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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County
The Honorable R. Ferrell Cothran, Circuit Court Judge

The State, Respondent,
vs.

James Lee Ginther, Appellant.

Appellate Case No. 2019-000672

**RETURN IN OPPOSITION TO MOTION
FOR ORDER TO REMAND FOR A HEARING TO ATTEMPT TO RECONSTRUCT
THE RECORD AS TO THE MISSING WITNESS TESTIMONY IN ORDER TO
ALLOW MEANINGFUL APPELLATE REVIEW**

A Sumter County jury convicted Appellant of murder and kidnapping after his trial held April 8-12, 2019. The Honorable R. Ferrell Cothran sentenced Appellant to life imprisonment. The captioned matter is the direct appeal from that conviction.

On May 12, 2020, Appellant moved for an order to remand to attempt to reconstruct certain portions of the trial transcript that are unavailable due to an equipment malfunction. In support of the request, Appellant asserts the missing segments may affect consideration of a possible direct appeal “challenge to statements Appellant made to Investigator Stewart and Agent Kristina Gainey prior to being *mirandized*.” (emphasis in original). (Motion, p. 2). Appellant has failed to show remand and reconstruction is warranted for purposes of the direct appeal based on that particular allegation. In support of its position, Respondent would respectfully show the Court:

1. Appellant refers the Court to trial transcript pp. 29-45. (Motion, p. 2). That is the pre-trial hearing on voluntariness of the responses made during a recorded interview. Attached, and incorporated by reference, is that portion of the transcript. (Attachment 1, Tr. pp. 29-45). No testimony was taken at the hearing. Nothing was presented or relied upon by either party except the recording. The judge's ruling on admissibility was based on his review of the entirety of the recording. (Attachment 1, Tr. p. 43-45; see also pp. 36-38). The judge ruled the recording was admissible finding Applicant was not in custody at the time the responses were made. (Attachment 1, Tr. p. 45). The trial judge noted the recording shows the interview was in Appellant's home, and Appellant stayed in the home after the interview concluded. (Attachment 1, Tr. p. 45). Both the trial judge's reasoning and his ruling are reflected in the available transcript.

2. Subsequently, the nearly two hour recording, marked as State's Exhibit 61, was introduced at trial during Investigator Stewart's testimony. (See Attachment 2, Tr. pp. 304-305 and p. 322). The record reflects that the recording was played for the jury. (Attachment 2, Tr. p. 322). Thereafter, testimony continued on events after the interview. (Attachment 2, Tr. p. 322). The cross-examination is partially available, and includes questions on the interview. (See Attachment 3, pp. 341-343). Defense counsel underscored that the investigator was "invited" into the home, was not made to feel "uncomfortable," that no aggression was noted, and that the investigator stated that Appellant was not a suspect, but a "person of interest" at the time of the interview. (See Attachment 3, Tr. pp. 341-43).

3. Defense counsel did not request a charge for the jury to consider the voluntariness of statements made during the interview; and the trial judge did not charge the jury on a

determination of the voluntariness of statements made during the interview. (See Attachment 4, Tr. pp. 612-614 and 666-678).

4. Consequently, Appellant has not shown his offered reason to reconstruct the limited omitted portions supports that remand (and delay) is warranted in light of the available transcript, testimony, arguments and exhibits, and whatever preserved issues could be available for presentation in the direct appeal. *See Lewis v. State*, 123 S.W.3d 891, 893 (Ark. 2003) (acknowledging “there exists a preference for a complete record” but finding the available record “sufficient” where “sole point on appeal would have been procedurally barred”); *see also State v. Ladson*, 373 S.C. 320, 324, 644 S.E.2d 271, 273 (Ct. App. 2007) (“Most jurisdictions require an appellant to demonstrate specific prejudice flowing from an incomplete or reconstructed record.”). Appellant offers no other reason for the request.

WHEREFORE, based on the foregoing, Respondent submits Appellant has failed to show a remand is warranted on the basis upon which the remand is requested. The motion should be denied.

Respectfully submitted,

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May 22, 2020
Columbia, South Carolina.

The State v. Ginther
Appellate Case No. 2019-000672

RETURN IN OPPOSITION TO MOTION FOR ORDER OF REMAND
(RECONSTRUCTION HEARING REQUESTED)

ATTACHMENT 1
(Trial Transcript pp. 29-45 – Pre-trial *Jackson v. Denno*)

1 THE COURT: From the Defense?

2 MR. BRIDGES: None from the Defense, Your Honor.

3 THE COURT: Okay. Ladies and gentlemen, who were not
4 selected to serve on this case I'm going to ask you to go
5 to Courtroom A which is down the hall. Judge Curtis is
6 there and she will select another jury for another trial.
7 Thank you.

8 (WHEREUPON, the jury pool was excused from courtroom
9 at 12:03 p.m.)

10 THE COURT: I'm going to give you instructions later.
11 Go to the jury room and let me talk to them about the
12 schedule and I'll bring you back out and decide when we're
13 going to lunch. Okay.

14 (WHEREUPON, the jury panel was excused from the
15 courtroom at 12:04 p.m.)

16 COLLOQUY

17 THE COURT: Tell me a little bit about the
18 scheduling, now. Do y'all have any motions?

19 MR. BRIDGES: Yes, Your Honor. There will be two --
20 there are two separate incidents where law enforcement
21 questioned Mr. Ginther. Those are the subject of two
22 Jackson v. Denno hearings. And then maybe a motion about
23 the scope of the expert's report, the ballistics report,
24 and then everything else would be a standard motions to
25 sequester the witnesses.

1 THE COURT: Okay. I have been provided a copy of the
2 statement that law enforcement took of your client. So I
3 have listened. It's about two hours. I have listened to
4 that entire statement. And so as far as that's concerned
5 that won't take that long, I'm assuming. But, you know,
6 I've already done that. So the other statement, how long
7 is that.

8 MR. BRIDGES: It's very short. It's body cam footage
9 of the officers then they -- when Mr. Ginther's car got in
10 a car accident, and they arrived on scene. It's their
11 body cam footage, and it's about, probably -- one is 15
12 minutes and one is 5 minutes. So it's very brief.

13 THE COURT: Is there -- every part of the interaction
14 that he had where statements are involved are they all on
15 body camera?

