

**VOLUME II OF II**

STATE OF SOUTH CAROLINA

In The Court of Appeals

10787

APPEAL FROM SALUDA COUNTY

William P. Keesley, Circuit Court Judge

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**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

MICHAEL WATSON,

APPELLANT

RECORD ON APPEAL

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1 State has proven him guilty beyond a reasonable  
2 doubt.

3 In making your decision as to whether the  
4 defendant has been proven guilty, you may consider  
5 the lack of evidence presented by the State.

6 A defendant is not required to prove his  
7 innocence. He's not required to prove anything at  
8 all. The burden of proof is entirely upon the State  
9 to prove the guilt of the defendant beyond a  
10 reasonable doubt and it's required that every  
11 essential element of an offense charged be proven by  
12 the State beyond a reasonable doubt. That doesn't  
13 mean that the State has to prove the guilt of the  
14 defendant beyond all doubt or beyond every doubt.  
15 The appropriate standard is proof beyond a  
16 reasonable doubt.

17 Some of you may have served as jurors in civil  
18 court and if you have, you know that the burden of  
19 proof in civil cases is to establish that something  
20 is probable, that it's more likely than not. And we  
21 call that the greater weight or preponderance of the  
22 evidence. But in criminal court, which is what  
23 we're in now, the standard is much higher and the  
24 proof required must be much stronger than what is  
25 required in civil court. As I've told you numerous

1 times, the burden of proof in these criminal cases  
2 is proof beyond a reasonable doubt. So what do I  
3 mean by that term?

4 Proof beyond a reasonable doubt is proof that  
5 leaves you firmly convinced of the defendant's  
6 guilt. There are few things in the world that we  
7 know with absolute certainty and in criminal cases,  
8 the law does not require proof that overcomes every  
9 possible doubt.

10 If, based on your consideration of the  
11 evidence, you are firmly convinced that the  
12 defendant is guilty of a crime charged, then you are  
13 to find him guilty of that crime. If, on the other  
14 hand, you think there is a real possibility that he  
15 is not guilty, you must give him the benefit of the  
16 doubt and find him not guilty on that charge.

17 There is no obligation on the part of the  
18 defendant to raise any doubt or any other  
19 possibility. He is presumed to be innocent. And  
20 the State has the entire burden of proof and has to  
21 prove to you that the defendant is guilty to the  
22 exclusion of any other real possibility.

23 Now, statements allegedly made by the defendant  
24 have been admitted into evidence in this trial. In  
25 evaluating the alleged statements, you first need to

1 determine if the State has proven that the  
2 defendant, in fact, made the statement in question.  
3 If not, then you cannot consider that alleged  
4 statement in any way against the defendant.

5 If you find that the defendant made the  
6 statement, the next thing that you're going to have  
7 to determine is whether the defendant made that  
8 statement in response to police questioning. In  
9 order for you to know what the law requires in this  
10 regard concerning statements, I need to explain some  
11 things to you.

12 You've probably heard about Miranda warnings.  
13 The Miranda warnings are that you have the right to  
14 remain silent; that any statement made can and will  
15 be used against you in court; that you have the  
16 right to an attorney and if you do not have the  
17 resources to hire a lawyer, the court will appoint  
18 one at no expense; that you have the right to  
19 consult a lawyer before questioning -- answering any  
20 questions or making any statement; that you have the  
21 right to have a lawyer present at all times during  
22 all interviews and all interrogations; and that you  
23 may stop answering questions at any time.

24 Now, while these exact words do not have to be  
25 used, the substantial equivalent must be

1           communicated to an accused in order to constitute  
2           Miranda warnings.

3           Miranda warnings are required before the police  
4           may interrogate a person whom they have in custody.  
5           Police interrogation means that the police are  
6           questioning the person or they're engaging in the  
7           substantial equivalent of questioning. In other  
8           words, where a police officer makes some statement  
9           or engages in some conduct that's designed to elicit  
10          a response, that's the functional equivalent of  
11          interrogation.

12          But Miranda warnings only relate to  
13          interrogations by the police. If a person makes a  
14          spontaneous statement of his own free will not  
15          prompted by police interrogation, the statement can  
16          be considered by a jury even if Miranda warnings  
17          have not been given.

18          So if you find that the statement in question  
19          was given by the defendant while in custody and in  
20          response to police interrogation or the functional  
21          equivalent of interrogation, you cannot consider  
22          that statement against the defendant unless the  
23          State has proven beyond a reasonable doubt that the  
24          defendant was first properly advised of his Miranda  
25          rights before giving a statement.

1           The next thing the State has to prove before  
2 you may consider any alleged statement against the  
3 defendant is that the defendant knowingly and  
4 intelligently waived his constitutional rights and  
5 made the statement to police.

6           And the final requirement related to statements  
7 is that the statement in question must have been  
8 given voluntarily. The State has to prove that the  
9 statement of the defendant was the expression of the  
10 defendant's own free will and was not improperly  
11 induced by compulsion, duress, force or fear or by  
12 the promise of some reward or hope of reward.  
13 Unless the State proves that the statement was given  
14 freely and voluntarily, you cannot consider it in  
15 any way against the defendant.

16           Now, let's turn to the specific charges that  
17 have been made in these cases. As you know, the  
18 defendant has been separately charged with murder,  
19 possession of a firearm during the commission of a  
20 violent crime and pointing and presenting a firearm.  
21 Each indictment is separate and distinct. It has to  
22 be evaluated separately on its own merit or lack of  
23 merit.

24           I read these indictments to you before the  
25 trial. The murder indictment basically charges that

1 Michael Duran Watson did in Saluda County on or  
2 about August 5, 2007, feloniously, willfully and  
3 with malice aforethought, kill one Andrew Chandler  
4 by shooting him in the face with a shotgun and that  
5 the said Andrew Chandler died in Saluda County as a  
6 proximate result thereof, which is alleged to be in  
7 violation of certain sections of the South Carolina  
8 Code.

9 The indictment for possession of a firearm  
10 during the commission of a violent crime alleges  
11 that Michael Duran Watson did in Saluda County on or  
12 about August 5, 2007, unlawfully have in his  
13 possession a firearm, specifically a loaded shotgun,  
14 during the commission of the violent crime of  
15 murder, which is alleged to be in violation of code  
16 section cited in the indictment.

17 And the indictment for pointing and presenting  
18 a firearm alleges that Michael Duran Watson did in  
19 Saluda County on or about August 5, 2007, willfully  
20 and maliciously point and/or present a firearm,  
21 specifically a shotgun, at Andrew Chandler, which is  
22 alleged to be in violation of the code section set  
23 forth in the indictment.

24 I remind you, ladies and gentlemen, that an  
25 indictment is not evidence of anything. It is

1 merely the charging paper, the formal means by which  
2 someone is charged and brought to trial. You may  
3 not give an indictment any evidentiary value.

4 Now, first, I'm going to explain to you the  
5 offense of murder. Murder is the unlawful killing  
6 of another human being with malice aforethought.

7 Malice is a mental state. It is something that  
8 springs from wickedness, from depravity, from a  
9 heart devoid of social duty and fatally bent on  
10 mischief.

11 The malice must be aforethought. And to make  
12 sure that you know the word I'm using here and not  
13 confusing it with a similar sounding word, I'm going  
14 to spell it for you, a-f-o-r-e-t-h-o-u-g-h-t,  
15 aforethought. The malice must exist in the mind of  
16 the accused just before and at the time of the  
17 commission of the act. It is not required that the  
18 malice exist for any particular amount of time, but  
19 there has to be a combination of a previous evil  
20 intent of malice and the act that produces the fatal  
21 result.

22 Malice aforethought may be expressed or it may  
23 be inferred. Now, these terms, expressed and  
24 inferred, do not mean different kinds of malice, but  
25 merely the manner in which the malice may be shown

1 to exist. Examples of expressed malice would be  
2 where a person speaks words that express hatred or  
3 ill will for another or when a person prepares  
4 beforehand to do an act later accomplished like  
5 lying in wait.

6 The mental state of malice, which is the intent  
7 that's required for murder, it may be proven by  
8 direct evidence or by circumstantial evidence or by  
9 a combination of both. It may be inferred from  
10 facts and circumstances that are proven by the State  
11 and which establish malice aforethought beyond a  
12 reasonable doubt.

13 Now, malice does not necessarily require ill  
14 will toward the specific person who was injured, but  
15 rather it signifies a general malignancy towards and  
16 recklessness for the life and safety of others or a  
17 condition of the mind that shows a heart devoid of  
18 social duty and fatally bent on mischief.

19 Malice may not be inferred, however, where a  
20 defendant had a legal right to act as he did. Later  
21 in this charge, I'm going to discuss issues with you  
22 including self-defense. Self-defense, as I  
23 mentioned to you earlier, is a lawful act. So  
24 someone who is acting in self-defense cannot be  
25 considered to have been acting with malice.

