

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

ORIGINAL
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRAVIS JACQUEESE MCFADDEN,

APPELLANT

APPELLATE CASE NO 2016-002531

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF SUMTER	)	GENERAL SESSIONS COURT
-----	)	2012-GS-43-0781

STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
TRAVIS JACQUEESE MCFADDEN,	)	
DEFENDANT	)	
-----	)	

NOVEMBER 18, 2013
SUMTER, SOUTH CAROLINA

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG

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

EDDIE DONNARD, ESQUIRE
ASSISTANT SOLICITOR

SHARON B. CLARK, ESQUIRE
ASSISTANT PUBLIC DEFENDER

MARGARET SULLIVAN,
CIRCUIT COURT REPORTER

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I N D E X

PLEA HEARING 3

1 * * * November 18, 2013 * * *

2 _____

3 MR. DONNARD: Please the court, Your Honor?

4 THE COURT: Yes, sir.

5 MR. DONNARD: Standing before you is Mr. Travis
6 Jacqueese McFadden. He's represented by Sharon Clark
7 from the Sumter County Bar. He is pleading guilty on
8 indictment number -- I am informed he's going to plead
9 guilty on indictment number 2012-0781. He's pleading
10 guilty -- that is the exact same, for your
11 convenience --

12 THE COURT: Okay.

13 MR. DONNARD: -- it's the exact same as the
14 previous plea.

15 THE COURT: All right.

16 MR. DONNARD: For the record, he's pleading guilty
17 to involuntary manslaughter.

18 THE COURT: Involuntary, not voluntary?

19 MR. DONNARD: No, sir. I apologize, voluntary
20 manslaughter -- thanks for catching that -- on a
21 reduced charge from a murder charge. That's count one
22 of the indictment. He is pleading guilty to strong
23 armed robbery. That is a reduction from armed robbery
24 on count seven of the indictment.

25 He's pleading as charged to criminal conspiracy,

1 which is count eight of the indictment. I'm handing up
2 his sentencing sheets and a copy of his indictment.

3 THE COURT: All right. Thank you.

4 (Whereupon, the defendant is sworn.)

5 MR. DONNARD: Your Honor, if I may, he's pleading
6 on the voluntary manslaughter under the hand of one is
7 hand of all -- hand of all theory. I tell you that
8 because the person who actually shot the deceased has
9 already pled guilty before you.

10 THE COURT: Right. Ms. Clark, you represent
11 Travis Jacquese -- how do you pronounce that? How do
12 you say it?

13 THE DEFENDANT: Jacquese.

14 THE COURT: Jacquese McFadden under indictment
15 2012-GS-43-781, counts one, seven and eight; is that
16 correct?

17 MS. CLARK: That's correct, Your Honor.

18 THE COURT: Have you had an opportunity to explain
19 to Mr. McFadden the charges contained in the
20 indictment, his constitutional rights, and the
21 consequences of his plea?

22 MS. CLARK: Yes, sir.

23 THE COURT: Do you think he's understood what
24 you've told him?

25 MS. CLARK: Yes, sir.

1 THE COURT: And does he intend to plead guilty or
2 not guilty?

3 MS. CLARK: Guilty, Your Honor.

4 THE COURT: And do you agree with his decision?

5 MS. CLARK: Yes, sir.

6 THE COURT: Okay. And based upon your
7 investigation of the facts and the circumstances, do
8 you believe that if this case were to go to trial under
9 the theories that they have, that there would be a
10 substantial likelihood he'd be found guilty beyond a
11 reasonable doubt?

12 MS. CLARK: Yes, sir.

13 THE COURT: And, Mr. McFadden, I need to ask you a
14 series of questions to make sure you're entering this
15 plea freely and voluntarily, knowingly and
16 intelligently. The first question I have is, are you
17 under the influence of alcohol or drugs today?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you taking any medications that
20 would cloud your judgment?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you aware of any physical,
23 emotional or nervous condition that would keep you from
24 understanding what's happening today?

25 THE DEFENDANT: No, sir.

1 THE COURT: Now, the indictment that you're
2 pleading guilty under, the charges of count one, seven
3 and eight -- count one, originally the charge was
4 murder, which they have reduced to voluntary
5 manslaughter. It says that Jimonte Jamal Gilbert,
6 Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis
7 Major, Tobias Lorland McFadden and Travis Jacquese
8 McFadden, and Timothy Tyreese Singletary did in Sumter
9 County on or about December 26, 2011, wilfully and
10 feloniously and intentionally killed the victim,
11 Jayshwan Thompson, with malice aforethought either
12 expressed or implied, by means of shooting the victim,
13 Jayshwan Thompson, and the victim did die as a
14 proximate result thereof on December 26, 2011 in Sumter
15 County in Violation of Section 16-3-10 of the South
16 Carolina Code of Laws 1976 as amended.

17 As -- in reference to you, is what is stated in
18 this indictment the truth?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Under count seven, it reads that on
21 December 26, 2011 in Sumter County, South Carolina, at
22 10295 Lynches River -- River Road, Lynchburg, by use of
23 force, threats or intimidation, and while armed with a
24 deadly weapon, to wit a handgun, the defendant Jimonte
25 Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome

1 McFadden, Travis Major, Tobias Lorland McFadden, Travis
2 Jacquese McFadden and Timothy Tyreese Singletary Jr.,
3 did take and carry away goods and/or monies from the
4 person or immediate threat of Bahader El-Sokkary, the
5 owner of Money Saver Convenience Store with the intent
6 to permanently deprive him of possession thereof in
7 violation of Section 16-11-330(a) of the South Carolina
8 Code of Laws, 1976, as amended.

9 And as in reference to you in this charge, and
10 this is one that has been reduced to strong armed
11 robbery, is what's stated in this indictment the truth?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Count eight reads that
14 Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert
15 Gerome McFadden, Travis Major, Tobias Lorland McFadden,
16 Travis Jacquese McFadden, and Timothy Tyreese
17 Singletary, Jr. did in Sumter County on or about
18 December 26, 2011, combining with each other, and/or
19 with other persons for the purpose of accomplishing a
20 criminal or unlawful object, or object that is neither
21 criminal nor unlawful, through criminal or unlawful
22 means; to wit, armed robbery, which we now know is
23 strong armed robbery, in violation of section 16-70-410
24 of the South Carolina Code of Laws, 1976 as amended.
25 As to what's stated in count eight, is it the truth?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Solicitor, what are the
3 facts?

