

RECEIVED

THE STATE OF SOUTH CAROLINA
— IN THE SUPREME COURT

JUL 26 2017

S.C. SUPREME COURT

APPEAL FROM
THE SOUTH CAROLINA COURT OF APPEALS

APPELLATE CASE NO. 2017-000668

RE: JEFFREY LYNN CHRONISTER, #189827 v STATE OF S.C.

PETITION FOR A WRIT OF CERTIORARI

JEFFREY LYNN CHRONISTER, #189827
KIRKLAND R+E CENTER, B-II, #39
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210

OTHER COUNSELS OF RECORD
ROBERT D. GARFIELD, ADD
ANDREW F. LINDEMANN OF
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ATTORNEYS FOR RESPONDENTS

JENNY ABBOTT KITCHINGS CLERK
SOUTH CAROLINA COURT OF APPEALS
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PETITIONER SUBMITS THIS MATTER BEFORE THE COURT FOR REVIEW PURSUANT TO RULE 242(a),(b),(1),(4)

CERTIFICATE OF PETITIONER

I CERTIFY THAT A PETITION FOR A REHEARING / TO REINSTATE WAS MADE, AND FINALLY RULED ON BY THE COURT OF APPEALS ON JUNE 26, 2017. (ORDER AT P.10)

QUESTION PRESENTED

DID THE COURT PROPERLY DENY PETITIONER'S MOTIONS TO PROCEED IN FORMA PAUPERIS?

STATEMENT OF THE CASE

PETITIONER IS A PROSE LITIGANT, AND THE MATTER AROSE FROM DISMISSAL OF CIVIL ACTION CASE No. 2016-CP-4602952 BY THE HONORABLE S. JACKSON KIMBALL AT HEARING THAT WAS HELD ON JANUARY 19, 2017 IN THE YORK COUNTY COURT OF COMMON PLEAS. AFTER NOTICE OF APPEAL WAS FILED ON THE DECISION THE FOLLOWING WAS MADE;

(1) A TIMELY REQUEST FOR A TRANSCRIPT OF THE HEARING PURSUANT TO RULE 207 (a),(b) SCRPC TO COURT REPORTER WANDA S. NELSON, AND FOLLOWING HER RESPONSE OF NOT BEING THE REPORTER FOR THAT TERM OF COURT A REQUEST WAS MADE TO THE SOUTH CAROLINA COURT ADMINISTRATION (SEE EXPLANATION BY Ms. ROSALYN FRIERSON TO Ms. KYMBERLE A. HANSON IN MEMORANDUM DATED MARCH 31 2017 AT P. 11). THUS A MOTION FOR EXTENSION OF TIME WITH ITS APPLICATION TO WAIVE FILING FEES, AND SUPPORTING AFFIDAVIT, DATED APRIL 12, 2017, FILED TO COURT OF APPEALS. (LETTER ORDER DATED APRIL 27, 2017 AT P. 13)

PETITIONER NOTIFYING Ms. FRIERSON BY LETTER DATED APRIL 28, 2017 THAT Ms. HANSON HAD NOT RESPONDED IN ACCORDANCE TO MEMORANDUM. (LETTER AT P. 11.A)

(2)

(2) AN ORDER BY THE HONORABLE JAMES E. LOCKEMY, FILED ON APRIL 14, 2017, DENIED THE APPEALS MOTION TO PROCEED IN FORMA PAUPERIS PURSUANT TO EX PARTE MARTIN, 321 SC. 533, 471 SE2d 134 (1995), (P. 12) A NOTICE OF INTENT TO APPEAL THE ORDER WAS SERVED TO THIS COURT ON APRIL 25, 2017. THE COURT CONSTRUCTING THE NOTICE AS "A PETITION FOR A WRIT OF CERTIORARI" BY ITS ORDER OF MAY 17, 2017, AND DISMISSING IT WITHOUT PREJUDICE TO PETITIONER'S ABILITY TO TIMELY SEEK REVIEW UNDER RULE 242, SCACR, ONCE A FINAL DECISION HAS BEEN ISSUED BY THE COURT OF APPEALS".

(3) A PETITION FOR REHEARING WAS SERVED ON MAY 25, 2017 TO THE COURT OF APPEALS WITH ALSO A MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND SUPPORTING AFFIDAVIT. BY ORDER, FILED JUNE 26, 2017, THE COURT CONSTRUED THE PETITION AS "A PETITION TO REINSTATE" THE APPEAL, AND DENYING AS "UNABLE TO DISCOVER ANY MATERIAL FACT OR PRINCIPLE OF LAW" WAS "OVERLOOKED OR DISREGARDED".

ON JUNE 26, 2017 AN AMENDMENT TO THE PETITION WAS SERVED IN ORDER TO CONFORM TO THE EVIDENCE OF THE CIVIL ACTION, RULE 15(a)(b) SCRCR, AND TO PETITIONERS UNDERSTANDING OF THE RULE THE PETITION MAY BE AMENDED AT ANY TIME BEFORE OR WITHIN 30 DAYS AFTER SERVICE. THE 30 DAY TIME PERIOD ENDED ON SATURDAY JUNE 24, 2017. WHICH WOULD SHOW BY RULE 6 (a)(e) ^(SCRCR) THE COURT WAS PREMATURE IN FILING OF ORDER AT P. 10, PETITION, AMENDMENT, AND ITS PROOF OF SERVICE AT P. 14-19)

ARGUMENT

IN EX PARTE MARTIN, 471 SE2d 134 A MOTION SEEKING TO BE ALLOWED TO PROCEED WITHOUT COSTS WAS FILED IN THE CIRCUIT COURT AND ⁽¹⁾ THE APPEAL WAS PREMATURE WHERE THE CIRCUIT COURT JUDGE NEVER RULED THE INMATE WOULD BE ALLOWED TO PROCEED IN FORMA

(2)

PAUPERIS AND ⁽²⁾ WHEN AN INDIGENT LITIGANT FILES A MOTION TO PROCEED IN FORMA PAUPERIS AND THE COMPLAINT DOES NOT APPEAR TO FIT WITHIN A STATUTORY OR CONSTITUTIONAL EXCEPTION TO THE REQUIREMENT OF A FILING FEE THE CLERK OF COURT MUST SUBMIT TO A JUDGE FOR A RULING AS TO WHETHER THE COMPLAINT FITS WITHIN A STATUTORY EXCEPTION OR CONCERNS A FUNDAMENTAL RIGHT THAT REQUIRES THE WAIVER OF THE FILING FEES."

IN THE PETITIONER'S CASE BEFORE THE COURT SECTION (1) OF MARTIN DOES NOT APPLY, AND THE FACTS OF THE GROUNDS FOR THE CIVIL ACTION SHOW THAT THE MOTIONS WERE IMPROPERLY DENIED. BECAUSE OF OUTSIDE OF INDIGENCY IS THE INSTANCE OF GROSS NEGLIGENCE BY COUNSEL'S SUBORNATION OF FALSE TESTIMONY, AND WHICH WAS MATERIAL TO PROBABLE CAUSE FOR THE ARREST AND EXTRADITION. WEST'S 19 SCD 2d 240 (10), (11). IT ALSO RAISED THE ACTION'S GROUNDS OF ABUSE OF PROCESS, FALSE IMPRISONMENT, MALICIOUS PROSECUTION WITH ACTUAL MALICE, AND SHOWS THE THREE ELEMENTS FOR "A THEORY OF NEGLIGENCE" WHICH ARE (1) THAT THE DEFENDANT OWED A PLAINTIFF A DUTY OF CARE: (2) THAT BY SOME ACT OR OMISSION DEFENDANT BREACHED THAT DUTY AND (3) THAT, AS A PROXIMATE RESULT OF THE BREACH THE PLAINTIFF SUFFERED DAMAGE" UNDERWOOD v COPOVEN 625 SE2d 236, 367 S.E. 214 (S.E. APP. 2006), WEST'S 19 SCD 2d - 48, 2012 ANNUAL POKET. WHICH WOULD SHOW THE ACTION FITS UNDER S.E. CODE ANN. 20-7-1440 (SUPP 1994) (NO COURT FEES MAY BE CHARGED IN DELINQUENCY AND NEGLECT ACTION) ID. MARTIN, 471 SE2d AT 135

STATEMENT: PETITIONER ARRESTED ON FEBRUARY 14, 1992, AND INDICTED ON APRIL 6, 1992 FOR MURDER AND UNLAWFUL POSSESSION OF A FIREARM OR KNIFE DURING COMMISSION OF VIOLENT CRIME. A JURY TRIAL

HELD ON SEPTEMBER 21-22, 1992 RESULTED IN GUILTY (92-GS-46-1224) COUNSEL OF THE CASE, AND CROSS EXAMINATIONS AT TRIAL WAS GERARD W. SMITH OF THE YORK COUNTY PUBLIC DEFENDERS OFFICE, LARRY F. GRANT WAS SOLICITOR, AND THE HONORABLE DON S. RUSHING SENTENCING PETITIONER TO LIFE PLUS FIVE CONSECUTIVE YEARS.

AT TRIAL THE TESTIMONY BY OTIS J. WHITSTINE SHOWING BEING WITH THE YORK COUNTY SHERIFF'S DEPARTMENT, AND INVOLVED IN AN INVESTIGATION OF TRAGEDY ON THE DATE IT OCCURRED, FEBRUARY 14, 1992 (P. 23, LINE 12-23). HE WAS ADDRESSED AS "OFFICER" AND OR "DETECTIVE," AND WAS THE PRIMARY INVESTIGATOR THROUGHOUT THE CASE. BECAUSE OF BEING THE "AFFIANT" OF THE ARREST WARRANT, SOLE WITNESS OF THE INDICTMENT FOR MURDER (P. 21-22), AND THE ONLY LAW OFFICIAL TO TESTIFY INTERVIEWING OR TALKING WITH WITNESS TOMMY AUTEW ON MORNING OF TRAGEDY SOLICITOR ADDRESSING WITNESS AS "THE EYEWITNESS IDENTIFICATION AND LINE UP" (P. 25, LINE 19-20), AND WARRANT STATES THAT "PROBABLE CAUSE BASED ON WITNESS'S".

