

ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of General Sessions
Roger M. Young, Circuit Court Judge

Appellate Case No. 2016-001713

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SC Court of Appeals

THE STATE,RESPONDENT

v.

CHAD MORRIS,APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

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1 (Court Break/Court Back on 10:49)

2 The Court: ...both parties are okay with a copy of
3 written instructions going back in the jury room correct?

4 Mr. Durant: Yes sir Your Honor.

5 Mr. Kent: On behalf of Mr. Morris, we have no problem
6 with that. No problem.

7 The Court: Okay. Alright, well y'all ready then?
8 Bring the jury in.

9 (Jury enters courtroom 10:50)

10 The Court: Welcome back folks. We are now going to
11 go into the last phase of the trial which is closing
12 arguments and then I'll charge you on the law and then you
13 will consider what your verdict will be. You will recall
14 at the beginning of the trial when I told you that
15 arguments by lawyers are not to be considered by you as
16 evidence. The lawyers are now going to be getting up and
17 giving you basically, reviewing the evidence which you
18 have heard throughout the trial and give you a little
19 preview of what the law is that I will be charging in
20 making an argument in reaching a verdict in favor of their
21 client. What they are saying is not to be considered by
22 you as evidence. You've heard all of the evidence that
23 you are going to have presented to you in this trial in
24 the form of testimony from witnesses, documents, and
25 photographs. That is evidence. The lawyers arguing now

1 is not to be considered by you as evidence. Our rules and
2 procedure provide that since the State has the burden of
3 proof, they get to go first and last. So you will hear
4 from the State opening on the law if you will then you'll
5 hear from the defense lawyer and then the State will have
6 the opportunity to close. So, we will now begin with the
7 State.

8 Mr. Durant: Thank you, Your Honor. May it please The
9 Court? Mr. Kent, Madam Clerk. Ladies and gentlemen of
10 the jury, first of all, let me say thank you. Thank you
11 for your service. It's been a long week. I know y'all
12 are tired; tired of listening to me. I'm tired. It's
13 been a long week for everybody. You know, in Law and
14 Order, they get done, investigation and verdict in an hour
15 and it takes us two years to prepare a case and then five
16 days to present it to you. So thank y'all for your
17 patience. Thank you for your attendance. I have a chance
18 now to talk to you a little bit about the law and then at
19 the end, I'll come back and have a few closing remarks for
20 you.

21 But first I want to talk to you about the State's
22 burden in this case. You'll hear the phrase reasonable
23 doubt throughout by the Judge and probably throughout Mr.
24 Kent's closing remarks. We don't hide from that. That's
25 a burden in the case for the State to prove the elements

1 of the crimes charged beyond a reasonable doubt. So what
2 is a reasonable doubt? I submit to you that proof beyond
3 a reasonable doubt is proof that will leave you firmly
4 convinced in the defendant's guilt. Reasonable doubt
5 doesn't mean any and all doubt. The State doesn't have to
6 prove their case beyond every conceivable doubt. It's
7 reasonable doubt. Most people say that reasonable means
8 that it makes sense. We don't ask you to leave your
9 common sense at the door when you come in. Whether it
10 makes sense. Use your common sense in this case ladies
11 and gentlemen. What are the crimes that Mr. Morris is
12 charged with, the first is reckless homicide while
13 operating a boat. I told you yesterday in my opening
14 statement that homicide is not synonymous with murder.
15 They don't mean the same thing. Homicide is simply the
16 legal term for the killing of one by another. It can
17 justifiable. A killing of one in self-defense would be a
18 homicide, but it would be --- wouldn't be illegal. It can
19 be justifiable. It does not have to be intentional. I
20 repeat: it does not have to be intentional. An
21 intentional killing is called murder. It can be
22 accidental. I'll go ahead and fill you in on something,
23 this autopsy report that was sent back there to the jury
24 room with you, it's the cause of death, blunt head trauma
25 and the manner of death, accident as opposed to

1 intentional. Nobody is claiming it was intentional. The
2 State doesn't have to prove that. What we have to prove
3 is recklessness. Recklessness is a reckless disregard for
4 the safety of others. It's a conscious indifference to
5 the rights and safety of others. It's indifference of a
6 consequence to your actions. Remember that word,
7 indifference. Indifference. That's recklessness.
8 Recklessness is a conscious failure to exercise ordinary
9 care. A simple failure to exercise ordinary care is what
10 we all negligence. That's simple failure to exercise
11 ordinary care is negligence. I'll go ahead and tell you,
12 driving too fast for conditions can be --- that can be
13 simple negligence. But when it becomes a conscious
14 decision, when you are consciously aware of the risks of
15 what you're doing, then it's recklessness. When you're
16 consciously --- think about the defendant's conduct in
17 this case. Driving too fast for conditions to such a
18 degree that it caught the attention of three bystanders
19 from different vantage points and they remarked this guy's
20 going to kill somebody. Nothing good can come of this.
21 They were consciously aware --- the bystanders were
22 consciously aware of his risk at the time. And if they
23 were aware, he was aware. So when you fail to exercise
24 ordinary care to such a degree that you must be
25 consciously aware of what you're doing, then it becomes

1 recklessness. If I'm driving 85 down the interstate, I
2 may be driving negligently because I'm exceeding the speed
3 limit, and I understand there's not a speed limit in this
4 case. But if I'm going 100, I'm driving recklessly
5 because I don't get to 100 without being aware of how fast
6 I'm going, without being aware. I can't go 100 without
7 first going 85, 90, 95. If you fail to exercise ordinary
8 care to such a degree that you must be aware of it, then
9 that's recklessness. The other element of a reckless
10 homicide charge is death. When someone dies as a result
11 of that collision or someone dies as a result of that
12 reckless operation of a boat and their death is the
13 proximate cause of it. I submit to you that those factors
14 are uncontroverted in this case. It is clear that young
15 Hailey Bordeaux died that evening. Clearly as a result of
16 this boating collision.

17 The second charge that the defendant is facing is
18 Failure to Render Aid, commonly referred to as leaving the
19 scene of an accident. Failure to render aid resulting in
20 death. The judge is going to tell you that the operator
21 of a boat that's involved in a collision, accident, or
22 other casualty has a duty that if he can do so without
23 serious danger to vessels or passengers, he has a duty to
24 stop and render aid or assistance if practicably necessary
25 and he's got to give his name and information. He has a

1 duty to do that by statute. If he can do so without
2 serious danger. Not just a duty to think that he can do
3 it. It's clear that he had the ability in this case. No
4 hole in the boat, he had time to argue about the lights.
5 Ladies and Gentlemen, I submit to you that whether the
6 lights were on or not, it should've been the farthest
7 thing from his mind. Whether the lights were on or not, a
8 young girl was lying their literally dying. Whether the
9 lights were on or not is really inconsequential. I state
10 to you that evidence is consistent that they were on. But
11 whether the lights were on or not, that's a argument for
12 another day. A young girl was lying there, dying. So
13 that's the law in this case. That's the framework within
14 which you are to analyze this case, in which you are to
15 analyze the evidence, the witness testimony, the
16 photographs, the submissions. That's the law. I'd ask
17 you now to pay close attention to Mr. Kent and in a few
18 minutes, I'll have some closing remarks for you. Thank
19 you very much.

