

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHN ANDREW FINCH,

APPELLANT

APPELLATE CASE NO 2018-002264

RECORD ON APPEAL

RECEIVED  
DEC 02 2018  
SC Court of Appeals

ROBERT M. DUDEK  
Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

WILLIAM M. BLITCH  
Senior Assistant Deputy Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

**INDEX**

INDEX ..... i

TRANSCRIPT OF GUILTY PLEA HEARING HELD OCTOBER 16, 2018.....1

ORDER DENYING DEFENSE MOTION FOR RECONSIDERATION .....36

INDICTMENTS .....37

CERTIFICATE OF COUNSEL .....39

State of South Carolina ) In the Court of General Sessions  
 ) Fifth Judicial Circuit  
 County of Aiken ) 2017-GS-02-02142

The State of South Carolina, )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 John Andrew Finch, )  
 Defendant. )  
 )  
 )

---

October 16, 2018

Aiken, South Carolina

B e f o r e:

The Honorable Edgar W. Dickson, Judge

A p p e a r a n c e s:

Bradley McMillan, Esquire,  
Attorney for the Plaintiff

David Hayes, Esquire,  
Attorney for the Defendant

Agent Robin Watson  
Probation, Pardon, and Parole

Bonnie H. Kelly, CVR  
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
Direct Examination/The Court	4
Recitation of Facts/Mr. McMillan	9
Mitigation/Mr. Hayes	18
Sentence by the Court	33
Certificate Page	35

E X H I B I T S

-- NO EXHIBITS ENTERED --

1 (On the record at 11:47 a.m.)

2 JOHN FINCH, having been first duly  
3 sworn, testifies as follows:

4 THE COURT: Mr. Hayes, you represent Mr. Finch?

5 MR. HAYES: I do, Your Honor.

6 THE COURT: Okay. And you've had an opportunity to  
7 review with him the evidence from this event that occurred  
8 on April 16, 2017?

9 MR. HAYES: I have, Your Honor.

10 THE COURT: Okay. And you have explained to him the  
11 law that applies in this situation?

12 MR. HAYES: Yes, sir.

13 THE COURT: And I note, let's see, from the original  
14 indictment, he was originally charged with murder. The  
15 State's allowing him to plead to voluntary manslaughter.

16 MR. HAYES: Yes, sir.

17 THE COURT: And you've explained to him the law  
18 regarding both of those charges?

19 MR. HAYES: Yes, sir.

20 THE COURT: And you have also explained to him his  
21 constitutional rights?

22 MR. HAYES: Yes, sir, I have.

23 THE COURT: At some point he indicated to you that he  
24 wished to plead guilty to this charge?

25 MR. HAYES: Yes, sir.

1 THE COURT: And you believe it's in his best interest  
2 to go forward?

3 MR. HAYES: I do.

4 THE COURT: Okay. He's facing a maximum sentence of  
5 not more than 30 years; is that correct?

6 MR. HAYES: Yes, sir.

7 THE COURT: And he is pleading without any  
8 negotiations or recommendations from the State; is that  
9 correct?

10 MR. HAYES: That's correct.

11 THE COURT: Okay. And you believe it's in his best  
12 interest to go forward again?

13 MR. HAYES: Yes, sir.

14 DIRECT EXAMINATION

15 BY THE COURT:

16 Q Okay. All right. Mr. Finch, my sentencing sheet  
17 indicates you're 43 years old; is that correct?

18 A Yes, sir.

19 Q Okay. And Mr. Finch, before you got arrested, what  
20 did you do for a living?

21 A I worked on a horse ranch doing maintenance work.

22 Q You -- you worked on a horse ranch?

23 A Yes, sir. Out on Old Tory Trail.

24 Q I'm sorry?

25 A Out on Old Tory Trail in Aiken.

1 Q Okay. And how long did you -- how long had you been  
2 working there?

3 A Three years.

4 Q Okay. What did you do? You do training or walking  
5 or what do you do?

6 A Oh, no. I was just doing maintenance work. Like,  
7 keeping the grounds up and ---

8 Q Okay.

9 A --- you know.

10 Q Okay. And is that the kind of work you've done most  
11 of your life?

12 A No, sir. I've done construction, factory work.

13 Q Okay.

14 A A little bit of everything.

15 Q All right. And -- now, Mr. Finch, how far did you go  
16 in school?

17 A I went to the ninth grade.

18 Q Okay. What school were you going to when you  
19 stopped?

20 A Lanett High School.

21 Q Where?

22 A Lanett High School in Alabama.

23 Q Okay. Okay. And why did you stop then?

24 A Well, I was 15. My mom, she'd hurt her back and  
25 stuff, and I needed to work, so ---

1 Q Okay.

2 A --- I dropped out of school to work.

3 Q Okay. What kind of work did you start doing at 15?

4 A I started out mainly cut grass, trimming shrubs ---

5 Q Okay.

6 A --- doing stuff around people's houses. Then I got a  
7 job with my uncle doing -- doing plumbing work. I was a  
8 plumber's helper.

