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RE-BRIEF

ORIGINAL

VOLUME III OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Charleston County

MAY 04 2017

Deadra L. Jefferson, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

VALENTINO MARTEL HAYWARD,

APPELLANT

APPELLATE CASE NO 2015-002663

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #32 (PHOTO) AND STATE'S EXHIBIT #33 (PHOTO)**

CLOSING ARGUMENT - BY MR. SIMPSON

1 Eight short clips, I ask you, ladies
2 and gentlemen, I've asked so much of you for weeks,
3 the State has, I ask you now, you cannot make a
4 decision in this case until you've heard these
5 eight clips. You should be able to hear them
6 clearly and just fine in the jury room.

7 And there is a huge reason Mr. Mayer
8 did not mention them once. Because he's
9 desperately hoping that it stays, oh, you can't
10 hear them, don't listen to them. You will have a
11 big speaker and you will be able to listen to them
12 fine.

13 Twelve clips -- and, again, I'm going
14 to ask you, if someone can just take notes so they
15 can be used in the jury room so you know which
16 clips are which. The evidence is the recordings.
17 So what you hear on the recordings is the evidence,
18 but I'm going to tell you what you're going to
19 hear. Okay?

20 The day of the arrest 12/12, let's get
21 back to that shirt. Let's get back to that
22 evidence. Black shirt before the crime, change at
23 some point. Gerard, that black shirt still in the
24 yard? I already moved that, Tino. Chill out.
25 Right. Right. Right. Burn that shit. Burn it.

CLOSING ARGUMENT - BY MR. SIMPSON

1 In case you were wondering if it was
2 successful, clip number two. Gerard. Talk to
3 Gerard. Where are you with that? Have you burned
4 it? Yeah. Huh? Yeah. Right. Right. Right.
5 Loose end covered up.

6 Innocent people don't have to take care
7 of loose ends.

8 The next three clips -- you heard a
9 little bit about our tracking down. It's really
10 kind of boring stuff you've heard at trial, but
11 when you hear it you're like, what are they talking
12 about? This is where it gets important. You heard
13 about what happened then. The calls on his PIN
14 number get less frequent and cease.

15 Then the investigation learns where we
16 know he's calling a specific number with someone
17 else's PIN. We tracked that number down and we get
18 the inmate number of Brian Bivens. We then pull
19 all of the calls from inmate number Brian Bivens.

20 You can tell from the subject it's
21 Valentino Hayward and you'll be able to tell from
22 the voice it's Valentino Hayward, but just to make
23 you comfortable that it's Valentino Hayward, the
24 next three clips on the phone are calls where the
25 girl says, hey, Tino; bye, Tino.

CLOSING ARGUMENT - BY MR. SIMPSON

1 And then the third clip, the most
2 important of all where he says, this is Tino. So
3 you have the content of the call, you have the
4 voice, but you have everybody calling him Tino and
5 him saying himself it's Tino.

6 The next clip on the jail tapes should
7 put every bit of evidence you have heard from
8 Mr. Mayer or from their case on the stand in a very
9 specific light because the next clip -- and this is
10 clip number six -- is his call to drag another
11 female into this web of lies.

12 This is the call where he's talking
13 about a girl named Lakeshia. And what he says to
14 the other female is, does Lakeshia still live in
15 SAG? No, she doesn't live there anymore. Well,
16 did she live there back in 2013?

17 He doesn't even know if she lived there
18 back in 2015, but then he goes on, I'll tell you
19 why. Because I need her to come to trial and sit
20 on this stand and tell all of you a bunch of
21 nonsense. I'm going to mail her a letter. I'm
22 going to give her a date and a time, and when she
23 gets that I'm going to call her into trial to tell
24 you -- and this should offend you -- you a bunch of
25 nonsense. And that should put everything into

CLOSING ARGUMENT - BY MR. SIMPSON

1 light that you hear. That's the kind of thing he's
2 doing.

3 Finally, the last two clips, by far the
4 most important, because they give you the clearest
5 picture into the mind of Valentino Hayward, clips 8
6 and 9. The investigator, Thomas Walters,
7 testified. He gave you a bunch of information that
8 probably seemed meaningless at the time.

9 March 2014, he took a statement from a
10 woman named Liz Littman. She lived around the
11 block from Valentino. Because of that, we did not
12 want to disclose this for fears that in a moment
13 are going to prove very well-founded. We told --
14 finally, eventually, because we followed ethics, we
15 told the Court and the defense that we had a
16 statement, we told them who it was from, but we
17 asked for more time before we actually handed over
18 the substance.

19 The Court allowed us to hold it until
20 Tuesday, September 8th. Liz Littman, as you heard,
21 had to move out. She was getting kicked out of her
22 house on September, 2015. All of these facts that
23 you heard from investigator Thomas Walters are to
24 give you the context of the next phone call, a
25 phone call between the real Valentino Hayward, not

CLOSING ARGUMENT -- BY MR. SIMPSON

1 the person that Mr. Mayer just talked about, and we
2 now know the real Wallace Bishop. Not the nice
3 charming man on the stand, the real Wallace Bishop.

4 What's going on with that old girl L?
5 Is she a problem -- is she something or something?
6 There are some words that are inaudible.. What?
7 What's up with L, is that affecting you or
8 something? Who, L? Yeah, on the block.

9 Liz Littman, L, lives right around the
10 block.

11 Yeah. Like, is she a problem? I don't
12 know. I'm waiting for that boy that says that he's
13 supposed to get that tape Tuesday.

14 Again, go back to Thomas Walters. We
15 had the tape, we were giving it to them the Tuesday
16 following.

17 So what do you want to try to do? Are
18 you trying to work that in or you're just trying to
19 work it the other way? Yeah. We're seeing what
20 September is going to bring and see what she says
21 on that Fing tape. So that's what you're going to
22 wait on or you just want to go ahead and get them
23 out of the way? Oh, her? Just in case you're
24 wondering. Probably not. Yeah. I mean, shit, get
25 them out of the way. I don't give an F. I don't

CLOSING ARGUMENT - BY MR. SIMPSON

1 give an F about that. I talked to your little
2 brother and those boys. They want to see him?
3 Yeah. Yeah. They're read y. They're just waiting
4 for some confirmation. Know what I'm saying? If I
5 go around there, they're read.

6 Valentino: All they need is
7 confirmation? Word. That's all they need. Green
8 light. Green light. Go ahead. Yeah, those boys
9 had a thing going on putting that -- you can't
10 really hear it -- to sleep. Oh, Lord. Cut that
11 boy's cheeks open. That's how that thing needs to
12 go with Bobby. You feel me? Just make him quiet.
13 Word. Just make him quiet. That's all. Do
14 whatever just to make him quiet because she's about
15 to move now.

16 What do we know about Liz Littman in
17 the case at this point? That he's out there
18 talking about the move on the 1st right after this
19 call, but he tells her where she's moving. Just
20 days after that conversation you heard a second
21 statement that was provided.

22 A righteous innocent man uses truth as
23 his weapon. A righteous innocent man comes in here
24 and wants you after all this time to hear the
25 truth. It's his best defense, the truth. To a

CLOSING ARGUMENT - BY MR. SIMPSON

1 guilty man, the truth haunts him. He's haunted by
2 it and he wants to keep it in this setting. He
3 wants to keep it from you.

4 First he wants to hide it; burn
5 evidence, get rid of it, burn that shirt. Let me
6 ask you a hypothetical question. How many times in
7 your lives have you felt the need to just randomly
8 burn a piece of clothing? We know, we heard all
9 about GSR.

10 To a guilty man the truth is something
11 to be manipulated and changed. And we heard that.
12 We heard it from Wallace changing his story three
13 times, and we heard it in his attempt to reach out
14 to another female and come in here and lie to you
15 to help him. And in a moment of desperation, to a
16 guilty man, that truth is malleable by any means
17 necessary.

18 Cheek to cheek, just make him quiet.
19 Make him quiet. These are not the words of an
20 innocent person.

21 Let's take a moment before I sit down
22 to talk about a few things that Aaron talked to you
23 about. I would not be doing my job if I did not
24 explain to you, though, I have a suspicion that you
25 already agree with me on this, that the theory that

CLOSING ARGUMENT - BY MR. SIMPSON

1 Latoya Carson killed Deontre Miles is absolutely
2 absurd. It's meaning to distract you from all that
3 we've already talked about.

4 Latoya Carson sat with her earphones
5 in, in the car doing the chats while he walked back
6 there. She heard what sounded like a gunshot to
7 her. And this is interesting, Aaron brought this
8 up, he wanted to talk about white privilege and how
9 our lives are different.

