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**ORIGINAL
ANDERS**

VOLUME 3 OF 3

STATE OF SOUTH CAROLINA

ANDERS RESPONSE BRIEF

In The Court of Appeals

No Respondent's Brief Filed

APPEAL FROM LEXINGTON COUNTY

Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CURTIS T. JOHNSON,

APPELLANT

RECORD ON APPEAL

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Attorneys for Respondent

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JUN 04 2012

SC Court of Appeals

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1 sufficient reconstruction of Mr. Blue's testimony.

2 I will, because he is not here, I will leave the
3 record open for 10 days and you can recount to him those
4 salient portions of the testimony. If he wishes to take
5 exception to it he may do so by affidavit, which I'll
6 accept into the record as well. And if we have to have a
7 hearing after that, or if we have to have written
8 submissions then we'll do that after the fact. But as we
9 sit here I'm confident in the -- in Mr. Blue's testimony.

10 I also -- I don't find any evidence that there are
11 omissions in the transcript that we have not addressed
12 here today. I know that there are anecdotal suggestions
13 that perhaps there are some sentences, words, portions
14 missing, but based on what I've heard today I can't make
15 a finding that there are any portions that have been
16 omitted that are material to the appellate issues in this
17 case. Therefore as I suggested earlier I'm not going to
18 make any omissions -- or excuse me, I'm not going to make
19 any revisions or amendments to the transcript record
20 because I just don't have any evidence in front of me
21 that, first of all, they should be made, and second of
22 all that they are relevant to any appellate issues in
23 this case.

24 It maybe -- may have been after the fact relevant to
25 a jury's decision but the jury, as I have stated already,

1 didn't read the transcript, they heard the actual
2 testimony at trial. So in as much as it's not relevant
3 to any appellate issue that has been brought to this
4 Court's attention, I'm not going to make any amendment or
5 revision to the transcript. I find that none other than
6 the ones that we have specifically addressed are
7 necessary, material or relevant to the appellate process.

8 Some of the issues, Mr. Johnson, that you have
9 raised are probably, and I won't say probably, are more
10 appropriate for a post conviction relief application as
11 opposed to this hearing. All right. Because you read
12 some matters of law which are absolutely true. They just
13 may not necessarily be appropriate for this proceeding.
14 Okay. All right.

15 All right. Ladies and gentlemen, is there anything
16 else that we need to put on the record today?

17 MS. DIXON: Nothing from the State.

18 THE COURT: Okay. Good enough. Well, then I'm
19 going to consider this matter concluded with the
20 exception of the 10 day window for supplementation of the
21 record. At the conclusion of 10 days we can prepare the
22 record and send it back to the Court of Appeals. Okay.

23 MS. DIXON: Your Honor, just to be clear, can we
24 call off Mr. Blue for tomorrow, or call off my
25 investigator trying to find him?

1 THE COURT: You can try to find him for the rest of
2 the day. I don't think he needs to burn the midnight oil
3 trying to find him, you know ---

4 MS. DIXON: Yes, sir.

5 THE COURT: --- at the four corners of the earth.

6 MS. DIXON: Yes, sir.

7 THE COURT: But I really feel -- to be honest I feel
8 very comfortable that what y'all put into the record is a
9 very, very accurate account of what happened at trial.
10 And I don't remember, and I don't think there were any
11 objections either.

12 And Mr. Johnson, to your point, I don't think these
13 attorneys were suggesting that there were no -- they
14 don't remember any objections and there were no
15 exceptions taken in the trial, I think they were talking
16 specifically with respect to Mr. Blue's testimony. I
17 don't think they're making a blanket comment that there
18 were no objections and there were no exceptions taken.
19 Just during Mr. Blue's testimony, and that's all I was
20 concerned about at that point. Okay.

21 All right. All right. I have marked and accepted
22 for the record Court's Exhibits number 4 and 5 and I'm
23 going to hand back to you the original defendant's
24 Exhibits -- or actually, no, we made them a part of the
25 record, number 6 and 7, which are the pictures that were

1 introduced during Mr. Blue's testimony.

2 (Court's Exhibit Numbers 4 through 7 were filed.)