20 The Court: Mr. Kent?

21 Mr. Kent: May we approach real quick Your Honor?

22 (Counsel approach bench without court reporter)

23 Mr. Kent: May it please The Court? Mr. Durant? How
24 are y'all doing? I got along with my mom, she was a
25 pastor. We had a good relationship. We would laugh back

1 and forth all the time. When your mom's a pastor you get
2 try to get involved in everything. Growing up one of the
3 things she use to try to get me involved in was church. So
4 one of the things that she always wanted me to do was sing
5 in the choir. So I would go to choir practice and you'd
6 have to sing loud so everybody could hear your voice.
7 While everybody else was singing, I was there singing loud
8 as I possibly could. My mom would say, shut up, you can't
9 sing. I don't care. I'm singing. And I would sing loud.
10 Finally, my momma pulled me over and she says you don't
11 sound like everybody else. I don't need you to be on the
12 choir. But, Momma, I want to be on gthe choir. Well, you
13 can't sing and I want you to be a usher. I realized I
14 couldn't sing. So my momma took me out the choir. Choir
15 director was quite happy because choir director had a
16 bunch of people who guess what? They sounded the same,
17 they sounded beautiful, they sounded great, and they
18 sounded perfect. And she was able to get away with one
19 fellow that didn't sound the same. Ladies and gentlemen,
20 I want y'all to meet the choir director in this case: the
21 State of South Carolina. They need one song coming to
22 you. One beautiful, melodic song that sounds exactly the
23 same and if somebody doesn't sound the same, guess what's
24 happening to them? They're turning into Shaun Kent. They
25 become a usher. This case is tragic. I think y'al saw me

1 get emotional as I possible could when I was talking
2 yesterday. I got emotional because somebody lost their
3 life. I want to tell y'all a quick story that happened
4 probably about four seconds before y'all came into the
5 court that nobody knows, nobody sees and they're probably
6 going to be surprised to hear a defense attorney tell you.
7 The young lady sitting behind Chad Morris, one of his
8 relatives came over to say something to him and she fell;
9 right here she fell, fell hard. Before I could get over
10 there to try to help her up, one of the greatest acts of
11 chivalry and a gentlemen that I possibly ever seen who is
12 as destroyed by this as possible went to help her up. And
13 the only reason I bring this up is because I'm not saying
14 anything negative or bad about these families because
15 these are good people. They've lost a loved one, they've
16 lost someone they care about and they are sitting here
17 because they want closure. They need closure. So I'm not
18 sitting here saying that they're negative people and
19 they're bad people are anything of that nature, but I
20 understand. When passions get together and emotions get
21 together and people need something more than anything in
22 the world and they try as hard as they can to make you see
23 things a certain way. The facts in this case aren't
24 complicated. They're not. I told you in opening
25 statement, looking at Chad Morris, there's a lot of things

1 wrong with Chad Morris. Chad Morris is financially
2 responsible for his actions. Chad Morris is morally
3 responsible for his actions. Chad Morris is ethically
4 responsible for his action. Chad Morris is not criminally
5 responsible for his actions. So now we're going to talk
6 about the law that the solicitor just told you. There's
7 something that he told you that he kind of went around and
8 around. We're going to talk about recklessness. What is
9 recklessness because that is the very definition. What is
10 recklessness? The judge is going to give you and I'm
11 going to tell you the definition and he's going to give
12 you not only definitions but he's going to give you
13 examples of recklessness. And they're going to be
14 examples that you heard me talking to everybody in this
15 case about. Recklessness is a conscious disregard of a
16 known risk. The solicitor gave you an example of it.
17 Well I'm driving on the road --- as I'm driving on the
18 road and I'm going 85 miles an hour and the speed limit is
19 and he stops. Remember? Well there's no speed limits on
20 the lake. That's important to know. Because since there
21 are no speed limits, there is no speed that you can't go.
22 Understand that. So let's take Chris' example a little
23 bit further. You're driving on the interstate. Let's say
24 you're going 60 miles an hour under the speed limit.
25 Let's say we're going faster than every allegation that

1 said Chad Morris was going. You're going 65 miles an hour
2 down the interstate, let's say it's foggy out. Car in
3 front of you swerved; oh my goodness. Cars cut off,
4 they're parked in the middle of the interstate, they turn
5 on their blinkers, it's foggy outside, you hit them. Are
6 you criminally liable? Or not? Because emotions are
7 involved we've turned off our common sense completely.
8 He's asked you to utilize your common sense but doesn't
9 want you to use. I ask Officer Spires from the stand what
10 are we here for; what happened. Speed, darkness. What
11 else is there? Well there's going fast. Well what else
12 is there? Well it was nighttime. Well what is there? He
13 wasn't looking out. Y'all are going to hear the judge
14 tell you something very interesting in the law. There's
15 something in the law called negligence. Negligent
16 operation of a vehicle. You'll hear the judge tell you
17 that that is a lesser-included offense. If you find him,
18 he didn't come at somebody and swerve at the last minute
19 playing chicken, he was going that way and he was going
20 fast, as many people do. He didn't see anything he hit
21 possibly in a negligent way. I wish it didn't happen. I
22 wish it didn't happen but it did. That becomes
23 negligence. And if you find him guilty of anything,
24 you'll find him guilty of negligent operation of a
25 watercraft. And you're going to hear the judge tell you

1 the law and actually give you examples, and I want you to
2 listen real careful when he gives you examples. The
3 examples he's going to give you believe it or not are
4 going to say things like if you find somebody was going
5 too fast for conditions. If you find they failed to
6 maintain a proper lookout. Which is what he did and I'm
7 telling you to find him guilty of that. I'm telling you
8 to do that because that's what he did. And that's the
9 truth. There's been question to whether the lights were
10 on or whether the lights were off. In all sincerity, I'm
11 with Mr. Durant here it doesn't matter. But the reason we
12 keep bringing up the lights is because we need the same
13 song. Chad Morris is the worst person you've ever met.
14 And if you sing that song just loud enough you can get
15 people believing it.

16 So then we get to the second charge which to me is
17 the most serious of the charges. Failure to render aid.
18 Now what's interesting is listening to our choir director,
19 what did he try to tell us. Our choir director in the
20 opening statement kept trying to turn this into he fled
21 the scene, he fled the scene, he fled the scene. To show
22 you that this is the choir director putting this one,
23 listen to the law the judge gives you, he doesn't say
24 anything about it. He doesn't. And the reason he doesn't
25 say anything else about that is that's not what he's

1 charged with, but if I scare you just enough, might
2 intimidate you just enough to maybe you'll say I hate this
3 guy, I need to do this. So what does the failure to
4 render aid say? The judge is going to tell you the law
5 failure to render aid. Failure to render aid has two very
6 important definitions. A person must give aid if they're
7 involved in a collision, if it's practical and necessary.
8 You must do what's practical and necessary. The law
9 doesn't say he must jump in the water. The law doesn't
10 say he must perform CPR. The law doesn't say things that
11 we would do in that situation. Because I've never been in
12 the situation, I don't know what we would do. The law
13 doesn't say that. The law says do what's practical and
14 necessary. I sat there with Chad Morris for almost two
15 years and I've asked him the same questions each one of
16 you are asking why didn't you do more? And he responded,
17 Shaun, I did everything I could. Why didn't he jump in
18 the water and finally it clicked. Was it necessary. And
19 by that, I mean were there people already on the boat,
20 were there people already helping this girl out, and 911
21 had been called. Had he done everything that he could
22 have? No. But is that the law? If you judge Chad
23 Morris, if you look your nose down at Chad, if you say
24 you're not the person that we prefer, then yeah, we have a
25 problem. Because you judge him in the eyes of the law.

