

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

R. Keith Kelly, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ALTON JAMAUL CROSBY,

APPELLANT

APPELLATE CASE NO 2017-000282

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Alton Jamaul Crosby,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2016-GS-42-2403
)
) February 8, 2017
) Spartanburg, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, JUDGE; and a jury

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

SPENSER HOLLORAN SMITH, ESQUIRE
Attorney for the State

CHARLES WILLIAM SNYDER, III, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

Jury qualification

1 (Proceedings February 8, 2017)

2 (The following takes place in the presence of the jury
3 venire.)

4 THE COURT: Good morning, ladies and gentlemen. Good
5 to have you back with us this morning.

6 We here on the next case, which is Indictment
7 2016-2403 where it is alleged that Mr. Alton Jamaul Crosby
8 did commit the offense of assault and battery of a high and
9 aggravated nature and that this occurred in Spartanburg
10 County, South Carolina, on or about December 31 of 2015.

11 I have told you previously about indictments, and I
12 say again, and I will repeat it more than once, that the
13 indictment is nothing more than a piece of paper which
14 brings him before the Court.

15 It is not evidence of any guilt whatsoever against
16 him. He has entered a plea of not guilty to the
17 indictment, and he is presumed not guilty. The burden
18 always remains with the State of South Carolina to prove
19 his guilt beyond a reasonable doubt.

20 Ladies and gentlemen, you were previously sworn, and
21 you remain sworn.

22 Once again, there are certain questions that I must
23 ask at this time.

24 First of all, Mr. Crosby, would you please stand and
25 face the jury just for about 30 seconds?

Opening statements

1 to sit in that chair. That's all it means. And when I'm
2 sitting, it means I don't want to stand. It means nothing
3 else.

4 Anything from the state?

5 MR. SMITH: No, Your Honor.

6 THE COURT: From the defense?

7 MR. SNYDER: No, sir.

8 THE COURT: Ready to go gentleman?

9 MR. SMITH: Yes, Your Honor.

10 THE COURT: solicitor.

11 MR. SMITH: Good morning. My name is Spencer Smith.
12 This should be a very short case. It happened back on
13 December 31st of 2015.

14 You're going to get to see a video of the entire
15 incident, so it makes my job a little bit easier. You're
16 going to hear from Mr. Vinson who runs the Mission. It's a
17 homeless shelter here in Spartanburg County. And you're
18 going to hear from Officer Shanetta Thompson who has been
19 sitting next to me. She works for the Spartanburg City
20 Police. She's the person who responded to the scene,
21 observed it, observed the victim in the hospital and
22 ultimately arrested Mr. Crosby.

23 The charge is assault and battery of a high and
24 aggravated nature. What the state has to prove, what we
25 intend to prove today, is that Mr. Crosby unlawfully

Opening statements

1 injured Dennis Talford at the Mission in Spartanburg County
2 back on December 31st and that that injury was accomplished
3 by means likely to produce great bodily injury or death.

4 The video tape will show you that he struck him
5 multiple times in the head and then put him in a sleeper
6 hold and dropped him down a flight of stairs. That's
7 basically what the evidence will show. I just ask for your
8 attention. Thank you.

9 MR. SNYDER: Good morning. As I told you earlier, my
10 name is Chad Snyder. I represent Mr. Crosby.

11 The solicitor is correct. This is a trial involving
12 assault and battery of a high and aggravated nature.

13 However, Mr. Crosby did not bring about that -- that
14 fight. He was minding -- he was walking in a hallway, and
15 he was hit.

16 The solicitor told you you will see a video. You will
17 see a video. You can see for yourself that he was merely
18 defending himself.

19 As you probably heard, there is a defense of
20 self-defense which is applicable in this case you'll hear
21 more about later. I ask you to pay close attention to the
22 witnesses, pay close attention to the video. And you'll
23 see that Mr. Crosby was merely defending himself. Thank
24 you for your attention, and I look forward to talking to
25 you later.

Calvin Vinson
Direct examination by Mr. Smith

1 MR. SMITH: The state calls Calvin Vinson.

2 (C.D. marked State's Exhibit No. 1 for Identification;
3 photographs marked State's Exhibit No. 2 for
4 Identification.)

5 CALVIN VINSON, having been
6 first duly sworn, testified as follows:

7 THE COURT: Sir, tell us your name, and spell your
8 last name for madam court reporter, please.

9 THE WITNESS: Calvin Vinson, V-I-N-S-O-N.

10 THE COURT: Thank you, sir.

11 DIRECT EXAMINATION BY MR. SMITH

12 Q Good morning, Mr. Vinson. Where do you work?

13 A Miracle Hill Rescue Mission.

14 Q And what is your -- is your job there?

15 A I'm the director.

16 Q Is the business located in Spartanburg County?

17 A It is.

18 Q What is your job as the director?

19 A It's to oversee the day-to-day operations at 189 North
20 Forest Street.

21 Q Okay. How long have you been doing that?

22 A Thirteen years.

23 Q Does -- does the facility have surveillance cameras
24 that are set up inside?

25 A We do.

Calvin Vinson
Direct examination by Mr. Smith

1 Q Do you remember where this incident occurred back on
2 December 31st of 2015?

3 A I do -- I do.

4 Q Where was that?

5 A It was in a stairwell just off from our dining hall
6 and our laundry room.

7 Q Okay. Mr. Crosby. Was he staying with you at that
8 time?

9 A He was.

10 Q And how about Mr. Talford?

11 A He was also, yes, sir.

12 Q Do you remember how long they had been staying there?

13 A I fail to recall.

14 Q Okay. But both were residents at the time?

15 A At the time, yes.

16 Q How did you find out about this incident?

17 A One of our other guests came to me and said that there
18 had been an incident and that Mr. Crosby was involved.

19 Q Okay. Did you go to the scene where it had happened?

20 A No. He was -- by that time Mr. Crosby was standing in
21 line waiting to eat supper, and so I approached him in the
22 line.

23 Q Did you speak with him?

24 A I did. I asked him. I said there's an incident,
25 there's been an incident and they tell me you had something

Calvin Vinson
Direct examination by Mr. Smith

- 1 to do with it, at which point he said to me he didn't know
2 anything about any incident.
- 3 Q Okay. Did the police eventually arrive?
- 4 A They did.
- 5 Q Did you speak with them?
- 6 A I did. I spoke with Ms. Thompson.
- 7 Q I'm going to hand up what's been previously marked to
8 you as State's Exhibit 1 and ask if you can identify what
9 this is.
- 10 A That would be -- that would be a D.V.D. that would be
11 taken off of our surveillance cameras.
- 12 Q Okay. Is this -- did we watch this before the trial,
13 you and I?
- 14 A Yes, we did.
- 15 Q Does this accurately depict what happened in the
16 stairwell on December 31st between Mr. Talford and
17 Mr. Crosby?
- 18 A It does.
- 19 Q Okay. Did you observe? Did you ever go to the scene
20 and see -- see anything? Did you go to the stairwell and
21 see anything?
- 22 A I did. At that point Mr. Talford was laying on the
23 stairwell bleeding.
- 24 Q Okay. Was -- where was he bleeding from?
- 25 A I couldn't tell at the moment. He was bleeding

Calvin Vinson
Direct examination by Mr. Smith

- 1 somewhat profusely --
- 2 Q Okay.
- 3 A -- until we called an ambulance.
- 4 Q Was there blood?
- 5 A Everywhere, yeah.
- 6 Q Everywhere.
- 7 A All up and down the stairwell.
- 8 Q Okay. Did he tell you anything or was he --
- 9 A He wasn't real coherent at that time, so he didn't
- 10 give me much information at all.
- 11 Q Okay. And then what happened when the police arrived?
- 12 A The police arrived. They went and they, I guess,
- 13 talked with Mr. Crosby in our dining facility.
- 14 Q You were there when that happened?
- 15 A No, I wasn't.
- 16 Q Okay.
- 17 A I was upstairs with Officer Thompson.
- 18 Q And did they ultimately ask you to view the video?
- 19 A Yes, sir.
- 20 Q Did you view it with Mr. Thompson, Officer Thompson?
- 21 A Right.
- 22 Q Is that basically your involvement in this -- in this
- 23 matter?
- 24 A That was pretty much it. After that it was a police
- 25 matter.

Calvin Vinson
Cross-examination by Mr. Snyder

1 Q Okay.

2 MR. SMITH: I don't have any further questions for

3 Mr. Vinson.

4 THE COURT: All right. Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. SNYDER

7 Q Mr. Vinson, did Mr. Talford go to the hospital?

8 A I believe he did, yes, sir. In fact, I think he was

9 kept overnight.

10 Q Okay.

11 MR. SNYDER: I have no further questions.

12 MR. SMITH: Your Honor, I'd like to move this into

13 evidence as State's Exhibit 1.

14 THE COURT: Any objection?

15 MR. SNYDER: Without objection.

16 THE COURT: Without objection.

17 (C.D. marked State's Exhibit No. 1.)

