

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Steven H. John, Circuit Court Judge

RECEIVED
AUG 23 2019
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRELL FREEMAN,

APPELLANT

APPELLATE CASE NO 2018-000851

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 17 (RECORDING OF SURVEILLANCE FOOTAGE FROM
MOTEL)**

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CLOSING BY DEBUSK

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1 known it because they were staying together in the same room,
2 riding in the same truck, riding in the same car. McIver and
3 Freeman were together all the time. They were together when
4 they moved in to the Lancer, they were together when they went
5 to Holiday Sands and met the girls, they were together when
6 they went back to the girls' room, they were together when sex
7 tapes were made.. Imagine that, I mean, something as private
8 as sexual activity and one guy is there with his cell phone
9 filming it. When they went back to the Holiday Sands in the
10 truck the next morning, they were together. They went into
11 the pickup together. They got into the car with the girls
12 together.. They rode to Shallotte and Supply together.
13 They were together when Amanda was shot. They returned to the
14 Lancer together. After they left in separate vehicles, they
15 were in phone contact the whole time. Together for the whole
16 thing; it was a team murder and both are responsible. Sure,
17 only one, only McIver put the gun to her head and pulled the
18 trigger.. Both participated, both are liable of the murder and
19 they both should be found guilty together.

20 As I said in the beginning, the evidence is there. They
21 were the two that left Supply, North Carolina in the car with
22 Amanda. They were the two that were seen by Ken Thompson
23 pulling her dying body out of the car of the K&W parking lot.
24 They were the two on video driving her car back to the Lancer,
25 making a quick getaway from the Lancer. The proof is there.

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1 And if McIver pulled the trigger, Freeman is guilty as an
2 accomplice. Remember this is a contact wound. This is a gun
3 right against the head. You heard the -- our expert, Dr.
4 Proctor, testified to it. The gun was right up against her
5 head. So, this was -- why do you put a gun against somebody's
6 head? Immobilize them, keep them from going anywhere. Does
7 the angle indicate she was turning, going to a door? We don't
8 have to prove that because putting a gun -- taking a gun out,
9 raising it, putting it against someone's head, and pulling the
10 trigger is malice aforethought in and of itself. Pulling a
11 dying woman out of a car and dumping her on the pavement like
12 garbage is malice aforethought. And again, we don't have to
13 prove motive. It's not part of the proof of this case. We
14 could speculate. I can give you some ideas. Maybe they
15 wanted the car, maybe it was a carjacking gone bad, maybe it
16 was an old vendetta from when she lived in Charlotte before
17 she moved down to the coast, maybe it was just somebody else's
18 vendetta. Maybe they were trying to get Amanda to do
19 something she didn't want to do, like take her to the ATM and
20 make her withdraw her grandfather's funds with that ATM card
21 of his. Maybe it was a disagreement that just arose in that
22 trip to North Carolina. Who knows why? But, the fact is at
23 some point they both had malice. At some point, McIver had
24 enough malice to take out a gun, raise it, put it to her head,
25 and pull the trigger and kill her. At some point, they both

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1 had enough malice to haul her dying body out of that car
2 together and throw her on the pavement to die and then steal
3 that car and drive it back to the Lancer. Both are murderers;
4 both the trigger man, McIver, and the accomplice Freeman.
5 Both are guilty of grand larceny because they both stole that
6 car and used it and converted it to their own use together.
7 And even though one pulled the trigger, both were in
8 possession of that gun because it was in the car with them
9 together.

10 A final word about the burden of proof. The burden of
11 proof in a criminal case is always proof beyond a reasonable
12 doubt. You can't prove things beyond all doubt; it's proof
13 beyond a reasonable doubt. The Judge will give you some idea
14 of what a reasonable doubt is. He'll tell you things like
15 it's proof that leaves you firmly convinced of the guilt of
16 the defendant but he can't draw you a picture, he can't give
17 you a mathematical formula for reasonable doubt. Reasonable
18 doubt is -- it's a standard that really comes from you. You
19 as a cross section of the community have to decide whether
20 there's enough evidence here to punish the men who put the gun
21 to Amanda's head and pulled the trigger and killed her, pulled
22 her dying body out of the car, dumped her, and stole her car.
23 It's up to you to decide if they're gonna have consequences.
24 And you give them consequences by finding them guilty of all
25 charges.

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1 Thank you.

2 THE COURT: Mr. Bellamy?

3 MR. BELLAMY: May it please the Court?

4 THE COURT: Yes, sir.

5 CLOSING BY BELLAMY:

6 MR. BELLAMY: Mr. Solicitor, Mr. Spratlin, Madam
7 Forelady, ladies and gentlemen of the jury, y'all have heard
8 me coughing this week and a little bit probably, my voice is a
9 little hoarse, so I apologize.

10 When I stood up here I believe it was Monday and talked
11 to you, one of the things I mentioned to you is theory versus
12 facts in evidence. That sometimes we lawyers like to get up
13 here and theorize and then see if we can put the facts into
14 our theory. And I suggested to you that what really needs to
15 happen is the facts paint the picture, not our theory. And as
16 I listened to Senior Solicitor DeBusk talk just then, I heard
17 an awful lot of theory. Maybe it was this, maybe it was that,
18 maybe it was this, maybe it -- maybe? And the window, well,
19 maybe it could've been this, it could have been -- what person
20 sat on this witness stand and said anything about that? Who?
21 Nobody. It's a theory. I've got a theory, too. Nicholas
22 McIver smokes and there's evidence of that because there's a
23 videotape at the Holiday Sands of him smoking while he's
24 talking to Amanda Fisher. Might that be the reason that the
25 window is down? Theories, that's not what we do in criminal

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1 court. It might be what we do when we're sitting around
2 talking at the dinner table or out with our friends or playing
3 golf or whatever you do for fun, but when we come in this
4 criminal court, we don't go on theories. We go on facts and
5 evidence that's competent.

6 And to that end, at the beginning of this case, I didn't
7 hear anything about it was the hand of one hand of all. That,
8 you know, we're gonna establish an agreement and these sort of
9 things. But, as Mr. DeBusk talked to you today, he's got a
10 theory that my client did it. Here's the problem with his
11 theory. His witness, Dr. Lee Proctor, an expert, not like me,
12 not like Mr. DeBusk, he's not an expert, he told you there is
13 no way to determine where the shooter was sitting. He's an
14 expert. Do you recall that?

15 Detective Lynam, lead detective, 25 years. Remember the
16 question I asked him? I believe it was either the last or
17 next to the last question I asked him. Do you have any
18 evidence that suggests my client's -- my client pulled the
19 trigger? What was his answer? No, I do not. But yet, Mr.
20 DeBusk stands up here for the state and theorizes that's the
21 way it happened. And I told you, suggest to you, that what he
22 needs is evidence that tells you it happened, not what he
23 thinks may have occurred.

24 Folks, this week I've had the pleasure of running into
25 and meeting and talking to some folks that were sitting right

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CLOSING BY BELLAMY

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1 out here. Particularly the gentleman in the blue shirt who's
2 Amanda Fisher's grandfather. It might seem kinda strange to
3 you, here I am defending a man charged with murder involving
4 his family, but we speak to each other in the mornings and at
5 lunch, and joke around a little bit. And he understands I've
6 got a job to do. But, you know, I thought to myself, what it
7 must be like to be in those shoes. I've got two daughters,
8 and I can only imagine wanting justice for either of them.
9 But also, I have three sons. One who is the exact age -- not
10 exact but by a year, of Mr. McIver. He's away at college; be
11 home next week. And I thought what must it be like to sit in
12 Nick's mother's chair where Nicholas McIver faces up to life
13 in prison, and he may have just been in a car and not known
14 anything. What must that be like as a parent? And as a
15 parent myself, I have thought about that on both sides. This
16 is a tragedy, no doubt. But it would be tragic as well if we
17 sent someone away for life and they didn't do it.

18 Now, I touched on at the beginning, presumption of
19 innocence. His Honor will tell you what that means, but I
20 used some examples how one can do that and I talked about my
21 grandmother and stuff and the person you most trust and used
22 this rail. I suggest to you, as we start out -- as you start
23 out to deliberate on this case here in a little bit, that the
24 scenario you should think is, well, he's innocent. So that
25 means he was just in the car, he didn't know what Mr. Freeman

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CLOSING BY BELLAMY

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1 was gonna do, he didn't have any plan, he didn't -- nothing of
2 that, that he was just there. So, if you start here and
3 that's your firm belief right now, that's your belief, no he
4 was just there and something bad happened. And then say,
5 okay, well, how do I get down there. The state bears the
6 burden to drag me all the way to there. So then the question
7 becomes what evidence, not theories, what might have happened.
8 What evidence did they bring to convince me beyond a
9 reasonable doubt? What do you have? What do you have that
10 takes you from this position that you're in now, which is he
11 was just in the car? What did they give you? Let me
12 summarize -- and I may cherry-pick out certain witnesses and
13 talk about them, but I -- y'all heard the evidence. I'm gonna
14 basically sum up this scenario with you and then go back and
15 talk about it. You've got two people from Shallotte,
16 Brunswick County, cousins want to come to the beach,
17 somebody's birthday, hang out and have a good time. Two
18 people from Charlotte, likewise coming to the beach, gonna
19 stay a couple of nights, not one, and randomly somehow meet
20 off of a balcony or however, exchange phone numbers, meet up,
21 names are given, where people live, vehicles are seen, they
22 party. They drink, they use drugs, there's some sexual
23 contact at least between two of the parties by evidence, and
24 I'm not gone speculate on anything beyond that. And during
25 the course of that, my client along with Mr. Freeman are

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CLOSING BY BELLAMY

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1 photographed and known to be photographed. They videotape.
2 And let me just touch on that, and I know Ms. Oxendine talked
3 about she didn't consent or something. But the Lancer Motel,
4 which is a single room motel. This isn't a suite like it is
5 at the Holiday Sands. I don't know you couldn't have known.
6 But the best evidence is the videotapes which would reflect
7 whether the person knew or didn't know, but the state chose
8 not to show those to you. And that might've been out of
9 respect, but this is a criminal case and it's their burden and
10 job to paint that picture for you of exactly what was going
11 on. And I don't know if it's relevant whether she knew or
12 didn't know other than it maybe make you not like Mr. McIver,
13 if he was hiding in the closet, but again that's not any
14 evidence of anything relevant to this case. But, that goes on
15 and they're back and forth from hotels and in and out and
16 then, ultimately at some point -- and again, and I listened to
17 Solicitor DeBusk, that my client sat in the car because he
18 refused to be hugged because he knew he had a gun. Where is
19 the evidence that he refused to be hugged? I mean, that's a
20 theory again, no evidence. Nobody -- did Ms. Fisher say --
21 not Ms. Fisher -- Ms. Oxendine say, yeah, we couldn't ever get
22 close to him, he would never -- that's a theory that somebody
23 is trying to come up with. But then the two girls, excuse me,
24 they go to the Lancer. They've left their room. They go to
25 them, and somehow the agreement is made, we're gonna ride with

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1 you. Solicitor DeBusk makes a big deal, why didn't they stay
2 in the room? What does it matter if they decided to go
3 together, maybe they were gonna get something to eat. I don't
4 know. But, it was all voluntary. There was no problems,
5 there was no tensions, there was nothing. Asked Ms. Oxendine,
6 nothing between anybody. They stop at Taco Bell. Maybe
7 that's why they rode, to get something to eat.

8 Dropped Ms. Oxendine off. She's got their pictures,
9 their names, where they're from, knows what they're driving,
10 where they're staying. Okay. They go to another location so
11 she can get clothes and come back and continue and stay
12 another night. Nothing to indicate there was any problem at
13 that location, nothing disturbed, nothing broken. And even a
14 phone call by Ms. Fisher to her stepdad. All is well. I'm
15 gonna hang out in Myrtle Beach. I'm gonna get some clothes.
16 And then in the parking lot of K&W, the car pulls in, not
17 screeching, not here, there, pulls perfectly in a parking
18 place, is in park, and the event happens.

19 And as Dr. Proctor said, I can't tell you medically where
20 the shooter was. Solicitor DeBusk theorizes he knows. Then
21 the car is seen returning into the Lancer. They retrieve
22 items and leave separately.

23 Now, he showed you the videotape of my client looking to
24 do something and says, look, there's a glint. A glint?
25 Folks, they've shown a bunch of videos and he's got, I don't

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1 know how many pictures here of stills in a video. Pretty good
2 high resolution, isn't it? Why couldn't we do it on the video
3 from the Lancer -- we know the technology exists -- if it
4 would show you that gun. And I suggest to you that evidence
5 sometimes or cases sometimes hinge not on just what's
6 presented, but what isn't. And it's his burden to have done
7 that; he did not. And I suggest to you, it's because it
8 wouldn't show you a gun. But, he'd rather leave it to
9 speculation, conjecture, and theory that it is. Why didn't he
10 bring it to you?

11 Then my client is seen as in that, two different
12 locations big as day, not trying to hide nothing, using the
13 person's credit card on a couple of occasions. Then he is
14 seen by the cute little girl yesterday, I believe it was
15 yesterday, walking away from a car that's burning. And then
16 we got phone calls back and forth. Most of them are missed
17 but I'll take the solicitor's word for it that there were 20
18 minutes total of talk time, assuming it's not going to voice
19 mail. And then two or three days later, Mr. McIver goes to
20 the Charlotte-Mecklenburg Police Department with his phone to
21 speak with them because it's been on the media that they want
22 to talk to him.

23 That's a basic summary of what this case is, factually.
24 What does that all tell us by circumstance? Does it tell us
25 there was a plan to kill Ms. Fisher? You do it at 11:15 on

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CLOSING BY BELLAMY

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1 July 4th week on a Saturday at open business on Business 17
2 where her body is left in an open place to be immediately
3 discovered. You've got no way to exit the scene other than
4 that car, and you have just within an hour dropped of a
5 witness who has video -- who has cell phone photos of you,
6 knows your name, where you live, where you were staying, and
7 what you're driving. Does that sound like a plan?