1 And then they made a big deal about --- which drives me
2 absolutely --- Chad turns himself in, I don't think
3 there's any question about that. He turned himself in.
4 He took himself. He turned himself in that night without
5 a lawyer, gave a statement, and admitted to everything.
6 And what did they do? They want to give him a sobriety
7 test. Not one, but two. He got two field sobriety tests
8 and what did they let him do? Did they arrest him, did
9 they grab him, did they catch him, did they do anything?
10 No, they let him go home. The great evil Chad Morris,
11 they said, you know, what you have done. Go home. Think
12 about that for a minute. So he goes home. Does he try to
13 run? Does he try to hide? How do they capture him again?
14 With the telephone. Chad needed to give another statement
15 and he did. Is it perfect? No. And that's what this
16 case actually turns into. Perfect person. Their
17 testimony was perfect. The same language Dukes of
18 Hazzard. It was perfect. The witness I put up weren't
19 perfect. Their testimony was different.
20 There were some things that were different. I want you to
21 tell me what happened. I've always found stories that are
22 too tight and too perfect are false. Two years later no
23 one should be able to tell the exact same story. The most
24 honest thing that you've heard in this entire courtroom,
25 that I thought was the most important thing you've heard,

1 when I asked him isn't it kind of dangerous to have your
2 boat in the middle of the lake like that. Do you remember
3 his comment? Neither is going fast on the lake. There's
4 no law against it, but maybe there should be. If you go
5 back and say there should be laws on the lake, you don't
6 justify that today by saying there should be a change in
7 the law. There should be; I wholeheartedly believe that.
8 There had to be a change to do something for this family
9 that's going through this, but it's not your job today to
10 say what the law should be. Chad Morris did everything
11 that should be expected. And then we get mad at him when
12 law enforcement tells him don't contact anybody, don't
13 talk to anybody, don't bother anybody. And when he
14 doesn't, they say aha, we got you. I submit to you
15 there's a reason they waited two months to arrest Chad.
16 Here's my theory on that. They didn't know what to charge
17 him with because they didn't know what the crime was. So
18 we take the language out of one law, negligent operation
19 of a boat and put it in another and call it reckless
20 operation of a boat. Now lets put the entire pieces of
21 the puzzle on what they want us to believe about Chad
22 Morris. Come here Chad. This is our Chad Morris. Look
23 at him. I'll say it, he's stupid. Gah, that was mean,
24 how dare you say that. And I've said that right to Chad's
25 face. Eleventh grade education, tell him to come in his

1 dress shoes and he's got a pair of tennis shoes on. He
2 got on that stand and he told you everything about
3 himself. And the State of South Carolina wants you to
4 look at our Chad Morris like he's the great and powerful
5 oz. Like he's this amazing person, just sitting here
6 behind --- that he's been controlling the entire world,
7 that he told people what to say. He manipulated people.
8 But when we look behind the curtain, guess what it is.
9 It's a guy with an eleventh grade education that did
10 everything he thought he could do. But that's not enough
11 for our choir director. He wanted something superhuman.
12 God I wish Chad had done things differently. I wish he
13 would've acted differently in this situation. I don't
14 know what I would have done. I cannot imagine the pain
15 and horror that this family's going through. I can't.
16 I've had this case now for about two years, two-two and
17 half years, I can't image what the family's going through
18 on this side of the courtroom and can't imagine what the
19 family's going through on that side of the courtroom. I
20 can't imagine what that family is going through that's why
21 I'm emotional. I can't understand what he's going
22 through. And I understand the horror and the hate they
23 have for that man, because I know what's right. Hating a
24 man doesn't make it the law. Wishing he'd have acted in a
25 different way doesn't make it the law. All we ask for is

1 to do what's necessary. Chad did everything he thought he
2 could've done that night. Was he negligent? Absolutely.
3 Was he reckless? I just don't see how you can be reckless
4 when there are no speed limits. The question you ask
5 yourself is well if he didn't hit anything, would he have
6 gotten a ticket? If Chad went past, 90 miles an hour on a
7 boat, what would happen if he was speeding. I tell this
8 story because it's the most difficult thing --- It's a
9 story I like to tell. A little boy and a wise old man.
10 The old man is so smart. Finally, the little boy told his
11 friend he said, you know what I'm going to do. I'm
12 finally going to beat the old man. I'm going to get take
13 this bird and put it in my hand and I'm going to go up to
14 the old man and I'm going to say old man is the bird alive
15 or dead? If the old man says the bird is alive, I'm going
16 to crush the bird and then open my hand and say I've got
17 you. If he says the bird is dead, I'm going to open my
18 hand and let the bird fly. So the young boy goes up to the
19 old man. He says old man, what do you think I've got in
20 my hands? Old man, is this bird alive or is this bird
21 dead? Old man stops and he looks at him and says son, the
22 bird is (couldn't hear, voice too low). Ladies and
23 gentlemen, thank you so much.

24 The Court: Alright, Mr. Solicitor?

25 Mr. Durant: Thank you, Your Honor. May it please The

1 Court? Ladies and gentlemen of the jury, Hailey Bordeaux
2 is gone. She died that night on Lake Marion here in
3 Clarendon County. On the 4th of July, two years ago, she
4 died. A daughter, a granddaughter, a niece, a friend, a
5 best friend, a girlfriend is gone. And that's the man
6 that killed her. That's the man that killed her. And
7 with that said, my next statement may come as a surprise,
8 but nobody in this courtroom believes he meant to kill
9 her. Nobody believes --- nobody is telling you that he
10 intentionally did it. Oh yeah, he intended to drive fast.
11 He intended to drive reckless. And that's really why
12 we're here today. We're here because of the indifference,
13 because of his indifference. He didn't care what might
14 happen when he chose to drive the way he did that evening.
15 He sure as heck didn't care afterwards. We're here
16 because of his indifference. Ladies and gentlemen of the
17 jury, Chad Morris didn't care what might happen that night
18 and he didn't care what did happen. Let's talk about what
19 happened in this trial. Let's talk about the truth. Mr.
20 Kent got up in his opening statement and said that the
21 prosecutor had to yell and scream and try to create fear
22 and intimidate. Where are the theatrics coming from? Ask
23 yourself, where are the theatrics coming from.
24 Prosecutor's trying to mislead. Ladies and gentlemen,
25 who's twisting words? Who's cherry picking from

1 statements? Remember Caroline got in that stand? Mr.
2 Kent had her statement in front of him - in front of her?
3 He was jumping up and down; isn't it true you didn't write
4 in your statement that they were cussing at you? You
5 didn't write in your statement that they said f you, we're
6 not calling 911. Isn't it true you didn't write that?
7 Cherry picking from her statement. And what happened? I
8 handed it to her and said read to us what you wrote. Read
9 it verbatim. And what did she say? I yelled for them to
10 call 911. And then she said I'm yelling for them to help
11 and they rudely yelled back at me. So she didn't include
12 what he said. She didn't include the obscenities, she
13 didn't include the vulgarities that Mr. Morris's occupants
14 on his boat yelled back. But she told officers that night
15 just after her best friend had died that they were rudely
16 yelling back at her. And Mr. Kent wants you to believe
17 that she's lying because she didn't include the f you, the
18 f bomb in her statement. Who's twisting words? Who's
19 trying to mislead? Mr. Kent spent half the time talking
20 about a weather report in Orangeburg. He wants you to
21 believe that these three victims are lying about the last
22 words their best friend said. Nobody forgets the last
23 words of their best friend. Of course, they don't forget
24 the last words of his girlfriend of six years. Nobody
25 claimed there were no clouds in the sky. They said all I