16 MR. BRIDGES: That I don't know. That first
17 officer -- I was provided with two different body cameras.
18 One from Officer Bishop, one from Officer Franklyn. I
19 don't know if that first officer had body camera or not.
20 Those interactions that are documented they do ask my
21 client questions. He responds. I think there is a
22 question about ---

23 THE COURT: Is that all on body camera? What I'm
24 trying to find out is whether I can listen to the body
25 camera tapes and glean everything I need to know or do I

1 need live testimony?

2 MR. BRIDGES: I think all those interactions are on
3 body camera. And once they determined he had a warrant
4 out of South Carolina they say explicitly that they're not
5 going to ask him any more questions, so.

6 THE COURT: I can technically listen to that without
7 live testimony?

8 MR. BRIDGES: Yes. And if you feel, when the day
9 comes that they testify, that you want to rehear from them
10 I'm fine. But I'm fine to giving it without because I
11 understand.

12 THE COURT: Okay. So is there going to be any live
13 testimony on the first day? That was conducted by Sumter
14 County that I heard?

15 MR. FINNEY: That would be up to the Court. We are
16 prepared to put up Investigator Stewart.

17 THE COURT: But is there anything that is not on the
18 tape? If he testifies, assuming I let it in and he
19 testified in trial, is there any other statement that
20 allegedly the defendant made not on that tape that would
21 have been an issue in this case? So everything is on that
22 tape?

23 MR. FINNEY: Yes, sir.

24 THE COURT: Is the only objection that you have on
25 the tape a Jackson v. Denno issue.

1 MR. BRIDGES: No, Your Honor. There is material that
2 would be improper, I believe, improper character evidence
3 to relevant statements. Statements about Family Court
4 proceedings. Statements about other proceedings that
5 would be outside the scope of this trial. When we have
6 the hearing I can give you a breakdown of what I would be
7 concerned with. If you would like me to do that now I
8 can.

9 THE COURT: No. I'm -- this is something with the
10 jury. I'm trying to decide whether we're going to take
11 testimony this afternoon or do opening statements simply
12 because, you know, we can be through with those hearings
13 in 30 minutes, sounds like.

14 MR. BRIDGES: I just don't know. If they play the
15 video in its entirety I certainly have an objection to
16 certain subject matter on that video.

17 THE COURT: I mean I heard the video. We don't have
18 to play it again this afternoon. All you have to do is
19 tell me what parts you object to and I can rule on that.
20 I'm just trying to get a timeframe.

21 MR. BRIDGES: Yeah, I know. If that's the only
22 interaction was what the documented, I don't know if we
23 need to cross-examination Investigator Stewart again.

24 THE COURT: Okay. So if I send them to lunch now and
25 came back at 1:30 -- well, we need some time. If I

1 brought them back at 2:30 and we came back at 1:30
2 couldn't we start at 2:30? Don't you think we can hear
3 this in an hour?

4 MR. BRIDGES: I guess that's ---

5 THE COURT: The only reason -- if I'm not going to
6 hear any testimony other than I can listen to Kentucky,
7 the tape, if I'm not going to hear two hours of testimony
8 and all we're going to do is argument what's admissible
9 and what's not admissible we ought to be able to do that
10 in an hour. Don't you all agree? There is no need for
11 live testimony is what I'm trying to get to.

12 MR. FINNEY: I do not know of any need for live
13 testimony.

14 THE COURT: Okay. You know of any?

15 MR. BRIDGES: No. My only concern would be if they
16 intend on playing the tape today. I mean I certainly want
17 to have my objections on the record before ---

18 THE COURT: Oh, I'm going to let you object to the
19 tape.

20 MR. BRIDGES: Yeah.

21 THE COURT: Anything before they play the tape?

22 MR. BRIDGES: Yeah.

23 THE COURT: What I'm trying to see is how long the
24 motion hearing would last.

25 MR. BRIDGES: Since you've already seen the entirety

1 of that tape I should be relatively small. I will just
2 highlight the Jackson v. Denno concerns and then my other
3 concerning subject matter on the tape.

4 THE COURT: Sure. And I can rule -- and the problem
5 is if I rule in your favor on parts of the tape and it's
6 redacted do y'all have the ability to redact it and get
7 it -- are you planning on playing it today?

8 MR. FINNEY: No, sir, not today.

9 THE COURT: Okay.

10 MR. BRIDGES: And we might be able to resolve that by
11 skipping that portion of the video. I understand that
12 there are technical implications, but if there is a way to
13 skip past the parts I have objections to.

14 THE COURT: Okay. I'll give you a chance to do that.
15 So I'm going to bring the jury in. I will not swear them.
16 I will send them to lunch and bring them back at 2:30.

17 MR. FINNEY: Yes, sir.

18 THE COURT: And that ought to give us a chance to
19 resolve all this.

20 MR. FINNEY: Yes, sir.

21 THE COURT: And then we can at least do opening
22 statements and get as far as we can.

23 MR. FINNEY: Yes, sir.

24 THE COURT: Okay. Bring the jury in.

25 (WHEREUPON, the jury panel enters the courtroom at

1 12:13 p.m.)

2 THE COURT: Okay, ladies and gentlemen, I am going to
3 send you to lunch before we actual start this case. I've
4 got some legal matters that I've got to deal with and it
5 doesn't make any sense for you to be sitting back there in
6 the jury room. So I'm going to send you to lunch. I will
7 deal with all the legal matters and ask you to be back at
8 2:30.

9 So, now, I need everyone of you to be back. When you
10 come back you go straight to the jury room. If you have
11 an emergency over lunch you need to call the Clerk's
12 Office or call the Sheriff's Office or somebody and let
13 them know that you had an emergency cause if I don't hear
14 from you I can't get started until all 14 of you show up.

15 So if I'm missing one or two I'm going to send the
16 deputies to try to find you. If you have an emergency
17 call us. If you don't I expect you back at 2:30.

18 Don't discuss this case. Don't allow anybody to
19 discuss this case with you. Don't Google anybody. Don't
20 do any research. Everything you know about this case I
21 need you to learn in the courtroom. All right. Thank you
22 so much. If you go back there they will show you where to
23 return, and they are going to give you some parking
24 instructions. When you come back you will know where to
25 park. Okay.

1 (WHEREUPON, the jury panel was excused from the
2 courtroom at 12:14 p.m.)

3 THE COURT: Okay.

4 MR. BRIDGES: Your Honor, may I have my voir dire
5 motion back. I'd like to make it a Court's Exhibit.

6 THE COURT: Sure.

7 (WHEREUPON, Court's Exhibit No. 1 was marked for
8 identification and received into evidence.)

9 THE COURT: Okay. Tell me about your motions.

10 MR. BRIDGES: Yes, sir. I -- it is two Jackson v.
11 Denno motions. First pertains to the interview with
12 Investigator Stewart at Mr. Ginther's house on
13 November 18th. That's the video you viewed. From the
14 video there was a lengthy -- there was almost two hours of
15 questions until Investigator Stewart decides to Mirandize
16 James. I believe it's at the hour, 53 minute mark in that
17 video.

18 The time like -- the entire the before that there
19 were no -- there were no Miranda warnings issued. It's
20 not really made clear if James is free to go or not. But
21 certainly it becomes a custodial, I would argue in Mr.
22 Stewart's mind, because he issued Miranda warnings at that
23 point.

24 And as you can tell from seeing the video at first
25 it's kind of unclear the nature of these questions. Some

1 of these he asking concern about his welfare, about the
2 children's welfare, about other parts that are not
3 directly related to the investigation. But then there is
4 a point where he separates the sol and Mr. Ginther and
5 that continues for a while before he is Mirandized.

6 So I would just say that because Miranda was not
7 issued until the very end all of those other parts, I
8 think, would require Miranda warning because he,
9 Investigator Stewart, clearly is treating it as a
10 custodial interrogation because he decided to initiate
11 Miranda warning towards the end of that interview.

12 THE COURT: Okay.

13 MR. BRIDGES: And that goes to Jackson v. Denno issue
14 of it in that, you know, there shouldn't be -- he was not
15 advised of his rights during the first hour and 50 minutes
16 of that interview. And, again, was, but I do not know if
17 he could have intelligently waived his rights if he was
18 not made aware of them.

19 THE COURT: Okay.

20 MR. BRIDGES: And when it comes to the -- we don't
21 have the computer set up, but we have a body cam video,
22 illegal body cam ---

23 THE COURT: Wait a minute. Let me deal with this.
24 So your objection is that you think it was an in custodial
25 interrogation? It was in his den, right? And if he

1 was -- my understanding of the facts that I saw the
2 officer came in and questioned him. He did separate him
3 from I don't know if it was his girlfriend or his wife at
4 one point. And he did read him his rights about an hour
5 and 53 minutes into it.

6 But after the officer left he was not in custody.
7 You agree he did not arrest him that day cause nothing I
8 saw he was arrested. The officer and the S.L.E.D. agent
9 left. I mean he was still there; is that correct.

10 MR. BRIDGES: That is correct, but I would just say
11 the circumstances because Investigator Stewart himself
12 brought it upon himself to advise him of his Miranda
13 rights. The timing of that should have been at the
14 beginning of the conversation. Not much, much later.

15 THE COURT: Okay. Is there any other, outside of the
16 reading of Miranda rights at the time he read them, do you
17 have anything else?

18 MR. BRIDGES: Is this just about Jackson v. Denno?

19 THE COURT: Yeah, I know. That he coerced him or
20 duress or I mean any other circumstances? You know, I had
21 the advantage of it all being on camera versus audio or
22 even written. So do you have anything else that might
23 suggest you think he was under duress or when he gave any
24 of the statements?

25 MR. BRIDGES: There are some. At 1:47 in the video

1 Stewart says, "I'm worried about the state you are in. I
2 wouldn't want you to hurt yourself because of your grief
3 state."

4 THE COURT: Right.

5 MR. BRIDGES: He expresses concern throughout the
6 time that he's extremely upset and agitated. Mr. Ginther
7 is extremely upset and agitated and that perhaps he needs
8 to seek counseling or something to that effect. So it
9 does indicate that Investigator Stewart is concerned with
10 his mental state.

11 Now, again, it would be totality of the circumstances
12 based on the video, but I would say that Investigator
13 Stewart does reference that multiple times throughout the
14 interview.

15 THE COURT: All right. Anything else?

16 MR. BRIDGES: In terms of Jackson v. Denno, for that
17 video, no, Your Honor.

18 THE COURT: Okay. You want to respond to that,
19 Solicitor?

20 MR. FINNEY: Please the Court, Your Honor. I'd like
21 to give the Court a calendar. It just -- you're going to
22 need this as we go through the trial. This is November
23 2017. It's just a breakdown because we have several days
24 of events.

25 Just by way of background, Your Honor, just for the

1 purpose of this hearing, on Thursday, the 16th of
2 November, the victim's normal routine was to leave her
3 residence in the Cherryvale section of Sumter County at
4 about 4:00 a.m. an drive alone to Columbia, South Carolina
5 where she was the opening manager of the Pet Smart Food
6 Store for dogs and cats.

7 She did not arrive at work at five o'clock to open
8 the door. Her coworkers were waiting for her, and it lead
9 to them being very concerned about her safety. As a
10 result of that the investigation began. And also on the
11 16th by 7:00 a.m. her car, her minivan, her Chrysler
12 Minivan, had been located in her subdivision in Cherryvale
13 about an hour from her house.

14 THE COURT: And that was on the 16th.

15 MR. FINNEY: Yes, sir.

16 THE COURT: Okay.

17 MR. FINNEY: Calls were made to law enforcement. Law
18 enforcement tried to contact Mr. Ginther because the
19 vehicle was registered to him. They reached his fiance in
20 Columbia, and as a result of all that about two hours
21 later the victim's boyfriend, Mr. Billy Parker, filed a
22 missing person's report on the 16th.

23 Fast forward to the evening of the 16th, the victim's
24 body was found buried in the Manchester Forest Area of
25 Sumter County in a shallow grave by a hunter. That hunter

1 called law enforcement right away. So by five o'clock,
2 six o'clock on the evening of the 16th they had located
3 their missing person and located her van.

4 As a result of further investigation and, of course,
5 the autopsy and other things, Investigator Stewart found
6 himself in Columbia on his way back from the autopsy on
7 Saturday, the 18th. And after lunch in Columbia with the
8 S.L.E.D. agent he and the S.L.E.D. agent decided that they
9 were a very short distance away from Mr. Ginther's house,
10 since he was the owner of the car and ex-husband of the
11 victim, they went by to meet him, talk to him and discover
12 what they could. And that's how they happen to be at Mr.
13 Ginther's house on Saturday. And that's the video that
14 you saw pretrial.

15 We don't think that there is anything coercive or
16 anything that would lead the Court to feel that he was in
17 custodial interrogation. He certainly was being asked for
18 information in terms of background so that a suspect could
19 be developed. And as you have seen from the long
20 interview Mr. -- Investigator Stewart was very concerned
21 about the man cause he knew he just lost a family member.
22 And he tried to be as delicate as possible. Tried to be
23 as sensitive as possible.

