Aaron Scott Young Jr # 363175
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

March 22, 2019

RECEIVED
MAR 25 2019
S.C. SUPREME COURT

The Honorable Donald W. "Don" Beatty
Chief Justice
The Supreme Court Of South Carolina
1231 Gervais Street
Columbia, South Carolina 29211

Re: Justice Or Victories

Dear, Chief Justice Beatty

My name is Aaron young Jr. I am currently awaiting my Petition for Writ of Certiorari to be decided to be hear by the South Carolina Supreme Court. Appeal No. 2015-508. Petition is enclosed for review at your discreation. Justice Beatty it would be an honor for you to issue an opinion upon granting of Certiorari.

In Addition. Justice Beatty I am afraid my due process rights under the Fifth Amendment are being violated for

I am being denied an fair and equal opportunity to prepare beforehand adequate defenses on my behalf guaranteed by the 14th Amendment for Post-Conviction Relief should my Certiorari be denied by the Supreme Court.

I have been trying to receive my discovery materials in documentation from my trial Counsel

Roberts Vaux, Esq. SC Bar No. 5702-Fed

Vaux Marscher Berglind, PA

P.O. Box 769

Bluffton, South Carolina 29910

RECEIVED
MAR 25 2019
S.C. SUPREME COURT

Pursuant to: Brady v. Maryland, 373 U.S. 83, 10 L.Ed. 2d 215, 83 S.Ct.

Through his procedures still I have been to no avail receiving them as requested. I am currently incarcerated and unable at this time to pay the cost of transcribing the compact disc manifested to Apellate Counsel into documented records. Trial Counsel Robert Vaux is still however still being paided his retainer fee for his representation for my defense to which I have been tried and convicted for the alleged offenses. I am entitled to these materials as I was a defendant who requested a trial by jury fair and impartial guaranteed by the 6th Amendment. I request from your

authority or the powers that be involvement and investigation as to this matter. My current seek of judgement is that I be afforded a full and complete copy of my file from my trial attorneys office in documentation in to which the retainer fee is still pending and he is still receiving payment to this date.

I have also been given blatant frivolous procedures by the Beaufort County Clerk of Court
P.O. Drawer 1128
Beaufort, South Carolina 29901

receiving the following documents below Pursuant to:
The Freedom Of Information Act
Evans v. State, 316 S.C. 53, 56 447 S.E. 2d 175, 176 (1993).

1) The Beaufort County Grand Jury Impanelment documents that conveded on October 30, 2014 and other supporting materials.

2) The State Petition and the courts order affirming impanelment of the State Grand Jury of Beaufort in term of October 2014.

3) The exculpatory material pertaining to case numbers 2012-07-GS-01932 and 2014-07-GS-01946. This includes any and all arrest warrants, " preliminary hearing agreements, indictments

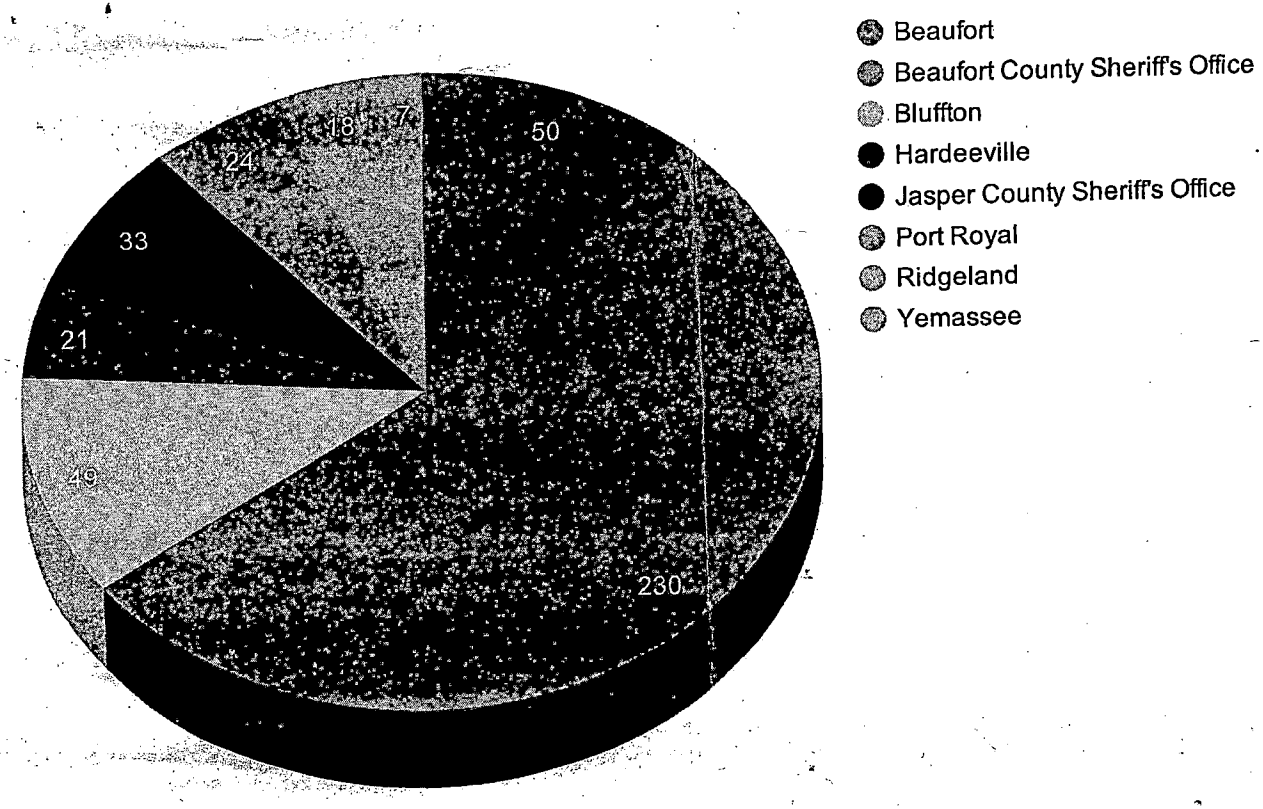
nolle indictments, police supplemental reports, and transcribed recordings in documentation.

So again I ask of you Justice Beatty if it be in your authority or another figure of stature. I ask that you please compell the offices aforesaid above to provide me with the requested materials in documentation. Given in an specfic time guideline being time is of the essence.

I hope to receive an response from you in the near future and if the higher power be willing opinion upon my Certiorari.

Blessings
Aaron S. Young Jr
Aaron S. Young Jr

RECEIVED
MAR 25 2019
S.C. SUPREME COURT



Number of sworn and reserve officers and students

A BOTCHED INTERROGATION

On Sept. 1, 2012, Curtis Evans, a corporal with the Beaufort County Sheriff's Office, chatted with a murder suspect inside the Hilton Head Island police substation.

Evans was supposed to simply stand guard of the suspect, Aaron Young Sr., who was being held in the shooting death of 8-year-old Khalil Singleton.

But Evans' chatter with the suspect turned into unauthorized questioning, according to an internal investigation later conducted by the sheriff's office. And that gave way to false promises that would ultimately raise questions about the integrity of the investigation. It also collapsed a trial in the high-profile murder case.