18 MR. SMITH: I don't have any further questions for the

19 witness.

20 THE COURT: Okay. Sir, you may step down.

21 MR. SMITH: The state calls Officer Shanetta Thompson.

22 Your Honor, can Mr. Vinson go back to work?

23 THE COURT: Any objection to him being released?

24 MR. SNYDER: No.

25 (Whereupon, the witness was excused.)

Shanetta Thompson
Direct examination by Mr. Smith

1 SHANETTA THOMPSON, having been
2 first duly sworn, testified as follows:

3 THE COURT: Officer, tell us your full name, and spell
4 your last name for madam court reporter, please.

5 THE WITNESS: My name is Shanetta Thompson. My last
6 name is T-H-O-M-P-S-O-N.

7 THE COURT: Thank you, Officer.

8 Yes, sir.

9 DIRECT EXAMINATION BY MR. SMITH

10 Q Officer Thompson, where are you employed?

11 A I'm employed at the Spartanburg City Police
12 Department.

13 Q How long have you been there?

14 A I've been there since May of 2014.

15 Q what's your job title there?

16 A I'm a patrol officer in the city.

17 Q what does a patrol officer do?

18 A A patrol officer does everything on officer duties.
19 Every instant, as according to the city I can handle, is
20 patrol zone within the city.

21 Q So you -- do you respond to calls?

22 A calls for service, yes.

23 Q Is that most of what you do?

24 A Yes. I respond to calls for service.

25 Q Okay. Did you get the call for service on New Year's

Shanetta Thompson
Direct examination by Mr. Smith

- 1 Eve back in 2015?
- 2 A Yes, I did.
- 3 Q And where was that call from?
- 4 A It was 189 North Forest Street, which is the Mission
5 in the city limits of Spartanburg.
- 6 Q That's also in Spartanburg County?
- 7 A Yes, sir.
- 8 Q What did you observe when you arrived on scene?
- 9 A When I arrived on scene the first thing I saw was
10 E.M.S. outside. And when I identified it was Mr. Talford
11 on the stretcher. And Mr. Talford was bleeding profusely,
12 and that's why E.M.S. had to go ahead and rush him to the
13 hospital. So I was only able to get his name, and then he
14 went on with E.M.S. to the hospital.
- 15 Q Could you notice anything about his injuries in the
16 brief time you were with him?
- 17 A All I can see is that he did have visible injuries to
18 his face, his head area, his nose area and his mouth area.
- 19 Q Okay. And then you went on in inside?
- 20 A Yes.
- 21 Q What did you do once you got inside?
- 22 A First thing I did was a male approached me and said
23 that the person that did it was in line in the supper area.
24 So as soon as I went there he pointed out Mr. Crosby. And
25 I approached Mr. Crosby as he was in the supper line,

Shanetta Thompson
Direct examination by Mr. Smith

1 identified myself, and I asked him if I could speak with
2 him privately. He agreed. We went to the room over, and I
3 told him why I was there, investigating an assault that
4 just occurred.

5 Q Do you remember what he was wearing?

6 A Yes. He was wearing a green shirt that had white
7 writing on it, and he had some tan pants, tan or beige
8 pants.

9 Q Okay. And you said he denied any involvement in what
10 you were talking about?

11 A Yes. When I told him I was there for an assault he
12 said he didn't know what I was talking about, and I said
13 okay. I said, well, you can just stand here. I had two
14 officers with me. And I said, well, you can just stand
15 here with these two officers, I'm going to view the video.
16 I said but at this point right now you're being detained
17 being that you was pointed as the alleged suspect for this
18 incident.

19 Q Okay. And then did you end up going and watching the
20 video?

21 A Yes. I left and went to speak with Mr. Vinson, and
22 Mr. Vinson and I watched the video together.

23 Q Okay. And we're going to play the video. But
24 after -- after watching the video, what did you do then?

25 A After watching the video with Mr. Vinson I went back

Shanetta Thompson
Direct examination by Mr. Smith

1 to where the two officers were with Mr. Crosby. And I
2 informed Mr. Crosby that now he was placed under arrest for
3 assault and battery of a high and aggravated nature.

4 Q And did he make any statements after that?

5 A No, no, sir. He just stated he didn't know what was
6 going on.

7 Q Okay. What did you do after you got done at the -- at
8 the Mission and with Mr. Crosby?

9 A Okay. I placed Mr. Crosby in handcuffs, secured him
10 in my patrol vehicle. And I personally took him to the
11 county jail where he was booked in.

12 After I booked him in I went to the hospital to speak
13 with Mr. Talford and checked on him. He was being treated
14 for his injuries, where Mr. Talford gave me -- he stated he
15 didn't know what was going on it all happened so fast. So
16 being that he did possibly have some head trama, he went
17 and gave me consent to get his medical records, and I
18 retrieved his medical records.

19 After speaking with Mr. Talford I completed the
20 incident report, went and talked to a judge and sought an
21 arrest warrant for assault and battery of a high and
22 aggravated nature against Mr. Crosby.

23 Q Did you take pictures of him?

24 A I did take pictures of Mr. Talford.

25 Q I'm going to hand up what's been marked as State's

Shanetta Thompson
Direct examination by Mr. Smith

1 Exhibit 2 and ask if you can identify what these are.

2 A Yes. These are the pictures that I took at the
3 hospital. This is after Mr. Talford has been treated upon
4 my arrival. So he already had the staples placed in his
5 head. He already had the laceration on his nose, like it
6 cleaned up. But you still can see the visible blood on his
7 head and his face area.

8 Q Were you able to speak with him at that point, or he
9 was more oriented at that point or --

10 A Yes. He was able to speak. He was alert. He just
11 stated that the incident happened so fast he wasn't sure as
12 to what happened to give me details.

13 Q Okay.

14 MR. SMITH: Your Honor, at this time I would request
15 permission to play the video to the jury and also publish
16 the pictures.

17 THE COURT: Are you moving that into evidence?

18 MR. SMITH: Yes, Your Honor. I'd also like to move
19 State's Exhibit 2 into evidence.

20 MR. SNYDER: Without objection.

21 THE COURT: Without objection it's admitted, and you
22 may publish.

23 (Photographs marked State's Exhibit No. 2.)

24 MR. SMITH: Your Honor, I just need to rearrange
25 things a little bit.

Shanetta Thompson
Cross-examination by Mr. Snyder

1 (Pause.)

2 (Whereupon, State's Exhibit No. 1 was played for the
3 jury.)

4 Q Is that --

5 A That is Mr. Crosby in the green shirt with the white
6 writing.

7 Mr. Talford is going to be in the blue shirt with the
8 beige pants coming up the stairway shortly.

9 (Whereupon, the video was completed.)

10 Q Let's do it the old-fashioned way.

11 (Whereupon, State's Exhibit No. 2 was shown to the
12 jury.)

13 Q Officer Thompson, does it appear to you that
14 Mr. Talford lost consciousness at the top of the stairwell?

15 A Yes, sir.

16 Q And he was let go down the stairs?

17 A Yes, sir. He was turned over and then let go, yes,
18 sir.

19 MR. SMITH: I don't have any further questions, Your
20 Honor.

21 CROSS-EXAMINATION

22 BY MR. SNYDER

23 Q Ms. Thompson, briefly. We just saw that video. I'm
24 sure you've seen it more than once.

25 A This is my third time seeing it, yes, sir.

Shanetta Thompson
Cross-examination by Mr. Snyder

1 Q So you saw that Mr. Talford was the one that initiated
2 the contact.

3 A Yes, sir.

4 Q He punched Mr. Crosby first.

5 A No, sir. He didn't punch him. It was more of a sway
6 matter. His hand didn't make contact with Mr. Crosby.

7 Q We can watch it again. He -- he swatted his hand out,
8 and then Mr. Talford punched him.

9 A Yes, sir.

10 Q Okay. Thank you.

11 A You are welcome, sir.

12 THE COURT: Anything at all?

13 MR. SMITH: No, Your Honor.

14 THE COURT: Ma'am, you may step down. Officer, please
15 be careful.

16 THE WITNESS: Yes, sir.

17 MR. SMITH: Your Honor, we do not have any more
18 witnesses at this time.

19 THE COURT: State rests.

20 MR. SMITH: Yes, Your Honor.

21 THE COURT: Okay. Mr. Foreman and ladies and
22 gentlemen of the jury, the state has now rested its case,
23 which means that it does not intend to call any more
24 witnesses at this time.

25 This is one of those times where I have to now take up

1 some rule matters or legal matters outside of your
2 presence. And it's a good time because we're right at
3 the -- where I was going to take a break anyway. I
4 don't -- I'm not going to keep you sitting there for more
5 than about 90 minutes at a time.

6 So having said that, we're going to excuse you to your
7 jury room so that you can refresh yourselves, get some
8 water. The coffee is very good. So get yourself a cup of
9 coffee if you like, or some water or whatever it might be.

10 Do not discuss the case. It is not ended at this
11 time, so it's not proper for you to discuss the case. But
12 at this time we're going to give you a little break.