4 MR. DONNARD: Your Honor, on or about December 26,
5 2011 at 10295 Lynches River Road at what is known as
6 the Money Saver Convenience Store, and that is in
7 Sumter County, Mr. McFadden -- this defendant, Mr.
8 McFadden, known as Travis McFadden, did enter into the
9 store, was in possession of a gun at some time --
10 during the store -- during an armed robbery that
11 occurred at that store, Judge.

12 It is our contention that there was a decision
13 made by six persons to rob a -- carjack a car from the
14 store. But while they were at the side of the road
15 waiting, they decided to turn what was a carjacking
16 into an armed robbery of the store. That armed robbery
17 was effected.

18 Mr. Travis McFadden, this defendant, put on a
19 disguise on his face. He entered the store. He became
20 armed with a handgun during that time.

21 The victims in this case, Judge, are Mr. Aaron
22 Smalls, who is present in the courtroom. He was
23 actually shot in the back after leaving the store. He
24 approached -- he came to the store in another car that
25 was completely unrelated to the robbery. Entered, saw

1 a robbery was going on, turned around to leave and was
2 shot in the back. His contention is this is the
3 defendant that shot him. Mr. Smalls believes this is
4 the defendant that shot him. There's a video of the
5 robbery, and that would -- that's what law
6 enforcement's contention is the video would portray as
7 well.

8 Mr. Bahar -- Bahader El-Sokkary is present in
9 the courtroom as well. He was the -- the clerk, -- and
10 he's actually the owner of that store. He was taken at
11 gun point. There was a gun battle or a -- a shooting
12 that occurred. I don't think "gun battle" is the right
13 word for it, but it was certainly Mr. -- the clerk and
14 the robbers were shooting at each other across the
15 countertop. The clerk, with his own gun, which was
16 subsequently taken from him and used against him.
17 Ultimately Mr. Smalls was shot.

18 There's another victim in the room named Siera
19 Douglas. She was a driver of the car Mr. Smalls exited
20 from. And the other victim, Mr. Jayshawn Thompson, was
21 in -- Ms. Douglas is also present in the courtroom.
22 She, in a panic, drove their car into the ditch, and
23 the persons who were engaged in the armed robbery then
24 approached the car that was in the ditch. Mr. Jayshawn
25 Thompson exited that car, was ultimately shot by a

1 handgun -- not by this defendant, but by another
2 defendant we believe. But we're allowing this Travis
3 McFadden to plead guilty to the voluntary manslaughter
4 under the hand of one is hand of all theory because he
5 was an active participant in the armed robbery and the
6 subsequent shooting of Mr. Jayshawn Thompson.

7 We do believe that we could prove that there was
8 a conspiracy that existed amongst all six persons in
9 order to effect this armed robbery together.

10 THE COURT: All right. Do you agree with the
11 facts as stated by the solicitor?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you, in fact, guilty of each of
14 these charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, do you understand that on the
17 voluntary manslaughter charge, that I can sentence you
18 up to 30 years in jail?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And that is a violent, most serious
21 offense, which means that you -- this would be one of
22 your strikes, and that you will have to serve at least
23 85 percent of whatever I sentence you to?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that on the robbery

1 -- common law robbery, strong armed robbery, that I
2 could sentence you up to 15 years in jail?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you understand on the
5 conspiracy charge, that I could sentence you up to five
6 years in jail?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that if I decide
9 to run these consecutively, that I could sentence you
10 to a total of 50 years; do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, so you fully understand the
13 charges against you and the consequences of your plea?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Now, do you understand as
16 well that when you plead guilty, you waive certain
17 constitutional rights. The first right you waive is
18 your right against self-incrimination; not in this
19 courtroom or any other courtroom in this great nation
20 would you ever be required to come in and testify
21 against yourself. However, when you plead guilty,
22 you're doing that; do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So, do you wish to waive your right
25 against self-incrimination at this time?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. You're also waiving your
3 right to have a jury trial. At a jury trial, I would
4 instruct the jury that they were to presume that you
5 were innocent, that -- and the twelve people that we
6 selected from Sumter County would listen to the
7 evidence. And only after they have determined that you
8 were guilty beyond a reasonable doubt, could you be
9 convicted. And that during that trial, if you decided
10 not to take the stand, I'll instruct them they couldn't
11 consider that against you.

12 Further, if there were any legal defenses you
13 had, you could raise them during that trial. Further,
14 Ms. Clark could cross examine the witnesses presented
15 by the State. And if y'all felt it was in your best
16 interests, she could call witnesses on your behalf.
17 But when you plead guilty, the State doesn't have to
18 prove anything, and you don't get to ask any questions
19 about the evidence; do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: So do you wish to waive your right to
22 have a jury trial and confront the witnesses against
23 you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Has anybody threatened you

1 in any way to get you to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anybody promised you anything to
4 get you to plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Is the only reason that you're
7 pleading guilty is because you are, in fact, guilty of
8 voluntary manslaughter, common law robbery, and
9 conspiracy?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now, are you satisfied with the
12 services of Ms. Clark?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Has she done everything that you've
15 asked her to do?

16 THE DEFENDANT: Yes, sir, she did every bit.

17 THE COURT: And she's been available to answer all
18 of your questions?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And has she done anything that you
21 wish she had not have done?