9 Q Okay. Have you ever been treated for any mental  
10 health issues?

11 A Yes, sir.

12 Q Do you mind telling me about it?

13 A I mean, where -- where -- where would you like me to  
14 start?

15 Q Well, I mean, you -- you -- do you have -- have -- do  
16 you have a mental condition or anything like that?

17 A They -- I don't know. I -- I've been told I was bi-  
18 polar, I've been told that I was borderline personality  
19 disorder.

20 Q Okay. Has -- have you ever received treatment for  
21 those or medication?

22 A Yes, sir.

23 Q Okay. Are you presently taking any kind of  
24 medication for that?

25 A No. Not at the time, sir.

1 Q Not now? Okay.

2 At the time of this incident, back in April of 2017,  
3 were you taking any kind of medication at that time?

4 A No, sir.

5 Q Okay. All right. Have you ever been treated for any  
6 drug or alcohol abuse or dependancy?

7 A Yes, sir.

8 Q How many -- one time or multiple times?

9 A A few times. Several times.

10 Q Okay. Does it relate to alcohol or drugs or both?

11 A Pretty much just alcohol.

12 Q Okay. All right. Are you taking any prescription  
13 medication now?

14 A No, sir.

15 Q Okay. Are you thinking clearly today?

16 A Yes, sir.

17 Q Do you know why you're here?

18 A Yes, sir.

19 Q Okay. Did you have an -- did Mr. Hayes review the  
20 evidence in this case with you?

21 A Yes, sir.

22 Q Did he explain to you the law that applies in this  
23 situation?

24 A Yes, sir.

25 Q Did he explain your constitutional rights to you?

1 A Yes, sir.

2 Q Did he answer all of your questions?

3 A Yes, sir.

4 Q Did you understand everything he told you?

5 A Yes, sir.

6 Q All right. Are you satisfied with his services as  
7 your attorney?

8 A Yes, sir.

9 Q Do you need anymore time to talk with him?

10 A No, sir.

11 Q Okay. Now, do you want a jury trial on this -- on  
12 this charge?

13 A No, sir.

14 Q Okay. You're pleading guilty to this charge of  
15 voluntary manslaughter that you were recently indicted for  
16 as murder; you understand that?

17 A Yes, sir.

18 Q You understand the maximum sentence on this is up to  
19 30 years in jail.

20 A Yes, sir.

21 Q Okay. Has anybody promised you anything to get you  
22 to plead guilty here today?

23 A No, sir.

24 Q Okay. Has anybody threatened you or forced you in  
25 any way to get you to plead guilty here today?

1 A No, sir.

2 Q Okay. You're doing this freely and voluntarily?

3 A Yes, sir.

4 Q You understand exactly what you're doing?

5 A Yes, sir.

6 Q And you believe it's in your best interest to go  
7 forward with this plea?

8 A Yes, sir.

9 THE COURT: Okay. All right. Mr. McMillan.

10 MR. MCMILLAN: Thank you, Your Honor. On April 16,  
11 2017, at 3:46 in the morning, Aiken County 911 received a  
12 call from Julia Defore. Ms. Defore reported a shooting  
13 incident at 21 Dottie Road in Winds -- Windsor, here in  
14 Aiken County. Deputies and ultimately an investigator  
15 responded out to that scene. When they got there, they  
16 found three people present at the home. Ms. Julia Defore,  
17 who had called 911; Mr. Ricky Sanders, who owned the home;  
18 and Ms. Candy Newman, who at that point had confessed that  
19 she shot Mr. George Dover after he allegedly tried to rape  
20 her.

21 The investigator began documenting the scene, talking  
22 with each of the -- the three separate people, but none of  
23 their stories were matching up.

24 Deputies had previously -- earlier -- earlier that  
25 same evening gone to Mr. Dover's house and knew that he

1 was alive at 11 p.m. They had responded out for a  
2 domestic dispute, and knew that he was alive when they  
3 left.

4 Initially, Mr. Sanders told law enforcement that he'd  
5 left at dusk, was gone about an hour in an effort to pick  
6 up Ms. Defore and some beer, and returned home and found  
7 Mr. Dover dead; and that Ms. Newman had told him she'd  
8 done it in self-defense.

9 Officers tried to speak with Ms. Defore that -- early  
10 that morning, but found her to be too intoxicated to -- to  
11 really give them a coherent statement.

12 Ultimately, that night, Ms. Newman was taken into  
13 custody, and officers left the scene.

14 Around 1:10 the next afternoon, Mr. Sanders and Ms.  
15 Defore called Lieutenant Billy Flurry, with Aiken County  
16 Sheriff's Office, to let him know that they'd like to --  
17 to clarify some of their story. They reported up to the  
18 Sheriff's Office and were interviewed separately, and both  
19 -- they're -- they're actually charged with accessory and  
20 misprison, so I'll call them "co-defendants."

21 Both co-defendant's gave a story which corroborated  
22 the other's. They indicated that -- that Mr. Finch and  
23 Ms. Newman were at home with Mr. Sanders, that Mr. Dover  
24 called and wanted to come over and talk to Mr. Sanders,  
25 and that ultimately he did -- he did come over and Mr.