1 know is the last words Hailey said is I could lay here and
2 look at the stars all night. Who lies about that? Mr.
3 Kent wants you to believe that weather report means
4 they're lying. Who's trying to mislead? A weather report
5 in Orangeburg means these victims are lying. Who's
6 twisting words? He told you the prosecutor's going to try
7 to hide things. He wont give you the 911 tape. I put the
8 tape into evidence. It's not ideal. I'll give you that.
9 Listen to it. I put it into evidence. He kept talking
10 about reg and Lori Mains, asking each witness weren't they
11 there suggesting the prosecutors not going to let you hear
12 them. I put Greg Mains on the stand ladies and gentlemen
13 and let you hear his story. The rest of the story. The
14 rest of the story, that was his opening. Now you'll get
15 to hear the rest of the story. He's right about one
16 thing: the rest of the story is not consistent. His
17 witnesses are not singing the same song. I don't know who
18 their choir director is but they are not singing the same
19 song. And he wants to tell you that because our witnesses
20 are consistent, they're coached. Think about what his
21 witnesses said. They remember every single detail when
22 Mr. Kent was asking the questions. And I get up here,
23 they've got amnesia. Every one of them. I don't
24 remember. I don't remember. I don't remember. Who's
25 coached and who's not? That's not an accident that his

1 witnesses know the answer to every one of his questions
2 but have amnesia when I ask the questions. That doesn't
3 just happen. He tells you our witnesses are coached
4 because they are telling the same story. Folks, if people
5 are together and they perceive an event together, a
6 dramatic event, they talk about it later, of course. I
7 remember when I was young, I lived out in the country and
8 I grew up on a farm. Lived out in the country with big
9 fields beside the house. One night, I come home from
10 school, I'm a teenager and a single prop airplane had
11 crashed on the side of my house. It's crazy and the guy
12 survived. The guy survived. He had tried to land soft
13 dirt in a plowed field and wrecked. So my dad's got a
14 shop on the farm. They pulled the airplane in the shop.
15 The guy stayed in town and worked on his airplane for a
16 month. They pulled it back out on the highway. He fixed
17 his own plane. I've got friends over. We're there to
18 watch this airplane take off. The plane gets about power
19 line level and starts fish tailing and crashes again.
20 It's a dramatic event, a dramatic event. My friends were
21 there to witness it; we all watched it. Of course, we
22 talked about that thing to our buddies in school for
23 months and years. We talked about it, we still talk about
24 it. I see my friend and I say you remember that time that
25 plane crashed? Yeah I remember that. We perceived a

1 traumatic event together and so we talked about it.
2 That's what people do. If you witness something together,
3 y'all talk about it amongst yourselves. That's what
4 people do. He wants you to believe that because they've
5 talked about it before they came in here, they've been
6 coached. They answered every one of his questions. They
7 sat up here and answered every one of those questions. He
8 asked some hard questions, but they answered them. They
9 didn't get amnesia. Let's talk about the rest of the
10 story. The rest of the story, the song that witnesses are
11 singing. Franklin Card. Y'all remember Franklin? He was
12 the other male on the defendant's boat. He came in here -
13 -- first of all, he told you that nobody got knocked in
14 the water that night. He was adamant that the two men on
15 the victim's boat didn't get knocked in the water. He got
16 smart with me when I questioned him about it and said well
17 they weren't wet. That's all I know. He was adamant
18 about that. What possible reason could Stephen and Justin
19 and Caroline have to make that up? Why would they make
20 that up? Why would the other witnesses on shore, the
21 first responders, say that they were in the water when
22 they got there? Why would anybody make that up? Franklin
23 Card was adamant that wasn't true. Look at the boat. I
24 submit to you if Stephen and Justin hadn't gotten knocked
25 off, they might not be here. What else did Frankie say?

1 He said their boat, the defendant's boat, just stopped
2 when it hit the victim's boat. Just stopped. Not only is
3 that inconsistent with the eyewitness that was on shore
4 who said it jumped in the air, like Dukes of Hazzard, from
5 back to front, traveled all the way across, that's
6 inconsistent with the physical evidence. It's
7 inconsistent with the expert's testimony as to what the
8 markings on those boats show. The guy has investigated 40
9 boat collisions. It's inconsistent with the physical
10 evidence that shows not only did Morris's boat jump
11 completely clear the victim's boat, it was in the air when
12 it left the front. It was still in the air when it
13 crossed the front. That's how fast he was going. Frankie
14 said, no, just we stopped when we hit. What else did
15 Frankie tell you? He told you Gregg and Lori Mains were
16 right there with him the whole time. They were right
17 there with us the whole time; noone ever got out the
18 front. Both Gregg and Lori told you that wasn't true.
19 Both of them. Both of them said Chad kept taking off and
20 stopping and waiting. We were going as fast as we could
21 go, 22 miles an hour, and Chad kept leaving us and waiting
22 on us. Frankie's not telling the truth about that. The
23 next witness, the next member of the choir that Shaun put
24 up was Lori Gaines. Ms. Mains said she did not see the
25 collision. She wrote that in her statement. She

1 confirmed that in court in her testimony. Did not see the
2 collision, it was too far away, too far behind them.
3 Frankie said that they were right there. Right there with
4 them. Lori said no, no, no we weren't, we didn't see it.
5 Frankie had told you that he actually had driven Chad's
6 boat from Goat Island to Lakeview that night. What did
7 Lori tell you? No, no, no he didn't. Chad was driving
8 the boat the whole time. Lori contradicted everything the
9 witness in front of her said. Lori also said that one of
10 the victims cut their lights on after the collision; that
11 that's when they cut their lights on. She was the only
12 person to say that. That's inconsistent with at least
13 nine other witnesses. Nine others. And then Lori told
14 you that she called 911 while she was out there. And then
15 the next member required to get up was Jessica Long.
16 Remember, she was on Skype. Jessica admits that she was
17 yelling, I just didn't say any of those obscene words, but
18 I was yelling at them, yeah I was yelling. Never mind the
19 fact that Lori had just told us that Jessica and Frankie
20 said some horrible things to them that night. Said some
21 horrible things and that was a quote. Jessica said nah, I
22 didn't yell any obscenities but I did yell. And then she
23 said - I asked her if she called 911 and she said oh yeah,
24 I was the only one that called 911. The only one out
25 there called 911. She was adamant about that, very quick.