8 Then, you go to two gas stations where you know you're
9 being videotaped and you know there's gonna be a transaction
10 of a credit card receipt. Does that sound like somebody who's
11 got a plan? And then you go to Sally Lane in a residential
12 neighborhood on a Saturday where people aren't working, kids
13 are playing in the street, and right in front of somebody's
14 driveway at a mailbox, you burn a car. When you were in
15 Marshville, and you've got a aerial of that Marshville, it's a
16 bunch of fields and nothing, somebody'd think trash was
17 burning; they wouldn't know nothing. Does any of that sound
18 like a plan? By circumstances it suggests there was no plan.
19 If something happened in that car at 11:15 A.M. July 9th,
20 2016, no question about it. I told you at the beginning, I'm
21 not gonna question some of this evidence that's a fact. And I
22 suggest to you, there were two people in the car, my client
23 and Mr. Freeman. I don't dispute that.

24 But where, as I started this, is the evidence? Again the
25 state's evidence is they cannot tell you who shot. That would

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CLOSING BY BELLAMY

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1 be purely conjecture and speculation, and that's from a
2 medical expert and the lead detective. So, then you go to
3 hand of one. What evidence do they have that Mr. McIver knew?
4 And the Judge is gonna use a word in his charge, I believe,
5 but you listen, it talks about prior. What is prior? Prior
6 to the act, because once that bullet is shot, the murder has
7 occurred. It's not if she lives five seconds. The act is
8 that and that is the murder. So, prior to that, where is the
9 evidence of a plan, scheme or design to commit another
10 unlawful act, not the murder, another unlawful act. Where is
11 it? Kidnapping is gone; it's been dismissed. Where is the
12 evidence? Not a theory, not a speculation. Is it that he
13 used the credit card? That's after. And again, it -- it's --
14 it's evidence -- the only evidence is there's no plan. He
15 burns the car.. That might be another crime in North Carolina,
16 but that's not evidence that he knew prior, prior to that
17 bullet being fired, that Mr. Freeman was gonna do it.

18 . Folks, it was also -- and I talked to you at the
19 beginning, things that -- and I talked to you a little bit
20 earlier about things that haven' been excuse me, brought to
21 you. And I told you I might ask the police some questions
22 about what they did or didn't do, and I would do it in a
23 respectful way, but it was important that I do it. And some
24 of the things I want to talk to you about that might have
25 assisted you in determining a verdict, I want to go through.

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1 Number one, there were a number of items, the bullet,
2 other -- fingernails, parts of the truck that were sent to the
3 State Law Enforcement Division. We've not seen one SLED
4 officer, analyst come up here and talk to you. We have not
5 seen any report. Likewise, I asked Detective Lynam, Did you
6 have a crime scene expert, somebody that focuses on that, and
7 SLED has those people, that could've helped you analyze the
8 entrance/exit wounds to try to figure out? No, we didn't do
9 that. Did you see anybody from Charlotte here to talk about
10 their analysis of that vehicle? Now, they were here to do the
11 photo lineup, but not a single person or report was put in to
12 tell you what they did to that car in Charlotte, because maybe
13 if we knew where the bullet hit -- and again, it's burned, but
14 the metal is not burned. If we saw a mark that would indicate
15 where that bullet hit, it could've helped you. Then get --
16 because you've got the angle on the head, and when you know
17 where it hits in the car, it gives you a better idea of where
18 the person may or may not have been seated, again, always
19 having the variable, you don't know the angle of where the
20 person's head may be. But, they didn't do that. They didn't
21 do it. They seize evidence, they send it to SLED, and then
22 they don't tell you anything else. It's their job to bring it
23 to you, not mine.

24 They had Mr. McIver's phone and they got all this
25 Cellebrite stuff they talked about, which is much more

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1 extensive than just phone records. And I asked them, I said,
2 you know, did you contact on the day of this event, the people
3 that he may have called or contacted to see, hey, did he tell
4 you anything? No, we didn't do that. We didn't do that.
5 Nope, didn't call anybody. They had the information and two
6 years to do it. Don't you think it would be important to want
7 to know, hey, you talked to somebody three hours because you
8 -- we got a timeline on what happened. You know, did he
9 mention anything to you about he'd been to the beach? Did he
10 mention -- how did he seem? What was his demeanor? They
11 didn't do any of it.

12 Likewise, Mr. Freeman, they didn't have his phone because
13 he didn't bring his phone when he turned himself in. So, you
14 can't get all the data and information on that, but we do know
15 who he called that day. They did; they had it July 18th, 2016
16 and brought it and gave it to the solicitor on Tuesday the
17 24th of April, 2018. And during those 21, 22 months, they
18 didn't do a single thing to investigate anybody he would've
19 talked to in that same timeframe. What was his demeanor? How
20 did he act? What did he say? Why? I can't tell you. But
21 that's a question I would want to know if I were seated in
22 this jury box. Why wouldn't you do that? Why wouldn't you
23 get a crime scene analyst to help you with the car? Why
24 wouldn't you bring SLED down here to tell us whatever the
25 results are on the tests on the bullet and the car? Did they

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CLOSING BY BELLAMY

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1 swab the truck for GSR up in Charlotte to see if there was
2 gunpowder residue on that steering wheel, which would indicate
3 the person driving it, Mr. Freeman, did the shooting, but they
4 didn't bring that. They don't even tell you what they did on
5 it.

6 I told you at the beginning, Mr. McIver, he was 20 years
7 old at the time; ten years junior to Mr. Freeman. He made bad
8 decisions. I'm not gonna say poor because that's not a strong
9 enough word. When he drove off in that car and used the
10 credit cards, burned it. And that's a crime of accessory
11 after the fact, but he is not guilty of murder as a principal
12 of pulling the trigger because the evidence doesn't support it
13 at all, the state's evidence. This isn't where you've got you
14 know, competing experts; I paid somebody, they paid somebody
15 and everybody bounces off in the middle. It's there guy, Dr.
16 Proctor, Owen Lynam, ain't got no evidence, ain't got no
17 evidence that he shot anybody.

18 And Owen Lynam, I believe the last question I asked him,
19 Do you have any evidence that my client entered into
20 knowingly, an agreement, a plan, a conspiracy -- da-da-da and
21 went on -- to commit any crime that day? No, I do not.
22 That's where you get the hand of one, because hand of one, the
23 typical case as Solicitor DeBusk said is, three or four of us
24 get together and we gonna break into somebody's house or do
25 something, and I'm going in and you're driving and you're gone

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1 be the lookout and you do this, and in the course of me going
2 in I get confronted by the owner and I shoot and kill him --
3 bless you -- in order to accomplish that burglary or robbery.
4 Well, in that kind of scenario, we know who the principal is,
5 me, and then the hand of one and hand of all is well we want
6 to get everybody else in the bag in on it too because they
7 were part of it beforehand, so they should be responsible. In
8 this case, we don't even know who the principal is and who --
9 who the other is to hold them accountable because they haven't
10 established which.

11 It's just as likely -- and I tell you the totality of the
12 circumstances is, is this ain't no plan. This was someone
13 from sufficient reasoning on their own lost it because they
14 were high or whatever, anger, don't know, and did a horrible
15 thing to Ms. Fisher, a horrible, horrible thing, and she died.
16 But, unless the state proves to you, dragging you from I know
17 that he didn't do it, because that's where you got to start,
18 not in the middle, over here to beyond a reasonable doubt.
19 What is beyond a reasonable doubt? I haven't talked about
20 much about that. I've heard it said that that's the kind of
21 doubt that would cause a reasonable person to hesitate,
22 hesitate to act. So, when you go in that jury room, if you
23 sit down and say, I wish I had heard this evidence, or that's
24 just -- there's too many other possibilities it could be,
25 that's reasonable doubt. If you have any question of anything

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1 you would've wanted to hear, that's reasonable doubt. And I
2 think I pointed out a lot of different things, but the other
3 thing I want to say this they've also got to eliminate any
4 other reasonable hypothesis as to what could've happened. And
5 I say in this case, there's all kinds of theories. The
6 solicitor went through a number of things, maybe it's a
7 vendetta, maybe -- vendetta, where's that come from, from who?
8 No evidence of that. But, if you sit in that jury room and
9 think what if I'm with someone and for reasons sufficient to
10 themselves, they do something horrible and, because of fear
11 because I've just seen them shoot somebody, I helped them, or
12 loyalty or whatever it might be, I'm not guilty as the
13 principal; I'm guilty as an accessory.

14 You know, it used to be, they tell me, a long, long time
15 ago that a criminal case it was either you did it or the jury
16 had to determine absolutely you didn't. Well, in our country,
17 we sort of consolidated absolutely didn't and absolutely did,
18 and added a third part which is called not proven. So, not
19 guilty is not saying I'm 100 percent convinced they didn't do
20 it, because we're judging the state, not the defendants. It's
21 saying the state just simply hasn't given me enough. That's
22 not guilty, not proven.

23 You each took a solemn oath to follow the law. And
24 common sense tells me, and human nature tells me, that nobody
25 is going to want to say not guilty, not proven, because we

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1 know she was shot in the head. Nobody's gonna want to do that
2 because it's not gonna feel good because we know she was
3 murdered. But, your solemn oath is to follow the law, not to
4 speculate, not to guess. And I very respectfully submit to
5 you that following the law in this case is not proven. And
6 that's not a judgment on Amanda Fisher, her family; that's an
7 obligation you took. It's a statement that just hasn't been
8 proven beyond, beyond a reasonable doubt to eliminate other
9 possible scenarios, other than hypothesis.

10 I've been doing this 20 -- in November will be 28 years.
11 And when I first came back, I guess, September 28 years ago, I
12 went to work for a Circuit Judge, his portrait hangs over
13 there, Sidney Floyd. I worked for him for a year and learned
14 a lot from him and listened to him talk to juries. One
15 description that he used to give on and one description that
16 he used to give on presumption of innocence and burden of
17 proof and stuff is this. He would stand up and had his robe
18 on -- he probably didn't have any shoes on at the time, but he
19 had his robe on -- and he would say, imagine the defendant
20 with this robe on and that this robe isn't black as his was,
21 but it was white and it was a robe of innocence that is draped
22 upon the defendants from the moment they walk in this
23 courtroom, and it remains firmly upon their body until the
24 state rips every piece of it away with competent evidence
25 beyond any reasonable doubt so that there is no hesitation,

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1 there is no question of what more. And as I came in here
2 this morning and looked at his portrait, I thought, that's
3 what I'll tell this jury.

4 Nicholas McIver is not guilty on the charge of murder,
5 possession of a weapon during a violent crime. He is guilty
6 of grand larceny. There may be another day for other charges,
7 but today I ask you to follow your oath and return a verdict
8 of not guilty.

9 Thank you so very much.

10 THE COURT: Mr. Spratlin?

11 MR. SPRATLIN: Thank you, Your Honor, may it please the
12 Court?

13 THE COURT: Yes, sir.

14 CLOSING BY SPRATLIN:

15 MR. SPRATLIN: Good afternoon, ladies and gentlemen of
16 the jury. One thing I want to make sure you're clear on
17 because in these closing arguments, just like for the entire
18 trial, I've been the last person you heard from. If there was
19 a question asked by Mr. DeBusk or Mr. Bellamy of any witness
20 in this case, it applies to my client just as if I asked it.
21 I can't get up there and re-ask every question or else we'd be
22 in trial for three weeks because I'd just have to keep
23 repeating everything everybody else asked. So, that's why I
24 haven't been asking as many questions as Mr. DeBusk or Mr.
25 Bellamy. It's not that I don't think that information

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1 important, it's not that I don't think that information is
2 relevant to my client; it's that it's already been asked so
3 there's no need.

4 And to that end, I'm also going to try not to repeat
5 everything you've heard during Mr. DeBusk's and Mr. Bellamy's
6 closing arguments. But there are several things that I think
7 are important and applies specifically to my client, Terrell
8 Freeman, and I am gonna point those out to you and it might
9 take a while and I know you've had to listen to a whole lot,
10 but I promise you if you power through this, you will see
11 where my client is not guilty.

12 Last night, I was talking to an attorney friend of mine
13 and we were discussing murder cases in general, not anything
14 specific with this one but just in general. And he said
15 something that made me kinda think. He said, it is harder for
16 a jury to say not guilty in a murder case when there's not
17 enough evidence than it is any other kind of case. At first,
18 when I was thinking about what he just told me, it didn't
19 quite make sense. Murder cases are the most serious cases in
20 the entire state of South Carolina. You are jurors on the
21 most serious charge you could possibly ever be a juror on.
22 Obviously, the stakes are as high as they could possibly be
23 for the state, for the co-counsel, for the codefendant,
24 certainly high for my client and me.

25 So, you would think, just thinking about it, that jurors

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1 would require or want to be more certain of their decision in
2 a murder case than they would ever want to be about a decision
3 in any other kind of case because of the stakes that are
4 involved. But as I thought about it more, as I sat around
5 pondering what my friend had told me and what he -- and
6 thinking back on my experience of my last, I haven't been
7 doing it nearly as long as Mr. Bellamy, I've been doing it
8 about 15 years. Thinking over my last 15 years, 10 as a
9 prosecutor, I thought that he was right. I've seen that.
10 I've seen murder cases where it's very difficult for a jury to
11 say there's just not enough evidence. I can't be certain that
12 he did it. I can't vote guilty.

