ORIGINAL

VOLUME III OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
NOV 05 2018
SC Court of Appeals

Appeal from Beaufort County

Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYRONE LORENZA ROBINSON,

APPELLANT

APPELLATE CASE NO. 2017-002233

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

PAGES 1001-1091

INDEX

INDEX i

TRIAL TRANSCRIPT (SEPTEMBER 15-19, 2014) 1

JACKSON V. DENNO HEARING

MARTIN THOMAS 138

WENDY CONANT 156

OPENING STATEMENT BY MR. STONE 295

OPENING STATEMENT BY MR. BAX 298

TESTIMONY

MELANIE SMITH 308

ZACHARY TAYLOR 315

CHARLESE MITCHELL 320

TYRONE DELANEY 349

BRITTANY BRINSON 375

DOMINIQUE GRIFFIN 391

BENNIE LEE HAMILTON 402

MARTIN THOMAS 412

WENDY CONANT 425

EBONY CAMPBELL 440

JONTU SINGLETON, SR 464

DOUG SEIFERT 502

JOHN ADAMS 514

LAUREL ALBERTIN 522

BOB BROMAGE 528

DERRICK NELSON 540

JEFF MORAN 552

WENDY CONANT 557

ROGER HEATON 568

DR. LEE MARIE TORMOS 571

ILLA SIMMONS 595

DAN DEFREESE 617

MOTION FOR A DIRECTED VERDICT 664

RULING BY THE COURT 670

RENEWAL OF ALL PREVIOUS MOTIONS 675

TESTIMONY

KIMBERLY HILL 709

CEDRIC CAMPBELL 713

EBONY CAMPBELL 746

ANDRES FLORENCIO 753

LAUREL ALBERTIN 758

J. S. (IN-CAMERA EXAMINATION) 779

J. S 784

ROBERT BROMAGE 793

TYRONE ROBINSON 821

CLOSING ARGUMENT BY MR. BAX 939

CLOSING ARGUMENT BY MR. STONE 960

CHARGE ON THE LAW 983

VERDICT 1013

SENTENCING 1024

TRANSCRIPT OF HEARING (FEBRUARY 27, 2014) 1037

INDICTMENT 1089

CERTIFICATE OF COUNSEL 1091

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #4 (C.D. DASH CAM) AND
STATE'S EXHIBIT #6 (C.D. OFFICER CONANT INTERVIEW)

believed that he was in imminent danger of death or serious bodily harm you should consider all of the facts and circumstances surrounding the crime. You have the right to consider evidence of prior difficulties between the defendant and the parties on the other side. You have the right to consider whether a threat existed and whether the defendant had a reason to believe that a threat existed and how serious the threat was.

Another element that has to be established in this case is that the defendant had no other probable way to avoid the danger of death or serious bodily injury than to act as he did in this particular instance. The defendant has no duty to retreat from a situation in which death or serious bodily harm may be present if by doing so the retreat would increase his danger of being killed or suffering serious bodily harm.

So those are the elements that have to be established in order to establish the defense of self-defense. The defendant must have been without fault in bringing on the difficulty or if he was with fault in bringing upon and creating the difficulty then the evidence must establish that he had withdrawn and indicated that withdrawal by word or by act to the other side. It must be established that he was in imminent danger of serious death or bodily harm -- or death or

serious bodily harm or that he believed that he was in such imminent danger. And those types of beliefs must be the same type of belief that a reasonable person would have entertained under the same facts and circumstances and that there was no other way to avoid the danger except in acting as he did.

Now I told you a few minutes ago about the law of transferred intent on murder. That is to say that if a person with malice aforethought intends to kill one person but actually kills another then that intent to kill is transferred from one person to another and the defendant is equally guilty of the charge of murder.

Well, in a somewhat reverse way transferred intent also works when self-defense is being raised because if a defendant is entitled to self-defense against an assailant or an attacker he is not deprived of that right if an unintended victim was harmed by his acts.

Now ladies and gentlemen you have heard the testimony of the defendant in this particular case by statements that were given prior to the trial. This court determines whether or not those statements are admissible and I have determined that you could hear them obviously because you have. But you must determine whether or not the defendant made those statements voluntarily. In other words were the statements actually

made and were they voluntarily made and then you have to decide the weight that you will give them because you have to make the ultimate determination of whether or not the statement was made and whether or not it was made voluntarily and then the weight that you will give to it. You have to decide whether the statement was the product of an essentially free and unconstrained choice by the maker of it.

The State has to prove the voluntariness of the statement beyond a reasonable doubt. And if you determine beyond a reasonable doubt that the statement was freely and voluntarily given then you can give it the weight and consideration that you think it should receive. If you determine that the statement was not the free and voluntarily willed statement of the defendant then you should not consider it as evidence for any purpose at all.

And in determining whether or not the statement was freely and voluntarily made or whether the defendant's will was overcome by something else the law requires you to consider the totality of the circumstances; that is all of the circumstances surrounding the interrogation at the time. The law says that you can take into account the age of the defendant, his background, his mental ability; all of the facts and circumstances which are

shown to have existed before the statement was made. And in determining the voluntariness of the statement you should consider whether he was advised of or whether he understood his constitutional rights because the law requires that when a person is in custody before any questions can be asked that person must be informed and advised of his constitutional rights.

That means that he has to be advised by the authorities that he has the right to remain silent and if he makes a statement that statement can be used against him in a court of law, that he has the right to have a lawyer present, and that if he cannot afford a lawyer then one will be appointed to represent him free of charge and that he can stop making his statement at any time he wants to.

You must carefully scrutinize all of the surrounding circumstances before you give any weight to the statement. You have to be satisfied beyond a reasonable doubt that the defendant made the statement, that he was uninfluenced by any promise of reward or any threat of harm. You must decide that the statement was voluntarily given and then you decide what weight you will give to the statement if those matters have been proven beyond a reasonable doubt. You have looked at transcripts during the course of this trial and you will have in the jury

room with you the compact disks of the testimony of all the witnesses that you saw here in court. If you want to view those things again let us know and we will make some arrangements either to take the mechanism in there to show it to you or more likely to bring you back out here and play it for you again. But all of those statements or at least most of them were accompanied by transcripts as an aid for your understanding of what the statements actually said.

I remind you again that those transcripts were guides. Those were aids or things to assist you in what the witness or the defendant was actually saying. Your ear is just as good and so if your ear tells you that the statement says one thing and the transcript tells you that it something else then go with what you heard and not with what you read.

Now ladies and gentlemen let me tell you finally, that's a word you've been hanging on for a while here right finally, let me tell you finally that you don't serve as jurors in this or in any case as partisans or advocates for the State of South Carolina or for this defendant. You've been selected by both the defendant and the State to serve as fair and partial jurors. It is your duty then by your joint deliberations to determine the truth in this case giving to the defendant every

reasonable doubt on each and every issue. And then as I have told you to the facts which you determine to be true apply the law which I have just given you and thus arrive at a verdict which will speak the truth of this case. And that's what the word verdict means. It comes from a Latin phrase and it means a truthful saying.

And once you have done that you will have accomplished the responsibilities which we have imposed upon you and you will have fulfilled the obligation that you took under your oath before you began the trial of this case to well and truly try this case and to render a true verdict according to the law and the evidence so help you God. We are confident that you will do nothing less than that and that you will do just that.

Now ladies and gentlemen, I want to instruct you as to the forms of the verdict in this particular case. I have written them down on this [indicates] sheet. There are two possible verdict forms. The order in which I have written them has no significance whatsoever and you are not to reach any conclusion or draw any inference from the order in which I have written them.

I am giving this form to the Foreperson because he is the one who has to fill it out. There are only two possible verdict forms. The verdict form reads as to the indictment number here on the charge of murder we

unanimously find the defendant, Tyrone Robinson and the first possible verdict form is guilty of murder. That's the verdict that you will arrive at if you feel that the State has met its burden of proof as to the crime of murder and that the defense of self-defense has not been established. And if that is the verdict form that you arrive at Mr. Foreman you will indicate that by putting an X or a check mark in the blank that you see we have provided for you.

The second possible verdict form is that we the jury by unanimous consent find the defendant, Tyrone Robinson not guilty. That's the verdict that you will arrive at if you find that the State has failed to meet its burden of proof as to the charge of murder or if the defense of self-defense has been made out to your satisfaction in this particular case. If that is a verdict that you arrive at you will indicate that by putting an X or a check mark in the space that you see we have provided for you. I have given the verdict form to the Foreman ladies and gentlemen because he's the one who has to fill it out but it is not going to be his verdict alone. The verdict has to be unanimous. All 12 of you have to agree. And Mr. Foreman you not authorized to fill out that verdict form nor to sign it until all 12 of you agree as to what the verdict shall be. I am going to send you to your

jury room now but I ask you to wait one final moment before you begin your discussions in this case. I have to talk to the lawyers to see if I have left out anything or if I have misstated something to you. And if I have I'll have to bring you back out to correct that. But if I do not have to bring you back out we will send in these items of evidence. Once the items of evidence have been delivered to you that will be your signal to begin your deliberations; not until then please. Once you have done your deliberations you will deliberate until you have reached a verdict. You will fill out the verdict form at that time; you will knock on the door and advise the bailiff and we will bring you out to receive your verdict. Your lunch will be here momentarily, well around 12:30. You can deliberate while you eat, you can stop deliberating and eat that's up to you. You have been on our clock all week. Once that evidence is brought in we're going to be on your clock from that point on we will be at your behest and will wait to hear from you. Mr. Foreman and ladies and gentlemen please retire to your jury room and please wait just for a moment before you begin your discussions. Ms. Boston and Ms. Mauriocourt, if you'll stay right where you are please.

[Whereupon, the jury exits at 11:52 a.m.]

THE COURT: Ms. Boston and Ms. Mauriocourt, ladies as alternate jurors I think you have realized your role in the trial of this case. I am not right this minute at liberty to let you go. There is a separate jury room that we will put you in momentarily just to make sure that we don't need you any further in this trial.

Obviously your role as alternate jurors would have been to take the place of any of these original 12 if they had not been able to complete their service; if they had an emergency or some illness that kept them from showing up every day. And if that had happened if one of them had not been able to be here and if you all had not been we would have had to start this whole trial over from scratch. Everything up to that point would have been wasted.