1 Finch pulled a revolver and shot Mr. Dover.

2 Ultimately, with their consent and after securing a  
3 search warrant, their cell phones were extracted and the  
4 investigation continued. At that point they secured an  
5 arrest warrant for Mr. Finch, went out, took him into  
6 custody. Later that afternoon he was interviewed, which I  
7 believe Your Honor had a chance to -- to listen to prior  
8 to this, and ultimately confessed that he shot Mr. Dover.

9 The cell phone extractions that I referenced were  
10 done of Ms. Defore's phone, on Mr. Sander's phone, and of  
11 Ms. Newman's phone. And from Ms. Defore's phone, she  
12 received a text message that was ultimately determined to  
13 be from Mr. Finch's phone prior to Mr. Dover coming over,  
14 which reads (as read): "I might go to jail tonight. Got  
15 a .410 cocked and loaded, and George is on the way."

16 Shortly after that, Mr. Sander's phone extraction  
17 would reveal that they called Mr. Dover, and that he at  
18 that point came over, and -- and was shortly thereafter,  
19 dead.

20 Your Honor, the victim's surviving daughter, Ms. Amy  
21 Marchant, has flown down from Massachusetts to be here for  
22 the pleas of all the defendants today. She does wish to  
23 address the Court at the appropriate time.

24 With regard to Mr. Finch's prior record, he has 2004  
25 burglary second, non-violent; public disorderly conduct in

1 2004; open container in 2004; possession with intent to  
2 distribute, first offense, in 2012; 2014 public disorderly  
3 conduct all out of the State of South Carolina. Out of  
4 the State of Tennessee, 2001, theft; out of the State of  
5 Georgia a 1995 DUI; and out of the State of Alabama, a  
6 1995, minor consuming alcohol.

7 Ultimately, after talking with law enforcement, Your  
8 Honor, and the victim, the State made this offer of  
9 voluntary manslaughter because of some potential  
10 discrepancies between witness statements and the potential  
11 difficulty in prosecuting this case considering some of  
12 the key witnesses, one of which actually confessed to the  
13 crime first.

14 I think the evidence and the facts as laid out are  
15 egregious. Ultimately, at trial, all of the witnesses  
16 would testify that there was no verbal altercation, that  
17 when Mr. Dover approached the fire pit where these people  
18 were standing, that Mr. Finch pulled out a gun and shot  
19 him.

20 As I said, Your Honor, at the appropriate time, I  
21 think Ms. Marchant wants to address the Court.

22 THE COURT: And -- and -- and I do want her to -- to  
23 address before you talk to me, Mr. Hayes.

24 First of all, let me -- just one question I had. You  
25 said there was an -- the officers had responded to the

1 same -- to the same house earlier?

2 MR. MCMILLAN: No, Your Honor. They responded to Mr.  
3 Dover's residence which was at [REDACTED]

4 THE COURT: Okay.

5 MR. MCMILLAN: I believe there's a house in between  
6 the two.

7 THE COURT: Okay.

8 MR. MCMILLAN: It's on the same street.

9 THE COURT: To the victim's house.

10 MR. MCMILLAN: Yes, sir.

11 THE COURT: For a domestic abuse call ---

12 MR. MCMILLAN: A domestic dispute between he and his  
13 -- his live-in girlfriend.

14 THE COURT: Okay.

15 MR. MCMILLAN: Your Honor, I'm -- guess I'm reluctant  
16 to leave out -- or I -- I left out they responded to that  
17 earlier in the evening and found Mr. Dover, his live-in  
18 girlfriend, Wendy Bryan, and a witness, Ms. Dorothy Brown;  
19 and ultimately, they took Ms. Bryan into custody and took  
20 her to jail.

21 THE COURT: Okay.

22 MR. MCMILLAN: Later, during the investigation,  
23 officers did meet with Ms. Dorothy Brown, who indicated to  
24 them that the last thing Mr. Dover said to her before  
25 going to Mr. Sanders house was that he needed to talk to

1 Mr. Sanders about Mr. Finch and Ms. Newman taking  
2 advantage of him, that they were taking his truck and  
3 riding around all over town, spending money on his credit  
4 and debit cards.

5 THE COURT: Okay. All right. All right. Anything  
6 else from the State?

7 MR. MCMILLAN: Just if you want to hear from the  
8 victim, Your Honor.

9 THE COURT: Well, I'm -- well, yeah. I guess -- I'll  
10 go ahead and hear from her now. This is Ms. Marchant?

11 MR. MCMILLAN: Ms. Amy Marchant, Your Honor.

12 THE COURT: Oh, Merchant?

13 MR. MCMILLAN: It's M-a-r-c-h-a-n-t, though.

14 THE COURT: Okay. Okay. Hey, Ms. Marchant.

15 MS. MARCHANT: My name is Amy Marchant ---

16 THE COURT: Yes, ma'am.

17 MS. MARCHANT: --- M-a-r-c-h-a-n-t.

18 THE COURT: Yes, ma'am. What would you like to tell  
19 me, please, ma'am? And take -- take your time. If you  
20 need to take a deep breath or take a -- you know, a  
21 Kleenex or anything.

22 MS. MARCHANT: Thank you.

23 THE COURT: Okay.

24 MS. MARCHANT: I just hope that justice is served for  
25 my father. The relationship between a father and daughter

1 is very inseparable and a very strong relationship.