13 Here's why I think that is -- and I'm telling y'all this
14 because I don't want this to be a trap y'all fall into. The
15 emotions are higher in a murder case than any other kind of
16 case and you've seen that. Every time a picture of Amanda
17 Fisher was shown, every time a video was shown, someone in the
18 courtroom is crying. She had a family who loved her, a family
19 that lost a loved one. And, we're all people, every single
20 person in this room is a human being. We all have empathy.
21 Empathy when you see someone hurting, when you see someone
22 suffering, empathy makes you want to alleviate that suffering,
23 alleviate that hurt.

24 As a juror, these people have been told since two days,
25 24 hours, however long it took Owen Lynam to declare that this

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1 case was solved. These people have been told that Nicholas
2 McIver and Terrell Freeman murdered their daughter. I submit
3 to you they probably believe it wholeheartedly because they
4 don't know any better and that's what law enforcement has told
5 them. So, if you're looking to alleviate their pain and
6 suffering, the only way you do that is by convicting the
7 client, convicting my client, convicting Mr. Bellamy's client.
8 But, your job is not to alleviate their suffering. As hard as
9 it is, as tough as it is, any emotional, any wrenching of the
10 heart that you have about returning a verdict of not guilty,
11 is not your role as the juror. Your role as a juror is not to
12 think with your heart; it's to think with your brain. And as
13 hard as it is, as much as you've may, your heart may go out,
14 maybe you lost a loved one, maybe you kinda get how they feel.

15 Terrell has loved ones. They're gonna lose Terrell if
16 you don't do what justice calls for. Your duty, your
17 obligations are not to them. Your duty and your obligation is
18 to provide a fair trial for Terrell and the State of South
19 Carolina. And, to do that, you can't be weighed by your
20 heart; you got to think with your brains. That's the one
21 thing I'm gonna ask you each and every one of you to do when
22 you're back in that jury room. You see, because it's real
23 easy to get angry, it's real easy to get impassioned in cases
24 like this. It's real easy. Mr. DeBusk, in his opening and in
25 his closing statement, I think he said dumped her out like

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1 garbage about five or six times. The only reason he used that
2 phrase is so that you will feel inflamed, anger, upset at what
3 they did. Not because it proves anything, not because it
4 talks to your brain but because it talks to your heart. I
5 want to speak to your brain.

6 In criminal trials, there's a mechanism to address the
7 issues of being overly emotional or thinking with your heart
8 rather than your brain, that's called the burden of proof and
9 presumption of innocence. And what that means is burden of
10 proof; the buck stops here. Any questions you have, any
11 evidence you want, anything more you want to see, one of these
12 two men will have to show them to you. It doesn't go over to
13 my table, because it certainly doesn't go to my client.

14 Now, how much evidence do they have to show you? Well,
15 you see because first off when my client came in this
16 courtroom at the beginning of this trial, he was presumed
17 innocent. That means, if all 12 of you, even after opening
18 statements, even after you heard Mr. DeBusk tell what he
19 expected to have happen, even after Mr. Bellamy told what he
20 expected to have happen, if after I told what I expected to
21 have happen, if y'all went back to that jury room right now
22 and took a vote right then and there, every single one of you
23 would have to vote not guilty, because he's presumed, when he
24 walked into this courtroom, not to have done what they said he
25 did. Only after these two gentlemen bring forth enough

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1 evidence to convince all 12 of you -- 14, excuse me,
2 alternates, but y'all aren't gonna be involved in this
3 decision most likely -- all 12 of you that my client is guilty
4 of not just doing something wrong, not just being a bad guy,
5 not just doing what somebody -- you wouldn't want somebody to
6 do or what you don't think somebody should do in a situation
7 of extreme stress. We don't just have to prove that he did
8 something bad, you know, he could've done this, he could've
9 done that. They have to prove explicitly exactly what they
10 said you did, that he murdered Amanda Fisher, that he
11 possessed a weapon during the commission of that murder, and
12 that he stole a car.

13 I'm not gonna stand up here, and I didn't at opening,
14 because first off, I wouldn't be honest to say my client
15 didn't do anything wrong that day; he did. He drove or rode
16 away in a car from the scene of the crime after Amanda's life
17 has already been taken. Went back to the hotel, got his
18 stuff, drove Nicholas McIver's truck back up to North
19 Carolina, supposedly. Had to get home somehow. Maybe you
20 would have wanted him to go to the police, maybe you would've
21 wanted him to not go back to Charlotte. Maybe you would've
22 wanted him to drive straight to the North Myrtle Beach Police
23 Department and report the crime. He went home. Is that so un
24 -- is that so difficult to understand why someone would've
25 done that? Why someone would have gone home when their buddy,

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1 their friend, their co-worker, just shot somebody in front of
2 them. Still had the gun on him. He went home. Maybe you
3 would've wanted him to not go home. But not going home -- but
4 going home does not make him guilty of murder. It just
5 doesn't. How does it make him guilty of murder? When you're
6 in that jury room and somebody says, well, he drove -- went
7 home, so that makes him guilty. Ask them how. They won't be
8 able to tell you because it just doesn't. It might him guilty
9 of something, misprision of a felony, not reporting it,
10 whatever. Even accessory after the fact but not the crime
11 itself of murder. See, because the state has to prove my
12 client guilty of murder beyond a reasonable doubt.

13 Mr. DeBusk got up here. Mr. DeBusk gave all sorts of
14 theories. Mr. DeBusk basically wrote a screen play for Law
15 and Order, but none of that is evidence. Nothing Mr. DeBusk
16 theorized, this evidence showed -- pick up these pieces of
17 paper, it's gonna be back in the courtroom with you. See if
18 you see anything about a vendetta on this piece of paper, this
19 piece of paper, that piece of paper, that piece of paper, any
20 of these photos, this disc, that disc, see if you see anything
21 about it. No, you don't, because Mr. DeBusk just made that
22 up. It's a theory of the case that he has which is not based
23 on any piece of evidence sitting right there on that table,
24 and that is what you've got to base your decision on, this
25 evidence here, and what you heard from the witness stand.

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1 Now, there are two ways that the state can actually prove
2 my client guilty. One way is as Mr. Bellamy stated, that he
3 was the person who pulled the gun out and shot. Even the
4 state, whose job it is to convict my client, agrees there's no
5 evidence that he was the one that shot, no evidence that he
6 had a gun. In fact, Tabetha Oxendine was all over him, didn't
7 feel a gun. Now, Mr. DeBusk theorizes, well, he must've known
8 Nick had it because they're together. I've got a pair of keys
9 in my pocket. Do you know why I have a pair of keys in my
10 pocket? I'm standing right in front of you. It's a theory;
11 it's not proof. That's all. There is absolutely, positively,
12 no evidence in the record, direct, circumstantial -- and I'm
13 going with the circumstantial evidence more, the distinction
14 between the two of them. But, there's absolutely no evidence
15 in the record that my client pulled out a gun, put it against
16 Amanda Fisher's head and pulled the trigger. And if any of
17 you are thinking that, you need to think about why you're
18 thinking that because my guess is it's for an improper reason.
19 It's not based on the evidence presented because none of this
20 -- none of that showed it.

21 The other way, is what you have heard probably more times
22 in your life than you've ever heard this phrase before, if
23 you've ever heard before, hand of one is the hand of all. You
24 see, hand of one is hand of all -- and the Judge is gonna give
25 you specific instruction on it and that is the part of the

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1 trial or part of the Judge's charge that I'm gonna ask you --
2 you need to listen to all of it, but I'm gonna ask you to
3 listen especially hard to that charge because it's important.
4 When he starts talking about hand of one hand of all, ears go
5 up if you can. Hand of one is the hand of all does not -- let
6 me first tell you what it's not. It is not, these two guys
7 were at the beach, they're partying, they're hanging out, Nick
8 is Having sex with Tabetha -- or Terrell is having sex with
9 Tabetha and Nick's somewhere with Amanda. Lo and behold, they
10 all drive up to Shallotte, go to Taco Bell, drive back in the
11 car and Amanda gets shot. Two people in the car, one person
12 got shot. Charge them both. That's not hand of one hand of
13 all. Even the example Mr. DeBusk gave of hand of one hand of
14 all, being a lookout driver, being the getaway driver, you
15 know a crime is gonna occur. You don't just walk into the
16 bank and your buddy pulls out a gun and starts robbing the
17 place and you're like, whoa, and then he's like come on, come
18 on, we gotta go after he gets the money and you go. That's
19 not a crime. That might be accessory after the fact, but your
20 buddy has got a gun, he just robbed a bank, you might just do
21 what he says.

22 The best example I have for hand of one hand of all, and
23 it is the classic example. It is the 1970s example of hand of
24 one hand of all, but it's the robbery of a liquor store. If
25 you go into a liquor store with your buddy, knowing that he's

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1 gonna rob it and you assist him, you lookout, you make sure
2 nobody is in the liquor store, you case the place out, make
3 sure that the person behind the counter, you know a woman or a
4 weak man that they can easily be taken and you go tell your
5 buddy that, you're guilty of hand of one hand of all. But you
6 go in the liquor store to get a bottle of vodka and your buddy
7 lo and behold pulls out a gun and shoots the clerk, you're not
8 guilty because you didn't know a crime was gonna occur. You
9 have to know that a crime is going to occur and that makes
10 sense. Think about it. I know there's a part of you with
11 your heart that wants to say, this man was with this guy that
12 killed Amanda, he needs to be held accountable, too, and maybe
13 he does for something, but not murder. There's no evidence
14 that he knew that Nicholas McIver was gonna pull out that gun
15 and shoot, none. No evidence he knew Nicholas McIver even had
16 a gun; there's just theories, theories which are not supported
17 by any piece of evidence.

18 The hand of one hand of all charge, as I stated it's
19 probably the most important charge you're gonna hear. There's
20 a couple of parts of it I want to talk about it because I
21 suspect this is what the Judge is gonna tell you, but listen
22 up, he's the one to tell you what it actually is. Don't -- if
23 there's a conflict, you go with that man. Two or more people
24 acting together to commit a crime are criminally responsible
25 if there is a probable and natural consequence of the act

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1 something occurs, and that makes sense. With the liquor store
2 metaphor, if you go in with a buddy who has a gun to rob a
3 liquor store, it's a natural consequence that your buddy might
4 pull out and might shoot the clerk. That's just a natural
5 consequence because if you've got a gun in somebody's face, it
6 might go off. That's what that means, natural consequence.
7 Prior knowledge without more is not enough. So, even if you
8 know someone is gonna go in the liquor store and rob the
9 store, that's not enough; you still can't get convicted of
10 murder. So, even if you knew the person was gonna go rob the
11 liquor store and they shoot the clerk, you can't be convicted
12 of murder. There's no evidence my client knew Mr. Freeman was
13 gonna commit -- I mean, Mr. McIver was gonna commit any crime.
14 And the most important phrase I want you to listen for
15 with the Court when he reads his instruction is actual and
16 prior arrangement. You have to actually agree to aid and abet
17 and assist. Now, Mr. DeBusk told you, he's right, you can
18 make that decision right at the scene. If the evidence
19 supported that Nicholas McIver pulled out the gun and then
20 Terrell Freeman, not knowing he was gone pull out the gun,
21 decided to grab Amanda Fisher and hold her there, well, then
22 yeah, he would be guilty under the theory of hand of one hand
23 of all. But again, that's just a theory not supported by any
24 piece of evidence. Because they haven't proven and they can't
25 prove that my client ever laid a finger, a hand on Amanda

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1 Fisher, that he ever wished any bit of harm to Amanda Fisher.
2 See, my guy, all the evidence supports that Terrell was at the
3 beach having a good time. Why would he do it? They don't
4 have to prove motive. Mr. DeBusk is absolutely right, they
5 don't, but motive helps you understand. Motive helps you
6 think, not feel, think about why somebody would do something.
7 Why would my client be a part to the murder of Amanda Fisher?
8 What possible reason could he have? All night long he's been
9 partying and hanging out and having a good time by all
10 accounts. You didn't see the videos, but you heard about the
11 videos. No issues between Terrell and the girl that he was
12 with, Tabetha, no issues at all. Why would he do it?
13 Detective Lynam said that he had no information, nothing
14 turned up in his investigation as to why Terrell would want to
15 cause harm to Ms. Fisher. I don't know about Nick; I can't
16 speak for Nick. Terrell was with Tabetha and she's okay. I
17 don't know what happened. I don't know what was going through
18 his head. I don't know why he did what he did, but there was
19 no reason, nothing bad going through Terrell's head in regards
20 to Ms. Fisher, nothing they've proven, and that's the ultimate
21 question, nothing they have proven.

22 The Judge is also gonna charge you in addition -- and
23 he's actually gonna do this right before he reads the hand of
24 one hand of all charge and what's called mere presence. What
25 that means, what that stands for is that someone who is merely

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1 present, someone who is sitting in the backseat of a car with
2 their buddy -- or front seat, wherever, because we're not
3 really sure where anybody was, because Mr. DeBusk can stand up
4 here all day and theorize and float ideas, but I do agree with
5 Mr. Bellamy when he said that we don't know. We don't know
6 whether she's turned this way, this way, or this way, could be
7 turned around; we don't know. Merely present, sitting in the
8 back of the car, sitting in the side of the car, sitting
9 wherever in the car and somebody pulls out a gun and shoots
10 Ms. Fisher. You didn't do anything, you're just sitting
11 there. You're not guilty because you're there. Who knows --
12 here's -- Mr. Thompson, let me talk about him because now I
13 think is a good time. I was gonna get into the actual details
14 of the witnesses in a minute, but I want to talk about Mr.
15 Thompson. He's seated right there. He's been here the whole
16 week. He was the first witness to testify. The man with the
17 yellow Mustang. He heard a boom or a pop, first initial focus
18 was on the road because he thought a tire had blew; he told
19 you that. Then he turns around and sees a body being dumped
20 out of a vehicle, however it wound up on the ground and he
21 runs; runs like his life depends on it, which I don't blame
22 the man one bit for doing. As I told him, I would've done the
23 same thing. But he couldn't be certain what really was
24 happening. He said it looks like somebody pulling and
25 somebody pushing, but it doesn't matter. Here's the thing, it

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1 doesn't matter. She already got shot. According to the
2 doctor, the pathologist who testified, death was already
3 there. The murder had already occurred. Anything that
4 happened afterwards doesn't matter for the crime of murder.
5 As much as your heart wants it to, it doesn't matter for the
6 crime of murder. If you believe that my client was helping
7 get that body out of that car, it doesn't matter. It might
8 make him a bad person in other ways, it might make him guilty
9 of something else, but not murder, because that already
10 happened. Mr. DeBusk theorized that she would've been moving
11 or -- or breathing or gurgling, no evidence of that. The
12 pathologist said death would have probably been instantaneous
13 or very, very, quickly. The guy at the scene said she was
14 twitching. He even said it looked like an involuntary muscle
15 twitch, no other signs of life. Again, trying to get you to
16 think with your heart rather than your head. Oh, my God,
17 these guys dumped out a woman that was gurgling, a woman that
18 was twitching; no evidence of that. Think with your head.

