

VOLUME II of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Oct 13 2022

SC Court of Appeals

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MANDY MORROW FORTSON,

APPELLANT.

APPELLATE CASE NO. 2021-000566

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 65 (CD OF 911 CALLS – NOT TRANSCRIBED)

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 MS. SAMPSON: At this time, I'd ask to introduce
2 State's Exhibit Number 1.

3 MR. WILLIAMS: No objection to that one, Your Honor.

4 THE COURT: All right. Without.

5 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
6 NUMBER 1.)

7 BY MS. SAMPSON:

8 Q. State's Exhibit Number 2?

9 A. A further back picture of her front porch.

10 Q. Does it fairly and accurately depict the way that it
11 was on February 22, 2017?

12 A. Yes.

13 MS. SAMPSON: At ---

14 MR. WILLIAMS: No objection to that one, Your Honor.

15 THE COURT: Without.

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 2.)

18 BY MS. SAMPSON:

19 Q. State's Exhibit Number 3, what is that?

20 A. That is a picture of the .41 caliber Smith and Wesson.

21 Q. And does it fairly and accurately depict the way you
22 found it on February 22, 2017?

23 A. Yes.

24 MS. SAMPSON: I'd ask ---

25 MR. WILLIAMS: No objection to that one, Your Honor.

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 THE COURT: Without.

2 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
3 NUMBER 3.)

4 BY MS. SAMPSON:

5 Q. State's Exhibit Number 4, what is that?

6 A. That is ---

7 Q. Sorry.

8 A. That is my ---

9 Q. Or you can turn it over, however you need to see it.

10 A. Sure. Okay. That is my hand wearing a latex glove
11 after I've opened the cylinder and dumped out the shell
12 casings.

13 Q. And does it fairly and accurately depict what you
14 found on February 22, 2017?

15 A. Yes.

16 MR. WILLIAMS: No objection to that one, Your Honor.

17 THE COURT: Without.

18 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 4.)

20 BY MS. SAMPSON:

21 Q. State's Exhibit Number 5. Hold it however you need
22 to. What does that depict?

23 A. That is a picture of the floor with -- it looks like
24 unfired cartridges, .41 caliber.

25 Q. And does that fairly and accurately depict what you

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 found on February 22, 2017?

2 A. Yes, ma'am.

3 MR. WILLIAMS: No objection to that one, Your Honor.

4 THE COURT: It's without.

5 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
6 NUMBER 5.)

7 BY MS. SAMPSON:

8 Q. State's Exhibit Number 6, what does that depict?

9 A. That is a picture of a box of ammo laying on a pile of
10 clothes.

11 Q. And does that fairly and accurately depict the way you
12 found that box of ammo on February 22, 2017?

13 A. Yes, ma'am.

14 MR. WILLIAMS: No objection to that one, Your Honor.

15 THE COURT: Without.

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 6.)

18 BY MS. SAMPSON:

19 Q. State's Exhibit Number 7.

20 A. That is what appears to be fired partial casings on a
21 bedside table.

22 Q. And does that fairly and accurately depict the way you
23 found it on February 22 of 2017?

24 A. Yes, ma'am.

25 MR. WILLIAMS: No objection to that one, Your Honor.

1 THE COURT: Without.

2 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
3 NUMBER 7.)

4 BY MS. SAMPSON:

5 Q. Number -- I believe 8 and 9 are similar, so can we --
6 8 and 35 are similar. Can we just do those?

7 A. Yes. Those are going to be unfired shells on the pile
8 of clothes at that location.

9 Q. And also same for 36?

10 A. Same thing.

11 Q. And do those three pictures fairly and accurately
12 depict the way you found them on February 22, 2007?

13 A. Yes, ma'am, photographed ---

14 MR. WILLIAMS: No objection.

15 A. --- in place.

16 MR. WILLIAMS: Those three, no objection to those
17 three.

18 THE COURT: All right, without objection.

19 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
20 STATE'S EXHIBITS 8, 35, 36.)

21 BY MS. SAMPSON:

22 Q. State's Exhibits 40 -- let me do this in the right
23 order. 38 -- let me start over. State's Exhibit 37, 38,
24 39, 40, 41, and 42, can you look at all of those, please?

25 A. Sure.

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. What do those depict?

2 A. This would be the backyard area of her home, Mandy
3 Fortson's home, looking towards the apartment complex.

4 Q. All right.

5 A. This would be a closer ---

6 Q. When you say this, you've got to say the number on the
7 back.

8 A. Oh, I'm sorry. State's Exhibit 39 would be the closer
9 to the fence on Mandy Fortson's property looking at the
10 apartment complex. State's Exhibit 38 is another shot from
11 the backyard of Mandy Fortson's home. State's Exhibit 37,
12 same thing. Little closer to the fence off her backyard
13 looking at the apartment complex. State's Exhibit 41, this
14 would be looking back at her house from the backyard with
15 your back against the fence. Same thing here, just a
16 little closer, and you'd be in her backyard looking back at
17 the -- I'm sorry, State's Exhibit 42 looking back at her
18 house.

19 Q. And do all of those fairly and accurately depict the
20 way you found the scene back on September -- excuse me,
21 February 22, 2017?

22 A. Yes, ma'am.

23 MR. WILLIAMS: No objection to that, Your Honor.

24 THE COURT: Without.

25 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 STATE'S EXHIBITS 37, 38, 39, 40, 41, 42.)

2 BY MS. SAMPSON:

3 Q. State's Exhibit Number 78, what is that?

4 A. State's Exhibit 78 looks like a facial photograph of
5 Mandy Fortson.

6 Q. And what -- does that fairly and accurately depict the
7 way she looked the night of February 22 of 2017?

8 A. Yes, ma'am.

9 MR. WILLIAMS: Objection to relevance, Your Honor.

10 THE COURT: I think it's directly relevant at this
11 point. Yeah, overruled.

12 MS. SAMPSON: So, admit State's Exhibit 78, Your
13 Honor?

14 THE COURT: Yes.

15 MS. SAMPSON: Thank you. All right.

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 78.)

18 MS. SAMPSON: All right, at this time, can I ask
19 Investigator Clarke to step down, Your Honor?

20 THE COURT: Yes.

21 BY MS. SAMPSON:

22 Q. I know you don't normally have problems speaking loud,
23 so -- but I'm going to need you to stay loud, okay?

24 A. Where would you like me to stand? Here?

25 Q. Stand right there ---

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Perfect.

2 Q. --- so the court reporter can hear you. Can you tell
3 the jury what's in State's Exhibit Number ---

4 A. This would be ---

5 Q. --- Number 1?

6 A. This would be the front door porch area of Ms.
7 Fortson's house, [REDACTED] Barwick.

8 Q. And what about State's Exhibit Number 2?

9 A. Closer picture. Here's the sign I mentioned.

10 Q. And I'm going to highlight it if it works. Is this
11 what you talking about?

12 A. Yes, ma'am.

13 Q. And what does this sign say?

14 A. It says: Notice. Forget about the dog. Beware of the
15 owner.

16 Q. And what else is on the sign?

17 A. With a revolver pointed at you.

18 Q. And this is on the front house of Ms. Fortson's house?

19 A. Correct, front door.

20 Q. State's Exhibit Number 3, what is that?

21 A. That is a .41 caliber Smith and Wesson handgun.

22 Q. And is that how you found it?

23 A. Yes. That's actually me holding the mattress up.
24 That's sitting on the boxspring.

25 Q. And State's Exhibit Number 4, what is that?

1 A. That's my hand in a glove, and I've emptied the
2 chamber of these rounds on the bed.

3 Q. And so were those, those casings, whatever I'm
4 supposed to call them, were they in the revolver when you
5 found it?

6 A. They were. I was just rendering the weapon safe, and
7 that's when I realized those were fired cases.

8 Q. And you dumped -- did you dump them or did someone
9 else dump them?

10 A. I did.

11 Q. Okay. State's Exhibit Number 5?

12 A. This is the floor in the bedroom. That's a unspent --
13 those are live bullets.

14 Q. State's Exhibit Number 6?

15 A. Box of ammo. I think it's actually here as well.
16 Sitting on top of pile of clothing here in the bedroom.

17 Q. And you pointed. Are you talking about State's
18 Exhibit 83?

19 A. Yes, ma'am.

20 Q. And that's what's in the picture?

21 A. Yes, ma'am.

22 Q. Is State's Exhibit Number 86 in the picture as well?

23 A. Yes.

24 Q. This is State's Exhibit 86?

25 A. Yes. That would be right here turned to the side.

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And State's Exhibit 7?

2 A. This would be the bedside table and a lamp, and these
3 were the shell casings on the bedside table.

4 Q. And State's Exhibit ---

5 A. Live ---

6 Q. --- 8? Sorry.

7 A. I'll wait for you.

8 Q. State's Exhibit 8?

9 A. I, I move fast. Unfired rounds here in the bedroom on
10 a pile of clothes.

11 Q. And did you move these or ---

12 A. No.

13 Q. --- is this how you found them?

14 A. This is -- we filmed them just -- we took pictures
15 just as they were.

16 Q. And that's -- I've got these out of order. I'm so
17 sorry. That's State's Exhibit 30 -- 35. What does that
18 show?

19 A. This is hanging clothes here. This was just at the
20 entrance of the closet, so these -- this is kind of like a
21 path, and that's unfired rounds laying there on those
22 clothes, in the clothes.

23 Q. And is that how you found it?

24 A. Yes, ma'am.

25 Q. And State's Exhibit 36?

1 A. Same thing, some hanging clothes here, clothes and
2 rounds laying on top.

3 Q. And again, that's how you found it?

4 A. Yes, ma'am.

5 Q. What is State's Exhibit -- what does this picture
6 show?

7 A. This is the backyard of Ms. Fortson's house. This is
8 a fence on the property line. This is where our victim was
9 standing. That's a grill right there.

10 Q. And that's State's Exhibit 37, and when you talked
11 about backlit hallway, can you talk -- tell the jury what
12 you were talking about or show them what you were talking
13 about.

14 A. When I was in the Army in the infantry, you never
15 wanted to backlit yourself to the enemy. So, I know that's
16 a technical word, but stay with me with this. You stand
17 under here, you're going to silhouette yourself in that
18 window -- or, I'm sorry, in this, this area. So, you
19 backlit yourself there, you're like a -- literally like a
20 target silhouette we used to train with, and it makes you a
21 very easy target.

22 Q. And what does that show ---

23 A. This ---

24 Q. --- State's Exhibit ---

25 A. This would be ---

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. --- 39?

2 A. Okay, this is Mr. Cruz's home, and this is back end of
3 the apartment complex right here, and this is Ms. Fortson's
4 fence. So, if you're standing there at the fence, Mr.
5 Cruz's home is right there and the breezeway where Mr., Mr.
6 Jones was hit was right here.

7 Q. And what does this exhibit show?

8 A. Better shot of that. Here's going to be a grill.
9 This is going to be Mr. Jones's apartment. This is going
10 to be Ms. Fortson's fence or property line. That's going
11 to be Mr. Cruz's home there.

12 Q. And State's Exhibit -- I am so sorry. State's Exhibit
13 40?

14 A. This was up close to the house, Mandy -- back of Ms.
15 Fortson's house, and here would be the breezeway where Mr.
16 Jones had been standing.

17 Q. And State's Exhibit 42?

18 A. This is turning around and looking at the back of Ms.
19 Fortson's home.

20 Q. And where would you be standing to take this
21 photograph?

22 A. I had my back against the fence. So, my back now
23 would be back to the breezeway, and to the left would be
24 Mr. Cruz's home.

25 Q. And State's Exhibit 41?

1 A. Similar in nature, just a different angle looking back
2 at the house. The fence would be right behind it.

3 Q. That's it, and just to show the jury, is this State's
4 Exhibit 78?

5 A. It is.

6 Q. And is this how Ms. Fortson appeared to you on
7 February 22, 2017?

8 A. Yes, ma'am.

9 Q. You can please have your seat. And just to be clear
10 about the rest of your investigation, at some point did you
11 take a statement from witnesses?

12 A. I did.

13 Q. Who did you take statements from?

14 A. I took a statement from Bakar -- Jakari. Had his
15 mother sit there with him because he was ten years old, and
16 he felt comfortable with her sitting there. And with her
17 listening to his recitation, there would be no point in
18 getting statement from her. So, that's why we didn't take
19 a statement from her. We took a statement from Mr. Jones,
20 and then there was the -- our investigator had gone and
21 taken-- Ramos had taken a statement in Spanish from Mr.
22 Cruz on the night of the event.

23 Q. And I want to ask you about you -- did you ask for CSI
24 to do the gunshot residue kits on both Mr. Jones and Ms.
25 Fortson, or did they just decide to do that?

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. I believe I would've asked for that.

2 Q. And as far as any other -- can you ask CSI to collect
3 things or to do certain testing? Is that part of your job?

4 A. I -- yes. I can guide them. You know, I can say yes,
5 we need to get this, take that.

6 Q. I'm just going to ask. Why didn't you test Mandy
7 Fortson's clothes?

8 A. In all honesty, I guess looking back four years later,
9 it was an oversight, I guess at that point. I know we had
10 some difficulty with her. I know time was of the essence.
11 We had about a six-hour window, and I knew we were going to
12 have a bigger fight trying to get those clothes off of her
13 and get her dressed and whatnot. So, I guess in, you know,
14 just an expeditious manner, we just made a, we made a call.

15 Q. Did you have Mr. Jones's clothes tested?

16 A. Yes.

17 Q. You had them tested for gunshot residue?

18 A. Oh, I don't know if we had them -- we did take them.
19 I'm sorry, yeah.

20 Q. I said did you have them tested for gunshot residue?

21 A. No.

22 MS. SAMPSON: Beg the court's indulgence.

23 (A PAUSE.)

24 BY MS. SAMPSON:

25 Q. Couple more questions. First of all, where are all

1 three addresses located?

2 A. We have 103 -- sorry, 107 Thornwell, [REDACTED] Thornwell,
3 and [REDACTED] Barwick, but for ---

4 Q. Are ---

5 A. Sorry.

6 Q. Are they all in Richland County?

7 A. Yes.

8 Q. And we've heard -- scratch that. Was a Glock ever
9 taken into custody, a Glock gun?

10 A. No.

11 Q. Did you find one?

12 A. No.

13 Q. Was any DNA -- we heard some testimony of DNA swabs.
14 Were those tested?

15 A. They would have been, yeah.

16 Q. Did you submit them to SLED for testing?

17 A. They would have been, yeah.

18 Q. Who decides to do that?

19 A. The -- well, we would -- you put in a request to have
20 that done, and then it's done. We would actually -- the
21 DNA we would have done in our own lab.

22 Q. Do you know if you did that in this case?

23 A. I can't remember, recall.

24 Q. Can you look and tell me? Can you look through your
25 file and see if you did?

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. I don't see that I did that.

2 Q. Is that abnormal to take swabs but not actually submit
3 them for testing?

4 A. Not necessarily.

5 Q. Okay, and was any swabs taken of what appeared to be
6 blood at Mr. Jones's residence?

7 A. Yes.

8 Q. Was that submitted for testing?

9 A. Yes.

10 Q. Are you ---

11 A. I believe -- no, not in my report, no.

12 Q. Okay.

13 A. No.

14 Q. Is that abnormal again for -- not to do that for what
15 you think is the victim's blood?

16 A. No. Because there wasn't -- we don't have another
17 victim, we don't have to figure out -- we don't have a
18 victim and an assailant in the same room or something like
19 that. It's kind of a for -- a given that's his blood, you
20 know.

21 MS. SAMPSON: Beg the court's indulgence.

22 (A PAUSE.)

23 MS. SAMPSON: No further questions. Please answer
24 anything Mr. Williams has.

25 MR. WILLIAMS: May it please the court?

1 THE COURT: Yes, sir.

2 MS. SAMPSON: Mr. Williams, do you need this?

3 MR. WILLIAMS: Yes, please. No, I don't need it, no.
4 No, I absolutely don't need it.

5 CROSS-EXAMINATION BY MR. WILLIAMS:

6 Q. Investigator Clarke, I'm going to be relatively short.

7 A. Yes, sir.

8 Q. We just looked at a whole bunch of pictures even
9 though they were given different names and different times,
10 or different numbers, I should say. We saw pictures of the
11 interior of Ms. Fortson's house. We saw pictures of the
12 backyard of Ms. Fortson. We saw pictures of the apartment
13 complex. We saw pictures of Mr. Cruz's house. We saw
14 pictures of the woods. We saw pictures of guns,
15 cartridges, and we saw a picture of Mandy also. On all of
16 those pictures, particularly the ones that were taken --
17 they were taken at night, weren't they?

18 A. Yes, sir.

19 Q. What time of night were they taken?

20 A. I would have to look at the time stamp to be exact.
21 They were -- it was dark.

22 Q. It was after she had already been taken to -- taken
23 away, correct, after she'd already been arrested and taken
24 away except for the picture of her and the picture of
25 what's inside. Well, were you taking pictures of inside

1 the house when she was still there?

2 A. No, I was not taking pictures, no.

3 Q. So, she was gone?

4 A. I do recall, I think she had already been transported.

5 Q. 12 o'clock at night?

6 A. Could be.

7 Q. Roughly? It was dark?

8 A. It was dark. It was late at that point.

9 Q. Dark.

10 A. We were definitely into the morning.

11 Q. And each and every one of those pictures, it appeared
12 to be well lit up, meaning, you know, you could, you could
13 play baseball in that kind of weather. I could play golf
14 an extra five holes if I had that kind of light.

15 A. They were, they were illuminated by flash, Counselor,
16 yes, sir.

17 Q. So, for the normal person looking out there, you
18 wouldn't be able to see all that, would you, without flash,
19 without illumination, without, as the English say, a torch?

20 A. You would not have the resolution you have in those
21 photographs, but you certainly would have had ambient
22 lighting from the different lighting sources.

23 Q. Meaning you could see, you could see the hallway maybe
24 and see where the lighting was there, but you couldn't see
25 all the trees and all that stuff and the, and the yard and

1 everything like we were seeing with the camera with flash
2 that was on it. What kind of flash was it?

3 A. I don't know what the nomenclature of that flash was.
4 That was CSI doing that.

5 Q. So, you really didn't do any of these pictures? You
6 didn't take any these of these pictures?

7 A. I did not physically pull the shutter, no, sir.

8 Q. Okay. Now, you have described the items in these
9 pictures that you took pictures of, and you seized all
10 those items, didn't you?

11 A. Yes, sir.

12 Q. And, and the reason you seized these items was to take
13 those items and to have them tested for gunshot residue,
14 DNA, fingerprints, right, all three of those things,
15 ballistics -- so it's actually four things -- for
16 scientific things that you could do to these items,
17 correct?

18 A. That would be -- we would take those to be able to do
19 that.

20 Q. And we have heard in the last two days testimony from
21 those persons who would've done whatever testing that was
22 done on these items that you took pictures of and that you
23 took to different locations to have these tests done,
24 correct?

25 A. Correct. Multiple people have testified to that.

J. CLARKE - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. So, whatever results came from that was whatever
2 results came, correct?

3 A. Correct.

4 Q. Now, you remarked that there was some sort of gray
5 material on Mandy Fortson's face as well as, what, on her
6 hands also?

7 A. Yes, sir.

8 Q. Did you take any type of sampling of whatever the gray
9 material was on her face? And where was it on her face, by
10 the way?

11 A. It what on her forehead.

12 Q. It was on her forehead?

13 A. Uh-huh.

14 Q. Did you, did you try to sample that as well as sample
15 her hands?

16 A. I would not be the one -- the answer, the quick answer
17 is no and the reason why is because I would not be the one
18 to administer the gunshot residue test. I don't have
19 those, and I'm not trained in doing that.

20 Q. Well, we've heard you testify to the solicitor that
21 you're kind of in charge of what's done. You can tell them
22 what to do.

23 A. If they're there. You have to wait for CSI to get
24 there. I think you might have heard the testimony, how
25 they all have different shifts and ---

1 Q. So, no, no CSI guy was there when you were observing
2 the gray stuff on her forehead and gray stuff on her hands?

3 A. No. We were making tactical entry at that point.

4 Q. Okay.

5 A. There was -- yeah. We had no lab guy with us at that
6 point.

7 Q. But, but you obviously felt that it was important that
8 there was some sort of gray stuff on her forehead and gray
9 stuff on her hands, right?

10 A. That's why I made note of it in my ---

11 Q. So ---

12 A. --- follow up.

13 Q. --- if it, if it was important, then why wouldn't you
14 take a test to show what it was?

15 A. That's a very good question. The problem was we were
16 having difficulty with Ms. Fortson and when I -- you know,
17 I -- in a light most favorable to your client, we were
18 having tremendous difficulty with Ms. Fortson.

19 Q. That probably depends on the view of the person who's
20 making the commentary.

21 A. Does, yeah, but I -- yeah. I could go into greater
22 detail, I mean.

23 Q. So, the picture that we saw -- there is a picture of
24 her on that particular night, isn't there?

25 A. Yes.

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1 Q. And that is exhibit...

2 MR. WILLIAMS: It was the last one. What is that?

3 THE COURT: 78.

4 MR. WILLIAMS: 78.

5 BY MR. WILLIAMS:

6 Q. There's a picture of her.

7 A. Yes, sir.

8 Q. Does she have the gray material on her face?

9 A. Does not appear in that photograph, no.

10 Q. Do you remember your earlier testimony and you were
11 talking about how you had the door cracked, and you had the
12 lady standing there, and Ms. Fortson used the bathroom.

13 And for whatever reason after she got through using the
14 bathroom, she had the nerve to wash her hands, right?

15 A. She washed her hands.

16 Q. You know the one thing you didn't say, did you? That
17 she washed her face.

18 A. Don't know if she did or didn't. She's in the
19 bathroom with the door partially closed. Modesty for her,
20 you know, and let her do what she needed to do. She could
21 have.

22 Q. When she walked, when she walked out, did her face
23 look any different?

24 A. Don't recall if it looked much different.

25 Q. So, perhaps when she walked in, she looked the same as

1 when she walked out, meaning that whatever was on her face
2 had absolutely nothing to do with gunshot residue, correct?

3 A. I would disagree. The, the, the, the residue on the
4 spent rounds -- and there is, you know, residual -- you can
5 see it, physical, like talc. Very much mimicked what I'd
6 seen on her face and fingers.

7 Q. So, we're, we're going to have -- we're just going to
8 have to trust you that it probably looked like it might be
9 as opposed to, I don't know, some kind of cosmetic thing.
10 You didn't do any test on her?

11 A. No, we did not.

12 Q. Okay. Now, you, you took pictures of the location of
13 the pistol as well as the location of the cartridges. And
14 we've already learned that this gunshot residue,
15 particularly coming from a revolver, it goes out the back
16 end of the cylinder, goes out everywhere. And as we
17 learned, it sticks around for, like, *ad nauseam* until
18 somebody cleans it up. Did you pull the sheets off of the
19 bed or the mattress that was touching the gun to see if
20 there was gunshot residue on the mattress and/on the sheet
21 that would be an indication that this gun had ever been
22 fired anywhere in the near past from that date that this
23 supposedly occurred?

24 A. From that question, we did not test the sheets, no.

25 Q. And the relevance of that would be obviously if a gun

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1 had been fired, if there had been gunshot residue, it would
2 be on the sheets because it was between the sheets, between
3 the mattress, and then you would be in a position to say
4 that gun's been fired. There's gunshot residue on the
5 sheets and gunshot residue on the mattress, correct?

6 A. Disagree.

7 Q. It would be an indication that gunshot residue got
8 between her mattress from something that had gunshot
9 residue on it, wouldn't it?

10 A. No different, though, than the spent shell casings and
11 the ejected shell casing inside the revolver found between
12 her mattress and bed springs.

13 Q. There was so much that she obviously got it on her
14 forehead and hands, right?

15 A. I would agree.

16 Q. But you didn't test anything else, correct?

17 A. Correct.

18 Q. So, what did she have on when she came to the door?

19 A. I don't recall. She was dressed.

20 Q. Well, what she has on is important not only for
21 balance, considering that you're, you're counting on
22 witnesses to identify what she looked like and what she had
23 on, but also in regards to what evidence you can seize to
24 test to see if the clothing had gunshot residue on it,
25 correct?

1 A. That's fair.

2 Q. Okay. So, you don't remember what she had on?

3 A. Not specifics.

4 Q. Well, but you actually seized clothing from her,
5 didn't you?

6 A. I don't know if we seized any clothing.

7 Q. You didn't seize any clothing? Maybe some sort of
8 black top or something like that? You didn't take any
9 clothing whatsoever from her?

10 A. Not that I recall.

11 Q. Did you take a white T-shirt?

12 A. Not that I recall.

13 Q. Did you take a pair of shorts?

14 A. No, sir.

15 Q. Did you take a pair of jeans?

16 A. No, sir.

17 Q. Do people normally get to wear their own clothing when
18 they get arrested?

19 A. To the jail they do.

20 Q. And then what happens to their clothing?

21 A. Well, if they're going to get booked and stay in,
22 they're going to get issued some clothes.

23 Q. So, their clothing doesn't just disappear. It is
24 available if you have to, I don't know, get a search
25 warrant if necessary to check the clothing out from the

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1 jail and/or a search warrant, if necessary, to go to the
2 house to seize whatever clothing is there, correct?

3 A. If we felt that relevant in the investigation.

4 Q. But you didn't think it was relevant whether or not
5 her clothes had any gunshot residue on it?

6 A. No, sir, because at that point, gunshot residue seems
7 more relevant to me if it's on the person's hands or body
8 or from an impact wound.

9 Q. And the only gunshot residue that was determined, as
10 we've already learned, was on -- or at least something that
11 might be considered that -- was on the back of the right
12 palm, correct?

13 A. I believe that was the testimony.

14 Q. Did she take a full shower and go to a sauna before
15 you took her to the jail?

16 A. No, sir.

17 Q. The...

18 MR. WILLIAMS: Beg the court's indulgence? One
19 moment, Your Honor.

20 (A PAUSE.)

21 BY MR. WILLIAMS:

22 Q. And we've discussed all the testing that was done in
23 your case, in the case that you were supervisor over on
24 this particular case, right? Any scientific tests that has
25 been done in this particular case has been discussed in

1 this trial in regards to the clothing, the DNA, the
2 fingerprints, or anything like that, right?

3 A. I believe so.

4 Q. And you have a problem with the fact that she has a
5 Marine Corps flag in front of her yard, Marine Corps sign,
6 right?

7 A. Do not, sir.

8 Q. Is that because you're 11 Bravo?

9 A. I was 11 Bravo in the Army, but my dad redeemed
10 himself or redeemed me by allowing me to join the Airborne
11 because he was a Marine.

12 Q. Okay.

13 A. He said I, he said I made the cut.

14 Q. Okay.

15 A. So, I have nothing but respect for the Marine Corps.

16 Q. But you thought that because she had that, because she
17 had some sort of menacing sign on her front door, that that
18 was meant for you and not for all those people who may be
19 coming in her neighborhood, or come to her house, or try to
20 break in her house and do whatever, right? You think it
21 was meant for you? She, she ran out there and put it up
22 right before you got there?

23 A. Didn't say that, sir. I live a nautical mile from
24 where she lives right now; I live in the same neighborhood.

25 Q. Okay. The -- you interestingly said that she had been

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1 drinking but she wasn't drunk. So, there was nothing about
2 whatever alcohol she was drinking that would cause her to
3 act, I don't know, unusual? You didn't think she was under
4 the influence?

5 A. She had been drinking. I didn't know what her level
6 of saturation was at that time.

7 Q. Well, you wouldn't have taken her statement if you
8 thought she'd been drinking and didn't know what she was
9 doing or saying, would you?

10 A. Correct. If she was giving signs that she was
11 affected seriously with alcohol, we would've taken that
12 statement.

13 Q. Okay.

14 MR. WILLIAMS: That's all the questions I have, Your
15 Honor.

16 THE COURT: Redirect?

17 MS. SAMPSON: Very briefly.

18 REDIRECT EXAMINATION BY MS. SAMPSON:

19 Q. I'm going to go just a little bit backwards. He asked
20 you about the sign, did you think it was for you. Why was
21 it significant to you?

22 A. You do this job long enough, and you start looking for
23 things that could be a potential threat. I challenge
24 anybody to ride down the road and see how many signs you
25 see on the front door that has a revolver pointed at you

1 saying that we -- don't mind the dog. Beware of the owner.
2 You know, you just call that perhaps you should be aware.
3 I've got a cartoon of a firearm pointed at people that
4 greet me at my front door.

5 Q. And why, why were you there? What had brought you
6 there?

7 A. A shooting.

8 Q. And he asked you about what was relevant, was her
9 clothing relevant. What was relevant to you in this case,
10 the evidence that you did have?

11 A. What was relevant is I was having -- I had an
12 eyewitness, and more importantly I had, in my experience, I
13 had an eyewitness who was very motivated and forthcoming
14 who was saying, in fact, this was the person that did it.
15 I watched them do it. I had a victim who had said this
16 woman ---

17 MR. WILLIAMS: Objection to hearsay, Your Honor.

18 THE COURT: Sustained.

19 BY MS. SAMPSON:

20 Q. Not telling what he said.

21 A. I had gathered information that my suspect, my primary
22 suspect was located at that home. And when I made contact
23 with that suspect, I then gathered quickly more information
24 that confirmed my feelings that this was my sole suspect.

25 Q. Such as?

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1 A. Gunshot residue on the forehead and on the fingers,
2 open shell casings sitting on a bedside table, weapon,
3 gunshot fired rounds, looked like they were pulled out of a
4 closet in haste. Shot, spent shell casings in a revolver
5 to explain why you would need to load and reload, therefore
6 that gap in time where everyone's saying -- or, sorry,
7 information coming to me was there was gunfire, a break in
8 gunfire, and then the gunfire resumed, which would, when
9 you look at a revolver situation like that, someone would
10 need to go and reload that. And that's a little more time
11 consuming than in a magazine in the back of a semiauto.

12 Q. And were her words and actions important or relevant
13 to your investigation?

14 A. Yes.

15 Q. Why was that?

16 A. Without mentioning any specificity, she made mention
17 quickly of a shooting.

18 Q. And what else did she mention?

19 A. Did -- was anyone hit.

20 MS. SAMPSON: No further questions, Your Honor.

21 MR. WILLIAMS: No further questions on recross.

22 THE COURT: Thank you, Investigator Clarke. You may
23 step down.

24 (THE WITNESS EXITS THE STAND.)

25 MS. SAMPSON: May we approach, Your Honor?

1 THE COURT: Yes, ma'am.

2 (OFF-THE-RECORD BENCH CONFERENCE.)

3 THE COURT: All right, ladies and gentlemen, we're
4 going to stop there for the evening. We're at a good
5 stopping point, and tomorrow morning we're going to start
6 at 9:45, at 9:45. Do not discuss the case. Keep an open
7 mind. Have a good night. We'll see you in the morning.
8 Thank you very much.

9 (THE JURY EXITS AT 4:50 P.M.)

10 THE COURT: You want to do what?

11 MS. SAMPSON: All right. So, for the record, Your
12 Honor, during Mr. Cruz's testimony, there was a lot of talk
13 about this -- a 911 call that he made and that I will be --
14 I think we will all admit that that was the first time we
15 had heard specifically as far as the details of the call,
16 the timing and all of that. Based on that, we would like
17 to recall Ms. Richburg to explain why we don't have the
18 call so there's no ---

19 THE COURT: Well, how's she ---

20 MS. SAMPSON: --- question as to how ---

21 THE COURT: --- going to explain that?

22 MS. SAMPSON: My understanding -- she did some of it
23 in her first testimony, but I think we may need to flesh
24 that out -- that it's human error. Like, literally they're
25 just picking the calls. They can miss a call, and that's

1 actually not unusual, and she can explain why that happens.

2 MR. WILLIAMS: I don't think I heard her -- Your
3 Honor, they have the 911 calls. They can play their 911
4 calla all they want because they're in evidence. If we
5 start explain why we can't present evidence, which is --
6 doesn't appear to be a real good basis for reopening with a
7 witness who's already testified because you just wait til
8 the end, get to throw somebody up, okay.

9 THE COURT: So, you're going to call -- you want to
10 call her so she can say we can miss 911 calls?

11 MS. SAMPSON: Unless he's wants to stipulate that
12 that's a fact that is true. That's all I wanted her to --
13 is explain that it -- actually talked about that they're
14 using tracking and that is how they figure out which call
15 belongs with which incident. And that because it's a human
16 doing this, not a computer, all of those things, calls get
17 missed. This isn't unusual.

18 MR. WILLIAMS: Isn't that jury argument?

19 MS. SAMPSON: Not if you don't ---

20 MR. WILLIAMS: I mean, and, and anybody can miss
21 anything. It's *errare est humana*. She can argue that in
22 Latin front of the jury. There's no witness that can --
23 that needs to bring forth the fact that we're human and we
24 all can make a mistake. It's not a legal defense, and it's
25 not even a piece of evidence.

1 THE COURT: I don't know how she can say whether or
2 not there was a call or not. She can't.

3 MR. WILLIAMS: She didn't hear it.

4 MS. SAMPSON: It is more about that ---

5 THE COURT: She didn't even know it was missing
6 because that's making an assumption that it exists.

7 MR. WILLIAMS: That's true.

8 THE COURT: Which no one has any evidence that it
9 exists.

10 MS. SAMPSON: Well, I guess maybe I'm not explaining
11 this correctly.

12 THE COURT: I understand what you're saying. You're
13 saying you want to call her to say when we put together the
14 collection of 911 calls, sometimes we miss things.

15 MS. SAMPSON: We can miss one because we're trying to
16 get information from the towers, and as she explained about
17 that, it's not as easy as just going did this call go with
18 this incident because people may have said it's my address.
19 There's different reasons why they miss a call.

20 We do have several calls. We don't have that one.
21 It's not that we didn't turn it over. We never were given
22 that.

23 THE COURT: I didn't, I didn't say you didn't turn it
24 over.

25 MS. SAMPSON: Right. Right. I understand you didn't,

1 but that's what I'm trying to get to is there is a -- there
2 could -- there is a reason why we don't have that call.

3 THE COURT: That's making the assumption that the call
4 exists.

5 MS. SAMPSON: It is, just like the other calls that we
6 have until we played them. We talked about them until we
7 played them: that they existed, that people called 911.
8 Until we played them, you're assuming that there are 911
9 calls. So, I mean, I, I understand what you're saying.

10 THE COURT: So, you're telling me that the main
11 eyewitness to the crime who literally lived across the
12 street from -- not across the street but in the backyard of
13 the incident location who, according to Mr. Cruz, was on
14 the phone with 911 for more than ten minutes giving a
15 description of everything -- I, I don't know she's going to
16 come in and say they just missed something that she doesn't
17 know existed. I think it's an impossibility.

18 MS. SAMPSON: And she may not -- she is checking on
19 the incident reports to see, to be able to confirm that,
20 yes, we didn't give y'all that call or no, it never
21 existed. I just wanted the ability to be able to do that,
22 and I didn't want to rest without being able to have the
23 ability to do that.

24 THE COURT: I don't even know how anybody in the world
25 is supposed to cross-exam that line of questioning, that

1 line of thought.

2 MS. SAMPSON: As far -- I mean, if she can show that
3 this call did happen, that might be a problem for
4 everybody. I don't know. I just ---

5 MR. WILLIAMS: That would be a discovery problem for
6 me, Your Honor.

7 MS. SAMPSON: I didn't want to rest the case without
8 looking into the call.

9 THE COURT: Yeah, if this call does exist, we have, we
10 have a Rule 5, *Brady* issue.

11 MS. SAMPSON: I guess I just didn't want to rest
12 without having to be able to do that, if that's going to be
13 an issue. I don't know. We couldn't get it done that fast
14 to ask her while I'm standing here speaking. But if Your
15 Honor is saying that I can't recall her, then we'll, we'll
16 just rest and move on.

17 THE COURT: I mean, I thought y'all already asked her
18 how do you come up with who -- what calls are on there, and
19 she went through this whole thing about talking about cell
20 phone towers and times and everything else.

21 MS. SAMPSON: She did.

22 THE COURT: I mean, what if the truth is Mr. Cruz's
23 call doesn't exist?

24 MS. SAMPSON: I get, I get that, Your Honor. I just
25 -- I guess I was trying to ---

1 THE COURT: I mean, can she tell me whether or not
2 anyone from that phone number called 911 that night?

3 MS. SAMPSON: She is looking into that. I don't know
4 that she'll be able to do that.

5 THE COURT: Did somebody give her Mr. Cruz's wife
6 phone number?

7 MS. SAMPSON: Not that I'm aware.

8 THE COURT: Well, how are they supposed to know what
9 they're looking for?

10 MS. SAMPSON: My understanding at this point, they're
11 looking at anything with his address because ---

12 THE COURT: You're making the assumption that somebody
13 understood him or his wife.

14 MS. SAMPSON: Correct.

15 THE COURT: I mean, when he says the word, the word
16 doesn't even sound like what it's spelled like. Can they
17 not do it by phone number?

18 MS. SAMPSON: They can, but I don't know that I know
19 her phone number because none of us elicited that
20 information from him. I'll be honest. We didn't.

21 (A PAUSE.)

22 MS. SAMPSON: Yeah, we don't have a phone number.

23 THE COURT: Why not?

24 MS. SAMPSON: Because apparently she has a new one,
25 and they don't remember the old one. As I'm being told

1 right now, I'm telling you.

2 THE COURT: You're making my argument for me as to why
3 this is all not permissible.

4 MS. SAMPSON: Never mind. Now they have the number.
5 I'm telling you this as I'm finding it out, Your Honor.

6 MR. WILLIAMS: Well, Your Honor, then I would move for
7 either a mistrial or a -- or about a two-month continuance
8 on failure to turn over evidence, Your Honor, if we're
9 going to have to get that.

10 MS. SAMPSON: I don't know that there's any evidence
11 to turn over. Again, I don't know.

12 THE COURT: Do we know if Ms. Richburg can track it by
13 the phone number?

14 MS. NELLERMOE: May I address the court?

15 THE COURT: Sure.

16 MS. NELLERMOE: The, the call itself would be deleted
17 at this point because they're only saved for ninety days.

18 THE COURT: I understand.

19 MS. NELLERMOE: So, we could -- if she is able to
20 search this phone number and it exists, she could generate
21 an incident detail report to show that, yes, there was a
22 call made from this phone on this date at this time.

23 THE COURT: Okay.

24 MS. SAMPSON: But we wouldn't have the call.

25 MS. NELLERMOE: Yes, we would not have the call

1 itself.

2 THE COURT: Okay.

3 MR. WILLIAMS: And, Your Honor, that would just not be
4 relevant in itself.

5 THE COURT: Say that again.

6 MR. WILLIAMS: That in it -- if, if all they had was
7 that there was a phone call made without a period of time
8 and duration or without when it ---

9 THE COURT: I mean, I think they would have a date
10 stamp and timestamp on it, wouldn't it?

11 MS. NELLERMOE: Yes, Your Honor.

12 MR. WILLIAMS: But they wouldn't have the call for us
13 to listen to.

14 THE COURT: Correct.

15 MR. WILLIAMS: So.

16 THE COURT: Would they have the operator's notes? And
17 here's why I'm asking all these questions because every
18 single county I go to in every single case, they all tell
19 me they can keep something differently. So, that's why I'm
20 asking these. The last one of these I did, the call, the
21 call itself had been deleted, but the report as to the call
22 and what the operator said the person said were all there.

23 MS. NELLERMOE: Your Honor, on the reports from
24 Richland County, there are memos or notes on the pages.
25 So, it's very possible that the incident detail report

1 would include notes like you're asking about.

2 MR. WILLIAMS: Well, then, Your Honor, that's -- they
3 had access to that, and they could have presented it when
4 she was testifying if that was the case.

5 MS. SAMPSON: Your Honor, based on all this, we'll
6 just move on. We'll rest in front of the jury because
7 we've done enough already.

8 THE COURT: Okay. All right. Okay. So, the state
9 would rest. We can do that officially in the morning.

10 Do you want to do your motions right now?

11 MR. WILLIAMS: Yes, Your Honor.

12 THE COURT: Get those over with.

13 MR. WILLIAMS: Essentially, it would be motions for
14 directed verdict. The evidence in the light most favorable
15 to the state is insufficient as a matter of law for this
16 jury to determine that my client is guilty of the three
17 indictments, as I understand them, that she's been charged
18 with.

19 And, Judge, to speak to the one that you had talked
20 about, which is breach of peace of a high and aggravated
21 nature, I again read that case just like you have done,
22 like, I don't know, a bunch of times. Justice Toal spent
23 way more time on that than -- and, and, and she's -- I
24 don't, I don't know that we can actually say where the
25 Supreme Court has ruled on something that, you know, that

1 they're just wrong, but they did rule on that, saying that
2 it was there. But it's very difficult to make a
3 determination in regards to why that is a criminal offense
4 if it didn't exist in common law, as far as I can tell, in,
5 in regards to what she was stating in her dissent.

6 The other thing, Your Honor, is I've seen the charge
7 that the solicitor has provided, and it's -- she spent
8 quite some time doing that, and I think she took the bull
9 by the horns or took the ball underneath her arm, I guess.
10 Take the bull by the horns and it looked like she was
11 listing everything that Your Honor kind of indicated, like
12 the aggravated circumstances. I guess we're just kind of
13 making up charges, Judge. I don't know how else to do it
14 unless we start -- it seems like we're setting precedence
15 in terms of explaining what it would have been, what it
16 should be.

17 THE COURT: Right.

18 MR. WILLIAMS: But.

19 THE COURT: All right. Well, your motions a for
20 directed verdict are denied.

21 MR. WILLIAMS: Yes, sir.

22 THE COURT: I believe there is sufficient evidence,
23 and based on in the light more favorable to the nonmoving
24 party, which is the state, considering existence of the
25 evidence and not the weight of the evidence, I think

1 there's clearly sufficient evidence on all three charges
2 for the case to go forward to the jury. We'll sort out
3 what are we going to charge the jury on the breach of
4 peace, high and aggravated nature later. But I do believe
5 there is sufficient evidence based upon the testimony of
6 the victim, of Mr. Cruz, of the law enforcement, of
7 everything else that took place over the past few days that
8 it goes beyond the standard of -- that's required at
9 directed verdict.

10 All right, Ms. Fortson, I need to have a conversation
11 with you. If you could please stand up, and if you would
12 raise your right hand and take off your mask.

13 (WHEREUPON, MANDY MORROW FORTSON IS DULY SWORN.)

14 THE COURT: All right, you can put your hand down. At
15 this time, I'm going to explain some of your rights to you.
16 If you do not understand anything that I say, please just
17 let me know. If you want me to explain anything in more
18 detail, please just let me know that, too. Do you
19 understand?

20 DEFENDANT: Yes, sir.

21 THE COURT: Can you hear me okay?

22 DEFENDANT: Yes, sir.

23 THE COURT: Great. So, we have now reached the stage
24 of the trial where you are allowed to present your defense.
25 You have the right to claim the protections given to you by

1 the Fifth Amendment of the Constitution of the United
2 States. This amendment states in part that no person shall
3 be compelled in any criminal case to be a witness against
4 himself. This means that you cannot be required to testify
5 in this case. You have the right to testify on your own
6 behalf; however nobody can make you testify. This is a
7 personal right, and no one can waive or give up this right
8 except you.

9 If you decide to testify, you will be subject to the
10 same rules that govern all the other witnesses, and you may
11 be examined, cross-examined on any relevant issue in this
12 case. And in addition, in addition, if you have any
13 convictions that involved dishonesty or false statements,
14 or for crimes punishable by more than one year in prison
15 and your rights have not been restored by pardon and/or
16 amnesty, and I determine that the probative value of
17 admitting this evidence outweighs its prejudicial effect,
18 then the solicitor will be able to introduce your record to
19 attack your credibility.

20 If you decide to testify, this decision on your part
21 must be made freely, voluntarily, and intelligently, with
22 the knowledge of the protections that are given to you by
23 the Fifth Amendment and the consequences of your decision
24 to testify.

25 If you decide not to testify, I will instruct the jury

1 that they cannot give the fact that you did not testify any
2 consideration whatsoever, and that there is to be
3 absolutely no prejudice to you because you did not testify.

4 It is left entirely up to you whether or not you
5 testify. You can talk with your attorneys, your family, or
6 anyone else, but the final decision is yours and yours
7 alone. Do you understand what I have explained to you so
8 far understand?

9 DEFENDANT: Yes, sir.

10 THE COURT: And do you have any questions about
11 anything that I have explained to you?

12 DEFENDANT: No, sir.

13 THE COURT: And have you discussed this with Mr.
14 Williams prior to today?

15 DEFENDANT: Yes, sir.

16 THE COURT: And do you need to speak with him any more
17 about this decision?

18 DEFENDANT: No, sir.

19 THE COURT: Okay, and do you wish to testify?

20 DEFENDANT: Absolutely.

21 THE COURT: Okay. All right. Good.

22 Okay, so what we'll do is tomorrow morning ---

23 You can have a seat. Thank you.

24 So, tomorrow morning we'll come in. I have state
25 grand jury bond settings.

1 And, Mr. Williams.

2 MR. WILLIAMS: Yes.

3 THE COURT: Are your clients walking in, or are they
4 in jail?

5 MR. WILLIAMS: Your Honor, one is, is -- will be here
6 at 9:15. I, I told him 9:15. What time does Your Honor
7 want him?

8 THE COURT: That's why we're about to talk through.
9 Is one of them in custody?

10 MR. WILLIAMS: One of them is in custody. I
11 understand from Mr. Parks that he is being delivered from
12 the Lexington County jail. Should be downstairs maybe by
13 8:30, is what I heard.

14 THE COURT: Okay, and is the other one walking in?

15 MR. WILLIAMS: The other one is a walk-in.

16 THE COURT: Okay. Can -- you think you and the
17 walk-in can be here by 9:00?

18 MR. WILLIAMS: I can, Your Honor.

19 THE COURT: Okay. All right. So, we're going to do a
20 statewide grand jury bond setting at 9 o'clock.

21 Elizabeth, you'll need to be here for that one.

22 And we're going to tell Mr. Parks and his people to
23 make sure the guy in custody is here and make sure that
24 whoever from the AG's office is here and Mr. Parks is here,
25 and then we'll jump. After that, we'll let the state rest

1 on the record. You can renew all your motions at the
2 appropriate time, and then we'll drive right on into Ms.
3 Fortson or any other defense witness's testimony. All
4 right, does all that sound good?

5 MS. SAMPSON: Yes, sir.

6 THE COURT: Okay. You good?

7 MR. WILLIAMS: I am, Your Honor.

8 THE COURT: What time did I tell the jury? 9:45?

9 MS. SAMPSON: You didn't. We just took the -- didn't
10 we just leave -- oh, you did. Never mind. I'm sorry.

11 THE COURT: That's okay. My brain's a little fried,
12 too.

13 MS. SAMPSON: Don't listen to me. I don't know.

14 MR. WILLIAMS: I would think that we could complete
15 all the testimony and motions by lunchtime tomorrow, Your
16 Honor.

17 THE COURT: I think we're going to complete all the
18 testimony and the motions and the closing arguments by
19 lunchtime tomorrow.

20 MR. WILLIAMS: I was -- okay. Well, that's good. I
21 appreciate that.

22 THE COURT: All right, I have this charge about 95
23 percent done. One thing, and I'm not sure we can make this
24 decision now or that I can make this decision now, but you
25 need to think about lesser includeds in this attempted

1 murder charge. That's the one where it's, like, ABHAN, A&B
2 first, A&B second, A&B third. They're all kind of in
3 there. So, you know, think about that and what you're
4 interested in or not interested in.

5 Discharging a firearm into a dwelling, there's no real
6 charge on that in the book, so we just use the statute. We
7 just took it legitimately from the words of the statute.
8 The words in there aren't difficult. It's a dwelling house
9 or other building, structure, enclosure regularly occupied
10 by persons. So, none of those words are crazy that need to
11 be defined or anything. And then the breach of peace, high
12 and aggravated nature, kind of the beginning of it makes --
13 and then we just -- we'll figure out what to do with the
14 circumstances of aggravation. All the -- any of the lesser
15 includeds on the A&B one or A&B two, or whatever they are,
16 we would take out all the -- there's no indecent liberties
17 and all that kind of stuff.

18 MS. SAMPSON: That's why I gave, I think I gave you
19 two versions.

20 THE COURT: But they're also in the A&B one and ABHAN
21 and A&B two. So, we would pull, we would pull all of that
22 stuff out. I think that just makes it more confusing when
23 those are clearly not issues that are before us at this
24 point in time. So, think about that.

25 And then two other things we need to think about. We

1 will need a clean computer for the jury.

2 MS. SAMPSON: We have one.

3 THE COURT: Okay. The last time, there was some
4 confusion as to where the clean computer was or if it
5 worked or didn't work.

6 MS. SAMPSON: I think they found they were good, but
7 we will check and make sure.

8 THE COURT: Yeah. So, yeah, and we just need to make
9 sure that it has the ability to play the 911 calls. That's
10 really the main thing we need it for.

11 MS. SAMPSON: Okay.

12 THE COURT: Because the pictures are in evidence.

13 MS. SAMPSON: Right.

14 THE COURT: So, they don't need the big board for
15 them. We also need to make sure that we have some gloves
16 for the jury because I think there's the bag with -- they
17 were covering the blood, hand, or something like that, so
18 that they have some gloves if they don't -- they want to
19 touch anything.

20 And then the one thing if you will remind me in the
21 morning, Investigator Clarke, I have an actual gun lock in
22 my desk drawer.

23 INVESTIGATOR CLARKE: Yes, sir.

24 THE COURT: So, before we let that jury go back --
25 that gun go back with the jury, we'll put the real gun lock

1 on it instead ---

2 INVESTIGATOR CLARKE: Through the trigger well kind?

3 THE COURT: --- of the zip tie. Huh?

4 INVESTIGATOR CLARKE: Through the trigger well type?

5 THE COURT: Yeah, yeah, and then -- because I think if
6 we're going to send the gun and the ammo back, we probably
7 need something more than a zip tie.

8 MS. SAMPSON: And we usually -- I will say this. In
9 cases I've done, we usually send the gun and keep the
10 bullets and then if they want the bullets, then we make
11 them give us the gun.

12 THE COURT: Yeah. We can do that.

13 MR. WILLIAMS: Particularly as, as mean as I've been
14 during this trial, Your Honor, that may be a good idea.

15 THE COURT: Well, we can do that, and we'll put -- and
16 we'll slide or put a real gun lock on it so it's not just a
17 zip tie.

18 (A PAUSE.)

19 THE COURT: All right, everybody good?

20 MR. WILLIAMS: Yes, sir.

21 THE COURT: Okay.

22 (WHEREUPON, THE CASE IS AT EASE.)

23 FRIDAY, MAY 21, 2021

24 (COURT RESUMES AT 9:46 A.M.)

25 MR. WILLIAMS: En route, Your Honor.

1 THE COURT: Have you got somebody calling OMS?

2 MS. SAMPSON: I just found out she wasn't here, so I
3 can go do that, Your Honor.

4 THE COURT: Okay. All right, let's go through the
5 charges.

6 MS. SAMPSON: Okay. I'll do that first.

7 THE COURT: Somebody go call OMS, tell them to go up
8 on her device.

9 All right. So, the first jury charge will be the fact
10 that she was arrested and indicted is not evidence.

11 MR. WILLIAMS: Judge, could I ask the court's
12 indulgence for one moment? Guess who's calling me.

13 THE COURT: Sure. This is my last indulgence with
14 her.

15 MR. WILLIAMS: Yes, sir. She's here. She's in the
16 building. Sorry.

17 THE COURT: She's in custody once she comes in the
18 door. You understand? Okay.

19 MR. WILLIAMS: I'm sorry, Your Honor.

20 THE COURT: It's okay. We're not going to do jury
21 charges if she's here.

22 (A PAUSE.)

23 THE COURT: All right, Ms. Fortson is now present.
24 All right, do you still wish to call her as a witness, Mr.
25 Williams?

1 MR. WILLIAMS: I do, Your Honor.

2 THE COURT: Okay. All right. So, when the jury comes
3 in, the state will rest.

4 MS. SAMPSON: Yes, sir.

5 THE COURT: Defense will renew their motions, and then
6 you can call her at that time if you so choose to.

7 All right, do we need to take up anything else before
8 we start?

9 MS. SAMPSON: Not from the state, Your Honor.

10 MR. WILLIAMS: Not from the defendant, Your Honor.

11 THE COURT: Okay. Let's bring them in.

12 All right, if you're in the courtroom this morning,
13 I'm welcome happy for you to be here. I need to make sure
14 if you have a phone, it is off or on silent. If it goes
15 off, I'm going to take it from you. If I like it, I'll
16 keep it; if I don't, I'm going to charge you to get it
17 back, all right? That's a joke, but I will keep your phone
18 and charge you to get it back.

19 (THE JURY ENTERS AT 9:49 A.M.)

20 THE COURT: Welcome back, ladies and gentlemen. Thank
21 you very much for being on time; I do sincerely appreciate
22 that. I also appreciate your patience with us this
23 morning. I had some statewide grand jury matters that I
24 needed to do prior to this hearing, and so I appreciate
25 your patience with us this morning, and I thank you again

1 for being on time and being ready to go. Welcome back and
2 happy Friday.

3 Okay, so at this point in time, does the state have
4 any further witnesses they wish to call?

5 MS. SAMPSON: At this time, Your Honor, the state
6 rests.

7 THE COURT: All right. So, ladies and gentlemen, the
8 state has rested their case.

9 And, Mr. Williams, would you like to renew your
10 motions?

11 MR. WILLIAMS: I would, Your Honor.

12 THE COURT: All right, and I find that Mr. Williams
13 has made his motions at the appropriate time. He has
14 renewed them at the appropriate time. My ruling upon them
15 is the same, and I adopt the argument that we made last
16 night and my ruling last night as -- to as if it happened
17 in just at this moment instead of having to send the jury
18 back out to do that again.

19 Now, ladies and gentlemen, as I told you on the first
20 day, the defense doesn't have to call any witnesses if they
21 don't want to. They can if they want to, but they don't
22 have to because the burden of proof lies with the state.

23 So, Mr. Williams, at this time do you wish to call any
24 witnesses?

25 MR. WILLIAMS: I do, Your Honor.

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1 THE COURT: Okay, and you may call your first witness.

2 MR. WILLIAMS: Your Honor, I'd call the defendant,
3 Mandy Fortson.

4 THE COURT: Okay. Come on up, Ms. Fortson.

5 Mr. Williams, the lectern is right there if you want
6 it. I think it got moved in this morning's hearing. You
7 can move it wherever you want to move it.

8 MANDY M. FORTSON, BEING DULY
9 SWORN, TESTIFIES AS FOLLOWS:

10 CLERK: Please have a seat in the witness stand and
11 state your full name for the record.

12 WITNESS: It's Mandy Fortson.

13 DIRECT EXAMINATION BY MR. WILLIAMS:

14 Q. Okay. Mandy, how old are you?

15 A. Forty-eight. I'm almost forty-nine.

16 Q. All right, and where do you live?

17 A. [REDACTED] Barwick Street.

18 Q. And I'm going to bring you back to the events of
19 February the 22 of 2017. What was your occupation back
20 then?

21 A. Back then I had just finished half of my nursing
22 school, and I was doing in-home hospice.

23 Q. I'm sorry, in-home hospice?

24 A. In-home hospice.

25 Q. What is in-home hospice?

1 A. Well, hospice is primarily end-of-life care. Most of
2 those folks are either in their own home or in a loved
3 one's home, and you just, you take care of them and their
4 family, whatever their needs until they pass.

5 Q. All right, and the location that you were living at
6 was -- what was the address?

7 A. [REDACTED] Barwick Street.

8 Q. And how long had you lived at that address?

9 A. About five and a half years give or take a month or
10 so.

11 Q. All right, and let's point to the evening hours.
12 Please tell the jury exactly what transpired in your life
13 during that day. Well, let me ask you about the house
14 first. There's been some comments about your house and the
15 signs and stuff like that. Tell us about your house. Do
16 you have a security device? Just tell me about it.

17 A. I do have, I do have a security system in there. I've
18 never lived in an incorporated area. I've always lived in
19 the country. That part of town is not exactly the most
20 desirable place to live, and as a woman living alone with
21 an eighteen-year-old dog, it was nerve-racking to say the
22 least. So, I did have some signs posted. You know,
23 private property, no trespassing, a Marine Corps flag, my
24 American flag. I did have a sign on the door that said:
25 Forget, forget about the dog. Beware of the owner. All

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1 that really was, I guess, a, a deterrent in my mind.

2 Q. All right. Had you had, had you had problems at that
3 location before?

4 A. Yes.

5 Q. What type of problems did you have?

6 A. Well, I had four attempted break-ins, all of which I
7 was not there before but arrived, I believe, not, not long
8 after. I'm not really sure. I had called the authorities
9 each time. Each time they came out, not only did they not
10 fill anything out or ask me to fill anything out, they
11 didn't even give me a business card.

12 Q. Had you yourself been a victim of any type of crime
13 before?

14 A. Yes. Sorry. When I, when I was thirteen, my parents
15 were at work and I was home sick from school, and two men
16 broke into our house, and I had to hide in the attic with
17 the dogs.

18 Q. Well, let's don't go into all that, but as a result of
19 that, what did you have inside your house for protection?

20 A. My house as an adult?

21 Q. Yes, as an adult.

22 A. I had a gun.

23 Q. All right.

24 A. It's my grandfather's gun.

25 Q. So, your grandfather's name was what?

1 A. Glenn Morrow.

2 Q. All right, and where did he, where did he live back in
3 2017?

4 A. He was no longer living. Prior to that, he lived in
5 Sweetwater, Tennessee.

6 Q. And there has been something which has been introduced
7 into the record here with, with a Fortson name on it, some
8 ownership of a Glock. Whose, whose, whose was that?

9 A. That was a gift from my ex-husband.

10 Q. All right. So, what about -- there has been a gun
11 which was actually found in your house which is a .40
12 caliber?

13 A. It's a .41 Magnum Smith and Wesson.

14 Q. .41 Magnum?

15 A. Uh-huh.

16 Q. Smith and Wesson?

17 A. Uh-huh. That was my grandfather's gun.

18 Q. That's your grandfather's gun?

19 A. Yes. When he passed away, my dad, my dad got it, and
20 a few years later he gave it to me as a Christmas gift.

21 Q. All right. Well, let me take you up to the events of
22 February the 22 of 2017. What do you recall in the late
23 afternoon, or what was your life like that late afternoon?

24 A. Well, I walked my dog. Not far because she didn't get
25 around very well at that point. She was eighteen. I

1 cleaned the house, did some laundry. My good friend Mike
2 Breedlove came over to visit. He just lived down the road
3 at that time with his sister. We visited. We caught up on
4 some shows we like to watch because I had a DVR where you
5 can record a show on the television. So, we caught up on
6 some shows that we liked to watch together. I cooked some
7 dinner; we ate early about 5:30 or 6. We had a few drinks.
8 I do not drink; I haven't drank in over eight years.

9 He left to get a pack of cigarettes, he said. He was
10 gone for an hour. I wasn't sure that he was coming back at
11 that point when I couldn't get him on his cell phone. So,
12 I brushed my teeth, washed my face, put my pajamas on, and
13 got in bed.

14 Q. All right. As part of your ritual of going to bed,
15 and I don't pretend to understand women's rituals when they
16 go to bed.

17 A. It is a ritual.

18 Q. Well, is there anything unique did that you do in
19 regards to your face?

20 A. Well, I have hyperpigmentation, which is too many
21 years of being in the sun with no sunscreen, and so it
22 looks like sort of light brown -- it almost looks like
23 freckles from far away, but if you get close, it just looks
24 like patches of brown or beige-colored skin. So, I had
25 been receiving micro-dermabrasions trying to get rid of it.

1 I use this special liquid. It's called PhotoNet and you
2 put it on at night before you go to bed and then in the
3 morning before you put your makeup on. And it doesn't do
4 anything quickly, but over time if you keep using it, it's
5 supposed to fade the hyperpigmentation away.

6 Q. And did you do it that, that particular night?

7 A. Oh, always, yeah. That was definitely part of my
8 ritual without a doubt.

9 Q. Did your friend ever come back?

10 A. No, he didn't. Well, apparently he came back, but at
11 that point law enforcement was there. It was ---

12 Q. I can't ---

13 A. --- a few hours later.

14 Q. I'm sorry. Say that one more time.

15 A. A few hours later, he did come back. He saw that
16 there were police in front of the house, and so he
17 continued on his way and went back home.

18 Q. All right. So, you went to bed?

19 A. Yes.

20 Q. What is the next thing, and if you can, if you'd kind
21 of tell me what time it was. What was the next thing that
22 you recall that particular night?

23 A. I'm not really sure about the time. I know it was
24 after 8:00, but I don't know exactly when. You know, 8:15,
25 8:30, 8:40, somewhere. I know I went to bed before 9, but

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1 it was after 8. So, somewhere in that hour.

2 Q. Okay. What happened?

3 A. I woke up to the sound of breaking glass.

4 Q. Now, here's one thing I want you to do. You know, if
5 I can talk like this through my mask ---

6 A. I'm sorry. I need to project.

7 Q. Everybody here needs to tell -- needs to hear your
8 story.

9 A. Okay. All right.

10 Q. So, if you'll project and tell everybody what
11 happened.

12 A. I woke up to the sound of breaking glass. My dog, of
13 course, did not move. At eighteen, she did not hear well,
14 so she didn't hear anything, and then I heard talking in my
15 kitchen. I don't have a back door that goes to the
16 backyard. I have a side door ---

17 Q. Slow down.

18 A. Sorry. I have a side door that goes from my kitchen
19 out into a little walkway and then opens up into the
20 backyard.

21 Q. Okay.

22 A. And then just my front door. Those are the only doors
23 in the house.

24 Q. And what did you do?

25 A. Well, I sort of shot up and woke up heart attack

1 style, if you will. I listened for a minute to be sure
2 that it was what I thought, which was people in the house.
3 It was always noisy over there with people and activity in
4 that area, so I wasn't sure if it was outside or inside.
5 It did not take me long to figure out it was inside. And
6 so I knew that I had that gun between the mattress and the
7 boxsprings.

8 Q. What gun did you have?

9 A. That Smith and Wesson .41 Magnum.

10 Q. Okay.

11 A. I always kept in there as sort of what my grandfather
12 would call a house gun, something you could get to quickly.
13 Plus, it had a safety on it, and I never felt comfortable
14 leaving the Glock there because it has no safety. I had
15 not fired that weapon in years.

16 Q. Wait a minute. Let me slow you down. You had not
17 fired that weapon in what?

18 A. In years, probably two years.

19 Q. What weapon are you talking about?

20 A. The .41 Magnum Smith and Wesson.

21 Q. Okay.

22 A. And I knew that I had a basket in the top -- I have
23 two closets in my room. They don't have doors on them, and
24 I knew that I had ammunition for it in a box that was in a
25 basket with other ammunition of other caliber in the top of

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1 one of my closets. I did not know if it even had
2 ammunition in the gun or not. I hadn't cleaned it in about
3 as long since I had used it. And so I fumbled about in the
4 dark trying to be quiet and find a box of ammunition.

5 I kicked the -- I don't know what it's called, but
6 there's a thing when the barrel is open that you can push,
7 and it kicks out any cartridges or bullets that might still
8 be in there. So, I kicked those out and tried to put what
9 I thought were other rounds in there. But as I was feeling
10 them when I was putting them in the barrel, they were
11 empty. I think I had one that was an actual bullet. I
12 think the other five were empty, just brass, spent brass.

13 As I'm doing this, it's spilling on the floor. I'm
14 trying to be quiet. I hear what is clearly more than one
15 person talking, and I just sort of sat there and thought
16 are you going to stay here and be a victim, or are you
17 going to come out and say something? There's no other way
18 out of my house. The windows are blocked in my bedroom.

19 Q. Wait a minute. Let me stop you here.

20 A. Yeah.

21 Q. You're in a bedroom, right?

22 A. Yes.

23 Q. Where are they located?

24 A. Where is what located?

25 Q. Where are these voices located?

1 A. They sound like they're in my kitchen.

2 Q. All right. Why is there not some other way out of the
3 house?

4 A. Because the rooms are so small. My bedroom suit is an
5 old, antique suit and the bed itself is a sleigh bed, so it
6 has a really high back, and that is against one window in
7 my room. And the dresser has a huge mirror on the back of
8 it that is against the only other window, and the furniture
9 is simply just too heavy to move. There would have been no
10 way out of that room.

11 Q. So, what, what did you do?

12 A. So, I came out of my room, and I had the .41 Magnum in
13 one hand and nothing in the other hand and ---

14 Q. Which hand did you have it in?

15 A. The right hand. I'm right-handed.

16 Q. Okay.

17 A. And I came out of the bedroom into the kitchen, and at
18 that point I saw three men.

19 Q. Describe the three men that you saw.

20 A. It was, it was three black men. I don't know who they
21 are. I've never seen them before in my life that I'm aware
22 of. All of them were, I guess, thin to average build.
23 Nobody was exceptionally tall or short, just average-size
24 men, and I started yelling.

25 Q. What did you yell?

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1 A. I just kept saying get out of here, get out of here, I
2 mean, as loud as possible. And when I want to be loud, I
3 can be loud. And one of them said something. That, that
4 crazy white lady. I don't know what else they said, and
5 they took off out the back door. There was broken glass
6 all over the floor.

7 Q. All right. Where was the broken glass at?

8 A. The door that I'm speaking of in the kitchen where it
9 goes to the back, it's full of windowpanes, individual
10 windowpanes, and the house was built in 1942. So, it's not
11 like newer doors where it looks like separate panes but
12 it's just plastic that lines one piece of glass. They're
13 each individual panes of glass, and so it was in front of
14 the door on the floor between the washer/dryer and the door
15 to go out of the kitchen.

16 Q. Okay. Then what happened?

17 A. They took off out the door. I came out the door after
18 them. There's two steps that you have to go down to get to
19 the ground right there. By the time I got to the second
20 step, they were already past the little walkway that then
21 opens up to the backyard. And I could hear them, like,
22 breaking, I guess, sticks or whatever. You can hear when
23 somebody's running through the woods. It sounded like
24 somebody's running through the woods, but I really couldn't
25 see them very well because it's really dark out there at

1 night.

2 We went -- I went to just the end of the path, which
3 is right where the house, the back of the house ends, and I
4 just kept yelling the whole time get out of here, get out
5 of here, get out of here, and then I ---

6 Q. Did you see anything?

7 A. No, not at that time I didn't. I just ---

8 Q. Okay.

9 A. --- could hear them running. I didn't see anything.

10 Q. Okay. Keep going.

11 A. At that point, I stood where I was yelling get out of
12 here, get out of here, and then I heard gunfire.

13 Q. What kind of gunfire did you, did you hear?

14 A. I don't know.

15 Q. How many shots? Could you distinguish the number of
16 shots?

17 A. Not really. I wasn't even really focused that much on
18 it. I wasn't thinking about counting it. I mean, it was
19 more than two. It wasn't, like, twenty or thirty. It
20 definitely -- I don't think -- it was not, like, a
21 semiautomatic weapon or anything like that. And it scared
22 me, so I just turned around and ran back into the house and
23 tried the best I could to secure the door.

24 Q. Did you see anything? You said you heard it. Did you
25 see where it came from?

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1 A. I did see in the direction of the apartment complex,
2 but I don't know if it was at the complex that's behind me.
3 I did see muzzle fire.

4 Q. Okay, and then what did you do?

5 A. I came inside and tried the best I could to secure
6 that door.

7 Q. How did you try to secure the door?

8 A. Well, there's two locks. There's a -- it's not a
9 screen door. It's, like, a glass door that's just got a
10 small window in it and, like, a storm door, and it has two
11 locks. So, I made sure that both locks were secured. And
12 there's only one lock coming into the back door. It didn't
13 have a deadbolt. It was just a turn lock. So, I turned
14 that and I did what I had not done before I went to bed,
15 and I armed the security system.

16 Q. Did you fire your weapon that night?

17 A. Not at all.

18 Q. What did you do after, after you had secured the house
19 and everything?

20 A. I came back to my room.

21 Q. Okay.

22 A. I tried to call my friend Mike Breedlove. I could not
23 get him yet again on his phone. So, I put that Smith and
24 Wesson .41 Magnum right back where I got it from, which was
25 in between the mattress and boxsprings, and I just sort of

1 sat there on my bed and cried, and I guess at some point I
2 fell back asleep. I don't know how long of a gap in time
3 it was.

4 Q. Do you have problems sleeping?

5 A. Yes. I've had insomnia for years.

6 Q. What was the next thing that you hear?

7 A. The next thing that I hear is someone knocking at my
8 front door.

9 Q. Okay, and who was that person knocking on your front
10 door?

11 A. It was Investigator Clarke. I thought it was my
12 friend, Mike, coming back, but it was, it was not. It was
13 Investigator Clarke. I didn't even ask, you know, who it
14 was. I don't have a peephole in the door. I just cracked
15 the door open.

16 Q. Did you let him in?

17 A. I did.

18 Q. All right. Did you have a conversation with him?

19 A. Well, before I let him in, he told me who he was, and
20 that there had been a shooting in the area, and could he
21 come in and speak with me.

22 Q. Okay.

23 A. I told him he could.

24 Q. Then what was the next thing that happened?

25 A. He asked me if I had a weapon, and I said yes, sir.

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1 He said will you show me where your weapon is, and I said
2 yes, sir. So, I walked back to my bedroom, and I said it's
3 between the mattress and boxsprings.

4 Q. Okay.

5 A. And he said may I see it? So, I lifted it up a little
6 bit. He could see it, and he said get it for me. So, I
7 pulled it out from underneath there and laid it on the bed.

8 Q. Okay.

9 A. And he said do you have ammunition for this weapon?
10 And I said yes, sir. He said will you show me where it is?
11 I said yes, sir, and I showed him where the ammunition was.

12 Q. Okay. What else? What happened next?

13 A. Then he proceeds to tell me that someone -- that a man
14 had been shot, and I don't remember exactly how he said it
15 or the order he said it, but basically he said someone was
16 outside saying things, and I'm concerned that might be you.
17 And I said that wasn't me, and he's the one searching
18 things in my room as we're talking. And he says, well, I
19 have reason to believe that it was you. Were you outside
20 shooting? And I said absolutely not. He said are you sure
21 because there's a man who's been shot. I said absolutely
22 not. I was not, and he said, well, they're at the hospital
23 now. They might, they might not make it.

24 And because of the terms that he was using to me prior
25 to him saying that -- I mean, I'm just going to be honest.

1 It pissed me off, what he was saying. I felt like he was
2 accusing me of something I knew good and well I did not do,
3 and he was intent, extremely intent, and he used a couple
4 of derogatory racial terms, and so I used one back at him
5 that he had used in describing it to me just to be a smart
6 ass, quite frankly. Probably wasn't -- it probably was not
7 appropriate. I'm sure it wasn't, but I was tired of him
8 saying it over and over again.

9 Q. So, so, what happened next?

10 A. And so he -- I don't remember what he said after that.
11 It's been a while, but he asked me if I had any other
12 weapons in the house. I told him I did not. He asked me
13 if he could search, and I said he could.

14 Q. Did you have any other weapons in the house?

15 A. I did. I had that Glock, but I did not know where it
16 was.

17 Q. So, there was another weapon in the house?

18 A. Yes.

19 Q. And where was the Glock?

20 A. Oddly enough, my best friend had come to town for a
21 few weeks to stay with me, and I had to leave to go to my
22 dad's in Georgia. He has Parkinson's, and I wanted to
23 visit with him, and I didn't want to leave the gun out
24 where she could get it. I didn't want to put it in the
25 safe because it -- you have to use your fingerprints to get

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1 in the safe. So, I didn't want to make her someone that
2 could get in the safe. So, I hid it in the cushion, the
3 zipper cushion of the sofa, and I said if you feel like you
4 need a weapon, call me in Georgia and I'll tell you how to
5 get to it. It'll be easy to get to.

6 Q. So, that's where it was?

7 A. Yeah. I totally had forgotten where it was. I'd
8 actually been looking for it for several months. I did not
9 remember putting it there because when I was gone, we had
10 the flood here in Columbia, and I couldn't get back for,
11 like, nine days because everything was blocked off by
12 National Guard or Highway Patrol. So, I had no way to get
13 back in town.

14 Q. Okay. So, what else happened that night?

15 A. So, at that point he's doing his search. Some other
16 people come to the door, other officers, and I just kind of
17 sat there for a little while on the couch while they were
18 going through things. He proceeded to continue asking me
19 questions and with every question, my response was lawyer.
20 I did not respond at that point to any other question he
21 asked me.

22 At some point after that, we were on the front porch.
23 I've got a little table there with some chairs. There were
24 other officers there going through my house. I was
25 concerned about my animals because I had cats as well.

1 Q. How many cats do you have?

2 A. At the time, I had two; I have three now.

3 Q. Okay.

4 A. And two more dogs, but they're puppies. And at that
5 point, he was asking me about making a statement, like a
6 written statement, and I just looked at him and said
7 lawyer. I could tell he was getting upset with me about
8 it, but I wasn't stupid. I could, I could tell where he
9 was going with this, and it just wasn't going to happen.

10 Q. Okay.

11 A. You know? So, then Investigator Faust, Scott Faust
12 showed up, and I know Scott very well.

13 Q. How do you know him?

14 A. When he went to Dreher, I went to Cardinal Newman and
15 we had a lot of the same friends in common. Went to high
16 school parties and whatever the things are that you do in
17 high school. Mike Poole, who's passed away now, was with
18 the sheriff's department for many years, was one of my
19 dearest friends, and he and Scott Faust were friends. And
20 from time to time, we would meet them -- him at Rockaway's
21 to eat dinner at night.

22 Q. Okay.

23 A. And, yeah, I knew Scott well.

24 Q. So, did you have a conversation with this ---

25 A. Yeah.

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1 Q. --- what was that? Faust?

2 A. Yeah, yeah. Not much of one.

3 Q. Okay.

4 A. But, yeah. I said what are you doing here, Faust? I
5 said you're not hanging around the back door at Rockaway's
6 trying to pick up young, young girls again, and we just
7 sort of laughed about it, and he went on in. I didn't
8 realize at that point that he did, you know, forensics or
9 any of that. I mean, I knew he worked for the sheriff's
10 department, but I didn't know what his job was.

11 Q. All right. Then what happened?

12 A. And then I don't remember if it was Investigator
13 Clarke, somebody, but one of the officers that was out
14 there made a comment about me knowing him, and I said,
15 well, I know a lot of deputies.

16 Q. Okay.

17 A. And he said, well, who do you know there, and I
18 mentioned Mike Poole and a couple of other people, and he
19 said, well, how do you know them? I was a
20 firefighter/medic for twenty years. I know a lot of these
21 people. My dad was a deputy for Richland County, you know.
22 I've known a lot of these guys a long time.

23 Q. Okay.

24 A. Then it went back to the written statement, which I
25 refused to do. Then he wanted to fill out a statement and

1 have me sign it. I said lawyer. At that point, he had me
2 stand by the front porch and told me to put my hands behind
3 my back, and he put me in handcuffs, and we stood there a
4 little bit. And I'm guessing that must be the point when
5 the neighbor came by because they shined that spotlight
6 from one of the police cars on me. So, I guess that was
7 him coming by to see if, if that was me or whatever. And
8 then he walked me to a patrol car and sat me down and put
9 me in the back.

10 Q. Let me take you back a minute because now you're out
11 of the house?

12 A. Yes.

13 Q. At any point in time, did you have to go to the
14 bathroom before you left the house?

15 A. Yeah. Yeah. Before we walked out on the porch --
16 because I knew they were going to come in and, you know,
17 tear my house apart, I'm sure. So, I asked if I could use
18 the bathroom and he said I could.

19 Q. Okay, and what did -- did somebody accompany you to
20 the bathroom?

21 A. No. There was nobody that accompanied me to the
22 bathroom. I do not have doors inside my house; I have
23 never had doors inside my house. There are no doors.

24 Q. Now, slow down. Are you telling me that there is no
25 door on your bathroom?

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1 A. No. There is a curtain.

2 Q. Okay.

3 A. A curtain that I have on a little rod there in case
4 someone wants to pull the curtain for privacy, but it's a
5 sheer curtain. You can see straight through it. That was
6 it. I don't -- there's never been doors there.

7 Q. Okay, and I assume you went to the bathroom?

8 A. I did.

9 Q. Did you wash your hands?

10 A. Yeah. I just -- force of habit. Nobody told me I
11 couldn't wash my hands.

12 Q. All right. So, now you're outside. Are you headed
13 ---

14 A. Oh, yeah.

15 Q. --- towards the car?

16 A. That's right. I'm sorry. I forgot. Before he put me
17 in the squad car, he did have a deputy come and, I guess,
18 take gunpowder residue test or whatever.

19 Q. Okay.

20 A. And they did from the tips of my fingers all the way
21 up to my elbows on both arms.

22 Q. Okay.

23 A. My neck, my chest, and my face.

24 Q. Okay.

25 A. And I also had to take off the clothes that I had on.

1 Q. All right. Well, let me ---

2 A. To let them have them.

3 Q. Let me stop.

4 A. Um.

5 Q. What clothes did you have on that you had to take off?

6 A. It was pajamas. I mean, it probably wasn't a pajama
7 set. It was probably T-shirt and maybe leggings or -- I
8 don't remember. I mean, whatever I was going to sleep in,
9 whatever was comfortable.

10 Q. What color was it?

11 A. I really don't remember. I'm sorry.

12 Q. What happened to them?

13 A. I don't know. I gave them to them. I don't know what
14 happened to them after that; I've never seen them since.

15 Q. It was your impression they had possession of them?

16 A. Correct. I mean, they wanted them. I had to change
17 clothes.

18 Q. Okay. So, the clothes that you went to the jail in
19 were not the clothes that you were in when you woke up and
20 all this happened?

21 A. No.

22 Q. Okay. So, then what happened next?

23 A. So, then I was there on the end of the porch. He told
24 me put my hands behind my back. He put me in handcuffs,
25 and then they came by with the little spotlight thing, and

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1 he walked me up to the front of my yard where there was
2 another police car parked, like, parallel parked, and put
3 me in the backseat to -- where they left me for a long
4 time. I don't know how long it was. It was a long time.

5 I kept trying to get his attention to ask him if I
6 could call my mom so she could come and secure the house or
7 my animals. That was pretty much ignored. He finally did
8 bring my phone out. So -- and I could see from the front
9 door as he was walking to the car he was messing with the
10 phone, and he hit the master reset, and the next thing that
11 came up was Portuguese, which I don't speak. So, I was
12 never able to get in the phone again ever.

13 Q. So ---

14 A. Even, even Motorola and Verizon, no one could ever get
15 in that phone again after that.

16 Q. How did you ---

17 THE COURT: Hold on.

18 COURT REPORTER: I need the witness to slow down,
19 please.

20 WITNESS: All right.

21 BY MR. WILLIAMS:

22 Q. Slow down.

23 A. All right. I talk fast.

24 Q. Slow down, though. They, they can hear you with slow
25 speed a lot better than they can with fast speed.

1 A. I'm sorry. I talk fast.

2 Q. So, how did you try to gain the officer's attention
3 that you wanted to use the cell phone to call your mother?

4 A. I just was yelling. I mean, the windows were up on
5 the car, so you can't do but so much. And a couple of
6 times I sort of hit my head against it because, I mean, I'm
7 handcuffed behind my back. So, I can't really do much, and
8 a couple times a couple of deputies walked by and just told
9 me to shut up.

10 Q. Okay. So, then what happened then after you -- did
11 you get -- you got your phone back but it was Portuguese.
12 Is that what you said or the English ---

13 A. Well, he was going to let me use it to try to call my
14 mom at that point.

15 Q. Okay.

16 A. But it was in Portuguese, and I could never get it
17 back to anything different. So, I just gave it back.

18 Q. Okay. So, did you call your mother that night?

19 A. No.

20 Q. Do you know if any officers called your mother that
21 night?

22 A. I think after -- I didn't find out til after the fact,
23 but I think one did contact my mother, and they said they
24 were going to leave the key to my house -- I have some
25 angel statues on my front porch, and he said he was going

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1 to leave the key to my house in one of the angel statues,
2 and it was never left there.

3 Q. Well, how did she -- did she get in or do you know?

4 A. I'm not really sure. You'd have to ask her. I mean,
5 at some point I think -- I have an elderly neighbor across
6 the street that I spent a lot of time with.

7 MR. GIPSON: Object to speculation.

8 THE COURT: Sustained.

9 BY MR. WILLIAMS:

10 Q. So, so, you don't know?

11 A. I don't know.

12 Q. Okay. So, what was the next thing that happened?

13 A. They took me to the sheriff's department over off of
14 Two Notch Road to Richland County Sheriff's Department.

15 Q. Okay.

16 A. And I don't know if they call it a holding cell or
17 what it is, but it was basically a dungeon. It was dark
18 and wet and dirty with an overflowing toilet, no toilet
19 paper. No one would ever bring me toilet paper when I
20 asked. Had to use the bathroom on the floor.

21 Finally I thought, well, maybe I should tell
22 Investigator Clarke what happened about these guys trying
23 to break in. And so finally I was able to get a deputy's
24 attention enough to, I guess, let him know to come down
25 there or whatever. And I said I'd like to talk to you now

1 if you'd like to talk to me. He said no. You lawyered up.
2 I have nothing left to say to you.

3 Q. And that's basically the ---

4 A. That's the last time I ever saw him until I came in
5 this courtroom.

6 Q. Okay, and again, you never fired that pistol. Is that
7 right?

8 A. Absolutely not. I'm not going to fire blindly into
9 the dark. That's ridiculous, no, sir.

10 Q. You said something about military. Is your -- was
11 your father, he was a, he was a police officer?

12 A. He was a police officer before, but he's a, a retired
13 master sergeant as well as retired colonel from the Army.
14 My oldest son is sniper for Special Response Team in the
15 Marine Corps. That's why that Marine Corps flag was
16 hanging outside, to support him, as well as the rest of the
17 troops.

18 Q. So, military runs in your family?

19 A. Definitely. Was very, very military-run household
20 growing up, very much.

21 MR. WILLIAMS: Thank you so much, Mandy, and answer
22 any questions the prosecutor may have for you.

23 MR. GIPSON: Please the court, Your Honor?

24 THE COURT: Yes, sir.

25 MR. GIPSON: Just ask your indulgence one moment.

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1 (A PAUSE.)

2 CROSS-EXAMINATION BY MR. GIPSON:

3 Q. Good morning, Ms. Fortson.

4 A. Good morning.

5 Q. Now, your name is Mandy Morrow Fortson. Is that
6 correct?

7 A. Correct. Morrow is my maiden name.

8 Q. Okay, and spell that for us, if you would?

9 A. M-o-r-r-o-w.

10 Q. And you said just a couple of minutes ago, the last
11 couple of things that you said to Mr. Williams was that you
12 do have children?

13 A. Yes.

14 Q. How old?

15 A. Thirty-one, twenty-eight, and twenty-six, and two
16 grandchildren, seven and five -- or seven and four. Almost
17 five and almost eight.

18 Q. Okay, and you lived at Barwick Street, I guess you
19 said, [REDACTED] Barwick Street you said about five years or so?

20 A. I'm, I'm getting ready to go into about the ninth year
21 of living there, so.

22 Q. Back in '17, you'd been there about five or so years?

23 A. Yes, sir.

24 Q. Okay, and we've talked about this, your home, just
25 generally. I'm just going to show you a couple of exhibits

1 while we're talking. First I'll show you what's been
2 marked as State's Exhibit Number 1. Does that ring a bell
3 to you?

4 A. Yes. That's my front porch.

5 Q. Okay, and then State's Exhibit Number 2, let me show
6 that to you. Does that ring a bell to you?

7 A. Yes. That's my front porch as well.

8 Q. Okay, and it also has -- State's Exhibit Number 2, I
9 mean. Just tell us what you see in State's Exhibit Number
10 2 if you would, please.

11 A. I see wind chimes. I see my butterfly bench. I...

12 Q. Let's talk about the door.

13 A. Yes. Posted private property. No trespassing.

14 Q. Okay, and let's -- tell us about that sign that we
15 talked about a little bit.

16 A. I want to be sure I read it exact. Yeah, it says:
17 Notice. Forget about the dog. Beware of owner.

18 Q. Okay, so notice.

19 A. And there's also a sticker there from alarm company
20 system, whatever.

21 Q. Okay. Well, let's go back to that first.

22 A. Uh-huh.

23 Q. Notice. Beware. Don't -- read it again. I'm sorry?

24 A. It says: Notice. Forget about the dog. Beware of
25 owner.

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1 Q. Okay, and it also has a -- I mean, describe. What
2 does the picture show?

3 A. It sort of looks like a three-dimensional image of a
4 hand holding a pistol.

5 Q. What kind of pistol?

6 A. I have no idea. It's almost like a cartoon
7 caricature, caricature. I don't know.

8 Q. Does it look like a revolver?

9 A. Yeah, it does. It has a barrel.

10 Q. Does it look similar to State's Exhibit Number 81?

11 A. Let me see that.

12 Q. This?

13 A. No, no. The barrel on that looks different. Can you
14 bring it closer?

15 Q. That's about as close as I'm going to bring it, but
16 you can point.

17 A. I'm not going to hold it.

18 Q. So, I'm asking the question. Does the picture on your
19 door look similar to State's Exhibit Number 11 -- I mean,
20 excuse me, Number 2?

21 A. Only, only the barrel.

22 Q. Only the barrel?

23 A. Only the barrel.

24 Q. So, they're similar because they're both revolvers?

25 A. All revolvers have a barrel.

1 Q. The picture there is similar to the ---

2 A. Yes.

3 Q. --- State's Exhibit ---

4 A. It has a barrel, yes.

5 Q. Okay.

6 A. I thought I'd already said that, yes.

7 Q. And that's pointing at anybody who would come into the
8 proximity of your door, correct?

9 A. Well, it's facing out forward.

10 Q. Okay.

11 A. But it's not there to be aimed at any person.

12 Q. It's just to ---

13 A. That's just how it was drawn.

14 Q. It's just to make them aware of the owner, right?

15 A. Correct.

16 Q. Okay.

17 A. It's a deterrent.

18 Q. Okay, and so what do people need to be aware of as it
19 relates to you?

20 A. Be aware of the fact that the person that is in this
21 house might be a gun owner, and you might not want to break
22 in this house.

23 Q. Okay, and just for the record, State's Exhibit,
24 State's Exhibit Number 81, this is yours?

25 A. Yes.

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1 Q. Okay. So, what you suggested in your testimony is
2 that on the night of February 22, 2017, there were several
3 people that weren't aware or who, who just chose not to
4 heed the warning on your front door, correct?

5 A. Either that or since they came in the side door and I
6 didn't have that posted there, it didn't matter.

7 Q. Okay, and they broke the glass and came inside?

8 A. No. All you have to do is reach in and turn the lock.
9 There's no deadbolt.

10 Q. Okay, but they broke the glass and came inside?

11 A. Correct.

12 Q. All right, and after they broke that glass, that's
13 what woke you up you said?

14 A. Yes.

15 Q. Okay, and when you woke up, at that point in time you
16 decided to -- you said you sat up and listened for a while?

17 A. Because I could hear voices. I wasn't sure if they
18 were in the home.

19 Q. Right.

20 A. Or outside the home.

21 Q. Three people?

22 A. I didn't know at the time it was three people, but it
23 sounded like it was more than one because they were having
24 a conversation.

25 Q. Okay, and they were in your house, moving around in

1 your house?

2 A. I wasn't sure at the time.

3 Q. Okay, and so you were able to get out of the bed,
4 right?

5 A. Yes.

6 Q. Lift up your mattress, correct?

7 A. I didn't lift it up. I just reached under there and
8 grabbed, grabbed the gun. I mean, I always had it facing
9 with the grip where you hold it, always facing out so if I
10 had to grab it quickly, that would be the first thing I
11 grabbed.

12 Q. Okay. So, you said you sleep in a sleigh bed, big
13 sleigh bed?

14 A. Yes.

15 Q. So, you had to reach under and grab the gun from under
16 your mattress?

17 A. Yes.

18 Q. Okay, and then in the dark, you were able to unload
19 it?

20 A. All you have to do is open the barrel and push the pin
21 that's on the front of it, and it ejects anything that's in
22 the barrel.

23 Q. Okay.

24 A. It's not, not difficult.

25 Q. All right. Now, you spoke about State's Exhibit

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1 Number 70 -- excuse me, Number 81 having a safety on it?

2 A. Uh-huh.

3 Q. Where would the safety be located on ---

4 A. On the other side, the side facing you. Uh-huh,
5 there's a...

6 Q. This is the safety is what you're suggesting, this
7 knob ---

8 A. No.

9 Q. --- right here?

10 A. I can't really see it that well. Lift up the barrel.
11 There's a set -- I'm can't, I'm sorry, see it because of
12 the glare from the light. I can't see it because of the
13 glare from the light and I can't really see it very well.

14 MR. GIPSON: May I have the witness step down, Your
15 Honor?

16 THE COURT: Sure.

17 BY MR. GIPSON:

18 Q. Come on down, please, and face this way so the jury
19 can see you if you would, please, and I'll stand this way.

20 A. Yeah, you have to -- if I can touch it?

21 THE COURT: You can touch it.

22 A. Not moving.

23 Q. Okay.

24 A. But that's supposed to be it. It's probably ---

25 Q. Yes, ma'am.

1 A. --- dirty.

2 Q. All right. You can have a seat again, please. So,
3 you, first of all, you had to unload the shell casings that
4 were already in it, right?

5 A. I didn't know if there were live rounds in it or if it
6 was just shell casings.

7 Q. Okay.

8 A. Like I said, it had been a couple of years or more
9 since I'd fired that weapon.

10 Q. All right. So, when you opened the chamber of State's
11 Exhibit Number 81, your .41 caliber, that's when you were
12 able to tell there were no live rounds in it?

13 A. I could not tell. There were -- I didn't have lights
14 on in my bedroom at the time.

15 Q. So, what did you do?

16 A. So, I pushed the -- yeah, that, yeah.

17 Q. This piece here?

18 A. Push it back.

19 Q. And that ---

20 A. And that ejects them.

21 Q. Ejects?

22 A. Yes.

23 Q. All right. So when they ejected, you determined they
24 were not live?

25 A. Well, when two of them hit the floor, I could hear

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1 them clinking, and that -- the sound it makes when two
2 empty shells clink is not the sound it makes when two live
3 bullets clink. So, I knew that there had to be some in
4 there that were empty.

5 Q. So, you loaded it?

6 A. Yeah.

7 Q. Okay, and after you loaded it, shut the chamber back,
8 and then you went out into a common area in your house.

9 You opened the door, went out into ---

10 A. The house ---

11 Q. --- the common area?

12 A. --- is really small. I don't have any doors in my
13 house.

14 Q. Okay.

15 A. I walked -- there's a hallway that's about as big as
16 this space that she's in right here, and I walked from the
17 bedroom into that, and that opens up into the living room
18 and the kitchen is right, right there. It's right -- I
19 mean, I can see into the kitchen from my bedroom. I mean,
20 it's a small, small house.

21 Q. Okay.

22 A. So, I walked to the kitchen.

23 Q. And you walked in the kitchen, and tell us what you
24 saw then.

25 A. I saw three black men standing there and...

1 Q. How could you tell they were black?

2 A. Because the light in the kitchen was on, and I have
3 eyes that are capable of seeing.

4 Q. Okay, and so tell us size, body build.

5 A. Average, average build. Nobody was too short or too
6 tall ---

7 Q. So what is ---

8 A. --- that I noticed.

9 Q. What does average build mean? Average build to you
10 may mean average build to -- may be different to ---

11 A. Average build to me would be not your height but maybe
12 your built, give or take five or ten pounds, I guess.
13 Nobody looked overweight. Nobody looked underweight.

14 Q. Thank you.

15 A. Just -- you're welcome. I don't know. Just average.

16 Q. Okay, and so three average height black guys. What
17 did they sound like?

18 A. Men.

19 Q. Any particular dialect? Maybe somebody from
20 Charleston? Maybe somebody from ---

21 A. No.

22 Q. --- New York ---

23 A. No.

24 Q. --- anything like that?

25 A. No. I would have known that lovely Geechie sound.

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1 That's music to my ears. I love it. No, that was not --
2 no, I didn't notice any particular dialect, accent, nothing
3 out of the ordinary as far as their vernacular, no.

4 Q. Okay. What were they wearing?

5 A. I don't know. Dark colored clothes. I know that.

6 Q. Okay.

7 A. I'm not sure if it was jeans or slacks or -- I don't
8 know.

9 Q. Face coverings?

10 A. No.

11 Q. Okay. So, you can see their face?

12 A. Yes.

13 Q. Facial hair?

14 A. No. Well, one of them had a goatee.

15 Q. Kind of like this?

16 A. No. It was a little smaller. Like, it was just on
17 the end of the chin.

18 Q. Okay.

19 A. Right there.

20 Q. All right. Don't you think those are some pretty
21 descriptive details that would have been nice for officers
22 to know the minute they walked in your house?

23 A. Not very descriptive, and what were they going to do?
24 They let me down four other times before. What were they
25 going to do for me? Nothing I couldn't -- nothing.

1 Q. Nothing you couldn't do for yourself?

2 A. They weren't going to do anything for me.

3 Q. Okay. So, let's talk about when you called 911.

4 A. Okay. And?

5 Q. I need you to tell, tell the jury when you called 911.

6 A. What about it? I'm not sure what you want to know.

7 Q. Tell the jury when you called 911 that night.

8 A. I don't really remember what I said or I have no idea.

9 Q. Okay, but you did call 911?

10 A. Actually, I didn't think I did, but I may have. I
11 don't know. I really don't know. I mean, it's been a long
12 time, and that night I was absolutely terrified for me.

13 Q. I'm sure. It was terrifying for other people as well.

14 A. I'm sure it was.

15 Q. So, you take this gun and you go out and you confront
16 three black guys who were in your house?

17 A. Uh-huh.

18 Q. And what do you say to them?

19 A. I say get out of here.

20 Q. Get out of here?

21 A. That's all I repeated over and over again: get out of
22 here.

23 Q. All right.

24 A. Get out of here.

25 Q. And then they did what?

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1 A. They ran out the door.

2 Q. What direction?

3 A. The kitchen door back to the backyard.

4 Q. Okay.

5 A. That's where it leads.

6 Q. And they took off through your backyard?

7 A. Yes.

8 Q. Don't -- do you have a fence in your backyard?

9 A. Yes, but it's a really flimsy fence.

10 Q. All right.

11 A. It's farm fencing. It's not like the cyclone fence
12 that goes around the sides of the yard in the front part of
13 the yard. It's an iron gate.

14 Q. So, an iron gate?

15 A. Uh-huh.

16 Q. So, to get out of your backyard, they would have had
17 to hop the fence or tear down the fence or run through the
18 fence, right?

19 A. Right, but it's only, like, 4 feet high.

20 Q. Okay. So, they would've had to knock it down somehow
21 to get out of that area, right?

22 A. I don't know.

23 Q. Okay.

24 A. I have no idea. I don't go back to that portion of
25 the yard; it's too swampy.

1 Q. Well, how do you get from one side of the yard to the
2 other side of the yard to, to another yard if there's a
3 fence between you?

4 A. Well, I would imagine you would either climb it or
5 jump in or push it down or cut it. I guess whatever means
6 you needed to use.

7 Q. Okay. Again those details, any of which did you ever
8 share with law enforcement?

9 A. I attempted to. He told I lawyered up and had nothing
10 left to say to me.

11 Q. Okay. Well, you know, we'll get to that part later,
12 but kind of contemporaneously, meaning as it happened, did
13 you share it?

14 A. No.

15 Q. So, you ran around with your .41 caliber pistol, told
16 them to get out, get out, get out, and they jumped the
17 fence, cut the fence, ran through the fence, somehow got
18 out of your backyard, and that was it?

19 A. I wasn't running around with it.

20 Q. Okay. Well, you chased them to the edge of the yard.
21 They left.

22 A. I did not chase them.

23 Q. You just wielded the gun and said get out?

24 A. I didn't wield the gun. It stayed at my side at all
25 times.

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1 Q. Oh. So, down here you ran with it?

2 A. I didn't run.

3 Q. You walked calmly with it, with it by your side?

4 A. I'm sure I had a little speed to my walk, but no, I
5 never ran.

6 Q. Okay. So, they got out of your yard is what you're
7 telling us, telling us, telling me, telling this jury?

8 A. I guess that they did.

9 Q. You're guessing?

10 A. I didn't see them because it was dark. I didn't see
11 them actually physically leave my backyard.

12 Q. So, you're ---

13 A. No.

14 Q. You're suggesting that they could have just been
15 hiding there like this for two, three hours? You never saw
16 them?

17 A. I suppose it's possible. It's very overgrown down
18 there towards that. There's a black water spring at the
19 back of the yard back there. It's very swampy. It's
20 pretty lush with overgrowth.

21 Q. To the right or to the left?

22 A. More, more to the -- if you're standing in the
23 backyard looking at that back fence, it's more overgrown to
24 the left than it is to the right.

25 Q. All right.

1 A. Well, now it's both, but then it is more to the left.

2 Q. So, which way did they run, to the left or to the
3 right?

4 A. I don't know. I couldn't see.

5 Q. All right, but either way they would have had to run
6 through some kind of damp, swampy-type water to get out of
7 your ---

8 A. There would've ---

9 Q. --- yard?

10 A. --- been a portion of it, yes.

11 Q. Okay. Suggests footprints?

12 A. Possibly. I don't know.

13 Q. Okay. Are you sure -- well, I'll scratch that
14 question. So, you calmly but rapidly walk out to your
15 backyard, .41 caliber by your side, ushering these three
16 black dudes out of your yard who were -- who had just
17 broken into your house?

18 A. I did not usher anyone.

19 Q. Well.

20 A. An usher leads people places. I didn't lead anybody
21 anywhere.

22 Q. Okay. Well, you followed them out?

23 A. They, they were ahead of me by a pretty good clip.
24 They were running.

25 Q. Okay. So, you got to that point. At what point did

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1 you fire your weapon?

2 A. At no point did I fire my weapon. I've been in
3 emergency services for a long time. I've had a lot of
4 training on how to keep yourself calm when there's an
5 emergency situation. It didn't require all that. Again,
6 it was mainly a deterrent.

7 Q. So, how long after this traumatic situation happened
8 did you get a knock on your door from law enforcement?

9 A. I'm not really sure.

10 Q. Let me ask you this question. You talk about this
11 friend who you'd been hanging out with earlier that day.
12 What was his name?

13 A. Mike Breedlove.

14 Q. Mike Breedlove?

15 A. Uh-huh.

16 Q. All right. So, y'all had had dinner together. He'd -
17 - gone to the store together. He walked ---

18 A. No. He went to the store. I did not.

19 Q. Okay. You stayed home. That's when you went to bed?

20 A. After he'd been gone for about an hour and I couldn't
21 get him on his cell phone, yes.

22 Q. Okay, with -- so, you had your cell phone. You
23 couldn't reach him on his phone?

24 A. Correct.

25 Q. All right. So, you said after all this happened, you

1 went back into the house. You said you put your gun back
2 under your bed?

3 A. Between the mattress and the boxsprings.

4 Q. Okay, and you called Mike?

5 A. Yes.

6 Q. And you said you called Mike, and Mike came back
7 later, saw the police, and just kept going?

8 A. Yes.

9 Q. Reasonable, isn't that?

10 A. I guess if he didn't want to get involved in whatever
11 he thought might be going on, probably. I don't know; I
12 have no idea. I can't answer for him.

13 Q. That's what friends do, right?

14 A. I'm pretty sure that if I saw a bunch of police
15 officers in front of a friend's house, they were probably
16 handling what was ever going on better than I as an
17 individual who wasn't a police officer could.

18 Q. Okay. So, you had the wherewithal to call Mike,
19 right?

20 A. Yes.

21 Q. Did you call your mom right after that to tell her
22 some dudes had just broken into the house?

23 A. No.

24 Q. Did you call ---

25 A. I don't want to frighten my mom like that.

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1 Q. Okay.

2 A. Uh-uh.

3 Q. And you said you may or may not have called 911 after
4 that?

5 A. I don't think that I did, but it's possible, I guess.
6 I don't know. I don't remember.

7 Q. Okay.

8 A. I was pretty flustered.

9 Q. So, the next thing you remember was a knock on the
10 door, right?

11 A. Correct.

12 Q. Right, and it's who?

13 A. Investigator Clarke.

14 Q. All right. So, the first thing you did at that point
15 is jumped up and said thank God y'all are here. Somebody
16 just broke in my house. That's what you did, right?

17 A. No.

18 Q. Oh. Okay.

19 A. No.

20 Q. Somebody just broke this window and there's glass
21 right here, which is evidence that somebody just busted
22 through my door, and they ran out my backyard. There's got
23 to be something out there that shows that they were here.
24 That's what you did, right?

25 A. No.

1 Q. Ah. Okay. Well, at some point in time, Investigator
2 Schroder came to the house, right?

3 A. I guess.

4 Q. The dude ---

5 A. I don't ---

6 Q. --- who took the ---

7 A. --- remember ---

8 Q. --- gunshot residue from you?

9 A. --- everybody's name.

10 Q. The guy who took the gunshot residue from you, that
11 ---

12 A. If that's who he said he was, then, then I guess
13 that's who he was.

14 Q. Okay.

15 A. It was a man. I remember that.

16 Q. Well, that somebody, that man who took the gunshot
17 residue from you who was a sheriff's deputy or was an
18 investigator with the sheriff's department came to your
19 house, too, right?

20 A. Whoever took the gunshot residue samples or whatever
21 he was doing off of my person.

22 Q. Right.

23 A. Was a man who was a deputy.

24 Q. Okay.

25 A. I don't know his position; I don't know his name.

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1 Q. Okay, but you said you know -- so, he took gunshot
2 residue from you, correct?

3 A. He did testing for it, I guess. He took ---

4 Q. Okay.

5 A. He swabbed all, all -- from my, my fingertips to my
6 elbow on both arms.

7 Q. Okay.

8 A. My chest, my neck, and my face.

9 Q. Okay. All right. So, after he swabs or during the
10 time that he's swabbing, surely you said, hey, these dudes
11 just broke into my house. Y'all need to check into that.

12 A. No, because at that point, Investigator Clarke made it
13 very clear that he assumed I was the guilty person, and I
14 knew better than to say anything because I knew where he
15 was going with it.

16 Q. Okay. So, Investigator, I guess, Faust, your buddy
17 who you hang out with at Rockaway's and y'all drink and you
18 talk about him trying to pick up people ---

19 A. I don't drink.

20 Q. Okay. Well, you don't?

21 A. No, absolutely not.

22 Q. You don't drink Hennessy?

23 A. I've never bought Hennessy in my life, no.

24 Q. Okay.

25 A. Not at all.

1 Q. All right.

2 A. No. The -- there would have been no liquor in my
3 house except for what Mike would have been drinking, which
4 would've been Jamison.

5 Q. Did you take a sip of Jamison that night?

6 A. I did not. I don't drink.

7 Q. What is Jamison?

8 A. It's Irish whiskey.

9 Q. Okay. Was it the twelve year? Was it the fifteen, or
10 do you know?

11 A. I don't know how many years old it is. Scotch usually
12 puts that on the bottle, not whiskey.

13 Q. Okay.

14 A. I don't know.

15 Q. All right. Fair enough. So, when you are -- so, when
16 Faust, your buddy, comes in ---

17 A. I wouldn't, I wouldn't say he's my buddy. I know him.

18 Q. Your friend?

19 A. Mm-hmm.

20 Q. Acquaintance?

21 A. Mm-hmm.

22 Q. Somebody you've eaten with and broken bread with?

23 A. Yes.

24 Q. Multiple times?

25 A. Yes.

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1 Q. Shows up at your door?

2 A. Yes.

3 Q. Comes in your house? Comes in your house?

4 A. Yes.

5 Q. Certainly you tell your friend somebody just broke
6 into my house.

7 A. No. He's acting in an official business mode. I'm
8 not going to ---

9 Q. But isn't this official, official police business if
10 somebody breaks in your house?

11 A. It was the four other times they attempted to break in
12 my house ---

13 Q. We're talking about this time.

14 A. --- and they did nothing.

15 Q. We're talking about this time, February 22, 2017.

16 Isn't that official police business if somebody broke in
17 your house and law enforcement is in your house? Isn't
18 that official police business?

19 A. Not in my mind. My trust with law enforcement was
20 abysmal at best.

21 Q. Not in your mind, okay. So, did you make a police
22 report about this stuff that went on, that you're claiming
23 went on? Did you make a police report in March of 2017?

24 A. In March of 2017?

25 Q. Yes.

1 A. Not that I'm aware of.

2 Q. April of 2017?

3 A. No, don't think so.

4 Q. May of 2017?

5 A. I don't think so.

6 Q. December of 2017?

7 A. I don't think so.

8 Q. How about 2018? Did you ever find the time to get in
9 the car, drive over to the Richland County Sheriff's
10 Department since you know so many people there and you're
11 friends with so many of them, and say, hey, February 22,
12 2017, this happened and nobody would take a report, but I
13 want to make a report now? Ever do that?

14 A. No. It was kind of after the fact. I didn't think it
15 would matter. I really didn't think about it at all.

16 Q. Okay. Kind of after the fact is what you just said,
17 right? So, what about ---

18 A. Most of the people, by the way, that I know at the
19 sheriff's department are either dead or retired.

20 Q. Okay. Faust is still alive or was alive at the point
21 -- that time, right?

22 A. At that point, Faust was clearly involved in the case.
23 So, what am I going to say to him?

24 Q. Okay. So, 2019, ever go down to the police station --
25 excuse me, Richland County ---

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1 A. Sure did not.

2 Q. --- Sheriff's Department ---

3 A. I did not at any time.

4 Q. In 2019, you didn't?

5 A. I didn't at any time.

6 Q. So 2020, did you go?

7 A. Not at any time.

8 Q. Okay. So, here we are some 1548 days later, and now
9 you're talking about these details of this thing that
10 happened to you that particular night.

11 MR. WILLIAMS: Objection to the form of the question.
12 It's not a question.

13 MR. GIPSON: Isn't it?

14 THE COURT: If you would please ask a question.

15 MR. GIPSON: Yes, sir. Yes, sir.

16 THE COURT: Sustain your objection.

17 BY MR. GIPSON:

18 Q. 1000 -- some 1548 days later, you're in court
19 testifying that this happened, right?

20 A. Correct.

21 Q. Okay. When you had an opportunity on February 22,
22 2017, to make a report, when ---

23 A. They wouldn't help me.

24 Q. --- all ---

25 A. They wouldn't help me.

1 Q. When all of the evidence was right there?

2 A. They would not have helped me, and I secured that door
3 where the glass was broken and all the glass with gloves so
4 that if anybody ever needed to come back if it became an
5 issue, they would be able to know that it had been secured
6 all that time. I still have not gotten that glass fixed to
7 this day.

8 Q. Okay. So, was there any blood on the glass?

9 A. Not that I noticed.

10 Q. Okay. So, you secured it with gloves when?

11 A. When I got back home from jail.

12 Q. Okay, and so at that point, you didn't -- well, so you
13 said in case somebody ever needed to come take a look at
14 it?

15 A. Uh-huh.

16 Q. How would they know to come take a look at it if you
17 never make a report?

18 A. Because I would have told them. It doesn't have
19 anything to do with a report.

20 Q. If you never tell them it happened, how are they
21 supposed to know?

22 A. Telling them now.

23 Q. Some 1548 days later, correct?

24 A. I'm not sure how many days it's been.

25 MR. GIPSON: Court's indulgence.

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1 THE COURT: Yes, sir.

2 (A PAUSE.)

3 BY MR. GIPSON:

4 Q. So, what would be important about securing that glass?

5 A. I don't know. Maybe there would have been a
6 fingerprint maybe. I don't know. I'm not a forensics
7 expert; I can't tell you.

8 Q. But, I mean, you, you've been through some nursing
9 school, right?

10 A. They don't teach you forensics in nursing school.

11 Q. Okay. Well, I'll tell you what. You finished high
12 school at Cardinal Newman, right?

13 A. I did finish, yes.

14 Q. A little bit of college?

15 A. And -- okay, yes.

16 Q. Yes?

17 A. Yes.

18 Q. A little bit of nursing school, right?

19 A. Uh-huh.

20 Q. So, you've got some common sense, right, and you ---

21 A. That's subjective.

22 Q. Okay. Very. Maybe. So, you just said maybe there
23 would be some fingerprints on it, right?

24 A. Possibly.

25 Q. Okay.

1 A. I don't know.

2 Q. And so maybe there's some DNA evidence and some other
3 stuff, right? That's why you secured it, because you
4 thought ---

5 A. I'm not, I'm not sure.

6 Q. Because you thought it was important, right?

7 A. I thought that it could be important, but not from the
8 standpoint you're thinking of.

9 Q. From what standpoint?

10 A. You're talking about DNA and other things that I don't
11 -- that's -- I don't, I don't deal with those things. I
12 don't know what would have been there, but maybe something.

13 Q. So, that's why you put it in the hands of the experts
14 and those who are trained to do it, right?

15 A. I suppose if someone needed to, they might. I don't
16 know.

17 Q. Okay.

18 A. Again, that's not my area.

19 Q. So, let's talk about porch monkeys.

20 A. That was never uttered out of my -- that came from
21 Investigator Clarke.

22 Q. Well, in your testimony you said ---

23 A. He also said yard apes.

24 Q. Excuse me. Hold on one ---

25 A. Which I had not heard that term.

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1 Q. Excuse me one second. I'll ask the questions. You'll
2 have a chance to answer.

3 A. Okay.

4 Q. You can say yes or no and ample opportunity to answer,
5 okay?

6 A. Sure.

7 Q. Now, didn't you say in your direct testimony about,
8 you know, your version of what happened, that you uttered
9 it back to him or something like that?

10 A. I'm not sure how to answer you. That's ---

11 Q. That's a yes ---

12 A. Do you want me to tell you what he said?

13 Q. It's a ---

14 A. Do you want me to tell you what he said and how I
15 responded?

16 Q. It's a yes or no question, then you can reply. Did
17 you utter those words?

18 A. After he said them to me first.

19 Q. Okay. So, you did say porch monkey?

20 A. I did not say porch monkey.

21 Q. What did you say?

22 A. I used the words he used, which was yard ape.

23 Q. Yard ape?

24 A. Yep. Never heard it in my life until then.

25 Q. Yard ape. Now, let me ask you this specific question,

1 and then you'll have a chance to answer. Did you
2 specifically say: If any of the porch monkeys had been hit?
3 Did you say that?

4 A. No, I did not.

5 Q. Did you say: Good, I hope he dies even though I had
6 nothing to do with it?

7 A. No, I did not.

8 Q. Did you say something similar to that at any point
9 that night?

10 A. I said I hope they don't die.

11 Q. Did you tell Investigator Clarke that you never picked
12 up a firearm that night?

13 A. I don't recall him asking that, and I did pick it up
14 when I handed it to him.

15 Q. Did you tell Investigator Clarke that you never picked
16 up a firearm the night in relation to this allegation of
17 shooting that we're in here about today, you shooting
18 Antonio Jones and shooting into the Cruz home?

19 A. I didn't tell him about the incident in, in general.
20 So, I wouldn't have said that in reference to that.

21 Q. Because I'm just trying to make sure I understand your
22 -- did you tell him that you never picked up a firearm that
23 night? Obviously you told us that you picked it up and
24 handed it to him. You've told us that. I'm talking about
25 prior to that point. Did, did you tell him that you didn't

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1 pick up a firearm that night?

2 A. Not that I recall. Again, it's been over four years.

3 Q. Did you tell him that you never fired a gun that
4 evening?

5 A. Yes, I did tell him I never fired a gun.

6 Q. Okay. Did you tell him that you have cats and that
7 you have an eighteen-year-old dog? Did you tell him that?

8 A. I told him to please not leave the door open for my
9 animals to get out because they just had the front door
10 hanging open.

11 Q. Okay. So, were your cats kind of house cats? You let
12 them go outside sometimes and then bring them back ---

13 A. There was only one cat that was allowed out. The rest
14 -- or the other cat, rather, was not allowed out.

15 Q. So, you never have to yell and tell them to get back
16 in the house, that kind of thing?

17 A. No. I don't have to yell. I just call them.

18 Q. Okay.

19 A. Or call her and she would come in.

20 Q. Okay. What about your dog? Did you let him or her go
21 outside at that time?

22 A. When I went outside with her, but she never left my
23 side. I could be in a crowd of people downtown and she
24 wouldn't move.

25 Q. Okay. Tell us about Mr. Cruz.

1 A. I don't really know what to tell you about him. He
2 used to lived in a house that was across the street from me
3 for a few years.

4 Q. Did he have a dog?

5 A. He did.

6 Q. What kind?

7 A. I don't know. It looked like maybe a shepherd mix of
8 some kind. I'm, I'm not sure what kind.

9 Q. Did you ever threaten to shoot his dog?

10 A. Absolutely not. I love animals more than people. No
11 way.

12 Q. Did you ever threaten that night, February 22, 2017,
13 to shoot Mexicans and niggers?

14 A. Absolutely not. Most of my friends are black, and I
15 have family members that are Latino. I wouldn't say that.

16 Q. Did you ever yell across the yard at Mr. Jones or Mr.
17 Cruz?

18 A. Absolutely not, not unless Mr. Jones was one of the
19 people in my kitchen.

20 Q. Are you suggesting that he was?

21 A. No. I'm suggesting that I don't know who they were.
22 Never seen them before in my life and probably couldn't
23 place them, and if they walked in the room right now...

24 Q. Could you have done that four years ago?

25 A. Probably not. It happened very quickly.

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1 Q. So, why did you shoot Mr. Jones?

2 A. I didn't shoot anybody.

3 Q. Why did you go to the back of your yard with your gun
4 and shoot into Mr. Cruz's house?

5 A. I wouldn't have gone back there. It's too swampy. I
6 have problems with snakes. I would not be back there. I
7 haven't been back there in years.

8 Q. Four years?

9 A. Longer than that.

10 Q. 1548 days?

11 A. Longer than that.

12 Q. When is the last time you fired that pistol?

13 A. Two years or more before the night you're talking
14 about, and I didn't fire it then either. So, I guess if
15 you add it all together, six and a half, seven years, maybe
16 even more. I really can't tell you. I don't mark the days
17 down that I fire a weapon.

18 Q. So, you're sitting here telling this jury you did
19 nothing wrong on 2/22/2017?

20 A. In hindsight, I probably should have called the
21 police, but at that point the fact that they had let me
22 down so many other times, my faith in law enforcement,
23 again, was abysmal at best. They had done nothing to help
24 me before that. What were they going to do now? Leave me
25 there to be a victim again?

1 Q. When they told you you were under arrest, did you
2 curse at them?

3 A. No, I did not. I was very calm.

4 Q. Okay. Did you wrestle with anybody?

5 A. Absolutely not.

6 Q. And people -- how did you get into the police car?

7 A. He walked me to the police car. He opened the door.
8 He sat me down. I got my legs in. After I sat down, he
9 shut the door.

10 Q. So, you testified that officers did not have to carry
11 you into the car?

12 A. Absolutely not.

13 Q. Now, you said at some point you started yelling and
14 banging your head against the window?

15 A. I wasn't banging it. I was just knocking it a little
16 to see if I could get some sound because there was one
17 point they were 3 feet, if that far, from the window, four
18 of them standing there talking.

19 Q. Okay.

20 A. I'm yelling.

21 Q. Okay.

22 A. Can I please use the phone? No one even made eye
23 contact with me except to turn around and say shut up.

24 Q. So, how hard do you have to bang your head against
25 your window to make sound?

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1 A. Apparently harder than I did because I got no one's
2 attention.

3 Q. And isn't it true that Mr. Clarke called your mother,
4 secured your house?

5 A. I don't know.

6 Q. And so, again, let's wrap this up. You said that
7 after all of this stuff happens with these people breaking
8 into your house, you back -- you go back into your home and
9 you put your gun under the bed?

10 A. I didn't put it under the bed. I put it between the
11 mattress and the boxsprings.

12 Q. Okay, and you called your friend?

13 A. I tried to call him; I didn't get an answer.

14 MR. GIPSON: Court's indulgence, Your Honor?

15 THE COURT: Yes, sir.

16 (A PAUSE.)

17 BY MR. GIPSON:

18 Q. I'm just going to show you a couple more exhibits.

19 A. Sure.

20 Q. I'm showing you what's been marked as State's 37,
21 State's 38, State's 39. Would you take a look at those,
22 please?

23 (A PAUSE.)

24 Q. Do you recognize those pictures?

25 A. It's, it's the fence in my backyard, or that runs

1 along the very back of my yard.

2 Q. So -- and when you say it's the fence -- may I borrow
3 those back, and then we'll talk about them individually?

4 A. Sure.

5 Q. So, when I show you State's Exhibit Number 39, the
6 fence, that's the fence in your backyard?

7 A. It's a portion of it.

8 Q. A portion of the fence in your backyard, and I show
9 you State's Exhibit Number 37.

10 A. Again, is a portion of it.

11 Q. Okay.

12 A. It's a really long fence.

13 Q. Okay.

14 A. Just a portion of it.

15 Q. And lastly State's Number 38. Similar?

16 A. That's a portion of the fence.

17 Q. And is this what that fence would have looked like
18 that those guys had to have run through, jumped over, cut
19 to get out of your backyard?

20 A. And again, I don't know. I haven't walked down there
21 in a very long time. I'm afraid of snakes. It's swampy.
22 I'm not going back down there.

23 Q. Is this the type of fence that was in that area in
24 your backyard that they would have ---

25 A. It's the ---

M. FORTSON - CROSS-EXAMINATION BY MR. GIPSON

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1 Q. --- had to jump?

2 A. --- type of fence. That farm fencing, yes.

3 MR. GIPSON: No further questions at this time, Your
4 Honor.

5 THE COURT: All right. Redirect?

6 MR. WILLIAMS: No questions on redirect, Your Honor.

7 THE COURT: All right, Ms. Fortson, come on down.

8 (THE WITNESS EXITS THE STAND.)

9 THE COURT: All right, does the defense wish to call
10 any further witnesses?

11 MR. WILLIAMS: We do not, Your Honor.

12 THE COURT: Okay, and does the defense rest?

13 MR. WILLIAMS: It does.

14 THE COURT: All right. Thank you very much.

15 All right, ladies and gentlemen, I have a couple of
16 matters of law that I need to take up outside of your
17 presence. So, we'll go ahead and take our morning break at
18 this time. So, do not discuss case. You are to keep an
19 open mind about the case, and we will be back with you
20 probably in about fifteen or so minutes, okay? All right,
21 thank you very much.

22 Everyone stay seated while the jury is excused.

23 (THE JURY EXITS AT 10:58 A.M.)

24 THE COURT: All right, you want to renew your motions,
25 please?

1 MR. WILLIAMS: I would, Your Honor. They're, they're
2 the ones made at the end of the state's case, but now with
3 all the evidence in, there seems to be an argument that
4 it's insufficient as a matter of law for the court to -- I
5 mean, for the jury to return a verdict, for the jury to
6 return a verdict of guilty, Your Honor.

7 THE COURT: All right, and my ruling upon those
8 motions would be the same as before. There is sufficient
9 evidence for all three charges to go forward to the jury.
10 Considered in the light most favorable to the nonmoving
11 party, considering the existence of the evidence and not
12 the weight of the evidence, there is evidence before the
13 jury that would allow all three charges to go forward to
14 the jury based upon the testimony and evidence that's been
15 taken in the case.

16 All right, anything else from the state?

17 MS. SAMPSON: May I have a moment to confer?

18 THE COURT: Oh, sure.

19 (A PAUSE.)

20 MS. SAMPSON: Your Honor, we would like to put up a
21 rebuttal witness.

22 THE COURT: And who would that be?

23 MS. SAMPSON: Investigator Clarke.

24 THE COURT: Okay. All right. Let's bring them back
25 in.

1 MS. SAMPSON: I don't know if it's been fifteen
2 minutes.

3 THE COURT: Well, how long is he going to be?

4 MS. SAMPSON: I, I don't anticipate it being very
5 long, Your Honor. Maybe, depending on if Theo has any
6 cross, maybe twenty minutes.

7 THE COURT: Let's go ahead and do it.

8 MS. SAMPSON: Okay.

9 MR. WILLIAMS: I guess, Your Honor, at that point in
10 time, I will make my motions at the end of the case.

11 THE COURT: Say again?

12 MR. WILLIAMS: At that time, then I guess I will make
13 my motions again at the end of the testimony.

14 THE COURT: Yeah. Yeah. I think you have to, yeah.

15 MR. WILLIAMS: Sorry, Your Honor.

16 THE COURT: It's okay. No, no. You had to do it
17 then, and I think you have to do it again, so.

18 MR. WILLIAMS: Yes, sir.

19 THE COURT: Just to be safe.

20 MR. WILLIAMS: Yes, sir.

21 THE COURT: I mean, I'd rather you make them too many
22 times than ---

23 MR. WILLIAMS: Yes, sir.

24 THE COURT: --- not enough times.

25 (THE JURY ENTERS AT 11:02 A.M.)

1 THE COURT: All right, so I misled you about the
2 length of that break. Sometimes I think I understand
3 what's going on, and sometimes I don't. So, I sincerely
4 apologize. I accept responsibility for that.

5 Would the state like to call any reply witnesses?

6 MS. SAMPSON: Yes, Your Honor. The state would like
7 to call Investigator Clarke.

8 THE COURT: All right, come on up, Investigator
9 Clarke, and be resworn.

10 I'll swear him in, Mr. Bowen.

11 JOSEPH CLARKE, BEING DULY SWORN,
12 TESTIFIES AS FOLLOWS:

13 THE COURT: Thank you very much, and if you would just
14 remove your mask, I would appreciate that.

15 MS. SAMPSON: Joseph Clarke, Richland County Sheriff's
16 Department.

17 THE COURT: Whenever you're ready, ma'am.

18 MS. SAMPSON: Thank you, Your Honor. May it please
19 the court?

20 DIRECT EXAMINATION BY MS. SAMPSON:

21 Q. Good morning, Investigator Clarke.

22 A. Good morning.

23 Q. So, I want to talk to you a little bit about office
24 procedures. If you have a suspect who says they have a gun
25 in the house, would you ever let that suspect get the gun

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 for you?

2 A. No.

3 Q. What is that procedure?

4 A. That procedure would be if they're not already in
5 handcuffs, they would be removed to an area where they were
6 secured by another deputy, and we would say where is it,
7 and then we'd go get it ourselves.

8 Q. Would you ever let them give it to you?

9 A. Never.

10 Q. What about the ammunition?

11 A. Neither way.

12 Q. Did that happen in this case?

13 A. No, ma'am.

14 Q. What happened in this case in terms of getting her,
15 her -- that -- what evidence has come in?

16 A. Ms. Fortson had already been placed under arrest. She
17 had already been handcuffed; she'd already been actually
18 transported from the scene. After the search warrant was
19 secured, I put latex gloves on myself. I'm the one that
20 found the weapon between the mattress and the boxsprings.

21 Q. And the way that you found it, how many rounds were in
22 the pistol again?

23 A. There were six spent shell casings in that.

24 Q. Spent shell casings, correct?

25 A. Yes, ma'am.

1 Q. And as far as the GSR collection goes, is it normal to
2 take GSR from someone's neck?

3 A. No.

4 Q. Did that happen in this case?

5 A. No.

6 Q. What is the procedure?

7 A. The procedure is to do GSR where -- in this case, the
8 procedure would be on the hands, maybe the wrist area at
9 the most.

10 Q. And is that what was done?

11 A. Yes.

12 Q. And you're familiar with State's -- with revolvers.
13 Is that correct?

14 A. I am.

15 Q. And looking at the State's Exhibit 81, can you show us
16 where the safety is?

17 A. That's the beauty of a revolver: there's no such thing
18 as a safety on a revolver, especially with a hammer like
19 that. The revolv -- the safety is don't pull the trigger.

20 Q. So, in terms of when you come to a scene, did -- when
21 you came to this scene, did you know for certain that Mandy
22 Fortson was going to be a suspect?

23 A. For certain? No.

24 Q. So when you got to the house, what were you going to
25 do?

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Make contact, start a conversation, see where we were
2 on this thing.

3 Q. At any point, did she tell you her house had been
4 broken into?

5 A. No.

6 Q. Had she told you that, what would you have done?

7 A. Would have changed the complete trajectory of this
8 case.

9 Q. Did she ever tell you about broken glass?

10 A. No.

11 Q. What would you have done had she?

12 A. I would have said where is it, and I would have gotten
13 a CSI over there to examine it further.

14 Q. Did you find any broken glass?

15 A. No, ma'am.

16 Q. And let's talk about this racial slur. Who was the
17 first person to mention a racial slur in her house?

18 A. Ms. Fortson.

19 Q. And what was that racial slur?

20 A. I'd rather just use the quote: While standing in her
21 home, she asked me, quote, if any of the porch monkeys had
22 been hit, unquote.

23 Q. Did you ever repeat any of the racial slurs that she
24 said to her?

25 A. Not certain if I ever repeated any, but I certainly

1 didn't utter them first or anything like that.

2 Q. Okay, and did she ever tell you she'd called law
3 enforcement about her home being broken into?

4 A. Never mentioned it.

5 Q. And, in fact, did you ever see any timesheet call log
6 about her house being broken into?

7 A. No.

8 Q. Did you check for that?

9 A. Yes.

10 Q. And what did you find?

11 A. None.

12 Q. Never called?

13 A. No 911 calls, nothing like that from her address.

14 Q. And I'm not just talking about February of 2017. Any
15 before this?

16 A. That -- we have none.

17 MR. WILLIAMS: Objection to that, Your Honor. That's
18 beyond his purview as in regards to whether or not there is
19 or not. He's just saying he didn't see it or didn't know
20 or didn't look.

21 THE COURT: I don't know that he's got the knowledge
22 to testify to that.

23 MS. SAMPSON: I can follow ---

24 BY MS. SAMPSON:

25 Q. Did you look for any calls?

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. I did.

2 Q. How do you look for calls?

3 A. We'd contact one of our analysts, who would do a CAD
4 search to see if ---

5 MR. WILLIAMS: Same objection, Your Honor. He can't
6 testify to whether or not that there were or were not.

7 MS. SAMPSON: I asked what the procedure was. He's
8 telling me the procedure.

9 THE COURT: He can tell you the procedure.

10 But then you can object at that point.

11 BY MS. SAMPSON:

12 Q. What is the procedure?

13 A. I would, I would reach out to one of our analysts most
14 likely, who would make a check with Central Dispatch to see
15 if there had been any 911 calls to that location.

16 Q. And were any 911 calls provided to you?

17 MR. WILLIAMS: Same objection, Your Honor.

18 THE COURT: He can't answer that.

19 MS. SAMPSON: Can he if any were provided to him?

20 MR. WILLIAMS: Same objection. He's calling it ---

21 THE COURT: It's hearsay.

22 MR. WILLIAMS: --- hearsay in a different way.

23 MS. SAMPSON: I'm not asking did they tell him
24 anything. Did he -- they provide him any reports. That's
25 not hearsay.

1 THE COURT: It's the same thing.

2 BY MS. SAMPSON

3 Q. Did Ms. Fortson inform you that she's ever called 911?

4 A. No.

5 Q. Ever tell you I don't trust police?

6 A. I don't remember that, but I -- there was a lot of
7 things said that night.

8 Q. Did she tell you anything about knowing law
9 enforcement?

10 A. Yes.

11 Q. What did she tell you?

12 A. Explained that her -- Ms. Fortson was -- I think she
13 mentioned her grandfather was a retired judge and that her
14 father -- she knew a bunch of people over there. She did
15 mention Mike Poole. He's deceased now, but he was a
16 narcotics investigator.

17 Q. Never told you -- or did she ever tell you anything
18 about mistrusting police?

19 A. That I don't recall.

20 Q. And this mentioning about you not doing anything about
21 her animals, did you do anything to allow for something to
22 be done with her animals?

23 A. We were very accommodating for the animals, and full
24 disclosure, I'm one of two certified animal abuse
25 investigators for the department. So, I have a -- I'm

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 known as the Dr. Dolittle with the department. I can't
2 help that, and so I made full accommodations and I called
3 her mother. We secured a key. We made sure the animals
4 were inside and that they had food and water, and that her
5 mother was aware of that.

6 Q. And who brought up her having been drinking, you or
7 her?

8 A. It was obvious. There was a mixed drink on the table
9 that she was sitting next to when I approached at the
10 house.

11 Q. And how was it obvious?

12 A. There was glass and looked like dark liquid: whiskey,
13 bourbon, whatever it was. Dark liquor with ice cubes in
14 it, and she told me she was drinking Hennessy.

15 MS. SAMPSON: Beg the court's indulgence?

16 BY MS. SAMPSON:

17 Q. And you, I believe you said this before, but where was
18 she when you arrived?

19 A. She was sitting on -- I believe it was a sofa or
20 chair, loveseat, what have you, near the window at the
21 front of the house. The window was actually open with the
22 screen in it, and it was ---

23 Q. She wasn't in her bedroom?

24 A. No. She was awake. She...

25 Q. And did you notice that there were no doors anywhere?

J. CLARKE - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. I don't recall, but I do think, when I think about it
2 now, in her bedroom I think that, like, French door type
3 things on a -- you know, louvered doors on a closet. I
4 don't think they were there when I think about.

5 Q. Okay.

6 A. But I don't remember the doors being an issue or
7 anything.

8 MS. SAMPSON: No further questions.

9 MR. WILLIAMS: Just a couple of questions.

10 CROSS-EXAMINATION BY MR. WILLIAMS:

11 Q. I believe you indicated that there was some stuff on
12 her face and stuff on her hands, and we went through this,
13 this discussion about whether or not you checked that for
14 gunshot residue because you thought it was gunshot residue,
15 correct?

16 A. Correct.

17 Q. And, of course, if you were checking for gunshot
18 residue, then someone checking her neck or her forehead for
19 gunshot residue would be something that someone would do if
20 you thought it was gunshot residue, wouldn't it?

21 A. If I informed them to do that, that's something they
22 could have checked certainly.

23 Q. And you already said that you thought she had gunshot
24 residue on her forehead?

25 A. It appeared to be gunshot residue.

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1 Q. And you never saw her wash her face and take it off,
2 correct?

3 A. I didn't watch her wash her face, no.

4 Q. So, checking for gunshot residue could mean checking
5 you neck and your forehead?

6 A. It's possible.

7 Q. Now, let's talk about the broken glass. Did you --
8 you said you didn't see any. Did you look for broken
9 glass?

10 A. I did not look for broken glass because I had no
11 reason to look for broken glass because no one had
12 mentioned there was any broken glass.

13 Q. So, there could have been broken glass where someone
14 broke into the door, and you just didn't look. Didn't look
15 for it because you didn't know about it, so it could have
16 been right there all along?

17 A. Could have been. I was completely unaware there was
18 broken glass, potentially broken glass in the house.

19 Q. Now let's talk about the gun. You said that she was
20 actually under arrest. She had been handcuffed and had
21 already left before you secured the gun?

22 A. Correct, through a search warrant.

23 Q. But you have explained -- explain to the jury what you
24 mean by secured it by virtue of a search warrant.

25 A. We went and got a search warrant, and then we located

1 the firearm.

2 Q. You had already seen the firearm?

3 A. No. I found the firearm.

4 Q. You -- whatever. You already had possession of the
5 firearm, didn't you?

6 A. At what time, Counselor?

7 Q. Before the search warrant was -- before you, before
8 you seized it and took a picture of it.

9 A. No.

10 Q. You, you didn't come in and ask her about a gun? She
11 said it was there, and you go over to see where it's at?

12 A. No.

13 Q. You just left, just left it like that because you
14 didn't arrest her yet. You didn't arrest her until you saw
15 all the ammunition and the gun, right?

16 A. I arrested her when the lineup was done, when the
17 showup was done.

18 Q. So, you're saying you didn't arrest -- that you
19 arrested her before you even saw the gun or the ammunition?

20 A. Yes. To the best of my knowledge, that's what -- how
21 the sequence went.

22 Q. And you didn't say in your direct testimony that you
23 looked in the door, you could see the ammunition over on
24 the bedside table or on the floor, wherever the heck you
25 saw that?

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1 A. Shell casings on a bedside table.

2 Q. Right, and based on the combination of things, gunshot
3 -- not gunshot. Shell, shell casings, looking at the gun,
4 that's why you arrested her. And she actually told you
5 about the gun also.

6 A. I don't remember her telling ---

7 Q. Both of them.

8 A. I don't remember her telling me about a gun. I'm the
9 one that pulled the mattress up and saw where it was under
10 the boxsprings.

11 Q. Before she was arrested?

12 A. Don't remember the sequence.

13 MR. WILLIAMS: That's all the questions I have, Your
14 Honor.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION BY MS. SAMPSON:

17 Q. I want to ask you really quick, and then I'm going to
18 be done. You spoke of a search warrant and needing a
19 search warrant before you searched for anything, correct?

20 A. Correct.

21 Q. Who brought the search warrant?

22 A. Sergeant Faust.

23 Q. So, did you search the house before you had that
24 search warrant?

25 A. No.

1 MS. SAMPSON: No further questions, Your Honor.

2 THE COURT: You may step down. Thank you.

3 (THE WITNESS EXITS THE STAND.)

4 THE COURT: All right, any further witnesses from the
5 state?

6 MS. SAMPSON: Oh. I'm sorry. No. No, sir.

7 THE COURT: Okay. All right.

8 Now we'll take about a fifteen minute break or so.

9 All right, do not discuss the case. Keep an open mind, and
10 we'll be back with you in about fifteen minutes. Thank you
11 very much.

12 (THE JURY EXITS AT 11:15 A.M.)

13 THE COURT: All right, now you need to renew your
14 motions.

15 MR. WILLIAMS: Now, Your Honor, I'd renew the motion
16 for directed verdict. Now that all the evidence in, the
17 light most favorable to the state, it's insufficient as a
18 matter of law for, for the jury to find my client guilty of
19 any of the offenses.

20 THE COURT: All right, and my ruling upon those
21 motions would be the same as before, based upon the
22 testimony and the evidence and the standard before the
23 court.

24 Okay. All right, let's go through this jury charge.
25 We're going to do the simple stuff first, and then we'll

1 come back and do the more complicated. So, I explain to
2 them in the first paragraph the fact that she's indicted is
3 not evidence. The second charge in there is that they have
4 to consider the charges separately, separate and distinct
5 from each other. So, there's multiple charges; they have
6 to consider each charge separate and distinct from the
7 other. I then give them the normal spiel. That, you know,
8 I'm the judge of the law. They're judge of the facts, the
9 same things I always say. I then go through the
10 presumption of innocence. It's like a robe of
11 righteousness placed above the shoulders of the defendant.
12 I then explain reasonable doubt with the *Victor v. Nebraska*
13 charge.

14 I explain to them what is not evidence, which is just
15 a repetition from what I've already said to them. I charge
16 direct and circumstantial evidence with what I refer to as
17 the new circumstantial evidence charge, but I think it's
18 been around since about 2013, which is all of the
19 circumstances must be consistent with each other and when
20 taken together point conclusively to the guilt. I do the
21 normal credibility of witness charge, the normal expert
22 witness charge. There's been a statement allegedly made by
23 the defendant, so there's a statement of the defendant
24 charge, the normal criminal intent paragraph, and then we
25 get to charges, and we'll come back to those.

1 And then after the charges, I say a verdict in this
2 case cannot be based on sympathy, passion, or prejudice, or
3 emotion, or something else not found in the evidence. And
4 then I talk to them about how they're kind of supposed to
5 deliberate and consider other people's points and points of
6 view, and have a unanimous verdict.

7 Any objection to any of that standard stuff?

8 MS. SAMPSON: Not from the state.

9 MR. WILLIAMS: None from the defendant.

10 THE COURT: Okay. All right. So, let's, let's kind
11 of talk through the attempted murder statute first. So as
12 you all know, this attempted murder statute didn't exist
13 for a long time, and then there was a lot of confusion, I
14 think very rightfully so, amongst the trial judges on what
15 we're supposed to charge and what we're not supposed to
16 charge, and is it a specific intent crime and is it not a
17 specific intent crime.

18 And so I think that's been hashed out by the Supreme
19 Court to land on the idea that attempted murder is a
20 specific intent crime. So, I'll be charging them that the
21 state must prove that the defendant attempted to kill
22 another person with malice aforethought, and then that
23 there was the specific intent to kill a person. A specific
24 intent to kill is necessary to convict. In other words,
25 the completion of such acts was the defendant's purpose.

1 Additionally, the state must prove that the specific intent
2 was accompanied by some overt act beyond mere preparation.

3 And what, what's the state's position on implied
4 malice?

5 MS. SAMPSON: I know we can't use -- we can no longer
6 use the one you can imply malice with a weapon.

7 THE COURT: Right.

8 MS. SAMPSON: I would just -- I think without it
9 sitting in front of me, I think it's actions and words but
10 without -- you can't say that the weapon is -- use of a
11 weapon is implied.

12 THE COURT: Well, I think -- and one of the issues
13 with the way this attempted murder statute is written is it
14 says malice aforethought expressed or implied, but I don't
15 know how you can have implied malice and have a specific
16 intent at the same time. The two things are completely
17 contradictory to each other. You can't imply malice and
18 have a specific intent to kill.

19 MS. SAMPSON: I have no -- sorry. I have no issue if
20 you just say expressed.

21 THE COURT: Yeah. I think, I think that's probably
22 the cleanest way to do it, and that way we just don't even
23 get into that dichotomy of what is inferred malice or
24 implied malice.

25 All right, and then what's the defense's position on

1 the lesser includeds, or do you want to be heard on those
2 on the attempted murder? So, of course we're discussing
3 this. This is the purpose of it, but there's ABHAN,
4 assault and battery first degree, assault and battery
5 second degree. There's also assault and battery third
6 degree, but I'm not saying you're getting all those, but
7 the first question is do you want any of those is the first
8 question.

9 MR. WILLIAMS: Could I have two seconds, Your Honor?

10 THE COURT: Yeah. Sure. And, of course, I'm going to
11 ask the state what their position is, too.

12 (A PAUSE.)

13 THE COURT: All right, did you have enough time, Mr.
14 Williams?

15 MR. WILLIAMS: I did, Your Honor, and I have consulted
16 with my client obviously those types of things, explaining
17 how it plays out.

18 THE COURT: Sure.

19 MR. WILLIAMS: In terms of her desire, she does not
20 request a lesser included.

21 THE COURT: Okay, on, on any charge under attempted
22 murder?

23 MR. WILLIAMS: Correct.

24 THE COURT: Okay.

25 All right, what's the state's position?

1 MS. SAMPSON: The state's position is we would request
2 that simply that assault and battery of a high and
3 aggravated nature, the reason being is we do feel if the
4 jury were to find she didn't intend to kill him, we have
5 met the elements of serious bodily injury done in a manner
6 to cause serious bodily injury. We had testimony about his
7 serious bodily injury. So to us, if they did not find that
8 she intended to kill, the lesser included of ABHAN would be
9 the next step down.

10 THE COURT: All right, anything else on that issue,
11 Mr. Williams?

12 MR. WILLIAMS: Your Honor, one of the charges that
13 she's facing is that breach of peace.

14 THE COURT: Right.

15 MR. WILLIAMS: Your Honor, that smells an awful lot
16 like a lesser included. I know it's not, but it's almost
17 like it's reckless behavior where somebody could be hurt
18 real badly and that -- that's almost a lesser. I, I can
19 see where someone could look at it that way if you were on
20 a jury. There's no specific intent. It's almost like
21 behavior that is so outrageous that it could injure
22 somebody.

23 THE COURT: All right. So, the question is if I
24 charge ABHAN, are you interested in the other ones?

25 MR. WILLIAMS: Well, yes. If you're going to charge

1 the ABHAN, Your Honor, we would request the assault and
2 battery second.

3 THE COURT: Assault and battery first and the assault
4 and battery second?

5 MR. WILLIAMS: Just assault and battery second.

6 THE COURT: What's the state's position on that?

7 MS. SAMPSON: Your Honor, I don't -- I'm at, I'm at a
8 loss. We're skipping first altogether, but assault and
9 battery first degree, we've shown that this was, again,
10 great bodily injury. So, the only step down would be, I
11 guess, if you didn't think it was great bodily injury, and
12 then we go down to second degree.

13 MR. WILLIAMS: Well, as is -- as the doctor has
14 testified, all he's got is just a little bullet, and --
15 which is life -- I don't mean that derogatory, but it's not
16 life threatening. Could have been.

17 MS. SAMPSON: We had testimony about a broken bone,
18 chips of the bone, surgery.

19 MR. WILLIAMS: Well, that's true. I take that back.
20 I take that back.

21 MS. SAMPSON: And he showed them this disfigurement
22 that is still there.

23 MR. WILLIAMS: Okay.

24 MS. SAMPSON: So, I don't think we get to the lesser
25 because of that.

1 THE COURT: All right. So, here's the deal. We're
2 either doing ABHAN and A&B one or we're doing nothing.

3 MS. SAMPSON: We would prefer to have the ABHAN and
4 the A&B first.

5 THE COURT: Okay. All right.

6 You want to take a position? Your position is, Mr.
7 Williams, you just want attempted murder?

8 MR. WILLIAMS: That is correct.

9 THE COURT: Okay. All right. I think that the ABHAN
10 and the A&B one directly fall under the facts that have
11 come in in the case. I mean, they, they deal with great
12 bodily injury. The gentleman was shot. Now, he obviously
13 wasn't shot in a major organ, right? I mean, he was awake.
14 He was awake when they got to the hospital. I'm not saying
15 it wasn't serious, you know, but we've all seen cases
16 where, you know, people are shot in the throat or shot in
17 the head or things of that nature, but I think, I think it
18 clearly could fall under ABHAN, which would be bodily
19 injury, and assault and battery first degree by the offer
20 or the attempt to injure another person with the present
21 ability to do so which could cause great bodily injury.
22 So, I think, I think you can get to there either way.
23 Okay. All right. So, I will charge both of those. I
24 think that they fit underneath the circumstances.

25 Okay, on the discharging a firearm into a dwelling,

1 the state must prove that the defendant discharged or
2 caused to be discharged unlawfully a firearm at or into a
3 dwelling house, other building, or structure that is
4 regularly occupied by people. There's not really crazy
5 words in that one.

6 And then the breach of peace is the defendant is
7 charged with a breach of peace, aggravated. That may be
8 generally defined as a violation of the public order as
9 amounts to a disturbance of public tranquility by acts or
10 conducts having this affect. And then examples of
11 circumstances of aggravation. Some of them are the use of
12 a deadly weapon, the intent to commit a felony, infliction
13 of serious bodily injury.

14 I'm not sure a great disparity between the ages or
15 physical conditions of the parties really applies. And
16 then a difference in the genders of the parties, I just
17 don't know that that is the purpose of that in that way.

18 You want to take any positional on any of that, Mr.
19 Williams?

20 MR. WILLIAMS: No, Your Honor, I don't.

21 THE COURT: Okay. All right. So, I will leave in use
22 of a deadly weapon, intent to commit a felony, infliction
23 of serious bodily injury, and take out those other ones.

24 MS. SAMPSON: Your Honor, there's just one other one
25 at the end with law enforcement. I'm trying -- I'm sorry.

1 I think I gave you my only copy.

2 THE COURT: Resistance to lawful authority?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: I guess that's the case of when they tried
5 to put her under arrest. That's the, that's the state's
6 theory in that?

7 MS. SAMPSON: Yes, sir, when she kicks the officer.
8 The testimony from Investigator Clarke was she kicked
9 Officer Beck and also was hitting the window and screaming.

10 THE COURT: What's your position on that, Mr.
11 Williams?

12 MR. WILLIAMS: I do not want it in there. I think it
13 sounds like resisting arrest. There two types of resisting
14 arrest, so I guess we could charge her with resisting
15 arrest, something like that.

16 THE COURT: Well, I mean, I guess the issue with that
17 is, is the state's theory that the shooting could be a
18 BOPHAN or just her conduct with the police?

19 MS. SAMPSON: My intent was just -- is not arguing
20 about the shooting being the BOPHAN. The BOPHAN was just
21 from her: from the screaming, hollering, and kicking, and
22 assaulting on the officers, and the kicking of the car and
23 all of that at that point. I did not intend to -- because
24 I do agree that could be getting into issues with the
25 shooting ---

1 THE COURT: Right.

2 MS. SAMPSON: --- as part of the BOPHAN.

3 THE COURT: It's a duplicity issue.

4 MS. SAMPSON: Yes.

5 THE COURT: So, one of the questions I had at the
6 beginning which I kept to myself because ---

7 MR. WILLIAMS: I understand.

8 THE COURT: --- sometimes it's better just to keep
9 your mouth shut is, is the theory of the state that the
10 breach of peace high and aggravated nature could be the
11 shooting because if it is and they're -- but, I mean,
12 apparently they're not going to be arguing that the breach
13 of peace is related to the shooting.

14 MR. WILLIAMS: Well, then I don't guess it really
15 matters a lot as long as they don't do that because what
16 you've got is just somebody resisting arrest maybe.

17 THE COURT: Where, where did the resistance to lawful
18 authority come from because I don't remember that in the
19 old ABHAN statute.

20 MS. SAMPSON: That came from the King Anderson book,
21 and it's also what they charged in the case, *Simmons*. That
22 is the charge she kept. She kept the whole thing in,
23 including the disparity in gender and all that.

24 THE COURT: Okay.

25 MS. SAMPSON: But that's the charge they used, and it

1 came from the Ralph King Anderson directly.

2 THE COURT: Okay. I'll add that in, but the state is,
3 is telling us that they are -- the intent is not to argue
4 in closing that they can find her guilty of the BOPHAN
5 based upon whatever happened with the shooting incident.

6 MS. SAMPSON: Correct, Your Honor, and Mr. Williams
7 is, is welcome to, if I somehow do that, to jump up and
8 scream and yell about it, but that was not my intention.

9 MR. WILLIAMS: Thank you.

10 THE COURT: Well, I just think we needed a little bit
11 of clarity on that. I needed clarity on that, and I'm sure
12 Mr. Williams appreciates the clarity on that ---

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: --- too, because that's, that's kind of a
15 different argument.

16 So, okay, then as to the verdict forms, what I've done
17 this time is I've created three different verdict forms,
18 and I kind of did that with the idea to help remind them
19 that they have to consider each charge separately. So, I
20 have one for breach of peace aggravated in nature, and then
21 I have one for discharging a firearm into a dwelling, and
22 then I have one for the attempted murder. And the
23 attempted murder, so if they find not guilty on the
24 attempted murder, then they can consider ABHAN, and then if
25 they find not guilty on ABHAN, they can consider assault

1 and battery first degree, and so those are written in there
2 like that.

3 All right, anything on jury charges or verdict forms?

4 MS. SAMPSON: Not from the state, Your Honor.

5 THE COURT: Okay, we're going to go make ten minutes
6 worth of corrections. It will take me about ten minutes to
7 correct what I need to correct in this jury charge, and
8 then we're going to email them to you so you can have them
9 and read them, and then what time do you want to start
10 closings?

11 MS. SAMPSON: You said all together, like fifteen
12 minutes at least probably?

13 THE COURT: It will be probably be ten minutes before
14 I can email it to you because I want to tweak it one more
15 time. Want to start at noon?

16 MS. SAMPSON: That's fine.

17 THE COURT: 12:15-ish?

18 MS. SAMPSON: Noon is fine.

19 MR. WILLIAMS: That's fine, Your Honor. I was curious
20 about who goes -- who's going first here?

21 MS. SAMPSON: What do you mean? We go first. You go
22 second. We do both.

23 MR. WILLIAMS: Good deal.

24 MS. SAMPSON: Sorry. That ---

25 MR. WILLIAMS: I've been arguing with a magistrate all

1 week about that.

2 THE COURT: Well, there's ---

3 MS. SAMPSON: My understanding is we would go first.

4 THE COURT: There is a case. I think it's ---

5 MR. WILLIAMS: I know.

6 THE COURT: --- State ---

7 MR. WILLIAMS: I've read it.

8 THE COURT: *State v. Beattie*.

9 MR. WILLIAMS: I know.

10 THE COURT: I'm pretty sure -- I'm literally going off
11 the top of my head at this point. What it says is the
12 state is required to open their closing arguments in full.
13 Because the defense called a witness, they are -- they go
14 second, and then the state can make a reply argument to
15 anything that the defense raised. But the old way of the
16 state opens on the law and then saves everything for the
17 end is out. It's more like we do in civil court, which
18 is ---

19 MR. WILLIAMS: I totally agree. I don't disagree with
20 you. I've just been arguing with magistrates from Aiken
21 County, sending them copies of the case, and now can I cite
22 you as ---

23 THE COURT: Yes. You're welcome to cite me.

24 MR. WILLIAMS: Thank you.

25 THE COURT: But the state has to open in full.

1 MR. WILLIAMS: Yes, sir.

2 THE COURT: And then the defense will be allowed to
3 make a closing argument, and then the state can make a
4 reply argument just like we do in civil cases where the
5 plaintiff is allowed to make a reply which needs to be
6 directly related to something that the defense said in
7 their closing.

8 MS. SAMPSON: For the record, that's how we had
9 intended to do it.

10 THE COURT: Right. Yeah. I figured so. It's okay.
11 All right. There's some places in this state that are
12 still operating under the old rules.

13 All right. All right. So, we're going to get that
14 out to you in just a few moments, and then we'll, around
15 the noon hour, we'll jump back in and do closings, okay?

16 MS. SAMPSON: Thank you, Your Honor.

17 MR. WILLIAMS: Thank you, Your Honor.

18 THE COURT: Oh, and, Investigator Clarke, can you get
19 that gun for me?

20 INVESTIGATOR CLARKE: Yes, sir.

21 (OFF THE RECORD.)

22 THE COURT: Okay, anything before we get started back
23 from the state?

24 MS. SAMPSON: Not from the state, Your Honor.

25 THE COURT: From the defense?

1 MR. WILLIAMS: Not from the defendant, Your Honor.

2 THE COURT: Okay. All right. So, if you're in here
3 now, you're staying in through closing arguments. So, the
4 state will get to go first, defense will get to go second,
5 and then the state will get to go third. So, if you're in
6 here now, you need to plan on staying through all of those.
7 If after that you want to leave before I give my jury
8 charge, you are more than welcome to do so, but once I
9 start the jury charge, the back door will be locked. So,
10 if you're in here now, please just stay in your seats until
11 the closing arguments are through, and then you can quietly
12 excuse yourself from the courtroom.

13 All right, let's bring them in.

14 (THE JURY ENTERS AT 12:07 P.M.)

15 THE COURT: All right, welcome back, ladies and
16 gentlemen. Thank you very much for your patience.

17 So, we have now reached the point of the trial which
18 are known as closing arguments, and this is the attorneys'
19 final opportunity to come before you and summarize the case
20 from their respective points of view.

21 Now, I will say this about you all. You all have done
22 an excellent job this week of staying awake and staying
23 with us and paying attention: paying attention to me,
24 paying attention to the attorneys, and to the witnesses.
25 And I know that that is very much appreciated by everyone

1 involved in the case. This is the attorneys' last
2 opportunity to speak with you. So, I ask that you give
3 them your undivided attention.

4 So, as with everything in court, there is an order to
5 which things go. So, the state will be allowed to make a
6 closing argument first. The defense will be allowed to
7 make a closing argument second, and then the state will be
8 allowed to make a reply argument, okay? Now, at that point
9 in time, it will be my job to tell you what the law is in
10 the case.

11 I do not put time limits on attorneys. Some judges
12 do. Sometimes I wish that I did, but I, but I do not put
13 time limits on attorneys. This is their case. They've
14 lived with it for a number of years, and this is their
15 opportunity to speak to you. So, we may stand up or
16 stretch or just kind of twist and turn, or if it goes too
17 long, we may take a break in between the arguments. But
18 everything that you're about to hear is very important, and
19 then my jury charge to you at the end, which is never
20 exciting, it also very important that you understand what
21 the law is in the case. And so I want you wide awake for
22 that.

23 Your lunch has been ordered; it is on the way. So,
24 hopefully my timing is pretty good that it's pretty close
25 to where when we -- when you all are allowed to start

1 deliberating, your lunch is here so you can just work
2 through that, okay? All right.

3 And so who will be closing for the state?

4 MS. SAMPSON: I will be doing the closing in full;
5 Mr. Gipson will be doing the reply.

6 THE COURT: Wonderful. All right, Ms. Sampson, thank
7 you very much, and the floor is yours, ma'am, whenever you
8 are ready.

9 MS. SAMPSON: Thank you, Your Honor. May it please
10 the court?

11 THE COURT: Yes, ma'am. Thank you.

12 MS. SAMPSON: Good fences make good neighbors. Good
13 fences keep inside what you want, what you love, what you
14 hold dear. They keep out the danger, the bad things, the
15 things you hate. All of the evidence in this case shows
16 you that on February 22 of 2017, Mandy Fortson was a bad
17 neighbor with a bad fence. It couldn't keep out her hate;
18 it couldn't keep out her vile words.

19 That, that hate was spewed from her mouth. That hate
20 was spewed from her gun when it put a bullet through
21 Antonio Jones's arm, a bullet into his hip that is still
22 there to this very day. That hate was shown when she shot
23 up Roman Cruz's home, through his window, almost into his
24 daughter's bedroom, through his shed, through his car.

25 That hate continued when police show up and she starts

1 asking about porch monkeys. And today we heard she said
2 yard ape. The hate continued even to law enforcement, who
3 today she said I have them all in my family but didn't
4 trust them enough to tell them that three men just broke in
5 her house.

6 It continued when she was arrested and they tried to
7 do their job: simply put her in the car. She started
8 yelling and screaming. She did what they called a
9 deadweight. Investigator Clarke talked to you about how
10 they had to do the wheelbarrow just to get her in the car.
11 And then it wasn't enough. She continues to yell, hit the
12 windows, kick them, carry on in all kind of manner, and
13 that's what has brought us here today.

14 I want to thank you, as Judge Hood said, for all the
15 attention you have given us. You've paid more attention
16 than some other people in this room, and I thank you for
17 that. So, now I'm going to go through the evidence a
18 little bit so we can actually talk about what we're here
19 for today.

20 So, this is Mandy Fortson. Not the Mandy Fortson that
21 testified in front of you today with a new story, but the
22 Mandy Fortson as she appeared back on February 22 of 2017.
23 She lives and still to this day lives at [REDACTED] Barwick Court
24 directly behind Antonio Jones and Roman Cruz. There's no
25 disputing that fact. We showed you this map. Everybody

1 testified about this: Antonio Jones lives here, Roman Cruz
2 lives here, Mandy Fortson lives here. What's important
3 about all this is right here, all their backgrounds
4 converge, giving her the opportunity needed to do the
5 crimes she committed.

6 So, back on February 22, 2017, what was going on in
7 this neighborhood? Today Ms. Fortson told you about it's
8 not a good area, but we have heard absolutely nothing about
9 this being a bad area. In fact, what you heard were people
10 doing their normal activities. At 107 Thornwell Court, you
11 had Antonio Jones, who was there with his girlfriend, Tonya
12 Mills who you heard from, and her son, Jakari Adams, who
13 was doing what any ten-year-old would do. He was even
14 doing his chores. I can't get my kid to do my chores and
15 she's sixteen, but they got him to do his. He was taking
16 out the trash, right? He talked about that, how then he
17 came back in and started getting ready for school, and
18 evidence even bears that out because look. Here's his
19 little shirt and clothes that he was going to wear to
20 school the next day. He is doing what any ten-year-old boy
21 should be doing: getting ready for school on a Wednesday
22 night.

23 Antonio Jones and Ms. Mills were in the bedroom
24 watching TV. He told you about a basketball game. Now
25 when I get done, Mr. Williams is going to get up here and

1 start talking to you all, and he may talk about, well, he
2 didn't know which game it was. There have been games on TV
3 all this week. Watched some of them. I could not tell you
4 who played who. I know at some point there was a Lakers'
5 game, and that was this week. You want him to remember
6 exactly what he was watching four years ago? But he told
7 police he was watching basketball. They got up here and
8 talked about that. Doing their normal activities.

9 What's going on next door, this real dangerous
10 neighborhood, according to Ms. Fortson? At [REDACTED] Thornwell
11 Court, Mr. Cruz and his family, sitting in their house
12 doing absolutely nothing wrong. Eating dinner. Having a
13 family meal. He even talked about he sat at the head of
14 the table. His wife sat at the other end, his two children
15 sat there, and they had dinner together. How great is
16 that? Sitting around having dinner.

17 Now, Mr. Williams may get up here and talk about, well
18 he didn't know what time it was. I don't remember what
19 time I ate dinner. That's not unusual. It's not usual to
20 not remember four years ago what time you ate dinner, but
21 he's consistently said that's what happened. They're just
22 minding their business. Apparently they're real dangerous,
23 according to Ms. Fortson.

24 What was she doing? She wants you to believe she's in
25 this dangerous area, but she's not dangerous, but what was

1 she doing? Loading that revolver that she keeps under her
2 mattress, between her mattress and her bedsprings. Not one
3 but two guns. This is the one she decided to use that
4 night. She loads it with those shells that are
5 conveniently strewn around her house in her bedroom when
6 police get there. She takes that gun and for whatever
7 reason on this night decides she's going to get rid of some
8 people.

9 Now, the judge is going to give you the law, but what
10 you're never going to hear him say is that the state has to
11 prove beyond a reasonable doubt why Mandy Fortson did this
12 because there's no way to do that. The only way I could do
13 this is to open up her brain and somehow miraculously tell
14 you what's in there, but we can't do that. Nobody can, so
15 I don't have to prove why. I just have to prove that she
16 did it, and we're done that. Why do people do anything
17 hateful is beyond me, but she did. She took that gun, and
18 she walked into her backyard.

19 Now, we've heard a lot about this fence right here,
20 right? Heard today about how some three black men who
21 maybe she can recognize, maybe she can't miraculously got
22 over that fence or did something to that fence. I don't
23 know what they did because they didn't exist, but she did
24 go to that back fence. How do we know? Roman Cruz came in
25 here and told you about it. Antonio Jones came in here and

1 told you about it. She knows that she stands at this
2 fence. What's important about this is when you stand in
3 her backyard, you can see Roman Cruz's backyard. You can
4 see Antonio Jones's back porch.

5 Now, Mr. Williams made some big deal about the flash
6 is on. Lights up everything, but I want you to look back
7 here. There's lights right there. There's lights there.
8 There's lights there. You don't need the flash to see
9 everything, but you do need it to take a picture.

10 So, what does she do when she gets out in her yard?
11 She looks, which would be to her right, and focuses on Mr.
12 Cruz's house where you can see all of his house, the
13 backyard, the shed, his work van. She proceeds to shoot it
14 up for no apparent reason other than he's Mexican. You
15 heard him say it. She was out there saying kill all the
16 Mexicans. Just so happens that one lives there, and his
17 house get shot.

18 There's a hole in his laundry room through the glass,
19 leaving a split bullet that hit right here, this dryer.
20 Ricocheted on the walls. And remember he talked about the
21 yellow room? His daughter's room right here, look how
22 close that is. Bullet split in half.

23 What are they doing when this happens? Remember what
24 he told you: screaming, crying, and hiding because that's
25 what you do when your house is getting shot up.

1 Where else does she shoot because that's not good
2 enough for her. She also shoots, as he told you, right
3 below, leaving a bullet mark right there. They called them
4 projectile points or impact points, right? And you don't
5 have to believe us because there's a shell casing that --
6 from the bullet when it broke, but that wasn't even enough.
7 She continued to shoot. Shot up his car, leaving a hole in
8 the grill.

9 Still not enough, and I'm going to go back to this
10 picture because I want to show you two things. First of
11 all -- and again, we're talking about whether he had light
12 to see. I ask you, ladies and gentlemen, exactly what is
13 that? It ain't a flash. It's a light. Because it
14 illuminates his backyard, he could see. So, he looks out
15 the backyard, and what's important about this picture right
16 here? I'm going to highlight it for you and make it
17 bigger. It's even in the dark from her yard, you can see
18 his shed. You can see the back window that he was looking
19 out of that she shot out. In the daytime, this is what it
20 looks like, and lo and behold, what does it have? A hole
21 in it where she shot it up, too. She was on a mission to
22 kill the Mexicans. I have no idea why, and it doesn't
23 matter.

24 What else does she do? So, now she's done, or so we
25 think. She leaves. Goes back in her house. Now, I want

1 you to remember something Antonio Jones told you because
2 when I get up -- get done, Mr. Williams is going to come up
3 here and talk about why all this is wrong, and he's -- one
4 of the things you get to decide is who's telling the truth
5 and who's not, and one of the ways you do that is your
6 common sense. It's also to think about the things that are
7 consistent, right, because that's what you do when you're
8 trying to figure out who's telling a lie and who's telling
9 the truth, right? We've all had to do that, whether it's
10 with your kids, your husband, your girlfriend. Well,
11 somebody says one thing, somebody says something else, and
12 you've got to figure out who's telling the truth, right?

13 In this case, let's look at this picture, and let's
14 remember what Antonio Jones told you. He talked about her
15 backyard having a pink pool and my, oh, my, there's one
16 right there. He didn't even get shown this picture, but he
17 knew she had a pink pool in her backyard.

18 But she goes up on in that house, and what does she
19 do? Does she go to bed? Does she, oh my, call police, my
20 house has been broken into when she goes back in her house?
21 No. She unloads that gun and she loads it again.

22 How do we know this? Remember the 911 calls?
23 Everyone kept calling about there being shots and then a
24 pause and then shots. Roman Cruz told you: shots, a pause,
25 then shots. Antonio Jones told you: shot, pause, shots.

1 Tonya Mills: shots, pause, shots. Antonio Jones and
2 Jakari: shot, silence, shots. All of them are consistent.

3 She goes back outside because shooting at Mexicans
4 just wasn't enough. What did you hear? What did Mr. Cruz
5 tell you? He didn't even want to use the word, did he? He
6 said it was vile, offensive. I'm not saying it. He
7 wouldn't do it until Mr. Williams, his job challenging his
8 statement, where in your statement did you tell police that
9 she used a vile word? Right there. I told them she said I
10 want to kill the niggers. And, yeah, I got to use it
11 because that's what was said. I didn't bring that up. She
12 did.

13 So, as she's saying that, got to finish her mission.
14 She now looks at Antonio Jones's apartment right there.
15 And again, interesting to note even from her yard, at
16 however many feet away that is, you can see the grill and a
17 mop, but apparently lighting's really bad out there.

18 So, what did she do? She takes one look over there
19 while yelling kill Mexicans, kill -- I won't say the word
20 this time -- and kill the dogs. I don't know what dogs
21 have to do with anything, especially when she said she
22 likes animals more than people. Clearly she does because
23 she shot a person. And she shoots at his porch. There's
24 no question his porch got shot.

25 Now, Mr. Williams asked a bunch of questions about

1 couldn't it have come from the front instead of the back,
2 and remember what Schroder told you? No. Everything came
3 from the back to the front; the shots came from the back.
4 She shot up the glass. Right there blown out, blown out,
5 glass everywhere. There's no question his apartment got
6 shot up.

7 So, what does he do? What any normal person would do.
8 Oh my God, my house just got shot at. Remember he got up
9 here, and he told you how worried he was, not for his own
10 safety but for Jakari Adams, who's not even related to him
11 but he cares so much about that he's more worried about a
12 bullet coming through that boy's window than he is a bullet
13 going through his body.

14 So, he goes out there, and now you can see what I just
15 showed you earlier, the grill and the mop, right? And he
16 told you he stands right here, and what does he hear? He
17 told you. He heard someone yelling, yelling so much, he
18 thought they must be talking to somebody. They've got to
19 be. It doesn't makes sense just to be out there yelling.
20 That's what happened. I can't make everything makes sense,
21 but that's what happened.

22 And what does he tell them? Please calm down. Y'all
23 need to stop. You busted my window. He explained why he
24 said y'all. Again, southern term. We all know what y'all
25 means. He thought there was more than two people -- more

1 than one person. Thought there was two. They were out
2 there yelling because why is she yelling by herself?
3 Asking them to stop. Pleading. Please stop.

4 What does she say? I don't care. She doesn't say
5 this once. She doesn't say this twice. She said it over
6 and over, and he goes but I care. It's my family. I care.
7 Does she go, oh, I'm sorry and leave? Does she go you're
8 right, I should care? I should care maybe about people
9 instead of dogs. No. She takes this gun, points it at
10 him, pulls the trigger. As my cocounsel said earlier
11 [THREE KNOCKS ON TABLE] shoots him through the arm, through
12 the hip with no regard for happened to him.

13 That, ladies and gentlemen, is the definition of
14 attempted murder. You point a gun at someone who you are
15 looking at and pull the trigger, what did you think was
16 going to happen? If you didn't intend to kill him, what
17 were you shooting for? That's attempted murder.

18 He runs, bleeding everywhere. Blood is everywhere.
19 He goes into his house, and you heard him testify about
20 this, how he goes in woozy, faints on the couch. And do
21 you remember poor Jakari talking about how he cried because
22 there was so much blood? Held his dog because there was so
23 much blood. He was scared. Mandy Fortson left Antonio
24 Jones bruised, battered in a hospital, bleeding with a hole
25 through his arm and blood coming out of his hip, and a

1 bullet still in his rear, all because he had the nerve to
2 be black and live. And you don't have to believe me.
3 Don't believe me. Believe the people who came in here and
4 told you that.

5 So, what is going on in the neighborhood as all this
6 is going on? We, we played for you 911 calls, but I want
7 you to hear them again.

8 (WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 65 IS
9 PLAYED FOR THE COURT. AUDIO NOT TRANSCRIBED.)

10 MS. SAMPSON: So, that's one call saying it's Mandy,
11 Mandy Fortson out there, and then we have a second call.

12 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

13 MS. SAMPSON: From what she was saying, he was
14 possibly black. Huh. Wonder what would have made her
15 think he was black. Could it be yelling I hate -- I won't
16 say it, but y'all know what she said.

17 So, what happens then? Police respond. It's what
18 they're supposed to do. And after gathering their evidence
19 -- you heard from all of them. Everybody was telling them
20 it's at, it's at [REDACTED] Barwick. Go over there. So,
21 Investigator Clarke, doing his job, does. He goes over
22 there, and he told you again today he could see her sitting
23 in her living room, although today she said she was on her
24 bed asleep or something.

25 And what does he see when he gets there? He sees this

1 little sign: Notice. Forget about the dog. Beware of the
2 owner. With the revolver which, hmmm, happens to be what
3 she has in her bedroom.

4 So, he goes in and he talks to her. Does she tell
5 him, hey, these black guy -- black men just broke in my
6 house? No. Does she tell him I had to chase them out and
7 they shot at me? No. She's. like, what are you doing
8 here? What are you doing here?

9 So, what did he tell you? She was belligerent. If
10 you just had three people break in your house, would you be
11 belligerent with the cops when they get there? Now, she's
12 going to say, oh, you know, I had these problems with them
13 before, but you just also said that all your family was in
14 law enforcement law. What you got problems with police
15 for? They go to Rockaway's or wherever she says she goes
16 with Scott Faust. Tell him. Tell Mike Poole, your friend.
17 People keep breaking in my house and y'all aren't doing
18 anything. She didn't do that.

19 She has gray powder on her hand and fingers. Now,
20 today apparently she's got some sort of lotion or
21 something. Would lotion leave gray powder on your head, on
22 your fingertips?

23 She's drinking Hennessy. Now, today she doesn't drink
24 anymore, but she told Investigator Clarke back then that
25 she was drinking. He smelled it. You don't have to -- he,

1 he smelled it.

2 And what does she say? If any of the porch monkeys
3 had been hit when all he asked her was did you know there
4 was a shooting. How did she know a black man was involved
5 or a black anybody? Because she was out there doing the
6 shooting.

7 She denied handling a firearm tonight. That one's
8 important, denied handling a firearm. She admitted she
9 denied it on the stand today. She admitted that. So, if
10 what she told you all today is true, she lied back then,
11 right, because she, in her story today, I had a firearm.
12 But when he asked her, nope. Denies she had a handgun that
13 night. We have not one, not two, not three, but four
14 people who have told you -- two through 911 calls and two
15 right here in front of you -- that Mandy Fortson shot a gun
16 that night.

17 She told you today that she said yard ape. That was
18 news to all of us. So, apparently using racial slurs isn't
19 a big deal to her. And says I hope he dies. Today it was
20 I hope he doesn't die. Remember what Investigator Clarke
21 told you.

22 And I want you to remember what Solicitor Gipson asked
23 her. It's been 1500 and some-odd days to come up with this
24 story, but our people have been telling you this story
25 since February of 2017, and it hasn't changed. Maybe the

1 time they ate dinner, but who shot who hasn't changed at
2 all.

3 So, what is she charged with based on these actions?
4 First charge is attempted murder. Now, you're going to
5 hear the judge. As he told you, he's going to instruct you
6 on the law. I will tell you now they are long, but I'm
7 going to ask you to pay attention.

8 So, what's attempted murder? The attempt to kill
9 someone with the present ability to do so with malice
10 aforethought that you've expressed in some way. In this
11 case, it's when she looked at Antonio Jones, said I don't
12 care, took her gun, pointed it at him, and shot him. You
13 don't told point a gun and shoot unless you intend to kill
14 someone. Not only does she shoot him. She hit him.

15 Now, maybe you think, well, she didn't him in the
16 head. She didn't hit him in the chest, so maybe she didn't
17 really mean to kill him. She just wanted to hurt him a
18 little bit. We have a charge for that, too. It's called
19 ABHAN, assault and battery of a high and aggravated nature.
20 So because of that, because you might not think she
21 intended to kill him, you could find her guilty of ABHAN if
22 you choose.

23 Now, I'm, I'm asking you to find her guilty of
24 attempted murder because I think she intended to kill him.
25 She's just a bad shot or was lucky that police showed up

1 because remember what Dr. Guy told you. It almost nicked
2 an artery. She just got lucky.

3 If for some reason you think he didn't have great
4 bodily injury -- because that's what assault and battery of
5 a high and aggravated nature, ABHAN, is, okay. It's when
6 you've done something and caused serious bodily injury,
7 which is permanent disfigurement like that hole in his arm
8 that he showed you. The bullet's still in his body.
9 Causing broken bones, permanent disfigure, all of that
10 would get to ABHAN. But if for some reason you think no,
11 maybe it wasn't that bad an injury -- the doctor did say he
12 could take the bullet out -- then you would get to assault
13 and battery first degree, which means you did something in
14 a manner that could have caused great bodily injury. I
15 think we can all agree if you shoot someone, that is a
16 manner that could cause great bodily injury. So, that's
17 the first charge you got -- you're going to have to decide.

18 The second charge is discharging a firearm into a
19 dwelling. That simply was when she shot up Roman Cruz's
20 house. There's bullets in his house. There's bullets in
21 his car. There's bullets beside his house. Discharging a
22 firearm into a dwelling.

23 And the last charge is breach of peace, aggravated in
24 nature. That just means she breached the peace and when
25 she did it in this case was when police are just trying to

1 do their job and she is screaming. She kicks an officer in
2 the groin and then kicks the windows of the police car all
3 outside, all very loudly. That's breach of peace,
4 aggravated in nature. Those are what you have to decide
5 whether she's guilty of or not.

6 So, like I told you before, y'all are the ones who
7 have to decide what to believe and what not to believe, and
8 you have at this point heard two different stories, right?
9 You heard what Mandy told y'all today, and you heard what
10 all the other witnesses told you for the last couple of
11 days. So, let's talk about what would have to just be a
12 coincidence for her not to be guilty and for her story to
13 be true that she told you today.

14 That the two 911 callers who identified her as the
15 shooter, that just had to be some sort of coincidence
16 because she wasn't shooting anybody. I guess there was a
17 conspiracy in the neighborhood because we have four people
18 who don't know each other who all say Mandy, Mandy Fortson
19 did it. The 911 caller stated Mandy Fortson is shooting at
20 a black man or who she thinks is a black man because of
21 what Mandy said. I guess that's just a coincidence.

22 It's just a coincidence that a white female happens to
23 live behind them. That both of them independent of one
24 another, both Cruz and Jones, identify her as being a
25 shooter. They're not even near each other. So, did they

1 come up with this conspiracy together through mental
2 telepathy? Because otherwise what they said is true. They
3 both mention a white T-shirt that she had on. Again,
4 independent of one another said this.

5 This is another one that just happened to be a
6 coincidence: that you owned a gun. How would they even
7 know that? How would they even know? I guess it's just a
8 coincidence. And that she had bullet shells, bullets and
9 shell casings in her bedroom, guess that's just a
10 coincidence that they happened to be around the night that
11 you shot someone, or that someone gets shot in your
12 backyard. That would have to be a coincidence for it not
13 to be true.

14 Just happens to have this sign on the front of her
15 door with a revolver just like the one she owns. I guess
16 that's just a coincidence.

17 She happened to be home. That's a big one. If
18 they're going to make this up and just make her a patsy,
19 just going to pick somebody to say, oh, you shot someone,
20 they got real lucky that she was home because had she not
21 been home, couldn't have been her. So, how did they even
22 know she was home to make this up?

23 She has gunpowder on her forehead and fingers, and I'm
24 sure he's going to get up here and make a big deal about
25 the fact that we don't have any proof of that other than

1 Investigator Clarke to say it. And I ask you this: why
2 would he make that up? Because if you're going to make it
3 up, why don't you get some evidence to prove it? He has a
4 GSR kit. He told you why. She washed her hands and then
5 when they tried to put her in the car, she's acting up.
6 His thought was to just get this done and let's finish the
7 rest of my job, but it's a pretty big coincidence if it's
8 gray on her forehead.

9 That she knew a black person had been shot because the
10 first thing she tells him when he's telling her, well,
11 there was a shooting behind you. Was the porch monkey hit?
12 He didn't make that up. Today she wants it to be that he
13 started it, but he told you that already. He said it back
14 in February of 2017; he's saying it now.

15 She had GSR on her hand. I guess Mr. Williams is
16 going to say, well, she must've got it when she grabbed the
17 gun to chase after these imaginary black man. A gun she
18 hadn't shot in two years that has been between a mattress
19 and a boxspring that she somehow loaded and did all of this
20 and got GSR, I guess, from that but hadn't fired in two
21 years. Does that make any sense? It had to be a
22 coincidence that she did test positive for GSR.

23 All the bullets that hit his apartment came from the
24 back. That would have to be a coincidence, too. His hit
25 from the back, Roman Cruz's house. Guess that's just a

1 coinkydink, and the fact that you can stand in her backyard
2 and have access to both their backyards in order to do
3 this. She had the opportunity, she had the ability, and
4 she did it.

5 So, I'm almost done. I promise. When I get done, Mr.
6 Williams is going to get up here and talk to you. What I'm
7 going to ask you to do is to remember a couple of things.
8 He's going to get up here and try to convince you that
9 everything I've just said wasn't true, that what you heard,
10 what you saw, what was brought into evidence doesn't point
11 to his client being guilty. He's going to try to get you
12 to focus on other things, what wasn't done: that we didn't
13 test her clothes, that the DNA swabs didn't show DNA. It's
14 her gun. Why would we, why would we waste everybody's time
15 with DNA on her gun? Antonio Jones's blood, was there
16 anything about it that didn't show it was Antonio Jones's
17 blood? Why would we send that to DNA and waste everybody's
18 time? We brought you the real thing: the people who saw
19 it, who heard it, felt it, and they told you what happened.

20 So, I ask that you hold on to this. If you don't
21 remember anything else I just said, remember this. In
22 order to believe what she told you today, there's two flaws
23 with her story. She told you that she grabbed this one
24 because it has a safety. It doesn't have a safety.
25 Investigator Clarke explained to you revolvers don't have

1 one.

2 The second thing I want you to remember is she told
3 you she emptied it out. Remember? She filled it back up
4 with new bullets that she had dumped on her bed and never
5 fired it. That was her testimony, right? We just heard it
6 a few hours ago. Then explain to me how when, as you said,
7 you gave this to Investigator Clarke, it's full of spent
8 shell casings. Did some magician come in there and put
9 them in there? Or is it more likely that she ain't quite
10 telling the truth.

11 That's for you to decide, but that's what I want you
12 to remember as you listen to what Mr. Williams has to tell
13 you to do. Whatever he's saying, I want you to remember
14 what you heard and what you saw, and I ask you. The only
15 thing that you all came in here with, all of you, your
16 common sense, the one thing that y'all have that got you
17 here is that you live in Richland and you got some common
18 sense. I want you to use it; I want you to use your common
19 sense.

20 Does her version make any sense? Or does the evidence
21 we presented to you, the witnesses we presented to you, the
22 four IDs of her shooting at people, four, that that woman
23 shot that man and shot up Mr. Cruz's house, her -- real
24 important case -- that makes more sense that she did it, or
25 this version she gave you today that has never been told

1 before? Based on all the evidence we provided to you,
2 based on everything you've seen and heard, I ask that you
3 come back with the only verdict that speaks the truth: a
4 verdict of guilty of attempted murder, guilty of
5 discharging a firearm in a dwelling, and guilty of breach
6 of peace, aggravated nature. Thank you.

7 THE COURT: All right. Thank you, Ms. Sampson.

8 All right, Mr. Williams, you ready?

9 MR. WILLIAMS: Yes, sir. May it please the court?

10 THE COURT: Yes, sir.

11 MR. WILLIAMS: Good afternoon. It's been a long week.
12 You know, every time I stand up and address a jury, I never
13 know what -- I think I know what I'm going to say, but I
14 really don't make that determination until I'm kind of
15 here. I've basically told my daughter, and she's an
16 attorney here and she's heard it a million times. I think
17 about what I'm going to say in the shower in the morning.
18 Well, this morning at 4 o'clock, I'm sure I thought about
19 it, but it was awful early, so it probably came slow. But
20 that's normally the time when you can be quiet and that
21 kind of thing. And as you get older, you try to figure out
22 -- because this is one of the few cases I guess I'll try
23 before I finally retire. I don't know when I'll retire.
24 You want to express what you think is important, and the
25 most important thing I can think of today while we had all

1 these different things floating throughout this trial,
2 things that may or may not influence jurors to get them
3 excited, things that may make jurors not concentrate on
4 evidence, emotional things, that the most important thing
5 you can remember is something that you did at the beginning
6 of this whole case, and that is you took an oath. And the
7 oath was something like do you solemnly swear that,
8 essentially, you will give the defendant -- I'm not going
9 to use the magic words, but that you will give the
10 defendant a fair trial, a trial between the state and the
11 defendant.

12 You know, years ago, you know, a handshake used to do
13 and your oath meant something. Judge took an oath when he
14 was sworn in to be a judge. I took an oath when I was
15 sworn in to be a lawyer. I took an oath when I was sworn
16 in to be an officer in the Army. It's important, and when
17 the judge gave you his instructions -- I guess it was
18 Monday -- about how you set aside any preconceived notions
19 you might have, and that you analyze the testimony, then
20 that's exactly what he meant.

21 You came in here with -- or you were supposed to make
22 these decisions without any type of prejudice in your
23 minds, focusing on the evidence, using your common sense,
24 and determining what the truth is in the witnesses and the
25 evidence as it's been presented.

1 You know, I heard -- you know, a lot of times lawyers
2 think that they can influence a case. I don't think you
3 can influence a case by being a good lawyer. Really I
4 don't. You can, you can characterize it certain ways. I
5 could dance around. I could raise my voice. I could lower
6 my voice, and a lot of people do that, try to get people's
7 attention. They say, oh, that lawyer, he was so good. He
8 lowered his voice like that or he raised his voice like
9 that, and somehow that was, that was nice. But you don't
10 make decisions on who can, I don't know, perform. You make
11 decisions on evidence.

12 One of the things -- normally everybody's got a little
13 deal they do. Of course -- and I don't want to pick on the
14 state, but one, one of the things you always do is try to
15 have something consistent when you lay out what you're
16 going to do in the case. Good fences make good neighbors.
17 Pull that phrase out. Start at the beginning. Got a
18 picture of a fence. You can talk about how this is a
19 neighborhood. You can talk about how that's the purpose in
20 a neighborhood. Well, I'm sure when Robert Frost wrote
21 that, he probably wasn't intending it to be used today in
22 this particular trial, but I thought about some other
23 things about fences, and it came to me -- it actually
24 didn't come to me until after there was a comment that was
25 made by Mandy Fortson.

1 And as I was going through my head, I was trying to
2 figure out why, why, why, why didn't she do the easy thing?
3 I don't know. Why, why didn't she -- why wasn't the first
4 thing she said these three people broke into my house? Why
5 didn't she take this officer by the hand and point him over
6 there where that broken glass was and tell him look. This
7 is where these people broke in the house, but I've called
8 you people out here four times before. You haven't ever
9 done anything for me. Remember she's a victim also. And a
10 question from the solicitor brought it to mind when he was
11 cross-examining Mandy Fortson. He said, he said something
12 along the lines about common sense in asking her basically
13 whether or not she had good sense, or something along those
14 lines. And she said something along the lines of, you
15 know, that's, that's, that's up to debate. That's up to
16 debate.

17 What one person should do is always up to debate.
18 Whether or not you think people do the correct thing all
19 the time is up for debate. What one individual does in a
20 particular circumstance is up to debate. If she was on
21 her, if she was on her game, maybe she would make different
22 decisions. And, you see, that's how I came all the way
23 back to the beginning of this argument and fences.

24 I was an English major when I was at Clemson. My wife
25 told me never to mention that in Columbia, South Carolina.

1 I said I don't care. I'm going to do it anyway, and one of
2 the things that we learned was about this guy by the name
3 of John Locke. John Locke was a philosopher in the early
4 1700s, and he is renowned for some of the things that began
5 in our constitution. The right to life, liberty, and the
6 pursuit of happiness actually came from his early findings.
7 And one of the things he said was the only fence against
8 the world is a thorough knowledge of it.

9 She should have used that other fence. She should
10 have known that all police officers are not the same.
11 Merely because you have somebody that comes out here one
12 time and ignores you doesn't mean that the next police
13 officer that comes out there is going to ignore you. She
14 needed a thorough knowledge of the world. So, that's the
15 fence she really needed, but you know what it doesn't do?
16 That doesn't make her guilty of anything except not having
17 a thorough knowledge about what she should have done.

18 The other thing I'd like to touch on before we break
19 down into exactly what everybody said is showmanship,
20 presentation of evidence. I don't know why you would
21 purposely, when you have 911 calls, why you purposely would
22 skip the very first call on 911 and everybody pretend it
23 doesn't exist. And you know exactly what I'm talking about
24 because it was kind of a big deal.

25 And the first 911 call that was placed -- and you'll

1 get to hear it. You'll get to see the time. See, I
2 actually think 911 calls are important, kind of like the
3 solicitor, and the reason I think they're important is
4 because they have a time on it, and you can use that time
5 as the basis for all the rest of the testimony because
6 obviously police officers don't have videos. Police
7 officers don't have recorders, so we're left with guessing
8 what exactly was said. But that 911 operator has got the
9 time, and they've also got the recording on it.

10 The first call, not the second call that was placed --
11 you would have thought that we were hiding the bean. But,
12 you know, your job is to listen to the evidence, to have a
13 thorough understanding of the world, if you will. Not just
14 listen to, I don't know, we'll listen to 911 number two or
15 number six or whatever. First call was at 9:20 from the
16 Wheaton County balcony:

17 Neighbors outside. Someone is shooting a gun.
18 103 Thornwell Court. Four or five shots. No
19 clue who it is. In the past five minutes, at
20 least a .38 or .40 caliber, and they went inside
21 because of the shots.

22 And then that call goes on. This is the first call in
23 regards to that shooting: Some guys hanging out outside in
24 front of 103; they walk around all the time. Well, that
25 kind of sounds like a rough neighborhood. You got people

1 shooting out there.

2 And the way, the way they stayed away from 103 is, is
3 better than a, than a tap master. I mean, it was -- you
4 know, you show them the corner and everything. I'm not
5 going to pull out all -- that screen because I can't lift
6 it to begin with, but suffice it to say that when you walk
7 into that apartment complex, the very first building, and
8 you've shown it -- you've seen a picture of it. On the
9 right-hand side as you go in to this complex is 103.

10 So, how about the sixth call that, that was played?
11 Now, remember this one was not played either until I played
12 it:

13 I called Richland County Sheriff's Department
14 about fifteen minutes ago. They're shooting off
15 the gun again. They just did it again three more
16 times. Idiots are drunk. I think it's in front
17 of building 103. Bunch of people out there
18 partying, raising cane before, before you're
19 turning in to the complex.

20 So, they're telling you exactly building 103 before
21 you're turning in to the complex. Then they hear:

22 I heard a woman say you better stop that stuff.
23 Heard a downstairs neighbor say somebody's going
24 to get hurt.

25 Well, why not just play all these 911 calls? The

1 eighth call:

2 I've called the sheriff's department three times.

3 Gunshots are still going on. There is a big
4 party going on.

5 So, you know, if you've got to pick and choose what
6 you're going to listen to, that would be nice to hear, but
7 you need a thorough understanding of the world.

8 And you know what's really interesting? What's really
9 interesting is the 911 call made by Roman Cruz. You
10 remember we heard all these other 911 calls. Did you hear
11 Roman Cruz's 911 call? And on cross-examination, if you
12 listened to what Mr. Cruz said, he said we called or I
13 called and I stayed on the line. They told me not to get
14 off the line until police officers are there. And he's
15 calling after the first shots that were fired. That's what
16 he says.

17 I asked him on cross-examination. I said, so, that
18 means we would have been able to hear the second set of
19 shots on the 911 call. Well, if you've heard it, you've
20 heard more than I've heard it. But that's why, that's why
21 there are certain things that are just more beneficial to
22 you.

23 I'm going to take you through a quick listing of the
24 witnesses because I don't know if you're like I am, but
25 when you -- it's hard to keep up with what everybody said,

1 and most of what people said is kind of not really that
2 important. They, they just -- because you remember the
3 chain witnesses. You say oh God, not another chain
4 witness. Well, I'm going to take you right through them
5 real quick.

6 The first witness that testified was Mr. Crooks. He's
7 the guy that shows up on the scene. He is the guy that
8 keeps up with everybody that comes in to the area. He
9 makes a list, and they do that so they don't mess up the
10 scene so somebody doesn't -- somebody's concerned about
11 making sure that evidence is pristine, that it's not
12 disturbed.

13 So, he says he does a crime scene log, and what is
14 interesting that he said was he briefly met Roman Cruz. He
15 was approached by Roman, who said he was a witness. And he
16 also gave you the information about 103. He says it's the
17 building that you come in. And then he says in his
18 testimony he never left 107 Thornwell area, and he cleared
19 it around midnight.

20 I don't know how Roman Cruz approaches him if he is at
21 that location without Roman Cruz leaving his house and
22 coming over to that apartment complex because remember.
23 Roman doesn't live in the apartment complex. He lives at a
24 house which is down the road.

25 The second witness, Jackie Richburg, she was

1 testifying about the 911 calls. And remember she said, oh,
2 maybe seven or eight, and I asked her. I said what about
3 eleven calls? Selective evidence is not a thorough
4 understanding of the world, but that's really all she was
5 there for was to bring in the 911 calls.

6 The next witness was Shawn Schroder or -- he's the,
7 he's the CSI guy. He takes the pictures. He's the guy
8 that shows the markings where the, where the evidence came
9 in of the shot on that location, and he collected gunshot
10 residue from Mandy.

11 He wrote down the information: left-handed, washed
12 hands, hospice nurse. I don't know if you watched Mandy.
13 Other than the fact that she doesn't appear to be able to
14 keep her eyes open like she should because she has sleeping
15 issues, as you've heard her testify to that -- she's
16 currently writing with her right hand, at least this week
17 she has been. So, she's probably not left-handed. You
18 watched her. You've heard her testify to that. She made
19 the comment she was right-handed.

20 The other thing he testified to, that he was an
21 evidence collection person. That the area was
22 approximately ground level with some elevation. It was
23 dark, and the reason I keep talking about the dark and the
24 light because you can look at all these pictures, and you
25 can see everything. You know, you could put on night

1 vision goggles and everything looks real clear, but if you
2 don't have them on, it's not real clear. And he says that
3 they did not do anything. I think, I think he had prior
4 Air Force -- I may have given him a hard time about the
5 Army and about the lasers and stuff. I'd be willing to bet
6 everybody on this jury knows what I'm talking about with
7 lasers.

8 You know, in a courtroom -- if you're teacher, even if
9 you're a teacher, you know about a laser pen. You can take
10 a laser pen. You can shine it up there on the wall. It's
11 a straight shot. I think some talented guy from South
12 Carolina came up with the idea of a laser, and you can
13 shoot and you can see the direction that it goes. You see
14 it all the time. It can show you where it came from. If
15 it's in my hand, if it's on that wall, you can take a track
16 all the way down my hand. You can take it out and go deer
17 hunting, I guess. I don't shoot deer, but you could do
18 that, I guess.

19 But he didn't do that. Everybody wants to guess where
20 the bullets are coming from, but this particular officer
21 said that he didn't use a laser because -- I don't know. A
22 window will divert a bullet. He said he couldn't tell
23 exactly what the angle was from. He never found a
24 projectile. He didn't take any clothing.

25 Next witness is -- I promise you you got to go through

1 it. Like my mama had -- used to say, you got to -- you,
2 you have to have a thorough understanding of the world.
3 Jakay [sic] Adams, he's the young guy. He says at 9:30 he
4 took out the trash. By 9:30, if he was taking out trash at
5 9:30, he's lucky he wasn't shot because all the calls had
6 already started on 911 because they started before 9:30.
7 Then he says he went to bed at 10, and then he heard
8 something break. So, it's a little bit after 10 he's
9 hearing something break.

10 But what's interesting about his testimony is that --
11 because there is a consistent thing in all of the
12 witnesses, all of them. I, I don't know if you want to
13 match them up to say the state's witnesses -- they're not
14 the state's witnesses. They're just witnesses. They all
15 say that the first number of shots that were heard were
16 more than six. Now, why is that important? You got to
17 settle on what your theory is.

18 He says -- talking about the young man -- he said that
19 he heard ten gunshots, stopped for five minutes, and then
20 start again. And then that she sounded like she was
21 arguing with somebody. Well, I don't know that she -- said
22 she -- but someone sounded like they were arguing with
23 somebody.

24 The point of the whole thing is, is if your theory of
25 the case is that you have this revolver right here, carries

1 six shots. If your theory of the case is you shoot it, you
2 go back and get more bullets, and then you reload, and you
3 shoot it again, there's only six. So, that means must be a
4 Glock, right? Or you know what? Maybe it's not any gun
5 that we have here. Maybe it's not any person who is
6 currently charged with the crime. Maybe it's somebody else
7 who is firing a gun. But everybody says it's more than
8 six.

9 Tonya Mills, CNA, she is the girlfriend. Do you know
10 what she said? She heard eight to ten gunshots. You can
11 listen to the testimony again. I'm not just -- you don't
12 have to just take whatever I'm saying. What you hear is
13 what you remember. You determine what the facts. You can
14 play it back: eight to ten gunshots, then pause for a
15 minute, ten minutes later started back again. It's not
16 this gun. It's only six. You can't turn six to eight.

17 Then she said that it's dark outside. She heard some
18 female yelling. She didn't give a written statement. Why
19 is that important? Because I guess if you don't have a
20 written statement -- you know, that's the most important
21 thing. You're having to remember four years later what,
22 what happened.

23 So, Rainsford was the crime scene analyst who was the
24 next witness, and he said he photographed the projectiles,
25 meaning he's the one that went out to Cruz's house. He

1 didn't do any trajectory analysis. See, so far we've just
2 talked about the guy that was there with the laser. Other
3 house, Cruz house, he didn't do any projectile analysis.

4 Melanie Galinski, evidence custodial, she had -- and
5 that's where you get into the boring stuff where they just
6 kind of go from sheriff's department, evidence custodial,
'7 evidence room, SLED, what have you.

8 You had Mr. Rhyne, who was a charming human being, and
9 he was just, he was just trying to tell you that, yeah, I
10 just drove it over there.

11 Jackie Davis, she was the young lady who was -- did
12 the gunshot residue, and she prepped the, she prepped the
13 evidence, I believe -- no, that was Jamie Hall. She, she
14 logged them into the GSR kit. She's the, she's the one
15 that testified -- it was kind of a person -- amusing thing.
16 She had the -- she stacked them. She stacked them. She
17 had all these envelopes, and I thought to myself, well, you
18 know, if it's science, there's probably some special way
19 you put it in a plastic box or something. You know, keep
20 it all special. She just stacks them up. I guess just use
21 your common sense about how -- is, is that really a good
22 way to keep things from getting gunshot residue transferred
23 all over the place?

24 Jamie Hall, she did the analysis. She said that you
25 have to collect it from a human being within six hours.

1 She said that if it's not a human being, it doesn't really
2 matter.

3 Richard Carter is the gun guy. No, he's the guy that
4 bagged the hand from the hospital. That's all he said.
5 And, you see, I know it's hard for me to keep up with this,
6 and I've written them down. So, I know in your minds
7 you're saying oh my gosh. I can't remember all these
8 people because we blew through fourteen of them in one day.

9 Jeffrey Guy, he's the doctor. Said he was shot. Said
10 he could've taken the bullet out any time. Wasn't a big
11 deal. Got shot in the, I guess, the hip. And the reason
12 why that's kind of important is, number one, it wasn't
13 life-threatening, not that that matters. Don't shoot me.
14 I don't want to be shot.

15 But the reason why it's actually kind of important is
16 that the short answer -- and I'm going to make you suffer
17 through it -- but the short answer is that in all of this
18 evidence from all these people, no one can say that the
19 fragments, that the cartridges, that the bullet sitting in
20 that young man's hip came from that gun. I mean, nobody
21 can and I explained to you. The guy -- you could -- and
22 see what's really bad is they actually had the expert who
23 could actually prove that, if it did.

24 You remember the guy, the, the, the nice looking guy
25 who was, who was, like, a tool guy? He said he could tell

1 that came from a weapon, that there are marks on the bullet
2 that shows it came from a particular gun. He was the one
3 who could testify and did testify that on the cartridges
4 that were found at the house that were tested by him --
5 because he went in and took some bullets and he fired them
6 -- he could say those cartridges came from that gun. Not
7 bullets but those cartridges came from that gun.

8 If they had taken whatever piece of metal out of the
9 hip from the individual who was shot, if it was a minor
10 thing, and -- not minor to me, but if you wanted to prove
11 that he was actually shot by that gun, you could have cut
12 it out. You could have tested that, see if it matched up
13 with this gun, and then you would have your answer, but he
14 didn't have enough money back then.

15 All right, one pad.

16 All right, the other set of witnesses, you have Yvonne
17 Woods. She was the CSI. She collected gunshot residue
18 from the victim at the hospital, I guess. And we talked
19 about how -- she talked about how you -- when you normally
20 do gunshot residue, you do both hands, both hands. I don't
21 know if anybody picked up on this. I hope you, I hope you
22 did because that means you were really paying attention.
23 You remember the young lady who was doing the testing, and
24 she said that they didn't test one of the hands on the
25 alleged -- I don't want to use the word victim -- the

1 person who shot, called the victim, they didn't test one of
2 those. But you always do the gunshot residue on both
3 hands. That's what she said.

4 So, all these bullets come in. This .40 caliber Smith
5 and Wesson, and they're there to check for fingerprints,
6 DNA, and what's the answer to all that? No fingerprints.
7 No DNA, and the answer to that is even though we went to
8 all this trouble to do that, ah, we know you can't really
9 get those because once you fire the shells -- and we're
10 sure that that probably destroys it. What about all the
11 other cartridges there that show whether or not at least
12 Mandy Fortson had been touching them or something?

13 I always wanted to know in this whole case why nobody
14 can tell me if the gun had been fired. Somebody ought to
15 be able to figure that out. How about looking down the
16 barrel and see if it's clean or dirty? Did anybody look
17 down the barrel to see if it -- if there was any gunshot
18 residue in the barrel? I don't even mess with guns, but I
19 think I would've done that. I'd at least stuck something
20 down there and swabbed it out. Why don't you do that? No.
21 It's easier to say that Mandy did it.

22 So, they bring in some stuff, a card that shows that
23 Mandy had a gun from a relative from 1999. They didn't
24 seize the Glock, which she readily said that she had had a
25 Glock at some point in time. They didn't fingerprint the

1 magazines. I don't know why you grab all this stuff if
2 you're not going to do anything with it. But of course
3 there was nothing here. No DNA, no bullets in the
4 magazine.

5 Then you get to the witnesses, Antonio Jones and, you
6 know, you have to pay attention. I guess we get the
7 witness stuff because they're the ones that are there.
8 You, you can't -- you have to rely on their memories. At
9 least if you had tests, you don't have to remember. You
10 could look at it. It's the same today as it was then.

11 He said that he heard gunshots about 8 o'clock. Well,
12 that doesn't match up with any 911 calls, but we -- I
13 really wasn't panicked. I don't know where he said he was
14 from, like Detroit or something. Said he really wasn't
15 panicked -- or Florida maybe. Didn't get concerned until
16 it ricocheted and it busted a window. I went out there to
17 divert them so that they don't shoot my stepson. I
18 probably would've done a little more than that, but that's
19 why he went out there was to divert the shots.

20 But when I asked him -- let me finish. I thought
21 there was more than one person. I didn't see anybody. I
22 said we have a child over here. I saw a gun, white shirt.
23 Now, all this is coming in through direct, and that's how I
24 kind of keep up with it. Yet when you ask him about his
25 statement -- and he says he sees Mandy over by the shed.

1 You ask him if it's in his statement. Nope. I said what
2 about the white T-shirt and black pants? Not in his
3 statement. Asked him about can you recall what you told
4 the officer in regards to the number of shots? Can't
5 recall. I'm not going through the Duke deal, Duke, North
6 Carolina deal.

7 The problem is, the problem is you need to be
8 consistent. To a certain extent, you do have to judge.
9 You have to judge who you think's remembering everything
10 the best way. He was uncertain about the gun on cross.

11 David Collins gets up, and David Collins is the guy
12 that says -- and he was good because he's, he's the guy who
13 said that you could tell that the cartridges that he found
14 came from this gun, but everything else he cannot say that
15 anything that was fired that night any time in close
16 proximity came from that gun. No, he can't.

17 Nicole Hardin, she's, she's the smart young lady who
18 talked to you about gunshot residue. I know it was real
19 nerdy to listen to, but it was kind of interesting because
20 she was talking about that you have to find three elements
21 before you can officially call it gunshot residue. And she
22 went through a list of things and where she found it. She
23 said that there was something on Mandy's back of her right
24 hand palm -- back of her right hand, sorry, right there.
25 There was something on the palm of the victim. Out of all

1 the stuff that was tested -- and then I said why is there
2 this little notation on Mandy's hand that wasn't on the
3 individual's hand who had been shot. She said, well, you
4 run it through this machine that automatically picks up
5 certain elements, and it wasn't strong enough for me to
6 actually call it gunshot residue. So, I looked at it again
7 because I thought that there was some more stuff in it that
8 would qualify it as gunshot residue. That's like looking
9 at fingerprints and say you think there's another line in
10 there that may help you identify the person.

11 And then I said, which nobody paid attention to, I
12 said what about these two lists that show the elements.
13 Elements are elements. I don't care if you're real smart
14 or if you just go to high school. Elements are elements.
15 I said why are they different on the victim versus the palm
16 of Mandy Fortson? She said, well, there were different
17 listings -- liftings, liftings. I don't think you have to
18 be a rocket scientist to figure out that you would expect
19 to have similar, maybe not as clear, but similar elements
20 if you're using the same bullets.

21 We're just about through.

22 So Roman Cruz, we've already talked about him. She
23 was jumping that 6 foot fence, and the really -- the only
24 thing about Mr. Cruz is that the 911, the 911 call is just,
25 like, I, I don't know where that is. I don't know why I

1 can't hear this.

2 And then we had Investigator Clarke, who tied it all
3 together. Talked about the gray powder on her forehead and
4 hands. I still don't understand why or how you can look at
5 somebody's face and say they got gunshot residue on them
6 because they got something on their forehead. And you
7 don't think it's important to go ahead and test that? You
8 let them go off into the bathroom. They wash their hands.
9 Didn't hear anybody wash their forehead. Why wouldn't that
10 be important to test?

11 They didn't test the sheets. They don't -- doesn't
12 remember what she had on, what she had on when he came to
13 the door. If you're a police officer, if you're looking
14 for a suspect and she has been described -- you always
15 describe somebody. If you're robbing a bank: had a hat on,
16 you know, had a long face, blue jeans. You don't remember
17 what they had on. You know, you almost feel like they
18 already had the case solved before they had proven what the
19 deal was.

20 Said she wasn't drunk, though. Now, why did they put
21 in the deal about the drinking? Well, because that's one
22 of those things that works both ways. No, she wasn't drunk
23 because if she was drunk, I couldn't take her statement.
24 But if she had been drinking, that would be an excuse as to
25 why she might have gone out there and done something that

1 was totally out of character. Then why bring it up? It's
2 one of those things that just -- it's a filler. You can go
3 both ways.

4 And you know what? I'm not going to go over
5 everything that Mandy said. You heard it. It's more
6 recent. You don't have to remember it. You heard it
7 today, but clearly she's been victimized before. She's put
8 a sign up on her door. It's not gone fishing either. She
9 put a sign up on her door that says please leave me alone.
10 She's told everybody she's got a gun. She didn't do it
11 because she was mad at somebody in the street, but she
12 didn't want to be victimized again. And her story is she
13 was broken into. She was disappointed. I mean, I don't
14 know if disappointed is the real word for Mandy with law
15 enforcement, but she didn't think she was getting what she
16 deserved from law enforcement, so she didn't tell anybody
17 about it.

18 She says the reloading of the gun, she says that she
19 didn't know how long ago it had ever been changed out or
20 anything. So, she just automatically reaches into, reaches
21 into a basket and puts some shells in there. Not into a
22 box where she could have been assured that it would have
23 had bullets in it.

24 See, that's the big deal here. That's, that's
25 supposedly the smoking gun is that since there were spent

1 shells in the, in the gun, it must have meant that she
2 loaded it and she had to fire it. Well, she didn't do
3 that. It was dark. She just put some things in there.
4 She's half asleep, and then she stumbles out there and
5 yells get out of here. I'd probably run from that, and
6 they do. You know, that's normally what they say in
7 school. You want to stop a bully, punch him in the nose
8 because he, he thinks you're crazy or something. And then
9 they run off into the yard, and she can't tell you anything
10 she doesn't know. It is what it is.

11 But you know what's great about the United States and
12 about the practice of law and about the judicial system?
13 She has no burden of proof in this case. The burden of
14 proof is solidly upon the state to prove beyond a
15 reasonable doubt the guilt of the person charged. It must
16 all -- must, it must, it must show -- you must be convinced
17 that she's guilty.

18 I'm not going to go through all the charges again.
19 I'm just not going to do it. Judge is -- you are fortunate
20 to have this. You have one of the best judges around in
21 terms of explaining things. I don't know if you noticed
22 yesterday when he was explaining things. He actually would
23 repeat things twice like an old schoolteacher, and I'm
24 probably going to be in trouble for this. I admire that.
25 He is a good instructor. He will give you all the tools

1 you need, and if you listen to the law as he explains it,
2 you won't be confused as if I would give you the law.

3 Then all you have to do is do what you're sworn to do
4 and be good jurors, impartial jurors. But to do that, you
5 have to have a thorough knowledge of the world, and I thank
6 you for being here, and I thank you for listening to some
7 things that were embarrassing, some things that were
8 awkward, but being the good jurors that you are -- because
9 some things never change. I've been practicing law
10 forty-five years. I've never had a bad jury because you're
11 all good people. You're chosen because everybody thinks
12 you're good people. You do the right thing. You apply the
13 law. You, you determine what the facts are. Thank you.

14 THE COURT: Thank you, Mr. Williams.

15 MR. WILLIAMS: Thank you, Your Honor.

16 THE COURT: All right, let's stand up, kind of
17 stretch. All right, make sure your back's okay. I think
18 I've thrown mine out this week with all my heavy lifting up
19 here. All right, just kind of stretch. Make sure you're
20 with us.

21 All right, everybody good? All right.

22 And, Mr. Solicitor, whenever you're ready, if you'd
23 like to make a reply argument, you may.

24 MR. GIPSON: Thank you, Your Honor, and I'll ask the
25 court's indulgence just for a brief moment to organize this

1 evidence?

2 THE COURT: Absolutely.

3 MR. GIPSON: Thank you, sir.

4 (A PAUSE.)

5 MR. GIPSON: I'm back, and this is an opportunity for
6 me to summarize a little bit of what has just happened,
7 what you heard from Mr. Williams, and I'll tell you this
8 before I begin. I'm going to try to go through it very
9 briefly because you've been patient. You've been diligent.
10 You've listened to us the entire time, and for that I thank
11 you. The state thanks you. I'm sure Mr. William thanks
12 you. Sure Judge Hood thanks you as well.

13 We are advocates, so we're going to argue. We're
14 going to fuss, and sometimes it look likes we're going to
15 fight, but when it's all said and done, there are times
16 when there may be things that I may have said in a trial
17 that have offended you. And if I've done that, take that
18 on me. Take that on me as my failures as a person or
19 something that I need to work on as a man or as a lawyer,
20 but don't take that out on Antonio Jones and his family.
21 Don't take that out on Mr. Cruz and his family. Take that
22 out on something that I can do better.

23 But what we have asked you to do as jurors is to come
24 here today, and really all this week, and to do something
25 that's hard, which is to sit in judgment of your fellow man

1 or fellow woman and make a decision about something that
2 that person is accused of doing. Tough job. You've been
3 here. You've listened. You've, you've paid attention, and
4 for that we thank you.

5 Now, there's a philosophy out there that's called
6 Occam's Razor. Some of you, some of you have heard of it
7 before, and basically it says that with all things being
8 considered, the simplest explanation is the truth. When
9 you consider all things, all philosophies, the simplest
10 explanation is the truth. And so as you sat here and
11 listened to the witnesses, as you listened to the different
12 pieces that Mr. Williams went through with you, I ask you
13 to just consider once we go these things: the simplest
14 explanation is the truth.

15 I think doctors have put it a different way. If you
16 hear hoof beats, you think horses, not zebras. All right,
17 if you hear hoof beats outside, running around the street,
18 it's not going to be zebras. It's likely horses. So, it's
19 simple. That's why we've empanelled you as jurors, and
20 you've heard Judge Hood say it. You've heard Mr. Williams
21 say it. You've heard us say it. When you came today, you
22 didn't leave your, you didn't leave your common sense in
23 the parking lot. You brought it with you. That's why we
24 have you here, to use your common sense, and you get to
25 judge what you heard from this witness chair to make the

1 decisions you're going to have to make in a few minutes.

2 Now, Mr. Williams talked about at the beginning that
3 we needed to express what was important. He talked about
4 the fact you were going to hear some emotional things, and
5 he talked about how some people yell and some people
6 scream, and some things that are said are offensive and a
7 little embarrassing. I submit to you that it's
8 embarrassing when you say things and they come to light.
9 Sunlight is the best disinfectant, and the beautiful thing
10 about this courtroom is when you get a chance to sit in
11 that witness chair and get a little bit of pressure applied
12 to you, the real you usually comes out. And you saw that
13 happen when witnesses got up here and testified.

14 For instance, let's talk about the witnesses who
15 talked about -- we'll talk about the victims first.
16 Antonio Jones, Jakari, his stepson, Tonya, his partner,
17 when they testified, what did you see? Nobody hiding
18 anything from you. Nobody trying to move the shells
19 around. They told you what they remembered, and if they
20 are inconsistent about how many shots, they're consistent
21 about one thing: couple of them shots hit Jakari [sic] here
22 and here, and one of those bullets is still here. So, no
23 matter if it was North Carolina, Duke, Clemson, USC, who
24 really cares who was playing ball that day. Mandy Fortson
25 shot that man, and that's what matters. Whether it was

1 9:05 or 9:10, who cares. Mandy Fortson shot the man in his
2 wrist and in his behind, and he saw it and he said so and
3 he said so right away. He didn't wait 1548 days to come up
4 with the story. He said it then.

5 Jakari, a ten-year-old, got up here -- who was ten at
6 the time -- testified and he told you he took the trash
7 out. Didn't see anybody partying downstairs. Went
8 upstairs, starts hearing yelling and shooting. Window
9 breaks. Stepdad goes outside. Gets shot.

10 Mr. Williams came and he talked about what Jakari
11 didn't see and how the times were inconsistent, and maybe
12 it was 9:30, but you know what he didn't do? He didn't ask
13 Jakari. Never cross-examined him, and he was sitting up
14 here, and he had that opportunity. That's when you ask the
15 questions. As lawyers, sometimes you're taught to not ask
16 a question you don't know the answer to. Sometimes that's
17 why you don't cross-examine people: because you don't want
18 to hear the answer that you're going to get.

19 I suggest to you that we're having these conversations
20 about 911 calls. And Mr. Williams talking about how these
21 calls, we didn't play them in one, two, three chronological
22 order the way they came. Well, guys, you got all the calls
23 that we have. Every call that came in that we have and we
24 have access to, you got it. And what you will hear from
25 those calls is people talking about maybe there's a party

1 going on. Maybe this is going on. Was there ever any
2 evidence brought and testified to out of this witness chair
3 that said there was a party going on?

4 What you did hear is you heard witnesses, one of them
5 said I live next door. I'm at 3814 and a person is out
6 there shooting, and I hear a man screaming, so I think she
7 just shot somebody. And the question: is it a man? Is it
8 a woman? She said, well, there's a white woman and I
9 believe it's a black guy judging from what she's saying.
10 Common sense. Common sense. You didn't leave it in the
11 parking lot. What would be the reason for her to know that
12 it was a black person who had been hit, the person on this
13 911 call? Because some words were said that were
14 specifically aimed at black people. Offensive, offensive.
15 Nobody likes saying it. I don't like saying it, but I
16 can't change what the evidence was. She's the one who said
17 it. Yes, it's offensive. Is that a reason to shoot
18 somebody? Is that a reason to shoot into a man's house
19 while his family's there and eating dinner? Is that a
20 reason?

21 What you didn't hear, what you didn't hear is evidence
22 that those calls -- even that second call that we played
23 where the person said what? Mandy Morrow Fortson. You
24 didn't hear anything about that. She told you who was
25 doing the shooting.

1 And I ask some mundane questions sometimes, but I
2 guarantee you there's a method to my madness. When I was
3 up here, Mandy was on that stand, I said, Mandy, what's
4 your name? What is your maiden name? She said Morrow. I
5 said would you spell it for us? Morrow, Mandy Morrow
6 Fortson. That's the name you heard on that 911 call that
7 was played. You heard that name. They told you she shot.
8 The woman sitting right there is the person shooting.

9 So, you have two eyewitnesses who came in here,
10 subjected themselves to cross-examination, who tell you
11 that that woman did the shooting. They could see it with
12 their own eyes. They could hear her voice because it's
13 distinctive. One thing I know is distinctive voices.
14 Y'all have been in the courtroom with me for three days,
15 and I guarantee if you saw me on the street and heard me
16 talking, you'd probably know it was me.

17 This man, Mr. Cruz, lived across the street from her
18 for four years. Knows her voice. Saw her in the backyard
19 firing a gun. It's Mandy Fortson. It's that woman; it's
20 that woman right there. He knows.

21 Mr. Jones saw her. He said, sitting on the stand,
22 about to where those women are sitting over there, that's
23 about the distance and I saw her. She lifted up the gun
24 and she shot, and I felt it in my hand. Felt it in my hip.
25 That's her. What else do you need? What else do you need?

1 But you put her on the stand. Never acknowledges any
2 of this. Never says you know what? I'm so sorry whatever
3 happened to this family and these folks, but I didn't do
4 it. You didn't hear that. She comes up with this story
5 about how all these law enforcement people who she hangs
6 out with, who she's known who are in her family and all of
7 these good things, who I'm sure are good people, I'm sure,
8 but she doesn't trust them enough to tell them that some
9 black dudes just broke into her house twenty minutes ago.
10 Broke glass. Ran through the house. She runs after them
11 with this gun that she loaded.

12 Incidentally, when she talked about this, first of
13 all, ejecting the shells to get the ones out of here, put
14 fresh shells in. So, remember what I said. She said she
15 dropped some, and I said, well, what did you drop? She
16 said, no, they were empty because they sound different.
17 Y'all remember that? She said they were empty because they
18 sound different. This woman knows the difference between
19 live rounds and fired casings. She runs with this gun or
20 however she gets there, she ambulates after these men,
21 these men who allegedly broke into her house, follows them
22 out, runs through the swamp in her backyard, jump over a
23 fence. Evidence all over the place. Says nothing to all
24 of these law-enforcement officers that come through. But
25 the most interesting piece of evidence there, interesting

1 is she said she never show fired s shot, which means this
2 gun would be loaded with live ammunition.

3 So, when you go through these pictures, when you look
4 at this evidence -- and all this stuff is coming back there
5 with you. You get a chance to look at it. When you see
6 that gloved hand that belonged to -- that belongs to
7 Investigator Clarke emptying the shell casings -- excuse
8 me, emptying the, yeah, the shell casings from this gun,
9 he's got on a blue glove emptying the shell casings.
10 They're empty. So, if she didn't shoot, why would it be
11 empty when she just told you she loaded it before she went
12 outside? Something ain't right. Something ain't right.

13 What I'm suggesting to you is to take the time to
14 think about what she said. Deliberate. Talk amongst
15 yourselves and understand that sometimes people get in this
16 chair and don't tell the truth. Look at the evidence.
17 Figure out what that evidence is because as Judge Hood
18 said, he's the judge of the law. You're the judge of the
19 facts. Figure out those facts.

20 Uncontradicted facts: two 911 calls that point to that
21 person sitting over there as the shooter; two victims who
22 point to that person there as the shooter. Everything else
23 that Mr. Williams said, with all due respect -- and he's
24 been a lawyer for a long time, as have I. Some people talk
25 about this strategy called muddying the water. You know,

1 you have this clean glass of water, and you can see
2 straight through it. You know it's pure; you know it's
3 good and clean. But sometimes you start putting stuff in
4 it and muddying it up, trying to get you to think about
5 everything else but the facts. Or some people call it a
6 red herring. You start putting stuff over here and there
7 and get you to look over there, while the whole time you're
8 not looking at the facts. Don't fall for that stuff.

9 The facts are simple. With all things being
10 considered, the simplest explanation is the truth. Is it
11 likely that this woman was lying in bed? Her best friend
12 had just left the house a couple -- a little while ago,
13 gone down the street. Is it likely that somebody breaks
14 into her house, three dudes? She loads this gun, goes
15 after them. Nothing happens. She hears gunshots
16 somewhere. She magically goes back inside, hides the gun
17 back under her bed and sits there, calls the friend back.
18 That friend drives by the house and sees his friend, who's
19 been trying to reach him, with police outside, and he just
20 keeps driving. Come on. Come on. Come on. Common sense.
21 Use it. Please use it.

22 This person who she talked about calling, then didn't
23 call him and say somebody tried to break in to my house.
24 Didn't tell all of these officers who rolled in to do
25 investigative work that somebody just tried to break into

1 my house. Didn't tell her buddy Mr. Faust who they -- she
2 drinks with, hangs out with, or maybe she doesn't drink
3 with him. That's -- I don't know. He drinks while she
4 hangs out and they go to Rockaway's on Rosewood right
5 around the corner from her house. Come on. Didn't even
6 call him. He came to the house with a search warrant.
7 Don't you think that somebody who you know, who you spent
8 time with and broken bread with, if you're being mistreated
9 by law enforcement, you say, hey, you need to check your
10 boy. You need to talk to him because something isn't going
11 right. He's not listening to me. Somebody broke into my
12 house and he won't listen. Never. 1548 days later --
13 actually 49 -- this is what you get.

14 The simplest explanation is the truth. The simple
15 explanation is that night, for whatever reason she
16 concocted, she walked outside mad at whomever and started
17 shooting at Mexicans and N-words. And, interestingly
18 enough, with the hateful stuff that she spewed, whose house
19 was shot up? A Mexican family and a black person. Can't
20 make this stuff up.

21 Mr. Williams talked about Dr. Guy, and he suggested
22 that we should be matching the bullets up that came out of
23 this gun, and he actually suggested that maybe, you know,
24 since it's simple surgery, you should go in there and get
25 the bullet out and see if it's -- going to match that up.

1 So, put this man who got shot by that woman through more
2 pain to prove something that these witnesses have already
3 told you was true, that she shot him. You can't make this
4 stuff up.

5 He talks about there not being fingerprints, not being
6 DNA. Why would you fingerprint a gun that belongs to Mandy
7 Fortson, who she told you it's her gun that has been passed
8 through her family that she's had for umpteen years. Why
9 waste your time with that? Why are we going to go over
10 here and start testing for DNA for blood that we know
11 belongs to Jakari because it's outside of his house? Why
12 do we need to go and start taking DNA off of shell casings
13 that she told you she loaded and unloaded?

14 I told you we're not going to waste your time, and we
15 didn't intend to waste their time either. That's why that
16 stuff doesn't need to be done: because they told you it's
17 theirs. We know that's Jakari's -- excuse me, that's Mr.
18 Jones's blood. We know that's Mandy's gun; she's told you
19 that. Again, those things that are trying to deter you,
20 get you thinking about this while the truth was coming
21 right here.

22 Let me talk about Roman Cruz, this 911 call that we
23 just -- we don't have from Mr. Cruz. I'd love to hear
24 that. What else is he going to tell you that he didn't
25 tell you when he was in this chair, when he was in this

1 chair? What else is he going to tell you that he didn't
2 get the chance to cross-examine him about? He told you
3 that woman shot into his house. Bullet went through his
4 laundry room, went through the dryer. Others went into the
5 wall, and on the other side of the wall was his daughter,
6 or his daughter's room. What else do you need to hear?

7 Then you put Investigator Clarke up and start poking
8 and trying to say that he didn't do his job when he
9 collected evidence, he secured the scene, and as he tried
10 -- when he, when -- first of all, when he was called to the
11 scene, all he knew was there was a white female that had
12 been shooting and got information that suggested we should
13 go check out and see what happened over at [REDACTED] Barwick,
14 and the rest unfolded. Again, what Mandy didn't do is say
15 all of this stuff happened about this story that she came
16 up with today.

17 Talked about Mandy being victimized before. This is
18 -- Mr. Williams said that, but I suggest to you again, as I
19 said before, she knows the difference between an empty
20 shell casing and a bullet because she already told you she
21 did. And that gun was loaded with real bullets.

22 One thing I've learned in my almost fifty years on
23 this earth is there are going to be times when people tell
24 you who they are. They show you who they are through their
25 actions, and when people tell you who they are and when

1 people show you who they are, sometimes the simple truth is
2 you've got to believe them. Mark Twain said that a lie can
3 travel the world around, while the truth is home putting on
4 its shoes.

5 It's time for the truth to put on its shoes now. So,
6 in a few moments when deliberation begins, I'm going to ask
7 that y'all go back to that jury room. Talk it out. Look
8 at the evidence. Apply the law to the facts, and I'm going
9 to come back or we're going to come back -- well, we're not
10 going to come back. This is the last time I'm going to
11 talk to you, but I'm asking that you come back with a
12 verdict of guilty. Guilty. Mandy Fortson, guilty for
13 attempted murder. Guilty for breach of peace high and
14 aggravated nature for her conduct towards law enforcement
15 when she was knocking her head against the window, how they
16 had to carry her out of the apartment, and how she was
17 hitting and kicking and screaming and doing all that kind
18 of stuff. I'm asking you to bring back a verdict of guilty
19 for that. And also guilty for discharging a weapon into a
20 dwelling place.

21 All of those things we're asking for, that evidence
22 has been presented. So, I'm asking you. Again, with all
23 things being considered, the simplest explanation is the
24 truth. Mandy Fortson told you who she was. Believe her.
25 Thank you.

1 THE COURT: All right. Thank you, Mr. Solicitor.

2 *JURY CHARGE*

3 THE COURT: All right, ladies and gentlemen, it is now
4 my responsibility to charge you the law in this case, and
5 as exciting as I try to make jury charges, they're just
6 not, okay? So -- but there are very important things that
7 I have to go over with you in regards to the law that you
8 are required to apply in this case. So, if you'd please
9 now give me your undivided attention, and we'll go through
10 the jury charge.

11 So, the indictments in this case have charged the
12 defendant with attempted murder, discharging a firearm into
13 a dwelling, and breach of peace of an aggravated nature. I
14 remind you, as I told you on Monday, that the fact that the
15 defendant was arrested, charged, and indicted in this case
16 is not evidence and it cannot be considered by you as
17 evidence of guilt. Nor does it create any presumption or
18 inference of guilt. These indictments are simply formal,
19 written instruments which contain the charges made against
20 the defendant. They are the formal documents by which the
21 case is brought into this court.

22 Now, these indictments allege several different
23 offenses. One is attempted murder, another is discharging
24 a firearm into a dwelling, and a third is breach of peace,
25 aggravated in nature. Each indictment contains a separate

1 and distinct defense. In going through the evidence and
2 looking at these charges, you must decide each indictment
3 separately on the evidence and the law that is applicable
4 to it uninfluenced by your decision as to any other
5 indictment. The defendant may be convicted or acquitted on
6 any or all of the offenses that have been charged. You
7 will be asked to write a separate verdict of guilty or not
8 guilty for each of the charges, and I'll go over those with
9 you at the very end as to how the verdict forms work.

10 So, I remind you that during this trial, you and I
11 have had certain duties to perform. It has been my
12 responsibility to preside over the trial of the case, and I
13 also have had the duty to rule on the admissibility of the
14 evidence. You are to consider only the competent evidence
15 before you. If there was anything that I ordered stricken,
16 you are not -- you are to disregard that testimony. You
17 are to consider only the testimony which has been
18 presented, the exhibits which have been made a part of the
19 record in the case, and any stipulations of the parties.

20 I have the additional duty to charge you on the law,
21 and as that, I am the sole judge of the law in this case.
22 And what that means is it is your duty as the jury to
23 accept and apply the law as I now give it to you. If you
24 have an idea of what you think the law is or what you think
25 the law ought to be and it doesn't agree with what I now

1 tell you the law is, you are required under your oath to
2 abandon your own idea because you are sworn to accept and
3 apply the law exactly as I give it to you.

4 You are the sole and exclusive judge of the facts. I
5 am not allowed to comment on, state, or make any statement
6 to a trial jury about the facts in a case. You are the
7 sole judge of the facts, so do not infer from anything that
8 I have said during this trial or that I say now that I have
9 any opinion about the facts in this case. The law does not
10 allow me to have an opinion about the facts. This is for
11 you to determine. It is your duty to determine the effect,
12 the value, and the weight of the evidence that has been
13 presented.

14 Now, to these charges the defendant has pled not
15 guilty, and that plea puts the burden of proof on the state
16 to prove the defendant guilty. A person charged with
17 committing a criminal offense in South Carolina is never
18 required to prove herself innocent. It is an important
19 rule of law that the defendant in a criminal trial, no
20 matter what the seriousness of the charge may be, is always
21 presumed to be innocent of the crime for which the
22 indictment was issued unless guilt has been proven by
23 evidence that satisfies you of that guilt beyond a
24 reasonable doubt.

25 This presumption of innocence doesn't end when you

1 begin your deliberation, but it accompanies the defendant
2 throughout the trial until you reach a verdict of guilt
3 based upon evidence that satisfies you of that guilt beyond
4 a reasonable doubt. This presumption of innocence is like
5 a robe of righteousness placed about the shoulders of the
6 defendant which remains with the defendant until it has
7 been stripped from the defendant by evidence that satisfies
8 you of the defendant's guilt beyond a reasonable doubt.

9 This presumption of innocence isn't just some phrase
10 that we say; it's not just some mere legal theory. It is
11 not just some phrase that, you know, we've adopted in this
12 country. This is a substantial right to which every single
13 defendant in the United States of America is entitled
14 unless you, the jury, are satisfied from the evidence that
15 the defendant is guilty beyond a reasonable doubt.

16 So, what is beyond a reasonable doubt? As I've told
17 you since Monday, the state has the burden of proof. The
18 burden of proof is guilty beyond a reasonable doubt. Some
19 of you may have served as jurors in civil cases where you
20 were told that it was only necessary to prove that a fact
21 is more likely true than not true such as by the greater
22 weight or the preponderance of the evidence. In criminal
23 cases, the state's proof must be more powerful than that.
24 It must be beyond a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that leaves

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

11 Some things that you have heard during this trial are
12 not evidence. If you'll remember back to Wednesday
13 morning, I told you this word evidence has meaning, right,
14 and there's certain things that are evidence and there are
15 certain things that are not. So, the following things are
16 not evidence, and you are not allowed to consider them as
17 evidence in deciding the facts of this case. Number one,
18 the statements and the arguments of the attorneys are not
19 evidence. Number two, the questions and the objections of
20 the attorneys are not evidence. And number three, anything
21 that I told you to disregard.

22 Now, as I also told you Wednesday morning, there are
23 two types of evidence which generally come in to court:
24 direct evidence and circumstantial evidence. So, what is
25 direct evidence? Direct evidence directly proves the

1 existence of a fact and does not require deduction.
2 Circumstantial evidence is proof of a chain of facts and
3 circumstances that then indicate the existence of a fact.
4 Crimes may be proven by circumstantial evidence.

5 The law makes no distinction between the weight or the
6 value to be given to either direct or and circumstantial
7 evidence. However, to the extent that the state relies on
8 circumstantial evidence, the circumstances must be
9 consistent with each other and, when taken together, point
10 conclusively to the guilt of the accused beyond a
11 reasonable doubt. If these circumstances merely portray
12 the defendant's behavior as suspicious, the proof has
13 failed.

14 The state has the burden of proving the defendant
15 guilty beyond a reasonable doubt. This burden rests with
16 the state regardless or whether the state relies on direct
17 evidence, circumstantial evidence, or some combination of
18 the two.

19 As I also told you, told you Wednesday, you will have
20 to determine the credibility of the witnesses who have
21 testified in this case. Credibility just means
22 believability. It is your duty to analyze and to evaluate
23 the evidence. You may believe one witness over several or
24 several over one. You may believe a part of the testimony
25 of a witness and reject the remaining part of the testimony

1 of that same witness. You may believe the testimony of a
2 witness entirely or reject it entirely. You may consider
3 whether the witness has exhibited to you any interest or
4 bias or prejudice or other motive in this case. You may
5 also consider the appearance and the demeanor of the
6 witness while on the witness stand.

7 And I think I probably used the did you brush your
8 teeth example Wednesday morning. I usually use that one,
9 okay? And the point of that example was just use your
10 common sense. You judge people's credibility all day long.
11 You didn't leave your common sense at the metal detector.
12 You bring it with you, and you should use it, okay?

13 Now, we had some expert witnesses in this case, so
14 let's talk about expert witnesses. So, normally, as I told
15 you, witnesses can't give their opinions. There's an
16 exception when someone is qualified as an expert. This is
17 someone who by some education or experience has become an
18 expert in some art or science or profession, and they are
19 allowed to give their opinion and why they believe that
20 opinion to you.

21 So, you are allowed to consider any expert opinion
22 received in this case. And like any other piece of
23 evidence, you give it the weight that you believe it
24 deserves. If you decide that the opinion of the expert is
25 not based upon sufficient education and experience, or if

1 you conclude that the reasons given in support of their
2 opinion are not sound, or that the opinion is outweighed by
3 other evidence that you believe, you may disregard the
4 opinion entirely. An expert witness's testimony is to be
5 given no greater weight than that of other witnesses simply
6 because we refer to them as experts. Further, you are not
7 required to accept an expert's opinion even though it is
8 not contradicted.

9 Now, there is a statement that is alleged to have been
10 made by the defendant. This statement has been admitted
11 into evidence in this case. While I have determined that
12 the statement is admissible, you make the ultimate decision
13 of whether or not the defendant actually made the
14 statement. If the defendant did make the statement, you
15 must determine whether the statement was made voluntarily
16 and of her own free will. This means that the statement
17 was not caused by pressure, force, fear, threats, coercion,
18 or intimidation, or by hope or promise of leniency, or
19 reward of some kind.

20 In determining whether the statement was made
21 voluntarily, you should consider both the characteristics
22 of the defendant and the details of the questioning. Some
23 things you may consider are the age of the defendant, the
24 education of the defendant, the defendant's mental ability
25 or capacity, the defendant's IQ, the defendant's background

1 and environment; the place and the length of the detention;
2 the nature of the questioning; the advice or lack thereof
3 to the defendant of her constitutional rights, including
4 but not limited to the right to remain silent, that any
5 statement could be used against her in court, the right to
6 have a lawyer, that if she cannot afford a lawyer a lawyer
7 would be appointed to represent her without cost, and that
8 she could stop making a statement at any time. You must
9 carefully consider all of the surrounding circumstances
10 before you give any weight to an alleged statement.

11 The state has the burden of proving beyond a
12 reasonable doubt that the alleged statement was voluntary.
13 If you determine it was, you may give the statement any
14 further consideration you deem proper. You must decide
15 what weight, if any, should be given to the alleged
16 statement. If you determine the alleged statement was not
17 the free and voluntary statement of the defendant, you
18 should not consider the statement at all.

19 So, we're going to switch gears a little bit right
20 now, okay? We're going to switch gears, and we're going to
21 move into the specific charges that exist, okay? So, to do
22 that, the first thing that I have to talk to you about is
23 called intent.

24 So, in order to establish criminal liability, criminal
25 intent is required. For example -- these are examples.

1 The mental state required to be proven by the state might
2 be purpose or intent or knowledge or recklessness or
3 criminal negligence. Criminal intent must be proven by the
4 state beyond a reasonable doubt. Criminal intent is always
5 a matter that must be determined by you from the
6 circumstances that surround the situation.

7 There is no way to prove intent to a mathematical
8 certainty. There is no way that medical science can
9 dissect a person's brain and determine what that person had
10 in mind. So, what the law says is that criminal intent may
11 be inferred from the circumstances shown to have existed.

12 This is how you will make a determination of whether
13 or not the element that requires intent was present. It is
14 not necessary to establish intent by direct and positive
15 evidence, but intent may be established by inference in the
16 same way as any other fact: by taking into consideration
17 the acts of the parties and all the facts and circumstances
18 of the case.

19 Criminal intent is a mental state; it is a conscious
20 wrongdoing. It is up to you to determine what the
21 defendant intended to do based upon the circumstances shown
22 to have existed. This intent can arise from an action or a
23 failure to act. It may arise from negligence,
24 recklessness, or an indifference to duty, or to
25 consequences that are considered by the law to be the

1 equivalent of criminal intent.

2 Okay, so let's talk about attempted murder. So, the
3 first charge -- and these are in no order. These are just
4 in the order that I've decided to put them in. The first
5 charge is attempted murder. So, the defendant is charged
6 with attempted murder. In order to prove this crime, the
7 state must prove that the defendant attempted to kill
8 another person with malice aforethought.

9 All right, so the first question is what is malice
10 aforethought? Malice is hatred, ill will, or hostility
11 towards another person. It is the intentional doing of a
12 wrongful act without just cause or excuse and with an
13 intent to inflict an injury.

14 So, what is malice aforethought? Malice aforethought
15 does not require that malice exist for any particular time
16 before the act is committed, but malice must exist in the
17 mind of the defendant just before and at the time the act
18 is committed. Therefore, there must be a combination of
19 previous evil intent and the act. Malice aforethought may
20 be shown to exist by direct evidence or by inference from
21 the facts and circumstances which are proved.

22 Now, we're still on attempted murder. The state must
23 also prove beyond a reasonable doubt that the defendant had
24 the specific intent to kill a person. A specific intent to
25 kill is necessary to convict the defendant of attempted

1 murder. In other words, the completion of such acts was
2 the defendant's purpose. The state must prove the
3 defendant's specific intent was accompanied by some overt
4 act beyond mere preparation in furtherance of the intent.

5 So, in South Carolina we have what are called
6 lesser-included offenses, okay? So, she's charged with
7 attempted murder. So, if you were to unanimously decide
8 that she is guilty of attempted murder, then you would not
9 need to go on to the lesser included. If you unanimously
10 decide she is not guilty of attempted murder, then you are
11 allowed to go on to the lesser included of attempted
12 murder.

13 I will explain this more on the verdict form, okay,
14 but the first lesser included of attempted murder is what
15 we call ABHAN, or assault and battery of a high and
16 aggravated nature. So, if you find that the state has
17 failed to prove the charge of attempted murder, you may
18 consider whether the state has proven the guilty -- has
19 proven the defendant is guilty of assault and battery of a
20 high and aggravated nature. We commonly call this ABHAN in
21 the courtroom.

22 So, a person commits the offense of ABHAN if the
23 person unlawfully injures another person and great bodily
24 injury to another person results, or the act is accompanied
25 by means that are likely to produce death or great bodily

1 injury. What does great bodily injury mean? Great bodily
2 injury means bodily injury which causes a substantial risk
3 of death or which causes serious, permanent disfigurement
4 or protracted loss or impairment of the function of a
5 bodily member or organ.

6 So, the second lesser included is called assault and
7 battery in the first degree. So, if you find that the
8 state has failed to prove the charge of assault and battery
9 of a high and aggravated nature, you are allowed to
10 consider whether or not the state has proven the defendant
11 is guilty of assault and battery first degree.

12 So, what is that? A person commits the offense of
13 assault and battery in the first degree if the person
14 unlawfully offers or attempts to injure another person with
15 the present ability to do so, and the act is accompanied by
16 means that are likely to produce death or great bodily
17 injury. Again, great bodily injury means bodily injury
18 which causes a substantial risk of death or which causes
19 serious, permanent disfigurement or protracted loss or
20 impairment of a function -- excuse me -- of a bodily member
21 or organ.

22 All right, the next charge is called discharging a
23 firearm into a dwelling. So, the defendant is charged with
24 discharging a firearm into a dwelling. In order to prove
25 this crimes, the state must prove beyond a reasonable doubt

1 that the defendant discharged or caused to be discharged
2 unlawfully a firearm at or into a dwelling house, other
3 building, structure, or enclosure that is regularly
4 occupied by persons.

5 The last charge is breach of peace, high and
6 aggravated nature. So, the defendant is charged with
7 breach of peace, aggravated in nature. So, breach of peace
8 may be generally defined as such a violation of the public
9 order that amounts to a disturbance of the public
10 tranquility by act or conduct either directly having this
11 effect, or by inciting or tending to incite such a
12 disturbance of the public tranquility.

13 Under this general definition, in order to prosecute
14 for the crime of breach of peace, it is not necessary that
15 the peace actually be broken. Commission of an unlawful
16 and unjustifiable act tending with sufficient directness to
17 breach the peace is sufficient for breach of peace to be of
18 a high and aggravated nature. Excuse me. For breach of
19 peace to be of a high and aggravated nature, there must be
20 circumstances of aggravation.

21 Examples of circumstances of aggravation would include
22 the use of a deadly weapon, the intent to commit a felony,
23 the infliction of serious bodily injury, and resistance to
24 lawful authority. These are only examples of the
25 circumstances of aggravation, and any of these

1 circumstances of aggravation may be considered by you.

2 We're almost done.

3 So, a verdict in this case cannot be based upon
4 sympathy, passion, prejudice, emotion, or some other
5 consideration not found in the evidence.

6 Now, let's talk about deliberating. Chances are most
7 of you have never been on a jury before. That means most
8 of you have never deliberated on a jury before, so let's
9 kind of talk through what that looks like.

10 The word deliberation is defined as a careful
11 consideration, weighing up with a view to a decision. The
12 genius of this system that was created all those years ago
13 by our founding fathers is that it allows twelve good men
14 and women from twelve totally different backgrounds, life
15 experiences, and perspectives to consider the evidence,
16 talk about the evidence, and reach a verdict. We call them
17 deliberations for a reason: you are to consider the
18 evidence in this case carefully and deliberately, and you
19 should be discussing it in a calm, thorough, and courteous
20 manner. You are not a partisan or an advocate for either
21 side. You are a judge; you are a judge of the facts.

22 Listen to the views of all of your fellow jurors.
23 Consider other people's points and their points of view,
24 and talk through and discuss the evidence. And remember if
25 you're doing something deliberately, you are not in a big

1 hurry, and you should not be in a big hurry here.

2 This case is very important to both sides. This is
3 their only day in court to resolve this matter. When you
4 return to the jury room, you should discuss the case with
5 each other and reach agreement if you can. Your verdict
6 must be unanimous. That means you all twelve must agree.
7 Each of you must decide the case for yourself, but only
8 after you have impartially looked at and considered the
9 evidence, discussed it fully with each other, and listened
10 to each other's views. Don't be afraid to change your
11 opinion if the discussion persuades you that you should,
12 but don't come to a decision, well, just because everyone
13 else thinks it's right.

14 It's important that you attempt to reach a unanimous
15 verdict, but only if each of you can do so after having
16 made your own decision. Do not change an honest belief
17 about the weight and the effect of the evidence simply to
18 reach a verdict. In other words, don't change your opinion
19 solely for the sake of reaching a unanimous verdict.

20 All right, so we're going to go over these verdict
21 forms, and I'm going to give you kind of some rules so that
22 you understand what we're doing here, all right? So, I'm
23 about to send you to the courtroom next door. So, you're
24 all broken up into different jury rooms right now. Is that
25 right? Okay. So, I'm going to take all twelve of you and

1 put you in this same, exact size courtroom next door, okay?
2 That way you can spread out as much as you want to, okay?

3 We're going to have your lunch in there for you so you
4 can go ahead and start eating lunch and enjoying that. The
5 sign that you can begin deliberating is when this evidence
6 comes in the room. So, when the bailiffs bring in the
7 evidence, that is the sign that you to begin deliberating.
8 Until then, you can eat but you cannot deliberate, okay?

9 Now, there are some things, I think the 911 calls that
10 are in audio form. So, we will send back what I call a
11 clean computer, and you can put the disk in and play those
12 as many times, as fast and as slow, or anything else that
13 you want to, okay? We'll also send back some gloves, like
14 medical, professional gloves in case you want to touch
15 anything and you don't want to touch it with your bare
16 hands. We'll send back some gloves if you want to pick up
17 something and look through it and feel like you need to put
18 those on, too, okay?

19 Now, so here's some rules on deliberating. Number
20 one, all twelve of you have to be in the room to
21 deliberate. So, if somebody needs to go to the restroom,
22 or if somebody needs to call home, deliberations stop
23 unless all twelve of you are in the room, okay?

24 Second thing, the exhibits coming back, the exhibits
25 coming in your room is your sign that you can start. The

1 alternates will come out, okay? So, they will not be in
2 there.

3 Next rule. Do not tell me the count. There is no
4 reason you ever need to send me a note that says the count
5 is whatever, okay? That's not for me to know. That's for
6 you to know. Your verdict must be unanimous; that means
7 you all twelve must agree.

8 Now, we not allowed to send back the gun and the ammo
9 at the same time, okay, for obvious reasons, right? Okay.
10 I do want you to know that this is -- on the firearm, I
11 have put a real gun lock on it. So, it's incapable of
12 being loaded even if the ammunition was back there. But if
13 you want, we're going -- we'll probably send the firearm
14 back first. If you want to see the ammo, you just let the
15 bailiffs know. They'll grab the firearm from you, send the
16 ammo in, and we can switch them out like that, but they
17 can't both be in a room with you at the same time. Does
18 that make sense? Okay.

19 All right, let's go through this verdict form, okay?
20 So, what I did is I broke, broke it down into three
21 separate forms, okay, and the reason I did that is because
22 I want you to remember that you are to consider each one
23 separately. That's one of the first things I said. Each
24 charge gets a separate consideration.

25 So, the first one we'll deal right here is for

1 attempted murder, and it says: We, the jury, by unanimous
2 consent as to attempted murder guilty or not guilty. So,
3 if you find the defendant guilty of attempted murder, stop
4 and sign that one and move on to the next form. If you
5 find her not guilty, then you're allowed to consider ABHAN.
6 Same thing with that, okay, and then at the end there's a
7 place for you to sign, okay?

8 So, she could be not guilty of all of these, but she
9 could only be guilty of one of them. Does that make sense?

10 Okay, you follow my logic there, Mr. Foreman? Okay.

11 The second one is discharging a firearm into a
12 dwelling, guilty or not guilty. Sign, and then the third
13 one is breach of peace aggravated in nature, guilty or not
14 guilty, sign. Okay. Hold on.

15 (A PAUSE.)

16 THE COURT: Okay, I got it. I just had two. I had
17 two copies of the same one.

18 Okay, so I'm going to give you these, so you keep
19 these, Mr. Foreman, and then you wait for the -- I'm going
20 to ask the attorneys if there's anything else I need to
21 tell you. If there is, we'll bring you back in; if not,
22 the sign you can start deliberating is the evidence coming
23 in. Okay, everybody good?

24 Okay, you got them, Mr. Bowen, Mr. Tolbert?

25 Okay, all right. Thank you very much. You can slide

1 out.

2 (THE JURY EXITS AT 2:21 P.M.)

3 THE COURT: All right, anything from the state as to
4 the charge?

5 MS. SAMPSON: No, sir.

6 THE COURT: Okay. Anything other than what was
7 previously stated by the defense as to the charge?

8 MR. WILLIAMS: Nothing, Your Honor.

9 THE COURT: Okay. All right. So, here's what I need
10 y'all to do. I need y'all to get with Elizabeth and make
11 sure what is going back is what is actually supposed to go
12 back, and y'all double-check that, make sure you both sign
13 off on it. We need the clean computer and gloves. And
14 okay. Good job. Thank you very much.

15 (COUNSELORS REVIEW EXHIBITS WITH COURT REPORTER.)

16 (JURY DELIBERATIONS BEGIN AT 2:32 P.M.)

17 (OFF THE RECORD.)

18 (JURY NOTES INDIVIDUALLY MARKED INTO EVIDENCE AS
19 COURT'S EXHIBITS 1, 2, 3.)

20 THE COURT: All right, here we roll. All right,
21 during deliberations, we did get three notes. One of the
22 notes said the audio was not working on the computer, so we
23 got that fixed for them. The second note was they wanted
24 to switch out the bullets with the gun, which we -- you
25 know, I had told them just let us know if they wanted to do

1 that. And the third note said:

2 We're done deliberating. May we use the
3 restroom?

4 So, that was the extent of the notes.

5 All right, and so let's go ahead and bring them in,
6 Mr. Bowen.

7 (THE JURY ENTERS AT 4:32 P.M.)

8 THE COURT: Welcome, back ladies and gentlemen.

9 And, Mr. Foreman, it's my understanding you have a
10 verdict. Is that correct?

11 FOREPERSON: Yes, Your Honor, we've reached a
12 unanimous decision.

13 THE COURT: All right. Hand then to Mr. Bowen. Thank
14 you.

15 (A PAUSE.)

16 THE COURT: All right, I find the verdicts are in
17 their proper format, and the clerk may publish.

18 CLERK: Thank you.

19 VERDICT

20 CLERK: *State of South Carolina, County of Richland,*
21 *v. Mandy Morrow Fortson, 2017-GS-40-3791.* We, the jury, by
22 unanimous consent find the defendant, Mandy Morrow Fortson,
23 as to the charge of attempted murder on indictment
24 2017-GS-40-3791 guilty. Signed number 196, Ryan Headland,
25 foreperson, May 21, 2021.

1 *State of South Carolina, County of Richland, v. Mandy*
2 *Morrow Fortson, 2017-GS-40-3787. We, the jury, by*
3 unanimous consent find the defendant, Mandy Morrow Fortson,
4 as to the charge of discharging firearm into a dwelling on
5 indictment 2017-GS-40-3787 guilty. Signed number 196, Ryan
6 Headland, foreperson, May 21, 2021.

7 *State of South Carolina, County Of Richland, v. Mandy*
8 *Morrow Fortson, 2017-GS-40-3792. We, the jury, by*
9 unanimous consent find the defendant, Mandy Morrow Fortson,
10 as to a charge of breach of peace, aggravated in nature, in
11 indictment 2017-GS-40-3792 guilty. Signed number 196, Ryan
12 Headland, foreperson, May the 21, 2021.

13 Mr. Foreman, are these your verdicts and the verdicts
14 of the entire jury?

15 FOREPERSON: Yes, ma'am.

16 CLERK: Thank you.

17 THE COURT: All right, does either side request
18 polling?

19 MS. SAMPSON: Not the state, Your Honor.

20 MR. WILLIAMS: Defense does, Your Honor.

21 THE COURT: Okay. All right.

22 So, ladies and gentlemen, you're going to be asked two
23 questions. The first is is this your verdict, and the
24 second is is this still your verdict. You don't need to
25 stand up when you answer. Just make sure you answer out

1 loud so that we can hear you, please.

2 And, Madame Clerk, you may poll the jury.

3 CLERK: Yes, sir, Your Honor.

4 *POLLING OF THE JURY*

5 CLERK: Number 196, Ryan Headland, were these your
6 verdicts?

7 FOREPERSON: Yes, ma'am.

8 CLERK: Are they still your verdicts?

9 FOREPERSON: Yes, ma'am.

10 CLERK: Number 209, Mallory Hooper, were these your
11 verdicts?

12 JUROR: Yes, ma'am.

13 CLERK: Are they still your verdicts?

14 JUROR: Yes, ma'am.

15 CLERK: Number, number 501, Allen Bigly, were these
16 your verdicts?

17 JUROR: Yes, ma'am.

18 CLERK: Are they still your verdicts?

19 JUROR: Yes, ma'am.

20 CLERK: Number 85, Zachary Tartledge, were these your
21 verdicts?

22 JUROR: Yes, ma'am.

23 CLERK: Are they still your verdicts?

24 JUROR: Yes, ma'am.

25 CLERK: Number 48, Nicholas Bostick, were these your

1 verdicts?

2 JUROR: Yes, ma'am.

3 CLERK: Are they still your verdicts?

4 JUROR: Yes, ma'am.

5 CLERK: Number 44, Christie Booker, were these your
6 verdicts?

7 JUROR: Yes, ma'am.

8 CLERK: Are they still your verdicts?

9 JUROR: Yes, ma'am.

10 CLERK: Number 97, Melanie Cook-McDuffie, were these
11 your verdicts?

12 JUROR: Yes, ma'am.

13 CLERK: Are they still your verdicts?

14 JUROR: Yes, ma'am.

15 CLERK: Number 34, Jack Vinson, were these your
16 verdicts?

17 JUROR: Yes, ma'am.

18 CLERK: Are they still your verdicts?

19 JUROR: Yes, ma'am.

20 CLERK: Number 353, Cheryl Pollack, were these your
21 verdicts?

22 JUROR: Yes, ma'am.

23 CLERK: Are they still your verdicts?

24 JUROR: Yes, ma'am.

25 CLERK: Number 94, Velda Coleman, were these your

1 verdicts?

2 JUROR: Yes, ma'am.

3 CLERK: Are they still your verdicts?

4 JUROR: Yes, ma'am.

5 CLERK: Number 385, Jocelyn Santos, were these your
6 verdicts?

7 JUROR: Yes, ma'am.

8 CLERK: Are they still your verdicts?

9 JUROR: Yes, ma'am.

10 CLERK: Number 131, Kimberly Elmore, were these your
11 verdicts?

12 JUROR: Yes, ma'am.

13 CLERK: Are they still your verdicts?

14 JUROR: Yes, ma'am.

15 CLERK: Number 192 -- I'm sorry, Your Honor.

16 THE COURT: I think you started over.

17 CLERK: Yes. The jury's been polled, Your Honor.

18 THE COURT: Thank you very much.

19 Anything else for the jury before I release them?

20 From the state?

21 MS. SAMPSON: No. No, sir.

22 THE COURT: From the defense?

23 MR. WILLIAMS: Nothing from defense.

24 THE COURT: All right, ladies and gentlemen, I want to
25 say thank you very much for your service. You have done a

1 yeoman's task this week. You have shown up. You have been
2 on time. You have stayed awake. You have stayed with us.
3 You have paid attention, and I truly do appreciate your
4 service to your county and to your state this year. Jury
5 service is one of the most important civic duties and civic
6 responsibilities we have. That's right up there with
7 voting, and it's that important, and our founding fathers
8 believed it to be that important.

9 I hope this week has been educational for you. I hope
10 you've seen that real court isn't always like what they
11 portray on TV or what they portray in movies or in the
12 books. It's often slow and repetitive and not as fast as
13 everybody thinks it should be, and so I appreciate your
14 patience with us this week and your professionalism this
15 week.

16 You are now free to discuss the case with anybody you
17 want to in any, way, shape, or form. I think somebody
18 asked me that -- okay, there you are -- very early on. So,
19 you're now free to discuss the case with anyone you want
20 to. You don't have to. That's completely and totally your
21 decision.

22 So, sometimes lawyers will reach out to you and say,
23 hey, did we do a good job or what did we do right or what
24 did we do wrong. If you want to speak to them, you can.
25 If you don't, just tell them that you don't want to speak

1 to them, and they're just going to, they're going to leave
2 you alone and not bother you.

3 I know all of these lawyers, and I've known them all a
4 long time. So, I don't have any qualms about them, you
5 know, respecting your wishes. But if for whatever reason
6 something did happen, just call the clerk's office, and
7 we'll get a judge assigned to it real quick and deal with
8 it, but I don't expect that to happen at all.

9 One of the things that we are going to do since it's
10 late on a Friday afternoon, we are going to get you --
11 we're going to have you walked to your cars, okay? There's
12 no security issues in this case, and there's no security
13 concerns in this case at all, but some of the feedback that
14 I've gotten from the jurors over the years is walking
15 across the street at night and into the parking lot where
16 there's sometimes some people that are, you know, not the
17 most exciting people that you want to come in contact with
18 can be a little bit intimidating. So, we will have the
19 sheriff's department walk y'all to your cars just for
20 general safety concerns. It has nothing to do with the
21 case.

22 All right, everyone else remain seated while the jury
23 is dismissed.

24 (THE JURY EXITS AT 4:39 P.M.)

25 THE COURT: All right, I'm going to go speak to them

1 real quickly, and we'll come back and do posttrial motions.

2 (OFF THE RECORD.)

3 THE COURT: Keep your seats, keep your seats. All
4 right, let's go ahead and do posttrial motions from the
5 defense.

6 MR. WILLIAMS: Yes, Your Honor. We'd renew all the
7 prior motions that we've made. We'd move to set aside the
8 jury's verdict on the basis that the evidence taken is
9 insufficient as a matter of law for this jury to have
10 returned a verdict of guilty on all charges, all
11 indictments.

12 THE COURT: All right, and your motion to set aside
13 the verdict and the other posttrial motions are denied. I
14 believe that there was sufficient evidence in the record
15 upon which the jury could have based its decision on all of
16 the charges based upon the testimony of the witnesses that
17 testified and their cross-examination and the appropriate
18 statutes and law that apply in this situation.

19 All right, do we want to -- are we doing sentencing
20 now? You ready?

21 MS. SAMPSON: Yes, sir.

22 THE COURT: Okay. All right, come on over, Ms.
23 Fortson.

24 I need some sentencing sheets.

25 (A PAUSE.)

1 THE COURT: All right, could we start -- does she have
2 any criminal history?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: Okay. She has a 1996 fraudulent check, a
5 2011 breach of peace, and a 2015 reckless driving.

6 THE COURT: Okay, and let's see. Is Mr. Jones still
7 here?

8 MS. SAMPSON: Mr. Jones is here, Your Honor. I have
9 spoken with Mr. Jones. He did not wish to speak with the
10 court. He did want me to relay that clearly this has
11 affected him. He relives it. You know, he's got a bullet
12 inside of him.

13 Also, Mr. Cruz wanted me to relay to Your Honor ---

14 THE COURT: That was my next question.

15 MS. SAMPSON: He's not here.

16 THE COURT: Okay.

17 MS. SAMPSON: But he did want me to relay to Your
18 Honor he and his family have actually had to go through
19 counseling. He brought the counseling records to us, but I
20 didn't -- there was no reason to introduce them or do
21 anything with them, but he -- they are still seeing a
22 counselor. They have nightmares about this, especially the
23 children; they are afraid to be in the house by themselves.
24 And he just wanted the court to know how this has affected
25 him.

1 THE COURT: All right, and then so I'm going to fill
2 out these sentencing sheets a little bit, and then is --
3 attempted murder is violent? Is that right?

4 MS. SAMPSON: Yes, sir, it's violent and most serious.

5 THE COURT: And most serious?

6 MS. SAMPSON: Yes, sir.

7 THE COURT: Okay.

8 (A PAUSE.)

9 THE COURT: And what does discharging a firearm into a
10 dwelling carry?

11 MS. SAMPSON: Up to ten for the discharging. It is
12 ten, Your Honor.

13 THE COURT: Okay.

14 MR. WILLIAMS: It's the same as the breach of peace.

15 THE COURT: Okay, and then the attempted murder
16 carries what?

17 MS. SAMPSON: Zero to thirty.

18 THE COURT: Okay. Okay, and what's the state's
19 position on sentencing?

20 MS. SAMPSON: We'll leave sentencing up to your
21 discretion, Your Honor. The state's position is there
22 should be some prison time for this. She clearly -- and
23 the jury agreed -- shot at a man standing and doing
24 absolutely nothing wrong. There's no reason for this to
25 have happened. We think prison time is appropriate.

1 THE COURT: Okay. All right.

2 And, Mr. Williams, whenever you're ready.

3 MR. WILLIAMS: Your Honor, she's forty-eight years of
4 age. You have learned that her record is small in nature,
5 if you will, Your Honor. Obviously no, no prior violent
6 acts on her history.

7 She tells me that she works with the EMS ambulatory
8 people for fourteen years.

9 DEFENDANT: Firefighters.

10 MR. WILLIAMS: Firefighters fourteen years.

11 DEFENDANT: Eighteen.

12 MR. WILLIAMS: Eighteen years. She has one natural
13 child and two other children who she has raised. She
14 obviously has lived in Columbia for a long period of time.
15 You've seen her mother here every day.

16 She has had a ankle monitor on her ankle since -- with
17 \$150,000 bond since February the 27 of 2017.

18 I don't think anybody can explain what went on on that
19 particular night when these shots were fired. There
20 certainly was absolutely no reason for anything like this
21 to have occurred, particularly since she has no, no history
22 of violence whatsoever.

23 (COUNSELOR CONFERS WITH DEFENDANT.)

24 MR. WILLIAMS: She, she -- she's got family and all
25 kind of friends that have been with her the whole time

1 since she's been down here in Columbia.

2 She would -- she has a father who is dying right now
3 in hospice in Georgia, which was a concern for her, and she
4 wanted me to ask the court if the court would allow her to
5 remain out for a period of time to see him. I said I would
6 ask the court that question.

7 But this -- I don't understand how this happened.
8 Your Honor sat through the whole trial, and I'm convinced
9 that Your Honor doesn't really know how it happened either.
10 I say -- I speak in your mind, but it's just one of the
11 strangest things that -- I think the solicitors kind of --
12 doesn't understand how something crazy like this could
13 happen, but she's been convicted and we have to deal with
14 it.

15 THE COURT: All right, Ms. Fortson, you have the right
16 to say something if you would like to say something. You
17 are not required to say anything at all in any way, shape,
18 or form. But I have to give everyone the opportunity to
19 speak if they want to speak, and if you want to speak, now
20 is your opportunity. If you don't want to speak, I respect
21 that and understand that, too.

22 DEFENDANT: I'd just like to thank you, as well as the
23 rest of the members of the court, for your time.

24 THE COURT: Okay.

25 DEFENDANT: And your patience. I know it has -- it's

1 not an easy job.

2 As far as the victims in this case, I have felt
3 nothing but terrible for them since the very beginning and
4 what they and their families must be going through. Any
5 time I ever thought about anything that ever happened with
6 this incident, those have always been the first people I've
7 thought about. Obviously it has affected them terribly.

8 It has affected my family terribly. I have not been
9 able to see my father much. I am his only child. I am a
10 daddy's girl. I would like to see him at least one more
11 time because I really don't know, to be honest with you, if
12 he's going to make it through the weekend. It's that bad.

13 I have -- none of my affairs are in order. I'd like
14 to, to be able to maybe have an opportunity to get a few
15 things in order.

16 You know, I never have done anything to hurt anybody.
17 My entire life has been about helping other people and
18 trying to help them be well and stay well. I'm not
19 homicidal; I'm not suicidal. I wouldn't hurt anyone.

20 THE COURT: All right. Thank you very much.

21 All right, this is a very serious case. I mean, we
22 were in downtown Columbia in a neighborhood and say what
23 you want to about parts of Columbia. It was clearly in a
24 residential neighborhood setting. Any time a firearm goes
25 off in any of those situations, it's always just a

1 dangerous and potentially violent and, frankly, potentially
2 deadly situation for people that, you know, could be doing
3 absolutely nothing besides having dinner at their house
4 with their children present. So, the court is very
5 concerned about the facts and the allegations in this case.

6 I also want to say to Mr. Jones and Mr. Cruz I
7 appreciate them staying with the case and staying involved
8 in the case and staying in communication with the
9 solicitor's office because, frankly, they can't do what
10 they need to do, you know, without the victims and the
11 witnesses continuing to participate in the case. So, I do
12 wish the best for them.

13 And I wish the best for Ms. Fortson and her family and
14 all the struggles that they are going through.

15 *SENTENCE OF THE COURT*

16 THE COURT: All right, so the sentence, the way the
17 sentences are going to work is this. The sentence on the
18 attempted murder charge is that she be committed to the
19 state Department of Corrections for fifteen years. The
20 sentences on the breach of peace and the discharging of
21 firearm are both five years. Those are to run concurrent
22 to each other and they are running consecutive to the
23 fifteen-year sentence. She is not getting credit for the
24 house arrest time. Thank you.

25 MS. SAMPSON: It wasn't house arrest, just for the

1 record.

2 THE COURT: Okay.

3 MS. SAMPSON: She just had an ankle monitor on.

4 THE COURT: Okay.

5 MR. WILLIAMS: Monitor.

6 THE COURT: Whatever it was, she's not getting credit
7 for it.

8 You're to have no contact with the victims in this
9 case directly or indirectly. Thank you very much.

10 MS. SAMPSON: Thank you, Your Honor.

11 THE COURT: Okay.

12 MR. WILLIAMS: And I -- she was asking me any time for
13 her to remain ---

14 THE COURT: Oh, no, sir. No.

15 MR. WILLIAMS: All right, sir. Your Honor, will the
16 court ---

17 THE COURT: It's been four years, so.

18 MR. WILLIAMS: Your Honor, will the court order that
19 she be kept downstairs for a minute until I get some
20 paperwork signed?

21 THE COURT: Absolutely. Yes. That's perfectly fine.
22 Let's hold her until -- downstairs until Mr. Williams has a
23 chance to go over some things with her before she's taken
24 to the, to the jail. All right. Thank you very much.

25 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
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 HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 19TH, 20TH, 21ST DAYS OF MAY, 2021.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

NOVEMBER 3RD, 2021

WITNESSES

(S) Joseph Clarke
-- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2017A4010200661

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury JUL 20 2017
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-40-03787

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JULY TERM 2017

91

**THE STATE
vs.**

Mandy Morrow Fortson

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**Indictment for
WEAPONS / DISCHARGING FIREARM
INTO A DWELLING**

SC Code: 16-23-0440(A)
CDR Code: 0052

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on July 19, 2017, the
Grand Jurors of Richland County present upon their oath:

DISCHARGING FIREARM INTO A DWELLING

That Mandy Morrow Fortson did in Richland County on or about
February 22, 2017, discharge or cause to be discharged unlawfully,
firearms at or into a dwelling house or other building or enclosure regularly
occupied by persons; while it was occupied, in violation of Section 16-23-
0440, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Joseph Clarke
 – Richland County Sheriff Dept

DOCKET NO. 2017-GS-40-03791

The State of South Carolina

County of

Richland

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

JULY TERM 2017

91

Defendant

THE STATE
 vs.

Mandy Morrow Fortson

2017A4010200658

ARREST WARRANT NUMBER

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury JUL 20 2017
 Date:

VERDICT

Indictment for
 ATTEMPTED MURDER

SC Code: 16-03-0029
 CDR Code: 3410

Foreperson of Petit Jury
 Date:

Witness:
 C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on July 19, 2017, the
Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Mandy Morrow Fortson did in Richland County on or about
February 22, 2017, with the intent to kill, attempt to kill Antonio Jones with
malice aforethought, either expressed or implied. All in violation of S.C.
Code of Laws § 16-3-29 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

DOCKET NO. 2017-GS-40-03792

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JULY TERM 2017

91

THE STATE
vs.

Mandy M Fortson

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S)

Clark

ARREST WARRANT NUMBER

DP17142

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury JUL 20 2017
Date:

VERDICT

Indictment for
BREACH / BREACH OF PEACE,
AGGRAVATED IN NATURE

SC Code: 00-00-0000
CDR Code: 0955

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on July 19, 2017, the
Grand Jurors of Richland County present upon their oath:

BREACH OF PEACE - AGGRAVATED

That Mandy Morrow Fortson did in Richland County on or about
February 22, 2017, knowingly, willfully and intentionally disturb public order
and/or public tranquility through her conduct, accompanied by
circumstances of aggravation, such acts constituting the offense of Breach
of Peace in violation of the Common Law of South Carolina.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

Richland

STATE

Mandy Morrow Fontson vs. Fontson

AKA:

Race:

DOB:

Address:

City, State, Zip:

DL#

SID#

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

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

TO:

In violation of §

NON-VIOLENT

The charge is:

The plea is:

WITNESS:

Solicitor

SC Bar #

WHEREFORE, the Defendant is committed to the

for a determinate term of

and/or to pay a fine of \$

of \$

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 SCDOC.☐ The Defendant is to be placed on 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 16-25-85 (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)

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

\$66-6-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

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

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

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

\$56-6-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$

\$

\$

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STATE OF SOUTH CAROLINA

COUNTY OF

Richland

STATE

Mandy Morrow Fontson vs. Fontson

AKA:

Race:

DOB:

Address:

City, State, Zip:

DL#

SID#

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

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

TO:

In violation of §

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Solicitor

SC Bar #

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for a determinate term of

and/or to pay a fine of \$

of \$

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

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PTUP

Total: \$

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Payment Terms:

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\$66-6-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

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

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

\$56-6-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$

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IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

17-GS-40.3787

AW#:

Date of Offense:

S.C. Code §:

CDR Code #:

AW#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSTO: RECEIVED IN THE COURT OF GENERAL SESSIONSIn violation of § 16-23-0440(A) the S.C. Code of Laws, bearing CDR Code # 0052☐ NON-VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

Defendant Waives Presentment to Grand Jury. (def.'s initials)

☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.WITNESS: 15964 6149

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 5 years or ☐ under the Youthful Offender Act not to exceed 5 yearsand/or to pay a fine of \$ 17-65403791; provided that upon the service of 17-65403791 days/months/years and or paymentof \$ 17-65403791; 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: 17-65403791☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on 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 16-25-85 (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)

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

\$66-6-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

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

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

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

\$56-6-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$

\$

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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 FundOther: NO Contact w/ Victim

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

Wandy Monique Fortson VS. State of South Carolina

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

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

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

TO:

In violation of §

☐ 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, (def.'s Initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.TEST: 159604

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 15 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 SCDOC.☐ The Defendant is to be placed on 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 16-25-55 (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: _____

☐ Set by SCOPPPSObtain 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: NO Contact w/victim☐ 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 _____

Judge Code: 21614Sentence Date: 5/21/21TOTAL \$ 128.75Clerk of Court/Deputy Clerk Jeanette W. McBride, Jr.Court Reporter: ANALIS

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

AMW#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

STATE OF SOUTH CAROLINA

COUNTY OF

Richland

STATE

Nancy Morrow vs. Furtson

AKA:

Race:

DOB:

Address:

City, State, Zip:

DL#

SID#

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

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

TO:

In violation of §

00-00-0000

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

The charge is:

As indicted,

Lesser Included Offense,

Without Negotiations or Recommendation,

TEST:

WHEREFORE, the Defendant is committed to the

for a determinate term of

and/or to pay a fine of \$

of \$

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 SCDOC.

The Defendant is to be placed on 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)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

AW#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

CONVICTED OF or PLEADS

Mandatory GPS

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

Defendant Waives Presentment to Grand Jury,

Negotiated Sentence,

Recommendation by the State.

SC Bar #

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

for a determinate term of

and/or to pay a fine of \$

of \$

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 SCDOC.

The Defendant is to be placed on 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)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. Or Job Corp.

May serve WVE beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmis. 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

Judge Code:

Sentence Date

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.”

Respectfully Submitted,

s/ David Alexander

David Alexander

Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, SC 29211-1589

(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

Oct 13 2022

SC Court of Appeals

This 13th day of October, 2022.

