

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAKKARI JAQUILLE DE'ANDRE BROWN,

APPELLANT.

APPELLATE CASE NO. 2021-000651

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NOS. 1 (CD), 3 (CD), AND 4 (CD).

JURY CHARGE

1 -- if the heat of passion had cooled, or if there was
2 enough time between the provocation, if any, and the
3 killing for the passion of a reasonable person to
4 cool, the killing would not be voluntary manslaughter.
5 In deciding whether a reasonable person would have had
6 enough time to cool off, you should consider all of
7 the circumstances surrounding the killing. You may
8 consider the nature of the provocation, if any, the
9 defendant's mental and physical state, and the
10 circumstances and relationships between the parties.

11 The defendant has raised a defense of
12 self-defense. Self-defense is a complete defense, and
13 if it is established, you must find the defendant not
14 guilty. The State has a burden of disproving
15 self-defense by proof beyond a reasonable doubt. If
16 you have a reasonable doubt of the defendant's guilt
17 after considering all of evidence, including the
18 evidence of self-defense, then you must find the
19 defendant not guilty. On the other hand, if you have
20 no reasonable doubt of the defendant's guilt after
21 considering all of the evidence, including the
22 evidence of self-defense, then you must find the
23 defendant guilty.

24 The following elements are required to establish
25 self-defense. First, the defendant must be without

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JURY CHARGE

1 fault in bringing on the difficulty. If the
2 defendant's conduct was the type which was reasonably
3 calculated to and did provoke a deadly assault, the
4 defendant would be at fault in bringing on the
5 difficulty and would not be entitled to an acquittal
6 based on self-defense. Self-defense is not available
7 to a person who uses language which is so
8 contemporaneous that a reasonable person would expect
9 it to bring on physical encounter, and which did
10 actually contribute to the physical encounter.

11 If the defendant voluntarily participated in
12 mutual combat for the purposes other than protection,
13 the killing of the victim would not be self-defense.
14 This is true even if during the combat the defendant
15 feared death or serious bodily injury. However, if
16 before the killing is committed the defendant
17 withdraws and tried in good faith to avoid further
18 conflict, and either by word or act makes that fact
19 known to the victim, he would be without fault in
20 bringing on the difficulty.

21 For mutual combat, there must be a mutual intent
22 and willingness to fight. This intent may be shown by
23 the acts and conduct of the parties and circumstances
24 surrounding the combat. In addition, it must be shown
25 that both parties were armed with a deadly weapon.

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JURY CHARGE

1 The second element of self-defense is that the
2 defendant was actually in imminent danger of death or
3 serious bodily injury, or that the Defendant actually
4 believed he was in imminent danger of death or serious
5 bodily injury. If the defendant was actually in
6 imminent danger, it must be shown that the
7 circumstances would have warranted a person of
8 ordinary firmness and encouraged to strike the fatal
9 blow to prevent death or serious bodily injury. If
10 the defendant believed he was in imminent danger of
11 death or serious bodily injury, it must be shown that
12 a reasonably prudent person of ordinary firmness and
13 courage would have had the same belief.

14 In deciding whether the defendant actually was or
15 believed he was in imminent danger of death or serious
16 bodily injury, you should consider all of the facts
17 and circumstances surrounding the crime, including the
18 physical condition and characteristics of the
19 defendant and the victim.

20 The defendant does not have to show that he was
21 actually in danger. It is enough if the defendant
22 believed he was in imminent danger, and a reasonably
23 prudent person of ordinary firmness and courage would
24 have had the same belief. The defendant has the right
25 to act on appearance even though the defendant's

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JURY CHARGE

1 beliefs may have been mistaken. It is for you to
2 decide whether the defendant's fear of immediate
3 danger of death or serious bodily injury was
4 reasonable and would have been felt by an ordinary
5 person in the same situation.

