

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from Greenville County

J. Michael Baxley, Circuit Court Judge

THE STATE,

V.

THOMAS STEWART,

RECEIVED
RESPONDENT
OCT 09 2014
SC Court of Appeals

APPELLANT

Appellate Case No. 2012-213655

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #7 (DVD)

1 A. Eight, yeah.

2 Q. Okay. And you know she was 25 years old at the time
3 that she died?

4 A. Yeah, I know it now.

5 Q. You know it now, of course. But that means that she
6 was actually, if my math is correct, about 17 years old?

7 A. She told me she was a lot older because she had a
8 child.

9 Q. That not what I asked you?

10 A. I'm just trying to help you.

11 Q. I'm just trying to do some simple math here. You
12 know she's 25 now? You say now you know it?

13 MR. SECOR: Object. Asked and answered. The point
14 has been made.

15 THE COURT: Sustained, counsel. Its been asked and
16 answered. The jury is observant. Please move to your
17 next area.

18 BY MR. REDMOND:

19 Q. You mentioned that, and I'm not going to get into the
20 whole history.

21 A. No, you can. I hope you can. You should.

22 THE COURT: Go ahead. Mr. Stewart, let him ask ---

23 THE WITNESS: Okay.

24 THE COURT: --- questions, and you answer them, sir.

25 BY MR. REDMOND:

1 Q. You mentioned that you were a community man. That's
2 your words not mine?

3 A. Yes. Yeah, I was.

4 Q. And you were trying to do the right thing?

5 A. Yes.

6 Q. You also testified about having four baby mommas, I
7 think to use your term.

8 A. Um hum.

9 Q. Now, many of these children, I guess four of them?

10 A. Five.

11 Q. Five, I'm sorry. Five. How many did you have after
12 you began seeing Bellany Clyburn?

13 A. How many did I have after?

14 Q. Um hum?

15 A. After I see ---

16 Q. After you started dating Bellany Clyburn? How many
17 of those children were born after you began dating
18 Bellany?

19 A. Me and my wife had two after -- three -- three -- I
20 have two. I had four.

21 MR. SECOR: Objection. Relevance.

22 MR. REDMOND: He actually opened the door. I'm just
23 asking the question based on what he testified to on
24 direct. He said he was a community man.

25 THE COURT: Overruled.

1 BY MR. REDMOND:

2 Q. Please?

3 A. Okay, I have ---

4 Q. How many did you have after you met Bellany?

5 A. After I met Bellany how many did I have? One by her.

6 Two, three, four. I think four. Pretty sure it was four.

7 Q. All right. So four after you met Bellany.

8 A. Um hum.

9 Q. Thank you. Now, when you were testifying on directly
10 initially -- well, let me ask you. You've had a chance to
11 see the interview that you have to Pageland P.D, right? I
12 was actually -- do you recall me being in the building a
13 couple of weeks ago when you were looking at the video?

14 A. Yeah. Yeah. I wanted to see the original video. I
15 seen a copy.

16 Q. And you saw the original video?

17 A. Yeah, I seen it. Yeah.

18 Q. Now, as I recall in looking at that video I didn't
19 see you break down once?

20 A. Because -- I'll wait until you get through.

21 Q. No, I'm asking you. You didn't break down at all?

22 A. That was eight, nine hours later. I had already been
23 doing all the crying.

24 Q. But even when you started talking about Bellany ---

25 A. Um hum.

1 Q. --- its been three years later?

2 A. Um hum.

3 Q. And you mentioned ---

4 A. Um hum.

5 Q. --- or were asked about how long were y'all together,
6 something.

7 A. Um hum.

8 Q. And you boo whoed and wailed until I'm sure they
9 heard you in the next building?

10 A. Yeah. Yeah. Yeah. And you know.

11 Q. But you didn't do that on the tape?

12 A. No, I didn't.

13 Q. Okay?

14 A. Because of who was interviewing me. Because of who
15 was interviewing me, Larry Brown.

16 Q. Well, you know what? That's the interesting thing.
17 All this stuff that you have to say now let's be honest
18 with ourselves.

19 A. That's what I'm doing. That's what I'm doing.

20 Q. Most of what you testified to today ---

21 A. Um hum.

22 Q. To today is not even on that tape, is it?

23 A. Good point you said that. I know. I know.

24 Q. Please.

25 MR. REDMOND: Your Honor, if you can explain to him.

1 I understand that, but I just want an answer.

2 THE COURT: Just one moment.

3 THE WITNESS: My ear ain't even on the tape. My ear
4 ain't even on the tape. My ear. That's the same ear.

5 THE COURT: Yes, sir. Mr. Stewart, just a moment,
6 sir. Let's do this for our court reporter's health. One
7 person ask the question, and one person answer it. Now,
8 if Mr. Redmond asks you a question, sir, you give us a yes
9 or no answer and then you may explain if you wish.

10 THE WITNESS: Okay. I want to explain what you mean
11 by that tape. Well, you said -- did I get ---

12 BY MR. REDMOND:

13 Q. Okay. Can I ask -- let me ask you this.

14 A. Ask the question again.

15 Q. Isn't your testimony today different than what you
16 said on the tape a few hours after you killed Bellany?

17 A. No, it's not.

18 Q. It's the same, okay.

19 A. It's the same.

20 Q. That's fine.

21 A. It's the same.

22 Q. So I guess, and let me just ask you. Today -- well,
23 let me ask you this. When you left the first time to
24 avoid the police, I don't know if you testified to it
25 today but I'm going to tell you, do you recall talking

1 about some papers being served? Being aware of some
2 papers being served? And in fact you also said, isn't it
3 true, that your wife I think made you aware that there
4 were some papers ---

5 A. No.

6 Q. --- that were trying to be served?

7 A. No.

8 Q. You never said that on the tape?

9 A. See, you're saying on the tape that I said some
10 papers, but that ain't what I said. I said my wife told
11 me don't go to the apartment. And she didn't want me at
12 no apartments. That's my wife, you know. Of course, she
13 don't want me there. You know she don't want me there.
14 That's what she said. Nothing about no papers.

15 Q. Okay.

16 A. Okay. We just want to make that clear.

17 Q. Okay. So you never mentioned anything about
18 papers ---

19 A. No, sure haven't. And never knowing you had none.

20 Q. Well, the video is in evidence.

21 A. Yes, that's right. And we need to play it if you
22 need to see it.

23 Q. Actually not a bad idea?

24 A. That sure ain't.

25 Q. Now, you said ---

1 A. I would like to see it.

2 Q. I'm going to get straight to the attack itself
3 because that's where the story really gets ---

4 A. Good.

5 Q. --- altered?

6 A. Good.

7 Q. When you on the tape talk about Bellany coming
8 outside isn't it true that you said, and you even
9 gestured, that you put your hand up to her to ---

10 A. No. No. No. I didn't ---

11 Q. You put your hand up to your neck and threatened to
12 kill her to get her back into the apartment?

13 A. No.

14 Q. Is that not what you said?

15 A. No. No, it's not. Look at the tape. Look at the
16 tape. I said, "Open the door," and I made a gesture with
17 my hand, "before I kill you." But that was outside. We
18 were outside. I just testified about that. That's on the
19 tape.

20 Q. But you made the gesture?

21 A. No, you said I made it to her -- on her is what you
22 said.

23 THE COURT: I'll tell you what, gentlemen. Mr.

24 Redmond, I realize that you may have more questions, but
25 we're getting ready to end this because we're at ten

1 minutes, and if you have anything further or any one more
2 area of substance that you want to approach.

3 Please, gentlemen and Mr. Stewart, you can't just
4 give and take and talk over one another because we're
5 trying to keep a record here.

6 THE WITNESS: Yes, sir. Yes, Your Honor.

7 THE COURT: So let's go ahead and hear your final
8 area if you have one and ask your question.

9 MR. REDMOND: Yes, Your Honor. If I may.

10 BY MR. REDMOND:

11 Q. So let me ask you this. Let's just clarify this
12 whole thing. Your testimony right now is that what you
13 testified to today is what you said on the tape on
14 January 1st 2010?

15 A. Not all of it.

16 Q. Not all of it?

17 A. Right cause all the questions ain't been asked.

18 Q. Okay. Is everything that you said about how the
19 murder of Bellany Clyburn took place correct? In other
20 words, is it the same thing you testified to today?

21 A. I can't be 100 percent sure, but what I'm saying is I
22 have -- well, I can explain my answer because the Judge
23 just said. So what I'm trying to tell you is what I
24 didn't say is what Bellany did.

25 I just said what I did. I never said what Bellany

1 did in the tape. I never told what happened to me or
2 where [REDACTED] was or where [REDACTED] was. I never told. [REDACTED]
3 was standing beside me when she was stabbing at me.

4 Q. Okay. And I think you said that you had stabbed --
5 you made a gesture that she even hit you in the chest with
6 the knife?

7 A. No. No. No. She hit me in the chest with the knife
8 when I was on my knees when we first got in the apartment.

9 Q. Anyway, you were hit in the chest?

10 A. No. She didn't hit me. She put it in my chest. She
11 just stuck it there. That's why you don't see a big
12 puncture hole.

13 Q. Well, the jury will be able to remember what your
14 testimony was?

15 A. Right. That's right. You got the pictures anyway.

16 Q. This the picture of you with your shirt off, State's
17 Exhibit Number One?

18 A. Yes, it is.

19 Q. State would move to introduce into evidence at this
20 time?

21 THE COURT: Is there objection? All right. In
22 evidence without objection.

23 (WHEREUPON, State's Exhibit No. 1 was previously
24 admitted into evidence.)

25 MR. REDMOND: And that will conclude the State's

1 cross examination.

2 THE COURT: All right. Very good. And is there
3 re-direct?

4 MR. SECOR: One question.

5 REDIRECT EXAMINATION

6 BY MR. SECOR:

7 Q. Did you love Bellany Clyburn?

8 A. Oh, yes. Yes, I did. Yes. Yes, I did. I did.
9 Sure did. Sure did.

10 Q. Thank you, sir?

11 COLLOQUY

12 THE COURT: Very good. Sir. I'm going to let you
13 return to your seat. Please watch your step. All right,
14 ladies and gentlemen, what we're going to do now is we're
15 just going to stand down and take our lunch break. And
16 What I ask you to do is this. Be back in the jury room at
17 2:15. It's one o'clock now. That's an hour and 15
18 minutes for lunch.

19 And at that point we will resume and conclude the
20 trial. Let's again, please, don't discuss the case with
21 whomever you have lunch and keep an open mind. Just enjoy
22 your lunch. We will see you at 2:15. We will remain where
23 we are while you depart the courtroom. Have a nice lunch.

24 (WHEREUPON, the jury panel was excused from the
25 courtroom at 1:01 p.m.)

1 THE COURT: All right. Defense will rest at this
2 point?

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

4 THE COURT: All right. Will there be rely evidence
5 from the State?

6 MR. REDMOND: Your Honor, we were just discussing
7 that. If I may have -- I guess I can let the Court know
8 immediately after the lunch break. If there is reply it
9 will be extremely brief cause I'm not even sure it will be
10 necessary based on everything.

11 THE COURT: All right. Well, gentlemen, then let's
12 go ahead and stand down. We will be back shortly after
13 2:00 in case we need put anything on the record. We'll
14 take an hour for lunch. Court is now in recess until
15 two o'clock.

16 (WHEREUPON, Court was in recess at 1:10 p.m. and
17 reconvenes at 2:00 p.m.)

18 THE COURT: All right. We're all in place now.
19 Ladies and gentlemen, what I would propose to do is that
20 we bring the jury out. I'm told that the Defendant -- the
21 Defense rests, and then there is no reply from the State.
22 And thus we would proceed into closing. Also by agreement
23 of counsel the Court will charge on the law first and then
24 be followed by the Defense closing argument to be followed
25 by the State's closing argument. Meaning that the State

1 has waived opening. We will proceed in that fashion. Any
2 objection from the State?

3 MR. FOARD: None from the State, Your Honor.

4 THE COURT: From the Defense?

5 MR. YOUNG: No, Your Honor.

6 THE COURT: All right. Then I believe we're ready.
7 Please bring out the jury.

8 (WHEREUPON, the jury panel enters the courtroom at
9 2:04 p.m.)

10 THE COURT: All right. Welcome back, ladies and
11 gentlemen. I trust you had a nice lunch, and if you
12 recall we were at the end of the testimony phase of the
13 case when we stopped this morning after our morning
14 session. And let me ask now, are there further witnesses
15 for the Defendant?

16 MR. YOUNG: No, Your Honor. The Defense rests.

17 THE COURT: All right. The Defense rests. Is there
18 reply witnesses for the State?

19 MR. FOARD: None from the State, Your Honor.

20 THE COURT: All right. Good very. Then that means
21 that all of the testimony in the case has concluded, and
22 we're now at the point in the case where we will have
23 closing arguments by counsel and the charge on the law by
24 the Court. And I will tell you that pursuant to a
25 discussion with the attorneys over the lunch hour we have

1 made a determination that I will actually charge first.

2 The Court will give you the charge of the law first,
3 and then you will hear arguments of counsel. So the way
4 we're going to proceed is charge on the law and then
5 closing argument from Defense and then closing arguments
6 from the State. State is given final argument; that is
7 the last argument because the State again bares the burden
8 of proof.

9 CHARGE OF THE COURT

10 All right. Let me ask. Let's do a little voice
11 check. Are you able to hear me in the courtroom, ladies
12 and gentlemen? Everyone over here? All right. Very
13 good.

14 As you are aware the State, seated at the table
15 closest to you, has charged the Defendant, Thomas Jeffery
16 Stewart, with one count of murder and the possession of a
17 weapon during the commission of a violent crime. And as
18 you know the Defendant has denied these charges against
19 him. He's entered a plea of not guilty. These charges
20 are based on an indictment, and of course, as was
21 explained to you at the beginning -- I hate to sound like
22 a broken record, but to say it again because of its
23 importance, the indictments are simply a set of
24 accusations against the Defendant.

25 They're not evidence in this case. The evidence

1 which you are to consider you've already heard which is
2 the testimony of the witnesses along with such exhibits as
3 may have been admitted in the record during the course of
4 the trial. And as you know there are many exhibits that
5 came into evidence, and we will provide all of those to
6 you whenever you begin your deliberations.

7 Now, I said to you a moment ago that the Defendant
8 pled not guilty, and you heard that. You're aware of that
9 because it happened here in the courtroom. But even
10 beyond that, even if the Defendant had not entered a plea
11 he comes into this courtroom clothed with a presumption of
12 innocence, and that presumption of innocence continues
13 with the Defendant and entitles him to a verdict of not
14 guilty unless and until that presumption is dispelled by
15 evidence that satisfied you, ladies and gentlemen of the
16 jury, beyond a reasonable doubt that the Defendant is
17 guilty of the offense charge and the State has proved each
18 and every element of the alleged crime beyond a reasonable
19 doubt.

20 Now, as I said to you at the beginning of the trial
21 please remember that you are the judges of the facts in
22 this case. And under the constitution that means you make
23 the decision as to what the facts are. And also discuss
24 with you that because you're the judge of the facts that
25 means you're going to have to gauge the credibility and

1 the believability of the witnesses who come before you if
2 you find that there is testimony that is inconsistent or
3 mutually exclusive.

