

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith Jr., Circuit Court Judge

Case No. 2009-GS-30-1790

The State, Respondent,

vs.

Teresa Blakely Appellant

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me Sandy Traynham who, after being duly sworn, deposes and says that she is the receptionist for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on October 25, 2012, she did deposit in the United States Mail with proper postage affixed thereto, three copies of the corrected Record on Appeal in the above case addressed to William M. Blich, Jr., P.O. Box 11549, Columbia, SC 29211.

SWORN to and Subscribed

Sandy Traynham

before me this 25 day

of October, 2012.

Mary Jane Harten (L.S.)

Notary Public for South Carolina

My Commission expires: 1/24/13

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OCT 29 2012

SC Court of Appeals

ORIGINAL

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RECORD ON APPEAL

**ALAN WILSON
Attorney General**

**WILLIAM M. BLITCH, JR.
Assistant Attorney General**

**Post Office Box 11549
Columbia, SC 29211
(803) 734-3727**

Attorneys for Respondent

**C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
Bar #: 006188**

Attorney for Appellant

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SC Court of Appeals

INDEX

Transcript of July 26, 2011 trial 1

Motion to Quash 58

Brief in Support of Motion to Quash 60

Brief in Opposition of Motion to Quash 66

Indictment Number 2009-GS-30-1790 77

Indictment Number 2009-GS-30-1771 80

State’s Exhibit 3 (voluntary statement of Jenson Blakley) 82

State’s Exhibit 4 (voluntary statement of Teresa Fuller). 86

State’s Exhibit 6 (testimony of Teresa Fuller (Murder trial) 88

Certificate of Counsel 127

State of South Carolina)
County of Laurens) Court of General Sessions
2009-GS-30-1790

State of South Carolina)
vs.) Transcript of Record
Teresa Blakely,)
DEFENDANT)

July 26, 2011
Laurens, South Carolina

B E F O R E:

Honorable Eugene C. Griffith, Jr., JUDGE.

A P P E A R A N C E S:

Ron Fleming, Assistant Solicitor
Attorney for the State

C. Rauch Wise, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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21
22
23
24
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(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

(SW) Mareno Foggie

Direct examination by Mr. Fleming:	23
Cross-examination by Mr. Wise:	33
Redirect examination by Mr. Fleming:	34

Certificate of Reporter	57
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EXHIBITS1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>Page#</u>
1	MAIT Team		X	26
2	Pathology Report		X	26
3	Statement-Blakely		X	28
4	Statement-Fuller		X	31
5	Statement-Morris		X	32
6	Transcript-Teresa Fuller		X	33

1 THE COURT: Solicitor, call your case.

2 MR. FLEMING: The State calls the State versus Teresa
3 Blakely on indictment 2009-GS-30-1790.

4 THE COURT: This is indictment 09-GS-30-1790. And it
5 is my understanding that prior to the case being called or
6 at the time that the case is called for trial, Mr. Wise,
7 do you have any motions which you have already filed with
8 the court and served the Solicitor?

9 MR. WISE: That's correct.

10 THE COURT: All right, I think this would be most
11 appropriate to take that up first.

12 MR. WISE: The motion is to quash the indictment of
13 this case on the grounds that the prosecution of Ms.
14 Blakely after an acquittal for murder two years ago
15 violates the due process clause of the Fourteenth
16 Amendment of the Constitution of the United States,
17 Article I, Section 3 in the Constitution of the State of
18 South Carolina. And our approach on this, there are
19 several aspects of it. First of all under the Blackledge
20 case cited by the U.S. Supreme Court and adopted by our
21 Court in the Patrick versus State, a prosecutor cannot
22 either punish someone for going to trial on another matter
23 or for seeking any other collateral relief. And we think
24 this is what happened in this case. That when Ms. Blakely
25 gave a statement to the police originally it clearly

1 admitted her involvement as a person who would be guilty
2 of accessory after the fact. The State elected under
3 those circumstances to instead indict her in a two-count
4 indictment which they could have easily done and legally
5 done, for a two-count indictment of murder and another
6 count of accessory after the fact, of course the jury
7 would have to be instructed they could not convict on
8 both. But instead of doing that they kind, what I would
9 say, put all of their eggs in one basket. They said it is
10 murder or nothing. Well, the jury came back with nothing.
11 I think the tactical advantage the State sought to achieve
12 in that case was to give a jury in this courtroom a real
13 tough choice. You either convict her of murder or turn
14 someone loose who admitted that they had covered this
15 murder up. And the jury I think did the right thing,
16 found Ms. Blakely not guilty. As a result the State did
17 not gain from that tactical advantage. But then to come
18 back later and indict her for accessory after the fact
19 when they could have done it before I think violates due
20 process. I think there is a presumption that is
21 vindictive when the charge could have been brought
22 originally and they elected not to and then brought the
23 charge only after she was acquitted. Secondly, as I have
24 handed up to the Court the standards of the ABA involving
25 joinder and severance of cases also precludes prosecution.

1 The ABA standards of prosecution are very simple. They
2 say that when you have a criminal episode that the State
3 should be required to try all charges arising out of that
4 criminal episode in one proceeding otherwise they can't
5 bring them. Well, in this particular case they could have
6 brought all of the charges arising out of this one
7 criminal episode in one proceeding. They could have
8 brought the charge of murder, as I mentioned, and
9 accessory after the fact in a two-count indictment.
10 Instead they didn't. The ABA standard said that we can't
11 do that, we don't allow people to do that in civil cases.
12 If you have a civil cause of action, you basically have
13 got to put all of your causes of actions in one complaint.
14 You can't go piece meal and come back later because you
15 don't like the verdict in the first one. And as the New
16 York Court very accurately pointed out in my brief, if it
17 is, the way to do it in civil cases, there is a bigger
18 reason to do it in criminal cases because of the need to
19 have judicial economy, the need to take a defendant and
20 not subjecting them continuously to different types of
21 charges. Theoretically, theoretically the Court could
22 have charged, could have charged her with another charge
23 of improper disposing of a body if they wanted to. But
24 they all are facts that arose out of one fact situation
25 and the State should be required to prosecute those in one

1 and if they don't it is a due process violation. The
2 third due process violation we think that occurs in this
3 case is the fact that the State is basically now taking an
4 inconsistent position. When they argued to the jury at
5 the trial of this case back in May of 2009 they argued
6 that the only reasonable interpretation of the facts is
7 that she is guilty of murder and nothing else. And now
8 they come into court on this charge today and argue that
9 the only reasonable interpretation of the facts is that
10 she is guilty of accessory after the fact and nothing
11 else. Quite literally if for some reason a jury were to
12 find that she was guilty of murder they would have to
13 acquit her of accessory after the fact but the State today
14 will argue very strongly that the only reasonable
15 interpretation of the facts is that she is guilty of
16 accessory after the fact. Totally inconsistent position
17 from what they took. And granted, as I mentioned in my
18 brief, if you have a two-count indictment the State would
19 be required to take somewhat inconsistent positions but I
20 think it is not as disingenuous when it is front of a jury
21 at one time and the jury recognizes they are taking
22 somewhat inconsistent positions as opposed to the State
23 arguing to one jury one set of facts and then arguing to
24 another jury that the same set of facts means something
25 totally different. So, I think under the due process

1 clause and the ABA standards which also can impose a due
2 process violation I think the indictment for accessory
3 after the fact should have been, should be dismissed
4 because they really should have been brought all in one
5 action two years ago and should not subject her to two
6 separate prosecutions.

7 THE COURT: Thank you, Mr. Wise. All right, Mr.
8 Fleming.

9 MR. FLEMING: Thank you, Your Honor. I would like to
10 hand up some of the case law that I cited in my brief and
11 I have already given it to Mr. Wise if that is okay with
12 the Court. Your Honor, I think it is well settled in
13 South Carolina that it is the prosecutors of what he
14 brings to trial and what he does not bring to trial
15 against a criminal defendant. And when, at the time that
16 he brings that to trial is up to the prosecutor as well as
17 long as it does not violate double jeopardy clause of the
18 United States Constitution. Addressing Mr. Wise's first
19 argument in that this is vindictive prosecution, Your
20 Honor, I think in our brief we state that the defense
21 erroneously relies on Hardwick versus Doolittle in this
22 situation, Your Honor. The correct test to determine
23 whether or not this is vindictive or selective prosecution
24 set forth in State versus Greer which states that there is
25 a two-prong test that the defendant must satisfy to

1 establish selective prosecution. First and foremost the
2 defendant has to demonstrate they had been singled out
3 from prosecution while others similarly situated had not
4 been prosecuted, conduct similar to that which the
5 defendant was prosecuted for. And if they meet that then
6 they must satisfy the second prong which states that the
7 defendant must demonstrate the government's discriminatory
8 selection of them, the prosecution was based upon an
9 impermissible ground such as race, religion or the
10 exercises of the first amendment right to free speech. In
11 this, Your Honor, in this case the defendant has failed to
12 establish or make a claim that other persons or that they
13 were singled out from prosecution while other persons
14 similarly situated have not been prosecuted for this, they
15 have not, they give no instances where that has happened,
16 Your Honor, even if they did they also have failed to show
17 an impermissible ground that the prosecution is based on
18 such as race, religion and to exercise the first amendment
19 speech. So, therefore, based on Greer, the State versus
20 Greer, Your Honor, which is a South Carolina case and it
21 is a 2010 Court of Appeals case, Your Honor, based on that
22 case they failed to show vindictive prosecution in this
23 matter. And their motion to quash on that instance should
24 be denied, Your Honor. Also in the case of hand, she was
25 charged and tried for murder in the first case, Your

1 Honor, she ultimately was acquitted of the murder charge.
2 by a jury verdict. And in the murder trial the defendant,
3 by her own testimony, admitted to planning and covering
4 and disposing of the body of Houston Fuller which was
5 leading law enforcement on a wild goose chase. Therefore
6 since she has failed to single out another instance while
7 others similarly situated, where she has failed to set
8 forth a situation where others have not been prosecuted
9 and she has failed to demonstrate the second prong,
10 discriminatory selection. Based on that argument should
11 the motion, the motion to quash should be denied. The
12 second argument that Mr. Wise sets forth is that under the
13 ABA, criminal justice standard, 13-2.3, that it should be
14 quashed because it violates that standard. First the
15 State would set forth that in citing that Mr. Wise didn't
16 go over, he did state in there, in his brief that there
17 was some exceptions that didn't apply but he didn't go on
18 to state that under that, Your Honor, and I have a copy of
19 that if the Court needs it. A defendant who has been
20 tried for more than one offense may thereafter move to
21 dismiss any additional offense based upon the same conduct
22 or the same principle. He quoted that. The State would
23 argue that the defendant erroneously interprets murder and
24 accessory after the fact as being based on the same
25 conduct or criminal episode. And that is basically what

1 the language states in that standard. Murder is defined
2 as the willful felonious killing of a human being by,
3 human being with malice aforethought either expressed or
4 implied. That is how the State versus Kelsey, a person is
5 an accessory after the fact when they know a felony has
6 been committed and received, relieves, comforts or assist
7 a felon. Clearly the offense of murder, an accessory
8 after the fact have different elements. Each offense is
9 based on the specific and different conduct and different
10 criminal episode, Your Honor. The defendant argues or
11 they probably would argue that the entire incident that
12 occurred on July the 16th of 2007 is a criminal episode.
13 However, the State argues that the defendant's conduct and
14 actions constitute particular criminal episodes and more
15 than one criminal episode can exist and be perpetrated by
16 the defendant in one incident. If the defendant's
17 interpretation were correct where a criminal defendant can
18 never be charged with a, a criminal defendant can never be
19 charged with more than one crime in a single incident and
20 this interpretation is clearly not adopted by the courts
21 of this State. Moreover, the State's interpretation is
22 supported by South Carolina code section 17-23-30 which
23 provides a person on his trial be acquitted upon the
24 ground of a variance between the indictment and the proof
25 or upon an exception to the form or substance of the

1 indictment he may be arraigned again and a new indictment,
2 on a new indictment and tried and convicted for the same
3 offense notwithstanding such former acquittal. That is
4 supported by the criminal laws of South Carolina.

5 THE COURT: Has some person been convicted of the
6 murder?

7 MR. FLEMING: Yes, sir.

8 THE COURT: Not her?

9 MR. FLEMING: No, sir. Actually I think he pled
10 guilty to voluntary manslaughter, Your Honor. And I
11 failed to go over the facts because I thought Your Honor
12 had those in front of him and could read those facts from
13 the brief, Your Honor. I am sorry, I didn't go over
14 those.

15 THE COURT: I just haven't read that far into the
16 facts.

17 MR. FLEMING: I can basically go over those with you,
18 Your Honor, if you would like me to.

19 THE COURT: Not doing anything last week and then I
20 got this week and plenty going on yesterday, not your
21 doing.

22 MR. FLEMING: Let me just briefly go over the facts,
23 Your Honor. On July the 16th of 2007 Mr. Brissey, Jerry
24 Brissey, a coworker of Mr. Houston Fuller received a call
25 stating that Mr. Fuller had not shown up for work for 8:00

1 a.m. or for work in an 8:00 a.m. safety meeting that was
2 scheduled at Vulcan Anderson Plant. Even though Mr.
3 Brissey worked at the Greenwood Plant he left and drove to
4 Mr. Fuller's house in Laurens looking for him, arriving at
5 Mr. Fuller's house between 9:30 and 10:00. Mr. Brissey
6 talked to Mr. Fuller's wife, Teresa Fuller, aka, Teresa
7 Blakely. Mr. Brissey testified that Blakely had told him
8 that Houston had left from work and taken his lunch. He
9 further testified that he told Blakely and Fuller, he
10 further testified that he told Blakely that Mr. Fuller had
11 not shown up for work or the safety meeting. After
12 searching for him that morning he went back to the
13 Greenwood Plant where he worked and after work he went
14 back out looking for him again and went to Mr. Fuller's
15 home and at that time saw Mr. Blakely there with Paul
16 Morris, the codefendant who ultimately pled guilty to
17 voluntary manslaughter. And Kim Alexander, sitting in a
18 black Jeep Bronco, Ms. Alexander was the sister to Paul
19 Morris, Your Honor. At that time Blakely told Brissey
20 that she, Morris and Alexander had been looking for Fuller
21 and had not found him. Later that evening James Eli, who
22 went down to the, he went down to the Reedy River on
23 Highway 76 to look for a site to put his Kayak on at the
24 river. While there he saw a pickup truck down an
25 embankment. He called the Laurens County Sheriffs Office

1 who dispatched a unit, once the Sheriffs Deputy arrived he
2 determined that there was a body in the truck and it was
3 later determined that it was the deceased body of Houston
4 Fuller. Laurens County Coroner came, took the body and
5 sent it to Newberry Pathology. Your Honor, also South
6 Carolina Highway Patrol MAIT Team was called in to
7 investigate the accident. The autopsy and a study by the
8 MAIT team it was determined that Mr. Fuller was not killed
9 in a car accident where his truck had been, had gone down
10 the hill. But that it was a homicide and it was
11 determined that it was a homicide based on that. Laurens
12 county Sheriffs Office continued the investigation on this
13 and after talking with, after interviewing Ms. Blakely's
14 daughter, Jenna Blakely she gave a statement which she
15 stated that she had been there the morning, around 6:15
16 a.m. in the den with her boyfriend where they had slept.
17 About 6:15 she awoke to a scuffle in the kitchen, it was
18 Houston Fuller and another man. She saw, she looked up
19 and saw a large man holding Houston Fuller around the neck
20 and he was yelling for her to get her phone and call 911.
21 Ms. Blakely stated that her mother, Teresa Blakely came
22 running through the house to where she and her boyfriend
23 were, attempted to make a 911 call. And she told them
24 that it was the Mexican Mafia, to keep down. Jenna
25 Blakely stated that the large man then took Mr. Fuller

1 back into his bedroom for about ten minutes and their
2 mother went back there. She stated she kept seeing her
3 mother go back and forth across the hallway into the
4 bathroom where running water was to clean up the spilt
5 lunch that Mr. Fuller had to take to work that day that
6 spilt all over the floor. About twenty minutes later the
7 man came out of the bedroom and walked backwards our the
8 door and she heard him dragging Mr. Fuller out the door.
9 Ms. Blakely then stated that her mother, Teresa Blakely
10 told her that it was a Mexican Mafia. The Mexican Mafia
11 guy wanted her to follow them to make sure that they were
12 not being followed and she left with a man. She stated
13 that sometime later her mother came back alone. She also
14 stated that later that day her mother told her to tell the
15 police that it was a regular morning and she never woke up
16 until Mr. Brissey came knocking on the door looking for
17 Houston. After being confronted with her daughter's
18 statement Ms. Blakely finally gave a statement to
19 investigators. In her statement she stated that on, she
20 stated that a week before Mr. Fuller was murdered Paul
21 Morris, the brother of the girlfriend, Kim Alexander told
22 her to make sure that the kids were not home and that, on
23 that Monday so he could jump him. She stated that on July
24 the 16th, 2007 Mr. Fuller got up from work, he was
25 attacked at the front door. She stated that Houston was

