

1.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEALS FROM BEAUFORT COUNTY
JUDGE THOMAS COOPER, CIRCUIT
COURT JUDGE

The State

Respondent

VS.

RECEIVED

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SC Court of Appeals

TYRONE LORENZA ROBINSON

Appellant

APPELLATE CASE NO. 2017-002233

PRO SE BRIEF

TYRONE LORENZA ROBINSON #235104
W-C-RM 255
LIEBER CORRECTIONAL INSTITUTION
P.O. BOX 205
RIDGEVILLE, S.C. 29472

TABLE OF CONTENTSTABLE OF CONTENTS - page-2TABLE OF AUTHORITIES - page-3 to 4STATEMENT OF ISSUE ON APPEAL 5 to 7STATEMENT OF THE CASE - page-8STATEMENT OF FACTS - page-8 to 91st
ARGUMENT - page - 10 to 782nd
ARGUMENT - page - 79 to 1183rd
ARGUMENT - page - 119 to 143CONCLUSION - page 144EXHIBIT - A - page - 145 to 167EXHIBIT - B - page - 168 to 171EXHIBIT - C - page - 172 to 175EXHIBIT - D - page - 176 to 188

TABLE OF AUTHORITIES

Cases.

- State vs. JACKSON 527 S.E.2d 367
U.S. vs. HUNT 212 F.3d 539
UNITED STATES vs. SCHWARTZ 785 F.2d 637
(9th CIR 1986)
PAUL SIMMONS vs. STATE OF SOUTH CAROLINA 215 S.E.2d
883
WHALEN vs. UNITED STATES 100 S.Ct 1435
GORE vs. LEEKE 199 S.E.2d 255
THE STATE vs. PETERSON III, AND CRAIG ANTHONY
STUBBS 335 S.E.2d 800
HOLLMAN vs. THE STATE 356 S.E.2d 886
STATE OF MISSOURI vs. DWIGHT BAKER 607 S.W.2d
157, 1980 MO. CASE NO. 62149
STATE OF MISSOURI vs. BRIAN KEITH MOORE 580
S.W.2d 747, 1979 MO. CASE NO. 60867
LITTLE JOHN vs. COMMON WEALTH
UNITED STATES OF AMERICA ex REL DAVID ALMEIDA
vs. ALFRED T. RUNDLE, WARDEN STATE CORRECTIONAL
INSTITUTION, PHILADELPHIA, PENNSYLVANIA
255 F.SUPP 936, 1966 U.S. DIST CASE NO. M-2672
THE PEOPLE OF THE STATE OF ILLINOIS vs. GLENN
HICKMAN 59 ILL.2d 89, 319 N.E.2d 511, 1974 ILL
WHITNER vs. STATE 492 S.E.2d 777
SANABRIA vs. U.S. 98 S.Ct 2170
DAVID SANDSTROM vs. STATE OF MONTANA 90 S.Ct 2450
LUCAS BATLEY vs. STATE 709 S.E.2d 671
HOLLMAN vs. THE STATE 356 S.E.2d 886
STATE vs. DICKERSON 716 S.E.2d 895
STATE vs. GENTRY 610 S.E.2d 494
RICKY PELZER vs. STATE OF SOUTH CAROLINA 672 S.E.2d
790 (2,009)
STATE vs. PARKER 543 S.E.2d 255
GREEN vs. UNITED STATES 78 S.Ct 221

LOWRY VS. STATE 657 S.E. 2d 760

HERMAN WINN 125 084 VS. STATE OF SOUTH CAROLINA CASE NO: 01-CD-08128

THE STATE VS. CHARLES EDWARD WATSON, III 563 S.E. 2d 336

HOPKINS VS. REEVES 118 S. CT 1895

UNITED STATES OF AMERICA VS. JESSE DEAN CAVANAUGH 948 F. 2d 405

ODAM VS. STATE 566 S.E. 2d 528

RICHARD CAMPBELL VS. STATE OF SOUTH CAROLINA 535 S.E. 2d 928

KEPNER VS. U.S. 245 CT 797

PRICE VS. GEORGIA 90 S. CT 1757

THE STATE VS. LOUIS ENGLISH FULLER 552 S.E. 2d 282

LIVINGSTON VS. MURDAUGH 183 F. 3d 300 (4th CIR 1999)

THE STATE VS. GERALD B. KIRBY AND CHARLES KENY STOGNER 269 S.C. 25 CASE NO: 20450

McKELVEY VS. STATE 895 SO. 2d 1025

STATE VS. MC. FADDEN 539 S.E. 2d 38

STATE VS. COOLEY 536 S.E. 2d 660

UNITED STATES OF AMERICA VS. JESSE DEAN CAVANAUGH 948 F. 2d 405

IN RE WINSHIP 397 U.S. 358, 363-64

SULLIVAN VS. LA, 508 U.S. 235, 278 (1993)

STATEMENT OF ISSUE ON APPEAL

1st ISSUE ARGUED ON APPEAL

Did the TRIAL JUDGE AND TRIAL COURT ERROR by "VERBALLY" DENYING my motion for directed verdict of ACQUITTAL.

BECAUSE ON motion for directed verdict of ACQUITTAL, the TRIAL JUDGE AND TRIAL COURT

"DISMISSAL" of the "CRIMINAL CONDUCT" "alleging" while engaged in a ONGOING GUN battle an

INHERENTLY DANGEROUS FELONY

because the evidence the state of south carolina submitted at TRIAL was INSUFFICIENT to CONVICT ON. AS a matter of law constitutes a "ACQUITTAL" ON the CRIMINAL CONDUCT "alleging" while engaged in a ONGOING GUN battle an INHERENTLY DANGEROUS FELONY

That indictment #2012-61-07-01935 charge and allege IS the one and ONLY CRIMINAL CONDUCT. That caused victim KHALIL SINGLETON to be shot and killed. AS a matter of law ENTITLING me to a directed verdict of ACQUITTAL. Pursuant to south carolina supreme court of appeals case law of state v. JACKSON 527 S.E.2d 367 "quote" INX were the facts of the case even if proved do NOT constitute the alleged CRIMINAL CONDUCT a directed verdict must be GRANTED

2nd ISSUE ARGUED ON APPEAL

Although the TRIAL JUDGE AND TRIAL COURT VERBALLY DENIED my motion for directed verdict of ACQUITTAL. BECAUSE by its actions the TRIAL JUDGE AND TRIAL COURT LEGALLY ACQUITTED me on the CRIME OF FELONY MURDER by the FELONY MURDER RULE THEORY "alleging"

while engaged in a ONGOING GUN battle an INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY UNLAWFULLY AND WITH MALICE

AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON to be shot and KILLED

That's charged and alleged inside of the WRITTEN WRITE UP OF INDICTMENT #2012-61-

- 07- 01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL, AND MOTIONED FOR A DIRECTED VERDICT OF ACQUITTAL ON.
 Am I entitled to be DISCHARGED FROM IMPRISONMENT ON INDICTMENT # 2012-05-07-01935 THAT I AM CURRENTLY BEING HELD DEPRIVED OUT OF MY LIBERTY ON WITH OUT DUE PROCESS OF LAW. IN VIOLATION OF MY FEDERAL 5TH AND 14TH AMENDMENT RIGHT OF DUE PROCESS OF LAW

3rd ISSUE ARGUED ON APPEAL

LACK OF SUBJECT MATTER JURISDICTION

did the TRIAL JUDGE AND TRIAL COURT LACK SUBJECT MATTER JURISDICTION TO CONVICT, SENTENCE TO PRISON TIME OF LIFE IMPRISONMENT AND UNLAWFULLY RESTRAIN ME ON THE "THIRD" UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT THAT IS A "THIRD UNINDICTED" ALLEGED

FIRST DEGREE MURDER CRIME, THAT IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY"

- ENGAGED IN A ONPOIND GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON did WILLFULLY UNLAWFULLY AND WITH MALICE AND AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-05-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL. PURSUANT TO THE "21009" CASE LAW OF THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA IN THE "21009" CASE LAW OF PELZER VS. STATE OF SOUTH CAROLINA, 672 S.E.2d 790 (21009) "QUOTEING" THE TRIAL COURT LACKS SUBJECT MATTER JURISDICTION

to convict the defendant of a crime that is not a lesser included of the offense charged in the indictment. For an offense to be a lesser included of another, the greater offense must include all the elements of the lesser offense. If the lesser offense includes an element not included in the greater offense, then the lesser offense is not included in the greater.

4th ISSUE ARGUED ON APPEAL

BECAUSE THE JURY AT TRIAL **IMPLICITLY**
"ACQUITTED" me ON THE CRIME OF FELONY

MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY, AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-07-01935.

THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL.

AM I ENTITLED TO BE DISCHARGED FROM IMPRISONMENT ON INDICTMENT # 2012-65-07-01935 THAT I AM CURRENTLY BEING HELD DEPRIVED OUT OF MY LIBERTY ON IN VIOLATION OF MY FEDERAL 5th AND 14th AMENDMENT RIGHT OF DUE PROCESS OF LAW

STATEMENT OF THE CASE

APPELLANT TYRONE LORENZA ROBINSON WAS INDICTED DURING THE OCTOBER 18TH 2012 TERM OF THE BEAUFORT COUNTY GRAND JURY FOR CRIME OR FELONY MURDER BY THE FELONY MURDER RULE THEORY.

APPELLANT WAS TRIED BEFORE JUDGE THOMAS COOPER AND A JURY ON SEPTEMBER 15TH 2014. ON SEPTEMBER 19TH 2014 THE JURY AT TRIAL FOUND APPELLANT GUILTY OF A "THIRD UNINDICTED" FIRST DEGREE MURDER CRIME. THAT IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME OF THE CRIME THATS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935

STATEMENT OF FACTS

AFTER THE STATE OF SOUTH CAROLINA RESTED THERE CASE. ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL, THE TRIAL JUDGE AND TRIAL COURT "DISMISSAL" OF THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT ALLEGED WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY.

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL WAS INSUFFICIENT TO CONVICT ON, CONSTITUTED A "ACQUITTAL" ON THE ESSENTIAL AND FACTUAL ELEMENT AND "CRIMINAL CONDUCT" "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

ENTITLING ME TO A DIRECTED VERDICT OF ACQUITTAL AS A MATTER OF LAW PURSUANT TO SUPREME COURT OF APPEALS OF STATE OF SOUTH CAROLINA CASE LAW OF STATE VS. JACKSON 527 S.E. 2d 327

ALSO THE TRIAL JUDGE AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION, TO CONVICT AND SENTENCE ME TO PRISON TIME OF LIFE IMPRISONMENT AND UNLAWFULLY RESTRAIN ME, ON A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME. THAT IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME. OF THE CRIME THATS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935

That I was TRIED ON BEFORE THE JURY AT TRIAL.
PURSUANT TO SUPREME COURT OF APPEAL OF THE
STATE OF SOUTH CAROLINA CASE LAW OF RICKY
PELZER VS. STATE OF SOUTH CAROLINA 692 S.E.2d
790 (2/009)

ALSO AS A MATTER OF LAW THE JURY AT TRIAL
"IMPLICITLY ACQUITTED" ME ON THE CRIME
OF FELONY MURDER BY THE FELONY MURDER
RULE THEORY. THAT IS CHARGED AND ALLEGED
INSIDE OF THE WRITTEN WRITE UP OF INDICTM-
ENT #2012-65-07-01935 THAT I WAS TRIED
ON BEFORE THE JURY AT TRIAL. REQUESTING
THIS COURT TO DISCHARGE ME FROM IMPRISO-
NMENT ON INDICTMENT #2012-65-07-01935

75th 10.

ARGUMENT

THE TRIAL JUDGE AND TRIAL COURT ERRORED BY
"VERBALLY" DENYING MY MOTION FOR DIRECTED VERDICT
OF ACQUITTAL.
BECAUSE ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL.
THE TRIAL JUDGE AND TRIAL COURT DISMISSAL OF
THE "CRIMINAL CONDUCT" ALLEGED
WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED
AT TRIAL WAS INSUFFICIENT TO CONVICT ON.
AS A MATTER OF LAW CONSTITUTES A "ACQUITTAL"

ON THE CRIMINAL CONDUCT "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

THAT INDICTMENT # 2012-65-07-01935 CHARGE AND ALLEGED
IS THE ONE AND ONLY CRIMINAL CONDUCT THAT CAUSED
VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED;
AS A MATTER OF LAW ENTITLING ME TO A DIRECTED
VERDICT OF ACQUITTAL. PURSUANT TO SOUTH CAROLINA
SUPREME COURT OF APPEALS CASE LAW OF STATE VS. JACKSON
527 S.E.2d 367 "QUOTING"

WERE THE FACTS OF THE CASE EVEN IF PROVED
DO NOT CONSTITUTE THE ALLEGED CRIMINAL
CONDUCT A DIRECTED VERDICT MUST BE GRANTED

AFTER THE STATE OF SOUTH CAROLINA RESTED THERE CASE.
ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL, THE TRIAL
JUDGE AND TRIAL COURT RESOLUTION CORRECT OR NOT, OF
THE TRIAL JUDGE AND TRIAL COURT TERMINATING, DISPOSING
AND "DISMISSING" THE ESSENTIAL AND FACTUAL ELEMENT
AND "CRIMINAL CONDUCT" ALLEGED
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED
AT TRIAL WAS INSUFFICIENT TO CONVICT ON.
CONSTITUTED A "ACQUITTAL" ON THE ESSENTIAL AND
FACTUAL ELEMENT AND "CRIMINAL CONDUCT" ALLEGED
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY FOR PROOF REVIEW

CASE LAW MERITS
UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH
CIRCUIT COURT OF APPEALS CASE LAW OF
U.S. VS. HUNT 212 F.3d 539 "QUOTING"
THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th CIR
1986) "QUOTING"
FOR ITS PART THE GOVERNMENT READILY ADMITS THAT
CERTAIN PARTS OF THE INDICTMENT WERE SPECIFICALLY
DISMISSED FOR LACK OF EVIDENCE THERE BY AMOUNT-
ING TO AN ACQUITTAL AS TO THOSE PARTS. THE
GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC
FINDINGS

AS A MATTER OF LAW THE ACQUITTAL THAT I
OBTAINED ON THE ESSENTIAL AND FACTUAL ELEMENT
AND CRIMINAL CONDUCT "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN

INHERENTLY DANGEROUS FELONY

THAT ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL. THE TRIAL JUDGE AND TRIAL COURT TERMINATED, DISPOSED OF AND DISMISSED FROM OUT OF THE INDICTMENT because the evidence the state of south carolina submitted at TRIAL WAS INSUFFICIENT TO CONVICT ON.

- I CANNOT CONVINCE YOU THAT THE WHOLE CONSTITUTED "ACQUITTAL" ON THE WHOLE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGED.

WHILE ENGAGED IN A UNDOING GUN BATTLE AND INHERENTLY DANGEROUS FELONY, I THREW ROBINSON AND WELLFULLY UNLAWFULLY AND WITH MALICE AFORE-THOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED.

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-1955. THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL AND MOTIONED FOR A DIRECTED VERDICT OF ACQUITTAL FOR PROOF REVIEW.

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH CIRCUIT COURT OF APPEALS CASE LAW OF U.S. VS. HUNT 212 F.3D 539 (8TH CIR 2000) QUOTING THE NINTH CIRCUIT REACHED THE SAME CONCLUSION IN UNITED STATES VS. SCHWARTZ 785 F.2D 673 (9TH CIR 1986) QUOTING

THERE THE GOVERNMENT MADE THE SAME ARGUMENT THAT IT MAKES HERE. FOR ITS PART THE GOVERNMENT READILY ADMITS THAT CERTAIN PARTS OF THE INDICTMENT WAS SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE PARTS. THE GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC FINDINGS. THE CRUX OF THE GOVERNMENT'S ARGUMENT, HOWEVER IS, THAT DESPITE THE LABEL OF ACQUITTAL USED BY THE COURTS, THE JUDGEMENT ON COUNTS ONE THROUGH TWELVE WAS IN FACT PARTLY "A DISMISSAL" BASED ON THE RULEING OF LAW THAT THERE WAS AN IMPERMISSIBLE VARIANCE. THE GOVERNMENT OPINES THEREFORE, THAT IT IS NOT BARRED FROM APPEALING OR SEEKING A RETRIAL ON THE INDIVIDUAL PARTS OF THE SCHEME WHICH THE DISTRICT COURT DID NOT SPECIFICALLY REJECT FOR LACK OF SUFFICIENT EVIDENCE. THE NINTH CIRCUIT REJECTED THE GOVERNMENT'S ARGUMENT IN SCHWARTZ, IN AS MUCH AS WE FIND THE JUDGEMENT BELOW TO BE A TRUE ACQUITTAL, THE DOUBLE JEOPARDY CLAUSE BARS APPEAL EVEN IF THE DISTRICT COURT BASED THE ACQUITTAL ON AN ERRONEOUS INTERPRETATION OF GOVERNING LEGAL PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH ARE THEMSELVES SUBSEQUENTLY OVERTURNED.

CONFESSSION

THE TRIAL TRANSCRIPT FROM THE PRETRIAL HEARING ON FEBRUARY 27TH 2014 WERE I REPRESENTED MYSELF PROSE REVEALS THAT THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE "CONFERRED" THAT THE CRIME THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-01935 IS THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY. THAT IS THE ONE AND ONLY CRIME AND THEORY THAT THEY TRIED ME ON BEFORE THE JURY AT TRIAL AND HAD THE BURDON OF PROOF TO PROVE ONLY. FOR PROOF I QUOTE THE CONFESSSION OF THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE. FROM THE TRIAL TRANSCRIPT OF THE PRE TRIAL HEARING

That took place on February 27th 2014 at Beaufort County General Session Court house were I represented myself pro se "quoting"

STATE OF SOUTH CAROLINA

VS

TYRONE ROBINSON

"quoting" the state of south carolina and its solicitor ISIAAC MC. DUFFIE STONE confessed from page 1052 paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 and page 1053 paragraph 2 and 2 of trial transcript from pretrial hearing on February 24th, 2014 "quoting" our theory is the felony murder rule, theory, that you have three people committing inherently dangerous felonies, and as a result of there actual shooter, as to speak, the one that discharged the fatal bullet, under that scenario, if while relevant, not controlling, so that is the position that the state goes under, that is the theory that the state goes under and that is a consistent theory among all the defendants, that is the theory. were not switching up that the theories, depending on which defendant were talking about. we feel like all three of these people were involved in an inherently dangerous felony, which is a shoot out that basically went from the right as you go to Hilton Head, all the way down into marshland road, along the cross island express way, and I don't know if your familiar with that area, but it involves three neighborhoods in Hilton Head, and there was a shoot out that took place first at where horse road, and then at another road, area, between and then at a third at Allen Road, area, which is where the child was playing on the trampoline and killed, our theory is all three of them are culpable under that scenario, and that is the theory were proceeding for trial

As a matter of law, proving that the crime that is charged and alleged inside of the written write up of indictment # 2012-65-07-01935 and arrest warrant # 2012-07-2030014. that I was arrested and restrained on, is the crime of felony murder by the felony murder rule theory, to prove that I was tried before the jury at trial on the crime that is charged and alleged inside of the written write up of indictment # 2012-65-07-01935. I quote the trial judge and trial court confession from the trial transcript,

STATE OF SOUTH CAROLINA

VS.

TYRONE ROBINSON

"quoting" from page 3 of trial transcript Mr. Stone; (AKA) solicitor ISIAAC MC. DUFFIE STONE stated "quoting" your honor, indictment # 2012-65-07-01935 charging the defendant TYRONE ROBINSON with the offense of murder I'll hand that indictment to you. "quoting" page 3 and 4 of trial transcript the court (AKA) trial judge Thomas Cooper stated "quoting" ladies and gentlemen as you have heard the solicitor has called the case of the state versus TYRONE ROBINSON,

MR. ROBINSON has been indicted by the GRAND JURY OF BEAUFORT COUNTY and charged with the CRIME OF MURDER. THE INDICTMENT ALLEGES THAT IN BEAUFORT COUNTY ON OR ABOUT SEPTEMBER THE 21ST 2012 WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED IN THE AREA OF MARSHLAND DRIVE AND OLLEN ROAD ON HILTON HEAD ISLAND AND THAT KHALIL SINGLETON DID DIE IN BEAUFORT COUNTY AS A PROXIMATE RESULT THERE OF ON SEPTEMBER THE 21ST 2012 IN VIOLATION OF THE LAW.

WHICH IS THE ALLEGED CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY. THAT THE JURY AT MY TRIAL WAS SWORN IN ON THE DEFENSE OF DOUBLE JEOPARDY ATTACHES TO, I WAS TRIED ON BEFORE THE JURY AND I WAS PUT IN JEOPARDY AT TRIAL OF BEING PUNISHED AND RECEIVING PRISON TIME OF LIFE IMPRISONMENT FOR

CRIMINAL CONDUCT

INDICTMENT# 2012-65-07-01935 CHARGE AND ALLEGE THAT THE CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY. IS THE ONE AND ONLY CRIMINAL CONDUCT THAT CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED. THEREFORE INDICTMENT# 2012-65-07-01935 CHARGES AND ALLEGE THAT THE VICTIM KHALIL SINGLETON DEATH RESULTED FROM THE ALLEGED CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY ONLY.

ESSENTIAL ELEMENT TO CRIME OF FELONY MURDER

THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT# 2012-65-07-01935 AND ARREST WARRANT# 2012 A0720300114. IS THE ESSENTIAL AND FACTUAL ELEMENT THAT IS REQUIRED IN ORDER TO CONSTITUTE THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY. THAT THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROOF TO PROVE THAT I AM GUILTY OF BEYOND A REASONABLE DOUBT. IN ORDER TO CONVICT AND SENTENCE ME TO PRISON TIME OF LIFE IMPRISONMENT FOR THE DEATH OF VICTIM KHALIL SINGLETON.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF PAUL SIMMONS VS. STATE OF SOUTH CAROLINA 215 S.E.2d 883 "QUOTE" "UNQUOTE"

THIS CASE POSES A DIFFICULT QUESTION WHETHER AN ESSENTIAL ELEMENT OF A FELONY CAN BE CONSTITUTED ORALLY FOUNDED UPON AN INFERENCE DRAWN FROM THE COMMISSION OF A MISDEMEANOR EVEN IN A CASE WHERE THE FELONY MURDER RULE WAS IMPLIED

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF WHALEN VS. UNITED STATES 100 S.Ct. 1435 "QUOTE" "UNQUOTE"

A CONVICTION FOR KILLING IN THE COURSE OF RAPE CAN NOT BE HAD WITHOUT PROVING ALL THE ELEMENTS OF THE OFFENSE OF RAPE "FURTHER QUOTE" "UNQUOTE" IN THE PRESENT CASE HOWEVER PROOF OF RAPE IS A NECESSARY ELEMENT OF PROOF OF THE FELONY MURDER

BURDEN OF PROOF

BECAUSE THE STATE OF SOUTH CAROLINA PERIVED TRIAL AGAINST TYRONE ROBINSON ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY "QUOTE" "UNQUOTE"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY, WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-19935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL

THE STATE OF SOUTH CAROLINA AND THE DEFENDANT HAD THE BURDEN OF PROOF TO PROVE THAT VICTIM KHALIL SINGLETON DEATH IS A NATURAL OR PROBABLE CONSEQUENCE OF A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

BEFORE THE STATE OF SOUTH CAROLINA AND THE DEFENDANTS COULD CONVICT SENTENCE TO PRISON TIME OF LIFE IMPRISONMENT AND CONTINUE TO HOLD TYRONE ROBINSON DEPRIVED OUT OF MY LIBERTY FOR THE DEATH OF VICTIM KHALIL SINGLETON FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF GORE VS. LEEKE 199 S.E.2d 755 "QUOTE" "UNQUOTE"

IF SEVERAL PERSON AGREE OR CONSPIRE TO COMMIT A FELONY SUCH AS GRAND LARCENY OR ROBBERY OR BURGLARY EACH OF THOSE PERSONS ARE CRIMINALLY RESPONSIBLE FOR THE ACTS OF ASSOCIATES OR CONFEDERATES WHICH ARE DONE IN FURTHERANCE OR IN PROSECUTION OF THE COMMON PURPOSE FOR WHICH THEY COMBINED THE COMMON PURPOSE LATER AND GENTLEMAN MAY HAVE NOT INCLUDED OR NOT HAVE BEEN INVOLVED IN THE KILLING AND THE MURDER OF ANY ONE BUT IF IN EXECUTING THIS COMMON DESIGN AND PURPOSE AND IF IT WAS UNLAWFUL AS FOR INSTANCE BREAKING IN AND STEALING, AND IN THE EXECUTION OF THE

common purpose a homicide is committed by one of the confederates or one of the associates and you the jury determine from the proof beyond a reasonable doubt the homicide was a probable or natural consequence of the acts which were done in pursuance of this common design then ladies and gentleman all who are present either actually or constructively and participating in the unlawful common design are as guilty as the slayer himself

HOWEVER IF THE STATE OF SOUTH CAROLINA FAILED TO PROVE THAT THE VICTIM DEATH WAS THE NATURAL OR PROBABLE CONSEQUENCE OF AN ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, THEN I WOULD BE ENTITLED TO A ~~ACQUITTAL~~ ACQUITTAL ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE

THEORY HALL DEPENDS
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM RHAEL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALL PLED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT# 2012-GS-07-01935 AND
ARREST WARRANT# 2012-A072030014. THAT I WAS
ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE
JURY AT TRIAL. FOR PROOF REVIEW
CASE LAW MERITS

JURY AT 11:45 AM. FOR THE DEFENSE
 CASE LAW MERITS
 SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
 - NO CASE LAW OF
 THE STATE VS. PETERSON III AND CRAIG ANTHONY STUBBS
 12/11/12 10:11 AM
 12/11/12 10:11 AM

The state v. Peter
335 S.E.2d 800
had ~~it~~ further concluded that the state failed to
establish beyond a reasonable doubt that
a homicide was the natural or probable consequ-
ence of a plan to steal the victim car. The
appellant would have been entitled to an acquittal
on the charge of murder

APPELLANT WOULD BE
ON THE CHARGE OF MURDER

THEREFORE IN ORDER FOR THE DEFENDANTS TO CONVICT
ME FOR THE DEATH OF VICTIM KHALIL SINGLETON. THE
STATE OF SOUTH CAROLINA AND THE DEFENDANTS HAD
THE BURDEN OF PROOF TO PROVE, THAT I ACTED WITH THE
INTENT TO COMMITTE A ONGOING GUN BATTLE AN INHEREN-
TLY DANGEROUS FELONY

IN LAW MERITS

IN LAW OF.

case law merits

supreme court of state of Georgia case law of.
Hollman v. The State 356 S.E.2d 886 (Ga. 1975)
The primary difference between the offenses of
malice murder and felony murder is that felony
murder does not require malice or the intent
to kill. Burke v. State, 234 Ga. 512, 514 (216 S.E.
2d 812) (1975). Felony murder does, however, require
that the defendant possess the requisite criminal
intent to commit the underlying felony. For the
conviction in this case to stand, the jury must have
found that the defendant possessed the criminal
intent to commit aggravated assault

CONSTITUTIONARY

BLACKS LAW DICTIONARY
DEFINITION FOR THE CRIME OF FELONY
MURDER STATE QUOTE: "A
MURDER THAT OCCURS DURING THE

COMMISSION OF A DANGEROUS FELONY [OFTEN LIMITED TO RAPE, KIDNAPPING, ROBBERY, BURGLARY]

INSIDE OF A CASE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY. THE ISSUE OF WHO FIRED THE FATAL SHOT THAT KILLED THE VICTIM. IS NOT THE CONTROLLING LAW TO HOLD A PERSON RESPONSIBLE FOR THE DEATH OF THE VICTIM. AS THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE CONFESSED AT MY PRE TRIAL HEARING ON FEBRUARY 27TH 2014. FOR PROOF I QUOTE THE FOLLOWING CONFESSTION FROM THE TRIAL TRANSCRIPT.

CONFESSTION

"QUOTING" THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE CONFESSTION FROM PAGE 1052 PARAGRAPHS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, AND 24 AND PAGE 1053 PARAGRAPH 2 AND 2 OF TRIAL TRANSCRIPT FROM PRETRIAL HEARING OF FEBRUARY 27TH, 2014 "QUOTING"

OUR THEORY IS THE FELONY MURDER RULE THEORY THAT YOU HAVE THREE PEOPLE COMMITTING INHERENTLY DANGEROUS FELONIES AND AS A RESULT OF THERE INHERENTLY DANGEROUS FELONIES A CHILD DIES. THE ACTUAL SHOOTER, AS TO SPEAK THE ONE THAT DISCHARGED THE FATAL BULLET, UNDER THAT SCENARIO IS WHILE RELEVANT NOT CONTROLLING

TO FURTHER PROVE THAT IN A CASE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY. THE ISSUE OF WHO FIRED THE FATAL SHOT THAT KILLED THE VICTIM IS NOT CONTROLLING LAW, TO HOLD A PERSON RESPONSIBLE FOR THE DEATH OF THE VICTIM. I QUOTE THE FOLLOWING CASE LAW MERITS

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE STATE OF MISSOURI
CASE LAW OF
STATE OF MISSOURI VS. DWIGHT BAKER 607 S.W. 2D 157,
1980 MO. CASE NO. 62140 "QUOTING"
IT WAS REASONABLY FORESEEABLE THAT THE ROBBERY ATTEMPT WOULD MEET RESISTANCE. THIS SENT INTO MOTION A CHAIN OF EVENTS WHICH CAUSED THE DEATH OF THE BYSTANDER, WHETHER THE FATAL ACT WAS DONE BY THE DEFENDANT, AN ACCOMPLICE, ANOTHER VICTIM, OR A BYSTANDER IS UNDER THE FACTS HERE NOT CONTROLLING. THE SIGNIFICANT FACTOR IS WHETHER THE DEATH WAS THE NATURAL AND PROXIMATE RESULT OF THE ACTS OF THE APPELLANT OR OF AN ACCOMPLICE

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE STATE OF MISSOURI
CASE LAW OF
STATE OF MISSOURI VS. BRIAN KEITH MOORE 580 S.W. 2D 747, 1979 MO. CASE NO. 60867 "QUOTING"
WHETHER THE FATAL ACT WAS DONE BY THE DEFENDANT, AN ACCOMPLICE, ANOTHER VICTIM, OR A BYSTANDER IS, UNDER THE FACTS HERE, NOT CONTROLLING. THE SIGNIFICANT FACTOR IS WHETHER THE DEATH WAS THE NATURAL AND PROXIMATE RESULT OF THE ACTS OF THE APPELLANT OR OF AN ACCOMPLICE

INSUFFICIENT EVIDENCE TO CONVICT

AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE, PROVES THAT VICTIM KHALIL SINGLETON DEATH IS THE NATURAL OR PROBABLE CONSEQUENCE OF THE INHERENTLY DANGEROUS FELONY OF ATTEMPT TO MURDER I VICTIM TYRONE ROBINSON. FOR PROOF I QUOTE THE FOLLOWING

CONFESION

AT TRIAL POLICE OFFICER LAUREL ALBERTIN TESTIFIED THAT ATTACKER AARON SCOTT YOUNG JUNIOR CONFESSED TO HER. THAT AFTER TYRONE ROBINSON FLED AND LEFT FROM THERE HOUSE ON 17 OLD WILD HORSE ROAD. HE AARON SCOTT YOUNG JUNIOR AND HIS FATHER AARON SCOTT YOUNG SENIOR. GOT IN THERE TRUCK WITH THERE GUNS AND WENT LOOKING FOR TYRONE ROBINSON WITH THERE GUNS ON OAKVIEW ROAD, MARSHLAND ROAD AND IN TYRONE ROBINSON NEIGHBORHOOD ON ALLEN ROAD WERE TYRONE ROBINSON LIVED AT. 8

POLICE OFFICER LAUREL ALBERTIN TESTIFIED AT TRIAL. THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER THAT HE AARON SCOTT YOUNG JUNIOR AND HIS FATHER AARON SCOTT YOUNG SENIOR. CAUGHT UP WITH TYRONE ROBINSON WHILE TYRONE ROBINSON WAS RIDING INSIDE OF HIS CAR ON OAKVIEW ROAD. WERE HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR PULLED OUT A GUN AND ATTEMPTED TO MURDER I TYRONE ROBINSON WHILE I TYRONE ROBINSON WAS RIDING INSIDE OF MY CAR ON OAKVIEW ROAD.

POLICE OFFICER SGT. LAUREL ALBERTIN TESTIFIED AT TRIAL. AFTER AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG ROBINSON ATTEMPTED TO MURDER TYRONE ROBINSON WAS RIDING INSIDE OF HIS CAR WHILE TYRONE ROBINSON WAS RIDING INSIDE OF HIS CAR ON OAKVIEW ROAD. HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR DROVE BACK TO THERE HOUSE ON 17 OLD WILD HORSE ROAD WERE HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR LIVED AT. AFTER RETURNING TO THERE HOUSE HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR GOT BACK INSIDE OF THERE TRUCK AND LEFT FROM 17 OLD WILD HORSE ROAD WITH THERE GUNS AND WENT LOOKING FOR TYRONE ROBINSON WITH THERE GUNS. AT TYRONE ROBINSON NEIGHBORHOOD ON ALLEN ROAD. WERE TYRONE ROBINSON LIVED AT. FOR PROOF REVIEW

PAGE 625 PARAGRAPHS 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 AND 25 AND PAGE 626 PARAGRAPHS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 AND 25 AND PAGE 627 PARAGRAPHS 1, AND PAGE 629 PARAGRAPHS 12, 13, 14, 15, 16, 17 AND 18, AND PAGE 631 PARAGRAPH 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20, 21, 22, 23, 24 AND 25 AND PAGE 632 PARAGRAPH 1, OF TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL POLICE OFFICER BOB BROMAGE TESTIFIED THAT AARON SCOTT YOUNG SENIOR CONFESSED TO HIM THAT AFTER TYRONE ROBINSON LEFT THERE HOUSE ON 17 OLD WILD HORSE ROAD. HE AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR, GOT INTO THERE TRUCK WITH THERE GUN AND WENT LOOKING FOR TYRONE ROBINSON. AT TRIAL POLICE OFFICER BOB BROMAGE TESTIFIED THAT AARON SCOTT YOUNG SENIOR CONFESSED TO HIM THAT THEY MEANTIM HE AARON SCOTT YOUNG SENIOR AND HIS SON AARON SCOTT YOUNG JUNIOR WANTED TO KILL TYRONE ROBINSON. AT TRIAL POLICE OFFICER BOB BROMAGE TESTIFIED THAT AARON SCOTT YOUNG SENIOR CONFESSED TO HIM THAT IF HE (AKA) AARON SCOTT YOUNG SENIOR HAD THE CHANCE TO KILL TYRONE THAT DAY HE WOULD HAVE DONE IT. FOR PROOF REVIEW PAGE 794 PARAGRAPHS 14, 15, 16, 17, 18, 19, 24 AND 25 AND PAGE 795 PARAGRAPHS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 AND 25 AND PAGE 796 PARAGRAPHS 4, 5, AND 6 AND PAGE 667, PARAGRAPHS 13, 14, 15, 16, 17 AND 18 OF TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL ATTORNEY JESSICA SAXON READ AARON SCOTT YOUNG SENIOR CONFESSIO HE MADE TO SOLICITOR FISTAC MC. DUFFIE STONE WERE AARON SCOTT YOUNG SENIOR CONFESSED TO PROSECUTING SOLICITOR FISTAC MC. DUFFIE STONE THAT IF HE HAD GOT THE CHANCE TO HE WAS GONE KILL TYRONE ROBINSON. PAGE 809 PARAGRAPHS 3, 4, 5, 6, 7, 8, 9, 10, 11 AND 12 OF TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL JONTY SINGLETON SENIOR TESTIFIED THAT AFTER HE JONTY SINGLETON SENIOR, AARON SCOTT YOUNG SENIOR, AND AARON SCOTT YOUNG JUNIOR. RODE AROUND WITH A GUN LOOKING FOR TYRONE ROBINSON IN HIS NEIGHBORHOOD ON ALLEN ROAD, SPANISH WELLS ROAD, AND MARSHLAND ROAD. HE JONTY SINGLETON SENIOR, AND AARON SCOTT YOUNG JUNIOR. WENT BACK TO THERE NEIGHBORHOOD AT 17 OLD WILD HORSE ROAD AND WAS TALKING. THEN AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR GOT BACK INTO THERE TRUCK AND WITH THE GUN THEY HAD INSIDE OF THE TRUCK, THEY WENT OUT AGAIN. FOR PROOF REVIEW PAGE 468, 469, 470, 471, 472, 473, 474, 475, 478, 479, 480, 481, 482, 483, 484 AND 485 OF TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL CHARLENE JACKSON TESTIFIED THAT SHE HEARD GUN SHOOTING GOING ON. THEN TYRONE ROBINSON CAME TO HER HOUSE AND SAID THOSE MOTHER FUCKERS TRIED TO KILL ME IM SORRY WAS SHOOTING AT ME FOR PROOF REVIEW

19.
page 185 paragraphs 18, 19 and 20 of TRIAL TRANSCRIPT
-IPT

CONFESSIO

AT TRIAL TYRONE DELANEY TESTIFIED THAT TYRONE
TOLD HIM SOME PEOPLE IN A TRUCK WERE SHOOTING
AT HIM. page 354 paragraphs 2, 3, 5 and 5 and
page 355 paragraph 10 of TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL BEARNY HAMILTON TESTIFIED THAT TYRONE
TOLD HIM, SOME PEOPLE WERE SHOOTING AT HIM
TRYEN TO KILL HIM AND THEY SHOT AN LIL BOY FOR
PROOF REVIEW page 407 paragraph 25 and page
408 paragraph 1, 2, 3, and 4 of TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL POLICE SGT. LAUREL ALBERTIN TESTIFIED
THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER,
THAT HE SHOT TYRONE ROBINSON CAR UP WITH THE
MASTER PEECE ARMS NINE MILLIMETER 9MM
FOR PROOF REVIEW page 761 paragraph 22, 23,
24, and 25 page 762 paragraph 2, of TRIAL
TRANSCRIPT 10.

CONFESSIO

AT TRIAL POLICE OFFICER BOB BROMAGE TESTIFIED.
THAT HE RETRIEVED A MASTER PEECE ARMS NINE
MILLIMETER 9MM WITH A THIRTY TWO ROUND CLIP AND
SUPPRESSOR, FROM AARON SCOTT YOUNG SENIOR AND
AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR
CONFESSED THAT HE AARON SCOTT YOUNG SENIOR AND
AARON SCOTT YOUNG JUNIOR, WERE TRYEN TO SHOOT AND
KILL TYRONE ROBINSON WITH THE MASTER PEECE
ARMS NINE MILLIMETER 9MM. FOR PROOF REVIEW
page 794 paragraph 24 and 25 and page 795 para-
graphs 1, 2, 3, 4, 5, 6, 7, 8, and 25. page 796 paragraphs
1, 2, 3, 4, 5 and 6 and 798 paragraphs 13, 14, 15, 16, 17,
and 18 of TRIAL TRANSCRIPT

CONFESSIO

AT TRIAL POLICE OFFICER DERICK NELSON FOR
BEAUFORT COUNTY SHERIFF DEPARTMENT TESTIFIED
THAT THEY FOUND AT LEAST NINE BULLET HOLES IN
TYRONE ROBINSON CAR page 575 paragraphs 17, 18, 19,
20, 21, 22, 23, 24, and 25 and page 546 paragraphs
5, 6, 7, 8, 9, 10, 11, and 12 and page 547 paragraphs 1,
2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of TRIAL TRANSCRIPT

CONFESSED

AT TRIAL TYRONE LORENZA ROBINSON testified that after he left Aaron Scott Young Senior and Aaron Scott Young Junior house on 17 Old Wild Horse Road, he went to his cousin Melvin house. where he hid out at for a round to minutes to hide from Aaron Scott Young Senior and Aaron Scott Young Junior. UNTIL he felt it was safe to leave. FOR PROOF REVIEW page 838 PARAGRAPHS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 OF TRIAL TRANSCRIPT - 7 PT

11.

CONFESSION

AT TRIAL TYRONE LORENZA ROBINSON testified that while he was at Melvin house. he called his cousin Cedric and told Cedric some people were trying to kill him. TYRONE LORENZA ROBINSON testified that he was going to park his car and get in the car with his cousin Cedric to hide out from Aaron Scott Young Senior and Aaron Scott Young Junior. FOR PROOF REVIEW page 837 PARAGRAPHS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 OF TRIAL TRANSCRIPT

COLLABORATING TESTIMONY AND FIRST RETURN TO 17 OLD WILD HORSE ROAD BEFORE KHALIL WAS SHOT AND KILLED

AT TRIAL JONTY SINGLETON SENIOR testified that after he JONTY SINGLETON SENIOR and Aaron Scott Young Senior and Aaron Scott Young Junior left from 17 Old Wild Horse Road the first time. he JONTY SINGLETON SENIOR, Aaron Scott Young Senior and Aaron Scott Young Junior had a gun and were riding around with a gun. Looking for Tyrone Robinson on Oak View Road, Marshland Road and Allen Road at Lil Mac house were Tyrone Robinson but Tyrone was not there so he JONTY SINGLETON SENIOR, Aaron Scott Young Senior and Aaron Scott Young Junior returned back to Aaron Scott Young Senior and Aaron Scott Young Junior house on 17 Old Wild Horse Road where he JONTY SINGLETON SENIOR, and Aaron Scott Young Senior and Aaron Scott Young Junior all got out of the truck and were talking for a while then Aaron Scott Young Senior and Aaron Scott Young Junior got back into there truck and left again. THIS IS THE FIRST TIME THAT Aaron Scott Young Junior and Aaron Scott Young Senior returned home, back to there home on 17 Old Wild Horse Road before victim KHALIL

STINGLETON was shot and killed.
 FOR PROOF REVIEW page 468 paragraphs 10, 11, 12, 13, 14,
 and 15 and page 473 paragraphs 19, 20, 21, 22, 23, 24,
 and 25 and page 474 paragraphs 2 and 2

COLLABORATING TESTIMONY AND SECOND RETURN TO 17 OLD WILD HORSE ROAD BEFORE KHALIL WAS SHOT AND KILLED

AT TRIAL ARRESTING OFFICER LAUREL ALBERTIN,
 TESTIFIED IN TYRONE ROBINSON DEFENSE.
 THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER.
 THAT AFTER HE AARON SCOTT YOUNG JUNIOR AND
 AARON SCOTT YOUNG SENIOR ENCOUNTERED TYRONE
 ROBINSON ON OAKVIEW ROAD AND TRIED TO
 SHOOT AND KILL TYRONE ROBINSON BUT THE GUN
 JAMMED. HE AARON SCOTT YOUNG JUNIOR AND AARON
 SCOTT YOUNG SENIOR WENT BACK HOME AND RETURNED
 TO THERE HOME ON 17 OLD WILD HORSE ROAD A
 SECOND TIME, WHICH THIS IS THE SECOND TIME
 THAT AARON SCOTT YOUNG JUNIOR AND AARON SCOTT
 YOUNG SENIOR RETURNED TO THERE HOME ON 17 OLD
 WILD HORSE ROAD, BEFORE VICTIM KHALIL
 STINGLETON WAS SHOT AND KILLED. FOR PROOF REVIEW
 page 766 paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,
 17, 18, 19, 20, 21, 22, 23, 24, AND 25 AND page 767
 paragraph 2 and 2 OF TRIAL TRANSCRIPT 12.

CONFESS I O N

AT TRIAL TYRONE LORENZA ROBINSON TESTIFIED
 THAT WHEN HE WENT TO ALLEN ROAD HE HID
 HIS CAR AT SAVOYA HOUSE ON ALLEN ROAD.
 TO HIDE THE CAR FROM THE F-150 THAT AARON
 SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG
 JUNIOR WERE RIDING IN. FOR PROOF REVIEW
 page 849 paragraph 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, AND 25

CONFESS I O N

AT TRIAL TYRONE LORENZA ROBINSON TESTIFIED
 THAT AFTER HE PARKED HIS CAR AT SAVOYA HOUSE,
 HE WALKED OVER TO CHARLEERE HOUSE AND
 CALLED HIS COUSIN PATRICK WHO WAS IN
 SAVANNAH GEORGIA AT THE TIME. THEN

22.

he called his cousin EARNEST BRYANT who was also in Savannah Georgia at the time. TYRONE testified that he told his cousin PATRICK and his cousin EARNEST BRYANT that somebody was TRYEN to KILL him. TYRONE testified that his call with his cousin PATRICK lasted for about ten minutes. TYRONE testified that he was TRYEN to find some place to go hide because AARON SENIOR and AARON JUNIOR were TRYEN to KILL him. TYRONE testified that his cousin EARNEST BRYANT told him to come meet him in Savannah Georgia and he was going to meet him there. FOR PROOF REVIEW page 852 paragraph 2 and 3 and page 853 paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23

CONFESS I O N

13.

AT TRIAL TYRONE testified that he was about to go to Savannah Georgia to meet his cousin EARNEST BRYANT, because he told him to meet him in Savannah Georgia, and that is how he was going to get off the island away from AARON SENIOR and AARON JUNIOR. TYRONE testified that while he was standing in the yard about to go. he was staring at marshland road about to leave and at that time the F-150 pulled up and as soon as he seen that truck he ran and heard gun shots. TYRONE testified that he was behind CHARLESE house looking at ALLEN ROAD and the TRUCK that was DIRECTLY ACROSS FROM WHERE he was HIDING was shooting at him. TYRONE testified that when he looked up again the TRUCK was BACKING UP FROM SHOOTING UP HIS CAR FOR PROOF REVIEW page 857 paragraphs 3, 4, 5, and 6 and paragraphs 18, 19, 20, 21, 22, 23, 24, and 25 and page 858 paragraphs 1, 2, 3 and 4 and page 859 paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 and page 860 paragraphs 1 and 2

COLLABORATING TESTIMONY
AND THIRD TIME AARON SENIOR
AND AARON JUNIOR LEFT FROM THERE
HOME ON 17 OLD WILD HORSE ROAD
TO GO ATTEMPT TO MURDER TYRONE
ROBINSON ON ALLEN ROAD, WHEN
KHALIL WAS SHOT AND KILLED

AT TRIAL ARRESTING OFFICER LAUREL
ALBERTIN TESTIFIED IN TYRONE ROBIN-
-SON DEFENSE. THAT AARON SCOTT YOUNG
JUNIOR CONFESSED TO HER THAT HE AARON
SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG
SENIOR LEFT FROM THERE HOUSE ON 17 OLD WILD
HORSE ROAD WITH THERE GUN, AND DROVE TO
ALLEN ROAD LOOKING FOR TYRONE ROBINSON.
ARRESTING OFFICER LAUREL ALBERTIN TESTIFIED
THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER, THAT
HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR
SHOT TYRONE ROBINSON CAR UP ON ALLEN ROAD.
ARRESTING POLICE OFFICER LAUREL ALBERTIN TESTIFIED 19.
AT TRIAL. THAT AARON SCOTT YOUNG JUNIOR CONFESSED

IF HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT
YOUNG SENIOR WOULD OF NEVER WENT TO ALLEN
ROAD AS HE EXPLAINED THEY DID. VICTIM
KHALIL SINGLETON WOULD NOT BE DEAD NOW.
VIEWING THE EVIDENCE IN THE LIGHT OF THE STATE OF
SOUTH CAROLINA. THE CONCLUSIVE EVIDENCE IN THIS
CASE PROVES THAT THIS IS THE THIRD TIME AARON SCOTT
YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR LEFT FROM
THERE HOUSE ON 17 OLD WILD HORSE ROAD TO GO ATTEMPT
TO MURDER TYRONE ROBINSON ON ALLEN ROAD FOR THE
THIRD SEPARATE INDIVIDUAL TIME, WHICH VICTIM
KHALIL SINGLETON WAS SHOT AND KILLED AS A NATURAL
AND PROBABLE CONSEQUENCE OF. FOR PROOF REVIEW
PAGE 760 PARAGRAPHS 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,
23, 24 AND 25 AND PAGE 761 PARAGRAPHS 2, 3, 4, 5, 6, 7, 8, 9,
10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 AND 25 AND
PAGE 762 PARAGRAPHS 15, 16, 17, 18, AND 19

CONFESS ION

AT TRIAL TYRONE ROBINSON TESTIFIED THAT HE FLED FROM
AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR
ON OAKVIEW ROAD, AND HE FLED FROM THEM ON 17 OLD WILD HORSE
ROAD, AND HE FLED FROM THEM AGAIN IN FRONT OF CHARLESE
YARD. IF AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR
WOULD OF PUT ENOUGH EFFORT TO AVOIDING THEM, KHALIL
SINGLETON WOULD OF STILL BE ALIVE TODAY. FOR PROOF REVIEW
PAGE 745 PARAGRAPHS 22, 23, 24 AND 25 AND PAGE 881
PARAGRAPHS 1, 2, 3, 4 AND 5

24.

TESTIMONY

OF FORENSIC EXPERT DANDAFREESE

INSIDE OF THIS CASE STATES EXHIBIT 34 IS A GREY PLAIN LEAD BULLET THAT WAS RETRIEVED FROM OUT OF THE BODY OF VICTIM KHALIL SINGLETON.

ALSO INSIDE OF THIS CASE STATES EXHIBIT 30 IS A FULL METAL JACKETED BULLET THAT WAS ALLEGEDLY RECOVERED FROM A HOUSE ON WILD HORSE ROAD, THAT THE STATE OF SOUTH CAROLINA IS ALLEGING WAS FIRED THRU THE GUN BARREL OF TYRONE ROBINSON GUN.

AT TRIAL ON CROSS EXAMINATION FORENSIC EXPERT DAN DAFREESE CONFESSED TO ATTORNEY ARIZ DAVID BAX, THAT HE (AKA) FORENSIC EXPERT DANDAFREESE. **"COULD NOT" CONCLUSIVELY**

DETERMINE IF THE PLAIN LEAD GREY BULLET STATES EXHIBIT 34 THAT WAS RETRIEVED FROM OUT OF THE BODY OF VICTIM KHALIL SINGLETON. WAS FIRED THRU THE SAME GUN BARREL OF THE GUN BARREL OF THE FULL METAL JACKETED BULLET STATES EXHIBIT 30 THAT WAS RETRIEVED FROM OUT OF A HOUSE ON 17 OLD WILD HORSE ROAD. THAT THE STATE OF SOUTH CAROLINA IS ALLEGING WAS FIRED THRU THE GUN BARREL OF TYRONE ROBINSON GUN.

AT TRIAL ON CROSS EXAMINATION FORENSIC EXPERT DANDAFREESE CONFESSED TO ATTORNEY ARIZ DAVID BAX, THAT EVEN IF HE (AKA) FORENSIC EXPERT DANDAFREESE HAD THE GUN THAT VICTIM KHALIL SINGLETON WAS SHOT AND KILLED WITH. HE STILL **"COULD NOT" GUARANTEE**

THAT HE WOULD GET A MATCH BETWEEN THE GREY PLAIN LEAD BULLET STATES EXHIBIT 34 AND THE FULL METAL JACKETED BULLET STATES EXHIBIT 30.

THEREFORE AS A MATTER OF LAW THE CONCLUSIVE TESTIMONY FROM FORENSIC EXPERT DAN DAFREESE TESTIMONY REVEALS, THAT FORENSIC EXPERT DAN DAFREESE WAS ABSOLUTELY UNABLE TO DETERMINE IF THE GREY PLAIN LEAD BULLET FROM STATES EXHIBIT 34 MATCHED THE SAME GUN BARREL OF THE FULL METAL JACKETED BULLET FROM STATES EXHIBIT 30. FOR PROOF I QUOTE THE TESTIMONY

FROM TRIAL ON CROSS EXAMINATION OF
FORENSIC EXPERT DAN DA FREESE. "QUOTEING"

STATE OF SOUTH CAROLINA

V.S.

TYRONE ROBINSON

"QUOTEING" FROM PAGE 642 PARAGRAPHS 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, AND 25 AND
PAGE 643 PARAGRAPHS 1, 2, 3, 4, 5 AND 6 OF TRIAL
TRANSCRIPT
ATTORNEY ARTE DAVID
BOX QUESTION "QUOTEING"

THERE IS A COMBINATION OF THINGS HERE
THAT I WANT TO TALK ABOUT. OBVIOUSLY

AS YOU'VE SAID THERE IS DIFFERANT
CONSTRUCTION ON THESE TWO BULLETS, ONE HAS THE
JACKET AND ONE IS PLAIN LEAD AND THAT
AFFECTS HOW THE OUTSIDE SURFACE IS AFFECTED
BY THE BARREL IS THAT CORRECT?

ANSWER FROM
FORENSIC EXPERT
DAN DA FREESE

IT DOES, ONE IS HARDER THAN THE OTHER.

QUESTION FROM
ATTORNEY ARTE
DAVID BOX

OKAY. BUT IN THE END THOSE DIFFERENCES AND THE
DAMAGE WERE PART OF THE REASON WHY YOU CAN'T
CONCLUSIVELY SAY THEY WERE FIRED FROM THE
SAME GUN, CORRECT?

ANSWER FROM
FORENSIC EXPERT
DAN DA FREESE

THAT'S CORRECT

QUESTION FROM
ATTORNEY ARTE
DAVID BOX

ANOTHER REASON OBVIOUSLY YOU DON'T HAVE A GUN
TO COMPARE CORRECT

ANSWER FROM
FORENSIC EXPERT
DAN DA FREESE

IT WOULD BE SOMEWHAT EASIER IF WE HAD THE CORRECT
GUN IN THAT IF WE HAD THE CORRECT GUN WE COULD
TEST FIRE IT WITH BOTH JACKETED TEST AMMUNITION

26.

and with plain lead test ammunition where we might have an increased chance of achieving a match -

QUESTION FROM
ATTORNEY ARIZ
DAVID BAX

BUT IS NOT GUARANTEED THAT YOU WOULD GET
A MATCH EVEN WITH THE FIRE ARM PRESENT?

ANSWER FROM
FORENSIC EXPERT
DAN DA FRESE
ABSOLUTELY

QUOTEING FROM PAGE 646 PARAGRAPHS 24
AND 25 AND PAGE 647 PARAGRAPHS 1, 2, 3, 4,
5, AND 6 OF TRIAL TRANSCRIPT "QUOTEING"

QUESTION FROM
ATTORNEY ARIZ
DAVID BAX

OKAY. NOW AS A RESULT OF THAT, AND LIKE I
SAID BEFORE THEY HAVE BASICALLY THE SAME
RIFLING CHARACTERISTICS EIGHT LANDS AND GROOVES
A RIGHT TWIST BUT YOU CAN NOT SAY FOR CERTAIN
THEY WERE FIRED FROM THE SAME GUN. AND IT IS
POSSIBLE THAT THEY COULD HAVE BEEN FIRED FROM
TWO DIFFERANT 38 CALIBER REVOLVERS MADE
BY ANY OF THESE MANUFACTURES ISN'T THAT TRUE?

