

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Thomas W. Cooper, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

RICKY LAMONT ESAW

APPELLANT

APPELLATE CASE NO. 2017-002213

RECORD ON APPEAL

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1 his perception, his attention was on that person.
2 Again, there is nothing wrong with his
3 identification. If nothing else, he didn't pick
4 one, but he saw him on this one, he saw him in the
5 courtroom.

6 I submit to you refocus, refocus on what was
7 presented. And we submit to you that we have proven
8 this case beyond a reasonable doubt. Thank you.

9 THE COURT: Thank you, Ms. Patterson.

10 Madam Clerk, if you'll hand up the indictments,
11 please.

12 THE CLERK: Yes, sir.

13 THE COURT: Thank you.

14 Now, ladies and gentlemen, give me your
15 attention for a few more moments. It is my
16 responsibility now to instruct you and charge on you
17 what the law is. Before I begin this, let me tell
18 you that you've been in here about an hour, almost
19 exactly an hour. My instructions are scripted,
20 they're going to take about 30 minutes. I'm
21 prepared to do them right now.

22 But if any of you need a break, a brief break,
23 before we begin the instructions, I want to give you
24 a chance to let me know that right now, because once
25 I start, I can't stop. And so if anybody needs a

1 break -- it just takes one of you, you don't have to
2 be unanimous on this. If any one of you needs a
3 break, a brief recess, we'll declare that and get
4 that concern out of your mind. Anybody need a
5 break? Good. Thank you.

6 So now, ladies and gentlemen, it becomes by
7 responsibility, as I told you to instruct you as to
8 what the law is. You've been very patient
9 throughout this trial and you have listened
10 patiently and attentively to Mr. Chehoski and
11 Ms. Patterson. And I now ask that you give me the
12 same attention as I instruct you as to what the law
13 is in this case.

14 Under our constitution, I have the
15 responsibility of telling you what the law is and it
16 is your responsibility as jurors to accept the law
17 as I charge it to you now to be the correct law.
18 It's your exclusive duty as jurors to decide any
19 issues of fact in this case, and for that purpose
20 you have to determine the effect and the value and
21 the weight and factual nature of the evidence that
22 you heard and determine what you determine to be the
23 true facts.

24 Both the State and the Defendant have the right
25 to expect that you will conscientiously consider and

1 evaluate the evidence and that you will apply the
2 law of the case to that evidence so that both the
3 State and the Defendant will receive a fair and
4 impartial trial at your hands.

5 Throughout the course of this charge when I use
6 the word Defendant, I'm referring to Mr. Ricky
7 Lamont Esaw. Mr. Esaw has been indicted by the
8 Grand Jury of Lexington County and charged in the
9 indictments, which I read to you earlier this week,
10 first of all, with the crime of murder.

11 That indictment accuses Mr. Esaw in Lexington
12 County on or about August 9th of 2015 with malice
13 aforethought, causing the death of Hector Vasquez by
14 shooting him and that Mr. Vasquez died as a result
15 thereof. He's also charged with the attempted
16 murder, while acting alone or in concert with
17 Wilfred Pitts, attempting to murder Franklin Vasquez
18 with malice aforethought either expressed or implied
19 in violation of the law.

20 He is next charged with the armed robbery while
21 acting alone or in concert with Wilfred Pitts,
22 taking from the person or presence of Rafael
23 Izaguirre, by means of force or threats or
24 intimidation, a wallet or cell phone in violation of
25 the law.

1 He is next charged with the attempted armed
2 robbery of Franklin Vasquez while armed with a
3 deadly weapon, a handgun, attempting to take money
4 and/or a cell phone with the intent to steal it, and
5 also with the attempted armed robbery of Hector
6 Vasquez while armed with a handgun by attempting to
7 take his money or cell phone in violation of the law
8 with the intent to steal it. And finally, with
9 being in possession of a weapon, a firearm, during
10 the commission of a violent crime.

11 Now, ladies and gentlemen, as I told you before
12 this trial began, and I remind you again, those
13 indictments that I just summarized for you very
14 briefly are not evidence nor are they proof of the
15 charges that they contain, because to the charges in
16 the indictments, as you know, Mr. Esaw has entered
17 pleas of not guilty and has requested a jury trial
18 at your hands which he has received and which
19 you-all will soon conclude.

20 The legal effect of a plea of not guilty then
21 is to place the burden of proof on the State to
22 prove the guilt of the defendant beyond a reasonable
23 doubt before you can convict him and find him
24 guilty. Mr. Esaw is presumed innocent of these
25 charges. It is a fundamental rule of our law of

1 evidence that a defendant, regardless of the number
2 of charges, the nature of the charges, the
3 seriousness of the charges against him, will always
4 be presumed innocent of the charges for which he's
5 been indicted unless and until his guilt has been
6 proven by evidence that satisfies you jurors of that
7 guilt beyond a reasonable doubt.

8 The presumption of innocence is not a mere
9 legal theory, it is not an empty legal phrase. The
10 presumption of innocence has been likened to a robe
11 of righteousness which is placed about the shoulders
12 of a defendant, and it assigns to that defendant a
13 class known as the innocent. And that presumptive
14 robe righteousness continues to exist to the benefit
15 of a defendant until it has been stripped from his
16 person by evidence, evidence that satisfies you of
17 guilt beyond a reasonable doubt.

18 The presumption of innocence accompanies the
19 defendant from the time of his arrest and follows
20 him throughout every stage of this trial, indeed it
21 even continues to his benefit when you go into that
22 jury room to deliberate and to reach a verdict in
23 this case. The presumption of innocence continues
24 to exist to the benefit of the defendant unless and
25 until you as a jury reach the conclusion that the

1 State has proven his guilt beyond a reasonable
2 doubt. So that then is the burden of the State to
3 prove guilt beyond a reasonable doubt.

4 Some of you might have served as jurors in
5 civil cases before. And if you did, the judge in
6 the civil case told you that it is only necessary
7 for the party that has the burden of proof to
8 present evidence to you that is more convincing on
9 that party's side than the evidence is on the other
10 party's side. They call it the preponderance of the
11 evidence.

12 But in criminal cases, the State's proof has to
13 be more powerful than that. In criminal cases, the
14 State's evidence must be beyond a reasonable doubt.
15 So what then do we mean by proof beyond a reasonable
16 doubt? Proof beyond a reasonable doubt is proof
17 that leaves you firmly convinced of the defendant's
18 guilt.

19 Now, there are very few things in this world
20 that you and I know with absolute certainty. And in
21 criminal cases, the law does not require proof that
22 overcomes every possible doubt. And so if based on
23 your consideration of the evidence you are firmly
24 convinced that the defendant is guilty of the crime
25 charged, you must find him guilty. If on the other

1 hand you think there's a real possibility that he is
2 not guilty, you must give him the benefit of the
3 doubt and find him not guilty.

