

VOLUME II of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Greenville County
Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BOBBY LEON SMITH,

APPELLANT

APPELLATE CASE NO. 2018-000541

RECORD ON APPEAL

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1 with him. He goes back in. He hears them arguing.
2 They're probably haggling over a price, or whatever. And
3 then boom, boom, shots.

4 And the next thing, Jahru is knocking on his door.
5 Bobby, you've got to help me.

6 What the hell is going on? What have you done?

7 So they go out there. And she is in the car closest
8 to the neighbor's house, closest to the street. That's
9 not going to work. Somebody is going to see this lady in
10 their front yard. It's Bobby's yard.

11 So Jahru said, we've got to move her. Jahru puts her
12 on the ground, pulls the car further up into the road.

13 And then they try to pick her up. It's not like they drug
14 her, like, by her legs. Jahru had her by the shoulders.
15 And Bobby is impaired. He's trying to carry her. She's
16 178 pounds -- I think 175 or 178.

17 He can't quite pick her up. And they do have to drag
18 her. At this point, she's dead it. It sounds bad, but
19 she's not being injured y. And then Jahru tries to put
20 her legs in the car. At that point, Bobby sees a phone
21 and he sees a little weed. He doesn't see any money.

22 Now, according to the mother, there's \$700 somewhere.
23 Bobby sees this phone. And the phone -- you'll have it in
24 there. And other people have them. They have these
25 little slots in the back. And a lot of people put, like,

1 their credit card, or driver's license, or money in there
2 just to have it handy with them.

3 So Bobby doesn't even know it's in there. He just
4 thinks he's getting a phone that she's not going to need
5 anymore. So he takes the phone in and starts looking
6 through it. And he's got blood on him. And, all of a
7 sudden, he sees he's got this stuff.

8 He tries to flush some of the stuff. And he takes
9 the money. He said he didn't get but \$107 from her. He
10 had some before he got some from her, 30, 40, \$50. He
11 wads it up and puts it in his pocket. And he puts the
12 phone in the freezer.

13 In the meantime, Jahru has taken off between the
14 houses. It was #2, #4. And then behind the house,
15 there's a fence, somebody's got to go over it. And then
16 there's a shed. And the gun is placed in the shed
17 partially underneath a lawn mower. There's no way Bobby
18 Smith could have done that.

19 So later, Bobby is in jail and he calls his momma.
20 And he says mom, I've got some weed there. I don't want
21 you to get in trouble. There may be a little blood on it.
22 Because he knew he had blood on his hand. And he probably
23 wiped it on his clothes and things trying to get cleaned
24 up. So she gets rid of it. She doesn't really know
25 what's going on.

1 Now, at this point, things are at kind of a
2 standstill. Jahru is on the run. They've got a phone
3 track that he was at the house and ended up in Anderson.
4 Jahru has no idea what's going on -- I mean, Bobby. Bobby
5 is in jail at the LEC.

6 Later, Jahru talks to Mary Smith, his aunt. And
7 she's a very nice lady. And he wants some money. She
8 knows that's what he's wanting. Because she's heard that
9 he's in trouble.

10 And she says, Jahru, I'm not going to help you. I
11 will help turn yourself in. That's what you've got to do.
12 You don't want the police looking for you, and a gun
13 fight, and you be shot. You need to call Tim Waller.
14 I'll do it for you.

15 Whoever calls, it ends up Mr. Waller goes out to the
16 scene that Jahru sets up and gets on the microphone. And
17 Mr. Moroney has made a real big deal about Jahru saying, I
18 killed that lady. I'm the shooter. But he doesn't -- he
19 doesn't mention him saying, My brother is in jail. That's
20 not right. He is innocent.

21 So if he's saying I killed her and that's true, why
22 would this other part not be true? He said it twice. My
23 brother did not do this. He is innocent. It's wrong that
24 he's in jail. So, right there, you've got an admission.
25 They want you to use half, but forget the other half, but

1 you can't do it. Jahru said Bobby is innocent.

2 So you go back and you look at the facts. I don't
3 know what happened between Jahru and Ms. Logan. She is
4 shot. Bobby goes out, helps cover it up. This crime has
5 already been committed when Bobby is not there. The gun
6 fight took place, whatever, he takes the phone.

7 He's an accessory. I'm not saying he's innocent of
8 this, not at all. He is an accessory after the fact.
9 That means he's not the main actor in the event. I shoot,
10 somebody, they're dead, it's done. I go to a friend and
11 say, look, I killed this person. I need to move the body.
12 I go help. I've got nothing to do with the murder. I am
13 guilty of accessory after the fact of the armed robbery
14 and the murder.

15 Now, to get there, there's another step. You have to
16 find that Jahru is guilty of a crime. If Jahru is not
17 guilty of a crime, then there's no accessory because there
18 was no crime to be an accessory to.

19 So I would ask you to look at the facts, look at the
20 TV thing where Jahru says, My brother is innocent. And he
21 says it twice. And then the bulk of the money, Bobby has
22 \$107. He said, Yeah, I had that. Some was mine and a
23 little bit came out of her phone. And I had a dime bag of
24 weed. That is after the fact.

25 And what happened if she had more drugs on her, I

1 have no idea. If she had the money, I have no idea. We
2 don't know what happened to it. But we do know that Bobby
3 helped afterwards, got a phone, and it just happened to
4 have money in it.

5 So when you look at everything, especially Jahru
6 saying, My brother is innocent, I'll expect you to come
7 back with guilty of accessory after the fact of a crime.

8 I'm not asking you to walk him, to find him not
9 guilty. That's ridiculous. He is guilty of accessory
10 after the fact.

11 And they're going to have clothes, and stuff. He
12 admits he had blood on him in different places at
13 different times, on the phone, on the money, on his
14 clothing. That happened afterwards, not while it was
15 happening.

16 So, again, I'll leave you with this one thought.
17 Find Bobby Smith guilty of accessory after the fact in
18 this case.

19 Thank you.

20 THE COURT: All right. Mr. Moroney, you've got five
21 or 10 minutes to respond, sir.

22 MR. MORONEY: Thank you, Your Honor.

23 Ladies and gentlemen, I'm going to keep this brief.

24 Mr. Sullivan wants you to focus on this after the fact
25 that I touched on earlier. I think I addressed this

1 earlier. He wants you to find accessory after the fact,
2 based on Bobby Smith's testimony yesterday, essentially.

3 We've told you what his words were, and you saw it
4 yesterday. And that he had been lying from the outset
5 protecting himself and protecting his brother. So you're
6 going to be the judge of that. You are the jury. You
7 consider all of this. And you determine whether that's
8 reasonable or not.

9 In conjunction with that, he wants you to listen to
10 Jahru Smith. Because he says on the video that his
11 brother is innocent, that means that he's innocent. I
12 don't believe that Jahru Smith is a legal scholar. And in
13 his mind, I would suggest that he thinks that because
14 Bobby didn't pull the trigger, he's innocent.

15 We explained why that's not the case under the hand
16 of one hand of all theory. That ignores the fact that
17 they both joined in this common conspiracy to rob
18 Ms. Logan. And when her death resulted in being shot five
19 times during that robbery, he was just as guilty:

20 He's not an accessory after the fact. We have to
21 believe that he's inside, conveniently. And he hears a
22 knock at the door after his brother just murders this poor
23 victim. A knock at the door, that's what happens. Just a
24 casual knock, that's how that happened.

25 This story doesn't make sense at all. If you had

1 just killed somebody, you're bursting in the door. You're
2 panicked, help me move this. It didn't happen that way.

3 Ms. Logan's life mattered. Despite the fact that she
4 was involved in some drug activity, her life mattered.

5 And it never gave Jahru Smith and Bobby Smith the right to
6 rob her that night. It never gave them the right to end
7 her life.

