

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Steven H. John, Circuit Court Judge

RECEIVED

OCT 19 2015

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

KAREEM HARRY,

APPELLANT

APPELLATE CASE NO. 2013-000336

RECORD ON APPEAL

MELIAH BOWERS JEFFERSON  
Attorney at Law  
Wyche, P.A.  
44 East Camperdown Way  
Greenville, South Carolina 29601

ROBERT M. DUDEK  
Chief Appellate Defender

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

Attorneys for Appellant

ALAN WILSON  
Attorney General

JOHN W. MCINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Assistant Deputy Attorney General

J. ANTHONY MABRY  
Assistant Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211

JIMMY RICHARDSON  
Solicitor, Fifteenth Judicial Circuit  
Post Office Box 1276  
Conway, SC 29528-1276  
(843) 915-5460

Attorneys for Respondent

**INDEX**

<b><u>I. ORDERS &amp; PLEADINGS</u></b>	<b><u>PAGES</u></b>
1. Arrest Warrant dated March 1, 2011 .....	1
2. Indictment dated July 26, 2012.....	2-3
3. Sentence Sheet dated February 14, 2013 .....	4-5
4. Notice of Appeal dated February 15, 2013.....	6

<b><u>II. TRANSCRIPT</u></b>	<b><u>PAGES</u></b>
Transcript of Record of the Trial of Kareem S. Harry dated February 11 – 14, 2013; .....	7 thru 531
1. Testimony of William J. Muldoon	
Direct examination by Mr. Richardson.....	17
Cross examination by Mr. Chrisco .....	29
2. Testimony of Jill Domogauer	
Direct examination by Mr. Holford .....	35
3. Motion	
Motion by Mr. Chrisco .....	38
Argument by Mr. Holford.....	39
Court’s Review of Cases and Ruling on Motion .....	39
Continued Argument on Motion by Mr. Chrisco .....	41
Court’s Continued Review of Cases.....	41
Continued Argument by Mr. Holford .....	42
Court’s Ruling on Motion.....	43

4. Testimony of Ashley Bledsoe	
Direct examination by Mr. Holford .....	46
Cross examination by Mr. Chrisco .....	62
Redirect examination by Mr. Holford.....	82
Re-cross examination by Mr. Chrisco .....	82
5. Motion	
Motion by Mr. Chrisco .....	84
Court’s Ruling on Motion.....	86
6. Testimony of Jill Domogauer	
Direct examination by Mr. Holford .....	88
Cross-examination by Mr. Chrisco .....	108
Redirect by Mr. Holford .....	111
Re-cross by Mr. Chrisco .....	112
7. Testimony of Shantel Lehman	
Direct examination by Mr. Richardson.....	114
Cross-examination by Mr. Chrisco .....	123
8. Examination by the Court of co-defendant Thomas Byrne and his counsel Mr. Filiberto	
Examination by the Court of Mr. Filiberto .....	128
Examination by the Court of Mr. Byrne.....	129
9. Testimony of Thomas Byrne	
Direct examination by Mr. Richardson.....	131
Cross-examination by Mr. Chrisco .....	182

10. Testimony of Ginger Pop	
Direct examination by Mr. Holford .....	194
Cross-examination by Mr. Chrisco .....	200
11. Testimony of Brian Thomas McGarrahan	
Direct examination by Mr. Holford .....	202
Cross-examination by Mr. Chrisco .....	208
Re-direct Examination by Mr. Holford.....	210
12. Examination by the Court of co-defendant Sage Lee McPhail and his counsel Mr. Guest	
Examination by the Court of Mr. McPhail .....	212
Examination by the Court of Mr. Guest .....	212
Examination by the Court of Mr. McPhail .....	213
13. Testimony of Sage Lee McPhail	
Direct examination by Mr. Richardson.....	215
Cross-examination by Mr. Chrisco .....	246
Examination by Mr. Richardson (without the jury present) .....	252
Examination by the Court (without the jury present) .....	253
Examination by Mr. Chrisco (without the jury present).....	258
14. Motion based upon Rule 5	
Motion by Mr. Chrisco (without the jury present).....	260
Court's Examination of Rule 5 and Ruling on the Motion (without the jury present) .....	261
Cross-examination resumed by Mr. Chrisco .....	271
Re-direct examination by Mr. Richardson.....	276
Re-cross examination by Mr. Chrisco .....	277

15. Testimony of Tamara Willard	
Direct examination by Mr. Richardson.....	278
Cross-examination by Mr. Chrisco.....	283
16. Testimony of Christina Patterson	
Direct examination by Mr. Richardson.....	287
Cross-examination by Mr. Chrisco.....	336
Re-direct examination by Mr. Richardson.....	350
17. Motions	
Motion to Dismiss/Directed Verdict Mr. Chrisco .....	353
Argument by Mr. Richardson.....	354
Court’s Ruling on Motions .....	359
18. Testimony of Saire Castro	
Direct examination by Mr. Chrisco .....	365
Cross-examination by Mr. Richardson .....	385
Redirect examination by Mr. Chrisco.....	401
19. Testimony of Allen Large	
Direct examination by Mr. Chrisco .....	405
Cross-examination by Mr. Richardson .....	432
Redirect examination by Mr. Chrisco.....	433
20. Testimony of Kareem Shamel Harry	
Direct examination by Mr. Chrisco .....	434
Cross-examination by Mr. Richardson .....	470
Redirect examination by Mr. Chrisco.....	507

