

STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Robert E. Hood, Circuit Court Judge

Appellate Case No. 2018-000341

THE STATE RESPONDENT.

V.

SHELBY HARPER TAYLOR APPELLANT.

RECORD ON APPEAL
VOLUME 2 OF 2

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1 (REPORTER'S NOTE: Juror 135 enters courtroom.)

2 THE COURT: All right. Come on over, sir. Just stand --
3 you're good right there. And you are Mr. Gibson; is that
4 right?

5 JUROR 135: Yes, I am.

6 THE COURT: You swear everything you're about to tell me
7 is the truth?

8 JUROR 135: Yes, it is.

9 THE COURT: Okay. The clerk brought it to my attention
10 this morning that you made a statement to her about not
11 feeling like you could be fair and impartial or -- help me
12 with that information.

13 JUROR 135: Yes, that's correct, Your Honor. I worked
14 with one of the family members for a long time and ---

15 THE COURT: Right, you were the manager ---

16 JUROR 135: Manager at Lowes.

17 THE COURT: Manager at Lowes.

18 JUROR 135: We interacted quite a bit when I did work
19 with that just one person and knowing how it's gonna affect
20 the, you know, the family, you know, this trial and whatever
21 may happen with the defendant, I just felt like it's gonna be
22 hard for me to make a unbiased decision in the matter.

23 THE COURT: Okay. And do you -- and you've done the
24 right thing, number one, by bringing this to my attention that
25 you are following my instructions and doing exactly what I

1 would ask you to do.

2 Is there anything there anything the state requests that
3 I ask this gentleman? Mr. Hixson?

4 MR. HIXSON: No, sir. Appreciate your honesty.

5 THE COURT: Okay. And Mr. Mureddu?

6 MR. MCCOLLUM: Nothing, Your Honor.

7 THE COURT: Okay. All right. So, Mr. Gibson, you are
8 excused from the trial of this case. I want to say on behalf
9 of the citizens of Horry County thank you very much for your
10 service this week. You have been here every day. You have
11 paid attention. You've stayed with us and you've done the
12 right thing this morning by letting us know this information.
13 You've told us the truth and I promise you that I sincerely,
14 and the parties sincerely appreciate that honesty. You will
15 be excused. You will not need to return today or return
16 tomorrow in any way shape or form. This is exactly the reason
17 why we have alternates, so you do not need to feel bad about
18 it. You have done the right thing. And Ms. Danna can show
19 you how to -- or the officers can show you how to get out.

20 JUROR 135: Thank you.

21 THE COURT: Thank you very much for your service, Mr.
22 Gibson. All right. Good luck.

23 (REPORTER'S NOTE: Juror 135 excused and exits courtroom.)

24 CHARGE CONFERENCE:

25 THE COURT: Okay. So, the rule is in criminal cases we

1 draw alternates. In civil cases, they go in order; in
2 criminal cases they are drawn. I had to write that down
3 because finding that rule is a nightmare.

4 So, the two alternates are Mr. Holmes and Mr. Hazzard; is
5 that right, Janet?

6 CLERK: Yes, sir.

7 THE COURT: Okay. All right. And you got their names in
8 a cup?

9 CLERK: I do.

10 THE COURT: All right. Let Bailey draw out of there.

11 Okay. So, we have drawn out of cup for Mr. Holmes and/or
12 Mr. Hazzard. And the, the alternate that will be seated will
13 be Dontre Hazzard, Mr. Hazzard, Juror Number 168. And so I'll
14 let him know that when he comes out.

15 Okay. Is there anything we need to take up from the
16 state before we begin?

17 MR. HIXSON: I apologize, no. I was talking to co-
18 counsel, I'm sorry.

19 THE COURT: Now, anything from the defense before we
20 begin?

21 MR. MCCOLLUM: Your Honor, just briefly. I know Your
22 Honor has spent a lot of time and energy and thought on the
23 jury instructions, and I would like to register an objection
24 to two parts of the charge, Your Honor. One is that the
25 phrase, just before the attempted murder, I think this is

1 criminal intent. It's ---

2 THE COURT: Criminal intent can arise from an action or a
3 failure to act. It may arise from negligence. I actually
4 marked that out five minutes before walking in here. So, as I
5 was reading and pondering through the charge one more time, I
6 marked out that entire paragraph. Is that what you were gonna
7 ask me to do?

8 MR. MCCOLLUM: Yes, sir.

9 THE COURT: Okay. I read your mind, Mr. McCollum.

10 MR. MCCOLLUM: And then the other thing, just below
11 there, and I know it's in the statute and that's the odd
12 thing.

13 THE COURT: Right.

14 MR. MCCOLLUM: But the first paragraph where it says
15 murder ---

16 THE COURT: Where is says expressed or implied?

17 MR. MCCOLLUM: Yes, sir.

18 THE COURT: Okay. Now, for the record, the defense put
19 all these motions on the record yesterday and I believe they
20 are protected for the record under that. And that I am -- I
21 am expressly leaving -- I am leaving the terms express or
22 implied in the definition of attempted murder because that is
23 the statutory definition of it that was created by our
24 legislature. And so, your objection is noted for the record
25 on that issue.

1 MR. MCCOLLUM: And Your Honor, I understand that it's odd
2 that I would ask you to charge something other than what the
3 statute says ---

4 THE COURT: I understand that.

5 MR. MCCOLLUM: But I just based it on the *State v. King*,
6 which was cited earlier.

7 THE COURT: Right. And so this -- and so for the record,
8 we worked on this yesterday once the jury was gone. We worked
9 on the jury charges, I worked on the jury charges for hours
10 upon hours yesterday trying to craft -- trying to deal with
11 two issues. The first issue was trying to craft a definition
12 of malice that complied with the statute and that complied
13 with *State v. King*. I have -- the one that I will read today,
14 so that the record is clear is a -- is a mixture of the
15 standard charge definition that is in the book that they
16 provide judges for jury charges. It has some language in it
17 from *State v. King*. It also has some language in it directly
18 from the Nevada case, which the State Supreme Court, our State
19 Supreme Court is, you know, really, that's the majority of the
20 reasoning in the *King* case is that Nevada case. So, it has a
21 good mixture in there. I have taken out any reference to
22 recklessness or unintentional behavior. In multiple places
23 throughout, it goes on to define that it must be an
24 intentional act, and it must be based upon the conduct of the
25 defendant, and I think that's really where the rubber meets

1 the road. One of the things that I have found in a vast study
2 of the *King* case and of the Nevada case is the difference is
3 the implied malice can focus on not the behavior of the
4 defendant. It can focus on the consequences of the act,
5 whereas express malice focuses on the behavior of the
6 defendant. And I think that's the true distinction when you
7 read those cases, and so I have tried to take out any
8 reference to anything other than the conduct of the defendant,
9 and that's what they may base their decision on. I have also
10 gone in to define, pursuant to *State v. King* that attempted
11 murder is a specific intent to kill charge, and that is in
12 there. So, I have done my best, my level best, to remove any
13 reference to unintentional behavior or recklessness or
14 negligence or anything of that nature in the definition of
15 malice that I give with the attempted murder charge.

16 And then yesterday, we -- I had decided that I was gonna
17 charge ABHAN, A&B first, and not A&B second and A&B third. By
18 the end of the work day, I had decided to charge ABHAN, A&B
19 one, A&B two, and A&B three. This morning, I had a meeting
20 with the lawyers and upon an extensive review of 16-3-600, I
21 have made the decision and I believe there's no objection from
22 the state and no objection from the defense, but if I'm wrong,
23 they can certainly correct that. The ABHAN statute in this
24 case does not apply because the ABHAN statute is the only one
25 out of ABHAN, A&B one, A&B two, and A&B three that requires an

1 injury. And at this point in time, based upon the evidence
2 that's in the record, the evidence in the record is the baby
3 was found, the baby was breathing, the baby was alive. The
4 first paramedic, and I think he may've had a different
5 terminology, but the first paramedic/fireman, the first
6 gentleman that was on the scene found the baby, took out his
7 kit, when they have to -- when they have to deliver babies, he
8 removed the umbilical cord, he got out a bulb syringe, and put
9 the bulb syringe in the baby's nose and the baby's mouth,
10 stabilized the baby and I think all the evidence at this point
11 is that the baby was perfectly fine that day, you know, and is
12 still -- and has still suffered, quote-unquote, injury. So,
13 I think the ABHAN statute is inapplicable in this case. Also,
14 I think the assault and battery second and third are also
15 inapplicable because there was no attempt to do moderate
16 bodily injury or no attempt just to injure the child. But I
17 do think assault and battery first does apply. I believe that
18 there's evidence that the jury could find that there was an
19 attempt to injure another person with the present ability to
20 do so, and that the act could've been accomplished by means
21 likely to produce grave bodily injury or death.

22 All right. Anything from the state on those issues?

23 MR. HIXSON: No, sir.

24 THE COURT: From the defense?

25 MR. MCCOLLUM: No, Your Honor.

1 THE COURT: All right. So, at this point, the defense is
2 specifically waiving its objection to the lesser includeds and
3 is agreeing that I'm charging them with attempted murder and
4 assault and battery first; is that correct?

5 MR. MCCOLLUM: That's correct, Your Honor.

6 THE COURT: All right. Anything else?

7 MR. HIXSON: No, sir.

8 MR. MUREDDU: No ---

9 THE COURT: Okay. All right.

10 Now, I don't -- I do not put time limits on people; I
11 know that some judges do. This is y'all's opportunity to get
12 up and give your closing arguments to the jury.

13 I will ask that if you are in the audience and you have a
14 phone, make sure that it is off. Okay? I do not want to hear
15 anybody's phone go off in here.

16 The second thing that I would ask is that if you are in
17 the audience, I ask that you stay in the audience throughout
18 the entire closing arguments. This is -- these attorneys have
19 lived with this case for years. This is their opportunity to
20 present their case from their respective points of view to the
21 jurors and I think that it is only fair that the jurors not
22 have their attention drawn away from the attorneys by people
23 coming and going.

24 Now, I know there's a lot of lawyers in the room and I
25 know the lawyers know that when jury charges start, the door

1 is locked. So, if you do not want to listen to me give a jury
2 charge, which I promise you is not the most exciting thing in
3 the world, once the third closing argument is over, you can
4 slide out the door, I'll let the lawyers slide out at that
5 time. I know that jury charges are not exciting. So, if you
6 want to exit -- so, the state will go first, the defense will
7 go second, the state will go last. Once the state finishes
8 that last time, if you want to slide out, that's your time to
9 slide out if you don't want to listen to me ramble -- or not
10 ramble, but talk for 30 minutes. Okay?

11 All right. Everybody good? Everybody got the rules?

12 Okay.

13 All right. Let's bring them in.

14 (REPORTER'S NOTE: Jury enters courtroom.)

15 BY THE COURT:

16 THE COURT: All right. Welcome back ladies and gentlemen
17 and good morning.

18 Juror Number 135 has been excused for reasons that you
19 don't need to worry about.

20 Mr. Hazzard, you will be set as a normal juror. You can
21 stay in that seat that you're in but you will be a normal
22 juror and not an alternate in this case. Okay?

23 JUROR 168: Okay.

24 THE COURT: All right. Ladies and gentlemen and I do
25 want to sincerely apologize to you this morning. I know that

1 you were all here and ready to go. As much as I like to
2 control things and make sure things run on time, and I want
3 you to know that all the lawyers were here, all the parties
4 were here, all the court staff was here. Our court reporter,
5 Ms. Terry, who had been with us all week, was sick and she was
6 sick last night, she was sick again this morning. She decided
7 to come in anyway and said, you know, I may need to get up and
8 leave in the -- and it would've just created too much havoc.
9 Okay? So, Ms. Dixie is with us now. And she is a great court
10 reporter. She had to drive about an hour to get here, so we
11 had to wait for her to -- for them to get in touch with her,
12 then for her to get here and then for her to get set up. So,
13 I sincerely apologize for us starting at the hour that we are.

14 I do have one question that I need to ask you. We are
15 gonna feed you lunch today. So, your choices are Pizza Inn,
16 Chick-fil-A, or Maryland Fried Chicken, or a couple of
17 sandwiches from the Trestle. All right. So, what's the
18 verdict? What's the verdict?

19 Mr. Foreman, see if you can get a consensus on what they
20 want.

21 FOREMAN: I brought my own lunch, so ---

22 THE COURT: Okay. He brought his own lunch. Okay.

23 What y'all want? You want Chick-fil-A -- pizza. Pizza's
24 good. All right. We'll do pizza.

25 That's the easiest question you'll have today.

1 Now, we have reached the point of the trial known as
2 closing arguments. And so, this is the opportunities -- this
3 is the opportunity for the attorneys to come before you and
4 summarize the case from their respective points of view. As
5 with every single thing we do in this courtroom, there is a
6 procedure to how that works. So, the state will be allowed to
7 give their closing argument first. The defense will be
8 allowed to give their closing argument second. And then the
9 state will be allowed to give what we call a reply or a
10 rebuttal argument. Okay? Now, I don't put time limits on
11 lawyers, some judges do, sometimes I wish I did but I don't.
12 This is their case and they've lived with it and this is their
13 opportunity to be heard. So, I ask that you give them your
14 undivided attention. Depending on how long the arguments are,
15 we may or may not take a break before I charge you on what the
16 law is in this case. We'll just kind of play it by ear.

17 And then, so please give your undivided attention to the
18 attorneys.

19 Mr. Hixson, are you closing?

20 MR. HIXSON: Yes, sir.

21 THE COURT: All right. Yes, sir.

22 CLOSING BY HIXSON:

23 MR. HIXSON: Truth, honesty, personal freedom tempered
24 with personal responsibility. The idea that you can do
25 whatever you want in this country but you realize that you're

1 gonna be held accountable for the decisions that you make.
2 Have we strayed from those ideas? Somehow in 2018,
3 intentional deceit, can that triumph over basic truths. Can
4 convoluted legal theories somehow cloud out common sense? And
5 have we gotten to the point that we can equate a human being
6 with day-old carry out rice and dirty diapers? No. No.
7 Those clouds are lifting and the sunshine of truth is shining
8 in this courtroom that's being going on for three days, and
9 it's gonna shine in this jury room, in your jury room when you
10 begin deliberating on this case. The issues were joined and
11 we finally have one final question for you to answer. And
12 that question is, Did Shelby Taylor with malice intend to kill
13 her child or did she intend to merely assault it? Did she
14 merely intend and hope it didn't die? That's the question
15 you're gonna have to answer. Is she guilty of attempted
16 murder or assault and battery in the first degree? That's
17 your question. How are we gonna answer that question? What
18 tools do you get to use to answer that question?

19 Well, the first one you got and the Judge will charge to
20 you is your common sense, and that's why you're on the jury.
21 Common sense, that's it. And the second tools, the second
22 group of tools that you'll use is what you've heard here; no
23 mumbo jumbo, no strange legal theories, basic facts. That's
24 the foundation we're gonna deal with. And those are the tools
25 that we're gonna talk about in the next couple of minutes

1 through my closing argument. Okay?

