

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM JASPER COUNTY

Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTONIO SCOTT,

APPELLANT

APPELLATE CASE NO. 2011-205448

RECORD ON APPEAL

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SC Court of Appeals

INDEX

INDEX.....	i, ii
TRIAL TRANSCRIPT (DECEMBER 5 – 7, 2011).....	1
<u>JACKSON V. DENNO HEARING</u>	
TESTIMONY	
DANIEL LITCHFIELD	
Direct Examination by Mr. Ferguson.....	6
Cross Examination by Mr. Hughes	11
OPENING STATEMENT BY MR. FERGUSON.....	35
OPENING STATEMENT BY MR. HUGHES.....	37
TRIAL TESTIMONY	
LYNN SHUMAN	
Direct Examination by Mr. Ferguson.....	38
Cross Examination by Mr. Hughes	42
CHRISTOPHER POVENTUD	
Direct Examination by Mr. Ferguson.....	45
Cross Examination by Mr. Hughes	58
ROB NELSON	
Direct Examination by Mr. Ferguson.....	59
Cross Examination by Mr. Hughes	62
Redirect Examination by Mr. Ferguson.....	63
KEVIN SMITH	
Direct Examination by Mr. Ferguson.....	64
Cross Examination by Mr. Hughes	73
MONIQUE CHESTER	
Direct Examination by Mr. Ferguson.....	75
Cross Examination by Mr. Hughes	80
Redirect Examination by Mr. Ferguson.....	85
Recross Examination by Mr. Hughes.....	85

AKERA NELSON	
Direct Examination by Mr. Ferguson.....	86
Cross Examination by Mr. Hughes	92
DANIEL LITCHFIELD	
Direct Examination by Mr. Ferguson.....	95
Cross Examination by Mr. Hughes	102
SHAREEMA BEHLIN	
Direct Examination by Mr. Ferguson.....	105
Cross Examination by Mr. Hughes	106
Redirect Examination by Mr. Ferguson.....	110
WILLIAM MCRAE	
Direct Examination by Mr. Ferguson.....	110
LEE MARIE TORMOS	
Direct Examination by Mr. Ferguson.....	115
Cross Examination by Mr. Hughes	125
Redirect Examination by Mr. Ferguson.....	129
Recross Examination by Mr. Hughes.....	130
MOTION FOR A DIRECTED VERDICT BY MR. HUGHES	
	134
CLOSING ARGUMENT BY MR. FERGUSON	
	155
CLOSING ARGUMENT BY MR. HUGHES	
	165
CHARGE ON THE LAW.....	
	173
VERDICT	
	193
SENTENCING	
	200
INDICTMENT	
	202
SENTENCING SHEET	
	204
CERTIFICATE OF COUNSEL.....	
	205

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #1 (CD OF 9-1-1 (2 CALLS))
STATE'S EXHIBIT #2 (DVD OF TASER AXON CAMERA)

STATE OF SOUTH CAROLINA) IN THE FOURTEEN JUDICIAL CIRCUIT
)
 COUNTY OF JASPER) CASE NO.: 2011-GS-27-00216

STATE OF SOUTH CAROLINA,)
)
 v.) TRANSCRIPT OF RECORD
)
 ANTONIO D. SCOTT,)
)
 DEFENDANT.)
)

DECEMBER 5TH - 7TH, 2011
 JASPER COUNTY, SOUTH CAROLINA
 BEFORE THE HONORABLE CARMEN T. MULLEN, JUDGE.

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 Official Court Reporter

Jury Selection**State v. Antonio D. Scott****2011-GS-27-00192****December 5th - 7th, 2011**

Juror #	Name	Race	Gender	Jury
76	Vaughn Goodall	W	M	1
175	David Shipes	W	M	2
132	Nakia Mitchell	B	F	3
152	Arinn Poston	B	M	4
75	Abigail Gomez	H	F	5
113	Dometric Lewis	B	M	6
216	Rachael Wilson	W	F	7
138	Chester Newton	B	M	8
159	Kerry Raymond	W	M	9
4	Shirlayne Albergottie	B	F	10
3	Louis Aiken	B	F	11
186	Zachary Smith	W	F	12
153	Robert Priester	B	M	Alt. 1
104	Wendy Kelly	W	F	Alt. 2

INDEX

JACKSON V. DENNO HEARING

<u>WITNESS: INV. DANIEL LITCHFIELD</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	6
CROSS EXAMINATION BY MR. HUGHES	11
VOIR DIRE	28
JUROR MATTER	52
DEFENSE MOTION TO SEQUESTER WITNESSES	53
JURY SWORN	56
INSTRUCTIONS BY THE COURT	56
OPENING STATEMENTS	
BY ASST. SOL. FERGUSON	61
BY MR. HUGHES	63

STATE'S WITNESSES

<u>WITNESS: LYNN SHUMAN</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	64
CROSS EXAMINATION BY MR. HUGHES	68
REDIRECT EXAMINATION BY ASST. SOL. FERGUSON	70
<u>WITNESS: CHRISTOPHER POVENTUD</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	72
CROSS EXAMINATION BY MR. HUGHES	85
<u>WITNESS: ROB NELSON</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	86
CROSS EXAMINATION BY MR. HUGHES	90
REDIRECT EXAMINATION BY ASST. SOL. FERGUSON	90
<u>WITNESS: KEVIN SMITH</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	91
CROSS EXAMINATION BY MR. HUGHES	100
<u>WITNESS: MONIQUE CHESTER</u>	
DIRECT EXAMINATION BY ASST. SOL. FERGUSON	102
CROSS EXAMINATION BY MR. HUGHES	108
REDIRECT EXAMINATION BY ASST. SOL. FERGUSON	113
RECROSS EXAMINATION BY MR. HUGHES	113

WITNESS: AKERA NELSON

DIRECT EXAMINATION BY ASST. SOL. FERGUSON	114
CROSS EXAMINATION BY MR. HUGHES	120

WITNESS: INV. DANIEL LITCHFIELD

DIRECT EXAMINATION BY ASST. SOL. FERGUSON	123
CROSS EXAMINATION BY MR. HUGHES	130

WITNESS: SHAREEMA BEHLIN

DIRECT EXAMINATION BY ASST. SOL. FERGUSON	135
CROSS EXAMINATION BY MR. HUGHES	136
REDIRECT EXAMINATION BY ASST. SOL. FERGUSON	140

WITNESS: DR. WILLIAM McRAE

DIRECT EXAMINATION BY ASST. SOL. FERGUSON	141
---	-----

WITNESS: DR. LEE MARIE TORMOS

DIRECT EXAMINATION BY ASST. SOL. FERGUSON	145
CROSS EXAMINATION BY MR. HUGHES	155
REDIRECT EXAMINATION BY ASST. SOL. FERGUSON	159
RECROSS EXAMINATION BY MR. HUGHES	160

DEFENSE MOTION FOR DIRECTED VERDICT	164
---	-----

DEFENDANT'S 5 TH AMENDMENT RIGHTS	167
--	-----

STATE RESTS	169
-------------------	-----

DEFENSE RESTS	169
---------------------	-----

CLOSING ARGUMENTS

ASST. SOL. FERGUSON	186
MR. HUGHES	196

JURY CHARGE	204
-------------------	-----

EXHIBITS TO THE JURY	223
----------------------------	-----

VERDICT	223
---------------	-----

POLLING OF THE JURY	225
---------------------------	-----

SENTENCING	231
------------------	-----

CERTIFICATE OF REPORTER	232
-------------------------------	-----

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
ONE	CD OF 9-1-1 (2 CALLS)	66	67
TWO	DVD OF TASER AXON CAMERA	93	94
THREE	NOT IN EVIDENCE		
FOUR	PHOTO	80	81
FIVE	PHOTO	80	81
SIX	PHOTO	80	81
SEVEN	PHOTO	80	81
EIGHT	PHOTO	80	81
NINE	NOT IN EVIDENCE		
TEN	PHOTO	80	81

COURT EXHIBITS

ONE	DVD	10	11
TWO	DVD	PRE-MARKED	
THREE	DVD	PRE-MARKED	

Jackson v. Denno Hearing
Direct Examination of Det. Daniel Litchfield by Asst. Sol. Ferguson

1 JACKSON V DENNO HRG

2 THE COURT: Okay. Call your first witness.

3 ASST. SOL. FERGUSON: The State calls Daniel
4 Litchfield.

5 MADAME CLERK: Place your left hand on the Bible and
6 raise your right.

7 WHEREUPON, LT. LITCHFIELD IS DULY SWORN.

8 DIRECT EXAMINATION

9 BY ASST. SOL. FERGUSON:

10 Q Detective Litchfield, who do you work for?

11 A I work for the Ridgeland Police Department.

12 Q And what do you do for them?

13 A I'm the head investigator over Investigations, small
14 crimes for the Ridgeland Police Department.

15 Q Were you working for the Ridgeland Police Department
16 back in March of this year, 2011?

17 A Yes, sir.

18 Q And were you involved in a case with Mr. Antonio Scott
19 and the victim being Cynthia Nelson?

20 A Yes, sir..

21 Q Did you have an opportunity to speak to Mr. Scott about
22 those accusations?

23 A Yes, I did.

24 Q And when did that take place?

25 A I believe the following day after his arrest.

7 7

Jackson v. Denno Hearing
Direct Examination of Det. Daniel Litchfield by Asst. Sol. Ferguson

1 Q Would that be March the 22nd?

2 A I'm not sure of the exact date, but I believe, so, yes,
3 sir.

4 Q And what is the date of the actual incident?

5 A I'm not sure, sir.

6 Q March the 20th?

7 A The 20th.

8 Q All right. Now, where did you talk to Mr. Scott?

9 A It was at the Jasper County Detention Center.

10 Q And who else was present at that interview?

11 A Investigator MacIntosh.

12 Q Did the defendant appear to be under the influence of
13 any drugs or alcohol during your interview with him?

14 A No, sir.

15 Q Did the defendant appear to have any mental or physical
16 impairment that would have prevented him from understanding
17 y'all's conversation?

18 A No, sir.

19 Q Can you describe the room where the questioning took
20 place?

21 A It's actually the, I guess, Judge's chambers for doing
22 bond hearings at the jail.

23 Q And approximately how long did that interview last?

24 A I believe around -- it wasn't very long at all; about
25 thirty minutes or so.

1 Q Okay. Did y'all take any breaks or did you just go
2 straight through?

3 A We went straight through.

4 Q At any point did the defendant ask to take a break?

5 A No.

6 Q At any point did he ask for anything to eat or drink?

7 A No.

8 Q Now, did you make any threats or promises to the
9 defendant in exchange for his statement?

10 A No, sir.

11 Q Was the defendant incarcerated when you talked to him?

12 A Yes, he was.

13 Q And did he agree to come speak to you?

14 A Yes.

15 Q Okay. Now, was the defendant advised of his
16 constitutional rights, pursuant to Miranda, prior to being
17 questioned about this crime?

18 A Yes, sir.

19 Q And how did you accomplish that advisement of rights?
20 Did you do so by form or by reading it from a card?

21 A A form.

22 Q Okay. Now, did the defendant initial that form saying
23 he understood his rights?

24 A Yes.

25 Q Okay. Did he then waive those rights and agree to talk

1 to you about these crimes?

2 A Yes, he did.

3 Q Okay. Now, after having had them read to him and him
4 initialing, did you observe any inditia of him being able to
5 understand the conversation y'all were having?

6 A None at all.

7 Q Okay. What was the defendant's emotional state during
8 your interview?

9 A He was calm and he was, you know, concerned about the
10 whole situation.

11 Q Okay. Now, who else was present in that room with you
12 and the defendant?

13 A Investigator Macintosh.

14 Q Okay. And did either one of you promise or threaten
15 the defendant in any way, shape or form?

16 A No, sir.

17 Q Did you promise him any hope of reward in exchange for
18 his statement?

19 A No, sir.

20 Q Okay. Did he ever indicate that he wished to speak to
21 an attorney before he talked to you?

22 A No.

23 Q Did he ever stop you from questioning him for any
24 reason?

25 A No, sir.

1 Q Was the statement recorded by audio or video?

2 A Yes, it was, sir.

3 Q Now, Det. Litchfield, I want to show you what's been
4 previously marked for identification as State's Exhibit
5 Number Three and ask if you can identify this.

6 ASST. SOL. FERGUSON: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 A Yes, sir. It has my initials on it. This is the video
10 version of the actual interview.

11 Q And have you and I reviewed a portion of that video to
12 determine what was on that CD?

13 A Yes.

14 Q And is it a fair and accurate depiction of the
15 interview conducted with the defendant on March the 22nd?

16 A Yes, sir.

17 ASST. SOL. FERGUSON: Your Honor, at this point, I
18 would like to publish just the waiver of rights portion of
19 this video for Your Honor's determination.

20 THE COURT: Have you seen the whole thing, Mr. Hughes?

21 MR. HUGHES: I've seen the video, Your Honor. I have no
22 objection to that.

23 THE COURT: Okay.

24 (ASST. SOL. FERGUSON PREPARES CD PLAYER. AUDIO BEGINS
25 PLAYING AT 10:15 A.M.; AUDIO ENDS PLAYING AT 10:17 A.M.)

1 ASST. SOL. FERGUSON: Your Honor, that's all the
2 questions I have regarding the voluntariness of this
3 defendant's statement. If Mr. Hughes has any questions,
4 I'll yield to him.

5 THE COURT: Okay.

6 CROSS-EXAMINATION

7 BY MR. HUGHES:

8 Q Detective, what was he charged with when you were
9 questioning him?

10 A Murder.

11 Q Isn't it true though that you did not actually charge
12 him with murder and arrest him until after this interview
13 was over?

14 A I believe the warrant was already served on him.

15 Q I believe the video will show the warrant being served
16 on him at the end of the interview and that's when you told
17 him the victim had died and that's when you arrested him for
18 murder. So you interviewed him knowing you were going to
19 serve a warrant for murder, but you did not serve the
20 warrant until after you interviewed him, correct?

21 A I'm not real sure.

22 Q During the interview, did you talk about anything
23 regarding the history of the defendant with either the
24 victim or either anything with the victim's family?

25 A I believe that came up, but it was voluntary on his

1 side.

2 Q Did you tell him what the penalty for murder was on
3 that video?

4 A No.

5 MR. HUGHES: No further questions, Your Honor.

6 THE COURT: Okay. Anything further, Mr. Ferguson?

7 ASST. SOL. FERGUSON: No, Your Honor.

8 THE COURT: Okay. You may step down, sir.

9 ASST. SOL. FERGUSON: The defendant only gave one
10 statement, Your Honor, and that is it. I think there are
11 substantive issues that Mr. Hughes may want to address, and
12 the State as well, just about some of the content about the
13 defendant's statement.

14 THE COURT: What was he incarcerated for when he ---

15 ASST. SOL. FERGUSON: Well, he was originally charged
16 with attempted murder.

17 THE COURT: Okay.

18 ASST. SOL. FERGUSON: And then the victim died. So the
19 warrant was upgraded.

20 THE COURT: Okay.

21 MR. HUGHES: Your Honor, as far as 95 percent of the
22 statement is concerned; I have no problems with it. There
23 is nothing inculpatory on the video. I do have a problem
24 with the fact that he does talk about certain things which
25 would be considered prior bad acts on the video. I also

1 have a problem with law enforcement, basically, using a
2 threat of life imprisonment on the charge of murder, even
3 though he had not been charged with murder at that time.

4 The video does show the warrant to be served on him at
5 the end of the interview. He's not informed. I do not know
6 if my client would have requested an attorney if he'd have
7 known he was being charged with murder; but like I said, 95
8 percent of the video, I have no problem with. My biggest
9 problem is redacting the parts that the State and I both
10 agree shouldn't come in without causing the jury to question
11 what was missing.

12 THE COURT: Okay. Well, obviously, he was Mirandized.
13 There's no question he received and understood his rights,
14 so I don't see a problem with that. Tell me how you want to
15 go ahead and try to get around the portions that need to be
16 redacted that you both agree on but you don't want to look
17 choppy.

18 MR. HUGHES: Your Honor, I believe the best way to do
19 it is for you to tell the jury that we're not hiding
20 anything, but just as a matter of speeding things along,
21 we're just going to show the relative parts. I would not
22 object to that. That way, it doesn't look like either side
23 is hiding anything. I would have a problem with it going
24 back into the jury room.

25 THE COURT: We could certainly, if they needed it

1 replayed, we can bring them back in here and play for them
2 once they continue to deliberate. If they want to see it,
3 we can certainly do that; that's not a problem. No issue
4 there. Okay?

5 MR. HUGHES: Okay. The second matter, Your Honor, I
6 don't know when Mr. Ferguson is going to do this, but there
7 is a videotape of the crime scene. I object strongly to a
8 videotape of it. It would be impossible to redact a video
9 without the jury questioning what's being hidden. In the
10 past, we have dealt with still photos, which allow us to
11 have full control of what is seen and what is not seen. I
12 would have no new objection to still photos, provided that
13 they match the standard to all photos coming in, but a
14 videotape, we don't have the capability of knowing what a
15 jury is going to see. We can look at the videotape and we
16 can see something, but the jury might pick up something we
17 don't notice. As opposed to a still photo where I can sit
18 there and look over the still photo entirely and know what
19 they are going to be shown.

20 THE COURT: Well, how soon after the incident was this
21 footage take and what does it show?

22 ASST. SOL. FERGUSON: Well, Your Honor, this is a piece
23 of technology that Ridgeland PD now has, and it is a camera
24 attached to basically what looks like an eyeglass set. So
25 it picks up when Officer Kevin Smith gets the call and gets

1 in his car and it shuts off when they've cleared the scene.
2 Everything that Officer Smith sees is recorded on video.
3 And so, that obviously does record things that would be
4 invisible; a person that's making statements that are not
5 going to testify.

6 Mr. Hughes and I have talked about this and I think,
7 Your Honor, for purposes of pre-trial, what the State would
8 seek to show is the beginning portion of that video as to
9 what Kevin saw, Officer Smith saw when he arrived, the
10 condition of the scene, up until there starts to be
11 statements that I think would be inadmissible or hearsay.
12 So we can play that portion for Your Honor and get a pre-
13 trial ruling of its admissibility if that would make Mr.
14 Hughes feel better. It's not something I would seek to play
15 two minutes here, skip forward fifteen minutes, play two
16 minutes there. I've kind of narrowed it down to what I
17 think would be the most relative and probative portion of
18 that video, which would be the beginning.

19 MR. HUGHES: I would need to see what he's referencing
20 to.

21 THE COURT: Okay. Well, y'all will have to look at it
22 to determine what it is he's going to use. And certainly,
23 if you all can't agree, I can look at it and just because
24 it's a moving video, doesn't mean it's not admissible,
25 certainly, so I would let it in. Of course, there may be

1 things in it that are admissible, but I'm going to have to
2 leave that to you all to determine to not put those in or if
3 you need a ruling, I'll be happy to look at it and make a
4 ruling on whether that person comes in or out.

5 Again, I can also tell the jury that the attorneys
6 worked hard at streamlining this case, so to show you only
7 the relevant portions; again, I can say, "No one's hiding
8 anything from you. This is just we don't want to waste
9 anybody's time."

10 ASST. SOL. FERGUSON: And I can tell Mr. Hughes the
11 exact moment that I've ran it up to and that's 12 minutes
12 and 54 seconds, from the beginning to 12 minutes and 54
13 seconds.

14 THE COURT: Okay.

15 MR. HUGHES: I would need to look it over. Mr.
16 Ferguson and I can meet up after pull a jury on this. And
17 I'm just old-fashioned, Your Honor, I prefer the still
18 photos so I know what the jury is seeing and I'll be able to
19 point things out to the jury. That's just a preference.
20 Although, I do question the possible prejudicial value of
21 some of the things on the tape. Excuse me, I would hold the
22 right to do that because there are some things on that tape
23 that I definitely don't want coming in, some video and some
24 audio matters.

25 THE COURT: I can't rule on that until I've seen ---

1 MR. HUGHES: I understand, Your Honor. Mr. Ferguson
2 and I might be in agreement with this and will probably
3 streamline what's going on after we have a chance to talk it
4 over between the two of us.

5 THE COURT: Okay. What other motions do you have?

6 ASST. SOL. FERGUSON: Your Honor, I did a pre-trial
7 Memorandum of Law. This incident actually began the night
8 before and basically, the victim was stabbed on March the
9 20th of 2011. Well, on March the 19th of 2011, the victim
10 rides by her apartment and sees the defendant outside of her
11 apartment. She calls law enforcement. Law enforcement
12 responds, but they do not make contact with the defendant.
13 They do make contact with him on the telephone; a little bit
14 later, there's an exchange.

15 Now, there's two parts: on the day of the actual
16 murder, which is March the 20th, we have a witness who
17 overheard this defendant stating that he went to that
18 apartment to kill Cynthia Nelson and that she called the
19 cops and he had to hide in the dumpster to avoid detection.
20 And then, he went on to say that he was going to kill her
21 when he saw her on the 20th. So basically, the gist of our
22 argument is, Your Honor, that ill-will between the victim
23 and the defendant is admissible. One, to show motive, to
24 show the mental element required for murder. And also,
25 under the theory of res gestae, that this is one continuous

1 chain of events. That he had made up his mind on the 19th
2 and that same mental element carried over until the
3 commission of the crime on the 20th.

4 And so we would seek a pre-trial ruling on number one,
5 Officer Smith's testimony about him responding to that phone
6 call on the 19th, that he knew the 19th, and also as to our
7 witnesses, testimony about statements this defendant made
8 about the 19th and the 20th.

9 THE COURT: Okay. So I assume they were in an ongoing
10 relationship; is that correct? They had a child in common?

11 ASST. SOL. FERGUSON: Well, the victim is actually his
12 son's mother's mother. So this is actually the grandmother
13 of defendant's child, and it was an ongoing dispute between
14 them.

15 THE COURT: Okay. So Cynthia Nelson is the
16 grandmother?

17 ASST. SOL. FERGUSON: Yes, ma'am.

18 THE COURT: Okay. And the incident the night before
19 was between the defendant and Ms. Nelson or her daughter?

20 ASST. SOL. FERGUSON: Ms. Nelson, the deceased.

21 THE COURT: Ms. Nelson, the deceased.

22 ASST. SOL. FERGUSON: Yes, ma'am.

23 THE COURT: Okay. Mr. Hughes?

24 MR. HUGHES: Your Honor, there appears to have been no
25 contact between the defendant and the victim the previous

1 night. As far as this being a continuation, we have
2 different locations. We've had a night to sleep things
3 through. We have the victim coming to the location herself,
4 voluntarily. This is not like the defendant has gone
5 looking for her. This is not a continuation, Your Honor,
6 this is two separate incidents entirely.

7 THE COURT: What's your defense? Is it that he wasn't
8 there at all or is it that there was a fight and mutual
9 combat situation and this is self-defense?

10 MR. HUGHES: It's self-defense, Your Honor.

11 THE COURT: Self-defense. Okay.

12 ASST. SOL. FERGUSON: And more specifically, Your
13 Honor, the defendant states in his statement that Mr.
14 Litchfield testified to that the victim was actually
15 aggressive. That she pulled out a knife and swung at him,
16 at which point, he did a side-step defense maneuver, hitting
17 her elbow, causing her to stab herself. And so, you know, I
18 think that the prior evening would help the jury understand
19 the context of this dispute on the 20th between these two
20 people. This isn't an isolated incident. It actually began
21 the night before and continued over.

22 Now, Mr. Hughes did say that the victim voluntarily
23 came to where the defendant was. Well, that was at the
24 request of the defendant. He requested Akera Nelson, who is
25 the daughter, bring their child and the victim was in the

1 child with them. And so, you know, we would disagree with
2 her just going over there to try and start something, Your
3 Honor, that she was the aggressor.

4 THE COURT: Okay. Well, I would guess that the
5 previous -- or the first incident and the continuing
6 problems just goes to intent notice, not an accident when it
7 occurred. The incident the night before ---

8 ASST. SOL. FERGUSON: Yes, ma'am.

9 THE COURT: --- what exactly do you intend on putting
10 out there? That they had words, that there was a fight,
11 that the police came out?

12 ASST. SOL. FERGUSON: Two separate pieces of evidence.
13 The first thing in Officer's Smith's testimony that he
14 responded to a call about Mr. Scott calling the victim and
15 harassing her.

16 THE COURT: Okay.

17 ASST. SOL. FERGUSON: Then, the defendant's own
18 explanation of the night before. He's overheard on the 20th
19 saying, "Yeah, I went to that apartment to kill her, but she/
20 called the police, so I had to hide in the dumpster."

21 THE COURT: Okay.

22 ASST. SOL. FERGUSON: So those two separate pieces of
23 evidence to show what occurred on the 19th.

24 THE COURT: Okay. Mr. Hughes?

25 MR. HUGHES: Your Honor, I believe the State is trying

1 to connect two separate incidents in this matter. Most of
2 what happened the night before would be hearsay, based upon
3 the fact that the victim was one of the people involved. I
4 do not know exactly what happened that night; no one does.
5 I do know that there was no confrontation between the victim
6 and the defendant that night; that no statements were given
7 to law enforcement. As far as written statements, there
8 have been none presented as far as the incident the night
9 before. And that the statement of what my client said was
10 not given to law enforcement until days after the incident.

11 It's basically obvious the Solicitor is trying to
12 bolster their case by trying to connect two separate
13 incidents, Your Honor, and I do not think that they can
14 because ---

15 THE COURT: Well, if they didn't have any contact and
16 it sounds to me like there are just ill-words, but no actual
17 contact, but if it did result in her calling the police and
18 have the police come out, and I'm assuming she gave her
19 story to Det. Smith. How else is he supposed to prove
20 intent? How is he supposed to prove malice in a murder
21 charge? I don't know how else he would. Because you're
22 going to claim that she was the aggressor and this was an
23 accident and apparently she stabbed herself; is that your
24 side?

25 MR. HUGHES: Yes, Your Honor.

1 THE COURT: Just so I know, how did she end up dying?
2 Was it through one stab or ---

3 MR. HUGHES: One stab wound to the carotid artery. She
4 basically bled out, Your Honor. She suffered from heart
5 failure, I think, a day later.

6 THE COURT: Okay. How were the police called when she,
7 in fact, was stabbed?

8 ASST. SOL. FERGUSON: Witnesses to the actual stabbing
9 called. First, the defendant's sister, Shareema Behlin;
10 second, Akera Nelson, the deceased's daughter. They both
11 called 9-1-1.

12 THE COURT: To get someone to come help.

13 ASST. SOL. FERGUSON: Yes, ma'am.

14 THE COURT: Do you have any case law that shows that
15 with it being the evening before, being too far, Mr. Hughes,
16 as far as not contemporaneous enough? Because there does
17 seem to be an existing and ongoing fight.

18 MR. HUGHES: Not at this time, Your Honor. We were
19 handed this just a few minutes ago. I might in the morning.

20 THE COURT: Are we going to go ahead and start the
21 trial today or are we just going to just poll the jury? What
22 are we going to do?

23 ASST. SOL. FERGUSON: Your Honor, I would ask that we
24 start with openings in the morning.

25 THE COURT: All right. Well, I'll give you an

1 opportunity as to this issue to find some case law. I can
2 just tell you that my inclination is certainly for the
3 totality with res gestae of the entire case, you do have to
4 show that it is an ongoing problem. I think it also goes to
5 intent and motive back and forth, particularly if you're
6 going to raise a defense of accident or that she was the
7 aggressor and that she stabbed herself.

8 Additionally, because this ongoing feud is not a result
9 of say a specific conviction or any other unrelated bad act
10 to this incident, I mean, just for a probative value, it
11 just shows and tells the whole story, and I really do think
12 the probative value would outweigh any prejudice. But I
13 feel that whatever you present as far as case law for either
14 one of you in the morning, you're welcome to do it.

15 MR. HUGHES: Thank you, Your Honor.

16 THE COURT: Okay. What other motions do we have?

17 ASST. SOL. FERGUSON: I guess I'm kind of bringing up
18 one of Mr. Hughes' anticipated objections, but we prepped
19 this case for trial at the last term of Court and it's back
20 up today, and one of the issues that Mr. Hughes has brought
21 to my attention is that he has an objection to the entering
22 of the 9-1-1 tapes, and so I just wanted to bring that to
23 Your Honor's attention, because I definitely intend on
24 calling two separate 9-1-1 dispatchers, the two different
25 persons who received the call from the incident location.