PETITIONER RESPECTFULLY CONTENTS THAT THE FOLLOWING EXAMINATIONS OF THE INVESTIGATOR AS TO INTERVIEWING WITNESS SHOWS THE MOST SIGNIFICANT INSTANCE OF GROSS NEGLIGENCE BY COUNSEL'S VIOLATION OF RULE 611(c) SCRE BY IMPROPER USE OF LEADING QUESTION TO INDUCE FALSE TESTIMONY THAT WOULD MISLEAD AN INTERVIEW HAD OCCURRED. WHERE THE FACTS OF THE "INTERVIEW" AND "PHOTO LINE-UP" UNDER ARGUMENT I OF THE ACTION SHOW THAT THE ONLY EVIDENCE OF INVOLVEMENT IN THE INVESTIGATION WAS PRESENTING OF LINE-UP TO THE WITNESS AT WITNESS'S RESIDENCE. RULE 8.4 (a), (b), (c), (d), (e) AND (g) RPC, RULE 407 & RULE 2(a) RLDE, RULE 413 SCRCR: SC. CODE ANN. 16-9-10 (A), (1), (c): USCA 4, 6, 14, 8

THE RECORD FAILS TO SHOW ANY INITIAL DIRECT EXAMINING AS TO TALKING WITH OR INTERVIEWING WITNESS ON THAT MORNING, AN INITIAL CROSS EXAMINING: (Q) "NOW WHEN YOU TALKED WITH HIM, DID YOU TALK WITH HIM EARLIER IN THE MORNING THAT DAY?", (A) "I DON'T RECALL, BUT IT'S POSSIBLE THAT I DID" (P. 27, LINE 19-21)

SECOND DAY DIRECT: (Q) "AND WHERE DID YOU TALK TO HIM PLEASE?" (A) "THE FIRST TIME I BELIEVE WAS AT DUKE POWER CATAWBA NUCLEAR STATION, AND THE SECOND TIME WAS AT HIS RESIDENCE" (P. 29, LINE 10-12)

SECOND DAY CROSS: (Q) "DETECTIVE, YOU SAY THAT YOU HAD TALKED WITH MR. AUTEN OUT AT THE CATAWBA STATION EARLY IN THE MORNING, CORRECT, SIR?", (A) "YES SIR, DOING INTERVIEWS", (Q) "AND THAT THAT WOULD HAVE BEEN ABOUT 8:00 - 7:30, 8:00 O'CLOCK, CORRECT SIR?"

(A) "I ASSUME IT WAS EARLY IN THE MORNING" (P. 31, LINE 10-17)

THE CONTENTION IS SUPPORTED BY: (1) THE WITNESS'S TESTIMONY OF THE INVESTIGATOR INTRODUCING HIMSELF UPON ARRIVAL AT RESIDENCE SHOWING THAT THIS WAS THE FIRST TIME THEY HAD EVER MET. FOR HE TESTIFIED THAT, "HE TOLD ME WHO HE WAS, IDENTIFIED HIMSELF." (P. 33, LINE 6-16):

(2) THE INVESTIGATOR'S OPENING TESTIMONY UNDER INITIAL DIRECT EXAMINING SHOWS MEETING WITH WITNESS AT THE "RESIDENCE" NOT TALKING WITH OR INTERVIEWING HIM ON THAT MORNING (P. 23, LINE 24-24, LINE 5):

(3) THERE IS NO PHYSICAL EVIDENCE SUCH AS A NOTE OR A INCIDENT REPORT WRITTEN BY THE INVESTIGATOR TO SUPPORT HE HAD INTERVIEWED ANY WITNESS ON THAT MORNING; (4) NOR DOES THE RECORD SHOW ANY TESTIMONY BY ANY WITNESS OF THAT MORNING MENTIONING HIS NAME AS BEING INTERVIEWED BY HIM ON THAT MORNING.

FURTHER VIOLATIONS OF CLEARLY ESTABLISHED STATUTORY AND CONSTITUTIONAL RIGHTS WERE BY THE JUDGE'S ABUSE OF DISCRETION

(6)

IN PERMITTING THE GROSS NEGLIGENCE. STATE V HESS 277 S.C. 14, 301 SE2d 547 (1983), "IT IS WELL SETTLED THAT THE SCOPE OF CROSS EXAMINATION IS WITHIN THE TRIAL JUDGE'S DISCRETION" ALSO SEE STATE V MURPHY 218 S.C. 106, 125 SE2d 100 (1950) AND STATE V SHEPARD 303 S.C. 174, 399 SE2d 595 (1991). THE JUDGE VIOLATING THE BINDING OBLIGATION OF CANON 3(C)(2) CJC RULE 501 SCACR. "A JUDGE SHALL REQUIRE *STAFF, COURT OFFICIALS, AND OTHER SUBJECTS TO THE JUDGE'S DIRECTION AND CONTROL OBSERVE THE STANDARD OF FIDELITY AND DILIGENCE THAT APPLY TO THE JUDGE AND REFRAIN FROM MANIFESTING BIAS OR PREJUDICE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES"; ALSO CANON 3, D(2). "A JUDGE HAVING KNOWLEDGE THAT A LAWYER HAS COMMITTED A VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT THAT RAISES A SUBSTANTIAL QUESTION AS TO THE LAWYER'S HONESTY, TRUSTWORTHINESS, OR FITNESS AS A LAWYER IN OTHER RESPECTS SHALL INFORM THE APPROPRIATE AUTHORITY." THE JUDGE'S VIOLATION OF THIS BINDING OBLIGATION SUPPORTS COMMITTING ABUSE OF DISCRETION THAT ITS PROXIMATE RESULTS WERE MALICIOUS PROSECUTION WITH ACTUAL MALICE, ABUSE OF PROCESS IN OBTAINING THE WARRANT WITHOUT PROBABLE CAUSE BY PERMITTING THE FALSE TESTIMONY, AND OUTSIDE OF THE WARRANT THERE IS NO EVIDENCE OF AN DOCUMENT ON THE EXTRADITION THAT'S BEEN EXECUTED BY THIS STATE THUS INITIATING FALSE IMPRISONMENT. USCA CONST. AMD. 14

GROUND II SUBJECT MATTER JURISDICTION P. 22-26 OF THE ACTION NOT ONLY SHOWS THAT THE INVESTIGATOR'S TESTIMONY CONSIDERED FALSE BY LAW, S.C. CODE 16-9-10(1) STATE V JENKINS BECAUSE OF THE COURT LACKING JURISDICTION IT ALSO SHOWS FURTHER VIOLATIONS OF CLEARLY ESTABLISHED STATUTORY AND CONSTITUTIONAL RIGHTS.

THE LACK OF JURISDICTION BECAUSE OF: (1) NO EVIDENCE OF PRESENMENT

(6)

FOR THE FIREARMS CHARGE UNDER S.C. CODE ANN. 16-23-490. NOR IS THERE ANY EVIDENCE OF A VALID WAIVER OF PRESENTMENT FOR THE INDICTMENT PURSUANT TO S.C. CODE 17-19-10 (1976) STATE V EVANS 309 S.C. 477, 415 S.E.2D 816, 812 (1992) [I]N ABSENCE OF AN INDICTMENT BY THE GRAND JURY OR A VALID WAIVER OF PRESENTMENT OF INDICTMENT THE CIRCUIT COURT LACKS SUBJECT MATTER JURISDICTION OVER OFFENSE" 17-19-10 (1976); S.C. CONST. ART I (11) TILLY V STATE OF S.C. 00 No. 24892 (S.C. SUP. CT.) "THE S.C. CODE ANN. 16-23-490 (1976 AND SUPP. 1997) PROVIDES FOR A MANDATORY 5 YEAR SENTENCE FOR A PERSON CONVICTED UNDER THIS SECTION"; USCA CONST AMEND. 5, 14. THE LACK OF PRESENTMENT WOULD ALSO DEEM THE INDICTMENT FOR MURDER INVALID UNDER 16-23-490 (c), (E) "THE PENALTIES PRESCRIBED IN THIS SECTION MAY NOT BE IMPOSED UNLESS THE PERSON CONVICTED WAS AT THE SAME TIME INDICTED AND CONVICTED OF A VIOLENT OFFENSE AS DEFINED IN SECTION 16-1-60" ALSO WEST'S 26A SCD 2d - 287-194 (U), CA 4 (S.C. 2001) "PROOF OF DEFENDANT'S GUILT OF PREDICATE OFFENSE IS ESSENTIAL ELEMENT OF USING OR CARRYING FIREARM DURING AND IN RELATION TO CRIME OF VIOLENCE"; 18 USCA 924 (c) U.S. V KERNEY 8 FED. APPX. 247.

THIS ISSUE IS SUPPORTED BY THE ONLY INDICTMENT INTRODUCED IN COURT BY SOLICITOR WAS THE INDICTMENT FOR MURDER (P. 35, LINE 17 - P. 37, LINE 15) AND THE CHARGE IS COUNT TWO OF THE MURDER INDICTMENT (16-3-10 CDR CODE 116)

(2) INDICTMENT FOR MURDER: IT APPEARS THAT THE GRAND JURY FAILED TO FIND SUFFICIENT EVIDENCE REQUIRED FOR PROBABLE CAUSE BECAUSE OF THE INDICTMENT'S FAILURE TO SHOW ANY INDICATION OF BEING FORMALLY STAMPED TRUE BILL WHICH IS OF THE "FORMAL REQUISITES" FOR AN INDICTMENT UNDER WEST'S 14A SCD 2d 260 SEC 111. WEST'S 18 SCD 2d 53 "MALICIOUS PROSECUTION" 24(7) DCSC 1967 "GRAND JURY'S RETURN OF TRUE BILL UPON CHARGE AMOUNTS TO JUDICIAL RECOGNITION"

TION OF PROBABLE CAUSE FOR PROSECUTION"

PETITIONER RESPECTFULLY CONTENDS THAT CUMULATIVE TO THE INDICTMENT'S DEFECTIVENESS IS THAT IT FAILS TO SHOW BEING PROCEDURALLY WRITTEN OR PUBLISHED BY THE CLERK OF COURT, AND THE FOREMAN'S INITIALING "T. BILL" IS A FACIAL IRREGULARITY. WEST'S 14A SCD2d-290 33 (3) "SIGNATURE OF GRAND JURY FOREMAN DID NOT APPEAR ON INDICTMENT FORMS DID NOT RENDER INDICTMENT INVALID; STAMPED APPLICATION OF "TRUE BILL" APPEARED ON INDICTMENT, AND FOREMAN TESTIFIED THAT REGULAR PROCEDURE WAS TO HAVE CLERK PUBLISH INDICTMENT IN OPEN COURT AFTER GRAND JURY RETURNED TRUE BILL" PAULGLE v STATE 339 SE2d 127, 237 S.C. 409 (1986). WHEREAS IN PETITIONER'S CASE THE RECORD FAILS TO SHOW ANY SUCH PROCEDURE, AND UNDER WEST'S 14A SCD2d-286 (17) (S.C. APP. 1995) "FACIAL IRREGULARITY IN INDICTMENT DOES NOT RENDER INDICTMENT INVALID WHERE INDICTMENT IS IN WRITING AND PUBLISHED BY CLERK" STATE v BULTON 457 SE2d 616, 313 S.C. 323; DIAG. v MOORE 139 F3d 885