So you have given us the peace of mind, you have given me the peace of mind knowing that because you were here we were going to be able to complete this trial this week and you were just as capable as any of those 12 in that jury room to deliberate and to reach a verdict in this case. But right this minute it does not look like we're going to need you. I'm going to ask you to stay for a while longer. First of all stay at least long enough to get the pizza. It will be here in about 30 minutes; goodness knows you've earned that. And at some

point there about or after that time release you I will certainly do that. So if you don't get a chance to deliberate, if you don't get a chance to decide this case, and I trust that you will not. I hope that the 12 who are in there will be able to survive through until a verdict has been reached.

But if you don't get a chance to take part in this case please understand that your service has been just as valuable as anybody else's and we thank you for the time that you have contributed to us during this week. And I hope you have gained a greater appreciation even in your somewhat one step removed from the jury room of the importance of jurors like yourselves in this process. Thank you, folks.

[Whereupon, the alternate jurors exits at 11:55 a.m.]

THE COURT: Mr. Stone, any exceptions to those charges or requests for additional charge from the State?

MR. STONE: No, sir.

THE COURT: Thank you. Mr. Bax other than previously noted any exceptions or requests for additional charge from the defense?

MR. BAX: No, Your Honor.

THE COURT: Thank you. All right folks, if you will look at the evidence and make sure it is all

together and once it is all in order it should be taken in and tell the jury they can begin their deliberations.

MR. STONE: Yes, sir.

THE COURT: Folks, we will be at ease. They have other work for us to do but we're not going to do it right this minute. We'll stand aside for a while at least until the pizza gets here. And after that we'll come out and take some pleas. Thank you.

[Whereupon, counsel review exhibits with the court reporter]

[Whereupon, evidence out to the jury at 12:02 p.m.]

[Whereupon, court is in recess from 12:02 p.m. until 1:40 p.m.]

[Whereupon, court's exhibit number 2 is marked by the court reporter.

THE COURT: Thank you ladies and gentlemen, you may be seated. Ladies and gentlemen we're advised that the jury has reached a verdict. Are both the State and the defense ready to receive the verdict?

MR. STONE: The State is ready, Your Honor.

MR. BAX: The defense is ready, Your Honor.

THE COURT: Thank you. Ladies and gentlemen indeed we are ready now to bring the jury out to receive the verdict. You all have been here on both sides of the aisle all week and have been following this case with a

great deal of interest and I appreciate the interest that you have in the case and the emotion that is necessarily tied up in it and that will be necessarily tied to the response of any verdict that has been reached in this case. We don't know what the verdict is. I imagine on one side there might be relief, on the other side there might be remorse; we don't know which side those emotions will be on. But I tell you that regardless of which side of your aisle those emotions fall on I must ask you to continue to use the same restraint and the same respect to these proceedings that you have shown throughout this trial. That is to say please refrain from any outward display of emotion that would disrupt these proceedings in any way whatsoever. And if you feel that you might be unable to restrain your emotions if this verdict turns out different than what you would hope then I'll give you this chance to leave the courtroom rather than stay in here and subject yourself to those emotions and any adverse outcome that might impact you as a result of your display. So if you stay then I am confident that you will abide by my instructions. Thank you very much. Bring us the jury.

THE BAILIFF: The jury is entering the courtroom, Your Honor.

[Whereupon, the jury enters at 1:50 p.m.]

VERDICT

THE COURT: Mr. Foreman, has the jury reached a verdict?

MR. FOREMAN: Yes, Your Honor.

THE COURT: Is it a unanimous verdict?

MR. FOREMAN: Yes, Your Honor.

THE COURT: Will you please hand the verdict form to the bailiff please sir? Thank you.

[Whereupon, the verdict form is provided to the court and then to the Clerk of Court]

THE COURT: Madame Clerk, you may publish the verdict.

CLERK OF COURT: The State of South Carolina County of Beaufort in the Court of General Sessions Fourteenth Judicial Circuit indictment number 2012-GS-07-1935 the State of South Carolina versus Tyrone Robinson. As to that indictment the charge of murder we, the jury, unanimously find the defendant Tyrone Robinson guilty of murder. I certify that this is the unanimous decision of the jury. The Foreperson has signed it.

Mr. Foreman, ladies and gentlemen of the jury if this is the decision of each and every one of you please indicate so by raising your right hand.

[Whereupon, all jurors raise their right hands]

THE COURT: Thank you. The record will reflect

that all 12 jurors affirmed the verdict. Mr. Bax, does the defendant desire a polling of the jury?

MR. BAX: Yes, Your Honor.

THE COURT: Thank you. Ladies and gentlemen you are now going to be polled individually. That means your names are going to be called individually. As your names are called will you please stand in place and you will be asked two questions is this your verdict or was this your verdict and is it still your verdict and if you will give the appropriate answer to that question whatever it happens to be. All right, Madame Clerk?

POLLING OF THE JURY

CLERK OF COURT: Juror 95 David Crocker. Is this your verdict?

MR. CROCKER: Yes.

CLERK OF COURT: Is this still your verdict??

MR. CROCKER: Yes, it is.

CLERK OF COURT: Juror 151 Warren Gaither. Is this your verdict? Is this still your verdict?

MR. GAITHER: Yes, it is.

CLERK OF COURT: Juror number 121, James Dresher. Is this your verdict?

MR. GAITHER: Yes.

CLERK OF COURT: Is this still your verdict??

MR. DRESHER: Yes.

CLERK OF COURT: Juror 286, Tyianna McKoy. Is this your verdict? Is this still your verdict?

MS. MCKOY: Yes.

CLERK OF COURT: Juror 262 James Lorenz. Is this your verdict? Is this still your verdict?

MR. LORENZ: Yes, it is.

CLERK OF COURT: Thank you. Juror 245 David Lancaster. Is this your verdict? Is this still your verdict?

MR. LANCASTER: Yes, it is.

CLERK OF COURT: Thank you. Juror 406 Edward

Uniejewski. Is this your verdict? Is this still your verdict?

MR. UNIEJEWSKI: Yes.

CLERK OF COURT: Thank you. Juror 209 Mary Hughes. Is this your verdict? Is this still your verdict?

MS. HUGHES: Yes.

CLERK OF COURT: Thank you. Juror 59 Samuel Burke. Is this your verdict? Is this still your verdict?

MR. BURKE: Yes, it is.

CLERK OF COURT: Thank you. Juror 125 Benjamin Dunning. Is this your verdict? Is this still your verdict?

MR. DUNNING: Yes, it is.

CLERK OF COURT: Thank you. Juror 438 Steven Womack. Is this your verdict? Is this still your verdict?

MR. WOMACK: Yes, it is.

CLERK OF COURT: Thank you.

THE COURT: If you will go back to juror 365.

CLERK OF COURT: I'm sorry. Juror 365 Evelyn Seabrook. Is this your verdict? Is this still your verdict?

MS. SEABROOK: Yes.

CLERK OF COURT: Thank you.

THE COURT: All right. Thank you. Anything further before the jury is dismissed Mr. Bax from the defense?

MR. BAX: No, Your Honor.

THE COURT: Thank you. From the State?

MR. STONE: No, sir.

THE COURT: Thank you. Now, ladies and gentlemen I want to thank you for your service this week as jurors. You have been an excellent jury, a wonderful jury. I never condemn a jury for the verdict that it reaches nor do I commend a jury for the verdict that it reaches. I am delighted that the difficult questions of guilt and not guilty and things of that nature are in your capable hands.

What I do comment upon is your quality of service. You've been here promptly. Even when we were not ready you were ready. You have followed this case throughout. We have exposed to you unfortunately to a side of life that you are not familiar with and some of these things have been difficult emotionally. We appreciate the fact that you have born up under those things so well.

I hope you have gained a better appreciation by virtue of your service this week of how important folks like you are to our system and how we cannot take care of the difficult matters that we've taken care of without your help. I hope that you never find yourself caught up in this system. I hope you never find yourself seated on this side [indicates] of the aisle where the victim's family is, the victims sometimes are seated or on this side [indicates] of the aisle where the defendant and the defendant's family are seated. I hope you never find

yourself in this courtroom on that side of the rail. But I can tell you, you don't have to volunteer to get caught up in this system. You can get caught up in it whether your want to or not. As a matter of fact nobody in this courtroom is here on that side [indicates] of the rail because they want to be here today; they are here because of circumstances in the system have brought them here. I hope that never happens to you.

But if it ever does happen to you and if you find yourselves in a courtroom like this on a Monday morning when the whole venire of jurors like you all are brought into this courtroom seated in those chairs back there [indicates] and you're seated inside this rail [indicates] when you turn around to look into the faces of the people that we have brought into this court to try to decide your case, a case that you have a deep and abiding personal interest in you're going to hope that you are looking into the faces of people just like yourself. People who have things to do, better things to do than what we are going to be asking you to do you think, plans that you have made and things that you have to set aside to come with us. The last thing in the world that you want us to do to get a jury to try your case, your case, is to scrap around the streets of Beaufort and see if we can't find 12 people who don't

have a better thing in the world to do than to come into this court and decide your case. You don't want that kind of jury. Nobody wants that kind of jury. People want a jury just like you; folks who do have better things to do but are willing to set those things aside to help us do the things that we have to do. You've given us that type of jury and we appreciate your contribution and I hope you understand how important you are and how much we appreciate your efforts in this regard.

I still have matters out here to attend to, motions and sentencing that do not require your presence and so you are free to go now. Leave your tags with the folks. You will get a check in the mail sometime in the next few days. It's not going to begin to pay you for the full time you have invested in us this week. If you will add the appreciation of everybody who makes up this system to the small amount of that check I hope you will be compensated in some way for what you've done for us this week. Thank you folks, you're excused now.

[Whereupon, the jury is excused and exits at 1:58 p.m.]

THE COURT: Mr. Bax, I'll be glad to hear any motions.

MR. BAX: Thank you, Your Honor.

MOTION

MR. BAX: At this time first I would like to move for judgment notwithstanding the verdict. I would argue in support of that very similar to what I have already argued on directed verdict after the State's case and the resubmittal of directed verdict after the defense's case.

I would put special emphasis on the fact that based on all the testimony that was entered into the record in evidence that withdrawal was undisputed and the disproving or submitting evidence beyond a reasonable doubt to dissolve self-defense was not done at all. I believe that the jury in this case made their decision based on emotion despite the pleas of the defense not to do so.