2 The facts surprisingly enough, unlike most trials, are
3 fundamentally not in dispute. As a matter of fact, I don't
4 think there's a single fact that's in dispute in this case.
5 Shelby Taylor has a child. She's married to Patrick Taylor
6 and she had a child on May 9th of 2015, uncontroverted. It's
7 not beyond a reasonable doubt; there's no doubt. There's also
8 no doubt she concealed that entire pregnancy from everybody in
9 her life. No doubt. The other amazing fact and one that we
10 really didn't talk much about that I want you think about is
11 she intentionally kept that pregnancy from any medical care or
12 any kind during the entire time of her pregnancy, including
13 when she was taking her child to see a doctor, to see a
14 pediatrician. Remember that because there is absolutely no
15 intention for the months leading up to that pregnancy to make
16 sure that unborn child was gonna be healthy because she was it
17 was never gonna be healthy, never, because she knew -- she
18 didn't want to tell Patrick, she didn't want to tell her mom
19 or her family or her support system; for whatever reason, she
20 didn't do that.

21 And on the day in question, at that moment in time, that
22 moment in time when most families get to sit around in the
23 waiting room and wait patiently and sometimes they get to buy
24 cigars, and sometimes they don't know what the sex is gonna
25 be, and sometimes they do know what the sex is gonna be.

1 Shelby Taylor deprived everyone in her life from knowing,
2 everyone in her life, the people that care about her. Did she
3 do it because she doesn't care about her family or did she do
4 because she did not want any evidence of the fact that she was
5 pregnant because her plan was to make sure she did not have a
6 second child until five years later.

7 I want you to pay particular attention, if you would like
8 to listen to the recorded statement, you'll have an
9 opportunity to hear that if you want to and listen, in Shelby
10 Taylor's own words, about 45 minutes, of intentional deceit;
11 not basic truth, intentional deceit. No, I'm not pregnant.
12 Are you sure? I'm not pregnant, no. Well, it makes sense
13 because, you know, most people, if they've got a child already
14 -- anybody else, anybody else, I have no idea. Well, you
15 know, if we get DNA testing, we're gonna find out. I don't
16 know, but it isn't me. Intentional deceit is specific
17 evidence of malice. You can infer malice by an effort to
18 cover up a crime. You can infer an intentional wrongful act
19 by saying I didn't commit the wrongful act in the face of all
20 kinds of evidence that you did. If you recall one thing, when
21 you get into a courtroom, and you guys have sat through this
22 for three days, it seems so obvious at the end, doesn't it?
23 When we have to concede DNA, we hear testimony, man, this
24 thing is a slam dunk. But when you're a defendant and you're
25 committing a crime, the idea of getting caught versus getting

1 away with it is extraordinarily close. But, for one piece of
2 paper, we're not in this courtroom. If that was a clean trash
3 bag, we'll have un-arrested infanticide, a nameless baby in a
4 nameless trashcan somewhere in the Grand Strand dump
5 decomposing. That damn Mon Café receipt caught her. After
6 the Mon Café receipt was recovered, oh, I don't know, it
7 could've been somebody else, but I don't know. I don't know.
8 Even to the point the DNA testing absolutely hold on to that
9 intentional deceit. Intention to keep it away from family and
10 loved ones. Do you know where Patrick Taylor was? At work.
11 Kept it from Patrick. Which comes to the most distasteful
12 thing that I want to talk about a little bit, and I want to be
13 as delicate as I can, but we're dealing with grownup issues
14 and grownup things to come to grips with. And when we search
15 our conscience to understand motive, understand why, to put it
16 in our own moral framework to understand, man -- you heard on
17 the recording, Ryan Sikes saying people are already calling
18 the police department and want to adopt that baby. The
19 fireman testified, man, there's a big yellow sticker on the
20 door, you can drop a baby off. You don't have to want it.
21 You just can't kill it after it's born. Let's not get into
22 any of that. There's big stickers, take the baby. He said
23 anonymous, no responsibility, walk away.

24 During the course of the doctor's interview there's a
25 quote, a loving quote from Shelby's mom that mentioned that

1 she was immature. I can't talk about personal experiences in
2 my life, I can only assume the universality of the all of our
3 experience, and those of you that have kids or not kids, those
4 that hope to have kids or not kids. When Dr. McCarthy said a
5 symptom that led her to her kill her baby was anxiety, stress
6 over increased responsibility about being a parent, stress
7 over finances, stressed over the lack of parental -- partner
8 support. In other words, you take him to the bathroom this
9 time, you change their diaper this time. I submit to you that
10 every parent in the United States of America currently
11 undergoes that level of stress. They don't kill them.

12 I hazard to say that the most telling part of that
13 interview and that testimony is Shelby Taylor didn't want to
14 go back to work. Her husband is pushing her, we got financial
15 problems, we got financial problems; you got to get a job, we
16 got one income; I'm getting up at 6:00, I'm coming back late.
17 Is it possible that Shelby Taylor cared more about not going
18 back to work than having a second child, unless it was a boy,
19 and that was in five years. That's not mental disease or
20 defect; that's infanticide, that's gender selection, if that's
21 true.

22 There's ample evidence in the record to support that
23 conclusion. One thing that's in the record that is
24 unsupportable is transient peripartum psychosis. Now, that's
25 a combination of a bunch of stuff. It's kind of like figuring

1 out what to do, you take an elephant, you put a beak on the
2 front of it, put some -- a curly tail on the back of it and
3 try to fit it what your argument is. There is no question, I
4 believe, or I will submit to the jury, that we are all under
5 stress, new moms, new dads, having a child, not having a child
6 is one of the most memorable and stressful things in your
7 life. So, I do not in any way mean to demean the pressure and
8 stress that comes from making a decision of bringing another
9 human being into this world, especially when you don't intend
10 to -- especially when you don't think you can afford it.
11 Especially when, as everyone knows, if you wait until the time
12 that you can afford a baby, no one would have a baby, the
13 species will stop existing. But, somehow, we've all been able
14 to get through those problems and we don't put babies in
15 trashcans and put knots around them and put them in a place
16 that no one can help them with the intent for them to die.
17 And that's what we have here.

18 Mr. Mureddu mentioned that he didn't want you come back
19 with a verdict on emotion, on reason, I could not agree more.
20 But you see the facts are so shocking that it's important to
21 not escalate but to deescalate and talk about specifically
22 what happened. And that is, no evidence of any kind that
23 Shelby Taylor was pregnant through a time she was very
24 familiar with being a mother, when there was family support,
25 when there wasn't reunification between Shelby's mom and her

1 family, after the reconciliation period we talked about.
2 They're married, they actually got a place to live now.
3 They're actually were living in Island Green, not living in
4 separate places. The photographs of the apartment, modest
5 apartment, things are trending. Shelby's got a job a Dunkin'
6 Donuts. She mentions that she -- that they're starting to
7 give her too many hours and doesn't want to have to work that
8 many hours. But, during that period of time, there was an
9 unplanned unexpected pregnancy. Now, when my initial comment
10 in the opening statements was about personal choice versus
11 personal responsibility, what husband and wives do among
12 themselves is absolutely appropriate; it doesn't matter.
13 Shelby testified that she didn't really think much about the
14 consequences of whether or not they're gonna have another
15 child, didn't intend to, planned it down the road, but
16 nonetheless the gift of life was given to them unintentionally
17 and now comes personal responsibility. Fundamental, what are
18 we gonna do with it? There's a lot of decisions to be made
19 for nine months. But, when the birth occurs, those decisions
20 are set in stone, and the die was cast.

21 How do we know it wasn't an impulsive decision? One of
22 the most shocking things is going through the facts and the
23 testimony that you heard, Shelby gave a child -- birth to the
24 child, put it in a trash bag, didn't leave it in front of
25 somebody's door in a basket or something, doesn't do anything

1 else with it, put it in the dumpster, went back upstairs, hid
2 the consequences of the action so they would be no evidence of
3 this and then took her new baby to the pediatrician, to the
4 doctor where she clearly knows where to go. She -- you heard
5 Mr. McCarthy have to waive confidentiality to the judge to
6 talk about the situation. She could've had confidentiality
7 with the pediatrician and say, I'm pregnant, I don't want
8 anybody to know about this. How can I adopt, anything else.
9 Danial's law; drop it off. Her voluntary and intentional
10 choice was to commit an unlawful act with malice aforethought
11 for the months leading up to that to not have any evidence of
12 her intention to not have another child. And of all things,
13 there was testimony if you recall by Dr. McCarthy, I got
14 lectured the first time, I didn't want to get lectured again.

15 In the immature mind of Shelby Taylor, a lecture hurts
16 more than murder. It's shocking to say but it's the only
17 reasonable conclusion that you can come to grips with and it's
18 difficult but it's beyond a reasonable doubt.

19 Let's talk a little bit about the malice elements that
20 you're gonna have to come to grips with, the difference
21 between the options of the questions you're gonna have to
22 answer. Okay? Attempted murder is specifically what it
23 sounds like. I tried to kill you and you survived. It wasn't
24 because I wanted you to survive. I did my darn best to make
25 sure you didn't, but somehow you did. And this one, of all

1 things, a thirteen-year-old saving grace by Brandon [REDACTED] is
2 the only reason the act wasn't completed. He thought it was a
3 cat. It was baby. Wow, that's not something you see every
4 day.

5 Her mental intent was to exterminate or eliminate the
6 life of the unborn child. She didn't want to make it halfway,
7 didn't give it the chance to breathe. That's why we kept
8 talking so much about tying that knot in that bag because if
9 it's your daily life, I can tell you, sometimes people fill up
10 the trash, then they set it outside the bag to put a couple of
11 more things in, they go around, maybe go around to the
12 bathroom, bathroom trash out put it in there, oh, I got to get
13 the one from garage and put it in there, and then I tie that
14 knot so it doesn't spill out, and I put it in where it's
15 going. That tying the bag on -- that knot on that bag is
16 expressed malice. It's over. That life is in the rearview
17 mirror and I'm never coming back. That's expressed malice.
18 There's no words, I'm gonna kill the baby, there's no specific
19 hatred to that little creature. I do not want that life to
20 live because it's an inconvenience to me. Maybe in five
21 years, I'll have another one, maybe I'll have a boy, but not
22 this one.

23 Assault and battery of the first degree is an assault
24 that's not intent to kill. All right? It is I intend to
25 assault you. I assault you in some way. I threaten to hurt

1 you, and the way that I do that, if completed, could cause
2 death. So, if I take a baseball bat and say this bat could
3 cause death, it could, the mechanism, but I don't have a
4 specific intent to do that. All right? I just intended to
5 merely assault you and the mechanism I used could've been so
6 bad that you could've died. Is that what we have here? Was
7 there any intended mercy or anything absent death afforded
8 that baby. Death or nothing. No phone calls to 911, no
9 pediatrician wondering why the appointment has been cancelled,
10 pure death, malice aforethought. There is no lesser included
11 attempt to assault. That's what I referred to by convoluted
12 legal theories versus common sense, versus common sense.

13 It's a lot to come to grips with walking in first thing
14 Monday morning, not really sure you're gonna get a speeding
15 ticket or something simple. You come to grips with
16 fundamental issues that we don't think we ever want to talk
17 about. This kind of stuff you want to look away from. We
18 don't want to talk about this stuff but here we are. Friends,
19 through our obligation, we're getting close to the end now.
20 As I said before those clouds are starting to break up. Those
21 clouds, those clouds of doubt and confusion, that sunshine of
22 truth is starting to shine down. As a matter of fact, looking
23 at some of your faces, I'm pretty confident it's been shining
24 for a couple of days.

25 Here in a little bit, you're gonna hear from counsel, I'm

1 gonna get a chance to talk to you again. The Judge is gonna
2 give you the case and then you're gonna go in that jury room.
3 When I came to work, it was little cloudy, the clouds don't
4 matter now because the sunshine of truth is in your hearts,
5 it's in your minds, and you're gonna return a verdict of
6 guilty of attempted murder against Shelby Taylor.

7 Thanks.

8 THE COURT: All right. Thank you very much, Mr. Hixson.

9 All right, Mr. Mureddu?

10 MR. MUREDDU: Thank you. May it please the Court?

11 THE COURT: Yes, sir.

12 CLOSING BY MR. MUREDDU:

13 MR. MUREDDU: Folks, the last thing that I said in my
14 opening statement was that transient peripartum psychosis was
15 present in this case. Now, to ignore it, to deny it, to
16 dismiss it, that's just not the truth. I stand by that
17 statement. I stand by it now more than ever. Now, as we told
18 you, we were gonna call an expert in the field of this, Dr.
19 McCarthy, that he was gonna explain to you what transient
20 peripartum psychosis is, what its symptoms are, and the
21 conditions when it's likely to occur. The conditions in
22 Shelby's case, every single known scientific risk factor was
23 present in her case. It was literally the perfect storm and
24 it's very unfortunate. It's unfortunate for her, it's
25 unfortunate for her family, most importantly it was

1 unfortunate for Baby [REDACTED]. But you need to understand that
2 transient peripartum psychosis is not some made-up condition.
3 It's rare but it happens a hundred times on average in the
4 United States alone. It's not made up.

5 Now, when we put up our case, the state disputed nearly
6 everything that we presented but they haven't offered you any
7 evidence whatsoever to disprove this. They disputed the
8 testimony of Dr. McCarthy but they didn't call the
9 psychiatrist, their psychiatrist who saw her, they didn't call
10 him as a witness to contradict what Dr. McCarthy said. They
11 disputed the abuse and the bad behavior of Shelby's husband,
12 but y'all saw him in the back of that courtroom. They didn't
13 call him to the stand. They denied that all of these known
14 scientific risk factors were present in her case, but they
15 didn't offer any evidence that refutes that. They have the
16 burden of proof in this case but no evidence that they offered
17 nullifies what we know. Transient peripartum psychosis was
18 present in this case. So what? What does that mean? Well,
19 they've charged her with attempted murder. A crime in which
20 one of the elements is malice aforethought. That's one of the
21 elements that they have to prove was involved.

22 Malice is legally defined as hatred, ill will, hostility
23 towards another person. That element, the element of malice
24 is not present in this case. Hatred, ill will, hostility
25 towards a child, come on.

1 The charge of attempted murder was a bogus charge, was
2 the wrong charge from day one. Now, their position is, well,
3 she hid the pregnancy, she lied about it. She cleaned up the
4 mess after the birth occurred. This is all some evidence of
5 some grand plan, some premeditated act because this is clear
6 evidence of a grand plan that you can consider that and draw
7 the conclusion from that that malice was present in this case.
8 Folks, I submit to you that nothing has been more unplanned in
9 our lives. How in the world could Shelby or anybody else for
10 that matter know when you're gonna go into labor, how long the
11 delivery is going to take, where you're gonna be when this
12 occurs. She was working at Dunkin' Donuts. For all she knew,
13 she could've delivered that baby in the middle of the floor
14 next to the coffee machine. It's denial. It's delusional.
15 It's childlike reasoning; if I just ignore it, it'll go away.
16 It's not some grand plan and it's not evidence of malice.

