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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable D. Garrison Hill, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BILLY JOHN GEISENDORFF,

APPELLANT

APPELLATE CASE NO 2016-001901

RECORD ON APPEAL

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1 location. Habitation you have to own your home, in your
2 residence or in the curtilage of your evidence. There is
3 no evidence that the defendant was in any of those
4 places.

5 THE COURT: That there's no evidence that he was in
6 the curtilage?

7 MR. McNAIR: The evidence was that all the
8 altercations occurred on the roadway. That Bobby
9 Christofoli never left the roadway is the only testimony
10 that I have heard throughout this trial.

11 THE COURT: We are talking about the defendant.

12 MR. McNAIR: There is no evidence. The two
13 eyewitnesses, the testimony was according to Mike
14 Williams both were in the roadway when the muzzle blast
15 occurred. According to Donna Blanchett when she heard
16 the defendant say the word gun, he is in the roadway and
17 so is Bobby Christofoli the victim. There is no evidence
18 that the defendant was anywhere else.

19 MR. STITELY: If you want a response to that, I
20 will, Judge.

21 THE COURT: Your response is the footprint?

22 MR. STITELY: And, Judge, I think it backs up
23 exactly what we have asked every time. Ms. Blanchett's
24 testimony, she heard the word gun and ran that way. A
25 few seconds later there was a shooting. I have asked two

1 forensic experts as well as the doctor is it plausible
2 that an individual had tried to get away into the grass,
3 the shots came from the left or into the victim's left
4 side which would have been in the grass.

5 In addition, Mr. Williams said that he wasn't sure
6 exactly what he saw. All he saw was silhouettes through
7 the trees. I don't think he ever placed the silhouettes
8 anywhere specific.

9 MR. McNAIR: A hypothetical question by the defense
10 is not evidence.

11 MR. STITELY: I think it's a fact question for the
12 jury, Judge.

13 THE COURT: Ms. Mayes, do you want to see the
14 reasonable doubt instruction?

15 MS. MAYES: Yes, sir, Your Honor.

16 THE COURT: All right. Here it is (proffering.)
17 All right. I'm not going to charge it. I think it's
18 important to isolate exactly where the imminent attack
19 occurred. At that time as Mr. McNair points out, the
20 victim was in the public road where he would not have had
21 a right to be ejected from and, therefore, under State v.
22 Brooks one on his land adjoining a public road is
23 assaulted by another who is on such road is bound to
24 retreat before taking the life of his adversary if there
25 is a probability of his being able to escape without

1 losing his life or suffering grievous bodily harm even he
2 would not have had the right to eject his adversary from
3 a place where he had a right to be.

4 MR. STITELY: I appreciate your ruling. I would
5 just note that once again during the testimony it was not
6 a public road. It was a privately maintained road by the
7 owners of the land. The State elicited that testimony
8 specifically from Ms. Blanchett. They had to take care
9 of the road themselves. It's not a public road in the
10 definition of a road and highway in the State of South
11 Carolina. That would be our noted objection specifically
12 to that part of the finding.

13 THE COURT: What about that? What's the State's
14 position on that?

15 MR. McNAIR: It's publicly owned but privately
16 maintained. I think Donna Blanchett said that she
17 couldn't prohibit who used that road. Everybody who
18 lived down that road had a right of access down that
19 road. Utility companies. Whoever. They had no right to
20 eject somebody from that road.

21 MR. STITELY: There's a big difference, Judge.
22 Prescriptive easement for the utilities is one thing. A
23 public road as the Brooks case talks about is a public
24 road. This is a private drive maintained by the owners
25 of the land. I think it's a distinct difference. I

1 don't believe the officers could have gone down there and
2 written a DUI ticket on a private road. It's a private
3 road. There is no testimony put in by the State to the
4 contrary. The only testimony we have in the record is
5 Ms. Blanchett.

6 MR. McNAIR: Judge, there is no testimony on that,
7 that that road is a private road.

8 MR. STITELY: Ms. Blanchett said that she --

9 MR. McNAIR: Privately maintained.

10 THE COURT: All right. Let's let each other finish.
11 What did you want to say?

12 MR. STITELY: Ms. Blanchett testified that it was
13 the responsibility of the owners to take care of it. No
14 South Carolina road is maintained privately. They are
15 maintained by the State. You have private roads in the
16 State of South Carolina, not public roads, that are
17 maintained by the people who live on them.

18 THE COURT: Well, I don't know about that. I'm not
19 an expert on road law nor do I think there is any
20 evidence in the record about making a distinction between
21 public and private roads for the purposes of finding a
22 classification of this particular road other than Ms.
23 Blanchett's testimony that was ambiguous.

24 MR. McNAIR: I think it goes back to that same
25 question of who has the right to eject a trespasser from

1 that location, and I don't think this defendant had a
2 right to eject a trespasser from that road. That's still
3 the fundamental question.

4 MR. STITELY: Well, if that's their position, I
5 think it makes a stronger argument. He lived there,
6 Judge.

7 MR. McNAIR: That means he could eject guests of
8 other residents who lived down that road? That makes no
9 sense.

10 THE COURT: Well, I don't know. Is there a survey
11 or a deed or something in the record?

12 MR. McNAIR: There's not.

13 MR. STITELY: The only thing in the record was Ms.
14 Blanchett saying that they paid to privately maintain it.

15 MR. McNAIR: Judge, anybody growing up in the
16 country knows if you have a privately maintained road
17 that the public is allowed to use it. I mean, that
18 doesn't mean it's a privately owned road. Judge, one
19 more thing if I might.

20 THE COURT: Go ahead.

21 MR. McNAIR: This is that Dickey Court of Appeals
22 opinion again. I think it does clarify what curtilage
23 is. It says there are places where the property owner
24 alone has the right to be to the exclusion of the general
25 public. He did not have the right alone to be in that

1 road to the exclusion of everybody else. It says
2 curtilage - areas are not considered curtilage just
3 because they are close to the building or maintained by
4 the owner. That's in that State v. Dickey Court of
5 Appeals opinion discussing what curtilage is.

6 THE COURT: What does the defense intend to argue in
7 terms of duty to retreat? Let's set aside the habitation
8 for a moment.

9 MR. STITELY: Your Honor, it would be our position
10 and we actually will be arguing that he was retreating.
11 We would also argue that being on his own property he did
12 not have to leave his own property as far as the duty to
13 retreat. I intend to argue straight to the jury that he
14 was trying to get away from the gentleman going backwards
15 when it happened just as the statement that came in.
16 That's exactly what I intend to argue to the jury. That
17 he was retreating but he was already on his own property
18 and you don't have to leave your own property to get away
19 from a man coming at you.

20 THE COURT: All right. Well, the standard is any
21 evidence to support the charge and while it is a very
22 close question, having once had to retry a murder case
23 because the defense of habitation wasn't tried in the
24 first trial, that would be State versus Sullivan, I will
25 charge it in this case. Anything further before we bring

1 the jury in?

2 MR. STITELY: We can rest on the record, if Your
3 Honor would like, once the jury comes in or before.
4 However Your Honor does it.

5 THE COURT: Whatever you want to do.

6 MR. STITELY: We'll rest, Your Honor. We don't need
7 to say that in front of the jury.

8 THE COURT: Okay.

9 MR. STITELY: Then we would renew all previous
10 motions including our directed verdict motion as now we
11 are done with our case as well.

12 THE COURT: Yes, sir. All right.

13 MS. MAYES: Did they say they were or weren't going
14 to rest in front of the jury?

15 THE COURT: They were not. They have rested.

16 MS. MAYES: Okay. So the court will instruct the
17 jury?

18 THE COURT: That they have rested. Yes.

19 MR. STITELY: That all testimony has been heard.

20 THE COURT: Yes.

21 MR. STITELY: Thank you, Judge.

22 THE COURT: So the State will open. The defense has
23 the final argument.

24 MR. STITELY: Yes, sir.

25 THE COURT: Okay. Thank you. Let's bring our jury

1 in.

2 (Whereupon, the jury entered the courtroom at 2:10
3 p.m.)

4 THE COURT: All right. Ladies and gentlemen, good
5 afternoon. We are going to continue the trial at this
6 time. The State as you saw rested. The defense rested
7 as well and that means you have heard all the evidence
8 you're going to hear in the trial. Now it's time for the
9 closing arguments. The State will give theirs first and
10 then the defense and then I will give you the instruction
11 on the law. So, yes, ma'am, or, sir. Ms. Mayes.

12 MS. MAYES: May it please the Court.

13 Donna Blanchett knew exactly where this could lead.
14 That's why she hid that gun. He had that gun in his hand
15 early before Mike Williams and Bobby ever pulled down
16 Cheryse Drive. He was out in that yard waiting on them
17 as Donna Blanchett described, no shirt, no shoes, waving
18 that gun around all ready in a frenzy and there was
19 nothing she could do even at that point to rationalize
20 with him. Pulled down Cheryse Drive. Make it to Mike's
21 house. He's already calling. He was calling before that
22 truck ever went down Cheryse Drive. Now, he's calling
23 more. And when he doesn't get the response he wants from
24 Mike, he's yelling from the yard constantly over and over
25 and over again as Donna described. Cussing and yelling.

1 Punk ass bitches. Motherfucker. Everything he could
2 come up with to draw Mike Williams up into his yard
3 because he had a gun in his hand.

4 One of the first things out of Mike's mouth when
5 he's on 911 and that moment of desperation trying to
6 explain to a dispatcher what is going on, he says he's
7 been on a liquor binge. He's been on a liquor binge.

8 One of the things that the Judge will charge you
9 just momentarily when I'm done and when Mr. Stitely is
10 done is that what we call voluntary intoxication,
11 choosing to get drunk, that is no excuse under the law.
12 That does not eliminate his responsibility for the
13 consequences of his actions.

14 So it starts out with Corona that morning, then
15 vodka. He is built up in a rage. And finally Mike is
16 not hollering anything back as Donna explained, finally
17 Bobby comes up into that roadway. Never leaves that
18 roadway. Now, we have been working all day. We don't
19 need to hear this. He's wanting to fight. He's done
20 everything he can to provoke a fight. What was he going
21 to do if he could draw Mike into his yard which was
22 really his plan? What was he going to do then? He was
23 already armed with that gun. Lure him into the yard and
24 then try and claim, oh, he's in my yard. I shot him in
25 self defense. Yep. He thought he had it all figured

1 out.

