

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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DEC 09 2019
SC 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

SUPPLEMENTAL RECORD ON APPEAL

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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-- NO EXHIBITS ENTERED --

1 (On the record at 11:28 a.m.)

2 (The defendant, John Andrew Finch, is sworn.)

3 MR. MCMILLAN: Your Honor, before you is John Andrew
4 Finch. He pled guilty earlier this week on indictment No.
5 17-GS-02-02142 an indictment for murder. He pled guilty
6 to the lesser included offense of voluntary manslaughter
7 on Tuesday.

8 This is Defense motion for reconsideration.

9 THE COURT: All right. And Mr. Hayes, yes, sir.

10 MR. HAYES: Yes, sir. Judge, for the record, Mr.
11 Finch, after the plea, asked me about doing a motion to
12 withdraw the plea.

13 THE COURT: Uh-huh.

14 MR. HAYES: I do not believe that there is a legal
15 basis and it would be a frivolous motion; however, we did
16 discuss a motion to reconsider.

17 That there -- and I believe that there were some
18 things that I did fail to leave out when we were ---

19 THE COURT: Okay.

20 MR. HAYES: --- when we were before you before. So I
21 believe that one does have merit.

22 THE COURT: Okay.

23 MR. HAYES: Judge, in going back to the -- the
24 colloquy that at the time, when this happened, when Mr.
25 Finch and Ms. Newman returned back to the house --

1 THE COURT: Uh-huh.

2 MR. HAYES: -- Ricky was inebriated and at that time,
3 was being -- "unpleasant" is the best way that I could put
4 it. And Mr. Finch, at that time, told him that if it --
5 it he was going to be unpleasant toward him, that he just
6 wanted him to take him home.

7 And he was trying to avoid confrontation even earlier
8 that night with Ricky, and when he found out that Mr.
9 Dover was coming over, that he did not want to be there.
10 Ricky refused and said that he would take him home after
11 George Dover had left.

12 THE COURT: Uh-huh.

13 MR. HAYES: During my representation, Mr. Finch also
14 early in -- early in the case, probably about eight
15 months/nine months ago or more --

16 THE COURT: Uh-huh.

17 MR. HAYES: -- asked to have a lie detector test
18 done, a polygraph, through the Solicitor's Office, and
19 also asked to have the Solicitor come meet with him, which
20 I asked Mr. McMillan at that time the -- the policy, is my
21 understanding -- what I've been told and in the last
22 couple of years that I've asked several times, that once
23 Sheriff's Department has issued the warrants, they will no
24 longer do a polygraph for somebody that's been charged
25 with a crime.

1 And I believe at that time there was -- there was no
2 information that Mr. Finch was -- or the Solicitor
3 believed that there was no information that at that time
4 he believed would have been necessary for him to gather
5 from Mr. Finch, and he declined to have the meeting.

6 Judge, all three of the other co-defendants, as you
7 know, were cooperating with the State.

8 THE COURT: Uh-huh.

9 MR. HAYES: And I believe that the decision to enter
10 the plea was a good decision.

11 Mr. Finch is asking Your Honor to reconsider the 25
12 in any kind of downward departure, and he would be
13 grateful.

14 THE COURT: Okay. All right. And Mr. McMillan,
15 anything on behalf of the State?

16 MR. MCMILLAN: Your Honor, I -- I'm not aware of any
17 indication where he tried to leave earlier in the evening,
18 and I -- I think text messages that -- that we shared with
19 Your Honor at -- at the plea speak for themselves.

20 He informed Mr. Fulmer, who's not present, he had a
21 gun and he was waiting on this guy to get there.

22 We certainly don't think the sentence should be
23 reduced at all.

24 THE COURT: Okay.

25 MR. HAYES: Judge, may I respond to that?

1 THE COURT: Oh, yeah. Go ahead.

2 MR. HAYES: Just -- just to clarify, the gun that he
3 referred to was a .410 shotgun --

4 THE COURT: Uh-huh.

5 MR. HAYES: -- which was mentioned in their
6 interviews.

7 THE COURT: Right.

8 MR. HAYES: The .410 was then put back up in the gun
9 cabinet, and they -- they interviews that were done said
10 that Ms. Newman ended up having the .38 special revolver;
11 and at some point, the revolver was given to Mr. Finch,
12 which was the weapon that was used in the --

13 THE COURT: What he was killed --

14 MR. HAYES: -- killing, yes, sir.

15 THE COURT: All right.

16 MR. HAYES: Not the same weapon as referred to in the
17 text message.

18 THE COURT: Right.

19 (Briefly off the record.)

20 MR. HAYES: Judge, he also wanted me to correct in
21 the record that, when I was in my colloquy, I said that --
22 that he believed or thought that Mr. Dover's coming at
23 him.

24 And he's telling me that I -- I misspoke, that he
25 knew he was coming at him and that he was going to attack

1 him, and he said something along the lines he was going to
2 "whoop his tail."

3 (Briefly off the record.)

4 MR. HAYES: He said he was going to "'f' him up,"
5 what he's telling me.

6 THE COURT: Okay. All right. All right. What I
7 will do is I -- I will -- I'll reconsider this and I'll
8 get back to y'all with my decision.

9 MR. HAYES: Thank you, Your Honor.

10 THE COURT: Okay.

11 MR. MCMILLAN: Thank you, Your Honor.

12 (Off the record at 11:36 a.m.)

13 -- END OF TRANSCRIPT OF RECORD --

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CERTIFICATE

1
2 I, the undersigned Bonnie H. Kelly, Official Court
3 Reporter for the Fifth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the hearing
7 of the captioned cause, relative to appeal, in the First
8 Circuit Court for Aiken County, South Carolina, on the
9 19th day of October, 2018.

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

12
13
14 E/Bonnie H. Kelly

15 Bonnie H. Kelly, CVR
16 Official Court Reporter

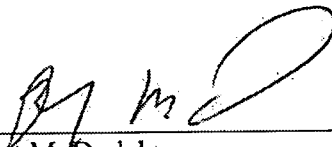
17
18 Columbia, South Carolina

19 December 3, 2019

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Supplemental 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
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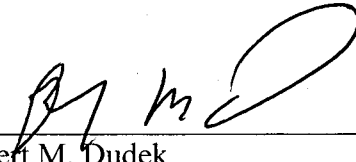
ATTORNEY FOR APPELLANT

This 9th day of December, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Supplemental 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,



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ATTORNEY FOR APPELLANT

This 9th day of December, 2019.

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CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 9th day of December, 2019.



Tyler Cheney
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of December, 2019.

Mary Allgood (L.S.)
Notary Public for South Carolina
My Commission Expires May 12, 2027.