

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane Goodstein, Circuit Court Judge

CASE NO.: 2021-000280

The State,

Respondent,

v.

Isaac Colden Duran,

Appellant,

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER

2018-JU-18-00215

State of South Carolina

Vs.

Isaac Duran

Dorchester, South Carolina

February 11-13, 2019

Before the Honorable Nancy McLin

APPEARANCES

For the State: Vergil Deas

For the Defendant: Mitchell Farley

Reported by: DCRP (Transcribed by Michael C. Watkins)

Official Court Reporter

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1 MR. FARLEY: Obviously we move to sequester the
2 witnesses.

3 THE COURT: Is that agreeable?

4 MR. DEAS: Yes, Your Honor. I would just like to have
5 my principal officer, investigating officer here.

6 MR. FARLEY: No problem, Your Honor.

7 MR. DEAS: That would be Detective Butcher.

8 THE COURT: Okay. Do you need to tell anybody coming
9 in, Vergil, or have you got it?

10 MR. DEAS: We did file for a sequestration, which
11 Deputy Owens would be the first one I call. We can just
12 step out first.

13 THE COURT: Y'all have a seat. Thank you.

14 (Break in proceedings.)

15 THE COURT: Solicitor, I'm ready when you are.

16 MR. DEAS: Thank you, Your Honor. May it please the
17 Court? This is in the interest of Isaac Duran charged in
18 indictment number 2018-JU-18-2015 with murder. He is
19 present in court today with his attorney, Mr. Mitch Farley.
20 His mother and father are present. We also have the
21 victim's -- family of the victim is here, Mr. and Mrs.
22 Bradley. We have got Detective Butcher from the sheriff's
23 office who is my investigating case officer. We've got Ms.
24 McCray from the Department of Juvenile Justice, Your Honor.
25 Your Honor, may we approach?

1 THE COURT: Sure.

2 (A bench conference was held.)

3 MR. DEAS: Thank you, Your Honor. The matter is before
4 the Court for purposes of a waiver hearing on today. The
5 State filed a motion with the Court that was signed by Judge
6 Jones on June 21st of 2018 seeking to have the young man
7 waived up from -- transfer from the court of family court to
8 the court of general sessions. That order was signed by
9 Judge Anne Jones. We also asked for a pre-waiver evaluation
10 to be done by the DJJ psychologist, that would be to be
11 pursuant to State v. Hitopoulus, and that has been conducted
12 as well. And this matter had been set for a hearing before
13 the Court on today and the State is ready to proceed, Your
14 Honor. We do have a copy of the pre-waiver evaluation, Your
15 Honor. We can either hand it up now and ask that it be made
16 part of the record or we can wait until the testimony of the
17 psychologist comes forth, Your Honor. Typically she will
18 testify as to her findings, Your Honor.

19 THE COURT: Mr. Farley, did you want to be heard on the
20 marking of the exhibit?

21 MR. FARLEY: Judge, I think we should wait until
22 they've laid the foundation at least, and we also have to
23 decide whether or not a report is admissible as evidence.

24 THE COURT: Okay. So does that suit you to wait until
25 she testifies?

1 MR. DEAS: That's fine, Your Honor.

2 THE COURT: All right. And you said Judge Jones signed
3 a motion. Are you talking about the pre-waiver evaluation
4 order?

5 MR. DEAS: Yes, ma'am. The pre-waiver evaluation order
6 that was signed by Judge Jones on June 28th of 2018.

7 THE COURT: Okay. Thank you very much. And I
8 understand there was a stipulation between the State and the
9 defense about sequestering witnesses except for those
10 parties that are in the courtroom today; is that correct?

11 MR. DEAS: That is correct, Your Honor.

12 THE COURT: All right. Any -- and then there was
13 also -- I think in the pretrial the Court was informed that
14 State's exhibits that have been marked as Plaintiff's
15 Exhibits, but State's Exhibits 1 and 2 have been marked
16 without objection and introduced without objection; is that
17 correct?

18 MR. FARLEY: Yes, Your Honor.

19 THE COURT: All right.

20 MR. DEAS: That is correct, Your Honor.

21 THE COURT: Then without objection so introduced as
22 Exhibits 1 and 2. Any other agreements or stipulations that
23 the Court needs to be aware of?

24 MR. DEAS: There is one other, Your Honor, in reference
25 to the State was planning to introduce the testimony of the

1 EMT who responded on behalf of Dorchester County EMS at the
2 scene. It's my understanding that he is under the weather,
3 has the flu. He did appear according to my subpoena on this
4 morning, but due to his being ill we have agreed to
5 stipulate. I do have a copy of his report, Your Honor. But
6 we've agreed that we will stipulate to his findings that
7 when he arrived on the scene he found the decedent, he was
8 dead or unresponsive due to an apparent gunshot wound, Your
9 Honor.

10 THE COURT: Okay. Was the stipulation just as to that,
11 or was that for the report as well?

12 MR. DEAS: We didn't say anything about the report,
13 Your Honor.

14 THE COURT: Okay. All right. Is that correct as to
15 the stipulation?

16 MR. FARLEY: For the purposes of this hearing only the
17 stipulation is the EMS arrived on scene, that the victim was
18 deceased, and that it appeared to -- and the victim was
19 shot.

20 THE COURT: All right. Is that correct, Solicitor?

21 MR. DEAS: That is correct, Your Honor.

22 THE COURT: All right. So stipulated. Anything else
23 we need to take up?

24 MR. DEAS: Not that I'm aware of, Your Honor.

25 MR. FARLEY: No, Judge.

1 THE COURT: All right. You may call your first
2 witness.

3 MR. DEAS: Okay. Thank you, Your Honor. We call
4 Deputy William Owens.

5 The witness, WILLIAM OWENS, was first duly sworn and
6 Testified as follows:

7 THE COURT: Will you state your full name for the
8 record, please?

9 THE WITNESS: Deputy William Owens.

10 THE COURT: And can you spell your last name?

11 THE WITNESS: O-w-e-n-s.

12 THE COURT: Thank you very much. Your witness.

13 MR. DEAS: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. DEAS:

16 Q Deputy Owens, where are you employed?

17 A Dorchester County Sheriff's Office, patrol division.

18 Q How long have you been at the sheriff's office?

19 A Approximately 17 months.

20 Q Okay. Were you working at the sheriff's office on
21 May the 30th of 2018?

22 A Yes, I was.

23 Q And you said you were on patrol. Can you describe
24 basically what you do as a patrol officer?

25 A I just respond to calls for service and just basic

1 investigations, and secure crime scenes when applicable for
2 our criminal investigations division to take over.

3 Q Okay. Have you attended the criminal justice academy?

4 A Yes, I have.

5 Q Did you graduate?

6 A Yes, I did.

7 Q Okay. Have you had any special trainings while there
8 at the academy?

9 A Other than SFST's and traffic stuff, no.

10 Q Okay. Did you get -- respond to a call at 114 Ironwood
11 Trail on May the 30th, 2018?

12 A Yes, I did.

13 Q And can you tell me what was the nature of the call?

14 A It was in reference to a shooting.

15 Q How did you get the call?

16 A Our dispatch advised us to respond to that location.

17 Q When you get a call like that, what do you normally do?

18 A Respond lights and sirens, as soon as we get there try
19 to secure the scene.

20 Q Where were you when you got this call, do you recall?

21 A I was in the Summerville area within Dorchester County.

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

23 A I observed a black male laying on the ground with an

24 apparent gunshot wound to the head. I secured the scene and

25 waited on other responding deputies to arrive to assist.

1 Q Okay. When you said you secured the scene, what did
2 that entail?

3 A Just, you know, trying to preserve all evidence that
4 was around the victim's body. We tape it off, don't allow
5 anyone outside of EMS, fire, first responders to enter the
6 scene and possibly contaminate it. Also obtain some written
7 statements from the witnesses on scene who wrote down what
8 they saw.

9 Q Did you maintain a crime scene log?

10 A I did. I started a crime scene log with every person
11 that entered the scene, their name and phone number and the
12 department they work for.

13 Q Okay. Why do you do that?

14 A It just ensures who entered that scene and who all is
15 accountable that was there.

16 Q Okay. And is that based on your training?

17 A Yes, it is.

18 Q Okay. Do you inform people of your findings?

19 A Do I -- excuse me?

20 Q Did you inform everyone of your findings?

21 A Yes, I did.

22 Q Who was the supervisor at the time of your shift?

23 A My lieutenant, Lieutenant Tumbleson.

24 Q Okay. So what else did you do?

25 A That's basically it. Just once the scene was secure I

1 turned the investigation over to our criminal investigations
2 division.

3 Q Okay. Now, you stated that you talked to people
4 around?

5 A I did. They initially said that there was two
6 suspects; a white female and a white male that possibly
7 drove off from that scene in a red vehicle. There were also
8 two other subjects that were spotted that apparently ran
9 behind the apartment complex. That was my initial
10 investigation. And the rest of my duties was to secure that
11 scene and make it safe for everyone else.

12 Q Okay. Were there a lot of people around during this
13 incident?

14 A From what I recall a good many.

15 Q I'm sorry. Do you recall -- what time of day was it?

16 A It was approximately 7:50 at night.

17 Q Okay. The description. Did they have a description of
18 any suspects other than the two people that you just
19 identified?

20 A The other two at the time of my arrival from what I
21 gathered, it was undetermined their race or gender.

22 Q Okay. Had any first responders come yet?

23 A I believe shortly after I arrived EMS was the next ones
24 on the scene, Dorchester County EMS.

25 Q Okay. I'm going to hand you what has been premarked

1 Exhibit Number 2 for the State and ask whether or not you
2 recognize that?

3 A Yes, I do.

4 Q And what is it?

5 A That's the victim from this incident.

6 Q Okay. And can you describe that location?

7 A That's Archdale Forest Apartments --

8 THE COURT: And I'm sorry, what did you say, Archdale?

9 A Archdale Forest Apartments out in front of 114 Ironwood
10 Trail within Dorchester County, South Carolina.

11 Q Okay. All right. Then after that you said your job
12 was to just secure the scene?

13 A Yes, sir.

14 Q Okay. Are you familiar with the name of Aaron Reece?

15 A No, sir, I'm not.

16 MR. DEAS: All right. Thank you, Officer. Please
17 answer any questions Mr. Farley might have for you.

18 THE COURT: Cross examination?

19 MR. FARLEY: No questions.

20 THE COURT: Thank you, sir, you may step down. Do you
21 wish to excuse the witness?

22 MR. DEAS: Yes, he can be excused.

23 THE COURT: Any objection?

24 MR. FARLEY: No objection.

25 THE COURT: The witness is excused, thank you very

1 much. You may call your next witness.

2 MR. DEAS: We call Investigator Hannah Carter.

3 THE COURT: Solicitor, this isn't another witness, is
4 it?

5 MR. DEAS: Ma'am?

6 THE COURT: This isn't another witness, is it, that
7 just walked in the courtroom?

8 MR. DEAS: That is the captain of detectives.

9 THE COURT: I didn't know if you were planning on him
10 being a witness since you sequestered the witnesses.

11 MR. DEAS: Oh, no, he isn't.

12 The witness, HANNAH CARTER, was first duly sworn and

13 Testified as follows:

14 THE COURT: State your full name for the record.

15 THE WITNESS: Hannah Carter.

16 THE COURT: Can you spell your first name?

17 THE WITNESS: H-a-n-n-a-h.

18 THE COURT: Thank you very much. Your witness.

19 MR. DEAS: Thank you.

20 DIRECT EXAMINATION

21 BY MR. DEAS:

22 Q Where are you employed, Ms. Carter?

23 A The Dorchester County Sheriff's Office.

24 Q And what are your duties there?

25 A I'm currently assigned to the crime scene unit within

1 the sheriff's office.

2 Q Okay. How long have you been in crime scene?

3 A Since November of 2017.

4 Q Okay. What are some of your duties at crime scene?

5 A We do -- any of the evidence that is brought in from
6 any of the shifts on patrol, we enter them -- we enter in
7 the evidence from those deputies. We also keep a log of the
8 evidence, and then any of the calls that are -- that come
9 out we have an on-call schedule. So we respond to anything
10 that deputies will not handle. Or say if detectives want us
11 to come out and process the scene, then we handle that.

12 Q Okay. And in responding and processing a scene, are
13 these major cases that you respond to?

14 A Yes, sir.

15 Q What do you mean by processing the scene?

16 A So if it's a major case you would, of course, go on
17 scene, see what you have evidentiary wise, and then you
18 would take photographs, you take measurements of any of the
19 evidence that you've located. You can do DNA swabs to
20 further be sent to SLED. It's pretty much documentation of
21 the scene so if you have to later on rebuild it you can.

22 Q Okay. Have you had any special trainings or
23 certifications?

24 A I have taken classes for shooting incident
25 reconstruction just recently.

1 Q Okay. Are you state certified?

2 A No.

3 Q Have you been certified by SLED?

4 A No, not for that.

5 Q Okay. Let me direct your attention to an incident that
6 happened on May the 30th of 2018. Were you called out to

7 114 Ironwood Trail in North Charleston?

8 A I was.

9 Q Why were you called out there?

10 A When I was initially called by the Dorchester County
11 dispatch they told us that there had been -- they told me
12 that there had been a shooting and it was a juvenile,
13 possibly a 12 year old, that had been shot, so I, of course,
14 responded out there. And whenever I got there some of the
15 detectives were on scene and the patrol unit, they had
16 marked it off. And at the time I had never worked a
17 homicide by myself before, so I had waited until Sergeant
18 Jeff Scott got there until I had went into the scene. I
19 just spoke with detectives and see what they had at that
20 time, which wasn't much.

21 Q Okay. And upon arrival, what did you see?

22 A When I got there and we were doing the initial
23 walk-through of the outside area it was positioned between
24 two townhomes that they have set up, I noticed there were
25 shell casings on the ground leading up to the building. I

1 also noticed the victim's body and then a cell phone that
2 was near the steps going to the upstairs townhouse.

3 Q Okay. Let me show you what has been previously marked
4 as Plaintiff's Number 1 and ask whether you can identify it?

5 A That is a cell phone at the bottom of the steps to the
6 entrance of one of the apartment townhomes.

7 Q And where did you see that at?

8 A That was on the sidewalk, it was not too far from the
9 victim's body.

10 Q When you saw it, what did you do with it?

11 A Due to not knowing who the victim was and not knowing
12 how old he was, we went ahead and we photo placard the cell
13 phone, and we took our photos and measurements of it. And
14 then also there was like a reddish stain on it so we went
15 ahead and swabbed it as well. And once we got everything we
16 needed from that specific piece of evidence we turned it
17 over to Detective Smith.

18 Q Okay. So when you say photo placard, will you explain
19 to the Court what that means?

20 A We marked it with a number one so it was our first
21 piece of evidence --

22 Q Okay.

23 A -- that we had located.

24 Q And then you said you saw blood on it?

25 A It was a reddish stain.

1 Q A red stain on it?

2 A Yes. At the time I don't know what exactly it was, but
3 we did swab it to see -- so we could send it off for
4 testing.

5 Q Okay. And then what did you do with that?

6 A Once we were done taking the measurements from it, the
7 coordinates, we turned it over to Detective Smith, that way
8 he could potentially find out the identity of the victim.

9 Q Okay. All right. And then let me show you what has
10 been marked State's Number 2 and ask whether you recognize
11 that?

12 A Yes. This is the sidewalk to the side of the building
13 where the victim was located off to the left-hand side, and
14 that's where some of the shell casings and also soft tissue
15 and reddish stains were located on the ground.

16 Q Okay. And does it have identifying placards on that as
17 well?

18 A It does, yes.

19 Q And how did they get there?

20 A I put them there.

21 Q Okay. Why did you put them there?

22 A When we do our initial walk-through of the crime scene
23 we notated items, or even like there was a scuff mark in the
24 ground where you could tell a person had run or maybe
25 fallen. There was just items that we wanted to document to

1 further help the case.

2 Q Okay. So at this point what were you then doing?

3 Based on those observations that you had, what were you
4 doing?

5 A From here -- so when we get on scene we do overall
6 photographs with no photo placards. And then you go back
7 and anything that you think is evidentiary value you mark it
8 with a photo placard so you can either; A, collect it, swab
9 it, or when you go to build it back -- like some of the
10 things like the scuff mark, I can't take a scuff mark, but I
11 can say this is where it's at and I can give you
12 measurements so if we do rebuild the scene. So once you put
13 out your photo placards again you rephotograph it, that way
14 you can mark and kind of have a better visualization of
15 where everything was versus them not being marked.

16 Q Okay. Now, what did you notice about the -- your
17 victim?

18 A That he was -- the way his arms were positioned, and
19 there was also the gravitational flow of the blood from his
20 body had indicated that he had maybe been rolled.

21 MR. FARLEY: Objection, Your Honor. This is opinion
22 testimony and she's not been qualified as an expert in any
23 field.

24 THE COURT: Do you want to be heard on the objection?

25 MR. DEAS: Your Honor, she's just giving -- she's a

1 crime scene technician. I'm not asking for her expertise.
2 She stated that she has, you know, responded to crime
3 scenes. I'm not asking for like a professional opinion as
4 to blood spatter or anything like that.

5 THE COURT: I'll overrule the objection and allow her
6 to testify as to her observations. Go ahead.

7 Q So you were telling about the -- what you observed as
8 to the victim.

9 A So the way the victim was lying with his arms up, you
10 could tell there was -- the way that was blood was flowing
11 on his arms and his head is was almost like he was laying on
12 his side or face down, and when we found him he was not on
13 his side or face down, which let us know that he may have
14 potentially been moved. When we noticed that we did -- we
15 checked with the first responders, EMS, and also the
16 deputies just to make sure that they -- you know, to see if
17 they did move them and they both us that they didn't. So we
18 just documented that, that we thought he was moved. And
19 there was also soft tissue that was a little ways from his
20 body as well.

21 Q Okay. Were you able to collect any of the shell
22 casings?

23 A I was.

24 Q And what were your findings on the shell casings?

25 A I found eight .22 caliber shell casings as well as two

1 9-millimeter shell casings. And I also found a live
2 9-millimeter shell casing that was between the victim's
3 legs.

4 Q Okay. And at this time you still didn't know who the
5 victim was.

6 A No, sir.

7 Q Any estimate of how old the victim was at this time?

8 A I did not know. I didn't know anything about the
9 victim at all whenever we were out there.

10 Q Okay. And so as you continued to try to collect
11 evidence and put together this crime scene, what else did
12 you do?