21. Motions	
Motion to introduce the video and audio of the Defendant into evidence by Mr. Chrisco.....	509
Arguments by Mr. Richardson.....	510
Continued arguments by Mr. Chrisco.....	510
Continued arguments by Mr. Richardson.....	511
Continued arguments by Mr. Chrisco.....	512
Examination by the Court of Kareem Shamel Harry.....	512
Court’s Ruling on Motions .....	512
22. Motions	
Renewed Motion to Dismiss/Directed Verdict Mr. Chrisco.....	514
Court’s Ruling on Motions .....	515
23. Verdict .....	518
24. Motions	
Renewed Motions and Motion for New Trial by Mr. Chrisco .....	519
Court’s Ruling on Motions .....	520
25. Sentencing.....	521
<b><u>CERTIFICATE OF COUNSEL</u></b> .....	532

1 the car and ran and I fell inside a big, a big ditch and I  
2 fell in the water and I didn't ---

3 Q You said a pond earlier; correct?

4 A It's a pond. The police can verify it. I'm sure they  
5 went back there and looked at it. It was a, it was ---

6 Q Did they find you that night?

7 A No, they didn't.

8 Q So they don't know what if you did fall in anything,  
9 correct, because you ran?

10 A Not at all, but my - it's a pond back there. He asked  
11 me, after we got finished getting questioned we went outside  
12 and I smoked a cigarette, they gave me a cigarette and we  
13 talked and the police laughed and he was like, you know, I  
14 guess they call him Bunny. He's real fast. He was like, "You,  
15 you blew me. You left so quick." He was like, "Where did you  
16 go?" I said I ran through right where they seen me jump out  
17 across the street it's a, it's like two or three acres, horses  
18 over there and stuff. I ran through there. I told him I went  
19 through there, jumped over a fence and when I jumped over a  
20 fence I landed in a big like it's, it's a real deep pond.  
21 It's like probably where horse go to drink. I landed in  
22 there. It's right beside - behind the Pines of St. James. I  
23 didn't know where I was at but somehow I ended up in the back  
24 of Pines of St. James and I didn't have my phone then.

25 Q Kevin Bowens tells you the TV is inside; right?

1 A He never told me the TV was inside at all. He said,  
2 "Come" - he say, "Come inside. You can come in," and I said,  
3 "No, you got a gun. There's no need for me to go inside your  
4 house."

5 Q Did you tell police, "We couldn't load it up because we  
6 wasn't going inside the house?"

7 A I never knew the TV was inside of his house and where  
8 inside.

9 Q Did he have it outside when he came outside?

10 A No, he didn't. He told me to come inside.

11 Q Where do you normally keep TVs?

12 A I'm not sure where he kept his at. I mean, you could put  
13 it in a kids' room, the living room, the kitchen, no specific  
14 place, the bathroom if you want, you know.

15 Q You said Tommy just wanted to ride with you all that  
16 night; correct?

17 A Tommy just, he just wanted to ride and I told him, you  
18 know, I needed help with getting the TV, taking, getting the  
19 TV and taking Sage's truck back.

20 Q Now, I'm trying to - I'm having a hard time trying to  
21 figure that one out. What exactly was supposed to happen with  
22 Sage's truck?

23 A He was supposed to take Sage his truck back.

24 Q From where?

25 A From dropping me off, I was going to go pick the TV up,

1 take it back to my house at 544, put it there. Then I was  
2 going to go to Ashley's house and chill with her and I was  
3 going to have Tommy take Sage his truck back because Evelyn  
4 has a car and she just - she'll let me hold her car if I  
5 needed to do anything or go home.

6 Q So if I've got this right you were going to leave Burcale  
7 Road and drive to Kings Grant; right?

8 A Saire and them had a, a drug sale they had needed to make  
9 so they was already going down there to ---

10 Q When did you tell police about the drug sale they were  
11 going to go make?

12 A I never told them.

13 Q Something - let me ask you one more time, you left  
14 Burcale Road and went to Kings Grant?

15 A Yes, I did.

16 Q No doubt about that.

17 A Yes, I did. Yes, sir.

18 Q And your plan was to leave Kings Grant and go up to 544;  
19 correct?

20 A To get my TV and take it to the house.

21 Q Take it to the house, that's 30 minutes, 30 minutes,  
22 right, thereabouts?

23 A Yes, sir.

24 Q And then you were going to cut back down to Murrells  
25 Inlet; correct?

- 1 A I was going to head back down to Ashley's.
- 2 Q And she was staying in Murrells Inlet now; correct?
- 3 A Yes, I never knew where - I never - I knew it was in the  
4 Murrells Inlet area, but I never been to her house  
5 specifically.
- 6 Q But if it was Murrells Inlet area that would be 30 more  
7 minutes; right?
- 8 A I'm sure it would be, yes.
- 9 Q And you could use Evelyn's car. You could have just gone  
10 from Kings Grant over to Murrells Inlet and used Evelyn's car  
11 to take the TV the next day; right?
- 12 A No, Evelyn wasn't home.
- 13 Q But you have to come up with an answer for why Tommy and  
14 Saire are with you.
- 15 A They was with me to take Sage back his truck.
- 16 Q Does Tommy have a driver's license?
- 17 A I believe he do.
- 18 Q Tommy doesn't have a car though; right?
- 19 A Tommy had a car, but a lot of people who have driver's  
20 license don't. I didn't have a car and I had a driver's  
21 license.
- 22 Q Tommy was going to get in Sage's truck and drive it  
23 where, to Tommy's - to, to Sage's house?
- 24 A Either Tommy or Saire was going to drive it back to  
25 Tommy's place because that's where I met Sage at.