8 You're going to be charged on the law by Judge
9 Stilwell, and that will take some time. And you've got so
10 much evidence to pour over here. Stay focused on the
11 evidence at the end of day during your deliberations. I
12 believe it speaks for itself.

13 And the evidence supports and proves beyond a
14 reasonable doubt with respect to all of these charges for
15 both Defendants that Bobby Smith and Jahru Smith conspired
16 together to rob Ms. Logan. And in the course of doing so,
17 she was shot and killed.

18 Therefore, I'm going to ask you, at this point, to
19 find Bobby Smith guilty of murder, and armed robbery, and
20 possession of a weapon during a violent crime, and find
21 Jahru Smith guilty of murder, armed robbery, and
22 possession of a weapon during a violent crime.

23 I thank you for your attention. I thank you for your
24 service.

25 I appreciate it.

1 THE COURT: Mr. Kornfeld.

2 MR. KORNFELD: May it please the Court.

3 THE COURT: Yes, sir. Go ahead.

4 MR. KORNFELD: Thank you, Judge.

5 Mr. Moroney.

6 Mr. Weston.

7 Mr. Sullivan.

8 Ladies and gentlemen of the jury, as you know, I
9 represent Jahru Smith.

10 And I believe Solicitor Moroney said that he came
11 armed to a drug deal. That's not true. He didn't come
12 armed to a drug deal. She came armed to a drug deal. She
13 came to the house and sold drugs for the third time that
14 day to a two-toed, schizophrenic, bipolar elderly
15 gentleman and a man with thick bottle cap glasses.

16 And what did she say when she talked to Bobby Smith?
17 I'm going to have to teach that mother fucker a lesson.
18 Does that sound like words of kindness?

19 And then what did she do? She tried to teach him a
20 lesson when she pulled her Kel-Tec nine up like this in
21 his face. And Jahru Smith moves back, tries to get out of
22 the way. He pulls his gun and he shoots back.

23 I don't know whether or not her weapon jammed. I
24 know that these Kel-Tec nines -- y'all deliberate on that,
25 whether or not these guns are likely to jam or not. I

1 don't know if the piece of fragmented bullet that they
2 found, A, B, that the guy testified to was coming from
3 that bullet or not.

4 I know that he did say there was a bullet underneath
5 the seat. I don't know where that came from either. That
6 is not the important question. The important question
7 that the jury has to answer is whether or not Shamese
8 Nicole Logan pulled that gun on him, and whether or not he
9 had the right to defend himself. And that's exactly what
10 he did, he defended himself. She came over there to sell
11 crack for the third time.

12 Solicitor Weston made a big deal about the fact that
13 she wouldn't deal with Jahru Smith. Yet, at the same
14 time, they're using that same finding that she had already
15 been over there two times that day. She knew he was
16 there. There was no luring into coming back. She's the
17 drug dealer. They're the drug users. There's no luring
18 here. They didn't talk about this. She had been selling
19 drugs to them for two years.

20 If you're a drug addict, the best thing that can
21 happen to you, as a drug addict, is that someone will
22 drive up to your house and give you drugs. He doesn't
23 even have to go anywhere for them anymore.

24 Ladies and gentlemen, we said that we would go over
25 the evidence. And we went through the whole thing.

1 At the beginning of this trial, I asked the ultimate
2 question is -- whether Shamese Logan was murdered. She
3 wasn't murdered. This was self-defense. There's no more
4 evidence to say that it wasn't than it was. And Bobby
5 Smith, who was there, stated to me when I asked the
6 question, yes. It wasn't the first time. It was the
7 first time in the courtroom and I asked it. They didn't
8 ask that question.

9 Bobby doesn't answer questions that you don't ask
10 him. They all said that. He's not -- he's an elderly man
11 with schizophrenia. It's not like -- you saw how he
12 answers the questions, yes, no. He's not going to bring
13 things up.

14 You saw the look of the -- when you look on the video
15 of my client, Jahru Smith, where he says, yeah, he doesn't
16 deserve to be in there. And he's got glasses as thick as
17 bottle caps on there. He says he needs to be out.

18 Now, I did listen to the video again. And
19 Mr. Moroney is right, in that video, he doesn't say
20 there's more to it than that. I thought that I heard that
21 in that video. I don't know if I heard it somewhere else.
22 But he's right, in that video right there, it's not in
23 there.

24 You can decipher from what you saw there how quick he
25 is or whether or not he would say, yeah, she tried to pull

1 a gun on me. He looks scared. He was so scared that they
2 called Tim Waller so that the police -- that they were
3 going to come and shoot him. That's how scared he was of
4 them. As a man from his background that they were going
5 to, actually, shoot him. That he called the news and told
6 them, yes, so that they would not come after him.

7 We know from the testimony of Anika Carter that she
8 had seen her with the pistol. She said, yeah, she put it
9 in the glove box. And then she said, oh, it was in the --
10 I call it the glove box, the center console. It's the
11 center console. I don't know why she called it the glove
12 box. But that's where she has it.

13 We know from Brittany Norton, that was the girlfriend
14 of the deceased, that she was leaving from Dre's. We,
15 also, know -- which I guess is a nightclub. We, also,
16 know that -- which nobody brought up, but me -- but does
17 that mean it's not relevant? -- that she had a bottle of
18 half opened gin in the car. Does that mean that she was,
19 you know, liquored up and drunk and that she was coming
20 over there and -- I don't know. But it's a relevant point
21 to go to her state of mind as to what she was thinking
22 when she went over there.

23 Dar Shaw. He was the one that talked about the
24 forensics. And I'm going to ask you to look at State's
25 Exhibit No. 41 when you go back in the jury room. But

1 that is the -- that is the -- let me just pull it. These
2 are where you'd have different bullets coming in. She's
3 in here with her gun pulled like this and trying to shoot
4 back. These guns are -- these bullets are coming back
5 into her. These do not make sense. Look through these as
6 to how the bullets came in.

7 And also -- it's, also, important to note -- I don't
8 know -- they got that gun a lot later. When you look at
9 the gun, it's got rust on it. That's not the gun. This
10 is the gun that has the rust on it. That changes the way
11 that things are tested as well and as to impressions -- if
12 you've got rust, it's not the same. Officer Armstrong was
13 the officer that couldn't identify to some of the
14 casings -- or the casings that were found on scene.

15 Jahru Smith told his previous lawyer that he thought
16 the gun that was in the shed was the victim's gun, the
17 deceased's gun, the one that pulled the weapon on him. He
18 ran out of there and he was panicked. And they want to
19 act as if they know exactly what would happen after you,
20 in self-defense, after smoking crack all day, how someone
21 like that would act.

22 Obviously, they were engaged in smoking crack, which
23 having crack on you is illegal. Obviously, he was already
24 apprehensive or scared of law enforcement. And,
25 obviously, he ran away.

1 You -- his background -- you saw Mary Louise Smith.
2 They don't even tell her that she's being recorded by the
3 police. There's going to be distrust. And there was that
4 time that nobody would believe his story concerning the
5 fact that Shameese Nicole Logan pulled a gun on him. What
6 is he going to do? What is he supposed to do when someone
7 pulls a gun on him at a drug deal and he's standing back,
8 he's moving back? He said, Yeah, I saw it. This
9 happened. There's no evidence in there that makes it less
10 likely than not. They didn't want -- when I asked about
11 the gun, they didn't necessarily want that gun to come in.

12 Ladies and gentlemen, when you go to a crack addict's
13 home for the third time in a day to sell a crack head with
14 two toes, schizophrenia, bipolar and a guy with bottle cap
15 glasses that are in their late 50s and you bring a weapon
16 with you and you say, I'm going to teach that mother
17 fucker a lesson and then you pull a gun on someone, you
18 have to be ready for the consequences.

19 You don't pull a gun on somebody unless you think
20 you're going to shoot them. And you've got to be ready to
21 know that you're possibly going to get shot. It could
22 possibly be the last breath that you took. And,
23 unfortunately, on February 3rd, '2015, that is exactly what
24 happened.