13 A Once we got through we were told by Detective Butcher
14 and Blanchard, I believe, that there were shoe impressions
15 behind the building. So we did go behind the building as
16 well to locate where the shoe impressions were and to make
17 sure that there was no other evidence behind the building.
18 We attempted to lift casting of the shoe impressions but it
19 was really wet back in the back, so it was kind of hard and
20 our castings ended up not taking. But I do have photographs
21 of the shoe impressions. Once we were done processing the
22 evidence on the scene, we collected the cell phone, the
23 cartridge casings and the measurements, and then we
24 photographed the shoe impressions, and once that was done we
25 were complete with the scene investigation.

1 Q Okay. And typically after you were finished with the
2 scene investigation, what normally would you do in a case
3 like this?

4 A We take the evidence that we've located and we take it
5 back to our crime lab so we can further process it.

6 Q And in further processing, what are some of the things
7 you were doing?

8 A Some of the shell casings actually had reddish stains
9 on them, some of them had hair fibers on them, so we had to
10 take them back and we collected the hair. I took DNA swabs
11 off some of the shell casings and they will be sent to SLED
12 for testing.

13 Q So are you looking for further trace evidence and
14 things of that sort?

15 A Yes.

16 Q Okay. All right.

17 MR. DEAS: One moment please, Your Honor.

18 (Break in proceedings.)

19 Q What was significant about the shoe impression that the
20 detectives showed you?

21 A When they showed them to us they were -- one of them
22 slid down a slope and they were deep in the mud. So it was
23 almost as if they were running behind the building, which I
24 was told by some of the detectives on scene that they were
25 seen running around the building, and that's why we went

1 back there and looked for shoe impressions after they found
2 them.

3 Q Okay. And did you find any?

4 A We did find shoe impressions, yes.

5 Q Were the shoe impressions the same size or could you
6 tell?

7 A We took -- when I did my photographs I did them with a
8 scale. The photographs can be sent -- I know we recovered
9 shoes later on in the investigation, the photographs and the
10 shoes can be sent to SLED for them to compare them. That's
11 not something we typically do.

12 Q Not something you do.

13 A Nuh-uh.

14 Q Okay.

15 MR. DEAS: Thank you, Investigator Carter. Please
16 answer questions that Mr. Farley may have. We'll be
17 recalling her for another portion of the State's case, Your
18 Honor. So I'm asking that she can stop right now but I will
19 be recalling her for another portion of the State's case.

20 THE COURT: Any cross?

21 MR. FARLEY: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. FARLEY:

24 Q You said that some items of evidence will be sent to
25 SLED. So is there evidence out there that has yet to be --

1 A There's some evidence that we have in our evidence
2 storage right now, because SLED only accepts so many pieces
3 at a time so we have to send them in sections.

4 Q So you would agree the answer to that is yes, there is
5 more that could be analyzed by SLED.

6 A Yes.

7 Q I want to talk a little bit just about the whole
8 procedure of how evidence comes in to you and how it's
9 recorded, the chain of custody.

10 A Okay.

11 Q So you -- at the scene you got the photographs, you
12 collected 11 shell casings, including the one live shell
13 casing and all -- all of the other evidence you had. What
14 do you do with it once you collect it? How does it get
15 marked and put into evidence?

16 A Typically when it's shell casings we have smaller
17 envelopes, and whenever I collect it I collect it as photo
18 placard number one, because they were going to have a number
19 because we walk through the photo placards with them. I
20 mark them as what photo placard they are, I stick them in an
21 envelope and they go into a bag, and then I transfer them to
22 our department into our crime lab.

23 Q And when you transfer it into the crime lab, do you
24 just put it in an evidence box, or does someone actually
25 receive it and create a chain?

1 A When we work our own cases I do my own chain of custody
2 and I also process my own evidence.

3 Q Okay. Do you have a copy of your signature anywhere in
4 your file where you would have signed on the chain of
5 custody?

6 A For the scene evidence?

7 Q For any evidence that you may have taken in during the
8 course of the --

9 A Yes.

10 Q May I see that, please?

11 A Yeah.

12 MR. FARLEY: May I approach the witness?

13 THE COURT: Sure.

14 A I have a couple of chains here with my signature on
15 them. I don't know if you just want to -- uh-huh.

16 MR. FARLEY: If I may have a moment.

17 THE COURT: Sure.

18 (Break in proceedings.)

19 MR. FARLEY: I have no further questions, Your Honor.

20 THE COURT: Any redirect?

21 MR. DEAS: No, Your Honor. Thank you.

22 THE COURT: Thank you very much, you may step down.

23 You said you want to recall the witness, is that what you
24 said?

25 MR. DEAS: Yeah, for -- she does respond in reference

1 to a search warrant that we do but it's another portion of
2 the case, Your Honor. So I'll not excuse but recall her for
3 another portion of the case.

4 THE COURT: All right. Thank you very much. You may
5 call your next witness.

6 MR. DEAS: Thank you. We call Lieutenant Peters.

7 The witness, DEWAYNE PETERS, was first duly sworn and
8 Testified as follows:

9 THE COURT: Will you please state your full name for
10 the record?

11 THE WITNESS: It is Dewayne Robert Peters.

12 THE COURT: Thank you. Your witness.

13 MR. DEAS: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. DEAS:

16 Q Where are you employed?

17 A With the with Dorchester County Sheriff's Office.

18 Q And your duties there?

19 A I am the lieutenant over the general investigations
20 division within the sheriff's office.

21 Q And were you made aware of an incident that happened in
22 Archwood (sic) on May the 30th of 2018?

23 A I was.

24 Q And how were you made aware of that?

25 A Sergeant Adam Smith notified me. He was the on-call

1 duty supervisor for CID, and since there was a possible
2 shooting he let me know and I responded to the scene.

3 Q Okay. And when you got there, what did you observe?

4 A A young man deceased on the ground in front of the --
5 one of the apartment buildings. We had roped off the crime
6 scene and then we started getting briefed on the incident.

7 Q Okay. What are some things that you would normally do
8 in a situation like that as you tried to track down evidence
9 about this case?

10 A Basically what happened is, on this I would take the
11 information. I designate whoever is going to be handling as
12 the actual lead investigator on it. I would be basically
13 kept in the loop and what was happening. We would have
14 crime scene in route to process the scene for physical
15 evidence. I would send detectives out to canvas the area
16 for possible leads, interview any possible witnesses. I
17 would act as basically a clearing house for all of the
18 information in reference to the investigation.

19 Q Okay. Were you -- who did you assign to be over this
20 case?

21 A It was Sergeant Adam Smith at the time.

22 Q Okay. Were you made aware that -- well, first -- I'll
23 show you State's Exhibit 1 and ask whether you recognize
24 that?

25 A Yes, I do.

1 Q And what is it?

2 A This is actually a Samsung cellular phone, which is
3 from -- was found in close proximity to the decedent.

4 Q Okay. And how were you familiar with that particular
5 phone?

6 A At that time it was determined -- we were assuming that
7 that cell phone belonged to the decedent. It was brought to
8 my attention and I made the decision to have crime scene
9 sign the cell phone directly over to Sergeant Smith in order
10 for us to extract the data from within the cell phone.

11 Q Okay. And extracting the data, what do you normally
12 do?

13 A That is -- utilize the -- it's the cell bright UFED,
14 Universal Forensic Extraction Device, something like that.
15 It's a device that we purchased and that Sergeant Smith was
16 trained and certified to operate to extract the data from
17 the cell phone.

18 Q Was this helpful to your investigation?

19 A It was extremely helpful to the investigation.

20 Q How so?

21 A That actually provided us our first lead towards Ms.
22 Bortz.

23 Q Okay. And who is Ms. Bortz?

24 A She's one of the people that was contacted, or
25 contacted the decedent in reference to providing sex to him

1 at the location. Through investigation it was -- ultimately
2 we ended up charging her with murder.

3 Q Okay. And so that's Ms. Miriam Bortz?

4 A Yes.

5 Q So based on at least that particular information, what
6 did you instruct your people to do?

7 A At that time Detective Smith downloaded it that night,
8 and when we came in the download was complete. Then he
9 started looking at the data that was recovered from the cell
10 phone and that provided cell phone numbers, the last contact
11 information. We ran that telephone number down, we came up
12 with the name of Ms. Bortz. At that time he corroborated a
13 cell phone number for her, and then we ended up just started
14 the investigation from there.

15 Q Okay. You had other detectives canvassing the
16 neighborhood?

17 A I did.

18 Q Okay. And did you have any leads as to who your victim
19 was at this time?

20 A We found that out. We eventually located his vehicle,
21 or the vehicle that he arrived in. Based on the license
22 plate information and a parking sticker from the University
23 of South Carolina we were able to contact the University of
24 South Carolina Police Department. Based on the parking pass
25 that was there we were able to obtain information on the

1 registered owner who was utilizing that vehicle. We were
2 provided a cell phone number and we contacted him to find
3 out who was utilizing his car or if the decedent was the
4 person. We talked to the actual car pass owner who provided
5 the name of the decedent at that time.

6 Q Okay. Okay. And then we also lead to other suspects
7 as well?

8 A The cell phone eventually did, yes, through Ms. Bortz.

9 Q Okay. All right.

10 MR. DEAS: Thank you, Lieutenant. Please answer any
11 questions Mr. Farley may have.

12 THE COURT: Cross examination?

13 MR. FARLEY: Thank you, Judge.

14 CROSS EXAMINATION

15 BY MR. FARLEY:

16 Q So when the phone was collected and accessed there was
17 no search warrant.

18 A A search warrant was obtained.

19 Q Prior to the download?

20 A Yes.

21 Q That's kind of an important part to this.

22 A Yes. Actually I think Sergeant Carson obtained the
23 search warrant.

24 Q And you said that the texts were analyzed. Did you

25 actually -- did you plug it into the computer?

1 A No. That would have been Sergeant Smith.

2 Q And you testified that you found some texts between the
3 victim and Bortz. Did you find any other text messages that
4 would relate to this case?

5 A I would actually have to look at the entire -- I know
6 the ones that stuck out in mind were from Ms. Bortz. There
7 was some text messages prior to meeting up with Ms. Bortz to
8 a friend of his --

9 Q To a friend of the victim?

10 A Decedent, yes. So I don't -- and I can't remember who
11 exactly it was from.

12 Q Would a text message from Isaac to Ms. Bortz, would you
13 remember that? Would that stick out in your head?

14 A I would, but that would not have been on this cell
15 phone.

16 Q So your testimony just now is that there would not --
17 there would not be any texts from Isaac to Bortz?

18 A Yes. Because we didn't have any of Ms. Bortz's -- this
19 cell phone was the decedent's, so only text messages from
20 Ms. Bortz to the decedent could be recovered. So therefore
21 if Mr. Duran texted Ms. Bortz we would not have been able to
22 recover that. There's no way for it.

23 Q Let's put it like this, you analyzed the phone and you
24 didn't find any texts from Isaac to the defendant -- or the
25 victim.

1 A Yes.

2 MR. FARLEY: Okay. No further questions.

3 THE COURT: Any redirect?

4 MR. DEAS: No, Your Honor, no redirect.

5 THE COURT: Thank you, sir, you may step down.

6 MR. DEAS: He can be excused.

7 THE COURT: Any objection to excusing the witness?

8 MR. FARLEY: No, Your Honor.

9 THE COURT: The witness is excused, thank you very
10 much. You may call your next witness.

11 MR. DEAS: Detective Blanchard.

12 The witness, MELISSA BLANCHARD, was first duly sworn

13 And testified as follows:

14 THE COURT: Will you please state your full name for
15 the record?

16 THE WITNESS: Melissa Blanchard.

17 THE COURT: How do you spell your last name?

18 THE WITNESS: B-l-a-n-c-h-a-r-d.

19 THE COURT: Thank you very much. Your witness.

20 DIRECT EXAMINATION

21 BY MR. DEAS:

22 Q Where are you employed?

23 A Dorchester County Sheriff's Office.

24 Q What are your duties at the sheriff's office?

25 A I'm an investigator assigned to the criminal

1 investigations division.

2 Q Okay. And how long have you worked at the sheriff's
3 office?

4 A Since November 30th, 2015.

5 Q How long have you been in law enforcement?

6 A Since 1994.

7 Q And are you familiar with the case concerning a
8 homicide at 114 Shagbark in Archdale?

9 A Yes, sir.

10 Q And how are you so familiar with that case?

11 A I was the on-call detective on May the 30th when I was
12 directed to the scene by Sergeant Smith to assist in the
13 investigation of that matter.

14 Q Okay. And did you respond to the scene?

15 A I did.

16 Q And what did you do upon your responding to the scene?

17 A I believe when I arrived crime scene was already
18 present. I remember Sergeant Smith was there, Lieutenant
19 Peters. I observed a body between two buildings but it was
20 closer to 114. And then I assisted with canvassing the
21 area.

22 Q Okay. Upon canvassing the area, what did that entail?
23 Did you see anybody, talk to anybody that might have seen
24 anything?

25 A I knocked on the doors at building -- the entire

1 buildings from 113 and 114 Ironwood Trail just to determine
2 what people heard and what people saw.

3 Q Okay. Did you get any information that was helpful to
4 your investigation?

5 A Nobody really saw anything. They heard gunshots,
6 seemed like several people thought it was three different
7 guns going off, a good number of shots going off. The
8 people that I interviewed didn't really look out the
9 windows, they just heard the gunshots.

10 Q Okay. So what did you do after leaving the scene?
11 What time did you leave the scene?

12 A 1:00 in the morning.

13 Q Okay. And then you come back when? The next day?

14 A The next day.

15 Q What did you do towards the investigation the next day?

16 A I located the victim's girlfriend. Detective Simmons
17 and I went and picked her up from her house, interviewed her
18 to find out what the victim had done the previous day. She
19 had plans to meet up with him and she had been concerned
20 because he wasn't answering his phone when they were
21 supposed to meet.

22 Q How did you discover the victim's girlfriend?

23 A I believe it was through his phone.

24 Q Okay.

25 A When they did the download on the phone.

1 Q When they did the download on the phone?

2 A I think so.

3 Q Do you recall her name?

4 A Cecile (phonetically) Foster.

5 Q Okay. And so y'all made contact with Ms. Foster?

6 A Yes, sir.

7 Q Okay. Tell me about it. What happened?

8 A She indicated she knew that the victim had borrowed his
9 roommate's vehicle. He was coming up here. They were going
10 to meet up after he met up with his friend, Tillman, and
11 they were going to see each other later that night. She
12 started phoning him, she couldn't get in touch with him so
13 she started calling around checking to see where he was at.
14 So she was concerned that she couldn't reach him.

15 Q Did she give you an approximate timeline?

16 A I think she said she last talked to him -- she talked
17 to him on the phone at 16:28. She was on the phone with him
18 at 16:28 hours on the 30th when he was --

19 Q Okay. So that's -- regular time that's what?

20 A 4:28 in the afternoon when he was driving from
21 Columbia. And that at about 6:26 in the evening the victim
22 sent her a text saying that he had arrived in the Charleston
23 area.

24 Q So what happened next?

25 A She said she got another text at 6:47 in the evening

1 and that he was planning on staying at Tillman's house until
2 his plays were done. And when we asked her what that meant
3 she knew that he sold weed and plays meant selling weed.

4 Q Okay. Now who is Tillman?

5 A She said it was the victim's best friend. Tillman is
6 the last name, I don't know if I have the first time.

7 Q Okay. And did she hear from him anymore?

8 A No. She said she wasn't able to get in touch with him
9 after that exchange.

10 Q Okay. So what did you do next?

11 A I believe Miriam Bortz had been identified as the last
12 person to have some contact with the victim via the cell
13 phone extraction. I know Detective Butcher had been in
14 contact with Ms. Bortz's mother and he was coordinating
15 locating her so we could take her into custody and interview
16 her.

17 Q Okay. Tell me about --

18 THE COURT: I'm sorry, I didn't catch the last name.

19 THE WITNESS: Bortz.

20 THE COURT: Bortz?

21 THE WITNESS: Yeah. B-o-r-t-z, I believe it is.

22 THE COURT: Thank you.

23 Q Can you describe how you -- what you did in terms of
24 taking Bortz into custody?

25 A Around 1:00 the afternoon of the 31st of May, Detective

1 Butcher was notified by Bortz's mother, because they had GPS
2 on her phone, that she was arriving back -- traveling back
3 towards their residence. She had a doctor's appointment at
4 MUSC, I believe, at 2:00 that afternoon so she was expecting
5 her to come home. We intercepted a Kia Sportage and did a
6 felony vehicle stop on that vehicle, and Ms. Miriam Bortz
7 and Matthew Zalenski were in that vehicle, stopped the car
8 right there in front of Ms. Bortz's house and took both of
9 those individuals into custody. Myself and Detective
10 Simmons transported Ms. Bortz back to our CID office to
11 interview her, and Detective Butcher and Detective Hanks
12 transported Matthew Zalenski to Summerville Police
13 Department to interview him at that location.

14 Q Okay. And why was she taken into custody?

15 A There was a warrant for her arrest for murder.

16 Q So did you take her back to CID?

17 A We did.

18 Q What did you do?

19 A Placed her in the interview room, offered her the use
20 of the bathroom and beverage. Then she was read her Miranda
21 rights, which she indicated she understood, initialed and
22 signed, then she signed the waiver portion, then they
23 briefly spoke to us.

24 Q Okay. Did she give you a statement?

25 A I don't believe she gave us a written statement. We

1 talked to her about her activities the night before -- give
2 me just a second. Those are in some other notes. She
3 admitted that the day before she was with Damacian Milton
4 and Matthew Zalenski, indicated they hung out. She also
5 mentioned another individual by the name of Elvis, said they
6 were hanging out at her house. Said they went to Wal-Mart,
7 helped clean up, then her and Matthew and Damacian went to
8 Matthew's house at about 11:00 p.m. We confronted her about
9 the text messages with the victim, because we asked her if
10 she knew him, she said she didn't. So when she was
11 confronted with the text messages then she admitted to
12 knowing him from school, I believe. And then once we
13 started confronting her about the text messages in the phone
14 and her changing her phone number right after the incident,
15 then she wanted an attorney.

16 Q Okay. So at that point you stopped questioning her?

17 A We did.

18 MR. DEAS: Okay. Thank you, Detective. Please answer
19 any questions that Mr. Farley may have for you.

20 THE COURT: Cross examination?

21 MR. FARLEY: Thank you, Judge.

22 CROSS EXAMINATION.

23 BY MR. FARLEY:

24 Q Did you do any further investigation on Elvis who she
25 said she was with?

1 A Elvis -- I believe Detective Butcher spoke to Ms.
2 Bortz's mother, because she had indicated that Elvis and
3 another young man were at the house playing video games
4 earlier the day of the 31st. I'm not familiar with Elvis,
5 some of the other detectives were. I didn't personally do
6 any other follow-up on that.

