

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SCOTT LEE,

APPELLANT

APPELLATE CASE NO. 2012-210830

RECORD ON APPEAL

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CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 A: Yes, sir.

2 Q: But in some instances, there is a lot of notation: We
3 talked to this person, we talked to this person. Is that
4 right?

5 A: Yes, sir.

6 Q: Okay. When you write a report out, you do have several
7 reasons. One reason is you don't want to duplicate what you
8 have already done. Is that right?

9 A: Yes, sir.

10 Q: Another reason is, hey, something might happen to me. I
11 might get called over to Iraq, Afghanistan, whatever. I want
12 this report to be here in case something happens to me,
13 somebody can look back and see what efforts we've already
14 done. Is that right?

15 A: I agree with that, yes, sir.

16 Q: The third reason, God forbid, what if something happened
17 to you or happened to another investigator. They can say,
18 well, Chad did this. It says so right here in his report he
19 did X, Y, Z. Even though Chad's not here now, he did this.

20 A: I'd agree with that, yes.

21 Q: Another reason is this case is sixteen, seventeen months
22 old, it helps you refresh your memory. Is that right?

23 A: Yes, sir.

24 Q: Now it says the print date on the very first page is
25 4/20/2011. Is that right? The print date and time?

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 A: I may have a different copy. My print date and time for
2 my date was 3/12/2012. That's when I printed this report out
3 from our computer system.

4 Q: Okay. 3/12/2012?

5 A: That's what's on my report. When we print them out from
6 our computer system, the computer -- the reporting system
7 stamps it the time and date that you print it.

8 Q: All right. You certainly prepared this report prior to
9 ---

10 A: Yes, sir.

11 Q: --- yesterday?

12 A: Yes, sir, absolutely.

13 Q: Way before?

14 A: Yes, sir.

15 Q: Okay. In your investigation, you talked with several
16 different people?

17 A: Yes, sir.

18 Q: When you first arrived on the scene, you arrived I guess
19 that morning about ten o'clock, 10:10, 10:15, somewhere in
20 that neighborhood?

21 A: According to -- and I'll try and be as close to specific
22 as I can. The date that it was filed was by Jason Plowden
23 with the Florence County Sheriff's office at 1008 hours.

24 That's the time he claims that he was dispatched on his
25 report. I had to get ready. It would have taken me fifteen

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 to twenty minutes to get ready and then probably another ten
2 to fifteen minutes' drive time.

3 Q: Okay. Do you recall how long you stayed at the scene?

4 A: Well over an hour.

5 Q: I think in one of the interviews that you said, "Yeah, it
6 was cold that day. I think that's when I got the flu."

7 A: I did.

8 Q: Was it raining off and on all night and all morning?

9 A: Yes, sir, it was. It was wet. It was drizzling, cold
10 rain. It had rained that night before and that day.

11 Q: Was it sleeting any? Do you remember?

12 A: I cannot recall.

13 Q: But definitely chilly, I mean high 30s, 40s, if you can
14 recall?

15 A: As I recall, yes, sir.

16 Q: Now you said earlier that you were the on call
17 investigator. Sometimes that happens at different times. Is
18 that right?

19 A: Yes, sir.

20 Q: Now you got a call on 12/18/2010. Is that right?

21 A: Yes, sir.

22 Q: Now later, did you get a call later that night about a
23 shooting in Coward?

24 A: I did. It was on Tyler Road I think in Scranton/Coward
25 area. Yes, sir.

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

- 1 Q: All right and since you were the on call investigator,
2 you also responded to that?
- 3 A: I responded to the hospital to speak with the victim on
4 that one, yes, sir.
- 5 Q: Didn't it turn out the victim had been shot with a --
6 some kind of shotgun and had birdshot in him?
- 7 A: His injuries did show that, yes, sir.
- 8 Q: And wasn't this supposedly a drug deal that went bad?
- 9 A: Yes, sir, at that location. Yes, sir.
- 10 Q: And I think that there were actually either two or three
11 suspects in that case?
- 12 A: There were two white males and one black male.
- 13 Q: Now you investigated that as well. Is that right?
- 14 A: Yes, sir, I did.
- 15 Q: Now briefly you talked about Sandra Galloway. I'm not
16 real sure what happened to her statement. It got misplaced,
17 it got lost, but you think she was handed a statement and did
18 write one out?
- 19 A: Yes, sir. I know I handed her a statement, I do.
- 20 Q: Now later at some point in time, you talked with Michael
21 Budd. Now Michael Budd never came in and gave an interview,
22 did he?
- 23 A: No, sir.
- 24 Q: Okay, even though he said he talked to him that night and
25 called him that night?

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 A: Yes, sir. We did -- I spoke with him at -- at Michael
2 Ford's residence and at that time, based on the information he
3 gave me, it didn't really seem necessary to call him down.

4 Q: Okay. Now later you said you -- And I'm going to just
5 briefly go over this. Eli, Jonathan Lee, Scott Lee, then
6 later eventually you talked to Keith Odom and Teresa Filyaw.
7 Is that right?

8 A: Yes, sir.

9 Q: Now the time you talked with Keith Odom and Teresa
10 Filyaw, you did not know the time of death, did you?

11 A: No, sir, I did not.

12 Q: As a matter of fact, Teresa Filyaw told you, "Mom and I
13 left later that night and went to Walmart and did some
14 Christmas shopping."

15 A: If I recall correctly, that's what she told me.

16 Q: Okay. She couldn't verify anything for Keith Odom at
17 that time, could she?

18 A: No, sir.

19 Q: Now you talked with Jonathan Lee -- Or let me ask you
20 this. Did you talk with Jonathan Lee in December?

21 A: I know I talked to him.

22 Q: You went to his house I think?

23 A: I think so, yes, sir.

24 Q: Did he actually come to the Sheriff's Office or was this
25 a conversation in the yard?

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 A: I know we carried on a conversation on December the 18th
2 in his yard. I believe it was when I went to speak with Scott
3 and carried on that short, brief conversation in the yard and
4 I believe it was sometime -- I want to say I spoke with him
5 again after that in December sometime. I just cannot recall.
6 I did not -- I don't think I added that in my report.

7 Q: And then shortly after that is when you talked with
8 Filyaw and Keith Odom. Is that right?

9 A: Yes, sir. I talked with them at the Sheriff's Office.

10 Q: And if I'm reading my report right, that's on page nine
11 of the sixteen. Is that right?

12 A: Let's check and see.

13 Q: Maybe the third paragraph from the bottom. 12/20,
14 McFadden and I spoke with ---

15 A: Yes, sir. On 12/20/2010, McFadden and I spoke with
16 Teresa Filyaw and Keith Odom.

17 Q: Yes, sir, and then at the end of that next paragraph, it
18 says, "Please see statement." Is that right?

19 A: Yes, sir.

20 Q: And then the end of the next paragraph, "Please see
21 statement."

22 A: Mm-hmm.

23 Q: Do you have those statements?

24 A: Not with me, no, sir, I don't.

25 Q: Okay. Later, based on some information you got, I

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 believe you said you wanted to talk with Shannon, Jonathan and
2 Elijah. You later talked with Jonathan, who came out to the
3 Sheriff's Office and gave a taped statement?

4 A: Yes, sir. I think it was on 2/4.

5 Q: It said basically I don't know a whole lot?

6 A: Yes, sir.

7 Q: You later got called, Jonathan wanted to meet you at the
8 library. Is that right?

9 A: Yes, sir, on 2/9.

10 Q: I'm not trying to put you on the spot here, but in that
11 statement you told Jonathan, "Hey, I'm not recording you.
12 This is just between me and you."

13 A: I believe I did say that.

14 Q: And it was being recorded?

15 A: I believe Thomas McFadden did have his recorder on.

16 Q: Okay. That was -- If you recall, was that about an hour
17 long conversation?

18 A: It was between forty-five minutes and an hour I believe,
19 yes, sir.

20 Q: Is it safe to say based on your recollection that his
21 story changed a time or two?

22 A: It did change.

23 Q: Later, you talked with Shannon at the jail and then after
24 that you talked with Jonathan again. Is that right?

25 A: On 2/9, that particular day I was not privy to those

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 interviews.

2 Q: That's right, that's right. You had actually gone to
3 Lamb Road?

4 A: Yes, sir. I stayed there once we made contact with
5 Scott.

6 Q: And while we're talking about Lamb Road, how far is Lamb
7 Road from, if you know, from Pygatt Road?

8 A: Goodness, maybe a twenty minute drive I believe,
9 somewhere around there.

10 Q: So if you went there, twenty to get there and come back
11 twenty more?

12 A: I would think so.

13 Q: Is there any way possible to go there and back in thirty
14 minutes?

15 A: If you broke the speed limit.

16 Q: Let me ask you this. The incident that happened in
17 Coward later that on December the 18th, is that just straight
18 down 52?

19 A: Fifty-two, turn on 378 going back towards Johnsonville,
20 Tyler Road is maybe five miles, six miles down on the right.

21 Q: Would it surprise you to know that according to Google,
22 it was twelve point two miles from one incident to the other?

23 A: It wouldn't surprise me if that's right.

24 Q: Okay. Now when you went to the house to serve that
25 search warrant, you were looking for any evidence you could

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

- 1 find. Is that right?
- 2 A: Which house?
- 3 Q: The Lamb Road. I'm sorry.
- 4 A: When we ---
- 5 Q: Going back to where we were, the Lamb Road.
- 6 A: We didn't have a search warrant for that. We did get a
- 7 Consent to Search from Ms. Lee.
- 8 Q: Okay. You found what's been marked as State's 42, the
- 9 one piece of glass. Is that right?
- 10 A: Yes, sir, I did find that.
- 11 Q: And that was pretty much the only thing that you found
- 12 over there to the -- to the left by the porch?
- 13 A: Yes, sir.
- 14 Q: Okay. Now that glass has never been compared with the
- 15 glass that was found on Pygatt Road, has it?
- 16 A: No, sir, it was not.
- 17 Q: Did y'all spray any what I refer to as Luminol on the
- 18 porch, on the deck, on the carpet, on the tile at Ms. Lee's
- 19 house?
- 20 A: If I remember correctly, I'm not sure exactly which
- 21 substance Corporal Byrd used, but he did spray a substance on
- 22 there to try and determine if there was any proteins from
- 23 blood.
- 24 Q: Now Luminol, do you know what Luminol is?
- 25 A: It is a substance that -- that will change colors if it's

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 -- if it attaches to a protein, whether it be human blood or
2 animal blood.

3 Q: Okay and he sprayed something like that on the scene?

4 A: Yes, sir.

5 Q: You didn't find any blood, did you?

6 A: No, sir, not then.

7 Q: Did you find any later?

8 A: No, sir.

9 Q: Okay. Did y'all look through Scott's room, Scott's
10 closet, shoes, clothes, anything like that?

11 A: Yes, sir, we did. We went through every room in the
12 house except I think for Ms. Lee's room.

13 Q: Did you find any bloody shoes, boots, anything like that?

14 A: No, sir.

15 Q: Have you sent the stock of the gun -- Have you sent that
16 anywhere to have it examined?

17 A: No, sir, we have not.

18 Q: Have you sent it to SLED and said, hey, we found item 34.
19 Does this look like a stock to a single gauge, a pump shotgun,
20 anything like that?

21 A: No, sir.

22 Q: Did you talk with anybody on Pygatt Road? Anybody that
23 lived on Pygatt Road other than I guess Keith Odom and Teresa
24 Filyaw?

25 A: There was a residence that was right across the road from

CROSS EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. ANDERSON

1 I believe Keith's residence. I spoke with them and asked them
2 if they heard anything that night and they said they had not.

3 Q: Do you recall whether or not Keith Odom gave you any
4 information that you later followed up on about other
5 vehicles, other suspects?

6 A: The only thing that was coincidental to me was the
7 incident that happened the following night. I don't recall if
8 Keith gave me any specific details. I can't recall that.

9 MR. ANDERSON: Your Honor, can I have the Court's
10 indulgence for a moment?

11 THE COURT: Certainly.

12 Q: Did you ever interview Donnie Gaskins or do you know if
13 anyone else ever interviewed him?

14 A: I spoke with Mr. Gaskins by phone.

15 Q: Okay. Chad, the incident that happened the next night,
16 the 12/18 night, I mean you investigated that incident, the
17 one that happened in Coward?

18 A: Yes, sir, I did.

19 Q: And you followed up with that?

20 A: Yes, sir, I did.

21 Q: I'm sure you tracked down all leads?

22 A: Yes, sir.

23 Q: Those guys never admitted to you, hey, I was on Pygatt
24 Road and killed somebody, did they?

25 A: No, sir, they did not.

REDIRECT EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. OZMENT

1 Q: All right, but that incident did happen?

2 A: Yes, sir, the following night.

3 Q: And a shotgun was involved?

4 A: There was a shotgun involved in that incident, yes, sir.

5 Q: And it was over a drug deal?

6 A: That I recollect, yes, sir.

7 MR. ANDERSON: Thank you, Your Honor, no further
8 questions.

9 THE COURT: Redirect?

10 MR. OZMENT: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q: Mr. Anderson asked you about this incident the next day.
14 Could you, as you just can recall, recite the facts of that
15 incident?

16 A: Yes, sir. There were three young men between the ages of
17 twenty and twenty-five. They had made a plan to go and rob
18 who they thought was a dope dealer on [REDACTED] in Scranton.
19 One of the boys got out of the vehicle and went into the house
20 to fake buying drugs. He then told him he wanted all the
21 money. He was chased out of the house by another member in
22 the house. There was a shot fired at him. He jumped into the
23 truck on the passenger side. The black male driver -- or the
24 black male jumped over into the driver's seat. There was a
25 third party in the truck, in the bed of the truck. When the

REDIRECT EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. OZMENT

1 shooting started, he raised up and fired off. I believe we
2 recovered two to three rounds of shotgun ammunition or shotgun
3 shells on the ground and it was determined that it was
4 birdshot.

5 Q: All right. How -- Were those individuals ever arrested?

6 A: Yes, sir, they were charged.

7 Q: Can you recall the names off the top of your head?

8 A: One was Justin Anderson, the other was Christian Ard, and
9 the other was Jernearo Gibbs.

10 Q: Do you have anything at all to connect any of those
11 individuals to knowing Mikey Ford?

12 A: No, sir.

13 Q: Do you have anything to connect them in any way to
14 anything that happened the night before on [REDACTED]?

15 A: No, sir.

16 Q: Do you recall if their charges are still pending on the
17 18th or are they -- what the disposition of those were?

18 A: If I recall correctly, I think they've already pled to
19 those charges.

20 Q: All three of them?

21 A: I think so, yes, sir.

22 Q: When you say pled, what do you mean by that?

23 A: They pled to whatever charge -- whatever the indictment
24 charge was from the Solicitor's Office and the Grand Jury.

25 Q: Would that -- And when you say -- And you mean pled

REDIRECT EXAMINATION OF INVESTIGATOR CHAD COLLINS BY MR. OZMENT

1 guilty?

2 A: Yes, sir, I believe so. Yes, sir.

3 Q: Do you have anything in your investigation of the two
4 cases that connect any of those three individuals to Donnie
5 Gaskins?

6 A: No, sir.

7 Q: Do you have anything at all that connects either of those
8 individuals to Keith Odom?

9 A: No, sir.

10 Q: And what was the race of those three individuals, if you
11 can remember?

12 A: Justin Anderson is a white male, Christian Ard is a white
13 male, and Jernearo is a black male.

14 Q: Okay and if you don't know, don't say, but do you know
15 what race Keith Odom is?

16 A: He's white.

17 Q: Do you know what race Donnie Gaskins is?

18 A: He's white.

19 Q: All right.

20 MR. OZMENT: No further questions, Your Honor.

21 THE COURT: Very good. All right, you may step down.

22 WITNESS: Thank you.

23 (Whereupon, the witness leaves the stand at 2:39 p.m.)

24 THE COURT: Mr. Ozment, you may call your next witness.

25 MR. OZMENT: Your Honor, at this time, the State rests.

1 THE COURT: All right, Mr. Foreman, ladies and gentlemen
2 of the jury, we've reached the stage in the trial where we
3 have to take up some legal matters. I'm going to ask that you
4 retire to the jury room. Once again, do not discuss the case.
5 Everyone remain seated as the jury exits the courtroom.

6 (Whereupon, the jury exits the courtroom at 2:39 p.m.)

7 THE COURT: I'd be happy to entertain motions at this
8 time.

9 MR. ANDERSON: Your Honor ---

10 THE COURT: Hang on just one second, Mr. Anderson.

11 (Whereupon, there is a brief pause in the proceedings.)

12 THE COURT: All right, Mr. Anderson, you're recognized.

13 MR. ANDERSON: Your Honor, if it please the Court, at
14 this time, Your Honor, we'd make a motion for a directed
15 verdict on the charge of murder.

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

18 MR. OZMENT: Your Honor, I believe the State has produced
19 sufficient evidence to -- for a jury to find the defendant
20 guilty of murder. First of all, Deputy -- excuse me,
21 Investigator Collins just testified that these events -- that
22 the crime scene had occurred in Florence County. I think we
23 heard ample evidence from both Investigator Collins, as well
24 as Jonathan Lee and Shannon Bailey that, you know, Scott Lee
25 certainly came home bloody that night. He was seen with a

1 shotgun before this murder happened, a shotgun was used in the
2 murder, and he was seen with a shotgun potentially after the
3 murder happened and certainly a shotgun was around the house
4 after the murder happened.

5 Additionally, Your Honor, I think we offered several
6 witnesses that indicate Scott Lee would have been with Michael
7 Ford that night, be it Elijah Sherman, Cynthia Welch, and
8 lastly, based on the inconsistent statements given to law
9 enforcement which directly contradict testimony that was in
10 court, I think that provides sufficient evidence for the jury
11 to find the defendant guilty on the charge of murder.

12 THE COURT: Very good. All right, clearly there are
13 indeed -- is indeed a question of fact. Clearly, the
14 defendant has at least admitted to being at the scene. There
15 is testimony with regard to there being blood there. There is
16 a whole bunch of circumstantial evidence with regard to what
17 transpired at the house shortly thereafter. There is evidence
18 with regard to a gunstock. There is a tremendous amount of
19 circumstantial evidence that clearly makes it a factual
20 question for the jury.

21 MR. ANDERSON: Your Honor, the second -- I'm sorry.

22 THE COURT: Go ahead.

23 MR. ANDERSON: I just thought you were saying denied. So
24 the second motion, Your Honor, is -- And, Judge, I know you've
25 tried a lot of cases and, Your Honor, you get to writing and

1 you don't always hear what folks say. Judge, my second motion
2 would be -- And I apologize if it wasn't plainly stated, but
3 my second motion would be, Your Honor, to dismiss the charge
4 of indictment -- excuse me, the indictment of murder for lack
5 of jurisdiction. Your Honor, I don't believe I ever heard
6 Deputy Plowden, Sandra Galloway, Deputy Marlon Mack, or
7 Sergeant Wayne Drummond ever say that -- or Andrew Clendenin
8 ever say that this was in Florence County. Now I think on the
9 car, certainly I think Pat O'Hara and/or the other deputy said
10 that it was in Florence County.

11 THE COURT: Well, I specifically listened for that.
12 There are a number of different -- Obviously, they talked
13 about roads. They've talked about Florence County and by
14 virtue of taking all of the evidence together and all of the
15 facts and circumstances, it's clear that the car and the body
16 were at least in close proximity and I recall that there was
17 testimony that was elicited that it was indeed in Florence
18 County. Mr. Ozment?

19 MR. OZMENT: Your Honor, I believe Investigator Collins
20 just said it was in Effingham, which is in Florence County. I
21 think the record will reflect that.

22 THE COURT: Okay. Well, you're protected on the record
23 to the extent that -- And, of course, the appellate entities
24 will have an opportunity to review the whole record in that
25 regard, but I listened for it and I'm convinced that they have

1 established the jurisdictional element of location and ---

2 MR. ANDERSON: Very good.

3 THE COURT: Anything further, Mr. Anderson?

4 MR. ANDERSON: Not as far as motions are concerned, Your
5 Honor.

6 THE COURT: All right. Mr. Lee, I'm going to ask you, if
7 you could, to come right over here. Since we have this TV
8 her, I'm going to ask if you could stand right by your lawyer
9 here. I want to talk to you to you a little bit, if I could.

10 DEFENDANT: Yes, sir.

11 THE COURT: All right, let's place Mr. Lee under oath, if
12 we could, Madame Clerk.

13 THE CLERK: Please raise your right hand. Do you swear
14 to tell the truth, the whole truth and nothing but the truth,
15 so help you God?

16 DEFENDANT: Yes, ma'am.

17 THE COURT: Mr. Scott Thomas Lee, at this time, I'm going
18 to explain to you certain of your rights.

19 DEFENDANT: Yes, sir.

20 THE COURT: If you do not understand anything I say,
21 please let me know. If you want me to explain anything in
22 more detail, please let me know that. Do you understand what
23 I'm saying?

24 DEFENDANT: Yes, sir.

25 THE COURT: All right, very good. We have now reached

1 the stage of the trial where you may present your defense.
2 You have the right to claim the protections given to you by
3 the Fifth Amendment to the Constitution of the United States.
4 This amendment provides in relevant part no person shall be
5 compelled in any criminal case to be a witness against
6 himself.

7 This means that you cannot be required to testify in this
8 case. You have the right to testify on your own behalf.
9 However, no one can make you testify. This is a personal
10 right and no one can waive this right except you. If you
11 decide to testify, you will be subject to the same rules that
12 govern other witnesses and you may be examined and cross
13 examined on any relevant issue in this case.

14 If you were to take the witness stand, Mr. Anderson would
15 ask what we call softball questions, just ask tell me about
16 this, tell me about that, but you've heard cross examination
17 by your lawyer of these other witnesses. It's very pointed
18 questions, direct questions, I mean leading questions.

19 DEFENDANT: Yes, sir.

20 THE COURT: And sometimes they can be more difficult for
21 an individual to answer. You, like the other witnesses in
22 this case, are going to be subject to cross examination. Do
23 you understand that?

24 DEFENDANT: Yes, sir.

25 THE COURT: All right. In addition, if you have any

1 convictions involving dishonesty or false statement or for
2 crimes punishable by imprisonment for more than one year and
3 this Court determines that the probative value of admitting
4 this evidence outweighs its prejudicial value to you, the
5 Solicitor will be able to introduce your record to attack your
6 credibility.

7 If you decide to testify, this decision on your part must
8 be freely, voluntarily and intelligently made with knowledge
9 of the protection given to you by the Fifth Amendment and the
10 consequences of your decision to testify. If you decide not
11 to testify, I will instruct the jurors that they cannot give
12 the fact that you did not testify any consideration
13 whatsoever, that there is to be absolutely no prejudice to you
14 because you did not testify.

15 It is left entirely up to you whether or not you testify.
16 You may talk to your attorney, your family members, friends,
17 or anybody else, but the final decision will be left entirely
18 up to you. Do you understand that?

19 DEFENDANT: Yes, sir.

20 THE COURT: Do you understand everything that I've
21 explained to you?

22 DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions about what I've
24 explained to you?

25 DEFENDANT: No, sir.

1 THE COURT: Have you had an opportunity to discuss with
2 your lawyer about whether or not you're going to testify?

3 DEFENDANT: Yes, sir.

4 THE COURT: All right. Do you wish to talk to your
5 lawyer any more with regard to this matter?

6 DEFENDANT: Yeah, I'd like to speak with him for a
7 second. I mean if there's no problem.

8 THE COURT: Very good. You certainly feel free to do
9 that. Very good.

10 (Whereupon, the defendant and his counsel leave the
11 courtroom briefly and there is a brief pause in the
12 proceedings until they return to the courtroom.)

13 THE COURT: All right, let's come to order, Mr. Ozment.
14 All right, Mr. Lee, have you had additional opportunity to
15 talk with your lawyer about your decision about whether or not
16 you're going to testify?

17 DEFENDANT: Yes, sir.

18 THE COURT: All right. Do you wish to testify?

19 DEFENDANT: No, sir.

20 THE COURT: Very good, all right.

21 DEFENDANT: I mean I don't have -- You're a fair judge,
22 so -- and I got a good lawyer, everything's out there. I
23 don't feel the need. I mean I don't see -- I don't see where
24 I can help myself anymore.

25 THE COURT: Very good.

1 DEFENDANT: Just appearing on the facts I mean.

2 THE COURT: Very good. As long -- Of course, the focus
3 of my inquiry is not really for you to tell me the basis of
4 your decision. It's just necessary for me to ensure that you
5 understand ---

6 DEFENDANT: Yes, sir.

7 THE COURT: --- your rights with regard to the Fifth
8 Amendment and it seems as though you do, so thank you very
9 much. All right, you may have a seat.

10 (Whereupon, the defendant complies.)

11 THE COURT: All right. At this time, I want to go over
12 the jury charge. I'm going to charge the fact that the
13 indictment is not evidence. The fact that there are multiple
14 charges in this indictment and each needs to be considered
15 separately and distinctly to be found guilty or not guilty of
16 both or either.

17 I'm going to charge in great detail the presumption of
18 innocence. I'm going to charge in great detail reasonable
19 doubt. I'm going to explain to the jury the role of the trial
20 jury and the -- and my role as the trier of fact -- I mean the
21 trier of the law.

22 Direct and circumstantial evidence. I'm going to charge
23 the law concerning the credibility of witnesses. I'm going to
24 charge the law concerning how the jury is to evaluate expert
25 witnesses. I'm going to charge the law pertaining to the

1 failure of the defendant to testify and how -- And I'm going
2 to specifically instruct them that they cannot even consider
3 that in their deliberations. That's not to be discussed.

4 I'm going to charge mere presence and the fact that the
5 defendant was present at the scene, that and that alone is not
6 enough for there to be a conviction. Prior inconsistent
7 statement, we've had a number of those throughout and I'm
8 going to tell them how they can evaluate that. I'm going to
9 charge the law pertaining to the statement of the defendant.
10 There's some discussion about Miranda and that sort of thing.

11 I'm going to charge the law pertaining to murder. I
12 think of all of the cases that I've been involved in, I think
13 this is the only one where it's crystal clear that it's either
14 murder or it's not anything. Do you agree with that, Mr.
15 Ozment?

16 MR. OZMENT: Yes, Your Honor.

17 THE COURT: Do you agree with that, Mr. Anderson?

18 MR. ANDERSON: Yes, sir, Your Honor.

19 THE COURT: Very good and I'll charge the law with regard
20 to murder. You know, one of the questions in my mind that's
21 very clear is that the issue of identification is not an issue
22 in this case. I think there was some testimony with regard to
23 the defendant at some point in time, but don't we agree there
24 has been no eyewitness identification?

25 MR. ANDERSON: Your Honor, there is not any eyewitness

1 identification.

2 THE COURT: And that's not an -- And there's not --
3 That's not an issue for ---

4 MR. ANDERSON: Yes, sir.

5 THE COURT: --- the jury to resolve.

6 MR. OZMENT: I agree, Your Honor.

7 THE COURT: All right. - All right and I will also charge
8 the law with regard to arson third degree. Just giving y'all
9 sort of a skeleton review of what my charge is, is there
10 anything clearly that I've -- that's clear to you that I've
11 left out, Mr. Ozment?

12 MR. OZMENT: Nothing that you've left out, Your Honor,
13 no.

14 THE COURT: All right and, of course, everybody's going
15 to have an opportunity to hear my charge in toto and -- and
16 make additional requests or object to anything that I've
17 charged. Mr. Anderson, is there anything in there that I've
18 clearly left out?

