. pp. 72-73). He confirmed those two facts during cross-examination. (R. p. 79). At no other point during Hammonds' trial was the lawfulness of his possession of the pistol discussed.

In closing argument, the assistant solicitor did not contend the jury should reject self-defense for Hammonds because he was in unlawful possession of his

pistol. In fact, the solicitor never argued Hammonds was in unlawful possession of his pistol. Instead, the solicitor argued that Mr. Harris identified the shooter, and Harris's testimony was credible. (R. pp. 110-12). Further, the solicitor noted that Brewster's identification of Hammonds as the shooter at the police station was also credible. (R. p. 111). The solicitor asserted that Hammonds' account of what happened, including his claim that he was shooting the victim as he ran away from the scene, was implausible because Hammonds shot the victim nine times with sixteen[sic] potential shots. (R. p. 112). Further, Hammonds' story was not believable because by Hammonds' own account, he did not shoot at the man with a gun who is standing on the victim's front porch. Instead, he was shooting at the disarmed victim. (R. p. 113).

The defense's closing argument similarly did not indicate Hammonds was not entitled to a finding of self-defense as a result of the fact he may have unlawfully possessed his pistol at the time of the shooting. The defense focused on addressing the lack of physical evidence in the case and attacking the credibility of Harris' testimony. (R. pp. 100-02). Further, defense counsel argued that Hammonds' testimony was consistent with his statement to police, and Hammonds' testimony was not consistent with the State's theory of the case. (R. pp. 102-06). Defense counsel did note that Hammonds was wrong in carrying a weapon. (R. p. 108). In doing so, counsel argued there were several actions that Hammonds could have prevented the situation from developing. (R. p. 108). In the end, the defense asserted that Hammonds' actions were in self-defense. (R. pp. 109-10).

As already noted, the trial court did provide the jury with a proper instruction on self-defense. See Section A (2), supra. "Failure to give requested jury instructions is not prejudicial error where the instructions given afford the proper test for determining the issues." Burkhart, 350 S.C. at 263, 565 S.E.2d at 304; State v. Zeigler, 364 S.C. 94, 106, 610 S.E.2d 859, 865 (Ct.App.2005)("A jury charge which is substantially correct and covers the law does not require reversal."). Here, the jury instructions provided the jury with the proper test for deciding whether Hammonds acted in self-defense. Since the jury was provided with proper test, and nothing that occurred during Hammonds' trial precluded the jury from finding Hammonds was acting in self-defense even though he was in unlawful possession of his pistol, Hammonds was not prejudiced by the trial court's denial of his requested jury instruction. As a result, Hammonds appeal should be denied, and his convictions should be affirmed.

CONCLUSION

For the foregoing reasons, the Respondent respectfully requests this Court to deny Hammonds' appeal and affirm his convictions for the murder of Lee Kanard and possession of a firearm during the commission of a violent crime.

Respectfully submitted,

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February 7, 2011.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

The Honorable Edward Miller, Circuit Court Judge

THE STATE

RESPONDENT,

V.

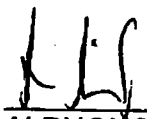
CAMERON HAMMONDS,

APPELLANT.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and does not include, or partially redacts, personal data identifiers, Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007)(requiring redaction of social security numbers, names of minor children, financial account numbers, and home addresses).

This 7th day of February, 2011.



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

The Honorable Edward Miller, Circuit Court Judge

THE STATE

RESPONDENT,

V.

CAMERON HAMMONDS,

APPELLANT.

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing three (3) copies of the same via US mail, first class, postage prepaid to his attorney of record, LaNell Cantey Durant, Esq., South Carolina Commission on Indigent Defense, Division of Appellate Defense, 1330 Lady Street, Ste. 401, Columbia, SC 29201.

I further certify that all parties required by Rule to be served have been served.

This 7th day of February, 2011.

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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Cameron Hammonds, Appellant.

Appellate Case No. 2009-147486

Appeal From Greenville County
Edward W. Miller, Circuit Court Judge

Unpublished Opinion No. 2012-UP-440
Heard March 14, 2012 – Filed July 18, 2012

AFFIRMED

Appellate Defender LaNelle Cantey DuRant, of Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, Assistant Attorney General Donald J. Zelenka, and Assistant Attorney General Alphonso Simon, Jr., all of Columbia; and Solicitor W. Walter Wilkins, of Greenville, for Respondent.

PER CURIAM: Cameron Hammonds appeals his convictions for murder and possession of a weapon during the commission of a violent crime. He argues the trial court committed reversible error in declining to give an additional, requested jury charge that the unlawful possession of a weapon does not by itself preclude the use of self-defense. We affirm pursuant to Rule 220(b), SCACR, and the following authority: *State v. Burkhart*, 350 S.C. 252, 261, 565 S.E.2d 298, 303 (2002) (stating a conviction will not be reversed due to the erroneous refusal to give a requested charge if the error is not prejudicial).

AFFIRMED.

WILLIAMS, THOMAS, and LOCKEMY, JJ., concur.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Edward W. Miller, Circuit Court Judge

Opinion No. 2012-UP-440 (S.C. Ct. App. filed 7/18/2012)

07-GS-23-9564.

THE STATE,

RESPONDENT,

V.

CAMERON HAMMONDS,

PETITIONER

APPELLATE CASE NO. 2012-212959

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on August 20, 2012.

QUESTION PRESENTED

Whether the Court of Appeals erred by affirming the trial court in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense.

STATEMENT OF THE CASE

On November 21, 2007, the Greenville County Grand Jury indicted Cameron Hammonds on the charges of murder and possession of a weapon during the commission of a violent crime. On November 30 – December 1, 2009, Hammonds proceeded to trial before the Honorable Edward Miller and a jury. He was represented by Bill Godfrey, and the state was represented by George Campbell and Sylvia Harrison. The jury returned a verdict of guilty on both charges as indicted. Judge Miller sentenced Hammonds to life imprisonment on the murder and five years on the possession of a weapon charge. Hammonds' attorney filed a notice of appeal. The Court of Appeals affirmed Hammonds' conviction in State v. Hammonds, 2010-UP-440 (Ct. App. filed July 18, 2010). App. 1-2. Appellant filed a petition for rehearing on August 1, 2012. The Court of Appeals issued an Order on August 20, 2012 denying the petition for rehearing. App. 12. This petition for a writ of certiorari to the Court of Appeals follows.

STATEMENT OF FACTS

Introduction

Cameron Hammonds was awakened around two o'clock in the early morning of June 21, 2007, by his stepbrother, Tyrone, banging on the front door. Tyrone had been beaten in the face with a shotgun and was bleeding. Hammonds called the police, and his brother was taken by ambulance to the hospital. R.58, ll. 7 – 25; R.59, ll. 1 – 25; R.60, ll. 1 – 25; R.61, ll. 1 – 25; R.62, ll. 1 – 25; R.63, ll. 11 – 13.

Hammonds then went to Stephon Brewster's house where his brother, Tyrone, had been, to see if they knew what happened. Brewster was one of his brother's best friends. Hammonds and Brewster went to the hospital. R.62, ll. 15 – 25; R.63, ll. 1 – 25. On the way, he saw Tyrone's car so Hammonds stopped and checked the car to see if anything was missing. He saw that the car had been ransacked but nothing was missing. He called the police again. While he was looking at the car, he saw a beige car with a red "drive-out tag", which was a tag in place of the license plate, circle the block two times. After leaving the hospital, the police told him he could take his brother's car home. As he was driving into the driveway, he saw the same beige car drive by slowly. He saw the car in a driveway of a house on a street he took on his way home. R.64, ll. 1 – 25; R.65, ll. 1 – 25; R.66, ll. 1 – 25; R.67, ll. 25.

The following day, he started walking to Stephon Brewster's grandmother's house because the group usually gathered there. On the way, he saw the same beige car parked in front of the same house. Two men were there; one was on the porch and one was in the yard. The man in the yard he knew only as Killer Cam. R.69, ll. 1 – 25; R.70, ll. 1 – 16.; State's Exhibit 2- Hammonds' Statement.

Hammonds went to ask them questions about his brother. He asked the man in the yard why they robbed his little brother. The man uttered profanity to him and said that his brother knew how this man "gets down." Hammonds said that his kids could have been in that car. Then the man on the porch pulled a gun. When he did, Hammonds and the man in the yard jumped. Hammonds started taking his own gun from his waistband as the man in the yard, who was standing very close to Hammonds, tried to pull his gun. R.71, ll. 1 – 25; R.84, ll. 1 – 23.

As the man was pulling his gun, he fumbled it, and Hammonds caught it with his left hand. Hammonds then turned, started running, and started shooting with his own gun and the other man's gun. He was not shooting at anybody. He was scared as he was afraid he was going to be killed, and he just wanted to get away. He dropped the guns in the yard. R.72, ll. 1 – 25; R.73, ll. 1 – 25; R.74, ll. 1 – 25; R.76, ll. 22 – 25; R.77, ll. 1 – 12; State's Exhibit 2- Hammonds' Statement.

Hammonds' gun was a 308 semi-automatic. He routinely carried a gun because of the dangerous community where he lived. The gun was registered to him, but he did not have a license to carry a concealed weapon. R.76, ll. 13 – 25; R.77, ll. 1 – 2. Hammonds admitted on cross-examination that he did not have a concealed weapons permit to carry the gun. He carried it for protection. R.79, ll. 1 – 16.

The man in the yard was shot nine times, and died as a result of multiple gunshot wounds. R.51, ll. 1 – 5; R.56, ll. 15 – 21. Hammonds was arrested in Knoxville and returned to South Carolina. He cooperated with the police and gave a statement which they wrote, and he signed. In this statement, he admitted to shooting his gun that day. R.75, ll. 19 – 25; R.76, ll 1 – 21.

Relevant Facts

Detective Tim Conroy of the Greenville Police Department was assigned to investigate this case. His first lead in the case came when Stephon Brewster came to the police department on the

day of the incident to provide information about the murder. Brewster identified Cameron Hammonds as the shooter. Brewster told the detective that he was friends with Hammonds and his step brother. Detective Conroy then developed a photo line-up and showed it to Brewster who selected Hammonds from the line-up. R.2, ll. 1 – 25; R.3, ll. 1 – 25; R.4, ll.1 – 25; R.5, ll. 1 – 25; R.6, ll. 1 – 25; R.7, ll. 1 – 24; R.15, ll. 7 – 12.

Brewster testified at the trial that while he had told the police he saw the murder, he really did not see it as he was not there. He was in the area, and drove by the scene when he heard the shots, but he did not see the shooting. He told the police he was there just to take the heat off of him because his car was on the news, and he was afraid the police would come after him. He selected Hammonds from the photo line-up because everybody was saying that Hammonds did it, but Brewster did not really know. R.26, ll. 7 – 25; R.27, ll. 1 – 25; R.28, ll. 1 – 24; R.30, ll. 1 – 23.

Detective Conroy stated that Kelvin Harris also called the police to provide information about the shooting. Harris identified Hammonds as the shooter. R.13, ll. 15 – 25; R.14, ll. 1 – 20.

Harris testified that he lived on the same street where the incident occurred, across the street but two houses up. R.41, ll. 24 – 25; R.42, ll. 1 – 16. He was sitting on his front porch on the day of the incident. R.33, ll. 17 – 25; R.37, ll. 1 – 25. He saw Brewster and Hammonds drive up and stop in front of the house where the shooting occurred. He knew them because Brewster was his cousin, and he had seen Hammonds with Brewster. R.37, ll. 9 – 25; R.38, ll. 1 – 25; R.39, ll. 1 – 5.

Harris allegedly saw Hammonds get out of the car shooting. He said Hammonds used a second gun when the first one ran out. The victim was allegedly trying to get into the house. Harris did not see the victim with a gun. Harris could not "exactly see on the porch." R.37, ll. 6 – 25; R.40, ll. 1 – 25; R.41, ll. 1 – 22.

Harris admitted that people from the news came and talked to him the day of the incident, and he told them he did not see anything. Harris denied calling the police, but said that he told his boss at the sanitation department, and that his boss called the police. R.46, ll. 1 – 25; R.47, ll. 1 – 14. Harris admitted that he was a recovering drug addict, and had served time in prison. However, he had been clean ten years. R.36, ll. 1 – 25; R.37, ll. 1 – 8.

Defense counsel asked the judge to give the jury instruction on self-defense and an instruction on the "fact that someone has a gun illegally does not mean that they cannot use the gun in self-defense." Counsel cited the case of State v. Wigington, 375 S.C. 25, 649 S.E.2d 185 (Ct. App. 2007). , R.91, ll. 20 – 25. Counsel argued that Hammonds was pleading self-defense. Counsel argued that the standard was if there were any evidence before the jury, then the court was supposed to give the charge. , R.92, ll. 2 – 23.

The judge denied counsel's request to give the jury instruction on the illegal possession of a gun. The judge ruled:

> I've reviewed the Wigington case and I presume the language that you're referring to reads: 'further a person can be acting lawfully if he was entitled to arm himself in self-defense at the time of the shooting.' Well, that just does not fit these facts so I'm not going to charge that.