2 THE COURT: Yes, ma'am.

3 MS. MARCHANT: I have two very young children that  
4 are going to miss going fishing with Papa down at the pond  
5 and listening to my son play saxophone and my daughter and  
6 him playing the guitar.

7 My dad's done a lot of work in this town on a lot of  
8 different structures.

9 THE COURT: Yes, ma'am.

10 MS. MARCHANT: He was a very helpful person.

11 After he passed, I was in town for the funeral, and I  
12 was just overwhelmed with people that reached out to me  
13 and told me how many times he'd just stop on the side of  
14 the road to help people, and pretty much do anything for  
15 anybody.

16 THE COURT: Yes, ma'am.

17 MS. MARCHANT: That's what I think I'm going to miss  
18 about him the most that he's not here anymore. This was  
19 such a senseless act. I just hope justice is served.

20 THE COURT: Okay.

21 MS. MARCHANT: Thank you so much.

22 THE COURT: All right. Thank you, ma'am. And I'm  
23 very sorry you had to make this trip. Okay?

24 MS. MARCHANT: Thank you.

25 THE COURT: Thank you, ma'am.

1 All right. Mr. Finch. You heard what the Solicitor  
2 told me about the circumstances that led to this charge?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And to -- all right, sir. How do you  
5 plead to this charge of voluntary manslaughter?

6 THE DEFENDANT: Can I talk with my lawyer again?

7 THE COURT: Sure.

8 (Mr. Hayes and the defendant confer.)

9 THE COURT: If you -- Mr. Hayes, if -- do you need  
10 some more time to talk with him?

11 (Mr. Hayes and the defendant confer.)

12 THE COURT: You -- you're ready to go forward, Mr.  
13 Finch?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And -- and Mr. Finch, you -- you need to  
16 be certain that that's what you want to do. If you want  
17 to -- if you need some more time to talk to Mr. Hayes,  
18 I'll let you stand down and talk to him.

19 THE DEFENDANT: I need a few minutes.

20 MR. HAYES: Can we have a few minutes?

21 THE COURT: Sure.

22 (Off the record at 12:04 p.m.)

23 (On the record at 12:16 p.m.)

24 THE CLERK: Mr. Finch, you're still under oath, okay?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Mr. Finch, we've taken a  
2 break. I've let you talk to your attorney.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now -- and I want to make sure you're  
5 ready to go forward with the plea.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. All right. And Mr. Finch, the  
10 indictment that I have -- or that this plea is based on  
11 was a true-billed indictment for murder. The State's  
12 allowing you to plead to voluntary manslaughter as a -- as  
13 a result of this incident; do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How do you plead to this charge of  
16 voluntary manslaughter?

17 THE DEFENDANT: Guilty.

18 THE COURT: Mr. Finch, you understand if I accept  
19 your guilty plea to this charge, it will be a conviction  
20 on your record.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You understand you're facing up to 30  
23 years in jail on this plea.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you want me to accept your guilty

1 plea?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Finch, I find your decision to plead  
4 guilty is freely, voluntarily, intelligently made. I find  
5 you've had the advice and counsel of a competent lawyer.  
6 I find you're satisfied with the services of your lawyer.  
7 I find there's a factual basis on which to base your  
8 guilty plea, and I am going to accept it.

9 Mr. Finch, I failed to mention that this is a violent  
10 and a most serious offense, counts as a strike, and you  
11 have gone over this -- have you gone over and discussed  
12 the strikes with your attorney?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand if you're ever  
17 convicted of another most -- violent and most serious  
18 offense, you would face the possibility of life without  
19 the possibility of parole.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. All right. All right. Mr. Hayes.

22 MR. HAYES: May it please the Court. Judge, I also  
23 covered with him that it being 85 percent, that he would  
24 have to do whatever is ordered by you at -- at least 85  
25 percent, and then he would be eligible to be released

1 under a community supervision program, and we discussed  
2 how that works as well.

3 Judge, I'd like to ask the Court to mark as a Court  
4 Exhibit the CD that I asked you listen to.

5 THE COURT: And -- and just for the record, I do want  
6 to -- I will mark this as -- as an exhibit. You want this  
7 as Court's Exhibit?

8 MR. HAYES: Yes, sir.

9 THE COURT: Okay.

10 MR. HAYES: Just if there was ever any question ---

11 THE COURT: Right.

12 MR. HAYES: --- in the future, that it'd be a record.

13 THE COURT: We'll make this Court's 1.

14 (Marked Court's Exhibit No. 1, CD.)

15 THE COURT: And Mr. Finch, I did listen to that,  
16 which would have been the statement you made to police  
17 after you were Mirandized. I guess it would've been the  
18 day after the event?

19 MR. HAYES: Yes, sir.

20 THE COURT: Okay.

21 MR. HAYES: It was within probably 6/12 hours of the  
22 event.

23 THE COURT: Okay. All right. Mr. Hayes.

24 MR. HAYES: Judge, as I indicated to you, he's been a  
25 laborer most of his life. He's worked odd jobs working

1 farms.

2 Ms. Barbara Kitchens is here in court today. He  
3 lived with her for a short period of time and did work,  
4 and when I talked to her, she said, "I worked him." And I  
5 believe what she said is what she meant. I think she put  
6 him to hard labor and put him to -- to good use around her  
7 house and around the property.

