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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

S.C. SUPREME COURT

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maité Murphy, *Circuit Judge*

Supreme Court Case No. _____

Court of Appeals Case No. 2015-000559

Court of Appeals Opinion No. 2017-UP-406 Filed Oct. 25, 2017

Court of Appeals Rehearing Denial Filed December 14, 2017

THE STATE,

Respondent,

vs.

JERRY MCKNIGHT, SR.,

Petitioner.

Appendix to Petition for Writ of Certiorari

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-and-

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Attorneys for Petitioner.

Hon. Alan Wilson
Attorney General

John W. McIntosh
Chief Deputy Attorney General

Donald J. Zelenka
Assistant Deputy Attorney General

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Attorneys for Respondent.

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maité Murphy, *Circuit Judge*

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JUN 23 2016

SC Court of Appeals

Appeal No. 2015-000559

THE STATE,

Respondent,

vs.

JERRY MCKNIGHT, SR.,

Appellant.

Record on Appeal

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P.O. Box 661
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Attorneys for Appellant.

Hon. Alan Wilson
Attorney General

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Donald J. Zelenka
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Solicitor, First Judicial Circuit
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Attorneys for Respondent.

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

CALHOUN

STATE

INDICTMENT/CASE#: 204-GS-09-0054

Terry McKnight, Sr.

2015 MAR 1

AAV#: 2014A0910100041

AKA: Race: R Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: [REDACTED]

In violation of S. 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lowd Act)The charge is: ☐ As indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

9512

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 3/6/15☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-63 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPSAttend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2146

Sentence Date: 3/6/15

*Fine:	\$
§14-1-208 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100
§56-5-2895 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114 (BUI Breath Test Fee)	\$50
§56-5-2842(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$6
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/Deputy Clerk

Court Reporter:

Claudia M. Paulding
Ruth Mott

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

STATE

CALHOUN

FILED

INDICTMENT/CASE#: 2014-GS-09-0056

Jerry McKnight, Sr.

AW#: 2014-A-0910100044

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Poss Firearm by Person Convicted of Violent Crime

In violation of § 16-23-500 of the S.C. Code of Laws, bearing CDR Code # 3434

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury,

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Solicitor

9512

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 3/6/15☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fees:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clark of Court/Deputy Clerk

Court Reporter:

Claudia H. Pruehl
Bath Mott

Presiding Judge

Judge Code:

Sentence Date

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

STATE

CALHOUN

FILED

INDICTMENT/CASE#: 2014-GS-09-0057

Jerry McKnight, Sr. 2015 MAR 5

AW#: 2014A0910200004

AKA:

Race: A Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ \$17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 9512

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 142 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 3/6/15☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State

Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ _____

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

\$14-1-212 (Law Enforce. Funding) \$25 \$ _____

\$14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.6 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

SCCA/217 (03/2011)

WITNESSES

Pat Regalis

Calhoun County Sheriff

ARREST WARRANT NUMBER
2014A0910100041

Arrested: February 25, 2014

ACTION OF GRAND JURY
TRUE BILL

Deborah Chavis

Date 1/5/15
Foreperson of Grand Jury
Date: January 5, 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS09-0054

The State of South Carolina

County of CALHOUN

COURT OF GENERAL SESSIONS

January 19, 2015 TERM

THE STATE
vs.

Jerry Mcknight, Sr.

Indictment for
KIDNAPPING

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF CALHOUN)

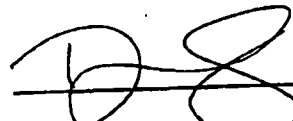
INDICTMENT
2014GS09-0054

At a Court of General Sessions, convened on January 5, 2015 the Grand Jurors of Calhoun County present upon their oath:

KIDNAPPING

That in Calhoun County, South Carolina, on or about February 13, 2014, the Defendant, Jerry Mcknight, Sr., unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Kymarrah Randolph, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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


Donald N. Sorenson, Solicitor

WITNESSES

Pat Regalis

Calhoun County Sheriff

ARREST WARRANT NUMBER

2014A0910100044

Arrested: February 25, 2014

ACTION OF GRAND JURY

TRUE BILL

Deborah Chavis

11/5/15

Foreperson of Grand Jury

Date: January 5, 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS09-0056

The State of South Carolina

County of CALHOUN

COURT OF GENERAL SESSIONS

January 19, 2015 TERM

THE STATE

vs.

Jerry Mcknight, Sr.

Indictment for

**POSSESSION OF FIREARM BY
PERSON CONVICTED OF A VIOLENT
CRIME**

SC Code: 16-23-0500

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2015 JAN -5 P 6:48

Appendix 008

STATE OF SOUTH CAROLINA)
COUNTY OF CALHOUN)

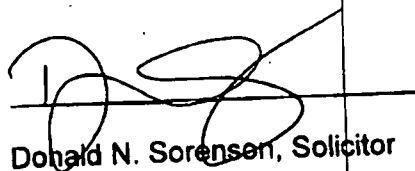
INDICTMENT
2014GS09-0056

At a Court of General Sessions, convened on January 5, 2015 the Grand Jurors of Calhoun County present upon their oath:

**POSSESSION OF FIREARM BY PERSON CONVICTED OF A VIOLENT
CRIME**

That in Calhoun County, South Carolina, on or about February 13, 2014, the Defendant, Jerry Mcknight, Sr., did have in his possession a firearm described as a .22 cal pistol, after having been convicted of a violent crime, to wit; 2003 conviction for Trafficking Crack Cocaine. This offense being in violation of Section 16-23-500, of the South Carolina Code of Laws, as amended.

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


Donald N. Sorensen, Solicitor

WITNESSES

M Trentham

Calhoun County Sheriff

ARREST WARRANT NUMBER
2014A0910200004

Arrested: February 20, 2014

TACTIC ON GRAND JURY

Deborah Chavis

Date 1/5/15

Foreperson of Grand Jury
Date: January 5, 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS09-0057

The State of South Carolina
County of CALHOUN

COURT OF GENERAL SESSIONS
January 19, 2015 TERM

THE STATE
vs.

Jerry Mcknight, Sr.

Indictment for
MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2015 JAN -5 P 3:48

STATE OF SOUTH CAROLINA)
)
COUNTY OF CALHOUN)

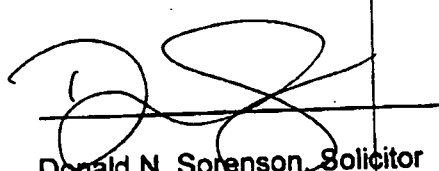
INDICTMENT
2014GS09-0057

At a Court of General Sessions, convened on January 5, 2015 the Grand Jurors of Calhoun County present upon their oath:

MURDER

That in Calhoun County on or about February 13, 2014, with malice aforethought, the defendant, Jerry Mcknight, Sr. did kill one Kymmarah Randolph by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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


Donald N. Sorenson, Solicitor

1 THE COURT: Solicitor, it's my understanding that we
2 have a matter that must be taken up with the Court with the
3 public defender's office that must be done outside of the
4 presence of the State and anyone else and so based upon that
5 I'm going to ask the Courtroom to be cleared other than the
6 public defender, the security, of course, and the defendant
7 at this time.

8 MR. SORENSON: Okay.

9 MR. LEIENDECKER: Ready, Your Honor, to bring the
10 defendant in.

11 THE COURT: Yes, sir.

12 MR. SORENSON: Your Honor, we've got Mr. Ward is kind of
13 going through the evidence sorting out what's going to get
14 marked and what's not so we're going to leave it all there.

15 THE COURT: That's fine. We shouldn't be very long.

16 MR. SORENSON: Okay.

17 (Courtroom cleared as requested by the Court.)

18 CLERK OF COURT: Please place your left-hand on the
19 Bible as best you can. Raise your right hand as best you
20 can.

21 JERRY MCKNIGHT,
22 being first duly sworn, was examined and testified *in camera*
23 as follows:

24 CLERK OF COURT: Can you please state your full name for
25 the record.

1 MR. JERRY MCKNIGHT: Jerry McKnight.

2 CLERK OF COURT: Thank you.

3 THE COURT: Mr. McKnight, I'm Judge Murphy. I'm
4 presiding over the trial of your case here this week, and I
5 understand that you have a question regarding having sent a
6 letter to the Supreme Court regarding your attorney, Mr.
7 Leiendecker; is that correct?

8 MR. JERRY MCKNIGHT: Yes, ma'am.

9 THE COURT: Can you tell me about that?

10 MR. JERRY MCKNIGHT: I feel like I'm not being
11 represented right by him and that I would like to have him
12 dismissed.

13 THE COURT: You want Mr. Leiendecker dismissed? Tell
14 me, when you say you feel like you're not being represented,
15 not being represented how?

16 MR. JERRY MCKNIGHT: He just got appointed to me on May
17 20th, and you know what I'm saying, due to lack of, you know
18 what I'm saying, communication and contact with him on what
19 time I've, you know what I'm saying, been locked up, I hardly
20 seen him like a few times and haven't, you know what I'm
21 saying, understand anything that's really going on with my
22 case for me to be prepared to go to trial.

23 THE COURT: Well, let me share this with you, Mr.
24 McKnight, I've known Mr. Leiendecker, gosh, I'm aging myself
25 here, probably for 20-something years and have seen him try

1 multiple cases. I've seen him prepare multiple cases. I've
2 seen him, being in the public defender's office for four
3 years, he does an excellent job, and I'm sure that, as an
4 officer of the Court, he would tell me if he was not ready to
5 try this case because, being appointed in May until now
6 certainly is more than sufficient enough time for him to be
7 properly prepared. I'm very confident of that. And I'm
8 certain that, despite him not being with you every day, I'm
9 certain that he would have made every attempt to meet with
10 you as much as he felt necessary to properly prepare this
11 case.

12 And, Mr. Leiendecker, have you met with your client
13 sufficiently, in your opinion, to properly prepare?

14 MR. LEIENDECKER: Your Honor, if it please the Court, I
15 understand where Jerry's coming from. I certainly understand
16 his nervousness concerning the severity of the case and what
17 we're doing. He and I have met. The appointment didn't come
18 until May, and Claudia and I have talked about that. There
19 was certainly a snafu during the transition time concerning
20 appointments, and we're still working to bridge -- to plug
21 that gap at the detention center. Some of our defendants in
22 Calhoun County are not getting assigned attorneys on a speedy
23 basis. But he's right, it wasn't until May. We didn't meet
24 until a while after that. We've probably met half a dozen
25 times at the most, but we -- at all times when we've met I've

1 gone through all of the evidence. I go, I sit down with
2 Jerry, I take a block of something I have a question about,
3 and he helps me with direction. I've tried to explain to him
4 that the bulk of my work isn't sitting with him in
5 preparation for the case. It's working with my investigator
6 who's been in the field. Mr. Harrell has been working for
7 us. It's reviewing witness statements. It's having the
8 investigator speak with those witnesses, which has happened.
9 It's looking at the physical evidence that's there and
10 analyzing that. It's now, most recently, he and I have been
11 working on phone records, including distillation of those
12 phone records that didn't even come to Mr. Banks or I until
13 last week and getting with him regarding that. Now, we've
14 met a lot more recently. We've met at least three times in
15 the last two weeks, and he met with my investigator as well
16 one time, and I was present for that. I understand where he
17 is. I understand his nervousness concerning this. The
18 reality of it is this is really Jerry's first trial. All the
19 other matters he's had have ultimately been resolved through
20 plea, and he filed this letter or sent this letter to the
21 Supreme Court asking them to have me relieved. The Clerk,
22 Mr. Shearhouse, sent me a copy of that as well as one back to
23 Jerry with check marked that this was a matter that needed to
24 be presented before the presiding judge, and that's why I let
25 the Court know about it and made you aware so that he could

1 have his opportunity to speak to you. He certainly has a
2 right to think that, you know, I haven't been there enough
3 for him, and he's -- and he's stressed about it.

4 THE COURT: Mr. McKnight, I can certainly understand
5 what a stressful position that you are in, considering the
6 circumstances, and you've listened to what Mr. Leiendecker
7 has stated. So obviously a lot of the preparation and the
8 trial work preparation happens outside of your presence; you
9 understand that?

10 MR. JERRY MCKNIGHT: I understand that, ma'am, but at
11 the same time, I feel like in this case it's a lot of stuff
12 that I don't understand in it, you know what I'm saying, I
13 feel like I'm going from beginning to end in this motion of
14 mine, to be fully prepared, to understand what is what for me
15 to be facing, you know, and at the same time I haven't went
16 up for a bond arrangement, just as well as, you know, what
17 else.

18 MR. LEIENDECKER: We have not filed any motion for
19 reconsideration of bond, you know.

20 MR. JERRY MCKNIGHT: The last time I was supposed to
21 have been up here for court and I had mentioned to him about
22 trying get me a bond, and he said, you know what I'm saying,
23 next time he was coming he was gonna try, but all my co --
24 just with the other witnesses had went up for bonds, and you
25 know what I'm saying, they got out on bond on the street and

1 all that, and I feel like that's not right.

2 THE COURT: Let me ask you this, Mr. McKnight, obviously
3 your case is being called to trial today. You have a trial
4 today. Trial's not going to be continued. Tell me, have you
5 had any legal training or do you know the rules of evidence
6 at all?

7 MR. JERRY MCKNIGHT: No, ma'am.

8 THE COURT: You haven't had any legal training; is that
9 correct?

10 MR. JERRY MCKNIGHT: No, ma'am, just what I hear from
11 guys that been through stuff like this from doing time on
12 drug charges up the road.

13 THE COURT: Sure, and understandably they may be
14 somewhat familiar with the system, but they didn't go to law
15 school. They didn't take the bar exam. They didn't have a
16 successful law practice and become the head public defender
17 like your attorney here has. Your attorney's very well
18 versed in the law and is extremely competent, and frankly
19 you're lucky that you got him to be appointed to your case
20 because he's an excellent trial attorney. I can tell you
21 that I don't see him telling the Court that he would be
22 prepared for trial if he wasn't. I think he certainly would
23 have your best interest at heart. I don't want you to go
24 forward with this trial here today without being represented.
25 You're telling me that you're not trained in the law. You

1 know, you haven't gone to law school and those types of
2 things, so you need somebody to stand in for you and
3 represent you and someone that's capable and well trained and
4 diligent in their efforts in doing that, and without an
5 attorney, I'm certain that it would not be a good thing for
6 you to proceed without an attorney. It's too late in the
7 game for me to change and ask another attorney to represent
8 you because your case is being called for trial today.
9 Having been appointed in May, that's nine months since his
10 appointment to your case; and, frankly, I think that's
11 sufficient time for him to have to be adequately prepared.
12 I'm certain that if he was not adequately prepared, he would
13 tell the Court and ask for a continuance, and that's
14 certainly not the case here, so I'm going to deny your
15 request to remove him from your case.

16 (Defendant and attorney confer.)