4 Reasonable doubt can arise from evidence in the
5 case or it might arise from the lack of evidence in
6 the case. But you, ladies and gentlemen, have to
7 decide whether or not reasonable doubt exists as to
8 the guilt of this defendant. I tell you that he is
9 entitled to every reasonable doubt which arises in
10 the case.

11 And so if on any issue of fact that is
12 necessary to a conviction and a verdict of guilty
13 you have a reasonable doubt as to how that issue
14 should be resolved, it is your duty to resolve that
15 reasonable doubt in favor of the defendant.

16 A defendant, ladies and gentlemen, is not
17 required to prove his innocence. The State is
18 required in law to prove every essential element of
19 the defense charged against him by evidence that
20 satisfies you of his guilt beyond a reasonable doubt
21 before you can convict him and find him guilty.

22 And I instruct you now and I emphasize to you
23 that the fact that the defendant did not testify in
24 his own behalf is not a factor to be considered by
25 you in any way in your deliberation and in your

1 consideration of the question of his guilt or
2 innocence. It must not be considered by you in any
3 matter whatsoever. It must not militate against the
4 defendant in any respect whatsoever.

5 A defendant has a constitutional right to
6 remain silent, and if he chooses to assert that
7 constitutional right, that fact cannot and must not
8 be considered by you in your deliberations. And so
9 under your oath then, you are to reach no inference
10 and draw no conclusion whatsoever from the fact that
11 this defendant did not himself testify. That should
12 not even be discussed by you in the jury room
13 because, as I have said, the defendant has no
14 obligation to prove innocence and the burden remains
15 upon the State to prove guilt beyond a reasonable
16 doubt and the fact that the defendant did not
17 testify is not a factor to be considered by you in
18 determining his guilt or his innocence.

19 So then, ladies and gentlemen, if upon the
20 whole case you have a reasonable doubt as to the
21 guilt or the innocence of the defendant, he's
22 entitled to that reasonable doubt and would be
23 entitled to an acquittal and a verdict of not
24 guilty. But, on the other hand, if upon the whole
25 case you find the State has proven by evidence that

1 satisfies you as a jury of his guilt beyond a
2 reasonable doubt, then in such circumstances it is
3 equally your duty to convict him and to find him
4 guilty.

5 Now, during the trial, ladies and gentlemen,
6 each of us, you and I, have our separate duties to
7 perform. As the trial judge it is my job to preside
8 over and rule upon the admissibility of evidence and
9 things of that nature during the course of this
10 trial, and to you to consider only the competent
11 evidence that has been offered in the course of this
12 trial, that is, the testimony offered in this
13 witness chair right here, and the items and
14 documents of evidence that you'll have with you in
15 the jury room when you begin your deliberations.

16 I have the additional duty to charge you as to
17 what the applicable law of the case is, and that's
18 what I'm doing right now. As the presiding judge I
19 am made the sole judge of the law of the case and it
20 is your duty to accept and apply this law as I state
21 it to you now to be the correct law.

22 If you have some preconceived idea of what you
23 think the law is or if you've brought with you into
24 your service as jurors some preferences or
25 understandings that you might have about the law and

1 if your ideas about the law disagree with what I'm
2 telling you now the law actually is, under your oath
3 you're obligated to forget what you think the law is
4 or what you'd like for the law to be, because under
5 that oath you're bound to accept the law as I charge
6 it to you now to be the correct law.

7 Now, since you're the sole and exclusive judge
8 of the facts and I'm the judge of the law, our trial
9 courts have said and our constitution has said, I
10 should say, that the trial judge can't hint to you
11 or comment to you or intimate to you any opinion
12 about any facts in the case.

13 Since you're the sole judge of the facts of the
14 case then, you're not to gather from anything that I
15 have said during the course of this trial or
16 anything that I'm saying to you now that I have an
17 opinion about the facts of the case. The law does
18 not allow me such an opinion. That is solely a
19 matter for you, ladies and gentlemen, to determine.
20 So as jurors it becomes your duty to determine, as I
21 have told you, the value, the weight, the effect,
22 and the truth of the evidence offered during the
23 course of this trial.

24 Now, as you determine what the facts of the
25 case are, you must necessarily pass upon the

1 credibility, which is just another word that means
2 believability, of the witnesses who have testified,
3 and you have to decide the value and the effect that
4 you will give to the testimony you have heard. You
5 and you alone have to decide the force and the
6 effect and the truth of the testimony that has been
7 offered.

8 Now, there are a lot of things that you can
9 take into account when you do this. You can look at
10 the appearance, the manner of the witnesses as he or
11 she testified from the witness stand. We sometimes
12 call that the demeanor of the witness. How did the
13 witness appear to you as he or she was testifying on
14 the witness stand?

15 Was the witness forthright or was the witness
16 hesitant? Was a witness' testimony consistent or
17 did it contain discrepancies? What was the ability
18 of that witness to know the things that he or she
19 was telling you about? Did the witness have an
20 interest to be served by his or her testimony; in
21 other words, the cause to be served by that
22 testimony? Was the testimony of a witness made
23 stronger by other evidence or was it made weaker by
24 other evidence in the case?

25 You've heard in this particular case the

1 testimony of an expert witness. Our rules of
2 evidence ordinarily don't allow witnesses to testify
3 about opinions or conclusions. However, persons who
4 by their training and by their qualifications and by
5 their experience in certain fields can be qualified
6 as expert witnesses in those particular fields, and
7 they then have a right to render opinions on those
8 fields in which they have been qualified as experts.

9 You should consider any expert opinion received
10 in evidence in this case like any other evidence in
11 this case and give it the weight you think it
12 deserves. If you decide that the opinion of an
13 expert witness is not based on sufficient education
14 and experience or if you conclude that the reasons
15 given in support of the opinion are not sound or
16 that the opinion is outweighed by other evidence,
17 you can disregard the opinion entirely, because an
18 expert witness' testimony is like the testimony of
19 any other witness; it doesn't receive any greater
20 weight than that of any other witnesses.

21 Because as jurors, ladies and gentlemen, you've
22 got the right to believe a small portion of the
23 testimony of a single witness, disbelieve the larger
24 portion of the testimony of the same witness, or you
25 can believe everything that a witness tells you or

1 none of what a witness tells you.

2 Now, there's been admitted into the record in
3 this case also evidence of an alleged prior criminal
4 record of one of the witnesses who was called. And
5 that evidence was admitted for a limited purpose and
6 you can consider that evidence only for the limited
7 purpose for which was it offered and you can
8 consider that evidence only for the purpose of
9 evaluating the credibility or the believability of
10 the testimony offered by that witness himself or
11 herself and you can give it no other weight for any
12 other purpose at all.