19 MR. ANDERSON: No, sir.

20 THE COURT: All right. Is there anything in there that
21 you object to at this point in time?

22 MR. ANDERSON: I think your charge is very good, yes,
23 sir.

24 THE COURT: An outstanding charge I do think. Very good,
25 all right.

1 MR. OZMENT: Your Honor, I would just ask about the
2 reasonable doubt. In your opening charge, you used the scales
3 analogy and you said beyond a reasonable doubt would have the
4 scales locked down. I would argue that's beyond all doubt if
5 they're locked down. So if you're going to use that analogy
6 again, I obviously didn't object to the opening. I thought it
7 was minimal passing, but if you're going to use that analogy
8 again, I would ask that it be an accurate representation of
9 reasonable doubt.

10 THE COURT: I'll -- I'm going to charge reasonable doubt
11 and I'm going to charge the very simple definition that
12 reasonable doubt is the kind of doubt that would cause a
13 reasonable person to hesitate to act and -- and I'm also going
14 to charge the charge that's specifically been sanctioned by
15 the Supreme Court and you -- I was fixing to say you probably
16 have heard it dozens of times, but you're kind of new at this,
17 maybe you haven't. Do you want to hear it?

18 MR. OZMENT: No, Your Honor, that's fine. I just haven't
19 heard yours and since that was in your opening, that was the
20 only reason I ---

21 THE COURT: Okay.

22 MR. OZMENT: --- I asked, Your Honor.

23 THE COURT: Well, I think that's very -- In my mind, I
24 think that's a good -- a good description of it, but the --
25 the law does say that it's not beyond very doubt. I mean

1 that's in my charge. It discusses firmly convinced and it
2 specifically says you don't have to prove it with absolute
3 certainty.

4 MR. OZMENT: That sounds fine, Your Honor.

5 THE COURT: All right. I'm going to -- I'm going to
6 recognize the defense when they come out and, of course, if I
7 did not ask, I just assumed that there was not going to be any
8 witnesses called. Is that -- Is that true, Mr. Anderson?

9 MR. ANDERSON: Your Honor, based on -- Yes, sir. What
10 happened with my client, yes, sir. There's no witnesses at
11 this time.

12 THE COURT: Okay, very good. All right. Well, I'm going
13 to recognize you and if the spirit moves you in that
14 direction, you can rest and then we will proceed forward with
15 closing arguments and, Mr. Ozment, you understand that under
16 these circumstances, you will go first. Do you understand
17 that?

18 MR. OZMENT: Yes, Your Honor.

19 THE COURT: All right and -- and the defense will have
20 the opportunity of last argument, but given the magnitude of
21 this case, do you need time to gather your thoughts, Mr.
22 Ozment, for just a moment?

23 MR. OZMENT: Yes, sir, I would. I would appreciate some
24 time to gather my thoughts if we could.

25 THE COURT: All right and, Mr. Anderson, are you in a

1 position -- Would you like a little bit of time to gather your
2 thoughts before we proceed?

3 MR. ANDERSON: Five minutes is fine, Your Honor.

4 THE COURT: Okay, all right. We -- I'll tell you what
5 we're going to do. We're going to recess for about fifteen
6 minutes and invite y'all to go to your respective corners and
7 gather your thoughts. Very good.

8 MR. OZMENT: Thank you, Your Honor.

9 THE COURT: All right. We'll stand at ease for ten
10 minutes.

11 (Whereupon, there is a break in the proceedings from 3:04
12 p.m. until 3:14 p.m.)

13 THE COURT: Are you ready?

14 MR. OZMENT: Yes, Your Honor.

15 THE COURT: All right, we're ready for the jury.

16 (Whereupon, the jury enters the courtroom at 3:15 p.m.)

17 THE COURT: Mr. Foreman, ladies and gentlemen of the
18 jury, the State has concluded the presentation of their case
19 and at this time, Mr. Anderson, you're recognized.

20 MR. ANDERSON: Your Honor, if it please the Court, at
21 this point in time the defense will rest.

22 THE COURT: Very good. Mr. Foreman, ladies and gentlemen
23 of the jury, under these circumstances we will move forward
24 with closing arguments and the State will go first. Mr.
25 Ozment?

CLOSING ARGUMENT - MR. OZMENT

1 MR. OZMENT: Thank you, Your Honor.

2 CLOSING ARGUMENTS

3 MR. OZMENT: We started this on Monday and I didn't thank
4 you for being here. That's because you had to be here, you
5 all got a jury summons and didn't have a choice. But I do
6 thank you for paying attention. This is certainly not my
7 first trial and I can tell you a lot of times you look over
8 and jurors will be inspecting the ceiling tiles, seeing if any
9 light bulbs are out or looking at the back of their eyelids
10 for about ten minutes, thirty minutes, forty minutes at a time
11 and I appreciate that y'all have been attentive.

12 You've taken this case serious. This is a very serious
13 case. Certainly, for the State it's serious, for the Ford
14 family, it's a serious case, and I'm sure Mr. Anderson would
15 tell you for the defendant, it's a very serious case and I
16 appreciate your attention.

17 You know, next week Michael Ford would have been thirty-
18 six years old. Now I'm not quite thirty-six years old, so I
19 can't say exactly what that's like, but I can tell you that,
20 you know, based on where Mikey had been up to that point,
21 Mikey might have been married now, Mikey might have started a
22 family, Mikey might be going back to school, but the fact is,
23 Mikey is never going to do anything more in his life than he
24 accomplished up to December 17th, 2010, because that's the day
25 Mikey was murdered.

CLOSING ARGUMENT - MR. OZMENT

1 That night on Pygatt Road, there are two people who saw
2 what happened. There are two people who know what happened.
3 One of them can't talk because he was cremated because he's
4 dead. Scott Lee made sure of that.

5 You know, we heard two different stories from Scott in
6 this case. The first one I would call the "I don't know
7 anything about it and if anything, I'm helping the police"
8 story. You know, Scott afterwards, he came in and said, you
9 know, Mikey was my best friend, you know, I loved him, I love
10 his family, I want to do anything I can to help the police.

11 We watched the interview that was two days after Mikey
12 was murdered. Scott went on about, you know, I'm going to
13 follow up on this lead, I'm going to follow up on that lead.
14 Hey, I think Donnie Gaskins did it. Keith Odom did it. Maybe
15 Jersey did it, but, you know, I'm going to find out. Several
16 times in that interview, he said, you know, I wouldn't lie to
17 you. I don't want to hinder the investigation. I want to
18 help the investigation. I don't want Becky Ford to be -- you
19 know, to not know the truth of what happened with her son. He
20 was one of my best friends. He kept saying over and over
21 that, you know, he didn't know anything about it, but he was
22 going to find out who did it, over and over.

23 You heard him say that Mikey never had a gun. He didn't
24 own a gun. Mikey wasn't a violent person. Mikey was a
25 mediator, if anything else, and Mikey didn't deserve this.

CLOSING ARGUMENT - MR. OZMENT

1 That was one story. I think the only time we heard that story
2 was when Scott Lee told us that story right after -- right
3 after Mikey died.

4 Mr. Ford also heard that story when Scott Lee took him to
5 the crime scene. You know, not only did he murder Mikey, he
6 then drug his family, you know, not only do they have to
7 survive the loss of a son, he then took them out to the crime
8 scene and showed them where Scott had shot -- showed him the
9 -- the spot in the ditch when he'd been drug through.

10 Well, I can only speculate how he knew where the spot on
11 the ditch was that he was drug through, but I know I heard no
12 testimony that, you know, Scott Lee was out there on the crime
13 scene with the investigators the next morning or something.
14 No, the way Scott Lee knew was he drug him through the ditch
15 and put him right there in it and left him.

16 That was story number one. Well, months went by and the
17 investigation kept going on. Obviously, and I'll get into
18 this in a minute, but the investigators had heard from
19 Jonathan and Shannon at that point and it was clear story
20 number one, that wasn't going to fly anymore because story
21 number one was a lie. Scott Lee obviously had something to do
22 with it.

23 So they arrested Scott and brought him in and Scott said,
24 hmmm, well, I know they talked to my brother, I know they
25 talked to Shannon. What is a story I could tell that would

CLOSING ARGUMENT - MR. OZMENT

1 make it where my brother and Shannon think they saw something
2 and they may have seen something, but, you know, that's not
3 really what they saw.

4 Well, that's when you get story number two and that's the
5 "somebody else did it, but I don't know who." You know, in
6 the first story we were pretty sure it was Donnie Gaskins,
7 Keith Odom, maybe Jersey. Well, now all of a sudden after
8 dragging Mikey's family out there, after leading law
9 enforcement on a wild goose chase and saying, oh, I don't know
10 anything, but this and that, he says, well, you know, I can't
11 tell law enforcement anything, but I want to tell Gene this
12 and that'll be my story. That'll be it.

13 And that story was sadly -- To me, you know, if you step
14 back and look at that story, it's clearly not true. Scott
15 said that, you know, we were driving down the road. All of a
16 sudden, somebody pulled up behind us and were flashing their
17 lights and said, "Police, get out." Then he said, well, we
18 got out and then a fucking nigger comes up to me in a ski
19 mask, pulls a gun on me and, you know, we see red laser lights
20 going everywhere. I don't know what to do. Luckily, Scott
21 was the hero and was able to somehow try to fight them off and
22 escape into the woods himself while Mikey was murdered.

23 There was a lot of problems with this story. Where's the
24 only place in this entire trial that we heard Mikey had a gun?
25 From Scott Lee. That doesn't match what Scott Lee said

CLOSING ARGUMENT - MR. OZMENT

1 before. That doesn't match what Mr. Ford said before that.
2 They all said Mikey was peaceful, Mikey didn't like guns,
3 Mikey didn't want to have anything to do with guns. Mikey
4 wouldn't go deer hunting, he didn't like guns. Now all of a
5 sudden, you know, Mikey had a sawed off shotgun that night and
6 luckily he had it because that's what saved Scott Lee's life
7 was his ability to, you know, get away with this sawed off
8 shotgun.

9 Then let's think about this story when he gets home.
10 Scott says, well, you know, I came home and I almost called
11 the police ten times, I think is what he said. I had the
12 phone in my hand. I was about to call the police ten times.

13 You know, we heard Jonathan and Shannon. They don't
14 actually get along now. She wouldn't claim him anymore. You
15 know, their stories were consistent. They saw the same things
16 and neither of them at any point said Scott Lee picked up the
17 telephone. Neither of them at any point said, you know, Scott
18 seemed like he needed to call the police. Neither of them at
19 any point said Scott, you know, had his hand on the receiver
20 ten times. No, they said Scott was freaking out. He couldn't
21 talk. He was covered in blood. The car was covered in blood.

22 That brings me to something else. If we think about
23 their testimony with the car, Shannon, she almost teared up on
24 the stand saying it that the inside of the car was covered in
25 blood to the point it almost made her sick to her stomach.

CLOSING ARGUMENT - MR. OZMENT

1 Jonathan said the front seat, the console, the steering wheel
2 and into the floorboard were deep, dark red, almost to the
3 point of being black they were so soaked in blood.

4 Now if we were to believe Scott's story, well, Mikey was
5 out on the road at gunpoint with a gun on his face and, you
6 know, was killed right there in the road. The only blood that
7 would have gotten in the car was whatever was on Scott when he
8 got back in the car. You know, even if he had moved Mikey's
9 body into the ditch, I find it hard to believe there would be
10 like so much blood that came off just his body just soaked the
11 seats, deep red to the point they're almost black with blood.
12 That story just doesn't hold water, you know.

13 The people he had fingered up to that point, which were
14 Donnie Gaskins and Keith Odom, well, now all of a sudden I
15 don't really know who did it, but it sure wasn't me and it
16 was, you know, somebody I can't really describe and, you know,
17 to this day, he never, ever came to the police and said, hey,
18 you know what? I do have a different story about that night.
19 I think I got somebody else you should look into. You know, I
20 was there and Mikey was my best friend. I want to do what I
21 can for his family to know the truth.

22 No, to this day, he never told anyone who could do
23 anything about it. Both those times they had him in that
24 room, he was safe. Nobody could do anything to him. You
25 know, there was no threat, no force, he could have said, look,

CLOSING ARGUMENT - MR. OZMENT

1 I was there and here's what happened. I burned the car
2 because I panicked, but I didn't murder him, somebody else
3 did. You know, I want justice for his family and, you know,
4 something needs to be done. No, he denied it, he denied it,
5 he denied it and only when that house of cards fell did he
6 move on to story number two.

7 You know, in all of this the one story that Scott Lee
8 didn't tell you, I would say you heard that story from the
9 witnesses in the case. We heard from several people and I
10 think what happened that night and what the testimony supports
11 happened that night is that Jon -- is that as Eli said, Mikey
12 got in the car and went over to Scott's house and picked him
13 up. Scott went with Mikey.

14 Jonathan, if you'll remember, said he had a huge puffy
15 down jacket on. You'll also remember that the shotgun was
16 sawed off twice, once it was the barrel and stock, but then it
17 was made even shorter with even more stock being cut off. I
18 submit that's because to get it under that jacket, it had to
19 be shorter once, shorter twice. He took that shotgun and hid
20 it in that big, puffy, blue jacket.

21 Mikey picked him up. Somewhere along Pygatt Road --
22 Scott, he's no idiot. He knew that Donnie Gaskins lived on
23 that road. He knew that Keith Odom lived on that road. He
24 figured that's who he was going to pin it on. He went to that
25 road and that's where he got Mikey to stop the car. He walked

CLOSING ARGUMENT - MR. OZMENT

1 around to that passenger side window and blew Mikey's brains
2 out through that window. That's why there's broken glass on
3 the ground, why there's broken glass in Mikey's scalp, why
4 there's broken glass in Scott's yard.

5 He blew Mikey's brains out in that car, covering the
6 inside of the car with blood, so much it was black with blood,
7 drug Mikey out of the car, and threw him in the ditch like a
8 piece of trash. You can look at these pictures when you get
9 them back to the jury room. You'll see wadded up trash in the
10 ditch when you look at some of the zoomed out ones. You know,
11 is that what you do to your best friend? You leave him to be
12 found in the ditch? You leave him for his family to find out
13 that he was on a cold, rainy day left in the ditch? That's
14 not what I do to my friends. I hope that's not what my
15 friends ever do to me.

16 Anyway, after he left Mikey's body on the ditch, he got
17 back in Mikey's car and drove home, came in the door to go in
18 the kitchen. Jonathan and Shannon's testimony matched. You
19 know, Jonathan told you, he said, yeah, at first I was scared.
20 I didn't want to have to be the one who came out against my
21 brother. I understand that's tough. I can't imagine what
22 that would be like, but Jonathan bravely came in, testified
23 and looked his brother in the eyes in this courtroom and told
24 the truth.

25 He told you what he saw. They both told you that they

CLOSING ARGUMENT - MR. OZMENT

1 saw the bloody bag of marijuana on the counter that Mikey had
2 been dealing. They both told you that they saw the bloody
3 money on the counter. You know, Mr. Anderson said, was it
4 thirty dollars? Was it? It doesn't matter. You know, I
5 don't care if it was a hundred dollars or if it was two
6 dollars. Well, we know it was five, but it doesn't matter.
7 They both saw the bloody money. They both saw the bloody
8 marijuana. Jonathan said he's pretty sure he saw the gun
9 again then, too.

10 Scott got back in the car, which both of them had seen.
11 They both said it was in the same place in the trailer. He
12 drove it out, lit it on fire, and then was picked up by Ashley
13 Campbell. Now you'll remember that none of the witnesses with
14 the exception of Mr. Collins were in the courtroom and I
15 showed three different -- Well, excuse me, I showed two
16 different witnesses this map. Deputy Proffitt said the car
17 fire was here. Ashley Campbell said she was living here and
18 picked Scott up here on the same night not too far away.

19 Now earlier, I said Scott was smart. I'm not sure how
20 smart he was if he was going somewhere to burn a car and
21 didn't arrange for a ride back, but he didn't and that's what
22 Ashley Campbell testified to here today. Excuse me,
23 yesterday.

24 Now you'll remember that Scott was confronted with what
25 Jonathan said and what Ashley said in his last taped

CLOSING ARGUMENT - MR. OZMENT

1 statement. There was a lot of uhs and ahs. There wasn't much
2 explanation. He just kind of said, well, I was -- I was home.
3 You know, I was definitely home. He didn't really have an
4 explanation for that. That's when he had to come up with the
5 other guy did it story. It's not me, but the other guy did it
6 and that's why we heard about that.

7 But in all these stories Scott's told us, there's one
8 piece that just won't quite fit into any of it. That piece is
9 the gun. You know, the stories we heard, the first one he
10 doesn't know anything, the second one Mikey had a gun. Well,
11 we had two different witnesses testify that his Uncle Bobby
12 had died and they had gotten a shotgun. We had two different
13 witnesses testify that they saw that shotgun get sawed off.
14 We had Jonathan and Shannon testify that the shotgun was
15 around after the killing still. Well, we don't have that
16 shotgun today because it was disposed of by Scott Lee.

17 Now we know some kind of shotgun was at the house because
18 we have a piece of the stock that was found at the house where
19 the witnesses said it would be found. That doesn't fit either
20 of the stories that Scott Lee told us. That does fit the
21 truth. That does fit that Scott Lee used that gun and
22 murdered Mikey Ford that night and got rid of the weapon. It
23 does fit that story.

24 Now Mr. Anderson in his opening, I think he talked about
25 more in his opening than he actually got into in testimony,

CLOSING ARGUMENT - MR. OZMENT

1 but talked about another shooting with a shotgun the next day.
2 That was just that. It just happened to be another shooting
3 and a shotgun the next -- with a shotgun the next day. Now I
4 admit it fits with Scott's second story that some other guy
5 did it, that I don't know how, I don't know who, but some
6 other guy did it. Now it fits with that maybe, but the fact
7 of the matter is, you know, that's just -- that's just
8 throwing something out there. That's just saying, oh, here's
9 -- here's something. Maybe -- maybe that's who did it.

10 No, we know who did it. Investigator Collins
11 investigated that, too. Just by chance, he was the
12 investigator that investigated that, too. He questioned those
13 defendants. He could find no link between anyone in this
14 case, anyone Scott had named, no link between them and the
15 defendants in that case.

16 The only link I could tell is that they were both
17 birdshot. Well, I've got birdshot at my house. Birdshot is
18 everywhere. You can go to Walmart and buy birdshot. You can
19 go to Irby Street and buy birdshot. That's the most common
20 shot anywhere. That's what you're going to shoot skeet with,
21 dove with, duck -- Well, you shouldn't shoot ducks with it,
22 there's something for that, but it's everywhere.

23 Just because somebody else was shot with birdshot the
24 same weekend, if anything, that just says something about the
25 sad state that we're in, you know, that there's that much

CLOSING ARGUMENT - MR. OZMENT

1 violence going on in this county, in this state. It doesn't
2 mean that whoever did that crime committed every crime with
3 birdshot anywhere around that for that month. That's not what
4 it means. Don't buy into just letting them throw out
5 something. That's all that is. There's nothing that ties
6 that crime to our crime.

7 Now when I went through this case and I looked at all
8 these facts, it comes to me why, but then I thought about it
9 and I realized it, if Jonathan said that Scott said he did it
10 once, he could do it again. You know, it's hard to explain
11 sometimes why somebody does something, especially when
12 somebody does something evil, somebody does something ugly,
13 and it's rare that you look at something that's just truly an
14 evil act done by an evil person, heinous, and you can't always
15 put reason behind it, you can't always put logic behind it,
16 but I think that's because an evil act by definition doesn't
17 always make sense. Now sometimes it does, but sometimes --
18 you know, most of the time an evil act doesn't make sense to,
19 you know, your common everyday person. That's what makes it
20 so disgusting.

21 Two people saw this act. One of them saw it through.
22 One of them was sitting there, saw a gun pointed at him,
23 raised his right hand to get gunshot residue on it to try to
24 block it, and his sight, his ability to testify in this case,
25 (counsel hits hand down on podium) ended right there. The

CLOSING ARGUMENT - MR. OZMENT/MR. ANDERSON

1 other person made sure he couldn't testify, he couldn't be a
2 witness in this case. Two people saw it, one of them is not
3 talking.

4 I submit to you that when you look at the truth in this
5 case, not the stories, not the inconsistent statements, not
6 the dog and pony shows of, hey, maybe this is what happened,
7 hey, maybe this is what happened, no, no, when you look at the
8 truth in this case, there's only one verdict you can find on
9 arson and there's only one verdict you can find on murder and
10 that is guilty on both counts. Thank you very much.

11 THE COURT: Thank you, Mr. Ozment. Mr. Anderson, you're
12 recognized.

13 MR. ANDERSON: In my opening statement, I said that Mike
14 Ford was shot that night and he was. In my opening statement,
15 I said that Mike Ford was robbed and he was. In my opening
16 statement, I said that Mikey Ford was killed and there's no
17 doubt he was. But I also told you in my opening statement
18 that Scott Lee didn't do it and I stick by that today.

19 See, I believe that when you look at a case, you've got
20 to come up with a story that fits all the facts. You've got
21 to come up with a story that fits the good facts and you've
22 got to come up with a story that fits the bad facts. You
23 can't leave pieces of the puzzle out there that not -- that
24 just won't make any sense.

25 So what do you we know? Well, Mr. Ozment made reference

CLOSING ARGUMENT - MR. ANDERSON

1 to Cain and Abel in his opening statement. My mama was a
2 librarian and my father was a veterinarian. I did a little
3 research. I did some homework. Now what we've got is
4 something I'd like to refer to as sin. All right? And we're
5 going to hit the sin in just a second, but Genesis, chapter
6 four, verse nine, "Then the Lord said to Cain, where is Abel,
7 your brother? And he said, I do not know. Am I my brother's
8 keeper?"

9 And that kind of made me wonder because yesterday when I
10 was talking with Scott -- excuse me, not Scott, Jonathan,
11 "Well, I don't want to get him in trouble. He's my brother.
12 I didn't want to get him in trouble. He's my brother. I
13 can't recall. I can't recollect. I didn't want to get him in
14 trouble. He's my brother." Are you your brother's keeper,
15 Jonathan? Are you your brother's keeper?

16 So I started thinking and I said, well, you know what?
17 Since we're talking about the Old Testament and talking about
18 the Bible, sin: self-serving for S, inconsistent for I, and
19 negligent for N. Self-serving, inconsistent and negligent,
20 that's what I think this case is about.

21 Now the self-serving, whose testimony is that? Well,
22 that's Jonathan's. Who else's testimony is that? That's
23 Shannon's. What's inconsistent? Well, Jonathan's statement
24 is inconsistent, Shannon's statement is inconsistent, and
25 other statements are inconsistent.

CLOSING ARGUMENT - MR. ANDERSON

1 And where's the negligence? Well, in my opinion, the
2 negligence is where law enforcement didn't do everything that
3 I think they should have done or could have done. So let's
4 talk for a second about what was done.

5 Well, we know that witnesses testified. We know that
6 we've got twenty-one different witnesses and before I go any
7 further, Matt said something in his closing that I want to
8 make sure I touch on before I forget about it. When Jonathan
9 -- Excuse me. When Scott gave his statement on the 19th or
10 20th when he was trying to help law enforcement, at the very
11 end of that statement, Scott says, "Do you want me to go out
12 there and show you where those boys live on Pygatt Road?" and
13 they said, "Yes."

14 So my question is, did they go on out there? Did Scott
15 go by and see? Because, you know, Matt said, well, he showed
16 Mr. Ford where it was just a few days later and what did Mr.
17 Ford say? We went to the crime scene and you could still see
18 the blood in the floor -- on the ground. You could still see
19 the blood on the pavement. So, of course, you could still it.
20 If you could still see it, then yeah, you know where it was,
21 but I've never denied and Scott's never denied -- Scott's not
22 denying here today that he was there.

23 Well, the first person that spoke was Sandra Galloway and
24 then we heard from law enforcement and SLED, autopsy, all the
25 way down. We've heard twenty-one different people testify.

CLOSING ARGUMENT - MR. ANDERSON

1 What do we know? What do we know?

2 Well, I know one thing. The crime scene was not
3 thoroughly investigated. I know that. I know that you can't
4 investigate a crime scene in an hour and a half's time because
5 what do we know he was doing during that hour and a half time?
6 Well, we know that he took photos of the body and we know that
7 he turned the body over. We know that he took photos after he
8 turned the body over. We know that he took measurements. We
9 know that he walked down to a driveway and back and measured
10 that off. We know that he measured the head to a telephone
11 pole. We know that he measured the feet to a telephone pole.
12 We know that he took some other measurements because he drew a
13 diagram.

14 Did you look for tracks? Well, I really didn't see that
15 much tracks. Did you look on both sides of the road? Well, I
16 didn't really see anything on both sides of the road. Did you
17 look on the side if you were going down [REDACTED] did you
18 look over there in that tree line? Well, no, I didn't.

19 An hour and a half. The crime scene was about as big as
20 this room, an hour and a half. Could you do everything in an
21 hour and a half if you were going to do a thorough, accurate
22 investigation? Did he look for shotgun shells? I mean
23 obviously somebody was dead. Did he look for -- You know,
24 there was a wadding in the -- in his head that the autopsy
25 report showed. After that came back, hey, I wonder if there

CLOSING ARGUMENT - MR. ANDERSON

1 are any shotgun shells that I might have missed? I'm going to
2 go back out there and take a look. No, that didn't happen,
3 you know.

4 Then we have testimony from the GSR lady, Ila Simmons.
5 GSR is made up of three major components, lead, barium,
6 antimony. Where is it found? Where was it found? Right
7 palm, right palm of -- I'm sorry, back of the right hand, back
8 of the right hand, not the right palm. Because I asked her, I
9 said, "Could that be something where somebody had their hand
10 down and then the shotgun or firearm or something was
11 discharged," and she said, "Yes."

12 I said, "Could it be similar if somebody was trying to
13 hit something and then the firearm was discharged."

14 "Yes, that's possible."

15 So let's think for a second. If you want to believe the
16 State and that's why I say the theory has to be consistent, if
17 you're driving the car, where's your right hand? Your right
18 hand is going to be over here on the right side of your body.
19 Where's your left hand? Your left hand is going to be right
20 here. If you're shot through a window, where would the
21 gunshot residue be? It would be on your face, side of your
22 neck, possibly the left hand. I don't know. I would imagine
23 it would be more on the left side than the right back of your
24 hand and we'll get to more on that in just a minute.

25 What does Dr. Erin Presnell say? Well, we've got a

CLOSING ARGUMENT - MR. ANDERSON

1 single gunshot wound to the left temple. Now what's unusual
2 about that? Well, there's no glass in the wound. If that
3 shotgun blast came through the window, don't you think glass
4 would have come with it and gone into the left side of the
5 face, left side of the nose, the neck, the head area?

6 Now that would make sense to me. She said, "I did find
7 glass in the scalp. To be honest with you, it was not in the
8 wound. I don't remember it being in the wound. I didn't
9 notate it was in the wound and I really don't know if it was
10 on the left side of the head or the right side of the head. I
11 don't remember where I found that glass."

12 Well, what do we know from these crime scene photos? We
13 know there was glass in the road. We know there was glass in
14 the road. Did he fall into the glass? The State's Number 8
15 shows it looked like there was blood right there by that
16 glass. Did he fall into it? I don't know.

17 What else do we know? It didn't say anything about glass
18 in the left side of the nose, the cheek, the neck, the near --
19 ear, I'm sorry, and was there any stippling or soot around the
20 wound? No, but that's where the GSR comes from. Stippling
21 and soot is gunshot -- I mean gunpowder that comes out. So if
22 you don't see it right here by the wound, how is it over here
23 on the right hand, the back? If it's not here where the wound
24 is, how is it over here? The story has got to make sense,
25 ladies and gentlemen.

CLOSING ARGUMENT - MR. ANDERSON

1 I asked her about the wound to the knee. I said, "Did he
2 have anything with his knee?" She said, "Yes, a point seven
3 five inch abrasion on the right knee and a one point five by
4 four inch rectangular shaped abrasion on the lateral left
5 lower leg."