COUNSEL VIOLATING RULE 1.1^[2] RPC, RULE 407, SCRPC IN FAILING TO EVALUATE "LEGAL DRAFTING" AS REQUIRED BY THE RULE, AND OR FAILING TO OBJECT BEFORE THE JURY WAS SWORN AS REQUIRED BY SC CODE ANN. 17-19-20, 17-19-90. WHICH ALSO DEPRIVED DUE PROCESS TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL USCA CONST AMEND 6, 14 PROSECUTORIAL MISCONDUCT BY THE SOLICITOR IN VIOLATING 1-7-730 AND 17-13-150 REQUIRES THAT THE PROSECUTOR FULFILL AND SEE THAT ALL DUTIES REQUIREMENTS AND RULES OF CRIMINAL PROCEDURE RELATED TO DUE PROCESS AND THE SOUTH CAROLINA CONSTITUTION ARE ADHERED TO AND COMPLETED WITHIN THE COURT. THUS THE VIOLATING WAS BECAUSE OF HIS KNOWLEDGE OF THE LACK OF PRESENTMENT AND THE DEFECTIV-

NESS THROUGH HIS INVOLVEMENT IN THE PREPARING OF "FORMAL INDICTMENTS" UNDER 17-23-130 AND 17-23-120. AND⁽³⁾ ABUSE OF DISCRETION BY PERMITTING THE CONVICTIONS WHERE THE FOLLOWING STATEMENT TO THE JURY ON VIOLATIONS OF SECTION 16-23-490 "IN RELATIONS TO THE DEFINITION OF SECTION 16-1-160" SHOWS KNOWLEDGE THAT PRESENTMENT WAS MANDATORY FOR THE VALIDITY OF THE INDICTMENT.

"SO IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY OF THAT SECTION, YOU WOULD HAVE TO FIRST FIND THE DEFENDANT HAD COMMITTED A VIOLENT CRIME, AND IN THIS CASE IT IS ALLEGED TO BE CRIME OF MURDER"
(P.39, LINE 14-23)

CONCLUSION

FOR THE REASONS STATED PETITIONER ASKS THE COURT:

1. TO GRANT THE PETITION FOR A WRIT OF CERTIORARI
2. OBTAIN A RESPONSE TO PETITIONER CONCERNING THE REQUEST FOR A TRANSCRIPT OF THE ACTION'S HEARING
3. ACCEPT FOR REVIEW THE AMENDMENTS MADE TO PETITION

JULY 19, 2017

RESPECTFULLY SUBMITTED:

Jeffrey Lynn Chrouster
JEFFREY LYNN CHROUSTER, #189829

CC: ROBERT D. GARFIELD ESQUIRE AND
ANDREW F. LINDEMAN ESQUIRE
ATTORNEYS FOR THE RESPONDENTS
JEDDY ABBOTT KITCHINGS, CLERK
SOUTH CAROLINA COURT OF APPEALS

The South Carolina Court of Appeals

Jeffrey Lynn Chronister #189827, Appellant,

v.

State of South Carolina, York County Public Defender's Office, the Sheriff of York County, and the Commission on Judicial Conduct, Respondents.

Appellate Case No. 2017-000668

ORDER

Appellant has filed a petition for rehearing, which this court construes as a petition to reinstate this appeal. After careful consideration of the petition to reinstate, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting the petition. Accordingly, the petition to reinstate is denied.

Paul E. Short, Jr

J.

H. Bruce Wilcox

J.

A. Ke

J.

Columbia, South Carolina

cc:

Jeffrey Lynn Chronister #189827

Robert David Garfield, Esquire

Andrew F. Lindemann, Esquire

FILED

June 26, 2017



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

MEMORANDUM

TO: Kymberlee A. Hanson
FROM: Court Reporting Section *KJA*
RE: Request for transcript
DATE: March 31, 2017

I have enclosed a letter from Mr. Jeffrey Chronister who is requesting a transcript from proceedings heard by the Honorable S. Kimball on January 10, 2017. His letter is addressed to Wanda Nelson; but our records reflect that you were assigned to Judge Kimball in a term of York County Common Pleas Non-Jury Court on that date. Please determine if this proceeding was recorded by you and contact Mr. Chronister to make arrangements for payment for preparation and delivery of the transcript. Kindly copy this office on the correspondence. Thank you for your attention to this matter.

Enclosure

cc: Jeffrey Chronister #189827
Kirkland Reception and Evaluation Center
4344 Broad River Rd.
Columbia, SC 29210-4098

THE HONORABLE ROSALYN FRIERSON
DIRECTOR, SOUTH CAROLINA COURT ADMINISTRATION
1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA, 29201

RE: pro se, JEFFREY LYNN CHRONISTER, PLAINTIFF v STATE OF SOUTH
CAROLINA, YORK COUNTY PUBLIC DEFENDER'S OFFICE, THE SHERIFF OF
YORK COUNTY, AND THE COMMISSION ON JUDICIAL CONDUCT, DEFENDANTS
CIVIL CASE No. 2016-CP-46-2952; APPELLATE CASE No. 2017-000668

DEAR MS. FRIERSON:

I RECEIVED ON APRIL 11, 2017 A COPY OF YOUR MEMORANDUM,
DATED MARCH 31, 2017, TO COURT REPORTER KYMBERLEE A. HANSON
(SEE COPY ENCLOSED). PLEASE BE ADVISED AS OF DATE OF THIS LETTER
MS. HANSON HAS NOT RESPONDED

I APPRECIATE YOUR ASSISTANCE IN THIS MATTER.

APRIL 28, 2017

SINCERELY;

Jeffrey Lynn Chronister

JEFFREY LYNN CHRONISTER #189827
KIRKLAND R+E CTR. B-II, #39
4344 BROAD RIVER ROAD
COLUMBIA, S. C., 29210

cc: MS. HANSON NOT LISTED IN 2014-15
LAWYERS DESK BOOK UNDER COURT
REPORTERS FOR ADDRESS
ROBERT D. GARFIELD; ANDREW F.
LINDEMANN, ESQUIRES
JENNY A. KITCHINGS, CLERK
COURT OF APPEALS

The South Carolina Court of Appeals

Jeffrey Lynn Chronister #189827, Appellant,

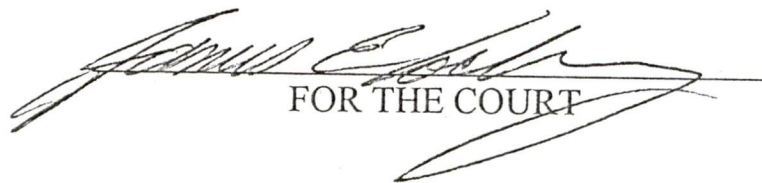
v.

State of South Carolina, York County Public Defender's Office, the Sheriff of York County, and the Commission on Judicial Conduct, Respondents.

Appellate Case No. 2017-000668

ORDER

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:
Jeffrey Lynn Chronister #189827
Robert David Garfield, Esquire
Andrew F. Lindemann, Esquire

FILED

April 14, 2017



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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April 27, 2017

Jeffrey Lynn Chronister #189827
Kirkland R & E, B-II,39
4344 Broad River Road
Columbia SC 29210

Re: Jeffrey Chronister #189827 v. State of SC
Appellate Case No. 2017-000668

Dear Mr. Chronister:

We have received your second request to proceed in forma pauperis dated April 10, 2017.

This Court will not entertain a petition for rehearing on a decision of the Court that did not have the effect of finally deciding the appeal, pursuant to Rule 221(c) of the South Carolina Appellate Court Rules. No further action will be taken on this filing. Furthermore, you must provide a \$25.00 filing fee before we will consider your motion for an extension of time to order the transcript, as well as the \$100.00 filing fee as directed by the Court in our April 14, 2017 order. Both fees must be paid within ten (10) days of the date of this letter, or your appeal will be dismissed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

QUESTION:

IS IT PROPER FOR THE COURT TO DENY THE PETITIONER'S MOTIONS TO PROCEED IN FORMA PAUPERIS?

AUTHORITIES:

S.C. CODE ANN. 20-7-1470

WEST'S SOUTH CAROLINA DIGEST 2d, VOLUME 19, "NEGLIGENCE", PAGE 241 (11); PAGE 58 (222); PAGE 241 (11)

RULE 2 (a) RPC, RULE 407 SCACR

RULES OF JUDICIAL CONDUCT 501, SCACR

STATEMENT OF THE CASE:

THIS MATTER AROSE FROM PETITIONER'S prose CIVIL ACTION IN THE YORK COUNTY COURT OF COMMON PLEAS (2016-CP-46-0952) AND THE APPEALING OF ACTION'S DISMISSAL BY THE HONORABLE S. JACKSON KIMBALL AT THE JANUARY 19, 2017 HEARING.

PETITIONER SUBMITS THE PETITION FOR A REHEARING PURSUANT TO RULE 221(a) SCACR (SEE COURT ORDER, FILED MAY 12, 2017 AT P.3)

REGARDING THE COURT'S LETTER ORDER, DATED APRIL 27, 2017, AND THE HONORABLE JAMES E. LOCKMY'S ORDER, FILED APRIL 14, 2017, (COPIES AT P.4-5). PETITIONER RESPECTFULLY CONTENTS THAT IT WOULD BE IMPROPER TO DENY THE MOTIONS, BECAUSE THE ARGUMENTS OF THE CIVIL ACTION ARE FACTUAL, SUPPORTED, AND SHOW INSTANCES OF STATUTORY AND ALSO CONSTITUTIONAL VIOLATIONS THATS DESERVING REVIEW. BECAUSE OF INCLUDING ABUSE OF DISCRETION BY THE TRIAL JUDGE IN PERMITTING DEFENSE COUNSEL'S SUBORNATION OF FALSE TESTIMONY, AND THE TESTIMONY WAS MADE BY THE PRIMARY INVESTIGATOR CONCERNING INTERVIEWING

THE STATE'S KEY WITNESS, WHICH RAISED THE CHANCE OF PROBABLE CAUSE FOR EXTRADITION AND ARREST. UNDER WEST'S 19 SCD 2d 241 (11): S.C. 1964; "RECKLESS" MEANS THE DOING OF A NEGLIGENT ACT KNOWINGLY, AND A PERSON IS "RECKLESS" OR "WILLFULL AND WANTON" WHEN HE CONSCIOUSLY FAILS TO EXERCISE DUE CARE YAUH V BALDRIDGE 134 S.E.2d 248, 243 S.C. 414.