8 He stayed with her for a period of weeks, and then  
9 she took him to Faith Homes to try to help him get help  
10 for the alcoholism. And he spent a couple weeks there and  
11 then ended up leaving; and then ended up going to Turning  
12 Point and tells me that he spent about two weeks at  
13 Turning Point; and then from Turning Point, he told me he  
14 went to what is called a -- what he believed to be a half-  
15 way house of sorts, but he doesn't know the name of it.  
16 Stayed there about a year, and it was ran by a Pastor  
17 Wilson. Telling me that of -- of recent, that is his most  
18 long-running time of sobriety.

19 And as you can tell from his record, and I believe  
20 your discussions with him earlier in the -- the plea here,  
21 that he's had a long history of alcoholism and drug abuse,  
22 mostly alcohol.

23 The -- started at nine yearsold at drinking beer, and  
24 he tells me that he ended up getting closer into hard  
25 whiskey and drinking harder and probably being considered

1 an alcoholic at the time of age 15. At age 13 is when he  
2 started with marijuana and pills at 15 and even crack  
3 cocaine, but the drugs were pretty much he could take it  
4 or leave it. His thing was the drinking, and if he had  
5 some money, he was drinking.

6 He has no children of his own.

7 Judge, I -- I -- we've had long discussions and very  
8 many discussions about trying this case. I believe there  
9 is a legitimate argument for self-defense, and I'm going  
10 to give you what those are in a minute, and -- but we have  
11 discussed and we understand that we are giving that up as  
12 a defense in a plea here today.

13 We had to stop, as you saw earlier, I believe when he  
14 heard the victim's daughter talking, had a -- he had an  
15 emotional meltdown is the best way to put it, and it upset  
16 him.

17 I don't believe that he is of the kind of person that  
18 committed a cold-blooded, senseless act and has no emotion  
19 after. He, as you heard, and the reasons I had you listen  
20 to the CD is that I wanted you to have a frame of  
21 reference as to what his emotional state was within hours  
22 after the incident.

23 In doing this and preparing for trial, Judge, going  
24 through it, listening to everything, looking at all the  
25 statement -- I believe Ricky Sanders has given at least --

1 no less than four different statements.

2 As you heard, the first statement was a complete  
3 fabrication where they took Mr. Finch home, dropped him  
4 off and picked up his sister, and then told the -- the  
5 police a complete fabrication that Candy shot Mr. Dover.

6 From my understanding, in talking with Mr. Finch, he  
7 had no part in that. I believe, at the time, that when  
8 this was schemed up, he was too drunk to even be able to  
9 come up with or consent to this.

10 In listening to Mr. Sanders interview the next day,  
11 when he came in and said that we had lied and fabricated  
12 this, there is a few things in there, and I believe -- I  
13 believe, that this is probably the closest story that we  
14 have gotten from the truth from him. And the reason I say  
15 that is is his story has changed and molded over time.

16 The story that you heard on that CD is the story that  
17 I would present at trial, and that is the story that he  
18 has maintained and told me from day one.

19 Mr. Sanders indicated to the officers that Mr. Finch  
20 was going to kill himself, that he had never done anything  
21 like that and that's not what he wanted and that it had  
22 upset him. He had also indicated at that time that he was  
23 afraid of the victim, and that he had take a fire poker  
24 with him out by the burn barrel because he was afraid he  
25 was going to start something, that Mr. Dover had a

1 propensity to fight and be a little bit angry.

2 Mr. Finch, at this time, had never actually met Mr.  
3 Dover, and the only things he had ever been told was what  
4 Candy and Mr. Sanders had told him about it, in that he  
5 was violent and that he had attacked them before and been  
6 abusive and that there was some bad blood and that he had  
7 said some things about Mr. Finch and was going to attack  
8 him.

9 Later, Ricky then recants that story and says that  
10 there was no kind of fighting, there was no kind of bad  
11 blood and everybody was hugging and -- and rainbows,  
12 which I believe was more self-serving as to preparing for  
13 trial.

14 And then, in jail, while he was incarcerated, he told  
15 a Mr. Julio Vargez which I've had transported once to  
16 testify if we were to go to trial and I -- I had a order  
17 to bring him this week if we needed him -- that it was a  
18 drunk fight between Mr. Finch and Mr. Dover. And I  
19 believe the -- the photographs and everybody's account  
20 everybody was drinking. There was a lot of alcohol there  
21 and there was drugs there.

22 Judge, when you -- when Mr. Sanders was talking about  
23 it in the second interview, it very, very, closely  
24 mimicked what Mr. Finch has in his interview: That Mr.  
25 Dover came at him to shake his hand, and at one point, I

1 believe, Mr. Finch shook his hand, but then started to  
2 pull back; and then they -- he believed he came at him and  
3 he pulled the pistol out of his back. He has always  
4 maintained from day one that Mr. Sanders put the gun in  
5 his back going out the door to meet Mr. Dover at -- out by  
6 the burn pile.

7           Whether the gun was cocked or not is something that  
8 we have discussed and the trigger pull, but I believe that  
9 that's not really as relevant as that he believed he was  
10 coming at him. And we've discussed having that self-  
11 defense argument for trial and he understands, but I just  
12 -- I wanted to give you that piece of information 'cause  
13 that is our story.