25 Thank you, ladies and gentlemen.

1 THE COURT: Ladies and gentlemen, before we go to
2 closing, charge, let's take about a five or 10-minute break
3 and let everybody refresh. And we'll come back in and
4 I'll give you the charge.

5 Please don't discuss the case yet.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 11:23 a.m.)

8 THE COURT: Okay. We'll be in recess between five
9 and 10 minutes.

10 (WHEREUPON, a break was taken.)

11 THE COURT: Let's's bring the jury in.

12 (WHEREUPON, the jury came into open court at
13 approximately 11:37 a.m.)

14 CHARGE ON THE LAW

15 THE COURT: Ladies and gentlemen, the time has come
16 for me to give you the charge on the law. Now, when we
17 started this case, y'all took an oath. And you took an
18 oath to try the case in accordance with the evidence and
19 the law as I give it to you.

20 So as you come into this courtroom, if you have any
21 prior opinions or predispositions about the law or what
22 the law should be, you need to disregard that. Because
23 under your oath, you must accept the law as I give it to
24 you in this case.

25 Now, before we get started, I'm going to address an

1 elephant in the courtroom that I know many of you have
 2 even asked the bailiff about as we have proceeded in the
 3 case. And that is, where is Mr. Jahru Smith? Mr. Jahru
 4 Smith is not here. That's obvious. But let me make sure
 5 that you understand. That doesn't matter. That does not
 6 matter.

7 Because in any criminal case, and in this criminal
 8 case, the burden is on the State to prove each and every
 9 element of the offense beyond a reasonable doubt. The
 10 Defense doesn't have any burden of proof. So whether
 11 Mr. Jahru Smith is here or not here is completely
 12 irrelevant to what you are considering in this case. And
 13 it's not subject to your consideration. So you can
 14 disregard that entirely.

15 Let me, also, tell you while we're talking about
 16 this, Mr. Smith -- Jahru Smith elected not to testify.
 17 Now, understand, you can't consider that either.
 18 Understand that we all, under the Constitution, have a
 19 right to remain silent, which means Mr. Smith, nor any
 20 citizen in the United States, does not have to say, do, or
 21 prove anything in a proceeding.

22 So the fact that he didn't take the stand and he
 23 didn't testify, again, cannot be held against him. It's
 24 irrelevant to your consideration. As a matter of fact,
 25 because it is a Constitutional right that we all hold

1 dearly, you can't even discuss it in your jury
2 deliberations. Because it's not relevant and because it
3 is his Constitutional right.

4 So, ladies and gentlemen, you know, as I've told you
5 before, your role in the trial of the case is to be the
6 finders of the fact. And you're going to determine what
7 the facts are. Each side comes in and they make
8 arguments, and present evidence, and try to convince you
9 of their position. But you have the sole and exclusive
10 authority and responsibility for determining what the
11 facts are.

12 If I've said anything during this case or I've done
13 anything during this case that gives you an impression
14 that I have an opinion about the facts, disregard it,
15 because I honestly do not.

16 Now, you're going to determine what the facts are.
17 And in determining what those facts are, you're going to
18 determine whether the State has met its burden of proof of
19 proving each and every element of the offense beyond a
20 reasonable doubt.

21 Now, I'm about to define reasonable doubt to you.
22 But I want to tell you before I do that that there are
23 multiple indictments in this case and there are multiple
24 Defendants. You must consider each and every indictment
25 separately and independently. And you must consider the

1 Defendants independent of one another as well.

2 So, for example, for each Defendant, you have an
3 indictment for murder, one count of murder, and an
4 indictment for possession of a weapon during the
5 commission of a violent crime. And then you have a
6 separate indictment for armed robbery.

7 So you need to consider all of those counts
8 separately and independently. And you need to consider,
9 again, the Defendants independently. So I'm sure you
10 understand that, but it's important. So I just want to
11 make sure and give you an example.

12 If you were to find one of the Defendants guilty of
13 one of the counts, that doesn't mean that you have to find
14 him guilty of the remaining counts. And it doesn't mean
15 that you have to find the other Defendant guilty of that
16 count -- that corresponding count as well. Understand,
17 you can come back with any combination of verdicts that
18 you feel is appropriate when you apply the facts as you
19 determine them to be to the law as I give to you.

20 So each indictment -- each count of each indictment
21 is to be considered independently and separately. And
22 you'll determine in each instance whether the State has
23 met its burden of proving each and every element of the
24 offense beyond a reasonable doubt. And in order to
25 demonstrate that to you clearly, I'm going to give you six

1 separate verdict forms to demonstrate that you have to
2 consider them all independent of one another. Okay.

3 Now, ladies and gentlemen, we've bandied about this
4 term reasonable doubt. What is a -- what is reasonable
5 doubt? Reasonable doubt is a doubt that is proof of
6 something that leaves you firmly convinced.

7 Now, there's nothing on the face of this earth that
8 you can know beyond any possible doubt. And the law
9 doesn't require that the State prove its case beyond any
10 possible doubt. However, after your review of the
11 evidence, if you are firmly convinced of the Defendants
12 guilt, then under your oath, you would find the Defendant
13 guilty of that corresponding charge. If after your review
14 of the evidence, you feel there is a real possibility that
15 the Defendant is not guilty, then under your oath, you
16 would find the Defendant not guilty.

17 Now, you may have heard different forms of --
18 standards of proof in your life, either on TV or in other
19 experiences you've had in a trial. You've got the
20 preponderance of the evidence in most civil cases, which
21 is greater -- more likely than not. And in some
22 instances, you've got clear and convincing, like when
23 someone is seeking punitive damages, which is a higher
24 level of proof. But the highest level of proof there is
25 is proof beyond a reasonable doubt. And that's the burden.

1 of proof in this case.

2 Now, ladies and gentlemen, you'll determine whether
3 the State has met its burden of proof by reviewing the
4 evidence and weighing the evidence. Now, obviously, it's
5 not a method of, actually, weighing it and determining,
6 you know, who put more evidence in than the other. That's
7 not the analysis. It's in the aggregate, looking at all
8 the evidence, has the State met its burden of proof?

9 Now, you're going to look at all of the evidence and
10 decide what's important and what's not important, what
11 is -- what -- what may be very important to your
12 consideration and have great value and what may not. By
13 the same token, you're going to look at the testimony of
14 the witnesses. And you're going to determine who is
15 credible and who is believable.

16 Now, you bring certain inherent tools into this
17 courtroom, just common sense tools that you use every day
18 in determining whether somebody should be believed or not.
19 You know that every day you listen to people and you gauge
20 their credibility. And you listen to what they have to
21 say, how they say it, how they express themselves, facial
22 expressions, their body language. You determine whether
23 they have something to lose or whether they have something
24 to gain as a consequence of their testimony. And you
25 decide whether they should be believed or not.

1 Well, in a trial, you do the same thing. You will
2 look at those witnesses and determine whether they should
3 be believed or not. Understand, you can take a portion of
4 a witnesses testimony and find it very believable and very
5 valuable, and discard the rest. You can accept it all, or
6 you can accept none. Again, in your role, you decide.
7 You decide what has weight, and what has value, and what
8 part, if any, of the witnesses testimony is credible.

9 Again, expert witnesses. You heard from expert
10 witnesses. The analysis is the same. You decide whether
11 it's credible. And you decide what type of weight it has,
12 regardless of the fact that they were qualified as an
13 expert witness. You treat it just like any other piece of
14 evidence that you receive in a trial.

15 Now, in this case, and in every case that comes
16 before the Court, evidence is going to take one of two
17 forms. And I'm sure you've heard of it before, direct
18 evidence and circumstantial evidence.

19 Direct evidence is evidence which immediately
20 establishes a fact to be proven.

21 Circumstantial evidence is proof of a chain of facts
22 or collateral facts that when taken together prove a main
23 fact to be proven. And that's a simple definition. But
24 I'm going to give you an example that may help you
25 understand it a little bit better.

1 Let's say that tonight, you go to bed and you walk
2 past your front door or your front window, and you look
3 out your front yard and there's no precipitation on the
4 ground at all. You go to bed. You wake up tomorrow
5 morning and you walk past that very same door or window,
6 and you look in your front yard and there is a blanket of
7 snow in the yard. And there are, also, footsteps which
8 lead to your door and then lead away.

9 Well, under that set of circumstances, you've got
10 direct evidence that it snowed last night because it is
11 immediately established by the presence of the snow. But
12 you've got circumstantial evidence that somebody came to
13 your door and walked away either late that night or early
14 that evening. You can't see that person. You can't talk
15 to that person. You can't feel that person. But you know
16 as a consequence of the timing of the snow fall and the
17 presence of the footsteps that somebody must have walked
18 to your door and walked away. That's circumstantial
19 evidence.

20 Now, ladies and gentlemen, under the law, direct
21 evidence is not preferred over circumstantial evidence.
22 Circumstantial evidence is not preferred over direct
23 evidence. You decide what has weight. And you decide
24 what has value, regardless of whether it's characterized
25 as direct or circumstantial evidence.

1 Understand, ladies and gentlemen, to the extent that
2 the State relies upon circumstantial evidence to make its
3 case, all of the circumstances, when taken together, must
4 point conclusively to the guilt of the accused beyond a
5 reasonable doubt, and cannot merely rise to the level of
6 suspicion.

7 All right. In one instance, ladies and gentlemen,
8 the Defendant testified and it was brought into evidence
9 that he has a prior record. Now, ladies and gentlemen,
10 that evidence was admitted solely for the purpose of
11 credibility. You can consider that to consider whether
12 the Defendant was credible or not. You cannot use that to
13 determine whether it is more likely or not that he may
14 have committed this crime. It is not intended for that
15 purpose. And you may only consider it for purposes of
16 credibility.

17 Okay. Let's talk a little bit about the -- about the
18 charges that are -- that are before the Court. Now, I'm
19 going to read some to you now. And I don't like to read
20 to you. It suggests to you that either I'm too lazy or
21 dumb to know the law. And some people might suggest
22 that's true, my wife and kids, for example. But these are
23 precise definitions. And I need to get them precisely
24 right, which means that if you'll bear with me, I'll read
25 the precise definitions to you.

1 Ladies and gentlemen, the Defendants are charged with
2 murder. The State must prove beyond a reasonable doubt
3 that the Defendants killed another person with malice
4 aforethought.

5 Malice is hatred, ill will, or hostility towards
6 another person. It is the intentional doing of a wrongful
7 act without just cause or excuse, and with an intent to
8 inflict an injury, or under circumstances that the law
9 will infer an evil intent.

10 Malice aforethought does not require that malice
11 exist for any particular length of time before the act is
12 committed, but malice exists in the mind of the Defendants
13 just before and at the time the act was committed.
14 Therefore, there must be a combination of evil intent and
15 the act.

16 Malice aforethought may be expressed or inferred.
17 These terms of expressed and inferred do not mean
18 different kinds of malice, but merely the manner in which
19 malice may be shown to exist. That is either by direct
20 evidence or by inference from the facts and circumstances
21 which are proved.

22 Expressed malice is shown when a person speaks words
23 which express hatred or ill will for another, or when the
24 person prepared beforehand to do the act which was later
25 accomplished. For example, lying in wait for a person or

1 other acts of preparation going to show that the deed was
2 within the Defendant's mind would be expressed malice.
3 Malice may be inferred from conduct showing a total
4 disregard for human life.

5 Ladies and gentlemen, I'm going to talk to you now
6 about accessory after the fact of murder as a lesser
7 included offense in this instance. Now, this only applies
8 to Mr. Bobby Smith. And Mr. Bobby Smith asserts that he's
9 not guilty of murder, but that you should consider the
10 lesser included offense of accessory after the fact.

11 Now, you're going to see that on your verdict form
12 with respect to Mr. Bobby Smith. And, ladies and
13 gentlemen, the Defendant is charged with being accessory
14 after the fact of murder.

15 In order to prove this crime, the State must prove
16 beyond a reasonable doubt that the Defendant knew that
17 another person, the principle committed a felony and after
18 the crime intentionally helped the principle to escape
19 from arrest, conviction, or punishment.

20 Intentionally means willfully, intending the result
21 which, actually, occurs, not accidentally or
22 involuntarily. Intent may be shown by acts and conduct of
23 the Defendant and other circumstances from which you may
24 naturally and reasonable infer intent.

25 Absence is not an element of the crime of accessory

1 after the fact. If you find the Defendant was merely
2 present at the scene of the crime and did not participate
3 in the crime, but became involved after the commission of
4 the crime, you may find the Defendant guilty of being an
5 accessory after the fact.

6 Although the actions of the Defendant may have helped
7 the principle to escape detection or arrest, this is not
8 to be -- an accessory after the fact. The State must,
9 also, prove that the Defendant acted with the intention or
10 with the purpose of helping the principle to escape
11 detection or arrest.

12 So if a person charged with being an accessory after
13 the fact did not intend his acts should help the principle
14 escape detection or arrest, then he is not an accessory
15 after the fact, even though his acts, in fact, may have
16 resulted in helping a principle escape detection or
17 arrest. There must be some affirmative act tending toward
18 concealment of the commission of the crime. Silence alone
19 is not sufficient to make a person an accessory after the
20 fact of a felony.

21 Now, ladies and gentlemen, the next charge that
22 you'll consider is armed robbery. Both of the Defendants
23 are charged with armed robbery.

24 In order to prove this offense, the State must,
25 first, prove beyond a reasonable doubt that the Defendants

1 took personal property from the person or presence of
2 another person. Property is in the presence of a person
3 if it is within the person's reach, inspection,
4 observation, or control so that the person could, if not
5 overcome with violence or prevented by fear, keep
6 possession of the property.

7 The State must, also, prove beyond a reasonable doubt
8 that the Defendants carried the property away intending to
9 permanently deprive the owner of the property and to keep
10 the property for the Defendants own use. The slightest
11 removal of the property or the complete possession of the
12 property, even for an instant by the Defendant, is
13 sufficient to show a taking and carrying away of the
14 property. The taking and carrying away of the property
15 must have been done with violence or by putting the owner
16 of the property in fear of violence.

17 Finally, the State must prove beyond a reasonable
18 doubt that the Defendant was armed with a deadly weapon
19 during the robbery. A deadly weapon is any article,
20 instrument, or substance which is likely to cause death or
21 great bodily harm.

22 Now, ladies and gentlemen, the next count which
23 you're going to consider in your deliberations is
24 possession of a weapon during the commission of a violent
25 crime. The State must prove beyond a reasonable doubt

1 that the Defendants were in possession of a firearm or
2 visibly displayed what appeared to be a firearm during the
3 commission of a violent crime.

4 In order to find the Defendants guilty of possession
5 of a weapon during the commission of a violent crime, you
6 must, first, find the Defendants guilty of either
7 committing a violent crime or attempting to commit a
8 violent crime. And I charge you that both murder and
9 armed robbery are violent crimes under the law. The State
10 must prove beyond a reasonable doubt that the weapon
11 further advanced or helped in the commission of the crime.

12 Now, ladies and gentlemen, the State has propounded
13 the theory of the hand of one is the hand of all. So I am
14 going to read for you the definition for the hand of one
15 is the hand of all, or, in other words, accessory
16 liability.

17 If a crime is committed by two or more people who are
18 acting together in committing a crime, the act of one is
19 the act of all. A person who joins with another to commit
20 an unlawful act is criminally responsible for everything
21 done by the other person which happens as a probable or
22 natural consequence of the acts done in carrying out the
23 common plan or purpose. If two or more people are
24 together acting together, assisting each other in
25 committing the offense, the act of one is the act of all,

1 or as it is sometimes said, the hand of one is the hand of
2 all.

3 Prior knowledge that a crime is going to be committed
4 without more is not sufficient to make a person guilty of
5 that crime. Mere knowledge that another person is going
6 to commit a crime, even if the Defendant is present when
7 the crime is committed, is not sufficient to convict the
8 Defendant as a principle.

9 Guilt as a principle is shown by actual or
10 constructive presence at the scene as a result of a prior
11 arrangement. Therefore, a finding of a prior arranged
12 plan or common scheme is necessary for a finding of guilt
13 as a principle.

14 The State must prove beyond a reasonable doubt that
15 by competent evidence, the theory of the hand of one is
16 the hand of all. A principle in a crime is one who either
17 commits the crime, or who is present aiding or assisting
18 in committing the crime. When a person does act in the
19 presence of another and with the assistance of another,
20 the act is done by both.

21 When two or more people are present acting with a
22 common plan or intent and are present at the commission of
23 the crime, it does not matter who, actually, commits the
24 crime, all are guilty. The hand of one is the hand of
25 all.

1 Present at the commission of a crime means to be
2 sufficiently near to aid, and abet, and assist in the
3 commission of the crime. However, mere presence at the
4 scene of a crime is not sufficient to convict one as a
5 principle, but merely aiding and abetting.

6 Intent is, also, a necessary element. There must
7 have been a common design or intent to commit the crime.
8 And the crime must have been committed pursuant thereto
9 with the person aiding and abetting by some overt act.

10 Intent means intending the result which, actually,
11 occurs, not accidentally or involuntarily. Intent may be
12 shown by acts and conduct of the Defendants and other
13 circumstances from which you may naturally and reasonably
14 infer intent. The State must prove these elements beyond
15 a reasonable doubt.

16 Ladies and gentlemen, the Defendant, Mr. Jahru Smith,
17 has asserted the defense of self-defense in this matter.
18 So when you are considering the indictments which are
19 before the Court, you will consider self-defense with
20 respect to the murder indictment concerning Mr. Jahru
21 Smith.

22 And, ladies and gentlemen, understand that the
23 absence of self-defense must be proven by the Prosecution
24 beyond a reasonable doubt. That is, understand that
25 self-defense must be disproven beyond a reasonable doubt.

1 by the State.

2 There are four elements of self-defense. The
3 Defendant must be without fault in bringing on the
4 difficulty. The Defendant must, actually, believe he is
5 in imminent danger of loss of life, or serious bodily
6 injury, or, actually, was in such danger. If the
7 Defendant believed that he was in such danger, a
8 reasonable or prudent man of ordinary firmness and courage
9 would have been believed himself to be in such danger.

10 If the Defendant, actually, was in such danger and
11 the circumstances were such that would warrant a man of
12 ordinary prudence, firmness, and courage to strike the
13 fatal blow in order to save himself from serious bodily
14 harm or from losing his own life.

15 And the last thing, ladies and gentlemen, the
16 Defendant had no other probable means of avoiding the
17 danger of losing his own life or sustaining serious bodily
18 injury than to act as he did in this particular instance.

19 Okay. Ladies and gentlemen, I'm going to go over for
20 you the verdict forms. I've got six separate and distinct
21 verdict forms. Okay. And, as I indicated to you, that's
22 because you have to consider all of the charges
23 independent of one another. These forms are very simple.
24 But I'm going to go over either one or two of them for you
25 before you go back so you don't see them for the first

1 time when you get back there.

2 You see the caption, "State v." and, in this
3 instance, it's Bobby Leon Smith for the indictment of
4 murder as to Shameese Nicole Logan. Verdict, it says: As
5 to the charge of murder to Shameese Nicole Logan, we, the
6 jury, unanimously find the Defendant -- now, let's pause
7 there for a second.

8 It says unanimously find the Defendant. Your verdict
9 must be unanimous, all 12 of you must agree. It can't be
10 a preponderance of you. It can't be the majority of you.
11 It has to be a unanimous verdict. It can't be 11 to one,
12 10 to two. It's 12 to zero. That verdict must be based
13 on the evidence and the law as I've given it to you. It
14 can't be based on passion, or sympathy, or caprice, bias,
15 or prejudice. It has to be based on a reasonable and
16 calculated analysis of the law and the evidence.

17 So you've got three choices on this particular
18 verdict form. Not guilty. If you find that the State has
19 not met its burden of proof of proving each and every
20 element of murder beyond a reasonable doubt as to
21 Mr. Bobby Smith, then you would check --

22 Mr. Leisgang.

23 JUROR #89, EDWARD LEISGANG: Leisgang.

24 THE COURT: You would check not guilty or initial,
25 just something that gives me a clear indication of what

1 the intent was. Or if you find that they have met their
2 burden of proof, then you would check guilty.

3 All right. Now, I have given you the option of
4 considering accessory after the fact of murder. So if you
5 find that the State has not met its burden of proof with
6 respect to murder, then you may consider accessory after
7 the fact to murder. But you're only going to choose one
8 of these, only one of them. Okay.

9 And then after y'all have come to a unanimous
10 verdict, then you'll sign as Foreperson of the jury and
11 date it.

12 Once you've made a determination on one, then you'll
13 go to another. Now, you don't have to go in any
14 particular order. I'm not telling you what order to go in
15 when I talk to you about this. I'm just going over the
16 form for you. You can proceed in whatever order you think
17 is appropriate.

18 So let's look at another one. This is the State v.
19 Jahru Harold Smith, indictment for armed robbery. Okay.
20 And it says: As to the charge of armed robbery, we, the
21 jury, unanimously -- again, unanimously find the
22 Defendant, and you have two options there, not guilty or
23 guilty. If you find the State has not met its burden of
24 proof, you would initial or check not guilty. If you find
25 the State has met its burden of proof, then you would

1 check or initial guilty.

2 Once you have come to a unanimous verdict as to all
3 of the charges and you have filled out all of these
4 verdict forms, then let the bailiff know. And I will
5 bring you back out and we'll publish the verdict.

6 Now, I know somebody asked can we have a copy of the
7 jury charge? Yes and no. When you get back there and you
8 begin your deliberations, if you determine that there are
9 portions of that charge that you need, let me know. If
10 you want a precise definition, let me know. And I'll get
11 together with the attorneys and we will fashion that
12 written portion of the charge. Actually, we'll take
13 exactly what I said on the record and I'll give it to you
14 if you need it.

15 And I know I've read some things. You might want to
16 see it, you might not want to see it. Every jury is a
17 little bit different. But if you need it, let me know.
18 It doesn't help me or you, generally, when you say we want
19 a copy of the charge. Because, you know, there was a lot
20 that I just said. And I can't give you a copy of what I
21 said. I can give you a copy of what I read from. And I
22 can give you very precise definitions.

23 So when you ask me for something, be as specific as
24 you possibly can. Okay. And if you have other questions,
25 I will do my best to answer those questions for you.

1 Generally, I'm just going to write back on the sheet of
2 paper that you asked the question on. Sometimes, I have
3 to bring you out.

4 If, again -- and I told you this before, I think it
5 was yesterday. If you ask me a question bearing on the
6 evidence or ask me a question about what the facts are or
7 should be, you're going to get a pretty curt response, no,
8 I can't answer it, something like that. So don't think
9 I'm being curt or mean. I just can't answer some of the
10 questions.

11 So I'm going to ask you to go back to your jury room.
12 Don't begin your deliberations yet. This is the
13 opportunity for the attorneys to take exception to
14 something I said, to point out something that I may have
15 misstated, or to point out something that I may have just
16 neglected to state at all. So if I have made a mistake,
17 then I'll bring you back out and I'll correct it.