THE JUDGE VIOLATING RULES OF JUDICIAL CONDUCT 501 SCOR BY PERMITTING THE WANTON MISCONDUCT, AND THE INTENTIONAL MISREPRESENTATION BY COUNSEL THAT UNDER RULE 2 (a) RPC RULE 409, SEACR IS A SERIOUS CRIME. UNDER WEST'S 19 SCD 2d 61, IV-CA 4 (SC) 1998, "UNDER SOUTH CAROLINA LAW NEGLIGENCE LAW, BREACH OF DUTY EXISTS WHEN IT IS FORESEEABLE THAT ONE'S CONDUCT MAY LIKELY INJURE PERSON TO WHOM THE DUTY IS OWED" TALKINGTON V ATRIA RECLAIMING CIPHERS FABRICATED BY 152 F3d, CERT. DEN, 119 S.Ct. 634, 525 U.S. 1062, 142 LEd 653: S.C. CODE ANN. 20:7-1440, NO COURT FEE MAY BE CHARGED IN "NEGLECT ACTIONS"

CONCLUSION

FOR THE REASONS STATED, PETITIONER ASKS THIS COURT TO GRANT THE PETITION FOR REHEARING.

MAY 23, 2017

RESPECTFULLY SUBMITTED,
Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER
KIRKLAND P+E CLR. B-II, 39
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210

PETITIONER SERVING A pro se PETITION FOR REHEARING BY MAIL ON MAY 25, 2019, AND COMES BEFORE THE COURT PURSUANT TO RULE 15 (a), (b) SCRPC TO AMEND IT IN ORDER TO CONFORM TO THE EVIDENCE OF THE CIVIL ACTION.

AMENDMENT

THE MATTER CONCERNS PAGE 1 OF THE PETITION THAT WOULD BE MORE APPROPRIATE IN STATING THAT: BECAUSE NEGLIGENCE IS SHOWN BY THE TRIAL JUDGE'S ABUSE OF DISCRETION IN VIOLATING RULE 501, CTC, CANON 3, C, (2) BY PERMITTING MALICIOUS PROSECUTION WITH ACTUAL MALICE. BECAUSE THE GROUNDS OF "INTERVIEW" AND "PHOTO LINE UP" IN THE ACTION SHOW UNLAWFUL ACT OF SUBORNATION OF FALSE TESTIMONY. S.C. CODE ANN. 16-9-10, (A), (D) THAT IS ALSO "GROSS NEGLIGENCE" UNDER WEST'S 19 SC D 2d, 2410). THE PROSECUTION MADE BY THE ABUSE, WILLFUL AND WANTON MISCONDUCT OF COUNSEL, INVESTIGATOR AND SOLICITOR THAT VIOLATED "CLEARLY ESTABLISHED STATUTORY AND CONSTITUTIONAL RIGHTS" MARLOW v FITZGERALD 457 US 800, 818, 102 S. Ct. 2727, 2738, 71 LEd 2d 396 (1982); UNDERWOOD v COPPOVEN 625 SE 2d 336, 367 S.C. 914 (S.C. APP. 2006) "TO PREVAIL ON A THEORY OF NEGLIGENCE THE PLAINTIFF MUST ESTABLISH THREE ELEMENTS: (1) THAT THE DEFENDANT OWED A PLAINTIFF A DUTY OF CARE; (2) THAT BY SOME ACT OR OMISSION DEFENDANT BREACHED THAT DUTY AND (3) THAT, AS A PROXIMATE RESULT OF THE BREACH THE PLAINTIFF SUFFERED DAMAGE" WEST'S 19 SC D 2d - 48.

THE INSTANCE OF MISCONDUCTS PERMITTED WAS COUNSEL'S INTENTIONAL MISREPRESENTATION OR INDUCEMENT OF FALSE TESTIMONY WHICH WAS MATERIAL TO THE ARREST AND EXTRADITION. BECAUSE THE TESTIMONY WAS MADE BY THE PRIMARY INVESTIGATOR ON INTER-

VIEWING THE STATE'S KEY WITNESS ON THAT MORNING OF TRAGEDY, AND RAISING THE LACK OF PROBABLE CAUSE FOR OBTAINING THE ARREST WARRANT. THAT SHOWED ABUSE OF PROCESS AND FALSE IMPRISONMENT. BECAUSE OF THE INVESTIGATOR BEING THE ARREST WARRANT'S "AFFIANT", AND WARRANT STATES "PROBABLE CAUSE BASED ON WITNESS'S". RULE 8.4 (a), (b), (c), (d), (e), (g) RPC, RULE 407, SCACR: RULE 2; (a) RLE, RULE 413, SCACR: RULE 611(c) SCRE: USCA CONST AM. 4, 6, 14

GROUND II SUBJECT MATTER JURISDICTION (P. 22-26) NOT ONLY SHOWS THAT THE INVESTIGATOR'S TESTIMONY WOULD BE CONSIDERED "FALSE" S.C. CODE 16-9-10 (1) STATE v JEWKINS FOR THE COURT LACKING JURISDICTION, IT ALSO SHOWS THE PROSECUTION WAS FURTHERED BY THE MISCONDUCT OF COUNSEL, SOLICITOR, AND THE JUDGE. BECAUSE OF: (1) THE LACK OF PRESENTMENT FOR THE FIREARM'S CHARGE UNDER S.C. CODE ANN. 16-23-490. THE CHARGE IS "COUNT TWO" OF THE INDICTMENT FOR MURDER, AND THERE IS NO EVIDENCE OF AN WAIVER FOR PRESENTMENT EXECUTED BY PETITIONER PURSUANT TO S.C. CODE 17-19-10 (1976); S.C. CONST. ART. I (11); USCA CONST AMEND. 5, 14.

THE LACK OF PRESENTMENT WOULD ALSO DEEM THE INDICTMENT INVALID UNDER 16-23-490 (c), (e); WEST'S 26 A, SCD 2d 287-1944), U.S. v KERNEY: (2) IT APPEARS THAT THE GRAND JURY FAILED TO FIND PROBABLE CAUSE FOR PROSECUTION. BECAUSE THE INDICTMENT FOR MURDER FAILS TO SHOW ANY INDICATION OF BEING FORMALLY STAMPED "TRUE BILL". WEST'S 18 SCD 1A 53 "MALICIOUS PROSECUTION" 24 (7) DCSO 1967 WHITE v COLEMAN. NOR DOES IT SHOW PROCEDURALLY WRITTEN AND PUBLISHED BY THE CLERK OF COURT. WEST'S 14 A SCD 3d, 290 35 (3) PRIDGLE v STATE. MISCONDUCTS BY: (1) COUNSEL VIOLATION OF RULE 1.1 [2] RPC, RULE 407 SCACR IN

FAILURE TO EVALUATE "LEGAL DRAPTING" AS THE RULE REQUIRES, AND OR FAILING TO OBJECT BEFORE THE JURY WAS SWORN AS REQUIRED BY 17-19-20, 17-19-90. WHICH ALSO DEPRIVED DUE PROCESS TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL USCA CONST AMEND 6, 14.

(2) PROSECUTORIAL MISCONDUCT BY SOLICITOR, BECAUSE THE ONLY INDICTMENT HE INTRODUCED IN COURT WAS FOR MURDER, AND 17-23-130 AND ALSO 17-23-120 SHOWS HIS INVOLVEMENT IN PREPARING OF "FORMAL INDICTMENTS". THUS SHOWING KNOWLEDGE⁽³⁾ WHICH WAS ALSO SHOWN BY THE JUDGE THAT THE PRESENTMENT WAS MANDATED FOR VALIDITY OF THE INDICTMENT BY THE FOLLOWING STATEMENT TO JURY:

"SO IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY OF THAT SECTION, YOU WOULD HAVE TO FIRST FIND THE DEFENDANT HAD COMMITTED A VIOLENT CRIME, AND IN THIS CASE IT IS ALLEGED TO BE THE CRIME OF MURDER"

CONCLUSION

FOR THE FORGOING PETITIONER REQUEST GRANTING OF THIS MOTION, AND A REHEARING.

JUNE 22, 2017

RESPECTFULLY SUBMITTED,

Jeffrey Lynn Chronister #189827

JEFFREY LYNN CHRONISTER

KIRKLAND B&E CENTER BII 39

4344 BROAD RIVER ROAD

COLUMBIA S.C., 29210

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE HONORABLE S. JACKSON KIMBALL III
YORK COUNTY
CIVIL ACTION CS. No. 2016-CP-46-02952

APPELLATE CASE No. 2017-000668

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE AMENDMENT MOTION TO THE PETITION FOR REHEARING ON THE ATTORNEYS FOR RESPONDENTS ROBERT D. GARFIELD, AND ANDREW F. LINDEMANN, POST OFFICE BOX 8568, COLUMBIA, S.C., 29202-8568 BY DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL, POSTAGE PREPAID ON JUNE 25 2017

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189827
KIRKLAND R+E CTR. B-II, #39
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210

RECEIVED

JUN 26 2017

KIRKLAND R&E CENTER
MAILROOM



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

June 29, 2017

Jeffrey Lynn Chronister #189827
Kirkland R & E, B-II,39
4344 Broad River Road
Columbia SC 29210

Re: Jeffrey Chronister #189827 v. State of SC
Appellate Case No. 2017-000668

Dear Mr. Chronister:

The Court has issued an order on your petition for rehearing. No further action will be taken on the motion to amend the petition for rehearing.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert David Garfield, Esquire
Andrew F. Lindemann, Esquire

D- 228986

STATE OF SOUTH CAROLINA

County/ Municipality of York

THE STATE
against

442
Lynn Jeffery Chronister

Address: 211 Ellington Rd.
Belmont N.C.