24 When the details were turning towards sensitive stuff
25 Mr. Stewart got the S.L.E.D. agent to take the fiance out

1 to the porch where they could talk, and they just talked
2 to Mr. Ginther one on one so to speak.

3 At some point during this interview right aro8und the
4 time that the rights were read we believe Mr. Stewart,
5 Investigator, was responding to the fact that the
6 Defendant was found to have a loaded pistol on his person
7 throughout the whole interview which as you know you just
8 said an hour and 53 minutes that they had talked in the
9 living room without him mentioning that or even becoming
10 aware of that fact by the investigator.

11 At that point they thought that they might want to
12 change to focus and get the gun away from him and they
13 also felt that that might be, in learning of what kind of
14 gun it was, and that it was the same caliber gun that they
15 had found at the autopsy regarding her death that they
16 ought to ask some more point questions and they gave the
17 rights at that time.

18 THE COURT: Okay.

19 MR. FINNEY: At no time did he take any property. If
20 you will remember on several occasions he asked the
21 inter -- the person he was interrogating to please help
22 him clear him of any involvement in terms of D.N.A,
23 ballistics and cell phone records. He wanted to be able
24 to show -- because that he already knew, the investigator
25 already knew, that the last person, one of the last people

1 on her cell phone that the victim talked to, was Mr. James
2 Ginther on Wednesday night, the 15th?

3 THE COURT: Okay. And?

4 MR. FINNEY: The State's position would be that this
5 was an investigatory investigation in terms of trying to
6 find background information and not custodial
7 interrogation and Miranda does not attach.

8 THE COURT: Okay. You want to respond to that in any
9 way?

10 MR. BRIDGES: Just that the timing of the warnings
11 came -- that is initiated by Investigator Stewart, and I
12 think that's important, cause it shows that James probably
13 wasn't aware of what type of situation he was in. And
14 after an hour and 52 minutes that was initiated by
15 Investigator Stewart we think that you could say that
16 James was not aware that what he was saying could
17 potentially be used against him because he was not advised
18 of his Miranda rights.

19 And the firearm, it was secured. It wasn't taken or
20 anything like that. I don't think -- they asked him a
21 question about whether or not he was armed until maybe
22 that far in the conversation.

23 THE COURT: My recollection of the conversation on
24 the tape was that he wanted to look at his cell phone
25 which was upstairs. And then he was going to go upstairs

1 to get the cell phone, and he simply asked him for their
2 own protection whether there were any guns upstairs. And
3 at that point he voluntarily said he was armed and that he
4 had the gun down in front of his pants that was concealed
5 and Office Stewart put on black gloves to handle the gun
6 at that time to secure the situation to make sure nobody
7 was sitting there with a loaded gun.

8 At that point he read him his rights, and many times
9 in a police interview when the interview gets to the point
10 that the police realize that this person has confessed or
11 has committed a crime and they are not going to let them
12 leave; they understand at that point they are going to
13 arrest him then they will read him his rights.

14 At this point he was overly cautious and gave him his
15 rights, but he was not against the law for him to have a
16 gun within his own home. The police officer acknowledged
17 that he had done nothing in the police officer's presence
18 to cause the police officer to take him into custody.

19 Matter of fact in this whole interview, my entire
20 time which in 40 something years I guess being in criminal
21 court and being on this bench, I've ever heard an
22 interview any better from a police officer as far as
23 protecting a defendant's rights. He did an excellent job
24 in that interview in assuring his rights were taken care
25 of and the way he asked the questions and the way he dealt

1 with him he showed concern for his well being. And I
2 found on duress, no coercion, nothing from this police
3 officer that would put any person, this defendant or
4 anybody else under the impression that they were under
5 arrest for any crime at that time of the interview.

6 I think that under Jackson v. Denno it was not a
7 custodial interrogation. At no time did he take him into
8 custody and at no time do I feel a normal person would
9 believe they were in custody. He clearly discussed
10 sensitive information with him and issues as far as this
11 crime is concerned.

12 So as far as Jackson v. Denno, I deny your motion. I
13 think it was a non-in custodial interrogation; that he
14 read him his rights because the gun was presented but he
15 did not arrest him. And I'll put him under -- matter of
16 fact he let him -- they went upstairs to get the phone.
17 He unloaded the gun. He went to the gun. He put it back
18 in the closet. He left the gun with your client as well
19 as the two other guns that were there.

20 So as far as Jackson v. Denno is concerned I find no
21 violations and that it was free and voluntarily given.
22 Okay.

23 MR. BRIDGES: Now, Your Honor, would you like me to
24 discuss the objection on material I have on that same
25 tape?

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RETURN IN OPPOSITION TO MOTION FOR ORDER OF REMAND
(RECONSTRUCTION HEARING REQUESTED)

ATTACHMENT 2
**(Trial Transcript pp. 304-305 ; and p. 322 – State’s Exhibit 62, video, offered,
and defense counsel renewed pre-trial *Jackson v. Denno* objection)**

1 witness is called, we are going to ask to play a CD of an
2 interview between James Ginther and Lieutenant --
3 Investigator Randall Stewart, and that disk has been
4 marked as State's Exhibit 62, and we propose to enter it
5 into evidence at this point. It's been seen by the Court
6 and the Defense.

7 THE COURT: Okay. And my understanding and based on
8 our conversations in chambers and during our early session
9 there are certain portions of it you disagree with and
10 object to. And you have agreed to redact those portions
11 by mutual consent.

12 And since we don't a redacted version we will play
13 those portions agreed on and those that are not will be
14 stopped and fast forwarded. I will explain to the jury
15 what's happening. And if in fact the jury wants to hear
16 it again we'll have to bring them back to the courtroom.

17 And you will have a copy of those redactions. I can
18 give it to the court reporter for any appellate review so
19 they will understand what was not played; that is correct?

20 MR. BRIDGES: Thank you, Your Honor. Just for the
21 record I made an initial Jackson v. Denno objection, so I
22 renew that.

23 THE COURT: I understand.

24 MR. BRIDGES: And, yes, we have compiled a list of
25 parts of the video to skip.

1 THE COURT: Okay. Thank you. Are y'all ready?

2 MR. FINNEY: Yes, sir, we're ready. .

3 THE COURT: Okay. What we'll have to do is bring the
4 jury in here. Call Investigator Stewart. Have to swear
5 him in. He will take the stand and then proceed with the
6 video. However y'all want to do it.