17 THE COURT: Mr. McKnight, it's 11:30. The jury panel
18 doesn't come in until 1:00. You certainly are welcome to sit
19 with Mr. Leiendecker between now and then and talk to him and
20 ask him any questions that you have to further make yourself
21 feel comfortable that you understand the proceedings against
22 you and that you understand what's going on. I understand
23 your nervousness, considering the charge and what you're
24 looking at; but like I said, Mr. Leiendecker is an excellent
25 attorney, you're in good hands, and I'm going to deny your

1 request. But you do have some time between now and then to
2 talk to him, and during the trial if things come up where you
3 have a question and need to talk to him, just you all let me
4 know and I will grant you that request, okay?

5 MR. JERRY MCKNIGHT: All right.

6 THE COURT: All right. Thank you.

7 MR. LEIENDECKER: Thank you, Judge.

8 (The Court's Exhibit 1A marked for identification.)

9 (Recess held.)

10 (The following was held in open court.)

11 (State's Exhibits 1-10, 16-21, 30-32, premarked for
12 identification.)

13 (Jury panel duly qualified.)

14 THE COURT: Solicitor, you may call your case.

15 MR. PASCOE: May it please the Court, Your Honor.

16 THE COURT: Yes, sir.

17 MR. PASCOE: At this time, Your Honor, the State of
18 South Carolina calls the case of the State versus Bryant
19 McKnight for one count of murder, Indictment No.
20 2014-GS-09-0059; one count of kidnapping, 2014-GS-09-0060.
21 We also call the case of the State versus Jerry McKnight,
22 Your Honor, for one count of murder, 2014-GS-09-0057; one
23 count of kidnapping, 2014-GS-09-0054; and one count of
24 possession of a firearm by a person convicted of a violent
25 crime, 2014-GS-09-0056. Those are the charges, Your Honor.

1 you mean by "institutionalized"?

2 A. He was incarcerated.

3 Q. Where?

4 A. At Turbeville Correction Institution.

5 Q. And for what reason?

6 A. For -- he was defending himself and got in some trouble.

7 Q. Okay. And what was he convicted of?

8 A. I'm not exactly sure. He's here. You can ask him.

9 Q. Okay. You heard that there had been a -- basically a
10 home invasion at Bryant Randolph's [sic] mother's house, at
11 Bryant's mother's house?

12 A. Yes.

13 Q. Is that right?

14 A. Yes.

15 Q. Two weeks prior to the 13th, approximately two weeks
16 prior to the 13th?

17 A. Are you asking me did I hear about it prior?

18 Q. Did you hear -- yes, did you know that?

19 A. No, I did not hear about it prior to that.

20 Q. No, not that you heard about it prior.

21 A. Oh.

22 Q. It was about two weeks prior to the day your daughter
23 went missing; is that right?

24 A. I'm sorry?

25 Q. You don't know when the invasion was, the home invasion?

1 A. I didn't know any -- I mean, I want to make sure I'm
2 understanding what you're asking me.

3 Q. Right.

4 A. I didn't learn of the home invasion until after what
5 happened to my daughter.

6 Q. Correct.

7 A. But yes, I did hear of it.

8 Q. And when you heard of it, did you hear that it was
9 approximately two weeks prior to your daughter being missing?

10 A. Yes.

11 Q. Okay. And when you heard of it, did you also hear that
12 your son was a suspect in that?

13 A. I've heard from police a statement that Ms. Williams
14 made about my son having some involvement in that, but that's
15 the only time that I've ever heard that.

16 Q. Now, do you believe that?

17 A. No, I believe that's hearsay.

18 Q. I mean, you don't believe your son was involved?

19 A. No.

20 Q. In fact, you don't believe your daughter was involved?

21 A. No.

22 Q. And if they did, would they have told you?

23 A. Yes. I'm very close with my children. They come and
24 they tell me everything.

25 MR. BANKS: One moment, Your Honor.

1 Q. About what time did you leave to go pick up your
2 paycheck?

3 A. Around 4.

4 Q. Around 4?

5 A. Mm-hmm.

6 Q. And before you left, did you tell Ms. Randolph where you
7 were going?

8 A. Yes.

9 Q. Did she tell you if she was going to be home?

10 A. Well, no. She told me she was waiting on B to come and
11 pick her up.

12 Q. And who do you know B to be?

13 A. Say?

14 Q. Sorry. I know that was confusing.

15 When she said "B," who was she referring to?

16 A. I guess Bryant (indicating), the guy right here.

17 MR. LEIENDECKER: I'm sorry, Your Honor. I didn't see
18 completely. I'm having a hard time. Can she speak up so we
19 can hear the testimony?

20 THE COURT: Ms. Williams, would you mind please speaking
21 up? I know it's a big courtroom, and everyone needs to hear
22 you.

23 Q. One more time. You said she was referring to
24 Bryant McKnight?

25 A. Yes.

1 Q. You don't even have to look at it, do you? You know
2 what his phone number was?

3 A. Yes, sir.

4 Q. And you put it in your statement for law enforcement.
5 You wrote it at the top, correct?

6 A. Yes, sir.

7 Q. So to say that Bryant McKnight did not have a cell phone
8 in February 14, 2014, would that be dishonest?

9 A. Yes, sir.

10 Q. I'm going to ask you some questions now, Jamaal, about
11 Thursday, February 13th of last year, okay? Do you remember
12 that day?

13 A. Yes, sir.

14 Q. Is that around the time of the ice storm?

15 A. Yes, sir.

16 Q. Who were you hanging out with that afternoon between,
17 say, 3 and 4:00?

18 A. Me, Bryant McKnight, James Keller.

19 Q. Just the three of you at that time?

20 A. Yes, sir.

21 Q. And where were you all hanging out?

22 A. At James Keller's house.

23 Q. And where is that house again?

24 A. It's right across the street from mine on Liberty
25 Street. I think it's [REDACTED].

1 Q. On [REDACTED], right across the street from where
2 you were?

3 A. Right.

4 Q. And whose house is that, actually?

5 A. That's James Keller's father.

6 Q. Okay.

7 A. His house.

8 Q. And was Mr. Keller there at that time?

9 A. No, he wasn't there.

10 Q. And when I say "Mr. Keller," I mean his dad.

11 A. Right.

12 Q. Okay. What were you, James Keller and Bryant McKnight
13 doing between 3 and 4:00 that afternoon?

14 A. Smoking.

15 Q. What were you all smoking?

16 A. Marijuana with a little cocaine on it.

17 Q. And all three of you -- you admit that all three of you
18 were doing it? You too?

19 A. Yes, sir.

20 Q. Would you all have been allowed to do that if Mr. Talley
21 [sic], the father, was there that afternoon?

22 A. No, sir.

23 Q. Now tell the jury what you, Bryant McKnight and
24 James Keller ended up doing around 4:30 that afternoon.
25 Where did you all end up going?

1 A. We ended up going to Orangeburg to pick up the victim.

2 Q. Okay. And why did you go to Orangeburg to pick up the
3 victim?

4 A. Bryant McKnight was like he was -- he had a girl that
5 was like down for whatever, whatever, so he said, "Let's go
6 pick her up."

7 Q. And where exactly did you all go to pick up her? Do you
8 remember?

9 A. I know it's off of Old Belleville Road.

10 Q. Who drove?

11 A. I drove.

12 Q. And tell the jury now, who were the people that went to
13 pick up Kymmara?

14 A. Me, Bryant McKnight and James Keller.

15 Q. Just the three of you?

16 A. Yes, sir.

17 Q. Who told you how to get to the victim's house?

18 A. Bryant McKnight.

19 Q. How long approximately do you think it took you to get
20 there?

21 A. 15, 20 minutes.

22 Q. Now, after you picked up the victim that afternoon,
23 where did the four of you then go after you picked her up?

24 A. Went back to James Keller house.

25 Q. And approximately how long do you think it took you to

1 get back to James Keller's house?

2 A. 15, 20 minutes.

3 Q. And do you recognize the girl in State's Exhibit 9?

4 A. Yes, sir.

5 Q. And who do you recognize that to be?

6 A. That is the victim.

7 Q. Is that the girl you picked up that afternoon?

8 A. Yes, sir.

9 Q. And you brought her back to James Keller's house?

10 A. Yes, sir.

11 Q. Okay. So according to your timeline, and I know it's
12 not perfect, but the amount of time it took to get there,
13 pick her up, you all were at James Keller's house sometime
14 around 5:00 or after 5:00 --

15 A. Yes.

16 Q. -- that afternoon?

17 A. 5:00, 5:30, yes, sir.

18 Q. Had you ever met the victim before that day?

19 A. Never seen her a day in my life.

20 Q. And what did the four of you do at James Keller's house
21 that afternoon?

22 A. We went back there. We stayed in the house for maybe
23 about another 30 minutes. We smoked -- all of us had smoked
24 a blunt together. And then I ended up leaving and going back
25 to my girlfriend house, just to check on her, then I came

1 back.

2 Q. Okay. Did the victim interact with you at all while you
3 were at James Keller's house?

4 A. She like she didn't want to say nothing to us. She
5 didn't want to interact, say nothing to us. Like she was
6 just quiet, like in her own little world. You understand
7 what I'm saying?

8 Q. And there was nobody else at the Keller's house other
9 than the four of you between 5 and 6:00 that evening?

10 A. No, sir.

11 Q. Do you know approximately how long you stayed there at
12 Liberty Street before you left?

13 A. About 30 minutes maybe.

14 Q. Why did you end up leaving?

15 A. I went to my girl house just to check on her. I usually
16 walk in and out just to check on her, because she stays in
17 the back by herself.

18 Q. Did you come back?

19 A. Came back, yes, sir.

20 Q. Did anybody else come to the house that evening?

21 A. Mr. Talley Keller, James Keller father.

22 Q. Say that one more time?

23 A. James Keller father, Mr. Talley Keller.

24 Q. And after Mr. Keller came to the house, when he came,
25 who else left the Keller's house?

1 A. Who left the house? Bryant McKnight and the victim.
2 Q. You saw them leaving?
3 A. Yes, sir.
4 Q. Did they leave on foot or by car, when you saw them?
5 A. Foot.
6 Q. Do you know what direction they were walking in?
7 A. They walked towards town. That's Ellis Street, I
8 believe.
9 Q. Okay. And point exactly when you say "towards town,"
10 which part --
11 A. We were from this way, so they was coming towards this
12 way (indicating).
13 Q. Going that way?
14 A. Yes.
15 Q. Okay. Did you have any more interaction that early
16 evening or late afternoon with the defendant or the victim at
17 all?
18 A. No.
19 Q. At that time?
20 A. No.
21 Q. Okay. What did you do after you saw Bryant McKnight and
22 the victim walking towards Ellis Street, towards town? What
23 did you end up doing?
24 A. Talked to James for a little bit, five, ten minutes, and
25 then I left and went back home in the back with my

1 girlfriend.

2 Q. Did you have power that day? Because this was the time
3 of the ice storm.

4 A. Yes, we had power then.

5 Q. Okay. And what did you do at the house that night?

6 A. Watch TV, just chill.

7 Q. Did you ever see or hear from the victim,
8 Kymmara Randolph, ever again after that day?

9 A. No, sir.

10 Q. And you said that's the first time you had ever seen her.
11 was that day?

12 A. Yes, sir.

13 Q. Did you ever see or hear from the defendant
14 Bryant McKnight again that night, on Thursday, February the
15 13th?

16 A. Yes, sir.

17 Q. And Jamaal, you've already testified the defendant's
18 phone number is 803-347-9423. When I say "defendant,"
19 Bryant McKnight, correct? Whose phone number back then was
20 664-6336 with an area code of 803?

21 A. My number.

22 Q. So did you receive a call from the defendant
23 Bryant McKnight around 8:22 p.m.?

24 A. Yes, sir.

25 Q. Okay. And were you also receiving texts from him that

1 night?

2 A. Yes, sir.

3 Q. And did he come to your house about that time, 8:22
4 p.m.?

5 A. Yes, sir.

6 Q. Tell the jury why Bryant McKnight came to your house and
7 what he told you.

8 A. He came to my house. I actually thought he was coming,
9 like, to get a ride back home or something, but I don't have
10 no license. So he texted me and said he was outside. So I
11 looked outside and I seen a car in the yard. So I walked out
12 and I stepped out. Then he stepped out of the passenger side
13 and he walked up to me.

14 And he walked up to me, and he walked up to me and was
15 like, "Who are you in the house with?"

16 I'm like, "I'm in the house with my girl and her kids."

17 So he's like, "Step down for a minute."

18 And so I stepped down and I shut the door. I'm like,
19 "What's up?"

20 "Ain't nobody but you, James, Talley, and all them done
21 seen me."

22 I'm like, "What are you talking about?"

23 He's like, "I had to smoke that girl."

24 "You smoked that girl?" I'm like, "What are you talking
25 about?"

1 Q. Slow down. Slow down. What did he say?

2 A. He said, "I smoked the girl. I smoked her."

3 I was like, "Smoked?"

4 He's like, "Yes, I smoked her."

5 I was like, "All right, okay." Honestly, I didn't
6 believe him. You know what I'm saying?

7 Q. What does that mean, "smoked that girl"?

8 A. That means shoot, like he shot somebody or something.

9 Yes, that's what he said. That's the street slang. That's
10 shooting somebody or something like that, kill them or
11 whatever. You smoked them. You did something to her.

12 Q. Okay. What, if anything, else did he say and what did
13 you do after he told you he smoked that girl?

14 A. I just said, "Okay." Then I was like, "If you did that,
15 like, where's she at if you did."

16 He was just like, "Somewhere up 6, going towards
17 Elloree."

18 I was like, "All right, okay, boom."

19 So I went back in the house. I went to sleep. I didn't
20 pay no more mind about that, honestly, I didn't thought it
21 was true. You know what I mean? I really just thought he
22 was telling me because he's the type that he will talk, but I
23 really don't pay no attention to things he says --

24 Q. So even that Thursday night, you didn't believe him?

25 A. No, I didn't believe him.

1 Q. But he told you even where he smoked that girl? What
2 was the location where he said --

3 A. He didn't say nothing -- he say -- he just say he smoked
4 her. He just said the girl was up 6, going towards Elloree.

5 Q. Okay. She was up 6, going towards Elloree. Okay.

6 Now, did you see how Bryant McKnight got to your house
7 at about 8:22, 8:30 that night?

8 A. Yes, sir. It was a vehicle.

9 Q. Okay. Who brought him to your house?

10 A. Stephon Green.

11 Q. And you saw Stephon Green?

12 A. Yes, sir.

13 Q. But was Stephon Green with you when Bryant McKnight told
14 you he smoked that girl?

15 A. Yes, he was in the car, though. Yes, sir.

16 Q. But he was in the car?

17 A. Yes, he was in the car.

18 Q. But not standing on the stoop with you when the
19 defendant told you that?

20 A. No, sir, no.

21 Q. And he didn't give you any more details about what he
22 did to the girl that night?

23 A. No, sir.

24 Q. How long do you think you stayed with Bryant McKnight
25 outside that stoop of your house that night?

1 A. Five minutes, no more than five minutes.

2 Q. No more than five?

3 A. Five, yes.

4 Q. When the defendant walked away from your stoop and you
5 went inside, where did the defendant end up going to?

6 A. I have no idea.

7 Q. But his ride that night to your house was who?

8 A. Stephon Green.

9 Q. Do you know whose car it was? Do you know who? You
10 don't even know?

11 A. No, sir.

12 Q. Did you see anyone else with Stephon Green and
13 Bryant McKnight that night when they came to your house?

14 A. No, sir.

15 Q. Did the defendant Bryant McKnight even tell you where he
16 was going when he left that night?

17 A. No, sir.

18 Q. Did you have any more interaction or conversations with
19 Bryant McKnight that night?

20 A. No, sir.

21 Q. Did you tell anyone what Bryant McKnight had told you,
22 though, the next day?

23 A. Yes, sir.

24 Q. And who did you tell?

25 A. James Keller.

1 Q. And, in fact, what did you do around 10:43 the next
2 morning on Friday, February the 14th?

3 A. I called the defendant.

4 Q. And when you say "the defendant," Bryant McKnight?

5 A. Bryant, yes, sir.

6 Q. And who was with you when you called Bryant McKnight?

7 A. James Keller. I had him on speakerphone.

8 Q. Why did you want Bryant McKnight on speakerphone for
9 James Keller to hear?

10 A. Because I wanted him to hear what he told me the night
11 before about the female.

12 Q. And were you able to talk to the defendant that morning
13 at 10:43 a.m.?

14 A. He picked up the phone, but it was nothing but mumble
15 and jumble, because he never said nothing really to me, but I
16 was asking him about what was going on.

