

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

CASE NO.: 2019-000722

**RECEIVED**

**Sep 09 2020**

**SC Court of Appeals**

Adriel N. Garnett, ..... Appellant,

vs.

State of South Carolina, ..... Respondent.

RECORD ON APPEAL

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1 content. The solicitor asked him how is that gonna  
2 affect Mr. Gilliam on cross, and he's never met with Mr.  
3 Gilliam, so we can't say how bad -- how that would  
4 affect Mr. Gilliam, but he did testify that at .03  
5 inhibitions would start to be lowered.

6 He also testified on redirect that, that would  
7 become more displayed the higher the BAC, which would  
8 tend to corroborate my client's version of events. And  
9 my client testified as well to that.

10 So again, Judge, I think, based on the State's  
11 case where they didn't prove that he had even shot Mr.  
12 Gilliam, but there was a knife laying next to the scene,  
13 and based on my client's testimony, that they haven't  
14 carried their burden to get past the directed verdict.  
15 So I would ask that the Court direct a verdict.

16 THE COURT: On both the issue of murder and  
17 self-defense?

18 MR. NEELY: Yes, sir.

19 MS. JORDAN: Your Honor, we believe there's ample  
20 evidence out there for both of these issues for the  
21 whole case to go to a jury. You saw the defendant  
22 testify today. He stated at one point that he shot  
23 Cecil one time and Cecil fell down to the ground. He  
24 didn't know where the knife was and he continued to  
25 shoot him.

1 I believe that the State has presented evidence  
2 as far as the malice of forethought, he did multiple  
3 shots, the use of the weapon. I think there's tons of  
4 questions of fact in evidence to support both of the  
5 charges going, going forward and going to the jury.

6 THE COURT: Any reply?

7 MR. NEELY: Well, her argument to the Court about  
8 you saw my client, that's not proper for the Court to  
9 consider because you're not weighing the credibility of  
10 my client at this point when you're making this  
11 decision. That would be all the reply, Your Honor.

12 THE COURT: All right. And even considering the  
13 ex -- the additional testimony that has been presented  
14 since I made my last ruling, again, applying the  
15 standards that articulate the State versus Oates, which  
16 is a case that, a Court of Appeals case, that  
17 procedurally is almost identical to what we have here, I  
18 would have to deny the motion based on that. Based on  
19 what the evidence has been seen.

20 Anything else before I step down?

21 MS. JORDAN: Yes, sir, Your Honor. I believe  
22 Mr. Spens ---

23 THE COURT: Smith.

24 MS. JORDAN: -- Spenser or Mr. Smith, pointed out  
25 the defendant's failure to testify, and we'd ask that

1 that be removed since --

2 THE COURT: Oh, it has.

3 MS. JORDAN: -- he has now testified.

4 THE COURT: Yeah. It's been cut actually. Wait  
5 a minute. He said he's left them in there.

6 MR. SMITH: It's in here, but...

7 THE COURT: All right. It was supposed to be  
8 taken out.

9 MS. JORDAN: And, Your Honor, we withdraw our, I  
10 think it was charge number two on voluntary intoxication  
11 is not a defense.

12 THE COURT: Okay. Well, that needs to come out  
13 as well.

14 MS. JORDAN: Yes, sir.

15 THE COURT: All right. Take a look at those and  
16 I'll come back in a few moments.

17 MR. NEELY: I don't know if I need to renew my  
18 motion for immunity under the Protections of Persons and  
19 Property Act, just to preserve any appellate record, I'd  
20 renew that at this time, based on the previous arguments  
21 and testimony.

22 THE COURT: Okay. And I had -- and I have not  
23 heard anything that's persuaded me to rule another way  
24 than what I have already, so I will deny that motion.

25 MR. NEELY: Thank you, Your Honor.

1 MS. JORDAN: Thank you, Your Honor.

2 THE COURT: Citing the same case,  
3 State versus Oates also had the immunity argument as  
4 well. I'd use that for this also.

5 MR. NEELY: Thank you, Judge.

6 THE COURT: Uh-huh.

7 MR. NEELY: What time would you like us back in  
8 the morning? I think I'm gonna go try to find Mr. Allen  
9 and go through the jury charge.

10 THE COURT: Fifteen minutes.

11 (A recess was had from 3:31 p.m. - 3:50 p.m.)

12 THE COURT: Mr. MacDonald, are y'all gonna bring  
13 the defendant back in for this?

14 MR. MACDONALD: Yes, sir. We can do that. I'm  
15 just trying to track down Mr. Neely. I'm not sure where  
16 he went.

17 THE COURT: He leaves you an awful lot.

18 THE DEPUTY: Your Honor, he told me he was done  
19 for the day, but he's still in general. He's just  
20 dressed back out in his orange.

21 THE COURT: Okay.

22 MR. MACDONALD: And, Judge, I think he's -- I  
23 think we don't need the defendant in here.

24 THE COURT: Okay.

25 (Mr. Neely enters the courtroom.)

1 MR. SMITH: Your Honor, I have two possibly typo  
2 things. I don't want you to just read it out. In the  
3 possession of a weapon during a violent crime, Line 4.

4 THE COURT: Hang on, let me find that. Okay.

5 MR. SMITH: It says firearm. I just didn't want  
6 you to read that out.

7 THE COURT: Okay.

8 MR. SMITH: But there's nothing wrong with the  
9 rest of it. And the verdict form, it says foreman. I  
10 think it's a female. I don't know if you want to change  
11 that, but... I'm not huge on gender pronouns.

12 THE COURT: Okay. Did you have any?

13 MR. NEELY: None, Your Honor.

14 THE COURT: All right. Well, let me -- I've made  
15 one change, that y'all did not have. I'll read it to  
16 you. It's in the self-defense charge.

17 Since I tell them in the beginning that the State  
18 has the burden of disproving self-defense beyond a  
19 reasonable doubt, the burden is carried by disproving  
20 any one of the four elements. When you -- the one that  
21 y'all have, when it got to the third element, I did not  
22 read that as being the third element, I just, I oust it,  
23 so I actually start that section with the third element  
24 of self-defense is that if the defendant is actually in  
25 imminent danger, it must be shown that the circumstances

1 would have warranted a person of ordinary firmness and  
2 courage to strike a fatal blow to the manor of death or  
3 serious bodily injury.

4 I just started that sentence with the third  
5 element.

6 MS. JORDAN: Under another for any reasonably  
7 prudent defendant?

8 THE COURT: Correct. Uh-huh. Yeah.

9 MS. JORDAN: Okay.

10 THE COURT: And I try to have these like this so  
11 that in the event that they come back for questions, I  
12 then either -- three weeks ago I actually -- the lawyers  
13 said don't reread them, just give them your charges so  
14 we sent my charges in the back of this section. But  
15 with you, if they want to hear the charges again, we  
16 weed that particular section. I'm trying to read  
17 exactly what the lawyers say.

18 Okay. How about the jury form, verdict form?  
19 Does that look all right?

20 MS. JORDAN: We always prefer guilty first, but  
21 we understand.

22 MR. NEELY: I take the exact opposite approach,  
23 Your Honor.

24 THE COURT: So you want the foreman changed to  
25 Madam Forelady?

1 MR. SMITH: I don't care.

2 MS. JORDAN: Or person.

3 THE COURT: Or person?

4 MR. SMITH: I just -- she might be offended.

5 THE COURT: Okay. Foreperson.

6 MR. SMITH: Okay.

7 THE COURT: All right. We'll make that change on  
8 the verdict form. And then I've had some lawyers,  
9 sometimes they actually like to take the verdict form  
10 and put it on an ELMO, so if y'all want to do that,  
11 it'll be ready for you in the morning.

12 All right. Anything else?

13 MS. JORDAN: Not from the State, Your Honor.

14 MR. NEELY: Not from us, Judge.

15 THE COURT: Do y'all think your arguments will be  
16 -- under the new case law, as I understand it, the State  
17 opens in full everything.

18 MS. JORDAN: Yes, Your Honor.

19 THE COURT: Defense then does everything in  
20 response. And the State's limited in their reply just  
21 to stuff that they brought up.

22 MS. JORDAN: Correct.

23 MR. NEELY: That's correct, Your Honor.

24 THE COURT: All right. Thank y'all very much.  
25 I'll see you in the morning.

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MS. JORDAN: Thank you, Your Honor.

MR. SMITH: Thank you, Your Honor.

(Court concluded at 3:53 p.m.)

--- THIS ENDS DAY THREE OF TRIAL ---

1           THE STATE VERSUS ADRIEL GARNETT, DAY 4 OF TRIAL

2           THE COURT: All right. The State has issued an  
3 objection to one of the portions of the charge called  
4 Pearson's Perspective of the Defendant, that being the  
5 last sentence of the charge that the Court has prepared.  
6 The State has presented to me the case  
7 State versus Rash, 182 S.C. 42, 1936. And the basis the  
8 State would object to is State vs. Bixby and the defense  
9 stated that they believe *Rash* is still good law on that  
10 and is inappropriate. Anything else?

11           MS. JORDAN: Your Honor, I believe *Rash* may still  
12 be good law, but the burden has changed since *Rash* was  
13 made. And the burden was taken out of that sentence,  
14 and I believe that the entire sentence should come out  
15 because *Bixby* covers that we have the burden of  
16 disproving one of the elements beyond a reasonable  
17 doubt.

18           And the way the charge reads now is: Unless the  
19 State shows that a person of ordinary reason, coolness,  
20 prudence would not have acted as the defendant did under  
21 the circumstances that surrounded him at the time the  
22 fatal shot was fired, then you should find the defendant  
23 not guilty. That's representing one aspect of a  
24 four-part self-defense claim, and that's not the  
25 standard.

1 THE COURT: All right. Anything else?

2 MR. NEELY: Sure. Judge, the standard is that  
3 they have to prove -- they have to disprove self-defense  
4 beyond a reasonable doubt. And obviously *Bixby* says  
5 that if it disproves one of them beyond a -- if they  
6 disprove one that is beyond a reasonable doubt to the  
7 jury's satisfaction, then the jury is entitled to find  
8 the defendant guilty.

9 However, you can't just isolate this one, this  
10 one particular jury charge. All of your charges  
11 together go through all four elements, so the State  
12 ultimately the -- you have a jury charge on self-defense  
13 and having to disprove beyond a reasonable doubt, but  
14 you cover that. You cover the *Bixby* charges she's  
15 asking for. This addresses that one particular element.  
16 So I would ask that it stay because *Rash* is still good  
17 law.

18 THE COURT: All right. I had included it because  
19 the defense had given it to me and I was gonna let y'all  
20 decide whether it was appropriate. I was uncomfortable  
21 with it when I did the charges to begin with, but one of  
22 the reasons I added at the end the part about the State  
23 had the burden of disproving self-defense beyond a  
24 reasonable doubt, that burden had carried by disproving  
25 any one of the four elements.

1           The reason I put that in there is because that  
2 sentence was in this charge because I wanted to be sure  
3 that I was well preserved. So I can take the sentence  
4 out. I think probably it would seem more appropriate to  
5 be out, but it does seem to indicate -- it focuses on  
6 this one aspect to the elimination of the other three,  
7 so I don't think it changes anything by taking it out.

8           MS. JORDAN: Thank you, Your Honor.

9           THE COURT: All right. Anything else?

10          MS. JORDAN: No, sir.

11          MR. NEELY: No, Your Honor.

12          THE COURT: But we did change the verdict form to  
13 read foreperson and not foreman.

14          MS. JORDAN: No forelady?

15          THE COURT: Yeah. Do y'all want copies?

16          MR. NEELY: I'm okay, Your Honor.

17          MS. JORDAN: I don't.

18          THE COURT: All right. So the -- I got a chill  
19 last night. I thought that maybe I had not corrected  
20 the malice thing. I thought I left it, but I remember I  
21 did take, according to Bixby, I took out and made it  
22 what the State had given me, I felt was appropriate. So  
23 that's why I ran in here to take a look at it and make  
24 sure that I had done it in the correct way. Okay?

25                 All right. We'll see y'all soon.

1 MS. JORDAN: Thank you, Your Honor.

2 MR. NEELY: Thank you, Your Honor.

3 THE COURT: Oh, one more thing.

4 MS. JORDAN: Yes, Your Honor.

5 THE COURT: The clothing, can we put them in  
6 those clear plastic bags and let them have the rubber  
7 gloves in the event that they want to open them? And  
8 hopefully they don't have to open them if they're in the  
9 clear plastic bags?

10 MS. JORDAN: Yes, sir. I'll need to run upstairs  
11 and grab them, but I'll grab them along with some extra  
12 gloves.

13 THE COURT: Do you have anybody that could help  
14 you?

15 MR. BARNETT: I'll check.

16 MS. JORDAN: They are, if you go into where the  
17 bench warrants are, there's a box, they're right there  
18 and the gloves are right in the -- where the printers  
19 are.

20 MR. BARNETT: I'll check and get them.

21 THE COURT: Okay.

22 (A recess was had from 9:16 a.m. -- 9:33 a.m.)

23 THE COURT: All right. I'm told that all of the  
24 jury is now present. Anything else before we bring the  
25 jury in for closing arguments?

1 MS. JORDAN: Nothing from the State, Your Honor.

2 MR. NEELY: Nothing from the defense.

3 THE COURT: Bring them in.

4 (Jury enters the courtroom at 9:35 a.m.)

5 THE COURT: All right. Ladies and gentlemen, the  
6 parties have presented their evidence in this case and  
7 it is now time for the attorneys to make what is called  
8 their closing arguments. The arguments of the attorneys  
9 are not evidence in this case. Their statements and  
10 arguments are meant to help you understand the evidence  
11 and apply the law to the evidence.