R. 93, ll. 9 – 12.

The judge said that credibility was a huge issue in this case. Brewster admitted that he lied to the police, and that his story did not match Hammonds even after Brewster said he lied. The judge agreed to give the self-defense charge. R. 98, ll. 17 – 25; R. 99, ll. 1 – 21.

After the judge instructed the jury on the charges, defense counsel objected that the judge did not give the requested jury charge, and argued that the charge should have been given that a

person that is in unlawful possession of a weapon was entitled to arm himself in self –defense at the time of the shooting. R.121, ll. 23 – 25; R.122, ll. 1 – 8.

Defense counsel argued to the jury that this was a case of self defense. Cameron Hammonds believed he was going to be killed that day. R.110, ll. 1 – 9. Hammonds had never been convicted of a crime, and had strong family support. Counsel argued that apparently there was a man on the porch as Hammonds stated because the man had been charged with misprision of a felony. R.107, ll. 1 – 25; R.59 – 69.

During jury deliberations, the jury sent a note to the judge asking for the definition again of what constitutes self-defense. The judge said he would charge that again but felt he had to charge murder again also to make it complete. The attorneys agreed. The judge brought the jury back and gave them the two charges again. R.123, ll. 17 – 25; R.124, ll. 1 – 25; R.125, ll. 1 – 25; R.126, ll. 1 – 25; R.127, ll. 1 – 12.

ARGUMENT

The Court of Appeals erred by affirming the trial court in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense.

The Court of Appeals affirmed Hammonds' conviction based on State v. Burkhart, 350 S.C. 252, 261, 565 S.E.2d 298 303, (2002) which held that a conviction will not be reversed due to the erroneous refusal to give a requested charge if the error is not prejudicial. App. 2. The Court of Appeals misapprehended the issue as Hammonds was prejudiced by the judge not giving the charge on the gun. The fact that during jury deliberations, the jury asked for the definition a second time of self-defense indicates some confusion of the jury. If the judge had given the charge on the gun, this would have helped clarify self-defense even though Hammonds had armed himself. The trial judge admitted that credibility was a problem in this case. With any doubt as to the facts, the judge should have given the charge as requested.

The law to be charged must be determined from the evidence presented at trial. State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). A trial court commits reversible error if it fails to give a requested charge on an issue raised by the evidence. State v. Brayboy, 387 S.C. 174, 691 S.E.2d 482 (Ct. App. 2010). A request to charge a correct statement of the law on an issue raised by the indictment and the evidence presented at trial should not be refused. State v. Austin, 299 S.C. 456, 458, 385 S.E.2d 830, 831 (1989). To warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant. State v. Gaines, 380 S.C. 23, 31, 667 S.E.2d 728, 732 (2008). A jury charge is sufficient if, when considered as a whole, it covers the law applicable to the case. State v. Curry, 370 S.C. 674, 636 S.E.2d 649 (Ct. App.

2006). Jury instructions should be considered as a whole, and if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error. State v. Smith, 315 S.C. 547, 446 S.E.2d 411 (1994).

A person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting. State v. Crosby, 355 S.C. 47, 584 S.E.2d 110 (2003); State v. Burriss, 334 S.C. 256, 513 S.E.2d 104 (1999); citing State v. McCaskill, 300 S.C. 256, 387 S.E.2d 268 (1990) and State v. Goodson, 312 S.C. 278, 440 S.E.2d 370 (1994).

There was sufficient evidence for the judge to give the charge that a person could be acting lawfully in self –defense even if he was in unlawful possession of the gun. The judge acknowledged that the credibility of the witnesses was an issue. Hammonds voluntarily gave a statement to the police admitting that he shot the gun because he was in fear for his life. His belief that these were the men who beat his brother with a shotgun was reasonable in light of the fact that the same beige car kept appearing, even at 5:00 a.m., and in light of the comment made by one of the men regarding he knew how he "got down." Hammonds already knew these men had a shotgun since that was the weapon used to beat his brother in the face. Hammonds' belief that he was in danger was only reasonable as well as his belief he needed to protect his little brother.

The judge believed there was sufficient evidence to give the charge on self –defense. It was error for him to refuse the requested charge.

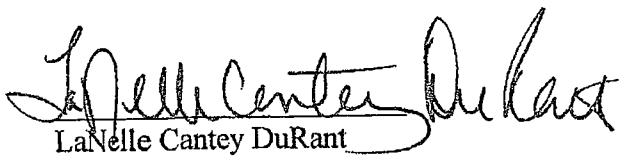
In State v. Burkhart, 350 S.C. 252, 565 S.E.2d 298 (2002), the Supreme Court wrote that because the sole issue in that case was self-defense versus murder, it was prejudicial for the trial judge not to properly instruct the jury on the burden of proof which warranted reversal. As in Hammonds' case, Burkhart admitted to killing the three victims and relied entirely on self-defense at trial. The Supreme Court reversed Burkhart's case for a new trial. Hammonds' admission that he

was carrying the gun illegally because he did not have a permit to carry it made his possession of his gun unlawful. The jury was entitled to know that this did not cancel self-defense. The judge should have clarified that Hammonds' gun was lawful to use in self-defense.

CONCLUSION

Based on the foregoing reasons, a petition for writ of certiorari to the Court of Appeals should be issued, the convictions and sentences should be reversed, and the case remanded for a new trial.

Respectfully submitted,



LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR PETITIONER.

This 19th day of November, 2012

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Edward W. Miller, Circuit Court Judge

Opinion No. 2012-UP-440 (S.C. Ct. App. filed 7/18/2012)
07-GS-23-9564.

THE STATE,

RESPONDENT,

V.

CAMERON HAMMONDS,

PETITIONER

APPELLATE CASE NO. 2012-212959.

CERTIFICATE OF SERVICE

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on Alphonso Simon, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and the S.C. Court of Appeals this 19th day of November, 2012.

LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 19th day of November, 2012.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
Edward Miller, Circuit Court Judge

On Petition for Writ of Certiorari to the Court of Appeals
Unpublished Opinion No. 2012-UP-440 (S.C. Ct. App. Filed 7/18/2012)
Appellate Case No. 2012-212959

THE STATE

RESPONDENT,

V.

CAMERON HAMMONDS,

PETITIONER.

RETURN TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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PETITIONER'S QUESTION PRESENTED

Whether the Court of Appeals erred by affirming the trial court in refusing to charge the jury that even if a person was in unlawful possession of a gun, he could still use the gun lawfully in self-defense.

RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL

Whether the Court of Appeals erred in affirming Petitioner's convictions and the trial court's denial of Petitioner's request for a jury instruction that "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense," when Petitioner was not prejudiced by the trial court's denial of the charge; the charge is not recognized as a proper supplemental charge to a self-defense jury instruction; and the requested charge was not a complete statement of the law on whether one in unlawful possession of a firearm can lawfully act in self-defense?

STATEMENT OF THE CASE

On November 30-December 1, 2009, Petitioner Cameron Hammonds ("Hammonds") was tried by a jury for the murder of Lee Kanard and for possession of a weapon during the commission of a violent crime. Petitioner was tried in the Greenville County Court of General Sessions before the Honorable Edward M. Miller, Circuit Court Judge. Bill Godfrey, Esquire represented Petitioner. The State was represented by George Campbell, Esquire, and Sylvia Harrison, Esquire, Assistant Solicitors for the Thirteenth Judicial Circuit. On December 1, 2009, Petitioner was convicted of murder and possession of a weapon during the commission of a violent crime. (R. p. 127). He received a life sentence for the murder conviction and five years confinement for the possession of a weapon during the commission of a violent crime conviction. (R. p. 132).

Petitioner timely filed a Notice of Appeal on December 3, 2009. After full briefing and argument, the South Carolina Court of Appeals issued an unpublished opinion affirming petitioner's conviction on July 18, 2012. (App. pp. 1-2). Petitioner filed a Petition for Rehearing on August 1, 2012. (App. pp. 3-11). The Court of Appeals denied the petition on August 20, 2012. (App. p. 12).

Petitioner now seeks review of the South Carolina Court of Appeals' opinion in this Court.

RESPONDENT'S STATEMENT OF FACTS

On June 21, 2007, Petitioner Cameron Hammonds ("Hammonds") shot and killed the victim, Lee Kanard, in Kanard's front yard. The victim was shot nine times, and he died as a result of multiple gunshot wounds. (R. pp. 51-56).

The Shooting

Kelvin Harris, a neighbor of the victim who saw the shooting, testified that he saw Hammonds and Stephon Brewster on June 21, 2007. (R. p. 38). Hammonds and Brewster drove up to Kanard's home in a gray Impala. (R. p. 43). Harris testified that Kanard was standing in Kanard's front yard when Brewster and Hammond pulled up. (R. p. 39). Kanard initially walked towards the car when it pulled up. (R. pp. 39, 44). However, he never walked all the way to the car. (R. p. 44). Hammonds and Kanard "had a few words" with one another while Hammonds was in the car. (R. pp. 39, 44). Harris could not hear what the two said to one another, and he could neither confirm nor deny they were arguing. (R. pp. 39, 44).

Shortly thereafter, Hammonds got out of the car. (R. pp. 39, 44-45). Harris testified that Hammonds started shooting when he exited the car. (R. p. 39). Kanard was

trying to get back to his house. (R. pp. 39, 40). Hammonds fired several shots. Kanard fell over into the hedges off of his front porch. (R. p. 40). Harris testified that after Kanard fell over, Hammonds stopped shooting with one gun. (R. p. 40). However, Hammonds then pulled out another gun and fired it at Kanard multiple times. (R. pp. 40-41). Harris did not know the total number of shots fired. (R. pp. 39, 41).

Harris did not see Kanard with a gun that afternoon. (R. pp. 39, 41, 45). He also did not see anyone else with a gun at the scene before Hammonds started shooting. (R. p. 39). Harris indicated there was a third person in the vicinity of the victim's house that afternoon. (R. pp. 39-40). He did not know who the person was, but he watched the man ran to where Kanard was laying in the bushes, and then ran back either onto Kanard's porch or inside Kanard's house. (R. p. 40).

Detectives Conroy and Flavell of the Greenville Police Department testified that Brewster stopped by the police department and talked with law enforcement about the shooting. (R. pp. 4, 15, 24). A couple days later, Brewster told law enforcement that Hammonds was the shooter. (R. pp. 6-7, 25). Brewster later identified Hammonds in a photo lineup. (R. pp. 6-7, 25). At trial, Brewster admitted that he talked with the detectives, gave them a statement, and identified Hammonds as the shooter. (R. pp. 27, 28). However, he testified that he did not really see the murder, and he initiated contact with the police because he did not want them to think he was involved. (R. pp. 27-28). Brewster was concerned because his car was associated with the shooting on the news. (R. pp. 27, 31).

On July 2, 2007, Detectives Conroy and Flavell took Hammonds' statement. (R. pp. 8-14, 20-23, 133).

Hammonds' Testimony and Statement Regarding the Shooting

Hammonds testified that his stepbrother, Tyrone, was attacked on the early morning of June 21, 2007, and his car was stolen. (R. p. 62). After Tyrone was taken to the hospital by ambulance, Brewster drove Hammonds to the hospital. (R. p. 63). On the way to the hospital, the two passed Tyrone's car. (R. p. 64). The car was ransacked, but nothing appeared to be missing. (R. p. 64). Hammonds testified that he called police. (R. p. 64). While he waited for police to arrive to process his stepbrother's car, he saw a beige car with a temporary license tag circle the block twice around the block where the car was located. (R. pp. 65-66). Hammonds saw the same beige car later that morning, when he was parking his stepbrother's car at Hammonds' house. (R. pp. 66-67). Hammonds recognized the car, and he remembered seeing it parked at the victim's address. (R. p. 67).

At approximately 1 p.m. on June 21, Hammonds started walking towards Brewster's grandmother's house. (R. p. 69). Hammonds indicated that when he left his house, he was wearing a tank top, a pair of pants, and black house shoes. (R. p. 69). He also carried a High Point .380 semiautomatic pistol in his waistband. (R. pp. 72, 78-79, 133). During the walk, he passed by the victim's house. (R. p. 70). He noticed two guys were home: one was on the porch and the other was standing in the yard. (R. p. 70). Hammonds stated that he did not know either of them. When Hammonds saw the guy in the yard, he started asking them, "Why y'all rob my little brother?" (R. p. 70; see R. p. 133). Hammonds indicated the victim responded by saying, "Fuck your little brother, he know how I get down." (R. p. 71). Hammonds and the victim then engaged in a verbal exchange. The guy who was standing on the porch pulled a gun. Hammonds and the victim moved to the side. Then, according to Hammonds, the victim tried to pull his gun.

(R. p. 71). "He fumbled it, and I caught it . . . As I caught it with my left hand, I turned and I pulled my gun too. I turned and I started running and shooting." (R. pp. 72, 86-87). Hammonds gave law enforcement a similar recount of the events in his statement to police. (R. p. 133).