19 Now, I'm not gonna go through each witness individually,
20 but I do want to kind of talk to you about each witness. I
21 feel it's my duty. I know it's been a little bit of time and
22 y'all are probably getting a little restless, so, I'm gonna
23 ask you to bear with me for a couple of more minutes.

24 I've already talked about Kenneth Thompson. The manager
25 of K&W that testified really didn't add anything to this case,

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1 did he? He saw the body in the parking lot. He saw it twitch
2 and no other signs of life, involuntary muscle spasm, nothing
3 else. Officer Jones arrived on scene, searched for cameras,
4 videos, didn't find any. He really didn't add anything to
5 this case, did he? No. Carrie Rose arrived on scene, she did
6 a little something. She found out who the victim's phone was
7 and identified the victim by calling 911 twice on the phone.
8 Doesn't have any evidence, didn't provide anything that points
9 to my client being involved with this murder. Stepfather, it
10 must have been hard for him to testify and my heart goes out
11 to him and he told you everything he knew and if he knew more,
12 I'm sure he would've told you. He came home, it looked like
13 there was a beer on the porch and they -- it looked like
14 someone had come by, the toilet seat was up, so somebody came
15 by. That's it, not unusual. He knew Amanda was planning on
16 coming home, nothing out of the ordinary. He provided no
17 evidence of my client's guilt. People from the Lancer, the
18 Holiday Sands, and we'll talk more about the videos in a
19 second, so I'm gonna skip over those. The gas station videos,
20 no evidence of my client's guilt. Terrell Freeman was not
21 seen on any gas station video. Terrell Freeman was not seen
22 using a debit card. Terrell Freeman was not seen burning the
23 car in front of a child. Terrell Freeman was not seen with
24 that vehicle again, and Terrell Freeman was not seen with any
25 involvement of Nicholas McIver getting rid of any evidence.

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1 Mr. DeBusk, when he gave his closing argument, kept using
2 the word, they drove the car up to North Carolina. They did
3 this. No, Nicholas McIver drove the car to North Carolina.
4 The car that the victim was shot in. My client drove the only
5 vehicle, the only way he had to get home. It might not make
6 him the best man in the world, but it doesn't make him a
7 murderer.

8 Dr. Proctor, in most murder cases I've tried over my
9 career, as a prosecutor and as a defense attorney, the
10 pathologist is one of the most important witnesses because
11 they kinda provide not so much crime scene as much as
12 additional evidence. All he could really provide was
13 trajectory and the fact that the gun touched the head. He
14 couldn't provide who touched -- who shot the gun, couldn't
15 provide what that person was thinking when they did it, what
16 the other person in the car was thinking about it. In
17 actuality all he did was establish that Amanda Fisher was
18 killed by a gunshot at this angle. Nothing that purports to
19 my client's guilt.

20 North Carolina people, spent a whole morning with North
21 Carolina people testifying about burned cars and what Nicholas
22 McIver did to that car on Sandy Lane and a little child
23 testified and said that she saw him burn the car. She never
24 saw Terrell Freeman. Other than the fact that my client knows
25 Nicholas McIver was here and that he was partying with him and

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1 had some phone calls or voice mails, nothing she or any of the
2 witnesses from the North Carolina arson unit said in any way
3 purports to my client's guilt.
4 Will Lynch, Will Lynch did cell phones. Now, Mr. Bellamy
5 brought up how his client brought his phone with him and my
6 client didn't. The police could have -- I submit to you, the
7 police could have looked at my client's phone anytime they
8 wanted. You head how easy it is to get a search warrant,
9 that's why I asked Detective Lynam that question. How easy is
10 it, you go to a Magistrate, tell him why you need it, he signs
11 a warrant, you go and get it. Not difficult. They didn't do
12 it. So, we don't know what my client's records would show.
13 We don't know who his top contacts would be. We don't know
14 what text messages he sent or didn't send. We don't know
15 because the police didn't bother doing it. In no way, as I
16 said, the buck stops here. Anybody on this side, if you
17 wanted to see my client's Cellebrite records, you wanted to
18 see my client's call log and my client's text messages and my
19 client's top contacts, this table right here had to give it to
20 you. Not me, not my client. That's the burden of proof. I
21 submit to you, ladies and gentlemen, the contact on the phone,
22 if we're theorizing, if we're throwing out random theories,
23 you can come up with anything you want to make data say
24 anything you want. If you take -- there's a reason why North
25 Carolina doesn't tell the officer doing the photo lineup who

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CLOSING BY SPRATLIN

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1 the suspect is, because if you go in already knowing the
2 problem or knowing the answer, you make it look like anything
3 you want. And I submit to you, that's what this phone data
4 shows. They had a theory on the case that Nicholas McIver and
5 Terrell Freeman were in cahoots. In cahoots to do what,
6 nobody knows, but I'm sure they were in cahoots because look,
7 they're talking on the phone, there's contacts. When I asked
8 Detective Lynch, this doesn't show they actually talked, does
9 it; it doesn't. He says not. It could have been voice mails.
10 It doesn't show. Is it so unusual when your buddy shot
11 somebody in the car right in front of you that you might want
12 to call and find out why after you've cooled down? Is it so
13 unusual that your buddy might be blowing your phone up like
14 don't go to the police, man; don't go to the police, man;
15 don't go to the police, man; I'll make it right, I'll make it
16 right, I'll do whatever I got to do. Is that so unusual, but
17 they didn't see these this way. That's just as plausible an
18 explanation as their theory that these guys are in cahoots and
19 these cell phone records prove it.

20 The funniest thing during probably this entire trial, the
21 thing that I kinda -- and in a murder trial, you don't ever
22 expect to use the word funniest -- but the fact that him being
23 the Number 9 most contacted person on Nicholas McIver's phone,
24 somehow implicates him in a murder. If that ain't stretching
25 it as far as you can stretch it, I don't know what is. God

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CLOSING BY SPRATLIN

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1 help you if you're in a group text.

2 Nothing malicious about this. This does not prove that
3 my client committed a murder or in any way aided or assisted
4 Nicholas McIver in committing a murder. It might show they
5 sent text messages or phone calls a lot, it doesn't show what,
6 it doesn't show about what, it doesn't show anything about my
7 client's guilt. Nicholas McIver deleted my client's cell
8 phone number, that must mean they're in cahoots, or it means
9 my client quit taking any of his phone calls because he just
10 shot somebody in front of him. Again, can make it look like
11 whatever you want when you already know the answer you want.
12 It's not an objective analysis. It's not a let-me-see-where-
13 this-evidence-leads-me. If I put it all on the ground in
14 front of me, what path am I walking?

15 The police department has made their decision within 24
16 hours. As soon as they got a name from Tabetha, I submit to
17 you. And the evidence, it was gonna fit that. Amanda's phone
18 records, now we heard that Tabetha was also using this phone
19 because her phone was dead. These contacts highlighted -- Mr.
20 DeBusk was kind enough to highlight these for y'all, showing
21 the contact between Amanda's phone and my client's. A number
22 we readily admit and never hid from is my client's phone
23 number. It doesn't prove guilt. In fact, Amanda called him
24 first or Tabetha called him first. These boys didn't reach
25 out to these girls. My client didn't reach out to Amanda. It

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1 wasn't some master plan to find a girl at the beach, rob and
2 kill her, because if it was, you don't rely on the person
3 you're preying on to call you. If you go in thinking he did
4 it, you can make this seem like whatever you want to make it
5 seem. That is why the presumption of innocence is so
6 important and that is what we are talking about here, y'all,
7 the presumption of innocence. The presumption is that this is
8 maligned, that this has no bearing on my client's guilt. It's
9 only after they present enough evidence that shows that it
10 does, that you can consider it in my client's guilt. There's
11 been nothing about that, nothing about the phone call, nothing
12 about what was said, nothing about anything of that is
13 abnormal or unusual on a Myrtle Beach Saturday night or Friday
14 night at this point, I think. It was probably more like late
15 Friday night early Saturday morning. If you know the answer,
16 you can make it say whatever you want.

17 The videos that Mr. Lynch or Detective Lynch talked
18 about, Owen Lynam talked about and Tabetha talked about, none
19 of that points to my client's guilt. He had consensual
20 relations with an adult female in a Myrtle Beach hotel room;
21 doesn't make him guilty of murder. It doesn't prove the
22 state's case one little bit. But, if you twist it, if you try
23 to make it, oh, well Nicholas McIver is in there videotaping
24 so they must be in cahoots then, too. No, there's no evidence
25 of that. It's just not there. You can't twist it.

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CLOSING BY SPRATLIN

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1 Owen Lynam, Owen Lynam took a long time yesterday. But,
2 I want you to think about what information Owen actually gave
3 you. He played the videos, sure, those were already in
4 evidence.

5 The North Myrtle Beach Police Department could've done
6 more. I hope in your minds there is no doubt about that. I'm
7 not saying it's their fault, I'm not saying they're bad
8 people. I actually like them. But, they could've done more
9 and they could've answered the questions that you have because
10 you've got questions. You can't look at this pile of evidence
11 sitting here at the table that doesn't really show anything
12 regarding my client's guilt and say, I don't have any
13 questions. Again, the buck stops here. Why wasn't the car
14 processed until November 2016? Why? These men were already
15 arrested and charged with the crime. Why? Because you made
16 the evidence fit already and you didn't need to look at the
17 car. Open and shut case, ladies and gentlemen; lock them up.
18 Let's not worry about processing that car; it doesn't matter
19 what's in there. It's the car the woman was shot in and it's
20 not processed until July, August, September, October, four or
21 five months after the shooting.

22 Now, before I go over Tabetha, I want to talk to you a
23 little bit about the videos we watched because I'm sure you
24 thought as well as probably everybody sitting in this
25 courtroom thought, when these videos got played, oh my God,

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1 it's going to answer all my questions. It didn't, because it
2 didn't catch the most important part. All it did was show two
3 guys at the beach hanging out with two girls at the beach
4 having a good time. And we don't contest and we don't say
5 that the evidence does not show that my client and Nicholas
6 McIver were the only ones in the vehicle with Amanda Fisher on
7 that drive back from North Carolina, but that's not enough.
8 You can't just say two people in the car, one shot, they're
9 both guilty of murder. I mean, sure you can come up with like
10 explanations for phone records and all kinds of stuff and
11 videos and check-in slips, and you can come up with all kinds
12 of reasons how you can -- if you go in assuming that both of
13 them are together to make that stuff fit your idea. But
14 that's not your job as jurors because if he's presumed
15 innocent and you got to do your job as jurors.

16 The only part of the video I'm really gonna talk to and I
17 know it's taking a little while, y'all, and I apologize, but I
18 think this is important and my client's life is on the line,
19 so I ask you to bear with me as long as you can. When they
20 come back to the Lancer hotel, my client goes in the room,
21 he's not there when Nick takes the gun out of his waistband
22 and puts it in the truck. When Nick retrieves the gun, my
23 client is not facing him. Even if my client knew the gun was
24 in the back of the pickup truck, even if my client is standing
25 right there looking at Nicholas McIver, put the gun in the back

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1 of the pickup truck, even if my client is sitting there
2 looking at him take the gun out of the pickup truck, go to the
3 white car and leave, it doesn't make him guilty of murder.
4 But Nick wouldn't even move the gun in front of Terrell.
5 Terrell went in the room, packed his stuff up, threw it
6 in the back of the pickup truck -- here's something that I
7 thought was interesting -- waited for Nick to leave, sat in
8 the parking lot for a while and then left. They want you to
9 think that he was somehow scheming with Nicholas McIver how to
10 get rid of the car. Again, if you go in thinking he did it,
11 you can sure make the evidence look like he did. Isn't it
12 just as plausible that my man over here is having a crises of
13 conscience? Isn't it just as possible that my man is trying
14 to figure out what to do when my friend just shot a girl in
15 front of me. What do I do? And yes, he went home. He went
16 back to where he was safe. It may not be what you think you
17 would do in that situation, but when you are stuck in a spot
18 like that, you don't know what you're gonna do.

19 Now, Mr. DeBusk talked about -- the last thing I want to
20 talk about on these phone records, I promise. Mr. DeBusk
21 talked about with these call logs how, Nick, once he's done
22 burning that car, is blowing Terrell up, blowing him up,
23 blowing him up, outgoing, outgoing, outgoing, outgoing,
24 outgoing, outgoing. I'm not gonna read them all, all
25 outgoing. Terrell ain't answering. Now, Mr. DeBusk wants you

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CLOSING BY SPRATLIN

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1 to think the reason Nick quit constantly calling Terrell was
2 because, oh, they're together. That's a theory, another one
3 of Mr. DeBusk's theories. It's not evidence. There's no
4 evidence putting them together until they turn themselves in
5 at the police department after the car was burned, after
6 Myrtle Beach. Now, you can assume at some point, Nick got his
7 truck back, but you don't have any evidence of how he got his
8 truck back, where he got his truck back, who all was there
9 when he got his truck back. They work together at a
10 restaurant, Floyd's.