1 fighting with Paul Morris and they came in the house. She
2 stated that she was still in the bed but heard Houston
3 call for her to get his gun and to call 911. She stated
4 she went in the living room, stayed with her daughter and
5 daughter's boyfriend so they wouldn't see what was
6 happening. She stated after the scuffle stopped she went
7 back to the bedroom and saw Paul Morris standing over
8 Houston with this look on his face. She stated that Paul
9 Morris bent down to check for a pulse and couldn't find
10 one. They rolled Mr. Fuller over and she checked for a
11 pulse and couldn't find one. She stated that she then
12 told Paul Morris they would take him, Houston Fuller to
13 the bridge and make it look like an accident, Your Honor.
14 And she stated she cleaned up the food in the hall and
15 then asked Morris to help her carry Houston Fuller out to
16 the truck. At that point and time she stated that they
17 drove Houston to the bridge in his work truck, rolled it
18 down the hill off the road to make it look like an
19 accident, Your Honor. That is basically the facts to the
20 case. Mr. Morris did plead guilty to voluntary
21 manslaughter. And Ms. Fuller, I mean Ms. Blakely was
22 tried--

23 THE COURT: Tell me the timing on that, when was the
24 voluntary manslaughter plea done, before or after trial?

25 MR. FLEMING: It was after the trial, Your Honor,

1 after Ms. Blakely's trial for murder. Just going on
2 further with arguments, Your Honor, as far as the ABA
3 standards is concerned, Your Honor, that is something, the
4 argument that Mr. Wise makes has not been adopted by the
5 Court's of this State as well. And last, you know, it is
6 our argument that the State can take inconsistent
7 positions in two separate criminal proceedings and not
8 violate due process clause. I think what is controlling
9 in this, Your Honor, in Blockburger versus United States
10 where it is very clear that if two crimes have different
11 elements you can proceed on both of those and not violate
12 the due process clause, Your Honor. Based on all we have
13 set forth we think that the motion to quash should be
14 denied and this should go on to a trial. One more thing,
15 Your Honor, I forgot. Actually as recently as yesterday
16 as well, Your Honor, in the case of the State versus Brant
17 the Supreme Court held that they employed the same
18 elements as far as analyzing for protection against the
19 due process clause of double jeopardy as is held in
20 Blockburger.

21 MR. WISE: First, Your Honor, the basic thrust of our
22 motion is not double jeopardy, it is due process of law.
23 Secondly if you go and read Blockburger it is not, under
24 any circumstances, remotely a same elements test. If you
25 go read Blockburger they talk about proving the same

1 facts, not the same elements. The phrase, same elements,
2 I don't think even appears in the opinion but they
3 frequently refer to the fact that one charge has to prove
4 a different fact from the other charge. And like in one
5 case you have to prove A, B and C. The other case you
6 have to prove A, B and D. It is different facts, not
7 different elements. Secondly, we are not talking about a
8 selective prosecution, we are not here to tell the Court
9 that other people who have been charged with murder and or
10 subsequently not charged with accessory after the fact,
11 when that is a fact proved and they are selectively
12 prosecuting Ms. Fuller. That is not our position at all.
13 Our position is that this is a vindictive prosecution
14 which is totally different from selective prosecution and
15 does not even get into the same analysis. A vindictive
16 prosecution is when you prosecute somebody a second time
17 because they exercise the right or whatever reason, that
18 is different from selective prosecution. When we refer to
19 the ABA standards and we refer to the same criminal
20 episode it is not a double jeopardy analysis, it is an
21 analysis, is it the same factual episode, not the same
22 crime. Clearly in this case it is the same factual
23 episode and that is what the ABA standards were designed
24 to prevent. The ABA standards would prevent the State
25 from charging a defendant in one count or one charge with

1 housebreaking and then after an acquittal turn around and
2 charge them with grand larceny for stealing stuff from the
3 house. The ABA, that is what the ABA standard is talking
4 about, the same criminal episode. It would prevent the
5 State from charging someone with stealing an automobile,
6 to rob a bank, kidnapping the teller and then raping the
7 teller. The State would not be able to charge the
8 defendant, try the defendant on each of those separate
9 crimes at separate times if he is acquitted on one. And
10 the reason is quite simple, the State ought to be required
11 to put every charge into one particular charge. If you
12 have several crimes arising out of an incident a defendant
13 may, if he deems it to be prejudicial, move to sever those
14 charges and if he moves to sever those charges then the
15 State does have a right to try those subsequently. So
16 that is one of the exceptions that is talked about in the
17 ABA standards. But there are no exceptions, the closest
18 exception that would apply in this case is the one that
19 talks about the ends of justice. But the comments to the
20 standard is this, the ends of justice put a substantial
21 but not insurmountable burden upon the prosecutor to show
22 why the offense should not be joined. So they have a
23 substantial burden to show why this charge today of
24 accessory after the fact was not joined in the original
25 proceeding and I have heard no explanation for why this

1 was not joined in the original proceedings. And I think
2 the State is improper when they say that under our
3 analysis of the ABA standards the State could never charge
4 with more than one crime for reasons I just gave. Quite
5 obviously the State can, has been doing it for years and
6 years and years. There is a 1983 case cited in the brief
7 allows the State to clearly charge more than one crime
8 even if those two crimes are inconsistent with each other
9 where the State could charge someone with larceny and
10 receiving stolen goods on a two-count indictment. The
11 jury couldn't convict on both but clearly they could do
12 both. But to allow the state to charge someone with
13 stealing goods and then after an acquittal there turn
14 around and charge them with receiving stolen goods would
15 violate the ABA standards also when both of them clearly
16 could be tried at the same proceeding. And that is the
17 same thing that applies here.

18 THE COURT: Mr. Fleming, anything else from you?

19 MR. FLEMING: Yes sir, Your Honor. Just to point out
20 first, Mr. Wise argues that selective prosecution and
21 vindictive prosecution are two different things. But if
22 you will look at the case I handed up, Your Honor, United
23 States versus Petterson, it basically states that they are
24 talking about, it is the same thing, Your Honor, they just
25 use different words. And it says in there, we presume

1 that the prosecutor, they did not prosecute in a
2 vindictive manner. To rebut this presumption and obtain
3 an evidentiary hearing on the issue the defendant must
4 allege fact one, intending to show selective prosecution.
5 And two, raising a reasonable doubt about the propriety of
6 the prosecution's motive. So they are the same thing and
7 the Court talks about they just use different words.

8 THE COURT: He is describing it, his definition is
9 different, y'all are both correct understanding your
10 argument is a group of people all doing the same thing,
11 they just prosecute this one for doing it but everybody
12 else not get prosecuted.

13 MR. FLEMING: Yes, sir.

14 THE COURT: That is your definition. His definition
15 is slightly different.

16 MR. FLEMING: And we have enough case law that has a
17 two prong test that you have to meet in order to prove
18 vindictive or selective prosecution, Your Honor, and that
19 has been adopted by our courts. The second ABA, we still
20 just, the State would set forth that that has not been
21 adopted by our courts in this State, what Mr. Wise is
22 talking about plus there could be a difference between
23 talking about a criminal episode that is not the whole
24 entire criminal incident. And there could be separate
25 crimes committed in one incident and they could be

1 prosecuted for that. So based on that we think that the
2 motion to quash should be denied.

3 THE COURT: I want to read these cases. What is to
4 prevent you, if this case doesn't go your way, to bring an
5 indictment with false information to the police, breach of
6 peace, high and aggravated or disorderly conduct. I mean,
7 where does it end.

8 MR. FLEMING: Those would be inclusive, inclusive
9 crimes. In other words, they have the same elements as
10 accessory after the fact, Your Honor. But accessory after
11 the fact in murder are exclusive. They don't have the
12 same elements or the same, don't mean to say the same
13 elements. It is the same elements but is also, the
14 language is different, requires different proof for
15 additional facts. And accessory after the fact requires
16 additional proof whereas what you are talking about in the
17 example you set forth, Your honor, would not require
18 additional proof than accessory after the fact.

19 THE COURT: I want to read the cases you have handed
20 up, let me read those quickly. I will be back in a few
21 minutes.

22 (Whereupon, a short break was taken.)

23 THE COURT: I have read all the briefs, read all the
24 cases that were submitted to me, studied several things in
25 the back. I think the finding, the episode of facts, the

1 same episode of facts, it is kind of difficult. However
2 there are distinctive facts of committing the act of
3 murder or manslaughter or that sort of thing versus
4 covering up the act after the fact. And for that reason I
5 am going to decline to quash the indictment and we are
6 going to go forward. Is that right, we are going to have
7 a bench trial?

8 MR. FLEMING: Yes sir, Your Honor.

9 THE COURT: If y'all are ready let's go on.

10 MR. FLEMING: Thank you, Your Honor. Your Honor, we
11 would call Detective Foggie to the stand at this time.
12 Your Honor, just for the Court's edification Mr. Wise and
13 I have both agreed that we are going to get all the
14 evidence in through Mr. Foggie.

15 MR. WISE: That is correct, Your Honor.

16 THE COURT: I thought y'all had mentioned that to me
17 in chambers, that y'all were going to expedite it by not
18 challenging--

19 MR. WISE: We are going to stipulate to the causes of
20 death and everything.

21 THE COURT: I think that should be the way to handle
22 things so I appreciate y'all's working together on that.

23 Mareno Foggie, being
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 By Mr. Fleming:

2 Q How long have you worked for the sheriffs department?

3 A Nine years.

4 Q And were you working with the sheriffs department on
5 July the 16th of 2007?

6 A Yes, I was.

7 Q And did you have a chance to investigate the death of
8 Houston Fuller?

9 A Yes sir, I did.

10 Q And could you tell just the Court briefly of how your
11 investigation precipitated into that?

12 A When we first got the case we were just going to
13 investigate the case and it seemed as though it appeared
14 to be an accident, a vehicle accident at first. The
15 sheriff asked myself and Lieutenant Franklin to look into
16 the case and the MAIT, the Highway Patrol MAIT Team came
17 in and, you know, they gave their opinion, they actually
18 gave us a packet in their opinion that Mr. Fuller did not
19 die from any accident, injuries sustained in a vehicle
20 accident.

21 Q So, initially there was a call from Mr. Jerry Brissey
22 who found the vehicle. After y'all were called to the
23 scene y'all were investigating it as an accident because
24 it looked like an accident, correct?

25 A Yes, sir.

1 Q And then y'all called the South Carolina Highway
2 Patrol MAIT Team to reconstruct it, correct?

3 A Yes, sir.

4 Q And I think you also sent the body of Mr. Fuller to
5 Newberry Pathologist for an autopsy, is that correct?

6 A That is correct.

7 Q And based on the report made what was found in the
8 report from MAIT?

9 A When we read the report from MAIT, the MAIT Team, it
10 pretty much said that the injuries sustained by Mr. Fuller
11 wasn't consistent with a vehicle accident.

12 Q Is this a report from MAIT that you received from
13 them?

14 A That is the report we received from MAIT.

15 Q In this report there were photographs taken of the
16 scene as well as an analysis, is that correct?

17 A Yes, sir.

18 Q And in the conclusion they came up with a conclusion
19 that the injuries that he had sustained could have not
20 come from an accident of this type, correct?

21 A Yes, sir.

22 MR. FLEMING: Your Honor, we would like to submit
23 this as evidence as State's exhibit 1.

24 MR. WISE: No objection.

25 THE COURT: State's exhibit 1.

1 (Whereupon, State's Exhibit 1 was admitted into
2 evidence.)

3 Q And I think you sent the body to Newberry Pathology
4 to have an autopsy on that as well, correct?

5 A Yes, sir.

6 Q Is this the report you received from Newberry
7 Pathology?

8 A That is the report we received from pathology.

9 Q And in that report, I think it states that the
10 injuries that he received were not consistent with an
11 automobile accident which y'all had initially thought he
12 had been in and that occurred with these injuries, is that
13 correct?

14 A Yes, that is correct.

15 MR. FLEMING: Your Honor, we would like to submit
16 this as State's exhibit 2 at this time.

17 MR. WISE: No objection.

18 THE COURT: State's 2 is admitted.

19 (Whereupon, State's Exhibit 2 was admitted into
20 evidence.)

21 Q As a result of those two reports what actions did you
22 take next?

23 A We scheduled interviews with Ms. Teresa Fuller and
24 also her daughter and Jenna, which is Jenna Fuller.

25 Q You interviewed Jenna Blakely after that, is that

1 correct?

2 A Yes, sir.

3 Q And is this her statement that you took from her?

4 A Yes sir, that is the statement that I took from her.

5 Q And the jest of that statement is basically that she
6 was there the morning that Houston Fuller was killed, is
7 that correct?

8 A Yes, sir.

9 Q And there was a big man that came in?

10 A Yes, sir.

11 Q And her mother told her to get down, it was the
12 Mexican Mafia, is that correct?

13 A Yes sir, that is in that statement.

14 Q And after the murder was over with her mother went
15 back to where the person was who was cleaning up some of
16 the lunch that was spilt that Mr. Fuller had taken, had
17 made to take to work, is that correct?

18 A Yes sir, that is correct.

19 Q And her mother had pretended to make a 911 call as
20 well, is that correct?

21 A Yes, sir.

22 Q And then later on her mother told her the Mexican
23 Mafia wanted her to follow them down the road to make sure
24 that they weren't followed, correct?

25 A Yes sir, that is in the statement as well.

1 Q And that she later came back alone after leaving with
2 the so called Mexican Mafia and told her to act like it
3 was a regular day that day and she didn't wake up until
4 Mr. Jerry Brissey had arrived that day?

5 A Yes, sir.

6 MR. FLEMING: Your Honor, we would like to submit
7 this as State's exhibit 3 at this time.

8 MR. WISE: No objection.

9 THE COURT: State's 3 is admitted.

10 (Whereupon, State's Exhibit 3 was admitted into
11 evidence.)

12 Q And after that did you have a chance to interview
13 Teresa Fuller?

14 A I did.

15 Q Is this her statement that you got from her?

16 A Yes sir, that is the statement taken from Teresa.

17 Q And you read her rights prior to taking this
18 statement?

19 A Yes sir, she was read her rights.

20 Q Was it truly and voluntarily given?

21 A Yes sir, it was.

22 Q And when I say rights, you read her her Miranda
23 warnings?

24 A Miranda rights.

25 Q Okay. And in this statement did she basically say

1 that she was there the morning that Mr. Fuller was
2 murdered?

3 A She did.

4 Q And she stated that Paul Morris was the person that
5 came in and got in a fight with Mr. Fuller?

6 A Yes, sir.

7 Q And she basically stated that she was still in the
8 bed but she heard Houston call out for her to get a gun
9 and make a 911 call, is that correct?

10 A That is correct.

11 Q And then she stated she went to the living room to
12 stay with the kids so they wouldn't see what was
13 happening, correct?

14 A That is correct.

15 Q And she stated the scuffle stopped and she went back
16 to the bedroom, correct?

17 A That is correct.

18 Q And she saw Paul Morris standing over Houston with a
19 look on his face, correct?

20 A That is correct.

21 Q And then she bent down, he bend down to check for a
22 pulse but couldn't find one, correct?

23 A That is correct.

24 Q So they rolled him over and she checked for a pulse
25 but couldn't find either, correct?

1 A That is correct.

2 Q And at that time she was the one that told Paul
3 Morris that they would take him to the bridge and make it
4 look like an accident?

5 A That is correct.

6 Q Okay. And the lunch was spilled in the hallway and
7 she was cleaning that up, correct?

8 A That is correct.

9 Q And she asked Paul Morris to help her carry Houston
10 Fuller's body to the truck, is that correct?

11 A That is correct.

12 Q And at first Paul Morris tried to take the body to
13 the truck but he couldn't so she helped drag the feet and
14 took the feet while Paul Morris took the upper body,
15 correct?

16 A That is correct.

17 Q They put him in the truck and Paul Morris brought the
18 body down to the bridge and made it, he pushed the truck
19 down the hill and she picked Paul Morris up?

20 A That is correct.

21 MR. FLEMING: Your Honor, we would like to submit
22 this in as State's exhibit 4 at this time.

23 MR. WISE: No objection.

24 THE COURT: State's 4 is admitted.

25

1 (Whereupon, State's Exhibit 4 was admitted into
2 evidence.)