6 Words accompanied by hostile acts may, depending
7 on the circumstances, establish self-defense.

8 Evidence of prior difficulties between the defendant
9 and the victim may be considered in deciding whether a
10 threat existed, whether the defendant had a reason to
11 believe a threat existed, and how serious that threat
12 was. The relative sizes, ages, and weights of the
13 defendant and victim may be considered in deciding the
14 appearance or actual need for force in self defense
15 and the amount of force needed.

16 The reputation of the victim as a violent person
17 may be considered in deciding whether there was a need
18 for force, whether the defendant had reason to believe
19 there was a need for force, and whether deadly force
20 was reasonable and necessary. Prior instances of
21 violence by the victim may be considered in deciding
22 whether the defendant actually believed he was in
23 imminent danger of death or serious bodily injury, or
24 was actually in imminent danger.

25 Threats may be made by the victim -- threats made

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JURY CHARGE

1 by the victim may be considered in determining whether
2 the defendant actually was or believed he was in
3 imminent danger.

4 The intoxication of the defendant may be
5 considered in deciding whether the defendant's fear of
6 death or bodily harm was reasonable.

7 The final element of self-defense is that the
8 defendant had no other probable way to avoid the
9 danger of death or serious bodily injury than to act
10 as the defendant did in this particular instance. The
11 defendant had no duty to retreat if by doing so the
12 danger of being killed or suffering serious bodily
13 injury would increase. A person cannot be required to
14 make an exact calculation as to the degree or amount
15 of force which may be needed to avoid death or serious
16 bodily injury. Therefore, in self-defense the
17 defendant has the right to use the force needed to
18 avoid death or serious bodily harm. The force used in
19 self-defense does not have to be limited to the degree
20 or amount of force used by the victim. The defendant
21 has the right to use such force as appeared to be
22 necessary for complete self-protection, and which a
23 person of ordinary reason and firmness would have
24 believed to be needed to prevent death and serious
25 bodily harm.

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JURY CHARGE

1 If the defendant is justified in defending
2 himself or others in firing the first shot, then the
3 defendant is also justified in continuing to shoot
4 until it is apparent that the danger of death or
5 serious bodily injury has completely ended.

6 The defendant is charged with possession of a
7 weapon during the commission of a violent crime. The
8 state must prove beyond a reasonable doubt that the
9 defendant was in possession of a firearm, or visibly
10 displayed what appeared to be a firearm, during the
11 commission of a violent crime. In order to find the
12 defendant guilty of possession of a weapon during the
13 commission of a violent crime, you must first find the
14 defendant guilty of committing a violent crime.
15 Murder and voluntary manslaughter are violent crimes.

16 The defendant is also charged with unlawful use
17 of a firearm while under the influence. In this
18 regard, it is unlawful for a person who is under the
19 influence of alcohol or controlled substance to use a
20 firearm in this state. Use of a firearm means to
21 discharge the firearm.

22 The defendant is also charged with unlawful
23 consumption of alcohol while carrying a concealed
24 weapon. In this regard, a person shall not consume
25 alcohol, liquor, beer, or wine while carrying a

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JURY CHARGE

1 concealed weapon on a business premises.

2 Ladies and gentlemen, I now am drawing near the
3 end of my charge, and I want you to clearly understand
4 that you are not partisans or advocates for the State
5 or the defendant. You do not serve as jurors to award
6 your friends or punish your enemies. In this regard,
7 you have been selected by both the State and the
8 defendant to be fair and impartial jurors. It is your
9 duty by your joint deliberations to determine the
10 facts in this case, giving the defendant the benefit
11 of every reasonable doubt on each and every issue.
12 Then, to the facts which you determine to be correct,
13 you should take and apply the law which has been given
14 to you by this Court and thus arrive at a verdict.
15 When you have accomplished these responsibilities you
16 would have satisfied your oath as jurors, and you
17 would have discharged your duty to this Court.

18 Ms. Clerk, if you would give the foreman the
19 verdict form. Thank you.

20 (A brief pause in the proceedings.)

