

## **APPENDIX 14**

Excerpt from Trial Transcript Containing Eighth Amendment Arguments  
(transcribed from proceedings on February 15, 2005)

STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
: )  
COUNTY OF CHESTER ) CASE NO. 04-GS-12-571, 572

STATE OF SOUTH CAROLINA, ) TRANSCRIPT OF RECORD  
Plaintiff, )  
 ) JURY TRIAL  
-versus- )  
 ) February 15, 2005  
CHRISTOPHER F. PITTMAN, )  
Defendant. ) Charleston, South Carolina

B E F O R E:

The Honorable Daniel F. Pieper, Judge; and a jury

A P P E A R A N C E S:

W. Barney Giese, Solicitor  
John P. Meadors, Deputy Solicitor  
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For the State

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For the Defendant

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1           presumption.

2                         So I think that that was present,  
3           it just so happens that in this case the --  
4           because of the issues presented by the other  
5           defenses you have this uniform theme about  
6           whether or not the defendant had the capacity  
7           to distinguish between right and wrong and  
8           one carried through to the other. And I  
9           think there was a basis for the jury to reach  
10          that decision. I deny that motion.

11                        MR. VICKERY: Okay. Your Honor, the  
12          next one places me in the rather unenviable  
13          position having asked for -- fellow citizens  
14          for justice and receiving their determination  
15          of what justice is in the verdict, that I  
16          must now ask the Court for both wisdom and  
17          mercy. The wisdom, Your Honor, really  
18          relates to the problem that I think is  
19          inherent in the statutory scheme as it exists  
20          here as applied. Not on its face, but as  
21          applied to the case of a 12 year old.

22                        We have previously filed a notice  
23          of the unconstitutionality of the murder  
24          statute as applied to a 12 year old, because  
25          it gives the Court no discretion to deal with

1           the fact that he is of that age. And  
2           although it is true that five years ago in  
3           the Corey D. case the South Carolina Supreme  
4           Court said we're going to try a 12 year old,  
5           it's okay to try 12 year olds in adult court  
6           for murder and inherently thereby to submit  
7           them to this mandatory scheme whereby the  
8           Court has no discretion under the statute to  
9           give them less than 30 years.

10                   In the intervening time there have  
11           been a couple of decisions from the United  
12           States Supreme Court that we believe indicate  
13           as the statute -- I mean, the constitutional  
14           norm or test for constitutionality is one of  
15           the evolving notions of decency across the  
16           country and we briefed that extensively for  
17           the Court and pointed out that South Carolina  
18           is one of the few handful of states left  
19           where a child under the age of 14 could be  
20           tried as an adult and subjected to those kind  
21           of punishments.

22                   And so I fully respect and  
23           appreciate the dilemma that poses for the  
24           Court. You have a legislative mandate that  
25           says you shall not give him less than 30

1           years, and yet the Court has a constitutional  
2           imperative that says that the punishment has  
3           to -- I forget the catch phrase now and I'm  
4           sorry, I'm in a bit of a dither if the truth  
5           be known, but the constitution eighth  
6           amendment provides that the sentence must be  
7           in light of the full circumstances including  
8           his age. And we believe very strongly that  
9           that puts the Court on the true horns of a  
10          constitutional dilemma. And I don't know  
11          what remedy the Court has.

12                        I think, for example, the Court  
13          could say I'm not going to impose a sentence.  
14          I know the legislature says 30 years is the  
15          minimum, but I'm not going to do it because I  
16          think to do so would be unconstitutional and  
17          it's upon the State if they wanted to pursue  
18          that issue on appeal and say the judge abused  
19          his discretion in the sentencing because he  
20          gave something less than the statute  
21          requires. But I think the Court is the one  
22          ultimately that has the responsibility to  
23          enforce the constitutional imperatives.

24                        And so when I ask the Court for  
25          wisdom, what I ask you to do is to look

1           deeply into your own mind, I know the Court  
2           is a constitutional scholar and I ask you to  
3           look deeply into your own mind and consider  
4           very seriously the constitutional  
5           implications of the sentence that you impose.

6                         Now, when I ask the Court for  
7           mercy, it is nothing more than that. You  
8           know, I stand before you representing a young  
9           man who has been convicted by a jury summoned  
10          from his community of a very serious crime.  
11          On the other hand, I stand before you on  
12          behalf of a young man who had no mother  
13          through his life, who had very tough  
14          circumstances, who had no problems with the  
15          law prior to this incident, who had this one  
16          incident and who by and large after that even  
17          in custody that all of us can only imagine,  
18          has done real well in the last two years.

19                        And so when I ask the Court for  
20          mercy, I do just that. I'm not the only one  
21          that will ask the Court for mercy. His  
22          family is here, several of the members of his  
23          family would like to address the Court, but I  
24          would ask you to consider, to look into your  
25          mind for the wisdom with regard to the

1 constitutional argument and into your heart  
2 for the mercy with regard to his sentence.

3 THE COURT: Well, I want to say a couple  
4 things. First I want to make sure, because  
5 the Court did offer you the opportunity to  
6 delay sentencing so I'm going to be  
7 comfortable with the fact that you were  
8 prepared to go forward. Is that correct?

9 MR. VICKERY: Your Honor, I'm as  
10 prepared today as I will be tomorrow.

11 THE COURT: And certainly anyone in the  
12 family that wishes to address the Court, the  
13 Court's happy to hear from you and I would  
14 like to hear from you. And the Court has  
15 made it clear to counsel throughout the  
16 entire proceeding that this would be a very  
17 troubling case to the Court and I think  
18 you're aware of that. So I would be more  
19 than happy to hear from everyone in the  
20 family.

21 MR. VICKERY: Okay. I think we'll begin  
22 with his father, Joe Pittman, Your Honor.

23 THE COURT: If you would please, sir,  
24 state your name for the record.

25 MR. PITTMAN: My name is Joe Pittman.