1 Q You met Sage at Tommy's house?

2 A We was formally introduced at Tommy's house.

3 Q You told police that you knew he was going to fix the  
4 truck in Loris; correct?

5 A Yes, sir.

6 Q And you told police that he picked up your wife's or  
7 baby's mama's SUV off of 544.

8 A He picked up the jeep off, off - from my house on 544.

9 Q From, from the house you all were sharing on 544.

10 A From my house on 544, yes, sir.

11 Q And you want the jury to believe that now you're going to  
12 trade up again at Burcale.

13 A What you mean?

14 MR. RICHARDSON: Your Honor, I'll try and rush along.

15 THE COURT: Good thing.

16 MR. RICHARDSON: Yes, sir.

17 BY MR. RICHARDSON:

18 Q You told police that you knew how somebody looked when  
19 they had a gun; correct?

20 A Yes, I did.

21 Q And that's how you could tell Kevin Bowens had a gun;  
22 correct?

23 A I seen him with his hand in his waistline.

24 Q You saw him with his hand in his waistline. You knew  
25 that was the sign of a gun; right?

- 1 A Yes, I did.
- 2 Q How about Saire, you told the police you saw Saire  
3 standing with his arm behind his back?
- 4 A Not till we was talking altogether and ---
- 5 Q So when you're altogether talking you see Saire with his  
6 arm behind his back; right?
- 7 A He was like this.
- 8 Q Like Doc Holliday?
- 9 A He was like this, like this.
- 10 Q Like - so you knew he had a gun?
- 11 A I didn't know till he pulled it out. I never knew Saire  
12 had a gun.
- 13 Q It was convenient that you could tell Kevin Bowens had  
14 one but didn't know Saire had one.
- 15 A Kevin had his in plain view where I could have seen it.
- 16 Q Whose TV was at Kevin Bowens' house?
- 17 A The TV that was at Kevin Bowens' house was given to him  
18 by Ashley and it was mine.
- 19 Q It was your TV?
- 20 A Yes, sir.
- 21 Q Who was going to get that TV that night?
- 22 A Kevin called me, told me I could have come and got it, so  
23 I went to get it.
- 24 Q And who led the way over to Kings Grant?
- 25 A Ashley showed me where he stayed because I didn't know

1 where Kevin Bowens stayed.

2 Q Who drove?

3 A I drove. I was driving.

4 Q And who drove over to Tommy's house that night?

5 A I drove over there to get some weed.

6 Q And who drove away from Tommy's house?

7 A I did.

8 Q And Saire and Tommy followed you; correct?

9 A Yes, they did. Tommy tried to hop in the car with me and  
10 Ashley but then ---

11 Q He was going to sit in the truck with you all? Tommy's a  
12 big boy.

13 A Yeah, he, he hopped in - he tried to hop in the car with  
14 me and Ashley and then Saire had came down and he hopped in  
15 the car with Saire.

16 MR. RICHARDSON: Your Honor, I have no further  
17 questions for him.

18 THE COURT: Mr. Chrisco.

19 MR. CHRISCO: I've just got one question, Your Honor.

20 THE COURT: Yes, sir.

21 MR. CHRISCO: If I could get this marked.

22 (Defense Exhibit Number Five [Pawn Ticket] marked for  
23 identification.)

24 REDIRECT EXAMINATION

25 BY MR. CHRISCO:

1 Q Now I'll show you what's been marked as Defense Exhibit  
2 Number Five. Do you recognize that?

3 A It's the receipt that my cousin, Kerrell Pickett, pawned  
4 the TV February, what was it - what date was it, 11-29, 2010,  
5 see.

6 MR. CHRISCO: Your Honor, at this time I would like to  
7 enter that into evidence.

8 THE COURT: Any objection?

9 MR. RICHARDSON: Without objection, Your Honor.

10 THE COURT: It's in evidence without objection.

11 (Defense Exhibit Number Five [Pawn Ticket] entered into  
12 evidence and appropriately marked.)

13 Q What date did you get it out?

14 A I believe it was - it's - it says stamped February 12<sup>th</sup>,  
15 10:43 a.m.

16 Q Go down toward the bottom of the document over toward the  
17 center and look, if I told you that it said February the 19<sup>th</sup>.

18 A Oh, it says the 19<sup>th</sup>, I didn't see it.

19 Q It says date paid in full to the left.

20 A Okay, February 19<sup>th</sup>, 2011.

21 Q This the television that we've all been talking about?

22 A Yes, sir, it is.

23 Q Why did a Kerrell Pickett pawn this?

24 A Because I didn't have my ID at that time.

25 Q The second page has a picture. Who is that picture?

1 A Kerrell Pickett.

2 Q Because he pawned it?

3 A Yes, sir.

4 MR. CHRISCO: No further questions, Your Honor.

5 THE COURT: Solicitor, any questions on that document?

6 MR. RICHARDSON: No, sir, Your Honor.

7 THE COURT: You may step down, sir.

8 All right, ladies and gentlemen, we're going to stop. I'd  
9 ask that you be back tomorrow morning 9:30 and we'll resume  
10 the trial at that point in time. Please remember don't talk  
11 about the case, don't allow anybody to talk to you about it.  
12 We'll finish it up tomorrow sometime. Thank you very much.  
13 Everyone else remain seated while the jury retires,  
14 please.