13 Now, ladies and gentlemen, in determining the
14 matter of what you believe, that law requires that
15 you use your good common sense, your mental
16 processes, your sense of logic and reason, and your
17 experiences in life. In other words, as I told you
18 before you began this trial, you use the same
19 qualities in this courtroom in determining what you
20 believe that you use every day outside of this
21 courtroom in determining what you believe, those
22 same unique abilities that each of you brings from
23 your own individual ways of life and from your own
24 experiences in life to bear on what you heard in
25 this courtroom, and you'll be able to decide what

1 you believe. And once you decide what you believe,
2 then you apply the law that I'm giving you to what
3 you believe to be the facts of this case and you'll
4 arrive at a true verdict in this particular case.

5 Now, ladies and gentlemen, I'm going to
6 instruct you as to the particular charges which are
7 contained in these indictments. I charge you first
8 as to the law of the crime of murder. Murder is
9 defined in our law as the killing of any person with
10 malice aforethought either expressed or implied.

11 In order for the State to prove the defendant
12 guilty of murder, it has to be proven beyond a
13 reasonable doubt that this defendant had, in fact,
14 killed the person alleged to have been killed in the
15 indictment, and that the killing was done a malice
16 aforethought. The State doesn't have to prove a
17 motive for the killing, but it does have to prove
18 malice to prove that beyond a reasonable doubt.

19 So what is malice? Malice aforethought is a
20 deliberate and well-formed purpose to do the
21 unlawful act. Aforethought means that the intention
22 to do the unlawful act was conceived or planned
23 sometime before it actually occurred, but it need
24 not exist for any particular length of time prior to
25 the act to meet the test of malice aforethought.

1 Malice itself is a word that suggests a
2 wickedness or a hatred or a determination to do what
3 one knows to be wrong without just cause or legal
4 provocation. Malice need not be in the mind of the
5 one doing the act for any particular length of time
6 in order to render the killing murder. If it is
7 present in the mind of the one doing the killing any
8 length of time before the act, then its presence
9 would be sufficient to render the killing murder.

10 Malice can be expressed or it can be inferred.
11 Malice is said to be expressed when there is shown a
12 deliberate, violent intention to unlawfully take
13 away the life of another human being. Malice may be
14 inferred when no legal provocation or excuse for the
15 killing appears and when the circumstances attending
16 the killing show an abandoned heart or a malignant
17 heart fatally bent on mischief.

18 Now, the defendant is also accused of the
19 attempted murder of Franklin Vasquez through the
20 acts of Mr. Pitts. So in order to prove the charge
21 of attempted murder, the State has to prove beyond a
22 reasonable doubt that this defendant, either alone
23 or in concert with somebody else, and I'll charge
24 you on that law in a few moments, attempted to kill
25 in this case Franklin Vasquez, with malice

1 aforethought either expressed or implied as I've
2 already defined malice to you.

3 Now, an attempt to commit an act is an act done
4 in part in execution of a plan or a design to commit
5 a crime. There has to be an intent that the action
6 be committed and an act done, not in full execution
7 of the crime, but in pursuing the intent to commit a
8 crime. An attempt is different from preparation and
9 it's also different from the intent to commit.

10 The law does not punish the mere entertainment
11 of a criminal intent. To bring the law of attempt
12 into action, it is necessary that some act should be
13 done in pursuance of the intent immediately and
14 directly tending to the commission of the crime, an
15 act which, if the crime is carried out, would
16 constitute a part and parcel of the crime itself,
17 but it doesn't reach the accomplishment which was
18 intended because it is prevented or voluntarily
19 abandoned.

20 The defendant is also charged with armed
21 robbery, once again, in concert with Mr. Pitts. I'm
22 going explain to you now the offense which is known
23 in law as armed robbery. And I'll tell you that the
24 statute says that a person who commits robbery while
25 armed with a pistol or other deadly weapon or while

1 alleging with action or words that he is armed with
2 such a weapon is guilty of armed robbery. So let me
3 define for you first robbery and then armed robbery.

4 Robbery is what we normally call stealing, but
5 it's a little bit more than just stealing. Robbery
6 is stealing, is just taking somebody else's
7 property, whether they know it or not. That's
8 larceny or stealing. But robbery, robbery is the
9 wrongful taking and carrying away of somebody's
10 personal property, of something of value of somebody
11 else, either taking it for himself or herself, or in
12 the presence of that person by putting that person
13 by threat of violence or putting them in fear of
14 violence. So robbery then is stealing from the
15 person, himself or herself, in the presence of the
16 person himself, by the use of force or fear or
17 violence..

18 So now, what is armed robbery? Armed robbery
19 is robbery of somebody's property from his or her
20 person or in that presence by putting that person in
21 fear of violence and by the use of a deadly weapon.
22 A handgun, of course, is a deadly weapon. And so
23 the law then requires in order to prove the offense
24 of armed robbery, it must prove that the defendant
25 robbed someone of their personal property from their

1 presence or in their -- from their person or in
2 their presence by fear or force or intimidation and
3 by using a deadly weapon. Those are the elements of
4 armed robbery.

5 Once again, the defendant is charged with the
6 attempted armed robbery of Hector Vasquez and
7 Franklin Vasquez. The law of attempt that I charge
8 you on murder also applies to the law of attempt for
9 armed robbery; that is, there has to be some act and
10 furtherance of that event which was either
11 voluntarily abandoned or stalled for some other
12 reason.

13 The defendant is also charged with possession
14 of a firearm during the commission of a violent
15 crime. Our law makes it illegal to possess a
16 firearm during the commission of a violent crime.
17 And so a violent crime includes murder, attempted
18 murder, robbery, attempted armed robbery, I should
19 say, or attempted armed robbery. All of these are
20 violent crimes in the definition of the law.

21 And so in order for you to find the defendant
22 guilty of this separate offense of possessing a
23 weapon during the commission of a violent crime, you
24 must first find that the State has proven to you
25 beyond a reasonable doubt that he actually committed

1 one of those violent crimes, murder, attempted
2 murder, robbery, attempted robbery, and then that he
3 was in possession of a firearm during the commission
4 of that crime.

5 Now, ladies and gentlemen, as this has been
6 explained to you, some of these charges arise out of
7 allegations of Mr. Esaw being in concert with
8 Mr. Pitts. And the State brings a theory -- those
9 cases under the theory of the law known as
10 accomplice liability or the hand of one is the hand
11 of all.

12 And I tell you, ladies and gentlemen, that when
13 two or more person aid, encourage, and abet each
14 other in the commission of a crime, all who are
15 present are principals and are equally guilty. When
16 two or more persons combine together and commit a
17 crime and the crime is committed, all of those who
18 are present to aid and abet and assist in the
19 commission of the crime are guilty. The act of one
20 becomes the act of all, the hand of one becomes the
21 hand of all; it makes no difference by whose
22 immediate hand the crime is committed, all are
23 principals.