4 There is no need for me to go over again those
5 factors that we discussed at the beginning of the trial.
6 I will simply say you constantly, every day, all of us in
7 our lives gauge people's credibility and believability.
8 You use those factors that have proved well for you
9 through your common sense here in the courtroom. But I
10 will tell you that in deciding the evidence in this case;
11 that is what are the facts of the case, you may believe as
12 much or as little of any one witness' testimony you think
13 proper.

14 You can believe the testimony of one witness against
15 a whole group of people or you can do just the opposite.
16 You can believe part of what a witness says and completely
17 disbelieve the rest. I further tell you that the fact
18 that certain testimony may not be directly controverted
19 does not mean that you have to accept it as true because
20 you must still first gauge the credibility and the
21 believability of the witness through which it comes. Keep
22 in mind throughout this process you have one objective,
23 and that is to search for and find the truth regardless of
24 from which side of the case or from which witness that
25 truth may come.

1 Now, there are two types of evidence that is put
2 forward in cases such as these. There is direct evidence
3 and there is circumstantial evidence. Direct evidence is
4 the testimony of a person who asserts or claims to have
5 actual knowledge of a fact such as an eyewitness witness
6 who testifies about what they say or heard or did. That
7 is direct evidence. Circumstantial evidence, on the other
8 hand, is proof of a set or chain of facts that then
9 indicate the existence of yet another fact. I will tell
10 you that the law makes no distinctions between the weight
11 or value to be given either direct or circumstantial
12 evidence. Nor is a greater degree of one required over
13 the other as to the certainty of the evidence.

14 It's up to you to weigh any and all evidence which is
15 put forth. And after weighing all the evidence, which is
16 what you should do; both direct and circumstantial, if
17 you're not convinced of the guilt of the Defendant on a
18 particular charge beyond a reasonable doubt then you must
19 find the Defendant not guilty of that charge.

20 Now, I talked to you a little bit about gauging
21 credibility and weighing the evidence, and of course, I've
22 been back in your jury room. Not while you've been back
23 there, but I've been back there before, and there is not a
24 set of scales to go back and weigh the evidence on. Well,
25 obviously, you know that. And the reason for that is

1 because it's entirely a mental process. But on that point
2 I will say this to you. That evidence that weigh with you
3 is evidence that convinces you of its truth. Again,
4 regardless of which side of the case or which witness --
5 from which witness it may have come.

6 Now, ordinarily -- I want to talk with you just a
7 little bit again about expert witnesses. Ordinarily, the
8 rules of evidence don't permit witnesses to come in and
9 give opinions or conclusions. But an exception to this is
10 what we call the Expert Witness Rule. And this is for a
11 witness who by some level of education or experience or
12 knowledge in a particular education or art or science or
13 profession may come in and on a relevant and material
14 matter state an opinion with regard to something that
15 maybe within that expert's purview.

16 You should consider that expert opinion just as you
17 would any other evidence in the case. And you give it the
18 weight that you believe it is entitled to. If you decide
19 that it is not based on sufficient reasoning or education,
20 experience, then you should disregard the testimony of the
21 expert witness. Again, I say to you that an expert
22 witness testimony should not be given any greater weight
23 than any other witness simply because the person is
24 determined to be an expert. But I say to you that you're
25 not required to follow an expert's opinion. You simply --

1 is given to you for the purposes of assisting you in
2 finding matters of fact that are within that expert's
3 purview if you deem it to be helpful. So you give it the
4 weight you believe it is entitled to.

5 Now, during the trial you also heard by videotape the
6 testimony from children. And where a witness is a child
7 you must determine as with any other witness whether that
8 testimony is believable. And in deciding believability
9 you may consider not only matters that I've already
10 discussed with you about believability or credibility, but
11 you may also consider the age of the child, the child's
12 ability to observe and remember facts, and the child's
13 ability to understand what was happening and to answer
14 questions.

15 Because young children may not fully understand what
16 is happening in a particular situation it's up to you to
17 decide whether the child understood the seriousness of
18 appearing as a witness on the videotape and whether the
19 child understood the questions and whether the child has a
20 good and valid memory. Whether the child understand the
21 difference between lying and telling the truth. In
22 addition young children may be influenced by the way
23 questions are posed. So it's up to you to decide whether
24 the child understood the questions that were asked and
25 then answered truthfully.

1 Now, the same constitution that makes you the judge
2 of the facts makes me the judge of the law here in the
3 courtroom. And I will tell you from just like as you do
4 from living in a small town or a small county most of your
5 life and being out on the street and around people I know
6 that there is a lot of bad information about what the law
7 is on any particular subject out on the street. And so
8 I'm asking you, ladies and gentlemen, to set aside what
9 preconceived notion you may have of what the law is or
10 even what you or I think might be a better idea of what
11 the law should be and just accept the law as I give it to
12 you in this charge, apply it to the facts as you find it
13 in this case if you do. And if you do that you're going
14 to find a verdict which is just and which is true and
15 which is fair.

16 I will tell you that this charge I'm giving you I've
17 gone over it with the attorneys, and I have reviewed the
18 law that I'm giving to you, and if I should make a mistake
19 which I am not doing. I do not believe I'm doing, then of
20 course, that error would be preserve because our court
21 reporter is taking this down. And there will be another
22 day and time that that can be addressed by another court
23 if necessary. But I say to you for today's purposes I am
24 giving the law correctly. Please accept it as I give it
25 to you, and apply it to the facts as you find them.

1 Now, in a criminal prosecution of this type, as I've
2 already said. In fact I've said it many times. The
3 State, seated at the table closest to you. The
4 prosecution has burden of proof at all times. The Defense
5 doesn't have a burden of proof, and the Defendant is
6 presumed innocent. And in this State, according to our
7 constitution, the prosecution must prove its case to the
8 standard of proof we call beyond a reasonable doubt.
9 That's the standard. Beyond a reasonable doubt before a
10 finding of guilt may occur. And if the State fails to
11 meet this high burden then the Defendant is entitled to an
12 acquittal.

13 And so you say, "well, all right then. What is a
14 reasonable doubt?" Well I'm going to start by telling you
15 what it's not. It's not an imaginable or a fanciful doubt
16 or a weak doubt. It's a substantial doubt. It's a doubt
17 for which the words imply. A doubt for which you can give
18 or assign a reason based on the testimony and the evidence
19 in this case. And you and I know that a reasonable doubt,
20 it's not any sort of a doubt. You and I know that a
21 reasonable doubt may arise from any number of everyday
22 life experiences we have. Such as what tie to wear to an
23 event or what pair of shoes to wear. That is not a
24 reasonable doubt.

25 A reasonable doubt is a doubt that makes an honest,

1 sincere, conscientious juror in search of the truth
2 hesitate to act. Proof beyond a reasonable doubt is proof
3 that leaves you firmly convinced of the Defendant's guilt.
4 If you have a doubt for which you can give or assign a
5 reason as to the guilt of the Defendant based on the
6 evidence in this case then he's entitled to a verdict of
7 not guilty.

8 Now, I tell you a reasonable doubt may arise from the
9 evidence that's in the case or from the lack or absence of
10 evidence in the case. And you the jury must make the
11 determination of whether or not reasonable doubt exists as
12 to the guilt of the Defendant in these two cases.

13 I will say to you the very fact, however, that the
14 jury goes back in the jury room and engages in a full and
15 free discussion on the issue of guilt or non-guilt this
16 these cases with a conversational ebb and flow on those
17 issues doesn't automatically mean that reasonable doubt
18 exists in this case or in any other case for that matter.

19 Now, let's talk about criminal intent. Criminal
20 intent is a necessary element of each crime that must be
21 proved by the State beyond a reasonable doubt. Criminal
22 intent is always a matter that must be determined by the
23 jury from the circumstances that surround the situation.
24 Now, you and I know that there is no way to prove intent
25 to some mathematical certainty. And there is no way that

1 medical science lets us open up someone's mind and look in
2 and determine what they had in mind at a particular
3 moment.

4 So the law states that criminal intent maybe inferred
5 from the circumstances shown to have existed both before
6 and after the fact. And this is how you the jury make a
7 determination of whether or not the element requiring
8 intent, criminal intent, is present. I tell you that
9 criminal intent is a state of mind that operates jointly
10 with an act or omission in the commission of a crime.

11 Criminal intent is a mental state of conscious wrong
12 doing. So it's up to you the jury to determine whether
13 the State has proved the element of criminal intent in
14 this case based on the circumstances shown to have
15 existed. I tell you that the State must prove criminal
16 intent beyond a reasonable doubt just as the State must
17 prove every element of the accusations beyond a reasonable
18 doubt.

19 Now, during the course of the trial, of course you in
20 the courtroom here you heard this, the Defendant took the
21 stand and testified and made certain explanations. But I
22 charge you it's not incumbent upon the Defendant to prove
23 his explanations or anything else for that matter. The
24 Defendant's plea of not guilty placed the burden of proof
25 on the State to prove his guilty beyond a reasonable doubt

1 before the Defendant can be found guilty. And you must
2 gauge the credibility and the believability of the
3 Defendant just as you would any other witness in the case.

4 Now, furthermore, a statement alleged to have been
5 made by the Defendant was admitted into evidence in this
6 case. You may recall you saw it on videotape. And as
7 well as there may have been other oral admissions that
8 were testified to or oral statements testified to. So
9 while the Court has determined these statements were
10 admissible; that is they came into testimony, I instruct
11 you that you make the ultimate decision of whether or not
12 the Defendant made the statement.

13 And if the Defendant did make the statement you must
14 then determine whether the statement was made by the
15 Defendant voluntarily and of his own free will. This
16 means the statement was not caused by pressure or force or
17 fear or threats or coercion, intimidation or by hope or
18 promise of lenience or reward of any kind. In determining
19 whether a statement is voluntary you should consider both
20 the characteristics of the Defendant and the details of
21 the question.

22 Some of the factors you just consider are: The age
23 of the Defendant. The Defendant's education or perhaps
24 lack of it. The Defendant's mental ability or capacity.
25 The Defendant's I.Q. or his intelligence as you perceive

1 it. The Defendant's background and environment. The
2 place and length of detention. The nature of the
3 questioning. And the advice or lack therefore to the
4 Defendant of his constitutional rights, including but not
5 limited to, the right to remain silent; that any statement
6 can be used against him in a Court of law. The right to
7 have a lawyer present. That if he could not afford a
8 lawyer one would be appointed to represent him without
9 cost. And that he could stop making his statement at any
10 time.

11 You must carefully consider all the surrounding
12 circumstances before you give any weight to an alleged
13 statement by the Defendant. The State has the burden of
14 proving beyond a reasonable doubt that the alleged
15 statement was voluntarily, and if you determine it was you
16 made then give the statement any further consideration you
17 deem proper. You must decide what weight if any should be
18 given to that statement. But if you determine the alleged
19 statement was not freely and voluntarily the statement of
20 the Defendant then you should not consider that statement
21 at all.

22 All right. Now, let me define for you the charges;
23 that is the criminal charges which have been levied in
24 this case. I charge you first on the crime of murder.
25 The Defendant is charged with murder as you are aware. In

1 order to prove murder the State must prove beyond a
2 reasonable doubt that the Defendant killed another person
3 with malice aforethought. Malice is hatred or ill will or
4 hostility towards another person. It is the intentional
5 doing of a wrongful act without just cause or excuse and
6 with intent to inflict an injury or under circumstances
7 that the law will infer an evil intent.

8 Now, malice aforethought doesn't require that the
9 malice exist for any particular amount of time before the
10 act is committed, but the malice must exist in the mind of
11 the Defendant just before and at the time the act is
12 committed. Therefore, there must be a combination of
13 previous evil intent and the act itself.

14 Malice aforethought may be either expressed or it
15 maybe inferred. The terms, 'expressed' and 'inferred'
16 don't mean different kinds of malice, but they merely mean
17 the manner in which malice may be shown to exist; that's
18 either by direct evidence or by inference from the facts
19 and circumstances shown to have existed.

20 Express malice is shown when a person speaks ill will
21 or expresses hatred for another or when the person
22 prepares beforehand to do an act which was later
23 accomplished. For example, any act of preparation that
24 goes to show that the deed was within the mind; that is
25 within the Defendant's mind. Well, that would be

1 expressed malice.

2 But malice may also be inferred from conduct showing
3 a total disregard for human life. Now, that was the
4 charge of murder, but I want to say to you, ladies and
5 gentlemen, that many greater offenses which murder, of
6 course, is a greater offense also have what we call lessor
7 included offense. Now, it sounds a little bit
8 complicated, but it's really not. What it means is that
9 the -- a Defendant who is indicted for a greater crime
10 such as murder may be convicted by the jury of a lessor
11 charge if the jury finds that the facts proven actually
12 fit that lessor charge and not the greater charge. And
13 that the elements of the lessor charge have each been
14 proved beyond a reasonable doubt.

15 I will tell you that specifically the greater charge
16 will include an additional element that is not necessary
17 for the lessor charge. Now, included within the offense
18 of murder is the lessor included offense of voluntary
19 manslaughter. And if you find that the State has failed
20 to prove beyond a reasonable doubt that the Defendant
21 committed a murder then you must consider whether the
22 State has proved beyond a reasonable doubt that the
23 Defendant committed a crime of voluntary manslaughter.

24 Now, in order to prove voluntary manslaughter the
25 State must prove beyond a reasonable doubt that the

1 Defendant took the life of another person in the sudden
2 heat of passion based on a sufficient legal provocation.
3 Both the heat of passion and the sufficient legal
4 provocation must be present at the time of the killing to
5 constitute voluntary manslaughter. Sudden heat of passion
6 may for a time affect a person's self-control and
7 temporarily disturb a person's reason. The sudden heat of
8 passion must be the type that would make an ordinary
9 person unable to coolly reflect on his actions and would
10 produce an uncontrollable impulse to do violence.

11 Sufficient legal provocation must be the type that
12 would make a person of ordinary reason and caution to
13 become enraged or lose control temporarily. The
14 provocation needed for voluntary manslaughter must come
15 from some act of or related to the victim.

16 Words alone, however vulgar and insulting they may
17 be, are not enough sufficient legal provocation where
18 death is caused by the use of a deadly weapon the words
19 must be accompanied by some overt, threatening act which
20 could have produced the heat of passion.

21 The exercise of a legal right, no matter how
22 offensive it is to another is never sufficient legal
23 provocation for voluntary manslaughter. And if the heat
24 of passion had cooled or if there was sufficient time
25 between the provocation, if any, and the killing for the

1 passion of a reasonable person to have cooled the killing
2 would not be voluntarily manslaughter.

3 In deciding whether a reasonable person would have
4 had enough time to cool off you should consider all the
5 factors and circumstances that surround the killing. You
6 may consider the nature of the provocation if any. The
7 Defendant's mental and physical state. And the
8 circumstances and the relationship between the parties.

9 I also tell you that in determining whether an act
10 which caused death was impaled by heat of passion or by
11 malice all surround circumstances and conditions are to be
12 taken into consideration including previous relations and
13 conditions connected with the tragedy as well as those
14 existing at the time of the killing.