In a recording captured on Evans' body microphone, he can be heard telling Young that he could avoid the murder charge if he cooperated with detectives. And when Young requests an attorney, Evans continues his questioning, failing to relay Young's request to investigators.

Young did cooperate – revealing where a gun, a key piece of evidence, was hidden. He was charged with murder despite Evans' promise.

The problems didn't stop there.

During an internal investigation by the sheriff's office, Evans lied about the unauthorized interrogation. While he claimed to have made no promises to the suspect, the audio recording of the interview was discovered the day before the suspect's first trial was set to begin in April 2014.

The interrogation should have been processed as evidence so it could be heard by the prosecution and the defense.

Evans' behavior led to charges of coercion by Young's attorney and a months-long delay in the suspect's trial.

In addition to the delays, Evans' behavior cost taxpayers money. After the trial collapsed, a judge ruled to try the three suspects in the case separately instead of together.

REDEEMED: YEMASSEE POLICE OFFICER MAKES MOST OF SECOND CHANCE

Evans was fired in May 2014 over the bungled investigation – and hired by the Port Royal Police Department nine months later.

Beaufort County Sheriff P.J. Tanner and 14th Circuit Solicitor Duffie Stone declined to comment on Evans' re-hire. And efforts to reach Evans for comment were unsuccessful.

October 20, 2015

Affidavit

Case No. 2012-07-GS-01932
2014-07-GS-01940

On October 20, 2015 I mailed a letter dated October 20, 2015 to Robert Vaux, Esq. at
Vaux Marscher Berglind, PA
PO Box 769
Bluffton, SC 29910

Requesting a copy of my Rule 5 (Motion of discovery material). Which is in conjuction with above case numbers.

SUBSCRIBED AND SWORN before me this 20th day of Oct., 2015

Lucresia Bryant
NOTARY PUBLIC FOR SOUTH CAROLINA
My commission Expires: May 26, 2020

Aaron S. Young Jr.

October 20, 2015

RECEIVED
10/26/15

Vaux Marscher Berglind, PA
P.O. Box 769
Bluffton, SC 29910

Dear, Mr. Vaux

I am writing for the purpose of obtaining the exculpatory material pertaing to case numbers 2012-07-GS-01932 and 2014-07-GS-01940 This includes any and all police supplemental reports and transcribed recordings. By the way your derelict performance in relation to the motion to Quash the indictment is unequivocally seen as such you failed to challenge the courts authority to hear the case pursuant to Hope v. State.

Sincerely,
Aaron S. Young Jr.
Aaron S. Young Jr.

VAUX MARSCHER BERGLIND

A SOUTH CAROLINA PROFESSIONAL ASSOCIATION

ROBERTS VAUX
WILLIAM F. MARSCHER, III
MARK S. BERGLIND

ANTONIA LUCIA, SC & NY
ROBERTS "TABOR" VAUX, JR

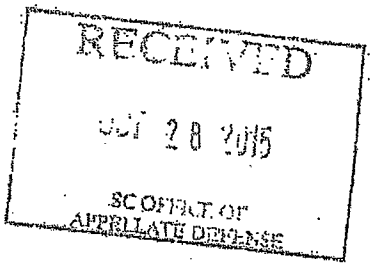
ATTORNEYS AND COUNSELORS AT LAW
POST OFFICE BOX 769 (MAILING)
1251 MAY RIVER ROAD (PHYSICAL)
BLUFFTON, SOUTH CAROLINA 29910
843.757.2888 (OFFICE)
843.757.2889 (FAX)

OF COUNSEL:
JAMES P. SCHEIDER, JR.
JUSTIN JOHN PRICE
MAC DUNAWAY, DC ONLY

Jennifer.acree@vmblawfirm.com

October 26, 2015

Division of Appellate Defense
PO Box 11589
Columbia, SC 29211



RE: State v. Aaron Young, Jr.
Indictment No.: 2012-GS-07-1932
Indictment No.: 2014-GS-07-1940
Our File No.: 12-383

Dear Sir/Madam:

I have enclosed a copy of a letter and affidavit we received from Aaron Young Jr. dated October 20, 2015. Mr. Young is requesting a copy of the Rule 5 discovery documents but did not give a return address where the documents are to be sent.

I have spoken with his indigent counsel before and was advised that she had all the documents she needed to handle the appeal and did not need any of the other items in his file. Please advise your client, that if he requires any documentation, Mr. Vaux requests that he send the request formally through your office to us.

Sincerely,

Jennifer Acree

Jennifer Acree
Paralegal to Robert Vaux, Esq.

Enclosures

OTHER OFFICES:

16 WILLIAM POPE DRIVE, SUITE 202
OKATIE, SOUTH CAROLINA 29909
(843) 705-2888 (OFFICE)
(843) 705-2889 (FAX)

478 KING STREET – SUITE 4
CHARLESTON, SOUTH CAROLINA 29403
(843) 822-4313 (OFFICE)
(843) 757-2889 (FAX)

SCCID
SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 29, 2015

Aaron Young, Jr. #363175
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

Dear Mr. Young:

Today, I received a letter from Jennifer Acree in Robert Vaux's office. I am enclosing the letter for you. It appears you have requested your discovery materials from Mr. Vaux. The letter states that Mr. Vaux requests that a request for any documentation originate from this office. As I explained to you and to Mr. Vaux's office, I do not need your discovery in order to complete your direct appeal. However, I certainly understand that you may need it for your PCR and that it will be difficult to obtain if Mr. Vaux is requiring the request to come from this office. As you know, you are now represented by Mr. Frederick Quinn, IV, Esquire and Jennifer Kirk Dunlap, Esquire. I am providing them with copies of this letter as well as the one from Mr. Vaux's office. I will leave it to Mr. Quinn and Ms. Dunlap to advise you in this matter.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/

Enclosure: Letter from Acree and enclosure

cc: Frederick Quinn, IV, Esquire (w/ enclosure)
Jennifer Kirk Dunlap, Esquire (w/ enclosure)

still seek relief before the South Carolina Supreme Court and through the post-conviction relief process.

- We will prepare and submit to the Court of Appeals written briefs identifying the key legal errors we believe the judge made at your trial and our arguments as to why those errors should result in a reversal of your conviction. The lawyers for the State of South Carolina will submit a brief with their arguments that there are no errors and that your conviction should be affirmed.

- Once the briefs have been submitted, we will travel to the Court of Appeals in Columbia and present oral arguments to a three judge panel of the Court of Appeals. We anticipate that all of the briefs will be submitted by sometime this spring or early summer, the oral argument will occur within six to twelve months after the briefs are submitted, and a decision on your appeal will be rendered within approximately three to six months following the oral arguments. We understand that this is a long delay between your trial and a decision on your appeal, but please understand that the appellate process is a slow, careful, and deliberate process, and this is not unique to your appeal. Generally, all appeals require over a year before a decision is reached.

- You will not be transported to the oral arguments in Columbia.

- Your family members or friends are welcome to attend and observe the oral arguments before the Court of Appeals. However, please advise them that the oral argument is solely a discussion between the judges and the lawyers about legal issues, and your family members and friends will not have an opportunity to speak to the Court. Also, please advise them that oral arguments are a formal proceeding and if they decide to attend, they need to dress formally, for example a coat and tie for men, and they should not shake or nod their heads or make any comments during oral arguments.