6 Well, just for a second, what did Scott say? They made
7 me get on the ground. What about Mikey? Mikey was down.
8 What does the autopsy say? Abrasion to the -- Injury to the
9 right knee.

10 I asked her about a standard shotgun would leave
11 stippling and/or soot -- Excuse, me, I'm sorry, I'm sorry.
12 The hole, if there was one hole, it was five to seven feet
13 away. If it was further than that, it would start spreading
14 out. There again, if you find it's seven feet away so that it
15 starts spreading out, how does GSR get on the hand? If you're
16 five to seven feet away when you shoot, how does it get on the
17 hand?

18 A sawed off shotgun, you'd have to be even closer. Could
19 not tell what kind of weapon was used. I wonder if SLED could
20 have been able to tell that? You know, they've got experts up
21 in SLED, ballistics, firearms, fingerprints, things like that.
22 I wonder if they would have been able to tell?

23 What does Elijah Sherman say? Now the State will sit
24 there and tell you that Scott's statement is inconsistent.
25 Well, I'm going to get into about other people's statements

CLOSING ARGUMENT - MR. ANDERSON

1 being inconsistent, too, like Elijah Sherman. Several other
2 people say that that's where Mikey was getting pot from, from
3 Elijah Sherman. Does Elijah ever say that? No, he never says
4 that. Does that make his statement inconsistent? I don't
5 know, but the State wants you to believe that if there's
6 something wrong with Scott's statement, then by God all of it
7 is wrong. Don't listen to any of it, but just forget about
8 all the little inconsistencies in my case.

9 Say Scott and Mikey were friends. Scott was upset, Scott
10 said, "I think other people did it." Cynthia Welch says she
11 bought from Mikey that night, said Mikey had a few other
12 errands to run, a few other errands. There was somebody in
13 the car with him, wasn't real sure where they were going, but
14 a few other errands to run. Later, Scott calls her trying to
15 find out information for the family. That's what she said.
16 Was he upset? Was he mad? Was he threatening? No, she never
17 said that. She said he was looking for information for the
18 family.

19 Shannon Bailey, she is not Jonathan Lee's girlfriend
20 because I asked her that. She also tells you that she moved
21 out on Sunday. As soon as she could get away from that house,
22 she was gone. Now, of course, Jonathan says, yeah, we were
23 boyfriend and girlfriend. Yeah, we dated off and on for
24 several years and, yeah, she actually lived with me and my mom
25 for a while and -- and other things. But according to her

CLOSING ARGUMENT - MR. ANDERSON

1 that didn't happen.

2 But what do we agree on? We agree -- She and Jonathan
3 both agree they did cocaine on at least three occasions. Now
4 I've never tried cocaine. I don't know what it does to you.
5 Jonathan said it was a stimulant, it kind of excited him. But
6 I know that Charles came over and brought something and they
7 took it all and that wasn't enough, so Charles got a call and
8 Charles came back and they used it all and that wasn't enough,
9 so Charles got another call and they used it all and then
10 Charles was actually on his way a fourth time when this
11 incident happened.

12 Pills, cocaine, pain pills, never mentioned having sex.
13 One thing that I thought was interesting was when she said
14 there was a lot of blood in the kitchen, a lot of blood in the
15 kitchen. How much? Well, there was like a few drops like --
16 like on a shoe print or something, a few drops.

17 So I said, "So is a few drops a lot of blood?"

18 "Well, it is to me."

19 The car was covered. So then I said, "Well, does a few
20 drops mean the car was covered?" I don't know, I don't know,
21 but I know this, I know that a blue Impala may have dark
22 interior. I don't know. That's be a question I'd like to
23 know. What color was the interior of Mikey's car? That's one
24 thing I'd like to know, but I don't.

25 The judge will tell you it's not my job, it's not Scott's

CLOSING ARGUMENT - MR. ANDERSON

1 job to prove the case. It's not our job. Scott had blood on
2 him or had to have, no way around it and I'll tell you why.
3 He says on the letters after it happened, he went over there
4 and cradled him, cuddled him, then he pulled him. He didn't
5 want him to get run over, so he pulled him into the ditch.
6 And Scott says, "I went over there and held him. I even
7 thought about giving him CPR. I checked to see if he was gone
8 and he was gone. I pulled him into the ditch. Before that, I
9 tried to get him into the car. He was too heavy."

10 What is the autopsy report? Five eleven, 266. "I could
11 not get him in the car. I tried to get him in the car, but I
12 couldn't get him in the car." Is that where the blood came
13 from? I submit it is, I submit it is. That makes more sense
14 than the State's theory, a lot more sense.

15 The counter, marijuana was in a bloody bag and the reason
16 I say that is supposedly Scott just got the bloody bag and ran
17 out the house. But Scott, even though he was in a panic and
18 even though Scott's not that smart, maybe he stopped off at
19 Walmart or Food Lion or Harris Teeter and said, "You know
20 what? I probably need to get this bloody bag and get it into
21 another clean bag so that when I call Chavis and Ashley, they
22 won't see me with this bloody bag of marijuana.

23 Because I asked Ashley that, "Ashley, the bag that had
24 marijuana in it, was it bloody?"

25 "No."

CLOSING ARGUMENT - MR. ANDERSON

1 So where did the clean bag come from? I don't know, I
2 don't know. It doesn't make a lot of sense to me. That's
3 kind of inconsistent.

4 Jonathan, and I could say a lot more about Ashley, but
5 I'll move on to Jonathan. Jonathan, four statements. You
6 know, the Solicitor's Office wants to make a big deal about
7 Scott making two statements. Jonathan makes four. The first
8 statement, I don't know anything about anything and I don't
9 think Scott had anything to do with it. Who am I? My
10 brother's keeper?

11 The second statement at the library tells a little bit
12 more. Chad Collins didn't tell him it was being recorded, but
13 it was being recorded. Midway through that statement, he
14 changes it up a little bit more.

15 "Is this it?"

16 "This is everything."

17 "All right, we're going to talk with Ashley. That better
18 be everything."

19 "That's everything."

20 Then they interview Ashley [sic.] at the jail, come back
21 to Jonathan, "She gave us some details you didn't give us."

22 "Well, let me tell you what happened."

23 So then he gives a little more detail. You know, the
24 State would have you believe that since he said I think
25 somebody else did it and I think it was these people, then the

CLOSING ARGUMENT - MR. ANDERSON

1 State would have you believe that, well, three people did it,
2 that he's lying to you, he's making that all up. But yet,
3 Jonathan can give four statements and he's not making it up,
4 he's being truthful.

5 Jonathan's favorite phrase was, well, I really can't
6 recall or I really can't remember. There again, he used
7 cocaine at least three times. He and Shannon were supposedly
8 having sex, boyfriend and girlfriend. Jonathan said one thing
9 that I thought was -- was interesting. I kept pushing Scott
10 and pushing Scott and pushing Scott, but earlier, he said that
11 Scott was paranoid. I was trying to stay away from him. If I
12 went somewhere, he'd call me to see where I was. Well, if
13 someone is paranoid and you're scared of him, why are you
14 pushing them and pushing them and pushing them for
15 information?

16 But anyway, what happened? Scott said something to the
17 effect of the shit went sideways. All right, that phrase, the
18 shit went sideways, what makes more sense? He and I were out
19 there going to deliver some marijuana to somebody, we got
20 robbed, it went crazy. Or well, I took this sawed off shotgun
21 out there with me and in the middle of killing Mikey, it just
22 went crazy on me. Which makes more sense? The shit went
23 sideways. What makes more sense? Being robbed or I planned
24 out this elaborate scheme to kill him and then something went
25 bad? What makes more sense?

CLOSING ARGUMENT - MR. ANDERSON

1 Then what I also thought was interesting about that
2 statement is then he said something to the effect of I did it
3 before and now I can do it again and Scott said -- excuse me,
4 Jonathan said, I started walking down the steps and walking to
5 my grandmother's house. You're pushing him and you're pushing
6 him and you're pushing him for an answer and then when he
7 tries to answer you, you walk away right in the middle of the
8 conversation?

9 What if he said, I got in a gunfight. I didn't think I'd
10 have enough guts for me to get in a gunfight. What if he said
11 that while Jonathan was walking away? What if he said, man,
12 you're not really going to believe what happened, but this is
13 what happened. But I was just walking away because I didn't
14 want to hear anymore. I was going over to my grandmama's
15 house. You don't push somebody and push somebody and push
16 somebody if you're paranoid. You don't push them and push
17 them and push them and then when they finally open up to you,
18 walk away. Do you? I mean --

19 Letters to Gene Owens, those have been read into
20 evidence, those are going back with you. Did Scott know that
21 a robbery had happened that night in Coward? Did he know
22 that? I submit to you that he did not. There's no testimony
23 that he knew that. Well, what's coincidental? A shotgun was
24 used, really, really. There's a drug deal gone bad, three
25 individuals. What did Scott say in his letter? Three

CLOSING ARGUMENT -- MR. ANDERSON

1 individuals. One black, two white. What did Scott say in his
2 letter? One of them was black, I know it. The other one I
3 really couldn't tell and the one with Mikey was white.

4 What else do we know about that one that happened in
5 Coward about twelve miles away the very next night? What else
6 do we know? A shotgun. What else do we know? Birdshot.
7 What else do we know? Drug deal gone bad. What else do we
8 know? Somebody was hiding in the truck and when they tried to
9 rob somebody and it went sideways on them and he came running
10 out, the boy in the back of the truck came up and started
11 firing. There's a lot more than birdshot that's a coincidence
12 in that case.

13 Letter to Ed Clements, I didn't do it, I didn't do it. I
14 did everything I could to help you. I did not do it.

15 Chad Collins, what he did and what he didn't do. Well,
16 Chad did a lot, talked with a lot of people, but if I was
17 accused of shooting somebody in Coward and then they said, "By
18 the way, did you have anything to do with a murder the night
19 before on [REDACTED] "I don't know what you're talking
20 about." Did he check those alibis of those boys? I don't
21 know.

22 He said he talked with Teresa Filyaw and the Odom boy,
23 Keith Odom, but yet Teresa Filyaw told him that mom and I went
24 to Walmart. Did he check the alibi from that time period that
25 she was gone? I don't know.

CLOSING ARGUMENT - MR. ANDERSON

1 Did he check the glass to see if it matched? No. I
2 admit that my client was there. Is that the same glass? I
3 don't know, but I admit my client was there. The stock on the
4 gun, does that match a shotgun? Never checked. The wadding
5 that was recovered, was it sent to SLED? I don't know. Did a
6 firearms expert ever look at it? I don't know. Could you
7 relate the one in Coward to this one? I don't know.

8 The judge is going to tell you that reasonable doubt is
9 the type of -- I'll believe he'll tell you. He's the judge of
10 the law, but I believe he'll tell you that reasonable doubt is
11 the type of doubt that would cause a reasonable person to
12 hesitate to act. One doubt is all it takes. It doesn't take
13 five, it doesn't take ten. One doubt, one reasonable doubt is
14 all it takes to find Scott Lee not guilty of murder.

15 The arson? Absolutely, positively guilty of that. It
16 should take you two seconds to deliberate that. He is
17 absolutely, positively guilty of arson, no doubt about it.

18 Any doubt that would cause a reasonable person to
19 hesitate to act. I suggest or I submit witnesses -- We don't
20 have a written statement from Sandra Galloway. We don't have
21 that. People that lived on the road, did you see anything,
22 did you hear anything? It was less than one week before
23 Christmas. People go shopping. People are going to parties.
24 People are coming home late. Did anybody that lives on this
25 road see anything unusual between the hours of nine and

CLOSING ARGUMENT - MR. ANDERSON

1 eleven?

2 Michael Budd knew Mikey and walked up to Chad Collins.

3 "I talked to him the night he was killed. I called him the
4 night he was killed."

5 "Okay, well, appreciate you helping us. That's all we
6 need from you."

7 They never took a statement from him.

8 Cell phone records, Scott's cell phone records, Mikey's
9 cell phone records, Jonathan's cell phone records, Keith
10 Odom's cell phone records, any records that would indicate
11 that something might have been going on out there. What did
12 Scott say in one of his statements when he was being
13 videotaped?

14 The second statement when he was under arrest,
15 Investigator McFadden said, "Why did you do it?"

16 "I didn't do it."

17 "Well, we talked with Peaches."

18 "Talk to Peaches. You get Peaches and you get Junior in
19 here and they'll tell you I didn't do it."

20 Did they talk to Junior? Did they get a statement from
21 him? Did they talk to Peaches? Did they get a statement from
22 her? I don't know.

23 Folks, I said just a minute ago one doubt is all it takes
24 and I submit to you there's a lot more than one doubt in this
25 case and I think if you look at everything, that's what you

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1 end up with. You end up with a not guilty.

2 I think the testimony that has been given has been self-
3 serving. I think it's been inconsistent and I think that law
4 enforcement, while they've done some things, there are a lot
5 of questions out there of what they haven't done. I don't
6 think Scott Lee killed this boy. I think he did everything in
7 the world he could to help Mikey. I don't think he did it and
8 I'd ask you to return a verdict of not guilty.

9 THE COURT: Thank you, Mr. Anderson. Mr. Foreman, ladies
10 and gentlemen of the jury, you've heard all of the evidence in
11 this case and you've heard the closing arguments and we're
12 getting in the short rows of this case. You have listened to
13 all of the -- all of the presentation of evidence and you're
14 going to have to deliberate with regard to the facts. We're
15 going to talk about that in a moment, but it's now my
16 responsibility to charge you the law. You know, there's not
17 an easy way to do that and I know it's in the -- late in the
18 afternoon, but this is an important matter. I'm going to ask
19 you to perk up and pay very close attention.

20 Mr. Foreman, ladies and gentlemen of the jury, the
21 indictment charges the defendant with murder and arson third
22 degree. I remind you that the fact that the defendant was
23 arrested and charged and indicted is not evidence. It cannot
24 be considered by you as evidence of guilt, nor does it create
25 any presumption or inference of guilt. This document is

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1 simply the formal written instrument which contains the
2 charges made against the defendant. It is the formal document
3 by which this case is brought to court.