17 Q. But he never really said what was going on?

18 A. No, he mumbled. He said nothing to me.

19 Q. Do you even know where he was at that time at 10:43 a.m.
20 on February 14th? Did you know where he was?

21 A. No, sir.

22 Q. Now, let me go back a minute, back to Thursday,
23 February the 13th, okay? That's when you all picked up
24 Kymmara, the victim?

25 A. Right.

1 Q. Did Bryant McKnight have anything on him that night?

2 A. Yes. He had a revolver.

3 Q. Do you know what type of revolver it was?

4 A. No, sir.

5 Q. How do you know that he had a revolver on him? Tell the
6 jury about that.

7 A. He pulled it out and showed it to me.

8 Q. When did he do that?

9 A. When we was in the car going to pick up the victim.

10 Q. Did he say anything about it?

11 A. No. He was just like, "I got a little new gun."

12 I was like, "Put that up, because I don't need -- I
13 don't play with nothing like that," because I was driving. I
14 had no license. We were riding dirty. "You got a pistol.
15 Put that up -- put it up."

16 Q. All right. And I want to get some things clear for the
17 jury because you've got to educate me. You said you were
18 uptight about the gun because you were the one actually
19 driving, right?

20 A. Right.

21 Q. And when you said you all were driving dirty, what does
22 that mean?

23 A. I'm riding with no license, and he's riding with a
24 pistol.

25 Q. Now, did you hang out with the defendant Bryant McKnight

1 A. Smoked.

2 Q. Does your father approve of that?

3 A. No, sir.

4 Q. Now, tell the jury where you, Jamaal Pearce and
5 Bryant McKnight went later that night between 4:30 and 5:00?

6 A. We went to pick the victim up from her house in
7 Orangeburg.

8 Q. And she's a female?

9 A. Yes, sir.

10 Q. Had you ever met her before February the 13th?

11 A. No, sir.

12 Q. Who drove?

13 A. Jamaal.

14 Q. Were you carrying a weapon that day?

15 A. No, sir.

16 Q. Was Jamaal Pearce carrying a weapon that day?

17 A. No, sir.

18 Q. Was anybody carrying one that day?

19 A. Yes, sir.

20 Q. And who was that?

21 A. Bryant.

22 Q. The defendant Bryant McKnight?

23 A. Yes, sir.

24 Q. Tell the jury about that and when you saw it.

25 A. He pulled it out and showed us the gun in the car.

1 Jamaal told him to put it up.

2 Q. Can you describe the gun for the jury? Did you get a
3 look at it?

4 A. Yes. It was black and white. It looked like a .38.

5 Q. Why do you say that?

6 A. Because it -- I knew a revolver, but I can't actually
7 tell you what kind of gun it was, but it looked like a .38.

8 Q. You know, though, however, it was a revolver?

9 A. Yes, sir.

10 Q. And what color was it again?

11 A. Black and white.

12 Q. So the defendant Bryant McKnight, he was carrying a gun
13 when you went to go pick up the victim that day?

14 A. Yes, sir.

15 Q. And do you recognize the girl in State's Exhibit 9?

16 A. Yes, sir.

17 Q. Who do you recognize that to be?

18 A. The victim.

19 Q. Is that the girl you all picked up that afternoon?

20 A. Yes, sir.

21 Q. Where exactly did you all pick her up at?

22 A. At her house in Orangeburg.

23 Q. And after you picked her up, where did the four of you
24 go after you had her --

25 A. Back to my house.

1 Q. And who was sitting where in the car when you drove
2 back?

3 A. Jamaal was driving; Bryant was in the passenger side; I
4 was behind Bryant; and the girl was behind Jamaal.

5 Q. Did you interact much with the victim that afternoon?

6 A. We -- we talked, but she wouldn't say much. All she
7 kept saying she was Bryant girl.

8 Q. And when the four of you got to the house, what did the
9 four of you do?

10 A. We smoke.

11 Q. All four of you did?

12 A. Yes, sir.

13 Q. And how long did Jamaal, Bryant McKnight and the victim,
14 how long did they stay at the house?

15 A. Probably about 30 to 45 minutes.

16 Q. And why did they have to leave?

17 A. Because before we came in, I told them that I got --
18 excuse me, my baby mama, she was pregnant at the time, and I
19 told her I wasn't looking for no drama, and everybody know
20 how a pregnant woman is.

21 Q. Anybody else coming home that night?

22 A. My father.

23 Q. And did he return home that night?

24 A. Yes, he did.

25 Q. And as your father was pulling in the driveway, who

1 left?

2 A. Bryant and the victim, they went out my back door.

3 Q. Did you see where they walked to?

4 A. All I saw them walk down the road. After they walked
5 out, I couldn't see really where they went to.

6 Q. Did you ever see the defendant Bryant McKnight again
7 after that afternoon?

8 A. No, sir.

9 Q. Did you ever see the victim, Kymmara Randolph, again
10 after that afternoon?

11 A. No, sir.

12 Q. Did you ever even have a conversation with
13 Bryant McKnight again?

14 A. No, sir.

15 Q. But let me ask you this: Did you ever have any more
16 contact or hear him talk again?

17 A. Yes. When Jamaal came to my house the next morning, he
18 called Bryant on the phone, and he sounded like he was
19 mumbling on the phone, couldn't hear nothing he said.

20 Q. Why did you all call Bryant McKnight that morning?

21 A. Jamaal came and say that Bryant say that he smoked the
22 girl, and I wanted to hear for myself.

23 Q. And that was on the next morning of the 14th, February
24 14th?

25 A. Yes, sir.

1 A. Retired.

2 Q. And did you move back here in 1988?

3 A. Got back in 1988.

4 Q. And who else lives with you at [REDACTED]?

5 A. James, my grandson and his -- future daughter-in-law I'm
6 saying.

7 Q. Your future daughter-in-law? Okay.

8 Do you recall what you were doing during the late
9 afternoon of Thursday, February 13th last year, during the
10 ice storm?

11 A. Oh, yes.

12 Q. What were you doing?

13 A. I went to Piggly Wiggly and got some food to eat and
14 cook, and I went to my sister house so we could cook because
15 my lights was out. And when I finished eating, we went back
16 to my house, and that's when -- when James and Bryant coming
17 from the back of the house. I asked, "Who's that," because
18 I'd never seen the young lady before.

19 Q. So and this was around 6:00 that night you get home?

20 A. It's about 6.

21 Q. And you see Bryant McKnight leaving with a girl?

22 A. Just walking. They were coming around the back side of
23 the house.

24 Q. And which direction were they walking in? Do you
25 remember?

1 at all?

2 A. No, sir.

3 Q. And back in February of 2014, your cell number was

4 [REDACTED]?

5 A. Yes, sir.

6 Q. And of all the people that would call you, of all those
7 people I just asked you about, was there one that would call
8 you on the cell phone sometimes?

9 A. Yes, sir.

10 Q. And who's that?

11 A. Bryant.

12 Q. Bryant McKnight?

13 A. Yes, sir.

14 Q. Your first cousin, right?

15 A. Yes, sir.

16 Q. Tell the jury what you were doing that afternoon of
17 Thursday, February 13th, last year.

18 A. I had just got home from work, was home, relaxing.

19 Q. Approximately what time, just approximately, do you
20 think you got home from work?

21 A. Maybe 5:30-ish.

22 Q. Okay. And did you receive a phone call at exactly
23 6 p.m. that day?

24 A. Yes, sir.

25 Q. And who was that phone call from?

1 A. Bryant.

2 Q. Bryant McKnight?

3 A. Yes, sir.

4 Q. And why did he call you?

5 A. He said he was walking. It was cold. He needed a ride

6 home.

7 Q. And what did you do?

8 A. I went and picked him up.

9 Q. How long approximately do you think it took for you to

10 get ready and get in the car and go pick him up?

11 A. Maybe ten or 15 minutes.

12 Q. And where exactly did you pick the defendant

13 Bryant McKnight and that girl up at? Do you know?

14 A. I guess that was -- I think that was Liberty Street,

15 behind the church.

16 Q. And was it just those two that you picked up?

17 A. Yes, sir.

18 Q. Had you ever seen that girl before?

19 A. No.

20 Q. And the girl in State's Exhibit 9, is that the girl you

21 picked up with Bryant McKnight?

22 A. Yes, sir.

23 Q. Where did you -- and so was there anybody else in the

24 car at this time other than you, Bryant McKnight and the

25 young girl?

1 A. No.

2 Q. Okay. Where did you take the defendant and the victim
3 that night?

4 A. To my grandmother's house.

5 Q. And tell the jury, where does your grandmother live?
6 Where is that house?

7 A. Across from the new police station, I guess. I don't
8 know the name of the street, but it's over there by the new
9 police station.

10 Q. Is that the old John Ford School?

11 A. The old John Ford Middle School.

12 Q. Right here in town?

13 A. Yes, sir.

14 Q. And why did you go to your grandmother's house?

15 A. Bryant said he needed to go pick something up before we
16 took him home.

17 Q. And when you got to your grandmother's house, what
18 happened?

19 A. When I got there, Bryant got out. Me and the victim was
20 still in the car. Maybe about ten minutes later, Bryant came
21 out with a bag and Jerry also.

22 Q. Did you know you were picking Jerry up?

23 A. No, sir.

24 Q. And you said that Bryant had a bag. What kind of bag
25 did he have?

1 A. Like a book bag.

2 Q. Did you and the victim talk much in the car during that
3 ten-minute wait?

4 A. No, sir.

5 Q. Where was she sitting?

6 A. Back seat, in the middle.

7 Q. And of course you were in the driver's side?

8 A. Yes, sir.

9 Q. And of course you have no idea what the defendants were
10 talking about for ten minutes?

11 A. No, sir.

12 Q. Do you know whether or not the defendant Bryant McKnight
13 would have had a weapon that night?

14 A. Yes, sir. He always keep a pistol on him.

15 Q. What kind of pistol?

16 A. I guess it was a .22 revolver.

17 Q. .22 revolver? Can you describe it?

18 A. Black and white with a pearl handle.

19 Q. Now, when Jerry and Bryant McKnight got in the vehicle,
20 where did they sit?

21 A. Well, Jerry had opened my passenger door, asking me to
22 give a ride to his girlfriend's house, and Jerry got in the
23 passenger seat. Bryant got back in the back.

24 Q. So you're under the impression that you're going to
25 drive to Jerry's girlfriend's house?

1 A. Yes, sir.

2 Q. Did you know where the girlfriend's house was?

3 A. No, sir.

4 Q. Who gave you directions on where to drive?

5 A. Jerry.

6 Q. And where did you end up going? If you could tell the
7 jury, where did you end up going?

8 A. Down Highway 6. But first we stopped at a gas station,
9 got gas, then we headed down Highway 6.

10 Q. Okay. What gas station did you all stop at to get some
11 gas?

12 A. The pantry.

13 Q. Is that the one right over there (indicating)?

14 A. Yes, sir.

15 Q. Who paid for the gas?

16 A. Me.

17 Q. And after you got gas and you left the pantry, you got
18 on Highway 6?

19 A. Yes, sir.

20 Q. Tell the jury where you went on Highway 6.

21 A. Well, I was going on Highway 6. When I got down to the
22 first hill, I made the right on Stiffmire.

23 Q. And is that going towards Elloree on Highway 6?

24 A. Yes, sir.

25 Q. And who told you to take the right on Stiffmire?

1 A. Jerry.

2 Q. And tell the jury what happened next when you took the
3 right on Stiffmire.

4 A. Was driving along the road. I got maybe halfway down
5 the road. Jerry told me stop. He had take a piss.

6 Q. And those were his exact words?

7 A. Yes, sir.

8 Q. And let me ask you this: If you could describe the road
9 for us. Are there a lot of houses on that road?

10 A. No, sir.

11 Q. Any lights on that road?

12 A. No, sir.

13 Q. And after Jerry told you to pull over, what did you do?

14 A. I pulled over.

15 Q. And then what happened?

16 A. Jerry got out of the car. He went to my back passenger
17 door. He opened the back passenger door. He asked the
18 victim to get out. She told him "no" several time. Then he
19 looked at Bryant. They both gave eye contact. Then they
20 both got out, went back to the back side of my car, had a
21 conversation.

22 They both came back. They was on my driver's side on my
23 back door. They opened that door. They both stand in that
24 door. Bryant asked the victim to get out. She continued to
25 say "no." That's when Jerry snatched her out and pulled her

1 to the back of my car and opened fire.

2 Q. Are you watching all this? Did you see what's going on?

3 A. Yes, sir. I never got out, but my door was open. I
4 still could see.

5 Q. And could you see how Jerry McKnight snatched the victim
6 out of the back seat?

7 A. No, sir.

8 Q. How did she get out?

9 A. She was snatched, but I didn't see how she was snatched.

10 Q. What happened next after he snatched her?

11 A. After he snatched her, he drug her to the back taillight
12 of my car and opened fire.

13 Q. And then what happened?

14 A. Then after he -- I guess he emptied the whole -- the
15 whole revolver clip, and then he handed the gun to Bryant.
16 Bryant unloaded and reloaded again and shot a couple more
17 times.

18 Q. You weren't sitting there counting shots, though,
19 correct?

20 A. No, sir.

21 Q. Have you ever seen anything like that before?

22 A. No, sir.

23 Q. Have you ever even been in trouble before?

24 A. No, sir.

25 Q. Did you know that that's what they were going to do to

1 that girl?