21 THE COURT: Mr. Foreman, I've given you the
22 verdict form. When you arrive at a verdict in this
23 case, you'll write your verdict on the form. For the
24 charges -- if the State has failed to prove the guilt
25 of the defendant beyond a reasonable doubt, your

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JURY CHARGE

1 verdict would be two words: "Not guilty." However,
2 should the State have proved their case against the
3 defendant beyond a reasonable doubt, then your verdict
4 will be one word: "Guilty."

5 Mr. Foreman, once a decision has been made, just
6 check whichever is your verdict, sign, and date it.
7 Also, please understand that the verdict that you
8 render in this case must be the verdict of each and
9 every juror. It must be your unanimous verdict. All
10 12 jurors must agree on the verdict which you
11 authorize the foreman to write for the jury.

12 Foreperson and members of the jury, I want you to
13 further understand that the order in which the choices
14 appear on the verdict form are not suggestive of any
15 verdict on the part of this Court. The verdict in
16 this case is to be determined by you, and not this
17 Court. Furthermore, ladies and gentlemen, please
18 understand that even though I have given the verdict
19 form to the foreman, it is not his verdict alone. It
20 is the verdict of all 12 of you. I emphasize again:
21 It must be unanimous.

22 Now, you will retire to the jury room; however, I
23 will ask that you do not begin your deliberations at
24 this time. The law requires that I consult with the
25 attorneys first. After I have done so, the bailiff

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JURY CHARGE

1 will bring in the items of evidence and instruct you
2 to begin your deliberations at that time. Also,
3 should you have any questions during your
4 deliberations, you must put them in writing and send
5 them to me by way of the bailiff. The court bailiff
6 will be placed immediately outside of the jury room
7 door to provide security and assistance for you during
8 the deliberations.

9 Once you have reached your verdict, knock on the
10 jury room door and advise the bailiff you have reached
11 a verdict, and we'll return you to the courtroom as
12 promptly as possible thereafter.

13 Thank you. You may retire to the jury room, but,
14 again, do not begin your deliberations until you are
15 told to do so.

16 (The jury exits at 12:07 p.m., and the
17 following is heard out of the presence of the jury.)

18 THE COURT: Any objections to the charge from the
19 State?

20 MR. DeBUSK: No, Your Honor.

21 THE COURT: Defense?

22 MR. FOX: None, Your Honor.

23 THE COURT: Take a look at the evidence and make
24 sure they are all in order.

25 (Whereupon, the court reporter and attorneys

JURY CHARGE

1 confirm the evidence.)

2 THE COURT: Is everything in order from the
3 State?

4 MR. DeBUSK: Yes, Your Honor.

5 THE COURT: Defense?

6 MR. FOX: Yes.

7 THE COURT: Go ahead.

8 MR. OSKIN: The State would offer a laptop for
9 the jury to view the video in this case. The laptop
10 has no Internet capability, no identifying markings
11 with our office by any stretch. It just simply allows
12 it to play the evidence in this case.

13 THE COURT: Any objections?

14 MR. FOX: No. My understanding is it is
15 basically, for lack of a better word, blank. There is
16 no programs or applications or things on there, and I
17 can see that. No objection.

18 THE COURT: Send that back, send the evidence on
19 back, and bring out the alternate and tell them to
20 begin.

21 (Whereupon, the deliberations commenced.)

22 THE COURT: We have a question.

23 (Court's Exhibit 2 marked.)

24 THE COURT: "We would like a written description
25 again for malice."

JURY CHARGE

1 I'll read that the definition is: Malice is
2 hatred, ill-will, or hostility towards another person.
3 It is the intentional doing of a wrongful act without
4 just cause or excuse, and with the intent to inflict
5 injury or other circumstances that the law will infer
6 as an evil intent.

7 MR. DeBUSK: That's fine, Your Honor.

8 MR. FOX: No objection.

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

10 (Whereupon, the jury enters at 1:29 p.m., and
11 the following is had in the presence of the jury.)