4 The indictment in this case alleges two separate and
5 distinct offenses, which are murder and arson third degree.
6 Each indictment charges a separate and distinct offense. You
7 must decide each indictment separately on the evidence and the
8 law applicable to it uninfluenced by your decision as to any
9 other indictment. The defendant may be convicted or acquitted
10 on any or all of the offenses charged. You'll be asked to
11 write a separate verdict of guilty or not guilty for each
12 indictment.

13 The defendant has pled not guilty to this indictment and
14 that plea puts the burden on the State to prove the defendant
15 guilty. A person charged with committing a criminal offense
16 in South Carolina is never required to prove himself innocent.
17 I charge you that it is an important rule of law that the
18 defendant in a criminal trial, no matter what the seriousness
19 of the charge may be, is always presumed to be innocent of the
20 crime for which the indictment was issued unless guilt has
21 been proven by evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 This presumption of innocence does not end when you begin
24 your deliberations, but it accompanies the defendant
25 throughout the trial until you reach a verdict of guilt based

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1 on evidence satisfying you of that guilt beyond a reasonable
2 doubt. The presumption of innocence is like a robe of
3 righteousness placed about the shoulders of the defendant
4 which remains with the defendant until it has been stripped
5 from the defendant by evidence satisfying you of the
6 defendant's guilt beyond a reasonable doubt.

7 Presumption of innocence is not a mere legal theory.
8 It's not just a legal phrase. It's a substantial right to
9 which every defendant is entitled unless you, the jury, are
10 satisfied from the evidence of the defendant's guilt beyond a
11 reasonable doubt.

12 What is a reasonable doubt under the law? A reasonable
13 doubt is the kind of doubt that would cause a reasonable
14 person to hesitate to act. The State has the burden of
15 proving the defendant guilty beyond a reasonable doubt.

16 Some of you may have served as jurors in civil cases
17 where you were told it is only necessary to -- necessary to
18 prove that a fact is more likely true than not true, such as
19 by a greater weight or preponderance of the evidence. In
20 criminal cases, the State's proof must be more powerful than
21 that, it must be beyond a reasonable doubt.

22 Proof beyond a reasonable doubt is proof that leaves you
23 firmly convinced of the defendant's guilt. There are very few
24 things in this world that we know with absolute certainty and
25 in criminal cases the law does not require proof that

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1 overcomes every possible doubt. If based on your
2 consideration of the evidence you are firmly convinced that
3 the defendant is guilty of the crime charged, you must find
4 the defendant guilty. If on the other hand you think there is
5 a real possibility that the defendant is not guilty, you must
6 give the defendant the benefit of the doubt and find him not
7 guilty.

8 I remind you that during this trial you and I have
9 certain duties to perform. As the trial judge, it is my
10 responsibility to preside over the trial and I also have the
11 duty to rule on the admissibility of evidence. You are to
12 consider only the competent evidence before you. If there was
13 testimony ordered stricken from the record in this case during
14 this trial, you must disregard that testimony. You are to
15 consider only the testimony which has been presented from this
16 witness stand, any exhibits which have been made a part of the
17 record in this case, and any stipulations of counsel.

18 I have the additional duty to charge you the law
19 applicable to this case. As the presiding judge, I am the
20 sole judge of the law in this case and it is your duty as
21 jurors to accept and apply the law as I now state it to you.
22 If you already have an idea as to what the law is or what the
23 law ought to be and it does not agree with what I now tell you
24 the law is, you must abandon this idea because you are sworn
25 to accept the law and apply the law exactly as I state it to

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1 you.

2 In every case tried in this court before a jury, the jury
3 becomes the sole and exclusive judge of the facts. A trial
4 judge cannot intimate, state, comment on or make any statement
5 to a trial jury about the facts. Since you, the jury, are the
6 sole judges of the facts, you are not to infer from what I
7 have said during the progress of this trial and in ruling on
8 the admissibility of evidence or otherwise or anything that I
9 say now during the course of this instruction to you that I
10 have any opinion about the facts in this case. The law simply
11 does not allow me to have an opinion about the facts. This is
12 a matter solely for you, the jury, to determine.

13 As jurors, it is your duty to determine the effect,
14 value, weight, and truth of the evidence presented during this
15 trial. There are two types of evidence which are generally
16 presented during a trial, direct evidence and circumstantial
17 evidence.

18 Direct evidence is the testimony of a person who claims
19 to have actual knowledge of a fact, such as an eyewitness. It
20 is evidence which immediately establishes the main fact to be
21 proved.

22 Circumstantial evidence is proof of a chain of facts and
23 circumstances indicating the existence of a fact. It is
24 evidence which immediately establishes collateral facts from
25 which the main fact may be inferred. Circumstantial evidence

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1 is based on inference and not on personal knowledge or
2 observation.

3 The law makes absolutely no distinction between the
4 weight or value to be given to either direct or circumstantial
5 evidence, nor is a greater degree of certainty required of
6 circumstantial evidence than of direct evidence. You should
7 weigh all of the evidence in the case. After weighing all of
8 the evidence, if you are not convinced of the guilt of the
9 defendant beyond a reasonable doubt, you must find the
10 defendant not guilty.

11 Necessarily, you must determine the credibility of
12 witnesses who have testified in this case. Credibility simply
13 means believability. It becomes your duty as jurors to
14 analyze and evaluate the evidence and determine which evidence
15 convinces you of its truth.

16 In determining the believability of witnesses who have
17 testified, you may believe one witness over several witnesses
18 or several witnesses over one witness. You may believe a part
19 of the testimony of a witness and reject the remaining part of
20 the testimony of that same witness. You may believe the
21 testimony of a witness in its entirety or reject the testimony
22 of a witness in its entirety. You may consider whether any
23 witnesses have exhibited to you any interest, bias or
24 prejudice or other motive in this case. You may also consider
25 the appearance and manner of a witness while on the witness

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1 stand, their demeanor.

2 The Rules of Evidence ordinarily do not permit witnesses
3 to testify to opinions or conclusions. An exception to this
4 rule exists for witnesses we call expert witnesses. The
5 witness who by education and experience has become an expert
6 in some art, science, profession or calling may state an
7 opinion as to the relevant and material matter in which the
8 witness claims to be an expert and may also state the reasons
9 for the opinion.

10 You should consider any expert opinion received into
11 evidence in this case and like any other evidence, give it the
12 weight you think it deserves. If you decide that the opinion
13 of the expert is not based on sufficient education and
14 experience or if you conclude that the reasons given in
15 support of the opinion are not sound, that the opinion is
16 outweighed by other evidence, you may disregard the opinion in
17 its entirety. An expert witness' testimony is to be given no
18 greater weight than that of other witnesses simply because the
19 witness is an expert. Further, you are not required to accept
20 an expert's opinion even though it is not contradicted.

21 Ladies and gentlemen of the jury, I instruct to you and
22 emphasize that the fact that the defendant did not testify is
23 not a factor to be considered by you in any way in your
24 deliberations and in your consideration on the question of
25 guilt or the innocence of the defendant. It must not be

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1 considered by you in any manner whatsoever.

2 A defendant has the constitutional right to remain silent
3 and the assertion of this right must not be considered by you
4 in your deliberations. I repeat, under your oath, you are to
5 draw no conclusion whatsoever from the fact the defendant in
6 this case did not testify. The fact that this defendant did
7 not testify should not even be discussed in the jury room.

8 Mr. Foreman, I'm going to ask that you enforce that rule.
9 There will be no discussion about the defendant's failure to
10 testify in this case. The burden of proof, as I stated to
11 you, is on the State. The defendant is not required to prove
12 his innocence. The burden of proof remains on the State to
13 prove guilt beyond a reasonable doubt.

14 Ladies and gentlemen of the jury, mere presence at the
15 scene is not sufficient to prove someone guilty of a crime. A
16 defendant's presence where a crime is being committed or mere
17 association with a person who commits a crime does not make a
18 defendant an accomplice or an aider or abettor with the person
19 committing the crime.

20 The burden is on the State to prove every element of the
21 crime charged. If you find after reviewing all of the
22 evidence that the State has proved that the defendant was only
23 present at the scene of the crime and that they have not
24 proved beyond a reasonable doubt any other participation in
25 the crime, then you must find the defendant not guilty. The

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1 law is that proof of one being at the scene of a crime is not
2 sufficient to find someone guilty.

3 There has been evidence presented that witnesses have
4 made prior statements which are not consistent with the
5 witnesses present testimony. You may use this evidence to
6 decide whether to believe the witness. You may also use
7 evidence of the earlier contradictory statements to determine
8 the truth of those statements. It is up to you to decide
9 whether to believe the earlier statements or the testimony
10 given at trial. If a witness is shown to have knowingly
11 testified untruthfully concerning any material matter, you may
12 consider this in determining whether to trust the witness'
13 testimony as to other matters. You may reject all testimony
14 of that witness or give all or part of the testimony the
15 weight you think it deserves.

16 A statement alleged to have been made by the defendant
17 has been admitted into evidence in this case. While the Court
18 has determined that the statement is admissible, I instruct
19 you that you make the ultimate decision of whether or not the
20 defendant made the statement. If the defendant did not make
21 the statement, you must determine whether the statement -- If
22 -- Let me -- Strike that.

23 If the defendant did make the statement, you must
24 determine whether the statement was made by the defendant
25 voluntarily and of his own free will. This means that the

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1 statement was not caused by pressure, force, fear, threats,
2 coercion or intimidation or by hope or promise of leniency or
3 reward of any kind. In determining whether a statement was
4 voluntary, you should consider both the characteristics of the
5 defendant and the details of the questioning.

6 Some of the factors that you must consider are the age of
7 the defendant, the defendant's education or lack thereof, the
8 defendant's mental ability or capacity, the defendant's IQ or
9 intelligence, and the defendant's background and environment,
10 the place and length of detention, the nature of the
11 questioning, the advice or lack thereof to the defendant of
12 his constitutional rights, included but not limited to the
13 right to remain silent, that any statement could be used
14 against him in a court of law, the right to have a lawyer
15 present and that if he could not afford a lawyer, a lawyer
16 would be appointed to represent him without any cost, and that
17 he could stop making his statement at any time.

18 You must carefully consider all of the surrounding
19 circumstances before you give any weight to an alleged
20 statement. The State has the burden of proving a -- proving
21 beyond a reasonable doubt that an alleged statement was
22 voluntary. If you determine it was, you may give the
23 statement any further consideration that you deem proper. You
24 must decide what weight, if any, should be given to the
25 alleged statement. If you determine that the alleged

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1 statement was not a free and voluntary statement of the
2 defendant, you should not consider the statement at all.

3 Ladies and gentlemen of the jury, I want to charge you
4 the substantive law with regard to murder. The defendant is
5 charged with murder. The State must prove beyond a reasonable
6 doubt that the defendant killed another person with malice
7 aforethought.

8 Malice is hatred, ill will or hostility towards another
9 person. It is the intentional doing of a wrongful act without
10 just cause or excuse and with an intent to inflict an injury
11 or under circumstances that the law will infer an evil intent.

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

18 Malice aforethought may be expressed or inferred. These
19 terms express and inferred do not mean different kinds of
20 malice, but merely the manner in which the malice may be shown
21 to exist. This is either by direct evidence or by inference
22 from the facts and circumstances which are proved.

23 Express malice is shown when a person speaks words which
24 express hatred or ill will for another or when the person
25 prepared beforehand to do the act which was later

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1 accomplished. For example, lying in wait for a person or any
2 other acts of preparation going to show that the deed was
3 within the defendant's mind would be express malice.

4 Malice may be inferred from conduct showing a total
5 disregard for human life. Inferred malice may also arise when
6 the deed is done with a deadly weapon. A deadly weapon is any
7 article, instrument or substance which is likely to cause
8 death or great bodily harm. Whether an instrument has been
9 used as a deadly weapon depends on the facts and circumstances
10 of each case. The following are examples of instruments which
11 may be deadly weapons: a pistol, a shotgun, a rifle, a dirk,
12 a dagger, a knife, a slingshot, metal knuckles, a razor,
13 gasoline, a fire bomb, Molotov cocktail, and lighter fluid. A
14 gun may be a deadly weapon even if it is not operating.

15 In order to prove third degree arson, the State must
16 prove beyond a reasonable doubt that the defendant willfully
17 and maliciously caused an explosion, set fire to, burned,
18 caused to be burned, aided and counseled or procured the
19 burning of certain properties.

20 Willfully means that it was not done by accident, but was
21 done knowingly or intentionally. It must be shown that the
22 burning was by willful act of some person not as a result of a
23 natural or accidental cause.

24 Maliciously means with hatred, ill will or hostility
25 towards another person. A person who intentionally does a

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1 wrongful act without legal justification or excuse does not
2 act maliciously. A malicious burning is an act done with a
3 condition of mind that shows a heart bent on mischief showing
4 a design to do an intentional wrong towards another or toward
5 the public without any legal justification or excuse. This
6 malice need not be expressed, but may be inferred.

7 Burning means actual combustion of some portion of a
8 piece of property. It is not necessary that the property be
9 consumed or destroyed. Charring of the material of which the
10 property is constructed or a change in the fiber or
11 composition of the structure is required for a burning.
12 Singing, smoking, blistering, scorching or discoloring by
13 heat, however, is not enough to constitute a burning.

14 Next, the State must prove beyond a reasonable doubt that
15 the property which was burned was a dwelling, house, building,
16 structure or any other property. Finally, the State must
17 prove beyond a reasonable doubt that the explosion or burning
18 directly or indirectly resulted in bodily injury to a person
19 or damage to the property.

20 Mr. Foreman, I'm going to come forward and share with you
21 the verdict form. Mr. Foreman, I'm going to ask you, if you
22 could, to stand. I'll share this verdict form with you. It's
23 a fairly simple piece of paper. It's got the State of South
24 Carolina, County of Florence, State of South Carolina, County
25 of Florence, State versus Scott Thomas Lee, defendant, in the

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1 Court of General Sessions, we're in criminal court, Twelfth
2 Circuit. This is the indictment number and it's entitled
3 Verdict Form.