3 THE COURT: All right. Thank you, ladies and
4 gentlemen.

5 MS. DIXON: Thank you, Your Honor.

6 MR. DUNCAN: Thank you.

7 THE COURT: Good luck to y'all.

8 - - -END OF TRANSCRIPT OF RECORD- - -

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C E R T I F I C A T E

1
2 I, the undersigned Mary E. DiGirolamo, Official
3 Court Reporter for the Thirteenth Judicial Circuit of the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate and complete Transcript of
6 Record of all the proceedings had and evidence introduced
7 in the trial of the captioned case, relative to appeal,
8 in the Court of General sessions for Lexington County,
9 South Carolina, on the 3rd day of October, 2011.

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

12
13 November 29, 2011

14
15 
16 Mary E. DiGirolamo

17 Official Court Reporter
18
19
20
21
22
23
24
25

DOCKET NO 2007-GS-32-1473

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

April TERM 2007

THE STATE
vs.
CURTIS T. JOHNSON

A TRUE COPY
[Signature]
Lex. Co. U.C.C.P., G.S. & P.O.

WITNESSES

LCSD
Collins, S.M.

A-2006-32-03053 4/30/2007 1:36 PM

ARREST WARRANT NUMBER

J053026, J053028

NOTION OF GRAND JURY
TRUE BILL

[Signature]

Foreman

Foreperson of Grand Jury
Date: 4-30-07

VERDICT

Guilty
Voluntary Manslaughter

[Signature] 09/18/09
Foreperson of Petit Jury Date:

CDR# 0116

Indictment for

Murder

§16-3-10

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

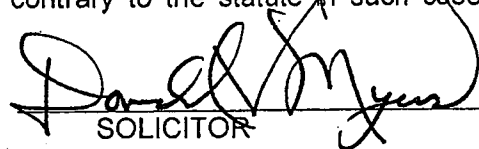
INDICTMENT FOR
Murder

§16-3-10

At a Court of General Sessions, convened on April, 2007; the Grand Jurors of Lexington County present upon their oath:

That **CURTIS T. JOHNSON** , aiding, abetting, assisting and participating with **KERWIN S. PARKER**, in Lexington County on or about November 20, 2006, willfully, feloniously and with malice aforethought kill one **ISSAC WILSON** by means of shooting the victim with a Smith and Wesson 40 calibre pistol, and the victim died as a proximate result thereof in Lexington County on or about November 20, 2006.

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


SOLICITOR

DOCKET NO. 207-GS-32-1474

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

April TERM 2007

THE STATE
vs.
CURTIS T. JOHNSON

A-2006-32-03053 4/30/2007 2:09 PM

ARREST WARRANT NUMBER

J053029

ACTION OF GRAND JURY
TRUE BILL

[Signature]

Foreman

Foreperson of Grand Jury
Date: 4-30-07

VERDICT

Guilty ABHAN

[Signature] 09/18/09
Foreperson of Petit Jury Date:

CDR# 0014

Indictment for

Assault and Battery with Intent to Kill

§16-3-620

DONALD V. MYERS, SOLICITOR

ATRUE COPY
[Signature]
Lex. Co. C.C.P., G.S. & P.O.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT FOR
 Assault and Battery with Intent to Kill

§16-3-620

At a Court of General Sessions, convened on April, 2007, the Grand Jurors of Lexington County present upon their oath:

That **CURTIS T. JOHNSON**, aiding, abetting, assisting and participating with **KERWIN S. PARKER** did in Lexington County on or about November 20, 2006, wilfully, feloniously and with malice aforethought commit an Assault and Battery upon one **A. J. WILSON** with intent to kill the said victim in that the defendant shot the victim with a Smith and Wesson 40 calibre pistol, in violation of § 16-3-620 of the 1976 South Carolina Code of Laws, as amended

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


 SOLICITOR

DOCKET NO. 2007-GS-32-1475

WITNESSES

LCSD
Collins, S.M.