- Once we identify the exact issues for your appeal and have a rough draft of the brief prepared, if you would like us to do so, we would be happy to travel to Lieber to visit with you and discuss your appeal. Should you want to meet with us, please write us a letter informing us of that fact, and we will work to arrange for a visit early in 2016.

Finally, we understand that you wrote a letter to your trial counsel, Robert Vaux, requesting exculpatory material in his files. The relevant correspondence is enclosed herewith. As previously mentioned, the appellate process is concerned only with the fairness of your trial and whether it was affected by any legal error. We therefore have all of the materials we need to appeal your conviction. However, we understand that you may still need these materials for the post-conviction relief process should your direct appeal be unsuccessful. If you would still like a copy of Mr. Vaux's file, please write us informing us of this fact, and we will request that he provide us a copy of his file.

Parker Poe

F. Elliotte Quinn IV
Associate
Telephone: 843.727.6315
Direct Fax: 843.727.2680
elliottequinn@parkerpoe.com

Charleston, SC
Charlotte, NC
Columbia, SC
Raleigh, NC
Spartanburg, SC

December 22, 2015

VIA U.S. MAIL AND ELECTRONIC MAIL

Roberts Vaux
Vaux Marscher Berglind
P.O. Box 769
Bluffton, SC 29910
Jennifer.acree@vmblawfirm.com

Re: *State v. Aaron Young, Jr.*, Indictment Nos. 2012-GS-07-1932 & 2014-GS-07-1940

Dear Roberts,

As you may know, my colleague Jenni Dunlap and I represent Aaron Young, Jr. for the appeal of his convictions on the above-referenced indictments. We received the enclosed letters from your office, the Division of Appellate Defense, and Mr. Young. We ask that you please provide us with a complete copy of your file for the above-referenced indictments including all discovery materials. Our paralegal, Kelly Gouin, can be reached at kellygouin@parkerpoe.com or 843-727-2650 to coordinate the transfer of the file. Thank you for your assistance in this matter.

Sincerely,

Elliotte Quinn

:feq

Enclosures

cc: Aaron Young, Jr. #363175
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

Parker Poe

Tina L. Rucker
Legal Professional Assistant
Telephone: 843.727.2686
Direct Fax: 843.727.2680
tinarucker@parkerpoe.com

Charleston, SC
Charlotte, NC
Columbia, SC
Raleigh, NC
Spartanburg, SC

February 10, 2016

VIA EMAIL

Ms. Mary Beattie
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

Re: Aaron Young, Jr. - #363175

Dear Jill:

I am writing to confirm you received the CDs of legal documents that were dropped off at the Lieber facility on Monday, February 1, 2016 by counsel for Aaron Young. Please confirm your receipt of these CDs along with confirming that they will be made available to Mr. Young for his review.

Sincerely,

Tina Rucker

/tlr

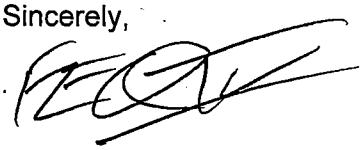
cc: Aaron Young (via U.S. Mail)

PPAB 3121052v1

Finally, as I explained to you in previous correspondence and orally, we have all of the materials we need for your appeal because the appeal is limited to considering errors shown in the record. However, you indicated you wanted a copy of your trial counsel's file, presumably to assist you in the post-conviction process should you need to avail yourself of that process. In an effort to assist you, I obtained a copy of the materials in your trial counsel's file on compact discs, transported those discs to Lieber, and presented them to the correctional officers as legal materials to be provided to you. I have now been informed by you and officers at Lieber that you will not be permitted to access the discs as a result of prison rules and regulations. At this point, we have taken all of the steps we can take to assist you in obtaining a copy of your trial counsel's file. Please contact your trial counsel regarding any materials you may want to obtain from his file. Your trial counsel, Robert Vaux, can be contacted at Vaux Marscher Berglind, P.O. Box 769, Bluffton, SC 29910. I will keep the discs I obtained from your trial counsel in my appellate file, and I can turn those over to any counsel that represents you in the future or to a family member of friend. However, please be aware that if you direct me to provide the discs to anyone other than an attorney representing you, you may be waiving your attorney-client privilege for materials contained in the file. Therefore, the likely best course of action is for you to contact your trial counsel to request specific items in the file that you would like to review.

I will continue to keep you updated regarding any developments that occur in your appeal.

Sincerely,



Elliotte Quinn

feqiv

Enclosures

VAUX MARSCHER BERGLIND

A SOUTH CAROLINA PROFESSIONAL ASSOCIATION

WILLIAM F. MARSCHER, III
MARK S. BERGLIND
ROBERTS "TABOR" VAUX, JR.

ATTORNEYS AND COUNSELORS AT LAW
POST OFFICE BOX 769 (MAILING)
1251 MAY RIVER ROAD (PHYSICAL)
BLUFFTON, SOUTH CAROLINA 29910
843.757.2888 (OFFICE)
843.757.2889 (FAX)

ROBERTS VAUX
ANTONIA LUCIA, SC & NY
JAMES P. SCHEIDER, JR.
JUSTIN JOHN PRICE
STEPHEN MEYER
MAC DUNAWAY, DC ONLY

Roberts.vaux@vmblawfirm.com

Aaron Young Jr #363175
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

RE: State v. Aaron Young, Jr.
Indictment No.: 2012-GS-07-1932
Indictment No.: 2014-GS-07-1940
Our File No.: 12-383

Dear Mr. Young:

Receipt of your letter dated March 23, 2016 is acknowledged. We have complied with your original request to provide you a complete copy of your file. We mailed approximately 42 cd's to your Appellate Defense to deliver to you. If you require a paper copy because the prison will not allow you to view the discs, please ask that your Appellate Defense print you out a copy at their expense. You will still not be able to view the videos in your file but you could have a paper copy.

If you do not wish to ask your Appellate Defense for a printout of the discs, please provide the name of the copy shop that you will contact to pay to come and pick up your file and copy the documents at your expense. We will work with whomever you contact.

Sincerely,

Robert Vaux, Esq.

Cc: Division of Appellate Defense
PO Box 11589
Columbia, SC 29211

OTHER OFFICES:

16 WILLIAM POPE DRIVE, SUITE 202
BLUFFTON, SOUTH CAROLINA 29909
(843) 705-2888 (OFFICE)
(843) 705-2889 (FAX)

478 KING STREET, SUITE 4
CHARLESTON, SOUTH CAROLINA 29403
(843) 368-9173 (OFFICE)
(843) 757-2889 (FAX)

Affidavit

Case No. 2012-07-GS-01938

2014-07-GS-01940

On February 20, 2019 I mailed a letter dated February 20, 2019 to the

Beaufort County Clerk of Court

P.O. Drawer 1128

Beaufort, South Carolina

Requesting a copy of my Rule 5 (Motion of discovery materials). Which is in conjuction with above case numbers.

SUBSCRIBED AND SWORN before me this 21st day of February, 2019

BM Mangold

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires:

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

Aaron Young Jr

Aaron Young Jr.