Phone: _____ SSN: _____
Sex: M Race: W Height: 5'8" Weight: 170

DL State: _____ DL #: _____
DOB: 8/22/58 Agency ORI #: 0460000

Prosecuting Agency: YCSD
Prosecuting Officer: Whistine
Offense: Murder

Offense Code: _____
Code/Ordinance Sec. 16-3-10

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of _____

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge _____ (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Lynn Jeffery Chronister
on 2-14-92
at Belmont N.C.
Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:
HARRIS
FILED
YORK COUNTY
CLERK
FEB 14 1992

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

AFFIDAVIT

S.C. Attorney General
JAY D. ROSS
502A 517

Personally appeared before me the affiant Otis Whistine
being duly sworn deposes and says that defendant Lynn Jeffery Chronister
did within this county and state on February 14th, 1992
State of South Carolina (or ordinance of County/ Municipality of _____) violate the criminal laws of
in the following particulars:

DESCRIPTION OF OFFENSE: Murder: Section 16-3-10 116

I further state that there is probable cause to believe that the defendant named above did do
the crime set forth and that probable cause is based on the following facts: Defendant did wilfully and
unlawfully, and with Malice Aforethought kill Marie Gail Chronister by shooting
her. This unlawful act occurred at the Catawba Nuclear Station, Concord Pk., Clo
York County S.C. All against the Peace and Dignity of the State and against such
Laws as made and provided. Probable cause based on witness's.

Sworn to and subscribed before me
on February 14th, 1992
Signature of Issuing Judge _____ (L.S.)

Signature of Affiant Otis Whistine
Affiant's Address Court House, South Congress
York S.C.
Affiant's Telephone 684-8522

FILED-RECEIVED
BOOK
FEB 21 12 03 PM '92
YORK COUNTY S.C.

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe
on February 14th, 1992 defendant Lynn Jeffery Chronister

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of _____)

DESCRIPTION OF OFFENSE: Murder (Section 16-3-10) as set forth below:

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her be
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge _____ (L.S.)
Judge Code: 518

Judge's Address South Congress St.
York S.C.
Judge's Telephone 684-8514

Issuing Court: Magistrate

BAIL set by

Age _____

Fee and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Name _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Name _____

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Intended: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

WITNESSES

Otis Whistine

YCSD

The State of South Carolina,

County of York

COURT OF GENERAL SESSIONS

April 6, TERM 1992

THE STATE

vs.

Lynn Jeffery Chronister

ARREST WARRANT NO. D-228986

ACTION OF GRAND JURY

Bice 4/6/92

Im Weedon

Foreman of Grand Jury

VERDICT

Count one - Guilty Murder
Count two - Guilty Possession
of a Firearm when committing
a violent crime

Indictment for

MURDER

AND

UNLAWFUL POSSESSION OF FIREARM OR
KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME

(S. C. Code 16-3-10)
(CDR Code 116)

[Handwritten signature and scribbles]

-22-

JUN 20 10 41 AM '01

STATE OF SOUTH CAROLINA)
COUNTY OF York)

INDICTMENT FOR

MURDER AND
UNLAWFUL USE OF FIREARM OR KNIFE DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on April 6, 1992

the Grand Jurors of York County present upon their oath:

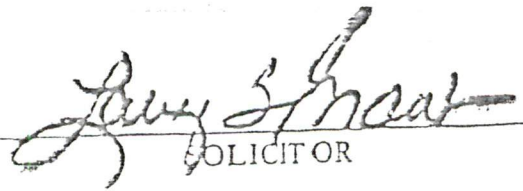
COUNT ONE

That Lynn Jeffery Chronister did in York County on or about February 14, 1992 feloniously, wilfully and with malice aforethought, kill one Marie Gail Cronister by means of shooting her and that the said victim died as a proximate result thereof.

COUNT TWO

That Lynn Jeffery Chronister did in York County on or about February 14, 1992 while in possession of a firearm or while visibly displaying what appeared to be a firearm, committed the crime contained in Count One of this Indictment.

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



SOLICITOR

1 APPROXIMATE TIME WAS JUST A COUPLE OF SECONDS, THIS EYE
2 CONTACT THAT YOU HAD?

3 A YES, SIR.

4 MR. SMITH: OKAY. JUST ONE MOMENT, YOUR HONOR.

5 (PAUSE.)

6 MR. SMITH: THANK YOU. NOTHING FURTHER.

7 THE COURT: ANY REDIRECT?

8 MR. GRANT: NO, SIR.

9 THE COURT: YOU MAY STEP DOWN.

10 (THE WITNESS LEAVES THE WITNESS STAND.)

11 MR. GRANT: WE CALL OTIS WHITSTINE PLEASE.

12 OTIS J. WHITSTINE, BEING

13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. GRANT:

16 Q IF YOU WOULDN'T MIND, STATE YOUR FULL NAME FOR THE COURT?

17 A OTIS JULLIAN WHITSTINE.

18 Q I BELIEVE YOU'RE WITH THE YORK COUNTY SHERIFF'S

19 DEPARTMENT?

20 A I AM.

21 Q AND WERE YOU INVOLVED IN AN INVESTIGATION OF THE DEATH OF

22 MARIE CHRONISTER ON FEBRUARY THE 14TH, 1992?

23 A I WAS.

24 Q DID YOU HAVE OCCASION TO MEET WITH MR. THOMAS AUTEN,

25 A-U-T-E-N?

STATE V. CHRONISTER

1 A YES, SIR.

2 Q WHEN DID YOU MEET WITH HIM PLEASE, SIR?

3 A IT WAS ON FEBRUARY THE 14TH OF THIS YEAR.

4 Q WHERE DID YOU SEE HIM?

5 A HE WAS AT HIS RESIDENCE.

6 Q AND PRIOR TO GOING TO SEE HIM HAD YOU PREPARED A

7 PHOTOGRAPHIC LINE-UP FOR HIM TO VIEW?

8 A YES, SIR.

9 Q AND I'LL ASK YOU: DID YOU HAVE THE DEFENDANT'S PICTURE

10 IN THAT PHOTOGRAPHIC LINE-UP?

11 A I DID.

12 Q DO YOU HAVE THAT SAME LINE-UP THAT YOU USED?

13 A YES, SIR.

14 Q SHOW IT TO ME PLEASE.

15 (PAUSE.)

16 Q AND IF YOU WOULD IDENTIFY THAT, THAT'S CONTAINED IN THE

17 MANILLA ENVELOPE. WHAT IS THAT PLEASE, SIR?

18 A THAT'S THE PHOTOGRAPHIC LINE-UP THAT I SHOWED MR. AUTEN.

19 Q AND THIS PIECE OF PAPER, WHAT IS THAT PLEASE?

20 A THESE ARE THE NAMES OF THE PEOPLE IN THE SIX PICTURES IN

21 THE PHOTOGRAPHIC LINE-UP.

22 Q WERE THESE NAMES IN THERE WHEN YOU SHOWED IT TO MR.

23 AUTEN?

24 A NO, SIR.

25 Q WHERE WAS THIS ITEM?

STATE V. CHRONISTER

1 PRESENCE OF THE COURT. AT THIS TIME THE COURT IS NOW GOING TO
 2 TAKE UP WHATEVER LEGAL MATTERS THE COURT NEEDS TO RESOLVE. AS
 3 I UNDERSTAND, I'VE BEEN NOTIFIED BY COUNSEL THAT THERE WILL BE
 4 AN IN-COURT IDENTIFICATION MADE BASED ON A LINE-UP, THAT THE
 5 DEFENSE MOVES TO QUASH THE LINE-UP AS HAVING TAINTED THE IN-
 6 COURT IDENTIFICATION.

7 THERE IS ALSO BEEN AN ALLEGED STATEMENT MADE BY THE
 8 DEFENDANT WHICH THE STATE CONCLUDES OR IS OF THE OPINION IS
 9 NOT APPLICABLE. I WILL HEAR IT IN CAMERA BOTH AS TO LAW
 10 ENFORCEMENT INDIVIDUAL AND A NON-LAW ENFORCEMENT INDIVIDUAL.

11 SO WE'RE GOING TO TAKE UP ALL OF THOSE ISSUES FOR THE
 12 COURT TO RULE ON. AND THAT SHOULD RESOLVE THE LEGAL ISSUES IN
 13 THIS CASE UP TO THE POINT THAT WE ARE AWARE OF; ISN'T THAT
 14 CORRECT, GENTLEMEN?

15 MR. GRANT: YES, SIR, YOUR HONOR.

16 MR. SMITH: YES, SIR.

17 THE COURT: YOU MAY PROCEED, MR. SOLICITOR. WHICH ONE
 18 ARE YOU GOING TO PROCEED ON FIRST?

19 MR. GRANT: THE EYEWITNESS IDENTIFICATION AND LINE-UP. I
 20 CALL TOMMY AUTEN FIRST.

21 THE COURT: LET THE RECORD REFLECT THAT THIS IS BEING
 22 CONDUCTED IN CAMERA, OUTSIDE THE PRESENCE OF THE JURY.

23 MR. GRANT: MR. AUTEN. AUTEN OR AUTEN?

24 WITNESS: AUTEN.

25 MR. GRANT: AUTEN. I'M SORRY. COME AROUND HERE PLEASE.

THOMAS EDWARD AUTEN, BEING

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FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. GRANT:

Q MR. AUTEN, STATE YOUR FULL NAME FOR THE COURT PLEASE.

A MY FULL NAME IS THOMAS EDWARD AUTEN.

Q BY WHOM ARE YOU EMPLOYED?

A I AM EMPLOYED BY DUKE POWER COMPANY, CATAWBA NUCLEAR STATION.

Q ON FEBRUARY 14TH OF THIS YEAR WERE YOU WORKING?

A I WAS REPORTING FOR DAY SHIFT DUTY, YES, SIR.

Q APPROXIMATELY WHAT TIME WOULD THAT HAVE BEEN?

A APPROXIMATELY 10 MINUTES BEFORE 7:00.

Q AND WHEN YOU WENT TO WORK THAT MORNING, WHERE DID YOU PARK?

A I PARKED IN OUR MAIN PARKING LOT, WHICH BORDERS THE SMALLER ADMIN LOT WHERE THE INCIDENT TOOK PLACE. I PARKED ON THE END OF THE FIRST DOUBLE ROW TOWARD THE BACK.