4 There are two separate and distinct offenses, the murder
5 and the arson third degree. It says, "We the jury by
6 unanimous consent find the defendant as to murder not guilty
7 or guilty. Arson third degree, we the jury by unanimous
8 consent find the defendant as to arson third degree not guilty
9 or guilty." It's got a place for you to sign, date.

10 Also note on here that the verdict must be unanimous. It
11 can't be eleven to one, six to six, eight to four. Everyone
12 has to agree. It has to be unanimous.

13 FOREMAN: That's twelve, right?

14 THE COURT: That's correct, that's correct and I'm going
15 to ask if you could have a seat and I'm going to talk with you
16 in just -- Just have a seat right here.

17 Mr. Foreman, you are going to be charged with the
18 responsibility of presiding over the deliberations. Simply,
19 that means that everybody -- You're to ensure that everybody's
20 voice is heard. If there is an occasion where someone gets up
21 to use the restroom, stop deliberations because everyone has
22 to take part in all of the deliberation process.

23 There might be an occasion where there's a question that
24 comes up. I'll tell you from the very outset that the
25 difficult questions in this case, y'all are going to have to

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1 answer. You've heard the law. You are the judges of the
2 facts. You've heard all the evidence come from this witness
3 stand. There have been conflicts or conflicting evidence and
4 testimony that it's you in your infinite wisdom, your
5 collective wisdom, are going to have to resolve that and
6 determine what the truth is.

7 If there is a question with regard to a legal matter, a
8 question about the law, I can answer that. I don't anticipate
9 there are going to be any questions because y'all have paid
10 very close attention to the evidence as it's come from this
11 witness stand and paid very close attention as I've charged
12 you the law. I don't think there will be any questions, but
13 if there are and you can't determine whether or not it's a
14 legal question or a factual question, write it down. Give it
15 to the foreman and he'll give it to the bailiff and if it's
16 something I can answer, I will indeed do that.

17 I'm going to -- As I've sent you back to the jury room,
18 each time I tell you not to begin deliberations and once
19 again, I'm going to tell you not to do that because I'm going
20 to have to talk to these very find lawyers and determine
21 whether or not the manner in which I charged you the law is
22 accurate in their view, whether or not they contend that I've
23 charged it inappropriately or I have not charged some portion
24 of the law that I should have charged.

25 In addition to that, we need to gather up all of the

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1 documentary evidence. Do not begin deliberations until you
2 hear from the bailiff or from me to tell you to begin
3 deliberations. I anticipate that we're going to talk with
4 these lawyers, we're going to gather up all of the documentary
5 evidence, and the bailiff will give you instructions on when
6 to begin deliberations. He'll also give you some pencils and
7 a paper to aid you in your deliberation process.

8 I'm going to ask the alternates to remain with us and I'm
9 going to ask you to return to the jury room, but do not begin
10 deliberations until you hear differently. Thank you very
11 much.

12 (Whereupon, the jury exits the courtroom at 4:26 p.m. and
13 the Court returns to the bench.)

14 THE COURT: (To alternates) Certainly, I want to thank
15 y'all for your participation in this case. I know you feel
16 like you have been invited to the dance and didn't get to
17 dance, but thank you so much and in my short tenure on the
18 bench, I have -- Dozens of times we've had to use alternates.
19 I think there's one juror had a problem who's a preacher who
20 was worried about preaching at a funeral. If he had -- If the
21 funeral were to have taken place, we probably would have had
22 to excuse him and we would have had to activate you.

23 Quite often, some of the jurors are looking at the
24 witnesses and they know a particular witness by the name of
25 Bubba, but they don't know their formal name or they get there

1 and they determine that they're either related to them or
2 closely -- have a close social relationship and they have to
3 be excused. Sometimes the jurors engage in inappropriate
4 contact with other people. Those are reasons why we need you
5 here because there's been a lot of resources expended on this
6 case and a lot of time and you were our insurance policy. You
7 will be paid handsomely for your services. I don't anticipate
8 that the State ---

9 THE CLERK: They'll be coming back.

10 THE COURT: They will come back?

11 THE CLERK: At ten thirty in the morning on the eleventh
12 floor.

13 THE COURT: Ten -- I wish we could excuse you for the
14 balance of the week, but we will need you back at -- Ten
15 o'clock?

16 THE CLERK: Ten thirty.

17 THE COURT: Ten thirty on the eleventh floor. Thank you
18 so much for your service and you're free to leave at this
19 time.

20 JUROR: Thank you.

21 JUROR: Thank you.

22 THE COURT: Thank you, ma'am.

23 (Whereupon, the alternate jurors leave the courtroom.)

24 THE COURT: All right. Any objections with regard to the
25 jury charge from the State, Mr. Ozment?

1 MR. OZMENT: None, Your Honor.

2 THE COURT: Any from the defense?

3 MR. ANDERSON: No, sir.

4 THE COURT: Very good. I'm going to ask, if you could,
5 come forward and I'm going to ask the court reporter to assist
6 us in this regard. We're going to put every item of evidence
7 on this stand right here and I'm going to ask each of you to
8 determine that everything that's in that pile is in evidence
9 and there's not anything in that pile that's not in evidence.

10 (Whereupon, the evidence is verified by all counsel.)

11 THE COURT: All right, Mr. Ozment, is everything that's
12 on -- in this box in evidence?

13 MR. OZMENT: Yes, Your Honor.

14 THE COURT: Is there anything in the box that's not in
15 evidence?

16 MR. OZMENT: No, Your Honor.

17 THE COURT: Mr. Anderson, do you agree that everything in
18 the box is into evidence?

19 MR. ANDERSON: Yes, sir, Your Honor.

20 THE COURT: Is there anything in the box that's not into
21 evidence?

22 MR. ANDERSON: No, sir.

23 THE COURT: All right. I'm going to ask if Mr. Sammy ---

24 MR. WELLS: Were these put into evidence?

25 MR. OZMENT: No.

1 MR. WELLS: Okay.

2 THE COURT: I'm going to ask you to carry the documentary
3 evidence and tell them to begin deliberations. Let the record
4 reflect that it's 4:30 on the dot.

5 MR. OZMENT: Your Honor, I don't know if we should make
6 the map was used a Court's Exhibit.

7 THE COURT: I don't think that's necessary.

8 (Whereupon, jury deliberations begin at 4:30 p.m. and
9 there is a break in the proceedings until 4:56 p.m. when
10 the jury indicates that they have reached a verdict.)

11 MR. OZMENT: Your Honor, I was unable to locate Mr. Ford,
12 but I did make contact with his wife, who's obviously not been
13 here all week. She said she would try to get him any way she
14 could, but I ---

15 THE COURT: Okay. We need to go ahead and proceed and I
16 want to tell everybody and Mr. Lee and anybody else in the
17 courtroom, you know, my job is to preside over these
18 proceedings and I also have a responsibility to maintain order
19 in the court. If there is any outburst from anybody, they're
20 going to be taken into custody. So I'm going to ask that
21 everybody conduct themselves with the proper decorum. We're
22 ready for the jury.

23 BAILIFF: Yes, sir.

24 (Whereupon, the jury enters the courtroom at 4:56 p.m.)

25 THE COURT: Mr. Foreman, have you reached a verdict?

1 FOREMAN: Yes, sir, we have.

2 THE COURT: Is it unanimous?

3 FOREMAN: It is unanimous.

4 THE COURT: I'm going to ask if you could give the
5 bailiff or the clerk the verdict form and let me review it for
6 its form.

7 (Whereupon, the foreman complies and the verdict form is
8 reviewed by the Court.)

9 THE COURT: All right. All right, you may publish the
10 verdict.

11 VERDICT OF THE JURY

12 THE CLERK: The State of South Carolina, County of
13 Florence, in the Court of General Sessions, Twelfth Judicial
14 Circuit, Indictment Number 2011-GS-21-1189, The State of South
15 Carolina versus Scott Thomas Lee.

16 We, the jury, by unanimous consent find the defendant as
17 to murder guilty.

18 We, the jury, by unanimous consent find the defendant as
19 to arson third degree guilty.

20 Signed, Wayne Bennett, Foreperson, dated March the 14th,
21 2012.

22 Members of the -- Members of the jury, if this is your
23 verdict, please raise your right hand.

24 (Whereupon, all members of the jury comply by raising
25 their right hands.)

1 THE CLERK: That's everybody, Judge.

2 THE COURT: All right, any requests for polling, Mr.
3 Anderson?

4 MR. ANDERSON: No, sir, Your Honor.

5 THE COURT: All right, very good. Mr. Foreman, ladies
6 and gentlemen of the jury, I want to thank you for your
7 service here today. I wish that I could tell you that your
8 service was concluded because y'all have worked real hard this
9 week, but we need y'all to be back at ten thirty in the
10 morning. There's a chance that you'll be selected on one more
11 trial. Hopefully, if you keep your fingers crossed, maybe
12 that will not happen, but we need you over here at ten thirty
13 in the morning.

14 MR. OZMENT: That's upstairs.

15 THE COURT: That's upstairs on the -- Did I say the tenth
16 floor? I meant to say the eleventh floor, the eleventh floor
17 at ten thirty in the morning. You have fulfilled your
18 obligation as -- as a jury and I want to thank you for that
19 and my job is to preside over the trial and to determine what
20 evidence you get to hear and to charge the law, but I also am
21 responsible for sentencing.

22 That is not one of your concerns, but this is a public
23 forum. I'm going to speak with the Solicitor and the defense
24 counsel here momentarily. We're going to take about a five
25 minute recess and then we're going to come back for

1 sentencing. This is a public forum and if you would like, the
2 bailiff could show you to the back of the courtroom as you
3 exit if you would like to see what the sentence would be, but
4 it's not necessary that you do that.

5 Thank you so much and you can be back at ten thirty in
6 the morning, ten thirty sharp. Everyone remain seated as the
7 jury exits the courtroom.

8 (Whereupon, the jury exits the courtroom at 5:00 p.m.)

9 THE COURT: Mr. Ozment, do you have the sentencing sheets
10 available?

11 MR. OZMENT: I'll have to get them, Your Honor.

12 THE COURT: All right and might counsel approach the
13 bench for just one moment?

14 (Whereupon, a bench conference is held off the record.)

15 THE COURT: We'll stand at ease for five minutes.

16 (Whereupon, there is a break in the proceedings from 5:01
17 p.m. until 5:08 p.m.)

18 SENTENCING

19 THE COURT: Please be seated. Mr. Anderson, if you
20 could, bring Mr. Lee forward. All right, Mr. Ozment, you're
21 recognized. I'll hear from the State with regard to
22 sentencing if you'd like to add anything.

23 MR. OZMENT: Your Honor, I know Mr. Ford has some family
24 here that at the appropriate time we would ask that you hear
25 from. Obviously, the State would ask for the max -- the

1 maximum sentence available in this case, which would be life
2 with an additional fifteen years for the arson. I think the
3 facts of this case speak for themselves. This was a cold
4 blooded, ruthless murder, something you read about in books or
5 in a movie. So certainly, we would ask for the maximum. I
6 can't think of a more fitting punishment for this case.

7 As far as a record, Mr. Lee has a couple CDVs going back
8 into the 90s. I believe there is three total. He has
9 conspiracy to distribute marijuana. He has a bunch of
10 magistrate offenses. He also has a PWID marijuana in 2002.
11 Probation was revoked on that in '04. He also has an HT --
12 HTO in 2007, along with as I said several magistrate court
13 offenses mixed in there and if you'd like to now, I would ask
14 that the victim's family have a chance to address the Court.

15 (Whereupon, two individuals from the audience are brought
16 to the jury box.)

17 THE COURT: Yes, sir, just state your name for the record
18 once again.

19 MR. FORD: My name is Gerard Mark Ford.

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

22 MR. FORD: I took my retainer out so I would be able to
23 talk.

24 THE COURT: I am going to ask that you direct any
25 comments directly to me. Do not speak to the defendant.

1 MR. FORD: Okay.

2 THE COURT: I'm going to ask the defendant, if he chooses
3 to speak, to direct comments directly to me. I think it works
4 out better that way.

5 MR. FORD: Your Honor, after speaking with my family, my
6 wife and my daughter, when this first happened and we talked
7 about it, we didn't know anything from anything after talking
8 with Matt and whatnot and we told him, you know, whatever
9 happens, if they ever catch anybody, we're not in favor of the
10 death penalty. We don't believe in that.

11 At the other -- On the other side of the coin, Matt
12 explained this was -- just like you -- you said earlier, this
13 was all or nothing and one thing that we asked Matt to do was
14 no deals. This is before anybody was arrested or, you know,
15 whoever it is, no deals. That was what we would prefer. You
16 know, we would not want to see someone go to the -- to the
17 death penalty, but at the same token we would prefer no deals
18 be made because we would consider that a slap in the face and,
19 you know, Matt was clear as you were, you know, it's all or
20 nothing. We -- We were fine with that.

21 And I would only ask that for the safety of the family,
22 you know, that I think the life without parole, if that's the
23 maximum, that's what we would be -- be looking for or be
24 comfortable with for -- for safety reasons, but more
25 importantly because, you know, we were -- we were -- With

1 regard to the all or nothing, there was a 50/50 shot, it could
2 have gone either way, we were going to live with the other and
3 I told my wife, I said, you know, regardless of what happens
4 in this room here today or this week, whatever the truth is,
5 if the truth --

6 You know, I prayed for justice is what I prayed for and I
7 firmly believe that in the end, there's another judge in the
8 seat above yours that we're all going to answer to and it
9 doesn't matter about a jury, it doesn't matter about facts
10 because you can't lie to that -- that seat and get away with
11 it. So, you know, if justice wasn't served today, I knew in
12 my heart that it would be eventually. So we could live with
13 that because of our faith.

14 So I mean I don't know. I just figured you would want to
15 know and I should tell you where we felt, you know. We were
16 -- And if it would have come back the other way, we would have
17 had to live with that. If that's the way the dice would roll,
18 if that's the way they fell, so be it. I guess that's about
19 all I can really say on behalf of my wife and we talked about
20 that and we hated that it came to this.