17 Now again, okay, Dean; so what? The so what is they
18 charged her with attempted murder and a verdict consistent
19 with that is a verdict, it's an emotional verdict, malice
20 simply is not present.

21 Now, the solicitor indicated and he talked about emotion,
22 and in my opening statement I talked about emotion and I asked
23 you to set aside and to not be overwhelmed by the emotion in
24 this case, to use your power of reason. There are
25 psychological disorders that explain and account for bizarre

1 abnormal behavior. Science tells us this, reason tells us
2 this. Heck, common sense tells us this. Transient peripartum
3 psychosis explains the bizarre behavior of Shelby.

4 Now, we all, all of us, wish that this wouldn't have
5 happened but you have the power to decide what happens today.
6 All of you are charged with the task of rendering a verdict in
7 this case, a verdict that speaks the truth. Shelby Taylor was
8 caught up in a situation where she was completely overwhelmed.
9 She experienced a psychological disorder that profoundly
10 affected her behavior and her actions in this case. That is
11 what happened in this case. That is the truth in this case.
12 A verdict that speaks the truth must take that into account.
13 We ask you to consider all this. Use your powers of reason
14 and be fair.

15 THE COURT: All right. Thank you very much, Mr. Mureddu.
16 All right. Mr. Hixson, would you like to make a reply?

17 MR. HIXSON: Yes, sir. Thank you.

18 THE COURT: Okay. The floor is yours.

19 REPLY CLOSING BY HIXSON:

20 MR. HIXSON: Hello again. Let's focus on a couple of
21 specific issues, that's the nature of a reply.

22 If you recall the cross examination and the foundational
23 elements from the social worker to the interview on here, I
24 want you to listen closely when on the recorded statement by
25 Shelby Taylor to Jeff Caudle when she specifically said, hey,

1 if I was pregnant I would tell him, he's a great guy. Is that
2 evidence of spousal abuse that realize the PTSD, postpartum
3 depression at that moment in time? Not postpartum depression.
4 Postpartum depression is absolutely real; it's not psychotic.
5 Psychosis means delusions, hallucinations, hearing devil
6 voices, kill the baby, kill the baby. That's what this is.
7 This is real. And this, if you recall my cross examination on
8 the doctor, transient is not even in the DSM-5. It's not a
9 disorder.

10 MR. MUREDDU: Your Honor, objection, the facts are in
11 dispute. The doctor did not testify that way.

12 THE COURT: Overruled. You may continue.

13 MR. HIXSON: Let me clarify. He said, no, they're in the
14 literature. If you recall, I opened the book for him and said
15 point to me under peripartum disorder with psychotic features,
16 where is transient? He said, it's not in there; it's in the
17 literature. That's the internet search. The transient means
18 it comes and goes when it's convenient, when you're on trial
19 for attempted murder; that's what transient means. Peripartum
20 depression is real. Folks suffer from it all the time but
21 they don't intend to kill their baby as a result of it; that's
22 infanticide. So, I agree with part but not the full-blown
23 part.

24 So, let's talk about the evidence that we have that
25 disproves that and shows that specific intent to commit a

1 crime or murder, killing. She said, Patrick is a great dad.
2 I'll tell him if I was pregnant. I'd adopt a child; I'd love
3 it. IT's we're not gonna have one yet. All intents to
4 intentionally deceive. But after the birth, not realizing
5 what the legal issues were facing or going to be to the less
6 that -- the evidence from the stand, I've never been abused
7 before; I'm a generally happy person; I've never been
8 depressed. That was on April 10th of 2015. All right? Once
9 the issues were joined and this case was headed to final
10 disposition, I think Dr. McCarthy called it state stress, that
11 we are stressing her out because the personal responsibility
12 fundamentals start to kick in. I'm starting to get stressed
13 out. If you recall the cross examination with Dr. Oduwole,
14 that is evidence that you heard. When Dr. McCarthy admits of
15 what Dr. Oduwole said, that is evidence. And their witness,
16 which was the far more effective way of doing it, admitted
17 that that's a correct diagnosis of no abuse, no psychotic
18 symptoms, no evidence of psychiatric disorder. That is
19 evidence that this does not exist. Postpartum exists,
20 absolutely, but not so delusional to the point that you feel
21 like you're ready to kill a baby. That's the contentious
22 effort, that's the contentious decision.

23 And then finally, as we get specifically to malice
24 aforethought, which is the fundamental different between a
25 simple assault and this. Let me be clear, and this is what

1 Judge Hood is going to charge you in a couple of minutes on
2 the law to be applied in the case. Okay? Express malice is
3 shown not just from hatred or ill will, because see these
4 charges apply to a whole bunch of different fact patterns.
5 They could apply to like from a gang shooting to an armed
6 robbery to a domestic violence, these -- so, I try to cover
7 them all. All right? So, in this case, pay specific
8 attention to express malice, in other words, the State of
9 South Carolina has carried their burden of proof if expressed
10 malice is shown when the person prepared beforehand to do the
11 act which was later accomplished. Did she prepare beforehand
12 in any way to do the act that was later accomplished? All
13 that discussion with no discussion, no evidence, absolute
14 denials are an effort to get away with the act that she had
15 prepared and done. Now, malice can happen in a snap of a
16 finger. At the point the fatal blow was struck is when malice
17 has to be there. It doesn't have to be there for a long
18 period of time. It doesn't have to be a plan where you --
19 that involved co-conspirators. But, in the moment in time
20 when Shelby Taylor makes the conscious decision to put in
21 motion what she did, take the baby, don't tell anybody, don't
22 yell out, put it in the bag, boom; that's malice right there.
23 It doesn't have to be there for a long, long time. It's not
24 premeditated murder like you see on T.V. It has to exist in
25 the mind of the defendant at the time the fatal blow was

BY THE COURT

1 struck. And at this point, the fatal blow was struck when the
2 baby was put in with -- you know what was in the bag. You
3 have pictures. I don't have to go through that again.

4 Another element of malice, to prove malice is malice --
5 and you'll hear it from the Judge, it's the law in the State
6 of South Carolina. Malice may be inferred from conduct
7 showing a total disregard for human life. You can infer an
8 ill will if you have total disregard for human life. I'll hit
9 this briefly. I can't imagine a more total disregard for
10 human life. That's for you to decide.

11 And, a specific intent to kill is required to have
12 attempted murder. You have to specifically intend to kill
13 your target. You don't have to hate it personally with a
14 vengeance, but it's the performance of an act or acts which
15 tend but fail to kill a human being when such acts are done
16 with deliberate intention. That's what Shelby Taylor did.
17 Let's go find her guilty.

18 THE COURT: All right. Thank you very much, Mr. Hixson.

19 BY THE COURT:

20 THE COURT: All right. Everybody stand up, stretch,
21 twist around. All right.

22 We'll let all those people get out of the courtroom.

23 You want to take a quick bathroom break?

24 All right. Do not discuss the testimony, do not discuss
25 the case in any way, shape, or form. Use the restroom and

1 then we'll be ready to go as soon as you're done.

2 Thank you very much.

3 (REPORTER'S NOTE: Jury exits courtroom.)

4 *****OFF THE RECORD*****

5 (On the Record.)

6 (REPORTER'S NOTE: Jury enters courtroom.)

7 CHARGE TO JURY:

8 THE COURT: Welcome back, ladies and gentlemen. Now,
9 it's my responsibility to charge you on the law applicable to
10 this case. So, if you would, please give me you undivided
11 attention. Now, the indictment has charged the defendant with
12 attempted murder. I remind you of that the fact that the
13 defendant was arrested and charged and indicted in this case
14 is not evidence and it cannot be considered by you as evidence
15 of guilt in this case, nor does it create any presumption or
16 inference of guilt. The indictment is simply the formal
17 written instrument which contains the charge made against the
18 defendant. It is the formal document by which the case is
19 brought into this court.

20 Now, during this trial, you and I have had certain duties
21 to perform. As the Trial Judge, it is my responsibility to
22 preside over the trial and I also had the duty to rule on the
23 admissibility of evidence that is offered during the trial.
24 You are to consider only the competent evidence before you.
25 If there was any testimony that was ordered stricken from the

1 record, you must disregard it. You are to consider only the
2 testimony which has been presented from this witness stand,
3 the exhibits which have been made a part of the record in the
4 case, and that is all.

5 I have the additional duty to charge you the law
6 applicable to this case. As the presiding judge, I am the
7 sole judge of the law and it is your duty to accept the law
8 and apply the law as I now give it to you. If you have an
9 idea of what you think the law is or what you think the law
10 ought to be and it doesn't agree with what I now tell you the
11 law is, you must abandon your own idea because you are sworn
12 under your oath that you took to accept the law and apply the
13 law exactly as I give it to you.

14 In every case tried in this court before a jury, the jury
15 becomes the sole and exclusive judge of the facts. A trial
16 judge is not allowed to state, comment on, or make any
17 statement to a trial jury about the facts in the case. You
18 are the sole judge of the facts. You are not to infer from
19 anything that I have said during this trial in ruling upon the
20 admissibility of evidence or otherwise or anything that I say
21 now that I have any opinion about the facts in this case. The
22 law does not allow me to have an opinion about the facts.
23 This is for you to determine. It is your duty to determine
24 the effect, the value, and the weight of the evidence
25 presented during this trial.

1 Now, as I told you in the very beginning the defendant
2 has pled not guilty to this indictment, and that plea puts the
3 burden on the state to prove the defendant guilty. A person
4 charged with committing a criminal offense in South Carolina
5 is never required to prove himself innocent. I charge you
6 that it is an important rule of law that the defendant in a
7 criminal trial, no matter what the seriousness of the charge
8 may be, will always be presumed to be innocent of the crime
9 for which the indictment was issued unless guilt has been
10 proven by evidence that satisfies you of that guilt beyond a
11 reasonable doubt.

12 This presumption of innocence does not end when you begin
13 your deliberations but it accompanies the defendant throughout
14 the trial until you reach a verdict of guilt based upon
15 evidence that satisfies you of that guilt beyond a reasonable
16 doubt. The presumption of innocence is like a robe of
17 righteousness placed about the shoulders of the defendant
18 which remains with the defendant until it has been stripped
19 from the defendant by evidence that satisfies you of the
20 defendant's guilt beyond a reasonable doubt. The presumption
21 of innocence is not just some mere legal theory. It's not
22 just some legal phrase that we say. It is a substantial right
23 to which every single defendant is entitled unless you are
24 satisfied from the evidence of the defendant's guilt beyond a
25 reasonable doubt.

1 So, what is beyond a reasonable doubt? The state has the
2 burden of proving the defendant guilty beyond a reasonable
3 doubt. Some of you may have served as jurors in civil cases
4 where you were told that it is only necessary to prove that a
5 fact is more likely true than not true such as by the greater
6 weight or the preponderance of the evidence. In criminal
7 cases, the state's proof must be more powerful than that. It
8 must be beyond a reasonable doubt.

9 Proof beyond a reasonable doubt is proof that leaves you
10 firmly convinced of the defendant's guilt. There are very few
11 things in this world that we know with absolute certainty and
12 in criminal cases the law does not require proof that
13 overcomes every possible doubt. If based upon your
14 consideration of the evidence, you are firmly convinced that
15 the defendant is guilty, you must find the defendant guilty.
16 If on the other hand you think there is a real possibility
17 that the defendant is not guilty, you must give the defendant
18 the benefit of the doubt and find her not guilty.

19 Some things that you have heard this week are not
20 evidence and you must not consider them as evidence in
21 determining the facts of the case. The following things are
22 not evidence: Number one, the statements and the arguments of
23 the attorneys are not evidence. Number two, the questions and
24 the objections of the attorneys are not evidence. Number
25 three, anything that I told you to disregard.

1 Now, there are two types of evidence which are generally
2 presented during a trial, direct and circumstantial. Direct
3 evidence directly proves the existence of a fact and does not
4 require any deduction. Circumstantial evidence is proof of a
5 chain of facts and circumstances that indicate the existence
6 of a fact. Crimes may be proven by circumstantial evidence.
7 The law makes no distinction between the weight or the value
8 to be given to either direct or circumstantial evidence.
9 However, to the extent that the state relies on circumstantial
10 evidence, all of the circumstances must be consistent with
11 each other and when taken together point conclusively to the
12 guilt of the accused beyond a reasonable doubt. If these
13 circumstances merely portrayed the defendant's behavior as
14 suspicious, the proof has failed. The state has the burden of
15 proving the defendant guilty beyond a reasonable doubt. This
16 burden rests with the state regardless of whether they rely on
17 direct evidence, circumstantial evidence, or some combination
18 of the two.

19 Now, as I told you in the beginning, you must determine
20 the credibility of the witnesses. Credibility simply means
21 believability. It becomes your duty as jurors to analyze and
22 to evaluate the evidence. In determining the believability of
23 the witnesses who have testified in this case, you may believe
24 one witness over several or several over one. You may believe
25 a part of the testimony of a witness and reject the remaining

1 part of the testimony of that same witness. You may believe
2 the testimony of a witness entirely or you may reject it
3 entirely. You may consider whether the witness has exhibited
4 to you any interest, bias, prejudice, or other motive in this
5 case. You may also consider the appearance and the manner of
6 the witness while on the witness stand. As I told you in the
7 beginning, use your common sense.

8 Now, ordinarily, the rules of evidence do not permit
9 witnesses to testify to opinions or conclusions. An exception
10 to this rule exists for witnesses that we call expert
11 witnesses. This is a witness who by education and experience
12 has become an expert in some art, science, profession, or
13 calling, and that person may state an opinion as to relevant
14 and material matters in which the claim -- the witness claims
15 to be an expert, and they may also state the reasons for that
16 opinion. You should consider any expert opinion received in
17 evidence in this case and like any other evidence, give it the
18 weight that you believe it deserves. If you decide that the
19 opinion of an expert witness is not based upon sufficient
20 education and experience, or if you conclude that the reasons
21 given in support of the opinion are not sound, or that the
22 opinion is outweighed by other evidence you believe, you may
23 disregard the opinion of the expert entirely. An expert
24 witness' testimony is to be given no greater weight than that
25 of other witnesses simply because the witness is an expert.