13 Mr. Foreman, if you will, take your jury.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Any matters from the state?

17 MR. SMITH: No, Your Honor.

18 THE COURT: Any matters from the defense?

19 MR. SNYDER: Yes, sir. I do have one motion.

20 THE COURT: Okay. Yes, sir.

21 MR. SNYDER: Thank you, Judge.

22 At this time the defense would like to move for a
23 directed verdict based on a couple of things. The
24 indictment says the great bodily injury could have resulted
25 by repeatedly striking the victim in the head. It does not

1 mention the fact that he choked him resulting in great
2 bodily injury.

3 Moreover, we have no medical records to indicate that
4 it was likely to cause great bodily injury. We have not
5 heard any expert testimony from a doctor that could have
6 caused great bodily injury.

7 Therefore, the defense moves for a directed verdict
8 regarding assault and battery of a high and aggravated
9 nature, as well as the lesser included offense of assault
10 and battery in the first degree. Thank you, Judge.

11 THE COURT: solicitor.

12 MR. SMITH: Your Honor, as to the first point, the
13 indictment is just a notice document.

14 Mr. Snyder has reviewed the video. He knows what the
15 state's allegations were going to be in this case. There's
16 nothing new, evidence, presented, and that was the purpose
17 of the indictment.

18 As to the second, Your Honor, it's obvious on the
19 video that he loses consciousness and then is dropped down
20 a flight of concrete stairs. He's got pictures that show a
21 head injury and, obviously, obstruction of the airway. I
22 believe the jury could certainly infer it is likely to
23 produce great bodily injury or death. If you can't breathe
24 you can die.

25 THE COURT: well, the state in 16-3-600-(A)(1), great

1 bodily injury means bodily injury which causes a
2 substantial risk of death, or which causes serious,
3 permanent disfiguration or protracted loss of impairment of
4 the function of a bodily member or organ.

5 The victim in the video stands for what the video -- I
6 mean, it stands alone on its own merits. He -- he lost
7 consciousness. He was dropped, or I guess would be a
8 proper word -- dropped from the landing down the stairs
9 face first after he was turned around.

10 As to the striking repeatedly, again, the video stands
11 for what it -- says what it says. I mean, he was behind
12 him reaching over and slapping him and swinging a fist, a
13 closed fist. And we all know that a closed fist is
14 considered a deadly weapon.

15 So the motion is denied in this matter.

16 MR. SMITH: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MR. SNYDER: At the appropriate time I'd like to
19 review Mr. Crosby's record to see any impeachable offenses
20 he plans to use.

21 MR. SMITH: I've got it.

22 THE COURT: All right. Well, now is the appropriate
23 time.

24 MR. SMITH: Do you have his actual rap? I've got --

25 MR. SNYDER: I've got the record. I just want to see

Alton Jamaul Crosby
Examination by the Court

1 which ones you are planning on using.

2 MR. SMITH: The only one really on here is grand
3 larceny from 2001, but I'm not totally sure I will impeach
4 him with property crimes. I'm not planning on doing that.

5 (Pause.)

6 MR. SNYDER: Thank you.

7 THE COURT: All right.

8 MR. SNYDER: If I may have a moment to consult with my
9 client, I think he also needs to use the restroom.

10 THE COURT: Okay. Well, let's take about 15 minutes
11 while you consult with your client about whether or not he
12 wants to put up a defense. Let's take about 15 minutes
13 here.

14 (Whereupon, a recess was taken.)

15 THE COURT: Let's discuss. Let's see where we are.

16 ALTON JAMAUL CROSBY, having
17 first duly affirmed, was voir dired as follows:

18 THE COURT: You affirm. That's fine. Sir, remain
19 standing if you don't mind.

20 You are Mr. Alton Crosby.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Do you pronounce it Alton or Alton?

23 THE DEFENDANT: Either way.

24 THE COURT: Well, which way do you do it?

25 THE DEFENDANT: Both ways.

Alton Jamaul Crosby
Examination by the Court

1 THE COURT: Okay. Well, I have an uncle by that name,
2 and that's why -- he's deceased now, but he was Alton. I
3 just was trying to get it right for you.

4 So all right. Mr. Alton Crosby. Mr. Crosby, you are
5 in custody. Have you consumed any medication or substance
6 that interferes with ability to think clearly?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you know what you're doing here today?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. At this time, sir, I'm going to
11 explain certain rights that you have. But if you do not
12 understand something I say, please stop me and I'll allow
13 you to talk to your lawyer. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: We have reached the stage of this trial
16 where you may present your defense.

17 You have the right to claim protections given to you
18 by the Fifth Amendment to the Constitution of the United
19 States, which states, in part, no person shall be compelled
20 in any criminal case to be a witness against himself.

21 Also, sir, you have the right to claim protections
22 given to you by Article I, Section 12, of the South
23 Carolina Constitution which states, in part, no person
24 shall be compelled in any criminal case to be a witness
25 against himself.

Alton Jamaul Crosby
Examination by the Court

1 This means that you cannot be required to testify in
2 this case. You have the right to testify on your own
3 behalf, but no one can make you do so. This is a personal
4 right, and no one can waive the right except you.

5 If you decide to testify you will be subject to the
6 same rules that govern other witnesses, and you may be
7 examined and cross-examined on any relevant issue in this
8 case.

9 Additionally, if you have any convictions involving
10 dishonesty or false statement or for crimes punishable by
11 imprisonment for more than one year and this Court
12 determines the probative value of admitting the evidence
13 outweighs its prejudicial effect to you, the solicitor will
14 be able to introduce your record to attack your
15 credibility.

16 If you decide to testify this decision on your part
17 must be made freely, intelligently and voluntarily with
18 knowledge of the protections given to you by the
19 constitutions of the United States and the State of South
20 Carolina and the consequences of your decision to testify.

21 If you decide not to testify I will instruct jurors
22 they cannot give the fact that you did not testify any
23 consideration whatsoever and that there will be absolutely
24 no prejudice to you because you did not testify.

25 It is entirely your decision as to whether or not to

Alton Jamaul Crosby
Examination by the Court

1 testify. You may speak with your lawyer or anyone else,
2 but the final decision must be your decision to either
3 testify or not testify. Do you understand what I've
4 explained?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions about what I
7 have explained?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you discussed with your lawyer
10 whether or not you should testify?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you wish to talk to your lawyer at this
13 time?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right.

16 (Pause.)

17 THE COURT: Have you had sufficient time to speak with
18 your lawyer?

19 THE DEFENDANT: Yes, sir. I decided not to testify.

20 THE COURT: You will not testify. And that decision
21 is your decision, and your decision alone. Is that true?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. Thank you, sir.

24 The state rests at this time. I'm sorry. The defense
25 rests at this time?

Alton Jamaul Crosby
Examination by the Court

1 MR. SNYDER: Yes, sir.

2 Now that we're on record can we discuss the issue of a
3 defense?

4 THE COURT: Yes. Okay.

5 MR. SMITH: Your Honor, I don't -- Mr. Snyder in his
6 opening hinted that -- he said that Mr. Crosby didn't start
7 the fight and was defending himself and self-defense is
8 applicable in this case.

9 In order to assert self-defense they need to provide
10 evidence that the defendant was without fault. I believe
11 that you could say that based off the video. But the
12 second prong is that the defendant actually believed he was
13 in imminent danger of losing his life or sustaining serious
14 bodily injury, or he -- or he actually was in such
15 immediate danger.

16 That's the part of self-defense I don't believe that
17 he's asserted through this without him testifying and
18 saying that he was in danger or he was -- felt threatened
19 by Mr. Crosby, I mean, by Mr. Talford. I don't think he
20 should get a self-defense charge.

21 THE COURT: Well, I don't know anything that's been
22 asserted by the defense.

23 MR. SNYDER: No, sir. But if I can speak to that
24 prong of the test, it has been argued, and argued
25 successfully, that the "or he was actually -- or he

Alton Jamaul Crosby
Examination by the Court

1 actually was in such imminent danger." I think that's a
2 reasonable-person standard. And as Your Honor stated
3 earlier, the video speaks for itself.

4 THE COURT: Okay. But the defense has made no
5 assertion.

6 MR. SNYDER: Correct.

7 THE COURT: He has to make the assertion, doesn't he?
8 Am I missing something?

9 MR. SNYDER: I don't believe so, Judge. I believe
10 that the elements would be established and based on what a
11 reasonable person could view that he was acting in
12 self-defense based on the contact being initiated by the
13 alleged victim, and the alleged victim striking Mr. Crosby
14 first.

15 THE COURT: What has the defense -- what has the
16 defendant asserted? He hasn't asserted anything. Am I
17 missing something? Doesn't the defendant have to assert?

18 MR. SMITH: That's my position, Your Honor.

19 THE COURT: What am I missing?

20 MR. SNYDER: Yes, Judge. I know that that has been
21 successfully argued in other cases in other jurisdictions.
22 I don't have any case law to support that. And that might
23 require us rethinking the defendant's decision not to take
24 the witness stand.