I would also cite for Your Honor that this was a complicated case and that there were arguments about the forensics. There were multiple different forensic items and science that was testified to. There was also the issue of self-defense and this jury reached its verdict in roughly an hour and a half which included eating their lunch after a five day trial roughly, Your Honor; four and a half days. As a result I believe we are entitled to a judgment notwithstanding the verdict because I think it's clear that the jury did exactly the opposite of what I believe that they are required to do, which is to make

a decision on the facts and not on the fact that the victim was a boy. So that would be the motion under JNOV, Your Honor.

THE COURT: Thank you. Once again taking the evidence in this case in the light most favorable to the State I find that the verdict which was reached was well within the province of this jury. It was quintessentially a jury question to decide the issues of guilty of murder or not guilty by reason of self-defense or perhaps not guilty because they believed that Mr. Robinson didn't fire the shot in the first place. And while those issues were entirely separate issues they were all quite frankly combined into a relatively small period of time and into a small space once we got here to the things shown on the model.

The things that occurred before that were really not in dispute. What had happened in the house where he first went to the Youngs house. The only dispute was whether there was a tussle over the gun when it went off accidently, whether there was a slapping of the gun. But from that point on most of the dynamics of it were pretty much the same. Now who said what and when those matters change as they bound to change with this many witnesses involved. But when the jury was able to focus on the model here and what happened in that point, which is the

most critical area that they had to focus on and the facts around which they necessarily at the end based their verdict that was a narrow scope of time and space. And they had more than enough time in my view to discuss this case and discuss the issues surrounding all that within the timeframe that they took.

They have been an attentive jury throughout as I've indicated to them. They have understood they have been punctual; they have been interested in this process. There is nothing in my observation of them to lead me to believe that they went outside of my instructions or outside of the facts of this case to decide this. So I am going to respectfully deny the motion for JNOV.

MR. BAX: Thank you, Your Honor. And then for the record in light of the ruling I would also move for a new trial under the same arguments.

THE COURT: Thank you. And I renew my ruling for the same reasons. Thank you.

MR. BAX: Thank you, Your Honor.

SENTENCING

THE COURT: Is the State now ready to proceed to the matter of sentencing?

MR. STONE: We are, Your Honor.

THE COURT: Is the defense ready?

MR. BAX: Yes, Your Honor.

THE COURT: All right.

MR. STONE: We have a matter first of his criminal record. We also have -- I believe we have members of the family that would like to address Your Honor if you would hear from them.

THE COURT: I'll be glad to.

MR. STONE: Would you rather hear the family first or the record?

THE COURT: Let's do the record first.

MR. STONE: Yes, sir. Tyrone Robinson has literally been in and out of prison his entire adult life. He starts in 1995 with a simple assault and battery, a public disorderly conduct, and a malicious injury to property, domestic violence two counts. And then in 1996 an assault and battery, a discharging a firearm, grand larceny, hit and run death or personal injury; it was personal injury, burglary third degree, simple larceny, petty larceny, grand larceny two counts of that. At that point he was placed in Lieber

Correctional Institute; that was in June of 1996. He was paroled three times. He violated his parole each time and ended up maxing out that sentence in July of 2002. That's important, Your Honor because in November of 2002 he went back to prison on a separate set of charges. This two counts of failure to stop for a blue light, possession of a stolen motor vehicle.

This was the offense that Your Honor was aware of that he received maximum penalties on all of that which totaled 13 years. He maxed out his sentence April the 30th of 2010 within two years of this incident -- or a little after two years of this incident. That's his criminal history. Family members at this time, Your Honor, would you hear from them please?

THE COURT: I'll be glad to.

[Whereupon, individuals come forward]

THE COURT: Give me your name please, sir?

MR. SINGLETON: Kareem Singleton.

THE COURT: Mr. Singleton?

MR. SINGLETON: I just want to say thank you to the State and to the jury for this bittersweet day for me. And I say bitter because I'll never get my son back. When God gave the little boy to us I prayed and I asked God to give us this child. The Lord gave us this child. I raised that child, we raised that child from a young

man -- from a little boy I say young man because I know him from the time he came here and from the time he left. And that little boy had more heart and was more a man than many of men in here today. My son, God knows how much I love him and how much I miss him. I say it's a little sweet because I feel a little vindication today for all the tears that was shed up here on the witness stand. I feel no remorse for that.

I am a Christian and I know you are supposed to forgive and I do forgive but I have a big problem forgiving with you right now because you took something from me that nobody can give back to me. Nobody. And that was my heart, my heart.

I sacrificed and I worked endless days and nights to make sure that boy had every and anything that he wanted. Anybody that know me anybody can tell you how hard I worked and how I worked to do what I was supposed to do to give that boy the best life I could and he did that and he had that.

And I want to thank all of my family members because he had a strong family from my parents to her parents everybody played a part and a role in his life. And I thank you all. And most importantly I thank God for giving him to me for those eight years that he was there. And I thank you.

THE COURT: Thank you Mr. Singleton.

MS. SINGLETON: Katrina Singleton.

THE COURT: Ms. Singleton?

MS. SINGLETON: Your Honor, we stand here today this is not a day that I would have wanted to stand here in front of you or to anyone. My son, eight year old he lived a life that any child would want to live. He lived a life that a child is supposed to live. From the day he was born to the day he left he had that smile on his face. He was a loving, caring boy.

He loved baseball and he loved outside; that was his dream to play. He was playing since he was four up until he left here. God gave him to us. That was a gift. That was a gift that God gave us. That gift will never leave me here in my heart. Even though his presence is not here he will always be a part of my life spiritually because the memories that I have of my son no one can never take it from me.

He's gone now; I understand that for somebody's senseless -- because they choose to make a bad decision. We all make decisions but one thing we have is a choice and that choice is to try to do the right thing especially when young eight year old our son Minor did not know what was going on. He didn't know nothing about a gun. I raised my child into an environment of safety.

That's what we raised our kids. And I'm just sorry this had to happen. I am a Christian. I'm not -- God will handle everyone in their own way. I'm not that judge. I can't judge no one for what happened. The only thing I can say is he did it and that is something that God has to punish him for. He will have to show an accounting for what he has done today -- done in 2012 when we lost our son.

And Your Honor I know you are fair and I want you to do what is right in the sentence today because this is a loss, a big loss that we have for two years. This is something that we had -- I can't even say -- it's very hard. This is the hardest thing I have ever had to do in my own life. And the only thing that got me going is the strength because God gave me the strength to hold on and He said it is going to be okay and I believe that. And I know you as a Judge will do the right thing. And I thank you.

THE COURT: Thank you Ms. Singleton.

MR. STONE: Your Honor, if I may? You've heard everything, you know his record and I don't always give my opinion and quite frankly you probably don't need it. But there is nothing redeeming about Tyrone Robinson. He has been in and out of prison his entire adult career. This isn't a tragic accident. This was absolutely

preventable and I'd ask you to consider the maximum sentence. Thank you, Your Honor.

THE COURT: Thank you, Mr. Stone. Mr. Bax?

MR. BAX: Thank you, Your Honor. First of all I would like to point out that my client has indicated some of the early convictions that were read on the record I think he disputes some of the earlier ones. He does not believe all those charges were actually brought forward to the sentence in 1996. One was the burglary and one other charge that actually was associated with that.

Second of all Your Honor obviously when this comes up after a trial Your Honor is in a much larger and better and more expansive control of the facts than you are when we're up here for a plea. You have been present during the entire trial. I would like to point out that Tyrone's family has been here. His mother is here.

In fact his father was here earlier this week, Mr. Samuel Campbell who I have gotten to know and Mr. Chapman has gotten to know. Unfortunately he has a heart condition and midway through the trial it was too much for him and he is actually in the hospital in Charleston, in the VA hospital in Charleston right now. So I'm hoping that he is all right. But as Tyrone said he does have some familial relationship to a lot of people out on that area on Allen Road. That is he is related to the

family that has been on that land for God knows how long. So I do honestly believe that Tyrone has been tortured at heart about all this as well. And that's not offered as an excuse; it's just the truth. Your Honor, has also seen the facts concerning the situation. And obviously the jury has rendered their verdict and obviously they have decided to not condone what they believed his role to be, whatever that is, and they believed it to be something that rose to the level of criminal liability.

But I would point out as Your Honor is well aware that there are still undisputed facts that regardless of what started Tyrone tried to get away. Now maybe he didn't make all the right choices about how to get away but he was trying to get away. We are left with what we're left with and Your Honor is left with the decision of sentencing. You've heard about Tyrone's past but you've also heard from Tyrone as well on the stand.

I believe there is enough mitigation in this case to warrant a 30 year sentence. And as the court knows this as well as I do but I want to make sure everybody knows it that's 30 years day for day. And Your Honor my understanding is my client is over the age of 40 if I'm not mistaken, 30 years day for day Your Honor is going to put him at 70. I believe that in light of the facts in light of the roles other people played in this case, in

light of the efforts he made at some point to go away that a 30 year sentence day for day is going to put him in his 70's if he even lives that long is enough to satisfy the ends of justice and to satisfy the ends of our purpose. Obviously there are two roles. There is the role of punishment and justice but there is also the role of rehabilitation.

I'm sorry Your Honor, at 70 I just don't see him being the same man if he is with us then, which I would hope he would be but he's not going to be the same person. So I think it serves all the ends of society and justice to impose a 30 year sentence. Thank you.

THE COURT: Thank you. Anything further from the defense?

MR. BAX: No, Your Honor.

THE COURT: Thank you. Does Mr. Robinson wish to be heard?

[Whereupon, Mr. Bax confers with his client]

THE COURT: You can stay right there Mr. Robinson. You can stand in place right there.

MR. ROBINSON: I really don't want to talk but I feel that I owe y'all that.

THE COURT REPORTER: Judge, can he speak up?

MR. ROBINSON: When you give -- between us me and you -- Katrina me and you go way back. You know me since

a little boy. I know you since a little girl. I always had -- and every time we see each other we enjoy our conversation. Kareem, I never got a chance to meet you but I always heard about you. Kareem, I've got a son man, so I know you love your son dearly. You got every right to get up here and talk about every man charged in or you think took the child that day.

And I did not do nothing bad -- Aaron, Sr. and Aaron, Jr. they chased me so hard that day I tried and I tried to get away. They chased me -- I tried -- I fled three times. I just want you to know that. I tried three times to keep your son alive. But Aaron Sr. and Aaron Jr. kept coming back all three times.