10 If I hear a gunshot I react to it, but
11 we heard from Latoya that in her neighborhood where
12 you grow up that stuff is happening all the time.
13 It's like a car alarm, nobody gives a shit. You
14 hear it constantly.

15 And you didn't just hear that from
16 Latoya, you heard that from Charles Rodwell who, I
17 agree with Aaron, clearly a stand-up great guy
18 unlike the citizens of Ardmore. 99 percent of the
19 citizens of Ardmore are trying to get by in a tough
20 world and a tough economy, and it's the actions of
21 people like Hayward that drags them into it like he
22 did in this case.

23 You heard from Charles back there.
24 When you heard the gunshot, did you run outside?
25 No, we hear that stuff all the time. Latoya Carson

CLOSING ARGUMENT - BY MR. SIMPSON

1 did not ignore the gunshot. She heard the gunshot,
2 had her earphones in, it sounded like it was back
3 in the distance, and it was like -- oh, she noted
4 it. And then what she said is, two to
5 five minutes, but we know from the chat on the
6 phone it was more closer to two, after two minutes
7 of worrying, she decides to get out where she finds
8 her friend, her friend that she loved, her friend
9 that she was close with that made her laugh, dead
10 on the ground.

11 And having heard that shot, she goes
12 up, she cradles him, she holds his head in both her
13 hands and cradles him. Knows clearly that he is
14 dead and she reacts exactly how you would expect
15 someone in that situation to react, screaming,
16 crying, running house to house.

17 The testimony of Charles Rodwell I
18 think was twisted around in Mr. Mayer's closing a
19 little bit. He said, we hear her screaming, going
20 house to house, we come out, she's very upset. The
21 only thing he said is, did you see tears? And he
22 said, yes. And he kind of qualified it, said a
23 moderate amount of tears. Well, okay. What in his
24 estimation was a moderate amount of tears? She's
25 screaming, she's crying.

CLOSING ARGUMENT - BY MR. SIMPSON

1 I don't want to go down this path
2 because you get to hear it. You get to hear it
3 live on the 911 tape. You get to hear her
4 screaming, Chucky, Chucky. And she gets it
5 together and she tries to tell the 91 operator and
6 then she keeps losing it. And you get to see --
7 you saw the clip of the interview where when asked
8 a simple question she can hardly get it out. And
9 the detective is like, oh, my God, get it together.
10 She is wrecked by this. This is an absurd theory
11 that she did it.

12 But, again, we're lucky because I don't
13 need you to go back there and just accept what
14 Latoya says. You get the benefit of science
15 because what was floated out to you by the defense
16 in opening statement is their best evidence ended
17 up being the evidence that completely destroyed
18 their theory, the GSR.

19 You heard from an expert on GSR,
20 Whitney Berry. And what did she tell you about
21 that? She said a gun fires, it explodes in a cloud
22 out of the top of it, out of the sides of it, and
23 forward. So when someone is shot by a gun, you
24 find GSR. You find it all over. When someone
25 shoots a gun or is standing next to a gun that is

CLOSING ARGUMENT - BY MR. SIMPSON

1 shot, you find GSR all over them. What is found on
2 Latoya Carson?

3 I loved her analogy; if you pluck a
4 hair, the diameter of that hair can fit a hundred
5 particles of GSR. What is found on Latoya Carson?
6 One, one molecule of GSR. And what did Whitney
7 Berry explain to you about that? That that leads
8 an expert, a person with scientific -- not to
9 conclude that she had just been near the firing or
10 just fired the gun, but to conclude that she
11 didn't. That, in fact, scientifically, she didn't.

12 Where did that come from? That is very
13 consistent with her story of having gone and
14 touched the person that had just been shot.
15 Evidence transfer, a single molecule. Would have
16 been way more than a single molecule if she fired
17 the gun. The evidence held out to you in opening
18 that's their best evidence turns out to be ours.

19 A couple of other things that I think
20 weren't quite how I remember them held out to you
21 by the defense. Mr. Mayer said that Detective
22 Osborne told you there were no missed calls from
23 Latoya so that means she's lying. That's not at
24 all what he told you.

25 What Detective Osborne said on scene

CLOSING ARGUMENT - BY MR. SIMPSON

1 that night was Chucky's phone, I wasn't concerned
2 about the missed calls. I'm looking for the call
3 he just made. All of this processing and stuff
4 comes later. Okay. Detective Osborne on scene
5 said I'm not concerned about the missed calls, I
6 didn't even look for missed calls. I'm looking for
7 the call that was just made from Tino.

8 Let's talk about Latoya Carson. And I
9 know it's not as sexy or made for TV as what
10 they're saying, some black widow that comes up with
11 these plans, but it's more true in your common
12 sense you know. What's Latoya Carson's problem? I
13 don't justify her decision, but as the father of
14 two daughters this sort of phenomenon scares me.
15 It knows no race, it knows no time, there is a
16 certain type of female that is attracted to
17 dangerous men, to bad boys. And that's Latoya
18 Carson's problem.

19 And we see the dangers on both sides of
20 the coin in Latoya Carson's life. In this case,
21 someone she loved and cared about, taken away by
22 violence right in front of her eyes. Right?
23 Because she is attracted to dudes involved in this
24 kind of stuff.

25 And then we hear later she does get a

CLOSING ARGUMENT - BY MR. SIMPSON

1 criminal charge, she does. And she did plead the
2 Fifth, but we got out -- we got enough into it that
3 we needed to. Latoya Carson is alleged to have
4 been around a guy who killed somebody. And this is
5 one of my favorites, Chucky's best friend. You
6 heard zero evidence that the person that died in
7 North Charleston is Chucky's best friend. Okay.
8 That just sort of fits the made for TV plot that
9 they want to sell you. Okay.

10 Latoya Carson makes bad choices in men.
11 In this case that you're concerned about, she had a
12 friend whom she cared about taken right from her in
13 the prime of his life. In the other case, she's
14 hanging around with a dude that did some bad stuff.
15 She hangs out with bad dudes. She is not a killer.
16 You don't have to believe her; look at the science
17 which cannot lie.

18 A few words on the law that will be
19 charged to you for being the most serious offense
20 out there, murder is pretty simply defined as the
21 killing of another human being with malice
22 aforethought.

23 You will hear from the Judge that
24 malice aforethought doesn't require -- although we
25 see the setup, it doesn't require premeditation, or

CLOSING ARGUMENT - BY MR. SIMPSON

1 a plan or some complicated -- malice aforethought
2 is just that moment in an instant where a person
3 decides to pull a trigger and ends somebody's life.
4 It's that conscious decision to shoot and kill.

5 You will also hear about reasonable
6 doubt. Mr. Mayer talked about that. It is a high
7 standard. We've met it I believe ten-fold in this
8 case, but it is a high standard. I am not trying
9 to tell you anything different.

10 You will hear a charge directly from
11 the Judge and she will say something to the effect
12 of, few things in this world are provable beyond
13 all doubt, but it's your job to do, just be
14 reasonable. If you have a reasonable doubt, then
15 let that lead you, but the doubt has to be
16 reasonable. We're not at a point where we jut go
17 off on wild speculation in the face of all this
18 evidence, including the defendant's own words.

19 You will also hear another charge that
20 I think is important that I want you to consider.
21 We've seen the evidence here and there's really two
22 individuals, it's Wallace and Tino as they drop off
23 the girls shortly before all the evidence in this
24 case, everything we've talked about points to
25 Valentino Hayward as the person that did this. He

CLOSING ARGUMENT - BY MR. SIMPSON

1 set it up, the cover-up, everything, but, if you're
2 back there saying, well, what if it was actually
3 Wallace that did pull the trigger? I'm telling you
4 now, under the law that you have sworn to uphold,
5 it doesn't matter. You're going to hear a charge
6 about the hand of one, the hand of all, and that's
7 when two people engage in something like this
8 together, they're both equally guilty.

9 All the evidence points to Tino as the
10 shooter. You can't hang up on that because he's
11 guilty under either theory. Ladies and gentlemen,
12 what you have sworn to do -- and, boy, we've taken
13 a lot of your life. What you've sworn to do is go
14 back there, remove emotion -- that's difficult. It
15 is a right to feel sympathy and pain for Deontre's
16 family, it is right to feel sympathy and human
17 emotions for the Hayward family and the Singleton
18 family, it's right and human and fine to feel
19 emotion towards Mr. Hayward for this situation that
20 he's in. That's what makes us human. That's what
21 makes us different.

22 We feel and empathize, that's fine, but
23 what you have sworn to do is take all of that and
24 put it to the side. Take all of that and move it
25 out, put it to the side as much as humanly

CLOSING ARGUMENT - BY MR. SIMPSON

1 possible, take a cold look at the evidence and what
2 it clearly shows in this case. That's what your
3 job is and that's what I ask you to do.

4 This case is not about being mean.
5 What I'm asking you to do is not about vengeance.
6 It's not about punishment. It's certainly not
7 about racism as much as they would like to make it
8 about that. It's about holding someone responsible
9 for the decisions that they clearly made that was
10 proven to you over a week-and-a-half. It's not
11 something that you have to feel great about. It's
12 a burden. It's a burden, but the picture is clear,
13 ladies and gentlemen, and it's inescapable.

14 Because not here in this room all week
15 is another human being, a human being named Deontre
16 Miles. His friends loved him, they called him
17 Chucky. He was a son, he was a nephew, he made
18 people laugh. He wasn't a perfect person. You can
19 imply from this case some of the things he was up
20 to, but he was trying. Look at the tox screen on
21 this case, caffeine. Caffeine only.

22 He wasn't a perfect person, but he
23 didn't deserve to be shot and killed in a dark
24 alley lured there by Valentino Hayward. Valentino
25 Hayward willing to go out, cut cheek to cheek and

CLOSING ARGUMENT - BY MR. SIMPSON

1 get people to show up, shut up. Valentino Hayward
2 did every single thing that a guilty man does, this
3 is power, to make sure this day did not come.

4 It's hard to find somebody guilty, but
5 the evidence -- you can't run away from the
6 evidence in this case, including the very words of
7 the man sitting here that point directly to guilt.
8 The evidence shows you scientifically -- forget
9 common sense, forget listening to all that emotion.
10 Scientifically, Latoya Carson did not do this.

11 Mr. Hayward is guilty in the law of
12 South Carolina of murdering another human being.
13 Thank you so much for your time and attention. I
14 know we put a lot of burden on you. I know that
15 you will do the just, right, and true thing and
16 find him guilty. Thank you.

17 THE COURT: Madame Forelady, ladies
18 and gentlemen, we will take a brief restroom break.
19 During the break, please do not discuss the case
20 and please leave your notepads in your seats.

21 (Jury out, 11:40 a.m.)

22 THE COURT: While we're on restroom
23 break, please make sure all the evidence is on the
24 table. We will be at ease until the jury is done
25 refreshing themselves.

JURY CHARGE

1 (A recess transpired.)

2 THE COURT: You may be seated. Is the
3 State ready to proceed?

4 MR. SIMPSON: Yes, Your Honor.

5 THE COURT: Defense ready?

6 MR. MAYER: Yes, Judge.

7 THE COURT: Do you have all the
8 evidence in place?

9 COURT REPORTER: Yes, ma'am.

10 THE COURT: All right. During
11 instruction there will be no movement in the
12 gallery. So I need you to know, if you leave, you
13 will not be able to return.

14 Please bring in the jury.

15 (Jury in, 12:02 p.m.)

16 THE BAILIFF: Jurors are all present.

17 THE COURT: You may be seated.

18 During this trial, ladies and
19 gentlemen, you and I have certain duties to
20 perform. As the trial judge, it is my
21 responsibility to preside over the trial of this
22 case, and I also have the duty to rule upon or pass
23 upon the admissibility of evidence offered during
24 this trial.

25 You are to consider only the competent

JURY CHARGE

1 evidence that is before you, and you are to
2 disregard and disabuse from your mind any testimony
3 that may have been ordered stricken from the record
4 in this case during the progress of this trial, if
5 there has been any.

6 You are to consider only the testimony
7 which has been presented from the witness stand,
8 together with any exhibits which have been made
9 part of the record in this case, as well as any
10 stipulations between counsel that have been made a
11 part of the record.

12 I instruct you, ladies and gentlemen,
13 that a stipulation is an agreement between the
14 parties and it requires no further proof.

15 I have the additional duty to charge or
16 instruct you on the law applicable to this case.
17 As the presiding judge, I'm the sole judge of the
18 law of this case, and it is your duty as jurors to
19 accept and apply the law as I now state it to you.

20 If you have a preconceived idea as to
21 what the law is or ought to be in a case, or in
22 this case, and it should not agree with what I tell
23 you the law is, you are obligated under your oath
24 to abandon this preconception on your part because
25 you are sworn to accept the law and apply the law

JURY CHARGE

1 precisely as I now state it to you.

2 In every case tried in this court
3 before a jury, the jury becomes the sole and
4 exclusive judges of the facts in the case. You,
5 the jury, are the judges of the facts in this case.
6 This court is the judge of the law. The
7 constitution of our State has declared that a trial
8 judge shall not intimate, state, comment upon or
9 make any statement to a trial jury about the facts
10 in a case.

11 Since you, the jury, are the sole
12 judges of the facts in this case, you are not to
13 infer anything from what I've said during the
14 progress of this trial in ruling upon the
15 admissibility of evidence or otherwise, or anything
16 that I say now to you during the course of this
17 instruction that I have any opinion about the
18 facts. The law does not allow me to have an
19 opinion about the facts. This is a matter solely
20 for you, the jury, to determine.

21 As jurors then, it is your duty as I
22 have instructed you to determine the effect, the
23 value, the weight and the truth of the evidence
24 presented during this trial.

25 Necessarily, ladies and gentlemen, you

JURY CHARGE

1 must assess the credibility of witnesses who have
2 testified. Credibility is simply a legalistic term
3 which means believability. It becomes your duty as
4 jurors to analyze and to evaluate the evidence and
5 determine that evidence which convinces you of its
6 truth.

7 Some of the things you may consider as
8 you decide whether or not to believe a witness's
9 testimony about a particular matter include, what
10 was the manner and appearance of the witness who
11 testified? Was he or she straightforward or
12 hesitant in answering? Was the testimony of a
13 witness consistent or inconsistent? How did the
14 witness come to know the facts that he or she
15 testified to, or what was his or her ability to
16 know these facts? Is there some reason a witness
17 would want to give testimony that would help or
18 hurt one side or the other; in other words, was the
19 witness biased or prejudiced, and was the testimony
20 of a witness strengthened or weakened by other
21 testimony or evidence?

22 I further instruct you that determining
23 the question of the believability or credibility of
24 witnesses who have testified, you may believe one
25 witness as against several witnesses or several

JURY CHARGE

1 witnesses against one witness. You may believe
2 part of a witness's testimony and reject the
3 remaining part of the testimony of that same
4 witness.

5 If you have good and sound reason, you
6 may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in
8 its entirety. You may consider the demeanor of a
9 witness, that is the appearance and manner of a
10 witness from the witness stand.

11 Ladies and gentlemen, you can believe
12 as much or as little of each witness's testimony as
13 you think proper. Throughout this process, ladies
14 and gentlemen, you have but one objective, to seek
15 the truth regardless of its source.

16 I further instruct you that a person
17 who has a past criminal record is competent to
18 testify during a trial. A past record does not
19 affect the ability of that witness to testify. The
20 past record may only be considered by you, if at
21 all, in determining the witness's believability.
22 Remember, ladies and gentlemen, you are the sole
23 judges of the facts in the case and of the
24 believability of any and all of the witnesses.

25 I further instruct you that you have

JURY CHARGE

1 heard evidence that the defendant committed a bad
2 act not the subject of a conviction, other than the
3 ones for which the defendant is now on trial. It
4 is for you, ladies and gentlemen, to determine if
5 this is true. You must not consider this alleged
6 bad act, which is not the subject of a conviction,
7 as any evidence of the defendant's guilt of the
8 charges we are trying today.

9 Ladies and gentlemen, the Rules of
10 Evidence ordinarily do not permit witnesses to
11 testify to opinions or conclusions. An exception
12 to this rule exists for witnesses we call expert
13 witnesses. A witness who by their education,
14 training, and experience has become an expert in
15 some art, science, profession, or calling may state
16 an opinion as to relevant and material matters in
17 which the witness claims to be an expert and may
18 also state the reasons for that opinion.

19 You should consider any expert opinion
20 received in evidence in this case like any other
21 evidence. Give it the weight you think it
22 deserves. If you decide that the opinion of an
23 expert witness is not based on sufficient education
24 and experience, or if you conclude that the reason
25 given in support of the opinions are not sound, or

JURY CHARGE

1 that the opinion is outweighed by other evidence,
2 you may disregard the opinion entirely.