2 A. No, sir. If I knew, I would have never went.

3 Q. After they finished shooting the victim, what did you
4 all do?

5 A. Well, I watched, because my doors were still open in my
6 car. I watched Jerry drag her alongside of the road.

7 Q. And then what did they do after that?

8 A. They got in the car.

9 Q. What did you do?

10 A. The whole time I was sitting there panicking. I never
11 been in nothing like that.

12 Q. Did they tell you anything when they got in the car?

13 A. Yes, sir. They said -- well, Jerry told me, this goes
14 for anybody, they was not playing.

15 Q. That he's not playing?

16 A. Yes, sir.

17 Q. Where did you go next when they got in the car?

18 A. We drove. I drove Bryant, because he said he had to --
19 he was going meet Wu, which was Stephon, at the pantry.

20 Q. And at whose instructions did you drive them to the
21 pantry?

22 A. Say that again?

23 Q. Who instructed you to go to the pantry, to drive to the
24 pantry?

25 A. Bryant.

1 Q. Were you scared after this that night?

2 A. Of course.

3 Q. Why were you scared?

4 A. I never seen nothing like this before, and I also was
5 threatened.

6 Q. How were you threatened?

7 A. They told me if they feel I was out here telling or I'm
8 going tell, they will do me too.

9 Q. So you went to the pantry?

10 A. Yes, sir.

11 Q. And what did Bryant McKnight do?

12 A. He got out of the car with a black trash bag where he
13 put all her belongings in, and he put it in Wu back seat car
14 about the time I was actually driving off to drop Jerry off.

15 Q. Where did you drop Jerry off at?

16 A. My grandmother's house.

17 Q. Let me go back. You said that Bryant McKnight had a
18 trash bag. What belongings did he put in there?

19 A. Well, I guess like her purse, cell phone, other things
20 like that.

21 Q. Was that stuff still in the back of the car?

22 A. Yes, sir.

23 Q. Jonathan, did you have any more contact or involvement
24 with either of the defendants that night?

25 A. Well, Jerry came to my house every day after that.

1 Q. Let me ask you just about that night first, okay? Did
2 you have any more contact with them that night?

3 A. No, sir.

4 Q. And if Bryant McKnight was trying to call you, were you
5 ignoring his calls?

6 A. Yes, sir.

7 Q. Why is that?

8 A. I didn't want no more interaction with them.

9 Q. In fact, did you want to have -- you said you didn't
10 want any contact with Bryant. Did you want to have contact
11 with Jerry McKnight?

12 A. No, sir.

13 Q. Did you tell anybody that night what happened?

14 A. No, sir.

15 Q. Why didn't you go to the police?

16 A. I was scared.

17 Q. Now let me ask you this: Did you help either of the
18 defendants hide any of the evidence that night?

19 A. No, sir.

20 Q. Did you help them get rid of the body that night?

21 A. No, sir.

22 Q. And you've already testified that you did have contact
23 with Jerry McKnight after that night on other days?

24 A. Yes, sir.

25 Q. Tell the jury about that.

1 A. Every day I got off work after that, he would be there
2 at my house waiting on me, waiting to talk with me.

3 Q. So like on Friday?

4 A. Yes, sir. Friday, Saturday, Sunday, Monday.

5 Q. Tuesday?

6 A. Tuesday. Till I was picked up from the police.

7 Q. And we'll get to that.

8 Now, when he would meet with you every day, Friday
9 through Tuesday at your house after you got off work, why did
10 he come? What was the point of Jerry McKnight coming to your
11 house?

12 A. I guess to make sure that -- see if I was telling or see
13 if anybody knew anything already.

14 Q. What did he say to you during those days?

15 A. You know, "Cuz, don't be out here telling. Keep your
16 mouth shut. Don't be out here saying nothing to nobody or
17 nothing," he said because, "My family know it, but I figure I
18 got tell you too, I will do you too."

19 Q. Did Jerry McKnight specifically complain about certain
20 people talking?

21 A. Yes, sir.

22 Q. Who did he complain about to you?

23 A. He said he heard JP and JK and them was already telling.

24 Q. And who is JP?

25 A. Jamaal Pearce.

1 Q. And who's JK?

2 A. James Keller.

3 Q. And did he say what he would do to them?

4 A. Said he would kill them also.

5 Q. And that's the defendant Jerry McKnight in the yellow
6 shirt?

7 A. Yes, sir.

8 Q. Did Jerry scare you?

9 A. Yes, sir.

10 Q. Does he still scare you?

11 A. Yes, sir.

12 Q. In fact, let me ask you about this: You said the police
13 came and picked you up I believe it was on Tuesday, February
14 the 18th?

15 A. Yes, sir.

16 Q. When they came and picked you up, tell the jury who was
17 at your house talking to you.

18 A. Jerry.

19 Q. Were you scared when Jerry saw you go off with the
20 police that night?

21 A. Yes, sir.

22 Q. When did you start hearing about other people in the
23 community talking about the disappearance of the victim in
24 this case? When did you start hearing about that?

25 A. Well, there was a bunch of fliers and stuff all over at

1 the gas stations and stuff, and a whole lot of people in the
2 community was talking about it.

3 Q. Why didn't you come forward then?

4 A. Because they didn't even knew -- I was scared. I got a
5 family and all, and they only knew one suspect. They didn't
6 know the other one. The other one was still out roaming
7 around.

8 Q. And do you know why they killed that girl that night?

9 A. Yes, sir. They tried to say she had something to do
10 with my aunt's house getting break into.

11 Q. Something to do with your aunt's house --

12 A. House getting break into.

13 Q. And of course your aunt is their mother, correct?

14 A. Yes, sir.

15 Q. And you're aware of that burglary at Deer Meadow Lane
16 back on February 2nd? You knew about it?

17 A. Yes, sir.

18 Q. Let me ask you this: Just yes or no, do you know what
19 was stolen?

20 A. No, sir.

21 Q. Did Bryant and Jerry McKnight tell you what they would
22 do if they caught the person involved in that burglary?

23 A. They was gone kill them.

24 Q. Both of them told you that?

25 A. Yes, sir.

1 occurring at Bryant and Jerry McKnight's mother's house on
2 Deer Meadow?

3 A. Yes, sir.

4 Q. And tell the jury when you first heard about that
5 incident happening?

6 A. I was getting another tattoo done and his mother called
7 and said somebody was knocking on the door and then the phone
8 hang up. So somebody else called and said that the house was
9 getting robbed and we need to go see what going on.

10 Q. Who did they call?

11 A. They called Bryant.

12 Q. How were you aware of that?

13 A. I was sitting right next to him.

14 Q. So he was with you when he got the call about that
15 incident happening?

16 A. Yes, sir.

17 Q. Okay. Now, did he -- did you ultimately after that talk
18 to him about what had happened at that house?

19 A. Yes, sir.

20 Q. Did he tell you what was taken during that robbery at
21 his house?

22 A. Money and drugs.

23 Q. And in the weeks after that incident, did you have an
24 opportunity to have some conversation and hear Mr. -- hear
25 Bryant McKnight talking about that incident?

1 A. Yes, sir.

2 Q. And did he ever make any statements about what he was
3 going to do if he found out who was involved?

4 A. Yes. He said any name they heard, they was gone kill
5 them.

6 Q. And during the course of that conversation or those
7 conversations with him, did he ever -- did he ever mention
8 the victim in this case, Kymmara Randolph, possibly being
9 involved?

10 A. Yes, sir.

11 Q. And did he tell you -- did Bryant McKnight tell you why
12 he thought she possibly could have been involved?

13 A. Because she stayed there a couple nights and she
14 probably knew where everything was at.

15 Q. She knew where the drugs and the money that were stolen
16 were located?

17 A. Yes, sir.

18 Q. Mr. Green, I want to turn your attention now, if I
19 could, to February 13th of last year, that Thursday. Do you
20 remember that day?

21 A. Yes, sir.

22 Q. Tell the jury what kind of -- during the -- during that
23 afternoon into the early evening what you were doing that
24 day.

25 A. Basically me and my wife just was laying down, trying to

1 stay warm, watching a movie.

2 Q. Had something happened weather-wise right around that
3 time period?

4 A. Yes, it was a big ice storm.

5 Q. Had you all lost power?

6 A. Yes, sir.

7 Q. And where was that that you were at with your wife?

8 A. We was home.

9 Q. So in Orangeburg?

10 A. Yes, sir.

11 Q. And at some point in time did -- let me ask you, do you
12 have family that still lives here in St. Matthews?

13 A. Yes, sir.

14 Q. Who is it that lives here in St. Matthews?

15 A. My mother and my brother.

16 Q. Where does your mother live?

17 A. Fair Street.

18 Q. And Fair Street is located where?

19 A. Back this way here (indicating).

20 Q. Is it kind of down off of Highway 6?

21 A. Yes, sir.

22 Q. That way (indicating)?

23 A. That way (indicating).

24 Q. So down over near the Short Stop on Highway 6; is that
25 correct?

1 A. Yes, sir.

2 Q. And so who was your mom living there with back in last
3 February?

4 A. Her husband, Bob.

5 Q. Bob McFadden; is that right?

6 A. Yes, sir.

7 Q. And at some point in time did you hear from your mom
8 that late afternoon or so?

9 A. Yes, yes, sir. She called me and said her power was out
10 and she needed me to bring -- take her to go get some
11 kerosene and bring her something to eat.

12 Q. And do you remember what her number was back then?

13 A. [REDACTED]

14 Q. Is that her home number?

15 A. Yes, sir.

16 Q. Her landline? All right.

17 And let me ask you, that afternoon, just kind of during
18 that time period, was there a time when you heard from
19 Bryant McKnight?

20 A. Yes, sir.

21 Q. Okay. And was that before -- let me ask you this and
22 I'll kind of fast forward in a second, but did you ultimately
23 come over and help your mom get some kerosene?

24 A. Yes, sir.

25 Q. When you first heard from Bryant McKnight that late

1 afternoon, early evening, where were you at?

2 A. I was home.

3 Q. So still in Orangeburg?

4 A. Yes, sir.

5 Q. And tell the jury, when you first heard from him that
6 day, that late afternoon, early evening, was that a phone
7 call or a text message?

8 A. A text message.

9 Q. Tell the jury what that text message -- well, first of
10 all, do you know about what time that would have been?

11 A. About 7.

12 Q. About 7 p.m.?

13 A. Mm-hmm.

14 Q. Tell the jury what that first text message you got from
15 him that evening was.

16 A. Well, basically he just asked me what I was doing, and
17 he told me he had a girl. Him and a girl was just chilling,
18 and he was thinking about killing her.

19 Q. He said he had the girl. They were just chilling. He
20 was thinking about killing her?

21 A. Right.

22 Q. That's the text message you got from Bryant McKnight?

23 A. Yes, sir.

24 Q. What was your response to that text message?

25 A. I was like -- I laughed out of loud. "You tripping."

1 Just don't do nothing like that."

2 Q. Let me ask you this: That afternoon at 7:00 or that
3 evening, did you take him serious at that point in time --

4 A. No, sir.

5 Q. -- when he sent you that text?

6 A. No, sir.

7 Q. Now, at some point in time did you ultimately come over
8 to here to St. Matthews to your mother's?

9 A. Yes, sir.

10 Q. Tell the jury how -- about what time you think you got
11 here and how that went about.

12 A. When I left home, I went to McDonald's to get my mom
13 something to eat. I got here about 7:30, quarter to 8 maybe.

14 Q. Did you go to your mother's house?

15 A. Yes, sir.

16 Q. And did you ultimately take them -- go to get some
17 kerosene?

18 A. Yes, sir.

19 Q. And did you go immediately when you got to your mom's
20 house to do that?

21 A. No, sir.

22 Q. About how long do you think from the time you got there
23 till it was that you went to go get the kerosene?

24 A. I got there probably 7:30 quarter to 8. So I sit there
25 about 20, 30 minutes, just checking on her, making sure she

1 was all right.

2 Q. And did you go to get the kerosene by yourself?

3 A. No.

4 Q. Who went with you?

5 A. Me and my mama's husband, Bob McFadden.

6 Q. Where did you all go to get the kerosene?

7 A. The pantry.

8 Q. That's the pantry located out here on 601?

9 A. Yes, sir.

10 Q. And during that time period once you got over here in
11 St. Matthews, did you hear from Bryant McKnight any more?

12 A. Yes, sir.

13 Q. And what if anything was the substance of that contact?

14 A. Basically, he text me and said, where you at, what you
15 doing, I told him I was at the pantry getting some kerosene,
16 and he was like he needed a ride, so he said he was gone meet
17 me at the pantry, he can come to where we was at.

18 Q. So you get over to the panty, and when you got there,
19 what did you do when you got to the pantry?

20 A. Went, paid for the kerosene, and Bob went outside and
21 pumped it.

22 Q. And at some point in time did you see a vehicle pull up
23 in the pantry parking lot?

24 A. Yes, sir.

25 Q. Whose vehicle was that?

1 A. Jonathan McKnight.

2 Q. Now, when you came out of the pantry, was there anybody
3 out around your car that wasn't there when you went in?

4 A. Yes, sir.

5 Q. And who was that?

6 A. Bryant.

7 Q. That's the defendant Bryant McKnight?

8 A. Yes, sir.

9 Q. Did you talk to him at that time?

10 A. No, sir, when I came out the store, he was already in
11 the back seat of the car.

12 Q. Okay. What did you do then?

13 A. Just finished paying for the kerosene, jump in the front
14 seat and we left went take mama's boyfriend back home.

15 Q. So you took Mr. McFadden back to your mom's house?

16 A. Correct.

17 Q. When you got back to your mom's house, what did you do?

18 A. Just went in there, give her a hug, tell her I'm about
19 to go, and we left.

20 Q. And when you went in and gave her a hug and told her you
21 were getting ready to leave, did Bryant come in with you?

22 A. No, sir.

23 Q. Where was he at when you went inside?

24 A. He got out the back seat and got in the front seat.

25 Q. And when you came out, what, if anything, did

1 Bryant McKnight say to you at that time?

2 A. He just said he needed to go talk to JP, take him to JP
3 house, and he needed a ride home.

4 Q. And who is JP?

5 A. Jamaal Pearce.

6 Q. Where did Jamaal Pearce live in relation to your mom's
7 house?

8 A. Couple blocks away.

9 Q. Did you take him over to him?

10 A. Yes, sir.

11 Q. Let me just back up. On the way to your mom's house,
12 leaving the pantry, did you ever see the other defendant,
13 Jerry McKnight?

14 A. We saw him when we left the pantry. He was crossing
15 train tracks.

16 Q. What was he doing?

17 A. Just walking.

18 Q. And did you all -- did you stop?

19 A. No, sir. We was basically -- we left the pantry, and he
20 crossed the train tracks. So Bryant rolled the window down
21 and told Jerry he was just going home to his old lady's
22 house.

23 Q. Bryant rolled the window down and told Jerry that he was
24 going to his old lady's house?

25 A. Correct.

1 Q. Did Jerry McKnight respond at all to that?

2 A. No, sir.

3 Q. All right. And where -- okay. So you said that
4 Bryant McKnight asked you to take him by JP's house,
5 Mr. Pearce's house. Did you take him over there?

6 A. Yes, sir.

7 Q. Tell the jury what happened when you got there.

8 A. Bryant got out, went in, talked to Jamaal about three to
9 four minutes and came back. They said something to each
10 other. He just came back in the car.

11 Q. Where were you at?

12 A. Sitting in the driver's seat.

13 Q. So were you able to hear what they were talking about?

14 A. No, sir.

15 Q. What happened then when Bryant got back into the vehicle
16 with you?

17 A. He got back in the car. He was like take him to
18 Orangeburg, Derrick Sumter house. And basically he just was
19 telling me he messed up and that he shot the girl.