3 Q Then after that did you take a statement from Paul
4 Morris?

5 A I did.

6 Q Is this the statement that he gave?

7 A That is the statement that Paul Morris gave.

8 Q And in that statement Paul Morris talked about
9 talking to Teresa Fuller about two or three days prior to
10 the incident, is that correct?

11 A Yes sir, that is correct.

12 Q And he stated that he was going to come and whip his
13 ass which was Houston Fuller, correct?

14 A That is correct.

15 Q And stated that he, he got there that morning, he was
16 on the porch and when the door opened he was going to rush
17 Houston Fuller, is that correct?

18 A That is correct.

19 Q He got his sister to drop him off at their house that
20 morning, correct?

21 A That is correct.

22 Q And he said Houston opened the door and he rushed
23 him, correct?

24 A That is correct.

25 Q And they ended up in the house and he had Houston in

1 a choke hold?

2 A That is right.

3 Q And he went down to the floor and he felt Houston's
4 neck crack?

5 A That is correct.

6 Q And he stated that Teresa was cleaning up the mess
7 from the lunch and going to the bathroom. And he stated
8 that he grabbed him by the arms and she grabbed him by the
9 legs and they put Houston in the truck, is that correct?

10 A That is correct.

11 Q And he drove Houston's truck and Teresa followed him?

12 A That is correct.

13 Q They went to the bridge and that is when they pushed
14 the truck down the hill, correct?

15 A That is correct.

16 MR. FLEMING: Your Honor, we would like to submit
17 this as State's exhibit 5, I believe.

18 MR. WISE: No objection.

19 THE COURT: State's exhibit 5 without objection.

20 (Whereupon, State's Exhibit 5 was admitted into
21 evidence.)

22 Q Now, to your knowledge, Detective Foggie, Houston
23 Fuller plead guilty to voluntary manslaughter on this?

24 A Paul Morris did.

25 Q Paul Morris, I am sorry.

1 A Yes.

2 MR. FLEMING: Your Honor, the State would submit at
3 this time the transcript of the trial of Teresa Fuller in
4 this matter, case 2007-GS-30-1771, occurred June 26th
5 through the 28th of 2009. And there is a transcript of
6 Teresa Blakely, aka, Teresa Fuller's testimony that she
7 gave which she admitted that it was her plan to put the
8 body in the truck and make it look like a car accident.
9 At this time we would like to submit that into evidence.

10 MR. WISE: No objection.

11 THE COURT: Transcript of the trial, be admitted
12 without objection as 6.

13 (Whereupon, State's Exhibit 6 was admitted into
14 evidence.)

15 MR. FLEMING: I beg the Court's indulgence for one
16 second, Your Honor.

17 THE COURT: Okay.

18 MR. FLEMING: No further questions at this time, Your
19 Honor.

20 CROSS-EXAMINATION

21 By Mr. Wise:

22 Q Detective Foggie, Paul Morris' statement said that he
23 went there for the purposes of picking up Mr. Fuller?

24 A Yes sir, he did.

25 Q He never said he intended to kill him?

1 A No, he never said that.

2 Q And the death resulted from his grabbing him too
3 tight around the neck?

4 A That is what he said.

5 Q And that is what your investigation also revealed,
6 correct?

7 A Yes, sir.

8 Q All right. And that is why Mr. Morris pled guilty to
9 voluntary manslaughter?

10 A Yes, sir.

11 Q Thank you.

12 MR. FLEMING: A couple of followup questions, Your
13 Honor.

14 REDIRECT EXAMINATION

15 By Mr. Fleming:

16 Q In your investigation, did you investigate the fact
17 that there was some significant amount of life insurance
18 on the victim?

19 MR. WISE: I would object to the relevancy of that,
20 Your Honor.

21 THE COURT: It is outside of the scope.

22 MR. WISE: First of all, it is not a proper reply,
23 secondly it is not relevant.

24 THE COURT: I sustain the objection. Anything else,
25 Mr. Wise?

1 MR. WISE: Nothing further.

2 MR. FLEMING: Nothing further, Your Honor.

3 THE COURT: You may step down, Detective Foggie.

4 MR. FLEMING: The State rest, Your Honor.

5 THE COURT: All right. Mr. Wise.

6 MR. WISE: Your Honor, I would just inform the Court,
7 we do not intend to call any witnesses either, not either,
8 we are not intending to call any witnesses. I would move
9 for a directed verdict on the grounds that Ms. Fuller is
10 indicted before this Court on accessory after the fact of
11 murder. And I believe the State has only proven that she
12 is, that a crime of manslaughter was committed and not
13 murder and therefore the facts vary from the indictment.
14 And I think we are entitled to a directed verdict.

15 MR. FLEMING: Your Honor, if you will look at the
16 face of the document, it says accessory after the fact of
17 a felony. That is what she has been charged with.

18 MR. WISE: That is correct except the Supreme Court
19 now says that we are on the notice statute and not
20 jurisdictional type. The notice is for murder.

21 MR. FLEMING: And at the time, Your Honor, Paul
22 Morris was charged with murder, he just pled guilty to
23 accessory after, I mean to voluntary manslaughter, Your
24 Honor. And at the time that document was taken I think he
25 was still charged with murder, Your Honor.

1 MR. WISE: I think actually he was indicted, I think
2 he pled shortly before indicted. But regardless, the
3 facts proved manslaughter.

4 THE COURT: When did he plead.

5 MR. FLEMING: I don't know the exact date that he did
6 plead, Your Honor.

7 MR. WISE: I think he pled in September because she
8 was arrested shortly after his plea and she was indicted.

9 THE COURT: She was indicted in December?

10 MR. WISE: Excuse me, December. I think he pled in
11 late September. We can get the date.

12 THE COURT: Ms. Lancaster can look it up. There is
13 no question that is going to be in her records somewhere.

14 MS. LANCASTER: '09.

15 MR. FLEMING: Your Honor, the State would argue it
16 doesn't matter what he finally pled guilty to but it is
17 what he was initially charged with and she was in
18 accessory to what he was initially charged with, Your
19 Honor.

20 MR. WISE: It can only be accessory to what the State
21 can prove and they have proven through his plea and
22 through the testimony manslaughter.

23 THE COURT: I am going to read up on that a little
24 bit. This is an interesting issue.

25 MR. WISE: I try to bring interesting issues to the

1 Court.

2 THE COURT: Mr. Fleming, I think equally presents
3 challenging issues nearly every time he appears in front
4 of me. That last trial we had was quite interesting. Any
5 other motions, Mr. Wise, or you want me to consider this
6 one.

7 MR. WISE: The defense is going to rest too, Your
8 Honor, to be candid with the Court. So we are not going
9 to come back in and just formerly rest.

10 THE COURT: All right. I am going to step back here
11 and carry my computer with me this time. Y'all research
12 and look for a case regarding this issue or if you know of
13 one, let me know. Any of you, both of you.

14 (Whereupon, a short break was taken.)

15 THE COURT: Mr. Wise, if you want to articulate your
16 motion for me one more time for me, please.

17 MR. WISE: The indictment is for accessory after the
18 fact of murder. The testimony that has been presented in
19 this courtroom has established the crime of accessory
20 after the fact of manslaughter and therefore the
21 government has not proven what they have alleged in the
22 indictment. And therefore since the facts are contrary to
23 what is prone in the indictment I think I am entitled to a
24 directed verdict.

25 THE COURT: All right. Mr. Fleming.

1 MR. FLEMING: Your Honor, first, accessory after the
2 fact is not just a, it is after the fact of a felony. And
3 that is set forth in our, accessory after the fact is
4 actually a common law offense and it is, you have to prove
5 three elements. The felony of a crime has been completed,
6 the defendant must have knowledge that the principal
7 committed the felony and it must harbored, aided or
8 assisted principal. What you see on the indictment is a
9 charging facility or a charging statute to where it
10 delineates the penalty. It doesn't set forth the actual
11 crime of accessory after the fact and that is why you have
12 accessory after the fact to a felony, not just a specific
13 instance. That is supported by case law that I have
14 handed to the Court, in State versus Burbage and we feel
15 like that that supports that, it is a 1898 case and it is
16 hard to read, I know. And then we have two out-of-state
17 cases, one is a Kentucky case and one is a Georgia case
18 which basically states that you can have a conviction on
19 an accessory after the fact on a manslaughter even though
20 that they were indicted on the murder, Your Honor.

21 MR. WISE: The distinction in the cases that the
22 Solicitor is handed up is this, they stand for the
23 proposition that because the principal was only convicted
24 of manslaughter does not mean the person charged with
25 accessory could not be charged with accessory after the

1 fact of murder. I agree with that principle. My position
2 is, the facts in this courtroom, somewhat supplemented by
3 the plea which confirmed the facts in the courtroom but
4 the facts came out in the courtroom was that Paul Morris
5 went to this house without the intent of hurting anybody,
6 just to beat him up and during the course of the fight is
7 when he died and that would prove manslaughter. So, what
8 was proven in this courtroom was manslaughter which would
9 be the same facts that were proven even if Paul Morris at
10 this point had not even entered a plea.

11 MR. FLEMING: Your Honor, the State would also take
12 the position that also proves malice, that he went there
13 to cause harm to that individual. So it is really no
14 different between what we are talking about here and that
15 is why we feel like the cases support the fact that we can
16 still get a conviction on accessory after the fact of
17 murder even though the defendant pled guilty to
18 manslaughter. It is not what he pled guilty to, it is
19 what he was originally charged with, Your Honor.

20 MR. WISE: It is not what he is charged with, it is
21 what crime can be proven in this courtroom that is
22 accessory after the fact to. You can charge him with a
23 hundred things but if you can't prove but one crime in
24 this courtroom then she is accessory after the fact to
25 that crime and they have not proven the crime in this

1 courtroom as alleged in the indictment.

2 MR. FLEMING: Your Honor, just one more thing. Our
3 position would still be is that all you have to do is
4 prove that she knew that there was a, she knew that the
5 felony had been completed by that individual. And that is
6 set forth out in Judge Anderson's, in his request to
7 charge. There are only three things you have to prove, a
8 felony or a crime had been completed and knowledge and the
9 defendant harbored, aided or assisted the principal.

10 MR. WISE: If Gentry stands for the proposition that
11 indictments are noticed documents I am on notice that they
12 have charged her with accessory after the fact to murder.
13 I accept that notice and that is not what is proven. So
14 if Gentry means anything you can't just put some language
15 in an indictment and put a defendant on notice of
16 something else and come to court and say it doesn't make
17 any difference. If Gentry truly stands for the
18 proposition the indictments are now noticed documents then
19 I really have no objection to Gentry, I think it is a
20 proper decision, I have always thought that is what
21 indictments were for. If the State had not indicted her
22 for accessory, if the State had indicted her for accessory
23 after the fact for felony I would have been making a
24 motion saying what felony. And the State, and the Court I
25 feel sure would have said what felony and there would have

1 been a ruling as to what felony it was and we would have
2 proceeded to trial. But instead they save you the trouble
3 making the motion to put in the indictment.

4 THE COURT: Mr. Wise, you are suggesting that if the
5 State moved to amend the indictment, showed the lessor
6 included--

7 MR. WISE: Excuse me?

8 THE COURT: If the State had moved to amend the
9 indictment--

10 MR. WISE: If they had before we started the trial,
11 if they had moved to amend the indictment or they simply
12 reindicted her last month we wouldn't have this problem.
13 But they elected to go to this trial on the charge of
14 murder. I didn't elect to go to trial on the charge of
15 accessory after the fact of murder, that was the State's
16 election.

17 MR. FLEMING: Your Honor, the State would argue that
18 there is no prejudice at all. It is murder or accessory
19 after the fact of voluntary manslaughter. They had notice
20 of the basic intent of what she was being charged with,
21 Your Honor. And based on the fact that there is no
22 prejudice we feel like it should stand.

23 MR. WISE: He is jumping up and down and back forth.
24 I mean the prejudice is I come to court to defend a charge
25 I think is defensible.

1 MR. FLEMING: Your Honor, the State would argue one
2 more time is that, correct me if I am wrong, murder is a
3 Class A felony. It is one of them, it is a Class A--

4 THE COURT: It is accepted to the Class A felony.

5 MR. FLEMING: But it still carries the same overall,
6 most overall penalty of 30 years to life. There should be
7 no difference in their defense whether it be murder or
8 voluntary manslaughter in accessory after the fact charge,
9 Your Honor. They had notice, it is there and there is no
10 prejudice. And voluntary manslaughter is a lessor
11 included offense of murder, Your Honor.

12 THE COURT: It appears to me that accessory after the
13 fact of a felony, 16-1-55 is just a sentencing statute. I
14 don't believe that is, it is a common law offense.

15 MR. FLEMING: It is a common law offense, Your Honor.

16 THE COURT: But to meet the burden of proving a
17 felony has to be proven, the State has met that burden.
18 The difference is notice of the murder or a lessor
19 included felony, there is a distinction there. I think,
20 let me talk to y'all over here at the bench.

21 (Whereupon, a bench conference was held with the
22 attorneys.)

23 THE COURT: All right, based upon the case law that I
24 read, the statutes that I have read and my research, the
25 cases handed to me, I believe that Ms. Blakely was placed

1 on notice to come and defend accessory after the fact to
2 felony. And that the loss of one's life in the hands of
3 another murder, voluntary manslaughter is either one a
4 felony and the State has proven by stipulation voluntary
5 manslaughter. And that would be my ruling.

6 MR. FLEMING: Thank you, Your Honor.

7 THE COURT: Now, where do we stand.

8 MR. FLEMING: Sentencing I guess, Your Honor.

9 THE COURT: Denying the directed verdict motion I
10 would find the State has met its burden of proof regarding
11 the charge of accessory after the fact to a felony.

12 MR. FLEMING: Thank you, Your Honor. I will get the
13 sentencing sheet ready.

14 THE COURT: I will let Mr. Fleming go first or you
15 want to present first?

16 MR. WISE: It makes no difference, Your Honor.

17 THE COURT: Mr. Fleming, I will hear from you first.

18 MR. FLEMING: Your Honor, you have pretty much heard
19 the facts of this case. This is an incident that occurred
20 July the 16th of 2007, Your Honor, almost, a little over
21 four years to the date. You heard how on that morning
22 Paul Morris came into the house, there was talk between
23 him and Ms. Blakely prior to that. This all stemmed
24 about, from the relationship Ms. Blakely was having with
25 Mr. Morris' sister, Kim Alexander, Your Honor. On that

1 morning you heard how Mr. Morris came in and basically
2 just snapped the neck of Houston Fuller. You heard how he
3 was making cries out to Teresa Blakely to get his gun and
4 call 911 which she failed to do. She faked a 911 call,
5 Your Honor, she told her kids to get down, that it was the
6 Mexican Mafia. Your Honor, how she helped Mr. Morris
7 after it was over with, she cleaned up the mess and it was
8 her idea to put her husband, Mr. Fuller, in the truck and
9 make it look like an accident, to send police on a wild
10 goose chase. When she could have actually did nothing,
11 call the police and let them take over, she didn't do
12 that. While we respect the jury's decision in the first
13 trial, Your Honor, we disagree with it, we disagree with
14 it. We think that this is a crime that was pre-mediated
15 by her and Mr. Morris and Mr. Morris basically got caught
16 up in it and caught the brunt of everything. We think
17 that she should be penalized to the maximum extent
18 possible, Your Honor, and that is up to 15 years and we
19 think she deserves every bit of that. We are asking to
20 give him that. She took away a man that was well
21 respected in the community. He was a plant supervisor
22 with Vulcan Materials at the Anderson Plant. He had gone
23 throughout, in his community in the schools and helped
24 raise money for reading programs and for the schools, Your
25 Honor. He just wasn't some Joe Smoe out here and wasn't

1 doing nothing for his community, he was actually
2 contributing to his community. And that has all been
3 taken away from his family and from his community and we
4 ask that a proper sentence be handed down on this, Your
5 Honor, and a term of 15 years be given in this. I tried
6 to put into evidence about the insurance, I understand
7 that that can't come in. We can mention it in the
8 sentencing phase here and there was a large amount of
9 insurance, in the hundreds of thousands of dollars that
10 she got a part of, she didn't get all of it but she got a
11 part of it. His son got, I think sixty percent and she
12 got forty percent. Your Honor, that was the motive behind
13 this whole deal in our eyes, Your Honor. So we ask that
14 the Court bring justice to this and institute the full and
15 maximum of time she can get out of this, 15 years. And at
16 the appropriate time I think there is a spokesperson for
17 the family that would like to be heard. Mr. Wiltshire
18 will introduce them at the proper time.