22 THE DEFENDANT: No, sir.

23 THE COURT: And do you need any more time to speak
24 with her at this time?

25 THE DEFENDANT: No, sir.

1 THE COURT: Now, have you understood all my
2 questions today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you have any questions for the
5 court?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you understand that -- has anybody
8 suggested to you how to answer these questions that I'm
9 asking you?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. And you understand that if
12 you change your mind about your decision to plead
13 guilty or the sentence that I give you, that you only
14 have ten days in which to file an appeal?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Mr. McFadden, under
17 indictment 2012-GS-43-781, under count one, which has
18 been downgraded to voluntary manslaughter from murder;
19 how do you plead, guilty or not guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: Under indictment 2012-GS-43-781, count
22 seven, which was originally indicted as armed robbery,
23 which has been reduced to strong armed robbery; how do
24 you plead, guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: And as to the criminal conspiracy, how
2 do you plead, guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: I find there's a substantial factual
5 basis for the plea. I find this defendant has entered
6 into it freely, voluntarily, knowingly and
7 intelligently. He has had the advice of counsel, whom
8 he says he is well pleased. I will accept the plea.

9 What is his criminal history?

10 MR. DONNALD: Your Honor, he has a conviction for
11 criminal sexual conduct with a minor second degree in
12 2007. He has a conviction in 2011 for petit larceny
13 less than \$2,000.

14 THE COURT: Was he out on probation or anything
15 like that on this charge?

16 MR. DONNALD: Your Honor, I don't have that
17 information.

18 THE COURT: Mr. McFadden, is that a correct
19 statement of your prior criminal actions?

20 THE DEFENDANT: Yes, sir. I was on probation.

21 THE COURT: You were on probation at the time this
22 was committed?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Is there anybody here from the
25 probation department?

1 MR. DONNARD: No, sir. I don't believe so, Your
2 Honor.

3 MS. CLARK: Probation is here.

4 THE COURT: Yes, sir.

5 PROBATION AGENT: Judge, I'm not sure -- I don't
6 have our computer with me, but I --

7 THE COURT: He tells me he thought he was on
8 probation at the time he committed this offense; can
9 you confirm that for me before I sentence him?

10 PROBATION AGENT: Sir?

11 THE COURT: Can you confirm that with me prior to
12 sentencing?

13 PROBATION AGENT: Yes, sir, I can.

14 THE COURT: All right. Thank you. All right.
15 Ms. Clark.

16 MS. CLARK: Yes, sir, may it please the court.

17 THE COURT: Yes, ma'am.

18 MS. CLARK: His family is telling me he wasn't on
19 probation --

20 THE COURT: Okay.

21 MS. CLARK: -- but I -- it wasn't a charge that
22 was in Sumter County, I don't believe as well, Your
23 Honor.

24 Mr. McFadden is 23 years of age. And as you
25 probably heard, most of these -- these young men, they

1 knew each other. And he has -- he's graduated from
2 high school. He went to [REDACTED] High School. He was
3 working at roofing companies, Singletary Roofing
4 Company. So at the time of this incident, he was
5 employed.

6 He went out with them. And, Your Honor, this
7 transpired -- he's expressed to me from the very
8 beginning, Your Honor -- even though he did not give a
9 statement -- from the very beginning he has expressed
10 to me not only his remorse that this happened, but his
11 willingness to plead to what has gone on, and I think I
12 expressed that to the Solicitor from the very
13 beginning.

14 So he -- and even during this, Your Honor, we've
15 gone back and forth. I've explained to him what the
16 hand of one hand of all is, and how even if you don't
17 pull a trigger, your actions cause a result, then you
18 can be held accountable for it.

19 He has maintained to me that he did not pull a
20 trigger. And I know that the solicitor said --

21 THE COURT: Now, there was a -- I think the
22 statement was that he pulled the trigger on Mr. Smalls;
23 is that correct?

24 MS. CLARK: That's -- that's correct. That's what
25 they're saying, Your Honor, but he -- he maintains to

1 me that he has -- he did not. I mean, he has been
2 forthright, I think, from the very beginning --

3 THE COURT: Are you sure you want him to plead
4 guilty?

5 MS. CLARK: Well, he's --

6 THE COURT: I mean, if he's saying he didn't do
7 it.

8 MS. CLARK: Your Honor --

9 THE COURT: You're telling me now that he didn't
10 --

11 MS. CLARK: Well, he's pleading guilty under the
12 hand of one is the hand of all.

13 THE COURT: Okay.

14 MS. CLARK: He understands what that means. I
15 just wanted to point out, you know, we're not trying to
16 nitpick it, I just wanted you to understand what he
17 said to me thus far. He -- and he understands that he
18 has to pay for this crime. He's willing to pay for it.
19 He's very sorry, very remorseful.

20 He was in school, he was in tech school. He
21 should have been continuing on with that and he knows
22 that. He knows that this has been a mistake that's not
23 only ruined lives -- their lives, the victims' lives,
24 but it's ruined his as well. You understand, he knows
25 that there are long standing repercussions for this,

1 for everybody, and he is extremely sorry.

2 While he -- I should point out to the court as
3 well, he's been incarcerated since March of 2012 and
4 has not made bond. And even though, I think, the bond
5 was initially denied, he hasn't asked me to seek a bond
6 reduction or any of that, Your Honor, because he knew
7 he would have to pay for what he did. And he was
8 willing to do that again, like I said, from the
9 beginning.

10 While he's been incarcerated for this, his
11 mother passed, so it's been a difficult situation for
12 him so he knows that he's losing valuable time that he
13 could have had with his family. And, again, he's just
14 very, very sorry. He's not married. He doesn't have
15 any children.

16 We're asking the court to consider giving him a
17 sentence that's going to allow him at some point to
18 resume his life, and to try to be a productive person
19 in society. I think this is what he wants to do.
20 Again, he wants -- he's sorry and he -- he wants to pay
21 for what he did. He understands that this whole
22 situation got grossly out of hand. It shouldn't have
23 happened in the first place.

24 His family is here. It's the same family you
25 just saw, Mr. McFadden here to speak -- anybody who

1 might want to speak. His brother is here and has been
2 in contact with me, and I think they would like to
3 speak.

4 THE COURT: All right. Certainly. Please state
5 your name for the record.

6 MR. MCFADDEN: Johns (ph) McFadden. I'm Travis'
7 baby brother. Our mama just recently died. None of
8 this is easy. I mean, my brother was --

9 THE COURT: You've got to speak into the
10 microphone. I've got to hear you.

11 MR. MCFADDEN: My brother was there through thick
12 and thin, whatever I need he always gave it to me, as
13 well as my mom. After my mama had him, they thought
14 that she wouldn't be able to have no more kids, but she
15 had me. So her heart got weaker.