12 THE COURT: I'll read to you all the definition
13 of malice.

14 FOREPERSON: Yes.

15 THE COURT: "Malice is hatred, ill-will, or
16 hostility towards another person. It is the
17 intentional doing of a wrongful act without just cause
18 or excuse, and with the intent to inflict injury or
19 other circumstances that the law will infer as an evil
20 intent."

21 All right. That being said, head back to the
22 jury room and continue your deliberations.

23 (The jury exits at 1:30 p.m., and the
24 following is heard out of the presence of the jury.)

25 THE COURT: Any objections to the charge?

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VERDICT

1 MR. DeBUSK: Not from the State.

2 THE COURT: Defense?

3 MR. FOX: No, Your Honor.

4 THE COURT: We'll wait and see if they come up
5 with something else.

6 (A recess was taken and deliberations
7 continued at 1:31 p.m.)

8 (The following was had at 1:54 p.m., out of
9 the presence of the jury.)

10 THE COURT: Everyone have a seat. Bring in the
11 jury.

12 (The jury enters at 1:55 p.m., and the
13 following is heard in the presence of the jury.)

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

16 FOREPERSON: We have, Your Honor.

17 THE COURT: All right. If you will, hand it to
18 the clerk.

19 (A brief pause in the proceedings.)

20 THE COURT: I find the verdict is in order.

21 If you will publish.

22 THE CLERK: State of South Carolina, County of
23 Horry, versus Jakkari Brown. Indictment
24 2019-GS-26-00967, 2019-GS-26-0098, 2019-GS-26-0099,
25 and 2019-GS-26-100.

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VERDICT

1 As to the charge of murder: We, the jury, by
2 unanimous consent do find the defendant guilty.

3 As to the possession of a weapon during the
4 commission of a violent crime -- sorry, a violent
5 offense: We, the jury, unanimously find the defendant
6 guilty.

7 As to charge of the use of a firearm while under
8 the influence of alcohol: We, the jury, unanimously
9 find the defendant guilty.

10 As to the charge of unlawful consumption of
11 alcohol while carrying a concealed weapon: We, the
12 jury, unanimously find the defendant guilty.

13 Signed by foreperson, Michael O'Grady. Dated
14 June 10, 2021.

15 Ladies and gentlemen of the jury, will you please
16 stand.

17 If this is your verdict, so signify by raising
18 your right hand.

19 Thank you. Please be seated.

20 THE COURT: Any further polling from the State?

21 MR. DeBUSK: None, Your Honor.

22 MR. FOX: No, Your Honor.

23 THE COURT: Members of the jury, I thank you for
24 your service. You are free to go, or you can stay for
25 sentencing if you would like. I appreciate you being

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VERDICT

1 here, and I appreciate your efforts. It is not easy
2 to get 12 people to agree on anything, and I know
3 that.

4 You are paid a little money to be here, and by no
5 means does it commensurate the efforts you have done.
6 You are free to go. You earned a three-year
7 exemption. Have a good day.

8 (The jury exits at 1:58 p.m., and the
9 following is heard out of the presence of the jury.)

10 THE COURT: Solicitor, let me know when you are
11 ready.

12 MR. FOX: Before we get sentencing, I would at
13 this time move for a new trial, renew all previous
14 motions, and for directed verdict and all previous
15 objections renew, and ask the Court to set aside the
16 jury's verdict being against the clear weight of the
17 evidence and grant a new trial.

18 THE COURT: Thank you. State?

19 MR. DeBUSK: State feels there is adequate
20 evidence to support this verdict, both the factual and
21 implied. The verdict speaks the truth.

22 THE COURT: I deny your motion. Thank you.

23 Anything State would like to tell me before
24 sentencing?

25 MR. DeBUSK: Your Honor, I think you've heard it

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1 multiple times. He doesn't have any record. There
2 are family members present, present throughout the
3 trial, and at least one that would like to speak at
4 this time.