15 Now, let's go back to the greater offense versus the
16 lessor offense. If you find that the Defendant is guilty
17 of one of the charges. In other words has committed a
18 homicide; that is has caused the death of another person,
19 and that's either manslaughter or murder, one of the two.
20 But you cannot determine which of the charges it is then
21 you must resolve that doubt in favor of the Defendant and
22 find him guilty on the lessor charge of voluntary
23 manslaughter. Of course, you can't find the Defendant
24 guilty on any charge unless the State proves all the
25 element of that particular charge beyond a reasonable

1 doubt.

2 Now, let's also talk about the possession of a weapon
3 during the commission of a violent crime. The Defendant
4 is charged with this as well. And it is with the
5 possession of a weapon during the commission of or the
6 attempt to commit a violent crime. And in order to prove
7 this the State must prove beyond a reasonable doubt the
8 Defendant visibly displayed a knife or a weapon during the
9 commission of a violent crime. A knife means an
10 instrument or tool with a sharp cutting blade whether or
11 not fastened on a handle which can be caused to inflict a
12 cut, a slash or a wound.

13 In order to find the Defendant guilty of the
14 possession of a weapon during the commission of a violent
15 crime you must first find the Defendant guilty of either
16 committing a violent crime or attempting to commit a
17 violent crime. I charge you that under South Carolina law
18 murder and voluntary manslaughter are both classified as
19 violent crimes.

20 All right, now. The Defendant has raised the issue
21 of self-defense in this case, and let's talk about that.
22 Self-defense is a complete defense. And if it's
23 established then you must find the Defendant not guilty of
24 any charge. The State has the burden of disproving
25 self-defense by proof beyond a reasonable doubt. Just to

1 make sure we understood that. It's not the Defendant's
2 position to prove it. It's the State's position to
3 disprove it.

4 And if you have a reasonable doubt of the Defendant's
5 guilt after considering all the evidence, including the
6 evidence of self-defense, then you must find the Defendant
7 not guilty. On the other hand if you have no reasonable
8 doubt of the Defendant's guilt, after examining all the
9 evidence, including the evidence of self-defense, then you
10 must find the Defendant guilty.

11 And the following elements are required to establish
12 self-defense, okay. So let's listen carefully.

13 First, the Defendant must be without fault in
14 bringing on the difficulty. If the Defendant's conduct
15 was a type which would reasonably calculated to and did
16 provoke a deadly assault the Defendant would be at fault
17 in bringing on the difficulty and would not be entitled to
18 an acquittal of self-defense.

19 So again, the Defendant must be without fault in
20 bringing on the difficulty. And if the Defendant
21 voluntarily participated in some sort of mutual combat for
22 purposes other than protection the killing of the victim
23 would not be self-defense. This is true even if during
24 the combat the Defendant feared death or serious bodily
25 injury. However, if before a killing is committed the

1 Defendant withdraws and tries in good faith to avoid
2 further conflict, and either by word or act makes that
3 fact known to the victim he would be without fault in
4 bringing on the final difficulty.

5 For mutual combat there must be a mutual intent and
6 willingness to fight between the parties. This intent may
7 be shown by the acts and conduct of the parties and the
8 circumstances that surround the combat. In addition it
9 must be shown that both parties were armed with a deadly
10 weapon.

11 Secondly, so the first was without fault. Secondly,
12 the second element of self-defense was that the Defendant
13 was actually in imminent danger of death or serious bodily
14 injury or that he actually believed he was in imminent
15 danger of death or serious bodily injury. If the
16 Defendant was actually in imminent danger it must be shown
17 that the circumstances would have warranted a person of
18 ordinary firmness and courage to strike the fatal blow to
19 prevent death or bodily injury to himself.

20 If the Defendant believed he was in imminent danger
21 of death or serious bodily injury it must be shown that a
22 reasonably prudent person of ordinary firmness and courage
23 would have had the same belief under the same
24 circumstance. In deciding whether the Defendant actually
25 was or believed he was in immediate danger of death --

1 excuse me. Of death or serious bodily injury you should
2 consider all the facts and circumstances that surround the
3 situation including the physical condition and
4 characteristics of the Defendant and of the victim.

5 Now, the Defendant does not have to show that he was
6 actually in danger. It is enough that the Defendant
7 believed he was in imminent danger, and a reasonably
8 prudent person of ordinary firmness and courage would have
9 believed the same thing under the same circumstances. The
10 Defendant has the right to act on appearances even though
11 the Defendant's beliefs may have been a mistake. It is
12 for you to decide whether the Defendant's fear of
13 immediate danger of death or serious bodily injury was
14 reasonable and would have been felt by an ordinary person
15 in the same situation.

16 Now, evidence of prior difficulties between the
17 Defendant and the victim maybe considered in deciding
18 whether a threat existed and whether the Defendant had
19 reason to believe that a threat existed and how serious
20 that threat was and the Defendant's state of mind on the
21 particular occasion. Now, the relative sizes and ages and
22 weights of the Defendant and the victim may be considered
23 in deciding the apparent or actual need for force in
24 self-defense and the amount of the force that is needed.

25 Also, the reputation of the victim as a violent

1 person may be considered in deciding whether there was a
2 need for force, whether the Defendant had to believe --
3 excuse me. Had reason to believe there was a need for
4 force and whether deadly force was reasonably necessary
5 and whether the victim had such a reputation.

6 And also prior instances of violence by the victim
7 may be considered in deciding whether the Defendant
8 actually believed he was in imminent danger of death or
9 serious bodily injury or was actually in imminent danger.

10 And the final element of self-defense is that the
11 Defendant had no other probable way to avoid the danger of
12 death or serious bodily injury than to act as the
13 Defendant did in this particular instance. We call this
14 the duty to retreat. Now, the Defendant has no duty to
15 retreat if by doing so the danger of being killed or
16 suffering serious bodily injury would increase.

17 Now, as I instructed you earlier a man does not have
18 the right to act in self-defense if he brought about the
19 difficulty. That principle is subject to the following
20 limitation I have: If after bringing on the difficulty
21 the aggressor withdraws in good faith from the conflict
22 and announces in some way to his adversary of his
23 intention to withdraw he's restored his right to
24 self-defense, and he may act accordingly.

25 I further charge you that being under a peace bond

1 does not deprive the Defendant of a plea of self-defense
2 if the Defendant's actions otherwise comport with the
3 requirements of the law of self-defense. I further charge
4 you that the jury may consider prior instance of violence
5 or unprovoked aggression by the victim in determining
6 whether the Defendant had a reasonable belief of imminent
7 danger. Such prior instances of violence or unprovoked
8 aggression by the victim need not have been committed
9 against the Defendant.

10 It is only necessary that the Defendant knew of such
11 prior instances of violence or unprovoked aggression by
12 the victim, and that such prior instances of violence of
13 unprovoked aggression were so closely connected at a point
14 of time or occasion with the homicide as to produce from
15 the Defendant a reasonable apprehension of great bodily
16 harm.

17 And then, further, in consideration of whether
18 self-defense is applicable here you should try as near as
19 you can to put yourself in the Defendant's situation at
20 the time of the stabbing. You should consider the
21 circumstances by which he was surrounded, and take into
22 consideration the person with whom he was dealing and all
23 the facts which surrounded him as you obtained from the
24 testimony. And as near as you can view the situation
25 accordingly.

1 Accordingly, unless the State shows that a person of
2 ordinary reason, coolness and prudence would not have
3 acted as the Defendant did under the circumstances that
4 surrounded him at the time of the stabbing then you should
5 find the Defendant not guilty. You are not to determine
6 if the Defendant made the wisest choice possible but only
7 a reasonable one under the circumstances as he perceived
8 them.

9 And then finally on the issue of self-defense a
10 person cannot be required to make an exact calculation as
11 to the degree or amount of force which may be needed to
12 avoid death or serious bodily harm. Therefore, in
13 self-defense the Defendant has the right to use the force
14 needed to avoids death or serious bodily harm. The force
15 used in self-defense does not have to be limited to the
16 degree or amount of force used by the victim.

17 The Defendant has the right to use so much force as
18 appear to be necessary for complete self-protection in
19 which a person of ordinary reason and firmness would have
20 believed to be needed to prevent death or serious bodily
21 harm.

22 All right. Now, ladies and gentlemen, I'm going to
23 conclude these comments and then you will hear from the
24 lawyers and you will retire to deliberate. And when you
25 do that I want to express to you the hope that each of you

1 will be mindful of your importance of your responsibility.
2 And I know you are. You may recall when we were together
3 on Monday I mentioned to you that you cannot be required,
4 you have an exemption, cannot be required to serve as a
5 juror more than one time in a three calendar year period
6 in the same court. And there is a reason for that.
7 Because it's a difficult duty. It's a difficult task. It
8 requires the proper performance. It requires each of us
9 to reach the height of freeing our minds of all outside
10 and improper influences because you and I are acting for
11 the community to see to it that every trial here is fair
12 and every verdict here is just.

13 Now, you probably noticed that the presiding officer
14 in the courtroom which in this case is me is referred to
15 as 'Your Honor'. And I know you know that's not some
16 title given to me individually. It's a title that is
17 assigned to the position that I'm privileged to hold
18 because this Court is entrusted with the honor of this
19 community, this county, this state and indeed this nation
20 to see that to it that every trial here is fair and every
21 verdict is just.

22 Now, in a few moments you're going to take the
23 preservation of the honor of this community, county, state
24 and nation with you in the jury room and decide this case.
25 Now, when I say that please understand I'm not telling you

1 how you should decide this case. That's not my point at
2 all. I'm simply saying this: As the presiding officer in
3 this courtroom it is of vital importance to me that
4 whatever verdict you reach will be the result of your
5 going back in the jury room and confining your
6 consideration to the evidence put forth in this courtroom.
7 And weighing that evidence fairly and impartially and
8 apply that evidence to the law that I've given you here in
9 this charge.

10 And if you do that, and I have every confidence that
11 is what you will do, then you will reach a verdict that is
12 just and fair. I say to you, ladies and gentlemen,
13 everyone in this case is entitled to justice. Nothing
14 more and nothing less. We owe no sympathy to any party.
15 We owe no support to any party. And, again, I'm of the
16 confirmed opinion that what verdict you reach will
17 represent truth and justice for all parties.

18 Now, Madam Forelady and members of the jury, remember
19 that the verdict must be unanimous as to all issues. And
20 I will talk with you a little further after the lawyers
21 conclude their arguments about the specific verdict form
22 we will give you and the responses for that verdict form.
23 But at this time the Court recognizes Defense counsel for
24 closing statement.

25 MR. YOUNG: Thank you, Your Honor.

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

2 CLOSING STATEMENT BY MR. YOUNG

3 MR. YOUNG: There are a bunch of people in this
4 courtroom that think I'm wasting my breathe. They think
5 that what happened in here this morning means I should not
6 bother. But they don't know what I know, and Thomas
7 doesn't know what I know. I don't know what it feels like
8 to be accused of something you didn't do. Especially not
9 the most serious crime in South Carolina.

10 Thomas didn't murder Bellany Clyburn. What happened
11 was a tragedy and should never have happened. But it
12 wasn't murder. And Thomas doesn't know what I know about
13 you, and that is how serious you take your
14 responsibilities as jurors. How that oath meant something
15 to you. How when you agreed to look through all of this
16 evidence with an eye towards common sense and examine it
17 critically and hold the State to it's burden of proof
18 beyond a reasonable doubt, beyond any and all reasonable
19 doubt, that you would arrive at a just verdict.

20 Sometimes we get caught up in this fight about us,
21 them, us and them. Me and him. And I feel like I lost
22 the trust of my client. But I shouldn't cause I trust
23 you. The State wants you to convict Thomas Stewart of the
24 most serious crime in South Carolina when they know for a
25 fact that there are questions about the evidence. Those

1 questions can be answered. The answers are right here.
2 All we've got to do is test them. I understand that some
3 point in time S.L.E.D. had some five item limit policy
4 because of a backlog. Okay. Test it now. Test it today.
5 Don't convict a man for murder when you have those
6 questions.

7 Whose blood is on the carpet? Test it. Whose blood
8 is on the wall? Test it. Whose hand was the knife? Test
9 it. Whose blood is on the knife? Test it. We all know
10 I'm talking about the knife with Marker Number Two. The
11 bent bladed knife. Test it.

12 What happened to Bellany Clyburn was a tragedy. I
13 wrote in my prepared remarks about the crazy thing called
14 love. People do crazy things when they're in love.
15 Bellany and Thomas did crazy things. There is no doubt
16 about that. The State start its case with a description
17 of their relationship as a sorted tale. I had to look it
18 up. Sorry. But I don't think that their relationship was
19 loveless. I think take experienced joy at times. But at
20 times. Other times not. They weren't nice to each other
21 all the time. But there were times.

22 Their relationship wasn't dirty. It wasn't evil. It
23 doesn't deserve to be characterized that way. Wasn't one
24 that they should have had, but they did the best they
25 could with what they had. And at the end of the day,

1 ladies and gentlemen, the State's theory of the case, and
2 this may not be what they say. But my understanding from
3 what we heard so far is that because Bellany Clyburn went
4 and got a trespassing and a simple assault warrant out on
5 Thomas Stewart after the thing on the 27th and the other
6 thing on the 28th and the thing at the gym, that this
7 enraged Thomas -- well, first off, the Thomas knew about
8 these warrants and this protection order. And that
9 enraged Thomas to the point where he hatched a plan to
10 murder Bellany Clyburn. If you believe that, if that's
11 what you think this evidence shows after a critical
12 examination, then you should convict Thomas Stewart of
13 murder.

14 But that's not what happened. They want you to
15 believe that Thomas Stewart knew about these papers.
16 Well, had discussions with Thomas about the papers on
17 video. He wants you to watch it. There is one thing that
18 he said that was the same both times. There is absolutely
19 not one shred of evidence that Thomas knew about the
20 existence of these warrants or this protection order. The
21 State just wants you to take it on their; that it enraged
22 him to the point that he was homicidal.

23 So he takes -- so he goes to North Carolina. He
24 borrows a car that has a driver's side door that's tied
25 shut. The passenger side door doesn't work. A leaking

1 tire that you have to constantly put air back into or it
2 goes flat. And he drives this vehicle and parks it right
3 in front of Bellany Clyburn's apartment. And according to
4 some witnesses he waits in the car for, I don't know.
5 According to some witnesses 24 hours. Nobody every sees
6 him. Never gets out. Nobody ever notices him. He drives
7 through. Crystal comes over. At one point in time
8 Bellany leaves to go get a pizza. At night. In the dark.
9 Next to an S.U.V. I would think that homicidal, jealous
10 boyfriend might find that to be a fortuitous opportunity
11 seeings how he's laying in wait to kill her. That didn't
12 happen.

13 He fortuitous, unless, of course, he was hiding in
14 her closet upstairs. I know the State doesn't want you to
15 not believe anything that Thomas said. And that's okay.
16 They can want that and they can ask for it. But you've
17 taken an oath to tell them one thing. Prove it. All you
18 got to do is prove it. Prove what he said was a lie.
19 Look at the evidence. Can't be proven. What happened on
20 January the 1st 2010 was not murder. Thank you.