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

April TERM 2007

THE STATE
vs.
CURTIS T. JOHNSON

A-2006-32-03053 4/30/2007 2:18 PM

ARREST WARRANT NUMBER

J053027, J-053030

ACTION OF GRAND JURY
TRUE BILL

[Signature]

Foreman

Foreperson of Grand Jury

Date: 4-30-07

VERDICT

Guilty

CDR# 0549

Indictment for

Possession of Firearm or Knife during
Commission of Violent Crime

§16-23-490

DONALD V. MYERS, SOLICITOR

[Signature] 09/18/09
Foreperson of Petit Jury Date:

TRUE COPY
[Signature]
Lex. Co. C.C.P., G.S. § 10.

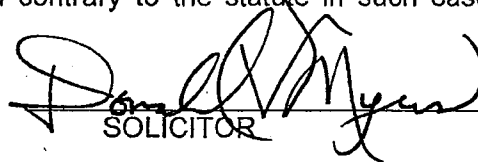
STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) INDICTMENT FOR
) Possession of Firearm or Knife during Commission of
) Violent Crime

§16-23-490

At a Court of General Sessions, convened on April, 2007, the Grand Jurors of Lexington County present upon their oath:

That **CURTIS T. JOHNSON**, aiding, abetting, assisting and participating with **KERWIN S. PARKER**, did in Lexington County on or about November 20, 2006, possess a firearm, or visibly display what appeared to be a firearm, during the commission of violent crimes, to wit: a Smith and Wesson 40 calibre pistol was possessed and fired killing **ISSAC WILSON** and striking **A. J. WILSON**, committing the violent crimes of Murder and Assault and Battery With Intent to Kill, in violation of § 16-23-490 of the 1976 South Carolina Code of Laws, as amended.

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


 SOLICITOR

DOCKET NO. 2007-GS-32-1476

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

April TERM 2007

THE STATE
vs.
CURTIS T. JOHNSON

A-2006-32-03053

4/30/2007 1:59 PM

ARREST WARRANT NUMBER

J053031

INDICTMENT BY GRAND JURY
TRUE BILL

C. R. Kelly

Foreman

Foreperson of Grand Jury

Date: 4-30-07

VERDICT

*GUILTY of Assault and Battery
of HAN*

David T. McLean 9/15/09
Foreperson of Petit Jury Date:

CDR# 0014

Indictment for

Assault and Battery with Intent to Kill

§16-3-620

DONALD V. MYERS, SOLICITOR

TRUE COPY
[Signature]
Lex. Co. C.C.C.R. G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

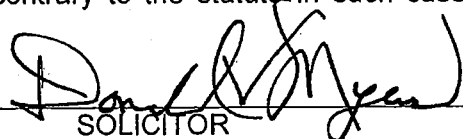
INDICTMENT FOR
Assault and Battery with Intent to Kill

§16-3-620

At a Court of General Sessions, convened on April, 2007, the Grand Jurors of Lexington County present upon their oath:

That **CURTIS T. JOHNSON**, aiding, abetting, assisting and participating with **KERWIN S. PARKER** did in Lexington County on or about November 20, 2006, wilfully, feloniously and with malice aforethought commit an Assault and Battery upon one **WALTER GADSEN** with intent to kill the said victim in that the defendant drove a vehicle into the victim, in violation of § 16-3-620 of the 1976 South Carolina Code of Laws, as amended.

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

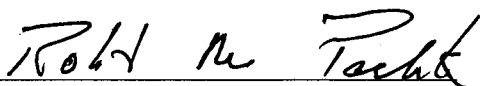

SOLICITOR

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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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 4th, 2012



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

ATTORNEY FOR APPELLANT

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

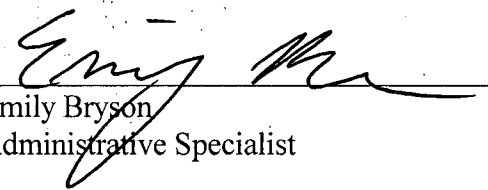
V.

CURTIS T. JOHNSON,

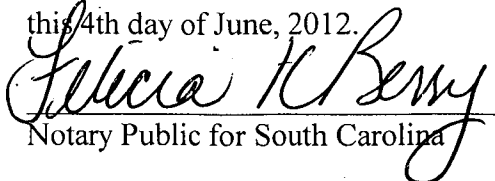
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 4th day of June, 2012.


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of June, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: June 21, 2020 .

RECEIVED

JUN 04 2012

SC Court of Appeals