2 Bobby stayed in that road. And as he continues the
3 cursing, the yelling as Donna described, she is sitting
4 right there on the porch and witnessed it. Bobby
5 responds back and he stays in the road. Man to man. Oh,
6 no. He comes at Bobby with that gun. He didn't have to
7 go inside to get that gun because he had it the whole
8 time. Comes right at Bobby with that gun. Bobby
9 retreats. Heads back down to Mike's. It's been a long
10 ten hour shift working at that Watery station in
11 Eastover. That is not easy work. It's the kind of work
12 you do when you got family at home that needs your
13 support and you've got a wife and child and after that
14 ten hour shift the only thing on your mind, hey, man,
15 let's have a beer and call it a day.

16 He's been doing other things all day. He's not
17 going to let it go that easy. As they stand around that
18 tailgate they're thinking, okay, maybe he went in and
19 passed out. Maybe this will all pass over. And Mike
20 told you about he heard a pop in the woods. Didn't know
21 what it was. It was him. He calls Donna Blanchett from
22 the woods and says I got a bead on them. I can take them
23 out right now. Any of you on that jury that hunt you
24 know what that means. That's a term used by deer
25 hunters. He's in the woods hunting them like prey and

1 they don't even know he's there. That's what we call
2 malice under the law, ladies and gentlemen. That is
3 malice. There is no greater manifestation of malice than
4 that. It's what we call expressed malice under the law.

5 And the Judge will charge you momentarily on exactly
6 what malice means. But in the most simplified form it's
7 hatred, ill will, hostility towards another person. All
8 of those exemplified that day by this defendant.

9 When we talk about malice and malice of forethought,
10 all elements of murder, I ask you to keep in mind that
11 there is no requirement for how long you have to have
12 those feelings of malice. There is no requirement under
13 the law that it be an hour beforehand. It's not what you
14 hear on TV about things like premeditated murder and all
15 of those things. Malice of forethought under South
16 Carolina law means simply that you had that hostility,
17 ill will and hatred in your heart and in your mind at the
18 moment you pulled this trigger.

19 What we know happened here is absolutely undeniable.
20 He shot an unarmed man in the back. He shot an unarmed
21 man in the chest. He shot an unarmed man twice in the
22 left side of his body, to the neck, to the arm and it
23 went through the lung. He shot an unarmed man in the
24 back. Is there malice yet? How many times do you have
25 to pull this trigger for there to be malice? He pulled

1 it until there were no bullets left and then he kept
2 pulling it. That cylinder went all the way around and
3 that firing pin continued to strike even on casings that
4 had already been spent. Absolute malice on the part of
5 this defendant.

6 And it doesn't just stop there. What does he do?
7 What are his actions after he shot an unarmed man and
8 left him in the street to die? His actions were to flee
9 the scene, evade law enforcement and hide underneath the
10 crawl space of his house. Donna Blanchett's house. And
11 I have been trying to follow along as we have gone. We
12 have heard from defense counsel a lot of different
13 theories. I have been trying to follow along exactly
14 what the theory is. Is it that he shot Bobby Christofoli
15 and he's claiming he shot him in self defense? Or is
16 that he never shot him at all and somebody else fired
17 that gun? But it wasn't him. He just happened to have
18 the murder weapon with him underneath the crawl space of
19 the house? What exactly have they been saying?

20 Then you heard some insinuation today that his
21 knife, his knife that he had with him under the crawl
22 space, the same knife he carries with him every single
23 day according to Donna Blanchett, there's some
24 implication that the knife could have been the victim's?
25 That's ridiculous. Absolutely ridiculous that you would

1 shoot a man in the street, leave him there and then try
2 to come in this courtroom and claim something outlandish
3 as I shot him repeatedly and I knew he was unarmed, but I
4 shot him in self defense. Or I never shot him at all.
5 Just happened to have the murder weapon on me.

6 What we know beyond any reasonable doubt is that he
7 shot Bobby and left him there. And you ask yourself if
8 you ever had to protect yourself, your family in self
9 defense, what would you do? Anyone truly acting in self
10 defense, you would call the police. I just had to shoot
11 an intruder. He came into my house. I had no choice. I
12 had to shoot him. And you would be absolutely justified
13 under the law and you would call the police and you would
14 tell the police I just shot an intruder. He leaves him
15 in the street to die. And his first thought is going
16 back in the house and getting that case of Corona. How
17 cold hearted and cold blooded do you have to be for that?
18 What does that take? It's the absolute definition of a
19 malicious heart acting in malice.

20 He leaves him there. Got a phone on him. Never
21 calls the police. Never calls 911. His only thought is
22 getting that Corona out of the house. And he got it.
23 Then his next thought is he doesn't have a way to get the
24 bottle caps off so he's underneath that house prying off
25 the bottle cap drinking Corona. The man is dying in the

1 street and law enforcement is all around. Over an hour
2 and ten minutes went by. You heard from Investigator
3 Derrick on the scene. You've got law enforcement
4 endangered out there. They don't even know where the
5 shooter is. He's underneath the crawl space drinking
6 Corona with his flashlight, his cigarettes, his knife and
7 the murder weapon, and Donna's cell phone.

8 He knew from the time he left Donna's house when he
9 said, bitch, don't ever take that gun from me again and
10 demanded it back and she cowered down and gave him the
11 gun, told him where it was, he knew at that point he
12 wasn't going to let this go. Again, anyone acting in
13 self defense you don't leave your house. You keep the
14 weapon in your house to protect yourself and to protect
15 your home. You don't leave your home looking for
16 trouble. That's the opposite of self defense and that's
17 what we are really dealing with here.

18 Here are the undeniable facts. What we have here is
19 State's exhibit 3, the record of the phone calls that
20 were made that day. He starts off calling Mike at 5:42
21 p.m. Well, Mike's shift ends at 5:30 so not long after,
22 Mike hasn't even made it home yet, he gets a call from
23 Billy. He immediately called him back. It was zero
24 seconds. Mike immediately calls him back. A two minute
25 call and that's when he tells Mike come see me. Come in

1 the yard already wanting to fight. From that point on
2 Billy called him again and again. Another call to Mike.
3 Another call to Mike. It's now 7:17.

4 The 7:17 call is after he's home and after Bobby has
5 gone up to the road and stayed in the road. He calls
6 Mike to continue taunting him. Why did you send your
7 bitch up here? Then we know Billy continues to call Mike
8 again at 7:32. By 7:39 he's in the woods and that's key.
9 You heard the testimony from Donna that she is trying to
10 get him out of the woods. She is trying to reason with
11 him. He's not listening. She calls him. She calls him.
12 She calls him. And then he calls her at 7:42, Donna's
13 landline. Then he calls Mike. This is all happening
14 while he's in that woods. Calls Donna's landline. Then
15 he calls Mike again. Donna's landline. Donna's
16 landline. Then Mike's. Then Donna. Then Mike. Then
17 Donna. He is not gonna let this go. He's got the gun,
18 that cell phone, bottle of vodka.

19 And then you have got that call at 8:39. That's the
20 call that Donna described being the last call. That call
21 at 8:39 was for six minutes and 28 seconds. The call at
22 8:39 is when he told her I got a bead on them. I can
23 take them both out. And she knew I can't sit here. That
24 call is what prompted her to put her clothes on and go
25 out. She's looking for him trying to get him back in the

1 house before he does what she is afraid he's capable of
2 doing. That call at 8:39 for six minute and 28 seconds,
3 you add the duration of that call to when it was made
4 it's gonna be over around 8:45 and 48 seconds. Less than
5 13 minutes later, just over 12 minutes later, the call to
6 911. That's not a coincidence and that's not
7 happenstance. What he told her he was gonna do in the
8 woods he did.

9 Donna described that she got her clothes on after
10 that call, goes out, goes to the road, walks all the way
11 down the road, goes to the truck where Mike and Bobby
12 are. What are y'all talking about? We're talking about
13 work. Again, they thought he had possibly passed out.
14 Little do they know he had been in the woods stalking
15 them. She heads back up the road. She gets about right
16 here. He comes out of that woodline. He comes out of
17 that woodline and confronts her. And now it's Donna and
18 Billy in the roadway. And Donna testified he wouldn't
19 stop hollering. He wouldn't stop yelling except now he's
20 not just in his yard hollering down there at Mike and
21 Bobby. Now he's lighting into Donna. That is what
22 prompted Bobby to walk up that road.

23 Bobby knew he had a gun on him earlier and now here
24 he is yelling at Donna in the roadway. What would you
25 do? That's the question. What would anyone do in that

1 situation? He comes up. Stands by Donna's side and as
2 he does so, he pulls that gun. He's in the roadway, too,
3 as Donna described. They're a good five, six feet apart
4 facing toward each other. Bobby beside Donna. Billy
5 across from them. He says the word gun and Donna has
6 already known where this would lead. Donna flees. Why?
7 Because she was scared at that point. She heard what he
8 told her from the woods. She knew his state of mind.
9 She knew he had been on that liquor binge. She knew her
10 life depended on getting out of there. Ten seconds is
11 what she testified it took her to get from where she was
12 face-to-face with him and Bobby was face-to-face with
13 him, ten seconds to get back to that truck. And when she
14 did, she heard the shots. There is no scenario, ladies
15 and gentlemen, where that would ever be self defense.

16 What we know about Bobby, State's exhibit 67, he's
17 found there in that dirt roadway with a cigarette. His
18 cigarettes right beside him. He's still wearing his hat.
19 Have you ever heard of anybody going into a fight holding
20 a cigarette? No way. No way.

21 State's exhibit 56, you will see. You have this
22 evidence right back there with you. It's his cigarette
23 right there. It's not smoked down. He hasn't finished
24 that cigarette. He never stood a chance. There you see
25 the back of his truck. The back of Bobby's truck.

1 That's his brand of cigarette right there. The tan ones.

2 Not his brand of cigarettes. He's got his
3 cigarettes underneath the house with him. It's one of
4 the things he took into the crawl space with him. The
5 Pall Malls in a blue package and they're all white.
6 Bobby's are right here sitting on the steering wheel of
7 his truck. The red pack of Pall Mall with the tan
8 filter.

9 Here you see State's exhibit 65, the pivot turn.
10 He's trying to flee. You can't reason with a drunk man
11 and a gun. Shot in the chest, through the left arm,
12 through the left neck, final shot to the back and his
13 knees give out, he falls on his back, drops the
14 cigarette, hat still on his head. It would never be self
15 defense. It's ridiculous to come into this courtroom and
16 even insinuate such.

17 The law on murder is actually quite simple. Under
18 South Carolina law murder is the killing of any person --
19 We know that's happened -- with malice of forethought
20 either expressed or implied. What you say you're gonna
21 do and what your actions show you meant and intended.
22 These elements, ladies and gentlemen, have been proven
23 beyond a reasonable doubt.

24 When we talk about malice, the Judge is gonna charge
25 you on exactly what it means. I said earlier malice

1 includes a callous heart, a malicious heart, a malignant
2 heart, hostility, hatred or ill will.

3 Remember Donna's description of his tone when he was
4 in the woods that final time, that final time when he
5 said I got a bead on them and I can take them both out?
6 Hateful. She knew him better than anybody. Hateful.
7 That's her description of his malice.

8 Evidence of implied malice is also to be considered
9 by you in determining was there malice of forethought in
10 the killing of Bobby Christofoli. Evidence of malice,
11 implied malice, and again you take it from the
12 circumstances, it's little pieces of evidence along the
13 way that when pieced together form something that can't
14 be disputed. Form something that's abundantly clear and
15 in this case it's that he intended malice towards Bobby
16 Christofoli lying in wait in the woods. Lying in wait.
17 What else was he doing in the woods? He didn't go into
18 the woods because he was afraid. He would have stayed in
19 his house and locked the doors. He had a weapon. He
20 wasn't afraid of anyone or anything. He left his house
21 seeking out trouble. Seeking out what his actions lead
22 to.

23 He knows the victim was not armed. Law enforcement,
24 the first responder at the scene, Deputy Bair, if there
25 had been any weapon, it would have been part of the crime

1 scene. Deputy Bair was able to tell you beyond a
2 reasonable doubt he left the scene exactly as he found
3 it. From there CSI works the scene. Again there is no
4 weapon around Bobby Christofoli. Then he goes for an
5 autopsy. Every item on his body is inventoried. He had
6 no weapon. He was shot four times. Once in the back.
7 Malice. We know that the shots were not close range.
8 Bobby never even got close to him. Two feet or more.
9 Two feet is the minimum. The witnesses both Mike and
10 Donna put them six to eight feet apart.

11 We know that all nine casings had been fired. How
12 many times he shot that night we don't know. But we know
13 that he took that ammo from where Donna unusually keeps
14 it. She normally keeps that ammo in the kitchen cabinet.
15 It's recovered from the couch and it's the same
16 ammunition that you heard from Agent Green, same
17 ammunition that's used in that gun. The same casings
18 that spun around that cylinder 'until every one had been
19 marked as fired and two spun around when he kept pulling
20 the trigger. Why would he pull out the ammo and put it
21 in the coach unless he was loading the gun? He loaded
22 that gun before he ever left his house with it. So we
23 know that nine casings were fired and we know that at
24 least four bullets hit Bobby.

25 Finally, there is no evidence whatsoever of a

1 physical altercation. One of the first things that a
2 trained forensic pathologist looks for is any evidence
3 along the knuckles of a fight, bruising, abrasions,
4 anything like a busted lip, any type of injury to the
5 face that you would expect if two people had been in any
6 kind of altercation. Nothing. Nothing. Bobby never
7 even got within two feet of him. Ten seconds is what
8 Donna said it took her to get from when she was standing
9 by Bobby's side when she made it back to that truck.

10 You will have a second charge before you and it is
11 also quite simple under the law. This is what we call
12 possession of a firearm during commission of a violent
13 crime. And when a violent crime such as murder occurs by
14 use of a firearm, it's a separate statute and the
15 elements are possession of the firearm. We know he had
16 it. He had it with him underneath the crawl space.
17 During the commission of a violent crime, again, the
18 elements of this offense have been proven beyond a
19 reasonable doubt. We know he had it and we know that's
20 the weapon that was used to murder Bobby Christofoli.

21 Finally, I want to address one of the charges that
22 the Judge will submit along with all of the other charges
23 on the law and that is the charge on self defense. Let
24 me say that as a citizen of South Carolina we all, and in
25 the United States, we all have the right to self defense.

1 We all have the right to lawfully own a firearm. We all
2 have the right to protect ourselves and our families.
3 And we'll do so. But that is not a license to murder and
4 that is not a license to misuse that gun and leave your
5 house that any ordinary reasonable citizen would stay
6 inside and protect. You don't load that weapon and then
7 leave your house and go out to instigate conflict.
8 That's what this defendant did.

9 So how do we know under the law that self defense
10 does not apply in this case? It's absolutely clear. The
11 first element, the very first element of self defense is
12 that a defendant can't be at fault for bringing on the
13 difficulty. So let's imagine a scenario where we
14 rightfully use self defense. We are in our home where we
15 are supposed to be and an intruder comes in, oh,
16 absolutely you have the right to self defense. But
17 that's not what happened here. He spent all day. You
18 saw those phone calls. He spent all day bringing on the
19 difficulty, looking for a fight and then loads his weapon
20 after he demanded it from Donna Blanchett, leaves the
21 house, stalks them in the woods and then comes out of
22 that woodline to confront Donna Blanchett with hostility,
23 anger, yelling, hollering at her and drew Bobby up the
24 road. Did he bring on the difficulty? Absolutely. No
25 doubt whatsoever.

1 He was the instigator through his words and actions
2 the entire day. He demanded that gun from Donna
3 Blanchett as she described to you and then he left his
4 house with the loaded gun seeking conflict. Not avoiding
5 it. Seeking it.

6 The next element of self defense that the Judge will
7 charge you on is that the defendant must be in imminent
8 danger of death or serious bodily injury. Really? You
9 got a gun and you think you're in serious threat of death
10 or serious bodily injury by an unarmed person when you
11 loaded that gun and left your house looking for trouble?
12 No. That doesn't apply. No reasonable person would ever
13 assert that they were in imminent danger under those
14 circumstances.

15 Finally, the defendant had the duty to retreat.
16 Well, here's the thing. Donna Blanchett spent an hour
17 trying to get him to retreat. Come back in. Come back
18 in. He refused. Over and over and over again he
19 refused. He would not do it. He would not listen and
20 she could not reason with him. He fails every single
21 element of self defense. But you know what? The State
22 doesn't even have to prove that he failed all three of
23 them. If you fail one of them, if you fail one of them,
24 self defense does not apply. He never makes it past the
25 first element of self defense because he brought on the

1 difficulty in this situation.

2 Words alone as the Judge will charge you, using
3 fighting words, using offensive words, that alone can
4 substantiate that you brought on the difficulty and you
5 instigated the consequences and the results thereof.

6 Finally, the Judge will charge you on reasonable
7 doubt. Let me say just simply about reasonable doubt.
8 The State is not required to prove a crime to absolute
9 certainty and beyond all doubt. The standard is proof
10 that leaves you firmly convinced. Firmly convinced of
11 his guilt. I submit the State has gone far beyond that
12 in this case. Throughout it all one thing stands like
13 stone. He did it and he did it with malice.

14 A crime of this nature would shock the conscious of
15 a community anywhere in this country, but here in
16 Lexington County it can't be tolerated. Let this be the
17 last time he pulls the trigger on an unarmed man. Let
18 this be the last time he shoots a man in the back and
19 leaves him for dead in the street. This must be the last
20 time. Billy Geisendorff is guilty of murder and he's
21 guilty of possession of a weapon during the commission of
22 a violent crime. Thank you.

23 THE COURT: Thank you, Ms. Mayes. Mr. Stitely.

24 MR. STITELY: May it please the Court.

25 Step out in the roadway so I can beat your ass like

1 a man. I'm gonna F you up. If you're gonna have that,
2 I'm gonna make you use it. Two feet. I have a 36 inch
3 arm. That's three feet. This far away is two feet.
4 That's how far the forensic pathologist said they could
5 have been. I can hit you from three. Mr. Williams said
6 that the decedent -- And it's horrible. I wish we
7 weren't here. I said is he a big guy? Compare him to
8 me. He's got a couple inches on you and probably 50
9 pounds. I got half a foot over my client. An individual
10 coming at you who is significantly larger than me up in
11 your face to within two feet potentially, says I'm gonna
12 beat your ass. Get out here. You pull that, I'm gonna
13 make you use it. Does that sound like someone saying,
14 sir, please go calm down? I don't want to talk to you
15 anymore.

16 Ladies and gentlemen, this is an incredibly
17 important case. As I said, my name is Ben Stitely. I
18 represent Mr. Geisendorff and this is a crucial moment
19 for him. He's pled not guilty. That's what he is. From
20 the very beginning I told you what you were gonna hear.
21 It wasn't who done it. How done it. Where did it
22 happen. It's a why. We have go through a number of
23 witnesses. You get to determine whether or not you think
24 a witness is reliable or not. Any of their testimony,
25 none of their testimony, all of their testimony. The

1 Judge will tell you that. You can believe one word out
2 of a witness' mouth, every word out of a witness' mouth
3 or no words out of a witness' mouth.

4 This case you obviously heard what my defense is.
5 When my client came out that night, he told law
6 enforcement the first agent there, Bobby threatened to
7 beat my ass if I turned around. I told him I would
8 shoot. I turned to walk away --

9 MS. MAYES: Objection, Your Honor. Objection to
10 facts or testimony not in evidence.

11 THE COURT: Okay. Well, the jury will determine
12 that. Go ahead.

13 MR. STITELY: I turned to walk away. If you turn to
14 walk away, I'm gonna beat your ass. I started walking
15 away and he walked towards me. I fired two warning shots
16 and then unloaded the gun. It was either him or me. I
17 told you what you were gonna hear. He wasn't telling you
18 he didn't shoot the gun. The real reason I asked that
19 question is the Solicitor made a such a big point about
20 saying that these pictures are perfect. This crime scene
21 was so well produced. When you go back there, I want you
22 to look at number 61. All she talked about was these
23 cigarettes. There's a Pall Mall with a brown filter all
24 the way at the very edge. All the way up to my client.
25 She hasn't talked about that one. She hasn't pointed

1 that cigarette out to you. It's in the pictures.

2 I felt really bad asking Ms. Sabbagha questions.
3 She suffered a terrible loss. It's horrible. I have
4 never been in a situation where I have had to shoot
5 somebody. Thankfully I have had other solders who have
6 served their lives for me. I have never been in the
7 military. It's a tough thing. She lost somebody. I
8 respect that. I thought she was incredibly enduring on
9 the stand and she was hurt. You could tell. But I think
10 her testimony is incredibly key if you listen to what she
11 said. I saw him at 6:45 at the gas station. We made
12 plans to go get dinner but I was gonna give him a haircut
13 first. He was just gonna go drop Mike off and then come
14 back home to get a haircut and then go to dinner on a
15 Wednesday night.

16 She said she went home and about her business
17 expecting him to be home at any time. At 8:21 she gets a
18 call from Mr. Christofoli. Hurry up and come get me.
19 You need to come quick. I'm over here. Come. Don't
20 bring the kid. Come. She said it took her about 30 to
21 40 minutes to get over there once she got situated and
22 get over to pick him up. He had already gone down and
23 threatened once and now he had someone ready to come pick
24 him up and if you notice, she showed up right about that
25 time, right on time to pick Mr. Christofoli up. He went

1 down the roadway to pick a fight and he had already
2 called for his ride out. Hurry up. You better be ready
3 to come get me. She said he sounded tense. If you were
4 to believe what Mr. Williams and Ms. Blanchett said, they
5 were laughing and having a good old time about work two
6 hours later. But she said he was urgent. Come get me.
7 Don't ask any questions. Just come get me. Not cutting
8 up. Not laughing. There was someone with a plan that
9 night.

10 The Solicitor was very focused on the malice of
11 forethought. Malice. He was a hateful person. Ms.
12 Blanchett testified and I cross examined her. Her tone
13 was very negative towards my client on direct
14 examination, but I asked her about her statements that
15 she wrote that night. That day when the officer
16 responded at 9:11 that night, well, Billy called Michael
17 from Gibson Pond and told him he met him no harm but he
18 was upset about the things that Michael had said Monday
19 night. Mr. Williams said Billy wanted to fight. The
20 Solicitor said he had nothing in his mind but malice. He
21 wanted to fight somebody. But that night before when Mr.
22 Williams was calling grotesque obscenities to his
23 mother-in-law trying to pick a fight with Billy as he
24 even admitted by throwing a beer can at him and getting
25 up, Billy didn't go to violence. He helped him change

1 his girlfriend's tire and went to bed.

2 For a year or more Ms. Blanchett testified they had
3 bad blood but never once did Billy lash out at him in any
4 physical. Mr. Williams was incredibly clear about that.
5 And when he called him, he meant no harm. He was upset
6 about the way he was treating me. It was never about
7 Mr. Christofoli until Mr. Christofoli made it about
8 Mr. Christofoli. He went down that hill after calling
9 for a way out to beat his ass.

10 Donna in her statement said I went down there. I
11 don't know how many times. It changed. One time it was
12 two. One time it was three. And I told him to leave. I
13 told Bobby to leave because it was out of control.

14 I asked. Ms. Blanchett, you kept talking to my
15 client, didn't you? You were calling him all lovey dovey
16 on the phone. Well, yeah. I kept doing that for a
17 while. The Solicitor asked her, well, this is the first
18 you were with a man after your husband died. Oh, yes.
19 But within months after this she is remarried again and
20 the phone calls stop happening.

21 One of the things the Judge is gonna tell you you
22 can consider is bias of a witness. Why would a witness
23 say one thing the night in question, repeat the same
24 thing two weeks later, but then today after remarrying
25 and still living with those people change their story?

1 You get to consider that. You get to weigh that into
2 evidence. The only one who came up with this get a bead
3 on them thing was Ms. Blanchett. You get to consider
4 bias. A reason that someone would say something now that
5 was a little bit different than what they said before.
6 That's what a jury gets to do. That's your purview as a
7 jury.

8 Let's talk briefly about what Mr. Williams said.
9 Michael said that without a doubt Bobby went down there
10 and knew Billy had a gun. Called him out. Told him he
11 was going to beat him up. I said let it go, man. Don't
12 go down there. But the second Mr. Williams turned around
13 to go inside to get more beers, flew down the hill to
14 start a fight. The Solicitor in her closing said when
15 Ms. Blanchett said that they were in that roadway, she
16 got back to that car in less than ten seconds and there
17 was already a shooting. I asked her. She had had back
18 problems there. You're jurors. You can look at
19 everything about her. You saw the way she moved. She
20 was waiting for her surgery back then, too.

21 The crime scene lady said it was more than half a
22 football field between where the shooting happened and
23 where his truck was. Usain Bolt would have made it if he
24 was running. It's not a perfect case. If it was
25 perfect, there would be a video of it. We could describe

1 it with absolute certainty. But the importance when
2 you're sitting as a jury is you get to use your common
3 sense and think about it.

4 And the burden in this case is not on me. It's not
5 on Billy to say what happened. The burden is on the
6 State solely. Beyond that it is the burden of the State
7 to prove beyond a reasonable doubt that it wasn't self
8 defense and it goes a step further. The Judge will tell
9 you when you are on your own property, you have a right
10 to defend yourself. Billy lived there. Bobby was told
11 to leave at least twice. He was a trespasser who was
12 told to leave and when he had the opportunity to go beat
13 someone up, he already had his ride ready to roll. He
14 called for it. He was thinking ahead.

15 It's a horrible thing that happened, but my client's
16 life is on the line as you heard. The Solicitor told
17 you. A reasonable doubt. What is a reasonable doubt? A
18 reasonable doubt is the kind of doubt that causes a
19 reasonable person to hesitate to act or make an important
20 decision. What is that? If you have to stop and think,
21 hey, this is important. Maybe that happened that way.
22 That's reasonable doubt. If you have ever sat on a jury
23 before, we have all kinds of levels of doubt criteria
24 that determine whether you have something.

25 The first one that you all have probably heard of

1 is, you have heard of probable cause. Maybe you have
2 seen that before. Probable cause is, is it probable
3 something happened. Is it possible. That's not beyond a
4 reasonable doubt. The next one you will hear about is
5 something like a preponderance of the evidence. The
6 scales of justice tipping to the left or tipping to the
7 right. A civil case. Was it more likely the light was
8 green or red. Who do you believe a little bit more.
9 That's preponderance of the evidence not beyond a
10 reasonable doubt.

11 There's fairly certain. You can be fairly certain
12 something happened. That's still short of beyond a
13 reasonable doubt. Beyond a reasonable doubt is the kind
14 of doubt that says if a reasonable person could make an
15 assumption, if you could assume that a man 50 pounds
16 bigger than me who is coming at you saying I'm gonna beat
17 you up, you better use that thing, I'm coming for you,
18 might be really trying to hurt you and might have the
19 ability to do it, if you think that's even a shred of
20 possibility and you believe my client was on the land
21 which he was supposed to be on, he had a right to defend
22 himself.

23 But it went a step further. In number 36 the
24 highlighted picture that we have been relying on the
25 whole time, footprint H which is zoomed in on, and I asked

1 all three forensics people about it, is a footprint
2 getting away. Walking away. Coming towards them -- I
3 asked Dr. Ross is it most likely the shots would have
4 came from the left somewhere in his yard and she said
5 yeah because they hit him on the left side as he was
6 facing him. When I tried to go away, he kept coming.

7 In any case there are little things that stick and
8 they are important. But one thing I still don't
9 understand. I asked why Mr. Phipps wouldn't put it on
10 his chart. The Solicitor held this chart up for you.
11 Where is the other 911 call? Why is it that he would go
12 through all the effort to make this chart? You know,
13 they didn't tell me to put both 911 calls on there. At
14 7:22 a 911 call was placed the first time Bobby went down
15 there to try to beat some butt. Where is it on the
16 State's evidence? Deliberately omitted. I asked the
17 agent, Mr. Phipps, where is Mr. Christofoli's cell? I
18 don't have that. The CSI said, well, I gave it to him
19 for analysis. I don't know why he didn't do it.

20 It was a horrible night. The Solicitor said my
21 client fled. I asked what this was like. And you see a
22 picture. And you're allowed to use your common sense if
23 you've ever been out to that part of the state - or out
24 to that part of the county down Cox Ferry towards the
25 cross roads. It's a rural area. Woods everywhere. My

1 client could have just as easily walked over to the house
2 that he said was his uncle's house. He went back to the
3 house. You heard the tone of Mr. Williams on that 911
4 call saying that he was getting his gun and he was gonna
5 make sure that if he came anywhere near him, I was going
6 to take care of it. Billy said it was him or me. He ran
7 back to a place where he was safe and waited until law
8 enforcement secured the scene and came out hands up, gave
9 them no problem and said this is what happened. Didn't
10 run off into the woods. Didn't throw the gun. Kept
11 everything right there with him. Told them what
12 happened.

13 Should he have called 911? Maybe. Probably would
14 have been prudent. Would have made it a lot easier for
15 me to tell you, but he didn't. He was afraid. He knew
16 Mr. Williams had a gun. Mr. Williams wasn't afraid to
17 tell the 911 operator he had a gun. Two of them. A
18 rifle and a pistol. He didn't flee. He went and waited
19 until law enforcement was there and he came out and told
20 them what happened. He threw the gun away.

21 The Solicitor went on about how he had a beer. I'm
22 sure his nerves were pretty on edge. As I said,
23 thankfully I have never had to take a life. Never had to
24 shoot at somebody. It's got to be an awful experience.

25 I went through a litany of asking all of the experts

1 about ballistics. What's significant about this .22?
2 The Solicitor made a big argument it was four shots. The
3 one officer from SLED said there's thousands of cases
4 about the smallest most ineffective round you could
5 choose to use. The least stopping power on a seven fold
6 scale versus what he carries. An individual is coming at
7 you in the dark from a distance that's pretty close. You
8 warn him. He doesn't stop. You fire. He doesn't stop
9 coming until he stops. He told him. He was coming at me
10 and I fired warning shots and I fired until I was out.

11 The Solicitor said he loaded the gun that night.
12 There's been no testimony about that. The officer said
13 they couldn't tell if he shot nine times or whatever. My
14 client said he did it until he stopped when he was safe
15 trying to get back into his own yard. He was in his
16 yard.

17 Beyond a reasonable doubt. Not just that it
18 happened. We know it happened. You have to believe
19 beyond a reasonable doubt no reasonable person would have
20 thought they were in danger for their safety. It's
21 completely, as she put it, preposterous that because I
22 had a .22 that a man more than a half a foot and 60
23 pounds bigger than me could possibly even hurt me coming
24 at me. That's impossible. I wouldn't think that.

25 Is it possible that some of the witnesses had a

1 bias? Is there a reason in your mind why they might have
2 changed their stories from the time they wrote their
3 statements until the time they got up there? And just
4 remember, Ms. Sabbagha said he called me at 8:21 and said
5 come get me quick. Don't ask questions. Come get me. I
6 need a ride out. He told Ms. Donna I ain't leaving. I
7 ain't got to leave. That's what Donna told you. And
8 then just about the time literally within moments of when
9 his girl is coming to pick him up he went down there to
10 start a fight because his ride was on the way and he knew
11 he would be out of there.

12 The Solicitor said he was just going to have a
13 couple drinks after work. His wife said he was supposed
14 to go out to dinner with her and her child. Yet at 9:00
15 he's still pounding down beers out there. No haircut.
16 He didn't come home.

17 Ladies and gentlemen, all I ask is that you think
18 back on what you heard. Consider everybody. Consider
19 what they said. How they said it. Why they said it.
20 Look at the evidence. Use the things you know in your
21 life. If you had a prior service. If you have ever been
22 in a situation where someone has come at you. If you
23 ever witnessed it. Those are all things that you can
24 consider. If you ever been on your property and you try
25 to get someone to leave but instead they just kept

1 staying there and wouldn't go away. If someone would
2 have called your mother-in-law despicable things, would
3 you have had some words for him? But at that opportunity
4 when they threw a beer can and you could have punched
5 them in the face, then you didn't do it. You helped them
6 change a tire. Donna said he meant him no harm. He
7 wanted to apologize. Thank you.

8 THE COURT: All right. Thank you, Mr. Stitely.
9 Ladies and gentlemen, you have heard all the evidence
10 you're going to hear in this case. It's now my duty to
11 instruct you on the law that applies to the facts of this
12 case.

13 It's your duty to determine what the facts are. You
14 do that by weighing and considering the evidence that you
15 have heard during this trial and once you find the facts,
16 you must apply the law as I give it to you and that means
17 you must decide this case solely on the evidence before
18 you and according to the law and you must not be
19 influenced by any personal likes or dislikes or sympathy
20 or prejudices or opinions and that means that you must
21 follow the oath that you took when we began this trial to
22 do just that and you must follow all of my instructions
23 and not single out some and ignore others because they
24 are all equally important and please do not read into
25 these instructions or into anything I may have said or

1 done during this trial as any indication as to what I
2 think the facts are or what your verdict should be
3 because as I told you at the outset you are the exclusive
4 judge of the facts.

5 Now, there is no way for you to weigh the evidence
6 in a literal sense. I'm certainly not going to give you
7 a set of scales to take back to the jury room to conduct
8 experiments. You do it instead mentally and you weigh
9 and evaluate the evidence by using your good common
10 sense, your sense of reason and sound judgment and your
11 life experiences and you bring those things to bear on
12 the evidence you have heard during this trial.

13 I told you that evidence consists of two sources.
14 Sworn witness testimony and exhibits. Nothing else is
15 evidence. The arguments and statements by the lawyers
16 are not evidence. The lawyers are not witnesses. What
17 they have said is intended to help you interpret the
18 evidence but it is not evidence in itself and if you
19 remember facts differently from the way the lawyers have
20 stated them, your memory controls.

21 Now, there are two types of evidence that can be
22 presented during a trial. What I'm talking about now is
23 direct evidence and circumstantial evidence. I'm sure
24 you have heard those terms. Direct evidence is direct
25 proof of a fact such as the testimony of an eyewitness.

1 It is evidence that is believed directly and immediately
2 establishes a fact. Circumstantial evidence is indirect
3 evidence. That is a proof of a chain of facts from which
4 you can find another fact exists even though it has not
5 been proven to you directly.

6 Crimes may be proven by direct or circumstantial
7 evidence. The law makes no distinction between the
8 weight or value to be given to either to direct or
9 circumstantial evidence. You may consider both kinds.
10 However, to the extent the State relies on circumstantial
11 evidence, all of the circumstances must be consistent
12 with each other and when taken together point
13 conclusively to the guilt of the accused beyond a
14 reasonable doubt. If the circumstances merely portray
15 the defendant's behavior as suspicious, the proof has
16 failed. The State has the burden of proving the
17 defendant guilty beyond a reasonable doubt and this
18 burden rests with the State regardless whether the State
19 relies on direct evidence, circumstantial evidence or
20 some combination.

21 As I told you at the beginning, you have to decide
22 as the judge of the facts the credibility of all the
23 evidence. I'm not going to go back over that with you
24 other than to say that you may decide what testimony to
25 believe and what not to believe. You may disbelieve all

1 or part of any witness' testimony. You may believe all
2 of it. In making that decision you can take into account
3 the factors that I have told you about at the beginning
4 of the trial and anything else that your common sense
5 tells you that you should.

6 So we have also had witnesses who were qualified as
7 experts and I told you a little bit about what an expert
8 witness - who an expert witness is and what they are
9 entitled to say in court under the law. But expert
10 opinion testimony should be judged by you just as any
11 other testimony. You may accept it or reject it and give
12 it as much weight as you think it deserves.

13 Now, this is a criminal case and as I told you at
14 the beginning the mere fact that the defendant,
15 Mr. Geisendorff, has been indicted is not evidence of
16 anything. It doesn't encourage suspicion of guilt. The
17 indictment is simply the formal way the case is brought
18 to court. Mr. Geisendorff has pled not guilty and that
19 put the burden on the State to prove him guilty. A
20 person charged with committing a crime is never required
21 to prove himself innocent or prove himself not guilty and
22 it is an important and fundamental rule of the law that
23 the defendant no matter how serious the charge may be
24 will always be presumed to be innocent of the crime for
25 which the indictment was issued and that presumption of

1 innocence can only be removed if guilt has been proven by
2 evidence satisfying you of guilt beyond a reasonable
3 doubt.

4 The presumption of innocence does not end when you
5 begin your deliberations but it accompanies the defendant
6 throughout the trial and can only be removed if you reach
7 a verdict of guilt based on evidence satisfying you of
8 guilt beyond a reasonable doubt. The presumption of
9 innocence is not some legal theory or technicality. It's
10 a substantial and fundamental right to which everyone is
11 entitled.

12 Now, what is a reasonable doubt under the law? The
13 law defines a reasonable doubt as the kind of doubt that
14 would cause a reasonable, sincere, honest, and
15 conscientious person to hesitate to act in an important
16 matter in their own affairs. Proof beyond a reasonable
17 doubt is proof that leaves you firmly convinced of the
18 defendant's guilt. There are few things that we can know
19 with absolute certainty. In a criminal case the law does
20 not require proof that overcomes every possible doubt.
21 If based on your view of the evidence you are firmly
22 convinced the defendant is guilty of the crime charged,
23 you must find him guilty. On the other hand, if you
24 think there's a real possibility that he is not guilty,
25 you must give him the benefit of the doubt and find him

1 not guilty.

2 A reasonable doubt may arise from the evidence or
3 from a lack of evidence and a defendant is entitled to
4 every reasonable doubt that may arise in the case and
5 that means if upon any issue of fact that is essential
6 to a finding of guilt you have a reasonable doubt as to
7 how that issue should be resolved, it's your duty to
8 resolve it in favor of Mr. Geisendorff.

9 Now, ladies and gentlemen, the fact that a defendant
10 does not testify is not something that can be considered by
11 the jury in a criminal case. It must not be considered
12 by you in any manner whatsoever. A defendant has the
13 constitutional right to remain silent and the assertion
14 of this right must not be considered by you in your
15 deliberations. Under your oath you are to draw no
16 conclusion whatsoever from the fact that the defendant in
17 this case did not testify. The fact that he did not
18 testify should not even be discussed or brought up in the
19 jury room. The burden of proof is entirely on the State.
20 The defendant is not required to prove himself innocent
21 or prove himself not guilty. The burden of proof remains
22 on the State to prove guilt beyond a reasonable doubt.

23 Now, in order to establish criminal liability
24 criminal intent is required. Criminal intent must be
25 proven by the State beyond a reasonable doubt. There is

1 no way to prove intent to a mathematical certainty so the
2 law says that criminal intent may be inferred from the
3 circumstances. It's not necessary to establish intent by
4 direct and positive evidence but intent may be
5 established by inference in the same way as any other
6 fact by considering the acts of the parties and all of
7 the circumstances. It is up to you to determine what the
8 defendant intended to do based on the circumstances shown
9 to have existed.

10 Now, the first indictment to consider is the offense
11 of murder. In order to convict Mr. Geisendorff of murder
12 the State must prove beyond a reasonable doubt that he
13 killed another person with malice of forethought. Malice
14 is defined as hatred, ill will or hostility towards
15 another. It is the intentional doing of a wrongful act
16 without just cause or excuse and with an intent to
17 inflict an injury or under circumstances that the law
18 will infer an evil intent. Malice of forethought does
19 not require that malice exists for any particular time
20 before the act is committed but malice must exist in the
21 mind of the defendant just before and at the time of the
22 act. Therefore, there must be a combination of the
23 previous evil intent and the act.

24 Malice of forethought may be expressed or inferred.
25 These terms expressed and inferred do not mean different

1 kinds of malice but different ways in which they may be
2 shown to exist. That is either by direct evidence or by
3 inference from the facts and circumstances that are
4 proven. Expressed malice is shown when a person speaks
5 words which express hatred or ill will for another or
6 when the person prepared beforehand to do the act which
7 was later accomplished. For example, lying in wait for a
8 person or any other acts of preparation showing the deed
9 was within the defendant's mind would be expressed
10 malice.