18 Now, you'll know when it's time to begin your
19 deliberations when you get these verdict forms. Okay.
20 The bailiff is going to bring them to you. And then you
21 can begin your deliberations. Not long after that, after
22 the court reporter and the attorneys have had the
23 opportunity to inventory all of these exhibits, you'll get
24 all of these exhibits as well.

25 If you need to watch a videotape, let me know and

1 we'll find one that's scrubbed. That is, that doesn't
2 have too much stuff on it. And we'll give you a computer
3 so you can watch that videotape in your chambers as well.

4 So, ladies and gentlemen, don't discuss the case yet.
5 Please return to your jury room.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 12:04 p.m.)

8 THE COURT: Any exceptions to the charge from the
9 State?

10 MR. MORONEY: No, Your Honor.

11 THE COURT: Okay. Any exceptions from the Defense?

12 MR. SULLIVAN: None from Bobby Smith.

13 THE COURT: All right. Mr. Kornfeld?

14 MR. KORNFELD: Oh, I'm sorry.

15 THE COURT: I thought you were checking my charge
16 against a learned treatise there.

17 MR. KORNFELD: No, no. I apologize. I don't have
18 any exception.

19 THE COURT: All right. Gentlemen, I am going to send
20 the verdict forms back to the jury and instruct them to
21 begin deliberations. And y'all -- if y'all will do an
22 inventory of the exhibits, we'll send those back as soon
23 as we can.

24 If y'all can have a sterilized computer ready, then
25 when they ask for it, we can send it back to them.

1. Okay. And I'll start getting some of those
2. definitions ready and making sure that I redact portions
3. that I either deleted in my charge so that -- because I
4. anticipate they're going to ask for some of those things.
5. They already did before I even charged them. So we'll
6. have those at the ready.

7. If I get any questions or requests, we'll call
8. everybody back in my chambers and we'll discuss everything
9. before we send anything back to the jury.

10. THE CLERK: Your Honor, I'll go get the laptop. The
11. clerk's office has one that's totally clean.

12. THE COURT: Oh, okay. Good.

13. Well, thank you.

14. I appreciate that.

15. (WHEREUPON, the proceedings were recessed at
16. approximately 12:06 p.m.)

17. (WHEREUPON, Court's Exhibit No. 2 was marked for
18. identification and admitted into evidence.)

19. THE COURT: I've been advised that the jury has
20. reached a unanimous verdict.

21. Is the State ready to receive the verdict?

22. MR. MORONEY: Yes, Your Honor.

23. THE COURT: Is the Defense ready?

24. MR. KORNFIELD: Yes, Your Honor.

25. MR. SULLIVAN: Yes, Your Honor.

1 THE COURT: Well, bring them in, please.

2 (WHEREUPON, the jury came into open court at
3 approximately 3:52 p.m.)

4 THE COURT: Mr. Leisgang, has the jury reached a
5 unanimous verdict?

6 JUROR #89, EDWARD LEISGANG: Yes, we have, sir.

7 THE COURT: Could you pass the verdict forms to the
8 bailiff, please, sir.

9 Okay. You may publish the verdict.

10 VERDICT

11 THE CLERK: Thank you.

12 Your Honor, in the case of 2015-GS-23-2833, the State
13 v. Jahru Harold Smith, as to the charge of murder of
14 Shamese Nicole Logan, we, the jury, unanimously find the
15 Defendant guilty.

16 In the case of 2015-GS-23-2834, the State v. Jahru
17 Harold Smith, as to the charge of armed robbery, we, the
18 jury, unanimously find the Defendant guilty.

19 In the case of 2015-GS-23-2833, the State v. Jahru
20 Harold Smith, as to the charge of possession of a weapon
21 during the commission of a violent crime, we, the jury,
22 unanimously find the Defendant guilty.

23 In the case of 2015-GS-23-2824, as to the State v.
24 Bobby Leon Smith, as to the charge of murder as to Shamese
25 Nicole Logan, we, the jury, unanimously find the Defendant

1 guilty of the lesser included offense of accessory after
2 the fact of murder.

3 In the case of 2015-GS-23-2823, the State v. Bobby
4 Leon Smith, as to the charge of armed robbery, we, the
5 jury, unanimously find the Defendant guilty.

6 In the case of 2015-GS-23-2824, the State v. Bobby
7 Leon Smith, as to the charge of possession of a weapon
8 during the commission of a violent crime, we, the jury,
9 unanimously find the Defendant guilty.

10 These are all signed by Mr. Leisgang, our Foreperson.

11 Ladies and gentlemen, if you agree these are the
12 verdicts you reached in your deliberation room, would you,
13 please, raise your right hand.

14 (WHEREUPON, all of the jurors raised their right
15 hand.)

16 THE CLERK: I thank you.

17 THE COURT: All right. Anything further from this
18 jury from the State?

19 MR. MORONEY: No, Your Honor.

20 THE COURT: Anything further from the Defense?

21 MR. KORNFELD: No, Your Honor.

22 MR. SULLIVAN: None from Bobby Smith, Your Honor.

23 THE COURT: Thank you very much.

24 Ladies and gentlemen, thank you very much for your
25 service on this jury.

1 So I don't want to put either Mr. Smith at risk, and
2 I don't want to put any of the officers at risk either.
3 He may either participate or not participate.

4 I don't think it makes any difference inasmuch as it
5 doesn't compromise or affect his due process rights in any
6 way, shape, or form. But I do intend to sentence him this
7 afternoon. He can come in and offer anything in
8 mitigation, or he can elect to do what he's done for the
9 entirety of the trial, which is stay in the holding cell.

10 All right. So I'll be right back in.

11 Thank you.

12 (WHEREUPON, a break was taken.)

13 THE COURT: Mr. Kornfeld, have you had the
14 opportunity to talk to your client, or send him the
15 information that I provided?

16 MR. KORNFELD: I spoke with him, Your Honor.

17 THE COURT: And, sir, what's his decision?

18 MR. KORNFELD: He will not -- he's not going to
19 attend his sentencing.

20 THE COURT: Okay. Good enough.

21 Thank you very much.

22 Then let us start with Mr. Bobby Leon Smith.

23 If you would, please, rise.

24 MR. SULLIVAN: Judge, I have a --

25 THE COURT: You have a motion?

1 MR. SULLIVAN: Yes, sir.

2 THE COURT: I'll be happy to hear it.

3 MOTIONS

4 MR. SULLIVAN: I would like you to exercise your
5 discretion as the thirteenth juror in this case. The
6 verdict came back on the murder that Jahru Smith
7 committed.

8 Mr. Bobby Smith was found to be an accessory after
9 the fact, which means the lady was dead. His
10 participation after that was to take a phone, which is not
11 armed robbery because you can't intimidate a deceased
12 person. If he's not guilty of the armed robbery, then the
13 use of a weapon during the commission of a violent crime
14 goes out.

15 So I would ask that you overturn the verdict as to
16 the armed robbery, the use of a weapon during a violent
17 crime, and to let stand accessory after the fact of the
18 murder.

19 THE COURT: All right. I appreciate that, sir.

20 And I respectfully deny your motion. And I won't
21 exercise that discretion as the thirteenth juror.

22 I think the evidence in the case -- you -- I know
23 that you are articulating the evidence from your
24 perspective. And I know that's an argument you made to
25 the jury. Obviously, they didn't believe that.

1 There was evidence in the record that he saw her pull
2 the gun while they were in the midst of some type of -- of
3 difficulty. And I think that supports the factual
4 determination that they made that he could have been
5 guilty of both the accessory and the armed robbery.

6 So, in reviewing the evidence, I think that the
7 evidence supports the verdict -- all three verdicts that
8 were returned by the jury in this matter. And I'll,
9 again, respectfully deny the motion.