15 (The following takes place outside the presence of the jury.)

16 THE COURT: Thank you. All right, let's talk about  
17 tomorrow. What's your intention, Mr. Chrisco?

18 MR. CHRISCO: Your Honor, I'm going to put Detective  
19 Large up on the stand. It shouldn't take too long. I'm just  
20 going to get some items in evidence. He can bring his file.

21 THE COURT: All right, sir, do we need to cover the  
22 issue about the statement?

23 MR. CHRISCO: Yes, Your Honor, I think that enough  
24 discrepancies has been mentioned by the Solicitor to allow the  
25 introduction of the video and the audio and let the jury make

1 its decision, Your Honor.

2 THE COURT: What's your position, Solicitor?

3 MR. RICHARDSON: Your Honor, I leave it at the  
4 discretion of the Court in this matter.

5 THE COURT: All right, I'm going to allow you to do  
6 it, Mr. Chrisco. I think the rule of completeness would  
7 require it. It - I'll just ask that you give all due  
8 consideration to the jury and look through it and see if you  
9 need the entirety of the matter played or not. If you think  
10 you do then they'll sit there and watch that thing for two and  
11 a half hours or however, three hours or whatever time it takes  
12 to get through the whole thing.

13 MR. CHRISCO: Your Honor, that's something that I think  
14 that tonight I'll think about.

15 THE COURT: Well, I'm not telling you. You - in the  
16 morning you can tell me what you decide, okay.

17 MR. CHRISCO: Yes, Your Honor.

18 THE COURT: I'm just telling you if you want them to sit  
19 there and watch that thing for three hours then that's what  
20 they're going to do. If you go through it and you find there  
21 are portions that you want to play and you don't need the  
22 entirety of the thing played then that's your choice, but if  
23 you want them to sit there and listen to it for the whole  
24 thing they will. All right, see you in the morning. Thank  
25 you very much.

1 MR. CHRISCO: Your Honor, Your Honor ---

2 MR. RICHARDSON: Your Honor, I would state for the  
3 record ---

4 THE COURT: Yes.

5 MR. CHRISCO: --- before we go for the night just so we  
6 can handle it, just so it will run smooth in the morning I  
7 plan on the - all the cell phone records getting those  
8 introduced into evidence and the jury can take them back and  
9 look at them when they make their deliberation.

10 MR. RICHARDSON: Your Honor, without the cell phone  
11 provider it will not have the proper foundation for those.

12 THE COURT: Well, I'm assuming we'll cover that in the  
13 morning when they're attempted to be introduced. All right,  
14 thank you, and see you all in the morning.

15 MR. RICHARDSON: Thank you, Your Honor.

16 OFF THE RECORD

17 (On the record, Thursday, February 14, 2013: The following  
18 takes place outside the presence of the jury.)

19 THE COURT: All right, we are here to resume the trial  
20 in the matter of the State of South Carolina versus Kareem  
21 Harry. We are in the Defense presentation of the case. We  
22 have heard from now two Defense witnesses. There was a  
23 question as to whether or not the Defense would request the  
24 playing of the video and audio statement of the Defendant in  
25 this matter. So I'll just ask, Mr. Chrisco, what is the

1 Defense's intention at this time?

2 MR. CHRISCO: As far as to the audio and video that was  
3 the subject of the Jackson v. Denno hearing and I think it is  
4 in evidence there.

5 THE COURT: Right, it's in evidence for the, for the  
6 purpose of that hearing, yes, sir, it's part of the record.

7 MR. CHRISCO: For the purpose of that hearing, I've  
8 talked to my client and I have informed him that more or less  
9 the State has opened the door to allow that audio video into  
10 evidence and the jury to view, listen and view the video and  
11 he has, after discussing that portion of it and discussing  
12 other things, my client has made the decision and I left the  
13 decision to my client, not to me, I gave him my advice and he  
14 made the final decision on what to do and that is to not to  
15 seek to introduce it to allow the jury to look at it.

16 THE COURT: All right, so, if you wouldn't mind  
17 standing, Mr. Harry, please, sir.

18 MR. HARRY: Yes, sir.

19 THE COURT: All right, now, you've heard what your  
20 attorney has said and obviously you've been present during the  
21 entirety of the proceedings, you've testified yesterday and  
22 you heard the Court and your attorney's right, that if it was  
23 your intention the Court would allow the playing of that  
24 entire statement again before the, before the jury if you so  
25 choose or chose to do that and you understand that; correct?

1 MR. HARRY: Yes, Your Honor.

2 THE COURT: All right, sir, and you've had overnight  
3 as I understand it and probably this morning had an  
4 opportunity to talk about that with your attorney and get his  
5 advice on it; correct?

6 MR. HARRY: Yes, Your Honor.

7 THE COURT: All right, and I understand and it appears  
8 he made it clear it's - he would leave it to you and it's,  
9 it's your decision as it was your decision, you know, when we  
10 talked about it earlier to testify or not to testify, you can  
11 get all the excellent advice you can from, from your attorney  
12 and whomever but ultimately it's your decision to make and you  
13 understand that; right?

14 MR. HARRY: Yes, Your Honor.

15 THE COURT: All right, sir, so, in that what is your  
16 decision about the playing of that video audio statement?

17 MR. HARRY: Your Honor, I do not want it put into  
18 evidence, put into the evidence.

19 THE COURT: All right, thank you very much, Mr. Harry.

20 MR. HARRY: Thank you.

21 THE COURT: Thank you, sir, you can have a seat.

22 All right, with that, Mr. Chrisco, will there be any  
23 other witnesses called on behalf of the Defense or the  
24 recalling of the detective or anything like that?