11 Malice may be inferred from conduct showing a total
12 disregard for human life. If facts are proven beyond a
13 reasonable doubt sufficient to raise an inference of
14 malice to your satisfaction, this inference would simply
15 be an evidentiary fact you could take into consideration
16 along with all the other evidence in the case and give it
17 whatever weight, if any, you decide it should receive.

18 Where voluntary intoxication does not produce a
19 permanent insanity, it is not a defense to a crime. A
20 person who voluntarily becomes intoxicated is just as
21 responsible for the acts committed by while intoxicated
22 as when the person is not intoxicated.

23 The defense has raised the defense of self defense.
24 If you find the defendant was acting in self defense, it
25 is a complete defense and you must find him not guilty.

1 The State has the burden of disproving self defense by
2 proof beyond a reasonable doubt. If you have a
3 reasonable doubt of the defendant's guilt after
4 considering all the evidence including the evidence of
5 self defense, then you must find the defendant not
6 guilty. On the other hand if you have no reasonable
7 doubt of the defendant's guilt after considering all the
8 evidence including the evidence of self defense, then you
9 must find him guilty.

10 The elements of self defense are as follows. First,
11 the defendant must be without fault in bringing on the
12 difficulty. If the defendant's conduct was a type
13 reasonably calculated to and which did provoke an
14 assault, the defendant would be at fault in bringing on
15 the difficulty and would not be entitled to an acquittal
16 based on self defense.

17 The second element of self defense is the defendant
18 was actually in imminent danger of death or serious
19 bodily injury or that the defendant believed he was in
20 imminent danger of death or serious bodily injury. If
21 the defendant was actually in imminent danger or believed
22 he was, it must be shown that the circumstances would
23 have warranted a reasonable person of ordinary firmness
24 and courage to use force against another to prevent death
25 or serious bodily harm. If the defendant believed he was

1 in imminent danger of death or serious bodily injury, it
2 must be shown that a reasonably prudent person of
3 ordinary firmness and courage would have shared that
4 belief.

5 In deciding whether the defendant actually was or
6 believed he was in imminent danger of death or serious
7 bodily injury you should consider all of the facts and
8 circumstances surrounding the incident including the
9 physical condition and characteristics of the defendant
10 and the victim. The defendant does not have to show that
11 he was actually in danger. It's enough that he believed
12 he was in imminent danger and a reasonable prudent person
13 of ordinary firmness and courage would have had the same
14 belief. A defendant has a right to act on appearances
15 even though the defendant's beliefs may have been
16 mistaken. It is for you, the jury, to decide whether the
17 defendant's fear of imminent danger of death or serious
18 bodily injury was reasonable and would have been felt by
19 an ordinary person in the same situation.

20 Words accompanied by hostile acts may depending on
21 the circumstances establish self defense. Evidence of
22 prior difficulties between the defendant and the victim
23 may be considered in deciding whether a threat existed
24 and whether the defendant had a reason to believe the
25 threat existed and how serious that threat was. Threats

1 made by the victim may be considered in determining
2 whether the defendant was or believed he was in imminent
3 danger. The relative sizes, ages and weights of the
4 defendant and the victim may be considered in deciding
5 the apparent or actual need for force in self defense and
6 the amount of force needed. The intoxication of the
7 victim may be considered in deciding whether the
8 defendant's fear of death or bodily harm was reasonable.

9 Now, the final element of self defense is the
10 defendant had no other probable way to avoid the danger
11 of death or series bodily injury then to act as he did.
12 If the defendant was on his own premises or a lawful
13 guest of the owner, he has no duty to retreat before
14 acting in self defense. But a defendant has a duty to
15 retreat that applies only before he uses deadly force in
16 self defense. If one could by retreating avoid the use
17 of deadly force to secure his safety, then self defense
18 does not apply. There is no duty to retreat, however,
19 before using non deadly force. Whether the defendant
20 intended to use deadly or non deadly force is up to you,
21 the jury. And deadly force is defined as force used with
22 the purpose of causing or that he knows will create a
23 substantial risk of causing death or serious bodily
24 injury. A person has no duty to retreat before using
25 deadly force if to do so would apparently increase his

1 danger.

2 A person is not required to make an exact or precise
3 calculation as to the degree or amount of force that may
4 be needed to avoid death or serious bodily harm,
5 therefore, in self defense the defendant has the right to
6 use the force needed to avoid death or serious bodily
7 harm and this force does not have to be limited to the
8 degree or amount used by the victim. The defendant has
9 the right to use so much force as appeared to be
10 necessary for complete self protection and which a person
11 of ordinary reason and firmness would have believed to be
12 needed to prevent death or serious bodily harm. If the
13 defendant is justified in defending himself, then he is
14 justified in continuing to defend himself until it is
15 apparent that the danger of death or serious bodily
16 injury has ended completely.

17 The defense of habitation allows one to defend ones
18 home or premises by ending an unwarranted intrusion
19 through the use of reasonably necessary means of
20 ejection. The defense of habitation is available to one
21 who is defending himself from an imminent attack on his
22 own premises. This defense applies when there has been a
23 trespass and the defendant shows the means of ejection
24 were reasonable under the circumstances. The defense
25 provides that when one attempts to force himself into

1 another's dwelling or premises the law permits the owner
2 to use reasonable force to expel the trespasser. One's
3 home includes the curtilage surrounding the home
4 including out buildings, the yard around the dwelling and
5 any garden around the dwelling.

6 Now, the defendant is also charged with possession
7 of a weapon during the commission of or the attempt to
8 commit a violent crime. The State must prove beyond a
9 reasonable doubt that the defendant was in possession of
10 a firearm or visibly displayed what appeared to be a
11 firearm during the commission of a violent crime. A
12 firearm means any machine gun, automatic rifle, revolver,
13 pistol or any weapon which will or is designed to or may
14 be readily converted to expel a projectile. To find the
15 defendant guilty of possession of a weapon during the
16 commission of a violent crime, you must first find him
17 guilty of either committing a violent crime or attempting
18 to commit a violent crime. Murder is classified as a
19 violent crime under our state's law and the State must
20 prove beyond a reasonable doubt that the weapon further
21 advanced or helped in the commission of the crime.

22 Now, that covers all the substantive law and I will
23 just remind you again that you don't serve as jurors to
24 be partisans or advocates for either the State or Mr.
25 Geisendorff. You were chosen because both sides believe

1 you can be fair and impartial and you can decide this
2 case without any bias or prejudice and you bring your
3 life experiences, your good common sense and your sense
4 of logic and reason and you bring those things to bear on
5 the evidence and once you do that you will be able to
6 determine the facts of the case and then you take the law
7 I have just given to you and you apply it to those facts
8 and you will be able to reach a verdict. So you are the
9 judges and your sole interest is to determine the facts,
10 determine whether the State has met its burden of proof
11 and to apply the law further to the facts.

12 Now, the genius of our jury system as we know is
13 that it allows 12 people from different life experiences
14 and perspectives and backgrounds to come together,
15 discuss the evidence and ultimately reach a verdict.
16 You're each, of course, entitled your own vote and your
17 own vote is just that. It's your vote and no one else's.
18 I know you will discuss the evidence in a calm, thorough
19 and courteous manner and listen to the views of all your
20 fellow jurors and consider other people's points and
21 points of view and talk through and discuss the evidence.
22 This case is important to both sides obviously and this
23 is their day in court.

24 And, Madam Forelady, the verdict form I have
25 prepared and I'll hand it to you. But it's pretty

1 straightforward. It just asks, first of all, as to the
2 offense of murder whether you find Mr. Geisendorff guilty
3 or not guilty. And then the second question is as to the
4 charge of possession of a weapon during a violent crime
5 which, of course, you would not reach unless you found
6 Mr. Geisendorff guilty of murder. Don't put any reading
7 into which option I put first. I just have to put one of
8 them first. It's obviously random and you're only
9 authorized to sign that, ma'am, when the verdict is
10 unanimous.

11 Now, the record is closed. There are not going to
12 be anymore witnesses. There's not going to be anymore
13 exhibits. If something was referred to during this trial
14 and you don't have it back there with you among the
15 exhibits, I can't give it to you. So keep that in mind
16 that the record is now closed. And I want to thank you
17 for your attention to me and we'll let you all go back to
18 the jury room. Don't start deliberating until you get
19 the exhibits. That will be your signal and you can
20 finally start talking about the case. All right. Thank
21 you very much.

22 (Whereupon, the jury entered the jury room at 3:26
23 p.m.)

24 THE COURT: Any objection to the charge?

25 MR. STITELY: None from the defense, Your Honor.

1 MS. MAYES: Nothing from the State, Your Honor.

2 THE COURT: Okay. Are all the exhibits ready to go
3 back? Make sure we don't have anything extraneous in
4 there that needs to be culled out.

5 (Whereupon, the jury began deliberations at 3:37
6 p.m.)

7 (Short break.)

8 BAILIFF: Come to order. Court is back in
9 session.

10 THE COURT: All right. We've got a couple of notes
11 from the jury. The first one I think the Clerk and the
12 bailiffs might have discussed with y'all about the
13 request for audio equipment which my understanding was
14 everybody agreed and we had something sent back; is that
15 right?

16 MS. MAYES: Correct, Your Honor.

17 MR. STITELY: Correct.

18 THE COURT: The second note says definition board,
19 b-o-a-r-d murder plus malice. Must have been your
20 board.

21 MS. MAYES: I believe it was.

22 MR. STITELY: Judge, they have heard the charge. So
23 I don't think anything else goes back, of course.

24 THE COURT: What's the State's position?

25 MS. MAYES: Your Honor, I think it's sufficient to

1 say that that was demonstrative evidence which was not
2 admitted into evidence, but that if they need to hear a
3 charge on any aspect of the law, that they can rehear
4 that.

5 MR. STITELY: And I would rather than do it that way
6 if Your Honor says I read you the law which is the law
7 and you only consider what I have told you is the law and
8 the exhibits in evidence. Even if it's demonstrative,
9 you ultimately charge the law so that's how I prefer you
10 say it that way. I charged law as it exists in the State
11 of South Carolina.

12 THE COURT: What if I just said you have all the
13 exhibits and I have instructed you on the law, period?
14 The boards are not in evidence.