25 THE COURT: That's fine with me too. I mean, whatever

Alton Jamaul Crosby
Examination by the Court

1 you need to do. I --

2 MR. SNYDER: You will not instruct it if he does not
3 testify.

4 THE COURT: Yeah. And if he wants to testify, he can
5 testify, but doesn't there have to be -- am I missing
6 something? It's an affirmative defense. He doesn't have
7 to prove it. I understand that. I mean, I got you there.
8 The state has to disprove it, right, if he asserts it?

9 MR. SMITH: Yes, sir.

10 THE COURT: But there's been no assertion by the
11 defense.

12 MR. SNYDER: If I may have a minute just to talk.

13 THE COURT: You may.

14 (Pause.)

15 MR. SNYDER: I believe Mr. Crosby has rethought his
16 decision.

17 THE COURT: Okay. Mr. Crosby, please stand, sir. You
18 were previously sworn.

19 Is it your intention at this time to change your mind
20 and testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Is that your decision?

23 THE DEFENDANT: It's fine.

24 THE COURT: sir?

25 THE DEFENDANT: Yes, sir.

Alton Jamaul Crosby
Examination by the Court

1 THE COURT: Okay. So you wish to testify at this
2 time.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. Are we ready?

5 MR. SMITH: The state is ready, Your Honor.

6 THE COURT: All right. Let's get the jury back.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: All right. Thank you again for your
10 patience.

11 Mr. Foreman, any matters from the jury? Everything
12 ready to go? Very good.

13 Yes, sir, Mr. Snyder.

14 MR. SNYDER: Thank you, Judge. The defense calls
15 Austin Crosby.

16 THE DEFENDANT: I have a problem with this.

17 THE CLERK: He says he has a problem.

18 THE COURT: He can affirm.

19 THE CLERK: Can he still put his hand on the Bible?

20 THE COURT: Yes. He can affirm on the Bible. He
21 don't have to swear on the Bible.

22 THE DEFENDANT: I affirm.
23
24
25

Alton Jamaul Crosby
Direct examination by Mr. Snyder

- 1 A I -- I rather not say.
- 2 Q Did Mr. Talford punch you first?
- 3 A I rather not say.
- 4 Q Is Mr. Talford in the courtroom right now?
- 5 A No.
- 6 Q We saw the video. When Mr. Talford hit you were you
7 scared for your life? Were you scared?
- 8 A I think it was a form of fear.
- 9 Q Did you feel trapped in that elevator or not elevator?
10 Or not elevator. In that stairwell.
- 11 A what do you mean by trapped?
- 12 Q Meaning it was not a large area. Did you feel like --
13 did you feel like you could -- you could have run away when
14 he hit you, or did you feel like you should have hit him
15 back? I understand this is difficult for you. You just
16 said you had a previous altercation with Mr. Talford,
17 correct?
- 18 A what are you asking?
- 19 Q You and Mr. Talford had a previous altercation,
20 correct?
- 21 A Yes.
- 22 Q And that's why -- and you believe that's why he hit
23 you in the stairwell.
- 24 MR. SMITH: Your Honor, I object. He's asking him to
25 believe why Mr. Talford struck him.

Alton Jamaul Crosby
Cross-examination by Mr. Smith

1 THE COURT: Don't lead him. Rephrase it.

2 MR. SNYDER: Yes, sir.

3 I have no other questions.

4 THE COURT: Yes, sir, solicitor.

5 CROSS-EXAMINATION

6 BY MR. SMITH

7 Q Did you report the previous altercation to Mr. Vinson
8 or whoever handles that at Miracle Hill? Why not?

9 A I didn't think it was that serious.

10 Q What did he say to you?

11 A I really don't -- I don't really recall the situation.
12 I just know -- I just remember it aggressive situation.

13 Q You didn't think it was serious though.

14 A No.

15 Q Okay.

16 A I mean, it's -- you know, I mean, I really didn't
17 think it was that serious. I just underestimated the
18 situation.

19 Q Okay. What did you grab out of his pockets after you
20 threw him down the stairs?

21 MR. SNYDER: Objection, Judge. There's been no
22 testimony anything was grabbed out of the pockets.

23 THE COURT: Overruled.

24 Go ahead.

25 Q After he goes down the stairs you go to the landing at

Alton Jamaul Crosby
Cross-examination by Mr. Smith

- 1 the bottom and you come back and grab something from him.
2 what did you grab?
3 A I don't remember.
4 Q Okay. But the previous altercation with Mr. Talford
5 did not involve violence. You didn't feel the need to tell
6 anybody you were in fear of him after that point. Did you
7 scream for help at all during this? There was other people
8 around. Were you screaming for help while he was
9 assaulting you?
10 A That's kind of -- that's unheard of, I mean, you know,
11 I mean, in my lifestyle, you know.
12 Q You were just handling it on your own.
13 A I guess that would be one way to look at it.
14 Q Did you get injured at all during this incident?
15 A No.
16 Q Do you remember speaking with Officer Thompson?
17 A Yes.
18 Q Did you tell her what happened?
19 A No.
20 MR. SMITH: I don't have any further questions.
21 THE COURT: Anything at all?
22 MR. SNYDER: No, sir.
23 THE COURT: Sir, you may step down. Please be
24 careful.
25 MR. SNYDER: No other witnesses.

1 THE COURT: Okay. Defense rests? Mr. Snyder, the
2 defense rests?

3 MR. SNYDER: Yes, sir.

4 THE COURT: Anything from the state?

5 MR. SMITH: No, Your Honor.

6 THE COURT: Okay. Mr. Foreman and ladies and
7 gentlemen of the jury, it's almost 12:00 o'clock, here real
8 close to it.

9 I have taken the liberty of ordering your lunch. It
10 will be a steak, salad, baked potato. No. It won't. But
11 it will be good. It's from Jason's Deli. So it'll be
12 good. So I have taken the liberty of ordering your lunch.

13 We've got a few things that we have to do, but I don't
14 want to hold you up. So I'm going to let you go back to
15 the jury room. And then we're also going to break for
16 lunch because we like to eat too.

17 Mr. Foreman, I'm going to let you take the jury out
18 momentarily here. Don't discuss the case over lunch. It's
19 not -- it's not -- it's almost ready for you to have the
20 case and almost ready for you to begin deliberations, but
21 not at this point. Okay. Not at this point.

22 So with that I'm told the lunch -- it might be here.
23 Closer to 12:30. Okay. Usually when they say 12:30 it's
24 maybe 15 after, something like that.

25 So, anyway, the lunch will be here momentarily. So

1 we're going to reconvene somewhere around maybe -- maybe
2 somewhere 1:30 or so. Make sure you get a good lunch
3 there.

4 I hope nobody smokes, but if there's a smoker in the
5 crowd and you wish to smoke, you have to go outside the
6 building, and you have to be escorted out there. If you do
7 smoke, I hope you quit. It killed my sister 48 years of
8 age. But if you choose to smoke, you have to be escorted.
9 Otherwise, I'd ask all of you to stay together in the jury
10 room. So don't begin deliberations.

11 Mr. Foreman, take your jury out and enjoy your lunch.
12 We'll expect to see each other again about 1:30.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Anything from the state?

16 MR. SMITH: No, Your Honor.

17 THE COURT: From the defense?

18 MR. SNYDER: No, sir, other than the fact that we're
19 going to renew our request for the additional charges and
20 self-defense.

21 THE COURT: You renew your motion.

22 MR. SNYDER: Yes, sir.

23 THE COURT: Okay. Motions are denied again as
24 previously stated.

25 we're going to go talk about charges right quick.

1 All right. Take him back to the prison room or
2 whatever y'all -- holding room, whatever you need.

3 And we'll see the lawyers. We will go in this jury
4 room right here and chat for a minute.

5 (Whereupon, a recess was taken.)

6 THE COURT: Okay. Are we ready, gentlemen?

7 MR. SMITH: Yes, sir.

8 MR. SNYDER: Yes, sir.

9 THE COURT: Okay. Let's have our jury.

10 MR. SNYDER: I have something to put on the record.

11 THE COURT: I'm sorry. I was --

12 MR. SNYDER: Judge, before the closing arguments I
13 would like to take a minute to move for a mistrial in this
14 case.

15 As Your Honor is aware, Mr. Crosby wouldn't have
16 testified but for the fact that he thought he had to get a
17 charge of self-defense. And as the Court instructed, some
18 evidence from the defense would have to be presented to get
19 the charge of self defense.

20 I submitted the case to the Court -- I believe Your
21 Honor has it -- State vs. Butler which in Judge Beatty's
22 concurrence he agreed with the fact -- well, three-quarters
23 of the way down he said at the trial in the case, "The
24 defendant moved for a directed verdict of acquittal on the
25 ground of self-defense. The trial judge denied that

1 motion, ultimately charged the jury on murder and voluntary
2 manslaughter, as well as the affirmative defense of
3 self-defense. However, the South Carolina Supreme Court
4 reversed finding that the defendant was entitled to a
5 directed verdict of acquittal on the ground of self-defense
6 as the state failed to disprove the elements of
7 self-defense beyond a reasonable doubt."