ANSWER FROM
FORENSIC EXPERT
DAN DA FRESE

YES SIR THAT IS TRUE

TESTIMONY OF CHARLESE MITCHELL

AT TRIAL CHARLESE JACKSON TESTIFIED THAT WHEN
SHE HEARD THE GUN SHOTS, SHE TOLD THE KIDS TO COME
INSIDE OF THE HOUSE. TYRONE'S SON CAME INSIDE
OF THE HOUSE. BUT KHALIL SINGLETON AND
JUNY SINGLETON, JUNIOR RAN THE OTHER WAY
TOWARD AUNT VERA HOUSE TOWARDS THE DIRECTION

27.

That is identified as ALLEN ROAD ON THE MODEL
SUBMITTED AT TRIAL BY THE STATE OF SOUTH CAROLINA.
FOR PROOF REVIEW PAGE 332 PARAGRAPHS 21,
22, 23, 24 AND 25 AND PAGE 333 PARAGRAPHS
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 AND 16 AND
PAGE 343 PARAGRAPHS 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, AND 25
AND PAGE 344 PARAGRAPHS 1, 2 AND 3 OF
TRIAL TRANSCRIPT

TESTIMONY OF TYRONE DELANEY

AT TRIAL TYRONE DELANEY TESTIFIED THAT AFTER
HE HEARD GUN SHOTS, HE YELLED AT THE KIDS AND
TOLD THEM TO COME INSIDE OF THE HOUSE. HIS SON
XAVIER HIS SON RAN TO THE HOUSE, BUT THE
OTHER TWO JONTV SINGLETON AND KHALIL SINGLETON
RAN THE OTHER WAY TOWARDS WHERE THEY LIVED
AT, WHICH IS IDENTIFIED AS ALLEN ROAD DIRECTION
ON THE MODEL THAT THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL, FOR PROOF REVIEW PAGE 359
PARAGRAPHS 21, 22, 23, 24, AND 25 AND PAGE
360 PARAGRAPHS 1, 2, 3, 4, 5, 6, 7, AND 8 AND
PAGE 365 PARAGRAPHS 17, 18, 19, 20, 21, 22, 23, 24,
AND 25 AND PAGE 366 PARAGRAPHS 1, 2, 24 AND 25
OF TRIAL TRANSCRIPT

TESTIMONY OF BRITNEY BRINSON

AT TRIAL BRITNEY BRINSON TESTIFIED, THAT SHE
SAW TYRONE ROBINSON POSITIONED IN A AREA
BEHIND HER HOUSE WALKING WITH TWO 40 OZ
BOTTLES OF BEER INSIDE OF HIS HAND. AT THE
IMMEDIATE TIME SHE SAW KHALIL SINGLETON
RUNNING AND FALL WHEN HE WAS SHOT AND
KILLED. BRITNEY BRINSON TESTIFIED

That KHALIL SINGLETON and JONATHAN SINGLETON JUNIOR WERE RUNNING TOWARDS HER DIRECTION and she could have seen their face.

BRITNEY BRINSON testified that when she heard the gun shots, and saw KHALIL SINGLETON RUNNING and FALL when he was shot and killed. She looked out of the window of her back door. She saw TYRONE ROBINSON walking between the two buildings behind her house which is identified as 10 ALLEN ROAD ON the model that the state of South Carolina submitted at trial.

BRITNEY BRINSON testified that she did not see TYRONE ROBINSON with a gun. FOR PROOF REVIEW page 385 paragraphs 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 and page 386 paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 and page 387 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 and page 388 paragraphs 9 and 10, OF TRIAL TRANSCRIPT

COLLABORATING TESTIMONY OF TYRONE ROBINSON

AT TRIAL TYRONE ROBINSON testified that he did see BRITNEY BRINSON stand on the porch in back of her house, when he was walking between the two buildings behind BRITNEY BRINSON house with two 40 oz bottle of beers in all both of her hands.

AT TRIAL TYRONE ROBINSON testified that the two buildings that BRITNEY BRINSON saw him walking between behind her house. is the address of TEN ALLEN ROAD. FOR PROOF REVIEW page 860 paragraphs 19, 20, 21, 22, 23, 24, and 25 and page 861 paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 OF TRIAL TRANSCRIPT

TABLE SIZE MODEL OF ALLEN ROAD

AT TRIAL THE STATE OF SOUTH CAROLINA SUBMITTED A TABLE SIZED MODEL OF THE ALLEN ROAD AREA AND MARSHLAND ROAD AREA. THAT KHALIL SINGLETON WAS SHOT AND KILLED AT THE STATE OF SOUTH CAROLINA VERY OWN TABLE SIZE MODEL OF THE ALLEN ROAD AREA IT SHOW

AND PROVES THAT THE 10 ALLEN ROAD AREA THAT BRITANY BRINSON SAW TYRONE ROBINSON POSITIONED AT, AT THE IMMEDIATE TIME KHALIL SINGLETON WAS SHOT AND KILLED. WHILE RUNNING AWAY FROM THE TRAMPOLINE TOWARDS HOME TOWARDS THE ALLEN ROAD DIRECTION. IS POSITIONED OVER TO THE FAR RIGHT OF THE RIGHT SIDE OF KHALIL SINGLETON BODY. THAT KHALIL SINGLETON WAS NOT SHOT AND KILLED ON. THEREFORE THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE THE STATE OF SOUTH CAROLINA PRESENTED AT TRIAL. PROVES THAT TYRONE ROBINSON WAS POSITIONED TO THE FAR RIGHT SIDE OF THE RIGHT SIDE OF KHALIL SINGLETON BODY THAT KHALIL SINGLETON WAS NOT SHOT AND KILLED ON. AT THE IMMEDIATE TIME KHALIL SINGLETON WAS SHOT AND KILLED, WHILE KHALIL SINGLETON WAS SHOT AND KILLED, WHILE RUNNING AWAY FROM THE TRAMPOLINE, TOWARDS HIS HOME TOWARDS THE ALLEN ROAD DIRECTION.

TESTIMONY OF DR. LEE MARIE TORMOS

AT TRIAL DR. LEE MARIE TORMOS THE FORENSIC PATHOLOGIST TESTIFIED THAT KHALIL SINGLETON WAS SHOT AND KILLED WHILE HE WAS IN A UPRIGHT STANDING RUNNING POSITION. AT TRIAL DR. LEE MARIE TORMOS TESTIFIED THAT THE BULLET ENTRANCE WOUND IS POSITIONED DIRECTLY ON THE LEFT SIDE OF KHALIL SINGLETON BODY AND THE BULLET TRAVELED THE PATHWAY IN KHALIL SINGLETON BODY, OF FROM THE LEFT SIDE OF KHALIL SINGLETON BODY, DIRECTLY ACROSS TO THE RIGHT SIDE OF KHALIL SINGLETON BODY, AND THE BULLET WENT STRAIGHT ACROSS TO THE RIGHT SIDE OF KHALIL SINGLETON BODY AND THE BULLET WENT STRAIGHT ACROSS FROM LEFT TO THE RIGHT SIDE OF KHALIL SINGLETON BODY, SLIGHTLY UPWARDS. FOR PROOF I QUOTE THE TESTIMONY FROM

30.

TRIAL ON DIRECT EXAMINATION OF DOCTOR
LEE MARIE TORMOS "QUOTE"

STATE OF SOUTH CAROLINA

VS.

TYRONE ROBINSON

"QUOTE" FROM PAGE 574 PARAGRAPHS 23, 24,
AND 25 OF TRIAL TRANSCRIPT

QUOTE FROM
SOLICITOR ISSAC
MC. DUFFIE STONE "QUOTE"

NOW I'M GOING TO HAND YOU THIS POINTER. SHOW

THE JURY THE TRAJECTORY OF THAT BULLET. I'M NOT
SURE WHERE I WAS. THIS ANGLE I GUESS, YES MA'AM

"QUOTE" FROM PAGE 440 PARAGRAPHS 4, 2, 3, 4, AND
5 OF TRIAL TRANSCRIPT

ANSWER FROM
FORENSIC PATHOLOGIST
DR. LEE MARIE TORMOS

SO LEFT TO RIGHT AT THE MID CHEST

QUOTE FROM
SOLICITOR ISSAC
MC. DUFFIE STONE

MAKE SURE EVERYBODY ON THE JURY CAN SEE IT.

ANSWER FROM
FORENSIC PATHOLOGIST
DR. LEE MARIE TORMOS

THE TRAJECTORY OF THE BULLET IS LIKE THIS.

IT IS LEFT TO RIGHT SLIGHTLY UPWARDS AND
IT DOESN'T HAVE A SIGNIFICANT FORWARD OR
BACKWARD DEVIATION

"QUOTE" FROM PAGE 577 PARAGRAPHS 15, 16, AND
17 OF TRIAL TRANSCRIPT

ANSWER FROM
FORENSIC PATHOLOGIST
DR. LEE MARIE TORMOS

SO I CAN SAY THAT THE CHILD WAS STANDING OR
UPRIGHT AND THE SHOT CAME FROM THE LEFT SIDE

OF HIS BODY. NOW WHICH WAY HIS BODY WAS
FACING I DON'T KNOW

TESTIMONY OF FORENSIC EXPERT DAN DAFREESE

AT TRIAL FORENSIC EXPERT DAN DAFREESE TESTIFIED THAT. STATES EXHIBIT 34 THE PLAIN LEAD PROJECTILE. DID NOT HAVE ANY INDICATION THAT IT HIT A ROCK OR A TREE OR ANYTHING BEFORE IT STRUCK VICTIM KHALIL SINGLETON FOR PROOF REVIEW PAGE 649. PARAGRAPHS 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 AND 23 OF TRIAL TRANSCRIPT

CLOSING ARGUMENT OF ATTORNEY ARLE DAVID BAX

AT TRIAL ATTORNEY ARLE DAVID BAX IN HIS CLOSING ARGUMENT. EXPLAINED TO THE JURY, THAT ALL THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED IN THIS CASE POINTS TO ONE FACT. THAT WHEN KHALIL SINGLETON WAS SHOT AND KILLED HE WAS RUNNING HOME. WHICH MEANS THAT TYRONE ROBINSON DID NOT SHOOT AND KILL VICTIM KHALIL SINGLETON. BECAUSE KHALIL SINGLETON LEFT SIDE THAT HE WAS SHOT AND KILLED ON. WAS FACING TOWARDS THE ROAD WHEN HE WAS RUNNING AWAY FROM THE TRAMPALINE, TOWARDS HOME IN ALLEN ROAD DIRECTION. AND EVERY WITNESS THAT THE STATE OF SOUTH CAROLINA PUT UP IN THIS CASE PUTS TYRONE ROBINSON ON THE RIGHT SIDE OF KHALIL SINGLETON, WHEN HE WAS RUNNING AWAY FROM THE TRAMPALINE TOWARDS ALLEN ROAD DIRECTION. FOR PROOF I QUOTE THE CLOSING ARGUMENT FROM ATTORNEY ARLE DAVID BAX "QUOTING"

STATE OF SOUTH CAROLINA

V.S.

TYRONE ROBINSON

"QUOTING" FROM PAGE 949 PARAGRAPHS 21, 22, 23, 24 AND 25 AND PAGE 950 PARAGRAPHS 1, 2, 3 AND 4 OF TRIAL TRANSCRIPT
CLOSING ARGUMENT OF
ATTORNEY ARLE DAVID BAX

THE EVIDENCE ALL POINTS TO THE FACT THAT WHEN VICTIM KHALIL SINGLETON WAS STRUCK HE WAS

32.

RUNNING home. what does that mean? Ladies and gentleman I submit to you that it means absolutely TYRONE ROBINSON did not shoot KHALIL SINGLETON, because his left side would have been facing the road if he is running in this direction his left side would have been facing the road. And every witness that has been put up puts TYRONE ROBINSON on the right side of where he was running.

CONFESSION

FROM SOLICITOR ISSAC MC. DUFFIE STONE AND THE STATE OF SOUTH CAROLINA ON CLOSING ARGUMENT

1ST CONFESSION

AT TRIAL THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE, CONFESSED TO THE JURY AT TRIAL, THAT VICTIM KHALIL SINGLETON WAS SHOT AND KILLED ON HIS LEFT SIDE THAT THE BULLET ENTRANCE WOUND IS ON, FOR PROOF I QUOTE THE FOLLOWING FROM THE TRIAL TRANSCRIPT "QUOTING"

STATE OF SOUTH CAROLINA

VS.

TYRONE ROBINSON

"QUOTING" FROM PAGE 968 PARAGRAPHS 19 AND 20 OF SOLICITOR ISSAC MC. DUFFIE STONE CLOSING ARGUMENT "QUOTING"
NOW THAT BRINGS UP TWO POINTS, KHALIL WAS SHOT IN HIS LEFT SIDE. THAT'S ABSOLUTELY TRUE

2ND CONFESSION

AT TRIAL THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISSAC MC. DUFFIE STONE, CONFESSED THAT MARSHLAND ROAD THAT THE TRUCK ATTACKERS AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR WAS TRAVELING ON AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED. IS POSITIONED OVER TO THE

33.

LEFT SIDE OF KHALIL SINGLETON body, THAT VICTIM KHALIL SINGLETON WAS SHOT AND KILLED ON. FOR PROOF I QUOTE THE FOLLOWING FROM THE TRIAL TRANSCRIPT

STATE OF SOUTH CAROLINA

VS.
TYRONE ROBINSON

"QUOTING" FROM PAGE 968 PARAGRAPHS 23, 24 AND 25 OF SOLICITOR ISIAH MC. DUFFIE STONE CLOSING ARGUMENT "QUOTING"
AND THE HIGHWAY, MARSHLAND ROAD, THIS ROAD HERE IS TO HIS LEFT, THATS CORRECT

SPECULATION OF FALSE LIES

THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE DISPROVES

AT TRIAL SOLICITOR ISIAH MC. DUFFIE STONE, TRICKED AND DECEIVED THE JURY INTO SPECULATING ON FALSE LIES THAT THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN THIS CASE DISPROVES AND PROVES DID NOT OCCUR IN THIS CASE. BY SOLICITOR ISIAH MC. DUFFIE STONE STATING TO THE JURY ON PAGE 968 PARAGRAPHS 25 AND PAGE 969, PARAGRAPHS 1, 2, 3, 4, 5, 6, 7, AND 8 OF TRIAL TRANSCRIPT "QUOTING"

ASSUMING THAT AN EIGHT YEAR OLD GOES ONE DIRECTION AND ONE DIRECTION ONLY. AND I DON'T KNOW HOW MANY EIGHT YEAR OLDS YOU'VE BEEN AROUND BUT GENERALLY THEY DON'T. AND EVEN IF THEY DID, EVEN IF THEY DID, HE FORGOT HIS FOUR-WHEELER. HE WAS ON THE TRAMPALINE WHEN CHARLESE SAID GO HOME, GO OUT, GO. HE RUNS THIS WAY. HE LEFT HIS FOUR WHEELER. ADULTS MAY NOT STOP TO TURN AROUND AND GO BACK AND GET IT BUT

a child would.

every witness that the state of south carolina put on the stand in this case, testified that victim KHALIL SINGLETON ran away from the trampoline, towards his home, towards Allen Road direction only at all times in this case.

every witness that the state of south carolina put on the stand in this case, testified that victim KHALIL SINGLETON was running away from the trampoline, towards his home towards Allen Road direction. at the immediate time victim KHALIL SINGLETON was shot and killed and fell.

The direct evidence and circumstantial evidence that the state of south carolina submitted at trial, proves that when victim KHALIL SINGLETON was running away from the trampoline, towards his home towards Allen Road direction, when he was shot and killed and fell, victim KHALIL SINGLETON absolutely "did NOT" turn around and ran back towards the trampoline for his four wheeler.

The direct evidence and circumstantial evidence in this case, proves that solicitor ISAAC MC. DUFFIE STONE speculated false, lies to the jury and tricked and deceived the jury into deliberating on and deciding on speculated false lies. That resulted in the jury finding me guilty on "SPECULATION" LIES and FALSE

ACCUSATIONS, that the direct evidence and circumstantial evidence in this case proves "did NOT OCCURE".

ALSO that the direct evidence and circumstantial evidence in this case disproves, AS A MATTER OF LAW a person can NOT be found GUILTY ON speculation and assumption. FOR PROOF REVIEW

CASE LAW OF
The state of VIRGINIA COURT OF APPEALS
CASE LAW OF.

LITTLE JOHN VS. COMMONWEALTH QUOTING
THEREFORE, THE EVIDENCE FAILED TO PROVE BEYOND

A REASONABLE DOUBT THAT LITTLE JOHN SHARED THE CRIMINAL INTENT TO THE PRINCIPAL. SUSPICION NO MATTER HOW STRONG IS NOT ENOUGH. CONVICTIONS CAN NOT REST UPON SPECULATION AND CONJECTURE. ACCORDINGLY WE REVERSE THE CONVICTIONS



MARSHLAND ROAD TRUCK AARON SENIOR
AND AARON JUNIOR WAS RIDING IN WAS TRAVELING ON

LEFT SIDE OF BODY THAT KHALIL SINGLETON WAS SHOT AND KILLED ON. AS FORENSIC PATHOLOGIST DR. LEE MARIE TORMOS TESTIFIED TO

BACK OF KHALIL SINGLETON

FRONT OF KHALIL SINGLETON

DIRECTION KHALIL SINGLETON WAS RUNNING AWAY FROM THE TRAMPALINE TOWARDS HIS HOME, TOWARDS ALLEN ROAD DIRECTION WHEN HE WAS SHOT AND KILLED AND FELL AS WITNESSES TESTIFIED TO AT TRIAL

RIGHT SIDE OF KHALIL SINGLETON

DIRECTION OF BULLET

PERSON

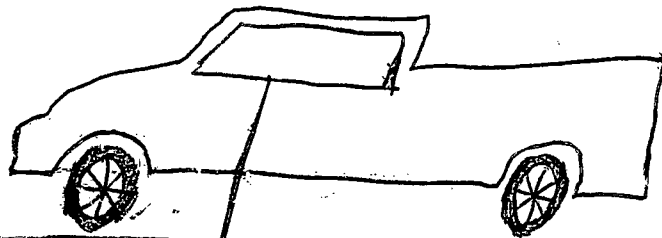
AS A MATTER OF LAW THIS DIAGRAM SHOWS AND PROVE IF I WOULD OF SHOT TOWARDS AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR TRUCK, ON MARSHLAND ROAD, AND TOWARDS VICTIM KHALIL SINGLETON WHILE VICTIM KHALIL SINGLETON WAS RUNNING AWAY FROM THE TRAMPALINE TOWARDS HIS HOME TOWARDS ALLEN ROAD DIRECTION, WHEN KHALIL SINGLETON WAS SHOT AND KILLED. AS ALL OF THE STATE OF SOUTH CAROLINA WITNESSES AT TRIAL, TESTIFIED IF THE ONLY DIRECTION VICTIM KHALIL SINGLETON WAS RUNNING IN AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED. AS A MATTER OF LAW THE BULLET WOULD OF HAD HIT KHALIL SINGLETON ON HIS RIGHT SIDE, AND THE TRAJECTORY OF THE BULLET WOULD OF TRAVELED THE PATHWAY OF, FROM RIGHT TOWARDS LEFT IN KHALIL SINGLETON BODY. AS SHOWN AND PROVEN IN THIS DIAGRAM.

THEREFORE THIS DIAGRAM SHOW AND PROVES THAT IT IS LITERALLY

IMPOSSIBLE FOR TYRONE ROBINSON TO SHOOT TOWARDS ATTACKERS AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR TRUCK, AND TOWARDS VICTIM KHALIL SINGLETON DIRECTION. WHILE I WAS POSITION IN THE ALLEN ROAD AREA, ON THE RIGHT SIDE OF VICTIM KHALIL SINGLETON RIGHT SIDE THAT VICTIM KHALIL SINGLETON WAS NOT SHOT AND KILLED ON, AND WHILE DOING SO CAUSE THE BULLET TO HIT VICTIM KHALIL SINGLETON ON HIS LEFT SIDE AND CAUSE THE BULLET TO TRAVEL THE TRAJECTORY OF FROM LEFT TOWARDS RIGHT IN VICTIM KHALIL SINGLETON BODY TOWARDS MY DIRECTION. I WAS POSITION ON IN ALLEN ROAD AREA AS THE STATE OF SOUTH CAROLINA WITNESSES POSITIONED ME ON, AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED.

THEREFORE AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE THAT THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL, PROVES THAT IT IS LITERALLY IMPOSSIBLE FOR TYRONE ROBINSON TO SHOOT AND KILL VICTIM KHALIL SINGLETON. AS A MATTER OF LAW PROVEING THAT BASED ON THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AGAINST ME AT TRIAL, THE STATE OF SOUTH CAROLINA FAILED TO PROVE THERE BURDEN OF PROOF ENTITLING ME TO A DIRECTED VERDICT OF ACQUITTAL AS A MATTER OF LAW.

35.



MARSHLAND ROAD THAT TRUCK AARON SENIOR
AND AARON JAVOR WAS RIDING IN WAS
TRAVELING ON

DIRECTION
OF BULLET

AS A MATTER OF LAW THIS DIAGRAM SHOW AND PROVE.
THAT IF SOMEONE WOULD OF SHOT A BULLET FROM OUT
OF THE TRUCK OR FROM THE MARSHLAND ROAD AREA
INTO THE ALLEN ROAD AREA TOWARDS TYRONE ROBIN-
SON DIRECTION AND TOWARDS VICTIM KHALIL SINGLETON
DIRECTION. WHILE VICTIM KHALIL SINGLETON WAS
RUNNING AWAY FROM THE TRAMPALINE, TOWARDS HOME
TOWARDS THE ALLEN ROAD DIRECTION. AS ALL OF THE
STATE OF SOUTH CAROLINA WITNESSES AT TRIAL. TESTIFIED
IS THE ONLY DIRECTION VICTIM KHALIL SINGLETON WAS
RUNNING IN AT THE IMMEDIATE TIME VICTIM KHALIL
SINGLETON WAS SHOT AND KILLED.
THE BULLET WOULD OF STRUCK VICTIM KHALIL SINGLETON
ON THE LEFT SIDE OF KHALIL SINGLETON BODY, AND THE
TRAJECTORY OF THE BULLET WOULD OF TRAVELED THE
PATHWAY OF. FROM "LEFT TOWARDS RIGHT" IN KHALIL
SINGLETON BODY, TOWARDS TYRONE
ROBINSON DIRECTION.

LEFT SIDE OF BODY THAT KHALIL
SINGLETON WAS SHOT AND KILLED
ON. AS FORENSIC PATHOLOGIST
DR. LEE MARIE TORMOS TESTIFIED TO

THEREFORE AS A MATTER OF LAW THE
DIRECT EVIDENCE AND CIRCUMSTANTIAL
EVIDENCE. THAT THE STATE OF SOUTH CAROLINA
SUBMITTED AGAINST ME AT TRIAL. PROVES THAT
IT IS LITERALLY IMPOSSIBLE FOR TYRONE
ROBINSON TO SHOOT AND KILL VICTIM
KHALIL SINGLETON.

AS A MATTER OF LAW PROVING THAT BASED ON
THE DIRECT EVIDENCE AND CIRCUMSTANTIAL
EVIDENCE THAT THE STATE OF SOUTH CAROLINA
SUBMITTED AGAINST ME AT TRIAL. THE
STATE OF SOUTH CAROLINA FAILED TO PROVE
THE BURDEN OF PROOF ENTITLING ME TO
A DIRECTED VERDICT OF ACQUITTAL AS A
MATTER OF LAW.

BACK
OF KHALIL
SINGLETON

FRONT OF
KHALIL
SINGLETON

RIGHT SIDE
OF KHALIL
SINGLETON



36.

CONCLUSIVE TESTIMONY

AT TRIAL THE STATE OF SOUTH CAROLINA VERY OWN FORENSIC EXPERT DAN DAFRESE TESTIFIED THAT ALL OF THE FIRED BULLETS, RETRIEVED FROM OUT OF THE BULLET HOLES ON TYRONE ROBINSON CAR, WERE DETERMINED TO BE POSITIVELY MATCHED TO AND FIRED THROUGH THE BARREL OF THE MASTER PIECE ARMS NINE MILLIMETER GUN WITH THE THIRTY TWO ROUND CLIP AND SUPPRESSOR THAT POLICE OFFICER BOB BRONAGE RETRIEVED FROM AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR FOR PROOF REVIEW PAGE 636 PARAGRAPH 10, 11, 12, 13, 14, 15, 16, 17 AND 18, 22, 23, 24 AND 25 AND PAGE 637 PARAGRAPH 1. OF TRIAL TRANSCRIPT

CONFESSION OF RESPONSIBILITY

AT TRIAL POLICE SGT. LAUREL ALBERTIN TESTIFIED IN THE TYRONE ROBINSON DEFENSE, THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER "QUOTE" "I AM" IF WE WOULD OF NEVER WENT DOWN THERE THE LFL BOY WOULD OF NEVER DIED

15
BY AARON SCOTT YOUNG JUNIOR VERY OWN CONFESSION. AARON SCOTT YOUNG JUNIOR CONFESSED AND EXPLAINED THAT HE AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR VERY OWN ACTIONS OF DRIVING BACK AND FOURTH FROM THERE NEIGHBORHOOD ON 17 OLD WILD HORSE ROAD, TO GO ATTACK TRY TO SHOOT AND KILL AND ATTEMPT TO MURDER TYRONE ROBINSON WITH A DEADLY WEAPON, ONE OF WHICH A MASTER PIECE ARMS NINE MILLIMETER GUN, EQUIPPED WITH A THIRTY TWO ROUND CLIP AND A SUPPRESSOR AND WHAT EVER ELSE GUN THEY HAD. IS RESPONSIBLE FOR KHALIL SINGLETON BEING SHOT AND KILLED AND BY AARON SCOTT YOUNG JUNIOR VERY OWN CONFESSION, THAT "QUOTE" "I AM" IF WE WOULD OF NEVER WENT DOWN THERE THE LFL BOY WOULD OF NEVER DIED

PROVES THAT BY AARON SCOTT YOUNG JUNIOR VERY OWN CONFESSION. THE VICTIM KHALIL SINGLETON DEATH IS A NATURAL OR PROBABLE CONSEQUENCE OF AARON SCOTT YOUNG JUNIOR AND AARON SCOTT YOUNG SENIOR INHERENTLY DANGEROUS FELONY OF ATTEMPT TO MURDER THE VICTIM TYRONE ROBINSON. IN THE TYRONE ROBINSON NEIGHBORHOOD THAT TYRONE ROBINSON LIVED AT ON ALLEN ROAD, FOR PROOF REVIEW PAGE 762 PARAGRAPHS 15, 16, 17, 18 AND 19 OF TRIAL TRANSCRIPT

38.

ATTEMPTED MURDER

OF VICTIM TYRONE ROBINSON, SOUTH CAROLINA CODE OF LAW 16-03-29 VIOLENT CRIME AS DEFINED IN SECTION 16-03-60 COMMITTED BY ATTACKERS AARON SCOTT YOUNG JUNIOR

ON INDICTMENT # 2012-65-07-01940 THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISIAH MC. DUFFIE STONE, CHARGED AARON SCOTT YOUNG JUNIOR WITH THE CRIME AND FELONY OF ATTEMPTED MURDER OF VICTIM TYRONE ROBINSON. INDICTMENT # 2014-65-07-01940 STATES "QUOTING" "COUNTY SOUTH CAROLINA, ON OR ABOUT SEPTEMBER 21ST 2012 THE DEFENDANT, AARON YOUNG JUNIOR WITH INTENT TO KILL AND MALICE AFORETHOUGHT EITHER EXPRESS OR IMPLIED, ATTEMPTED TO MURDER THE VICTIM, TYRONE ROBINSON IN VIOLATION OF SECTION 16-03-29 OF THE CODE OF LAWS OF SOUTH CAROLINA (2010, AS AMENDED

ON FEBRUARY 2ND OF 2015 THE JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING THE CRIME OF ATTEMPTED MURDER S.C. CODE OF LAW 16-03-29 AGAINST VICTIM TYRONE ROBINSON AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED. AS A RESULT TRIAL JUDGE THOMAS COOPER SENTENCED AARON SCOTT YOUNG JUNIOR TO THIRTY YEARS IMPRISONMENT FOR COMMITTING THE CRIME OF ATTEMPTED MURDER S.C. CODE OF LAW 16-03-29 AGAINST VICTIM TYRONE ROBINSON AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED

MURDER

OF VICTIM KHALIL SINGLETON SOUTH CAROLINA CODE OF LAW 16-3-10

ON FEBRUARY 2ND 2015 THE JURY AT TRIAL FOUND AARON SCOTT YOUNG JUNIOR GUILTY OF MURDER OF VICTIM KHALIL SINGLETON. FOR CAUSING THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED ON INDICTMENT # 2012-65-07-01932

ATTEMPTED MURDER

OF VICTIM TYRONE ROBINSON, SOUTH CAROLINA CODE OF LAW 16-03-29 VIOLENT CRIME AS DEFINED IN SECTION 16-1-60 COMMITTED BY ATTACKERS AARON SCOTT YOUNG JUNIOR

ON INDICTMENT # 2014 65 07 01941 THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISIAH MC. DUFFIE STONE, CHARGED AARON SCOTT YOUNG SENIOR WITH THE CRIME AND FELONY OF ATTEMPTED MURDER OF VICTIM

TYRONE ROBINSON. INDICTMENT # 2014-65-07-01941
 "QUOTE" IN
 THAT IN BEAUFORT COUNTY SOUTH CAROLINA, ON OR ABOUT
 SEPTEMBER 21ST 2012 THE DEFENDANT AARON SCOTT YOUNG
 SENIOR WITH INTENT TO KILL AND MALICE AFORETH-
 -UGHT EITHER EXPRESS OR IMPLIED, ATTEMPTED
 TO MURDER THE VICTIM, TYRONE ROBINSON, IN VIOLATION
 OF SECTION 16-03-29 OF THE CODE OF LAWS OF SOUTH
 CAROLINA (21010 AS AMENDED)

ON AUGUST 8TH OF 2015 THE JURY AT TRIAL FOUND
 AARON SCOTT YOUNG SENIOR GUILTY OF COMMITTING THE
 CRIME OF ATTEMPTED MURDER S.C. CODE OF LAWS
 16-03-29 AGAINST THE VICTIM TYRONE ROBINSON AT
 THE IMMEDIATE TIME VICTIM KHALIL SINGLETON
 WAS SHOT AND KILLED. AS A RESULT TRIAL JUDGE
 THOMAS COOPER SENTENCED AARON SCOTT YOUNG SENIOR
 TO TWENTY YEARS IMPRISONMENT FOR COMMITTING
 THE CRIME OF ATTEMPTED MURDER S.C. CODE OF LAW
 16-03-29 AGAINST THE VICTIM TYRONE ROBINSON
 AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON
 WAS SHOT AND KILLED

MURDER

OF VICTIM KHALIL SINGLETON SOUTH
 CAROLINA CODE OF LAW 16-3-10

ON AUGUST 8TH 2015 THE JURY AT TRIAL FOUND AARON
 SCOTT YOUNG JUNIOR GUILTY OF MURDER OF VICTIM
 KHALIL SINGLETON FOR CAUSING THE VICTIM KHALIL
 SINGLETON TO BE SHOT AND KILLED ON INDICTMENT #
 2012-65-07-01932 17.

AS A MATTER OF LAW THE DIRECT EVIDENCE AND CIRCUM-
 -STANTIAL EVIDENCE THAT THE STATE OBTAINED
 IN THIS CASE, PROVES THAT BEFORE THE STATE
 OBTAINED ARREST WARRANT # 2012 AOT 20300114 AND
 INDICTMENT # 2012-65-07-01935 FROM THE MAGISTRATE
 JUDGE AND GRAND JURY INSIDE OF THIS CASE. THE RESPON-
 -DENDANTS KNEW AND OR SHOULD OF KNOWN THAT THE EVID-
 -ENCE THAT THEY OBTAINED IN THIS CASE, PROVED THAT
 THE VICTIM KHALIL SINGLETON DEATH IS THE NATURAL
 OR PROBABLE CONSEQUENCE OF THE INHERENTLY DANGER-
 -OUS FELONY OF ATTEMPT TO MURDER THE VICTIM TYRONE
 ROBINSON. THAT ATTACKERS AARON SCOTT YOUNG SENIOR
 AND AARON SCOTT YOUNG JUNIOR WERE FOUND GUILTY BY
 THE JURY FOR COMMITTING AGAINST ME AT THE
 IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT
 AND KILLED

RESPONSIBILITY

FOR VICTIM KHALIL SINGLETON DEATH

IN A CASE OF FELONY MURDER BY THE FELONY MURDER RULE
 THEORY. THE ISSUE OF WHO FIRED THE FATAL SHOT THAT

KILLED THE VICTIM. IS NOT THE CONTROLLING LAW TO HOLD A PERSON RESPONSIBLE FOR THE DEATH OF THE VICTIM. AS THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISIAH MC DUFFIE STONE CONFESSED AT THE PRETRIAL HEARING ON FEBRUARY 27TH 2014. FOR PROOF I QUOTE THE FOLLOWING CONFESSION FROM THE TRIAL TRANSCRIPT

CONFESS I O N

"QUOTING" THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR ISIAH MC DUFFIE STONE CONFESS I O N FROM PAGE 1052 PARAGRAPHS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 AND 24 AND PAGE 1053 PARAGRAPHS 1 AND 2 OF TRIAL TRANSCRIPT FROM PRETRIAL HEARING ON FEBRUARY 27TH 2014 "QUOTING"

OUR THEORY IS THE FELONY MURDER RULE THEORY THAT YOU HAVE THREE PEOPLE COMMITTING INHERENTLY DANGEROUS FELONIES, AND AS A RESULT OF THERE INHERENTLY DANGEROUS FELONIES A CHILD DIES. THE ACTUAL SHOOTER, AS TO SPEAK THE ONE THAT DISCHARGED THE FATAL BULLET, UNDER THAT SCENARIO IS WHILE RELEVANT NOT CONTROLLING

TO FURTHER PROVE THAT IN A CASE INVOLVING FELONY MURDER BY THE FELONY MURDER RULE THEORY. THE ISSUE OF WHO FIRED THE FATAL SHOT THAT KILLED THE VICTIM IS NOT CONTROLLING LAW, TO HOLD A PERSON RESPONSIBLE FOR THE DEATH OF THE VICTIM. I QUOTE THE FOLLOWING CASE LAW MERITS

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA CASE LAW OF.

UNITED STATES OF AMERICA EX REL DAVID ALMEIDA VS. ALFRED T. RUNDLE, WARDEN STATE CORRECTIONAL INSTITUTION, PHILADELPHIA, PENNSYLVANIA 255 F. SUPP 936, 1966 U.S. DIST CASE NO. M-2672 "QUOTING"

A MAN OR MEN ENGAGED IN THE COMMISSION OF SUCH A FELONY AS ROBBERY CAN BE CONVICTED OF MURDER IN THE FIRST DEGREE IF THE BULLET WHICH CAUSES THE DEATH WAS FIRED NOT BY THE FELON BUT BY THE INTENDED VICTIM IN REPELLING THE AGGRESSION OF THE FELON OR FELONS COMMONWEALTH VS. ALMEIDA, SUPRA 68 A, 2d 595, at PP. 598-599

THE SUPREME COURT WENT ON TO SAY "OUR DECISION IN THE MOYER-BYRON CASE WAS AN APPLICATION OF THE LONG ESTABLISHED PRINCIPLE THAT A WHOLE FELONIOUS ACT IS THE PROXIMATE CAUSE OF ANOTHER'S DEATH. IS CRIMINALLY RESPONSIBLE FOR THAT DEATH AND MUST ANSWER TO SOCIETY FOR IT EXACTLY AS HE WHO IS NEGLIGENTLY THE PROXIMATE CAUSE OF ANOTHER'S DEATH IS CIVILLY RESPONSIBLE FOR THAT DEATH AND MUST ANSWER IN DAMAGES FOR IT. THESE PRINCIPLES APPLY TO BOTH CRIMES AND TORTS

CASE LAW MERITS

SUPREME COURT OF APPEALS OF STATE OF MISSOURI
CASE LAW OF,
STATE OF MISSOURI VS. DWIGHT BAKER 607 S.W. 2d 153,
198 MO. CASE NO. 62149 "QUOTE"

IT WAS REASONABLY FORESEEABLE THAT THE ROBBERY ATTEMPT
WOULD MEET RESISTANCE. THIS SENT INTO MOTION THE
CHAIN OF EVENTS WHICH CAUSED THE DEATH OF THE BYSTA-
-NDER WHETHER THE FATAL ACT WAS DONE BY THE DEFEND-
-ANT AN ACCOMPLICE, ANOTHER VICTIM, OR A BYSTANDER
IS, UNDER THE FACTS HERE, NOT CONTROLLING. THE SIGNIFI-
-CANT FACTOR IS WHETHER THE DEATH WAS THE NATURAL
AND PROXIMATE RESULT OF THE ACTS OF THE APPELLANT
OR OF AN ACCOMPLICE

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF ILLINOIS
CASE LAW OF
THE PEOPLE OF THE STATE OF ILLINOIS VS. GLENN
HICKMAN 59 ILL. 2d 89, 319 N.E. 2d 511, 1979 ILL.
1 "QUOTE"

19.
WE HAVE PREVIOUSLY HELD THAT THE PERIOD OF TIME
AND ACTIVITIES INVOLVED IN ESCAPING TO A PLACE
OF SAFETY IS PART OF THE CRIME ITSELF (PEOPLE VS.
GOLSON, 32 ILL. 2d 398). THE DEFENDANTS WERE REPEATEDLY
TOLD TO HALT AND THE POLICE IDENTIFIED THEMSELVES,
BUT THE DEFENDANTS CONTINUED THEIR ATTEMPT TO
ESCAPE. THE COMMISSION OF THE BURGLARY, COUPLED
WITH THE ELECTION BY THE DEFENDANTS TO FLEE, SET
IN MOTION THE PURSUIT BY ARMED POLICE OFFICERS.
THE SHOT WHICH KILLED DETECTIVE LOSCHER
WAS A SHOT FIRED IN OPPOSITION TO THE ESCAPE OF THE
FLEEING BURGLARS, AND IT WAS A DIRECT AND
FORESEEABLE CONSEQUENCE OF DEFENDANTS ACTIONS.
THE ESCAPE HERE HAD THE SAME EFFECT AS DID THE
GUNFIRE IN ALLEN, IN THAT IT INVITED RETALIATION,
OPPOSITION AND PURSUIT. THOSE WHO COMMIT FORCEFUL
FELONIES KNOW THEY MAY ENCOUNTER RESISTANCE,
BOTH THEIR AFFIRMATIVE ACTIONS AND TO ANY SUBSEQUENT
ESCAPE. AS WE INDICATED IN A RECENT FELONY-
MURDER CASE, "IT IS UNIMPORTANT THAT THE DEFEND-
-ANT DID NOT ANTICIPATE THE PRECISE SEQUENCE
OF EVENTS THAT FOLLOWED UPON HIS ENTRY INTO THE
APARTMENT OF JUDY TALBERT. HIS UNLAWFUL ACTS PRECIPITATED
THESE EVENTS AND HE IS RESPONSIBLE FOR
THE CONSEQUENCES. PEOPLE VS. SMITH 56 ILL. 2d 328,
333-334

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF MISSOURI
CASE LAW OF,
STATE OF MISSOURI VS. BRIAN KEITH MOORE 580 S.W. 2d
747, 1979 MO. CASE NO. 60867 "QUOTE"

WHETHER THE FATAL ACT WAS DONE BY THE DEFENDANT AN
ACCOMPLICE, ANOTHER, VICTIM, OR A BYSTANDER IS,

UNDER THE FACTS HERE, NOT CONTROLLING. THE SIGNIFICANT FACTOR IS WHETHER THE DEATH WAS THE NATURAL AND PROXIMATE RESULT OF THE ACTS OF THE APPELLANT OR OF AN ACCOMPLICE. OF COURSE, AN INDEPENDANT INTERVENING CAUSE MIGHT RELIEVE APPELLANT OF CRIMINAL RESPONSIBILITY FOR THE KILLING. BUT IN THIS CASE THE ACT OF WILLIAMS WAS NOT AN INDEPENDANT ACT BECAUSE IT WAS THE ATTEMPTED ROBBERY BY THE APPELLANT AND HIS ACCOMPLICE WHICH PROVOKED WILLIAMS TO PULL THE PISTOL HE WAS CARRYING FROM HIS WAISTBAND AND IT WAS THE SHOT FIRED FROM ONE OF THE FELONS WHICH BROUGHT WILLIAMS' RETURN FIRE. INsofar AS MAJOR AND GLENNA ARE INCONSISTANT WITH THIS OPINION, THEY MUST NO LONGER BE FOLLOWED. THE JUDGEMENT OF THE CIRCUIT COURT OF THE CITY OF ST. LOUIS IS AFFIRMED

BECAUSE THE DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE INSIDE OF THIS CASE, PROVES THAT THE DEFENDANT'S AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR INHERANTLY DANGEROUS FELONY OF, ATTEMPT TO MURDER & VICTIM TYRONE ROBINSON. AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED. IS THE ONE AND ONLY INHERANTLY DANGEROUS FELONY THAT VICTIM KHALIL SINGLETON DEATH IS A NATURAL OR PROBABLE CONSEQUENCE OF AND A NATURAL AND PROXIMATE RESULT OF, THAT PROXIMATELY CAUSED VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED. AS A MATTER OF LAW THE ONLY PERSON WHO CAN LEGALLY BE HELD RESPONSIBLE FOR THE DEATH OF VICTIM KHALIL SINGLETON ARE ATTACKERS AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR. WHO THE JURY AT THEIR TRIALS FOUND GUILTY OF COMMITTING THE INHERANTLY DANGEROUS FELONY OF ATTEMPT TO MURDER & VICTIM TYRONE ROBINSON AGAINST TYRONE ROBINSON AT THE IMMEDIATE TIME VICTIM KHALIL SINGLETON WAS SHOT AND KILLED. FOR PROOF REVIEW

CASE LAW MERITS
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA CASE LAW OF.
UNITED STATES OF AMERICA EXREL DAVID ALMEDIA
V. ALFRED T. RUNDLE, WARDEN STATE CORRECTIONAL INSTITUTION, PHILADELPHIA, PENNSYLVANIA 255
F. SUPP 936, 1966 U.S. DIST CASE NO: M-2677 "QUOTING"
A MAN OR MEN ENGAGED IN THE COMMISSION OF SUCH A FELONY AS ROBBERY CAN BE CONVICTED OF MURDER IN THE FIRST DEGREE IF THE BULLET WHICH CAUSES DEATH WAS FIRED NOT BY THE FELON BUT BY THE INTENDED VICTIM IN REPELLING THE AGGRESSION OF THE FELON OR FELONS
COMMONWEALTH VS. ALMEDIA, SUPRA 68 A.2d 595, at PP. 598-599

THE SUPREME COURT WENT ON TO SAY "OUR DECISION IN THE MOYER-PYRON CASE WAS AN APPLICATION OF THE LONG ESTABLISHED PRINCIPLE THAT HE WHOSE FELONIOUS ACT IS THE PROXIMATE CAUSE OF ANOTHER'S DEATH IS CRIMINALLY RESPONSIBLE FOR THAT DEATH AND MUST

ANSWER TO SOCIETY FOR IT EXACTLY AS HE WHO IS
NEGLIGENTLY THE PROXIMATE CAUSE OF ANOTHER'S
DEATH IS CIVILLY RESPONSIBLE FOR THAT DEATH
AND MUST ANSWER IN DAMAGES FOR IT. THESE
PRINCIPLES APPLY TO BOTH CRIMES AND TORTS.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF STATE OF MISSOURI
CASE LAW OF,
STATE OF MISSOURI VS. DWIGHT BAKER 607 S.W. 2d
153/1980 MO. CASE NO. 62149 "QUOTE FN"

IT WAS REASONABLY FORESEEABLE THAT THE ROBBERY
ATTEMPT WOULD MEET RESISTANCE. THIS SENT INTO
MOTION THE CHAIN OF EVENTS WHICH CAUSED THE DEATH
OF THE BYSTANDER WHETHER THE FATAL ACT WAS DONE
OR A BYSTANDER AN ACCOMPLICE, ANOTHER VICTIM,
- LING. THE SIGNIFICANT FACTOR IS WHETHER THE DEATH
WAS THE NATURAL AND PROXIMATE RESULT OF THE ACTS
OF THE APPELLANT OR OF AN ACCOMPLICE

21.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF ILLINOIS
CASE LAW OF,
THE PEOPLE OF THE STATE OF ILLINOIS VS. GLENN HICKMAN
59 ILL. 2d 89, 319 N.E. 2d 511, 1974 ILL "QUOTE FN"

WE HAVE PREVIOUSLY HELD THAT THE PERIOD OF TIME
AND ACTIVITIES INVOLVED IN ESCAPING TO A PLACE OF
SAFETY IS THE PART OF THE CRIME ITSELF (PEOPLE VS. GOLSON,
32 ILL. 2d 398) THE DEFENDANTS WERE REPEATEDLY TOLD
TO HALT AND THE POLICE IDENTIFIED THEMSELVES BUT
THE DEFENDANTS CONTINUED THEIR ATTEMPT WITH THE
COMMISSION OF THE BURGLARY, COUPLED WITH THE
ELECTION BY THE DEFENDANTS TO FLEE, SET IN MOTION
THE PURSUIT BY ARMED POLICE OFFICERS. THE SHOT WHICH
KILLED DETECTIVE LORCHER WAS A SHOT FIRED IN
OPPOSITION TO THE ESCAPE OF THE FLEEING BURGLARS, AND
IT WAS A DIRECT AND FORESEEABLE CONSEQUENCE OF
DEFENDANTS ACTIONS. THE ESCAPE HERE HAD THE SAME
EFFECT AS DID THE GUNFIRE IN ALLEN, IN THAT IT
INVITED RETALIATION, OPPOSITION AND PURSUIT. THOSE
WHO COMMIT FORCIBLE FELONIES KNOW THEY MAY
ENCOUNTER RESISTANCE, BOTH THEIR AFFIRMATIVE
ACTION AND TO ANY SUBSEQUENT ESCAPE. AS WE INDICATED
IN A RECENT FELONY-MURDER CASE, IT IS UNIM-
PORTANT THAT THE DEFENDANT DID NOT ANTICIPATE
THE PRECISE SEQUENCE OF EVENTS THAT FOLLOWED UPON
HIS ENTRY INTO THE APARTMENT OF JUDY TOLBERT. HIS
UNLAWFUL ACTS PRECIPITATED THOSE EVENTS AND HE
IS RESPONSIBLE FOR THE CONSEQUENCES. PEOPLE VS. SMITH
56 ILL. 2d 328, 333-334

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF MISSOURI
CASE LAW OF,
STATE OF MISSOURI VS. BRIAN KEITH MOORE 580 S.W.
2d 747, 1979 MO. CASE NO. 60867 "QUOTE FN"
WHETHER THE FATAL ACT WAS DONE BY THE DEFENDANT

AN ACCOMPLICE, ANOTHER VICTIM OR A BYSTANDER
 IS, UNDER THE FACTS HERE NOT CONTROLLING. THE
 SIGNIFICANT FACTOR IS WHETHER THE DEATH WAS
 THE NATURAL AND PROXIMATE RESULT OF THE ACTS
 OF THE APPELLANT OR OF AN ACCOMPLICE. OF COURSE,
 AN INDEPENDENT INTERVENING CAUSE MIGHT
 RELIEVE APPELLANT OF CRIMINAL RESPONSIBILITY
 FOR THE KILLING. BUT IN THIS CASE THE ACT OF
 WILLIAMS WAS NOT AN INDEPENDENT ACT BECAUSE IT
 WAS THE ATTEMPTED ROBBERY BY THE APPELLANT AND
 HIS ACCOMPLICES WHICH PREVOKED WILLIAMS TO
 PULL THE PISTOL HE WAS CARRYING FROM ONE OF THE
 BAND AND IT WAS THE SHOT FIRED FROM ONE OF THE
 FELONS WHICH BROUGHT WILLIAMS RETURN FIRE.
 INsofar AS MAJORS AND GLENN ARE INCONSTITUT
 WITH THIS OPINION, THEY MUST NO LONGER BE FOLLO
 WED. THE JUDGEMENT OF THE CIRCUIT COURT OF THE
 CITY OF ST. LOUIS IS AFFIRMED.

CONFESSION

AT TYRONE ROBINSON TRIAL POLICE SGT. LAUREL
 ALBERTIN TESTIFIED IN TYRONE ROBINSON DEFENSE
 THAT AARON SCOTT YOUNG JUNIOR CONFESSED TO HER QUOTE
 IF WE WOULD OF NEVER WENT DOWN THERE THE LIL BOY
 WOULD OF NEVER DIED
 FOR PROOF REVIEW PAGE 762 PARAGRAPH 15, 16, 17, 18, AND 19

22.

THEREFORE THE DIRECT EVIDENCE AND CIRCUMSTANTIAL
 EVIDENCE OBTAINED BY THE DEFENDANT INSIDE
 OF THIS CASE, PROVES THAT REGARDLESS OF WHO THE
 STATE OF SOUTH CAROLINA IS ALLEGEDLY WAS THE
 PERSON THAT FIRED THE FATAL SHOT THAT KILLED
 THE VICTIM KHALIL SINGLETON, THE ALLEGED
 KILLING OF VICTIM KHALIL SINGLETON HAD ITS GENESIS
 IN THE INHERENTLY DANGEROUS FELONY OF ATTEMPT
 TO MURDER VICTIM TYRONE ROBINSON. THAT WAS
 BEING COMMITTED BY ATTACKERS AARON SCOTT YOUNG
 SENIOR AND AARON SCOTT YOUNG JUNIOR. THAT THE JURY AT
 AARON SCOTT YOUNG SENIOR AND AARON SCOTT YOUNG JUNIOR
 TRIAL, FOUND ATTACKERS AARON SCOTT YOUNG SENIOR
 AND AARON SCOTT YOUNG JUNIOR GUILTY OF COMMITTING
 AGAINST VICTIM TYRONE ROBINSON. AT THE IMMEDIATE
 TIME VICTIM KHALIL SINGLETON WAS SHOT
 AND KILLED. FOR PROOF REVIEW
 CASE LAW MERITS

UNITED STATES DISTRICT COURT FOR THE EASTERN
 DISTRICT OF PENNSYLVANIA CASE LAW OF.

UNITED STATES OF AMERICA EX REL, DAVID ALMED-
 IA VS. ALFRED T. RUNDLE, WARDEN STATE CORRECT-

-IONAL INSTITUTION, PHILADELPHIA, PENNSYLVANIA
 255 F. SUPP 936, 1966 U.S. PHILADELPHIA, PENNSYLVANIA
 -ITA 255 F. SUPP 936, 1966 U.S. DIST CASE NO. M-2677

"QUOTE" WHETHER THE FATAL BULLET WAS FIRED BY ONE OF THE
 BANDITS OR BY ONE OF THE POLICEMAN WHO WERE
 PERFORMING THEIR DUTY IN REPELLING THE BANDITS

45.

assault in defending themselves and in endeavoring to prevent the escape of the felons, is immaterial. whoever fired the fatal shot, the killing of officer Tilden had its genesis in the robbing by the defendant and his confederates of the Acme market, and in their firing upon the police officers who in the performance of their duty were attempting to take them into custody

Because the evidence the state of south carolina submitted at trial, was insufficient to prove that victim KHALIL SIMPLETON death is a natural or probable consequence, of TYRONE ROBINSON committing a alleged ongoing gun battle an inherently dangerous felony. That's charged and alleged inside of the written write up of indictment # 2012-65-07-01935 that I was tried on before the jury at trial. As a matter of law the trial judge and trial court was required to grant me my motion for a directed verdict of acquittal and acquitt me on the crime of felony murder by the felony murder rule theory "alleging" while engaged in a ongoing gun battle an inherently dangerous felony TYRONE ROBINSON did willfully unlawfully and with malice aforethought cause the victim KHALIL SIMPLETON to be shot and killed

23.

That's charged and alleged inside of the written write up of indictment # 2012-65-07-01935 that I was tried on before the jury at trial. For proof review case law merits

Supreme court of appeals of the state of south carolina case law of, State vs. Moore, 335 S.E.2d 800 "quoting" stubbs concluded that the state failed to establish beyond a reasonable doubt that a homicide was the natural or probable consequence of a plan to steal the victim car. The appellant would have been entitled to an acquittal on the charge of murder

Also because as a matter of law the evidence the state submitted at trial was insufficient to prove that I was guilty beyond a reasonable doubt, of committing the criminal conduct "alleging" while engaged in a ongoing gun battle an inherently dangerous felony. That's charged and alleged inside of the written write up of indictment # 2012-65-07-01935 that I was tried on before the jury at trial. As a matter of law the trial judge and trial court, was required to grant me my motion for directed verdict of acquittal and acquitt me on the crime of felony murder by the felony murder rule theory "alleging" while engaged in a ongoing gun battle an inherently dangerous felony TYRONE ROBINSON did willfully unlawfully and with malice aforethought cause the victim KHALIL SIMPLETON to be shot and killed. For proof review case law merits

Supreme court of appeals of the state of south carolina case law of State vs. Jackson 527 S.E.2d 367 "quoting" were the facts of the case, even if proved do not constitute the alleged criminal conduct a directed verdict must be granted

ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL
ATTORNEY ARIE DAVID BAX ARGUED THAT I WAS
ENTITLED TO A DIRECTED VERDICT OF ACQUITTAL.
ON THE CRIME OF FELONY MURDER BY THE FELONY MUR-
DER RULE THEORY. BECAUSE THE STATE OF SOUTH CAROL-
-INA FAILED TO MEET THEIR BURDEN OF PROOF,
TO PROVE THAT I WAS GUILTY OF COMMITTING AN
INHERENTLY DANGEROUS FELONY, WHICH IS THE ESSENTIAL
AND FACTUAL ELEMENT THAT INDICTMENT #2012-65-
-07-01935 CHARGE AND ALLEGE. IS THE ONE AND ONLY
CRIMINAL CONDUCT THAT VICTIM KHALIL SINGLETON

DEATH IS A NATURAL OR PROBABLE CONSEQUENCE
OF. FOR PROOF I QUOTE THE FOLLOWING FROM THE
TRIAL TRANSCRIPT.