Hammonds testified that he was scared, and he just wanted to get home to his children. (R. p. 73). He indicated that he dropped the guns in the yard. (R. p. 73). He ran home. Eventually, he left Greenville and drove to Knoxville, Tennessee. (R. p. 74). Hammonds noted that he did not have a concealed weapons permit for his pistol, but he carried the gun because of the dangerousness of the community. (R. pp. 72-73, 79).

ARGUMENT

The Court of Appeals properly affirmed Petitioner's convictions for murder and possession of a weapon during the commission of a violent crime. The trial court did not abuse its discretion in denying Petitioner's request for an instruction, "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense." As correctly noted by the Court of Appeals, Petitioner was not prejudiced by any error by the trial court in not giving the requested instruction. Furthermore, the jury instruction Petitioner requested has not been recognized as a proper supplemental instruction to a self-defense jury charge. Finally, the requested jury instruction is not a complete and accurate statement of the law regarding whether an individual who is in unlawful possession of a firearm can lawfully act in self-defense.

Altogether, Respondent submits this Court should deny the petition for writ of certiorari. The Court of Appeals correctly affirmed Petitioner's convictions. The petition fails to raise a novel question of law. There was no dissent in the decision of the Court of

Appeals. The decision of the Court of Appeals is not in conflict with a prior decision of this Court. No constitutional issues are raised in the petition. There is no federal question in this petition.

Standard of Review

"'An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion.'" State v. Williams, 367 S.C. 192, 195, 624 S.E.2d 443, 445 (Ct.App.2005) (quoting Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000)). Furthermore, "[t]o warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant." State v. Patterson, 367 S.C. 219, 232, 625 S.E.2d 239, 245 (Ct.App.2006). "The law to be charged must be determined from the evidence presented at trial." Id. If there is any evidence to support the requested charge, the trial court should grant the request. Williams, at 195, 624 S.E.2d at 445. The evidence must be reviewed in the light most favorable to appellant. State v. Cottrell, 376 S.C. 260, 262, 657 S.E.2d 451, 452 (2008). "It is error for the trial court to refuse to give a requested instruction which states a sound principle of law when that principle applies to the case at hand, and the principle is not otherwise included in the charge." Williams, 367 S.C. at 195, 624 S.E.2d at 445 (quoting Cantrell, supra).

"In charging self-defense, the trial court must consider the facts and circumstances of the case at bar in order to fashion an appropriate charge." State v. Harris, 382 S.C. 107, 114, 674 S.E.2d 532, 536 (Ct.App.2009) (citing State v. Starnes, 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000)). Failure to give a requested jury instruction is not prejudicial error where the instructions given afford the proper test for determining issues. Harris, 382 S.C.

at 114, 674 S.E.2d at 536 (citing Patterson, supra). If the charge as a whole is reasonably free from error, isolated portions that might be misleading do not constitute reversible error. Id. A trial court's jury charge that is substantially correct and covers the law does not require reversal. Id.

Argument at Trial

After the defense rested and the motion for a directed verdict was denied, Hammonds requested a self-defense charge and a charge "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense. That would be State versus Wigginton[sic] and several others." (R. p. 91). Hammonds later argued that the standard in Wigington is that if there was any evidence before the jury to support the charge, the court was required to make it. After brief questioning about the facts and a review of the opinion in Wigington, the trial court reviewed the opinion.

> I've reviewed the Wigginton[sic] case and I presume the language that you're referring to reads, "further a person can be acting lawfully even if he is in unlawful possession of a weapon if he was entitled to arm himself in self-defense at the time of the shooting." Well, that just does not fit these facts so I'm not going to charge that.

(R. p. 93, ll 14-20).

Court of Appeals Opinion

The Court of Appeals affirmed Petitioner's convictions citing State v. Burkhart, 350 S.C. 252, 261, 565 S.E.2d 298, 303 (2002) (stating a conviction will not be reversed due to the erroneous refusal to give a requested charge if the en-or is not prejudicial).

I. Any error by the trial court in denying the requested jury instruction was harmless; thus, the trial court did not abuse its discretion in denying the requested instruction.

The trial court did not abuse its discretion in not instructing the jury that a person can be lawfully armed in self-defense, even when in unlawful possession of a weapon because Hammonds was not prejudiced. Neither the State nor the defense presented any testimony or argument that Hammonds could not have acted in self-defense because he was in unlawful possession of a firearm when he shot and killed the victim. Nothing in the jury instructions precluded the jury from finding Hammonds acted in self-defense even though he was in unlawful possession of a firearm. In fact, the jury was not even instructed that carrying a firearm without a concealed weapons permit was unlawful.

Hammonds admitted during direct examination that he did not have a concealed weapons permit for the pistol he was carrying on the afternoon of the shooting. (R. p. 72). He also testified that he carried a gun because his neighborhood was not a good one. (R. pp. 72-73). He confirmed those two facts during cross-examination. (R. p. 79). At no other point during Hammonds' trial was the lawfulness of his possession of the pistol discussed.

In closing argument, the assistant solicitor did not contend the jury should reject self-defense for Hammonds because he was in unlawful possession of his pistol. In fact, the solicitor never argued Hammonds was in unlawful possession of his pistol. Instead, the solicitor argued that Mr. Harris identified the shooter, and Harris's testimony was credible. (R. pp. 110-12). Further, the solicitor noted that Brewster's identification of Hammonds as the shooter at the police station was also credible. (R. p. 111). The solicitor asserted that Hammonds' account of what happened, including his claim that he was shooting the victim

as he ran away from the scene, was implausible because Hammonds shot the victim nine times with sixteen[sic] potential shots. (R. p. 112). Further, Hammonds' story was not believable because by Hammonds' own account, he did not shoot at the man with a gun who is standing on the victim's front porch. Instead, he was shooting at the disarmed victim. (R. p. 113).

The defense's closing argument similarly did not indicate Hammonds was not entitled to a finding of self-defense as a result of the fact he may have unlawfully possessed his pistol at the time of the shooting. The defense focused on addressing the lack of physical evidence in the case and attacking the credibility of Harris' testimony. (R. pp. 100-02). Further, defense counsel argued that Hammonds' testimony was consistent with his statement to police, and Hammonds' testimony was not consistent with the State's theory of the case. (R. pp. 102-06). Defense counsel did note that Hammonds was wrong in carrying a weapon. (R. p. 108). In doing so, counsel argued there were several actions that Hammonds could have prevented the situation from developing. (R. p. 108). In the end, the defense asserted that Hammonds' actions were in self-defense. (R. pp. 109-10).

The trial court did provide the jury with a proper instruction on self-defense. "Failure to give requested jury instructions is not prejudicial error where the instructions given afford the proper test for determining the issues." State v. Burkhart, 350 S.C. 252, 263, 565 S.E.2d 298, 304 (2002); State v. Zeigler, 364 S.C. 94, 106, 610 S.E.2d 859, 865 (Ct.App.2005)("A jury charge which is substantially correct and covers the law does not require reversal."). Here, the jury instructions provided the jury with the proper test for deciding whether Hammonds acted in self-defense. Since the jury was provided with the proper test, and nothing that occurred during Hammonds' trial precluded the jury from

finding Hammonds was acting in self-defense even though he was in unlawful possession of his pistol, Hammonds was not prejudiced by the trial court's denial of his requested jury instruction.

Furthermore, there was overwhelming evidence presented at trial that Petitioner was not acting in self-defense when he shot and killed the victim. The victim was shot nine times. (R. pp. 51-55). Mr. Harris, an eyewitness who saw the shooting, testified that Petitioner fired two guns at the victim in succession. (R. pp. 39-41, 44-5). By Petitioner's own account, he had the victim's gun before he fired any shots. (R. pp. 72, 86-7, 133). Since the evidence presented at trial overwhelmingly indicated Petitioner was not acting in self-defense, and that the fact he was in unlawful possession of a firearm at the time of the shooting was not used as a means of undermining his claim that he was not acting in self-defense, Petitioner was not prejudiced by the trial court's denial of the requested jury instruction. As a result, this petition for a writ of certiorari should be denied, and Petitioner's convictions should be affirmed.

II. The trial court did not err in denying the requested jury instruction; the requested charge is not a recognized supplemental charge to a self-defense jury charge and would not have been appropriate in this case.

At trial, defense counsel argued Wigington supported the requested charge. Wigington does not support a finding that the requested instruction should have been given to the jury at Hammonds' trial. In Wigington, the Court of Appeals noted in its analysis of the appellant's request for an involuntary manslaughter charge that "'a person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.'" State v. Wigington, 375 S.C. 25, 35, 649 S.E.2d 185, 190 (Ct.App.2007). Wigington requested that involuntary manslaughter

only be charged if the trial court also charged self-defense. Since the trial court properly declined to charge self-defense, and the appellant had failed to present any argument supporting a charge for involuntary manslaughter, the Court of Appeals affirmed the denial of the request. Id. at 35-6, 649 S.E.2d at 190.

Petitioner's reliance on Wigington is misplaced for several reasons. First, the issue before the Court of Appeals in Wigington was whether the defendant was entitled to a self-defense jury instruction and/or an involuntary manslaughter jury instruction. The Court of Appeals determined the trial court correctly denied the requests for both charges. Second, this statement of law in Wigington was included in the Court of Appeals' statement of the legal standard for involuntary manslaughter issue, not self-defense. At best, Wigington notes that for the purposes of determining whether a person is engaged in a lawful activity under the second prong for involuntary manslaughter, unlawful possession of a weapon is not an automatic disqualifier. Since Wigington neither addresses the application of the principle in the context of self-defense or address whether it constitutes a proper instruction to be given with a self-defense charge, it did not support Hammonds' request for the charge at trial.

In State v. Slater, this Court noted while it agreed "that 'the mere unlawful possession of a firearm, with nothing more, does not automatically bar a self-defense charge,'" this Court rejected the position "that the unlawful possession of a weapon could never constitute an unlawful activity which would preclude the assertion of self-defense." State v. Slater, 373 S.C. 66, 70, 644 S.E.2d 50, 52-3 (2007). This Court also noted the analysis applied in State v. Burriss, 334 S.C. 256, 513 S.E.2d 104 (1999), in deciding whether the fact a defendant was in unlawful possession of a weapon prevented an

instruction on the defense of accident also applied to a trial court's decision on whether a self-defense charge should be given. Slater, 373 S.C. at 71, 644 S.E.2d at 53. Thus, "where the defendant's unlawful possession of a weapon is merely incidental to the defendant's lawful act of arming himself in self-defense, the unlawful possession of the weapon will not prevent" the use of self-defense. Id. However, "the unlawful possession of a firearm can, under some circumstances, constitute an unlawful activity so as to preclude [self-defense] if the weapon is the proximate cause of the killing." Id.

While this principle (i.e. one can be acting lawfully even if in unlawful possession of a weapon if he is lawfully armed in self-defense) has been discussed as a matter to be considered by the trial court when deciding if a defendant is entitled to a self-defense jury instruction, it has not been held to be an element of self-defense. To the contrary, this Court has noted "[t]here is a difference between being lawfully armed in self-defense and acting in self-defense." Burriss, 334 S.C. at 265 n. 10, 513 S.E.2d at 109 n. 10; see State v. Light, 378 S.C. 641, 648 n. 6, 664 S.E.2d 465, 468, n. 6 (2008). Once the trial court has decided that a defendant is entitled to a self-defense jury instruction, the lawfulness of the defendant's possession of a weapon at the time of the killing is collateral to whether the defendant was acting in self-defense. The trial court would have necessarily decided the unlawful possession of the firearm did not constitute an unlawful activity that would have precluded the jury from finding the defendant acted in self-defense. Since the requested charge is not an element to self-defense, and there is no authority recognizing it is an applicable jury instruction for self-defense, the trial court did not err in declining Hammonds' request for the instruction.

Hammonds' reliance upon State v. Burkhart, 350 S.C. 252, 565 S.E.2d 298 (2002), is misplaced. In Burkhart, the trial judge instructed the jury on self-defense, but failed to instruct the jury that the State had the burden to disprove all of the elements of self-defense. Id. at 262, 565 S.E.2d at 303. Instead, the trial court instructed the jury that the defense did not have the burden of proving self-defense, and the burden of proof remained with the State at all times. Id. This Court reversed, finding the self-defense charge given did not adequately convey the State's burden of proof in disproving all of the elements of self-defense. Id. Thus, the instructions on self-defense did not afford the jury the proper test for what the Court determined was the most significant issue in the case. Id. at 263-64, 565 S.E.2d at 304.

Hammonds' case is dissimilar in two ways. First, unlike Burkhart, the trial court did give a proper instruction on self-defense. (R. pp. 119-20); see State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984)(outlining elements of self-defense);[1] State v. Jackson 384 S.C. 29, 36, 681 S.E.2d 17, 20 (Ct.App.2009) ("'Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a

[1] First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. If, however, the defendant was on his own premises he had no duty to retreat before acting in self-defense.

homicide.'") (quoting State v. Bryant, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999). The only challenge to the instruction on self-defense made by Hammonds was that it should have included the requested instruction on unlawful possession of a weapon not precluding self-defense. (R. p. 122). Second, as already noted, Hammonds cannot show that he was prejudiced by the charge that was given. Since the requested instruction was not a correct statement of the law, and the trial court gave a proper instruction on the law of self-defense, the trial court did not err in declining to give the requested charge. Davis, 282 S.C. at 45, 317 S.E.2d at 453; see State v. Kelsey, 331 S.C. 50, 79, 502 S.E.2d 63, 77 (1998)(noting that it was not error for trial court to not give a requested charge when the requested charge did not accurately state the law).