21 THE COURT: Okay. For the prosecution.

22 MR. FOARD: Thank you, Your Honor.

23 THE COURT: Mr. Foard.

24 CLOSING STATEMENT BY MR. FOARD

25 MR. FOARD: Counsel. Ladies and gentlemen, I'm

1 standing before you now, and the first thing I have to do
2 is I have to express my most sincere thanks to you for the
3 last four days because I am about to asking you to do
4 something that is remarkably difficult. And I'm going to
5 concede the point that counsel for defense just stated. I
6 am going to ask you to convict Thomas Stewart of the most
7 serious crime we have in the State of South Carolina,
8 murder.

9 And the reason I'm going to ask you to do that is
10 because there is absolutely no question that Thomas
11 Jeffery Stewart killed Bellany Clyburn. No, he didn't
12 kill her. Her butchered her in front of her two children.
13 One of whom was his own. Thirty-nine wounds, ladies and
14 gentlemen. Thirty-nine wounds is what the doctor
15 testified to that were found all over her body from the
16 waist up. To her chest. To her back. To her arms. To
17 her hands. To her head.

18 He slaughtered the mother of his child in cold blood
19 on New Years Day of 2010. He stands before your accused
20 of that crime, and I submit to you that the State has done
21 its job. We have met our burden. We have proven our case
22 beyond a reasonable doubt. We're asking you to find him
23 guilty. And because the State bares the burden of proof I
24 unfortunately bare the duty of take you back through some
25 of this evidence. I know you've heard it. I know we've

1 talked about it. But, unfortunately, we've got to cover
2 it.

3 But in order to cover it adequately, and in order for
4 you to do your jobs as the Judge has said you have to do
5 your job you have to apply the law to the evidence. So
6 let's go back and briefly talk about the law and what the
7 State's burden of proof is in this case.

8 I'm asking you to convict for murder which is proof
9 beyond a reasonable doubt that the Defendant killed
10 another person with malice aforethought. And as you heard
11 malice is hatred, ill will or hostility towards another
12 person. An intentional doing of a wrongful act without
13 just cause or excuse and with an intent to inflict an
14 injury under circumstances that law will infer an evil
15 will.

16 Now, malice doesn't have to be formed way in advance.
17 The Judge told you that. He said, "Malice aforethought
18 was not required if malice exists for any particular time
19 before the act is committed." Ladies and gentlemen, you
20 can find that malice was formed at any point up until
21 Thomas Jeffery Stewart began striking the fatal blows with
22 a knife to Bellany Clyburn.

23 It can be expressed or inferred. That means it can
24 be through spoken words or it can be shown through actions
25 or most importantly it can be inferred from the use of a

1 deadly weapon. . And that is what we have here. We have
2 the use ---

3 MR. YOUNG: Your Honor, object to that.

4 THE COURT: Objection noted.

5 MR. FOARD: Thank you, Your Honor. It can be
6 inferred from the use of a deadly weapon. Now, we've got
7 multiple instances of malice in this case. I'm not
8 addressing the killing. No one is disputing the killing.
9 They said it in their opening, he killed Bellany Clyburn.
10 The question is did he do it with malice.

11 Here, the Defendant borrowed a car that was unknown
12 to the victim. The State would say that she didn't know
13 that car. He borrowed a car that was unknown to the
14 victim. By his statement, if you believe his statement,
15 he made a motion signifying slitting his throat when he
16 approached the victim. By his statement again, if you
17 choose to believe it, he threatened to kill her if she
18 didn't let him use her phone.

19 He laid in wait for her that morning. And most
20 importantly by the very first statement he made that day
21 closest in time to the incident he told Deputy Joey Carnes
22 that he went there with a knife. Only later does he say
23 he armed himself with a knife when he got into the
24 apartment. He told Joey Carnes he went there with a
25 knife. And that, ladies and gentlemen, is critically

1 important because at the end of the State's case you heard
2 the videotaped statements of Bellany Clyburn's two
3 children.

4 You saw them sit in the squad room at Pageland P.D.
5 and tell what they saw. And say said they saw Thomas
6 Stewart come there with a knife and attack their mother.
7 There is malice everywhere you look, ladies and gentlemen.
8 It's not hard to find. It's right here just like the
9 Defense said. It's from that witness stand. It's all
10 around us.

11 That's just the express malice. Let's talk about
12 inferred malice. Inferred malice is shown by a total
13 disregard for human life or by use of a deadly weapon.
14 We've already covered that. He armed himself. And by
15 disregard for human life we're talking about all of this.
16 By the fact that he didn't stop. He kept stabbing and
17 stabbing and stabbing. You see it on the video. He makes
18 a motion when he talks about it, ladies and gentlemen.
19 Thirty-nine times.

20 A complete and total disregard for human life. We
21 can stop right there. He killed a human being. We've got
22 instances of malice. He is guilty of murder. Said and
23 done. He's not guilty of voluntary manslaughter. He is
24 guilty of murder. However, if you decide that you want to
25 consider voluntary manslaughter, if he's guilty of murder

1 he's most definitely guilty of voluntary manslaughter.

2 But I'm not asking you to do that because voluntary
3 manslaughter, although it is a lesser included offense of
4 murder, it's designed for a different set of circumstances
5 than what we have here.

6 Voluntary manslaughter, the State must prove beyond a
7 reasonable doubt that the Defendant took the life of
8 another in sudden heat and passion based on sufficient
9 legal provocation. All right. He took the life of
10 another. We don't even have to talk about that. So let's
11 talk about sudden heat of passion and sufficient legal
12 provocation. Sudden heat of passion may for a time affect
13 a person's self-control and temporarily disturb a person's
14 reason. It must be the type they would make an ordinary
15 person unable to coolly reflect on his actions.

16 So if you take the Defendant's or one of the
17 Defendant's multiple stories. He says that he lost it
18 because she wouldn't let him look at the cell phone. Is
19 that sufficient law -- sufficient legal provocation. Does
20 he have the right ---

21 MR. YOUNG: Your Honor, I'm going to object to the
22 continued finger pointing.

23 THE COURT: Overruled.

24 MR. FOARD: Does he have the right to murder another
25 human being because she wouldn't let him look at a cell

1 phone? There is no sudden event here. He laid in wait
2 for her. He approached her. He forced her back into that
3 apartment, if you believe his version of the story. And
4 he came there with a knife. There is nothing sudden about
5 that, ladies and gentlemen. Sufficient legal provocation
6 must be the type to make a person of ordinary reason and
7 caution become enraged and to lose control temporarily.
8 The provocation needed for voluntary manslaughter must
9 come from some act related to the victim. Words alone are
10 not enough. And the exercise of a legal right no matter
11 how offensive is never sufficient legal provocation for
12 voluntary manslaughter.

13 All right. He pepper sprayed her or maced her.
14 Whatever you want to say. We're not disputing that. We
15 know that. We've got the container of pepper spray. It's
16 there. We've got testimony from a credible law
17 enforcement officer that says he was exhibiting symptoms
18 of pepper spray. I'm not disputing that at all. She was
19 in her own home. She was there with her two children. If
20 he was threatening to her she had the right to defend
21 herself. And the exercise of a legal right is never
22 sufficient legal provocation. Voluntary manslaughter
23 doesn't work. Murder, yes. Voluntary manslaughter, no.
24 Possession of a weapon during the commission of a
25 violent crime. Not going to belabor the point, ladies and

1 gentlemen. As you heard murder and manslaughter are both
2 violent crimes in South Carolina. He admits to having a
3 knife. He told law enforcement he brought the knife
4 there. In order to have it you must be in possession of
5 it. He used it to murder Bellany Clyburn. He is guilty
6 pf possession of a weapon during commission of a violent
7 crime.

8 The Defendant has raised the defense of self-defense,
9 and the Judge talked to you about the fact that there are
10 three elements of self-defense. And it's not one or the
11 other. All three elements of self-defense must be present
12 in order for Thomas Jeffery Stewart to be found not
13 guilty. What are the three elements?

14 He must be without fault in bringing about the
15 difficulty.

16 He must be in imminent danger of death or serious
17 bodily injury or the belief that he's in imminent danger
18 of death or serious bodily injury.

19 And, finally, he must have had no other probable way
20 of avoiding the danger of death or serious bodily injury.

21 Without fault in bringing about the difficulty. If
22 anything he is the cause of the difficulty. He went to
23 her house. He approached her with a knife. He forced her
24 back in. He caused the difficulty, ladies and gentlemen.
25 Prong One doesn't work. Self-defense is not applicable.

1 Prong Two, imminent danger. Was he in actual
2 imminent danger of harm. He would like to say that he
3 was, but he said a lot of things. He gave one version of
4 events when he was arrested. He gave another version of
5 events when he was interviewed later that day. He gave a
6 third version of events this morning here in this
7 courtroom that you witnessed with your own eyes.

8 You have to judge the credibility of the witnesses
9 that come before you. And I submit to you that Thomas
10 Jeffery Stewart is neither credible nor honest.

11 Finally, he must have had not other way of avoiding
12 the danger. That was interesting to me because let's just
13 suspend reality for a minute and decide that we take
14 everything that the Defendant said in his video statement
15 at face value. He says he was maced. He says that
16 Bellany Clyburn ran outside. He says that she was yelling
17 for him to come outside, and he says that he saw a large,
18 unknown black man standing in the doorway of the apartment
19 and he was afraid for his life.

20 So he goes to the kitchen to wash his eyes. To wash
21 the mace or the pepper spray from his eyes which
22 ironically enough is the same kitchen that has an exterior
23 door that -- wait a minute. Is the door that he stated
24 all along is the door that he typically uses to come in
25 and out of the apartment so he wouldn't be seen. So

1 you've got Bellany out front supposedly screaming for him
2 to come out. You've got a black man at the front door,
3 and he's in the kitchen. And yet he feels the need to run
4 through the front door past this phantom black man that
5 nobody can identify to where Bellany is.

6 Why didn't he turn around? Why did he not turn
7 around and go out the back door? According to his version
8 of the story that's the same door he used the night before
9 to escape when the police showed up, and Crystal Clyburn
10 was there. It's because none of what he says is true,
11 ladies and gentlemen. And to find that he had no other
12 way to avoid the danger would mean you would have to
13 believe his lies.

14 And lies have become an interesting thing in this
15 trial towards the end because Thomas Stewart self-admits
16 that he is a professional gambler. And that's so
17 interesting to me because when I think of a gambler I
18 think of someone with a visor or hat pulled down and
19 sunglasses and sitting at a table with a deck of cards and
20 a hand in front of him. What's he doing. He's looking
21 across the table at people, and he's bluffing. He's
22 lying. He is deceiving. And that is what Thomas Stewart
23 has done since the moment he was apprehended at Piggs Park
24 in Pageland on January the 1st of 2010.

25 He's tried to deceive law enforcement. He's tried to

1 deceive you. He's tried to deceive everyone associated
2 with this case because he doesn't know any difference.
3 His life is built around lies. He lies to his wife. By
4 his admission had, quote, baby mommas. All these children
5 out here by all these different women. He lies. He lies
6 to the women. He holds them by a string. He keeps them
7 coming. He teaches his children to lie for him. His
8 words, ladies and gentlemen, "we taught them to lie." His
9 words, ladies and gentlemen.

10 This entire farce of a defense is based on lies. And
11 like the cards that he uses to make his living that house
12 of cards is crumbling because the truth is right here.
13 And the truth came from that stand from the mouths of the
14 witnesses, but the truth sure didn't come from him. And
15 that was shown to you today by all of the things that he
16 said and all of the ways he changed his story yet again.

17 He says in a prior statement he was in Marshville
18 playing cards after me left Bellany's house that night,
19 and he called Bellany. There is even a back and forth
20 exchange about Bellany's phone number. Law enforcement
21 asked him, "How did you get Bellany's phone number?" He
22 says, "Oh, I sweet talked her. I did it when I sweet
23 talked her." Today he said he called [REDACTED] phone and
24 [REDACTED] answered.

25 He said today that between 3:30 and four o'clock on

1 the morning that Bellany died he called Bellany and
2 conversed with her about Crystal and that Bellany was
3 upset. And then he said she let him in the house, and
4 that was the beginning of when his testimony went off the
5 road, ladies and gentlemen. Because that is not what he
6 said before. He said she didn't let him in the house. He
7 said she wanted to smell him and that she had a knife, was
8 threatening him. And he was trying to prove to her that
9 he didn't go home to his wife; that he in fact went to
10 Marshville. Never mentioned in the statement, in the
11 video statement.

12 He says when his exchange with Bellany ended at that
13 point he went to Brenda's. No mention of Brenda's in the
14 previous statement. He said this morning that he went to
15 the car wash when he left Brenda's. Well, that's kind of
16 in the prior statement because at one point in the
17 statement he says that he went to the car wash. And in
18 another point in the statement he says he went to the car
19 wash. Then he went to Jefferson and rode around, but
20 there was no mention of Jefferson this morning.

21 And then he says that after he came back he went up
22 and he knocked on the door. Ladies and gentlemen, there
23 is no prior mention of that. No never said in his prior
24 video that he knocked on the door. He said that she was
25 coming out the door and he approached her. He says that

1 [REDACTED] came to the door in his drawers. There is no prior
2 mention of that either.

3 He says that she packed his stuff and threatened to
4 cut his clothes. Not on the video he didn't say that. He
5 said she threw an Army jacket and pants at him. No prior
6 mention of that. He says that there was this trip out to
7 the car, and then a trip back inside. And then he starts
8 talking about the fact that she maced him and she stabbed
9 him or stuck him in the chest. There is none of that.
10 None of that is in his prior statement. He made it all up
11 as he sat in that chair right there this morning. He put
12 on a show, ladies and gentlemen.

13 I can't even recite to you all the rest of the
14 differences because they go on and on and on. But what's
15 not going to go on and on and on is this closing cause I'm
16 going to wrap it up for you. And I'm going to wrap it up,
17 and I want to end with somewhere that I typically wouldn't
18 end in a closing like this. Because ordinarily I would
19 want to take you back to the victim because she's what
20 we're really here for. It's her life that was lost.

21 But rather than talking about Bellany any more,
22 because I believe that Bellany has had a proper reflection
23 upon, I want to close with the children because they are
24 the walking, living, breathing victims in all of this.
25 They saw something that no child should ever have to see.

1 A horrible, horrible scene that I hope and pray to God in
2 heaven that they don't remember. Maybe they do. I hope
3 if they do remember it that one day they're going to be
4 able to forget it because to lose their mother in such a
5 violent and horrible manner I can't think of anything
6 worse for children of such a tender age.

7 And despite the fact that they've lost one parent I
8 still have to stand before you and ask that you convict
9 Thomas Stewart of killing Bellany Clyburn. Bellany
10 deserves justice. Those children deserve justice. Our
11 community deserves justice. Thomas Stewart doesn't
12 deserve anything.

13 MR. YOUNG: Object to that comment.

14 THE COURT: Overruled.

15 MR. FOARD: I ask you to find him guilty of murder
16 and possession of a weapon during a violent crime. I
17 thank you for your attention. And I wish you well, ladies
18 and gentlemen, in your very hard endeavor that comes
19 before you. Thank you very much.

20 COLLOQUY

21 THE COURT: All right, ladies and gentlemen, in
22 response to the objection that was just posed by the
23 Defense and the comment by the State as to what the
24 Defendant may or may not deserve I will tell you that I
25 think we all agree, counsel, and certainly the Court that

1 the Defendant is entitled to his constitutional rights
2 being afforded to him. And that was not a reference at
3 least in this Court's perception that the State was
4 making. Now, let me talk with you if I may about the
5 verdict form. And you can't see if from where you are,
6 but it basically has three questions. And that's because
7 there are two charges here and then a third lessor
8 included offense which comes up to a total of three.