16 They put a trans -- a pacemaker inside her heart
17 on August 13th of this year, 2013. She passed away in
18 the hospital. Seeing my mama go through that in front
19 of my eyes, without my brother being there, it was
20 hard. He couldn't be there for her funeral. So the
21 preacher and me, by myself, out here, you know, I ain't
22 got nobody -- I mean, I got family, but my brother is
23 the only one that is close to me right now and he's the
24 only one that I got. So that's what I came to say.

25 THE COURT: Well, I'm sorry for your loss.

1 MR. MCFADDEN: Thank you.

2 THE COURT: Anyone else want to speak? State your
3 name again, we got to -- I'm doing a different record.

4 MS. MCFADDEN: Sylvenia McFadden. I'm Travis'
5 aunt also. The same as I asked for Tobias, I ask for
6 mercy. I mean, he's a good kid. He was on the right
7 path but, you know, he just got with the wrong crowd,
8 and this happened. But I just ask for mercy.

9 THE COURT: Okay. Thank you. Anyone else?

10 MR. MCFADDEN: My name is Danny McFadden. Travis
11 McFadden is my cousin. And all I can say is, he messed
12 around and got with the wrong crowd. He a good boy.
13 You know, he'll -- he'll go working and all, and doing
14 all he had to do until he got with the wrong crowd. I
15 just ask you -- can you look out for him, can you help
16 him.

17 THE COURT: Okay. Thank you.

18 MS. CLARK: That's it, Your Honor.

19 THE COURT: All right. Would he like to say
20 anything?

21 THE DEFENDANT: I would like to say I apologize
22 for my action, and every one else is. And I'm sorry
23 for your loss, the family members sitting here, I
24 apologize to them.

25 THE COURT: All right. Would the victims like to

1 say anything?

2 MR. DONNARD: Your Honor, the victims have
3 indicated they don't wish to address the court at this
4 time, but law enforcement would request --

5 THE COURT: All right. Who, in law enforcement,
6 would like to address the court?

7 MR. DONNARD: Your Honor, Sheriff Dennis would
8 like to address the court.

9 THE COURT: Yes. Sheriff Dennis.

10 SHERIFF DENNIS: Your Honor, if it please the
11 court, this occurred on December 26th, the day after
12 Christmas. And the owner of Money Saver, who is here
13 today, who has a convenience store in that community --
14 a small community, provides services to just about
15 everyone in that community, decided that evening that
16 he wanted to open his doors to provide services the day
17 after Christmas. Well, he decided to do that at
18 approximately 9:00.

19 And, Your Honor, I understand the Solicitor has
20 referred to "the gentleman". In law enforcement, our
21 profession, we refer to that group as thugs or gang
22 bangers that came into his store that night. Not only
23 came to his store that night, they attempted -- they
24 shot at the owner of the store several times. And
25 during that time Mr. Thompson and Mr. Smalls came up to

1 the store, and they not only shot Mr. Smalls, who may
2 never walk again, he also took the lives of the victim
3 -- Thompson's son.

4 Your Honor, we believe that our forensic team
5 and Investigator Addison, who did a great job in
6 preparing this case, and also they -- visiting their
7 Facebook, that this was a gang related -- gang -- call
8 them a gang. I did, at the time, let the State law
9 enforcement division to come in and investigate this
10 case as a gang related case.

11 I believe that there was no remorse, there were
12 no regards for safety and we ask the judge to take that
13 into consideration during these proceedings.

14 THE COURT: All right. Thank you. Anything else,
15 Solicitor?

16 MR. DONNALD: The court's indulgence?

17 (Pause.)

18 MR. DONNALD: No, Your Honor.

19 THE COURT: Ms. Clark, do you have anything else?

20 MS. CLARK: Your Honor, the only thing I would
21 just say is, I realize that this incident was
22 egregious. He understands that. It was bad. And it
23 happened unfortunately, but he is remorseful --

24 THE COURT: Well, it's just his opinion.

25 MS. CLARK: I understand. And so he is

1 remorseful. And I just would ask the court to consider
2 all of that. I mean, that's why he stands before you.
3 He knows what his situation is.

4 THE COURT: All right. Thank you.

5 MS. CLARK: Thank you.

6 THE COURT: All right. I'll break for five
7 minutes until we have another defendant. Yes, sir?
8 Let me give -- can you state on the record whether he
9 was -- can you state on the record whether Mr. Travis
10 McFadden was on probation at the time that this
11 incident occurred?

12 PROBATION AGENT: Yes, sir. It appears that the
13 case is still active. The case is from Florence
14 County. They've actually issued a warrant which is an
15 active -- which is an active warrant, which they issued
16 after he got this offense. The warrant hasn't been
17 served on him yet, but it appears that they'll want to
18 dispose of this case after he pleads guilty --

19 THE COURT: So they'll want that to run --

20 PROBATION AGENT: Run it concurrent. You need to
21 go ahead and tell me about it now because I'm going to
22 sentence him on it.

23 SHERIFF DENNIS: Your Honor, please, if the court
24 is of a mind, we'll contact Florence County tonight and
25 get the warrant over here in the morning. And we can

1 have that done at the same time that you sentence him
2 in the morning.

3 THE COURT: All right. Thank you.

4 MS. CLARK: I would just say, Your Honor, I don't
5 know anything about that case. I was appointed on this
6 case --

7 THE COURT: You were -- you were appointed on this
8 one.

9 MS. CLARK: Yes, sir.

10 THE COURT: All right.

11 MR. DONNARD: Your Honor, if it please the court,
12 the State calls Jimonte Gilbert...

13 (After a recess, the Court reconvened in the
14 McFadden case for sentencing.)