25 MR. CHRISCO: No, Your Honor, I will not exercise the

1 right to recall the detective, Your Honor.

2 THE COURT: All right, so, the Defense would rest at  
3 this point in time?

4 MR. CHRISCO: We would rest at this point, Your Honor.

5 THE COURT: All right, very good.

6 All right, with the Defense resting the, what is the  
7 State's position? Will there be any reply testimony?

8 MR. RICHARDSON: We won't be calling any reply  
9 testimony, Your Honor.

10 THE COURT: All right, so, we have concluded then the  
11 evidentiary portion of the trial. Now, before I call the jury  
12 in to make that clear to them to save us from bringing them in  
13 and sending them back out again what I would ask then, Mr.  
14 Chrisco, if you would like to renew your motions or any  
15 motions that you would like to make to the Court now at the  
16 end of the evidentiary stage I'll be glad to hear from you.

17 MR. CHRISCO: Your Honor, I'm just going to renew the  
18 motion and the Court has stated its position. I still stand  
19 firm with the motion that, that I made.

20 THE COURT: Very good, sir.

21 MR. CHRISCO: I'm sure the Court will, too.

22 THE COURT: Yes, sir, I understand that.

23 All right, in, in that and, and the Court accepts that  
24 your re-argument of the - your directed verdict motion that  
25 you made earlier at the end of the State's case with all the

1 arguments you made at that point in time, those being made  
2 again now at this stage of the proceedings at the end of the  
3 evidence. Again, as I indicated, and I don't see the  
4 necessity to go through all the standards again regarding  
5 directed verdict standards. I reincorporate those standards  
6 as I indicated them previously but the Court finds in this  
7 particular matter that it does and I think it's clear that the  
8 State is relying here and it's basically a circumstantial  
9 evidence case, and based upon that and my examination of the  
10 facts and the rendition of the facts that we went through and  
11 certainly now we've had some additional testimony, but that  
12 evidence still exists but now there's additional testimony,  
13 that I believe that there has been substantial circumstantial  
14 evidence which reasonably tends to prove the guilt of the  
15 accused or from which the guilt of the Defendant could be  
16 fairly and logically deduced, and therefore, based upon that  
17 the Court respectfully declines to grant your motion for a  
18 directed verdict. Anything else, Mr. Chrisco?

19 MR. CHRISCO: No, Your Honor.

20 THE COURT: All right, very good. All right,  
21 gentlemen, let's - I had worked on a potential charge to the  
22 jury already and let me review that with you and you can tell  
23 me if you have any additions or deletions that you would like  
24 to suggest regarding the, the charge.

25 In the charge obviously we're going to talk to the jury

1 reasonable doubt.

2 Is that what you were requesting, Mr. Foreman?

3 MR. FOREMAN: Yes, Your Honor.

4 THE COURT: All right, thank you very much. If you  
5 all will resume your deliberations, and of course, we'll be  
6 here to lend any assistance if necessary.

7 (Whereupon, the following takes place outside the  
8 presence of the jury.)

9 THE COURT: All right, again, this was done at the  
10 request of the jury for assistance, but with that is there any  
11 exception, deletion or addition from the State?

12 MR. RICHARDSON: No, sir, Your Honor.

13 THE COURT: From the Defense?

14 MR. CHRISCO: No, Your Honor.

15 THE COURT: All right, thank you all very much.

16 Again, gentlemen, just be at ease till the jury needs us.

17 MR. RICHARDSON: Thank you, Your Honor.

18 OFF THE RECORD

19 (On the record. Verdict reached at 3:24 p.m.)

20 (Whereupon, the following takes place outside the  
21 presence of the jury.)

22 THE COURT: All right, as I understand it the jury has  
23 reached a verdict in the matter of the State versus Kareem  
24 Harry. Is the State ready to receive it at this time?

25 MR. RICHARDSON: We are, Your Honor. I've discussed

1 with the family that regardless of what the verdict is that we  
2 should maintain composure.

3 THE COURT: I appreciate that and I appreciate you  
4 talking to them. I'll address that in just a second.

5 MR. RICHARDSON: Yes, sir, Your Honor.

6 THE COURT: Thank you, and is the Defense ready to  
7 receive it?

8 MR. CHRISCO: Yes, Your Honor.

9 THE COURT: All right, very good. I'm just - will  
10 address my remarks to all interested parties and observers in  
11 this particular trial. I do not know what the verdict is. No  
12 one knows except the jury. When the jury comes in and we find  
13 out what the verdict of the jury is this verdict will be  
14 received with respect. It will be received with silence. The  
15 Court will not tolerate any kind of show of emotion or  
16 outbursts of any kind regarding the jury's verdict. If you do  
17 so you will be detained by an Horry County Sheriff's Office  
18 and I will hold a contempt of court hearing in which I could  
19 sentence you to one year in the Department of Corrections. If  
20 you believe you cannot follow these instructions I will give  
21 you the opportunity now to leave the courtroom. If you stay  
22 in the courtroom you are bound by these instructions. If  
23 anyone would like to leave, please do so now.

24 Thank you very much. Ask the jury to come in.

25 (Whereupon, the following takes place in the presence of

1 the jury.)

2 THE COURT: All right, Mr. Foreman, has your jury  
3 reached a verdict in this matter?

4 FOREPERSON: Yes, we have, Your Honor.

5 THE COURT: Very good. Could you hand the verdict  
6 form to the Clerk of Court, please? Thank you. Thank you,  
7 ma'am.

8 (Complies with request and Court reviews verdict form.)

9 THE COURT: Madam Clerk, you may publish the verdict.

10 CLERK: Indictment number 2012-GS-26-2938, State  
11 of South Carolina, County of Horry, versus Kareem Shamel  
12 Harry, on the charge of murder we, the jury, by unanimous  
13 consent, find the Defendant, Kareem Shamel Harry, guilty,  
14 dated February 14<sup>th</sup> of 2013, signed by foreperson Edward  
15 Brzezinski.

16 Ladies and gentlemen of the jury, if this is your verdict  
17 so signify by raising your right hand.

18 (All jurors raise right hand.)

19 CLERK: Thank you.

20 THE COURT: The jury having affirmed their verdict by  
21 raising of their right hand does the State wish the jury  
22 polled?

23 MR. RICHARDSON: No, sir, Your Honor.

24 THE COURT: Does the Defense wish the jury polled?

25 MR. CHRISCO: No, Your Honor.

1 THE COURT: Thank you very much.

2 Any other matters from the State as to the jury itself  
3 before I excuse the jury?

4 MR. RICHARDSON: No, sir, Your Honor.

5 THE COURT: As to the jury itself from the Defense?

6 MR. CHRISCO: No, Your Honor.

7 THE COURT: Thank you very much.

8 Mr. Foreman, yes, sir, in just one second, Mr. Foreman,  
9 ladies and gentlemen, I want to thank you for your service in  
10 this particular case. The Court, all the participants,  
11 everyone here knows we ask you to do a very difficult thing.  
12 If any of you are in a relationship it's hard to get two  
13 people to agree to some, something sometimes, so getting 12  
14 people to agree we understand is difficult. You worked very  
15 hard. You did everything the Court would have expected of you  
16 in this particular matter and more. I want to express my  
17 appreciation for that. You are excused from your jury service  
18 from the week and again have earned a three year exemption  
19 from coming back to Circuit Court jury duty if the Clerk of  
20 Court sends you a notice. With that you're excused. Thank  
21 you very much. Everyone else remain seated, please.

22 (Jury exits courtroom.)

23 THE COURT: Motions from the Defense at this time?

24 MR. CHRISCO: Your Honor, we would renew the motions  
25 that we had at the end of the case.

1 THE COURT: All right, sir, thank you.

2 Regarding this particular matter and the motion of the  
3 Defense regarding its previous matters raised to the Court's  
4 attention now in their motion for a new trial the evidence in  
5 this matter was of a circumstantial nature. As I previously  
6 indicated I believe there was more than sufficient evidence to  
7 send the matter to a jury for their consideration and I again  
8 reaffirm that. I believe there was competent evidence  
9 presented in this matter that would and does sustain the  
10 verdict of the jury in this matter. It is not my position at  
11 this point in time on a motion for a new trial and where we  
12 are at this stage of the proceedings to substitute my judgment  
13 if there - if I had a difference as to how I would have voted  
14 for that of the jury and overturned a verdict on those  
15 matters. I have examined the evidence previously regarding  
16 the directed verdict motions. I have examined the evidence  
17 regarding this motion for a new trial. There is and without  
18 question more than sufficient evidence to submit the question  
19 of guilt to the jury and more than sufficient evidence to  
20 sustain the jury's verdict of guilty of the crime of murder.  
21 Therefore, I respectfully decline to grant your motion for a  
22 new trial.

23 Further motions on behalf of the Defense?

24 MR. CHRISCO: No, Your Honor.

25 THE COURT: Thank you.

1 Is the State ready to proceed with sentencing?

2 MR. RICHARDSON: We are, Your Honor, and with respect  
3 to any victim impact information I've spoken with Kevin's  
4 mother and I believe she does wish to address the Court as she  
5 did at Mr. Castro's sentencing and we may have one other, Your  
6 Honor. Mr. Bowens did have children by Patsy, the mother of  
7 his oldest children. Christina, I'm not sure if she wants to  
8 address the Court. I know she had the time to testify.

9 THE COURT: I appreciate that. She's previously  
10 testified.

11 MR. RICHARDSON: Your Honor, we are prepared to go  
12 forward. If I may approach I have a sentencing sheet.

13 THE COURT: Yes, sir.

14 MR. RICHARDSON: Thank you, Your Honor.

15 THE COURT: Thank you.

16 All right, Solicitor, if you would want to present any of  
17 the victim's representatives that would like to speak to the  
18 Court at this time I'll be glad for them to do so.

19 MR. RICHARDSON: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 All right, ma'am, if you could come forward and,  
22 Solicitor, if you don't mind can you move the microphone to  
23 the end of the table ---

24 MR. RICHARDSON: Certainly, Your Honor.

25 THE COURT: --- right there and, ma'am, if you could

1 stand there and try and speak into the microphone so you can  
2 be heard. Also, please remember that you are addressing the  
3 Court and no other participants. All right, I'll ---

4 MS. GRANT: Yes, sir.

5 THE COURT: --- if you'll just tell me your name and  
6 I'll be glad to hear from you, ma'am.

7 MS. GRANT: My name is Betty Bowens Grant.

8 THE COURT: Yes, ma'am.

9 MS. GRANT: First, Your Honor, I would like to thank  
10 you for giving me this opportunity to express my feelings to  
11 the Court. Kevin was my baby out of four children, born  
12 August 6<sup>th</sup>, 1975, and at the time of his death he was 35 years  
13 of age. No one will never know how I feel, not even another  
14 mother who has lost a son to this violent crime.

15 I miss my son, Kevin, very much. I feel like someone has  
16 stolen something from me and I say this because just before  
17 this happened Kevin was making changes in his life. Although  
18 he wasn't a perfect child, he made mistakes in his life, but  
19 he still was making changes to better himself. He was doing  
20 things so that he become a legal driver. He had lost his  
21 driver's license and he was getting all this stuff  
22 straightened out. He had even contacted some of his childhood  
23 friends who are now ministers and letting them know that he  
24 was a new person and that he was changing hisself and that God  
25 had accepted his forgiveness.

1           His life was taken away from me. He didn't deserve to  
2 die the way he did and I feel like I'm being robbed and wasn't  
3 able to enjoy my son and his new life, not knowing about with  
4 the encounter in his future.

5           I have this pain in my heart and it won't go away. I  
6 still shed tears. I miss my son. I still have his phone  
7 number in my phone and I know I should get rid of it but it's  
8 hard to do. He's a missing piece in our family, his presence,  
9 his smile, his laughter, the way he would just chuckle, his  
10 voice, the time he took out of his life just to show how much  
11 his family meant to him. His family was very important to him  
12 for he wanted to be surrounded by us all. We come from a  
13 large family. I'm the oldest of 15 brothers and sisters. He  
14 is missed by so many friends, many - in many, many states.

15           He was a special friend to many. In reading some of his  
16 posts that was on his Facebook I learned more about him. I  
17 learned he was even a mentor to many people. People looked up  
18 to him and respected him and they called him for advice about  
19 their situations. You see, he wasn't all bad. He was good.  
20 He had the traits in his life. He has a memorial book that is  
21 full of nothing but loving memories from family and friends, a  
22 book that was done by one of his friends, even a CD that was  
23 made by another friend. They did this in honor of his  
24 children and now one of his friends is going to do a  
25 documentary on him. He had to have been someone very special

1 for them to have done that.

2 I feel that Mr. Harry is just, is just as much  
3 responsible for his death. He was taken away from many  
4 friends. He was a nephew from 20 plus aunts and uncles, a  
5 host of cousins, an uncle for many nieces and nephews, some of  
6 them that will call him their Uncle Daddy because that's how  
7 he was to them. He was their uncle but he was also their  
8 father to them.

9 He was taken away from a brother, from two sisters, two  
10 brother-in-laws and a sister-in-law. He was taken away from  
11 me and my husband, but more importantly I feel he's just as  
12 responsible for taking away a father from three biological  
13 children, Zarell [spelled phonetically], who will no longer  
14 have his father to coach him or to just have that father and  
15 son talk; Zinyara [spelled phonetically], who we call Yarry  
16 [spelled phonetically] who will never have her first father  
17 and daughter banquet at school or be - he will never be there  
18 for her awards day. She has many, many awards. She's so  
19 smart. She's just like her father and she will never get to  
20 hear her father say, "Well, done, Yarry, well done." Carmen,  
21 who was five months old when Kevin died, will never know him  
22 for herself but will have to rely on us and others to tell him  
23 - her how he was, and Justin, who wasn't his biological son  
24 but he will also miss Kevin because Kevin treated him with  
25 nothing but love. They will all miss his presence at their

1 outings and birthday parties.

2 Now all we have is our love for Kevin. I know that no  
3 matter what sentence is handed down on today it will never  
4 bring back my son, but I feel that Mr. Harry is just as much  
5 guilty and is the cause of my son being shot not once, not  
6 twice, but three times, making sure that my son's children,  
7 our family and his friends will never enjoy having his family  
8 and friends presence or have his presence among us or that  
9 Kevin will never have life on earth again. Whereas one day  
10 Mr. Harry may be free and may be able to embrace his loved  
11 ones, but that day will never happen for us again, not for me  
12 and all those that love him, but especially not for his  
13 children.

14 Your Honor, I'm asking that Mr. Harry be given the  
15 maximum amount of time without the possibility of parole.  
16 Kevin may be free from this sinful world but Mr. Harry to be  
17 free or ever forget that he is just as responsible for my  
18 son's death and that the pain that he has caused his family  
19 and children to bear is immeasurable. My son, Kevin with his  
20 ---

21 MR. RICHARDSON: Your Honor, may I approach the bench?

22 THE COURT: Yes, sir, absolutely.

23 MR. RICHARDSON: Your Honor, Ms. Bowens Grant has just  
24 got a couple of pictures of Kevin.

25 THE COURT: Certainly.

1 MR. RICHARDSON: We've talked about him but we feel  
2 it's important the Court see Kevin.

3 THE COURT: Yes, sir.

4 Yes, ma'am. Thank you.

5 MR. RICHARDSON: Thank you, Your Honor.

6 THE COURT: Thank you, and you mentioned there was  
7 someone else that wished to speak?

8 MR. RICHARDSON: Possibility, Your Honor.

9 THE COURT: All right, sir.

10 MR. RICHARDSON: If I may have a moment?

11 THE COURT: All right, certainly, if you'd just check  
12 and see, please.

13 MR. RICHARDSON: Your Honor, presently everybody else  
14 is overcome with relief at the verdict and very emotional  
15 right now. They don't wish to address the Court. They feel  
16 that Ms. Bowens-Grant has done an excellent job in addressing  
17 the impact of the loss of Kevin.

18 From the State, Your Honor, I've prosecuted quite a few  
19 homicides. It's one of the most stupid and senseless ones  
20 that I've had, over a TV. I stated to the jury that there's  
21 one central axis, one central hub that brought everybody to  
22 that scene that night and that's Mr. Harry, and he deserves  
23 his punishment. I understand that this sentence carries 30  
24 years to life, Your Honor, day for day. The State believes  
25 that he certainly deserves more than the 30 years as he

1 planned this, this crime that resulted in the murder of Mr.  
2 Bowens, and we would just ask the Court to take that into  
3 consideration, Your Honor.

4 As stated previously he does have a prior conviction. He  
5 was out on probation at the time he committed this murder.  
6 Thank you, Your Honor.

7 THE COURT: All right, thank you.

8 Mr. Chrisco, be glad to hear from you, sir.

9 MR. CHRISCO: Your Honor, we've all been here for the  
10 last four days. You've heard my client testify yesterday. He  
11 told about his life. He told about his children, that his  
12 wife has pancreatic cancer. We just ask the Court for mercy.

13 THE COURT: Thank you very much.

14 Mr. Harry, is there anything you would like to add?

15 MR. HARRY: Yes, sir, I would like to apologize to the  
16 family of the victims. I know I can never bring Kevin back.  
17 I have children, also, as well. I mean, I'm already  
18 sentenced. The plan wasn't to kill Kevin. He didn't deserve  
19 to die the way he did and I guess I'll have to accept  
20 responsibility for this and I'm sorry for his family that they  
21 had to lose their son, and you know, their kids never grow up  
22 and see their father. I'm in a position two of my kids  
23 probably won't grow up and be able to see me as well. I  
24 didn't kill Kevin. Kevin didn't deserve to be killed and it's  
25 just all overwhelming right now. I can't believe it. I

1 thought I would have been found not guilty, but I'm found  
2 guilty and, I mean, if it's relief for the family, if this  
3 helps them I'm okay with that, I can live with that, but I  
4 just want to apologize for what happened but Kevin didn't die  
5 over no TV and that's all I have to say.

6 THE COURT: Thank you, sir. All right, sir, thank you  
7 very much.

8 Anything else, Mr. Chrisco?

9 MR. CHRISCO: No, Your Honor.

10 THE COURT: All right, thank you very much.

11 All right, if you could stand, Mr. Harry, please.

12 MR. HARRY: Yes, sir.

13 THE COURT: 2012-GS-26-2938, The State of South  
14 Carolina, County of Horry versus Kareem Shamel Harry,  
15 regarding the charge of murder, as indicated by all the  
16 parties here there is no sentence that could be imposed by  
17 this Court that will bring back the life of the Defendant - of  
18 the victim in this matter, nor ease the pain of his loss. The  
19 Court takes into consideration the facts as testified to in  
20 this particular trial, the result of the previous matter  
21 whereby the individual who used the weapon sentenced by  
22 another court, therefore, the sentence in this matter is the  
23 Defendant is committed to the State Department of Corrections  
24 for a determinant term of 31 years. The Defendant is given  
25 credit for time he has already served. Thank you very much.

1 MR. CHRISCO: Thank you, Your Honor.

2 MR. RICHARDSON: Thank you, Your Honor.

3 MR. HOLFORD: Thank you, Your Honor.

4 THE COURT: This matter is now concluded.

5 MR. CHRISCO: Your Honor, one more matter.

6 THE COURT: Yes, sir.

7 MR. CHRISCO: Probation?

8 THE COURT: Yes, sir.

9 PROBATION OFFICER: Judge, he's got, he's got an  
10 outstanding probation case and we would just like to resolve  
11 that matter.

12 THE COURT: Do you have a problem with that, Mr.  
13 Chrisco?

14 MR. CHRISCO: No, Your Honor, we would like to take care  
15 of everything at one time.

16 THE COURT: Mr. Harry, do you understand what it is  
17 that - you know and I think you indicated before you were on  
18 probation; correct?

19 MR. HARRY: Yes, sir.

20 THE COURT: All right, and honestly it doesn't matter  
21 how you were doing on probation before because this conviction  
22 here in and of itself violates your probation. Do you  
23 understand that?

24 MR. HARRY: Yes, sir.

25 THE COURT: And the jury having found you guilty

1 that's a violation of your probation. So I - what was Mr. ---

2 PROBATION OFFICER: He was on for grand larceny, Your  
3 Honor, five years suspended to five years probation.

4 THE COURT: All right, what I'm going to do is I'm  
5 going to revoke the sentence but I'm going to run it  
6 concurrent with, at the same time as the Court sentenced in  
7 this particular matter; all right? Thank you all very much.

8 PROBATION OFFICER: Thank you, Your Honor.

9 (Adjourned.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

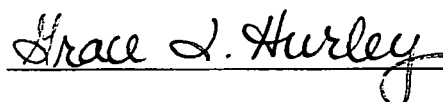
25

## C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Kareem Shamel Harry, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on February 11 through 14, 2013.

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



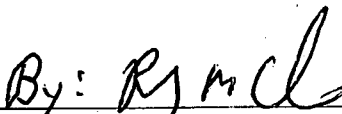
Grace L. Hurley, CVR-CM-M  
Official Reporter

May 24, 2013.

## 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."

November 18, 2014

By: 

Melah Bowers Jefferson  
Attorney at Law

Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEYS FOR APPELLANT