1 Further, you are not required to accept an expert's opinion
2 even though it is not contradicted.

3 Now, there is a statement that is alleged to have been
4 made by the defendant that has been admitted into evidence, in
5 this case. While I have determined that the statement is
6 admissible, I instruct you that you make the ultimate decision
7 of whether or not the defendant made the statement. If the
8 defendant did make the statement, you must determine whether
9 the statement was made by the defendant voluntarily and of her
10 own freewill. This means that the statement was not caused by
11 pressure, force, fear, threats, coercion, or intimidation, or
12 by hope or promise of leniency or reward of any kind. In
13 determining whether the statement was voluntary, you should
14 consider both the characteristics of the defendant and the
15 details of the questioning. Some of the factors that you must
16 consider are the age of the defendant, the defendant's
17 education, the defendant's mental ability or capacity, the
18 defendant's I.Q. or intelligence, the defendant's background
19 and environment, the place and the length of the detention,
20 the nature of the questioning, and the advice or lack thereof
21 to the defendant of her constitutional rights including but
22 not limited to the right to remain silent, that any statement
23 could be used against her in court, the right to have a
24 lawyer, that if she cannot afford a lawyer a lawyer would be
25 appointed to represent her without any cost, and that she

1 could stop making a statement at any time. You must consider
2 all of the surrounding circumstances before you give any
3 weight to an alleged statement.

4 The state has the burden of proving beyond a reasonable
5 doubt that the alleged statement was voluntary. If you
6 determine it was, you may give it any consideration that you
7 deem proper. You must decide what weight if any should be
8 given to the alleged statement. If you determine the alleged
9 statement was not the free and voluntary statement of the
10 defendant, do not consider the statement at all.

11 So, in order to establish criminal liability, criminal
12 intent is required. For example, these are examples: The
13 mental state required to be proven by the state for a
14 particular crime could be purpose, intent, knowledge,
15 recklessness, or criminal negligence. Criminal intent must be
16 proven by the state beyond a reasonable doubt. Criminal
17 intent is always a matter that must be determined by the jury
18 from the circumstances that surround the situation. There is
19 no way to prove intent to a mathematical certainty. There is
20 no way that medical science can dissect a person's brain and
21 determine what the person had in mind. So, the law says that
22 criminal intent may be inferred from the circumstances shown
23 to have existed. This is how you make a determination of
24 whether or not the element that requires intent was present.
25 It is not necessary to establish intent by direct and positive

1 evidence, but intent may be established by inference in the
2 same way as any other fact by taking into consideration the
3 acts of the parties and all the facts and circumstances of the
4 case. Criminal intent is a mental state. It is a conscious
5 wrongdoing. It is up to you to determine what the defendant
6 intended to do based upon the circumstances shown to have
7 existed.

8 All right. So, Ms. Taylor is charged with attempted
9 murder. So, what does the state have to prove? In order to
10 prove this crime, the state must prove that the defendant
11 attempted to kill another person with malice aforethought
12 either expressed or implied.

13 So, what is malice? So, malice is hatred, ill will, or
14 hostility towards another person. It is the intentional doing
15 of a wrongful act without just cause or excuse and with an
16 intent to inflict an injury or under circumstances that the
17 law will infer an evil intent.

18 Now, what is malice aforethought? Malice aforethought
19 does not require that the malice exist for any particular time
20 before the act is committed. The malice must exist in the
21 mind of the defendant just before and at the time the act is
22 committed. Therefore, there must be a combination of previous
23 evil intent and the act. Now, malice aforethought may be
24 expressed or inferred. These terms express and inferred do
25 not mean different kinds of malice but merely the manner in

1 which the malice may be shown to exist. That is either by
2 direct evidence or inference from the facts and circumstances
3 which are proved. Express malice is shown when a person
4 speaks words which express hatred or ill will for another or
5 when the person prepared beforehand to do the act which was
6 later accomplished. Malice may be inferred from conduct that
7 shows a total disregard for human life. If facts are proven
8 -- are proved beyond a reasonable doubt sufficient to raise an
9 inference of malice to your satisfaction, this inference would
10 be simply an evidentiary fact to be considered by you along
11 with the other evidence in the case and you may give it the
12 weight that you decide it should receive.

13 Attempted murder -- excuse me, a specific intent to kill
14 is an element of attempted murder. Attempted murder is the
15 performance of an act or acts which tend but fail to kill a
16 human being when such acts are done with deliberate intention
17 unlawfully to kill. Intent may be shown by acts and conduct
18 of the defendant from which you may naturally and reasonably
19 infer intent. Intent may also be inferred when it is
20 demonstrated that the defendant voluntarily and willfully
21 commits an act, the natural tendency of which is to destroy
22 another human's life.

23 Now, if you find that the state did not prove reasonable
24 doubt, excuse me, did not prove beyond a reasonable doubt that
25 the defendant is guilty of attempted murder, you may consider

1 if the defendant is guilty beyond a reasonable doubt of the
2 lesser included offense of assault and battery in the first
3 degree.

4 So, what is assault and battery in the first degree? A
5 person may also commit the offense of assault and battery in
6 the first degree if the person unlawfully offers or attempts
7 to injure another person with the present ability to do so and
8 the act is accomplished by means likely to produce death or
9 great bodily injury. Great bodily injury is defined by
10 meaning bodily injury which causes a substantial risk of death
11 or which causes serious permanent disfigurement or protractive
12 loss or impairment of the function of a bodily member or
13 organ.

14 All right. I'm almost done.

15 Now, you have a duty to deliberate. Let me say something
16 to you about your deliberations. The word deliberation is
17 defined as careful consideration weighing up with a view to a
18 decision. The genius of this system is that it allows 12 good
19 men and women from 12 totally different backgrounds, life
20 experiences, and perspectives to consider the evidence, to
21 talk about it, and to reach a verdict. We call them
22 deliberations for a reason. You are to consider the evidence
23 in this case carefully and deliberately, and discuss it in a
24 calm thorough and courteous manner. And, remember, you are
25 not a partisan or an advocate for either side. You do not

1 favor one side or the other. You are a judge; you are a judge
2 of the facts. Listen to the views of all of your fellow
3 jurors, consider other people's points and points of view, and
4 talk through and discuss the evidence. And remember, if you
5 are doing something deliberately, you're not in a big hurry,
6 and you should not be in a big hurry here. This case is very
7 important to both sides. This is there only day in court to
8 resolve this matter.

9 When you retire to the jury room, you should discuss the
10 case with your fellow jurors to reach agreement if you can do
11 so. Your verdict must be unanimous. That means you all 12
12 must agree. Each of you must decide the case for yourself,
13 but you should do so only after you have impartially
14 considered all the evidence, discussed it fully with each
15 other, and listened to the views of your fellow jurors. Do
16 not be afraid to change your opinion if the discussion
17 persuades you that you should, but do not come to a decision
18 simply because everyone else thinks it's right. It is
19 important that you attempt to reach a unanimous verdict but,
20 of course, only if each of you can do so after having made
21 your own decision. Do not change an honest belief about the
22 weight and the effect of the evidence simply to reach a
23 verdict. In other words, do not change your opinion solely
24 for the sake of reaching a unanimous verdict.

25 All right. Now, okay, this is -- I usually -- in my

1 normal courtroom I can walk right down to you. I got to walk
2 out and walk around to come explain this form to you. So,
3 give me one second to do this. Okay?

4 Okay. All right. So, this is your verdict form. All
5 the lawyers have seen this so they -- everybody knows about
6 this document. So, this is where you're gonna write your
7 verdict. Okay? So, it's got the case caption at the top, and
8 then Question Number 1, We the jury, by unanimous consent,
9 find the Defendant Shelby Harper Taylor, as to the charge or
10 attempted murder, not guilty or guilty. Now, I have to put
11 one first and I have to put one second, so there's no rhyme or
12 reason the not guilty is first and guilty is second. Okay? I
13 have to pick one to go first. So, if you check guilty, then
14 you sign and date and stop. Okay? If you check not guilty,
15 then you can consider whether or not she is guilty or not
16 guilty of assault and battery in the first degree and check
17 either not guilty or guilty on that charge and then sign.
18 Okay? So, you cannot find her guilty of both charges; it's
19 one or the other or not guilty on both are you only options.
20 Okay? And the form fairly explains that. All right?

21 I'll give you that, Mr. Foreman.

22 Now, I'm about to send you back to your jury room. Let
23 me give you a couple of rules. I'm gonna send you back.
24 You're still not allowed to discuss the case. I need to take
25 up one more issue with the lawyers to make sure I've told you

1 everything I'm supposed to. Okay? So, the sign that you can
2 begin deliberating is when my alternate comes out, okay, and
3 the exhibits come in. So, when they bring -- when the
4 bailiffs bring in the exhibits, that is your sign that you may
5 start deliberating. Okay?

6 There is a recording in this case. If you want to listen
7 to the recording just send out a little note that says we want
8 to listen to the recording, then I'll provide you a computer
9 so you can listen to the recording on. Okay?

10 You all 12 have to be in the room to deliberate. So, if
11 someone needs to call home or someone needs to take a smoke
12 break or someone needs to go to the restroom, you have to stop
13 deliberating unless you're all 12 present in the room.

14 Your lunch is supposed to be here at 1:00. When lunch
15 comes, you can stop deliberating or you can keep deliberating
16 through lunch, that's completely and totally up to you. Okay?

17 Are you with me so far? All right. Let me make sure
18 I've told you everything I'm supposed to.

19 Oh, yes, okay. Now, I learned this one the hard way.
20 They don't tell you this in judges' school. Don't tell me the
21 count. Okay? So, at some point in your deliberations, there
22 will probably be a count, there's no point any time when you
23 ever need to report that information to me. Okay? The count
24 is your count, it belongs to you, it doesn't belong to me; so
25 you don't ever need to send out a note that says the count is

1 X to X or anything of that nature. Okay? The count is your
2 count and you don't need to report that. Okay?

3 So, I'm gonna send you back. Do not discuss the case.
4 When the exhibits come in, okay, that will be your sign you
5 can begin deliberating.

6 Mr. Dontre Hazzard, you are a normal juror, so you'll
7 stay in.

8 Mr. Jones, is that right -- Mr. Franklin?

9 MR. FRANKLIN: Right.

10 THE COURT: Okay. Mr. Franklin, they'll pull you out.
11 Okay? All right. And you can -- we can provide a spot for
12 you to eat lunch if you want to stay and eat lunch or you'll
13 be -- I'll talk to you before you go. Okay?

14 MR. FRANKLIN: Okay.

15 THE COURT: All right. Thank you very much. You may be
16 excused.

17 (REPORTER'S NOTE: Jury exits courtroom.)

18 BY THE COURT:

19 THE COURT: All right. Any exceptions to the charge from
20 the state?

21 MR. HIXSON: No, sir.

22 THE COURT: Any exceptions to the charge from the defense
23 other than those previously stated?

24 MR. MCCOLLUM: Nothing beyond what we previously stated,
25 Your Honor.

1 THE COURT: Okay. All right. Now, do we have a
2 computer?

3 MS. WALKER: Yes, Your Honor.

4 THE COURT: Y'all have a clean computer?

5 MR. HIXSON: Yes.

6 THE COURT: Okay. All right. And make sure Bailey knows
7 how to work that so in case they ask for it.

8 And then so y'all make sure with Ms. Dixie that the right
9 exhibits are in evidence before they go back. Make sure Janet
10 has your phone numbers and a way to find you. I'm gonna let
11 Ms. Taylor stay in here. We don't need to take her into
12 custody. I mean, we -- I mean, she needs to stay in here; she
13 doesn't need to leave. If she needs to go to restroom, she
14 needs to go in the back, but I'll let her stay in here with
15 her family while this process starts. Okay?

16 DEPUTY: Yes, sir.

17 THE COURT: All right. You're not allowed to leave the
18 room at this point, okay, Ms. Taylor, unless you need to go to
19 the restroom and they can provide you one. Okay? You
20 understand?

21 MS. TAYLOR: Yes, sir.

22 THE COURT: Thank you, ma'am.

23 (REPORTER'S NOTE: Counsel confers with Court Reporter and
24 stipulate to exhibits to be submitted. Deliberations commence
25 at 12:30 P.M.)

*****OFF THE RECORD*****

(On the Record.)

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

THE COURT: All right. It's my understanding we have verdict, so I'm gonna say this and I say this in almost every case, but I'm gonna say it just to make sure everybody understands. I understand that this case is highly emotional and very charged. I understand people crying, that is -- and Ms. Taylor has cried through some of the trial and I haven't said anything to her or called her down or anything like that. I understand people crying, but if you're gonna have a reaction beyond that, then you need to leave the courtroom now. Okay? And somebody can come tell you what happens but, you know, this -- we're not gonna allow any loud outburst or screaming or hollering or anything like that. It's okay to cry, it's okay be upset or be happy or whatever -- I have no clue what anything is in this case as far as a verdict. But, if you believe you cannot control your emotions just step outside and then once we get a verdict, somebody can come and tell you and, but just -- that's the safest way to do that. It puts the jurors at ease and just makes for a smoother process. Okay?

All right. Let's go get them, please.

(REPORTER'S NOTE: Jury enters courtroom @ 1:50 P.M.)

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1 THE COURT: All right. Mr. Foreman, it's my
2 understanding you have a verdict; is that correct?

3 MR. FOREMAN: That is correct, Your Honor.

4 THE COURT: Could you hand it to Ms. Danna, please?
5 Thank you very much.

6 All right. And I find that the verdict is in its proper
7 form and the clerk may publish.

8 VERDICT OF JURY:

9 CLERK: The State of South Carolina, County of Horry
10 versus Shelby Harper Taylor, we, the jury by unanimous consent
11 find the Defendant Shelby Harper Taylor as to the charge of
12 attempted murder on indictment 2015-GS-26-01938 guilty.
13 Signed by Mark Schilawski (spelled phonetically), foreperson,
14 dated February 8th, 2018.

15 THE COURT: All right. Does the state or the defense
16 request polling?

17 MR. HIXSON: The state does not, Your Honor.

18 MR. MCCOLLUM: Yes, please.

19 POLLING OF THE JURY:

20 THE COURT: Okay.

21 All right, ladies and gentlemen, we're gonna ask you one
22 question, which is really two in one. The question is, is
23 this your verdict? And then the second question, Is this
24 still your verdict? Okay. So, as your name is called or your
25 number, however the clerk does it, the question is, is this

1 your verdict, and is this still your verdict, and if you would
2 answer out loud, please.

3 CLERK: Number 70?

4 JUROR 70: Yes.

5 CLERK: Number 127?

6 JUROR 127: Yes.

7 CLERK: Number 83?

8 JUROR 83: Yes.

9 CLERK: Number 319?

10 JUROR 319: Yes.

11 CLERK: Number 153?

12 JUROR 153: Yes.

13 CLERK: Number 317?

14 JUROR 317: Yes.

15 CLERK: Number 295?

16 JUROR 295: Yes.

17 CLERK: Number 303?

18 JUROR 303: Yes.

19 CLERK: Number 356?

20 JUROR 356: Yes.

21 CLERK: Number 90?

22 JUROR 90: Yes.

23 CLERK: Number 112?

24 JUROR 112: Yes.

25 CLERK: Number 168?

1 JUROR 168: Yes.

2 CLERK: Thank you.

3 BY THE COURT:

4 THE COURT: All right. Anything further from the
5 attorneys before I release the panel from the state?

6 MR. HIXSON: No, sir.

7 THE COURT: From the defense?

8 MR. MCCOLLUM: No, Your Honor.

9 THE COURT: Okay.

10 All right. Ladies and gentlemen, I want to say this to
11 you. I want to say thank you very much for your service this
12 week. I know you all came in here Monday and the majority of
13 you were trying to figure out how in the world can I get out
14 of jury duty, and you actually got selected on a jury and
15 you've been here for the better part of a week. I try cases
16 all over this state and circuit court judges ride the circuit
17 and they go to all the different counties and you all have
18 been a excellent jury, you have been on time every single day,
19 you have paid attention, no one has fallen asleep on me. You
20 would be amazed at all the different things that I deal with
21 jurors across the state and you all have done an excellent
22 job. And I want to say thank you very much for your service
23 this week.