3 An expert witness's testimony is to be
4 given no greater weight than that of other
5 witnesses simply because the witness is an expert.
6 Further, you are not required to accept an expert's
7 opinion even though it is not contradicted.

8 Ladies and gentlemen, a statement is
9 alleged to have been made by the defendant which
10 has been admitted into evidence in this case.
11 While the Court has determined that the statement
12 is admissible, I instruct you that you make the
13 ultimate decision of whether or not the defendant
14 made the statement.

15 If the defendant did make the
16 statement, you must determine whether the statement
17 was made by the defendant voluntarily and of his
18 own free will. This means that the statement was
19 not caused by pressure, force, fear, threats,
20 coercion, or intimidation, or by hope or promise of
21 leniency or reward of any kind.

22 In determining whether the statement
23 was voluntary, you should consider both the
24 characteristic of the defendant and the details of
25 the questioning. Some of the factors that you must

JURY CHARGE

1 consider are the age of the defendant, the
2 defendant's education or lack of education, the
3 defendant's mental ability or capacity, the
4 defendant's IQ or intelligence, the defendant's
5 background and environment, the place and length of
6 detention, the nature of the questioning and the
7 advice or lack thereof to the defendant of his
8 constitutional rights, including but not limited to
9 the right to remain silent, that any statement
10 could be used against him in a court of law, the
11 right to have a lawyer present, and that if he
12 could not afford a lawyer, a lawyer would be
13 appointed to represent him without any cost, and
14 that he could stop making a statement at any time.
15 You must carefully consider all of the surrounding
16 circumstances before you give any weight to an
17 alleged statement.

18 The State has the burden of proving
19 beyond a reasonable doubt that the alleged
20 statement was voluntary. If you determine it was,
21 you may give the statement any further
22 consideration that you deem proper. You must
23 decide what weight, if any, should be given to the
24 alleged statement.

25 If you determine the alleged statement

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1 was not the free and voluntary statement of the
2 defendant, you should not consider the statement at
3 all.

4 Ladies and gentlemen, there are two
5 types of evidence which are generally presented
6 during a trial, direct evidence and circumstantial
7 evidence. Direct evidence is the testimony of a
8 person who asserts or claims to have actual
9 knowledge of a fact such as an eyewitness.
10 Circumstantial evidence is proof of a chain of
11 facts and circumstances indicating the existence of
12 a fact.

13 The law makes no distinction between
14 the weight or value to be given to either direct or
15 circumstantial evidence, nor is a greater degree of
16 certainty required of circumstantial evidence than
17 of direct evidence.

18 As I've instructed, crimes may proven
19 by circumstantial evidence and the law makes no
20 distinction between the weight or value to be given
21 to either direct or circumstantial evidence;
22 however, to the extent the State relies on
23 circumstantial evidence, all of the circumstances
24 must be consistent with each other, and when taken
25 together, point conclusively to the guilt of the

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1 accused beyond a reasonable doubt.

2 If these circumstances merely portray
3 the defendant's behavior as suspicious, the proof
4 has failed. The State has the burden of proving
5 the defendant guilty beyond a reasonable doubt.
6 This burden rests with the State regardless of
7 whether the State relies on direct evidence,
8 circumstantial evidence, or some combination of the
9 two.

10 Ladies and gentlemen, you should weigh
11 all of the evidence in this case. After weighing
12 all the evidence if you are not convinced of the
13 guilt of the defendant beyond a reasonable doubt,
14 you must find the defendant not guilty.

15 Conversely, if you're convinced of the
16 guilt of the defendant beyond a reasonable doubt,
17 then you must find him guilty.

18 I instruct you the fact that the
19 defendant was arrested, charged and indicted is not
20 evidence in this case and cannot be considered by
21 you as evidence of guilt in this case, nor does it
22 create any presumption or inference of guilt.

23 This documentation, ladies and
24 gentlemen, are simply the formal written
25 instruments which contain the charge or charges

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1 made against a defendant. They simply serve as the
2 formal documentation by which this case is
3 processed or brought into the court.

4 The defendant has pled not guilty to
5 the Indictments and that plea casts the burden on
6 the State to prove the defendant guilty because a
7 person charged with committing a criminal offense
8 in South Carolina is never required to prove
9 himself innocent.

10 I instruct you Madame Forelady, ladies
11 and gentlemen, that it is a cardinal and important
12 law of the rule of evidence that the defendant in a
13 criminal trial, no matter what the seriousness of
14 the charge or charges made against him may be, will
15 always be presumed to be innocent of the crime for
16 which he is indicted unless his guilt has been
17 proven by evidence satisfying you of that guilt
18 beyond a reasonable doubt.

19 This presumption of innocence does not
20 cease when you retire to deliberate, but
21 accompanies the defendant from the time of his
22 appearance throughout this trial until you reach a
23 verdict in this case. Our Supreme Court has said
24 the presumption of innocence is like a robe of
25 righteousness placed about the shoulders of the

JURY CHARGE

1 defendant and remains with him and assigns him to
2 that class, the innocent, until that presumptive
3 robe of righteousness has been stripped from his
4 person by evidence satisfying you of that guilt
5 beyond a reasonable doubt.

6 Madame Forelady, ladies and gentlemen,
7 the presumption of innocence is not mere legal
8 theory. It is not just a legal phrase. It is a
9 substantial right to which every defendant is
10 entitled unless you, the jury, are satisfied from
11 the evidence of his guilt beyond a reasonable
12 doubt.

13 I instruct you and emphasize that the
14 fact that the defendant did not testify is not a
15 factor to be considered by you in any way in your
16 deliberations and in your consideration on the
17 question of the guilt or innocence of the
18 defendant. It must not be considered by you in any
19 manner whatsoever. A defendant has the
20 constitutional right to remain silent and the
21 assertion of this right must not be considered by
22 you in your deliberations in any manner whatsoever.

23 I repeat, under your oath, you are to
24 draw no conclusion whatsoever from the fact that
25 the defendant in this case did not testify. The

JURY CHARGE

1 fact that the defendant did not testify should not
2 be discussed in any manner whatsoever in the jury
3 room during the course of your deliberations.

4 The burden of proof, as I stated to
5 you, is on the State. The defendant is not
6 required to prove his innocence. The burden of
7 proof remains on the State to prove his guilt
8 beyond a reasonable doubt. The State has the
9 burden of proving the defendant guilty beyond a
10 reasonable doubt.

11 Some of you may have served as jurors
12 in civil cases where you were told that it is only
13 necessary to prove that a fact is more likely true
14 than not true, such as by the greater weight or
15 preponderance of the evidence. In criminal cases,
16 the State's proof must be more powerful than that.
17 It must be beyond a reasonable doubt.

18 Proof beyond a reasonable doubt is
19 proof that leaves you firmly convinced of the
20 defendant's guilt. There are very few things in
21 this world that we know with absolute certainty,
22 and in criminal cases the law does not require
23 proof that overcomes every possible doubt.

24 If, based on your consideration of the
25 evidence, you are firmly convinced that the

JURY CHARGE

1 defendant is guilty of the crime charged, you must
2 find the defendant guilty. If, on the other hand,
3 you think there is a real possibility that the
4 defendant is not guilty, you must give the
5 defendant the benefit of that doubt and find him
6 not guilty.

7 The defendant is charged with murder.
8 The State must prove beyond a reasonable doubt that
9 the defendant killed another person with malice
10 aforethought. Malice is hatred, ill will, or
11 hostility towards another person. It is the
12 intentional doing of a wrongful act without just
13 cause or excuse and with an intent to inflict an
14 injury or under circumstances that the law will
15 infer an evil intent.

16 Malice aforethought does not require
17 that malice exist for any particular time before
18 the act is committed, but malice must exist in the
19 mind of the defendant just before and at the time
20 the act is committed; therefore, there must be a
21 combination of the previous evil intent expressed
22 or inferred.

23 These terms, express and inferred, do
24 not mean different kinds of malice, but the manner
25 in which malice may be shown to exist; that is,

JURY CHARGE

1 either by direct evidence or by inference from the
2 facts and circumstances which are proven.

3 Express malice is shown when a person
4 speaks words which express hatred or ill will for
5 another, or when a person prepared beforehand to do
6 the act which was later accomplished.

7 For example, lying in wait for a person
8 or any other act of preparation going to show that
9 the deed was within the defendant's mind would be
10 expressed malice.

11 Malice may be inferred from conduct
12 showing a total disregard for human life. Inferred
13 malice may also arise when the deed is done with a
14 deadly weapon.

