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## BOOK REVIEWS

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# BOOK REVIEW

THE CRIMINAL LAW OF SOUTH CAROLINA. By William S. McAninch with W. Gaston Fairey, Associate Author. Columbia, South Carolina: The South Carolina Bar, Continuing Legal Education Division, 1982, pp. 394.

*Reviewed by John Delgado.\**

Judging from my experience, *The Criminal Law of South Carolina* will be as ready a source for the South Carolina practitioner as two other trial practice mainstays: *A Guide to Evidence Law in South Carolina*, by Professor James Dreher, as revised by Professor Jon P. Thames; and *A Guide to South Carolina Torts*, by Professor Ralph C. McCullough, II and Gerald Finkel. In *The Criminal Law of South Carolina*, the authors combine the hornbook style of a professional law school education with crisp practice pointers. The book has already received favorable comment from appellate and trial judges in South Carolina.<sup>1</sup>

The authors are amply qualified to have produced this text. Professor Bill McAninch, a graduate of the University of Arkansas and Yale Law School, has taught criminal procedure and substantive criminal law for fourteen years at the University of South Carolina School of Law. His previous publishing effort, *The Emerging Rights of the Confined*, co-authored by Professors McAninch and Eldon D. Wedlock, Jr. and published by the South Carolina Department of Corrections in 1972, is well regarded and has added to Professor McAninch's reputation for expertise and interest in the field of criminal law and procedure. Associate Editor W. Gaston Fairey brings his nine years of exclusive criminal trial defense experience to complement Professor McAninch's hornbook analysis. Mr. Fairey has served as

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1. See, e.g., Harwell, Book Review, TRANSCRIPT, Aug. 1982, at 11.

Deputy Public Defender for Richland County, South Carolina, for several years and as trial counsel for thousands of indigents charged with criminal offenses, including numerous individuals charged with capital offenses.

The authors' original goal was to combine South Carolina substantive criminal law and criminal procedure. A discussion of South Carolina criminal procedure would have been a valuable aid to the criminal trial practitioner. Perhaps the authors will consider a subsequent edition to compliment their initial effort.

Even without its procedural counterpart, I have found myself reaching for *The Criminal Law of South Carolina* to cut through the South Carolina Code's often confusing exposition of a criminal offense's elements and applicable punishments. The authors have successfully produced a succinct summary of South Carolina common and statutory law for the criminal trial practitioner. Because the common law in South Carolina is such an integral part of our criminal law, a handy compendium permits the practitioner to determine what the common law actually holds without having to juxtapose LaFave and Scott's *Criminal Law* against *Perkins on Criminal Law*.

The book's content and organization are sound and complete. The authors delineate in sequential order the elements (statutory or common law) of a criminal offense, the possible presumptions that attach, the distinctions and trends in proof arising in case law, and the punitive sanctions that apply. In most areas the authors give an extensive exposition of South Carolina case law with analysis of our Supreme Court's reasoning. For example, in a discussion of self-defense, the book includes a detailed analysis of *State v. Hendrix*,<sup>2</sup> the South Carolina Supreme Court's seminal decision on the elements of self-defense and its use in criminal trial practice. The authors devote over ten pages to the court's reasoning in *Hendrix*, with numerous references to other South Carolina cases, law review articles, and relevant United States Supreme Court decisions on the due process aspects of proof in self-defense cases.

Although fundamentally sound, McAninch's and Fairey's analysis of self-defense should have emphasised more heavily the need for criminal defense attorneys to challenge the consti-

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2. 270 S.C. 653, 244 S.E.2d 503 (1978).

tutionality of placing on the defendant the burden of proof in establishing self-defense. The authors correctly state: "The United States Supreme Court has not as yet addressed the issue of whether the defendant's burden of establishing self-defense offends due process. The issue was narrowly avoided in *Hankerson v. North Carolina* [citation omitted]."<sup>3</sup> What the authors fail to mention is that South Carolina is now the *only* state to continue to require the defendant to shoulder the burden of proving that he/she acted in self-defense.

Similar treatment of the felony murder rule through *Gore v. Leeke*,<sup>4</sup> and breach of trust through analysis of *State v. McCann*,<sup>5</sup> are examples of the book's use of leading case law evaluation. Additionally, the book occasionally discusses novel aspects of criminal defense, such as the different approaches defense attorneys should take in employing the "battered woman" defense.

While the majority of the text is the work of Professor McAninch, Gaston Fairey's contribution is clearly present. His step-by-step discussion of a "how to do it" insanity defense is the product of his extensive trial experience in this defense. Also, his fourteen page discussion of capital murder is a primer for any trial practitioner who may handle a death case.

The book has an excellent, easy to use table of contents and topical index with a table of cases. Any critique, however, must mention the incredible number of typographical errors found throughout the text. This reviewer found four such errors on three consecutive pages of the text. The Continuing Legal Education Division of the Bar might be advised to choose another typesetter for subsequent publications. This minor criticism aside, this reviewer's only substantive critique is that the book does not contain a procedural counterpart. Nonetheless, the book's purpose as a handy and efficient guide to the substantive criminal law of South Carolina is unmatched. This volume is an essential element in any South Carolina criminal trial practitioner's library.

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3. McANINCH & FAIREY, *THE CRIMINAL LAW OF SOUTH CAROLINA* 302 (1982).

4. 261 S.C. 308, 199 S.E.2d 755 (1973).

5. 167 S.C. 393, 166 S.E. 411 (1932).