8 The evidence in this case that was presented was there
9 was a video. And as Your Honor said, video speaks for
10 itself. The video and the officer both testified that
11 Mr. Talford punched Mr. Crosby first. I believe that that
12 raises the question that any actions on his part was in
13 self-defense.

14 Moreover, the Fifth Amendment to the constitution
15 implies that a defendant in criminal cases has a right to
16 remain silent.

17 Again, Mr. Crosby did not want to testify at trial and
18 felt like he needed to to get the charge of self-defense,
19 and as the case law proves or demonstrates that we would be
20 entitled to that charge regardless of whether or not we
21 present any evidence.

22 THE COURT: Whether or not you present any evidence or
23 whether or not he -- he testified?

24 MR. SNYDER: Well, the only evidence we presented was
25 his testimony.

1 THE COURT: I understand, but he voluntarily waved his
2 rights not to testify.

3 MR. SNYDER: He voluntarily waived his right to
4 testify because he felt like he had to since that was the
5 only way he was going to get a charge of self-defense.

6 THE COURT: Well, okay. He has to make -- the
7 defense -- okay. There were other witnesses in the video.
8 The defense could have put up any one of those people.

9 MR. SNYDER: Yes, sir. You're right. We could have
10 put the victim on the stand, but we didn't have -- we
11 didn't have any other witnesses from the video. All we
12 have as far as our witness was Mr. Crosby. I think the
13 video on its face shows that Mr. Crosby was punched and
14 reacted to being punched. Whether or not he took it too
15 far is another question, but I believe that the video in
16 and of itself shows that he was acting in self-defense.

17 THE COURT: well, I respectfully disagree with that,
18 as I said before, and certainly put all of this on the
19 record. But the video clearly shows the defendant was
20 waiting on the landing in the stairwell.

21 At least two other male persons who were not the
22 defendant passed by the defendant. One of those appears on
23 the video to have had a short conversation with the
24 defendant.

25 He was not trapped by his own admission in the

1 stairwell. He was free to go up or down from the landing
2 in the stairwell.

3 The defendant saw the victim approach at the bottom of
4 the stairwell and stopped. It's all there on the video.
5 The defendant descended the stairs. He appeared to say
6 something to the victim. Each of them, it appeared to me,
7 to have pushed each other at that point.

8 Then the defendant attacked the victim. The victim is
9 seen on the video clearly climbing the steps with the
10 defendant on his back choking him and slapping him or
11 hitting him across his shoulder, and-but and he's
12 literally -- he being the defendant -- is literally on the
13 back and being drug up the stairs by the victim.

14 Then the defendant applies a chokehold. It's clear
15 once the victim reaches the top of the stairs he's holding
16 onto both of the safety handrails as he's being choked out,
17 if you will.

18 He falls limp. He is then turned about 180 degrees
19 face first and either dropped -- and I'm being kind with
20 that word. I don't know if it's dropped or thrown. But
21 he's dropped at least down the stairs head first and face
22 first and lands at the foot of the steps.

23 The defendant then descends the stairs, walks over
24 him, looks at him, leaves. Two other people were clearly
25 seen in the video. Then he comes back over to him and

1 takes something. I don't know what that was. It never was
2 established if it was a cell phone or a wallet or what it
3 was and then -- and then leaves at that point.

4 So under that I don't think that the defendant -- I
5 don't think he's entitled to a self-defense charge. He
6 doesn't -- he doesn't show that he's entitled to that. He
7 doesn't meet the elements of self-defense.

8 MR. SNYDER: Again, Your Honor, it's the state's
9 burden to disprove the elements.

10 THE COURT: Sure it is -- sure it is -- sure it is. I
11 understand. The state's burden is to prove -- is to
12 disprove the self-defense, but he has to meet the elements.
13 The defendant has to show that he's entitled to the charge,
14 is what I'm saying. And I don't see that in the facts of
15 this case. I mean, he can't -- his lawyer can't just stand
16 up and say he's entitled to a self-defense charge.

17 MR. SNYDER: Yes, sir.

18 THE COURT: Right?

19 MR. SNYDER: I just wanted my grounds for a mistrial
20 noted.

21 THE COURT: I understand.

22 Okay. Solicitor.

23 MR. SMITH: That's fine, Your Honor. We're ready.

24 THE COURT: Okay. Well, it's denied, so, but you're
25 protected Mr. Snyder.

Closing arguments

1 MR. SNYDER: Thank you.

2 THE COURT: I'm not going to charge self-defense in
3 this case based on all the facts as I see them, because I
4 don't see that he's made a case for a self-defense charge.
5 He doesn't just get it by lawyer asking for it. It has to
6 be more.

7 Anything else?

8 MR. SMITH: Nothing from the state, Your Honor.

9 MR. SNYDER: Nothing from us.

10 THE COURT: Ready? We'll have our jury.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Mr. Foreman, everything good with the
14 jury?

15 THE FOREMAN: It is.

16 THE COURT: Everybody enjoyed their steak?

17 All right. We ready gentlemen?

18 MR. SMITH: Yes, Your Honor.

19 THE COURT: Solicitor.

20 MR. SMITH: Like I said at the beginning, this trial
21 is pretty clear. You've got a video of exactly what
22 happened.

23 Judge Kelly is going to instruct you on the law once
24 Mr. Snyder and I are done with our respective closing
25 arguments. And, like I said in the beginning, in order to

Closing arguments

1 find somebody guilty of assault and battery of a high and
2 aggravated nature we have to prove that they unlawfully
3 injured the victim, Mr. Talford in this case, and that act
4 either resulted in great bodily injury to him or it was
5 accomplished by means likely to produce the great bodily
6 injury or death.

7 In this specific case I think it's more fits with the
8 likely-to-produce great bodily injury or death. And the
9 basis for that would be that Mr. Talford is trying to
10 escape after whatever happened between him and Mr. Crosby
11 in the stairwell.

12 He maybe throws one punch at him, and then everything
13 else is him trying to get away. He's clinging to the
14 handrails trying to get away from the incident. He never
15 throws another punch. He tries to protect his head, and he
16 gets beaten in the head repeatedly.

17 And then, most importantly, he is choked in a sleep
18 hold until he goes limp. You can see it on the video. His
19 knees buckle. And instead of letting him off at the top of
20 the stairs, he turns him around and lets him slide down
21 five or six concrete stairs.

22 And you saw that he was bleeding from his head.
23 You're going to have the pictures back there with you in
24 the jury room. You'll have the video.

25 But I just ask you to rely on your common sense and

Closing arguments

1 your life experiences that if you get choked out, that
2 alone can cause great bodily injury or death. But to send
3 someone's lifeless body down a set of steps -- they're not
4 carpeted or anything like that.

5 It certainly could have killed him or caused great
6 bodily injury to him, a traumatic brain injury, broken
7 neck, any number of things.

8 We'll all heard stories about people falling down
9 stairs and the bad things that can happen, and that's even
10 when they trying to brace themselves. In this case he just
11 drops and gets put down.

12 You heard from the defendant that he -- he wouldn't
13 even say that Mr. -- Mr. Talford hit him first. But I know
14 that the instructions you're going to get on what moderate
15 bodily injury and great bodily injury mean.

16 What I want you to be -- remember is that while
17 Mr. Talford's actual injuries probably are more close to an
18 assault and battery second, moderate bodily injury, they
19 could have been much worse.

20 And we don't -- just because it didn't go as badly as
21 it could have been does not change the vicious nature of
22 the assault in this case, because it's fortunate that the
23 incident didn't result in more serious injuries to him.
24 But that does not change the defendant's culpability. It
25 very easily could have ended with him being dead or having

Closing arguments

1 a more -- a serious injury from that.

2 I just ask you to consider the testimony of both the
3 defendant, Officer Thompson, and most importantly, just
4 watching the video and ask that you return a verdict of
5 guilty in this case on assault and battery of a high and
6 aggravated nature.

7 MR. SNYDER: I told everyone this morning it was going
8 to be a short trial. It was short. I thank you for your
9 attention.

10 At the outset of my closing argument I want to address
11 an issue. You saw my client also on the witness stand.
12 You saw him try to take -- swear and take an oath. And he
13 had trouble doing that. He is, obviously, based on his
14 responses and his actions, he is not the brightest
15 individual, but I do not want you to hold that against him.

16 He, as well as Mr. Talford, were two homeless
17 individuals, and they were staying at Miracle Hill
18 Ministries, and this is where this occurred.

19 You saw on the stairwell that Alton was walking past
20 Mr. Talford, and Mr. Talford punched him. You saw on the
21 video and you heard from the officer. He was responding to
22 Mr. Talford's actions.

23 The solicitor mentioned assault and battery in the
24 second degree. In the State of South Carolina we have
25 different versions of assault and battery. All of it's

Closing arguments

1 based on the actions and the injuries.