1 I was the only one that called 911 after Lori just told me
2 she called 911. So Lori contradicts Frankie, then Jessica
3 comes up and contradicts Lori. The circle of
4 inconsistency continues. Only one that called 911, that's
5 what Jessica said. She said it was only a few minutes
6 after they got out at Rusty's that DNR made it there.
7 Remember I kept asking her why didn't they call DNR and
8 let them know where they were. They knew, she said that
9 they were going to maybe call --- Frankie. Why didn't
10 they call from where they were. It was only a few
11 minutes. I said how long? Less than fifteen; from the
12 time of the collision til DNR got there. Folks, you know
13 that's not true. Jordan testified that he didn't get
14 there until 1:45 AM. We talked about how he found them
15 later. It was 1:45. The first call came in at 12:49, an
16 hour later. They said no it was less than fifteen
17 minutes. She said that because she understands that the
18 fact that Chad Morris didn't call anybody in that hour
19 doesn't look good for him so she lied. She lied to you.
20 Because that song that Mr. Morris didn't call anybody in
21 an hour. He didn't call anybody. He didn't get on that
22 boat and go to Scarborough's's during that hour. That
23 song doesn't play well. That song doesn't sound good so
24 she lied. Frankie lied to you. And Lori lied to you.
25 And Jessica lied to you. And then Stephanie took the

1 stand. Stephanie told you that she didn't see the
2 collision. The only info that she had, she knew about it
3 came from out of the mouths of Chad and Frankie and
4 Jessie. But she had some interesting information to
5 share. She told you that after the defendant, Mr. Morris,
6 arrived, after he got there, a boat with her brother and
7 others left the others left the house to go to
8 Scarborough's's. They sent a boat to survey the scene, to
9 see what kind of trouble Mr. Morris might be in. And he
10 didn't get on that boat. Ladies and gentlemen, failure to
11 render aid, failure to give information, he didn't get on
12 that boat. A boat left to go see what kind of trouble
13 he's in to survey the scene, to see how bad this girl's
14 hurt before he turned himself in. And he didn't get on
15 that boat. What did she say he was doing? Well he and
16 Rusty were checking out his boat at the time. He already
17 made it to safety and he's more concerned about if he's
18 got a hole in his boat then going and talking to law
19 enforcement and first responders about what had happened.
20 A boat left to survey the scene and he didn't get on it.
21 Ladies and gentlemen that's failure to render aid. That's
22 failure to give information that he's required to give.
23 Said he waited for an hour for DNR to find him. What else
24 did Stephanie tell you that was interesting? She told you
25 that when Jessie came up on shore, Jessica Long, the girl

1 who had just said that she called 911, the girl that Chad
2 said called 911, the girl that Frankie said called 911;
3 when Jessica came up on shore, she told everybody, when
4 questioned as to whether they had called 911, Jessica said
5 what? She said no, somebody else called 911. No, she had
6 not called. Then they urged Jessica to call. Jessica
7 admitted on shore at Rusty Harrington's after the
8 collision, after they had fled the scene, after they left
9 on that boat, she admitted that nobody called 911. None
10 of them. None of Chad or Frankie or Jessie, according to
11 Jessie's own words that that crew did not call 911. So
12 Lori contradicts Frankie, Jessie contradicts Lori, and
13 Stephanie contradicts Jessie. Folks this is just a web of
14 lies. It's just an interwoven web of deceit. A circle of
15 inconsistencies. They're not just singing a different
16 story, they're all singing a different story. Every
17 single one of them is singing a different song. What did
18 Chad tell you? Chad told you he was only going 15 to 20
19 miles an hour. First he told the officer that he was not
20 to plane. Then he testified he was on plane. Then he
21 tried to clear that up and said he was kind of in between
22 plane. He lied about it the first time. He said he was
23 only going 15 to 20 miles an hour, he's not sure about
24 plane. Gave several different stories about that. But
25 only going 15 to 20 for sure, which is inconsistent with

1 the physical evidence. Inconsistent with the evidence
2 that shows that he was on the plane and the evidence that
3 shows that he jumped the boat from back to front. An 18
4 and a half foot boat, he jumped from back to front.
5 All the way across like Dukes of Hazzard, with at least
6 clearance at the front end. He claimed that happened from
7 a boat that was going only 15 miles an hour? Folks, that
8 doesn't make any sense. That doesn't make any sense. The
9 song that they're singing, the song that they're trying to
10 sell you, doesn't make any sense. You will hear about
11 reasonable doubt in a few minutes. Folks, I submit to you
12 that you can't get reasonable doubt from an unreasonable,
13 unbelievable story that they're telling you. Reasonable
14 can't create unreasonable. Unreasonable can't create
15 reasonable. That wouldn't be logical. They're telling an
16 unreasonable, unbelievable story and they want you to say
17 well that leads to reasonable doubt. Would it be
18 logical, Ladies and gentlemen, you have a duty to find the
19 truth in this case. You took an oath as jurors to find
20 the truth. In a few minutes, you'll get a verdict form
21 and you'll go back in that jury room and render a verdict.
22 Verdict comes from the Latin word veredictum, which means
23 to speak the truth. Render a verdict that speaks the
24 truth. Make no mistake about it, that is your job; to
25 render a verdict that speaks the truth. And what is the

1 truth in this case. The truth is that everybody else is
2 telling the same story. Stephen, Caroline, and Justin,
3 they all tell you the lights were on. Matter of fact,
4 that's how the other people on shore knew they were out
5 there. The lights were on. Steven said 500%. That's how
6 Laughton and Daniel, his own witnesses, knew they were out
7 there because the lights were on. Nine people; let's
8 count them. Stephen, Justin, Caroline, Zanne Morris,
9 Jordan, Brent Waynick, Kim Rosefield, Laughton and Daniel.
10 They all say the lights were on, no question about it.
11 Laughton says after we got out there, the defendant's
12 yelling -- I just saw them on. I said I just saw them on,
13 they're on right now. They all tell you the same story,
14 the lights were on. They waved their phone lights.
15 Consistent with the witnesses on the shore who say they
16 heard screams before the collision. They saw the lights
17 being waved. These folks, they're not at the same party.
18 These are from different vantage points. They saw the
19 lights being waved. Had been described as speeding;
20 Justin and Caroline and Stephen. Fifty to 60 miles an
21 hour, wide open, sitting high on the water, trimmed up,
22 couldn't see the driver of the boat. He was trimmed up,
23 sits the front up higher. He was sitting so high that
24 they couldn't see him. Ladies and gentlemen, if the
25 people on the boat he hit couldn't see the driver, then

1 the driver couldn't see them. And that is important isn't
2 it, in this incident? To drive in such a manner that you
3 can't see what's in front of you. Isn't that
4 indifference? Isn't that recklessness? All consistent
5 that the boys got knocked in the water. No reason to lie
6 about that. What did Zannie, Brent and Jordan tell you
7 about the speed? Brent says I've been riding boats for
8 the last twenty years. The bass boats, I'm telling you the
9 boat was going between 40 and 50. He was the most
10 qualified person to testify in this trial to estimate the
11 speed of the boat if he owned a bass boat for the last
12 twenty years. He says going between 40 and 50. He said
13 that's fast speed at night. Matter of fact, he remarked
14 to his friend before the collision, he predicted the
15 tragic result of this incident --- of Mr. Morris's
16 actions. He predicted the tragic result: that guy's going
17 to kill somebody. Nothing good can come of that. He's
18 going fast enough that the onlookers who witnessed it on
19 shore were aware - they were consciously aware of his
20 recklessness. Ms. Morris told you, you know, I can't give
21 you a definite speed, all I know is that I pull my kids
22 between 30 and 35 miles per hour on the inner tube, I do
23 it all the time in that same area and I know for a fact he
24 was going faster than that. They're all consistent at the
25 degree of speed at which Mr. Morris is traveling. Quickly,

1 let's go through the remaining witnesses. Danny Floyd he
2 brought the 911 tape in. Nobody tried to hide it. We put
3 in. Danny Floyd says it contains the calls. It's
4 evidence. You can listen to it. It's in evidence.
5 You'll have a chance to go back and listen to it a hundred
6 times if you want to. I submit to you there's only one
7 female voice on that recording. That's the only female
8 caller. She identifies herself as Robin Morris... It's
9 not that hard to make out how many female callers there
10 were. There was one. She told her name: Robin Morris. I
11 talked about Investigator Spires's testimony already,
12 about how the defendant's story is inconsistent with the
13 physical evidence. Investigator Spires mentioned was
14 fishing poles. At 4:00 in the morning before he went
15 home, after he finished arguing about the lights, Mr.
16 Morris wanted his fishing poles back. He just killed a
17 young girl and he wanted to make sure to get his fishing
18 poles. Ladies and gentlemen, that is indifference.
19 Indifference. Mr. Harrington, the defendant's friend, his
20 friend came in here and admitted to you that after the
21 defendant got to his house, he urged him to go and speak
22 to law enforcement and the defendant stated I ain't going
23 tonight. I'll talk to them in the morning. I ain't going
24 tonight. I'll talk to them in the morning. Number one, he
25 didn't care. Number two is proof that he hadn't called