7 MR. FINNEY: Thank you, sir.

8 THE COURT: All right. If you will, please, bring me
9 the jury, sir.

10 (WHEREUPON, the jury panel enters the courtroom at
11 3:34 p.m.)

12 THE COURT: Thank you, sir. Solicitor.

13 MR. FINNEY: Please the Court, Your Honor. We call
14 Randall Stewart to the stand.

15 THE COURT: Come around, sir.

16 BAILIFF: State your name.

17 THE WITNESS: Randall Stewart.

18 RANDALL STEWART, after being duly sworn,
19 testified as follows:

20 BAILIFF: Thank you. Step around. Watch your step.
21 State your name for the record spelling your last.

22 THE WITNESS: Randall Keith Stewart. S-T-E-W-A-R-T.

23 DIRECT EXAMINATION

24 BY MR. FINNEY:

25 Q. Good afternoon, Investigator?

1 Q. All right. Did you have an opportunity to speak with
2 him Saturday afternoon?

3 A. I did. I spent about two hours with him.

4 Q. All right. And is all that recorded?

5 A. Yes, sir.

6 MR. FINNEY: At this time I would ask the Court to
7 allow Investigator Stewart to play the recording?

8 MR. BRIDGES: Okay. Subject to my pretrial
9 objection, Your Honor.

10 THE COURT: All right. Objection is noted. Ladies
11 and gentlemen, he's going to play a recording from the
12 body camera. I have reviewed this body cam and portions
13 of it are not relevant to this case. So we have redacted
14 certain portions of it.

15 So what's going to happen as you're going to watch
16 this tape. So at some point they're going to stop it,
17 fast forward through those portions that are not relevant
18 to this case and when the we restart. That's why it may
19 not be played the whole way. Okay.

20 (WHEREUPON, State's Exhibit 61 was played for the
21 jury.)

22 BY MR. FINNEY:

23 Q. Investigator Stewart, after the interview was over
24 and you left Mr. Ginther's house did you receive a phone
25 call from Mr. and Ms. Ginther?

The State v. Ginther
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RETURN IN OPPOSITION TO MOTION FOR ORDER OF REMAND
(RECONSTRUCTION HEARING REQUESTED)

ATTACHMENT 3
(Trial Transcript pp. 341-343 – Portion of Stewart
cross-examination re: interview)

1 A. At that particular time, based on the location of the
2 van, the stolen vehicle, but he had an open warrant and he
3 fled. And a few days before I spoke with the magistrate
4 judge, and he agreed that a search warrant on the his
5 residence would be probable cause. And we went ahead and
6 conducted the search.

7 Q. And you also spoke with some neighbors and people in
8 the area?

9 A. Myself and my lieutenant spoke to various neighbors,
10 yes, sir.

11 Q. And later in the day, what did you do later that day
12 up to the point that you met with James and Rachael at
13 their house?

14 A. Well, the Friday morning was the exhuming of the body
15 of the victim. And Friday evening was the search warrant.

16 Q. And then how did you -- was it because you were in
17 contact with Agent Gainey in Columbia?

18 A. Well, I had to go to Newberry for the autopsy. I
19 Took Investigator Hilliard with me. We returned to Agent
20 Gainey to discuss S.L.E.D's knowledge and our knowledge
21 and compared notes related to Mr. Ginther.

22 Q. You did not have an arrest warrant?

23 A. No, sir. I was seeking information.

24 Q. And then him and his fiance invited into his home?

25 A. Yes, sir.

1 Q. Did they ever make you feel uncomfortable or that you
2 weren't welcomed?

3 A. When I realized he was emotional I asked to secure
4 his weapon.

5 Q. We saw the whole video. At any point did he ever
6 indicate that he was going to use his firearm or make any
7 kind of aggressive gestures towards you at all?

8 A. No, sir.

9 Q. Did he have a permit?

10 A. Yes. He had a valid concealed weapon. One from
11 Virginia and one from South Carolina.

12 Q. Was he within his right to be carrying a gun in his
13 own house?

14 A. Right.

15 Q. Well, when you initially got there what did you tell
16 them the purpose of your visit was?

17 A. I told him that the initial investigator needed
18 information on the victim; that he was the one who knew
19 her the most. Most spit mat longest relationship more
20 about his sight life it's call victim object.

21 Q. You did got invited into the living room, and I
22 believe his Miranda rights?

23 A. Yes, sir. During the interview certain questions
24 provided some information based on my prior knowledge base
25 of his answers. And when I felt the interview was going

1 into asking accusatory I provided a copy of the rights.

2 Q. So it was not your intention to ask accusatory
3 questions?

4 A. No, it is not.

5 Q. So he was not a suspect at that point?

6 A. In a case like this I would have effected a suspect
7 until I find the appropriate information, but he was a key
8 person of interest that I needed to speak to.

9 Q. Very interesting point. Mr. Stewart, you recall in
10 the video mentioning that there is a marker?

11 A. Correct.

12 Q. You actually did talk to him at a later date?

13 A. I did.

14 Q. Do you recall stating that you knew about the case on
15 Thursday?

16 A. I was referring to the death of the victim.

17 Q. But so you did know that James was a suspect on
18 Thursday?

19 A. I didn't know on Thursday.

20 (WHEREUPON, equipment malfunction. Remainder of
21 testimony not included in this record.)

22

23 RANDALL HILLIARD, after being duly sworn,
24 testified as follows:

25

The State v. Ginther
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RETURN IN OPPOSITION TO MOTION FOR ORDER OF REMAND
(RECONSTRUCTION HEARING REQUESTED)

ATTACHMENT
(Trial Transcript pp. 612-614 and 666-678 - Jury Instructions
Conference and Jury Charge)

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COLLOQUY

THE COURT: All right, now. As far as the charge is concerned I'm going to do, you know, my standard; they're the finders of the facts, I'm the judge of the law, the presumption of innocence, the indictment is not evidence, the defendant's failure to testify, reasonable doubt, expert witness, circumstantial and direct evidence, criminal intent, murder and kidnapping, and anything else which y'all think needs to be charged.

MR. BRIDGES: I actually request failure to testify or decision not to testify?

THE COURT: Yeah, and I am going to instruct the jury that the fact that the defendant did not testify they cannot consider that in any way and can't be discussed in the jury room since he didn't testify.

MR. BRIDGES: Yeah, sometimes that verbiage is not clear, and I just would not want that.