AARON YOUNG JR # 363175
KIRKLAND CORRECTIONAL INST.
1314 BROAD RIVER ROAD
COLUMBIA, SC 29210

February 20. 2019

Beaufort County Clerk of Court
P.O. Drawer 1128
Beaufort, SC 29901

I am writing for the purpose of obtaining the exculpatory material pertaining to case numbers 2012-07-GS-01932 and 2014-07-GS-01940. This includes any and all police supplemental reports, arrest warrants, and transcribed recording in documentation.

Pursuant to: F.O.I.A; Brady v. Maryland, 373 U.S. 83, 10 L.Ed. 2d 215, 83 S.Ct.

GOOD DAY
Aaron Young
AARON YOUNG

Affidavit

Case No. 2012-07-GS-01932

2014-07-GS-01940

On February 22, 2019 I mailed a letter dated February 22, 2019 to the Beaufort County Clerk of Court

P.O. Drawer 1128

Beaufort, South Carolina

Requesting a copy of information regarding the county grand jurors. Which is in conjunction with above case numbers.

SUBSCRIBED AND SWORN before me this 22nd day of February, 2019

BMangold

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION Expires:

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

aaron young Jr

Aaron Young Jr.

Aaron Young JR # 363175
KIRKLAND CORRECTIONAL INSTITUTE
4344 BROAD RIVER ROAD
COLUMBIA, SC 29210

Case No. 2012-07-GS-01932
2014-07-GS-01940

February 22, 2019

Beaufort County Clerk of Court
P.O. Drawer 1128
Beaufort, SC 29901

Once again I am writing for the purpose of obtaining the following documents to prepare a adequate defense on my behalf and to ensure protection of my due process right gurranteed by the Fourteenth Amendment of the U.S.C.. Pursuant to: F.O.I.A. & Evans v. State, 316 S.C. 53, 56, 447 S.E. 2d 175, 176 (1993).

1) The Beaufort County Grand Jury Impanelment documents that convended on October 30, 2014 and other supporting materials.

2) The state petition and the courts order affirming impanelment of the States Grand Jury of Beaufort in the term of October 2014.

You sent me a respinse dated January 10, 2019 telling me to contact the

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina

I contacted them by letter dated January 27, 2019 requesting the aforesaid documents.

I was notified and forwarded back to this office by letter dated February 1, 2019. Stating I should ask you to handle this manner.

So again I ask that you please address this request in a timely fashion. Time is of the ess

Thank you AND GOOD DAY

Aaron S. King Jr

enclosures:

State Grand Jury of South Carolina Office of Clerk letter.
Beaufort County Office of the Clerk of Court letter.
A personal letter to the State Grand Jury of South Carolina Office of Clerk.
Affidavit.

Office of the Clerk of Court

Beaufort County

Post Office Drawer 1128
Beaufort, South Carolina 29901-1128
843.255.5050

Jerri Ann Roseneau
Clerk of Court

Lynn Geren
Judicial Clerk

January 10, 2019

Aaron Young, Jr. #363175 (F2-250)
Kirkland Correctional Institute
4344 Broad River Road
Columbia, SC 29210

RE: Aaron Young, Jr.

Dear Mr. Young:

In response to your correspondence received December 10, 2018, please find enclosed:

1. A copy of the 14th Circuit Court calendar for 2014. This information is available to the public at the South Carolina judicial website, www.sccourts.org.

2. We are unable to release information regarding the county grand jurors.

3. Any and all questions regarding "State Grand Jurors" should be addressed to the Office of the Clerk-State Grand Jury in Columbia, South Carolina. For your information, I've enclosed the name and address of the Clerk of Court.

Should you require further information from our office, please feel free to contact us.

Sincerely,

Lynn Geren
Judicial Clerk

Aaron Young Jr # 363175
KIRKLAND CORRECTIONAL INSTITUTION
4344 BROAD RIVER ROAD
COLUMBIA, SC 29210

JANUARY 27, 2019

JAMES R. PARKS
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building, Suite 519
Columbia, South Carolina 29201

I am writing for the purpose of obtaining the following documents to prepare a adequate defense on my behalf and to ensure protection of my due process rights guaranteed by the Fifth Amend. of the USC.

1.) The Beaufort County Grand Jury Impanelment documents that convended on October 30, 2014 and other supporting materials.

2) The State petition and the courts order affirming impanelment of the State Grand jury County of Beaufort in the term of October 2014

State Grand Jury of South Carolina

JAMES R. PARKS
CLERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

February 1, 2019

Aaron Young, Jr, 363175
Kirkland Correctional Inst.
4344 Broad River Road
Columbia SC 29210

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ___ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

___ Please speak with your attorney regarding your request.

___ **There is no record of the Indictments you referenced.**

__ Please find a copy of your sentencing sheets enclosed.

_X_ Please contact the **Beaufort Clerk of Court** for this matter.

Beaufort County Clerk of Court
PO Drawer 1128
Beaufort, SC 29901

Office of the Clerk of Court

Beaufort County

Post Office Drawer 1128
Beaufort, South Carolina 29901-1128
843.255.5050

Jerri Ann Roseneau
Clerk of Court

Lynn Geren
Judical Clerk

February 28, 2019

Aaron Young, Jr. #363175
Kirkland Correctional Institute
4344 Broad River Road
Columbia, SC 29210

RE: Aaron Scott Young, Jr.
Arrest Warrant #2012A0720300113
Docket #2012GS0701932

Aaron Young, Jr.
Direct Indictment – Docket # 2014GS0701940

Dear Mr. Young:

Thank you for your recent correspondence. The above referenced documents, stamped "True Bill" and signed by the Foreman of the Grand Jury on October 30, 2004, can be copied and mailed to you. The cost of the copies is $3.50. Please send our office a Money Order, made payable to Beaufort County Clerk of Court, and we will send you these documents.

County Grand Jury selection and procedures are written in the South Carolina Code of Laws. (Section 14-7-1510 through Section 14-7-1560)

Sincerely,

Lynn Geren
Judicial Clerk
Beaufort County Clerk of Court

Affidavit

Case No. 2012-07-GS-01932

2014-07-GS-01940

On March 11, 2019 I mailed a letter dated March 11, 2019 to the

Beaufort County Clerk of Court

P.O. Drawer 1128

Beaufort, South Carolina 29901

Requesting a copy of the following documents below. Which is in conjunction with the above case numbers.

1) Receipt of acknowledgement showing you received the enclosed letter and affidavit from Aaron Young Jr. dated March 11, 2019.

2) The Beaufort County Grand Jury Impanelment documents that convended on October 30, 2014 and other supporting materials.

3) The state petition and court order affirming impanelment of the Beaufort County Grand Jury in the term of October 2014.

4) The exclupatory material pertaining to case numbers 2012-07-GS-01932 and 2014-07-GS-01940. This includes any and all arrest warrants. "prelim" hearing agreements, indictments, nolle indictments, police supplemental reports, and transcribed recordings in documentation.