12 You should disregard any remark, statement or  
13 argument which is not supported by the evidence  
14 presented during this trial or the law that I will  
15 explain to you after their arguments. But at this time  
16 we will receive the closing arguments.

17 MS. JORDAN: Thank you, Your Honor.

18 CLOSING STATEMENT

19 BY MS. JORDAN:

20 Ladies and gentlemen, this case is about five  
21 shots to the back, two to the side and the defendant  
22 running. That's what this case is about.

23 The defendant is charged with murder, which is  
24 the killing of another with malice aforethought.  
25 Malice, as the judge is gonna tell you, could be the

1 heart regarding social duty and faithfully done on  
2 mischief. Also, the intentional doing of a wrongful act  
3 without just cause or excuse.

4 Aforethought is simple. Aforethought just means  
5 that he has to have that malice at the moment the action  
6 is taken that takes the life. Just at the moment.  
7 We're not required to prove that it existed for any  
8 specific period of time beforehand, just the moment that  
9 the act was done. That's all.

10 I also want to point out quickly and talk about  
11 the law. The one thing the judge is not gonna tell you  
12 is that we have to prove a motive. We don't have to  
13 prove why he did it, just that he did it with malice  
14 aforethought. That he was -- it was the intentional  
15 doing of a wrongful act without just cause or excuse,  
16 the heart regardless of social duty vaguely bent on  
17 mischief. That's what we have to prove for murder.

18 He's also charged with possession of a weapon  
19 during the commission of a violent crime. That just  
20 means simply as it states, murder is a violent crime.  
21 The judge will tell you that, and he was in possession  
22 of that, of a weapon during the commission of the  
23 murder.

24 The Court's also gonna tell you that we have to  
25 prove murder and possession of a weapon by a violent --

1 during a violent crime beyond a reasonable doubt. He's  
2 gonna tell you that that's evidence that leaves you  
3 firmly convinced, not beyond all doubt, beyond a  
4 reasonable doubt. Evidence that leaves you firmly  
5 convinced of the defendant's guilt.

6 He's also gonna tell you that we have to disprove  
7 self-defense, again, beyond a reasonable doubt. There  
8 are four elements of self-defense. We have to disprove  
9 at least one of them beyond a reasonable doubt. Not  
10 all, just one.

11 He's gonna talk to you as well when he talks to  
12 you about self-defense. There's the four elements with  
13 this. And I apologize for reading this. Don't want to  
14 miss any of them.

15 One is the defendant is without fault in bringing  
16 all the difficulty. Two, the defendant actually  
17 believed he was in imminent danger of losing his life or  
18 sustaining serious bodily injury or he was actually in  
19 such imminent danger.

20 Three, is what we call a reasonable person  
21 standard. What I refer to it as. A reasonably prudent  
22 person of ordinary firmness and courage, would have  
23 entertained the same belief had he been there, or had he  
24 been in there in those -- in the defendant's same shoes.  
25 The judge is gonna talk to you about you can put

1 yourself in the defendant's shoes that night during this  
2 incident and all that went on.

3 So a reasonably prudent person of ordinary  
4 firmness and courage would have entertained the same  
5 belief, or if in actual imminent danger, the  
6 circumstances were such would warn a man of ordinary  
7 prudence, firmness and courage to strike the fatal blow  
8 in order to save himself from serious bodily injury or  
9 losing his own life.

10 And four, the defendant had no other probable  
11 means to avoid the danger. Such as, leaving, getting in  
12 the car that he had there that night.

13 The judge is also, when he talks to you about  
14 self-defense, he's gonna talk to you about the  
15 continuing nature of the threat. It's our position by  
16 the State that there was no threat. That if you look at  
17 the evidence in this case, Cecil -- I'm gonna put up  
18 this exhibit to help out.

19 If you look at the evidence, Stuff Higgins  
20 testified from the stand. Ronald Higgins goes by the  
21 nickname Stuff. He testified from the stand that the --  
22 that Cecil came through the pool room and went outside.  
23 He didn't see anything in his hands. And that he was  
24 out there for several minutes. I think at the beginning  
25 of his testimony he said five to seven minutes he was

1 out there.

2           Didn't see anything in his hands when he walks  
3 out the door, five to seven minutes. So much so that he  
4 even looked out like where's the guy I'm supposed to be  
5 playing pool with? Where is he? The last time he says  
6 he looks at him, looks out and sees him, he says he sees  
7 him leaning against the railing. Leaning against the  
8 railing in this area, near the bullet strike to the  
9 railing, near the blood that's on the wall right here.  
10 That's where he sees him. (Indicating.)

11           And what is Cecil doing? The last time his  
12 friend sees him, he's leaning against the railing,  
13 looking back towards his house. He's leaning against  
14 the railing with his back towards his house. Where does  
15 he see the defendant and the Jeter twin? Down here at a  
16 lower angle. There's no threat. He's down here.  
17 Cecil's up there looking that way, posing no threat at  
18 all to this defendant. None. (Indicating.)

19           He could have walked away. Would an ordinary  
20 person in his position think he was in a threat when his  
21 friend says he sees him leaning out over -- leaning over  
22 the railing, looking this way? (Indicating.) And he'd  
23 been out there for five to seven minutes.

24           And I know in the defendant's story, the one of  
25 many that he told you, the defendant -- or Cecil charges

## CLOSING STATEMENT BY MS. JORDAN

1 -- Cecil comes out of there with a knife ready. The  
2 knife ready at his hand right here, which is a weird  
3 place to hold a knife if you're threatening to gut  
4 somebody like a fish. But he comes out and he  
5 immediately makes this threat: I'm gonna gut you like a  
6 fish, you mother fucker. Immediately.

7 That doesn't, that doesn't correlate with what  
8 Mr. Higgins said. They're out there for five to seven  
9 minutes. There was no immediate walkout and immediate  
10 threat.

11 Think back to what Dr. Wren also testified to.  
12 He tells you about all the shots. Dr. Wren can't tell  
13 you the order of them, but he can group some of them  
14 together. He groups together, one, four, eight. Then  
15 he groups together nine. Nine is the one right there  
16 just above the buttocks area. And he says it goes in at  
17 an angle, and that the victim's arm was raised.

18 It goes in at an angle like this, his arm was  
19 raised, like he was leaning against a railing, looking  
20 at his house, posing no threat to anybody when he  
21 decides to shoot him from down at the bottom of the  
22 railing. (Indicating.)

23 You also have the other shots to the back. You  
24 have 7, 12 and 13, all to the back. Cecil was no threat  
25 to him. He wasn't even a continuing threat to him, if

1 you listen to the stories that the defendant told us  
2 yesterday. And I say stories because there were several  
3 of them.

4 He seemed to change his story the longer he  
5 talked. When Mr. Neely first asked him, he pointed out,  
6 I believe it was on this picture, State's 32, that he  
7 was up there near that bullet strike when Cecil came  
8 out. Right at the door.

9 Ladies and gentlemen, if you buy his story, if  
10 you buy his story, when Cecil walked out that door, he  
11 could have taken him right there. If you buy that  
12 story, but that's not how it happened. They were out  
13 there five to seven minutes.

14 He tells you he remembers that threat. And Cecil  
15 said a lot of other things that he doesn't know what  
16 they are. Stuff about his momma. He doesn't know what  
17 they are. He can't remember that.

18 And he said earlier in his testimony that he  
19 remembered that night perfectly, but he can't remember  
20 all the other stuff that was said. That must have been  
21 one slow walk down that ramp for there to be a threat  
22 with a knife right here at his side.

23 That conveniently corresponds where Dr. Wren says  
24 a bullet wound was that came from the left side on in  
25 (sic). He's facing him. He's had his hands up and

1 they're backing away and they're having -- he's talking  
2 all this trash and everything to him.

3 It didn't happen the way the defendant said. It  
4 happened the way the evidence shows. The evidence  
5 that's not -- the evidence that was there that day and  
6 Cecil's body that was there that day when Dr. Wren  
7 looked at it at the hospital. There's no threat to this  
8 defendant.

9 In his story he also talks about how he shot him  
10 one time. He shoots him one time and then he makes it  
11 all the way down and comes to rest just out here. Just  
12 out here. (Indicating.) And then he fires the rest of  
13 the shots. So if he was a threat, the remainder of  
14 those shots come when he's down on the ground. He told  
15 you he was down on the ground, basically on his hands  
16 and knees with his butt in the air and he shoots him.

17 Number nine, shot number nine was the fatal shot.  
18 And he shoots a man while he's on the ground. This  
19 knife that he's so concerned about, he doesn't know  
20 where it is. He couldn't see it. He doesn't know where  
21 it is, but he knows that the guy is down on the ground.  
22 He's fired a shot at him. He's down on the ground.  
23 We've got blood up here at the top that we know is  
24 Cecil's. We've got blood down here at the bottom that  
25 we know is Cecil's.

1           You also heard from other -- from people who were  
2 there that night who don't report there being any  
3 altercation beyond the fact that Cecil wouldn't give him  
4 a free drink. And sometimes you can get mad at the  
5 smallest things. He wouldn't give him a free drink, so  
6 he goes outside with his buddies and they have a  
7 conversation about the legalization of weed in South  
8 Carolina.

9           Cecil wasn't angry. Cecil wasn't upset. Cecil  
10 didn't go charging after him. Cecil went, sat with his  
11 wife or took his wife's place. He's apparently a better  
12 card player than her. Played a game of pool -- or, I'm  
13 sorry, played a game of cards. He won cards. He was  
14 gonna go play pool with his friends or with his friend  
15 Stuff.

16           He didn't charge out there threatening this young  
17 man with a knife. We don't know when Cecil pulled a  
18 knife. Cecil could have pulled a knife after he has  
19 been shot in the back, leaning over that railing. And  
20 13, 9, he could have been defending himself when he  
21 pulled that knife, 9, 12, 13 and 7. And Dr. Wren said  
22 those all came -- those all could be grouped together.

23           And then you have 1, 4 and 8. The ones on the  
24 back, Dr. Wren testified, the shooter would have been  
25 below Cecil when he fired those. The ones to the side,

1 he would have been over him.

2           Stuff didn't see anything in Cecil's hands when  
3 he walked by. He did see Cecil leaning over the ramp  
4 several minutes later looking out. And Adriel was  
5 behind him looking up or in an up -- in a position where  
6 he would have been up towards -- had to look up or  
7 pointed his gun up at him.

8           And there had to be some time. Stuff was getting  
9 impatient. He was like, you know, I came over to play  
10 with my friend and he had gone outside and was gone for  
11 a little bit. And then he hears the succession of shots  
12 and he looks out and what does Stuff see when he looked  
13 out the door again?

14           The defendant's still in that same area firing  
15 down. Firing down where his friend is. He just thinks  
16 he's blowing off steam. Then he remembers my folk is  
17 outside. And he was outside, laying on the ground dead.

18           Ladies and gentlemen, look at the bullet and the  
19 shell casings. Mr. Neely made a point with all of the  
20 officers to talk about how they did everything. I think  
21 it was thorough, accurate and complete. They mapped out  
22 the scene. And what they showed you is these shell  
23 casings. The shell casings start at number one. Or  
24 they don't start there, but that's where they're labeled  
25 one. And he told you he can't tell you which way they

1 came. If they came in the order they were listed or  
2 they came at random orders or how.

3 My position or the State's, the evidence would  
4 show, that he starts firing down here where Stuff saw  
5 him, where you've got one, two, three, five, four, six.  
6 Officer Talanges did say that EMS workers told that they  
7 kicked one and they had marked one. They did say that.  
8 And I believe it was six that has the little EMS patch  
9 near it. The other shell casings, right at Cecil's  
10 body.

11 Officer Talanges said, we didn't see one of them.  
12 I don't remember if it was eight or nine -- or, I'm  
13 sorry, seven or eight, until EMS moved out of the scene.  
14 So those shell casings are right there over him when  
15 he's down on the ground. And if there was a threat,  
16 there was a threat no more.

17 You also have the bullet -- or the blood  
18 splatter. The blood splatter that's up against the  
19 wall. And it's hard to tell with the lighting, but  
20 you'll have these pictures back there with you. But  
21 you've got blood splatter down here, here and up here.  
22 (Indicating.)

23 There is a knife in this area. I believe it's  
24 labeled number nine. Cecil didn't walk up there with  
25 it. Adriel would have had you believe that Cecil busted

1 out that door angry, but nobody else reports that he was  
2 angry.

3           You've got the blood splatter starting at the  
4 top. Starting at the top up near those French doors,  
5 going all the way down to the bottom, and then up  
6 against that wall. He was shot while he was on the  
7 ground down here. How else do you get the blood  
8 splatter up on the wall where his body was found? And  
9 the projectile in that area. Shot a man while he was  
10 down.

11           And it's also about the fact that he ran. He ran  
12 from the scene to his family's house. To his grandpa  
13 and to his aunt. And he told them it was self-defense.  
14 And from what they knew from his story that he told  
15 them, his grandpa said, if it's self-defense turn  
16 yourself in.

17           When he gets to the house, the first thing he  
18 does is he goes over there and he wakes up Brittany.  
19 Wake up, wake up, wake up. And he doesn't say please  
20 call the police. He says, I need a ride out of town.  
21 I'll pay you \$100 to take me out of town to get me away  
22 from what I just did. To get me away from my guilty  
23 conscience of what I just did.

24           She's like, I'm not getting in trouble for you.  
25 Tells him to get off the phone when he tries to call

1 somebody else and doesn't call the police. Grandpa  
2 says, if you're not gonna -- you know, if it's  
3 self-defense you need to turn yourself in. When does he  
4 leave? When his aunt is on the phone with the police.