5 THE COURT: All right.

6 MR. DeBUSK: The victim, Mr. Ramos, lost his life
7 in this case. There is no replacing that. You can
8 see how he was cared for by how many family members
9 have been here.

10 This is Samantha Templeton. You were Roger
11 Ramos' best friend.

12 THE COURT: Yes, ma'am.

13 SAMANTHA TEMPLETON: So let me state how grateful
14 I am for the opportunity to share with this courtroom
15 how I'm feeling as a result of Jakkari's actions.
16 Twenty-six years of laughter, love, and memories with
17 Roger is all we have left, when it should have been a
18 lifetime. This wasn't a mistake that Jakkari made;
19 this was a choice. He made a conscious, sober,
20 decision to carry his gun with him on a regular basis,
21 knowing that if at any point he felt scared, he was
22 willing to use his deadly weapon. Jakkari made the
23 decision to commit a senseless act of violence. Roger
24 didn't have to die that night at the hand of Jakkari.
25 He went to RipTydz to see his work family and enjoy

SENTENCING

1 his night off. He wasn't looking for a fight. This
2 wasn't a drug deal gone bad. This was a fun, loving
3 guy who went out to see his friends and never made it
4 out of that bar. The defense painted Roger to be an
5 aggressive, reckless individual, and that is not who
6 he was. If you knew Roger, you loved him. His
7 personality is unforgettable. He was the guy who
8 could always make you laugh. He was always the best
9 dressed person in the room. Roger was devilishly good
10 looking, which he passed on to his 11-year-old son,
11 who looks identical to him.

12 And, Jakkari, you didn't have the right to take
13 his life from him. After that pain you've caused
14 every one of us to feel, you drug us through this
15 trial to relive this all over again. You aren't sorry
16 for what you have done. You don't even want to pay
17 the consequences for your actions. Maybe that's why
18 God hasn't placed it on our hearts to forgive you
19 yet.

20 For 977 days we have tried to find any sense of
21 peace with Roger's murder, but we can't. We're
22 searching for closure with this trial, which we can
23 only hope will lead to forgiveness.

24 Your Honor, we, as a family, hope you think of us
25 when you sentence Jakkari for carrying his gun into a

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1 bar while consuming alcohol that resulted in a tragic
2 death. For us to feel any peace, we need to know that
3 he'll pay for his actions. Jakkari deserves the
4 maximum, because he took more than that from Roger.
5 He took more than 30 years from his son, his family.
6 He robbed every one of us of more than what can be
7 given in this courtroom. May only God have mercy on
8 his soul.

9 THE COURT: Thank you.

10 MR. DeBUSK: It's taken a long time to get this
11 case to trial. We were first up over a year ago, but
12 because of Covid. I don't think there is anything I
13 can add, other than what the family said, Your Honor.

14 THE COURT: Defense.

15 MR. FOX: Judge, I meant everything I said to
16 describe Jakkari in the trial. It has been a pleasure
17 to get to know this young man, despite these
18 circumstances. What you see, is what you get. The
19 quiet person you see on the witness stand, the person
20 who is devastated of his own actions and where that
21 has led, not just for himself, but for his family and
22 Mr. Ramos' family and friends. His remorse and his
23 being upset is genuine.

24 I've had Mr. Brown as a client for about two
25 years. I inherited this from another attorney. From

SENTENCING

1 the day I first met Jakkari, right through this week,
2 he has been ready and even eager to resolve this short
3 of going to trial. He's never denied responsibility.
4 He did not think in his own mind it was murder, but he
5 absolutely felt that he was being ethically and
6 morally responsible, and that has not wavered.

7 There were great efforts made and good faith on
8 both side to work this out short of a trial. It was
9 simply a situation where we couldn't make that final
10 small step between what the State was willing to live
11 with, and what Mr. Brown felt was fair, so we went to
12 trial anyway.