24 However, I tell you that mere presence at the
25 scene of the crime, even with knowledge of the

1 commission of the crime but without an intent to
2 aid, abet, or assist in its commission, does not
3 constitute guilt. And so the burden is upon the
4 State then to establish beyond a reasonable doubt
5 that the defendants, and each of them as to those
6 particular charges, those charges in concert with
7 Mr. Pitts, they were there with each other, they
8 were present, and that they were there with a
9 criminal intent; that is, with the intent to aid,
10 encourage, and abet each other in committing the
11 offense of attempted murder and armed robbery.

12 Now, ladies and gentlemen, an issue in this
13 case is the identification of the defendant as a
14 person who committed the crime charged. The State
15 has the burden of proving identity beyond a
16 reasonable doubt, and you must be satisfied beyond a
17 reasonable doubt of the accuracy of the
18 identification of the defendant before you can
19 convict him.

20 Identification testimony is an expression or a
21 belief of an impression by a witness and you must
22 determine the accuracy of the identification of the
23 defendant. You must consider the believability of
24 the identification witness in the same way as any
25 other witness.

1 You may consider whether the witness had an
2 adequate opportunity to observe the offender at the
3 time of the offense, and this can be affected by
4 things about how long or short the time was
5 available or how far or close the witness was, the
6 lighting conditions, whether the witness had a
7 chance to see or know the person in the past.

8 Once again I tell you that the burden of proof
9 upon the State extends every element of the offense
10 charged, and this includes specifically includes the
11 burden of proving beyond a reasonable doubt the
12 identity of the defendant as the one who committed
13 the crime. After examining the testimony if you
14 have a reasonable doubt as to the accuracy of the
15 identification, then you must find the defendant not
16 guilty.

17 Now, criminal intent is a necessary element of
18 the offenses in this case and it has to be proven by
19 the State beyond a reasonable doubt. Criminal
20 intent is always a matter that has to be determined
21 by a jury from the circumstances surrounding the
22 situation because there is no way that we can cut
23 off a person's skull and look down at their brain
24 and figure out what they had in mind at the time.
25 And the law says that criminal intent may be

1 inferred from the circumstances which are shown to
2 have existed at the time. And that's how you make a
3 determination as to whether or not the criminal
4 intent was present.

5 So criminal intent is a state of mind and it
6 operates jointly with an act in the commission of a
7 crime. It is a mental state, it is a conscious
8 wrongdoing, and it's up to you as a jury to
9 determine what the defendant intended to do based on
10 the circumstances which are shown to have existed.
11 I tell you that the State has to prove criminal
12 intent beyond a reasonable doubt just as it has to
13 prove every other element beyond a reasonable doubt.

14 Now, ladies and gentlemen, in this case a
15 statement alleged to have been made by the defendant
16 has been admitted into the record of this case. And
17 while I have determined as a preliminary matter that
18 the statement is admissible, it is up to you as a
19 jury to make the ultimate decision as to whether or
20 not the defendant actually made the statement and
21 what -- whether or not the statement was given
22 freely and voluntarily, that is, by the own free
23 will and accord of the defendant.

24 This means the State has to prove to you beyond
25 a reasonable doubt that the statement was not caused

1 by pressure, force, fear, threats, coercion, or
2 intimidation; it was not obtained by hope or a
3 promise of leniency or reward of any kind. And as
4 you determine whether or not the statement was
5 voluntary, you should consider the circumstances of
6 the defendant and the circumstances surrounding the
7 questioning.

8 You can consider the age of the defendant, his
9 education or lack of it, his apparent mental
10 ability, his background, the length of the
11 detention, the nature of questions, whether or not
12 the defendant was advised of his constitutional
13 rights including the right to remain silent and that
14 any statement could be used against him in a court
15 of law, the right to have a lawyer present with him,
16 if he could not afford a lawyer then one would be
17 appointed to represent him without cost, that he
18 could stop making a statement at any time.

19 You must carefully consider all the
20 circumstances surrounding this before you give any
21 weight at all to the alleged statement. The State,
22 I so tell you again, has the burden of proving
23 beyond a reasonable doubt that the alleged statement
24 was made by the defendant and that it was voluntary,
25 and if you determine that it was, you can give the

1 statement any further consideration that you think
2 it should receive. You must decide what weight, if
3 any, should be given to the alleged statement, and
4 if you determine the alleged statement was not the
5 free and voluntary statement of the defendant, you
6 should not consider it for any purpose whatsoever.

7 Now, ladies and gentlemen, the State attempts
8 to meet its burden of proof in this case by the
9 introduction of the two types of evidence: Direct
10 evidence and circumstantial evidence. Direct
11 evidence is evidence that directly proves the
12 existence of a fact and it doesn't require any
13 conclusions or any deductions.

14 Circumstantial evidence is a proof of a chain
15 of facts which indicates the existence of another
16 fact and is -- the existence of another fact is
17 developed by deduction or by conclusions based on
18 the evidence presented. Crimes can be proven by
19 circumstantial evidence. The law doesn't make any
20 distinction between the weight or the value that
21 you'll give direct evidence or circumstantial
22 evidence.

23 However, to the extent that the State relies on
24 circumstantial evidence, all the circumstances must
25 be consistent with each other, and when they're

1 taken together they must point conclusively to the
2 guilt of the accused beyond a reasonable doubt. If
3 the circumstances merely portray the defendant's
4 behavior as suspicious, then the proof has failed.

5 The State has the burden of proving the
6 defendant guilty beyond a reasonable doubt, and this
7 burden rests upon the State whether the State relies
8 on direct evidence or circumstantial evidence or
9 some combination of the two.

10 Now, ladies and gentlemen, let me tell you,
11 finally -- finally, there's a word you can hang
12 onto -- let me tell you, finally, that you're not
13 that you're not partisans or advocates for the State
14 of South Carolina or for this defendant. You don't
15 serve as jurors to reward your friends or punish
16 your enemies. Obviously, such a perverted system of
17 justice would not be justice at all.

18 You have been selected by both the State and
19 the Defendant to be fair and impartial jurors, and
20 so it is your duty then, by your joint
21 deliberations, to determine the facts in this
22 particular, giving to this defendant the benefit of
23 every reasonable doubt on each and every issue, and
24 then to the facts which you determine to exist in
25 this case, you apply the law which I've just given

1 you, and thus arrive at a verdict.

2 The word verdict means the truthful saying.
3 And when you've accomplished the responsibilities,
4 you'll have satisfied your oath as jurors and you
5 will have discharged your duty to the Court.