14           It is a little bit different than what the State had  
15 put up. The State did mention to you some text messages,  
16 and I do believe that if we were going to trial, that is  
17 our biggest hurdle as perception with the jury.

18           He had been drinking all day that day as well as  
19 Candy. They were preparing for Easter. This was the --  
20 the night before Easter. And they had taken Mr. Sanders's  
21 truck, with his permission; and they had taken Mr.  
22 Sanders's credit car, with his permission; and they had  
23 done the grocery shopping. They did ride around Aiken,  
24 and even in Mr. Sanders's interviews, when he's questioned  
25 about that, he was aware of it.

1           They had purchased the items and they had came back  
2 and they had started cooking the dinner and I believe it  
3 was still in the oven when the police arrived.

4           So that the -- the -- the reason that Mr. Dover was  
5 coming over, or at least believed by his -- his daughter,  
6 was already known to Mr. Sanders 'cause it -- it was done  
7 with permission. It wasn't a issue of forgery and  
8 temporary use of a vehicle. This -- this -- they were  
9 running the errands.

10           And at times, Candy was living there and Mr. Finch  
11 was off and on living there and Mr. Sanders had given him  
12 a trailer and they were trying to get it up and running  
13 and back together and livable and at times was -- he would  
14 spend the night and stay there.

15           We also looked at stand your ground; however, at this  
16 point, I don't believe that he was a resident and my  
17 understanding, the way I'm reading it, I don't believe it  
18 applies to guest on guest is the way I'm reading the --  
19 the case law and the statute. So we've had discussions  
20 about that.

21           Judge, as to entering this plea, I believe it is a  
22 great resolution. The biggest concerns that we have had,  
23 and what I've talked about with Mr. Finch, is that if we  
24 were going forward on murder, he might as well go to trial  
25 and it would be a death sentence at the age of 43 to enter

1 a plea to murder and he had nothing to do but gain.

2 He is 43 years of age, he's not in the best of  
3 health; and as you have talked to him about his mental  
4 health and physical health, we had sent off many subpoenas  
5 and medical releases, and I've got medical releases and  
6 medical records from Alabama to Tennessee. He -- and he -  
7 - he has had issues in the past. He does have some  
8 physical issues now I believe that are a result of his  
9 heavy drinking with his liver.

10 He has been incarcerated in the Aiken County Jail for  
11 the last 549 days.

12 Judge, he has asked me to ask Your Honor to consider  
13 something between the 10 to 15 year range. I believe, at  
14 85 percent, that would put him at significantly older and  
15 -- and give him an opportunity to one day be released and  
16 be free.

17 I know the State is probably asking for much more and  
18 I do not envy the position that we are putting you in, but  
19 that's -- and Judge, when you're ready, at the appropriate  
20 time, Ms. Kitchens wanted to be able to tell you about Mr.  
21 Finch.

22 THE COURT: Okay. Be glad to hear from her now.

23 MR. HAYES: Ms. Kitchens:

24 And his uncle, Your Honor, is also here, and -- the  
25 older gentleman with the ponytail in the front.

1 THE COURT: Okay.

2 MR. HAYES: I think that Mr. Finch's concern is that  
3 most of his friends and family are getting up in age, and  
4 he is scared he's gonna lose the majority of them before  
5 he has served his time.

6 THE COURT: You're Ms. Kitchens?

7 MS. KITCHENS: Yes, sir, I am.

8 THE COURT: Okay. Ms. Kitchens, what's your --  
9 what's your first name?

10 MS. KITCHENS: Barbara.

11 THE COURT: Barbara. Okay. What would you like to  
12 tell me?

13 MS. KITCHENS: I've known John for 10 years, going on  
14 11. He'd come over and he'd cut my grass and he'd work in  
15 my yard. John's a good boy. I call him "boy" because I'm  
16 an old woman.

17 THE COURT: Yes, ma'am.

18 MS. KITCHENS: He's never lied to me, he's like a son  
19 to me, and I love him. I've tried to help him with his  
20 alcohol. I had him clean for six weeks. He stayed with  
21 me, and I got him to a rehab in Greenville, South  
22 Carolina, to try to get him help.

23 And I told him, I said, "Son, I love you. And I  
24 don't ever want to see you back in Windsor because Windsor  
25 ain't nothin' but a bunch of drug heads and drunks." I

1 said, "You don't need to come back to Windsor."

2 But he did, and it wasn't long and he was back to  
3 drinking again. He showed up at my door, and I said,  
4 "What did I tell you? Don't come back to Windsor." And  
5 he was drunk and he said, "But I brought you a plate of  
6 food." That's my son.

7 THE COURT: Yes, ma'am.

8 MS. KITCHENS: And I love him. And I ask you can you  
9 please have mercy on him because he's a good boy. He's an  
10 alcoholic, but he's a good boy. He don't lie. He can't  
11 lie. He couldn't lie if he had to, and the lies that's  
12 been told on him is not true.

13 I know John. John don't lie. He don't know how to  
14 lie. When he'd do something wrong, he'd look at me and  
15 I'd say, "John, you did it." And he'd say, "Yes, ma'am,  
16 I did." So he can't lie.