19 THE COURT: Mr. Wiltshire.

20 MR. WILTSHIRE: Yes sir, Judge, good afternoon. Kenn
21 Wiltshire for the Solicitor's office. I do have to
22 obviously bring to the Court the tension that this family
23 has been through, three trials now. And they have behaved
24 with great honor and professionalism the whole time they
25 have been with me. We actually had a lot of people,

1 colleagues for the trials. I have two sisters and the
2 father of Mr. Houston who are here today. If he was here
3 with us today he would be 52 and I will hand over Ms.
4 Mattie Center. Ms. Mattie is Mr. Fuller's sister.

5 MS. CENTER: Your Honor, my name is Mattie Center and
6 I am Houston Fuller's sister and I am speaking on his
7 behalf, for his family and friends. Anyone that knew or
8 worked with Houston can tell he was a very loving,
9 considerate and generous man. Teresa Fuller is not the
10 type of person that would roll over and play dead. My
11 husband has seen her kick down a front door and when she
12 kicked it it flew off the hinges, she is a strong stout
13 woman. She did not lift one hand to help my brother
14 during this fight, not one finger to dial three little
15 numbers, 911. And after his death, what does she do, she
16 gives the murderer a class of water because he was
17 sweating profusely. She bathed his dead body and put his
18 clothes on him and carried him to his truck. She did
19 nothing to help my brother. The day of the funeral they
20 were all eating out together. The day of his death, ten
21 hours later Paul Morris and her lover was standing in the
22 front yard at 4:00 o'clock drinking beer, were they
23 celebrating. I went over to her home to help fill out the
24 sympathy cards two weeks after his death. Paul Morris
25 knocked on the door, she said come in, Paul. She didn't

1 act like there was anything wrong. I didn't see her
2 nervous. She covered up his murder, she put his body in
3 the truck, pushed it over an embankment in hopes it would
4 go into a river that was below the embankment. The only
5 thing that stopped the truck from going into the river was
6 a small tree and I do believe that the lord had something
7 to do with this. Because if he had of went in the river,
8 we would have never found him and we would never know what
9 happened. She never would take care of the last name,
10 Teresa Blakely was her name. And upon his death now she
11 says my name is Teresa Fuller. Why does she want his name
12 now for, she didn't want it when he was alive. If she had
13 of helped by fighting back or calling 911 he would be
14 alive today, what was her motive for not helping. Her
15 only motive was to cover up the murder and have it look
16 accidental. Our mother has grieved herself to death. She
17 is now dead. Every day she would talk about the horrible
18 way her son died and would say I want to go home to be
19 with my baby son. Our father now has to cope with the
20 death of his wife of 65 years and of his son's and the way
21 he died. We can never recover from this. If someone dies
22 naturally it is more acceptable but when their life was
23 taken and then somebody wants to cover it up and forget
24 about it. That is all, thank you, sir.

25 MR. WILTSHIRE: Thank you, Your Honor.

1 THE COURT: Anything else, Mr. Fleming?

2 MR. FLEMING: Nothing from the State, Your Honor.

3 THE COURT: Mr. Wise.

4 MR. WISE: Your Honor, just a brief background on Mr.
5 Morris who is the one that actually killed Mr. Fuller. He
6 is, the brother that they mentioned of Kim Alexander, he
7 is a big man. He is also a very slow man mentally, he is
8 a very impulsive person and when he had heard that Houston
9 Fuller was saying bad things about his sister he basically
10 flew into a rage. And that is keeping with his statement
11 and what he said and all of that. I really don't believe
12 that he went over there with the idea of killing Houston
13 Fuller. I think due to his size and strength and being
14 slow mentally and as soon as he grabbed him by the neck it
15 was for all practical purposes instantaneous after that.
16 911 call being made or not being made would not have made
17 any difference. Also it came out during the course of the
18 trial that, while the State's theory that it was all
19 prearranged and all of this, Ms. Fuller's daughter by a
20 previous marriage was there in the house with her
21 boyfriend and it just defied logic that she would plan the
22 murder of Houston Fuller with her daughter in the living
23 room where it all would take place. And that was just
24 totally illogical and I think the jury agreed with that
25 position. There is no excuse for her evidence to cover

1 this murder up, none whatsoever. But she and Mr. Fuller
2 had at times a stormy marriage and at times a good
3 marriage. They had filed for divorce at one time and had
4 reconciled again. At the time of this they had reconciled
5 and they seemed to be getting along very well. He was
6 very close to Jenna, step-daughter and actually had
7 provided for her step-daughter as a contingent beneficiary
8 on an insurance policy if something happened to his son
9 and Ms. Fuller, that is how much he thought of her. So,
10 he raised Jenna for all practical purposes and he was
11 close to her. One thing that has impressed me about
12 Teresa from the very beginning of this and she has always
13 told me this, that you know her daughter ended up sitting
14 on this stand and testifying against her mother called by
15 the State. But Teresa has always told me that Jenna is
16 the only one who did the right thing, that she didn't go
17 to the police immediately but as soon, I think she had
18 mentioned to somebody what had happened and somebody went
19 to the police and the police came to her and she told them
20 completely and fully what happened. And as soon as they
21 questioned Jenna they then questioned Ms. Fuller and she
22 gave them a full voluntary statement as to what happened
23 that particular night. Had the sole facts been that she
24 had helped Mr. Morris dispose of Mr. Fuller I think I
25 could have stood a chance of even winning an accessory

1 after the fact because of the fear, just the fear she had
2 of Mr. Morris to be frank with you. You know, anything to
3 get him away from the house. Her crime, quite literally
4 was not calling the police as soon as Mr. Morris had left
5 the premises and was gone. I think if she had of called
6 the police at that point then I don't think she would have
7 ever been charged with accessory after the fact. But she
8 didn't and she tried to cover the crime up after that and
9 that is what she is here for. It is not like she has not
10 been punished for this crime either. When she was
11 arrested in early August of 2007 she was placed in the
12 Laurens Detention Center. She stayed in the Laurens
13 Detention Center for approximately 22 months, just short
14 of 22 months until her acquittal on the 29th of May of
15 2009. I am sure the Court is aware that it is not an easy
16 time back there. But it gave her a lot of time to think.
17 One thing that her husband had always asked her to do was
18 to basically stop drinking. And she said she had two
19 years of forced stopping and the last two years have been
20 the decision that she has made. So she is off of alcohol
21 now. She is, has no criminal record other than an old DUI
22 and some fraudulent check charges. And while she was in
23 prison some bench warrants were issued on her for some
24 fraudulent check charges, she ended up being picked up on
25 that right after she got out, after she was acquitted she

1 got picked up on that and served about four months on
2 that. Had she been out she would have been able to take
3 care of those but they technically don't count, I know,
4 but I just wanted to say there was about two and a half
5 months there that also factors into this that she served.
6 I think quite frankly, Your Honor, I think that she has
7 been punished for her crime spending 22 months in the
8 detention center here in Laurens. Had the State indicted
9 them all at the same time she pretty would, obviously I
10 think she would be out today. She is leading a good life,
11 she is living a good life in the sense that she is now off
12 of alcohol, not abusing it, very stable environment and
13 has not been in any trouble since then. To say no
14 criminal record other than that old DUI and a few
15 fraudulent check charges. I will tell you that she is a
16 good person, I have gotten to know her and spent a lot of
17 time talking to her at the Laurens Detention Center while
18 this was pending, have kept up with her since she has been
19 out also and I think she has got the conviction which
20 ramifications that come with that and that is not
21 something to ignore either. I think she truly, truly
22 regrets what she did in covering this crime up. I know
23 the State's position is different but I do not even see
24 that she ever wanted Houston Fuller to be killed or hurt
25 or harmed in any way. This was strictly a Paul Morris act

1 on his own, he knew Mr. Fuller and Mr. Fuller knew him,
2 Kim Alexander and everybody kind of knew each other. Like
3 I say, they had had a stormy marriage but at the time of
4 this incident they had reconciled, they had reconciled and
5 were trying to make a go of it. They had a good life too,
6 they had a nice house where this happened. I will tell
7 the Court, having been by the scene I don't think there is
8 a way in the world, I don't think there is in a way in the
9 world that any vehicle pushed off the edge could ever make
10 it to the river. If it somehow made it to the river I
11 don't think there is any way in the world any vehicle
12 would be hidden in that area, the river is simply not deep
13 enough but it may have hidden the first part of it but it
14 just wasn't going to be, you know, hidden from view
15 forever. There is no question about that in my mind. But
16 I think she is a candidate for, considering what time she
17 has already served, probation type sentence. If she has
18 lost a husband, I know the family doesn't accept that and
19 I understand the family's reaction but I think she lost a
20 husband, it hurt her to lose a husband even though her
21 actions may have indicated differently at the time because
22 they were trying to get back together and make it. And
23 she lost a man, for all practical purposes, who had raised
24 her daughter and she knew her daughter was close to him
25 and that is complicated too. But I think she is not a

1 danger to this community, she is not a danger to go out in
2 getting in any sort of trouble whatsoever right now. She
3 can lead a productive life and I just think that, it is
4 hard to sit here today and look back at 22 months ago and
5 where you were and how long it is to sit back there.
6 Sitting in the detention center for 22 months is really
7 and truly gave her a lot of time to think about this,
8 realize what she did, realize the consequences of her
9 actions. Had the State indicted her originally just
10 accessory after the fact I don't think there would be any
11 question that she would have plead guilty. We were given
12 some issues to hope to preserve if necessary. But she has
13 never denied her involvement once the police came to her
14 the first time and asked her what happened. There has
15 never been any evidence unturned and anything in the
16 statements that is not true, she was very frank with the
17 police at that time.

18 THE COURT: All right. Would you like to speak.

19 JENNA BLAKELY: Like Rauch has stated, I lost a
20 person and he was my dad. And because of something that
21 she was found not guilty for I lost almost two years with
22 my mother. I went every Friday for almost two years and
23 spent an hour through a plexy glass visiting her for
24 something that she didn't do.

25 MS. BLAKELY: Your Honor, I waited two years and

1 counting to be able to tell my side of the story to
2 someone other than my attorney and I stood trial and I
3 told the jury and they listened. I waited another two
4 years to be able to come here to tell someone my side. My
5 actions that day were not out of pre-mediation or
6 vindictiveness. I acted out of panic and fear. We had
7 just witnessed something that words just, I panicked, I
8 didn't know what to do but I had two fourteen year old
9 children in the home with me at the time that this
10 occurred. And my main priority, yes they said I didn't
11 call 911 or I heard his call. I did. But in the bedroom
12 where we were at there are no house phones, all we had
13 were cell phones and my cell phone was all the way at the
14 other end of the house on charge so I did have to pass by
15 them to get to my kids. Jenna and her friend but they
16 were not chaperoned just by me, my husband was also there
17 as well. There was two fourteen year old children in that
18 home and my daughter was behind me begging me to do
19 something and I didn't know what to do. And my actions,
20 yes, they are wrong and I have lived with it and I was
21 found not guilty by a jury but I live with my own guilt.
22 And you have no idea what that is like every day knowing
23 that I can't changed what has happened. I can't bring him
24 back but I miss him and I am sorry for what I have done or
25 for what I didn't do and was suppose to. But I taught my

1 daughter to do the right thing and that was to stand up
2 and to tell the truth and to be reasonable for your
3 actions and I am here today to prove to her that even if I
4 am wrong I am still willing to do whatever it is that the
5 Court has. And the only thing that I know that I can do
6 is to throw myself at the Court's mercy. And I know the
7 family can never forgive me, we are separated still at
8 this date but we are separated by the truth and they don't
9 even realize it. They were told the story by someone who
10 wasn't even there, they believed all of these things that
11 were floating around but no one was in that house that day
12 but my daughter, myself, Paul and my husband and her
13 friend and we have all said the same thing from the getgo.
14 This was an accident and I will accept whatever you give
15 me but I just ask that you show mercy.

16 THE COURT: Anything else, Mr. Wise?

17 MR. WISE: Nothing further, Your Honor.

18 THE COURT: Considering everything that I have heard
19 from the State and the victim's sister and Mr. Wise and
20 Ms. Blakely and young Ms. Blakely, the sentence of the
21 Court is as follows, is that the defendant be committed to
22 the Department of Corrections for a determinate term of 8
23 years provided upon the service of 4 years plus cost and
24 assessments, the balance of probation for 3 years. Given
25 credit for the 22 months, whatever those days are with

1 specificity, you get credit for those days. No special
2 condition for probation, standard probation.

3 MR. FLEMING: Thank you, Judge.

4 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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CERTIFICATE OF REPORTER

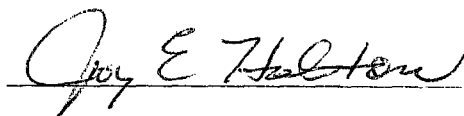
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State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Laurens, South Carolina on the 26th day of July, 2011.

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

October 22, 2011



Joy E. Holston, Court Reporter

My Commission expires: March 13, 2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS) IN THE COURT OF GENERAL SESSIONS

The State,)
)
)
-vs-) Motion to Quash Indictment
) 2009-GS-30-1790
Teresa Blakely)
)
)
Defendant.)

TO: Ronald N. Fleming, Assistant Solicitor, Eight Judicial Circuit

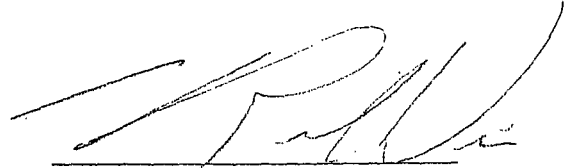
You will please take notice that the Defendant above named will move on Monday, July 25, 2011 at 10 o'clock AM or as soon thereafter as counsel may be heard, for an order quashing the indictment in this matter. This motion is based upon the following grounds:

1. The prosecution of the defendant for the crime of accessory after the fact after her acquittal on the charges of murder is a vindictive prosecution in violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article I, § 3 of the Constitution of the United States of America.

2. The prosecution of the Defendant violates the ABA Criminal Justice Standards, Joinder and Severance 13.2.3 which provides that a defendant who has been tried for one offence may "move to dismiss any additional offense based upon the same conduct or the same criminal episode" As both of the charges arose out of the exact same facts and could have been tried together in one trial, the rights of the defendant under the due process clause of the Fourteenth Amendment of the Constitution of the United States of America and Article I, § 3

of the Constitution of the United States of America have been violated.

Feb 19th, 2011



C. RAUCH WISE
305 Main Street
Greenwood, SC 29646
(864) 229-5010
Rauch@simplepc.net
S. C. Bar N^o 06188

Attorney for Teresa Blakely

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LAURENS)

The State,)
)
)
-vs-) Brief in Support of Motion
) 2009-GS-30-1790
Teresa Blakely)
)
)
Defendant.)

Factual History

Under the name of Teresa Fuller, the state, on September 28, 2007, indicted Teresa Blakely for the charge of murder. The charges arose out of the alleged involvement of Ms. Blakey in the murder of her husband Houston Fuller. The state alleged that she aided and abetted Paul Thomas Morris, Jr. to murder her husband. Mr. Morris actually committed the murder.¹ The state's theory was that Ms. Blakely helped plan the murder and was present aiding and abetting the commission of the murder.

The trial was conduct over four days from May 26, 2009 until May 29, 2009. The jury deliberated over seven hours before arriving at its verdict. The testimony at that trial was virtually the same as would be presented at this trial. Ms. Blakely testified at her trial in 2009 and also gave a statement to the police. In her testimony and her prior statement, she denied planning to kill her husband. Mr. Morris was the brother of a friend of Ms. Blakely. According to Mr. Morris's statement, Mr. Fuller had made some derogatory statements about the sister of

¹ Mr. Morris, after the acquittal of Ms. Blakely, entered a plea to voluntary manslaughter.

Mr. Morris and as a result, Mr. Morris vowed to avenge those statements by beating up Mr. Fuller. Mr. Morris went to the residence of Houston and Teresa Fuller at about 6 am on the day of the incident. When Mr. Fuller answered the door, Mr. Morris attacked him and placed him in a neck hold. Mr. Morris stated that he felt Mr. Houston neck crack. The cracking of Mr. Fuller's neck killed him. Ms. Blakely testified that she did not expect Mr. Morris to come by the house and attack Mr. Fuller and did not have an agreement with Mr. Morris to kill her husband. She did testify that she helped Mr. Morris place the body of Mr. Fuller in the truck and helped run it off the road in an attempt to make the death look accidental.

After Ms. Blakely's daughter informed the police of what she observed at the house on the morning of Mr. Fuller's death, Ms. Blakely was questioned by the police and gave them the statement. Ms. Blakely was arrested on August 9, 2007 and remained in jail until she was acquitted on May 29, 2009. No new facts have been found since the trial of Ms. Blakely.