10 MR. SULLIVAN: Thank you, Your Honor.

11 And I guess we're ready for sentencing.

12 THE COURT: Okay. Mr. Moroney.

13 Mr. Weston.

14 MR. MORONEY: Your Honor --

15 MR. SULLIVAN: Do you want us to come to the podium?

16 THE COURT: You can just stay right there is fine
17 with me.

18 MR. MORONEY: As a housekeeping matter, Your Honor,
19 Deshawn [phonetic] Logan would like to speak when
20 appropriate. He's a representative from the victim's
21 family.

22 THE COURT: All right, sir.

23 MR. MORONEY: And both Defendants in this case have
24 been served with notice of life without parole, as well as
25 each Defendant's -- their respective attorneys. If you

1 would like to have certified convictions as well as the
2 notice, I can provide those to you.

3 THE COURT: I would. I would like to have both of
4 those and make them Court's Exhibits for the record,
5 please.

6 Mr. Sullivan, do you take exception to the State's
7 representation that there are prior convictions for armed
8 robbery and assault and battery with intent to kill?

9 MR. SULLIVAN: No, I don't, Your Honor.

10 THE COURT: Do you take any exception to the
11 applicability of life without the possibility of parole
12 under the statute?

13 MR. SULLIVAN: No. We were served notice.

14 THE COURT: All right. Good enough, sir.

15 All right. So with respect to Mr. Bobby Leon Smith,
16 I'm going to make both the notice and the -- the certified
17 records of the prior convictions Court's Exhibits
18 collectively as the next Court Exhibit.

19 (WHEREUPON, Court's Exhibit No. 3 was marked for
20 identification and admitted into evidence.)

21 THE COURT: All right. So I'd be happy to hear from
22 anyone who wishes to address the Court.

23 MR. DESHAWN LOGAN: Your Honor.

24 THE COURT: Yes, sir. Good afternoon.

25 MR. DESHAWN LOGAN: First and foremost, I want to

1 thank God, you know, for the verdict. Because, you know,
2 how God works, you know, he wants you to -- he wants you
3 to stay strong, you know.

4 And I stand strong, you know, right here with my
5 sister. I just want to, you know, that -- you know, let
6 the Court know, you know, I'm still a firm believer in God
7 and, you know, and his will. And I'm very, very happy
8 that his will has been done, you know.

9 You know, the pain -- the pain that our family has
10 had to endure by this whole situation, I wouldn't -- I
11 wouldn't really try to put that on anybody, you know.
12 It's -- it's -- let me get myself together. I'm sorry.

13 THE COURT: You're all right. Take your time. Take
14 your time.

15 MR. DESHAWN LOGAN: The pain that Mr. Bobby and Jahru
16 put our family through, it was devastating, you know. It
17 was very hurtful. But the way God works and the way he
18 wants our family to be, stay strong and remain strong. He
19 wants us to be able to forgive, you know. Even though how
20 hard it will be.

21 MS. TERESA LANG: What he's trying to say is that
22 even though Bobby Smith and Jahru Smith took the life of
23 my daughter, Shameese Nicole Logan, even though it's hard
24 to say this, we forgive them for killing her. But we just
25 can't forget. And it has hurt me to the core, to the core

1 that they done that.

2 My baby was only 23 years old. She has three nephews
3 that she will never get to meet because they took her life
4 from her.

5 But we do forgive them. And I'm able to heal better
6 now that I have closure. That's all I've got to say.

7 MR. WESTON: Will you state your name and
8 relationship to her on the record, please?

9 MS. TERESA LANG: My name is Teresa Logan Lang. And
10 I am the mother of Shamese Nicole Logan.

11 MR. DESHAWN LOGAN: My name is Deshawn Logan, Sr.
12 And I am her oldest brother.

13 THE COURT: Thank y'all.

14 I appreciate that. And I want to thank you for
15 addressing the Court.

16 I, also, want to thank all of the family -- the
17 victims family for the grace that you've shown during this
18 entire process.

19 I extend to you my personal condolences. I know that
20 this was a tragedy. And I know she was a piece of y'all.
21 And there's a hole you'll never be able to fill. And I'm
22 sorry that you're having to suffer through this, I really
23 am.

24 But thank you for being here.

25 I appreciate it. And know that I hear you. I hear

1 you.

2 Okay. Anything further from the State?

3 MR. MORONEY: Nothing further, Your Honor.

4 THE COURT: Mr. Sullivan, anything you'd like to say
5 to the Court, sir?

6 MR. SULLIVAN: Judge, I think you've heard -- you
7 know Bobby's background. You've heard the facts of the
8 case. I don't think I could add anything else that would
9 aid the Court.

10 THE COURT: Mr. Smith, is there anything that you'd
11 like to say to the Court, sir?

12 DEFENDANT BOBBY SMITH: (Defendant Bobby Smith shook
13 his head.)

14 THE COURT: Okay, sir. Mr. Smith, I wish you luck,
15 sir.

16 Under the law of the State of South Carolina, I don't
17 have any discretion in the -- in the sentence that I hand
18 down in the matter.

19 SENTENCING FOR BOBBY LEON SMITH

20 THE COURT: With respect to the armed robbery, it is
21 appropriate that you be sentenced to life in the South
22 Carolina Department of Corrections without the possibility
23 of parole.

24 With respect to accessory after the fact of murder --
25 What's the maximum possible penalty for that? I know

1 its academic.

2 MR. SULLIVAN: 15.

3 THE COURT: 15 years. The sentence of the Court is
4 15 years.

5 With respect to possession of a weapon during the
6 commission of a violent crime, the sentence is five years.

7 MR. SULLIVAN: Judge, I don't think that's applicable
8 with life without parole.

9 THE COURT: I've read the statute and I read the
10 relevant case law that y'all gave to me. And it -- and
11 under most circumstances, a five-year sentence for the
12 commission of a -- for possession of a weapon during the
13 commission of a violent crime is compulsory.

14 The statute says that it's not compulsory when and if
15 there is either a life or death sentence in a suit.
16 The -- I believe that in the -- in the case that you sent
17 me, the holding of the majority was that it was
18 appropriate. A dissent said they didn't think it was
19 appropriate under the statute because the statute says
20 that you don't have to do it.

21 I read that as a -- as a -- just, essentially, a
22 common sense conclusion by the legislature that it was
23 entirely academic to sentence someone to five years if you
24 had already sentenced them to either life or death.

25 MR. SULLIVAN: Yes, sir.

1 THE COURT: So I think it says it's not compulsory.
2 But I don't think it precludes the Court from doing so.
3 And as a practical matter in this case --

4 MR. SULLIVAN: It doesn't matter.

5 THE COURT: It doesn't matter a single bit. It
6 doesn't matter a single bit.

7 MR. SULLIVAN: I just thought I would raise it.

8 THE COURT: I understand. And y'all had raised it
9 before, and I looked at it. So I wanted to make sure
10 that -- that I looked at that closely enough to make an
11 intelligent decision about whether it should be -- whether
12 it should be sentenced or not.

13 Now, I will tell you this. I'll give you 10 days to
14 submit briefs on why it's not appropriate to sentence him
15 to five days [sic]. And I'll amend it if you want me to,
16 if you can convince me that it's not appropriate under the
17 law. I'm just not convinced that it's not appropriate
18 under the law right now.

19 MR. SULLIVAN: I think that would be a waste of
20 everybody's time, Your Honor.

21 THE COURT: All right. Good luck to you, Mr. Smith.

22 MR. SULLIVAN: I would concert --

23 THE COURT: Yes, sir.

24 Good luck to you, Mr. Smith.

25 MR. SULLIVAN: I would like to state on the record

1 that Mr. Bobby Smith wants me to file a notice of intent
2 to appeal. You never know what will happen these days. I
3 could walk out of here, or whatever. But if something
4 happens to me, I would like to reserve that right for
5 Mr. Smith.

6 THE COURT: Okay, sir. And I -- at the trial court
7 level, I can't necessarily preserve it for you. However,
8 to the extent that you have stated it on the record and to
9 the extent that it protects you, you've got it.