5 To believe his story, he had to wait on the cops  
6 and he just got too tired of waiting. I think  
7 everything is on Adriel's terms and that's it. He got  
8 tired of waiting, the cops weren't doing this quick  
9 enough for him, so he leaves.

10 But in the meantime while he's there, what does  
11 he do? He throws away the gun. He throws away the gun  
12 and he fired eight times at Cecil. Throws it away,  
13 comes back. It's not happening enough on his terms so  
14 he leaves.

15 He gets a ride to Columbia. Stays there with  
16 somebody for a couple of hours and he gets a ride back  
17 to Charleston. And he tells you, you know, he's, you  
18 know, on the run down there, getting help by friends and  
19 everything like that.

20 He doesn't talk to his grandpa, who told him to  
21 call the police. Doesn't talk to his aunt, who told him  
22 to call the police. Told him he knew he had a warrant  
23 on him. He ran. He ran because he knew what happened  
24 that night. He knew that it wasn't self-defense, so he  
25 ran.

1           Fast forward to five-and-a-half months later.  
2 Comes into contact with an officer down in Columbia.  
3 And officer told he doesn't know anything about what had  
4 gone on here. And what does he do? Because he tells  
5 you that he didn't want to have to face all this? He  
6 lied.

7           MR. NEELY: Objection, Your Honor. Same as my  
8 previous objection.

9           THE COURT: All right. Well, go ahead, ma'am.

10          MS. JORDAN: He fights the officer.

11          MR. NEELY: Objection, Your Honor. Same  
12 objection.

13          MS. JORDAN: He gets tazed by the officer.

14          MR. NEELY: Thank you, Judge.

15          THE COURT: Go ahead.

16          MS. JORDAN: And he lies.

17          MR. NEELY: Same objection.

18          MS. JORDAN: They have to bring in a little  
19 machine to figure out who he is, because an innocent man  
20 isn't gonna run or someone with a guilty conscience is.  
21 Five-and-a-half months and he still fights.

22          He doesn't even believe his own story because he  
23 ran. He didn't believe it when he told his grandpa. He  
24 didn't believe it when he told his aunt. He was gone.  
25 And I'll say this, his family seem like very reasonable,

1 good people and he didn't listen to them because he knew  
2 what he did.

3 He actually said, I believe it was, while he was  
4 waiting on the officers, he had too much time to think.  
5 So you know it's the officers' fault, they gave him too  
6 much time to think. And he thought about it. And he  
7 thought about what he did and he was gone.

8 Cecil's not here to tell us what happened. He's  
9 not. The seven gunshots made sure of that. But what we  
10 do have is Cecil's body through Dr. Wren. And Cecil's  
11 body tells you that story.

12 When you put it with Stuff, the information that  
13 Stuff, Mr. Higgins, gave, when you put it with the other  
14 information that Cecil wasn't agitated with him. Cecil  
15 didn't chase him out that door after they wanted to  
16 charge him for beer or for liquor or moonshine. I don't  
17 recall exactly what it was.

18 Dr. Wren was able to tell you what Cecil's body  
19 was telling us. It was four shots to the back. They  
20 were mainly in an upward direction. That one to just  
21 above his butt crack, and it comes to rest inside of his  
22 arm. Inside of his right arm where -- or inside of his  
23 armpit area here where he had his gun. (Indicating.)

24 And I still haven't figured that out. How does  
25 this man that's coming at him face-to-face down this

1 ramp -- because you heard that he previously said he  
2 fired all eight shots face-to-face to Cecil. Cecil's  
3 body tells us so.

4 Cecil's body, through Dr. Wren, tells us there  
5 was no through-and-through shot from the front to the  
6 back. None. The two to the front that are listed on  
7 this diagram are one and four and they come out the  
8 other side on the front. I believe he testified that  
9 one of them just hit some fatty area there.

10 So he's got the knife in his right hand right up  
11 here, he's going at him face-to-face, but then Cecil  
12 ends up getting shot in the back four times. In the  
13 back and the side, the fifth. And then the two in the  
14 front that go left.

15 Cecil's either doing an amazing job of doing a  
16 crab walk. Anybody who's got kids, you see kids do  
17 this. (Indicating.) He's doing like an amazing crab  
18 walk or some reverse fencing where he's fencing with the  
19 arm that he doesn't have a knife in and he's going at  
20 him and he's going at him. Cause that's the only way  
21 you can potentially even explain that.

22 And it doesn't fit. It's ridiculous. His  
23 stories are ridiculous. And I keep saying stories to  
24 point out that there's a multitude of them. It changed  
25 while he was on the stand yesterday.

1 Well, Cecil was here but I was here. No, I came  
2 down a little bit. And then all of a sudden Cecil's  
3 doing this, you know, shot one time and bag a trip down  
4 to the bottom and ends up at the ground where he's not a  
5 threat. His story changed so much yesterday I had  
6 trouble keeping up with it.

7 The truth doesn't change. Those bullets in  
8 Cecil's body from Dr. Wren, they don't change. That's  
9 murder. That's malice aforethought the moment he pulled  
10 the weapon and started firing into him. That, ladies  
11 and gentlemen, is murder. It's not self-defense. A  
12 reasonable person of ordinary firmness and courage would  
13 have shot a man four times in the back, once in the back  
14 to the side, and twice in the stomach to come straight  
15 through with the knife in the right hand?

16 Was he afraid of the crab walking down with the  
17 knife in the hand? It does not add up. It does not add  
18 up. None of the shots are centered and none of the  
19 shots are from the front.

20 Also, if you take his story and Cecil comes out  
21 immediately and says I'm gonna gut you like a fish,  
22 Cecil could have closed in on him in that three to  
23 four-foot range like it was nothing if he were really  
24 doing that. But Adriel had time to pull his gun out.  
25 Or I think I just -- doing it with his right hand to

1 pull his gun out. And he kind of did like this turning  
2 motion, so that was weird because he's afraid of this  
3 guy three or four-feet away from him with a knife, but  
4 when he demonstrated he kind of turned and whipped the  
5 gun out.

6 It doesn't add up. He was at the bottom of those  
7 steps, and Cecil was up there where that bullet strike  
8 is when he pulled and fired. He could have got in his  
9 car and left or his aunt's car and left. He chose to  
10 pull a weapon. He chose to fire it eight times.

11 If he were that scared, he's a great shot. He  
12 fired eight and hit seven. He's a great shot for  
13 someone who was scared. He's also a great shot for  
14 somebody who's standing at the bottom of that ramp and  
15 had a great target.

16 Great shot, especially when your target's up  
17 there away from you and your target's down on the  
18 ground. You're gonna hit him. And hitting him seven  
19 out of eight is pretty good!

20 He talked about his momma. He wouldn't give him  
21 a free beer, and Cecil paid for all of that with his  
22 life. He had no other option. He did. He could have  
23 gotten in that car and left. It was so much easier for  
24 him just to stand there. He was disrespected.

25 Sometimes it's the simplest things that set people off.

1 Talking about people he knew.

2 You -- the judge is gonna talk to you about  
3 credibility and believability of a witness. You got to  
4 watch him yesterday. You got to listen to him. You got  
5 to see how he reacted to questions. How he reacted to  
6 my questions. Credibility and believability, he has  
7 none. He has none.

8 What he has is a guilty conscience that led him  
9 to leave because of what he did. Cecil's body is  
10 telling you what he did. The evidence at the scene that  
11 day is telling you what he did. Those shell casings  
12 around the side of the house just over the edge near  
13 where those cars are, they tell the story. They tell  
14 you the story. They tell you the lies that's going to  
15 come.

16 He's shooting him from right there.  
17 (Indicating.) He's shooting up. He's getting that shot  
18 just above the butt crack. He's getting those two shots  
19 in the leg. He's getting that shot in his arm all from  
20 the back.

21 Dr. Wren said he was in the upward, Cecil would  
22 have been up for those shots, or it could have been down  
23 with them going in, but they all go into his back and  
24 the ones on his side. Like the shooter was either  
25 standing over him to the side. Nothing in the front.

1 Cecil's body tells you a lot about what happened.

2 Cecil was no threat, no continuing threat. Cecil  
3 was a sitting duck. It's the worst possible scenario  
4 for Cecil. Cecil's nightmare. Cecil started that  
5 evening out with his family and his friends celebrating  
6 his aunt's birthday at his property. Cecil was murdered  
7 at his property. Five times to the back, two to the  
8 side by this guy right there. (Indicating.)

9 Cecil's nightmare is not gonna end, neither is  
10 his family's. And the person who caused that nightmare  
11 is sitting right there. Right there. Right there.  
12 (Indicating.)

13 THE COURT: All right. Ladies and gentlemen, if  
14 would, stand and stretch your legs for a minute.

15 Thank you very much.

16 CLOSING STATEMENT

17 BY MR. NEELY:

18 A thousand days ago, a thousand days ago when  
19 Cecil Gilliam said, I'm gonna gut you like a mother  
20 fucking fish, when Adriel turned around, this is what he  
21 saw. This is what he saw. (Indicating.)

22 I'm not the least bit surprised that yesterday,  
23 999 days after this incident Adriel couldn't remember  
24 all of the details because for 999 nights he's gone to  
25 bed and this is what he's seen. This is what's

1 important. This is what matters. (Indicating.)

2 One of my favorite things to do with my dad is go  
3 to Wofford College football games. And so a couple  
4 weekends ago, we went over to Greenville when they were  
5 playing Furman. And we were at the game and we were  
6 having a good time. Wofford stopped Furman on third  
7 down and Furman was forced to punt. So they punted the  
8 ball away.

9 And when they punted, Wofford's receiver called  
10 for a fair catch. He was standing about on the ten-yard  
11 line. But the ball ended up sailing over his head and  
12 Furman was able to down it on the one-yard line. So  
13 when Wofford took the field with their backs up against  
14 their own end zone, the quarterback took the snap and he  
15 went to his right. But when he went, one of his  
16 blockers missed their man. And all of a sudden that  
17 quarterback had three very large division one athletes  
18 coming after him.

19 And in that moment, that quarterback was  
20 desperate. And he was down to what he thought was his  
21 only option. So in that desperation, he pitched the  
22 ball to his right, hoping that he had somebody there,  
23 but he didn't.

24 The ball fell in the end zone and a Furman player  
25 picked it up and cost Wofford a touchdown. Furman was

1 able to score seven points. In hindsight, he could have  
2 just taken the sack. The safety, his team would have  
3 only given up two points instead of the seven.

4 Now, I was at the game, but the game was on the  
5 radio. And I know that up in that radio booth, those  
6 announcers were absolutely killing that quarterback.  
7 They were saying, what in the world is he thinking?  
8 What kind of idiot makes that choice?

9 Down in the stands when I was talking to my dad,  
10 I was like -- we were talking to each other. Why would  
11 he choose to do that? But the more I thought about it,  
12 you know what, I've never been a division college  
13 football quarterback. I've never been in a situation  
14 where three division one defenders were coming at me  
15 trying to hit me. I've never had to make that choice.  
16 I've never been in that situation. And it's easy for  
17 those announcers in that booth to second guess because  
18 they weren't in that situation either.

19 I've never been in the situation Adriel was in.  
20 It's easy for Ms. Jordan and Mr. Smith to sit there in  
21 their view on their bench at that table and second guess  
22 the decisions that Adriel made.

23 Adriel told you that he was scared. He told you  
24 that he was frightened. They won't second guess those  
25 decisions. But, ladies and gentlemen, keep in mind that

1 none of that actually matters. They want to make a  
2 really big deal about him going to Charleston and him  
3 going to Columbia. None of that matters.

4 If he were still in Charleston today, a 1,000  
5 days later and that warrant had not been served, this is  
6 still the thing that matters. (Indicating.) That  
7 moment at 4 o'clock in the morning on February 6th.

8 Also keep in mind when you consider everything  
9 that happened after, they called Adriel's aunt to the  
10 stand. And she got on the witness stand and she said  
11 Adriel came to me at 5 o'clock in the morning. And he  
12 shook me awake and he was scared and he was frightened.  
13 And he told me he had shot Cecil. And when I asked why  
14 he said because Cecil told me he was gonna gut me like a  
15 fish. He had a knife, I had to shoot him in  
16 self-defense.

17 And so Brittany called law enforcement at 5:30.  
18 And at 5:30, she said my name is Brittany Westfield. My  
19 nephew, Adriel Garnett, is here at my house. He shot  
20 Cecil Gilliam. It was self-defense. He's waiting to  
21 talk to you. He's here now. And seconds turn to  
22 minutes, turn into an hour.

23 And the worst case scenario running through  
24 Adriel's head is that nobody's gonna believe me. That  
25 they're not gonna realize that this is self-defense.

1 And so they woke up Adriel's Grandpa Bruce. And they  
2 told him that Adriel had to shoot Cecil in self-defense  
3 because he came at him with a knife and told him he was  
4 gonna fish.

5 And Bruce said, Adriel, son, if it's self-defense  
6 wait here. Law enforcement will take care of him.  
7 They'll take care of you. It's self-defense. Just turn  
8 yourself in and talk to them.

9 And so Brittany called again at 6:30. And,  
10 again, she said my name is Brittany Westfield. I called  
11 you an hour ago. My nephew, Adriel Garnett's, here and  
12 he shot Cecil Gilliam in self-defense. He's waiting  
13 here to talk to you.

14 And seconds turn to minutes. Turn to another  
15 house. And Adriel paces. And as his granddaddy said,  
16 he wasn't himself. He was scared. He was frightened.