1           Now, the law recognizes that certain greater  
2 crimes include within them lesser crimes. We call  
3 those lesser included offenses. Murder includes  
4 within it the lesser included offense of voluntary  
5 manslaughter. If you have a reasonable doubt as to  
6 whether the State has proven that the defendant  
7 committed murder, you may consider whether the State  
8 has proven beyond a reasonable doubt that the  
9 defendant committed voluntary manslaughter.

10           Voluntary manslaughter is the unlawful killing  
11 of another human being in sudden heat of passion  
12 based on sufficient legal provocation. So malice is  
13 not required to establish voluntary manslaughter,  
14 but both heat of passion and a sufficient legal  
15 provocation must be present at the time of the  
16 killing to constitute voluntary manslaughter.

17           The law recognizes that sudden heat of passion  
18 may, for a time, affect a person's self-control and  
19 temporarily disturb a person's reason. The sudden  
20 heat of passion must be the type that would make an  
21 ordinary person unable to coolly reflect on his  
22 actions and produce an uncontrollable impulse to do  
23 violence.

24           Sufficient legal provocation must be the type  
25 that would make a person of ordinary reason and

1       caution become enraged and lose control temporarily.  
2       Now, the provocation that's needed for voluntary  
3       manslaughter has to come from some act of or related  
4       to the person who was killed.

5               If the heat of passion had cooled or if there  
6       was enough time between the provocation, if any, and  
7       the killing for the passion of a reasonable person  
8       to cool, then the killing would not be voluntary  
9       manslaughter.

10              In deciding whether a reasonable person would  
11       have had enough time to cool off, you should  
12       consider all the circumstances surrounding the  
13       killing. You may consider the nature of the  
14       provocation, if any, the defendant's mental and  
15       physical state and the circumstances and the  
16       relationships between the parties.

17              Okay. Now, I want to talk to you about  
18       self-defense. One of the issues that you need to  
19       consider is whether the defendant was acting in  
20       self-defense. Self-defense is a complete defense.  
21       If the defendant was acting in self-defense, his  
22       conduct was lawful and you must find him not guilty.

23              A defendant does not have any burden to prove,  
24       so a defendant does not have to prove self-defense.  
25       Rather, the State has the burden of proving beyond a

1 reasonable doubt that the defendant was not acting  
2 in self-defense.

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

11 Now, the following elements apply to  
12 self-defense: First, the defendant must be without  
13 fault in bringing on the difficulty. If the  
14 defendant's conduct was the type which was  
15 reasonably calculated to and did provoke a deadly  
16 assault, the defendant would be at fault in bringing  
17 on the difficulty and would not be entitled to an  
18 acquittal based on self-defense.

19 Secondly, the defendant must have actually been  
20 in imminent danger of death or serious bodily  
21 injury, or he must have actually believed that he  
22 was in imminent danger of death or serious bodily  
23 injury.

24 If the defendant was actually in imminent  
25 danger, it must be shown that the circumstances

1 would have warranted a person of ordinary firmness  
2 and courage to strike out as the defendant did to  
3 prevent death or serious bodily injury. If the  
4 defendant believed he was in imminent danger of  
5 death or serious bodily injury, it must be shown  
6 that a reasonably prudent person of ordinary  
7 firmness and courage would have held the same  
8 belief.

9 Now, in deciding whether the defendant actually  
10 was or believed that he was in imminent danger of  
11 death or serious bodily injury, you need to look at  
12 all of the facts and circumstances surrounding the  
13 incident and the relationships between the parties.  
14 So in assessing the defendant's beliefs, you may  
15 consider whether there was any history of prior  
16 difficulties between these individuals involved and  
17 what those were.

18 Now, there's a statute in our state that  
19 establishes that a person is presumed to have a  
20 reasonable fear of imminent peril of death or great  
21 bodily injury if the person against whom the deadly  
22 force is used is in the process of unlawfully and  
23 forcefully entering an occupied vehicle.

24 A person who is not engaged in an unlawful  
25 activity and who is attacked in a place where he has

1 a right to be has the right to stand his ground and  
2 meet force with force, including deadly force, if he  
3 reasonably believes it is necessary to prevent death  
4 or great bodily injury to himself or another person  
5 or to prevent the commission of a violent crime.

6 A person who unlawfully and by force enters or  
7 attempts to enter a person's occupied vehicle is  
8 presumed to be doing so with the intent to commit an  
9 unlawful act involving force or a violent crime.

10 A defendant has the right to act on appearances  
11 even if his assessment was incorrect. It is not  
12 necessary that a defendant was actually in danger.  
13 It is enough if the defendant believed that he was  
14 in imminent danger and a reasonably prudent person  
15 of ordinary firmness and courage in his position and  
16 with his knowledge would have held the same belief.

17 It's for you to decide whether the defendant  
18 had a reasonable fear of immediate danger of death  
19 or serious bodily injury and that it would have been  
20 felt by a person of ordinary firmness and courage in  
21 the same situation.

22 Words accompanied by hostile acts may,  
23 depending on the circumstances, create an appearance  
24 that the defendant could use to support -- well, let  
25 me back up and say that again -- words accompanied

1 by hostile acts may, depending on the circumstances,  
2 create an appearance that the defendant could act in  
3 self-defense.

4 Now, the final element of self-defense is that  
5 the defendant had no other probable way to avoid the  
6 danger of death or serious bodily injury than to act  
7 as he did in the particular instance, that's  
8 generally referred to as an obligation to retreat.  
9 But that obligation to retreat is limited and it has  
10 been limited always and by that statute that I read  
11 to you a little bit ago, so I'm going to cover that  
12 -- this in some detail.

13 A defendant does not have to wait until an  
14 assailant has the drop on him before acting in  
15 self-defense. A defendant has no duty to retreat if  
16 by doing so the danger of being killed or suffering  
17 serious bodily injury would increase.

18 Further, he has no duty to retreat if the  
19 person or the people who prompted the actions that  
20 are maintained to have been taken in self-defense  
21 were done in response to an unlawful and forceful  
22 effort to enter an occupied vehicle.

23 And, further, regardless of whether the  
24 defendant was in an occupied vehicle or not, a  
25 defendant may stand his ground and defend himself if

1 he reasonably believes it is necessary to prevent  
2 death or great bodily injury to himself or another  
3 person or to prevent the commission of a violent  
4 crime provided that the defendant was not engaged in  
5 unlawful activity himself and was attacked in a  
6 place where he had a right to be.

7 Now, a person who is confronted with a  
8 self-defense situation is not required to make an  
9 exact precise calculation of the degree of force  
10 needed to avoid death or serious bodily harm, but is  
11 permitted to use the degree of force in self-defense  
12 that a person of ordinary reason and firmness would  
13 have believed to be needed to prevent his own death  
14 or serious bodily injury.

15 The force used in self-defense does not have to  
16 be limited to the degree or amount of force used by  
17 the opposing party. A defendant has the right to  
18 use so much force as appeared to be necessary for  
19 complete self-protection in which a person of  
20 ordinary reason and firmness would have believed to  
21 be needed to prevent death or serious bodily harm.

22 Now, I'm going to talk to you -- we're just  
23 about through. We've got about five more minutes.  
24 I'm going to talk to you about the other two  
25 indictments.

1           The defendant is charged with pointing or  
2 presenting a firearm. To prove the defendant guilty  
3 of this offense, the State has to prove beyond a  
4 reasonable doubt that the defendant unlawfully  
5 presented or pointed a firearm at Andrew Chandler on  
6 the date and at the time and place alleged in the  
7 indictment.

8           Now, that one's pretty self-explanatory. It's  
9 unlawfully pointing or presenting a firearm at  
10 another person. Now, if the pointing was lawful,  
11 he's not guilty of this offense.

12           And, finally, the defendant is charged with  
13 possession of a firearm during the commission of a  
14 violent crime. To prove this offense, the State has  
15 to prove beyond a reasonable doubt that the  
16 defendant possessed or visibly displayed a firearm  
17 during the commission of a violent crime.

18           So, in order for you to find the defendant  
19 guilty of possession of a firearm during the  
20 commission of a violent crime, you first would have  
21 to find him guilty on the charge of murder or  
22 voluntary manslaughter, both of which are classified  
23 as violent crimes. You must also find that the  
24 State has proven beyond a reasonable doubt that the  
25 defendant possessed a shotgun at the time as alleged

1 in the indictment.

2 Now, the final thing I need to tell you about  
3 the law is that a defendant is entitled to every  
4 reasonable doubt arising in an entire case or in any  
5 defenses. If upon any issue of fact essential to a  
6 conviction, you have a reasonable doubt as to how  
7 that issue should be resolved, you have to resolve  
8 that doubt in favor of the defendant.