Hammonds' claim that the jury was aware he was in unlawful possession of a firearm is not supported by the record. The jury was instructed that it was the judge's duty to charge them "the law applicable to the case, and it is your duty as jurors to accept and apply the law as I now stated to you." (R. p. 114). The jury never received an instruction defining what constitutes either lawful or unlawful possession of a firearm. Thus, while the jury was aware Hammonds did not have a concealed weapons permit, it was not aware if Hammonds was lawfully carrying his pistol under one of the other exceptions listed in S.C. Code Ann. §16-23-20. Since the jury would not have a basis for finding Hammonds was in unlawful possession of the firearm, the requested charge was not supported by the record.

Furthermore, the trial court correctly determined that the statement in Wigington, 375 S.C. 25, 649 S.E.2d 185 (Ct.App.2007), did not apply to the facts of Hammonds' case. At trial, defense counsel argued Wigington supported the requested charge. In Wigington,

this Court noted in its analysis of the appellant's request for an involuntary manslaughter charge that "'a person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.'" Id. at 35, 649 S.E.2d at 190. Since the statement in Wigington was addressing the statement in the context involuntary manslaughter, and the issue before the trial court was whether the statement of law should be given in addition to a self-defense charge, Respondent submits the trial court reasonably found the statement was not applicable to the facts of Hammonds' case. Hammonds never requested an instruction on involuntary manslaughter. Since there was no discussion regarding an involuntary manslaughter instruction, the trial court did not err in finding the statement in Wigington did not fit the facts of Hammonds' case.

III. The requested jury instruction was not a complete statement of state law regarding whether one who is unlawfully armed can lawfully act in self-defense.

The trial court did not err in giving the requested instruction, "the fact that someone has a gun illegally doesn't not mean that they cannot use the gun in self-defense," because it was not an accurate statement of law. As already noted, "where the defendant's unlawful possession of a weapon is merely incidental to the defendant's lawful act of arming himself in self-defense, the unlawful possession of the weapon will not prevent" the use of self-defense. Slater, supra. "[H]owever, that the unlawful possession of a firearm can, under some circumstances, constitute an unlawful activity so as to preclude [self-defense] if the weapon is the proximate cause of the killing." Id.

Hammonds' requested jury instruction was not a correct statement of the law in determining whether a defendant is entitled to an instruction on self-defense. The

requested instruction ignores the qualification that the unlawful possession of the weapon must be merely incidental to the defendant's act of arming himself in self-defense for the defendant to be entitled to a self-defense charge. It also ignores the law that a person in unlawful possession of a firearm would not be entitled to a self-defense instruction when possession of the weapon was the proximate cause of the killing.

CONCLUSION

Petitioner has failed to show that there is a special and important reason for this Court to grant his Petition. It raises no novel question of law. Further, there was no dissent in the decision of the Court of Appeals. There is no conflict between the Court of Appeals' opinion and any prior decision of this Court. Petitioner has not raised any constitutional issues in the Petition. Also, no federal question was included in the Petition. The Court of Appeals was correct in its findings. As a result, Petitioner's Petition for a Writ of Certiorari should be dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ALPHONSO SIMON JR.
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-6305

W. WALTER WILKINS
Solicitor, Thirteenth Circuit
Greenville County Courthouse

305 East North Street, Suite 325
Greenville, South Carolina 29601-2185

ATTORNEYS FOR RESPONDENT

By: _____

Alphonso Simon Jr.
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

January 22, 2013.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
Edward Miller, Circuit Court Judge

On Petition for Writ of Certiorari to the Court of Appeals
Unpublished Opinion No. 2012-UP-440 (S.C. Ct. App. Filed 7/18/2012)
Appellate Case No. 2012-212959

THE STATE

RESPONDENT,

v.

CAMERON HAMMONDS,

PETITIONER.

PROOF OF SERVICE

I, Alphonso Simon, Jr., Assistant Attorney General, counsel for the Respondent, certify that I have served the within Return to Petition for Writ of Certiorari and Proof of Service on Petitioner by depositing two (2) copies of the same in the United States mail, first class, postage prepaid, addressed to his attorney of record, LaNelle Cantey Durant, Esq., SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 22nd day of January, 2013.

ALPHONSO SIMON JR.
Assistant Attorney General

Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305
ATTORNEY FOR RESPONDENT

The Supreme Court of South Carolina

The State, Respondent,

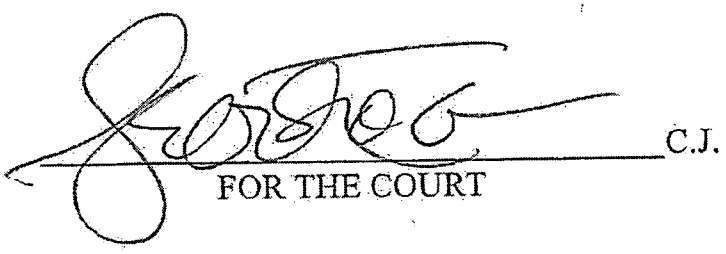
v.

Cameron Hammonds, Petitioner.

Appellate Case No. 2012-212959
Lower Court Case No. 2007-GS-23-9564

ORDER

Petitioner seeks a writ of certiorari to review the Court of Appeals' decision in *State v. Hammonds*, Op. No. 2012-UP-440 (S.C. Ct. App. filed July 18, 2012). The petition is denied.



C.J.
FOR THE COURT

Columbia, South Carolina

March 19, 2014

cc:
The Honorable Jenny A. Kitchings
LaNelle Cantey DuRant, Esquire
Donald J. Zelenka, Esquire
Alan McCrory Wilson, Esquire
John W. McIntosh, Esquire
Alphonso Simon, Jr., Esquire
The Honorable Paul B. Wickensimer

322.

FORM 5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
County of GREENVILLE)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 JUN 17 PM 4 41

CAMERON RAMMONDS, 433819)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

2014-CP-23-03379

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Inst. 386 Hampton Way, McCormick, S.C. 29899

2. Name and location of Court which imposed sentence Greenville Court of General Sessions

3. Name(s) of co-defendant(s) (if any) None

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2007-GS-23-9564) Murder/ Possession of firearm

(b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 12/01/ 2009) Life and five years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Affirmed

ii. _____

iii. _____

(c) the date of each such result:

i. July 18, 2010

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. State v. Hammonds, 2010-UP-440

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See Attached Sheets

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See Attached Sheets

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? yes

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Petition for Writ Certiorari

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. The Supreme Court of South Carolina

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Denied

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. March 19, 2014

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) ineffective assistance of counsel issues

(b)

(c)

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Bill Godfrey

ii. Lanelle Cantey Durant
S.C. Division if Appellate Defense

iii.

(b) the proceedings at which each such attorney represented you:

i. Trial

ii. Direct Appeal

iii.

19. State clearly the relief you seek in filing this application:

new trial or resentence or specific sentence performance

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of McCormick)

I, Cameron Hammonds, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 29th day of May, 2014.

Stephanie Marshall (L.S.)
Notary Public

My Commission Expires: May 12 2021

STEPHANIE MARSHALL NOTARY PUBLIC SOUTH CAROLINA

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Cameron Hammond, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Applicant

SWORN or affirmed to and subscribed before me this 27th day of May, 2014.

Stephanie Marshall

Notary Public

My Commission Expires: May 12, 2021

ATTACHED SHEETS

1. Counsel was ineffective during the sentencing phase of the trial for failing to object or file a motion that the Court did not pronounced sentence for murder and possession of a weapon during commission of a violent crime from the bench.

2. Counsel was ineffective during plea negotiations of the State for the State's plea offer was thirty (30) years and the applicant was advised by counsel not to take the plea offer by the State on the grounds that we could win at trial.

3. Applicant contends that counsel was ineffective during trial by failing to object or make motions to the unconstitutional jury charge of Criminal Intent, in as much as the court failure to charge criminal intent to murder resulted in a conviction of lees than proof of the elements that required by law for murder.

Respectfully submitted

May 29 2014

Cameron Hammonds

1. Counsel was ineffective during the sentencing phase of the trial for failing to object or file a motion that the Court did not pronounced sentence for murder and possession of a weapon during commission of a violent crime from the bench.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984); Lomax v. State, 665 S.E.2d 164 (2008). Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Strickland v. Washington, 466 U.S. at 667, 104 S.Ct. at 2052; Cherry v. State, 386 S.E.2d 624 (1989). First, the applicant must show counsel's representation was deficient, which is measured by an objective standard of reasonableness. Strickland, 466 U.S. at 687, 104 S.Ct. at 2052. Next, the applicant must show he was prejudiced by counsel's performance such that, but for counsel's error, there is a reasonable probability the result of the proceedings would have been different. Id at 693, 104 S.Ct. at 2052.

In the trial at the sentencing phase the trial Court had this response.

THE COURT: All right, well, two families are just torn apart, but this was a brutal murder, and on murder, I'm going to give him life, on the other one, five years." In this case, the trial judge did not orally pronounced sentence from the bench, but orally pronounced from the bench, "and on murder, I'm going to give him life, on the other one, five years,"' but he signed sentencing sheets that has a written sentencing order of a different sentence.

The Boan Court said, "although this Court has not previously spoken on the issue of whether an oral pronouncement of a sentence controls over a conflicting written sentencing order, the majority of jurisdictions that have considered this point hold the oral pronouncement controls. See e,g. U.S. v Osborne 345 F.3d 281 (4th Cir. 2003). Other Court, however, have held that a criminal defendant has a constitutional right to be present at sentencing. See e. g. U.S. v Martinez 250 F,3d 941, 942 (5th Cir. 2001)(holding a defendant's constitutional right to be present at sentencing mandates an oral pronouncement prevail over a conflicting written sentence). In the background of most of those decisions is United States v. Gagnon, 470 U.S. 522, 105 S.Ct. 1482 (1985).

Moreover, §16-23-490 provides: Additional punishment for possession of firearm or knife during commission of, or attempt to commit a violent crime.

A. If a person is in possession of a firearm or visibly displays what appears to be a firearm or visibly displays a knife during the commission of a violent crime and is convicted of committing or attempting to commit a violent crime as define in section 16-1-60, he must be imprisoned five years, in addition to the punishment provided for the principal crime.

The five years sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime.

SENTENCING UNDER S.C. CODE ANN. §16-3-20 (A)

An amendment to section 16-3-20 (A) which took affect on January 1, 1996 changed the section to read, in relevant part, "[a] person who is convicted of murder ... murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years. (For purposes of this section, "life imprisonment" means until death of the offender)

The Court could not have sentenced applicant to life imprisonment and five years for the gun, therefore I request a sentence of the minimum of thirty years for murder.

CONCLUSION

Wherefore, Applicant request a hearing pursuant to §17-27-80 of the S.C. Code of Laws.

2. Counsel was ineffective during plea negotiations of the State, for the State's plea offer was thirty years (30) years and the applicant was advised by counsel not to take the plea offer by the State on the grounds that we could win at trial.

In Lafler v Cooper, 132 S.Ct. 1384 (2013) the favorable plea offer was reported to the client but, on advise of counsel was rejected. The instance case comes to the Court with the concession that counsel's advice with respect to the plea offer fell below the standard of adequate assistance of counsel guaranteed by the Sixth Amendment, applicable to the States through the Fourteenth Amendment.

In this instant case defendant went to trial rather than accept a plea deal, and it is conceded this was the result of ineffective assistance during the plea negotiation process. Defendant received a more severe sentence at trial, one 3½ times more severe than he likely would have received by pleading guilty. Id at 1386.

Here applicant plea offer was reported by counsel for thirty (30) years but was rejected on the grounds that we could win at trial.

Strickland, recognized "the benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produce a just result." 466 U.S. at 686. The goal of a just result is not divorced from the reliability of a conviction, see United States v Cornic, 466 U.S. 648, 658 (1984); but here the question is not the fairness or reliability of the trial but the fairness and regularity of the process that preceded it, which caused the defendant to lose benefits he would have received in the ordinary course but for counsel's ineffective assistance. Lafler v Cooper at 1388.

The specific injury suffered by defendants who decline a plea offer as a result of ineffective assistance of counsel and then receive a greater sentence as a result of trial counsel can come in at lease one of two forms. In some cases, the sole advantage a defendant would have received under the plea is a lesser sentence. This is typically the case when the charges that would have been admitted as part of the plea bargain are the same as the charges the defendant was convicted of after the trial. In this situation the court may conduct an evidentiary hearing to determine whether the defendant has shown a reasonable probability that but for counsel's errors he would have accepted

the plea. If the showing is made, the Court may exercise discretion in determining whether the defendant should receive the term of imprisonment the government offered in the plea, the sentence he received at trial, or something in between. Id at 1389.