17 Officer Dawkins took that witness stand  
18 yesterday. And he told you that for 24 years he's done  
19 a complete job and he's done a thorough job and he's  
20 done an accurate job investigating every case he's been  
21 a part of. And told you at 7:30 in the morning while  
22 Adriel was waiting to tell what happened, when the  
23 details were fresh in his mind, he knew that that call  
24 from Brittany Westfield had come in. He knew that she  
25 said that he had shot Cecil in self-defense.

1           But 7:30 that morning he didn't go to the  
2 Westfield residence. He went to the magistrate's office  
3 because he already had a warrant signed for murder.

4           His thorough, complete, accurate investigation  
5 was over three-and-a-half hours after it happened. Two  
6 hours before all of that evidence that the solicitor  
7 just showed you was processed, this case was closed.

8           They also want to make a big deal about the fact  
9 that Cecil Gilliam was shot eight times. When Dr. Wren  
10 took the stand yesterday, y'all saw me stand up. And I  
11 said, Your Honor, I'd stipulate to the fact, to the  
12 cause of death and the number of shots.

13           There was no question that Cecil was shot eight  
14 times. And there's no question that the cause of death  
15 was one of those gunshots. But what Dr. Wren told you,  
16 he didn't want to, I had to remind him of his previous  
17 testimony because, again, his story differed yesterday  
18 from earlier.

19           But what he told you was that the shots in the  
20 front came first. And he told you that the one that  
21 killed Cecil was that one in his back that went through  
22 his kidney.

23           And you heard Adriel when he testified. Adriel  
24 told you that when Cecil came out, he had that knife, he  
25 was gonna gut him like a fish. It was him or Cecil. He

1 was gonna die if he did not act. And Dr. Wren agrees  
2 with him because if he hadn't shot him in the back,  
3 Cecil was still the threat. Adriel told you, he was  
4 still getting up off the ground. Those shots in the  
5 front didn't kill him.

6 So imagine, Cecil comes out with a .186 blood  
7 alcohol content threatening to kill and talking wild,  
8 making all sorts of comments at him, but holding that  
9 knife right there. And he shoots him in the front but  
10 doesn't kill him. You thought he was gonna stab him  
11 before? Now he's been shot.

12 They want to make a big deal about those eight  
13 shots, but the judge is gonna tell you what the law says  
14 in just a moment. And what the law actually says, is  
15 that if you were justified in shooting that first shot  
16 in self-defense, which Adriel absolutely was, if you  
17 were justified in shooting that first shot, you were  
18 justified in shooting as many shots as you need until  
19 you feel safe.

20 And Adriel told all of us that he didn't feel  
21 safe until Adriel stopped moving because he kept trying  
22 to get up. The man with this kept trying to get up.  
23 (Indicating.)

24 Now, when I talked to y'all Tuesday morning, I  
25 told you that I honestly believed that we'd be able to

1 prove self-defense and I think we've done that. But  
2 like I also told you, Adriel doesn't have to prove  
3 anything. We don't have to prove that it wasn't murder  
4 and we don't have to prove that it was self-defense.  
5 These two people right here representing the State of  
6 South Carolina, have to prove to y'all beyond a  
7 reasonable doubt that Adriel was not acting in  
8 self-defense.

9 Now, self-defense -- excuse me, reasonable doubt  
10 is one of those legal concepts. Thing is you ask 10 or  
11 15 lawyers, what exactly does reasonable doubt mean, you  
12 might get 10 or 15 different answers. It's one of those  
13 legal terms. And quite honestly, I didn't understand  
14 what reasonable doubt was until about my second year of  
15 law school.

16 See, I came home here to Spartanburg to visit my  
17 parents at their house right down the street in March of  
18 that year, spring semester. And I was at home visiting  
19 my parents and I was upstairs in my room. And in the  
20 springtime my momma likes to keep the windows open. She  
21 likes to let that nice spring breeze bullet through the  
22 house.

23 So I'm upstairs in my room studying. And when I  
24 come home, my momma likes to make chocolate chip  
25 cookies. So I'm upstairs in my room and I can smell

1 those chocolate chip cookies floating on that nice  
2 spring breeze.

3 And my dad's downstairs in the den and he's  
4 watching Sports Center so I can kind of -- the  
5 highlights are kind of carrying up and I can smell those  
6 cookies. And I can also hear my little brother, who's  
7 about eight at the time, and my mom in the kitchen and  
8 they're arguing.

9 I don't know what they're arguing about, but I  
10 can hear them arguing. And then I hear my mom say, now,  
11 go to your room. And so my little brother comes  
12 storming up the stairs and my dad hollers up at him, and  
13 don't you dare slam that door. Because my little  
14 brother has this bad habit of pointing his anger, he  
15 slams the door.

16 And as soon as he got in there, that door slammed  
17 shut. And so my dad comes thundering up those stairs.  
18 And he's saying I'm gonna kill him. I'm gonna kill him.  
19 And my mom's following right behind him and he's saying  
20 don't kill him, don't kill him.

21 And I come out because I want to watch. I'm  
22 saying, yeah, kill him, kill him. And so we get into my  
23 little brother's room and he's got tears streaming down  
24 his face and he said, Daddy, I didn't do that. I didn't  
25 do it. My dad thinks he did it, so he takes off his

1 belt and popped him one time.

2 And my little brother, he dropped to his knees  
3 and he said, Daddy, I did not do that. I didn't slam  
4 the door. I did what you said. And right before my  
5 daddy can spank him one time, a breeze blows through  
6 that room, (claps hands), and that door slammed shut.  
7 And in that moment my dad hesitated because he had a  
8 doubt about whether or not my brother had done that.

9 That's what a reasonable doubt is, ladies and  
10 gentlemen. It's anything that you've heard during this  
11 trial that's gonna cause you to hesitate to act. That's  
12 gonna cause you to hesitate to find Adriel guilty.  
13 That's what a reasonable doubt is.

14 Now, y'all are lucky. Y'all are, because in most  
15 trials the 12 people that sit in these chairs have a  
16 hard time because reasonable doubt is kind of scary.  
17 There's not a lot of evidence of it.

18 In this case there's a lot of reasonable doubt.  
19 You all's job is easy. The police officer, Ms. Bassett,  
20 who shows up at 4:05 in the morning, tells you that  
21 she's been a law enforcement officer for nine years.  
22 Six years at the time that this happened. She tells you  
23 she knows the difference between a death investigation,  
24 a homicide and a murder.

25 She knows through her complete, thorough,

## CLOSING STATEMENT BY MR. NEELY

1 accurate training, through her training, through her law  
2 enforcement career. She knows the difference in all  
3 that. But 22 minutes without seeing any evidence  
4 whatsoever she can say this is a murder. That's not a  
5 complete, thorough, accurate investigation at all. What  
6 that is for y'all is a reasonable doubt.

7 Officer Dawkins showing up at 5:40 telling  
8 somebody before 6:30 in the morning without seeing any  
9 other evidence that this is murder, signed a warrant for  
10 arrested by 7:30 in the morning without seeing any other  
11 evidence. That's a reasonable doubt. You cant find him  
12 guilty. There was no investigation.

13 Ronald Higgins told you he didn't see a single  
14 thing that actually happened before this shooting.  
15 That's a reasonable doubt. Jim Dallison, telling you  
16 that he didn't see an altercation between Adriel and  
17 Cecil, that's a reasonable doubt.

18 Saying that he didn't see anything outside,  
19 that's a reasonable doubt. The blood splatter coming  
20 down the ramp shows that Cecil was coming down the ramp  
21 at Adriel. That's a reasonable doubt.

22 Blood alcohol content of .186. Lowering  
23 inhibitions. Justifying, corroborating exactly what  
24 Adriel said. That's a reasonable doubt.

25 How about the fact that even though we don't have

1 to prove anything, I had to call three law enforcement  
2 officers because the State doesn't want to give you all  
3 of the evidence. That's a reasonable doubt. Adriel  
4 told you what happened. Cecil pulled a knife.

5 The solicitor just said she doesn't know when  
6 Cecil pulled the knife, but we know that lying a foot  
7 away from Cecil's body, was that knife right there.  
8 (Indicating.) That's a reasonable doubt.

9 The fact that a month after this they got new  
10 evidence in this case. Mr. Castellani testified to that  
11 yesterday, and they didn't bother to actually  
12 investigate, to go back and see. That's a reasonable  
13 doubt.

14 The fact that 21 months after that they got new  
15 evidence and still the investigation was over. They  
16 didn't do anything else. That's a reasonable doubt.

17 The fact that just two months ago in August we  
18 got DNA results back, two-and-a-half-years later and  
19 nothing further was done with this case, that's a  
20 reasonable doubt. And the fact that what those DNA  
21 results showed is that Cecil's blood and Cecil's DNA was  
22 on this knife, that's a reasonable doubt.

23 On Monday morning when y'all came for jury  
24 qualification and when we selected y'all, the judge told  
25 you that he appreciates and he's thankful for your

1 service. He says that because he appreciates you coming  
2 and helping us uphold Adriel's constitutional rights.  
3 Adriel is thankful for a much different reason, because  
4 for the first time in a thousand days somebody, the 12  
5 of you, are actually gonna look at the evidence in his  
6 case. The 12 of you are actually gonna listen to what  
7 happened that night. For a thousand days he's been  
8 living this nightmare with no way to wake up from it.  
9 But, ladies and gentlemen, right now you can go wake him  
10 up. Go find him not guilty.

11 REPLY CLOSING STATEMENT

12 BY MS. JORDAN:

13 Ladies and gentlemen, I have a different  
14 recollection, but you get to base it on your  
15 recollection of what Dr. Wren said on the stand. He  
16 said that he couldn't tell which ones came first, just  
17 gave you the groupings. And I believe when he reread  
18 that testimony from his prior sworn testimony, he said  
19 the same thing. He can group them, but he can't tell  
20 you which ones.

21 He also wants to focus on the BA level, .18. The  
22 SLED agent took the stand and he told you it lowers your  
23 inhibitions. Reaction times are slow, balance is  
24 affected. You have trouble walking straight, stumbling.  
25 It's a gradual progression. Not a busting out the door

1 with a knife threatening to gut somebody like a fish.

2 Darrell Dawkins, when he took the stand, he  
3 didn't just have someone say it was murder and go and  
4 get the warrant. He told you he talked to two eye  
5 witnesses and he knew the defendant was gone when he  
6 went to get the warrant. He knew the defendant was gone  
7 when he got the warrants.

8 And it doesn't matter what time they did all of  
9 this because you have it all. Y'all are the finders of  
10 fact. You have everything that's been presented here as  
11 evidence. It doesn't matter what Naomi Bassett said  
12 that morning because you have everything. You're the  
13 finder of facts, you get to decide.

14 You don't have to worry about going out and  
15 asking nine to ten lawyers what reasonable doubt means.  
16 The judge is gonna tell you what it means. Hesitate to  
17 act or firmly convinced. Are you firmly convinced that  
18 he shot a man five times in the back and twice in the  
19 side?

20 The stories do not add up. All those one  
21 thousand days, 150 of them on the run, roughly. I  
22 didn't do the math. On the run. He knows what  
23 happened, he ran. His family didn't want him to run  
24 because they didn't know the true story. You know it.  
25 Thank you.

1 THE COURT: All right. Ladies and gentlemen, if  
2 you would, just stand and stretch your legs just for a  
3 few moments.

4 MS. JORDAN: Your Honor, may I put the exhibits  
5 back?

6 THE COURT: Okay. Thank you very much.

7 JURY CHARGE

8 THE COURT: Ladies and gentlemen, the indictment  
9 charges the defendant with murder and possession of a  
10 firearm during the commission of a violent crime. I  
11 remind you that the fact that the defendant was  
12 arrested, charged and indicted in this case, is not  
13 evidence in this case and cannot be considered by you as  
14 evidence of guilt in this case, nor does it create any  
15 presumption or inference of guilt. This document is  
16 simply the formal written instrument which contains the  
17 charges made against the defendant. It is the formal  
18 document by which this case is brought into court.

19 The defendant has pled not guilty to the  
20 indictment, and that plea puts the burden on the State  
21 to prove the defendant guilty. A person charged with  
22 committing a criminal offense in South Carolina is never  
23 required to prove himself innocent.

24 I charge you that it is an important rule of the  
25 law that the defendant in a criminal trial, no matter

1 what the seriousness of the charge may be, will always  
2 be presumed to be innocent of the crime for which the  
3 indictment was issued unless guilt has been proven by  
4 evidence satisfying you of that guilt beyond a  
5 reasonable doubt. This presumption of innocence does  
6 not end when you begin your deliberation, but it  
7 accompanies the defendant throughout the trial until you  
8 reach a verdict of guilt based on evidence satisfying  
9 you of that guilt beyond a reasonable doubt.

10 The presumption of innocence is like a robe of  
11 righteousness placed about the shoulders of the  
12 defendant which remains with the defendant until it has  
13 been stripped from the defendant by evidence satisfying  
14 you of the defendant's guilt beyond a reasonable doubt.

15 The presumption of innocence is not mere legal  
16 theory. It is not just a legal phrase. It is a  
17 substantial right to which every defendant is entitled  
18 unless you, the jury, are satisfied from the evidence of  
19 the defendant's guilt beyond a reasonable doubt.

20 What is reasonable doubt in the law? A  
21 reasonable doubt is the kind of doubt that would cause a  
22 reasonable person to hesitate to act.