9 If you have a reasonable doubt as to whether  
10 the defendant is guilty of a greater crime charged  
11 or a lesser included offense, you have to give him  
12 the benefit of the doubt and find him guilty only of  
13 the lesser offense, but you cannot find him guilty  
14 of any offense greater or lesser unless you are  
15 convinced that the State has proven every essential  
16 element of that offense against this defendant  
17 beyond a reasonable doubt.

18 If upon reviewing the entire case as to any  
19 charge, you have a reasonable doubt as to the guilt  
20 of the defendant on that charge, you must give him  
21 the benefit of the doubt and find him not guilty.

22 On the other hand, if upon considering the  
23 entire case as to a particular charge, you find the  
24 State has proven every essential element of that  
25 charge against the defendant beyond a reasonable

1           doubt, it is equally your duty to find the defendant  
2           guilty on that charge.

3                     Now, that's the law.

4           Folks, when you go back to the jury room to  
5           decide these cases, you're going to have with you  
6           these verdict forms. There is a separate verdict  
7           form for each indictment.

8                     Now, I'm supposed to tell you that you're not  
9           to infer from the order in which I state your  
10          options that I'm trying to suggest any form of  
11          verdict over another form of verdict. I've got to  
12          say one thing first, one thing second, one thing  
13          third, so on.

14                    You'll see that each indictment has a -- I'm  
15          sorry -- each verdict form has a caption and then in  
16          the middle underlined, I've put what charge you're  
17          considering. This one reads: As to the charge of  
18          murder, we, the jury, unanimously find the  
19          defendant, and you have three options here, you may  
20          find the defendant not guilty, you may find the  
21          defendant guilty of the lesser included offense of  
22          voluntary manslaughter or you may find the defendant  
23          guilty of murder.

24                    This is on the charge of pointing and  
25          presenting a firearm. You have two options, you may

1 find the defendant not guilty or you may find the  
2 defendant guilty of pointing and presenting a  
3 firearm.

4 And this verdict form is for possession of a  
5 firearm during the commission of a violent crime.  
6 Now, obviously, as I've explained to you, in order  
7 to find the defendant guilty of this, you would have  
8 to find him guilty of a violent crime first, common  
9 sense. But you have two possible forms of verdict,  
10 you may find him not guilty or you may find him  
11 guilty of possession of a firearm during the  
12 commission of a violent crime.

13 Mr. Foreman, part of your job is to record  
14 these verdicts for me. I think when you see these  
15 forms, you'll find them self-explanatory, just check  
16 the options chosen by the jury and sign your name on  
17 the signature lines at the bottom of each form.

18 **FOREMAN:** Okay.

19 **THE COURT:** Ladies and gentlemen, when you've  
20 reached your verdicts, if you'll knock on the door,  
21 the bailiff will respond to your knock.

22 I've told you now probably dozens of times not  
23 to talk about the case until I tell you to. It's  
24 not time yet. The law says that I have to go over  
25 with the attorneys what I just told you and that's

1 just common sense. We don't want you back there  
2 deciding these cases using the wrong law. And they  
3 don't get to stand up and object while I'm talking.  
4 They have to wait until I ask them if they have any  
5 comment.

6 So what will happen is I'll send you back into  
7 the jury room. I'll find out what the attorneys may  
8 think I need to tell you differently than what I've  
9 told you. If I agree with them that I need to  
10 clarify something or I left something out, I'll  
11 bring you back out and correct it.

12 But here's the signal you need to look for. If  
13 I'm satisfied with what I've told you, I'm going to  
14 send the exhibits and the verdict forms into the  
15 jury room, I'm going to bring the two alternates  
16 out. When the door is closed and it's just the 12  
17 of you in there with the exhibits and the verdict  
18 forms, you start talking about the case. You don't  
19 have to wait another second, but don't talk about it  
20 until then.

21 Thank you very much for your attention. You  
22 may retire to your jury room.

23 (The jury retires to the jury room.)

24 **THE COURT:** State for the record any  
25 exceptions, additions or objections to the charge,

1 from the State.

2 **MR. YOUNG:** No, Your Honor.

3 **THE COURT:** Defense.

4 **MR. ANDERSON:** Judge, just briefly, when you  
5 were going through the self-defense and -- I mean, I  
6 thought the charge was very good up -- even with  
7 this, it was a very good charge, but it is a little  
8 awkward with the self-defense, you're saying if the  
9 defendant believed this and if the defendant  
10 believed that. And with the burden on the State to  
11 disprove self-defense, we would ask you just to  
12 charge that the State has to prove that the  
13 defendant didn't beyond a reasonable doubt. You  
14 understand what I'm saying? That would be my only  
15 exception, Judge.

16 **MR. YOUNG:** What did you say? Say it again.

17 **THE COURT:** He wants me to charge that the  
18 State has to prove that the defendant did not hold a  
19 contrary belief, I think is what he's saying.

20 **MR. ANDERSON:** I just think it's going to  
21 introduce confusion, Judge.

22 **THE COURT:** Well, most of that charge, as you  
23 know, came from a case that the South Carolina  
24 Supreme Court handed down in which they basically  
25 told us, charge this.

1           Now, when they passed -- the Legislature passed  
2           that Castle Doctrine, they'd thrown kinks into it.  
3           I didn't really have time -- to be honest with you,  
4           that escaped my thought process. I've got some  
5           e-mails back from 2007 where the judges circulated  
6           around what we thought about the impact of the  
7           Castle Doctrine. I went back and read those  
8           e-mails, but I don't really have a current charge on  
9           that and I'm trying to adapt it and I may have done  
10          it wrong. I did it as quickly as I could and as  
11          best as I could.

12          Your specific motion is denied. I made it very  
13          clear that the State has to disprove self-defense.

14                 **MR. ANDERSON:** Thank you, Your Honor.

15                 **THE COURT:** Well, it's been a pleasure trying  
16          the case with you guys. I'm about to lose my voice,  
17          so I'll keep this short. Check the verdict forms,  
18          check the exhibits. When you're satisfied, give  
19          them to the bailiff, please.

20                         (Pause.)

21                 **THE COURT:** Bring the alternates out, please.

22                         (The alternates enter the courtroom.)

23                 **THE COURT:** All right, gentlemen, the 12 jurors  
24          made it through the case without any problems so  
25          your service is over. You don't have to worry about

1 coming back. You're through with jury duty.

2 They'll mail a little check to you. If you  
3 need a slip for work, if you'll check with the  
4 Clerk, she'll get that for you. You're welcome to  
5 stay if you wish to stay. You're free to go if you  
6 wish to go. You have an exemption for three  
7 calendar years from serving on a state court jury  
8 and you're disqualified for one year from serving on  
9 a state court jury.

10 I do want to tell you before you go that I  
11 generally do use an alternate in at least one in  
12 about half the cases I do. So I hope you understand  
13 I didn't have you sitting over there for nothing.  
14 Once I swear the jury, we have to go forward, that's  
15 when jeopardy attaches. If you've heard of double  
16 jeopardy, jeopardy attaches once I swear that jury.  
17 So once we start, I need to keep going so that's why  
18 I had you sitting there. But you're through now.

19 If you've got questions, comments, criticisms  
20 or complaints and I don't lose my voice, I'll be  
21 happy to talk to you, otherwise, you're free to go.

22 We're at ease.

23 (The alternates were excused.)

24 (The jury commences its deliberations at  
25 4:25 p.m.)

1 (A recess transpired.)

2 (The following occurred during jury  
3 deliberations at 6:05 p.m.)

4 (Court's Exhibit Number 3, jury note, marked  
5 for identification purposes.)

6 **THE COURT:** I have a note from the jury that  
7 reads, Can we please have a copy of the transcript  
8 and the definition of voluntary manslaughter?

9 Obviously, there is no transcript. I can give  
10 them the definition of voluntary manslaughter. I  
11 can give them the whole charge on voluntary  
12 manslaughter. Do you all have any input?

13 **MR. YOUNG:** Your Honor, I think the only thing  
14 appropriate is to probably just instruct them again  
15 on voluntary manslaughter. I think that's the  
16 restrictive nature of the question.

17 **THE COURT:** Mr. Anderson.

18 **MR. ANDERSON:** I agree with him, Your Honor.

19 **THE COURT:** Just the definition?

20 **MR. ANDERSON:** I mean, I think probably the  
21 whole charge. I just ask, and I know you can do it  
22 without me asking, but the burden of proof again --

23 **THE COURT:** I'm sorry, I can't hear you.

24 **MR. ANDERSON:** I would also ask if you're going  
25 to recharge the manslaughter, if you remind them of

1 the burden of proof and the presumption, please.

2 **THE COURT:** All right. Bring the jury in.

3 (The jury returns to the courtroom at 6:07  
4 p.m.)

5 **THE COURT:** Mr. Foreman, I received a note from  
6 the jury that reads, Can we please have a copy of  
7 the transcript and the definition of voluntary  
8 manslaughter? Are those the jury's questions?

9 **FOREMAN:** Yes, sir.

10 **THE COURT:** Ladies and gentlemen, there is no  
11 transcript. So the answer to the first part is, no,  
12 there is none to give you.

13 The court reporter takes down what's said. It  
14 goes into a computer. It's what they call a dirty  
15 transcript, which means it hadn't been cleaned up  
16 and it would take her weeks to prepare a transcript  
17 even with all the technology we have today.

18 They do have backup tapes which means they tape  
19 record what is said. If there is a section of the  
20 trial that you want to be played back and you can  
21 tell us with some specificity what you want to hear,  
22 we can try to find it for you. We'll play the whole  
23 trial back for you if you want to.

24 The only thing is just be mindful of this fact.  
25 If you come out, like, with an issue, I'm not going

1 to be in a position to decide what that issue may  
2 have been -- where that issue may have been covered  
3 in different people's testimony at different points  
4 in time. So if you can tell us that you want to  
5 hear something replayed, we'll try our best to meet  
6 you halfway and do it for you, but if you just come  
7 out here and say we want to hear testimony about X,  
8 I doubt I can do that because I can't be certain  
9 that I've covered every place where that X is  
10 discussed, all right. So I can't give you a  
11 transcript. There is none.

12 With regard to the definition of voluntary  
13 manslaughter, what I can do on that is I can tell  
14 you again what I told you during the charge. And if  
15 you need to be recharged on anything, that's fine.  
16 There's absolutely no problem with that.

17 And, again, I don't want to discourage you from  
18 asking to hear the testimony replayed. It's just I  
19 want to be realistic with you about what we can and  
20 cannot do, so I'm not discouraging it in any way.  
21 If you want to hear it, we'll try to find it. If  
22 you say you want to hear a whole witness' testimony,  
23 that's fine. If y'all know what y'all want to hear  
24 and you want to hear a witness up to a certain point  
25 and you can agree to stop it at that point, that's

1 fine too, but you have to let us know.

2 All right. The law recognizes that certain  
3 crimes include within them lesser crimes. These are  
4 known as lesser included offenses. Murder includes  
5 within it the lesser included offense of voluntary  
6 manslaughter. If you have a reasonable doubt as to  
7 whether the State has proven that the defendant  
8 committed murder, you may consider whether the State  
9 has proven beyond a reasonable doubt that the  
10 defendant committed voluntary manslaughter.

11 Voluntary manslaughter is the unlawful killing  
12 of another human being in sudden heat of passion  
13 based on sufficient legal provocation. Provocation  
14 means provoked, all right.

15 Malice is not required to establish voluntary  
16 manslaughter, but both the heat of passion and  
17 sufficient legal provocation must be present at the  
18 time of the killing to constitute voluntary  
19 manslaughter.

20 The law recognizes that sudden heat of passion  
21 may, for a time, affect the person's self-control  
22 and temporarily disturb a person's reason. The  
23 sudden heat of passion must be the type that would  
24 make an ordinary person unable to coolly reflect on  
25 his actions and produce an uncontrollable impulse to

1 do violence.

2 Sufficient legal provocation must be the type  
3 that would make a person of ordinary reason and  
4 caution become enraged and lose control temporarily.  
5 The provocation needed for voluntary manslaughter  
6 must come from some act of or related to the person  
7 who was killed.

8 If the heat of passion had cooled or if there  
9 was sufficient time between the provocation, if any,  
10 and the killing for the passion of a reasonable  
11 person to cool, the killing would not be voluntary  
12 manslaughter.

13 In deciding whether a reasonable person would  
14 have had enough time to cool off, you should  
15 consider all of the circumstances surrounding the  
16 killing. You may consider the nature of the  
17 provocation, if any, the defendant's mental and  
18 physical state and the circumstances and the  
19 relationships between the parties.

20 Now, that's what I told you about voluntary  
21 manslaughter. If you need anything else, send me  
22 word, all right. Thank you.

23 (The jury retires to the jury room to  
24 continue its deliberations at 6:13 p.m.)

25 **THE COURT:** State for the record exceptions,

1 additions, objections to the Court's instruction,  
2 from the State.

3 **MR. YOUNG:** None from the State.

4 **THE COURT:** Defense.

5 **MR. ANDERSON:** Judge, I just ask you if you  
6 would remind them of the presumption of innocence,  
7 but you did remind them of burden of proof.

8 **THE COURT:** All right. I note your request.  
9 If that jury doesn't understand presumption of  
10 innocence by now, I could say it a million more  
11 times and they wouldn't understand it. I'm  
12 confident they understand it. Thank you.

13 We're at ease pending a verdict.

14 (A recess transpired.)

15 **THE COURT:** I've been informed the jury has  
16 verdicts. I have no way of knowing what the jury  
17 has decided, so please understand that the  
18 instruction I'm about to give you is not directed at  
19 anybody in particular. You all have conducted  
20 yourselves very well and I appreciate the respect  
21 you've shown to the Court.

22 When the verdict is published and thereafter,  
23 you have to keep control of your emotions, do not  
24 show any sign of approval or disapproval with the  
25 verdict, don't shake your head in agreement or

1 disagreement, don't make any sounds, just stay still  
2 and stay quiet.

3 If you don't think you can control your  
4 emotions, good or bad, you need to leave because if  
5 anybody violates what I just told you, I could send  
6 you to prison for six months without a jury trial,  
7 so we don't want that. Everybody stay still, stay  
8 quiet. We'll get through this just fine.

9 Bring in the jury.

10 (The jury returns to open court to report  
11 its verdict at 7:10 p.m.)

12 **THE COURT:** Madame Clerk.

13 **THE CLERK:** Mr. Foreman, have you reached a  
14 verdict?

15 **FOREMAN:** Yes.

16 **THE CLERK:** Would you pass it to the bailiff,  
17 please?

18 (The Clerk hands the verdicts to the Judge.)

19 VERDICT OF THE JURY

20 **THE COURT:** All right. These verdicts are  
21 entered in the cases of the State versus Michael  
22 Duran Watson. Case number 2007-GS-41-00552, as to  
23 the charge of murder, we, the jury, unanimously find  
24 the defendant guilty of the lesser included offense  
25 of voluntary manslaughter, signed by the Foreman.

1           Indictment 2007-GS-41-553, as to the charge of  
2 possession of a firearm during the commission of a  
3 violent crime, we, the jury, unanimously find the  
4 defendant guilty of possession of a firearm during  
5 the commission of a violent crime, signed by the  
6 Foreman.

7           Indictment 2007-GS-41-551, as to the charge of  
8 pointing and presenting a firearm, we, the jury,  
9 unanimously find the defendant guilty of pointing  
10 and presenting a firearm, signed by the Foreman.

11           Ladies and gentlemen, if I have accurately  
12 stated your verdicts, that is guilty of voluntary  
13 manslaughter as to the charge of murder and guilty  
14 as charged on the other two offenses, please signify  
15 by raising your right hand.

16           All 12 hands are raised.

17           Are there any matters to take up prior to the  
18 jury being discharged, from the State?

19           **MR. YOUNG:** No, sir.

20           **THE COURT:** From the defense?

21           **MR. ANDERSON:** No thank you.

22           **THE COURT:** Thank you very much.

23           Ladies and gentlemen, that's going to conclude  
24 your jury service, but there's some matters that I  
25 have to address with the attorneys. There are a few

1 things that I need to tell you before I let you go.  
2 I know what time it is, but if you'll wait on me in  
3 the jury room, I'll get back there as quickly as I  
4 can. Thank you very much. If you'll follow the  
5 bailiff, please.

6 (The jury was excused.)

7 **THE COURT:** Motions.

8 **MR. ANDERSON:** Judge, I honestly can't put them  
9 together right at this moment. I would ask for --  
10 would you give me a few days to be able to submit  
11 any post-trial motions?

12 **THE COURT:** I don't know of that procedure in  
13 criminal court.

14 **MR. ANDERSON:** I know the term ends tomorrow.  
15 I guess I would move --

16 **THE COURT:** I'll give you a few minutes to  
17 collect your thoughts. I mean, basically you just  
18 need to give some thought to what motions you want  
19 to make for a new trial and otherwise.

20 We're at ease. I can't talk to the jury until  
21 I'm finished so let me know when you're ready.

22 (Brief recess.)

23 **MR. ANDERSON:** Judge, I would move for a new  
24 trial on the basis that the deliberations were  
25 approximately three hours. They did have a question

1           about the -- wanting the transcript, which we  
2           obviously couldn't provide.

3           And I just think due to the late hour, the jury  
4           could have felt, you know, some urgency in getting  
5           out of here. And without that transcript to review,  
6           I don't know what the reason was they wanted the  
7           transcript, perhaps if they had had an opportunity  
8           to review testimony, they could have come up with a  
9           different verdict.