15 THE COURT: All right. The next two are ones
16 who I believe are the culprits in this, and I think
17 they were the ones who put this together. This
18 horrible situation probably would not have happened
19 without their planning. And this was, again, horrible.
20 You just think, one man is dead and one man is
21 paralyzed for life. And someone was saying that's a
22 sentence worse than death. I hope it's not, sir. I
23 hope it's not. I hope you can get your life back
24 together.

25 But for Travis Jaqueese McFadden, the sentence

1 is that on the criminal conspiracy, that you be
2 committed to the State Department of Corrections for a
3 period of five years. This will run concurrent to your
4 other charges -- or other sentences.

5 On the charge of common law robbery, strong
6 armed robbery, the sentence is that you be committed to
7 the State Department of Corrections for a period of 15
8 years.

9 On the charge of voluntary manslaughter, you are
10 committed to the State Department of Corrections for a
11 period of 30 years. Although this was one general time
12 frame, there were two victims, and these charges and
13 these sentences shall run consecutively.

14 Tobias Lorland McFadden, Mr. McFadden you seem
15 to be the man who put all this together, the sentence
16 for you is -- on the charge of criminal conspiracy,
17 that you be committed to the State Department of
18 Corrections for a period of five years. This will run
19 concurrent with your other charges.

20 And on the strong armed robbery, you're hereby
21 committed to the State Department of Corrections for a
22 period of 15 years.

23 On the charge of voluntary manslaughter, you're
24 committed to the State Department of Corrections for a
25 period of 30 years. These sentences shall run

1 consecutively. That is the ruling of the court. The
2 attorneys are notified they have ten days to file their
3 appeals or motions to reconsider.

4 Anything further from the State?

5 THE COURT: Anything further from the defense
6 attorneys?

7 MS. CLARK: No, Your Honor.

8 THE COURT: Court is adjourned until 10:00
9 tomorrow morning.

10 (Whereupon, the hearing adjourned.)
11 _____
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CERTIFICATE OF REPORTER

I, SHARON D. JONES, CERTIFIED COURT REPORTER, 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 SESSIONS COURT FOR SUMTER COUNTY ON THE 18TH
DAY OF NOVEMBER, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

(4.24.17)

Sharon D. Jones

SHARON D. JONES,
CERTIFIED COURT REPORTER
COMMISSION EXPIRES 9.22.2024

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

THE STATE OF SOUTH CAROLINA,

Plaintiff,

VS.

Travis Jacqueese McFadden,

Defendant.

GENERAL SESSIONS COURT
THIRD JUDICIAL CIRCUIT
2012-GS-43-0781
2013 NOV 21 PM 4:42

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell

CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

NOTICE OF MOTION AND MOTION

(Motion to Reconsider)

TO THE HONORABLE W. JEFFREY YOUNG, SOLICITOR, ERNEST A. FINNEY, III AND
ASSISTANT SOLICITOR EDGAR DONNARD, JR.:

YOU WILL PLEASE TAKE NOTICE that the Defendant by and through his
undersigned counsel will seek relief pursuant to South Carolina Rules of Court and Criminal
Procedure within ten (10) days of service of this Motion or as soon thereafter as it can be heard
for a reconsideration of the sentence imposed upon Travis Jacqueese McFadden on November
18, 2013.

Defendant respectfully requests that the Court review its sentence and the record and
reconsider the sentence imposed upon Travis Jacqueese McFadden for Voluntary Manslaughter,
Strong Armed Robbery and Conspiracy. Grounds for this motion will be based on the record
and arguments.

SUBMITTED BY:

CLARK LAW FIRM, L.L.C.

Sharon Baker Clark

Sharon Baker Clark, Esquire

Attorney for Defendant

22 East Liberty Street

Post Office Drawer 880

Sumter, South Carolina 29151

(803) 775-1234 • (803) 775-8590 (fax)

Sumter, South Carolina
November 20, 2013

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Sumter	)	2012-GS-43-0781
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
TRAVIS JACQUEESE MCFADDEN,	)	
	)	
DEFENDANT,	)	

December 16, 2016
Sumter, South Carolina

BEFORE:

THE HONORABLE JEFFREY YOUNG, JUDGE.

APPEARANCES:

EDDIE DONNARD, ASSISTANT SOLICITOR
Attorney for the State

SHARON CLARK, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

> > > < < <

CERTIFICATE OF REPORTER 12

COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Acknowledgment Rights form	11	

1 MR. DONNALD: Your Honor, may it please the Court.

2 THE COURT: Yes.

3 MR. DONNALD: The next matter, the last matter for
4 this week -- the last matter for this year, I suppose --

5 THE COURT: I believe it is.

6 MR. DONNALD: -- will be Travis Jacquese McFadden,
7 and I'll get into -- I can give you a little bit of
8 background, but just for the record, he is here on a
9 motion to reconsider, sentence handed down by Your Honor
10 back in 2013. The exact date of that was November 18th,
11 2013. If it please the Court, I'll proceed, Your Honor.

12 THE COURT: Yes.

13 MR. DONNALD: Your Honor, Mr. McFadden was one of
14 seven codefendants who were charged with armed robbery and
15 murder and attempted murder in a case where there was a
16 convenience store robbery.

17 Everybody that was in the case pled guilty. It was
18 actually Mr. Finney's case at the time. It was one of the
19 first ones that I was dealing with when I came back to the
20 Solicitor's Office. In particular, Mr. McFadden was
21 represented -- let me back that up there.

22 There was more -- there was more than one
23 Mr. McFadden in this case.

24 THE COURT: Okay.

25 MR. DONNALD: Travis McFadden in this case was

1 indicted under indictment number 2012-0781. It is a
2 multiple-count indictment. I'm not going to put them all
3 on the record.

4 He ended up pleading guilty with a recommendation
5 from the State before Your Honor to a charge of voluntary
6 manslaughter which was a reduction from a murder charge.

7 THE COURT: On a murder charge which carried life.

8 MR. DONNALD: That's correct. He pled to common law
9 robbery, which was a reduction from armed robbery, and he
10 pled guilty to conspiracy, criminal conspiracy, common law
11 conspiracy.

12 There was a recommendation at the time by the State
13 of 20 years, 20 years of total sentence to be served
14 currently. At least that's my best recollection. I
15 haven't gone back and looked at the transcript.