11 Tabetha Oxendine, I felt bad for her. I think y'all
12 probably do, too. Not only did she lose what seemingly as one
13 of her best friends, she lost a family member. And I'm sure
14 just like Amanda's other family, your heart goes out to her.
15 And I can only imagine what Tabetha was going through when she
16 had to testify about the intimate details of what happened
17 that night in front of what is her family, too. So, she
18 probably wasn't gonna admit she any kind of relations with
19 anyone other than Terrell that night because her family was
20 here. But, they went back to the hotel together alone.
21 Terrell stayed with the victim for all of about two or three
22 minutes and left. Obviously, no interest in the victim. He
23 was all about Tabetha. Goes back to the hotel where they are
24 and they continue to engage in sexual activity. In fact, they
25 are gone so long that the victim, according to her cell phone

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CLOSING BY SPRATLIN

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1 records, text Terrell and says, Is Tabby there? I'm leaving.
2 Meaning that Tabby is not back at the apartment yet or the
3 hotel yet.

4 I submit to you, just as likely a theory as any of the
5 ones that Mr. DeBusk has thrown out today, that Tabetha slept
6 with Nick, Amanda found out, and she was angry. I submit to
7 you there may've been a fight. I submit to you 20-year-old
8 Nick with a hot head and a quick gun shoots her. I submit to
9 you, my man, Terrell, had been up all night drinking,
10 partying, having sexual intercourse, is asleep. Wakes up when
11 he hears the shot, jumps out of the car. I submit to you my
12 man is not guilty of murder, and he's not guilty because I
13 don't -- I say he's not guilty. No, that's not how this
14 works. He's not guilty because the burden stops here. He won
15 that one. He's not guilty because no one at that table proved
16 it.

17 You cannot just convict because you don't want to convict
18 or -- I'm sorry -- you cannot convict just because -- it's
19 been a long day for me too, y'all. You cannot just convict
20 because you don't want to not convict. You can't just take
21 the easy way out. You can't just say, they're buddies,
22 they're in the car together, clearly, they both must be
23 involved. You can't take the easy way out because that man's
24 life is on the line. Nick's is, too. But I'm worried about
25 Terrell, and Terrell's life is on the line and he didn't

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BY THE COURT

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1 commit a murder. He didn't pull out a gun and shoot anybody
2 and he didn't aid or abet. It's gonna be really hard for you
3 to say not guilty, but your job as jurors is to look at the
4 evidence, not theories, not hypothesis, not what might have
5 happened, not what if we read this way it could mean this.
6 Your job as jurors is to look at the evidence and see if the
7 state has proven my client guilty beyond a reasonable doubt.
8 They haven't. And that is why -- I told you before, it's not
9 easy to tell family or loved ones that there's just not enough
10 evidence for the people that they think killed their child to
11 go to jail. I did it as a prosecutor and it was the hardest
12 thing I've ever done in my life. I'm sure these fine
13 gentlemen have done it as well. I'm sure Owen Lynam has done
14 it. And today, unfortunately, y'all are gonna have to do it
15 because there's not enough evidence to convict Terrell Freeman
16 of murder, and you have to do the right thing. You have to do
17 your oath as jurors and you have to find him not guilty
18 because they haven't proved he was guilty.

19 Thank you, ladies and gentlemen, I believe that's all I
20 have for you.

21 BY THE COURT:

22 THE COURT: All right, Madam Forelady, ladies and
23 gentlemen of the jury, go to your jury room and we'll come
24 back in about 10 or 15 minutes. Thank you.

25 Everyone else remain seated while the jury retires,

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BY THE COURT

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1 please.

2 Ma'am.

3 (REPORTER'S NOTE: Jury exits courtroom. The following takes
4 place outside the presence of the jury.)

5 THE COURT: Anything from the state, Solicitor?

6 MR. DEBUSK: No, Your Honor.

7 THE COURT: Mr. Bellamy?

8 MR. BELLAMY: No, sir, Your Honor.

9 THE COURT: Mr. Spratlin?

10 MR. SPRATLIN: No, Your Honor.

11 THE COURT: All right. We'll come back in about 10 or 15
12 minutes. Thank you.

13 MR. SPRATLIN: Thank you, your Honor.

14 RECESS.

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

16 (On the Record.)

17 THE COURT: Solicitor, is the state ready for the jury to
18 come in?

19 MR. DEBUSK: Yes, Your Honor, we are.

20 THE COURT: Mr. Bellamy?

21 MR. BELLAMY: Yes, sir, Your Honor.

22 THE COURT: Mr. Spratlin?

23 MR. SPRATLIN: Yes, Your Honor.

24 THE COURT: All right. Very good.

25 Ask the jury to come in, please.

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CHARGE TO JURY

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

2 CHARGE TO JURY:

3 THE COURT: All right, ladies and gentlemen, it's now my
4 duty and responsibility to give you the law that you will
5 apply to the facts and evidence you've heard in this case. I
6 told you at the very beginning, I wouldn't indicate to you
7 what I think the facts of this case are because it wasn't my
8 job. It's your job and your responsibility to examine the
9 facts and evidence in this case. And it being my duty to give
10 you the law, if you came into the courtroom with any
11 preconceived ideas of what the law is, what it ought to be,
12 what it should be, what you hoped it would be, you'll
13 disregard that. You'll take the law as I now give it to you
14 and apply it to the facts and evidence you've heard in this
15 case.

16 Again, I told you at the very beginning, one of your jobs
17 as the judges of the facts is going to be to judge credibility
18 and that is the believability of the witnesses that have
19 testified before you in this particular matter. Now, in doing
20 so, you can believe one witness against several, several
21 against one, you can believe a portion of what a witness says,
22 disregard the remaining portion of it. If you got a good and
23 sound reason for doing so, you could disregard it in its
24 entirety the testimony of a particular witness. You examine
25 whether or not that witness has exhibited to you any kind of

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CHARGE TO JURY

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1 interest, motive, prejudice, that they might have in giving
2 you the testimony they gave from the witness stand. And, of
3 course, you examine the opportunity for knowledge, how they
4 come about that information that they gave to you. You don't
5 have any friends to reward, you don't have any enemies to
6 punish, and your verdict can't be the result of any kind of
7 passion, prejudice, or sympathy. It has to be an examination
8 of the facts and the evidence and looking at whether or not
9 the state has proven the guilt of the defendants beyond a
10 reasonable doubt.

11 I'll talk about this again in a minute. But, I told you
12 again at the beginning, you are deciding two cases. That is
13 with different indictments. You've got two defendants. Each
14 of them is separate. You've got the charge of murder,
15 possession of a weapon during the commission of a violent
16 crime, and grand larceny valued at 2,000 against Nicholas
17 Jacob McIver. You've got the indictments of murder,
18 possession of a weapon during the commission of a violent
19 crime, and grand larceny value 2,000 to 10,000 against Terrell
20 Freeman. You have to decide each and every one of those
21 separate charges distinctly. Each of them have different
22 elements of proof and law. Your decisions don't have to be
23 the same. They can be or they cannot be. It has to be
24 guided, your decision has to be guided by the facts and
25 evidence and the law that I'm giving to you. So, you'll have

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1 three decisions on the defendant Nicholas Jacob McIver and
2 you'll have three decision on Terrell Freeman.

3 As I told you, we had a minor testify in this case, and
4 you heard the testimony from that child. When a witness is a
5 child, you must determine whether, as with all witnesses,
6 whether the testimony is credible or believable. And with a
7 minor, you can also consider the age of the child, the child's
8 ability to observe and remember facts, the child's ability to
9 understand and answer questions. It's up to you to decide
10 whether the child understood the seriousness of appearing as a
11 witness in a criminal trial, whether again the child
12 understood the questions, whether she had a good memory,
13 whether the child understood the difference between lying and
14 telling the truth.

15 To the indictments the state brought against the three
16 [sic] defendants. I told you the defendants pled not guilty.
17 That put immediately the burden on the State of South Carolina
18 to prove the defendants guilty beyond a reasonable doubt.

19 Now, in conjunction with that, in this case, the
20 defendants did not testify. This is not a factor to be
21 considered by you in any manner. You may not talk about it in
22 your deliberations. You may not use it mentally in making
23 your decision in this particular matter. The defendants are
24 presumed innocent unless and until the state can prove the
25 defendants guilty of the crime or crimes charged beyond a

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CHARGE TO JURY

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1 reasonable doubt. That burden of proof remains on the state
2 of South Carolina throughout and it remains now.

3 The -- in this matter, the parties agreed to a
4 stipulation and I think it was more between the state and the
5 defendant Mr. Freeman. But there was a stipulation, that's an
6 agreement or concession made in a judicial proceeding, it's a
7 fact, and the parties have accepted that that is a fact and
8 you will regard that fact as being conclusively proven.

9 In this case, I allowed one witness to give their
10 opinion, sometimes called expert witnesses. Normally, we
11 obviously we don't allow people to give their opinion.
12 They've got to tell you what they saw, what they heard, what
13 took place in their presence. But some witnesses, by reason
14 of their education, experience, training in a particular field
15 will allow them to express an opinion but that doesn't give
16 them any special status. You judge all the witnesses the
17 same, you judge every witness' credibility and believability
18 the same.

19 There are two types of evidence that are normally
20 presented in virtually every criminal trial, and this case is
21 no exception. It's called direct and circumstantial evidence.
22 Direct evidence, that's the testimony of a person who asserts
23 or claims to have actual knowledge of a fact. Circumstantial
24 evidence, that's proof of a chain of facts indicating the
25 existence of a fact. The law does not make a distinction

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1 between the two, and a greater degree of certainty of one over
2 the other is not required. But, to the extent the State of
3 South Carolina relies on any circumstantial evidence, all of
4 the circumstances must be consistent with each other and when
5 taken together point conclusively to the guilt of the accused
6 beyond a reasonable doubt. If the circumstances merely
7 portray the defendants' behavior as suspicious, that proof has
8 failed. The state has the burden of proving these defendants
9 guilty beyond a reasonable doubt of the crimes charged. That
10 burden rests on the state whether the state relies on direct
11 evidence, circumstantial evidence or a combination of the two.

12 Again, to the indictments, the defendants pled not
13 guilty. And again, that put the burden immediately on the
14 State of South Carolina to prove them guilty of those charges
15 that the state levied or brought against the defendants. It's
16 an important rule of law that a defendant, these defendants,
17 any defendant, charged in a criminal trial, no matter the
18 seriousness of the charge, are presumed innocent of the crime
19 for which the indictment was issued unless the state can prove
20 their guilt by evidence satisfying you of that guilt beyond a
21 reasonable doubt. That presumption of innocence didn't end at
22 the beginning of the trial. It hasn't ended now. It does not
23 end unless and until you believe the evidence the state
24 brought forward in this matter proves the guilt of the
25 defendant of the crime charged beyond a reasonable doubt. We

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CHARGE TO JURY

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1 loiken the presumption of innocence to a robe of
2 righteousness.

3 It's placed on the shoulders of the defendant and it stays on
4 the shoulders of the defendant unless and until the state rips
5 that robe of righteousness from the shoulders of the defendant
6 of proof that convinces you of the guilt of the defendant
7 beyond a reasonable doubt. This isn't just some legal theory.
8 It's just not some legal phrase. It's a substantial right to
9 which every defendant is entitled unless you, the jury, are
10 satisfied from the evidence of the defendant's guilt beyond a
11 reasonable doubt.

12 So, what's reasonable doubt? Reasonable doubt is the
13 kind of doubt that would cause an ordinary reasonable person
14 to hesitate to act. Proof beyond a reasonable doubt is proof
15 that leaves you firmly convinced of the defendant's guilt.
16 Now, there are very few things you can know with absolute
17 certainty and the law doesn't require the State of South
18 Carolina to give you that kind of proof. What is required is,
19 if based upon your consideration of the evidence, your view of
20 the evidence, you are firmly convinced the defendant is guilty
21 of the crime charged, you must find the defendant guilty. On
22 the other hand, based upon your view of the evidence, your
23 consideration of the evidence, you are not firmly convinced
24 the defendant is guilty of that crime charged, you must give
25 the defendant the benefit of the doubt and find him not

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CHARGE TO JURY

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1 guilty.

2 Both defendants, being charged with the crime of murder
3 -- what's murder? The state has to prove beyond a reasonable
4 doubt that the defendant killed another person with malice
5 aforethought. Malice, that's hatred or ill will or hostility
6 towards another person. It's the intentional doing of a
7 wrongful act without just cause or excuse with an intent to
8 inflict an injury or under circumstances that the law will
9 infer an evil intent. It indicates a wicked or depraved
10 spirit intent on wrongdoing. Malice aforethought does not
11 require that malice exist for any particular time before the
12 wrongful act is committed, but that malice has to exist in the
13 mind of the defendant just before and at the time the act is
14 committed. Therefore, you've got that combination of the evil
15 intent and the act. Malice aforethought could be expressed or
16 inferred. It just means the manner in which the malice may be
17 shown to exist. It can be shown from the facts and evidence
18 presented in the case. Malice can be inferred from conduct
19 that shows a total disregard for human life.