7 Q Okay. You received a call from Sonya Mitchell; isn't
8 that right?

9 A The night of the incident?

10 Q It's on page three of 16 in your report.

11 A Yes, sir. Dispatch had notified us that someone was
12 calling in that said they thought they had some information
13 about the shooting.

14 Q And that was Sonya Mitchell?

15 A Shawn Mitchell? Oh, hold on a second. Yes, sir. She
16 identified herself as Sonya Mitchell.

17 Q And she told you that Shawn Mitchell, a person named
18 Shawn Mitchell was possibly responsible for the shooting; is
19 that correct?

20 A Yes, sir.

21 Q Did you ever do anything about a follow-up about a
22 Shawn Mitchell?

23 A I personally did not. I think we passed on the
24 information to North Charleston Police Department, because
25 they had a homicide that she had mentioned in our phone

1 conversation with myself and Detective Butcher.

2 Q Okay.

3 MR. FARLEY: I need just a moment.

4 THE COURT: Sure.

5 (Break in proceedings.)

6 MR. FARLEY: No further questions, Judge.

7 THE COURT: Any redirect?

8 MR. DEAS: No redirect, Your Honor.

9 THE COURT: Thank you very much, you may step down.

10 May we excuse the witness?

11 MR. DEAS: No, Your Honor. I may have to recall her
12 for another portion of testimony.

13 THE COURT: Okay.

14 MR. DEAS: I call Sergeant Butcher.

15 THE COURT: If you will come on up.

16 The witness, JOHN BUTCHER, was first duly sworn and
17 testified as follows:

18 THE COURT: Please have a seat. Will you state your
19 full name for the record?

20 THE WITNESS: My name is John Butcher.

21 THE COURT: Thank you. Your witness.

22 MR. DEAS: Thank you.

23 DIRECT EXAMINATION

24 BY MR. DEAS:

25 Q Where are you employed, sir?

1 A Currently employed with the Dorchester County Sheriff's
2 Office, and I'm currently assigned to the criminal
3 investigative division.

4 Q And were you working on May 30th of 2018?

5 A I was working during the day, I was off in the evening.

6 Q Okay. Did you respond to Archdale Forest Apartments on
7 May 30th of 2018 that evening?

8 A I did.

9 Q And why did you respond?

10 A I was actually in my department vehicle when the call
11 came out. At that point the original call came out that
12 there was a shooting, it was possibly a 12 year old that was
13 deceased. At that point I made contact with Detective
14 Sergeant Smith and Detective Lieutenant Peters and they
15 requested that I respond to the scene.

16 Q Okay. When you responded what did you observe?

17 A Heard numerous -- it's a large apartment complex, there
18 was numerous vehicles out, there were numerous people
19 standing around. I noticed that the area was taped off for
20 crime scene. There were patrol deputies there, there were
21 several detectives there and crime scene was just arriving.

22 Q Okay. What did you do?

23 A I got with the other detectives and spoke with a couple
24 of patrol deputies to kind of get an idea of what had
25 originally taken place. We did a brief canvas of the

1 apartment complex. We knocked on doors. Detective
2 Blanchard and I knocked on doors. We had also received
3 information that there were people -- two subjects were seen
4 running behind one of the buildings where the deceased was
5 located. We did walk back there and we observed what we
6 thought was some type of evidence, so we contacted crime
7 scene and advised them of that.

8 Q Okay. Were you able to come up with any type of
9 suspects or anything at this point?

10 A We had spoken with -- received a call from dispatch.
11 There's a lady that lived in a residence behind the
12 apartment complex, Detective Blanchard and I went and spoke
13 with her. And she stated that she was by her sliding glass
14 window and she saw two -- she thought two or three males
15 running behind the apartments and then she heard the
16 gunshots.

17 Q Okay. Did you get next to where the decedent was at?

18 A I'm sorry?

19 Q Did you get close to where the decedent was at?

20 A I did.

21 Q Okay. What did you observe as to his age? Could you
22 describe -- dispatch kept saying he was 12?

23 A The original dispatch said they thought it was about a
24 12 year old male. He appeared a little older than that, but
25 he didn't certainly appear to be someone that was in his

1 30's or 40's. It appeared to be a younger black male that
2 was deceased on scene.

3 Q Okay. Now, as you canvassed the neighborhood at this
4 time what are you looking for?

5 A We're knocking on doors trying to find out if anybody
6 in the apartment complex had seen anything, observed
7 anything. If we see any type of evidence we're pointing it
8 out to crime scene.

9 Q Okay. So as you go through, what do you see?

10 A Multiple shell casings. Observed a cell phone that was
11 leading up to the stairs to what we later determined was a
12 vacant apartment, and that stuff was relayed back to
13 Sergeant Smith and Lieutenant Peter.

14 Q And so later on the next day they find out that the
15 cell phone had given you some information?

16 A Yes, we did. Received information from Sergeant Smith
17 that the victim's cell phone had been downloaded. We were
18 provided with a phone number and the name of Miriam Bortz.
19 Detective Hanks and I went down to her address, which is in
20 the Gables in North Charleston, which is the Ashley
21 Phosphate, Patriot Boulevard area. Made contact --
22 attempted to make contact with Ms. Bortz, actually spoke
23 with her mother. Her mother stated that that was the cell
24 phone number that was in the victim's phone. Ms. Bortz had
25 come back to the residence with several other individuals

1 that prior evening and asked to have her phone number
2 changed because she was getting harassing phone calls from a
3 former friend or boyfriend.

4 Q Okay. But you did not speak to Ms. Bortz at that time,
5 right?

6 A No. We spoke with her mother. While we were speaking
7 with her mother we were relaying the information back to
8 Sergeant Smith. Later on during that morning I was advised
9 there was an arrest warrant for Ms. Bortz for murder, and
10 Ms. Bortz's mother kept us in contact with her daughter
11 arriving back home, and when her daughter came back into the
12 neighborhood we did a felony traffic stop and took her into
13 custody, and we also detained Mr. Zalenski, who was the
14 driver of the vehicle.

15 Q Okay. What is a felony traffic stop?

16 A It's where we stop the vehicle and we remove the
17 subjects at gunpoint.

18 Q Okay. Who was Mr. Zalenski?

19 A Matthew Zalenski was the driver of the vehicle. He was
20 also, we were advised, was Ms. Bortz's boyfriend. And he
21 was later charged with a homicide.

22 Q Okay. So what did you do next?

23 A Once Mr. Zalenski was detained, Ms. Bortz was
24 transported back to our office by Detective Blanchard and
25 Simmons. We had a patrol deputy that was at the scene,

1 Deputy Gathers, he transported Mr. Zalenski. We originally
2 told him to transport him to our office. While we were
3 waiting for a county wrecker to come and impound Mr.
4 Zalenski's vehicle I was advised that Mr. Zalenski was being
5 taken to the Summerville Police Department because we only
6 have one interview room at our office and we were going to
7 utilize their interview room. At that point Detective Hanks
8 and I responded to Summerville Police Department. We went
9 in, advised Mr. Zalenski of his rights, which he waived, and
10 did an interview with Mr. Zalenski that day. And then I
11 conducted three more interviews after that with him.

12 Q Okay. And did he give -- did he speak to you?

13 A He did. Originally -- I would say each time he spoke
14 with us he gave us more and more information that we were
15 able to corroborate that was truthful. His original
16 information was he had nothing to do with the homicide, he
17 wasn't there, he didn't know anything about it. And then it
18 went from there, he kept giving more information and more
19 information. He eventually named Ms. Bortz, Mr. Middleton
20 and Mr. Duran as subjects that were involved in the homicide
21 with him.

22 Q Okay. And according to the statement that he gave you,
23 how did the incident go down?

24 A He was upset at the victim for what he claimed was a
25 burglary at a relative's residence a year or two prior where

1 a handgun was stolen. He told us this was retribution for
2 stealing the handgun, that they had lured Mister -- the
3 victim to the apartment complex. Ms. Bortz was to be the
4 first shooter and Mr. Zalenski and Mr. Duran were to come
5 around from the behind the apartment complex and they were
6 to continue shooting the victim.

7 Q Okay. Did Mr. Zalenski know the victim?

8 A He stated he did. He knew him by name. And we were
9 actually able to confirm that there was a relative of his
10 that did have a burglary that was reported I think a year or
11 two prior where a handgun was stolen and the victim was --
12 his name was in the report, but there was no way to confirm
13 that he was an actual suspect. He was never charged with
14 the burglary.

15 Q Okay. Now, the weapons that were used, were you able
16 to locate any weapons?

17 A When we took Mr. Zalenski and Ms. Bortz into custody we
18 located what I believed was a .22 caliber handgun that was
19 in the driver's door pocket of the vehicle he was in. There
20 was also some shell casings in the vehicle. I believe --

21 THE COURT: What kind of gun was found? I'm sorry.

22 THE WITNESS: I believe it was a .22 caliber handgun.

23 THE COURT: Okay.

24 MR. FARLEY: Your Honor, can we instruct the witness to

25 slowdown a little bit? I think me and the court reporter

1 are trying to keep up.

2 THE WITNESS: Okay.

3 A I know there were other firearms that were recovered,
4 although I was not present at those. I know there was a --
5 I was aware of a search warrant that was conducted at Mr.
6 Zalenski's residence later and there were multiple firearms
7 recovered from his residence.

8 Q Okay. And you said you interviewed Mr. Zalenski
9 several times?

10 A I did.

11 Q Is this normal?

12 A Mr. Zalenski kept asking to speak with me. And when we
13 had more information we would go back, and each time we
14 advised him of his Miranda rights, he waived those rights
15 and agreed to speak with us. And all of those interviews
16 were recorded.

17 Q Okay. And when you talked to him each time when he
18 asked, he gave you a little bit more information or what?

19 A He did. Each time he gave a little more information.
20 He corroborated stuff that we were determining through our
21 investigation as to what took place.

22 Q Okay. And so as you finally had corroborated
23 everything, I guess, when did it all come together in terms
24 of --

25 A I think the final indication was originally we picked

1 up Mr. Duran from school and transported him back to the
2 office, that was several days after the homicide, and then
3 several weeks after Detective Smith and I went and

4 interviewed Ms. Bortz down in Charleston County with her
5 attorney.

6 Q Okay. So Ms. Bortz also gave a second statement?

7 A She eventually did give another statement, yes.

8 Q And you were part of that as well?

9 A I was.

10 Q Okay. And what did she say in her second statement?

11 A She indicated that she had gone there to kill Mr.
12 Bradley, and that her and Mr. Zalenski and Mr. Duran all
13 three shot Mr. Bradley.

14 Q You said she had her attorney?

15 A She did have her attorney present. Actually her
16 attorney had reached out to Sergeant Smith several times and
17 said she would like to speak with us. We eventually made
18 arrangements to go interview her down at Charleston County,
19 because she was being housed at their detention facility and
20 not ours.

21 Q Okay. Now, Mr. Duran, where was he picked up at?

22 A We picked him up at River Oaks Middle School.

23 Q And when did you get him?

24 A June 1st of 2018.

25 Q Did you participate in picking him up?

1 A I did. I was advised by Sergeant Smith that they had
2 located Mr. Duran at the middle school, and contact was made
3 with North Charleston's school resource officers that was
4 present there and asked to detain Mr. Duran. I believe it
5 was myself and Detective Hanks that went down to the middle
6 school and we took custody of Mr. Duran and transported him
7 back to our office.

8 Q Was there any problems?

9 A He was nonchalant. There wasn't -- it didn't appear
10 like he was nervous, upset. His demeanor was rather
11 flippant. He didn't want us taking his cell phone. I
12 believe he asked at one point if we were going to call his
13 parents.

14 Q Did you call his parents?

15 A I did not. I believe Sergeant Smith did. My whole
16 dealing with him at that point was we transported him back
17 to our office and then I passed him off to Sergeant Smith
18 and Detective Simmons.

19 MR. DEAS: Okay. All right. Thank you. Please answer
20 any questions Mr. Farley may have.

21 MR. FARLEY: May I have a moment to review?

22 THE COURT: Sure.

23 MR. FARLEY: Thank you.

24 (Break in proceedings.)

25 CROSS EXAMINATION

1 BY MR. FARLEY:

2 Q Did either Bortz or Zalenski say when they hatched this
3 plan, when the plan was developed?

4 A I believe from Zalenski it was finalized -- I don't
5 know when it was hatched, but it was finalized in the back
6 of Mr. Middleton's vehicle before they arrived at the
7 apartment complex.

8 Q Okay. So they finished up the plans in route to the
9 place.

10 A Correct.

11 Q So did Zalenski or Bortz or Middleton -- who is
12 Damacian Middleton?

13 A Damacian Middleton. It was his vehicle that they used
14 that transported the suspects to and from the homicide.

15 Q Okay. Did any of those people indicate when, where and
16 how Isaac was -- first got involved with this? In other
17 words, first got in the vehicle?

18 A I don't know when they first picked him up. I know
19 Mr. Zalenski said they had picked up Isaac prior to the
20 shooting. And that the plan was is that Ms. Bortz was to
21 fire the first shots at the victim, and then Mr. Zalenski
22 and Mr. Duran were to come around from behind the apartment
23 building and they were to finish off Mr. Bradley.

24 Q So at some point Isaac was not in the car, and then at
25 some point thereafter he was in the car. But the plans --

1 and this is according to the defendant -- the codefendant
2 here, the plans were not finalized until they got --
3 actually got to the apartment complex.

4 A I don't know if it was before they got to the apartment
5 complex or when they got there, but I know that when they
6 arrived there the plan was that they were to kill Mr.
7 Bradley.

8 Q Did you make any determination where the individual
9 defendants were sitting in the car? Were you able to do
10 that?

11 A I believe that -- I know Mr. Middleton was the driver,
12 I believe Mr. Zalenski and Mr. Duran were in the back seat,
13 and Ms. Bortz was in the front passenger seat.

14 Q And that's just a guess.

15 A That's what I believe we were advised from the other
16 defendants.

17 Q Okay. I want to turn your attention to Mr. Middleton.
18 You've already told us that Mr. Middleton, through your
19 investigation, is probably who was driving the car; is that
20 right?

21 A From witness accounts, yes.

22 Q Were you present at any of the interviews that were had
23 with Mr. Middleton?

24 A I was not in the interview with him, no, I was not.

25 Q Have you had an opportunity to review the videos from

1 any interviews or speak to other officers about the
2 interviews?

3 A Just briefly. I've not reviewed the videos from Mr.
4 Duran or Mr. Middleton's interviews.

5 Q Do you know who was -- who all was present at Mr.
6 Middleton's?

7 A I believe Detective Simmons and Detective Smith.

8 MR. FARLEY: Sorry, Judge. This file is thick and
9 that's why I'm taking so much time.

10 THE COURT: That's okay.

11 (Break in proceedings.)

12 MR. FARLEY: No further questions, Judge.

13 THE COURT: Any redirect?

14 MR. DEAS: No, Your Honor. Thank you.

15 THE COURT: Thank you very much, you may step down.

16 MR. DEAS: Detective Simmons.

17 The witness, YXSUMI SIMMONS, was first duly sworn and
18 Testified as follows:

19 THE COURT: All right. Please have a seat. Will you
20 state your full name for the record?

21 THE WITNESS: Yxsumi Simmons.

22 THE COURT: What was your first name?

23 THE WITNESS: Yxsumi.

24 THE COURT: How do you spell that?

25 THE WITNESS: Y-x as in x-ray-S as in Sam-u-m-i.

1 THE COURT: Thank you very much. Your witness.

2 DIRECT EXAMINATION

3 BY MR. DEAS:

4 Q Where are you employed?

5 A I am employed with the Dorchester County Sheriff's
6 Office.

7 Q How long have you been with the sheriff's office?

8 A Four years.

9 Q Okay. What are your duties at the sheriff's office?

10 A I'm currently assigned to the criminal investigative
11 division at the sheriff's office.

12 Q And were you assigned to the criminal investigation
13 division on May the 30th of 2018?

14 A Yes, I was.

15 Q Did you get called out to 114 Shagbark Trail?

16 A No, I was not.

17 Q Okay.

18 A I did not go to the scene.

19 Q Okay. Did you assist in that investigation?

20 A I did.

21 Q How did you assist?

22 A I assisted with interviewing with Damacian Middleton, I
23 believe Miriam Bortz, and Isaac Duran.

24 Q Okay. Can you tell us about your assisting with the
25 investigation interviewing of Miriam Bortz?

1 A Myself and Detective Blanchard actually interviewed her
2 after she was taken into custody. We interviewed her, I
3 can't recall exactly what day it was, but at the CID office.
4 We questioned her about, you know, where she was that day,
5 what exactly happened. She was not very forthcoming with
6 that information, so we terminated the interview and decided
7 to -- but she actually requested a lawyer during the
8 interview.

9 Q Do you know what Ms. Bortz's charges were?

10 A Murder.

11 Q Okay. What else did you do then? You said you also
12 assisted in the interview of Isaac Duran.

13 A Yes.

14 Q How were you related with that case, or portion of the
15 case?

16 A Myself and Sergeant Smith actually interviewed Isaac
17 Duran, and he was the main interviewer at that time.

18 Q Okay. Can you tell us, did you give him Miranda
19 warnings?

20 A Yes, we did. We actually went line by line. I believe
21 that Isaac was given his own personal copy to follow along
22 with Sergeant Smith. We had him just paraphrase to make

23 sure that he understood each line and he said that he did.

24 He was very well spoken and he stated that he understood the

25 Miranda warnings that were given to him.

1 Q Okay. And was he willing to speak with you all?

2 A Yes, he was.

3 Q Okay. And did you ask him about the incident that
4 occurred on 114 Shagbark Trail?

5 A We did.

6 Q Okay. And what was -- did he give a statement?

7 A He did give a verbal statement. He was not inclined to
8 provide a written statement. He was not forthcoming at
9 first, but then eventually he did tell us how he
10 participated in the events that took place on the 30th of
11 May.

12 Q Do you recall what his information was to you?

13 A Initially he told us that he was just playing video
14 games that night. And we explained to him that we had
15 already, you know, arrested his other co-defendants in
16 connection and he was a little bit more forthcoming. But it
17 was like peeling layers a little bit at a time. At first he
18 told us he was playing video games. Then he said that
19 Damacian and his other two co-defendants, they picked him
20 up, they went to Shagbark Trail. On the way there they
21 discussed what they were going to do. At first he implied
22 that they were just going to rob the victim. And then again
23 we questioned him more and then he said, "Well, the plan was
24 to shoot him." But he said he stayed in the car initially,
25 that Isaac never got out of the car. And then, of course,

1 again, then he said, well, the plan was when they heard
2 Miriam shoot they would run out from behind the apartment on
3 Shagbark Trail.