1 THE COURT: And that was the 9-1-1 tapes from the
2 defendant's sister who called ---

3 ASST. SOL. FERGUSON: Yes, ma'am. On the 20th of
4 March.

5 THE COURT: --- okay. And the other person who called
6 in was?

7 ASST. SOL. FERGUSON: Akera Nelson, the deceased's
8 daughter.

9 THE COURT: The deceased's daughter.

10 ASST. SOL. FERGUSON: The mother of ---

11 THE COURT: What is the name of the mother?

12 ASST. SOL. FERGUSON: Yes, ma'am.

13 THE COURT: Okay. Now, I've got it.

14 MR. HUGHES: Your Honor, he's handed me a third 9-1-1
15 tape of the night before, which I will definitely object to.
16 Your Honor, with the two 9-1-1 tapes that he's given me
17 before, both Akira and -- sorry, I cannot pronounce the
18 name. I think it's Shareema, my client's sister. Akera and
19 Shareema, they've called both parties as witnesses, Your
20 Honor. All they're doing is trying to bolster any testimony
21 they would be giving. I can see possibly using it to
22 impeach if they change their story, but if you're going to
23 call the person who made the call anyway, why play the 9-1-1
24 tape, except in order to hear the panic and the distress in
25 the voice, causing an emotional response on the part of the

1 jury?

2 There's no reason -- there's no need to bring the 9-1-1
3 tape in, other than to excite the jury. There's no
4 probative value to it.

5 THE COURT: Well, except that it's a contemporaneous
6 recording of what occurred at the time. It's probably the
7 best evidence.

8 MR. HUGHES: Your Honor, if he wishes to use it to
9 impeach any statement the witness gives, he's going to call
10 both people that made the 9-1-1 tape. Why add it to it? I
11 mean, all he's doing is basically, going, "Here, listen to
12 this excited woman call 9-1-1," instead of talking to the
13 person on the stand.

14 ASST. SOL. FERGUSON: Well, Your Honor, they are on my
15 potential witness list. I get to call anybody in this case.
16 You know, it's just a potential list. Your Honor, it is the
17 best evidence to set the scene. It establishes
18 jurisdiction. It shows who was the first one to call in
19 response to her getting stabbed. It shows what law
20 enforcement had in their mind upon arriving at the scene.
21 And so, I've never really had to argue for the admission of
22 9-1-1 tapes, Your Honor. I'll be happy to address any
23 concerns you have.

24 THE COURT: I don't see it as an issue. I think if
25 you're just using it to replay it by a different way, and I

1 have no idea what they are going to testify to.

2 MR. HUGHES: Well, Your Honor, like I said, I have no
3 problem if he's using it impeach. I think the only thing --
4 my objection to it is that all he is doing is bolstering the
5 witness statement and ---

6 THE COURT: Well, I'll tell you what he's going to do,
7 he's going to call them and he's going to play it for them
8 and say, "Is that you calling 9-1-1? Is that what you just
9 witnessed?" "Yeah." I'm assuming that's what he is going
10 to do.

11 ASST. SOL. FERGUSON: Your Honor, quite frankly, you
12 know, this is an exception to hearsay. I do have both the
13 9-1-1 operators who took in the call, one of which whom is a
14 records custodian, and so this is a record that is kept in
15 the regular course of business that is extremely relevant
16 and probative to the case at hand, and so, that is my
17 intent.

18 MR. HUGHES: I would object that the prejudicial value
19 definitely outweighs the probative value, especially if you
20 have a witness who is going to be testifying anyway or could
21 be testifying.

22 THE COURT: Okay. It's the best evidence, so I
23 certainly think it's probative under Rule 403, so I'm going
24 to allow it.

25 MR. HUGHES: Okay.

1 THE COURT: Anything else?

2 ASST. SOL. FERGUSON: Not from the State, Your Honor.

3 MR. HUGHES: Not from defense, Your Honor.

4 THE COURT: How long is it going to take to try, you
5 all?

6 ASST. SOL. FERGUSON: Your Honor, I like to consider
7 myself fairly concise, and I would say I'm calling all of my
8 witnesses to be ready by tomorrow.

9 MR. HUGHES: There is a good chance that this could go
10 to the jury Wednesday afternoon, Your Honor.

11 THE COURT: Wednesday afternoon, okay. Well, I just
12 want to figure out for alternates, just because it is a
13 murder case, I am going to put two alternates on. Ms.
14 Rankin, we'll go ahead and try to pull your second case as
15 well, if we have enough jurors. Obviously, the strikes are
16 five and ten. Any requested voir dire from anybody?

17 MR. HUGHES: None from the defense.

18 THE COURT: Okay. What time tomorrow morning? Can we
19 start at 9:30; is that acceptable to everyone?

20 ASST. SOL. FERGUSON: Yes, ma'am, Your Honor.

21 MR. HUGHES: No problem.

22 THE COURT: All right. Well, let's take a break before
23 we pull the jury.

24 -----

25 THE COURT: Mr. Ferguson, if you would please call your

1 case.

2 ASST. SOL. FERGUSON: The State calls Antonio Scott in
3 Indictment 2011-GS-27-192, for the offense of murder, Your
4 Honor.

5 THE COURT: Okay. Ladies and gentlemen, if you would,
6 again, give me your attention, we are about to begin the
7 case entitled the State of South Carolina v. Mr. Antonio
8 Damazio Scott, charged in a bill of indictment by the grand
9 jury of Jasper County for the offense of murder.

10 Ladies and gentlemen, the State in this case is being
11 represented by Mr. Robbie Ferguson and Ms. Meredith Bannon.
12 (BOTH STAND AND FACES THE JURY PANEL.)

13 THE COURT: Thank you. Additionally, Mr. Scott is
14 being represented by Mr. Bob Hughes. Mr. Scott, if you and
15 Mr. Hughes would both stand and face the jury panel.

16 (MR. HUGHES AND MR. SCOTT BOTH STAND AND FACE THE JURY
17 PANEL.)

18 THE COURT: Thank you. You may be seated you all.
19 Ladies and gentlemen of the jury panel, is there any member
20 of the jury panel related by blood, connected by marriage to
21 the defendant in this case, Mr. Antonio Scott? If so,
22 please stand.

23 (NO RESPONSE.)

24 THE COURT: Additionally, is there any member of the
25 jury panel who is a close personal friend or share a special

1 excuse you from the trial of this case. Stick around, I
2 have a second jury to pull. Okay?

3 THE COURT: All right. Ladies and gentlemen, the
4 allegations are in this case that in Jasper County, on or
5 about March 20th of 2011, that Antonio Scott did kill Ms.
6 Cynthia Nelson by means of a stabbing and she died here in
7 Jasper County on March 21st, 2011, as a result of that
8 stabbing. Does any juror have any independent knowledge
9 about this case whatsoever? If so, please stand.

10 (JURORS STAND.)

11 THE COURT: Sir, give me your name and juror number and
12 I'm just going to ask you to come speak to me, okay? But
13 just for the record, your name and juror number?

14 JUROR: Larry Rhines.

15 THE COURT: All right, Mr. Rhines, why don't you come on
16 over here and speak with me?

17 JUROR: (APPROACHES BENCH.) I know him. I mean, I
18 just heard -- we used to play basketball together.

19 THE COURT: Okay. But what have you heard?

20 JUROR: Well, nothing about this case here.

21 THE COURT: Okay. Did you know the victim?

22 JUROR: Kind of.

23 THE COURT: How did you know her?

24 JUROR: By my wife through my home boy.

25 THE COURT: Okay. So you heard about it on the street?

1 ASST. SOL. FERGUSON: Please present Mr. Priester.

2 MADAME CLERK: What says the defense?

3 MR. HUGHES: Please seat the juror.

4 MADAME CLERK: Come forward, sir. Alternate number
5 Two, number 27, Jeannie Burden. What says the State?

6 ASST. SOL. FERGUSON: Please present Ms. Burden.

7 MADAME CLERK: What says the defense?

8 MR. HUGHES: Please excuse the juror from the trial of
9 this case.

10 MADAME CLERK: Thank you, ma'am. Juror number 5, Danny
11 Albert. What says the State?

12 ASST. SOL. FERGUSON: Please present Mr. Albert.

13 MADAME CLERK: What says the defense?

14 MR. HUGHES: Please excuse the juror from the trial of
15 this case.

16 MADAME CLERK: Thank you, sir. Juror number 104, Wendy
17 Kelly. What says the State?

18 ASST. SOL. FERGUSON: Please present Ms. Kelly.

19 MADAME CLERK: Does the defense have cause for strike?

20 MR. HUGHES: No, ma'am.

21 MADAME CLERK: Please come forward, ma'am, and have a
22 seat as Alternate Two.

23 THE COURT: Are there any matters of law that we need
24 to take up regarding jury selection process, from the State?

25 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

1 THE COURT: From the defense?

2 MR. HUGHES: No, Your Honor.

3 THE COURT: All right. Well, ladies and gentlemen,
4 welcome. I'm sure you understand, you are the jury in my
5 first case. Before I go ahead and excuse you for the
6 remainder of the day to report tomorrow morning at 9:30,
7 there are just a couple of guidelines that I need to give
8 you before I excuse you back to your jury room.

9 Jo is going to give you a few more guidelines as to
10 where to come in the morning when you report. But ladies
11 and gentlemen, most importantly to begin with, you are not
12 to discuss this case with anyone, and that includes family,
13 friends, or each other, until you have heard all of the
14 evidence in this case and you have heard the arguments from
15 the lawyers and my charge on the law. Again, it would be
16 inappropriate for you to do that. The only thing you are
17 permitted to do when you go home tonight and see a loved one
18 is say that I've been chosen as a juror in a criminal case.
19 You cannot say the parties involved, you cannot say the
20 attorneys that are involved, or anything about this case.
21 And the reason why is, inevitably, someone is going to try
22 to tell you something about something when they know
23 absolutely nothing about this case, and it would be highly
24 inappropriate for you to be influenced in any way.

25 Additionally, ladies and gentlemen, I am ordering that

1 sure that you have not spoken with any of the other jurors
2 about your relationship or knowing the defendant.

3 WITNESS: No, ma'am.

4 THE COURT: You have not?

5 WITNESS: No, ma'am.

6 THE COURT: All right. Well, I will go ahead and
7 excuse you. I am going to ask that you call back on the
8 juror line tonight after 6:00 to determine whether or not
9 you will have to come back for the next trial. Okay?

10 WITNESS: Okay. Thank you.

11 THE COURT: Thank you.. All right. What else do we
12 need to take up this morning?

13 MR. HUGHES: Your Honor, yesterday I forgot to move to
14 sequester the witnesses. I would do so at this time.

15 THE COURT: Okay. Any problem with that, Mr. Ferguson?

16 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

17 THE COURT: Okay. Let's go ahead and sequester the
18 witnesses.

19 ASST. SOL. FERGUSON: And Your Honor, I would ask that
20 my Investigator Litchfield be exempt from that Order, as my
21 lead Investigator.

22 MR. HUGHES: I have no problem with that, Your Honor.

23 THE COURT: Okay.

24 MR. HUGHES: Your Honor, also you gave me time to
25 review what Mr. Ferguson gave me yesterday and I have done

1 so and I find no appropriate case law to override his
2 paperwork.

3 THE COURT: Okay. You withdraw your motion?

4 MR. HUGHES: Yes, Your Honor.

5 ASST. SOL. FERGUSON: And Your Honor, just briefly for
6 the record, I had represented to the Court yesterday my
7 intentions to cut the Axon video off at 12 minutes and 54
8 seconds. Upon my further review last night, I've actually
9 reduced that amount to 7 minutes and 20 seconds. I don't
10 think that that would created any additional objection. I
11 think he actually waived those, but just so that I didn't
12 misrepresent to the Court what I intend to produce.

13 MR. HUGHES: I've reviewed up to the 13 minute mark and
14 I have no problems with that, Your Honor.

15 THE COURT: Okay.

16 MR. HUGHES: So if he wants to cut it shorter, I would
17 have no objection.

18 THE COURT: Okay.

19 ASST. SOL. FERGUSON: And Your Honor, finally, Mr.
20 Hughes pointed out this morning that on the indictment it
21 does read that Cynthia Nelson died in Jasper County as a
22 proximate result of the stabbing. Well, in fact, she was
23 declared dead and was transferred to Savannah. So I would
24 ask Your Honor to just basically scratch out "in Jasper
25 County" as a Scribner's error on the indictment.

1 THE COURT: Okay. Any objection?

2 MR. HUGHES: No, Your Honor.

3 THE COURT: Y'all, do I have that indictment? Oh,
4 okay, I've got it right here. Okay. I will go ahead and
5 strike that out and make the change on the indictment.

6 ASST. SOL. FERGUSON: And I think what the excused --
7 with removing juror number 132, that puts the juror 153, Mr.
8 Priester, as our twelfth juror.

9 THE COURT: It does.

10 ASST. SOL. FERGUSON: Okay. Thank you, Your Honor.

11 MR. HUGHES: Nothing else, Your Honor.

12 THE COURT: Okay. Y'all ready for opening statements?

13 ASST. SOL. FERGUSON: Yes, ma'am, Your Honor.

14 MR. HUGHES: Yes, Your Honor.

15 THE COURT: All right. Bring us the jury, please.

16 (10:00 A.M., 12-6-11, WHEREUPON THE JURY ENTERS THE
17 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: Good morning, ladies and gentlemen, and
19 welcome back. Mr. Priester, I'm sure you know now that I
20 had to relieve a juror, so you are now a member of this
21 jury, sir. I appreciate your willingness.

22 Ladies and gentlemen, at this time, what we have to do
23 is hear the opening statements from the attorneys. I, also,
24 am going to give you an important introduction to the trial
25 of the case, but before we do all of that, Ms. Bostick, your

1 witnesses, to observe them, to listen to them, and to pay
2 close attention to the attorneys during their argument into
3 the Court, so at the very end of this case you can
4 accurately remember what has been testified to.

5 Ladies and gentlemen, because I don't think this case
6 is going to take too terribly long, I am not going to permit
7 you to take notes. If for some reason I do think it will
8 aid you in some way, we would give you pads and pens. I am
9 simply asking that you sit back and give your attention to
10 the attorneys in this case.

11 Any objections from the State or the defense or any
12 additions?

13 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

14 MR. HUGHES: No, Your Honor.

15 THE COURT: Thank you. Ladies and gentlemen, we're
16 going to begin the trial of this case. Mr. Ferguson.

17 ASST. SOL. FERGUSON: Thank you, Your Honor. May it
18 please the Court?

19 THE COURT: Yes, sir.

20 OPENING STATEMENT

21 BY ASST. SOL. FERGUSON:

22 So this is how it's going to be. You're gonna let your
23 momma get in between us. So this is how it's gonna be.
24 You're gonna let your momma get in between us. That's what
25 the defendant, Antonio Scott, said to Akera Nelson while

1 threatening her with a knife. The same knife that he would
2 use moments later to kill Cynthia Nelson, her mother.

3 The same knife that was no where to be found when the
4 defendant fled the scene. This is a case about a mother
5 standing up for her child. Cynthia Nelson standing up for
6 Akera Nelson.

7 This tragedy started March the 19th, 2011. Cynthia
8 Nelson was driving home when she saw the defendant, Antonio
9 Scott, standing out in front of her apartment. She called
10 the police. Officer Kevin Smith responded. He didn't find
11 Antonio Scott. He didn't find Antonio Scott, because
12 Antonio Scott was hiding in a nearby dumpster.

13 Now, we know this because the next day on March the
14 20th, the defendant is overheard saying that he went to
15 Cynthia Nelson's house that night to kill her, and that he
16 had to hide in that dumpster when the police came.

17 So this is how it's gonna be. You're gonna let your
18 momma get in between us. This is a case about a mother
19 standing up for her child; about Cynthia Nelson standing up
20 for Akera Nelson. Antonio Scott stabbed Cynthia Nelson
21 through the left side of her face severing her carotid
22 artery, causing her to lose almost all of the blood in her
23 body. She was first taken to Coastal Carolina here in
24 Hardeeville, then transferred to Savannah, where on March
25 the 21st, she was pronounced dead two days after the

1 defendant hid in a dumpster outside of her apartment. One
2 day after he stabs her for getting in between he and Akera
3 Nelson.

4 Ladies and gentlemen, this is a case about a mother
5 standing up for her child. About Cynthia Nelson standing up
6 for Akera Nelson. At the end of this trial, I'm going to
7 come up and ask you to find the defendant guilty for
8 murdering Cynthia Nelson. Thank you.

9 THE COURT: Mr. Hughes.

10 MR. HUGHES: May it please the Court?

11 THE COURT: Yes, sir.

12 OPENING STATEMENT

13 BY MR. HUGHES:

14 I know everyone of you has watched a television show
15 that had a trial in it, because we all watch them. They're
16 fun. They're entertaining, they're exciting. This isn't
17 television. This is real life. Some of this is going to
18 seem boring to you. Some of this is going to make you
19 wonder what in the world are those people doing? But it is
20 what we do to ensure justice.

21 My client is not guilty. My client comes to you to
22 have y'all find out the truth. That's what a verdict means,
23 "truth". You are the finders of the fact. You are the ones
24 who determine truth. There is probably 500 years of life
25 experience sitting in those twelve chairs. You do not leave

1 your common sense when you sit in those chairs. You do not
2 leave your life experience.

3 Listen and watch everyone. Your job is to find out the
4 truth. This isn't television. I'm not Perry Mason. No one
5 is going to stand up in the back at the end of the half hour
6 and go, "No, I did it." This is real life. Pay close
7 attention, listen, watch. Use that 500-plus of life
8 experience, common sense, knowledge, and 24 eyes, 24 ears,
9 and get the truth. When this is over, I'm going to come
10 back and talk to you and the first thing I'm going to tell
11 you is I told you it wasn't anything like television, and
12 y'all will agree with me. Thank you.

13 THE COURT: Mr. Ferguson, you may call your first
14 witness.

15 ASST. SOL. FERGUSON: The State calls Lynn Shuman.

16 MADAME CLERK: Please come forward to be sworn.

17 (WHEREUPON, MS. LYNN SHUMAN IS DULY SWORN.)

18 THE COURT: Ms. Shuman, when you've sat down and
19 adjusted the microphone, will you please give us your name
20 for the record and spell your last name for my court
21 reporter.

22 MS. SHUMAN: Okay. Lynn Shuman, S-H-U-M-A-N.

23 DIRECT EXAMINATION

24 BY ASST. SOL. FERGUSON:

25 Q Good morning, Ms. Shuman.

1 A Good morning.

2 Q Who do you work for?

3 A Jasper County Dispatch.

4 Q And how long have you worked for them?

5 A For four years.

6 Q And what training did you have to undergo in order to
7 work for Jasper County 911?

8 A We had to go to SLED training and we also had to go to
9 E-911.

10 Q And were you working back on March the 20th of 2011?

11 A Yes.

12 Q And did you receive a call about an incident occurring
13 at Baytree Apartments that night?

14 A Yes.

15 Q Now, Ms. Shuman, I want to show you what's been
16 previously marked as State's Exhibit Number One for
17 identification purposes and see if you can recognize this
18 item.

19 ASST. SOL. FERGUSON: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 ASST. SOL. FERGUSON: Thank you.

23 Q So do you recognize that item, Ms. Shuman?

24 A Yes.

25 Q And what is it?

1 A It's the copy of the tape, the 911 call.

2 Q And prior to today's date, had you and I gone over that
3 audio portion?

4 A Yes.

5 Q And is that a fair and accurate depiction of the call
6 that came in that night?

7 A Yes.

8 Q Now, as part of your duties at Jasper County 911, do
9 you have access to the stored information on y'all's system?

10 A Yes.

11 Q And did you actually prepare that disc for this trial?

12 A I did.

13 Q And if I were to come to you and ask for a specific
14 call to 911 on a specific date, would you be able to
15 retrieve that information for me?

16 A Yes.

17 Q So would you consider yourself a records custodian?

18 A Yes.

19 Q Okay. Thank you.

20 ASST. SOL. FERGUSON: Your Honor, at this point, the
21 State would submit State's Exhibit Number One into evidence.

22 THE COURT: Any objection?

23 MR. HUGHES: None that haven't already been heard, Your
24 Honor.

25 THE COURT: Okay. Thank you. It's in evidence.

1 ASST. SOL. FERGUSON: Thank you, Your Honor.

2 (WHEREUPON, STATE EXHIBIT NUMBER ONE, CD OF 9-1-1 CALL,
3 IS ACCEPTED INTO EVIDENCE.)

4 Q Ms. Shuman, was there a second call that came in that
5 night?

6 A Yes.

7 Q And were you the one that answered that call?

8 A No.

9 Q And why was that?

10 A I believe I was dispatching law enforcement out at that
11 time.

12 Q But is that second call also on that audio?

13 A Yes.

14 Q Thank you.

15 ASST. SOL. FERGUSON: Your Honor, if I may approach the
16 witness?

17 THE COURT: You may.

18 ASST. SOL. FERGUSON: Your Honor, if I may publish the
19 two 9-1-1 calls to the jury?

20 THE COURT: You may.

21 (SOLICITOR PREPARES EQUIPMENT FOR PLAYING OF CALL.

22 (9-1-1 CALL BEGINS 10:15 A.M. -- CALL ENDS 10:18 A.M.)

23 Q Now, Ms. Shuman, are there two people on that audiotape
24 that you were talking to at the incident location?

25 A No, there was one.

1 Q Did the caller ever identify themselves?

2 A No.

3 Q Okay. And are you positive that the phone was never
4 passed to anybody else?

5 A I'm not positive, but ---

6 Q Would you disagree if I told you that there was two
7 people on that audio portion?

8 A No.

9 Q Okay.

10 (SECOND 9-1-1 CALL IS PLAYED AT 10:19 A.M.; ENDS 10:21
11 A.M.)

12 Q Now, Ms. Shuman, who was the 9-1-1 dispatcher that we
13 hear on that second call?

14 A Kimberly Carpenter.

15 Q Okay.

16 ASST. SOL. FERGUSON: Your Honor, I have no further
17 questions of this witness.

18 CROSS-EXAMINATION

19 BY MR. HUGHES:

20 Q Ms. Shuman, how many 9-1-1 calls do you generally get a
21 night, or a day, or a shift?

22 A It just depends; a lot.

23 Q And how long have you been working there?

24 A Four years.

25 Q And not an actual number, but a rough estimate, about

1 how many calls have you taken?

2 A (PAUSE.)

3 Q Thousands?

4 A Thousands, I'm sure.

5 Q And you're trained to listen to people and hear them,
6 correct?

7 A Yes.

8 Q So if you thought you were talking to one person, you
9 would probably realize when someone else came on the line?

10 A I'm sure, yes.

11 Q Okay. And because you need to know what's going on?

12 A Yes.

13 Q And you've always tried to establish a repore with the
14 person on the phone so that you can get more information out
15 of them?

16 A Yes.

17 Q So you're trained how to talk on the phone to people
18 who are hysterical?

19 A Yes.

20 Q Okay.

21 MR. HUGHES: No further questions.

22 THE COURT: Mr. Ferguson?

23 ASST. SOL. FERGUSON: Just briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY ASST. SOL. FERGUSON:

1 Q Ms. Shuman, you know, we just listened to these two
2 calls. And the first call, do you remember the caller
3 asking another person a question?

4 A Yes.

5 Q Okay. Now, do you remember another person making
6 direct comments about her mother?

7 A No, not really.

8 Q Well, she's being asked questions about the victim in
9 this case, and so it sounds like in that first call that one
10 person is asking another for the response to that question
11 that you're asking.

12 A Right. Yes.

13 Q And then would you disagree with me that that one
14 person who is being asked the questions then gets on the
15 telephone?

16 A Possibly, yes.

17 Q And if we need to, we can play it again. It's kind of
18 hard to hear and I apologize for that. So now, the second
19 portion, that's one person, correct?

20 A Yes.

21 Q Okay. And that person is referring to the victim as
22 her mother?

23 A Yes.

24 ASST. SOL. FERGUSON: Your Honor, I don't have any
25 further questions.

1 AND THE FOLLOWING IS HELD ON THE RECORD.)

2 THE COURT: All right, we're going to be at ease for
3 about ten minutes in this case.

4 THE COURT: All right. Are we ready to go?

5 ASST. SOL. FERGUSON: Yes, ma'am, Your Honor.

6 MR. HUGHES: Yes, Your Honor.

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

8 (10:36 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM

9 AND THE FOLLOWING IS HELD ON THE RECORD.)

10 THE COURT: Welcome back, ladies and gentlemen. Call
11 your next witness, Mr. Ferguson.

12 ASST. SOL. FERGUSON: Thank you, Your Honor. The State
13 calls Christopher Poventud.

14 MADAME CLERK: Please come forward and be sworn.

15 (WHEREUPON, MR. CHRISTOPHER POVENTUD IS DULY SWORN.)

16 THE COURT: Sir, if you would give us your name for the
17 record and spell your last name for my court reporter.

18 MR. POVENTUD: My name is Christopher Poventud. Last
19 name is spelled "P", as in Peter, O-V-E-N-T-U-D.

20 THE COURT: Thank you, sir.

21 DIRECT EXAMINATION

22 BY ASST. SOL. FERGUSON:

23 Q Good morning, Mr. Poventud.

24 A Good morning.

25 Q Who do you work for?

- 1 A Jasper County Fire Rescue.
- 2 Q And how long have you worked for them?
- 3 A For about going on three years now.
- 4 Q And what is your job there?
- 5 A Firefighter/paramedic.
- 6 Q And what kind of training did you have to undergo and
7 education in order to become a firefighter/paramedic?
- 8 A I had to take emergency medical training as a basic and
9 then I went on to take advanced life support training as a
10 paramedic for about a year; a total of about two years of
11 schooling.
- 12 Q And how many emergency calls would you say that you've
13 responded to in your career with Jasper County EMS?
- 14 A A lot. Probably over 500, maybe, a thousand.
- 15 Q And Poventud, were you working on March the 20th of
16 2011?
- 17 A Yes, sir.
- 18 Q And did you respond to a Baytree Apartments that
19 evening?
- 20 A Yes, sir.
- 21 Q And what did you respond to? What were you called out
22 for?
- 23 A It was dispatched as a possible stabbing, assault
24 victim.
- 25 Q And do you remember what time you were called out?

1 A It's on my paperwork, if you want me to look over it.

2 Q Please, sir.

3 A The initial call was received at 19:24, and we were
4 dispatched at 19:26.

5 Q And for us laymen, what time is 19:24?

6 A 19:24 would be 7:24 in the evening.

7 Q Okay.

8 A And we left dispatch at 7:26. So the call was received
9 at 7:24.

10 Q Okay. And what time did you arrive at Baytree
11 Apartments?

12 A On scene at 7:31.

13 Q What time did you wrap up the call and depart from
14 Baytree Apartments?

15 A We departed the scene at 7:40.

16 Q And what did you see when you got there?

17 A Per my report, when we walked in, a 48-year-old female
18 was found sitting on the couch in her home, slumped over to
19 her right side and patient had a significant amount of blood
20 on her clothing, emanating from her neck.

21 Q And what did you do?

22 A We started taking care of her. The first thing that we
23 want to do is remove her from the scene, so we put her on a
24 backboard, moved her to our ambulance, and at that point,
25 she went into traumatic cardiac arrest.

1 Q What would you say the medical condition of the victim
2 was upon your initial response?

3 A Very poor.

4 Q Okay. And did you check her vital statistics?

5 A Absolutely. Initially, when I checked her vital signs,
6 it says in my report that she had a very weak carotid pulse
7 and she was breathing agonally, and what that means is
8 basically it was just her last efforts of breathing and it
9 was probably about four breaths a minute. And normal should
10 be twelve to twenty breaths a minute.

11 Q Now, in your physical examination of this victim, did
12 you notice any trauma to her neck area, neck and face area?

13 A Yes, sir. Like I said, there was a lot of blood on her
14 shirt and it was emanating from a wound on her left lateral
15 side of her neck. It seemed like it was a penetrating
16 wound.

17 Q And what does that mean?

18 A That an object or some type of weapon was used to be
19 put into her neck.

20 Q Okay. Now, specifically, what was your first action
21 upon seeing the victim in her condition?

22 A The first action that I want to do is I want to control
23 the bleeding and control the hemorrhaging. So we took
24 trauma dressing that we have and we control the bleeding
25 with direct pressure.

1 Q Okay. And what did you do after that?

2 A We moved her onto a long spine board, because of a
3 trauma victim, we like to immobilize them. So we moved her
4 onto the spine board and immediately moved her out of the
5 house. We also provided her with oxygen since she wasn't
6 able to breathe on her own, breathing only about four times
7 a minute, through a bag-valve mask.