Argument

A. The prosecution of Teresa Blakely in this matter is a result of a vindictive prosecution and this prosecution is barred by the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article I, § 3 of the Constitution of the State of South Carolina

The United States Supreme Court has long recognized that the state may not bring additional charges against an individual because they have invoked a constitutional right. *See, Blackledge v. Perry*, 417 U.S. 21 (1974); *Patrick v. State*, 349 S.C. 203, 562 S.E.2d 609 (2002). In this case Ms. Blakely exercised her right to a trial by jury on the murder charge. As a result of her acquittal, the state has now elected, using the same facts, to further prosecute her for

accessory after the fact.

As noted by one court “[I]f *Blackledge* teaches any lesson, it is that a prosecutor’s discretion to reindict a defendant is constrained by the due process clause.” *Hardwick v. Doolittle*, 558 F.2d 292, 301 (5th Cir. 1977). When a prosecutor indicts for a charge that could have been included in the original indictment and a new indictment ensues, the defendant has made a prima facie case of a vindictive prosecution. *Hardwick*, at 301. The state then has the burden of proving the prosecution is not vindictive. Had the state desired, they could have indicted Ms. Blakely in a two count indictment charging her with murder and accessory after the fact. This matter would have been resolved in one trial at a savings to the defendant and the state. *See, State v. Woodard*, 38 S.C. 353, 17 S.E. 135 (1893).

Instead the state elected to make a tactical decision and presented only one charge to the jury in the apparent hope that if the jury were given the alternative of either convicting Ms. Blakely of murder or turning her loose, the jury would vote to convict her. Having made that tactical decision, the state now should not be permitted to indict her for accessory after the fact. Having gained what advantage they thought they could get from not charging her with accessory after the fact, the due process clause prevents them from charging her again.

B. The indictment for accessory after the fact violates American Bar Association Criminal Justice Standards, Joinder and Severance 13-2.3

The American Bar Association has issued standards for prosecutors involving the prosecution of cases where a prosecutor has prosecuted the defendant on one charge and then indicted him on another charge arising out of the same facts. The standard provides “A defendant who has been tried for one offense may thereafter move to dismiss any additional

offense based upon the same conduct or the same criminal episode” The standard has several exceptions, none of which apply to this case. The comments to the standard state “The standard is intended to protect defendants from successive prosecutions for unified conduct, particularly when the only reason for the several prosecutions is to ‘hedge against an unsympathetic jury at the first trial, to place a hold upon a person after he has been sentenced to imprisonment, or simply to harass by multiplicity of trials.’” ABA Joinder and Severance Standard 13-2.3, commentary (August 9, 1978)(the Standards are attached to this brief). The standards have been adopted by several states by either court rule or statute. *See, e.g. People v. Mullenhoff*, 33 Ill.2d 445, 211 N.E.2d 744 (1965)(by statute) and *State v. Washington*, 101 Wash.2d 349, 678 P.2d 332 (1984)(by rule). While New York has a statute prohibiting a second prosecution for a related offense, the court in *People v. Williams*, 123 Misc.2d 165, 473 N.Y.S.2d 689 (1984)found that “basic fairness” was also a reason to bar the second prosecution. The court said “Even if this prosecution were not barred by double jeopardy concerns, principles of mandatory joinder and basic fairness compel dismissal of the Bronx indictment. No legitimate prosecutorial interest justifies subjecting defendant to two prosecutions for a single criminal transaction when both New York and Bronx authorities were fully aware of the facts at the outset and where the entire transaction could have been prosecuted in the Bronx.” *Id.* at 174, 473 N.Y.S.2d at 695. The same principle of basic fairness applies in this case.

New Jersey, without a court rule or statute, adopted the principles set forth in the ABA standards in *State v. Gregory*, 66 N.J. 510, 333 A.2d 257 (1975). In so holding the court said “The common law was properly concerned with the protection of the defendant from government harassment and oppression by multiple prosecutions for the same wrongful conduct.

It embodied the principle cherished by all free men that no person may twice be put in jeopardy for the same offense, a principle which fortunately continues undiminished in force and is firmly embodied in our federal constitution.” *Id.* at 513, 333 A.2d at 258. In establishing the new rule the court noted “In the civil field we have long required that the entire controversy be disposed of in a single proceeding and we have not hesitated to bar a second proceeding by a party who unfairly withheld a fragment of his claim for a later proceeding. There would seem to be even more reason for this approach in the criminal field.” *Id.* at 518, 333 A.2d at 261.

Recently the United States Supreme Court recognized standards by the American Bar Association impose upon a defense lawyer the obligation to inform his client of the collateral consequences of his plea. The Court said “The weight of prevailing professional norms supports the view that counsel must advise her client regarding the risk of deportation.” *Padilla v. Kentucky*, 130 S. Ct. 1473, 1482 (2010). Just as ABA standards may be used to impose an effective assistance of counsel obligation upon defense counsel, they may be used to impose a due process of law standard upon a prosecuting attorney.

The state cannot in keeping with the due process clause take inconsistent positions in two separate criminal proceedings.

For the state to take inconsistent position concerning the evidence in a case to attempt to secure two different convictions should be a violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article I, § 3 of the Constitution of the State of South Carolina. *See, Smith v. Groose*, 205 F.3d 1045 (8th Cir. 2000). While the *Smith* case involved inconsistent testimony by a witness, inconsistent argument by the state should bring the same result. The state should not be able to tell one jury that the

only possible interpretation of the evidence is that the defendant is guilty of planning and participating in the murder and then in the next trial tell the jury the only possible interpretation of the evidence is that she only helped cover up the crime. While the state would be making both arguments were the two charges being tried together, the argument is not as disingenuous when the two charges are tried together. When tried together the state would be arguing alternative, reasonable interpretations of the facts to the jury and the jury would know the state is taking inconsistent positions.

CONCLUSIONS

For the foregoing reasons this Court should quash the indictment against Teresa Blakely on the ground that further prosecution of this matter violates the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article I, § 3 of the Constitution of the State of South Carolina.

July 19th, 2011



C. RAUCH/WISE
305 Main Street
Greenwood, SC 29646
(864) 229-5010
Rauch@simplepc.net
S. C. Bar N^o 06188

Attorney for Teresa Blakely

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)

IN THE COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT

The State,)
)
)
-vs-)
)
Teresa Blakely,)
)
Defendant.)
_____)

Brief in Opposition of Motion
2009-GS-30-1790

Factual History

On July 16, 2007, Jerry Brissey, a friend and co-worker of Huston Fuller, received a call stating that Houston Fuller had not shown up for work and a 8:00 a.m. safety meeting that was scheduled for the Vulcan Anderson Plant. (*Transcript, State v. Teresa Fuller*, 2007-GS-30-1771 P. 37) Even though Mr. Brissey worked at the Greenwood Plant, he left work and drove to Houston Fuller's house in Laurens County looking for him. (Tr. P. 36-37). Arriving at Houston Fuller's House between 9:30 and 10:00 a.m., Brissey talked to Houston Fuller's wife, Teresa Fuller a/k/a/ Teresa Blakely. (Tr. P. 38). Brissey testified that Blakely told him that Houston had left for work and taken his lunch. *Id.* Brissey further testified that he told Blakely that Fuller had not shown up for work or the safety meeting. *Id.* Brissey testified that he never found Fuller and went back to work at the Greenwood Plant. (Tr. P. 39) Brissey returned to Fuller's house after work to look for him where he saw Blakely, Paul Morris, and Kim Alexander sitting in a

Black Jeep or Bronco. At that time, Blakely told Brissey that she, Morris and Alexander had been looking for Fuller but had not found him. (Tr. P. 39-40).

Later that evening, James Ely went down to the Reedy River on Highway 76 to look for a site to put his kayak in the river. (Tr. P. 5) While there, he looked down the power-line and saw a white pickup truck down the embankment. *Id.* Mr. Ely called the Laurens County Sheriff's Department who dispatched a unit to that location. (Tr. P. 6) Once the Sheriff's Deputy arrived on the scene, he determined that a body was in the truck and later determined that it was the deceased body of Houston Fuller. (Tr. P. 16). The Laurens County Coroner took possession of the body and transported the body to Newberry Pathology Associates for an Autopsy. (Tr. P. 26-29).

Initially, believing this was a vehicular accident, the Laurens County Sheriff's Office called the South Carolina Highway Patrol Multidisciplinary Accident Investigation Team to determine the cause of the crash and fatality. (Tr. P. 47). The pathologist determined that Houston Fuller's cause of death was a fracture to the C5-C6 cervical spine. (Exhibit A Report of Newberry Pathology Associates). The Pathologist also determined that due to facial abrasions and bruising, the injuries were not injuries expected based on the manner in which Fullers vehicle traveled. *Id.* The South Carolina Highway Patrol M.A.I.T. team issued a report concluding that the crash involving Houston Fullers work truck was not a collision that would have normally resulted in an occupant receiving fatal injuries. (Exhibit B Report of the South Carolina Highway Patrol Multidisciplinary Accident Investigation Team). Based on the foregoing conclusions, Laurens County Sheriff's Department began an investigation into the death of Houston Fuller. (Tr. P. (Tr. P. 47).

As a result of the Laurens County Sheriff's Office investigation, the Defendant's daughter, Jenna Blakely gave a written statement. In her Statement, Jenna Blakely stated that on the morning of July 16, 2007, she was at the home of Houston Fuller. (Exhibit C Written Statement of Jenna Blakely). She had slept that night in the living room with her boyfriend. *Id.* She stated that around 6:15 a.m. she awoke to a scuffle in the kitchen. *Id.* It was Houston Fuller and another man. *Id.* She stated that she looked to see what it was and saw a large man holding Houston around the neck and Houston was trying to get him off. *Id.* Houston was yelling for her to get her phone and call 911. *id.* Jenna Blakely then stated that her mother, Teresa Blakely, came running through the house to where she and her boyfriend were and pretended to make a call to 911. *id.* She then told them to get down that it was the Mexican Mafia. *id.* Jenna Blakely stated the large man then took Houston back into Houston's bedroom for about 10 minutes then her mother went back to the bedroom. *id.* She stated she then kept seeing her mother go back and forth across the hallway into the bathroom running water to clean up the spilt lunch that Houston was going to take to work. *id.* After about twenty minutes the man came out of the bedroom and walked backwards out the door and she heard him dragging Houston. *id.* Jenna Blakely then stated that Teresa Blakely told her the Mexican Mafia guys wanted her to follow them to make sure they were not being followed and then left with the man. *id.* Jenna Blakely stated that some time later her mother came back alone. *id.* Jenna stated that later that day her mother told her to tell police that it was a regular morning and that she never woke up until later when Jerry Brissey came knocking at the door looking for Houston. *id.*

After being confronted with her daughter's statement, Teresa Blakely finally gave a written statement to investigators. (Exhibit D Written Statement of Teresa Blakely). In her statement dated August 7, 2007, Teresa Fuller stated that a week before Houston was murdered,

Paul Morris, the brother of her girlfriend Kim Alexander, told her to make sure that the kids were not home on that Monday so he could jump him (Houston). *id.* She stated that on July 16, 2007, Houston got up for work and was attacked at the front door. *id.* Houston was fighting with Paul Morris and they came into the house. *id.* Teresa Blakely stated she was still in the bed but heard Houston call for her to get his gun and call 911. *id.* She stated she went into the living room to stay with her daughter and daughters boyfriend so they wouldn't see what was happening. *id.* She stated after that the scuffle stopped and she went back to the bedroom and saw Paul Morris standing over Houston with this look on his face. *id.* She stated that he (Paul Morris) bent down to check for a pulse and could not find one. *id.* They rolled Houston over and she checked for a pulse and could not find one. *id.* Teresa Blakely stated that she then told Paul Morris they would take him (Houston) to the bridge and make it look like an accident. (Tr. P. 180-181) Blakely stated she cleaned the food up in the hall and then asked Morris to help her carry Houston out to the truck. (Exhibit D) She stated that Morris tried to carry Houston by himself at first but couldn't so she took the feet and helped. *id.* Blakely stated they drove Houston to the bridge in his work truck and rolled it down the hill off the road to make it look like an accident. *id.* She then picked Morris up and took him home to Gray Court. *id.* Teresa Blakely eventually admitted at her trial for murder that it was her plan to attempt to cover up the murder by placing Houston's body in his work truck and roll the truck down the hill at the Reedy River bridge on Highway 76 making it look like an accident. (Tr. P. 180-181)

Paul Morris gave a written statement to investigators on August 7, 2007. (Exhibit E Written Statement of Paul Morris). In his statement, Morris stated that two to three days prior to the murder he told Teresa Blakely he was going to come over and whip Houston's ass. *id.* He stated he told Blakely he was going to come on the porch and when Houston opened up the door

he was going to rush him. *id.* Morris stated when Houston Fuller opened the Door in the early morning hours of July 16, 2007, he rushed him. *id.* He stated they ended up in the house and he had Fuller in a choke hold. *id.* Morris stated he went down to the floor and he felt Fuller's neck crack. *id.* Morris stated that later Blakely said get him in the truck and he grabbed Fuller by the arms and she grabbed his legs and they put Fuller into his work truck. *id.* He drove Fuller's work truck to the bridge and Blakely followed in her vehicle. *id.* Once he pushed the vehicle down the hill at the bridge, he got into the vehicle with Blakely and she drove him home. *id.*

Procedural History

Teresa Fuller was tried for the murder of Huston Fuller in Case Number 2007-GS-30-1771 on ^{May}~~June~~ 26-29, 2009. She was acquitted of this charge in a jury trial. Based on Teresa Blakely's testimony at trial, where she admitted to it being her plan to put the body of Huston Fuller in his truck and attempting to make it look like an accident, the state indicted Teresa Blakely for Accessory After the Fact on December 7, 2009.

Argument

- A. *The prosecution of Teresa Blakely for Accessory After the Fact for Murder is Not a result of vindictive prosecution and is not barred as a violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article 1, § 3 of the Constitution of the State of South Carolina*

The Defendant argues that the State cannot prosecute her for Accessory After the Fact to murder after she was acquitted on a murder charge in June 2009. In support of this argument, the Defendant cites *Hardwick v. Doolittle*, 558 F.2d 292, 301 (5th Cir. 1977). The Defendant argues that when a prosecutor indicts for a charge that could have been included in the original indictment and a new indictment ensues, the defendant has made a prima facie case of a vindictive prosecution. The Defendant further argues that the State then has the burden of proving the prosecution is not vindictive.

The defendant erroneously relies on *Hardwick*. The correct test for determining vindictive or selective prosecution is set forth in *State v. Greer*, 391 S.C. 179 (S.C. App. 2010). *Greer* states that there are two prongs that a defendant must satisfy to establish selective prosecution. First, “a defendant must demonstrate that he has been singled out for prosecution while others similarly situated have not been prosecuted for conduct similar to that for which he was prosecuted. Second, the defendant must demonstrate that the government’s discriminatory selection of him for prosecution was based upon an impermissible ground, such as race, religion or his exercise of his [F]irst [A]mendment right to free speech. *Greer*, at 449. *See Also United States v. Peterson* (We presume the prosecutor acted in good faith, and did not prosecute in a vindictive manner).

To prevail in a vindictive or selective prosecution claim, the Defendant, Blakely, must not only show that she has been singled out for prosecution but also that the decision to prosecute was based on unconstitutional considerations. Blakely has failed to aver any evidence that would meet either prong of the two prong test. It is well settled that in our criminal justice system, the government retains “broad discretion” as to whom to prosecute. *Greer*, at 449. So long as the prosecutor has probable cause to believe that the accused committed an offense

defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury, generally rest entirely in his discretion. *Id.*

In the case at hand, the Defendant Blakely was charged and tried for murder. She was ultimately acquitted of the murder charge by a jury verdict. In the murder trial, the Defendant by her own testimony admitted to planning and executing a cover-up to dispose of Huston Fuller's body hence leading law enforcement on a wild goose chase.

Therefore, since the Defendant has failed to demonstrate that she has been singled out for prosecution for Accessory After the Fact, while others similarly situated have not been prosecuted; since the Defendant has failed to demonstrate that the governments discriminatory selection of her for prosecution was based on an impermissible ground; and since the State has probable cause to show it was the Defendant's plan to dispose and hide the body of Houston Fuller her motion to dismiss based on vindictive prosecution should fail.

B. The indictment for accessory after the fact does not violate the American Bar Association Criminal Justice Standard, Joinder and Severance 13-2.3. Furthermore, the American Bar Association Criminal Justice Standard on Joinder and Severance 13-2.3 has not been adopted by the South Carolina Courts on this issue and case law sets forth the standard to determine if a criminal defendants due process right of Double Jeopardy has been violated.