CONCLUSION

Wherefore, Applicant request a hearing pursuant to §17-27-80 of the S.C. Code of Laws.

UNCONSTITUTIONAL CHARGE TO THE JURY

3. Applicant contends that counsel was ineffective during trial by failing to object or make motions to the unconstitutional jury charge of Criminal Intent, in as much as, the court failure to charge criminal intent to murder resulted in a conviction of lees than proof of the elements that required by law for murder.

In order to prove that counsel was ineffective, the PCR applicant must show that; (1) counsel's performance was deficient, and (2) the applicant must show he was prejudice by counsel's performance such that, but for counsel's error, there is a reasonable probability the result of the proceeding would have been different. Strickland, at 693, 104 S.Ct. at 2052. A reasonable probability is a probability sufficient to under confidence in the outcome of the trial.

Instruction that allowed a jury to convict without finding every element of the offense violates In Re Winship's requirement, that every fact necessary to constitute the crime must be proven beyond a reasonable doubt. In Re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, (1970). Due Process requires criminal conviction to rest upon a jury determination that the defendant is guilty of every element of the crime with which he is charged beyond a reasonable doubt. United States v. Gadin, 515 U.S. 506, 115 S.Ct. 2310 (1995).

Therefore, an instruction that relieves the State of the burden of proving mens-rea beyond a reasonable doubt contradicts the presumption of innocence and invades the function of the jury, thereby violating Due Process.

The definition now located in Title 16-3-10 "in no wise affects ingredients which are necessary to constitute murder but leaves them exactly and in every particular as they stood at common law. Griffen v. Martin, 785 F.2d 1172 (4th Cir. 1986) quoting State v Judge, 208 S.C. 447, 505, 38 S.E.2d 715, 719 (1946). Consequently, the element of criminal intent for example though not alluded to in Title 16-3-10, still is in South Carolina an essential element of the crime of murder. Martin supra quoting State v. Thrailkill, 73 S.C. 314, 318, 53 S.E. 482 (1906)(..."criminal intent ... is an essential element in every

common law crime. See cf State v American Agrculter Chemical Co., 118 S.C. 333, 337, 119 S.E. 800, 802 (1920).

Now, criminal intent is a necessary element of each crime that must be proved by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determine by the jury from the circumstances surrounding the situation. There is no way to prove criminal intent to any mathematical certainey ... So, the law says that criminal intent may be inferred from the circumstances shown to have been in existence or have existed at the time in question. This is how the jury make a determination of whether or not the element of intent as required was present. Criminal intent is a state of mind which operates jointly with an act in the commission of a crime. The State must prove criminal intent beyond a reasonable doubt, just as the State must prove every element of the crime beyond a reasonable doubt. State v Lee-Grigg 649 S.E.2d 41 (S.C. App. 2007)

CONCLUSION

Wherefore, applicant request a hearing pursuant to §17-27-80 of the S.C. Code of Laws.

Dated

May 19 2014

Cameron Hammonds

CERTIFICATE OF SERVICE

The undersigned hereby certify that he mailed Post Conviction Application to Greenville County Clerk of Court this 19 day of May 2014 by depositing same in the U.S. mail postage prepaid at McCormick mail-room.

Cameron Hammonds

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	CASE NUMBER: 2007-GS-23-9564

STATE OF SOUTH CAROLINA,	)	
vs.	)	
	)	VERDICT FORM
CAMERON HAMMONDS,	)	
DEFENDANT.	)	

As to the charge of Murder, we the Jury find the Defendant:

__X__ **Guilty.**

_____ **Not Guilty.**

As to the charge of Possession of a Weapon during the Commission of a Violent Crime, we the Jury find the Defendant:

__X__ **Guilty.**

_____ **Not Guilty.**

I certify this decision was the unanimous decision of the jury.

Foreperson
December 1, 2009

PLEASE NOTIFY THE BAILIFF WHEN YOU HAVE COMPLETED THIS FORM.

340

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Cameron Hammonds
AKA:

Race: B Sex: M [redacted] 29
DOB: [redacted]
[redacted]
Greenville, SC 29611
DL#: [redacted] SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2309564
A/W#: J482678
Date of Offense: 6/21/2007
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Murder

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

ATTEST: [signature] 064840
Harrison, Sylvia SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of LIFE ~~days/months/years~~ or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms: _____
☐ set by SCDPPPS _____

Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
§ 47.12 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25
§ 14-1-213 (Drug Court Surcharge)	$100	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
§ 90.7 (SCCJA Surcharge)	$5	$ 5
3% to County (if paid in installments)		$
TOTAL		$

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

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

Clerk of Court/ Deputy Clerk Paul B. Weckensimer
Court Reporter: Hesbell

PRESIDING JUDGE [signature]
Judge Code: 2 1 1 1 3 1 0
Sentence Date: 12-1-09

SCCA/217 (06/2009)

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Cameron Hammonds)
AKA:)
Race: B Sex: M Age: 29)
DOB: [redacted])
Address. [redacted])
Greenville, SC 29611)
DL#: [redacted] SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2309564
A/W#: J482679
Date of Offense: 6/21/2007
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: WEAPON - POSSESSION DURING VIOLENT CRIME

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

ATTEST: Harrison, Sylvia | 064845 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 ~~days/months~~/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: $ _____ plus 20% fee: $ _____ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED _____
☐ set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
_____ May serve W/E begining _____
Recipient: _____ Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
§ 47.12 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25
§ 14-1-213 (Drug Court Surcharge)	$100	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
§ 90.7 (SCCJA Surcharge)	$5	$ 5
3% to County (if paid in installments)		$
TOTAL		$

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

PRESIDING JUDGE John W. Kittredge
Judge Code: 211310
Sentence Date: 12-1-09

Clerk of Court/ Deputy Clerk Paula B. Wickersham
Court Reporter: Hubbell

SCCA/217 (06/2009)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on November 21, 2007 the Grand Jurors of Greenville County present upon their oath:

COUNT I - MURDER

That CAMERON HAMMONDS did in Greenville County, on or about the 21st day of June, 2007, unlawfully and with malice aforethought kill LEE KANARD by means of shooting him numerous times and that LEE KANARD died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II – POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That CAMERON HAMMONDS did in Greenville County, on or about the 21st day of June, 2007, possess or visibly display a gun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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

Sylvia A. Harrison
SOLICITOR

WITNESSES

T Conroy / Alvert / S

Greenville Police Department

7/2/2007

ARREST WARRANT NUMBER

J482678 and J482679

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury 12/1/09 *Date:*

DOCKET NO. 2007-GS-23- SPH 009564

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2007

THE STATE

GUILTY

vs.

CAMERON HAMMONDS

✓ ✓ Indictment for

0116/0549

MURDER

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

(228)

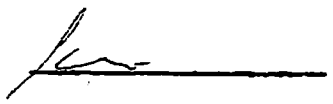
Greenville County Clerk of Court
Paul B. Wickersimer, Clerk
305 East North Street
Greenville, S.C. 29601

RE: Post Conviction Application

Dear Clerk:

Enclosed please find the foregoing Post Conviction Application for filing, please file and return stamp filed copy to me.

Yours truly,



STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	C.A. No. 2014-CP-23-3379
COUNTY OF GREENVILLE)	
)	
Cameron Hammonds,)	
S.C.D.C. No. 338191,)	
)	
Applicant,)	
)	**RETURN**
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
)	

In response to the post-conviction relief application filed June 17, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the November 2007 term of General Sessions for murder (2007-GS-23-9564, count 1) and possession of a weapon during commission of a violent crime (2007-GS-23-9564, count 2). E.P. "Bill" Godfrey, Esquire represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On December 1, 2009, the Honorable Edward W. Miller sentenced the Applicant to concurrent terms of life imprisonment for murder and 5 years for possession of a weapon during commission of a violent crime. The Applicant did not appeal.

A notice of appeal was filed at the South Carolina Court of Appeals. LaNelle C. DuRant, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences.

State v. Hammonds, Op. No. 2012-UP-440 (S.C. Ct. App. filed July 18, 2012). The South Carolina Supreme Court denied the Applicant's subsequent petition for writ of certiorari by order dated March 19, 2014. The Remittitur was sent on April 1, 2014.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of trial counsel.
   a. Failed to "object or file a motion that the Court did not pronounced sentence for murder and possession of a weapon during commission of a violent crime from the bench."
   b. Advised the Applicant to reject the 30-year plea offer.
   c. Failed to "object or make motions to the unconstitutional jury charge of Criminal Intent, I as much as, the court failure to charge criminal intent to murder resulted in a conviction of lees than proof of the elements that required by law for murder." (emphasis in original)

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441,

442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: _____
Attorneys for Respondent

October 21, 2014

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE CAMERON HAMMONDS, 338191 Applicant, vs STATE OF SOUTH CAROLINA, Respondent.	IN THE COURT OF COMMON PLEAS 2014-CP-23-3379 AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Cameron Hammonds, 338191
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

DATED this 21st day of October, 2014.

Judy A.C. Carey, Legal Assistant
For Respondent

State of South Carolina
County of Greenville

In the Court of Common Pleas

Cameron Hammonds,
Applicant,
-vs-
State of South Carolina,
Defendant.

2014-CP-23-03379
April 19, 2016
Transcript of Record

B E F O R E:

The Honorable R. Knox McMahon, Judge

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

Brian Johnson, Esquire
Attorney for the Applicant

Patrick Lowell Schmeckpeper, Esquire
South Carolina Attorney General's Office
Attorney for the State of South Carolina

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

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E x h i b i t s

For the State:

Marked	Description	I.D.	Admitted
1	Discovery	22	22

For the Defendant:

Marked	Description	I.D.	Admitted
	None offered.		

(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 2:04 p.m.)

THE COURT: All right. Mr. Schmeckpeper, will you prep the record for me, please.

MR. SCHMECKPEPER: Yes, your Honor. May it please the Court. This is the matter of Cameron Hammonds versus the State of South Carolina, Case Number 2014-CP-23-3379. The applicant was indicted at the November 2007 term of general sessions for murder, possession of a weapon during the commission of a violent crime. He was represented by Bill Godfrey. Having proceeded to trial, he was ultimately found guilty on December 1, 2009. He was sentenced by Judge Miller to concurrent terms of life imprisonment for murder and five years for possession of a weapon during the commission of a violent crime.

Timely notice of appeal was filed. His conviction was affirmed on appeal, and the supreme court denied certiorari on March 19, 2014. Applicant filed this application on June 17, 2014.

At this point I'll turn matters over to opposing counsel. I believe he's got something to put on the record.

THE COURT: Thank you.

Mr. Johnson.

MR. JOHNSON: Yes, sir, your Honor. May it please the Court. With regards to Bill Godfrey, we actually have been up here for a hearing before, and he actually is essentially incapacitated to the point where he could not attend to testify, as the attorney general would generally bring him up here as a witness.

Your Honor, the last time we also came, we tried to see if we could submit interrogatories to Mr. Godfrey so that he can answer certain questions with regards to the claims that Mr. Hammonds brought forth. Your Honor, the result was he is unable to do that as well. I know Patrick is handling the case today, but previously I had been dealing with Karen Ratigan, and that was something we tried to do to get Bill Godfrey's testimony on the record.

But, in any case, your Honor, I wanted your Honor to know because I would know more than he would what the deal is with Bill Godfrey, and I also wanted to, on behalf of my client, put that on the record so you understood exactly what the issue was with Mr. Godfrey not being here.

THE COURT: All right. Thank you, Mr. Johnson.

Anything you'd like to add?

MR. SCHMECKPEPER: Your Honor, I'm new to this

case. I have been in it before. I have seen the correspondence between my predecessor and Mr. Godfrey's wife that he's unable to testify. We brought the solicitors who prosecuted the case to testify in his place.

THE COURT: All right. Thank you.

MR. JOHNSON: Your Honor, at this time, if you're prepared to move forward, I'd like to call my client to the stand.

THE COURT: Of course.

Come around, please, Mr. Hammonds, and be sworn in.

THE CLERK: Can you place your left hand on that Bible and raise your right hand.

CAMERON HAMMONDS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: Thank you. Please state your full name for the record.

THE WITNESS: Cameron Michaud Hammonds, Jr.

THE COURT: Mr. Bailiff, will you pull that microphone a little bit closer to Mr. Hammonds, please.

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. Hammonds, are you ready?

A Yes, sir.

Q Please speak into the microphone so everyone can hear you. All right?
A Yes, sir.
Q All right. Now, I want to be clear. You're in a wheelchair here today; is that correct?
A Yes, sir.
Q Does anything that has more recently happened to you with regards to the putting you in the wheelchair, does it affect your ability to understand and go forward here today?
A No, sir.
Q So you are of a clear mind and you are ready?
A Yes, sir.
Q Now, you know why we're here?
A Yes, sir.
Q It is for your application for post-conviction relief; is that correct?
A Yes, sir.
Q Okay. Can you tell the Court where you're currently housed?
A Broad River Correctional Facility.
Q What are you serving?
A A life sentence plus five years.
Q Can you tell the Court what charges that you were sentenced to?