23 The State has the burden of proving the defendant  
24 guilty beyond a reasonable doubt. And some of you may  
25 have served as jurors in civil cases, where you were

## JURY CHARGE

1 told that it is only necessary to prove that a fact is  
2 more likely true than not true, such as by the greater  
3 weight or preponderance of the evidence. In a criminal  
4 case, the State's proof must be more powerful than that.  
5 It must be beyond a reasonable doubt.

6 Proof beyond a reasonable doubt is proof that  
7 leaves you firmly convinced of the defendant's guilt.  
8 There are very few things in this world that we know  
9 with absolute certainty, and in criminal cases the law  
10 does not require proof that overcomes every possible  
11 doubt. If, based on your consideration of the evidence,  
12 you are firmly convinced that the defendant is guilty of  
13 the crime charged, you must find the defendant guilty.  
14 If on the other hand, you think there is a real  
15 possibility that the defendant is not guilty, you must  
16 give the defendant the benefit of the doubt and find him  
17 not guilty.

18 I remind you that, during this trial, you and I  
19 have certain duties to perform. As the trial judge, it  
20 is my responsibility to preside over the trial of this  
21 case, and I also have the duty to rule on the  
22 admissibility of evidence offered during this trial.  
23 You are to consider only the competent evidence before  
24 you. You are to consider only the testimony which has  
25 been presented from the witness stand and any exhibits

1 which have been made a part of the record in this case,  
2 and any stipulations of counsel.

3 I have the additional duty to charge you the law  
4 applicable to this case. As the presiding judge, I am  
5 the sole judge of the law in this case, and it is your  
6 duty as jurors to accept and apply the law as I now  
7 state it to you. If you already have any idea as to  
8 what the law is or what the law ought to be and it does  
9 not agree with what I now tell you the law is, you must  
10 abandon this idea because you are sworn to accept the  
11 law and apply the law exactly as I state it to you.

12 In every case tried in this court before a jury,  
13 the jury becomes the sole and exclusive judge of the  
14 facts in a case. A trial judge cannot intimate, state,  
15 comment on, or make any statement to a trial jury about  
16 the facts in a case.

17 Since you, the jury, are the sole judge of the  
18 facts in this case, you are not to infer from what I  
19 have said during the progress of the trial in ruling  
20 upon the admissibility of evidence, or otherwise, or  
21 anything that I say now during the course of this  
22 instruction to you, that I have any opinion about the  
23 facts in this case. The law does not allow me to have  
24 an opinion about the facts in the case. This is a  
25 matter solely for you, the jury, to determine. As

1 jurors, it is your duty to determine the effect, value,  
2 weight, and truth of the evidence presented during this  
3 trial.

4 There are two types of evidence which generally  
5 are presented during a trial - direct evidence and  
6 circumstantial evidence.

7 Direct evidence is the testimony of a person who,  
8 claims to have actual knowledge of a fact, such as an  
9 eyewitness. Circumstantial evidence is proof of a chain  
10 of facts and circumstances indicating the existence of a  
11 fact.

12 The law makes absolutely no distinction between  
13 the weight or value to be given to either direct or  
14 circumstantial evidence. Nor is a greater degree of  
15 certainty required of circumstantial evidence than of  
16 direct evidence. You should weigh all the evidence in  
17 the case. After weighing all the evidence, if you are  
18 not convinced of the guilt of the defendant beyond a  
19 reasonable doubt, you must find the defendant not  
20 guilty.

21 Necessarily, ladies and gentlemen, you must  
22 determine the credibility of witnesses who have  
23 testified in this case. Credibility simply means  
24 believability. It becomes your duty as jurors to  
25 analyze and to evaluate the evidence and determine which

1 evidence convinces you of its truth.

2 In determining the believability of witnesses who  
3 have testified in this case, you may believe one witness  
4 over several witnesses or several witnesses over one.  
5 You may believe a part of the testimony of a witness and  
6 reject the remaining part of the testimony of that same  
7 witness. You may believe the testimony of a witness in  
8 its entirety or reject the testimony of a witness in its  
9 entirety. You may consider whether any witness has  
10 exhibited to you any interest, bias, prejudice, or other  
11 motive in the case. You may also consider the  
12 appearance and manner of a witness while on the witness  
13 stand.

14 Ladies and gentlemen, during the presentation of  
15 this case, you may have noticed that certain sections of  
16 the photographs that were presented in this case were  
17 redacted. This is due to the rules of court, and that  
18 was a decision made by me. Please do not speculate as  
19 to what may or may not have been contained in those  
20 portions, and you are not to hold these portions for or  
21 against any party.

22 The rules of evidence ordinarily do not permit  
23 witnesses to testify to opinion or conclusions. An  
24 exception to this rule exists for witnesses we call  
25 "expert witnesses". A witness who, by education and

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1 experience, has become expert in some art, science,  
2 profession, or calling may state an opinion to relevant  
3 and material matter, in which the witness claims to be  
4 an expert, and may also state the reasons for that  
5 opinion.

6           You should not -- you should consider any expert  
7 opinion received in this case and, like any other  
8 evidence, give it the weight you think it deserves. If  
9 you decide that the opinion of an expert witness is not  
10 based on sufficient education and experience, or if you  
11 conclude that the reasons given in support of the  
12 opinion are not sound, or that the opinion is outweighed  
13 by other evidence, you may disregard the opinion  
14 entirely.

15           An expert witness' testimony is not to be given  
16 -- I'm sorry. An expert witness' testimony is to be  
17 given no greater weight than that of other witnesses  
18 simply because the witness is an expert. Further, you  
19 are not required to accept an expert's opinion, even  
20 though it is uncontradicted.

21           Ladies and gentlemen, "murder" is the killing of  
22 any person with malice aforethought, either express or  
23 implied. "Malice" is the wrongful intent to injure  
24 another and indicates a wicked or depraved spirit intent  
25 on doing wrong. It is the doing of a wrong act

1 intentionally and without cause or excuse.

2 I'm sorry. Let me read that sentence one more  
3 time. It is the doing of a wrong act intentionally and  
4 without just cause or excuse.

5 Malice can be inferred from conduct that is so  
6 reckless and wanton as to indicate a depravity of mind  
7 and general disregard for human life. In the context of  
8 murder, malice does not require ill-will towards the  
9 individual injured, but rather it signifies a general  
10 malignant recklessness of the lives and the safety of  
11 others, or a condition of the mind that shows a heart  
12 regardless of social duty and fatally bent on mischief.

13 Malice need not be in the mind of the one doing  
14 the killing for any particular length of time before the  
15 act of killing in order to render the killing murder.  
16 If it is present in the mind of the one doing the  
17 killing any length of time before the act, then it  
18 presents that its presence would be sufficient to render  
19 the killing of murder. Malice is said to be expressed  
20 where there is a manifested -- where there is a  
21 manifested, a violent deliberate intention to unlawfully  
22 take away the life of another human -- to take the life  
23 of another human being. Malice is implied where one  
24 intentionally and deliberately does an unlawful act  
25 which he then knows to be wrong and in violation of his

## JURY CHARGE

1 duty to another, and where no excuse or legal  
2 provocation appears, and when the circumstances  
3 attending a killing show an abandoned heart, a malignant  
4 heart fatally bent upon mischief.

5       The words "express" and "implied" do not mean two  
6 different kinds of malice, rather, the terms signify the  
7 way in which the malice might be proved. Express malice  
8 is where a person, by word of mouth, expressed hatred or  
9 ill-will for another, or where the State proves beyond a  
10 reasonable doubt that the defendant was making  
11 preparation before the event to accomplish the event.

12       The jury may also conclude by deductive reasoning  
13 that, under certain circumstances, malice may arise even  
14 though there is no express or direct evidence of an  
15 intent to kill.

16       Malice may be implied or inferred if it is proved  
17 beyond a reasonable doubt that there was a willful,  
18 deliberate and intentional doing of an unlawful act  
19 without just cause or excuse. The proof of this act,  
20 however, is merely a piece of evidence from which the  
21 inference or implication of malice may arise. In other  
22 words, the inference would be simply an evidentiary fact  
23 to be taken into consideration by you, the jury, along  
24 with other evidence in the case, and you may give it  
25 such weight as you determine it should receive.

1           If facts are proven beyond a reasonable doubt,  
2 sufficient to raise an inference of malice to your  
3 satisfaction, this inference would be simply an  
4 evidentiary fact to be taken into consideration by you,  
5 the jury, along with other evidence in the case, and you  
6 may give it such weight as you find it should receive.  
7 You as jurors are free to accept or reject this  
8 permissive inference depending on your view of the  
9 facts.

10           The defendant is also charged with possession of  
11 a weapon during the commission of, or attempt to commit,  
12 a violent crime. The State must prove beyond a  
13 reasonable doubt that the defendant was in possession of  
14 a firearm or visibly displayed what appeared to be a  
15 firearm during the commission of a violent crime.

16           A firearm means any machine gun, automatic rifle,  
17 revolver, pistol, or any other weapon which will, is  
18 designed to, or may be readily converted to expel a  
19 projectile.

20           In order to find the defendant guilty of  
21 possession of a weapon during the commission of a  
22 violent crime, you must first find that the defendant --  
23 find the defendant guilty of either committing a violent  
24 crime or attempting the commit -- or attempting to  
25 commit a violent crime.

1 Murder is a violent crime. The State must prove  
2 beyond a reasonable doubt that the weapon furthered,  
3 advanced, or helped in the commission of the crime.

4 The defendant has raised the issue of  
5 self-defense. Self-defense is a complete defense and,  
6 if established, you must find the defendant not guilty.  
7 The State has the burden of disproving self-defense by  
8 proof beyond a reasonable doubt. This burden is carried  
9 by disproving any of one of the four elements by proof  
10 beyond a reasonable doubt.

11 If you have a reasonable doubt of the defendant's  
12 guilt after considering all the evidence, including the  
13 evidence of self-defense, then you must find the  
14 defendant not guilty. On the other hand, if you have no  
15 reasonable doubt of the defendant's guilt after  
16 considering all the evidence, including the evidence of  
17 self-defense, then you must find the defendant guilty.

18 The following elements are required to establish  
19 self-defense. First, the defendant must be without  
20 fault in bringing on the difficulty. If the defendant's  
21 conduct was the type which was reasonably calculated to,  
22 and did, provoke a deadly assault, the defendant would  
23 be at fault in bringing on the difficulty and would not  
24 be entitled to an acquittal based on self-defense.

25 Second. The second element of self-defense is

1 that the defendant was actually in imminent danger of  
2 death or serious bodily injury or that the defendant  
3 actually believed he was in imminent danger of death or  
4 serious bodily injury.

5 In determining whether the defendant acted  
6 properly in self-defense, it is sufficient that he  
7 believed he was in imminent danger. A defendant need  
8 not actually be in such danger because people are  
9 entitled to act on appearances. The defendant acts  
10 properly in using force for self-defense if, under the  
11 circumstances as they appeared to him, he believed he  
12 was in such danger and a reasonably prudent person of  
13 ordinary firmness and courage in the situation and with  
14 the defendant's characteristics would have entertained  
15 the same belief.

16 In the consideration of whether self-defense is  
17 applicable, you should try as near as you can to put  
18 yourself in the defendant's situation at the time he  
19 fired the fatal shot. You should consider the  
20 circumstances by which he was surrounded, and take into  
21 consideration the person with whom he was dealing, and  
22 all of the facts which surrounded him, as you obtained  
23 the same from the testimony, and as near as you can,  
24 view the situation from the defendant's standpoint.

25 A man may act, however, from appearances, and if

1 it turns out, if the appearances are such that a man of  
2 ordinary courage, firmness, and prudence would have been  
3 justified in coming to the conclusion that the necessity  
4 did then and there exist to strike to save himself from  
5 serious bodily harm or death, that would be sufficient,  
6 although it turned out afterwards that there was no  
7 actual danger present, and that the necessity to strike  
8 did not exist.

9 If the defendant is in imminent danger or if the  
10 defendant's belief that he is in imminent danger of  
11 death or receiving great bodily harm is reasonable, the  
12 defendant need not wait until actual attack or injury or  
13 until force is used by the aggressor before exercising  
14 the right to use deadly force in self-defense.

15 In determining whether the defendant had a right  
16 to use force in self-defense, words accompanied by  
17 hostile act may be sufficient to constitute a threat of  
18 serious bodily harm.

19 The third element of self-defense is that if the  
20 defendant was actually in imminent danger, it must be  
21 shown that the circumstances would have warranted a  
22 person of ordinary firmness and courage to strike the  
23 fatal blow to prevent death or serious bodily injury.  
24 If the defendant believed he was in imminent danger of  
25 death or serious bodily injury, it must be shown that a

1 reasonable prudent person of ordinary firmness and  
2 courage would have had the same belief.

3 In deciding whether the defendant actually was,  
4 or believed he was, in imminent danger of death or  
5 serious bodily injury, you should consider all the facts  
6 and circumstances surrounding the crime, including the  
7 physical condition and characteristics of a the  
8 defendant and the decedent.

9 The final element of self-defense is that the  
10 defendant had no other probable way to avoid the danger  
11 of death or serious bodily injury than to act as the  
12 defendant did in this particular instance.

13 In determining whether the defendant had a right  
14 to use force in self-defense against another, the  
15 continuing nature of the threat by that person, who is  
16 still a threat despite action by the defendant to wound  
17 or threaten him, may be relevant to the apparent or  
18 actual need for force in self-defense and to the amount  
19 of force needed.

20 Again, ladies and gentlemen, the State has the  
21 burden of disproving self-defense beyond a reasonable  
22 doubt. This burden is carried by disproving any one of  
23 the four elements by proof beyond a reasonable doubt.