The Defendant argues that the indictment for Accessory After the Fact against her should be quashed because it violates the American Bar Association Criminal Justice Standard on Joinder and Severance 13-2.3. The Defendant cites the standard as follows: "A defendant who has been tried for one offense may thereafter move to dismiss any additional offense based upon

the same conduct or the same criminal episode.” The Defendant erroneously interprets murder and accessory after the fact as being based on the same conduct or criminal episode. Murder is defined as the willful, felonious killing of a human being by a human being with malice aforethought, either express or implied. *State v. Kelsey*, 331 S.C. 50, (1998). A person is an accessory after the fact when they know a felony has been committed and receives, relieves, comforts, or assist the felon. *State v. Legette*, 285 S.C. 465 (1985). Clearly, the offense of murder and accessory after the fact have different elements. Each offense is also based on specific and different conduct and a different criminal episode. The Defendant would probably argue that the entire incident on July 16, 2007 is the criminal episode. However, the State would argue that the Defendant’s conduct and actions constitute a particular criminal episode and more than one criminal episode can exist and be perpetrated by a defendant in one incident. If the Defendant’s interpretation were correct then a criminal defendant could never be charged with more than one crime in a single incident and this interpretation has clearly not been adopted by the Courts of this state. Moreover, the State’s interpretation is supported by South Carolina Code Section 17-23-30 which provides, “ If a person on his trial be acquitted upon the ground of a variance between the indictment and the proof or upon an exception to the form or substance of the indictment he may be arraigned again on a new indictment and tried and convicted for the same offense, notwithstanding such former acquittal.”

This is supported by cases cited in *The Criminal Laws of South Carolina*, McAnich (Fourth Addition). “Where it is clear that there was only a single criminal act, double jeopardy precludes multiple conviction and punishment unless there is clear legislative intent that the defendant may be convicted of more than one offense.”

Finally, the Defendant cites that there are exceptions to the ABA Standard cited but none apply to this instance. The State would argue to the contrary. Subsection (c) of 13-2.3 clearly sets forth that the motion to dismiss a second indictment can be denied if the ends of justice would be defeated if the motion were granted in whole or in part. Clearly, in the case at hand, overwhelming evidence exist showing the Defendant was an accessory after the fact to the murder of Houston Fuller. The Defendant admitted to such in a written statement and during testimony during her trial for murder. Justice would be defeated granting a motion to dismiss the charge of accessory after the fact under ABA 13-2.3.

C. The State can, in keeping with the due process clause, take inconsistent positions in two separate criminal proceedings.

The Defendant argues that the State cannot take inconsistent positions concerning the evidence in a case to secure two different convictions because it violates the due process clause of the Fourteenth Amendment to the Constitution of the United States of America and Article I, § 3 of the Constitution of the State of South Carolina.

A traditional and familiar guide in this area is afforded by *Blockburger v. United States*, 248 U.S. 299, 304 (1932).

“Where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or one is whether each provision requires proof of an additional fact which other does not. If each offense does not require proof of one additional fact which the other does not, then double jeopardy is not denied by convictions for both offenses. Even if, however, each

offense does not require proof of an additional fact, the protection against double jeopardy does not necessarily preclude conviction of both offenses in a single prosecution.

In this situation *Blockburger*, serves as a guide to determine legislative intent. If the legislature meant to authorize separate convictions and sentences for both offenses, there is no double jeopardy, but if the legislature did not so intend, separate convictions and sentences would be a double jeopardy violation.

In the case at hand, Blakely was originally charged and tried for murder. She was acquitted of this charge. Based on her written statement and testimony at trial she was indicted for accessory after the fact for murder. As stated above, murder is defined as the willful, felonious killing of a human being by a human being with malice aforethought, either express or implied. *Kelsey*, at 331. A person is an accessory after the fact when they know a felony has been committed and receives, relieves, comforts, or assist the felon. *Legette*, at 465. It is clear that these are two separate offenses set forth in different code sections of the law and each require different elements of proof. Therefore, based on *Blockburger*, a charge of both crimes are not violative of the due process clause of either the Constitution of the United States or the Constitution of the State of South Carolina.

CONCLUSIONS

Based on the foregoing reasons set forth above this Court should deny the Defendants Motion to Quash the Indictment for accessory after the fact.

July 21, 2011

Ronald N. Fleming
Assistant Solicitor
Eighth Circuit Solicitor's Office
P.O. box 516
Greenwood, South Carolina 29648
Phone: (864) 984-2202
SC Bar No.: 7059

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Laurens

STATE

vs. Teressa Shackley Blakely

INDICTMENT/CASE#: 09-GS-30-1790

AW#: J-617017

Date of Offense: 7/16/2007

S.C. Code §: 16-1-55

CDR Code #: 2413

AKA:
Race: W Sex: F Age: 47
DOB: 10/4/1963 SS#: 250-41-9860
Address: 14361 Highway 76 W
City, State, Zip: Gray Court, SC 29645
DL# SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS Accessory After the Fact to Felony B, C, or Murder (0-15 yrs)

In violation of § 16-1-55 of the S.C. Code of Laws, bearing CDR Code # 2413

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45 (CSC w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 7059
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections or County Detention Center, for a determinate term of 8 days/months/years or under the Youthful Offender Act not to exceed 4 years and/or to pay a fine of \$ 4; provided that upon the service of 4 days/months/years and or payment of \$ 4; plus costs and assessments as applicable; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 22 months
The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

Recipient: May serve W/E beginning Substance Abuse Counseling

*Fine: Random Drug/Alcohol Testing

\$14-1-208 (Assessments 107.5%) \$
\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$
\$56-5-2985 (DUI Assessment) \$12 \$
\$56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$
\$14-1-212 (Law Enforce. Funding) \$25 \$ 25

\$14-1-213 (Drug Court Surcharge) \$150 \$
\$50-21-114 (BUI Breath Test Fee) \$50 \$

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$ 3.90
TOTAL \$ 133.90

Clerk of Court/Deputy Clerk: Lynn W. Lancaster
Court Reporter: Joy Holston

Presiding Judge: [Signature]
Judge Code: 2154

Sentence Date: 7-28-11

SCCA/217 (03/2011)

A TRUE COPY OF ORIGINAL

Lynn W. Lancaster
Lynn W. Lancaster
Laurens County CCCP & GS

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

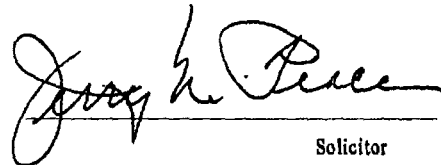
INDICTMENT FOR

**ACCESSORY AFTER THE FACT TO FELONY
16-01-0055**

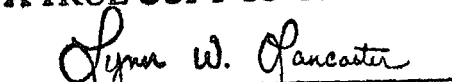
At a Court of General Sessions, convened on the 7th day of December, 2009 the Grand Jurors of Laurens County present upon their oath:

That Teresa Shockley Blakely, did in Laurens County, state aforesaid, on or about the 16th day of July, 2007 did feloniously, willfully and unlawfully harbor and/or assist Paul Thomas Morris Jr. with knowledge that the said Paul Thomas Morris Jr. had completed the act of murder, in violation of the Laws of South Carolina and Section 16-1-55 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

A TRUE COPY OF ORIGINAL


Lynn W. Lancaster
Laurens County CCCP & GS

WITNESSES

Mareno Foggie
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

December Term, 2009

Indictment # 09GS30- 1790

WARRANT NUMBER

J617017 True Bill

THE STATE

vs.

Teresa Shockley Blakely

[Signature]

Foreman of the Grand Jury

Date: 12/7/09

VERDICT

[Signature]

[Signature] TRIAL JUDGE

Foreman for Bench Trial

7-28-11

INDICTMENT FOR

ACCESSORY AFTER THE FACT TO FELONY
16-01-0055

WITNESSES

Judy Stiles

WARRANT NUMBERS

I-807528

R. B. H.

George Newen

Foreman of the Grand Jury

Date: 9/28/07

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

September Term, 2007

Indictment # 07GS30-1771

THE STATE

vs.

TERESA FULLER

INDICTMENT FOR

MURDER

RECEIVED BY CLERK OF COURT
JANUARY 11 2008
OFFICE OF THE CLERK OF COURT
JANUARY 11 2008

**THE STATE OF SOUTH CAROLINA
COUNTY OF LAURENS**

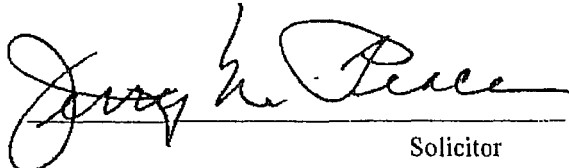
**INDICTMENT FOR
MURDER**

At a Court of General Sessions, convened on the 28th day of September, 2007, the Grand Jurors of Laurens County present upon their oath:

COUNT ONE

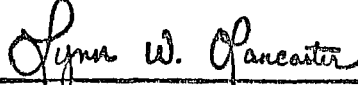
That TERESA FULLER, along with another person or persons, aiding, abetting and assisting one another did in Laurens County, state aforesaid, on or about the 16th day of July, 2007, wilfully, feloniously, and with malice aforethought kill one Houston Fuller by breaking the neck of the victim and that the said Houston Fuller die in Laurens County as a proximate result thereof on or about the 16th day of July, 2007, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended

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



Solicitor

A TRUE COPY OF ORIGINAL



Lynn W. Lancaster
Laurens County CCCP & GS

Laurens County Sheriff's Office
VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 1 OF 3 PAGES

Jensan Jeanette Blakley 200-9360
I am not under arrest for, nor am I being detained for
any criminal offenses concerning the events I am about to make known to Sgt. M. Foggie & Sgt. R. Franklin.
I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for
whatever purposes it may serve.

I am 15 years of age, and I live at 14361 Hwy 16 W. B.C. 29145

I can read and write and completed the 9th grade in school. DOB 05/23/92

Monday morning on July 16 2007, around 6:15 a.m.
I woke up to a scuffle in the kitchen. It was
Houston Fuller, my step dad, and another man. I
looked up to see what was going on, and I saw
a large man holding Houston around the neck,
and Houston was trying to get him off. Houston
had been yelling for me to get my phone and to
call 911. My mom came running through the
house to where me and my boyfriend, at the
time were at. We were in the living room asleep.
The man pretended to call 911, but she didn't.
He said she was trying to keep us safe from
the "mexican mafia." The large man took him
into his (Houston's) room for about 10 minutes
or so. My mom told me to stay down, and
kneel too. She said for us to keep our heads
down. My mom went in the back bedroom
most the whole time. The man was back
here. I kept seeing her go across the hallway
into the bathroom and running water for
keeping up the lunch that Houston was going
to take to work. After about 20 minutes
went by, the man came out of the bedroom
and walked backwards out the door, because

I have read each page of this statement consisting of 3 page(s), each page of which bears
my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 1:30 P.M. on the 6th day of August, 2007

WITNESSED AND SUBSCRIBED TO BEFORE
ME THIS DAY OF , 20

Jensan Jeanette Blakley
Signature of person giving voluntary statement

WITNESS: M. Foggie
WITNESS: Sgt. R. E. Franklin

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires:

Laurens County Sheriff's Office
VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO 2 OF 3 PAGES

Jenson am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Sgt. M. Foggie & Sgt. R. Franklin. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

am _____ years of age, and I live at _____.

can cannot read and write and completed the _____ grade in school. DOB: _____.

He was dragging Houston. I didn't see Houston, but I heard his feet dragging across the floor. My mom followed them outside and ~~she~~ came back inside to get her keys because she told me that the "mexican mafia" guys wanted her to follow them down the road, just to make sure they weren't being followed or anything. She was gone about 15 min, and she came back by herself. Later that morning, his distant cousin Jerry came to the house looking for Houston because he never made it to work. My mom went to the store to buy her a pack of cigarettes and she was telling Joyce (the woman who was working that morning) about him never making it to work, and Joyce's husband Bert offered to ride her around and look for Jim. While they were gone in Bert's car, Shawn and I went to his house to pick up his sisters. When we got back to the house, I called my mom and asked if she thought the "mafia" would've sniped him off at the bridge. I was honestly expecting someone to find Jim alive, ~~but~~ what my mom told me, about the "mafia" only wanting to ruff him up. That night, when they found Houston, my mom

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 2:00 p. M. on the 6th day of August, 2007.

WITNESSED AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____, 20____.

Jenson Deonette Blahley
Signature of person giving voluntary statement

WITNESS: [Signature]

WITNESS: Sgt. R. E. Franklin

NOTARY PUBLIC FOR SOUTH CAROLINA
Commission Expires: _____

Laurens County Sheriff's Office
VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 3 OF 3 PAGES

I, _____ am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to _____. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am _____ years of age, and I live at _____.

I can cannot read and write and completed the _____ grade in school. DOB: _____.

acted ^{was} really surprised, and really devastated. She told me to tell the officers/investigators that it was a regular morning and I never woke up until Jerry came knocking on the door. She told us to say that Shawn wasn't there that night, because he said he doesn't do well under stress.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 2:30 P.M. on the 6th day of August, 2007.

WORN TO AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____, 20____

Dorinda Alonette Blakeley
Signature of person giving voluntary statement

WITNESS: [Signature]

WITNESS: Sgt. R.E. Franklin

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

I certify that I have been given a copy of this statement consisting of _____ pages.

JJB

• Did you see any blood? No, I didn't. She was cleaning and water was running while they were in the room.

JJB

• Did your mother leave with this guy? Yes.

JJB

• What did she tell you to say? She said for us to tell the police that it was a normal day and that we had a good night. She also told me to put all this in the back of my mind.

JJB

• Did you see who the guy was? Looked like P.J., I saw a tattoo on his arm and he had the same body structure as P.J.

JJB

• Who was at the house when the scuffle took place? Me, Shawn, Houston, Mom, and the guy.

JJB

• Did your mother give the guy anything? Bottle of water is all I saw.

JJB

• Where did you go looking for Houston? Me and my boyfriend went to the bridge but didn't see Houston.

JJB

• Did your mom make any phone call? She called Kim on Sunday and said me and Shawn weren't home, we went to his house.

JJB

• What was Houston saying during the struggle? He was telling me to call 911 and he said it about 5 times, mom came after the second time into the room with me and Shawn.

JJB

• What was the lunch Houston was carrying to work? Lasagna.

Laurens County Sheriff's Office
VOLUNTARY STATEMENT
(NOT UNDER ARREST)

TERESA B. Fuller

I am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Sgt. FRANKLIN & Sgt Foggie. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 43 years of age, and I live at 14361 Hwy 76W

I cannot read and write and completed the 12 grade in school. DOB: 10-04-63

ABOUT 2 YRS Ago our utility BLDG on Hwy 76W was Broken into and items were stolen out of it. My Husband - Houston Accused Kim Alexander of being involved and wanted me to stay away from her - I left the house and went to get Kim at Johnson Rd and bring her to the house to defend the accusations that ~~Houston~~ Houston and I made. They began to Argue and Houston went in the house to get his gun and came back out onto the porch - In the effort to take the gun away from Houston Kim was struck in the face with the weapon and it gave her Black eyes. Her Brother PJ came to live with his parents in Gray Court and learned about what happened - he was upset and mad and made the statement that I day he'd beat his ASS for that ~~the~~ weak before Houston died. I asked me to make sure that the kids weren't home one that Monday so he could jump him. On July 16th Houston got up for work as he always did and was Attacked at the front door - He was fighting with PJ and they came in the house. I was still in bed when that happened but I heard Houston call for me to get the gun and call 911 - I went to the living room to stay with the kids so they wouldn't see what was happening - After the scuffle stopped I went to the Bed room and saw PJ standing over Houston with this look on his face - he bent down to check for a pulse but couldn't find one so we rolled him over and I couldn't find one either - I told PJ that we'd take him to the bed and make it look like an accident - he did not mean to kill him it happened in the struggle. He had spit his

I have read each page of this statement consisting of 2 page(s), each page of which bears signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 2:55 P M. on the 7th day of Aug, 2007.

I HAVE READ AND SUBSCRIBED TO BEFORE THIS 7th DAY OF Aug, 2007

NOTARY PUBLIC FOR SOUTH CAROLINA
Commission Expires: 5/8/16

I certify that I have been given a copy of this statement consisting of _____ pages.