9 And, Madam Forelady, what the verdict form says I'm
10 just going to publish the first question to you. Read it
11 to you. It says, "As to the charge of murder we the jury
12 unanimously find the Defendant, Thomas Jeffery Stewart,
13 beyond a reasonable doubt." And then I have two choices
14 to give you on the piece of paper. Well, any time you
15 have two choices on a piece of paper you cannot -- you
16 can't give them both the same point.

17 So one becomes in front of the other not because
18 there is a priority of some sort. But one simply must be
19 listed in the of the other. The first choice, again not
20 by priority, is not guilty, and the second choice is
21 guilty. Whatever the unanimous decision of the jury is
22 please record that and move forward because after each one
23 of those -- because if you choose not guilty to the
24 greater offense then it says, "Go to Question Two" which
25 asks you about the lessor included offense.

1 If you choose guilty to the greater offense you don't
2 consider the lessor included offense because you found
3 him guilty of the greater offense. And then the third
4 question has to do with the possession of a weapon during
5 the commission of a violent crime as to guilt or innocent.
6 Now, what I'm going to ask you to do, and before you leave
7 I want to just say a word of thanks to our alternate
8 jurors who served in this case.

9 And thank you for the leadership you provided to the
10 jury, Mr. Sellers and Mr. Gainey, as you've assisted them
11 in choosing our foreperson as well as it is comrade and
12 the shared experience you have had with all of the jurors.

13 I want to say to you that many times alternate jurors
14 when you reach this point and you -- we determine that you
15 will not deliberate with the 12, you say, "Well, my
16 goodness. I have wasted my time." Well, I hope you don't
17 feel that way. But I certainly do not feel that way for
18 this reason: Under our system you must have 12 jurors,
19 and if we had only 12 here.

20 If you two were not present, and if one of our jurors
21 even now on the fourth day of the trial got sick, had an
22 emergency, had to leave, and we were down to 11, without
23 an alternate we would have to declare a mistrial and this
24 case would be retried again. Your presence here has
25 prevented that should it happen. I feel like our jurors

1 are going to hold their health here for the next two to
2 three minutes while we organize the exhibits and send them
3 in. But I just want to thank you in their presence for
4 your service.

5 Now, what would I like to do is have all of you go
6 back to the jury room and say your good byes or chat for a
7 moment. Not about the case, and then when we send in the
8 exhibits -- it's not until then cause it just takes us a
9 moment to make sure their all organized and send them in
10 to you. Then we will bring our alternates back out and
11 I'll have the opportunity to speak to you again. And at
12 that point you may begin your deliberations.

13 Now, for the last three plus days you've been waiting
14 on us. And now it reserves. We will wait on you. You're
15 under no time compulsion. You're in no hurry. You take
16 your time and do what you need to do. If you need to take
17 a break, ladies and gentlemen, the room is a little bit
18 close sometimes. If it gets to a point where some need to
19 leave and just step out for a few moments we'll
20 accommodate that. Just knock on the door.

21 And if that happens and you separate then please
22 cease deliberations until you're all back together because
23 you could reach two inconsistent points, conceivably, at
24 two different places which would not be a good thing to
25 do. Just wait until you're all back together.

1 And when you reach a verdict, after you've filled out
2 this form, knock on the door, and we will be here to
3 receive your verdict. Now, if you kindly would return to
4 the jury room. We'll be with you in just a moment, and
5 thank you for your patience.

6 (WHEREUPON, the jury panel was excused from the
7 courtroom at 3:18 p.m.)

8 THE COURT: Now, let's go first to the charge. Is
9 there object -- are there objections or exceptions to the
10 charge as given by the Court from the State?

11 MR. FOARD: None from the State.

12 THE COURT: And from Defense?

13 MR. SECOR: No, sir.

14 THE COURT: All right. Let's broach one objection
15 that occurred during the argument. There are actually
16 two. The last one I discussed with the jury and gave what
17 I felt to be a curative instruction which I believe was
18 sufficient.

19 But the first one was an objection over counsel's
20 reference to the fact that the malice may be inferred from
21 the use of a deadly weapon. The Court did not charge
22 that. I deleted that from my charge. You may have had it
23 in your printed version, but it was removed. But that
24 does not mean -- the fact that the Court doesn't charge it
25 the Court does not perceive that that takes away the

1 ability of the State to argue that from a factual
2 standpoint. We simply did not provide that law, but
3 nevertheless that doesn't change the factual inference
4 that I believe the State is entitled to argue.

5 Your objection, of course, is preserved, but the
6 Court determine not to stop the arguments and consider it
7 further or discuss it on the record.

8 Now, counsel, what I would ask you to do is would you
9 come up, please. Go with our Clerk and Court Reporter, go
10 through the exhibits. Look at the verdict form in
11 finality. Let's finish that as soon as you can so we can
12 take it all into the jury. Please come forward.

13 MR. YOUNG: Your Honor I don't think that we need to
14 renew our directed verdict and all that stuff after we
15 rested.

16 THE COURT: All right. Let's for the record,
17 however, counsel, let's go ahead at the close of all the
18 testimony, and we will consider you have renewed your
19 objections and I have denied each and every one of them as
20 I have previously. Thus, your position on this record is
21 protected, and the Court has also ruled on the issue.

22 MR. YOUNG: Thank you, Your Honor.

23 MR. REDMOND: Thank you, Your Honor.

24 THE COURT: Please come forward and look at the
25 exhibits. All right. Ladies and gentlemen, let's remain

1 in session. We re going to talk with our alternates a
2 moment. And please go ahead and take the evidence into
3 the jury.

4 (WHEREUPON, the jury panel was excused from the
5 courtroom to begin deliberations at 3:24 p.m.)

6 THE COURT: All right. Mr. Sellers, Mr. Gainey,
7 first of all I want to thank you for -- again, for your
8 service. And, Mr. Sellers, particularly you waived -- you
9 kindly waived your exemption to serve in the first place,
10 and we're grateful for that. We are going to, rather than
11 just release you to leave us we're going to ask you to
12 remain with us for just a little while to make sure that
13 everything is all right in the jury room. Because if we
14 should have to, for some reason, choose an alternate still
15 and replace a juror, well, if you're gone we're unable to
16 do that.

17 And also would not be appropriate for us to allow you
18 to mix with witnesses and others who may have an interest
19 in the case. So we are politely going to ask you if you
20 would join Ms. Lear. She's going to take you to the jury
21 assembly room where we're going to ask you just to remain
22 for a little while and then we'll see how we're doing
23 here, and we will be back with you at some point, all
24 right. Thank you for that courtesy.

25 All right, ladies and gentlemen. We are going to

1 stand down now subject to the call of the jury. Court is
2 in recess until we have either further business from the
3 Solicitor or a response from the jury.

4 (WHEREUPON, Court was in recess at 3:27 p.m.)

5 (WHEREUPON, Court's Exhibit No. 3 was marked for
6 identification and received into evidence.)

7 (WHEREUPON, Court reconvenes at 5:01 p.m.)

8 VERDICT OF THE JURY

9 THE COURT: All right. We are advised that the jury
10 has reached a verdict.

11 MR. YOUNG: I don't know if Your Honor wants to put
12 my objection on the record about that note?

13 THE COURT: Go ahead. We'll do that at this time.

14 MR. YOUNG: Your Honor, the jury sent out a note
15 requesting the charge for murder and malice. Your Honor
16 sent back the portion of the charge. The Defense
17 requested that the entirety of the charge be sent back.

18 THE COURT: All right. And we have marked the note
19 from the jury as an exhibit, and the Court simply
20 responded by sending in the portion of the charge that
21 dealt with murder and defined murder which also defined
22 malice. And although your objection is noted it's
23 overruled as the Court believes the response was
24 appropriate.

25 Now, ladies and gentlemen of the jury -- no, excuse

1 me, of the courtroom, let me just say to you that this has
2 been a hotly contested case. It has been one that, of
3 course, goes to some very core issues for all of us and
4 loss of life and division of the community. But whatever
5 this verdict is it's out of respect for this jury who has
6 come here, not of their own desire, but brought into this,
7 come forward and served their civic duty, whatever their
8 verdict is let's maintain decorum, be respectful. And the
9 Court would intend to, of course, enforce the rules of
10 decorum and thank you in advance for cooperating with
11 that.

12 All right. Now, Madam Clerk, you will publish the
13 verdict?

14 CLERK OF COURT: It doesn't matter.

15 THE COURT: All right. So then when the jury comes
16 in if you would take the verdict form and then hand it to
17 me and I'll give it to the Clerk to publish. All right.
18 Very good. Then let's everyone be at ease. Please, bring
19 in the jury.

20 (WHEREUPON, the jury panel enters the courtroom at
21 5:03 p.m.)

22 THE COURT: All right. Welcome back, ladies and
23 gentlemen of the jury. And, Madam Forelady, I'm am
24 advised that the jury has reached a verdict; is that
25 correct.

1 JURY FOREPERSON: Yes, sir.

2 THE COURT: All right. Would you please give your
3 verdict form to Ms. Hurst. Thank you. Let the record
4 reflect that the verdict form is appropriately filled out
5 and has been signed by the Foreperson. Defendant, please
6 rise, and Madam Clerk, please publish the verdict.

7 CLERK OF COURT: State of South Carolina v. Thomas
8 Jeffery Stewart. Case Numbers 2010-GS-13-192 and -263.
9 As to the charge of murder we the jury unanimously find
10 the Defendant, Thomas Jeffery Stewart, beyond a reasonable
11 doubt guilty.

12 As to the charge of possession of a weapon during the
13 commission of a violent crime we the jury unanimously find
14 the Defendant, Thomas Jeffery Stewart, beyond a reasonable
15 doubt guilty.

16 Foreperson is Michelle Kennedy. Today's date is
17 December 6th 2012. Madam Forelady, is this your verdict
18 and still your verdict?

19 JURY FOREPERSON: Yes, ma'am.

20 CLERK OF COURT: Is it still the verdict of all 12?

21 THE COURT: All right. Let's let the record reflect
22 then that the jury has responded affirmatively to the
23 Court's question, as to the Clerk's question. Mr.
24 Stewart, you may be seated. And, now, counsel, while we
25 are in the presence of the jury are there motions for

1 which a jury response would be necessary?

2 MR. YOUNG: Yes, sir.

3 THE COURT: And what would that motion be?

4 MR. YOUNG: Your Honor, the Defense requests that the
5 jury be polled.

6 POLLING OF THE JURY

7 THE COURT: All right. Then there is a request that
8 the jury be polled. And let me explain this process to
9 you, ladies and gentlemen. Madam Clerk, I have a copy of
10 the -- okay. Do you need this or do you have one?

11 CLERK OF COURT: I don't have that one.

12 THE COURT: You're welcomed to use this if you wish.
13 Whatever is most convenient for you. Our Clerk is going
14 to ask each of you two questions. And what we're going to
15 do is our Clerk will call your name, and when your name is
16 called would you please stand. And the first question is
17 going to be was this your verdict, and then you answer.
18 And then this next question will be is this still your
19 verdict, and then you answer. And we'll do that
20 individually. It's a process we call polling the jury
21 individually. So please follow our Clerk's instructions.

22 CLERK OF COURT: Number 110, Slone L. Perdue. Is
23 this your verdict?

24 JUROR: Yes.

25 CLERK OF COURT: It's still your verdict?

1 JUROR: Yes, ma'am.

2 CLERK OF COURT: Okay.

3 THE COURT: You may be seated. Thank you.

4 CLERK OF COURT: Number 89, Danny R. McManus. Is
5 this your verdict?

6 JUROR: Yes, ma'am.

7 CLERK OF COURT: And still your verdict?

8 JUROR: Yes, ma'am.

9 CLERK OF COURT: Joshua C. Woods, 147. Is this your
10 verdict?

11 JUROR: Yes, ma'am.

12 CLERK OF COURT: And still your verdict?

13 JUROR: Yes, ma'am.

14 CLERK OF COURT: Number 46, Alvin Gainey, Jr. Is
15 this your verdict?

16 JUROR: Yes, ma'am.

17 CLERK OF COURT: And still your verdict?

18 JUROR: Yes, ma'am.

19 CLERK OF COURT: Thank you. Eighty-two, Tammy A.
20 Lowery. Is this your verdict?

21 JUROR: Yes, ma'am.

22 CLERK OF COURT: And still your verdict?

23 JUROR: Yes.

24 CLERK OF COURT: Okay. Ninety-five, Freddie M.
25 Miller. Is this your verdict?

1 JUROR: Yes, ma'am.

2 CLERK OF COURT: And still your verdict?

3 JUROR: Yes, ma'am.

4 CLERK OF COURT: Thank you. 133, Tammy H. Usher. Is
5 this your verdict?

6 JUROR: Yes, ma'am.

7 CLERK OF COURT: And still your verdict?

8 JUROR: Yes, ma'am.

9 CLERK OF COURT: Number 59, Sandra L. Haggins. Is
10 this your verdict?

11 JUROR: Yes, ma'am.

12 CLERK OF COURT: And still your verdict?

13 JUROR: Yes, ma'am.

14 CLERK OF COURT: Thank you. Seventy-six, Michelle B.
15 Kennedy. Is this your verdict?

16 JUROR: Yes, ma'am.

17 CLERK OF COURT: And still your verdict?

18 JUROR: Yes, ma'am.

19 CLERK OF COURT: Number 116 is Ronnie Register. Is
20 this your verdict?

21 JUROR: Yes, ma'am.

22 CLERK OF COURT: And still your verdict?

23 JUROR: Yes, ma'am.

24 CLERK OF COURT: Thank you. Number 88, David R.
25 McLain. Is this your verdict?

1 JUROR: Yes, ma'am.

2 CLERK OF COURT: And still your verdict?

3 JUROR: Yes, ma'am.

4 CLERK OF COURT: Number 80, Kenneth A. Lowe. Is this
5 your verdict?

6 JUROR: Yes, ma'am.

7 CLERK OF COURT: And still your verdict?

8 JUROR: Yes, ma'am.

9 CLERK OF COURT: Thank you.

10 THE COURT: All right. Are there any jurors
11 whose name was not called? If your name was not called
12 please raise your hand. Thus all 12 jurors have been
13 polled and have responded affirmatively to both questions.
14 Now, still, while we're in the presence of the jury, are
15 there any motions from either side for which a jury
16 response would be necessary? From Defense?

17 MR. YOUNG: No, Your Honor.

18 THE COURT: And From the State.

19 MR. FOARD: No, Your Honor.

20 COLLOQUY

21 THE COURT: All right, then, ladies and gentlemen,
22 that concludes your portion of service in this case. Just
23 one moment, please. Madam Clerk. In a few moments our
24 clerk is going to give you a check for your per diem which
25 is not going to be enough for anybody to retire on, but

1 it's going to be the County's expression of gratitude for
2 your service. But as you leave the box, ladies and
3 gentlemen, I'm going to come down, if you will permit me.
4 I'm going to shake your hand for a job well done. A
5 verdict that is fair, and that will be my expression of
6 gratitude and appreciation for your service.