2 However, throughout this trial you heard no expert
3 testimony from any doctors or any medical professionals
4 about the extent of the injury. We saw no medical records
5 to indicate that -- how severe it was. And, hey, we didn't
6 even have the victim here to -- tell you how badly he
7 suffered from the injury as a result of this altercation.

8 You heard the solicitor mention that the actions more
9 closely fit under the offense of assault and battery in the
10 second degree.

11 I believe that Mr. Crosby was responding to -- to
12 Mr. Talford's actions. In the event that you find that his
13 response was informative and was above and beyond what a
14 reasonable person would do under the circumstances, I agree
15 with the solicitor. I think assault and battery second is
16 the correct charge.

17 I mean, one, we have someone that just went around and
18 hits an individual -- Mr. Talford. I mean, people can't do
19 that. We just -- in our society we just can't go around
20 punching people. I mean, if you -- if you invite the
21 conflict, I mean, you should be prepared to face what
22 arises from it. Don't start a fight if you can't -- I
23 mean, a fistfight. I mean, he clearly started this fight.

24 Again, there's no evidence as to the injuries, so we
25 can't determine how great -- how great the injuries were,

Closing arguments

1 or how severe. We just don't have that.

2 I believe that Mr. Crosby was responding to
3 Mr. Talford's actions. Mr. Talford hit him. We know that.
4 And I also believe that if you find that he went above and
5 beyond what a reasonable person would do that assault and
6 battery in the second degree is the more appropriate
7 offense.

8 Again, I thank you for your attention and I look
9 forward to your verdict. Thank you.

10 MR. SMITH: In response to a couple of things, as I
11 said in my closing, it's not necessarily the actual injury
12 sustained by Mr. Talford but the action that was done and
13 what could have happened from that, what could have
14 happened from choking somebody by the throat for a number
15 of seconds and then dropping them down the stairwell. That
16 very easily could cause great bodily injury or death. And
17 you'll hear the definition of both moderate bodily injury
18 and death.

19 There's two different ways to find him guilty of
20 assault and battery of a high and aggravated nature, that
21 he injured him and it caused great bodily injury or that it
22 could have or was likely to cause great bodily injury or
23 death.

24 So the part about the injury is just -- is not
25 relevant under the second way that we can prove assault and

Jury charge

1 battery of a high and aggravated nature.

2 Another thing you're not going to hear from the judge
3 is about self-defense because this is not a self-defense
4 case. It's not. He, Mr. Talford, makes one motion at him.
5 I'm not sure if it was a punch. Maybe a punch. Doesn't
6 look like it hit him. And it's all Mr. Crosby, repeated
7 beatings to the head.

8 There's other people here. He didn't -- he said he
9 didn't ask for help. That's not his style. He can handle
10 his own problems, and he certainly did handle his problem
11 that day by beating him and then choking him out and
12 dropping him down the stairs and then looks like grabbing
13 something off of his body once he's done with him.

14 It's not self-defense, and it certainly could have
15 caused great bodily injury or death, and we just ask that
16 you return a guilty verdict on assault and battery high and
17 aggravated.

18 THE COURT: Thank you, gentlemen.

19 Mr. Foreman and ladies and gentlemen of the jury, you
20 have seen and heard the evidence presented, as well as the
21 arguments of the lawyers.

22 It is now my duty and obligation to instruct you on
23 the law in this case. It will then be your duty and
24 obligation to begin deliberations, through which process
25 you will decide the facts, apply the law as I instruct it

Jury charge

1 and render a fair and impartial verdict.

2 It is your exclusive duty to determine what the facts
3 are in this case. You will do that based on your own
4 common sense evaluation and examination of the testimony
5 and the other evidence received during the trial.

6 You 12 jurors alone will decide what effect, value and
7 weight is to be given to any particular testimony or
8 evidence received.

9 Quite simply, ladies and gentlemen, your obligation as
10 jurors is to give both the state and the defendant a fair
11 and impartial trial based on the evidence presented and the
12 law in this case.

13 The indictment charges the defendant with the offense
14 of assault and battery of a high and aggravated nature,
15 specifically, that the defendant, Alton Crosby, did in the
16 County of Spartanburg, State of South Carolina, on or about
17 December 31, 2015, commit an assault and battery on the
18 victim, Dennis Talford, which did unlawfully injure the
19 victim and cause great bodily injury to him, and/or did an
20 act accomplished -- did accomplish the act by means likely
21 to produce death or great bodily injury, that is by
22 repeatedly striking the victim in the head, all in
23 violation of state law.

24 I remind you the fact that the defendant was arrested,
25 charged and indicted is not evidence in the case and cannot

Jury charge

1 be considered by you as evidence of guilt, nor does it
2 create any presumption or inference of guilt.

3 The indictment is simply a written instrument which
4 contains the charge made against the defendant. It is the
5 formal document by which the case is brought before the
6 Court.

7 The defendant has pled not guilty to the indictment,
8 and that plea puts the burden on the State of South
9 Carolina to prove his guilt beyond a reasonable doubt.

10 A person charged with committing a criminal offense in
11 South Carolina is never required to prove himself or
12 herself innocent.

13 I charge you it is a cardinal, important and vital
14 rule of law that in a criminal trial, no matter what the
15 seriousness of the charge may be for which he stands
16 charged, the defendant is always presumed to be innocent of
17 the crime for which the indictment was issued unless guilt
18 has been proven by evidence satisfying you of that guilt
19 beyond a reasonable doubt.

20 This presumption of innocence does not end when you
21 begin your deliberations, but it accompanies the defendant
22 throughout the trial until you reach a verdict of guilt
23 based on evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 The presumption of innocence is like a robe of

Jury charge

1 innocence placed about the shoulders of the defendant which
2 remains with him from the moment of his arrest and
3 continues until it has been stripped from his shoulders by
4 evidence satisfying you of his guilt beyond a reasonable
5 doubt.

6 The presumption of innocence is not a mere legal
7 theory nor a legal phrase but a substantial right to which
8 every defendant is entitled unless you 12 jurors are
9 satisfied from the evidence of his guilt beyond a
10 reasonable doubt.

11 I remind you that during this trial you and I have
12 certain duties to perform. As the trial judge it is my
13 responsibility to preside over the trial. And,
14 additionally, I have the duty to rule on the admissibility
15 of evidence offered during the trial.

16 You are to consider only the evidence before you. If
17 there was any testimony ordered stricken from the record,
18 you must disregard it. You are to consider only testimony
19 which has been presented from the witness stand and any
20 exhibits which have been made a part of the record and any
21 stipulations of counsel.

22 Additionally, I have the duty to charge you the law in
23 this case. As the presiding judge I am the sole judge of
24 the law, and it is your duty as jurors to accept it and
25 apply it as I now state it to you.

Jury charge

1 I remind you if you have any idea as to what the law
2 is or ought to be or should be and it does not agree with
3 what I now tell you the law is, you must abandon your idea,
4 because you are sworn to accept the law and apply it
5 exactly as I state it at this time.

6 Ladies and gentlemen, in every case tried before this
7 Court before a jury you 12 become the sole and exclusive
8 judge of the facts in a case. A trial judge cannot make a
9 comment or a statement about a fact in a case.

10 You 12 alone are the sole judges of the facts, and you
11 are not to infer from anything I have said during this
12 trial in ruling on admissibility of evidence or otherwise
13 that -- or anything that I say now -- that I have an
14 opinion about the facts in this case. The law of South
15 Carolina does not allow a trial judge to have an opinion
16 about the facts in a case. This is a matter solely for you
17 12 to determine.

18 The State of South Carolina has the burden of proving
19 the defendant guilty beyond a reasonable doubt. Ladies and
20 gentlemen, proof beyond a reasonable doubt is proof that
21 leaves you firmly convinced of the defendant's guilt.

22 There are very few things in this world that we know
23 with absolute certainty, and in criminal cases the law does
24 not require proof that overcomes every possible doubt.

25 A reasonable doubt may also be described as the kind

Jury charge

1 of doubt that would cause a reasonable person to hesitate
2 to act. If you have such a doubt as to the guilt of this
3 defendant, then he is entitled to a verdict of not guilty.

4 Reasonable doubt may arise from evidence in the case
5 or from the absence or lack of evidence in a case.

6 Based on your consideration of the evidence if you are
7 firmly convinced the defendant is guilty as charged, you
8 must find him guilty.

9 On the other hand, if you think there's a real
10 possibility the defendant is not guilty, you must give the
11 defendant the benefit of the doubt and find him not guilty.
12 You 12 alone must make the determination of whether or not
13 reasonable doubt exists as to the guilt of the defendant.

14 Now, under the Constitution of South Carolina, again,
15 you 12 are the finders of facts, and necessarily you must
16 determine the credibility of witnesses who have testified.

17 Credibility simply means believability. It is your
18 duty as jurors to analyze and evaluate the evidence and
19 determine which evidence is convincing to you.