4 Q And when he said that they would run out, who was he
5 referring to?

6 A He was referring to Matthew Zalenski and himself.

7 Q Okay. And then what did he say happened when they ran
8 out from behind the tree?

9 A Well, he said he actually -- he did not shoot, that's
10 what he said. He said that something was wrong with his
11 gun, and he said that the gun that he carried did not have a
12 clip in it. That was his version.

13 Q Okay. So what else did y'all do in terms of the
14 interview?

15 A I believe that was it. After he was truthful, or as
16 truthful as he could be with his statement, the interview
17 was terminated after. We did actually let his father speak
18 to him. Actually his father did come to speak to him for a
19 little bit, and then the interview was terminated shortly
20 after that.

21 Q Okay. Can you describe how the defendant was acting?

22 A Courteous, polite, unbothered, no tears. I mean, he
23 just -- just a regular day. Just shrugging. That's what
24 his bodily language was like the entire time.

25 Q How old was he?

1 A Fifteen at the time.

2 Q Do you know what school he attended?

3 A I believe it was River Oaks Middle School if I'm not
4 mistaken, but I'm not sure.

5 Q When you all -- and when I say you all, when the
6 sheriff's office picked him up he was picked up from school,
7 wasn't he?

8 A I can't actually testify to that because I'm not sure.
9 I wasn't involved in that part.

10 Q But this interview was taking place what day?

11 A I'm not sure. I can't recall. It was the day that
12 they picked him up from the school and they drove him
13 straight to the CID office where we interviewed him.

14 Q Okay. Now, you said you also participated with
15 Damacian?

16 A Yes.

17 Q Who was he?

18 A Damacian was the driver of the vehicle. He's the one
19 that picked everybody up and drove them to Shagbark Trail.
20 He also drove everyone away from the scene after the events
21 that took place.

22 Q Okay. And did you participate in interviewing
23 Damacian?

24 A I did.

25 Q Did he give a statement?

1 A He did. He gave a verbal statement, and I believe he
2 also gave a written statement as well.

3 MR. DEAS: All right. Thank you, Detective. Please
4 answer any questions that Mr. Farley might have.

5 THE COURT: Cross examination.

6 CROSS EXAMINATION

7 BY MR. FARLEY:

8 Q Detective Simmons, at any point during your interview
9 with my client, did he say that he was the shooter?

10 A No, he did not.

11 Q At any point during the interview with my client, did
12 he say this was premeditated prior to being in the car?

13 A Prior to being in the car, no.

14 Q I want to just move over to Mr. Middleton's interview.
15 Were you -- you were present in that interview?

16 A Yes.

17 Q Who else was with you in that interview?

18 A Detective Blanchard.

19 Q Okay. And when you and Detective Blanchard wrote your
20 reports --

21 A Uh-huh.

22 Q -- I see in the report that -- look at, "Look at
23 Detective Simmons report for the details of this."

24 A Correct.

25 Q And look at vice versa, right?

1 A Correct.

2 Q So things in her report you would know, you would have
3 witnessed more than likely.

4 A Yes.

5 Q Okay. When you spoke to Middleton he was evasive at
6 front at first.

7 A Yes.

8 Q And then you told him that you had spoken to other
9 co-defendants and they have basically told what went on, and
10 then you went on to say, "You need to come clean."

11 A Uh-huh.

12 Q There was a lot said during that interview and it's
13 hard to parse out what was real and what was not, but when
14 you asked him to describe who you eventually determined was
15 my client, isn't it true that he described my client as
16 having a young face, a young voice, guess his age to be
17 around 16, didn't look familiar from school. Does that
18 sound like a accurate description --

19 A Yes.

20 Q -- of him describing my client?

21 A Of him describing -- yes.

22 Q And isn't it true that Derrick Middleton also said that
23 he thought the whole purpose of this trip was to get weed?

24 A I think in the first interview that we handled, because
25 I think he was actually interviewed twice, but the first

1 interview he said that they were just there to get weed from
2 the victim.

3 Q Do you happen to have a copy of Detective Blanchard's
4 report?

5 A I do.

6 Q I want to turn you to page 11 of 16.

7 A Okay.

8 Q If you need a second that's totally fine, but the first
9 paragraph of that page, I believe that that happened during
10 one of the later interviews. Can you let us know if that's
11 true? Actually the third paragraph.

12 A The third paragraph? Yes.

13 Q So that was later on in the interview?

14 A I believe in the second interview when he told us that
15 it wasn't just to get weed. But during this initial
16 interview he did say that they were there just to purchase
17 weed. Well, not purchase weed, but to take it, so --

18 Q The description, however, was young voice, age 16,
19 young face.

20 A Uh-huh.

21 MR. FARLEY: I don't have any further questions.

22 THE COURT: Any redirect?

23 MR. DEAS: No. No further questions. Thank you.

24 THE COURT: Thank you very much, ma'am, you may step

25 down.

1 MR. DEAS: She may be excused.

2 THE COURT: Any objection to excusing the witness?

3 MR. FARLEY: No, Your Honor.

4 THE COURT: All right. The witness is excused. Thank
5 you.

6 MR. DEAS: Detective Easterlin.

7 The witness, CHAZ EASTERLIN, was first duly sworn and
8 Testified as follows:

9 THE COURT: Please have a seat. And will you state
10 your full name for the record?

11 THE WITNESS: Detective Chaz Easterlin.

12 THE COURT: How do you spell your last name?

13 THE WITNESS: E-a-s-t-e-r-l-i-n.

14 THE COURT: Thank you very much. Your witness.

15 MR. DEAS: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. DEAS:

18 Q Detective, where are you employed?

19 A I work for the Dorchester County Sheriff's Office.

20 Q And what are your duties at the sheriff's office?

21 A I'm an investigator, general investigations, any type
22 of crime as it comes across my desk.

23 Q Okay. Were you working on May the 30th of 2018?

24 A I don't recall working that particular day.

25 Q Were you called out because of a serious crime that had

1 occurred on that day?

2 A I was not. I was not called out to the initial scene.

3 Q Okay. Were you assigned to do -- on May 31st assigned
4 to -- by Detective Smith to do a search warrant concerning a
5 homicide that occurred at 114 Shagbark?

6 A Yes, I was. Detective Sergeant Adam Smith at the time
7 asked me to assist his investigation in obtaining a search
8 warrant for a -- it was a vehicle that was affiliated with
9 this investigation. He provided me with some relevant
10 information and I obtained a search warrant for a vehicle
11 that we had seized.

12 Q Okay. And owned the vehicle, do you know?

13 A I believe the pronunciation is last name Tolentino
14 (phonetically) I believe is the -- Melba Baltista Tolentino
15 (all phonetically.)

16 Q And how was this vehicle relevant to the investigation?
17 Were you familiar with that?

18 A The vehicle, I believe, is -- belongs to a Mr. Matthew
19 Zalenski. It's his mother's vehicle, I believe, if I recall
20 correctly. It was seized thereafter. Mr. Zalenski was
21 identified as a possible suspect in this investigation, and
22 the vehicle was seized pursuant to that.

23 Q Okay. And also, were you asked to do another search
24 warrant?

25 A I was. On the following day, I believe that would have

1 been June the 1st -- well, I wasn't asked to do the search
2 warrant. I was asked to respond to 251 Mary Scott Drive,
3 which is in Goose Creek, to meet with a Berkeley County
4 detective to execute a search warrant at the residence of
5 Mr. Zalenski.

6 Q Okay. And did you do that?

7 A I did. I arrived on scene. Detective Downing, I
8 believe is his name, he works for the Berkeley County
9 Sheriff's Office, he had a search warrant in hand. Him and
10 I read the search warrant to Ms. Tolentino, I believe. And
11 from that point we took a preliminary tour through the room
12 and I discovered a pair of shoes that had what appeared to
13 be a red stain blood on them, so that's when we stopped and
14 we called for -- I called my coworker now, Sergeant John
15 Butcher, advised him of what I had, and was advised to stand
16 by for crime scene.

17 Q Okay. And at that point you stop? Did you take any
18 pictures?

19 A I did take some preliminary pictures of what I had to
20 that -- what I had had of the residence to that point and to
21 my point of stop when Sergeant Scott arrived.

22 MR. DEAS: Okay. All right. Thank you. Please answer
23 any questions Mr. Farley may have.

24 MR. FARLEY: No questions, Your Honor.

25 THE COURT: Thank you, sir. You may step down.

1 THE WITNESS: Thank you.

2 MR. DEAS: You can step down, and he can be released.

3 THE COURT: Any objection to excusing the witness?

4 MR. FARLEY: No, Your Honor.

5 THE COURT: The witness is excused. Thank you very
6 much.

7 MR. DEAS: We call Detective Carter, Hannah Carter.

8 MR. FARLEY: Your Honor, may we take a brief recess?

9 THE COURT: Sure. We'll take a brief recess. Let's
10 recess everybody for ten minutes, and then we'll figure out
11 what we're going to do about the rest of the schedule. Why
12 don't I have the State and defense counsel remain in for
13 just a moment so I can talk to you about the schedule.

14 MR. FARLEY: Yes, ma'am.

15 THE COURT: We'll excuse everyone else. Thank you.

16 (A break was taken.)

17 THE COURT: Back on the record in case number
18 2018-JU-18-215 in the matter of State vs, Duran. All
19 parties previously noted again are present and appearing.
20 Solicitor, you're getting ready to call your next witness,
21 correct?

22 MR. DEAS: Yes, ma'am. I call Detective Carter, she's
23 right here.

24 THE COURT: All right. Come on back up, Detective.

25 You're still under oath so you can just go ahead and have a

1 seat. And do you understand you're still under oath?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: And will you state your full name again for
4 the record?

5 THE WITNESS: Hannah Carter.

6 THE COURT: Thank you. Your witness.

7 MR. DEAS: Thank you.

8 The witness, HANNAH CARTER, remained sworn and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. DEAS:

12 Q Detective Carter, as Your Honor just informed you you
13 are still under oath. Did you also respond to 251 Mary
14 Scott Drive in Goose Creek in reference to a search warrant
15 that had been executed at that residence?

16 A I did.

17 Q Okay. Can you tell us upon arriving there, what did
18 you do upon arriving at that particular residence?

19 A When we got the phone call, Detective Easterlin was
20 already there and he had located some shoes with like a
21 reddish stain on it, so they called us to respond. I went
22 out there, as well as Detective Scott, and when we went in
23 the residence, the room that they said was Mr. Zalenski's
24 room, we went in there and that's where Detective Easterlin
25 had found the shoes. And once he had showed us where the

1 shoes were we photographed the room the best we could.
2 There was a lot of stuff in the room. We photographed the
3 room overall. I know Detective Scott took the photographs.
4 And once we did that we located a couple of other items as
5 well within that room.

6 Q Now, the shoe with the spot, what did you do with the
7 shoe? Did you take any swabs or anything like that?

8 A We collected the shoe from the residence. We actually
9 have the shoes.

10 Q Okay.

11 A We collected the shoes. That way we can take the swabs
12 whenever we go back to our crime lab and take them in the
13 lab versus in a room.

14 Q Okay.

15 A Because it was a very tight fit in there with three of
16 us in there. We collected the shoes as well as ammunition
17 and firearms from that room.

18 Q What type of ammunition?

19 A There was a lot. We collected eight .22 caliber long
20 rifle ammunition cases with live rounds. There were four
21 packs of the Wolf Military Classic Luger boxes with live
22 rounds. There was a plastic bag that was tied together that

23 had live rounds inside of it. There was a Springfield .45

24 caliber magazine that had live rounds in it. We found 11

25 .22 caliber live rounds that were just loose in his room.

1 There was some 9-millimeter live rounds, and also two
2 9-millimeter cartridge casings that were already fired that
3 we collected from the room. And there was a green bag that
4 had 14 live 9-millimeter rounds and seven live 762 by 39
5 rounds.

6 Q Did you locate any weapons?

7 A We did. There was one, if I remember correctly, that
8 was next to his bed. I would have to look at the
9 photographs again. He had a couple of rifles, and then
10 there was one -- there was a shotgun that was in the box
11 spring to his bed. When we lifted up the mattress and
12 lifted up the box spring the shotgun was in like the wooden
13 pallets of the box spring that we also recovered.

14 Q Okay. And what did you do with these items?

15 A We collected them as evidence and we took them back to
16 our crime lab so we could process them, and then go further
17 from there with taking swabs.

18 Q Okay. And after processing them, have any ballistics
19 been run yet?

20 A None -- to my understanding I spoke with SLED this
21 morning to collect on ballistics for it and they haven't
22 even started the case yet for their -- what they do up
23 there.

24 Q Okay. Any other items that were found while y'all were
25 working the room?

1 A We did. We found -- there was a pair of like tactical
2 pants with the pocket, and it actually still had soft tissue
3 on the legs of the pants, so we collected the pants so we
4 could collect that and take swabs from them as well. There
5 was another pair of black like athletic pants. And then
6 there were Nike active wear pants, we collected those as
7 well. And there were two bandannas, one of them had reddish
8 stains on them. So we collected all of the bandannas that
9 we found in the bedroom as well.

10 Q Okay. Did you -- upon searching the room, did you use
11 an ultraviolet light?

12 A We did not.

13 Q Okay. And the information that you just described,
14 where did this all come from?

15 A It was in the bedroom that to my understanding we were
16 told was Mr. Zalenski's room when we got there.

17 MR. DEAS: Okay. All right. Thank you, Detective.

18 Please answer any questions Mr. Farley may have.

19 THE COURT: Cross examination?

20 MR. FARLEY: No questions, Judge.

21 THE COURT: Thank you very much, you may step down.

22 MR. DEAS: She can step down and be excused now, Your

23 Honor.

24 THE COURT: Any objection to excusing the witness?

25 MR. FARLEY: No, Your Honor.

1 THE COURT: The witness is excused. Thank you very
2 much. Solicitor, did you wish to proceed at this time?

3 MR. DEAS: That concludes as to my law enforcement,
4 Your Honor. I will be now at my DJJ personnel, and it's,
5 you know -- I would prefer to wait when I get my
6 psychologist and then do my community specialist in tandem,
7 Your Honor, but I'll defer to the Court.

8 THE COURT: And you said that the psychologist was
9 scheduled to be here tomorrow, you had originally notified
10 her?

11 MR. DEAS: Yes, ma'am. I notified her, I subpoenaed
12 her for tomorrow knowing how usually the time schedule
13 typically runs, so that's what I did. You know, if we want
14 to do the community specialist today we can --

15 THE COURT: I think I'm okay. I've got some adult
16 bench warrants that we need to handle so that actually will
17 be fine with me. The State just has those two witnesses
18 left?

19 MR. DEAS: That's all have I left, Your Honor.

20 THE COURT: All right. Well, I think this is a good
21 breaking point. So why don't we recess for today and we'll
22 reconvene tomorrow morning at 9:30.

23 MR. DEAS: All right. Thank you, Your Honor.

24 THE COURT: All right. We'll be in recess. Deputy, if
25 you'll hand these exhibits to the court reporter so she can

1 secure the exhibits.

2 (Court recessed for the day and resumed at 9:30 a.m.

3 On the following day.)

4 THE COURT: We are back on the record in case number
5 2018-JU-18-215. This matter is a continuation of the waiver
6 hearing that was commenced yesterday. All parties
7 previously noted are present and appearing including but not
8 limited to the solicitor, the DJJ representatives, the
9 attorney for the juvenile, the juvenile, and his parents.
10 We had a pretrial conference earlier this morning. During
11 the pretrial conference the Court was informed that the
12 State and defense had agreed and stipulated that Plaintiff's
13 Exhibit 3 would be introduced without objection, being the
14 pre-waiver evaluation, is that correct, counsel?

15 MR. DEAS: That is correct, Your Honor.

16 MR. FARLEY: Yes, Your Honor.

17 THE COURT: All right. Then so introduced as
18 Plaintiff's Exhibit 3 without objection. The Court was also
19 informed during the pretrial conference that the defense, or
20 Defendant's Exhibit 1, would be introduced without objection
21 being grades for the juvenile, is that correct, Counsel?

22 MR. DEAS: That is correct, Your Honor.

23 MR. FARLEY: Yes, Your Honor.

24 THE COURT: All right. Without objection so
25 introduced. Both exhibits have been marked. Were there any

1 preliminary matters we needed to take up before you resume
2 the witnesses?

3 MR. DEAS: Not that I'm aware of, Your Honor.

4 THE COURT: All right. Then you may call your next
5 witness.

6 MR. DEAS: Thank you. The State would call Dr. Candice
7 Dunn.

8 THE COURT: All right. Ma'am, if you will please come
9 on up.

10 The witness, CANDICE DUNN, was first duly sworn and
11 Testified as follows:

12 THE COURT: Please have a seat. Will you state your
13 full name for the record spelling your last name, please?

14 THE WITNESS: My name is Dr. Candice Dunn, D-u-n-n.

15 THE COURT: Thank you very much. Your witness.

16 MR. DEAS: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. DEAS:

19 Q Dr. Dunn, where are you employed?

20 A Excuse me? I'm sorry.

21 Q Where are you employed?

22 A I'm employed with the South Carolina Department of
23 Juvenile Justice.

24 Q How long have you been employed with juvenile justice?

25 A Approximately five years.

1 Q And what are your duties with juvenile justice?

2 A I'm the supervising psychologist for the Coastal
3 Consultation and Evaluation Services. I supervise five
4 other evaluators, and we serve 16 counties along the coast.

5 Q Okay. What degrees do you hold?

6 A I obtained my Doctoral Degree in Clinical Psychology in
7 2008 from the Indiana University of Pennsylvania.

8 Q Okay. And do you have any specialties?

9 A I have extended training in family therapy and in
10 trauma training -- trauma treatment, excuse me.

11 Q Can you tell me, do you have any board certifications?

12 A I do not.

13 Q Okay. And an evaluation, what does that entail?

14 A A waiver evaluation?

15 Q Just a regular evaluation in general.

16 A Typically we do community evaluations, which are court
17 ordered. We are asked to take a bio-psychosocial view of
18 the juvenile. We do extensive histories. We interview the
19 parents and the juvenile. We study whatever records we are
20 able to obtain; school records, DSS records, mental health
21 records, and we attempt to collate all of that information
22 into a report. And also to make considered recommendations

23 to the Court about what would be in the best interest for
24 that juvenile.

25 Q Okay. And then for waiver evaluation, what's the

1 difference between a regular evaluation and a waiver
2 evaluation?

3 A A waiver evaluation attempts to provide the Court with
4 information that the Court may find helpful in making a
5 decision about whether or not the juvenile should -- court
6 proceedings should proceed in family court, or if that
7 juvenile should be waived over and the subsequent
8 proceedings should take place in general sessions.

