

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WESLEY CHARLES MALMISTER (2),

APPELLANT

APPELLATE CASE NO. 2018-000333

RECORD ON APPEAL

RECEIVED  
APR 03 2019  
SC Court of Appeals

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	)	00396, 00397
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	)	00310, 00311
THE STATE,	)	
	)	PLAINTIFF
vs.	)	
	)	
WESLEY CHARLES MALMISTER,	)	TRANSCRIPT OF RECORD
TABITHA SUZANNE ROBERTS,	)	
BRANDON SCOTT DAVIS,	)	
	)	DEFENDANTS
-----	)	

APRIL 25, 2017  
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DONALD B. HOCKER

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

LUCAS CRAIG MARCHANT, ESQUIRE  
ASSISTANT SOLICITOR

WILLIAM E. PHILLIPS, ESQUIRE  
ATTORNEY FOR DEFENDANT/MALMISTER

SARAH DRAWDY, ESQUIRE  
ATTORNEY FOR DEFENDANT/ROBERTS

GORDON SENERIUS, ESQUIRE  
ATTORNEY FOR DEFENDANT/DAVIS

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Guilty Plea . . . . . 3



1 pleading to voluntary manslaughter. The next  
2 indictment 2017-GS-04-00310, a charge of murder;  
3 pleading to voluntary manslaughter. The final charge  
4 2017-GS-04-00311, the charge of attempted armed  
5 robbery. He is pleading as charged.

6 Lastly is Tabitha Suzanne Roberts, indictment  
7 number 2017-GS-04-00449, a charge of murder; pleading  
8 to voluntary manslaughter. The next charge is  
9 2017-GS-04-00451, charge of murder; pleading to  
10 voluntary manslaughter. The last charge  
11 2017-GS-04-00450, charge of attempted armed robbery,  
12 and she is pleading as charged.

13 **THE COURT:** All right. Thank you very much,  
14 Solicitor. Okay. Mr. Phillips, you represent Mr.  
15 Malmister?

16 **MR. PHILLIPS:** Correct.

17 **THE COURT:** Have you had an opportunity to explain  
18 these charges to him, his constitutional rights he's  
19 giving up as a result of the plea and the maximum  
20 punishment he could receive?

21 **MR. PHILLIPS:** Yes, sir.

22 **THE COURT:** All right. Mr. Senerius, you  
23 represent Mr. Davis?

24 **MR. SENERIUS:** I do, Your Honor.

25 **THE COURT:** Likewise, have you had an opportunity

1 to explain the charges to him, his constitutional  
2 rights he's giving up as a result of the plea, and the  
3 maximum punishment he could receive?

4 **MR. SENERIUS:** I have, Your Honor.

5 **THE COURT:** And, Ms. Drawdy, you've had an  
6 opportunity to explain to Ms. Roberts these charges and  
7 her constitutional rights that she's giving up as a  
8 result of the plea and the maximum punishment she could  
9 receive?

10 **MS. DRAWDY:** I have, Your Honor.

11 **THE COURT:** And do you believe that your  
12 respective client has understood your explanation, Mr.  
13 Phillips?

14 **MR. PHILLIPS:** Yes.

15 **THE COURT:** And Mr. Senerius?

16 **MR. SENERIUS:** Yes, sir.

17 **THE COURT:** And Ms. Drawdy?

18 **MS. DRAWDY:** Yes, Your Honor.

19 **THE COURT:** And, Mr. Phillips, how does your  
20 client wish to plead to two charges of voluntary  
21 manslaughter and one charge of attempted armed robbery?

22 **MR. PHILLIPS:** Guilty.

23 **THE COURT:** And Mr. Senerius?

24 **MR. SENERIUS:** Guilty, Your Honor.

25 **THE COURT:** And Ms. Drawdy?

1           **MS. DRAWDY:** Guilty, Your Honor.

2           **THE COURT:** Okay. And as his or her attorney, do  
3 you agree with that decision to plead guilty?

4           **MR. PHILLIPS:** Yes, sir.

5           **THE COURT:** Mr. Phillips?

6           **MR. PHILLIPS:** Yes, sir.

7           **THE COURT:** Mr. Senerius?

8           **MR. SENERIUS:** Yes, sir.

9           **THE COURT:** Ms. Drawdy?

10          **MS. DRAWDY:** I do, Your Honor.

11          **THE COURT:** Okay. All right. Mr. Malmister, Mr.  
12 Davis, Ms. Roberts, I'm going to ask you a series of  
13 questions, pay very close attention to the questions I  
14 ask you. And when you respond, speak up loud enough.  
15 And if at any time you don't understand a question that  
16 I ask, either tell me or discuss it with your lawyer.  
17 Okay. All right. First of all, Mr. Malmister, you're  
18 27; is that correct?

19          **MR. MALMISTER:** Yes, sir.

20          **THE COURT:** And how far did you go in school?

21          **MR. MALMISTER:** Ah, I didn't go all the way, but I  
22 got a GED.

23          **THE COURT:** Okay. And, Mr. Davis, you are 27 as  
24 well?

25          **MR. DAVIS:** Yes, sir.

1           **THE COURT:** How far did you go in school?

2           **MR. DAVIS:** I never made it past 9th.

3           **THE COURT:** Okay. Can you read and write okay?

4           **MR. DAVIS:** Yes, sir.

5           **THE COURT:** All right. And, Ms. Roberts, you are  
6 20 years of age?

7           **MS. ROBERTS:** Yes, sir.

8           **THE COURT:** And how far did you go in school?

9           **MS. ROBERTS:** Through the 11th grade.

10          **THE COURT:** Okay. All right. All of you three  
11 defendants are charged with the same offenses, two  
12 counts of voluntary manslaughter which has been reduced  
13 from murder; and one count of attempted armed robbery.  
14 How do you plead to those three charges, Mr. Malmister?

15          **MR. MALMISTER:** Guilty, Your Honor.

16          **THE COURT:** Mr. Davis?

17          **MR. DAVIS:** Guilty.

18          **THE COURT:** And Ms. Roberts?

19          **MS. ROBERTS:** Guilty.

20          **THE COURT:** Are you pleading guilty because, in  
21 fact, you are guilty, Mr. Malmister?

22          **MR. MALMISTER:** Yes, sir.

23          **THE COURT:** Mr. Davis?

24          **MR. DAVIS:** Yes, sir.

25          **THE COURT:** And Ms. Roberts?

1           **MS. ROBERTS:** Yes, sir.

2           **THE COURT:** Has anyone forced you, coerced you,  
3 promised you anything, done anything whatsoever to get  
4 you to plead guilty today against your will, Mr.  
5 Malmister?

6           **MR. MALMISTER:** No, sir.

7           **THE COURT:** Mr. Davis?

8           **MR. DAVIS:** No, sir.

9           **THE COURT:** Ms. Roberts?

10          **MS. ROBERTS:** No, sir.

11          **THE COURT:** Are you pleading guilty today freely,  
12 voluntarily and intelligently, Mr Malmister?

13          **MR. MALMISTER:** Yes, sir.

14          **THE COURT:** Mr. Davis?

15          **MR. DAVIS:** Yes, sir.

16          **THE COURT:** And Ms. Roberts?

17          **MS. ROBERTS:** Yes, sir.

18          **THE COURT:** In the last 24 hours, have you  
19 consumed any substance, alcohol, drugs, medication that  
20 would not only affect your ability to understand these  
21 proceedings, but also affect your ability to make  
22 decisions, Mr. Malmister?

23          **MR. MALMISTER:** No, sir.

24          **THE COURT:** Mr. Davis?

25          **MR. DAVIS:** No, sir.

1       **THE COURT:** Ms. Roberts?

2       **MS. ROBERTS:** No, sir.

3       **THE COURT:** Do you suffer from any problem or  
4 condition, physical, mental or emotional that would not  
5 only affect your ability to understand these  
6 proceedings, but also affect your ability to make  
7 decisions, Mr. Malmister?

8       **MR. MALMISTER:** No, sir.

9       **THE COURT:** Mr. Davis?

10       **MR. DAVIS:** No, sir.

11       **THE COURT:** Ms. Roberts?

12       **MS. ROBERTS:** No, sir.

13       **THE COURT:** Okay. Solicitor.

14       **MR. MARCHANT:** May it please the court, on or  
15 about January the 9th of 2016, at approximately 12:30  
16 a.m. at [REDACTED] Pierce Road and Amy Road in Iva here in  
17 Anderson County, the victim, Justin Ray Williams, was  
18 the victim of an attempted armed robbery by Casey  
19 Wadell, Tabitha Roberts, Brandon Davis, Wesley  
20 Malmister and Randy Simpson.

21               Prior to arriving at the victim's residence, the  
22 defendants were aware of what was going to occur at the  
23 residence and all participated in various forms and  
24 fashions. Essentially what was going to unfold is that  
25 Casey Wadell had directed Ms. Tabitha Roberts to call

1 the victim, Justin Williams, and set up a drug deal.  
2 Ms. Roberts did that. She used the telephone on more  
3 than one occasion prior to arriving at the residence to  
4 strike a deal for methamphetamine with Justin Williams.  
5 Mr. Williams was apparently under the presumption that  
6 Ms. Roberts was going to come over there and purchase a  
7 quantity of Meth for, you know, some dollars.