A I was sentenced to murder -- well, the charge of murder and possession of a weapon during a violent crime.
Q Who represented you during those charges?
A Mr. Bill Godfrey.
Q Now, was this a plea or a trial?
A Trial.
Q It was a trial?
A Yes, sir.
Q And at the trial, they found you guilty?
A Yes, sir.
Q And then you were sentenced to life?
A Yes, sir.
Q Were you served with a life without possibility of parole notice?
A He didn't serve me. He didn't --
Q Mr. Godfrey didn't say?
A The judge didn't say. He just said life sentence plus, for the other one, five years.
Q Okay.
A That's how he put it.
Q Now, we're here today because you have alleged that Mr. Godfrey was ineffective in several ways; is that correct?
A Yes, sir.

Q All right. And this is with regards to the preparation and otherwise with regards to your trial?
A Yes, sir.
Q All right. Are you prepared at this time to tell the Court which ways you think Mr. Godfrey was ineffective?
A Yes, sir.
Q All right. Please set forth your first ground.
A On ineffective assistance of counsel -- may it please the Court.

THE COURT: Yes, sir.

THE DEFENDANT: On ineffective assistance of counsel, counsel had -- he didn't have time to prepare for his case to perform a reasonable investigation on my case. He told me that I qualify for the elements of self-defense, which I did not because my showing up to the property asking some questions brought on a difficulty to the situation. And, therefore, like -- I'm prejudiced by Mr. Godfrey's failure to really ask for, what's the word, a continuance to better prepare for trial on the self-defense mitigating evidence. That's the first one.

BY MR. JOHNSON:
Q Okay. Let me ask you some questions about that.
A Yes, sir.

Q Now, how long had Mr. Godfrey been your attorney before you went to trial?
A Mr. Godfrey was -- before I went to trial, well, less than five days.
Q Okay. So for the trial itself, he was your attorney for less than five days?
A Yes, sir.
Q All right. And how many times do you think you met with him?
A Once.
Q One time. And so you met with him one time before trial, and you believe that was insufficient?
A Yes, sir.
Q All right. Now, with regards to the investigation, did he -- obviously he's not here to testify, but did he communicate anything to you with regards to the investigation that he might have done on the situation?
A No, sir.
Q Did he advise you as to the availability of self-defense?
A He said I qualify for the elements. He said there was like four or five elements, and he didn't care how many times -- his words -- quote, the M-F got shot. He can get shot one hundred times, you still qualify for

self-defense.

Q Now, today you just told the judge that -- you talked to him about bringing about the difficulty. Is this something that you knew before or after the trial?

A Afterwards.

Q And what did you learn? Will you be more specific?

A That, you know, me -- like I say, me coming to the property asking these questions, you know, brought on the difficulty to where the guy could have -- he could have been hostile by my asking these questions. If I would have never showed up, it definitely would have never happened.

Q So, let's let the judge know because the judge don't know your case. Okay?

A Yes, sir.

Q So you were accused of coming to this guy's home and shooting him?

A Yes, sir.

Q All right. Now, I believe there was some background facts as to who pulled a gun first; is that correct?

A Yes, sir.

Q And when you're talking about self-defense, you're talking about the fact that you believe he pulled out a

weapon first?
A Yes, sir. He did.
Q But you're also stating that with regards to you not even being there -- you being there is the reason that prevents you from being able to claim self-defense; is that correct?
A Yes, sir.
Q And this was actually you showed up to his home in response to your little brother; is that correct?
A Yes, sir.
Q Tell the Court what happened to your little brother.
A The night before, my brother was car jacked and beat in the face with a shotgun. And the next day -- well, I called the police the first night, and I called the police -- I found the car. They kind of like accused me of setting up my own little brother at first, but, you know, I just -- I pushed that to the side and I told -- I gave the police a description of the car that was circling the block. Well, I found the car. That car was located at the address that I went to the next day once I was walking. I was walking through the neighborhood to the usual spot where we all hang out at, and I seen two guys in the yard. So I approached the guy that was standing in the yard, and

there was a guy on the porch. The guy on the porch pulled his gun first. So I used the guy that was in the yard with me that we was going back and forth with arguing as a shield, and he tried to pull his gun. He fumbled it and I caught it, and I used his gun, and I pulled my own gun and was shooting backwards getting out of the yard.

Q And you subsequently learned basically that that's not self-defense?

A Yes, sir.

Q Because you were at his house?

A Because I was at his house.

Q And with regards to the second issue, I believe you said he should have asked for a continuance?

A Yes, sir.

Q You believe that's based upon the little amount of time that you had before the trial?

A Yes, sir.

Q All right. And I believe you stated you had five days before the trial?

A Yes, sir.

Q Did he ever go over the motion for the discovery with you?

A He did that like -- he was my public defender at first, but a year and a half passed and no -- and the

Greenville County public defender office never told me that he was no longer my lawyer. So I went a year and a half without a lawyer. And when they gave me a lawyer two weeks later, they said it was a conflict of interest. And then they gave me another lawyer. And when they gave me that lawyer, Mr. Godfrey -- she didn't know about my case. She said a stabbing in a rental car, which I knew that wasn't my case. She said I should take 30 years and just be done with it. But I'm like, "Lady, you don't know me." So my family suggested that I talk to Mr. Godfrey. I called up Mr. Godfrey and he set up a meeting. And the meeting was like the week of Thanksgiving weekend. They said -- the lady before him, Ms. Dorothy Manigault, said I wouldn't go to trial until 2010, but the facts came in to Mr. Godfrey's office and I was second on the docket for that Monday.

Q You hired Mr. Godfrey?

A Yes, sir.

Q Did ya'll discuss a continuance at all?

A No sir.

Q But you believe that would have been prudent under the circumstances?

A Yes, sir. He said I had a good self-defense case.

Q Now, do you have anything else that you would like

to set forth to the Court?

A Yes, sir.

Q Please go ahead and proceed.

A. As you know, I was sentenced to life plus five years, but prior to that, I had no criminal record. It's a reasonable probability that if I had known that Mr. Godfrey's lack of performance on self-defense mitigating evidence, I would have taken a plea deal, but I never got that chance, and by that I'm prejudiced by a failure, by Mr. Godfrey's failure, to ask for a reconsideration on my sentence.

Q All right. Is that it, Mr. Hammonds?

A Yes, sir.

Q Please answer any questions the attorney general has.

A Yes, sir.

THE COURT: Thank you, Mr. Johnson.

Mr. Schmeckpeper.

MR. SCHMECKPEPER: Thank you, your Honor. May it please the Court.

CROSS-EXAMINATION

BY MR. SCHMECKPEPER:

Q Good afternoon, Mr. Hammonds.

A Hello.

Q I have a few questions for you.

A Yes, sir.
Q Now, you said you don't qualify for the elements of self-defense?
A No, sir, because I brought on the difficulty.
Q So what you're saying is -- were you in fear for your life when you shot the victim?
A Yes, sir.
Q But the only reason you're saying you didn't qualify is because you were involved in bringing about the difficulty?
A Yes, sir. It's, I think, five elements, four to five elements of self-defense, and if you don't qualify for all of those, self-defense really goes out the window. You can't really use it.
Q Do you feel like you murdered this person?
A No, sir.
Q You've looked at the transcript; is that correct?
A Sir?
Q You looked at the transcript; is that correct?
A Yes, sir.
Q You have?
A My transcript? Yes, sir.
Q You remember the trial?
A Yes, sir.
Q And you remember that you, in fact, actually did

get a charge for self-defense; is that correct?
A Yes, sir.
Q The judge charged the jury on self-defense?
A Yes, sir, but he didn't want to.
Q But he did?
A But he did.
Q And he told the jury that if they found that you killed the victim in self-defense, that they had to find you not guilty of murder?
A Yes, sir. But he also didn't tell the jury that you have to -- a person can use an unlawful gun lawfully in self-defense. He just told them if you find him guilty of the gun, you got to find him guilty of the murder.
Q And your counsel asked him that on the record; is that correct?
A He asked, but he wouldn't do it.
Q There are the specific allegations, which I didn't hear on direct, but you are aware that he asked -- you would agree that he asked for that charge and the judge said no?
A Yes, sir.
Q And then on appeal, that was the issue on appeal?
A Yes, sir.
Q And the court of appeals decided that issue?

A Yes, sir.
Q Let's go back to self-defense. So you don't think you're guilty of murder. You didn't think you were guilty of murder during the trial; is that correct?
A I think I defended myself.
Q You only had one meeting with Mr. Godfrey?
A Yes, sir.
Q What did you talk about?
A He just told me and my wife, he said, "You qualify for self-defense. I don't care if the M-F got hit -- got shot a hundred times. I think they're trying to railroad you. You should go to trial." And he said, "Enjoy your family for the Thanksgiving weekend," and, "I'll see you Monday."
Q Did he ever tell you he wasn't ready to go to trial?
A Sir?
Q Did he ever tell you he wasn't ready to go to trial?
A No, sir.
Q Now, you had previous attorneys?
A Yes, sir.
Q How many times did you meet with them?
A I met with the Dorothy Manigault lady twice.
Q What did y'all talk about?

A The first time I met her, she said that she just got my case, something about a stabbing and a rental car. And then she called a solicitor on the phone, on the speaker phone, asked what was going on with my case. And the lady said there was nothing going on with the case. It's at a standstill.

The second meeting I had with her was when I got a card to come to court, and she said, "Oh, it's the wrong card." I said, "Well, I signed up to report every month." She said, "I just wanted to make sure where you at." That was it.

Q Did you talk to -- go ahead.

A Go ahead.

Q You had one more attorney before that?

A Yes, sir, but I don't know his name. When I met him that first time, he said he knew about the case, he recognized some names. He said that he didn't see me doing no more than like five years, and I can get the five years on probation. Next thing I know, they called me and said conflict of interest.

MR. SCHMECKPEPER: Your Honor, I have no further questions.

THE COURT: Redirect, Mr. Johnson?

MR. JOHNSON: Briefly, your Honor.

REDIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. Hammonds, when you're talking about self-defense, you got the jury charge, correct?

A Yes, sir.

Q Despite the fact that you got the jury charge, with you bringing about the difficulty, I think your point is that it wasn't likely that they were going to find self-defense?

A Yes, sir.

Q And because you weren't advised as to that element of self-defense, it was unlikely for you to be found guilty -- I mean not guilty; is that your testimony?

A Yes, sir.

MR. JOHNSON: I have no further questions.

THE COURT: Recross?

MR. SCHMECKPEPER: Just one, your Honor.

RECROSS-EXAMINATION

BY MR. SCHMECKPEPER:

Q I thought you just testified that you didn't think this was your fault, though; is that correct?

A No. If the first guy would have never pulled his gun, this situation wouldn't have happened. I mean, this guy, we wasn't fighting. We wasn't doing nothing. We wasn't doing nothing. We was just going back and forth with the conversation, with the words. We

weren't fighting or nothing. And if Mr. Godfrey would have done his investigation, he would have seen in the motion that the guy said he was in the house and he only heard one gunshot. It's not possible. He got arrested on misprision of a felony, so the officers felt like he was lying but nobody followed up on the investigation.

MR. SCHMECKPEPER: I have no further questions.

THE COURT: Thank you.

Thank you very much, Mr. Hammonds.

THE DEFENDANT: Yes, sir.

MR. JOHNSON: Your Honor, that is the applicant's case.

THE COURT: Thank you, Mr. Johnson.

MR. JOHNSON: Yes, sir, your Honor.

MR. SCHMECKPEPER: Your Honor, the State calls Sylvia Harrison.

SYLVIA HARRISON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: You may be seated, and please state your full name for the record.

THE WITNESS: Sylvia Paris Harrison.

MR. SCHMECKPEPER: May it please the Court.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. SCHMECKPEPER:

Q Afternoon, Ms. Harrison.

A Good afternoon.

Q You have a good memory of this case?

A Fairly good, yes.

Q How many attorneys did you work with that represented the applicant in this case?

A Two.

Q And who were those attorneys?

A Dorothy Manigault and Bill Godfrey.

Q Do you remember when Ms. Manigault was appointed?

A I believe it was -- it was after -- I first worked with Mr. Godfrey probably in -- I remember sending in discovery in April of 2008. I have those documents with me, and later with Ms. Manigault where I sent her an offer, and then again with Mr. Godfrey.

Q Mr. Godfrey originally had this case?

A Yes.

Q And then another attorney took it over?

A And then Mr. Godfrey was, I believe, retained again. He was the one who actually tried the case.

Q And you sent discovery in April of 2008?

A Yes, sir. I have copies of that here if the Court would like to see it.

MR. SCHMECKPEPER: Your Honor, may I approach?

THE COURT: Yes, sir.

THE WITNESS: It was April 9, 2008, to Mr. Godfrey. It's a little lengthy.

MR. SCHMECKPEPER: Do you mind if it take that and make it a Court's exhibit and make copies?