9 Q Okay. Have you done waiver hearings before?

10 A I have.

11 Q Have you testified in court in a waiver hearing before?

12 A I have.

13 Q Approximately how many times?

14 A I've testified in court. I believe this will be my
15 fifth time appearing in court regarding a waiver evaluation.

16 Q Okay. Did you conduct an evaluation concerning Isaac
17 Duran?

18 A I did.

19 Q When did you do that?

20 A Please allow me to check my record.

21 Q Sure.

22 A I saw him two days. I saw him on July 20th, 2018, and
23 on July 24th, 2018.

24 Q Where did this -- where did you see him at?

25 A At the Charleston County Juvenile Detention Center.

1 Q Okay. Can you tell us, how did you proceed with this
2 assessment?

3 A Well, typically we want to be certain, as certain as
4 we're able, that the juvenile has an understanding of what
5 we're doing, why he's there, why he's being asked to
6 participate. We take time to inform him of his rights. We
7 take time to inform him about the meaning of the Hitopoulus
8 Clause. We even go so far as present him with a visual aide
9 about what all of that means. And this is all typically
10 done in the presence of the juvenile's attorney. And we
11 want to be able to confidently conclude that to the best of
12 their ability the juvenile understands why we're there and
13 what we're doing.

14 Q Okay. And having done this with Isaac, did he seem to
15 understand the nature of the proceedings that you were
16 getting ready to do?

17 A He indicated that he did.

18 Q Okay. So he understood that he would be sharing
19 information with you?

20 A He did. He understood, yes, that the information was
21 going to be used for court proceedings for a waiver hearing,
22 and that it would be in a report that other people would be
23 reading associated with the case, and that what he shared
24 with me was not confidential.

25 Q Okay. And was his attorney present?

1 A Yes.

2 Q Were you questioning him about specifics of the
3 incident that he was involved in?

4 A As a waiver evaluation is pre-adjudicatory, we don't
5 ask specific questions about the charge or charges. In
6 order to address some of the things and get some of the
7 information that we want we try to use questions that you
8 might call hypothetical or allegorical.

9 Q Okay. But as to the actual charge, did you ask him
10 whether he was aware of the charge?

11 A Yes. And he was aware that his charge was murder.

12 Q Okay. How old was he at the time you conducted the
13 evaluation?

14 A I believe he was 15 years old, seven months.

15 Q Okay. And in talking with him, was your efforts to
16 speak with him communication-wise, was it easily
17 established?

18 A I believe we established a rapport. He was cooperative
19 throughout the process. He was polite. He engaged in the
20 process. He did -- he attempted all of the testing tasks
21 that I asked him to do without complaint.

22 Q Okay. What are some of the testing tasks that you
23 asked him to do?

24 A Well, we typically always present them with a substance
25 abuse screener. We do some psychological testing. We do

1 some intelligence testing. I believe that covers it.

2 Q Okay. As to the psychological testing, is that covered
3 the mental health piece?

4 A Well, as this is a little bit different than a
5 community evaluation where a large part of our focus would
6 be on mental health, we tend to be more interested in the
7 waiver evaluation and behavioral tendencies and personality
8 patterns, those kinds of things.

9 Q Are you familiar with the United States versus Kent
10 factors?

11 A I am.

12 Q So would you ask questions concerning trying to
13 identify those Kent factors that might be present?

14 A Yes. That's a large part of what our evaluation is
15 focused upon.

16 Q Okay. So then looking at -- how would you gauge his
17 maturity level? Did you ask any questions concerning his
18 maturity for a kid his age?

19 A Well, in trying to gauge a juvenile's maturity I think
20 it's best to think of that in terms of a relative construct.

21 Are they -- how comparable are they to others similar in age
22 to them. So you would have the expectation to see -- to

23 have them display behaviors and actions in thinking similar
24 to others their age. And so he -- for example, he expressed

25 an interest in hip hop music, that's an example of something

1 that we would expect from a teenager in today's culture.

2 Q Okay. And so in rating his maturity level, were you
3 able to give an opinion as to his maturity level?

4 A I think that his maturity is comparable to others
5 similar in age to him.

6 Q Okay. Moving on then to his level of sophistication.
7 How would you test for that and how did you rate him?

8 A Well, we have no specific tests for things like that
9 unfortunately, but we would try to gauge his level of
10 sophistication. One part of that would be asking him about
11 his leadership skills, and asking him about past behaviors,
12 and was he the person that perhaps planned things out. Was
13 he the one that was in charge. So we're trying to get a
14 feeling for whether he's a person that can think proactively
15 and behave proactively. Is he socially sophisticated. Is
16 he able to move through the social world in a manner that
17 you would expect a 15 year old to make those kinds of

18 friendships, make those kinds of decisions about friendship,
19 present himself in that way. There's a lot of elements that
20 go into these constructs. None of them are concrete,
21 they're all kind of fluid.

22 Q Okay. And based on your investigation of these levels,
23 were you able to determine how sophisticated he was?

24 A He seemed, again, to be what I would expect to hear
25 from a juvenile his age.

1 Q Could you say whether he was a follower or a leader?

2 A Well, there were some indications throughout the
3 evaluation that he tended to be a follower. He himself
4 expressed and some incidents have happened when he was in
5 Texas that he was a follower of his cousin in some behaviors
6 that occurred there. There was some anecdotal evidence in
7 interviewing his parents that they felt that he was not
8 necessarily a juvenile that put himself forward, that he
9 might tend to hang back and not take the lead. He himself
10 said -- described himself as a leader when with his younger
11 brother, but perhaps a follower when with others. And in
12 trying to understand the results from some of the
13 psychological testing, those results indicated that he was
14 similar to youth who tend to try to perceive in relation to
15 other people who's in power so to speak, and then they try
16 to conform to what they feel that power structure's
17 expectations are in order to gain acceptance to that group.

18 Q Okay. So depending on the group he's in then he might
19 act accordingly?

20 A Basically, yes.

21 Q So looking at page eight of your report where you deal
22 with the section dealing with remorse and responsibility.

23 And how did you, I guess, assess his feelings for empathy?

24 A Well, he was -- and again, this would have been a

25 section where he would have been asked hypothetical

1 questions, "How do you think you would feel if," and he was
2 able to express an understanding that victims of crime
3 likely feel bad and sad about being victims. That the
4 families of victims are likely to feel bad and sad about
5 what has happened. And so he did display empathy and an
6 understanding that other people experience hurtful things.

7 Q What about remorse?

8 A The way in which I experienced him expressing remorse
9 was he had at that point in time when I met with him an
10 understanding that something significant had occurred and
11 that he was now facing consequences for those actions, and
12 he was remorseful that he was in the detention center. And
13 part of that is to be expected from an adolescent, that
14 they're very idiosyncratic in how they view the world and
15 how it's affecting them. I feel that he was able to express
16 some remorse regarding, again, earlier actions in his life
17 that were negative behaviors that he displayed. He was able
18 to express that he was sorry that he engaged in those
19 behaviors.

20 Q Okay. So remorse is something totally different that
21 you would look at than empathy?

22 A Remorse implies the ability to take accountability for
23 one's actions. It's difficult to quantify and it's
24 difficult to question, again, in a situation where
25 everything is pre-adjudicatory. So, again, we try to ask

1 those hypothetical questions and do the best we can to
2 extract that from him.

3 Q How was his demeanor when you went through these
4 questions?

5 A Again, he was very compliant. He was polite in the way
6 that I've come to expect from children raised in the south.
7 There was a lot of yes, ma'am, no, ma'am. Again, if he
8 didn't understand something he took a moment to ask. He was
9 patient with my questioning. I had no problems whatsoever
10 with him throughout the evaluation process.

11 Q Did he cry?

12 A He, I would say, was weepy, and I think that was
13 related to being in the detention center, being upset at
14 being away from his family.

15 Q Did you ask him about the seriousness of the offense?

16 A I asked him if he understood, again, his charge. He
17 identified it as murder. Again, I think he understood

18 perhaps not all of the finer points of the situation that he
19 was in, but he did understand that he was in some serious
20 trouble.

21 Q Okay. Now, Dr. Dunn, talking about his ability to be
22 rehabilitated.

23 A Well, the kinds of things that we want to look for that
24 are perhaps indicators of the likelihood that someone can be
25 rehabilitated are the ability to feel empathy and

1 accountability. But there are also things like does this
2 person have the cognitive ability to understand what's
3 happening and to understand and cooperate with the process
4 of rehabilitation, with therapy, with treatment, with
5 groups, things like that. Give me just a moment.

6 Q Sure.

7 A I think we want to look for what is the likelihood that
8 that juvenile will engage in future services. Will they be
9 cooperative. He was apparently or reportedly cooperative
10 while at the detention center, so that is a small but
11 positive indicator that he would perhaps be cooperative with
12 services and follow the rules and guidelines in the future,
13 whatever structures there were or programs he was involved
14 in in the rehabilitation process. So there were a number of
15 positive indicators about that.

16 Q Are there any negative factors against that, though?

17 A Well, again, if he has the predisposition or the
18 tendency to be a follower, we would not want to see him
19 associate with any kind of negative peers that might put him
20 off track in that process. Let's see. He does have a
21 previous juvenile history in Texas. And the other thing
22 that I note is that he presented to me as rather concrete in
23 his thinking. That to me means that he might not be able to
24 kind of connect the dots between my current behavior and
25 future consequences, so that would be something that in the

1 rehabilitation process with whomever he's working, they
2 would need to pay attention to that.

3 Q And so in that regard, how would he -- would there be
4 adequate protection to the public if he's not able to
5 connect those dots?

6 A Well, there is research that suggests that most
7 juveniles don't reoffend. Most. And so we would want to be
8 hopeful and proceed from that premise that no reoffending
9 would occur. Can you ask me that question one more time so
10 I can formulate my thoughts better?

11 Q Well, you just recently said that sometimes he couldn't
12 focus on the like consequences and what I was trying to get
13 at was adequate protection to the public.

14 A Thank you. We would look to see if he has a previous
15 history of violence towards others, which he does not. That
16 would be a significant indicator of a risk. We would want
17 to see if he had been -- had ever taken the lead in criminal

18 activity or violence towards others. And also we would want
19 to consider has he embraced a delinquent mindset at this
20 point in time. So all of those things would be important to
21 note as to whether or not the public would be adequately
22 protected.

23 Q What about factoring in his conforming to whatever
24 authority?

25 A Again, that would be something that would need to be

1 attended to for him in the future. As a juvenile we know
2 that his personality is not yet fully formed, so there --
3 and at age 15, 16, we know that there's still some
4 opportunity for positive influences to have an affect on the
5 development of his personality. He also has strong family
6 support. The relationships there seem to be warm and
7 positive, so that's another kind of protective and
8 resiliency factor.

9 Q Okay. Was a risk or assessment done with the
10 Department of Juvenile Justice? I'm sorry. Was the
11 assessment done if he were committed to the Department of
12 Juvenile Justice?

13 A I'm sorry, ask me that again if you please.

14 Q If he were committed to the Department of Juvenile
15 Justice, what would his guidelines be, parole guidelines?

16 A His guidelines would be 36 to 54 months.

17 Q And any assessments would be done? Treatment?

18 A What services would he get if he were committed to the
19 Department of Juvenile Justice?

20 Q Yes.

21 A They're able to offer educational programs, GED
22 programs. They're able to offer a group therapy. They have
23 social workers to work with them. They can receive
24 psychiatric medication management if that's needed. They
25 can participate in kind of vocational rehabilitation

1 programs. A number of programs that are designed to keep
2 them moving forward.

3 MR. DEAS: Okay. One moment, Your Honor.

4 (Break in proceedings.)

5 MR. DEAS: Thank you, Dr Dunn. Please answer any
6 questions Mr. Farley might have.

7 THE COURT: Cross examination?

8 MR. FARLEY: Thank you, Judge.

9 CROSS EXAMINATION

10 BY MR. FARLEY:

11 Q Thank you for coming, Dr. Dunn.

12 A You're welcome.

13 Q Good to see you again. I'm going to be all over the
14 place, I'm not going to lie to you, so I'm going to be all
15 over the place, so bear with me. You spoke about the
16 seriousness of this alleged offense, and I think we all
17 agree that this is a serious offense, and I believe you said

18 that he understood that it was a serious offense.

19 A Uh-huh.

20 THE COURT: I couldn't hear your answer.

21 THE WITNESS: I'm sorry.

22 A Yes. It appeared to me that he understood.

23 Q When you went into the empathy/remorse/responsibility
24 part of the evaluation, isn't it true that I wouldn't let
25 him answer certain questions with regards to remorse and

1 responsibility?

2 A I remember that at one point you referred me to review
3 the police reports and the tape.

4 Q Yes, ma'am.

5 A So I am remembering that you asked me at some point to
6 not proceed with questioning.

7 Q Do you recall from watching those -- reading the
8 reports and watching the videos if he showed any remorse or
9 responsibility during that?

10 A May I reference my notes, please?

11 Q Oh, yes, ma'am, please.

12 (Break in proceedings.)

13 A I'm remembering as you asked the question that he did,
14 but to answer you more specifically I would need to find
15 that portion in my report.

16 Q If you -- I think that that pretty much answers the
17 question then from your recollection --

18 A Okay.

19 Q -- that it does. At any period during your -- any
20 period during your evaluation, did you determine if this
21 crime was premeditated or willful? That my client
22 premeditated this crime or willfully committed this crime?

23 A It appeared to me that the way in which he described
24 his actions indicated that he was with a group of other
25 people, and he participated in activities it seemed to be

1 mostly at their direction.

2 Q Do you remember -- and this is the -- I'm referencing
3 page eight of your report, we're at approximately the fifth
4 paragraph on that page. Do you recall him telling you why
5 he didn't disengage from the situation? Why he didn't cut
6 it off? Why he didn't stop?

7 A And I reference that in my report. He simply stated
8 that he was scared. He appeared to present what happened as
9 he got caught up in things, and when in the middle of the
10 situation he appeared to not know how to disentangle himself
11 from that situation. And he was, in fact, afraid, or he
12 stated that he was afraid, he didn't know what to do, and he
13 was afraid of the people who were his companions that
14 evening.

15 Q Do you remember him telling you that he had known these
16 people for approximately a month before this?

17 A I do reference that in my report, yes.

18 Q And do you also recall him telling us that he had used
19 marijuana in the past, but that the marijuana he used was
20 the same -- with this same group of people?

21 A It did seem as though his marijuana use was connected
22 to this group of people.

23 Q I think that he's been -- he's somewhat labeled as a
24 follower in this report. Would you agree with that

25 statement?

1 A Yes.

2 Q And do children tend to be -- to follow -- it's kind of
3 hard to phrase this. We've got a child and adults. Is it
4 uncommon for a child to follow the direction of adults?

5 A No. I would say that's not uncommon.

6 Q So you would agree that depending on what type of group
7 he's actually with, that would determine his propensity to
8 be a follower or not?

9 A I think that's probably a fairly accurate statement not
10 only for him but for anyone.

11 Q And you said that his maturity was on level with
12 children his own age, but in the same stroke his maturity
13 would not be on the same level as an adult, correct?

14 A Correct.

15 Q I told you I would be referencing the report, too, so
16 bear with me, please. I want to talk about his earlier
17 childhood. You probably got this information from speaking

18 with his parents as well as him. When he was younger, did
19 he have any issues in school?

20 A I recall that he had some difficulty with reading, and
21 I believe he was held back in either kindergarten or the
22 first grade.

23 Q At the time of this incident, though, he had just
24 completed the eighth grade; is that right?

25 A Yes.

1 Q And is there any correlation between academic
2 achievement and propensity to reoffend?

3 A I can't tell you exact research on that, I'm not aware
4 of research about that. There may be but I don't know it.

5 Q I want to finally move to the things that are available
6 for him -- the services that would be available for him if
7 he was kept as a child -- the child that he is and moved up
8 to general sessions court. And you started off answering
9 the solicitor that according to Moffitt (phonetically),
10 Mulvey (phonetically), and others, that most youth, even
11 those who commit violent offenses, do not continue to engage
12 in such behaviors in adulthood; is that correct?

13 A Yes.

14 Q Do you see that in Isaac's situation?

15 A It's difficult for me to make predictions for an
16 individual, but in referencing the research that's the
17 general understanding.

18 Q What are -- you've met with the family, also. What are
19 some of the positive things that the family has going for
20 it? For example, are both parents in the home?

21 A Both parents seemed to be very involved. They both
22 reported that they had positive and engaged relationships
23 with their son. The family does activities together and
24 they presented as very concerned parents.

25 Q Would sending Isaac to prison for 30 years to life

1 protect the community any more than being in the juvenile
2 justice system?

3 A I don't know that I'm able to answer that question.

4 Q Fair enough. In your opinion, would remaining in the
5 juvenile justice system adequately protect the community?

6 A I think anytime that any individual is removed from the
7 community for rehabilitative purposes the community's
8 protected level is increased. Does that answer your
9 question?

10 Q Yes, ma'am.

11 MR. FARLEY: May I have just one moment?

12 THE COURT: Sure.

13 (Break in proceedings.)

14 MR. FARLEY: I have no further questions.

15 THE COURT: All right. Redirect?

16 MR. DEAS: Just briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. FARLEY:

19 Q I just want to, I guess, ask Dr. Dunn, what is
20 considered to be, I guess, the age of adult when you talked
21 about a child generally will follow an adult? What age
22 level do you consider that to be?

23 A The age level that a child would follow an adult?

24 Q Yes.

25 A I think that children are probably predisposed to

1 follow adults in general.

2 Q Okay. Would age 18 be appropriate?

3 A Again, I don't think there's a hard and fast answer to
4 that. I think there are -- a lot of variables go into why
5 any person or child or adult follows another person. As
6 juveniles they're developing their own ego strength, their
7 own points of view. They're developing the very things that
8 allow them to be resilient in the face of pressures from
9 other people. Does that answer your question?

10 Q Somewhat. Let me ask you this, Mr. Farley brought up
11 about the parents. Do you know whether the parents had a
12 relationship with him, their child, on May the 30th?

13 A On May the 30th?

14 Q Yes. When the decedent was murdered.

15 A Are you asking me where the parents were or --

16 Q Well, if they had this caring relationship that Mr.
17 Farley asked about?

18 A When I asked them -- my question to them when I was
19 interviewing them was to please describe your relationship
20 with your son. I didn't ask them about a specific point in
21 time, and so their response was -- I took it to mean that
22 most of the time their relationship with their son was a
23 positive relationship with warmth and caring.

24 MR. DEAS: Okay. All right. Thank you, Dr. Dunn. I

25 don't have anymore questions, Your Honor.