7 Now, what happens next is we're going to have a
8 sentence proceeding. We're going to go ahead and do that
9 this afternoon. And it will not take very long, but what
10 I would like to do is give you the opportunity to be here
11 for that if you wish, but not seated in the jury box. I'm
12 going to let you be seated out in the audience. Where you
13 sit in the audience, there is no alignment. Anywhere, you
14 just sit back there if you wish or you may leave if you
15 wish.

16 But what I would ask you first to do is to come back
17 to the jury room so our Clerk can give you your check for
18 your service and then we'll let you leave. And if you
19 choose to be seated, please, do. If you choose not to and
20 you wish to leave, please, do. If you choose to be seated
21 and then decide you want to leave after hearing for a
22 minute or two, go right ahead. Whatever your preference
23 is because we're grateful for your service for a job
24 that's well done.

25 Now, if you give me just a moment I'm going to come

1 over there, and as you go back to the jury room I'm going
2 to shake your hand. But I'm actually going to step away
3 from you because I don't want to call attention away from
4 the fact that you have to step down. So I'm going to
5 stand right here. Please, just come right back this way.
6 Thank you for your service.

7 (WHEREUPON, the jury panel was excused from the
8 courtroom at 5:11 p.m.)

9 THE COURT: All right. Now, while we're outside the
10 presence of the jury, are there motions for which a
11 Court's response would be necessary? If so go ahead.

12 MR. SECOR: Your Honor, may I confer real quick?

13 THE COURT: Yeah, go ahead.

14 MR. SECOR: Just renew the motion we made pursuant to
15 South Carolina Rule of Criminal Procedure 19(a) at the
16 close of the State's case and also after closing arguments
17 and move for a new trial based on all objections overruled
18 throughout the course of the trial and before trial.

19 THE COURT: All right. The Court is prepared to rule
20 on that. The Court's perception is that this trial has
21 been fair; that the matter was submitted to the jury which
22 is the strength of our system. The jury -- both sides had
23 their full say. The jury has made their decision. The
24 Court finds there is ample evidence in the record to
25 support that decision. And also finds that the rulings

1 taken in their entirety were fair and appropriate for the
2 parties. And I'm going to deny those motions and confirm
3 the jury verdict.

4 SENTENCE OF THE COURT

5 At this time we'll have a sentencing proceeding, but
6 we'll give the jury a moment if they wish to come out and
7 join us or if they wish to leave we'll give them that
8 opportunity. So let's all just be at ease for a moment.
9 They can come right out and be seated or depart if they
10 wish.

11 All right. What we would like to do at this time, I
12 realize Mr. Young has stepped out. He will be right back
13 in a moment, but I'd like to hear from the State. If you
14 have a representative of the victim's family that you wish
15 to speak we'll be glad to hear from them as well. And
16 would ask enter your recommendations for sentencing as
17 well as we will hear from the Defense on those issues.

18 MR. FOARD: Would you like for us to stay at the
19 table or come to the rail?

20 THE COURT: No, you can stay at the table and be
21 fine, but I'd ask you please be sure that everyone speak
22 up so that those in the courtroom can hear the
23 proceedings.

24 MR. FOARD: Your Honor, would you like to hear from
25 the victim's representative first or the State?

1 THE COURT: I'd like to hear from the State first and
2 let's -- we'll give Mr. Young a moment to join us and then
3 hear from State's counsel and then the representative of
4 the family who wishes to speak and then we'll turn it to
5 the Defense side.

6 MR. FOARD: Thank you, Your Honor.

7 THE COURT: Mr. Foard, are you going to be conducting
8 the hearing?

9 MR. FOARD: I am, Your Honor.

10 THE COURT: I'll be glad to hear from you, sir.

11 MR. FOARD: Thank you, Your Honor. I believe you
12 having sat through this entire proceeding, you have -- you
13 aer well versed with the facts of this case. Well versed
14 in the nature of the wounds that were sustained by
15 Miss Bellany Clyburn, and in the heinous manner in which
16 she was killed, Your Honor. So I'm not going to belabor
17 that point, however, I wanted to address the Court
18 specifically, and I believe Mr. Redmond wants to briefly
19 say something also.

20 But I felt like I needed to speak to you, Your Honor,
21 because it's no secret around here. I knew Bellany
22 Clyburn, I grew up with her. We marched in marching band
23 together. I'm not going to presume to say that we were
24 close friends because I wouldn't characterize it as that.
25 But we did spend some time together when I was younger,

1 when she was younger. And I will tell Your Honor that I
2 took this case very personally.

3 I am glad to see that justice, as I believe justice
4 is, has been done here today, Your Honor. And I
5 respectfully request that on behalf of the State, given
6 the nature of the offense, given the finding of the jury,
7 and given all of the circumstances surrounding the crime
8 that the Court impose the maximum penalty possible which I
9 believe would be life in prison for the murder as well as
10 five years for the crime of possession of a weapon during
11 the commission of a violent crime.

12 THE COURT: Mr. Redmond, you want to address?

13 MR. REDMOND: Briefly, Your Honor. I just wanted to
14 address the -- just to make it clear as far as the family.
15 I've had a chance to meet with several of them and talk to
16 several of them over the course of this time. I did not
17 know Ms. Clyburn, as you can probably tell from my
18 cross-examination of the Defendant's wife.

19 I was in Court during the term in which Miss Clyburn
20 pled to the incident involving the Defendant's wife. In
21 fact that was my very first term here in Chesterfield
22 County. I can say that at that time I was also aware of
23 the fact that Mr. Foard knew Ms. Clyburn. And that was
24 something that we talked about. And I also remember how
25 affected he was at the time that she was so violently

1 killed.

2 But to the family I just want to say thank you for
3 your patience. We've had lots of discussions over the
4 course of these years, and we hadn't always agreed,
5 obviously, on the course. Which was natural because
6 you've got a lot of people, a big family, and everybody
7 doesn't always agree on the course that we should take.
8 But thankfully we got to where we all wanted to get and
9 seeing this Defendant convicted of murder.

10 And I am delighted for you as a family that you're
11 able to have the opportunity to get justice for your
12 daughter, granddaughter, cousin, friend, loved one. So I
13 just want to say that. And the last thing I want to say I
14 want to congratulate all the other lawyers involved in the
15 case. Mr. Jones, especially Mr. Foard and the role that
16 they took in helping prepare this case for prosecution.

17 As the Court may know I've had a family tragedy in
18 the last few weeks, and I was not able to be as involved
19 in the preparation of this case as I had been previously.
20 And thanks to them for basically taking up the load and
21 letting me fall behind in their coat tails in the
22 presentation and the preparation of the case.

23 And, finally, to the Defense attorneys who I've known
24 both for a while and think the world of and respect them
25 greatly. I think this is an example of how the system

1 should work in that you don't have -- even though it's
2 adversarial, it doesn't have to be personal. And they did
3 their jobs to the best that they could with what they had
4 to work with. And I think the professionalism exhibited
5 by all of these lawyers is to be commended. And I just
6 felt compelled to say that for the record.

7 THE COURT: All right. Thank you, Mr. Redmond. And
8 then did you have a representative of the family that
9 wishes to speak?

10 MR. FOARD: Yes, Your Honor.

11 THE COURT: All right. And, ma'am, please tell us
12 your name.

13 MS. TYSON: My name is Beverly Tyson.

14 THE COURT: All right. Ms. Tyson, I'm going to ask
15 you if you would to follow our Clerk's instructions,
16 please. We're going to place you under oath where you
17 stand and just raise your right hand, ma'am.

18 BEVERLY TYSON, after being duly sworn, testified
19 as follows:

20 THE COURT: All right, Ms. Tyson, tell us what you
21 have to say, please.

22 MS. TYSON: I just wanted to address Thomas. I
23 hadn't had a chance to talk to him. It's been three years
24 ago since he murdered my child, and it's just some things
25 that I'd like to get off my chest on behalf of me, my

1 grandchildren, my mother and the rest of the family.

2 THE COURT: Go ahead, ma'am.

3 MS. TYSON: This is about justice for Bellany. You
4 killed her in cold blood. You took her away from us. You
5 caused is so much pain. I want to know what she did so
6 bad to you. You played her judge, her jury and her
7 executioner. Now it's your turn.

8 Your wife said during her testimony that she loved
9 you no matter what. We loved Bellany no matter what. And
10 tonight about seven o'clock or so [REDACTED] has a basketball
11 game. [REDACTED] has a school play, and you know, their mother
12 won't be there to see that. She won't be there to see a
13 many things that will happen in their lives. When they
14 grow up and have children and get married.

15 Their children will never know their grandmother
16 other than the stories that will be told. And I think
17 you're a very selfish person.

18 THE COURT: Thank you, ma'am. And you may be seated.
19 Now we will hear from counsel for the Defendant if you
20 wish to speak before sentence is imposed. We will give
21 you that opportunity, Mr. Young.

22 MR. YOUNG: Your Honor is also familiar through the
23 highly publicized and talks between myself and counsel for
24 the State. And I think even in the paper at one point in
25 time the State requested or offered -- not requested a 35

1 year sentence to Mr. Stewart. I don't think that this is
2 a life without parole case, and would request leniency on
3 behalf of Mr. Stewart.

4 THE COURT: All right. And so that those in the
5 courtroom will be clear let me ask the State, and I will
6 say to those who are present. None of this happens in a
7 vacuum. There are often discussions concerning potential
8 settlements, guilty pleas, resolutions of the matter to
9 avoid the trial and the difficulty of trials for the
10 families and all involved.

11 And tell me what offer had been made to Mr. Stewart
12 prior to this matter going to trial.

13 MR. FOARD: Your Honor, Mr. Young is correct. There
14 had been an offer to plead guilty to murder and possession
15 of a weapon during commission of a violent crime with a
16 State's recommendation of 35 years. That was not accepted
17 by the Defendant, Your Honor.

18 That was largely made, as you pointed out, for the
19 purpose of avoiding having to put this family through a
20 trial, avoiding having to take up the State's resources,
21 and given the fact that those situations changed and Mr.
22 Stewart chose not to take that route, we believe that the
23 State is under no -- nothing compelling us to support that
24 that would have been the recommendation. But, of course,
25 it's not now.

1 THE COURT: All right. Very good. Thank you. All
2 right. Mr. Stewart, the Defendant, again, please rise.
3 Mr. Stewart, now after a full and fair trial by a jury of
4 your peers as accorded to you under our State constitution
5 as well as the protection of your constitutional and legal
6 rights you have been convicted by your peers of murder.

7 It will tell you that not matter what sentence this
8 Court should impose upon you it will not be as long as the
9 sentence that you in fact imposed upon your own children
10 and other children and other family members who for a
11 lifetime will have the suffer the consequences of what
12 really was a reprehensible act of tremendous selfishness
13 as it was just by Ms. Tyson.

14 What concerns the Court is that there has been a lack
15 of remorse. There has been multiple explanations which
16 had little credibility to them. Again, this was for the
17 jury to determine, and they have made that determination.

18 I find based upon the fact that this was a public
19 crime that shocked the conscious of this law abiding
20 community that the Court's appropriate response to that is
21 to sentence you to the Department of Corrections for a
22 period of your nature life. Plus a consecutive five years
23 for the carrying of a weapon during the commission of a
24 violent crime. And that is the decision of the Court.

25 MR. YOUNG: Your Honor, may I be heard?

1 THE COURT: You may.

2 MR. YOUNG: Your Honor, I believe imposing the
3 consecutive -- the possession of a weapon during the
4 commission of a violent crime require that it be
5 consecutive unless, of course, the Defendant is sentenced
6 to life.

7 THE COURT: All right. And the Court exercises the
8 option, though, to make that a consecutive sentence. But
9 the result of the sentence is that you will be confined to
10 the Department of Corrections for the remainder of your
11 nature life, sir.

12 I take no pride in that, but I believe it is, based
13 upon what we have before us, the appropriate response for
14 this Court and this community. And, thus, it is so
15 ordered. I will remand you now to the Department of
16 Corrections, sir. Good luck to you.

17 MR. FOARD: Thank you, Your Honor.

18 MR. YOUNG: Thank you, Your Honor.

19 MR. REDMOND: Thank you, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, for the
21 families who are hear. Ladies and gentlemen, this Court
22 will remain in order. For the families who are present --
23 all right. Just one moment. Let's go ahead and take the
24 Defendant at this time. Mr. Young, we're going to ask Mr.
25 Stewart to depart the premises.

1 All right. Ladies and gentlemen for the families
2 that are here, there is nothing that we can do that can
3 change what has happened and the history that has brought
4 this about. But today, from this moment forward, I
5 encourage you. This is a small community. We all know
6 one another; that you will to the best of your ability
7 make peace with the other side of this case and all move
8 forward for the sake of the children. And for the good of
9 the community. And to that end I declare this term
10 adjourned.

11 END OF TRANSCRIPT OF RECORD
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Chesterfield County Courthouse
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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
✓ 1	Pulled 10	Adams, Alonzo JR	[REDACTED] <i>1 day</i> PATRICK 29584	W M [REDACTED]	0 No	<i>TR Transfer March 4, 2013</i>
✓ 2	Pulled 1	Adams, Michele L	[REDACTED] CHESTERFIELD 29709	W F [REDACTED] 7	0 No	
X 3	Pulled	Adams, Rachel B	[REDACTED] CHESTERFIELD 29709	W F [REDACTED]	0 No	<i>STU Full time Student</i>
* 4	Pulled 25	Albaugh, Gary T <i>1 day</i>	[REDACTED] <i>Rolling Co.</i> MCBEE 29101	W M [REDACTED]	0 No	<i>EXT Over 65 NO address</i>
X 5	Pulled	Allen, Clayton C	[REDACTED] PAGELAND 29728	B M [REDACTED]	0 No	<i>UTL Returned Over 65 Rent 12-27-12</i>
✓ 6	Pulled	Allen, Linda S	PO BOX 241 [REDACTED] MT. CROGHAN 29727	W F [REDACTED]	0 No	<i>Returned 12-26-12</i>
X 7	Pulled	Ashe, Ernest	[REDACTED] <i>701 Chesterfield Court Apts # [REDACTED] Cheraw SC 29520</i> CHESTERFIELD 29709	B M [REDACTED]	0 No	<i>AGE Over 65 Does not want to serve</i>
8	Pulled	Bailes, Jimmy	[REDACTED] CHERAW 29520	W M [REDACTED] 7	0 No	
9	Pulled	Ballard, Jonnette B	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
X 10	Pulled	Barnes, Thomas F	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	<i>AGE Does not want to serve Over 65</i>
X 11	Pulled	Barry, Caroline A	[REDACTED] CHESTERFIELD 29709	W F [REDACTED]	0 No	<i>NRS Over 65 Non Resident</i>
X 12	Pulled	Beasley, Barbara A	[REDACTED] <i>Beaver Meadow, PA 18216</i> MCBEE 29101	W F [REDACTED]	0 No	<i>POG Drs Note Primary Caregiver</i>