THE COURT: Me neither. The actual instructions that I'm instructing them says the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations. And I go on, he has a constitutional right to remain silent, and the fact that he exercised that right cannot be considered against him. Can't even be discussed in the jury room.

MR. BRIDGES: I apologize, Your Honor. Thank you,

1 Your Honor.

2 THE COURT: All right.

3 MR. FINNEY: Your Honor, evidence of flight should be
4 charged to the jury.

5 MR. BRIDGES: I believe that's something he can
6 argue. I don't think that's a legal charge anymore.

7 THE COURT: I'll think about that. I mean I don't
8 have a charge on that that been presented through the
9 Court Administration Supreme Court. And I have never
10 charged that. Have you got a case that says it's an
11 appropriate charge I consider that.

12 MR. BRIDGES: There is State v. Grant that references
13 that it's improper for the trial judge to instruct the
14 jury on the law of flight.

15 THE COURT: And that's -- okay. And I never charged
16 it. If you make an argument I'll be happy to charge it.

17 MR. BRIDGES: It is certainly within the scope of his
18 argument, certainly. But as a jury charge, I think the
19 case law supports that.

20 THE COURT: Okay. I won't charge that.

21 MR. FINNEY: I respectfully accept your decision. I
22 just want to be on the record that I requested that.

23 THE COURT: Now, if you've got some case that
24 overrides Grant I'll be to consider that. But at this
25 point I don't think it's appropriate. Anything else?

1 MR. FINNEY: Nothing further.

2 MR. BRIDGES: Nothing from the defendant.

3 THE COURT: Okay. Let me go -- y'all want to see the
4 verdict form or want to wait until after the charge? I
5 mean my law clerk got caught by a train or something.
6 He's back there printing it.

7 MR. FINNEY: I don't need to see it right now.

8 THE COURT: Okay.

9 MR. BRIDGES: Yeah, we can ---

10 THE COURT: It's going to be simple verdict form.
11 It's going to be Count One, murder, guilty or not guilty.
12 County Two, kidnapping, guilty or not guilty. It's pretty
13 simple, straight forward. You know, verdict forms are
14 complicated, but this is going to be pretty simple. Okay.
15 All right. Are y'all ready for the jury?

16 MR. FINNEY: Yes, sir.

17 MR. BRIDGES: Yes, Your Honor. I want to remove this
18 map.

19 THE COURT: Okay. Well, get everything right, and
20 you want me -- I guess I need to speak with that one juror
21 before I bring the panel in here.

22 CLERK OF COURT: You want me to bring her to you,
23 Judge, or you want to go back there?

24 THE COURT: No. We've got to bring her out here.

25 CLERK OF COURT: Ms. Hannibal.

1 and he should pay for it.

2 THE COURT: Ladies and gentlemen, y'all need a break?
3 We'll take about a 10 or 15 minute break. Don't discuss
4 the case. I'll get y'all back out very soon.

5 (WHEREUPON, the jury panel was excused from the
6 courtroom at 11:17 a.m.)

7 THE COURT: All right. We'll be in recess for ten.
8 minutes.

9 (WHEREUPON, Court was in recess at 11:18 a.m. and
10 reconvened at 11:36 a.m.)

11 THE COURT: Everybody ready?

12 MR. FINNEY: Yes, sir.

13 MR. BRIDGES: Yes, sir.

14 THE COURT: Y'all want to look at the verdict form
15 real quick? All right. If the jury is ready you can
16 bring them in. If they need more time that's fine, but if
17 they're ready to go we are.

18 (WHEREUPON, the jury panel enters the courtroom at
19 11:37 a.m.)

20 CHARGE OF THE COURT

21 THE COURT: Thank you, sir. Ladies and gentlemen of
22 the jury, now that you have heard all of the evidence in
23 this case as well as the arguments of the attorneys I'm
24 going to charge you the law that you are to apply in this
25 case. Under our constitution and code of laws only a jury

1 can make a finding of facts in a case, so if I am not
2 permitted to have an opinion about the facts. So if I
3 said anything or done anything in this case that indicate
4 to you that I might have an opinion about the facts you
5 are disregard that cause you and only you are the ones to
6 determine the facts in this case.

7 And that's same constitution, same code of laws that
8 makes me the -- makes you the exclusive judge of the facts
9 make me the exclusive judge of the law. So if you have an
10 opinion of what you think the law is or what you think the
11 law should be and it differs from what I now tell you the
12 law is under your oath you are to disregard your opinion
13 and apply the law exactly as I give it to you.

14 If fact that the defendant was arrested, charged and
15 indicted in this case is not evidence in this case. And
16 cannot be considered by you as evidence of guilt in this
17 case nor does it create any presumption or inference of
18 guilt. Indictment is simply a formal legal document that
19 contains the charges against the defendant and serves as
20 the formal document to process this case through the court
21 system.

22 Now, the defendant has entered a plea to this
23 indictment to not guilty, and that burden casts upon the
24 State the burden of proving this defendant guilty beyond a
25 reasonable doubt. A person charged with committing an

1 offense in South Carolina is never required to prove
2 himself or herself innocent. And I instruct you and
3 emphasize to you the fact that the defendant did not
4 testify in this case is not a factor that can be
5 considered by you in any way in your deliberations. In
6 your deliberation of considering the guilt or innocence of
7 this defendant.

8 It must not be considered in my manner whatsoever. A
9 defendant has a constitutional right to remain silent, and
10 the assertion of that right cannot be considered in your
11 deliberations. And under your oath you are to draw no
12 conclusions whatsoever from the fact the defendant did not
13 testify in this case. That cannot even be discussed in
14 your deliberations, the fact that he didn't testify,
15 because he has the constitutional right and the State has
16 the burden of proof of him beyond a reasonable doubt.

17 And it's important an rule of law in this country
18 that a defendant in a criminal trial is always to be
19 presumed innocent of the crime for which he or she is
20 indicted unless and until his guilt has been proven by
21 evidence that satisfies you of that guilt beyond a
22 reasonable doubt.

23 A presumption of innocence is not a mere legal
24 theory. It's not just a legal phrase. It is a
25 substantial constitutional right which every defendant is

1 entitled. The presumption of innocence accompanies a
2 defendant from the time he is charged throughout the trial
3 until you reach a verdict of guilt based on evidence that
4 satisfies you of that guilt beyond a reasonable doubt.