15 A deadly weapon is any article,
16 instrument, or substance which is likely to cause
17 death or great bodily harm. Whether an instrument
18 has been used as a deadly weapon depends on the
19 facts and circumstances of each case. The
20 following are examples of instruments which may be
21 deadly weapons, a pistol, a shotgun, a rifle, a
22 dirk, a dagger, a knife, a slingshot, metal
23 knuckles, a razer, gasoline, a fire bomb or Molotov
24 cocktail, lighter fluid. A gun may be a deadly
25 weapon even if it is not operating.

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1 Ladies and gentlemen, these are simply
2 evidentiary facts to be taken into consideration by
3 you, along with all the other evidence in the case,
4 and to be given the weight, value, and effect you
5 decide it should receive.

6 The defendant is also charged with
7 possession of a weapon during the commission of or
8 attempt to commit a violent crime. The State must
9 prove beyond a reasonable doubt that the defendant
10 was in possession of a firearm or visibly displayed
11 what appeared to be a firearm during the commission
12 of a violent crime.

13 A firearm means any machine gun,
14 automatic rifle, revolver, pistol, or any weapon
15 which will, is designed to, or may be readily
16 converted to expel a projectile. In order to find
17 the defendant guilty of possession of a weapon
18 during the commission of a violent crime, you must
19 first find the defendant guilty of committing a
20 violent crime or attempting to commit a violent
21 crime.

22 I instruct you that murder is a violent
23 crime as defined by South Carolina Code Annotated,
24 Section 16-1-60.

25 Ladies and gentlemen, if a crime is

JURY CHARGE

1 committed by two or more people who are acting
2 together in committing a crime, the act of one is
3 the act of all. A person who joins with another to
4 commit an unlawful act is criminally responsible
5 for everything done by the other person, which
6 happens as a probable or natural consequence of the
7 act done in carrying out the common plan and
8 purpose.

9 For example, two people can be guilty
10 of killing another person, but only one of the two
11 had a gun, there was only one bullet, and only one
12 of the two fired the shot that caused the death.
13 If two or more people are acting together -- are
14 together acting together assisting each in
15 committing the offense, the act of one is the act
16 of all. As it is sometimes said, the hand of one
17 is the hand of all.

18 Prior knowledge that a crime is going
19 to be committed without more is not sufficient to
20 make a person guilty of that crime. Mere knowledge
21 that another person is going to commit a crime,
22 even if the defendant is present when the crime is
23 committed, is not sufficient to convict the
24 defendant as a principal.

25 Guilt as a principal is shown by actual

JURY CHARGE

1 or constructive presence at the scene as a result
2 of prior arrangement; therefore, a finding of a
3 prior arranged plan or common scheme is necessary
4 for a finding of guilt as a principal. The State
5 must prove beyond a reasonable doubt by competent
6 evidence the theory of the hand of one is the hand
7 of all.

8 A principal in a crime is one who
9 either actually commits the crime or is present,
10 abiding, abetting, or assisting in the commission
11 of the crime. When a person does an act in the
12 presence or with the assistance of another, the act
13 is done by both. Whether two or more acting with
14 the common plan or intent are present at the
15 commission of a crime, it does not matter who
16 actually commits the crime. All are guilty, the
17 hand of one is the hand of all.

18 Present at the commission of a crime
19 means to be sufficiently near to aid and abet and
20 assist in the commission of a crime; however, mere
21 presence at the scene of the crime is not
22 sufficient to convict one as a principal on the
23 theory of aiding and abetting.

24 Intent is also a necessary element
25 where there must have been a common design or

JURY CHARGE

1 intent to commit the crime, and the crime must have
2 been committed pursuant thereto with the person
3 aiding and abetting by some overt act.

4 Intent means intending the result which
5 actually occurs, not accidentally or involuntarily.
6 Intent may be shown by acts of conduct of the
7 defendant and other circumstances from which you
8 may naturally and reasonably infer intent. The
9 State must prove these elements beyond a reasonable
10 doubt.

11 Ladies and gentlemen, there are two
12 indictments in this case, each alleging several --
13 each alleges different offences against the
14 defendant. And those are 2014-GS-10-3322, an
15 indictment for murder, and 3323, an indictment for
16 possession of a firearm during the commission of a
17 violent crime.

18 Each indictment charges a separate and
19 distinct offense. You must decide each indictment
20 separately on the evidence and the law applicable
21 to it uninfluenced by your decision as to any other
22 indictment. The defendant may be convicted or
23 acquitted on any or all of the offences charged and
24 you will be asked to write a separate verdict for
25 each indictment.

JURY CHARGE

1 Ladies and gentlemen, there are two
2 possible verdicts for each indictment. There is no
3 significance whatsoever to the order in which I'm
4 going to state the verdicts to you. You don't need
5 to try to write these down. These forms go into
6 the jury room with you. There is no significance
7 to the order in which I state these potential
8 verdicts. And they are as follows: As to
9 Indictment 2014-GS-10-3322; as to the indictment,
10 we, the jury, by unanimous consent find the
11 defendant guilty of murder, or not guilty.

12 And as to Indictment 2014-GS-10-3323,
13 we, the jury, by unanimous consent find the
14 defendant guilty of possession of a firearm during
15 the commission of a violent crime, or not guilty.

16 Again, there is no significance to the
17 order in which I state these potential verdicts.
18 It is simply that one must be stated first.

19 Ladies and gentlemen, your verdict must
20 be a unanimous one, which means that all 12 of you
21 must agree in order to reach a verdict in this
22 case.

23 Madame Forelady, once the jury has
24 reached a verdict, it is your responsibility to
25 fill out the verdict form, to sign and date the

JURY CHARGE

1 form, and knock on the door and advise the bailiffs
2 that the jury has reached a verdict.

3 Also, if the jury has any questions, it
4 is your responsibility to write those questions
5 out, sign and date the note, and follow the same
6 process by knocking on the door and advising the
7 bailiff that the jury has a question.

8 Ladies and gentlemen, if you have any
9 questions during deliberations, please know that
10 there will be a delay in our response and that is
11 because there's a procedure we must follow in
12 answering your question. So note if you have a
13 question, there will be a delay because we are
14 adhering or following that process.

15 Also, Madame Forelady, any notes from
16 the jury should not include any numerical
17 break-down regarding how the jury may be voting or
18 otherwise. The deliberations of the jury are
19 confidential. They should be confined to the jury
20 room and not designated in any notes or otherwise.

21 Ladies and gentlemen, again, as I
22 instructed you at the beginning of the trial, the
23 foreperson is an administrative function. That
24 person does not have any greater vote or voice than
25 you do. It's simply that we must have someone to

JURY CHARGE

1 fill out the verdict forms and write out any notes
2 that you may have during deliberations.

3 Again, ladies and gentlemen, your
4 verdict must be unanimous which means all 12 of you
5 must agree in order to reach a verdict on each
6 indictment in this case.

7 I'm going to ask that you return to
8 your jury room, but do not yet begin your
9 deliberations. I have some brief matters of law
10 that I need to take up with the attorneys that may
11 require further instruction or clarification of an
12 instruction; however, if there is no further
13 instruction necessary, we will send in your
14 notepads, along with -- actually, as you leave,
15 just stack them on the bannister so that the
16 bailiff can bring those to you, and at that time we
17 will bring in the evidence, as well as your
18 notepads.

19 Your lunch has already arrived and is
20 situated in the jury room for your convenience.
21 Let the bailiffs know if you need anything.

22 We have a laptop in your jury room that
23 is a clean laptop. It only has the programs on it
24 that are necessary for you to play any of the
25 evidence. If you encounter any difficulty with

JURY CHARGE

1 that technology, please let the bailiffs know.
2 Also, so that you're advised, the Internet is
3 blocked on that computer, and we do that so you
4 will not have any evidence outside of the
5 proceedings.

6 Again, do not yet begin your
7 deliberations until I advise you to do so. If you
8 would go with the bailiffs please. Put your
9 notepads on the bannister for me.

10 (Jury out, 12:29 p.m.)

11 THE COURT: You can take your seats.
12 Any exception from the State?

13 MR. SIMPSON: No, Your Honor.

14 THE COURT: From the defense?

15 MR. MAYER: I don't think so, Judge.
16 There was a brief mention about, you've heard
17 testimony of a prior bad act. I couldn't think of
18 what that was.

19 THE COURT: His witness, Mr. Wallace,
20 talked about them buying and smoking weed, and
21 that's a crime and it comes in the nature of
22 character. And I didn't want them to hold it
23 against him as evidence that he's a bad person
24 getting high that night and therefore --

25 MR. MAYER: No exceptions from the

JURY CHARGE

1 defense.