10           Furthermore, they have found him guilty even  
11           though the State failed to prove him guilty beyond a  
12           reasonable doubt. So we'd ask for a new trial, Your  
13           Honor.

14           **THE COURT:** Well, actually, requesting a  
15           transcript is a fairly common request from a jury.  
16           I get that all the time.

17           I don't see any indication that the jury's  
18           decision was the result of any improper motive, any  
19           passion, caprice, prejudice or the result of any  
20           impropriety whatsoever. All of the verdicts seem to  
21           be supported by the evidence. They could obviously  
22           have found differently than they did, but I don't  
23           see anything in their verdicts in the way they  
24           conducted themselves in their deliberations or in  
25           their questions that give me any pause. Request for

1 a new trial, request for arrest of judgment, those  
2 motions are respectfully denied.

3 All right. Does the State have anything on  
4 sentencing?

5 **MR. YOUNG:** Yes, Your Honor. A family member  
6 would like to come forward, Mr. Antoine Brown, to  
7 speak to the Court. He speaks for the family.

8 **THE COURT:** Come up by the court reporter,  
9 please, sir. What's your name, sir?

10 **MR. BROWN:** Antoine Brown.

11 **THE COURT:** Yes, sir. Go ahead.

12 **MR. BROWN:** Basically, what I would like to say  
13 is that for those that don't know who I am, the  
14 young man that got killed was my brother. I'm his  
15 oldest brother. I miss my brother. I hate that it  
16 ever happened to him.

17 You're looking at a young man that may not have  
18 done everything right as far as making all of the  
19 right decisions. He had a young man that took his  
20 life, you know, at 17 years old and I think so much  
21 about that. You know, he never got to a point in  
22 his life that he had begun to live his life.

23 You know, that's a life that will never, ever,  
24 you know, be able to regain back again and that's  
25 something that as me as a big brother and also my

1 family is going to have to deal with for the rest of  
2 our lives and that doesn't set too well with me and  
3 my family. And, you know, I just wish that there  
4 was something that I could have done to, you know,  
5 to make sure that that never had happened to him.

6 But one thing I say is this here, he was a  
7 young man that loves the Lord, had a love for God  
8 and he had a lot of great qualities, a lot of great  
9 gifts. You know, I remembered all of the good times  
10 that I shared, you know, with him, the good times  
11 that we had to spend together. You know, my brother  
12 was not a, you know, a bad kid. You know, he, you  
13 know, was just at the wrong place at the wrong time  
14 and I just hate that that happened to him.

15 One thing that I say is this here, I mean, you  
16 know, regardless of, you know, what goes on in our  
17 lives, you know, we need to, you know, stick  
18 together as a family and, you know, and to be able  
19 to cherish one another and be able to help one  
20 another. And, basically, that's what I, you know,  
21 wanted to share with everyone, you know, that I love  
22 my brother and he will always be in my heart always  
23 and forever. And those that are part of my family  
24 also, you know, have him also in their hearts always  
25 and forever.

1           **THE COURT:** Thank you, Mr. Brown.

2           **MR. YOUNG:** Your Honor, the State's only  
3 position on this is that this is a taking of a  
4 completely innocent life. This is not a situation  
5 where a person may have been a rider in a car and he  
6 got into a car that the person was drinking and  
7 driving and he started drinking, too. This is a  
8 person that's standing with a group of friends and  
9 he lost his life because he was standing around with  
10 a bunch of friends.

11           **THE COURT:** All right. Mr. Anderson, do you  
12 want to tell me anything related to sentencing?

13           **MR. ANDERSON:** If I could, Your Honor, please  
14 the Court.

15           **THE COURT:** Sure.

16           **MR. ANDERSON:** Judge, as I said at the  
17 beginning of this trial; this is a horrible case.  
18 There's no winners. Everybody is a loser in this  
19 case.

20           I think, Judge, when we talked to you back in  
21 October, you know, I couldn't tell you everything  
22 that I knew about the case. And I think the case  
23 you heard over this week is totally, well, maybe not  
24 totally, but a lot different than what you'd heard  
25 when we came to your office.

1           Judge, this is just something that just back  
2           and forth that got too far, but I think that what my  
3           client said under oath rings true. And I think he  
4           shouldn't have been riding around with that shotgun,  
5           no question about it. I truly believe he was  
6           scared. And I truly believe these kids just don't  
7           understand the seriousness of everything they do.  
8           And I truly believe that my client was so afraid  
9           that when he heard that, Shoot now, he just reacted.  
10          I don't believe for a minute that he wanted to go  
11          kill Andrew Chandler. I believe to this day that he  
12          didn't mean to kill Andrew Chandler and it's  
13          horrible.

14          My client had a job. He's got two kids. He's  
15          got a great family, nice family. We'd ask you to  
16          consider everything you heard this week.

17          And I don't know what the jury was talking  
18          about if they're talking about something for three  
19          hours. And I'd like to think they were talking  
20          about self-defense versus the manslaughter which may  
21          be could give the Court some pause in sentencing  
22          thinking that this quite easily could have gone the  
23          other way and he could have been walking out of  
24          here.

25          I'm really concerned about those young people

1 we saw in court this week. It's a very bad  
2 situation. My client put himself in a bad  
3 situation, too, but I truly don't believe he's a  
4 black-hearted person that wanted to hurt anybody. I  
5 think things just got carried away.

6 So we'd ask you to consider all of that in the  
7 sentence and we'd ask you to consider not giving him  
8 the maximum sentence. You know, you've heard more  
9 on this case than if this had been a guilty plea and  
10 I think you heard enough to find some mitigation  
11 here.

12 **THE COURT:** Thank you, sir.

13 All right. Mr. Watson, do you want to tell me  
14 anything?

15 **DEFENDANT:** No. I'd just like to apologize to  
16 the family.

17 **THE COURT:** All right. If you wish to take any  
18 appeal from anything that's happened in this case,  
19 it has to be done in writing. You understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** There's a short timeframe in which  
22 that writing has to be submitted to the courts in  
23 Columbia for review. So if you want to file an  
24 appeal, you need to tell Mr. Anderson to file the  
25 notice of appeal. And if you cannot afford a

1 lawyer, there are provisions to appoint you an  
2 attorney to handle your appeal. You understand?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** So make sure you tell Mr. Anderson  
5 if you want to file an appeal. And to be honest  
6 with you, in most instances, it's better to file it.  
7 You can always drop it, if you want to drop it, but  
8 it's --

9 **MR. ANDERSON:** Could I say one other thing,  
10 Your Honor?

11 **THE COURT:** Sure.

12 **MR. ANDERSON:** You know, he went home. He  
13 cooperated with the police. He cooperated with all  
14 of the facilities he's been in. I haven't had any  
15 complaints about him at any of the three places.  
16 And he's been nothing but courteous to me and my  
17 office. And I just think that's -- you just don't  
18 see somebody with this charge act the way that he's  
19 acted. You know, this isn't some black-hearted, bad  
20 boy. He just got in a bad, bad situation.

21 **THE COURT:** Thank you.

22 Y'all arrested him on August the 5th or August  
23 the 6th, 2007?

24 **MR. YOUNG:** He was arrested that night, Your  
25 Honor, on August 6th.

1           **THE COURT:** After midnight?

2           **MR. YOUNG:** Yes, sir.

3                           SENTENCE OF THE COURT

4           **THE COURT:** Well, it's a tragic situation.

5           There's no question about it. I learned a long time  
6           ago, the best thing to do is just announce the  
7           sentence and move forward.

8                           The sentence of the Court on voluntary  
9           manslaughter is that you be committed to the South  
10          Carolina Department of Corrections for 30 years plus  
11          costs and assessments. The sentence on the other  
12          two charges is five years concurrent.

13                          You're given credit for jail time under section  
14          24-13-40 as calculated and applied by the department  
15          of corrections. Restitution is waived. Pay your  
16          court costs within one year of release from prison.

17                          Do you understand your sentences?

18           **DEFENDANT:** Yes, sir.

19           **THE COURT:** Good luck, sir.

20

21                           END OF PROCEEDINGS

22

23

24

25

## C E R T I F I C A T E

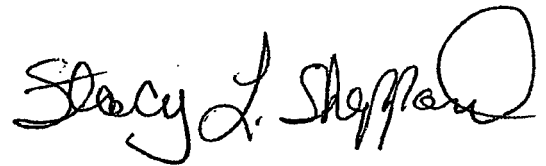
STATE OF SOUTH CAROLINA

COUNTY OF SALUDA

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Saluda County, South Carolina, on the 26th of July, 2010.