If they had just stopped coming one time this wouldn't have happened. I'm sorry, man. I swear to God I love your kids that you got -- I didn't want Minor to die -- I loved him to death. I don't care if the Judge gives me life I am going to keep loving y'all --

THE COURT: Thank you. Do you have the sentencing sheet?

[Whereupon, Mr. Stone provides documents to the court]

THE COURT: The possible sentence for the crime of murder is from 30 years to life imprisonment. The sentence is a day for day sentence. Every crime of

murder has the elements of the unlawful killing of someone else with malice aforethought. Our General Assembly has decided that there are some times when the unlawful killing of another with malice aforethought justifies a 30 year sentence, sometimes when it justifies a life sentence and sometimes when it justifies something in between.

The fact that the General Assembly provided for that wide range of sentencing and the fact that sometimes Judges sentence within that wide range is not a comment upon the life of the one who has been killed. It is not a comment upon the life of the victim or the worth of the victim or the victim's status or standing.

Every life is priceless. No life that has been taken has the right to have a value assigned by the General Assembly or by a court as to its worth. And so for that reason the sentence that is imposed then is not a comment upon or an attempt to place a value on that priceless life. And surely [redacted] life was one of those priceless lives.

As his parents have said he had everything that a young man could be given. He had everything; except the gift of years and that was taken from him. Throughout this case several things have been obvious. It has been obvious from the evidence that this was a senseless,

senseless set of events from the time that it started until the time it was over. I appreciate the fact as Mr. Robinson has testified that he tried to get away from this once it had begun. Now whether Mr. Robinson was trying to get away from it simply to escape and wait to fight another day or whether he had intended to separate himself from the Youngs forever I don't know. And the jury has obviously found that the defense of self-defense did not apply in this case for whatever reason and for many reasons that were evidenced in this record.

As Mr. Bax has said sometimes a sentence addresses the rehabilitation of somebody. Well rehabilitation from 30 years to life obviously when 30 years are passed there is no rehabilitation. I would like to think that sentences like this constitute a deterrent but I'm aware of the fact that people who commit these sorts of acts give no thought whatsoever to the consequences and the difficulty of having to serve 30 years or more.

But the tragic thing is neither do they give any thought to the consequences on innocent victims like [redacted] And that is the tragedy of this particular case. Mr. Robinson says he did not intend for [redacted] to die. No one intended for [redacted] to die that day. But the risk of getting involved in a gunfight in a residential area, one in which he had seen the children playing before the

shooting came his way and before he responded as the jury has found makes one responsible as this jury has found just as if he had aimed the pistol at [redacted] himself. That was not his intention but that was the result.

And it was the inevitable result of a gunfight in a residential area under these circumstances when if you believe the facts as they were submitted and apparently as a jury believed the Youngs were -- all that they had done up until this point and for all the efforts that they had made at this particular point for leaving the area and apparently were no longer of any immediate threat to Mr. Robinson.

I'm confident that based on their past history there might have been a future threat. And maybe that's what Mr. Robinson was trying to address, but that does not justify firing the shots that he fired under these circumstances. Mr. Robinson, the sentence of the court is that you be committed to the Department of Corrections for the balance of your natural life.

All right folks, is there anything further from the Solicitor's office in connection with this trial?

MR. STONE: No, sir. Thank you, Your Honor.

THE COURT: We stand adjourned. Thank you.

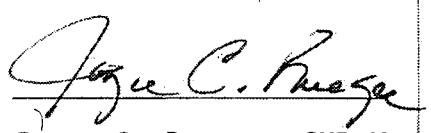
[Whereupon, the jury trial concludes at 2:25 p.m.]

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina on the 19th day of September, 2014.

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

January 23, 2015



Joyce C. Rueger, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2012-GS-07-01935
2012-GS-07-01932 & 2012-GS-07-02173

STATE OF SOUTH CAROLINA PLAINTIFF

VERSUS

FEBRUARY 27, 2014

TRANSCRIPT OF HEARING

BEAUFORT, SOUTH CAROLINA

TYRONE ROBINSON
AARON YOUNG, JR.
AARON YOUNG, SR. DEFENDANTS

B E F O R E:

HON. THOMAS W. COOPER, JR, JUDGE

WANDA H. ROWE, CVR-CM
OFFICIAL COURT REPORTER

APPEARANCES

ON BEHALF OF THE STATE:

HON. ISAAC MCDUFFIE STONE III
BEAUFORT COUNTY SOLICITOR
HON. HUNTER SWANSON DEYSACH
ASSISTANT BEAUFORT COUNTY SOLICITOR
POST OFFICE BOX 1880
BLUFFTON, SOUTH CAROLINA 29910-1880
TELEPHONE 843-255-5880

ON BEHALF OF DEFENDANT
TYRONE ROBINSON:

DEFENDANT ROBINSON APPEARS PRO SE

HON. ARI BAX
APPEARS AS STAND-IN COUNSEL

BEAUFORT COUNTY PUBLIC
DEFENDERS OFFICE
1905 DUKE STREET
BEAUFORT, SOUTH CAROLINA 29902
TELEPHONE 843-255-5805

ON BEHALF OF DEFENDANT
AARON YOUNG, JR.:

HON. ROBERTS TABOR VAUX
VAUX & MARSCHER P.A.
1251 MAY RIVER ROAD
POST OFFICE BOX 769
BLUFFTON, SOUTH CAROLINA 29910-0769
TELEPHONE 843-757-2888

ON BEHALF OF DEFENDANT
AARON YOUNG, SR.:

HON. ROBERT E. FERGUSON, JR., LLC
POST OFFICE BOX 845
46-C SAMS POINT ROAD
BEAUFORT, SOUTH CAROLINA 29901-0845
TELEPHONE 843-521-0141

INDEX

Caption.....1

Appearances.....2

Index.....4

By The Court.....5

ATTACHMENTS

Certificate of Reporter.....52

Keyword Index

EXHIBITS

No exhibits were admitted.

BEGINNING 9:24 A.M.

BY THE COURT:

BAILIFF: All rise, please, for The Honorable Thomas W. Cooper, Jr. Court is now in session.

THE COURT: Thank you. Thank you, ladies and gentlemen. Please be seated. Good morning. Wanda, do you have the caption?

COURT REPORTER: I do, yes. Thank you.

THE COURT: Solicitor, what do we have this morning?

MR. STONE: Your Honor, we have a couple of motions made by -- first of all, to let you know who is in the courtroom and what the situation is as far as representation is concerned, the first individual is Mr. Tyrone Robinson over here. He is actually a pro se defendant. Mr. Ari Bax has been appointed as stand-by counsel. I believe that is correct.

Mr. Roberts Vaux is representing Aaron Young, Jr.

THE COURT: All right.

MR. STONE: And then, beside Mr. Young, Jr., is Mr. Young, Sr., and he is represented by Robbie Ferguson.

THE COURT: All right.

MR. STONE: The Youngs have a motion that concerns severance of this trial. Mr. Robinson has a number of

motions, but the one that is particularly -- that needs to be heard, obviously, before trial is a motion for the use of the *Castle Doctrine*.

We are prepared to go forward on either one of those at this time. Whichever you think is best to go first, we're ready to move on.

THE COURT: All right.

MR. STONE: Concept in this, we have three co-defendants. Each one of them made statements, and our intention is to try them all together. Thus, the reason for the severance motion. With the proper redactions in accordance with *Bruton*, Mr. Robinson's -- I believe is the only defendant that has made the *Castle* motion *Doctrine*, so that obviously needs to be heard before, as that is a defendant to trial and not at trial.

THE COURT: All right. We will deal with the motions to sever first. And Mr. Vaux, Mr. Ferguson, the gentleman is -- are your motions, motions to sever for Mr. Robinson, and/or motions to sever from each other?

MR. VAUX: From Mr. Robinson, your Honor.

MR. FERGUSON: That's correct on that. Mr. Young, Sr.'s.

THE COURT: All right. Who's going to argue that motion for the Youngs?

MR. VAUX: We'd both like to speak as to the motion.

THE COURT: All right. Mr. Vaux, I'll be glad to hear from you.

MR. VAUX: Thank you, your Honor. The facts of the case as charged by the State are that the Youngs were involved in a running gun battle, so to speak, with the defendant, Robinson. It started in the yard adjacent to their house; and then, moved first to Oakview Road; and then, to Allen Road, continuing over some period of time and at different locations.

The Youngs each face one count of murder. Mr. Robinson has multiple indictments, including murder.

It's alleged that Mr. Robinson was discharging a gun at the Youngs when he fired a shot by killing an eight-year-old child.

All the defendants have given a statement, some in writing, some oral. In normal instances, defense would move for a severance on the grounds that each would present antagonistic defenses, and the State would present one or more statements into evidence. And that's sort of the situation here. But in addition to that, it's complicated by the fact that we have two unique situations.

One defendant is pro se. And in addition to antagonistic defenses, the defenses are completely different in legal theory. For example, the litany of motions filed by Robinson include a *Castle Doctrine* defense. It would certainly appear that the State relies in part on a transferred intent for the Robinson, and felony murders for the Youngs.

In this case, with both antagonistic defenses and a pro se defendant, the jury's going to be easily confused, and with coupled with the defenses that are based on completely different theories, we would respectfully submit to you that the jury will become hopelessly constricted.

Finally, add to the mix of the pro se defendant, who innocently or intentionally makes some inappropriate comment, and the odds are just overwhelming that these two defendants would be prejudiced as a matter of law. And I'm not sure that such an instruction, a curable instruction, would, in fact, overcome any kind of prejudice.

The statements made by these two defendants would have to be redacted as to each other and as to Mr. Robinson to such an extent it would be confusing at best. We've asked for to see a copy of the proposed

redacted statements that they wish to use, and we have not seen those yet. But given the most recent case of *State versus Henson*, filed January 22, 2014, in which the Court cited *State versus Holder*, a 2009, stands for the proposition that a redacted statement violated the confrontation clause, because it was apparent the statement was referring to the appellant, without even considering any other evidence introduced at trial. And arguing somewhat in the dark, your Honor, it's hard to say with specificity how the redacted statement would be prejudicial. But with three statements, you could say, for example, -- and three defendants sitting here, how you're going to play one without inferring something to the other is past my ability to imagine.