6 Now, ladies and gentlemen, I'm going to
7 instruct you as to the forms of verdict in this
8 particular case. They are here on this verdict
9 sheet. There are six different charges, and so you
10 will write six different verdicts. Your verdict on
11 one charge does not necessarily determine your
12 verdict on another charge. The defendant can be
13 convicted or acquitted on any or all of the charges
14 contained in these indictments.

15 You're not to gather anything at all from the
16 order that I have written these possible choices of
17 verdict on this sheet. I simply write them in the
18 order that I find easiest to explain. I'm giving
19 the verdict form to the foreperson because it's
20 going to be his responsibility to fill it out. And,
21 as I have said, there are six different charges and
22 six different verdicts.

23 The first charge of murder says we the jury, by
24 unanimous consent, find the defendant as to the
25 charge of murder, the choices of verdict are two,

1 guilty if the State has met its burden of proof as I
2 have instructed you on that particular charge, not
3 guilty if the State has failed to meet its burden of
4 proof.

5 Each of the other charges contain the same
6 choices of verdict. The attempted murder of
7 Franklin Vasquez, guilty or not guilty; guilty if
8 the State has met its burden of proof under the
9 theory of the hand of one is the hand of all, not
10 guilty if it has failed to meet its burden of proof.

11 The armed robbery, once again under the theory
12 of the hand of one is the hand of all, guilty if the
13 State has met its burden of proof, not guilty if it
14 has failed to meet its burden of proof.

15 The attempted armed robbery, there are two
16 charges, one of Franklin Vasquez and one of Hector
17 Vasquez as the alleged victims. And their names are
18 there so you can tell which of those charges apply
19 to each particular victim. The possible charges are
20 the same.

21 The last charge is possession of a weapon
22 during the commission of a violent crime. You'll
23 reach this charge only if you have found Mr. Esaw
24 guilty of one of the violent crimes above. If your
25 verdict is not guilty as to those charges, you will

1 not reach the verdict of possession of a weapon
2 during the commission of a violent crime. If you do
3 find that he is guilty of at least one of those
4 crimes of violence, then you will reach the last
5 verdict. And your choices of verdict are, once
6 again, the same, guilty or not guilty.

7 Now, I've shown the verdict form to the
8 foreperson, ladies and gentlemen, because he's the
9 one who's got to fill it out. But it, obviously,
10 will not be the foreman's verdict alone; the
11 verdicts have to be unanimous, all 12 have to agree
12 as to what the verdicts will be. And, Mr. Foreman,
13 you're not authorized to fill out the verdict form
14 nor to sign it until all 12 of your number have
15 agreed as to what the verdicts will be.

16 We're going to send you to your jury room right
17 now. I want you to wait just a few moments before
18 you begin your deliberations. I've got to talk with
19 the lawyers to see if I have misstated anything or
20 if I've left out anything, and if I have, I'll have
21 to bring you back out to correct that. But if we do
22 not have to bring you back out, we will send back
23 the items of evidence. Once the items of have been
24 sent in, then that will be your signal to begin your
25 deliberations. Please, not until then.

1 Once the items of evidence have been delivered,
2 you will begin your deliberations. And you will
3 deliberate until you've reached verdicts, at which
4 point, Mr. Foreman, you will fill out the verdict
5 form, knock on the door, advise the bailiff, and we
6 will bring you back out to receive the verdict.
7 Before you begin your deliberations, Ms. Frick is
8 going to bring in menus to give you for the ordering
9 of lunch, to allow you to go ahead and get that
10 matter out of the way, and she'll explain to you how
11 that is going to be done before you begin your
12 deliberations.

13 Please retire to your jury room. Do not begin
14 yet begin your deliberations. I'll ask that the
15 alternates just stay where you are, please.

16 (The jury exits the courtroom at 11:06 AM.)

17 THE COURT: Ms. Patterson, Ms. Martin, any
18 requests for additional charge or exception from the
19 State?

20 MS. PATTERSON: None from the State, Your
21 Honor.

22 THE COURT: Thank you.

23 Ms. Fullwood, Mr. Chehoski?

24 MS. FULLWOOD: Yes. Simply, Your Honor, we'd
25 like to put on the record that we take exception to

1 that portion of your charge that stated that malice
2 is implied where no legal provocation or excuse
3 appears. We believe that's burden shifting and
4 could be interpreted to require the Defense to
5 disprove legal provocation or excuse, and thereby
6 violating rights under the Fifth, Sixth, and
7 Fourteenth Amendments of the comparable provisions
8 of the South Carolina Constitution.

9 THE COURT: Thank you. Ms. Fullwood, I note
10 that, respectfully decline to recharge with that.
11 That language has been time-honored, and although
12 our malice and the definition of malice under the
13 law have received some tweaking over the years
14 through case law, that portion of the charge has
15 been left undisturbed, or at least I hope it has.
16 If they've changed it, they've failed to let me
17 know. Thank you. That's respectfully noted, but
18 declined.

19 MS. FULLWOOD: Thank you, Your Honor.

20 (Court's Exhibit No. 3 marked for
21 identification.)

22 THE COURT: All right. Folks, you-all can
23 start then getting the evidence together and making
24 sure the evidence is in order.

25 Folks, you, obviously, have realized that your

1 role as alternate jurors would have been to take the
2 places of any of these 12 in that jury room if they
3 had not been able to last throughout the trial. We
4 knew when we began this trial that it was going to
5 last several days, and there was probability or some
6 likelihood, maybe, that some of these 12 might have
7 had some emergencies in their lives that would not
8 allow them to conclude the trial and go back and
9 deliberate.

10 If that had happened and you were not there, we
11 would have had to start this whole case over from
12 scratch and everything done up to that point in time
13 would have been wasted. And so when I saw you each
14 day, I knew that we were not going to be wasting our
15 time because I knew that if something happened to
16 those, either of you could have stepped into their
17 shoes. And you're just as capable as they are in
18 this case. Thankfully you don't have to do that.

19 But your service has been valuable to us for
20 reasons that I've already mentioned to you. And, as
21 I said, you can step into that room and make the
22 same decisions they have. You have been equally
23 prompt and attentive as they have. But I'm going to
24 let you go now. You don't have to come back and you
25 don't have to call back. We've pretty much killed

1 your week, so we won't take any more of your time.

2 If you need a slip telling anybody who needs to
3 know where you've been, go downstairs to the Clerk's
4 office and ask for Carol and they'll give you a
5 slip. You'll get a check in the mail some time in
6 near the future. It's not going to begin to pay you
7 for the real time that you've spent with us. But I
8 hope that you'll accept our gratitude for what
9 you've done this week.

10 And I hope that you have gained, during your
11 experience this week as a juror, of the importance
12 of folks like you who have to submit themselves to
13 jury service and I you've gained a greater
14 appreciation for what we do and what folks like you
15 do in this process. Thank you, folks, for your
16 service and your willingness to serve, and you're
17 free to go.