THE WITNESS: And then we also sent supplemental discovery, just a couple of extra items, in 2009.

MR. SCHMECKPEPER: Your Honor, may I approach? I'd like to introduce this as State's 1.

(WHEREUPON, State's Exhibit Number 1 was marked for identification.)

THE COURT: All right.

Any objection to State's 1, Mr. Johnson?

MR. JOHNSON: No, sir, your Honor.

THE COURT: All right. State's 1 is in evidence.

(WHEREUPON, State's Exhibit Number 1 was admitted into evidence.)

BY MR. SCHMECKPEPER:

Q When was Mr. Godfrey reappointed, do you remember?

A I believe it was after Ms. Manigault made the 30-year offer to Mr. Hammonds and he turned it down, and then they rehired Mr. Godfrey. I don't know the exact time that that happened. That was between the parties but probably close to trial time.

Q I know Mr. Godfrey is not here to testify. How

long have you known Mr. Godfrey?
A Since 1991 probably or '92.
Q And at that time was he always a criminal defense attorney?
A Yes, he was.
Q As far as -- are you familiar with Mr. Godfrey's general practices?
A Yes. I've tried several murder cases against him. On or about the same time, we tried another case against -- where he was the defense attorney and I was the prosecutor, Brian Sturgess. So, yes, I've tried several cases against him.
Q Did Mr. Godfrey ever plead clients? Did he ever get clients to plead guilty?
A Sure, as all defense attorneys do. I think they weigh out their cases and make their own decisions with their clients' input.
Q Did you ever see him strong-arm his clients?
A No. That's not Mr. Godfrey's demeanor or tactics.
Q As far as Mr. Godfrey's representation during this trial, do you remember what his theory of the case was?
A I think he really stressed the self-defense aspect. I mean that -- Mr. Campbell tried it. I sat second chair because at the same time, like I said, I was trying the Brian Sturgess case. But he really did

push the self-defense aspect, and that's why he got the charge from Judge Miller.

Q I think you said you sat second chair for this trial?

A I did. Originally it was my case, and I sat second chair. Mr. Campbell tried it.

MR. SCHMECKPEPER: Your Honor, I have no further questions.

THE COURT: Thank you.

Mr. Johnson.

MR. JOHNSON: I have no cross-examination.

THE COURT: Thank you.

Thank you very much, Ms. Harrison. You may step down.

All right.

MR. SCHMECKPEPER: Your Honor, the State calls George Campbell.

THE COURT: All right. Mr. Campbell, if you would come around, please.

GEORGE CAMPBELL,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: Please state your full name for the record.

THE WITNESS: George Campbell.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. SCHMECKPEPER:

Q Good afternoon, Mr. Campbell.

A Good afternoon.

Q I just had a couple quick questions about how this trial proceeded. As far as the State's evidence, how many witnesses did you call in this case?

A I don't recall specifically, but two detectives, a medical examiner, Kelvin Harris, who was an eyewitness, and Stephan Brewster.

Q As to Mr. Harris, did he have an unobstructed view of the shooting?

A Yes.

Q Was he able to see the porch of the victim's house?

A Yes. Kelvin Harris lived in a house down the street on the other side, and he was out on his front porch. I know he was able to see the front yard, and he was able to see the subject or the defendant, Mr. Hammonds, and the altercation.

Q Now, Mr. Hammonds has alleged or alleged during the trial, and I think he is alleging today, that there was another person on the front porch with a gun. Did Mr. Harris actually testify that he could see that person with a gun?

A I don't recall specifically, but I'm sure it's in the transcript. That was an extensive part of my cross-examination of Mr. Hammonds.
Q Let's talk about Mr. Brewster. Were there any issues with Mr. Brewster's credibility?
A Yeah. He flipped sides.
Q He flipped sides?
A On the day of trial.
Q And, in fact, you had to treat him as a hostile witness; is that correct?
A That's correct.
Q So is it fair to say that there was no testimony that actually refuted the applicant's version of events, or any testimony that there was -- had some problems with it?
A I'm sorry. If you could rephrase the question, please. The jury -- and this may help your -- the jury was presented with two different factual scenarios, and it basically was whose do you believe, that of Kelvin Harris or the defendant, Cameron Hammonds.
Q And Mr. Godfrey presented the applicant's side to the jury?
A Very thoroughly.
Q And got a jury charge?
A He did.

MR. SCHMECKPEPER: I have no further questions.

THE COURT: All right.

Mr. Johnson.

MR. JOHNSON: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. JOHNSON:

Q Mr. Campbell, with regards to Mr. Harris, he was the eyewitness in the matter; is that correct?

A That's correct.

Q And do you remember how Mr. Harris knew the victim?

A I don't recall if they had any prior association or not.

Q Do you recall whether he lived close to the victim?

A Yes.

Q Okay.

A Well, I take that -- to the victim, yes.

Q Do you recall whether Mr. Harris was cross-examined -- you may not, but do you recall whether Mr. Harris was cross-examined by Mr. Godfrey on that issue of the closeness within which they lived and whether or not he knew the victim?

A I don't recall.

Q Okay. Now, with regards to the plea offer, what

was it?
A I believe it was 30 years, which is the minimum for murder.
Q Minimum for murder. And how late was the plea offer open before the trial took place?
A I don't recall. Generally, the practice of the solicitor's office at that time was that we would bond card the defendant in one final time prior to going to trial, which I believe was followed in this case. At that time, Ms. Manigault was representing Mr. Hammonds, and my recollection of the matter was he absolutely refused to take any plea deals, so we docketed the case for trial the following month.
Q Now, with regards to Mr. Godfrey, I know Ms. Harrison stated that she didn't know, but do you remember how close to trial that he reappeared on the matter?
A That he reappeared on the matter?
Q Yes.
A I don't recall specifically, but it would have been at some point in that time frame in the fall of 2009. We went to trial, I believe, November 30th.
Q Now, is it your testimony that if Mr. Hammonds, for example, showed up on the day of trial and said, "I'll take 30 years for murder," would you have

declined his plea?
A That would not have been up to me based on solicitor's office policy at the time. The policy would have been that I would have gone and sought approval from the deputy solicitor.
Q Do you believe it would have been approved?
A I don't know.
Q But you would have definitely accepted a plea to murder?
A With no recommendation to sentencing?
Q Yeah.
A I don't know. I would have -- again, the policy of the solicitor's office at the time was once the case is slated for trial, we had to seek approval before negotiating a plea.
Q But in this instance was there any discussion after Mr. Godfrey came on board about anything of that nature?
A I can't recall.
MR. JOHNSON: I have no further questions.
THE COURT: Redirect, Mr. Schmeckpeper?
MR. SCHMECKPEPER: I have no further questions.
THE COURT: Thank you.
Thank you very much, Mr. Campbell. Thank you for being with us this afternoon. You may step down.

THE WITNESS: Yes, sir. All right.

THE COURT: Mr. Schmeckpeper.

MR. SCHMECKPEPER: Your Honor, the State rests.

THE COURT: All right.

Anything in reply?

MR. JOHNSON: No, sir, your Honor.

THE COURT: All right. Brief closings or did y'all want to do any brief closings?

MR. JOHNSON: Sure, your Honor. And if it makes it -- see fit to your Honor before making a decision, if you may take it under consideration. But in any case, your Honor, my client has set forth basically two basic grounds for the ineffective assistance of counsel. One had to do with investigation and failing to ask for a continuance for more time to prepare.

My client has testified, and his testimony is basically uncontested, that he met with Mr. Godfrey one time before trial. And for a murder trial, for a trial this serious, I would presume that to be insufficient time to properly prepare for the matter. He also was retained for a second time just five days before.

Now, I know he represented him prior, but there had been a great deal of time in between those two times, and if his memory is as good as mine, I believe that they needed more time together to prepare.

My client was on the streets. He was available. He testified that he told -- he was told to basically spend time with his family and no further meetings were required.

So, your Honor, the first thing that my client alleged, that he should have asked for a continuance to have more time to prepare and he was prejudiced by it, basically, your Honor, I guess the proof is in the pudding as far as he was found guilty in certain aspects of trial they weren't prepared for.

Your Honor, in a related issue was self-defense. Your Honor, my client states that it was his understanding after conversations with Mr. Godfrey that this was a self-defense case. Now, I don't know that they discussed the elements specifically. I think, based upon what Mr. Hammonds' story is, that he felt personally that it was self-defense, but as your Honor knows, what we feel maybe defending ourselves and what the law requires, two different things. And one of the requirements of which is bringing about the difficulty.

Mr. Hammonds testified that he found out later that bringing about the difficulty would prevent a jury from finding him not guilty on the basis of self-defense. And if he had understood that, he may have otherwise tried to accept a plea or otherwise end

the matter.

But in any case, your Honor, those discussions weren't had, and we ask you to consider my client's application for post-conviction relief at this time.

THE COURT: Thank you, Mr. Johnson.

MR. SCHMECKPEPER: Thank you, your Honor. May it please the Court. With regards to a failure to request a continuance, I'd simply submit that the applicant has failed to meet his burden. I understand counsel isn't here today through no fault of his own. There's also a strong presumption that counsel rendered effective assistance.

With respect to applicant's allegations that counsel didn't prepare, my first response to that would be it's speculative because he wasn't with counsel at the time. Counsel had these files -- had this file for over a year.

My second response is that it's not supported by the record. The record indicates counsel tried an excellent case. He attacked the credibility of the only witness during the actual trial, and he convinced the trial judge to give a charge on self-defense that the trial judge was, admittedly, reluctant to give.

And that kind of brings me to my next point. The applicant's testimony here is clear. The applicant

doesn't think he is guilty of murder. He didn't think he was guilty of murder at the time of trial, and he still doesn't think he's guilty of murder. The applicant, at the time of trial, didn't think that he brought on the difficulty or didn't think that he started this altercation. You know, I think his current allegation that he would have pled guilty if he had known that he couldn't get a self-defense charge if he had brought on the difficulty is not credible in light of the fact that he got self-defense.

Your Honor, respectfully, it sounds like applicant went to trial thinking he was innocent, got a sentence that, you know, for obvious reasons he wasn't happy with and now wishes he can turn back the clock. That's not what PCR is for, your Honor, and on those grounds, I would rest.

THE COURT: Thank you. Thank you very much.

All right. I'll take it under advisement. 30 days sufficient in which to submit the orders, Mr. Johnson, Mr. Schmeckpeper?

MR. JOHNSON: Yes, sir, your Honor.

MR. SCHMECKPEPER: Yes, sir, your Honor.

THE COURT: All right. Just e-mail them simultaneously to each other and to my law clerk. Thank you very much.

Good luck to you, Mr. Hammonds.

(WHEREUPON, the hearing ended at 2:36 p.m.)

END OF REQUESTED TRANSCRIPT OF RECORD

Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 19th day of April 2016.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 3, 2016

Diane L. Marcengill

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	THIRTEENTH JUDICIAL CIRCUIT
Cameron Hammonds, S.C.D.C. No. 338191	C.A. No. 2014-CP-23-3379
Applicant,	ORDER OF DISMISSAL (with prejudice)
v.	
State of South Carolina,	
Respondent.	

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This matter comes before the Court by way of a post-conviction relief (PCR) application filed on June 17, 2014. Respondent filed its Return on October 21, 2014. An evidentiary hearing into the matter was convened on April 19, 2016, at the Greenville County Courthouse. Applicant was present and testified in his defense. The prosecuting solicitors – Sylvia Harrison, Esquire, of the Greenville County Solicitor's Office, and George Campbell, Esquire – also testified.[1] Applicant was represented by Brian Johnson, Esquire. Respondent was represented by Patrick Schmeckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the November 2007 term of General Sessions for murder (2007-GS-23-9564, count 1) and possession of a weapon during commission of a violent crime (2007-GS-23-9564, count 2). E.P. "Bill" Godfrey, Esquire represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On December 1, 2009, the Honorable Edward W. Miller sentenced the Applicant to concurrent terms of life

[1] Applicant's trial counsel was not available to testify as a result of serious health concerns. PCR Tr. p. 4.

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imprisonment for murder and 5 years for possession of a weapon during commission of a violent crime.

A notice of appeal was filed at the South Carolina Court of Appeals. LaNelle C. DuRant, Esquire, of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Hammonds, Op. No. 2012-UP-440 (S.C. Ct. App. filed July 18, 2012). The South Carolina Supreme Court denied the Applicant's subsequent petition for writ of certiorari by order dated March 19, 2014. The Remittitur was sent on April 1, 2014.

Allegations

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of trial counsel.
   a. Failed to "object or file a motion that the Court did not pronounced sentence for murder and possession of a weapon during commission of a violent crime from the bench."
   b. Advised the Applicant to reject the 30-year plea offer.
   c. Failed to "object or make motions to the unconstitutional jury charge of Criminal Intent, I as much as, the court failure to charge criminal intent to murder resulted in a conviction of lees than proof of the elements that required by law for murder." (emphasis in original)

At the evidentiary hearing, Applicant proceeded on allegations that counsel was ineffective for failing to adequately prepare; for advising him that he was eligible for a charge on self-defense; for failing to inform him that he was not likely to be acquitted on self-defense; and failing to move for a sentencing reconsideration.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony

prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient

performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Failure to Adequately Prepare

Applicant first alleged counsel was ineffective in that he did not have time to perform a reasonable investigation. He said counsel should have requested a continuance to better prepare for trial on the self-defense mitigation evidence. This court finds Applicant has failed to meet his burden with respect to this allegation.