2 THE COURT: Make sure for me there is
3 no evidence out of place so that that can all be
4 collected and taken into the jury room. Please
5 take their notebooks to them. Get the evidence
6 together, here are the verdict forms, and I need
7 the alternate.

8 (Alternate in, 12:30 p.m.)

9 THE COURT: Ma'am, we want to thank
10 you -- you can take your seats. We want to thank
11 you for your time and your attention to this case.
12 Being an alternate is so very necessary, but can be
13 very thankless in the event that we don't need your
14 services. But you've been a very valuable asset to
15 this trial; I've watched you and you've been timely
16 and attentive.

17 As you know, we've had a sick juror
18 this week and if we'd had another sick juror, we
19 would have needed your service. So we thank you
20 for your time and attention to this case. We know
21 that jury service is a sacrifice.

22 You are welcome to discuss this case if
23 you'd like, but I would ask that you not do that
24 until after the entire jury panel is excused. And
25 if you don't want to talk about it, you don't have

JURY CHARGE

1 to. Sometimes lawyers will contact you and ask you
2 how they can do a better job. If someone should
3 exceed your comfort level, please contact the
4 clerk's office so that we can take the appropriate
5 actions to protect your privacy.

6 You are welcome to hang around with us
7 if you'd like. You're welcome to leave, I don't
8 blame you. You have your lunch and you're welcome
9 to take it with you. You are excused with the
10 court's profound thanks.

11 Do you need a work excuse?

12 ALTERNATE JUROR: Yes, please.

13 THE CLERK: I can do it.

14 THE COURT: He's going to print one
15 for you and we will mail your check to you.

16 ALTERNATE JUROR: Okay.

17 THE COURT: Thank you. Have a good
18 rest of the week.

19 The record should reflect that the jury
20 began its deliberations at 12:30.

21 The jury has their lunch.

22 THE CLERK: Yes, ma'am.

23 THE COURT: You all go ahead and go to
24 lunch. The courtroom will be locked from 12:30 to
25 1:30 and then the deputies will let you back in.

JURY CHARGE

1 If we have any question -- if the jury has any
2 question, we will contact you by your cell prior to
3 that time.

4 (A luncheon recess transpired.)

5 THE COURT: We have several questions
6 from the jury. They were not numbered, they came
7 to me all at the same time. The first note is,
8 Carson's interview recording, question mark. We
9 have the 911 call, but not the recording of her
10 statement/interview.

11 And I'm going to have the bailiff make
12 sure that the foreperson puts the date on the notes
13 because she didn't. Make sure she does that.

14 My response will be, Madame Forelady,
15 ladies and gentlemen of the jury, there are
16 certain determinations that I make as the Judge of
17 the law concerning the admission of documents.
18 Based on the Rules of Evidence and Rules of
19 Procedure, all the documents that you are entitled
20 to are with you in the jury room. You are not to
21 speculate or draw any inferences or conclusions as
22 to why the document has not been sent in with you
23 for purposes of your deliberations.

24 If you desire to have any of the
25 testimony replayed, please advise the bailiff and

JURY CHARGE

1 we will accommodate your request.

2 Is there any exception to that response
3 from the State?

4 MR. SIMPSON: No, Your Honor.

5 THE COURT: From the defense?

6 MR. MAYER: No, Judge.

7 THE COURT: I'll have that marked as a
8 Court's Exhibit.

9 (COURT EXH. 9, Jury note, was marked
10 for identification.)

11 THE COURT: And the next two notes will
12 be responded to in the same way. I'll read both
13 notes.

14 Was prints done at the crime scene,
15 State's Exhibit Number 23, and what drugs, if any,
16 were found at the scene of the crime and on whose
17 person were any substances found?

18 And, likewise, those notes need to be
19 dated and I will have that done.

20 And my response to both notes will be
21 as follows: Madame Forelady, and ladies and
22 gentlemen of the jury, all the evidence in this
23 case has been presented to you. The Court cannot
24 answer factual questions. You must only consider
25 the testimony and evidence that has been submitted

JURY CHARGE

1 into the record for purposes of your deliberations.
2 You cannot conduct your own independent
3 investigation or fact finding outside of the
4 evidence and testimony presented to you during the
5 course of this trial. You are not to speculate or
6 draw any inferences or conclusions from this
7 response to your inquiry during your deliberations.

8 If you desire to have the testimony of
9 any witness replayed or rehear any portions of the
10 law, please advise the bailiff and we will
11 accommodate your request immediately.

12 Any exception from the State?

13 MR. SIMPSON: No, Your Honor.

14 THE COURT: From the defense?

15 MR. MAYER: No, Judge.

16 THE COURT: The jury will be
17 instructed the notes are to be placed with the
18 evidence and not discarded, and I will have the
19 bailiff to instruct the foreperson to date the
20 notes.

21 I need you to have the foreperson put
22 the dates on each note and also instruct her that
23 the notes are not to be discarded.

24 THE BAILIFF: Okay.

25 THE COURT: Okay. Thank you, sir.

VERDICT

1 We will be at ease until we here
2 further instructions from the jury.

3 MR. SIMPSON: Thank you, Judge.
4 (Jury deliberating.)

5 THE COURT: You may be seated. The
6 jury has reached a verdict. Is there anything
7 before we proceed? From the State?

8 MR. SIMPSON: No, Judge.

9 THE COURT: From the defense?

10 MR. MAYER: No, Judge.

11 THE COURT: Please bring in the jury.
12 (Jury in, 4:13 p.m.)

13 THE BAILIFF: All jurors are present.

14 THE COURT: Thank you. You may be
15 seated.

16 Madame Forelady, is it correct that you
17 have reached a verdict?

18 FORELADY: Yes, ma'am.

19 THE COURT: If you would give the
20 verdict forms to the bailiff, please.

21 Sir, if you would stand for publication
22 of the verdicts.

23 THE CLERK: The verdict forms in the
24 matter of State of South Carolina versus Valentino
25 M. Hayward, Defendant. As to Indictment

VERDICT

1 2014-GS-10-3322, we, the jury, by unanimous consent
2 find the defendant guilty of murder. Signed by the
3 foreperson of the jury on November 17, 2015.

4 Ladies and gentlemen of the jury, if
5 this was your verdict please raise your right hand.

6 THE JURY: (Raised hands)

7 THE CLERK: Thank you. Please let the
8 record reflect that all 12 jurors raised their
9 right hands in response to my question.

10 As to Indictment Number

11 2014-GS-10-3323, we, the jury, by unanimous
12 consent, find the defendant not guilty of
13 possession of a firearm during the commission of a
14 violent crime. Signed by the foreperson of the
15 jury, November 17, 2015.

16 Ladies and gentlemen of the jury, if
17 this was your verdict, please raise your right
18 hand.

19 THE JURY: (Raised hands)

20 THE CLERK: Please let the record
21 reflect that all 12 jurors raised their right hands
22 in response to my question.

23 THE COURT: Any request to poll the
24 jury? From the State?

25 MR. SIMPSON: No, Your Honor.

VERDICT

1 THE COURT: From the defendant?

2 MR. MAYER: No, Judge.

3 THE COURT: Madame Forelady, ladies
4 and gentlemen -- you may take your seat -- we thank
5 you for your time and attention to this case. We
6 know that jury service is thankless and in your
7 instance -- well, in all jury instances, but you
8 have gone above and beyond by being with us longer
9 than a week in the trial of this case. I know it
10 has been arduous on both your personal and
11 professional schedules, but we thank you for being
12 here with us.

13 Our system is the only one of its kind
14 where 12 ordinary citizens listen to the facts of a
15 case, determine what the facts are, apply a complex
16 set of laws to those facts and render verdicts.

17 Charleston County -- well, South
18 Carolina has the largest case filing per capita in
19 almost the nation. There is only one State that
20 has a greater caseload than we do at over 5,000
21 filings per judge per capita.

22 We have 49 circuit judges whose job it
23 is to rotate throughout the state and hear cases.
24 We hear both civil and criminal court and we have
25 appellate jurisdiction, which means we hear appeals

VERDICT

1 from the probate court, the magistrate court,
2 municipal court, and zoning. We used to hear
3 workers' comp appeals. We still hear a few of
4 them, but by State law those have been transferred
5 over to the court of appeals.

6 We hold court in Charleston County
7 every week with the exception of holidays. We
8 generally have four trial courts operating, two
9 civil and two criminal, and sometimes we have three
10 criminal courts and three civil courts operating.
11 So you can well imagine, while there are some
12 things that we are able to hear in a non-jury
13 capacity where the Judge acts the trier of the
14 facts, the majority of what we do requires the
15 services of the jury.