SUBSCRIBED AND SWORN before me this 11th day of MARCH, 2019

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: MARCH 8, 2026

Aaron Young Jr # 363175
KIRKLAND CORRECTIONAL INSTITUTION
4344 Broad River Road
Columbia, South Carolina 29210

Case No.: 2012-07-GS-01952
2014-07-GS-01940

March 11, 2019

Beaufort County Clerk of Court
P.O. Drawer 1128
Beaufort, South Carolina 29901

This is the third time I have contacted this office to obtain certain documents to prepare an adequate defense on my behalf and to ensure protection of my due process right guranteed by the Fourteenth Amendment of the **U.S.C.** Only to receive blatant ignorance and numerous frivolous procedures of obtaining them. Which this Department is obligated to provide pursuant to **The Freedom Of Information Act** which clearly states:

The South Carolina Freedom of Information Act is codified at sections **30-4-10** to **-165** in the South Carolina Code. Upon request, FOIA mandates disclosure of records held by a "public body" unless the documents fall within enumerated exemptions. "South Carolina's FOIA was designed to guarantee the public reasonable access to certain activities of the government. In enacting FOIA, the South Carolina legislature expressly provided that disclosure is the dominant objective

of the act:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

Thus, FOIA creates an affirmative duty on the part of public bodies to disclose information to any member of the public who requests it.

The Key operative provision of FOIA provides: "Any person has a right to inspect or copy any public record of a public body, except as otherwise provided by **§ 30-4-40** in accordance with reasonable rules concerning time and place of access. A "public body" includes among other things any department of the state, any [redacted] state board, commission, agency, or authority, any public or government body, political subdivision of the state, or any organization, corporation, or agency supported in whole or part by public funds or expending public funds. A "public record" is defined broadly to include "all books, papers, maps, photographs, cards, tapes, recordings, or

other documentary materials regardless of physical form or characteristics prepared owned, used, in the possession of, or retained by a public body.

So I ask that you please provide me with the following documents below to which are obtainable through this office in accordance to the **F.O.I.A.**

1) Receipt of acknowledgment showing you received the enclosed letter and affidavit from Aaron Young Jr. dated March , 2019.

2) The Beaufort County Grand Jury Impanelment documents that convended on **October 30, 2014** and other supporting materials.

3) The state petition and the court order affirming impanelment of the Beaufort County Grand Jury in the term of **October 2014.**

4) The exculpatory material pertaining to case numbers **2012-07-GS-01932** and **2014-07-GS-01940.** This includes any and all arrest warrants, prelim agreements, indictments, nolle indictments, police supplement reports, and transcribed recordings in documentation.

Good Day.

Aaron S. Young Jr.

Aaron Scott Young Jr.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal from Beaufort County
Court of General Sessions
Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2015-000508
Case Nos. 2012-GS-07-1932 & 2014-GS-07-1940

The State, Respondent,

v.

Aaron Scott Young, Jr., Petitioner.

PETITION FOR A WRIT OF CERTIORARI

F. Elliotte Quinn IV
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ATTORNEYS FOR PETITIONER

CERTIFICATION OF COUNSEL

Counsel for Petitioner hereby certifies that a Petition for Rehearing was made and was finally ruled on by the Court of Appeals on September 20, 2018.

QUESTIONS PRESENTED

I. Did the Court of Appeals err in holding that mutual combat is alone recognized by South Carolina law as a sufficient basis for a murder conviction, holding that the evidence supported finding mutual combat, and affirming Petitioner's murder conviction on these grounds?

II. Did the Court of Appeals err in holding the trial court properly refused to give a jury charge on the end of mutual combat?

III. Did the Court of Appeals err in affirming the denial of Petitioner's motion for a directed verdict on the attempted murder charge?

STATEMENT OF THE CASE

Petitioner Aaron Scott Young, Jr. ("Petitioner") was indicted for murder and attempted murder. On February 23–25, 2015, the case was tried by the Honorable Thomas W. Cooper, Jr. before a jury which found Petitioner guilty on both charges. The trial court sentenced Petitioner to concurrent thirty year sentences on the murder and attempted murder charges. On March 6, 2015, Petitioner served a Notice of Appeal. On August 22, 2018, the Court of Appeals affirmed Petitioner's convictions. *State v. Young*, — S.C. —, 818 S.E.2d 486 (Ct. App. 2018). Petitioner filed a petition for rehearing, and the Court of Appeals denied the petition. This petition follows.

STATEMENT OF FACTS

This case arises from four different incidents at four different locations on Hilton Head Island over the course of one afternoon.

A. Wild Horse Road Incident

Around 3:30 to 4:00 p.m., Tyrone Robinson ("Robinson") drove his vehicle, with Jontu Singleton ("Jontu")[1] as a passenger, to Petitioner's home off of Wild Horse Road. (R. 359, 375.) Petitioner, his father, Aaron Young, Sr. ("Young, Sr."), and Young, Sr.'s girlfriend Ebony Campbell ("Campbell") were talking in the yard as Robinson's vehicle pulled in. (R. 360.) Jontu exited the vehicle and spoke to Young, Sr., and Robinson also exited with a pistol in his hand, and began screaming and moving towards Petitioner,. (R. 362, 377–78.) Young, Sr. wrestled with Robinson for the gun, and the gun fired. (R. 362–63.) Young, Sr. backed away, and Robinson fired the pistol at Young, Sr.'s feet. (R. 364.) Robinson then got into his vehicle and drove away. (R. 364.)

Young, Sr. and Petitioner went inside the home and returned with a black bag. (R. 364.) Petitioner, Young, Sr., and Jontu got into Young, Sr.'s pickup truck, with Young, Sr. driving, and drove around Hilton Head Island looking for Robinson's vehicle. (R. 367–68.) While riding around, Petitioner removed a gun from the black bag and began assembling it. (R. 368.) The three eventually returned to Wild Horse Road where Jontu exited the truck and Campbell got in. (R. 372–74.)

B. Bryant Road

Petitioner and Young, Sr. then traveled to Robinson's home on Bryant Road where they found Robinson. (State's Ex. 38, Video 7; R. 635.) The gun was jammed at that time, and Petitioner did not try to shoot at or even point the gun at Robinson. (State's Ex. 38, Video 7; R. 635.) Robinson fled, and Young, Sr. drove Petitioner and Campbell back to Wild Horse Road

[1] Because the victim in this case was Khalil Singleton, Petitioner's materials refer to Jontu and Khalil by their first names.

where they debated whether to continue looking for Robinson and ultimately decided to do so. (R. 485–86, 635; State's Ex. 38, Video 7.)

C. First Allen Road Incident

Petitioner and Young, Sr. drove to Allen Road where they found Robinson's car, but did not see Robinson. (R. 485, 635; State's Ex. 38, Videos 1 & 2.) Around 4:00 p.m., witnesses heard a series of rapid gunshots in the Allen Road area. (R. 300–01). The gunshots were Petitioner firing into Robinson's unoccupied car. (R. 635; State's Ex. 38, Videos 2, 3, & 6.) The windows of Robinson's vehicle were not tinted, and a person could see through the windows to see if anyone was in the car. (R. 488–529.)

After the gunfire ended, Robinson, with the handle of a pistol visibly sticking out of his pants' pocket, knocked on the door of Charlese Mitchell and Tyrone Delaney's home on the corner of Marshland Road and Allen Road. (R. 309–21, 334.) Robinson told Mitchell that "those M F was shooting at him." (R. 309–10, 321.)