20 The defendants are also charged with the crime of
21 possession of a weapon during the commission of or attempt to
22 commit a violent crime. The state must prove beyond a
23 reasonable doubt that the defendant was in possession of a
24 firearm or visibly displayed what appeared to be a firearm
25 during the commission of a violent crime. The firearm is

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1 basically anything that is designed to or is readily converted
2 to expel a projectile. In order to find the defendant guilty
3 of the possession of a weapon during the commission of a
4 violent crime, you have to've found the defendant previously
5 guilty of a violent crime. As you might expect, murder is a
6 violent crime. So, to convict either defendant of possession
7 of a weapon during the commission of a violent crime, you will
8 have to have previously convicted them of the crime of murder.
9 If you have found them not guilty of the crime of murder, you
10 don't even consider this particular crime because you have to
11 have them committing a violent crime to even consider this
12 one. The state also has to prove again that -- the state has
13 to prove beyond a reasonable doubt that the weapon further
14 advanced or helped in the commission of that violent crime.

15 Grand larceny 2,000 to \$10,000. The state has to prove
16 beyond a reasonable doubt that the defendant took and carried
17 away the property of another against the will or without the
18 consent of another person, the slightest removal of the
19 property or the complete possession of the property even for
20 an instant by the defendant is shown -- is enough to show a
21 taking and carrying away. The state also has to prove beyond
22 a reasonable doubt the defendant intended to permanently
23 deprive the owner of the property, and the state also has to
24 prove beyond a reasonable doubt that the value was at least
25 2,000 but less than 10,000.

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1 Mere presence. Mere presence at the scene of a crime is
2 not sufficient to prove someone guilty of that crime. A
3 defendant's presence where a crime is being committed or mere
4 association with a person who commits a crime does not make
5 that defendant an accomplice or an aider or abettor of the
6 person committing the crime. The burden is on the State of
7 South Carolina to prove every element of the crime charged.
8 If you find, after reviewing all of the evidence, the state
9 has proved the defendant was only present at the scene of a
10 crime and they have not proved beyond a reasonable doubt any
11 other participation in the crime, then you would find the
12 defendant not guilty.

13 Hand of one. If a crime is committed by two or more
14 people who are acting together in committing a crime, the act
15 of one is the act of all. A person who joins with another to
16 commit an unlawful act is criminally responsible for
17 everything done by that other person which happens as a
18 probable or natural consequence of the acts done in carrying
19 out the common plan and purpose. The act of one is the act of
20 all, or it is sometimes said, the hand of one is the hand of
21 all. Prior knowledge that a crime is going to be committed
22 without more, is not sufficient to make a person guilty of
23 that crime. Mere knowledge that another person is going to
24 commit a crime, even if the defendant is present when the
25 crime is committed, is not sufficient to convict the

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1 defendant. That's, again, mere presence. The state has to
2 prove beyond a reasonable doubt by competent evidence the
3 theory of the hand of one is the hand of all.

4 A principal in a crime is one who either actually commits
5 the crime or who is present aiding, abetting, assisting in the
6 crime. When a person does an act in the presence of and with
7 the assistance of another, the act is done by both. Where two
8 or more acting with a common plan or intent are present at the
9 commission of a crime, it does not matter who actually commits
10 the crime, all are guilty. The hand of one is the hand of
11 all. 0

12 Present at the commission of a crime means to be
13 sufficiently near to aid and abet and assist in the commission
14 of a crime. However, again, mere presence at the scene of a
15 crime is not sufficient to convict one as a principal on the
16 theory of aiding and abetting.

17 That ladies and gentlemen is the law that you're gonna
18 apply to the facts and evidence you've heard in this case.
19 Now, I've had prepared for you verdict forms and they're
20 pretty straightforward. You got three charges, as I've told
21 you, on00 each defendant. So here, the State of South
22 Carolina versus Nicholas Jacob McIver. You got the three
23 charges; murder, possession of a weapon during the commission
24 of a violent crime, and grand larceny value over 2,000 less
25 than 10,000. On the charge of murder, we, the jury, by

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CHARGE TO JURY

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1 unanimous consent find the defendant, Nicholas McIver -- and
2 there's two choices and I put one before the other, don't
3 assign anything to that, I've got to put one before the other
4 -- not guilty or guilty, a place for the foreperson to sign.
5 If you have found the defendant, Nicholas McIver, guilty of
6 murder, then you can proceed and must make a decision on
7 possession of a weapon during the commission of a violent
8 crime. Again, if you found him not guilty of that crime, you
9 need to skip over that one because you haven't found him
10 guilty of a violent crime. Then you have grand larceny value
11 over 2,000 but less 10,000. And again on the charge of grand
12 larceny value over 2,000 less than 10,000, we, the jury, by
13 unanimous consent, find the defendant, Nicholas McIver -- two
14 choices, not guilty or guilty. So, on each one of these, two
15 choices not guilty or guilty.

16 The same for Mr. Terrell Freeman, the same three charges.
17 On the charge of murder, we, the jury, by unanimous consent,
18 find the defendant, Terrell Freeman, not guilty or guilty. If
19 you found him guilty of that violent crime, you answer the
20 question. Possession of a weapon during the commission of a
21 violent crime, by unanimous consent, find him not guilty or
22 guilty. If you found him not guilty of murder, you skip over
23 it because that's the violent crime. Then you go to grand
24 larceny value 2,000 to 10,000, again, unanimous consent, not
25 guilty or guilty.

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1 Madam Forelady, you will take these verdict forms, once
2 your jury has well and truly deliberated and reached their
3 unanimous decision on each one of these matters and check the
4 appropriate block, it states right there, check the
5 appropriate block and sign your name, and put the correct date
6 on each of them. Again remembering, if the person is found
7 not guilty of murder, then you skip over to the last one. You
8 don't need to consider possession of a weapon during the
9 commission of a violent crime.

10 I reiterate again, you've got two defendants, your
11 decisions don't have to be the same. They can be, but they
12 do not have to be the same. You look at the facts, you look
13 at the law. Each charge has different elements as I just told
14 you. Your decision on each crime does not have to be the
15 same; it can be but does not have to be. So, you treat them
16 separately. You're deciding three cases against Mr. McIver
17 and three cases against Mr. Freeman. It's on here and I've
18 said it several times, unanimous. Your decision must be
19 unanimous. Every decision you make must be unanimous. That
20 means 12/0, not 11/1, 10/2, any combination thereof.

21 So again, Madam Forelady, you check the appropriate
22 block and you sign your name on here, you are telling the
23 Court each and every member of the jury agrees that's their
24 verdict. So, if called upon by the clerk's representative
25 after the clerk reads the verdict for you to raise your right

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BY THE COURT

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1 hand and say, yes, that is my verdict, all members of the
2 jury will be able to do so.

3 I'm gonna ask you, Madam Forelady, to take the regular
4 members of the jury to the jury room. The two alternates, I
5 want you to stay with us. Do not, do not begin your
6 deliberations until the bailiff has handed to you the verdict
7 forms and the exhibits. There will be submitted to you a
8 laptop with just play-only capabilities for you to view the
9 videos, if you so choose to do so. I assume that y'all are
10 technically capable of doing so, but if for some reason you
11 need any kind of assistance, don't hesitate to ask.

12 So, Madam Forelady, please take the jury to the jury
13 room.

14 The two alternates, please stay with us.

15 (REPORTER'S NOTE: Jury exits courtroom. The following takes
16 place outside the presence of the jury.)

17 BY THE COURT:

18 THE COURT: Is there any reason at this time that the
19 Court should not excuse the alternates? From the state?

20 MR. DEBUSK: No, Your Honor.

21 THE COURT: From your client, Mr. Bellamy?

22 MR. BELLAMY: No, sir, Your Honor.

23 THE COURT: From your client, Mr. Spratlin?

24 MR. SPRATLIN: No, Your Honor.

25 THE COURT: Ladies, I appreciate your service in this

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BY THE COURT

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1 case. Your job was to step in the shoes of one of the regular
2 members of the jury should they be unable to do so. I can't
3 tell you honestly how many times that happens for one reason
4 or another. It often happens. It didn't happen in this
5 particular case, but that was your job and responsibility.
6 All the jurors seem ready, willing, and able to perform their
7 duties so I'm able to excuse you from your service at this
8 time. I'm gone excuse you from your jury service for this
9 week. You earn that exemption from coming back to Circuit
10 Court jury duty for the next three years. I want to thank you
11 for your service and you are now excused.

12 Thank you very much:

13 (REPORTER'S NOTE: Alternates exit courtroom.)

14 THE COURT: Exceptions, deletions, additions to the
15 charge from the state?

16 MR. DEBUSK: None, Your Honor.

17 THE COURT: Exceptions, deletions, additions to the
18 charge from the defendant McIver?

19 MR. BELLAMY: Other than what was previously stated prior
20 to the charge being done on flight.

21 THE COURT: All right. Regarding that one matter that
22 Mr. Spratlin submitted to the Court; is that correct?

23 MR. BELLAMY: Yes, Your Honor.

24 THE COURT: All right. Very good.

25 And any exceptions, deletions, additions to the charge by

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1 from the defendant Freeman?

2 MR. SPRATLIN: No, Your Honor, other than the charge I
3 requested which was denied by the Court.

4 THE COURT: All right. Very good.

5 All right. Gentlemen, first, regarding the state's
6 representative, the attorneys for Mr. McIver and Mr. Freeman,
7 gentlemen, I want to thank you for your work that you have
8 done in this case. You have done everything that the Court
9 would expect all of you to do in representing the interests of
10 your respective parties and clients. I appreciate that and as
11 your Presiding Judge want to thank you for that.

12 If you would please come forward and make sure all the
13 proper exhibits are ready to go into the jury. With that, we
14 will be at ease until the jury needs us.

15 Thank you very much.

16 MR. SPRATLIN: Thank you, Your Honor.

17 MR. BELLAMY: Thank you, Your Honor.

18 (REPORTER'S NOTE: Counsel reviews and consent to exhibits to
19 be submitted to jury.)

20 MR. BELLAMY: We're good.

21 THE COURT: All right. So, go ahead and submit them to
22 the jury for their consideration then.

23 (REPORTER'S NOTE: Deliberations commence at 4:25 P.M.)

24 RECESS

25

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

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BY THE COURT

1 (On the Record.)

2 THE COURT: All right, gentlemen, the jury has sent a
3 note out basically where they wanted the hand of one charge in
4 writing submitted to them. And we have talked about it and I
5 will submit my written hand of one charge to them, but I told
6 you I thought to be fair to all parties, if the written
7 portion of the mere presence charge had to be submitted at the
8 same time.

9 As I understand it, Solicitor, the state is in agreement
10 with that?

11 MR. DEBUSK: Yes, Your Honor.

12 THE COURT: And for your client, Mr. Bellamy?

13 MR. BELLAMY: We are in agreement and just for the
14 record, Your Honor, I conferred with my client and he is in
15 agreement as well.

16 THE COURT: From Mr. Spratlin?

17 MR. SPRATLIN: Yes, Your Honor, same matter. I have
18 conferred with my client and he is in agreement and I'm in
19 agreement.

20 THE COURT: All right. So, we'll mark them as Court's
21 exhibits and we'll send them into the jury then.

22 All right. So, let's mark -- let's staple this one
23 together. That's the hand of one that's two pages.

24 COURT REPORTER: Court's 4 and 5.

25 COURT'S EXHIBITS 4 AND 5

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1 MARKED FOR IDENTIFICATION

2 THE COURT: All right. Great. So, if you'd give it to
3 them please, sir.

4 All right. Thank you.

5 RECESS

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

7 COURT'S EXHIBIT NUMBER 6

8 MARKED FOR IDENTIFICATION

9 **(On the Record.)**

10 THE COURT: All right. Solicitor, it's the Court's
11 intention at this point in time, looking at the time, to send
12 the jury home since we have the availability of tomorrow and
13 that's the Court's intention at this time. All right?

14 MR. DEBUSK: Yes, Your Honor.

15 THE COURT: Mr. Bellamy?

16 MR. BELLAMY: Yes, sir, Your Honor.

17 THE COURT: And, Mr. Spratlin?

18 MR. SPRATLIN: Yes, sir, Your Honor.

19 THE COURT: All right. Ask the jury to come in, please.

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

21 THE COURT: All right, ladies and gentlemen, I am gonna
22 send you home for the evening. We'll resume again tomorrow
23 morning at 9:30.

24 A couple of things regarding on your request that the
25 Court will have that prepared for you when you arrive in the

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1 morning it will -- the bailiff will be able to give that to
2 you.

3 Again, the Clerk's Office will have something for you in
4 the morning. Please remember now and Madam Forelady, it will
5 be one of your responsibilities, until all 12 of you are
6 present, you may not talk about the case. It might be such
7 that, you know, he brings some of you up and you start with
8 whatever the clerk has for you, but you can't talk about the
9 case until everybody is there. Now, as soon as everybody's
10 there, you can start if you choose to do so, but we'll make
11 sure we have that charge on the circumstantial, direct and
12 circumstantial evidence for you in the morning when you start.

13 Again, even though y'all have started deliberating and
14 you have been talking about it, again, you can't talk about it
15 with anybody else. Only the 12 of you are making this
16 decision. Again, you're not researchers, you're not
17 investigators.

18 I'll see you back tomorrow morning at 9:30.

19 Thank you very much.

20 (REPORTER'S NOTE: Jury exits courtroom. The following takes
21 place outside the presence of the jury.)

22 THE COURT: All right, gentlemen. What we'll do on that
23 circumstantial evidence charge, basically it has obviously the
24 definition on direct evidence also on the front of it, but
25 it's direct and circumstantial evidence. The -- I had it as

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1 you saw in three pages. That one sentence from the second
2 page, we're gonna put that at the top of the second page.
3 Obviously, y'all can look at it before we send it in. We'll
4 again mark it as a Court's exhibit and it'll be here for you
5 to look at. So, maybe if y'all are here at least by 9:20.
6 Y'all be here by 9:20 to look at that so that we can give it
7 to the jury just as soon as they are all assembled.