15 MR. STITELY: Yes, sir.

16 THE COURT: Is that okay with everybody?

17 MS. MAYES: Yes, sir, Your Honor.

18 MR. STITELY: That's perfect.

19 MS. MAYES: Yes, Your Honor. That's fine.

20 THE COURT: We'll mark those as an exhibit.

21 (Whereupon, Court's Exhibit #1 and #2 marked for
22 identification.)

23 (Short break.)

24 (Verdict at 4:35 p.m.)

25 BAILIFF: Come to order.

1 THE COURT: All right. I understand we have a
2 verdict. Anything before we bring the jury in to receive
3 the verdict?

4 MR. STITELY: Nothing from the defendant, Your
5 Honor.

6 MS. MAYES: Nothing from the State, Your Honor.

7 THE COURT: Okay. Let's bring our jury in.

8 (Whereupon, the jury entered the courtroom at 4:50
9 p.m.)

10 THE COURT: Madam Forelady, I understand the jury
11 has reached a verdict?

12 MADAM FORELADY: Yes. We have, Your Honor.

13 THE COURT: Please hand it to the bailiff for The
14 Clerk to publish it.

15 MADAM FORELADY: Okay (proffering.)

16 THE CLERK: Indictment 2014-GS-32-1423 and
17 2014-GS-32-1426, the State versus Billy John Geisendorff.
18 As to the charge of murder we the jury unanimously find
19 the defendant Billy John Geisendorff guilty. As to the
20 charge of possession of a weapon during the commission of
21 a violent crime we the jury unanimously find the
22 defendant Billy John Geisendorff guilty. It is so signed
23 by the forelady, September 8th, 2016. Madam Forelady,
24 ladies and gentlemen of the jury, if this is your
25 verdicts, please indicate each of you by raising your

1 right hand. All hands raised, Your Honor.

2 THE COURT: All right. Is there any request the
3 jury be polled?

4 MR. STITELY: No, Your Honor.

5 THE COURT: All right. Any matters before the jury
6 is discharged?

7 MR. STITELY: No, Your Honor. Motions only.

8 THE COURT: All right. Ladies and gentlemen, I
9 thank you for your service. You have a three year
10 exemption from Circuit Court jury duty and the gratitude
11 of your justice system for making the sacrifice necessary
12 to make our system work so we appreciate your patience
13 this week and your service and hope that you have a good
14 evening. There is no need to call back tonight. Your
15 obligation is over for this jury summons. So thank you
16 very much.

17 (Whereupon, the jury was released from further jury
18 duty at 4:55 p.m.)

19 MS. MAYES: May I approach?

20 THE COURT: Yes, ma'am.

21 MS. MAYES: (Proffering.)

22 THE COURT: All right. Is everybody ready for
23 sentencing?

24 MS. MAYES: Yes, sir, Your Honor.

25 MR. STITELY: Your Honor, I do have the motion to

1 set aside.

2 THE COURT: Yes. Go ahead. I apologize.

3 MR. STITELY: Your Honor, I make a motion to set
4 aside the jury verdict. The evidence as a whole is
5 insufficient at this point and we request for a new
6 trial. Additionally, I would renew all previous
7 objections to all rulings both pretrial and during the
8 trial.

9 THE COURT: Thank you, Mr. Stitely. Your motions
10 are respectfully denied but I do acknowledge that you
11 have renewed your motions and incorporated your previous
12 arguments which you may have made in support of them.

13 All right. Y'all ready to go forward?

14 MS. MAYES: Yes, sir, Your Honor.

15 MR. STITELY: You want us to sit right here, Judge,
16 or come around?

17 THE COURT: Whatever you want to do.

18 MR. STITELY: We'll stand here, Judge.

19 THE COURT: All right. Yes, ma'am. Ms. Mayes.

20 MS. MAYES: Yes, sir, Your Honor. I will present
21 the prior record of Mr. Geisendorff and then also the
22 widow of Mr. Christofoli does wish to address the Court
23 as well as his daughter Reagan Boatwright briefly.

24 THE COURT: Yes, ma'am.

25 MS. MAYES: As to prior record, Your Honor, he has a

1 record out of the State of Louisiana in 1993, a
2 conviction for - I'm sorry. 1984 a conviction for a
3 theft by taking. It appears to be probation of two
4 years. Disturbing the piece from Louisiana in 1986.
5 Possession of a controlled substance in 1993, five years
6 with probation. 2003 a violation of parole from
7 Louisiana and a fugitive warrant for failure to appear
8 for simple battery charge and the disposition was two
9 years. That's also from Louisiana in 1999 and it appears
10 that may have been some type of TIA or trial in absence.
11 That's all that I see prior to the murder charge, Your
12 Honor.

13 THE COURT: All right. Thank you. All right,
14 ma'am.

15 THERESA SABBAGHA: My name is Theresa Sabbagha. I
16 want to read something that I have prepared. Your Honor,
17 I'm the wife of Bobby Christofoli. We have been together
18 for 16 years. He was a stepfather to my 21 year old
19 daughter Raven. We also have together our 13 year old
20 daughter C.F. who has been born with severe
21 disabilities. Bobby was a good father. He was loving
22 and caring. He had hands on with his children, hands on
23 experience with his children. He also worked as an iron
24 worker who usually worked six days a week on 12 hour
25 shifts to provide for his family and still managed to

1 find time to coach ball with his oldest and to help with
2 his disabled kid.

3 Bobby's daughter C.F. is a legally blind
4 quadriplegic who suffers from severe seizures, brain
5 calcifications, hearing loss, small head which is called
6 microcephaly and is fed by a G tube. C.F. has had and
7 will continue to endure many surgeries and will always
8 need 24 hour care. Bobby and I have never had support
9 from our family or our friends to help take care of
10 C.F. We managed to rely on each other as a team to
11 care for her needs.

12 Bobby was the only source of income because I was
13 the primary care giver to our severely handicapped child.
14 Since he has been killed our livelihood has been
15 dramatically changed. Our household income has been cut
16 in half. I struggle to pay our mortgage for an income -
17 for a home that was built for C.F. needs. My mortgage
18 payment takes half of our survivor benefits and what's
19 left over goes to utilities, gas and food.

20 Billy Geisendorff has no clue to the tremendous
21 impact and damage he has caused when he took Bobby's
22 life. I now suffer from depression and poor health. My
23 doctor has referred me to counseling and put me on
24 antidepressants and other medications. At my age 49 I am
25 now fearing for my future without my husband for myself

1 and my daughters.

2 As for my daughters their future will never be what
3 it was intended to be. Our oldest recently gave birth to
4 our first grandchild that Bobby will never see and as for
5 C.F. our special needs child she will never understand
6 why her daddy will never come home.

7 Your Honor, please understand the day Bobby was
8 murdered he had just drove back into town from working a
9 10 to 12 hour shift and was giving a co-worker a ride
10 home. My niece and I ran into him one and a half hours
11 before his death. He was laughing and making plans to go
12 out to dinner with his family. The next thing I know was
13 I got a phone call to come pick him up and when I
14 arrived, I found him dead in the street.

15 Your Honor, I knew Bobby for 16 years and I have
16 never known Bobby to physically hurt or harm anyone. I
17 plea with you today to give the maximum sentence you can
18 give to Billy Geisendorff for the murder of my husband.
19 Thank you.

20 THE COURT: Thank you, ma'am.

21 RAVEN BOATWRIGHT: My name is Raven Boatwright. I'm
22 Bobby's stepdaughter. Bobby Christofoli was my
23 stepfather. He had been in my life since the age of
24 three and he died when I was 19. For 16 years Bobby was
25 an example of stability and security in my life. He was

1 a very hard worker. He started his days long before the
2 sun rose. Often as many as six days a week Bobby was on
3 his way to work while the morning was still dark. He was
4 never late. He never had to speed to get to work on
5 time. It's important to me that you know this because I
6 believe it tells you a lot about his character. He
7 taught me the value of time management and
8 responsibility. The way Bobby managed his time provided
9 me with a happy childhood, a home and a family. Because
10 he was a responsible adult I could be a carefree child.

11 Bobby taught me how to play softball. When I
12 learned how to play, Bobby coached my team. A couple
13 nights a week after Bobby got home from work he would
14 spend hours at the field. During the summer every other
15 weekend Bobby and I would travel all over the State for
16 softball tournaments.

17 Bobby also loved nature. He took me fishing. He
18 took me hunting, and our family went camping. However,
19 where Bobby was concerned a fishing trip was never just a
20 fishing trip, hunting was never just hunting and pitching
21 a tent was certainly an exercise in teamwork.

22 Through nature Bobby instilled in me an appreciation
23 for the world, for life. He never kept a fish that was
24 too small to eat and he even took the care to remove a
25 hook gently so that a fish could swim away and would not

1 die. He knew what animals were in season when hunting
2 and he knew how many of those animals we were allowed to
3 bring home with us.

4 This is so very important for you to know because it
5 tells you Bobby valued life and all living things. He
6 was not wasteful. He was not greedy. And he never felt
7 entitled.

8 Because Bobby Christofoli raised me, these are
9 values that I know to be crucial to being human. But
10 Bobby Christofoli's own life was taken from him. Bobby's
11 life was violently snatched from him. I found myself
12 angry with Bobby in the past two years. How did he put
13 himself in a position to be murdered? Because one more
14 very important thing Bobby taught me was caution,
15 discretion. He wanted me to understand where dangers
16 lurked in the world. He did not teach me to fear knives
17 or guns. He taught me to recognize and fear ignorance
18 and apathy. He taught me to stay away from people who do
19 not know and people who do not care.

20 I believe what happened the night Bobby was killed
21 was that Bobby simply did not realize he was in the
22 presence of someone who did not value life the way he
23 did. Bobby did not know his life was in grave danger
24 because if he had known, he would not have stayed. How
25 you can look at another man, how you can look at the

1 light in someone's eyes and decide you will be the one to
2 snuff it out I will never understand. I understand a lot
3 of things but that will always be incomprehensible to me.
4 I know it was to Bobby as well. Bobby's only mistake the
5 night he was killed was not seeing the ignorance and
6 apathy that Billy Geisendorff was capable of.