Around the same time, Tyrone Delaney was driving home from work and passed a grey F-150 truck headed the opposite direction, away from Allen Road. (R. 330–32.) As Delaney arrived at his home, Robinson met him in the yard. (R. 304, 310, 333.) The two spoke for approximately ten minutes, and during their conversation, Robinson asked Delaney if he saw a grey truck on his way home from work. (R. 311, 333.) When Delaney responded that he saw a grey truck, Robinson stated: "yeah they was shootin' at me so I shoot back at them." (R. 333). Robinson left, and ten to fifteen minutes after he left, Mitchell and Delaney heard a second round of rapid gunshots. (R. 301, 320, 334.) Several children playing in the area scattered at the sound of the gunfire. (R. 311.)

D. Second Allen Road Incident

Approximately ten minutes after the second round of rapid gunshots, Young, Sr.'s grey truck sped down Allen Road and began turning onto Marshland Road. (R. 302–03, 322–25.) As the truck reached the end of Allen Road and began to turn, Robinson fired three times from a hidden location near the intersection of Allen Road and Marshland Road. (R. 322–25, 335; State's Ex. 38, Videos 1 & 3.) A child who had been playing in Mitchell's yard ran toward his home pointing at Robinson and screaming that Robinson shot Khalil. (R. 346.) Robinson got into his car and drove away, and Khalil was found laying in the yard with a fatal gunshot wound. (R. 312-14, 336–37, 505.)

E. Investigation and Interrogation

Young, Sr.'s truck was stopped by the police between 5:00 and 5:30 p.m., and Petitioner, Young, Sr., and Campbell were removed from the vehicle. (R. 391.) Petitioner was interviewed on video, and he described the events of the day. (R. 396, 635; State's Ex. 38.) Young, Sr. was also interviewed and directed the police to a home off of Wild Horse Road and a handgun inside a black bag in the home. (R. 402.)

F. Trial, Conviction, and Sentencing

Petitioner was indicted and tried for murder and attempted murder—the murder of Khalil and the attempted murder of Robinson. Prior to the jury being sworn, Petitioner moved to quash the indictment on the grounds it did not allege he shot the victim, it was undisputed Robinson shot the victim, the indictment alleged only that he engaged in mutual combat with Robinson, and mutual combat is not a criminal offense under South Carolina law. (R. 211–37.) Petitioner further argued that under South Carolina law mutual combat is exclusively a limitation on the doctrine of self-defense, cannot be combined with the doctrine of transferred intent, and is not a

basis for a murder conviction. (R. 211–37.) The trial judge denied Petitioner's motion, ruling that mutual combat combined with transferred intent can serve as grounds for a murder conviction. (R. 265–69.)

Upon the close of the State's case, Petitioner moved for a directed verdict on both the murder and attempted murder charges. (R. 507.) As to the murder charge, Petitioner asserted three bases for the motion: (1) Petitioner did not shoot the victim, and the State's mutual combat theory is legally insufficient to hold Petitioner criminally responsible for Robinson's acts; (2) even if the State's mutual combat theory was legally valid, there was no evidence of mutual combat between Petitioner and Robinson; and (3) even if there was any mutual combat, the evidence established it had ended at the time Robinson fired the fatal shot. (R. 511–13, 518–19.) As to the attempted murder charge, Petitioner asserted there was no evidence that he attempted to kill Robinson. (R. 508–11.) The trial judge denied the motion, and Petitioner presented no additional evidence. (R. 514–21, 524.)

Petitioner then requested a jury charge on when mutual combat ends, and the trial judge denied the request. (R. 519–21.) The trial judge charged the jury on murder, mutual combat, and attempted murder. The trial judge specifically included in the charges that Petitioner did not fire the shot that killed the victim and could only be convicted through a mutual combat theory, charging: "it is undisputed that [Petitioner] did not fire the fatal bullet that killed Khalil Singleton. And so the State seeks and asks for a conviction at your hands under the theory of mutual combat." (R. 568.) In addition to his existing objection to the State's mutual combat theory, Petitioner objected to the jury charge as erroneously stating mutual combat extends to third-party, non-combatants, and the trial judge denied the objection. (R. 592–94.)

The jury convicted Petitioner on both counts, and Petitioner moved to set aside the convictions under the thirteenth juror doctrine or alternatively, for a new trial, and the trial judge denied both motions. (R. 598–607.) The trial judge sentenced Petitioner to concurrent thirty year sentences on the two charges. (R. 616.)

ARGUMENT

I. The Court of Appeals erred in holding that mutual combat is alone recognized by South Carolina law as a sufficient basis for a murder conviction and that the evidence supported finding mutual combat.

The Court of Appeals erred in affirming the denial of Petitioner's motions for a directed verdict, to quash the indictment, and for a new trial on the murder charge.[2] The Court of Appeals and the trial court concede that the sole basis for the murder charge was the theory of mutual combat. The Court of Appeals and trial court erred and the murder charge should be reversed for three reasons: (1) mutual combat alone is not recognized by South Carolina law as a legal basis for a murder charge; (2) even if mutual combat were a valid basis for a murder charge, the evidence introduced at trial did not support a finding of mutual combat; and (3) even if Petitioner did engage in mutual combat, which Petitioner does not concede, any mutual combat had ended at the time Robinson fired the fatal shot.

Petitioner's murder conviction rises and falls with the mutual combat theory of criminal liability invented by the State in this case. It is undisputed that Robinson, not Petitioner, shot and killed Khalil, and the State presented no evidence or argument to suggest that Petitioner engaged in any conspiracy with or otherwise aided Robinson. (R. 234–35, 242.) Rather, as

[2] Petitioner moved for a directed verdict, to quash the indictment, and for a new trial on the same grounds that the State's mutual combat theory was insufficient for a murder conviction and that the evidence did not support the State's mutual combat theory. Petitioner focuses on the denial of his motion for a directed verdict and submits his convictions should be reversed on that basis. Should the Court disagree with his arguments as to the directed verdict motion, Petitioner submits the Court of Appeals and trial court erred in denying the motion to quash and motion for a new trial for the same reasons and incorporates those motions as alternative bases for relief.

acknowledged by the trial judge, the State's murder charge was based entirely on a theory of "mutual combat" combined with the doctrine of transferred intent, and the State explicitly disavowed any other legal basis for the murder charge. (R. 219, 235–36, 518.)

A. The Court of Appeals and Trial Court Erred in Denying Petitioner's Directed Verdict Motion Based on a Mutual Combat Theory that South Carolina Law Does Not, and Should Not, Recognize.

South Carolina has never recognized, nor should it recognize, the mutual combat theory espoused by the State as a basis for a murder conviction. Because South Carolina law does not recognize "mutual combat" as a basis for a murder conviction and it was the sole basis for the State's murder charge, the Court of Appeals erred in affirming the denial of Petitioner's motion for a directed verdict on the murder charge.