STATE OF SOUTH CAROLINA

V.S.
TYRONE ROBINSON

"QUOTING" FROM PAGE 667 PARAGRAPH 22, AND 23 OF
TRIAL TRANSCRIPT OF TRIAL ATTORNEY ARIE DAVID
BAX STATING "QUOTING"
AND I THINK WITHOUT THAT HE IS ENTITLED TO A
DIRECTED VERDICT
"QUOTING" FROM PAGE 668, PARAGRAPH 3, 4, 5, 6, 7, AND
8 OF TRIAL TRANSCRIPT OF TRIAL ATTORNEY ARIE DAVID 24.
BAX STATING "QUOTING"
BECAUSE UNDER THEIR INDICTMENT THEY HAVE NOT MET
THEIR BURDEN TO MEET THE LANGUAGE OF THE INDICTMENT
THAT THEY HAVE GONE FORWARD ON. THEY HAVE NOT BEEN
ABLE TO PROVE AN INHERENTLY DANGEROUS FELONY OF
ANY KIND THAT WAS OCCURRING AT THE TIME THE CHILD
DIED THAT MR. ROBINSON WAS INVOLVED IN.

AS A MATTER OF LAW THE TRIAL JUDGE AND TRIAL COURT
DID NOT DISAGREE WITH ATTORNEY ARIE DAVID BAX
THAT THE EVIDENCE THE STATE SUBMITTED AT TRIAL,
WAS INSUFFICIENT TO PROVE THAT I WAS GUILTY, OF
COMMITTING AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

AFTER CONSIDERING THE EVIDENCE ON MOTION FOR DIRECTED
VERDICT OF ACQUITTAL. IN RESPONSE TO ATTORNEY ARIE
DAVID BAX ARGUMENT FOR MOTION FOR DIRECTED
VERDICT OF ACQUITTAL. THE TRIAL JUDGE AND TRIAL
COURT DETERMINED THAT THE CASE COULD BE SUBMITTED
TO THE JURY ON THE SECOND UNINDICTED FALSE MURDER
CHARGE "ALLEGING"
ON OR ABOUT SEPTEMBER THE 1ST TYRONE ROBINSON DID
WILLFULLY, AND WITH MALICE CAUSE HIM TO BE SHOT
AND KILLED AND HE DIED

THAT DOES NOT CONSTITUTE AND DOES NOT CLASSIFY AS THE
CRIME OF FELONY MURDER OR MURDER BY THE LAWS OF
THE STATE OF SOUTH CAROLINA UNDER THE ELEMENTS
TEST. FOR PROOF I STATE THE FOLLOWING

ELEMENTS TEST

PROVING THAT THE SECOND UNINDICTED ALLEGED
FALSE MURDER CHARGE IS NOT CLASSIFIED AS THE CRIME
OF FELONY MURDER BY THE FELONY MURDER RULE THEORY.
ALSO IS NOT CLASSIFIED AS A VIOLATION OF THE
LAWS OF THE STATE OF SOUTH CAROLINA FOR THE
CRIME OF FELONY MURDER BY THE FELONY MURDER

RULE THEORY

47.

AS A MATTER OF LAW THE ESSENTIAL AND FACTUAL ELEMENT
"ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

THAT IS CHARGED AND ALLEGED INSIDE OF THE CRIME
OF FELONY MURDER BY THE FELONY MURDER RULE THEORY
"ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHER-
-NTLY DANGEROUS FELONY, TYRONE ROBINSON DID
WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETH-
-UGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE
SHOT AND KILLED

THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT I
WAS TRIED ON BEFORE THE JURY AT TRIAL
IS NOT INCLUDED INTO THE ELEMENTS OF THE SECOND
UNINDICTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 1ST 2012 TYRONE ROBINSON
DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT
AND KILLED AND HE DIED

AS A MATTER OF LAW PROVING THAT THE SECOND UNIND-
-CTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 1ST 2012 TYRONE ROBINSON 25.
DID WILLFULLY AND WITH MALICE CAUSE HIM TO BE
SHOT AND KILLED AND HE DIED.

IS A SECOND UNINDICTED ALLEGED FALSE MURDER
CHARGE. FOR THE SAME FIRST DEGREE OFFENSE, THAT IS
NOT A LESSER INCLUDED DEGREE ALLEGED CRIME AND
OFFENSE, OF THE CRIME OF FELONY MURDER BY THE
FELONY MURDER RULE THEORY "ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY,
UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE
THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

BECAUSE THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGED-
-LY" WHILE ENGAGED IN AN ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY

THAT IS REQUIRED IN ORDER FOR A CRIME TO CONSTITUTE
THE CRIME OF FELONY MURDER BY THE FELONY MURDER
RULE THEORY, THAT IS CHARGED AND ALLEGED INSIDE OF
THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-
-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT
TRIAL IS NOT INCLUDED INTO THE SECOND UNINDICTED
ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 1ST 2012 TYRONE ROBINSON
DID WILLFULLY AND WITH MALICE CAUSE HIM TO BE
SHOT AND KILLED AND HE DIED

PROVES THAT AS A MATTER OF LAW THE SECOND UNIND-
-CTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 1ST 2012 TYRONE ROBINSON
DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT
AND KILLED AND HE DIED

DOES NOT CLASSIFY AS THE CRIME OF FELONY MURDER
BY THE FELONY MURDER RULE THEORY BY THE LAWS OF
THE STATE OF SOUTH CAROLINA.

ALSO DOES NOT CLASSIFY AS A VIOLATION OF SOUTH CARO-
-LINA LAWS FOR THE CRIME OF FELONY MURDER BY
THE FELONY MURDER RULE THEORY FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
 - IN A CASE LAW OF,
 GORE VS. LEEKE 1995 S.E.2d 755 "QUOTE"
 IF SEVERAL PERSON AGREE OR CONSPIRE TO COMMIT
 A FELONY SUCH AS GRAND LARCENY OR ROBBERY OR
 BURGLARY EACH OF THOSE PERSONS ARE CRIMINALLY
 RESPONSIBLE FOR THE ACTS OF ASSOCIATES OR CONFEDER-
 -ATES WHICH ARE DONE IN FURTHERANCE OR IN
 PROSECUTION OF THE COMMON PURPOSE FOR WHICH THEY
 COMBINED. THE COMMON PURPOSE LATTER AND GENTLE-
 -MAN MAY HAVE NOT INCLUDED OR MAY NOT HAVE BEEN
 INVOLVED IN THE KILLING AND THE MURDER OF ANY-
 -ONE BUT IF IN EXECUTING THE COMMON DESIGN AND
 PURPOSE AND IF IT WAS UNLAWFUL AS FOR INSTANCE
 BREAKING IN AND STEALING AND IN THE EXPECTATION OF
 THE COMMON PURPOSE A HOMICIDE IS COMMITTED BY ONE
 OF THE CONFEDERATES OR ONE OF THE ASSOCIATES AND
 YOU, THE JURY DETERMINE FROM THE PROOF BEYOND A REAS-
 -ONABLE DOUBT THE HOMICIDE WAS A PROBABLE OR NATURAL
 CONSEQUENCE OF THE ACTS WHICH WERE DONE IN
 FURTHERANCE OF THE COMMON DESIGN THAN LATTER AND
 GENTLEMAN, ALL WHO IS PRESENT EITHER ACTUALLY
 OR CONSTRUCTIVELY, AND PARTICIPATING IN THE
 UNLAWFUL COMMON DESIGN ARE AS GUILTY AS THE SLAYER
 HIMSELF.

THE LAW DICTIONARY DEFINITION FOR THE WORD MURDER MEANS THE FOLLOWING MEANING "QUOTE"

MURDER A COMMON LAW OFFENSE OF UNLAWFUL
 HOMICIDE, UNLAWFUL KILLING OF ANOTHER HUMAN
 BEING WITH MALICE AFORETHOUGHT. THIS REQUIRES
 A PREMEDITATED INTENT TO KILL PLUS AN ELEMENT
 OF HATRED

26.

AS A MATTER OF LAW THERE IS ABSOLUTELY NOT ANY
 INDICTMENT THAT CHARGES TYRONE ROBINSON WITH
 THE CRIME OF MURDER BY THE CRIME "ALLEGED"
 HE KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THE NECESSARY ELEMENTS REQUIRED IN ORDER TO CONSTITUTE THE CRIME OF MURDER 16-3-10 BY THE LAWS OF THE STATE OF SOUTH CAROLINA

INSIDE OF THE STATE OF SOUTH CAROLINA THE CRIME
 OF MURDER IS THE KILLING OF ANY HUMAN BEING
 WITH MALICE AFORETHOUGHT EITHER EXPRESS OR
 IMPLIED FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
 CAROLINA CASE LAW OF,
 THE STATE OF SOUTH CAROLINA VS. WATSON 563 S.E.2d
 336 "QUOTE"
 16-3-10 MURDER IS THE KILLING OF ANY PERSON

with malice aforethought either expressed or implied

IN ORDER TO CONSTITUTE THE CRIME OF MURDER IN VIOLATION OF SOUTH CAROLINA CODE OF LAWS 16-3-10, INSIDE OF THE STATE OF SOUTH CAROLINA, TWO ELEMENTS MUST BE ESTABLISHED THE FIRST ELEMENT THAT MUST BE ESTABLISHED IS THE ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER PERSON

THE SECOND ELEMENT THAT MUST BE ESTABLISHED IS THE ELEMENT "ALLEGEDLY" THE KILLING WAS COMMITTED WITH MALICE AND AFORETHOUGHT FOR PROOF REVIEW THE ELEMENTS REQUIRED TO CONSTITUTE THE CRIME OF MURDER UNDER SOUTH CAROLINA CODE OF LAWS 16-3-10

2ND ELEMENTS TEST

PROVING AS A MATTER OF LAW THAT THE SECOND UNINDICTED FALSE MURDER CHARGE IS NOT CLASSIFIED AS THE CRIME OF MURDER 16-3-10 BY THE LAWS OF THE STATE OF SOUTH CAROLINA. ALSO IS NOT CLASSIFIED AS A VIOLATION OF SOUTH CAROLINA CODE OF LAWS 16-3-10 FOR THE CRIME OF MURDER INSIDE OF THE STATE OF SOUTH CAROLINA 17.

1ST ELEMENT
REQUIRED TO CONSTITUTE THE UNINDICTED CRIME OF MURDER 16-3-10 BY THE LAWS OF THE STATE OF SOUTH CAROLINA IS

1ST ELEMENT REQUIRED TO CONSTITUTE THE UNINDICTED CRIME OF MURDER 16-3-10 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT IS:

THAT THE ACCUSED UNLAWFULLY KILLED ANOTHER, WHICH DEFINED BY ITS WEBSTER DICTIONARY DEFINITION MEANS TO ALLEGE THAT THE ACCUSED UNLAWFULLY DEPRIVED ANOTHER PERSON OUT OF THEIR LIFE.

THIS IS BECAUSE THE WEBSTER DICTIONARY DEFINITION FOR THE WORD KILL MEANS THE FOLLOWING "MEANING" TO DEPRIVE OF LIFE

1ST ELEMENT
FOR SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE

1ST ELEMENT FOR SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE BY THE CRIME "ALLEGEDLY" ON OR ABOUT SEPTEMBER THE 1ST 2012 TYRONE ROBINSON DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED IS

50.

ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY CAUSE HIM TO BE SHOT AND KILLED AND HE DIED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO ALLEGE

ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY CAUSE A TRAIN OF EVENTS THAT RESULTED IN THE VICTIM KHALIL SINGLETON BEING SHOT AND DEPRIVED OUT OF HIS LIFE

THIS IS BECAUSE THE LAW BOOK DICTIONARY DEFINITION FOR THE WORD CAUSE MEANS THE FOLLOWING MEANING ALLEGEDLY

CAUSE THAT WHICH EFFECTS A RESULT DIRECT CAUSE THE ACTIVE, EFFICIENT CAUSE THAT SET IN MOTION A TRAIN OF EVENTS THAT BRING ABOUT A RESULT WITHOUT INTERVENTION OF ANY OTHER INDEPENDANT SOURCE

AS A MATTER OF LAW THE FIRST ELEMENT TO THE SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"

ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED WHICH IS

ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY CAUSE HIM TO BE SHOT AND KILLED AND HE DIED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO ALLEGE. 28.

ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY CAUSE A TRAIN OF EVENTS THAT RESULTED IN THE VICTIM KHALIL SINGLETON BEING SHOT AND DEPRIVED OUT OF HIS LIFE

IS NOT INCLUDED INTO AND DOES NOT CONSTITUTE THE 1ST ELEMENT REQUIRED TO CONSTITUTE THE UNINDICTED CRIME OF MURDER 16-3-10 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED ANOTHER WITH MALICE AND AFORETHOUGHT

WHICH HAS THE 1ST ELEMENT OF "ALLEGEDLY" THAT THE ACCUSED UNLAWFULLY KILLED ANOTHER PERSON

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO ALLEGE THAT THE ACCUSED UNLAWFULLY DEPRIVED ANOTHER PERSON OUT OF THERE LIFE

2ND ELEMENT

REQUIRED TO CONSTITUTE THE UNINDICTED CRIME OF MURDER 16-3-10 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT IS

THAT THE KILLING WAS COMMITTED WITH MALICE AND AFORETHOUGHT

WHICH DEFINED BY ITS WEBSTER DICTIONARY DEFINITION

51.

- ITTTON means to allege that the deprivation of life was committed with malice and aforethought
THIS IS BECAUSE THE WEBSTER DICTIONARY DEFINITION FOR THE WORD KILL means the following "MEANING" TO DEPRIVE OF LIFE

2ND ELEMENT
FOR SECOND UNINDICTED ALLEGED FALSE
MURDER CHARGE

29.

2ND ELEMENT FOR SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE BY THE CRIME "ALLEGED" ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED #1

ON OR ABOUT SEPTEMBER THE 21ST 2,012 TYRONE ROBINSON DID WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO "ALLEGED" ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON DID WITH MALICE CAUSE A TRAIN OF EVENTS THAT RESULTED IN THE VICTIM KHALEL SIMPLETON BEING SHOT AND DEPRIVED OUT OF HIS LIFE

THIS IS BECAUSE THE LAW BOOK DICTIONARY DEFINITION FOR THE WORD CAUSE MEANS THE FOLLOWING MEANING "ALLEGED" CAUSE THAT WHICH EFFECTS A RESULT DIRECT CAUSE THE ACTIVE EFFICIENT CAUSE THAT SET IN MOTION A TRAIN OF EVENTS THAT BRINGS ABOUT A RESULT WITHOUT INTERVENTION OF ANY OTHER INDEPENDENT SOURCE

AS A MATTER OF LAW THE SECOND ELEMENT TO THE SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE "ALLEGED" ON OR ABOUT SEPTEMBER THE 1ST 2,012 TYRONE ROBINSON

- SON DID WILLFULLY AND WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED WHICH IS

ON OR ABOUT SEPTEMBER THE 21ST 2,012 TYRONE ROBINSON DID WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO "ALLEGED"

ON OR ABOUT SEPTEMBER THE 21ST 2,012 TYRONE ROBINSON DID WITH MALICE CAUSE A TRAIN OF EVENTS THAT RESULTED IN THE VICTIM KHALIL SINGLETON BEING SHOT AND DEPRIVED OUT OF HIS LIFE

IS NOT INCLUDED INTO AND DOES NOT CONSTITUTE THE 2ND ELEMENT REQUIRED TO CONSTITUTE THE UNINDICTED CRIME OF MURDER 16-3-10 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND A FORETHOUGHT

WHICH HAS THE 2ND ELEMENT OF "QUOTE"ING" THE KILLING WAS COMMITTED WITH MALICE AND AFORE-THOUGHT

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO "ALLEGED" THAT THE DEPREVIATION OF LIFE WAS COMMITTED WITH MALICE AND AFORETHOUGHT

AS A MATTER OF LAW PROVEING THAT THE SECOND UNIND-ICTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY" ON OR ABOUT SEPTEMBER THE 21ST 2,012 TYRONE ROBIN-SON DID WILLFULLY WITH MALICE CAUSE HIM TO BE SHOT AND KILLED AND HE DIED

THAT THERE IS NOT ANY INDICTIONMENT CHARGEING ME WITH IN VIOLATION OF SOUTH CAROLINA CODE OF LAWS 12-19-10 "QUOTE"ING" NO PERSON SHALL BE HELD TO ANSWER IN COURT FOR A ALLEGED CRIME OR OFFENSE UNLESS UPON INDICTION-ENT BY A GRAND JURY

IS NOT CLASSIFIED AS A VIOLATION OF SOUTH CARO-LINA CODE OF LAWS 16-3-10 FOR THE CRIME OF MURDER. AND IS A NON EXISTENT SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE THAT IS NOT CLASSIF-IED AS A CRIME BY THE LAWS OF THE STATE OF SOUTH CAROLINA. THAT THE TRIAL JUDGE AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO USE TO DENY MY MOTION FOR DIRECTED VERDICT OF ACQUITTAL ON, RENDER JUDGEM-ENT AGAINST ME ON, UNLAWFULLY DEPRIVE ME OUT OF MY LIBERTY ON AND UNLAWFULLY RESTRAIN ME ON FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF

WHETHER VS. STATE 492 S.E.2D 777 "QUOTE"ING" UNDER SOUTH CAROLINA LAW, CIRCUIT COURT LACK SUBJECT MATTER JURISDICTION TO ACCEPT A GUILTY PLEA TO A NON EXISTENT OFFENSE

AFTER CONSIDERING THE EVIDENCE ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL, IN RESPONSE TO ATTORNEY ARTE DAVID BAX AROUMENT, THAT HIS CLIENT TYRONE ROBINSON WAS ENTITLED TO A DIRE-CTED VERDICT OF ACQUITTAL, ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY, BECAUSE THE STATE OF SOUTH CAROLINA FAILED TO MEET THEIR BURD ON OF PROOF, TO PROVE THAT I WAS GUILTY

OF COMMITTING AN INHERENTLY DANGEROUS FELONY.
WHICH IS THE ESSENTIAL AND FACTUAL ELEMENT
THAT INDICTMENT #2012-GS-07-01935 CHARGE AND
ALLEGES. IS THE ONE AND ONLY CRIMINAL CONDUCT
THAT CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT
AND KILLED.

THE TRIAL JUDGE AND TRIAL COURT DETERMINATION,
THAT THE CASE COULD BE SUBMITTED TO THE JURY ON THE
SECOND UNINDICTED ALLEGED FALSE MURDER CHARGE
"ALLEGEDLY"

ON OR ABOUT SEPTEMBER THE 7TH TYRONE ROBINSON DIED
WILLFULLY AND WITH MALICE CAUSE HIM TO BE SHOT
AND KILLED AND HE DIED

THAT DOES NOT CONSTITUTE AND DOES NOT CLASSIFY
AS THE CRIME OF FELONY MURDER OR THE CRIME OF
MURDER BY THE LAWS OF THE STATE OF SOUTH CAROLINA.
THAT ALSO DOES NOT CONSTITUTE AND THAT DOES NOT
CLASSIFY AS A VIOLATION OF THE LAWS OF THE STATE
OF SOUTH CAROLINA, FOR THE CRIME OF FELONY MURDER
OR THE CRIME OF MURDER, "IMPLIED" AND "CONFIRMED"
THAT THE TRIAL JUDGE AND TRIAL COURT AGREED WITH
ATTORNEY ARRE DAVID BOX ARGUMENT, THAT THE
EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT
TRIAL WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL
AND FACTUAL ELEMENT AND "CRIMINAL CONDUCT"
"ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
-NTLY DANGEROUS FELONY

AS A RESULT THE TRIAL JUDGE AND TRIAL COURT RESOLUT- 31
-ION RATHER CORRECT OR NOT, WAS THAT THE CASE COULD
BE SUBMITTED TO THE JURY ON THE SECOND UNINDICTED
ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 7TH 2012 TYRONE ROBINSON
DIED WILLFULLY AND WITH MALICE CAUSE HIM TO BE
SHOT AND KILLED AND HE DIED

WHICH EXCLUDED, TERMINATED, DISPOSED OF AND DISM-
-ISSED THE ESSENTIAL AND FACTUAL ELEMENT AND
CRIMINAL CONDUCT "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERAN-
-TLY DANGEROUS FELONY

FROM OUT OF THE CRIME OF FELONY MURDER BY THE
FELONY MURDER RULE THEORY. THAT CHARGED AND
ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICT-
-MENT #2012-GS-07-01935 THAT IT WAS TRIED ON BEFORE
THE JURY AT TRIAL. AS A RESOLUTION CORRECT OR
NOT IN RESPONSE TO ATTORNEY ARRE DAVID BOX
ARGUMENT THAT THE EVIDENCE THE STATE OF SOUTH
CAROLINA SUBMITTED AT TRIAL WAS INSUFFICIENT TO
CONVICT ON THE ESSENTIAL AND FACTUAL ELEMENT
AND CRIMINAL CONDUCT "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANT-
-LY DANGEROUS FELONY

THEREFORE AS A MATTER OF LAW AFTER REVIEWING
THE PROCEEDINGS AS A WHOLE. THE TRIAL JUDGE AND
TRIAL COURT RULING REPRESENTS A FINDING BY THE
TRIAL JUDGE AND TRIAL COURT, THAT THE EVIDENCE THE
STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL, WAS
INSUFFICIENT TO CONVICT ON THE ESSENTIAL AND
FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGED-
-LY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERA-
-NTLY DANGEROUS FELONY, THAT INDICTMENT #2012-
-GS-07-01935 CHARGE AND ALLEGES IS THE ONE AND
ONLY CRIMINAL CONDUCT THAT CAUSED THE VICTIM
KHALIL SINGLETON TO BE SHOT AND KILLED. FOR PROOF

I quote the following proceedings from the
TRANSCRIPT,

STATE OF SOUTH CAROLINA

VS.

TYRONE ROBINSON

"QUOTE" FROM PAGE 669 PARAGRAPH 2, 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, 13 AND 14 OF TRIAL TRANSCRIPT OF TRIAL JUDGE
THOMAS COOPER "QUOTE"

NOW THE INHERENTLY DANGEROUS FELONY MAY HAVE BEEN
THERE TO TRY TO SHOW EVIDENCE OF MALICE IT MAY HAVE
BEEN THERE FOR SOME OTHER PURPOSE. I REALLY CAN'T
SPEAK TO THAT BUT IF THOSE WORDS WERE NOT THERE.
IF THOSE WORDS WERE NOT THERE AND THE GUN BATTLE STUFF
AND ALL THAT WAS NOT THERE AND IF IT JUST SAID THAT
ON OR ABOUT SEPTEMBER THE 21ST 2012 TYRONE ROBINSON
DID WILLFULLY AND WITH MALICE CAUSE HIM TO BE
SHOT AND KILLED AND HE DIED

THEN THOSE ISSUES WOULD BE PLAIN AND APPROPRIATE
AND THE CHARGE WOULD BE AT LEAST SIMPLY MADE UNDER
THOSE CIRCUMSTANCES AND IF IT WAS EVIDENCE TO SUPPORT
THOSE CHARGES THEN IT WOULD GO FORWARD 32.

AFTER ATTORNEY BRIE DAVID BAX ARGUED TO THE TRIAL
JUDGE AND TRIAL COURT, THAT HIS CLIENT TYRONE ROBIN-
SON WAS ENTITLED TO A DIRECTED VERDICT OF ACQUITTAL.
BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED
AT TRIAL, WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL
AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

THE TRIAL JUDGE AND TRIAL COURT FURTHER RESPONDED
WITH FURTHER RESOLUTION CORRECT OR NOT, BY THE TRIAL
COURT DETERMINING THAT HE WAS TAKING THE WORDS
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

FROM OUT OF THE CRIME OF FELONY MURDER BY THE FELONY
MURDER RULE THEORY, THAT CHARGED AND ALLEGED INSIDE
OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-
-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL.
THE TRIAL JUDGE AND TRIAL COURT RULING CONFIRMING
AND IMPLIES THAT THE TRIAL JUDGE AND TRIAL COURT
AGREED WITH ATTORNEY BRIE DAVID BAX ARGUMENT.
THAT THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED
AT TRIAL WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL
AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-
-07-01935, THAT CHARGED AND ALLEGED INSIDE
THEREFORE THE TRIAL JUDGE AND TRIAL COURT RESOLUTION
CORRECT OR NOT, OF THE TRIAL JUDGE AND TRIAL COURT
TAKING OUT THE WORDS, TERMINATING, DISPOSING AND
DETERMINING THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

IN RESPONSE TO ATTORNEY BRIE DAVID BAX ARGUMENT,
THAT HIS CLIENT TYRONE ROBINSON IS ENTITLED TO A
DIRECTED VERDICT OF ACQUITTAL, BECAUSE THE EVIDENCE
THAT THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL,
WAS INSUFFICIENT TO CONVICT, ON THE ESSENTIAL AND
FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

REPRESENTS A FINDING BY THE TRIAL JUDGE AND TRIAL COURT. THAT THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL WAS INSUFFICIENT TO CONVICT. ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGED"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

THAT INDICTMENT # 2012-65-07-01935 CHARGE AND ALLEGED IS THE ONE AND ONLY CRIMINAL CONDUCT THAT CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED AND DEPRIVED OUT OF HIS LIFE FOR PROOF & QUOTE THE TRIAL PROCEEDINGS FROM THE TRIAL TRANSCRIPT AS FOLLOWS.

STATE OF SOUTH CAROLINA

VS.

TYRONE ROBINSON

"QUOTE" FROM PAGE 672 PARAGRAPH 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, AND 20 OF TRIAL JUDGE THOMAS COOPER DECISION FOR TRIAL TRANSCRIPT "QUOTE" MY POINT WAS THAT FROM THE STAND POINT OF A MOTION FOR DIRECTED VERDICT. THAT THE INCLUSION OF THE WORDS WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

WHICH I THOUGHT WAS PUT THERE MORE APPROPRIATELY WHEN THEY WERE DEALING WITH THREE DEFENDANT/ IN THIS PARTICULAR CASE THAT THOSE WORDS COULD BE TAKEN OUT OF THIS PARTICULAR CHARGE AS INDICTED AND THERE WOULD BE NO QUESTION ABOUT WHETHER OR NOT THEY WOULD HAVE A RIGHT TO A JURY ON THE CHARGE OF MURDER AGAINST MR. ROBINSON

1st
FAILURE TO OBJECT PURSUANT
TO APPELLATE RULE AND PROCEDURE
220(B)

THE STATE OF SOUTH CAROLINA DID NOT OBJECT AND DID NOT DISAGREE WITH ATTORNEY ARTE DAVID BAX ARGUMENT. ON MOTION FOR DIRECT VERDICT OF ACQUITTAL. WHEN ATTORNEY ARTE DAVID BAX ARGUED THAT HIS CLIENT TYRONE ROBINSON WAS ENTITLED TO A DIRECTED VERDICT OF ACQUITTAL. BECAUSE THE STATE OF SOUTH CAROLINA FAILED TO MEET THEIR BURDEN OF PROOF, TO PROVE THAT I WAS GUILTY OF COMMITTING AN INHERENTLY DANGEROUS FELONY, WHICH IS THE CRIMINAL CONDUCT AND ESSENTIAL AND FACTUAL ELEMENT THAT INDICTMENT # 2012-65-07-01935 CHARGE AND ALLEGED, IS THE ONE AND ONLY CRIMINAL CONDUCT AND ESSENTIAL AND FACTUAL ELEMENT. THAT CAUSED VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED AND DEPRIVED OUT OF HIS LIFE. THEREFORE THE STATE OF SOUTH

CAROLINA has forfeited there right to make a argument against these facts pursuant to Appellate Rule and Procedure 220(B)

2ND

FAILURE to object pursuant to Appellate Rule and Procedure 220(B)

As a matter of law the State of South Carolina failed to object and failed to disagree with the Trial Judge and Trial Court Resolution correct or not, that resulted in the Trial Judge and Trial Court terminating and disposing and dismissing the criminal conduct and essential and factual element

"allegedly" while engaged in a ongoing gun battle an inherently dangerous felony

That indictment # 2012-65-07-01935 charge and allege is the one and only criminal conduct that caused the victim KHALIL SINGLETON to be shot and killed and deprived out of his life, which after considering the evidence on motion for directed verdict of acquittal, clearly represents a finding by the Trial Judge and Trial Court, that the evidence that the State of South Carolina submitted at trial, was insufficient to convict on the essential and factual element and criminal conduct "allegedly"

while engaged in a ongoing gun battle an inherently dangerous felony

Therefore the State of South Carolina has forfeited there right to make a argument against these facts pursuant to Appellate Rule and Procedure 220(B)

The fact that the Trial Judge and Trial Court upon there error may deny a person there motion for directed verdict of acquittal, or grant a person there motion for directed verdict of acquittal, or dismiss the indictment etc. is not the controlling law to determine rather a person was or was not acquitted on the crime charged in the indictment, that they were tried on before the jury at trial.

FOR PROOF REVIEW

CASE LAW MERITS

UNITED STATES COURT OF APPEALS FOR THE 10TH CIRCUIT
CASE LAW OF.

U.S. VS. HUNT 212 F.3d 539 "QUOTEING"

WHAT CONSTITUTES A "ACQUITTAL" IS NOT TO BE
CONTROLLED BY THE FORM OF THE JUDGE ACTION

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR
THE NINTH CIRCUIT CASE LAW OF.

UNITED STATE VS. SHWARTZ 785 F.2d 673 (9TH CIR
1986)

IN DETERMINING WHETHER AN APPEAL IS BARRED
BY THE CLAUSE. THE SUPREME COURT HAS INSTRUCTED
THAT THE LABEL APPLIED BY THE DISTRICT COURT,
WHETHER "ACQUITTAL" IS NOT DISPOSITIVE. THE
TRIAL JUDGE CHARACTERIZATION OF HIS OWN
ACTION CAN NOT CONTROL THE CLASSIFICATION OF
THE ACTION

WHAT CONSTITUTES A "ACQUITTAL ON THE CRIME 35.
THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF THE INDICTMENT. THAT A DEFENDANT IS
TRIED ON BEFORE THE JURY AT TRIAL IS AS FOLLOWS. A
DEFENDANT IS "ACQUITTED" ON THE CRIME THAT IS CHARGED
AND ALLEGED INSIDE OF THE INDICTMENT THAT THEY
ARE TRIED ON BEFORE THE JURY AT TRIAL. IF AT TRIAL
THE DEFENDANT OBTAINS FROM THE TRIAL JUDGE AND
TRIAL COURT, A RESOLUTION RATHER ITS CORRECT OR
NOT, ON SOME OR ALL OF THE FACTUAL ELEMENTS
OF THE OFFENSE CHARGED AND ALLEGED INSIDE OF THE
INDICTMENT, THAT THE PERSON IS TRIED ON BEFORE THE
JURY AT TRIAL. FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF
AMERICA CASE LAW OF.

SANABRIA VS. U.S. 98 S.Ct 2170 "QUOTEING"

WE HAVE RECENTLY DEFINED ACQUITTAL AS A RESOLUTION
CORRECT OR NOT OF SOME OR ALL OF THE
FACTUAL ELEMENTS OF THE OFFENSE CHARGED

CASE LAW MERITS

UNITED STATES COURT OF APPEALS FOR THE 10TH
CIRCUIT CASE LAW OF.

U.S. VS. HUNT 212 F.3d 539 "QUOTEING"

WHAT CONSTITUTES A "ACQUITTAL" IS NOT TO BE
CONTROLLED BY THE FORM OF THE JUDGE ACTION.
INSTEAD WE MUST DETERMINE WHETHER THE
RULING OF THE JUDGE, WHATEVER ITS LABEL,
ACTUALLY REPRESENTS A RESOLUTION CORRECT
OR NOT OF SOME OR ALL OF THE FACTUAL ELEMENTS
OF THE OFFENSE CHARGED

INSIDE OF THE CASE OF U.S. VS. HUNT 212 F.3rd 539 THE TENTH CIRCUIT COURT OF APPEALS EXPLAINED THAT INSIDE OF THE CASE OF UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th CIR 1986) THE NINTH CIRCUIT COURT OF APPEALS EXPLAINED THAT, BECAUSE ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL, CERTAIN PARTS OF THE INDICTMENT WAS DISMISSED FOR LACK OF EVIDENCE. THOSE PARTS OF THE INDICTMENT THAT WAS DISMISSED FOR LACK OF EVIDENCE, CONSTITUTED A ACQUITTAL ON THE PARTS OF THE INDICTMENT THAT WAS DISMISSED FOR LACK OF EVIDENCE WHICH THE GOVERNMENT ADMITTED THAT IT AMOUNTED TO A ACQUITTAL ON THE PARTS OF THE INDICTMENT THAT WAS DISMISSED FOR LACK OF EVIDENCE, FOR PROOF REVIEW

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH CIRCUIT COURT OF APPEALS CASE LAW OF, U.S. VS. HUNT 212 F.3d 539 QUOTING

THE NINTH CIRCUIT REACH THE SAME CONCLUSION IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th CIR 1986) QUOTING

FOR ITS PART THE GOVERNMENT READILY ADMITS THAT CERTAIN PARTS OF THE INDICTMENT WERE SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE PARTS. THE GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC FINDINGS

36.

INSIDE OF THE CASE OF U.S. VS. HUNT 212 F.3rd 539 THE TENTH CIRCUIT COURT OF APPEALS EXPLAINED THAT INSIDE OF THE CASE OF UNITED STATES VS. SCHWARTZ 785 F.2d 673, THE NINTH CIRCUIT COURT OF APPEALS EXPLAINED, THAT THE GOVERNMENT COULD NOT APPEAL AGAINST THE DEFENDANT AND THE GOVERNMENT COULD NOT RETRY THE DEFENDANT IN A RETRIAL, ON THE REMAINING PARTS OF THE INDICTMENT THAT THE DISTRICT COURT DID NOT SPECIFICALLY REJECT FOR LACK OF SUFFICIENT EVIDENCE. BECAUSE THE FACT THAT ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL, THE DISTRICT COURT DISMISSED OF CERTAIN PARTS OF THE INDICTMENT FOR LACK OF EVIDENCE, CONSTITUTED A "ACQUITTAL" ON THE PARTS OF THE INDICTMENT THAT WAS DISMISSED FOR LACK OF SUFFICIENT EVIDENCE. THE ACQUITTAL ON THE PARTS OF THE INDICTMENT THAT WAS DISMISSED FOR LACK OF SUFFICIENT EVIDENCE, CONSTITUTED A ACQUITTAL ON THE WHOLE CRIME THAT WAS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF THE INDICTMENT THAT THE DEFENDANT WAS TRIED ON BEFORE THE JURY AT TRIAL. AS A RESULT THE FEDERAL 5th AMENDMENT RIGHT OF DOUBLE JEOPARDY BARRED THE GOVERNMENT FROM APPEALING AGAINST THE DEFENDANT. ALSO THE FEDERAL 5th AMENDMENT RIGHT OF DOUBLE JEOPARDY BARRED THE GOVERNMENT FROM RETRIALING THE DEFENDANT IN A RETRIAL, EVEN IF THE DISTRICT COURT BASED THE ACQUITTAL ON AN ERRONEOUS INTERPRETATION OF GOVERNING LEGAL PRINCIPLES OR UPON LEGAL PRINCIPLES

WHICH ARE THEMSELVES SUBSEQUENTLY
OVERTURNED. FOR PROOF REVIEW

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR
THE TENTH CIRCUIT COURT OF APPEALS CASE LAW OF,
U.S. VS. HUNT 212 F.3d 539 "QUOTEING"

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th
CIR 1986) "QUOTEING"

THERE THE GOVERNMENT MADE THE SAME ARGUMENT
THAT IT MAKES HERE.

FOR ITS PART, THE GOVERNMENT READILY ADMITS THAT
CERTAIN PARTS OF THE INDICTMENT WERE

SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE
THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE

PARTS. THE GOVERNMENT DOES NOT APPEAL THOSE
SPECIFIC FINDINGS. THE CRUX OF THE GOVERNMENT'S

ARGUMENT, HOWEVER IS, THAT DESPITE THE LABEL OF
"ACQUITTAL" USED BY THE COURT, THE JUDGEMENT ON

COUNTS ONE THROUGH TWELVE WAS IN FACT PARTLY A
DISMISSAL "BASED ON THE RULE OF LAW THAT THERE WAS

AN IMPERMISSIBLE VARIANCE. THE GOVERNMENT
OPINES, THEREFORE, THAT IT IS NOT BARRED FROM APPEALING

OR SEEKING A RETRIAL ON THE INDIVIDUAL PARTS
OF THE SCHEME WHICH THE DISTRICT COURT DID NOT

SPECIFICALLY REJECT FOR LACK OF INSUFFICIENT
EVIDENCE.

THE NINTH CIRCUIT REJECTED THE GOVERNMENT'S ARGUE-
MENT IN SCHWARTZ, IN AS MUCH AS WE FIND THE

JUDGEMENT BELOW TO BE A TRUE ACQUITTAL, THE
DOUBLE JEOPARDY CLAUSE BARRS APPEAL EVEN IF

THE DISTRICT COURT BASED THE ACQUITTAL ON AN
ERRONEOUS INTERPRETATION OF GOVERNING LEGAL

PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH ARE
THEMSELVES SUBSEQUENTLY OVERTURNED

INSIDE OF THIS CASE THE STATE OF SOUTH CAROLINA
VS. TYRONE ROBINSON ON INDICTMENT # 2012-05-07-
01935, BECAUSE ON MOTION FOR DIRECTED VERDICT

OF ACQUITTAL, AFTER REVIEWING THE EVIDENCE, THE
TRIAL JUDGE AND TRIAL COURT RESOLUTION, CORRECT
OR NOT, OF THE TRIAL JUDGE AND TRIAL COURT TAKING
OUT, THE WORDS, TERMINATING, DISPOSING AND DISMISSING
THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGING"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

IN RESPONSE TO ATTORNEY ARTE DAVID BOX ARGUMENT
THAT HIS CLIENT TYRONE ROBINSON IS ENTITLED TO A
DIRECTED VERDICT OF ACQUITTAL, BECAUSE THE EVIDENCE
THAT THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL,
WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL
AND FACTUAL ELEMENT AND CRIMINAL CONDUCT
"ALLEGING"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY

REPRESENTS A FINDING BY THE TRIAL JUDGE AND TRIAL COURT, THAT THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL, WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

THE TRIAL JUDGE AND TRIAL COURT RESOLUTION CORRECT OR NOT, OF THE TRIAL JUDGE AND TRIAL COURT TAKING OUT, THE WORDS, TERMINATING, DISPOSING AND DISMISSING. THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL WAS INSUFFICIENT TO CONVICT ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

CONSTITUTED A ACQUITTAL

ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY FOR PROOF REVIEW

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH CIRCUIT COURT OF APPEALS CASE LAW OF. U.S. VS. HUNT 212 F.3d 539 "QUOTING" IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th CIR 1986) "QUOTING"

FOR ITS PART, THE GOVERNMENT READILY ADMITS THAT CERTAIN PARTS OF THE INDICTMENT WERE SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE PARTS. THE GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC FINDINGS.

THEREFORE INSIDE OF THIS CASE OF THE STATE OF SOUTH CAROLINA VS. TYRONE ROBINSON ON INDICTMENT #2012-65-07-01935. THE STATE OF SOUTH CAROLINA CAN NOT RETRY I TYRONE ROBINSON IN A RETRIAL FOR THE DEATH OF VICTIM KHALIL SINGLETON. ALSO THE STATE OF SOUTH CAROLINA CAN NOT APPEAL AGAINST I TYRONE ROBINSON.

BECAUSE ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL. THE TRIAL JUDGE AND TRIAL COURT RESOLUTION CORRECT OR NOT, OF THE TRIAL JUDGE AND TRIAL COURT TAKING OUT, THE WORDS TERMINATING, DISPOSING AND DISMISSING. THE ESSENTIAL AND FACTUAL ELEMENT "ALLEGED" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

IN RESPONSE TO ATTORNEY ARIE DAVID BAX ARGUE-
ment, THAT HIS CLIENT TYRONE ROBINSON IS ENTITLED
TO A DIRECTED VERDICT OF ACQUITTAL, BECAUSE
THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED
AT TRIAL, WAS INSUFFICIENT TO CONVICT, ON THE
ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL
CONDUCT "ALLEGING"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN

~~INHERANTLY DANGEROUS FELONY~~
REPRESENTS A FINDING BY THE TRIAL JUDGE AND TRIAL
COURT, THAT THE EVIDENCE THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL, WAS INSUFFICIENT TO CONVICT
ON THE ESSENTIAL AND FACTUAL ELEMENT AND
CRIMINAL CONDUCT "ALLEGING"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHER-
ANTLY DANGEROUS FELONY

AND CONSTITUTES A ACQUITTAL

ON THE ESSENTIAL AND FACTUAL ELEMENT AND
CRIMINAL CONDUCT "ALLEGING"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN 39.
INHERANTLY DANGEROUS FELONY

THAT ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL.
THE TRIAL JUDGE AND TRIAL COURT TERMINATED,
DISPOSED OF AND DISMISSED FROM THE INDICTMENT,
BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL, WAS INSUFFICIENT TO CONVICT
ON.

THE "ACQUITTAL" THAT I OBTAINED ON THE ESSENTIAL
AND FACTUAL ELEMENT AND CRIMINAL CONDUCT
"ALLEGING"
WHILE ENGAGED IN AN ONGOING GUN BATTLE AN
INHERANTLY DANGEROUS FELONY

THAT ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL.
THE TRIAL JUDGE AND TRIAL COURT TERMINATED,
DISPOSED OF AND DISMISSED FROM THE INDICTMENT,
BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL, WAS INSUFFICIENT TO CONVICT ON.

CONSTITUTED A ACQUITTAL

ON THE WHOLE CRIME OF FELONY MURDER BY THE
FELONY MURDER RULE THEORY "ALLEGING"

WHILE ENGAGED IN AN ONGOING GUN BATTLE AN INHER-
ANTLY DANGEROUS FELONY, TYRONE ROBINSON DIED
WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHO-
UGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT
AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT #2012-BS-07-01935.
AS A RESULT THE FEDERAL 5th AMENDMENT RIGHT
OF DOUBLE JEOPARDY, BARRS THE STATE OF SOUTH CARO-
LINA FROM RETRIEING TYRONE ROBINSON IN A
RETRIAL FOR THE DEATH OF VICTIM KHALIL SINGLETON.
ALSO THE FEDERAL 5th AMENDMENT RIGHT OF DOUBLE
JEOPARDY, BARRS THE STATE OF SOUTH CAROLINA FROM

appealing against TYRONE ROBINSON ON THIS ISSUE. EVEN IF THE "ACQUITTAL" THAT I OBTAINED FROM THE TRIAL JUDGE AND TRIAL COURT, ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT, IS ALLEGEDLY

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

WAS BASED ON AN ERRONEOUS INTERPRETATION OF GOVERNING LEGAL PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH ARE THEMSELVES SUBSEQUENTLY OVERTURNED. FOR PROOF REVIEW CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH CIRCUIT COURT OF APPEALS CASE LAW OF.

U.S. VS. HUNT 212 F.3d 539 "QUOTING"

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9TH CIR 1986) "QUOTING"

THERE THE GOVERNMENT MADE THE SAME ARGUMENT THAT IT MAKES HERE.

FOR ITS PART, THE GOVERNMENT READILY ADMITS THAT CERTAIN PARTS OF THE INDICTMENT WERE SPECIFICALLY DEFERRED FOR LACK OF EVIDENCE THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE PARTS. THE GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC FINDINGS. THE CRUX OF THE GOVERNMENT'S ARGUMENT, HOWEVER IS, THAT DESPITE THE LABEL

OF ACQUITTAL USED BY THE COURTS, THE JUDGEMENT ON COUNTS ONE THROUGH TWELVE WAS IN FACT PARTLY "A DEFERRAL" BASED ON THE RULEING OR LAW THAT THERE WAS AN IMPERMISSIBLE VARIANCE. THE GOVERNMENT OPINES THEREFORE, THAT IT IS NOT BARRED FROM APPEALING OR SEEKING A RETRIAL ON THE INDIVIDUAL PARTS OF THE SCHEME WHICH THE DISTRICT COURT DID NOT SPECIFICALLY REJECT FOR LACK OF SUFFICIENT EVIDENCE.

THE NINTH CIRCUIT REJECTED THE GOVERNMENT'S ARGUMENT IN SCHWARTZ IN AS MUCH AS WE FIND THE JUDGEMENT BELOW TO BE A TRUE ACQUITTAL, THE DOUBLE JEOPARDY CLAUSE BARRS APPEAL EVEN IF THE DISTRICT COURT BASED THE ACQUITTAL ON AN ERRONEOUS INTERPRETATION OF GOVERNING LEGAL PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH ARE THEMSELVES SUBSEQUENTLY OVERTURNED

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR THE NINTH CIRCUIT CASE LAW OF, UNITED STATES OF AMERICA VS. SOL C. SCHWARTZ, RAYMOND F. LANE FRANK C. MAROLDA, AND ABLE CHAPMAN 785 F.2d 673 (1986) "QUOTING"

IN DETERMINING WHETHER AN APPEAL IS BARRED BY THE CLAUSE. THE SUPREME COURT HAS INSTRUCTED THAT THE LABEL APPLIED BY THE DISTRICT COURT, WHETHER "ACQUITTAL" IS NOT DISPOSITIVE. THE

TRIAL JUDGE CHARACTERIZATION OF HIS OWN ACTION CAN NOT CONTROL THE CLASSIFICATION OF THE ACTION. THUS APPLYING SUBSTANCE OVER FORM TO A DISTRICT COURT'S JUDGEMENT OF A CQUITTAL, APPEAL IS BARRED IF THE COURT EVALUATED THE GOVERNMENT'S EVIDENCE AND DETERMINED THAT IT WAS LEGALLY INSUFFICIENT TO SUSTAIN A CONVICTION.

"FURTHER QUOTING"

THE RULE OF MILLER BASED ON THE FIFTH AMENDMENT GRAND JURY GUARANTEE, WAS THAT A CONVICTION COULD NOT STAND WHERE THE TRIAL PROOF SHOWED A FRAUDULENT SCHEME MUCH NARROWER THAN, EVEN THOW WHOLLY INCLUDED WITHIN THE SCHEME INDICTED BY THE GRAND JURY. THE REASONING WAS THAT THE GRAND JURY WILLINGNESS TO INDICT SOME ONE FOR A BROAD WERE FRAUD SCHEMES DOES NOT ESTABLISH THE SAME GRAND JURY WOULD HAVE INDICTED THE PERSON FOR A SUBSTANTIAL NARROWER SCHEME. THE DISTRICT COURT RECOGNIZED THIS PECULIAR RULE AND FROM THE BEGINNING, EXHIBITED AN UNDERSTANDING AS WELL AS AN INTENTION TO HOLD THE GOVERNMENT TO ITS DIRECTIVE. THE GOVERNMENT WAS SPECIFICALLY WARNED BEFORE TRIAL THAT IT WAS REQUIRED TO COMPLY. WHEN THE GOVERNMENT DID NOT COMPLY, THE COURT EXPLAINED TO THE JURY, IN TERMS OF THE NINTH CIRCUIT CASE LAW, WHY IT WAS GRANTING DEFENDANTS MOTION FOR ACQUITTAL. THE COURT EXPLAINED IN LACK OF EVIDENCE ON SEVERAL ELEMENTS OF THE BROAD SCHEME A REASONABLE DOUBT THAT THE DEFENDANTS HAD PARTICIPATED IN A UNITARY SCHEME TO DEFAUD AS CHARGED IN THE INDICTMENT. THERE AFTER, THE COURT ENTERED AN ORDER GRANTING JUDGEMENT OF ACQUITTAL.

THE "ACTION" AND "WORDS" OF THE DISTRICT COURT CLEARLY SHOW THAT IT EVALUATED THE GOVERNMENT'S EVIDENCE UNDER THE PREVAILING LEGAL STANDARDS AND DETERMINED THAT THAT EVIDENCE WAS LEGALLY INSUFFICIENT TO SUSTAIN A WERE FRAUD CONVICTION AS INDICTED. THIS CAN ONLY AMOUNT TO AN ACQUITTAL ON ALL THIRTEEN COUNTS THAT WENT TO TRIAL. "FURTHER QUOTING"

IN AS MUCH AS WE FIND THE JUDGEMENT BELOW TO BE A ACQUITTAL, THE DOUBLE JEOPARDY CLAUSE BARS APPEAL EVEN IF THE DISTRICT COURT BASED THE ACQUITTAL ON AN ERRONEOUS INTERPRETATION OF GOVERNING LEGAL PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH ARE THEMSELVES SUBSEQUENTLY OVERTURNED

FEDERAL 5TH AMENDMENT
RIGHT OF DOUBLE JEOPARDY, BARRS
THE STATE OF SOUTH CAROLINA FROM
RETRYING ME IN A RETRIAL FOR THE
DEATH OF VICTIM KHALIL SINGLETON

AS A MATTER OF LAW THE "ACQUITTAL" THAT I OBTAINED ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING

gun battle an INHERENTLY DANGEROUS FELONY

That on motion for directed verdict of acquittal, the trial judge and trial court terminated, disposed of and dismissed from out of the indictment that I was tried on before the jury at trial, because the evidence that the state of South Carolina submitted at trial was insufficient to convict on.

constitutes an ACQUITTAL on the whole crime of felony murder by the felony

murder rule theory "allegedly" while engaged in a ongoing gun battle an inherent-ly dangerous felony, Tyrone Robinson did willfully, unlawfully and with malice aforethought cause the victim Khalil Singleton to be shot and killed

that charged and alleged inside of the written write up of indictment #2012-65-07-01935 that I was tried on before the jury at trial.

As a result the federal 5th Amendment right of double jeopardy bars the state of South Carolina from retrial of Tyrone Robinson in a retrial for the death of victim Khalil Singleton, even if the "ACQUITTAL" that I obtained from the trial judge and trial court, on the essential and factual element and criminal conduct "allegedly" while engaged in a ongoing gun battle an inherently dangerous felony

was based on an erroneous interpretation of governing legal principles or upon legal principles, which are themselves subsequently overturned. For proof review case law merits

United States of America Court of Appeals for the tenth circuit Court of Appeals case law of U.S. vs. Hunt 212 F.3d 539 "quote"

The ninth circuit reached the same conclusion in United States vs. Schwartz 785 F.2d 673 (9th Cir 1986) "quote"

There the government made the same argument that it makes here.

For its part, the government readily admits that certain parts of the indictment were specifically dismissed for lack of evidence there by amounting to an acquittal as to those parts. The government does not appeal those specific findings. The crux of the government's argument, however is, that despite the label of acquittal used by the courts, the judgment on counts one through twelve was in fact partly a dismissal based on the ruling of law that there was an impermissible variance. The government opposes therefore, that it is not barred from appealing or seeking a retrial on the individual parts of the scheme which the district court did not specifically reject for lack of sufficient evidence.

The ninth circuit rejected the government's argument in Schwartz, in as much as we find

The judgement below to be a true acquittal
 The double jeopardy clause bars appeal
 even if the district court based the acquittal
 on an erroneous interpretation of govern-
 -ing legal principle or upon legal principles
 which are themselves subsequently overt-
 -urned.

ENTITLED TO DIRECTED VERDICT OF ACQUITTAL

The federal 5th and 14th amendment right
 of due process of law protects a person
 from being convicted and deprived out
 of their liberty. UNLESS UPON PROOF
 beyond a reasonable doubt of every fact
 necessary to constitute the crime that's
 charged and alleged inside of the written
 write up of the indictment that they are
 tried on before the jury at trial.

CASE LAW MERITS
 SUPREME COURT OF APPEALS OF THE UNITED STATES
 OF AMERICA CASE LAW OF:
 DAVID SANDSTORM VS. STATE OF MONTANA 905 CT
 2450 QUOTE ENO

WE EXPLICITLY HOLD THE DUE PROCESS CLAUSE
 PROTECTS THE ACCUSED AGAINST CONVICTION
 ACCEPT UPON PROOF BEYOND A REASONABLE
 DOUBT OF EVERY FACT NECESSARY TO CONSTITUTE
 THE CRIME WITH WHICH HE IS CHARGED

INSIDE OF THE STATE OF SOUTH CAROLINA CASE
 LAW OF LUCAS BATLEY VS. STATE 709 S.E.2d
 671.

THE SUPREME COURT OF APPEALS OF THE STATE OF
 SOUTH CAROLINA DECIDED. THAT INSIDE OF THE
 STATE OF SOUTH CAROLINA. IT IS A UNIVERSAL
 ABSEVANCE IN ADMINISTERING THE CRIMINAL
 LAW. THAT A DEFENDANT MUST BE CONVICTED IF
 CONVICTED AT ALL, OF THE PARTICULAR OFFENSE
 CHARGED IN THE BILL OF INDICTMENT. A
 MATERIAL VARIANCE BETWEEN CHARGE AND
 PROOF ENTITLES THE DEFENDANT TO A DIRECTED

VERDICT OF ACQUITTAL.
 WHEN THE INDICTMENT CHARGES A COMPLEX OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED. A CONVICTION UNDER LATTER CIRCUMSTANCES VIOLATES PRINCIPLES OF DUE PROCESS OF LAW, BECAUSE THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT, EVERY FACT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH A DEFENDANT IS CHARGED. A MATERIAL VARIANCE THAT VIOLATES A PERSON'S SUBSTANTIAL RIGHT TO BE TRIED ONLY ON CHARGES PRESENTED IN A INDICTMENT. CONSTITUTES "FATAL ERROR AND WARRANTS A REVERSAL" ON A PPEAL OF A JUDGEMENT OF CONVICTION OF THE OFFENSE NOT CHARGED IN THE INDICTMENT. AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA INSIDE OF THE CASE LAW OF LUCAS BAILEY VS. STATE 709 S.E.2d 671

BECAUSE THE STATE OF SOUTH CAROLINA INDICTED AND TRIED ME BEFORE THE JURY AT TRIAL. ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE A FORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL, THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

IS A ALLEGED NECESSARY ALLEGED FACT. THAT THE STATE OF SOUTH CAROLINA HAS THE BURDON OF PROOF TO PROVE THAT I AM GUILTY OF BEYOND A REASONABLE DOUBT, BEFORE THE STATE OF SOUTH CAROLINA COULD CONVICT AND SENTENCE ME TO PRISON TIME OR LIFE IMPRISONMENT ON INDICTMENT #2012-65-07-01935. FOR PROOF REVIEW

CASE LAW MERITS
 SUPREME COURT OF STATE OF GEORGIA CASE LAW OF.