18 (Alternate jurors excused at 11:10 AM.)

19 MS. MARTIN: Your Honor, should we have an IT
20 person come up with a blank computer for them to
21 play a disc or wait for them to ask or how do you
22 want to do that?

23 THE COURT: When you take the evidence in, tell
24 the jury if they need to have any of this electronic
25 evidence replayed, let us know. If they tell us

1 they need it, we'll cross that bridge at that time.

2 (The jury begins deliberations at 11:13 AM.)

3 THE COURT: Ladies and gentlemen, we're advised
4 that the jury has reached a verdict and momentarily
5 the jury is going to be brought in for us to receive
6 the verdict. Let me tell you before they come in
7 that I recognize that this is an emotional case, for
8 obvious reasons, and that there are emotions on
9 either side of the aisle.

10 At this juncture, none of us has any way of
11 knowing which side of the aisle will feel relief and
12 which side will feel disappointment. I don't expect
13 you-all to be automatons, you-all have a great deal
14 at stake in this case, but at the same time I do
15 expect, and I'm sure that you will, use the same
16 dignity and restraint throughout this process of
17 receiving the verdict that you've use throughout the
18 trial itself.

19 If you feel that you might have some difficulty
20 in restraining your emotions when the verdict of the
21 jury is announced, I'll give you a chance now to
22 leave the courtroom, because if you stay, I will
23 expect you to abide by those same rules and decorum
24 and dignity that we have followed throughout. All
25 right?

1 Are both sides ready to receive the verdict?

2 MS. PATTERSON: The State is ready, Your Honor.

3 MR. CHEHOSKI: The Defense is ready, Your
4 Honor.

5 THE COURT: All right. Bring us the jury,
6 please.

7 (The jury enters the courtroom at 12:51 PM.)

8 THE CLERK: Mr. Foreman, have you reach your
9 verdicts?

10 THE FOREMAN: Yes, we have.

11 THE CLERK: Please pass them up by the bailiff.

12 THE COURT: You may publish the verdicts.

13 THE CLERK: Indictment 2016-GS-32-00217, 218,
14 214, 213, 216, and 206, The State vs. Ricky Lamont
15 Esaw. As to Indictment 2016-GS-32-00217, charge
16 murder, we the jury, by unanimous consent, find the
17 defendant, as to the charge of murder, guilty.

18 Indictment 2016-GS-32-00218, charge attempted
19 murder, we the jury, by unanimous consent, find the
20 defendant, as to the charge of attempted murder,
21 guilty.

22 Indictment 2016-GS-32-00214, charged armed
23 robbery, we the jury, by unanimous consent, find the
24 defendant, as to the charge of armed robbery,
25 guilty.

1 Indictment 2016-GS-32-00213, charge of
2 attempted armed robbery, we the jury, by unanimous
3 consent, find the defendant, as to the charge of
4 attempted armed robbery of Franklin Vaquez, guilty.

5 Indictment 2016-GS-32-00216, attempted armed
6 robbery, we the jury, by unanimous consent, find the
7 defendant, as to the charge of attempted armed
8 robbery of Hector Vasquez, guilty.

9 Indictment 2016-GS-32-00206, possession of a
10 weapon during the commission of a violent crime, we
11 the jury, by unanimous consent, find the defendant,
12 as to the charge of possession of a weapon during
13 the commission of a violent crime, guilty.

14 It is so sign by the foreperson Randall
15 Hallman, October 19th, 2017.

16 Mr. Foreman, ladies and gentlemen of the jury,
17 if this is your verdicts, please indicate so by
18 raising your right hand.

19 All hands raised, Your Honor.

20 THE COURT: Thank you.

21 Does the Defense wish for the jury to be
22 polled?

23 MR. CHEHOSKI: Yes, Your Honor, we do.

24 THE COURT: Thank you.

25 Ladies and gentlemen, you're going to be polled

1 days.

2 THE COURT: Okay.

3 All right. Mr. Esaw, on the charge of
4 possession of a weapon during the commission of a
5 violent crime, the sentence is five years. On the
6 remaining charges, attempted armed robbery,
7 Indictment 213; armed robbery, 214; attempted armed
8 robbery, 216; murder, 217; attempted murder, 218,
9 the sentence is fixed by statute. You are to be
10 committed to the state department of corrections for
11 the balance of your natural life without the
12 possibility of parole. These sentences all run
13 concurrent to each other with credit for time
14 served.

15 Good luck, folks, to all of you. Ms. Vasquez,
16 we're all sorry for your loss.

17 -- END OF TRANSCRIPT OF RECORD --

18

19

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21

22

23

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25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 STATE OF SOUTH CAROLINA,)
)
 v.)
)
)
 RICKY LAMONT ESAW,)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS

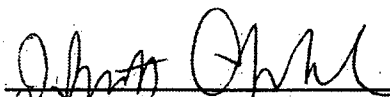
INDICTMENT NOS. 2016-GS-32-00206,
 2016-GS-32-00213, 2016-GS-32-00214,
 2016-GS-32-00216 through -00218

DEFENDANT'S REQUESTED
 JURY INSTRUCTION

In this case, the identifying witness is of a different race than the defendant. When a witness, who is a member of one race, identifies a defendant, who is a member of another race, we say that there has been a cross-racial identification. You may consider, if you think it is appropriate to do so, whether the cross-racial nature of the identification has affected the accuracy of the witness' original perception and/or the accuracy of the subsequent identification.

State v. Cromedy, 727 N.J. 112, 727 A.2d 457 (1999)

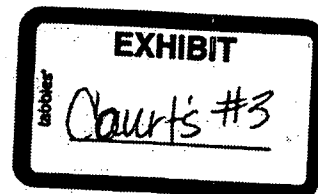
Respectfully submitted,



Jason Scott Chehoski
 Elizabeth C. Fullwood

202 East Main St.
 Lexington SC 29072
 (803) 785-8873

Lexington, South Carolina
 October 19, 2017.



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201582

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1-14-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS3200206

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

vs.

Ricky Lamont Esaw

CDR #: 0549

Indictment for

Possession of a Weapon During the
Commission of Violent Crime

§ 16-23-0490

DONALD V. MYERS, SOLICITOR

RECEIVED
OCT 25 2017
APPELLATE DEFENSE

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Possession of a Weapon During the
Commission of Violent Crime

§ 16-23-0490

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That Ricky Lamont Esaw did in Lexington County, South Carolina on or about August 9, 2015 knowingly and willfully possess a firearm during the commission of a violent crime or attempt to commit a violent crime, to wit: murder and armed robbery such weapon described as a firearm in violation of § 16-23-490 of the Code of Laws of South Carolina, 1976, as amended.