16 I hope that you have learned how court
17 truly operates. It is nothing like what you see on
18 television. It's nothing like Judge Judy, Judge
19 Joe Brown the People's Court and all those plethora
20 of shows that are out there. While they are
21 incredibly entertaining, they are not even a
22 semblance of the real process.

23 So I hope it's been educational for you
24 and that in some small way it has reinstilled your
25 faith in the system and that it works really

VERDICT

1 because of your willingness to donate your time to
2 us.

3 You are welcome to discuss the case if
4 you would like. Oftentimes lawyers will contact
5 you to see how they can -- just to get your
6 perspective on the case. If you don't want to talk
7 to anyone, you're not required to do so. And if
8 you feel uncomfortable in any way, please contact
9 the clerk's office so we can take the appropriate
10 action to protect your privacy.

11 If you need a work excuse, you can get
12 them on the first floor at the clerk's office on
13 the civil court side; otherwise, we will mail those
14 to you along with your check.

15 You are also welcome to stay for
16 sentencing if you would like. If you want to do
17 that, please let the bailiffs know and we will
18 bring you back into the courtroom and seat you in
19 the jury box for that purpose.

20 You're excused with the court's
21 profound thanks. I will hear post trial motions in
22 a moment, and I need the sentencing sheet.

23 (Jury out, 4:17 p.m.)

24 THE COURT: Are there any post trial
25 motions, Mr. Mayer?

1 MR. MAYER: Judge, I'm not sure how to
2 phrase it, but I don't fully understand the two
3 verdicts in terms of guilty of murder, but not
4 guilty of possessing the firearm.

5 THE COURT: Conceivably, since he was
6 not found with the firearm in his possession, and
7 the only evidence of him having the firearm would
8 be the actual murder itself or the testimony of the
9 eyewitnesses who say they took the weapon for him
10 and disposed of it. Technically, theoretically
11 they should have found him guilty on that charge if
12 they found him guilty on murder, but they could
13 have compromised their province and decided they
14 just weren't going to pile it on.

15 And in their fact-finding province
16 could have just decided to find him not guilty.
17 It's kind of what I'm -- my thought process is
18 based on --

19 MR. MAYER: Sure.

20 THE COURT: -- the evidence. It's
21 certainly -- it inures to his benefit and it
22 certainly is within their fact-finding province to
23 have found him not guilty.

24 MR. MAYER: Judge, I'm a little bit at
25 a loss as to if I need to make a motion on that

1 basis.

2 THE COURT: You need to make whatever
3 motions you feel are appropriate.

4 MR. MAYER: I mean, on the basis of the
5 rationale I just described, I guess to preserve the
6 record, I will move to ask the Court for judgment
7 not withstanding the verdict on the charge of
8 murder.

9 As -- as we just discussed, it seems to
10 me that being in possession of a firearm when it's
11 death by shooting is a prerequisite to the murder,
12 even if it's just constructive possession of -- if
13 they, for instance, decided that it was Wallace
14 Bishop who actually pulled the trigger.

15 THE COURT: Yeah, but they could have
16 -- they could have found that he was there when
17 someone else did it under hand of one and felt that
18 the other person had the gun and he didn't. That's
19 also a plausible factual posture they could have
20 taken.

21 MR. MAYER: I understand, Judge. I
22 feel -- I feel obliged under the law as I
23 understand it to make my motion.

24 THE COURT: Any further motions from
25 the defense?

1 MR. MAYER: No, Judge.

2 THE COURT: Would the State like to
3 respond? And I'm going to accept Mr. Mayer's
4 motion as a motion for a new trial.

5 MR. SIMPSON: Judge, just briefly, and
6 really just to address what you have already made
7 clear. There of course are theories presented to
8 the jury where a finding of guilt of murder under
9 the hand of one doctrine could have been the basis
10 for their finding of guilt. There is also, as you
11 said, as the fact finders the possibility that
12 merely piling on is something they didn't want to
13 do. That is certainly within their right and
14 province to do that because the evidence supports
15 that verdict. Under several possible theories it
16 should stand. I appreciate Mr. Mayer's position,
17 it's preserved, but we would ask you, Your Honor,
18 to deny it.

19 THE COURT: Anything further,
20 Mr. Mayer?

21 MR. MAYER: No, Judge.

22 THE COURT: You can take your seats.
23 The motion for a new trial is denied. The Court
24 finds there is both direct and substantial
25 circumstantial evidence reasonably tending to prove

1 the defendant's guilt upon which a competent jury's
2 verdict can be sustained. The Court does not
3 substitute judgment for that of the jury. The
4 Court is not the finder of fact and does not waive
5 the credibility and believability of witnesses.

6 The Court finds that there is evidence
7 to support the conviction and that there is
8 competent evidence to sustain this jury's verdict.
9 An inconsistency in a verdict is not a sufficient
10 basis for the Court to vacate a verdict or to grant
11 a new trial. It could have very well been a
12 compromise in some way, but, clearly, it inures to
13 the benefit of the defendant in a finding of not
14 guilty as there was an absence of a weapon produced
15 at trial.

16 There is more than adequate evidence to
17 sustain the jury's verdict on the elements of
18 murder in this case and the motion is denied.

19 Does the defendant have any criminal
20 history?

21 MR. SIMPSON: Yes, Your Honor. There
22 are a couple of minor offenses.

23 THE COURT: Magistrate level?

24 MR. SIMPSON: He's been charged
25 before, but dismissed and they are not to be held

1 against him.

2 THE COURT: So he has no record is

3 what you're telling me?

4 MR. SIMPSON: He has a minimal record,
5 Your Honor.

6 THE COURT: I need to know.

7 MR. SIMPSON: I know, I hate to be
8 unprepared, but I moved all my stuff back. I had
9 it ready to go --

10 THE COURT: Mr. Mayer, do you know
11 what your client's record is?

12 MR. SIMPSON: I will say there are no
13 violent convictions.

14 MR. MAYER: Judge, I can support that
15 assertion.

16 THE COURT: I need to know what it is.
17 I can't just take your word for it. Somebody needs
18 to find me a copy --

19 MR. SIMPSON: Judge, I really
20 apologize. I'm usually prepared to go.

21 THE COURT: While we're waiting, Mr.
22 Mayer, how much pre-detention time has your client
23 served?

24 MR. MAYER: Judge, he was arrested on
25 December 12th of 2013. I can do that math real

1 quick.

2 THE COURT: Could you do it for me?

3 That would be helpful.

4 MR. MAYER: 705 days.

5 THE COURT: Thank you, sir.

6 And how old is he?

7 MR. MAYER: 25 now.

8 MR. SIMPSON: Judge, my apologies. I
9 thought I had it memorized, but I couldn't recall.
10 His record is a possession of cocaine base in 2010,
11 a magistrate charge in 2011, possession of
12 marijuana in 2012. We also would add two
13 narcotics-based charges pending at this time.

14 THE COURT: What do you plan to do
15 with those?

16 Mr. Mayer, what does your client want
17 to do with those pending charges?

18 MR. SIMPSON: I think in light of the
19 verdict, Your Honor --

20 THE COURT: You're going to nolle pros
21 those?

22 MR. SIMPSON: Probably nolle pros
23 those charges.

24 THE COURT: What are those charges?

25 MR. SIMPSON: Distribution charges.

1 Your Honor, just for the record --

2 THE COURT: I'm going to give you an
3 opportunity to speak. I just needed those
4 questions answered.

5 MR. SIMPSON: Thank you.

6 THE COURT: You're welcome.

7 State may proceed.

8 MR. SIMPSON: Typically, at this point
9 in trial when Your Honor has been present for this
10 long, I like to keep things brief. We have here on
11 this side of the courtroom several loved ones and
12 family members of Mr. Miles. They lost someone
13 they cared very dearly about. They have been very
14 patient and supportive of our efforts throughout
15 and the State appreciates their presence here
16 today. No one wishes to address you, Your Honor.
17 They made that decision.

18 THE COURT: Okay.

19 MR. SIMPSON: I think really the facts
20 of the case speak for themselves, Your Honor. I
21 will just point out that, obviously, we had, at
22 least in the State's opinion, fairly competent,
23 strong evidence, not only of the murder, but of
24 destruction of evidence, of the attempts to present
25 false testimony in this court, and probably the

1 most chilling attempts to silence witnesses through
2 threat. I think those are all things that need to
3 go into the sentence, Your Honor. We leave that up
4 to you.