17 I know that he's a good boy, and I know he's in a bad  
18 situation.

19 THE COURT: Yes, ma'am.

20 MS. KITCHENS: And I feel for the family that lost  
21 their loved one. I do. And I pray for her every night,  
22 "God, help her."

23 But John wouldn't have done nothing like that unless  
24 he felt like his life was threatened. I know him too  
25 well.

1 THE COURT: Yes, ma'am.

2 MS. KITCHENS: Thank you.

3 THE COURT: Yes, ma'am. Thank you, Ms. Kitchens. I  
4 appreciate you coming.

5 Anybody else, Mr. Hayes?

6 MR. HAYES: No, sir.

7 THE COURT: Okay.

8 MR. HAYES: I did think of a few more things.

9 THE COURT: Okay.

10 MR. HAYES: I think I got side-tracked when I was  
11 talking about the text messages.

12 THE COURT: Go ahead.

13 MR. HAYES: He did -- he sent those messages, and  
14 when I was talking to him about them because of what he  
15 had been told about George Dover and that he was coming  
16 over, he was telling his sister that he wasn't gonna take  
17 it, he wasn't gonna get beaten, and that he would protect  
18 himself. And he was hoping that with the comments that he  
19 had made that she would come get him.

20 .However, as you have heard earlier, she was so  
21 intoxicated she couldn't even hardly talk when the police  
22 showed up. And I believe she was already intoxicated when  
23 Mr. Sanders went and picked he up and they dropped him at  
24 the -- the camper.

25 One of our biggest concerns was the perception of --

1 'cause once it's said it can't be undone in front of the  
2 jury, and that is one of the reasons that we -- we decided  
3 that this was one of the best ways to go forward.

4 When I asked him about them, the text messages,  
5 though, he -- he was straightforward and honest. I do  
6 believe what he has told me is as close to the truth that  
7 I'm gonna probably be told or we're gonna be told. And  
8 Judge, I believe that the CD that you listened to prior is  
9 a good indicator of his personality.

10 As you saw earlier, he broke down when he heard from  
11 the victim's child. He's tore up about it, and he's been  
12 tore up about it for the last almost two years.

13 THE COURT: All right. Anything else, Mr. Hayes?

14 MR. HAYES: No, sir.

15 THE COURT: Thank you. Mr. McMillan, something you  
16 want to say -- tell me?

17 MR. MCMILLAN: Your Honor, the only other things I  
18 would offer is he does, in fact, tell Ms. Defore that he  
19 may go to jail and he has a gun cocked.

20 THE COURT: Uh-huh.

21 MR. MCMILLAN: She responds (as read): "Huh. No."  
22 and he says, quote, "Yep. Not fucking around."

23 She offers to come get him, she offers to get  
24 somebody else to come get him. He still leaves the house  
25 with the gun, and he still ultimately shoots that man.

1 THE COURT: Okay.

2 MR. MCMILLAN: Your Honor, we believe a substantial  
3 sentence is appropriate. We are -- in addition to  
4 allowing his plea to this lesser offense, we are  
5 dismissing two gun-related offenses for the crime. That's  
6 all we have.

7 THE COURT: Okay. All right.

8 MR. MCMILLAN: Probation has also indicated that they  
9 have a matter that they need to take up as well.

10 THE COURT: All right. Involving Mr. Finch?

11 AGENT WATSON: Yes, sir.

12 THE COURT: Okay. Tell -- what you want to tell me  
13 about him?

14 AGENT WATSON: He's currently under supervision for  
15 possession with intent to distribute morphine, first  
16 offense. This case is actually being supervised in  
17 Greenville County.

18 THE COURT: Uh-huh.

19 MS. WATSON: And he was sentenced by Judge Cooper on  
20 April 18, 2012, to 6 months, upon the service of 90 days,  
21 to 18 months probation, with the conditions of substance  
22 abuse counseling and random drug and alcohol testing. And  
23 we would just ask for this case to terminate.

24 THE COURT: Okay. Well, I -- I -- I will terminate  
25 the ---

1 MR. HAYES: Judge ---

2 THE COURT: --- probation.

3 MR. HAYES: --- he's asking to address Your Honor.

4 THE COURT: Oh, I'm sorry. I'm sorry, Mr. Finch.  
5 They asked me to terminate probation, and -- and I just  
6 jumped ahead and terminated it without you saying  
7 anything, but I'll be glad to hear from you.

8 THE DEFENDANT: Your Honor, I'd just like to say in  
9 reference to what he said about I said I wasn't fucking  
10 around, I just meant that I wasn't messing around about  
11 the gun and having the gun. I didn't mean nothing else by  
12 that.

13 And when -- when we was out in the yard, the guy came  
14 at me, and he looked like he was reaching behind him.  
15 Actually, arm was moving backwards. He was coming at me  
16 pretty quick. I didn't -- I thought he had something. I  
17 thought he had a gun.

18 Ricky had told me he'd fired a gun off in his kitchen  
19 and showed me a bullet hole in the ceiling and said he  
20 fired it off right next to Ricky's head.