24 So, a couple of things you need to know, you have a jury
25 exemption for the rest of this year and for the following two

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1 years. So, if you get called for jury duty in circuit court
2 during 2018, 2019, or 2020, you will have an exemption and you
3 will not have to serve.

4 The second thing is this, is that now that the verdict is
5 back, you are free are discuss the case with anyone that you
6 see fit. Okay? Now, you don't have to discuss it with
7 anyone; that's your decision. If you -- if anybody contacts
8 you or wants to talk to you about the case, and you want to
9 discuss it with them, you certainly can but you do not have
10 to. And if anybody bothers you or harasses you, then you just
11 let your Clerk of Court Ms. Elvis know and she'll get that
12 attention to one of the local judges and they'll deal with
13 that person promptly and efficiently. Okay?

14 Your local judges here are Judge Hyman and Judge John,
15 and then you have Judge Culbertson down in Georgetown, so
16 you're very fortunate, you have three great judges. And, as I
17 told you on Monday during jury qualifications, your clerk's
18 office is great. The first week of this year, I did probably
19 about a 150 guilty pleas here, the first week of the year.
20 Last week, I did probably just over another 100 guilty pleas.
21 And so, this is my third full week of being here in this
22 courthouse. It's great, the staff is great, the clerk's
23 office is great, the local attorneys both of the prosecution
24 and on the defense are all very good and professional and
25 competent and you should feel very proud of your courthouse

1 and the people that do the things they do in the courthouse.
2 So, you're very fortunate to live here and live in this
3 community and have this great facility.

4 So, thank you very much. If you'll go with Ms. Danna,
5 she'll take your things from you. You will be excused and I
6 appreciate your service. Thank you.

7 (REPORTER'S NOTE: Jury exits courtroom.)

8 THE COURT: All right. I'll be back in just a couple of
9 minutes. Everybody stay put.

10 *****OFF THE RECORD*****

11 (On the Record.)

12 THE COURT: Mr. McCollum, y'all want to proceed with
13 sentencing?

14 MR. MCCOLLUM: Your Honor, may we approach?

15 THE COURT: You may.

16 (REPORTER'S NOTE: Bench conference is held off the record.)

17 THE COURT: All right. Here's what we're gonna do.
18 Normally, in these circumstances, I would sentence somebody
19 immediately. Due to the nature of this case and the nature of
20 the circumstances that have presented themselves during the
21 trial, the defense has requested that I not sentence her right
22 now. I understand that the state objects to that because that
23 would be the normal progress of how things would occur.
24 However, this is not going to be lengthy delay.

25 I'm going -- at this point in time, your bond is hereby

1 revoked and you will be taken into custody. And your
2 sentencing will be next Thursday, that will be one week from
3 now, at 2:00 P.M. I will need to arrange -- I do not know
4 what courtroom yet and I'll need to arrange a court reporter
5 with Court Administration, which I will do that this afternoon
6 and we'll go ahead and get that information out. So, it's not
7 gonna be lengthy delay, but we need to go ahead and do the
8 post-trial motions right now so that those are -- or do you
9 want to wait and do those Thursday, too?

10 MR. MCCOLLUM: I was just thinking that, Your Honor. If
11 I make the post-trial motion, then I probably need to file ---

12 THE COURT: Right.

13 MR. MCCOLLUM: --- the appeal. I don't want to file the
14 appeal, right, and I ---

15 THE COURT: The appeal won't need to be filed until she's
16 been sentenced.

17 MR. MCCOLLUM: Out of an abundance of caution, what I
18 would like to do is make the post-trial motions -- actually,
19 if I make the motion and Your Honor hasn't ruled on it, then
20 the clock doesn't start ticking, right?

21 THE COURT: Correct; that's correct.

22 MR. MCCOLLUM: So, I'll think I'll make those now.

23 THE COURT: Okay.

24 MR. MCCOLLUM: Because Your Honor, if Your Honor takes it
25 under advisement ---

1 THE COURT: That's right.

2 MR. MCCOLLUM: --- then we should be fine, right?

3 THE COURT: And you're fine as time and then I'll make a
4 ruling next Thursday when I sentence her and then you're
5 appeal clock will run at that point.

6 MR. MCCOLLUM: Thank you.

7 THE COURT: Is that fair enough?

8 MR. MCCOLLUM: Yes, sir, Your Honor.

9 THE COURT: Okay. So, and then any other -- if the
10 defense wants to get any mitigation documentation to me
11 between now and next Thursday, that's fine, and just make sure
12 that the solicitor's office is copied on that documentation.

13 MR. MCCOLLUM: We will, Your Honor.

14 THE COURT: All right. Let's go ahead and do post-trial
15 motions.

16 You can sit down, Ms. Taylor. Thank you.

17 MOTIONS:

18 MR. MCCOLLUM: Your Honor, at this time, on behalf of the
19 Defendant Shelby Taylor, the defense would move for a new
20 trial and ask the Court to set aside the verdict. Also at
21 this time, Your Honor, we would renew all motions previously
22 made including the motion for directed verdict and also renew
23 all objections that have been made through the course of the
24 trial.

25 THE COURT: Okay. And I want to state for the record

1 that I believe the defense has presented their motions and
2 their objections and their directed verdict motions, they were
3 all done at the appropriate time. I think they've protected
4 the record. It's been very clear what their legal arguments
5 are from the very beginning and I understand all that. I'll
6 rule on those post-trial motions next Thursday at 2:00 P.M.
7 and I will also sentence. So, if there's anybody -- now, I
8 have -- we've talked about the child and I've heard
9 information that [REDACTED] is doing fine but if the caregivers
10 to [REDACTED] want to be heard from by next Thursday -- are they
11 here today? I did not know.

12 MS. WALKER: Your Honor, Pam Sellers, a representative
13 from the Department of Social Services is here.

14 THE COURT: Okay. All right. And where is Ms. Sellers?

15 Okay. Thank you for being here, Ms. Sellers. And also
16 anybody from your organization that wants to come back next
17 Thursday on behalf of the child, that is fine. If the
18 caregivers to the child want to come to the sentencing hearing
19 and be heard from, that is perfectly fine and I'll be happy to
20 hear from them. And then anybody that wants to speak on Ms.
21 Taylor's behalf, I will also hear from then at that time. And
22 so when we come back together for those of you that don't do
23 court every single day of your life, we'll have another
24 hearing and anybody that needs to speak or address the court,
25 including Ms. Taylor, if she wishes to, of course, can be

1 heard from at that time as to sentencing. Okay?

2 So, at this point in time, your bond is hereby revoked.

3 She needs to be taken into custody.

4 I do want to say this, thank you very much to all the
5 lawyers who participated in this case. You were all
6 completely and totally prepared. You knew what you were
7 doing, you knew where you were you going, you knew who the
8 witnesses were. I -- just the little things that everybody
9 was so professional and competent and put together and did
10 such a good job and behaved nicely with each other and got
11 along and did your job, and still were an advocate for the
12 sides that you represent. It was a pleasure to be with all of
13 you this week. And Ms. Elvis, I echo the words about your
14 staff, your courthouse staff. They really are professionals
15 and do a great job. So, thank you very much.

16 If something happens with next Thursday at 2:00 and the
17 only that could happen would be Court Administration refuses
18 to give me a court reporter, we'll let everybody know, but my
19 goal is to get this done next Thursday at 2:00. And under
20 these extreme circumstances, that's the only reason that I am
21 postponing the sentencing. Okay?

22 MR. MCCOLLUM: Thank you, Your Honor.

23 THE COURT: Thank you very much.

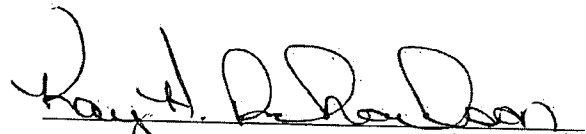
24 (ADJOURNED - 3:00 P.M.)

25

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Shelby Harper Taylor, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on February 8, 2018, as reported by Dixie C. Eubank.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

May 24, 2018.

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STATE OF SOUTH CAROLINA	)	
	)	GENERAL SESSIONS COURT
COUNTY OF HORRY	)	2015-GS-26-01938
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
SHELBY HARPER TAYLOR,	)	
DEFENDANT.	)	
_____	)	

February 15, 2018
Columbia, South Carolina

B E F O R E:

THE HONORABLE ROBERT E. HOOD, JUDGE.

A P P E A R A N C E S:

SCOTT HIXSON, ESQ.
Attorney for the Plaintiff

GREG MCCULLOM, ESQ.
DEAN MURREDEAU, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Circuit Court Reporter

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P R O C E E D I N G S

THE COURT: All right. We're on the record there 2015-GS-26-1938. This is the State of South Carolina vs. Shelby Harper Taylor. Ms. Taylor was tried last week before a jury of her peers here in Horry County and was convicted of attempted murder. She was represented by Mr. McCullom and Mr. Murredeau at trial. The State was represented by Mr. Hixson and Ms. Walker at trial, and we are here today for the purposes of post-trial motions and for sentencing.

So let's start with post-trial motions, please, Mr. McCullom.

MR. MCCULLOM: May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. MCCULLOM: Your Honor, at this time, I would reiterate motions that I believe we made previously, but out of an abundance of caution, I'd like state them again.

THE COURT: You may.

MR. MCCULLOM: Your Honor, since a verdict of guilty of attempted murder has been rendered by the jury, we would at this time move for a new trial and ask the Court to set aside the verdict and grant Shelby Taylor a new trial.

At this time, we also would renew our motion for a directed verdict. We also would renew all the objections

1 previously made and renew all motions previously made and
2 ruled upon by the Court.

3 THE COURT: Any response from the State?

4 MR. HIXSON: Your Honor, we believe that the directed
5 verdict motion was properly denied. There was ample
6 evidence in the record concerning all the elements of the
7 crime. We feel that was carried through and the case was
8 properly submitted to the jury. There's been no evidence
9 or indication of any improper influence of any kind
10 surrounding the jury deliberation process. And as such,
11 we would ask that the Court respectfully deny counsel's
12 motions.

13 THE COURT: All right. Defense counsel's motions for
14 a directed verdict and new trial are denied based upon my
15 previous reasons for the ruling. This case was tried
16 before the jury. The jury heard all the facts and
17 circumstances surrounding the case and were actually
18 allowed to hear a lot of evidence from the Defense expert
19 that the State, you know, did not completely and totally
20 object to. And so based upon that, I find that the jury
21 verdict is proper and that the motions were properly ruled
22 on before as to the reasons that I previously stated.

23 All right. Are you ready to go forward with
24 sentencing?

25 MR. MCCULLOM: Yes, sir, Your Honor.

1 THE COURT: All right. I've got a little bit of a
2 cold, so if you can't hear me, just say you can't hear me.
3 I'm doing my best, but my voice is on its way out.

4 All right. What would you like to start with?

5 MR. MCCULLOM: Your Honor, I think that -- we have a
6 number of people here on her behalf.

7 THE COURT: Okay.

8 MR. MCCULLOM: Your Honor can see the people here.
9 Clearly, I'm not going to call all of them to testify in
10 the sentencing hearing, Your Honor, but I would say for
11 the record, Your Honor, you have three rows of people
12 here. We have 35 or 40 people here who support her in the
13 community.

14 I had asked them to choose a couple of people who
15 could come up and maybe just say something good about her
16 to the Court.

17 THE COURT: Okay.

18 MR. MCCULLOM: Some idea of who she is outside of
19 what the Court has heard. At the same time, Your Honor,
20 there have been a lot of -- there are a lot of strong
21 feelings among them. I've reviewed some of the letters
22 that were given to me here today, and I think that some of
23 the things that they could say are -- I think probably are
24 not appropriate to the sentencing phase. There's
25 things -- more things that in terms of conduct of other

1 people and things like that. That's not really something
2 that I want to present.

3 At the same time, I don't want -- you know, I don't
4 want to cut them off. So I asked them if they could pick
5 about three or four people here in the audience. I'd like
6 to call them up. Basically, I said I would just like them
7 to say one good thing about her that they know.

8 THE COURT: Okay.

9 MR. MCCULLOM: Just to give the Court an idea. So
10 I'd just like to get an idea of who we're going to put up,
11 if you can help me out here.

12 THE COURT: I know that court transcripts are hard to
13 read, but during and throughout the trial, she had a
14 number of supporters, probably more than 15 or 20 who
15 appeared each day in court with her. I want that to be
16 reflected for the record, that she did have that community
17 support not only today, but throughout the trial.

18 MR. MCCULLOM: Thank you, Your Honor.

19 THE COURT: All right. Tell me your name, ma'am.

20 UNIDENTIFIED WOMAN: I'm Samantha Harper.

21 THE COURT: Ms. Harper, are you Ms. Taylor's sister?

22 MS. HARPER: Yes.

23 THE COURT: I'm happy to hear from you, Ms. Harper.
24 If you're going to read, that's perfectly fine. What
25 happens --

1 I'll say this once so I don't have to say it to
2 everybody.

3 What happens is everyone's a little nervous, which is
4 normal, and then when you read, you read faster than you
5 normally talk.

6 MS. HARPER: Yeah.

7 THE COURT: So we want to make sure we get down
8 everything that you say, so read just a little bit slower.

9 MS. HARPER: Okay.

10 THE COURT: So that I can follow you and that Madam
11 Court Reporter can make sure she gets down every word you
12 say. Okay? You understand?

13 MS. HARPER: Uh-huh.

14 THE COURT: Happy to hear from you.

15 MS. HARPER: I am the sister of a woman who was
16 portrayed as a monster. I am the sister of a woman who is
17 supposed to be a cold, calculated criminal, but I am
18 standing here today because Shelby is not who she is
19 perceived to be. I grew up watching my sister struggle to
20 find who she is in this world and she probably doesn't
21 even know now, but I do.

22 My sister is deeply loving, compassionate and caring.
23 Shelby shows how much she cares by little acts, such as
24 making my bed in the morning, doing my laundry when I come
25 home from college, or calling to see how my exam went.