7 What's left now? What's left is my mother
8 struggling to raise my sister by herself. My sister
9 C.F. is special needs. She is 13. She cannot walk and
10 she cannot talk. She can't tell you what she lost when
11 she lost her father but I can tell you. She has lost a
12 lot. Coming into this world with so many disadvantages
13 C.F. had to fight to live. Her one advantage were her
14 parents. Her secret weapons were a mother and a father
15 who had both made it their mission in life to make her as
16 comfortable as possible. Now she only has her mother.

17 Never again will her daddy come home and kiss her
18 and tell her how beautiful she is. C.F. doesn't know
19 about murder. She doesn't know about men like Billy
20 Geisendorff and that is a merciful thing. But C.F.
21 doesn't know a father's love now either and that is a
22 tragedy.

23 What's left for me now? I have a baby that is seven
24 months old, a daughter. I'm a parent today as Bobby was
25 to me. Somehow I have to teach my little girl about the

1 world and the kind of person she needs to be, an enormous
2 task. Sometimes it seems overwhelming. I wish so much
3 that I could turn to the man who raised me and ask him if
4 I'm doing right. I wish I could ask him for advice in a
5 most important endeavor of my life, but I can't. All I
6 can do is remember the man my father was and remember the
7 kind of woman he raised me to be. When someone you love
8 is gone, I believe that's the only way to carry them on.

9 Your Honor, I hope you understand a little more now
10 what my family and I lost when Bobby was shot and killed.
11 I believe you understand like I do that Billy Geisendorff
12 is missing something vital. Something human. He does
13 not value life. This is a fact. He looked at Bobby
14 Christofoli and he did not see a husband who loved his
15 wife or a father who loved his children or even just a
16 man who was not ready to die yet. He saw a target and he
17 took aim and Bobby stood no chance.

18 If justice is to be served for Bobby Christofoli and
19 his family you would give Billy Geisendorff as long as
20 possible to figure out the things he does not yet
21 understand and in that respect justice would be served
22 even for Billy Geisendorff. He needs a maximum time to
23 understand that life is beautiful and precious and you
24 cannot just take it from someone.

25 THE COURT: Thank you.

1 MS. MAYES: Your Honor, I'm also at this time going
2 to submit a photograph from the family showing Bobby and
3 the girls and this includes photos as Raven described of
4 him fishing with the girls and with Raven's softball team
5 (proffering.)

6 THE COURT: Thank you. Anything further from the
7 State at this time?

8 MS. MAYES: That is all from the State, Your Honor.

9 THE COURT: All right. Mr. Stitely, Mr. Williams.

10 MR. STITELY: Please the Court, Your Honor. We
11 appreciate the jury's work this week. We disagree with
12 it. We respect their decision. Your Honor, as you heard
13 Billy doesn't have a substantial criminal record as far
14 as someone who is 52 years old. Looks like he got some
15 disturbing the piece problems a couple decades ago.
16 Hasn't been in trouble for more than two decades. He has
17 six grown children. They're away. His family was in
18 Louisiana. Your Honor, he worked as a - all kinds of
19 things in and around the oil business. On oil rigs from
20 Louisiana and Texas from actually doing the initial work
21 of driving the pipes down into the ground to working on
22 the platforms and keeping them up and running.

23 Your Honor, he came up here about five years ago
24 after the death of his father. The uncle you heard next
25 door was his father's twin sister's child who was only

1 two months difference in age from him. That's what
2 brought him to South Carolina was to return with his
3 father's twin sister.

4 Your Honor, he was doing what he could. He had been
5 putting away some money. He wasn't working at the time.
6 He also had some physical stuff that made it hard for him
7 to do what he used to do as he had gotten older. His
8 passions for him was the boat you heard about. He was
9 big into, it was described as an electronic boat but more
10 than that they were like four foot long things. That's
11 what he was doing on Gibson Pond.

12 He, of course, never wanted any of this to go down.
13 He maintains still that he felt he had to do what
14 happened. Your Honor, like I said, he's from Louisiana.
15 He hasn't been in any trouble for more than two decades.
16 He's been in jail, of course, since April 2nd. There's
17 been no reports provided to us that he's caused them any
18 problems. He's shown nothing but respect to me as I have
19 dealt with him. He's been respectful to the officers
20 here in the courtroom and I think he's showed the Court
21 respect and I don't think he's a person who is
22 incorrigible in any way, shape or form.

23 Your Honor, we have explained to him what you have
24 to give him as a term and if you were to give him that,
25 he's gonna be 82. We would ask that you consider putting

1 it on the 30 side. I do believe he wants to address the
2 Court.

3 THE COURT: Yes, sir, Mr. Geisendorff.

4 MR. GEISENDORFF: Your Honor, I am sorry for that
5 family's loss. Your Honor, I didn't want that to happen
6 with Bobby. I am sincerely -- I'm sorry. I didn't want
7 that night anymore than Bobby did or you people. I have
8 got family also and I'm deeply sorry for your loss.

9 Your Honor, I have never been lied upon by a
10 Solicitor in my entire life. I never saw so many lies
11 brought against me by a jury and a Solicitor and the lack
12 of things that these two men brought out. Where I was.
13 I never was in that woods. I never said that MF word
14 like they said I did. I did not call Donna the B word
15 ever. I would take a lie detector test to what I'm
16 telling you.

17 There were so many lies told. I was standing on my
18 property when he ran me off the property to where he got
19 shot. I was standing on my green grass. And where Donna
20 was, they lied about, sir. I was on green grass when Mr.
21 Christofoli came forward, charged me and I had to run
22 backwards from there because that briars in back of me, I
23 didn't want to trip over, and he, until he got to the
24 point and he said you got a gun. I want to make you use
25 it and he puts back toward me and he's running at me like

1 that.

2 And he was drunk and he was cutting up with Michael
3 and they picked -- And, sir, I don't feel properly
4 represented by these two gentlemen here because there's
5 so much that should have been brought out that was not.
6 And the lies that that lady right there told on me to
7 that jury, sir. I'm deeply -- I have not had a fair
8 trial and I have never in all my life put together been
9 lied on and disrespected as much as that lady did me
10 today in front of that jury, sir.

11 And that is -- I will take a lie detector test to
12 everything. I should have took the stand. Yes, sir.
13 And I will take a lie detector test for you. I will pay
14 for it as to the truth of what I am saying. Sir, I was
15 not represented right and I was trampled on like an
16 animal. And I'm sorry I had to do that to Bobby. And
17 y'all looking at me and y'all lied on me. Bold faced lie
18 to do your job under oath.

19 THE COURT: Okay. Thank you.

20 MR. GEISENDORFF: Yes, sir.

21 THE COURT: I would like to commend the lawyers in
22 the case for doing their jobs as conscientiously as they
23 did both the State's lawyers and the defense counsel who
24 had very little to work with but still did a tremendous
25 job in representing the defendant in the best traditions

1 of the bar. And there are often things that are said
2 during sentencings that people sincerely believe but no
3 one else would.

4 The sentence is that you be committed to the
5 Department of Corrections, sir, for life on the murder
6 charge, and on the possession of a weapon charge five
7 years. Thank you very much.

8 MR. STITELY: Thank you, Your Honor.

9 MS. MAYES: Thank you, Your Honor.

10 WHEREUPON, THE TRIAL WAS CONCLUDED.

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CERTIFICATE OF REPORTER

(STATE OF SOUTH CAROLINA)

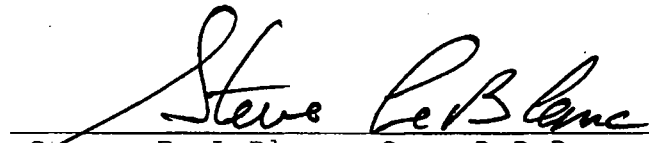
(COUNTY OF LEXINGTON)

I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R., and Official Circuit Court Reporter for the Eleventh Judicial Circuit in and for the State of South Carolina, do hereby certify that I reported the proceedings in the before captioned case in the Court of General Sessions in and for the State of South Carolina on the September 6th through 8th, 2016.

I FURTHER CERTIFY that the forgoing 568 pages constitute a true and accurate record of said proceedings.

I FURTHER CERTIFY that I am neither related, counsel to, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand at Lexington County, this 30th day of December, 2016.



Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 14005718

DSC

ARREST WARRANT NUMBER

2014A3210200522

ACTION OF GRAND JURY

ET AL

[Signature]
Foreperson of Grand Jury
Date: 6/19/14

VERDICT

Guilty

Dannan Collett

9/8/2016

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS3201423

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2014

**THE STATE
vs.**

Billy John Gelsendorff

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010

At a Court of General Sessions, convened on May 2014, the Grand Jurors of Lexington County present upon their oath:

That **Billy John Geisendorff** did in Lexington County on or about April 2, 2014, willfully, feloniously and with malice aforethought kill one Bobby Christofoli, by shooting the victim multiple times and the victim died as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976, as amended.

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



DEPUTY SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 14005718

DSG

ARREST WARRANT NUMBER

2014A3210200523

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 6/19/14

VERDICT

Guilty

Foreperson of Petit Jury
Date: 9/8/2016

DOCKET NO. 2014GS3201426

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2014

THE STATE

vs.

Billy John Geisendorff

CDR #: 0549

Indictment for

Possession of a weapon during a violet
crime

§ 16-23-0490

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)	INDICTMENT FOR
)	Possession of a weapon during a violent crime
COUNTY OF LEXINGTON)	
)	§ 16-23-0490

At a Court of General Sessions, convened on May 2014, the Grand Jurors of Lexington County present upon their oath:

That **Billy John Geisendorff** did in Lexington County, South Carolina on or about April 2, 2014 knowingly and willfully, possess a firearm, and/or visibly display what appeared to be a firearm during the commission of a violent crime, to wit: Murder such weapon described as a handgun in violation of § 16-23-490 of the Code of Laws of South Carolina, 1976, as amended.

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

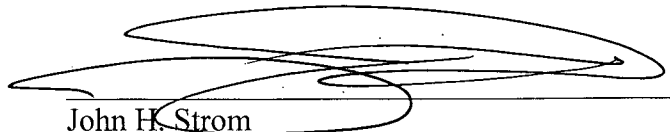


 DEPUTY SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



John H. Strom
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 7th day of July, 2017.

RECEIVED

JUL 07 2017

SC Court of Appeals