HOLLMAN VS. THE STATE 356 S.E. 2d 886 "QUOTE" THE PRIMARY DIFFERENCE BETWEEN THE OFFENSES OF MALICE MURDER AND FELONY MURDER IS THAT FELONY MURDER DOES NOT REQUIRE MALICE OR THE INTENT TO KILL. FELONY MURDER DOES HOWEVER, REQUIRE THAT

The defendant poses the requisite criminal intent to commit the underlying felony. For the conviction in this case to stand, the jury must have found that the defendant possessed the criminal intent to commit aggravated assault.

CASE LAW MERITS

Supreme Court of Appeals of the United States of America Case Law of Whalen vs. United States 100 S.Ct 1435 "quoting" a conviction for killing in the course of rape can not be had without proving all the elements of the offense of rape "further quoting" in the present case however proof of rape is a necessary element of proof of the felony murder

CRIMINAL CONDUCT

Alleged in the indictment

At pretrial hearing the state of South Carolina and its solicitor Isaac Mc. Duffre Stone confessed that the "CRIMINAL CONDUCT" "alleged" while engaged in a ongoing gun battle an inherently dangerous felony that charged and alleged inside of the written write up of indictment # 2012-65-07-01935, is the one and only "CRIMINAL CONDUCT" that the state of South Carolina and prosecuting solicitor Isaac Mc. Duffre Stone is alleging resulted in the death of victim Khalil Singleton. For proof I quote the confession from the state of South Carolina and prosecuting solicitor Isaac Mc. Duffre Stone. From pages 1052 and 1053 of trial transcript from pretrial hearing on February 24th 2014

CONFESSION OF CRIMINAL CONDUCT

quoting confession of criminal conduct of a ongoing gun battle an inherently dangerous felony that the state of South Carolina and its prosec-

- UTE MY SOLICITOR ISSAC MC. DUFFIE STONE
 CONFESSED, IS THE ONLY CRIMINAL CONDUCT
 THAT RESULTED IN THE DEATH OF VICTIM KHALIL
 SINGLETON.
 "QUOTE MY"

STATE OF SOUTH CAROLINA

V.S.

TYRONE ROBINSON

"QUOTE MY" THE STATE OF SOUTH CAROLINA AND ITS
 PROSECUTING SOLICITOR ISSAC MC. DUFFIE STONE
 CONFESSED, IS THE ONLY CRIMINAL CONDUCT. FROM PAGE
 1052 PARAGRAPHS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 AND 24 AND
 PAGE 1053 PARAGRAPH 1 AND 2 OF TRIAL
 TRANSCRIPT FROM PRETRIAL HEARING ON
 FEBRUARY 24th 2014 "QUOTE MY"

OUR THEORY IS THE FELONY MURDER RULE THEORY,
 THAT YOU HAVE THREE PEOPLE COMMITTING

INHERENTLY DANGEROUS FELONIES, AND
 AS A RESULT OF THERE INHERENTLY DANGER-

- FOUR FELONIES, A CHILD DIES. THE ACTUAL
 SHOOTER, AS TO SPEAK, THE ONE THAT DISCHARGED
 THE FATAL BULLET, UNDER THAT SCENARIO, IS

WHILE RELEVANT, NOT CONTROLLING, SO THAT
 IS THE POSITION THAT THE STATE GOES UNDER AND

THAT THE THEORY THAT THE STATE GOES UNDER AND
 THAT IS A CONSISTANT THEORY AMONG ALL THE

DEFENDANTS, THAT IS THE THEORY. THE THEORY
 WERE NOT SWITCHING UP OUR THEORIES, DEPEND-

- DING ON WHICH DEFENDANT WERE TALKING
 ABOUT. WE FEEL LIKE ALL THREE OF THESE
 PEOPLE WERE INVOLVED IN AN INHERENTLY

DANGEROUS FELONY, WHICH IS A SHOOTOUT
 THAT BASICALLY WENT FROM THE RIGHT AS YOU

GO TO HILTON HEAD, ALL THE WAY DOWN INTO
 MARSHLAND ROAD, ALONG THE CROSS ISLAND

EXPRESS WAY, AND I DON'T KNOW IF YOUR
 FAMILY LIVES WITH THIS AREA, BUT IT INVOLVES

THREE NEIGHBORHOODS IN HILTON HEAD, AND THIS
 WAS A SHOOTOUT THAT TOOK PLACE FIRST AT

WHITE HORSE ROAD, AND THEN AT ANOTHER
 NEIGHBORHOOD IN BETWEEN, AND THEN AT A

THIRD AT ALLEN ROAD, AREA, WHICH IS WHERE
 THE CHILD WAS PLAYING ON THE TRAMPOLINE
 AND KILLED, OUR THEORY IS ALL THREE OF
 THEM ARE CULPABLE UNDER THAT SCENARIO,
 AND THATS THE THEORY WERE PROCEEDING FOR TRIAL

Therefore based on the facts explained. After the state of South Carolina rested their case, on motion for directed verdict of acquittal. As a matter of law the trial judge and trial court was entitled to grant me my motion for directed verdict of acquittal on indictment # 2012-GS-07-01935. If the state of South Carolina failed to prove that I was guilty beyond a reasonable doubt of committing the "CRIMINAL CONDUCT" "alleging" while engaged in a ongoing gun battle and inherently dangerous felony.

That indictment # 2012-GS-07-01935 charge and allege, is the one and only CRIMINAL CONDUCT. That the state of South Carolina and its prosecuting solicitor Isaac Mc. Duffie Stone, allege is the "CRIMINAL CONDUCT" that resulted in the death of victim KHALIL SINGLETON. As decided by the Supreme Court of Appeals of the state of South Carolina for proof review.

CASE LAW MERITS
 SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF: 2d 367
 STATE VS. JACKSON 527 S.E.2d 367
 WERE THE FACTS OF THE CASE EVEN IF PROVED DO NOT CONSTITUTE THE ALLEGED CRIMINAL CONDUCT. A DIRECTED VERDICT MUST BE GRANTED

As a matter of law on motion for directed verdict of acquittal, the trial judge and trial court resolution correct or not. Of the trial judge and trial court terminating, disposing and dismissing. The essential and factual element and "CRIMINAL CONDUCT" "alleging" while engaged in a ongoing gun battle and inherently dangerous felony.

In response to attorney ARTE DAVID BOX argument that his client TYRONE ROBINSON is entitled to a directed verdict of acquittal, because the evidence the state of South Carolina submitted at trial was insufficient to convict. On the essential and factual element and criminal conduct "alleging" while engaged in a ongoing gun battle and inherently dangerous felony.

Representing a finding by the trial judge and trial court, that the evidence the state of South Carolina submitted at trial, was insufficient to convict on the essential and factual element and criminal conduct "alleging" while engaged in a ongoing gun battle and inherently dangerous felony.

CONSTITUTES A ACQUITTAL
ON THE ESSENTIAL AND FACTUAL ELEMENT AND
"CRIMINAL CONDUCT" "ALLEGED"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY

THAT INDICTMENT # 2012 - GS - 07 -
01935 CHARGE AND ALLEGE, IS THE ONE AND
ONLY CRIMINAL CONDUCT, THAT THE STATE OF
SOUTH CAROLINA AND ITS SOLICITOR GENERAL MC.
DUFFLESTONE, ALLEGE IS THE CRIMINAL CONDUCT
THAT RESULTED IN THE DEATH OF VICTIM KHALIL
SINGLETON. FOR PROOF REVIEW

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS
FOR THE TENTH CIRCUIT COURT OF APPEALS CASE
LAW OF.

U.S. VS. HUNT 212 F.3d 539 "QUOTE"

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673
(9TH CIR 1986) "QUOTE"

FOR ITS PART, THE GOVERNMENT READILY ADMITS
THAT CERTAIN PARTS OF THE INDICTMENT WERE
SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE
THERE BY AMOUNTING TO AN ACQUITTAL
AS TO THOSE PARTS. THE GOVERNMENT DOES
NOT APPEAL THESE SPECIFIC FINDINGS

ALSO AS A MATTER OF LAW THE "ACQUITTAL"
THAT IS OBTAINED ON THE ESSENTIAL AND FACTUAL
ELEMENT AND "CRIMINAL CONDUCT" "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE
AN INHERENTLY DANGEROUS FELONY

THAT ON MOTION FOR DIRECTED VERDICT OF
ACQUITTAL, THE TRIAL JUDGE AND TRIAL COURT
TERMINATED, DISPOSED OF AND DISMISSED FROM
THE INDICTMENT, BECAUSE THE EVIDENCE THE
STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL,
WAS INSUFFICIENT TO CONVICT ON.

CONSTITUTES A ACQUITTAL
ON THE WHOLE CRIME OF FELONY MURDER BY
THE FELONY MURDER RULE THEORY "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY, TYRONE ROBT-
-NISON DID WILLFULLY UNLAWFULLY AND WITH
MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL
SINGLETON TO BE SHOT AND KILLED

THAT'S CHARGED AND ALLEGED INSIDE OF THE
WRITTEN WRITE UP OF INDICTMENT #2012-65-
-07-01935 THAT I WAS TRIED ON BEFORE THE JURY
AT TRIAL. FOR PROOF REVIEW
CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS
FOR THE TENTH CIRCUIT CASE LAW OF

U.S. VS. HUNT 212 F.3d 539 "QUOTE" IN //

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673
(9TH CIR 1986) "QUOTE" IN //

THERE THE GOVERNMENT MADE THE SAME ARGUMENT
THAT IT MAKES HERE.

FOR ITS PART THE GOVERNMENT READILY ADMITS
THAT CERTAIN PARTS OF THE INDICTMENT WERE
SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE THERE
BY AMOUNTING TO AN ACQUITTAL AS TO THOSE PARTS.
THE GOVERNMENT DOES NOT APPEAL THOSE SPECIFIC
FINDINGS. THE CRUX OF THE GOVERNMENT ARGUMENT
HOWEVER IS, THAT DESPITE THE LABEL OF ACQUITTAL

USED BY THE COURTS, THE JUDGEMENT ON COUNTS ONE
THRU TWELVE WAS IN FACT PARTLY A DISMISSAL
BASED ON THE RULEING OF LAW THAT THERE WAS AN
IMPERMISSIBLE VARIANCE. THE GOVERNMENT OPINES

THEREFORE, THAT IT IS NOT BARRED FROM APPEALING
OR SEEKING A RETRIAL ON THE INDIVIDUAL PARTS
OF THE SCHEME WHICH THE DISTRICT COURT DID NOT
SPECIFICALLY REJECT FOR LACK OF SUFFICIENT

EVIDENCE. THE NINTH CIRCUIT REJECTED THE GOVERN-
MENTS ARGUMENT IN SCHWARTZ. IS AS MUCH AS WE
FIND THE JUDGEMENT BELOW TO BE A TRUE ACQUITTAL.

THE DOUBLE JEOPARDY CLAUSE BARRS APPEAL EVEN IF
THE DISTRICT COURT BASED THE ACQUITTAL ON AN
ERRONEOUS INTERPRETATION OF GOVERNING LEGAL
PRINCIPLES OR UPON LEGAL PRINCIPLES WHICH
ARE THEMSELVES SUBSEQUENTLY OVERTURNED.

THEREFORE AFTER THE STATE OF SOUTH CAROLINA RESTED
THEIR CASE, BECAUSE OF MOTION FOR DIRECTED VERDICT
OR ACQUITTAL, THE TRIAL JUDGE AND TRIAL COURT
"DISMISSED" OF THE "CRIMINAL CONDUCT" AND

ESSENTIAL AND FACTUAL ELEMENT "ALLEGED" IN //
WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERANTLY DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL WAS INSUFFICIENT TO CONVICT
ON.

CONSTITUTES A ACQUITTAL ON THE "CRIMINAL
CONDUCT" AND ESSENTIAL AND FACTUAL ELEMENT
"ALLEGED" IN //

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-

- INHERENTLY DANGEROUS FELONY

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT
I WAS TRIED ON BEFORE THE JURY AT TRIAL.

AS A MATTER OF LAW THIS COURT MUST "GRANT"

ME MY MOTION FOR DIRECTED VERDICT OF
ACQUITTAL - ON THE CRIME OF FELONY MURDER
BY THE FELONY MURDER RULE THEORY "ALLEGING"

WHILE ENGAGED IN AN ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY, TYRONE

ROBINSON DID WILLFULLY UNLAWFULLY AND

WITH MALICE AFORETHOUGHT CAUSE THE VICTIM
KHALIL SINGLETON TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE
WRITTEN WRITE UP OF INDICTMENT # 2012-65-
07-01935. THAT I WAS TRIED ON BEFORE THE JURY
AT TRIAL, AND MOTIONED FOR A DIRECTED VERDICT
OF ACQUITTAL ON. AS DECIDED BY THE SUPREME
COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
FOR PROOF REVIEW
CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE
OF SOUTH CAROLINA CASE LAW OF.
STATE VS. JACKSON 527 S.E.2D 367 "QUOTING"
WERE THE FACTS OF THE CASE EVEN IF PROVED
DO NOT CONSTITUTE THE ALLEGED CRIMINAL
CONDUCT A DIRECTED VERDICT MUST BE
GRANTED

DEPRIVATION OF LIBERTY IN VIOLATION OF THE FEDERAL 5th AND 14th AMENDMENT RIGHT OF DUE PROCESS OF LAW

The Federal 5th and 14th Amendment Right of Due Process of Law, protects a person from being convicted and deprived out of their liberty, unless upon proof beyond a reasonable doubt of every fact necessary to constitute the crime that is charged and alleged inside of the written writ up of the indictment that they are tried on before the jury at trial.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF.

DAVID SANDSTROM VS. STATE OF MONTANA 905.CT2450
 QUOTE END
 WE EXPLICITLY HOLD THE DUE PROCESS CLAUSE PROTECTS THE ACCUSED AGAINST CONVICTION ACCEPT UPON PROOF BEYOND A REASONABLE DOUBT OF EVERY FACT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH HE IS CHARGED

INSIDE OF THE STATE OF SOUTH CAROLINA CASE LAW OF LUCAS BAILEY VS. STATE 709 S.E. 2d 671

THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA DECIDED, THAT INSIDE OF THE STATE OF SOUTH CAROLINA, IT IS A UNIVERSAL OBSERVANCE IN ADMINISTERING THE CRIMINAL LAW, THAT A DEFENDANT MUST BE CONVICTED IF CONVICTED AT ALL, OF THE PARTICULAR OFFENSE CHARGED IN THE BILL OF INDICTMENT. A MATERIAL VARIANCE BETWEEN CHARGE AND PROOF ENTITLES THE DEFENDANT TO A DIRECTED VERDICT OF ACQUITTAL, WHEN THE INDICTMENT CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED. A CONVICTION UNDER LATTER CIRCUMSTANCES VIOLATES PRINCIPLES OF DUE PROCESS OF LAW, BECAUSE THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT, EVERY FACT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH A DEFENDANT IS CHARGED. A MATERIAL VARIANCE THAT VIOLATES A PERSON'S SUBSTANTIAL RIGHT TO BE TRIED ONLY ON CHARGES PRESENTED IN A INDICTMENT, CONSTITUTES FATAL ERROR AND WARRANTS A REVERSAL ON A APPEAL OF A JUDGEMENT OF CONVICTION OF THE OFFENSE NOT CHARGED IN THE INDICTMENT, AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA INSIDE OF THE CASE LAW OF LUCAS BAILEY -

VS. STATE 709 S.E. 2d 671

THEREFORE AFTER THE STATE SOUTH CAROLINA RESTED
THEIR CASE, ON MOTION FOR DIRECTED VERDICT OF
ACQUITTAL, THE TRIAL JUDGE AND TRIAL COURT
RESOLUTION CORRECT OR NOT, OF THE TRIAL JUDGE AND
TRIAL COURT TERMINATING, DISPOSING AND
"DISMISSING" THE ESSENTIAL AND FACTUAL ELEMENT
AND CRIMINAL CONDUCT "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
ENTLY DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA
SUBMITTED AT TRIAL, WAS INSUFFICIENT TO CONVICT,
ON. CONSTITUTED A "ACQUITTAL"

ON THE ESSENTIAL AND FACTUAL ELEMENT AND
CRIMINAL CONDUCT "ALLEGED"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY FOR PROOF

REVER

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS
FOR TENTH CIRCUIT COURT OF APPEALS CASE LAW
OF.

U.S. VS. HUNT 212 F.3d 539 "QUOTE"

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9TH
CTR 1986) "QUOTE"

FOR ITS PART THE GOVERNMENT READILY ADMITS
THAT CERTAIN PARTS OF THE INDICTMENT WERE
SPECIFICALLY DISMISSED FOR LACK OF EVIDENCE
THERE BY AMOUNTING TO AN ACQUITTAL AS TO THOSE
PARTS. THE GOVERNMENT DOES NOT APPEAL THESE
SPECIFIC FINDINGS

AS A MATTER OF LAW THE ACQUITTAL THAT I
OBTAINED ON THE ESSENTIAL AND FACTUAL ELEMENT
AND CRIMINAL CONDUCT "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
ENTLY DANGEROUS FELONY

THAT ON MOTION FOR DIRECTED VERDICT OF ACQUITTAL..
THE TRIAL JUDGE AND TRIAL COURT TERMINATED
DISPOSED OF AND DISMISSED FROM OUT OF THE INDICT-
MENT. BECAUSE THE EVIDENCE THE STATE OF SOUTH
CAROLINA SUBMITTED AT TRIAL, WAS INSUFFICIENT
TO CONVICT ON. CONSTITUTED A "ACQUITTAL"

ON THE WHOLE CHARGE OF FELONY MURDER BY THE FELONY
MURDER RULE THEORY "ALLEGED"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY
DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY
UNLAWFULLY, AND WITH MALICE AFORETHOUGHT
CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT

AND KILLED

75.

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT I WAS
TRIED ON BEFORE THE JURY AT TRIAL AND MOTIONED
FOR A DIRECTED VERDICT OF ACQUITTAL ON-FOR PROOF
REVIEW

CASE LAW MERITS

UNITED STATES OF AMERICA COURT OF APPEALS FOR
THE TENTH CIRCUIT COURT OF APPEALS CASE LAW
OF:
U.S. VS. HUNT 212 F.3d 539 "QUOTING"

THE NINTH CIRCUIT REACHED THE SAME CONCLUSION
IN UNITED STATES VS. SCHWARTZ 785 F.2d 673 (9th CIR
1986) "QUOTING"

THERE THE GOVERNMENT MADE THE SAME ARGUMENT
THAT IT MAKES HERE.
FOR ITS PART THE GOVERNMENT READILY ADMITS THAT
CERTAIN PARTS OF THE INDICTMENT WERE SPECIFIC-
ALLY DISMISSED FOR LACK OF EVIDENCE THERE BY
AMOUNTING TO AN ACQUITTAL AS TO THESE PARTS. THE
GOVERNMENT DOES NOT APPEAL THESE SPECIFIC FINDINGS.
THE CRUX OF THE GOVERNMENT'S ARGUMENT USED BY THE
COURT, THAT DESPITE THE LABEL OF ACQUITTAL USED BY THE
COURT, THE JUDGEMENT ON COUNT ONE THROUGH TWELVE
WAS IN FACT PARTLY A "DEFINITIVE" BASED ON THE RULE
OF LAW THAT THERE WAS AN IMPERMISSIBLE VARIANCE.
THE GOVERNMENT OPINES THEREFORE, THAT IT IS NOT
BARRED FROM APPEALING OR SEEKING A RETRAIAL
ON THE INDIVIDUAL PARTS OF THE SCHEME WHICH
DISTRICT COURT DID NOT SPECIFICALLY REJECT FOR
LACK OF SUFFICIENT EVIDENCE.
THE NINTH CIRCUIT REJECTED THE GOVERNMENT'S ARGUM-
ENT IN SCHWARTZ IN AS MUCH AS WE FIND THE
JUDGEMENT BELOW TO BE A TRUE ACQUITTAL. THE
DOUBLE JEOPARDY CLAUSE BARS APPEAL ON A
DISTRICT COURT BASED THE ACQUITTAL ON A
ERRONEOUS INTERPRETATION OF GOVERNING LEGAL
PRINCIPALS OR UPON LEGAL PRINCIPALS WHICH ARE
THEMSELVES SUBSEQUENTLY OVERTURNED

AS A MATTER OF LAW PROVEING THAT THE STATE OF
SOUTH CAROLINA FAILED TO PROVE THAT I AM GUILTY
BEYOND A REASONABLE DOUBT. OF COMMITTING EVERY
ALLEGED FACT NECESSARY TO CONSTITUTE THE CRIME
OF FELONY MURDER BY THE FELONY MURDER RULE
THEORY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY
DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY
UNLAWFULLY AND WITH MALICE A FORETHOUGHT CAUSE
THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT I
WAS TRIED ON BEFORE THE JURY AT TRIAL AND MOTIONED
FOR A DIRECTED VERDICT OF ACQUITTAL ON.
AS A MATTER OF LAW PROVEING THAT WHEN THE TRIAL
JUDGE AND TRIAL COURT DENIED MY MOTION FOR DIRE-
CTED VERDICT OF ACQUITTAL, AND DEPRIVED ME OUT
OF MY LIBERTY. ON INDICTMENT # 2012-65-07-01935

That I was TRIED on before the JURY at TRIAL.
 The TRIAL JUDGE and TRIAL COURT UNCONSTITUTION-
 - ALLY DEPRIVED me out of my LIBERTY, IN VIOLATION
 OF my FEDERAL 14TH and 5TH Amendment RIGHT OF
 DUE PROCESS OF LAW WHICH STATES "QUOTE FDP"
 NOR shall any PERSON be DEPRIVED OUT OF LIBERTY
 WITHOUT due PROCESS OF LAW

WHICH as a result I am CURRENTLY BEING held
 UNCONSTITUTIONALLY DEPRIVED OUT OF my LIBERTY
 ON Indictment #2012-05-07-01935, IN VIOLATION
 OF my FEDERAL 5TH and 14TH Amendment RIGHT OF
 DUE PROCESS OF LAW.
 THEREFORE AS a MATTER OF LAW THE APPEALS COURT
 MUST "REVERSE" my CONVICTION AND PRISON
 SENTENCE OF LIFE IMPRISONMENT and discharge
 me from IMPRISONMENT ON Indictment #2012-
 - 05-07-01935 FOR PROOF REVIEW
 CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES
 OF AMERICA CASE LAW OF.

DAVID SANDSTORM VS. STATE OF MONTANA 905 CT
 2450 "QUOTE FDP"

WE EXPLICITLY hold, THE DUE PROCESS CLAUSE PROTECTS
 THE ACCUSED AGAINST CONVICTION EXCEPT
 UPON PROOF BEYOND A REASONABLE DOUBT OF EVERY
 FACT NECESSARY TO CONSTITUTE THE CRIME WITH
 WHICH HE IS CHARGED REVERSED

CASE LAW MERITS

SUPREME COURT OF APPEALS OF STATE OF SOUTH
 CAROLINA CASE LAW OF.

LUCAS BATLEY VS. STATE 709 S.E. 2d 671 "QUOTING"
 IN VIDE OF THE STATE OF SOUTH CAROLINA, IT IS
 A UNIVERSAL OBSERVANCE IN ADMINISTERING

THE CRIMINAL LAW, THAT A DEFENDANT MUST BE
 CONVICTED IF CONVICTED AT ALL, OF THE PARTICULAR
 OFFENSE CHARGED IN THE BILL OF INDICTMENT. A
 MATERIAL VARIANCE BETWEEN CHARGE AND PROOF
 ENTITLES THE DEFENDANT TO A DIRECTED VERDICT OF
 ACQUITTAL.

WHEN THE INDICTMENT CHARGES A COMPLETE OFFENSE
 AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS
 UNDER A DIFFERENT THEORY THAN THAT ALLEGED A
 CONVICTION UNDER LATTER CIRCUMSTANCES VIOLATES

PRINCIPLES OF DUE PROCESS OF LAW.
 BECAUSE THE STATE HAS FAILED TO PROVE BEYOND
 A REASONABLE DOUBT, EVERY FACT NECESSARY TO
 CONSTITUTE THE CRIME WITH WHICH A DEFENDANT
 IS CHARGED.

A MATERIAL VARIANCE THAT VIOLATES A PERSON'S
 SUBSTANTIAL RIGHT TO BE TRIED ONLY ON CHARGES
 PRESENTED IN A INDICTMENT, CONSTITUTES FATAL
 ERROR AND WARRANTS A REVERSAL ON

a APPEAL OF A JUDGEMENT OF CONVICTION
OF THE OFFENSE NOT CHARGED IN THE
INDICTMENT

DISCHARGE FROM IMPRISONMENT

EVEN THOUGH THE TRIAL JUDGE AND TRIAL COURT ERRORED BY DENYING MY MOTION FOR DIRECTED VERDICT OF ACQUITTAL

BECAUSE THE TRIAL JUDGE AND TRIAL COURT DISMISSAL OF THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

BECAUSE THE EVIDENCE THE STATE OF SOUTH CAROLINA SUBMITTED AT TRIAL WAS INSUFFICIENT TO CONVICT ON, CONSTITUTED A ACQUITTAL ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

ALSO BECAUSE THE ACQUITTAL ON THE ESSENTIAL AND FACTUAL ELEMENT AND CRIMINAL CONDUCT "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY

CONSTITUTES A ACQUITTAL ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL TEMPLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL, AS A MATTER OF LAW THIS COURT MUST DISCHARGE ME FROM IMPRISONMENT ON INDICTMENT # 2012-GS-07-01935 THAT I WAS SENTENCED TO LIFE IMPRISONMENT ON AND AM CURRENTLY BEING HELD IMPRISONED ON. FOR PROOF REVENUE

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF: KEPTNER VS. U.S. 24 S.Ct 797 "A MISTAKE"

AS TO THE DEFENDANT WHO HAD BEEN ACQUITTED BY THE VERDICT DULY RETURNED AND RECEIVED, THE COURT COULD TAKE NO OTHER ACTION THAN TO ORDER HIS DISCHARGE. THE VERDICT OF ACQUITTAL WAS FINAL AND COULD NOT BE REVIEWED ON ERROR OR OTHERWISE, WITHOUT PUTTING HIM TWICE IN JEOPARDY, AND THEREBY VIOLATING THE CONSTITUTION. HOWEVER IT MAY BE IN ENGLAND, IN THIS COUNTRY A VERDICT OF ACQUITTAL, ALTHOUGH NOT FOLLOWED BY ANY JUDGEMENT, IS A BAR TO A SUBSEQUENT PROSECUTION FOR THE SAME OFFENSE

JUDGEMENT REVERSED AND PRISONER DISCHARGED

3rd ARGUMENT

LACK OF SUBJECT MATTER JURISDICTION

did the TRIAL JUDGE AND TRIAL COURT LACK SUBJECT MATTER JURISDICTION TO CONVICT, SENTENCE TO PRISON + TIME OF LIFE IMPRISON AND UNLAWFULLY RESTRAIN me, ON THE THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME ALLEGEDLY I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THAT IS A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME, THAT IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE, OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGEDLY

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED.

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL, PURSUANT TO THE 21009

CASE LAW OF THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA IN THE 21009 CASE OF RICKY PELZER

VS. STATE OF SOUTH CAROLINA 572 S.E.2d 790 (21009) QUOTING

THE TRIAL COURT LACKS SUBJECT MATTER JURISDICTION TO CONVICT THE DEFENDANT OF A CRIME THAT IS NOT A LESSER INCLUDED OF THE OFFENSE CHARGED IN THE INDICTMENT, FOR

AN OFFENSE TO BE A LESSER INCLUDED OF ANOTHER, THE GREATER OFFENSE MUST INCLUDE ALL THE ELEMENTS OF THE LESSER OFFENSE.

IF THE LESSER OFFENSE INCLUDES AN ELEMENT NOT INCLUDED IN THE GREATER OFFENSE, THEN THE LESSER OFFENSE IS NOT INCLUDED IN THE GREATER

LAW ANALYSIS

INSIDE OF THE CASE OF STATE VS. DECKERSON 716 S.E.2d 895 THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA DECIDED THAT THE 21005 CASE LAW OF STATE VS. GENTRY 610 S.E.2d 494 MERELY

HELD THAT A DEFENDANT MUST CHALLENGE AN INDICTMENT PRIOR TO THE SWEARING OF THE JURY, ALTHOUGH I DID CHALLENGE THE SUFFICIENCY OF THE INDICTMENT IN THIS CASE, BEFORE THE JURY WAS SWORN, BECAUSE THE SUFFICIENCY OF THE INDICTMENT IS

NOT THE ISSUE BEING ARGUED IN THIS ARGUMENT. THE 21005 CASE LAW OF STATE VS. GENTRY 610 S.E.2d 494 IS IN OPPOSITE AND IS NOT CONTROLLING LAW IN THIS ARGUMENT ON THE ISSUE OF LACK OF

SUBJECT MATTER JURISDICTION TO CONVICT AND SENTENCE TO PRISON TIME OF LIFE IMPRISONMENT, ON A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME THAT IS A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME, THAT IS NOT CLASSIFIED

AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY, THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-01935, THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL. ALSO ISSUES RELATED TO SUBJECT MATTER JURISDICTION

may be raised at any time, including for the first time on appeal. As decided by South Carolina Court of Appeals inside of the case of State vs. Parker 543 S.E.2d 255, the trial court lacks subject matter jurisdiction to convict the defendant of a crime that is not a lesser included of the offense charged in the indictment. For an offense to be a lesser included offense of another, the greater offense must include all the elements of the lesser offense, if the lesser offense includes an element not included in the greater offense, then the lesser offense is not included in the greater. As decided by the Supreme Court of Appeals inside of 2,009 inside of the 2,009 case law of Ricky Pelzer vs. State of South Carolina 622 S.E.2d 790

The (2,009) case law of Ricky Pelzer vs. State of South Carolina 622 S.E.2d 790, was decided by the Supreme Court of Appeals of the State of South Carolina exactly four years after the Supreme Court of Appeals of the State of South Carolina (2,005) case law of State vs. Gentry 610 S.E.2d 494. Therefore the (2,009) Supreme Court of Appeals of the State of South Carolina case law of Ricky Pelzer vs. State of South Carolina 622 S.E.2d 790 is controlling law in this argument.

ARGUMENT

1st alleged crime of felony murder by the felony murder rule theory. That's charged and alleged inside of the written write up of indictment # 2012-GJ-07-01935. That the jury at my trial was sworn in on. The defense of double jeopardy attaches to and I was put in jeopardy of being punished with prison time of life imprisonment for, for the death of victim Khalil Singleton.

I quote the trial judge and trial court reading to the jury of the crime of felony murder by the felony murder rule theory from the trial transcript quoting

State of South Carolina
vs.
Tyronne Robinson

"Quoting" from page 3 and 4 of trial transcript the court (AKA) trial judge Thomas Cooper stated "Quoting" ladies and gentleman as you have heard the solicitor has called the case of the state versus Tyronne Robinson. Mr. Robinson has been indicted by the grand jury of Beaufort County and charged with the crime of murder. The indictment alleges that here in Beaufort County on or about September the 1st of 2012 while engaged in a ongoing gun battle, an inherently dangerous felony, Tyronne Robinson did willfully, unlawfully and with malice aforethought cause the victim Khalil Singleton to be shot and killed in the area of Marshall Drive and Allen Road on Hilton Head Island and that Khalil Singleton did die in Beaufort County as a proximate result thereof on September the 1st 2012 in violation of the law

which after the jury was sworn in is the first alleged crime of felony murder by the felony murder rule theory. That I was put in jeopardy at trial of being punished and receiving prison time of life imprisonment for. Inside of the court of general session the 14th judicial circuit of Beaufort County South Carolina. Trial in this case against Tyronne Lorenza Robinson began on September 15th 2014 and lasted until September 19th 2014

CONFESSIO

8/20/14
The TRIAL TRANSCRIPT FROM THE PRE TRIAL HEARING ON FEBRUARY 27TH 2014 WERE REPRESENTED MYSELF PROSE. REVEALS THAT THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR GENERAL MC. DUFFIE STONE "CONFERRED" THAT THE CRIME THATS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-01935, IS THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY, THAT IS THE ONE AND ONLY CRIME AND THEORY THAT THEY TRIED ME ON BEFORE THE JURY AT TRIAL AND HAD THE BURDEN OF PROOF TO PROVE ONLY. FOR PROOF QUOTE THE CONFESSION OF THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR GENERAL MC. DUFFIE STONE, FROM THE TRIAL TRANSCRIPT OF THE PRE TRIAL HEARING THAT TOOK PLACE ON FEBRUARY 27TH 2014 AT BEAUFORT COUNTY GENERAL SESSION COURT HOUSE WERE REPRESENTED MYSELF PROSE. "QUOTING" STATE OF SOUTH CAROLINA

VS
TYRONE ROBINSON

"QUOTING" THE STATE OF SOUTH CAROLINA AND ITS SOLICITOR GENERAL MC. DUFFIE STONE CONFESSION FROM PAGE 1052 PARAGRAPHS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, AND 24, AND PAGE 1053 2 AND 2 OF TRIAL TRANSCRIPT FROM PRE TRIAL HEARING ON FEBRUARY 27TH 2014 "QUOTING"
OUR THEORY IS THE FELONY MURDER RULE THEORY, THAT YOU HAVE THREE PEOPLE COMMITTING INHERANTLY DANGEROUS FELONIES, AND AS A RESULT OF THE INHERANTLY DANGEROUS FELONIES, A CHILD DIES. THE ACTUAL SHOOTER, AS TO SPEAK, THE ONE THAT DISCHARGED THE FATAL BULLET UNDER THAT SCENARIO IS WHILE RELEVANT, NOT CONTROLLING, THATS THE THEORY THAT THE STATE GOES UNDER, AND THAT IS A CONSISTENT THEORY AMONG ALL THE DEFENDANTS, THATS THE THATS THE THEORY. WERE NOT SWITCHING UP OUR THEORIES, DEPENDING ON WHICH DEFENDANT WERE TALKING ABOUT. WE FEEL LIKE ALL THREE OF THESE PEOPLE WERE INVOLVED IN AN INHERANTLY DANGEROUS FELONY, WHICH IS A SHOOTOUT THAT BASICALLY WENT FROM THE RIGHT AS YOU GO TO HILTON HEAD, ALL THE WAY DOWN INTO MARSHLAND ROAD, ALONG THE CROSS ISLAND EXPRESSWAY, AND I DON'T KNOW IF YOUR FAMILIAR WITH THIS AREA, BUT IT INVOLVES THREE NEIGHBORHOODS IN HILTON HEAD AND ITS WAS A SHOOT OUT THAT TOOK PLACE FIRST AT WHITE HORSE ROAD, AND THEN AT ANOTHER NEIGHBORHOOD

82.

IN between and then at a THIRD at ALLEN ROAD
AREA, WHICH IS WHERE THE CHILD WAS PLAYING ON
THE TRAMPOLINE AND KILLED OUR. OUR THEORY IS
ALL THREE OF THEM ARE CULPABLE UNDER THAT
SCENARIO, AND THATS THE THEORY WE'RE PROCEEDING
FOR TRIAL.

83.
INDICTMENT # 2012-65-07-01935
FROM THE CASE OF
STATE OF SOUTH CAROLINA

VS.
TYRONE ROBINSON

IS SUBMITTED AS UNDISPUTABLE EVIDENCE TO
PROVE TO THIS COURT THAT INDICTMENT # 2012-
65-07-01935 CHARGES TYRONE ROBINSON IN
THE BODY OF ITS WRITTEN WRITE UP
WITH THE ALLEGED CRIME OF FELONY MURDER
BY THE CRIME ALLEGING I CAUSED THE VICTIM
TO BE SHOT AND KILLED WHILE PERPETUATING
A FELONY

WHICH IS THE CRIME THATS CHARGED AND ALLEGED
INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #
2012-65-07-01935, WHICH STATES "QUOTE" IN
THAT IN BEAUFORT COUNTY ON OR ABOUT SEPTEMBER
1ST, 2012 WHILE ENGAGED IN AN ONGOING GUN
BATTLE, AN INHERENTLY DANGEROUS FELONY, TYRONE
ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH
MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL
SINGLETON TO BE SHOT AND KILLED IN THE AREA
OF MARSHLAND DRIVE ALLEN ROAD, HILTON
HEAD ISLAND, S.C. AND THAT KHALIL SINGLETON
DID DIE IN BEAUFORT COUNTY AS A PROXIMATE RESULT
THERE OF ON SEPTEMBER 1ST, 2012, IN VIOLATION
OF SECTION 16-3-10 OF THE SOUTH CAROLINA CODE
OR LAWS (1976) AS AMENDED

BY ITS WRITTEN WRITE UP INDICTMENT # 2012-65-07-01935
CHARGES ME WITH THE CRIME OF FIRST DEGREE FELONY
MURDER BY ALLEGING I CAUSED THE VICTIM DEATH IN
THE COURSE OF PERPETUATING A FELONY, WHICH IS COMMON-
LY REFERRED TO AS THE CRIME OF FELONY MURDER.
AS DECIDED BY THE UNITED STATES OF AMERICA
SUPREME COURT OF APPEALS. FOR PROOF REVIEW
CASE LAW MERITS

UNITED STATES OF AMERICA SUPREME COURT OF APPEALS
CASE LAW OF,
GREEN VS. UNITED STATES 78 S. CT 221
QUOTE FROM FOOTNOTE INSIDE OF THE CASE LAW
OF GREEN VS. UNITED STATES "QUOTE"
FIRST DEGREE MURDER FOR CAUSING A DEATH IN THE
COURSE OF PERPETUATING A FELONY (COMMONLY
REFERRED TO AS FELONY MURDER

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

184
INDICTMENT
2012GS0701935

At a Court of General Sessions, convened on October 18, 2012, the Grand Jurors of Beaufort County present upon their oath:

Murder / Murder

That in Beaufort County on or about September 1, 2012, while engaged in an ongoing gun battle, an inherently dangerous felony, Tyrone Robinson did willfully, unlawfully and with malice aforethought cause the victim Khalil Singleton to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC, and that Khalil Singleton did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

6.

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

James M. Shaw

A COPY OF INDICTMENT #2008 GS 25-588 FROM THE UNRELATED CASE OF:

STATE OF SOUTH CAROLINA

VS.

JOSEPH DAVIS

JOSEPH DAVIS IS NOT A DEFENDANT INSIDE OF THIS CASE AND THIS INDICTMENT #2008 GS 25-588 CHARGING JOSEPH DAVIS WITH THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, FOR THE UNRELATED VICTIM WHO IS RONNIE WOOTEN. IS NOT INVOLVED INSIDE OF THIS CASE AND IS A COMPLETE UNRELATED CASE. HOWEVER INDICTMENT #2008 GS 25-588 FROM THE UNRELATED CASE OF JOSEPH DAVIS, WAS OBTAINED AND DRAFTED BY THE EXACT SAME SOLICITOR WHO IS SOLICITOR JESSIE MC. DUFFIE STONE. THEREFORE INDICTMENT #2008 GS 25-588 FROM THE UNRELATED CASE OF JOSEPH DAVIS, IS SUBMITTED AS UNDISPUTABLE EVIDENCE TO PROVE TO THE APPEALS COURT, THAT THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

IS A SECOND FIRST DEGREE CRIME FOR THE SAME FIRST DEGREE OFFENSE THAT IS NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-01935 FROM THE CASE OF TYRONE ROBINSON, ALSO INDICTMENT #2008 GS 25-588 FROM THE UNRELATED CASE OF JOSEPH DAVIS, IS SUBMITTED AS UNDISPUTABLE EVIDENCE TO THE APPEALS COURT, TO PROVE TO THE APPEALS COURT, THAT THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT.

IS NOT CHARGED ALLEGED AND IS NOT INCLUDED INTO THE FIRST DEGREE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT "CAUSE" THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-01935 FROM THE CASE OF TYRONE ROBINSON.

86.
STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT

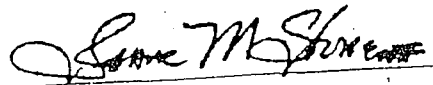
2008GS25-588

At a Court of General Sessions, convened on December 5, 2008, the Grand Jurors of Hampton County present upon their oath:

Murder / Murder

That in Hampton County on or about June 23, 2007, with malice aforethought, Joseph Davis did kill and murder Ronnie Wooten by means of shooting him with a gun, and that Ronnie Wooten did die in Hampton County as a proximate result thereof on June 23, 2007; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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


Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

7.
A TRUE COPY
of the Indictment
for

1st
LAW DICTIONARY DEFINITION FOR THE
CRIME OF FIRST DEGREE FELONY MURDER
BY THE CRIME ALLEGEDLY CAUSED THE VICTIM
TO BE SHOT AND KILLED WHILE IN THE COMMISS-
ION OF A FELONY

LAW DICTIONARY DEFINITION FOR FIRST DEGREE OFFENSE
 CRIME OF FELONY MURDER STATES "QUOTE" FELONY MURDER
 AN UNLAWFUL HOMICIDE THAT OCCURS IN THE COMMISSION
 OR ATTEMPTED COMMISSION OF A FELONY WHICH IS CONSID-
 -ERED FIRST DEGREE MURDER BY OPERATION OF THIS DOCTRINE.
 IN MANY MODERN STATES, ONLY HOMICIDE THAT OCCUR
 IN THE COURSE OF CERTAIN SPECIFIED FELONIES ARE FELONY
 MURDER SEE N.J.S.A. 2C:11-3(3) THE EVIL MIND OR MALICE
 THAT IS NECESSARY TO FIND SOMEONE GUILTY OF MURDER
 IS IMPLIED OR IMPUTED FROM THE ACTORS INTENT TO
 COMMIT A FELONY SEE 38 F.2d 421, 426 FOR EXAMPLE,
 IF SOMEONE BURNED DOWN A WAREHOUSE AND THERE BY
 COMMITTED ARSON, WHICH RESULTED IN THE DEATH OF A PERSON
 IN THE BUILDING, THE ARSONIST IS GUILTY OF FIRST DEGREE
 MURDER (FELONY MURDER) EVEN IF HE DID NOT KNOW OF
 THE PRESENCE OF THE PERSON AND HE HAD TAKEN SPECIAL
 PRECAUTION TO TRY TO AVOID ANY LOSS OF LIFE. THE
 HARSHNESS OF THIS DOCTRINE HAS LED TO A LIMITATION
 OF ITS USE, EXCEPT AGAINST THE PERSON WHO ACTUALLY
 COMMITTED THE UNDERLYING FELONY, SEE MODEL PENAL
 CODE § 210.1(1) ET SEQ

2ND
LAW DICTIONARY DEFINITION FOR
THE CRIME OF FIRST DEGREE MURDER
BY THE CRIME ALLEGEDLY KILLED THE VICTIM
WITH MALICE AND AFORETHOUGHT.

LAW DICTIONARY DEFINITION FOR FIRST DEGREE
 OFFENSE CRIME OF MURDER BY ALLEGEDLY THE
 ACCUSED KILLED THE VICTIM WITH MALICE AFORETH-
 -OUGHT IS: MURDER A COMMON LAW OFFENSE OF
 UNLAWFUL HOMICIDE; UNLAWFUL KILLING OF
 ANOTHER HUMAN BEING WITH MALICE AFORETHOUGHT.
 THIS REQUIRES A PREMEDITATED INTENT TO KILL
 PLUS AN ELEMENT OF HATRED

ELEMENTS FOR THE CRIME OF FIRST DEGREE FELONY MURDER BY THE CRIME ALLEGEDLY THE ACCUSED WAS IN THE COMMISSION OF COMMITTING A FELONY THAT RESULTED IN THE DEATH OF THE VICTIM

THE ELEMENTS FOR THE CRIME OF FIRST DEGREE FELONY MURDER BY THE CRIME ALLEGEDLY THE ACCUSED WAS IN THE COMMISSION OF COMMITTING A FELONY THAT RESULTED IN THE DEATH OF THE VICTIM. THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GS-07-1935, THAT MUST BE CHARGED TO THE JURY IN ORDER TO CONVICT ME. ON THE CRIME OF FIRST DEGREE FELONY MURDER ON INDICTMENT # 2012-GS-07-1935 IS ESTABLISHED INSIDE OF THE SOUTH CAROLINA SUPREME COURT OF APPEALS CASE LAW OF GORE VS. LEEKE 1995.E.2d 755 WHICH THE ELEMENTS FOR FIRST DEGREE FELONY MURDER ARE AS FOLLOWS:

- IF SEVERAL PERSONS AGREE OR CONSPIRE TO COMMIT A FELONY SUCH AS GRAND LARCENY OR ROBBERY OR BURGLARY EACH OF THOSE PERSONS ARE CRIMINALLY RESPONSIBLE FOR THE ACTS OF ASSOCIATES OR CONFEDERATES WHICH ARE DONE IN FURTHERANCE OR IN PROTECTION OF THE COMMON PURPOSE FOR WHICH THEY COMBINED. THE COMMON PURPOSE CANNOT AND GENTLEMAN MAY HAVE NOT INCLUDED OR MAY NOT HAVE BEEN INVOLVED IN THE KILLING AND THE MURDER OF ANY ONE BUT IF IN EXECUTING THIS COMMON DESIGN AND PURPOSE AND IF IT WAS UNLAWFUL AS FOR INSTANCE, BREAKING IN AND STEALING, AND IN THE EXECUTION OF THE COMMON PURPOSE A HOMICIDE IS COMMITTED BY ONE OF THE CONFEDERATES OR ONE OF THE ASSOCIATES AND YOU, THE JURY DETERMINE FROM THE PROOF BEYOND A REASONABLE DOUBT THE HOMICIDE WAS A PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS WHICH WERE DONE IN PURSUANCE OF THE COMMON DESIGN THEN LADIES AND GENTLEMEN, ALL ARE PRESENT EITHER ACTUALLY OR CONSTRUCTIVELY, AND PARTICIPATE IN THE UNLAWFUL, COMMON DESIGN ARE AS GUILTY AS THE SLAYER HIMSELF

INSIDE OF THE CASE OF LOWRY VS. STATE 657 S.E.2d 760 THE SUPREME COURT OF SOUTH CAROLINA DETERMINED THAT THE TRIAL JUDGE HAD TO INSTRUCT THE JURY THAT IT WAS UP TO THE JURY TO DECIDE RATHER THE DEFENDANT WAS ACTING WITH MALICE AND AFORETHOUGHT OR NOT. WHILE IN THE COMMISSION OF COMMITTING A FELONY. IF THE JURY BELIEVED THAT THE DEFENDANT WAS IN THE COMMISSION OF COMMITTING A FELONY. MALICE AND AFORETHOUGHT IS A ISSUE THAT THE JURY MUST DECIDE ON. HOWEVER BASED ON THESE FACTS IT IS CLEAR, THAT IN ORDER TO CONVICT A PERSON FOR THE CRIME OF FIRST DEGREE FELONY MURDER INSIDE OF THE STATE OF SOUTH CAROLINA. THE TRIAL JUDGE MUST INSTRUCT THE JURY THAT THE JURY MUST DETERMINE RATHER OR NOT, THE DEFENDANT WAS IN THE COMMISSION OF COMMITTING A FELONY THAT RESULTED IN THE DEATH OF THE VICTIM. AS DECIDED BY THE SUPREME COURT OF APPEALS INSIDE OF THE CASE LAW OF GORE VS. LEEKE 1995.E.2d 755

ELEMENTS FOR THE CRIME OF FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY THE ACCUSED KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

IN ORDER FOR THE TRIAL JUDGE AND TRIAL COURT TO BE ABLE TO HAVE SUBJECT MATTER JURISDICTION TO CONVICT ME ON THE ALLEGED CRIME OF FIRST DEGREE MURDER

by the crime "allegedly" I killed the victim
with malice and a forethought

1st Element is: That the accused unlawfully
killed another, and

2nd Element is: That the killing was
committed with malice a forethought
REVIEW PAGE 993 PARAGRAPHS 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 AND 15
OF TRIAL TRANSCRIPT

STATE OF SOUTH CAROLINA

VS.
TYRONE ROBINSON

"QUOTE IN" FROM PAGE 993 PARAGRAPHS 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 AND 15 OF TRIAL TRANSCRIPT
THE COURT (AKA) TRIAL JUDGE COOPER STATED "QUOTE IN"
I NOW INSTRUCT YOU AS TO WHAT THE LAW IS ON THE
CHARGE IN THIS PARTICULAR CASE. AS YOU KNOW THE
DEFENDANT IS CHARGED WITH THE CRIME OF MURDER
MURDER IS DEFINED IN THE LAW AS THE KILLING OF ANY
PERSON WITH MALICE AFORETHOUGHT EITHER EXPRESSED
OR IMPLIED.
AND SO IN ORDER FOR THE STATE TO PROVE THE DEFENDANT
GUILTY OF MURDER IT MUST BE PROVEN BEYOND A
REASONABLE DOUBT THAT THE DEFENDANT KILLED THE
VICTIM AND THAT THE KILLING WAS DONE WITH
MALICE AND AFORETHOUGHT

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
CAROLINA CASE LAW OF
HERMAN WINN 125084 VS. STATE OF SOUTH CAROLINA
CASE NO. 01-CP-08128 "QUOTE IN"
3. The indictment must charge that the defend-
ant with malice a forethought murdered
the defendant

ESSENTIAL ELEMENT TO CRIME OF FELONY MURDER

The essential and factual element "alleged" while engaged in a ongoing gun battle an inherently dangerous felony that is charged and alleged inside of the written write up of the alleged crime of FELONY MURDER inside of indictment # 2012-GJ-07-01935 that I was tried on before the jury at trial. IS a essential and factual element that the state of South Carolina has the burden of proof to prove that I am guilty of beyond a reasonable doubt, before I could be convicted and sentenced to prison time of life imprisonment, on indictment # 2012-GJ-07-01935 and the felony murder crime that is charged and alleged inside of the written write up of indictment # 2012-GJ-07-01935. FOR PROOF REVIEW CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF:
WHALEN VS. UNITED STATES 1005 CT 1435 "QUOTE-
ING"

A CONVICTION FOR KILLING IN THE COURSE OF RAPE CAN NOT BE HAD WITHOUT PROVING ALL THE ELEMENTS OF THE OFFENSE OF RAPE "FURTHER QUOTEING"

IN THE PRESENT CASE HOWEVER PROOF OF RAPE IS A NECESSARY ELEMENT OF PROOF OF THE FELONY MURDER.

INSIDE OF THIS CASE WE ARE COMPARING THE ELEMENTS OF TWO GREATER DISTINCT FIRST DEGREE CRIME OF MURDER OFFENSES WHICH ARE FIRST DEGREE FELONY MURDER BY THE CRIME "ALLEGED-
ING"

I CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY WHICH THE SUPREME COURT OF APPEALS FOR THE UNITED STATES OF AMERICA HAS DEFINED AS FELONY MURDER FOR PROOF REVIEW CASE LAW MERITS

UNITED STATES OF AMERICA SUPREME COURT OF APPEALS CASE LAW OF:
GREEN VS. UNITED STATES 78 S.Ct 221 "QUOTEING"
FROM FOOT NOTE: INSIDE OF THE CASE LAW OF

GREEN VS. UNITED STATES "QUOTEING"
FIRST DEGREE MURDER FOR CAUSING A DEATH IN THE COURSE OF PERPETUATING A FELONY (COMMONLY REFERRED TO AS FELONY MURDER)

THE SECOND FIRST DEGREE CRIME IS THE UNINDICTED "ALLEGED" FIRST DEGREE MURDER CRIME.

by the crime "alleged" I killed the victim with malice and aforethought

whose elements are distinct and are not included into each other. to prove that the jury did not convict me on the alleged first degree felony murder crime by the crime "alleged" I caused the victim KHALIL SINGLETON to be shot and killed while engaged in a ongoing gun battle and inherently dangerous felony. That's charged and alleged inside of the written write up of indictment # 2012-GJ-07-01935. because the alleged first degree felony murder crime by the crime "alleged"

I caused the victim KHALIL SINGLETON to be shot and killed while engaged in a ongoing gun battle and inherently dangerous felony. That's charged and alleged inside of the written write up of indictment # 2012-GJ-07-01935. IS NOT A LESSER INCLUDED CRIME AND OFFENSE, OF THE UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME BY THE CRIME "alleged". I killed the victim with malice and aforethought.

That there is not any indictment charging me with in violation of S.C. CODE OF LAW 17-19-10. ALSO THAT THE TRIAL JUDGE AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONVICT AND SENTENCE me to PRISON TIME OR LIFE IMPRISONMENT FOR.