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

March 22, 2011



Stacy L. Sheppard, RPR  
Circuit Court Reporter

DOCKET NO. 2007-GS-41- 551

**The State of South Carolina**  
**County of SALUDA**  
**COURT OF GENERAL SESSIONS**

OCTOBER TERM 2007

**THE STATE**  
**vs.**

**MICHAEL DURAN WATSON**

**CDR# 0122**

**Indictment for**

**POINTING AND PRESENTING A  
FIREARM**

**DONALD V. MYERS, SOLICITOR**

**WITNESSES**

Holloway

SPD

**ARREST WARRANT NUMBER**

H 995309

**ACTION OF GRAND JURY**

*Yonelle Booze*  
Foreperson of Grand Jury

Date: **OCT 17 2007**

**VERDICT**

**TRUE BILL**

**GUILTY**  
*Elain Coleman*  
Foreperson of Petit Jury

Date: **JULY 29, 2010**



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SALUDA  
STATE VS.

INDICTMENT/CASE#: 2007-GS-41-551

MICHAEL DURAN WATSON

A/W#: H 995309

AKA:

Date of Offense: 8/5/07

Race: A

Sex: M

Age:

S.C. Code §: 16-23-0410

DOB:

CDR Code #: 0122

Address:

City, State, Zip

SALUDA, SC

DL#

SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: POINTING & PRESENTING A FIREARM

In violation of § 16-23-410 of the S.C. Code of Laws, bearing CDR Code # 0122

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC  §17-25-45 w/minor 1<sup>st</sup> or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury. (Defendant initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: Pay court costs within 1 yr. of release from prison

Recipient: \_\_\_\_\_  
\*Fine: \_\_\_\_\_  
\$14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
\$58-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
\$35.13 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00  
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
\$50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
\$50-20-42(A) (Vehicle Assessment) CJ \$40 \$ 5.00  
3% to County (if paid in installments) \$ 3.90  
TOTAL \$ 133.90

Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

Don B. Weber  
Clerk of Court/Deputy Clerk  
Court Reporter: Stacy Sheppard

PRESIDING JUDGE William P. Shalaby  
Judge Code: 2101510  
Sentence Date: July 29, 2010



DOCKET NO. 2007-GS-41- 552

**The State of South Carolina**

**County of SALUDA**

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2007**

**THE STATE  
vs.**

**MICHAEL DURAN WATSON**

WITNESSES

Holloway

SPD

ARREST WARRANT NUMBER

H 995311

ACTION OF GRAND JURY

*Yonelle Boozw*  
Foreperson of Grand Jury

Date: OCT 17 2007

VERDICT

TRUE BILL

**GUILTY OF VOLUNTARY  
MANSLAUGHTER**

*Elgin [Signature]*  
Foreperson of Petit Jury

Date: JULY 29, 2010

CDR# 0116

Indictment for

MURDER

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SALUDA )

INDICTMENT FOR  
  
MURDER

At a Court of General Sessions, convened on October 17, 2007 the Grand Jurors of Saluda County present upon their oath:

That MICHAEL DURAN WATSON did in Saluda County on or about August 5, 2007, feloniously, wilfully and with malice aforethought, kill one Andrew Chandler by shooting him in the face with a shotgun and that the said victim, Andrew Chandler, died in Saluda County as a proximate result thereof, in violation of the Common Law and as defined in Section 16-3-10 of the Code of Laws of South Carolina, as amended, with punishment provided for in Section 16-3-20 of the Code of Laws of South Carolina, as amended.

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SALUDA  
STATE VS.

INDICTMENT/CASE#:

MICHAEL DURAN WATSON

2007-GS-41-552

AKA:

AW#: H 995311

Race: B

Sex: M

Age:

Date of Offense: 8/5/07

DOB:

cc.

S.C. Code §: 16-3-20

Address:

CDR Code #: 0118

City, State, Zip

SALUDA, SC

SENTENCE SHEET

DL#

SID#

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO:

~~Voluntary Manslaughter~~ VOLUNTARY MANSLAUGHTER

In violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1<sup>st</sup> or Lewd Act)  §17-25-45

The charge is:  As Indicted,  Lesser included Offense,  Defendant Waives Presentment to Grand Jury. (Defendant initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. CREDIT TIME FROM AUGUST 6, 2007.  The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered.  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment

Recipient:		
*Fine:		\$
\$14-1-208 (Assessments 107.5%)		\$
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$58-5-2942(J) (Vehicle Assessment)	CJ \$40/ea	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 1339.0

Obtain GED  
Attend Voc. Rehab. or Job Corp.  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: pay court costs when legs of release from prison

Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

Doris B. Baker  
Clerk of Court/Deputy Clerk  
Court Reporter: Steve J. Sapp

PRESIDING JUDGE William P. ...  
Judge Code: 2101590  
Sentence Date: July 29, 2010

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SALUDA ) IN THE COURT OF GENERAL SESSIONS

THE STATE, )  
 )  
 -vs- ) VERDICT FORM

MICHAEL DURAN WATSON, )  
 )  
 Defendant. ) Case Number: 2007-GS-41-00552

---

AS TO THE CHARGE OF MURDER:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

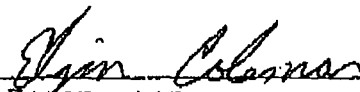
[ ] NOT GUILTY.

OR

[  ] GUILTY OF THE LESSER INCLUDED OFFENSE OF VOLUNTARY MANSLAUGHTER.

OR

[ ] GUILTY OF MURDER.

  
 Foreperson

Saluda, South Carolina

July 29, 2010

Judge: William P. Keesley  
 Ct. Reporter: S. Sheppard

Nov. 10 2011 04:07PM P15

FAX NO. : 8644453772

550ROM :

WITNESSES

Holloway

SPD

ARREST WARRANT NUMBER

H 995312

ACTION OF GRAND JURY

*Jonathan Booz*  
Foreperson of Grand Jury

Date:

OCT 17 2007

VERDICT

TRUE BILL

GUILTY

*Elain Coleman*  
Foreperson of Petit Jury

Date:

JULY 29, 2010

DOCKET NO. 2007-GS-41- 553

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

OCTOBER TERM 2007

THE STATE

vs.

MICHAEL DURAN WATSON

CDR# 0549

Indictment for

POSSESSION OF A WEAPON DURING  
THE COMMISSION OF A VIOLENT  
CRIME

DONALD V. MYERS, SOLICITOR



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SALUDA  
STATE VS.

INDICTMENT/CASE#: 2007-GS-41-553  
AW#: H 985312  
Date of Offense: 8/5/07  
S.C. Code §: 16-23-490  
CDR Code #: 0549

MICHAEL DURAN WATSON

AKA:  
Race: B Sex: M Age:  
DOB: SS#:   
Address:  
City, State, Zip SALUDA, SC  
DL# SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1<sup>st</sup> or Lewd Act)  §17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (Defendant Initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS

PTUP \_\_\_\_\_ days/hours Public Service Employment

Recipient:	
*Fine:	
\$14-1-206 (Assessments 107.5%)	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100
\$14-1-211(A)(2) (DUI Surcharge)	\$100
\$58-5-2995 (DUI Assessment)	\$12
\$35.13 (Public Def/Prob)	\$500
\$73.3, 1B TP (Law Enforce. Funding)	\$25
\$33.7, 1B TP (Drug Court Surcharge)	\$100
\$80-21-114(BUI Breath Test Fee)	\$50
\$58-5-2042(b) (Vehicle Assessment) C.S. \$40/lea	\$5.00
3% to County (if paid in installments)	\$39.00
TOTAL	133.20

Obtain GED  
Attend Voc. Rehab. or Job Corp.  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_ paid to Public Defender Fund  
Other: Pay court costs w/in 1 yr of release from prison

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

Dore B. Hobbs  
Clerk of Court/Deputy Clerk  
Court Reporter: Stacy Sheppard

PRESIDING JUDGE William P. Mackay  
Judge Code: 3101510  
Sentence Date: July 29, 2010

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SALUDA ) IN THE COURT OF GENERAL SESSIONS

THE STATE, )  
 )  
 -vs- ) VERDICT FORM

MICHAEL DURAN WATSON, )  
 )  
 Defendant. ) Case Number: 2007-GS-41-00553

---

AS TO THE CHARGE OF POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

[ ] NOT GUILTY.

OR

[  ] GUILTY OF POSSESSION OF A FIREARM DURING THE  
 COMMISSION OF A VIOLENT CRIME.

*Elgin Coleman*  
 Foreperson

Saluda, South Carolina

July 29, 2010

Judge: William P. Keesley  
 Ct. Reporter: S. Sheppard

STATE OF SOUTH CAROLINA  
COUNTY OF SALUDA

)IN THE COURT OF GENERAL SESSIONS  
) ELEVENTH JUDICIAL CIRCUIT  
)

STATE OF SOUTH CAROLINA

V.

) INDICTMENT NOS.: 07-GS-41-551  
) 07-GS-41-552 & 07-GS-41-553  
)

MICHAEL WATSON,  
Defendant.

