

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAMIEN LAVAR RITTER,

APPELLANT.

APPELLATE CASE NO. 2021-000710

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

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

MELODY J. BROWN
Senior Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3713

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
BOND HEARING TRANSCRIPT DATED FEBRUARY 26, 2019.....	1
MOTION TO SET BOND.....	4
TESTIMONY	
MATTHEW DEAS.....	17
PATRICIA POSEY	22
TAWANNA ASHFORD	23
RULING BY THE COURT.....	50
BOND HEARING TRANSCRIPT DATED NOVEMBER 7, 2019.....	55
RENEWED MOTION TO SET BOND	57
TESTIMONY	
(TAWANNA) ASHFORD.....	58
BETTY MARTIN.....	58
NIKKI VEGA	59
TRANSCRIPT DATED DECEMBER 4, 2019.....	92
MOTION FOR DNA SAMPLE	93
RULING BY THE COURT.....	113
BOND HEARING TRANSCRIPT DATED SEPTEMBER 9, 2020	178
TESTIMONY	
TAWANNA ASHFORD	192
TRANSCRIPT DATE OCTOBER 22, 2020.....	198
MOTION TO COMPEL	205
RULING BY THE COURT.....	221
INITIAL <u>FRANKS V. DELAWARE</u> HEARING.....	221

TESTIMONY

JOHN ADKINS	231
MATTHEW DEAS.....	260
RULING BY THE COURT.....	317
MOTION TO COMPEL	319
MOTION FOR ELECTRONICALLY STORED INFORMATION.....	327
RULING BY THE COURT.....	341
<u>FRANKS V. DELAWARE</u> HEARING TRANSCRIPT DATED APRIL 12, 2021	347

TESTIMONY

CAROLYN WILLIAMS	351
MATTHEW DEAS.....	381
COLLOQUY.....	461

TESTIMONY

CHAUNCEY SOLOMAN.....	464
ASHLEY ALDRIDGE	484
TRANSCRIPT DATED APRIL 14, 2021	544

TESTIMONY

MATTHEW DEAS.....	556
JUSTIN EDWARDS	592
MARTY CLAPP.....	603
ARGUMENT ON <u>FRANKS V. DELAWARE</u> MOTION	640
RULING BY THE COURT.....	682
TRIAL TRANSCRIPT DATED JUNE 21, 2021	700
JURY QUALIFICATION	707

JURY VOIR DIRE	715
PRE-TRIAL MOTIONS	747
COURT INTRODUCTION.....	788
JURY QUALIFICATION	792
JURY VOIR DIRE	800
MOTION FOR SUPPLEMENTAL ATTORNEY-CONDUCTED VOIR DIRE	824
RULING BY THE COURT.....	830
JURY VOIR DIRE	841
JURY SELECTION.....	877
<u>NEIL V. BIGGERS</u> HEARING	896
TESTIMONY	
CHRIS MORRIS	896
MATTHEW DEAS.....	913
TRIAL TRANSCRIPT JUNE 22, 2021	931
MOTION TO SUPPRESS	954
RULING BY THE COURT.....	966
MOTION TO SUPPRESS	968
RULING BY THE COURT.....	973
OPENING REMARKS BY THE COURT.....	980
OPENING STATEMENT BY MR. GRAHAM.....	991
OPENING STATEMENT BY MR. PHILLIPS	993
TESTIMONY	
JAMES ANDERSON	1001
DAVID MYERS.....	1026

ASHTON MILES	1045
ANDREW JACKSON	1058
PATRICK O'TOOLE	1068
BRYAN CHASSEREAU	1078
RONALD FAIR.....	1083
CHRIS MORRIS	1098
TRIAL TRANSCRIPT DATED JUNE 23, 2021	1186
RULING BY THE COURT ON MOTION IN LIMINE.....	1198
TESTIMONY	
RODNEY FURTICK.....	1200
ANDY TAYLOR.....	1341
JANICE ROSS.....	1348
CLARISSA DUBARD	1373
JOHN KING	1378
THOMAS GRIFFIN	1398
TRIAL TRANSCRIPT DATED JUNE 24, 2021	1455
TESTIMONY	
THOMAS GREEN (CONT'D).....	1462
JODY PUTNEY	1545
PAUL GREER.....	1569
JENNIFER BARTMAN	1596
OBJECTION TO TEXT MESSAGES	1635
TESTIMONY	
KENYETTA MOORER.....	1662

KERRIA WOODS	1669
FARAND WASIAK	1674
TRIAL TRANSCRIPT DATED JUNE 25, 2021	1729
TESTIMONY	
SWTEA PATEL	1743
NIKKI HICKS	1749
PAUL GREER.....	1832
MATTHEW DEAS.....	1838
ROBERT CLAYTON SIMMONDS	1934
TRIAL TRANSCRIPT DATED JUNE 28, 2021	2008
MOTION FOR DIRECTED VERDICT.....	2012
RULING BY THE COURT.....	2017
CHARGE CONFERENCE.....	2019
STATE RESTS	2039
DEFENSE RESTS	2039
CLOSING ARGUMENT BY MS. FULLER	2040
CLOSING ARGUMENT BY MR. BROWN.....	2056
CHARGE ON THE LAW	2072
VERDICT	2094
JURY POLL.....	2095
MOTION FOR A NEW TRIAL	2100
RULING BY THE COURT.....	2103
SENTENCING	2123
INDICTMENTS ANS SENTENCE SHEETS	2128

VERDICT FORM.....	2143
CERTIFICATE OF COUNSEL	2145

1 a few things today. So understand that it's an
2 extremely rough draft.

3 I want to be able to finalize the
4 instructions and have them back to you sometime by
5 maybe Sunday morning at the latest, so that you're
6 in a position to know what to argue to the jury. I do
7 not want to have to -- I don't want to sandbag you guys,
8 and then you have to modify your closing arguments
9 on Monday.

10 So, I think it's really important that
11 we know exactly what's being instructed in advance,
12 and I'll try to get maybe something to you Saturday,
13 if y'all can get me the information that y'all have.
14 But we'll create a discussion online about that,
15 just use the same -- my clerk had used to e-mail those
16 instructions to you.

17 We'll discuss those informally over the
18 weekend, and then polish them off and do formal stuff
19 after we've handled the DV on Monday, okay? I do
20 understand the State objects to the self-defense
21 instructions. I got that loud and clear.

22 MR. GRAHAM: Your Honor, if I can?

23 THE COURT: Please.

24 MR. GRAHAM: There is two mentions that
25 the State would have regarding the defense's closing

1 argument, one would be on third-party guilt. They
2 haven't given any information. They've asked questions.

3 And looking at Holmes v. South Carolina
4 and then Lorenzen v. State, 376 S.C. 521, it says
5 evidence of third-party guilt only comes in regarding
6 the commission of a crime by another person. It must
7 be limited to facts inconsistent with the own guilt
8 of the Defendant, and has to raise a reasonable
9 inference or presumption of his own innocence. Evidence
10 which can have no effect than to cast a bare suspicion
11 upon another, or to raise a conjectural inference as to
12 the commission of a crime by another, is not admissible.

13 THE COURT: I understand. We are going
14 there?

15 MR. PHILLIPS: Your Honor, we're not.
16 That's not going to be an issue.

17 THE COURT: Figured as much. Very good.

18 MR. GRAHAM: And then, second, related
19 to what we're talking about now, I don't believe that
20 the defense should be allowed to reference that there
21 was no evidence about Rodney Furtick's phone.

22 THE COURT: I actually wrote that down after
23 my speaking to the alternate and bringing that up.

24 MR. PHILLIPS: And for what it's worth,
25 we already discussed it, and that was already something

1 we were going to tell the Court.

2 THE COURT: Yes, my notes here to defense
3 attorneys, arrow marked, disingenuously argue that State
4 could have tracked Furtick's cell.

5 MR. PHILLIPS: Yes.

6 MR. BROWN: We will not ---

7 MR. PHILLIPS: We've already discussed it.

8 THE COURT: All right. Great minds think
9 alike. And I regret that I will not be with y'all's
10 great minds in the coming two days, but I will be
11 feeling better, and we all will later on too. I hope
12 you have a great weekend. Communicate with me about
13 the instructions and so far, so good. See y'all on
14 Monday. Thank you.

15 MR. PHILLIPS: And, Judge ---

16 THE COURT: Sir?

17 MR. PHILLIPS: Do you want the instructions
18 as soon as possible?

19 THE COURT: If at all possible. My wife
20 is -- she's going to cover a shift for somebody tomorrow
21 starting at three o'clock. It will be the first time --
22 at least in the morning, it will be the first time
23 I've seen her in several days. So, I will be looking
24 at it, perhaps, around three.

25 MS. FULLER: And, Judge, sorry. I don't

1 know if we need this on the record. We have to redo
2 the exhibit in terms of the first copy, unless you just
3 want to withdraw -- how do you want us to do the
4 exhibit, create a new number and make these ID?

5 THE COURT: We're going to substitute
6 a brand new one using the exact same numbers.

7 MR. BROWN: So, I actually think that what
8 she's mentioned is important because they've objected
9 to your ruling.

10 THE COURT: Right.

11 MS. FULLER: Right.

12 MR. BROWN: And so I do think, sticking
13 up for them, that they need what they've wanted entered
14 in.

15 THE COURT: And that is perfectly fine.
16 Leave it in, and we can simply ---

17 MR. BROWN: ID.

18 THE COURT: For ID. We would switch
19 it to ID, and then we could substitute another one
20 in. And that way if there's an appeal, you can appeal
21 me, and if there's a conviction, you can similarly
22 appeal me. Very good. See y'all Monday.

23 (End of transcript of Record.)
24
25

CERTIFICATE OF REPORTER

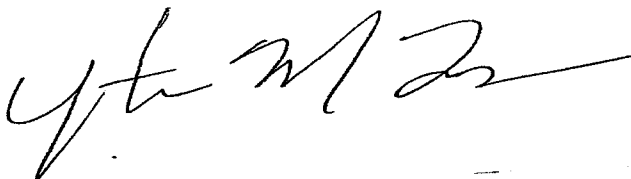
State of South Carolina)

County of Lexington)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Lexington County, South Carolina, on the 25th of June, 2021.

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

October 30, 2021



Yvestre Torres

Circuit Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Jury Strike Sheet
State v. Damien Ritter
2019-GS-32-02887-2893
June 21-25, 2021

Jury No.	Name	Race	Gender	Jury No.
48	Sarah Cotham	W	F	State Strike
136	David Oxley	W	M	1
223	Ingrid Yon	W	F	Def. Strike
125	Krista Meyer	W	F	2
60	Jennifer Duke	W	F	Def. Strike
67	Melissa Frederick	W	F	3
112	Kathy Lord	W	F	Def. Strike
63	Wanda Evans	W	F	Def. Strike
146	Kris Pratt	W	F	Def. Strike
201	Douglas Thomson	W	M	4
219	Henry Wrinkler	W	M	5
187	Jessica Stephens	W	F	6
133	Cindy Oswald	W	F	Def. Strike
169	Tavy Shealy	W	F	7
65	Martha Ford	W	F	Def. Strike
168	Jesse Shealy	W	M	8
79	Charles Hart	W	M	Def. Strike
126	Candy Miller	W	F	9

1	70	Rebecca Gauntt	W	F	Def. Strike
2	179	Jacob Speares	W	M	10
3	97	Mary Jo Jenny	W	F	11
4	88	James Hook	W	M	Def. Strike
5	148	Justin Proctor	W	M	12
6	40	James Channell	W	M	Def. Strike
7	164	Clyde Sharpe	W	M	Def. Strike
8	117	Anna Masse	W	F	Alt. No. 1
9	149	Matthew Rabe	W	M	Def. Strike
10	145	Annette Powell	W	F	Def. Strike
11	91	Shanta Jackson	B	F	Alt. No. 2
12	202	Amanda Trotter	W	F	Def. Strike
13	141	Allix Pelenski	W	F	Alt. No. 3
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

State of South Carolina)
) Court of General Sessions
County of Lexington)
 2019-GS-32-02887-02893

State of South Carolina)
 vs.) Transcript of Record
)
Damien Lavar Ritter)
)
 Defendant)

June 28, 2021
Lexington, South Carolina

B E F O R E:

Honorable Frank R. Addy, Judge

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

Sutania A. Fuller, Assistant Solicitor
Shawn Graham, Assistant Solicitor
Attorneys for the State

James A. Brown, Jr., Esq.
Dayne C. Phillips, Esq.
Attorneys for the Defendant

Joy E. Holston
Official Court Reporter

(Yvestre Torres was the Court Reporter for this case,
the dates of June 21st through June 25th.)

Closing Arguments by Ms. Fuller:	33
Closing Arguments by Mr. Brown:	49
Jury Charge	65
Verdict of the Jury	87
Sentence of the Court	116
Certificate of Court Reporter	120

E X H I B I T SState's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
245	Map		X	22
246	CD Verizon		X	22
247	CD Verizon		X	23

Court's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
4	Letter 6/21/21	X		30
5	Email Sutania Fuller	X		30
6	Letter 8/8/2020	X		30
7	Letter 2/25/2020	X		30
8	Verizon RTT Report	X		30
9	Email Jury Charge	X		119
10	Email Jury Charge	X		119

1 THE COURT: We will come to order, please. We will
2 go back on the record in the case of the State versus
3 Damien Ritter. And, Madam Clerk, do you have the
4 indictments. The record will reflect that I did have a
5 conversation via email over the weekend with Counsel. And
6 I have forwarded those, for that email string rather, to
7 the Clerk of Court so that you can print it and make it a
8 part of the record in terms of the request to charge that
9 were requested by both sides. I also emailed last evening
10 the, what I consider to be the final draft of the jury
11 instructions which we will discuss here in just a few
12 moments. Of course the jury is not reporting until 10:30.
13 I have asked the Clerk to go ahead and order, or have them
14 order lunch so that we can, they will be eating while they
15 are deliberating. I did not have the Clerk print the
16 requests to charge, there were several requests to charge
17 from the Defense and I did not have her print those so
18 those will need to be made a part of the record as well.
19 I assume the State is going to rest their case formally
20 when the jury comes out, is that right?

21 MS. FULLER: That's correct, Your Honor.

22 THE COURT: And we are still in the same posture
23 Friday, the Defense will not be presenting a defense?

24 MR. BROWN: That's correct, we would intend to rest,
25 make our arguments. I think technically I am suppose to

1 make them twice. I will certainly follow Your Honor's
2 direction so that we don't say the same things twice.

3 THE COURT: Sure. What we will do is I am going to
4 go ahead and entertain your motion for a directed verdict.
5 And, of course, all motions, all prior motions are renewed
6 including the motion concerning the affidavit with the
7 search warrant of the Defendant's home down in Estill.
8 Those, of course, are renewed. When the State rest,
9 again, as I said last week, I will simply note for the
10 record that all motions previously made are renewed
11 including the motion for a directed verdict and then y'all
12 can rest and that will protect you for the record. Okay.

13 MR. BROWN: Yes, sir.

14 THE COURT: Go ahead and, if you wish go ahead and
15 make your motion for a DV.

16 MR. BROWN: Yes, sir. To begin, a directed verdict
17 requires that there be some credible evidence. Credible
18 has got some words in there, but short version, we don't
19 believe that the sole evidence that our client was the
20 perpetrator is reliable and credible. And we believe,
21 based on that, we are entitled to a directed verdict as to
22 all the charges. Individually there are at least, there
23 are two charges I want to discuss. One is the murder
24 charge for Elzie Mack. I stand to be corrected, it might
25 be technic, I do not recall Dr. Ross opining that his

1 cause of death was a single gunshot wound. What I recall
2 is that he was brain dead and on life support. We know
3 there are certainly some inferences that might be made
4 from the evidence. We believe that that fact is still
5 open in light of that and that is based upon the evidence
6 in the record, Your Honor, so everybody understands. Part
7 two is, the next motion regarding the armed robbery
8 indictment. I need to go back to my motion to quash. I
9 know it was denied and I cannot technically make a motion
10 to quash again. I do want to renew it but now I believe
11 that we are faced with a duplicity problem regarding the
12 armed robbery charge. And State versus Myron Samuels. I
13 have got a copy of that case, Your Honor, four copies and
14 I am just going to hand them up right now. And it has got
15 a great quote from Justice Hearn. And I don't want to
16 butcher it because I missed it a couple of times. But
17 this is, where it begins at, duplicity and its ill favored
18 quality in both life and the law. And duplicity is where
19 two charges are contained within one legal document or one
20 legal charging document as opposed to multiplicity where
21 the same charges charged in two different counts.
22 Multiplicity would be like a charge of armed robbery and
23 grand larceny in the same charge. But this is duplicity.
24 Now, I say that because Myron Samuels deals with a battery
25 against two victims and the pertinent part of the analysis

1 indicates, it says, because there is two victims, that is
2 two crimes. I am paraphrasing but it is also about being
3 a crime against the person and that there are two people.
4 Using that analogy, armed robbery is a crime against
5 property, it falls into that chapter of Title 16. And
6 such is the battery. The property in this case is alleged
7 to have been taken, a safe and the other; what I am going
8 to say, ambiguous personal items are not owned by the same
9 people. Essentially we have heard Furtick's cell phone,
10 Atkins safe. And we believe now and Samuels is
11 interesting because it indicates that the way to deal with
12 duplicity is not provided as far as our South Carolina
13 Court system under Gentry. Now, there is a way to remedy
14 and prevent -- and I have researched this before, Your
15 Honor, and raised it in the State versus John Adams case
16 that we cited for a different reason about a taint
17 hearing. But I raised that unsuccessfully but short
18 version, if you have a verdict form that allows the Court
19 to distinguish which charge, which underlying crime is the
20 result, results in a conviction such that it is unanimous
21 and there is an instruction that you have to be unanimous
22 to each part; and because there was only one indictment he
23 is only punished once even if there is two crimes
24 contained in the indictment then there is no prejudiced
25 from the duplicity. And when I researched before that,

1 that is our holding, that is also all, the Federal Courts
2 hold the same way. Again, with jury's intellectually, is
3 that our Courts have essentially said there is no way to
4 prevent the error that Gentry only allows notice
5 complaint. Your Honor says it is notice, safe and other
6 items. Cell phone came up, we can see there was an
7 allegation of Furtick's cell phone taken from the
8 discovery. So we would concede that but we believe there
9 is two charges contained in that, two counts against
10 property, Your Honor should have two verdict forms, armed
11 robbery is the safe from Atkins; armed robbery is to the
12 cell phone from Furtick, both would be separate verdict
13 forms contained under the indictment. And that is the
14 only way to cure the prejudiced. So you would have the
15 armed robbery indictment and you would have two specific
16 special verdict forms. That is the way Samuels did it and
17 it was found to cure any error. And they presented,
18 basically two subpoena-verdicts, two special verdict's.
19 Was there a battery committed as to person A; was there a
20 battery committed as to person B. And if they came back
21 with guilty to both, which I believe they did not do in
22 Samuels, but if they did you would only be able to punish
23 for one because they were only indicted for one. That is
24 only exposed legally. And it is curious that our
25 objections available pre-swearing of the jury do not

1 provide a way to challenge duplicity. I did challenge and
2 I ask to strike that part of it. And Your Honor, those
3 are our directed verdict motions because and I know it is
4 a strange directed verdict but I would make, whoops, and I
5 almost forgot. We don't believe they presented any
6 evidence that the safe was taken from Atkins which would
7 actually eliminate that problem because Mr. Furtick said
8 he did not see it there that day. Ms. Hicks said she did
9 not see it there that day. That's it.

10 THE COURT: All right.

11 MR. BROWN: Yes, sir.

12 THE COURT: Did the State want to respond
13 particularly as to the armed robbery count as it relates
14 to the murder counts and the kidnapping counts. The Court
15 would find that the State has presented sufficient, direct
16 and circumstantial evidence that warrants sending those
17 charges to the jury. And would the State care to address
18 Samuels? Candidly, I was, I am sure I read it but I was
19 somewhat unfamiliar with the holding in Samuels until I
20 read it just a few moments ago. Did anyone want to speak
21 to that?

22 MR. GRAHAM: No, Your Honor. I wasn't aware of
23 either until I was handed the case. It does appear that
24 Your Honor can fix any problems with the special jury
25 instructions.

1 MR. BROWN: And a verdict, Your Honor, and you would
2 not be able to apply two sentences should he be convicted
3 for both.

4 THE COURT: That stands to reason because there is
5 only one indictment. So what would you suggest, simply
6 that I modify the verdict form which I know, I don't think
7 I sent to you guys but I can modify to reflect an armed
8 robbery as to --

9 MR. BROWN: --unanimously find as to the safe owned
10 by Mr. Atkins.

11 THE COURT: And as to the cell phone owned by Mr.
12 Furtick.

13 MR. BROWN: Basically just a sub-verdict, it would
14 look a little formalistically different because each one,
15 I would assume, would have their own indictment number on
16 your sheet. So it would be like charge 4A and 4B. But
17 then we also make the directed verdict motion as to the
18 safe separately.

19 THE COURT: The Court does find that there is
20 sufficient direct and circumstantial evidence to warrant
21 sending the matter to the jury on the armed robbery
22 charge. And I will, for lack of, I will simply divide the
23 items taken in the safe that belongs to Mr. Atkins and the
24 cell phone as to Mr. Furtick. I can fix that. All right.

25 MS. FULLER: Your Honor?

1 THE COURT: Yes.

2 MS. FULLER: Just to be clear too, the State includes
3 the contents or just using safe as, just wanted to know --

4 THE COURT: Sure, safe and contents.

5 MS. FULLER: Thank you, Your Honor.

6 MR. BROWN: Belonging to Mr. Atkins.

7 THE COURT: Belonging to Mr. Atkins, yes. All right.
8 The Defendant's request to charge, have y'all made those a
9 part of the record yet?

10 MR. PHILLIPS: I have not, Your Honor, we will make
11 sure we get it printed and marked. I apologize. What we
12 emailed over, what I emailed on Saturday morning, it was
13 on my to do list to print and I will make sure we get it
14 printed and marked.

15 THE COURT: I will just save you the trouble, I will
16 forward to Hope and ask her to print that for us.

17 MR. PHILLIPS: Thank you, Your Honor, I apologize.

18 THE COURT: No worries. Hope, what I am sending you,
19 you just need to print the attachments. Turning to the
20 question of jury instructions, the Clerk has printed the
21 email string and I am thinking everyone was on the same
22 string. So we will be making the Court's exhibit of the
23 email string which I sent to the Clerk of Court, and it
24 was sent, at the top of it it says sent Monday, June 28th,
25 2021 at 9:40 a.m. That is the small string between the

1 Court and Counsel. That will be a Court's exhibit as will
2 the email where I sent the final instructions to the
3 attorneys. It is dated, Monday, June 28th, 9:39 a.m.
4 Again, sent to the Clerk of Court where I ask her to print
5 the attached and the email string. That email outlines
6 the reasons for declining to instruct several things that
7 the Defense requested. It also explains the Court's
8 struggle with the decision on whether to charge
9 self-defense or not. Any other thoughts from the Defense
10 aside from my refusing to charge the other instructions
11 that you have offered, any other thoughts?

12 MR. BROWN: I will let Mr. Dayne handle the rest of
13 that, Your Honor, for jury instructions.

14 MR. PHILLIPS: No, Your Honor.

15 THE COURT: Okay. I know the State does object to, I
16 know the State objects to the Court charging self-defense.
17 I am happy to hear you on that.

18 MR. GRAHAM: Thank you, Your Honor. For the record,
19 I know you have already made up your decision but the
20 self-defense charge is unwarranted. It is not supported
21 by the evidence. The Defense has to show evidence of each
22 of the elements of self-defense and they have shown no
23 evidence. What they have done is ask questions and when
24 the questions were asked they were refuted by the
25 witnesses. There is nothing in the record to support that

1 the Defendant was without fault in bringing on the
2 difficulty. The only evidence is what Mr. Furtick says
3 that happened. The second element says that the Defendant
4 believed he was in imminent or actually was. There is no
5 evidence in the record on that. And, Your Honor, in the
6 email you reference the statement, the text about going
7 gangsta. The problem with that is twofold. One, the
8 Defendant didn't know about it, there is no evidence that
9 he knew about it. And second, words alone are not enough.
10 So even though you say the word, there has to be an act
11 accompanying that. There is no evidence of any act. That
12 is not warranted or supported by the evidence. The third
13 one, a reasonably prudent person with ordinary fitness and
14 courage would have entertained the same belief. There is
15 no evidence as to what he believed or thought, meaning the
16 Defendant. And also the fourth element is that he had no
17 means of avoiding the danger, of losing his life other
18 than the act that he did. He had the duty to retreat in
19 somebody's else house and there is no evidence except for
20 what Mr. Furtick said. Submitting self-defense is
21 inappropriate in this case, Your Honor. It is unsupported
22 by the evidence and it is just going to lead the jury to
23 confusion.

24 THE COURT: I appreciate your position and I do agree
25 with a great deal of what you have stated. The first case

1 and I am working off experience largely but one of the
2 first cases I tried when I became a Judge, the first
3 homicide that I tried was a retrial of a case with Judge
4 Maddox where he refused to charge a lesser included, a
5 voluntary manslaughter. And having tried that case a
6 second time I basically agreed that the voluntary
7 manslaughter charge was not warranted. But I was stuck
8 with it, the Supreme Court had reversed it, it was
9 interestingly enough, it was the trial of the father of
10 Armanti Edwards, the famous football player who was
11 convicted of murder, not once but twice. Once in front of
12 Judge Maddox and once in front of me. So as I explained
13 in the email, issue of elimination is one of those things.
14 One of the first murder cases I defended was in front of
15 Jim Johnson and ultimately he also granted my motion to
16 charge the jury on self-defense. And in that case the
17 Defendant had not testified. I attempted to present the
18 case on cross, he was satisfied that I had, in truth, I
19 think I had barely more evidence than I, then perhaps the
20 Defense has in this case. But I am looking to eliminate
21 issues down the road and this case has taken six days to
22 try and I would not like to, I would not like to see it
23 tried again simply because I neglected to charge
24 something. As I explained in the email, if the State is
25 correct and the argument for self-defense is that lacking

1 then the jury will obviously, they are intelligent people,
2 they will give it no credence. But I think it is a jury
3 issue and like I said, there is more than a scintilla and
4 less, several steps less than a preponderance of the
5 evidence as I view it. I don't know how the jury is going
6 to view it but that is their option. But I appreciate
7 your position and it is something I did struggle with.

8 MR. GRAHAM: Your Honor, secondly, on page twelve of
9 your instructions you have a section about prior
10 inconsistent statements.

11 THE COURT: Thank you for reminding me. I wanted to
12 bring that up. I was under the impression, I seem to
13 recall that maybe the, Nikki, the girlfriend of, that
14 there was some evidence of prior inconsistent statements
15 from her.

16 MR. GRAHAM: There was questioning by the Defense.
17 Again, Your Honor, I guess that is our position, that
18 there is no evidence. The evidence would have required
19 him to not only confront her with, you know, the date and
20 location, who she said something to but actually call that
21 person to impeach her. He didn't do that, he didn't
22 present any evidence, he just asked questions.

23 THE COURT: Does the Defense have a position on that?

24 MR. PHILLIPS: Just that there has been specifically,
25 that Nikki did make statements to the police and testified

1 inconsistently to it.

2 THE COURT: Was testimony about those statements
3 elicited though, the substance of those statements? I
4 recall your questioning her but I am trying to recall,
5 with the Investigator, and I left my notes here on Friday.
6 I should have taken them with me. But did you
7 specifically elicit testimony from him as to the subject
8 matter of those statements?

9 MR. PHILLIPS: You said him, are we referring to
10 Nikki Hicks. I don't want to --

11 THE COURT: -- I am referring to Nikki but I think
12 that the questions that you asked her was specific as to
13 certain statements, she had given three statements.

14 MR. PHILLIPS: The one specifically that we focused
15 on was the fact that she said in her third statement, she
16 didn't know anything about drug amounts owed. And there
17 is a text message that there is \$42 thousand on the
18 street. She denied knowing anything about the ledger.
19 That was the part of the big inconstancy that we focused
20 on.

21 MR. GRAHAM: My understanding, Your Honor, is that
22 both of the, both of the prior statements were taken by
23 two different officers who did not testify. So he could
24 not have asked those questions of those two prior
25 statements.

1 THE COURT: Right. And the investigator, when he
2 testified I don't recall --

3 MR. GRAHAM: I don't believe he was asked about it
4 and he is not the officer that took those statements
5 anyway.

6 THE COURT: Okay.

7 MR. BROWN: Your Honor, only to emphasize. She had,
8 she was asked about whether she tells them she didn't know
9 that. And she said she did, she did make that statement,
10 she didn't know it. And then later on there is a text
11 entered that says there is \$42 thousand dollars floating
12 on the street.

13 MR. PHILLIPS: Well, not just limited to Nikki, we
14 did have Investigator Griffin testify as to the Tahoe
15 doing a uey in a entirely different direction than what
16 was told to him by Mr. Furtick. And then the State, on
17 redirect, showed him a sketch and he realized that he had
18 said the wrong direction. And so he, we do have
19 testimony, the best way is, he said that the Tahoe backup
20 in this direction towards the other lot and then on
21 redirect the State shows a sketch that the Tahoe backed up
22 in an entirely different direction.

23 THE COURT: I don't know that is not, that is not A,
24 that is not terribly germane. And B, it is not a prior
25 inconsistent statement in terms of he described the motion

1 of the Tahoe to the police and then he gave a different
2 description at trial. And I don't know that that is
3 necessarily a material fact.

4 MR. PHILLIPS: Well it is if they argue that the .9
5 millimeter shell found in the second parking lot was shot
6 by Ritter because it is in an entirely different location.
7 The reason why he testified that the Tahoe backed up in
8 that location is so the passenger side of the Tahoe could
9 be in that second lot where that .9 millimeter shell was
10 found. If the Tahoe goes in the other direction then the
11 Tahoe is on the right side of the road, it is not near
12 that lot and is in an entirely different location and
13 would make sense how the .9 millimeter shell casing ended
14 up in that second parking lot.

15 MS. FULLER: Judge, if I may, I am not sure, there is
16 a lot of, of who he testified as. But just to be clear,
17 the sketch was pretrial in a Biggers hearing with
18 Investigator Morris. I don't recall, it was a long week
19 but I don't recall moving in, did I move in the sketch
20 during testimony?

21 MR. PHILLIPS: I can't remember either, Your Honor.
22 I don't want to say either way.

23 MS. FULLER: I thought that was pretrial but I will
24 stand what the record says.

25 MR. PHILLIPS: You definitely published it so I guess

1 maybe it did come in. It went up on the board because I
2 stood over there and looked at it and said, oh, great, I
3 get, he just testified to the opposite of that.

4 MS. FULLER: Okay. Well, either way I don't think
5 that would be enough for a -- statement, when the
6 statement was made through the officer and corrected
7 through the officer. And Mr. Furtick's testimony was
8 largely consistent with, once he was shown the sketch, the
9 direction of what he described initially. I don't think
10 that was a prior inconsistent statement either.

11 THE COURT: What I am curious about and I will be
12 happy to hear suggestions but the instruction that I give
13 concerning prior inconsistent statements is just the stock
14 instruction where it kind of presupposes that there is a
15 written statement or a confession or some affirmative
16 signed document or some clear statement made to law
17 enforcement prior to the trial. And then, of course, the
18 witness gets up, they get impeached with the prior
19 inconsistent statement. What we are talking about here is
20 just nuances in the testimony at trial, witnesses saying
21 something and then correcting it at trial. It is not
22 truly a prior inconsistent statement in the sense of a
23 formal written statement given to the police that I saw
24 Joe Blow, I am certain it was Joe Blow and then that
25 witness gets up and says, yeah, I'm not really sure, it

1 looks more like Joe Smith than Joe Blow.

2 MR. PHILLIPS: The only other one that I could really
3 think of was actually from the Investigator's notes. The
4 Investigator had written, no problem. Something long the
5 lines of no problems with, had any issues but that wasn't
6 her statement, that was the Investigator notes, I
7 understand Your Honor --

8 THE COURT: I think I am going to pull it, I am going
9 to pull it because it is not a true inconsistent statement
10 for what we are discussing here is not, not really
11 inconsistent statements in the traditional sense where I
12 would instruct the jury on it. So I will be granting the
13 State's request to pull that section from the charge.

14 MS. FULLER: Thank you, Your Honor.

15 THE COURT: Subject, of course, to the Defendant's
16 objection.

17 MR. PHILLIPS: Yes, Your Honor. Thank you.

18 THE COURT: Any other thoughts, typos.

19 MS. FULLER: Not on the jury instructions but I do
20 have to clear up the items and other things on the record
21 at the appropriate time.

22 THE COURT: Sure. Go ahead and do it now if you want
23 to.

24 MS. FULLER: Okay. So for the record, going to the
25 jury, the map would be just printed copies and it would be

1 State's exhibit 245. And just so the record is clear,
2 this is the map regarding, I don't think there was any
3 objection to Elzie Mack showing where he was at this time.
4 And all the other stuff with the map would just be to the
5 phones, coming to West Columbia, going back down, going to
6 Augusta and then the list summary of calling the body
7 shop. And then --

8 MR. BROWN: That number one more time.

9 MS. FULLER: 245.

10 THE COURT: Was that the one that was, it wasn't
11 introduced but I think it was already made a Court's
12 exhibit and I told you you could publish the one involving
13 --

14 MS. FULLER: Well, the entire power point is a
15 printout where they were each made a State's exhibit and
16 moved in together. We swapped them for ID.

17 THE COURT: Okay.

18 MS. FULLER: So those would be ID now, so they are
19 still part of the record in the whole and then go back to
20 the jury. If you need those numbers those were --

21 THE COURT: 236 and 238, no those were in evidence.

22 MS. FULLER: 236 would be the power point disk and
23 that was ID and then 238 would be, I guess the disk. 236
24 is the printout and 238 was the disk. Those will just be
25 ID only.

1 THE COURT: 245 will be ID only.

2 MS. FULLER: 245 will be what goes to the jury now.

3 THE COURT: Okay.

4 MS. FULLER: This will be in evidence.

5 (Whereupon, State's Exhibit 245 was admitted into
6 evidence.)

7 THE COURT: And so we are pulling the 238 and 236,
8 those are only going to be ID and will not be going to the
9 jury for the reasons that we discussed on Friday. Thank
10 you very much for clarifying that.

11 MS. FULLER: And then also for the record, it dawned
12 on me this morning. Item 225, I usually don't move the
13 record into evidence but it is. I usually just leave it
14 as ID. What is in the record is when Verizon responds,
15 they include the facts with the search warrant in it. It
16 is dawned on me this morning and so 225 will just be ID
17 now and a new copy removing the actual search warrant and
18 that item for Verizon records for Daniel Ritter will now
19 be 246.

20 MR. BROWN: Without objection, Your Honor.

21 THE COURT: 246 will be what goes to the jury and we
22 will switch 225 to ID only.

23 (Whereupon, State's Exhibit 246 was admitted into
24 evidence.)

25 MS. FULLER: We have also, just out of caution,

1 checked the ATT records and the warrant was not on there.
2 And so 226 is okay. Also the Verizon records for Rodney
3 Furtick, phone number of [REDACTED] is also a new exhibit and
4 that would be 247. The previous disk contained RTT
5 information. If we can't make them, but if the Defense
6 can sense it, I don't put it past the jury to pop it in
7 and try to make sense of themselves so we went ahead and
8 pulled the RTT and the warrants from that. And the new
9 disk for the records is 247.

10 (Whereupon, State's Exhibit 247 was admitted into
11 evidence.)

12 MR. BROWN: What was the previous?

13 MS. FULLER: The one that went in last week?

14 MR. BROWN: Yes ma'am, the number that had the RTT.

15 MS. FULLER: It will be 224, is now ID only.

16 THE COURT: 224 will now be ID only.

17 MS. FULLER: And, Your Honor, just to, the Court's
18 ruling is made but I do want to put some things, I marked
19 some things as Court exhibits because the -- I know why
20 Your Honor had to do what he did but the basis was
21 discovery violation which then goes into prosecutorial
22 misconduct. And I just do want to make a few things part
23 of the record if you will allow me for future proceedings
24 and the future of our reputation because I have never met
25 --

1 THE COURT: -- I didn't suppress it based on
2 prosecutorial misconduct, that should be abundantly clear.

3 MR. BROWN: We agree with that, Your Honor.

4 THE COURT: It is, simply was untimely. There was no
5 nefarious intent or no nefarious actions on behalf of the
6 State, it was simply the timing of the, of the thing
7 provided to the Defense. And I do not consider that
8 heading, under the heading of prosecutorial misconduct in
9 any way shape or form. And I think the Defense agrees.

10 MS. FULLER: Thank you, Your Honor, I appreciate
11 that.

12 MR. BROWN: We did.

13 MS. FULLER: What I marked as Court's number 7, Your
14 Honor, with the discovery provided on February 25th of
15 2020, the cover letter. There was an accusation that the
16 record was varying in discovery. The detail on the cover
17 letter, also a discovery letter were a few things that
18 were used in cross-examination so I do believe the
19 discovery was received. And I highlighted for the purpose
20 of the record that the CE containing [REDACTED], labeled
21 Verizon records was provided to Defense Counsel on
22 4/25/2020. Also, Your Honor, as Court's 6 is another, as
23 to discovery, dated April 8th of 2020 and the disc that
24 was enclosed is labeled the [REDACTED] and the disk was
25 labeled mobile ping. And that was provided in discovery

1 as well. Also is 8, would be, just on, whoever reviews it
2 later on, they don't have to pull too much. I printed out
3 the beginning seven pages of the RTT information that
4 shows the information and the times of the pings as well.
5 Also, for the record is Court's 4, would be the email, the
6 discovery that was sent on last Monday and in a cover
7 letter it is stated to be hand delivered and copies of the
8 presentation was hand delivered. Also I want to note for
9 the record that last week, well, now the week before, on
10 June 14th, we all, the Court and the parties had a status
11 conference on June 14th. And in that status conference
12 the Court suggested that both parties consult with each
13 other about different things that we could work out in
14 terms of stipulation. We were able to finally meet
15 virtually on June 18th which would have been that Friday.
16 And I want the record to reflect that during that meeting
17 I notified Counsel that I was finalizing the cell phone
18 map that would be used as a Court exhibit and as soon as
19 they are finalized I will get them and provide them. For
20 the record I haven't received a final copy until Saturday,
21 June 19th and it is my norm to not just turn over email
22 things without putting a page number on it. So that was
23 finally done during a break during court on Monday and
24 that is why we emailed and printed as well, hand delivered
25 it, due to I know we were in court. And so that is

1 Court's 4. Also, Your Honor, there was an indication that
2 or, it was suggested that we prevented Defense Counsel
3 from viewing evidence. And just to clear it up I have
4 marked Court's 5, which is an email from June 8th, 11:15
5 a.m., the request to review evidence. And I want the
6 Court to know that as soon as I received it, it looks like
7 I responded at 2:03 on June 8th and copied our
8 Investigator, requested Defense Counsel propose dates and
9 times to view the evidence. I want the Court, for the
10 record to be clear that since July 5th of 2018 that the
11 State has never prohibited Defense Counsel from viewing
12 the evidence. And then the response at 2:07 on June 8th
13 was sometime next week which would have led us into the
14 week of June 14th, suggesting that it was a month delay in
15 viewing the evidence and that is just inaccurate. What
16 presented a problem here is due to one, evidence custodian
17 and dealing with the death in her family. We did propose
18 that the Friday date that became a conflict because I
19 think Defense Counsel wanted to view the evidence on that
20 Thursday. That is when our Investigator coordinated with
21 the Clerk of Court to get a courtroom and set up the
22 evidence and that is why we did it on Monday during court.
23 So Court's 5 is also a record of that email chain, Your
24 Honor. And I believe that is all I needed to make a part
25 of the record. Thank you.

1 THE COURT: Very good. Mr. Phillips, you just want
2 to make a --

3 MR. PHILLIPS: -- yes, Your Honor. Our position was
4 made last week as to cell phone, RTT records. So I am not
5 going to go down that rabbit hole. What I would say, as
6 far as viewing the evidence, what Sutania said, or
7 Solicitor Fuller said is absolutely correct in a sense
8 that we were two weeks wanting to view the evidence but we
9 were unable based on, I had some direct conversations with
10 Investigator Sullivan that the evidence custodian had
11 unfortunately lost her father and was unable to do it.
12 They had another evidence custodian recently retire and so
13 West Columbia Police Department was unstable to satisfy
14 our request to go view the evidence. It turned out that
15 we eventually settled on last Thursday and then West
16 Columbia Police Department or the West Columbia Municipal
17 Court had court and so the evidence custodian was unable
18 to do it that Thursday. They asked us to do it the
19 following day. My cocounsel unfortunately had to go back
20 to Beaufort, he had come up to Columbia for a few days but
21 had to go back to Beaufort to handle matters in his firm.
22 And so we weren't able to do it that Friday. We proposed
23 maybe Sunday before and that wasn't going to work out and
24 so we all agreed to view the evidence in between the jury
25 panels, as Your Honor saw, in an email. And so we just

1 want to make that clear, that it wasn't that we somehow on
2 our end that we intentionally didn't go view the evidence.
3 We did make a good faith attempt to do it and I mean it is
4 just a lot of unfortunate circumstances that led us to
5 having to review the evidence that Monday. The only other
6 thing I wanted to bring up, I know last week Solicitor
7 Graham brought up third party guilt and I wanted to make
8 the record clear on that. With a third party guilt issue,
9 is that we are unable to raise third party guilt evidence
10 but we are making sure Your Honor, in case there is an
11 objection during close, that we are able to argue based on
12 reasonable inferences of the evidence presented, the same
13 theory that we have said from day one, in the opening
14 statement of last Tuesday. I didn't want my cocounsel to
15 start his closing, we get an objection and then, you know,
16 we are in the middle of having to send the jury out.

17 THE COURT: Well, Mr --

18 MR. BROWN: All of the arguments are going to be
19 based upon evidence. We try not to argue anything that
20 doesn't have, basis of the evidence is in. We argued it
21 in our opening and it is actually our closing.

22 MR. PHILLIPS: We are not going to present any
23 evidence obviously.

24 MR. BROWN: We are not asking for a jury instruction.

25 THE COURT: That should be, I am hearing that you

1 know where the line is and that you don't intend to cross
2 it and we are not going to be referencing anybody on a
3 grassy knoll.

4 MR. PHILLIPS: There is no grassy knolls.

5 THE COURT: Right, exactly. So long as you stay
6 within the confines of that you can argue, you know,
7 reasonable doubt can arise from inconsistent evidence or
8 the lack of evidence, whatever. But so long as you are
9 not trying to point the finger at somebody else then I
10 think you will be okay.

11 MR. BROWN: Your Honor, in our opening we did suggest
12 that you switch roles and that Mr. Ritter was the one
13 being robbed.

14 MR. PHILLIPS: With the self-defense charge I think
15 it triggers --

16 MR. BROWN: -- I do too.

17 MR. PHILLIPS: Self-defense charge in and of itself.

18 THE COURT: And I eluded to Furtick's testimony in
19 that email string that I sent you guys. So I realize that
20 is part and parcel with your defense and we will see what
21 the jury does with that.

22 MR. PHILLIPS: I just wanted to make clear on the
23 record.

24 THE COURT: Sure. Who is going to close for the
25 State?

1 MS. FULLER: I am, Your Honor.

2 THE COURT: Okay, very good.

3 MR. BROWN: I am going to do the Defense. I have got
4 a power-point that we would like, IT person is going to
5 come and hook that up and get it on the screen for me.
6 And then I will go from that when my time is --

7 THE COURT: -- why don't we go ahead and make sure,
8 because I assume you are going to have a presentation, are
9 you going to want to use that?

10 MS. FULLER: I do and ours came in and set up.

11 MR. BROWN: And I will put mine underneath here.

12 THE COURT: That's fine.

13 MR. BROWN: So my IT guy can just hook it back up.
14 And I would ask for maybe a minute to hit the restroom. I
15 am assuming we are going to argue and charge.

16 THE COURT: Correct. The jury is not due here for
17 ten minutes so I am going to go ahead and get my Court
18 Reporter to mark those email strings and the Defendant's
19 request to charge and make sure those are parts of the
20 records and we will go off the record now.

21 (Whereupon, Court's Exhibits 4, 5, 6, 7, 8 were
22 marked for identification only.)

23 (Whereupon, Defendant's Exhibit 7 was marked for
24 identification only.)

25 (Whereupon, Defense 23 is State's 222.)

1 THE COURT: We will go back on the record. I am
2 informed that the jury is here and so we will be bringing
3 them up. Bring the jury in, please.

4 MR. PHILLIPS: And, Your Honor, I incorrectly stated,
5 I said Investigator Griffin, I meant to say Investigator
6 Morris. Solicitor Fuller did correct me.

7 THE COURT: Very good. One thought, when the subject
8 of objections during closing came up, obviously I
9 acknowledge that Defense has to, under certain
10 circumstances object to something in closing like a Golden
11 Rule argument or burden shifting, things like that. But
12 generally speaking, please don't object simply because the
13 attorney is, I would ask that both sides not object if the
14 nature of the objection is going to be factual such as,
15 Judge, that is not the testimony or whatever. Obviously
16 the jury hears the testimony, they make that call. So
17 let's avoid those objections if you could.

18 MR. BROWN: Understood, yes sir. If I can move this
19 one item.

20 THE COURT: No worries. And, again, when they come
21 in I will turn to you and you can rest.

22 MR. BROWN: And we will renew our motions.

23 THE COURT: Motions renewed automatically and I will
24 make a note of that and then you can rest.

25 MR. BROWN: Yes, sir.

1 THE COURT: Bring the jury.

2 (Whereupon, the jury came into open court at
3 approximately 10:41 a.m.)

4 THE COURT: Good morning, ladies and gentlemen of the
5 jury, welcome back. I hope you had a great weekend. I
6 know I did and I am hoping that you all have rested and
7 ready to proceed further. Of course, we are still
8 involved in the trial of the case on the State versus Mr.
9 Ritter. So at this point, Ms. Fuller.

10 MS. FULLER: Thank you, Your Honor, the State rest.

11 THE COURT: Very good. All motions are, of course,
12 renewed including all motions made pretrial. And this
13 morning all objections are renewed. At this point, Mr.
14 Brown?

15 MR. BROWN: The Defense rest, Your Honor.

16 THE COURT: All right. Ladies and gentlemen, we have
17 reached that portion of the trial where you have received
18 all the evidence that you are going to have in order to
19 judge this case. And in a moment the attorneys will make
20 their closing arguments to you. I will remind you what
21 the lawyers say during their closing argument is not
22 evidence, it is simply their contention as to what has
23 been proven or has not been proven and it is very
24 customary for the lawyers to reference testimony or
25 exhibits during the course of their closings. However, if

1 at any time the lawyers say anything about the facts and
2 what they say differs from your recollection of the facts,
3 you obviously go with your recollection because you are
4 the finders of fact in this particular case, not the
5 lawyers. For example, if the lawyers were to say that or
6 suggest that yesterday was a cold and wet and windy day
7 and you recall yesterday being absolutely delightful and
8 sunny and pleasant, go with your recollection of the
9 weather as opposed to what the lawyers say because again,
10 you are the judges of the facts in this case. The way
11 that we will proceed is we will hear first from the State
12 and then we will hear the Defendant's closing and I will
13 then give you an instruction on the law. With that, Ms.
14 Fuller, you are recognized for your closing, Ma'am.

15 MS. FULLER: Thank you, Your Honor, may it please the
16 Court.

17 THE COURT: Yes, ma'am.

18 MS. FULLER: Good morning. Two men executed, one man
19 survived. Last week was a long week but that is what you
20 all listened to last week. You heard about Samir Atkins
21 being executed, single gunshot wound to the back of the
22 head. You heard about Elzie Mack being forced to lay
23 down, gunshot wound to the back of the head. And you
24 heard about Rodney Furtick and that gun clicking. You
25 heard from Rodney Furtick. He relived probably the most

1 traumatic experience of his life last week. He shared
2 with you the details of what happened and the evidence
3 that you all will get clearly lays out what happened that
4 day. What that man, that man, Damien Ritter did. Damien
5 Ritter, cousin with Samir Atkins, that's an evil hearted
6 man, cold blooded man, ill heart. Throughout this trial
7 you heard a lot of questions posed. Questions are not
8 evidence in this case and the Judge will charge you on the
9 law. You heard from so many witnesses. As the fact
10 finders and that is what the twelve of you, the twelve of
11 you are, you are the fact finders in this case. You all
12 get to say what the facts are and that is based on your
13 recollection of the testimony, the credibility and the
14 believability of the witnesses, that is yours. All of you
15 were paying attention despite how long it was. You waited
16 a bit too but you paid attention while you were in there.
17 When you go back and deliberate I want you to remember
18 everything you heard from the witness stand, everything
19 you saw and make a decision to find that man guilty and
20 hold him responsible. Some of the questions posed could
21 be considered smoke. Ignore the smoke, focus on the
22 facts, okay. Ignore the smoke, don't let it burn your
23 eyes. When you go back take time to let it clear out and
24 focus on the facts. So how did we get here. How did we
25 get here. Because of that man's greed, because of his

1 selfishness. Throughout the trial you saw messages. In
2 openings you heard that those messages that proved that
3 Rodney is the aggressor. You didn't see that because they
4 don't exist, simply they don't exist. On July 3rd you saw
5 that message; I got your money, bro. July 3rd, Damien's
6 message to Samir. Samir's response; Cousin, Cousin,
7 Cousin. Where is the threat. It can't even be inferred
8 because it doesn't exist. Damien says, what's up bro. He
9 says, you on the way. No, not yet. He says he will come
10 in the morning. We know that didn't happen. He didn't
11 come. By the end of the 4th, Samir tries to call him, no
12 answer. This is his cousin. You saw messages between
13 Rodney and Samir. He testified saying that his only
14 reason going there that day was to return a phone. You
15 had the message in the phone records, in the phone
16 extractions. They talk about the phone on the 4th. Samir
17 says, whenever you come out this way. You heard Rodney
18 testify. He said he lives in Richland County. No rush.
19 That's the 4th. So now let's talk about the 5th. This
20 all starts with Damien Ritter leaving his house on July
21 5th at 11:39 a.m. You saw those messages. Damien didn't
22 even tell Samir he was coming. He didn't call saying I am
23 on the way. Nothing. He gets in the car and drives an
24 hour and 45 minutes, nearly two hours and doesn't tell his
25 cousin he is coming. How does that make any sense. Who

1 does that. Someone with their mind made up. He leaves
2 his house, you saw the footage and the still shots wearing
3 a red t-shirt, black shorts, Jordan 14's and he had a saw
4 in his hand, a handheld what, a circular saw. What do you
5 need that for. You saw the maps and I will show them to
6 you shortly. He leaves Estill, this is, the testimony of
7 the agent is the last time the device connected to a tower
8 in Estill is 11:39. We see him leaving his house on the
9 DVR time, 11:39. So let's say he stopped somewhere on the
10 way. Travel time, we give him an extra 20 minutes based
11 on when we know he got here. Did he go to a job site, no.
12 What do you need the saw for. He has made up his mind he
13 is going to take that safe. He had been there before, you
14 heard the testimony. He knew there was a safe in that
15 house. You heard Rodney testify he called Samir before he
16 got there because he didn't see his car. You got the
17 records that call, that last call was at 1:51 p.m. Where
18 is the plan, where is the conversation that my cousin is
19 coming to show that Rodney is some aggressor. It doesn't
20 exist. When, how, why, why. By 2:00 o'clock, plus nine
21 minutes later that man called his cousin from a number he
22 had never used before. You saw the records and you have
23 the records. A 305 number, a Miami area code, that is not
24 South Carolina. What does he need that for. Samir
25 doesn't answer and Rodney's testimony is, he says he

1 didn't know the number. The number called back, called
2 back at 2:01:24 and then by 2:08 pulling up. During
3 Rodney's testimony he says the cousin comes in, they dap
4 each other up, what's up, whatever the exchange, they sit
5 down. And then Samir and Damien go into the kitchen.
6 Shortly after you hear the gunshot. We know that Elzie
7 was pulling up shortly after 2:13. You saw the footage
8 and I'll show you the still shot again. So that means,
9 that means Damien stayed in that house from anywhere from
10 three to five minutes after Samir had been killed. What
11 was he doing. He was doing exactly what Rodney said he
12 was doing. What else was he doing. If this was some type
13 of accident or self-defense, get out of there, what are
14 you still doing in there three to five minutes, what is
15 it, Rodney's gun in the car. The master plan, why would
16 Rodney leave his gun outside. He is able to carry it.
17 There is that saw, there is that Tahoe and it is the last
18 time you ever seen that Tahoe. Never recovered. You
19 heard the DMV's custodian's testimony. The tags were
20 still on it expired, still expected to be out there, never
21 returned, never turned in. This is your last footage of
22 seeing Damien Ritter's Tahoe. Here is that map I told you
23 about. You see him traveling up, that is a man on a
24 mission. Who does that. No phone calls; no, hey bro, I'm
25 coming. No, hey cousin, you still home. It didn't

1 matter, his plan was all wrong. And here we go, just what
2 I talked about. That 305 number. The first time it
3 appeared. Who is up to what. Every other time he talked
4 to his cousin it is on that [REDACTED] number. Now all of a
5 sudden he is on a [REDACTED] number the day this happened, 15
6 minutes prior to the 911 call. How does that make any
7 sense. There we see Elzie, 2:13:05. I bet you can't help
8 but wonder, Elzie got a flat tire or he got stopped at a
9 red-light. Elzie walked in on a situation that he had no
10 part in. Wrong place, wrong time. You got to wonder if
11 10 seconds would have made a difference for Elzie. And
12 then you can't help but wonder, the last thing that Elzie
13 saw was Samir's body. You saw the first body cam footage.
14 Samir's phone, not Samir, I apologize, Elzie's phone right
15 there. He placed it where he laid. And you heard Rodney,
16 he said all he heard was, I am getting down, I'm getting
17 down, I'm getting down, I'm getting down. And you heard
18 the testimony that projectile is still in his wrist. So
19 for the entrance wound to be here, the exit wound to be
20 here based on Dr. Ross' testimony, he laid and turned to
21 his friend, that is the last thing he saw on this earth.
22 And Elzie didn't have it like Samir. You heard Dr. Ross'
23 testimony. For Samir, Samir could have been on the
24 operating table, it wouldn't have made a difference.
25 Elzie, you heard the first responder's testimony. He was

1 still breathing. What does that mean. He didn't care, he
2 didn't care. Three to five minutes, get out of there.
3 Why are you still trying to hurt people. Leave. It is
4 not even your house, you have no right to defend nothing.
5 I apologize for the double negative. You have no right,
6 none, none. Then we see Rodney. This was, asked Rodney,
7 how long was he on the ground. I bet if he really -- it
8 felt like an hour or two. Probably the longest three to
9 five minutes of his life. That like is asking, what is
10 the procedure with a gun at your head, what is it. What
11 are you suppose to do, check your watch, check the time,
12 what are you really suppose to do. All he knows is what
13 he heard and what he saw. That is all he knows. He heard
14 him say, get the phone. He assumed the phone was there
15 but so what, he had a gun to his head, he was forced to
16 lay by his friends and then he sees another one simply
17 say, get down, get down and he hears the gunshot. And who
18 has the gun, him, Damien Ritter. He testified he followed
19 the car trying to get the tag but all he can see is going
20 down Airport. So he turns around to try to get help. And
21 you heard Joe Putney's testimony. Look back at those
22 maps, he said there is a clearing. Rodney couldn't even
23 tell you what the lane closure looked like. Surely you
24 would remember, arrows, ignore the lanes, flashing lights.
25 No, he couldn't even remember, almost three years later.

1 He has no memory of it, he was just trying to get help. I
2 submit to you when he was driving on that Glenn, it
3 probably caught his eye. He was trying to get help.
4 2:15:50, you see him going by. You know the 911 call was
5 at 2:15:54. You see the Tahoe heading towards I-26 on
6 Airport and later catches running the red-light. The
7 red-light time, slightly off, you know, because Mr -- is
8 prior to getting to the intersection of I-26. But he is
9 on that camera at 2:16:04. We know Rodney pulled into
10 that lane closure because Ashton Miles, who doesn't know
11 Damien, doesn't know anybody in this courtroom, he doesn't
12 have a dog in this fight. He testified, he said he sees a
13 car pull into the lane closure. That is, hold up,
14 something is going on. And he says he got someone else to
15 bring their phone and then he called 911 or called a
16 non-emergency line for him. And then he testified that
17 Rodney pulled off when the police were going by. So what
18 was Rodney doing for five minutes, getting help; barely
19 five minutes, probably three to four. The testimony says
20 it takes about a minute, 14 to get back to the crime
21 scene. Then you heard Chris Morris testified that he
22 requested an emergency ping once they knew Rodney's phone
23 was missing. At 2:17 where is his phone pinging, down
24 I-26 and you saw the map. Who else is going on I-26,
25 Damien Ritter. And then you finally see at Samir's

1 apartment at 2:21:10. So when you say what was Rodney
2 doing during that time, getting help. And then on the
3 dispatch audio.

4 (Whereupon, audio plays for one minute.)

5 MS. FULLER: It is on the dispatch audio back to
6 back. A woman screaming on the line and if she is able to
7 give out a vehicle description because Rodney made the
8 call right away. Don't get distracted by smoke screens
9 and questioning, what was he doing for three to five
10 minutes, where was he. He was right there with Ashton
11 Miles. There you see Damien's car speeding by and Rodney
12 going back. Rodney is the aggressor. Why go back to the
13 scene, who knows you are there. Because of his friend, he
14 didn't even know he was shot. He doesn't know when he got
15 shot. We asked Dr. Ross, he didn't come down here -- no
16 matter how many times you ask Rodney, when you got shot,
17 how did you get shot. Asked him several times on that
18 stand. This is important. That Miami area code number.
19 No longer in use. Why. Because it is just killed two
20 people, that's why. Trying to get rid of any connection.
21 2:48, coincidence, no. It looks like from here, he hangs
22 out around here for a little bit. But you see calls
23 pinging in this area for an extended period of time. But
24 then he eventually travels back on hitting a tower at
25 5:21. And this is Damien. No Tahoe, phone, no red shirt,

1 where is it, looking disheveled. 5:30. Now this is
2 suppose to be a man in fear, it isn't fear of nothing. He
3 is there concerned about getting another phone number.
4 And you can tell this is his [REDACTED] number because this is
5 his record right there and the time matches up
6 identically. That is what he is doing, that is what he is
7 concerned about when his cousin is dead. Five hours later
8 this is what he is doing. And there are those other two
9 phones in his hand. Now we played this, it went by pretty
10 quickly. I want you to pay attention to this. Watch
11 Damien walk, look at what is around his neck and then
12 watch his pocket. You will have the disk back there. You
13 remember this message from the trial. He said he had to
14 borrow gas money to make sure whatever, but he had to
15 borrow gas money, he said he didn't have the money. That
16 is how you interpret that.

17 (Whereupon, a disk was played for the jury.)

18 MS. FULLER: Watch his pocket, watch his hands.
19 Y'all have been to the bank before. Car keys, no Tahoe.
20 Pocket, we call fat pocket. And watch the money that's in
21 those pockets. Then watch how thick he had to hold the
22 money. I submit to you that is a stack of money, stack,
23 stack. You all have been to the bank, you can take your
24 commonsense in there with you. How much money is in
25 Damien Ritter's hand. But he had to borrow gas money. He

1 pulled up on a scooter. And then the last time we see
2 Damien on the 5th is at 9:18 p.m. riding off with a bag on
3 a bicycle. And so we know he is coming and going but the
4 camera doesn't catch all of this. We know he got back
5 some how, we know he left out some how. He took a shower
6 and he changed again. But we know he left here that night
7 and traveled out of the state to Georgia. And while in
8 Georgia he eventually stopped using his phone. And you
9 will see when we published the phone number from the
10 insurance paperwork, from that we know he had this phone
11 for at least three years because the day after this
12 happened he stopped using that number. Why. He didn't
13 have any fear when he committed these crimes. He had fear
14 this day being caught. And then while he is in Georgia
15 that is all he was concerned about. Something happened to
16 his car. It happened exactly how Rodney told you it
17 happened. Why else would a man be up at 7:00 o'clock in
18 the morning calling all of these places. Now the law.
19 The Judge is going to charge you on the law and whatever
20 he says is the law of the case. Okay. Damien Ritter is
21 charged with two counts of murder. The unlawful killing
22 of another person, in this case he has two counts. Samir
23 Atkins and Elzie Mack. They should both still be here.
24 Someone's greed cost Elzie and Samir their life. I submit
25 to you that we have proven this to you beyond a reasonable

1 doubt. And I will go into that in a little bit. We have
2 to prove by law the statute and this is part, this is the
3 statute, every element to you beyond a reasonable doubt.
4 And I submit to you we have met that burden. We have to
5 prove that, that is done with malice either expressed or
6 implied. Malice, hatred, ill-will, hostility towards
7 another. Shooting someone in the back of the head,
8 malice. Shooting another in the back of the head, malice.
9 Intentional wrongdoing without any cause, that is evil.
10 Not only shooting Elzie but making him lay on the ground
11 and to look at his dead friend. That is evil, that is
12 coldhearted. Attempted murder as to Rodney. Simply
13 putting the gun on Rodney and pulling the trigger is
14 enough. And then you do it after you have just killed two
15 people. That is malice. Order him down at gunpoint to
16 lay there, that is evil. Armed robbery. You have to
17 prove, we have to prove by statute that Damien Ritter had
18 a weapon. A deadly weapon is considered a gun and the
19 Judge will charge you on that as well. To take from a
20 person. Now this is important. Part of the Judge's
21 charge is what we call direct and circumstantial evidence.
22 The law gives no greater weight to one or the other. So
23 circumstantially you go home, you go inside and when you
24 go inside it is dry. The grass is dry, the driveway is
25 dry. And you go back out the grass is wet, the driveway

1 is wet. You dare anyone to question you if it rained or
2 the sprinklers came on. You know something happened, you
3 can use the facts to link it together. There is no
4 greater weight. You have your common sense. So here we
5 know a safe existed, we know that Rodney's phone existed.
6 We know that the safe had 15 minutes. The exact number,
7 from day one you heard Nikki Hicks tell the police by 4:00
8 the next morning that there was a safe and it probably had
9 guns, drugs and money. She didn't hide that. From day
10 one, 4:00 on July 5th she told the police that Samir was
11 dealing drugs. Now, drug dealing. You expect to find
12 drugs to sell in someone's home that is drug dealing. You
13 saw the pictures of the amount of drugs that were found in
14 the house. I submit to you that that is solely not enough
15 to sell in the amount of drug dealing we are talking about
16 here. Okay. The safe, law enforcement noticed the
17 impression. Nikki knew it was there the day before, it
18 was not there after. Rodney's phone pinging down 26. It
19 was taken, period, by means of force, threat or
20 intimidation. You heard the testimony with the intent to
21 deprive, never got back. Kidnapping. Unlawfully seize,
22 confine but all it simply means is to hold someone against
23 their will. Another person by any means and you heard the
24 facts. I submit to you that we have proven every element.
25 And without authority of law simply means you have no

1 legal right to hold someone, to confine them. Now, the
2 Judge is going to charge you on the law of self-defense.
3 Self-defense law is important. Okay. It is an and
4 statute, not an or, or and law. So that means each
5 sentence is adjoined by an and. So that means every part
6 before and after the and has to be met. We don't have
7 that in this case. If you exclude one it is done, you
8 don't even have to look any further. And to consider
9 self-defense it has to be based on the facts in this
10 testimony that is presented, not questions. There isn't
11 any inference from what was presented, that self-defense
12 exist in this case. Shooting someone in the back of the
13 head, there is no danger. That is a cowardly move. So
14 the Defendant has to be without fault in bringing about
15 the difficulty, without fault. That means he can't go to
16 another man's home with a gun. That means he can't have
17 started the issue. So when he goes in with that gun, ask
18 Samir to go to the kitchen and pulls the trigger, there is
19 no difficulty there but what he brought on. So it is out.
20 So there you can stop but we will go through them. He
21 must actually believe he was in imminent danger. There is
22 no evidence or testimony of that whatsoever. They posed
23 questions of a text chain and a name that Samir saved in
24 his phone and a group chat. Remember that. So then when
25 we moved it in and published it, they are talking about

1 flipping houses. There is no message about armed robbery.
2 There is no message about a plan and that was a week
3 prior. They are talking about, we got to make sure the
4 repairs don't outweigh the home value. That is not
5 talking about a robbery. And even if he didn't know about
6 those messages, they want to talk about Nikki's message
7 where she testified that Samir was frustrated with Damien
8 for not paying him back his money. The conversation about
9 the money begins around that June 21st date, well prior,
10 well prior. So then the text message between a boyfriend
11 and a girlfriend, he didn't know about it. One of
12 frustration. You have the messages between him and Samir,
13 cousins. No, I am going to hear you, it doesn't exist, it
14 doesn't exist because it didn't happen. So that is out.
15 The next one is automatically out if it is based on his
16 belief. There is no testimony or evidence of that. And
17 the last one, no other probable means, he was in another
18 man's home, he didn't have to be there, he shouldn't have
19 been there in the first place. He had the duty to leave
20 another man's home. So self-defense is out. Now when we
21 talk about beyond a reasonable doubt, I have to prove the
22 elements to you beyond a reasonable doubt and then
23 disprove self-defense. Beyond a reasonable doubt is not
24 proof beyond all doubt, it is proof that leaves you firmly
25 convinced that Damien Ritter did these things, firmly

1 convinced. As he sits there, it is our burden, he sits
2 there with the presumption of innocence. It is like a
3 robe of righteousness cloaked over his back the entire
4 trial no matter what has been said, no matter what the
5 evidence shows. He is presumed innocent. Our burden, he
6 doesn't have to say a word, okay. The only people that
7 can remove that cloak from his back are you twelve. You
8 are the fact finders. You are the fact finders. On July
9 5th of 2018 Damien Ritter had no regard for human life.
10 In fact you heard his voice when asked what happened. He
11 described it as he got in trouble. No, he killed two
12 people but all he could say is he got in trouble. Got in
13 trouble, remember this. Right is right and wrong is
14 wrong. And he was wrong July 5th. Samir Atkins, Elzie
15 Mack and Rodney Furtick are entitled to justice. And I
16 ask the twelve of you, when you go back and deliberate, I
17 ask you to clear the smoke, I ask you to seek justice, a
18 just verdict in this case and find that man guilty on all
19 counts, on all counts. I can't get back up here, no clue
20 what they are about to say. Remember things as you
21 remember them. Remember things how you remember them and
22 find him guilty. Thank you.

23 THE COURT: Thank you, Ms. Fuller. Mr. Brown, you
24 need a moment to set up.

25 MR. BROWN: Just one second, Your Honor.

1 THE COURT: Sure, by all means. Let me know when you
2 are ready.

3 MR. BROWN: May it please the Court.

4 THE COURT: Yes sir, you are recognized for your
5 closing, Mr. Brown.

6 MR. BROWN: I don't know my gangster. We are about
7 to find out. Yes, he really is the hard way because on
8 July 5th, 2018 Samir Atkins texted Damien Ritter and told
9 him to come that way. That's Agent Wasiak, from his self
10 phone extraction entered into evidence by the State. July
11 5th Samir Atkins texted Damien Ritter and told him to come
12 that way. Damien asked, are you working today. That was
13 at 10:15 on July 5th. After that text Nikki left.
14 Furtick arrived with the red bag and an AR-15. Nikki said
15 that wasn't there, she didn't see it when she left. Now
16 at the beginning of the case we told you fear is not
17 malice. We asked, why would a victim lie. We suggested,
18 you consider three things. Credibility, responsibility,
19 excuse me, reliability and duty. Now, I am going to walk
20 through these with you and each one of those different
21 topics. So credibility, presenting a gun, that shows
22 Damien was being robbed. I will go through actual
23 evidence, each of these things. All of that is up here
24 for you to read. Having shows he was not at fault in
25 bringing on the difficulty. Rodney Furtick's testimony

1 doesn't match the evidence. Mr. Phillips said that is
2 disconnect. That is what proves a lack of credibility.
3 What are we going to talk about first, Atkins got the
4 text, they are in evidence for you. The testimony from
5 the agent is the testimony you can replay. Look at the
6 times on this. We have got nearly an hour going through
7 this conversation and how does this end. This is just
8 frustrating chatter. All I need is my aunt's address.
9 That is not frustration, that is plain. June 18th, 2018.
10 That is before any text about I don't have your money,
11 that is before any text about I do have your money, that
12 is before the July 5th text where Atkins says, head this
13 way. Not at fault in bringing on the difficulty, here we
14 are. Told him he was not working that day. He hadn't
15 told him he had lost his job, Damien is the one that
16 asked. You are not working, Damien didn't know that. And
17 a gun was hidden. Remember this is the gun he kept hidden
18 in the air vent. Remember the regular phone and the work
19 phone. Remember the regular guns, the show guns,
20 collectible guns, remember the work gun. Remember Nikki
21 said he didn't carry a gun on his hip all the time.
22 Remember Mr. Furtick testified he didn't see the gun on
23 Samir's hip until he saw Samir greet Damien Ritter and go
24 into the kitchen. Nine cell phones in the house,
25 \$42,000.00 dollars on the street to collect. Why would a

1 victim lie, he did not bring the red bag over there. Ms.
2 Hicks said she had never seen the red bag, doesn't know
3 where it went. Denied placing the AR-15 under the bed, he
4 says the gun wasn't kept there. Y'all heard the
5 testimony, you can replay it. Never brought up the safe.
6 Mr. Furtick gives his testimony, he told you he assumed
7 the safe had been taken, he admits he didn't see it there
8 that day. Nikki is the first one that brought up the
9 safe, the first time she was told he was killed. Why
10 would a victim lie. Told the police he heard a second
11 suspect, there is a description of this person ever given?
12 We hear this five minute struggle now. No description of
13 the second suspect at all. Told the police Damien and the
14 second suspect traded guns. That was the first testimony.
15 Here, you take the gun and hold it on him. Testified at
16 trial there must have been a second gun but that doesn't
17 make any sense because the first gun jammed. Tells the
18 police the gun jammed. Testified at trial two guns
19 jammed. Testified two people had to carry the safe, that
20 is what Atkins told him, that it took someone else to help
21 him move the safe in there. He has never heard about a
22 dog, now we see the crush marks in the carpet where the
23 safe supposedly was. This safe, I mean this kind of safe,
24 that safe right there, not a safe you are going to pick
25 straight up. Where are the drag marks, where are the -- I

1 submit it is just difficult to get a safe of that size
2 pulled out of that small closet cubicle and even turn down
3 the hallway at all. Told the police, assumed they got the
4 safe. Testified he never saw it, testified he was the
5 first one out of the apartment. Shoved the cousin into
6 the second person is what he said. That is when he ran
7 out the door. And he says he is digging in the glove box
8 the whole time. But where is the second person running
9 out and where is the second. And if the second person had
10 already gone out with the safe, and the alleged third
11 person, where is the second person running back in. And
12 then who is holding them at gunpoint after they traded the
13 guns or they both have guns or the two guns jammed. Never
14 saw any second or third suspect. Shots fired inside,
15 let's talk about that. At least three, if not four,
16 according to Dr. Ross. We have Samir Atkins being shot,
17 we have Elzie Mack being shot; we have Mr. Furtick being
18 shot. Now, Furtick says at least three shots. He says
19 that at the beginning, that is the first thing he told the
20 police when he gave that first interview, three shots
21 fired inside. The third shot was fired after he pushed
22 cousin to the second suspect which is why it is hard to
23 explain because, because his gun had already jammed which
24 is when the second gun appears. Shots fired outside,
25 shots and never says one shot is fired, now it is

1 convenient to say one shot because they have one old bent
2 casing. Two casings found inside, they don't disappear.
3 Someone policed the brass and for anyone who doesn't
4 understand, somebody went and collected the casings. Two
5 casings they didn't get, rolled up underneath, near the
6 counter in the kitchen. One casing found outside old and
7 bent on the opposite of the car from where they said
8 Damien got in. And we heard testimony. First testimony,
9 the Tahoe backed out and did a complete U in reverse into
10 another parking lot, thereby placing the passenger side
11 closest to Mr. Furtick, shots could be fired. But Damien,
12 when he is corrected, officer admits that is not what it
13 was, Mr. Furtick agrees. The car backed into the road,
14 the passenger side across the street. Shots were fired
15 from the passenger side of Damien Ritter, that shell would
16 have projected in the other direction and not that way.
17 Furtick's .40 caliber shells were driving over by him. He
18 parked in the general same parking spot. And I know, we
19 tussled about whether it was exactly in the spot or turned
20 a little bit or who had backed it out. But you have at
21 least two photos of two locations after he returned. The
22 shell casings are listed underneath the car. They have to
23 back them up to get to those casings. He backed up and
24 drove off, he drove back in and he backed it up again.
25 The casings were driving over. Now, unable to say fired

1 from more than one gun. Because we know there is one
2 handgun missing, the gun in that holster. The other gun
3 that is there, AR-15. Furtick says one gun jammed, no
4 unspent rounds, no unspent rounds cleared from the jammed
5 gun. Medical testimony again. Dr. Ross, at least three
6 if not four shots fired inside. Bullets fly straight,
7 spatter follows the bullet. Now, Furtick told police,
8 Mack was laying, shot while laying down. No spatter
9 following the bullet direction on the floor. And no back
10 spatter. We have an officer to testify that you get back
11 spatter from high velocity travel of a bullet when it
12 strikes a person, no back spatter in the floor. No
13 stifling indicated at close range of a shot to Mr. Mack.
14 Mack just happened to walk in at the wrong time, both of
15 us agree to that. Gave Damien the chance to run for his
16 life. Now, this is interesting. Dr. Ross says three
17 shots and I am not going to have my law clerk lay down and
18 I am not going to do it either. There is some way that
19 you can contort your leg that an entry wound goes into
20 another part of your body without an exit. The other leg
21 is bent up too. We talked a lot about that and you heard
22 suggestion but not medical testimony that it wasn't a
23 through and through because the fragment, the projectile,
24 not found in the home still remains in Mr. Furtick's leg.
25 No medical testimony about that. Mr. Furtick didn't

1 testify to that. And how about this exhibit. Never
2 mentioned, not even seen by being a defense lawyer, we
3 didn't catch this until we were going over the case. See
4 what is on the back of Mr. Furtick's pants, that is an
5 exit hole or an entrance hole. The same bullet that
6 struck him in the leg is not the same one that struck him
7 in the but. Four shots fired in the house. Four shell
8 casings. Tunnel vision, let's start with what was stolen
9 and this is responsibility. Because credibility was
10 regarding their evidence. Responsibility, law
11 enforcement, we talked about it, complete and thorough
12 investigation, witnesses and collected analyzed evidence.
13 What was stolen, who touched what evidence, who had the
14 motive. Arrest warrants said cell phones cross-examined.
15 Cell phones stolen from Atkins, Mack and Furtick. Atkins
16 and Mack's cell phones are in evidence, arrest warrants
17 said safe. Inexplicable how the safe was taken without
18 being seen. We can figure out it is hard to take the
19 safe. We can figure out two people could have taken. How
20 was none of that seen. How are there no roll marks on the
21 carpet from the dolly. You heard the prosecutor say, hard
22 to move when she tried to move it out of the way. I put
23 it there so I wouldn't fall over it. Arrest warrant said
24 \$5,000.00 dollars. \$5,000.00 dollars was with Nikki and
25 the charger 13 days later. She is making that much money

1 in 13 days. She told them, Samir's money, I didn't know
2 it was in there, it must have been left in there. We know
3 it was left by July 5th, Samir was not alive. She is
4 making that money, that is \$130 something thousand dollars
5 a year at that rate. Where were the drugs. If that is
6 what kind of money she was making in 13 days, that is
7 where the drugs are. And from that point, remember, Mr.
8 Ritter told Mr. Atkins that he had the money to pay on
9 July 30th. They are robbing him. In the robbery, he has
10 still got that money in his pocket. The money he owed Mr.
11 Atkins. Those saws getting into that safe. everybody
12 knows that, there is no saw that will plug into the wall
13 that is going to cut that safe open. Guns and drugs in
14 the apartment and in the Dodge Charger with Nikki. Those
15 are the items that were supposedly in that safe.
16 \$5,000.00 dollars, drugs and guns. She told you that. I
17 am going to tell you this. Five pounds of pot, hand guns
18 and money, that is a tight fit in that safe. I don't know
19 that was really what was ever in there. The indictment
20 only says safe and personal items now. Remember, what we
21 did previously, I went through what was in the arrest
22 warrant. Now, this is important because you are going to
23 have to make a unanimous decision as to two things. Was
24 there a robbery and a safe for Mr. Atkins that included
25 personal items. Was there a robbery of Mr. Furtick's cell

1 phone. Two different verdicts that you will have to make.
2 The indictment only says safe and personal items, does not
3 say what personal items. So we have a safe and personal
4 items. The only thing we know is it says there was
5 generally speaking where guns and drugs and money in that
6 safe and then later she says she has got Samir's gun in
7 glove box with the \$5,000.00 dollars and some small amount
8 of drugs. Cell phones, nine found in the home, two belong
9 to Mack, three belong to Atkins, four belong to, don't
10 even know whose those are. How did we get a description
11 of the phone Mr. Furtick lost. Did he give you a serial
12 number, tag number, model number. Do we ever hear
13 anything about -- how do you describe what phone was taken
14 so I can go look for it. iPhone, Samsung, no idea. We
15 know there is a text message. That was checked the next
16 day. Three people did not rummage through the home and
17 leave money in the pocket, guns all over the home, drugs
18 in a drawer, take Rodney Furtick's cell phone. Nobody did
19 it, even though Samir was working or not. Who touched
20 what in the home. Responsibility, this is what we won't
21 ever know. Our responsibility is the State's
22 responsibility. Fingerprints, touch DNA, closet door
23 handle, red bag, AR-15. There is a closet, you see the
24 shelf, claim the safe was down underneath the carpet, no
25 drag marks in that floor. That is the way they claim they

1 found it, they haven't even picked up the carpet. Look
2 for yourself. They have crushed carpet where the safe
3 was, where is the crushed carpet from pulling it out.
4 There is the red bag, unzipped, not in evidence. Tan and
5 black duel drum magazine, fits an AR-15; tan and black
6 AR-15 in the girl's bedroom. All right. Fingerprints and
7 this is good because fingerprints and touch DNA are good
8 culpable for each other for forensics, taken from smooth
9 surfaces. Collected from two cars in the parking lot at
10 least. None taken in the home. Smooth surfaces,
11 magazine, AR-15., maybe the holster, the closet doorknob,
12 smooth surfaces. All right. We know who sat there.
13 Every box had a gun accounted for, the holster had a gun
14 in it. The air vent box for that gun, two boxes with guns
15 in them in the kitchen. AR-15 goes in the red bag, empty
16 holster where Mr. Furtick was. Everything else on that
17 table, cell phones, both of Mr. Atkins, most popular
18 phones, the personal phone and the work phone; lighter,
19 marijuana grinder, wrapper to put marijuana in; a scale, a
20 cup still stationed on top of -- a plastic cup where
21 marijuana is shaken they say, a cup you could just knock
22 over. If you open the door the breeze might knock it
23 over, still sitting there. Everything on that table had
24 been used. Ashtray, broken, look for yourself. Nothing
25 that wasn't being used is on that, a holster, nothing in

1 it. Touch DNA, surfaces, last for a long time, again
2 identifies who touched what. They attempted this only on
3 the shell casings. So they did touch DNA on a smooth
4 surface, none taken from an AR-15, drum magazine, the
5 holster, closet door or the red bag. Law enforcement
6 couldn't understand Mr. Furtick's story. Now it was
7 suggested that we said Mr. Mack was involved. That is not
8 correct. Law enforcement swore after five interviews, two
9 with Mr. Furtick on the 6th; one on the 5th with Mr.
10 Furtick; one on with Ms. Hicks on the; excuse me. One on
11 July 5th with Mr. Furtick; one on July 5th with Ms. Hicks;
12 one at the hospital on July 6th, Mr. Furtick, one after he
13 left, the police station with Mr. Furtick; one with Ms.
14 Hicks, law enforcement swears Mr. Mack was involved. The
15 story doesn't make sense. This is after 14 officers went
16 through the house, two suspects, now they say three
17 suspects. Law enforcement kept posing alternate versions
18 as we went through. So they present their evidence and we
19 would cross-examine. And then on redirect, could there
20 have been three people that did this. One gun or two
21 guns, semiautomatic or a revolver; first time we ever
22 heard about a revolver, 34 months later here in trial.
23 Never tested the blood on Mr. Furtick's shirt. Remember
24 we talked about blood spatter. Never entered the gun case
25 in the air vent into evidence. Never entered the AR-15 or

1 drum magazines more than one into evidence. Never entered
2 the holster into evidence. Never told you about the
3 \$5,000.00 dollars on Nikki or the guns and drugs. They
4 brought up a revolver, never mentioned any evidence or any
5 statements. Brought up a .9 millimeter in the parking lot
6 and says shot from a different place. The car pulled out,
7 Mr. Ritter runs on that side of the car, on the even
8 number side of Glenn Street. The casing is found on the
9 odd number side of Glenn Street in the parking lot next to
10 the complex, corroded and bent. It is in evidence for you
11 to look at. They brought up a third suspect not even
12 supported by Furtick's statements. And here is the third
13 suspect, can't tell you what the third suspect said, did,
14 white, black, male, female, nothing, a ghost. They
15 brought Nikki in to look at the safe, you didn't see her
16 reaction when we had it. And what did she tell us. That
17 is the safe, the same kind of safe. It has got a sticker
18 on it, exact model, same model, not the same one. All
19 right, you are to apply the law to the facts and the Judge
20 will talk about self-defense. So let's talk about this
21 for a second. Rodney Furtick and Samir Atkins were at
22 fault in bringing on the difficulty. They were the
23 primary aggressors, going gangsta the hard way. Now, they
24 had common interest; guns, girls and making money. And we
25 would agree, unlikely Mr. Furtick was using the drugs

1 because of his military service and I am not going to
2 suggest he was taking a fake urine that he had in the
3 corner. But I will suggest he had interesting guns and
4 making money. And that is also what Samir was doing.
5 Nothing about Damien Ritter coming to buy guns. The thing
6 about Damien Ritter buying cocaine, trafficking, weight,
7 while powder substance in the house, hidden. Guns from
8 the gun guy, had they hoped doesn't kill them. Now, and I
9 want to go back for a second. We talked, they talked
10 about a motive. Mr. Ritter was broke. Mr. Ritter says he
11 don't have gas money, that is on the 21st of June, July 30
12 he says I have. Don't confuse those dates. He tells them
13 that. He tells them, I don't have your money yet, I
14 hadn't sold the marijuana. Now, competing motive. Mr.
15 Ritter didn't know Mr. Atkins was off work. So we are
16 suppose to believe that he is going to drive up for a
17 short term gain of one robbery. The very guy that keeps
18 him in the marijuana selling business. Where is the long
19 game on that. He is calculating as their long game. He
20 contracts, Mr. Atkins has to collect his debt. He has
21 \$42,000.00 dollars on the street. What happens to a drug
22 dealer that can't collect his debt. He has already
23 fronted the drugs. He has to make sure people stay in
24 line. We are not saying that Mr. Atkins was going to have
25 Mr. Furtick shoot him in back of himself, it was a

1 robbery, it is a robbery that went bad. They are just
2 going to show Damien that he had to know, rough him up,
3 keep him alive to deter other people from not paying. You
4 got go gangsta on him the hard way. Which one of those is
5 the real motive. The short term gain or the longterm
6 play. That is the real motive. Holster gun is missing,
7 AR was moved and an ordinary person would have felt
8 threatened if somebody pulling a gun on you. And how do
9 we know this, Atkins was armed too, only saw the, only
10 sees that gun on him when Mr. Ritter is there. All right.
11 Mr. Furtick says, nobody gets -- from a bullet. You
12 didn't have to be in that house, well you can't run away
13 when a gun is pulled on him. You can't outrun a bullet.
14 Reasonable doubt, the kind of doubt that causes a
15 reasonable person to hesitate to act. Some pieces of
16 evidence, some piece of testimony, something you noted
17 down in your books that the Judge gave you. Something
18 that causes you concern in hesitation, you must find him
19 not guilty. The Judge is going to tell you reasonable
20 doubt is the kind of doubt that causes a reasonable person
21 to hesitate to act. Take the law as the Judge gives it to
22 you. Suspicious circumstances, that is a lot of what they
23 argued. The Judge is going to tell you this, it is not my
24 words, it is his words. All of the circumstances must be
25 consistent with each other. All of the circumstances must

1 point conclusively to the evidence guilt of accused, of
2 the accused. If they merely portray his behavior
3 suspicious the proof has failed. They have to point
4 conclusively, they can't just be suspicious, just
5 suspicious is not guilty. There is an alternate
6 explanation, explanation he is not guilty. The Judge is
7 going to read what I put up there on that board. All
8 right. Let's talk about you as jurors here for a second.
9 The Judge read you the charges, he told you, murder and
10 armed robbery. Told you two people were killed. He asked
11 if there were concerns about your service, this kind of
12 case, this serious of a case. He asked every one in here,
13 not just y'all. He gave you the opportunity, couldn't be
14 fair despite these allegations you can't sit on the jury.
15 Every juror told the Judge he or she could be fair,
16 nothing about the type of case, the fact that there are
17 two people killed to prevent you from finding Damien
18 Ritter not guilty. After we heard that we went through
19 and we chose you. Now, as we wind up our work it becomes
20 your time to work on this case. Sit through the evidence,
21 replay the testimony, you are allowed to rehear any and
22 all of the testimony you want. Just write a note and
23 knock on the door and tell the Judge that. Come in here,
24 look at the items, look at the exhibits, they are in the
25 back. If you want to play a video come in here, stand up

1 at this screen, get close to it. I want you to take a
2 look especially that item in the car. It is a blue cooler
3 and not a trunk, not a safe in that trunk. It is July
4 5th. It is a blue cooler, kind of cooler to put the
5 drinks in and sit by the grill on July 4th. Let's blow it
6 up. There is your blue cooler, it has got a white lid on
7 it, it still has a sticker on the front. These are from
8 the video. One more, get close, walk right up there and
9 look at it. It is the blue cooler and I submit, the color
10 is on the TV, better than it is on this screen. Again,
11 let me go back, it is a blue cooler, it is not a black
12 safe. Sit through the evidence, replay the testimony,
13 stand close to that screen. Now, you took notes, you
14 wrote down what was important. If you wrote down a reason
15 that you found important, a reason that Mr. Furtick's
16 story doesn't fit, a reason that causes you concerns, a
17 reason to doubt what happened. And you heard about the
18 two people that were killed. Only you can keep Damien
19 Ritter from losing his liver as he stands in the
20 penitentiary shadow. If you have any doubts express them
21 now because there is no DNA, fingerprints in the future
22 that is going to free Damien Ritter from a wrong
23 conviction. And we told you at the beginning of the case,
24 why would a victim lie, fear is not malice and Damien
25 Ritter is not guilty. Thank you.

1 THE COURT: Thank you, Mr. Brown. All right, ladies
2 and gentlemen, by my estimation, y'all have been sitting
3 out there for one hour and fifteen minutes. I need to
4 instruct you on the law. And I have got 24, 25 pages here
5 I am going to read to you. Does anybody need a break, a
6 real quick break. Give me your hands if you need a real
7 quick break. Going once, going twice. No one needs a
8 break. All right.

9 Now, ladies and gentlemen, it now becomes my
10 responsibility to instruct you on the law that applies in
11 this case. And I will let you know that the way Judges
12 did this when I started practicing, almost universally
13 that they did it, '93 is when I started practicing and
14 Judges simply sit up here and read you 25 pages of law
15 taken from the lawbooks behind me and the jury was suppose
16 to get in 20 or 30 minutes and understand and apply what
17 took me three years to learn. I always found that a
18 little unreasonable, okay. And I know that tradition
19 probably comes from most people in this State couldn't
20 read or write. Obviously, things have changed a lot.
21 What I am telling you, ladies and gentlemen, is that I am
22 going to give you a copy of these instructions that you
23 can refer to during your deliberations if you need to.
24 Mr. Foreman, if you have any questions about these
25 instructions, let me know, just send me a note, let me

1 know what it is that you are struggling with from a legal
2 standpoint. If you have a factual question odds are I am
3 not going to be able to help you in a sense of reopening
4 the case or taking any additional testimony. Okay. So if
5 you have got a factual question I may not be able to help
6 you. We do have a different Court Reporter this week than
7 last week and she does have the audio files. It would
8 have been easier if the other Court Reporter could have
9 stayed with us this week. If you need testimony replayed
10 or whatever that is perfectly fine, let us know which
11 witness, what it is that you are searching for. It will
12 probably take us a little bit of time to go through it
13 simply because we are using a different Court Reporter
14 this week or a different Court Reporter has been assigned.
15 So you need to be patient with us if you do need to
16 reheard testimony.

17 Ladies and gentlemen of the jury, of course, please
18 pay attention to these instructions as a whole, don't pay
19 attention to one part of the instructions, to the
20 detriment of some other portion of the instructions.

21 Ladies and gentlemen, the indictments in this case
22 charge the Defendant with two counts of murder; one count
23 of attempted murder; one count of kidnapping and one count
24 of armed robbery. I remind you that the fact that Mr.
25 Ritter was charged and arrested in this case is not

1 evidence and cannot be considered by you as evidence of
2 guilt, nor does the indictments create any presumption or
3 inference of guilt. Again, these documents are merely the
4 means by which this case is brought to court, the
5 instruments that contain the charges made against Mr.
6 Ritter. The indictments in this case allege several
7 different offenses against Mr. Ritter. The charges are,
8 again, indictment, the first indictment is for the murder
9 of Samir Atkins. The second is for the murder of Elzie
10 Mack. The third indictment is for the attempted murder of
11 Rodney Furtick. Indictment number four is for the
12 kidnapping of Rodney Furtick. And the fifth indictment is
13 for armed robbery. Each indictment charges a separate and
14 distinct offense and you have to decide each indictment
15 separately based on the evidence and the law applicable to
16 it uninfluenced by your decision as to any other
17 indictment. The Defendant may be convicted or acquitted
18 on any or all of the offenses charged. You will be asked
19 to write a separate verdict of guilty or not guilty for
20 each of the separate charges. The Defendant in this case,
21 ladies and gentlemen, has plead not guilty to these
22 charges and that plea puts the burden on the State to
23 prove his guilt. I instruct you that a person charged
24 with committing a criminal offense is never required to
25 prove himself innocent. It is an important rule of law

1 that the Defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed
3 to be innocent of the crime in which the indictments were
4 issued unless guilt has been proven by evidence satisfying
5 you of that guilt beyond a reasonable doubt. This
6 presumption of innocence does not end when you began your
7 deliberations, rather it accompanies the Defendant
8 throughout the trial until you reach a verdict of guilt
9 based on evidence satisfying you of that guilt beyond a
10 reasonable doubt. The presumption of innocence is not
11 merely a legal theory, it is not just a legal phrase. It
12 is a substantial right to which everyone is entitled
13 unless you, the jury, are satisfied from the evidence of
14 the Defendant's guilt beyond a reasonable doubt.

15 What is a reasonable doubt in the law. A reasonable
16 doubt is the kind of doubt that would cause a reasonable
17 person to hesitate to act. The State has the burden of
18 proving the Defendant guilty beyond a reasonable doubt and
19 some of you may have served as jurors in civil cases where
20 you were told that someone necessarily to prove that a
21 fact is more likely true than not true such as by the
22 greater weight or the preponderance of the evidence. In
23 criminal cases the State's proof must be more powerful
24 than that and must be proved beyond a reasonable doubt.
25 Proof beyond a reasonable doubt is proof that leaves you

1 firmly convinced of the Defendant's guilt. Now, there are
2 very few things that we know in this world with absolute
3 certainty. And in criminal cases the law does not require
4 proof that overcomes every possible doubt. If based on
5 your consideration of the evidence you are firmly
6 convinced that the Defendant is guilty of the crimes
7 charged you should find him guilty. If on the other hand
8 you think there is a real possibility that the Defendant
9 is not guilty you should give him the benefit of the doubt
10 and find him not guilty.

11 Now, ladies and gentlemen, I remind you that during
12 this trial you and I have certain duties to perform. As
13 the trial Judge it has been my responsibility to preside
14 over the trial of this case and rule on the admissibility
15 of evidence offered during the trial. You are to consider
16 only the competent evidence before you. So any testimony
17 which was stricken from the record you will have to
18 disregard that testimony because you are to consider only
19 the testimony which has been presented from the witness
20 stand as well as any exhibits which have been made a part
21 of the record in this case and any stipulations of the
22 attorneys. I have the additional duty to charge you the
23 law and as the presiding Judge I am the sole Judge of the
24 law. It is your duty to accept and apply the law as I
25 state it to you now. So if you already have some ideas

1 what the law, what the law ought to be, and that idea
2 disagrees with what I am going to tell you the law is you
3 have to abandon that idea because you are sworn to accept
4 and apply the law as I state it to you now. Again, ladies
5 and gentlemen, the jury, you, the jury, are the sole and
6 exclusive judges of the facts in this case. Understand
7 that the trial Judge cannot intimate, state, comment on or
8 make any statement to a trial jury about the facts in a
9 case because you, the jury, are the sole judges of the
10 facts. You are not to infer from what I have said during
11 the progress of this trial, the ruling upon the
12 admissibility of evidence or otherwise or anything that I
13 say to you now that I have any opinion about the facts in
14 this case. Ladies and gentlemen, the law does not permit
15 me to have any opinion about the facts. This is a matter
16 solely for you, the jury, to determine. As jurors it is
17 your duty to determine the effect, the value, the weight
18 and truth of the evidence presented during trial.

19 As it relates to objections, ladies and gentlemen,
20 understand that the lawyers have a professional obligation
21 to bring any impermissible or improper questions to the
22 attention of the Court by way of an objection. This is
23 because a Judge cannot intervene and prevent improper
24 questions or inadmissible evidence unless an objection is
25 made. Therefore as it relates to any objections which

1 were sustained you may not speculate on what the answer
2 may have been had the question been allowed or may you
3 speculate as to the legal reason for the objection.
4 Furthermore, as previously explained, do not infer any
5 factual opinion by the Court based on the Court's rulings
6 on objection, on objections. Again, the law does not
7 permit me to have any opinion about the facts.

8 Now, ladies and gentlemen, there are two types of
9 evidence which are generally presented during a trial,
10 direct evidence and circumstantial evidence. Direct
11 evidence directly proves the existence of a fact and does
12 not require deduction such as testimony by an eye witness.
13 Circumstantial evidence is proof of a chain of facts and
14 circumstances which indicate the existence of a fact. I
15 instruct you that crimes may be proven by circumstantial
16 evidence. The law makes no distinction between the weight
17 or value to be given to either direct evidence or
18 circumstantial evidence. However, to the extent the State
19 relies on circumstantial evidence, all the circumstances
20 must be consistent with each other and when taken together
21 point conclusively to the guilt of the accused beyond a
22 reasonable doubt. These circumstances merely portray the
23 Defendant's behavior as suspicious the proof has failed.
24 Again, the State has the burden of proving the Defendant's
25 guilt beyond a reasonable doubt and this burden rests with

1 the State regardless of whether the State relies on direct
2 evidence or circumstantial evidence or some combination of
3 the two.

4 Now, necessarily, you must determine the credibility
5 of witnesses who have testified and credibility simply
6 means believability. Understand that you alone are the
7 sole judges on the question of whether any witness'
8 testimony is credible or not. It is your duty as jurors
9 to analyze and to evaluate the witnesses and the evidence
10 and determine which evidence convinces you of its truth.
11 In determining the believability of witnesses who have
12 testified you may believe one witness over several or
13 several over one. You may believe a part of the testimony
14 of a witness and reject the remaining part of the
15 testimony of that same witness. You may believe the
16 testimony of a witness in its entirety or reject it in its
17 entirety. You may consider whether any witnesses
18 exhibited to you any interest, biased or prejudiced or
19 other motive in this case. You may also consider the
20 appearance and manner of a witness while they are on the
21 witness stand.

22 I further instruct you and emphasize that the fact
23 that the Defendant in this case did not testify is not a
24 factor to be considered by you in any way during your
25 deliberation and in your consideration on the question of

1 the guilt or the innocence of the Defendant. It must not
2 be considered by you in any manner whatsoever. A
3 Defendant has the constitutional right to remain silent
4 and the assertion of this right must not be considered by
5 you during your deliberations. I repeat, under your oath
6 you are to draw no conclusion whatsoever from the fact
7 that the Defendant in this case did not testify. The fact
8 that he did not testify should not even be discussed in
9 the jury room. The burden of proof, as I have stated to
10 you, is on the State. The Defendant is not required to
11 prove his innocence, the burden of proof remains on the
12 State to prove guilt beyond a reasonable doubt.

13 Ladies and gentlemen, as I explained previously,
14 normally the rules of evidence does not permit witnesses
15 to testify as to opinions or conclusions. But an
16 exception to this rule exist for expert witnesses. A
17 witness who by education or experience has become an
18 expert in some art, science or profession may give an
19 opinion as to the subject the witness claims to be an
20 expert in and may also give the reasons for their opinion.
21 You should consider any expert opinion given by a witness
22 and, like any other evidence, give it the weight you think
23 it deserves. If you decide that an expert's opinion is
24 not based on sufficient education and experience or if you
25 decide the reasons given in support of the opinion are not

1 sound; or that the opinion is outweighed by other evidence
2 you may disregard the opinion entirely. An expert
3 witness' testimony is to be given no greater weight than
4 that of any other witness simply because the witness is an
5 expert. And you do not have to accept an expert's opinion
6 even though it is uncontradicted.

7 This case, ladies and gentlemen, the Defendant is
8 charged with two counts of murder and in each instance the
9 State must prove beyond a reasonable doubt that the
10 Defendant killed another person with malice aforethought.
11 Malice is defined as hatred, ill will or hostility towards
12 another person. It is the intentional doing of a wrongful
13 act without just cause or excuse and with an intent to
14 inflict an injury or under circumstances the law will
15 infer an evil intent. Malice aforethought does not
16 require that malice exists for any particular time before
17 the act is committed but malice must exist in the mind of
18 the Defendant just before and at the time of the act being
19 committed therefore there must be a combination of the
20 previous evil intent and the act. Malice aforethought may
21 be expressed or inferred. These terms expressed and
22 inferred do not mean different kinds of malice but merely
23 the manner in which malice may be shown to exist. That is
24 either by direct evidence or by inference from the facts
25 and circumstances which are proven. Direct, I am sorry,

1 expressed malice is shown when a person used words which
2 express hatred or ill will for another or when the person
3 prepared beforehand to do the act which was later
4 accomplished. For example, laying in wait for a person or
5 any other acts in preparation going to show that the deed
6 was within the Defendant's mind with the expressed malice.
7 Malice may be inferred from conduct showing a total
8 disregard for human life.

9 The Defendant is also charged with the attempted
10 murder of Mr. Furtick. In order to prove this crime the
11 State must prove the Defendant attempted to kill another
12 person with malice aforethought either expressed or
13 implied, as I have explained it to you. The State must
14 prove beyond a reasonable doubt that the Defendant had the
15 specific intent to kill a person. A specific intent to
16 kill is necessary to convict the Defendant for attempted
17 murder. Intent means intending the result which actually
18 occurs, not accidentally or involuntarily. Intent may be
19 shown by acts and conduct of the Defendant and other
20 circumstances from which you may naturally and reasonably
21 infer intent. Intent may be inferred when it is
22 demonstrated the Defendant voluntarily and willfully
23 commits an act, a natural tendency of which is to destroy
24 another's life.

25 The Defendant is also charged with the kidnapping of

1 Mr. Furtick. Through kidnapping the State must prove
2 beyond a reasonable doubt that the Defendant knowingly and
3 unlawfully seized, confined, decoyed another person
4 without authority of the law. Seize, confine or decoy of
5 another person without the authority of law. To do a
6 thing unlawfully is to do it willfully and against the
7 law. Knowingly means with knowledge, consciously and not
8 accidentally. Seize means to take hold of suddenly or
9 forcibly. Confine means to limit, restrict or enclose the
10 bounds, close within bounds, imprison or shut or keep in.
11 Decoy means to lure or as it by decoy. A decoy is
12 something enticing someone else into a trap. The State
13 does not have to prove the Defendant did all of these
14 things. Instead, if you find beyond a reasonable doubt
15 the Defendant did any of these things you may find the
16 Defendant guilty of kidnapping. I instruct you that
17 something done without authority of law is something for
18 which the law does not sanction, permit, allow, condone or
19 provide justification. Kidnapping does not have to be for
20 any personal or monetary gain or for any illegal purpose.
21 I am sorry. The kidnapping does not have to be for any
22 personal or monetary gain or for any illegal purpose but
23 may be for any reason whatsoever.

24 Now, ladies and gentlemen, finally the Defendant is
25 charged with armed robbery. In order to prove this

1 offense the State must first prove beyond a reasonable
2 doubt the Defendant took personal property from the person
3 or presence of another person. Property is in the
4 presence of a person if it is within the person's reach,
5 inspection, observation or control so that the person
6 could, if not overcome with violence or prevented by fear
7 keep possession of that property. The State must also
8 prove beyond a reasonable doubt the Defendant carried the
9 property away, intending to permanently deprive the owner
10 of the property and keep the property for the Defendant's
11 own use. The slightest removal of the property or
12 complete possession of the property, even for an instance
13 by the Defendant, is sufficient to show a taking and
14 carrying away of the property. Taking and carrying away
15 of the property must have been done with violence or by
16 putting the owner of the property in fear of violence.
17 Finally the State must prove beyond a reasonable doubt the
18 Defendant was armed with a deadly weapon during the
19 robbery. A deadly weapon is any article, instrument or
20 substance which likely, which is likely to cause death or
21 great bodily harm. Whether an instrument as been used as
22 a deadly weapon depends on the facts and circumstance of
23 each case. Of course the following are examples of
24 instruments which may be deadly weapons. Pistols, guns,
25 rifle, dirk, dagger, knife and I instruct you that a gun

1 may be a deadly weapon even if it is not operable.

2 Now in this case, ladies and gentlemen, the Defendant
3 has raised the claim of the defense of self-defense.

4 Self-defense is a complete defense and if it is
5 established you must find him not guilty. The State has
6 the burden of disproving self-defense by proof beyond a
7 reasonable doubt. If you have a reasonable doubt that the
8 Defendant's guilt, after considering all the evidence
9 including evidence of self-defense, you must find him not
10 guilty. If on the other hand you have no reasonable doubt
11 of the Defendant's guilt after considering all of the
12 evidence including any evidence of self-defense then you
13 must find him guilty. Each of the following elements are
14 required to establish self-defense. First the Defendant,
15 the Defendant must be without fault in bringing on the
16 difficulty. If the Defendant's conduct was the type which
17 was reasonably calculated to and did provoke the deadly
18 assault the Defendant would be at fault in bringing on the
19 difficulty and would not be entitled to an acquittal based
20 on self-defense. The second element of self-defense is
21 that the Defendant was actually in imminent danger of
22 death or serious bodily injury or that the Defendant
23 actually believed he was in imminent danger of death or
24 serious bodily injury. If the Defendant was actually in
25 imminent danger and must be shown that the circumstances

1 would have warranted a person of ordinary firmness and
2 courage to strike the fatal blow to prevent death or
3 serious bodily injury. The Defendant believed he was in
4 imminent danger of death or serious bodily injury it must
5 show that a reasonably prudent person of ordinary firmness
6 and courage would have had the same belief. Deciding
7 whether the Defendant was, actually was or believed he was
8 in imminent danger of death or serious bodily injury you
9 should consider all of the facts and circumstances
10 surrounding the events including the physical condition
11 and characteristics of the Defendant and the Decedents. I
12 instruct you further that evidence of prior difficulties
13 between the Defendant and the Decedents may be considered
14 in deciding whether a threat existed, whether the
15 Defendant had a reason to believe a threat existed and how
16 serious that threat was. Threats made by the Decedent may
17 be considered in determining whether the Defendant was
18 actually, actually was or believed he was in imminent
19 danger. The final element of self-defense is that the
20 Defendant had no other probable way to avoid the danger of
21 death or serious bodily injury than to act as the
22 Defendant did in this particular instance.

23 Mr. Foreman and ladies and gentlemen of the jury,
24 there are varying possible verdicts that can be found in
25 this particular case. And, Mr. Foreman, I have prepared

1 this verdict form to kind of help you guide your
2 deliberations. All right. I know you can read, it is as
3 simple as I can make it. The law still makes me explain
4 it to you. Okay. Basically it asked you five questions.
5 The first, or gives you five statements to make. The
6 first statement is we, the jury, in the above captioned
7 case on the charge of the murder of Samir Atkins
8 unanimously find Damien Ritter, then there are two
9 mutually exclusive answers. Either not guilty or guilty.
10 If based on your consideration of the evidence you find
11 that the State has failed to meet its burden of proving
12 the Defendant is guilty beyond a reasonable doubt then all
13 twelve of you agree you would issue, you would initial
14 next to not guilty and proceed down to question number two
15 that ask the exact same question about the Decedent, Elzie
16 Mack. All right. If, however, you find that the State
17 has met its burden of proving the Defendant guilty of the
18 murder of Samir Atkins and all twelve of you agree initial
19 not guilty and then go down to the second statement that,
20 again, relates to Elzie Mack. It has the exact same
21 format for the charge of attempted murder of Rodney
22 Furtick. It also has the same format for the kidnapping
23 charge involving Mr. Furtick. As it relates to the armed
24 robbery charge, Mr. Foreman, I have divided that into two
25 subsections. Okay. Subsection A of question number five

1 relates to the safe and the safe's contents which belonged
2 to Samir Atkins. The second, subsection B of question
3 number five ask the exact same question concerning armed
4 robbery as it relates to the cell phone of Mr. Furtick.
5 Okay. Once you see this you will understand that but you
6 have to give two different verdicts as it relates to the
7 safe and another one is relates to the property belonging
8 allegedly to Mr. Furtick's cell phone. Now, when you have
9 reached a verdict, ladies and gentlemen of the jury, what
10 I need you to do is knock on the door, let the bailiff
11 know and then we will receive you into the courtroom.
12 Again, ladies and gentlemen, your verdict has to be
13 unanimous, all twelve of you have to agree on each and
14 every verdict on this verdict form. We don't have
15 majority verdicts in South Carolina, so each one of you
16 have to agree on the outcome of each and every element or
17 each and every charge that has been presented here in
18 court today. Now, Mr. Foreman, if you have any question
19 about the law, again, simply write me a note, let me know
20 what it is that you are struggling with. Please though,
21 at no point and time should you ever inform me about any
22 kind of numerical division between the jury. All right.
23 If it is six/six, ten/two; 11 to 1, 9 to 3, I don't want
24 to know numbers. Okay. So never disclose any sort of
25 numerical division from the jury based on your

1 deliberations. Ladies and gentlemen, I will remind you
2 that you have been chosen as fair and impartial
3 individuals, that means that you have no friends to reward
4 in this case, you have no enemies to punish. Your
5 obligation is simply to render a verdict based on the oath
6 that you have taken on Monday and based on the, sorry, the
7 oath that you took last Tuesday and based on the evidence
8 and the law as I have instructed you. Okay. In a moment
9 I am going to invite you to return to the jury room but
10 please don't begin your discussion of the case. Your cue
11 to begin discussing the case will be receipt of the
12 verdict form, these instructions and all the evidence.
13 What we have to do is go through the evidence and make
14 sure that you receive only the evidence which was
15 introduced formerly in this case. So we are going to have
16 to go through all of that and just make sure that the I's
17 are dotted and T's are crossed. Okay. Some of the videos
18 that were introduced into evidence, I don't know that you
19 have the capacity to view them downstairs in that room, I
20 don't think there is a TV or VCR player down there. If
21 you wish we can send you down a clean computer and you can
22 just pop the DVD in and you can play it down there or if
23 all of you want to look at it at the same time just let us
24 know, we will bring you back up here, we can load it up
25 here and put it up on the big screen. So if y'all need a

1 computer for any reason just let us know. Now, Madam
2 Alternate, if you will return to the jury room one more
3 time, I understand your sandwich is here but prepare to
4 say your goodbye's to these folks because, again, when
5 they start deliberating I will ask you to come out and I
6 will dismiss you from any further work on this case. That
7 is you, right. Okay, I was looking at her, I am so sorry.
8 Again, y'all return to the jury room, don't start taking
9 about it yet. You know what your cue is to begin your
10 deliberations and thank you for your continued work and do
11 take your notes with you.

12 (Whereupon, the jury was excused from open court at
13 approximately 12:19 p.m.)

14 THE COURT: The jury is out. With the exception of
15 the Court's decision to instruct on self-defense, any
16 additions or exceptions from the State?

17 MS. FULLER: Your Honor, I think you caught it when
18 you were publishing the opening, possession. Okay. And
19 then I am sure the verdict form, it was one minor
20 misstatement. You went through not guilty twice even if
21 we met our burden. You said if the State has met their
22 burden find him not guilty but I am sure the verdict form
23 says not guilty, guilty.

24 THE COURT: Yes, take a look at it, if I misspoke --

25 MS. FULLER: I am sure it is correct on there.

1 THE COURT: I think we will be okay. With the
2 exception of the Court's failure to instruct the
3 Defendant's requests to charge, any other additions or
4 exceptions?

5 MR. PHILLIPS: No, Your Honor.

6 THE COURT: And on the verdict form, what Ms. Fuller
7 was talking about, I don't know how it got in there but I
8 had, I am sure that we simply reinvented the wheel but I
9 had a possession of weapon during a violent crime thing, I
10 just scratched through it with my blue pen on this so I
11 think we should be good. If y'all could, look at the
12 verdict form, make sure we are correct as far as --

13 MR. BROWN: Judge, I wanted to make sure, when we
14 made our directed verdict motion you had already discussed
15 the fact that we were renewing our other pretrial motions,
16 concurrent motions. And I know, I want to make sure that
17 that statement was our way of saying that you were noting
18 our renewal and ruling the same way.

19 THE COURT: Exactly, you are protected, I did not
20 want to have to take a break between her saying the State
21 rest and --

22 MR. BROWN: And I just don't --

23 THE COURT: -- no, I think I explained Friday that
24 you would be protected on all pretrial rulings including
25 the Estill search warrant, the affidavit and in my mind

1 you are protected.

2 MS. FULLER: And, Your Honor, I will just
3 specifically state too, after the Defense rests, renew
4 motions and the Defense --

5 MR. BROWN: -- that's correct and I mentioned that
6 beforehand but not when we rested. So thank you, Ms.
7 Fuller.

8 THE COURT: I think we are good. Y'all make sure
9 because we do have a different Court Reporter, I do want
10 to make sure that we don't inadvertently send something
11 down there that should not go.

12 MR. BROWN: The ammunition has to stay up here.

13 THE COURT: Yes, any live ammo needs to stay up.

14 (Whereupon, the Attorneys and Court Reporter go over
15 exhibits.)

16 (Whereupon, the jury starts deliberations at
17 appropriately 12:56 p.m.)

18 (Whereupon, the Court excuses the alternate.)

19 THE COURT: I have been informed the jury has reached
20 a verdict. Anything prior to receiving the jury back in
21 the courtroom from the State?

22 MS. FULLER: Nothing from the State, Your Honor.

23 THE COURT: Anything from the Defense?

24 MR. BROWN: Nothing, Your Honor.

25 THE COURT: Very good. If you will bring them in,

1 please. While the jury is on its way I first want to
2 compliment the attorneys as well as everyone who has been
3 a spectator this week as far as everyone's manner in which
4 you conducted yourself and I do appreciate that. There
5 has been no disruptions, there have been no outbursts and
6 that is always appreciated. I do want to say, obviously
7 both sides have done a very fine job in this particular
8 case and everyone has conducted themselves appropriately.
9 But when the verdict is read it is very important there
10 not be any sort of outbursts, that there be no prise of
11 jubilation or discussed or whatever the case may be.
12 Understand that these 12 individuals didn't ask for this
13 responsibility, we have taken up five, six days of their
14 life with this case. And whatever the verdict is it has
15 to be respected and I really do not want any showing of
16 disrespect or excessive emotion when the verdict is read.
17 I don't ask that you be a robot. If you find yourself, if
18 any finds themselves simply unable to contain themselves
19 or contain their emotions feel free to simply, you know,
20 quietly stand up and leave the courtroom and compose
21 yourself. And when we go back on the record, if we go
22 back on the record you can rejoin us at a later point in
23 time. Okay. So if you feel like you can't control your
24 emotions just feel free to absence yourself from the
25 courtroom and get things under control.

1 (Whereupon, the jury came into open court with the
2 verdict at approximately 2:13 p.m.)

3 THE COURT: Mr. Foreman, ladies and gentlemen of the
4 jury, I am told that you have reached a verdict. Is that
5 correct, Mr. Foreman?

6 THE FOREMAN: We have, Your Honor.

7 THE COURT: All 12 of you agree as to the result?

8 THE FOREMAN: Yes.

9 THE COURT: If you would, hand the verdict form,
10 please, to the Bailiff for me.

11 All right, Madam Clerk, if you will publish, please.

12 MADAM CLERK: Indictment 2019-GS-32-02887, 2888,
13 2889, 2890 and 2891, the State versus Damien Lavar Ritter.
14 As to we, the jury, in the above captioned case on the
15 charge of murder of Samir Atkins unanimously find the
16 Defendant, Damien Lavar Ritter, guilty.

17 We, the jury, in the above captioned case on the
18 charge of murder of Elzie Mack unanimously find Damien
19 Lavar Ritter guilty.

20 We, the jury, in the above captioned case on the
21 charge of attempted murder of Rodney Furtick unanimously
22 find Damien Lavar Ritter guilty.

23 We, the jury, in the above captioned case on the
24 charge of kidnapping of Rodney Furtick unanimously find
25 Damien Lavar Ritter guilty.

1 We, the jury, in the above captioned case on the
2 charge of armed robbery concerning the safe and its
3 contents belonging to Samir Atkins unanimously find Damien
4 Lavar Ritter not guilty.

5 We, the jury, in the above captioned case on the
6 charge of armed robbery concerning the cell phone
7 belonging to Rodney Furtick unanimously find Damien Lavar
8 Ritter guilty.

9 And is so signed David Oxley, Foreman, June 28th,
10 2021.

11 Mr. Foreman, ladies and gentlemen of the jury, if
12 these are your verdicts please indicate each of you by
13 raising your right hand.

14 (Whereupon, all jurors raised their hand.)

15 THE CLERK: All hands raised, Your Honor.

16 THE COURT: The record will reflect all 12 jurors did
17 raise their hands. Anything prior to discharging the jury
18 from the State?

19 MS. FULLER: Nothing from the State, Your Honor.

20 THE COURT: Anything from the Defense?

21 MR. BROWN: We would ask that the jury be polled.

22 THE COURT: Ladies and gentlemen, in a moment the
23 Clerk is going to call your name individually and when she
24 calls your name just raise your hand. She will then ask
25 you a question, she will ask if this is your verdict and

1 if it is still your verdict, simply answer appropriately,
2 okay, ladies and gentlemen. Everybody remember their
3 juror number. They will call you by juror number, she
4 will call you by juror number. Again, when your number is
5 called just raise your hand and she will ask you if this
6 is your verdict and if it is still your verdict. Okay.
7 Madam Clerk.

8 MADAM CLERK: 136. As to the verdicts, were these
9 your verdicts and are they still your verdicts?

10 JUROR 136: They are.

11 MADAM CLERK: 125. As to the verdicts, were these
12 your verdicts and are they still your verdicts?

13 JUROR 125: Yes.

14 MADAM CLERK: 67. As to the verdicts, were these
15 your verdicts and are they still your verdicts?

16 JUROR 67: Yes.

17 MADAM CLERK: 201. As to the verdicts, were these
18 your verdicts and are they still your verdicts?

19 JUROR 201: Yes.

20 MADAM CLERK: 219. As to the verdicts, were these
21 your verdicts and are they still your verdicts?

22 JUROR 219: Yes.

23 MADAM CLERK: 187. As to the verdicts, were these
24 your verdicts and are they still your verdicts?

25 JUROR 187: Yes.

1 MADAM CLERK: 168. As to the verdicts, were these
2 your verdicts and are they still your verdicts?

3 JUROR 168: Yes.

4 MADAM CLERK: 126. As to the verdicts, were these
5 your verdicts and are they still your verdicts?

6 JUROR 126: Yes.

7 MADAM CLERK: 179. As to the verdicts, were these
8 your verdicts and are they still your verdicts?

9 JUROR 179: Yes.

10 MADAM CLERK: 97. As to the verdicts, were these
11 your verdicts and are they still your verdicts?

12 JUROR 97: Yes.

13 MADAM CLERK: 148. As to the verdicts, were these
14 your verdicts and are they still your verdicts?

15 JUROR 148: Yes.

16 MADAM CLERK: 91. As to the verdicts, were these
17 your verdicts and are they still your verdicts?

18 JUROR 91: Yes.

19 MADAM CLERK: All jurors are polled, Your Honor.

20 THE COURT: All right. The jury having been polled
21 the verdict stands. Anything further from the Defense
22 prior to discharging the jury?

23 MR. BROWN: Nothing, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, I do
25 want to thank you for you service here this week and, well

1 last week and this week. And hopefully the next time that
2 someone is talking about the court system or how lazy we
3 are and we don't work hard I hope that you will correct
4 them, please. Obviously y'all have put in a lot of hard
5 work this week and I want to thank you for that hard work
6 and your dedication and your attention to this case and
7 for putting up with us this week. The juror excuses, I
8 believe that is what those are right there at the side,
9 the Bailiff will be more than happy to pass those out to
10 you. You will also get paid for jury service, it is a lot
11 of money, the check as they say though is in the mail. I
12 don't really believe in, forgive me, but I don't believe
13 in really getting paid for jury service. This is one of
14 the responsibilities, people love to talk about the rights
15 that we have in this Country and the freedoms that we
16 have. But with freedom comes responsibility and this is
17 one of those responsibilities that we have citizens, the
18 price that we pay for living in a great country. I know
19 there are a couple of veterans out there. It has been
20 said, Churchill said it, aside from serving your Country
21 during time of war there is no greater service than a
22 citizen can give to their Country than serving on a jury.
23 So I want to thank you for that this week. You will
24 receive a letter later on this week from me. It is a
25 formal thank you for your service but it is also to

1 solicit feedback. So if there is anything that you like
2 about jury service don't be shy about telling me. If
3 there is anything that you did not like or that you feel
4 like we can do better definitely tell me, definitely tell
5 me. Okay. It will have my contact information, email,
6 telephone, snail mail, all on the letterhead and I do want
7 to hear from you if there is anything that you want to say
8 about how court was run or how you experienced or how your
9 experience went this, these last six days. Okay. So
10 don't be shy about telling me anything like that. With
11 that I am in a position to release you from further
12 obligations to this Court. At this point what is going to
13 happen is I am going to take a brief break, the Solicitor
14 will prepare sentencing sheets for the Defendant. I will
15 then hear any sort of impact evidence from the family of
16 the Decedents and from anyone else who wants to speak with
17 me or speak to me and then I will certainly hear from the
18 Defense and his family and then, of course, impose a
19 sentence. If you wish to stick around for sentencing that
20 is perfectly fine but for security reasons what I will ask
21 is that, when you leave, you may have left some items
22 downstairs in the jury room, collect those items. And if
23 you want to stay and remain here for sentencing I will
24 have the Bailiffs and the security folks create an area
25 out there probably over on that side of the courtroom

1 under the clock where y'all can sit. So if you want to
2 stick around you are certainly welcome to but just for
3 security reasons we are going to have a separate area for
4 you back out in the courtroom if you do wish to stick
5 around. Okay. With that, I don't need anything further
6 of you. Again, you have my appreciation. Mr. Foreman, I
7 do need you to sign the actual indictments that are
8 involved in this case. The rest of you are free to go.
9 Okay.

10 (Whereupon, the jury was excused from the courtroom
11 at approximately 2:21 p.m.)

12 (Whereupon, a short break was taken.)

13 THE COURT: We will go back on the record, Mr. Brown
14 and Mr. Phillips. Of course, I assume that the Defense
15 moves for a new trial and of course you renew all prior
16 motions?

17 MR. BROWN: We do, Your Honor. And if I may, we
18 would ask that the verdict and I am going to kind of work
19 backwards, we renew all motions. We would suggest, like
20 we did at the directed verdict stage, to Your Honor must
21 have credible evidence to pass a directed verdict and may
22 be a small amount but it has to be credible. And we
23 believe that the inconsistent or split verdicts,
24 inconsistent in the sense that the primary or only
25 eyewitness to the incident is the same person that is the

1 basis for the safe being taken. That the fact that the
2 jury did not find proof beyond a reasonable doubt on that
3 makes the testimony not credible. So we would add that
4 into the argument saying we made before and renew the
5 other arguments. We would renew the motion to quash the
6 indictment for armed robbery itself and, as Your Honor
7 will recall it was a safe and personal items, the safe was
8 a not guilty. The cell phone was un-explicitly
9 referenced, we did move to quash and we ask that there be
10 some particularity. While we are candid with the Court,
11 we knew there was an allegation about a cell phone but
12 that wasn't contained in the indictment. And to the
13 extent it is not noticed and found by a jury, or excuse
14 me, Grand Jury, we believe that that is grounds to quash
15 that as well. The search warrant, we think that there is
16 no question that there is prejudice should that search
17 warrant turn out to not be valid. So we definitely want
18 to specifically renew that one but not to the exclusion of
19 the others. And, Your Honor, before we go into sentencing
20 and we already know but I am going to ask. I am going to
21 ask that Your Honor consider, for multiple reasons, a
22 presentence report. And I can tell you a little
23 information but my client has no record and he has two
24 arrests, both were misdemeanors for which he was not
25 convicted. I think one is a fight in a school, when he

1 was in school. I would point that out because we believe
2 that is the kind of case where you need to know more
3 because he is 28, not 17. So what I say is, no record and
4 I am not the only person that would bring this up, it is a
5 real deal to be a black male, especially in South
6 Carolina, rural part of the State and be 28 years old
7 without a record. And so there is something more to
8 explore that I can give you on a one page sheet of paper.
9 And I have, will tell you that in the last couple of years
10 I have more presentence reports that I have had in the
11 prior 20 years of practicing law. Because I think it
12 provides the Court the opportunity to consider an
13 appropriate verdict. I know, you know, generally speaking
14 a plea is a plea and everything else maybe the max but
15 that is not necessarily the case. And in this case there
16 was evidence to, from the Belcher opinion, evidence of
17 justification or mitigation offered during the guilt
18 phase, that is part of the phrase that they talk about and
19 I think that that is substantial as a mitigating factor.
20 And at the point where I talk about sentencing, I do want
21 to talk about lingering or residual challenge as to the
22 primary aggressor, Your Honor, and I think that also would
23 be something contained, what could be contained within the
24 presentence report. And I think it would be more
25 deliberate if it was submitted that way, Your Honor. I

1 also think it would allow emotions to settle and Your
2 Honor to give a better presentation for parties on both
3 sides.

4 THE COURT: I understand your position. As it
5 relates to the prior motion, the motion for a new trial,
6 of course, prior rulings on the same, on the prior
7 motions, the prior rulings still stand. On the motion for
8 a new trial the Court finds that there is sufficient
9 evidence, clearly there is sufficient evidence to support
10 the jury's verdict so your motion for a new trial is
11 denied. As it relates to the presentence investigation, I
12 appreciate your position on that. Candidly and those
13 cases where I have asked for a PSI, I really did not find
14 it terribly helping in terms of what the Court ended up
15 doing in passing sentence. So I would much rather, while
16 it is fresh in my mind and is fresh in everyone's mind I
17 would much rather move forward with the case. And, of
18 course, I am more than happy to hear anything and all
19 things in mitigation that you would want to present and
20 anything from your client's family of course I will be all
21 ears.

22 MR. BROWN: Yes, sir. And before we turn to the
23 sentencing may I ask one thing?

24 THE COURT: Sure.

25 MR. BROWN: A little unusual, but it is a

1 practicality. I would ask that you find that my client is
2 indigent for purposes of the appeal. They are very funny
3 about that and I think if it is placed in the record
4 because otherwise we have to chase around with my client
5 with a deadline to fill out some forms that aren't even
6 put on the internet.

7 THE COURT: Right.

8 MR. BROWN: Which is unusual, they put the one for
9 trial but not appellate level. And I would first start out
10 that my client has been incarcerated for 1,063 days with
11 no obvious source of income or property.

12 THE COURT: Okay. Did his family retain you?

13 MR. BROWN: They did, they did and I was hired,
14 (phonetic), for a surrender and I was not fully retained
15 until after he was incarcerated.

16 THE COURT: All right. Mr. Ritter, do you have any
17 assets that you could use to apply for Counsel for an
18 appeal?

19 MR. RITTER: No, sir.

20 THE COURT: All right. No bank accounts, no homes,
21 nothing in your name that you could sell otherwise you
22 could use to hire a lawyer. That's correct?

23 MR. RITTER: Yes, sir.

24 THE COURT: Okay. The Court does find that Mr.
25 Ritter is indigent and should qualify for the services for

1 the Office of Appellate Defense. I will probably need a
2 separate order to that effect. If you can send that to me
3 that would be helpful.

4 MR. BROWN: Thank you, Your Honor, yes sir.

5 THE COURT: While we are addressing housekeeping
6 matters, the kidnapping charge, unless I specifically
7 delineate that it was not sexual in nature he would have
8 to register as a sex offender, there is no sexual
9 allegation involved in this case. So I intend to marking
10 on the sentencing sheet the kidnapping charge, that there
11 was no registry is required. What would be the best
12 preferred language, does anybody know, non-sexual offense?

13 MS. FULLER: I think, isn't there a box on the
14 sentencing sheet.

15 MR. PHILLIPS: There is a place to check.

16 MS. FULLER: There should be a place on the sentence
17 sheet.

18 THE COURT: Okay. My bad.

19 MS. FULLER: And the issues is when the Judge doesn't
20 check it, not checking the box causes, should be like a
21 finding that it is not sexual in nature is the language if
22 it is not on there. Usually on the bottom on the
23 checkbox, is it not on there?

24 THE COURT: I will just write it in, I will just
25 handwrite it in. Ms. Fuller, I am happy to hear from your

1 side and certainly anyone who wants to speak on behalf of
2 the families of the Deceased.

3 MS. FULLER: Thank you, Your Honor. First we will
4 have Samir's mother, if she could come around.

5 MS. ASHFORD: Ashford, A-S-H-F-O-R-D.

6 THE COURT: Ms. Ashford, I am happy to hear from you.
7 I am so sorry to meet you under these circumstances.

8 MS. ASHFORD: Samir was my only child. I raised him
9 one way, one day to the next. Samir was and I have
10 struggled with this for three years. When you took my
11 child from me, when you took me, you took him from me you
12 left a while, you took a part of me also. And I just
13 wanted to know why. I struggle with my grandbaby all the
14 time asking me. I mean, I am going -- we are divided into
15 two families. I don't understand, I don't understand. It
16 hurts. Right now I ask for the max. Right now, I have
17 nothing for you, I have nothing for you, I just hope you
18 rot in hell. That is how I feel. And as for behalf of my
19 mother, she always talks to me and Samir was her first
20 grandchild and no one knows the hurt that she feels every
21 day. Her hurt never goes away even when you feel and the
22 hurt overcomes the good times. She is asking that he gets
23 the max, Your Honor.

24 MS. FULLER: And, Your Honor, for the record, Samir's
25 grandmother was the one that found the body.

1 THE COURT: I am very sorry, Ms. Ashford.

2 MS. FULLER: Next we will have Elzie's wife.

3 MS. MOORER: Kenyetta Moorer, M-O-O-R-E-R. These
4 last three years have been a roller coster filled with
5 emotions. Elzie was a husband, a father, a brother, a
6 son, an uncle and a friend. 68 days is what I, that is
7 how long we were married before he was taken from us. My
8 husband would do anything for you, if you ask. He was the
9 life of the party and everybody loved him. My son was
10 six, turning seven at that time. And now he is almost ten
11 years old. I went from a wife to a widow as quick as it
12 started. My son went from a two-parent household to being
13 raised by a single mother overnight. He reminds me so
14 much of his dad. Every day I look at our son and I
15 realize that he will never grow up with his father. That
16 alone puts me to tears. I love, it is already crazy and I
17 don't have his father to raise as a strong black man. It
18 hurts me every day. His father won't be here to catch
19 those moments. I do in hopes is dear to me. I will miss
20 those moments. For taking someone's life you get life.
21 You have no regards for his life. And in effect that he
22 had a family and with love. I am not at a point to
23 forgive because I cannot ever get my husband back. And my
24 son will never have his father back. Remember his name,
25 Elzie Mack, as you close your eyes and sleep at night

1 remember his name and the life you took from us.

2 THE COURT: Thank you, Ms. Moorer.

3 MS. FULLER: And, Your Honor, now we have, the
4 Court's indulgence. She wrote something.

5 THE COURT: Sure.

6 MS. JONES: My name is Dawn Jones, D-A-W-N;
7 J-O-N-E-S. Elzie Mack was my uncle and this is something
8 that my mother wrote. You have forever changed our lives,
9 so many lives. Elzie was a loving son, brother, father
10 and husband, nephew and a cousin. He did not deserve to
11 have his life taken from him so soon. What you did on
12 July 5th of 2018 to my brother proves how cowardly and
13 evil you are. I just want you to acknowledge your actions
14 for the senseless crimes you committed that day. Instead
15 you tucked your tail, ran away and hid out while we were
16 left to grieve. When you hurt my brother and took him
17 away from us you also took a part of me and my family that
18 we will never get back. Elzie and I had lots of plans
19 that will never be now. As I try to move forward without
20 my brother I find it extreme difficult each time. I have
21 had to be in your presence, I have sat and watched you
22 look as if you did nothing wrong with no sympathy or
23 remorse. All I see is a coward murderer and an evil
24 person who deserves life without having the possibility of
25 parole. It is important for you to know how many lives

1 you have changed, look to your left at Samir Atkins
2 family; Elzie Mack's family; Rodney Furtick's family,
3 remember their names and ask for forgiveness as I am sure
4 the memories play over and over in your head. May God
5 have mercy on your soul. I just want to say, I waited
6 1,089 days to be able to look at the person who took my
7 uncle from me. And they are right, you are a coward. And
8 unlike my mother --

9 MR. BROWN: Your Honor, I am going to have to object
10 to being directed straight to my client. They are suppose
11 to address the Court.

12 THE COURT: She is going to do that right now.

13 MS. JONES: Unlike my mother, I pray that, I
14 sincerely pray that God does not have mercy on your soul.
15 I am done. Thank you.

16 THE COURT: Thank you.

17 MS. FULLER: I believe that is it from the family,
18 Your Honor. Law enforcement would like to address the
19 Court.

20 THE COURT: Sure.

21 MR. DEAS: I am Investigator Matthew Deas, D-E-A-S.
22 I want to speak as to the pain this has caused the
23 families. But it was not just the surviving victim's
24 families with whom I have spent the last three years. In
25 addition to the extensive investigation done by the entire

1 West Columbia Police Department Investigator Division, I
2 have also spent countless hours listening to jail phone
3 calls made by Mr. Ritter. I can honestly tell you that I
4 have found Mr. Ritter to be a blotting and dangerous
5 individual. But even more strickenly I have discovered
6 that the gravity that what he has taken from these victims
7 is completely lost on him. That he has never expressed
8 remorse and that his only comments that he would routinely
9 make to other people for how he just knew he was going to
10 be home after trial. Mr. Ritter deserves nothing less
11 than two life sentences.

12 THE COURT: Thank you, Investigator.

13 MS. FULLER: And then Deputy Solicitor Shawn Graham
14 for the same position.

15 MR. GRAHAM: Your Honor, the only thing I would add
16 is you heard the testimony and you heard how he executed
17 two people and tried to kill a third. You have heard from
18 law enforcement, you heard from the family. We would ask
19 that you sentence him appropriately, Your Honor.

20 THE COURT: Thank you. The Defense is correct in
21 terms of his criminal history, that is something that I
22 typically ask about, there is no adult criminal history
23 that you are aware of?

24 MS. FULLER: There are no convictions, Your Honor.

25 THE COURT: No convictions. If nothing further, from

1 the State then on this issue?

2 MS. FULLER: That's correct.

3 THE COURT: Mr. Brown, I am happy to hear from you
4 and Mr. Phillips and anything from that side.

5 MR. BROWN: May it please the Court, Your Honor. I
6 would like to address the prior record. He did have two
7 arrests that is worth pointing out. These are not like he
8 got charged and acquitted of some kind of felony charges.
9 It was a fight at school, when he was in school and there
10 was a broken window at a laundry mat that he was charged
11 and acquitted on a malicious injury to personal property.
12 He has been in jail, we have got 1,063 days calculated.
13 His surrender was on July 13th of 2018. He is 28, I will
14 give you basic background. He is 28, he was actually born
15 in Walterboro but he lived in Estill all of his life.
16 Your Honor, I point that out because that kind of gives
17 you the flavor of what kind of area it is. He went to
18 Estill high school, he lived with his mom growing up, she
19 is in here and I am not sure if she is going to be able to
20 address you or not but her sister will if not. And I do
21 want to come back to some of that but we have here with
22 him two aunts; a, three cousins and his grandfather. He
23 also has two children. One of which was, I believe, was
24 born, my understanding was born after he was incarcerated
25 and one that should now be three years old. And I would

1 like to point that out to you, he is 28 years old as I
2 mentioned. I want you to hear from them before I make
3 some argument about a reason that the maximum sentence
4 might not be appropriate. But I think at this time I
5 would like for you to hear from his family. And I told
6 them if they just want to stand up there and speak. The
7 podium is on that side and I think it is better more
8 easily instead of having people here. I am going to ask,
9 since I don't see his mother in the courtroom, Ms. Loretta
10 Warren who is also, one of the first person's I met
11 regarding Mr. Ritter. And if she will stand and speak on
12 behalf of the family because she was with his mother when
13 they hired me and throughout the case and called, and came
14 to my office, et cetera. And I find her to be very
15 articulate and I think that she would speak on his behalf
16 at this point and time.

17 THE COURT: Ms. Warren, be sure to project your voice
18 so that I can hear you.

19 MS. WARREN: I sure will. My name is Loretta Warren
20 and I am one of Damien Ritter's aunt. Actually I have been
21 by his side ever since from day one. Just to tell you a
22 little bit about him and I want to address and then, you
23 know, Mr. Brown and his associates. And I also have had
24 the opportunity and meet all the prosecutors because they
25 stayed on me. Every time they came to my house they

1 stayed on me. Nobody else's house they could find with me
2 -- actually I want to thank the Judge also. But from day
3 one, as I knew Damien, Damien was always was a good kid,
4 he never, never had no problem, always lent a helping hand
5 whenever he can and he was also a single child. He was
6 also my sister's only child. He also, just like I said,
7 if we needed him to do anything and had such a good heart.
8 And I could call on him or anybody else in the family,
9 Damien would go on and beyond and beyond. And that is
10 just what type of person he is. He also kept up in the
11 church. My sister also raised him as a good kid, never
12 had any trouble with him or anything other than, you know,
13 he could get out of line. And just like I said, Damien
14 Ritter was always, just like I said, always, never, ever
15 had no trouble with Damien and always was a good kid, he
16 still is a good kid. We are a very religious family and
17 have some of my aunts that were here and they didn't get a
18 change to speak and we had to take turns and everything.
19 And just to let you know, we do have some of the aunts
20 that were, they were ministers and everything. And just
21 like I said, he was raised actually as a christian child.
22 And just like I said, I just want to thank everybody and
23 my family on behalf on this side, still love them
24 regardless or whatever. And I just want to say, thank you
25 all.

1 THE COURT: Thank you, Ms. Warren.

2 MR. BROWN: Judge I have inquired of the rest of the
3 family, the ones that are here don't want to speak. His
4 grandfather was here, he was the elderly gentleman you
5 saw. You has been, throughout every proceeding, he has
6 been a faithful member of the family and support, as well,
7 obviously, as Ms. Maxwell, and his mother. And she is
8 very involved, she drives to work from Estill into
9 Beaufort County, comes by my office, very involved, very
10 involved in what we did with this case. And now this is
11 going to kind of move into a little bit of what I believe
12 is mitigation. Your Honor, I have got to first point out
13 that there is other evidence of bad blood that the jury
14 did not hear and some of it came from a statement that was
15 obtained by law enforcement, Beverly McGruder, some of it
16 was portrayed to law enforcement at the time of the
17 surrender or provided to them at the time of surrender by
18 Damien Ritter's family. And some of it has actually
19 predated this incident. I don't want to be too vague. I
20 will tell you that within days of the June 18th going
21 gangster thread, I just need my aunt's address, Damien's
22 male cousin received a message from Mr. Atkins asking,
23 Facebook message of asking for his phone number and asked
24 for his aunt's address. He gives Ms. Maxwell's phone
25 number to them. We are unable to obtain that item from

1 Facebook. Facebook doesn't recognize any court process.
2 And I am sure somebody in Congress can deal with that at
3 the appropriate time. But that, we do have a personal
4 communication thread that supports that. That is of
5 interest because that dovetails that he needs his aunt's
6 address and that predates July 5th. Now, that is just a
7 circumstance. But, Judge, we also, at the time of his
8 surrender, his family; his mother; his aunt gave their
9 cell phones to law enforcement to look through. Told
10 Investigator Daes, they took photos of threats that had
11 been made subsequent to this. And Your Honor may recall
12 that there was a phone call that led to a motion regarding
13 a person of interest, received from a SLED agent about the
14 death of a person in Hampton County and at some point was
15 suggested that that was the person who had traveled with
16 Mr. Ritter to West Columbia on July 5th. And if that is
17 true that suggest some retaliation to that person who was
18 not arrested. I don't know any details, we know it was
19 tight lipped and we asked for some information. We didn't
20 get anything directly in response but I do think that that
21 is mitigating in the sense that should we have had some
22 imperfect self-defense law in South Carolina traditionally
23 that can reduce the charge of murder to manslaughter.
24 And, Judge, it goes without saying, well they are not
25 admissible in court proceedings, that is something that

1 had been discussed among the parties, counsel in the past.
2 Although the State, I am not suggesting that they ever had
3 an interest in it but that is something that was
4 unavailable but might have fit should we have been able to
5 get to that position. That is not our law, we couldn't
6 get there. But there is information about lingering
7 threats both before and after this to the family. And I
8 do have that concern because I have seen nothing but
9 niceness come from Ms. Warren and Ms. Maxwell and I would
10 really hate to see any threats from bad blood to go to two
11 very nice women. And so I do point that out because Ms.
12 McGruder's statement, this is a statement, Judge, that was
13 made by a person whose home, the records indicate Mr.
14 Ritter visited in the Augusta area. They took more than
15 one statement from her, there are some jail phone calls
16 with her. Obviously the jail phone calls were not
17 favorable for us, there is some ambiguity but nonetheless
18 that would suggest that discussions with Ms. McGruder are
19 not contrived or not planted and not testimonial to, kind
20 of the legal sense they were not prepared for court. And
21 I tell you that because in that statement Mr. Ritter says
22 that he shot two people, the same sentence, B/C, because
23 they tried to rob him, one line. And that is what we
24 suggest to Your Honor, and if they put Ms. McGruder up, we
25 have our own reliability issue on that. But if they put

1 her up we believe that we would have gotten into
2 self-defense more clearly on the facts. Of course, on the
3 other hand, it was more clearly that our client is the
4 person who fired the shots. We are not saying Ms.
5 McGruder's statement is one-hundred percent accurate. We
6 do believe that goes to the jury, for residual doubt so
7 that to recognize at least in Capital sentencing, Your
8 Honor. And I think since you have a range, it is
9 appropriate to mention that. She gave a second statement.
10 That second statement also says the same, gives the same
11 idea. There is also another person, Taeanna Sanders who
12 made a very similar statement. Now she later recants
13 making that statement but, Your Honor, she essentially
14 says they tried to rob him. And I point that out because
15 that is lingering or residual doubt as to who the primary
16 aggressor was. Now, Justice Few recently, two weeks,
17 mentioned that the analysis on self-defense may not be an
18 all or nothing on who was at fault in bringing on the
19 difficulty. Now, or it is couched in a way that it is
20 adversarial to a criminal appellant. But he suggests that
21 a criminal appellant might not be entitled to that charge
22 if he was partially at fault suggesting that both parties
23 could be at fault. That kind of slides back to mutual
24 combat. But I only point that out, Your Honor, because
25 one can envision a situation where there could be some

1 fear created but not be sufficient legal provocation. It
2 said, somebody could act wrongly on appearances and still
3 mitigate. And I point that out because there is no reason
4 to believe Mr. Ritter would have made a statement like
5 that to Ms. McGruder to try to set up a defense at trial
6 later because otherwise he would have come and told the
7 police that. And I point that out to Your Honor,
8 regarding the range that Your Honor is looking at. I do,
9 again, want to mention, there was some disbelief by the
10 jury as to the safe. As a lawyer I will tell you, they
11 prevailed on at least five of six verdicts that I would
12 suggest Mr. Phillips at one point discussed whether or not
13 they had abandoned the safe. Because that is just an
14 overreach in my opinion as far as what the evidence has
15 and I think the jury saw that too. Because the verdict
16 was a quick verdict but it was a split verdict. And I
17 think that that suggest again that there is something in
18 between here or there. And I would point that out.

19 Judge, I would talk to you a little bit briefly about no
20 trial -- that is a sedge way from this lingering doubt.

21 Judge, I mentioned to me that maybe there was an improper
22 acting upon appearances. Maybe somebody might have had a
23 fault or paranoid belief of being robbed and that wasn't
24 the case. Maybe was ambiguous as to whether it was a
25 threat. But, Judge, that kind of issue is the kind of

1 issue that turns a guilty verdict on charges that carry
2 life into a not guilty verdict. So you go from no days to
3 all of your days. Judge, I suggest that this factual
4 scenario is not an all or nothing scenario. And I point
5 that out because, again, there is some question that the
6 jury had resolved over that. That is why we have jury's,
7 beneficial, community. That is a legitimate and I wrote
8 down here and it is triable as to that issue, Judge. And
9 if you recall, again, and but we did have discussions,
10 which had we had imperfect self-defense in our law we
11 might have been able to get into it with the jury. But it
12 is triable on that one issue. Again, we have an all or
13 nothing on the type charge. We don't have a second degree
14 murder, we don't have true lessor included. Voluntary
15 manslaughter is not a lessor included on the elements.
16 That is the only lessor included, if you have a special
17 legal provocation. So there is not a heat of passion
18 without legal provocation. You can't just take one
19 element away and make burglary become manslaughter. And
20 so I point that out, it is triable on that issue on this
21 evidence. And that is the issue we tried it on, Judge,
22 was the primary aggressor issue, not whether both parties
23 were at fault as Justice Few suggested. There is some
24 fault across the board. I would end with this. My client
25 is 28, 30 years is a -- he is 28. My client, the

1 sentence, minimum sentence is 30 years, and the harsh's
2 conditions that exist in the prisons system. Judge, the
3 life expectancy and, but if you get life at, I believe it
4 is 17, your life expectancy is 49 as an African American.
5 That is 32 years. Now, he has lived some of those years
6 or that would make his life expending go longer than 32
7 years. I don't know. But I would suggest to Your Honor,
8 58 years old, there is probably less than a coin toss
9 chance that he will walk out of jail at 58. And so in
10 essence, it is almost esoteric as to whether he gets life
11 or 30. However, we know life is a zero percent chance, it
12 is a 58, maybe less than a fifty percent chance. Your
13 Honor, we would suggest that that would actually be a
14 reason for somebody who could express remorse, could
15 change his behavior. It offers a post-conviction of
16 rehabilitation. Those are all things that our law
17 recognizes and encourages. Your Honor, I can only suggest
18 that we are all aware of the, the road to Damascus and
19 that changes the very people persecuting are the very ones
20 saved by the same word. And Your Honor is the one that
21 can offer that period of redemption that he hopes at some
22 point and time that he can be a productive member of
23 society with his family on the outside. Because Your
24 Honor has not set to exact vengefulness than a tooth for
25 tooth manner because that is not mercy and justice, Your

1 Honor. And so I ask that you consider those things,
2 again, there is a reason that Ms. McGruder didn't take the
3 stand, she offered some factual support on self-defense,
4 if not just primary aggressor. And I know that is a very
5 related concept or back to imperfect self-defense which we
6 don't recognize but I have suggested a concept you can
7 consider. I am going to ask that you speak, Mr. Phillips
8 may have something to add on this.

9 MR. PHILLIPS: I will be brief, Your Honor. Mr.
10 Ritter's family has been incredibly supportive of him
11 throughout this entire process. He has a very loving
12 family, what you heard from Ms. Warren certainly is a
13 testament as to Mr. Ritter's character growing up there
14 with the family. I can tell you in my meetings with them
15 which has been countless, Mr. Brown and I have met with
16 him numerous times, of course, in preparation over the
17 last three years. Mr. Ritter has been nothing but
18 respectful to us and have always treated us in a manner
19 that is inconsistent with the crimes that he has been
20 convicted of. And with that we always seek mercy of the
21 Court. Again, we have not seen any type of behavior that
22 is indicative of what he has been convicted of. We
23 understand Your Honor's position and to reiterate Jim's
24 point, there was discussions about trying to resolve this
25 case at one point. And we would certainly ask that he not

1 be penalized because he exercised his right to a jury
2 trial. Thank you, Your Honor.

3 MR. BROWN: And with that, Your Honor, we would ask
4 that you sentence him at the minimum range understanding
5 that 30 years is not a walk, cake walk. And Your Honor
6 remembers it because you were a prosecutor. When I
7 graduated law school it was a year after they did the no
8 parole. I have actually been involved in a parole
9 situation with a gentleman sentenced in 1978 who had a ten
10 year parole. I would suggest this was a gentleman related
11 to the largest development company at Myrtle Beach, they
12 owned, I think it is called the Green Diamond or Emerald
13 Diamond, goes through Congaree all the way down, thousands
14 and thousands of acres. I know this because my Uncle was
15 his stepfather. And luckily, not the stepfather that he
16 ended up killing in the '70's in Lexington County. That
17 gentleman became a model inmate after killing his mother,
18 his half sister and his step-father. He was released on
19 ten year parole and is now the President of one the
20 largest Real Estate Corporation's in the State of South
21 Carolina. And that was in this County and I am sure the
22 people who, back to that time remember it. But he became
23 a model inmate, he was 17 years old at that triple murder.
24 And, Your Honor, there is rehabilitation and we are not
25 looking at a ten year. But at one point in time even in

1 South Carolina, 10 year parole, 20 year parole, 30 years
2 without parole is a real hard sentence, Your Honor. Thank
3 you.

4 THE COURT: Thank you. Mr. Ritter, is there anything
5 that you would like to say, sir?

6 MR. RITTER: No, sir.

7 THE COURT: To the ladies who spoke to me earlier, on
8 behalf of the men who were killed in this case, again, I
9 am terribly sorry having to meet y'all under these
10 circumstances. And to say that these events have been
11 life changing for you I clearly get that, that phrase,
12 life changing, is just such an understatement. And the
13 little boy that is having to grow without a father, that
14 is absolutely tragic to be only married for 68 days and
15 lose a man that you just pledged your life to and were
16 trying to build a life together. I don't know what I can
17 say other than I am simply terribly sorry and I wish there
18 was some way that I could go back and fix this. I think
19 there is probably a part of Mr. Ritter who feels the same
20 way, if there is some way he could undo what he did. Mr.
21 Ritter, I have no doubt that you come from a good family.
22 Your Aunt is obviously well educated and well spoken and
23 you clearly have people who love you. And that causes me
24 all the more confusion because I just can't figure, I
25 can't, having done this for 20 whatever years, 25 plus

1 years, I cannot conceive of how people who are raised
2 right, taught the value of hard work, taught the value of
3 life, taught the fear of God, can wind up here the same
4 way that you have wound up here, Mr. Ritter. And please
5 understand, Mr. Ritter, I make it a point of not judging
6 the person. I don't judge a person, that is not my
7 responsibility, that is for a higher power, so much higher
8 than me. So I am not judging you as a person. My
9 obligation here is to judge a crime. And to the extent
10 possible even the scales here. And so I have every reason
11 to believe what your Aunt was saying a few moments ago
12 that to have many fine characteristics. And I have no
13 reason to doubt Mr. Brown or Mr. Phillips when they say
14 that you are capable of rehabilitation, you are capable of
15 bettering yourself. I do believe that. Here is what the
16 Court is struggling with and I don't know why it has now
17 become the case. But I get so tired when I pick up the
18 morning paper and I just see how cheap life has become and
19 I don't know where this is coming from. I am sure some of
20 it is the prevalence of guns, people who should not have
21 guns and it seems like guns permeate every aspect of our
22 society nowadays. And maybe that is part of it in the
23 sense that people do stupid things without thinking it
24 through and because they are armed the results are
25 magnified in terms of how tragic they are. Maybe that is

1 a part of it but I can't account for why life is so cheap.
2 And by the jury's verdict, Mr. Ritter, your hands are
3 responsible for the death of two people who will never get
4 to hold their son, never to be able to do any of the
5 things that they liked doing. I am not saying they were
6 prefect, I am not saying they were flawed, we are all
7 imperfect, we are all flawed. But their lives had value
8 to so many people. All of these people on this side of
9 the room that I have got to figure out some way to balance
10 the scales. And I just want it noted for the record, I
11 would never punish anybody for proceeding to trial and
12 this was clearly a defensible case, Mr. Ritter. And in
13 many respects I don't feel comfortable with the sentence
14 and I do believe that your attorney is correct, there
15 needs to be some mechanism by which people who have
16 rehabilitated themselves can rejoin society, that there
17 needs to be that mechanism so that in the event the
18 sentence I impose today is wrong it can be corrected
19 through your good behavior. I am also imposing the
20 sentence with the acknowledgment and the understanding
21 that maybe there is another person out there that have had
22 some responsibility for this action or for this incident
23 and maybe your future actions can assist in that regard.
24 Mr. Ritter, you took two lives and you did not have to.
25 And there was not, in my estimation, any good reason for

1 you to do that. Your lawyers talked about residual doubt.
2 This Court has none. I respect their position but
3 candidly, sir, I have got no concerns with residual doubt
4 about guilt in your case. The two offenses of murder I
5 have imposed a life sentence. On the kidnapping and the
6 attempted murder I have imposed a sentence of 30 years.
7 On the armed robbery the sentence is 10 years. Also
8 sentences will run concurrently with each other and you
9 will receive credit for the 1,063 days that you have
10 served in jail. Mr. Ritter, you have ten days to file
11 notice of intent to appeal in this matter. Your lawyers
12 will take care of that for you. You have one year from
13 the results of any appeal to file any action for post
14 conviction relief. Mr. Ritter, I sincerely wish you luck,
15 sir. I hope that you are able to rehabilitate yourself.
16 I regret that you will not be released from prison under
17 the current law. I do wish you luck though, sir. The
18 record on this case is closed.

19 MR. BROWN: Thank you, Your Honor.

20 (Whereupon, Court's Exhibits 9 and 10 were marked for
21 identification only.)

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
23
24
25

1 CERTIFICATE OF REPORTER
2
34 State of South Carolina)
5 County of Newberry)
6
78 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Lexington, South
14 Carolina on the 28th day of June, 2021.15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
1718 October 20, 2021
1920 *Joy E. Holston*
21 _____

22 Joy E. Holston, Court Reporter

23 My Commission expires: May 2, 2026
24
25

RECEIVED

Jul 01 2021

SC Court of Appeals

DOCKET NO. 2019GS3202888**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Damien Lavar Ritter

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

A TRUE COPY

Debra L. Carter
Lex. Co. C.O.C.P., G.S. & E.C.

WITNESSES

West Columbia Police Department

Christopher J Morris

Law Enforcement Case #: 1818945

SF

ARREST WARRANT NUMBER

2018A3221100461

ACTION OF GRAND JURY

Carthyn Seelye
Foreperson of Grand Jury
Date: 8/5/19

VERDICT

QUEBIL*Anthony D. O'Neil*
Foreperson of Petit Jury
Date: 6/28/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder
§ 16-03-0010

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Damien Lavar Ritter** did, in Lexington County, South Carolina, on or about July 5, 2018, commit the offense of murder in that he did unlawfully kill one Elzie Mack with malice aforethought, either express or implied, to wit: by means of shooting the victim with a firearm, in violation of section 16-3-10 of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

2130
STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Damien Lavar Ritter

AKA:
Race: Black Sex: M Age: 28
DOB: -1992 SS#:
Address: Roberts St
City, State, Zip: Estill, SC 29918-4011
DL#: SID#: SC02182198

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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]* 100730
Solicitor 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 life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: Obtain GED ☐

☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. _____

Recipient: May serve W/E beginning _____

*Fine: Substance Abuse Counseling ☐

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing ☐

§ 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 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

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

TOTAL \$ 125.00

Clerk of Court/ Deputy Clerk *[Signature]*

Court Reporter: *[Signature]*

SCCA/217 (04/2018)

30-Life
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3202888

A/W#: 2018A3221100461

Date of Offense: 7/5/2018

S.C. Code § : 16-03-0010

CDR Code #: 0116

RECEIVED

Jul 01 2021

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

TRUE COPY
[Signature]
Lex. Co. C.C.P., G.S. & P.O.

☐ Appointed PD or appointed other counsel,

§ Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge *[Signature]*

Judge Code: 2159

Sentence Date: June 28, 2021

WITNESSES

West Columbia Police Department

Thomas B Todd

Law Enforcement Case #: 1818945

SF

ARREST WARRANT NUMBER

2018A3221100460

ACTION OF GRAND JURY

Courtney Sealey
Foreperson of Grand Jury
Date: 8/5/19

VERDICT

TRUE BILL

Anthony Paul Ortiz
Foreperson of Petit Jury
Date: 8/28/2021

DOCKET NO. 2019GS3202887

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Damien Lavar Ritter

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

RECEIVED
Jul 01 2021
SC Court of Appeals

A TRUE COPY
[Signature]
Lex. Ct. C.C.O.P., G.S. & F.C.
2131

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Damien Lavar Ritter** did, in Lexington County, South Carolina, on or about July 5, 2018, commit the offense of murder in that he did unlawfully kill one Samir Atkins with malice aforethought, either express or implied, to wit: by means of shooting the victim with a firearm, in violation of section 16-3-10 of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
 STATE VS.
Damien Lavar Ritter

AKA: _____
 Race: Black Sex: M Age: 28
 DOB: -1992 SS#: ██████████
 Address: ██████ Roberts St
 City, State, Zip: Estill, SC 29918-4011
 DL#: ██████████ SID#: SC02182198

*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
 IN THE COURT OF GENERAL SESSIONS 2133

INDICTMENT/CASE#: 2019GS3202887

A/W#: 2018A3221100460

Date of Offense: 7/5/2018

S.C. Code § : 16-03-0010

CDR Code #: 0116

RECEIVED

Jul 01 2021

SENTENCE SHEET

SC Court of Appeals

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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 Juban Fuler 100730
 Solicitor 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 life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

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

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

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

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

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

TOTAL \$ 125

Clerk of Court/ Deputy Clerk Lisa Comer

Court Reporter: J. Houston

SCCA/217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Fulbright, J.

Judge Code: 2159

Sentence Date: June 28, 2021

TRUE COPY
 Lex. Co. C.C.D.P., G.S. & F.C.

RECEIVED

Jul 01 2021

SC Court of Appeals

A TRUE GOP
[Signature]
Lex. Ct. C.O.C.P.DOCKET NO. 2019GS3202889**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Damien Lavar Ritter

CDR #: 3410

Indictment for

Attempted Murder

§ 16-03-0029

S.R. Hubbard III, SOLICITOR**WITNESSES**

West Columbia Police Department

Christopher J Morris

Law Enforcement Case #: 1818945

SF

ARREST WARRANT NUMBER

2018A3221100462

ACTION OF GRAND JURY*Caroline Seely*
Foreperson of Grand Jury
Date: 8/5/19**VERDICT****TRUE BILL***Keith D. Ogo*
Foreperson of Petit Jury
Date: 6/28/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Murder

§ 16-03-0029

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Damien Lavar Ritter**, in Lexington County, South Carolina, on or about July 5, 2018, did, with the intent to kill, attempt to kill another person with malice aforethought, to wit: the Defendant did order the victim, Rodney Furtick, to the ground and did, after shooting and killing Samir Atkins and/or Elzie Mack, shoot Rodney Furtick, in violation of section 16-03-0029 of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

2136
STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Damien Lavar Ritter

AKA:
Race: Black Sex: M Age: 28
DOB: [REDACTED]-1992 SS#: [REDACTED]
Address: Roberts St
City, State, Zip: Estill, SC 29918-4011
DL#: [REDACTED] SID#: SC02182198

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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] 100730
Solicitor 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 30 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 SCDOC.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

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

TOTAL \$125-

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (04/2018)

0-30yrs
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3202889

A/W#: 2018A3221100462

Date of Offense: 7/5/2018

S.C. Code § : 16-03-0029

CDR Code #: 3410

RECEIVED

Jul 01 2021

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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] 100730
Solicitor 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 30 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 SCDOC.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

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

TOTAL \$125-

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (04/2018)

☐ Appointed PD or appointed other counsel,

§Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge [Signature]

Judge Code: 2159

Sentence Date: June 28, 2021

RECEIVED

Jul 01 2021

SC Court of Appeals

A TRUE COPY

Case Closed
Lex. Cl. C.C.C.P., G.S. & F.C.DOCKET NO. 2019GS3202890**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2019

THE STATE

vs.

Damien Lavar Ritter

CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

S.R. Hubbard III, SOLICITOR

WITNESSES

West Columbia Police Department

Matthew W Deas

Law Enforcement Case #: 1818945

SF

ARREST WARRANT NUMBER

2018A3221100475

ACTION OF GRAND JURY

Courtney Seely
Foreperson of Grand Jury
Date: 8/5/19

VERDICT

TRUE BILL*Thilly D. D. D.*
Foreperson of Petit Jury
Date: 6/28/2021

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Armed Robbery
 § 16-11-0330(A)

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Damien Lavar Ritter** did, along with others, in Lexington County, South Carolina, on or about July 5, 2018, knowingly and willfully while armed with a deadly weapon, to wit: a firearm, feloniously take from the person or presence of Samir Atkins and/or Elzie Mack and/or Rodney Furtick, by means of force, threats, or intimidation, goods or monies being described as follows: a safe and other personal items, with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the Code of Laws of South Carolina (1976, as amended).

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.Damien Lavar Ritter

AKA:

Race: Black Sex: M Age: 28DOB: 8-1992 SS#: [REDACTED]Address: Roberts StCity, State, Zip: Estill, SC 29918-4011DL#: [REDACTED] SID#: SC02182198*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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]
Solicitor

100730

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 (ten) 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 SCDOC.☐ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

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

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

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

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

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

TOTAL \$125

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS 2139

INDICTMENT/CASE#: 2019GS3202890A/W#: 2018A3221100475Date of Offense: 7/5/2018S.C. Code § : 16-11-0330(A)CDR Code #: 0139

RECEIVED

Jul 01 2021

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☒ PLEADSA TRUE COPY
Lex. Co. C.C.C.P. G.S. § 6-6-1

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]Judge Code: 2159Sentence Date: June 28, 2021

RECEIVED

Jul 01 2021

SC Court of Appeals

A TRUE COPY

John James
Lex. Co. C.O.C.R., G.S. & F.C.DOCKET NO. 2019GS3202891**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**AUGUST TERM 2019****THE STATE**

vs.

Damien Lavar Ritter**CDR #: 0095****Indictment for**

Kidnapping

§ 16-03-0910

S.R. Hubbard III, SOLICITORWITNESSES

West Columbia Police Department

Matthew W Deas

Law Enforcement Case #: 1818945

SF

ARREST WARRANT NUMBER**2018A3221100476****ACTION OF GRAND JURY***Courtney Sealey*
Foreperson of Grand Jury
Date: 8/5/19**VERDICT****TRUE BILL***John A. Gyl*
Foreperson of Petit Jury
Date: 6/28/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Kidnapping
§ 16-03-0910

At a Court of General Sessions, convened on August 2019, the Grand Jurors of Lexington County present upon their oath:

That **Damien Lavar Ritter** did, along with others, in Lexington County, South Carolina, on or about July 5, 2018, knowingly, willfully, and unlawfully seize, confine, kidnap, abduct, or carry away one Rodney Furtick by any means whatsoever without authority of law, and without his consent during the commission of an attempted murder and/or armed robbery and/or murder, in violation of section 16-3-910 of the Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

2142
STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Damien Lavar Ritter

AKA:
Race: Black Sex: M Age: 28
DOB: 1-1992 SS#: [REDACTED]
Address: Roberts St
City, State, Zip: Estill, SC 29918-4011
DL#: [REDACTED] SID#: SC02182198

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

0-30 yrs
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3202891

A/W#: 2018A3221100476

Date of Offense: 7/5/2018

S.C. Code §: 16-03-0910

CDR Code #: 0095

RECEIVED

Jul 01 2021

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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] 100730
Solicitor 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 30 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 SCDOC.

☐ 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 (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

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

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

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

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

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

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

TOTAL \$125

Clerk of Court/ Deputy Clerk *[Signature]*

Court Reporter: *[Signature]*

SCCA/217 (04/2018)

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:

*Kidnapping was non-sexual in nature.
No sex offender registry.*

☐ Appointed PD or appointed other counsel,

§ Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge *[Signature]*

Judge Code: 2159

Sentence Date: June 28, 2021

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

State of South Carolina

vs.

Damien Lavar Ritter,

Defendant.

COURT OF GENERAL SESSIONS

Indictment Nos.:

2019-GS-32-02887; -88; -89; 90; -91

RECEIVED**Jul 01 2021****SC Court of Appeals****VERDICT**

1. We, the jury in the above captioned case, on the charge of Murder of Samir Atkins, unanimously find Damien Lavar Ritter (foreman shall initial one):

 Not GuiltyDSO Guilty

2. We, the jury in the above captioned case, on the charge of Murder of Elzie Mack, unanimously find Damien Lavar Ritter (foreman shall initial one):

 Not GuiltyDSO Guilty

3. We, the jury in the above captioned case, on the charge of Attempted Murder of Rodney Furtick, unanimously find Damien Lavar Ritter (foreman shall initial one):

 Not GuiltyDSO Guilty**A TRUE COPY***[Signature]*
Lex. Ct. C.C.C.P., G.S. & F.C.

4. We, the jury in the above captioned case, on the charge of Kidnapping of Rodney Furtick, unanimously find Damien Lavar Ritter (foreman shall initial one):

_____ Not Guilty

DSO Guilty

5 (a). We, the jury in the above captioned case, on the charge of Armed Robbery concerning the safe and its contents belonging to Samir Atkins, unanimously find Damien Lavar Ritter (foreman shall initial one):

DSO Not Guilty

_____ Guilty

5 (b). We, the jury in the above captioned case, on the charge of Armed Robbery concerning the cell phone belonging to Rodney Furtick, unanimously find Damien Lavar Ritter (foreman shall initial one):

_____ Not Guilty

DSO Guilty

David Oxley
David Oxley; Foreman

June 28, 2021
Lexington, South Carolina

A TRUE COPY
John L. Loman
Lex. Co. C.C.O.P., G.S. & F.C.

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."

This 17th day of June, 2022.

Respectfully Submitted,



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

Jun 17 2022

SC Court of Appeals

RECEIVED

Jun 17 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAMIEN LAVAR RITTER,

APPELLANT.

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 Damien Lavar Ritter, #385612, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 17th day of June, 2022.



Adam Sinclair Ruffin
Appellate Defender

ATTORNEY FOR APPELLANT