8 Q And what is that?

9 A It's a mask that has -- it's a squeeze mask. So what
10 we're actually doing is providing ventilation, assisting her
11 with ventilations by positive pressure ventilation and
12 that's what that mask does. It's a mask that goes over the
13 face and you provide the positive pressure ventilation as
14 you squeeze them.

15 Q Okay. Now, once you moved her inside the ambulance,
16 did you re-evaluate her condition?

17 A Absolutely.

18 Q And what was her condition at that point?

19 A At that point, when we re-evaluated her, she no longer
20 had a pulse, and we just immediately started chest
21 compressions, and we started cardiac arrest protocol.

22 Q And what is that cardiac arrest protocol?

23 A You start CPR, get all of your IV's going, you want to
24 intubate a patient so that you can secure an airway for
25 them.

1 Q And what does that mean?

2 A Intubation is when we actually take a tube and put it
3 into her trachea so that all the ventilation and oxygen that
4 we're providing, it immediately goes to her lungs. Then, we
5 went ahead and did so and then we start pushing our cardiac
6 medications for -- she was in PEA, pulseless electrical
7 activity, which means her heart is beating. It does have
8 some electrical current in it, but it's not enough to
9 actually perfuse the body, or actually send and flow blood
10 through the body to perfuse her organs.

11 Q So basically, did you attempt to put an IV in the
12 victim's body?

13 A Absolutely.

14 Q And were you successful in doing so?

15 A Yes.

16 Q Were there ever any negative attempts or any
17 unsuccessful attempts?

18 A Yes, sir. My Captain is also a firefighter/paramedic,
19 came to assist me on the scene. Initially, I tried to
20 intubate the patient. I was unsuccessful, and initially, he
21 tried to start an IV, simultaneously, and he was
22 unsuccessful. So we swapped positions and I initiated an
23 IV; it was successful, and he initiated intubation and he
24 was successful.

25 Q Given the nature of the victim's injury, why would it

1 be difficult to establish an IV?

2 A . Poor peripheral access. Also, the patient was a larger
3 patient, but since she's not flowing any blood or anything
4 like that, sometimes it can be difficult to obtain an IV.

5 An IV is -- once we start an IV, it flashes blood back, but
6 if there is no blood moving, it can't really get any flash
7 back into the chamber of my IV. So poor peripheral access,
8 and then like I said, the size of the patient.

9 Q How much blood loss would it take in order for you to
10 experience those difficulties in inserting an IV?

11 A Normal patient is from about four to six liters in
12 their body, so two to four liters you start experiencing
13 that type of difficulty.

14 Q So about half of somebody's blood.

15 A Yes, absolutely.

16 Q Now, you said that you administered some medication.
17 What were those medications?

18 A For a pulseless electrical activity, it would be
19 epinephrine, in a concentration of one in ten thousand, and
20 atropine, and you administer that every three to five
21 minutes; and that's part of the protocol. So initially, due
22 to not having the IV, you can also administer that
23 medication via the endotrachial tube that was placed into
24 her lungs, so we initially started administering that
25 medication through the endotrachial tube. Once the IV was

1 established, everything else goes intravenously.

2 Q And what do those medicines do?

3 A The epinephrine is natural occurring in your body, and
4 when we give it to you, it helps to stimulate the heart,
5 stimulate the electrical activity so we can start profusion.
6 Being in cardiac arrest, her body is no longer able to
7 continue the blood flow through her body.

8 Q Is it like adrenaline?

9 A Yes, absolutely.

10 Q Okay. Now, all of these things that we've talked
11 about, where did they occur? Where were you doing these
12 emergency medicine procedures?

13 A In the back of the ambulance, en-route to the hospital.

14 Q Okay. And what hospital did you take her to?

15 A Coastal Carolina Medical Center.

16 Q Okay. And I keep saying "her" and "the victim"; were
17 you ever able to establish the identity of the person you
18 were treating?

19 A Later on after, yeah.

20 Q Okay. Do you know if she was ever transferred from
21 Coastal Carolina Hospital?

22 A I believe so that she was transferred to a different
23 hospital once they stabilized her.

24 Q Okay.

25 ASST. SOL. FERGUSON: Your Honor, may we approach the

1 bench just briefly.

2 THE COURT: Yes, sir.

3 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
4 AND OUT OF THE HEARING OF THE JURY.)

5 Q I apologize, Mr. Poventud. I want to show you what's
6 been previously marked as State's Exhibits Four, Five, Six,
7 Seven, Eight and Ten, that have previously been marked for
8 identification purposes and ask you if you can identify
9 what's being shown in these photographs.

10 A Yes, sir.

11 ASST. SOL. FERGUSON: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 Q And Mr. Poventud, it specifically states that --
15 Exhibits for identification Four, Five, Six and Seven, what
16 do they show?

17 A They show the couch that the victim was found on when
18 we arrived on scene. They show that the blood was emanating
19 from her neck onto her clothing; it seems like it also is on
20 the couch as well. It has the wrapping for the trauma
21 dressing that I spoke of earlier that we used to control the
22 hemorrhaging from the patient's neck.

23 Q And are those fair and accurate depictions of what you
24 saw on March the 20th of 2011?

25 A Yes, sir.

1 Q And now, Eight and Ten, State's Exhibits for
2 identification, what do those two items show?

3 A Eight and ten show the patient -- actually, this is at
4 the hospital. It shows the penetrating wound that I spoke
5 of on the left lateral side of her neck. It shows her
6 intubated, what you see across her face is actually a holder
7 for the endotracheal tube that we placed into her neck.

8 Q And are those fair and accurate depictions of the wound
9 that you saw on March the 20th, 2011?

10 A Yes, sir.

11 ASST. SOL. FERGUSON: Your Honor, at this point, I
12 would move to have State's Exhibits Four, Five, Six, Seven,
13 Eight and Ten admitted into evidence.

14 THE COURT: Without objection, correct?

15 MR. HUGHES: No objection, Your Honor.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER FOUR, PHOTO, IS
17 RECEIVED INTO EVIDENCE.)

18 (WHEREUPON, STATE'S EXHIBIT NUMBER FIVE, PHOTO, IS
19 RECEIVED INTO EVIDENCE.)

20 (WHEREUPON, STATE'S EXHIBIT NUMBER SIX, PHOTO, IS
21 RECEIVED INTO EVIDENCE.)

22 (WHEREUPON, STATE'S EXHIBIT NUMBER SEVEN, PHOTO, IS
23 RECEIVED INTO EVIDENCE.)

24 (WHEREUPON, STATE'S EXHIBIT NUMBER EIGHT, PHOTO, IS
25 RECEIVED INTO EVIDENCE.)

1 (WHEREUPON, STATE'S EXHIBIT NUMBER TEN, PHOTO, IS
2 RECEIVED INTO EVIDENCE.)

3 ASST. SOL. FERGUSON: And Your Honor, I would wish to
4 publish these to the jury.

5 THE COURT: They're in evidence.

6 ASST. SOL. FERGUSON: And if my witness may step down,
7 we're going to use the Elmo machine.

8 THE COURT: Mr. Poventud, you may step down, sir.

9 MR. POVENTUD: Thank you, ma'am.

10 (TECHNICAL DIFFICULTIES WITH THE ELMO MACHINE.)

11 ASST. SOL. FERGUSON: Your Honor, I promise we did
12 check this out beforehand and it was working fine.

13 Q Mr. Poventud, we'll do this the old-fashioned way. If
14 you will help me, and what we will do is make sure that
15 everybody on the jury can see these. If you can tell them
16 what they are looking at in these photographs. I'm going to
17 give you what's been entered into evidence as State's
18 Exhibit Number Four, and if you can show that to the entire
19 panel and explain to them what they are looking at.

20 A This is the couch that the victim was found on when we
21 first arrived on scene. As you can see right here, there is
22 blood, and I was talking about it was emanating from the
23 patient's neck through her clothes onto the couch. And the
24 trauma dressing that I spoke of, that's the wrapper for it.

25 Q And now State's Exhibit Number Five, if you could do

1 the same thing.

2 A Just a closer view of everything that I just explained.

3 THE COURT: Mr. Poventud, if you'll walk a little bit
4 down here to these jurors, that would be good.

5 MR. POVENTUD: Yes, ma'am.

6 THE COURT: I'd appreciate it. Thank you.

7 Q This is State's Exhibit Number Six.

8 A Just another angle of the blood that was emanating from
9 her and the couch that we found the victim on.

10 Q State's Exhibit Seven -- and I want to ask you a
11 question. If you can show them that picture. What does
12 that picture show?

13 A Shows blood on the floor.

14 Q Now, do you know if that blood was there before y'all
15 attempted to move the victim or not?

16 A No, I don't, sir.

17 Q Could it have gotten there when you moved her?

18 A Possibly.

19 Q Okay. If you could show that to the remainder of the
20 panel.

21 (WITNESS COMPLIES.)

22 Q This is State's Exhibit Number Eight.

23 A This is actually at the hospital. We took pictures and
24 this shows the wound on the left lateral side of the
25 patient, that penetrating wound, and as I was talking about

1 the device that we use to hold the endotrachial tube in
2 place; that's what that strap is.

3 Q And finally, Mr. Poventud, State's Exhibit Number Ten.

4 A Same picture, just a closer view of the penetrating
5 wound and the device holding the endotrachial tube.

6 Q All right, Mr. Poventud, if you would take your seat
7 back up on the stand.

8 ASST. SOL. FERGUSON: Your Honor, I wish to pass these
9 to the jury, just in case they didn't quite a good look at
10 it.

11 MR. HUGHES: No objection.

12 THE COURT: Okay.

13 Q Mr. Poventud, what time did y'all arrive at the
14 hospital?

15 A Arrival time at the hospital was 7:54 in the evening,
16 p.m.

17 Q Now, understanding that things take time, was there
18 anything that could have been done differently if you would
19 have arrived earlier or if she would have arrived at the
20 hospital earlier?

21 A All the same actions, whether what time we arrived,
22 would have been -- I mean, if we would have arrived 15
23 minutes earlier, 15 minutes later, the same actions would
24 have occurred.

25 Q Thank you, Mr. Poventud. I have no further questions

1 of you.

2 THE COURT: Mr. Hughes.

3 CROSS-EXAMINATION

4 BY MR. HUGHES:

5 Q And how much blood did you say she had lost?

6 A Probably about a liter to two liters of blood.

7 Q Okay. I thought earlier you said about four liters.

8 A No, I said it would take about two to four liters to
9 start knowing some peripheral access changes when I was
10 starting my IV. Q So basically, I think we're all used to
11 a liter is the large drink, so a two liter bottle, right?

12 A Yes.

13 Q Did you have a chance to look around the apartment any?

14 A No. Immediately, the patient needed my attention. I
15 did not look around the apartment or anything. All of my
16 attention was focused immediately to the patient.

17 Q Did you see anywhere where someone might have also been
18 trying to stop the blood flow?

19 A No.

20 MR. HUGHES: No further questions, Your Honor.

21 ASST. SOL. FERGUSON: No, ma'am, Your Honor. I wish
22 that this witness be excused.

23 MR. HUGHES: No objection.

24 THE COURT: You are excused, sir. Thank you.

25 MR. POVENTUD: Thank you, ma'am.

1 THE COURT: If the State will call the next witness.

2 ASST. SOL. FERGUSON: The State calls Officer Rob

3 Nelson.

4 THE COURT: Please come forward, sir, to be sworn.

5 WHEREUPON, MR. ROB NELSON, IS DULY SWORN.

6 DIRECT EXAMINATION

7 BY ASST. SOL. FERGUSON:

8 Q Good morning, Officer Nelson.

9 A Good morning.

10 Q Who do you work for?

11 A I work for the Town of Ridgeland Police Department.

12 Q And how long have you worked for them?

13 A It's been a total of probably about 12 years.

14 Q And what do you do for them?

15 A I'm a reserve police officer.

16 Q Okay. What does that mean?

17 A Basically, I carry out the duties of a police officer,
18 but don't get paid.

19 Q Now, were you working in that capacity back on March
20 the 20th, 2011?

21 A Yes.

22 Q And did you respond to a call to Baytree Apartments
23 that day?

24 A Yes.

25 Q Now, Baytree Apartments, where is that located?

1 A It's off of First Avenue.

2 Q And is that in the City Limits of Ridgeland?

3 A Yes.

4 Q And is that in Jasper County?

5 A Yes.

6 Q Thank you. Now, what did you see when you arrived
7 there?

8 A I arrived right behind Officer Smith and just a
9 commotion and somebody stated that ---

10 Q Well, I don't want to talk about what people stated,
11 but what did you see and what did you do?

12 A Well, just people was screaming loud and some people
13 was hollering. I couldn't understand what some of them was
14 saying, and I was walking up to the apartment.

15 Q And did you go look for the defendant?

16 A Yes.

17 Q And where did you go to look for the defendant?

18 A I went to the right of the apartment, behind the
19 apartment.

20 Q Okay. So what's behind the apartment?

21 A There's a couple of houses.

22 Q And what did you see back there?

23 A There was a crowd back there and I saw them and asked
24 them if anybody had seen the suspect run back there and they
25 was telling me to leave.

1 Q So how many people would you estimate were back there?

2 A I'd estimate at least twenty.

3 Q And were they cooperative with you?

4 A No. No.

5 Q Now, did you have information that the defendant had
6 run back that way?

7 A Yes.

8 Q Okay. And you asked those twenty or so persons if they
9 had seen the defendant?

10 A Yes.

11 Q And what did they tell you?

12 A They told me to leave.

13 Q Okay. Do you know who lives back there?

14 A No.

15 Q Okay. Now, what else did you do?

16 A I came back and I reported back to Smith and tell him
17 that the people asked me to leave and he just wanted me to
18 stand in front of the door where nobody could come in.

19 Q And did you do so?

20 A Yes.

21 Q Okay. Did y'all allow anybody in or out of that
22 apartment? In other words, did you just secure that scene?

23 A Yes.

24 Q Okay. Now, did you also have to perform what I would
25 call "crowd control"?

1 A Yes.

2 Q And why is that?

3 A There was people gathered in front of the apartment, on
4 the side of the apartment, starting a large crowd, and I
5 don't know where they came from; but Smith asked me to try
6 and keep everybody back.

7 Q Do you know if it's the same group of twenty or so
8 people that you saw behind the apartments that were then
9 gathering at the apartments?

10 A I don't know.

11 Q Okay. And what did you tell them?

12 A Told them to stand back, stand back, and then some
13 people refused, so I got on my P.A. and tell them to stand
14 back.

15 Q Now, did you assist Officer Smith in clearing the
16 at Baytree?

17 A No.

18 Q Okay. Did you assist him in a search for any type of
19 weapon?

20 A No.

21 Q Okay. Officer Nelson, I appreciate it. I have no
22 further questions for you.

23 THE COURT: Mr. Hughes.

24 CROSS-EXAMINATION

25 BY MR. HUGHES:

1 Q Just a couple of quick questions, Officer Nelson. Are
2 you related to Cynthia Nelson?

3 A Yes.

4 Q Are you related to Akera Nelson?

5 A Yeah.

6 Q Did you talk to Akera that day?

7 A No.

8 Q How are you related to her?

9 A Cynthia Nelson is my mother's niece.

10 MR. HUGHES: No further questions, Your Honor.

11 ASST. SOL. FERGUSON: Just briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY ASST. SOL. FERGUSON:

14 Q Did that relationship in any way affect what you did
15 that day?

16 A No.

17 ASST. SOL. FERGUSON: Thank you.

18 THE COURT: Anything further, Mr. Hughes?

19 MR. HUGHES: No, Your Honor.

20 THE COURT: Any objection to Officer Nelson being
21 excused?

22 MR. HUGHES: No, Your Honor.

23 THE COURT: You are excused, sir, thank you. If the
24 State will call the next witness.

25 ASST. SOL. FERGUSON: Yes, ma'am, Your Honor. The

1 State calls Officer Kevin Smith.

2 WHEREUPON, OFFICER KEVIN SMITH IS DULY SWORN.

3 DIRECT EXAMINATION

4 BY ASST. SOL. FERGUSON:

5 Q Officer Smith, who do you work for?

6 A The Ridgeland Police Department.

7 Q What do you do for them?

8 A I'm a patrol officer.

9 Q And how long have you been a patrol officer?

10 A A total of about five, five and a half years.

11 Q And what education and training did you have to undergo
12 in order to become a patrol officer?

13 A I have a Bachelor in Science from the University of
14 South Carolina and I have a high school diploma, and then I
15 was a reserve officer for a couple of years prior to going
16 full time.

17 Q And did you have to go to the police academy?

18 A Yes, sir, I did.

19 Q And were you working back on March the 20th of 2011?

20 A Yes, sir.

21 Q And did you receive a call out to Baytree Apartments
22 that day?

23 A Yes, sir.

24 Q And what was that call for?

25 A It was for a stabbing.

1 Q And did you in fact respond to that location?

2 A Yes, sir, I did.

3 Q And what did you see when you got there?

4 A When I got there, there were several people that were
5 standing outside of an apartment, obviously upset. I went
6 inside the apartment and I found the victim. She was laying
7 on a couch, bleeding from her neck. There was a small child
8 that was standing on the couch. I motioned for one of the
9 adults in there to get the child and take him out. Then, I
10 checked the building to make sure everything was secure for
11 EMS to respond.

12 Q Now, you said you checked the building, what were you
13 checking the apartment for?

14 A To make sure the suspect was still not on the scene and
15 it was safe for EMS to respond.

16 Q And by "suspect," who do you mean?

17 A Antonio Scott.

18 Q Now, do you see Mr. Antonio Scott, the one that you're
19 speaking of, in the courtroom today?

20 A Yes, sir, I do.

21 Q And could you point him out for the jury, please?

22 A He's sitting right there in the red shirt.

23 Q Thank you. So you did not find the defendant, Mr.
24 Scott, inside that apartment?

25 A No, sir, I did not.

1 Q And what did you do next?

2 A Once the scene was secured for EMS, I stood by at the
3 door for a few moments until EMS got there. Once they were
4 on scene, I made sure they were okay and then I proceeded
5 around the apartment complex to check on Officer Nelson to
6 see if he had made contact with the suspect at that point.

7 Q And what was going on behind the apartment?

8 A Behind the apartment, there are some houses back there,
9 and there was a party that was going on in that area, but
10 directly behind the apartment complex, the victim's daughter
11 was staying there, and she was obviously upset. She was
12 yelling about the incident and referencing Mr. Scott.
13 Officer Nelson was walking back towards me and he said that
14 nobody had seen anything, but he had heard that Mr. Scott
15 had run that way.

16 Q Now, did you speak to any of the persons you saw behind
17 that apartment?

18 A Outside of Officer Nelson, I do not believe so.

19 Q Okay. How many people would you say were back there?

20 A At the party?

21 Q Yes.

22 A I'm not sure.

23 Q And do you know who lives back there?

24 A I believe it's a Ms. Howard ---

25 Q Okay.

1 A --- but I'm not 100 percent sure on that.

2 Q Okay. And do you know of any relationship between Mr.
3 Scott and the Howards?

4 A No, sir.

5 Q Okay. Now, did you make contact with Ms. Akera Nelson?

6 A Yes, sir, I did.

7 Q And did you make contact with Ms. Shareema Behlin?

8 A Yes, sir, I did.

9 Q Okay. And who is Shareema Behlin?

10 A She is the sister of the defendant.

11 Q Okay. And did you ask her for a written statement?

12 A Yes, sir, I did.

13 Q Would she give you one?

14 A I do not believe she did.

15 Q Okay. Did you get a statement from Ms. Akera Nelson?

16 A I believe I did.

17 Q Now, what else did you do?

18 A I notified my supervisor's of what was going on and
19 then I checked around to make sure to see if I could locate
20 the weapon that was used.

21 Q And did you locate a weapon?

22 A No, sir, I did not.

23 Q Okay. Now, as a Ridgeland Police Officer, you have
24 specialized equipment that can record things as you see
25 them; is that right?

1 A Yes, sir, that's correct.

2 Q And what is that?

3 A We wear a taser Axon Camera, which I was wearing that
4 day, which is a -- do you want me to describe the entire
5 thing?

6 Q Please, sir.

7 A Okay. I'm actually wearing one right now if you want
8 me to demonstrate.

9 Q Great.

10 OFFICER SMITH: May I stand up?

11 THE COURT: You may, sir.

12 A Do I need to adjust the mic?

13 Q Please.

14 A Okay. The way it works, the day of the incident, I was
15 actually wearing the headband, which wraps around behind
16 your ears, and this camera is attached to it, so it gives
17 you a first person view. Then this is the control box right
18 here that activates the camera, sets it to different modes,
19 and then all the information is stored in this box on the
20 belt. And so, at the time of the incident, I was utilizing
21 the camera. I had it recording.

22 Q Okay. So you were wearing one of the Axon cameras that
23 day?

24 A Yes, I was.

25 Q And were you able to download the content from that

1 device to a server?

2 A Yes, sir, I was.

3 Q Okay. And at this point, I want to show you what has
4 been previously marked for identification as State's Exhibit
5 Number Two and ask you if you recognize this item?

6 ASST. SOL. FERGUSON: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 ASST. SOL. FERGUSON: Thank you.

10 A Yes, sir. I recognize it.

11 Q And what is that?

12 A This is a video, a CD recording of the video that was
13 recorded that day.

14 Q And prior to today, had you and I gone over there to
15 ensure that it is in fact from that date?

16 A Yes, sir.

17 Q And did you indicate that on that disc at all?

18 A Yes, sir.

19 Q Okay. Is that a fair and accurate depiction of what
20 you saw on March the 20th, 2011, at Baytree Apartments?

21 A Yes, sir, it is.

22 ASST. SOL. FERGUSON: Your Honor, at this point, I
23 would move to enter State's Exhibit Two into evidence.

24 THE COURT: Any objection?

25 MR. HUGHES: No, Your Honor.

1 THE COURT: It's in evidence without objection.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO, DVD, IS
3 RECEIVED INTO EVIDENCE.)

4 ASST. SOL. FERGUSON: And Your Honor, I wish to publish
5 a portion of this at this time.

6 THE COURT: Okay.

7 ASST. SOL. FERGUSON: Hopefully it will post audio and
8 video.

9 THE COURT: Okay. Ladies and gentlemen, these
10 attorneys have worked very hard to recall the relevant
11 information, not to make the case go on and on. So what
12 you're going to see is a portion of the video that is
13 relevant. Again, there are other portions of it, but we
14 don't want to bore you. So again, I want you to understand
15 that we're not hiding anything from you. It's just that some
16 of it is redundant.

17 ASST. SOL. FERGUSON: And Your Honor, it does take just
18 a moment for the audio to kick in. So hopefully, that does
19 not mean we're having technical difficulty.

20 THE COURT: Okay.

21 (BRIEF PAUSE IN COURTROOM.)

22 ASST. SOL. FERGUSON: Your Honor, if we may take just a
23 brief moment to get this figured out. It will resolve it
24 once and for all.

25 THE COURT: Okay. Ladies and gentlemen of the jury,

1 I'm going to send you back to your jury room very briefly.
2 Again, do not discuss this case. It would be inappropriate
3 to do so. Get a cup of coffee. We'll bring you right back
4 out. Okay? Thank you.

5 (11:15 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
6 FOR A BRIEF RECESS.)

7 (11:20 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
8 AND THE FOLLOWING IS HELD ON THE RECORD.)

9 THE COURT: Welcome back, ladies and gentlemen. I
10 think we have got our technical difficulties worked out. So
11 let's go ahead and play the DVD.

12 ASST. SOL. FERGUSON: Thank you, Your Honor.

13 (DVD BEGINS PLAYING AT 11:21 A.M.; DVD ENDS PLAYING AT
14 11:28 A.M.)

15 Q Now, Officer Smith, did you respond to an additional
16 call the night before this occurred?

17 A Yes, sir, I did.

18 Q And what was that call for?

19 A It was for -- I don't remember the exact way it was
20 dispatched to me. It was either for a disturbance or a
21 harassment call.

22 Q Well, who had called?

23 A Ms. Nelson.

24 Q And is that the same Ms. Nelson that we just saw put in
25 that ambulance right there?

1 A Yes, sir, it is.

2 Q And did you respond to where she had called from?

3 A I believe she called from her cell phone at her
4 apartment and said -- do you want me to tell you?

5 Q No, sir. I just want to know what you did as a result
6 of talking to her. Did you go by Ms. Nelson's apartment?

7 A Yes, sir, I did.

8 Q Okay. And what did you do when you got there?

9 A Myself and Officer Nelson, once again, checked her
10 apartment. She stated that Antonio Scott had been there and
11 that he had tried to get into her apartment and then had
12 left and she just wanted us to make sure everything was okay
13 for her to go inside.

14 Q And did you find the defendant, Antonio Scott, that
15 night there?

16 A No, sir, we did not.

17 Q Okay. Did you ever talk to him on the telephone?

18 A Yes, sir, I did.

19 Q Did he admit to calling Ms. Nelson?

20 A He did.

21 Q Thank you, Officer Smith. I have no further questions
22 for you at this time. Please answer any questions that Mr.
23 Hughes may have.

24 A Yes, sir.

25

CROSS-EXAMINATION

1 BY MR. HUGHES:

2 Q Good morning, Officer Smith.

3 A Good morning.

4 Q The night before this happened, you say you talked with
5 Cynthia Nelson?

6 A Yes, sir, I did.

7 Q And that she asked you to do what again?

8 A She wanted us to check her apartment to make sure that
9 Mr. Scott was not inside the apartment for her safety.

10 Q And he wasn't there?

11 A That is correct.

12 Q And it's your magic camera -- looks like it's on your
13 eyeglasses or something, from the view that we've had?

14 A Right. It normally has a headband that you can wear
15 around the back of your ears that would put it right where
16 eyeglasses would be at.

17 Q Okay. And the jury and we all got to see exactly what
18 you saw?

19 A Yes, sir. That is correct.

20 Q And it looked like you were the first person to go in
21 that apartment?

22 A Yes, sir.

23 Q And do you know how long people had been out of that
24 apartment?

25 A I'm not sure.

1 Q How old was that baby?

2 A I'm not sure.

3 Q And the baby was left in the apartment?

4 A That's correct.

5 Q And we can see that you did not move Ms. Nelson.

6 A No, sir.

7 Q Did you check out the apartment anymore? I mean, did
8 you look for a weapon or look for anything else?

9 A Yes, sir.

10 Q Did you find the weapon?

11 A I did not.

12 Q Did you find any cloth with blood on it?

13 A I do not recall.

14 Q Did you talk to anybody that night?

15 A I talked to several people that night.

16 Q Did any of them give statements?

17 A Now, are you talking about in reference to the case?

18 Q Yes.

19 A Okay. I believe that Ms. Nelson, Akera, gave a
20 statement.

21 Q Did she give it to you?

22 A I do not recall.

23 MR. HUGHES: No further questions, Your Honor.

24 THE COURT: Anything further?

25 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

1 of you out here and send some of you back, so I'm going to
2 send you all back. As soon as they are in here, we are
3 going to bring you all back out. Again, do not discuss this
4 case y'all.

5 (11:30 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM.)

6 (11:45 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM

7 AND THE FOLLOWING IS HELD ON THE RECORD.)

8 THE COURT: All right. I understand our witnesses are
9 ready?

10 ASST. SOL. FERGUSON: Yes, ma'am.

11 THE COURT: All right. Bring them on in.

12 ASST. SOL. FERGUSON: Thank you, Your Honor. The State
13 calls Ms. Monique Chester.

14 THE COURT: Ms. Chester, please come forward to be
15 sworn.

16 (WHEREUPON, MS. MONIQUE CHESTER IS DULY SWORN.)

17 THE COURT: Please come around and have a seat on the
18 witness stand. Ms. Chester, adjust that microphone. Please
19 give your name to my court reporter, please.

20 MS. CHESTER: Monique Chester.

21 DIRECT EXAMINATION

22 BY ASST. SOL. FERGUSON:

23 Q Good morning, Ms. Chester.

24 A Good morning.

25 Q Do you live at Baytree Apartments?

1 A Yes.

2 Q And did you live there back on March the 20th, 2011?

3 A Yes.

4 Q Do you remember that day?

5 A Yes.

6 Q Do you know the defendant in this case, Mr. Antonio
7 Scott?

8 A Yes.

9 Q And could you point him out for the record, please?

10 A (WITNESS POINTS TO DEFENDANT, MR. SCOTT.)

11 Q Thank you. And do you know Ms. Akeria Nelson?

12 A Yes.

13 Q Do you know Cynthia Nelson?

14 A Yes.

15 Q Okay. Now, what was going on on the 20th before all of
16 this occurred at Baytree and behind it?

17 A It was like a wake, but after like the funeral and
18 stuff like that.

19 Q Okay.

20 A Because his cousin had just passed away.

21 Q And you say "his cousin", who's cousin?

22 A Tone.

23 Q And "Tone", is that Mr. Scott, the defendant?

24 A Yes.

25 Q Okay. And so there was a party behind Baytree

1 Apartments?

2 A It was like a get together, yes.

3 Q Okay. And you were at that get together?

4 A Yes.

5 Q Okay. And did you see the defendant that day?

6 A Yes.

7 Q Did you hear him talking?

8 A Yes.

9 Q And what did he say?

10 A He had an altercation. There was something that
11 happened like Saturday night or whatever.

12 Q Was that the previous night?

13 A Yeah.

14 Q Okay. Thank you.

15 A And he said that him and the lady went through
16 something or whatever and she called the police or whatever,
17 but he end up hiding from the police or whatever, hid in the
18 dumpster and threw the knife or whatever.

19 Q Did he say why he had gone there that night?

20 A He was going after Akera's momma.

21 Q And is that Cynthia Nelson?

22 A Yes.

23 Q Okay. And so he was saying -- who was he talking to
24 when he said this?

25 A He was talking to people around there, family members.

1 Q And so most of those people that were there, are they
2 related to the defendant?

3 A To him? Yes.

4 Q Okay. And now, he said that -- tell us again what he
5 said about going to Ms. Cynthia's apartment.

6 A It was an altercation and he went to her house or
7 whatever, and when he went to her house, she called the
8 police or whatever. So he hid in the dumpster.

9 Q And did you say something about a knife?

10 A He threw the knife away and hid in the dumpster because
11 the police came.

12 Q Okay. Did he say what he went to do there that night?

13 A To kill her.

14 Q Did he say anything -- what else did he say?

15 A So, like, later on that day, he was like, just like,
16 saying that she had called the police on him and stuff like
17 that and he was going to do like this here.

18 Q And what does that mean? What was he demonstrating?

19 A He was gonna stab her.

20 Q Now, how far away from him were you when you heard
21 this?

22 A I was like right here. He was like where that person
23 at right there.

24 Q Now, later on, what happened after you heard him say
25 that? Did you ever see a commotion coming from the

1 apartments over there?

2 A I ain't never went back over from where my apartment
3 was or whatever, and all of a sudden, I saw my little nephew
4 and I heard a commotion going on over there.

5 Q And over there, who's apartment was it?

6 A It was Reema.

7 Q And who ---

8 A Shareema, his sister.

9 Q And that's the defendant's sister?

10 A Yeah.

11 Q Okay. So that all occurred at her apartment?

12 A Uh-huh (affirmative).

13 Q Did you ever see the defendant leave that apartment?

14 A No.

15 Q Okay. Once you saw the commotion, I guess, how did you
16 first see the commotion?

17 A The only thing I know is Reema was standing outside and
18 she was like saying you need to call, like, call the police.

19 Q Did you see the defendant at all after you heard him
20 talking about the previous night, and about that day, in
21 particular?

22 A Unh-unh (negative).

23 Q Okay.

24 ASST. SOL. FERGUSON: I beg the Court's indulgence for
25 just one moment, Your Honor.

1 Q Thank you, Ms. Chester. I have no further questions
2 for you.

3 CROSS-EXAMINATION

4 BY MR. HUGHES:

5 Q Ms. Chester, how many people were at that wake?

6 A Oh, I don't know. There was a lot.

7 Q Well, ten, fifteen, twenty, thirty?

8 A I'd say about twenty.

9 Q Okay. And was there music playing?

10 A Yeah.

11 Q Was it soft music or loud music?

12 A It was like soft music. It wasn't no loud music.

13 Q Okay. And you say you saw Antonio there?

14 A Uh-huh (affirmative).

15 Q And did you talk to him?

16 A No.

17 Q Who were you talking to?

18 A I was talking to a couple more people. Well, a couple
19 more people was talking and I was sitting right there in the
20 car.

21 Q Okay. You were in the car?

22 A Uh-huh

23 Q Where was the car parked?

24 A Like right here and then he was standing over there.

25 Q Okay. Was he in a car?

1 A No. He was standing up talking.

2 Q And who was he talking to?

3 A His cousin.

4 Q Who was that?

5 A His kin people.

6 Q And you say you heard him threaten to stab Cynthia
7 Nelson?

8 A He was bragging about the incident that happened
9 Saturday night and he was saying what he was going to do
10 when he see her.

11 Q Do you own a cell phone?

12 A Yeah.

13 Q Did you have it with you?

14 A No.

15 Q Was there anybody with you in the car?

16 A Yeah.

17 Q Who was with you in the car?

18 A There was a couple people in the car.

19 Q Okay. Who were they?

20 A My nephew and his cousin.

21 Q Okay. Do you know if they had cell phones?

22 A I ain't know. I didn't even ask them did they have any
23 cell phones.

24 Q Okay. So you hear a man threaten to kill someone and
25 you don't bother to call 911?

1 A I'm going through hell right now because of this trial.

2 Q But you did not call 911 that day when you heard that
3 he was threatening to kill her, did you?

4 A No, because I ain't never think he was gonna go through
5 with it.

6 Q Okay. So you really didn't think he was serious. You
7 thought he was joking?

8 A Yeah.

9 Q Okay. You gave a statement to law enforcement?

10 A Yeah.

11 Q How long after Ms. Nelson died did you give that
12 statement?

13 A I don't know. I think it was like the day after or two
14 days' after. I don't know.

15 Q Wasn't it actually about three or four days after?

16 A It could have been.

17 Q And you just suddenly remembered, Oh, I heard Antonio
18 threaten Cynthia," and you went and talked to law
19 enforcement, right?

20 A No, people like that should mind their own business and
21 stuff like that, so ---

22 Q So you didn't even think about what Antonio said until
23 people started talking to you?

24 A Yeah, I knew what he said, but I was minding my
25 business; but I felt bad about what happened to the lady.

1 Q Did you fill out an incident report? A police report?

2 A I don't know. I can't even remember.

3 Q Did you write down on a sheet of paper what you say
4 happened?

5 A Yeah.

6 Q Did you sign it?

7 MR. HUGHES: May I approach, Your Honor?

8 THE COURT: You may.

9 Q Is this what you wrote?

10 A Yes.

11 Q Did you sign it?

12 A No, I didn't sign it.

13 MR. HUGHES: May I take that back, please?

14 THE COURT: You may.

15 Q So you give a statement to law enforcement two or three
16 days after it happened, and you don't even bother to sign
17 it?

18 A That been confidential.

19 Q I beg your pardon?

20 A That was supposed to have been confidential.

21 Q You mean that you thought you could accuse him of
22 something ---

23 A I wasn't accusing -- I ain't accusing anybody of
24 nothing. I'm just telling you what I overheard him saying.
25 I'm not accusing that man of doing nothing. I just know

1 what I overheard him say.

2 Q At a party, you're sitting in a car, music is playing,
3 and he's away from you talking, and you're the only person
4 that heard it?

5 A Everybody heard it.

6 Q Then why are you the only person to say anything?

7 A Didn't I just say that everybody say I should mind my
8 business? They minding their business.

9 Q So say that again, please?

10 A People told me I should mind my business.

11 Q Who did you contact in law enforcement?

12 A It was, like, Langdale.

13 Q Where did you talk with him at?

14 A Police station.

15 Q Okay. Who did you talk to before you went to see him?

16 A Langdale?

17 Q Did you ever talk to anybody from Cynthia Nelson's
18 family before you went to see the police officer?

19 A No.

20 Q Did you see anything on the television to make you go
21 see the police officer?

22 A No.

23 Q So just you suddenly remember you heard Antonio say
24 something, you went and talked to the detective?

25 A Because it's the right thing to do.

1 MR. HUGHES: No further questions, Your Honor.

2 REDIRECT EXAMINATION

3 ASST. SOL. FERGUSON:

4 Q Ms. Chester, do you want to be here today?

5 A No.

6 Q Now, Mr. Hughes asked you if you were the only one who
7 heard what the defendant said, and you said that everybody
8 heard. Who was "everybody"?

9 A His family.

10 ASST. SOL. FERGUSON: I have no further questions, Your
11 Honor.

12 MR. HUGHES: Just one quick question, Your Honor.

13 THE COURT: Okay.

14 RECROSS-EXAMINATION

15 MR. HUGHES:

16 Q You were the only non-family member there?

17 A Yes.

18 Q And why were you there?

19 A Because me and my nephew getting ready to go to the
20 store, so he came and parked over there at the wake. So we
21 was just sitting in the car.

22 MR. HUGHES: No further questions, Your Honor.

23 THE COURT: You may step down. Any objections to her
24 being excused?

25 MR. HUGHES: None.

1 ASST. SOL. FERGUSON: No, Your Honor.

2 THE COURT: You are excused, ma'am. Call your next
3 witness. ASST. SOL. FERGUSON: The State calls Akera
4 Nelson.

5 (WHEREUPON, AKERA NELSON IS DULY SWORN.)

6 DIRECT EXAMINATION

7 BY ASST. SOL. FERGUSON:

8 Q Good morning, Ms. Nelson.

9 A Morning.

10 Q Do you remember back on March 20th, 2011?

11 A Uh-huh (affirmative).

12 Q Were you living at Baytree Apartments at that time?

13 A Yes.

14 Q And who were you living with?

15 A Myself.

16 Q And were you involved with the defendant in this case
17 at that time?

18 A Yes.

19 Q And how were you involved with him?

20 A How were we involved?

21 Q Yes, ma'am.

22 A We was together.

23 Q And do y'all have any children?

24 A Yes.

25 Q How many?

- 1 A One.
- 2 Q Okay. And do you see Mr. Scott in the courtroom today?
- 3 A Uh-huh (affirmative).
- 4 Q Can you point him out for us?
- 5 A (WITNESS POINTS OUT DEFENDANT.)
- 6 Q Thank you. Now, I want to talk about what happened in
- 7 that apartment that day. Why was it that you were going to
- 8 that apartment?
- 9 A Because he asked me to drop his son off.
- 10 Q And whose apartment is that?
- 11 A Shareema Behlin.
- 12 Q And who is that?
- 13 A His sister.
- 14 Q What were you driving that day?
- 15 A My van.
- 16 Q And what kind of van is that?
- 17 A It was a Grand Volvo, or something like that.
- 18 Q What color was it?
- 19 A Gold.
- 20 Q Okay. And who was with you when you went over to that
- 21 apartment?
- 22 A My mother.
- 23 Q Where was she?
- 24 A In the passenger side.
- 25 Q And so, did you take your son into that apartment?

1 A Yes.

2 Q What happened when you did that?

3 A When I walked in the apartment, he was sitting down.
4 He was just sitting down. They were watching TV. And he
5 got up, and he got up with a knife, and he was like, "Is
6 this how you wanna do things?" and I was like, "What are you
7 talking about?" And he said, "You gonna let your mom come
8 between us?"

9 Q And so did he threaten you with the knife?

10 A He was like -- he was just basically saying, "Is this
11 how you wanna do things?" He was just holding the knife,
12 and I was like, "It's not that serious. Chill out."

13 Q What happened next?

14 A We was talking or whatever, trying to calm him down;
15 put my son down on the chair. Then, like a minute later, my
16 mom walked in and she was like, "Mother fucker, I'm tired of
17 you beating on my daughter." Then, they started arguing or
18 whatever; at that point, I don't know what he did with the
19 knife, because when he hit her, I didn't see the knife.

20 Q But you saw the defendant hit your mom?

21 A Uh-huh (affirmative).

22 Q And did you see what side he hit her on?

23 A Uh-huh (affirmative).

24 Q What side was that?

25 A He hit her on this side (indicating the right side.)

- 1 Q Okay. Where were you standing when that happened?
- 2 A I was standing, like, by the chair.
- 3 Q And where was Ms. Behlin?
- 4 A She was, like, by the window.
- 5 Q Okay. And so, when your mom came in, did she have
- 6 anything in her hand?
- 7 A She had a cigarette.
- 8 Q Did she ever have a knife herself?
- 9 A No.
- 10 Q Did you ever see her swing at the defendant?
- 11 A No.
- 12 Q Did they just exchange words?
- 13 A Uh-huh (affirmative).
- 14 THE COURT: Is that a "yes", for the record?
- 15 A Yes.
- 16 ASST. SOL. FERGUSON: Yes, ma'am, thank you. If you'll
- 17 just say "yes" or "no".
- 18 Q Now, when you first walked in, you said that the
- 19 defendant had a knife?
- 20 A Uh-huh (affirmative).
- 21 Q Okay. And when you saw the defendant hit your mother,
- 22 you said you didn't know if he had anything in his hand?
- 23 A No.
- 24 Q Was it dark in that apartment?
- 25 A No.

1 Q Was it well-lit?

2 A Uh-huh (affirmative).

3 THE COURT: Is that a "yes", for the record, again?

4 A Yes.

5 THE COURT: Thank you, ma'am.

6 Q Okay. So what happened after you saw the defendant hit
7 your mother?

8 A I went to the kitchen. I got a mop and I started
9 chopping with it.

10 Q Did you know how serious your mom's condition was at
11 that point?

12 A No. I wasn't -- didn't really think about her
13 condition, because when I saw him hit her, I just -- I
14 blacked out.

15 Q What happened after y'all were in the kitchen?

16 A Reema called the ambulance.

17 Q And that's Shareema Behlin?

18 A Uh-huh (affirmative).

19 Q She called 9-1-1?

20 A Uh-huh (affirmative).

21 Q Okay. Did you ever get on the phone with 9-1-1?

22 A Yes, sir.

23 Q Okay. Did she call and then you got on her phone?

24 A She called and then the phone must have hung up or
25 something, and I called back and was asking them what was

1 taking them so long.

2 Q Okay. What did the defendant do after all this
3 happened?

4 A Well, he was basically had, like, his shirt, trying to
5 put pressure or whatever to her neck or whatever.

6 Q And then what did he do?

7 A He basically -- when the police got there, he ran.

8 Q Where did he run?

9 A Behind the building.

10 Q Did you see him at all after that?

11 A No.

12 Q Have you talked to him since that day?

13 A Yes, sir.

14 Q Has he ever asked you to change your statement from
15 that day?

16 A Yes, sir.

17 Q Has he?

18 A Yes, sir.

19 Q And what did he ask you to say?

20 A He asked me to say that we was arguing and he was
21 trying to stab me, but my mom jumped into the way.

22 Q Is what you told us the first time what happened that
23 day?

24 A Yes.

25 Q Have you changed your statement at all from day one?

1 A No.

2 Q Did you let the defendant influence your memory of what
3 occurred?

4 A No.

5 ASST. SOL. FERGUSON: Your Honor, I beg the Court's
6 indulgence for just one moment.

7 Q Ms. Nelson, did you ever see the knife again at all
8 that day?

9 A No, sir.

10 Q Thank you, Ms. Nelson. I have no further questions for
11 you.

12 THE COURT: Mr. Hughes?

13 CROSS-EXAMINATION

14 BY MR. HUGHES:

15 Q Ms. Nelson, why were you in that apartment?

16 A Because he asked me to bring his son.

17 Q Did he ask you to bring your mother?

18 A No.

19 Q Okay. Did he know your mother was going to come with
20 you?

21 A No.

22 Q Did he know your mother was out in the van?

23 A Yes.

24 Q That she was outside?

25 A Uh-huh (affirmative).

- 1 Q Say "yes" or "no", please.
- 2 A Yes.
- 3 Q And after your mother was injured, what did he do?
- 4 A He tried to put pressure on her.
- 5 Q How did she get over to the sofa?
- 6 A She fell onto the sofa.
- 7 Q So she was very much in the apartment when she was
- 8 stabbed?
- 9 A Yes.
- 10 Q And was she saying anything to Antonio?
- 11 A After she got stabbed or before?
- 12 Q No, before.
- 13 A She was cussing him out.
- 14 Q Okay. Did she say anything after she got stabbed?
- 15 A No.
- 16 Q What did you do after your mother was stabbed?
- 17 A I went into the kitchen and I grabbed a mop stick and I
- 18 started chopping with it.
- 19 Q You grabbed a what, please?
- 20 A I grabbed a mop stick.
- 21 Q A mop stick?
- 22 A Uh-huh (affirmative).
- 23 Q Why?
- 24 A Because he hit my mother.
- 25 Q Did you attempt to help your mother at all?

1 A No, I just blacked out. I just thought he had hit her
2 and ...

3 Q When did you leave the apartment?

4 A When did I leave the apartment?

5 Q Right.

6 A After he left.

7 Q But you said that he didn't leave until the police
8 showed up.

9 A Yeah, and I went running behind him.

10 Q Okay. How old was your son then?

11 A One.

12 Q And where was he?

13 A On the chair.

14 Q And what do you mean when you say "you blacked out"?

15 Did you faint? Did you fall to the ground? Do you just not
16 remember?

17 A No, I just basically felt like I had to do something to
18 protect my mom.

19 Q So let me make sure I understand. Antonio Scott did
20 not know your mother was going to be there.

21 A No.

22 Q Antonio Scott tried to stop the bleeding of your
23 mother.

24 A Right.

25 Q And Antonio Scott did not leave until law enforcement

1 and EMT's arrived; is that what you testified?

2 A He didn't leave until the police came.

3 Q Until the police showed up?

4 A Uh-huh (affirmative).

5 MR. HUGHES: No further questions, Your Honor.

6 ASST. SOL. FERGUSON: No redirect, Your Honor.

7 THE COURT: Any objection to this witness being
8 excused?

9 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

10 MR. HUGHES: None, Your Honor.

11 THE COURT: You're excused, Ms. Nelson.

12 THE COURT: If the State will call the next witness.

13 ASST. SOL. FERGUSON: Thank you, Your Honor. The State
14 calls Investigator Daniel Litchfield.

15 THE COURT: Come on forward, Inv. Litchfield.

16 WHEREUPON, INVESTIGATOR DANIEL LITCHFIELD IS DULY
17 SWORN.

18 DIRECT EXAMINATION

19 BY ASST. SOL. FERGUSON:

20 Q Good morning, Inv. Litchfield.

21 A Good morning, sir.

22 Q Could you spell your last name for the court reporter?

23 A Yes. It's Litchfield, L-I-T-C-H-F-I-E-L-D.

24 Q Thank you. Who do you work for?

25 A I work for the Ridgeland City Police Department.

1 Q And what do you do for them?

2 A I'm head investigator for Ridgeland Police Department.

3 Q How long have you worked for them?

4 A Since July of '05, about six years.

5 Q And what kind of training and education did you have to
6 undergo in order to be an investigator at Ridgeland Police
7 Department?

8 A I've been a police officer for 14 years total, to
9 include the police academy and various extra classes
10 afterwards, to include interview and interrogation, crime
11 scene preservation, a whole list of stuff.

12 Q Thank you. Now, were you working in that capacity back
13 on March 20th, 2011?

14 A Yes, sir.

15 Q And did you respond out to Baytree Apartments that day?

16 A Yes, sir.

17 Q And why did you go out there?

18 A I got a call from Patrol Officer Kevin Smith in
19 reference to a stabbing at the Baytree Apartments.

20 Q And what did you do when you got there?

21 A I, basically, got all the information I could at the
22 time, who the suspect was, if we had any, which they did.
23 Any information on the victim, how she was doing; which
24 wasn't good. And any information about where he may have
25 ran to, which we got all that.

1 Q Okay. Did you ever conduct a physical search of that
2 apartment?

3 A Yes, the first thing I did was look for a weapon.

4 Q Okay. And did you recover anything?

5 A We did recover a steak knife out of the sink and also a
6 handle out of the trash can.

7 Q And through your investigation, were you able to
8 determine whether or not those were the knife involved in
9 this case?

10 A We sent it off to SLED and SLED it was of no
11 evidentiary value at all in those weapons.

12 Q Okay. Thank you. Now, when you collected that broke
13 knife handle and that knife, did you see any blood on it?

14 A No.

15 Q Why did you collect them then?

16 A Because they were knives and we were told that a knife
17 was used in the actual assault.

18 Q Now, did you search the area -- I'd say the perimeter
19 around Baytree Apartments for a murder weapon?

20 A Yes, I did.

21 Q And how extensive was that, sir?

22 A Fairly extensive. We knew a route that they had last
23 seen him traveling. We fanned out on each side of that
24 route to include that route, looked in the woods, on the
25 ground; talked to some people who were having a get

1 together; I believe it was a wake and went from there.

2 Q And nothing was ever recovered as a result of that
3 search?

4 A No.

5 Q Okay. Did you ever have an opportunity to speak to the
6 defendant in this case, Mr. Scott?

7 A Yes, sir. After he was arrested, we interviewed him.

8 Q And when was that?

9 A I believe it was on the 22nd. It was the day after he
10 was arrested.

11 Q Okay. And where did that questioning take place?

12 A It took place at the Jasper County Detention Center,
13 but it was in the judge's chamber area where they have bond
14 hearings.

15 Q Okay. And who was present during that interview?

16 A Myself, the defendant, Mr. Scott, and Christopher
17 MacIntosh, another investigator.

18 Q Okay. And was the defendant Mirandized prior to you
19 questioning him at all?

20 A Yes, sir.

21 Q And by "Mirandize", what does that mean?

22 A Miranda is a set of information that you have to give a
23 person that is being interviewed in reference to a case that
24 he is charged with. I can read it for you if you would like
25 me to.

1 Q Please, sir.

2 A We have a standard form that we read. It's "You have
3 the right to remain silent. Anything you say can or will be
4 used against you in a Court of law. You have the right to
5 an attorney. If you cannot afford one, one will be
6 appointed for you before any questions. At any time during
7 this interview and questioning, you have the right to stop
8 answering any questions."

9 Q And did the defendant appear to understand those
10 rights?

11 A Yes, sir.

12 Q Okay. And did he voluntarily agree to talk to you
13 after he was advised of those rights?

14 A Yes, sir.

15 Q And did you promise him or threaten him any way in
16 exchange for his statement?

17 A No, sir.

18 Q Okay. And basically, what did he say happened in the
19 apartment that night?

20 A After Miranda, I told him we were here to find out the
21 truth and what was going on, you know, his side of the
22 story, obviously. He told us that he was there. He had an
23 altercation, a verbal argument, with Cynthia Nelson. During
24 this argument, he stated that Cynthia Nelson pulled
25 something shiny and silver out of her pocket, went towards

1 him, and he stepped to the side and did a -- for lack of a
2 better term, a martial arts move, pushing her elbow up,
3 causing her to stab herself in the throat.

4 Q Now, did he physically show you how this occurred?

5 A Yes, sir.

6 Q And could you show us how he demonstrated that this
7 occurred?

8 A Yes, sir.

9 OFFICER LITCHFIELD: Be okay, Judge?

10 THE COURT: Sure.

11 A Now, mind you, he was handcuffed, but he said he was
12 standing there. She reached into her pocket, and when she
13 went towards him, he said he did this and this. In other
14 words, her arm went by him and he pushed the arm and she
15 stabbed herself in the neck. That was his statement.

16 Q Okay. So he admitted he was in the apartment that
17 evening?

18 A Yes, sir.

19 Q Admitting that he and Cynthia Nelson exchanged words?

20 A Yes, sir. (DEFENDANT GETS BACK UP ON THE WITNESS
21 STAND.)

22 Q Okay. Did you ask him if he had ever threatened to
23 kill Cynthia Nelson?

24 A I did not.

25 Q Okay. Did you confront him with statements that

1 someone had given saying that he had threatened to kill her?

2 A I did.

3 Q And did he -- what did he say?

4 A He denied it. He said, "We had arguments and we never
5 liked each other," and that kind of stuff; but it was
6 nothing as far as "I was going to kill her."

7 Q Okay. Now approximately how long did that interview
8 with the defendant last?

9 A Approximately 30 minutes.

10 Q Okay. Did you interview anybody else as part of your
11 investigation?

12 A No one under arrest. We talked to different people in
13 reference to what do you know about this case?

14 Q Okay. Were you able to find any information to
15 corroborate the defendant's version of the story that
16 actually Ms. Cynthia Nelson was the aggressor and had the
17 knife?

18 A No, sir. Not at all.

19 Q Okay.

20 ASST. SOL. FERGUSON: I beg the Court's indulgence just
21 one moment, Your Honor.

22 THE COURT: Okay.

23 ASST. SOL. FERGUSON: Thank you.

24 Q Thank you, Investigator Litchfield, I have no further
25 questions for you.

1 A Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. HUGHES:

4 Q Det. Litchfield, when you say you had a conversation
5 with my client at the detention center, do you know how he
6 got to the detention center?

7 A He was arrested and transported there.

8 Q Didn't he turn himself in?

9 A Yes. He called, I believe, a detective at the time,
10 who worked for the Sheriff's Office.

11 Q And was I there that day?

12 A I don't remember.

13 Q Was I in that room?

14 A Oh, no, sir.

15 Q So he talked to you freely and voluntarily?

16 A Uh-huh (affirmative).

17 THE COURT: Say "yes" for the record.

18 A Oh, I'm sorry. Yes, sir.

19 Q He had no qualms about talking to you?

20 A No, sir.

21 Q Open and above board with you?

22 A Yes, sir.

23 Q Do you know if my client does know martial arts?

24 A Not personal knowledge, but I know his father and his
25 father is a black belt and that he taught his son some

1 stuff.

2 Q Okay. Did you bother to take off the handcuffs and
3 have him demonstrate exactly what happened?

4 A No, sir.

5 Q Why not?

6 A He was under arrest for murder and I didn't think that
7 would be appropriate.

8 Q But you were investigating a crime, weren't you?

9 A Correct.

10 Q And part of the investigation is to check all the
11 aspects of it?

12 A Correct.

13 Q So you didn't check that aspect of it?

14 A For officer safety, I did not.

15 Q I'm sorry. I'm not saying you handed him a knife, but
16 couldn't you have at least attempted to see if he knew what
17 he was talking about?

18 A I can do that with him having the handcuffs on, sir.

19 Q Most martial arts don't take place in handcuffs, do
20 they officer?

21 A I've been trained with some that can.

22 Q Okay. But when he was talking to you, was he nervous
23 and scared or was he calm and relaxed?

24 A He was calm, but there was obviously a sense of
25 nervousness; I mean, it is a serious situation.

1 Q And at the time you talked to him, was he under arrest
2 for murder?

3 A He was actually under arrest for attempted murder.

4 Q It was not until the interview was over that you
5 actually informed him that it was actually a murder
6 investigation?

7 A About halfway through the interview I informed him that
8 she had passed away.

9 Q Okay. Did he change his story at that time?

10 A No.

11 Q Did he ask to see me?

12 A No, sir.

13 Q Did he stop talking?

14 A No, sir.

15 Q He cooperated fully with you?

16 A Yes, sir.

17 Q Did you interview Monique Chester?

18 A I talked to her briefly while she was giving a
19 statement to Officer Langdale.

20 MR. HUGHES: No further questions, Your Honor.

21 THE COURT: Mr. Ferguson?

22 ASST. SOL. FERGUSON: No redirect, Your Honor.

23 THE COURT: All right. You may step down, sir. Mr.
24 Ferguson, your next witness?

25 ASST. SOL. FERGUSON: Yes, ma'am, but we may reach a

DIRECT EXAMINATION

1
2 ASST. SOL. FERGUSON:

3 Q Good afternoon, Ms. Behlin.

4 A Good afternoon.

5 Q Do you live at Baytree Apartments?

6 A No.

7 Q Did you live at Baytree Apartments back in 2011?

8 A (WITNESS SHAKES HEAD.)

9 Q You need to say "yes" or "no".

10 A Yes, I did.

11 Q Thank you, ma'am. You did. And what apartment was
12 that?

13 A

14 Q Okay. And are you related to the defendant, Mr.
15 Antonio Scott?

16 A Yes, he's my brother.

17 Q Okay. And specifically, on March the 20th, 2011, do
18 you remember that day?

19 A Yes, sir.

20 Q Did you see Mr. Antonio Nelson strike Ms. Cynthia
21 Nelson on that day?

22 A Antonio Scott? Yes, I did see him strike her.

23 Q Okay. Did you call 9-1-1 that day?

24 A Yes, I did.

25 Q I have no further questions for you. Thank you, Ms.

1 Behlin.

2 CROSS-EXAMINATION

3 BY MR. HUGHES:

4 Q Did you see anything in Antonio's hand?

5 A No, I didn't.

6 Q Did you see an injury on Ms. Cynthia Nelson?

7 A No, I didn't. I just saw the blood pouring from her.

8 Q What did Antonio do once Ms. Nelson was injured?

9 A He came from the kitchen and he was like -- because
10 Akera stated, "Oh, it's sticking out of her neck." And when
11 he came, he was like, "Nothing is sticking out of her neck."
12 And then he pulled her jacket down and he jumped back and he
13 jumped up on the chair and grabbed his shirt and he was
14 holding her neck.

15 Q So he was ---

16 A Yeah, he was -- he had his shirt in his hand and he was
17 applying pressure to her neck.

18 Q Okay. What did you do -- did you attempt to assist Ms.
19 Nelson?

20 A No, I just kept trying to get Akera to the phone
21 because they were asking me questions I didn't know.

22 Q Were you inside or outside?

23 A I was inside the apartment. Then, I ran outside
24 because she ran outside and I was still trying to get her to
25 get on the phone.

1 Q But where was Antonio?

2 A He was inside the apartment applying pressure to her
3 neck, but yes, he did run outside, or whatever, once the
4 police was coming, or whatever, and she was behind him.

5 Q But Antonio did not leave until help got there?

6 A Uh-huh. (affirmative).

7 Q Say "yes" or "no", please.

8 A Yes.

9 Q Okay. And you did not see Antonio with a weapon?

10 A No, never.

11 Q He did not have a knife before Akera got there?

12 A No. We were sitting there and he had just come from
13 around the corner from my Aunt Elizabeth's house, because
14 her son had just passed, and she had come to my apartment
15 and got him from there between 11:30 and 12:00, and I asked
16 him, he was around here for at least probably four or five
17 hours, and when he came back, he asked me for something to
18 eat and we were sitting there. He asked me what was I
19 watching, and I had never let him watch that before, and I
20 said, "Yeah, I know, because you would never be back." And
21 we were sitting there. He didn't have a knife in his hand.
22 We were eating. The plate was still there even when I came
23 back from Augusta, Georgia, dried out turkey burgers in the
24 oven and the movie we were watching was still in my DVD
25 player.

1 Q And why did Akera come over there that day?

2 A She barged through my door. She claims she came to
3 bring Child Child

4 Q And what did Antonio do when Child was there?

5 A Child was on the chair in the living room, the long
6 couch in the living room, and they were just in the kitchen
7 arguing back and forth, and then, next thing I know, Cynthia
8 is through my door; everybody's arguing. She falls. I
9 asked her if she was okay. I thought she was having a
10 stroke or something, because she never moved. And when she
11 shook her head "no" to me, that's when I saw all the blood
12 pouring down her shirt and I just grabbed my phone to call
13 911.

14 Q Who picked her up? Or did she fall on the couch?

15 A She fell on the couch, like, when he hit her with the
16 inside of his hand. She fell on the couch and the way she
17 landed, or whatever, the blood wasn't pouring from where the
18 wound was, it was pouring from the opposite side because of
19 the way she landed on the couch, and when she shook her
20 head, I saw she had on a white t-shirt, so I saw all the
21 blood running down her shirt.

22 Q And Antonio was doing what, again?

23 A He was in the kitchen arguing -- he and Akera was in
24 the kitchen arguing after that, or whatever, and then, like,
25 when she finally came out she was like, "Oh, it's sticking

1 out of her neck."

2 Q Did you see anything sticking out of her neck?

3 A I didn't see anything sticking out of her neck. I just
4 kept calling her name or whatever, because I know she was a
5 sickly person, or whatever, so I just kept calling her name
6 and I was on the phone with 911.

7 Q Okay. Let me make sure I've got it right. Antonio went
8 to your place and was eating supper?

9 A Uh-huh (affirmative)... Yes, he was.

10 Q Akera comes in with Child

11 A Yes.

12 Q Akera and Antonio had an argument?

13 A Yes.

14 Q Cynthia comes in to your apartment?

15 A Yes.

16 Q Cynthia has a wound somehow?

17 A Yes.

18 Q Antonio takes his shirt and applies pressure to the
19 wound and stays there until help gets there?

20 A Uh-huh (affirmative).

21 Q Yes or no, please?

22 A Yes, sorry.

23 MR. HUGHES: No further questions, Your Honor.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

1 ASST. SOL. FERGUSON:

2 Q Ms. Behlin, did you give a written statement that day?

3 A No, I didn't.

4 Q Were you asked to?

5 A I was asked to, but I didn't.

6 Q Okay. Thank you. No further questions.

7 MR. HUGHES: No re-cross.

8 THE COURT: Any objection to her being excused?

9 ASST. SOL. FERGUSON: No, Your Honor.

10 MR. HUGHES: None from the defense.

11 THE COURT: You are excused. Thank you. Call your
12 next witness.

13 ASST. SOL. FERGUSON: The State calls Dr. Lee Marie
14 Tormos.

15 (BRIEF PAUSE IN COURTROOM.)

16 THE COURT: We're looking for Dr. Tormos.

17 ASST. SOL. FERGUSON: Well, actually, Your Honor, I see
18 my other doctor, if I could just call Dr. William McRae.

19 THE COURT: That's fine. Go ahead and bring Dr. McRae
20 in.

21 ASST. SOL. FERGUSON: Perfect.

22 WHEREUPON, DR. WILLIAM McRAE, IS DULY SWORN.

23 DIRECT EXAMINATION

24 BY ASST. SOL. FERGUSON:

25 Q Good afternoon, Dr. McRae.

1 A Good afternoon.

2 Q Who do you work for?

3 A Memorial Hospital.

4 Q And what do you do for them?

5 A I'm a Radiology Resident.

6 Q And what kind of education and training did you have to
7 undergo in order to work for that hospital?

8 A After graduating college, I went to medical school for
9 four years. I did a Surgical residency for two years, and
10 then switched to Radiology.

11 Q And I want to ask you specifically about a patient that
12 came into your hospital back on March the 20th of 2011. Do
13 you remember about that date?

14 A Yes.

15 Q And specifically, Ms. Cynthia Nelson, did you see her
16 in your hospital on that day?

17 A I did.

18 Q Okay. And what was her condition when you saw her?

19 A She was transferred to us from an outside facility.

20 When she was transferred to us, she was intubated, that
21 means she was on a mechanical ventilator. We were told that
22 she was found down, and I'm not sure where, for an extended
23 period of time, and when the paramedics arrived to her at
24 the scene, from our report, we were told that she was in
25 something called "PDA", which is pulseless electrical

1 activity, which is a cardiac rhythm, which is unsustainable
2 with life, so they began CPRR. They intubated her at the
3 scene, meaning they put a breathing tube down. They
4 transferred her from an outside hospital to our hospital, or
5 maybe they brought her directly; I'm not aware of that. I
6 cannot recall. When she came to our facility, I saw her in
7 the trauma bay, and at that time she was intubated. She was
8 undergoing CPRR as they brought her in. She was on a
9 medication that is known as a vaze (sic) suppressor that
10 sustains your cardiac output. Her blood pressure was
11 extremely low and from that point, you know, we continued to
12 resuscitate the patient and ordered some additional tests.

13 Q And at any point, did you determine that Ms. Nelson was
14 brain dead?

15 A Well, when she first arrived, on initial examination,
16 initial clinical examination, her pupils, bilateral pupils
17 were fixed and dilated, which is certainly and ominous sign.
18 We sent her to the CT Scanner to obtain a CT scan of the
19 brain, which showed significant swelling of the brain. We
20 transferred her to the intensive care unit. At that time,
21 we consulted Dr. Kevin Amar, who is a neurosurgeon, to get
22 his professional opinion, because from our opinion, she was
23 likely brain dead. From the scan that we had received, as
24 well as from our physical examination, she had no gag
25 reflex, no central reflexes of the nervous system. She had

1 a Glasgow coma score, which is basically an indicator of a
2 level of consciousness of a 3T, that's the lowest possible
3 score you can receive on a scale of 15; 3 is the lowest,
4 which is also a poor indicator of prognosis. So we
5 consulted a neurosurgeon and obtained additional studies,
6 including a nuclear medicine perfusion study, which shows
7 perfusion to the brain, basically blood flow to the brain,
8 which showed no flow. Which at that point, we were fairly -
9 - we made the diagnosis of brain death.

10 Q And did you actually pronounce her dead at some point?

11 A Yes.

12 Q And what time was that and what date was that?

13 A I cannot recall. I have my doctor's notes here if I
14 can look at ---

15 Q Yes, sir.

16 A --- and I can tell you exactly when. This is actually
17 the death summary that I dictated. March 21st, 2011, at
18 22:05 the patient was declared brain dead.

19 Q And by brain dead, now what is the difference between a
20 physical death and a brain death? Is there a difference?

21 A With brain death, the central nervous system sustains
22 breathing, you know, your cardiac output, your heart rate.
23 With brain death, you're unable to sustain the main
24 functions of life. She required mechanical ventilation. She
25 was requiring three medications to be exact to keep her

1 blood pressure up to a point to profuse her organs to allow
2 them to receive oxygen. With brain death, you know, you do
3 not have the capabilities of breathing on your own,
4 supporting blood flow to your outside organs, and
5 incompatible with life, unless you are being supported by,
6 say, mechanical ventilation, or medicines to keep you alive.

7 Q Is that what's commonly called as life support?

8 A Exactly. She was on life support.

9 Q And was there ultimately a decision to remove Ms.
10 Nelson from life support?

11 A Yes, and that was after discussing with her family that
12 she was brain dead and they agreed to removing the life
13 support after we told -- discussed with the family that she
14 was brain dead. And I believe the neurosurgeon -- I don't
15 want to speak for him, but I believe he had also held that
16 conversation with the family.

17 Q Is brain death an irreversible medical condition?

18 A Yes.

19 Q Okay. Thank you, Dr. McRae. Please answer any
20 questions that Mr. Hughes may have.

21 A Okay.

22 MR. HUGHES: No questions, Your Honor.

23 THE COURT: All right. Any objection to Dr. McRae
24 being excused?

25 MR. HUGHES: None from the defense.

1 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

2 THE COURT: You are excused, sir. Thank you.

3 DR. MCRAE: Okay.

4 THE COURT: Call your next witness.

5 ASST. SOL. FERGUSON: The State calls Dr. Lee Marie
6 Tormos.

7 WHEREUPON, DR. LEE MARIE TORMOS, IS DULY SWORN.

8 THE COURT: Dr. Tormos, come around and adjust the
9 microphone. If you would give your name to my court
10 reporter and spell your last name for her as well.

11 DR. TORMOS: My name is Lee Marie Tormos, T-O-R-"M"- as
12 in Mary-O-S.

13 DIRECT EXAMINATION

14 BY ASST. SOL. FERGUSON:

15 Q Good afternoon, Dr. Tormos.

16 A Good afternoon.

17 Q Who do you work for?

18 A I work for the Medical University of South Carolina.

19 Q And what do you do for them?

20 A I am a Forensic Pathologist on staff.

21 Q And what is a Forensic Pathologist?

22 A A Forensic Pathologist is a specialist. A medical
23 doctor that specializes in determining how injury affects
24 the body and helps determine the cause and manner of death.

25 Q And what type of education and training did you have to

1 undergo in order to become a Pathologist.

2 A Okay. In order to become a Pathologist, first, you
3 have to become a doctor. So, after four years of a
4 Bachelors Degree, usually in Sciences, you go to medical
5 school for an additional four years to obtain your M.D.
6 degree. Then, after that, you have to do specialty training
7 for an additional four years. Then, sub-specialty training
8 as a Forensic Pathologist for an additional year; for a
9 total of 13 years after high school.

10 Q And how long have you been a Pathologist?

11 A I've been a Pathologist for four years.

12 Q Okay. Now, as part of your duties, do you perform
13 autopsies?

14 A I do.

15 Q And what is an autopsy?

16 A An autopsy is considered a gold standard diagnostic
17 procedure for determining how injury or disease works upon
18 the body on contact.

19 Q And how many autopsies would you say you've performed
20 in your career as a Pathologist?

21 A I've performed over 700 autopsies.

22 Q And Dr. Tormos, have you ever testified in a Court of
23 law as an expert?

24 A Yes, I have.

25 Q About how many times?

1 A Once

2 Q All right.

3 ASST. SOL. FERGUSON: Your Honor, at this point, I
4 would move to have Dr. Tormos deemed an expert in Forensic
5 Pathology.

6 THE COURT: Any objection?

7 MR. HUGHES: No objection, Your Honor.

8 THE COURT: Ladies and gentlemen, typically, a witness
9 cannot testify to opinion. We allow an exception for that
10 for people that we deem experts. In this case, Dr. Tormos
11 is going to be qualified in the area of Forensic Pathology.
12 She can give you her opinion in that area, as well as her
13 reasons for the opinion. And of course, her testimony is to
14 be used as you see fit and appropriate, and certainly as
15 compared to other testimony you've heard in the case. All
16 right?

17 ASST. SOL. FERGUSON: Thank you.

18 Q Dr. Tormos, what is the procedure of an autopsy; if you
19 could explain that for the jury.

20 A An autopsy starts with an external examination where we
21 look at the body. First, as it arrives, we document all the
22 finding on the body, including the clothing, personal
23 effects. We then examine the body closely for signs of
24 injury or disease. Then proceed with an internal
25 examination of every organ looking for any evidence of

1 injury or disease on the inside of the body.

2 Q And did you perform an autopsy on a Cynthia Nelson in
3 this case on or about March the 24th of 2011?

4 A Yes, I did.

5 Q And where was that autopsy performed?

6 A It was performed at the Medical University of South
7 Carolina Forensic Department.

8 Q And did you do, first, an external examination?

9 A Yes, I did.

10 Q And what were your findings from that external
11 examination?

12 A We received a body that was nude and was an obese lady
13 who had a stab wound to the left jawline to be precise.

14 Q And Dr. Tormos, I want to show you what has already
15 been admitted into evidence as State's Exhibit Number Eight
16 and Number Ten.

17 ASST. SOL. FERGUSON: Your Honor, may I approach the
18 witness?

19 THE COURT: You may.

20 Q Dr. Tormos, do you recognize what is being shown in
21 those photos?

22 A Yes, I do.

23 Q And are they a fair and accurate depiction of the
24 findings of your external examination of Ms. Cynthia Nelson?

25 A Yes, they are.

1 ASST. SOL. FERGUSON: And Your Honor, if Dr. Tormos
2 could step down and explain what we're seeing in these
3 photographs.

4 THE COURT: Dr. Tormos, you may step down.

5 Q And Dr. Tormos, we'll start with State's Exhibit Number
6 Eight. If you could show that where most of the jury could
7 see it and if you could explain what's being shown in it.

8 A State's Exhibit Number Eight is the decedent, Cynthia
9 Nelson

10 THE COURT: Dr. Tormos, could you speak up for me,
11 please? Thank you.

12 A And this is a picture of the left side of her head,
13 including the neck area. And as you can see, there is a
14 velcro strap, because she was intubated at the hospital, so
15 she didn't have a breathing tube inserted. You can see her
16 ear and you can see underneath the ear there is a lesion
17 that when we examined it in the autopsy room was that of a
18 stab wound.

19 Q And Dr. Tormos, this is State's Exhibit Number Ten.

20 A State's Exhibit Number Ten is a close-up picture of the
21 stab wound itself. Before being cleaned, as you can see,
22 there is hemorrhage or bleeding from the stab wound to the
23 outside of the body and this is located on the left jaw
24 line, just inferior to the left ear.

25 Q All right. Thank you, Dr. Tormos, if you would take

1 your seat at the witness stand again.

2 (DR. TORMOS RETURNS TO THE WITNESS STAND.)

3 Q Now, as part of your external examination, you observed
4 the stab wound. Can you tell us about it?

5 A Yes. The stab wound measured .35 of an inch, or about
6 1/3 of an inch in length, and 1/20th of an inch in width.
7 And it was obliquely oriented, meaning diagonally oriented
8 with the blunt edge superiorly, or towards the back of the
9 head, and the sharp edge inferiorly, or towards the front of
10 the head.

11 Q And what does that tell you about the knife that was
12 used to cause that injury?

13 A This is probably a single-edge knife.

14 Q Thank you. I apologize, Dr. Tormos.

15 A There is an associated contusion just inferior to the
16 stab wound and this abrasion is actually rectangular and
17 maybe from either the perpetrator's hand as it touched the
18 face or it can be from the held, or the knife handle as it
19 hit the skin on the outside.

20 Q Now, Dr. Tormos, the internal examination, could you
21 describe what you did during the autopsy of Ms. Nelson, to
22 do the internal examination?

23 A Okay. During the course of the autopsy, as we removed
24 the organ, we also examined the area of the neck very
25 carefully, doing a plane by plane dissection, or

1 essentially, we examined every single muscle layer in the
2 neck. In the examination of the neck, we found that there
3 was a lot of bleeding into the soft tissues of the neck and
4 the artery that takes blood from the heart to the brain had
5 been cut, and that led to the bleeding both to the outside
6 of the body and into the soft tissues of the neck.

7 Q Dr. Tormos, were you able to determine the pathway that
8 a knife traveled into Cynthia Nelson?

9 A We were able to determine that the pathway was
10 downwards, medial, meaning to the center, or towards the
11 spine, and to the back.

12 Q And in your medical opinion to a reasonable degree of
13 certainty, was this a mortal wound that Cynthia Nelson
14 suffered?

15 A Yes, it was.

16 Q And once again, Dr. Tormos, I'm going to ask you if you
17 would step down. We have a demonstrative piece of evidence,
18 and I'm going to ask that you would show us on this exactly
19 what we're talking about.

20 (BRIEF PAUSE WHILE MR. FERGUSON GETS THE DEMONSTRATIVE
21 EVIDENCE.)

22 Q Now, Dr. Tormos, I'm going to give you, this is just a
23 piece of wire and it will show us the trajectory, the
24 pathway, that this knife took.

25 A So the stab wound was located inferior to the left ear,

1 right near the jawline, and it was angled downward,
2 medially, and posterially, like this. (DEMONSTRATING ON THE
3 MODEL.)

4 Q Okay. Thank you. Now, what I would like for you to do
5 is hold this as if it were the knife, and I want to position
6 our demonstrative evidence, and I'm hoping to do this in a
7 way that everybody can see. But is this wound consistent
8 with someone having a knife in their right hand, striking
9 someone who they're facing?

10 A Yes.

11 Q Okay. Now, did you determine that this was -- in your
12 medical opinion, have you ever seen a wound like this that
13 was self-inflicted?

14 A No, I haven't.

15 Q Okay. Given that it is consistent with a person having
16 a knife in their right hand, striking the person that
17 they're facing, is it possible that this is a self-inflicted
18 wound?

19 A It is not possible that this could be a self-inflicted
20 wound.

21 Q Now, more importantly, is it probable?

22 A It is not probable.

23 Q Could you demonstrate for me, using this dummy, how a
24 person would have to move in order to inflict this wound
25 upon themselves?

1 A Okay. So with the person holding a knife in their
2 right hand -- and I am going to put this paper so that the
3 sharp edge is medial.. So the dummy will have to hold the
4 knife like this (DEMONSTRATES) turn the wrist so that it is
5 medial.

6 Q Well, I don't think that knife will bend, so let's see
7 if we can't ---

8 A Well, we don't know how long the knife is. Well,
9 right there, possibly. The bending of the wrist.

10 Q Thank you. Dr. Tormos, if you would take your seat
11 back on the witness stand.

12 (DR. TORMOS RESUMES THE STAND.)

13 Q Now, Dr. Tormos, what do we mean by "cause of death"?

14 A The cause of death is the actual derangement, the
15 actual finding or event that precipitated a person's death.

16 Q And is that also called a medical reason for death?

17 A Yes.

18 Q And what was your determination for the cause of death
19 in this particular case?

20 A We determined that the cause of death is hypobulimic
21 shock, which means acute blood loss; and myocardial infarct,
22 or heart attack, due to the stab wound to the face and neck.

23 Q Dr. Tormos, what is it when we talk about "manner of
24 death"? A Okay. There are five manners of death. There is
25 natural, in which illness simply precipitated a person's

1 death.. There is homicide, and that simply means in medical
2 and legal terms that a person inflicted something that
3 eventually took this person's life. There is accident, and
4 you all know what accident is. There is suicide. And then
5 there is undetermined.

6 Q Dr. Tormos, did you determine through your
7 investigation that this wound was the result of an accident?

8 A No, I did not.

9 Q All right. Did you determine through your
10 investigation that this injury and death was a suicide?

11 A No, it was not.

12 Q Were your findings undetermined?

13 A No, they weren't.

14 Q So what was the manner of death in this case?

15 A The manner of death in this case was homicide.

16 Q Okay. And how did you come to that determination?

17 A We came to that determination based on the
18 investigation findings provided to us by the coroner.

19 Q Now, Dr. Tormos, does the nature of the injury -- did
20 the nature of the injury also lead to your determination
21 that this case was a homicide?

22 A Yes.

23 Q And is that because you've never seen this as a self-
24 inflicted injury before?

25 A Even though stab wounds may be self-inflicted, there

1 are usually other findings associated with a stab wound, and
2 in this case, it is a single stab wound to the neck and that
3 is inconsistent with a suicide.

4 Q And is it also inconsistent with an accident?

5 A It is inconsistent with an accident.

6 Q Thank you, Dr. Tormos, I have no further questions for
7 you. THE COURT: Mr. Hughes?

8 CROSS-EXAMINATION

9 BY MR. HUGHES:

10 Q Dr. Tormos, how deep was the wound?

11 A The wound was somewhere between 2.2 inches and 2.8
12 inches in depth.

13 Q Was it stopped by bone?

14 A Yes, it was.

15 Q The wound, I believe, severed the carotid artery?

16 A We were unable to determine precisely which artery was
17 severed. There are several branches high up in the neck.
18 We did find a severed artery we believe it was the external
19 carotid artery, but we cannot exclude that there was also
20 injury to the vertebral artery.

21 Q Were there any other wounds?

22 A Not on the body -- well, wounds, in terms of stab
23 wounds? No..

24 Q Okay. Are you familiar with what is called a defensive
25 wound?

1 A Yes, I am.

2 Q Would you please explain that to the jury?

3 A Defensive wounds are wounds sustained when an attacker
4 is coming forward usually and a person holds up their hands,
5 forearms, or in a case where they are lying down, they hold
6 up their legs in self-defense. And they are usually on the
7 hands, on the forearms, or in the case of somebody who is
8 lying down and the attacker is on top of them, they also may
9 be sustained on the legs.

10 Q And the reason for that is because people who are being
11 attacked with a knife try to defend themselves, correct?

12 A That is correct.

13 Q Did you find any defensive wounds?

14 A We did not.

15 Q Have you done very many autopsies on people who were
16 stabbed?

17 A Define "very many".

18 Q More than twenty?

19 A Somewhere between ten and twenty.

20 Q Have you ever done an autopsy on somebody who sustained
21 a single stab wound?

22 A Yes.

23 Q Okay. Where was that wound to?

24 A The chest.

25 Q Were there any defensive wounds for that?

1 A No.

2 MR. HUGHES: Could I have the witness step down,
3 please?

4 THE COURT: You may.

5 MR. HUGHES: Come here, please, Doctor.

6 Q Remember to speak up so that everyone can hear you. I
7 don't have anything fancy like that. I just have a piece of
8 tube that I cut the length of my household knives. Could
9 you please hold that in your hand?

10 A Uh-huh (affirmative).

11 Q And let's call the yellow part the "blade".

12 A Uh-huh (affirmative).

13 Q Now, stab me like that person was stabbed.

14 A (WITNESS DEMONSTRATES.)

15 Q Okay. Do that again, please.

16 A (WITNESS DEMONSTRATES AGAIN.)

17 Q Okay. So it hit right in here, right below the ear,
18 and the blade was pointed down like that?

19 A Correct.

20 Q Okay. Are you familiar with any self-defense? Do you
21 know any self-defense?

22 A No.

23 Q Okay. What I'd like for you to do is attack me again
24 the same way coming that way. And I'm going to defend
25 myself.

1 A (WITNESS COMPLIES.)

2 Q Now, which way is the hand going?

3 A Towards my left.

4 Q Would -- let's turn this way, please. Would this cause
5 any injury to you other than to your neck? Would there be
6 markings on either your wrist or your inner arm?

7 A No.

8 Q Okay. So then a person who is attacking could actually
9 stab themselves in the neck?

10 A Yes.

11 Q Okay. Thank you. You may be seated. And again, I
12 ask, would that move that I just did cause any markings on
13 your person?

14 A No.

15 Q Okay. So that would not show up on an autopsy?

16 A No.

17 Q And the wound that would have been generated to
18 yourself, that would have been consistent to the wounds that
19 the woman had?

20 A It is very possible, yes.

21 Q So this could have been an accident?

22 A Yes.

23 MR. HUGHES: No further questions, Your Honor.

24 THE COURT: Any redirect?

25 ASST. SOL. FERGUSON: Just briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY ASST. SOL. FERGUSON:

3 Q A lot of things can happen; is that right, Dr. Tormos?

4 A That is true.

5 Q Now, was it your findings that it was an accident?

6 A No.

7 Q And again, why is that?

8 A Because the information provided by the scene
9 investigation, and the history provided by the coroner,
10 leads us to believe that this was a homicide, a witnessed
11 homicide.

12 Q And is it also the nature of that wound that led you to
13 that determination?

14 A Yes.

15 Q Okay.

16 ASST. SOL. FERGUSON: I beg the Court's indulgence for
17 just one moment, please.

18 (BRIEF PAUSE.)

19 Q Dr. Tormos, I couldn't help but notice the interaction
20 between Mr. Hughes and yourself. It looked uncomfortable.
21 Was that a natural reaction to what was being done to you?
22 Did that feel natural to you?

23 A It was a bit uncomfortable.

24 Q And was there a point where your wrist angle was
25 actually manipulated to show the actual trajectory that you

1 and I talked about on the dummy?

2 A I cannot answer that.

3 Q Was the actual angle of the wrist, was that a variable
4 in that equation?

5 A The angle of the wrist is necessary in order to
6 reproduce the trajectory of the stab wound.

7 Q And in that demonstration, when you first did it,
8 wasn't it not the same trajectory, and then it moved up to
9 where it would be a demonstration of that same trajectory?
10 In other words, when you first went through the
11 demonstration with Mr. Hughes, wasn't the knife in the exact
12 same place that we just talked about with that dummy?

13 A We may have accommodated it.

14 Q Thank you, Dr. Tormos.

15 THE COURT: Anything further? Mr. Hughes?

16 RE CROSS-EXAMINATION

17 BY MR. HUGHES:

18 Q Doctor, did I move your wrist any?

19 A No, sir.

20 Q And the movement that I did to you could have inflicted
21 the wound done to the victim?

22 A Yes, you did lift my forearm, but if you lift my
23 forearm, yes, I could ---

24 Q Are you the same size as the victim?

25 A No, sir.

1 Q Am I the same size as the defendant?

2 A I do not know. I've never seen the defendant.

3 Q Without the information provided to you from outside
4 source, but only based upon the autopsy, would this have
5 been called an accident or a homicide?

6 A We do not do autopsies in a vacuum. We have to take
7 into consideration all of the investigative findings, and as
8 such, it is the determination that it is a homicide, based
9 upon the investigation.

10 Q So you're not there to determine if it's a homicide.
11 You're just there to determine if the facts match that of a
12 homicide?

13 A No. That is not what I am saying.

14 Q I apologize. Please tell me.

15 A We are there to document the injuries and findings and
16 put all of the findings, including toxicology reports,
17 investigation reports, and police findings, and any other
18 matter which may be pertinent to this case, in order to
19 arrive at a determination.

20 Q Okay. I hate to ask you to do this, but could you do
21 that again in English? A little simpler, please, because I
22 ---

23 A Okay. Part of the Forensic Pathologist's job is to
24 take all of the findings of the case, and that includes the
25 scene investigations from the coroner, or the police

1 department, or any other investigative agency that may be
2 involved in a case. We also look at toxicology. We look at
3 the autopsy findings. We look at medical records. And we
4 put everything together in order to come to a determination.
5 We rarely do autopsies or come to a determination in a
6 vacuum, because there are circumstances. And just like a
7 gunshot wound to the head may be self-inflicted and may be a
8 suicide, it may be an accident in a hunting event, or it may
9 be a homicide, so can a lot of other things. So our manner
10 of death is usually a combination of all the facts in a case
11 put together to come to a determination.