The South Carolina Code defines murder as "the killing of any person with malice aforethought either express or implied," S.C. Code Ann. § 16-3-10, but the crime remains a common law offense, *see State v. Wilson*, 104 S.C. 351, —, 89 S.E.2d 301, 301 (1916). Reviewing the common law of murder in South Carolina, our courts have never recognized mutual combat as a basis for murder. Rather, the doctrine of mutual combat is a limitation on self-defense, and every South Carolina appellate decision discussing mutual combat considered it only in relation to self-defense.[3] As recognized in all of the South Carolina decisions discussing mutual combat, mutual combat merely bars the defense of self-defense thereby permitting a conviction for murder should the State also present the required proof to establish the elements

[3] A search of South Carolina caselaw produced the following cases discussing "mutual combat" or its equivalent, all of which discuss it in relation to *defenses* to criminal charges: *Jackson v. State*, 355 S.C. 568, 586 S.E.2d 562 (2003); *State v. Taylor*, 356 S.C. 227, 589 S.E.2d 1 (2003); *State v. Porter*, 269 S.C. 618, 239 S.E.2d 641 (1977); *State v. Graham*, 260 S.C. 449, 196 S.E.2d 495 (1973); *Nauful v. Milligan*, 258 S.C. 139, 187 S.E.2d 511 (1972); *State v. Mathis*, 174 S.C. 344, 177 S.E. 318 (1934); *State v. Jones*, 113 S.C. 134, 101 S.E. 647 (1919); *State v. Brown*, 108 S.C. 490, 95 S.E. 61 (1918); *State v. Andrews*, 73 S.C. 257, 53 S.E. 423 (1906); *State v. Beckham*, 24 S.C. 283 (1886); *State v. Dickey*, 380 S.C. 384, 669 S.E.2d 917 (Ct. App. 2008); *State v. Barksdale*, 311 S.C. 210, 428 S.E.2d 498 (1993).

of murder. Accordingly, even if Petitioner was engaged in mutual combat with Robinson at the time of Khalil's death, that fact alone would be an insufficient basis for a murder conviction. The State would need to present evidence to satisfy some other doctrine—for example: conspiracy, aiding and abetting, or the felony murder rule—which would permit Petitioner to be convicted for murder when another party undertook the fatal act.

Not only does South Carolina law not support the Court of Appeals' and trial court's use of mutual combat as a stand-alone basis for a murder conviction, other jurisdictions around the United States recognize that the fact that two parties engaged in mutual combat is not alone sufficient to establish murder, and rather, treat mutual combat as potentially relevant to a murder charge only to the extent it supports proximate causation or an aider and abettor theory. *See State v. Spates*, 779 N.W.2d 770, 776–78 (Iowa 2010) (discussing decisions). Here, the Court of Appeals and trial court erroneously only determined that there was evidence from which a jury could find Petitioner engaged in mutual combat and failed to address how the elements of murder were established.

Moreover, unlike other jurisdictions that view mutual combat as potentially relevant to proximate causation or aider and abettor status, the Court of Appeals and trial court erroneously further complicated matters by tacking the concept of transferred intent onto mutual combat, despite Petitioner's arguments that transferred intent cannot apply in a mutual combat situation. (R. 194–95.) The doctrine of transferred intent provides that where a person intends to kill one person, but actually kills another, the actor's intent to kill the intended victim is transferred to the actual victim. *See, e.g.*, *State v. Gandy*, 283 S.C. 571, 573–74, 324 S.E.2d 65, 67 (1984); *State v. Horne*, 282 S.C. 444, 446, 319 S.E.2d 703, 704 (1984). Thus, the doctrine of transferred intent only serves to expand the concept of malice, is limited to the malice issue, and does not expand

the criminal liability of one actor to include the results of another person's actions. *See, e.g.*, *Gandy*, 283 S.C. at 573–74, 324 S.E.2d at 67; *Horne*, 282 S.C. at 446, 319 S.E.2d at 704.

The facts of Petitioner's case are a textbook example of why South Carolina law should not recognize a mutual-combat-combined-with-transferred-intent theory of murder. Here, at the time Robinson fired the fatal shots, Petitioner did not see Robinson, did not even know Robinson was in the area, and could not have foreseen that Robinson was hiding and waiting to ambush him in the vicinity of the children. By accepting the legal theory advanced by the State, the Court of Appeals effectively made South Carolina law provide that any time an individual fights with an opponent, the individual is criminally responsible for any harm caused by his opponent's conduct, even if that harm occurred at a time and place remote from the initial fight and even if the individual would not and did not choose to engage in combat at that time and place.

The Court of Appeals failed to address the distinction between the doctrine of mutual combat serving as a limitation on self-defense which is recognized by South Carolina law versus mutual combat serving as a stand-alone basis for a murder conviction as used in Petitioner's case and which is not recognized by South Carolina law. The Court of Appeals merely reviewed those cases using mutual combat as a limitation on self-defense and held: "Our supreme court has repeatedly recognized mutual combat as a basis for a murder charge." *Young*, 818 S.E.2d at 491.

Therefore, because the Court of Appeals and trial court created and applied a mutual combat theory of murder not recognized by South Carolina law and relied on it as the sole basis for denying Petitioner's directed verdict motion, the Court of Appeals and trial court erred, and the Court should grant certiorari to address and correct this novel issue of South Carolina law.

B. There Was No Evidence from Which a Jury Could Find Petitioner Engaged in Mutual Combat.

Even assuming mutual combat can alone support a murder conviction under South Carolina law, this case is appropriate for a grant of certiorari for this Court to address the limits of this mutual combat murder doctrine and to address the Court of Appeal's error in finding this case fits within any mutual combat version of murder. Here, no evidence was presented at trial to support a finding that Petitioner and Robinson engaged in mutual combat on the day in question, and even assuming mutual combat can support a murder conviction, the Court of Appeals thus erred in affirming the denial of Petitioner's directed verdict motion.

Lacking any South Carolina caselaw on mutual combat as a basis for a murder conviction and therefore turning to South Carolina caselaw on the relationship between mutual combat and self-defense, South Carolina courts define mutual combat as requiring a "mutual agreement to fight" or "mutual intent and willingness to fight" and a "resulting fight." *Taylor*, 356 S.C. at 232–35, 589 S.E.2d at 3–5. A mutual agreement and intent to fight "is manifested by the acts and conduct of the parties attending to and leading up to the combat." *Jackson*, 355 S.C. at 571, 586 S.E.2d at 563. Jurisdictions utilizing the concept of mutual combat as relevant to establishing the elements required for a murder conviction employ the same definition, holding mutual combat requires a "mutual intention, consent or agreement preceding the initiation of hostilities." *People v. Ross*, 66 Cal. Rptr. 3d 438, 447 (Cal. Ct. App. 2007), or requires that "the combatants are armed with deadly weapons and mutually agree to fight," *Sanders v. State*, 659 S.E.2d 376, 380 (Ga. 2008).