When the TRIAL JUDGE AND TRIAL COURT CHARGED AND INSTRUCTED THE JURY TO DECIDE ON THE ALLEGED CRIME OF MURDER TO DECIDE ON. THE TRIAL JUDGE AND TRIAL COURT CHARGED AND INSTRUCTED THE JURY. THAT IN ORDER TO CONVICT ME OF MURDER THE STATE OF SOUTH CAROLINA HAD TO PROVE THAT I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

HOWEVER AS A MATTER OF LAW THE UNINDICTED ALLEGED CRIME OF FIRST DEGREE MURDER BY THE ALLEGED CRIME ALLEGEDLY I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THAT THE JURY UNLAWFULLY CONVICTED ME ON AND THE TRIAL JUDGE AND TRIAL COURT SENTENCED ME TO LIFE IMPRISONMENT FOR, IF NOT A LESSER INCLUDED CRIME AND THEORY OF FIRST DEGREE FELONY MURDER BY THE CRIME ALLEGEDLY I CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED WHILE PERPETRATING A FELONY

THAT IS THE CRIME THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GJ-07-1935 "QUOTE" I WAS ENGAGED IN AN ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED AND KHALIL SINGLETON DID DIE AS A PROXIMATE RESULT

THIS IS BECAUSE THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA HAS DECIDED. THAT IN ORDER FOR A ALLEGED CRIME TO BE A LESSER INCLUDED CRIME OF THE CRIME THAT IS CHARGED AND ALLEGED INSIDE OF THE INDICTMENT. THE ELEMENTS OF THE ALLEGED CRIME THAT IS NOT CHARGED AND ALLEGED INSIDE OF THE INDICTMENT MUST BE INCLUDED IN TO THE ELEMENTS OF THE GREATER OFFENSE THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF THE INDICTMENT. FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
CASE LAW OF:

THE STATE VS. CHARLES EDWARD WATSON, II 563 S.E.2D

336 "QUOTE"

THE PRIMARY TEST FOR DETERMINING IF A PARTICULAR OFFENSE IS A LESSER INCLUDED OF THE OFFENSE CHARGED IS THE ELEMENTS TEST. THE ELEMENTS TEST INQUIRES WHETHER THE GREATER OF THE TWO OFFENSES INCLUDES ALL THE ELEMENTS OF THE LESSER OFFENSE. IN A CRIMINAL CASE THE TRIAL COURT'S SUBJECT MATTER JURISDICTION IS LIMITED TO THOSE CRIMES CHARGED IN THE INDICTMENT AND ALL LESSER INCLUDED OFFENSES

INSIDE OF THIS CASE WE ARE COMPARING THE ELEMENTS OF TWO GREATER FIRST DEGREE OFFENSES WHO ELEMENTS ARE DISTINCT AND ARE NOT INCLUDED INTO EACH OTHER. TO PROVE THAT THE JURY DID NOT CONVICT ME ON THE CRIME THAT IS CHARGED AND ALLEGED INSIDE OF INDICTMENT #2012-GJ-07-1935, BECAUSE THE FIRST DEGREE OFFENSE CRIME THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GJ-07-1935 IS NOT A LESSER INCLUDED CRIME OF THE UNINDICTED ALLEGED FIRST DEGREE OFFENSE CRIME THAT THE JURY UNLAWFULLY CONVICTED ME ON IN VIOLATION OF S.C. CODE OF LAW 17-2-5-10 THAT IS NOT CHARGED AND ALLEGED AND PRESENTED INSIDE OF A INDICTMENT

1st ELEMENT FOR UNINDICTED ALLEGED CRIME

1st element FOR THE UNINDICTED ALLEGED FIRST DEGREE OFFENSE CRIME OF FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT IS: THAT THE ACCUSED UNLAWFULLY KILLED ANOTHER

WHICH DEFINED BY ITS WEBSTER DICTIONARY DEFINITION - ON MEANS TO ALLEDGE THAT THE ACCUSED UNLAWFULLY DEPRIVED ANOTHER PERSON OUT OF THERE LIFE

THIS IS BECAUSE THE WEBSTER DICTIONARY DEFINITION FOR THE WORD KILL MEANS THE FOLLOWING "MEANING" TO DEPRIVE OF LIFE

1st ELEMENT FOR ALLEGED CRIME THATS CHARGED AND ALLED- GED INSIDE OF INDICTMENT # 2012 - GS-07-1935

1st element FOR ALLEGED FIRST DEGREE OFFENSE CRIME OF FIRST DEGREE FELONY MURDER BY THE CRIME "ALLEGEDLY" CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED WHILE PERPETUATING A FELONY IS: WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY UNLAWFULLY CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO ALLEDGE WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY UNLAWFULLY CAUSED A TRAIN OF EVENTS THAT RESULTED IN THE VICTIM KHALIL SINGLETON BEING SHOT AND DEPRIVED OUT OF HIS LIFE

THIS IS BECAUSE THE LAW BOOK DICTIONARY DEFINITION FOR THE WORD CAUSE MEANS THE FOLLOWING MEANING "QUOTING"

CAUSE THAT WHICH EFFECTS A RESULT DIRECT CAUSE. THE ACTIVE, EFFICIENT CAUSE THAT SETS IN MOTION A TRAIN OF EVENTS THAT BRINGS ABOUT A RESULT WITHOUT INTERVENTION OF ANY OTHER INDEPENDANT SOURCE

AS A MATTER OF LAW THE FIRST ELEMENT TO THE ALLED-
GED CRIME OF FIRST DEGREE FELONY MURDER THATS
CHARGED AND ALLEGED AND PRESENTED BY THE
GRAND JURY INSIDE OF THE WRITTEN WRITE UP
OF INDICTMENT # 2012 - GS-07-1935 WHICH IS:
WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY
DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY
UNLAWFULLY CAUSE THE VICTIM KHALIL SINGLETON
TO BE SHOT AND KILLED

WHICH DEFINED BY ITS DICTIONARY DEFINITION
MEANS TO ALLEDGE. WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
-ANTLY DANGEROUS FELONY TYRONE ROBINSON DID
WILLFULLY UNLAWFULLY CAUSED A TRAIN OF EVENTS
THAT RESULTED IN THE VICTIM KHALIL SINGLETON
BEING SHOT AND DEPRIVED OUT OF HIS LIFE

IS NOT INCLUDED INTO THE 1st ELEMENT FOR THE
UNINDICTED CRIME OF FIRST DEGREE MURDER
BY THE CRIME ALLEGEDLY I KILLED THE VICTIM
WITH MALICE AND AFORETHOUGHT WHICH HAS THE

element of "quote" that the accused unlawfully killed another person which defined by its dictionary definition means to allege that the accused unlawfully deprived another person out of their life

As a matter of law proving that the first element to the third unindicted first degree murder crime "alleging I killed the victim with malice and aforethought, whose first element is: that the accused unlawfully killed another" is not charged alleged and presented inside of a indictment

2ND ELEMENT

FOR THE THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME

2nd element for the third unindicted alleged first degree murder crime alleging I killed the victim with malice and aforethought is: that the killing was committed with malice aforethought - which defined by its dictionary definition means to allege that the deprivation of life was committed with malice aforethought

this is because the Webster dictionary definition for the word KILL means the following "meaning" to deprive of life

2ND ELEMENT

FOR FIRST DEGREE FELONY MURDER CRIME THATS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935

2nd Element for alleged first degree felony murder crime "alleging" I caused the victim KHALIL SINGLETON to be shot and killed while perpetrating a felony is:

while engaged in an ongoing gun battle on inherent - ly dangerous felony TYRONE ROBINSON did with malice aforethought cause the victim KHALIL SINGLETON to be shot and killed

which defined by its dictionary definition means to allege while engaged in an ongoing gun battle on inherent - ly dangerous felony TYRONE ROBINSON did with malice aforethought cause a train of events that resulted in the victim KHALIL SINGLETON being shot and deprived of his life

this is because the law book definition for the word CAUSE means the following meaning "quote" cause that which effects a result direct cause the active efficient cause that sets in motion a train of events that brings about a result with out intervention of any other independent source

AS A MATTER OF LAW THE 2ND ELEMENT TO THE ALLEGED FIRST DEGREE FELONY MURDER CRIME "ALLEGEDLY" I CAUSED THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED WHILE PERPETUATING A FELONY WHICH IS, WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS TO ALLEGE,

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WITH MALICE AFORETHOUGHT CAUSED A TRAIN OF EVENTS THAT RESULT IN THE VICTIM KHALIL SINGLETON BEING SHOT AND DEPRIVED OF HIS LIFE.

IS NOT INCLUDED INTO THE 2ND ELEMENT FOR THE THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

WHICH DEFINED BY ITS DICTIONARY DEFINITION MEANS "QUOTE" THAT THE DEPRIVATION OF LIFE WAS COMMITTED WITH MALICE AND AFORETHOUGHT.

AS A MATTER OF LAW PROVING THAT THE SECOND ELEMENT TO THE THIRD ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, WHOS SECOND ELEMENT IS: THAT THE KILLING WAS COMMITTED WITH MALICE AFORETHOUGHT

IS NOT CHARGED ALLEGED AND PRESENTED INSIDE OF A INDICTMENT.

AS A MATTER OF LAW PROVING THAT THE THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THAT THE JURY AT TRIAL UNLAWFULLY CONVICTED TYRONE LORENZA ROBINSON ON. IS NOT CHARGED AND ALLEGED INSIDE OF A INDICTMENT IN VIOLATION OF S.C. CODE OF LAW 17-19-10 WHICH STATES "QUOTE"

NO PERSON SHALL BE HELD TO ANSWER IN COURT FOR A ALLEGED CRIME UNLESS UPON INDICTMENT BY A GRAND JURY

AS A MATTER LAW PROVING THAT THE THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

IS A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME FOR THE SAME FIRST DEGREE OFFENSE, THAT IS NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE FELONY MURDER CRIME "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

That's charged and alleged inside of the written write up of indictment #2012-GS-07-01935 that I was tried on before the jury at trial. Inside of the Supreme Court of Appeals of the United States of America case law of Hopkins vs. Reeves 118 S.Ct 1895. The Supreme Court of Appeals of the United States of America. Explained that the Court of Appeals must reverse a conviction and prison sentence that a defendant receives on the crime of murder by the crime "alleging" the defendant killed the victim with malice and aforethought.

Inside of a case involving felony murder by the felony murder rule theory. Because when a person is indicted, charged and tried before the jury at trial on the crime of felony murder by the felony murder rule theory as I was, and instead as a result of the trial judge and trial court jury instructions. The jury convicts the defendant on the crime of murder by the crime "alleging" the defendant killed the victim with malice and aforethought.

As a matter of law the appeals court must reverse the person conviction and prison sentence on the crime of murder by the crime "alleging" the defendant killed the victim with malice and aforethought. The reason why is because the crime

is not a lesser included degree crime and offense of the crime of felony murder by the felony murder rule theory under the element test. Also the crime of murder by the crime "alleging" I killed the victim with malice and aforethought

requires proof of intent to kill the victim while the crime of felony murder by the felony murder rule theory does not, for proof review case law merits

Supreme Court of Appeals of the United States of America case law of, Hopkins vs. Reeves 118 S.Ct 1895 "quoteing"

that conviction is certainly strained with respect to the crime of second degree murder which requires proof of intent to kill, while felony murder does not. The reason that Nebraska generally does not consider second degree murder is that it included offense of felony murder is that it requires evidence of an intent to cause the death of the victim, where as felony murder does not.

Inside of the case of Hopkins vs. Reeves 118 S.Ct 1895 the Supreme Court of Appeals of the United States of America. Decided that the crime of murder by the crime "alleging" the defendant killed the victim with malice and aforethought

and the crime of voluntary manslaughter by

The crime "allegedly"
The defendant killed the victim without malice
and a forethought

are both not lesser included degree crimes and
offenses of the crime of felony murder by the
felony murder rule theory for proof review
case law merits

supreme court of appeals of the united states
or america case law of.

HOPKINS VS. REEVES 118 S. CT 1895 "quoting"
respondents proposed instructions were refused
because the Nebraska supreme court held for
over 100 years, in both capital and non capital
cases, that second degree murder and manslaughter
are not lesser included offenses of felony
murder

inside of the case of HOPKINS VS. REEVES 118 S. CT
1895 the supreme court of appeals of the united
states of America, decided that when a person is
indicted, charged and tried before the jury at
trial, on the crime of felony murder by the felony
murder rule theory only as in TYRONEL. ROBINSON
was

if the jury at trial convicts the defendant on
the crime of murder by the crime "allegedly"
the defendant killed the victim without malice
and a forethought

the defendant's conviction on the crime of
murder by the crime "allegedly"
the defendant killed the victim with malice
and a forethought must be reversed by the
appeals court or if the defendant is convicted
on the crime of voluntary manslaughter by
the crime "allegedly"
the defendant killed the victim without malice
and a forethought

as a matter of law the defendant's conviction
on the crime of VOLUNTARY manslaughter
by the crime "allegedly"
the defendant killed the victim without malice
and a forethought

must be reversed by the appeals court. for
proof review

case law merits
supreme court of appeals of the united states
or america case law of

HOPKINS VS. REEVES 118 S. CT 1895 "quoting"
respondents proposed instruction were refused
because the Nebraska supreme court held for
over 100 years in both capital and non capital
cases, that second degree murder and manslaughter
are not lesser included offenses of felony

MURDER. IF NEBRASKA TRIAL COURT GIVES INSTRUCTIONS ON THOSE OFFENSES AND THE DEFENDANT IS CONVICTED ONLY ON SECOND DEGREE MURDER OR MANSLAUGHTER THAT CONVICTION MUST BE REVERSED ON APPEAL

AS A RESULT INSIDE OF THE CASE OF HOPKINS VS. REEVES 118 S. CT 1895, THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA DECIDED, THAT WHEN A PERSON IS INDICTED CHARGED AND TRIED BEFORE THE JURY AT TRIAL, ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ONLY, AS TYRONE ROBINSON WAS, AS A MATTER OF LAW THE PROSECUTOR CAN NOT OBTAIN A CONVICTION AGAINST THE DEFENDANT ON THE CRIME OF MURDER BY THE CRIME "MALICE" THEORY. THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

ALSO AS A MATTER OF LAW THE PROSECUTOR CAN NOT OBTAIN A CONVICTION AGAINST THE DEFENDANT ON THE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT

FOR PROOF REVIEW
CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF. HOPKINS VS. REEVES 118 S. CT 1895 "QUOTING" THIS AS A MATTER OF LAW, NEBRASKA PROSECUTOR CAN NOT OBTAIN CONVICTION FOR SECOND DEGREE MURDER OR MANSLAUGHTER IN A FELONY MURDER TRIAL

INSIDE OF THE CASE OF STATE VS. DICKERSON 716 S.E. 2d 895 THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA DECIDED THAT THEY ADOPT THE DECISION OF THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA INSIDE OF THE CASE OF HOPKINS VS. REEVES 118 S. CT 1895 FOR PROOF REVIEW

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF. STATE VS. DICKERSON 716 S.E. 2d 895 "QUOTING" THE HOPKINS COURT ON THE OTHER HAND BELIEVED THAT CHARGING ON LESSER RELATED OFFENSES WOULD DENY THE DEFENDANT OF A CRIME THE STATE NEVER SAUGHT TO PROVE AT TRIAL. THEREFORE WE ADOPT THE SUPREME COURT HOLDING IN HOPKINS AND HOLD THAT A DEFENDANT IS NOT ENTITLED TO A CHARGE ON LESSER RELATED OFFENSES, HERE PERMITTING THE JURY TO CONVICT DICKERSON AS AN ACCESSORY AFTER THE FACT WOULD PERMIT THE JURY TO FIND BEYOND A REASONABLE DOUBT ELEMENTS OF A CRIME THE STATE NEVER SAUGHT TO PROVE AND DICKERSON WAS NOT ON NOTICE HE HAD TO DEFEND AGAINST. ACCORDINGLY WE AFFIRM THE CIRCUIT COURT'S DENIAL OF DICKERSON REQUEST TO CHARGE

1st LACK OF SUBJECT MATTER JURISDICTION

1st REASON PROVEING

THE TRIAL JUDGE AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONVICT AND SENTENCE ME TO PRISON TIME OF LIFE IMPRISONMENT FOR A THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME, FOR THE SAME FIRST DEGREE OFFENSE, THAT IS NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE FELONY MURDER BY THE FELONY MURDER RULE THEORY CRIME, THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-07-01935

1st degree murder S.C. code of law 16-3-10

AS A MATTER OF LAW THE FIRST DEGREE MURDER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, IS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER SOUTH CAROLINA CODE OF LAWS "16-3-10" AND CARRIES A MAXIMUM PRISON SENTENCE OF LIFE IMPRISONMENT

2nd degree

VOLUNTARY MANSLAUGHTER
S.C. code of law 16-3-50

THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT IS CLASSIFIED AS A SECOND DEGREE CRIME AND

OFFENSE UNDER SOUTH CAROLINA CODE OF LAW
 "16-3-50" AND CARRIES A MAXIMUM PRISON SENTENCE
 OF 30 YEARS. AS A MATTER OF LAW THE SECOND DEGREE
 CRIME AND OFFENSE OF VOLUNTARY MANSLAUGHTER BY
 THE CRIME "ALLEGEDLY"
 THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE
 AND AFORETHOUGHT

THAT IS CLASSIFIED AS A SECOND DEGREE CRIME AND
 OFFENSE UNDER SOUTH CAROLINA CODE OF LAW "16-3-50"
 IS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE.
 THAT HAS THE ESSENTIAL ELEMENT "ALLEGEDLY"
 THE DEFENDANT UNLAWFULLY KILLED THE VICTIM

THAT IS A ESSENTIAL ELEMENT THAT IS ALSO INCLUDED
 INTO THE GREATER DEGREE CRIME AND OFFENSE OF
 FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY THE
 DEFENDANT KILLED THE VICTIM WITH MALICE AND
 AFORETHOUGHT. THAT IS CLASSIFIED AS FIRST DEGREE
 MURDER UNDER S.C. CODE OF LAW "16-3-10" AND ALSO
 HAS THE ESSENTIAL ELEMENT WHICH IS THE DEFEND-
 ANT UNLAWFULLY KILLED THE VICTIM

AS A MATTER OF LAW PROVEING THAT THE SECOND
 DEGREE CRIME OF 16-3-10 VOLUNTARY MANSLAUGHTER
 BY THE CRIME ALLEGEDLY "ALLEGEDLY"
 THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE
 AND AFORETHOUGHT

THAT IS CLASSIFIED AS A SECOND DEGREE CRIME
 AND OFFENSE UNDER SOUTH CAROLINA CODE OF LAW
 "16-3-50" IS CLASSIFIED AS A SECOND DEGREE LESSER
 INCLUDED CRIME AND OFFENSE OF THE 16-3-10 FIRST
 DEGREE MURDER CRIME "ALLEGEDLY"
 THE DEFENDANT KILLED THE VICTIM WITH MALICE
 AND AFORETHOUGHT FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
 CAROLINA
 RICKY PELZER VS. STATE OF SOUTH CAROLINA 672 S.E.
 2d 790 "ALLEGEDLY"

FOR AN OFFENSE TO BE A LESSER INCLUDED OF ANOTHER
 THE GREATER OFFENSE MUST INCLUDE ALL THE ELEMENTS
 OF THE LESSER OFFENSE. IF THE LESSER OFFENSE
 INCLUDES AN ELEMENT NOT INCLUDED IN THE
 GREATER OFFENSE, THEN THE LESSER OFFENSE IS NOT
 INCLUDED IN THE GREATER

3rd degree

INVOLUNTARY MANSLAUGHTER
 S.C. CODE OF LAW 16-3-60

AS A MATTER OF LAW THE THIRD DEGREE CRIME OF

INVOLUNTARY manslaughter by the crime "alleging"

The defendant killed the victim without malice and aforethought, the killing was unintentional and the killing resulted from criminal negligence

is classified as a third degree crime and offense under South Carolina Code of Law "16-3-60" and carries a maximum prison sentence of 5 years

As a matter of law the third degree crime and offense of involuntary manslaughter by the crime "alleging" the defendant killed the victim without malice and aforethought, the killing was unintentional and the killing resulted from criminal negligence.

That is classified as a third degree crime and offense under South Carolina Code of Law "16-3-60" is classified as a third degree crime and offense. That is a lesser included degree crime and offense. That has the essential element "alleging"

The defendant unlawfully killed the victim: That is a essential element that is also included into the greater degree crime and offense of first degree murder by the crime "alleging" the defendant killed the victim with malice and aforethought, that is classified as a first degree murder under S.C. Code of Law "16-3-10" and also has the essential element which is the defendant unlawfully killed the victim

As a matter of law proving that the third degree crime of 16-3-60 involuntary manslaughter by the crime "alleging" the defendant killed the victim without malice and aforethought, killing was unintentional and the killing resulted from criminal negligence

that is classified as a third degree crime and offense under South Carolina Code of Law "16-3-60" is classified as a third degree lesser included crime and offense of the 16-3-10 first degree murder crime "alleging" the defendant killed the victim with malice and aforethought

FOR PROOF REVIEW
Case Law Merits

Supreme Court of Appeals of the State of South Carolina Case Law of.
PICKY PRIZER VS. STATE OF SOUTH CAROLINA 622 S.E.2d 780 "alleging"
for an offense to be a lesser included of another

The greater offense must include all the elements of the lesser offense, if the lesser offense includes an element not included in the greater offense then the lesser offense is not included in the greater

1st DEGREE

FELONY MURDER by common law

As a matter of law under common law inside of the state of South Carolina, the crime of felony murder by the felony murder rule theory by the crime "alleging"

The defendant caused the victim death while perpetrating a felony

Is classified as a common law crime inside of the state of South Carolina, and carries a maximum prison sentence of life imprisonment. For proof review

Case law merits
Supreme Court of Appeals of State of South Carolina case law of.

Gore vs. Leeke 1995 E.2d 755 "quoting" while a number of jurisdictions including Congress (Title 18, Sec. 111, U.S.C.) have enacted felony murder statutes, South Carolina has not done so, having instead constantly followed the common law rule.

As a matter of law the crime of felony murder by the felony murder rule theory is a unit distinct crime that does not have a lesser included crime or offense to it. For proof review

Case law merits
Supreme Court of Appeals of the United States of America case law of.

Hopkins vs. Reeves 118 S. Ct 1895 "quoting" respondents proposed instructions were

refused because the Nebraska Supreme Court held for over 100 years, in both capital and non capital case that second degree murder and manslaughter are not lesser included offenses of felony murder. If Nebraska trial court gives instructions on these offenses and the defendant is convicted only on second degree murder or manslaughter, that conviction must be reversed on appeal

CASE LAW MERITS

UNITED STATES OF AMERICA FOR THE FIFTH
CIRCUIT CASE LAW OF
UNITED STATES OF AMERICA VS. JEROME DEAN
CAVANAGH 948 F.2d 405 "QUOTING"

AS THE COURT IN GREEN OBSERVED:
IT IS IMMATERIAL WHETHER SECOND DEGREE
MURDER IS A LESSER OFFENSE INCLUDED IN
A CHARGE OF FELONY MURDER OR NOT. THE
VITAL THING IS THAT IT IS A DISTINCT AND
DIFFERENT OFFENSE IF ANYTHING THE FACT
THAT IT CAN NOT BE CLASSIFIED AS A LESSER
INCLUDED OFFENSE UNDER THE CHARGE OF
FELONY MURDER BUT RESSES OUR CONCLUSION
THAT GREEN WAS UNCONSTITUTIONALLY TWICE
PLACED IN JEOPARDY

CASE LAW MERITS

SUPREME COURT OF APPEALS OF UNITED STATES
OF AMERICA CASE LAW OF.
GREEN VS. UNITED STATES 78 S. CT 221 "QUOTING"
FROM POTE NOTE: INSIDE OF THE CASE LAW OF GREEN
VS. UNITED STATES "QUOTING"
EVEN MORE IMPORTANT GREEN PLEA OF FORMER
JEOPARDY DOES NOT REST ON HIS CONVICTION FOR
SECOND DEGREE MURDER BUT INSTEAD ON THE FIRST
JURY REFUSAL TO FIND HIM GUILTY OF FELONY MURDER.
IT IS IMMATERIAL WHETHER SECOND DEGREE MURDER
IS A LESSER OFFENSE INCLUDED IN A CHARGE OF
FELONY MURDER OR NOT. THE VITAL THING IS THAT
IT IS A DISTINCT AND DIFFERENT OFFENSE. IF
ANYTHING THE FACT THAT IT CAN NOT BE CLASSIFIED
AS A LESSER INCLUDED OFFENSE UNDER THE CHARGE
OF FELONY MURDER BUT RESSES OUR CONCLUSION
THAT GREEN WAS UNCONSTITUTIONALLY TWICE
PLACED IN JEOPARDY

1ST CRIME

NOT A LESSER INCLUDED DEGREE CRIME
AND OFFENSE TO THE CRIME OF FELONY
MURDER BY THE FELONY MURDER RULE THEORY
IS: 16-3-10 FIRST DEGREE MURDER "ALLEGING"
THE DEFENDANT KILLED THE VICTIM WITH MALICE AND
AFORETHOUGHT

AS A MATTER OF LAW THE CRIME OF FIRST DEGREE
MURDER BY THE CRIME "ALLEGING"
THE DEFENDANT KILLED THE VICTIM WITH
MALICE AND AFORETHOUGHT

THAT CLASSIFIED AS A FIRST DEGREE MURDER CRIME
UNDER S.C. CODE OF LAW 16-3-10. IS NOT CLASSIFIED
AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE

104
OF FELONY MURDER BY THE FELONY MURDER RULE THEORY
"ALLEGING"

THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE
IN THE COMMISSION OF COMMITTING A FELONY UNDER
THE STATUTORY LAWS AND THE COMMON LAWS OF THE
STATE OF SOUTH CAROLINA. AS A MATTER OF LAW THE
ESSENTIAL ELEMENT "ALLEGING"

THE DEFENDANT UNLAWFULLY KILLED ANOTHER
FROM THE FIRST DEGREE MURDER CRIME "ALLEGING"
THE DEFENDANT KILLED THE VICTIM WITH MALICE
AND AFORETHOUGHT

THAT IS CLASSIFIED AS A FIRST DEGREE MURDER CRIME
UNDER S.C. CODE OF LAWS 16-3-10.
IT IS NOT INCLUDED INTO THE ESSENTIAL ELEMENT OF
BEING IN THE COMMISSION OF COMMITTING A FELONY.
FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER
RULE THEORY "ALLEGING"
THE DEFENDANT CAUSED THE VICTIM TO BE KILLED
WHILE IN THE COMMISSION OF COMMITTING A FELONY

AS A MATTER OF LAW PROVEING THAT THE FIRST DEGREE
MURDER CRIME "ALLEGING"
THE DEFENDANT KILLED THE VICTIM WITH MALICE
AND AFORETHOUGHT

IT IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME
AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER
RULE THEORY "ALLEGING"
THE DEFENDANT CAUSED THE VICTIM TO BE KILLED
WHILE IN THE COMMISSION OF COMMITTING A
FELONY

UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA
FOR PROOF REVIEW
CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF
STATE V. PARKER 543 S.E.2d 255 "ALLEGING"

WE CONCLUDED BECAUSE GRAND LARCENY HAS THE
ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLARS

IT IS NOT A LESSER INCLUDED OFFENSE OR ARMED
ROBBERY WHICH HAS NO MONETARY ELEMENT
FOR THE AFOREMENTIONED REASONS, THE CONVICTION
ARE VACATED

2ND CRIME

NOT A LESSER INCLUDED DEGREE CRIME
AND OFFENSE TO THE CRIME OF FELONY
MURDER BY THE FELONY MURDER RULE
THEORY IS: 16-3-50 VOLUNTARY MANSLAUGHTER

AS A MATTER OF LAW SECOND DEGREE VOLUNTARY

manslaughter by the crime alleging
 The defendant killed the victim without malice
 and a forethought

That is classified as a second degree crime and
 offense under S.C. code of laws 16-3-50 is only
 classified as a lesser included degree crime
 and offense of the first degree murder crime
alleging

The defendant killed the victim with malice
 and a forethought, that is classified as a first
 degree murder crime under S.C. code of law
 16-3-10

As a matter of law proving that the second degree
 crime of voluntary manslaughter by the crime
alleging

The defendant killed the victim without malice
 and a forethought, that is classified as a second
 degree crime and offense under S.C. code of
 law 16-3-50

is not classified as a lesser included degree
 crime and offense of the crime of felony murder
 by the felony murder rule theory alleging
 The defendant caused the victim to be shot and
 killed while in the commission of committing
 a felony

under the statutory laws and common laws of
 the state of South Carolina.
 As a matter of law the essential element allege-
ing

The defendant unlawfully killed another from
 the second degree voluntary manslaughter
 crime by the crime alleging

The defendant killed the victim without malice
 and a forethought. That is classified as a second
 degree crime and offense under S.C. code of
 law 16-3-50. is included into the greater
 degree crime alleging

The defendant killed the victim with malice
 and a forethought that is classified as a first
 degree murder crime under S.C. code of law
 16-3-10,

As a matter of law proving that the essential
 element alleging

The defendant unlawfully killed another
 from the second degree crime of voluntary
 manslaughter by the crime alleging

The defendant killed the victim without
 malice and a forethought, that is classified as a
 second degree crime under S.C. code of law
 16-3-50 is not included into the essential
 element alleging

while in the commission of committing a felony.

FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING"

THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

AS A MATTER OF LAW PROVEING THAT THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGING"

THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT

THAT IS CLASSIFIED AS A SECOND DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-50 IS NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING"

THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY -

UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA FOR PROOF REVIEW

CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF STATE VS. PARKER 543 S.E.2D 255 "QUOTING"

WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLARS, IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONETARY ELEMENT.

FOR THE AFOREMENTIONED REASONS, THE CONVICTIONS ARE VACATED

3rd CRIME

NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE TO THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY 16-3-60 INVOLUNTARY MANSLAUGHTER

AS A MATTER OF LAW THE CRIME OF THIRD DEGREE INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGING"

THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

THAT IS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60. IS CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE MURDER CRIME "ALLEGING"

THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT THAT IS CLASSIFIED AS A FIRST

DEGREE MURDER CRIME UNDER S.C. CODE OF LAW

16-3-60

AS A MATTER OF LAW PROVEING THAT THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGED" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE THATS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60 IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FIRST DEGREE FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGED" THE DEFENDANT CAUSED THE VICTIM TO BE SHOT AND KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

UNDER THE STATUTORY LAWS AND COMMON LAWS OF THE STATE OF SOUTH CAROLINA, ALSO AS A MATTER OF LAW THE ESSENTIAL ELEMENT "ALLEGED" THE DEFENDANT UNLAWFULLY KILLED ANOTHER FROM THE THIRD DEGREE INVOLUNTARY MANSLAUGHTER CRIME "ALLEGED" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE THATS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60, IS INCLUDED INTO THE GREATER DEGREE CRIME AND OFFENSE "ALLEGED" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THATS CLASSIFIED AS A THIRD DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-10 IS NOT INCLUDED INTO THE ESSENTIAL ELEMENT "ALLEGED" WHILE IN THE COMMISSION OF COMMITTING A FELONY

FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGED" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

AS A MATTER OF LAW PROVEING THAT THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGED" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

THATS CLASSIFIED AS A THIRD DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-60 IS NOT A LESSER

included degree crime and offense of the crime of felony murder by the felony murder rule theory "allegedly"

The defendant caused the victim to be killed while in the commission of committing a felony

FOR PROOF REVIEW
CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF STATE VS. PARKER 547 S.E.2d 2155 "ALLEGEDLY" & "VOTING"
we conclude that because grand larceny has the element of in excess of one thousand dollars it is not a lesser included offense of armed robbery which has no monetary elements for the aforementioned reasons, the convictions are vacated

therefore because as a matter of law the crimes of first degree murder 16-3-10 by the crime "allegedly" the defendant killed the victim with malice and a forethought.

And the crime of second degree voluntary manslaughter 16-3-50 by the crime "allegedly" the defendant killed the victim without malice and a forethought

And the crime of third degree involuntary manslaughter 16-3-60 by the crime "allegedly" the defendant killed the victim without malice and a forethought, the killing was unintentional and the killing resulted from criminal negligence

are all not lesser included degree crimes and offenses of the crime and offense of felony murder by the felony murder rule theory "allegedly"

- while engaged in a ongoing gun battle an inherently dangerous felony TYRONE ROBINSON died willfully, unlawfully and with malice and a forethought cause the victim FEMALE SINGLETON to be shot and killed

That's charged and alleged inside of the written write up of indictment # 2012-85-07-01935, that it was tried on before the jury at trial. AS A MATTER OF LAW THE TRIAL JUDGE AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONVICT AND

sentenced me to prison time of life imprisonment, on the third undictated "allegedly" first degree murder crime by the crime "allegedly"

I killed the victim with malice and a forethought because the third undictated "allegedly" first degree murder crime by the crime by -

The crime "allegedly"
I killed the victim with malice and afore-
-ethought

is a third unindicted alleged first degree
murder crime and offense, for the same degree
crime and offense, that is not a lesser includ-
-ed degree crime and offense of first degree
felony murder by the felony murder rule theory
"allegedly"

while engaged in a ongoing gun battle and
inherently dangerous felony, Tyrone Robinson
died willfully, unlawfully and with malice
and aforethought, cause the victim Khalil
Singleton to be shot and killed

that charged and alleged inside of the written
write up of indictment # 2012-ES-07-01935,
that I was tried on before the jury at trial,
as decided by the South Carolina Court of Appeals.
for proof review

CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW
OF, STATE VS. PARKER 543 S.E. 2d 255 QUOTE

IT INVOLVING SUBJECT MATTER JURISDICTION
MAY BE RAISED AT ANY TIME INCLUDING FOR THE
FIRST TIME ON APPEAL. THEREFORE WE CONSIDER

THE TRIAL COURT'S JURISDICTION TO TRY PARKER AND
KIRBY FOR GRAND LARCENY DESPITE THE LACK OF
RULING BY THE TRIAL COURT ON THE ISSUE.

THE SCOPE OF JURISDICTION CONFERRED BY AN INDICT-
-MENT IS LIMITED TO THE CHARGED OFFENSE AND
ANY LESSER INCLUDED OFFENSES.

HOWEVER TWO SEPARATE OFFENSES CAN NOT, ORDIN-
-ARILY BE CHARGED IN A SINGLE-COUNT INDICTMENT
UNLESS ONE IS A LESSER INCLUDED OFFENSE OF THE
OTHER.

AN INDICTMENT MUST (1) ENUMERATE ALL THE ELEMENTS
OF THE CHARGED OFFENSE, REGARDLESS OF WHETHER IT
IS A STATUTORY OR COMMON LAW OFFENSE AND (2)
RECITE THE FACTUAL CIRCUMSTANCES UNDER WHICH
THE OFFENSE OCCURRED.

HOWEVER SEPARATE OFFENSES CAN NOT BE CHARGED IN A
SINGLE-COUNT INDICTMENT UNLESS ONE IS A LESSER-
-INCLUDED OFFENSE OF THE OTHER. FENWELL 209 S.E.

2d 434 SCRUTINIZING THE INDICTMENT WITH A
PRACTICAL EYE, WE CONCLUDE KIRBY AND PARKER
WERE PREJUDICED BECAUSE THEY FACED THE CHARGE
OF ARMED ROBBERY AT TRIAL, BUT WERE FORCED AT
THE END OF THE STATE CASE TO FACE THE SEPARATE
OFFENSE OF GRAND LARCENY.

BECAUSE GRAND LARCENY WAS NEITHER SUFFICIENTLY
CHARGED BY THE SINGLE-COUNT INDICTMENT NOR
WAIVED BY THE DEFENDANTS, THE ONLY POSSIBLE SOURCE

110.
OF JURISDICTION UPON WHICH THE TRIAL COURT HAVE CONTINUED TO TRY PARKER AND KIRBY ON IS GRAND LARCENY STATUS AS A LESSER INCLUDED OFFENSE OF ARMED ROBBERY. THE TEST FOR DETERMINING IF A CRIME IS A LESSER INCLUDED OFFENSE IS WHETHER THE GREATER OF THE TWO OFFENSES INCLUDES ALL THE ELEMENTS OF THE LESSER OFFENSE. IF UNDER ANY CIRCUMSTANCES, A PERSON CAN COMMIT THE GREATER OFFENSE WITHOUT BEING GUILTY OF THE PURPORTED LESSER OFFENSE, THEN THE LATTER IS NOT A LESSER-INCLUDED OFFENSE. WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLARS IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONETARY ELEMENT. FOR THE AFOREMENTIONED REASONS, THE CONVICTIONS ARE VACATED.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF THE STATE VS. SALLY CAULDER PARKER AND TIMOTHY KIRBY OPINION NO. 25538 "QUOTING" THE CIRCUIT COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION TO CONVICT A DEFENDANT OF ANY OFFENSE UNLESS THE OFFENSE IS A LESSER INCLUDED OFFENSE OF THE CRIME CHARGED IN THE INDICTMENT STATE VS. OWENS, 346 S.C. 637, 552 S.E. 2d 745 (2,001). THE TEST FOR DETERMINING WHEN AN OFFENSE IS A LESSER-INCLUDED OFFENSE OR ANOTHER IS WHETHER THE GREATER OF THE TWO OFFENSES INCLUDE ALL THE ELEMENTS OF THE LESSER OFFENSE. STATE VS. MC. FADDEN 342 S.C. 629 539 S.E. 2d 387 (2,000). IF THE LESSER OFFENSE INCLUDES AN ELEMENT WHICH IS NOT INCLUDED IN THE GREATER OFFENSE, THEN THE LESSER OFFENSE IS NOT INCLUDED IN THE GREATER OFFENSE HOPE VS. STATE, 328 S.C. 78, 492 S.E. 2d 76 (1997) "FURTHER QUOTING"

ACCORDINGLY GRAND LARCENY CAN NOT BE A LESSER INCLUDED OFFENSE OF ARMED ROBBERY BECAUSE THE OFFENSE OF ARMED ROBBERY DOES NOT INCLUDE THE ELEMENT THAT THE VALUE OF THE GOODS TAKEN MUST EXCEED \$1,000 SEE HOPE VS. STATE. SUPRA (IF LESSER OFFENSE INCLUDES ELEMENT WHICH IS NOT INCLUDED IN GREATER OFFENSE, THEN LESSER OFFENSE IS NOT INCLUDED IN GREATER OFFENSE). THE INDICTMENT IN THIS CASE CHARGE ARMED ROBBERY, BUT ALSO APPEAR TO DESCRIBE GRAND LARCENY. HOWEVER, THE TRIAL COURT LACKED SUBJECT

matter JURISDICTION to sentence Respondent
 on grand larceny because the indictment
 only specifically charged armed robbery,
 which does not include all the elements
 of grand larceny. see state vs. summers 276
 S.C. 11, 294 S.E.2d 427 (1981) (conviction may be had
 of an offense different from the one specif-
 ically charged only when such offense is essential
 element of that charged and only when greater
 offense charged includes all legal and fact-
 ual elements of lesser offense). over ruled in
 part on other grounds by state vs. mc. fadden,
 342 S.C. 629, 539 S.E.2d 387 (2,000) state vs. fannell,
 263 S.C. 216, 209 S.E.2d 433 (1974) (same) see also
 (state vs. owens supra (court does not have subject
 matter JURISDICTION to convict defendant
 unless offense is lesser included offense of
 crime charged in indictment).
 accordingly, because the trial court lacked
 subject matter JURISDICTION to convict respond-
 ent of grand larceny, the court of appeals
 decision is affirmed in result.

case law merits

supreme court of appeals of the state of
 south carolina 2,009 case law of.
 rocky pelzer vs. state of south carolina
 672 S.E.2d 790 "quote" "9"
 the trial court lacks subject matter
 JURISDICTION to convict the defendant
 of a crime that is not a lesser included
 of the offense charged in the indictment.
 for an offense to be a lesser included
 another, the greater offense must include
 all the elements of the lesser offense.
 if the lesser offense includes an element
 not included in the greater offense,
 then the lesser offense is not included
 in the greater.

2nd REASON PROVING

The trial judge and trial court lacked
 subject matter JURISDICTION to convict
 and sentence me to prison time of life
 imprisonment \$5!

as a matter of law the trial transcript
 and evidence attached. proves that I did not
 waive presentment of indictment to the

GRAND JURY IN ANY WAY WHATSOEVER. ON THE
THIRD UNINDICTED ALLEGED FIRST DEGREE MURDER
CRIME "ALLEGEDLY"
I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THAT IS A THIRD UNINDICTED ALLEGED FIRST DEGREE
MURDER CRIME, FOR THE SAME FIRST DEGREE
OFFENSE, THAT IS NOT CLASSIFIED AS A
LESSER INCLUDED DEGREE CRIME AND OFFENSE
OF THE CRIME OF FELONY MURDER BY THE FELONY
MURDER RULE THEORY ALLEGEDLY

WHILE ENGAGED IN A ONGOING GUN BATTLE AND
INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON
DID WILLFULLY, UNLAWFULLY AND WITH MALICE
AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON
TO BE SHOT AND KILLED

BECAUSE AS A MATTER OF LAW THE TRIAL JUDGE
AND TRIAL COURT LACKED SUBJECT MATTER JURISDICTION
TO CONVICT AND SENTENCE ME TO
PRISON TIME OF LIFE IMPRISONMENT AND
DEPRIVE ME OUT OF MY LIBERTY ON AND FOR
THE THIRD UNINDICTED "ALLEGED"
FIRST DEGREE MURDER CRIME "ALLEGEDLY"
I KILLED THE VICTIM WITH MALICE AND
AFORETHOUGHT

THAT I DID NOT WAIVE PRESENTMENT OF INDICTMENT
- ENT TO THE GRAND JURY ON.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
CAROLINA CASE LAW OF
ODAM VS. STATE 566 S.E. 2d 528 "QUOTE"

ORAL WAIVER OF PRESENTMENT WAS NOT SUFFICIENT
- ENT TO BESTOW SUBJECT MATTER JURISDICTION
ON THE TRIAL COURT IN THE ABSENCE OF AN
INDICTMENT A WRITTEN WAIVER WAS REQUIRED
ALSO "FURTHER QUOTE" 480
IN THE ABSENCE OF AN INDICTMENT, THERE MUST
BE A VALID WAIVER OF PRESENTMENT FOR THE
TRIAL COURT TO HAVE SUBJECT MATTER JURISDICTION
- CTION OF THE OFFENSE

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
CAROLINA CASE LAW OF
RICHARD CAMPBELL VS. STATE OF SOUTH CAROLINA
535 S.E. 2d 928 "QUOTE"

HERE THE GRAND JURY NEVER INDICTED RESPONDENT
- ENT FOR THE LEWD ACT CHARGE AND RESPONDENT
- ENT DID NOT WAIVE PRESENTMENT TO THE GRAND
JURY. COMMITTING A LEWD ACT ON MINOR IS

NOT A LETTER INCLUDED OFFENSE OF FIRST DEGREE
CRIMINAL SEXUAL CONDUCT ON A MINOR. THERE-
FORE, THE TRIAL COURT WAS WITHOUT JURISDICT-
-ION TO ACCEPT RESPONDENTS PLEA TO THE
UNINDICTED CHARGE

PREJUDICED ME

1st
FIRST JEOPARDY
FIRST ALLEGED CRIME OF FELONY MURDER BY
THE FELONY MURDER RULE THEORY THAT I
WAS PUT IN JEOPARDY OF

* TYRONE ROBINSON WAS PREJUDICED, BECAUSE
WHEN THE JURY AT MY TRIAL WAS SWORN IN.
I WAS PUT IN JEOPARDY AND FACED THE
CHARGE OF FELONY MURDER BY THE FELONY MURDER
RULE THEORY "ALLEGEDLY"
WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY, TYRONE
ROBINSON DID WILLFULLY UNLAWFULLY AND WITH
MALICE AFORETHOUGHT CAUSE THE VICTIM
KHALIL SINGLETON TO BE SHOT AND KILLED
THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935,
THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL

2nd **DOUBLE JEOPARDY**

SECOND UNINDICTED ALLEGED FALSE MURDER
CHARGE THAT I WAS PUT IN DOUBLE JEOPARDY

HOWEVER AFTER THE STATE OF SOUTH CAROLINA
HAD RESTED THEIR CASE, ON MOTION FOR DIRECTED
VERDICT OF ACQUITTAL, I WAS FORCED AGAINST
MY WILL, TO FACE THE SEPERATE SECOND UNIND-
-ICTED ALLEGED FALSE MURDER CHARGE "ALLEGEDLY"
ON OR ABOUT SEPTEMBER THE 7th 2012 TYRONE
ROBINSON DID WILLFULLY WITH MALICE
CAUSE HIM TO BE SHOT AND KILLED AND
HE DIED

That is a NON EXISTANT second UNINDICTED alleged false murder charge. That is not classified as a crime or offense by the laws of the state of South Carolina. That is not classified as a crime of murder 16-3-10 by South Carolina code of laws 16-3-10 That is also not classified as a violation of South Carolina code of laws 16-3-10

That there is not any indictment charge - ing me with in violation of South Carolina code of law 17-19-10, that the trial judge and trial court lacked subject matter jurisdiction to deny my motion for directed verdict of acquittal, and unlawfully restrain me on, which prejudiced me, for proof review

Care Law merits

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA Case Law of WHITNER VS. STATE 492 S.E.2d 777 "QUOTING" UNDER SOUTH CAROLINA LAW, A CIRCUIT COURT LACK SUBJECT MATTER JURISDICTION TO ACCEPT A GUILTY PLEA TO A NON EXISTENT OFFENSE

3rd TRIPLE JEOPARDY

THIRD UNINDICTED alleged first degree murder crime "alleging" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT / That I was put in TRIPLE JEOPARDY OF

also at the end of the states case. when the trial judge and trial court charged the jury on the crime to decide on. I was forced to face the THIRD UNINDICTED alleged first degree murder crime "alleging" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT. That I was put in TRIPLE JEOPARDY OF. That is a THIRD UNINDICTED alleged first degree murder crime, for the same first degree offense, that is not a lesser included degree crime and offense, of the crime of FELONY MURDER by the FELONY MURDER RULE THEORY "alleging" while engaged in a ongoing gun battle and INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON did WILLFULLY UNLAWFULLY and with MALICE AFORETHOUGHT cause the victim KHALIL SIMPLE -

- TON TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE
WRITTEN WRITE UP OF INDICTMENT #2012-GS-
-07-01935 THAT I WAS TRIED ON BEFORE THE
JURY AT TRIAL AND PUT IN TRIPLE JEOPARDY OF.
WHICH DID PREJUDICE ME AT TRIAL. FOR
PROOF REVIEW

CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE
LAW OF.
STATE VS. PARKER 543 S.E. 2d 255 "QUOTE -

- "NO"
WE CONCLUDE KIRBY AND PARKER WERE
PREJUDICED BECAUSE THEY FACED THE
CHARGE OF ARMED ROBBERY AT TRIAL,
BUT WERE FORCED AT THE END OF THE
STATE CASE TO FACE THE SEPERATE
OFFENSE OF GRAND LARCENY.

1991
110

VACATE UNLAWFUL CONVICTION AND PRISON SENTENCE

BECAUSE THE TRIAL JUDGE AND TRIAL COURT LACKED
SUBJECT MATTER JURISDICTION, TO UNLAWFULLY
CONVICT, SENTENCE ME TO PRISON TIME OF LIFE
IMPRISONMENT AND UNLAWFULLY RESTRAIN ME.
ON THE THIRD UNINDICTED FIRST DEGREE MURDER
CRIME "ALLEGEDLY"
I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

THAT IS NOT CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT
I WAS TRIED ON BEFORE THE JURY AT TRIAL. ALSO
THAT IS A THIRD UNINDICTED ALLEGED FIRST DEGREE
MURDER CRIME FOR THE SAME FIRST DEGREE
OFFENSE, THAT IS **NOT CLASSIFIED**

AS A LESSER INCLUDED DEGREE CRIME AND
OFFENSE OF THE CRIME OF FELONY MURDER
BY THE FELONY MURDER RULE THEORY "ALLEGEDLY"
WHILE ENGAGED IN A ONGOING GUN BATTLE AND
INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON
DID WILLFULLY, UNLAWFULLY AND WITH MALICE
AFORETHOUGHT CAUSE THE VICTIM KHALIL STAN-
LETON TO BE SHOT AND KILLED

THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT
I WAS TRIED ON BEFORE THE JURY AT TRIAL.
THIS COURT MUST VACATE MY UNLAWFUL CONVICT-
-TION AND PRISON SENTENCE OF LIFE IMPRISON-
-MENT THAT I AM CURRENTLY BEING HELD UNLAWFULLY
RESTRAINED ON. AS DECIDED BY THE SOUTH CAROLINA
COURT OF APPEALS FOR PROOF REVIEW
CASE LAW MERITS.

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF.
STATE VS. PARKER 543 S.E.2d 255 "QUOTE: IT IS
FIVE INVOLVING SUBJECT MATTER JURISDICTION
MAY BE RAISED AT ANY TIME INCLUDING FOR THE
FIRST TIME ON APPEAL. THEREFORE WE CONSIDER
THE TRIAL COURT'S JURISDICTION TO TRY PARKER AND
KIRBY FOR GRAND LARCENY DESPITE THE LACK OF
RULING BY THE TRIAL COURT ON THE ISSUE. THE SCOPE

OF JURISDICTION CONFERRED BY AN INDICTMENT IS LIMITED TO THE CHARGED OFFENSE AND ANY LESSER INCLUDED OFFENSES.

HOWEVER TWO SEPARATE OFFENSES CAN NOT ORDINARILY BE CHARGED IN A SINGLE COUNT INDICTMENT UNLESS ONE IS A LESSER INCLUDED OFFENSE OF THE OTHER.

AN INDICTMENT MUST (1) ENUMERATE ALL THE ELEMENTS OF THE CHARGED OFFENSE, REGARDLESS OF WHETHER IT IS A STATUTORY OR COMMON LAW OFFENSE AND (2) RECITE THE FACTUAL CIRCUMSTANCES UNDER WHICH THE OFFENSE OCCURRED.

HOWEVER SEPARATE OFFENSES CAN NOT BE CHARGED IN A SINGLE COUNT INDICTMENT UNLESS ONE IS A LESSER INCLUDED OFFENSE OF THE OTHER.
KENNEL 209 S.E.2d 434

SCRUTINIZING THE INDICTMENT WITH A PRACTICAL EYE, WE CONCLUDE KIRBY AND PARKER WERE PREJUDICED BECAUSE THEY FACED THE CHARGE OF ARMED ROBBERY AT TRIAL, BUT WAS FORCED AT THE END OF THE STATE CASE TO FACE THE SEPARATE OFFENSE OF GRAND LARCENY. BECAUSE GRAND LARCENY WAS NEITHER SUFFICIENTLY CHARGED BY THE SINGLE-COUNT INDICTMENT NOR WAIVED BY THE DEFENDANTS, THE ONLY POSSIBLE SOURCE OF JURISDICTION UPON WHICH THE TRIAL COURT HAVE CONTINUED TO TRY PARKER AND KIRBY ON IS GRAND LARCENY STATUS AS A LESSER INCLUDED OFFENSE OF ARMED ROBBERY. THE TEST FOR DETERMINING IF A CRIME IS A LESSER INCLUDED OFFENSE IS WHETHER THE GREATER OF THE TWO OFFENSES INCLUDES ALL THE ELEMENTS OF THE LESSER IF UNDER ANY CIRCUMSTANCES, A PERSON CAN COMMITTE THE GREATER OFFENSE WITHOUT BEING GUILTY OF THE PURPORTED LESSER OFFENSE. THEN THE LATTER IS NOT A LESSER INCLUDED OFFENSE.

WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLARS IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONETARY ELEMENT.

FOR THE AFOREMENTIONED REASONS, THE CONVICTIONS ARE VACATED

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF

THE STATE VS. SALLY CAULDER PARKER AND TIMOTHY KIRBY OPINION NO. 25539 QUOTING

ACCORDINGLY GRAND LARCENY CAN NOT BE A LESSER INCLUDED OFFENSE OF ARMED ROBBERY BECAUSE THE OFFENSE OF ARMED ROBBERY DOES NOT INCLUDE THE ELEMENT THAT THE VALUE OF THE GOODS TAKEN MUST

EXCEED \$1,000. SEE HOPE VS. STATE SUPRA (IF LESSER OFFENSE INCLUDES ELEMENT WHICH IS NOT INCLUDED IN GREATER OFFENSE, THEN LESSER OFFENSE IS NOT INCLUDED IN GREATER OFFENSE).

THE INDICTMENTS IN THIS CASE CHARGE ARMED ROBBERY, BUT ALSO APPEAR TO DESCRIBE GRAND LARCENY.

HOWEVER, THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO SENTENCE RESPONDENTS ON GRAND LARCENY, BECAUSE THE INDICTMENTS ONLY SPECIFICALLY CHARGED ARMED ROBBERY, WHICH DOES NOT INCLUDE ALL THE ELEMENTS OF GRAND LARCENY.

SEE STATE VS. SUMMERS 276 S.C. 11, 274 S.E. 2d 427 (1981) CONVICTION MAY BE HAD OF AN OFFENSE DIFFERENT FROM THE ONE SPECIFICALLY CHARGED ONLY WHEN SUCH OFFENSE IS ESSENTIAL ELEMENT OF THAT CHARGED AND ONLY WHEN GREATER OFFENSE CHARGED INCLUDES ALL LEGAL AND FACTUAL ELEMENTS OF LESSER OFFENSE. OVER RULED IN PART ON OTHER GROUNDS BY STATE VS. MCPADDEN, 342 S.C. 629, 539 S.E. 2d 387 (2,000).

STATE VS. FANNELL, 1267 S.C. 216, 209 S.E. 2d 433 (1974) (SAME) SEE ALSO STATE VS. OWENS SUPRA (COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION TO CONVICT DEFENDANT UNLESS OFFENSE IS LESSER INCLUDED OFFENSE OF CRIME CHARGED IN INDICTMENT).

ACCORDINGLY, BECAUSE THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONVICT RESPONDENTS OF GRAND LARCENY, THE COURT OF APPEALS DECISION IS AFFIRMED IN RESULT.

119 3rd ARGUMENT

BECAUSE THE JURY AT TRIAL "IMPLICITLY ACQUITTED" ME ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GVN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHAEL STABLETON TO BE SHOT AND KILLED. THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-GS-07-01935. THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL. I AM ENTITLED TO BE DISCHARGED FROM IMPRISONMENT ON INDICTMENT #2012-GS-07-01935 THAT I AM CURRENTLY BEING HELD DEPRIVED OUT OF MY LIBERTY ON A VIOLATION OF MY FEDERAL 5th AND 14 AMENDMENT RIGHT OF DUE PROCESS OF LAW.

LAW ANALYSTS

AS TO TYRONE LORENZA ROBINSON WHO WAS ACQUITTED BY THE JURY VERDICT OF IMPLICIT ACQUITTAL, DULY RETURNED AND RECEIVED. THE COURT COULD TAKE NO OTHER ACTION THAN TO ORDER MY DISCHARGE FROM IMPRISONMENT ON INDICTMENT #2012-GS-07-01935. THE JURY VERDICT OF "IMPLICIT ACQUITTAL" IS FINAL AND CAN NOT BE REVIEWED ON ERROR OR OTHERWISE, WITHOUT PUTTING ME TWICE IN JEOPARDY, AND THEREBY VIOLATING MY FEDERAL 5th AMENDMENT RIGHT OF DOUBLE JEOPARDY. FOR PROOF REVIEW

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF GREEN V. UNITED STATES 785 CT 221 "QUOTING" THE VERDICT OF ACQUITTAL WAS FINAL AND COULD NOT BE REVIEWED, ON ERROR OR OTHERWISE, WITHOUT PUTTING THE DEFENDANT TWICE IN JEOPARDY AND THEREBY VIOLATING THE CONSTITUTION

CASE LAW MERITS
SUPREME COURT OF APPEALS OF UNITED STATES OF AMERICA CASE LAW OF KEPTNER V. U.S. 245 CT 797 "QUOTING" AS TO THE DEFENDANT WHO HAD BEEN ACQUITTED BY THE VERDICT DULY RETURNED AND RECEIVED, THE COURT COULD TAKE NO OTHER ACTION THAN TO ORDER HIS DISCHARGE. THE VERDICT OF ACQUITTAL WAS FINAL AND COULD NOT BE REVIEWED ON ERROR OR OTHERWISE, WITHOUT PUTTING HIM TWICE IN JEOPARDY, AND THEREBY VIOLATING THE CONSTITUTION. HOWEVER IT MAY BE IN ENGLAND, IN THIS COUNTRY A VERDICT OF ACQUITTAL, ALTHOUGH NOT FOLLOWED BY ANY JUDGMENT, IS A BAR TO A SUBSEQUENT PROSECUTION FOR THE SAME OFFENSE. JUDGMENT REVERSED, AND PRISONER DISCHARGED.