1 She did something that most of us couldn't fathom doing,
2 but most of us haven't been through pain that Shelby has.

3 Human behavior is purely reactionary. Shelby acted on
4 reaction of pain, fear and depression. For the past three
5 years, I have watched my sister go through the darkest
6 time of her life. Every day, she struggles with pure
7 remorse and guilt. Her life has been a daily turmoil not
8 being able to see her kids. She has been in her own
9 personal hell. The last three years for Shelby has
10 consisted of isolation. She couldn't hold down a job,
11 most of her friends left and has had weekly mental
12 breakdowns followed by deep depression. The shining light
13 at the end of her week is getting to see a picture of
14 [REDACTED] eating her dinner or [REDACTED] playing in the park.

15 I have watched her grieve for her children for they
16 will one day hear of this story. My nieces will one day
17 be sat down and told of their past and on that day, their
18 mother needs to be present. She deserves to explain that
19 she was not well. She needed help. But most importantly,
20 that she loved them and would do anything for them.

21 I know my sister would lay down her life and die for
22 those children, but right now, she needs to live for them.
23 She needs to get better and she needs to get the help she
24 needs to become the mother that [REDACTED] and [REDACTED]
25 deserve.

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1 Right now, you have the opportunity to give her this
2 help. Prison is a home for criminals and punishment. My
3 sister and our family have suffered beyond what any prison
4 could do. In order for her to be present in her kids'
5 life, she needs to be given that chance. I'm not standing
6 here making excuses for what my sister has done, rather, I
7 am asking you to analyze this situation and realize there
8 is more to this story. Shelby is not a cold, calculated
9 criminal. She is a mother, she is a daughter and she is a
10 sister.

11 THE COURT: Thank you very much, Ms. Harper. Thank
12 you for being here.

13 Who would like to speak next?

14 All right. Come on up, ma'am. And would you please
15 tell me your name?

16 UNIDENTIFIED WOMAN: My name is Christine Lilly, I'm
17 Shelby's grandmother.

18 THE COURT: Ms. Lilly?

19 MS. LILLY: Yes, with two L's.

20 THE COURT: All right. Don't speak too fast, okay?

21 MS. LILLY: I won't. A lot of it I was told I can't
22 say. I respect the lawyers, so I'm not going to, but I
23 feel that it was important to show how she was, but I'll
24 go along with what the Court wants.

25 THE COURT: You go ahead. You're fine.

1 MS. LILLY: To say all I want to say?

2 MR. MCCULLOM: Your Honor --

3 THE COURT: I would follow Ms. Taylor's legal advice
4 from her counsel.

5 MS. LILLY: All right.

6 THE COURT: I'm not going to personally cut you off,
7 if that makes sense.

8 MS. LILLY: Yeah.

9 THE COURT: But she has a lawyer -- they have lawyers
10 for a reason.

11 MS. LILLY: I understand and I'll respect that.

12 THE COURT: But you're not going to hear me, unless
13 you start saying something -- start cursing or saying
14 something inflammatory, you're not going to hear me cut
15 you off just for the sake of cutting you off.

16 MS. LILLY: I may stop a little bit because there are
17 things I can't say now.

18 THE COURT: That's perfectly fine.

19 MS. LILLY: As Shelby's grandmother, I am partial,
20 but let me say this. I would take her sentence and serve
21 it gladly to protect her. I would give up my life for my
22 children or any of my grandchildren, but on the other
23 hand, I have two innocent great-grandchild that depend on
24 us to protect and love them.

25 As a young girl, Shelby was always thinking of

1 others. I always took the grandchildren when they were
2 younger to buy an outfit for their first day in school and
3 take them to lunch. When we got back in the car, Shelby
4 said, We all need to thank Nana for the clothes and lunch.
5 And, of course, everybody said, Thank you, Nana, for
6 taking us to get some clothes.

7 In one area of Shelby's life, I know her better than
8 anyone else in the family. We spent many hours talking
9 about physical and mental abuse that we both had lived
10 through.

11 As for her pregnancy, she was very deep into denial
12 as explained by the doctor. Shelby didn't want to hear
13 from the family what we were thinking -- what were you
14 thinking or you can't afford another child right now, so
15 she internalized it and it consumed her.

16 With her first pregnancy with [REDACTED], she was the
17 proudest mom. Facebook, every day was filled with
18 pictures of her and [REDACTED]. She finally knew what a
19 mother's love consisted of, was truly happy with a child
20 in her life. She has always loved kids and very proud to
21 be a mom.

22 Shelby was at my house one night. She spent many
23 nights at my home so her mother could see the
24 grandchildren. One evening, she was staring at the
25 ceiling and said -- and I will never forget it. She said,

1 Thank you, God, for my baby living. Nana, how could I
2 have done that? Oh, my God. I'm not a monster, I'm a
3 very good person.

4 I, along with the entire family and friends, know who
5 she is. She was ill. Her mind was not clear for months
6 before this. If I felt in my heart that she was evil or
7 had malice in her heart, I could not support her. I would
8 always love her, but I could not support her. Her family
9 and friends know that she is a good person, to be a
10 wonderful and loving person.

11 Your Honor, Shelby loves God with all her heart. She
12 was baptized just a few years ago. I know God forgave her
13 and I pray you can have as much compassion as humanly
14 possible for her, too. God saved that little girl, made
15 it possible to have those boys hear her cry out. Society
16 will judge her for years to come. They don't know her.

17 As the saying goes, no matter how flat you make a
18 pancake, it still has two sides. So with God's grace, the
19 girls will hear from us that mommy was sick at the time
20 and, hopefully, Shelby will be able to tell them that,
21 too, and that she did love them very, very much. Shelby
22 only wants to be in their lives to be their mommy.

23 She has talked about maybe speaking to groups of
24 battered women or children, endangerment groups. She
25 wants to help people come to grips with nightmares that

1 they have lived for or are going through. Tell them not
2 to be ashamed to seek help before it's too late.

3 Shelby has only seen the girls' pictures and movies,
4 so she looks at them for hours. We on our end -- I'm
5 sorry, we on our end always show the girls pictures of
6 their mommy all the time. Hopefully, she can be with them
7 before they are teenagers. No prison can rehabilitate
8 her, only punish her. She will have been living in hell
9 for three years in April. Please have mercy on this
10 wonderful young woman. To know her is to love her.

11 In closing, I want to say she was under stress and
12 shock and panic. Did she do this? Yes, cut and dry, she
13 did, but had she had the love and support of a husband
14 100 percent, I believe would not have done this thing. As
15 long as I live, I will never look at the news again and
16 prejudge anyone. You have to live in this nightmare to
17 understand things are never cut and dry. Thank you for
18 taking the time to hear me.

19 THE COURT: Thank you very much, Ms. Lilly. Thank
20 you for being here.

21 Tell me your name, sir.

22 UNIDENTIFIED MAN: Marty Parker.

23 THE COURT: Mr. Parker?

24 MR. PARKER: Yes, sir.

25 THE COURT: How do you know Shelby?

1 MR. PARKER: I am Shelby's pastor.

2 THE COURT: Thank you for being here. I'm happy to
3 hear from you.

4 MR. PARKER: I knew Shelby before and after, up
5 until. I've spent a lot of time with Shelby and just want
6 to give you a side of Shelby that a lot of people won't
7 see, is the Shelby that we know, the one that loves my
8 children -- I have five children, and she has been able to
9 love them, all of them know her. She has been working --
10 she has worked in the nursery. She has worked at vacation
11 Bible school. She has done mission trips with us to our
12 retirement home in Florence, Bethea Retirement Home.

13 Over the course of about four or five years, I've had
14 the opportunity to get to know her. And we have seen all
15 this and being here at the trial, something I never
16 thought I would be a part of as a pastor. But also, I
17 know that each one of us have different things that we
18 struggle with, different things that we go through. And I
19 think just seeing what we have here today as far as family
20 that she is loved and that she's -- not only is she loved,
21 but she has loved many.

22 And knowing what I know of her over the past couple
23 of years, it's always going to be in her mind. She will
24 always have that struggle of knowing what she did and
25 really not having a relationship with her children. That

1 has tormented her, but I know that she still has a loving
2 heart. She still, even after Hurricane Matthew, was able
3 to go in the nursing home and help in that area and do
4 different things.

5 She is loved. She's loved by her family. She's
6 loved by friends. She is loved by her church family. And
7 we just ask you -- we know that when it's all said and
8 done that it lays in your hands. We have also been
9 praying for you, as well, because we know this is not
10 something lightly that you take lightly, but we know that
11 you are the one that can show mercy to whom you see fit
12 and can show compassion to whoever. And we ask for mercy
13 and compassion not just for Shelby, but on behalf of
14 Shelby's family and behalf of Shelby's church family,
15 which consider her a brother and sister, regardless of
16 what she's done and regardless of what happens from this
17 point on.

18 THE COURT: Thank you very much, Mr. Parker.

19 MR. PARKER: Yes, sir.

20 THE COURT: All right. Tell me your name, sir.

21 UNIDENTIFIED MAN: Good afternoon, Your Honor. My
22 name is Michael Earnest.

23 THE COURT: Ernest?

24 MR. EARNEST: Yes, sir.

25 THE COURT: Spell your last name.

1 MR. EARNEST: It's E-A-R-N-E-S-T.

2 THE COURT: Okay. Thank you, Mr. Earnest. How do
3 you know Shelby?

4 MR. EARNEST: Your Honor, let me first apologize to
5 you for writing this because this might get a little
6 emotional.

7 THE COURT: That's fine. Most people that come in
8 front of me write down what they're going to say, so you
9 don't need to apologize for that at all. I'm happy to
10 hear from you.

11 MR. EARNEST: I am Shelby's uncle.

12 THE COURT: Okay.

13 MR. EARNEST: Your Honor, my name is Mike Earnest.
14 I'm Shelby's uncle. Thank you to this Court -- thank you
15 and to this Court for giving me the opportunity to speak
16 on Shelby's behalf. This has been almost three years
17 since the date of this incident and I can still remember
18 as if it were yesterday. It has been the most traumatic
19 thing this family has ever endured.

20 My family is my life, as I'm sure yours is, as well.
21 I thank the Lord every day that those -- can somebody come
22 up here and read this? I can't do it. I'm sorry.

23 THE COURT: Okay. Mr. McCullom can read it for you
24 or you can pass to it me and I can read it.

25 MR. EARNEST: He can do it. I can't.

1 THE COURT: All right. Thank you, Mr. Earnest.

2 All right. Mr. McCullom will now be reading
3 Mr. Earnest's letter.

4 MR. MCCULLOM: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. MCCULLOM: I thank the Lord every day that those
7 two young boys found [REDACTED] that day. That was God's
8 intervention. Shelby is not the monster that the
9 prosecution made her out to be. If you were to just sit
10 in a room and talk to her for an hour, you would see there
11 is not a mean bone in her body. Shelby is a very passive
12 and naive person. If you were to yell at her, she would
13 cry. If you were to tell her the sky was green, she would
14 believe you.

15 Shelby's parents separated when she was young and I
16 think that was hard on her. I think she's always craved
17 that father figure in her life. It's tough when parents
18 live in separate homes. Her father is a wonderful man,
19 but that one-on-one attention everyday is what Shelby
20 needed. What I'm trying to say is Shelby is a very
21 sensitive person who requires more attention than your
22 average child. When she got any male attention, that is
23 what she grasped onto. As far as I know, Patrick was her
24 first and only boyfriend and she put him above everything,
25 family, friends and even herself.

1 Your Honor, Shelby is the most nonviolent person I
2 know. In fact, she's never even been in a fight. She's
3 never been in any trouble of any kind. She's never had a
4 traffic ticket. Your Honor, Shelby had no plan to try to
5 destroy this child. Something triggered that in her
6 because if that was her plan, it wasn't very well thought
7 out, meaning that she had nine months. I can't and never
8 will understand what she did that tragic morning. The
9 more I think about it, the more confused I get thinking
10 that her mind was so far gone that she had nowhere to
11 turn. It makes me feel like a failure as a family member.

12 I pray this Court and Your Honor can have some
13 compassion and understand this is not Shelby, the person
14 we love with all our hearts. I understand that this is a
15 system and the law must be complied. I beg you with all
16 that I am, please show some mercy. I would give up my
17 career and serve her time without hesitation. This whole
18 thing consumes me. It's all I think about. Shelby needs
19 help. Jail is not going to do anything for her
20 specifically. I just pray to God that you will give her
21 some compassion. Thank you for letting me speak on behalf
22 of Shelby.

23 THE COURT: All right. Thank you, Mr. Earnest.
24 Thank you for your letter.

25 MR. MCCULLOM: Your Honor, I think we have one more.

1 THE COURT: Okay.

2 MR. MCCULLOM: One more I think would probably be
3 sufficient for the Court, Your Honor.

4 THE COURT: Sure. Come on up.

5 UNIDENTIFIED FEMALE: Can I get a tissue?

6 THE COURT: Yes, ma'am. I don't know where they are.
7 If there's one, you may have it.

8 UNIDENTIFIED FEMALE: Thank you. Just in case my
9 nose runs.

10 THE COURT: That's okay. Tell me your name.

11 THE WITNESS: Alex Hamrick.

12 THE COURT: Ms. Hamrick?

13 MS. HAMRICK: Yes.

14 THE COURT: Okay.

15 MS. HAMRICK: I am here today to stand alongside of
16 one of my dearest friends on one of the toughest days.
17 Although we don't understand why or what has caused it,
18 the shame she embodies will now be far greater than any
19 pain jail can bear.

20 Over and over again, I have thought could I have made
21 a difference or been a better friend. It's a shared sense
22 of guilt. Should I have, could I have or would I is no
23 longer a thought.

24 Your Honor, what Shelby did was not right. And I
25 agree that she needs help with her -- through her actions,

1 I believe she does need help. And I'm not here to sugar
2 coat what has happened. However, as one of her closest
3 friends, I can rest assured to everyone that the woman she
4 was on that day is not the true Shelby. She has an
5 amazing laugh with a beautiful smile that can illuminate a
6 dungeon and a heart carved from the Lord's hands. I know
7 this situation is hard for you to see that, but I do
8 humbly ask Your Honor that she has the chance to shine her
9 light again.

10 I stand as a mother of two, and I ask as the
11 community -- as a person from the community that we can
12 stand and bring light to mental illness because we don't
13 need to be ashamed, but yet we need to reach out before we
14 react. And although that is horrible incident, she is
15 still the daughter of the King and deserves a life after.

16 THE COURT: Thank you very much, Ms. Hamrick. Thank
17 you for being here.

18 MR. MCCULLOM: Your Honor, I think that's a
19 sufficient showing --

20 THE COURT: Okay.

21 MR. MCCULLOM: -- in that regard. So, Your Honor, I
22 will proceed on. May it please the Court?

23 THE COURT: Of course.

24 MR. MCCULLOM: Your Honor, this is -- you know, this
25 is -- in a lot of ways, of all the cases that our law

1 firm, me and Dean and others, have handled, this one has
2 been extremely difficult.