CLERK OF COURT  
SALUDA CO. S.C.

2010 AUG -5 AM 11:27

FILED

**MOTION TO RECONSIDER SENTENCE**

Defendant Michael Watson respectfully moves this Court to Reconsider the Sentence issued by this Court in the above-referenced matter on July 29, 2010. Defendant shows unto this Honorable Court as follows:

1. This matter was tried before a jury beginning on July 26, 2010, and concluding on July 29, 2010.
2. The jury was charged: murder, manslaughter and self defense.
3. After lengthy deliberations, a request to review all of the trial transcript and a request regarding the definition of voluntary manslaughter, the Defendant was found guilty of voluntary manslaughter.
4. Throughout the trial, the Court and the jury heard testimony regarding the interaction of the Defendant and the victim and his friends. This interaction was aggressive, frightening and tense.

5. The Court and jury heard evidence that the Defendant herein acted in fear of his own life at the time of the shooting. In fact, several witnesses indicated that the victim's group of friends on the night in question exclaimed "shoot now." Defendant believed this exclamation meant that one of them was going to shoot Defendant. This prompted the fatal shot.

6. At the conclusion of jury deliberations and Defendant's conviction, this Court sentenced Defendant herein to thirty (30) years. This is the maximum sentence allowed by law under the manslaughter charge.

7. It clearly appeared that the jury arrived at its verdict as a compromise.


8. Defendant believes that the jury had no idea that Defendant would receive a 30 year sentence. The Court did discuss this matter with the jury *in camera* after the sentence was imposed. Perhaps jurors expressed their feelings regarding the sentence to the Court and the Court has reflected upon the sentence.

9. This Court knew of the State's providing critical evidence to the defense almost three years into this case. Furthermore, the Court had previously indicated a lesser sentence was probable in a plea setting based solely upon the State's version of the case. After hearing the entire story, the Court had to see Defendant's reasons for going to trial. Furthermore, the jury had to give serious consideration to self defense (as evidenced by their lengthy deliberations).

10. This Defendant respectfully requests that this Court reconsider this sentence in light of the testimony and proof that was offered of the Defendant's state of mind and the circumstances in which this shooting took place. These facts mitigate in the Defendant's favor in requesting a lesser sentence.

Respectfully submitted,

ANDERSON & ANDERSON, LLP

BY: 

P. ANDREW ANDERSON  
Attorney for Defendant  
211 York Street, NE  
Aiken, South Carolina 29801  
(803) 648-6000

July 30, 2010.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SALUDA )

IN THE COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA, )  
 )  
-vs- )  
 )  
MICHAEL WATSON )  
 )  
Defendant. )

ORDER REGARDING MOTION  
FOR RECONSIDERATION

Case Nos.: 2007-GS-41-551 & 552 & 553

FILED  
2010 AUG 12 AM 11:01  
CLERK OF COURT  
SALUDA CO. SC

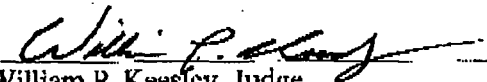
The defendant has filed a motion for reconsideration of sentence. Rule 29(a), SCCRCP, provides that the court, in its discretion, may decide the motion based on briefs without oral argument. The court has elected to determine the issue on written submissions.

Written submissions are not required by the non-moving party, but will be considered. The moving party may choose to rely upon what has already been filed or may supplement it.

The defendant and the State may file with the Clerk of Court's office written briefs and any supporting affidavits or documentation by 5:00P.M. on Monday, August 16, 2010. Each side shall then have an opportunity to file reply briefs until 5:00 P.M. on Monday, August 23, 2010. A copy of any documents filed by the prosecutor/probation agent, defense counsel, or any self-represented defendant must immediately be forwarded to the undersigned judge and to opposing counsel or any opposing self-represented defendant. The copies to the judge shall be sent by mail to Post Office Box 10, Edgefield, South Carolina 29824, and the attorneys must send a copy by email to [wkeesleyj@sccourts.org](mailto:wkeesleyj@sccourts.org) and [wkeesleylc@sccourts.org](mailto:wkeesleylc@sccourts.org).

AND IT IS SO ORDERED.

August 5, 2010

  
William P. Keesley, Judge

STATE OF SOUTH CAROLINA  
COUNTY OF SALUDA

)  
) IN THE COURT OF GENERAL SESSIONS  
) ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

)  
) BRIEF

V.

)  
) INDICTMENT NOS.: 07-GS-41-551,  
) 07-GS-41-552 & 07-GS-41-553

MICHAEL WATSON,  
Defendant.

FILED  
2010 AUG 17 AM 9:20  
CLERK OF COURT

Defendant sincerely believes that this Court should reduce his thirty year sentence.

Back in October, 2009, when attorneys for the State and defense met with the Court to discuss this tragic matter, the Court opined that twenty-five years was probably a reasonable sentence if the Defendant were to plead guilty to manslaughter. Defendant concedes that this was an informal, non-binding conference and is not, in any way, attempting to hold the Court to that figure. However, the Court only heard the State's pitch in regards to the case. The State has always portrayed this matter as a cold-blooded drive-by shooting. Now, the Court has heard testimony from all of the known witnesses in this matter. Clearly, Defendant's car was not moving, somebody with the victim yelled "shoot now," Defendant clearly had prior difficulties with the victim's associates, one of the victim's associates had previously fired a gun in Defendant's presence in such a way as to send Defendant and his friends a menacing message, and the victim's associates were obviously were very daunting and intimidating. Again, all of these facts are now clearly established.

Defendant has never been in trouble before. Defendant has a tremendous amount of support from his friends and family (as evidenced by the numerous individuals who attended the trial in support of the Defendant). Defendant had a job, had a child who he supported, and was a good family member. Furthermore, the Defendant stated from the very beginning

of this case that he shot the gun in self defense. Defendant maintained that position through his testimony at the trial.

In their investigation, the State failed to interview any witnesses other than those witnesses who were friends with the victim. It is impossible to say what evidence could have been discovered had the neighborhood being canvassed. Furthermore, none of the interviews of the eye witnesses were recorded. Defendant's discussions with law enforcement were not recorded either. It is entirely possible that the exact wording of one or more of the witnesses, including the Defendant, could have changed the complexion of this case. Furthermore, the State was still providing the defense with evidence up until right before the trial (almost three years after the incident). This lack of evidence and the late provision of the evidence did prejudice the defense. It is very hard to plan a defense strategy under these circumstances.

The State aggressively sought a murder conviction in this matter. During this very lengthy and tense trial, the jury heard a very plausible self defense argument. Clearly, based upon the lengthy jury deliberations, the self defense argument was seriously considered by the jury. After a lengthy trial, after a lengthy day of testimony, and after lengthy jury deliberations well into the night, the jury arrived at a clearly compromise verdict. While Defendant is appreciative of the compromise the jury made, the Court then sentenced him to the maximum thirty years. The Court did meet with the jurors after sentencing. Defendant is informed and believes that the jurors had to be upset about the thirty year sentence when they essentially found in his favor by finding him guilty of a lesser offense. The defense has been informed that at least three jurors were seen crying as they left the Courthouse (two affidavits are attached). It is very disappointing that the Court would give the Defendant the maximum sentence after all of these proceedings and after the jury must have seriously considered self defense. Again, the jury seemed to be giving Defendant a favorable result by finding him

guilty of manslaughter rather than murder. The Court then takes that favorable result and, essentially, makes it as bad as possible. Why would the Court do this? Clearly, this sentence sends a message that the State can be as difficult and aggressive as they like with nothing to lose and the Defendant will be punished as harshly as possible if he is convicted of anything in a trial. This is most unfortunate.

Your Defendant is not requesting a light sentence by any means. However, a sentence in the range of twenty years would be very reasonable based upon the facts and circumstances of this extremely unfortunate case. A twenty year sentence would give the Defendant some benefit from the jury's compromise verdict, require the Defendant to spend the second half of his life in prison, send a message to the State that cases need to be reasonably resolved, send a message to defendants that there are serious consequences of losing a jury trial, and make allowances for the unique facts and circumstances of this case and Defendant's candor and lack of a criminal record. Again, this Defendant should not be punished for asserting his right to a jury trial and risking life imprisonment. This thirty year sentence does exactly that. That is why your Defendant respectfully and humbly requests that this Court reflect back upon the trial, reflect back upon all of the witnesses, reflect back upon the tensions and fears that were discussed in this matter, reflect back upon the fact that the jury issued a favorable verdict, and issue a sentence that is more fair and just.

Respectfully submitted,

ANDERSON & ANDERSON, L.L.P.



---

P. ANDREW ANDERSON  
Attorney for Defendant  
211 York Street, NE  
Aiken, South Carolina 29801  
(803) 648-6000

August 13, 2010.