1 911. The fact that he believed it was an option to not
2 speak to law enforcement until the next morning is proof
3 that he hadn't called 911. Because if he had done so, he
4 would've known that law enforcement would want to speak to
5 him and he would've had to tell them where he was. So the
6 fact that he made that statement is proof of indifference
7 and proof he didn't call 911. Jordan Douglas, Jordan
8 Douglas is also proof the defendant didn't call 911.
9 Jordan Douglas told you that when he got out when he got
10 the call, go to the lake, got in his boat - put his
11 uniform on, got in the boat, getting information from DNR
12 about what they had, he told you they didn't know the name
13 of the suspect. They didn't know the location of the
14 suspect. Didn't know a name or where to find Mr. Morris.
15 An hour later, after Jordan and Erica waved him down, he
16 found him. An hour later. 12:49 to 1:45. That's when he
17 found him. Ladies and gentlemen, if anybody on Chad
18 Morris's boat had called 911, DNR would've known where to
19 find him. They'd have know who they were and where to
20 find him. The fact that they didn't is proof they didn't
21 call 911. You heard Laughton's story. Some of it again
22 this morning. It was very clear that a boat traveling
23 towards the power lines jumped a wake is one of the
24 examples of recklessness you'll hear. He jumped a wake.
25 Boat travelling towards the power lines jumping a wake

1 came back from the power lines towards Scarborough's, same
2 boat, going by just as fast. Stopped at Scarborough's and
3 came back. Consistent with the witnesses on shore Zanne
4 and Brent and Jordan and Ken that they saw the boat come
5 by the power lines towards Scarborough's and then come
6 back. All consistent. They saw that same boat that had
7 just jumped it's wave flying up and down the lake and
8 that's the boat he hit, Hailey and Stephen and Justin and
9 Caroline. They were very clear about that. They were
10 also very clear that after the collision, not Chad or
11 Frankie and Justin but he was the last one to leave. They
12 were already gone. They were already gone. He heard them
13 yelling and cussing about the lights. He yelled back and
14 said they are on right now. I just saw them on. But
15 before he got a chance to leave, Chad was gone. Ladies
16 and gentlemen I know that it's difficult to sit in
17 judgement of another man. It's difficult to do what you
18 guys have to do. But you took an oath to do it. You took
19 an oath to follow the law. Thankfully you won't have to
20 decide what, if any, punishment Mr. Morris would get for
21 this. Your job is simply to answer the question. To
22 answer the questions: did Chad Morris drive his boat
23 recklessly that evening, killing Hailey Bordeaux in the
24 process; and did he fail to render aid and give
25 information following that collision? Ladies and

1 gentlemen, the answers to those questions is yes. I ask
2 you now to follow your oath and return a verdict that
3 speaks the truth. Thank you.

4 The Court: Alright, well folks, you remember at the
5 first of the trial, I just told you that and I have
6 different duties, I'm the judge of the law, you're the
7 judge of the facts. As a trial judge, it is my job to
8 preside over the trial, rule on it with things like
9 admissibility of evidence, making sure our procedural
10 rules got followed. Your job as jurors of the facts are
11 only, to consider only the evidence that was presented to
12 you in this courtroom, that's such things as testimony
13 from the witnesses on the witness stand, photographs, and
14 documents that were admitted into evidence and any
15 stipulations that counsel may have made. Now, I also now
16 have the additional duty of charging you on what the law
17 is that is applicable to this type of case. It's your
18 duty as jurors to accept this law and apply it as I now
19 state it to you and if you feel like you have some idea as
20 to what the law is or what the law ought to be and doesn't
21 agree with what I tell you the law now is, under the oath
22 that you took at the beginning of the trial, you were
23 under an obligation to accept this law as I now charge it
24 to you. You are the judges of the facts, you are the sole
25 judges of the facts. I, as the trial judge, cannot

1 comment upon the facts. I can't state my opinion about
2 the facts. I can't make any statement or comment at all
3 to you about what I may feel like about the facts of this
4 case. You, the jury are the sole judges of the facts and
5 you are not to infer from anything that I've said or did
6 during the progress of this trial in ruling on
7 admissibility or anything that I've said or saw during the
8 course of this instruction that I have formed any opinion
9 about the outcome of this case. The law does not allow me
10 to have an opinion about this case. This is solely a
11 matter for you to determine. You are the jurors and you
12 are to determine the effect, the value, the weight, and
13 the truth of the evidence that was presented to you at
14 trial.

15 Now I want to remind you the fact the defendant was
16 arrested, charged, and indicted in this case, is not
17 evidence in this case and it can't be considered by you as
18 evidence of guilt, nor does it create any presumption of
19 guilt or any inference of guilt. The indictment is simply
20 the formal written document that contains the charges that
21 were made against the defendant. It is the formal
22 document that gives this Court jurisdiction to hear the
23 case. Now that indictment, as I read to you at the
24 beginning of the trial and was sent back to you alleges
25 that there were two different offenses committed by the

1 defendant. Count Number 1 is for Reckless Homicide by
2 Operation of a Boat. Count Number 2 is the Operator of a
3 water craft failed to render assistance and that death was
4 a result. Each of these charges is a separate and
5 distinct offense. You must decide each count separately
6 from the evidence and the law that applies to it,
7 uninfluenced by your decision as to the other count. The
8 defendant may be convicted or acquitted on all or any of
9 the charges. You will be asked to write a separate
10 verdict of guilty or not guilty for each count.

11 The defendant has pled not guilty to his indictment,
12 and that plea therefore cast a burden on the State to
13 prove the defendant guilty beyond a reasonable doubt. A
14 person who is charged with committing a criminal offense
15 in South Carolina is never required to prove himself
16 innocent. This is an important rule of law in this county
17 that a defendant in a criminal trial is always presumed to
18 be innocent of the crime for which he is indicted unless
19 and until his guilt has been proven by evidence satisfying
20 you of that guilt beyond a reasonable doubt. The
21 presumption of evidence is not just some mere legal
22 theory. It is not just a legal phrase. This is a
23 substantial Constitutional right that every defendant is
24 entitled to. Presumption of innocence accompanies the
25 defendant from the time he is charged throughout the trial

1 unless and until you reach a verdict of guilt based upon
2 evidence satisfying you of that guilt beyond a reasonable
3 doubt.

4 As I stated, the State has the burden of proving the
5 defendant guilty beyond a reasonable doubt. I give you
6 some examples, at the beginning of the trial maybe some of
7 you served as jurors in a civil cases, where you were told
8 that it is only necessary to prove that a fact is more
9 likely true than not true, such as by the greater weight
10 or preponderance of the evidence. However, in a criminal
11 case, the State's proof must be more powerful than that.
12 It must be beyond a reasonable doubt. Proof beyond a
13 reasonable doubt is proof that leaves you firmly convinced
14 of the defendant's guilt. Reasonable doubt has also been
15 defined as the kind of doubt that would cause a reasonable
16 person to hesitate to act. There are very few things in
17 this world that we know with absolute certainty, and in
18 criminal cases, the law does not require proof that
19 overcomes every possible doubt. If, based on your
20 consideration of the evidence, you are firmly convinced
21 that the defendant is guilty of the crime charged, then
22 you must find the defendant guilty. On the other hand, if
23 you think there is a real possibility that the defendant
24 is not guilty, then you must give the defendant the
25 benefit of that doubt and find him not guilty.