20 In determining the believability of witnesses who have
21 testified I tell you that you may believe one witness over
22 several, or several over one. You may believe a part of
23 the testimony of a witness and reject the remaining part of
24 the testimony of that same witness.

25 You may believe the testimony of a witness in its

Jury charge

1 entirety or reject the testimony in its entirety. You may
2 consider whether any witness has exhibited any interest,
3 bias, prejudice or other motive in testifying. A
4 defendant -- in testifying.

5 Whatever your good judgment and common sense tells you
6 is the most believable testimony is the testimony that you
7 should accept, and reject testimony which you find not to
8 be credible or believable.

9 Now, criminal intent is a necessary element of each
10 crime that must be proved by the state beyond a reasonable
11 doubt. Criminal intent is a matter that must be determined
12 by the jury from the circumstances surrounding the
13 situation.

14 I tell you that there is no way to prove to a
15 mathematical certainty criminal intent. There is no way
16 medical science can dissect a person's brain and determine
17 what he had in mind. So the law says that criminal intent
18 may be inferred from the circumstances shown to have
19 existed.

20 Criminal intent is a state of mind which when operated
21 jointly with an act is the commission of a crime. Criminal
22 intent is a mental state, a conscious wrongdoing, so it is
23 up to you, the jury, to determine what this defendant
24 intended to do based on the circumstances shown to have
25 existed.

Jury charge

1 I tell you the state must prove criminal intent beyond
2 a reasonable doubt, just as it must prove every element
3 beyond a reasonable doubt.

4 It is not necessary to establish criminal intent by
5 direct and positive evidence, but intent may be established
6 by inference, the same way as any other fact, taking into
7 consideration the acts of the parties and all of the facts
8 and circumstances of this case.

9 Now, while the state may prove motive, it is
10 unnecessary for the state to do so, but the state must
11 prove criminal intent.

12 I have instructed you the defendant is charged with
13 the offense of assault and battery of a high and aggravated
14 nature.

15 Assault and battery of a high and aggravated nature is
16 an unlawful act of violent injury to the person of another
17 accompanied by circumstances of aggravation.

18 And I will now read to you in part 16-3-600 of the
19 Code of Laws which says a person commits the offense of
20 assault and battery of a high and aggravated nature if the
21 person unlawfully injures another person and great bodily
22 injury to another person results or the act is accomplished
23 by means likely to produce death or great bodily injury.

24 An assault and battery occurs when a person unlawfully
25 attempts or offers to commit a violent injury upon another

Jury charge

1 and has the present ability to complete the attempted
2 injury. An assault is the intentional creation of a
3 reasonable fear of immediate bodily harm.

4 It is not necessary that the attempted injury or harm
5 actually take place.

6 A battery is the unlawful touching of another person
7 by a person who has committed the assault. An unlawful
8 touching can be caused by a part of the accused's bodies or
9 by any object the accused puts in motion.

10 A battery is the completion of the assault by using or
11 applying to another by using or applying force to another
12 person, however slight, in a rude, angry or resentful
13 manner without legal justification for doing so.

14 Great bodily injury means bodily injury which causes a
15 substantial risk of death or which causes serious permanent
16 disfigurement or protracted loss or impairment of the
17 function of a bodily member or organ.

18 If you find the state has failed to prove the
19 defendant is guilty of assault and battery of a high and
20 aggravated nature, you must then decide whether the state
21 has proved that the defendant is guilty of assault and
22 battery in the second degree.

23 Assault and battery in the second degree is defined in
24 section 16-3-600 as follows: A person commits the offense
25 of assault and battery in the second degree if the person

Jury charge

1 unlawfully injures another person or offers or attempts to
2 injure another person with the present ability to do so and
3 moderate body injury to another person results or moderate
4 bodily injury to another person could have resulted.

5 I charge you that moderate bodily injury means
6 physical injury that involves prolonged loss of
7 consciousness or that causes temporary or moderate
8 disfigurement or temporary loss of the function of a bodily
9 member or organ, or injury that requires medical treatment
10 when the treatment requires the use of regional or general
11 anesthesia or injury that results in a fracture or
12 dislocation.

13 Moderate bodily injury does not include one-time
14 treatment and subsequent observation of scratches, cuts,
15 abrasions, bruises, burns, splinters or other minor
16 injuries that do not ordinarily require extensive medical
17 care.

18 You 12 have been selected as fair and impartial jurors
19 sworn to impartially try and determine the facts of this
20 case, and when you do so you will have complied with your
21 oath. You are to decide this case according to the
22 testimony you have heard from the witnesses along with all
23 evidence presented.

24 Now, ladies and gentlemen, your verdict must be a
25 unanimous verdict.

Jury charge

1 Mr. Foreman, when the jury agrees on the verdict you
2 will indicate your verdict in a space provided on a jury
3 form that I will share with you momentarily. Sign your
4 name as the foreman of the jury. Then knock on the jury
5 room door and advise the bailiffs that the jury has reached
6 its verdict. At that time he will return the jury to the
7 courtroom and receive your verdict.

8 All right. Mr. Foreman, this is the verdict form of
9 which I speak. My law clerk makes this in every criminal
10 case that we try. It has the caption of the case and the
11 number. That means nothing more than that this form
12 belongs with this case right here. It's just a number.

13 It says, "we, the jury, unanimously find the
14 defendant, Alton Crosby, on the charge of assault and
15 battery of a high and aggravated nature not guilty or
16 guilty."

17 It is no significance to which one is first, guilty or
18 not guilty, not guilty or guilty. It's just that I do it
19 in this direction every time, this same way each and every
20 time.

21 It also says, "If your verdict for question number one
22 is guilty, stop here and sign below. If your verdict for
23 question one is not guilty, please answer the second
24 question."

25 Question number two, "we, the jury, unanimously find

Jury charge

1 the defendant on a charge of assault and battery second
2 degree not guilty or guilty." whichever -- again, if you
3 answer number one guilty, stop and sign your name. If you
4 answer number one as not guilty, then you would go to
5 question two. And it can be guilty or not guilty, whatever
6 the jury's verdict is.

7 At the bottom it says, "I certify this decision was
8 the unanimous decision of the jury."

9 Mr. Foreman, there's a place here for you to sign and
10 a place here to put the date of February of 2017 in this
11 space right here.

12 Once the jury reaches its verdict, knock on the door.
13 Hold on to this. Knock on the door. Tell the bailiff you
14 have -- the jury has reached its verdict. We will return
15 all jurors to the courtroom, and I will receive this from
16 you in open court.

17 Now, in about 30 seconds I'm going to send the jury
18 back.

19 Do not begin your deliberations. Do not begin your
20 deliberations until you receive this form and a couple of
21 pieces of evidence.

22 The exhibits that were introduced belong to the jury.
23 I want to make sure that these -- in some cases we have a
24 hundred exhibits. We only have a couple in this one. But,
25 nonetheless, I want to make sure everything is proper.

Jury charge

1 When the bailiff comes with the exhibits and this
2 that -- the bailiff will then get Mr. Alternate from the
3 jury room.

4 So, sir, you will leave when he brings this form and
5 the exhibits. You will then leave the room, and they will
6 isolate you while the other 12 begin their deliberations.

7 Okay. That will be your cue once he brings it and
8 takes the jury -- the alternate. That will be your cue to
9 begin your deliberations Mr. Foreman.

10 All right. Ladies and gentlemen, please go with your
11 foreman to the jury room.

12 (Whereupon, the jury retired to deliberate at
13 2:10 p.m.)

14 THE COURT: Anything from the state?

15 MR. SMITH: No, Your Honor.

16 THE COURT: Defense?

17 Gentlemen, make sure. I think there's only two
18 exhibits, right?

19 MR. SMITH: That's correct.

20 THE COURT: Make sure that's both of them, and we'll
21 send them back.

22 Okay. We've got to get the thirteenth juror and put
23 him somewhere.

24 All right. We will stand at ease.

25 (Whereupon, a recess was taken.)

Jury charge

1 THE COURT: Are you ready?

2 MR. SNYDER: Yes, sir.

3 THE COURT: Okay. Let's have our jury.

4 (Whereupon, the jury returned to the courtroom at
5 2:16 p.m.)

6 (Whereupon, State's Exhibit No. 1 was replayed for the
7 jury.)

8 MR. SMITH: Your Honor, do you want me to stop it?
9 See if they want to watch it any more?

10 THE COURT: Yes, sir.

11 THE BAILIFF: Approach the bench, Your Honor.

12 THE COURT: Yes, sir.

13 (Pause.)

14 THE COURT: I understand from the jury -- would like
15 to be recharged on the definitions. I will do that at this
16 time.

17 I'll read to you, ladies and gentlemen, Mr. Foreman,
18 in pertinent part Section 16-3-600 of the South Carolina
19 Code, which says a person commits the offense of assault
20 and battery of a high and aggravated nature if the person
21 unlawfully injures another person and great bodily injury
22 to another person results or the act is accomplished by
23 means likely to produce death or great bodily injury.