Lex. Co. C.C.C.P., G.S. § 16-23-490
[Signature]
A TRUE COPY

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

[Signature]
ASSISTANT SOLICITOR

0-5419

COUNTY OF Lexington
STATE VS.
Ricky Lamont Esaw
AKA:
Race: Sex: M Age: 42
DOB: SS#:
Address:
City, State, Zip: Columbia, SC 29212
DL#: SID#: SC00892990

INDICTMENT/CASE#: 2016GS3200206
A/W#: 2015A3210201582
Date of Offense: 8/9/2015
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
 NON-VIOLENT VIOLENT SERIOUS MOST-SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

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

ATTEST:
Solicitor [Signature] SC Bar# 15969 Defendant Attorney for Defendant SC Bar#

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

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

CONCURRENT or CONSECUTIVE to sentence on: 10/19/17
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
 Set by SCDPPPS

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

Recipient:

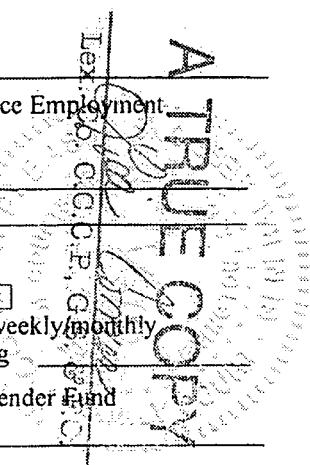
*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$

TOTAL \$125

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (07/2016)

Appointed PD or appointed other counsel, §Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge [Signature]
Judge Code: 054
Sentence Date: 10/19/17



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201583

ACTION OF GRAND JURY

TRUE BILL

CM
Foreperson of Grand Jury
Date: 1-19-16

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS3200213

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE
vs.

Ricky Lamont Esaw

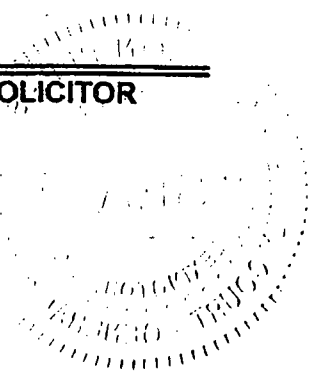
CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR



STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Armed Robbery

§ 16-11-0330(A)

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That Ricky Lamont Esaw did in Lexington County, South Carolina on or about August 9, 2015 knowingly and willfully while armed with a deadly weapon to wit: a handgun, did feloniously take from the person or presence of Franklin Vasquez, by means of force, threats or intimidation goods or monies being described as follows: money and/or cell phone with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended.

A TRUE COPY
Lex. Co. C.O.C.P., G.S. § 16-11-0330

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

Rick Potts
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 543

COUNTY OF Lexington
STATE VS.

Ricky Lamont Esaw

AKA:

Race: Sex: M Age: 42

DOB: SS#:

Address:

City, State, Zip: Columbia, SC 29212

DL#: SID#: SC00892990

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Attempted Armed robbery

INDICTMENT/CASE#: 2016GS3200213

A/W#: 2015A3210201583

Date of Offense: 8/9/2015

S.C. Code §: 16-11-330 (B)

CDR Code #: 0026

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

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

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

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

ATTEST:

Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

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

CONCURRENT or CONSECUTIVE to sentence on: 10/19/17
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

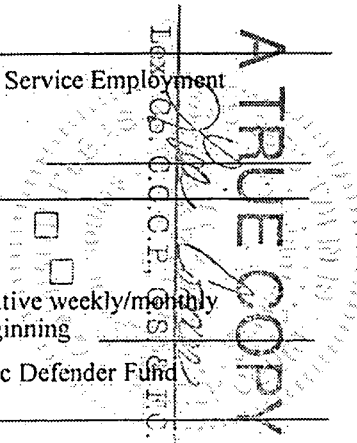
Table with 3 columns: Description, Amount, Total. Rows include various assessment fees like § 14-1-206, § 14-1-211(A)(1), etc.

TOTAL \$125

Clerk of Court/ Deputy Clerk Sisa Conner
Court Reporter: B. Crispin
SCCA/217 (07/2016)

Appointed PD or appointed other counsel, § Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Judge Code: 954 Sentence Date: 10/19/17



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201584

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1-14-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS3200214

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

vs.

Ricky Lamont Esaw

CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Armed Robbery

§ 16-11-0330(A)

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That **Ricky Lamont Esaw** did in Lexington County, South Carolina on or about August 9, 2015 knowingly and willfully while armed with a deadly weapon to wit: a handgun, did feloniously take from the person or presence of Rafael Izaguirre, by means of force, threats or intimidation goods or monies being described as follows: money and/or cell phone with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended.

Lex. Co. C.C.C.P., G.S. & H.C.
[Signature]
A TRUE COPY

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

[Signature]
ASSISTANT SOLICITOR

546
STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Ricky Lamont Esaw

AKA:

Race: Sex: M Age: 42

DOB: SS#:

Address:

City, State, Zip: Columbia, SC 29212

DL#: SID#: SC00892990

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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

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

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

ATTEST:

[Signature]
Solicitor

139169
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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

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

CONCURRENT or CONSECUTIVE to sentence on: 10/19/17

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ — plus 20% fee: \$ —

Payment Terms: —

Set by SCDPPPS —

Recipient: —

*Fine: \$ —

§ 14-1-206 (Assessments 107.5%) \$ —

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ —

§ 56-5-2995 (DUI Assessment) \$12 \$ —

§ 56-1-286 (DUI Breath Test) \$25 \$ —

Proviso 61.6 (Public Def/Probation) \$500 \$ —

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$ —

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ —

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ —

3% to County (if paid in installments) \$ —

TOTAL \$ 125

Clerk of Court/ Deputy Clerk *Jana Comer*

Court Reporter: *B. Cuppen*

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3200214

A/W#: 2015A3210201584

Date of Offense: 8/9/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

CONVICTED OF or PLEADS

PTUP — days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. —

May serve W/E beginning —

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ — beginning —

\$ — paid to Public Defender Fund

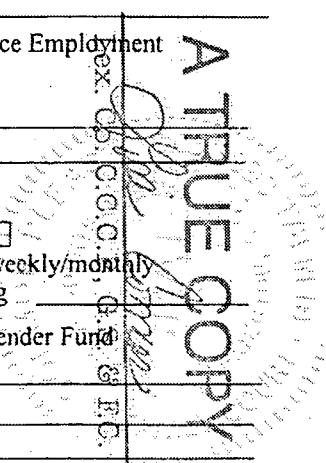
Other: —

Appointed PD or appointed other counsel, §Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge *[Signature]*

Judge Code: 054

Sentence Date: 10/19/17



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201585

ACTION OF GRAND JURY

TRUE BILL

CJA
Foreperson of Grand Jury
Date: 1-12-16

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS3200216

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE
vs.