5 A reasonable doubt is a doubt which makes an honest,
6 sincere, conscience juror in search of the truth to
7 hesitate to act. Proof beyond a reasonable doubt must
8 therefore be proof of such a convincing character that a
9 reasonable person would not hesitate to rely and act upon
10 it in the most important of his or her own affairs.

11 Proof beyond a reasonable doubt can also be described
12 as proof that leaves you firmly convinced of the
13 defendant's guilt. There are very few things in this
14 world that we know with absolute certainty, and in a
15 criminal case the law does not require proof that
16 overcomes every possible doubt. And based on your
17 consideration of the evidence if you are firmly convinced
18 of the defendant's guilty of the crime charged you must
19 find him guilty.

20 If on the other hand you think there is a real
21 possibility that he is not guilty you must give him the
22 benefit of that doubt and find him not guilty.

23 Now, in determining the facts in the case you must
24 necessarily pass upon the credibility which simply means
25 believability of the witnesses and the value of weight to

1 be given to their testimony. You alone must decide the
2 force and effect and the truth of that testimony. In
3 making these decisions there are many things that you may
4 and should take into consideration such as the manner or
5 appearance of the witness on the stand, sometimes referred
6 to as the demeanor of the witness.

7 Was the witness forthright or hesitant. Was the
8 witness' testimony consistent or did it contain
9 discrepancies. What was the ability of the witness to
10 know the facts about which he or she testified. Did the
11 witness have a cause or reason to be biased and prejudiced
12 in favor of that testimony or was the witness' testimony
13 corroborated or made stronger by other evidence and
14 testimony or was it made weaker or impeached by such
15 evidence and testimony.

16 Now, the rules of evidence do not ordinarily permit a
17 witness to testify to an opinion or a conclusion. And
18 exception to this rule exists for witnesses we call an
19 expert witness. A witness who by education and experience
20 has become an expert in some art, science, profession or
21 calling may state an opinion as to relevant materials and
22 matters in which the witness claims to be an expert. And
23 may also give reasons for that opinion.

24 You should consider an expert's opinion received in
25 evidence in this case just like any other evidence. Give

1 it the weight you think it deserves. If you decide the
2 opinion of an expert is not based on sufficient education
3 or experience or if you conclude that the reasons given in
4 support of the opinion are not sound or that the opinion
5 is outweighed by other evidence you may disregard the
6 testimony in its entirety.

7 An expert witness' testimony is to be given no
8 greater weight than that of any other witness simply
9 because the witness is an expert. And you're not required
10 to accept that expert's opinion even though it is not
11 contradicted. And as jurors you have a right to believe a
12 small portion of a witness' testimony and disregard the
13 larger. Or vice versa. You may believe all of a
14 witness's testimony or none. You may believe the
15 testimony of a single witness against that of many or the
16 other way around.

17 Now, in a trial there are generally two types of
18 evidence that are presented during a trial; direct
19 evidence and circumstantial evidence. Direct evidence
20 directly proves the existence of a fact and does not
21 require deduction. Circumstantial evidence is proof of a
22 chain of facts and circumstances that indicates the
23 existence of a fact.

24 Crimes may be proven by circumstantial evidence, and
25 the law makes no distinction between the weight or value

1 to be given either direct or circumstantial evidence.
2 However, to the extent the State relies on circumstantial
3 evidence all of the circumstances must be consistent with
4 each other. And when taken together point conclusively to
5 the guilt of the accused beyond a reasonable doubt.

6 If these circumstances merely portray the defendant's
7 behavior as suspicious then the proof has failed. The
8 State has the burden of proving the defendant guilty beyond
9 a reasonable doubt, and this burden rests upon the State
10 regardless of whether the State relies on direct evidence
11 or circumstantial evidence or the combination of the two.

12 Now, criminal intent is a necessary element of each
13 crime, and the State must prove beyond a reasonable doubt.
14 Now, criminal intent is always a matter that must be
15 determined by the jury from the circumstances surrounding
16 the situation. There is no way to prove intent to a
17 mathematical certainty. There is no way medical science
18 can dissect a person's brain and determine what he or she
19 had in mind. So the law states criminal intent maybe
20 inferred from the circumstances shown to have existed both
21 before and after the fact.

22 This is how you, the jury, make a determination of
23 whether or not the element of intent was present.
24 Criminal intent is a state of mind that operates jointly
25 with an act or omission in the commission of a crime.

1 Criminal intent is a mental state of conscience
2 wrongdoing. So it is up to you, the jury, to determine
3 what the defendant intended based on circumstances shown
4 to have existed. And I tell you the State must prove
5 criminal intent beyond a reasonable doubt. This is the
6 State must prove each element beyond a reasonable doubt.

7 The defendant is charged with murder. The State must
8 prove beyond a reasonable doubt that the defendant killed
9 another person with malice aforethought. Malice is
10 hatred, ill will or hostility towards another person. It
11 is the intentional doing of a wrongful act without just
12 cause or excuse and with the intent to inflict an injury
13 by circumstances that the law will infer an evil intent.

14 Malice aforethought does not require that the malice
15 exist for any particular time before the act is committed.
16 But malice must exist in the mind just before and at the
17 time the act is committed. Therefore, there must be a
18 combination of previous evil intent and the act.

19 Malice aforethought may be expressed or implied or
20 inferred. Now, express and inferred do not mean a
21 different kind of malice, but merely the manner in which
22 the malice maybe shown to existed. That is either by
23 direct evidence or by the facts and circumstances which
24 are proven.

25 Express malice is shown when a person speaks words

1 which express hatred or ill will for another person or
2 when the person prepares beforehand to do the act which
3 was later accomplished. For example, lying in wait for a
4 person or any other act of preparation going to show this
5 deed was within the defendant's mind would be express
6 malice. Malice may be inferred from conduct showing a
7 total disregard for human life.

8 Now, the defendant is also charged with the crime of
9 kidnapping. The State must prove beyond a reasonable
10 doubt that the defendant knowingly and unlawfully seized,
11 confined, inveigle, decoyed, kidnapped, abducted or
12 carried away another person without authority of law. To
13 do a thing unlawfully is to do it willfully against the
14 law.