20 Q. Did he admit at that point in time, driving to
21 Derrick Sumter's house, that he was involved in
22 Kymmara Randolph's death?

23 A. Yes, sir.

24 Q. He said that he had messed up?

25 A. Yes, sir.

1 When you got to the apartment that he was staying at,
2 tell the jury what happened there.

3 A. He got out, talked to Derrick and they talked for little
4 while and Derrick came to the car and Bryant gave him a bag
5 out of the back seat.

6 Q. And by "bag," what kind of bag?

7 A. Black trash bag.

8 Q. Black trash bag. And let me ask you, did you know what
9 was in that black trash bag?

10 A. No, sir.

11 Q. Did you ever see a gun in the car when he was in the car
12 with you, Bryant McKnight was in the car with you?

13 A. No, sir.

14 Q. At some point in time, let me ask you this: Did you
15 ever see Bryant McKnight with a gun prior to that night?

16 A. Yes, sir.

17 Q. And describe to the jury what kind of gun you had seen
18 him with before.

19 A. It was a black and white revolver.

20 Q. And did he say anything to you that night about what gun
21 was used to kill Ms. Randolph?

22 A. Yes, sir.

23 Q. And what was that?

24 A. The black and white revolver.

25 Q. Now, ultimately do you know where Derrick Sumter went at

1 that point in time?

2 A. No, sir.

3 Q. Where did you and Bryant McKnight go when you left
4 Roosevelt Gardens?

5 A. After we left the Gardens, we went to the gas station,
6 got some gas. Then we proceeded on to Williston.

7 Q. On to Williston?

8 A. Yes, sir.

9 Q. And had you -- have you ever been to who you now know as
10 Sandra Hughes, had you ever been to her house beforehand?

11 A. One time..

12 Q. Why were you at her house one time before?

13 A. Giving him a ride.

14 Q. Giving who a ride?

15 A. Bryant.

16 Q. Back then, did Bryant have a car?

17 A. No, sir.

18 Q. So if he needed a ride, he had to find someone to give
19 him a ride?

20 A. Yes, sir.

21 Q. Let me ask you this: On the way to Williston, did
22 Bryant McKnight ask you to do something for him after you
23 dropped him off?

24 A. Yes, sir.

25 Q. What did you tell him, whether you would or would not?

1 A. I would not. He asked me to help dispose of the body.

2 Q. Okay. So he asked you about helping to get rid of the
3 body. And what was your response to that?

4 A. No, sir.

5 Q. And who did he -- are you aware of whether he called
6 anybody or got in touch with anybody after he had asked you
7 that?

8 A. He called Derrick Sumter.

9 Q. That was while you were on the way to Williston?

10 A. Yes, sir.

11 Q. Let me ask you, while you were driving there, were you
12 talking to anybody on your phone?

13 A. No, sir.

14 Q. On the way to Williston?

15 A. No, sir.

16 Q. Was Mr. McKnight, Bryant McKnight, talking to people on
17 his phone?

18 A. Yes, sir.

19 Q. And besides his phone, did he have any other phones with
20 him?

21 A. Yes, he had Kymmara phone.

22 Q. Do you remember what kind of phone or anything about
23 that phone?

24 A. No, sir.

25 Q. And how do you know that he had her phone with him?

1 Q. I'm sorry. What did you say?

2 A. He said that they had talked. They had communicated.

3 They was talking.

4 Q. So they had talked and communicated?

5 A. Yes.

6 Q. Are you aware of a break-in at the defendants' family

7 house on Deer Meadow Lane?

8 A. Yes.

9 Q. That happened on about February 2nd, 2014?

10 A. Yes.

11 Q. Did the defendant Bryant McKnight ever talk to you about

12 that?

13 A. Yes.

14 Q. And what did he say about that?

15 A. He was saying that somebody broke in the house, and when

16 he find out who did it, he gone get at them.

17 Q. And when he said he was going to get at them, what did

18 that mean?

19 A. Do them some harm.

20 Q. Did Bryant McKnight ever carry a weapon after that

21 February 2nd break-in?

22 A. Yes.

23 Q. And what type of weapon did he carry?

24 A. It was a .22 revolver.

25 Q. .22 revolver?

1 A. Yes.

2 Q. What did it look like?

3 A. It was black with a white handle.

4 Q. And who gave him that gun after the break-in?

5 A. I did.

6 Q. How long after the break-in did you give him that gun?

7 A. The day after the break-in.

8 Q. Why did you give it to him?

9 A. Because he asked to buy the gun from me.

10 Q. I want to ask you about -- so you know it was a .22
11 caliber handgun?

12 A. Yes, sir.

13 Q. Let me ask you about Thursday, February 13th, 2014, that
14 Thursday. Where were you that night?

15 A. I was home with my wife and my kids.

16 Q. And when you say "home," which home were you at at that
17 time?

18 A. Roosevelt Gardens.

19 Q. The one at Roosevelt Gardens?

20 A. Yes, sir.

21 Q. And you were hanging out with your family.

22 Had you hung out with Bryant McKnight earlier that day
23 at all?

24 A. No.

25 Q. No?

1 A. No.

2 Q. Tell the jury what happened at approximately 9:00 that
3 night while you were at Roosevelt Gardens?

4 A. I got a knock at my door and it was Bryant McKnight. He
5 told me to come outside and talk to him.

6 Q. And did you go outside and talk to him at about that
7 time?

8 A. Yes, sir.

9 Q. How did he get to your place at Roosevelt Gardens?

10 A. He was riding with Stephon Green.

11 Q. And what happened when you went out and spoke with the
12 defendant Bryant McKnight?

13 A. I went and sit inside the car, and he told me to get rid
14 of bags for him.

15 Q. I'm sorry, I'm having a hard time -- say that again?

16 A. He told me he had a bag for me he wanted me to get rid
17 of.

18 Q. Now, who all was in the car when Bryant McKnight told
19 you he had a bag that he wanted you to get rid of?

20 A. Bryant and Stephon.

21 Q. So it's just the three of you?

22 A. Yes, sir.

23 Q. Okay. What kind of bag was it?

24 A. A trash bag. A black trash bag.

25 Q. And when he told you he had a bag that he wanted you to

1 get rid of, what did you say?

2 A. I was like, "Okay."

3 Q. Do me a favor, because I'm having a hard time hearing
4 you too, just speak up loudly, and maybe you don't even have
5 to put that too close. Speak up as loudly as you can, okay?
6 You've got three kids. I know you can yell, okay?

7 So you agreed? You told him, "Okay," you were going to
8 get rid of the bag?

9 A. Yes.

10 Q. And did he hand you the bag?

11 A. No, he didn't. At first he had the bag. Then he --
12 they put the gun inside the bag. That when they hand me the
13 bag.

14 Q. And you took the bag?

15 A. Yes.

16 Q. Did you look inside the bag at the time you were in the
17 car?

18 A. No.

19 Q. How long were you in the car after you got the bag?

20 A. Probably before -- after I got the bag, I left out the
21 car. Like okay, get part of the ways. They was in a rush.

22 Q. Who was in a rush?

23 A. They was in a rush.

24 Q. When you say "they," Stephon Green and Bryant McKnight?

25 A. Yes.

1 Q. Okay. Did you ask Bryant McKnight what was in the bag?

2 Other than you saw them put the gun in the bag -- you
3 testified to that -- did you ask them what was in the bag?

4 A. No, I didn't ask them what else was in the bag.

5 Q. Did you ask him why you needed to get rid of the bag?

6 A. Yes.

7 Q. And what did Bryant McKnight say?

8 A. He said to get rid of it. I'll tell you about
9 everything later.

10 Q. So at that time, did you know why you needed to get rid
11 of the bag?

12 A. No.

13 Q. And what did you do when you got out of the car?

14 A. I went back inside my house.

15 Q. What did you do when you went inside the house?

16 A. Grab my keys and left.

17 Q. And when you left, where did you go?

18 A. I went straight down 601 towards Congaree.

19 Q. So if you're leaving Roosevelt Gardens, which is right
20 off of 601?

21 A. Yes.

22 Q. You're just taking it right through St. Matthews?

23 A. Yes.

24 Q. And tell the jury, so you just kept on going through

25 St. Matthews?

1 A. Yes. I kept on straight down 601, straight down 601.

2 Q. And where did that take you?

3 A. To Congaree and 48.

4 Q. When you say "Congaree," the Congaree River?

5 A. Yes.

6 Q. Is there, like, a bridge there?

7 A. Yes, sir.

8 Q. What did you do when you got to the Congaree River where
9 the bridge is?

10 A. I had dumped the gun out.

11 Q. Dumped the gun in what there?

12 A. In the water.

13 Q. In the water?

14 A. Yes.

15 Q. Did you still have any other items with you?

16 A. Yes.

17 Q. What item was that?

18 A. It was in the bag. I didn't know what was in the bag.
19 It was the bag. I knew a jacket be in there.

20 Q. Now let me ask you that. Let me back up a minute. Did
21 you ever look in the bag to see what was in there other than
22 the gun?

23 A. No, sir.

24 Q. How did you know a jacket was in the bag?

25 A. Because when I looked in the bag, I just seen the jacket

1 and the gun was sitting on top of the jacket.

2 Q. All right. Did you see what was underneath the jacket?

3 A. No, sir.

4 Q. Do you know whose jacket that was?

5 A. Yes, sir.

6 Q. Whose jacket was it?

7 A. Bryant McKnight's.

8 Q. You've seen him wear that jacket before?

9 A. Yes, sir.

10 Q. But you couldn't see if there was anything else
11 underneath the jacket?

12 A. No, sir.

13 Q. Now, you've testified you got rid of the gun. You threw
14 it in the river. Then what did you do after you threw the
15 gun in the river?

16 A. I rode down about a couple miles down the road and hit
17 48 and went down a dirt road, and that where I got rid of the
18 rest of the bag.

19 Q. That would be Highway 48, I guess?

20 A. Yes, sir.

21 Q. And how did -- tell the jury how you got rid of the bag
22 when you went down that road off 48.

23 A. I got out the car and I just sling the bag. I just
24 throw it (indicating).

25 Q. You just slung it, threw it in some woods?

1 A. Yes, threw it in the woods.

2 Q. You literally got out of the car to sling it in the
3 woods?

4 A. Yes, sir.

5 Q. Now, you've gotten rid of the gun, threw it in the
6 river, and you've now thrown the rest of the bag, the bag in
7 some woods off of Highway 48. What did you do after you did
8 all that?

9 A. I went back home.

10 Q. Okay. And when you say you went back home, which home,
11 St. Matthews or Roosevelt Gardens?

12 A. Orangeburg, Roosevelt Gardens.

13 Q. Roosevelt Gardens. Okay.

14 Did you think you were done for the night?

15 A. Yes, sir.

16 Q. And at that time, did you know why you had to get rid of
17 these items?

18 A. No, sir.

19 Q. Did you receive a phone call at 9:59 p.m. from
20 Bryant McKnight?

21 A. Yes, sir.

22 Q. And what did Bryant McKnight talk to you about?

23 A. He told me to go to St. Matthews to talk to his brother.

24 Q. Okay. And what brother is that?

25 A. Jerry McKnight.

1 Q. And what did you do when he told you to do that?

2 A. I asked him why. He said, "I can't talk. I'm with my
3 old lady. So just go down there and he'll tell you
4 everything."

5 Q. He said he couldn't talk to you because he was with his
6 old lady?

7 A. Yes.

8 Q. But to go get Jerry and he'll tell you everything?

9 A. Yes.

10 Q. Did you know exactly where Bryant McKnight was? When he
11 said he was with his old lady, did you know where he was at
12 that time?

13 A. No. I guess he was at her house.

14 Q. Do you know where she lives?

15 A. No, sir.

16 Q. Where his old lady lives?

17 A. No.

18 Q. So did you leave and go to St. Matthews?

19 A. Yes.

20 Q. Where did you pick Jerry McKnight up at?

21 A. By the old John Ford.

22 Q. Okay. That's the old John Ford School?

23 A. Yes, sir.

24 Q. And what happened when you got to the house at
25 John Ford -- near John Ford School?

1 A. Jerry came out the door and he jumped in the car. He
2 told me, "Let's cut a block."

3 Q. And when he said, "Let's cut a block," what does that
4 mean?

5 A. Let's go hit the road, you know.

6 Q. Okay. And then what happened?

7 A. He was giving me directions, you know what I'm saying,
8 to a location, and he told me to stop and pop the trunk.

9 Q. Did you know where you were going to?

10 A. No, sir.

11 Q. He didn't tell you what you were about to pick up?

12 A. No, sir.

13 Q. And where did he give you directions to?

14 A. In the country, going down Highway 6 off the little
15 lean-off on a country road.

16 Q. And did you have any idea where you were going?

17 A. No, sir.

18 Q. Who gave you directions the entire time on where to go?

19 A. Jerry McKnight.

20 Q. Did Jerry McKnight have any problems giving you
21 directions on where to go?

22 A. No.

23 Q. Did he have to make a phone call or talk to anyone about
24 where to go?

25 A. No.

1 Q. And whose car were you driving?

2 A. Mine.

3 Q. What type of car did you have back then?

4 A. A Chevy Lumina.

5 Q. Was anyone else with you and Jerry McKnight when you
6 were taking the directions from Jerry McKnight?

7 A. No, sir.

8 Q. And where did Jerry McKnight have you go?

9 A. He had me go to -- to the swamp.

10 Q. Well, let's back up. Where did he have you go first?

11 A. He had me go to the body. He took me on the back road
12 to pick up the body.

13 Q. The back road to pick up the body?

14 A. Yes.

15 Q. Did he have any problems getting you to that back road
16 to find the body?

17 A. No.

18 Q. Tell us about how when he got you on that road where the
19 body was what he -- his directions that he gave you.

20 A. He was like, "Make a left. Turn on this road. Go
21 down." He told me turn around again, and he said, "Pull over
22 the side of the road. Pop the trunk. I'll be right back."

23 Q. Okay. Did he have any problems finding out where to
24 stop?

25 A. No.

1 Q. Did he, again, at any time have to make a phone call to
2 figure out where to stop?

3 A. No.

4 Q. Did you know at that time what you all were about to do?

5 A. No.

6 Q. Did he have a flashlight on him to help him find
7 anything out there?

8 A. No.

9 Q. Did he have anything to assist him to help find a body
10 or anything?

11 A. No.

12 Q. Did he have any problems telling you about where exactly
13 to stop before he got out?

14 A. No.

15 Q. And when he got out of the vehicle, he told you to pop
16 the trunk?

17 A. Yes, sir.

18 Q. And how long was he gone for?

19 A. About a minute or two.

20 Q. And tell the jury what you saw and heard next when he
21 came back to the car.

22 A. When he came back to the car, I saw him with a body wrap
23 up in a blanket.

24 Q. And what did he do with the body wrapped up in a
25 blanket?

1 A. He put it in the trunk, and then he told me -- he jumped
2 back in the car and said -- he had his hand on his side,
3 pulled the butt out of the gun and said, "Keep it 100. You
4 know what time it is."