21 THE COURT: All right, thank you so much and I'm sorry
22 for your loss.

23 MR. FORD: Thank you.

24 THE COURT: Anything further?

25 MR. WELLS: Your Honor, can we just have him change

1 places? This is the victim's sister.

2 MR. OZMENT: No, this is a childhood friend that grew up
3 with Mr. Ford.

4 MR. WELLS: Childhood friend, I'm sorry, I'm sorry. Just
5 come around and just sit in this box right there and state
6 your name.

7 THE COURT: Yes, ma'am, your full name?

8 MS. MOREAU: Renee Lindo Moreau.

9 THE COURT: Okay. I'd be glad to hear from you. Yes,
10 ma'am?

11 MS. MOREAU: I knew Michael for about fifteen years and
12 he was the best man at my wedding and I was really young, me
13 and my husband were, and, you know, losing contact with him
14 over the years, I still touched base with him and his family
15 and, you know, given the conditions of the scenario of the
16 case, you know, admittedly he was breaking the law along with
17 all the other parties involved and -- but that didn't mean he
18 had to die and the fact that it was attempted to be covered up
19 in the way that it was.

20 And in my opinion even if you feel that it might
21 incriminate you because you were there, whatever the situation
22 may be, you would do whatever it took and say whatever it took
23 to help the investigation along and not hinder it and nowhere
24 did I see him come forward except in a letter to someone else,
25 not even law enforcement. Those things alone tell me that,

1 you know, regardless of -- of the facts, it just -- it can't
2 be trusted.

3 And I agree with -- with Mark as far as the safety of --
4 of -- of his own family and of their family, you know, the
5 possibilities of what could happen if he is let go. I didn't
6 see any remorse through any of the testimonies on his face and
7 I know that it's been sixteen or seventeen months, but if you
8 love somebody the way that you claim you did, there would be
9 some sort of shred of emotion there and I just hope you take
10 that into consideration.

11 THE COURT: Thank you so much for being here.

12 MS. MOREAU: Thank you.

13 THE COURT: I certainly will. Anything further, Mr.
14 Ozment?

15 MR. OZMENT: Nothing further from the State, Your Honor.

16 THE COURT: All right. Mr. Anderson, you're recognized.
17 I'll be glad to hear from you and your client and anybody who
18 would like to speak on Mr. Lee's behalf.

19 MR. ANDERSON: Your Honor, just one thing that I think
20 Mr. Ford touched on it. Your Honor, there was never a plea
21 offered in this case. If one had been offered, I certainly
22 would have spoken to Scott about it. His mom and I, who's
23 behind him, talked about, you know, trying to possibly work
24 something out. I approached the Solicitor's Office and it was
25 never -- it was always, you know, murder and the family wants

1 him to get life. So he was not left a whole lot of options at
2 that time.

3 Your Honor, I'm not implying that he would have pled
4 guilty, but it would have been something I could have talked
5 to him about and weighed the evidence out and talked about it,
6 but nothing was ever offered, Your Honor, and I'm not saying
7 the family was right or wrong by that. I understand what
8 they're saying, but that's -- I mean not left with an option,
9 Your Honor, you go forward.

10 THE COURT: Very good. All right, Mr. Lee, would you
11 like to say anything?

12 DEFENDANT: Yes, sir.

13 THE COURT: It's not necessary that you do.

14 DEFENDANT: Yes, sir.

15 THE COURT: If you want to say something, I'll be glad to
16 hear from you.

17 DEFENDANT: Yes, sir. I guess -- I guess whatever
18 everybody else is thinking is kind of irrelevant to me.
19 Evidently, Mark Ford don't know how me and Mikey was. I chose
20 not to testify because strategy reasons on -- on my lawyer's
21 part, but to address the remorse thing, I can't remorse or be
22 sorry for something I didn't do, Your Honor.

23 I mean I'm sorry that I didn't come forward and say I was
24 at the crime scene and this is what happened, but I just felt
25 like if I did that, then I would have been locked up that much

1 sooner because there was no way of me proving anything that
2 happened. I had no idea about the second crime scene on the
3 18th or the second double shooting on the 18th until a year
4 after it happened. My lawyer came walking in this past
5 December with that information and I had wrote them letters to
6 Gene ten months beforehand.

7 There is no way that I would have knowed the facts that I
8 knew or said the things I said in my letters and it being true
9 and the exact same identical stuff that happened the very next
10 afternoon to them other two boys and just luckily they didn't
11 die. They just got a shot and one guy shot in the upper left
12 torso and the other one got shot in his hands.

13 And I've got a bunch of character witnesses, but again, I
14 couldn't produce any evidence and give my lawyer the last
15 closing statement and with everything that was transpiring.
16 Some of the testimony was true, but the majority of it was
17 just B.S., to be honest with you. I mean there was a lot of
18 stuff that just wasn't true. I mean there was no way of me
19 pointing that out without getting up there and saying this is
20 true and this is not, but by the time I'd have got finished
21 telling you what was a lie and what wasn't a lie, you would
22 have thought I was lying again.

23 So it just goes back to hurting me in the worse if I
24 testified, but again, I mean I'm the one this is going to rest
25 on. I have no point of lying now. I have a life sentence or

1 I'm going to get a life sentence. If I did it, I would admit
2 it. I'm sorry, Mark, that y'all, you know, think I done it.

3 THE COURT: I want you to speak to me.

4 DEFENDANT: I mean I apologize and I'm sorry it come out
5 this way. Like I said, it's all on my shoulders now. If I'd
6 have done it, I'd say I did it, but what do I have to lose
7 now, you know. You just can't have remorse for something you
8 didn't do. I mean as mad as it makes me, it just -- there's
9 just nothing I can do about it, you know.

10 THE COURT: Very good. Anybody else who would like to
11 speak on your behalf?

12 MS. LEE: I just ---

13 THE COURT: Yes, ma'am, your full name?

14 MS. LEE: Shirley Lee.

15 THE COURT: All right, Ms. Lee, I'd be glad to hear from
16 you.

17 MS. LEE: I'm Scott's mom. I knew Michael well and
18 they'd been friends forever. Scott would fight anybody in a
19 minute because he does have a temperament, but he's never used
20 a weapon that I know of on anyone. I just don't see how this
21 is possible.

22 THE COURT: All right, very good. Thank you. Anything
23 further, Mr. Anderson?

24 MR. ANDERSON: No, sir.

25 THE COURT: One of the things that I feel compelled to

1 sort of set forth is that when I first started practicing law
2 in 1984, if a person was convicted of murder, they would be
3 eligible for parole after twenty years, but the law has
4 changed and -- and murder is thirty years to life. It's a
5 non-parolable offense and Mr. Lee, you will serve this
6 sentence day for day. There is no such thing as parole. Do
7 you understand that?

8 DEFENDANT: Yes, sir.

9 SENTENCE OF THE COURT

10 THE COURT: All right. On Indictment 2011-GS-21-1189 on
11 the offense of murder, the sentence of the Court is that you
12 be committed to the State Department of Corrections for a
13 period of forty years. The sentence would run concurrent.

14 With regard to Indictment 2011-GS-21-1189, arson third
15 degree, the sentence of the Court is that you be committed to
16 the State Department of Corrections for a period of fifteen
17 years. The sentence would run concurrent.

18 How many days is he to be given credit for, Mr. Anderson?

19 MR. ANDERSON: Your Honor, since he got locked up on
20 February the 9th, 2011.

21 THE COURT: Okay. Do we know how many -- how many days?
22 He'll be given credit for the time served and we'll calculate
23 that.

24 MR. ANDERSON: Probably close to 400 days I would guess.

25 THE COURT: All right. Good luck to you, Mr. Lee.

1 DEFENDANT: Thank you, Mr. Nettles.

2 (Whereupon, there is a brief pause in the proceedings.)

3 THE COURT: Mr. Lee, you'll be given credit for 430 days.
4 We'll stand adjourned until nine thirty in the morning. I
5 understand that the jury will be reconvening on the eleventh
6 floor at ten thirty.

7 SOLICITOR: That's correct, Your Honor.

8 THE COURT: Very good.

9 (Whereupon, the proceedings end at 5:23 p.m. However, on
10 March 15, 2012, at 9:38 a.m. when General Sessions is
11 reconvened, the following is added to the record to
12 clarify the sentence. The defendant and his counsel are
13 not present.)

14 THE COURT: All right, Madame Court Reporter, on Scott
15 Thomas Lee, 2011-GS-21-1189, there was some discussion and
16 debate about whether or not this arson third degree fell
17 within the parameters of the fifteen year sentence or the ten
18 year sentence and I sentenced him to ten years out of an
19 abundance of caution because essentially it made no difference
20 because it's going to run concurrent with the forty year
21 sentence.

22 And I sentenced him to ten years, but I inadvertently on
23 the record said fifteen. It -- It really is of no
24 consequence, but I'm going to -- The sentencing sheet says ten
25 years and that indeed is my sentence is ten years.

1 In view of the fact that it does not adversely affect the
2 defendant, I'm not going to require that he be present and I'm
3 amending the sentence to ten years to run concurrent with the
4 forty year sentence. Very good.

5 --- END OF REQUESTED TRANSCRIPT ---

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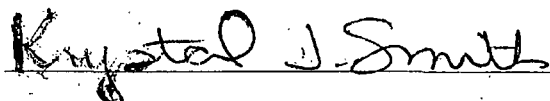
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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Official Court
6 Reporter for the Twelfth Judicial Circuit of the State of
7 South Carolina, do hereby certify that the foregoing is a
8 true, accurate, and complete Transcript of Record of all the
9 proceedings had and evidence introduced in the hearing of the
10 above captioned case, relative to appeal, in the Court of
11 General Sessions for Florence County, South Carolina, on the
12 12th through 15th days of March, 2012.

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

15
16 
17 Court Reporter

18
19 Florence, South Carolina

20 June 8, 2012
21
22
23
24
25

WITNESSES

Chad Collins

Florence County Sheriff

DOCKET NO. 2011-GS-21-1189

The State of South Carolina

County of

FLORENCE

FILED

2011 JUL 21 AM 11:55

CONNIE WHEEL-SHEARER
JUL 21 2011
FLORENCE COUNTY, SC

COURT OF GENERAL SESSIONS

JULY TERM 2011

THE STATE

vs.

SCOTT THOMAS LEE

E. L. CLEMENTS, III

ARREST WARRANT NUMBER

M273123

M273124

ACTION OF GRAND JURY

TRUE BILL

Donald E. Dine

Foreperson of Grand Jury

Date: 7-21-11

VERDICT

590

Foreperson of Petit Jury

Date:

Indictment for

MURDER
AND
ARSON THIRD DEGREE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 MURDER, AND
 ARSON-THIRD DEGREE

At a Court of General Sessions, convened on JULY 21, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE-MURDER

CDR: 0116 16-03-0010,0020, 16-01-0060

That SCOTT THOMAS LEE did in Florence County on or about December 17, 2010, feloniously, willfully and with malice aforethought kill one Michael G. Ford, by means of shooting him with a shotgun, and that the said Michael G. Ford did die as a proximate result thereof; in violation of Sections 16-03-0010, 0020, and 16-01-0060, S.C. Code of Laws, 1976, as amended.

COUNT TWO - ARSON THIRD DEGREE

CDR: 3435 12-17-10

That SCOTT THOMAS LEE did in Florence County, on or about December 17, 2010, did wilfully, unlawfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or aided, counseled, or procured the burning of a 2005 Chevy Lumina belonging to Michael G. Ford, by using an ignitable liquid; in violation of Section 16-11-0110(C), S.C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR

592
 COUNTY OF Florence
 STATE VS.
 Scott Thomas Lee
 AKA:
 Race: W Sex: M Age: 35
 DOB: SS#:
 Address:
 City, State, Zip: Florence, SC 29501
 DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-21-1189
 A/W#: M273123
 Date of Offense: 12/17/2010
 S.C. Code: § 16-03-0010; 16-03-0020
 CDR Code #: 0116

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Murder (30 - Life) 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. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] [Signature]
 Ozment, Matthew R. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 40 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: 3-14-12
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 430 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered RTUP
 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	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$500
3% to County (if paid in installments)		\$
TOTAL		\$105.00

_____ 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: _____

Clerk of Court/ Deputy Clerk: [Signature]
 Court Reporter: [Signature]
 SCCA/217 (03/2011)

Presiding Judge: [Signature]
 Judge Code: _____
 Sentence Date: March 14, 2012

Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

COUNTY OF Florence
STATE VS.

INDICTMENT/CASE#: 2011-GS-21-1189

Scott Thomas Lee

A/W#: M273124

AKA:

Date of Offense: 12/17/2010

Race: W Sex: M Age: 35

S.C. Code §: 16-11-0110(C)

DOB:

CDR Code #: 3435

Address:

City, State, Zip: Florence, SC 29501

DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Arson / Arson - Third Degree (effective 06-02-2010) (6-15)

in violation of § 16-11-0110(C) of the S.C. Code of Laws, bearing CDR Code # 3435

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

The charge is: As Indicted, Lesser-Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: Matthew R. Orment
Orment, Matthew R.

Per 72
SC Bar# Defendant

Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center.

for a determinate term of 10 days/months/years or under the Youthful Offender Act, not to exceed _____ years and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 430 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforc. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$

TOTAL \$ 105.00

PTUP _____

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk: M. S. [Signature]

Court Reporter: K. Smith

SCCV-113 (03/2011)

Presiding Judge: [Signature]


Judge Code: _____

Sentence Date: March 14, 2012

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 13, 2013


Kathrine H. Hudgins
Appellate Defender

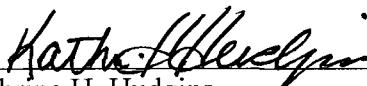
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 13, 2013



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Florence County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SCOTT LEE,

APPELLANT

APPELLATE CASE NO. 2012-210830

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 13 th day of March, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 13th day of March, 2013.

[Signature]
Notary Public for South Carolina (L.S.)

My Commission Expires: July 24, 2022.

RECEIVED
MAR 13 2013
SC Court of Appeals