Q AND WHAT DID YOU OBSERVE UNUSUAL ONCE YOU STARTED TO WORK IN THE PARKING LOT, WHAT IF ANYTHING DID YOU OBSERVE UNUSUAL?

A WELL, WHEN I GOT THERE, I PULLED IN THE PARKING LOT AND SAW TWO OF MY CO-WORKERS IN THE ROW IN FRONT OF ME LOOKING AT A BOAT. AND I KNEW THEY WERE LEAVING FROM THE NIGHT SHIFT. WENT AHEAD AND PARKED MY VEHICLE. AS I WAS TURNING OFF THE IGNITION, I HEARD WHAT I THOUGHT WAS A SMALL PACK OF

1 A NO, SIR.

2 Q WHO WAS PICTURE NO. 3?

3 A JEFFERY L. CHRONISTER.

4 Q WAS ANY OTHER OFFICER WITH YOU WHEN YOU SHOWED MR. AUTEN
5 THE LINE-UP?

6 A NO, SIR.

7 MR. GRANT: PLEASE ANSWER ANY QUESTIONS MR. SMITH MAY
8 HAVE.

9 CROSS EXAMINATION

10 BY MR. SMITH:

11 Q OFFICER, YOU TOLD THE SOLICITOR THAT WHEN YOU WENT AND
12 TALKED WITH MR. AUTEN AT HIS HOME, BASICALLY YOU ASKED HIM TO
13 SEE IF JEFFERY CHRONISTER WAS IN THE LINE-UP?

14 A NO, SIR.

15 Q YOU SAID TO SEE IF THE DEFENDANT WAS IN THE LINE-UP?

16 A WELL, WHAT I DID WHEN I SHOWED HIM THE LINE-UP, I SHOWED
17 HIM THE PICTURES AND ASKED HIM IF THE MAN THAT WAS AT DUKE
18 POWER ON THAT -- EARLIER THAT DAY WAS IN THAT LINE-UP.

19 Q NOW, WHEN YOU TALKED WITH HIM -- DID YOU TALK WITH HIM
20 EARLIER IN THE MORNING THAT DAY?

21 A I DON'T RECALL, BUT IT'S POSSIBLE THAT I DID.

22 Q AND YOU HAD TO GO TO HIS HOUSE TO TALK TO HIM BECAUSE HE
23 WAS SOMEWHAT UPSET, CORRECT, SIR? HE HAD TO LEAVE WORK?

24 A AS I REMEMBER CORRECTLY, WE TALKED WITH A BUNCH OF
25 WITNESSES THAT MORNING AT DUKE POWER. AND THEN HE HAD LEFT

STATE V. CHRONISTER

1 AND WENT HOME. AND I CALLED HIM AT HOME. AND THEN I WENT AND
2 TOOK THE LINE-UP TO HIS HOME.

3 Q AND WHEN YOU GOT THERE, HE WAS STILL UPSET CONCERNING
4 THIS INCIDENT THAT HAD HAPPENED?

5 A I WOULD SAY SO.

6 Q YOU SAID THAT WHEN HE LOOKED AT THE PHOTOGRAPHS, THAT HE
7 LOOKED AT THEM THREE OR FOUR MINUTES?

8 A YES, SIR.

9 Q NOW, YOU DID NOT PREPARE THE LINE-UP; IS THAT CORRECT,
10 OFFICER?

11 A NO, SIR..

12 Q AND YOU DON'T KNOW WHERE THE PHOTOGRAPHS CAME FROM OR WHO
13 OBTAINED THEM OR ANYTHING OF THAT NATURE?

14 A THEY CAME FROM DETECTIVE JETER WITH THE GASTON COUNTY
15 POLICE DEPARTMENT.

16 Q BUT THEY PUT IT TOGETHER?

17 A YES, SIR.

18 Q AND THE PHOTOGRAPHS WERE IN THE FOLDER AS THEY ARE TODAY?

19 A YES, SIR. THE FOLDER WAS COMPLETE AS IT IS NOW.

20 Q YOU SAID THAT YOU TALKED WITH HIM, MR. AUTEN, BRIEFLY.

21 IN TALKING WITH HIM YOU DISCUSSED WHAT HAD OCCURRED OUT AT
22 CATAWBA?

23 A YES, SIR.

24 Q DID YOU DISCUSS THE DECEASED LADY, MRS. CHRONISTER?

25 A AS FAR AS WHEN I WENT TO HIS HOME?

STATE V. CHRONISTER

1 Q AND BY WHOM ARE YOU EMPLOYED?
2 A YORK COUNTY SHERIFF'S DEPARTMENT.
3 Q I'M GOING TO NEED YOU TO GET THAT MICROPHONE A LITTLE BIT
4 CLOSER TO YOU SO I CAN HEAR YOU BACK OVER HERE.
5 (PAUSE.)
6 A YORK COUNTY SHERIFF'S DEPARTMENT.
7 Q THANK YOU, SIR. DID YOU HAVE OCCASION ON FEBRUARY THE
8 14TH TO TALK TO MR. TOMMY AUTEN?
9 A I DID.
10 Q AND WHERE DID YOU TALK TO HIM PLEASE?
11 A THE FIRST TIME I BELIEVE WAS AT DUKE POWER, CATAWBA
12 NUCLEAR PLANT, AND THE SECOND TIME WAS AT HIS RESIDENCE.
13 Q AND WHEN YOU WENT TO HIS RESIDENCE, DID YOU TAKE ANYTHING
14 WITH YOU?
15 A I DID. I TOOK A PHOTOGRAPHIC LINE-UP.
16 Q AND HOW MANY PICTURES ARE IN THE PHOTOGRAPHIC LINE-UP?
17 A IT CONTAINED SIX PICTURES.
18 Q HOW WERE THEY LAID OUT?
19 A THEY WERE NUMBERED 1 THROUGH 6.
20 Q DID THE LINE-UP CONTAIN THE PICTURE OF THIS DEFENDANT,
21 MR. CHRONISTER?
22 A IT DID.
23 Q WHAT DID YOU DO WHEN YOU WENT TO MR. AUTEN'S RESIDENCE
24 THAT AFTERNOON WITH THE LINE-UP? WHAT DID YOU DO?
25 A I BRIEFLY TALKED WITH HIM AND TOLD HIM -- ASKED HIM TO

1 TAKE HIS TIME AND LOOK AT THE PICTURES AND SEE IF HE
2 RECOGNIZED ANYBODY IN IT, AND WAS THE MAN IN THE LINE-UP AT
3 DUKE POWER ON THAT PARTICULAR DAY.

4 Q AND WHAT DID MR. AUTEN DO?

5 A HE LOOKED AT THE PICTURES FOR ABOUT THREE OR FOUR MINUTES
6 AND SAID, THAT'S HIM.

7 AND I ASKED HIM, WHICH ONE?

8 HE SAID, NO. 3.

9 Q WHOSE PICTURE WAS PICTURE NO. 3?

10 A JEFFERY L. CHRONISTER.

11 Q DID MR. AUTEN HESITATE ---

12 MR. SMITH: OBJECT TO LEADING, YOUR HONOR.

13 THE COURT: JUST ASK HIM TO TELL WHAT HE DID.

14 Q DESCRIBE HOW MR. AUTEN PICKED THE PICTURE OUT AND HOW
15 MUCH TIME HE TOOK?

16 A IT TOOK HIM -- I TOLD HIM WHEN I EXPLAINED THE DIRECTION:
17 AS FAR AS LOOKING AT THE PICTURES, I TOLD HIM TO TAKE AS MUCH
18 TIME AS HE NEEDED AND LOOK AT THE PICTURES GOOD.

19 AND HE SAID, THAT'S THE MAN RIGHT THERE.

20 Q DID ANYBODY INDICATE WHICH PICTURE OF HIM TO PICK?

21 A NO, SIR.

22 Q WAS ANYBODY THERE BESIDES YOU AND HIM?

23 A NO, SIR.

24 Q AND WHO WAS THE PICTURE THAT HE PICKED OUT?

25 A JEFFERY L. CHRONISTER, NO. 3 IN THE LINE-UP.

1 Q AND DOES MR. CHRONISTER APPEAR DIFFERENT TODAY IN COURT?

2 MR. SMITH: OBJECT TO LEADING, YOUR HONOR.

3 Q IS THERE ANY DIFFERENCE IN MR. CHRONISTER'S APPEARANCE
4 TODAY IN COURT AS IN THE PICTURE LINE-UP?

5 MR. SMITH: YOUR HONOR, THE SAME OBJECTION.

6 THE COURT: NO, SIR. I OVERRULE YOU. GO AHEAD.

7 A HE HAS NO BEARD AT THIS TIME.

8 MR. GRANT: PLEASE ANSWER ANY QUESTIONS MR. SMITH MAY
9 HAVE.

10 CROSS EXAMINATION

11 BY MR. SMITH:

12 Q DETECTIVE, YOU SAY THAT YOU HAD TALKED WITH MR. AUTEN OUT
13 AT THE CATAWBA STATION EARLY IN THE MORNING, CORRECT?

14 A YES, SIR, DOING INTERVIEWS.

15 Q AND THAT THAT WOULD HAVE BEEN ABOUT 8:00 -- 7:30, 8:00
16 O'CLOCK, CORRECT, SIR?

17 A I ASSUME. IT WAS EARLY IN THE MORNING.

18 Q EARLY IN THE MORNING. AND THEN AT ROUGHLY 3:00 IN THE
19 AFTERNOON YOU TALKED WITH HIM AT HIS HOUSE?

20 A I DON'T REMEMBER WHAT TIME IT WAS, BUT I PHONED HIM AND
21 THEN WENT TO HIS RESIDENCE. IT WAS IN THE EVENING.

22 Q AND YOU SHOWED HIM CERTAIN PHOTOGRAPHS AND HE PICKED A
23 PHOTOGRAPH, CORRECT?

24 A YES, SIR.

25 Q AND HE PICKED A NUMBER, CORRECT, SIR?

1 A YES, SIR.
2 Q NO. 3?
3 A HE POINTED FIRST. AND THEN I ASKED HIM WHICH ONE?
4 HE SAID, NO. 3.
5 Q AND HE PICKED NO. 3?
6 A NO. 3.
7 Q NOW, I BELIEVE YOU YOURSELF DID NOT PREPARE THE LINE-UP,
8 CORRECT, SIR?
9 A NO, SIR.
10 Q HOW LONG ALL TOLD WERE YOU AT HIS HOUSE, DO YOU RECALL?
11 A ABOUT 15 MINUTES.
12 Q ABOUT 15 MINUTES. AND WHEN YOU -- YOU HAD TO TALK WITH
13 HIM AT HIS HOUSE BECAUSE HE HAD LEFT THE POWER STATION BECAUSE
14 HE WAS UPSET?
15 A WELL, FROM WHAT -- FROM WHAT I KNOW HE TOLD ME HE WAS
16 GOING HOME. I DON'T KNOW WHAT THE REASON WAS, BUT.
17 Q BUT YOU HAD TO GO TO HIS HOUSE?
18 A YES, SIR.
19 MR. SMITH: THAT'S ALL, YOUR HONOR.
20 THE COURT: REDIRECT?
21 MR. GRANT: YES, SIR.
22 REDIRECT EXAMINATION
23 BY MR. GRANT:
24 Q AND, MR. WHITSTINE, PHOTO NO. 3 IS A PHOTOGRAPH OF WHOM?
25 A JEFFERY L. CHRONISTER.