5 Q. He said "Keep it 100. You know what time it is." What
6 does that mean?

7 A. Stay true.

8 Q. Keep your mouth shut?

9 A. Keep your mouth shut. Don't say nothing.

10 Q. And what did he show you before he said that?

11 A. The butt of a gun.

12 Q. Could you tell what kind of gun Jerry McKnight had?

13 A. It had to be a 9 or a .40.

14 Q. A 9 or a .40?

15 A. Yes.

16 Q. Why do you think it was a 9 or a .40?

17 A. Because I could tell by the handle on it.

18 Q. And would that be a semiautomatic or revolver?

19 A. A semiautomatic.

20 Q. And then after he's put the gun in the trunk -- or the
21 body in the trunk and he said that to you in the car, what
22 did he have you do?

23 A. He gave me more directions.

24 Q. And tell the jury where he had you drive to.

25 A. He had me drive to the Four Holes.

1 Q. And when you got to the Four Holes, describe that area
2 for the jury. What area is that?

3 A. It's a wooded area. It was like a lot of woods and
4 ain't too many houses on it, like far down the road, but it's
5 like a wooded area, like a little swamp.

6 Q. And you're familiar with Calhoun County, born and raised
7 here?

8 A. Yes, sir.

9 Q. So you knew when you got to Four Holes where you were?

10 A. Yes.

11 Q. And what happened when you got to Four Holes?

12 A. When we got to Four Holes, he told me to stop, and I pop
13 the trunk. He jump out. That when he throw the body across
14 the bridge.

15 Q. He threw the body across the what?

16 A. The bridge.

17 Q. The bridge? And is that into the swamp?

18 A. Yes, sir.

19 Q. Did you help him with the body?

20 A. No, sir.

21 Q. Did you have any idea that that's what you were doing
22 that night?

23 A. No, sir.

24 Q. And after Jerry McKnight threw the body in the swamp,
25 where did you end up going?

1 You may proceed.

2 MR. WARD: Thank you, Your Honor.

3 DIRECT EXAMINATION BY MR. WARD:

4 Q. Dr. Ross, could you briefly explain the procedure you
5 follow when conducting an autopsy?

6 A. Yes. The body is brought to us in a body bag in
7 Newberry County Memorial Hospital morgue. We open the body
8 bag, take photographs and inventory of the clothing and
9 whatever personal effects the person has. We then take the
10 clothing off and look at the external part of the body.

11 In this case, there were obvious gunshot wounds, so we
12 did x-rays of the body to look for bullets. Then we do an
13 internal examination.

14 Q. And did you have an opportunity to perform an autopsy on
15 the victim in this case, Kymmara Randolph?

16 A. Yes.

17 Q. And during your -- after conducting the autopsy, what
18 were your findings?

19 A. We found six gunshot wounds to the head and six gunshot
20 wounds to the chest. So there was laceration of multiple
21 organs: The brain, the heart, the lungs, liver. And that
22 causes bleeding and it causes damage to the brain, which, in
23 itself, would cause death.

24 Q. And after conducting the autopsy, were you able to come
25 to a conclusion with any reasonable scientific certainty as

1 mind, any combination of those shots, not counting the one
2 that we know wouldn't do extreme harm, can you render an
3 opinion as to how long it would take for the young lady to
4 pass away having been shot those many times?

5 A. Within minutes. There were minutes -- there were three
6 shots that actually went through the brain and the one
7 superficial one in the head and then the other two would
8 hit -- hit the brain, base of the brain and blood vessels in
9 that area.

10 The six in the chest hit the heart and lungs and a major
11 blood vessel and one hit the liver. If it was just the liver
12 shot itself, it would -- could still be fatal, but it would
13 take more minutes, several more minutes to die.

14 Q. One of those shots was the vena cava; is that correct?

15 A. Yes.

16 Q. And tell the jury what the vena cava is.

17 A. The vena cava is a large vein that carries blood back to
18 the heart. It's the superior vena cava that comes -- brings
19 blood back from the head area, and an inferior vena cava that
20 brings blood back up from the heart, from the tissue below
21 the heart.

22 Q. Would it be fair to say that that's maybe the second
23 largest vein in the body or the largest vein in the body?

24 A. Probably the largest.

25 Q. Okay. And the -- I think the one that people, the

1 CLERK OF COURT: Yes, ma'am. In the matter of the State
2 of South Carolina versus Bryant McKnight, Case
3 No. 2014-GS-09-0059 and 2014-GS-09-060, as to the charge of
4 murder, we, the jury, unanimously find the defendant guilty.

5 As to the charge of kidnapping, we, the jury,
6 unanimously find the defendant guilty.

7 In the matter of the State of South Carolina versus
8 Jerry McKnight, Sr., Case No. 2014-GS-09-0054,
9 2014-GS-09-0056 and 2014-GS-09-0057, as to the charge of
10 murder, we, the jury, unanimously find the defendant guilty.

11 As to the charge of kidnapping, we, the jury,
12 unanimously find the defendant guilty.

13 As to the charge of possession of a firearm by a person
14 convicted of a violent crime, we, the jury, unanimously find
15 the defendant guilty.

16 Ladies and gentlemen of the jury, if this be your
17 verdict, so say you all and indicate by raising your right
18 hand.

19 (Jurors so indicate.)

20 CLERK OF COURT: It's been noted.

21 Ladies and gentlemen of the jury, I would like for you
22 to indicate that you are -- we're going to poll you right
23 now, and I'd like to ask you is this your verdict, and if it
24 is your verdict, is it still your verdict. I'm going to call
25 your juror number and your last name, and you indicate by

1 represent Bryant McKnight, who is Jerry's younger brother.

2 Bryant's 34, he's a lifelong resident of St. Matthews.
3 He's actually pretty well educated for most of the clients I
4 see. He communicates well. He writes well. He reads well.
5 He has some abilities that some of my clients don't have.

6 He is -- I think the fact that he's 34 and 12 years
7 younger than Jerry also is reflected in some of the facts you
8 heard in this case, that he is influenced by his brother.

9 And I think in mitigation, I'd offer that I still
10 believe he's less culpable, although he is guilty and fully
11 guilty. I think in mitigation, he's less culpable and for
12 any sentence you might offer Jerry -- sentence Jerry to.

13 If you find it reasonable to offer something less than
14 Bryant, it would give him an opportunity to as well, at age
15 34. To take Mr. Leiendecker's description, 30 years plus 34
16 is still retirement age. And while he won't be a young man,
17 it will give him something to hope for.

18 THE COURT: Anything further?

19 MR. BANKS: Thank you, Your Honor.

20 THE COURT: Both of you, Mr. McKnight, Jerry McKnight
21 and Bryant McKnight, you brutally executed this young woman,
22 looking at her in her face. And your actions just show a
23 propensity for evil that really cannot be tolerated in our
24 society; so therefore, Mr. Jerry McKnight, on Indictment
25 2014-09-0057, on the indictment for murder, you're hereby

1 committed to the State Department of Corrections for a period
2 of life.

3 On Indictment 2014-09-0054 for kidnapping, you're hereby
4 committed to the State Department of Corrections for a period
5 of 30 years.

6 And on indictment 2014-09-0056, for possession of a
7 firearm by a person convicted of a violent crime, you're
8 hereby committed to the State Department of Corrections for a
9 period of five years.

10 Mr. Bryant McKnight, on indictment 2014-GS-09-0059, on
11 the indictment for murder, you're likewise committed to the
12 State Department of Corrections for a period of life.

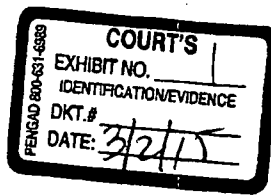
13 On Indictment 2014-GS-09-0060 for kidnapping, you're
14 hereby committed to the State Department of Corrections for a
15 period of 30 years.

16 And that is the sentence of the Court.

17 MR. BANKS: Thank you, Your Honor.

18 MR. PASCOE: Thank you, Your Honor.

19 --- END OF TRANSCRIPT OF RECORD ---
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2/22/15

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FEB 24 2015

Dear Mr. Daniel E Shearouse

S.C. Supreme Court

My name is Jerry McKnight and I'm currently incarcerated at the Orangeburg County Detention Center where I'm waiting to go to court. I've been detain at the Detention Center for a period of a year now. The reason I'm writing this letter is because I have some complaints and I feel like I'm not being represented correctly in my case, by a public defender by the name of Mark L. Leindecker. The reason I say this is for a number of reason the main reason is the lack of communication that we have. Since Mr. Leindecker have been appointed to represent my case I have only seen him 3 times. Another reason is because as of yet I haven't went up for a bond when co-defendants involving my case have went up and receive bonds. Another reason is because I feel that he is not making a effort and having a open mind involving my case and is looking at my case from one perspective. This being said I would like to go before a judge to file a motion to have Mark L. Leindecker relieve from representing my case as soon as possible. I hope to hear back from you soon regarding these issues. Thank you for your time.

Jerry McKnight



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

Motion

TO: Mr. Jerry McKnight

FROM: Daniel E. Shearouse, Clerk *DCV*

DATE: February 23, 2015

This Court has received your recent correspondence.

_____ This Court cannot provide legal advice or assistance. Therefore, we will not be able to provide legal advice and you should consult an attorney.

_____ Since you are represented by counsel in this matter, no action will be taken on your pro se filing. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010); Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

X If you believe you have good cause to seek to have your current counsel relieved then you should file a motion in the lower court in which this matter is pending.

_____ Since you are represented by counsel in this matter, we are forwarding a copy of your letter to counsel for any assistance he/she can give you.

cc: Mark A. Leiendecker, Esquire (with copy of correspondence)

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maite D. Murphy, Circuit Court Judge

Case No. 2014-GS-09-0054; 2014-GS-09-0056; 2014-GS-09-0057

The State, ...Respondent.

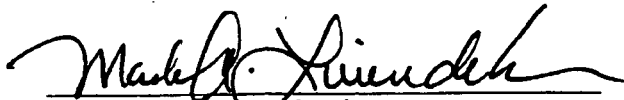
v.

Jerry McKnight, ...Appellant.

NOTICE OF APPEAL

Jerry McKnight, appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Maite D. Murphy, on March 6, 2015. This appeal is filed at the request of Defendant Jerry McKnight.

March 10, 2015



Mark A. Lerendecker
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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maite D. Murphy, Circuit Court Judge

Case No. 2014-GS-09-0054; 2014-GS-09-0056; 2014-GS-09-0057

The State, ...Respondent.

v.

Jerry McKnight, ...Appellant.

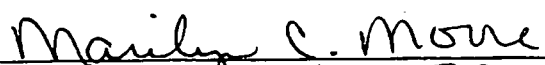
PROOF OF SERVICE

PERSONALLY APPEARED before me, Mark A. Leiendecker, who first being duly sworn, deposed and says:

That on the 10th day of March, 2015, he personally served a copy of the Notice of Appeal on Don Sorenson, Assistant Solicitor, via first class, postage paid wrapper, properly addressed, in a post office or official depository under the exclusive care and custody of the United States Postal Service to 140 North Main Street, Suite 102, Summerville, South Carolina 29483.


Mark A. Leiendecker
107 West 6th North Street
Summerville, SC 29483
(843) 821-9800
SC Bar# 65328
Attorney for Defendant

SWORN to before me this
10th day of March, 2015.


My commission expires: 7-21-2024
Notary Public for South Carolina

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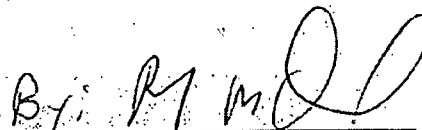
JUN 23 2016

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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."

June 23, 2016



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ATTORNEYS FOR APPELLANT

ORIGINAL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maité Murphy, *Circuit Judge*

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JUN 23 2016

SC Court of Appeals

Appeal No. 2015-000559

THE STATE,

Respondent,

vs.

JERRY MCKNIGHT, SR.,

Appellant.

Final Brief of Appellant Jerry McKnight, Sr.

Howard W. Anderson III
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STATEMENT OF THE ISSUES ON APPEAL

1. Did the trial court err in denying Mr. McKnight's request to discharge his trial counsel because the trial judge thought it "would not be a good thing for [him] to proceed without an attorney," [R. 16], when well-established precedent precludes consideration of the wisdom of a criminal defendant's choice?

STATEMENT OF THE CASE

In January 2015, a grand jury in Calhoun County returned three indictments against Jerry McKnight, Sr., arising out of the death of Kymmarah Randolph: one for murder, one for possession of firearm by a person convicted of a violent crime, and one for kidnapping. [R. 4-8].

Before his jury trial commenced, Mr. McKnight asked to discharge his counsel, a motion which the trial court denied because the trial court determined that “it would not be a good thing for [him] to proceed without an attorney.” [R. 16].

Mr. McKnight proceeded to a jury trial on those three indictments in a trial that began on March 2, 2015, and ended on March 6, 2015. The jury convicted him of all three charges.

On March 6, 2015, the trial court sentenced Mr. McKnight in accordance with the verdicts to life for the murder charge, with concurrent sentences of 30 years for kidnapping and 5 years for firearm possession. [R. 1-3].

Mr. McKnight served his notice of appeal on March 10, 2015, four days after judgment. [R. 86].

STATEMENT OF FACTS

Approximately two hours before the venire arrived for qualification at his criminal trial, the court held an *ex parte* hearing with Mr. McKnight and his trial counsel to address Mr. McKnight's February 2015 letter requesting the discharge of his counsel. [R. 10-17; 84]. At the hearing, Mr. McKnight told the trial court: "I feel like I'm not being represented right by him and that I would like to have him dismissed." [R. 11]. Among his complaints was that his counsel was not communicating with him and that he did not believe his counsel was adequately prepared to represent him. [R. 11-12].

After the court indicated that it would not consider continuing the trial because it was confident in trial counsel's preparation, the court asked Mr. McKnight whether he "had any legal training or ... [knew] the rules of evidence." [R. 15]. When he replied that he had no such training, the trial court ruled that "it would not be a good thing for [him] to proceed without an attorney" at his trial and then denied his motion:

THE COURT: Sure, and understandably [the other inmates in the jail with whom he has spoken about the legal process] may be somewhat familiar with the system, but they didn't go to law school. They didn't take the bar exam. They didn't have a successful law practice and become the head public defender like your attorney here has. Your attorney's very well versed in the law and is extremely competent, and frankly you're lucky that you got him to be appointed to your case because he's an excellent trial attorney. I can tell you that I don't see him telling the Court that he would be prepared for trial if he wasn't. I think he certainly would have your best interest at heart. I don't want you to go forward with this trial here today without being represented. You're telling me that you're not trained in the law. You know, you haven't gone to law school and those types of things, so you need somebody to stand in for you and represent you and someone that's capable and well trained and diligent in their efforts in doing that, and without an attorney, I'm certain that it would not be a good thing for you to proceed without an attorney. It's too late in the game for me to change and ask another attorney to represent you because your case is being called for trial today. Having been appointed in May,

that's nine months since his appointment to your case; and, frankly, I think that's sufficient time for him to have to be adequately prepared. I'm certain that if he was not adequately prepared, he would tell the Court and ask for a continuance, and that's certainly not the case here, so I'm going to deny your request to remove him from your case.

[R. 15-16].

ARGUMENT

Issue 1: The Trial Court Wrongly Denied Mr. McKnight's Request to Discharge Trial Counsel.