JURY VERDICT OF IMPLICIT ACQUITTAL ON FIRST DEGREE FELONY MURDER CRIME "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN - EN WRITE UP OF INDICTMENT #2012-65-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL

1ST PREMISES

PROVEING JURY VERDICT OF IMPLICIT ACQUITTAL ON FIRST DEGREE FELONY MURDER CRIME "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL IS AS FOLLOWS

FIRST AS A MATTER OF LAW THE JURY VERDICT OF GUILTY ON THE SECOND UNINDICTED ALLEGED FIRST DEGREE MURDER CRIME "ALLEGEDLY" I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

CONSTITUTES A IMPLICIT ACQUITTAL ON THE CRIME OF FIRST DEGREE FELONY MURDER BY THE CRIME "ALLEGEDLY" WHILE ENGAGED IN A ONGOING BATTLE AN INHERANTLY DANGEROUS FELONY TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-65-07-01935. THAT THE JURY WAS SWORN IN ON, THE DEFENSE OF DOUBLE JEOPARDY ATTACHES TO, I WAS TRIED ON BEFORE THE JURY AT TRIAL. THE STATE OF SOUTH CAROLINA SUBMITTED EVIDENCE AGAINST ME ON, AND THE STATE OF SOUTH CAROLINA RESTED THEIR CASE AGAINST ME ON. AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA, FOR PROOF REVIEW CASE LAW MERRIS

SUPREME COURT OF APPEALS OF STATE OF SOUTH CAROLINA CASE LAW OF GREEN VS. UNITED STATES 78 S.Ct 22 "QUOTEING" IN THIS CASE, HOWEVER, WE HAVE A MUCH DIFFERENT QUESTION. AT GREEN'S FIRST TRIAL THE JURY

WAS AUTHORIZED TO FIND HIM GUILTY OF EITHER
FIRST DEGREE MURDER KILLING WHILE PERPETUAT-
-ING A FELONY

OR ALTERNATIVELY OF SECOND DEGREE MURDER
KILLING WITH MALICE AFORETHOUGHT "FURTHER

QUOTEING"
GREEN WAS IN DIRECT PERIL OF BEING CONVICT-
-ED AND PUNISHED FOR FIRST DEGREE MURDER
AT HIS FIRST TRIAL. HE WAS FORCED TO RUN THE GANTLET
ON THAT CHARGE AND THE JURY REFUSED TO CONVICT HIM.
WHEN GIVEN THE CHOICE BETWEEN FINDING HIM GUILTY
OF EITHER FIRST OR SECOND DEGREE MURDER IT CHOSE THE
LATTER. IN THIS SITUATION THE GREAT MAJORITY OF
CASES IN THIS COUNTRY HAVE REGARDED THE JURY VERDICT
AS AN IMPLICIT ACQUITTAL ON THE CHARGE OF FIRST
DEGREE MURDER

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF
AMERICA CASE LAW OF,
PRICE VS. GEORGIA 90 S. CT 1757 "QUOTEING"

THE COURT IN THE GREEN CASE REVERSED THE FIRST DEGREE
MURDER CONVICTION OBTAINED AT THE RETRIAL, HOLDING
THAT PETITIONERS JEOPARDY FOR FIRST DEGREE MURDER
CAME TO AN END WHEN THE JURY WAS DISCHARGED AT THE
END OF HIS FIRST TRIAL. THIS CONCLUSION RESTED ON
"TWO PREMISES"

FIRST THE COURT CONSIDERED THE FIRST JURYS VERDICT
OF GUILTY ON THE SECOND-DEGREE MURDER CHARGE TO BE
AN "IMPLICIT ACQUITTAL" ON THE CHARGE OF FIRST DEGREE
MURDER

CASE LAW MERITS

THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH
CAROLINA CASE LAW OF,
THE STATE VS. LOUIS ENGLISH FULLER 552 S.E. 2d 282
"QUOTEING"

IF ACCESSORY AFTER THE FACT IS NOT CHARGED IN THE
INDICTMENT, BUT IS INSTRUCTED TO CLARIFY MERE
PRESENCE, A FINDING OF ACCESSORY AFTER THE FACT
IS THE EQUIVALENT TO A FINDING OF NOT GUILTY

CASE LAW MERITS

4TH CIRCUIT COURT OF APPEALS IN RICHMOND VIRGINIA
CASE LAW OF,
LIVINGSTON VS. MURDOUGH 183 F.3d 300 4th CIR 1999

"QUOTEING"
DOUBLE JEOPARDY BARR TO RETRIAL FOR RECKLESS
HOMICIDE CHARGE AFTER THE JURY CONVICTED DEFEND-
-ANT FOR FELONY DVZ BECAUSE JURY SILENCE ON
RECKLESS HOMICIDE WAS IMPLIED ACQUITTAL

2ND PREMISES

PROVEING JURY VERDICT OF IMPLICIT ACQUITTAL
ON THE FIRST DEGREE FELONY MURDER CRIME
"ALLEDGEING"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
-ENTLY DANGEROUS FELONY, TYRONE ROBINSON DID
-WILLFULLY, UNLAWFULLY, AND WITH MALICE AFORE-
-THOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE
SHOT AND KILLED

That's charged and allegeded INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935, THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL AS FOLLOWS

more broadly I TYRONE LORENZA ROBINSON JEOPARDY ON THE FIRST DEGREE FELONY MURDER CRIME "alleged-
-EING"
- WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
- ENTLY DANGEROUS FELONY, TYRONE ROBINSON DID
- WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETH-
- OUGHT CAUSE THE VICTIM KHALIL SINGLETON TO
- BE SHOT AND KILLED

That's charged and allegeded INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL. CAME TO AN END AND ENDED WHEN THE JURY AT MY TRIAL WAS DISCHARGED FROM MY TRIAL WITHOUT MY CONSENT AND THE JURY DID NOT FIND ME GUILTY OF THE FIRST DEGREE FELONY MURDER CRIME "alleged-
-EING"
- WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
- ENTLY DANGEROUS FELONY, TYRONE ROBINSON DID
- WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETH-
- OUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT
- AND KILLED

That's charged and allegeded INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935. THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL, AND INSTEAD THE JURY REACHED A VERDICT ON THE UNINDICTED "alleged" FIRST DEGREE MURDER CRIME "alleged-
-EING"
I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

That is not charged and allegeded and presented INSIDE OF A INDICTMENT AGAINST ME IN VIOLATION OF S.C. CODE OF LAW 17-19-10, THAT IS ALSO NOT A LETTER INCLUDED CRIME TO THE ALLEGED FIRST DEGREE FELONY MURDER CRIME "alleged-
-EING"
- WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY
- DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY,
- UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE
- THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

That is charged and allegeded INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL FOR PURPOSES OF FORMER JEOPARDY. IT WAS AS IF THE JURY HAD RETURN-
- ED A VERDICT WHICH EXPRESSED READ, WE THE JURY
- FIND THE DEFENDANT TYRONE LORENZA ROBINSON
"NOT GUILTY" OF THE FIRST DEGREE FELONY MURDER

CRIME "alleged-
-EING"
- WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY
- DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY,
- UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE
- THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

That's charged and allegeded INSIDE OF INDICTMENT # 2012-GJ-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL.

AFTER MY TRIAL BUT PRIOR TO MY APPEAL, IT IS INDE-
- SPUTABLE THAT I TYRONE ROBINSON COULD NOT HAVE BEEN
- TRIED AGAIN ON THE FIRST DEGREE FELONY MURDER
CRIME "alleged-
-EING"
- WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY

DANGEROUS FELONY; TYRONE ROBINSON DID WILLFULLY UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT IS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL

A PLEA OF FORMER JEOPARDY WOULD HAVE ABSOLUTELY BARRED A NEW PROSECUTION, AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA, THE 4TH CIRCUIT COURT OF APPEALS OF THE UNITED STATES OF AMERICA AND THE SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA, FOR PROOF

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF, GREEN VS. UNITED STATES 785 CT 22, "QUOTEING" IN THIS CASE HOWEVER WE HAVE A MUCH DIFFERANT QUESTION AT GREEN'S FIRST TRIAL THE JURY WAS AUTHORIZED TO FIND HIM GUILTY OF EITHER FIRST DEGREE MURDER (KILLING WHILE PERPETUATING A FELONY) OR ALTERNATIVELY OF SECOND DEGREE MURDER (KILLING WITH MALICE AFORETHOUGHT). THEREFORE IT SEEMS CLEAR, UNDER ESTABLISHED PRINCIPLES OF FORMER JEOPARDY, THAT GREEN'S JEOPARDY FOR FIRST DEGREE CAME TO END WHEN THE JURY WAS DISCHARGED SO THAT HE COULD NOT BE RETRIED FOR THAT OFFENSE. WADDE VS. HUNTER 336 US 684. IN BRIEF WE BELIEVE THIS CASE CAN BE TREATED NO DIFFERANTLY FOR PURPOSES OF FORMER JEOPARDY THAN IF THE JURY HAD RETURNED A VERDICT WHICH EXPRESSLY READ, WE FIND THE DEFENDANT NOT GUILTY OF MURDER IN THE FIRST DEGREE BUT GUILTY OF MURDER IN THE SECOND DEGREE, AFTER THE ORIGINAL TRIAL, BUT PRIOR TO HIS APPEAL, IT IS INDISPUTABLE THAT GREEN COULD NOT HAVE BEEN TRIED AGAIN FOR FIRST DEGREE MURDER FOR THE DEATH RESULTING FROM THE FIRE. A PLEA OF FORMER JEOPARDY WOULD HAVE ABSOLUTELY BARRED A NEW PROSECUTION EVEN THOUGH IT MIGHT HAD BEEN CONVINCINGLY DEMONSTRATED THAT THE JURY ERRED IN FAILING TO CONVICT HIM OF THAT OFFENSE AND EVEN AFTER APPEALING THE CONVICTION OF SECOND DEGREE MURDER HE STILL COULD NOT HAVE BEEN TRIED A SECOND TIME FOR FIRST DEGREE MURDER HAD HIS APPEAL BEEN UNSUCCESSFUL

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF, PRICE VS. GEORGIA 905 CT 1757 "QUOTEING" THE COURT IN THE GREEN CASE REVERSED THE FIRST DEGREE MURDER CONVICTION OBTAINED AT THE RETRIAL, HOLDING THAT THE PETITIONERS JEOPARDY FOR FIRST DEGREE MURDER CAME TO AN END WHEN THE JURY WAS DISCHARGED AT THE END OF HIS FIRST TRIAL. THIS CONCLUSION RESTED ON TWO PREMISES. "FURTHER QUOTEING" SECOND AND MORE BROADLY, THE COURT REASONED THAT PETITIONERS JEOPARDY ON THE GREATER CHARGE HAD ENDED WHEN THE FIRST JURY WAS GIVEN A FULL OPPORTUNITY TO RETURN A VERDICT ON THE LEISER

CHARGE 355 U.S. at 191 UNDER EITHER OF THESE PREMISES, THE HOLDING IN THE KEPPER CASE - THAT THERE COULD BE NO APPEAL FROM AN ACQUITTAL BECAUSE SUCH A VERDICT ENDED AN ACCUSED'S JEOPARDY WAS APPLICABLE

CASE LAW MERITS

SUPREME COURT OF APPEALS OF STATE OF SOUTH CAROLINA CASE LAW OF. THE STATE VS. GERALD B. KIRBY AND CHARLES KEND STONER 269 S.C. 25 CASE NO. 20456 QUOTING BUT IF THE JURY ARE DISCHARGED WITHOUT DEFENDANT CONSENT FOR A REASON LEGALLY INSUFFICIENT AND WITHOUT ABSOLUTE NECESSITY FOR IT, THE DISCHARGE IS EQUIVALENT TO AN ACQUITTAL AND MAY BE PLEADED AS A BAR TO A SUBSEQUENT INDICTMENT

CASE LAW MERITS

4TH CIRCUIT COURT OF APPEALS IN RICHMOND VIRGINIA CASE LAW OF ANDROY LIVINGSTON VS. RONDOLPH MURDOUGH, III, SOLICITOR 14TH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DIANE GOODSTEIN, PRESIDING JUDGE OF THE COURT OF GENERAL SESSION OF THE 14TH JUDICIAL CIRCUIT 183F-30/300 QUOTING HERE THE JURY WAS INSTRUCTED THAT IT COULD CONVICT LIVINGSTON OF EITHER RECKLESS HOMICIDE OR FELONY MURDER. THE JURY CONVICTED OF FELONY MURDER, BUT REMAINED SILENT ON RECKLESS HOMICIDE CHARGE, WHILE THERE WAS NO EXPLICIT ACQUITTAL THERE WAS NO CONVICTION EITHER. UNDER THESE CIRCUMSTANCES, THE JURY SILENCE MUST BE CONSIDERED AN IMPLICIT ACQUITTAL. SEE GREEN VS. UNITED STATES, 335 U.S. 184, 14-91, 785-CT 22 (1957) HOLDING THAT WHERE A JURY WAS INSTRUCTED THAT IT COULD CONVICT ON EITHER FIRST OR SECOND DEGREE MURDER BUT RETURNED A GUILTY VERDICT ONLY ON SECOND DEGREE MURDER, DEFENDANT COULD NOT BE RETRIED FOR FIRST DEGREE MURDER, SINCE SILENCE IN THE FIRST TRIAL ON THAT CHARGE CONSTITUTED AN IMPLICIT ACQUITTAL. UNDER THE GREEN DECISION, JEOPARDY ATTACHED BECAUSE THE JURY IMPLICITLY ACQUITTED LIVINGSTON OF RECKLESS HOMICIDE

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF. THE STATE VS. LUIS, ENGLISH FULLER 552 S.E.2d 232 QUOTING IF ACCESSORY AFTER THE FACT IS NOT CHARGED IN THE INDICTMENT, BUT IS INSTRUCTED TO CLARIFY MERE PRESENCE, A FINDING OF ACCESSORY AFTER THE FACT IS THE EQUIVALENT TO A FINDING OF NOT GUILTY

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF ARKANSAS CASE LAW OF. MCKELVEY VS. STATE 895 SO.2d 1025 QUOTING THE INDICTMENT DOES NOT INCLUDE ANY FACTS, WHATSOEVER ALLEGING THAT MCKELVEY RECKLESSLY ENGAGED IN CONDUCT THAT CREATED A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY TO A PERSON. RATHER, THE INDICTMENT ALLEGED ONLY THAT MCKELVEY INTENTIONALLY TORTURED AN ANIMAL. THE CRIME OF INTENTIONALLY TORTURING AN ANIMAL IS NOT BROAD ENOUGH TO INCLUDE THE CRIME OF RECKLESSLY

endangering a person. Absent a valid indictment encompassing the crime for which McKelvey was convicted, the trial court lacked subject matter jurisdiction to try, to convict and sentence him.

"FURTHER QUOTEING"

There fore, the trial court finding that McKelvey was guilty of reckless endangerment, a crime it considered to be a lesser-included offense of intentionally torturing a dog was a implied acquittal of that greater offense "FURTHER QUOTEING"

because McKelvey has been acquitted of the offense of intentionally torturing a dog, that is, first degree animal cruelty, he can not be reindicted for that crime.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
CASE LAW OF

STATE VS. MC FADDEN 539 S.E.2d 38 "QUOTEING"
THE TRIAL COURT LACKS SUBJECT MATTER JURISDICTION TO CONVICT THE DEFENDANT OF A CRIME THAT IS NOT A LESSER INCLUDED OF THE OFFENSE CHARGED IN THE INDICTMENT STATE VS. MUNN 357 S.E.2d 461 THE TEST FOR DETERMINING IF A CRIME IS A LESSER INCLUDED OFFENSE IS WHETHER THE GREATER OF THE TWO OFFENSES INCLUDE ALL THE ELEMENTS OF THE LESSER OFFENSE "FURTHER QUOTEING"
BECAUSE THE JURY LACKED SUBJECT MATTER JURISDICTION TO CONVICT MC. FADDEN OF THIRD DEGREE CSC, HIS CONVICTION IS VACATED. THE DECISION OF THE COURT OF APPEALS IS AFFIRMED "FURTHER QUOTEING"
FROM FOOTNOTE

FOOTE NOTE

SINCE MC FADDEN WAS ACQUITTED OF THE GREATER OFFENSES OF CSC FIRST AND SECOND BY THE JURY'S VERDICT STATE VS. COOLEY 536 S.E.2d 666 (2,000)

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA
CASE LAW OF

STATE VS. COOLEY 536 S.E.2d 660 "QUOTEING"
WHEN THE JURY CONVICTED PETITIONER OF THE LESSER INCLUDED OFFENSE OF VOLUNTARY MANSLAUGHTER, IN ESSENCE HE WAS ACQUITTED OF THE MURDER CHARGE SEE BOZEMAN V. STATE 414 S.E.2d 144 (1992) HOLDING THAT A CONVICTION FOR VOLUNTARY MANSLAUGHTER ACTS AS AN IMPLICIT ACQUITTAL OF MURDER

CASE LAW MERITS

UNITED STATES COURT OF APPEALS FOR THE EIGHT CIRCUIT
CASE LAW OF

UNITED STATES OF AMERICA VS. JESSIE DEAN CAVANAUGH 948 F.2d 405 "QUOTEING"

WE HOLD THAT PRINCIPLES OF DOUBLE JEOPARDY, WHICH SERVES "A CONSTITUTIONAL POLICY OF FINALITY FOR THE DEFENDANTS' BENEFIT," UNITED STATES VS. FORN, 400 U.S. 470, 479, 27 L. ED. 2d 543, 91 S. CT. 547 (1971) (PLURALITY), BARS RETRIAL FOR THE ASSAULT CHARGE WHEN THE GOVERNMENT'S DELIBERATE TRIAL STRATEGY CAUSED THE FIRST TRIAL TO TERMINATE WITHOUT THE JURY PASSING UPON THAT CHARGE. THE PROSECUTION COULD HAVE PRESENTED THE ORIGINAL JURY WITH THE THEORY IT NOW WISHES TO ADVANCE ON RETRIAL. THE DEFENDANTS IN THIS CASE SHOULD NOT BE REQUIRED "RUN THE GAUNTLET, A SECOND TIME." AINSIE VS. SWENSON, 397 U.S. 436, 446 25 L. ED. 2d 469, 90 S. CT. 1189 (1970) "QUOTEING" GREEN, 355 U.S. at 190. CONCLUSION
THE JUDGEMENT OF THE DISTRICT COURT IS REVERSED AND VACATED WITH DIRECTIONS TO DISMISS THE PENDING INDICTMENTS.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA
CASE LAW OF

GREEN VS. UNITED STATES 785 CT 221

FROM FOOTNOTE "QUOTEING"

IT IS IMMATERIAL WHETHER SECOND DEGREE MURDER IS A LESSER OFFENSE INCLUDED IN A CHARGE OF FELONY MURDER OR NOT. THE VITAL THING IS THAT IT IS A DISTINCT AND DIFFERENT OFFENSE. IF ANYTHING, THE FACT THAT IT CANNOT BE CLASSIFIED AS A LESSER INCLUDED OFFENSE UNDER THE CHARGE OF FELONY MURDER BUTTRESSES OUR CONCLUSION THAT GREEN WAS UNCONSTITUTIONALLY TWICE PLACED IN JEOPARDY. AMERICAN COURTS HAVE HELD WITH UNIFORMITY THAT WHERE A DEFENDANT IS CHARGED WITH TWO OFFENSES, NEITHER OF WHICH IS A LESSER OFFENSE INCLUDED WITHIN THE OTHER, AND HAS BEEN FOUND GUILTY ON ONE BUT NOT THE SECOND HE CANNOT BE TRIED AGAIN ON THE SECOND. EVEN THOUGH HE SECURES REVERSAL OF THE CONVICTION AND EVEN THOUGH THE TWO OFFENSES ARE RELATED OFFENSES CHARGED IN THE SAME INDICTMENT

INNOCENT UNLESS PROVEN GUILTY beyond A REASONABLE DOUBT

A PERSON IS CONSIDERED INNOCENT UNLESS THE STATE PROVES THAT HE IS GUILTY beyond a REASONABLE DOUBT. OF COMMITTING each and every FACT AND OR ELEMENT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH HE IS CHARGED WITH IN THE WRITTEN WRITE UP OF THE INDICTMENT. AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA. FOR PROOF REVIEW CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF. WINSHIP 397 U.S. 358, 1363-64

RESTATEING PRESUMPTION THAT DEFENDANT IS INNOCENT UNLESS AND UNTIL GOVERNMENT PROVES, beyond a reasonable doubt each element of OFFENSE

THE WINSHIP REASONABLE DOUBT STANDARD APPLIES IN BOTH STATE COURTS AND FEDERAL COURTS SEE SULLIVAN VS. LA 1508 U.S. 235, 278 (1993) THE STANDARD PROTECTS THREE INTERESTS.

FIRST, IT PROTECTS THE DEFENDANT LIBERTY INTEREST, SEE WINSHIP, 397 U.S. AT 363 SECOND, IT PROTECTS THE DEFENDANT FROM STIGMA OF CONVICTION.

THIRD, IT ENCOURAGES COMMUNITY CONFIDENCE IN CRIMINAL LAW BY GIVING "CONCRETE SUBSTANCE" TO THE PRESUMPTION OF INNOCENCE SEE IN RE WINSHIP 397 U.S. 358, 1363-64

BECAUSE AT TRIAL THE JURY AT TRIAL IMPLICITLY ACQUITTED TYRONE LORENZA ROBINSON. ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGEDLY WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-07-01935 AND ARREST WARRANT # 2012 A0720300114, THAT HE WAS ARRESTED ON INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL.

AS A MATTER OF LAW THE JURY AT TRIAL DID NOT AND COULD NOT DETERMINE beyond a REASONABLE DOUBT. THE VICTIM KHALIL SINGLETON DEATH IS THE NATURAL OR PROBABLE CONSEQUENCE OF TYRONE ROBINSON COMMITTING AN ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY. THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-65-07-01935 AND ARREST

WARRANT # 2012 A0720300114 THAT I WAS ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL. ALSO AS A MATTER OF LAW THE JURY AT TRIAL COULD NOT AND DID NOT FIND ME GUILTY BEYOND A REASONABLE DOUBT OF COMMITTING THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGEDLY WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935 AND ARREST WARRANT # 2012 A0720300114 THAT I WAS ARRESTED ON INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL. AS A MATTER OF LAW PROVEING THAT THE STATE OF SOUTH CAROLINA, FAILED TO PROVE THAT I WAS GUILTY BEYOND A REASONABLE DOUBT, OF COMMITTING THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGEDLY

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935 AND ARREST WARRANT # 2012 A0720300114 THAT I WAS ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL.

AS A MATTER OF LAW PROVEING THAT I AM **ACTUALLY**

INNOCENT OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY

ALLEGEDLY WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT # 2012-GJ-07-01935 AND ARREST WARRANT # 2012 A0720300114 THAT I WAS ARRESTED ON, INDICTED ON AND TRIED ON BEFORE THE JURY AT TRIAL. FOR PROOF REVIEW

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE UNITED STATES
OF AMERICA CASE LAW OF.
IN RE WINSHIP 397 U.S. 358, 363-64
RESTATEING PRESUMPTION THAT DEFENDANT IS
INNOCENT UNLESS AND UNTIL GOVERNMENT
PROVES BEYOND A REASONABLE DOUBT, EACH ELEMENT
OF OFFENSE

128.

Federal 5th Amendment RIGHT
OF DOUBLE JEOPARDY BARRS RETRIAL
BECAUSE THE CRIME OF FELONY MURDER
DOES NOT HAVE ANY LESSER INCLUDED
CRIMES AND OFFENSES

1st degree murder S.C. code of law 16-3-10.

AS A MATTER OF LAW THE FIRST DEGREE MURDER CRIME
"ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH
MALICE AND AFORETHOUGHT. IS CLASSIFIED AS A FIRST
DEGREE MURDER CRIME UNDER SOUTH CAROLINA CODE OF LAW
"16-3-10" AND CARRIES A MAXIMUM PRISON SENTENCE OF LIFE
IMPRISONMENT

2nd degree VOLUNTARY MANSLAUGHTER S.C. code of law 16-3-50

THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER
BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE
VICTIM WITHOUT MALICE AND AFORETHOUGHT. IS CLASSIFIED
AS A SECOND DEGREE CRIME AND OFFENSE UNDER SOUTH
CAROLINA CODE OF LAW 16-3-50 AND CARRIES A MAXIMUM
PRISON SENTENCE OF 30 YEARS. AS A MATTER OF LAW THE
SECOND DEGREE CRIME AND OFFENSE OF VOLUNTARY
MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT
KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT
THAT IS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE
UNDER SOUTH CAROLINA CODE OF LAW "16-3-50". IS CLASSIFIED
AS A SECOND DEGREE CRIME AND OFFENSE, THAT IS A
LESSER INCLUDED DEGREE CRIME AND OFFENSE, THAT
HAS THE ESSENTIAL ELEMENT ALLEGEDLY THE DEFENDANT
UNLAWFULLY KILLED THE VICTIM. THAT IS A ESSENTIAL
ELEMENT THAT IS ALSO INCLUDED INTO THE GREATER
DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER
BY THE CRIME ALLEGEDLY THE DEFENDANT KILLED THE
VICTIM WITH MALICE AND AFORETHOUGHT. THAT IS

CLASSIFIED AS FIRST DEGREE MURDER UNDER S.C. CODE OF LAW "16-3-10" AND ALSO HAS THE ESSENTIAL ELEMENT WHICH IS, THE DEFENDANT UNLAWFULLY KILLED THE VICTIM AS A MATTER OF LAW PROVEING THAT THE SECOND DEGREE CRIME OF 16-3-50 VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THAT IS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE UNDER SOUTH CAROLINA CODE OF LAW "16-3-50" IS CLASSIFIED AS A SECOND DEGREE LESSER INCLUDED CRIME AND OFFENSE OF THE 16-3-10 FIRST DEGREE MURDER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT FOR PROOF REVIEW CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA

RICKY PELZER VS. STATE OF SOUTH CAROLINA 672 S.E.2D 790 "QUOTE"

FOR AN OFFENSE TO BE A LESSER INCLUDED OF ANOTHER, THE GREATER OFFENSE MUST INCLUDE ALL THE ELEMENTS OF THE LESSER OFFENSE. IF THE LESSER OFFENSE INCLUDES AN ELEMENT NOT INCLUDED IN THE GREATER OFFENSE, THEN THE LESSER OFFENSE IS NOT INCLUDED IN THE GREATER

3rd degree

INVOLUNTARY MANSLAUGHTER
S.C. CODE OF LAW 16-3-60

2.

AS A MATTER OF LAW THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE.

IS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER SOUTH CAROLINA CODE OF LAW "16-3-60" AND CARRIES A MAXIMUM PRISON SENTENCE OF 5 YEARS.

AS A MATTER OF LAW THE THIRD DEGREE CRIME AND OFFENSE OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE. THAT IS CLASSIFIED AS A THIRD

DEGREE CRIME AND OFFENSE UNDER SOUTH CAROLINA CODE OF LAW "16-3-60" IS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE, THAT IS A LESSER INCLUDED DEGREE CRIME AND OFFENSE, THAT HAS THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED THE VICTIM, THAT IS AN ESSENTIAL ELEMENT THAT IS ALSO INCLUDED INTO THE GREATER DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, THAT IS CLASSIFIED AS A FIRST DEGREE MURDER UNDER S.C. CODE OF LAW "16-3-10" AND ALSO

HAS THE ESSENTIAL ELEMENT WHICH IS THE DEFENDANT UNLAWFULLY KILLED THE VICTIM.

AS A MATTER OF LAW PROVEING THAT THE THIRD DEGREE CRIME OF 16-3-60 IN VOLUNTARY MANSLAUGHTER, BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND A FORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE.

THAT IS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER SOUTH CAROLINA CODE OF LAW "16-3-60" IS CLASSIFIED AS A THIRD DEGREE LESSER INCLUDED CRIME AND OFFENSE OF THE 16-3-10 FIRST DEGREE MURDER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND A FORETHOUGHT FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE STATE OF SOUTH CAROLINA CASE LAW OF.

RICKY PELZER VS. STATE OF SOUTH CAROLINA 672 S.E. 2d 790 "QUOTEING"

FOR AN OFFENSE TO BE A LESSER INCLUDED OF ANOTHER, THE GREATER OFFENSE MUST INCLUDE ALL THE ELEMENTS OF THE LESSER OFFENSE. IF THE LESSER OFFENSE INCLUDES AN ELEMENT NOT INCLUDED IN THE GREATER OFFENSE, THEN THE LESSER OFFENSE IS NOT INCLUDED IN THE GREATER

1st DEGREE FELONY MURDER BY COMMON LAW

AS A MATTER OF LAW UNDER COMMON LAW INSIDE OF THE STATE OF SOUTH CAROLINA. THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY. BY THE CRIME "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF A FELONY. IS CLASSIFIED AS A UNIK DISTINCT FELONY MURDER CRIME UNDER COMMON LAW INSIDE OF THE STATE OF SOUTH CAROLINA, AND CARRIES A MAXIMUM PRISON SENTENCE OF LIFE IMPRISONMENT. AS A MATTER OF LAW THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY IS A UNIK DISTINCT CRIME THAT DOES NOT HAVE A LESSER INCLUDED CRIME OR OFFENSE TO IT.

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF "QUOTEING" GORE VS. LEEKE 199 S.E. 2d 755 "QUOTEING" WHILE A NUMBER OF JURISDICTION

INCLUDING CONGRESS (TITLE 18, SEC. 111, U.S.C.) HAVE ENACTED FELONY MURDER STATUTES, SOUTH CAROLINA HAS NOT DONE SO, HAVING INSTEAD CONSISTANTLY FOLLOWED THE COMMON LAW RULE.

1ST CRIME

NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE TO THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY §5: 16-3-10 FIRST DEGREE MURDER

AS A MATTER OF LAW THE CRIME OF FIRST DEGREE MURDER BY THE CRIME ALLEGEDLY THE DEFENDANT KILLED THE VICTIM WITH MALICE AND A FORETHOUGHT THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAW 16-3-10. IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGEDLY THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTE-

ING A FELONY. UNDER THE STATUTORY LAWS AND THE COMMON LAWS OF THE STATE OF SOUTH CAROLINA. AS A MATTER OF LAW THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER. FROM THE THE FIRST DEGREE MURDER CRIME ALLEGEDLY THE DEFENDANT KILLED THE VICTIM WITH MALICE AND A FORETHOUGHT THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAW 16-3-10.

IS NOT INCLUDED INTO THE ESSENTIAL ELEMENT OF BEING IN THE COMMISSION OF COMMITTEING A FELONY. FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTEING A FELONY

AS A MATTER OF LAW PROVING THAT THE FIRST DEGREE MURDER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND A FORETHOUGHT

IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTEING A FELONY

UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA FOR PROOF REVIEW.

CASE LAW MERTH

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF STATE VS. PARKER 543 S.E.2d 255 "QUOTING" WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLARS IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONITARY ELEMENT.

FOR THE AFOREMENTIONED REASONS, THE CONVICTION ARE VACATED

2ND CRIME

NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE TO THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY JS: 16-3-50 VOLUNTARY MANSLAUGHTER

AS A MATTER OF LAW SECOND DEGREE VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT THATS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-50. IS ONLY CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE MURDER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAW 16-3-10.

AS A MATTER OF LAW PROVING THAT THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-50.

IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE SHOT AND KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY.

UNDER THE STATUTORY LAWS AND COMMON LAWS OF THE STATE OF SOUTH CAROLINA.

ALSO AS A MATTER OF LAW THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER FROM THE SECOND DEGREE VOLUNTARY MANSLAUGHTER CRIME BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT THAT IS CLASSIFIED AS A SECOND DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-50. IS INCLUDED INTO

THE GREATER DEGREE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAW 16-3-10.

AS A MATTER OF LAW PROVING THAT THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER FROM THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY"

THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A SECOND

DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-50. IS NOT INCLUDED INTO THE ESSENTIAL ELEMENT

"ALLEGING" WHILE IN THE COMMISSION OF COMMITTING A FELONY. FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

AS A MATTER OF LAW PROVEING THAT THE SECOND DEGREE CRIME OF VOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A SECOND DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-50. IS NOT A LESSER

INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY.

UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA FOR PROOF REVIEW CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF STATE VS. PARKER 543 S.E.2d 255 "QUOTING" WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF EXCEED OF ONE THOUSAND DOLLARS IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONETARY ELEMENT.

FOR THE AFOREMENTIONED REASONS, THE CONVICTIONS ARE VACATED

3rd CRIME

NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE TO THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY IS 16-3-60 INVOLUNTARY MANSLAUGHTER

AS A MATTER OF LAW THE CRIME OF THIRD DEGREE INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

THATS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60. IS CLASSIFIED AS A

LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE FIRST DEGREE MURDER CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT, THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAWS 16-3-10

AS A MATTER OF LAW PROVEING THAT THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE THATS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60

IS NOT CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FIRST DEGREE FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE SHOT AND KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

UNDER THE STATUTORY LAWS AND COMMON LAWS OF THE STATE OF SOUTH CAROLINA:

ALSO AS A MATTER OF LAW THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER FROM THE THIRD DEGREE INVOLUNTARY MANSLAUGHTER CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE THATS CLASSIFIED AS A THIRD DEGREE CRIME AND OFFENSE UNDER S.C. CODE OF LAW 16-3-60. IS INCLUDED INTO THE GREATER DEGREE CRIME AND OFFENSE "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT,

7.

THATS CLASSIFIED AS A FIRST DEGREE MURDER CRIME UNDER S.C. CODE OF LAW 16-3-10.

AS A MATTER OF LAW PROVEING THAT THE ESSENTIAL ELEMENT "ALLEGEDLY" THE DEFENDANT UNLAWFULLY KILLED ANOTHER FROM THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY"

THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE, THATS

CLASSIFIED AS A THIRD DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-60. IS NOT INCLUDED INTO

THE ESSENTIAL ELEMENT "ALLEGEDLY" WHILE IN THE COMMISSION OF COMMITTING A FELONY, FROM THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY

AS A MATTER OF LAW PROVEING THAT THE THIRD DEGREE CRIME OF INVOLUNTARY MANSLAUGHTER BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

THATS CLASSIFIED AS A THIRD DEGREE CRIME UNDER S.C. CODE OF LAW 16-3-60 IS NOT A LESSER INCLUDED DEGREE CRIME AND OFFENSE OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER

RULE THEORY "ALLEGEDLY" THE DEFENDANT CAUSED THE VICTIM TO BE KILLED WHILE IN THE COMMISSION OF COMMITTING A FELONY, UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA. FOR PROOF REVIEW

CASE LAW MERITS

SOUTH CAROLINA COURT OF APPEALS CASE LAW OF STATE VS. PARKER 543 S.E. 2d 255 "QUOTE"

WE CONCLUDE THAT BECAUSE GRAND LARCENY HAS THE ELEMENT OF IN EXCESS OF ONE THOUSAND DOLLAR IT IS NOT A LESSER INCLUDED OFFENSE OF ARMED ROBBERY WHICH HAS NO MONETARY ELEMENTS FOR THE AFOREMENTIONED REASONS, THE CONVICTIONS ARE VACATED

EVEN MORE IMPORTANT MY PLEA OF FORMER JEOPARDY PURSUANT TO THE FEDERAL 5TH AMENDMENT RIGHT OF DOUBLE JEOPARDY. IS BASED ON THE FACT THAT THE FIRST JURY FROM MY TRIAL WAS DISCHARGED FROM MY TRIAL WITHOUT MY CONSENT, AND DID NOT CONVICT ME ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF UNITED STATES OF AMERICA CASE LAW OF 38 S. CT 221 "QUOTE"

GREEN VS. UNITED STATES 38 S. CT 221 "QUOTE" FROM FOOTNOTE INSIDE OF THE CASE LAW OF GREEN VS. UNITED STATES "QUOTE"

EVEN MORE IMPORTANT GREENS PLEA OF FORMER JEOPARDY DOES NOT REST ON HIS CONVICTION FOR SECOND DEGREE MURDER BUT INSTEAD ON THE FIRST JURY REFUSAL TO FIND HIM GUILTY OF FELONY MURDER

AS PREVIOUSLY EXPLAINED ALREADY THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

IS A UNIK DISTINCT CRIME THAT DOES NOT HAVE ANY LESSER INCLUDED DEGREE CRIME AND OFFENSE. THEREFORE IT IS CLEAR UNDER ESTABLISHED PRINCIPLES OF FORMER JEOPARDY THAT TYRONE ROBINSON JEOPARDY FOR THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

CAME TO A END WHEN THE JURY AT TRIAL WAS DISCHARGED FROM MY TRIAL WITHOUT MY CONSENT, AND THE JURY AT MY TRIAL "DID NOT" FIND ME GUILTY OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERANTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

SO THAT I COULD NOT BE RETRIED IN A RETRIAL BY THE STATE OF SOUTH CAROLINA FOR THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE

engaged in a ongoing gun battle an inherently dangerous felony TYRONE ROBINSON did willfully, unlawfully and with malice aforethought cause the victim KHALIL SINGLETON to be shot and killed

FOR PURPOSES OF FORMER JEOPARDY IT WAS AS IF THE JURY HAD RETURNED A VERDICT WHICH EXPRESSLY READ, WE THE JURY FIND THE DEFENDANT TYRONE LORENZA ROBINSON "NOT GUILTY" OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGING WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

AFTER MY TRIAL BUT PRIOR TO MY APPEAL. IT IS INDISPUTABLE THAT TYRONE ROBINSON COULD NOT HAVE BEEN TRIED AGAIN ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

A PLEA OF FORMER JEOPARDY WOULD HAVE ABSOLUTELY BARRED A NEW PROSECUTION.

AS A MATTER OF LAW THE JURY AT TRIAL "DID NOT" FIND ME GUILTY OF ANY CRIME THAT IS CLASSIFIED AS A LESSER INCLUDED DEGREE CRIME AND OFFENSE, OF THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

BECAUSE AS A MATTER OF LAW AS PREVIOUSLY EXPLAINED, INSIDE OF THE STATE OF SOUTH CAROLINA THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER 16-3-10 BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITH MALICE AFORETHOUGHT

AND THE CRIME OF SECOND DEGREE VOLUNTARY MANSLAUGHTER 16-3-50 BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT

AND THE CRIME OF THIRD DEGREE INVOLUNTARY MANSLAUGHTER 16-3-60 BY THE CRIME "ALLEGING" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

ARE ALL NOT LESSER INCLUDED DEGREE CRIMES AND OFFENSES OF THE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY ALLEGING WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THEREFORE BECAUSE AS A MATTER OF LAW THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGING" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

IS A UNIK DISTINCT CRIME THAT DOES NOT HAVE ANY LESSER INCLUDED DEGREE CRIME AND OFFENSES. AS A MATTER OF LAW MY JEOPARDY FOR THE DEATH OF VICTIM KHALIL

SINGLETON came to a end and ended when the jury at trial implicitly acquitted me on the crime of felony murder by the felony murder rule theory "allegedly" while engaged in a ongoing gun battle an inherently dangerous felony, TYRONE ROBINSON did willfully, unlawfully and with malice aforethought cause the victim KHALIL SINGLETON to be shot and killed

THAT charged and alleged inside of the written write up of indictment # 2012-GJ-07-01935 that I was tried on before the jury at trial. FOR PROOF REVIEW case law merits

supreme court of appeals of the united states of america case law of GREEN vs. UNITED STATES 78 S. CT 221 "QUOTE" IN THIS CASE HOWEVER WE HAVE A MUCH DIFFERENT QUESTION AT GREEN'S FIRST TRIAL THE JURY WAS AUTHORIZED TO FIND HIM GUILTY OF EITHER FIRST DEGREE MURDER (KILLING WHILE PERPETRATING A FELONY) OR ALTERNATELY, OF SECOND DEGREE MURDER. IT SEEMS CLEAR UNDER AND AFORETHOUGHT THEREFORE IT SEEMS CLEAR UNDER ESTABLISHED PRINCIPLES OF FORMER JEOPARDY, THAT GREEN JEOPARDY FOR FIRST DEGREE CAME TO END WHEN THE JURY WAS DISCHARGED SO THAT HE COULD NOT BE RETRIED FOR THAT OFFENSE. MADE VS. HUNTER 336 U.S. 684 - IN BRIEF WE BELIEVE THIS CASE CAN BE TREATED NO DIFFERENTLY FOR PURPOSES OF A VERDICT WHICH EXPRESSLY IF THE JURY HAD RETURNED A VERDICT NOT GUILTY OF MURDER READ, WE FIND THE DEFENDANT NOT GUILTY OF MURDER IN THE FIRST DEGREE BUT GUILTY OF MURDER IN THE SECOND DEGREE, AFTER THE ORIGINAL TRIAL, BUT PRIOR TO HIS APPEAL IT IS INDISPUTABLE THAT GREEN COULD NOT HAVE BEEN TRIED AGAIN FOR FIRST DEGREE MURDER FOR THE DEATH RESULTING FROM THE FIRE. A PLEA OF FORMER JEOPARDY WOULD HAVE THOUGHT HAD BARRED A NEW PROSECUTION EVEN THOUGH IT MIGHT HAVE BEEN CONVINCINGLY DEMONSTRATED THAT THE OFFENSE HAD BEEN IN FACTING TO CONVICT HIM OF THAT OFFENSE AND EVEN AFTER APPEALING THE CONVICTION OF SECOND DEGREE MURDER HE STILL COULD NOT HAVE BEEN TRIED A SECOND TIME FOR FIRST DEGREE MURDER HAD HIS APPEAL BEEN UNSUCCESSFUL

AS A MATTER OF LAW THE JURY VERDICT OF IMPLICIT ACQUITTAL THAT I OBTAINED ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

IS A FINAL JURY VERDICT THAT CAN NOT BE REVIEWED ON APPEAL OR ERROR AND CAN NOT BE REVIEWED BY ANY OTHER COURT, WITHOUT PUTTING ME TWICE IN JEOPARDY IN VIOLATION OF THE FEDERAL 5TH AMENDMENT RIGHT OF DOUBLE JEOPARDY WHICH STATES "QUOTE" NO PERSON SHALL BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB

AS DECIDED BY THE SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA. FOR PROOF REVIEW case law merits

supreme court of appeals of the united states of america. FOR PROOF REVIEW GREEN vs. UNITED STATES 78 S. CT 221 "QUOTE" THE VERDICT OF ACQUITTAL WAS FINAL AND COULD NOT BE REVIEWED ON ERROR OR OTHERWISE WITHOUT PUTTING THE DEFENDANT TWICE IN JEOPARDY, AND THEREBY VIOLATING THE CONSTITUTION

THEREFORE because my jeopardy for death of victim KHALIL SINGLETON came to an end when the jury at trial was discharged from trial without my consent and the jury did not find me guilty of the crime of felony murder by the felony murder rule theory "allegedly" while engaged in a ongoing gun battle an inherently dangerous felony, TYRONE ROBINSON did willfully, unlawfully and with malice aforethought cause the victim KHALIL SINGLETON to be shot and killed

AND AS A RESULT THE JURY AT TRIAL IMPLICITLY ACQUITTED me ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "allegedly"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

THAT IS A UNIQUE DISTINCT CRIME AND OFFENSE THAT DOES NOT HAVE ANY CRIME OR OFFENSES THAT ARE CLASSIFIED AS LESSER INCLUDED DEGREE CRIMES AND OFFENSES BY THE LAWS OF THE STATE OF SOUTH CAROLINA.

AS A MATTER OF LAW THE JURY VERDICT OF IMPLICIT ACQUITTAL THAT I OBTAINED ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "allegedly" WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

IS A COMPLETE BARR TO THE STATE OF SOUTH CAROLINA THAT BARRS THE STATE OF SOUTH CAROLINA FROM PROSECUTING me IN A RETRIAL FOR THE DEATH OF VICTIM KHALIL SINGLETON FOR THE SAME CONDUCT, EVEN IF BASED ON A DIFFERENT THEORY FOR THE DEATH OF VICTIM KHALIL SINGLETON. FOR PROOF REVIEW FOR THE DEATH OF VICTIM KHALIL SINGLETON.

CASE LAW MERIT
UNITED STATES OF AMERICA COURT OF APPEALS FOR THE TENTH CIRCUIT CASE LAW OF "QUOTE"

U.S. VS. HUNT 212 F.3D 539 "QUOTE" AN ACQUITTAL OF THE OFFENSE OF PARTICIPATION IN AN ILLEGAL GAMBLING BUSINESS BARRED ANY LATER PROSECUTION UNDER THE STATUTE FOR THE SAME CONDUCT, EVEN IF BASED ON A DIFFERENT THEORY

ALSO AS A MATTER OF LAW THRU MY PLEA OF FORMER JEOPARDY AND THE FEDERAL FIFTH AMENDMENT RIGHT OF DOUBLE JEOPARDY, THE JURY VERDICT OF IMPLICIT ACQUITTAL THAT I OBTAINED ON THE CRIME OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "allegedly"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE SHOT AND KILLED

IS A COMPLETE BARR AND BARRS THE STATE OF SOUTH CAROLINA FROM RETRIALING me IN A RETRIAL ON A SUBSEQUENT INDICTMENT OR THE SAME INDICTMENT. ON THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER 16-3-10 BY THE CRIME "allegedly" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

AND ON THE CRIME OF SECOND DEGREE VOLUNTARY MANSLAUGHTER 16-3-50 BY THE CRIME "allegedly" THE DEFENDANT KILLED THE VICTIM "WITHOUT" MALICE AND AFORETHOUGHT

AND ON THE CRIME OF THIRD DEGREE INVOLUNTARY MANSLAUGHTER 16-3-60 BY THE CRIME "allegedly" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

BECAUSE THE FIRST DEGREE CRIME AND OFFENSE OF FIRST DEGREE MURDER 16-3-10 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

AND THE CRIME OF SECOND DEGREE VOLUNTARY MANSLAUGHTER 16-3-50 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT

AND THE CRIME OF THIRD DEGREE INVOLUNTARY MANSLAUGHTER 16-3-60 BY THE CRIME "ALLEGEDLY" THE DEFENDANT KILLED THE VICTIM WITHOUT MALICE AND AFORETHOUGHT, THE KILLING WAS UNINTENTIONAL AND THE KILLING RESULTED FROM CRIMINAL NEGLIGENCE

ARE ALL "NOT" CLASSIFIED AS LESSER INCLUDED DEGREE CRIMES AND OFFENSES OF THE CRIME AND OFFENSE OF FELONY MURDER BY THE FELONY MURDER RULE THEORY "ALLEGEDLY"

WHILE ENGAGED IN A GUN BATTLE AN INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON DID WILLFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT CAUSE THE VICTIM KHALIL SIMPLETON TO BE SHOT AND KILLED

THAT THE JURY AT TRIAL IMPLICITLY ACQUITTED ME ON THATS CHARGED AND ALLEGED INSIDE OF THE WRITTEN WRITE UP OF INDICTMENT #2012-61-07-01935 THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL FOR PROOF REVIEW CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF

GREEN VS. UNITED STATES 785.CT 221 "QUOTING" FROM FOOTNOTE: INSIDE OF THE CASE LAW OF GREEN VS.

UNITED STATES "QUOTING" EVEN MORE IMPORTANT GREENS PLEA OF FORMER JEOPARDY DOES NOT REST ON HIS CONVICTION FOR SECOND DEGREE

MURDER BUT INSTEAD ON THE FIRST JURY REFUSAL TO FIND HIM GUILTY OF FELONY MURDER. IT IS IMMATERIAL WHETHER SECOND DEGREE MURDER IS A LESSER OFFENSE INCLUDED IN

A CHARGE OF FELONY MURDER OR NOT. THE VITAL THING IS THAT IT IS A DISTINCT AND DIFFERENT OFFENSE. IF ANYTHING THE FACT THAT IT CAN NOT BE CLASSIFIED AS A LESSER

INCLUDED OFFENSE UNDER THE CHARGE OF FELONY MURDER BUT REVERSES OUR CONCLUSION THAT GREEN WAS UNCONSTITUTIONALLY TWICE PLACED IN JEOPARDY

CASE LAW MERITS

UNITED STATES OF AMERICA FOR THE FIFTH CIRCUIT CASE LAW OF

UNITED STATES OF AMERICA VS. JESSE DEAN CAVANAUGH 948 F.2d 405 "QUOTING"

AS THE COURT IN GREEN OBSERVED:

IT IS IMMATERIAL WHETHER SECOND DEGREE MURDER IS A LESSER OFFENSE INCLUDED IN A CHARGE OF FELONY MURDER OR NOT. THE VITAL THING IS THAT IT IS A DISTINCT AND

DIFFERENT OFFENSE. IF ANYTHING THE FACT THAT IT CAN NOT BE CLASSIFIED AS A LESSER INCLUDED OFFENSE UNDER THE CHARGE OF FELONY MURDER BUT REVERSES OUR

CONCLUSION THAT GREEN WAS UNCONSTITUTIONALLY TWICE PLACED IN JEOPARDY

1st

DEPRIVATION OF LIBERTY IN VIOLATION OF THE FEDERAL 5TH AND 14TH AMENDMENT RIGHT OF DUE PROCESS OF LAW

The Federal 14th and 5th Amendment Right to Due Process of Law. Protects a person from being convicted and deprived out of their liberty, unless upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. FOR PROOF REVIEW

CASE LAW MERITS
SUPREME COURT OF APPEALS OF THE UNITED STATES
OF AMERICA, CASE LAW OF,
DAVID SANDSTORM VS. STATE OF MONTANA
905 CT 2950 "QUOTING"

we explicitly hold the due process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged

INSIDE OF THE CASE OF LUCAS BAILEY VS. STATE
709 S.E.2d 671

THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA decided that INSIDE OF THE STATE OF SOUTH CAROLINA, IT IS A UNIVERSAL OBSERVANCE IN ADMINISTERING THE CRIMINAL LAW, THAT A DEFENDANT MUST BE CONVICTED IF CONVICTED IN AT ALL, OF THE PARTICULAR OFFENSE CHARGED IN THE BILL OF INDICTMENT. A MATERIAL VARIANCE BETWEEN CHARGE AND PROOF ENTITLES THE DEFENDANT TO A DIRECTED VERDICT OF ACQUITTAL. WHEN THE INDICTMENT CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED. A CONVICTION UNDER LATTER CIRCUMSTANCES VIOLATES PRINCIPLES OF DUE PROCESS OF LAW, BECAUSE THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT, EVERY FACT NECESSARY TO CONSTITUTE THE CRIME WITH WHICH A DEFENDANT IS CHARGED.

A MATERIAL VARIANCE THAT VIOLATES A PERSON'S SUBSTANTIAL RIGHT TO BE TRIED ONLY ON CHARGES PRESENTED IN A INDICTMENT, CONSTITUTES FATAL ERROR AND WARRANTS A REVERSAL

ON A APPEAL OF A JUDGEMENT OF CONVICTION
OF THE OFFENSE NOT CHARGED IN THE INDICTMENT.
AS DECIDED BY THE SUPREME COURT OF APPEALS
OF THE STATE OF SOUTH CAROLINA, INSIDE OF THE
CASE LAW OF LUCAS BAZLEY VS. STATE 709 S.E.2d
671

THEREFORE BECAUSE WHEN THE JURY AT TRIAL
UNCONSTITUTIONALLY CONVICTED ME, ON THE
THIRD UNINDICTED FIRST DEGREE MURDER CRIME
"ALLEGEDLY"
I KILLED THE VICTIM WITH MALICE AND AFORETHOUGHT

CONSTITUTED A IMPLICIT ACQUITTAL
ON THE CRIME OF FELONY MURDER BY THE
FELONY MURDER RULE THEORY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN
INHERENTLY DANGEROUS FELONY, TYRONE ROBINSON
DID WILLFULLY UNLAWFULLY AND WITH MALICE
AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON
TO BE SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT #2012-65-07-01935. THAT
I WAS TRIED ON BEFORE THE JURY AT TRIAL,
PROVES THAT AS A MATTER OF LAW, THE STATE OF SOUTH
CAROLINA FAILED TO PROVE THAT I WAS GUILTY BEYOND
A REASONABLE DOUBT, OF COMMITTING EACH AND
EVERY FACT NECESSARY TO CONSTITUTE THE CRIME
OF FELONY MURDER BY THE FELONY MURDER RULE
THEORY "ALLEGEDLY"

WHILE ENGAGED IN A ONGOING GUN BATTLE AN INHER-
ENTLY DANGEROUS FELONY, TYRONE ROBINSON DID
WILLFULLY, UNLAWFULLY AND WITH MALICE AFORE-
THOUGHT CAUSE THE VICTIM KHALIL SINGLETON TO BE
SHOT AND KILLED

THAT CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT #2012-65-07-01935. THAT
I WAS TRIED ON BEFORE THE JURY AT TRIAL,
AS A MATTER OF LAW PROVEING THAT WHEN THE TRIAL

JUDGE AND TRIAL COURT SENTENCED ME TO PRISON
TIME OF LIFE IMPRISONMENT ON INDICTMENT #2012-
65-07-01935 THAT I WAS TRIED ON BEFORE THE JURY
AT TRIAL. THE TRIAL JUDGE AND TRIAL COURT DEPRIV-
ED ME OUT OF MY LIBERTY, IN VIOLATION OF MY
FEDERAL 5TH AND 14TH AMENDMENT RIGHT OF DUE
PROCESS OF LAW. WHICH STATES "QUOTEING"
NOR SHALL ANY PERSON BE DEPRIVED OUT OF LIBERTY
WITHOUT DUE PROCESS OF LAW

WHICH AS A RESULT I AM CURRENTLY BEING HELD UNCON-
STITUTIONALLY DEPRIVED OUT OF MY LIBERTY ON
INDICTMENT #2012-65-07-01935, IN VIOLATION OF
MY FEDERAL 5TH AND 14TH AMENDMENT RIGHT OF
DUE PROCESS OF LAW.