1 Now, during the course of a trial, there's usually
2 two types of evidence that are presented. There's direct
3 evidence and that is circumstantial evidence. Direct
4 evidence directly proves the existence of a fact and does
5 not require deduction. Circumstantial evidence is proof
6 of a chain of facts and circumstances that indicate the
7 existence of a fact.

8 Crimes may be proven by circumstantial evidence and
9 the law makes no distinction between the weight or value
10 to be given to either direct or circumstantial evidence,
11 however, to the extent that the State relies on
12 circumstantial evidence, all of the circumstances must be
13 consistent with each other, and when taken together, point
14 conclusively to the guilt of the accused beyond a
15 reasonable doubt. If these circumstances merely portray
16 the defendant's behavior as suspicious, the proof has
17 failed.

18 The State has the burden of proving the defendant
19 guilty beyond a reasonable doubt and this burden rests
20 with the State regardless of whether the State relied on
21 direct evidence, circumstantial evidence, or some
22 combination of the two.

23 Now, as jurors, you must determine the credibility of
24 witnesses who have testified in the trial. Credibility
25 simply means believability. It is your duty as jurors to

1 analyze and evaluate the evidence and determine which
2 evidence convinces you of it's truth. In determining the
3 believability of witnesses who testified in this case, you
4 can believe one witness over several witnesses or several
5 witnesses over one witness. You may believe the testimony
6 of a witness in its entirety or you can reject the
7 testimony of a witness in its entirety. You may believe
8 part of the testimony of a witness and you can reject the
9 remaining part of the testimony of that same witness. If
10 you reject part of it, you can still accept the remainder
11 of a witness' testimony. You can consider whether any
12 witnesses exhibited to you any interest, bias, prejudice,
13 or other motive in the case. You may consider the
14 appearance and demeanor of a witness while on the witness
15 stand. You are not bound to decide the case based on the
16 number of witnesses that a side produces.

17 Now, I also explained to you during the trial that we
18 ordinarily don't let people testify about their opinion of
19 the evidence that was presented. We do make an exception
20 for expert witnesses. And these are people who are
21 experts because of experience, education, or specialized
22 training in some area. We allow them to give their
23 opinion and state their reasons for their opinion. You
24 can give an expert's testimony as much or as little weight
25 as you think it deserves. If you don't think it's based

1 upon sufficient education or experience, or you conclude
2 that the expert's opinion is not sound or outweighed by
3 other evidence, you may disregard the opinion entirely.
4 You are not compelled to blindly accept an expert's
5 opinion. You have the right to consider the testimony in
6 light of all the circumstances and give it such weight, if
7 any, as you think it is entitled to.

8 Now, in order to establish criminal liability,
9 criminal intent is required. For example, the mental
10 state required to be proven by the State for a particular
11 crime might be the purpose, intent, knowledge,
12 recklessness, or criminal negligence. Criminal intent
13 must be proven by the State beyond a reasonable doubt.
14 Criminal intent is always a matter that must be determined
15 by you, the jury, from the circumstances surrounding the
16 situation. There is no way to prove intent to a
17 mathematical certainty. There is no way medical science
18 can dissect a person's brain and determine what the person
19 had in mind, so the law says that criminal intent may be
20 inferred from the circumstances shown to have existed.
21 This is how you make the determination as to whether or
22 not the element requiring intent was present. It is not
23 necessary to establish intent by direct and positive
24 evidence, but intent may be established by inference in
25 the same way as any other fact by taking into

1 consideration the acts of the parties and all of the facts
2 and circumstances of the case. Criminal intent can arise
3 from action or a failure to act. It may arise from the
4 negligence, recklessness, or an indifference to duty or to
5 consequences that is considered by the law to be the
6 equivalent of criminal intent. Criminal intent is a
7 mental state, a conscious wrongdoing. It is up to you to
8 determine what the defendant intended to do based on the
9 circumstances shown to have existed.

10 Now, I'm going to go over with you the substantive
11 law of the charges. The first charge or count of the
12 indictment is for reckless homicide by operation of a
13 boat. This is statutorily in the code of laws as 50-21-
14 115. To prove a violation of recklessness by reckless
15 homicide by operation of a boat, the State must first
16 prove beyond a reasonable doubt that the defendant
17 operated a boat with reckless disregard for the safety of
18 others. Reckless disregard for the safety of others means
19 an indifference to the consequences or results of one's
20 act; a conscious indifference to the rights and safety of
21 others; or a conscious failure to exercise ordinary care.
22 Reckless disregard for the safety of others is something
23 more than mere negligence or carelessness. Whether the
24 defendant was operating a water device recklessly is to be
25 decided based on all of the surrounding circumstances.

1 What is reckless operation under some circumstances may
2 not be reckless operation under other circumstances. In
3 deciding whether the defendant is guilty of reckless
4 operation of a water device, you should consider the
5 manner of the defendant's driving with respect to the time
6 and place of the alleged violation; the width, character,
7 and condition of the waterways; weather condition as to
8 light or darkness and the position of other boats; the
9 weight and load of the defendant's boat; the opportunity
10 for observation and familiarity with the waterways, and
11 the chance of being able to stop or avoid a collision. I
12 inform you that examples of reckless operation include but
13 are not limited to, weaving through congested vessel
14 traffic at more than idle speed; jumping the wake of
15 another vessel within two hundred feet of that vessel;
16 crossing the wake path or wake of another vessel when the
17 visibility around the other vessel is obstructed; or
18 maintaining a collision course with another vessel or
19 object and swerving away in close proximity to the other
20 vessel or object. Now, that list was not exhaustive and
21 you are free to accept or discount these examples as you
22 see fit. Recklessness is carelessness in the face of a
23 known risk. I also charge you that there are no posted
24 speed limits on Lake Marion. The State must prove beyond
25 a reasonable doubt that a person was injured and died

1 within three years of the date of the injury. And then,
2 finally, the State must prove beyond a reasonable doubt
3 that the injury to the victim from the defendant's
4 reckless operation of the boat was the proximate cause of
5 the victim's death. Proximate cause is the direct cause.
6 It is the immediate cause, it is the efficient cause, it
7 is a contributing cause; it is that cause without which
8 the death of the victim would not have resulted.
9 Proximate cause does not necessarily mean that it occurred
10 immediately prior to death. To be the proximate cause,
11 the act of the defendant does not have to be the sole
12 cause of death and the fact that other causes contribute
13 to the death does not relieve the defendant of that
14 responsibility.

15 Now, if you find that the State has failed to prove
16 that the defendant was recklessly operating a water device
17 which resulted in the death of a person, you may then
18 consider whether the State has proven beyond a reasonable
19 doubt that the defendant committed the offense of
20 negligently operating a water device in violation of South
21 Carolina Code Section 50-21-110. That statute provides
22 that no person may operate any water device in a negligent
23 manner. Negligent operation includes, but is not limited
24 to, operating a water device at more than idle speed in a
25 no wake zone, failing to maintain a proper lookout for

1 other boats or persons, operating too fast for conditions
2 on the water, racing, or pulling a skier through a
3 designated swimming area. Again, this list is not
4 exhaustive and you are free to accept or discount these
5 examples as you see fit. Negligence is simple
6 carelessness, without necessarily being aware of the risk.