5 We don't think that this is a case
6 where the minimum sentence in light of all those
7 events is appropriate. That's all I would have to
8 say, Your Honor.

9 THE COURT: Thank you, sir. And you
10 have indicated that none of the victim's family
11 wish to be heard, is that correct?

12 MR. SIMPSON: They are -- we do have
13 one --

14 THE COURT: Certainly.

15 MR. SIMPSON: -- member that would
16 like to speak.

17 THE COURT: State your name for the
18 record.

19 MS. JOHNSON: Beyonka Johnson. I'm
20 Deontre Miles' sister.

21 THE COURT: And your last name is
22 Johnson?

23 MS. JOHNSON: Yes, ma'am.

24 THE COURT: And your first name is
25 Bianca?

1 MS. JOHNSON: Beyonka, B-E-Y-O-N-K-A.

2 THE COURT: Yes, ma'am.

3 MS. JOHNSON: Yes, ma'am. I just want
4 to say to Valentino, I've dreaded this day for a
5 long time. I haven't been able to basically get
6 over it, and I want you to know that I forgive you.
7 I can't speak for everybody else in my family, but
8 in order to get over it you have to be able to
9 forgive. I want you to know that was my baby.
10 That was my baby brother. We played ball, he
11 watched my kids. My kids ask for Uncle Chucky, and
12 he ain't coming back. I want you to know that I
13 forgive you.

14 And to your family, I'm sorry you-all
15 have to take the loss that we did too, but at the
16 end of the day, by praying everybody gets through
17 it. That's all.

18 THE COURT: Okay. Thank you, ma'am.

19 Does anyone else wish to be heard?

20 MR. SIMPSON: I don't believe so, Your
21 Honor.

22 THE COURT: Anything else further from
23 the State?

24 MR. SIMPSON: No, Your Honor.

25 THE COURT: Glad to hear from you,

1 Mr. Mayer.

2 MR. MAYER: Thank you, Judge. May it
3 please the Court?

4 THE COURT: Yes, sir.

5 MR. MAYER: And Valentino, as you may
6 have heard through some of the statements and
7 testimony, Judge, dropped out of school in tenth
8 grade. He has a long work history at Azalea
9 Motors, two-and-a-half to three years prior to his
10 arrest, almost two years ago now, which is an
11 uncommonly long work history of full-time work.

12 I would have to respectfully disagree
13 with Mr. Simpson's interpretation of Valentino's
14 calls from the jail about Miss Littman. As the --
15 as the subsequent events of those phone calls bear
16 out what the true meaning was, which was, get it
17 together, get her to talk to my lawyer.

18 You know, marshalling the evidence in a
19 case with this many facts and this many witnesses
20 when you're -- when the client is the main point of
21 contact for -- you know, you have to talk to these
22 people, you have to talk to those people. It's
23 very, very hard to do through the jail.

24 And, you know, these -- these are
25 conversations that are taken out of context. They

1 are conversations that resulted in zero harm to a
2 single person and I believe were not intended at
3 any point to -- to result in harm to a single
4 person. I understand, you know, that -- it's just
5 out of context and I would ask the Court to
6 consider that.

7 Valentino's 25 years old. Already the
8 minimum sentence under the murder statute has him
9 in prison until he's 55 years old. And, Judge, I
10 would plead with the court and submit to the court
11 that those 30 years will be the time in somebody's
12 life when they are apt to be most out -- most
13 outside the law or act up the most or -- and submit
14 to the court that during those 30 years Valentino,
15 as is part of our DNA as human beings, will settle
16 down, and by the time he's 55 years old, he will be
17 in a state -- in a position internally to
18 reintegrate and I would ask the Court for all of
19 these reasons to consider -- to consider the
20 minimum sentence in this case, Judge.

21 THE COURT: Does anybody -- does
22 Mr. Hayward wish to be heard by the Court or are
23 there any members of his family that wish to speak
24 on his behalf.

25 MR. MAYER: I think there is somebody

1 from Mr. Hayward's family.

2 THE COURT: Certainly. Yes, ma'am,
3 tell us your name.

4 MS. JACKSON: My name is Jacquelin
5 Jackson. I'm Valentino's aunt.

6 THE COURT: Yes, ma'am.

7 MS. JACKSON: I can truly say I've
8 known Valentino -- him and my son are the same age
9 and I've known him to be a well mannered young man.
10 You know, I don't -- I've never -- he never
11 displayed respectful in my presence, I've never
12 seen that. I can truly say that he has a child at
13 home that's going to be missing a father, too.

14 THE COURT: How old is that child?

15 MS. JACKSON: She's two years old. So
16 that's a life that child will never get to know.
17 Not taking away from whatever, but that child is
18 missing a father. And we need where fathers can be
19 for the kids now because worst case of it now. I
20 just ask that you would think about that. Because
21 I have a son of my own that, you know, needs that
22 father figure, you know. They have it, but this
23 child may never get to see his father. Thank you,
24 Judge.

25 THE COURT: You're welcome, ma'am.

SENTENCE

1 Anything further, Mr. Mayer?

2 MR. MAYER: No, Judge.

3 THE COURT: Anything further from the
4 State?

5 MR. SIMPSON: No, Your Honor.

6 THE COURT: Court will be at ease for
7 a few moments.

8 (A recess transpired.)

9 THE COURT: Sir, based on what has
10 been presented to the court, you are sentenced to
11 the State Department of Corrections for a period of
12 38 years. You will get credit for any time that
13 you've served to be calculated and applied by the
14 Department of Corrections.

15 Does he need any services with the ATU
16 unit, Mr. Mayer?

17 MR. MAYER: Judge, I'm not familiar
18 with that.

19 THE COURT: That's the alcohol and
20 drug treatment unit.

21 MR. MAYER: I don't believe so, Judge.

22 THE COURT: Thank you so much. Have a
23 great day.

24 (These proceedings were concluded at
25 5:02 p.m.)

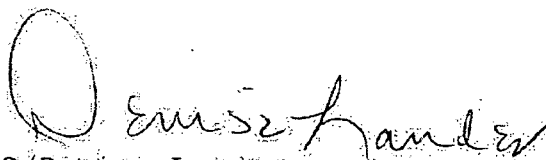
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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 11th day of November, 2016 at Charleston, Charleston County, South Carolina.



S/Denise Lauder
Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

SAW20131209413

DOCKET NO. 2014GS1003322

WITNESSES

The State of South Carolina

Charleston City Police Department

County of Charleston

AGENCY CASE NUMBER

1320144

COURT OF GENERAL SESSIONS

May 2014 Term

ARREST WARRANT NUMBER

K740117

DATE OF ARREST

December 12, 2013

ACTION OF GRAND JURY

THE STATE

vs.

VALENTINO M. HAYWARD

DOB: 1990-04-07

B/M

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 12 2014

Indictment for

MURDER

VERDICT

Foreperson of Petit Jury

Date:

INDICT

FILED

5/15/2014 9:17:20 AM

JULIE J. ARMSTRONG

CLERK OF COURT

COUNTY OF CHARLESTON
STATE VS.

VALENTINO M HAYWARD

AKA: Valentine Hayward, Valentino Hayward
Race: Black/African American Sex: M
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Charleston, SC 29407
DL# [REDACTED] SID# SC01880563

INDICTMENT/CASE#: 2014GS1003322
A/W: K740117
Date of Offense: 12/11/2013
S.C. Code §: 16-03-0010, 0020
CDR Code #: 0116

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: Murder
In violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

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

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

ATTEST:

[Signature] 71257 Defendant [Signature] 81261 Attorney for Defendant SC Bar #

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 \$ _____; 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 Service 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 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. Walves Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____

Recipient: _____ Substance Abuse Counseling

*Fine: _____ \$ _____ Random Drug/Alcohol Testing
§14-1-206 (Assessments 107.5%) \$ _____ Fine may be pd. in equal consecutive weekly/monthly
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 prmts. of \$ _____ Beginning _____
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ \$ _____ Paid to Public Defender Fund
§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 \$ 25.00
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ \$ 3.90

TOTAL \$ 133.90 Other: _____

Presiding Judge: [Signature]
Judge Code: 2128
Sentence Date: 11/17/15

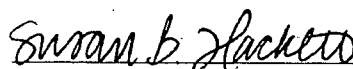
Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: [Signature]

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

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,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of May, 2017.

RECEIVED

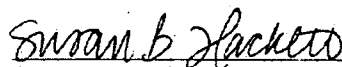
MAY 04 2017

SC Court of Appeals

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,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of May, 2017.