16 Your Honor sentenced him to 30 years on the voluntary
17 manslaughter, 15 years consecutive on the strong armed
18 robbery and five years concurrent on the conspiracy charge
19 for a total of 45 years.

20 I would like to hand up the sentencing sheets that
21 have been certified. I didn't get them marked because
22 they're part of the Court's file.

23 I also would like to hand up, Your Honor, prior to
24 his plea Mr. McFadden, Mr. Travis McFadden, with the
25 assistance of his attorney, Ms. Clark, signed an

1 Acknowledgment of Rights Given up by Entering a Guilty
2 Plea. This was in the Court's file, as well, but I have
3 this marked as Court's Exhibit No. 1.

4 THE COURT: All right.

5 MR. DONNALD: The reason -- and I also have the
6 indictment if you wish to have a true copy of the
7 indictment, Your Honor. The reason that this has taken so
8 long to -- let me give you a little bit more background.
9 Mr. McFadden was sentenced to 45 years. Another
10 codefendant was sentenced to 45 years, and I think he was
11 McFadden, too. I'd have to go look at --

12 MS. CLARK: Tobias McFadden.

13 MR. DONNALD: Tobias McFadden was also sentenced to
14 45 years. In this particular case, Your Honor, Mr. -- a
15 group of guys pulled up in a car at the Money Saver
16 convenience store which is almost out of Sumter County.
17 It's barely in Sumter County, went in armed, took --

18 THE COURT: This was near Lynchburg.

19 MR. DONNALD: That's correct.

20 THE COURT: I remember the facts. I remember that.

21 MR. DONNALD: Okay, took -- they took the owner of
22 the shop, held him for ransom. A gentleman by the name of
23 Jayson -- Jayshawn Smalls -- not Jayshawn Smalls.

24 Y'all come up here, please.

25 Your Honor, I have with me in the courtroom Sierra

1 Duncan and Patricia Thompson.

2 Erissa Smalls went into the -- what was -- ultimately
3 one of persons who was deceased. I have with me Patricia
4 Thompson. Patricia Thompson is the mother of Jayshawn
5 Thompson. Jayshawn pulled up while the robbery was going
6 on. He was in a car, pulled up while the robbery was
7 going on.

8 THE COURT: Just happened to be there at the wrong
9 place at the wrong time.

10 MR. DONNARD: That's right. Ms. Duple (phonetic)
11 who was also here and is a victim, sister of Jayshawn, was
12 in the car, as well. She actually was a witness to this.

13 Jayshawn went in the store, bad time, turned around,
14 went to leave, and he got shot in the back. He is
15 paralyzed. He couldn't be here this morning because he
16 had a -- he had a doctor's appointment.

17 Ms. Duncan's fiancée was a gentleman by the name of
18 Erissa Smalls. I'm sorry. I got the names wrong. I
19 think I did that during the plea.

20 (Pause).

21 I got the names wrong. Eris got shot in the back.
22 Jayshawn is the one who is deceased. I apologize for
23 that, Your Honor. Jay--- Eris got shot in the back and is
24 a paraplegic as a result of that.

25 Just -- it's nothing other than not only bad place at

1 the wrong time. It was almost an errant shot, and then it
2 hit him right in the right spot to leave him paralyzed.

3 While the deceased went, got out to help, he ended up
4 being shot in the chest and was deceased by the time
5 paramedics arrived.

6 My -- the State's recommendation and with going
7 through the victims and everybody involved was for a
8 20-year sentence, as I have said. Now, as you know, and
9 the reason I handed up the Explanation of Rights is
10 because you're certainly not bound by any recommendation
11 that I made.

12 THE COURT: No.

13 MR. DONNALD: But --

14 THE COURT: -- and I specifically said in this one
15 that I was not bound.

16 MR. DONNALD: Yes.

17 THE COURT: I made sure everybody knew that.

18 MR. DONNALD: Yes, sir. Part of the reason -- I'm
19 telling you all of this to lay out the reason why it's
20 taken three years to get back. I didn't intend for it to
21 take three years.

22 I meant for some water to go under the bridge after
23 -- as a result of the guilty plea, and I wanted to discuss
24 with my victims who were here the possibility that if this
25 Mr. McFadden or the other Mr. McFadden, whose motion to

1 reconsider was already been denied, if they were willing
2 to forgo their rights to appeal or to PCR if the family
3 would agree to let me ask the judge to reconsider the
4 sentence back to the 20 years that I had originally asked
5 for.

6 I only tell you that to explain the time. I wanted
7 there to be enough time for that to be made in a rational
8 way. Now, I can tell you three years has passed. The
9 family is happy with His Honor's sentence and happy with
10 the 45 years. So it's not asking you to change the
11 sentence. I'm asking you to leave the sentence as it is.

12 The two -- the only other thing that I need -- I wish
13 to put on the record is that Tobias and Travis McFadden
14 who were the two shooters in this got additional -- the
15 other defendants got 20 years.

16 My recollection is that you sentenced them to the 45
17 because they were the active shooters on the scene that
18 afternoon, and so with that, that's my introduction. But
19 it's Ms. Clark's motion, and I'll let her make her motion.

20 THE COURT: Ms. Clark.

21 MS. CLARK: Yes, sir. May it please the Court. This
22 is my motion to reconsider. In all of the years that I've
23 practiced law, this is only the second one that I have
24 ever done, Your Honor. It, of course, is in your sound
25 discretion as to whether or not you choose to reconsider

1 the sentence you have imposed.

2 I'm just asking the Court to consider the fact that
3 at the time of this, Mr. McFadden and all of these young
4 guys were all young men.

5 I do have the sentences of everyone else, Your Honor.
6 Mr. McFadden, Travis McFadden, and Tobias McFadden are the
7 ones who got the lengthy sentences. The most lengthy
8 sentence imposed on any of the other codefendants was ten
9 years, Your Honor, which was suspended.