15 Knowingly means with knowledge. Consciously, not
16 accidentally.

17 Seize means to take hold of suddenly or forcefully.

18 Confine means to limit, restrict or enclose within
19 bounds, imprison or shut up or keep in.

20 Inveigle means to lure, entice, lead astray by false
21 representation, promise or other deceitful means.

22 Decoy means to lure about or as by to decoy someone.
23 A decoy is something to entice a person into a trap.

24 Kidnap is to remove a person against his or her will
25 by unlawful force or by fraud.

1 Abduct means to carry off secretly or by force for an
2 illegal purpose.

3 Carry away means to remove.

4 The State does not have to prove the defendant did
5 all of these things. Instead, if you find beyond a
6 reasonable doubt that the defendant did any of these
7 things you may find the defendant guilty of kidnapping.
8 Something done without the authority of law is something
9 that the law does not sanction, permit, allow, condone or
10 provide justification for. The kidnapping does not have
11 to be on any personal or monetary gain or for any illegal
12 purpose, but it may be for any reason whatsoever.

13 Now, ladies and gentlemen, you are not partisans or
14 advocates for the State of South Carolina or this
15 defendant. You do not serve as jurors to reward your
16 friends or punish your enemies. Obviously, that system of
17 justice simply would not be tolerated. You have been
18 selected by both the State and the defendant to be fair
19 and impartial jurors.

20 It is your duty then by your joint deliberation to
21 determine the truth in this case, giving to the defendant
22 the benefit of every reasonable doubt on each issue. Then
23 the facts that you determine to be the truth you apply the
24 law that I've given to you and return a verdict in this
25 case.

1 When you have done this you would have satisfied your
2 duty to this Court. And, Mr. Foreman, I have made my law
3 clerk type up a possible verdict form. It is said with
4 the caption of this case: "The State of South Carolina.
5 County of Sumter. State of South Carolina v. James Lee
6 Ginther." Count Number One on here, "Count One of Murder.
7 We the jury find the Defendant, James Lee Ginther, guilty
8 or not guilty.

9 Number Two, on the count of kidnapping, we the jury
10 find the Defendant, James Lee Ginther, guilty or not
11 guilty."

12 This verdict must be unanimous which means all 12 of
13 you must agree on this verdict. And when all 12 of you do
14 agree on this verdict you are to check the appropriate
15 box, knock on the door. Sign your name to it and date it.
16 Knock on the door. We'll bring you back out and receive
17 the verdict.

18 The order that this is put in, you should draw no
19 conclusion from it whatsoever. We just had to put them in
20 some order. Now, I've got to go over my charge with the
21 attorneys to be sure I haven't left anything out. If I
22 have left something out I will bring you back out, charge
23 you further on the law. If I have covered everything I
24 will send the verdict form along with all of the evidence
25 to the jury room.

1 When you receive this verdict form that means you can
2 begin your deliberations. While you are deliberating this
3 case anyone -- any of you need to be excused for some
4 reason, if you need to go to the restroom or whatever, you
5 are to stop your deliberations cause you can only talk
6 about the case when all 12 of you are present. And like I
7 said when you have reached a verdict, the unanimous
8 verdict of all 12 of you agreeing, you will let us know.

9 So, now, if you have a question in this case you must
10 write that question down on a piece of paper and give it
11 to the bailiff and he will bring it out. But tell you
12 right now I cannot answer any questions of fact. If you
13 have a factual question I can't reopen the case and you
14 can't get any more evidence. You've got to decide this
15 case based on what's been presented to you.

16 If have a legal question I can answer that question.
17 So if you have any legal matters you need to write that
18 down. I'll bring you back out and try to address those,
19 your concerns. So if you will go to the jury room. I'll
20 either send this in or get you back out in a few minutes.
21 Okay.

22 (WHEREUPON, the jury panel was excused from the
23 courtroom at 11:54 a.m.)

24 THE COURT: Okay. Any exceptions or deletions? Hear
25 from the State.

1 MR. FINNEY: None from the State.

2 THE COURT: From the Defense?

3 MR. BRIDGES: None from the Defense, Your Honor.

4 COLLOQUY

5 THE COURT: Okay. Y'all get the evidence together
6 along with the court reporter. It's a lot of evidence, so
7 we need to check off and be sure. I assume the gun is
8 secured and it can't be fired in the jury room?

9 MR. FINNEY: That is correct, Your Honor.

10 THE COURT: All right. I just didn't want anybody to
11 accidentally get hurt or I didn't want anybody test firing
12 a gun in the jury room. Okay. Y'all get the evidence
13 together here.

14 MR. FINNEY: Can I ask one question, Your Honor? Are
15 we going to let the ammunition go in or ammunition stay
16 out?

17 THE COURT: As long as the gun is locked I don't
18 care. The ammo is part of the case. You need to send it
19 in there.

20 MR. FINNEY: All right.

21 THE COURT: As long as the gun is locked.

22 MR. FINNEY: Yes, sir.

23 THE COURT: Now, I didn't tell them if they want to
24 hear something, there is one redacted tape. And so I
25 guess you can send it back there. They have no way of

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May 22 2020

SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Sumter County
The Honorable R. Ferrell Cothran, Circuit Court Judge
Appellate Case No. 2019-000672

THE STATE,

RESPONDENT,

vs.

JAMES LEE GINTER,

APPELLANT.

CERTIFICATE OF SERVICE

I, Angela B. Brown, am an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the *Return in Opposition to Motion for Order to Remand for a Hearing to Attempt to Reconstruct the Record as to the Missing Witness Testimony in Order to Allow Meaningful Appellate Review and Certificate of Service* have been forwarded to Appellant's counsel, Kathrine H. Hudgins, Esq., via email today, May 22, 2020 to Khudgins@sccid.sc.gov, and by depositing one copy of the same in the United States mail, postage prepaid, and addressed to his attorney of record: Kathrine H. Hudgins, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 22nd day of May, 2020.



Angela B. Brown

Legal Assistant to Melody J. Brown

Senior Assistant Deputy Attorney General

Angela Bennett

From: Angela Bennett
Sent: Friday, May 22, 2020 1:02 PM
To: khudgins@sccid.sc.gov; 'Stock, Chris'
Cc: Melody Brown; Angela Bennett
Subject: The State v. James Ginther
Attachments: Ginther, James-2019-000672-Return in Opposition to Motion for Order to Remand-May 22, 2020 (02284843xD2C78).PDF

Ms. Hudgins, attached is the State's Return to the Motion for Order to Remand in the matter of The State v. James Ginther. The Return will be filed with the Court of Appeals on today's date.

*Angela Brown
Administrative Coordinator
Criminal Division*

*Office of the Attorney General
Post Office Box
Columbia, South Carolina
(803) 734-0368*

RECEIVED
May 22 2020
SC Court of Appeals