"A South Carolina criminal defendant has the constitutional right to represent himself under both the federal and state constitutions." *State v. Barnes*, 407 S.C. 27, 35 (2014) (citation and footnote omitted).¹ The right to self-representation was a right of critical importance to our constitutional framers. *See, e.g., Faretta v. California*, 422 U.S. 806, 821 (1975) ("In the long history of British criminal jurisprudence, there was only one tribunal that ever adopted a practice of forcing counsel upon an unwilling defendant in a criminal proceeding. The tribunal was the Star Chamber.").

Prior to letting a defendant discharge counsel, the trial judge must conduct a *Faretta* colloquy with the defendant, to advise the defendant of the dangers of proceeding *pro se* and the right to have trial counsel. *Prince v. State*, 301 S.C. 422, 423-24 (1990). But, ultimately, the decision to discharge counsel rests with the defendant alone, regardless as to the trial judge's views of the wisdom of the defendant's choice. *Faretta*, 422 U.S. at 834 ("[A]lthough he may conduct his

¹ No right to self-representation exists on appeal. *State v. Roberts*, 364 S.C. 583, 588 (2005) ("Appellant clearly does not have a federal constitutional right to proceed *pro se* in this appeal from his criminal conviction. We also find there is no state constitutional provision which confers such a right.").

own defense ultimately to his own detriment, his choice [to discharge counsel] must be honored out of that respect for the individual which is the lifeblood of the law.” (quotation omitted)).

The failure to honor a request to discharge counsel is a structural error, for which no showing of prejudice is required. *McKaskle v. Wiggins*, 465 U.S. 168, 177 n.8 (1984) (“Since the right of self-representation is a right that when exercised usually increases the likelihood of a trial outcome unfavorable to the defendant, its denial is not amenable to ‘harmless error’ analysis. The right is either respected or denied; its deprivation cannot be harmless.”). Whether the trial court has failed to comply with *Faretta* is a question of law, subject to *de novo* review. *E.g.*, *Brewer v. Williams*, 430 U.S. 387, 403 (1977).

Here, before trial, Mr. McKnight was clear that he wanted to discharge his counsel because he was dissatisfied with his counsel. [R. 11 (“I feel like I’m not being represented right by him and that I would like to have him dismissed.”)]. In response to that request, the trial court began a *Faretta* colloquy, appropriately warning Mr. McKnight of the dangers of proceeding without a lawyer. *E.g.* [R. 15-16 (“You know, you haven’t gone to law school and those types of things....”)].

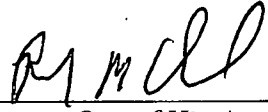
But however well intentioned, the trial court erred, when it decided “to deny [his] request to remove [counsel] from [his] case” out of a belief that “it would not be a good thing for [him] to proceed without an attorney” [R. 16]. *See also* [R. 15 (“I don’t want you to go forward with this trial here today without being represented.”)]. As indicated above, the decision to proceed with or without counsel is a decision personal to the defendant. *Faretta*, 422 U.S. at 834. The failure to honor that request compels a retrial. *McKaskle*.

Conclusion

For the forgoing reasons, Mr. McKnight prays that this Court will vacate his convictions due to the trial court's erroneous denial of his request to discharge counsel and then remand for re-trial.

Respectfully submitted this 23rd day of June, 2016.

JERRY MCKNIGHT, SR.

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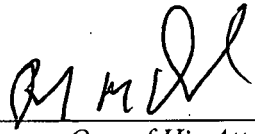
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CERTIFICATE OF COUNSEL FOR APPELLANT

The undersigned certifies that to the best of my ability the Final Brief complies with Rule 211(b), SCACR, and 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."

June 23, 2016

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JUN 23 2016
SC Court of Appeals

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Calhoun County

Maite Murphy, Circuit Court Judge

RECEIVED

JUN 23 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JERRY MCKNIGHT, SR.,

APPELLANT

APPELLATE CASE NO. 2015-000559

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 23rd day of June, 2016.



Robert M. Duek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 23rd day of June, 2016.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

ORIGINAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JUN 29 2016

SC Court of Appeals

Appeal from Calhoun County
Court of General Sessions
Maité Murphy, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

Jerry McKnight, Sr.,

Appellant,

Appellate Case No.: 2015-000559.

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In the Court of Appeals

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Court of General Sessions
Maité Murphy, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

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Appellant,

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

1. Did the trial court err in denying Mr. McKnight's request to discharge his trial counsel because the trial judge thought it "would not be good thing for [him] to proceed without an attorney," when well-established precedent precludes consideration of the wisdom of a criminal defendant's choice?

(FBOA, p. 1).

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Whether the trial judge abused her discretion in declining to imply a waiver of the right to counsel where Appellant requested only to dismiss appointed counsel for lack of preparation, but did not request to represent himself?

STATEMENT OF THE CASE

A Calhoun County grand jury indicted Appellant, Jerry McKnight, Sr., ("Appellant"), in January 2015, charging him with the murder of Kymmarrah Randolph; possession of a firearm by a person convicted of a violent crime; and, kidnapping. (R. pp. 4-9 [indictments]). Appellant stood trial with his brother and co-defendant, Bryant McKnight, on March 2-6, 2015, before the Honorable Maité Murphy and a jury. The jury convicted Appellant as charged. (R. p. 81, lines 7-15).¹ Judge Murphy sentenced Appellant to life imprisonment for murder; thirty (30) years for kidnapping; and, five (5) years on the firearm conviction. (R. p. 82, line 20 – p. 83, line 9).

This appeal follows.

¹ Bryant McKnight was convicted of murder and kidnapping for his part in the crime. (R. p. 81, lines 1-6). Judge Murphy sentenced him to life for murder and thirty (30) years for kidnapping. (R. p. 83, lines 10-15). Bryant McKnight also appealed to this Court. His appellant counsel filed an *Anders* Brief on March 28, 2016. (Appellate Case No. 2015-000569).

RESPONDENT'S STATEMENT OF FACTS

The victim, Kymmarra Randolph ("Randolph") was kidnapped, shot and killed on the night of February 13, 2015. At the time of her murder, Randolph had been romantically linked with Appellant's brother Bryant McKnight ("Bryant"). Bryant lured Randolph to accompany him that evening which eventually led to Randolph being taken to an isolated area where Appellant and Bryant repeatedly shot her in the face and chest.

Trial testimony showed Bryant and Appellant had at some point become suspicious of Randolph as having been involved in a home invasion at their mother's home. The home invasion occurred approximately two weeks prior to the murder. Bryant told friend Stephon Green ("Green") that money and drugs were taken during the robbery. (R. p. 52, lines 6-22). Appellant and Bryant both indicated they would kill whomever had committed the home invasion. (R. p. 51, lines 15-25; p. 53, lines 2-5; p. 65, lines 6-19). Bryant reasoned that Randolph, who had been at the home before the robbery and "probably knew where everything was" in the home, had played some role in the home invasion. (R. p. 51, lines 8-12; p. 53, lines 6-17). Randolph's mother testified that, though she did not believe it to be true, there were rumors in the community that implicated her son, the victim's brother. (R. p. 18, line 9 – p. 19, line 21).

At the time of her death, Randolph lived with Tameka Williams ("Williams"). Williams testified that the afternoon of February 13, 2015, Randolph told Williams she was waiting for "B" to pick her up. Williams knew that Bryant was who she was referring to by the nickname "B." (R. p. 20, lines 6-25).

Jamaal Pearce ("Pearce"), a friend to Bryant, testified that he and Bryant, along with another friend, James Keller ("Keller"), went to Williams' home around 4:30 pm, picked up

Randolph then went back to Keller's home. (R. p. 21, line 10 – p. 23, line 24). Pearce testified they "smoked a blunt together." (R. p. 24, lines 22-24). The group began to disperse around the time Keller's grandfather returned to the home. (R. p. 25, line 15 – p. 26, line 3; p. 36, line 8 – p. 37, line 2; p. 38, lines 4-23). Bryant left with Randolph on foot. (R. p. 26, lines 4-5). Bryant called his cousin Jonathan McKnight ("McKnight") at approximately 6:00 pm to come give him a ride, since he did not have a car, which McKnight did. (R. p. 39, line 16 – p. 40, line 22).

McKnight testified that after eventually picking up Bryant and Randolph about ten or fifteen minutes after the call, he drove to Bryant's grandmother's house (also Appellant's aunt) where he picked up Appellant. (R. p. 41, lines 2-21).

At approximately 7:00 pm, Bryant sent a text to Green and indicated he was thinking of killing the girl he was with. (R. p. 56, lines 5-23).

When in McKnight's car, Appellant asked to be taken to a girlfriend's house. He then began giving directions to McKnight which led the group down a rural stretch of South Carolina Highway 6 in Calhoun County. Appellant eventually asked McKnight to stop so Appellant could urinate. (R. p. 42, line 21 – p. 44, line 7). Appellant exited the car, but went to the back passenger door and asked Randolph to get out of the car. When Randolph refused, Appellant forcibly removed her, dragged her to the rear of the vehicle, "and opened fire." (R. p. 44, line 16 – p. 45, line 1). After emptying his gun, Appellant handed the gun to Bryant. McKnight testified, "Bryant unloaded and reloaded again and shot a couple of more times." (R. p. 45, lines 14-17). Appellant then moved the body into the woods off of the highway. (R. p. 46, lines 5-6). Appellant and Bryant returned to the car and McKnight took them back into town to a convenience store. (R. p. 46, lines 7-25). Bryant got out at the store, and McKnight saw Bryant place Randolph's personal belongings into a trash bag. (R. p. 47, lines 9-13). McKnight then

drove Appellant back to McKnight's grandmother's home. (R. p. 47, lines 13-16). Appellant began to visit McKnight regularly to ensure his silence. (R. p. 48, line 22 – p. 49, line 18).

Bryant texted Green again, this time asking for a ride. It was Green that Bryant was meeting at the convenience store at approximately 7:30 pm that evening. Bryant also asked Green to take him to Pearce's home. (R. p. 58, line 8 – p. 60, line 10).

Pearce testified Bryant called him after 8:00 pm and then showed up at Pearce's house. (R. p. 27, line 22 – p. 28, line 8). Bryant told Pearce that he "had to smoke that girl." (R. p. 28, lines 17-23). Pearce understood "smoked" to mean that Bryant had shot her. (R. p. 29, lines 1-11). Pearce testified he knew Bryant had a gun the night of February 13, 2015, because he had shown the gun to Pearce as they were going to pick up Randolph. (R. p. 32, line 22 – p. 33, line 9). (See also R. p. 34, line 6 – p. 35, line 14).

Green testified that Bryant asked him to take Bryant to Derrick Sumter's ("Sumter") house. (R. p. 61, line 8-18). Bryant had told Green he had "messed up and shot the girl." (R. p. 61, lines 18-25). Bryant had also asked for help in disposing of the body, but Green refused. (R. p. 63, line 21 – p. 64, line 4). Green, however, took Bryant to Sumter's home where Bryant gave Sumter the trash bag with Randolph's belongings. (R. p. 62, lines 1-7). Bryant asked Sumter to dispose of these items. (R. p. 67, line 4 – p. 68, line 2). Bryant put his gun inside the bag before handing it to Sumter. (R. p. 68, lines 10-15). Sumter complied by dumping the revolver into the Congaree River then tossing the bag into a wooded area off of South Carolina Highway 48. (R. p. 69, line 17 – p. 72, line 4). After having completed this task for Bryant, Bryant then asked Sumter to pick up Appellant and drive him back to the scene of the murder. Sumter did as Bryant asked. He and Appellant recovered Randolph's body, and drove to a swampy area called "Four Holes" where Appellant left Randolph's body. (R. p. 72, line 19 – p. 78, line 18).

The pathologist who conducted the autopsy testified that Randolph had been shot twelve times – six times in the head and six times in the chest. Randolph suffered damage to several major organs including her brain. (R. p. 79, lines 19-23). Death would not have been immediate but Randolph would only have lived at the most several minutes before dying from the wounds. (R. p. 80, lines 5 – 13).

ARGUMENT

The trial judge did not abuse her discretion in declining to imply a waiver of the right to counsel based upon Appellant's request to dismiss counsel when Appellant made no request to represent himself.

Relevant Facts:

Prior to trial, Appellant sent a letter to the Supreme Court of South Carolina asking that his lawyer be removed from his case. Judge Murphy questioned Appellant about the letter. Appellant expressed to Judge Murphy that he had made the request because Appellant did not believe he was being "represented right." Appellant requested that his attorney, Mr. Leiendecker, be dismissed. (R. p. 11, lines 3-12). Appellant stated that he did not believe Mr. Leiendecker was prepared for trial. He complained Mr. Leiendecker had only recently been appointed and had not communicated with him sufficiently. (R. p. 11, lines 16-22).

Mr. Leiendecker informed the Court that while he agreed that appointed had been initially delayed, he had met with Appellant approximately six (6) times, discussed the evidence with Appellant, had worked with investigators and analyzed the evidence, and was fully prepared for trial. (R. p. 12, line 14 – p. 14, line 3).

Appellant continued to assert that he was not sufficiently informed of the process and also asserted that he was upset that he was not allowed bond while others who had been involved had been allowed bond. (R. p. 14, line 10 – p. 15, line 1).

Judge Murphy asked Appellant about any legal training or knowledge. (R. p. 15, lines 2-9). Appellant admitted he had no formal training, "just what [he would] hear from guys that been through stuff like this from doing time on drug charges up the road." (R. p. 15, lines 10-12).

Judge Murphy resolved:

... I'm certain that it would not be a good thing for you to proceed without an attorney. It's too late in the game for me to change and ask another attorney to represent you because your case is being called for trial today. Having been appointed in May, that's nine months since his appointment to [the] case; and frankly, I think that's sufficient time for him to have to be adequately prepared. I'm certain that if he was not adequately prepared, he would tell the Court and ask for a continuance, and that's certainly not the case here, so I'm going to deny your request to remove him from your case.

(R. p. 16, lines 5-15).

Appellant and Mr. Leiendecker thereafter conferred. (R. p. 16, line 16). The trial judge also advised that Appellant could have additional time to confer until the jury panel arrived. Further, the trial judge advised that "during the trial if things come up where you have a question and need to talk to him, just ... let me know and I will grant that request," to which Appellant responded, "All right." (R. p. 16, line 17 – p. 17, line 5). Again, Appellant made no request to represent himself at trial.

Discussion:

It is beyond question that a criminal defendant may waive his Sixth Amendment right to counsel and represent himself at trial. *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525 (1975). It is likewise beyond question that a defendant's waiver of the right to counsel shall not be denied simply because the waiver is likely to be contrary to the defendant's best interest. *State v. Brewer*, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997) ("A determination by the trial judge that the accused lacks the expertise or technical legal knowledge to proceed pro se does not justify a denial of the right to self-representation"). See also *State v. Barnes*, 407 S.C., 27, 753 S.E.2d 545 (2014) (rejecting provision in *Indiana v. Edwards*, 554 U.S. 164, 128 S.Ct. 2379 (2008) that would allow a trial judge to decline to accept a waiver from an individual with severe mental illness that may affect the ability to represent himself). However, a request to waive the right to

counsel and “proceed *pro se* must be clearly asserted by the defendant prior to trial.” *Brewer*, 328 S.C. at 119, 492 S.E.2d at 98. See also *State v. Reed*, 332 S.C. 35, 41, 503 S.E.2d 747, 750 (1998). Courts are loath to find waiver where the request to waive is not clearly reflected on the record:

The constitutional right of an accused to be represented by counsel invokes, of itself, the protection of a trial court, in which the accused-whose life or liberty is at stake-is without counsel. This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused. While an accused may waive the right to counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting and appropriate for that determination to appear upon the record.