1 Q AFTER YOU PASSED HIM THERE ON THE SIDEWALK AND HE GOT IN
2 HIS TRUCK DID YOU EVER SEE HIM IN PERSON AGAIN?

3 A NO, SIR.

4 Q DID YOU HAVE OCCASION TO TALK TO ONE OF THE DETECTIVES
5 THAT SAME AFTERNOON?

6 A YES, SIR, I DID. ONE OF THE DETECTIVES THAT AFTERNOON
7 CAME OUT TO MY RESIDENCE. AND HE WANTED ME TO LOOK AT SOME
8 PICTURES IN A FOLDER AND SEE IF I COULD IDENTIFY THE MAN THAT
9 I SAW THAT MORNING.

10 Q DO YOU REMEMBER WHICH DETECTIVE THAT WAS?

11 A WHITSTINE.

12 Q APPROXIMATELY WHAT TIME WAS THIS?

13 A IT WAS APPROXIMATELY 3:00 O'CLOCK IN THE AFTERNOON.

14 Q AND WHAT DID OFFICER WHITSTINE DO WHEN HE GOT THERE
15 PLEASE, SIR?

16 A HE TOLD ME WHO HE WAS, IDENTIFIED HIMSELF, AND TOLD ME
17 WHAT HE WANTED ME TO DO, THAT HE WANTED ME TO LOOK AT THE
18 PICTURES AND TAKE AS LONG AS I NEEDED TO AND SEE IF I COULD
19 IDENTIFY THE MAN THAT I SAW THAT MORNING. AND SO HE SAT ON
20 ONE SOFA I HAVE. I SAT ON ANOTHER. AND I DID, I TOOK A FEW
21 MINUTES AND LOOKED THEM OVER, LOOKED AT EACH PICTURE.

22 Q HOW MANY PICTURES WERE THERE?

23 A ABOUT SIX.

24 Q HOW WERE THEY PRESENTED TO YOU, IN WHAT FORMAT?

25 A THEY WERE ALL ON A FOLDER AND THEY WERE JUST ARRANGED

1 DIFFERENT -- IN DIFFERENT CORNERS AND AREAS ON -- THEY HAD A
2 PROFILE VIEW AND A FRONT VIEW OF DIFFERENT INDIVIDUALS WITH
3 THE SAME CHARACTERISTICS. THEY EACH HAD A NUMBER BESIDE THEM.

4 AND HE ASKED ME AFTER A COUPLE MINUTES, DID I SEE THE MAN
5 THAT I SAW THAT MORNING?

6 AND I SAID, YES, SIR, I DO.

7 Q AND DID YOU SEE THE MAN IN THAT PHOTOGRAPHIC LINE-UP THAT
8 YOU SAW THAT MORNING?

9 A YES, SIR, I DID.

10 Q ARE YOU SURE?

11 A YES, SIR, POSITIVE.

12 Q DID YOU HAVE ANY PROBLEM PICKING HIM OUT?

13 A NO, SIR.

14 Q AND DID YOU TELL MR. WHITSTINE, SHOW HIM WHICH ONE?

15 A YES, SIR, I DID.

16 Q AND THE PHOTOGRAPH THAT YOU PICKED OUT, WHERE HAD YOU
17 SEEN THAT MAN BEFORE?

18 A I SAW HIM AT DUKE POWER PROPERTY THAT MORNING ON THE
19 SIDEWALK WITH THE RIFLE.

20 Q AND DO YOU RECOGNIZE THIS MAN, MR. CHRONISTER, AS HE SITS
21 HERE TODAY?

22 A THE GENTLEMAN LOOKS FAMILIAR. BUT -- AND HIS HAIR COLOR
23 HIS MUSTACHE COLOR ARE THE SAME. THE INDIVIDUAL THAT MORNING
24 THE HAIR WAS LONGER. IT WAS ALL DISARRAYED. AND HE HAD A
25 FULL BEARD. THE EYE AREA, THE PART THAT WAS NOT COVERED THAT

1 THEN COUNSEL FOR DEFENSE WILL MAKE THEIR OPENING STATEMENT.

2 THE STATE WILL THEN PROCEED BY PUTTING UP ITS EVIDENCE
3 AFTER WHICH THE SAME OPPORTUNITY WILL BE AFFORDED MR. SMITH.
4 AFTER THAT WE'LL HAVE CLOSING ARGUMENTS AND THEN I'LL CHARGE
5 THE JURY ON THE LAW.

6 I IMPRESS UPON YOU AND REMIND YOU ONCE AGAIN, NO
7 DISCUSSION OF THIS CASE AMONG YOURSELVES AND CERTAINLY NOT
8 WITH ANYONE ELSE. AND YOU'RE NOT TO OBSERVE, LISTEN TO, READ,
9 DISCUSS ANY NEWS MEDIA AS WELL, ANY NEWS MEDIA ACCOUNTS OF IT
10 IF THERE BE ANY UNTIL THIS CASE IS OVER.

11 THANK YOU VERY MUCH.

12 MR. SOLICITOR, ON BEHALF OF THE STATE YOU MAY MAKE YOUR
13 OPENING STATEMENT.

14 MR. GRANT: MAY IT PLEASE THE COURT.
15 OPENING STATEMENT BY MR. GRANT
16 ON BEHALF OF THE STATE:

17 MR. FOREMAN AND LADIES AND GENTLEMEN OF THE JURY, I'M
18 LARRY GRANT, SOLICITOR FOR THE SIXTEENTH CIRCUIT, YORK AND
19 UNION COUNTIES. I REPRESENT THE STATE OF SOUTH CAROLINA IN
20 THE PROSECUTION AND PRESENTATION OF CRIMINAL CASES.

21 YOU HAVE BEEN DRAWN TO TRY THE CASE OF THE STATE VERSUS
22 JEFFERY CHRONISTER, WHO IS SEATED HERE BETWEEN HIS COUNSEL,
23 MR. GERALD SMITH WHO YOU HAVE ALREADY INTRODUCED TO, AND MR.
24 HARRY DEST OF THE PUBLIC DEFENDER'S OFFICE.

25 THIS WHITE PIECE OF PAPER I HAVE IS SIMPLY AN INDICTMENT.

STATE V. CHRONISTER

1 IT IS NOT EVIDENCE. YOU MAY OR MAY NOT HAVE IT WITH YOU IN
 2 THE JURY ROOM. BUT IT IS SIMPLY A FORMAL STATEMENT OF THE
 3 CHARGE. THIS INFORMS ANYBODY WHO NEEDS TO KNOW, THE COURT,
 4 THE DEFENDANT, ANYBODY ELSE WHO HAS A NEED TO KNOW OF THE
 5 FORMAL STATEMENT OF THE CHARGE.

6 THIS INDICTMENT CHARGES JEFFERY CHRONISTER WITH MURDER,
 7 WITH THE MURDER OF HIS WIFE, MARIE CHRONISTER.

8 YOU WILL HEAR THE FACTS FROM THE WITNESS STAND. YOUR
 9 JOB, AS HIS HONOR HAS ALREADY TOLD YOU -- AND I WON'T REPEAT
 10 THAT -- IS TO FIND THE TRUE FACTS OF THE MATTER, AND THEN
 11 APPLY THOSE FACTS TO THE LAW AS HIS HONOR CHARGES YOU. AND
 12 HIS HONOR IS IN CHARGE OF THE LAW OF THIS CASE. AND YOU DO
 13 NOT KNOW WHAT THE LAW IN THIS CASE IS AND YOU WILL NOT KNOW
 14 UNTIL HIS HONOR CHARGES YOU THE LAW AT THE END OF THE CASE.

15 BUT AT THE END OF THE CASE WHEN HE CHARGES YOU THE LAW,
 16 THEN YOU TAKE THE FACTS AS YOU FOUND THEM TO BE, APPLY THE LAW
 17 AS HIS HONOR CHARGES YOU, AND RENDER A VERDICT WHICH SPEAKS
 18 THE TRUTH.

19 THAT'S AS EASILY AS I CAN SAY IT. IT'S NOT AN EASY JOB.
 20 JURY DUTY IS CALLED A DUTY BECAUSE IT IS A DUTY. IT'S A DUTY
 21 THAT YOU HAVE TO YOUR COUNTRY, TO MR. CHRONISTER, TO THE STATE
 22 OF SOUTH CAROLINA TO WELL AND FAIRLY TRY AND A TRUE
 23 DELIVERANCE MAKE, A VERDICT WHICH SIMPLY SPEAKS THE TRUTH.

24 AND I ASK YOU TO KEEP AN OPEN MIND THROUGHOUT THIS CASE
 25 AND TO THE VERY END, UNTIL YOU'VE HEARD IT ALL, ALL OF THE

STATE V. CHRONISTER

1 FACTS AND ALL OF THE LAW, AND THEN THROUGH YOUR DELIBERATIONS,
 2 RENDER A VERDICT WHICH SPEAKS THE TRUTH.

3 NOW, THE STATE HAS CHARGED JEFFERY CHRONISTER BY THIS
 4 INDICTMENT WITH THE FORMAL CHARGE OF MURDER. I WILL PUBLISH
 5 THAT TO YOU: STATE OF SOUTH CAROLINA, COUNTY OF YORK,
 6 INDICTMENT FOR MURDER AND USE OF A FIREARM DURING THE
 7 COMMISSION OF A VIOLENT CRIME AT A COURT OF GENERAL SESSIONS
 8 CONVENED ON APRIL THE 6TH, 1992, THE GRAND JURORS OF YORK
 9 COUNTY PRESENT UPON THEIR OATH: COUNT ONE, THAT JEFFERY
 10 CHRONISTER DID IN YORK COUNTY ON OR ABOUT FEBRUARY 14, 1992
 11 WILFULLY, FELONIOUSLY, AND WITH MALICE AFORETHOUGHT KILL ONE
 12 MARIE GAIL CHRONISTER BY MEANS OF SHOOTING HER, AND THAT THE
 13 SAID VICTIM DIED AS A PROXIMATE RESULT THEREOF.