If a statement comes in from Robinson, then, the jury has to believe that it refers to the two Youngs. There's nobody else that's involved there. If a statement -- and while the confrontation clause is subject to harmless error analysis here, because the defendants are not co-conspirators, and that's huge. That they -- and they were not acting in concert. As a matter of fact, they were acting the opposite of in concert and the opposite of co-conspirators. And the ability -- or the odds of their being prejudiced here is

just simply overwhelming.

Mr. Ferguson is going to argue some of the more detailed parts of the law.

THE COURT: All right. Let me pull up *Henson*. I'm familiar with that. I read it. I realize that I seem to --

MR. STONE: I'll hand them up, your Honor. I have some here.

THE COURT: All right. Thank you. All right. Mr. Ferguson.

MR. FERGUSON: Thank you, your Honor. Now, this motion is in your own sound discretion, as you've been, I guess, been appointed the trial judge of this case. And essentially, your Honor, our motion is to severe, and that is to protect specific trial rights of my client and Mr. Vaux's client, and prevent the jury from making -- or allow the jury to make a reliable judgment as to each individuals guilt, as opposed to the guilt of three as a whole.

You know, it does require us to point to a very specific trial right that would be violated if the joint trial would go forward, and not just the confrontation clause and the issues that Mr. Vaux raised. There are also some very specific instances where we would be, I

think, prejudiced, or at least our clients would be prejudiced if we were forced to go forward with a three-defendant trial.

You know, every defendant in this case has a due process right to a fair trial. You know, we're concerned about imputed responsibility. If the jury finds one of three guilty, then, they'll say, well, more than likely than not, or somehow change the standards to include all three into that calculation.

We want the jury to be able to focus on each individual's personal culpability or guilt, and just feel that, that would be extremely difficult if all three were tried together.

You know, the judicial economy argument that there's going to be innerconnected evidence; that there -- it doesn't warrant the cost of multiple trials, doesn't really apply here. This is a very high-profile case with serious consequences for everyone involved, and I do think it warrants the extra time and expense to have the separate trials in order to protect these defendants' rights.

Logistical minefield, that's kind of what comes to mind when I try to prepare for this case, even starting with jury selection. As a three-defendant case, you

know, our clients would not have the ten strikes that they would ordinarily have, but rather, a pro rata share, if tried together.

I would have no control over whether another defendant introduced evidence or not. And therefore, could stand to lose my right to last argument without any real ability to change that or to have that be part of my strategy.

Certain statements -- and I think this is particularly important -- would become -- would be inadmissible at separate trials, but would be admissible during joint trials, as statements by a defendant. Even if they're redacted to remove any mention of my particular client, they're still going to paint the State's theory, which is that all three individuals should be liable.

A co-defendant -- another scenario, your Honor, would be that a co-defendant may object to certain evidence that's beneficial to my client, and may, effectively, suppress, limit, or impeach certain evidence that I personally would not on behalf of my client.

The likelihood of a pro se defendant testifying, hard to say, your Honor. I know that we have voluminous

pretrial motions that are narrative in nature. You know, we're concerned about the possibility of a mistrial, particularly if we get a fair way into this case, and then, the mistrial's declared, we've already tipped our hand to certain objections and certain trial strategies that, then, the State can adapt to on a subsequent trial. And so, I think we would be prejudiced in that regard.

Your Honor, our only goal with this motion is not to frustrate the State's, you know, attempt to move these cases, but to avoid jury confusion, animosity, frustration through repetition or contradiction. I think that these issues raised, your Honor, could be cured by instruction. And your Honor, I'm sure, has faced this situation many times before. And once or twice, I think that's okay, but in the anticipated number of curative instructions that could result in this case, I think makes this atypical.

And your Honor, just to finish, you know, it is a transferred intent versus a felony murder. Completely different defenses to different theories of liability that are complex enough on their own for a jury to grasp. I'm not the smartest man in this room, but it took me a while to really, you know, understand the

theory of the Youngs' guilt versus Defendant Robinson. And I can only imagine the difficulties the jury's going to have trying to separate those two out in the course of just a week, you know, when I've had months.

And so, your Honor, we are asking that the two Youngs be separated or severed from the Defendant Robinson for those reasons, your Honor. Thank you.

THE COURT: Is there any question as to who the allegations are against in so far as the fatal shot is concerned?

MR. FERGUSON: No, sir, your Honor.

THE COURT: And that's Mr. Robinson?

MR. FERGUSON: Yes, sir, your Honor.

THE COURT: All right.

MR. STONE: I don't know that I would go that far, your Honor.

THE COURT: Okay.

MR. STONE: Here -- I'm sorry.

THE COURT: Okay. Tell me what evidence you rely upon in that to make that statement, Mr. Ferguson.

MR. FERGUSON: Well, your Honor, the theory of the State's case all along has been that Mr. Robinson fired the fatal shot. That has been backed up by scientific testing. If there is contradictory evidence, I would

certainly like to be made aware of that, your Honor.

MR. VAUX: And your Honor, if I may add, if you look at the State's memorandum in opposition to the Defendant Robinson's request for immunity, it may not come out and say Mr. Robinson is allegedly the person who shot it, but it certainly implies that he is.

THE COURT: Okay. I haven't seen any of those memos yet. I'll be glad to consider them in time. Thank you. All right. Thank you.

Now, Mr. Solicitor, I'll be glad to hear from you, sir.

MR. STONE: Yes, sir, your Honor. Let me make sure we're clear as far as what the State wishes to do in this matter. You have a -- basically a shootout among three people. An eight-year-old child was caught in the crossfire in the middle of this shootout. We know -- what we know is at least one of the Youngs was carrying a .9 millimeter handgun, and that .9 millimeter did not kill the child. We know that.

There is, we believe, a revolver in Mr. Robinson's hand. We believe that was the revolver that killed the child. However, we never -- the police never located that firearm. Mr. Robinson previously had alleged that one of the Youngs had a .38. We did not find that. So,

basically, the situation -- this is the situation the State's in. Our theory is the felony murder rule, that you have three people committing inherently dangerous felonies, and as a result of those inherently dangerous felonies, a child dies. The actual shooter, so to speak, the one that discharged the fatal bullet, under that scenario, is, while relevant, not controlling. So, that is the position that the State's going under. That's the theory that the State goes under, and that is a consistent theory among all the defendants. That's the -- that is the theory.

We're not switching up our theories, depending on which defendant we're talking about. We feel like all three of these people were involved in an inherently dangerous felony, which is a shootout that basically went from the right as you get to Hilton Head, all the way down into Marshland Road, along the Cross Island Expressway. And I don't know if you're familiar with this area, but it involves three neighborhoods in Hilton Head. And this was a shootout that took place first at White Horse Road; and then, at another neighborhood in between; and then, a third at Allen Road area, which is where the child was playing on the trampoline and killed. Our theory is all three of them are culpable

under that scenario, and that's the theory we're proceeding for trial. So, I wanted to clarify that as far as who the gunman was and things like that.

THE COURT: All right.

MR. STONE: The issues as far as whether or not there's some problems with jury selection and things like that, that's inherent in every joint trial. There was nothing that was really offered that is different from any joint trial. The issue before your Honor is whether or not the State can adequately redact those statements --

THE COURT: Right.

MR. STONE: -- so that you do not get into the problem that they got into in the *Henson* case. I will tell you that I was -- I really wasn't surprised at the outcome of the *Henson* case, because they do two things I think that are wrong. One is, you've got a -- the use of the words guy, him, his is very specific. The other thing is, they tried -- they actually referred to four people involved in the case; three were named; and the other one wasn't. So, it was a little -- that's obvious.

I think what is more in line with what I'm talking about, your Honor, is a Court of Appeals case for 2012,

State versus McDonald. And I'll hand that up to you, and I -- this was a case in which three people were tried as co-defendants. The reference -- all three statements were redacted to use the term *another person*. So, it did two things. Number 1 is, there was no him- or her-type pronoun usage. The second thing is, there wasn't even a limitation as to who else was involved in the case. It simply was this person's statement, and referred to another -- other people. Plus a limiting instruction. And the Court of Appeals said that was -- that, that satisfied *Bruton*. They also referred to a Fourth Circuit Court of Appeals case, which actually suggested that way of redaction.

I will tell you, my intention, your Honor, is to go further than that. I am going to -- and I apologize for not having all these statements with me. We're still waiting on a court reporter to transcribe, so that I make sure that I'm accurate when I'm doing this. My intention is to redact not even using another person, but to redact from any -- even any reference to another human. In other words, the statements that I intend to introduce refer only to that person that makes the statement, which I think is not only consistent with *Bruton*, but I think it is a more careful approach than

the Supreme Court even requires in that matter. That is my intention, and that's how I wish to try the case. I think, in fact, it's very confusing were we to try to try that case under that theory with only one defendant. So, that is the State's position, and I'll be glad to answer any questions you have.

THE COURT: Thank you. The concern of the Court, quite frankly, Mr. Vaux and Mr. Ferguson, gentlemen, is it does go to the statements. The other concerns which have been raised, the concern specifically, Mr. Ferguson, about the limitation on jury selection and things of that nature, they have all been addressed adverse to your position, of course, in various appellate and supreme court decisions.

The difference in trial strategy, likewise, has been addressed in supreme court decisions and has been held not to be a sufficient basis for severing cases.

The main concern for a trial judge is how we deal with the statements. Of course, at this point in time, I've not seen either the unredacted statements or the redacted statements. So, it's somewhere difficult for me to be specific in that regard, other than to say that there are ways to redact. Now, clearly, the redaction takes some of the meaning away, and that's what it's

supposed to do, really. It's supposed to take away any reference to anyone else who might be on trial so as to avoid the confrontation problems, but there are ways to get it done.

The way to eliminate any reference to anyone else, if the Solicitor's willing to do that, that's a good way to do it. It's the cleanest way to do it. Sometimes solicitors aren't willing to do that, because it seems to fly in the face of, in this case, the felony murder rule, for example, which implies that there are a group of people involved in some ongoing criminal activity leading to the death of another person. But nonetheless, if that's going to be done, it certainly can be done, that would seem to address those concerns that the Court would have.

The fact of the -- Mr. Vaux, as you mentioned, the transfer of intent on one hand, as opposed to the felony murder rule on the other. The felony murder rule and transfer of intent are sort of, in this case, sort of handmaidens. They go together. The theory is certainly not going to be that the eight-year-old child was killed intentionally by, or was meant to be killed in this case, but was killed as a result of illegal, reckless, willful, malicious activity on the part of someone else

who didn't fired the gun himself, or herself, perhaps.

So, I think that those are things that can be dealt with by way of instructions. When we deal with the jury, we don't call things like this is the theory of transfer and intent, ladies and gentlemen, or this is the theory of felony murder. We simply go to the elements that are inherent in these things, if they can be explained.

My only -- well, it's not a concern for this moment, in any event. But I will address that with you all at side bar. It has to do with scheduling, quite frankly, more than anything else.

So, based on what you have indicated here today, I can't find anything applying the arguments that you have made to the case law as it exists and the facts, limited though I have about this particular case, that would give grounds for a severance. The inconsistent or antagonistic defenses have been addressed in *Hughes versus State* case, *State versus Smith*. There are a dozen of those. I can give you the cite if you need it. The difference in culpability, the seating of jurors, the difference in strategy, the relevant, admissible evidence for one on behalf of the other, all of these things have been addressed by the appellate courts as

being, in and of themselves, insufficient grounds for a severance.

The whole object, obviously, is to present the case to a jury that is understandable and that is fair under the rules to all of the individuals involved. In my view, this can be done.

The fact of the judicial economy, Mr. Ferguson, you mentioned that as a reason to oppose those. I agree with you. I don't think that, that, in and of itself, should weigh up against all of the other considerations that they were juggling, but certainly, it is a consideration. Frankly, from the trial judge's perspective, the easiest thing to do, the easiest thing in the world to do is to grant three separate trials. The easiest thing for a trial judge is try three cases, one defendant in each case. Simplify things. It means they're only dealing with one set of lawyers on each side; a single witness is subject to examination by four different people; the length of the trial. When you talk about judicial economy, the length of a trial for a four- -- we've got three -- defendants and the State. When it comes to examination of witnesses, it's the same thing as we've got three different trials. The only questions that are going to be limited, the Solicitor's

only going to have them once, but the cross-examination is going to take just as long as it would if we were having three different trials. And so, you know, judicial economy in a single trial is somewhat overblown, quite frankly, which is something of a concern of mine, given my schedule. But nonetheless, that's not the reason. I'm overruling for the reasons that I've mentioned. The motions to severe are respectfully denied.

MR. FERGUSON: Thank you, your Honor.

MR. VAUX: Thank you, your Honor.

THE COURT: Thank you. Now, Mr. Vaux, Mr. Ferguson, gentlemen, are there any additional motions at this time on behalf of Mr. Young, Senior or Junior?

MR. VAUX: No, sir.

MR. FERGUSON: No, sir.

THE COURT: All right. Thank you.

THE COURT: Now, I turn to Mr. Robinson's motion under the *Castle Doctrine*. And Mr. Robinson, I'll be glad to hear from you now on your motion for immunity under the *Castle Doctrine*.

BEGIN MOTIONS BY DEFENDANT ROBINSON:

DEFENDANT ROBINSON: I'm arguing this motion under the immune from criminal prosecution as civil action to

South Carolina Protection of Person and Property Act, South Carolina Court of Law, 16-11-440(c) and 16-11-420(b)(e), and 16-11-440(b)(a). And I just want to cite the laws right quick.

Under South Carolina statute 16-11-440(c) it states, and I quote:

> *A person is not engaged in the unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to his place of business, has no duty to retreat, and has the right to stand his ground and use force -- with force, including deadly force, if he reasonably believes it is necessary to prevent the commission of a violent crime, as defined in Section 16-1-60.*

And that's what I'm cited for, with that statute.

Under South Carolina Court of Law, *Statute 16-1-10:*

> *Per violent crimes for purposes of definition under South Carolina law, a violent crime includes the offense of murder.*

16 through 10.

Under South Carolina Statute 16-11-420(e), it states, and I quote:

The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

And that's for *16-11-420, Section (e).*

The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal; nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

And for this statute, *16-11-450(b)(a)*, it states:

A person who uses deadly force as permitted by the provision of this article, or another applicable provision of law, is justified in using deadly force and immune from criminal prosecution in civil action or the use of deadly force.

And *Section (a)* states:

But the agency may not arrest a person for using deadly force unless probable cause is that the deadly force

used was unlawful.

And for the case of South Carolina Supreme Court case, the *State versus Demerits Burris, 513, Southeastern 2nd, 104*, states that:

> *A motion for immunity from criminal prosecution and civil action must be decided before trial on the charge before trial on the charge. Before the trial begins, a motion for immunity from criminal prosecution and civil action must be determined by a preponderance of the evidence standard.*

And that's what I'm going to be arguing, based on the preponderance of evidence standard.

For the elements of use of deadly force to prevent the commission of a violent crime as defined in *Section 16-1-60*, for that element to satisfy this element, the State of South Carolina, the investigators, Laurel Albertin in this case, in her investigation, at the conclusion of her investigation, she determined, based on a preponderance of the evidence in this case, Aaron Scott Young, Sr. and Aaron Scott Young, Jr., they were -- they got together. They ride together. Came to agreement. After they told me they were going to kill

me three times inside the yard, they came together with they guns.

One of the guns was a semi-automatic Mac 11 machine gun. Holds 32 rounds in the clip. With a suppressor to silence it so nobody can't hear no shooting it when they go to kill somebody.

They -- she -- she -- they convinced her that they were in possession of this gun. And so, at least one of the guns they were in possession of. They -- they confessed that they came to an agreement; came together; went looking for me; conspired to murder me. Came to my neighborhood where I live at; shot up in front of in the presence of small kids up there, in the process of trying to kill me, because [redacted] was shot and killed.

Now, I'm going to go through -- through these events, because the State of South Carolina, some things we do agree with, some things we don't agree with. Because it's a lot more to this right here than they know I'm saying, so.

Now, I did go to they neighborhood the date the [redacted] was shot and killed. I had Jontu Singleton with me and he --

THE COURT: You had who with you?

DEFENDANT ROBINSON: I had Jontu Singleton along with me.

THE COURT: Okay.

DEFENDANT ROBINSON: And he asked me to take him to their neighborhood. So, first, I took him to the store. We bought -- we bought some 40 ounces of beer. I was celebrating my birthday. This was the day after my birthday. I went to their neighborhood because he asked me to take him there.

Now, he did ask me to take him there for reasons that he acted he wanted to buy some drugs or whatnot. But when he got there, he switched it up, and he never asked them for drugs. What he asked them for -- what he asked them for money to go buy some more beer. So, he -- so -- so, drugs were never involved in this.

He -- he -- he -- he has a DVD recorder that I wanted to play his DVD recorder that I wanted to play this DVD recorder for you. I asked my sister to have the technology with the adapter and the video screen to play these video recorders for you of these witnesses' interviews, so that you could see for yourself exactly what was said, instead of just taking my word, cause, I, you know.

THE COURT: Mr. Robinson, let me ask you a couple

of questions to see whether those statements would be relevant or not. Now, you say these folks came to your neighborhood and started this gun fight. Is that what you're saying?

DEFENDANT ROBINSON: I'm about to explain the whole thing now to you now.

THE COURT: Okay. If you'll explain it to me in the order in which it happened, it will make it a lot easier for me to understand.

DEFENDANT ROBINSON: That's what I was trying -- I was getting to.

THE COURT: Okay.

DEFENDANT ROBINSON: All right. Well, I went -- went to their neighborhood. Jontu gets out the car. He goes talk to Aaron, Sr. Now, Aaron, Sr., prior to this, I saw him at the gas station. Me and him shook hands, because he -- we did have some more -- some little arguments, little drama going on. We shook hands at the gas station, laughed with each other, and he said that, that situation was Gucci. Now, that's a slang term. When somebody says Gucci, that means that -- that -- that's over with, and we back friends now, we cool, we don't have any problems.

Okay. Now, about a week later or so, I went -- I

went back to his house. Took Jontu to his house, Jontu gets out of the car; goes to talk to Aaron, Sr.; Aaron, Sr. sees me in the car; starts yelling, cursing up, acting crazy for no reason at all, because his girlfriend is out there, and I guess he trying to play big -- big -- big in the front of his girlfriend or his son or whatever. He starts acting all crazy, telling me to get out of his yard. I tell him I'm leaving, please just let me get out of his yard; just hold up.

I'm yelling for Jontu to get back in the car. Jontu sitting there acting like he just went out to space somewhere and he don't know what going on. But Jontu grew up with Aaron, Sr. and Aaron, Jr., so they are home boys. So, I realize the situation done flipped on me. I'm the only person from another neighborhood in they neighborhood, so they all against me now.

So, I decide to leave out of they neighborhood. Aaron, Sr. approached my car, tried to snatch me out of my car that I'm riding in to -- to -- and I guess he was figuring if he snatch me out of the car, his son will or whoever, it was another dude with dreads or whatever, he was out there. They were going to blitz me. There was no doubt about that.

So, we -- we -- that little confrontation takes --

takes off. Aaron, Sr. telling me:

I'm going to kill you; I'm going to kill you; I'm going to kill you; I got something for your ass.

He goes in the house; comes out of the house; a gun so big, he look like he pregnant. Comes out of the house and gets in my car. I back out of -- out of his yard. I start backing out of his yard. This is the gun right here. One of the guns that he goes and get for me.

THE COURT: All right.

DEFENDANT ROBINSON: Now, I'm by myself against 32 rounds of Mac 11 machine gun and a yard full of people. He gets that gun right there. As I'm riding down the road, he shoots at me in my car to try to shoot and murder me. Shoot his own grandmama house as I'm riding down the road. This is a picture of her -- the bullet hole from Old Wild Horse Road.

COURT REPORTER: From what road?

DEFENDANT ROBINSON: [redacted] Old Wild Horse Road, where I'm riding down going towards 270 -- 278. Those bullet holes in that, I'm in the car, running, fleeing from him, trying not to be shot and killed. He's shooting at me. Trying to shoot, kill, and murder me, while I'm

riding.

I flee to Oakview Road to hide from him, to hide from this obligation of what's taking place and what's going on. Aaron, Sr. and his son, they get together; they go get they guns; they decide that they going to come look for me; they going human hunting. And I'm a human they hunting.