Ricky Lamont Esaw

CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Armed Robbery
§ 16-11-0330(A)

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That Ricky Lamont Esaw did in Lexington County, South Carolina on or about August 9, 2015 knowingly and willfully while armed with a deadly weapon to wit: a handgun, did feloniously take from the person or presence of Hector Vasquez, by means of force, threats or intimidation goods or monies being described as follows: money and/or cell phone with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended.

Lex. Co. C.C.C.P., G.S. § 16-11-0330
A TRUE COPY

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

[Handwritten Signature]

ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Ricky Lamont Esaw

AKA:

Race: Sex: M Age: 42

DOB: SS#:

Address:

City, State, Zip: Columbia, SC 29212

DL#: SID#: SC00892990

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Attempted Armed robbery

INDICTMENT/CASE#: 2016GS3200216

A/W#: 2015A3210201585

Date of Offense: 8/9/2015

S.C. Code §: 16-11-330(B)

CDR Code #: 0026

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 0026
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST: Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

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

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

CONCURRENT or CONSECUTIVE to sentence on: 10/19/17
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Rows include assessments, surcharges, and fees.

TOTAL \$125

Clerk of Court/ Deputy Clerk: Lisa Comer

Court Reporter: B. Cooper

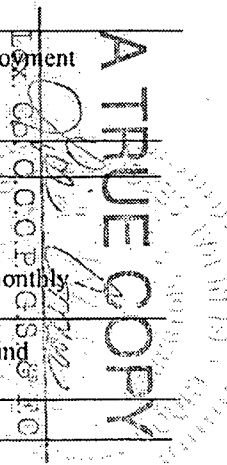
PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: [Signature]

Judge Code: 054

Sentence Date: 10/19/17



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201586

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury

Date: 1-14-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS3200217

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

vs.

Ricky Lamont Esaw

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

DONALD V. MYERS, SOLICITOR



STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That **Ricky Lamont Esaw** did in Lexington County on or about August 9, 2015, with malice aforethought, either express or implied, shoot the victim, Hector Vasquez and the victim died as a proximate result thereof, in violation of §16-3-10, Code of Laws of South Carolina, 1976, as amended.

Lex. Ct. C.C.C.P., G.S. § 17-110
[Signature]
A TRUE COPY

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

[Signature]
ASSISTANT SOLICITOR

STATE OF ⁵⁵² SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Ricky Lamont Esaw

AKA: _____

Race: _____ Sex: M Age: 42

DOB: _____ SS#: _____

Address: _____

City, State, Zip: Columbia, SC 29212

DL#: _____ SID#: SC00892990

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

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

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

ATTEST:

Rick Potts
Solicitor

13969
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of Life days/months/years or under the Youthful Offender Act not to exceed 1 years
and/or to pay a fine of \$ 10 Parole and that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on: 10/17/19
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State
Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100 -</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25 -</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$

TOTAL \$ 125 -

Clerk of Court/ Deputy Clerk Jessie Comer

Court Reporter: B. Cooper

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3200217

A/W#: 2015A3210201586

Date of Offense: 8/9/2015

S.C. Code § : 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

PTUP _____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

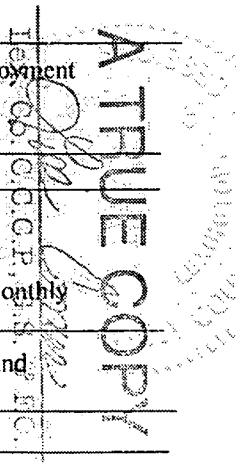
Other: _____

Appointed PD or appointed other counsel,
§ Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge Theresa A. [Signature]

Judge Code: 054

Sentence Date: 10/19/17



WITNESSES

Lexington County Sheriffs Department

J. A. Moore

Law Enforcement Case #: 15015095

RWP

ARREST WARRANT NUMBER

2015A3210201589

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1-14-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS3200218

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

vs.

Ricky Lamont Esaw

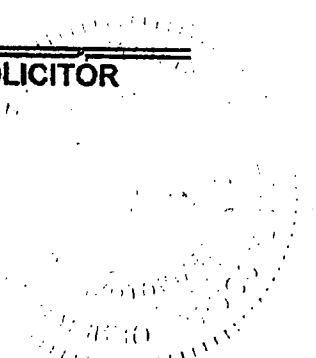
CDR #: 3410

Indictment for

Attempted Murder

§ 16-03-0029

DONALD V. MYERS, SOLICITOR



STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Murder

§ 16-03-0029

At a Court of General Sessions, convened on January 2016, the Grand Jurors of Lexington County present upon their oath:

That Ricky Lamont Esaw in Lexington County, South Carolina, on or about August 9, 2015, did, with the intent to kill, attempt to kill another person with malice aforethought, either express or implied, to wit: the defendant shot the victim Franklin Vasquez in his legs, in violation of §16-03-0029 of the South Carolina Code of Laws of 1976, as amended.

Lex. Co. C.C.C.P., G.S. § 16-03-0029
[Signature]
A TRUE COPY
[Seal]

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

[Signature]

ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.

INDICTMENT/CASE#: 2016GS3200218
A/W#: 2015A3210201589
Date of Offense: 8/9/2015
S.C. Code §: 16-03-0029
CDR Code #: 3410

Ricky Lamont Esaw

AKA:

Race: Sex: M Age: 42

DOB: SS#:

Address: City, State, Zip: Columbia, SC 29212

DL#: SID#: SC00892990

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Attempted Murder

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

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

ATTEST: Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of Life days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 470 that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 10/19/17
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$

Payment Terms:
Set by SCDPPPS

Recipient:

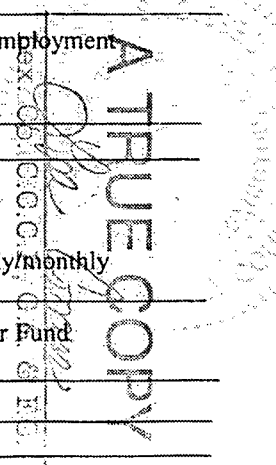
Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, 3% to County (if paid in installments) \$.

TOTAL \$125

Clerk of Court/ Deputy Clerk: Lisa Carter
Court Reporter: B. Cooper
SCCA/217 (07/2016)

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

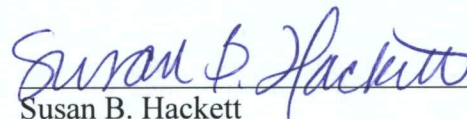
Appointed PD or appointed other counsel, §Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge: [Signature]
Judge Code: 054
Sentence Date: 10/19/17



CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 13th day of February, 2019.

RECEIVED
FEB 13 2019
SC Court of Appeals