24 Now, ladies and gentlemen, there are two possible  
25 verdicts for you to reach in this trial. I have

1 prepared a verdict form for your use in the jury room  
2 and I have placed, you may find, as to murder not guilty  
3 or guilty and as to possession of a firearm during the  
4 commission of a violent crime not guilty or guilty. And  
5 you will, Madam Forelady, you will use this form for  
6 when the jury reaches its verdict.

7 Madam Foreman, ladies and gentlemen, your verdict  
8 must be unanimous. All 12 members of the jury just  
9 agree. Your verdict cannot be arbitrary or capricious  
10 or based on passion or prejudice.

11 Madam Foreman, you are to conduct the jury's  
12 deliberations only when all 12 members of the jury are  
13 present. If for some reason someone has to leave or use  
14 the restroom or has to leave the room for some reason,  
15 your deliberation should stop and not begin again until  
16 all 12 members are present.

17 Madam Forelady, I need you to do one other thing.  
18 Once the jury has reached their verdict, knock on the  
19 door and let the bailiff know. We had a case one time  
20 that was relatively straight forward and the jury was in  
21 deliberations and we waited and waited and they never  
22 knocked on the door, so I sent the bailiff back there to  
23 find out what was going on and they said, well, you  
24 never told us what to do once we reached our verdict, so  
25 please be sure that you knock on that door and tell the

1 bailiff.

2 Ladies and gentlemen, I'm gonna let you retire  
3 back to the jury deliberation room, but do not begin  
4 your deliberations yes. You will begin your  
5 deliberations once the bailiff brings you the evidence  
6 and tells you to start.

7 Also, there will be some of the evidence will be  
8 in a plastic bag. If you need to remove the evidence  
9 from the bag during your deliberations, there will be  
10 gloves, will be back there for you to use in handling  
11 that evidence. But at this time you may go back to the  
12 jury deliberation room and we'll get you back to tell  
13 you, you can begin just shortly.

14 (Jury leaves the courtroom at 10:23 a.m.)

15 THE COURT: Any exceptions to the charges from  
16 the State?

17 MS. JORDAN: No, sir, Your Honor.

18 THE COURT: Any from the defense?

19 MR. NEELY: None, Your Honor.

20 THE COURT: Now, what are we going to do about  
21 the alternate? We can either have the alternate placed  
22 in a separate room or, if you would agree that in the  
23 event one of the jurors has an emergency and that y'all  
24 would go less than 12, we could do that, but I have to  
25 have complete agreement before we do that.

1 MS. JORDAN: Your Honor, I'd prefer to defer to  
2 the ---

3 THE COURT: Do you want to consult with your  
4 client?

5 MR. NEELY: Judge, I think I'd rather have her  
6 wait.

7 THE COURT: Okay. All right. Now, if you all  
8 will, just be sure all the evidence is there.

9 MS. JORDAN: Yes, sir. Your Honor, would you  
10 like us to take the pants out of the paper and put it  
11 into the plastic bag?

12 THE COURT: (Nods head up and down.)

13 (A recess was had from 10:30 a.m. - 11:58 a.m.)

14 (A bench conference was held off the record.)

15 THE COURT: Is Mr. Smith gonna join us?

16 MS. JORDAN: He was right outside with Mr. Bulsa.  
17 Let me grab him. Are these three gonna remain in?

18 THE COURT: They can't -- well, yeah, they can.  
19 Well, any objection to having these three people in the  
20 courtroom?

21 MR. NEELY: (Shakes head back and forth.)

22 THE COURT: I'm just bringing the Forelady in.

23 MR. NEELY: Oh, none.

24 THE COURT: Are they bringing your client in?

25 MR. NEELY: I believe the Officer Shelton is

1 getting him, Your Honor.

2 (Defendant enters the courtroom.)

3 THE COURT: All right. Let's bring the Forelady  
4 in.

5 (Madam Forelady enters the courtroom at 12:06  
6 p.m.)

7 THE COURT: You can just stand right there.  
8 First of all, thank you for your questions. I have  
9 reviewed the questions and let me explain, the jury has  
10 all of the information and evidence that the jury will  
11 have to make the decisions that they have to make that  
12 relate to the verdict, so I cannot provide you any more  
13 information in regards to these questions.

14 MADAM FORELADY: Okay.

15 THE COURT: All right. Thank you very much. Oh,  
16 and your lunch should be here.

17 MADAM FORELADY: Oh, we were eating.

18 THE COURT: Okay. Have a good day. Go ahead and  
19 eat.

20 MADAM FORELADY: Thank you.

21 THE COURT: Anything else from the State or the  
22 defense?

23 MS. JORDAN: No, Your Honor.

24 MR. NEELY: None, Your Honor.

25 THE COURT: We'll make the note a part of the

1 record in the case.

2 MS. JORDAN: Thank you.

3 THE COURT: All right. We'll step down.

4 (Court's Exhibit Number 8, Jury Note, was marked  
5 for identification.)

6 (Court's Exhibit Number 8 was entered into the  
7 record.)

8 (Recess was had from 12:07 - 2:19 p.m.)

9 (Court's Exhibit Number 9, Jury Note, was marked  
10 for identification.)

11 (Court's Exhibit Number 9 was entered into the  
12 record.)

13 THE COURT: I have a question from the jury.

14 It's now been marked as Court's Exhibit 9. The question  
15 is: On State's Exhibit Number 33, what is placard 11  
16 marking? Parens, beside red car, close parens. And the  
17 jury also sent with the question Exhibit 33.

18 I had a bench conference with the attorneys.

19 What I would propose doing is that I'll bring the  
20 forelady out and let them tell her that the -- that they  
21 have to base their decision based on the testimony as  
22 they recall it, and that I could not give them any  
23 further guidance.

24 MS. JORDAN: No objection, Your Honor.

25 MR. NEELY: Judge, I would ask that the entire

1 jury be present for that instruction.

2 THE COURT: All right. And I would deny that  
3 request since if I were instructing the jury on the law,  
4 I would make -- I would probably bring them all in to  
5 have that instruction if they didn't ask to actually  
6 receive the law when answering questions, I think it's  
7 sufficient to have the communication through the  
8 forelady.

9 MR. NEELY: Thank you, Your Honor.

10 THE COURT: All right. Let's bring the  
11 foreperson back in.

12 (Forelady enters the courtroom at 2:20 p.m.)

13 THE COURT: Madam Foreman, thank you for your  
14 note. And the question on the note was on Exhibit  
15 Number 33, what is placard 11 marking? (Beside the red  
16 car.)

17 I'll respond in this fashion. The jury would  
18 need -- to answer that question, the jury would need to  
19 recall the testimony that had been presented during the  
20 course of the trial, okay?

21 MADAM FORELADY: So it was told to us during  
22 testimony?

23 THE COURT: I cannot -- will the lawyers approach  
24 a moment?

25 (A bench conference was held off the record.)

1 All right. Let me see if this can be of some  
2 help. The Court cannot answer specific questions as it  
3 relates to evidence, but if the jury wished to have --  
4 felt like it would help, I could have the court reporter  
5 play back some other type of -- some of the prior  
6 testimony and that would be of assistance to the jury,  
7 we could do that. But I would need the jury to actually  
8 tell me who that witness is and what they were looking  
9 for, as opposed to asking me specific evidentiary  
10 questions like this.

11 MADAM FORELADY: Okay.

12 THE COURT: Do you think you can relay that to  
13 them?

14 MADAM FORELADY: Yes.

15 THE COURT: All right. Thank you, ma'am. Oh,  
16 one thing. Let her take this back. Mr. Bailiff, I'll  
17 let you take Exhibit 33 back there.

18 (Madam Forelady leaves the courtroom at 2:24  
19 p.m.)

20 (A recess was had from 2:24 p.m. - 3:10 p.m.)

21 THE COURT: All right. I'm told that -- I'm told  
22 that the jury has reached a verdict. Anything from the  
23 State or the defense before we bring the jury in.

24 MS. JORDAN: Nothing from the State, Your Honor.

25 MR. NEELY: Nothing at this time. We are waiting

1 on my client's mother. She should be here within a  
2 couple minutes.

3 THE COURT: Well, I'm not gonna wait to bring the  
4 jury in for the verdict. In the event that we have to  
5 do sentencing, I will wait for her to get here.

6 MR. NEELY: Okay. Yes, sir.

7 THE COURT: All right. Let's bring the jury in.

8 (The jury enters the courtroom at 3:16 p.m.)

9 VERDICT

10 THE COURT: Madam Foreman, I'm told that the jury  
11 has reached a verdict; is that correct?

12 MADAM FORELADY: Yes, Your Honor.

13 THE COURT: If you would give the verdict form to  
14 the bailiff and bring it to me.

15 Madame Clerk, publish the verdict.

16 THE CLERK: In the court of General Sessions,  
17 Case Number 2016-GS-42-04430, The State of South  
18 Carolina versus Adriel Nicholas Garnett, as to the  
19 charge of murder, we the jury, unanimously find Adriel  
20 Nicholas Garnett guilty.

21 As to the charge of possession of a firearm  
22 during the commission of a violent crime, we, the jury,  
23 unanimously find Adriel Nicholas Garnett guilty. This  
24 is signed by the foreperson and dated today's date.

25 Ladies and gentlemen of the jury, if this is your

1 verdict and still your verdict, please raise your right  
2 hand.

3 (All jurors rose their right hand.)

4 So say you all.

5 THE COURT: Anything before we dismiss the jury  
6 from either the State or the defense?

7 MS. JORDAN: Nothing from the State, Your Honor.

8 MR. NEELY: Poll the jury, please, Your Honor.

9 THE COURT: Madam Clerk, do you want to poll the  
10 jury.

11 THE CLERK: Ladies and gentlemen of the jury, I  
12 will pose a question to you, after which I will call  
13 your name individually and ask you to stand and answer  
14 my question. The question being, is this your verdict  
15 and still your verdict?

16 Number 57, Gaffney. Answer the question, please.

17 JUROR 57: Yes, guilty.

18 THE CLERK: Thank you.

19 JUROR 57: Uh-huh.

20 THE CLERK: Number 153, Raisch.

21 JUROR 153: Yes, guilty.

22 THE CLERK: 71, Greene.

23 JUROR 71: Yes, guilty.

24 THE CLERK: 114, Komko.

25 JUROR 114: Yes, guilty.

1 THE CLERK: 72, Greene, Tracy Greene.  
2 JUROR 72: Yes, guilty.  
3 THE CLERK: 33, Clark.  
4 JUROR 33: Yes, guilty.  
5 THE CLERK: 145, Owens.  
6 JUROR 145: Yes, ma'am.  
7 THE CLERK: 183, Thomas.  
8 JUROR 183: Guilty.  
9 THE CLERK: 52, Fish.  
10 JUROR 52: Yes, guilty.  
11 THE CLERK: 18, Brown.  
12 JUROR 18: Guilty.  
13 THE CLERK: 133, Means.  
14 JUROR 133: Yes.  
15 THE CLERK: 20, Brown.  
16 JUROR 20: Yes.  
17 THE CLERK: Your Honor, the jury's been polled.  
18 THE COURT: Thank you. Anything else before we  
19 dismiss the jury?  
20 MR. NEELY: (Shakes head back and forth.)  
21 THE COURT: All right. Ladies and gentlemen,  
22 thank you for your service in this case. As I mentioned  
23 when we started the trial of this case that the justice  
24 system that we have in this country is referred to as  
25 the greatest justice system ever created. I've been

1 doing this job for going on 16 years, and I believe in  
2 that statement more strongly today than I ever have.

3           There are in every county and every community in  
4 every state, there are people, citizens like you that  
5 are called upon to do jury service. It is their -- and  
6 it's frequently been said that the greatest contribution  
7 and the toughest contribution that a citizen does to  
8 give back to our democracy that we have in this country  
9 to serve on a jury that's outside of military service is  
10 to serve on a jury as you have done now.

11           And I make those words because I just want you to  
12 know that this Court and the community appreciates your  
13 service and understands the sacrifice that you have  
14 made.

15           I've told you not to have any discussions with  
16 anyone about anything involving the case. Now, you can  
17 have as much discussion with anyone about anything  
18 involving the case that you wish. If in the event that  
19 anyone ever approaches you and you feel like that person  
20 is harassing you about your service, please contact the  
21 sheriff's office or the clerk of court's office and we  
22 will see that that type of harassment ends.

23           But at this time, ladies and gentlemen, you can  
24 retire back to the jury deliberation room. Madam  
25 Foreman, I need you to stay behind. The bailiff has one

1 more document for you to execute. But thank you again  
2 for your service and you don't have to come back  
3 tomorrow, but thank you all very much. You may exit the  
4 courtroom.

5 (Jury leaves the courtroom at 3:22 p.m., except  
6 for the forelady.)

7 THE CLERK: Madame Forelady.

8 (Madame Forelady comes forward to sign documents  
9 and leaves courtroom at 3:23 p.m.)

10 THE COURT: Is your client's mother here yet?

11 MR. NEELY: Yes, Your Honor.

12 THE COURT: I have to speak with Judge Knie in  
13 the back.

14 MR. NEELY: I don't believe we have a sentencing  
15 sheet.

16 MS. JORDAN: I have it right here.

17 THE COURT: Okay. I'll be right back.

18 All right. Are you ready to proceed?

19 (The Court briefly leaves the bench and then  
20 returns to the bench.)