Therefore as a matter of law this Appeals Court must "REVERSE" my conviction and prison sentence of life imprisonment and discharge me from imprisonment on indictment # 2012-GJ-07-01935. FOR PROOF REVIEW

CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED STATES OF AMERICA CASE LAW OF:

DAVID SANDSTORM VS. STATE OF MONTANA 905 CT 2450

"QUOTING"

we explicitly hold, the DUE PROCESS clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged REVERSED

CASE LAW MERITS

SUPREME COURT OF APPEALS OF STATE OF SOUTH CAROLINA CASE LAW OF:

LUCAS BATLEY VS. STATE 709 S.E.2d 671 "QUOTING"

INSIDE OF THE STATE OF SOUTH CAROLINA, IT IS A UNIVERSAL OBSERVANCE IN ADMINISTERING

THE CRIMINAL LAW, THAT A DEFENDANT MUST BE CONVICTED IF CONVICTED AT ALL, OF THE PARTICULAR

OFFENSE CHARGED IN THE BILL OF INDICTMENT AND A MATERIAL VARIANCE BETWEEN CHARGE AND

PROOF ENTITLES THE DEFENDANT TO A DIRECTED VERDICT OF ACQUITTAL.

When the indictment charges a complete offense and the state presents evidence which convicts under a different theory than that alleged

A conviction under latter circumstances violates PRINCIPLES OF DUE PROCESS OF LAW.

because the state has failed to prove beyond a reasonable doubt, every fact necessary to

constitute the crime with which a defendant is charged.

A material variance that violates a person's substantial right to be tried only on charges presented in a indictment, constitutes fatal

error and warrants a REVERSAL ON A APPEAL OF A JUDGMENT OF CONVICTION OF

the offense not charged in the indictment.

DISHARGE FROM IMPRISONMENT

BECAUSE THE JURY AT TRIAL IMPLICITLY
ACQUITTED me ON THE CRIME OF
FELONY MURDER BY THE FELONY MURDER RULE
THEORY ALLEGEDLY
WHILE ENGAGED IN A ONGOING GUN BATTLE AND
INHERENTLY DANGEROUS FELONY TYRONE ROBINSON
DID WILLFULLY, UNLAWFULLY AND WITH MALICE
AFORETHOUGHT CAUSE THE VICTIM KHALIL SINGLETON
TO BE SHOT AND KILLED

THAT I CHARGED AND ALLEGED INSIDE OF THE WRITTEN
WRITE UP OF INDICTMENT # 2012-65-07-01935
THAT I WAS TRIED ON BEFORE THE JURY AT TRIAL.
AS A MATTER OF LAW THIS COURT MUST DISCHARGE
ME FROM IMPRISONMENT ON INDICTMENT # 2012-
65-07-01935. THAT I WAS SENTENCED TO PRISON
TIME OR LIFE IMPRISONMENT ON AND AM CURRENTLY
BEING HELD IMPRISONED ON FOR PROOF REVIEW
CASE LAW MERITS

SUPREME COURT OF APPEALS OF THE UNITED
STATES OF AMERICA CASE LAW OF.
KEPNER V. U.S. 245, CT 797 "QUOTE"

AS TO THE DEFENDANT WHO HAD BEEN ACQUITTED
BY THE VERDICT DULY RETURNED AND RECEIVED,
THE COURT COULD TAKE NO OTHER ACTION THAN
TO ORDER HIS DISCHARGE. THE VERDICT OF
ACQUITTAL WAS FINAL AND COULD NOT BE REVIEWED
ON ERROR OR OTHERWISE, WITHOUT PUTTING HIM
TWICE IN JEOPARDY AND THEREBY VIOLATING
THE CONSTITUTION. HOWEVER IT MAY BE IN
ENGLAND, IN THIS COUNTRY A VERDICT OF
ACQUITTAL, ALTHOUGH NOT FOLLOWED BY ANY
JUDGMENT, IS A BAR TO A SUBSEQUENT PROSE-
CUTION FOR THE SAME OFFENSE

**JUDGEMENT REVERSED
AND PRISONER DISCHARGED**

144.

CONCLUSSION

based on the facts explained this court
must grant me my MOTION FOR
DIRECTED VERDICT OF ACQUITTAL.
by doing so this court must VACATE my
CONVICTION AND PRISON SENTENCE
OF LIFE IMPRISONMENT AND DISCHARGE
me from out of UNLAWFUL RESTRAINT
AND UNLAWFUL IMPRISONMENT.

SIGNATURE: Tyronel Robinson
PRINT: TYRONEL ROBINSON
DATE: December 19th / 2018

145.
EXHIBIT
A

CASE LAW MERITS FOR
1st
ARGUMENT

U.S. VS. HUNT 212 F.3rd 539

146.
FILED
United States Court of Appeals
Tenth Circuit

MAY 8 2000

PATRICK FISHER
Clerk

PUBLISH

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

No. 99-1120

ALLEN HUNT and MICHELLE D.
JONES,

Defendants-Appellees.

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
(D.C. No. 98-CR-380-WM)**

Sean Connelly, Attorney, United States Department of Justice, Denver, Colorado
(Thomas L. Strickland, United States Attorney, and Sheilah M. Rogers, Assistant United
States Attorney, Denver, Colorado, were on the brief) for Plaintiff-Appellant.

Charles Szekely, Assistant Federal Public Defender, Denver, Colorado (Peter Schild,
Boulder, Colorado and Michael G. Katz, Federal Public Defender, Denver, Colorado,
with him on the brief) for Defendants-Appellees.

Before **TACHA, HOLLOWAY** and **BRORBY**, Circuit Judges.

HOLLOWAY, Circuit Judge.

A grand jury indicted Defendants-Appellees Allen Hunt and Michelle Jones

147.
(Defendants) on 16 counts of theft from the mail in violation of 18 U.S.C. § 1708.

During a bench trial, the district judge entered a judgment stating: "I find and conclude that the defendants are not guilty under the indictment as charged." As part of the judgment the district judge concluded that (1) the indictment alleged a theft from CTC Distributor's (CTC); (2) CTC was not part of the "mail" as required for a violation of 18 U.S.C. § 1708; and (3) the indictment failed to allege any other theft from the "mail," as had been suggested by the government. The government timely appeals. Defendants argue that the Double Jeopardy Clause bars the appeal. For reasons that follow, we agree. We therefore dismiss the government's appeal.

I

As the district court observed, the facts are essentially undisputed. Cf. Appendix A to Appellant's Brief-in-Chief at 1. In 1998, Defendants worked at a CTC warehouse in Denver, Colorado. See id. at 2. CTC collects items being shipped by merchandisers to customers. Before delivering the items to CTC, a merchandiser places "mailing indicia" on the packages. CTC then sorts the packages and delivers them to the United States Postal Service's (Postal Service) bulk mailing center, which is located off CTC's premises. See id.

The Postal Service also operates a facility at CTC's warehouse, called a detached mailing unit. See id. A Postal Service employee maintains exclusive control over the detached mailing unit and randomly samples and verifies postage and sortation before

CTC sends packages to the bulk mailing center. See id. Although CTC houses the unit, CTC is not itself part of the unit. See id.

In early 1998, Defendants began using an "over-labeling" scheme to steal packages that were processed at CTC. See id. As part of the scheme, Defendants placed handwritten labels addressed to themselves over the pre-existing mailing indicia provided by the merchandiser. See id. at 2-3. CTC then delivered the over-labeled packages to the bulk mail center and the Postal Service ultimately delivered the packages to Defendants. See id. at 3. "Other than the implied potential that the relevant packages might have been randomly sampled by the [Postal Service] at the [detached mailing unit], the government failed to present evidence that the packages were subject to control and regulation or otherwise accepted as mail by the [Postal Service] at the time the over-labeling occurred." Id.

On December 1, 1998, the grand jury returned a superseding indictment against Defendants alleging 16 counts of theft from the mail in violation of 18 U.S.C. § 1708. See I App. Item 30 at 1. Each count of the indictment was almost identical and alleged:

On or about [a date in 1998], in the State and District of Colorado, [Defendants], did steal, take and abstract, and by fraud and deception obtain, from and out of any mail, mail route, and authorized depository for mail matter, a package and things contained therein . . . from CTC distributors, a Detached Mailing Unit that works as a contractor between major mailing companies and corporations and the United States Postal

149,

Service, in violation of Title 18, United States Code, Section 1708.¹

See id. Defendants waived their right to a jury trial and, instead, opted for a bench trial.

See, e.g., I App. Item 51 at 3. After the trial had begun, Defendants moved for acquittal.

See id. at 6. According to Defendants the indictment alleged only one theft: theft from CTC. See id. at 6,10. The evidence, however, demonstrated that CTC was not part of the mail. See, e.g., id. Defendants argued that the government could not constructively amend the indictment to allege that the theft occurred instead when Defendants received the packages from the Postal Service. See id. Therefore, Defendants said they were entitled to an acquittal. See id. at 13.

→ The district court agreed. The court held that the indictment “language charges theft from CTC Distributors, a Detached Mailing Unit.” See Appendix A to Appellant’s Brief-in-Chief at 5. “The plain language of the indictment indicates that the Grand Jury concluded that the defendants stole from CTC Distributors and not at some later time.” Id. “That conclusion is buttressed by the ‘on or about’ date of each count being tied to the date of ‘over-labeling’ rather than the later delivery.” Id. The district court therefore held that the indictment alleged only theft from CTC.

“The government did not prove beyond a reasonable doubt that the CTC was the United States mail, a mail route, or an authorized depository when the over-labeling

¹ The only variations in the counts involved: (1) the dates, (2) the Defendants, and (3) the items stolen.

150,

occurred” nor was CTC a detached mailing unit. Id. at 7. Indeed, “[t]he proof . . . does not eliminate doubt . . . that the packages did not reach the mail until they were delivered to the [Postal Service] Bulk Mailing Center.” Id. Accordingly, the district court granted

→ a judgment which it entitled “JUDGMENT OF ACQUITTAL.” I App. Item 54. That judgment stated that “[t]he trial having proceeded to conclusion, and pursuant to the Decision, entered February 12, 1999, the Court rendered its verdict of finding the defendants, Allen Christopher Hunt and Michele Denise Jones not guilty of the charges contained in the superseding indictment.” I App. Item 54.

II

Title 18 U.S.C. § 3731 authorizes the government to appeal, inter alia, in these terms:

from a decision, judgment, or order of a district court dismissing an indictment or information or granting a new trial after verdict or judgment, as to any one or more counts, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

Congress intended for this section “to remove all statutory barriers to Government appeals and to allow appeals whenever the Constitution would permit.” United States v. Scott, 437 U.S. 82, 85 (1978) (citation and internal quotation marks omitted); see also United States v. Wilson, 420 U.S. 332, 337 (1975) (stating the same principle).

Therefore, pursuant to 18 U.S.C. § 3731, our question is whether the Double Jeopardy

151

Clause bars this appeal.²

"The development of the Double Jeopardy Clause from its common-law origins thus suggests that it was directed at the threat of multiple prosecutions, not at Government appeals, at least where those appeals would not require a new trial." Wilson, 420 U.S. at 342. However, it is now well-settled that the Double Jeopardy Clause bars some government appeals: "A judgment of acquittal, whether based on a jury verdict of not guilty or on a ruling by the court that the evidence is insufficient to convict, may not be appealed and terminates the prosecution when a second trial would be necessitated by a reversal." Scott, 437 U.S. at 91 (omitting footnote); see also Smalis v. Pennsylvania, 476 U.S. 140, 145-46 (1986) (agreeing with ruling below that "the Double Jeopardy Clause bars a postacquittal appeal by the prosecution not only when it might result in a second trial, but if reversal would translate into further proceedings of some sort, devoted to the resolution of factual issues going to the elements of the offense charged.") (citation and internal quotation marks omitted). Accordingly, the Double Jeopardy Clause bars this appeal if: (1) there was in effect an acquittal below, and (2) if reversal would require such a second fact-finding proceeding on remand as comes within the Smalis parameters.

² In their motion to dismiss the appeal, Defendants rely "on an argument ancillary to the double jeopardy issue [,] the absence of statutory authority for a Government appeal from a judgment of acquittal in a criminal case." Motion to Dismiss at 5 n.3. As stated in the text above, however, the Supreme Court has held that 18 U.S.C. § 3731 removes "all statutory barriers to Government appeals and to allow appeals whenever the Constitution would permit." Scott, 437 U.S. at 85. Therefore, Defendant's independent statutory argument is barred by binding Supreme Court precedent.

152
A

1

We turn first to the question whether there was in effect an acquittal below in this case. As stated above, the district court labeled its decision an "acquittal." I App. Item 54. That label, however, is not determinative: "what constitutes an 'acquittal' is not to be controlled by the form of the judge's action." United States v. Martin Linen Supply Co., 430 U.S. 564, 571 (1977). Instead, "we must determine whether the ruling of the judge, whatever its label, actually represents a resolution, correct or not, of some or all of the factual elements of the offense charged." Id.; see also Scott, 437 U.S. at 97 (stating the same principle); United States v. Appawoo, 553 F.2d 1242, 1244 (10th Cir. 1977) (same).

The district court's ruling satisfies that requirement. "Title 18 U.S.C. § 1708 punishes the theft of mail as well as the possession of stolen mail." United States v. Watson, 423 U.S. 411, 413 n.2 (1976). Proof that an item was stolen from the "mail" is an essential element of any 18 U.S.C. § 1708 violation. United States v. Ashford, 924 F.2d 1416, 1423 (7th Cir. 1991); see also United States v. Roglieri, 700 F.2d 883, 885 (2nd Cir. 1983) ("In order to establish a violation of 18 U.S.C. § 1708, the government must prove that matter was stolen from the mail. . . ."); United States v. Douglas, 668 F.2d 459, 461 (10th Cir. 1982) (similar). Here, the district court made a factual finding in the Defendants' favor on that "essential element," concluding that the government had

not proven that the packages were in the "mail" when the theft at CTC occurred.³ We are persuaded that factual finding bars this appeal. See, e.g. Martin Linen Supply Co., 430 U.S. at 571 (holding that an acquittal "actually represents a resolution, correct or not, of some or all of the factual elements of the charged offense"); Scott, 437 U.S. at 97 (same); United States v. Fay, 553 F.2d 1247, 1249-50 (10th Cir. 1977) ("The trial was terminated with and by a factual determination . . . after substantial proof. It was not a bare dismissal of the charges Thus, in conformance with the above authorities, we hold that the appeals here sought by the Government are barred by the double jeopardy clause."). In Scott, the Court restated clearly the essence of an acquittal in terms which fit the instant case and require dismissal of this appeal:

"Rather, a defendant is acquitted only when 'the ruling of the judge, whatever its label, actually represents a resolution [in the defendant's favor], correct or not, of some or all of the factual elements of the offense charged.' Martin Linen, supra, at 574."

The government appears to accept the fact that it cannot appeal the district court's conclusion that CTC was not part of the mail and therefore that the theft from CTC was not theft from the mail in violation of 18 U.S.C. § 1708. The government argues, in effect, that the district court erroneously held that the indictment did not allege a later

³The District Judge's Decision, I App. Item 53, stated that the plain language of the indictment indicated that the grand jury concluded the Defendants stole from CTC Distribution, and not at some later time. Id. at 5. And the Judge concluded that "the government did not sustain its burden of proving mail theft from the CTC beyond a reasonable doubt." Id.

theft from the mail when Defendants received the packages and that the judge's decision was a legal ruling that the indictment did not properly allege the crimes proved at trial and that this legal ruling is appealable. See Appellant's Opening Brief at 8. According to the government, the judge's interpretation of the indictment is a legal conclusion unrelated to factual guilt or innocence, and thus separately appealable.

Contrary to the government's argument, however, when a district court has made a factual finding adverse to the government on an essential element of the offense, legal rulings related to that decision are not separately appealable. See Smalis, 476 U.S. at 144

n.7 ("The status of the trial court's judgment as an acquittal is not affected by the Commonwealth's allegation that the court 'erred in deciding what degree of recklessness was . . . required to be shown under Pennsylvania's definition of [third-degree] murder.'")

The fact that the acquittal may result from erroneous evidentiary rulings or erroneous interpretations of governing legal principles . . . affects the accuracy of that determination but it does not alter its essential character.") (citation and internal quotation marks

omitted) (alteration in original); United States v. DiFrancesco, 449 U.S. 117, 132 (1980)

("It is an acquittal that prevents retrial even if legal error was committed at the trial.");

Scott, 437 U.S. at 91 (stating the same principle); United States v. Wood, 958 F.2d 963,

967 (10th Cir.) ("We attach such particular significance to an acquittal that it bars retrial

even if based on legal error.") (citation and internal quotation marks omitted), as

amended, 1992 WL 58305 (10th Cir. 1992); see also United States v. Lynch, 162 F.3d

732, 735 (2d Cir. 1998) ("Here, the factual element is wilfulness, and the district court explicitly resolved it in favor of [the defendants]. It does not matter that this factual finding was arrived at under the influence of an erroneous view of the law. . . . What is decisive for double jeopardy purposes is that the ruling represents a judgment by the court that the evidence is insufficient to convict. We therefore conclude that we lack jurisdiction to consider this appeal under 18 U.S.C. § 3731 and the Double Jeopardy Clause.") (citation and internal quotation marks omitted); United States v. Kennings, 861 F.2d 381, 384 n.4 (3d Cir. 1988) ("Where the district court, in rendering an acquittal, made factual determinations, even though based on erroneous rulings, courts have generally denied retrial.").

Two other circuits have applied this reasoning to cases involving variances from the indictment. First, in United States v. Hospital Monteflores, Inc., 575 F.2d 332, 333 (1st Cir. 1978), the district court had dismissed the indictment against the defendants because of such a variance. The First Circuit held that:

It is clear to us that, though labeled a dismissal of the indictment, the court's order was a judgment of acquittal since it actually represented a resolution, correct or not, of the offense charged. The court based its decision on consideration of the evidence, and concluded that whether or not the government's proof might make out some illegality, it did not make out the illegality charged. Jeopardy had attached. Therefore, if the corporation is protected by the Double Jeopardy Clause, it may not be retried.

Id. at 333 n.1. (citation and internal quotation marks omitted) (emphasis added). After determining that the Double Jeopardy Clause protected the corporation, the court

156
dismissed the appeal. See id. at 335 ("Since we rule that the Constitution would bar further prosecution of the corporate defendant in this case, supra, note 1, this appeal is barred under 18 U.S.C. § 3731.").

The Ninth Circuit reached the same conclusion in United States v. Schwartz, 785 F.2d 673 (9th Cir. 1986). There, the government made the same argument that it makes here:

For its part, the government readily admits that certain parts of the indictment were specifically dismissed for lack of evidence, thereby amounting to an acquittal as to those parts. The government does not appeal those specific findings. The crux of the government's argument, however, is that despite the label of "acquittal" used by the court, the judgment on Counts One through Twelve was in fact partly "a dismissal" based on the ruling of law that there was an impermissible variance. The government opines, therefore, that it is not barred from appealing or seeking a retrial on the individual parts of the scheme which the district court did not specifically reject for lack of sufficient evidence.

Id. at 677. The Ninth Circuit rejected the government's argument in Schwartz: "Inasmuch as we find the judgment below to be a true acquittal, the Double Jeopardy Clause bars appeal even if the district court based the acquittal on an erroneous interpretation of governing legal principles or upon legal principles which are themselves subsequently overturned." Id. at 678.

This court applied a similar approach in United States v. Genser, 710 F.2d 1426 (10th Cir. 1983). There, the government charged the Defendant with knowingly and intentionally "dispensing" a controlled substance in violation of 21 U.S.C. § 841(a). Id. at 1427. That statute makes it unlawful to both "distribute or dispense" a controlled

157

substance. Only a "practitioner," however, can "dispense" a controlled substance under the statute:

After the second Government witness had begun her testimony . . . [the defendant] objected to further testimony absent evidence that he was a practitioner and moved to dismiss. The Government conceded that it could offer no such evidence. . . . [I]t contended that distributing was an included offense of dispensing, and that the trial should proceed on that basis. The Government insisted that the indictment was sufficient under its alternative theory to charge the offense of distribution. The trial court disagreed and dismissed the case.

Id. at 1427 (footnote omitted). After the dismissal, the government obtained a second indictment against the defendant, alleging that he had "distributed" narcotics in violation of 18 U.S.C. 841(a)(1). See id. The defendant argued that the acquittal in the first proceedings barred the new indictment. See id. This court agreed, holding that the factual determination prevented retrial on the same charge.⁴ See id. at 1427-31.⁵

⁴ This court based the decision, in part, on its holding that 21 U.S.C. § 841(a) states only one offense for double jeopardy purposes, whether based on distribution or dispensing. Id. at 1431. Therefore, the acquittal for violating that statute by dispensing a controlled substance barred a later prosecution for distributing that same substance. See id.

Similarly, here, 18 U.S.C. § 1708 states only one offense: theft from the mail. The government could have proven that theft in a number of different ways (for example, the theft could have occurred when the over-labeling took place at CTC, when Defendants received the packages in the mail from the Postal Service, or it could have been a continuing offense involving both activities). However, the district court's acquittal in this case, as in Genser, prevents any later prosecution under 18 U.S.C. § 1708 for the same conduct, even if based on a different theory of theft. ⁵Cf. Sanabria v. United States, 437 U.S. 54, 72 (1978) ("The Double Jeopardy Clause is not such a fragile guarantee that its limitations can be avoided by the simple expedient of dividing a single crime into a series of temporal or spatial units.") (citation, alterations, and internal quotation marks omitted). Accordingly, the government's suggestion that the later theft from the Postal Service is wholly separable from

Finally, the Supreme Court reached a similar conclusion in Sanabria v. United States, 437 U.S. 54 (1978). There, the government charged the defendant with conducting an illegal gambling business in violation of 18 U.S.C. § 1955. See id. at 56. The indictment alleged two types of illegal gambling activities: (1) horse betting, and (2) numbers betting in violation of the laws of “the Commonwealth of Massachusetts, to wit, M.G.L.A. Chapter 271, Section 17.” Id. at 57.

After the trial had begun, the district court determined that numbers betting was not prohibited by section 17 of the Massachusetts code, but by section 7. See id. at 58-59. Concluding that the indictment failed to cite the proper section, the district court excluded all evidence of numbers betting. See id. at 59. The defendant then moved for acquittal, arguing that there was no evidence of horse betting, the other basis for the illegal gambling charge. See id. The district court agreed and granted the motion. See id. The government appealed. As in this case, the government “[c]onced[ed] that there could be no review of the District Court’s ruling that there was insufficient evidence of petitioner’s involvement with horse betting.” See id. at 61. The government, however, argued that it was entitled to a new trial on the numbers betting charge. See id. The Supreme Court disagreed:

the district court’s factual finding of innocence is unconvincing.

⁵ We note that Genser involves a retrial rather than an appeal. The government has provided no logical reason why an “acquittal” should have different meaning in either context. The Supreme Court has used its retrial and appellate precedent interchangeably on this point. We therefore hold that an “acquittal” has the same meaning in both contexts.

159

We must assume that the trial court's interpretation of the indictment was erroneous. But not every erroneous interpretation of an indictment for purposes of deciding what evidence is admissible can be regarded as a "dismissal." Here, the District Court did not find that the court failed to charge a necessary element of the offense; rather it found the indictment's description of the offense too narrow to warrant the admission of certain evidence. To this extent, we believe that the ruling below is properly to be characterized as an erroneous evidentiary ruling, which led to an acquittal for insufficient evidence. That judgment of acquittal, however erroneous, bars further prosecution on any aspect of the count and hence bars appellate review of the trial court's errors.

Id. at 68-69 (citation and footnote omitted).

Similarly here the district court allegedly interpreted the indictment erroneously and hence refused to consider evidence that Defendants stole items from the mail after they over-labeled the packages at CTC. That alleged error is said to have caused the district court to grant an acquittal based on the insufficiency of the evidence.

Nevertheless, as in Sanabria, that ruling prevents independent appellate review of the legal error.

Moreover, the Court in Sanabria held that even if the district court's ruling were viewed as a dismissal of the indictment, rather than as an evidentiary ruling, double jeopardy still barred the appeal. See id. at 69. As the Court observed, 18 U.S.C. § 1955 states only one offense: participation in an illegal gambling business. Although the government could prove that offense in more than one way (by demonstrating numbers betting, horse betting, or other unlawful gambling), an acquittal of the offense of participation in an illegal gambling business barred any later prosecution under the statute

160.
for the same conduct, even if based on a different theory: ←

It is Congress, and not the prosecution, which establishes and defines offenses

....

The allowable unit of prosecution under § 1955 is defined as participation in a single illegal gambling business

....

... Petitioner was found not guilty for a failure of proof on a key factual element of the offense charged: that he was "connected with" the illegal gambling business. Had the government charged only that the business was engaged in horse betting and had petitioner been acquitted, his acquittal would bar any further prosecution for participating in the same gambling business during the same period of time on a numbers theory. That the trial court disregarded the Government's allegation of numbers betting does not render its acquittal on the horsebetting theory any less an acquittal on the "offense" charged. The Double Jeopardy Clause is not such a fragile guarantee that its limitations can be avoided by the simple expedient of dividing a single crime into a series of temporal or spatial units. *

Id. at 69-72 (citation, alteration, footnote and internal quotation marks omitted).

Similarly, as stated in note 4, supra, 18 U.S.C. § 1708 states only one offense: theft from the mail. The government could have proven that theft in a number of different ways (for example, the theft could have occurred when the over-labeling took place at CTC, when Defendants received the packages in the mail from the postal service, or it could have been a continuing offense involving both activities). However, the district court's "acquittal" in this case, as in Sanabria, prevents any later prosecution under 18 U.S.C. § 1708 for the same conduct, even if based on a different theory of theft. *

Accordingly, the district court's allegedly erroneous interpretation of the indictment is not *

somehow separable from the district court's factual finding of innocence on the crime as charged in the indictment.

In sum, when a district court has made a factual finding on an essential element of the offense, legal rulings related to that decision are not separately appealable. See Smalis, 476 U.S. at 144 n.7 ("The status of the trial court's judgment as an acquittal is not affected by the Commonwealth's allegation that the court 'erred in deciding what degree of recklessness was . . . required to be shown under Pennsylvania's definition of [third-degree] murder.' The fact that the acquittal may result from erroneous evidentiary rulings or erroneous interpretations of governing legal principles affects the accuracy of that determination but it does not alter its essential character."); DiFrancesco, 449 U.S. at 132 (1980) (same); Scott, 437 U.S. at 96-97 (same).

2

The government nevertheless argues that other opinions of the Supreme Court and this court compel a contrary conclusion in this case. We are not persuaded. First, the government relies on Lee v. United States, 432 U.S. 23 (1977). See Appellant's Brief-in-Chief at 8-9. In Lee, the government charged the defendant with theft. See 432 U.S. at 25. The indictment, however, failed to allege knowledge or intent, as required by the statute. See id. After the trial had begun, the district court dismissed the indictment as fatally flawed. Id. at 26-27. The defendant conceded, "as he must, that the District Court's termination of the first trial was not an acquittal." Id. at 30 n.8. After the

162
dismissal, the government re-indicted the defendant, "this time in an indictment alleging all of the elements of the . . . crime." Id. at 27. A jury convicted the defendant, who then appealed arguing that double jeopardy barred the second prosecution. See id. The Supreme Court disagreed, holding that the district court's ruling was factually indistinguishable from a mistrial (which, ordinarily, does not prevent retrial). See id. at 31.

As is apparent, the court in Lee made only a legal determination that the indictment was facially invalid because it failed to allege two elements of the crime. Cf. Sanabria, 437 U.S. at 68 (citing Lee as a case in which the "count failed to charge a necessary element of the offense"). The Court never made any factual finding in the defendant's favor on an essential element of the crime charged. Unlike in Lee, the district court here made such findings.

The government also relies on United States v. Bowline, 593 F.2d 944 (10th Cir. 1979). See Appellant's Brief-in-Chief at 9. There the indictment alleged a single conspiracy. See 593 F.2d at 946. The evidence, however, suggested that there were multiple conspiracies. The district court therefore dismissed the indictment, citing precedents purportedly requiring a dismissal. Id. at 946-47. The government appealed. The defendants argued that double jeopardy barred the appeal. This court disagreed: "In the case at bar the defendants moved for dismissal of Count I of the indictment. This motion did not go to the merits of the case. It was concerned with the validity of the

163
charge.” Id. at 949.

Unlike the reasoning in Lee, Bowline went beyond the face of the indictment and considered factual evidence when dismissing the indictment. It has been held, however, that “an appeal is not barred simply because a ruling in favor of a defendant is based upon facts outside the face of the indictment. . . . Rather, a defendant is acquitted only when the ruling of the judge, whatever its label, actually represents a resolution in the defendant’s favor, correct or not, of some or all of the factual elements of the offense

charged.” Scott, 437 U.S. at 96-97 (citation and internal quotation marks omitted). In Bowline, the district court made no such determination on the factual elements of the offense. However, here the trial judge made such a determination. Therefore, Bowline, like Lee, does not control this case.

In sum, we hold that the district court’s fact finding, adverse to the government on an essential element of the crime, makes its decision an acquittal and prevents separate appellate consideration of any alleged legal error related to that decision.

B

Even though we hold that the district court’s decision was a true acquittal, that determination may not mean that double jeopardy bars this appeal. “Where a Government appeal presents no threat of successive prosecution, the Double Jeopardy Clause is not offended.” DiFrancesco, 449 U.S. at 132 (citation and internal quotation marks omitted); see also Wilson, 420 U.S. at 345 (“[A] defendant has no legitimate claim

164.

to benefit from an error of law when that error could be corrected without subjecting him to a second trial before a second trier of fact.”).

In a case tried before a jury, it is easier to determine when there is such a threat. For example, if, after the jury returns its verdict, the district court overturns that decision and “acquits” the defendant, then a reversal on remand would not require a retrial. Instead, an appellate court can simply order reinstatement of the original jury verdict. In those circumstances, double jeopardy does not bar an appeal. See United States v. Jenkins, 420 U.S. 358, 365 (1975) (“When this principle is applied to the situation where the jury returns a verdict of guilt but the trial court thereafter enters a judgment of acquittal, an appeal is permitted. In that situation a conclusion by an appellate court that the judgment of acquittal was improper does not require a criminal defendant to submit to a second trial; the error can be corrected on remand by the entry of a judgment on the verdict.”), overruled on other grounds by Scott, 437 U.S. at 86-87; Wilson, 420 U.S. at 353 (similar).

In a bench trial, however, such determinations are more complicated as the Court explained in Jenkins:

A general finding of guilt by a judge may be analogized to a verdict of “guilty” returned by a jury. In a case tried to a jury, the distinction between the jury’s verdict of guilty and the court’s ruling on questions of law is easily perceived. In a bench trial, both functions are combined in the judge, and a general finding of “not guilty” may rest either on the determination of facts in favor of a defendant or on the resolution of a legal question favorably to him. If the court prepares special findings of fact, either because the Government or the defendant requests them or because

the judge has elected to make them sua sponte, it may be possible upon sifting those findings to determine that the court's finding of "not guilty" is attributable to an erroneous conception of law whereas the court has resolved against the defendant all of the factual issues necessary to support a finding of guilt under the correct legal standard.

Jenkins, 420 U.S. at 366-67 (citations and footnote omitted).

As noted, the district court here found that the government did not prove theft from the mail as required by 18 U.S.C. § 1708. The government, however, relies on three statements by the district court which it argues constitute fact findings in the government's favor if the indictment is interpreted as it suggests:

"[I]f the specific language of the Indictment had been as the government now urges . . . I would conclude that the government has sustained its burden of proof."

"Similarly, if one were to decide that the specific language were 'mere surplusage' and accept the Indictment as essentially summarizing the statutory language, I again may well conclude that the defendants are guilty."

"Accordingly, I conclude that the government's urged interpretation would constitute a constructive amendment because it broadens the possible bases for conviction from that which appeared in the Indictment. United States v. Miller, 471 U.S. 130, 138 (1985) . . . As a consequence, 'the offense proved at trial was not fully contained in the Indictment, for trial evidence had 'amended' the Indictment by broadening the possible basis for conviction from that which appeared in the Indictment.' United States v. Miller, 471 U.S. at 138."

I App. Item 53 at 5-6.

The government would have a better argument if the first statement stood alone:

"[I]f the specific language of the Indictment had been as the government now urges . . . I

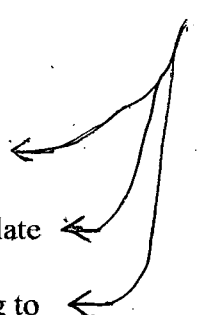
166

would conclude that the government has sustained its burden of proof.” I App. Item 53 at 5 (emphasis added). However, the Supreme Court has refused to treat similarly strong statements as factual findings:

Both sides assume that the District Court’s statements, made to justify denial of Lee’s motion for judgment of acquittal, that he had been “proven [guilty] beyond any reasonable doubt in the world” and that there was “no question about his guilt; none whatsoever,” do not amount to a general finding of guilt. We agree that the court’s comments, in the context in which they were made, cannot be viewed fairly as a general finding of guilt analogous to a jury verdict.

Lee, 432 U.S. at 28 n.4 (alteration in original).⁶

Therefore there are no factual findings for us to reinstate on appeal were we to reverse the district court on the merits. Instead, we would have to remand for further factfinding proceedings. It does not matter that those proceedings might be relatively minor in this case: “[T]he Double Jeopardy Clause bars a postacquittal appeal by the prosecution not only when it might result in a second trial, but if reversal would translate into further proceedings of some sort, devoted to the resolution of factual issues going to



⁶The district court here qualified its statement cited above (“I would conclude” I App. Item 53 at 5) with its next statement that “[s]imilarly, if one were to decide that the specific language were ‘mere surplusage’ and accept the Indictment as essentially summarizing the statutory language, I again may well conclude that the defendants are guilty.” Id. at 5-6 (emphasis added). The wording of this statement indicates that neither the first nor the second statement constitute factual findings that Defendants would be guilty under the government’s reading of the indictment; the district court merely suggested that they “may well” be guilty. Cf. United States v. Dyer, 546 F.2d 1313, 1315-16 (7th Cir. 1976) (holding double jeopardy barred an appeal even though the district court stated that, had indictment been worded as the government alleged, “a different result might be warranted”).

167.33

the elements of the offense charged.” Smalis, 476 U.S. at 145-46 (citation and internal quotation marks omitted); see also Jenkins, 420 U.S. at 370 (stating the same proposition). Smalis teaches that

“whether the trial is to a jury or to the bench, subjecting the defendant to postacquittal factfinding proceedings going to guilt or innocence violates the Double Jeopardy Clause. Arizona v. Rumsey, 467 U. S. 203, 211-12, (1984).”

Smalis, 476 U. S. at 145. The defendant would be forced to “run the gantlet” a second time. Green v. United States, 355 U.S. 184, 190 (1957).

III

We lack jurisdiction pursuant to 18 U.S.C. § 3731 and, accordingly, must DISMISS this appeal.

EXHIBIT B

CASE LAW MERITS FOR
2ND
ARGUMENT

RICKY PELZER VS. STATE OF SOUTH
CAROLINA 672 S.E. 2d 790

169

381 S.C. 217 (2008)

672 S.E.2d 790

Ricky C. PELZER, Respondent,
v.
STATE of South Carolina, Petitioner.

No. 4457.

Court of Appeals of South Carolina.

Heard October 22, 2008.

Decided November 18, 2008.

Withdrawn, Substituted, and Refiled February 3, 2009.

Rehearing Denied February 3, 2009.

219 *219 Assistant Attorney General Brian T. Petrano, of Columbia, for Petitioner.

Deputy Chief Appellate Defender Wanda H. Carter, of Columbia, for Respondent.

CURETON, A.J.:

Following a grant of post-conviction relief (PCR), the State petitioned for and received a writ of certiorari. The State now argues the PCR court erred in finding Ricky C. Pelzer's plea counsel was ineffective and in granting Pelzer relief from one part of a negotiated guilty plea but leaving the rest of the plea intact. We reverse.

FACTS

220 In March 2001, after six years of cohabitation resulting in the birth of two children, Diana Gibbs required Ricky Pelzer leave their home. On April 20, 2001, Gibbs obtained a restraining *220 order against Pelzer. In the early hours of May 6, 2001, Pelzer, carrying a can of gasoline, went to the home where Gibbs and two of her children were sleeping. When Gibbs refused to let him in, Pelzer forced the door open. Gibbs and the children ran out the back door. Pelzer followed them into the front yard, where he attacked Gibbs. After Gibbs's son pulled Pelzer off Gibbs, Pelzer returned to the house. Threatening to burn the house, Pelzer doused the inside of the home with gasoline and began ingesting gasoline himself. Gibbs called the police from a neighbor's house. The police eventually took Pelzer into custody and drove him to a hospital, where he was successfully treated for gasoline ingestion.

Pelzer was charged with first-degree burglary, attempted second-degree arson, criminal domestic violence of a high and aggravated nature (CDVHAN), and violation of a family court restraining order. An attorney was appointed to represent him. After extensive negotiations between Attorney and the State, Pelzer pled guilty to the lesser included offense of second-degree burglary and the original charges of attempted second-degree arson and violation of a family court restraining order. The State nolle-prossed the CDVHAN charge. In accordance with the negotiated deal, the circuit court sentenced Pelzer to a total of fifteen years' imprisonment.^[1]

Pelzer later learned of attempt to burn, a statutory offense similar to the charged offense of attempted arson. Attempt to burn carried a shorter sentence than attempted arson. Pelzer then filed an application for PCR, arguing in his petition that his plea counsel was ineffective because she failed to apprise him of attempt to burn, which carried only a five-year sentence. The attorney testified at the PCR hearing that she did not recall discussing that statute with Pelzer. The PCR court granted Pelzer's application. The State petitioned for a writ of certiorari, which was granted.

STANDARD OF REVIEW

221 In reviewing the PCR court's decision, an appellate court is concerned only with whether any evidence of probative *221 value exists to support that decision. Smith v. State, 369 S.C. 135, 138, 631 S.E.2d 260, 261 (2006). Thus, an appellate court gives great deference to the PCR court's findings of fact and conclusions of law. Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006).

LAW/ANALYSIS

The State argues the PCR court erred in finding Pelzer's plea counsel was ineffective for failing to advise him of the attempt-to-burn

statute. We agree.

170.

A two-prong test exists to evaluate claims of ineffective assistance of counsel. First, a defendant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Bennett v. State, 371 S.C. 198, 203, 638 S.E.2d 673, 675 (2006) (citing Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)). Secondly, a defendant must establish "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Bennett, 371 S.C. at 203, 638 S.E.2d at 675. "Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim." Strickland, 466 U.S. at 700, 104 S.Ct. 2052.

Trial counsel must provide "reasonably effective assistance" under "prevailing professional norms." *Id.* at 687-88, 104 S.Ct. 2052. Reviewing courts presume counsel was effective. *Id.* at 690, 104 S.Ct. 2052. Therefore, to receive relief, the applicant must show (1) counsel departed from professional norms resulting in (2) prejudice. *Id.* at 690, 693, 104 S.Ct. 2052. Trial counsel's failure to apprise the accused of a lesser included offense constitutes deficient performance when, under the facts of the case, he could be convicted of the lesser offense. Kerigan v. State, 304 S.C. 561, 563, 406 S.E.2d 160, 162 (1991). A reasonable probability is "a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694, 104 S.Ct. 2052.

222 "Where there has been a guilty plea, the applicant must prove prejudice by showing that, but for counsel's errors, there is a reasonable probability he would not have pleaded *222 guilty and instead would have insisted on going to trial." Bennett, 371 S.C. at 203-04, 638 S.E.2d at 675. In resolving PCR issues relating to guilty pleas, it is proper to consider the guilty plea transcript as well as the evidence at the PCR hearing. *Id.* at 204, 638 S.E.2d at 675.

First-degree burglary is punishable by imprisonment from fifteen years to life. S.C.Code Ann. § 16-11-311 (2003). Second-degree arson is punishable by imprisonment from five to twenty-five years.^[2] S.C.Code Ann. § 16-11-110(B) (Supp. 2008). To prove second-degree arson, the State must show the accused willfully and maliciously caused an explosion, set fire to, burned, or caused to be burned, or aided, counseled, or procured the burning that resulted in damage to any structure designed for human occupancy. *Id.* An attempt to burn is punishable by imprisonment up to five years or a fine of not more than \$10,000. S.C.Code Ann. § 16-11-190 (2003). To prove attempt to burn, the State must show the accused willfully and maliciously attempted "to set fire to, burn, or aid, counsel, or procure the burning of any of the buildings or property mentioned in Sections 16-11-110 to 16-11-140," or that the accused committed an act in furtherance of burning these buildings. *Id.*

First-degree burglary is classified as a most serious offense in South Carolina, while second-degree arson and second-degree burglary are classified as serious offenses. S.C.Code Ann. § 17-25-45 (Supp.2008). If a person has been convicted of two serious or most serious offenses, he must be sentenced to life imprisonment without parole upon conviction of a third such offense. *Id.*

223 "The trial court lacks subject matter jurisdiction to convict the defendant of a crime that is not a lesser included of the offense charged in the indictment." State v. McFadden, 342 S.C. 629, 632, 539 S.E.2d 387, 389 (2000), overruled on other grounds by State v. Gentry, 363 S.C. 93, 106, 610 S.E.2d 494, 501 (2005). For an offense to be a lesser included offense of another, the greater offense must include all the elements of the lesser offense. *Id.*; accord Blockburger v. U.S., 284 *223 U.S. 299, 304, 52 S.Ct. 180, 76 L.Ed. 306 (1932). "If the lesser offense includes an element not included in the greater offense, then the lesser offense is not included in the greater." Hope v. State, 328 S.C. 78, 81, 492 S.E.2d 76, 78 (1997).

The evidence before us supports the PCR court's conclusion Attorney's performance failed the Strickland test for effective assistance of counsel. Attorney's assistance fell below prevailing professional norms for criminal defense counsel when she failed to advise Pelzer that had he gone to trial, he could have been convicted of attempt to burn, a less serious offense than second-degree arson. Although the PCR court did not determine whether attempt to burn was a lesser included offense of attempted second-degree arson, we hold it is. Upon review of the elements of each offense, we find attempted second-degree arson contains all the elements of attempt to burn.^[3] Therefore, attempt to burn is a lesser included offense of attempted second-degree arson. Given the facts of this case, Attorney's failure to advise Pelzer of this offense fell below prevailing professional norms and was deficient under Strickland.

Having concluded Attorney departed from prevailing professional standards, we now turn to a discussion of whether Pelzer suffered prejudice as a result of Attorney's deficient advice. At the PCR stage, to show prejudice, Pelzer bore the burden of establishing that but for the misadvice of Attorney, he would not have pled guilty, but instead would have elected to go to trial. Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

224 Although the PCR judge found in her order that Pelzer "testified at the hearing that he would not have plead [sic] guilty to the charges had he known that the attempt to burn statute was the applicable statute," we are unable to locate that testimony anywhere in the record. Moreover, the thrust of Pelzer's plea counsel's testimony was that from the outset, the solicitor insisted on trying Pelzer on the original charge of first-degree burglary, which in Pelzer's case carried a mandatory *224 sentence of life without the possibility of parole since Pelzer had a prior conviction of assault and battery with intent to kill. She stated, "[W]e were, from the early outset, working toward a plea," and Pelzer's principal reason for entering into the negotiated plea was to avoid facing trial on the original burglary charge. She

171.

stated further that she believed there was "a significant risk that [Pelzer] would be found guilty if he went to trial" on the first-degree burglary charge. Because Pelzer did not want to face the first-degree burglary charge, he requested his plea counsel negotiate the first-degree burglary charge down to second-degree burglary to avoid the possibility of a sentence of life without the possibility of parole.

During the guilty plea colloquy, the plea judge thoroughly discussed with Pelzer his decision to plead guilty and the terms of the negotiated plea. Additionally, as noted previously, at the PCR hearing, Pelzer never testified that he would not have pled guilty except for his plea counsel's error. In fact, he specifically testified he did *not* wish to set aside his guilty plea to the burglary charge. The following colloquy between Pelzer and his PCR attorney is instructive:

Q. You don't want to try to go back to the beginning and start completely over.

A. No.

Q. Okay.

A. I just want to argue 190.

Q. All you want to argue is that your lawyer was ineffective in allowing you to be sentenced under 110(B) as opposed to arguing that on the facts of this case that you were properly—should have properly been sentenced under 190.

A. That's correct.

In view of this testimony, we conclude the evidence does not demonstrate that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Consequently, the PCR court erred in finding Pelzer suffered prejudice as a result of his plea counsel's misadvice.

The State also argues the PCR court erred in granting Pelzer relief as to the arson charge, only, without vacating the entire plea.

225 Inasmuch as we have reversed the PCR court on *225 the issue of ineffective assistance of counsel, we do not reach this issue. See Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (ruling an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

CONCLUSION

We find the PCR court did not err in finding Pelzer's plea counsel performed deficiently by failing to advise him of the attempt-to-burn statute because attempt-to-burn is a lesser included offense of arson. Nevertheless, we hold Pelzer suffered no prejudice because of this misadvice, because he has not demonstrated that he would not have pled guilty but for the misadvice. Therefore, we reverse the order of the PCR court and reinstate Pelzer's conviction.

We do not reach the issue of whether the PCR court erred in granting Pelzer relief as to the arson charge, only, without vacating the entire guilty plea. Accordingly, the order of the PCR court is

REVERSED.

HEARN, C.J., and HUFF, J., concur.

[1] This sentence included fifteen years each for the burglary and arson charges and thirty days for violating the family court's restraining order, all to be served concurrently.

[2] "A person who commits the common law offense of attempt, upon conviction, must be punished as for the principal offense." S.C.Code Ann. § 16-1-80 (2003).

[3] In addition to the elements found in the attempt-to-burn statute, the second-degree arson statute requires property damage and allows culpability for causing an explosion, apparently as an alternative to burning. § 16-11-110(B).

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172
EXHIBIT
C

CASE LAW MERITS FOR
2nd
ARGUMENT

THE STATE VS. SALLY CAULDER PARKER
AND TIMOTHY KIRBY OPINION NO. 25538

173.

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Petitioner,

v.

Sally Caulder Parker and Timothy Kirby, Respondents.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Marlboro County
Edward B. Cottingham, Circuit Court Judge

Opinion No. 25538
Heard May 15, 2002 - Filed October 14, 2002

AFFIRMED IN RESULT

Attorney General Charles M. Condon, Chief Deputy
Attorney General John W. McIntosh, Assistant Deputy
Attorney General Charles H. Richardson, all of
Columbia; and Solicitor Jay E. Hodge, Jr., of
Darlington, for petitioner.

Katherine Carruth Link, of Columbia; and the South
Carolina Office of Appellate Defense, of Columbia, for
respondents.

JUSTICE MOORE: We granted certiorari to review the Court of Appeals' decision that grand larceny is not a lesser-included offense of armed robbery. We affirm in result.

FACTS

Respondents were indicted for armed robbery for perpetrating a sham armed robbery of a convenience store where respondent Sally Parker worked. At the close of the State's case at trial, respondents moved for a directed verdict on the armed robbery charge. The trial court granted the motion on the armed robbery charge, but stated he would charge the jury on the lesser-included offense of grand larceny. No objection was made. The jury found respondents guilty of grand larceny. (1)

common law offense to a statutory offense. The majority further held the amendment made the requirement that the goods taken be valued in excess of one thousand dollars an element of grand larceny. State v. Parker, 344 S.C. 250, 543 S.E.2d 255 (Ct. App. 2001). 174

The dissent felt the Court of Appeals should not be passing upon this issue because this Court had already held that grand larceny is a lesser-included offense of armed robbery, a ruling which the dissent felt was binding on the Court of Appeals. He further stated that §16-13-30 was primarily a sentencing statute, and the statute did not abrogate the common law crime of grand larceny. The dissent concluded because the larceny statute did not replace the state's continued use of the common law, this Court's precedent bound the Court of Appeals until that precedent was overruled. However, the dissent noted if the Court of Appeals was free to pass upon this issue, he was inclined to agree with the majority that grand larceny is not a lesser-included offense of armed robbery. State v. Parker, *supra*.

ISSUE

Is grand larceny a lesser-included offense of armed robbery?

DISCUSSION

The circuit court does not have subject matter jurisdiction to convict a defendant of an offense unless there is an indictment which sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Owens, 346 S.C. 637, 552 S.E.2d 745 (2001). The test for determining when an offense is a lesser-included offense of another is whether the greater of the two offenses includes all the elements of the lesser offense. State v. McFadden, 342 S.C. 629, 539 S.E.2d 387 (2000). If the lesser offense includes an element which is not included in the greater offense, then the lesser offense is not included in the greater offense. Hope v. State, 328 S.C. 78, 492 S.E.2d 76 (1997). 18.

Larceny involves the taking and carrying away of the goods of another, which must be accomplished against the will or without the consent of the other. State v. Brown, 274 S.C. 48, 260 S.E.2d 719 (1979). Specifically, grand larceny is the felonious taking and carrying away of the goods of another, where the value exceeds \$1,000. See State v. Moultrie, 283 S.C. 352, 322 S.E.2d 663 (1984) (grand larceny is felonious taking and carrying away of goods of another where value exceeds \$200). (3) Robbery is defined as the felonious or unlawful taking of money, goods, or other personal property of any value from the person of another or in his presence by violence or by putting such person in fear. State v. Drayton, 293 S.C. 417, 361 S.E.2d 329 (1987), *cert. denied*, 484 U.S. 1079, 108 S.Ct. 1060, 98 L.Ed.2d 1021 (1988); State v. Scipio, 283 S.C. 124, 322 S.E.2d 15 (1984) (robbery is felonious taking and carrying away of goods of another, accomplished against will or without consent of other with force); State v. Brown, *supra* (same). Armed robbery occurs when a person commits robbery while armed with a deadly weapon. *Id.*

Larceny has been found to be a lesser-included offense of robbery by this Court on several occasions. See State v. Austin, 299 S.C. 456, 385 S.E.2d 830 (1989) (petit larceny is lesser-included of strong armed robbery); State v. Harkness, 288 S.C. 136, 341 S.E.2d 631 (1986) (petit larceny is lesser of robbery); State v. Lawson, 279 S.C. 266, 305 S.E.2d 249 (1983) (grand larceny is lesser-included of robbery); State v. Brown, *supra* (larceny, without indicating whether petit or grand, is lesser of robbery); Young v. State, 259 S.C. 383, 192 S.E.2d 212 (1972) (grand larceny is lesser-included of robbery). See also State v. Ziegler, 274 S.C. 6, 260 S.E.2d 182 (1979) (in dicta, we stated one may be guilty of armed robbery which involves grand larceny or petit larceny). (4)

The cases of State v. Lawson, Young v. State, and State v. Ziegler are overruled to the extent they

more, value is element of grand larceny offense; State v. Moultrie, 207 S.C. 310, 316, 317 S.E.2d 98, 99, n.1 (1989) (in grand larceny prosecution, value is critical element; it is State's burden to prove value of stolen goods exceeds \$200); State v. Moultrie, *supra* (defining grand larceny as felonious taking and carrying away of goods of another, where value exceeds \$200); State v. Humphery, 276 S.C. 42, 274 S.E.2d 918 (1981) (trial court did not abuse discretion in allowing State to reopen case and prove value, an essential element of grand larceny); State v. Smith, 274 S.C. 622, 266 S.E.2d 422 (1980) (grand larceny is felony which includes all elements of lesser offense of petit larceny except that grand larceny involves theft of goods valued at fifty dollars or more; State must present credible evidence establishing each element of crime charged); State v. Bethea, 126 S.C. 497, 120 S.E. 239 (1923) (to convict of grand larceny there must be proof property was worth \$20 or more).

Accordingly, grand larceny cannot be a lesser-included offense of armed robbery because the offense of armed robbery does not include the element that the value of the goods taken must exceed \$1,000. See Hope v. State, *supra* (if lesser offense includes element which is not included in greater offense, then lesser offense is not included in greater offense).

The indictments in this case charge armed robbery, but also appear to describe grand larceny.

(5) However, the trial court lacked subject matter jurisdiction to sentence respondents on grand larceny because the indictments only specifically charged armed robbery, which does not include all the elements of grand larceny. See State v. Summers, 276 S.C. 11, 274 S.E.2d 427 (1981) (conviction may be had of an offense different from the one specifically charged only when such offense is essential element of that charged and only when greater offense charged includes all legal and factual elements of lesser offense), *overruled in part on other grounds by State v. McFadden*, 342 S.C. 629, 539 S.E.2d 387 (2000); State v. Fennell, 263 S.C. 216, 209 S.E.2d 433 (1974) (same). See also State v. Owens, *supra* (court does not have subject matter jurisdiction to convict defendant unless offense is lesser-included offense of crime charged in indictment).

Accordingly, because the trial court lacked subject matter jurisdiction to convict respondents of grand larceny, the Court of Appeals' decision is

AFFIRMED IN RESULT.

TOAL, C.J., WALLER and PLEICONES, JJ., concur. BURNETT, J., dissenting in a separate opinion.

JUSTICE BURNETT (dissenting): I respectfully dissent. In my opinion, grand larceny is a lesser included offense of armed robbery and, therefore, the trial judge had subject matter jurisdiction to convict respondents of grand larceny.

The circuit court has subject matter jurisdiction to convict a defendant of an offense if 1) there is an indictment which sufficiently states the offense, 2) the defendant waives presentment, or 3) the offense is a lesser included offense of the crime charged in the indictment. State v. Primus, 349 S.C. 576, 564 S.E.2d 103 (2002). The test for determining whether when an offense is a lesser included offense of another is whether the greater of the two offenses includes all the elements of the lesser offense. Id. If the lesser offense includes an element which is not included in the greater offense, then the lesser offense is not included in the greater offense. Id.

Robbery is the felonious taking and carrying away of the goods of another against the will or without consent of the other with force. State v. Scipio, 283 S.C. 124, 322 S.E.2d 15 (1984). Armed robbery occurs when a person commits robbery while armed with a deadly weapon. Id. Robbery is a lesser included offense of armed robbery. Id.

EXHIBIT

D

CASE LAW MERITS FOR

3rd

ARGUMENT

GREEN VS. UNITED STATES 785-Ct-221

355 U.S. 184 (1957)

GREEN
v.
UNITED STATES.

No. 46.

Supreme Court of United States.

Argued April 25, 1957.

Restored to the calendar for reargument June 24, 1957.

Reargued October 15, 1957.

Decided December 16, 1957.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

George Blow argued the cause on the original argument. *George Rublee, II*, was with him on the reargument. With them on the briefs was *Charles E. Ford*.

185 *185 *Leonard B. Sand* argued the cause for the United States. With him on the briefs were *Solicitor General Rankin*, *Assistant Attorney General Olney* and *Beatrice Rosenberg*. *Carl H. Imlay* was also on the brief on the original argument.

Opinion of the Court by MR. JUSTICE BLACK, announced by MR. JUSTICE DOUGLAS.