12 Q Thank you, Doctor. So this could have been, based upon
13 what you said earlier, this could have been an accident?

14 A This could have been an accident if we were only
15 talking about the wound.

16 Q Okay. Thank you, Doctor.

17 MR. HUGHES: No further questions, Your Honor.

18 THE COURT: Okay. Anything further, Mr. Ferguson?

19 ASST. SOL. FERGUSON: Nothing further, Your Honor.

20 THE COURT: Any objection to Dr. Tormos being excused,
21 from anyone?

22 MR. HUGHES: Not at all.

23 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

24 THE COURT: Dr. Tormos, you may step down and you are
25 excused from the courtroom.

Redirect Examination of Dr. Lee Marie Tormos by Asst. Sol. Ferguson
Recross-Examination of Dr. Lee Marie Tormos by Mr. Hughes

163

1 (DR. TORMOS EXITS THE COURTROOM.)

2 ASST. SOL. FERGUSON: And Your Honor, if we may take a
3 brief break to make sure we have everything in line, that
4 would be appreciated.

5 THE COURT: Okay. Ladies and gentlemen of the jury, we
6 are going to take a brief break. We will be back with you
7 shortly. Again, do not discuss this case. It wouldn't be
8 appropriate to do so. Thank you.

9 (2:50 P.M., WHEREUPON THE JURY EXITS THE COURTROOM AND
10 THE FOLLOWING IS HELD ON THE RECORD.)

11 THE COURT: All right. Let's make sure you have all of
12 your evidence together.

13 ASST. SOL. FERGUSON: Thank you, Your Honor.

14 (BRIEF PAUSE IN COURTROOM.)

15 THE COURT: Why don't we go ahead and make the motions
16 that are applicable at this point. Let's talk about your
17 client's rights and if he wants to testify before we bring
18 the jury out.

19 Mr. Ferguson, Mr. Hughes has already expressed his
20 desire that he would like to argue and charge tomorrow
21 morning. I remind you all that I cannot be here until
22 10:45, so if we did that it would mean that we would not
23 start and I would not have him back here until 11:00 in the
24 morning, because I don't want him waiting on us. So you
25 have the pleasure, or any position, or are you here for the

1 duration?

2 ASST. SOL. FERGUSON: Yes, ma'am, Your Honor, I'm here
3 for the duration or whatever Your Honor decides will be
4 fine.

5 THE COURT: Okay. Do you have a preference?

6 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

7 THE COURT: Okay.

8 ASST. SOL. FERGUSON: I mean I would like to have a
9 charge conference and those type things. I do think we've
10 gone pretty quick and I don't want to give the impression
11 that this is not an important case. I think we do have the
12 luxury of time and so I do not object to arguing and
13 charging tomorrow if Your Honor is so inclined

14 THE COURT: Okay. I agree with you. All right. So
15 we'll do that. Sometimes it frustrates the jury to break at
16 3:00. So let's do this, let's go ahead, Mr. Hughes, and you
17 make your motion and then I'll go through your client's
18 rights with him and we'll figure out if he wants to testify
19 and then we'll have you both rest in front of the jury and
20 then we'll send them home for the night. Then, we'll have a
21 charge conference, okay?

22 MR. HUGHES: Your Honor, at this time, I would move for
23 directed verdict. The State has not met all of its burden
24 for murder. They have not shown any premeditation in this.
25 It has been testified that the defendant did not know that

1 Ms. Cynthia Nelson was going to be there. The State made
2 statements in their opening that have not been shown. I do
3 not see this with malice. I do not see -- I don't even see
4 heat of the moment, here, Your Honor. This may be
5 involuntary, but that would be the maximum I would say. I
6 would move to dismiss for failure to meet all of the
7 elements of murder. I would also, at this time, like to
8 renew all of my previous motions.

9 THE COURT: All right. Mr. Ferguson?

10 ASST. SOL. FERGUSON: Thank you, Your Honor. Very
11 rarely in a murder case do we get the luxury of express
12 malice, and I think that's exactly what we have here. WE
13 have a statement from the defendant on the day that the
14 victim was killed saying "I'm going to kill that lady." Not
15 only that, we have the statement that he went to her
16 apartment the previous night to kill her. So the intent was
17 formed on the previous night and it was reaffirmed on the
18 20th and it continued up until this incident occurred. And
19 so I respectfully disagree with Mr. Hughes's analysis of
20 what evidence is in the record and I think there is clear
21 malice aforethought and I think the elements of murder are
22 met. I think we could argue about charges, jury charges, at
23 a later time, Your Honor.

24 THE COURT: All right. Well, respectfully, I do think
25 the allegation that he threatened her life not once, but

1 twice, within a 24-hour period of this incident does cross
2 the level of express malice and the jury can consider it if
3 believed it. So I'm going to deny your motion for a
4 directed verdict as to meeting all the elements of malice.
5 I do clearly think a voluntary manslaughter charge is
6 appropriate, and of course at the charge conference, we will
7 discuss whether or not a charge of involuntary manslaughter
8 is appropriate as well. So with that said, I'm denying your
9 motion at this time. Is now an appropriate time for me to
10 go through with your client whether or not he wishes to
11 testify?

12 MR. HUGHES: Yes, Your Honor. I have been talking with
13 him for the last six months about his testimony or his lack
14 thereof and he agrees that he understands all of his rights.

15 THE COURT: And have y'all discussed -- I have no idea
16 whether or not he has any prior convictions, what would be
17 used against him if he did take the stand?

18 MR. HUGHES: Mr. Ferguson, I believe, has a small list
19 of things.

20 THE COURT: Okay.

21 MR. HUGHES: So, yes, Your Honor, I have talked with
22 him about his prior record.

23 THE COURT: All right. Well, Mr. Scott, if you will go
24 ahead and stand up, sir. Ms. Bostick is going to swear you
25 in. Come on around, please, sir.

1 punishable by imprisonment for more than one year, and if I
2 were to determine that the probative value of those crimes
3 outweigh any prejudicial value or effect to you, the
4 Solicitor will be able to introduce that or go into those,
5 sir. If you decide to testify, you need to understand that
6 this is a decision that only you can make. While I expect
7 you to talk to your lawyer and counsel with your lawyer,
8 again, this is a personal and independent decision and only
9 you can't invoke it.

10 I want you to know though that if you decide not to
11 testify in the case, I'm going to tell the jury in my jury
12 charge that that the fact that you didn't testify is not
13 even to be discussed back there in a jury room. Again, a
14 person has the right not to choose to speak and to invoke
15 your right and I just want to make sure you understand that
16 and appreciate that and your decision not to testify is
17 yours and it's freely made.

18 Sir, do you know if you want to testify?

19 MR. SCOTT: No, I don't, Your Honor.

20 THE COURT: You do not want to testify?

21 MR. SCOTT: No, ma'am.

22 THE COURT: Have you had an opportunity to speak with
23 your lawyer about that, is that correct?

24 MR. SCOTT: Yes, Your Honor.

25 THE COURT: All right, sir. I appreciate that and I do

1 find that you understand your rights and that you've chosen
2 not to testify. You can go ahead and take a seat.

3 And what we are going to do y'all is I'm going to bring
4 the jury back out and we're going to have Mr. Ferguson rest
5 for the record and Mr. Hughes, you're going to go ahead and
6 rest for the record, and then you can renew your motion
7 again and then we will have a charge conference, and I'm
8 going to bring them back at 11:00 tomorrow morning to go
9 ahead and argue and charge.

10 Any problem with that, Mr. Ferguson?

11 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

12 THE COURT: Mr. Hughes?

13 MR. HUGHES: No, Your Honor.

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

15 (12-7-11, WHEREUPON THE JURY ENTERS THE COURTROOM AND
16 THE FOLLOWING IS HELD ON THE RECORD.)

17 THE COURT: Well, Ladies and gentlemen, welcome back.
18 Mr. Ferguson?

19 ASST. SOL. FERGUSON: Your Honor, at this point, the
20 State rests.

21 THE COURT: All right. Thank you, sir.

22 MR. HUGHES: Your Honor, at this point, the defense
23 rests.

24 THE COURT: Ladies and gentlemen, at this time both the
25 State and the defendant have rested their case. Based on

1 the hour, there is some other work I need to do with these
2 attorneys before we go ahead and argue, charge, and send
3 this case to you, and just based on the hour so that we
4 don't end up staying here late, I'm going to go ahead and
5 send you all home for the night and let us do our business,
6 and we're going to start up in the morning when you all are
7 going to hear the arguments from the attorneys, as well as
8 my charge on the law.

9 Ladies and gentlemen, I have another unavoidable
10 conflict in the morning, so we cannot begin until 11:00
11 tomorrow morning. So I am asking that you all return at
12 11:00 a.m. tomorrow morning again, where you all are going
13 to hear the closing arguments from the attorneys on this
14 case and you're going to hear my charge on the law and we're
15 going to send this case to you.

16 Again, ladies and gentlemen, I look forward to seeing
17 you all at 11:00. We will be prompt if you're here as well.
18 Again, I have to tell you that while you have heard all of
19 the evidence, you haven't heard the arguments from all the
20 lawyers, nor my charge on the case, and it would be
21 inappropriate for you to discuss the case with anyone, to do
22 any independent research. The only thing I ask, Ladies and
23 gentlemen, is go home and get a good night's sleep and come
24 back in the morning prepared to listen and deliberate. All
25 right? Have a wonderful evening, y'all. See you in the

1 morning.

2 (WHEREUPON THE JURY EXITS THE COURTROOM AND THE
3 FOLLOWING IS HELD ON THE RECORD.)

4 THE COURT: All right. I've already indicated and told
5 y'all that I am not going to charge involuntary
6 manslaughter.

7 This is where I have a problem with the involuntary
8 manslaughter portion of the charge. "To prove involuntary
9 manslaughter, the State must prove beyond a reasonable doubt
10 that the defendant unintentionally killed the victim without
11 malice, but while engaged in an unlawful activity not
12 naturally tending to cause death or great bodily harm, or
13 that the defendant unintentionally killed the victim without
14 malice while engaged in a lawful activity." Well, number
15 one, the activity was not lawful, clearly. Having a knife
16 in someone's hand, if you believe the State's version of the
17 facts, is not lawful.

18 Additionally, if it's an unlawful activity, then it
19 would have to be one that's not naturally tending to cause
20 death or great bodily injury. Well, if you have a knife and
21 it's unlawful, it's likely that it can cause great bodily
22 injury or death. That's why I'm having a hard time finding
23 involuntary manslaughter appropriate to this case, which is
24 why I'm inviting any of you that if you want to pull up any
25 case law that would show --- Mr. Hughes?

1 MR. HUGHES: Your Honor, I really prefer not to even
2 have voluntary manslaughter. The testimony was from the
3 State's own witness that it was potentially an accident. I
4 would like the charge for accident. I would also like a
5 charge of self-defense, because the State produced ---

6 THE COURT: Okay. Just so I'm clear, though -- see,
7 you jumped right over. You don't want a voluntary or a
8 involuntary charge; is that what you're asking?

9 MR. HUGHES: I would not object to both voluntary and
10 involuntary. I would object to simply voluntary. If I
11 had my druthers, I'd rather have all four. I would
12 appreciate ---

13 THE COURT: All four of what? Where did we get the
14 last one?

15 MR. HUGHES: I'm sorry. Murder, voluntary manslaughter
16 ---

17 THE COURT: And involuntary.

18 MR. HUGHES: Or not guilty.

19 THE COURT: Okay. Well, again, I can tell you, what I'm
20 going to invite you to do, before you jump over to accident
21 and self-defense, let's first talk about -- I invite you
22 again to find any case law you can that you think parallels
23 the facts of this case for a involuntary charge. I think
24 what's appropriate, and the appropriate law in this case, is
25 according to the testimony and of course it's what I'm

1 charged to charge is, I believe, murder and voluntary
2 manslaughter, as it stands.

3 So now I think we need to go on to accident and self-
4 defense. Of course, I looked at that as well. I understand
5 why you're asking for it. I had it online. Let me just
6 look at the accident charge, again, very quickly.

7 (BRIEF PAUSE IN COURTROOM.)

8 THE COURT: Well, if we charge accident, "an act may be
9 excused on the ground of accident if it is shown that the
10 act was unintentional, which I think under the facts you
11 could state that. That the defendant was acting lawfully,"
12 which I don't think you can argue that, "and that reasonable
13 care was used by the defendant in the handling of the
14 weapon." Well, again, the defendant wasn't acting lawfully
15 if, in fact, he had a knife.

16 MR. HUGHES: Your Honor, the only person that puts him
17 with a knife is, I believe, Akera, and she does not identify
18 a knife in his possession at the time of the incident.

19 THE COURT: Then that's not an accident by him. That's
20 an accident by the victim.

21 MR. HUGHES: Yes, ma'am. But I don't know if the jury
22 would be confused since the pathologist did state that this
23 could have been an accident. I would withdraw the motion
24 for an accident if the self-defense aspect was a charge of
25 self-defense.

1 THE COURT: Okay. Say that again one more time.

2 MR. HUGHES: I would withdraw the request for the
3 accident charge and if I can have the self-defense charge.

4 THE COURT: That would be putting the knife back in
5 your guy's hands.

6 MR. HUGHES: No, ma'am. That would be putting the
7 knife in the victim's hand.

8 THE COURT: Then it wouldn't be his fault at all.

9 MR. HUGHES: Through his actions when she told law
10 enforcement and law enforcement testified to and I
11 demonstrated possibility that she would have been attacking
12 him while he performed an act.

13 THE COURT: Again, though, that would still place her
14 being the aggressor. Her having the knife. There would be
15 no defense even for him. It would be that she hurt herself.
16 I mean, I understand your allegation is that somehow they
17 tussled and she ended up getting stabbed with a knife that
18 she brought into the fight, correct?

19 MR. HUGHES: Law enforcement testified that he
20 demonstrated a move. I demonstrated to the Forensic
21 Pathologist that move was possible and that that move would
22 result -- would potentially result in that wound. I would
23 like the jury to understand that because of his self-defense
24 action and defending himself from an attack with the knife
25 that it is -- that he was acting in self-defense that

1 evening, Your Honor. Not that he was attacking in -- he
2 stabbed her, but he was acting in self-defense that caused
3 her to be stabbed.

4 THE COURT: Okay. Obviously, to establish self-
5 defense, he has to be without fault in bringing on the
6 difficulty.

7 MR. HUGHES: If he is at his sisters eating and the
8 victim comes in and attacks him, I would say that he is
9 without fault.

10 THE COURT: No one has asked for a mutual combat
11 charge, right?

12 MR. HUGHES: I did not even consider a mutual combat
13 charge, Your Honor; so I've not asked for it.

14 THE COURT: Does the State have a position on self-
15 defense?

16 ASST. SOL. FERGUSON: Well, Your Honor, I mean, self-
17 defense is yes, I killed this person, but I was justified in
18 doing so. And so, what we have is a hybrid. It is, yes, I
19 killed her, but I used her own hand to do it. And so, it is
20 not an accident in my opinion. It is an intentional self-
21 defense act that this defendant is alleging that he did it
22 that resulted in her death. I think that it is ludicrous,
23 quite frankly.

24 THE COURT: Well, I understand that, but it is
25 appropriate under his facts of the case, which I guess it

1 is. I mean, I can tell you right now, I can charge self-
2 defense, but not accident.

3 ASST. SOL. FERGUSON: Yes, ma'am. I do think the
4 defendant is not without fault in bringing this incident on.
5 Akera Nelson testified that it was

6 THE COURT: Depends on whose version you believe, and
7 that's the problem.

8 ASST. SOL. FERGUSON: That's right. Yes, ma'am.

9 THE COURT: So I want to be clear, Mr. Hughes, for the
10 record. You want self-defense, but you do not want
11 accident; is that correct?

12 MR. HUGHES: The legal definition of accident, I do not
13 see it as a case in this matter, Your Honor. Although the
14 Forensic Pathologist did use the word accident in her
15 identifying that this could have been an accident, but I
16 don't think she was using the legal definition.

17 THE COURT: Okay. Under his version of him doing some
18 kind of technique, or move, I could see self-defense. So
19 again, you are not requesting accident. Do you want to go
20 with self-defense? For it to have been an accident, he
21 would have had to have had the knife.

22 MR. HUGHES: Right.

23 THE COURT: And that just simply is not the theory of
24 the case and never has been.

25 MR. HUGHES: None whatsoever.

1 THE COURT: Gotcha. Okay. Anything else besides self-
2 defense and I think we're all going to look at involuntary
3 and see if we can find -- I'm having a hard time, Mr.
4 Hughes, with involuntary. I'm just asking you and
5 suggesting to you that maybe you can find some case law or
6 something that's factually close or similar.

7 MR. HUGHES: I will be more than happy to spend the
8 evening looking, Your Honor.

9 THE COURT: All right. Other than the standard
10 reasonable doubt, presumption of innocence, you both have
11 heard my charge many times. Mr. Hughes, I know you've heard
12 it ad nauseum.

13 MR. HUGHES: I would not say ad nauseum, Your Honor,
14 but I have definitely heard it enough times to know that I
15 trust it.

16 THE COURT: That's okay. Anything else?

17 ASST. SOL. FERGUSON: Nothing, Your Honor.

18 THE COURT: Let me just reread one more time the
19 involuntary charge so that I'm comfortable.

20 (BRIEF PAUSE IN COURTROOM.)

21 THE COURT: I have a hard time, again, getting past,
22 Mr. Hughes, the engaging in wrongful activity, which I can
23 agree on, but one that does not naturally tending to cause
24 death or great bodily injury. I think if you've got a
25 knife, it does; or that the defendant unintentionally killed

1 the victim without malice and while engaged in a lawful
2 activity. That's not it. It's either self-defense or the
3 other. It just can't be both. I just don't think
4 involuntary is appropriate.

5 MR. HUGHES: If I could have some time to review this
6 Your Honor, and like I said, my biggest problem with giving
7 them the choice of murder, voluntary or not guilty is that
8 nine times out of ten they will simply go with the lesser
9 included. I would ask that they be given a chance to give
10 them something to think about, not just go, "Well, we don't
11 think it's murder, but we're not really sure that he didn't
12 do something. So, let's just find him guilty of this."

13 THE COURT: Well, they can believe your story, which is
14 the self-defense that he was doing some kind of martial arts
15 move and she ended up stabbing herself.

16 MR. HUGHES: Again, I request until tomorrow morning.
17 Let me check and see what I can find for you.

18 THE COURT: Absolutely. And if you do find it and you
19 want to e-mail it to me overnight, of course, copy Mr.
20 Ferguson and Ms. Bannon, but I'd like to read it ahead of
21 time if I can.

22 MR. HUGHES: I will try my best to, Your Honor.

23 THE COURT: All right, y'all. Anything else we need to
24 put on the record for this case? And of course, Mr. Hughes,
25 you need to renew your motions again, and I apologize, but

1 we'll go ahead and put it on the record right now.

2 MR. HUGHES: Your Honor, at this time, I'd like to
3 renew my motion for directed verdict and my previous motions
4 at this time.

5 THE COURT: Well, respectfully, I'm denying those both
6 on the same grounds as earlier. Anything else we need to
7 put on the record for tomorrow?

8 ASST. SOL. FERGUSON: No, Your Honor, not from the
9 State.

10 MR. HUGHES: Not from the defense.

11 THE COURT: Both of you did a very short opening. I'm
12 assuming your closing is going to be probably not as short,
13 but neither one of you are long-winded; so am I anticipating
14 correctly?

15 ASST. SOL. FERGUSON: That's correct, Your Honor.

16 MR. HUGHES: Yes, Your Honor, and can I get that in
17 writing, please?

18 THE COURT: Well, I guess I should have said it depends
19 on what you are doing, whether or not you're fast. All
20 right, y'all, we're going to turn back to non-jury matters.
21 Ms. Gentry, anything you want to do this afternoon?

22 (3:40 P.M., 12-6-11, WHEREUPON, THE COURT IS IN RECESS
23 IN THE TRIAL OF THIS CASE.)

24 (9:30 A.M., 12-7-11, WHEREUPON, COURT RESUMES IN THE
25 TRIAL OF THIS CASE AND THE FOLLOWING IS HELD ON THE RECORD.)

1 THE COURT: I wanted to go back on the record and
2 discuss again about whether or not to charge involuntary
3 manslaughter. Mr. Hughes, I see that you gave my law clerk
4 the case of Casey v. State of South Carolina, 409 SE 2d,
5 391, where, basically, the whole thing was evidence of a
6 struggle between the defendant and victim over a weapon is
7 sufficient for submission of an involuntary manslaughter
8 instruction to the jury.

9 I'm still having a hard time in this case about that.
10 I honestly think that it has to be either murder or
11 voluntary manslaughter or self-defense. You know, based on
12 your entire -- your defense of this case, you state that
13 your client did some type of martial arts move to avoid
14 apparently being hit or himself hurt in some way?

15 MR. HUGHES: Yes, Your Honor.

16 THE COURT: I don't see how he could be guilty, then,
17 of involuntary manslaughter. I mean, that's the problem.
18 That's the problem I have. I understand why you want it
19 charged, but again, I don't see -- if either what he did was
20 self-defense or -- and you have to believe one way or the
21 other, either he came with a knife or she came with a knife.
22 I mean, that's the problem I have with that. I don't see
23 how criminal negligence, what he did -- I mean, I don't see
24 how under any of the circumstances he could be criminally
25 negligent.

1 MR. HUGHES: Well, Your Honor, as Detective Litchfield
2 testified, my client has martial arts training. I do not
3 know for sure if there were other moves he could have done
4 to disarm Ms. Nelson. The move that he did do, and that was
5 testified to, as described to under Detective Litchfield,
6 and I demonstrated with the forensic pathologist was
7 possible, directly caused Ms. Nelson's death. I would say
8 that any negligence would be ---

9 THE COURT: That would be purely self-defense, then.

10 MR. HUGHES: Okay.

11 THE COURT: I mean, he should be acquitted on that. If
12 that's truly what it was, if it's under what he was saying,
13 then he should be acquitted then. If the jury believed
14 that, he shouldn't even be convicted of involuntary
15 manslaughter.

16 MR. HUGHES: Well, my biggest problem with voluntary
17 manslaughter is while I do see that if the State was correct
18 that that would be a possible to charge to the jury, my
19 biggest worry is the jury would no longer look at the facts,
20 but simply split the baby and go with that. I would request
21 then that he simply be charged with murder or not guilty,
22 and not a charge of self-defense.

23 THE COURT: I'm sorry. Give me one second.

24 MR. HUGHES: Yes, ma'am.

25 (Off the record, briefly.)

1 THE COURT: I've pulled up -- my law clerk pulled up a
2 very recent case, State v. Smith, where the Supreme Court
3 upheld a trial court after the Court of Appeals, of course,
4 reversed them. That it was not error to charge only murder
5 and not for voluntary or involuntary, based on the facts of
6 the case.

7 (BRIEF PAUSE IN THE COURT.)

8 THE COURT: All right. I'm sorry. Mr. Ferguson, go
9 ahead.

10 MR. FERGUSON: Yes, ma'am. What would you like for me
11 to address first, the involuntary manslaughter?

12 THE COURT: The involuntary.

13 MR. FERGUSON: Okay. Yeah, what we have is there is no
14 evidence of a struggle over a weapon. It is, if you believe
15 the defendant's story, it is an intentional act to find the
16 victim, first. And then, second, a defensive act, an
17 intentional defensive act by the defendant.

18 THE COURT: Which will be self-defense, which would be
19 a complete offense.

20 MR. FERGUSON: That's correct. I don't see how you act
21 in self-defense in a criminally negligent way, because it is
22 an intentional act.

23 THE COURT: Right.

24 MR. FERGUSON: I just don't think there's a precedent
25 to negligently defend yourself. So I agree with the Court's

1 initial assertion that it is not applicable in this case.

2 Now, voluntary manslaughter, you know, the crux of that
3 charge is heat of passion and the appearance of an assault.

4 In other words, if you take the defendant's version of
5 the facts, that the victim somehow either was trying to stab
6 him or hit him, that is obviously the appearance of an
7 assault; words are not sufficient. The testimony about what
8 Ms. Nelson said upon entering that room, that that is not
9 sufficient legal provocation, but the appearance of an
10 assault is.

11 And so there again, if you believe his version of the
12 story or even part of his version of the story, that would
13 suffice for sufficient legal provocation in order to create
14 the heat of passion. If she had the knife or she didn't
15 have the knife. If he felt like it was about to be a
16 struggle, or about to be an assault, that has been held to
17 warrant that charge. And, you know, it's up to the jury
18 what version they believe or whether they believe a hybrid
19 of the two.

20 And so, you know, unfortunately, it is not up to Mr.
21 Hughes to decide, based on his concerns of real life results
22 as to what to charge the jury. It is if there are any facts
23 in evidence that support the charge. And so, splitting the
24 baby, you know, it may be an astute observation, given his
25 own professional experience, but it doesn't control what we

1 charge a jury. We have to look at what's in evidence. And
2 I think that it is an appropriate charge, and I think that
3 it should be part of Your Honor's charge.

4 THE COURT: Yes, sir?

5 MR. HUGHES: Your Honor, I find myself in a very
6 strange position against arguing against the lesser included
7 of the matter. I would object to a charge of voluntary
8 manslaughter in this case. If the State felt there was a
9 voluntary manslaughter charge in this case, they should have
10 indicted him on a voluntary manslaughter charge. Asking for
11 the lesser included ---

12 THE COURT: It was charge with murder because of the
13 previous threat of "I'm going to kill you from the night
14 before," which is in evidence as express malice. That's why
15 he was charged with murder, I'm going to go ahead and
16 presume, not that I want to put words in the State's mouth;
17 but I believe you've already said that.

18 I do think, though, that there is evidence in this case
19 in which this jury could find that this was voluntary
20 manslaughter. If they didn't believe those words or if they
21 didn't believe that he lied in wait and was going to do this
22 and when to kill her. I mean, quite frankly, the evidence
23 that, you know, after it occurred, you know, he tried to use
24 his shirt to stop, you know, the bleeding shows something.
25 I don't know what exactly, but it shows something; at least

1 it does to me as the judge.

2 So I understand; the problem is that I am required, as
3 you understand -- and I know your dilemma. I understand why
4 you're asking only to have murder charged, but I am duty-
5 bound to charge what is appropriate for the facts of this
6 case. I have to charge both murder and voluntary
7 manslaughter and, of course, self-defense, based on the
8 facts. And we have gone through them, and I can tell you
9 that I've looked at this every way I can. And we all know,
10 it's a reversible error for me to incorrectly charge what's
11 applicable to the facts and we certainly all don't want to
12 do this again. I can tell you that I feel very comfortable
13 in coming to this decision, so ---

14 MR. HUGHES: Like I said, Your Honor, I find myself in
15 a position of arguing against something I would normally be
16 arguing for. But just for the record, I would object to a
17 charge of voluntary manslaughter.

18 THE COURT: All right. I'm going to respectfully
19 decline that. I think it's appropriate. Okay? Anything
20 else we need to bring up? Obviously, I don't have all my
21 jurors here, so we're at ease for the moment.

22 MR. HUGHES: Could the State and I meet with you in
23 chambers, please?

24 THE COURT: Sure.

25 (Off the record, briefly.)

1 THE COURT: Okay. My understanding is that we have all
2 my jurors here. Ladies and gentleman, for those of you that
3 are back in the courtroom, we're going to go ahead and start
4 the closing statements in this case. I'm going to ask that
5 you please don't leave during those. In between that and my
6 jury charge, if you do wish to leave the courtroom, you need
7 to leave, because after that, no one moves and the doors
8 will be locked. All right? Let's go ahead and bring them
9 in.

10 (12:00 P.M., 12-7-11, WHEREUPON, THE JURY ENTERS THE
11 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

12 THE COURT: Ladies and gentlemen, good to see you-all
13 back. At this time, ladies and gentlemen, what you are
14 going to hear are the closing arguments from the attorneys.
15 Then, I am going to charge you on the law that's applicable
16 to this case and we will send the case to you. All right?
17 So if you would give your attention to the State, please.

18 ASST. SOL FERGUSON: May it please the Court?

19 THE COURT: Yes, sir.

20 CLOSING ARGUMENT

21 BY ASST. SOL FERGUSON:

22 So that's how it's going to be. You're going to let
23 your momma get in-between us. This is a case about a mother
24 standing up for her child, about Cynthia Nelson standing up
25 for Akera Nelson. What Antonio Scott did was murder Cynthia

1 Nelson. Murder is the killing of another with malice
2 aforethought. That's two separate parts. The killing of
3 another is a physical act. With malice aforethought, it's
4 the mental act.

5 First, the killing of another. Cynthia Nelson is dead.
6 When EMS got there, she had lost almost half the blood in
7 her body. She had very shallow pulse, almost zero
8 electrical activity. She was taken to Hardeeville,
9 transferred to Savannah where they found that she was brain
10 dead, an irreversible medical condition. She was only alive
11 by mechanical means, and she was in that condition because
12 the defendant, Antonio Scott, stabbed her in the face.