STATE OF SOUTH CAROLINA  
COUNTY OF SALUDA

)  
) IN THE COURT OF GENERAL SESSIONS  
) ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

V.

) AFFIDAVIT OF ROSHELL BLETCHER

MICHAEL WATSON,  
Defendant.

Now comes affiant who states under oath as follows:

I am Michael Watson's cousin. I was in the parking lot when the jury came out of the Courthouse after the trial. I saw several jurors and they seemed very upset. I was also very upset. I truly believe that they were upset about Michael's sentence.

Affiant states no more.

*Roshell Bletcher*  
Roshell Bletcher

FILED  
2010 AUG 17 AM 9:20  
CLERK OF COURT  
SALUDA COUNTY

Sworn to before me this  
13<sup>th</sup> day of August 2010  
*Brittany Bennett*  
Notary Public for South Carolina  
My Commission Expires: 12/8/2018



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SALUDA )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 )  
 )  
 VS. )  
 )  
 MICHAEL WATSON, )  
 DEFENDANT. )

IN THE COURT OF  
 GENERAL SESSIONS  
 ELEVENTH JUDICIAL CIRCUIT

Warrant Nos.: H-995307, H-995308,  
 H-995309, H-995311 & H-993512

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE BY MAIL

I, Brittany Barrett, of Anderson & Anderson, LLP, attorney for the Defendant in the above entitled action, do hereby certify that on August 13, 2010, I mailed a copy of the foregoing document(s), by depositing the same in the U. S. Mail at Aiken, South Carolina, in an envelope with proper first-class postage affixed, addressed to the following attorney(s) and/or party(ies) of record, to wit:

**Name:**

Frank Young, Assistant Solicitor  
 187 Saluda Airport Rd.  
 Saluda, SC 29138

FILED  
 2010 AUG 17 AM 9:20  
 CLERK OF COURT  
 SALUDA CO. S.C.

**Document(s) Sent By Mail:**

Brief for Reconsideration

*Brittany Barrett*  
 Brittany Barrett  
 Anderson & Anderson, LLP  
 211 York St, NE  
 Aiken, South Carolina 29801

STATE OF SOUTH CAROLINA ) **FILED**  
 ) IN THE COURT OF GENERAL SESSIONS  
 COUNTY OF SALUDA 2010 SEP -1 AM 9:24

STATE OF SOUTH CAROLINA )  
 ) CLERK OF COURT  
 ) SALUDA CO. S.C.

-vs- )  
 ) **ORDER DENYING MODIFICATION**  
 ) **OF SENTENCE**  
 MICHAEL WATSON, )  
 ) Case Numbers 2007-GS-41-00551,  
 ) 2007-GS-41-00552, and 2007-GS-41-00553  
 Defendant. )

The defendant has moved for the court to reconsider and reduce the 30-year sentence imposed upon him. The motion is denied.

The parties were advised that the motion would be decided on written submissions pursuant to Rule 29(a), SCRCrP. A memorandum was submitted from defense counsel dated August 13, 2010. The court had established a timetable to allow the State the ability to respond to the submissions of the defense and for the defense to file any reply brief that it deemed necessary. Nothing has been received from the State.

*WPK #1*

Mr. Watson had a jury trial on charges of murder and firearm violations. The jury convicted the defendant of the lesser-included offense of voluntary manslaughter. A 30-year sentence was imposed on the manslaughter conviction and a 5-year sentence was given on the firearms charge, running concurrently.

In his brief, the defendant refers to an informal conference that the court held with the attorneys in October 2009. It was held at counsel's request. The court does not completely agree with defense counsel's recitation or interpretation of the court's analysis of the case in October or after the trial of the case. If the court indicated that it would be comfortable imposing a sentence of 25 years on a voluntary manslaughter plea

in October 2009, without knowing all the facts of the case or having the benefit of sitting through the trial, defense counsel know full well that the court was not setting the sentence and the court always places a caveat that, after hearing the presentation in open court, if the court feels that it must exceed the time previously discussed, it will announce that fact and let the defendant withdraw his guilty plea. Moreover, the court is very careful never to punish someone for exercising his right to a jury trial. At the time of sentencing here, the court had only a vague recollection of the October 2009 discussion and no recall of the possible sentence that may have been imposed at that time. The court does not negotiate sentences with the attorneys or defendants.

WAL  
#2

All of the issues in mitigation that were raised in the brief were made known to the court prior to the imposition of sentence, except the assertion that three of the jurors were seen crying after they left the courthouse and the speculation that some of the jurors were upset with the sentence. As the attorneys know very well, it is the court's function to impose the sentence and the jury's decision to decide the facts. Different people demonstrate emotion in different ways and react to momentous decisions differently. The jurors were told at the outset of the post-sentencing meeting that the court cannot comment on any jury's verdict. No comments were made about the decision. The court told the jurors the sentence that was imposed. No juror demonstrated emotion at that time or expressed any outrage over the sentence. Even if the court were to accept the speculation as to why the jurors were acting as they were post-trial, the court does not try to fashion sentences that please all the jurors or that please the litigants on either side of the case. The jury's verdict was supported by the evidence. The court imposes sentences that it feels are warranted under the circumstances. Others have the right to disagree with

the sentences imposed, and the court respects that right. It does not, however, yield its function to those who disagree. The brief states that the sentence imposed was not "fair and just." The court disagrees. Mr. Watson made a conscious decision to ride around with a loaded shotgun at the ready. He stopped the vehicle he was driving when he could have driven away (or he could have avoided that location altogether). He shot a young man in the face and killed him. The court appreciates the dedication that defense counsel has towards his client and his seemingly complete acceptance of his client's version of what happened. The court does not believe the situation to have been exactly as portrayed by the defendant.

This leads into what the court considers to be a very troubling portion of the defense's brief. The brief reads, in part, beginning on page 2 and continuing onto page 3, as follows:

*WPK  
#3*

It is very disappointing that the Court would give the Defendant the maximum sentence after all of these proceedings and after the jury must have seriously considered self defense. Again, the jury seemed to be giving Defendant a favorable result by finding him guilty of manslaughter rather than murder. The Court then takes that favorable result and, essentially, makes it as bad as possible. Why would the Court do this? Clearly, this sentence sends a message that the State can be as difficult and aggressive as they like with nothing to lose and the Defendant will be punished as harshly as possible if he is convicted of anything in a trial. This is most unfortunate.

If this is an assertion of bias on the part of the court towards the State, the court does not believe that such an assertion is warranted. If this is an assertion that the court believes that the jury did not consider every issue seriously (including self-defense), then the court does not accept that proposition. The court had no intention of sending and does not believe that it did send the message asserted in this section of the brief. The court strenuously disagrees that it did so in this case or any other.

With regard to the actual issues that existed in the case, the court stood ready and attempted in good faith to rule on every issue raised, regardless of what it was based upon. But, the court was frequently provided arguments that the rulings should somehow be based upon the defense's feelings of frustration or disappointment. Many of the pretrial motions included those arguments. The post-trial motion now recites it. The court understands those feelings, but a ruling has to be based on some legal or procedural principle.

*W/PC  
#4*


What the court attempted to do was to give the parties a fair trial. When the defense wanted the option of the lesser-included offense, the court gave it. The court gave a self-defense charge, incorporating aspects of the castle doctrine at the defendant's request, and fully expected self-defense to be seriously considered by the jury. That does not mean that the court believed that the defendant acted in self-defense. Seemingly, the jury properly applied the law when it rejected self-defense. When the defendant was found guilty, the court determined that it should impose a sentence of 30 years. Others may find that excessive or overly harsh, and they have every right to feel that way. But, if any message was intended, it was not the one that the defense believes came from the bench. Instead, the message would be that having young people riding around with loaded shotguns (perhaps sawed-off shotguns) at the ready to shoot and kill other kids with whom they have had prior difficulties is not going to be tolerated.

The court finds no basis upon which to modify the sentence. The motion is denied.

**THEREFORE, IT IS ORDERED** that the motion to alter or amend the sentence is denied.

AND IT IS SO ORDERED.

August 31, 2010

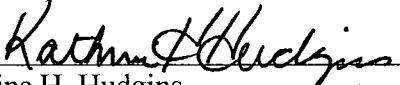
  
\_\_\_\_\_  
William P. Keesley  
Judge

#5

## 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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 18th, 2012

  
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Appellate Defender

South Carolina Commission on Indigent Defense  
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ATTORNEY FOR APPELLANT

**ORIGINAL**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**  
MAY 18 2012  
**SC Court of Appeals**

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Appeal from Saluda County

William P. Keesley, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,


v.

MICHAEL WATSON,

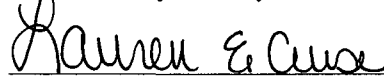
APPELLANT  
\_\_\_\_\_

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 18th day of May, 2012.

  
Emily Bryson  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 18th day of May, 2012.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: August 23, 2014.