3 From the beginning, we tried -- honestly, we tried to
4 resolve the case without the trial. We didn't want to go
5 to trial. Shelby's family didn't want to go to trial.
6 Shelby did not want to go to trial. We really wanted to
7 plead. Some cases get in a posture in terms of interest
8 and outside things that are going on because they're -- I
9 don't know why, but there's sometimes it just becomes very
10 difficult. What happened is we just weren't -- we just
11 never got to the point, despite all our efforts, where we
12 were able to resolve it.

13 So the trial itself was a little bit of an odd trial
14 for us in that we never denied anything. And the issue
15 that we thought was significant was simply her mental
16 state. The issue of malice, which Your Honor went through
17 that with us, so I don't need to go through that with Your
18 Honor. Clearly, that's what we thought the main issue
19 was.

20 Now, at the same time, you know, we presented
21 evidence. The Court allowed us to present evidence and
22 the jury for whatever reason -- as disappointed as we may
23 be, we respect the jury's integrity. We respect the
24 process. We respect the verdict even though it was not
25 what we were looking for. So I don't disparage that in

1 any way as an officer of the court. At the same time,
2 there is a part of that that we think is relevant for
3 sentencing.

4 And in this particular case, Your Honor, the --
5 there's some things I'll present with a little bit of
6 reluctance honestly, but it seems like in this case, Your
7 Honor is faced with a fairly difficult decision because of
8 the sentence -- the verdict that was returned and the
9 sentencing range. And I don't know if we're really able
10 to add to the Court's ability to make that determination
11 or not. Simply, as an advocate for her, we're trying to
12 make some attempt to try to give some input for what it's
13 worth.

14 I understand Your Honor has been on the bench for
15 some period of time. Your Honor has been involved in
16 criminal cases prior to going on the bench. And you're
17 very well acquainted with the criminal process, the
18 judicial system of South Carolina and the ability to
19 impose sentences. And we respect that and we know that.
20 We're not trying to substitute anything for the Court's
21 judgment. We just want to provide some information, which
22 may or may not be helpful.

23 THE COURT: And normally -- now, when the verdict was
24 returned last week, I mean, I can think of probably under
25 five cases in my life where I didn't sentence the person

1 right then and there. And I recognized at that time that
2 this was one of those where we needed to let things calm
3 down and come back together and give you all an
4 opportunity to put your thoughts together and make sure
5 the record was complete. So this is your opportunity to
6 do that.

7 Normally, I just sentence right there on the spot,
8 but I thought in this case and these circumstances that it
9 would be best to give everybody some time to put their
10 thoughts together on both sides of the case before
11 sentencing. So...

12 MR. MCCULLOM: Thank you, Your Honor. In terms of,
13 you know, sentencing in general, it's my understanding
14 that the sentence of any court in a criminal case, you
15 know, serves the purpose of deterrence. Deterrence in
16 general, deterrence for others looking, and that's a
17 significant thing. What do people think is right or
18 wrong? And what do people think should happen to someone
19 who violates the law, especially in a way this severe?
20 It's also specific as to the individual because,
21 obviously, if they're incarcerated -- even if the person
22 is on probation, but if they're incarcerated, they're
23 deterred from future criminal conduct. Also, and along
24 the same lines, they're incapacitated from doing that. If
25 they're incarcerated, they're not going to harm someone

1 else and there's some period of time that's going to pass
2 before they would be free from that incapacitation.

3 The other thing, Your Honor, which I think is
4 important is the rehabilitation. In other words, the
5 sentence that alters the defendant's behavior -- in this
6 particular case, Your Honor, and based on these type of
7 crimes -- I'm obviously no expert on this, but there's
8 been, I think, a showing of some rehabilitation, of
9 regret, remorse since this act. We've seen that in our
10 representation of Shelby. There's also retribution, which
11 is, for lack of a better term, maybe an Old Testament type
12 of Biblical punishment, that there's -- when someone does
13 something bad and they're not punished, sometimes that can
14 be improper or inappropriate for a person's psychology.
15 You know, being punished and atoning for something, I
16 think in our society certainly has some value and a place.

17 In terms of restitution, Your Honor, I don't think
18 that that's -- from my perspective, it doesn't seem to be
19 a very big factor here.

20 We would state that, you know, in this case since the
21 sentence range is so divergent, I think that -- I don't
22 think the sentence can be suspended. I may be wrong, but
23 I don't think --

24 THE COURT: That's correct.

25 MR. MCCULLOM: -- it can be suspended. It's an

1 85 percent sentence, so that whatever time she receives,
2 clearly, the earliest point of release would be 85 percent
3 of that sentence, which is significant because that's
4 almost double what it would be on other types of
5 sentences. Sometimes the public doesn't understand that
6 as part of that truth in sentencing laws. So whatever
7 sentence Your Honor hands down, that's the sentence.
8 There's no hidden number there. There's no early release.
9 That's the sentence that the person is going to serve.

10 We think in terms of mitigation of the sentence, you
11 know, the evidence that we tried to present to the jury in
12 terms of her state of mind with the peripartum event that
13 she had, depression, we said it was psychosis. We don't
14 really know what the jury found on that. We know they
15 found malice, so we don't really know what the take on
16 that was. We still would submit that as something that we
17 think, at least, is very significant in terms of
18 mitigation.

19 In preparation for doing this sentencing here, I
20 reached out and talked to several people. One person who
21 we chose not to call was an OB/GYN doctor. I think that
22 she's actually the doctor that delivered one of my
23 daughters. I talked to her about it. She was not going
24 to be able to provide anything helpful to the Court here
25 today, but in talking to her, she did reference the

1 peripartum psychosis as something that she was cognizant
2 of as a medical doctor. She has been delivering babies
3 for some 20, 24 years.

4 At the same time, I think it's so rare that that's
5 not something that she sees in the delivery room. I don't
6 think this is -- while I would say this condition is real,
7 it's not common. It happens a lot, but statistically,
8 it's very, very uncommon and very, very rare. With all
9 candor, Your Honor, if she had said that she witnessed
10 this kind of bizarre behavior during birth, I would have
11 tried to call her here.

12 The other thing is that -- I can't remember the
13 gentleman's name, but a person who runs the protection
14 center for unborn children for New England in the State of
15 Massachusetts had reached out to us. I talked to him for
16 probably about 45 minutes on the phone. And I also read
17 several studies which talk about how -- it's not common,
18 but it happens a lot. In other words, statistically, it's
19 very rare, but it's a very well-documented situation that
20 she went through.

21 And he was saying that he was very emotional -- or
22 not emotional, he had very strong feelings about it
23 because he said in Massachusetts, what they had done is
24 they had created some very good programs to make children
25 aware of this. But his take on it was that that message

1 has to get to young people when they're teenagers. He
2 said because --

3 What they do is they have these big billboards and
4 their signs are big and they have people speak at youth
5 concerts and youth events and youth sporting events and
6 they've been very successful in not eliminating, but
7 almost reducing these incidents in New England and
8 Massachusetts where their audience is.

9 He referenced other jurisdictions, such as Illinois,
10 primarily, Chicago, and the State of New York. And he
11 tried to explain to me that their programs for prevention
12 were not effective because they weren't aimed at youth.
13 And he said in his opinion, what happens is when somebody
14 gets to the stage that Shelby was, they needed to know
15 that for a couple of years before they get in that denial
16 and in that state that we think that she was in. So he
17 was very impassioned about that and helpful and explained
18 several things to us.

19 The other thing I would say, Your Honor, is, you
20 know, I don't like as a lawyer -- I've been practicing for
21 some time. I don't like sentencing guidelines, okay. I
22 don't think they take into account everything. I think
23 they're a starting point. In that end, Your Honor, you
24 know, I looked at this, and I can provide this to the
25 Court if it's helpful, for the attempted murder and the

1 federal sentencing table. And also in the State of North
2 Carolina, I looked at it as well in terms of the attempted
3 murder.

4 A colleague of mine, a lawyer named James Payne, is a
5 very accomplished lawyer in North Carolina. I went
6 through the guidelines. I had a conversation with him and
7 asked him, you know, what would -- how would North
8 Carolina deal with this. What information would the Court
9 have if this were in the State of North Carolina, who has
10 sentencing guidelines very similar to the federal
11 guidelines.

12 Essentially, Your Honor, without going through all of
13 it, the State of North Carolina, it has three different
14 guidelines. It has an aggravated range, which is the most
15 severe sentencing. It has the presumptive range, which is
16 in the middle. And then it has the mitigated range. And
17 essentially, Your Honor, the midrange in North Carolina
18 for this charge, the starting point would be probably
19 around 10 to 13 years. The mitigated range would go down
20 to about seven-and-a-half years.

21 Having said that, I don't necessarily favor
22 sentencing guidelines. I've worked with them in different
23 jurisdictions. I think they provide some point, but I
24 don't think they're the end all and be all. And I think
25 in some ways, they impede on the Court's province to

1 render sentence. I think you cannot -- we select judges
2 based on very specific criteria, experience and
3 understanding. I don't think you can ever substitute the
4 experience that a judge has who has been on the bench as
5 Your Honor has who's seen these things. There's some
6 human element to it that I don't think sentencing
7 guidelines take into account.

8 In North Carolina, just for the Court's information,
9 there are about 20 aggravating factors. According to my
10 colleague in North Carolina, aggravating factor number 11,
11 the victim was very young. He said the courts there would
12 apply that. That would count. Probably nothing else in
13 here would.

14 In terms of mitigating factors, Your Honor, she has
15 probably -- it looks like seven -- and that's if you
16 accept what we say as true, some of it, is that she was
17 suffering from a mental condition that was insufficient to
18 constitute a defense. It's not -- it didn't rise to a
19 level of a legal defense, but reduces the Defendant's
20 culpability.

21 The other thing would be the Defendant's age,
22 immaturity and limited mental capacity at the commission
23 of the offense. And while she denied it, the day that the
24 child was found, she did go to the police station after
25 denying involvement for some 45 minutes. Still at an

1 early stage of the prosecution of the criminal process,
2 she acknowledged wrongdoing.

3 I think that we've shown that she's been a person of
4 good character and has a good reputation in the community.
5 She has a support system in the community. She's not
6 maybe so much lately, but, certainly, prior, she had a
7 positive employment history and done public works and
8 public good in her church and Bible school and those
9 things.

10 And then the only other mitigating factor is what
11 kind of something else. And we would say the fact that
12 she had sought counseling, not just for court, but
13 counseling for the betterment of understanding and
14 becoming a better person. And also in terms of the other
15 mitigating factor, just her and her mental condition as
16 was diagnosed.

17 Your Honor, in closing, I would say this, you know,
18 she's -- she has no criminal record. This seems
19 completely out of any kind of comprehension that anybody
20 that knows her could ever believe this would ever happen
21 to her, that she would ever do this.

22 Having said all of this stuff, Your Honor, and the
23 solicitor hasn't presented anything, I'd want to say this,
24 that clearly, we're presenting this stuff to the Court to
25 try to provide some assistance to the Court in sentencing.

1 This does not in any way lessen nor do we take the
2 position in any way that she has not been convicted of
3 attempted murder. We're not trying to argue the facts.
4 We're not trying to take issue with anything like that.
5 She has been convicted.

6 We don't want to go so far as to say that somehow,
7 you know, she's the victim of this. Clearly, she's been
8 convicted of the offense. I just want to thank the
9 solicitor for the ability to present this, but I
10 understand what it's like. We have an adversarial system.
11 And normally, one side doesn't talk and the other side
12 doesn't present anything. I'm sure there's probably many
13 things that he can present if he chose to. They've been
14 in this case -- as far as the State goes, Your Honor,
15 they've been very tough on us. They've been fair. They
16 believe in their case. They presented their case and we
17 are where we are.

18 I respect the State's position on this. I understand
19 people that are outraged over this. I understand that.
20 Her family understands it. Everyone that knows her,
21 everyone that knows me and Dean, we all understand that.
22 We are advocating for her. We believe that her situation
23 does have a little bit of uniqueness to it. I don't think
24 that, ultimately, she is a threat the way that normally
25 sometimes people are perceived as threats in our society.

1 I want to thank Your Honor for this presentation. I
2 want to thank Your Honor for hearing this. I want to
3 thank Your Honor for coming back to court. I understand
4 you had a lot of other things going on. We appreciate the
5 way that you tried this case. We appreciate the Court's
6 patience and demeanor and all the professionalism that the
7 Court has shown us.

8 Clearly, Your Honor, we're asking for whatever mercy
9 that the Court may be able to sentence with or render. At
10 the same time, Your Honor, we understand where she is,
11 understand the position of the Court and we respect that
12 very much.

13 THE COURT: All right. Ms. Taylor, do you wish to
14 say anything?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. You don't have to, but you're
17 welcome to if you want to. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay.

20 THE DEFENDANT: I would just like to say that one,
21 I'm sorry to my family and I'm sorry to my kids what they
22 will have to hear about this. I just want to be a mom
23 again and have my kids. And, you know, it's been a very
24 difficult three years without seeing my kids.

25 I understand what happened. Now, you know, it's hard

1 for me to fathom that I did this. I am a loving person
2 and that was not me in that moment. But I am very sorry
3 and I love my kids with all my heart and I -- I regret
4 this every single day. I live with it. I go to bed with
5 it. It's awful. It's the toughest thing I've ever had to
6 go through. All I ever wanted to do was be a mom. I used
7 to mother my little sister, and she gets annoyed with me
8 now, but all I wanted to do was be a mom. And, hopefully,
9 if you let me, one day I can be a mom again.

10 THE COURT: Thank you, Ms. Taylor.

11 THE DEFENDANT: Thank you.

12 THE COURT: All right. Mr. Hixson, does the State
13 have anything they'd like to present?

14 MR. HIXSON: Yes, sir.

15 THE COURT: Okay.

16 MR. HIXSON: Minimal. I think we would just concur
17 quite a bit with what Mr. McCullom has said. What's
18 fundamental about this case is it's just so primal in its
19 nature. And a lot of that conversation can't occur in
20 front of the jury, but they're so much interest in it
21 because it kind of involves so many fundamental beliefs
22 they we have in society in general and here in Horry
23 County specifically. And that is the attempted taking of
24 a life of a child by the mother that carried that. The
25 result is extraordinarily intense emotions on both sides.

1 And so as it relates to a sentencing process -- and our
2 intention is a fairly hands-off approach to the sentencing
3 process because the issues have been joined.

4 You know, to not refute, but to point out some
5 things. Our focus has always been on the conduct of the
6 act that day, not that -- we have no problem the family
7 caring so much about this person. And everyone that
8 watches this proceeding screams out, I wish something
9 would be said so the family would lovingly be taking that
10 child and we would not be here. We would be trying
11 another case or something. But the issues are so
12 fundamental that the issues have to be joined on what it
13 means for a mother to put her child in a trash can. And
14 we don't know what that's worth. We know that's why we're
15 here.

16 So there's no attack on the character of Shelby
17 Taylor. There is no attack on the family's love. But
18 everyone agrees, we just want to make sure that same
19 decency is shown to every living being and not put in a
20 trash can for whatever that means.