Johnson v. Zerbst, 304 U.S. 458, 465, 58 S. Ct. 1019 (1938). See also *Estelle v. Williams*, 425 U.S. 501, 515, 96 S. Ct. 1691, 1698, 48 L. Ed. 2d 126 (1976) (Powell, J., concurring) (“We generally disfavor inferred waivers of constitutional rights.”).

“Waiver is most commonly understood as an affirmative, verbal request.” *State v. Thompson*, 355 S.C. 255, 262, 584 S.E.2d 131, 134 (Ct. App. 2003). Here, Appellant simply did not make a request to waive his right to counsel; rather, he requested only that present counsel be dismissed. At no point did Appellant seek to represent himself, even after his initial request to relieve counsel based on lack of preparation was denied. In fact, Appellant relied upon counsel immediately after the discussion which further evidences his desire for counsel. See *Brewer v. Williams*, 430 U.S. 387, 404, 97 S. Ct. 1232, (1977) (“waiver requires not merely comprehension but relinquishment, and Williams’ consistent reliance upon the advice of counsel in dealing with the authorities refutes any suggestion that he waived that right”). At any rate, as set out above, the record demonstrates that Appellant made no request to waive and to represent himself. Thus, contrary to his position on appeal, there was no request for waiver that could be honored. See

United States v. Weisz, 718 F.2d 413, 426 (D.C.Cir. 1983) (“the right of self-representation is waived unless defendants articulately and unmistakably demand to proceed *pro se*”).

Moreover, while the trial judge here did briefly touch upon the advantages of counsel, that was done so in consideration of the motion to dismiss counsel. “Appellate courts have required more than an equivocal request for self-representation before they engage in a full-blown *Faretta* inquiry.” *Reese v. Nix*, 942 F.2d 1276, 1280 (8th Cir. 1991) (collecting cases). Simply requesting counsel be relieved of appointment is not an unequivocal request to waive the right to counsel. *State v. Sims*, 304 S.C. 409, 414-15, 405 S.E.2d 377, 380-81 (1991) (finding no request to “proceed *pro se*” in defendant’s complaint that counsel should be dismissed). *See also United States v. Loya-Rodriguez*, 672 F.3d 849, 858 (10th Cir. 2012) (finding defendant’s letter “expressing total frustration with his attorney and a desire to speak about something with the court” without counsel was not sufficient evidence defendant “clearly and unequivocally invoked the right to represent himself at trial.”). Nor can Appellant rely on the short discussion on the general dangers of self-representation as evidence of an understanding that he was attempting to waive his right and represent himself.

In *United States v. Light*, 406 F.3d 995, 999 (8th Cir. 2005), the Court of Appeals acknowledged the district court’s reference to “the potential negatives of such a decision” to pursue self-representation while determining, nonetheless, that counsel would participate in the proceedings. The Court of Appeals found the defendant’s inquiry on the “rule on representing yourself,” was not sufficient to be an “unequivocally express a wish to represent himself.” *Id.* The Court of Appeals then concluded that the district court’s dialogue with the defendant “was simply explaining the role of counsel” but resolved that dialogue “did not interfere with Light’s right to self-representation” or work to chill any potential request. *Id.* Likewise in the instant

case, the trial judge simply explained the benefits of counsel and did not impose counsel upon a defendant actively attempting to waive. Rather, in full support that Judge Murphy did not construe the instant motion as one insisting upon self-representation, the record shows the judge did not engage in a “full-blown *Faretta* inquiry.” When read in context, the record does not support that Appellant was choosing to conduct his defense *pro se* and was doing so with eyes “wide open” to the dangers and disadvantages. *Faretta*, 422 U.S. at 835, 95 S.Ct. 2525.

That the request consistently remained one concerning counsel is also supported by the judge’s reference to the fact she would not appoint another attorney where the trial was imminent. (Tr. p. 13, lines 6-8). *See Sims*, 304 S.C. at 415, 405 S.E.2d at 380 (courts are “entitled to take into account the countervailing state interest in proceeding on schedule” and whether “substitute counsel [would have] adequate time to prepare”). In fact, compelling an individual to continue *pro se* after granting a motion to dismiss without discussion as to a specific waiver has been found to be an involuntary waiver of the right to counsel. *See Smith v. Grams*, 565 F.3d 1037, 1045-46 (7th Cir. 2009) (declining to find valid waiver of right to counsel when defendant allowed to dismiss attorney but court did not advise that he would have to proceed *pro se*); *United States v. Meeks*, 987 F.2d 575, 579 (9th Cir. 1993) (declining to find a valid waiver where counsel’s motion to withdraw was granted at the same time defendant’s motion to substitute counsel was denied, given that the court, not defendant, forced waiver of the right).

Given that courts will “indulge every reasonable presumption against waiver of the right to counsel,” *State v. Thompson*, 355 S.C. at 262, 584 S.E.2d at 134, the trial judge did not abuse her discretion in declining to find an implied waiver of the right to counsel based merely upon Appellant’s motion to dismiss counsel in the absence of a specific request to proceed *pro se*.

Appellant’s argument to the contrary should be rejected.

CONCLUSION

For all the foregoing reasons, Respondent, the State, submits that the judgment and conviction of the lower court should be affirmed.

Respectfully submitted,

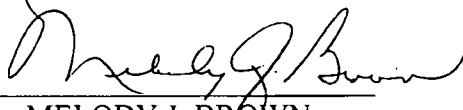
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STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Calhoun County
Court of General Sessions
Maité Murphy, Circuit Court Judge

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JUN 29 2016

SC Court of Appeals

The State of South Carolina, Respondent,
v.
Jerry McKnight, Sr., Appellant,

Appellate Case No.: 2015-000559.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

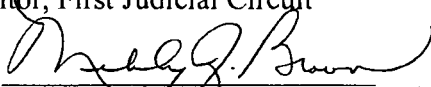
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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maité Murphy, *Circuit Judge*

Appeal No. 2015-000559

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JUN 23 2016

SC Court of Appeals

THE STATE,

Respondent,

vs.

JERRY MCKNIGHT, SR.,

Appellant.

Final Reply Brief of Appellant Jerry McKnight, Sr.

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ARGUMENT

As the parties agree, the legal issue here is a simple one: If he invoked his right to forgo counsel, Mr. McKnight is entitled to a new trial—full stop. *See* [Opp. at 9 (conceding absolute right to discharge counsel and not disputing violation is structural error)].

While the State says Mr. McKnight was supposedly not clear as to what he wanted to have happen, the trial judge obviously understood him—and her “reasonabl[e]” understanding is what counts. *See Dorman v. Wainwright*, 798 F.2d 1358, 1366 (11th Cir. 1986) (“To invoke his Sixth Amendment right under *Faretta* a defendant does not need to recite some talismanic formula hoping to open the eyes and ears of the court to his request.”); *United States v. Lorick*, 753 F.2d 1295, 1298 (4th Cir. 1985) (finding sufficient invocation in part because of the “recognition by the [trial] court at that point that the right [to dispense with counsel] had been asserted”). Indeed, so apparent was the trial judge’s actual understanding of exactly what he was proposing—firing his lawyer on the morning of trial with no request for substitution of counsel or a continuance—that she twice referenced a denial of his right to represent himself: “I don’t want you to go forward with this trial here today without being represented...I’m certain that it would not be a good thing for you to proceed without an attorney.” [R. 15-16]. *See also, e.g., United States v. Singleton*, 107 F.3d 1091, 1094 (4th Cir. 1997) (holding defendant’s mid-trial statement “I would like to fire my attorney, your Honor” was sufficient to constitute waiver of the right to counsel).

Once the trial judge pronounced that she was going to “deny” his request, Mr. McKnight was obligated to abide by the ruling without further comment or objection. *See*, SC R. Crim. Pro. R. 18(a) (“Counsel shall not attempt to argue any matter after he has been heard and the ruling of

the court has been pronounced.”). And having been forced to stay with counsel, he cannot be faulted for thereafter consulting with counsel and using counsel for the remainder of the trial.

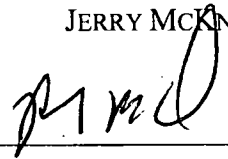
“[I]t is one thing to hold that every defendant, rich or poor, has the right to the assistance of counsel, and quite another to say that a State may compel a defendant to accept a lawyer he does not want. The value of state-appointed counsel was not unappreciated by the Founders, yet the notion of compulsory counsel was utterly foreign to them.” *Faretta v. California*, 422 U.S. 806, 833-34 (1975). Mr. McKnight was clear he wanted to fire his lawyer. He prevented from doing so—unconstitutionally. U.S. Const. Amend. VI; SC Const. Art. I, § 14.

CONCLUSION

For the forgoing reasons, Mr. McKnight prays that this Court will vacate his convictions and remand for retrial.

Respectfully submitted this 23rd day of June, 2016.

JERRY MCKNIGHT, SR.

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CERTIFICATE OF COUNSEL FOR APPELLANT JUN 23 2016

SC Court of Appeals

The undersigned certifies that to the best of my ability the Final Reply Brief complies with Rule 211(b), SCACR, and 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."

June 23, 2016

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Calhoun County
Maite Murphy, Circuit Court Judge

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JUN 23 2016

Court of Appeals

THE STATE,

RESPONDENT,

V.

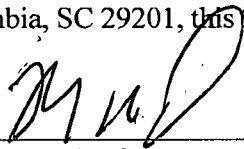
JERRY MCKNIGHT, SR.,

APPELLANT

APPELLATE CASE NO. 2015-000559

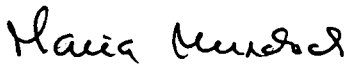
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Reply Brief of Appellant in the above referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 23rd day of June, 2016.


Robert M. Duek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 23rd day of June, 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jerry McKnight, Sr., Appellant.

Appellate Case No. 2015-000559

Appeal From Calhoun County
Maité Murphy, Circuit Court Judge

Unpublished Opinion No. 2017-UP-406
Submitted September 1, 2017 – Filed October 25, 2017

AFFIRMED

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Defender Robert Michael Dudek, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson, Senior
Assistant Attorney General Donald J. Zelenka, and
Senior Assistant Deputy Attorney General Melody J.
Brown, all of Columbia; and Solicitor David Michael
Pascoe, Jr., of Orangeburg, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Fuller*, 337 S.C. 236, 241, 523 S.E.2d 168, 170 (1999) ("A defendant's right to waive the assistance of counsel is not unlimited. The request to proceed *pro se* must be clearly asserted by the defendant prior to trial."); *State v. Thompson*, 355 S.C. 255, 262, 584 S.E.2d 131, 134 (Ct. App. 2003) ("Waiver is most commonly understood as an affirmative, verbal request."); *State v. Sims*, 304 S.C. 409, 415, 405 S.E.2d 377, 380–81 (1991) (finding the defendant had failed to clearly assert his right to appear *pro se* because he had given "no indication of a desire to proceed *pro se* prior to trial" and had merely requested to have his attorney dismissed); *State v. Mazique*, 419 S.C. 282, 295, 797 S.E.2d 730, 737 (Ct. App. 2016) (finding no error in the trial court's denial of the defendant's motion to dismiss because the request to proceed *pro se* must be clearly asserted and the defendant had merely stated he no longer wanted his attorney to represent him and had been "equivocal about whether he wanted to represent himself"); *Sims*, 304 S.C. at 415, 405 S.E.2d at 380 (noting the trial court was "entitled to take into account the countervailing state interest in proceeding on schedule" and substituting counsel ten days before the trial could have delayed the trial's start); *id.* at 415, 405 S.E.2d at 380–81 (finding the trial court properly denied the defendant's motion to dismiss trial counsel because the court adequately inquired into the defendant's complaint and the evidence was insufficient to justify substitution of counsel).

AFFIRMED.¹

SHORT, KONDUROS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Maité Murphy, *Circuit Judge*

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SC Court of Appeals

Appeal No. 2015-000559

(Opinion No. 2017-UP-406)

THE STATE,

Respondent,

vs.

JERRY MCKNIGHT, SR.,

Appellant.

Appellant Jerry McKnight, Sr.'s Petition for Rehearing

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Comes now Appellant Jerry McKnight, Sr., and moves the Court for panel rehearing pursuant to Rule 221(a), SCACR. In support, he would respectfully show the Court as follows:

1. As the Court is aware, the sole issue presented on appeal is whether the circuit court violated Mr. McKnight's constitutional right to self-representation when the trial judge refused to let him fire his lawyer the morning of trial because she thought that it "would not be a good thing for [him] to proceed without an attorney," [R. 16].

2. The Court affirmed the conviction below, finding that Mr. McKnight had not properly invoked his right to self-representation.

3. With all due respect to the Court, the Court erred. The trial judge was aware that he was invoking his right to self-representation, which is why the trial judge engaged in the *Faretta* colloquy with Mr. McKnight. [R. 15-16]. Particularly given the trial judge's awareness as to what Mr. McKnight was requesting, nothing more should have been required to trigger his constitutional right to fire his lawyer and proceed to the trial *pro se*. See, e.g., *United States v. Singleton*, 107 F.3d 1091, 1094 (4th Cir. 1997) (holding defendant's mid-trial statement "I would like to fire my attorney, your Honor" was sufficient to constitute waiver of the right to counsel); *Dorman v. Wainwright*, 798 F.2d 1358, 1366 (11th Cir. 1986) ("To invoke his Sixth Amendment right under *Faretta* a defendant does not need to recite some talismanic formula hoping to open the eyes and ears of the court to his request."); *United States v. Lorick*, 753 F.2d 1295, 1298 (4th Cir. 1985) (finding sufficient invocation in part because of the "recognition by the [trial] court at that point that the right [to dispense with counsel] had been asserted").

CONCLUSION

The Court should, therefore, vacate its opinion and reverse the judgment below with instructions for a retrial. In the alternative, to the extent that any doubt exists as to whether Mr. McKnight had invoked his right, the Court should vacate the opinion and remand for the trial court to conduct an evidentiary hearing to whether Mr. McKnight invoked his right to self-representation.

Respectfully submitted this 1st day of November, 2017.

JERRY MCKNIGHT, SR.

By: 
One of His Attorneys

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The South Carolina Court of Appeals

The State, Respondent,

v.

Jerry McKnight, Sr., Appellant.

Appellate Case No. 2015-000559

ORDER

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

Paul E. Short, Jr.

J.

[Signature]

J.

John W. Nester

J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Robert Michael Dudek, Esquire

Donald J. Zelenka, Esquire

Howard Walton Anderson, III, Esquire

Melody Jane Brown, Esquire

FILED

December 14, 2017

David Michael Pascoe, Jr., Esquire

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