8 Anything else from the state at this point in time?

9 MR. DEBUSK: No, Your Honor. Thank you.

10 THE COURT: From your client, Mr. Bellamy?

11 MR. BELLAMY: No, sir, Your Honor.

12 THE COURT: From your client, Mr. Spratlin?

13 MR. SPRATLIN: No, Your Honor.

14 THE COURT: All right, gentlemen, I'll see y'all tomorrow
15 morning at 9:20 then.

16 Thank you very much.

17 **RECESS - END OF DAY FOUR**

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

19 **APRIL 27, 2018 - DAY FIVE**

20 COURT'S EXHIBIT NUMBER 7

21 MARKED FOR IDENTIFICATION

22 (REPORTER'S NOTE: Deliberation continues at 9:30 A.M.).

23 (On the Record.)

24 THE COURT: All right, Solicitor, I understand the jury
25 has reached a verdict. Is the state ready to receive it?

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1 MR. DEBUSK: Yes, Your Honor.

2 THE COURT: Mr. Bellamy, your client?

3 MR. BELLAMY: Yes, sir, Your Honor.

4 THE COURT: And, Mr. Spratlin, your client?

5 MR. SPRATLIN: Yes, Your Honor.

6 THE COURT: All right. Let me speak to everyone in the
7 courtroom. We've asked this jury to do a difficult thing and
8 that is to arrive at a unanimous verdict in this particular
9 matter. Obviously, they've been diligent in doing so as
10 reflected by the time they have taken to reach their verdict
11 in this matter. This verdict will be received by everyone
12 assembled in this courtroom with respect and silence. There
13 will be no reaction to the jury's verdict. I will not
14 tolerate any kind of outbursts or reaction to the verdict. If
15 you do so, you will be detained by an officer of this Court.
16 After these proceedings are over with, I will go forward with
17 a contempt of court hearing by which I could send you to the
18 Department of Corrections for a period up to one year. If you
19 cannot abide by these orders, please leave the courtroom now.
20 If you stay, you are under this order.

21 Thank you very much.

22 Ask the jury to come in.

23 (REPORTER'S NOTE: Jury enters courtroom @ 11:00 A.M.)

24 VERDICT OF THE JURY:

25 THE COURT: All right. Madam Forelady, has your jury

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VERDICT OF JURY

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1 reached a verdict in all of these matters?

2 JUROR 79: Yes, sir.

3 THE COURT: Very good. Could you hand the verdict forms
4 to the clerk's representative, please?

5 You may publish the verdicts.

6 CLERK: Indictment number 2016-GS-26-05558, State of
7 South Carolina, County of Horry versus Nicholas Jacob McIver,
8 on the charge of murder, we, the jury, by unanimous consent,
9 find the defendant, Nicholas McIver, guilty. Signed by Taylor
10 Creel, Foreperson dated April 27th, 2018.

11 Indictment number 2016-GS-26-05557, State of South
12 Carolina, County of Horry versus Nicholas Jacob McIver, on the
13 charge of possession of a weapon during the commission of a
14 violent crime, we, the jury, by unanimous consent, find the
15 defendant, Nicholas McIver, guilty. Signed by Taylor Creel,
16 April 27th, 2018.

17 Indictment number 2016-GS-26-05556, State of South
18 Carolina, County of Horry versus Nicholas Jacob McIver, on the
19 charge of grand larceny value over 2,000 but less than 10,000,
20 we, the jury, by unanimous consent, find the defendant,
21 Nicholas McIver, guilty. Signed by Taylor Creel dated April
22 27, 2018.

23 Indictment number 2017-GS-26-02606, State of South
24 Carolina, County of Horry versus Terrell Freeman, on the
25 charge of murder, we the jury, by unanimous consent, find the

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1 defendant, Terrell Freeman, not guilty. Signed by Taylor
2 Creel, dated April 27, 2018.

3 Indictment number 2017-GS-26-02607, State of South
4 Carolina, County of Horry versus Terrell Freeman, on the
5 charge of possession of a weapon during the commission of a
6 violent crime, we, the jury, by unanimous consent, find the
7 defendant, Terrell Freeman, not guilty. Signed by Taylor
8 Creel, Foreperson, dated April 27th, 2018.

9 Indictment number 2017-GS-26-02609, State of South
10 Carolina, County of Horry versus Terrell Freeman, on the
11 charge of grand larceny value over 2,000 but less than 10,000,
12 we, the jury, by unanimous consent, find the defendant,
13 Terrell Freeman, guilty. Signed by Taylor Creel, Foreperson,
14 dated April 27th, 2018.

15 Ladies and gentlemen of the jury, if this is this your
16 verdict, so signify by raising your right hand.

17 Thank you.

18 THE COURT: All the jurors having confirmed their verdict
19 by the raising of their right hand, does the state wish the
20 jury polled?

21 MR. DEBUSK: No, Your Honor, thank you.

22 THE COURT: Does the defendant McIver?

23 MR. BELLAMY: Yes, sir, Your Honor.

24 THE COURT: All right, Madam Clerk, if you would poll the
25 jury by number please, ma'am.

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POLLING OF JURY

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1 POLLING OF JURY:

2 CLERK: Please stand when I call your number, I will ask
3 you two questions. After you answer them, please be seated.

4 Number 67. Is this your verdict?

5 JUROR 67: Yes, it is.

6 CLERK: Is this still your verdict?

7 JUROR 67: Yes.

8 CLERK: Number 252. Is this your verdict?

9 JUROR 252: Yes, ma'am.

10 CLERK: Is this still your verdict?

11 JUROR 252: (Indicates affirmatively.)

12 CLERK: Number 394. Is this your verdict?

13 JUROR 394: Yes, ma'am.

14 CLERK: Is it still your verdict?

15 JUROR 394: Yes, ma'am.

16 CLERK: Number 308. Is this your verdict?

17 JUROR 308: Yes.

18 CLERK: Is it still your verdict?

19 JUROR 308: Yes.

20 CLERK: Number 79. Is this your verdict?

21 JUROR 79: Yes.

22 CLERK: Is this still your verdict?

23 JUROR 79: Yes.

24 CLERK: Number 243. Is this your verdict?

25 JUROR 243: Yes.

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1 CLERK: Is this still your verdict?
2 JUROR 243: Yes.
3 CLERK: Number 61. Is this your verdict?
4 JUROR 61: Yes, ma'am.
5 CLERK: Is it still your verdict?
6 JUROR 61: Yes, ma'am.
7 CLERK: Number 17. Is this your verdict?
8 JUROR 17: Yes.
9 CLERK: Is it still your verdict?
10 JUROR 17: Yes.
11 CLERK: Number 73. Is this your verdict?
12 JUROR 73: Yes, ma'am.
13 CLERK: Is it still your verdict?
14 JUROR 73: Yes, ma'am.
15 CLERK: Number 198. Is this your verdict?
16 JUROR 198: Yes, ma'am.
17 CLERK: Is this still your verdict?
18 JUROR 198: Yes, ma'am.
19 CLERK: Number 260. Is this your verdict?
20 JUROR 260: Yes, ma'am.
21 CLERK: Is it still your verdict?
22 JUROR 260: Yes, ma'am.
23 CLERK: Number 359. Is this your verdict?
24 JUROR 359: Yes.
25 CLERK: Is it still your verdict?

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1 JUROR 359: Yes.

2 CLERK: Thank you.

3 BY THE COURT:

4 THE COURT: All right. The jury having affirmed their
5 verdict after being polled, is there anything as else to the
6 jury from the state?

7 MR. DEBUSK: No, Your Honor, thank you.

8 THE COURT: From the defendant McIver?

9 MR. BELLAMY: No, sir, Your Honor.

10 THE COURT: From the defendant Freeman?

11 MR. SPRATLIN: No, Your Honor.

12 THE COURT: All right, ladies and gentlemen of this jury,
13 I want to thank you for your service in this particular
14 matter. You have done exactly what this Court asked you to
15 do, that is well and truly deliberate and reach a unanimous
16 verdict in these matters.

17 I understand -- everyone in these proceedings, I
18 understand we ask you to do a difficult thing and that is to
19 arrive at a unanimous verdict in this particular case. I
20 appreciate your service. You've earned an exemption from
21 coming back to Circuit Court jury duty for the next three
22 years. If you do get a summons, you tell your Clerk of Court
23 the -- when you served and you will have that exemption. You
24 are not excused from your duties and released from the -- the
25 conditions I placed on you about not talking about the case.

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1 You are now allowed to do so if you choose to do so. If you
2 choose not to do so, that is all you need to do is just tell
3 them you do not wish to talk about it. But, if you wish to
4 talk to anyone about it, you now are free to do so. With
5 that, you are now excused. Thank you very much.

6 (REPORTER'S NOTE: Jury exits courtroom. The following takes
7 place outside the presence of the jury.)

8 THE COURT: Mr. Bellamy, any motions from the defendant
9 McIver?

10 MOTIONS:

11 MR. BELLAMY: Yes, sir, Your Honor, we would make a
12 motion for a JNOV verdict -- to set aside the verdict and for
13 the Court to enter a not guilty or in the alternative a new
14 trial renewing all previous motions made both at the end of
15 the state's case and at the end of the defense case. Thank
16 you, Your Honor.

17 THE COURT: Thank you.

18 In this particular matter, regarding the defendant's
19 motion for a new trial, the Court respectfully declines to
20 grant the motion for a new trial as to the defendant, Nicholas
21 Jacob McIver. I do find that the matter was properly
22 presented to the jury. By the jury's verdict they have found,
23 by their view of the credibility and believability of the
24 witnesses, the defendant guilty. The Court finds that there
25 was more than sufficient evidence presented in this matter to

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MOTIONS

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1 so convict the defendant McIver of these crimes and the Court
2 respectfully declines to grant the motion for a new trial.

3 Any motions on behalf of the defendant Freeman?

4 MR. SPRATLIN: Yes, sir, Your Honor, regarding the, only
5 conviction of grand larceny, I would move to an order in
6 arrest of the judgment. I believe there are matters of fact
7 and matters of law in this case that the -- that should
8 instruct the Court to vacate the jury's verdict of guilty on
9 the grand larceny and insert a verdict of not guilty. In the
10 alternative, I would ask and move for a new trial before this
11 Court. I did not make a motion for a directed verdict in
12 regards to the grand larceny, so I do not renew any trial
13 motions at this time in regards to that.

14 THE COURT: Regarding the motion for a new trial
15 requested by the defendant, Terrell Freeman, the Court
16 respectfully declines to grant the motion for a new trial. In
17 this particular matter, again, the jury's job, judging
18 credibility and believability, they have so found the
19 defendant guilty of the crime of the grand larceny of the
20 vehicle valued at 2,000 to 10,000. The Court finds that there
21 was more than sufficient evidence in the record to support the
22 conviction of the defendant for this particular crime. The
23 Court respectfully declines to grant your motion for a new
24 trial.

25 MR. SPRATLIN: Yes, sir, Your Honor. Thank you.

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SENTENCING

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1 SENTENCING:

2 THE COURT: All right. Is the state ready to proceed
3 with sentencing?

4 MR. OSKIN: Your Honor, if we may approach with attorney
5 Spratlin, please?

6 THE COURT: All right. Very good.

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

8 THE COURT: Do y'all have the sentencing sheets?

9 MR. DEBUSK: Mr. Holford is preparing them, Your Honor,
10 and will be here in just a moment.

11 THE COURT: All right, sir. Very good.

12 MR. DEBUSK: Your Honor, the sentencing sheets.

13 THE COURT: All right. Very good. Thank you.

14 Very good. Thank you.

15 All right. I'll be glad to hear from you regarding these
16 matters.

17 MR. DEBUSK: Thank you, Your Honor. You've heard the
18 testimony of this case. You know what a needless and brutal
19 act this was. I believe it was the grandfather of Amanda,
20 very close to her, he in fact bought the car that she was
21 killed in, took care of Amanda. He's not able to speak right
22 now, but he wrote you a letter and asked if you would read it.

23 THE COURT: Yes, sir.

24 (REPORTER'S NOTE: Court reviews letter.)

25 THE COURT: Yes, sir, Solicitor?

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SENTENCING

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1 MR. DEBUSK: Thank you, Your Honor. Amanda Fisher was
2 only 29 when this happened to her. She had come down to the
3 coast to find a new life and get settled in a new area. She
4 had a new job and this terrible thing happened to her out of
5 the blue. Her family, of course, greatly misses her. They've
6 been here throughout the trial. I just would like to tell you
7 the names of the people that have been here. Renee Vann, her
8 mother, has been sitting right here in the front row. You met
9 Mr. Michael Vann, who is her step-father. Her biological
10 father wasn't able to be here today. Jerry Fisher and Glenda
11 Fisher, the grandfather and grandmother, they've been here as
12 well also on the front row. Penny Fisher and Keith Fisher, an
13 uncle and aunt, and Shirley Shelton, another aunt have been
14 here throughout the trial, Your Honor. Our first witness, Mr.
15 Ken Thompson has also been here. He's friends with one of the
16 family members through church.

17 There are no words to express the loss of the life of a
18 young person like this. It's a brutal act and the state
19 believes it merits the maximum punishment.

20 Thank you for hearing our trial, Your Honor.

21 THE COURT: All right, sir. Very good.

22 All right. Mr. Bellamy, be glad to hear from you, sir.

23 MR. BELLAMY: Thank you, if it please the Court, Your
24 Honor. And I don't want to, Your Honor, as in most cases
25 when we do the pleas, we kind of have to tell you what the

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SENTENCING

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1 facts are because you don't know. You've listened to it.
2 But, I did want to go over a couple of things as the facts
3 bore out these people didn't know each other, that it was a
4 random sort of meeting, everything was fine, and then
5 something happened. We don't know what happened to cause this
6 in terms of what would've precipitated it by motive, but it
7 appears to have not've been a plan to them based on where it
8 happened and the events that occurred after. It was totally
9 random. While we disagree with the jury's verdict, we
10 certainly respect this system and we have to move forward from
11 here.