So, they come hunting for me to shoot, kill, and murder me. I'm hiding from them on Oakview Road. They -- they -- they go to my uncle house. One of them got that gun right there. Aaron, Jr. confessed to having that gun right there. Asked my uncle where I'm at. Got my uncle scared to death. Pulled that gun out; showed that gun to my uncle. My uncle ain't got no -- he don't know what's going on. He just at his house, and they asking him where I'm at with that gun right there. He tell them he don't know where I'm at. He don't know where I'm at.

So, they -- they left -- they leave my uncle house; they go down Oakview Road. Now, I'm -- I'm -- now, I know they looking for me, hunting for to try to shoot, kill, and murder me. I'm trying to avoid the obligation. At the same time, I'm trying to -- I'm trying to get off Hilton Head Island, because I know, if

they catch me, I -- I -- I'm going to the morgue.

They come. I -- I'm leaving off of Oakview Road. They come on Oakview Road. I see the truck. The truck in the left lane. I'm in the right lane. As they coming past -- coming past me, Aaron, Jr. -- Aaron, Sr., driving -- Aaron, Jr. lean out the window, half of his body lean out the window like this. His father holding his leg while his leg on his left leg this right here so he can't fall out the truck. So, when he shoot the gun, the gun powder go over here, and -- and -- and one get on the truck so they won't get caught for this murder they try to commit.

He shoot up my car while I'm in the car. Shoot at my head. Head level shots in the car. Hit the back driver with the headrest. Shoot in the trunk. These are pictures of the bullet holes from the car and the headrest that they shoot in the car while I'm -- while I'm in the car.

I take off and free out of the road of them, because I see that they ain't going to quit. They keep -- they just ride around hunting for me. This is -- this is a expedition of hunting, and they hunting for me. I'm the human they hunting for.

After they -- they shoot at my car. They don't

know if they hit me or not, I guess, so they go back to Wild Horse, [redacted] Wild Horse Road. I guess they scared now, but they don't have nothing. So, they unsatisfied, so while they go back, they must be drinking beer or smoking spam or whatever, go take a shower, whatever. They get back in they truck again for the second time. They confessed to the investigator were out there. I got the DVD right here if you want to -- if you want to review it, the DVDs. He confessed to Sergeant Albertin that he pulled the gun out, tried to shoot me and --

THE COURT: When you say *he*, which one are you talking about?

DEFENDANT ROBINSON: Aaron, Jr.

THE COURT: Okay.

DEFENDANT ROBINSON: He told them -- he told them, said, if -- if the gun wouldn't a jammed, it was supposed to go down on Oakview Road. If the -- if the -- if the gun wouldn't a jammed, it would have went down, nobody would a known nothing. It would have been a clean get-a-way. And he ain't talking about giving me no Christmas present, no birthday present, or nothing. He talking about killing me. He would have killed me, shoot and kill me. Nobody was on Oakview Road when they would have did it, and nobody would a seen anything. It

just be me dead, and they would a got away with it. He confessed to that.

So, he goes back home. He confessed that they went -- both of them confessed that, after they saw me on Oakview Road, they went back to they house on [redacted] Old Wild Horse Road. Both of them confessed to that.

After they leave, after they decide and they weren't satisfied, they come left they residence. I'm hiding in my neighborhood. I hide my car behind my family house on -- on Old Allen Road. I walk over to my other cousin Charlese' house. I go call my other cousin Patrick, and let them know somebody trying to -- trying to chase me down. I think I said about AR-15 or some kind of big gun, because when I look out the window and seen him with the gun shooting in my car, the clip on the gun this long right here, when I seen the clip like that, I knew it was some kind of machine gun, you know.

So, I go to Charlese' house. I'm talk -- I talked to Patrick; I talked to Charlese. I told -- I tell them they somebody's trying to kill me; that I -- I'm hiding from somebody; somebody trying to kill me. Charlese' boyfriend were up in the yard. I asked him if he seen the truck. He said he seen the truck speeding and all this right here. I'm standing in the yard. These two

here come back, in my neighborhood I'm at.

THE COURT: Okay. If you'll stay back over there.

DEFENDANT ROBINSON: They come back in the neighborhood shooting again, and start shooting up. They start shooting up in the neighborhood. They got a cloud of smoke so big over the truck, it look like a cloud come down from heaven and sitting over the truck. So, my -- and that's gun smoke coming from they -- from they truck. That's how much gun -- gun -- gun smoke they got going on inside -- inside the neighborhood.

Then they come shooting up trying to shoot, kill, and murder me in my neighborhood again, I hide behind the house. I got two, forty-ounce bottle of beer. They try to shoot, kill, and murder me. They done shoot up my car. I go behind this trailer. I walk in the woods, because I'm trying -- I'm trying not to get shot by -- by these right here. I walk in the woods over here behind about -- by [redacted] Allen Road where they say this -- where they say [redacted] Minor -- well, it's across from where [redacted] Minor got shot. He didn't get shoot at [redacted] Allen Road. It's another road over by Marshland Road. But I walk behind there with two, forty-ounce bottles of beer in my hand, and -- and I'm hiding, trying to hide to be avoid -- avoid from getting shot and killed.

Now, at the time, I'm walking behind there, Britney seen me walking. She said she looked to see if I was shooting a gun. At the time, she see Minor sitting there fallen, he was shot to shot and killed. She say the only thing she saw me doing was toting two, forty-ounce bottles of beer in my hand. I was walking.

Aaron, Sr., you know, they -- they shot up -- they shot up around there like crazy, man, and all that. And they ride up.

Now, they confess that they came to my neighborhood to try to shoot, kill, and murder me. After they came to my neighborhood shot -- try to shoot, kill, and murder me, after they confessed to this, they also confessed that, when they left out, they told Sergeant Albertin that Aaron, Jr. said he told his father to go back and shoot some more. So, they -- the conspiracy to murder me wasn't even over after Minor was dead. After they left out, they still was tried to murder me, still had intentions to shoot, kill, and murder me. After he say and he wanted to come back and they went home, I went and called the police, because I heard somebody say somebody got shot. But I had to leave the neighborhood, because everywhere I go, everywhere I go, these two were popping up shooting at

me the whole day on the Island. They ain't got one -- I ain't be shooting at them no time. I been running from them trying to get off the Island.

They behind me now, shooting at me. My car full of bullet holes. Every time they see me, they be shooting at me. I got bullet holes from the side; they shoot on Allen Road. Bullet holes from the back. They shoot on Allen Road. And bullet holes from the right-hand side that he shoot in my -- in the right side when I be leaving his house. So, that's just three incidents already they tried to shoot, kill, and murder me. I ain't shoot at them none.

I got him confessing that he lied to the police. Both of them lied to the police that I came to his house, point a -- a .38 at them, shoot at them. Try to shoot, kill, and murder them. They own video camera at the police station saying to each other, but he ain't tried to shoot you. Oh, I know he -- he -- he ain't shoot at me; he tried to hit me and shoot at the ground or something like that he said. So, they lied about me so I would a false charge, because of they lie, and I'm charged with pointing and presenting a firearm, because the investigators know I'm saying I'm going to they house pointing a gun at both of them to try to shoot,

kill, and murder them. And they both confessed that I ain't never did it, after they lied to the police and say they did it. So, they done committed perjury.

THE COURT: Mr. Robinson, what I'm trying to figure out, and I can appreciate the fact that you and the Youngs obviously had a lot going on against each other, and you say the evidence here is that somebody was shooting at your car everywhere you went. I'm trying to figure out how the facts that you just laid out to me fit within the *Castle Doctrine*, because as you've cited parts of the *Castle Doctrine*, but you have to take the whole meaning of the *Castle Doctrine* in and of itself.

It starts out with saying:

It is the intent of the General Assembly to codify the common law that recognizes that a person's home is his castle. And so, it then is proper for law-abiding citizens to protect themselves and their families and others from intruders --

That means people that try to break in on them.

-- and attackers without fear of prosecution when they act in defense of themselves and others.

So, it goes on to say that:

A person is entitled *to immunity if the person who is actually harmed is entering or attempting to enter your home or your dwelling or your occupied vehicle.*

That means to enter your home with the intent to commit a crime, as defined in the law.

Now, I'm not sure, in this instance, whether that means, frankly, whether it means just shooting at somebody in your car or not. And it might well. But I'm not sure that, that was the intent of it. You raise an interesting question about that.

Had the shooting in question occurred while you were in your automobile, riding down the road, they were shooting at you, and you maybe shoot back at them, and somebody was injured, that would be a slightly different question and slightly different factual scenario than what we have now.

My understanding is, and I'm going to ask the Solicitor to confirm the facts of this in a minute when I hear from him, is that the fatal shot occurred somewhere in your neighborhood. And you say you didn't even know that anybody had been shot until after it happened. But apparently, that exchange of gunfire

occurred as you were running, in your words, into the woods back there to try to get away. Is that about right? Is that you're understanding of when the actual -- when the child was actually shot?

DEFENDANT ROBINSON: I don't know where he was shot, to be honest with you.

THE COURT: All right. Okay. But you understand that the *Castle Doctrine* is designed to protect people in their homes or in their vehicles from somebody trying to break in.

DEFENDANT ROBINSON: Well, my understand was it was also designed to protect people in a place where they had a right to be.

THE COURT: Well, that's self-defense. That's a part of it. But it does not -- when you read the law in its entirety, it is designed to give protection to those folks who are protecting themselves in their home or in their vehicle. And I'm not sure whether that's applies to you or not, but. And you're not either, because you said you don't know when that child was actually killed, so.

Let me ask the Solicitor to tell me some more about the facts of this case and hear his side. I'm going to come back to you, and you get the last word, because

it's your motion. Okay?

DEFENDANT ROBINSON: argue

THE COURT: All right. Thank you. You can have a seat. Mr. Stone.

MR. STONE: Yes, sir. Thank you, your Honor. Trying to analyze this with not only what Mr. Robinson just told you, but also, his affidavit, which is a part of his motion, I do not know of any case that talks about the *Castle Doctrine* that would give that protection to someone who did not use deadly force. And the concern we have from the very beginning is that Mr. Robinson never has said that he used deadly force.

So, when you talk about the *Castle Doctrine*, initially, you have to say that someone has a right to the defense of the *Castle Doctrine*, if, as the statute says, a person uses deadly force.

THE COURT: Right.