13 Everyone agreed that voluntary manslaughter was
14 really the proper thing, and I don't say that to
15 quarrel with the jury's verdict. I think we had a
16 fair trial. We had all week. The jury listened, and
17 I'm not quibbling with that, but in conversations, I
18 don't think anyone would disagree that we have the
19 Solicitor's Office and everyone felt, under all the
20 circumstances, that the proper resolution was a plea
21 for voluntary manslaughter and a sentence everyone
22 could live with; my opinion on that hasn't changed.

23 He's 26 years old. He has not been in trouble
24 before. He works. He is loved and liked by everyone
25 that comes in contact with him. He genuinely thought

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1 he was allowed to carry his gun; that was stupid and
2 ignorant, and everyone wishes that he had not done
3 that. Guns and alcohol are not a good mix, and
4 testosterone and alcohol are really a bad mix. It
5 never, never should have gotten to this point.

6 Judge, he's been in jail since his arrest
7 October 7, 2018. We, of course, would request credit
8 for each day he's been in jail. We're asking, given
9 his lack of a record and given the circumstances,
10 given a fight that the jury obviously felt between
11 himself and Mr. Ramos that he was at fault in starting
12 that, but certainly in the context of everything that
13 happened at RipTydz, it was not something that he
14 meant to start or did start, but something that
15 quickly spiraled out of control. In part, it was
16 because of his own fault, but he certainly didn't go
17 there looking for trouble. He certainly didn't go
18 there with the intent to harm anyone. I don't think
19 that is him.

20 So I'm asking Your Honor to consider, as far as
21 it may be, the minimum sentence on murder, which is 30
22 years, day for day. There is no parole or early
23 release or credit for good time; there is just 30
24 years, every day of it, with whatever credit he may be
25 entitled to. In light of his youth and lack of a

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SENTENCING

1 record, that is what we're asking for, Your Honor.

2 MR. JAKKARI BROWN: I would like to say that I
3 apologize to the City of Myrtle Beach, Horry County,
4 State of South Carolina for my actions. At no time
5 have I ever -- I never denied my actions or came to
6 court to think that I was going to walk home. Like he
7 was saying, I was thinking it would be involuntary,
8 but, you know -- voluntary I'm sorry. But I always
9 owned up to my actions as a man, and I know that night
10 it was tragic, and I apologize. I want to apologize
11 to my mama, family, and grandma, and first and
12 foremost, to his family. I'm sorry. I'm remorseful,
13 and I just hope that they find it in their hearts one
14 day, maybe not today, tomorrow, couple years, but
15 whenever, to forgive me, as I didn't want this to
16 happen. It's just not in my heart. That is all.

17 THE COURT: In reference to murder, the defendant
18 is committed to the State Department of Corrections
19 for a term of 35 years.

20 In reference to the possession of a weapon, five
21 years.

22 In reference to a weapon under the influence, two
23 years.

24 In reference to the unlawful consumption of
25 alcohol, two years.

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SENTENCING

1 Those are all concurrent. Credit for any time he
2 served.

3 MR. DeBUSK: May we approach a moment?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was had and the
6 proceedings for the trial of State of South Carolina
7 versus Jakkari Brown concluded at 2:14 p.m., Thursday,
8 June 10, 2021.)

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CERTIFICATE OF REPORTER

State of South Carolina)
County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 7th through 10th days of June, 2021.

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

August 15, 2020



Natalie Dahl, RPR
Court Reporter

CERTIFICATE OF COUNSEL FOR APPELLANT

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

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Mar 09 2022
SC Court of Appeals

Respectfully Submitted,

s/David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 9th day of March, 2022.

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Mar 09 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAKKARI JAQUILLE DE'ANDRE BROWN,

APPELLANT.

APPELLATE CASE NO. 2021-000651

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jakkari Jaquille De'Andre Brown, #385481, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 9th day of March, 2022.

s/David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT