

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM ANDERSON COUNTY  
Court of General Sessions

RECEIVED

SEP 28 2017

R. Lawton McIntosh, Judge

S.C. SUPREME COURT

Case Number: 2016A0410200556

State of South Carolina,

Respondent,

v.

Jason Franklin Carver,

Appellant.

EXPLANATION OF ISSUES ON APPEAL

Appellant Jason Franklin Carver prays this Court provide him with the opportunity to appeal the rulings of the Honorable R. Lawton McIntosh, in the underlying case.

September 25, 2017.



Donald L. Smith (SC Bar #: 6699)  
Attorney for Appellant  
122 N. Main Street  
Anderson SC 29621  
Telephone: (864) 642-9284  
Facsimile: (864) 642-9285  
[attorneydonaldsmith@gmail.com](mailto:attorneydonaldsmith@gmail.com)

Other Counsel:

Chelsey L. Moore, Assistant Solicitor Tenth Judicial Circuit

**NOW COMES**, Appellant/Defendant Jason Franklin Carver, by and through counsel, explains why he should be granted a new trial and, therefore, he should be granted the opportunity to appeal the issues that arose in his prosecution:

1. That the defendant was not part of a conspiracy and had no knowledge of the reasoning behind returning to the victim's home prior to leaving Gambrell's home.
2. That the State did not show any evidence illustrating that Defendant was part of any team or any association which had a criminal purpose.
3. That the Court should have instructed the jury to strike the terms kidnap and robbery from the State's closing argument rather than tell them they had the right to believe or not believe statements made by the attorneys for both sides.
4. That the Court's unsolicited advice to Defendant's witness, Milton Gambrell, to plead the 5<sup>th</sup>, denied Defendant the opportunity to elicit testimony that would have shown that he was not part of the association which sought the return of the cocaine.
5. That the Court's refusal to allow Defendant Carver to call his duly subpoenaed witness, Co-Defendant Milton Gambrell, to the stand violated Defendant Carver's 6<sup>th</sup> Amendment Right to plead the 5<sup>th</sup> in the presence of the jury unfairly prejudiced the Defendant by leading the jury to believe that Gambrell's absence meant Defendant feared his testimony.
6. That the Court's initial denial of the jury viewing Milton Gambrell's interview with law enforcement denied Defendant the ability to further illustrate his lack of accomplice liability in the murder of Stephen Cameron.
7. That although the Court found that it had improperly denied the use of the interview of Milton Gambrell, it forced the defense to play the interview outside the presence of the jury, preventing the jury from seeing the witness's expressions and mannerisms.
8. That after reviewing Milton Gambrell's interview outside of the jury's presence, the Court improperly decided that it offered nothing to exculpate the defendant.

9. That the Court's refusal to compel witnesses to appear in response to a Subpoena properly served denied defendant of his Sixth Amendment rights.

10. That the Court failed to properly address the State's continual failure to provide discovery throughout the case.

11. That the State's failure to provide discovery within thirty (30) days of its receipt was in direct violation to Brady.

12. That the State had 15 hours of video surveillance on one USB disc, without any qualifications or breakage. That the defense was unable to open the disc and was then provided with several CDs with pieces of the 15-hour segment on individual discs. That two hours were missing, a period which coincided with the victim's family member discussing that it was understood that someone had rolled the dead body; and, taken the opportunity to acquire money and drugs. The two hours contained footage that would prove that Carver was not part of a robbery, as much as he wasn't a party to a murder.

13. That the State proved nothing more than mere suspicion as it relates to Defendant Carver's presence during the evening's events.

14. That Defendant Carver was not privy to why he needed go back and get Steven Cameron; and, therefore, the plain meaning of bring back the person you just drove home meant nothing criminal to him.

15. That Defendant Carver did not go into the Gambrell home until after the incident, making him oblivious to any drug presence, sales, use; and, therefore, he was not partaking in something illegal, he was simply returning Stephen Cameron to where he had originally started.

16. That this Court denied Defendant Carver Due Process at every turn including failing to compel witnesses, who had been subpoenaed to testify on his behalf, when, pursuant to

the 6<sup>th</sup> Amendment of the United States Constitution, he had the right to present his own witnesses to establish a defense, a right that is considered a “fundamental element of due process of law”.

### INTRODUCTION

Defendant drove Walter Curry to the victim’s home because he had a driver’s license. Defendant learned by chance that Curry had a gun on the way to the victim’s house and successfully urged him to leave it in the car. Defendant Carver did not learn of a second weapon until Curry had pointed it at Cameron’s head. Following three futile pleas to have put Curry the gun away, Carver knew that he was past the point of no return.

The only reason the defendant drove Curry back to Gambrell’s home and kept the shooting to himself was because Curry threatened the life of him and his mother if he did otherwise. When the defendant learned of Curry’s arrest for drug charges relating to the raid on Gambrell’s home, he immediately went to law enforcement, by his own free will, and told them of the events that had transpired on the night of March 28, 2016. Defendant was tried and found guilty of murder under the theory of “hand of one is the hand of all” on August 25, 2017. Defense counsel filed a Motion for New Trial and a Motion for Verdict in Arrest of Judgment; and, Entry of Judgment of Acquittal on September 8, 2017. The Court denied both motions.

### FACTS

On March 28, 2017, the defendant was at the home of James Gambrell in hopes of finishing the work he had been doing on the transmission of a vehicle the two (2) planned on selling. At approximately 8:45 p.m., Gambrell asked the defendant to drive Stephen Cameron home. First, Cameron had sold the dirt bike he had driven to the house to Gambrell’s nephew,

Daquavious Gambrell; and, second, the Defendant Carver was the only person at the house who had a valid driver's license.

While Defendant was taking the victim home, Gambrell and Woodrow Curry discovered that the victim had stolen cocaine from Gambrell's home. Gambrell attempted to call the defendant, hoping that he would reach him before he dropped the victim off. The defendant did not have a cell phone that day so he was unaware of what had transpired. He dropped the victim off at his home just as he had been asked to do and returned to Gambrell's house to finish up the transmission.

When the defendant arrived at Gambrell's home, Curry told him Gambrell wanted to speak to him. Gambrell told Carver he had to bring Cameron back, while commenting on the fact that his lack of phone resulted in this result. Knowing that his back seat contained a pit bull and a tire, Defendant Carver grabbed the keys to Gambrell's larger vehicle, which did not contain a pit bull. Carver and Curry drove off to get Cameron and bring him back. It was Carver's belief that there was nothing more, nothing less to this trip.

While driving, the defendant noticed that Curry had dropped something on the floor board. When he realized that it was a gun that had fallen; he told Curry that they didn't need a gun. Curry was to leave the weapon in the car. Carver reasoned that since there were two of them, he would likely be scared. Curry left the gun in the car.

Initially, the victim did not answer the door. When the defendant and Curry began to return to their vehicle, Curry caught a glimpse of the victim peeking out of the window. Curry turned around, walked back to the house and approached the door. When the victim opened the door, he came toward Curry aggressively. Curry told him that he and Gambrell had learned that he had taken the cocaine. Their voices escalated from there. The volatile nature of the

discussion was obvious. The victim, high on cocaine, began shoving Curry. At some point, Cameron nearly pushed Curry down, high on methamphetamine, came up from his crouch with a gun to Cameron's head. The defendant immediately pleaded with Curry to, "put the gun down" and "put the gun away." Cameron chided Curry by asking him, "What are you going to do, shoot me?"

Instead of listening to the defendant, Curry pulled the trigger and shot the victim. Unable to understand what had just happened and fearing for his own life, Defendant ran back to the car for the sole purpose of getting away from Curry. However, the defendant was so panic stricken that he dropped the keys on the floorboard of the car and was unable to start the vehicle before Curry jumped in; and, grabbed the gun that he had left in the car, earlier.

Curry sat in the passenger side of the vehicle and pointed the gun at the defendant. Curry instructed him to pull away from the house without turning on the headlights. He told the defendant that he would tell him when they could be turned on. He instructed the defendant that he was to go directly back to Gambrell's home and that if he told anyone about what had just happened he would either kill the defendant and his mother. The defendant, having just witnessed this man shoot the victim at point blank range, reasonably believed that he was next should he fail to adhere to Curry's directions.

When the two (2) returned to Gambrell's house, Curry informed Gambrell about what had taken place. Gambrell lost his mind. He told Curry that no one was supposed to get hurt. He sent Curry because he would be able to speak to Cameron rationally about the theft of the drugs and his need to pay for what he took. At some point during the exchange between Curry and Gambrell, the defendant, terrified by what he had witnessed and the threat Curry had made towards himself and his mother, let himself out of the house.

The defendant did not go home, he went directly to his mother's home. Defendant Carver went in the house and watched the road from the window. Shortly following his arrival, Curry slowly drove by the house in a green Grand Am. He believed Curry was capable of making good on his threats.

On Saturday, April 9, 2016, the defendant learned that Curry had been arrested on a drug charge associated with a raid that had occurred at the Gambrell house days before. With Curry in jail, the defendant knew he would be unable to carry out his threat of harm. He knew that it was now safe to go to the authorities and explain to them what had happened on the night of March 28<sup>th</sup> and hopefully assist them in having justice served for the victim and his family.

On Monday April 11, 2017, defendant, by his own free will, and without an attorney, unwisely went to the Anderson County Sheriff's Office to speak with Investigator Marzolf about what he knew regarding the shooting that had taken place. Investigator Marzolf was interviewing Gambrell, so Carver spoke to Investigator Call. Carver explained the entire incident to the investigator. According to the statements made by both Gambrell and Carver, Carver was unaware that the victim had stolen drugs from Gambrell. He didn't learn of the theft until he and Curry were on their way to the victim's home.

He learned of what he had thought was the only gun when Curry mistakenly dropped it on the floorboard of Gambrell's car. He believed Curry had followed his direction to leave the gun in the car. He had no way of knowing Curry had a weapon concealed in the waistband of his pants, hidden beneath the black fanny pack he was wearing. He drove Curry back to Gambrell's house because he feared for his life and the life of his mother. He believed the threat made by Curry.

For 14 days, he lived in constant fear believing Curry would carry out what he had threatened to do. When he learned of Curry's incarceration and that the safety of his mother was no longer in danger, he went to the police and told them exactly what had happened.

The defendant was not able to leave the Sheriff's Office following his interview. Instead, Call explained to him that since he drove the vehicle, had knowledge of the purpose behind going to the victim's home the second time. The investigator informed the defendant that based on those factors, he would be charged with the murder of Stephen Cameron based on the South Carolina Law, "hand of one is the hand of all."

### ARGUMENTS

#### **I. THE COURT ERRED BY NOT STRIKING THE STATES USE OF "KIDNAPPING" AND "ROBBERY."**

The words, kidnap or robbery, were used during the trying of this matter. There was no insinuation that either offense was part of the case. Yet, in closing arguments, the State told the jury that Curry and Carver went to the home of the victim to kidnap and rob him. Defense counsel made an appropriate objection based on the words the State used were stated as, "facts not in evidence."

The Court sustained counsel's objection but rather than instruct the jury to stricken what the State had said, it stated that the jury had the right to believe or not believe statements made by the attorneys for both sides. Not only was this directive improper but it allowed the jurors to make findings of fact, that the Court had apparently already made, but were not part of the evidence. The prejudice allowed the jury to hang their hats on an accomplice liability theory with robbery and kidnapping, which were improperly introduced to the jury during the State's closing, bridging the gap from being merely present or associated, to being an integral part of crimes for which there had been no evidence offered during trial.

(1) That timely objection was interposed to the argument; (2) the substance, at least, of the objectionable language; (3) the failure of the court to sufficiently warn the jury not to consider the improper argument; and (4) that the result was to materially prejudice the right of the losing litigant to obtain a fair and impartial trial.

*State v. Meehan*, March 31, 1931, 160 S.C. 111, 158 S.E. 151

**II. THE COURT ERRED BY IMPLICITLY PREVENTING CO-DEFENDANT GAMBRELL FROM TESTIFYING PURSUANT TO HIS SUBPOENA.**

The defenses subpoenaed Milton Gambrell, Jason Carver's co-defendant, for the purpose of illustrating to the jury that Jason Carver's only involvement in the events that took place on March 28, 2016 was driving. He was expected to confirm to the jurors that he and Carver were the only licensed drivers at his house at the time. He would also confirm that because he had too much to drink that day, Carver was the only other option. Furthermore, he could validate the irrationality exhibited by Curry, which included the threat to kill his family, which corroborated Carver's explanation of the delay in reporting the incident.

The Sixth Amendment to the U.S. Constitution guarantees that "[i]n all criminal prosecutions the accused shall enjoy the right...to have compulsory process for obtaining witnesses in his favor..." This federal constitutional right is applicable to the states through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

In a conference prior to the call of the witness to testify, counsel for Gambrell stated that while he had advised his client to plead the 5<sup>th</sup>, Gambrell was wavering and wanted to take the stand. The following morning, prior to the jury entering the courtroom, the Court informed defense counsel that Gambrell would not be put on the stand in the presence of the jury. Only a short time after defense counsel began questioning Gambrell, the Court took it upon itself to intervene, telling Gambrell that he has the ability to plead the 5<sup>th</sup>. Gambrell again declined and resumed with his responses. Once again, the Court, without any prompting from Gambrell's attorney, stopped defense's questioning and instructed Gambrell to refrain from answering any

further questions, without further counsel with his attorney. The Court suggested that he and his attorney take leave from the courtroom, offering the hallway not accessible to the general public. Based on the persistence of the Court urging Gambrell to plead the 5<sup>th</sup>, that is exactly what he did when he returned with his counsel.

The Court would not allow anything related to Gambrell's presence in the courtroom to be published to the jury. The Court denied Carver the right to call a witness in the defense of his case. The Court crossed the line, it became an advocate for the State when it prevented Carver from pursuing the testimony from Gambrell which would have strengthened Carver's claim that he was simply driving a car that night. He did not join either party in any discussions regarding what was expected when he took Curry back to the victim's home that evening. He had a valid driver's license so he drove the vehicle.

The absence of Gambrell as a witness for Carver sent a message to the jury. Carver feared what Gambrell had to say. Gambrell wanted to testify. His lawyer explained to him that by testifying there was a possibility of self-incrimination. Gambrell made the decision to appear at trial and was readily responding to each question the defense posed to him. It wasn't until the Court overstepped its boundaries and made it clear to him that he was not to continue. The Court's interference was a direct violation to Carver's Sixth Amendment Right to offer witness testimony on his behalf. The Court's actions proved to be detrimental to Carver's case.

### **III. THE COURT ERRED BY REFUSING TO ALLOW THE DEFENSE TO PLAY GAMBRELL'S VOLUNTARY INTERVIEW WITH LAW ENFORCEMENT.**

In an attempt to have the jury recognize that Carver was not fearful of what Gambrell had to say and, in fact, sought him out as an ally against the murder charge that was looming over him, Carver attempted to introduce Gambrell's law enforcement interview. The State objected,

and the Court sustained the objection, reasoning that the interview was hearsay and as such was not admissible.

The unsolicited interview of Gambrell was conducted following the reading of Miranda, was offered by defense to allow the jury to hear from Gambrell's own mouth that Carver had no knowledge nor was he in any way involved in the rogue actions of Curry. Defense offered the introduction of the interview as a means to exculpate Carver and, therefore, needed an element of trustworthiness prior to its admission. "A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless circumstances clearly indicate the trustworthiness of the statement." Since Carver intended to offer Gambrell's interview with law enforcement to exculpate himself, it was not admissible, "unless corroborating circumstances clearly indicate[d] [its] trustworthiness." *State v. Willie Corda Doctor*, 413 S.E.2d 36, 306 S.C. 527 (1992). Gambrell's statements can be described as against his penal interests. Furthermore, the fact the statements were made to the lead investigator of the murder for which Carver is charged, is further corroboration of the statement's veracity.

The Court later corrected itself, admitting that the denial to enter Gambrell's interview into evidence was improper. However, even though the Court admitted having made an improper ruling, it would not allow the video to be played in the presence of the jury, thereby preventing them from seeing his mannerisms, expressions and overall demeanor. The defense played the interview for the Court's eyes and at its conclusion, the Court surmised that the materials contained in the video did not tend to exculpate Carver.

Upon conclusion of each side's case, the State agreed to allow Gambrell's interview to be shown to the jury. Unfortunately, the jury had already begun formulating their opinions and beliefs. The introduction of Gambrell's interview did nothing as it related to the prejudice

caused by the Court's abolition of Gambrell's existence in Carver's defense against the charge he was facing.

**IV. THE COURT ERRED BY NOT COMPELLING TWO DEFENSE WITNESSES THAT HAD BEEN DULY SERVED, AND FAILED TO ATTEND, TO APPEAR.**

Defense subpoenaed Dequavious Gambrell, Milton Gambrell's nephew, and his friend, Tykeon Gardner. Dequavious had purchased a dirt bike from Stephen Cameron on March 28, 2016. That purchase left Cameron without any means of transportation back to his home from Gambrell's house. It was stated that Milton's nephew was the dealer Cameron used to purchase the cocaine had been using on a daily basis. The two (2) had recently had a falling out and the nephew and Cameron had parted ways.

When Gambrell and Curry first recognized that Cameron had taken cocaine from Gambrell's home, Dequavious offered himself and Tykeon to go to Cameron's home and address the situation. Gambrell knowing of the falling out between the two men knew that nothing good would come of sending young Gambrell and his counterpart to remedy the situation. He did not want anyone hurt or causing unnecessary trouble so he denied his nephew's request. Gambrell felt that he could trust his best friend to do as he asked. He felt Curry understood that he wanted no trouble or drama.

When defense called Dequavious and Tykeon, neither of them were present in the courthouse. There was no question as to whether they had been properly served. Defense had actually served each witness twice due to the confusion as to the location of the scene, as well as the actors. Thus, the witnesses were served with subpoenas from both Anderson and Greenville. With all that was at stake, the defense could not allow a loop hole such as jurisdiction to prevent necessary witnesses from testifying.

When it became apparent that locating the witnesses would cause delay, or similar impediment to the trial, the Court asked the defense to provide it with the importance of their testimony. Defense counsel clearly outlined what he sought from each witness. After hearing counsel's explanation, the Court concluded that if counsel was unable to find the witnesses on his own, the trial would move forward without their testimony.

As expected, counsel was unable to personally track down these two (2) individuals. Without the Court's assistance compelling the witnesses to appear and testify, the jury would not hear from Gambrell's nephew that he had been denied handling the Cameron theft situation due to the likelihood of an altercation ensuing. When defense counsel made a motion for a continuance, the Court summarily dismissed the request. The Court had a duty to compel the witnesses who had been subpoenaed properly, so as to give Mr. Carver some semblance of equity.

The right to offer the testimony of witnesses, and to compel their attendance if necessary is a plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury, so it may decide where the truth. Just as an accused has the right to confront the prosecution's witnesses for the purpose or challenging their testimony, he has the right to present his own witnesses to establish a defense. This right is a fundamental element of due process of law.

*Washington v. Texas*, 388 U.S. 14, 19 (1967).

**V. THE COURT ERRED BY NOT ADDRESSING THE STATE'S WILFULL AND WANTON REFUSAL TO PROVIDE DISCOVERY IN A TIMELY MANNER; OR, IF AT ALL.**

South Carolina Rules of Criminal Procedure provide rules for discovery.

**112. DISCOVERY & DISCLOSURE**

(a) Disclosure of Evidence by the State. Upon the motion or request of the defendant, the State shall disclose to the defendant the following information and

material, whether in the possession, custody, or control of the prosecution or one of the prosecution's agents.

(4) Documents and Tangible Objects. The state shall disclose the existence of, and shall allow the defense to review, inspect, and copy all documents and tangible objects associated with or related to the investigation of the case.

(d) Time and Manner of Disclosure.

(1) The State and defense shall disclose all discoverable material either in their possession or available to them within thirty (30) days of the receipt of any motion or request for disclosure.

The State has a duty to provide discovery within thirty (30) days of the service of the discovery request. The investigation was completed by the end of April or May, in 2016. The State claims to have offered Mr. Carver discovery in December of 2016. However, the undersigned was unable to gain access to the contents of the flash drive that had been provided to him. It was as if the discovery had not been provided. Of course, the State admitted to having issues with their ability to open discovery throughout the trial. The undersigned alerted the State the he was unable to review what the flash drive and was provided a disc containing some of the State's discovery after March 2017. During the two (2) weeks prior to the trial, the undersigned received almost daily deliveries of discovery from the State.

The State had thirty-six (36) hours of video surveillance from the neighborhood where the victim lost his life. During cross-examination of Investigator Marzolf, he was asked about a statement contained within an Incident Report stating that members of the victim's family had broached the topic that someone had been to the home and checked his person and most likely his house for drugs or money. Marzolf replied that the sources "were not credible." The State did not show the entire surveillance video. They said that it would take three (3) days to break it down. At the conclusion of trial, defense had the video reviewed by an expert and he found that

there was a void in time from 08:17:08 a.m. to 10:28:58 a.m. Strangely enough, this is the same period of time the unreliable source said the victim's family members had been at his home. The State could offer not offer a plausible explanation as to where the two hours of video could be found.

The State's intentional violation of Brady was to prevent the defendants from being let off the hook by the conduct of the aforementioned family.

The withholding of the damning surveillance takes away robbery as a motive for the death. It was simply an unfortunate situation where two (2) people who were obviously affected by their habits ran into their respective alter ego with disastrous results.

### CONCLUSION

Jason Carver has led an unassuming life. He works, goes home, spends time with his mother and every now and again spends time with friends working on cars. He has been an upstanding member of the community. He is not a killer. He deserves a new trial. The impediments that were placed in front of him as he attempted to defend himself were too great. He deserved Due Process as he fought for what amounts to his life. He serves that opportunity to rectify a very unfair situation.

Respectfully submitted by:



Donald L. Smith (SC Bar#6699)

Attorney for Appellant

122 N. Main Street

Anderson, SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

[attorneydonaldsmith@gmail.com](mailto:attorneydonaldsmith@gmail.com)

Anderson, South Carolina

Date: September 25, 2017

ATTORNEY OFFICE OF DONALD SMITH

122 N. Main St.  
Anderson SC 29621  
[attorneydonaldsmith@gmail.com](mailto:attorneydonaldsmith@gmail.com)

RECEIVED

SEP 28 2017

S.C. SUPREME COURT

Donald L. Smith, Esquire

Telephone: (864) 642-9284  
Facsimile: (864) 642-9285

September 25, 2017

Chelsey L. Moore  
Assistant Solicitor Anderson County  
100 S. Main Street  
Anderson SC 29624

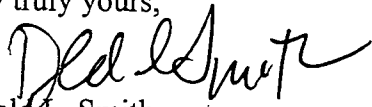
**RE: State v. Jason Franklin Carver**  
**Warrant No.: 2016A05324**

Dear Ms. Moore:

Please find enclosed a copy of the Notice of Appeal and the Explanation of Appeal which I have filed in the above-referenced matter. Also enclosed is a copy of a certificate of service by mail for the same.

If you have any questions, please do not hesitate to contact me.

With highest regards, I remain  
Very truly yours,



Donald L. Smith  
DLS/kn  
Enclosures

cc: The Honorable Daniel Shearouse, Clerk of Court, South Carolina Supreme Court  
The Honorable Richard Shirley, Anderson County Clerk of Court

FORM 9  
LETTER TO THE CLERK OF LOWER COURT  
FILING OF NOTICE OF APPEAL

September 25, 2017

The Honorable Richard Shirley  
Anderson County Clerk of Court  
100 S. Main Street  
Anderson SC 29624

**RE: State v. Jason Franklin Carver**  
**Case Number: 2016A0410200556**

Dear Mr. Shirley:

Please find enclosed a copy of the Notice of Appeal which I am filing in the above-referenced matter, as well as the Proof of Service for the same.

Sincerely,



Donald L. Smith, (Bar#6699)  
Attorney for Appellant  
122 N. Main Street  
Anderson SC 29621  
Telephone: (864) 642-9284  
Facsimile: (864) 642-9285  
[attorneydonaldsmith@gmail.com](mailto:attorneydonaldsmith@gmail.com)

cc: The Honorable Daniel Shearouse, South Carolina Supreme Court Clerk of Court  
Chelsey L. Moore, Assistant Solicitor Anderson County

FORM 11  
LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

September 25, 2017

Vivian H. Cross  
Court Reporter  
10th Circuit at Large  
PO Box 704  
Belton SC 296277

RECEIVED

SEP 25

S.C. SUPREME COURT

RE: State of South Carolina v. Jason Franklin Carver  
C.A. No.: 2016A0410200556

Dear Ms. Cross:

My records indicate that you were the court reporter for the above-referenced trial. This case was tried before the Honorable R. Lawton McIntosh, Tenth Circuit Court Judge, August 22, 2017 to August 25, 2017. A Motion for Verdict in Arrest of Judgment and a Motion for New Trial were heard on September 14, 2017.

I request that you provide me with a transcript of the proceedings relating to James Gambrell, all Motions, the detectives, the physician who performed the autopsy, and Mrs. Curry.

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,



Donald L. Smith (Bar#6699)

Attorney for Appellants

122 N. Main Street

Anderson SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

[attorneydonaldsmith@gmail.com](mailto:attorneydonaldsmith@gmail.com)

cc: The Honorable Daniel Shearouse, South Carolina Supreme Court Clerk of Court  
Chelsey L. Moore, Esquire