MR. STONE: Mr. Robinson, in his affidavit and to you just a few moments ago, denied ever using deadly force. So, I don't know how we even get to the *Castle Doctrine* to begin with.

The next concern I would have after that is what your Honor was discussing; is this in this dwelling; is it even in the curtilage of his dwelling? It is his

neighborhood. And I just take that for him putting it in the record. I will accept that, as it is his neighborhood. However, the residence is of a man named Garcia. The child was killed at 30 -- let me get that exact address. I'm not sure how I lost that, the address. It's [redacted] Marshland Road. That is the address of Mr. Garcia. It's not Mr. -- it's not Mr. Robinson's address. So, the shooting, the place, did not happen in his dwelling, in his car, or even in the curtilage of his residence.

The next point, then, if you even get past that, is going to be whether or not the stand-your-ground would actually apply as a separate argument. And the problem with stand-your-ground is, you have two issues with that. One is, that has to be something that -- and I think the *Curry* case outlines this, a relatively recent South Carolina Supreme Court case outlines that, that has to be without you bringing on the fault. We already have what he tells police officers at the scene, and we have that as a recording: *I was in a shootout earlier.*

So, I don't believe that he could claim that.

But then, at the ultimate of all of this, the person that was killed was an eight-year-old, unarmed child. For the *Castle Doctrine* to apply, Mr. Robinson

has to be afraid for his life from an eight-year-old, unarmed child. And I do not believe that there's anything in his motion, nor has he told you today, that he was in somehow fear of his life from Minor [redacted]. And that would be the final argument that I think he would have to make in order for the *Castle Doctrine* to apply.

THE COURT: All right. Thank you. All right. Mr. Robinson, now I come back to you. I told you I'd give you the last word. It's your motion.

DEFENDANT ROBINSON: My understanding of the *Castle Doctrine* is, if a person is in the process and commission of committing a violent crime against a person, a reasonable person in that present position would have the right to use deadly force to prevent the commission of a violent crime from being committed against him. As -- as defined and stated in -- by the *Castle Doctrine*. Then that person would be immune to criminal prosecution and civil prosecution from any use of deadly force they would had the right to use.

Now, the State of South Carolina alleges that I shot and killed the Minor [redacted]. What they said was, they said that Aaron, Sr., Aaron, Jr. left from Allen Road. They said I shot towards the truck and

towards the Minor -- that's what the police reports say. I have the police report if you want to review it. The police report charging me with shooting to kill the Minor by shooting towards the truck and shooting towards killing Minor. And they say a bullet killed Minor while I was shooting towards Aaron, Sr. and Aaron, Jr.

Now, I don't know how they came up with that scenario, because I did not shoot and kill Minor. The forensic evidence they say they had, that proves that I did not shoot kill Minor or whatever. The bullet, in no way possible I could have even possibly killed Minor.

However, at the time --

THE COURT: Let me just address that point before we leave it, because that's an important point, and I'm going to talk about that before you leave and get to another point.

If, in fact, they have no evidence that says that you fired the fatal shot, then that's a different matter. That raises a different defense. That doesn't raise the *Castle Doctrine*, because the *Castle Doctrine*, is available when a person uses deadly force to prevent somebody else, in certain circumstances, from harming

them. And it applies if a person against whom the deadly force was used.

In this case, the deadly force was used against the eight-year-old victim. That's what we're talking about in this particular case. And so, the *Castle Doctrine* would not apply in that particular case, because you did not -- even if they can prove that you were involved in the shooting or some theory would make you liable under the shooting, whether you did it or not, or whether it was just a felony murder, you all out just shooting at each other and the stray bullet hits this person over here, and everybody's equally responsible for it, under any theory.

The *Castle Doctrine* does not apply unless you're using it to protect yourself by using deadly force against someone who's bringing deadly force to bear against you, either in your home or your car or wherever, or under the stand-your-ground defense, perhaps, in another situation.

That's not what I understand we have here, because what we have here is something different from somebody trying to break into your car or into your home or into your porch or whatever it happens to be, and causing you harm and you shoot them or hurt them or kill them, as

the case might be. That gives you immunity from prosecution.

Now, just because you don't get the *Castle Doctrine* immunity, doesn't mean that you can't raise defenses in the trial of this case. But it means that you still have to answer for those charges before a jury. You're not protected from going to trial. You've got the same rights that everybody else does in a trial to tell a jury that everything that you've told me here today, and see if the jury, then, will believe that you're without fault and then they start bringing around, coming around, and that you did everything that you did to protect yourself from a prolonged attack by this father and son, who, as you say, were following you all over Hilton Head, trying to kill you in different places on the Island.

That scenario that you've laid out here today is different from the *Castle Doctrine*. You understand the distinction between the *Castle Doctrine*, which says you cannot be tried in these cases, and other defenses which say you can be tried or must be tried, but you have the right to raise these issues as defenses. That's where you find yourself with what you've explained to me today.

I find that you're not entitled to the *Castle Doctrine*. You've made a good record for this. And if you lose at trial, you can appeal on that particular issue, among others, if you have to do it. But for today, I find that the *Castle Doctrine* does not apply to you for those reasons I've just mentioned. Thank you.

I'm going to give you this stuff back. You need to keep -- hang onto this.

All right. Are there any other motions that we need to deal with today?

MR. STONE: I do not believe so, your Honor.

DEFENDANT ROBINSON: I do have some motions.

THE COURT: Okay. Tell me what it is, Mr. Robinson, and I'll decide whether we have to hear it today or whether it can wait.

DEFENDANT ROBINSON: Well, I had some motions to dismiss for insufficient evidence.

THE COURT: Okay. The time to do that is after the State has placed its case as evidence before yours. I don't know what the evidence is yet, so I'm not in a position to rule on that. That would come at a directed verdict stage, after the State has put in its evidence, and then I would rule as to whether or not they've got enough evidence against you to send that case forward.

DEFENDANT ROBINSON: Okay. I had another motion dealing with *South Carolina Statute 17-23-90* for dealing a speedy trial motion.

THE COURT: Have you made a speedy trial motion?

DEFENDANT ROBINSON: I submitted a writ of habeas corpus to you, but I don't know if you ever got it or received it or not.

THE COURT: I haven't received any motions. They might be in the court file somewhere, but I don't have anything. It might be very well in the court file, but, no, I haven't received those or acted on those. But and I'm not sure whether the State's prepared to go today forward on arguing that motion. I'll be glad to hear it.

MR. STONE: We're not, but I think we solved the problem, your Honor, by, once we determine the schedules, I think everyone recognizes that we are prepared to go forward at the next available court term that your Honor would be available.

THE COURT: Okay. That's true. This case is set for the next available court term, Mr. Robinson, and that would address your habeas and your speedy trial motions.

DEFENDANT ROBINSON: Well, I -- okay. I, just for

the record, I just want it on record that I do request for a speedy trial under *South Carolina Statute 17-23-90* by the second term of court and as -- as -- as it is written in that statute, because this case, I was -- I requested like -- I filed like five or six motions for a speedy trial so far, and it been going on over a year, and they just was ignoring my motions, violating my speedy trial, so I just want that on court record that I was -- I request for that.

THE COURT: I'll note that.

DEFENDANT ROBINSON: Okay.

THE COURT: The record will reflect that.

DEFENDANT ROBINSON: Thank you.

THE COURT: Thank you, Mr. Robinson. All right.

Gentlemen, -- and I'm going to let Mr. Robinson go on.

I'm concerned that you know my schedule. In retirement, I work one week a month. I work the whole week. I even work on Fridays. I consider that a work day. When you only work one week a month, you can work five days a week. And I just want to be sure that, when I get back in April, that we can finish that in one week. Because the following week, the following Monday, I am scheduled to be in Greenville to hear a week-long

arbitration that's been scheduled now for about nine months, involving people from in and out of the country. And I'm going to have to be available to be there. I can't, you know. So, but I'm here. I'll come early. I'll work late. You know, whatever you all need to do. I just want to make sure that everybody understands that I'm here for a week.

MR. STONE: Yes, sir.

THE COURT: Okay? All right. Thank you. Anything further, then, in this matter before we go for the day?

MR. VAUX: No, sir.

MR. STONE: Not from the State, your Honor.

THE COURT: Thank you.

END PROCEEDING 10:15 A.M.

CERTIFICATE OF REPORTER

FEBRUARY 27, 2014 TRANSCRIPT OF HEARING

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-CM, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing February 27, 2014 Transcript of Hearing is a true, accurate, and complete record of the proceedings had on said date in the case of State of South Carolina versus Tyrone Robinson, et al, Beaufort County, South Carolina, Court of General Sessions, Case Numbers 2012-GS-07-01935, 2012-GS-07-01932, and 2012-GS-07-02173; that no exhibits were admitted.

I further certify that I am of neither kin, counsel, or interest to any party hereto.

THIS CERTIFICATE OF REPORTER CONTAINS MY ORIGINAL SIGNATURE AND IS ATTACHED TO THE ORIGINAL TRANSCRIPT REQUESTED BY SCCID. PURSUANT TO SCACR 607, REQUESTS FOR COPIES OF THIS TRANSCRIPT MUST BE MADE TO THE COURT REPORTER. UNAUTHORIZED COPYING/EMAILING IS PROHIBITED.

Witness my signature July 9, 2016.

Wanda H. Rowe, CVR-CM
Official Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0701935

At a Court of General Sessions, convened on October 18, 2012, the Grand Jurors of Beaufort County present upon their oath:

Murder / Murder

That in Beaufort County on or about September 1, 2012, while engaged in an ongoing gun battle, an inherently dangerous felony, Tyrone Robinson did willfully, unlawfully and with malice aforethought cause the victim [redacted] Minor to be shot and killed in the area of Marshland Drive and Allen Road, Hilton Head Island, SC, and that [redacted] Minor did die in Beaufort County as a proximate result thereof on September 1, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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

WITNESSES

Inv. L. Albertin-BCSO

ARREST WARRANT NUMBER

2012A0720300114

ACTION OF GRAND JURY

Melissa Burns

Foreperson of Grand Jury
Date: OCT 18 2012

VERDICT

Foreperson of Petit Jury
Date:

INDICT

1090

DOCKET NO. 2012GS0701935

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

Tyrone Robinson

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

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

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 5th day of November, 2018.

RECEIVED
NOV 05 2018
SC Court of Appeals