24 An assault occurs when a person unlawfully attempts or
25 offers to commit a violent injury upon another person and

Jury charge

1 had the present ability to complete the attempted injury.

2 An assault is the intentional creation of a reasonable
3 fear of imminent bodily harm. It is not necessary that the
4 attempted injury or harm actually take place.

5 A battery is the unlawful touching of another person
6 by a person who has committed the assault. An unlawful
7 touching can be caused by a part of the accused body or by
8 any object the accused puts in motion.

9 A battery is the completion of the assault by using or
10 applying force to another person, however slight, in a
11 rude, angry or resentful manner without legal justification
12 for doing so.

13 Great bodily injury means bodily injury which causes a
14 substantial risk of death or which causes serious permanent
15 disfigurement or protracted loss of or impairment of the
16 function of a bodily member or organ.

17 Section 16-3-600 of the Code of Laws defines assault
18 and battery in the second degree as a person commits the
19 offense of assault and battery in the second degree if the
20 person unlawfully injures another person or offers or
21 attempts to injure another person with the present ability
22 to do so and moderate bodily injury to another person
23 results or moderate bodily injury to another could have
24 resulted.

25 Moderate bodily injury means physical injury that

Jury charge

1 involves prolonged loss of consciousness or that causes
2 temporary or moderate disfigurement, or temporary loss of
3 the function of a bodily member or organ, or injury that
4 requires medical treatment when the treatment requires the
5 use of regional or general anesthesia, or injury that
6 results in a fracture or dislocation.

7 Moderate bodily injury does not include one-time
8 treatment and subsequent observation of scratches, cuts,
9 abrasions, bruises, burns, splinters or other minor
10 injuries that do not ordinarily require extensive medical
11 care.

12 Is that what you needed, Mr. Foreman?

13 Okay. Anything else?

14 THE FOREMAN: I think we're good now.

15 THE COURT: Okay. If you will, take your jury back
16 and resume your deliberations.

17 (Whereupon, the jury retired to deliberate at
18 2:26 p.m.)

19 THE COURT: Anything from the state?

20 MR. SMITH: No. That's fine, Your Honor.

21 THE COURT: From the defense?

22 MR. SNYDER: No, sir.

23 THE COURT: Okay.

24 (Whereupon, a recess was taken.)

25 THE COURT: Are we ready now? Everybody ready?

Verdict

1 Let me have the jury.

2 (Whereupon, the jury returned to the courtroom at

3 2:33 p.m. to report its verdict.)

4 THE COURT: Mr. Foreman, has the jury reached its

5 verdict?

6 THE FOREMAN: We have.

7 THE COURT: All right, sir. If you would, give that

8 to the bailiff, sir.

9 Publish the verdict.

10 THE CLERK: In the State of South Carolina, vs. Alton

11 Jamaul Crosby, on Indictment No. 2016-GS-42-2403, as to the

12 charge of assault and battery of a high and aggravated

13 nature the verdict is not guilty.

14 As to the assault and battery second degree the

15 verdict is guilty.

16 Signed by the foreperson. Dated February the 8th of

17 2017.

18 Ladies and gentlemen of the jury, is this your verdict

19 and still your verdict? If so, please raise your right

20 hands.

21 (Whereupon, all jurors responded in the affirmative.)

22 THE CLERK: So say you all.

23 THE COURT: Polling of the jury?

24 MR. SMITH: No, Your Honor.

25 THE COURT: From the defense?

Verdict

1 MR. SNYDER: Not necessary, Judge.

2 THE COURT: Thank you.

3 Mr. Foreman you need to sign. Madam clerk will come
4 with you. You need to sign the indictment, please. She'll
5 bring it to you.

6 Mr. Foreman and ladies and gentlemen of the jury,
7 thank you so very much for your service. We could not do
8 what we do without you. You are an integral part of this
9 process. Again, we thank you for your consideration in
10 this matter.

11 with that, your brothers and sisters have already
12 reassembled. We're getting ready to start the next trial.
13 But I'm going to release you 13 to go home and do whatever
14 else you need to do because you've been working pretty hard
15 this week. And we appreciate you very much.

16 I will ask you to call after 6:00 p.m. this evening,
17 but I will tell you ahead of time you can expect that
18 message to say that you are excused for your service for
19 the week because I think that the trial I'm about to start
20 is the last trial.

21 Is that right?

22 So and I have other work to do that's nonjury on
23 Friday here.

24 So having said that, I'm going to excuse you from your
25 jury service. Call back after 6:00. But in all likelihood

Sentence

1 it will say that you have concluded your jury service,
2 because we're getting ready to pick the next trial, and
3 it's going to go through tomorrow.

4 So having said that, again, thank you so very much for
5 your service.

6 Mr. Foreman, if you will, take the jury back so they
7 can be excused. And have a good evening.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: Matters from the state? Anything?

11 MR. SMITH: As to sentencing?

12 THE COURT: No. Any matters?

13 MR. SMITH: No, Your Honor.

14 MR. SNYDER: Nothing from the defense.

15 THE COURT: None from the defense.

16 Okay. All right. Ready to go to sentencing?

17 Solicitor, anything?

18 MR. SMITH: Your Honor, I'll go over his prior record.

19 I know you've seen the tape. You know about that.

20 He's got a 1999 carjacking and ABHAN; 2000, possession
21 of marijuana and trespassing; 2001, possession with intent
22 to distribute cocaine, hindering officers, burg second
23 nonviolent and grand larceny; 2002, driving under
24 suspension; 2005, attempted armed robbery that he got seven
25 years for; 2009, parole revocation; 2013, assault on a

Sentence

1 female out of North Carolina; and 2015, resisting arrest
2 out of North Carolina. We'd ask for the full three years.

3 THE COURT: Mr. Snyder.

4 MR. SNYDER: Well, Judge, you've heard the facts of
5 the case. I'll let you -- I'll leave the sentence up to
6 Your Honor. We just ask -- he spent a total of 265 days
7 incarcerated in our local detention center. We'd just ask
8 that he get credit for that time.

9 THE COURT: Mr. Crosby, anything you'd like to say?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. 2016-2403, confined to the state
12 department of corrections for a period of three years and
13 pay a fine of \$2,500. Credit for 265 days. Best of luck
14 to you.

15 END OF REQUESTED TRANSCRIPT OF RECORD

16

17

18

19

20

21

22

23

24

25

WITNESSES

Spartanburg Public Safety Department

- 1. REPORT MADE *Computer*
- 2. CARD FILLED *Computer*
- 3. BUSINESS *Computer*
- 4. CHECKED WARRANTS
- 5. CHECKED SIGNATURE
- 6. ASSESSMENT MADE *Computer*
- 7. FINE CARD MADE
- 8. VIOLATION COPY *✓*

WARRANT NUMBER

2016A4210200003

ACTION OF GRAND JURY

MAY 08 2016

~~TRIP BILL~~

Foreperson of Grand Jury
Date:

VERDICT

guilty of assault & battery 2nd degree

Michael Ocker

Foreperson of Petit Jury
Date: 2/8/17

DOCKET **16-GS-42-2403**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 09 2016

TERM

THE STATE
vs.

Alton Jamuel Crosby

Indictment for
ASSAULT AND BATTERY OF A
HIGH AND AGGRAVATED NATURE

SC Code: 16-3-800(B)(1)
CDR Code: 3411
Class: FEL/C

FILED
CLERK OF COURT
SPARTANBURG COURT
2016 MAY 16 AM 9:29
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

MAY 06 2016

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY OF HIGH AND AGGRAVATED NATURE

That the Defendant, Alton Jamaul Crosby, did in Spartanburg County on or about the date of December 31, 2015, commit an assault and battery on the victim, [REDACTED] which did unlawfully injure the victim and did cause great bodily injury to the victim and/or did accomplish the act by means likely to produce death or great bodily injury, to wit: repeatedly strike the victim in the head, in violation of §16-3-600(B)(1), *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

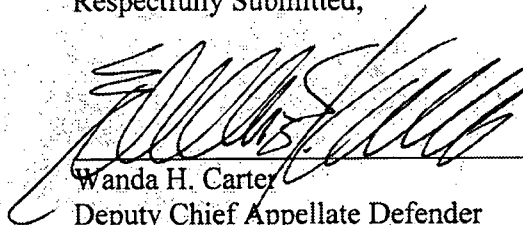
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

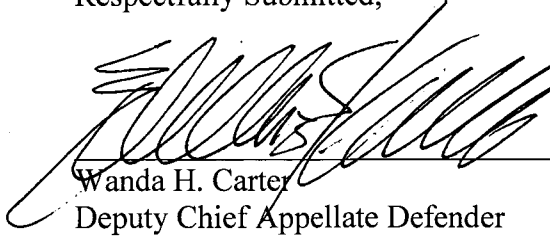
ATTORNEY FOR APPELLANT

This 5th day of March, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 5th day of March, 2018.

RECEIVED
MAR 05 2018
SC Court of Appeals