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 13	Pulled	Berry, Emily Y	[REDACTED] CHERAW 29520 Washington DC 20011	B F [REDACTED]	0 No	^{NRS} Returned / Non Resident
X 14	Pulled	Blackwell, Danny	[REDACTED] JEFFERSON 29718	B M [REDACTED]	0 No	^{UTL} Returned
X 15	Transferred IN	Blackwell, Michael P	[REDACTED] MC BEE 29101	W M [REDACTED]	1 No	^{UTL} Returned
X 16	Pulled	Blakeney, Felisha F	[REDACTED] PAGELAND 29728	B F [REDACTED]	0 No	Returned
17	Pulled	Blakeney, Kelvin L	[REDACTED] PAGELAND 29728	B M [REDACTED]	0 No	
✓ 18	Pulled 10	Boan, David S	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	
✓ 19	Pulled 12	Bryant, Jeffery L	[REDACTED] 1 day PAGELAND 29728	W M [REDACTED]	0 No	Record Over 65
20	Pulled	Cable, Lula K	[REDACTED] RUBY 29741	W F [REDACTED]	0 No	AGE Over 65
X 21	Pulled	Campbell, Sylvia F	[REDACTED] CHERAW 29520	W [REDACTED]	0 No	Does not wish to serve
22	Pulled	Carelock, Kelly	[REDACTED] PAGELAND 29728	B M [REDACTED]	0 No	AGE Over 65
X 23	Pulled	Carpenter, Louise K	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	Does not wish to serve
X 24	Pulled	Cash, Cykeitha D	[REDACTED] CHERAW 29520 Columbia S.C. 29205	B F [REDACTED] Apt 4 H	0 No	^{NRS} Non Resident

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
25	Transferred IN	Coates, Tina R	[REDACTED] MC BEE 29101	W F [REDACTED] 5	1 No	
X 26	Pulled	Cranford, Clara L	[REDACTED] PATRICK 29584	W F [REDACTED]	0 No	Over 65 Dec Deceased
27	Pulled	Cranford, Virginia R	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
X 28	Pulled	Crawley, Mary Frances	[REDACTED] CHESTERFIELD 29709	W F [REDACTED]	0 No	Over 65 UTL Returned
✓ 29	Transferred IN	10 Davis, Mary L	[REDACTED] PATRICK 29584	W F [REDACTED]	1 No	
30	Pulled	Deese, Ronald E II	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	
X 31	Pulled	Dewitt, Virginia	[REDACTED] SOCIETY HILL 29593	B F [REDACTED]	0 No	AGE Over 65 Does not wish to serve
X 32	Pulled	Donskey, Jill R	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	UTL Returned
✓ 33	Pulled	10 Dunlap, Cleveland G	[REDACTED] JEFFERSON 29718	B M [REDACTED]	0 No	
34	Pulled	Ellerbe, Paul J	[REDACTED] CHERAW 29520	B M [REDACTED]	0 No	
X 35	Pulled	Ellerbe, Reginald J	POB 1511 CHERAW 29520	B M [REDACTED]	0 No	TO Truck Driver Transfer to March 4, 2013
36	Pulled	Espinosa, Ismael R	[REDACTED] PAGELAND 29728	H M [REDACTED]	0 No	

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
✓ 37	Pulled	Evans, Andray M	██████████ CHERAW 29520	B M ██████████	0 No	<i>Record in Gloucester & Darlington County</i> <i>AGE Over 65</i> <i>Does not wish to serve</i>
X 38	Pulled	Evans, Charles E	██████████ CHESTERFIELD 29709	W M ██████████	0 No	
X 39	Pulled	Floyd, Wanda M	POB 24 JEFFERSON 29718	W F ██████████	0 No	<i>TO Transfer 2013 May 20, 2013</i>
40	Pulled	Ford, Jessica V	██████████ CHERAW 29520	B F ██████████	0 No	
✓ 41	Pulled	16 Ford, Kathy M	POB 344 PAGELAND 29728	W F ██████████	0 No	
X 42	Pulled	Forman, Madeline E	██████████ CHERAW 29520	W F ██████████	0 No	<i>NRS</i> <i>Non Resident</i> <i>Returned on 11-20-12</i> <i>Resent on 11-21-12</i>
✓ 43	Pulled	Forman, Morgan C	██████████ CHERAW 29520	W F ██████████	0 No	<i>Has not provided proof of Non Residency</i> <i>AGE Over 65</i> <i>Does not wish to serve</i>
X 44	Pulled	Freeman, Betty T	██████████ CHESTERFIELD 29709	W F ██████████	0 No	<i>AGE Over 65</i> <i>Does not wish to serve</i>
X 45	Pulled	Freeman, Vaden O	██████████ CHESTERFIELD 29709	██████████	0 No	<i>Does not wish to serve</i>
✓ 46	Pulled	23 Gainey, Alvin S JR.	██████████ HARTSVILLE 29550	W M ██████████	0 No	<i>Dec Over 65</i> <i>Deceased</i>
X 47	Pulled	Gainey, Melvin	██████████ PATRICK 29584	W M ██████████	0 No	
X 48	Pulled	Gainey, Melvin	██████████ CHERAW 29520	B M ██████████	0 No	<i>UTL</i> <i>Returned</i>

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
✓ 49	Transferred IN 10	Gainey, Thomas F	[REDACTED] CHERAW 29520	W M [REDACTED]	1 No	
50	Pulled	Gaskins, Adrian D	POB 171 CHERAW 29520	B M [REDACTED]	0 No	
✓ 51	Pulled	Gaytko, April R	[REDACTED] PAGELAND 29728	W F [REDACTED]	0 No	TO Transferred to 2/11/13
52	Pulled	Gibson, Kevin S	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	
X 53	Pulled	Graham, Yvonne	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	primary caretaker with affidavit waiting for Dns Note
54	Pulled	Gray, Denise A	[REDACTED] MOUNT CROGHAN 29727	W F [REDACTED]	0 No	
✓ 55	Pulled	Gregory, Randall A	[REDACTED] MC BEE 29101	W M [REDACTED]	0 No	TO Transferred to 2/11/13
X 56	Pulled	Griffin, Grace C	[REDACTED] PAGELAND 29728	W F [REDACTED]	0 No	UTL Over 65 Returned
✓ 57	Pulled 20	Griffin, Nicholas S	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	
X 58	Transferred IN	Gulledge, Richard W	[REDACTED] RUBY 29741	W M [REDACTED]	1 No	PHY Dns Note
✓ 59	Pulled 20	Haggins, Sandra L	[REDACTED] JEFFERSON 29718	B F [REDACTED]	0 No	
✓ 60	Pulled 6	Harpe, James S	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 61	Pulled	Harpe, Kathy G.	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	PHY Dns Note
X 62	Pulled	Harris, James R.	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	UTL Unable to Locate AGE Over 65
X 63	Pulled	Hendrix, Eva S.	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	Does not wish to serve
X 64	Pulled	Hinson, Latoya M.	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	NRS Non Resident AGE Over 65
X 65	Pulled	Hooks, Pauline M.	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	Nursing Home
X 66	Pulled	Isaac, Delores W.	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	UTL Returned
X 67	Pulled	Jacobs, Denise	[REDACTED] 1024 Oak Bend Lane MCBBE 29101 Florence SC 29501	B F [REDACTED]	0 No	NRS Non Resident COX Mother Called: He is incarcerated in Edgefield SC Detention Center
X 68	Pulled	James, Ervin C JR.	[REDACTED] SOCIETY HILL 29593	B M [REDACTED]	0 No	
69	Pulled	Jenkins, Jeffrey E.	[REDACTED] JEFFERSON 29718	W M [REDACTED]	0 No	
✓ 70	Pulled	Jewart, Randy L.	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	
71	Transferred IN	Johnson, Keshia	[REDACTED] PAGELAND 29728	B F [REDACTED]	3 No	
72	Pulled	Johnson, Timothy J.	[REDACTED] HARTSVILLE 29550	W M [REDACTED]	0 No	

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 73	Pulled	Jones, Elizabeth A	[REDACTED] <i>full time college student</i> CHERAW 29520	W F [REDACTED]	0 No	<i>STU full time student</i> <i>UTL</i>
X 74	Pulled	Jones, Nicholas G	[REDACTED] JEFFERSON 29718	W M [REDACTED]	0 No	<i>Returned</i>
✓ 75	Pulled <i>10</i>	Jones, Tonya R	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
✓ 76	Transferred IN <i>20</i>	Kennedy, Michelle B	[REDACTED] HARTSVILLE 29550	W F [REDACTED]	2 No	
✓ 77	Pulled <i>15</i>	Knight, Bonnie S	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	<i>UTL</i>
X 78	Pulled	Lewis, Shelia A	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	<i>Returned</i> <i>AGE Over 65</i>
X 79	Pulled	<u>Louallen, Doy O</u>	[REDACTED] PAGELAND 29728	B [REDACTED]	0 No	<i>Does not wish to serve</i>
✓ 80	Pulled <i>6</i>	Lowe, Keith A	[REDACTED] CHESTERFIELD 29709	W M [REDACTED]	0 No	
✓ 81	Pulled	<u>Lowery, Diane E</u>	[REDACTED] PAGELAND 29728	B F [REDACTED]	0 No	<i>TS</i> <i>Transferred to 2-11-13</i>
✓ 82	Transferred IN <i>4</i>	Lowery, Tammy A	[REDACTED] CHESTERFIELD 29709	W F [REDACTED]	1 No	
X 83	Pulled	Mangum, Garry F	[REDACTED] <i>PAGELAND 29728</i> <i>Marshallville NC 28103</i>	W M [REDACTED]	0 No	<i>NRS</i> <i>Non Resident</i>
X 84	Pulled	Marshall, Roger D	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	<i>UTL</i> <i>Returned</i>

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Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

587

JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 85	Pulled	Mccaskill, Christy A	[REDACTED] PAGELAND 29728	B F [REDACTED]	0 No	UTL <i>Returned</i>
X 86	Pulled	Mcdonald, Margaret P	[REDACTED] CHERAW 29520	B F [REDACTED]	0 No	TO <i>Transfer to 04/15/13</i> <i>Admin. Asst Clerk to Chief Brooks</i> <i>LAW and</i> <i>Asst. Clerk to Judge Graves</i>
X 87	Pulled	8 Mcintosh, Elise H	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
✓ 88	Pulled	15 McLain, David R	POB 1102 CHERAW 29520	W M [REDACTED]	0 No	
✓ 89	Pulled	20 Mcmanus, Danny R	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	
X 90	Pulled	Mcmanus, Nezzie M	POB 176 RUBY 29741	W F [REDACTED]	0 No	TO <i>Teacher</i> <i>Transfer to Summer 2013</i>
X 91	Pulled	Mcmanus, Vanus	[REDACTED] PAGELAND 29728	B M [REDACTED]	0 No	UTL <i>Over 65</i> <i>Returned</i>
✓ 92	Transferred IN	4 Melton, Marietta	[REDACTED] <i>1 day</i> CHESTERFIELD 29709	B F [REDACTED]	1 No	TO <i>Transfer April 4/15/13</i>
93	Pulled	Merriman, Keisha L	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
✓ 94	Pulled	12 Miller, Alveria	[REDACTED] MT. CROGHAN 29727	B F [REDACTED]	0 No	
✓ 95	Pulled	20 Miller, Freddie M	[REDACTED] PAGELAND 29728	B M [REDACTED]	0 No	
✓ 96	Pulled	23 Miller, Torekia M	[REDACTED] MC BEE 29101	B F [REDACTED]	0 No	

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Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

588

JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 97	Pulled	Morrell, Kaleb T	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	STU Full Time Student Non Resident (Fort Benning)
X 98	Pulled	Morris, Hillary M	[REDACTED] HARTSVILLE 29550 Lewiston MI 49756	W F [REDACTED]	0 No	NRS Military Wife 4/15/12
X 99	Pulled	Mullis, Melissa K	[REDACTED] RUBY 29741	W F [REDACTED]	0 No	Transfer to 2013 To School Employee
X 100	Pulled	Mungo, Regina	[REDACTED] PAGELAND 29728	B F [REDACTED]	0 No	Transfer to June 17, 2013
✓ 101	Pulled 8	Myers, Calvin C	[REDACTED] RUBY 29741	B M [REDACTED]	0 No	To
X 102	Pulled	Nicholson, Tammy M	[REDACTED] PAGELAND 29728	W F [REDACTED]	0 No	Transfer to 2013 To Transferred to 2/11/13
✓ 103	Pulled	Oneal, Lucy E	[REDACTED] HARTSVILLE 29550	W F [REDACTED]	0 No	Found No Record on County Search 2 yrs off reserve
✓ 104	Pulled 10	Outen, John D	[REDACTED] JEFFERSON 29718	W M [REDACTED]	0 No	(Reserve) Law Enforcement Officer
✓ 105	Pulled 15	Owens, Deborah D	POB 94 CHERAW 29520	W F [REDACTED]	0 No	
X 106	Transferred IN	Oxendine, Roger SR	251 E C CHAPMAN RD SOCIETY HILL 29593	W M [REDACTED]	1 No	PHY One Note AGE Over 65
X 107	Pulled	Parker, Myrtle	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	Does not wish to serve
X 108	Pulled	Pate, Freda R	[REDACTED] PAGELAND 29728	B F [REDACTED]	0 No	UTL Returned

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Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
✓ 109	Transferred IN ²⁰	Pegues, Annie Brown	[REDACTED] ^{PAGELAND 29728}	B F [REDACTED]	1 No	
✓ 110	Pulled ¹⁰	Perdue, Slone L	[REDACTED] ^{PATRICK 29584}	W F [REDACTED]	0 No	
111	Pulled	Polson, Walker L	[REDACTED] ^{CHERAW 29520}	W M [REDACTED]	0 No	
X 112	Pulled	Poston, Ryan A	[REDACTED] ^{RUBY 29741}	W M [REDACTED]	0 No	<i>Non Resident</i>
✓ 113	Pulled ¹	Purvis, Jacqueline	POB 294 ^{CHESTERFIELD 29709}	B F [REDACTED]	0 No	
✓ 114	Pulled ¹⁸	Quick, Earl JR	[REDACTED] ^{HARTSVILLE 29550}	W M [REDACTED]	0 No	
115	Pulled ²⁰	Quick, Marcus D	POB 291 ^{JEFFERSON 29718}	W M [REDACTED]	0 No	
✓ 116	Pulled ¹⁹	Register, Ronnie L	[REDACTED] ^{CHERAW 29520}	W M [REDACTED]	0 No	
✓ 117	Pulled ²⁰	Reid, Tiffany	[REDACTED] ^{JEFFERSON 29718}	B F [REDACTED]	0 No	
X 118	Pulled	Rivers, Emily A	[REDACTED] ^{CHERAW 29520}	W F [REDACTED]	0 No	<i>UTL Returned AGE Over 65</i>
X 119	Pulled	Rivers, Era B	[REDACTED] ^{CHERAW 29520}	W F [REDACTED]	0 No	<i>Does not wish to serve</i>
✓ 120	Pulled ²⁴	Rogers, Jamie S	[REDACTED] ^{JEFFERSON 29718}	W M [REDACTED]	0 No	<i>TO Transfer to 3/4/13</i>