1 THE COURT: All right. Thank you very much, you may
2 step down.

3 THE WITNESS: Thank you.

4 MR. DEAS: I ask that she can be excused, Your Honor.

5 THE COURT: Any objection to excusing the witness?

6 MR. FARLEY: No, Your Honor.

7 THE COURT: The witness is excused. Thank you very
8 much. Are you ready to call your next witness?

9 MR. DEAS: We call Ms. Crystal McCray.

10 THE COURT: All right, ma'am, if you'll come on up.

11 The witness, CRYSTAL MCCRAY, was first duly sworn and
12 Testified as follows:

13 THE COURT: Please have a seat. And will you state
14 your full name for the record spelling your last name,
15 please?

16 THE WITNESS: Crystal McCray. M-c-c-r-a-y.

17 THE COURT: Thank you very much. Your witness.

18 MR. DEAS: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. DEAS:

21 Q Where are you employed, Ms. McCray?

22 A At the Department of Juvenile Justice in Dorchester
23 County.

24 Q How long have you been at the Department of Juvenile
25 Justice?

1 A Seven and a half years.

2 Q What were your duties at the Department of Juvenile
3 Justice?

4 A A Community Specialist Four.

5 Q And what is a Community Specialist Four?

6 A As a Community Specialist Four I supervise day to day
7 business of intake, probation and parole, and I assure that
8 staff monitors juveniles in their home, school, community,
9 alternative placement or secure facilities.

10 Q Were you familiar with the case of Isaac Duran?

11 A Yes, I am.

12 Q And how did you get familiar with that case?

13 A Isaac was on my intake cases.

14 Q What did you do with that particular case?

15 A As far as intake, he would come -- him and his parents
16 came in I believe it was like April the 9th, 2018. And we
17 do ask different questions and school information.

18 Q Okay. And did you do a parent interview for them?

19 A Yes, I did.

20 Q And what was that in relation to?

21 A An interview is based on the -- as far as about the
22 waiver hearing, I had to conduct interview with the parents,
23 that was on July the 6th, 2018, when I went to Mr. and Mrs.
24 Duran's home.

25 Q Okay. Now, the community specialist part of the

- 1 pre-waiver evaluation?
- 2 A Yes, sir.
- 3 Q Okay. And you went to their home?
- 4 A Yes.
- 5 Q Where do they live?
- 6 A On 4816 Breeders Cup in North Charleston, not too far
- 7 from Fort Dorchester High.
- 8 Q Okay. And during the assessment, can you tell us a
- 9 little bit about their family functioning?
- 10 A Meeting with Mr. and Mrs. Duran they seemed to be like
- 11 a close knit family. They was pretty in shock of everything
- 12 that they heard as far as from what took place or what Isaac
- 13 is being charged with.
- 14 Q How many people live in the house?
- 15 A Seven including Isaac.
- 16 Q Okay. Are there other siblings?
- 17 A Yes, he have four siblings.
-
- 18 Q Okay. And where does Isaac fit in the scheme? Is he
- 19 the oldest? Youngest? Middle age?
- 20 A No, sir. He has an older brother. He's like the
- 21 middle child. He has two younger brothers and a younger
- 22 sister.
- 23 Q Okay. Was Isaac in school?
- 24 A During that time, yes, sir.
- 25 Q What school?

1 A At, I'm thinking, middle school.

2 Q Why did you do an intake prior to this event?

3 A Because Isaac had four pending charges with Dorchester
4 County.

5 Q And what were they for?

6 A It was two counts of breaking and entering a motor
7 vehicle and two counts of -- just give me a minute, please,
8 sir.

9 (Break in proceedings.)

10 A Possession making implements capable of being used in a
11 crime, tools.

12 Q You heard Dr. Dunn talk about some charges from Texas.

13 Are you familiar with those?

14 A Yes, sir, just barely.

15 Q Can you tell us about those charges?

16 A Those charges, Isaac was placed on probation in Texas
17 for one year, August of 2013, for criminal mischief. And

18 then later on his family moved to Charleston and the case
19 was transferred to Charleston County.

20 Q And that was done pursuant to what, Interstate Compact?

21 A Yes.

22 Q So when they're transferred to Interstate Compact, what
23 happens through your office?

24 A With our office basically we will do a home visit,

25 accept the case, and monitor that juvenile until his

1 probation is up.

2 Q Okay. And how did he do on probation?

3 A According to Charleston County report he completed
4 probation successfully.

5 Q Okay. And you said Charleston County?

6 A Yes, sir.

7 Q Now, about his school information, did you have any
8 information as to how he did in school?

9 A Based on the 2017/2018 record I do.

10 Q Okay. How was his attendance or discipline?

11 A Based on that year he had six referrals, a total of
12 three in school suspensions and two days of out of school
13 suspension, and his grades range from like 50 to 89.

14 Q What school was he in in May of 2018?

15 A He just completed middle school and he was promoted to
16 Fort Dorchester High.

17 Q Okay. When he was at the detention center, was he at

18 Charleston Detention Center or was he in Columbia?

19 A Charleston.

20 Q Were you able to check to see whether he had any
21 discipline problems at the detention center?

22 A Yes, sir. He did not.

23 Q Now, as part of your assessment of the family, what are
24 some of the information you gathered? You already told us
25 about the family background. What are some other

1 information that you try to gather from the family about the
2 work history?

3 A Work history. Family history. Recent places that they
4 probably maybe had lived or traveled. What they do as a
5 family. How they feel about the situation. Any
6 interactions with Isaac and how Isaac interact with the
7 other siblings.

8 Q Okay. And in terms of Isaac's development within the
9 family, how did he do?

10 A As far as how he got along with his --

11 Q Siblings, yes.

12 A According to his family they kind of look up to him.

13 MR. DEAS: Okay. All right. Thank you, Ms. McCray.

14 Please answer any questions that Attorney Farley may have.

15 THE WITNESS: Yes, sir.

16 THE COURT: Cross examination.

17 MR. FARLEY: Thank you, Judge.

18 CROSS EXAMINATION

19 BY MR. FARLEY:

20 Q So we talked about -- you talked about the offense in
21 Texas, criminal mischief; is that correct?

22 A Yes, it is.

23 Q You don't know anything about the specifics of that.

24 A Based on the information that I have, yes.

25 Q And would it -- would you agree with me that it's

1 essentially trespassing that he was on probation for?

2 A Kind of/sort of based on what I read, yes.

3 Q And he was able to successfully complete that
4 probation?

5 A Correct.

6 Q How old was he when that incident occurred?

7 A 2013. So he is 16 now. So he was maybe like 12, I
8 think, 12 or 13, 14, around there.

9 Q I think he was ten.

10 A Ten. Oh, sorry.

11 Q Don't worry. Believe me, I'm not very good at math
12 myself. And then you spoke about some pending charges,
13 basically I think vehicle tampering, something along those
14 lines.

15 A Breaking into a motor vehicle, yes.

16 Q Those have not been petitioned yet; is that correct?

17 A Correct.

18 Q So those charges are not pending before any family
19 court right now; is that correct?

20 A Correct.

21 Q Isaac was detained for a period of time but he was
22 released from detention. It's your responsibility to
23 monitor him while he is being released.

24 A Correct.

25 Q During that period of time when he was on house arrest,

1 did -- has he given you any trouble whatsoever? Has he
2 violated in any way?

3 A No, sir, he has not.

4 Q Do you recall the terms of his release? Do you
5 remember what the terms the judge set on his release?

6 A May I look at the order?

7 Q Oh, yes, ma'am.

8 A Thank you. Based on the order of Judge Wiley on
9 December 3rd Isaac was released to the care of his parents.
10 The father has --

11 THE COURT: Is that 2018?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Okay. I'm sorry.

14 THE WITNESS: That's okay.

15 A He was released to the care of his parents. That the
16 father has an affirmative duty to report all to the
17 solicitor's office if he's no longer able to provide 24 hour

18 supervision. And juvenile to have no contacts with
19 co-defendants to include social media.

20 Q And so you just testified that he has complied with all
21 of that.

22 A Yes. I have no records of any violations.

23 Q And his parents have also complied with that; is that
24 correct?

25 A Yes.

1 Q Have you -- when you've met with the parents, have they
2 ever given you any trouble? Have they ever to your
3 knowledge lied or been -- or anything like that?

4 A None that I have any proof of, no.

5 Q What kind of -- well, do you believe that the home
6 detention has adequately protected the community from Isaac?

7 A Do I believe that it has?

8 Q Yeah.

9 A Can you repeat the question, please?

10 Q He hasn't reoffended, he hasn't ran away, he hasn't
11 hidden, you know, no other crimes have happened.

12 A I have no knowledge or no proof of that, no.

13 Q Would you say that the community has been adequately
14 protected during his house arrest?

15 A Well, like I said, I don't have any proof that he
16 violated, so --

17 Q Have you had any inklings? You may not have direct
18 proof, but do you have any suspicions? Have you heard

19 anything on the street or --

20 A No, sir, I have not heard anything.

21 Q So Dr. Dunn testified that there are options available
22 through the Court and Department of Juvenile Justice to
23 rehabilitate him, and I believe that she thought that
24 rehabilitation was indeed possible. What are some of the
25 services that the local DJJ and state DJJ can provide to

1 rehabilitate and prevent recidivism?

2 A Like I say, you have counselors, mental health, alcohol
3 and drugs, school. You have other programs that can help
4 juveniles.

5 Q It seemed to me that in Dr. Dunn's testimony that peer
6 pressure was a big factor in adults -- a child being with
7 adults. Often we see in family court orders positive peer
8 groups. What are some positive peer groups, and how does
9 DJJ hook children up to those positive peer groups?

10 A Positive peer group. We have stuff like boys
11 counseling. We might refer them to like youth mental
12 program. It's just other stuff that they might reach out to
13 them, like maybe even churches.

14 Q So things like maybe the Boy Scouts, church youth
15 groups. Those are the kinds of things that are available
16 and you would not discourage them from taking part in?

17 A Correct. Something positive.

18 Q Would you agree with the statement that during your
19 participation in this case with the parents with Isaac, that
20 he seemed to have a loving, nurturing home, and that this
21 alleged offense came out of nowhere?

22 A Based on Mr. and Mrs. Duran's reaction it was total
23 shock.

24 MR. FARLEY: I don't have any further questions.

25 THE COURT: Redirect?

1 MR. DEAS: No, Your Honor. Thank you.

2 THE COURT: Thank you very much. You may step down.

3 MR. DEAS: The State would rest at this time, Your
4 Honor.

5 THE COURT: All right. Why don't we take a ten minute
6 recess and I'll meet with counsel to discuss the schedule.
7 So we'll take a brief recess and we'll excuse everyone while
8 I meet with counsel regarding the schedule.

9 (A recess was taken.)

10 THE COURT: All right. This is back on the record in
11 case number 2018-JU-18-215. All parties previously noted
12 are again are present, Ms. McCray is back there, I just
13 didn't see her. So all parties previously noted again
14 appearing including the solicitor, juvenile and juvenile's
15 counsel. The State had rested its case, correct, Mr. Deas?

16 MR. DEAS: Yes, ma'am.

17 THE COURT: All right. The juvenile may call your
18 first witness.

19 MR. FARLEY: Thank you, Judge. The defendant calls
20 Brenda Duran.

21 THE COURT: All right. Ma'am, if you would please come
22 up.

23 The witness, BRENDA DURAN, was first duly sworn and
24 Testified as follows:

25 THE COURT: Please have a seat. And will you state

1 your full name for the record?

2 THE WITNESS: Brenda Duran.

3 THE COURT: Thank you very much. Your witness.

4 MR. FARLEY: Thank you, Judge.

5 DIRECT EXAMINATION

6 BY MR. FARLEY:

7 Q Ms. Duran, how are you related to Isaac?

8 A I'm his mother.

9 Q Where are you presently employed?

10 A At Boeing.

11 Q And your husband, Robert, are y'all still married?

12 A Yes, sir.

13 Q Where does he presently work?

14 A He recently quit his job for Isaac to be home on house
15 arrest so that Isaac could have 24 hour supervision. But he
16 was at the time of the incident employed at Atlantic
17 Packaging but no longer is.

18 THE COURT: I couldn't hear the last part you said.

19 THE WITNESS: I'm sorry. He no longer is employed
20 there.

21 THE COURT: And you said he was working where?

22 THE WITNESS: Atlantic Packaging.

23 THE COURT: Thank you.

24 Q You have just got to speak up because she has --

25 everybody has got to hear you, especially her. Who else

1 lives in the home with you?

2 A We have a 13 year old son, Robert; and we have a ten
3 year old son, Dominic; a four year old daughter, Brennly;
4 and myself and my husband. Our oldest son, Elijah, he's 23,
5 he longer lives in the home. He moved to Texas for school.

6 Q The day that this incident happened, were you at home?

7 A No, sir, I was at work.

8 Q What is your understanding of what Isaac was doing that
9 day? Was he -- for example, was he supposed to be home?
10 Was he allowed to go --

11 A He was supposed to be at his friend's house, Eric, that
12 lives one block away from us.

13 Q And does he often go to Eric's house?

14 A Yes. Either Eric is at our house or Isaac will be at
15 Eric's.

16 Q So the fact that he was not there, would that have come
17 as a shock to you?

18 A No, sir.

19 Q It did come as a shock to you that he was not there?

20 A It did not come as a shock to me. He would often be at
21 Eric's house.

22 Q So you thought that he was at Eric's?

23 A Yes.

24 Q Had you known he was not at Eric's you would have been
25 shocked.

1 A Yes.

2 Q When you heard about this event and the fact that he
3 was -- had been charged with murder, what kind of thoughts
4 went through your head?

5 A When we first received a phone call from a classmate of
6 Isaac saying that he was arrested, I thought that it was a
7 mistake or that -- I didn't believe it. I was in shock.

8 Q When he was detained at the -- he was detained at the
9 Charleston County Juvenile Detention Center.

10 A Yes, sir.

11 Q And how often were parents allowed to visit?

12 A Mondays, Wednesdays, Saturdays and Sundays for 30
13 minutes. Four days a week.

14 Q And how many of those days a week did you go to visit?

15 A We went to every single visitation the entire time he
16 was there except for one visitation during the mandatory
17 evacuation for the hurricane, that's the only visitation

18 that we missed.

19 Q Since he has been released, has he given you any
20 trouble in any way with violating the Court's order?

21 A None at all.

22 Q Since he has been on house arrest, has he taken any
23 educational opportunities? Has he enrolled in any kind of
24 school?

25 A Yes. We enrolled him into Excel High School, an online

1 high school.

2 Q What kind of things does he do at the Excel High
3 School?

4 A He has his core subjects; English, Science, World
5 History, and he is in a Spanish class. It's online through
6 a webcam online.

7 MR. FARLEY: Your Honor, may I approach the witness?

8 THE COURT: Sure.

9 Q I'm going to show you what has already been admitted as
10 Defendant's 1. Can you take a look at that?

11 A Yes, sir.

12 Q Can you tell me what that is?

13 A It's Isaac's grades, his printout from Excel High
14 School.

15 Q Did you print that out?

16 A My sister actually printed it out for me, yes.

17 Q Do you check up on his grades?

18 A Yes. They send me a progress report every other week
19 to my email, but I can log in at anytime and check his
20 grades.

21 Q Is that an accurate depiction of his grades at the time
22 that it was printed?

23 A Yes. This was from Sunday night.

24 Q This Sunday night.

25 A Yes, sir.

1 Q This courtroom is not very conducive. I'm going to
2 look at it and share this with you. What were his English
3 grades?

4 A His English grade is a 90.

5 Q And World History?

6 A 85.7.

7 Q Health and Fitness?

8 A 83.3.

9 Q Spanish?

10 A 73.3.

11 Q Environmental Science?

12 A 86.6.

13 Q And then Algebra?

14 A 93.3.

15 Q So how would you describe Isaac's personality? For
16 example, is he a violent person?

17 A He's not violent at all. He's a very kind person. He

18 has a big heart. He's an excellent big brother to his
19 siblings. He's very caring towards others.

20 Q When you say he's an excellent sibling to his --
21 sibling to his younger siblings, what do you mean? What
22 kind of things do they do together?

23 A He plays with his siblings a lot. Isaac has been in
24 football, basketball, all of the sports, and he's always

25 helping his younger siblings, playing sports with them. He

1 interacts with his siblings a lot. He looks out for them a
2 lot.

3 Q Since this case has been progressing you've learned a
4 little bit about the co-defendants; is that right?

5 A Correct.

6 Q Are these people that you knew?

7 A No, sir. I never even heard their names until this
8 case. We'd never met them, didn't even know who they were.

9 Q Are these the type of people that Isaac would normally
10 hang out with?

11 A No, sir.

12 Q Are these the type of people that you would allow Isaac
13 to hang out with?

14 A No, sir.

15 Q Prior to this incident to use the vernacular, was Isaac
16 running the streets or was he adhering to your rules and
17 regulations?

18 A He was adhering to our rules at home.

19 Q Was he -- did he do anything to help around the house?

20 A Yes. He mows the grass, takes out trash, he keeps his
21 room spotless. He's a very clean person.

22 Q Has he ever indicated to you any empathy for the
23 victim?

24 A Yes, he has.

25 Q Has he indicated any remorse to you?

1 A Yes, he has.

2 Q And has he taken responsibility for his role, his
3 limited role, in the incident?

4 A Yes, he has.

5 Q Can you describe that incident, the only incident, only
6 prior juvenile adjudication that he has, that happened in
7 Texas?

8 A When he was ten years old we lived in Texas, and his
9 older cousins lived -- like our house was with -- you could
10 see their house from our house. The back yard is just open
11 field, but there was a business in between. They were --
12 him and his older cousins were 15 and 16, they were walking
13 from our house to the cousins' house and they trespassed
14 onto the property and they vandalized a vehicle.

15 Q When you say vandalized, what do you mean?

16 A One of the older siblings broke out a window, a
17 passenger side window, I believe it was a passenger side,
18 but one of the windows. It was a broken-down vehicle. It
19 was a lot of like broken-down cars, not like a junkyard, but
20 like out of commission cars.

21 Q So it wasn't a brand new Cadillac.

22 A No, sir.

23 Q And he was placed on probation for that.

24 A Yes, he was.

25 Q What kind of things did he have to do while he was on

1 probation?

2 A Community service. I think he had it was either 20 or
3 40 hours of community service, I can't recall. And just
4 check in. He had to go see the probation officer once a
5 month.

6 Q Did he comply with all of the terms of that juvenile
7 probation?

8 A Yes, sir.

9 Q And he successfully completed it?

10 A Yes, sir.

11 Q Until the point of this incident, had you noticed any
12 other delinquent conduct by Isaac?

13 A No, sir.

14 Q What about these charges that have not been petitioned?

15 A We aren't -- we don't know a lot about what happened
16 with that. Isaac had stayed the night at a friend's house,
17 and in the middle of the -- I think it was about 1:00 in the

18 morning we got a call to go pick him up from the sheriff's
19 department -- the little trailer right over here on the same
20 property as this courthouse, that they had broken into a
21 car.