7 Alright, now the second indictment or the second
8 count in the indictment is for failure to render
9 assistance with death resulting in violation of South
10 Carolina Code Section 50-21-130. To prove the element of
11 that crime, the State must first prove beyond a reasonable
12 doubt that while the defendant was operating a boat, the
13 defendant's boat was involved in a collision, accident, or
14 casualty with another boat. The State must then prove
15 that after the collision, accident, or other casualty,
16 both of the following occurred: First, the defendant had
17 the ability to render assistance as may have been
18 practical and necessary to persons affected by the
19 collision, accident, or other casualty without serious
20 danger to his own vessel, crew, or passengers, and failed
21 to render assistance, and, Two, the defendant failed to
22 give his name, address, and identification of his vessel
23 in writing to any person injured and to the owner of any
24 property damaged in the collision. And then finally, the
25 State must prove that a death occurred as a result of the

1 collision, accident, or other casualty.

2 Now, in determining your verdict of guilty or not
3 guilty, you cannot consider any possible penalty for any
4 particular crime. The punishment for a crime is a matter
5 for me to determine and should never be considered by you
6 in any way whatsoever in arriving at a verdict of guilty
7 or not guilty.

8 Your verdict must be unanimous, which means all 12 of
9 you must agree. There are several possible verdicts which
10 I will go over with you in just a second. There is no
11 significance, in the order I'll go over them with you, so
12 don't take any fact I may say guilty or not guilty. It is
13 simply that one must be stated first. Now, Madam
14 Foreman, when the jury agrees on a verdict, it has to be
15 unanimous. You will write down what the verdict on the
16 back of the indictment and sign your name as foreperson.
17 Then knock on the jury room door and inform the bailiff
18 that you have reached a verdict. At that time, we will
19 receive you back into the courtroom. Now, I'm going to
20 send you back to the jury room but do not begin your
21 deliberations just yet until you are told by the Clerk of
22 Court or the bailiff to do so. I have to give the
23 attorneys the opportunity to tell me if I've mis-spoke.
24 You'll see this is the indictment. Count one is reckless
25 homicide, operation of a boat, operator fails to render

1 assistance charge. On the back here it says verdict. I
2 have written down the possible verdict for count one is
3 guilty or not guilty. If you find the defendant guilty of
4 count one, you write guilty. If you find the defendant is
5 not guilty of that charge, you write not guilty. But then
6 you consider the lesser-included charge of negligent
7 operation of a boat. So I've written underneath there
8 lesser-included charge. So if you find him not guilty on
9 count one, then you can just write not guilty then you
10 write the verdict for lesser-included, which you'd write
11 either guilty or not guilty. Alright? Then count two,
12 which is for failure to render assistance, two possible
13 verdicts, guilty or not guilty. So on count one, it's
14 guilty or not guilty. If it's guilty, you stop and just
15 go to count two, guilty or not guilty. If it's not guilty
16 on count one, the reckless charge, consider the lesser-
17 included charge of negligence. Okay? Alright, now I'll
18 send you back. Again, don't begin your deliberations. As
19 soon as I tell the bailiff that it's okay, I'll send this
20 back with evidence. I'm also going to send back a written
21 copy. Okay? The Clerk of Court is buying you lunch. That
22 should be getting here soon if it's not already here. You
23 can eat here during deliberations. If anybody wants to
24 take a smoke break before you begin deliberations, that's
25 fine. This will take us maybe five or ten minutes to get

1 this going so that might be the time to do it. But do not
2 begin deliberations until I send word back and all jurors
3 have to be in the jury room whenever you are deliberating,
4 so if you take a break to smoke or anything like that,
5 cease your deliberations if you're not all together.
6 Okay? But you can eat your lunch while you deliberate.
7 Alright? Thank you.

8 (Jury exits courtroom 12:13/Deliberations begin 12:27)

9 The Court: Y'all come here a second.

10 (Counsels approach bench without court reporter)

11 The Court: Alright is there anything from The State
12 on the charges?

13 Mr. Durant: No sir.

14 The Court: Nothing from the defense?

15 Mr. Kent: No sir.

16 The Court: Alright.

17 (Back on 2:59 p.m.)

18 The Court: Alright, do we have everybody here? I
19 understand that we have a verdict. Bring the jury in.

20 (Jury enters courtroom 3:00 p.m.)

21 The Court: Alright. Defendant rise. Count one of
22 reckless homicide by operation of a boat is not guilty.
23 On the lesser-included offense of negligent operation, you
24 had just written the word negligent, does that mean you
25 found him guilty or not guilty on that?

STATE OF SOUTH CAROLINA

COUNTY OF Clarendon
STATE VS. Chad Morris

AKA:
Race: White Sex: M Age: 38
DOB: SS#:
Address:
City, State, Zip: Sumter, SC 29150
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Whitecraft/Operator fails to render assistance, death results (1-25 years and \$5K-\$10K)

in violation of § 50-21-150(A)(3) of the S.C. Code of Laws, bearing CDR Code # 2701

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

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

ATTEST: Durant, Christopher Ryan SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the 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
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.75, TOTAL \$121.75

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-14-0329
A/W#: 2014A1410100506
Date of Offense: 7/14/2014
S.C. Code § : 50-21-0130(A)(3)
CDR Code #: 2701

SENTENCE SHEET

CONVICTED OF or PLEADS
Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act
Attorney for Defendant

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

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

Clerk of Court/ Deputy Clerk: B. Roberts
Court Reporter: Melissa Singleton
SCCA/217 (03) No. 6788

Presiding Judge
Judge Code: 2134
Sentence Date: 7/15/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Clarendon
STATE VS.
Chad Morris

INDICTMENT/CASE#: 2014-GS-14-0329
A/W#: 2014A1410100507
Date of Offense: 7/14/2014
S.C. Code § : 50-21-0115
CDR Code #: 3096 2683

AKA: _____
Race: White Sex: M Age: 38
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Sumter, SC 29150
DL#: _____ SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Negligent operation of a water device (0-30 days and/or \$50-\$100)

in violation of § 50-21-110 of the S.C. Code of Laws, bearing CDR Code # 2683
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: [Signature] [Signature]
Durant, Christopher Ryan SC Bar# _____ Defendant Attorney for Defendant SC Bar# 68865

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ 200.00; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the 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 _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____		
*Fine:		\$ <u>200.00</u>
§ 14-1-206 (Assessments 107.5 %)		\$ <u>215.00</u>
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§ 56-5-2995 (DUI Assessment)	\$12	\$ _____
§ 56-1-286 (DUI Breath Test)	\$25	\$ _____
Proviso 47.9 (Public Def/Prob)	\$500	\$ _____
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 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 (SCCIA Surcharge)	\$5	\$ _____
3% to County (if paid in installments)		\$ <u>16.20</u>
TOTAL		\$ <u>556.20</u>

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

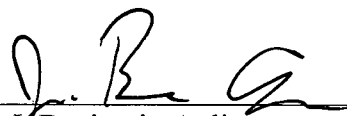
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: B. Roberts
Court Reporter: Melvin Singleton

Presiding Judge: _____
Judge Code: 2134
Sentence Date: 7/15/16

CERTIFICATE OF COUNSEL

Counsel for Respondent certifies that this Supplement Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

BY: 
J. Benjamin Aplin
S.C. Bar No: 8729

May 18, 2018

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