10 MR. SULLIVAN: If I'm unavailable or something --

11 THE COURT: I got you. I can't make any guarantees
12 to you. But, certainly, you are on the record having made
13 that request.

14 MR. SULLIVAN: Thank you, Your Honor.

15 THE COURT: Thank you, sir.

16 Now, we'll move to Mr. Jahru Smith.

17 And, again, we've given Mr. Jahru Smith the
18 opportunity to participate in this trial from inception.
19 He elected not to participate in the trial. And he has
20 made a further election not to participate in sentencing.
21 And I'm not going to make him. Again, I don't think it
22 profits any of us to have a struggle in the holding cell
23 with officers and Mr. Smith to compel him to be here in
24 the courtroom this afternoon, so I'm not going to require
25 him to be here. I don't think it compromises his due

1 affidavit notarized?

2 A It was not notarized because this [sic] was no
3 investigator here at the time.

4 Q Okay. And you testified that you served both
5 attorneys with the LWOP. But can you elaborate on that?
6 Define it -- because you're not saying that you handed me
7 LWOP notice, are you, Mr. Williams?

8 A I am saying I hand delivered it, put in the
9 Defendant's hand.

10 Q Right.

11 A And I delivered it to your office and gave it to
12 whoever works for you.

13 MR. KORNFELD: Okay. No further questions.

14 Thank you, Mr. Williams.

15 THE COURT: All right. Thank you, Mr. Williams.

16 I appreciate it, sir.

17 Thank you for being here this morning.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Mr. Kornfeld, any additional
20 arguments related to the LWOP notice, sir?

21 MR. KORNFELD: No, Your Honor. There's no other
22 arguments that -- for th LWOP. I do -- can I just go
23 ahead and -- for efficiency --

24 THE COURT: Sure. Absolutely.

25 MR. KORNFELD: I would respectfully disagree with not

1 only the Court of Appeals interpretation, but your
2 interpretation of 16-23-490. And, as you stated before,
3 it's purely academic. But the statute, I think, is clear
4 where it says the mandatory five-year sentence for
5 possession of a firearm during the commission of a violent
6 crime shall not be imposed when the Defendant is sentenced
7 to death or to life without parole for the violent crime.

8 That is it, Your Honor.

9 THE COURT: Okay. Good enough.

10 And, again, we had that discussion yesterday.

11 MR. KORNFELD: I understand. I just didn't make the
12 argument for my client.

13 THE COURT: I'm comfortable in that regard. The
14 ruling that I set forth yesterday stands.

15 Okay. I want to be very careful how we proceed. I
16 recognize that it is appropriate, it's lawful, and it's
17 required that the Defendant be present for sentencing.
18 And I want -- and I am requiring him to be present for
19 sentencing. But I do want to exercise common sense as
20 well.

21 So, at this point, I'm not asking him nicely whether
22 he wants to come into the courtroom. I'm -- he needs to
23 be brought into the courtroom.

24 Now, however, having said that, I want to be very
25 clear. If he begins fighting and it turns into or,

WITNESSES

Lloyd C Newman

Greenville County Sheriffs Office

2/4/2015

ARREST WARRANT NUMBER

2015A2330201030

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Pade

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-23-

LBP

002023

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2015 ²⁰¹⁶

THE STATE

vs.

BOBBY LEON SMITH *(Signature)*

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

RECEIVED

APR 24 2015

Clerk of Court
Greenville County

ENTERED
ACCT. *(Signature)*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ARMED ROBBERY

At a Court of General Sessions, convened on **AUG 23 2016** the Grand Jurors of Greenville

County present upon their oath:

That BOBBY LEON SMITH did in Greenville County, on or about the 3rd day of February, 2015, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: several personal items including SC Identification card, bank card and cellular phone from the person or presence of SHAMESE NICOLE LOGAN. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

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

August B. Paolletti
 SOLICITOR

BAR # 69114

WITNESSES

Lloyd C Newman
Greenville County Sheriffs Office
2/4/2015

ARREST WARRANT NUMBER

2015A2330201028 and 2015A2330201029

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Padgett

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-23-002024

LBP

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2015

THE STATE

vs.

BOBBY LEON SMITH

Q

2413

Indictment for

0116/0549

MURDER AND POSSESSION OF A WEAPON
DURING COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

RECEIVED

APR 24 2015

Clerk of Court
Greenville County

ENTERED
ACCT. *LEH*

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **AUG 23 2016** the Grand Jurors of Greenville

County present upon their oath:

COUNT I - MURDER

That BOBBY LEON SMITH did in Greenville County, on or about the 3rd day of February, 2015, unlawfully and with malice aforethought kill SHAMICE LOGAN by means of shooting her and that SHAMICE LOGAN died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That BOBBY LEON SMITH did in Greenville County on or about the 3rd day of February, 2015, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder and/or Armed Robbery. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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

Stephen South
SOLICITOR

BAR # 69114

053950

31

COUNTY OF Greenville
STATE VS. Bobby Leon Smith
AKA:
Race: BLACK Sex: M Age: 57
DOB: -1960 SS#:
Address: Mayflower
City, State, Zip: Greenville, SC 29605-3729
DL#: SID#:

INDICTMENT/CASE#: 2015GS2302823
A/W#: 2015A2330201030
Date of Offense: 2/3/2015
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Armed Robbery

CONVICTED OF or PLEADS

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(CSC §17-25-45 w/minor 1st or Lewd Act)

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: Moroney, Brian 101814 SC Bar# Defendant SULLIVAN, TIMOTHY 05425 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:
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

Table with 2 columns: Description and Amount. 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/ea, 3% to County (if paid in installments) \$ 375.

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.

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: Jenkins
SCCA/217 (07/2016)

Presiding Judge
Judge Code: 2158
Sentence Date: 3-15-2018

ENTERED ACCT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

559J

COUNTY OF Greenville
STATE VS. Bobby Leon Smith

INDICTMENT/CASE#: 2015GS2302824
A/W#: 2015A2330201029
Date of Offense: 2/3/2015
S.C. Code § 16-23-0490
CDR Code #: 0549

AKA:
Race: BLACK Sex: M Age: 57
DOB: 1960 SS#:
Address: Mayflower
City, State, Zip: Greenville, SC 29605-3729
DL#: SID#

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Possession of weapon during violent crime

CONVICTED OF or PLEADS

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(CSC §17-25-45 w/minor 1st or Lewd Act)

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: Moroney, Brian 101814 SC Bar# Defendant SULLIVAN, TIMOTHY 05425 SC Bar#

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

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (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
§ 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/ea
3% to County (if paid in installments) \$

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.

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: Jenkins
SCCA/217 (07/2016)

Presiding Judge
Judge Code: 2158
Sentence Date: 3-15-2018

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Bobby Leon Smith

AKA:

Race: BLACK Sex: M Age: 57

DOB: -1960 SS#:

Address: Mayflower

City, State, Zip: Greenville, SC 29605-3729

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Accessory After The Fact To Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2302824

A/W#: 2015A2330201028

Date of Offense: 2/3/2015

S.C. Code § : 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS.

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

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

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

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

ATTEST: Moroney, Brian 101814 SC Bar# Defendant SULLIVAN, TIMOTHY 05425 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 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 \$ 25.00

§ 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) \$ 3.75

TOTAL \$ 128.75

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.

Clerk of Court/ Deputy Clerk Paul B. Wickensamer

Court Reporter: Jenkins

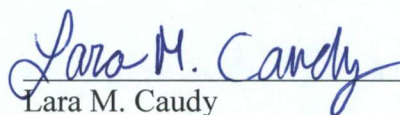
SCCA/217 (07/2016)

ENTERED ACCT. Presiding Judge: Sentence Date: 3-15-2018

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,



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 15th day of April, 2019.

RECEIVED
APR 15 2019
SC Court of Appeals