22 THE COURT: When did you say that was, ma'am?

23 THE WITNESS: I believe it was March or April of 2018.

24 THE COURT: Thank you.

25 THE WITNESS: Uh-huh.

1 Q And I know you're his mother and you want, you know,
2 the best for him, but do you believe that he poses a threat
3 to the community?

4 A No, sir, I do not.

5 Q Do you believe that he could be rehabilitated using the
6 services that you have heard about in court today?

7 A Yes, I do.

8 Q You've heard testimony today about the fact that there
9 may be some signs that Isaac is a follower. How do you --
10 and you live with him everyday. Do you share those
11 concerns? Or do you believe he's a follower? Or do you
12 believe that he in certain situations is?

13 A I believe in certain situations. I wouldn't call him a
14 follower or a leader. I believe in some situations he's a
15 follower, and I think in some situations he's a leader.

16 Q Would you say that if the situation was committing
17 another crime, do you believe that he would be the leader in
18 orchestrating another crime?

19 A I do not. I believe what he -- his circumstances that
20 he's in now and I believe his eyes have really been opened.
21 I think it has made him do a lot of thinking.

22 MR. FARLEY: Thank you. No further questions at this
23 time. Please answer any questions that Mr. Deas may have.

24 THE COURT: Cross examination.

25 MR. DEAS: Thank you, Your Honor.

1 CROSS EXAMINATION

2 BY MR. DEAS:

3 Q Let me see if I got this right, Ms. Duran. So is it
4 correct that you said Isaac adheres to your rules?

5 A Yes, he does.

6 Q But he was supposed to be at Eric's house but he was a
7 block away.

8 A Correct.

9 Q But is that adhering to your rules?

10 A That day, no, sir.

11 Q Okay. He was supposed to be at a friend's house and
12 you get a call from law enforcement in the middle of the
13 night that he's been picked up breaking into cars. Is that
14 adhering to your rules?

15 A No, sir.

16 Q Okay. Is it your opinion, or did you tell Mr. Farley
17 that he's not a follower, or at least you don't believe so?

18 Or at least --

19 A I said that I don't really -- I wouldn't label him a
20 follower or a leader. Sometimes he shows signs of being a
21 follower and sometimes he shows signs of being a leader.

22 Q Okay. But, in fact, isn't it correct that in Texas
23 with his cousins when he had the charges with the 15 and 16
24 year old he was --

25 A He was with them, yes.

1 Q He was with them?

2 A Yes.

3 Q And as you portrayed it, isn't it correct that you said
4 the 15 to 16 year olds had gone and broken this car glass.

5 And as you portrayed it he was --

6 A He was with them, yes, sir.

7 Q Okay. And isn't it true that he was -- has been
8 involved in the system even after that with another charge?

9 A The charge we just spoke about. He's not in the
10 system, it hasn't gone to court.

11 Q Okay. And just like you didn't know who he was
12 involved with with the breaking of the car, you don't know
13 who he was involved with this particular charge.

14 A I knew the boy that he got arrested with that night,
15 yes, sir. They was supposed to be at that child's house.

16 Q Okay.

17 A They were together, yes, they left. Isaac was staying

18 the night with a friend, and they left the friend's house

19 and we got the call. So yes, I did know him.

20 MR. DEAS: Okay. All right. Thank you. I don't have
21 anymore questions.

22 THE COURT: Redirect?

23 MR. FARLEY: No, Your Honor.

24 THE COURT: Thank you, ma'am, you may step down.

25 MR. FARLEY: At this time the defense rests?

1 THE COURT: All right. Any rebuttal?

2 MR. DEAS: No. I don't I have any rebuttal, Your
3 Honor.

4 THE COURT: I think, Mr. Farley, you may have one of
5 the exhibits at the table. Thank you.

6 MR. FARLEY: You'd better watch me.

7 THE COURT: Thank you. Counsel, did you wish to
8 present closing statements?

9 MR. DEAS: Just briefly, Your Honor.

10 THE COURT: Sure.

11 MR. DEAS: Your Honor, the matter is before Court for a
12 question of waiver pursuant to the statute, Your Honor,
13 63-19-1210, which the minor is being -- has a petition that
14 has been served on him charging him with murder, 63-19-1210,
15 subsection six. And that particular statute, Your Honor,
16 he's been charged with the offense of murder. Within 30
17 days the State has filed an intent to have him transferred

18 to the court of general sessions. A pre-waiver evaluation
19 has been done by the Department of Juvenile Justice to
20 include an assessment by the local DJJ person as well.
21 We've heard testimony coming from this court, Your Honor, to
22 establish that probable cause happened in which the
23 defendant, along with two other co-defendants, murdered one
24 Stacey Bradley, who was 20 years old, Your Honor. It was a
25 violent murder, one of the worst I've seen in my tenure,

1 Your Honor. When we look at what happened and the
2 involvement, this young man, 15, along with 17 year old
3 Miriam Bortz; 18 year old Matthew Zalenski; 19 year old
4 Damacian Middleton, participated on this gruesome event.
5 We're seeking to have Isaac waived up to the court of
6 general sessions, Your Honor, because the other three are
7 charged as adults and we think it should all happen in one
8 forum in the court of general sessions. I checked the
9 office before I left, the other three charges have been true
10 billed and are pending in the court of general sessions. We
11 think this needs also to be held in that particular forum
12 for these reasons, Your Honor. Because as the United States
13 versus Kent applies, we think the Kent factors have been met
14 and there are eight of them that we have to consider. The
15 seriousness of the alleged offense. Murder is one of the
16 highest forms of offenses that we can deal with in this
17 court and any court, Your Honor, the taking of a life.

18 Whether the alleged offense was committed in an aggressive,
19 violent, premeditated or willful manner, this was done in an
20 aggressive manner, it was done in a violent manner. He was
21 shot several times, at least nine to ten times he was shot
22 in the torso and a fatal shot in the head. It was
23 premeditated in that while they were in the car plans were
24 made out, guns were distributed. The young lady went and
25 met the victim first, and then as she engaged him then she

1 shot him first, and then Isaac, as well as Matthew, came
2 from around the building and then they shot him again. It
3 was done willfully as they had planned. The offense
4 obviously was against persons, and we think that it would
5 sustain a true bill in a court of general session. And the
6 prosecutorial merit of the complaint will obviously be
7 there, Your Honor. I've already addressed that I believe
8 the trial can be heard in one forum and ask that that be
9 done. Now, Your Honor, we're dealing with the
10 sophistication and maturity of the minor -- of the juvenile
11 as well as his record and previous history, and the
12 prospects for adequate protection of the public. I want to
13 deal with the record and previous history first, because he
14 has -- Dr. Dunn testified, as Ms. McCray testified, he did
15 have a prior record from Texas when he was ten years old but
16 he was on probation. What I wanted to note was that he had
17 a charge in Texas, he was adjudicated delinquent in Texas,
18 he was placed on probation, came to South Carolina, he
19 successfully completed that probation. Then shortly
20 thereafter he gets another charge that was similar in nature
21 in South Carolina. Although not adjudicated he got another
22 charge. Then shortly after getting this charge he gets
23 another charge, and this charge is the ultimate charge that
24 we're dealing with today. I see a pattern, Your Honor, and
25 it's an unfortunate pattern, so the record and previous

1 history shows that he's not really conforming his actions as
2 they try to portray, and I think that we need to deal with
3 that accordingly. Therefore, when I look at the
4 sophistication and the maturity of the minor, Dr. Dunn talks
5 about him being -- that it would depend on the
6 circumstances, and she said that she thought he was rather
7 mature for him -- his age. One thing I wanted to talk about
8 is that she said that he was a conformist and that he would
9 conform to whatever the authoritative structure that he was
10 in, or the authoritative command that he was in. And so
11 he's been home since December, he's under that command of
12 his parents, therefore he's complying thereby. But on May
13 the 30th he was under the control of Matthew Zalenski, Ms.
14 Bortz, and Damadian, and in that environment on that night
15 he conformed thereby and we have somebody who's dead right
16 now. Therefore, I would argue to the Court that he
17 conformed that his maturity level took him right there, and
18 it complies with what the doctor talked about on page 13 of
19 the report, Your Honor. I know that you've had an
20 opportunity to review the report. Then, Your Honor, I would
21 talk about the prospects of adequate protection for the
22 public and the likelihood of reasonable rehabilitation.
23 Your Honor, I think that prospect for adequate protection is
24 to send a message that we won't tolerate this in Dorchester
25 County, and I would ask that he be remanded or taken up to

1 the court of general sessions. These are serious charges,
2 these are violent charges, they occurred against society,
3 and we must send a message to him. I'm concerned that as
4 long as he is under his parent's wing, but he's going to be
5 16 soon, that he will continue to slip out from under their
6 radar, and so therefore I'm asking that it goes to the court
7 of general sessions where it can be handled accordingly with
8 the others. The negative factors that she talked about on
9 page 15 of the report said his history with the juvenile
10 justice system and his association with negative peers, his
11 tendency to seek peer approval, and then his difficulty with
12 the abstract thinking and thinking, "Oh, once I've done
13 something what are the potential consequences," and here we
14 are. You know, even if I were to assume his version of the
15 events, "That I was just there and I had a gun but I didn't
16 shoot it," even if I assume that, still the hand of one is
17 the hand of all. We still have a victim who is not here

18 today and he participated in that, Your Honor. Thank you.

19 THE COURT: Thank you very much. Closing statements
20 for the juvenile.

21 MR. FARLEY: Thank you, Judge. If it pleases the
22 Court?

23 THE COURT: Yes, sir.

24 MR. FARLEY: I'm not going to argue that this is not a
25 serious crime whatsoever and my heart goes out to the

1 victim's family. You know, no one deserves to have their
2 child taken from them, especially like this. But obviously
3 as a parent I also feel for Isaac and his family. There's
4 two tragic events that have come out of this incident. And
5 we are not here to punish Isaac, we're not here to
6 adjudicate guilt or not, we're here to determine if this
7 child should be treated as a child or should he face 30
8 years to life in prison in adult court. He can't get any
9 less than 30 years in adult court, and that 30 years is day
10 for day, no parole. If he's convicted he'll come out with
11 two strikes on his record, and he would come out at 45 at
12 best. I mean, it is -- you know, the comparison until 21 or
13 until 45 at best, it's not even there. And if that -- what
14 is the function of that? How is that going to help him?
15 How is that going to help the community? And is that -- is
16 there any way that that's going to help the victim's heal
17 from this? And it's not. Judge, reading through this Kent
18 order, or this Kent decision, you look at it, and the very
19 part of Kent it's like, oh yeah, this is what family court
20 is about. I probably -- until about two years ago I hadn't
21 looked at Kent since law school. And that's probably why
22 it's such an important opinion is because it lays out
23 exactly what the role of the family court is, and it gives
24 family court direction on what their role is, what things
25 that they should be looking out for. Because at the time

1 back in the 60's when this happened, there were family
2 courts but they were all kind of doing their own thing, kind
3 of, you know, their agendas were different, and the way that
4 they approached the situation was different. But Kent lays
5 out basically what is the foundation of the modern family
6 court system. And my Latin is terrible, I got a 28 in Latin
7 and switched to French, but the family court is described as
8 parents patriae. In other words, the State's job is to
9 protect a child because the child cannot protect themselves.
10 Judge, we would ask you to protect the child and deny the
11 State's motion to waive this up. I'm going to go through
12 the Kent factors one by one and try to take a look at that.
13 And the reason I'm going to do that is because as the Court
14 is aware, this is -- these are factors. This isn't a black
15 line. These are all factors that the Court can give as much
16 weight to each and every one of them as the Court wishes.
17 And I don't envy your job in factors. You know, it's a lot
18 easier where there's a violation. There's not a violation.
19 This one is serious. Most of these waiver hearings that you
20 read the appellate court's review, their -- this is a
21 serious crime, but they are extremely, extremely serious
22 crimes. One where a juvenile used a pipe bottom to dispose
23 of the body a young girl. Another one where a child
24 brutally premeditatedly murdered his grandparents. I've
25 probably read every single case to come out of state court

1 and they are all serious, far more serious than this when
2 you take into consideration Isaac's role in the case. So
3 any death is serious, but those just shock the conscience of
4 what's going on. We were talking about the first factors,
5 the seriousness of the alleged offense. To me what I heard
6 through testimony is that Isaac had known these people for a
7 month. He hadn't engaged in the use of marijuana until he
8 met these people: When he met with them that day he thought
9 he was going to hang out with these older people and maybe
10 get some marijuana. He did not know until he was in that
11 car, had nowhere else to go, got into the apartment complex
12 that anything like this was going to happen. He just
13 thought, "Oh well, I'm hanging out with older kids to be
14 cool and going to get some marijuana." The way that I
15 understand the facts from the testimony that was given is
16 Ms. Bortz set up this whole encounter. She lured the victim
17 there and for no reason whatsoever shot him. Zalenski and
18 Isaac apparently were behind the building. When Zalenski --
19 when the victim tried to take the gun from Bortz, Zalenski
20 came and held him down until Bortz could go get the gun and
21 finish the murder. I heard no testimony that Isaac used a
22 gun. I heard testimony that there were footprints in the
23 back of the place like somebody had tried to run, but never
24 did I hear that I was the shooter from either the officers
25 or any hearsay from the co-defendants in their confessions,

1 or their statements against self interest. Isaac -- and I
2 believe it, Isaac told, you know, when asked, "Well, why
3 didn't you leave? Why didn't you take yourself out of this
4 situation?" I imaged myself being a 15 year old child
5 sitting in a car with these adults and they start handing
6 out guns and start coming up with this scheme, what would I
7 do? What would a 15 year old me do? I would be shocked. I
8 would be terrified. If he ran, what would they do? If he
9 didn't comply with them, what would they do? He didn't know
10 where he was, it was a strange place to him, he didn't know
11 where he could go. That in and of itself is a situation
12 that I couldn't imagine being in, and I think that it's
13 completely reasonable and plausible that that is what he
14 believed and that's what happened. Is the waiver necessary
15 to protect the public. I do not believe that the waiver is
16 necessary to protect the public. I think that the
17 Department of Juvenile Justice system can protect the
18 public. If we hit this at the -- if we go -- as the doctor
19 said, that most youth, even those who commit violent
20 offenses, do not continue to engage in such behaviors in
21 adulthood. That's the assumption, that's the baseline. I
22 think that speaks directly to the point, is the waiver
23 necessary to protect the public. I do not believe that just
24 categorically a child commits one crime, I don't think that
25 means he's going to be violent again, and I think that's

1 what the testimony of Dr. Dunn was. The next factor is
2 whether the alleged offense was committed in an aggressive,
3 violent, premeditated or willful manner. There's a comma
4 there -- I mean, an or there. Obviously this was
5 aggressive, there's been no indication that Isaac was
6 aggressive. It was an aggressive crime by it's very nature,
7 violent crime, same. Now, premeditated or willful. There's
8 no evidence or indication that Isaac premeditated this.
9 There, however, is indication that the other people planned
10 and premeditated this and Isaac found himself in that
11 situation of, "Oh my God, what do I do?" And willful. I
12 don't think there's any indication that he -- that Isaac
13 knew this person, had anything to do with this person, had
14 any reason to harm this person. The others may have
15 willfully done this but I don't think Isaac had much of a
16 choice, at least in his mind. I don't think that his role
17 in this was willful. Obviously this is an offense against
18 persons and they're not -- more than injury happened, death
19 happened, so that is what it is. I want to turn to the
20 grand jury. And the grand jury system in South Carolina is
21 not what the founders of this county envisioned when they
22 thought of a grand jury system. I'm working a federal case
23 right now and the grand jury system is completely different.
24 In our court, the way that a grand jury works is 18 people
25 meet in secret. They don't hear -- the defendant doesn't

1 have anybody in there on their side, they only hear
2 testimony from the police officer. And if only 12 out of 18
3 of those people believe the police officer without hearing
4 anything else, then the case is going to be indicted, it's
5 going to be true billed. That is extremely, extremely weak
6 protection for people's civil rights. Back in August, I
7 think, the Rock Hill Herald reported that a York County
8 Grand Jury took 39 seconds on average per indictment and
9 they moved 900 indictments within ten hours. The circuit
10 court struck those indictments and they had to hit it again.
11 But 39 seconds per indictment. So our grand jury is
12 terribly weak. I was telling you about the grand jury in
13 federal court, and obviously their grand jury is larger.
14 They can call witnesses. The prosecutors are more involved
15 in it. And it takes a heck of a lot longer than 39 seconds
16 to indict someone in federal court. This is a supreme court
17 case that we're dealing with, and I think that when the
18 justice were writing this opinion they were thinking along
19 the lines of a federal grand jury system than this bare
20 bones I don't think meets constitutional muster grand jury
21 system that we have here in South Carolina. So would it be
22 indicted? Probably within 39 seconds. So, Judge, I would
23 hope that you wouldn't give too much weight to the grand
24 jury portion of this. Joint trials. I had a joint trial
25 two weeks ago in Beaufort County, and that was a complete

1 mess. I think the solicitor's office regretted doing it.
2 But could they try them jointly? Possibly. But will they?
3 I don't think that they would. I just strategically and
4 logistically don't think that they could try them together.
5 First of all, you know, we would have a severance motion.
6 There are statements that are going to come in from
7 co-defendants that implicate this defendant, and the
8 defenses are so antagonistic that I do not believe that a
9 judge would allow the State to try these cases together.
10 Bortz made statements, Zalenski made statements, Middleton
11 made statements. You can't cross examine a statement. If I
12 was their defense attorneys I would not let them testify, so
13 we wouldn't be able to cross examine anybody else. So I
14 don't think that a circuit court judge would even allow it
15 to be severed. So --

16 THE COURT: You don't think the judge would allow it to
17 be severed or tried together?

18 MR. FARLEY: I mean -- exactly, Judge. I think that
19 the Court would sever the cases anyway, and if we're still
20 here in family court that's one less that they have to
21 sever. Moving on to the level of sophistication and
22 maturity. The report speaks to this, and basically he is as
23 sophisticated as an adolescent his age is, he's average
24 sophistication at that age. Now, I think that what the
25 supreme court was going towards is is he sophisticated

1 enough to actually plan out this crime? Is he sophisticated
2 enough to be the ring leader of this thing? He's
3 sophisticated as a 15 year old should be, but then you put
4 him with these 18 -- the ages, I think, are different. I
5 think Zalenski is 20 and then it comes down -- I think it
6 steps down 18, 17 and then Isaac, but don't quote me on
7 that. But, yeah. He is as sophisticated as he should be as
8 a 15 year old, but not as sophisticated as these people that
9 are being tried as adults. We talked about his prior
10 criminal record. The only thing that he's been adjudicated
11 on is what's been described as smashing up windows to an old
12 car. There may be other things pending out there, but it
13 still applies in family court just as adult court that if
14 you're innocent until proven guilty. At this point he's not
15 even charged, so there -- you know, there are mere
16 allegations floating around out there. So I would hope that
17 the Court wouldn't cake that into account. But I do think
18 that the Court should and will take into account this
19 incident in Texas. And as a result of this incident in
20 Texas he was put on probation, and he did what he was
21 supposed to do on probation. He did fine during that
22 probation. So I think that goes to the final point, that he
23 is -- there's reasonable likelihood of rehabilitation. The
24 doctor refers to basically page 15 and 16, talks about the
25 pros and cons of the ability for him to be rehabilitated.