21 There is no -- we are all in agreement. That's
22 what's shocking. We're all in agreement. And as such,
23 there is not a lot of aggravation. I think it's important
24 to make sure everyone understands what Daniel's Law is,
25 that there are opportunities to save lives without

1 attempting to kill them. There are opportunities and I
2 hope, if nothing else, people understand that so we don't
3 have to be in courtrooms arguing about this.

4 The other thing that's important to understand is for
5 clarification. In the State of South Carolina, you are
6 either competent to stand trial or you're not competent to
7 stand trial. If you're competent, then you haven't got a
8 mental disease or defect that rises to the level of
9 insanity. If you're insane, that's a legal defense. If
10 you're not insane, then the rest doesn't matter. And
11 that's for the purposes of guilt or innocence.

12 So the discussions during the course of the trial
13 relating to diminished capacity are not admissible. They
14 can mitigate, but they're not admissible. And that's much
15 of the friction that we saw because if you're competent
16 and you're sane, then you're responsible for what you did.
17 That's just a fact finding step. That's not a punishment
18 step. That's just the facts. So that's the effort to
19 focus on the conflicts and the conduct of the parties and
20 allow the nature of folks to take care of in front of Your
21 Honor during the sentencing process is what that means.

22 There were several individuals that wanted to be here
23 today, specifically -- and I think it's important to point
24 out for them, not a long process, but one of the things
25 that surprised us through the preparation of the trial was

1 the impact of this case on the First Responding
2 individuals. I won't use their specific names because I
3 don't want to breach any confidence they had in me, but
4 quite a few of them talked about that they just don't
5 understand and struggle with not understanding the sight
6 that they saw and the willingness to discard that when
7 they work so hard to save that to the point they continue
8 to have problems going back to see the child alive so the
9 last image in their head will not be covered with rice and
10 that moment in time to try to destroy that. And those are
11 people that are paid to respond to bad things. And they
12 wanted to be here and were not able to be here. I don't
13 want to belabor the point. But the impact beyond just the
14 ones that love each other, but folks that don't know each
15 other.

16 We heard a little testimony of that from Keith
17 Drakenick (ph), how important it was that they had an
18 opportunity to see the child after the fact alive to
19 destroy the image they saw of a discarded human being,
20 that that was important for them.

21 That's the end of the presentation on that. I do
22 have Pam Sellers. She's an investigations supervisor for
23 Department of Social Services. She has been involved in
24 this from day one, been in court everyday. And she would
25 like to address the Court. There are some confidentiality

1 issues, Your Honor, so we probably won't get into some of
2 that, but that's the only presentation I would have
3 related to the victimology.

4 THE COURT: Come on up, Ms. Sellers.

5 MS. SELLER: Thank you.

6 THE COURT: You're welcome.

7 MS. SELLERS: As you can see, I have notes all over
8 the place. I came into the courthouse with well-organized
9 notes, but this is different situation. I've been very
10 comfortable in my 10 years at DSS speaking at any time
11 about any child abuse case, but this one is different, so
12 bear with me. My notes have changed. The last place I
13 want to be here is talking about this because to be here
14 means it's real and that it happened.

15 There are no winners today. Nobody in this courtroom
16 is a winner, but I hope there is justice for [REDACTED] when
17 we leave here. Everybody in this courtroom has been
18 touched by this tragedy in some way or others, some more
19 than others.

20 It's not my job to decide Shelby's innocence. It's
21 yours. And every day, I have to make decisions at my job
22 on families. And that's a difficult thing because you're
23 going to make some people mad and some people happy. Some
24 people are happy you're involved in their life and some
25 people aren't. So it's a tough decision, and I'm glad

1 that your decision is not mine.

2 With that being said, I do keep [REDACTED] as one of my
3 visions engrained in my mind. Every day when I make case
4 decisions or I decide what's best for certain families, I
5 keep her in mind to remind myself the importance of
6 keeping children and families safe. So I think about her
7 every day to make sure I don't take this job lightly.
8 Because it's easy. I'm sure you've made hundreds of
9 decisions on hundreds of people's lives. They've tried
10 hundreds of cases. I've investigated hundreds of cases on
11 my own and supervised just as many. Sometimes we can
12 become complacent in our jobs and not really think about
13 what's best for children.

14 I'm here to speak on behalf of [REDACTED] because she
15 can't be here to speak. I also would like to speak to the
16 family members left behind. I, too, sat a couple of weeks
17 ago with my family on a heinous situation with one of my
18 own family members, so I feel for them. It was a heinous
19 crime. He was guilty. I didn't stand up and speak for
20 him for leniency because he was guilty. I was there for
21 support for my family, so I appreciate her family being
22 here.

23 It's important to have parents and I'm thankful there
24 are parents who still have morals, who still want their
25 children to get married first and then have children. I'm

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1 thankful there are parents who don't mind standing up and
2 being a parent to their child and not a friend and saying
3 this is what I expect. You know, this is what society
4 expects. There are consequences. And I'm thankful for
5 that. I think Shelby has a lot of family support.

6 So with that being said, I also want to say that
7 having children is not a right, it's a privilege. And
8 some of us take it way too lightly. There is more
9 paperwork to get a dog from the animal shelter than there
10 is to have a kid. There are so many second chances in
11 life. We get to do over a lot of things. This is not one
12 of them. There is no do over in this situation. There is
13 no second chance in this situation.

14 Like I said, I feel for her family members. I
15 understand what they're going through to a certain extent.
16 But again, I'm here to speak for [REDACTED] who cannot speak,
17 and [REDACTED].

18 One day, and some of the others touched on it,
19 [REDACTED] and [REDACTED] are going to realize they don't have
20 their biological mother in their life. One day that's
21 going to be a realization. I don't know what the answer
22 is on what to tell these children or what not tell to
23 them, but I hope they never have to know the real truth.
24 Because how do you deal with that? How does a child deal
25 with this knowledge? And I hope they never have to do

1 that.

2 They're going to ask questions and search for their
3 own answers when they're old enough. With the internet,
4 social media, mean girls at school, as long as they stay
5 in this area, as long as their names, the information is
6 there. And that's my biggest fear in this whole
7 situation.

8 My hope and prayer is that both sides of the family,
9 the paternal and the maternal, that you guys come together
10 to love these girls. They deserve having both sides of
11 you. They really do. So I hope you're all able to put
12 your differences aside and realize that you have two
13 beautiful girls in common. They often say it takes a
14 village to raise a child. We've all heard that old
15 saying. And I do believe that. And I know there are
16 single mothers and fathers out there who raise their
17 children without family support, but how much better off
18 are we as a society when we have a lot of positive
19 influences in our life? So I hope these two girls have
20 that.

21 ██████ is a miracle and she's a survivor. And I
22 have no doubt that God has great things planned for her.
23 But I hope after today that ██████ never ever has to
24 worry about being thrown in a dumpster again. That's all
25 I have.

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1 THE COURT: Can you tell me how [REDACTED] is doing?

2 MS. SELLERS: She is doing well.

3 THE COURT: She is functioning and doing the normal
4 things that three-year-olds do?

5 MS. SELLERS: Yes.

6 THE COURT: And she's staying with a parent group?

7 MS. SELLERS: She is.

8 THE COURT: And you have no concerns about them
9 taking care of her?

10 MS. SELLERS: Not at this time.

11 THE COURT: And as far as you know, she is healthy,
12 functioning and doing all the things that three-year-olds
13 do, playing and laughing, starting to speak and have
14 conversations and communication and all that good stuff?

15 MS. SELLERS: Yes.

16 THE COURT: All right. Thank you very much.

17 MS. SELLERS: Thank you.

18 THE COURT: All right. There's a couple of things I
19 want to say before I pass this sentence. I usually don't
20 talk when I sentence people, but sometimes I do.

21 One thing is this, I keep in mind as I give this
22 sentence that I know that it is a no-parole offense. For
23 all the lawyers that come in here every day, we know that
24 some cases are parole eligible on a quarter of the time.
25 Somebody that I sentenced in December is getting out this

1 Friday. So I know that in this case, it is a no-parole
2 offense.

3 I also know that when she is released from the
4 custody of the Department of Corrections, she will be
5 released under what is known as the community supervision
6 program and monitored for two years, so I take that into
7 consideration in passing this sentence. I also take into
8 consideration the fact that Ms. Taylor has no prior
9 criminal history. She has absolutely no history of
10 violence. She has no history with the Department of
11 Social Service and them being involved in their lives or
12 parenting plans. You know, as far as cases I've handled
13 where parents harm children, this is the atypical case.
14 Most of these cases that I handle and I see, parents have
15 a long history with DSS. It's a -- they have a long
16 history with the family court process. None of that is
17 present in this case in any way, shape, or form.

18 Ms. Sellers talked about being thankful for some
19 things. I think the one mom who's forgotten in this case,
20 that is the one we all, including Shelby, should be the
21 most thankful for is the one that told her kids to take
22 out the trash because without that mama telling those
23 little boys what to go do in the day and age where parents
24 don't like to give their children chores or make them do
25 things, she made those boys take out the trash. And if

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1 she hadn't made those boys take out the trash, we would
2 either be sitting here in a murder sentencing or no one
3 would have ever known about [REDACTED]. So for whatever
4 reason in God's providence, He decided to save [REDACTED]
5 that day. And I only hope the best for her and for her
6 sister and for her family and that includes you,
7 Ms. Taylor.

8 THE DEFENDANT: Thank you.

9 THE COURT: All right. But this is a very serious
10 crime with serious, serious implications, and a very
11 serious situation.

12 The sentence of the Court is that you be committed to
13 the State Department of Corrections -- she can stay
14 seated. The sentence of the Court is that you be
15 committed to the Department of Corrections for a period of
16 25 years. You are given credit for the time that you have
17 served. You are to have no contact with the victim
18 directly or indirectly. Your appeal time runs from today
19 and you have 10 days from today's date to appeal this
20 case. Thank you very much. Court is in recess.

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions Court for Horry County, South Carolina, on the 15th day of February, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 6, 2018

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

000572

WITNESSES

Jonathan Martin Horry County Police Department

ARREST WARRANT NUMBER

2015A2610200874

CDR: 3410 16-03-0029

DOA: 4/11/2015

ACTION OF GRAND JURY

TRUE BILL

Kimberly L. Whitten
Foreperson of Grand Jury
Date:

MAY 28 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-26- 0193P

FILED

HORRY COUNTY

The State of South Carolina

2018 FEB 23 PM 2:37

County of Horry

Martin D. Spratt
RENEE N. ELVIS
CLERK OF COURT 15H01684

HORRY COUNTY, SC

COURT OF GENERAL SESSIONS

MAY, 2015 TERM

THE STATE

vs.

Shelby Harper Taylor

W/F

Myrtle Beach, SC 29588

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY:

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

ORIGINAL

2015 MAY 29 AM 10:15

CLERK OF COURT

DATE RECEIVED FROM

GRAND JURY

000573

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 28, 2015, the Grand Jurors of Horry County present upon their oath:

ATTEMPTED MURDER

CDR: 3410 16-03-0029

That Shelby Harper Taylor did in Horry County on or about April 9, 2015 with intent to kill her newborn child, D.O.B. [REDACTED], attempt to kill said child with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. 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.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2016 FEB 23 PM 2:37

FILED
HORRY COUNTY

000574

COUNTY OF _____
STATE _____
VS.
Shelby Harper Taylor
AKA: _____
Race: _____ Sex: F Age: 26
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Myrtle Beach, SC 29588
DL#: _____ SID#: _____
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2015GS2601938
A/W#: 2015A2610200874
Date of Offense: 4/9/2015
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

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

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45

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.
ATTORNEY

Hixson, Scott R.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 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
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
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
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 ☐ Del. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5%) _____ \$

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

§ 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(f) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 375

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Renee N. Elvis

Court Reporter: Kaven Ambrozak

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 \$ 25.00 beginning 3/15/2013

\$ _____ paid to Public Defender Fund

Other: _____

NO contact with victim
directly or indirectly

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

Presiding Judge Re Howard

Judge Code: 2664

Sentence Date: Feb 13/2015

Mon Cafe Japan Surfside Beach
2734-A Ocean Run Rd
Surfside Beach, South Carolina 29575
(843) 215-2255

Server: MON CAFE 1

Station: 4

Order #: 239895

Take Out

>> SETTLED <<

1 ST SH CMP	12.60
2 CHICKEN BOWL	14.40
1 CHICKEN BOWL	7.20

SUB TOTAL:	34.20
Tax 1:	3.25

TOTAL:

\$37.45

Cash Tendered:

CHANGE:

-2.55

>> Ticket #: 100 <<

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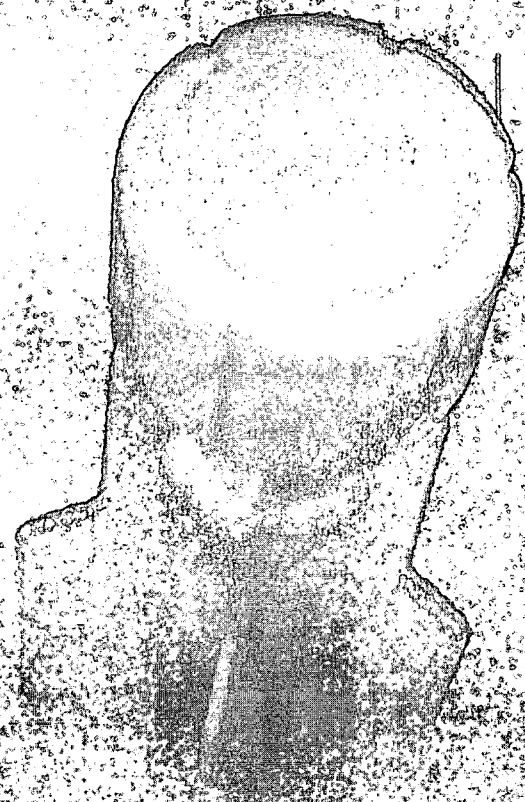
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THANK YOU!



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STATE'S
EXHIBIT
60
5-12



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2-5-19
EXHIBIT
7
70

000578

STANLEY
EXHIBIT
2
10-5-79 JD

000579

STATE'S
EXHIBIT
11
2572

000000

EXHIBITS ON FILE

The following exhibits are on file with this Court:

- Court's Exhibit #1 – Recording of Interview
- State's Exhibit #3 – Recording of Interview
- State's Exhibit #23 – Photograph
- State's Exhibit #25 – Photograph
- State's Exhibit #26 – Photograph
- State's Exhibit #27 – Photograph
- State's Exhibit #28 – Photograph

EXHIBIT #1
EXHIBIT #3
EXHIBIT #23
EXHIBIT #25
EXHIBIT #26
EXHIBIT #27
EXHIBIT #28

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Emily C. Paavola

Emily C. Paavola
900 Elmwood Ave., Suite 200
Columbia, SC 29201
(803) 765-1044
Attorney for Appellant

RECEIVED
APR 18 2019
SC Court of Appeals

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