This case presents a serious question concerning the meaning and application of that provision of the Fifth Amendment to the Constitution which declares that no person shall

"... be subject for the same offence to be twice put in jeopardy of life or limb"

The petitioner, Everett Green, was indicted by a District of Columbia grand jury in two counts. The first charged that he had committed arson by maliciously setting fire to a house.^[1] The second accused him of causing the death of a woman by this alleged arson which if true amounted to murder in the first degree punishable by death.^[2] Green entered a plea of not guilty to both counts and the case was tried by a jury. After each side had presented its evidence the trial judge instructed the jury that it could find Green guilty of arson under the first count and of either (1) first degree murder or (2) second degree murder under the second count. The trial judge treated second
186 degree murder, which is defined by the District Code as the killing of another with malice *186 aforethought and is punishable by imprisonment for a term of years or for life,^[3] as an offense included within the language charging first degree murder in the second count of the indictment.

The jury found Green guilty of arson and of second degree murder, but did not find him guilty on the charge of murder in the first degree. Its verdict was silent on that charge. The trial judge accepted the verdict, entered the proper judgments and dismissed the jury. Green was sentenced to one to three years' imprisonment for arson and five to twenty years' imprisonment for murder in the second degree. He appealed the conviction of second degree murder. The Court of Appeals reversed that conviction because it was not supported by evidence and remanded the case for a new trial. 95 U. S. App. D. C. 45, 218 F. 2d 856.

On remand Green was tried again for first degree murder under the original indictment. At the outset of this second trial he raised the defense of former jeopardy but the court overruled his plea. This time a new jury found him guilty of first degree murder and he was given the mandatory death sentence. Again he appealed. Sitting *en banc*, the Court of Appeals rejected his defense of former jeopardy, relying on *Trono v. United States*, 199 U. S. 521, and affirmed the conviction. 98 U. S. App. D. C. 413, 236 F. 2d 708. One judge concurred in the result, and three judges dissented expressing the view that Green had twice been placed in jeopardy in violation of the
187 Constitution. We granted certiorari, 352 U. S. 915. Although Green raises a number of other contentions here *187 we find it necessary to consider only his claim of former jeopardy.

The constitutional prohibition against "double jeopardy" was designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense. In his Commentaries, which greatly influenced the generation that adopted the Constitution, Blackstone recorded:

"... the plea of *autrefois acquit*, or a former acquittal, is grounded on this universal maxim of the common law of England, that no man is to be brought into jeopardy of his life more than once for the same offence."^[4]

Substantially the same view was taken by this Court in *Ex parte Lange*, 18 Wall. 163, at 169:

178

"The common law not only prohibited a second punishment for the same offence, but it went further and forbid a second trial for the same offence, whether the accused had suffered punishment or not, and whether in the former trial he had been acquitted or convicted."^[5]

188 The underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, "188 as well as enhancing the possibility that even though innocent he may be found guilty.

~~In accordance with this philosophy it has long been settled under the Fifth Amendment that a verdict of acquittal is final, ending a defendant's jeopardy, and even when not followed by any judgment is a bar to a subsequent prosecution for the same offense.~~ United States v. Ball, 163 U. S. 662, 671. Thus it is one of the elemental principles of our criminal law that the Government cannot secure a new trial by means of an appeal even though an acquittal may appear to be erroneous. United States v. Ball, *supra*; Peters v. Hobby, 349 U. S. 331, 344-345. Cf. Kepner v. United States, 195 U. S. 100; United States v. Sanges, 144 U. S. 310.

Moreover it is not even essential that a verdict of guilt or innocence be returned for a defendant to have once been placed in jeopardy so as to bar a second trial on the same charge. ~~This Court as well as most others, has taken the position that a defendant is placed in jeopardy once he is put to trial before a jury so that if the jury is discharged without his consent he cannot be tried again.~~ Wade v. Hunter, 336 U. S. 684; Kepner v. United States, 195 U. S. 100, 128. In general see American Law Institute, Administration of The Criminal Law: Double Jeopardy 61-72 (1935). This prevents a prosecutor or judge from subjecting a defendant to a second prosecution by discontinuing the trial when it appears that the jury might not convict. At the same time jeopardy is not regarded as having come to an end so as to bar a second trial in those cases where "unforeseeable circumstances . . . arise during [the first] trial making its completion impossible, such as the failure of a jury to agree on a verdict." Wade v. Hunter, 336 U. S. 684, 688-689.

189 *189 At common law a convicted person could not obtain a new trial by appeal except in certain narrow instances.^[6] As this harsh rule was discarded courts and legislatures provided that if a defendant obtained the reversal of a conviction by his own appeal he could be tried again for the same offense.^[7] Most courts regarded the new trial as a second jeopardy but justified this on the ground that the appellant had "waived" his plea of former jeopardy by asking that the conviction be set aside.^[8] Other courts viewed the second trial as continuing the same jeopardy which had attached at the first trial by reasoning that jeopardy did not come to an end until the accused was acquitted or his conviction became final.^[9] But whatever the rationalization, this Court has also held that a defendant can be tried a second time for an offense when his prior conviction for that same offense had been set aside on appeal. United States v. Ball, 163 U. S. 662.

190 In this case, however, we have a much different question. At Green's first trial the jury was authorized to find him guilty of either first degree murder (killing while perpetrating a felony) or, alternatively, of second degree murder (killing with malice aforethought).^[10] The jury found him guilty of second degree murder, but on his appeal that conviction was reversed and the case remanded for a new trial. At this new trial Green was tried again, not for second degree murder, but for first degree murder, even though the original jury had refused to find him guilty on that charge and it was in no way involved in his appeal.^[11] ~~For the reasons stated hereafter, we conclude that this second trial for first degree murder placed Green in jeopardy twice for the same offense in violation of the Constitution.~~^[12]

191 Green was in direct peril of being convicted and punished for first degree murder at his first trial. He was forced to run the gantlet once on that charge and the jury refused to convict him. ~~When given the choice between finding him guilty of either first or second degree murder, it chose the latter. In this situation the great majority of cases in this country have regarded the jury's verdict as an implicit acquittal on the charge of first degree murder.~~^[13] But the result in this case need not rest alone ~~on the assumption, which we believe legitimate, that the jury for one reason or another acquitted Green of murder in the first degree. For here the jury was dismissed without returning any express verdict on that charge and without Green's consent. Yet it was given a full opportunity to return a verdict, and no extraordinary circumstances appeared which prevented it from doing so. Therefore it seems clear, under established principles of former jeopardy, that Green's jeopardy for first degree murder came to an end when the jury was discharged so that he could not be retried for that offense.~~ Wade v. Hunter, 336 U. S. 684. In brief, we believe this case can be treated no differently, for purposes of former jeopardy, than if the jury had returned a verdict which expressly read: "We find the defendant not guilty of murder in the first degree but guilty of murder in the second degree."

~~After the original trial, but prior to his appeal, it is indisputable that Green could not have been tried again for first degree murder for the death resulting from the fire. A plea of former jeopardy would have absolutely barred a new prosecution even though it might have been convincingly demonstrated that the jury erred in failing to convict him of that offense. And even after appealing the conviction of second degree murder he still could not have been tried a second time for first degree murder had his appeal been unsuccessful.~~

192 Nevertheless the Government contends that Green "waived" his constitutional defense of former jeopardy to a second prosecution on the first degree murder charge by making a *successful* appeal of his improper conviction of second degree murder. We cannot accept

179

this paradoxical contention. "Waiver" is a vague term used for a great variety of purposes, good and bad, in the law. In any normal sense, however, it connotes some kind of voluntary knowing relinquishment of a right. Cf. *Johnson v. Zerbst*, 304 U. S. 458. When a man has been convicted *192 of second degree murder and given a long term of imprisonment it is wholly fictional to say that he "chooses" to forego his constitutional defense of former jeopardy on a charge of murder in the first degree in order to secure a reversal of an erroneous conviction of the lesser offense. In short, he has no meaningful choice. And as Mr. Justice Holmes observed, with regard to this same matter in *Kepner v. United States*, 195 U. S. 100, at 135: "Usually no such waiver is expressed or thought of. Moreover, it cannot be imagined that the law would deny to a prisoner the correction of a fatal error, unless he should waive other rights so important as to be saved by an express clause in the Constitution of the United States."

It is true that in *Kepner*, a case arising in the Philippine Islands under a statutory prohibition against double jeopardy, Mr. Justice Holmes dissented from the Court's holding that the Government could not appeal an acquittal in a criminal prosecution. He argued that there was only one continuing jeopardy until the "case" had finally been settled, appeal and all, without regard to how many times the defendant was tried, but that view was rejected by the Court. The position taken by the majority in *Kepner* is completely in accord with the deeply entrenched principle of our criminal law that once a person has been acquitted of an offense he cannot be prosecuted again on the same charge. This Court has uniformly adhered to that basic premise. For example, in *United States v. Ball*, 163 U. S. 662, 671, a unanimous Court held:

"The verdict of acquittal was final and could not be reviewed on error or otherwise, without putting [the defendant] twice in jeopardy, and thereby violating the Constitution."

And see *Peters v. Hobby*, 349 U. S. 331, 344-345; *United States v. Sanges*, 144 U. S. 310.

- 193 *193 Using reasoning which purports to be analogous to that expressed by Mr. Justice Holmes in *Kepner*, the Government alternatively argues that Green, by appealing, prolonged his original jeopardy so that when his conviction for second degree murder was reversed and the case remanded he could be tried again for first degree murder without placing him in new jeopardy. We believe this argument is also untenable. Whatever may be said for the notion of continuing jeopardy with regard to an offense when a defendant has been convicted of that offense and has secured reversal of the conviction by appeal, here Green was not convicted of first degree murder and that offense was not involved in his appeal. If Green had only appealed his conviction of arson and that conviction had been set aside surely no one would claim that he could have been tried a second time for first degree murder by reasoning that his initial jeopardy on that charge continued until every offense alleged in the indictment had been finally adjudicated.

- Reduced to plain terms, the Government contends that in order to secure the reversal of an erroneous conviction of one offense, a defendant must surrender his valid defense of former jeopardy not only on that offense but also on a different offense for which he was not convicted and which was not involved in his appeal. Or stated in the terms of this case, he must be willing to barter his constitutional protection against a second prosecution for an offense punishable by death as the price of a successful appeal from an erroneous conviction of another offense for which he has been sentenced to five to twenty years' imprisonment. As the Court of Appeals said in its first opinion in this case, a defendant faced with such a "choice" takes a "desperate chance" in securing the reversal of the erroneous conviction. The law should not, and in our judgment does not, place the defendant in such an incredible dilemma. Conditioning an
- 194 appeal of one *194 offense on a coerced surrender of a valid plea of former jeopardy on another offense exacts a forfeiture in plain conflict with the constitutional bar against double jeopardy.^[14]

- The Government argues, however, that we should accept *Trono v. United States*, 199 U. S. 521, as a conclusive precedent against
- 195 Green's claim of former jeopardy.^[15] The *Trono* case arose in the Philippine Islands, *195 shortly after they had been annexed by the United States, under a statutory prohibition against double jeopardy. At that time a sharply divided Court took the view that not all constitutional guarantees were "applicable" in the insular possessions, particularly where the imposition of these guarantees would disrupt established customs. *Downes v. Bidwell*, 182 U. S. 244. In *Trono* the defendants had been charged with murder but were acquitted by the trial court which instead found them guilty of the lesser offense of assault. They appealed the assault conviction to the Philippine Supreme Court. That court, acting under peculiar local procedures modeled on pre-existing Spanish practices, which allowed it to review the facts and law and to substitute its findings for those of the trial judge, set aside their acquittal, found them guilty of murder and increased their sentences.

On review by this Court, Mr. Justice Peckham, writing for himself and three other Justices, took the position that by appealing the conviction for assault the defendants waived their plea of former jeopardy with regard to the charge of murder. He said:

"We do not agree to the view that the accused has the right to limit his waiver as to jeopardy, when he appeals from a judgment against him. As the judgment stands before he appeals, it is a complete bar to any further prosecution for the offense set forth in the indictment No power can wrest from him the right to so use that judgment, but if he chooses to appeal from it . . . he thereby waives, if successful, his right to avail himself of the former acquittal of the greater offense" 199 U. S. at 533.

196 *196 Mr. Justice Holmes refused to join the Peckham opinion but concurred in the result. Just the year before, in Kepner v. United States, 195 U. S. 100, 135, he had sharply denounced the notion of "waiver" as indefensible. There is nothing which indicates that his views had changed in the meantime. As pointed out above, he did dissent from the holding in Kepner—that the Government could not appeal an acquittal—on the ground that a new trial after an appeal by the Government was part of a continuing jeopardy rather than a second jeopardy. But that contention has been consistently rejected by this Court.

Chief Justice Fuller and Justices Harlan, White, and McKenna dissented in Trono. Mr. Justice McKenna wrote a dissent which was concurred in by Justices White and Harlan. During the course of this opinion he stated:

"It is, in effect, held that because the defendants . . . appealed and sought a review, as authorized by the statute, of the minor offense for which they were convicted, the United States was given the right to try them for the greater offense for which they were acquitted. . . . I think that the guarantees of constitutions and laws should not be so construed. . . . I submit that the State seeks no convictions except in legal ways, and because it does not it affords means of review of erroneous rulings and judgments; and freely affords such means. It does not clog them with conditions or forfeit by their exercise great and constitutional rights.

.....

"Here and there may be found a decision which supports the exposition of once in jeopardy expressed in the [Peckham] opinion. Opposed to it is the general consensus of opinion of American text books on criminal law and the overwhelming weight of American decided cases." 199 U. S., at 538-539, 540.

197 *197 We do not believe that Trono should be extended beyond its peculiar factual setting to control the present case. All that was before the Court in Trono was a statutory provision against double jeopardy pertaining to the Philippine Islands—a territory just recently conquered with long-established legal procedures that were alien to the common law.^[16] Even then it seems apparent that a majority of the Court was unable to agree on any common ground for the conclusion that an appeal of a lesser offense destroyed a defense of former jeopardy on a greater offense for which the defendant had already been acquitted. As a matter of fact, it appears that each of the rationalizations advanced to justify this result was rejected by a majority of the Court. As Mr. Justice Holmes, who concurred in the result, effectively demonstrated, the "waiver theory" is totally unsound and indefensible. On the other hand Mr. Justice Holmes' theory of continuing jeopardy has never outwardly been adhered to by any other Justice of this Court.^[17]

198 *198 We believe that if either of the rationales offered to support the Trono result were adopted here it would unduly impair the constitutional prohibition against double jeopardy. The right not to be placed in jeopardy more than once for the same offense is a vital safeguard in our society, one that was dearly won and one that should continue to be highly valued. If such great constitutional protections are given a narrow, grudging application they are deprived of much of their significance. We do not feel that Trono or any other decision by this Court compels us to forego the conclusion that the second trial of Green for first degree murder was contrary to both the letter and spirit of the Fifth Amendment.

Reversed.

MR. JUSTICE FRANKFURTER, whom MR. JUSTICE BURTON, MR. JUSTICE CLARK and MR. JUSTICE HARLAN join, dissenting:

On the basis of the following facts the Court has concluded that petitioner has twice been put in jeopardy of life in violation of the Fifth Amendment to the Constitution.^[1]

199 Petitioner was tried under an indictment on two counts. The first count charged arson under D. C. Code, 1951, § 22-401. The second count charged murder in the first degree under D. C. Code, 1951, § 22-2401, in that in perpetrating the arson petitioner had caused the death of one Bettie Brown. In submitting the case to the jury under the second count, the trial court instructed on both first and second degree murder. The jury returned a verdict finding petitioner guilty of arson under the first count and of second degree murder under the second count; the verdict was silent on the charge of first degree murder. The court entered judgment on the verdict, and sentenced petitioner to terms of imprisonment of one to three years on the first count of the indictment and five to twenty years on the second count.

Petitioner appealed his conviction of second degree murder, contending that there was no evidence to support a verdict for that offense. The Court of Appeals sustained this claim. It reversed the conviction and ordered a new trial on the ground that, since there was no basis in the evidence for finding petitioner guilty of murder in the second degree, it was error to instruct the jury on that issue. 95 U. S. App. D. C. 45, 218 F. 2d 856.^[2] Petitioner was retried on the second count of the indictment, convicted of first degree murder, and sentenced to death. The Court of Appeals, the nine judges sitting *en banc*, affirmed this conviction, rejecting petitioner's contention that he had been put twice in jeopardy of his life in violation of the Federal Constitution, 98 U. S. App. D. C. 413, 236 F. 2d 708, Chief Judge Edgerton and Judges Bazelon and Fahy dissenting.

Since the prohibition in the Constitution against double jeopardy is derived from history, its significance and scope must be determined, "not simply by taking the words and a dictionary, but by considering [its] . . . origin and the line of [its] . . . growth." Gompers v. United States, 233 U. S. 604, 610.

- 200 *200 The origin of this constitutional protection is found in the common-law pleas of *autrefois acquit* and *autrefois convict*. In *Vaux's Case*, 4 Co. Rep. 44a, 45a, it was accepted as established that "the life of a man shall not be twice put in jeopardy for one and the same offence, and that is the reason and cause that *auterfois* acquitted or convicted of the same offence is a good plea" Likewise Blackstone stated that "the plea of *auterfois acquit*, or a former acquittal, is grounded on this universal maxim of the common law of England, that no man is to be brought into jeopardy of his life, more than once, for the same offence. And hence it is allowed as a consequence, that when a man is once fairly found not guilty upon any indictment, or other prosecution, before any court having competent jurisdiction of the offence, he may plead such acquittal in bar of any subsequent accusation for the same crime." 4 Bl. Comm. 335. To try again one who had been previously convicted or acquitted of the same offense was "abhorrent to the law of England." Regina v. Tancock, 13 Cox C. C. 217, 220; see The King v. Emden, 9 East 437, 445-447.

A principle so deeply rooted in the law of England, as an indispensable requirement of a civilized criminal procedure, was inevitably part of the legal tradition of the English Colonists in America. The Massachusetts Body of Liberties of 1641, an early compilation of principles drawn from the statutes and common law of England, declared that, "No man shall be twice sentenced by Civill Justice for one and the same Crime, offence, or Trespasse," and that "Everie Action betweene partie and partie, and proceedings against delinquents in Criminall causes shall be briefly and distinctly entered on the Rolles of every Court by the Recorder thereof. That such actions be not afterwards brought againe to the vexation of any man." Colonial Laws of Massachusetts 43, 47.

- 201 *201 Thus the First Congress, which proposed the Bill of Rights, came to its task with a tradition against double jeopardy founded both on ancient precedents in the English law and on legislation that had grown out of colonial experience and necessities. The need for the principle's general protection was undisputed, though its scope was not clearly defined. Fear of the power of the newly established Federal Government required "an explicit avowal in [the Constitution] . . . of some of the plainest and best established principles in relation to the rights of the citizens, and the rules of the common law." People v. Goodwin, 18 Johns. (N. Y.) 187, 202. Although many States in ratifying the Constitution had proposed amendments considered indispensable to secure the rights of the citizen against the Federal Government, New York alone proposed a prohibition against double jeopardy. This is not surprising in view of the fact that only in New Hampshire had the common-law principle been embodied in a constitutional provision. 2 Poore, Federal and State Constitutions, Colonial Charters and other Organic Laws (2d ed.), 1282. The bill of rights adopted by the New York convention, and transmitted to Congress with its ratification of the Constitution, included a declaration that, "no Person ought to be put twice in Jeopardy of Life or Limb for one and the same Offence, nor, unless in case of impeachment, be punished more than once for the same Offence." Documents Illustrative of the Formation of the Union, H. R. Doc. No. 398, 69th Cong., 1st Sess. 1035. This declaration was doubtless before Madison when he drafted the constitutional amendments to be proposed to the States.

- 202 The terms in which Madison introduced into the House what became the specific provision that is our present concern were these: "No person shall be subject, except in cases of impeachment, to more than one punishment *202 or one trial for the same offence" 1 Annals of Cong. 434. Debate on this provision in the Committee of the Whole evidenced a concern that the language should express what the members understood to be the established common-law principle. There was fear that, as proposed by Madison, it might be taken to prohibit a second trial even when sought by a defendant who had been convicted. Representative Benson of New York objected to the provision because he presumed it was meant to express the established principle "that no man's life should be more than once put in jeopardy for the same offence; yet it was well known, that they were entitled to more than one trial." 1 Annals of Cong. 753. Others who spoke agreed that although of course there could be no second trial following an acquittal, the prohibition should not extend to a second trial when a conviction had been set aside. The provision as amended by the Senate, S. J., 1st Cong., 1st Sess. 77, and eventually ratified as part of the Fifth Amendment to the Constitution, was substantially in the language used by Representative Benson to express his understanding of the common law.

- 203 The question that had concerned the House in debating Madison's proposal, the relation between the prohibition against double jeopardy and the power to order a new trial following conviction, was considered at length by Mr. Justice Story, on circuit, in United States v. Gibert, 25 Fed. Cas. 1287, 1294-1303 (1834). The defendants in that case had been found guilty of robbery on the high seas, a capital offense, and moved for a new trial. Mr. Justice Story, after full consideration of the English and American authorities, concluded that the court had no power to grant a new trial when the first trial had been duly had on a valid indictment before a court of competent jurisdiction. According to his view, the prohibition against double jeopardy applied equally whether the defendant *203 had been acquitted or convicted, and there was no exception for a case where the new trial was sought by the defendant for his own benefit. Earlier, Mr. Justice Story had himself taken a non-literal view of the constitutional provision in United States v. Perez, 9 Wheat. 579, where, writing for the Court, he found that discharge of a jury that had failed to agree was no bar to a second trial. See also 3 Story, Commentaries on The Constitution (1833), 659-660.

Story's conclusion that English law prohibited, except in rare instances, granting a new trial after conviction of a felony was undoubtedly

182.

correct, see The King v. Mawbey, 6 T. R. 619, 638, and on occasion this result has been expressly made to depend on the maxim prohibiting double jeopardy. The Queen v. Murphy, 2 L. R. P. C. 535, 547-548; see The Attorney-General v. Bertrand, 1 L. R. P. C. 520, 531-534; but see The Queen v. Scaife, 17 Q. B. 238. To this day the Court of Criminal Appeals has ordinarily no power to order a new trial even after quashing a conviction on appeal by the defendant, Criminal Appeal Act, 7 Edw. VII, c. 23, s. 4 (2), and repeated efforts to secure this power for the court have met with the argument that a new trial would, at least in spirit, offend the principle that a defendant may not be put twice in jeopardy for the same offense. See 176 H. L. Deb. (5th ser. 1952) 759-763.

The old practice of the English courts, and the position taken by Mr. Justice Story, however, was generally rejected in the United States. The power to grant a new trial in the most serious cases appears to have been exercised by many American courts from an early date in spite of provisions against double jeopardy. United States v. Fries, 3 Dall. 515 (treason); see People v. Morrison, 1 Parker's Crim. Rep. (N. Y.) 625, 626-643 (rape). In United States v. Keen, 26 Fed. Cas. 686, 687-690, a decision rendered only five years after United States v. Gibert, *supra*, Mr. Justice McLean, on circuit, vigorously rejected the view that the constitutional provision prohibited a new trial on the defendant's motion after a conviction, or that it "guarantees to him the right of being hung, to protect him from the danger of a second trial." See 26 Fed. Cas. at 690. Other federal courts that had occasion to consider the question also rejected Mr. Justice Story's position, see United States v. Williams, 28 Fed. Cas. 636, 641; United States v. Harding, 26 Fed. Cas. 131, 136-138, and statements by this Court cast serious doubt on its validity. See Ex parte Lange, 18 Wall. 163, 173-174, and Mr. Justice Clifford dissenting at 201-204. In Hopt v. Utah, 104 U. S. 631, 110 U. S. 574, 114 U. S. 488, 120 U. S. 430, the defendant was in fact retried three times following reversals of his convictions.

Finally, United States v. Ball, 163 U. S. 662-671, expressly rejected the view that the double jeopardy provision prevented a second trial when a conviction had been set aside. Two of the defendants in the case had been convicted of murder, and on writ of error the judgments were reversed with directions to quash the indictment. The same defendants were then convicted on a new indictment. In affirming these convictions the Court said, "It is quite clear that a defendant, who procures a judgment against him upon an indictment to be set aside, may be tried anew upon the same indictment, or upon another indictment, for the same offence of which he had been convicted." 163 U. S. at 672. On a literal reading of the constitutional provision, with an eye exclusively to the interests of the defendants, they had been "once in jeopardy," and were entitled to the benefit of a reversal of their convictions without the hazard of a new trial. The Court recognized, however, that such a wooden interpretation would distort the purposes of the constitutional provision to the prejudice of society's legitimate interest in convicting the guilty as much as, *205 in United States v. Gibert, they had been distorted to the prejudice of the defendants. See also Murphy v. Massachusetts, 177 U. S. 155, 158-160.

The precise question now here first came before a federal court in United States v. Harding, 26 Fed. Cas. 131. There three defendants had been jointly indicted and tried for murder. One was convicted of murder and two of manslaughter, and all moved for a new trial. A new trial was ordered for the defendant convicted of murder, and as to the other two defendants the case was continued to allow them to decide whether they would take a new trial or abide by their convictions. Mr. Justice Grier warned these defendants:

"You ought clearly to understand and weigh well the position in which you now stand. You have been once tried and acquitted of the higher grade of offence charged against you in this indictment; the penalty affixed to which is death; but . . . you have escaped. . . . But let me now solemnly warn you to consider well the choice you shall make. Another jury instead of acquitting you altogether, may find you guilty of the whole indictment, and thus your lives may become forfeit to the law." 26 Fed. Cas. at 138.

In thus assuming that the defendants could be retried for the greater offense of murder without violating the prohibition against double jeopardy, Mr. Justice Grier evidently drew upon a familiar background and what he took to be established practice in the federal courts. To one versed in these traditions, the choice to which the defendants were put in abiding by their convictions or obtaining a new trial, on which the entire question of their guilt would be open to re-examination, seemed legally speaking a matter of course.

Not until Trono v. United States, 199 U. S. 521 (1905), more than fifty years after the Harding case, did the question *206 that had there been passed upon by Mr. Justice Grier first come before this Court. Trono v. United States came here from the Philippine Islands. The plaintiffs in error had been proceeded against in a court of first instance on a complaint accusing them of murder in the first degree. They were acquitted of this charge, but convicted of the included offense of assault. They appealed to the Supreme Court of the Philippines, and that court, exercising a jurisdiction similar to that conferred by Spanish law on the former Audience to review the whole case both on the facts and the law, reversed the judgment of the court of first instance, convicted the plaintiffs in error of the crime of "homicide," or murder in the second degree, and increased the punishment imposed by the court of first instance. The plaintiffs in error then sought review by this Court, claiming that the action of the Supreme Court of the Philippines had placed them twice in jeopardy in contravention of the declaration of rights contained in § 5 of the Act of July 1, 1902, for the Government of the Philippines. The provision in the statute relied on by the plaintiffs in error declared that, "no person for the same offense shall be twice put in jeopardy of punishment" 32 Stat. 692. This language, it will be noted, is substantially identical with that in the Fifth Amendment to the Constitution, upon which petitioner in the present case relies. Its legal relation to the Fifth Amendment calls for later consideration.

This Court affirmed the judgment of the Supreme Court of the Philippines, holding that since the plaintiffs in error had appealed their convictions of the lower offense in order to secure a reversal, there was no bar to convicting them of the higher offense in proceedings in the appellate court that were tantamount to a new trial. After canvassing state and federal precedents, Mr. Justice Peckham concluded that, "the better doctrine is that *207 which does not limit the court or jury, upon a new trial, to a consideration of the question of guilt of the lower offense of which the accused was convicted on the first trial, but that the reversal of the judgment of conviction opens up the whole controversy and acts upon the original judgment as if it had never been." 199 U. S., at 533. It was pointed out that in permitting retrial for the greater offense the Court only applied the principle laid down in United States v. Ball, supra, and that the result was justified not only on the theory that the accused had "waived" their right not to be retried, but also on the ground that, "the constitutional provision was really never intended to, and, properly construed, does not cover, the case of a judgment under these circumstances, which has been annulled by the court at the request of the accused" 199 U. S., at 534.

The Court in *Trono* left no doubt that its decision did not turn on any surviving peculiarities of Spanish procedure, or on the fact that the plaintiffs in error relied on a statutory provision rather than on the Fifth Amendment itself. "We may regard the question as thus presented," stated Mr. Justice Peckham, "as the same as if it arose in one of the Federal courts in this country, where, upon an indictment for a greater offense, the jury had found the accused not guilty of that offense, but guilty of a lower one which was included in it, and upon an appeal from that judgment by the accused a new trial had been granted by the appellate court, and the question was whether, upon the new trial accorded, the accused could be again tried for the greater offense" 199 U. S., at 530. The dissenters did not dispute this view of the case, but on the contrary were concerned with the Court's holding precisely because of its constitutional implications. Mr. Justice Harlan adhered to the view he had taken in earlier cases that the Bill of Rights applied to the Islands, and Mr. Justice McKenna in the principal *208 dissent observed that, "Let it be remembered that we are dealing with a great right, I may even say a constitutional right, for the opinion of the court discusses the case as though it were from a Circuit Court of the United States." 199 U. S., at 539.

The scope and significance of the *Trono* case is underscored by the Court's decision in Kepner v. United States, 195 U. S. 100, rendered only a year before. That case also arose in the Philippine Islands. The plaintiff in error had been acquitted by the court of first instance of the offense with which he was charged. On appeal by the Government to the Supreme Court of the Islands, the judgment was reversed and the plaintiff in error convicted. In this Court both the Attorney General for the Philippines and the Solicitor General of the United States contended that § 5 of the Act of July 1, 1902, which included the same prohibition against double jeopardy involved in the *Trono* case, should be construed in the light of the system of law prevailing in the Philippines before they were ceded to the United States. Brief for the Attorney General of the Philippines, pp. 6-16, 29-38; Brief for the Solicitor General, pp. 34-44. Under that jurisprudence, proceedings in the Supreme Court, or Audience, were regarded not as a new trial but as an extension of preliminary proceedings in the court of first instance. The entire proceedings constituted one continuous trial, and the jeopardy that attached in the court of first instance did not terminate until final judgment had been rendered by the Audience.

The Court rejected the Government's contention and held that the proceedings after acquittal had placed the accused twice in jeopardy. Whatever the Spanish tradition, the purpose of Congress was "to carry some at least of the essential principles of American constitutional jurisprudence to these islands and to engraft them upon the law of this people, newly subject to our jurisdiction." *209 "This case does not . . . require determination of the question whether the jeopardy clause [of the Fifth Amendment] became the law of the islands . . . without Congressional action, as the act of Congress made it the law of these possessions when the accused was tried and convicted." 195 U. S., at 121-122, 125. The Court also rejected the suggestion that the rights enumerated in the Act of Congress could have been used "in any other sense than that which has been placed upon them in construing the instrument from which they were taken" 195 U. S., at 124. Mr. Justice Holmes, dissenting, found the case "of great importance, not only in its immediate bearing upon the administration of justice in the Philippines, but, since the words used in the Act of Congress are also in the Constitution, even more because the decision necessarily will carry with it an interpretation of the latter instrument." 195 U. S., at 134.

The legislative history of the Philippine Bill of Rights, § 5 of the Act of July 1, 1902, made inevitable the Court's conclusion that by its enactment Congress extended to the Islands the double jeopardy provision of the Fifth Amendment, notwithstanding surviving Spanish procedures, so that the Court should construe the statute as it would the constitutional provision itself. President McKinley, in his famous instructions to the Philippine Commission, dated April 7, 1900, drawn by a leader of the American Bar, Secretary of War Elihu Root, had stated that

"the Commission should bear in mind, and the people of the Islands should be made plainly to understand, that there are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom, and of which they have, unfortunately, been denied the experience possessed by us; that there are also certain practical rules of government which *210 we have found to be essential to the preservation of these great principles of liberty and law, and that these principles and these rules of government must be established and maintained in their islands for the sake of their liberty and happiness, however much they may conflict with the customs or laws of procedure with which they are familiar. It is evident that the most enlightened thought of the Philippine Islands fully appreciates the importance of these principles and rules, and they

184.

will inevitably within a short time command universal assent. Upon every division and branch of the Government of the Philippines, therefore, must be imposed these inviolable rules:

"That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense" 1 Public Laws of the Philippine Commission, p. LXVI.^[3]

- 211 *211 As the Court pointed out, "These principles were not taken from the Spanish law; they were carefully collated from our own Constitution, and embody almost verbatim the safeguards of that instrument for the protection of life and liberty." 195 U. S., at 124. In the Act of July 1, 1902, Congress adopted, almost in the language of the President's instructions, the fundamental provisions he considered must be engrafted onto Philippine law, and the historical context in which Congress acted leaves no doubt that it was also actuated by the same purpose as the President, to extend to the Philippines "certain great principles of government which have been made the basis of our governmental system" 1 Public Laws of the Philippine Commission, p. LXVI. In the double jeopardy provision of § 5 Congress did not fashion a novel principle specially adapted to Philippine conditions and different from what was familiar to American
- 212 constitutional *212 thought. On the contrary, it extended over those newly subject to our jurisdiction the specific command of the Fifth Amendment, as construed and developed in the decisions of this Court. The Court in the *Kepner* and *Trono* cases, therefore, following the statutory language itself, emphasized by its legislative history, construed the double jeopardy provision of § 5 as though it were construing the same provision in the United States Constitution. See also *Weems v. United States*, 217 U. S. 349, 367-368. The background of these decisions, and the expressed understanding of the Court on the nature and scope of the provision construed, make them direct authority in all cases arising under the double jeopardy provision of the Fifth Amendment.

The decision in *Trono* was emphatically a decision of the Court. Although Mr. Justice Holmes concurred in the result only, and not in the opinion of Mr. Justice Peckham, there can be no doubt of where he stood. He had dissented in the *Kepner* case on the ground that trial and retrial constituted one procedure entailing one continuous jeopardy, and that there could be no second jeopardy until a conviction or acquittal free from legal error had been obtained. He was dissatisfied with the opinion of Mr. Justice Peckham in the *Trono* case, therefore, not remotely because it upheld the accused's conviction of the greater offense, but because it did not go further and adopt the continuing jeopardy theory Mr. Justice Holmes had espoused in the *Kepner* case. If there was no double jeopardy for him when the Government appealed an acquittal, obviously there was none when the defendant appealed a conviction. Indeed, in *Kepner* he explicitly stated that he considered state cases that held the defendant could not be retried for the greater offense to be wrong.

- 213 Many statements by this Court since *Trono* show that the principle of that case cannot in all good conscience *213 be rested on the criminal procedure of the Philippine Islands, but on a construction of the Fifth Amendment itself, and as such binding on the entire federal judiciary. In *Burton v. United States*, 202 U. S. 344, 378, a case arising in the continental United States, the Court referred to the principle established by the *Trono* decision without any suggestion that it was confined to cases arising in the Philippines. In *Brantley v. Georgia*, 217 U. S. 284, the defendant was convicted of manslaughter under an indictment for murder. On appeal to the State Court of Appeals, the conviction was reversed and the defendant retried and convicted of murder. Although the case concerned the Due Process Clause, the Court comprehensively stated that this "was not a case of twice in jeopardy under any view of the Constitution of the United States." 217 U. S., at 285.

Of special relevance is *Stroud v. United States*, 251 U. S. 15, 17-18. In that case the defendant was indicted for murder, and the jury returned a verdict of "guilty as charged in the indictment without capital punishment." The judgment was reversed and a new trial had on which the defendant was again found guilty of murder, but without a recommendation against capital punishment. He was then sentenced to death. This Court expressly relied on *Trono* in affirming the judgment and rejecting the contention that the imposition of a greater punishment had placed the defendant twice in jeopardy. As a practical matter, and on any basis of human values, it is scarcely possible to distinguish a case in which the defendant is convicted of a greater offense from one in which he is convicted of an offense that has the same name as that of which he was previously convicted but carries a significantly different punishment, namely death rather than imprisonment.

- 214 Whatever formal disclaimers may be made, neither *Trono* itself nor the reliance placed upon it for more than *214 half a century permits any other conclusion than that the Court today overrules that decision. It does so, furthermore, in a case where the defendant's position is far less persuasive than it was in *Trono*. There the plaintiffs in error had been expressly acquitted of the greater offense, whereas in the present case petitioner relies on an "implied acquittal" based on his conviction of the lesser offense of second degree murder and the jury's silence on the greater offense. Surely the silence of the jury is not, contrary to the Court's suggestion, to be interpreted as an express finding that the defendant is not guilty of the greater offense. All that can with confidence be said is that the jury was in fact silent. Every trial lawyer and every trial judge knows that jury verdicts are not logical products, and are due to considerations that

preclude accurate guessing or logical deduction. Insofar as state cases speak of the jury's silence as an "acquittal," they give a fictional description of a legal result: that when a defendant is found guilty of a lesser offense under an indictment charging a more serious one, and he is content to accept this conviction, the State may not again prosecute him for the greater offense. A very different situation is presented, with considerations persuasive of a different legal result, when the defendant is not content with his conviction, but appeals and obtains a reversal. Due regard for these additional considerations is not met by stating, as though it were a self-evident proposition, that the jury's silence has, for all purposes, "acquitted" the defendant.

Moreover, the error of the District Court, which was the basis for petitioner's appeal from his first conviction, was of a kind peculiarly likely to raise doubts that the jury on the first trial had made a considered determination of petitioner's innocence of first degree murder. By instructing on second degree murder when the evidence did not warrant a finding of such an offense, the court *215 gave the jury an opportunity for compromise and lenity that should not have been available. The fact of the matter is that by finding petitioner guilty of arson under count one of the indictment, and of second degree murder under count two, the jury found him guilty of all the elements necessary to convict him of the first degree felony murder with which he was charged, but the judge's erroneous instruction permitted the jury, for its own undisclosed reason, to render an irrational verdict.

We should not be so unmindful, even when constitutional questions are involved, of the principle of *stare decisis*, by whose circumspect observance the wisdom of this Court as an institution transcending the moment can alone be brought to bear on the difficult problems that confront us. The question in the present case is effectively indistinguishable from that in *Trono*. Furthermore, we are not here called upon to weigh considerations generated by changing concepts as to minimum standards of fairness, which interpretation of the Due Process Clause inevitably requires. Instead, the defense of double jeopardy is involved, whose contours are the product of history. In this situation the passage of time is not enough, and the conviction borne to the mind of the rightness of an overturning decision must surely be of a highly compelling quality to justify overruling a well-established precedent when we are presented with no considerations fairly deemed to have been wanting to those who preceded us. Whatever might have been the allowable result if the question of retrying a defendant for the greater offense were here for the first time, to fashion a policy *in favorem vitae*, it is foreclosed by the decision in *Trono v. United States*.

Even if the question were here for the first time, we would not be justified in erecting the holding of the present case as a constitutional rule. Yet the opinion of the Court treats the question, not as one within *216 our supervisory jurisdiction over federal criminal procedure, but as a question answered by the Fifth Amendment itself, and which therefore even Congress cannot undertake to affect.

Such an approach misconceives the purposes of the double jeopardy provision, and without warrant from the Constitution makes an absolute of the interests of the accused in disregard of the interests of society. In *Palko v. Connecticut*, 302 U. S. 319, we held that a State could permit the prosecution to appeal a conviction of second degree murder and on retrial secure a conviction of first degree murder without violating any "fundamental principles of liberty and justice." Since the State's interest in obtaining a trial "free from the corrosion of substantial legal error" was sufficient to sustain the conviction of the greater offense after an appeal by the State, it would of course sustain such a conviction if the defendant had himself appealed. Although this case defined conduct permissible under the Due Process Clause of the Fourteenth Amendment, it cannot wisely be ignored in tracing the constitutional limits imposed on the Federal Government. Nor should we ignore the fact that a substantial body of opinion in the States permits what today the Court condemns as violative of a "vital safeguard in our society."^[4] The Court restricts Congress within limits *217 that in the experience of many jurisdictions are not a part of the protection against double jeopardy or required by its underlying purpose, and have not been imposed *218 upon the States in the exercise of their governmental powers.

Undeniably the framers of the Bill of Rights were concerned to protect defendants from oppression and from *219 efforts to secure, through the callousness of repeated prosecutions, convictions for whose justice no man could vouch. On the other hand, they were also aware of the countervailing interest in the vindication of criminal justice, which sets outer limits to the protections for those accused of crimes. Thus if a defendant appeals his conviction and obtains a reversal, all agree, certainly in this country, that he may be retried for the same offense. The reason is, obviously, not that the defendant has consented to the second trial—he would much prefer that the conviction be set aside and no further proceedings had—but that the continuation of the proceedings by an appeal, together with the reversal of the conviction, are sufficient to permit a re-examination of the issue of the defendant's guilt without doing violence to the purposes behind the Double Jeopardy Clause. The balance represented by that clause leaves free another appeal to law. Since the propriety of the original proceedings has been called in question by the defendant, a complete re-examination of the issues in dispute is appropriate and not unjust. In the circumstances of the present case, likewise, the reversal of petitioner's conviction was a sufficient reason to justify a complete new trial in order that both parties might have one free from errors claimed to be prejudicial. As Mr. Justice Peckham pointed out in *Trono*, "the constitutional provision was really never intended to, and, properly construed, does not cover, the case of a judgment under these circumstances, which has been annulled by the court at the request of the accused" 199 U. S., at 534.

I would affirm the judgment.

FOOT NOTE:

186

[1] D. C. Code, 1951, § 22-401.

[2] D. C. Code, 1951, § 22-2401. "Whoever, being of sound memory and discretion . . . without purpose so to do kills another in perpetrating or in attempting to perpetrate any arson, as defined in section 22-401 . . . is guilty of murder in the first degree."

Section 22-2404 provides that the "punishment of murder in the first degree shall be death by electrocution."

[3] D. C. Code, 1951, § 22-2403. "Whoever with malice aforethought except as provided in [§] 22-2401 . . . kills another, is guilty of murder in the second degree."

§ 22-2404. "The punishment of murder in the second degree shall be imprisonment for life, or for not less than twenty years."

[4] Blackstone's Commentaries 335.

[5] And see *United States v. Ball*, 163 U. S. 662, 669:

"The prohibition is not against being twice punished, but against being twice put in jeopardy; and the accused, whether convicted or acquitted, is equally put in jeopardy at the first trial."

[6] See 1 Stephen, History of the Criminal Law of England, c. x; *United States v. Gibert*, 25 Fed. Cas. 1287.

[7] Under English law the appellate court has no power to order a new trial after any appeal except in certain cases where the first trial was a complete "nullity," as for example when the trial court was without jurisdiction over the person or subject matter. See 4 Stephen, Commentaries on the Laws of England (21st ed. 1950), 284. The English appellate court does have power to substitute a finding of guilt of a lesser offense if the evidence warrants, but it cannot find the defendant guilty of an offense for which he was acquitted or increase his sentence. See 10 Halsbury, Laws of England (Simonds ed. 1955), 539-541, and the cases cited there.

[8] See, e. g., *Brewster v. Swope*, 180 F. 2d 984; *State v. McCord*, 8 Kan. 232, 12 Am. Rep. 469; *Cross v. Commonwealth*, 195 Va. 62, 77 S. E. 2d 447; *Smith v. State*, 196 Wis. 102, 219 N. W. 270.

[9] See, e. g., *State v. Aus*, 105 Mont. 82, 69 P. 2d 584. Cf. *Griffin v. Illinois*, 351 U. S. 12, 18.

[10] In substance the situation was the same as though Green had been charged with these different offenses in separate but alternative counts of the indictment. The constitutional issues at stake here should not turn on the fact that both offenses were charged to the jury under one count.

[11] It should be noted that Green's claim of former jeopardy is not based on his previous conviction for second degree murder but instead on the original jury's refusal to convict him of first degree murder.

[12] Many of the state courts which have considered the problem have concluded that under circumstances similar to those of this case a defendant cannot be tried a second time for first degree murder. Other state cases take a contrary position. In general see the Annotations at 59 A. L. R. 1160, 22 L. R. A. (N. S.) 959, and 5 L. R. A. (N. S.) 571. Of course, many of the state decisions rest on local constitutional or statutory provisions.

[13] See cases collected in the Annotations cited in n. 12, *supra*, and the Annotation at 114 A. L. R. 1406.

[14] The suggestion is made that under the District Code second degree murder is not an offense included in a charge of first degree murder for causing a death in the course of perpetrating a felony (commonly referred to as "felony murder") because it involves elements different from those necessary to establish the felony murder, and that therefore Green could not legally have been convicted of second degree murder under the indictment. We fail to comprehend how this suggestion aids the Government. In the first place, the District of Columbia Court of Appeals has expressly held that second degree murder is a lesser offense which can be proved under a charge of felony murder. *Goodall v. United States*, 86 U. S. App. D. C. 148, 180 F. 2d 397; *Green v. United States*, 95 U. S. App. D. C. 45, 218 F. 2d 856. Even more important, Green's plea of former jeopardy does not rest on his conviction for second degree murder but instead on the first jury's refusal to find him guilty of felony murder.

It is immaterial whether second degree murder is a lesser offense included in a charge of felony murder or not. The vital thing is that it is a distinct and different offense. If anything, the fact that it cannot be classified as "a lesser included offense" under the charge of felony murder buttresses our conclusion that Green was unconstitutionally twice placed in jeopardy. American courts have held with uniformity that where a defendant is charged with two offenses, neither of which is a lesser offense included within the other, and has been found guilty on one but not on the second he cannot be tried again on the second even though he secures reversal of the conviction and even though the two offenses are related offenses charged in the same indictment. See, e. g., Annotation, 114 A. L. R. 1406.

[15] With the exception of *Trono*, the Government appears to concede in its brief, pp. 38-39, that the double jeopardy problem raised in this case has not been squarely before this Court. *Palko v. Connecticut*, 302 U. S. 319, *Brantley v. Georgia*, 217 U. S. 284, and *Kring v. Missouri*, 107 U. S. 221, are not controlling here since they involved trials in state courts. *Stroud v. United States*, 251 U. S. 15, is clearly distinguishable. In that case a defendant was retried for first degree murder after he had successfully asked an appellate court to set aside a prior conviction for that same offense.

[16] In the course of his opinion Mr. Justice Peckham made some general observations to the effect that he regarded the statutory provision as having the same effect as the Fifth Amendment. Those remarks were not essential to the decision so that even if they had been accepted by the full Court they would not be conclusive in this case where the interpretation of the Fifth Amendment is necessarily decisive. Cf. *Cohens v. Virginia*, 6 Wheat. 264, 399; *Humphrey's Executor v. United States*, 295 U. S. 602, 626-627.

[17] Mr. Justice White and Mr. Justice McKenna who dissented with Mr. Justice Holmes in *Kepner* refused to agree with the Court in *Trono*. In his dissent in the latter case Mr. Justice McKenna attributed his vote in *Kepner* to the fact that the Philippine Islands had a system of jurisprudence which was totally

different from ours in that it provided no trial by jury and traditionally had permitted appellate courts to review both the law and the facts in criminal cases and to substitute their findings for those made by the trial judge. Justice Peckham, in his opinion, also recognized the peculiar nature of these Philippine procedures.

[1] "nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb"

[2] In reversing petitioner's conviction the court observed that: "In seeking a new trial at which—if the evidence is substantially as before—the jury will have no choice except to find him guilty of first degree murder or to acquit him, Green is manifestly taking a desperate chance. He may suffer the death penalty. At oral argument we inquired of his counsel whether Green clearly understood the possible consequence of success on this appeal, and were told the appellant, who is 64 years of age, says he prefers death to spending the rest of his life in prison. He is entitled to a new trial." 95 U. S. App. D. C. 45, 48, 218 F. 2d 856, 859.

[3] These instructions were drawn up for the guidance of the Commission headed by William Howard Taft. In 1912, W. Cameron Forbes, then Governor General of the Philippines, asked Taft "what the history of the formation of the Philippine policy was, who it was that had written the instructions by President McKinley to the Taft Commission. He informed me that this was the work of Secretary Root, who wrote the letter of instructions, after which he had read them over to him (Judge Taft) and other members of his Commission, and that some suggestions and modifications were made but that the main work was intact." 1 Forbes, *The Philippine Islands*, 130, n. 2. In an address in 1913, Taft stated that the instructions "had a conspicuous place in the history of our relations to the Philippines, and a Congressional indorsement, given to but few documents in the whole history of our country. It secured to the Philippine people all the guaranties of our Bill of Rights except trial by jury and the right to bear arms. It was issued by President McKinley as commander-in-chief of the Army and Navy in the exercise of a power which Congress was glad to leave to him without intervention for four years. He had thus the absolute control of what should be done in the way of establishing government in the Philippine Islands, and this letter to Mr. Root was the fundamental law of a civil government established under military authority. Subsequently, in 1902, when Congress assumed responsibility, it formally adopted and expressly ratified this letter of instructions, and declared that it, as supplemented by the remaining provisions of the statute, should be the Constitution of the Government of the Philippine Islands, and the charter of the liberties of the Filipino people." 2 Forbes, *The Philippine Islands*, 500.

[4] Of the 36 States that have considered the question, 19 permit retrial for the greater offense:

Colorado.—See Young v. People, 54 Colo. 293, 298-307.

Connecticut.—See State v. Lee, 65 Conn. 265, 271-278; State v. Palko, 122 Conn. 529, 538-539, 541, aff'd 302 U. S. 319.

Georgia.—Brantley v. State, 132 Ga. 573, 574-579, aff'd 217 U. S. 284; Perdue v. State, 134 Ga. 300, 302-303.

Indiana.—See Ex parte Bradley, 48 Ind. 548, 549-558; State ex rel. Lopez v. Killigrew, 202 Ind. 397, 403-406.

Kansas.—State v. McCord, 8 Kan. 232, 240-244; see In re Christensen, 166 Kan. 671, 675-677.

Kentucky.—Hoskins v. Commonwealth, 152 Ky. 805, 807-808.

Mississippi.—Jones v. State, 144 Miss. 52, 60-73, motion for leave to proceed *in forma pauperis* denied for want of substantial federal question, 273 U. S. 639 (citing Trono v. United States); Butler v. State, 177 Miss. 91, 100.

Missouri.—See State v. Simms, 71 Mo. 538, 540-541; State v. Stallings, 334 Mo. 1, 5.

Nebraska.—Bohanan v. State, 18 Neb. 57, 58-77, submission of cause set aside because of escape of plaintiff in error, 125 U. S. 692; Macomber v. State, 137 Neb. 882, 896.

Nevada.—In re Somers, 31 Nev. 531, 532-539; see State v. Teeter, 65 Nev. 584, 610.

New Jersey.—See State v. Leo, 34 N. J. L. J. 340, 341-342, 356.

New York.—People v. Palmer, 109 N. Y. 413, 415-420; People v. McGrath, 202 N. Y. 445, 450-451.

North Carolina.—State v. Correll, 229 N. C. 640, 641-642; see State v. Matthews, 142 N. C. 621, 622-623.

Ohio.—State v. Behimer, 20 Ohio St. 572, 576-582; State v. Robinson, 100 Ohio App. 466, 470-472.

Oklahoma.—Watson v. State, 26 Okla. Cr. 377, 379-390; see Pierce v. State, 96 Okla. Cr. 76, 79.

South Carolina.—See State v. Gillis, 73 S. C. 318, 319-324; State v. Steadman, 216 S. C. 579, 588-592.

Utah.—State v. Kessler, 15 Utah 142, 144-147.

Vermont.—See State v. Bradley, 67 Vt. 465, 472-474; State v. Pianfetti, 79 Vt. 236, 246-247.

Washington.—State v. Ash, 68 Wash. 194, 197-203; State v. Hiatt, 187 Wash. 226, 236.

In eight of these States, Indiana, Kansas, Kentucky, Nevada, New York, Ohio, Oklahoma, and Utah, this result is based to some extent on statutes defining the effect of granting a new trial. In four, Colorado, Georgia, Mississippi and Missouri, on special constitutional provisions that permit retrial for the greater offense. Connecticut, North Carolina, and Vermont have no constitutional provisions as to double jeopardy, but recognize the common-law prohibition.

188.

In 17 States the defendant cannot be retried for the greater offense:

Alabama.—See Thomas v. State, 255 Ala. 632, 635-636.

Arkansas.—Johnson v. State, 29 Ark. 31, 32-46; see Hearn v. State, 212 Ark. 360, 361.

California.—People v. Gilmore, 4 Cal. 376; People v. Gordon, 99 Cal. 227, 228-232; In re Hess, 45 Cal. 2d 171, 175-176; but see People v. Keefer, 65 Cal. 232, 234-235; People v. McNeer, 14 Cal. App. 2d 22, 30; In re Moore, 29 Cal. App. 2d 56.

Delaware.—See State v. Naylor, 28 Del. 99, 114-115, 117.

Florida.—State ex rel. Landis v. Lewis, 118 Fla. 910, 911-916; see McLeod v. State, 128 Fla. 35, 37; Simmons v. State, 156 Fla. 353, 354.

Illinois.—Brennan v. People, 15 Ill. 511, 517-519; People v. Newman, 360 Ill. 226, 232-233.

Iowa.—State v. Tweedy, 11 Iowa 350, 353-358; State v. Coleman, 226 Iowa 968, 976.

Louisiana.—See State v. Harville, 171 La. 256, 258-262.

Michigan.—People v. Farrell, 146 Mich. 264, 266, 269, 272-273, 294; People v. Gessinger, 238 Mich. 625, 627-629.

New Mexico.—State v. Welch, 37 N. M. 549, 559; State v. White, 61 N. M. 109, 113.

Oregon.—State v. Steeves, 29 Ore. 85, 107-111; State v. Wilson, 172 Ore. 373, 382.

Pennsylvania.—Commonwealth v. Deitrick, 221 Pa. 7, 17-18; Commonwealth v. Flax, 331 Pa. 145, 157-158.

Tennessee.—See Slaughter v. State, 6 Humph. 410, 413-415; Reagan v. State, 155 Tenn. 397, 400-402.

Texas.—Jones v. State, 13 Tex. 168, 184-185; Brown v. State, 99 Tex. Cr. R. 19, 21-22; but see Hill v. State, 126 Tex. Cr. R. 79, 80-81; Jonbert v. State, 136 Tex. Cr. R. 219, 220-221; Beckham v. State, 141 Tex. Cr. R. 438, 442; Hall v. State, 145 Tex. Cr. R. 192, 194; Ex Parte Byrd, 157 Tex. Cr. R. 595, 597-598.

Virginia.—Stuart v. Commonwealth, 28 Gratt. 950, 953-964; see Taylor v. Commonwealth, 186 Va. 587, 589-590, 592.

West Virginia.—See State v. Franklin, 139 W. Va. 43, 64.

Wisconsin.—Radej v. State, 152 Wis. 503, 511-513; but see State v. B, 173 Wis. 608, 616-628; State v. Witte, 243 Wis. 423, 427-431; State v. Evjue, 254 Wis. 581, 586-592.

In two of these States, Virginia and Texas, the result is based to some extent on statutes prohibiting retrial for the greater offense, and in New Mexico on a constitutional provision to the same effect.

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