21 Everything I heard about the guy, I thought -- I  
22 thought -- I thought he was about to shoot me or try to  
23 stab me or something. I didn't know. I just panicked. I  
24 grabbed the gun and I don't even really remember pulling  
25 the trigger. I never really even aimed it. It just -- I

1 certainly never meant to shoot him in the head.

2 THE COURT: You know -- I mean, and when I listen to  
3 your -- to the CD, you indicated over and over how you did  
4 not -- that was not your intent. So ...

5 THE DEFENDANT: I just wanted -- just wanted to say  
6 it. I also wanted to say I was sorry for the daughter  
7 because I know how it feels to lose somebody. You know,  
8 I've lost my mom and my dad, and -- and I know. I  
9 understand how she feels, and I'd just like to tell her  
10 that I am sorry that this happened.

11 THE COURT: Okay. All right. I'm sure she  
12 appreciates it.

13 THE DEFENDANT: Thank you.

14 THE COURT: Anything else?

15 THE DEFENDANT: No, sir.

16 THE COURT: Okay. All right. I -- I'm -- I still go  
17 along with terminating the probation, okay?

18 MS. WATSON: Thank you, Your Honor.

19 (Brief pause.)

20 THE COURT: All right. Mr. Finch, the sentence of  
21 this Court is that you're committed to the State  
22 Department of Corrections for a period of 25 years. I'm  
23 going to give you credit for the time you served. Thank  
24 you, sir.

25 MR. MCMILLAN: Thank you, Your Honor.

1

THE COURT: Thank you.

2

-- END OF TRANSCRIPT OF RECORD --

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

**CERTIFICATE**

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Second Circuit Court for Aiken County, South Carolina, on the 16th day of October, 2018.

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

E/BONNIE H. KELLY

Bonnie H. Kelly, CVR  
Official Court Reporter

Columbia, South Carolina

March 20, 2019

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 )  
 )  
 vs. )  
 )  
 JOHN ANDREW FINCH, )  
 )  
 Defendant, )  
 )  
 )

IN THE COURT OF GENERAL SESSIONS  
 SECOND JUDICIAL CIRCUIT

Indictment Number: 2017-GS-02-02142

**RECEIVED**

DEC 27 2018

SC Court of Appeals

**ORDER DENYING DEFENSE MOTION  
 FOR RECONSIDERATION**

This matter came before the Court on October 19, 2018. Present at this hearing were the State, represented by Assistant Solicitor M. Bradley McMillian, and the Defendant, represented by David Hayes.

By way of background, Defendant pled guilty to Voluntary Manslaughter on October 16, 2018. The State was represented by Assistant Solicitor M. Bradley McMillian, and the Defendant was represented by David Hayes. The Defendant was sentenced to twenty-five (25) years in the South Carolina Department of Corrections.

It is therefore ordered that Surety's Motion for Reconsideration is DENIED.

IT IS SO ORDERED this 19<sup>th</sup> day of December, 2018 at Orangeburg, South Carolina.



The Honorable Edgar W. Dickson  
 Circuit Court Judge

STATE OF SOUTH CAROLINA  
 COUNTY OF AIKEN  
 I, Robert J. Harte, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 19 day of Dec., 2018  
Robert J. Harte  
 C.C.P. & G.S., Aiken County, S.C.  
 Deputy Clerk

FILED Dec. 18 2018  
Robert J. Harte  
 C.C.P. & G.S. LSFU  
John Francis Hayes  
 Deputy Clerk

WITNESSES

Aiken County Sheriff

Larry L Cleveland

Law Enforcement Case #: 17-021793

MBM

ARREST WARRANT NUMBER

FILED

Nov. 9 2017

NOVEMBER TERM 2017

2017A0210200685

*Robert L. White*  
CCCF. & G.S. LSPH  
*Debra Thomas-Hines*  
Deputy Clerk

THE STATE

vs.

JOHN ANDREW FINCH

ACTION OF GRAND JURY

*True bill*

*Kevin B. Oglesby*

Foreperson of Grand Jury

Date: November 9, 2017

CDR #: 0116

Indictment for

VERDICT

MURDER

§ 16-03-0010; 16-03-0020

Foreperson of Petit Jury

Date:

J. STROM THURMOND, SOLICITOR

RECEIVED

DEC 27 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

INDICTMENT FOR  
( MURDER

§ 16-03-0010; 16-03-0020

At a Court of General Sessions, convened on November 13, 2017, the Grand Jurors of Aiken County present upon their oath:

That JOHN ANDREW FINCH did in Aiken County on or about April 16, 2017, feloniously, willfully and with malice aforethought, murder George Dover by means of shooting him in the head and that the victim did die in Aiken County, at [REDACTED], Aiken, South Carolina as a proximate result thereof on April 16, 2017. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

RECEIVED  
DEC 27 2018  
SC Court of Appeals

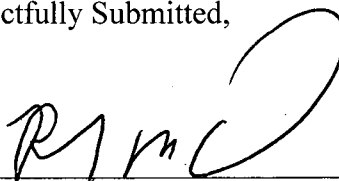
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*Elizabeth B. Young*  
J. STROM THURMOND, SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



---

Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 2nd day of December, 2019.

**RECEIVED**

DEC 02 2019

SC Court of Appeals