8 Ms. Roberts rode over with these two defendants,  
9 as well as the fourth defendant, Randy Simpson. When  
10 Ms. Roberts entered the trailer, she was in there for  
11 some period of time before Casey Wadell said, "All  
12 right, fellows, let's go".

13 At that point in time, Casey Wadell, Randy  
14 Simpson, Brandon Davis and Wesley Malmister all exited  
15 the vehicle that they were in, and they were all armed  
16 with guns. Mr. Wadell went to the trailer door, opened  
17 the door, pulled Ms. Roberts out. Mr. Wadell was armed  
18 with an assault rifle and he demanded from Mr. Williams  
19 to quote, "give it up".

20 At that point in time, Mr. Williams was armed  
21 with a 357. He was able to get one shot off and he  
22 struck Mr. Wadell in the head area and killed him  
23 instantly. Once that shot occurred, the testimony from  
24 these three defendants would be that Randy Simpson then  
25 entered the trailer and used his 40 caliber to shoot

1 and kill Justin Williams. Mr. Williams was shot  
2 approximately five times, fatal wounds coming to the  
3 heart and chest area.

4 The defendants then left the residence. Mr.  
5 Davis actually fled into the woods. He was picked up  
6 some time later by Ms. Roberts. Mr. Simpson and an  
7 uncharged individual by the name of Chrli, C-h-r-l-i,  
8 Chyler, C-h-y-l-e-r, Macomson, M-a-c-o-m-s-o-n, who  
9 took Mr. Roberts -- Ms. Roberts and Mr. Davis to one of  
10 Mr. Davis' relative's house.

11 Law enforcement eventually arrived at the scene.  
12 They were alerted by two individuals who heard the  
13 shots. Those two individuals were actually present  
14 when the four defendants showed up at Justin Williams'  
15 house. Once they heard the shots, they went back down  
16 to the house and saw Mr. Wadell and Mr. Williams were  
17 deceased and called law enforcement.

18 Essentially the way the case unfolded, a lot of  
19 street talk as you can imagine, all of these  
20 defendants' names popped up, and eventually Mr.  
21 Malmister, Ms. Roberts, and Mr. Davis have come forward  
22 and have given statements about their involvement in  
23 this case, and have agreed to cooperate with the State  
24 against the prosecution of Mr. Randy Simpson. He would  
25 be the lone defendant left in this case.

1 I've had meetings with all of these defendants,  
2 some to include with law enforcement. Law enforcement  
3 has met with them on other occasions as well, and they  
4 appear to be cooperative and will continue to cooperate  
5 with the State for the prosecution of Mr. Simpson.  
6 Essentially that's what happened, Judge.

7 **THE COURT:** Okay. Is their version of what  
8 happened consistent with each other for the most part?

9 **MR. MARCHANT:** For the most part. Ms. Roberts  
10 indicates that they met at an apartment -- at some  
11 point in time in the evening they ended up in an  
12 apartment, and there was discussion between herself,  
13 Mr. Wadell, Mr. Simpson, and Mr. Malmister about what  
14 was getting ready to unfold. Mr. Malmister does not  
15 deny being at that apartment, but disputes to some  
16 degree that he knew what was really going to happen  
17 until they got in the car and got down there.

18 Mr. Davis was picked up at another residence  
19 later in the evening, and he got in the car with these  
20 folks and he thought initially they were just going to  
21 give him a ride home. He, of course, did realize  
22 before getting out of the vehicle down at Mr. Williams'  
23 house what was going to happen and he was armed with a  
24 gun himself. To the extent that they knew Mr. Williams  
25 and Mr. Wadell, as you're familiar, Judge, in the drug

1 trade everybody sort of knows everybody, to what degree  
2 of how good of a friend and what not so -- but Ms.  
3 Roberts and Mr. Wadell are the ones that certainly knew  
4 Mr. Williams because she's the one that placed the  
5 phone call with him.

6 I will tell the court that there appeared to be  
7 from some other testimony, not necessarily from these  
8 folks, of some witnesses that were interviewed that it  
9 seemed that Mr. Wadell and Mr. Williams had had some  
10 past run-ins with each other, so... Of course, Mr.  
11 Wadell would be standing here --

12 **THE COURT:** Right.

13 **MR. MARCHANT:** -- had he not gotten shot and  
14 killed in the course of this robbery.

15 **THE COURT:** All right. Thank you very much.  
16 While you may not agree with every single detail of the  
17 facts as stated by the Solicitor, was the Solicitor  
18 substantially correct in the statement of the facts,  
19 Mr. Malmaster(sic)?

20 **MR. MALMISTER:** Yes, sir.

21 **THE COURT:** Or Malmister -- I'm going to get that  
22 correct sometime. Mr. Davis?

23 **MR. DAVIS:** Yes, sir.

24 **THE COURT:** Ms. Roberts?

25 **MS. ROBERTS:** Yes, sir.

1           **THE COURT:** Now, do you understand the penalties  
2 involved in connection with these offenses? Are you  
3 still willing to plead guilty, Mr. Malmister?

4           **MR. MALMISTER:** Yes, sir.

5           **THE COURT:** Mr. Davis?

6           **MR. DAVIS:** Yes, sir.

7           **THE COURT:** Ms. Roberts?

8           **MS. ROBERTS:** Yes, sir.

9           **THE COURT:** Do you understand that when you plead  
10 guilty to any criminal offense in this State, you give  
11 up certain constitutional rights. And even though  
12 these fine attorneys I'm sure have gone through your  
13 rights, I'm going to go through them with you on the  
14 record. You have the constitutional right to a jury  
15 trial. Do you want a jury trial, Mr. Malmister?

16           **MR. MALMISTER:** No, Your Honor.

17           **THE COURT:** Mr. Davis?

18           **MR. DAVIS:** No, sir.

19           **THE COURT:** Ms. Roberts?

20           **MS. ROBERTS:** No.

21           **THE COURT:** You have a constitutional right to  
22 remain silent. No one including myself can force you  
23 at any time to say anything whatsoever, and you want to  
24 give up that right, Mr. Malmister?

25           **MR. MALMISTER:** Yes, sir.

1           **THE COURT:** Mr. Davis?

2           **MR. DAVIS:** Yes, sir.

3           **THE COURT:** Ms. Roberts?

4           **MS. ROBERTS:** Yes, sir.

5           **THE COURT:** You have the constitutional right for  
6 your attorney to put up legal defenses, make legal  
7 arguments, put up legal challenges, and any and all  
8 evidence that the State has as well as to confront and  
9 cross-examine State's witnesses; do you want to give up  
10 that right, Mr. Malmister?

11           **MR. MALMISTER:** Yes, sir.

12           **THE COURT:** And Mr. Davis?

13           **MR. DAVIS:** Yes, sir.

14           **THE COURT:** Ms. Roberts?

15           **MS. ROBERTS:** Yes, sir.

16           **THE COURT:** When you were arrested on these  
17 charges or on the original charges, you are  
18 automatically presumed to be innocent. That  
19 presumption of innocence has carried with you all the  
20 way up until this afternoon. But when you plead guilty  
21 as you're doing so now, you are no longer entitled to  
22 that presumption of innocence; do you understand that,  
23 Mr. Malmister?

24           **MR. MALMISTER:** Yes, sir.

25           **THE COURT:** Mr. Davis?

1           **MR. DAVIS:** Yes, sir.

2           **THE COURT:** And Ms. Roberts?

3           **MS. ROBERTS:** Yes, sir.

4           **THE COURT:** And when the State elected to charge  
5 you with a criminal offense, they automatically took on  
6 what we call a burden of proof, to prove each and every  
7 element of the offense beyond a reasonable doubt  
8 standard; that is the highest standard of proof that we  
9 have in this State. However, when you plead guilty as  
10 you're doing so this afternoon, they no longer have any  
11 burden of proof, all they have to present is sufficient  
12 facts to support your guilty plea; do you understand  
13 that, Mr. Malmister?

14           **MR. MALMISTER:** Yes, sir.

15           **THE COURT:** And Mr. Davis?

16           **MR. DAVIS:** Yes, sir.

17           **THE COURT:** And Ms. Roberts?

18           **MS. ROBERTS:** Yes, sir.

19           **THE COURT:** All right. Now, are you satisfied  
20 with the legal representation afforded to you by your  
21 attorney, Mr. Malmister?

22           **MR. MALMISTER:** Yes, Your Honor.

23           **THE COURT:** Mr. Davis?

24           **MR. DAVIS:** Yes, sir.

25           **THE COURT:** Ms. Roberts?

1           **MS. ROBERTS:** Yes, sir.

2           **THE COURT:** Has your attorney done everything  
3 you've asked of him or her to do, or expected that he  
4 or she would do, Mr. Malmister?

5           **MR. MALMISTER:** Yes, Your Honor.

6           **THE COURT:** Mr. Davis?

7           **MR. DAVIS:** Yes, sir.

8           **THE COURT:** Ms. Roberts?

9           **MS. ROBERTS:** Yes, sir.

10          **THE COURT:** Have you had a full opportunity to  
11 review the discovery filed with your attorney? In  
12 other words, all of the documents, all the evidence,  
13 all the information that the State has for this case  
14 and has provided to your attorney, Mr. Malmister?

15          **MR. MALMISTER:** Yes, Your Honor.

16          **THE COURT:** Mr. Davis?

17          **MR. DAVIS:** Yes, sir.

18          **THE COURT:** Ms. Roberts?

19          **MS. ROBERTS:** Yes, sir.

20          **THE COURT:** Do you need any more time to discuss  
21 this case with your attorney, Mr. Malmister?

22          **MR. MALMISTER:** No, sir.

23          **THE COURT:** Mr. Davis?

24          **MR. DAVIS:** No, sir.

25          **THE COURT:** Ms. Roberts?

1           **MS. ROBERTS:** No, sir.

2           **THE COURT:** All right. Do you understand that if  
3 you had a legal basis to challenge this guilty plea,  
4 you're making today, that you only have ten days to  
5 file a notice of intent to appeal with a higher court;  
6 do you understand, Mr. Malmister?

7           **MR. MALMISTER:** Yes, Your Honor.

8           **THE COURT:** Mr. Davis?

9           **MR. DAVIS:** Yes, sir.

10          **THE COURT:** And Ms. Roberts?

11          **MS. ROBERTS:** Yes, sir.

12          **THE COURT:** Have you understood all of the court's  
13 questions, Mr. Malmister?

14          **MR. MALMISTER:** Yes, Your Honor.

15          **THE COURT:** Mr. Davis?

16          **MR. DAVIS:** Yes, sir.

17          **THE COURT:** Ms. Roberts?

18          **MS. ROBERTS:** Yes, sir.

19          **THE COURT:** Have all of your answers to every one  
20 of them been truthful and accurate, Mr. Malmister?

21          **MR. MALMISTER:** Yes, Your Honor.

22          **THE COURT:** Mr. Davis?

23          **MR. DAVIS:** Yes, sir.

24          **THE COURT:** Ms. Roberts?

25          **MS. ROBERTS:** Yes, sir.

1       **THE COURT:** Do you have any questions of your own,  
2 Mr. Malmister?

3       **MR. MALMISTER:** No.

4       **THE COURT:** Mr. Davis?

5       **MR. DAVIS:** No, sir.

6       **THE COURT:** Ms. Roberts?

7       **MS. ROBERTS:** No, sir.

8       **THE COURT:** Thank you very much. Let the record  
9 reflect there is a factual basis for the plea from  
10 these three defendants, which has been made from these  
11 three defendants freely, voluntarily, and  
12 intelligently; and they have done so, all them of them,  
13 with competent counsel with whom services they express  
14 complete satisfaction. The guilty plea has been  
15 accepted and sentencing will be deferred for a later  
16 date. Good luck to y'all.

17       **MR. MARCHANT:** Judge, if I could just briefly with  
18 respect to Mr. Davis, he filed a motion for Mr.  
19 Senerius to be relieved about a month ago, give or take  
20 --

21       **THE COURT:** Okay.

22       **MR. MARCHANT:** We have subsequently met and I  
23 believe Mr. Senerius has met with him on several  
24 occasions since then, I just wanted the record to be  
25 clear that he has no problem with --

1           **THE COURT:** Thank you. Mr. Davis, is that motion  
2 withdrawn?

3           **MR. DAVIS:** Yes, sir.

4           **THE COURT:** Okay. And it was your intent to  
5 withdraw that motion prior to this guilty plea?

6           **MR. DAVIS:** Yes, sir.

7           **THE COURT:** Okay. Thank you.

8           **MR. SENERIUS:** Your Honor, he did file a request  
9 through the court to have the motion withdrawn. That  
10 was filed on April 19th.

11          **THE COURT:** Thank you. Very good. Thank you.

12          **MR. MARCHANT:** Thank you, Judge.

13          **MR. SENERIUS:** Thank you.

14          **MS. DRAWDY:** Thank you, Your Honor.

15                   (Whereupon, the hearing concluded.)

16

17

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END OF TRANSCRIPT

18

19

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25



STATE OF SOUTH CAROLINA )

COUNTY OF ANDERSON )

COURT OF GENERAL SESSIONS

2017-GS-04-00395

2017-GS-04-00396

2017-GS-04-00397

STATE OF SOUTH CAROLINA, )

vs. )

WESLEY CHARLES MALMISTER, )  
DEFENDANT. )

TRANSCRIPT OF RECORD

**ORIGINAL**

May 16, 2017

Anderson, South Carolina

B E F O R E:

THE HONORABLE R. SCOTT SPROUSE, JUDGE.

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

LUCAS C. MARCHANT, ESQ.  
Assistant Solicitor

WILLIAM E. PHILLIPS, ESQ.  
Attorney for Defendant Wesley Charles Malmister

SARA G. DRAWDY, ESQ.  
Attorney for Defendant Tabitha Suzanne Roberts

GORDON A. SENERIUS, ESQ.  
Attorney for Defendant Brandon Scott Davis

HOLLIE M. JENKINS  
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1 MR. MARCHANT: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. MARCHANT: Before you is Brandon Scott Davis,  
4 who's represented by Attorney Gordan Senerius. Second is  
5 Wesley Malmister, who's represented by William Phillips.  
6 And lastly is Tabitha Suzanne Roberts, who's represented  
7 by Sara Drawdy.  
8

9 All three of these individuals entered a plea in  
10 front of Judge Hocker on April the 25th of 2017, with  
11 sentence deferred until after the trial of Randall  
12 Simpson. Of course, Your Honor knows Mr. Simpson pled  
13 guilty yesterday.

14 So we're here for the imposition of sentence on  
15 these --

16 THE COURT: What offense did --

17 MR. MARCHANT: -- three Defendants.

18 Yes, Your Honor.

19 So with respect to all three of them, it's the same.  
20 They all pled to the same charges. Mr. Davis on  
21 indictment 2017-GS-04-310 was charged with murder. He  
22 pled to voluntary manslaughter. 2017-309, it was a charge  
23 of murder. He pled to voluntary manslaughter. 2017-311,  
24 he was charged with attempted armed robbery. He pled as  
25 charged.

1           With respect to Mr. Malmister. 2017-395, a charge of  
2 murder. He pled to voluntary. 2017-397, he was charged  
3 with murder. He pled to voluntary. And 2017-396, he pled  
4 to attempted armed robbery as charged.

5           With respect to Ms. Roberts. 2017-449, a charge of  
6 murder. She pled to voluntary. 2017-451, a charge of  
7 murder. She pled to voluntary. And 2017-450, she's  
8 charged with attempted armed robbery. And she pled as  
9 charged.

10          THE COURT: All right. Mr. Marchant, let me hear  
11 from the State first.

12          MR. MARCHANT: Yes, sir.

13          THE COURT: I'd like any information that you'd like  
14 to put on the record with each Defendant, including their  
15 records. And if any of the victims families -- family  
16 would like to speak, I'd be happy to hear from them.

17          MR. MARCHANT: Yes, Your Honor.

18          THE COURT: Then I'm going to turn it over to each  
19 respective attorney and anything they'd like to present.

20          MR. MARCHANT: May it please the Court.

21           On or about January the 9th of 2016, around 12:30 in  
22 the morning at [REDACTED] Pierce and Amy Road here in Iva here in  
23 Anderson County, the victim, Justin Ray Williams, was the  
24 intended victim of an armed robbery that was put together  
25 by Defendant Roberts, Malmister, Davis, Randy Simpson from

1 yesterday, and Casey Waddell.

2 The intention that would have been relayed at trial  
3 from these Defendants was that they were going to go down  
4 there and rob Mr. Williams of drugs and money.

5 Ms. Roberts would have testified that herself, Casey  
6 Waddell, Randy Simpson, and Wes Malmister were at another  
7 female's residence earlier in the evening, and that they  
8 all talked about robbing Justin Williams.

9 Ms. Roberts would have testified that she made a  
10 phone call to Mr. Williams. And that was done at the  
11 direction of Casey Waddell. Mr. Waddell seemed to be the  
12 leader. I don't want to call them a group. But, of  
13 course, they were a group that evening. It seems that  
14 Mr. Waddell was the one that kind of brought everybody  
15 together with the intention of doing this.

16 He directed her to make a phone call to Justin  
17 Williams under the pretenses that she was going to come  
18 down there and buy some methamphetamine. There was  
19 another phone call later in the evening to confirm that he  
20 was at the residence, Mr. Williams was at the residence,  
21 and that they were, in fact, on the way.

22 Along the way, they ended up stopping at another  
23 gentlemen's house by the name of Phillip Doolittle. At  
24 that house, Mr. Malmister had a shotgun that was given to  
25 him by Mr. Waddell. That shotgun ended up going into

1 Doolittle's house and being left or traded for a .380.  
2 That .380 was taken and given to one of these  
3 co-defendants in the car.

4 Mr. Davis was not originally present for the meeting  
5 of the minds, if you will, at the prior apartment, not  
6 Mr. Doolittle's, but the -- previously. Mr. Davis found  
7 himself at Mr. Doolittle's apartment needing a ride home.  
8 And Mr. Waddell indicated that -- that they would give him  
9 a ride home.

10 Mr. Malmister was the driver of the vehicle the  
11 entire evening. It was Taylor Pierce's vehicle. She was  
12 a friend of Mr. Malmister. Taylor Pierce lived with  
13 Charlie Makemson [phonetic]. Charlie Makemson was the  
14 girlfriend, for lack of a better word, of Randall Simpson.  
15 So there was some familiarity amongst these Defendants  
16 with each other. And they were in Taylor Pierce's Isuzu  
17 Trooper. Mr. Malmister drove the entire evening.

18 He would have testified that Mr. Waddell gave him  
19 some money, filled up the car, gave him some drugs. And  
20 his role, if you will, for that evening was to take  
21 Mr. Waddell wherever Mr. Waddell wanted to go.

22 So they ended up at Doolittle's house. Mr. Davis was  
23 at Mr. Doolittle's house. He needed a ride home, asked  
24 for a ride. Waddell told him, no problem, we'll drop you  
25 off. He gets in the vehicle and finds himself going down

1 to Justin -- eventually, they ended up at Justin Williams'  
2 house. Along the way, he was given a firearm. Each one  
3 of these Defendants was armed with a firearm.

4 His testimony would be that he didn't know that they  
5 were originally going down there to do it, but kind of  
6 figured it out on the way. And when they, finally, got  
7 down to the house, Ms. Roberts went up to the door, opened  
8 the door. Mr. Williams was inside. She began a  
9 conversation with him.

10 And at some juncture, Mr. Waddell, minutes later,  
11 told the remaining Defendants to get out of the car and  
12 let's go. All of them got out of the car. They were all  
13 armed with firearms. Mr. Waddell opens the trailer door,  
14 pulls Ms. Roberts out. Mr. Waddell raises the AK-47 at  
15 Mr. Williams and says something to the effect of, all  
16 right, you know what time it is, give it up. There was  
17 very little conversation following that.

18 Mr. Williams had a .357 in his pocket. He was able  
19 to pull off one shot, which struck Mr. Waddell in the left  
20 cheek and, subsequently, ended up in his -- in his head,  
21 which was the fatal blow to him. Mr. Waddell was only  
22 shot one time.

23 Once Mr. Waddell went down inside the camper, the  
24 second individual in line that these Defendants would have  
25 testified to was Mr. Simpson, who pled yesterday.

1 Mr. Simpson turned onto Mr. Williams and unloaded five or  
2 six shots of a 40-caliber, two or three of which struck  
3 fatal -- struck organs in Mr. Williams, which were the  
4 fatal blow.

5 The Defendants then got back in the vehicle, except  
6 for Mr. Davis. He had run off into the woods. And  
7 there's no indication from any of the information that  
8 Mr. Davis or Mr. Malmister entered the camper, or that  
9 anyone other than Justin Williams or Randy Simpson fired a  
10 shot.

11 Mr. Davis took off into the woods. And he was picked  
12 up several -- several minutes later, 45 minutes to an  
13 hour -- it could have been two hours, depending on the  
14 timeline -- across the highway. He was picked up by  
15 Ms. Roberts, Charlie Makemson, and Randall Simpson.

16 At that point in time, there was discussion about  
17 what the story was going to be if they were questioned by  
18 law enforcement. The story was going to be something to  
19 the effect of we were at Phillip Doolittle's house. All  
20 five of them were going to acknowledge being present. But  
21 the story was going to be that Ms. Roberts and Mr. Waddell  
22 got into a fight. He was dropped off. And they don't  
23 know where he went.

24 Of course, it unraveled very quickly once all of them  
25 were questioned. And it took a time or two to -- and I'll

1 get to that in just a second -- but a time or two for the  
2 full story to come out as it, typically, does, Judge.

3 Essentially, law enforcement opened up the  
4 investigation. And within a very, very short period of  
5 time, the names that you have heard from me today and  
6 yesterday kept coming up and coming up. So, eventually,  
7 some of these Defendants were arrested on unrelated  
8 charges. Some talked, some didn't.

9 Once all of the charges were -- in this particular  
10 case were, finally, brought against them, Mr. Malmister  
11 and Mr. Davis pretty much gave it up from the beginning.

12 Ms. Roberts was originally represented by another  
13 attorney, not Ms. Drawdy. And I didn't get into the case  
14 until about 90 to 120 days ago. And once Ms. Drawdy was  
15 retained, the conversation opened up very quickly between  
16 us and Ms. Drawdy. And Ms. Roberts came forward and gave  
17 her full series of events and sequences as they unfolded  
18 that evening.

19 So I don't know what happened in between the time  
20 Ms. Roberts was arrested and the time Ms. Drawdy got  
21 involved in this. But as soon as Ms. Drawdy was retained,  
22 it was almost like day one, here's the story, this is what  
23 I did, this is what the others did.

24 So they were each prepared and willing to testify at  
25 the trial of Mr. Simpson yesterday. I'd met with them on

1 multiple occasions leading up to trial, as had  
2 Investigator Finley. Their stories for 99 percent of  
3 the -- they lined up together.

4 Each one still sort of minimizes their involvement to  
5 a small degree. And I say that with respect to Mr. Davis  
6 and Mr. Malmister about how much they knew was, actually,  
7 going to occur when they found out or when they recognized  
8 that they were going to rob Mr. Williams. They both would  
9 indicate it wasn't until they got over to the house.

10 Ms. Roberts would -- her testimony would have said they  
11 would have known earlier than that. In any event, three  
12 of them were prepared and ready to testify.

13 Mr. Davis has been in custody continuously since  
14 February the 3rd of 2016. Records indicate 468 days. His  
15 prior record consists mainly of magistrate offenses. But  
16 '08, malicious injury to personal property; 2010, DUS,  
17 simple possession of marijuana; 2014, disorderly; 2015,  
18 open container and false information; and 2015, assault  
19 and battery by mob third degree.

20 Mr. Malmister has been incarcerated continuously  
21 since January the 28th of 2016 for 473 days. Prior  
22 record: '09, no driver's license; 2010, disorderly,  
23 shoplifting, prowling, petit larceny, unlawful entry into  
24 enclosed spaces; 2011, burglary third and a damage to  
25 obtain nefarious metals; 2012, false information; 2014,

1 receiving stolen goods 2,000 or less; 2014, receiving over  
2 10,000; 2015, auto breaking and grand larceny over 10,000.

3 Ms. Roberts has been continuously incarcerated since  
4 February the 2nd of 2016 for a total of 469 days.

5 There's no recommendation to the Court on sentencing  
6 on any of these individuals. I'll be happy to answer any  
7 other questions if I can help clarify each individual's  
8 role or, at least, what the State's position is in their  
9 role.

10 The victim of the Williams' family, Mr. Shaw, would  
11 like to be heard with respect to sentencing.

12 THE COURT: Mr. Marchant, let me ask you.

13 MR. MARCHANT: Yes, sir.

14 THE COURT: Was the information provided by these  
15 individuals useful to the State in preparing this case  
16 against Mr. Simpson?

17 MR. MARCHANT: Absolutely, Your Honor.

18 THE COURT: And do you feel these were necessary  
19 witnesses that you would have needed had that case gone to  
20 trial?

21 MR. MARCHANT: Yes.

22 THE COURT: Okay. Thank you.

23 And I'll be happy to hear from...

24 MR. DANIEL SHAW: My name is Daniel Shaw. I'm Justin  
25 Williams' brother.

1 THE COURT: Yes, sir, Mr. Shaw.

2 MR. DANIEL SHAW: Your Honor, yesterday, the -- the  
3 sentence that was passed down, I just didn't get a chance  
4 to say thanks on behalf of my family.

5 I, also, told you yesterday that forgiveness is  
6 something that we're struggling with. And knowing that a  
7 sentence is handed down that suits the crime helps. It  
8 opens some doors for some conversations for us. And we  
9 hope that that continues today.

10 Listening to this so many times over and over, it --  
11 it's painful every time. And it just -- it's something  
12 that my family raised us not expecting to ever have to  
13 deal with.

14 I hope that all three of these Defendants understand  
15 that regardless of what their thoughts were about my  
16 brother, the row that's filled up with people over there  
17 is filled up with good people, good people that expect  
18 good out of others and would never expect something like  
19 this to be something that we would have to deal with.

20 What they took from us was a member of that family  
21 that meant something -- more than I can explain to you.  
22 Justin was the baby of four siblings. And we all felt  
23 like a bunch of momma's and daddies. And so we all feel  
24 like we lost a child.

25 I've got a nephew that lost a dad. And my father,

1 also, passed when I was young. And growing up having to  
2 deal with that, that's what they handed down to my nephew.  
3 They handed down to my parents not being able to watch  
4 their son grow old and, hopefully, learn from mistakes and  
5 come to be a -- a good person that could take care of them  
6 when they get old.

7 And, Your Honor, I've listened to their involvement  
8 being key in what happened yesterday, and that may be so.  
9 But that is just telling the truth, which is the right  
10 thing to do. It's absolutely the right thing to do, just  
11 be honest about what happens and accept your punishment.

12 The -- under no circumstances do I feel like that  
13 should change their involvement or change the consequences  
14 of their involvement. Making phone calls, driving cars,  
15 arming yourself, all of that are the actions of killers.

16 They all played a role in killing my brother. And  
17 that's something that we're going to have to deal with for  
18 the rest of our lives. We're going to have to carry that  
19 burden with us forever and fill that void every day, every  
20 birthday, every holiday. Every time his son asks about  
21 his dad, we're going to have to feel that. So under no  
22 circumstances do any of us believe that they should  
23 receive less than the maximum punishment for what they've  
24 done.

25 And if they want mercy, they need to go talk to God

1 about that. Because that's -- that's who deals in mercy.

2 And I just hope that the Court understands that this  
3 is something that will affect us forever. And that had  
4 they not done what they done -- they might have not pulled  
5 the trigger, but had they not made that phone call, or  
6 drove that car, or got in the car, or just chose not to  
7 speak up and say, hey, guys, this is the wrong thing to  
8 do, let me out. That one choice right there could have  
9 changed the -- the whole night. I might not even be  
10 standing here. My brother could still be alive.

11 But that's not the choice they made. They chose to  
12 call. They chose to ride or drive. They chose to arm  
13 themselves. And they had plenty of time to think about  
14 what they were doing.

15 So I just say that in hopes that you will consider  
16 not only the choices that they've made, regardless of how  
17 they feel today, but, also, take into consideration just  
18 the impact of the -- the crimes and the effect that it's  
19 had on my family.

20 And I hope, again, you'll hand down a sentence that  
21 suits that so that we can, also, once again, get together  
22 and have some closure and, hopefully, find forgiveness.

23 THE COURT: Thank you.

24 MR. DANIEL SHAW: Thank you.

25 MR. MARCHANT: Members of the Waddell family are

1 present, but do not wish to address the Court, Your Honor.

2 THE COURT: Thank you, Mr. Marchant.

3 Is that all from the State?

4 MR. MARCHANT: Yes, Your Honor.

5 THE COURT: All right. I'll start with Mr. Senerius.

6 MR. SENERIUS: Thank you, Your Honor.

7 May it please the Court.

8 In front of you is Brandon Scott Davis, 27 years old,  
9 26 at the time this happened. He is a lifelong resident  
10 of the upstate. He has a little more than a ninth-grade  
11 education. He was working as a house framer prior to  
12 being incarcerated. He has three children, two daughters,  
13 ages six and four, and a son age two by two different  
14 women. But he has supported, prior to this, voluntarily.  
15 No court-ordered support plays a part in this.

16 You've heard he has a minimal record of -- a minimal  
17 criminal record prior to this occurrence. He was not part  
18 of the plan. In fact, he was supposed to be getting a  
19 ride home. He gets in the car. They tell him they're  
20 going to take him -- Mr. Waddell tells him he's going to  
21 take him home. And the next thing you know, they're going  
22 down the road.

23 Now, he had used methamphetamine earlier in the day.  
24 They all had been smoking marijuana prior to leaving, I  
25 think, Smoke's house -- I don't -- Mr. Doolittle's house.

1 I guess that's his name. The others will tell you that he  
2 was not part of the plan, that he just happened to be  
3 there. Admittedly, at some point in time during the --  
4 the ride down there, he knew what was going on.

5 And I would submit to the Court that the biggest  
6 mistake that he made, other than just getting in the car  
7 that day or doing the drugs in the first place, was  
8 getting out of the car. Because that's all he did when  
9 they got down there. He got out of the car.

10 He had been handed a weapon. He didn't even know  
11 whether or not it was loaded. He didn't fire it. He  
12 didn't check it. And as soon as the first shot was heard,  
13 he took off. He regrets getting in the car that day. He  
14 regrets everything that has happened since then to both  
15 Mr. Waddell and to Mr. Williams.

16 It's a difficult sentencing that you have to decide  
17 in this particular case. You have to weigh into  
18 consideration the actions of each Defendant, their role in  
19 the offense. But I would submit that Brandon's role was  
20 the least involved, not that he didn't -- shouldn't be  
21 punished. He doesn't expect not to get punished. But I  
22 would ask you to consider everything and give him as  
23 minimal of a sentence as you possibly can.

24 I don't have anything more to say.

25 THE COURT: Thank you, Mr. Senerius.

1 Mr. Davis, anything you'd like to tell me?

2 DEFENDANT BRANDON DAVIS: No, sir.

3 THE COURT: All right. Mr. Phillips.

4 MR. PHILLIPS: Thank you.

5 I've represented Mr. Malmister from the very  
6 beginning of this case. Shortly after he was arrested, I  
7 was appointed to represent him. And I think the first  
8 time I met with him was early in February of 2016.

9 And from the very first time we ever met,  
10 Mr. Malmister indicated to me that he wanted to do  
11 whatever he needed to do to resolve this case. And he was  
12 willing to assist in any way he knew how. And that was  
13 his view, like I say, from, at least, February of 2016.

14 And during our conversations -- and we've probably  
15 had, I'd say, 10 to 15 -- there was always this level of  
16 remorse that he expressed. And I've always interpreted  
17 that to be a sincere level of remorse from Mr. Malmister.

18 So when Mr. Marchant contacted me, I guess, several  
19 months ago and asked if Mr. Malmister was willing to  
20 cooperate, I wanted to, obviously, ask Mr. Malmister in  
21 person. But I knew what the answer would be, and that was  
22 yes. Because that's what he had told me from the very  
23 beginning.

24 And as Mr. Malmister -- Mr. Marchant indicated, the  
25 testimony of Mr. Malmister, as well as these other

1 Defendants, would have aided the Prosecution and assisted  
2 them in yesterday's case.

3 He's been in jail for 473 days. We would ask the  
4 Court to take that into consideration when issuing a  
5 sentence. And we would ask that the Court impose a  
6 reasonable sentence based on all of the facts and  
7 circumstances involving Mr. Malmister.

8 I think Mr. Malmister would like to address the  
9 Court.

10 THE COURT: Thank you, Mr. Phillips.

11 Mr. Malmister.

12 DEFENDANT WESLEY MALMISTER: I mean, it's clear that  
13 no amount of remorse or condolence is ever going to bring  
14 any of these individuals back. And I understand the --  
15 the families that have suffered the devastating loss that  
16 they'll have to bear for the rest of their life.

17 The reason I came forth from day one -- I was the  
18 first one to tell the truth about this -- is because I was  
19 a part of something very terrible. And for my role in  
20 this crime, I was wanting to, number one, let the families  
21 know the truth, which they deserved, and be responsible  
22 for what I had to do with this situation, which is why I  
23 made the choices I did, you know, to try to come forth and  
24 let them know.

25 I just -- no amount of I'm sorry is going to make a

1 difference in how they feel. I just want to express that  
2 I am sorry and remorseful. And, you know, I understand  
3 the situation. I tried to be as much of a help to let  
4 justice be served as I could. That's all I have to say.

5 THE COURT: Thank you, sir.

6 Anything further, Mr. Phillips?

7 MR. PHILLIPS: No, sir.

8 THE COURT: All right. Ms. Drawdy.

9 MS. DRAWDY: Thank you, Your Honor.

10 May it please the Court.

11 I represent Tabitha Roberts. She was 19 when this  
12 occurred. She's 20 years old now. She's done, as you've  
13 heard, 469 days in the ACDC.

14 I came onto this case retained, Your Honor. Her  
15 mother and stepfather came in to see me. They are here,  
16 too, and would like to address the Court at the  
17 appropriate time. I believe it was March of this year, so  
18 just a few months ago.

19 In any event, just to clarify, she did have an  
20 appointed attorney when this charge first came about in  
21 February of 2016. She met with that attorney the day  
22 before the prelim and at the prelim. And she never saw  
23 that attorney again.

24 So she talked to her parents, and they were  
25 concerned. And that's when they came and got me and I got

1 involved in the case. And I was, like, hey, let's see  
2 what Tabitha wanted to do, and here was my recommendation.

3 But she had been visited by law enforcement, who  
4 asked her if she wanted to speak, and she did. And she  
5 had sent through the kiosk in the jail correspondence to  
6 her attorney, I want to cooperate. So I just wanted to  
7 clarify that, that long ago she wanted to cooperate. But  
8 she was represented so law enforcement couldn't talk to  
9 her without her attorney. And her attorney just wasn't  
10 out there.

11 So, nevertheless, I was retained. And I got with  
12 Mr. Marchant immediately. We reviewed the case. And  
13 then, of course, we cooperated and she told everything.  
14 And I think she would have me say, too, what Mr. Senerius  
15 a says about his client is what she told law enforcement  
16 as well.

17 She said he -- he got a ride. He figured it out  
18 later. But she said he didn't have it in him to do  
19 anything like that. He did find out. She was honest  
20 about everything that she could remember. I say that  
21 because she was on meth. She was a meth addict.

22 Her parents divorced when she was young. She's been  
23 a lifelong resident of Williamston.

24 In any event, she lived with her mother for the most  
25 part. But she got into the drug world. She dropped out

1 of the eleventh grade. She was expelled, actually, from  
2 school. So the furthest she went was the eleventh  
3 grade.

4 She got a job at The Clock, and was living with her  
5 mother. She got fired from The Clock, again, drug use was  
6 the cause of that. She'd been in a car accident, a pretty  
7 severe one. And when she got out of the hospital at that  
8 time, she asked her mother if she could go live with her  
9 father, who was out of prison and was clean for the first  
10 time in a long time.

11 Her father had gone to prison a couple of times for  
12 drugs. She lived with her father. I cannot relate to  
13 this, can't imagine it. She did meth with her father.

14 Her father is not here today. I did talk to her  
15 father. And her father, interestingly enough, said, well,  
16 tell her I'm going to miss her. I may be 60 or 70 when  
17 she gets out. I was stunned.

18 I don't say this to condone what took place that  
19 night. She knows it was wrong. She cannot take it back.  
20 We've prayed about it. I just need to explain where she  
21 was, this is who she was at that time.

22 And she's 19. She's out of her father's home now.  
23 She's out of her mother's home. They won't let her back  
24 because she's still in the drug scene. And, literally, at  
25 19, she's just sleeping wherever. That's how they all

1 became friends, stayed here, stayed there. It's a life I  
2 can't imagine.

3 Nevertheless, she and Casey Waddell were involved.  
4 That was her boyfriend. And she has told me that she  
5 loved Casey Waddell. She loved him. That night, he asks  
6 her, hey, we need to get some stuff. We need to get some  
7 money. We need to go rob a place. You know this guy.  
8 Get your phone out and make a phone call. She loved him.  
9 She was on meth. They'd been doing marijuana. Anyway,  
10 she did it.

11 I point that out. But that's the obvious. The Court  
12 knows her role. She made the phone call. She went down  
13 there. She went into the house. But she was not the  
14 mastermind. As guilty as she is of those things, she was  
15 not the mastermind. She was not the shooter. And she did  
16 cooperate.

17 She's not pleading -- or has not pled to murder.  
18 She's pled to voluntary manslaughter, two counts. And  
19 she's pled to attempted armed robbery. She's not pled as  
20 a YOA. Literally, if this had occurred 24 months earlier,  
21 she would have originally been charged as a juvenile. She  
22 was young, and dumb, and was on meth.

23 Your Honor, I've met with her several times. It's --  
24 it's crazy. She has no prior, wasn't old enough to really  
25 get one, absolutely no prior record. She came in here and

1     pled guilty. I've always thought as a former prosecutor  
2     and now a defense attorney what keeps the wheels of  
3     justice flowing is not just that victims state their part,  
4     which they're, certainly, entitled to and our sorrow goes  
5     out to them, but that Defendants come in and plead. I  
6     can't imagine doing that.

7             She stood up. She knows what she's facing today  
8     here, a total of, perhaps, 80 years. And she still stands  
9     here, didn't run, didn't flee. She hasn't once asked me  
10    for bond, never asked for that. Hey, I want to get out,  
11    maybe one last fling at it. I've asked her -- your  
12    sentence today, you go away. She knows she's getting  
13    time, a lot of time.

14            She'd like to get her GED. She's 20 years old. What  
15    I just point out, Your Honor -- again, this is with all  
16    due respect and I know you're aware of this -- we're  
17    asking you to carve out a sentence -- I don't envy you --  
18    one that doles out justice. The victims are, certainly,  
19    entitled to justice, and they should have that. But you  
20    also -- she's got to ask God for mercy for her soul.

21            But here on earth, you have the power to temper your  
22    sentence with mercy. And we ask that you do that.  
23    Whatever you sentence her to, if she doesn't get out until  
24    40 or 50, there's a certain part of her life she'll never  
25    get. Her youth is gone, absolutely forfeited. She may

1 never be able to have children. I understand the victim  
2 will never get to be with his son.

3 She understands what her future -- her youth is gone,  
4 her total future might be gone. If we believe in  
5 rehabilitation, if we believe in the possibility of  
6 forgiveness, I'm just asking -- begging the Court to,  
7 perhaps, temper its sentence with those ingredients.

8 Your Honor, that's all I have. And, of course, my  
9 client would want to say something. She does have her  
10 mother and stepfather here.

11 THE COURT: Yes, ma'am. I'll be happy to hear from  
12 you.

13 DEFENDANT TABITHA ROBERTS: I would like to apologize  
14 to the families that lost their loved ones. I apologize  
15 for the wrong I played in that happening. I realize and  
16 take full responsibility for my actions. And I'm just  
17 terribly, terribly sorry that all this happened and it  
18 ended up like this. That's all.

19 THE COURT: Thank you, ma'am.

20 Ms. Drawdy, do you have another family member that  
21 wishes to speak?

22 MS. DRAWDY: I do.

23 Ma'am, if you would stand up and give your name to  
24 the Court, so that the court reporter can get that down.

25 MS. TERESA BROWN: My name is Teresa Brown --

1 MS. DRAWDY: And if you'd speak up, please.

2 MS. TERESA BROWN: Teresa Brown.

3 MS. DRAWDY: Teresa Brown.

4 Ma'am, you can come up here.

5 THE COURT: Yes. Have her come up to the microphone.

6 MS. DRAWDY: Thank you, Your Honor.

7 MS. TERESA BROWN: I'm Tabitha's mom --

8 THE COURT: Ma'am, could you come forward to the  
9 microphone? I'm having a hard time hearing you.

10 MS. TERESA BROWN: I'm Tabitha's mom.

11 Growing up, you would have never seen a sweeter girl  
12 with so much going for her, college bound. Her first few  
13 years in high school, she lost her way to drugs. It's  
14 something that I've never been involved with, so I didn't  
15 see the signs.

16 I'm -- I'm sorry to the families. I mean, I've cried  
17 and cried for everybody, all of them, the victims,  
18 Tabitha, everybody.

19 And I'm just praying that you will give her a little  
20 mercy in her case. She's not perfect. I know that. I  
21 know that she has to serve some time for her part in this.

22 Thank you, sir.

23 THE COURT: Thank you, ma'am.

24 MS. DRAWDY: And our last one, Your Honor, is her  
25 stepfather.

1           If you'd come up here, sir, by the microphone and  
2 give your name.

3           MR. KEVIN BROW: My name's Kevin Brown.

4           I've been involved in Tabitha's life since she was  
5 14. She was my stepdaughter. And I treated her just like  
6 my -- my regular daughter. I've seen her at her -- at her  
7 best. And I've seen her at her worst. I served in law  
8 enforcement for 10 years, so I -- I understand what's  
9 going on.

10          And I feel for the families. I feel for everybody  
11 that's involved in this whole situation.

12          I've seen her when she was really bad. And just  
13 looking at her now is like night and day.

14          As you know, you know, people that's on meth, three  
15 things are going to happen. They're either going to get  
16 killed or die. They're going to stay on meth, or they're  
17 going to kick their habit.

18          God's got a plan for Tabitha. And I feel if she gets  
19 a chance to go with that opportunity, she's going to make  
20 the best of it.

21          Thank you.

22          MS. DRAWDY: Thank you, Your Honor.

23          THE COURT: Anything further from any -- any party?

24          MR. SENERIUS: No, Your Honor.

25          MR. PHILLIPS: No, sir.

1 THE COURT: All right. If there's nothing further,  
2 this will be the sentence of the Court. I -- this is an  
3 unusual situation in that I hear the same facts on  
4 consecutive days. This is a -- as I said yesterday, it's  
5 a very tragic case, two -- two young lives lost, three  
6 other young lives are significantly affected. And there's  
7 no -- no good explanation. Drugs were involved all the  
8 way -- all the way from start to finish. And, again,  
9 drugs destroy lives. And they, certainly, have in this  
10 case.

11 And I feel -- I feel for the families. The families  
12 are out here. These poor people have come to court twice.  
13 I know this is extremely painful.

14 Also, my heart goes out to the families of the  
15 Defendants as well. I can't think of anything other  
16 than --- worse than drugs causing death in young -- young  
17 people and seeing young people throw their lives away.

18 I'm taking into account the degree of culpability of  
19 each party. I'm taking into account the facts, who fired  
20 the firearms. I'm taking into account who appears to be  
21 the masterminds and the degree of involvement.

22 So this will be the sentence of the Court, for  
23 Tabitha Suzanne Roberts, on indictment 2017-GS-04-449, she  
24 is to be confined to the Department of Corrections for a  
25 term of 25 years. She'll be given credit for 469 days

1 time served. And on indictment 450, she is to be confined  
2 to the Department of Corrections for a term of 20 years,  
3 concurrent. And on 451, she is to be confined for  
4 25 years, concurrent.

5 Charles Wesley Malmister. On indictment 395 --  
6 2017-GS-04-395, he's to be confined to the Department of  
7 Corrections for a term of 25 years. And that gives him  
8 credit for 473 days time served. On indictment 396,  
9 20 years, concurrent. And indictment 397, 25 years,  
10 concurrent.

11 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*  
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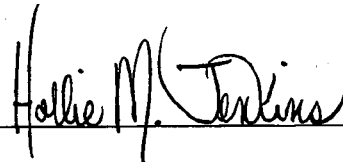
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
COUNTY OF GREENVILLE            )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 captioned case, relative to appeal, in the Court of General Sessions for Anderson County, South Carolina, on the 15th day of May, 2017.

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

July 16, 2018



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF GENERAL SESSIONS  
 COUNTY OF ANDERSON )  
 State of South Carolina, )  
 vs. ) MOTION TO RECONSIDER  
 Wesley Charles Malmister, )  
 Defendant. )  
 Case No. 2017-GS-04-00395  
 Case No. 2017-GS-04-00396  
 Case No. 2017-GS-04-00397

TO: LUCAS C. MARCHANT, ASSISTANT SOLICITOR:


YOU WILL PLEASE take notice that the undersigned, as the attorney for the Defendant, will move before the Honorable R. Scott Sprouse, Circuit Court Judge, at such time as may be directed by the Court for an Order reconsidering the sentence imposed upon the Defendant on May 16, 2017.

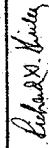
This Motion to Reconsider is filed in accordance with the provisions of Rule 29(a) of the South Carolina Rules of Criminal Procedure and is based on the Defendant's sentence of twenty-five (25) years that was imposed on May 16, 2017.

The Defendant respectfully requests that this Court reconsider its sentence of May 16, 2017 and modify the same to a more reasonable judgment to allow the Defendant to continue his contribution to society and to his family.

I SO MOVE.

May 22, 2017  
 Anderson, South Carolina

  
 William E. Phillips  
 PO Box 4210  
 Anderson, SC 29622  
 (864) 231-7333  
 Attorney for the Defendant

A TRUE COPY  
 MAY 22 2017  
  
 ANDERSON CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )  
 )  
 State of South Carolina )  
 )  
 vs. )  
 )  
 Wesley Charles Malmister, )  
 )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 TENTH JUDICIAL CIRCUIT

Case No.: 2017-GS-04-00395, -00396, -00397

ORDER DENYING DEFENDANT'S MOTION  
 FOR RECONSIDERATION

**RECEIVED**  
 FEB 23 2018  
 SC Court of Appeals

The Defendant's Motion to Reconsider his sentence issued on May 16, 2017, is DENIED.

After careful consideration and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, the Defendant's Motion, pursuant to Rule 29, SCRCrimP,<sup>1</sup> is DENIED.

AND, IT IS SO ORDERED.

**A TRUE COPY**  
 FEB 15 2018  
*Richard S. Sprouse*  
 ANDERSON CLERK OF COURT

*R. Scott Sprouse*  
 R. SCOTT SPROUSE  
 Judge, Tenth Judicial Circuit

*W. Charles Malmister*  
 Anderson, South Carolina

2-6, 2018

**FILED CLERK'S OFFICE**  
**ANDERSON SC**  
 2018 FEB 15 AM 11:23  
 COMMON PLEAS AND  
 GENERAL SESSIONS

<sup>1</sup> The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 29(a), SCRCrimP.

**RECEIVED**  
 FEB 15 2018  
 TENCH CIRCUIT  
 SOLICITOR'S OFFICE

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM ANDERSON COUNTY  
Court of General Sessions**

**R. Scott Sprouse, Circuit Court Judge**

**Case No. 2017-GS-04-00395  
Case No. 2017-GS-04-00396  
Case No. 2017-GS-04-00397**

**RECEIVED  
FEB 23 2018  
SC Court of Appeals**

**The State, ..... Appellant,**

**v.**

**Wesley Charles Malmister, ..... Respondent.**

**NOTICE OF APPEAL**

Wesley Charles Malmister appeals his sentence in this case. The sentence was imposed by the Honorable R. Scott Sprouse on May 16, 2017 and an Order Denying Defendant's Motion for Reconsideration was filed on February 15, 2018 and received by the attorney for the Defendant on February 20, 2018.

February 21, 2018



**William E. Phillips  
PO Box 4210  
Anderson, SC 29622  
(864) 231-7333  
Attorney for Appellant**

**Other Counsel of Record:  
David Wagner  
Tenth Circuit Solicitor  
PO Box 8002  
Anderson, SC 29622**

**ORIGINAL**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM ANDERSON COUNTY  
Court of General Sessions**

**R. Scott Sprouse, Circuit Court Judge**

**Case No. 2017-GS-04-00395  
Case No. 2017-GS-04-00396  
Case No. 2017-GS-04-00397**

**RECEIVED  
FEB 23 2018  
SC Court of Appeals**

**The State, ..... Respondent,**

**v.**

**Wesley Charles Malmister, ..... Appellant.**

**EXPLANATION OF REVIEWABLE ISSUE ON APPEAL**

This Explanation of Reviewable Issue on Appeal is filed pursuant to Rule 203(d)(B)(iv) of the South Carolina Appellate Court Rules.

Wesley Charles Malmister ("Appellant") is filing a Notice of Appeal with this Court related to the sentence imposed by the Circuit Court on May 16, 2017 in which a Motion for Reconsideration was denied on February 15, 2018. The Appellant had previously pled guilty to two (2) counts of Voluntary Manslaughter and one (1) count of Attempted Armed Robbery. The Appellant's sentence was deferred pending his cooperation with the Anderson County Solicitor's Office in assisting the prosecution and testifying against one of the Appellant's co-Defendants. On or about May 16, 2017, the co-Defendant pled guilty to murder and was sentenced to fifty (50) years.

At the Appellant's sentencing, the prosecutor advised the Circuit Court Judge that the co-Defendant's guilty plea would not have been possible without the Appellant's assistance and that the Appellant was fully cooperative with the Solicitor's Office. The Appellant was sentenced to twenty-five (25) years on each count of

**ORIGINAL**

Voluntary Manslaughter (concurrent) and fifteen (15) years on the count of Attempted Armed Robbery (also concurrent).

In South Carolina, the penalty for Voluntary Manslaughter is a sentence between two (2) and thirty (30) years. S.C. Code Ann. §16-3-50 (Law. Co-op. 2009). Although a presiding judge has discretion in sentencing a Defendant, that sentence must not ignore favorable mitigating factors, nor must that sentence be a significant departure from a normal sentence applying such favorable mitigating factors.

The issue to be raised on appeal is that the sentence imposed on the Appellant violates the Eighth Amendment to the U.S. Constitution in that such sentence was not proportionate to the crimes committed. This issue was raised to or ruled on by the Circuit Court.

The Eighth Amendment prohibits cruel and unusual punishments and requires that sentences must be proportionate to the crime committed. Solem v. Helm, 463 U.S. 277, 284-90 (1983). Any court's proportionality analysis under the Eighth Amendment should be guided by objective criteria. *Id.* at 290-295. The criteria recognized in Solem include (i) the gravity of the offense and the harshness of the penalty; (ii) the sentences imposed on other criminals in the same jurisdiction; and (iii) the sentences imposed for commission of the same crime in other jurisdictions. *Id.* at 290-292. These criteria have been used in this State to analyze the proportionality of a sentence to the severity of the crime. See, e.g., State v. Kiser, 288 S.C. 441, 343 S.E.2d 292 (1986); State v. Gamble, 249 S.C. 605, 155 S.E.(2d) 916 (1967).

Although trial courts are competent to judge the gravity of an offense, at least on a relative scale, comparisons can be made in light of the harm caused or threatened to the victim or to society, and the culpability of the offender. Considering the relevant objective criteria, the Appellant's sentence of twenty-five (25) years is significantly disproportionate to his crime, especially when compared with the Appellant's level of cooperation with the Solicitor's Office and is, therefore, prohibited by the Eighth Amendment to the U.S. Constitution.

February 21, 2018



---

**William E. Phillips**  
PO Box 4210  
Anderson, SC 29622  
(864) 231-7333  
Attorney for Appellant

**Other Counsel of Record:**

— David Wagner  
Tenth Circuit Solicitor  
PO Box 8002  
Anderson, SC 29622

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM ANDERSON COUNTY  
Court of General Sessions**

**R. Scott Sprouse, Circuit Court Judge**

**Case No. 2017-GS-04-00395  
Case No. 2017-GS-04-00396  
Case No. 2017-GS-04-00397**

**RECEIVED  
FEB 23 2018  
SC Court of Appeals**

**The State, ..... Respondent,**

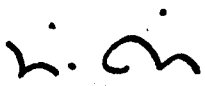
**v.**

**Wesley Charles Malmister, ..... Appellant.**

**PROOF OF SERVICE**

I certify that I have served the Notice of Appeal and the Explanation of Reviewable Issues on Appeal on the Respondent by depositing a copy of the same in the United States Mail, postage prepaid, to David Wagner, Tenth Circuit Solicitor, PO Box 8002, Anderson, SC 29622.

February 21, 2018



**William E. Phillips  
PO Box 4210  
Anderson, SC 29622  
(864) 231-7333  
Attorney for Appellant**

**ORIGINAL**

**WITNESSES**

Anderson Co. Sheriff's Office  
Jeffrey R. Finley

**ARREST WARRANT NUMBER**

2016A0410100078

**ACTION OF GRAND JURY**

TRUE BILL  
FEB 21 2017  
Foreperson of Grand Jury  
Date:  
*Jeffrey R. Finley*  
Foreperson

**VERDICT**

Foreperson of Grand Jury  
Date:

DOCKET NO. 2017-GS-04-00397

**The State of South Carolina  
County of Anderson**

**COURT OF GENERAL SESSIONS**

FEB 21 2017, TERM

**THE STATE**

**VS.**

**WESLEY CHARLES MALMISTER**

**INDICTMENT FOR**

**MURDER**

SC Code: § 16-03-0010  
CDR Code: 0116

A TRUE COPY  
MAY 18 2018  
*Robert H. ...*  
CLERK OF COURT

COMMITMENT

4/25/17-RT

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

## INDICTMENT

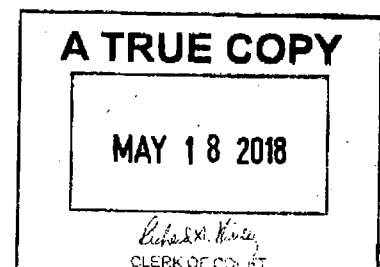
At a Court of General Sessions, convened on FEB 21 2017, the  
Grand Jurors of Anderson County present upon their oath:

**MURDER**

That Wesley Charles Malmister did in Anderson County, on or about January 9, 2016, unlawfully and with malice aforethought, aid and assist in the death of Justin Ray Williams in that a co-defendant did shoot and kill Justin Ray Williams with a handgun during the commission of an armed robbery, and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

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

  
AUSTIN MCLAIN  
ASSISTANT SOLICITOR



**WITNESSES**

Anderson Co. Sheriff's Office  
Jeffrey R. Finley

**ARREST WARRANT NUMBER**

COUNT ONE 2016A0410100088  
COUNT TWO 2016A0410100094

*TIC  
Count 2*

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury  
Date: *FEB 21 2017*

*[Signature]*  
Foreperson

**VERDICT**

Foreperson of Grand Jury  
Date:

DOCKET NO. 2017-GS-04-*00396*

The State of South Carolina  
County of Anderson

**COURT OF GENERAL SESSIONS**



*FEB 21 2017*, TERM

THE STATE

VS.

**WESLEY CHARLES MALMISTER**

**INDICTMENT FOR**

**COUNT ONE - ATTEMPTED ARMED  
ROBBERY**

SC Code: § 16-11-0330(B)  
CDR Code: 0026

**COUNT TWO - POSSESSION OF A  
WEAPON DURING THE COMMISSION OF  
A VIOLENT CRIME**

*\*  
TIC  
Lucas  
Marchant  
Count 2*

SC Code: § 16-23-0490  
CDR Code: 0549

**A TRUE COPY**  
MAY 18 2018  
*[Signature]*  
CLERK OF COURT

COMMITMENT

*4/25/17-PT*

STATE OF SOUTH CAROLINA  
 COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on FEB 21 2017, the  
 Grand Jurors of Anderson County present upon their oath:

**COUNT ONE - ATTEMPTED ARMED ROBBERY**

The defendant, Wesley Charles Malmister did on or about January 9, 2016, in Anderson County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force, threats, or intimidation, goods or monies from the person or presence of Justin Ray Williams. All in violation of 16-11-0330(B) of the South Carolina Code of Laws (1976) as amended.

**COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME**

The defendant, Wesley Charles Malmister, did on or about January 9, 2016, in Anderson County, South Carolina, while committing the crime of Attempted Arm Robbery, a crime of violence, have in his possession a Firearm. All in violation of 16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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

*[Handwritten Signature]*  
 AUSTIN MCLAIN  
 ASSISTANT SOLICITOR

**A TRUE COPY**

**MAY 18 2018**

*[Handwritten Signature]*  
 CLERK OF COURT

**WITNESSES**

Anderson Co. Sheriff's Office  
Jeffrey R. Finley

**ARREST WARRANT NUMBER**

2016A0410100069

**ACTION OF GRAND JURY**

**TRUE BILL**

FEB 21 2017

Foreperson of Grand Jury  
Date:

*Jeffrey R. Finley*  
Foreperson

**VERDICT**

Foreperson of Grand Jury  
Date:

DOCKET NO. 2017-GS-04-00395

**The State of South Carolina  
County of Anderson**

**COURT OF GENERAL SESSIONS**

FEB 21 2017

TERM

**THE STATE**

**VS.**

**WESLEY CHARLES MALMISTER**

**INDICTMENT FOR**

**MURDER**

SC Code: § 16-03-0010  
CDR Code: 0116

**A TRUE COPY**  
MAY 18 2018  
Richard H. Kelly  
CLERK OF COURT

COMMITMENT

4/25/17-RT

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

## INDICTMENT

FEB 21 2017

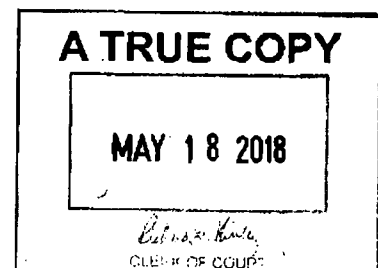
At a Court of General Sessions, convened on \_\_\_\_\_, the  
Grand Jurors of Anderson County present upon their oath:

**MURDER**

That Wesley Charles Malmister did in Anderson County, on or about January 9, 2016, unlawfully and with malice aforethought, aid and assist in the death of Casey Waddell during the commission of an armed robbery when Casey Waddell was shot with a firearm, and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

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

  
AUSTIN MCLAIN  
ASSISTANT SOLICITOR



WESLEY CHARLES MALMISTER

AKA: \_\_\_\_\_  
Race: White Sex: M Age: 27  
DOB: [redacted]/1989 SS#: [redacted]  
Address: [redacted]  
City, State, Zip: Anderson, SC [redacted]  
DL# [redacted] SID# [redacted]

INDICTMENT/CASE#: 2017GS0400397  
A/W: 2016A0410100078  
Date of Offense: 01/09/2016  
S.C. Code §: 16-03-0050  
CDR Code #: 0116



SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: **Voluntary Manslaughter**

CONVICTED OF or  PLEADS

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

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

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

ATTEST: Lucas Craig Marchant 72742 SC Bar # Wesley C. Malmister Defendant L. C. Williams Attorney for Defendant 15066 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 Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections. 473 Days 715

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment  
Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS \_\_\_\_\_

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/Prob) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Richard A. Huley

Court Reporter: V. Cross

SCCA/217 (07/2016)

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

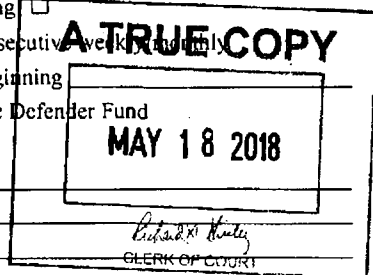
Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly payments

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_



Sentence Deferred  
 Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk  
during probation and shall be collected before any  
other fees.

Presiding Judge: [Signature]

Judge Bar ID: 2533 Judge Code: 2167

Sentence Date: 4/25/17

[Signature]

COUNTY OF ANDERSON  
STATE VS.

WESLEY CHARLES MALMISTER

AKA: \_\_\_\_\_  
Race: White Sex: M Age: 27  
DOB: /1989 SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: Anderson, SC \_\_\_\_\_  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

INDICTMENT/CASE#: 2017GS0400396  
A/W: 2016A0410100088  
Date of Offense: 01/09/2016  
S.C. Code §: 16-11-0330(B)  
CDR Code #: 0026



SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

CONVICTED OF OR

PLEADS

TO: Attempted Armed Robbery

In violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or Lewd Act)

The charge is:  As indicted,  Lesser Included Offense.  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (def.'s initials)

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

ATTEST: Lucas Craig Marchant 72742 SC Bar # \_\_\_\_\_ Defendant Wesley C. Malmister Attorney for Defendant W. C. Malmister SC Bar # 5066

WHEREFORE, the Defendant <sup>is</sup> committed to the  State Department of Corrections  County Detention Center, for a determinate term of 20 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 Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 473 Days T/S

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ Obtain GED

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine: _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
Proviso 61.6 (Public Def/Prob)	\$500 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ <u>3.75</u>
3% to County (if paid in installments)	\$ _____

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk: Richard A. Shirley  
Court Reporter: V. Cross  
SCCA/217 (07/2016)

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

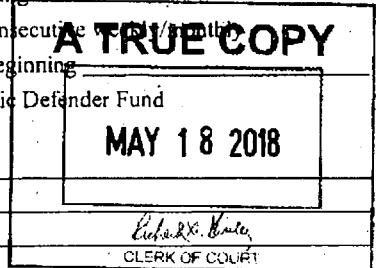
Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_



Appointed PD or appointed other counsel, Sentence Deferred

Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: \_\_\_\_\_

Judge Bar ID: 2525 Judge Code: 2167

Sentence Date: 4/25/17

WESLEY CHARLES MALMISTER

AKA: \_\_\_\_\_  
Race: White Sex: M Age: 27  
DOB: [redacted]/1989 SS#: [redacted]  
Address: \_\_\_\_\_  
City, State, Zip: Anderson, SC [redacted]  
DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

CONVICTED OF or

PLEADS

TO: Voluntary Manslaughter

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or Lewd Act)

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

ATTEST:

*[Signature]*  
Lucas Craig Marchant,

72742  
SC Bar #

*[Signature]*  
Defendant

*[Signature]*  
Attorney for Defendant  
15066  
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 Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections. 473 Days TIS

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fee

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_ Other: \_\_\_\_\_

Proviso 61.6 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ \_\_\_\_\_

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

TOTAL \$ \_\_\_\_\_

Clerk of Court/Deputy Clerk: *[Signature]* Richard S. Miller

Court Reporter: *[Signature]* V. Cross

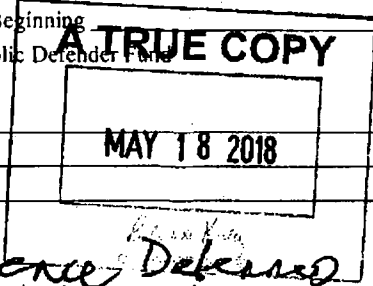
SCCA/217 (07/2016) 5-15-17 *[Signature]*

Presiding Judge: *[Signature]* Judge Bar ID: 2535 Judge Code: 2167

Sentence Date: 4/25/17

INDICTMENT/CASE#: 2017GS0400395  
A/W: 2016A0410100069  
Date of Offense: 01/09/2016  
S.C. Code §: 16-03-0050  
CDR Code #: 0116

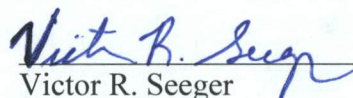
SENTENCE SHEET



## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Victor R. Seeger  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of April, 2019.

**RECEIVED**  
APR 03 2019  
SC Court of Appeals