First, Applicant's self-serving testimony regarding the amount of time spent with counsel is not credible. Bill Godfrey, Applicant's actual trial counsel, was also his first attorney in this case. PCR Tr. p. 12, l. 22-25; p. 21, l. 17-21. The Solicitor's Office initially sent discovery to Mr. Godfrey. PCR Tr. p. 21, l. 22 - p. 23, l. 3. Thereafter, Applicant was appointed one or more different attorneys, and Mr. Godfrey was apparently relieved.[2] PCR Tr. p. 12, l. 24 - p. 13, l. 7; p. 21, l. 17-21. Shortly before trial, Applicant retained Mr. Godfrey to represent him again. Id.

This Court finds Applicant has failed to meet his burden to prove counsel was not prepared to go to trial.[3] Counsel handled this case for more than the five days alleged by Applicant, and received discovery from the Solicitor's office. Applicant cannot competently speculate as to the extent of counsel's preparations. Moreover, even assuming Applicant's testimony regarding the number of meetings was true, brevity of time spent in consultation with Applicant, without more, does not establish that trial counsel was ineffective. Harris at 75, 659 S.E.2d at 145 (*citing* Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional

[2] It is not entirely clear from the record how Mr. Godfrey's initial representation of Applicant came to an end.
[3] Even Applicant testified that counsel never indicated to him that he needed a continuance or was not ready to take his case to trial. PCR Tr. p. 17, l. 18-20.

judgment in making all significant decisions in the case. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (*citing* Strickland, supra). In this Court's mind, Applicant has failed to overcome that presumption, particularly when taking into account the fact that counsel was a seasoned criminal defense attorney with over two decades of experience at the time he tried this case.[4] See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (reversing PCR judge's finding that counsel's preparation inadequate, citing counsel's experience as a criminal defense attorney). Accordingly, there is no credible evidence or testimony in the record in support of Applicant's assertion that counsel was not adequately prepared for trial. This Court therefore finds Applicant has failed to meet his burden to show deficiency.

Regardless, Applicant has failed to show prejudice resulting from counsel's alleged failure to adequately prepare. See Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1994) (noting mere speculation and conjecture is insufficient to substantiate allegation that counsel's deficient performance was prejudicial). Applicant has not presented any evidence as to how additional preparation would have affected the outcome of the proceeding; instead, he has simply alleged that counsel should have prepared more. This allegation is therefore denied and dismissed.

Self-Defense Advice

This Court further finds Applicant has failed to meet his burden with respect to his allegations that counsel was ineffective in advising him that he was eligible for self-defense.

i). Deficiency

a. Advice on whether Applicant was eligible for a charge on self-defense

[4] Sylvia Harrison, of the Greenville County Solicitor's Office, testified that she had known counsel since 1991 or '92, and that he had been a criminal defense attorney that entire time.[4] PCR Tr. p. 22, l. 25 - p. 23, l. 5.

Applicant alleged counsel was ineffective in telling him he qualified for the elements of self-defense. Applicant said that since his conviction, he learned that he did not qualify for self-defense because his "showing up to the [victim's] property asking some questions brought on a difficulty to the situation." PCR Tr. p. 8, l. 15-18. Applicant has failed to meet his burden. First, Applicant did indeed qualify for a charge on self-defense, as evidenced by the fact the trial judge charged the jury on self-defense prior to deliberations. Tr. Day 2, p. 77, l. 13 - p. 79, l. 8. Moreover, after independently reviewing the facts of the case, this Court finds Applicant was entitled to a charge on self-defense based on his testimony at trial.

If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge's refusal to do so is reversible error. State v. Frazier, 401 S.C. 224, 233, 736 S.E.2d 301, 306 (Ct. App. 2013). A person is justified in using deadly force in self-defense when: 1) the defendant is without fault in bringing on the difficulty; 2) the defendant ... actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger; 3) if the defense is based upon the defendant's actual belief of imminent danger, a reasonable man of ordinary firmness and courage would have entertained the same belief; and 4) the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011) (internal citations omitted).

Based on Applicant's trial testimony, this Court finds counsel correctly informed him he was eligible for self-defense. Applicant testified at trial that on the night of the murder his brother was robbed and badly beaten. Tr. Day 2, p. 14-18. Applicant found the car and reported it to law enforcement. Id. Applicant said he returned to that spot later, while on his way to

another location. Id. Applicant saw two men in the yard, and asked why he robbed his little brother. Tr. Day 2, p. 22. Applicant testified that following a brief verbal exchange, the man on the porch pulled a gun. Tr. Day 2, p. 23. He said the man in the yard also tried to pull his gun, but "fumbled" it. Tr. Day 2, p. 23-24. Applicant said he caught the fumbled gun, pulled his gun, and then turned and started running and shooting. Tr. Day 2, p. 24. Applicant said he thought he was going to be killed. Tr. Day 2, p. 25. Applicant's testimony at the PCR hearing was substantially similar. PCR Tr. p. 11-20.

Taken as true, this Court finds Applicant was eligible for a charge on self-defense. Specifically concerning the first element, if the jury believed Applicant's testimony, it could have reasonably inferred that he did not bring about the difficulty – he said that he simply stopped at the victim's house on his way somewhere else; that he only intended to speak with the victim; and that he did not pull out his gun until after the victim and the man on the porch drew theirs. Compare State v. Slater, 373 S.C. 66, 71, 644 S.E.2d 50, 53 (2007) (finding defendant was not without fault in brining on the difficulty where he was unlawfully in possession of a weapon, and carried the cocked weapon, in open view, into an already violent attack in which he had no prior involvement). Accordingly, Applicant has failed to show counsel was deficient in advising him that he was eligible for self-defense.

b. Advice on whether self-defense claim was likely to succeed

Applicant also appears to have alleged that counsel was ineffective for failing to advise Applicant that he was not likely to be acquitted for murder on self-defense grounds. This Court finds he has failed to meet his burden. As discussed above, counsel correctly informed Applicant that he was eligible for self-defense. Assuming, for the sake of argument, that Applicant's depiction of counsel's advice to proceed to trial is believable, this Court finds the

advice itself was not objectively unreasonable. PCR Tr. p. 17, l. 12. Applicant had a viable self-defense claim, particularly in light of the discrepancies in the State's case. One of the State's key witnesses, Stephon Brewster, recanted his prior statement to law enforcement, and refused to implicate Applicant on the stand. Tr., Day 1, p. 95-107. The State's other eyewitness, Kelvin Harris, testified that he could not see the porch from his vantage point during the shooting, and was therefore unable to fully refute Applicant's self-defense claim. Tr., Day 1, p. 116, l. 4-10; 119, l. 7-11; 131, l. 3-9. As a result, the portion of Applicant's testimony that he drew his gun only after an unknown assailant on the porch pointed a weapon at him was practically unrefuted at trial. Tr. Day 2, p. 23.[5]

Because Applicant has failed to show counsel's alleged advice was objectively unreasonable, this Court finds he has failed to meet his burden to prove deficiency. This allegation is therefore denied and dismissed.

ii.) Prejudice

Applicant has failed to show prejudice resulting from counsel's alleged deficient performance. The Supreme Court of the United States has held that an attorney's advice on whether to reject a plea offer is subject to a Strickland-type ineffective assistance claim. Lafler v. Cooper, 132 S.Ct. 1376, 1383, 182 L.Ed.2d 398 (2012). In order to show prejudice on such a claim, an applicant must show that there is a "reasonable probability that the plea offer would have been presented to the court (i.e., that the [applicant] would have accepted the plea and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's

[5] Counsel brought both of these points up during his closing argument. He reminded the jury that Applicant "said there was a fella on the porch," and Mr. Harris "could not see the porch because he was sitting back from an angle. He didn't know who or what was on the porch." Tr., Day 2, p. 64, l. 6-13. He also highlighted that "Mr. Brewster says he didn't tell the police the truth when he made his statement" because he was "trying to get the heat off himself." Tr. Day 2, p. 60, l. 3-6.

terms would have been less severe than under the judgment and sentence that in fact were imposed." Id. at 1385.[6]

Applicant has failed to show counsel's advice induced his decision to proceed to trial – the evidence and testimony in the record indicates Applicant rejected the State's plea offer prior to hiring counsel. One of Applicant's previous attorneys conveyed an offer for thirty (30) years. PCR Tr. p. 13, l. 8-11; p. 22, l. 20-22. Applicant rejected that offer and subsequently hired counsel. Id. As a result, even assuming Applicant credibly testified that he would have chosen to take that plea offer but for counsel's alleged deficient performance, he has failed to establish – as is his burden – that the offer was actually still available at that time.[7]

Regardless, this Court also finds Applicant's self-serving testimony is not credible. See Merzbacher v. Shearin, 706 F.3d 356 (4th Cir. 2013) (to demonstrate a reasonable probability that he would have accepted a plea, a petitioner's testimony that he would have done so must be credible). Applicant's statement that he would have taken a favorable plea deal is "the type of testimony ... subject to heavy skepticism." See United State v. Day, 969 F.2d 39, 46 n. 9 (3d Cir. 1992) ("[C]ourts should be wary of this sort of claim because defendants will always want the best of both worlds: the chance at acquittal at trial, yet the chance to plead guilty if the trial defense fails."). This Court also takes into account that Applicant rejected[8] the plea offer conveyed by his previous attorney, and has continuously maintained that he believes the killing

[6] The proper remedy, where an applicant has shown that but for counsel's deficient performance there is a reasonable probability he and the trial court would have accepted the guilty plea, is to order the State to reoffer the plea agreement, and then, if petitioner accepted the offer, the state trial court could exercise its discretion regarding whether to resentence. Id. at 1391.

[7] Mr. Campbell – the lead prosecutor on the case – was unable to recall how late in the process the plea offer was revoked. PCR Tr. p. 27, l. 25 - p. 28, l. 13. Mr. Campbell testified that he would not have had the authority to reopen the offer once it had expired without permission from his supervisors. PCR Tr. p. 28, l. 23 - p. 29, l. 15.

[8] According to Mr. Campell's credible testimony, Applicant "absolutely refused" to take any plea deals. PCR Tr. p. 28.

was justified.[9] As a result, Applicant has failed to meet his burden to show prejudice. This allegation is therefore denied and dismissed.

Failure to ask for Sentencing Reconsideration

Applicant also alleged, orally at the evidentiary hearing, that counsel was ineffective for failing to move for reconsideration. Applicant has not met his burden. As outlined above, there is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (*citing* Strickland, supra). Applicant has not presented any evidence that counsel was deficient in failing to move for reconsideration. Additionally, whether or not to grant a motion for reconsideration is within the discretion of the sentencing judge. State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). In order to show prejudice arising out of failure to file a motion for reconsideration, Applicant must show a reasonable probability that the outcome of the proceeding would have been different – that he would have received a more favorable sentence. Strickland, supra. At the evidentiary hearing, Applicant's sole justification for sentence reconsideration appears to be that he had no prior criminal record, and was sentenced to life imprisonment. PCR Tr. p. 14, l. 4-11. However, the trial judge heard from counsel during sentencing that Applicant had no prior criminal background. Tr. Day 2, p. 88, l. 24 - p. 89, l. 1. 11. Because Applicant has failed to present any evidence that there was a reasonable probability that a motion to reconsider his sentence would have actually been granted, this allegation is denied and dismissed.

[9] See Merzbacher, supra (upholding state court's finding that petitioner's self-serving testimony that he would have accepted guilty plea but for counsel's deficient performance was not credible in light of, *inter alia*, petitioner's continued insistence that he was innocent).

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

[*Signature follows*]

CONCLUSION

Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 5 day of August, 2016.

R. KNOX MCMAHON
Presiding Judge
Thirteenth Judicial Circuit

Columbia, South Carolina

WITNESSES

T Conroy / Alvert / S

Greenville Police Department

7/2/2007

ARREST WARRANT NUMBER

J482678 and J482679

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

12/1/09
Date:

DOCKET NO. 2007-GS-23- SPH 009564

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2007

THE STATE

GUILTY

vs.

CAMERON HAMMONDS

✓ ✓ 0116/0549 **Indictment for**

MURDER
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on November 21, 2007 the Grand Jurors of Greenville County present upon their oath:

COUNT I - MURDER

That CAMERON HAMMONDS did in Greenville County, on or about the 21st day of June, 2007, unlawfully and with malice aforethought kill LEE KANARD by means of shooting him numerous times and that LEE KANARD died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II – POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That CAMERON HAMMONDS did in Greenville County, on or about the 21st day of June, 2007, possess or visibly display a gun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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

Byleris D Harrison
SOLICITOR