14 COUNT TWO CHARGES THAT JEFFERY LYNN CHRONISTER DID COMMIT
 15 THE CRIME OF MURDER WHILE USING A FIREARM AGAINST THE PEACE
 16 AND DIGNITY OF THE STATE AND CONTRARY TO THE STATUTE AND SUCH
 17 CASE MADE AND PROVIDED.

18 SIGNED, LARRY F. GRANT, SOLICITOR.

19 HIS HONOR HAS ALREADY CHARGED YOU VERY BRIEFLY EARLIER ON
 20 ABOUT THE DEFINITION OF MURDER. YOU HOLD YOUR MIND OPEN UNTIL
 21 HE CHARGES YOU AT THE END OF THIS CASE AS TO WHAT THE LAW THAT
 22 APPLIES TO THIS CASE IS.

23 I SUBMIT TO YOU AGAIN, IF I MISSTATE ANY OF THE LAW OR
 24 MR. SMITH, YOU TAKE THE LAW AS HIS HONOR CHARGES IT TO BE.

25 MURDER IS THE UNLAWFUL KILLING, I UNDERSTAND, OF A HUMAN

STATE V. CHRONISTER

1 BEING WITH MALICE AFORETHOUGHT. HIS HONOR WILL CHARGE YOU A
 2 TO THOSE TERMS. THEY HAVE BASICALLY THEIR COMMON-SENSE
 3 MEANING. UNLAWFUL KILLING OF A HUMAN BEING WITH MALICE
 4 AFORETHOUGHT. MALICE BEING A MALICIOUS ACT OR AN EVIL STATE
 5 OF MIND OR A HEART BENT ON MISCHIEF OR DEVOID OF GOOD. AND
 6 AFORETHOUGHT, MEANING A THOUGHT, A PERIOD OF TIME. IT DOESN
 7 HAVE TO BE A MEASURABLE PERIOD OF TIME, BUT IT'S AN
 8 AFORETHOUGHT, A THOUGHT EITHER AT OR BEFORE THE TIME OF THE
 9 FATAL ACT.

10 THE STATE IS REQUIRED AND THE STATE ACCEPTS THE BURDEN
 11 THE STATE THAT I REPRESENT AND THE STATE THAT MR. SMITH
 12 REPRESENTS AS PUBLIC DEFENDER -- WOULD NOT PRESUME ANY ONE C
 13 ITS DEFENDANTS TO BE GUILTY OF ANY CHARGE, ANY ONE OF ITS
 14 CITIZENS TO BE GUILTY OF ANY CHARGE. AND THE STATE AGREES
 15 WITH THAT AND WELCOMES THAT BURDEN.

16 THE STATE HAS CHARGED MR. CHRONISTER WITH THE CHARGE OF
 17 MURDER BY KILLING HIS WIFE WITH MALICE AFORETHOUGHT.
 18 PREMEDITATION IS NOT REQUIRED IN SOUTH CAROLINA. IT MAY BE
 19 PART OF THE AFORETHOUGHT FROM YOUR FINDING OF THE FACTS;
 20 THAT'LL BE UP TO YOU.

21 MOTIVE IS NOT REQUIRED IN A MURDER CASE IN SOUTH
 22 CAROLINA. THERE MAY BE FROM YOUR FINDING OF THE FACTS A
 23 MOTIVE, BUT IT'S NOT REQUIRED THAT THE STATE PROVE
 24 PREMEDITATION OR MOTIVE, BUT SIMPLY UNLAWFUL KILLING OF A
 25 PERSON WITH MALICE AFORETHOUGHT. AND THE AFORETHOUGHT CAN B

1 OF THE ACT, IT MUST BE AN AFORETHOUGHT. THERE MUST BE A
 2 COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT PRODUCING
 3 THE FATAL RESULT.

4 AND I TELL YOU THE STATE IS NOT REQUIRED TO PROVE A
 5 MOTIVE FOR A HOMICIDE.

6 LADIES AND GENTLEMEN, THE STATE OF SOUTH CAROLINA ALSO
 7 CHARGES THE DEFENDANT WITH VIOLATION OF SECTION 16-23-490. IT
 8 SAYS THAT ANY PERSON WHO IS CONVICTED OF COMMITTING OR
 9 ATTEMPTING TO COMMIT A VIOLENT CRIME AS DEFINED UNDER SECTION
 10 16-1-60 IF THE PERSON IS IN POSSESSION OF A FIREARM OR VISIBLY
 11 DISPLAYS WHAT APPEARS TO BE A FIREARM DURING THE COMMISSION OF
 12 A VIOLENT CRIME, HE IS IN VIOLATION OF THAT LAW.

13 AND AS USED IN THAT STATUTE A FIREARM MEANS ANY MACHINE
 14 GUN, AUTOMATIC RIFLE, REVOLVER, PISTOL, OR ANY WEAPON WHICH
 15 WILL OR IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL A
 16 PROJECTILE.

17 16-1-60 SAYS THAT FOR PURPOSES OF DEFINITION UNDER THE
 18 SOUTH CAROLINA LAW, A VIOLENT CRIME INCLUDES THE OFFENSE OF
 19 MURDER.

20 SO IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY OF THAT
 21 SECTION, YOU WOULD HAVE TO FIRST FIND THE DEFENDANT HAD
 22 COMMITTED A VIOLENT CRIME. AND IN THIS CASE IT IS ALLEGED TO
 23 BE THE CRIME OF MURDER.

24 SO IF YOU HAVE FOUND THE DEFENDANT DID NOT COMMIT THE
 25 CRIME OF MURDER, YOU WOULD STOP RIGHT THEN AND ENTER A VERDICT

STATE V. CHRONISTER

1 . NOW, LADIES AND GENTLEMEN, AN INFERENCE OF MALICE MAY
 2 ARISE WHERE THE STATE PROVES THAT THE DEED IS DONE OR THE ACT
 3 IS DONE WITH A DEADLY WEAPON, SUCH AS A KNIFE OR A PISTOL OR
 4 SOME WEAPON OF THAT NATURE WHICH WHEN USED WITH THE INTENT TO
 5 INJURE ANOTHER PARTY IS CALCULATED TO PRODUCE DEATH OR SERIOUS
 6 BODILY HARM.

7 I CHARGE YOU THAT IF FACTS ARE PROVED BEYOND A REASONABLE
 8 DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
 9 SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN EVIDENTIARY
 10 FACT TO BE TAKEN INTO CONSIDERATION BY YOU, THE JURY, ALONG
 11 WITH THE OTHER EVIDENCE IN THE CASE. AND YOU MAY GIVE IT SUCH
 12 WEIGHT AS YOU DETERMINE IT SHOULD RECEIVE.

13 AND I REMIND YOU BUT EVEN IF FACTS PROVED ARE SUFFICIENT
 14 TO RAISE AN INFERENCE OF MALICE, THAT INFERENCE WOULD BE
 15 SIMPLY AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY
 16 YOU, THE JURY, ALONG WITH ALL THE OTHER EVIDENCE IN THE CASE.
 17 AND YOU MAY GIVE IT SUCH WEIGHT AS YOU DETERMINE IT SHOULD
 18 RECEIVE AS TO WHETHER OR NOT MALICE HAS BEEN PROVED BEYOND A
 19 REASONABLE DOUBT.

20 THE BURDEN IS ON THE STATE OF SOUTH CAROLINA TO PROVE
 21 MALICE BY EVIDENCE SATISFYING THE JURY BEYOND A REASONABLE
 22 DOUBT. AND IT WILL BE OBSERVED, LADIES AND GENTLEMEN, THAT
 23 THERE MUST BE MALICE AFORETHOUGHT.

24 AND WHILE THE LAW DOES NOT REQUIRE THAT MALICE SHALL
 25 EXIST FOR ANY PARTICULAR LENGTH OF TIME BEFORE THE COMMISSION

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM
THE SOUTH CAROLINA COURT OF APPEALS
APPELLATE CASE No. 2017-000668

MOTION TO PROCEED
IN FORMA PAUPERIS.

I, JEFFREY LYNN CHRONISTER, HEREBY MOVES TO PROCEED IN FORMA PAUPERIS PURSUANT TO RULE 3 (b), (1) SCRPC, AND UNDER S.C. CODE ANN. 20-7-1440 (SUPP. 1997). IN SUPPORT OF MY MOTION I DECLARE UNDER PENALTY OF PERJURY THE FOLLOWING FACTS ARE TRUE:

- (1) I HAVE FILED THE PETITION FOR A WRIT OF CERTIORARI, AND BELIEVE I AM ENTITLED TO REDRESS
- (2) BECAUSE OF MY POVERTY I AM UNABLE TO PAY COSTS OF FILING FEES OR GIVE SECURITY THEREFOR

JULY 20, 2017

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER, #189829

SWORN, OR AFFIRMED TO, AND SUBSCRIBED
BEFORE ME ON THIS 20 DAY OF JULY, 2017

Melissa Spigner

NOTARY PUBLIC, SOUTH CAROLINA

MY COMMISSION EXPIRES: Dec. 1, 2025

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUL 26 2017

APPEAL FROM
THE SOUTH CAROLINA COURT OF APPEALS

S.C. SUPREME COURT

APPELLATE CASE NO. 2017-000668

RE. JEFFREY LYNN CHRONISTER, 189829 v STATE OF S.C.

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE PETITION FOR A WRIT OF
CERTIORARI ON THE BELOW PARTIES BY DEPOSITING A COPY OF IT TO
EACH ADDRESS IN THE UNITED STATES MAIL POSTAGE PREPAID ON
JULY 21, 2017

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189829

OTHER COUNSELS OF RECORD

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ANDREW F. LINDEMANN, AT
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