Signature of person giving voluntary statement
WITNESS: Sgt. R. E. Franklin
WITNESS: [Signature]

VOLUNTARY STATEMENT
SUPPLEMENTAL

Teressa Fuller

Statement of, Continued.

lunch in the hall way and had food on his clothes and in the hall. I cleaned him up the best I could and asked P.I. to help me carry him to the truck. P.I. tried to carry him by his self first but couldn't so I took the feet and P.I. took his upper body. We took him to his truck and put him in the drivers seat and P.I. got in to truck on the same side and slid him over so he could drive. We went to the bridge and pulled over but traffic was bad so he went up the road to turn around and I followed in my truck - we passed by the bridge again looking for a place to leave his truck - P.I. pulled over and got out leaving the truck in gear so it would roll down the hill and appear to be an accident. I picked him up on the side of the road and took him to grand court. I then went home and waited for some one to contact me about Houston not being at work. Jerry Preissie came to the house about 9:00. The search started when that did not end until about 8:00 that night - I wanted to put Houston close to the house so he'd be found soon but didn't know what it would be so long. I know that his death was not a ~~deliberate~~ deliberate act but an accident on P.I. PART. He did not mean to kill him and I believe that it happened in the struggle. END OF STATEMENT

Person giving statement to place initials behind
last word of statement as appears on last page.

1 - 10 - 2 11

Thay

Signature of person giving voluntary statement

1 they wish to.

2 Mr. Wise?

3 MR. WISE: Call Teresa Fuller.

4 TERESA FULLER,

5 after being first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. FLEMING:

8 Q Please give us your full name.

9 A Teresa Blakely Fuller.

10 Q All right. How old are you?

11 A 47.

12 Q How far did you go in school?

13 A Twelfth grade.

14 Q Where did you graduate?

15 A Laurens High.

16 Q Laurens High, what year?

17 A '81.

18 Q After you got out of Laurens High what did
19 you do?

20 A I went into the military.

21 Q And what branch of the military did you go
22 in?

23 A Army.

24 Q What did you do while you were in the Army?

25 A I was a supply sergeant.

1 Q Supply sergeant, and how long were you in the
2 Army?

3 A Ten years.

4 Q When did you get out of the Army?

5 A 1991.

6 Q I believe -- how many children do you have?

7 A Two.

8 Q Who are they?

9 A Jenna Blakely and Nicki Shockley.

10 Q Jenna Blakely was in here earlier?

11 A Yes, sir.

12 Q Nicki Shockley, where does she live?

13 A In Hickory Tavern.

14 Q When you got out of the Army where did you
15 come back to?

16 A Hickory Tavern.

17 Q How did you end up in Laurens?

18 A It's all Laurens County.

19 Q When you were in high school?

20 A Oh, my dad was in the service and he retired
21 and we came back.

22 Q He's originally from Laurens?

23 A They're from Calhoun Falls.

24 Q Okay. You were divorced from Jenna's father,
25 we heard?

1 A Yes, sir.

2 Q I believe he died in 2003?

3 A Yes.

4 Q What did he die of?

5 A Congestive heart failure.

6 Q The result of that is you are getting a Social
7 Security check for Jenna?

8 A Yes.

9 Q Have you been getting it since then?

10 A Yes.

11 Q How did you meet Houston Fuller?

12 A I was employed by Vulcan Materials at the
13 Gray Court plant and we were in the process of
14 changing superintendents and he was the new one
15 coming on board.

16 Q And how long had you been employed there at
17 that time?

18 A Since '96.

19 Q When did he come there?

20 A I would say around '98.

21 Q Did you all start going out right away?

22 A No. It took about a year.

23 Q Okay. And was he in the process of getting a
24 divorce?

25 A He was separated from his wife, yes.

1 Q Okay. So you all started going out about
2 when?

3 A Probably '99, sometime early 2000.

4 Q And how old would Jenna have been at that
5 time?

6 A She was born in '92, so seven or eight.

7 Q And how did Houston accept Jenna?

8 A As his own, he loved her.

9 Q Was that obvious from early on?

10 A Yes.

11 Q Was it obvious to observe them?

12 A Yes.

13 Q Would he take time with her?

14 A Every day.

15 Q How long was it before you moved in with
16 Houston?

17 A Around 2000 or so.

18 Q So, before that where were you all living?

19 A Up on Horse Creek Drive.

20 Q Where is that?

21 A Hickory Tavern.

22 Q Hickory Tavern?

23 A Yes.

24 Q All right. And where did you all move to
25 when you moved in with him?

1 A It's a Hickory Tavern place but it has a Gray
2 Court address, so the highway the house is located
3 on is about two miles actually from where I had
4 previously lived.

5 Q You moved into the house that he was
6 occupying when he died?

7 A Yes.

8 Q Did you all get married then?

9 A No.

10 Q Why not?

11 A We had applied for a license in 2004 and just
12 I wasn't ready.

13 Q And when did you all finally get married?

14 A May the 19th, 2005.

15 Q All right. And why did you marry him then?

16 A Because I realized I loved him.

17 Q Before you moved in with Houston or about the
18 time you moved in with Houston had you also been
19 seeing Kim Alexander?

20 A Yes.

21 Q Did he know about her?

22 A Yes.

23 Q And how did he know about her?

24 A My own admission.

25 Q Did he know about her before you got married?

1 A Yes.

2 Q Did he accept it, not accept it?

3 MR. FLEMING: Your Honor, I object to that.

4 It calls for speculation, hearsay.

5 Q All right. Let me rephrase the question,

6 then. Had you told him about Kim Alexander?

7 A Yes.

8 Q Did there come a time when Kim actually came

9 to live with you all?

10 A Yes.

11 Q And when was that?

12 A She had had her surgery and was not able to

13 work.

14 Q And how long did she stay there?

15 A Probably close to two months.

16 Q Okay. When you met Houston was he a drinker?

17 A Yes, sir.

18 Q Were you a drinker?

19 A Not quite.

20 Q Did you become one?

21 A Yes, sir.

22 Q Over the period of time did he get his under

23 control?

24 A Yes, he did.

25 Q All right. What about you?

1 A No.

2 Q Did you try?

3 A Yes.

4 Q I believe that did you go to a facility?

5 A He paid for me to go to Phoenix Center in
6 Greenville for detox.

7 Q When was that?

8 A 2003.

9 Q All right. Before you got married?

10 A Yes.

11 Q Did that help?

12 A For awhile, yes.

13 Q Was Kim in and out of your life the whole
14 time before you got married?

15 A Yes.

16 Q And you all decided to get married?

17 A Yes.

18 Q And that was in May of 2005?

19 A Yes.

20 Q There was an incident, I believe, in August
21 of 2005. What happened at that incident with Kim?

22 A His storage building out back had been broken
23 into. He accused Kim of doing it or having someone
24 do it, that she knew about it. So to defend that
25 she didn't do it I went and got her, and when she

1 got back to the house with me he was mad but he
2 wanted to talk about what she had done with his
3 stuff and she said she didn't know anything about
4 it and naturally he got mad about that and accused
5 her of lying and everything but he went into the
6 house to try to run her off his property, he went
7 to get his gun.

8 Q Then what happened?

9 A He come back out on the porch with the gun
10 and he was like me sometimes, a cocky person, and
11 he was brandishing the gun, about what he would do
12 with it and naturally I stood up to try to take it
13 from him and in that attempt Kim got hit on the
14 side of her face.

15 Q Okay. Did she take out any charges against
16 him?

17 A Yes.

18 Q And shortly after that did you all separate?

19 A Yes.

20 Q And how long did you all stay separated?

21 A Several months.

22 Q I believe he actually filed for divorce?

23 A Yes, he did.

24 Q All right. And you say you all separated for
25 several months?

1 A Yes, sir.

2 Q Would it have been into 2006 before you all
3 got back together?

4 A Probably.

5 Q Okay. What caused the reconciliation?

6 A He wouldn't quit. He was very persistent, he
7 wasn't willing to let me go and he would ring my
8 phone off the hook, he would come to my work, he
9 was just very persistent, he changed my mind.

10 Q You all got back together?

11 A Yes, we did.

12 Q Describe the marriage for me, if you would.
13 How was it?

14 A It had its good days and bad days. He said
15 living with me wasn't like trying to make a bad
16 girl be good but help a good girl get well. He
17 knew I had a drinking problem.

18 Q And after you all got back together did you
19 continue the relationship with Kim?

20 A Yes, I did.

21 Q And when you all were separated did you get a
22 job?

23 A Yes.

24 Q Where did you work at that time?

25 A Walmart.

1 Q How long did you work there at Walmart?

2 A About a year and a half.

3 Q So, you worked there at Walmart a while after

4 you all got back together?

5 A Yes.

6 Q Why did you finally quit Walmart?

7 A I had violated the safety and they were going

8 to fire me anyway so I just quit.

9 Q And what about Houston's salary, what kind of

10 money did Houston make?

11 A At that time probably close to 70,000 a year.

12 Q Did he insist on your going back to work or

13 anything?

14 A No. He preferred I didn't.

15 Q Stay there and take care of the house?

16 A Yes.

17 Q So, at this time you all got back together

18 you were getting the check on your daughter?

19 A Yes.

20 Q So, she wasn't a financial strain on you all?

21 A No.

22 Q Did you come to meet Kim's brother or

23 stepbrother?

24 A When?

25 Q Did you later come to meet him?

1 A Yes.

2 Q About when was that?

3 A I want to say around 2006, maybe somewhere in
4 there.

5 Q Had he moved down here?

6 A He had lived in another state and he came
7 down here to live with his dad.

8 Q Okay. Did you hang around with him?

9 A No.

10 Q Did you and him and Kim go places?

11 A Yes.

12 Q How often?

13 A He was always there when I would go visit but
14 as for as to hang out and go places, no, we did
15 not.

16 Q If you all went out to the movie or something
17 he wouldn't go?

18 A No.

19 Q Did you know him very well?

20 A I knew of him and I spoke to him but we
21 didn't have a good friendship or anything, no.

22 Q Did you have any conversations with him about
23 his attitude toward Houston?

24 A Yes, several times.

25 Q And did he like Houston?

1 A No.

2 Q Did you do anything to encourage him not to
3 like Houston?

4 A No.

5 Q Several days before this incident you were
6 with Kim and you made some statement about Houston?

7 A Yes.

8 Q What do you recall about that incident, how
9 it arose and how it came about?

10 A On that particular day Houston was ringing my
11 phone off the hook, he had a habit if I wouldn't
12 pick it up and answer right away he would call me
13 back to back, and my phone kept ringing and he
14 asked me who it was, PJ did, and I told him it was
15 Houston. And it kind of made him mad a little bit,
16 I guess kind of got things boiling in his mind but
17 he just made the statement off the top of his head
18 he would like to kick his ass.

19 Q Did you take him seriously?

20 A No.

21 Q Did you believe he would ever do it?

22 A No.

23 Q And Kim was there at that time?

24 A Yes.

25 Q And after you all, after you left Kim's house

1 that day did you have any further contact with him,
2 with Paul Morris?

3 A No.

4 Q Did you ever call him anymore?

5 A No.

6 Q Did he ever call you?

7 A No.

8 Q The testimony has been that Shawn and Jenna
9 spent the night or Shawn spent the night at your
10 house a fair amount of time?

11 A Yes, he did.

12 Q Jenna said several weeks, he didn't quite say
13 that much, but was he there a good bit?

14 A Yes.

15 Q Was it unusual for him to be there?

16 A No.

17 Q And did you know he was going to be there on
18 that Sunday night?

19 A Yes.

20 Q How long had he been there before that?

21 A Probably a couple weeks.

22 Q A couple weeks? So, was he staying there
23 when you were up at Kim's two or three days before
24 this?

25 A Yes.

1 Q And was there any indication that he was
2 going to be leaving anytime soon?

3 A No.

4 Q On Sunday the 15th of July did you ever do
5 anything to tell Jenna or Shawn Duty to leave the
6 house and be gone for any time?

7 A No, I did not.

8 Q What happened there that Sunday night?

9 A Sunday night, Houston had cooked, and first
10 he had went to a funeral, he came back and cooked,
11 he said he needed to run to the rock quarry, he
12 wanted to set out some turtle hooks, so he left and
13 said that we would spend the day together when he
14 came back, and we did.

15 Q All right. And you all sat around and
16 watched movies that night?

17 A Yes.

18 Q Anything unusual happen that evening?

19 A No.

20 Q Did you ever make any telephone contact with
21 Paul Morris that evening?

22 A No.

23 Q The next morning, tell us what happened.

24 A Houston came in around five minutes to 6:00
25 to kiss me good-bye, he was going to work. I heard

1 the front door open, I did hear bumping, thumping
2 around but my first assumption was it was the dog.
3 We had a pit bull who thought every time the front
4 door opened that was his cue to come in. So I
5 thought it was Houston shooing the dog outside.
6 Then I heard Houston's voice so I got up, and when
7 I came --

8 Q What did you hear him shout?

9 A "Get my gun and call 911."

10 Q Was there a gun in the bedroom?

11 A No.

12 Q What happened then?

13 A I opened the door and I proceeded to come
14 down the hallway and Houston turned to talk to me
15 and when he did PJ jerked him back and they went to
16 the ground.

17 Q Did you hear anything at that point?

18 A I did.

19 Q What did you hear?

20 A I heard, I heard his neck snap.

21 Q And what did Houston do at that point?

22 A He went limp.

23 Q Did you recognize the person who had him?

24 A Yes.

25 Q Did you think the person would have done

1 that?

2 A No.

3 Q What was your state of mind at that point?

4 A I was in shock.

5 Q Did you have any fear of Paul Morris at that

6 point?

7 A Up until that day, no, but at that point yes.

8 Q Is he a big guy?

9 A Very big.

10 Q What did you tell your daughter and Shawn?

11 A To stay down and stay out of sight .

12 Q What was the purpose of telling them that?

13 A So they would not be seen.

14 Q Did they know PJ?

15 A Yes.

16 Q Do you know if he saw them there?

17 A Yes.

18 Q Did you make a 911 call?

19 A No, I did not.

20 Q Did you pretend to?

21 A Yes.

22 Q What was the reason for really not making

23 one?

24 A The phone call at that point would not have

25 done any good. It was my belief that Houston was

1 already dead.

2 Q If you had called the police at that time did
3 you know what Paul Morris would have done?

4 A No.

5 Q Were you apprehensive, concerned about him?

6 A Yes.

7 Q And why was that?

8 A Because there was children in the home and I
9 just had witnessed my husband be killed; I didn't
10 know what was going to happen next, I panicked, but
11 I believed that we were in danger.

12 Q So you went from -- you were there in that
13 situation. What was the next thing you did?

14 A The kids asked me what was going on and I
15 repeated a story that Houston had told me about the
16 Mexican mafia.

17 Q Was that people you commonly talked about?

18 A No.

19 Q Something you have heard about from other
20 people?

21 A No.

22 Q Just Houston?

23 A Just him.

24 Q And what did you do then?

25 A I told them the story, that Houston believed

1 that there was a local drug ring and that Kim was
2 part of it and that he was working in conjunction
3 with Ricky Chastain to take them down, he
4 apparently had rolled over on the wrong person and
5 that was the reason why.

6 Q That was all made up?

7 A Yes.

8 Q What did you do after you told them that,
9 stay down?

10 A I went back to the bedroom.

11 Q All right. Then what?

12 A PJ was bent over checking for a pulse with
13 Houston and I checked for a pulse and I couldn't
14 get one.

15 Q Did there come a time when you observed
16 something about PJ that gave you more concern?

17 A Yes.

18 Q What was that?

19 A He was wearing gloves.

20 Q All right. What did you do after you
21 realized that Houston was in fact dead?

22 A I made the decision to remove Houston out of
23 the house.

24 Q And why was that decision made?

25 A Because Paul was still in the house with me

1 and the kids. I thought, again, that they were in
2 harm's way and it was my poor judgment but I had to
3 get him out of the house.

4 Q What did you all do?

5 A Put Houston in his truck.

6 Q And how far did you go?

7 A To the bridge about a mile away.

8 Q And what did you do at that point?

9 A I turned around on the bridge while PJ drove
10 the truck off the side of the road.

11 Q Why so close to the house?

12 A I was hoping he would be found soon.

13 Q Then what did you do?

14 A I took PJ up the road to the store and let
15 him out.

16 Q And what was up there?

17 A Kim's vehicle.

18 Q About how far away is the store from your
19 house?

20 A About a mile.

21 Q Did you have any indication that PJ Morris
22 was going to be at your house at 6:00 o'clock in
23 the morning on July the 16th, on the morning of
24 July 16?

25 A He told me he was coming but I didn't believe

1 him.