13 Akera Nelson, she testified that the moment she walked
14 into that apartment, the defendant stood up with a knife in
15 his hand, the same knife that he had the night before when
16 he went to kill her. The same knife that he used to kill
17 her, and the same knife that was absolutely nowhere to be
18 found when he fled the scene that day.

19 Now, she said she didn't see what he hit her with, but
20 that he hit her. Not that, you know, that Cynthia Nelson
21 took a swing at the defendant. Not that Cynthia Nelson had
22 any type of weapon on her, but that she saw the defendant
23 strike her mother, and that she grabbed the broomstick,
24 started whaling on him in defense of her mother. Nothing
25 about a tangling of arms, a sophisticated, complicated,

1 intentional defensive maneuver, like Mr. Hughes wanted to
2 demonstrate for us. She saw Antonio Scott hit Cynthia
3 Nelson.

4 Now, she said she didn't see what he hit her with. Was
5 that because he no longer had the knife that he had the
6 night before? Was it because he no longer had the knife that
7 he threatened her with just moments before that? Was it
8 because Cynthia had the knife? Or was it because he had the
9 knife concealed, so that no one could stop him this time
10 when he went to kill Cynthia Nelson, like Officer Kevin
11 Smith's testimony the night before, and he had to ditch the
12 knife and hide in the dumpsters.

13 So did she not see the knife because he had it
14 concealed, until he found that moment he was waiting on, the
15 moment that he could kill Cynthia Nelson and nobody get in
16 the way. He could take that knife and jab it.

17 Before Cynthia Nelson had a time to react, a time to
18 put her hands up, which would explain the lack of defensive
19 wounds that Mr. Hughes wanted to talk about so much with Dr.
20 Tormos. If you don't see a knife coming, you don't try to
21 block it.

22 It was not a complicated hand-to-hand combat maneuver
23 on the part of the defendant. He did not perform this feat
24 with people two feet on either side of him that did not see
25 it. That's not what happened.

1 If it were a self-defense situation, wouldn't the knife
2 still be sitting there beside Cynthia Nelson as she lay
3 dying, with only her fingerprints on it? Would it be gone?
4 Would it be gone till this day? Wouldn't have Akera told 9-
5 1-1, "My mom and my boyfriend got in a fight. And they were
6 all tangled up in each other. She ended up getting
7 stabbed." That's not what she told 9-1-1. She told 9-1-1
8 that Antonio Scott hit her mother and that she was bleeding
9 out everywhere.

10 Now, there's testimony from Akera that the defendant
11 took his shirt off after she stopped whaling on him with a
12 broomstick, and they looked down and saw Cynthia bleeding on
13 the couch, and did something -- did something to her. You
14 know, whether it's applying pressure to the wound, we don't
15 know. But what we do know is at that moment, he realized he
16 had messed up, that he had stabbed her in the neck and she
17 was dying. That's what he knew, and he knew he had to get
18 out of there, and get out of there quick before Officer
19 Kevin Smith showed up again.

20 He realized he had to get rid of that knife, like he
21 got rid of it the night before, before jumping in the
22 dumpster. He couldn't leave that knife sitting there. Or
23 could he? If it was self-defense, why was the knife gone?
24 The knife's gone because it wasn't self-defense. It wasn't
25 anything on the part of Cynthia Nelson. He had to take that

1 knife so that law enforcement wouldn't find it.

2 And where did he go? He ran behind Baytree Apartments,
3 where there were 20 or so friends and family who saw no
4 evil, heard no evil. Told officer Rob Nelson to leave. So
5 is it too hard to imagine that he was able to hide the knife
6 after running back through that crowd? That he was able to
7 dispose of it amongst the friends and family who saw nothing
8 and heard nothing?

9 If it were as the defendant wants you to believe, if it
10 were to occur that way, why would he then ask Akera Nelson
11 to change her statement? Not change it to tell her, you
12 know, I was just acting on, you know, defending myself. No.
13 Tell them that I was trying to stab you and that your mom
14 jumped in-between us. Yeah, that's it. That's what I want
15 you to say. That's not what he told her because that's not
16 what happened. What happened is, he stabbed her and he did
17 it in a way that she didn't see the knife, she didn't see it
18 coming. She got blind-sided.

19 Now, Shareema Behlin, the defendant's own sister, she
20 told you that she saw Antonio Scott hit Cynthia Nelson. Not
21 that Cynthia Nelson came in with a knife. Not that Cynthia
22 Nelson even took a swing at the defendant, and especially
23 not that Cynthia Nelson and Antonio Scott were wrapped up in
24 some kind of awkward, uncomfortable jumble of hands like Mr.
25 Hughes demonstrated with Dr. Tormos, who said that was

1 uncomfortable; that was unnatural. You know, you saw that
2 demonstration. Nobody else saw that.

3 What Mr. Hughes did is not evidence. But what Akera
4 and what Shareema told 9-1-1 is evidence. You heard those
5 tapes. Shareema said "I saw my brother hit her with a --
6 you know, with a closed fist." Well, that's consistent with
7 him concealing that knife.

8 Of all the people that you heard from, would you not
9 expect the defendant's own sister to tell the same story
10 that he did? To, at least, if it were a defensive
11 situation, when she calls 911 to say, "Look, this lady tried
12 to stab my brother and he was able to defend himself, and
13 she died as a result. She got stabbed as a result." No.
14 That's not what she said moments after it occurred. It was
15 "Antonio Scott hit Cynthia Nelson and now she's bleeding out
16 of her neck and you need to hurry up because it's bad."

17 Dr. Tormos, in her expert opinion, told you this was a
18 homicide and she gave you two reasons for that. The first
19 being information from law enforcement. The second being
20 the nature of the wound itself. In her experience, she's
21 never seen a wound like that be self-inflicted.

22 Now, Dr. Tormos was also under oath. She had to tell
23 the truth, just like all the other witnesses were supposed
24 to, and that's what she did. She told you that anything's
25 possible, anything's possible, no matter how probable, no

1 matter how ludicrous, anything's possible. To say anything
2 otherwise would be lying, and I don't think Dr. Tormos is
3 going to lie. She doesn't have a dog in this fight. She is
4 a scientist; she is an expert. Her findings were that the
5 injuries that Cynthia Nelson suffered is consistent with a
6 homicide.

7 Information given by law enforcement, the nature of the
8 wound, the two together, not accident, not suicide, not
9 self-defense. If it were self-defense, do you not think
10 that Dr. Tormos would have observed in her external
11 examination some type of bruising if it had occurred how Mr.
12 Hughes did it? Not a slow and planned out, but quick. Do
13 you not think that there would be some indication on Cynthia
14 Nelson's dead body that would corroborate that story? Well,
15 there wasn't. The only thing she had was a stab wound. No
16 defensive wounds, because she didn't see it coming, because
17 the defendant concealed the knife, like he concealed himself
18 in the dumpster the night before, like he concealed that
19 knife when he threw it before he jumped in that dumpster,
20 like he concealed himself on the 20th when the cops were
21 coming. Not when help arrived; when the cops came is when
22 he ran. And where is the knife? It is now concealed again.

23 Autopsies are not done in a vacuum. She told you that.
24 And that is because in order for her to form her opinion,
25 she has to take all the factors into consideration, just

1 like you. You can't decide this case in a vacuum. You
2 can't decide this case just on a cut on her neck or the lack
3 of defensive wounds. You have to think about all the
4 instances that led up to that event. What did the defendant
5 say? What did he do? And you have to come up with what
6 happened with what the facts are in this case. That is your
7 job. So just like autopsies are not performed in a vacuum,
8 neither are jury trials.

9 Now, the killing of another, that is the physical part
10 of it. The mental part is malice aforethought; that is
11 hatred, ill-will. A depraved heart intent on doing wrong,
12 on killing, doing evil things. Now, that can either be
13 shown expressly, "I'm going to kill that lady. I went to
14 kill that lady last night." Or it can be implied. I hid in
15 the dumpster when the cops came and waited on them to leave.
16 I waited for my first opportunity to attack again; that
17 could be implied.

18 So express, Monique Chester overheard the defendant
19 bragging about what he intended to do, about the mental
20 element of this crime. "I went to go kill her last night
21 and the cops came. And I had to throw that knife down and
22 jump in the dumpster." That is express malice. We don't
23 have to use our context clues or our inference abilities, to
24 know what he did.

25 And what else did she tell you? She said, "I'm not the

1 only one that heard it. Everybody heard it." Who's
2 everybody? Is it the 20 people that were behind Baytree?
3 Friends and family of the defendant? Is it the 20 people
4 now in this courtroom today behind the defendant that heard
5 no evil? That saw no evil? Monique Chester did was she
6 thought was the right thing to do, so that you, ladies and
7 gentlemen, could have all the circumstances to decide this
8 case, not just in a vacuum, so that you knew what he was
9 going around saying about the previous night and about that
10 particular day, the day that he stabbed Cynthia Nelson.

11 You don't have to imply malice; it is expressed. "I
12 want to kill that lady. I'm going to kill her when I see
13 her." Even made, you know, a gesture with a knife. Monique
14 Chester showed you that gesture that she observed. Now,
15 Monique Chester also told you she had been told to mind her
16 business. You know, "Mind your business." Not "stop lying
17 about what he said. He didn't say that." That's not what
18 she was being told. She was being told, "Mind your
19 business." She felt like it was the right thing to do, so
20 that you would have all the information before you when you
21 make this very important decision, so that you don't have to
22 rely on inferences, on guesswork. You know what was said
23 because she felt like it was the right thing to do, to come
24 in here and tell you what she overheard, because nobody else
25 would.

1 Ladies and gentlemen, those two things put together
2 equal the offense of murder. The killing of another with
3 malice aforethought. If you have those two things, you have
4 murder. One without the other won't cut it. You got to
5 have a physical act, coupled with the mental act. The
6 physical act, the act of Antonio Scott stabbing Cynthia
7 Nelson. The mental part, "I'm going to kill that lady. I
8 went to kill her last night. I'm going to kill her when I
9 see her."

10 All of the circumstances surrounding that; afterwards,
11 not finding the knife, nobody saying anything about this
12 complicated tangle of arms that resulted in her death.
13 Nothing. Two people that saw it. Three, but one's dead.
14 The two people that are here, Antonio Scott hit Cynthia
15 Nelson on the side. We didn't see what he hit her with
16 because she didn't see it coming, so she didn't put her
17 hands up. He told you what he went to do, he told you what
18 he was going to do, and then he did it.

19 Ladies and gentlemen, I told you at the beginning that
20 I was going to stand up here after this trial and ask you to
21 find the defendant guilty of murder, and that's what I'm
22 doing now. This is a case about a mother standing up for
23 her child; about Cynthia Nelson standing up for Akera Nelson
24 and getting stabbed because of it. So ladies and gentlemen,
25 take this important responsibility, think very hard, talk

1 amongst yourselves, and find the defendant guilty for the
2 murder of Cynthia Nelson. Thank you.

3 THE COURT: Thank you.

4 MR. HUGHES: Please the Court?

5 THE COURT: Yes, sir.

6 CLOSING ARGUMENT

7 BY MR. HUGHES:

8 I made a promise to you, I'd come back before you to
9 tell you it was nothing like you ever saw on television, and
10 it wasn't. The State has made a wonderful argument and made
11 a mountain out of a molehill. Their whole case as far as
12 murder is concerned rests on one person, Monique Chester.
13 Monique Chester, who lives at Baytree -- remember that; this
14 happened at Baytree. Monique lives at Baytree. She knows
15 all the people at Baytree. She is the one person that says
16 she overheard Antonio Scott. "I went there last night to
17 murder her. I hid in the dumpster. I'm going to murder her
18 when I see her." I asked her a question, "Well, why didn't
19 you just call the cops?" That young woman said she didn't
20 have a cell phone.

21 Like I said, y'all have got 500-plus years of life
22 experience and common sense. Who today does not have a cell
23 phone? All she had to do was pick up the phone, call 9-1-1.
24 The cops could have been there, and if she was telling the
25 truth, we wouldn't be here today. But she is lying. She

1 lives at Baytree. She saw the crowds. You saw the video.
2 You saw all those people. You know she walked over to find
3 out what was going on. And when she heard that Antonio
4 Scott had killed Cynthia Nelson, did she go, "Officer,
5 officer, I heard him this afternoon say he was going to kill
6 her"? No. She didn't do that. What did she do? She
7 waited four days to get in touch with law enforcement and
8 say just exactly what would need to be safe to get y'all
9 here today, "I heard Antonio Scott say that he was going to
10 kill Cynthia Nelson. That he was going to stab her, and he
11 was going to do this."

12 Well, law enforcement was there that evening. Why
13 didn't she tell them then? Why didn't the other people tell
14 them? Mr. Ferguson would have you believe that everybody at
15 the party was a relative of Antonio Scott, but he's not had
16 anybody say that. He's not called anybody else that was at
17 that party to say either yes or no. All he's done is put
18 one woman who four days later in a statement she doesn't
19 even care enough to sign about, who comes in and for a
20 moment in the sun says, "Oh, I heard everything. Antonio
21 Scott even told about the crime he did last night."

22 Now, about that crime last night. Yes, law enforcement
23 was there. But we didn't hear the 911 tape from Cynthia
24 Nelson, did we? We didn't hear that Antonio Scott was there
25 to murder. The only person that said Antonio Scott was

1 there to murder her that night was Monique Chester. Monique
2 Chester, I want y'all to think about -- y'all saw her
3 attitude. You saw how she was sitting. You saw how she
4 responded. She didn't want to be there. She said she
5 didn't.

6 So if we don't take Monique into account, let's talk
7 about what happened at the apartment that evening, okay.
8 Antonio Scott is at the party; everybody agrees on that. He
9 goes over to his sister's house to get something to eat. I
10 believe his sister said turkey burgers.

11 Now, Akera comes over with Child Child. Now,
12 they get into an argument, but Antonio Scott does not know
13 that Cynthia Nelson is anywhere in the area. Akera said she
14 didn't know she was going to be there. Serena -- I have
15 problems with that name; excuse me. His sister, Shareema,
16 did not know she was going to be there. That takes
17 premeditation out of the picture. You can't plan to kill
18 somebody you don't know is going to be there.

19 Okay. Akera says Cynthia comes in smoking a cigarette.
20 That cigarette bothers me. Where was it? Now, I've smoked
21 cigarettes and if you drop a cigarette on a white carpet,
22 you're going to have major carpet damage. And nobody said
23 anything about any cigarette on the floor after this was
24 supposed to happen.

25 Now, the only person that says she was smoking was

1 Akera. Akera is in an argument with Antonio when her mother
2 comes in, and she comes toward Antonio. Everybody agrees to
3 that. Akera said that Cynthia went toward Antonio. But
4 Shareema said Cynthia went toward Antonio. Even Antonio --
5 Detective Litchfield said that Cynthia got up in his face.

6 Now, the night from the night before, the only person
7 that says anything about a knife the night before is
8 Monique. So what other knives are you going to while eating
9 your turkey burgers? There were kitchen knives found in
10 the kitchen. A knife was found in the trash can, but SLED
11 came back with not enough evidence or something. It was
12 sent out to SLED, but we don't know if those were the murder
13 weapons or not.

14 Okay. I asked Detective Litchfield what Antonio said
15 he did. Detective Litchfield demonstrated, while Antonio
16 was in handcuffs, did a move where he did like this and then
17 like this.

18 Now, Mr. Ferguson says that's a complicated move. If
19 you look at me, you can tell I don't do much exercise in
20 marshal arts. And just by watching what Mr. Litchfield
21 said, I was able to figure out what happened. It's not that
22 hard.

23 Mr. Ferguson said there would be bruises on Cynthia
24 Nelson if that happened. I asked the forensic pathologist
25 if that was done, would there be a bruise here. Did you

1 find a bruise on Cynthia Nelson? No. Would there be a
2 bruise? No. Would there be a bruise on the wrist? No. I
3 asked because I wanted to find out the truth. There was no
4 bruise because there it wouldn't have bruised her.

5 Now, we have a cigarette that disappears. We have a
6 knife that disappears, maybe in the kitchen, maybe; who
7 knows? Now, Mr. Ferguson wants you to think that Antonio
8 Scott was a cold-blooded killer, was planning to kill
9 Cynthia Nelson and he wants you to look at his actions.
10 Let's look at his actions after Cynthia Nelson got wounded.

11 He helped -- she goes back on the sofa. He is the only
12 one that seems to understand this woman has been hurt. Now,
13 if he murders someone, he's going to run, because there are
14 two witnesses to what he did. Does he run? Akera Nelson
15 says he took his shirt and put over the wound. Sherema says
16 he took his shirt and put over the wound.

17 Akera goes crazy. She goes for a mop. She doesn't go
18 to her mother. She then -- I'm not exactly sure what
19 happened, but there was no testimony that she attacked
20 Antonio. All it was, was she was going to get a mop to keep
21 Antonio away from her mother, but she sees him holding his
22 shirt on the wound. And if you see in the video and in the
23 still pictures, that's exactly what EMT's were going to do
24 when they got there. That package in the picture is a
25 press, to press over the wound, to keep the person from

1 bleeding out. It's not as good as a shirt, but it's the
2 only thing he had.

3 What does Akera Nelson do? She runs out of the house.
4 She is doing everything; she's not calling 9-1-1; then, It's
5 Shareema who calls 9-1-1. She is so panicked. She says she
6 blacks out. I'm not exactly sure what she meant with that.
7 I have a feeling it's just stopped thinking, because we have
8 her mother with a wound that causes a lot of blood. We have
9 her boyfriend who is applying pressure, trying to save her
10 mother. We have his sister who is calling 911. And Akera
11 Nelson runs outside, leaving her one-year-old baby in the
12 house. That alone indicates that she is not worried about
13 Antonio. No mother leaves a child behind like that. Okay?

14 Akera said Antonio stayed there until the cops and help
15 arrived. Shareema says Antonio stayed there until cops and
16 help arrived. And then both agreed that he ran away. Why
17 would a young black male who has got a woman who has got a
18 stab wound to her neck run away, even if it is self-defense
19 that she is doing that? Because he panicked. He ran. I
20 don't expect you to forgive him, but I expect you to
21 understand his emotional response to the situation. He
22 waited as long as he could; was trying to make sure Cynthia
23 Nelson did not die. That is not what a murderer does.

24 Now, did the cops catch him? No. He turns himself in
25 to law enforcement. Does he immediately clam up and take

1 the Fifth Amendment? No. He talks to Detective Litchfield
2 for 30 minutes. He explains everything. He talks to him.
3 He answers their questions. He does exactly what a person
4 who hasn't done anything does. He's not scared. He did
5 what he was supposed to.

6 A woman comes at him. Everybody agrees; Cynthia Nelson
7 came at him. A woman is injured. Either she's attacking
8 him and he attacks back or she is attacking with a knife and
9 he defends himself. Any way you look at it, he has done
10 nothing wrong in that department. He is not going at her;
11 he is not attacking her. She is attacking him. He defends
12 himself. He uses his marshal arts. Detective Litchfield
13 told you his father is a black belt. He trains his son.
14 Detective Litchfield said that. He knows what to do.

15 And if this is a murder and he is so mad at Cynthia
16 Nelson that he is going to conceal a knife in his hand and
17 stab her to kill her, why would he hit her only once? This
18 is not that big of a target. Cynthia Nelson was a very
19 large woman. No. He doesn't. There are no multiple stab
20 wounds. This is not "I am mad at you," or "I'm mad at you,"
21 or "I'm mad at you." This is self-defense. She's coming at
22 him. He defends himself using his marshal arts. The knife
23 goes back on Cynthia Nelson.

24 Now, the forensic pathologist told you, "We said it was
25 a homicide because of the wounds and because of what the

1 police say. No autopsy is done in a vacuum."

2 Now, what do you think the forensic pathologist would
3 have said about the cause of death if they had been told
4 that the defendant has demonstrated a marshal arts move that
5 causes this to happen, would they have investigated? I
6 asked Detective Litchfield if he asked Antonio to
7 demonstrate. Did he take off the handcuffs? No. He didn't
8 because of officer safety. It makes sense if you're going -
9 - if you're going to hand a knife to a murder suspect, not
10 to take the handcuffs off. This is not a knife. This would
11 have been a great demonstration for Detective Litchfield to
12 use, but he didn't. Why? Because he felt he had the
13 suspect already. He was getting ready to arrest him for
14 murder. There's no need to look for another reason. I made
15 sure to ask.

16 These are the facts that came out from both Akera and
17 Shareema. Did Antonio Scott know Cynthia Nelson was going
18 to be there? Both said "no." Did Cynthia Nelson come at
19 Antonio Scott? Both said "yes." A person has a right to
20 defend themselves from an attack. Cynthia Nelson went at
21 Antonio Scott. What did Antonio Scott do after Cynthia
22 Nelson was injured? He is the one that tried to save her
23 life. He is the one that kept his head and applied pressure
24 to the wound, which is exactly what the EMT did when he got
25 there. Both agreed that Antonio Scott stayed with Cynthia

1 Nelson until help arrived. Then, he left.

2 Now, murder is the willful killing of another with
3 malice aforethought. The State has shown absolutely no
4 malice, other than what Monique Chester said she heard him
5 say, which nobody else heard, even though there was a party
6 of 20 people there. And she was in the car and just
7 happened to be parked close enough to Antonio Scott, not
8 only to hear everything, but to see him acting out what he
9 was supposed to have done or was going to do, that she
10 didn't bother to tell anybody for four days.

11 Ladies and gentlemen, this is not murder. This is
12 self-defense. A person has the right to defend themselves
13 from attackers. That is what this was. Cynthia Nelson came
14 at Antonio Scott. He defended himself. Unfortunately, and
15 this is the biggest tragedy of all, Cynthia Nelson died.
16 Not because of what Antonio Scott did, but because of what
17 happened that night when she attacked Antonio Scott.

18 Ladies and gentlemen, you have to find my client not
19 guilty because the State has not proved murder; they have
20 not shown malice. They have simply shown that Monique
21 Chester wants some attention and Antonio Scott did the best
22 he could to save Cynthia Nelson's life after she attacked
23 him. Thank you.

24 JURY CHARGE

25 THE COURT: Madame Foreperson, members of the jury, you

1 have followed very patiently and listened very attentively
2 to the presentation of the evidence in this case, and I want
3 to thank you for that. And also the able arguments made by
4 Solicitor Robert Ferguson on behalf of the State, and Mr.
5 Robert Hughes on behalf of the defendant.

6 Now, it is my duty as the trial judge under the
7 Constitution of this state to charge and instruct you on the
8 law that is applicable to this case. And it's your duty as
9 jurors to accept and apply the law as I will now state it to
10 you.

11 As jurors, it is your sole, exclusive duty to decide
12 all the issues of fact in this case. You must determine the
13 effect, the value, the weight, and the truth of the
14 evidence. Both the State and the defense have the right to
15 expect that you will carefully consider the evidence and
16 apply the law to that evidence. Now, ladies and gentlemen,
17 by doing so, the State of South Carolina and the defense
18 will receive a fair and impartial trial on this case.

19 Now, the State of South Carolina, by the bill of
20 indictment in this case charges the defendant, Antonio
21 Demazio Scott, with the offense of murder. And that
22 indictment reads as follows: That in Jasper County, on or
23 about March 20th, 2011, with malice aforethought, Antonio
24 Demazio Scott, did kill and murder Cynthia Nelson by means
25 of stabbing, and that Cynthia Nelson did die as a proximate

1 result thereof on March 21st of 2011.

2 Now, ladies and gentlemen, I remind you that the fact
3 the defendant was arrested and charged and indicted in this
4 case is not evidence in this case and cannot be considered
5 by you as evidence of guilt in this case, nor did it create
6 a presumption or inference of guilt. An indictment is
7 simply the formal written instrument which contains the
8 charges which are made against the defendant. It's the
9 formal document by which the case is brought into this
10 courtroom.

11 Now, ladies and gentlemen, the defendant, Mr. Scott in
12 this case, has pled not guilty to this indictment. And that
13 plea puts the burden on the State to prove the defendant
14 guilty beyond a reasonable doubt. A person charged with
15 committing a criminal offense in South Carolina is never
16 required to prove himself innocent. I charge you that it is
17 an important rule of law that the defendant, in a criminal
18 trial, no matter what the seriousness of the charge may be
19 will always be presumed to be innocent for the crime of
20 which an indictment was issued, unless guilt has been proven
21 by evidence satisfying you, the jury, of that guilt beyond a
22 reasonable doubt.

23 Ladies and gentlemen, this presumption of innocence
24 does not end when you begin your deliberations, but it
25 accompanies the defendant throughout the trial until you,

1 again, the jury, reach a verdict based on evidence
2 satisfying you of the defendant's guilt beyond a reasonable
3 doubt.

4 Ladies and gentlemen, this presumption of innocence is
5 like a robe of righteousness that's placed about the
6 defendant and it remains with him until it's been stripped
7 from him by evidence satisfying you of his guilt beyond a
8 reasonable doubt. Ladies and gentlemen, the presumption of
9 innocence is not a mere legal theory. It's not just a legal
10 phrase we use. It's a substantial right to which every
11 defendant is entitled, unless you, the jury, are satisfied
12 from the evidence of the defendant's guilt beyond a
13 reasonable doubt.

14 Now, ladies and gentlemen, again, I told you that the
15 State has the burden of proving the defendant guilty beyond
16 a reasonable doubt. The term "reasonable doubt" must be
17 given its plain and ordinary meaning. However, to the
18 extent that I may define it for you, a reasonable doubt is
19 the kind of doubt that would cause a reasonable person to
20 hesitate to act in the most important of their personal
21 decisions.

22 Ladies and gentlemen, the defendant is entitled to
23 every reasonable doubt arising in the case. If, upon any
24 issue of fact essential to conviction, you have a reasonable
25 doubt how that issue should be decided, you must resolve

1 that reasonable doubt in favor of the defendant.

2 Now, ladies and gentlemen, some of you may have served
3 as jurors in civil cases where you were told it was only
4 necessary to prove that a fact is more than likely true than
5 not true. Such as by what we call the greater weight or the
6 preponderance of the evidence. In criminal cases, the
7 State's proof must be more powerful than that. It must be
8 beyond a reasonable doubt.

9 Ladies and gentlemen, proof beyond a reasonable doubt
10 is proof that leaves you firmly convinced of the defendant's
11 guilt. Now, there are very few things in this world that we
12 know with absolute certainty. And in criminal cases, the
13 law does not require proof that overcomes every possible
14 doubt. If, based on your consideration of the evidence, you
15 are firmly convinced that the defendant is guilty of the
16 crime charged, you must find the defendant guilty. If, on
17 the other hand, you think there is a real possibility that
18 the defendant is not guilty, you must give the defendant the
19 benefit of the doubt and find him not guilty.

20 Now, I remind you, ladies and gentlemen, that you and I
21 have certain duties to perform in this case. As the trial
22 judge, it is my responsibility to preside over the trial of
23 the case, and I also have the duty to rule on the
24 admissibility of the evidence that's offered during the
25 trial. You are to consider only the competent evidence

1 before you. You are to consider only the testimony which
2 has been presented from the witness stand back here and any
3 other exhibits which have been made a part of the record.

4 I, ladies and gentlemen, have the additional duty to
5 charge you the law that's applicable to this case. As the
6 presiding judge, I'm the sole judge of the law. And it's
7 your duty, as jurors, to accept and apply the law as I now
8 state it to you. If you have any idea as to what the law is
9 or what the law ought to be, and it does not agree with you,
10 that I now tell you the law is, you must abandon this idea
11 because you are sworn to accept and apply the law exactly as
12 I state it to you.

13 Now, ladies and gentlemen, in every case tried in this
14 Court before a jury, the jury becomes the sole and exclusive
15 judge of all the facts. A trial judge cannot intimate,
16 state, comment on, or make any statement to a trial jury
17 about the facts in the case. Since you, the jury, are the
18 sole judge of the facts in this case, you are not to infer
19 from what I've said during the progress of this trial in
20 ruling upon the admissibility of evidence, or otherwise, or
21 anything that I say now during the course of this
22 instruction to you, that I have an opinion about the facts
23 in this case. The law does not allow me to have an opinion
24 about the facts of this case. Again, ladies and gentlemen,
25 this is a matter solely for you, the jury, to determine.

1 Now, there are typically two types of evidence which
2 are presented during a trial; that is direct evidence and
3 circumstantial evidence. Direct evidence is the testimony
4 of a person who claims to have actual knowledge of a fact,
5 such as an eyewitness. It is evidence which immediately
6 establishes the main fact to be proved.

7 Circumstantial evidence is a proof of a chain of facts
8 and circumstances indicating the existence of a fact. It is
9 evidence which immediately establishes collateral facts from
10 which the main fact may be inferred. Circumstantial
11 evidence is based on inference and not on personal knowledge
12 or information.

13 Ladies and gentlemen, the law makes absolutely no
14 distinction between the weight or value to be given to
15 either direct or circumstantial evidence. Nor is a greater
16 degree of certainty required of circumstantial evidence than
17 direct evidence. You should weigh all the evidence in this
18 case. And after weighing all the evidence, if you are not
19 convinced of defendant's guilt beyond a reasonable doubt,
20 you must find the defendant not guilty.

21 Now, again, ladies and gentlemen, it is your duty to
22 determine the credibility of the witnesses who have
23 testified in this case. Credibility simply means
24 believability. It's your duty as jurors to analyze and
25 evaluate the evidence and determine which evidence convinces

1 you of its truth. Now, in determining the believability of
2 the witnesses who have testified in this case, you may
3 believe one witness over several witnesses, and you may
4 believe a part of the testimony of a witness and reject the
5 remaining part of the testimony of that same witness.

6 You may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in its
8 entirety. You may consider whether any witness has
9 exhibited to you any interest, bias, prejudice, or other
10 motive in this case. And you can also consider the
11 appearance and the manner of the witness while they are on
12 the witness stand.

13 Now, ladies and gentlemen, as I told you earlier, the
14 rules of evidence ordinarily do not permit witnesses to
15 testify to opinions or conclusions. An exception to this
16 rule exists for witnesses we call expert witnesses. A
17 witness who by education and experience have become an
18 expert in some art, science or field or profession may state
19 an opinion as to the relevance and material matter in which
20 the witness claims to be an expert in, and may also state
21 the reasons for the opinion.

22 You should consider any expert opinion received in
23 evidence in this case, and like any other evidence, give it
24 the weight you think it deserves. If you decide that the
25 opinion of an expert witness is not based on sufficient

1 education and experience, or if you conclude that the
2 reasons given in support of the opinions are not sound, or
3 that the opinion is outweighed by other evidence, you may
4 disregard the opinion entirely. An expert witness'
5 testimony is to be given no greater weight than that of the
6 other witnesses, simply because the witness is an expert.
7 And further, ladies and gentlemen, you are not required to
8 accept an expert's opinion, even though it is not
9 contradicted.

10 Now, I instruct you, and emphasize that the fact that
11 the defendant did not testify in this case is not a factor
12 to be considered by you in any way in your deliberations and
13 in your consideration on the question of the guilt or
14 innocence of the defendant. It must not be considered by
15 you in any manner whatsoever. A defendant has the
16 constitutional right to remain silent, and the assertion of
17 this right must not be considered by you in your
18 deliberations.

19 I repeat, under your oath, you are to draw no
20 conclusion whatsoever from the fact that the defendant in
21 this case did not testify. The fact that the defendant did
22 not testify should not even be discussed in the jury room.
23 The burden of proof as I have stated to you is on the State.
24 The defendant is not required to prove his innocence. And
25 the burden of proof remains on the State to prove guilt

1 beyond a reasonable doubt.

2 Now, ladies and gentlemen, the indictment in this case
3 charges the offense of murder. Now, to prove murder, the
4 State must prove beyond a reasonable doubt that the
5 defendant killed another with malice aforethought.

6 Now, ladies and gentlemen, malice is hatred or ill-will
7 or hostility towards another person. It is the intentional
8 doing of a wrongful act without just cause or excuse, and
9 with an intent to inflict an injury, or under circumstances,
10 the law will infer an evil intent.

11 Malice aforethought does not require that malice exist
12 for any particular time before the act is committed, but
13 malice must exist in the mind of the defendant just before
14 and at the time the act is committed. Therefore, there must
15 be a combination of the previous evil intent and the act.

16 Malice aforethought may be either express or inferred.
17 Now these terms "express" and "inferred" do not mean
18 different types of malice, but rather the manner in which
19 malice may be shown to exist. That is, either by direct
20 evidence or by inference from the facts and circumstances
21 which are proved.

22 Ladies and gentlemen, express malice is shown when a
23 person speaks words which express hatred or ill-will for
24 another, or when the person prepared beforehand to do the
25 act which was later accomplished. For example, lying in

1 wait for a person, or any other act of preparation, going to
2 show that the deed was within the defendant's mind, would be
3 express malice. Ladies and gentlemen, malice may be
4 inferred from conduct showing a total disregard for human
5 life.

6 Now, ladies and gentlemen, if you find that the State
7 has failed to prove beyond a reasonable doubt that the
8 defendant committed murder, you may consider whether the
9 State has proved beyond a reasonable doubt that the
10 defendant committed voluntary manslaughter. To prove
11 voluntary manslaughter, the State must prove beyond a
12 reasonable doubt that the defendant took the life of another
13 in the sudden heat of passion based on sufficient legal
14 provocation.

15 Now, ladies and gentlemen, both heat of passion and
16 sufficient legal provocation must be present at the time of
17 the killing to constitute voluntary manslaughter. Sudden
18 heat or passion may for a time affect a person's self-
19 control and temporarily disturb a person's reason. The
20 sudden heat of passion must be the type that would make the
21 ordinary person unable to coolly reflect on his actions,
22 that would produce an uncontrollable impulse to be violent.

23 Sufficient legal provocation must be the type that
24 would make a person of ordinary reason and caution to become
25 enraged and to lose control temporarily. The provocation

1 needed for voluntary manslaughter must come from some act of
2 or related to the victim. Now, words alone, however vulgar
3 or insulting, are not enough to be legal provocation. Where
4 death is caused by the use of a deadly weapon, the words
5 must be accompanied by some overt threatening act which
6 could have produced the heat of passion.

7 Now, ladies and gentlemen, the exercise of a legal
8 right, no matter how offensive it is to another is never
9 sufficient legal provocation for voluntary manslaughter. If
10 the heat of passion has cooled, or if there was enough time
11 between the provocation, if any, and the killing, for the
12 passion of a reasonable person to cool, the killing would
13 not be voluntary slaughter.

14 In describing whether a reasonable person would have
15 enough time to cool off, you should consider all the
16 circumstances surrounding the killing. You may consider the
17 nature of the provocation, if any, the defendant's mental
18 and physical state, and the circumstances and relationships
19 between the parties.

20 Now, ladies and gentlemen, the defendant has raised a
21 defense in this case of self-defense. Self-defense is a
22 complete defense and if it is established, you must find the
23 defendant not guilty. The State has the burden of
24 disproving self-defense by proof beyond a reasonable doubt.
25 If you have a reasonable doubt of the defendant's guilt

1 after considering all the evidence, including the evidence
2 of self-defense, then you must find the defendant not
3 guilty. On the other hand, if you have no reasonable doubt
4 of the defendant's guilt after considering all the evidence,
5 including the evidence of self-defense, then you must find
6 the defendant guilty.

7 Ladies and gentlemen, the following elements are
8 required to establish self-defense. First, the defendant
9 must be without cause in bringing on the difficulty. If the
10 defendant's conduct was the type which was reasonably
11 calculated to and did provoke a deadly assault, the
12 defendant would be at fault in bringing on the difficulty
13 and would not be entitled to an acquittal based on self-
14 defense.

15 Ladies and gentlemen, self-defense is not available to
16 a person who uses language which is so contemptuous that a
17 reasonable person would expect it to bring on a physical
18 encounter, and which did actually contribute to that
19 physical encounter.

20 The second element of self-defense is that the
21 defendant was actually in imminent danger of death, or
22 serious bodily injury, or that the defendant actually
23 believed he was in imminent danger of death or serious
24 bodily injury. If the defendant was actually in imminent
25 danger, it must be shown that the circumstances would have

1 warranted a person of ordinary firmness and courage to
2 strike the fatal blow to prevent death or serious bodily
3 injury. If the defendant believed he was in imminent danger
4 of death or serious bodily injury, it must be shown that a
5 reasonable and prudent person of ordinary firmness and
6 courage would have had that same belief.

7 Now, in deciding whether the defendant actually was, or
8 believed he was, in imminent danger of death or serious
9 bodily injury, you should consider all the facts and
10 circumstances surrounding the crime, including the physical
11 condition and characteristics of the defendant and the
12 victim.

13 The defendant does not have to show that he was
14 actually in danger. It is enough if the defendant believed
15 he was in imminent danger and a reasonably prudent person of
16 ordinary firmness and courage would have had that same
17 belief.

18 The defendant has the right to act on appearances, even
19 though the defendant's beliefs may be mistaken. It is for
20 you, the jury, to decide whether the defendant's fear of
21 immediate danger of death or serious bodily injury was
22 reasonable and would have been felt by an ordinary person in
23 the same situation.

24 Ladies and gentlemen, words accompanied by hostile acts
25 may, depending on the circumstances, establish self-defense.

1 Any evidence of prior difficulty between the defendant and
2 the victim may be considered in deciding whether a threat
3 existed, whether the defendant had a reason to believe a
4 threat existed, and how serious that threat was. The
5 relative sizes, ages, and weight of the defendant and the
6 victim may be considered in deciding the appearance or
7 actual need for force in self-defense and the amount of
8 force needed. Ladies and gentlemen, the threats made by the
9 victim may be considered in determining whether the
10 defendant actually was or believed he was in imminent
11 danger.

12 Now, the final element of self-defense is the defendant
13 had no other probable way to avoid the danger of death or
14 serious bodily injury, than to act as the defendant did in
15 the particular instance. Ladies and gentlemen, if the
16 defendant was on the premises, the defendant had no duty to
17 retreat before acting in self-defense.

18 Additionally, ladies and gentlemen, a person cannot be
19 required to make an exact calculation as to the degree or
20 amount of force which may be needed to avoid death or
21 serious bodily injury. Therefore, in self-defense, the
22 defendant has the right to use the force needed to avoid
23 death or serious bodily harm. The force used in self-
24 defense does not have to be limited to the degree or amount
25 of force used by the victim. The defendant has the right to

1 use so much force as appears to be necessary for complete
2 self protection, in which a person of ordinary reason and
3 firmness would have believed he needed to prevent death or
4 serious bodily harm.

5 Madame Foreperson, and members of the jury, as you
6 retire to begin your deliberations in this case, I wish to
7 express the hope that each of you will understand and be
8 mindful of the importance of your duty here today. You're
9 not called upon very often to serve as jurors and that
10 proper performance of that duty requires that each of you
11 will reach the heights of freeing your mind of all improper
12 influences.

13 You've observed during the trial of this case the
14 presiding officer is always addressed as Your Honor. The
15 reason is that the Court is entrusted with the honor of this
16 community, the honor of this state, and the honor of this
17 country in seeing that every case tried here in this
18 courthouse receives fair and impartial justice. Now, you,
19 the jury, are taking into your care and keeping the honor of
20 this community, the honor of this state, and the honor of
21 this country.

22 Now, ladies and gentlemen, please don't get the idea
23 that I'm trying to tell you or intimate to you how I think
24 you should decide this case. As I've already told you,
25 under the laws of our state, you are the sole judge of all

1 facts, and it would be highly improper for me to influence
2 you in that duty.

3 However, ladies and gentlemen, I am vitally concerned
4 that when a verdict's been reached, as the result of the
5 twelve of y'all going back there, and confining your
6 consideration to the evidence and the law that you've heard
7 in this courtroom, when fairly and partially, which I have
8 every confidence you will. Ladies and gentlemen, everyone
9 is entitled to justice in this case, both the State and the
10 defense, and you owe no support or sympathy to anyone. The
11 Court is of the opinion that whatever verdict you reach in
12 this case will represent truth and justice for all parties
13 concerned.

14 Now, Madame Foreperson, I remind you, your verdict must
15 be unanimous. It must be the verdict of all 12 jurors. And
16 to that end, my law clerk has prepared a verdict form. It
17 has the case caption on it, The State of South Carolina,
18 County of Jasper, and it reads: The State of South Carolina
19 versus Antonio Demazio Scott. And it has two questions.
20 The first is: We, the jury, unanimously find the following:
21 as to Indictment Number 2011-GS-27-192, the charge of
22 murder, we, the jury, unanimously find the defendant Antonio
23 Demazio Scott not guilty or guilty.

24 Ladies and gentlemen, please don't infer by the order
25 that I put "not guilty" or "guilty" on the verdict form has

1 any significance. In each trial, I just reverse them.

2 Ladies and gentlemen, there goes on the question that
3 says, if you find the defendant is guilty of murder, you are
4 to stop your deliberations. Madame Foreperson, you would
5 sign the verdict form and knock on the door and we will
6 accept you in.

7 However, ladies and gentlemen, if you find the
8 defendant is not guilty of murder, you may then go on to
9 consider whether or not he has committed the lesser-included
10 offense of voluntary manslaughter. And it goes on to ask,
11 as to Indictment Number 2011-GS-27-192, the charge of
12 voluntary manslaughter, we, the jury, unanimously find the
13 defendant Antonio Demazio Scott, and again, either not
14 guilty or guilty. And I remind you, there is a place for
15 the foreperson to sign the verdict form and then date it.
16 Again, when you have reached a verdict, please knock on the
17 jury room door and we're going to accept you back here to
18 read your verdict.

19 Madame Foreperson, and members of the jury, for the
20 very last time, I'm going to send you back to your jury room
21 and I'm going to ask you not to begin your deliberations.
22 If there's something further the attorneys would like me to
23 charge you on the law, I'm going to bring you back out here
24 and charge you. If there is not, ladies and gentlemen, I'm
25 going to send the verdict form, along with any other

1 evidence that's been entered into this case, and that will
2 be your signal to begin your deliberations. All right?

3 Ladies and gentlemen, I will also tell you that while
4 we have had a court reporter here during the entire trial of
5 this case, we do not have a transcript of the case. So, for
6 instance, you wanted to have a certain testimony repeated or
7 heard, what we can do is bring you in here and replay it for
8 you on the audio system; all right?

9 Additionally, if there's any portion or all of my
10 charges that you would further like to hear again, I will do
11 the same thing. Bring you back out here and I will re-read
12 it for you. All right?

13 Again, I'm going to send you back to your jury room. I
14 want to tell you how much I appreciate your attention.
15 Again, do not begin your deliberation until either we bring
16 you back here and further charge you or I send you the
17 verdict form and the evidence. All right? Thank you. You
18 are excused.

19 (1:00 P.M., 12-7-11, WHEREUPON, THE JURY EXITS THE
20 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
21 RECORD.)

22 THE COURT: Any exceptions or additions to the charge
23 from the State?

24 ASST. SOL FERGUSON: No, ma'am, Your Honor.

25 THE COURT: From the defense?

1 MR. HUGHES: No, Your Honor.

2 THE COURT: All right. You both have looked at and
3 agreed to the verdict form, I think it was back in chambers.
4 I just want to verbally, for the record, reiterate that you
5 have no objection, is that correct, Mr. Ferguson?

6 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

7 MR. HUGHES: No, Your Honor.

8 THE COURT: All right. We'll go ahead, gentlemen.
9 Let's make sure we have the proper evidence that's going
10 back.

11 (BRIEF PAUSE WHILE EXHIBITS ARE PUT IN ORDER AND
12 ACCOUNTED FOR. THE VERDICT FORM, ALONG WITH ALL EXHIBITS
13 ARE TAKEN BACK TO THE JURY BY THE BAILIFF AND THEY ARE
14 INSTRUCTED TO BEGIN THEIR DELIBERATIONS.)

15 (THE COURT RELEASES THE ALTERNATE JURORS FROM THE TRIAL
16 IN THIS CASE AND FROM THE COURTROOM.)

17 (3:10 PM, 12-7-11, WHEREUPON THE COURT IS NOTIFIED THAT
18 THE JURY HAS REACHED A VERDICT AND THE FOLLOWING IS HELD ON
19 THE RECORD.)

20 THE COURT: Ladies and gentlemen, for those of you that
21 have been sitting through this trial, I'm going to bring the
22 jury out to read their verdict. If there is anyone in the
23 courtroom that cannot contain themselves when that verdict
24 is read, I'm going to ask you to excuse yourself at this
25 time. If there is any type of outburst whatsoever, the

1 deputy is going to take you into custody and we'll re-visit
2 the issue on Friday. All right? Let's bring them out.

3 THE COURT: Mr. Hughes, go get your client. Thank you.

4 (3:12 P.M., 12-7-11, WHEREUPON, THE JURY ENTERS THE
5 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

6 THE COURT: All right. Is the State ready?

7 ASST. SOL FERGUSON: Yes, ma'am, Your Honor.

8 THE COURT: The defense now ready?

9 MR. HUGHES: Yes, ma'am.

10 THE COURT: Thank you.

11 MADAME CLERK: Madame Foreperson, have you reached a
12 verdict?

13 MADAME FOREPERSON: Yes, ma'am, we have.

14 THE COURT: If you will please publish the verdict.

15 MADAME CLERK: The State of South Carolina v. Antonio
16 Demazio Scott, we, the jury, unanimously find the following
17 as to Indictment Number 2011-GS-27-0192, the charge of
18 murder, we, the jury, unanimously find the defendant,
19 Antonio Demazio Scott, guilty.

20 THE COURT: Ladies and gentlemen of the jury, if that
21 was your verdict, will you please indicate by raising your
22 right hand?

23 (ALL TWELVE JURORS RAISE THEIR HANDS.)

24 THE COURT: All right. Ladies and gentlemen, I'm going
25 to go through and individually poll you. My question is

1 going to be as follows. I'm going to ask you if this is
2 your verdict and if this is still your verdict. When your
3 name is called, just indicate by saying "yes" or "no". All
4 right? Vaughn Goodall, is this your verdict?

5 MR. GOODALL: Yes, ma'am.

6 THE COURT: Is it still your verdict?

7 MR. GOODALL: Yes, ma'am.

8 THE COURT: David Shipes. Sir, is this your verdict?

9 MR. SHIPES: Yes, ma'am.

10 THE COURT: Is it still your verdict?

11 MR. SHIPES: Yes, ma'am.

12 THE COURT: Arinn Poston. Sir, is this your verdict?

13 MR. POSTON: Yes, ma'am.

14 THE COURT: Is it still your verdict?

15 MR. POSTON: Yes, ma'am.

16 THE COURT: Dometric Lewis. Sir, is this your verdict?

17 MR. LEWIS: Yes.

18 THE COURT: Is it still your verdict?

19 MR. LEWIS: Yes.

20 THE COURT: Abigail Gomez. Is this your verdict?

21 MS. GOMEZ: Yes.

22 THE COURT: Is it still your verdict?

23 MS. GOMEZ: Yes.

24 THE COURT: Rachael Wilson. Is this your verdict?

25 MS. WILSON: Yes.

1 THE COURT: Is it still your verdict?

2 MS. WILSON: Yes.

3 THE COURT: Chester Newton.

4 MR. NEWTON: Yes.

5 THE COURT: Is this your verdict?

6 MR. NEWTON: Yes, Your Honor.

7 THE COURT: Is it still your verdict?

8 MR. NEWTON: Yes, Your Honor.

9 THE COURT: Kerry Raymond. Sir, is this your verdict?

10 MR. RAYMOND: Yes.

11 THE COURT: Is it still your verdict?

12 MR. RAYMOND: Yes.

13 THE COURT: Shirlayne Albergottie, is this your
14 verdict?

15 MS. ALBERGOTTIE: Yes, ma'am.

16 THE COURT: Is it still your verdict?

17 MS. ALBERGOTTIE: Yes.

18 THE COURT: Louis Aiken?

19 MR. AIKEN: Yes.

20 THE COURT: Is this your verdict?

21 MR. AIKEN: Yes.

22 THE COURT: Is it still your verdict?

23 MR. AIKEN: Yes.

24 THE COURT: Zachary Smith. Sir, is this your verdict?

25 MR. SMITH: Yes.

1 THE COURT: Is it still your verdict?

2 MR. SMITH: Yes.

3 THE COURT: Robert Priester.

4 MR. PRIESTER: Yes.

5 THE COURT: Is this your verdict, sir?

6 MR. PRIESTER: Yes.

7 THE COURT: And is it still your verdict?

8 MR. PRIESTER: Yes.

9 THE COURT: Is anything further required of this jury
10 from the State?

11 ASST. SOL FERGUSON: No, ma'am, Your Honor.

12 THE COURT: From the defense?

13 MR. HUGHES: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, I want to thank you for your hard work here this week.
16 These cases are not easy to sit on, and I appreciate and
17 understand that, particularly when there's a death involved.
18 But I know you-all have worked hard and you've been very
19 diligent and we appreciate that. On behalf of the State and
20 the defense, we are grateful for your service. You have
21 helped us not only resolve this case, but many others that
22 were on the docket this week that are going to be before us.

23 At this time, I'm going to go ahead and excuse you from
24 your jury service. If you would like to stay for Mr.
25 Scott's sentencing, you are welcome to, but, of course, you

1 are not required to. Also, ladies and gentlemen, at this
2 time, you are permitted to discuss this case, if you would
3 like. Sometimes the attorneys, or a witness, may ask you a
4 question of what you thought about something, and that is
5 permissible, but you do not have to speak about the case in
6 any way. If someone wants to ask you a question and you are
7 not interested in talking about the case, simply say, "No,
8 thank you" and go on your way. If someone were to persist,
9 I want you to call up to Ms. Bostick's office, give her
10 their name, and I will take care of them. All right?

11 So ladies and gentlemen, at this time, I'm going to go
12 ahead and excuse you. If you would like to leave, now is
13 the time to go. After that, if you would like, you can
14 remain and stay where you are. I will sentence Mr. Scott
15 and then I can excuse you after that as well. So if anyone
16 wants to leave, again, now is the time to do it. All right?
17 Does anyone want to leave? Does anyone want to go? All
18 right. Very well. Well, you go ahead and take a seat. And
19 if you want to come forward.

20 ASST. SOL. FERGUSON: We have the sentencing sheet
21 printing, Your Honor.

22 THE COURT: Thank you.

23 ASST. SOL. FERGUSON: It's in our back office and
24 coming right up.

25 THE COURT: Thank you. Obviously, I've tried the case,

1 Mr. Ferguson. I don't think I need to hear too much more
2 from you.

3 ASST. SOL FERGUSON: Yes, ma'am.

4 THE COURT: I do need to know what Mr. Scott's prior
5 record is, though.

6 ASST. SOL FERGUSON: Yes, ma'am. 1998, minor
7 possession of alcohol; 1999, simply assault and battery,
8 trespassing; 2004, assault and battery of a high and
9 aggravated nature; 2009, malicious injury to personal
10 property; 2010, criminal domestic violence, first; malicious
11 injury to personal property. Later in 2010, criminal
12 domestic violence, second offense. From 2000 in the State
13 of New York, criminal possession of a controlled substance,
14 fifth, attempt to sell. I think that's fifth degree, not
15 fifth offense. And that is the extent of his criminal
16 record, Your Honor.

17 AGENT HERD: Your Honor, if it would please the Court,
18 he is also presently under probation. I'll be serving him
19 with a citation for the new conviction and financial
20 arrears. Would you like me to serve that now?

21 THE COURT: If you'd like to serve it now.

22 AGENT HERD: Your Honor, he's been served with citation
23 CC27, 11, Number 12. And I'm charging him with violating
24 condition six, the new conviction. And also with his
25 monetary arrearages at this time.

1 THE COURT: All right. And the victim of the CDV that
2 he's on probation for, the CDV second, is that Akera Nelson?

3 AGENT HERD: It is, Your Honor. And she's the daughter
4 of the victim in this case.

5 THE COURT: All right. Mr. Hughes?

6 MR. HUGHES: Your Honor, you've heard most of his
7 story. He's 32 years old, father of four. He is actually a
8 pretty good guy. I've spent a number of hours talking to
9 him. He has always felt somewhat responsible, even though
10 he still tells me that it was a self-defense matter, he did
11 feel responsible. That's the reason why I wanted the
12 involuntary, because he did feel responsible for her death;
13 even though he denies that he caused it, he felt responsible
14 for it.

15 Your Honor, we're asking that you show mercy to him. I
16 understand there is a long road ahead of him; there is in
17 any sentence. We're asking for the minimum in this matter,
18 Your Honor. This isn't like -- you heard the facts, he
19 didn't go searching for the victim; the victim came to him.
20 There was an altercation. The victim was the aggressor in
21 some matters. This is not someone who went searching for
22 his victim.

23 This is a horrible accident; a horrible mistake that
24 has taken someone from their family. And we're asking that
25 you show lenience to Mr. Scott, that you do give him the

1 minimum in this. He is 32 years old. He will be an old man
2 before he's even eligible for parole, Your Honor.

3 THE COURT: Anything further from anyone?

4 ASST. SOL. FERGUSON: No, ma'am, Your Honor.

5 THE COURT: Mr. Scott, clearly you have a history of
6 criminal domestic violence and aggression issues with having
7 a previous ABHAN on the record. The only redemption that I
8 see in any of what I've heard during the trial of this case
9 is your attempt when you did realize that Ms. Nelson was
10 having a severe problem, you did attempt to stop the
11 bleeding with your shirt, and I do give you some credit for
12 that. Again, a jury's convicted you. Obviously, you've
13 been found guilty of murder. Do we have the sentencing
14 sheets?

15 ASST. SOL. FERGUSON: Yes, ma'am.

16 THE COURT: Indictment Number 2011-192, it is for
17 murder. The sentence of this Court, that you should be
18 committed to Department of Corrections for a period of 30
19 years. Good luck to you, sir.

20 MR. HUGHES: Thank you, Your Honor.

21 AGENT HERD: Your Honor, on the probation matter, we
22 just terminate the probation case and then a civil judgment?

23 THE COURT: Absolutely.

24 ASST. SOL. FERGUSON: Thank you, Your Honor.

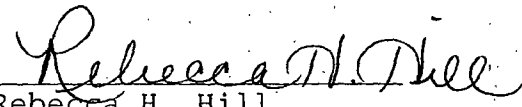
25 MR. HUGHES: Thank you, Your Honor.

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON) CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the hearing of the captioned case, in the Court of General Sessions for Jasper County, South Carolina, on the 5th - 7th day of December 2011.

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

April 3, 2012


Rebecca H. Hill,
Official Court Reporter

WITNESSES

C. McIntosh - RPD

ARREST WARRANT NUMBER

J386052

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN

DATE

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC
BY: *[Signature]*
DATE: 12-8-11

DOCKET NO. 2011GS2700192

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

April Term 2011

THE STATE

vs.

Antonio Demazio Scott

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

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.

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

INDICTMENT

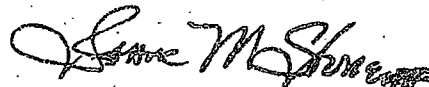
2011GS2700192

At a Court of General Sessions, convened on April 19, 2011, the Grand Jurors of Jasper County present upon their oath:

Murder / Murder

That in Jasper County on or about March 20, 2011, with malice aforethought, Antonio Demazio Scott did kill and murder Cynthia Nelson by means of stabbing, and that Cynthia Nelson did die in Jasper County as a proximate result thereof on March 21, 2011; in violation of Section 16-3-10 of the South Carolina 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.



Solicitor

204 STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Jasper

VS.

Antonio Demazio Scott

AKA:

Race: B Sex: M Age: 33

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: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS2700192

A/W#: J386052

Date of Offense: 3/20/2011

S.C. Code § 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ferguson, Robert E

SC Bar# 74389

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 _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal 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 %)	\$	0
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	0
§ 56-5-2995 (DUI Assessment)	\$12	0
§ 56-1-286 (DUI Breath Test)	\$25	0
Proviso 47.9 (Public Def/Prob)	\$500	0
§ 14-1-212 (Law Enforce. Funding)	\$25	25
§ 14-1-213 (Drug Court Surcharge)	\$150	0
§ 50-21-114(BUI Breath Test Fee)	\$50	0
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	0
Proviso 90.5 (SCCJA Surcharge)	\$5	5
3% to County (if paid in installments)	\$	3.90
TOTAL	\$	133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

TRUE COPY

MARGARET BOSTICK

CLERK OF COURT

JASPER COUNTY, SC

BY: D. Davis

DATE: 12-8-11

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: _____

Clerk of Court/ Deputy Clerk

Margaret Bostick
Decky Hill and not

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 24th, 2013

A handwritten signature in black ink, appearing to read "Breen Richard Stevens", written over a horizontal line.

Breen Richard Stevens
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Jasper County

Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTONIO SCOTT,

APPELLANT

APPELLATE CASE NO. 2011-205448

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Anthony Mabry, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 24th day of May, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 24th day of May, 2013.

Paula McKay (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED

MAY 20 2013

SC Court of Appeals