12 Judge, at the time of this, Mr. McIver was 20 years old.
13 As you've already heard, he had a little bit of a record,
14 nothing to amount to a felony or anything that would've been
15 impeachable on cross. He was working at his family's
16 restaurant. He came down here for the weekend. The jury has
17 spoken.

18 We would ask -- obviously he has a two-year-old child
19 back in Charlotte. Likewise, his family members have been
20 here this week. His mother is seated in the front row, his
21 grandmother, fiancé, sister, uncles, dad. This is a tragic
22 event. As I said to the jury, I can see both sides of this as
23 a parent. We would ask obviously the Court has a minimum
24 sentence here, which is day-for-day. We would ask the Court
25 to consider that in light of his age, his lack of criminal

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1 history, and that this does not appear to be something that
2 was planned. There was alcohol and drugs involved. That's
3 not an excuse, Judge, not at all. I don't know what happened.
4 There's just nothing in the record to indicate there was any
5 problem. It wasn't a drug rip-off, this wasn't over money.
6 We just don't know but it happened. And, I submit to the
7 Court that the minimum 30 year sentence can appropriately
8 punish someone, which is one-and-half times his life up to
9 now. We would respectfully ask the Court to consider whatever
10 leniency you can give him understanding that the minimum is a
11 severe punishment for man of 20 years of age, 22 at this time.

12 Thank you, Your Honor.

13 THE COURT: Thank you.

14 MR. DEBUSK: Your Honor, for the record, may I put in the
15 prior history on?

16 THE COURT: Yes, sir, please.

17 MR. DEBUSK: Thank you. In 2013, possession of a handgun
18 by a minor; from 2013, possession of marijuana up to half an
19 ounce; from 2013, resisting a public officer, a misdemeanor
20 level; from 2013, injury to real property; 2013, reckless
21 driving to endanger; from 2014, again, resisting a public
22 officer, misdemeanor; and from 2014 assaulting a female.

23 THE COURT: Thank you.

24 MR. DEBUSK: Thank you, Your Honor.

25 THE COURT: 2016-GS-26-5558, State of South Carolina,

State v. McIver and Freeman
SENTENCING

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1 County of Horry versus Nicholas Jacob McIver. Regarding this
2 particular matter, this was just an absolute tragedy,
3 senseless act and the Court recognizes that no sentence that
4 this Court can give can -- obviously, can't bring the victim
5 back, can't do anything but place this matter at an end.

6 The sentence of this Court is the defendant is committed
7 to the State Department of Corrections for a determinate term
8 45 years. The Defendant is given credit for any time he has
9 already served.

10 2016-GS-26-5557, possession of a firearm during the
11 commission of a violent crime, the defendant is sentenced to
12 the Department of Corrections for a period of five years
13 concurrent.

14 2016-GS-26-5556, the grand larceny, sentenced to the
15 Department of Corrections for a determinate term of five years
16 concurrent.

17 Thank you very much.

18 As to the defendant Freeman, is the state ready to
19 proceed?

20 MR. DEBUSK: Yes, Your Honor.

21 THE COURT: I'll be glad to hear from you.

22 MR. DEBUSK: Thank you, Your Honor. This vehicle was a
23 gift from Jerry Fisher, the grandfather, to Amanda and it's
24 very ironic that not only was it a place for a murder, but it
25 was used as the getaway car by the individuals who pulled her

State v. McIver and Freeman
SENTENCING

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1 out of the car while she was probably still moving.

2 This defendant has a pretty bad record, Your Honor.

3 It's, from 2008, in North Carolina, voluntary manslaughter for
4 which he was sentenced to 69 to 92 months; from the State of
5 Virginia in 2006, disorderly conduct; in 2007, manufacturing,
6 sale or possession of controlled substance, felony level,
7 which he was revoked from -- I'm sorry -- probation on
8 December of 2008.

9 THE COURT: Thank you, sir.

10 All right, Mr. Spratlin?

11 MR. SPRATLIN: Thank you, Your Honor. My client is 31
12 years old. He's originally from Virginia. He was living in
13 North Carolina before this incident and before his arrest.
14 While none of Terrell's family was able to be here for this
15 trial, he does have a family that supports and cares about him
16 very much. His mother has had people calling me and checking
17 in with me regularly about this case and the progress of the
18 case. So, he does have loved ones who care a great deal about
19 Terrell, even though they weren't able to drive down.

20 Your Honor, I understand the tragedy of this case and --
21 and like Mr. Bellamy said, my heart also and Terrell's heart
22 also goes out to the victims in this case and their loss.

23 Regarding the charge that my client has been convicted
24 of, the grand larceny, the evidence presented at trial showed
25 that the jury believed that my client was not involved with

State v. McIver and Freeman
SENTENCING

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1 the murder or the state did not prove that he was involved
2 with the murder, but that he did flee in the vehicle along
3 with the defendant, Nicholas McIver. He was only in the car
4 for a matter of, I believe, 40 minutes at the most, and then
5 he is never tied to that car, connected to that car again.

6 Your Honor, he has about 430 days credit at J. Reuben
7 Long. However, he turned himself in on this warrant. He
8 turned himself into the police up in North Carolina, excuse
9 me, back on July 13th at the same time as Mr. McIver. But
10 based upon a parole violation on the charge that Mr. DeBusk
11 referenced, he was not brought to J. Reuben Long until March
12 23rd. The only request I would ask the Court in addition to
13 taking whatever mercy the Court feels appropriate upon my
14 client, is to somehow fashion a sentence that accounts for the
15 fact that he spent 256 days incarcerated for North Carolina
16 while this warrant was outstanding, which he will not be
17 getting credit for by law or by Department of Corrections'
18 policy. So, I would just ask the Court to take that into
19 account and fashion whatever sentence the Court feels is
20 appropriate for my client.

21 THE COURT: All right. 2017-GS-26-2609, State of South
22 Carolina, County of Horry versus Terrell Freeman regarding
23 grand larceny valued 2,000 to 10,000, the jury having found
24 him guilty, Mr. Freeman, of this matter, it is clear that you
25 were in possession of this automobile. The maximum sentence

State v. McIver and Freeman
SENTENCING

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1 is five years. The defendant is committed to the State
2 Department of Corrections for a determinate term of five
3 years, credit for the time that he served in South Carolina
4 only.

5 Thank you very much.

6 MR. SPRATLIN: Yes, sir. Thank you, Your Honor.

7 THE COURT: These proceedings are now at an end.

8 Thank you very much.

9 MR. DEBUSK: Thank you, Your Honor.

10 ADJOURNED

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WITNESSES

Owen G Lynam North Myrtle Beach Dept of Public
Safety

Howard

ARREST WARRANT NUMBER

2016A2620700690
CDR: 0116 16-03-0010, 0020
DOA: 3/24/2017

ACTION OF GRAND JURY

TRIP BILL

[Signature]
Foreperson of Grand Jury
Date: MAY 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26- 02606

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
17H02112

COURT OF GENERAL SESSIONS

May, 2017 TERM

THE STATE

vs.

Terrell Freeman
B/ M
Amity Pointe Rd
Charlotte, NC 28215
DOB:
SSN:

ATTORNEY: Martin D. Spratlin

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2017 MAY 22 PM 2:02

**RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM
GRAND JURY

*Trial Not Guilty
Judge Steven John
CR Dixie Eubank
4-27-18*

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

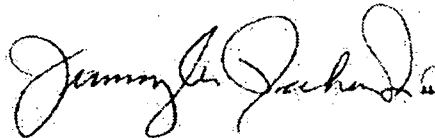
At a Court of General Sessions, convened on May 18, 2017, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Terrell Freeman did in Horry County, on or about July 9, 2016, willfully, feloniously, and intentionally kill the victim, Amanda Fisher, with malice aforethought, either express or implied, by means of gun shot in the head, and the victim did die as a proximate result thereof on or about July 9, 2016 in Horry County, in violation of Section 16-03-0010, 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

WITNESSES

Owen G Lynam North Myrtle Beach Dept of Public
Safety

Howard

ARREST WARRANT NUMBER

2016A2620700739
CDR: 0549 16-23-0490
DOA: 3/24/2017

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

MAY 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26- 02607

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
17H02112

COURT OF GENERAL SESSIONS

May, 2017 TERM

THE STATE

vs.

Terrell Freeman
B/ M
Amity Pointe Rd
Charlotte, NC 28215
DOB:
SSN:
[Redacted]

ATTORNEY: Martin D. Spratlin

Indictment for

**POSSESSION OF A WEAPON DURING THE
COMMISSION
OF A VIOLENT CRIME**

Jimmy A. Richardson, II, Solicitor

**FILED
HORRY COUNTY**

2017 MAY 22 PM 2:02

**RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM

GRAND JURY

*Trial Not Guilty
Judge Steven John
CR Dixie Eubank
4-27-18*

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

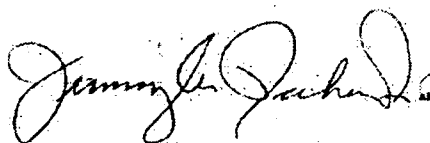
At a Court of General Sessions, convened on May 18, 2017, the Grand Jurors of Horry County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Terrell Freeman did in Horry County, on or about July 9, 2016, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, 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

WITNESSES

Owen G Lynam North Myrtle Beach Dept of Public
Safety

Harrell

ARREST WARRANT NUMBER

2016A2620700740
CDR: 3434 16-23-0500(A)
DOA: 3/24/2017

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

MAY 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26- 02608

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
17H02112

COURT OF GENERAL SESSIONS

May, 2017 TERM

THE STATE

vs.

Terrell Freeman
B/ M
[REDACTED] Amity Pointe Rd [REDACTED]
Charlotte, NC 28215
DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: Martin D. Spratlin

Indictment for

UNLAWFUL POSSESSION OF FIREARM BY
PERSON
CONVICTED OF A VIOLENT OFFENSE

Jimmy A. Richardson, II, Solicitor

FILED
HORRY COUNTY

2017 MAY 22 PM 2:02

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM

GRAND JURY

NP
10-30-18

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

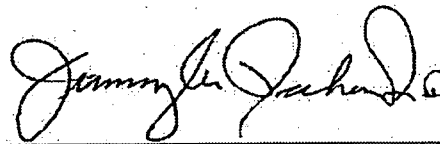
At a Court of General Sessions, convened on May 18, 2017, the Grand Jurors of Horry County present upon their oath:

UNLAWFUL POSSESSION OF FIREARM BY PERSON
CONVICTED OF A VIOLENT OFFENSE

CDR: 3434 16-23-0500

That Terrell Freeman did in Horry County on or about 2016-07-09, knowingly possess or acquire a firearm and or ammunition after having been convicted of a violent crime defined in Section 16-1-60, S. C. Code of Laws, 1976, as amended, in violation of Section 16-23-0500, 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

WITNESSES

Owen G Lynam North Myrtle Beach Dept of Public
Safety

Howard

ARREST WARRANT NUMBER

2016A2620700741

CDR: 3420 16-13-0030(B)

DOA: 3/24/2017

ACTION OF GRAND JURY

TRIP BILL

[Signature]
Foreperson of Grand Jury

Date: MAY 18 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26-02609

The State of South Carolina

County of Horry

George H. DeBusk, Jr.
17H02112

COURT OF GENERAL SESSIONS

May, 2017 TERM

THE STATE

VS.

Terrell Freeman

B/ M

Amity Pointe Rd

Charlotte, NC 28215

DOB:

SSN:

ATTORNEY: Martin D. Spratlin

Indictment for

GRAND LARCENY

(VALUE OVER \$2000 BUT LESS THAN

\$10,000)

Jimmy A. Richardson, II, Solicitor

FILED
HORRY COUNTY

2017 MAY 22 PM 2:02

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM

GRAND JURY

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 18, 2017, the Grand Jurors of Horry County present upon their oath:

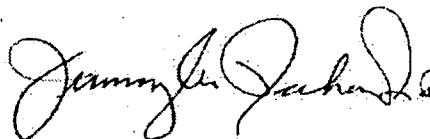
(INCIDENT DATE 6/1/2010 AND AFTER)

GRAND LARCENY
(VALUE OVER \$2000 BUT LESS THAN \$10,000)

CDR: 3420 16-13-0030(B)(1)

That Terrell Freeman did in Horry County on or about July 9, 2016, take and carry away the personal goods of Amanda- deceased Fisher, valued at more than two thousand (\$2000.00) dollars but less than ten thousand (\$10,000.00) dollars, described as follows: 2012 Chevy Malibu, with the intent to deprive the owner permanently of such property and to convert the goods to his/her own use, in violation of Section 16-13-0030(B)(1), 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

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

589

COUNTY OF Horry
STATE VS.
Terrell Freeman

AKA:

Race: BLACK Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]Address: Amity Pointe RdCity, State, Zip: Charlotte, NC 28215DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000INDICTMENT/CASE#: 2017GS2602609A/W#: 2016A2620700741Date of Offense: 7/9/2016S.C. Code §: 16-13-0030(B)CDR Code #: 3420

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(0-5 years)in violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3420☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

gkr

SCB16182

DeBusk, Jr., George H.

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 5 years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

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 \$ 125.00

§ 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

Court Reporter:

SCCA/217 (07/2016)

Renee ElvisDixie Eubank

Presiding Judge

Judge Code:

Sentence Date:

4/27/18FILED
HORRY COUNTY
2018 APR 27 PM 2:07

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,



Taylor D Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of August, 2019.

RECEIVED

AUG 23 2019

SC Court of Appeals