21 MR. NEELY: Yes, Your Honor.

22 THE COURT: All right.

23 SENTENCING

24 All right. Mr. Garnett, I've got just a few  
25 basic questions to ask you. How old are you?

1 THE DEFENDANT: Thirty-two.

2 THE COURT: And how far did you go in school?

3 THE DEFENDANT: College twice.

4 THE COURT: And you went -- tell me the two  
5 colleges you went to.

6 THE DEFENDANT: I went to Trident Technical  
7 College in North Charleston, South Carolina and Roll  
8 Master Trucking School in Durham, North Carolina.

9 THE COURT: And presently are you married?  
10 Single? Divorced? Widowed?

11 THE DEFENDANT: Single.

12 THE COURT: Do you have children?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: How many?

15 THE DEFENDANT: Four.

16 THE COURT: How old is your oldest?

17 THE DEFENDANT: Eleven.

18 THE COURT: And your youngest?

19 THE DEFENDANT: Four.

20 THE COURT: And do you -- prior to being  
21 arrested, did you have a job outside of the home?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: What were you doing?

24 THE DEFENDANT: I was working at Viva Recycling  
25 in Monks Corner, South Carolina.

1 THE COURT: Ever serve in the military?

2 THE DEFENDANT: No. My father did.

3 THE COURT: And do you know the number of days?

4 MR. NEELY: It's 838, Your Honor.

5 THE COURT: 838?

6 MR. NEELY: Yes, sir.

7 THE COURT: Does the State have the prior record?

8 MS. JORDAN: Yes, Your Honor, we do. From 2006  
9 he has a possession of marijuana from the State of  
10 Virginia. From 2009, he has an assault of a high and  
11 aggravated nature. From 2012, he has a criminal  
12 domestic violence first offense. 2014, giving false  
13 information, distribution of marijuana, and possession  
14 of a controlled substance.

15 From 2015, simple possession of marijuana,  
16 resisting arrest with assault, for which he received a  
17 ten-year sentence suspended to an active one year and  
18 four years probation. Possession of meth or crack.  
19 It's hard to tell from the rap sheet, for which he  
20 received three years suspended to the service of one  
21 year and four years probation.

22 He also has the charges from 2016, the  
23 convictions that the Court has heard of, for the giving  
24 false information in Columbia. It was a city conviction  
25 for resisting arrest and failure to follow police

## STATEMENT OF PAMELA MICHELLE COHEN

1 commands and public disorderly. Those are related to  
2 the, to the capture of him in Richland after he fled  
3 this jurisdiction -- or in Columbia, the City of  
4 Columbia.

5 THE COURT: And does the State wish to add  
6 anything concerning the factual background before I  
7 receive information from the victim?

8 MS. JORDAN: I would like to address the Court  
9 just as to sentencing.

10 THE COURT: Okay. Let me hear from the victims  
11 first, then I'll give you a chance and then I'll hear  
12 from the defense.

13 MS. JORDAN: Thank you, Your Honor. As you've  
14 heard previously, Pamela Gilliam is the widow of Cecil.  
15 I do believe that she would like to address the Court.  
16 Would you like her to come forward or to stay there?

17 THE COURT: She's a soft speaker, so I need her  
18 to come forward, if she would. Do you want to stand  
19 right here beside the police officers. Ma'am, if you  
20 would, just again give us your full name.

21 MS. GILLIAM: Pamela Michelle Gilliam.

22 THE COURT: Yes, ma'am. Be more than happy to  
23 hear from you.

24 STATEMENT OF PAMELA MICHELLE GILLIAM

25 MS. GILLIAM: I'd just like to say I thank the

1 Court for giving us a verdict. Also, I'd just like to  
2 say -- just bear with me.

3 I'd just like to say that Cecil had nine  
4 children. The oldest one in her twenties. The youngest  
5 one, Mason, was five when he got killed. Mason's now  
6 seven. Cecil's wish was, you know, to always have his  
7 child, raise his last child, so he and I was doing that  
8 and it was taken away. I do forgive him for what he has  
9 done cause I have to cause I know -- I don't know, but I  
10 just could.

11 And, you know, it's hard that Mason, he's only  
12 seven. He doesn't understand, but he does know that his  
13 daddy is not here to help raise him and help him learn  
14 how to be a man. Things that I can't do. He will never  
15 get to see his dad again. Only through pictures. His  
16 kids, yeah, they're four and eleven -- through eleven.  
17 They don't get to see him. They don't get to talk to  
18 him. To them it's not fair. It's not fair to his  
19 family.

20 Cecil was a good father, a good husband. He was  
21 a businessman. He was a giver. And he didn't deserve  
22 this, regardless of what he may have thought, he didn't  
23 deserve this. And I don't think that he should be able  
24 to get out and live his life because he's not here to be  
25 able to live his life.

## STATEMENT OF PAMELA MICHELLE COHEN

1           And he needs to understand that what he has done  
2 is wrong, and he need to think about it and what he has  
3 done to us as a family. Even his own family, what he  
4 has done to them. It didn't just hurt my family, it  
5 hurt his family too because these are the same people  
6 that we all live in the same area and we have to see  
7 each other every day.

8           And it's not like that. Most of them are not  
9 related, but they all related in some kind of way, even  
10 his mom. She and Cecil was friends. I have a picture  
11 of all of us together smiling. And for her to hurt just  
12 like I'm hurt, it's not a good thing for either one of  
13 us, but that's something that we both have to do, along  
14 with his parents and along with her parents too.

15           And I don't think it's right for him to just sit  
16 there and think it is right because he gets to see them  
17 every day. He get to talk to his kids, as well have  
18 them come and visit him. Even though it may not be on  
19 his right terms, but they still have that chance. And I  
20 don't think it's right. And that's all I want to say.

21           THE COURT: Thank you, ma'am. Anybody else wish  
22 to address on behalf of the victims?

23           MS. JORDAN: Your Honor, I do not believe so, but  
24 I just want the Court to know that his mother is  
25 present, along with his father, his sister and two of

1 his cousins. I believe that Cecil had some of his  
2 daughters here on Monday, but they are either in college  
3 or high school and were not able to come back down from  
4 North Carolina to be here for the remainder of the  
5 trial.

6 THE COURT: And did the State wish to address the  
7 issue on the issue of sentencing?

8 MS. JORDAN: Yes, Your Honor. We believe that  
9 this defendant has had a criminal record dating back in  
10 the state of South Carolina to 2009. He's got -- it's  
11 an assault. He also has the resisting arrest with  
12 assault.

13 He was on probation at the time that he committed  
14 this crime. We would ask that the Court sentence him to  
15 the maximum sentence of a life in prison sentence.

16 THE COURT: Thank you, ma'am.

17 Yes, sir, Mr. Neely.

18 MR. NEELY: Thank you, Judge. If it pleases the  
19 Court. Your Honor, I think I'm gonna do this a little  
20 bit out of order. Adriel's grandmother would like to  
21 address the Court. And if I could have her come at this  
22 time.

23 THE COURT: Ma'am, you can just stand right here  
24 beside the police officer. And we're making a recording  
25 of everything that happens here, so when you speak,

## STATEMENT OF DIANA MOSLEY COHEN

1 please speak up loud enough so that both the court  
2 reporter and I can hear you and just start by giving us  
3 your full name.

4 MS. COHEN: All right. Diana Mosley Cohen.

5 THE COURT: Yes, ma'am.

6 STATEMENT OF DIANA MOSLEY COHEN

7 MS. COHEN: I am Adriel's grandmother. I have  
8 known Adriel since he came into the world. Was right  
9 there when he was born. I have been his mother. He  
10 calls me momma because I've been his mother. He has  
11 lived with me.

12 This person that I have sat in the courtroom  
13 since Monday and heard these cruel, mean things said  
14 about my grandson, my son. And I know that they are not  
15 true. Wrong choices? Definitely wrong choices. But  
16 Adriel is the sweetest, kindest person that you would  
17 ever want to know.

18 He's made some wrong decisions. He could have  
19 made some better choices, but he did not. He has  
20 children that need him. And as his wife stated, we all  
21 grew up together in Woodruff. I don't live there any  
22 more, but that is where I was born. I know his mom. I  
23 know his dad. We all know everyone who lives in  
24 Woodruff.

25 And so when I hear the negative things that were

1 said about him, I just know that that person is not a  
2 true representation of who Adriel really is. Adriel has  
3 gotten spiritual counseling. He's been in the church.  
4 He's been with the children's ministry at church.

5 He's gone different places with my son. They  
6 grew up together, only three years apart. My son and  
7 Adriel grew up as brothers, not nephew, but brothers.  
8 And his first job at the age of 14 was at a restaurant  
9 in Spartanburg washing dishes, but that was a job. That  
10 was a job.

11 He wasn't out running around and getting into  
12 trouble. That was not him. He was in church. He was  
13 in church doing the right thing. And so I throw myself  
14 at your mercy, Judge. I throw yourself -- I throw  
15 myself at your mercy that this is not the Adriel that I  
16 raised.

17 This is not the Adriel that I have known since  
18 the moment that he took his first breath in the  
19 hospital. That is not that little tiny baby that we  
20 brought home from the hospital and has raised to be a  
21 good person.

22 You heard him, he treated the prosecutor with  
23 respect. Yes, ma'am. No, ma'am. Yes, sir. No, sir.  
24 This is how he was raised. Why this happened to Cecil,  
25 I don't know, I wasn't there.

## STATEMENT OF DIANA MOSLEY COHEN

1           But I do know that this is not the Adriel that we  
2 all know and love with all of our hearts and we would do  
3 anything for him. That's how much we love him. He only  
4 was in this area because his grandmother, whom he loved  
5 too, and they were very, very close. He came up to be  
6 at her funeral.

7           And his intention was not to stay here in this  
8 area. He was going back home where he lived, but he got  
9 sick. He was actually physical sick. He stayed at his  
10 grandfather's house. He didn't go anywhere. He just  
11 stayed there the whole time.

12           And then all of a sudden he just wanted to go out  
13 and get some fresh air. That's when he borrowed  
14 Brittany's car. That's how he ended up in Woodruff.  
15 And hindsight is 20/20, we know that.

16           We could all say if he had only done this. If he  
17 had only done that. Well, we can't. We can't go back  
18 and erase what has already happened, but I throw myself  
19 at your mercy, though, Judge, that you would reconsider  
20 or consider the sentences that you are about to give  
21 out, that this is not a true representation of my  
22 son/grandson.

23           This is not who he is. He's made some wrong  
24 choices, like we all have. He deserves to be given a  
25 second chance, like we all have been given second

1 chances by our creator.

2 That's what I'm pleading to you on behalf of  
3 Adriel Nicholas Garnett that you would consider the  
4 minimum sentence. He's already done almost three years  
5 he's been away from his family, his children. Almost  
6 three years. The minimum sentence is what I am  
7 appealing to you on his behalf.

8 This was not him. This was not Adriel. He is  
9 not a violent person. He's made some wrong choices, but  
10 inside of him is a sweet, kind, generous person who does  
11 not deserve to spend the rest of his life in prison. He  
12 deserves to be given another chance.

13 There are counselors and spiritual leaders that  
14 are ready at a moment's notice to shelter him, give him  
15 counseling, give him support so that he'll recognize  
16 that these wrong choices have consequences. But they  
17 don't have to be irrevocable. They can be consequences  
18 that he learns from, and that's what I'm asking you for,  
19 a second chance for Adriel. A second chance to do it  
20 right this time.

21 He has a support system. Jump Start Ministries,  
22 they are waiting for a call from me so that they can  
23 start the counseling process with him so that he'll  
24 recognize that these choices that he has made has some  
25 serious consequences, but they don't have to be

## STATEMENT OF DIANA MOSLEY COHEN

1 everlasting. They don't have to have an everlasting  
2 effect on him and on his mind and on his personality and  
3 on his spirit. That he can receive the help that he  
4 needs.

5 And so I throw myself, Judge. I throw myself at  
6 your feet and I ask for mercy for my son/grandson,  
7 Adriel, because this is not him.

8 He's smart. He's bright. He's intelligent.  
9 This is not who we raised. Wrong choices, but that  
10 doesn't mean that he has to spend the rest of his life  
11 paying for those choices, which we all, no matter what  
12 we've done and how serious it has been, we've all been  
13 given a second chance.

14 And that's what I'm asking for, that you give him  
15 a second chance to get it right, knowing that Carrie  
16 Sanders of Jump Start Ministries right there at the  
17 phone, right there at the telephone waiting for me to  
18 call so that they can get him, get into counseling,  
19 rehabilitate him, different kind of social services  
20 already lined up. Already lined up.

21 So give him a chance, Judge. Give him a chance.  
22 That's all we're asking for and you will see that these  
23 kind of behaviors will cease because he would have  
24 gotten the best counseling, the best spiritual  
25 counseling, the best and that's what he deserves.

1           We love him, Judge. We love him. We have always  
2 loved him. He made some bad choices, but he does not  
3 deserve to spend the rest of his life in prison. Thank  
4 you. Thank you for your time.

5           THE COURT: Thank you, ma'am.

6           MR. NEELY: Thank you, Judge. On the first and  
7 second row are other members of Adriel's family present.  
8 His brother, his cousin, his aunt, who you heard  
9 testify, his mother. His grandfather couldn't be here  
10 today, but Mr. Bruce was here for most of this week.  
11 Judge, as you can see, there's broken hearts back there.

12           For the last 838 days I represented Adriel, and  
13 the person his grandmother just described is the exact  
14 person that I've known for the last two-and-a-half  
15 years. A kind, intelligent, well spoken, well educated  
16 individual.

17           He doesn't strike me as a violent person.  
18 Doesn't strike me as somebody who would commit murder,  
19 Judge. Obviously our position has been well documented  
20 throughout the last four days. We strongly disagree  
21 with the jury's decision.