10 I'm just asking that if the Court would consider
11 reconsidering the sentence in light of the fact that at
12 the time the Solicitor did recommend the 20 years
13 concurrent that Mr. McFadden did not have an extensive
14 record; that at that time we all -- I think all of the
15 defendants by the time we got to the plea had spoken with
16 Mr...

17 (Pause).

18 With Eddie, I'm sorry.

19 MR. DONNARD: Donnard.

20 MS. CLARK: Yeah, I don't know. I had a brain
21 fart -- a brain pause for a minute, Your Honor. It just
22 wouldn't come out.

23 THE COURT: Is that on the record?

24 MS. CLARK: But I think that's how we have all spoken
25 with Mr. Donnard by that time, and you know, when I spoke

1 Mr. McFadden, we talked a lot about this plea and what was
2 going on.

3 We understood he gave up his rights, Your Honor, and
4 he had the -- he was at your mercy, plain and simple, and
5 he got this sentence.

6 I would just ask the court to possibly consider --
7 even if you're not willing to consider reduction of the
8 sentence -- to possibly consider changing it to a
9 concurrent sentence, Your Honor. We realize that this is
10 a most egregious matter. He --

11 THE COURT: Yeah, I mean, we got one guy who is
12 dead --

13 MS. CLARK: Yes, sir.

14 THE COURT: -- and another guy is permanently
15 disabled --

16 MS. CLARK: Yes, sir.

17 THE COURT: -- because of what they did, and these
18 were the shooters, right?

19 MS. CLARK: Yes, sir.

20 THE COURT: It doesn't get any more serious than
21 that.

22 MS. CLARK: Yes, sir. We understand that. I'm just
23 asking the Court to consider all of that and consider the
24 fact that he actually pled guilty to it and so forth.

25 THE COURT: Okay. And I think the Solicitor's Office

1 by letting him plead reduced his exposure from what I
2 would have had no reservation giving him a life sentence
3 without the possibility of parole. I intended for him to
4 get 45 years, and that is going to be my sentence.

5 Now, I appreciate your bringing this forward, but
6 what they did that afternoon was so despicable. I mean,
7 it's one thing to have somebody die. That's terrible, but
8 you made another man live with being a paraplegic for the
9 rest of his life, so I intended for him to serve every day
10 of the 45 years that I sentenced him to. So your motion
11 is respectfully denied. Thank you.

12 MS. CLARK: Thank you, Your Honor.

13 MR. DONNALD: Thank you, Your Honor. Thank you for
14 hearing us.

15 (WHEREUPON, Court's Exhibit No. 1 was marked for
16 identification only.)

17 (Whereupon, the proceedings were concluded.)
18
19
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

I, Karen Ambroziak, Official Court Reporter for the
5th 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 Sessions for
Sumter County, South Carolina, on the 16th day of
December, 2016.

May 2, 2017

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF SUMTER)
 THE STATE OF SOUTH CAROLINA)
 Plaintiff,)
 VS.)
 Travis Jacqueese McFadden,)
 Defendant.)

RECORDED
 2017 FEB -8 PM 12:00
 JAMES C. CAMPBELL
 CLERK OF COURT
 SUMTER COUNTY, S.C.

GENERAL SESSIONS COURT
 THIRD JUDICIAL CIRCUIT
 2012-GS-43-0781

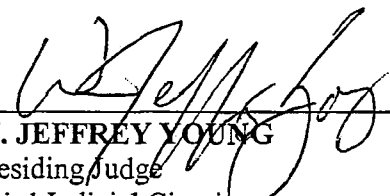
Order

CERTIFIED TRUE COPY
 OF ORIGINAL FILED
Sharon H. Dussan
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

This matter came before the Court on December 20, 2016 pursuant to a Motion to Reconsider Sentence filed by Defendant in the above referenced matter. At the time of the hearing, the State of South Carolina was represented by Assistant Solicitor, Edgar M. Donnal and Defendant was present and represented by his appointed counsel, Sharon Baker Clark.

After consideration of the argument of the State, Defendant and the record this court is satisfied with the sentence imposed and therefore would deny Defendant's Motion to Reconsider Sentence.

AND IT IS SO ORDERED.


 W. JEFFREY YOUNG
 Presiding Judge
 Third Judicial Circuit

Sumter, South Carolina
26 day of January 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of General Sessions
W. Jeffrey Young, Third Judicial Circuit Judge

Indictment No.: 2012-GS-43-0781

The State,.....Respondent,

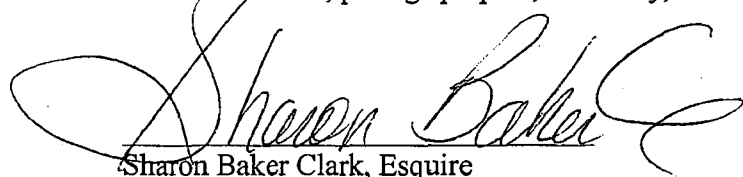
v.

Travis Jacquese McFadden, ...Appellant.

PROOF OF SERVICE

I certify that I have served the Order denying Defendant's Motion for Reconsideration on The Honorable Ernest A. Finney, III, Solicitor in the Third Judicial Circuit, at his office at 215 North Harvin Street, Sumter, SC 29150, Paula Murdoch, Administrative Coordinator, South Carolina Office of Appellate Defense, PO Box 11433, Columbia, SC 29211-1433, and The Honorable Alan Wilson, PO Box 11549, Columbia, SC 29211 and Mr. Travis McFadden – SCDC ID 00357880, Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210 by depositing a copy of it in the United States Mail, postage prepaid, on Friday, February 9, 2017.

February 9, 2017



Sharon Baker Clark, Esquire
SC Bar No.: 8626
22 East Liberty Street
P.O. Drawer 880
Sumter, South Carolina 29151
(803) 775-1234
Attorney for Appellant

WITNESSES

Melissa Addison

SCSO

ARREST WARRANT NUMBER

M444967 M444968 M444969 M444678 M444679
M444680 M444681 M444732 M444970 M444971
M444972 M444973 M444974 M444975 M444976
M444977 M444978 M444979 M444980 M444981
M444982 M444983 M444984 M444985 M444986
M444987 M444988 M444989 M444990 M444991
M444992 M444993 M444994 M444995 M444996
M444997 M444998 M444999 M445000 M445001
M445002 M445003 M445004 M445175 M445176
M445177 M445178 M445179 M445180 M445181
M445182 M445183 M445319 M445320 M445321
M445322 M445323 M445324 M445325 M445326
M445327

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 7/5/2012

VERDICT

Foreperson of Petit Jury

Date:

AMENDED
DOCKET NO. 2012-GS-43-0781

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July TERM 2012

THE STATE

vs.