Here, no evidence was presented from which a jury could conclude Petitioner and Robinson *mutually agreed or intended* to engage in combat or actually *engaged in* combat. At the Wild Horse Road incident, the uncontroverted testimony at trial was that Robinson, without

provocation, began shouting angrily at, advanced towards, and drew a weapon and pointed it at Petitioner. Petitioner's father attempted to wrestle the gun away from Robinson, but the gun went off during the struggle. Regaining control over the gun, Robinson then shot at Young, Sr.'s feet and fled. Young, Sr. acted in self-defense by attempting to gain control of the gun and never engaged in combat with Robinson. While Robinson acted aggressively, the evidence does not show he had an intent to fight. There was no evidence he had any reason to believe Petitioner or Young, Sr. were armed or that Petitioner or Young, Sr. were actually armed, and the Court has held that "mutual combat arises only when the parties are armed with deadly weapons." *Taylor*, 356 S.C. at 233, 589 S.E.2d at 4. There also was no evidence from which a jury could conclude that Robinson expected Petitioner and Young, Sr. to respond to his provocation by fighting. Additionally, the struggle was between Robinson and Young, Sr., and there was no evidence that Petitioner was physically involved in the struggle. Thus, the evidence at trial showed the Wild Horse Road incident consisted of an unprovoked and unexpected attack by Robinson and defensive efforts by Petitioner's father, and thus, there was no mutual agreement or intent to fight.

The limited evidence as to the incident on Bryant Road established only that Petitioner found Robinson there. No evidence introduced showed that Robinson, Petitioner, or Young, Sr. engaged or attempted to engage in any combat on Bryant Road. Additionally, the fact that Robinson fled rather than attack Petitioner and Young, Sr. further shows his lack of an agreement or intent to fight.

The next incident occurred when Petitioner and Young, Sr. arrived on Allen Road where they found Robinson's car. The uncontroverted evidence at trial showed that Robinson was not present during this first Allen Road incident. Rather, this incident consisted solely of Petitioner

firing a weapon at Robinson's unoccupied car. While Petitioner's actions in firing at Robinson's car were certainly destructive, they do not evidence a mutual agreement or intent to engage in combat. Robinson fled following the Wild Horse Road incident, thereby indicating his desire to end the altercation he initiated, and he was not present on Allen Road when Petitioner began firing at his vehicle and did not come to the scene to fight once Petitioner began firing. Petitioner did not know where Robinson was, Petitioner fired exclusively at Robinson's car, and Robinson did not come to the scene.

Finally, approximately ten minutes after Petitioner ceased firing at Robinson's vehicle, Young, Sr., with Petitioner as his passenger, sped out of Allen Road. As the truck reached the end of Allen Road, Robinson fired three shots, one of which struck and killed the victim. Again, the evidence regarding this incident would not allow a jury to conclude that there was a mutual agreement or intent to fight, nor would it permit a jury to conclude Petitioner engaged in combat with Robinson. The evidence shows that when Robinson fired, Petitioner was leaving the scene and had no knowledge of Robinson's whereabouts. There was no evidence that Petitioner fired at or took any other action towards Robinson during this incident.

In short, the evidence does not support either of the two elements required to establish mutual combat. Robinson displayed a willingness to attack Petitioner only when he believed Petitioner could not respond as shown by his first attacking unexpectedly on Wild Horse Road and later attempting to ambush Petitioner and Young, Sr. at they left Allen Road. Neither of these acts are indicative of an agreement or intent to engage in combat by Robinson. Moreover, Petitioner never engaged in combat with Robinson. The lead police investigator, Laurel Albertin, admitted at trial that she had no evidence that Petitioner ever pointed or fired a weapon at Robinson. (R. 487.) Petitioner fired at Robinson's unoccupied vehicle which, while

a jury charge on the end of mutual combat, and the trial court denied the request. (R. 520–21.) Not only did the Court of Appeals err in affirming the trial court's refusal to give the requested charge, the Court of Appeals erred by applying the wrong standard of review.

First, as to the standard of review, the Court of Appeals applied an abuse of discretion standard to the refusal to give the charge, holding that "the trial court did not abuse its discretion in declining to charge the jury on the end of mutual combat" and in support citing to *State v. Mattison*, 388 S.C. 469, 697 S.E.2d 578 (2010). South Carolina law provides that a trial judge must give a requested jury charge if there is any evidence to support the charge. *See State v. Burriss*, 334 S.C. 256, 262, 513 S.E.2d 104, 108 (1999). A trial judge's refusal to give a requested jury charge supported by some evidence is a reversible error. *Id.* Therefore, the standard for reviewing the refusal to give a requested jury charge is whether any evidence supports the requested charge, not an abuse of discretion standard.

The *Mattison* decision cited by the Court of Appeals for the standard of review does apply an abuse of discretion standard in relation to requested jury charges, but the *Mattison* decision applies when an appellant argues the content of a charge on a particular issue should have been different, not when the trial judge refuses to give any charge on a particular legal element as occurred here. Specifically, *Mattison* provides the standard where a party requests specific jury charge language, and the trial court declines the request but uses other language addressing the issue of law the requested charge was to address. *See Mattison*, 388 S.C. at 479, 697 S.E.2d at 583–84 ("However, if the trial judge refuses to give a *specific* charge, there is no error *if the charge actually given covers the substance of the request.* . . . Failure to give requested jury instructions is not prejudicial error *where the instructions given afford the proper*

test for determining the issues." (emphasis added and internal quotations and citations omitted)). That scenario is not the issue in this case.

The issue here is the trial court's refusal to give *any* charge on when mutual combat ends; an issue governed by the "any evidence" standard set forth in *Burriss*. The *Burriss* decision is clear that: "It is well-settled the law to be charged is determined from the evidence presented at trial, and if any evidence exists to support a charge, it should be given. The trial court commits reversible error if it fails to give a requested charge on an issue raised by the evidence." *Burriss*, 334 S.C. at 262, 513 S.E.2d at 108.

Second, applying the correct legal standard, the Court of Appeals erred in affirming the refusal to give a jury charge on the end of mutual combat. While Petitioner argues the evidence is uncontroverted that any mutual combat had ended at the time Robinson fired the fatal shot, there was at a minimum some evidence that any mutual combat had ended such that it was error for the trial court to refuse to give a charge on the end of mutual combat. The Court of Appeals' opinion states that Petitioner "fled the scene after shooting Robinson's unoccupied vehicle." *Young*, 818 S.E.2d at 493. Petitioner fleeing from the scene combined with the fact that he was not firing at or engaged in any other violence at the time Robinson fired the fatal shots is some evidence from which a jury could conclude that any mutual combat had ended and which supports giving a charge on the end of mutual combat.

III. THE COURT OF APPEALS ERRED IN AFFIRMING THE DENIAL OF PETITIONER'S DIRECTED VERDICT MOTION ON THE ATTMEPTED MURDER CHARGE.

Petitioner moved for a direct verdict on the attempted murder charge on the ground that there was no evidence that he ever fired or even pointed a weapon at Robinson. This Court "has repeatedly affirmed the principle that when the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal from Beaufort County
Court of General Sessions
Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2015-000508
Case Nos. 2012-GS-07-1932 & 2014-GS-07-1940

The State, Respondent,

v.

Aaron Scott Young, Jr., Petitioner.

CERTIFICATE OF SERVICE

The undersigned certifies on October 18, 2018, he caused a copy of the foregoing Petition for Writ of Certiorari to be served on all parties of record by placing copies in the U.S. Mail, first class, postage prepaid, and addressed as follows:

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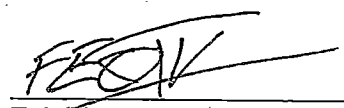

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