2 Q Did you have any anticipation he would
3 actually show up?

4 A No.

5 Q Did you intend for him to show up?

6 A No.

7 Q Did you want him to show up?

8 A No.

9 Q Now, after you were gone, about how long
10 before you came back?

11 A Probably five minutes or so.

12 Q And when you came back did you have any
13 further conversations with your daughter and Shawn?

14 A Yes.

15 Q What did you basically tell them then?

16 A Not to say anything to anyone about what had
17 happened.

18 Q You didn't call the police at that point?

19 A No.

20 Q PJ was gone?

21 A Yes.

22 Q He wasn't any danger to you?

23 A No.

24 Q Any reason you didn't call at that point?

25 A Still afraid.

1 Q Had you had any communication with PJ Morris
2 from the time you left Kim Alexander's house, PJ's
3 house three or four days before this, until the day
4 of this incident?

5 A No.

6 Q Did you ever call him at anytime?

7 A No.

8 Q Have you looked, I believe pursuant to
9 discovery from the government did you look at the
10 phone record for PJ Morris?

11 A Yes.

12 Q Have you looked on there? When is the first
13 phone call that you have to that number? First of
14 all who lives at that number?

15 A His parents and him.

16 Q Okay. Have you found your phone number?
17 What is your phone number?

18 A 200-9831.

19 Q And when is the first phone call on there
20 from your number?

21 A On the 10th of July.

22 Q All right. Is there any, between the 10th of
23 July and the 16th of July, or 17th of July, are
24 there any phone calls on there from your number to
25 Paul Morris' number?

- 1 A On the 13th.
- 2 Q All right. That is three days before?
- 3 A Yes.
- 4 Q Any others beside that one?
- 5 A No, sir.
- 6 MR. WISE: We would like to move to introduce
7 this.
- 8 MR. FLEMING: No objection.
- 9 THE COURT: It's in evidence.
- 10 BY MR. WISE:
- 11 Q Were there any calls made to Paul Morris the
12 early morning hours of the 16th?
- 13 A No, sir.
- 14 Q The government entered an exhibit that talks
15 about the insurance on it. Here it is. I hand you
16 this basically certified file or whatever you call
17 it concerning the insurance. Have you seen that
18 before today?
- 19 A Yes.
- 20 Q All right. And when did you see it?
- 21 A You and I went over it.
- 22 Q Okay. Did you know how much insurance was on
23 Houston Fuller?
- 24 A Not exactly.
- 25 Q What had traditionally been the amount of

1 insurance he carried?

2 A Three times his yearly salary.

3 Q That would have been about how much?

4 A About 180,000 or so.

5 Q Okay. Have you looked at those documents in
6 there?

7 A Yes, sir.

8 Q Have you been able to calculate in there
9 anywhere 600 something thousand dollars?

10 A No.

11 Q And still don't see it?

12 A No.

13 Q Now, after the incident the police questioned
14 you?

15 A Yes.

16 Q Some week or two later?

17 A Yes.

18 Q Did you make any incriminating statements at
19 that point?

20 A No, I did not.

21 Q When was the first time you made an
22 incriminating statement?

23 A On August the 7th.

24 Q Excuse me?

25 A August the 7th.

1 Q How did that come about?

2 A They had called me to come in for
3 questioning.

4 Q All right. What did they tell you?

5 A Basically that they knew Houston did not die
6 in the truck.

7 Q Uh-huh.

8 A They knew that there had been an altercation
9 at the house. They knew that I had followed his
10 vehicle out of the yard, they said they had
11 witnesses who would testify that they saw Houston's
12 truck leaving.

13 Q Did you know who that was?

14 A Yes.

15 Q And who was it?

16 A Paul.

17 Q Who?

18 A Paul Morris.

19 Q Do you know who it was that had given them
20 that statement about what happened in the house?

21 A Yes. It was Jenna.

22 Q Did you know it was Jenna or figured it out?

23 A I figured it out that it was Jenna.

24 Q Okay. And at that point how did you feel?

25 A I was relieved.

1 Q Why was that?

2 A Because she was the only one that did
3 anything right. She called the police when I
4 should have and I didn't.

5 Q And you gave the police a statement?

6 A Yes.

7 Q Was that statement recorded or anything or do
8 you know?

9 A No.

10 Q What was your emotional state at the time you
11 gave that statement?

12 A I felt remorse and a lot of regret.

13 Q Did they ever come back later and you give a
14 more detailed statement or anything?

15 A No.

16 Q If you would, tell us, you said you and
17 Houston had good days and bad days?

18 A Yes.

19 Q More good days than bad days or the other way
20 around?

21 A It probably equaled out.

22 Q How did you all, I guess, exist in this
23 relationship?

24 A He was a very forgiving man. I know I put
25 him through a lot but he just wasn't willing to

1 quit.

2 Q Would you have ever done anything to harm
3 him?

4 A No.

5 Q Would you ever have done anything to cause
6 his death?

7 A No.

8 Q Did you ever deal with Paul Morris in a
9 manner in which you encouraged him to come do harm
10 to Houston, request him to come do harm to Houston
11 or anything like that?

12 A No.

13 Q Did you ever have any plan with Paul Morris
14 about it?

15 A No.

16 Q Do you know Libby Price?

17 A Yes, I do.

18 Q How long have you known her?

19 A She was right pretty much -- about thirty
20 years or so.

21 Q January, February, did you drive up to her
22 house and ask her to get a hit man for you?

23 A No, I did not.

24 Q She did file for custody of Jenna right after
25 this happened?

1 A Yes, she did.

2 Q What happened in Jenna's custody?

3 A It went to my ex sister-in-law.

4 Q You wanted her?

5 A Yes.

6 Q Would you have ever consented for her to go
7 with Libby Price?

8 A No.

9 Q Even though you had known her that long?

10 A No, I would not.

11 MR. WISE: Thank you. Answer any questions
12 Mr. Fleming may have.

13 THE COURT: Cross-examination?

14 MR. FLEMING: Yes, sir, Your Honor. May it
15 place the Court.

16 CROSS EXAMINATION

17 BY MR. FLEMING:

18 Q Miss Fuller, you stated that you were in the
19 military for about ten years?

20 A Yes, sir.

21 Q Okay. You were a supply sergeant?

22 A Yes, sir.

23 Q Okay. Did you have any kind of training,
24 special training while you were in the Army?

25 A Hand to hand combat, physical training, yes.

1 Q You were well versed in hand to hand combat?

2 A It was required, yes.

3 Q You stated that you came to know Houston
4 while he was working at Vulcan Materials. Is that
5 correct?

6 A Yes, sir.

7 Q Okay. Were you working there at the same
8 time?

9 A Yes, sir.

10 Q Okay. How long did you work for Vulcan?

11 A From '96 to 2003.

12 Q Okay. And why did you leave Vulcan?

13 A I was fired.

14 Q For what reason?

15 A I'm assuming personal reasons with Houston
16 but it never was elaborated.

17 Q Nobody ever told you why you were fired?

18 A Just they didn't need my position anymore.

19 Q Okay. You and Houston, you started going out
20 around 2000?

21 A Somewhere in that area, yes.

22 Q Okay. And you all were married in May of
23 2005?

24 A Yes.

25 Q When did you exactly start seeing Kim

1 Alexander?

2 A An exact date I can't give you. Probably
3 around 2002 or 2003, somewhere in that
4 neighborhood.

5 Q Okay. With the 2005 incident when you stated
6 Houston had the gun and you were trying to take the
7 gun away from him and Kim Alexander got hit in the
8 face, was that an intentional act by Houston?

9 A No.

10 Q Those charges were dropped, weren't they?

11 A Yes, sir.

12 Q How long after that 2005 incident did Paul
13 Morris come to town?

14 A I'm assuming somewhere in 2006.

15 Q Okay. Early 2006?

16 A I don't know.

17 Q You stated that Houston just really worked at
18 this marriage, that he didn't want to let you go.
19 Correct?

20 A That's true.

21 Q Because he loved you?

22 A Yes, sir.

23 Q You met Paul for the first time in 2006, is
24 that correct?

25 A Yes, it is.

1 Q And it was through Kim that you met him?

2 A Yes, sir.

3 Q How often did you go around Paul?

4 A I went around Kim just about every day and if

5 PJ was at home he was in the house.

6 Q You were never frightened of him?

7 A Not up until that day, no.

8 Q You stated that on this date it happened PJ

9 was wearing gloves?

10 A Yes, sir.

11 Q It wasn't cold outside that day, was it?

12 A No.

13 Q You stated to Mr. Wise that on, I guess it

14 was the 13th there was a call between you and Paul

15 Morris. Is that correct?

16 A It was to Paul's residence. Now, whether it

17 was actually to him, I can't testify to that, I

18 don't know who I talked to that day. Sometimes

19 his mother answered, sometimes Kim answered.

20 Q The day or the morning that this incident

21 happened what room were you in?

22 A The back bedroom.

23 Q Your bedroom?

24 A The back bedroom.

25 Q The back bedroom, okay. Did you all have a

1 habit of having friends come over at 6:00 in the
2 morning?

3 A No.

4 Q In fact in your statement that you gave to
5 the police Paul Morris had told you that, or he had
6 learned about what had happened on that 2005
7 incident and stated that he was upset and mad and
8 he made the statement that he would beat his ass
9 for that. Is that correct?

10 A Yes, it is.

11 Q Do you recall about what time he made that
12 statement?

13 A He made several statements like that.

14 Q Okay. When was the first time he made a
15 statement like that?

16 A I'm not sure.

17 Q Okay. Was it months prior, weeks prior?

18 A It wasn't uncommon for him to just say it,
19 anytime my phone rang and it would be Houston
20 something would pop out of his mouth. It wasn't
21 uncommon.

22 Q Had Paul Morris ever been over to your house
23 at 6:00 in the morning?

24 A No.

25 Q And actually in your statement you also

1 stated that the week prior to Houston being
2 murdered you talked to Paul Morris and he told you
3 to make sure the kids were out of the home on that
4 Monday so he could jump him. Is that correct?

5 A Yes.

6 Q So, tell us again when Morris came through
7 the front door what did you do?

8 A I came out of the bedroom when I heard
9 Houston's voice. I didn't know anybody was
10 actually in the house until I saw them in the
11 hallway.

12 Q Saw who in the hallway?

13 A Houston and PJ.

14 Q Right away you knew it was Paul Morris?

15 A Yes, sir.

16 Q And what was Houston saying?

17 A He told me to get the gun and call 911.

18 Q Uh-huh. What did you do?

19 A I went toward them.

20 Q Uh-huh.

21 A They were blocking the hall. Houston turned
22 to talk to me and PJ snatched him back.

23 Q Then what happened?

24 A They fell to the floor and I went into the
25 living room.

- 1 Q Okay. Was Houston still hollering?
- 2 A No.
- 3 Q Were they still scuffling?
- 4 A No.
- 5 Q So, everything had stopped at that point in
6 time?
- 7 A Yes, sir.
- 8 Q And that is the first time you went into the
9 living room?
- 10 A Yes.
- 11 Q What did you do when you came out of the
12 living room?
- 13 A I went to the bedroom where they were.
- 14 Q And what did you do?
- 15 A I checked his pulse, I couldn't find one, I
16 rolled him over, he was still face down.
- 17 Q Where did you check his pulse?
- 18 A On his neck.
- 19 Q Okay. What did you do then?
- 20 A That's when I made the decision to get him
21 out of the house.
- 22 Q So it was your decision to take him and put
23 him in the truck and take him down to the bridge?
- 24 A Yes, sir.
- 25 Q At what point in time did you bring Paul

1 Morris a bottle of water?

2 A It wasn't actually just for he, I had some
3 Xanax in the bedroom and so I went to get the water
4 and I took some and gave him some.

5 Q You all were both doing Xanax at the time?

6 A I'm not going to say doing Xanax but yes, I
7 took some for my nerves.

8 Q Okay. You cleaned up the lasagna that
9 spilled everywhere?

10 A Yes.

11 Q Blood on the floor?

12 A I didn't see any blood.

13 Q What did you do after you decided that you
14 would take Houston's body and put it in his truck
15 and take it to the bridge?

16 A I followed him down the road.

17 Q Okay. Let's back up a little bit. When you
18 were in the living room with your daughter and her
19 boyfriend what did you tell them while you were in
20 there?

21 A That to stay down, stay out of sight, that it
22 was the Mexican mafia.

23 Q Okay. At that point in time did you make the
24 phone call, the 911 phone call?

25 A I pretended to make the call, yes.

- 1 Q The first time you went in there?
- 2 A Yes.
- 3 Q Actually you weren't calling 911, were you?
- 4 A No, sir, I did not.
- 5 Q Then you all went and got Houston's body and
6 put it in the truck, Paul Morris drove him down to
7 the bridge and pushed it down the hill. Is that
8 correct?
- 9 A Yes, it is.
- 10 Q What did Paul do after, after you, after he
11 pushed the truck down the hill?
- 12 A He waited for me to pick him up.
- 13 Q Okay. What did you do with him after you
14 picked him up?
- 15 A I took him to the store.
- 16 Q What store was that?
- 17 A Saveway on Highway 76.
- 18 Q Did you let him out?
- 19 A Yes, I did.
- 20 Q Then you went back home?
- 21 A Yes.
- 22 Q Later that day Paul Morris and Kim Alexander
23 came over to your house?
- 24 A Yes, they did.
- 25 Q That afternoon?

1 A In that evening.

2 Q What did you all do?

3 A She came as a confidant and friend. She had
4 heard -- she didn't know anything about it when she
5 got there. I had told PJ we weren't to discuss it,
6 Kim knew nothing. Me and PJ didn't discuss
7 anything in front of her.

8 Q Okay. Did you all tell everybody you had
9 been out looking for Houston?

10 A Yes, I did.

11 Q Actually you hadn't?

12 A No. I had earlier that day but I did not
13 with them.

14 Q Okay. So you went out looking for Houston
15 even though you knew where his body was at?

16 A Yes, sir.

17 Q Okay. Had you been drinking?

18 A Yes.

19 Q After or sometime during that afternoon you
20 actually did make a call to 911, didn't you?

21 A Yes.

22 Q And what was your statement to them at that
23 time?

24 A That I was reporting a missing person.

25 Q You could have easily told them that there

1 was an accident and he had been killed and told
2 them where to find his body, which you didn't, did
3 you?

4 A No, sir.

5 Q You could have actually made an anonymous
6 phone call and let them know where Houston's body
7 was but you didn't, did you?

8 A No, sir.

9 Q In fact your original intention was to cover
10 this whole thing up, wasn't it?

11 A Yes.

12 Q But you didn't plan to kill Houston?

13 A No.

14 Q You previously made a statement to Libby
15 Price asking her did she know somebody that could
16 get rid of Houston or kill him?

17 A No, I did not.

18 Q You did expect to get some insurance money
19 off Houston's death, didn't you?

20 A Only because my husband was a responsible man
21 and we had discussed the fact that if anything ever
22 happened to him we would be taken care of.

23 Q No doubt he would have taken care of you, he
24 did. You expected to get money off his death,
25 didn't you?

1 A Sir, he took care of me when he was alive and
2 so I didn't expect anything less.

3 Q Let me show you State's Exhibit 28 here. Is
4 that your statement you gave?

5 A Yes, sir.

6 Q You signed it?

7 A Yes.

8 Q Okay. How did you sign it?

9 A Teresa Blakely.

10 Q You didn't even sign Teresa Fuller, did you?

11 A No, sir.

12 Q That was less than a month after his death?

13 MR. FLEMING: I have no further questions,

14 Your Honor.

15 THE COURT: Redirect?

16 MR. WISE: Just a few.

17 REDIRECT EXAMINATION

18 BY MR. WISE:.

19 Q Why did you sign it Blakely? Had you
20 completely taken the last name Fuller?

21 A Yes, sir.

22 Q Okay. What was your daughter's last name?

23 A Blakely.

24 Q All right. How far is it to get to Kim
25 Alexander's house?

1 A About fifteen, sixteen miles.

2 Q How long does it take to get there?

3 A About twenty minutes.

4 Q And did Kim know what time Houston left?

5 A Yes.

6 Q Did she know that from living there with --

7 A He had had the same job for several years,
8 yes.

9 MR. WISE: Thank you.

10 MR. FLEMING: Nothing further, Your Honor.

11 THE COURT: All right. Thank you, Miss
12 Fuller, you can step down.

13 MR. WISE: The defense rests, Your Honor.

14 THE COURT: All right.

15 (Witness excused).
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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith Jr., Circuit Court Judge

Case No. 2009-GS-30-1790

The State, Respondent,

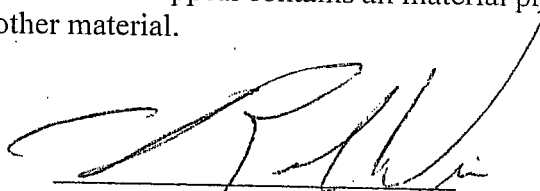
vs.

Teresa Blakely Appellant

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 30th, 2012



C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
S.C. Bar No. 00188

Attorney for Appellant