22           Judge, we do believe that the jury absolutely got  
23 it wrong. What he told his aunt at 5 o'clock in the  
24 morning on February 6th, is exactly what he told me the  
25 first time he met me. And it's exactly what he told me

## STATEMENT OF RODNEY CLARK

1 when we went back through discovery. It's exactly what  
2 he told you during the stand your ground hearing. It's  
3 exactly what he told the jury this week.

4 Judge, I truly do believe that it was  
5 self-defense, and I believe that the jury got it  
6 incorrect. Judge, there's nothing I can do about that  
7 at this moment, but what the jury's decision has done,  
8 it's broken apart two families, Mr. Gilliam's family and  
9 Adriel's family.

10 And so, Judge, what I would ask for is the  
11 minimum sentence. And Adriel knows that the minimum on  
12 the murder charge is 30 years. And that's day-for-day  
13 and he knows that. And that is, that is a long time to  
14 spend in the Department of Corrections. He's 32 years  
15 old today, Judge. So we would ask for the minimum  
16 sentence.

17 THE COURT: Mr. Garnett, do you -- does anybody  
18 else want to speak on behalf of the defendant?

19 MR. CLARK: I'll stand up.

20 THE COURT: Sir, just come on up here and tell us  
21 your full name and speak up loud enough so both the  
22 court reporter and I can hear you.

23 STATEMENT OF RODNEY CLARK

24 MR. CLARK: My name is Rodney Clark.

25 THE COURT: Yes, sir.

1           MR. CLARK: I'm Adriel's stepfather. I consider  
2 myself his father. I've raised him since he was seven.  
3 Me and his mom got married. We dated for a couple of  
4 years before that and he's been in my life the entire  
5 time.

6           This is a story of two broken families. Two hurt  
7 families. Judge, what you don't see is that every time  
8 you put us on break or whatever the case may be, these  
9 two families co-mingle and talk and hug and say all the  
10 same things to each other. I hate that this happened.

11           That's how small and that's how tight-knit  
12 Woodruff is. Everybody knows everybody. You might not  
13 know them personally, but you know them when you see  
14 them in Bi-Lo. You do. And you say, hey, and you keep  
15 on going.

16           This is a sad, sad, sad story that shouldn't have  
17 happened. And unfortunately we only have the one side  
18 of the story because rest in peace, unfortunately  
19 Cecil's no longer here and the other -- I don't know his  
20 name, the other guy that was out there, he's no longer  
21 here. So all we have to go by is Adriel's story of how  
22 he felt that he had to defend himself.

23           Your Honor, I retired from the military after  
24 almost 21 years of active duty service, and I can assure  
25 you that this -- and I can assure you of this family,

## STATEMENT OF RODNEY CLARK

1 this is not how Adriel was raised. Yes, he has made  
2 some bad decisions. Absolutely. I don't think that  
3 anybody in this room will contest that. He has made  
4 some horrible, horrible, horrible life decisions along  
5 the way. But this act does not speak to who he is or  
6 how he was raised or the kind of man that he is.

7 Awful decision. This is not who he is. It's  
8 not. For as long as me and his mom have been married,  
9 he's never seen us argue. I think in 20-something  
10 years, we may have gotten in one argument.

11 He's never seen or heard any physical or verbal  
12 abuse one way or the other, me towards her or her  
13 towards me. He's never witnessed any drug abuse. He's  
14 never witnessed any violence. He's never -- we are the  
15 Huxtables.

16 I assure you this is not how Adriel was raised.  
17 And I assure you this is not the person that he is. I  
18 know his actions may not speak to that. But, Judge, I  
19 ask you, I plead with you, do not make a bad, bad, bad  
20 situation worse than it already is, please. And I ask  
21 that you give him the minimum that is in your power to  
22 give. Thank you.

23 THE COURT: Than you, sir.

24 Mr. Garnett, is there anything that you would  
25 like to say or want me to know?

1 THE DEFENDANT: Oh, yes. Yes, sir.

2 THE COURT: Be more than happy to hear from you.

3 STATEMENT OF ADRIEL GARNETT

4 THE DEFENDANT: I want to let y'all know I  
5 wouldn't do nothing to that man for no reason. I  
6 wouldn't do that to that man for no reason. It's a  
7 whole new life out there. And I'm not apologize for  
8 what happened (sic). I apologize for what happened, but  
9 I'm not that type of person. I wouldn't do anything to  
10 nobody for no reason. Not nothing.

11 I had love for Cecil. I didn't -- I wouldn't  
12 just kill the man. I didn't try to -- ain't nobody  
13 shoot him in the head or chest or nothing like that.  
14 It's a whole knife out there. Ain't nobody to tell the  
15 story but me.

16 I was here to bury my grand momma, Judge. I  
17 didn't come up here for any type of problems, not none.  
18 I have kids. Like I said, I apologize for the  
19 situation, but I had to take care of myself.

20 I don't know if anybody in here been in that type  
21 of situation where you had to take care of yourself.  
22 And you all's Cecil's family. Y'all know how he get. I  
23 don't want to bash him or anything, but you know he get.

24 MS. JORDAN: Your Honor, can he address the Court  
25 and not the victim's family?

1 THE DEFENDANT: I'm just talking to everybody in  
2 general. And I'm not trying to bash anybody or nothing  
3 like that, Judge. And I apologize if I have defended  
4 (sic) anybody, but I'm, I'm a good person.

5 And I understand what I'm going through right  
6 now. I have made bad decisions, but I feel like I had  
7 to protect myself, Judge. That's why I felt like I had  
8 to protect myself, and I hope you'll be lenient on me.

9 THE COURT: Thank you, sir.

10 THE DEFENDANT: Yes, sir.

11 MS. JORDAN: Your Honor, may we approach?

12 (Court nods head up and down.)

13 (Bench conference was held off the record.)

14 MR. NEELY: Your Honor, before Mr. Garnett  
15 receives sentencing, there are some post-trial motions  
16 that I'd like to make before the Court. What I'd ask,  
17 in light of the late hour and the verdict from the jury,  
18 is that I be granted a little time to gather my thoughts  
19 and then present those motions to the Court.

20 THE COURT: Not hearing any objection, you can  
21 have ten days from today.

22 MR. NEELY: Thank you, Your Honor.

23 SENTENCE OF THE COURT

24 THE COURT: On the Indictment 2016-GS-42-4430,  
25 the sentence of the Court will be life at the Department

1 of Corrections. He'll receive credit for 838 days.

2 Good luck to you, sir.

3 MR. SMITH: Thank you, Your Honor.

4 MS. JORDAN: Thank you, Your Honor.

5 (Whereupon, Court concluded at 4:02 p.m.)

6

7 --- THIS ENDS REQUESTED TRANSCRIPT ---

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## COURT REPORTER CERTIFICATE

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I, the undersigned Julie A. Cendroski, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the court of General Sessions for Spartanburg, South Carolina on the 29th of October through November 1, 2019.

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

s/Julie A. Cendroski  
Julie A. Cendroski  
Circuit Court Reporter  
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

The State of South Carolina

vs.

Adriel Nicholas Garnett

Defendant.

IN THE COURT OF GENERAL SESSIONS  
SEVENTH JUDICIAL CIRCUIT

2016GS4204430  
2016GS4204430A

MOTION FOR NEW TRIAL

M. HOPE BLANKLEY

2018 NOV - 8 AM 8:33

TO: JENNIFER JORDAN, ASSISTANT SOLICITOR FOR THE SEVENTH JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that on the tenth day after service or at such other time as scheduled by the Court, the Defendant, Adriel Nicholas Garnett, by and through his undersigned counsel, will move for a new trial. The Defendant requests a new trial based on all objections and motions made during the course of the trial which were ruled adversely to the defense, including, but not limited:

1. The Defendant's motion for directed verdict should have been granted at the conclusion of the State's case. The State failed to produce more than a scintilla of direct evidence, or any substantial circumstantial evidence that the Defendant committed the crime of murder. The State called to the stand Brittany Westfield. On direct examination by the State's attorney, Ms. Westfield testified that the Defendant told her he shot Cecil Gilliam. When she asked why, he told her that Cecil was coming at him with a knife and threatened to gut him like a fish. This is more than a conclusory statement. This a statement of fact being testified to by Ms. Westfield. The State offered further corroborating evidence by calling Deputies Talanges and Stepp. Both officers testified about processing the scene

for evidence. Specifically, Deputy Talanges testified about a folding knife found directly next to Cecil Gilliam's body. This knife was found in the open and locked position. The State also called Catherine Leisy from SLED. She testified that Cecil Gilliam's DNA was found on the knife. The State offered no evidence of arguments between Gilliam and the Defendant, any preexisting ill will, or any motive that would lead to murder. The State offered no evidence contrary to self-defense. For these reasons the Defendant's motion for directed verdict at the conclusion of the State's case should have been granted.

2. The Defendant's motion for directed verdict should have been granted at the conclusion of the Defendant's case. The Defendant called Jared Castellani, SLED forensic toxicologist. He testified that Mr. Gilliam had blood alcohol content of .186. He further testified that generally a person begins showing signs of lowered inhibition when blood alcohol content reaches .03. These effects become more pronounced the higher the blood alcohol content. The Defendant took the witness stand in his defense. He told the court that Cecil Gilliam attacked him with a knife and threatened to gut him like a fish. He testified that he could not retreat, that he felt his life was in danger and that he believed shooting was his only option. Applying the standard in *State v. Oates*, 421 S.C. 1, a directed verdict should have been granted because the uncontroverted evidence offered by both parties established the Defendant acted in self-defense.
3. The admission of Cecil Gilliam's pants and shirt over Defense objection was more prejudicial than probative. The State asserted that the introduction of these items in to evidence would establish the location of the gunshots. This evidence was

also elicited from the pathologist, Dr. Wren, who performed the autopsy on Mr. Gilliam. The pants and shirt, cut from Mr. Gilliam's body did nothing to establish the location of the gunshots, but merely aroused unnecessary passion in the jury.

- 4. The admission of autopsy photos also aroused unnecessary passion for the jury. Dr. Wren testified about gunshot locations and the State sought to admit two (2) diagrams Dr. Wren drew in to evidence. This evidence was sufficient to establish the gunshot locations. The autopsy photos were unnecessarily cumulative, aroused passion in the jury, and more prejudicial than probative.

Based on these objections and motions previously made by the Defendant, and ones not specifically addressed above, the Defendant requests a new trial.

Respectfully submitted,

*Paul K. Neely*

Paul K. Neely  
Attorney for Adriel Nicholas Garnett  
Seventh Judicial Circuit Public Defender's Office  
Spartanburg, South Carolina

2018 NOV -8 AM 8:33  
M. HOPE BLANKLEY  
CLERK OF COURT

November 7, 2018





WITNESSES

Woodruff PD

*Sgt. David M. Durrant*  
*[Signature]*  
COPIES

ARREST WARRANT NUMBER

2016AA4221200017 (Count One)

2016AA4221200018 (Count Two)

845

ACTION OF GRAND JURY

AUG 19 2016

**TRIE BIN**

Foreperson of Grand Jury  
Date: *[Signature]*

VERDICT

Count 1 - Guilty

Count 2 - Guilty

*[Signature]*  
Foreperson of Petit Jury  
Date: 11-1-18

DOCKET NO.

**16-GS-42-4430**

The State of South Carolina

County of Spartanburg

Barry Barmette, Solicitor

COURT OF GENERAL SESSIONS

AUG 22 2016

TERM

THE STATE

VS.

Adriel Nicholas Garnett

Indictment for

COUNT ONE-MURDER, COUNT TWO-  
POSSESSION OF WEAPON DURING  
VIOLENT CRIME  
SC Code 16-03-0010, 0020, 16-23-490  
CDR Code 116, 549  
Class FEL-EXM

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY

2016 AUG 25 AM 9:21

M. HOPE BLACKLEY

2016

STATE OF SOUTH CAROLINA

846

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG )  
STATE VS. )

Adriel Nicholas Garnett

AKA: )

Race: BLACK Sex: M Age: 32 )

DOB: [REDACTED] SS#: [REDACTED] )

Address: )

City, State, Zip: )

DL#: [REDACTED] SID#: )

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: Murder 30 years to LIFE

INDICTMENT/CASE#: 2016GS4204430

A/W#: 2016A4221200017

Date of Offense: 2/6/2016

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury,  Negotiated Sentence,  Recommendation by the State. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Jordan, Jennifer A SCB69423 SC Bar# Defendant

Paul K. Neely SCB101474 SC Bar# Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. 838d  
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75
<b>TOTAL</b>		\$ 128.75

\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

Appointed PD or appointed other counsel,  
Proviso requires \$500 be paid to Clerk  
during probation and shall be collected before  
any other fees.

Clerk of Court/ Deputy Clerk [Signature]  
Court Reporter: J. Androski

Presiding Judge [Signature]  
Judge Code: 2132  
Sentence Date: 11-1-18

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

CASE NO.: 2019-000722

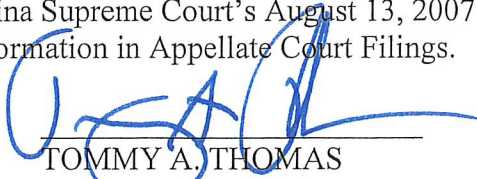
Adriel N. Garnett,..... Appellant,

vs.

State of South Carolina, .....Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record of Appeal complies with Rule 210 (g), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.



TOMMY A. THOMAS  
Attorney for Appellant  
P.O. Box 88  
Irmo, SC 29063  
(803) 732-5507

September 3, 2020

**RECEIVED**  
**Sep 09 2020**  
**SC Court of Appeals**