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Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 121	Pulled	Rollins, Dianne J	[REDACTED] MC BEE 29101	W F [REDACTED]	0 No	<i>Over 65</i> <i>Primary Caregiver w/ AGE Dnd Note</i>
✓ 122	Pulled 9	Sellers, Charles E	[REDACTED] RUBY 29741	W M [REDACTED]	0 No	<i>Over 65</i>
✓ 123	Pulled 9	Shaw, Amy J	[REDACTED] <i>1 day</i> CHERAW 29520	W F [REDACTED]	0 No	
X 124	Pulled	Smith, Krystal A	POB 305 JEFFERSON 29718	W F [REDACTED]	0 No	<i>TO Student</i> <i>Transfer to March 4, 2013</i>
✓ 125	Pulled 11	Smith, Richard W	[REDACTED] PATRICK 29584	W M [REDACTED]	0 No	<i>Returned 11-20-12</i> <i>Resent 11-21-12</i>
✓ 126	Pulled 20	Stover, Tammy A	[REDACTED] <i>Kennedy Alston</i> JEFFERSON 29718	[REDACTED]	0 No	
X 127	Pulled	Streater, Tomilper	[REDACTED] CHESTERFIELD 29709	B M [REDACTED]	0 No	<i>TO</i> <i>Transfer Jan. 14</i>
128	Pulled 16	Sullivan, Jennifer J	[REDACTED] PAGELAND 29728	W F [REDACTED]	0 No	
129	Pulled	Tarlton, Ashley R	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	
X 130	Pulled	Thompson, Jerry L	[REDACTED] CHESTERFIELD 29709	W M [REDACTED]	0 No	<i>Served Time (Exempt on Transfer)</i>
✓ 131	Pulled 20	Turner, Barney G	[REDACTED] PATRICK 29584	W M [REDACTED]	0 No	
132	Pulled	Underwood, Sarah P	[REDACTED] CHERAW 29520	W F [REDACTED]	0 No	

Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

591

JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
✓ 133	Pulled	20 Usher, Tammy H	[REDACTED]	W F [REDACTED]	0 No	
			JEFFERSON 29718			
X 134	Pulled	Walker, Ernest C	[REDACTED] Deputy Coroner	W M [REDACTED]	0 No	CTO Deputy Coroner
			HARTSVILLE 29550			
✓ 135	Transferred IN	12 Wallace, Jamie R	[REDACTED]	W F [REDACTED]	1 No	
			CHERAW 29520			
X 136	Pulled	Wallace, Michelle S	[REDACTED]	W F [REDACTED]	0 No	Legislative Aide in the CHE Courthouse
			CHESTERFIELD 29709			AGE Over 65
X 137	Pulled	Watford, Juanita C	[REDACTED]	W F [REDACTED]	0 No	Does not wish to serve
			SOCIETY HILL 29593			
138	Pulled	Watkins, Heather M	[REDACTED]	W F [REDACTED]	0 No	
			HARTSVILLE 29550			
✓ 139	Pulled	15 Watkins, Jonathan T	[REDACTED]	W M [REDACTED]	0 No	
			PATRICK 29584			
X 140	Pulled	Watson, Walter M JR	[REDACTED]	W M [REDACTED]	0 No	UTL Returned
			RUBY 29741			
X 141	Pulled	Watts, Michael B	[REDACTED]	W M [REDACTED]	0 No	UTL Returned
			JEFFERSON 29718			
✓ 142	Pulled	Williams, Louvenia D	[REDACTED] TO: Transferred to 2/11/13	B F [REDACTED]	0 No	Primary Caregive - May need to speak to judge
			CHERAW 29520			Over 65
143	Pulled	Williams, Rosalie W	[REDACTED]	B F [REDACTED]	0 No	
			CHERAW 29520			
X 144	Pulled	Wilson, Alexander	[REDACTED]	B M [REDACTED]	0 No	DEC Over 65 Deceased
			CHERAW 29520			

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Chesterfield County Courthouse
ROLLCALL LIST FOR PANEL - 12/03/2012

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JUROR #	STATUS	NAME	ADDRESS	RACE/SEX/DOB	XFER/REPLIED	COMMENT
X 145	Pulled	Wilson, Janice S	[REDACTED] CHESTERFIELD 29709	B F [REDACTED]	0 No	<u>UTL Returned</u>
✓ 146	Pulled 12	Witczak, George F	[REDACTED] CHESTERFIELD 29709	W M [REDACTED]	0 No	
147	Pulled 15	Wood, Joshua C	[REDACTED] CHERAW 29520	W M [REDACTED]	0 No	
X 148	Pulled	Wooten, Michael L	[REDACTED] Court PATRICK 29584 Irmo SC 29063	W M [REDACTED]	0 No	<u>NRS Non Resident</u>
✓ 149	Pulled 20	Wright, Don	[REDACTED] JEFFERSON 29718	B M [REDACTED]	0 No	
✓ 150	Pulled 20	Wright, Parke H JR	[REDACTED] PAGELAND 29728	W M [REDACTED]	0 No	<u>Age</u>

Total Number of Jurors: 150

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

At a Court of General Sessions, convened on March 23, 2010, the Grand Jurors of Chesterfield County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Thomas Jeffery Stewart did in Chesterfield County, on or about January 1, 2010, willfully, feloniously, and intentionally kill the victim, Bellanie Clyburn, with malice aforethought, either express or implied, by means of stabbing, and the victim did die as a proximate result thereof on or about 1/10/2010 in Chesterfield 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.

A True Copy, Attest

Jaye S. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

William B. Rogers, Jr.
WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Asst. Chief Larry Brown

Pageland Police Department

Law Enforcement Case #: 10-01-006

390

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
1271756

ARRESTED ON: 2010-01-01

ACTION OF GRAND JURY

Grand Jury Foreperson

Date

F.D. Fair (10)
3 - 23 - 2010

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2010-GS-13-0192

The State of South Carolina

County of Chesterfield

COURT OF GENERAL SESSIONS

Term:

March 2010

THE STATE

vs.

Thomas Jeffery Stewart

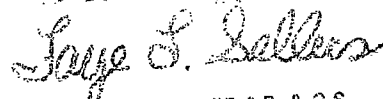
INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

A True Copy, Attest



CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF CHESTERFIELD

) Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

§16-23-0490

At a Court of General Sessions, convened on March 23, 2010, the Grand Jurors of Chesterfield County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Thomas Jeffery Stewart did in Chesterfield County, on or about January 1, 2010, 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.

A True Copy, Attest
Jay L. Sellers
 CLERK OF COURT C.P. & G.S.
 CALDWELL COUNTY, SC

William B. Rogers
WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Asst. Chief Larry Brown

Pageland Police Department

Law Enforcement Case #: 10-01-006



390

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
CHE00371

ARRESTED ON: 2010-01-01

ACTION OF GRAND JURY

Grand Jury Foreperson

FD, Fair (TD)

Date

3-23-2010

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2010-GS-13-0263

The State of South Carolina

County of Chesterfield

COURT OF GENERAL SESSIONS

Term:

March 2010

THE STATE

vs.

Thomas Jeffery Stewart

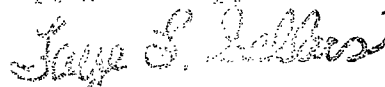
INDICTMENT FOR

Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

A True Copy, Attest



CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF ChesterfieldBellanie Clyburn

Petitioner

vs.

Thomas Stewart

Respondent

IN THE FAMILY COURT

4th JUDICIAL CIRCUIT

SUMMONS

(Protection From Domestic Abuse Act)

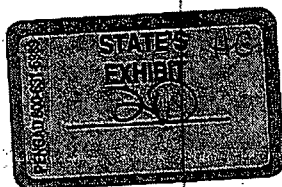
2009 DR13 745

TO: Thomas Stewart Respondent

The above named Petitioner having filed a Petition for Order of Protection,

YOU ARE HEREBY SUMMONED TO APPEAR before the (Family) ~~(Magistrate's)~~Court at 200 West Main in Chesterfield S. C.
(Street Address) (City or Town)January 16, 2010 at 2:30 o'clock, P M. to show cause why the
Order of Protection prayed for by the Petitioner should not be made.

On your failure to appear as herein directed, the relief prayed for in the Petition may be granted.

December 29, 2009Wanda Thule
(FAMILY COURT JUDGE) (MAGISTRATE)
(CLERK OF COURT)Chesterfield S. C.Chesterfield County, S. C.2009 DEC 29 PM 10 26
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SCTrue Copy, Attest
Wanda Thule
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF ChesterfieldBellarie Clyburn

Petitioner

vs.

Thomas Stewart

Respondent

IN THE FAMILY COURT

JUDICIAL CIRCUIT

2009 DRB 745

PETITION FOR ORDER OF PROTECTION
(For Use in Family Court)

Respondent's SSN: _____

DOB _____

Race _____

Sex _____

I ask this court to issue an Order of Protection, because:

1. This is the county where this case should be handled, since (check one):

- ☒ a. The alleged act of abuse occurred in this county; or,
☐ b. The person who caused the abuse lives in this county; or
☐ c. The person who caused the abuse and I last lived together in this county.

2. The person who caused the abuse lives at _____ (street address) in or near the town or city of Jefferson, which is in Chesterfield County, and the State of South Carolina.

3. The person who was abused was (check one or both, and supply information):

- ☒ a. Bellarie Clyburn, who is the person asking for an Order of Protection; or,
☐ b. _____, who is a child under 18 years old who lives with me.

4. That the abuser and the victim (check one or more):

- ☐ are husband and wife ☐ were formerly husband and wife
☒ have a child/children in common, who is/are: Kiran Stewart
☐ are living together ☐ were formerly living together
☐ are household or family members pursuant to S.C. Code Section 20-4-20(a)(2)

5. The abuse happened at (address/location) Pageland Community Center on 12-28-
2009 at 7 o'clock, pm when Thomas Stewart (Name of person causing abuse) did this:
approached me from behind began grabbing & pulling my arms at the wrist.6. Have there been prior convictions of domestic violence or prior orders of protection? Yes ☐ No ☒ If yes, please state date _____

7. I ask this court to grant the following temporary relief (check as many as apply and supply information)

- ☒ a. issue an order of protection which prohibits and forbids Thomas Stewart from abusing, threatening to abuse, or molesting, or engaging in any other conduct that would place Petitioner in reasonable fear of bodily injury.
- ☒ b. issue an order of protection which restrains and prohibits Thomas Stewart from using, attempting to use, or threatening to use physical force against Petitioner that would reasonably be expected to cause bodily injury.
- ☒ c. issue an order of protection which restrains, prohibits, and forbids Thomas Stewart from communicating or attempting to communicate with Petitioner in any way, and from entering or attempting to enter the home of the victim, place of employment, education, or other location as the Court may order.
- ☐ d. issue an order granting _____ temporary custody of the following minor child(ren).

Name

Date of Birth

Address

CLERK OF COURT C.P. & J.S.
 CHESTERFIELD COUNTY SC
 2009 DEC 29 10 27 AM

A True Copy, Attest
 Clerk of Court
 d. Bellarie

☐ grant reasonable visitation or ☐ deny visitation.

09-745

- ☐ e. issue an order granting Petitioner temporary child support
(Financial Declaration [Form SCCA/430] MUST be completed and attached).
- ☐ f. issue an order granting Petitioner temporary financial support
(Financial Declaration [Form SCCA/430] MUST be completed and attached).
- ☐ g. issue an order granting Petitioner temporary exclusive use and possession of the home and furnishings.
- ☐ h. issue an order which forbids _____ from transferring, selling, destroying, encumbering, or otherwise disposing of real or personal property belonging to Petitioner or jointly owned.
- ☐ i. issue an order which gives Petitioner assistance from law enforcement in that Petitioner will be accompanied:
☐ (1) in removing Personal property from _____ (Street Address)
 in _____ (City) _____ (County), South Carolina.
☐ (2) in placing Petitioner in possession of the home and furnishings at _____
 (Street Address) in _____ (City) _____ (County), South Carolina.
- ☒ j. issue an order reimbursing Petitioner for costs and attorney's fees.
- ☒ k. hold a hearing within 15 days of the date of filing these papers.
- ☐ l. hold an emergency hearing within 24 hours.
- ☐ m. issue an order granting Petitioner the following additional requests: _____

Sworn to and Subscribed before me
 this 29 day of December, 2009

Debbie Curtis
 Notary Public for South Carolina

My Commission expires 1/15/2012

Debbie Curtis
 Signature of Petitioner or
 Person on Behalf of Petitioner under 18 years old

NOTICE TO RESPONDENT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL TO REPRESENT YOU.

CLERK OF COURT
 WESTERFIELD COUNTY, S.C.

2009 DEC 29 PM 10 27

A True Copy, Attest
Debbie Curtis
 CLERK OF COURT C.P. & G.S.
 WESTERFIELD COUNTY, SC

ARREST WARRANT
1-271755
STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
PAGELAND

THE STATE
against

THOMAS JEFFERY STEWART
Address: [REDACTED]
JEFFERSON SC
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5-10 Weight: 170
DL State: SC DL# [REDACTED]
DOB: [REDACTED] Agency OR# SC0130500
Prosecuting Agency: **PAGELAND POLICE DEPARTMENT**
Prosecuting Officer: **ANY LAWFUL OFFICER**
Offense: **TRESPASSING**
Offense Code: 14.511
Code/Ordinance Sec. 00-00-0000

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

[Signature] (L.S.)
Signature of Judge
Date: 12/29/2009

RETURN
A copy of this arrest warrant was delivered to
defendant **THOMAS JEFFERY STEWART**
on

Signature of Constable/Law Enforcement Officer
RETURN WARRANT TO:
PAGELAND MUNICIPAL COURT
310 WEST MCGREGOR STREET
PAGELAND, SC 29720



STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
PAGELAND

AFFIDAVIT

Personally appeared before me the affiant **BELLANIE LOMONICA CLYBURN** who
being duly sworn deposes and says that defendant **THOMAS JEFFERY STEWART**
did within this county and state on **12-27-09** violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **PAGELAND**)
in the following particulars:
DESCRIPTION OF OFFENSE: 09-00-0000 / TRESPASSING

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON 12/29/2009 THOMAS JEFFERY STEWART WAS ON THE PROPERTY OF PAGELAND PLACE APARTMENTS AND DID
KNOCK ON THE DOOR OF BELLANIE LOMONICA CLYBURN KNOWING THAT HE HAD BEEN ADVISED BY LAW ENFORCEMENT
AND BELLANIE CLYBURN NOT TO COME ON THE PROPERTY. THIS INCIDENT DID OCCUR IN THE TOWN OF PAGELAND, SC
IN CHESTERFIELD COUNTY.

Signature of Affiant *Bellanie L. Clyburn*

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
PAGELAND

Affiant's Address [REDACTED]
PAGELAND SC
Affiant's Telephone [REDACTED]

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on **12-27-09** defendant **THOMAS JEFFERY STEWART**
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of **PAGELAND**) as set forth below:

DESCRIPTION OF OFFENSE: TRESPASSING

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on **12/29/2009**
[Signature] (L.S.)
BARBARA LASEBY
Judge Code: 6180

Judge's Address **310 W MCGREGOR ST**
PAGELAND SC 29728
Judge's Telephone **843. 672 5309**
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

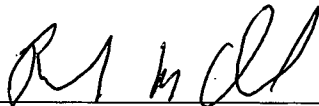
ORIGINAL

Case: 09 12 652

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."

October, 9th 2014

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