JIMONTE JAMAL GILBERT
RHKEIM DEVONTAE INGRAM
TRAVIS MAJOR
ROBERT GEROME MCFADDEN
TABIAS LORLAND MCFADDEN
TRAVIS JACQUEESE MCFADDEN
TIMOTHY TYREESE SINGLETARY, JR.

Indictment for

Murder
Possession of a Weapon During a Violent Crime (3 cts)
Attempted Murder (2 cts)
Armed Robbery
Criminal Conspiracy
Carjacking
Accessory Before the Fact to a Felony
Accessory After the Fact to Felony

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

INDICTMENT FOR

Murder

Possession of a Weapon During a Violent Crime (3 cts)

Attempted Murder (2 cts)

Armed Robbery

Criminal Conspiracy

Carjacking

Accessory Before the Fact to a Felony

Accessory After the Fact to Felony

At a Court of General Sessions, convened on July 5, 2012 the Grand Jurors of

SUMTER County present upon their oath:

COUNT ONE - MURDER

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacquese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter County, on or about December 26, 2011, willfully, feloniously, and intentionally kill the victim, Jayshawn Thompson, with malice aforethought, either express or implied, by means of shooting the victim, Jayshawn Thompson, and the victim did die as a proximate result thereof on or about December 26, 2011 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

**COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacquese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter County, on or about December 26, 2011, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, murder, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

**COUNT THREE - POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacquese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter County, on or about December 26, 2011, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in the attempted murder of Arris Jerome Smalls, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR
JIMONTE JAMAL GILBERT, ROBERT GEROME MCFADDEN, TRAVIS MAJOR,
TRAVIS JACQUEESE MCFADDEN AND TIMOTHY TYREESE SINGLETARY, JR.
SHOWN THEREON:

**COUNT FOUR - POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter County, on or about December 26, 2011, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in the attempted murder of Bahader El-Sokkapy, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended

COUNT FIVE - ATTEMPTED MURDER

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter on or about December 26, 2011, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Jimonte Jamal Gilbert, Robert Gerome McFadden, Travis Major, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did with intent to kill, attempt to kill another person, Bahader El-Sokkapy, with malice aforethought, either express or implied, by shots being fired inside of the business during the commission of an armed robbery and shots being fired in the direction of the victim, Bahader El-Sokkapy.

COUNT SIX - ATTEMPTED MURDER

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter on or about December 26, 2011, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Jimonte Jamal Gilbert, Robert Gerome McFadden, Travis Major, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did with intent to kill, attempt to kill another person, Arris Jerome Smalls, with malice aforethought, either express or implied, by shooting the victim, Arris Jerome Smalls, in the back during the commission of an armed robbery.

COUNT SEVEN - ARMED ROBBERY

That on or about December 26, 2011, in Sumter County, South Carolina, at 10295 Lynches River Road, Lynchburg, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant(s) Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacqueese McFadden and Timothy Tyreese Singletary, Jr. did take and carry away goods and/or monies from the person or immediate presence of Bahader El-Sokkapy, the owner of Money Saver Convenience Store with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR JIMONTE JAMAL GILBERT, ROBERT GEROME MCFADDEN, TRAVIS MAJOR, TRAVIS JACQUEESE MCFADDEN AND TIMOTHY TYREESE SINGLETARY, JR. SHOWN THEREON:

COUNT EIGHT - CRIMINAL CONSPIRACY

That Jimonte Jamal Gilbert, Rhkeim Devontae Ingram, Robert Gerome McFadden, Travis Major, Tabias Lorland McFadden, Travis Jacquese McFadden and Timothy Tyreese Singletary, Jr. did in Sumter County on or about December 26, 2011 combine with each other, and/or with other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: armed robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

COUNT NINE- CARJACKING

That in Sumter County on or about December 26, 2011, the Defendants Tabias Lorland McFadden, Rhkeim Devontae Ingram and Travis Jacquese McFadden did take or attempt to take a blue in color Chevrolet Caprice bearing SC HIA569 from Ciera Lashea Dunkley by force and violence or by intimidation while Ciera Lashea Dunkley was operating the vehicle or in the vehicle; in violation of Section 16-3-1075 of the Code of Laws of South Carolina (1976), as amended.

COUNT TEN - ACCESSORY BEFORE THE FACT TO A FELONY

That Robert Gerome McFadden, did in Sumter County on or about December 26, 2011, advised or agreed with or urged or hired or in some way aided, counseled or encouraged the principal felon to commit the felony of Armed Robbery, by providing co-defendants with one or more handguns and also allowed his co-defendants the use of his vehicle, a 1999 Chevrolet Tahoe, for transport to and from the crime scene, in violation of the Common Law and Section 16-01-0040, S. C. Code of Laws, 1976, as amended.

COUNT ELEVEN - ACCESSORY AFTER THE FACT TO CLASS A FELONY

That Robert Gerome McFadden, did in Sumter County on or about December 26, 2011, knowing of the commission and completion of the felony of armed robbery, harbor or assist such felon after the fact by accepting and receiving a portion of the monetary proceeds from Jimonte Jamal Gilbert, Travis Major, Travis Jacquese McFadden and/or Timothy Tyreese Singletary, Jr after the fact of an armed robbery of the Money Saver Convenience Store in which the co-defendants stole an undisclosed amount of money, in violation of the Common Law crime of Accessory After the Fact in commission of a class A felony.

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

Solicitor

Ernest A. Frazier III

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Robert M. Pachak

Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of July, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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ATTORNEY FOR APPELLANT

This 3rd day of July, 2017.

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SC Court of Appeals