1 The only negative factors she cites is he does have a
2 history with the juvenile justice system, which I've just
3 addressed, but associations with negative peers. Negative
4 peers can be resolved by positive peers, you know. And it's
5 not something where he's locked into having nothing but
6 negative peers for the rest of his life. Until this
7 incident he was going to church youth group, he was trying.
8 These folks came into his life, the cool older people
9 hanging out, and those are negative peers. His mother said
10 that in some instances he is a follower but in some
11 instances he is a leader, and, you know, he is a leader when
12 taking care of his younger siblings. There's been no
13 incidents, no DSS involvement in the home involving these
14 children or anything. And I hear all of the time from my
15 clients that, "I was just at the wrong place at the wrong
16 time. I was hanging out with the wrong crowd." And Judge
17 Harrington told one of my clients one time, "Well, sir, you
18 hang out with the wrong people at the wrong time and you
19 become the wrong people." And Isaac has -- I mean, this is
20 clearly an incident of a kid that uncharacteristically was
21 hanging out with the wrong people at the wrong time and it
22 led him directly to where we are here today. I think that
23 the peer pressure thing can be addressed in -- with the
24 Department of Juvenile Justice, I think that there are the
25 resources there. And he's got the family support there,

1 too, to help him along the way. There's far more positive
2 points to the likelihood of rehabilitation. Reading from
3 page 16 about the second full paragraph, "There are a number
4 of factors suggesting the possibility of positive treatment
5 outcome with the Juvenile Justice System. Isaac was
6 previously able to meet the conditions of his probation and
7 appeared to understand the need to be cooperative and
8 complete those requirements. His lack of significant mental
9 health issues, his cognitive levels, and the absence of
10 significant substance abuse issues are positive. Family
11 relationships are reported as generally positive and his
12 family appears to be a strong, natural support for him.
13 There is evidence of attempts at discipline and coparenting
14 the home, and there are no reports that Isaac presented with
15 unmanageable behaviors in the home. Parents are willing and
16 able to institute structure in the home, compliment
17 structure put in place by the Department of Juvenile
18 Justice. Furthermore when the family relationships are
19 positive and warm they serve as resiliency factors in the
20 face of negative peer pressures. There are no reported
21 negative behaviors while in detention for Isaac. Juveniles
22 who demonstrated that they are able to appropriately respond
23 to the structure of DJJ facilities are more likely to
24 benefit from them in the future. There is an absence of
25 recognized risk factors that include no history of self

1 harming behaviors, no histories of childhood abuse and no
2 peer rejection." So where we have two factors; peer
3 pressure and history with a juvenile justice system, she
4 contrasts that in the next paragraph with things that
5 completely solve the problems that she's presented in the
6 negative factors. So to me a professional -- to me her
7 professional reasoning is that it's more likely that he
8 could be rehabilitated than not rehabilitated. And, I mean,
9 quite honestly the only negative factor towards that seems
10 to be the peer pressure, and I think with the family
11 structure and everything that he will be able to be
12 rehabilitated. But Judge, what we're dealing with is a
13 child. This is a tragic event, but this is a 15 year old
14 child. Putting him in the court of general sessions is not
15 going to do anything to make the community anymore safer.

16 It's not going to do anything to bring back the victim.

17 It's terrible, it's horrible. Just like I told you, I

18 couldn't imagine being the parents of a good child. I

19 believe he was going to the University of South Carolina,

20 you know, doing everything right. But I also couldn't

21 imagine being the parent of a child who completely

22 uncharacteristically went and committed or participated or

23 went along with something like this completely

24 uncharacteristic to what they have seen and known of him. I

25 finally just want to point out that the probable cause for

1 this hearing. I know we keep going back and forth about the
2 incident itself, but it's kind of important because you have
3 to, you know, frame the factors, the Kent factors, with what
4 actually happened. And the solicitor pointed to accomplice
5 liability. Well, first of all, the elements of murder, the
6 killing of another with malice aforethought, I don't think
7 that the State has produced evidence that there was malice
8 aforethought on the part of Isaac, and without that malice
9 aforethought there couldn't be a conviction and there can't
10 be probable cause unless they put some kind of showing that
11 there was malice. Now, the State is going to say, "Oh,
12 well, the malice was Zalenski's malice and because the hand
13 of one is the hand of all he gets, you know, we should just
14 go ahead and throw him in with the lot." There's
15 defenses -- besides not being able to prove the malice
16 aforethought, there's also the defense of mere presence.
17 I'm messing up the quote, but State v. Cordro (phonetically)
18 describes how mere presence is a defense. Mere presence and
19 prior knowledge a crime was going to be committed without
20 more is insufficient to constitute guilt. That fits this
21 case to a T. He knew that it was going to happen seconds
22 before it happened. He didn't know that there was going to
23 be a murder or things like that, but, you know, he did have
24 knowledge but he was just there. I don't think that they
25 have the sufficiency to, you know, convict him due to the

1 mere presence. And the hand of one, the hand of all. The
2 classic example of the hand of one is the hand of all is me
3 and Vergil go to rob somebody. Neither one of us thought
4 that somebody was going to get shot or hurt but Vergil had a
5 gun. We get up there and we say, "Give me the money,"
6 something goes wrong, the defendant -- or the victim gets
7 shot, then I'm just as guilty as Vergil even though I didn't
8 know what was going on. So the definition I think hand of
9 one is when one person joins with another to commit a
10 criminal act is guilty of everything, that's State v.
11 Thompson. But in this situation Isaac didn't voluntarily
12 participate. He didn't know what act was going to happen,
13 and he was forced into this situation with no ability and no
14 way to back out of it, to run, to get away. So to
15 summarize, this is a serious offense but I do not believe
16 the waiver is going to protect the community anymore than
17 sending him to general sessions. General sessions, he's
18 looking at a mandatory day to day 30 days to life in prison,
19 two strikes, and there is a list of other collateral
20 consequences that go along with it. Here, I mean, the
21 distinction is stark, his 21st birthday. He's 16 now.
22 Basically he would have to spend half of -- another half of
23 his life or another third of his life in detention. And
24 that -- but the difference is when you go to SCDC and you're
25 a 30 year -- you know, doing 30 years day for day there is

1 no possible rehabilitation in there. Yeah, there are some
2 jobs, but when you're characterized in those levels of
3 offenses the employment opportunities are not really there.
4 There's no -- you can't earn work and good time credits,
5 education credits and things like that, and it's harder to
6 get into those educational programs. It's been my
7 experience that in the Department of Corrections, the only
8 people that really can get in those programs are people that
9 are there like on a medium term basis. Like you really
10 can't get into it if you're only going to be there two
11 years, but if you're like five or ten years in the
12 Department of Corrections you'll have time to wait in line
13 to get into the program and to actually complete the
14 program. But when you're -- you know, when you're at Lee
15 Correctional Facility or Lieber, you know, the super maxes
16 in our state there are not work or education opportunities
17 there. So basically what's happened is that when people do
18 get out of prison from those institutions, it's been my
19 experience, I don't have any statistics to back this up, but
20 it's been my experience that they reoffend because they
21 haven't been given the services that, you know, are
22 available. He is a child and we want to prevent him from
23 committing these crimes again. It's obvious that the only
24 place that he's going to receive the resources would be in
25 the jurisdiction of the family court. Moving on to the

1 factors once again. The alleged offenses were committed.
2 Obviously it was aggressive and violent, but, you know, it's
3 our contention that he was not aggressive and violent.
4 There has been no indication from his parents or the
5 evaluators that he has ever been a violent. None of the
6 criminal history that they allege is a violent crime.
7 Premeditated. He didn't premeditate anything, and he was
8 there -- he was not willing to be there and participate in
9 the crime. We talked about the grand jury. The grand jury
10 is a joke. You can ask any solicitor, they'll tell you the
11 same thing. It's just a rubber stamp. Literally, they have
12 a rubber stamp. I would ask that little to no weight be put
13 into that. The codefendants. I don't think that
14 logistically that they would be able to try them together,
15 therefore it makes no difference if -- it will be severed
16 here rather than having to go up and be severed later on
17 down the road. And as far as in general sessions. Isaac
18 has told me that he is willing and able to cooperate with
19 law enforcement and with the solicitor's office, he has
20 never said that he wouldn't. And I've spoke to David Pascoe
21 about that, and I think just for political reasons they're
22 going to go through the motions of this. I'm not going to
23 speak to the logic behind the solicitor's office, I've
24 stopped trying to do that. The child is at average
25 sophistication for his age, but you put an average

1 sophisticated child with adults, you know, I think the
2 doctor said that a child is kind of predisposed to follow
3 older people. The prior criminal record. The only thing
4 that has ever been adjudicated was that incident in Texas.
5 And as far as protection to the public and rehabilitation.
6 The report, you know, has two negative factors, and then a
7 series of positive factors that would lead to
8 rehabilitation. Judge, Isaac's a child. He does need to --
9 justice does need to be served in this. This victim died.
10 It was an innocent victim that was involved in this terrible
11 event. Isaac has expressed his remorse to me, you know,
12 it's not that he's not remorseful. Judge, I think justice
13 also requires that he be treated as a child, and I would beg
14 the Court not to relinquish its authority to the court of
15 general sessions, and I would ask that the Court not waive
16 Isaac up.

17 THE COURT: All right. Thank you very much. Does the
18 solicitor wish to present any rebuttal?

19 MR. DEAS: No, I don't, Your Honor. Thank you.

20 THE COURT: Counsel, I'm going to take the matter under
21 advisement. Obviously it's a very serious decision that the
22 Court has to make, I want to review everything fully. I've
23 started reviewing the evaluation but haven't had a chance to
24 finish reviewing the entire evaluation, so I'll review all
25 of the evidence. I should be able to reconvene tomorrow

1 morning at 11:00 and announce the Court's ruling. I'll ask
2 counsel just to remain in and make sure that we've got all
3 of the exhibits, and otherwise I plan on seeing you back at
4 11:00 to announce the ruling. All right. Thank you very
5 much.

6 (Court recessed for the day and resumed the following
7 Day at 11:00 a.m.)

8 THE COURT: We are back on the record in the matter of
9 State vs. Duran, case numbers 2018-JU-18-215. Present and
10 appearing, we have all of the parties previously noted for
11 the trial of this waiver hearing including the solicitor,
12 the DJJ representatives, the juvenile, juvenile's parents.
13 The victim's family is also present and appearing. When we
14 concluded the hearing yesterday both the State and the
15 defense had rested their case. The Court took an
16 opportunity to carefully review and deliberate. I've
17 considered the evidence introduced in the case. I've
18 carefully studied the statutory provision applicable to this
19 matter. I've reviewed the case law and duly considered the
20 factors required for the issue of waiver to general sessions
21 court. The importance and responsibility of this decision
22 is not taken lightly by this Court and this decision has
23 weighed heavily on my heart. I have considered the
24 following factors required for the State's motion for waiver
25 as set forth in the Kent case: Number one, the seriousness

1 of the alleged offense to the community, and whether
2 protection of the community requires waiver. Number two,
3 whether the alleged offense was committed in an aggressive,
4 violent, premeditated or willful manner. Number three,
5 whether the alleged offense was against person or against
6 property with greater weight being given to offenses against
7 persons, especially if injury resulted. Number four, the
8 prosecutorial merit of the complaint, including whether or
9 not there was evidence upon which a grand jury may be
10 expected to return an indictment. Number five, the
11 desirability of a trial and disposition of the entire
12 offense in one court where the juvenile associates in an
13 alleged offense are adults who will be charged with a crime.
14 Number six, the sophistication and maturity of the juvenile
15 as determined by consideration of his home environment
16 situation, the emotional attitude and the pattern of living.
17 Number seven, the juvenile's record and previous criminal
18 and adjudicative history. And number eight, the prospects
19 for adequate protection of the public and likelihood of
20 reasonable rehabilitation of the juvenile if he is found to
21 have committed the alleged offense by use of procedures,
22 services, facilities, and other options currently available
23 in juvenile courts. The evidence was undisputed that this
24 offense was a very serious offense to the community
25 involving four co-defendants planning and executing a

1 vicious murder. The evidence indicated that the offense was
2 committed in an aggressive, violent, premeditated and
3 willful manner. The undisputed evidence indicated that this
4 offense was committed against a person resulting in his
5 death. The evidence indicated that there was probable cause
6 to support the charge of murder. The evidence supported the
7 prosecutorial merit of the complaint and the charge for
8 murder. The evidence was sufficient upon which a grand jury
9 may be expected to return an indictment. The evidence
10 appeared sufficient that even a jury may return a guilty
11 verdict. The undisputed evidence indicated that three other
12 co-defendants have been charged as an adult -- as adults and
13 have pending charges in general sessions court. The waiver
14 of the juvenile to the general session court affords the
15 option of disposition of the entire offense in one court,
16 whereas the denial of the waiver would require disposition
17 in multiple courts and multiple trials. The evidence
18 indicated that the juvenile's sophistication and maturity
19 was typical for juveniles his age. The juvenile's record
20 included a previous adjudication for criminal mischief,
21 which resulted in a probationary sentence from the State of
22 Texas, and the juvenile's probationary supervision was
23 ultimately transferred it appears to South Carolina. As to
24 adequate protection of the public, the evidence suggests
25 that the family court would provide limited protection to

1 the public as the guidelines suggest, that the juvenile
2 might serve between 36 and 54 months in the custody of the
3 Department of Juvenile Justice. Under state statutes
4 probationary supervision in juvenile court ends at the age
5 of 18. The statutory provisions also provide that the
6 maximum sentence for a juvenile adjudicated delinquent in
7 family court would be an indeterminate sentence not to
8 exceed his 21st birthday, and therefore any commitment to
9 DJJ or any parole supervision would terminate at age --
10 excuse me, at age 21 if he remained in family court. All
11 protections to the public would therefore end at age 21.
12 The jurisdiction of the general sessions court would provide
13 the public with significantly greater protection. As to the
14 likelihood of reasonable rehabilitation of the juvenile, the
15 Court carefully considered the likelihood of rehabilitative
16 services in the section provided in the pre-evaluation
17 report. Plaintiff's Exhibit 3 on page 16 indicated that
18 negative and positive factors were to be considered for the
19 likelihood of rehabilitation of the juvenile defendant.
20 Specifically, the evaluation report provided that negative
21 factors for Isaac included his history with the juvenile
22 justice system, and his association with negative peers.
23 While described as relatively compliant in the home, he does
24 not appear to have been able to transfer that obedience and
25 self-control to the community. Testing indicated that the

1 juvenile might have a tendency to seek peer approval even if
2 that means engaging in negative behavior. The report also
3 indicated that in talking about his actions while living in
4 Texas that resulted in juvenile charges, the juvenile
5 indicated that his cousin took the lead and the juvenile
6 followed in vandalizing the property. The juvenile
7 similarly spoke about the current charges, all but he had
8 verbalized that accruing the charges was his fault, he
9 nevertheless named his co-defendants as conceiving the crime
10 while he once again followed. His apparent willingness to
11 be a follower as well as his lack of resiliency and
12 resisting peer pressures make it more likely that he will
13 have difficulty in the future diverging from the group. The
14 juvenile presented as very concrete in his thinking
15 according to the evaluation report and had difficulty at
16 times with abstract thinkings and extrapolating the meaning.
17 This may make it difficult for him to jump ahead and
18 consider potential consequences for his action. For the
19 positive treatment outcomes with DSS, the evaluation report
20 indicated that the juvenile was able to meet the conditions
21 of his previous probation, and that he appeared to
22 understand the need to be cooperative and complete those
23 requirements. His lack of significant mental health issues
24 and cognitive abilities, and the absence of significant
25 substance abuse issues were also considered positive

1 attributes. His family support was clearly indicated as a
2 positive consideration for rehabilitation. However, while
3 the report indicated that his previous completion of
4 probation was considered a positive factor for
5 consideration, it would also appear that the probationary
6 services were not rehabilitative since the juvenile has had
7 the opportunity for services, and despite previous
8 probationary services the evidence indicated that the
9 juvenile became involved with this murder. The evidence
10 indicated that protection of the community requires waiver,
11 and therefore after careful consideration of the evidence
12 presented, the statutory provisions, the applicable case law
13 and the specific factors required for waiver, I find that
14 the State's motion for waiver of this juvenile to general
15 sessions court must be granted. Mr. Deas will prepare the
16 written order and shall forward a copy of this order to Mr.
17 Farley. In the meantime, pending further disposition in
18 general sessions court, Judge Wiley's order for release will
19 continue to remain in place requiring the juvenile and his
20 family to cooperate. Parents will be joined in as parties,
21 and the juvenile will be required to report to the general
22 sessions court at 9:00 a.m. on Tuesday morning. Is there
23 anything further from the State on behalf of the juvenile at
24 this time?

25 MR. DEAS: Your Honor, just to advise, the Department

1 of Juvenile Justice does have a signed form from the parents
2 as requested. The Court asked me to check with the
3 department, they do have a signed form about the electronic
4 monitoring agreement and house arrest as well.

5 THE COURT: Okay. Well, the parents will be joined for
6 purposes of assuring his compliance and his reporting to
7 general sessions court.

8 MR. DEAS: Yes, ma'am. Other than that, nothing else.

9 Thank you, Your Honor.

10 THE COURT: Anything else on behalf of the juvenile?

11 MR. FARLEY: No, Your Honor.

12 THE COURT: All right. Thank you very much.

13 MR. DEAS: Thank you, Your Honor.

14 MR. FARLEY: Thank you, Judge.

15 THE COURT: Thank you.

16 (End of the hearing.)

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF DORCHESTER
4 2019-GS-18-00496

5 State of South Carolina

6 Vs.

7 Isaac Duran

8

9 St. George, South Carolina

10 October 19, 2020

11 Before the Honorable Diane Goodstein

12 APPEARANCES

13 For the State: Donald Sorenson

14 For the Defendant: Mitchell Farley

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16 Reported by: DCRP (transcribed by Michael C. Watkins

17 Official Court Reporter)

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1 THE COURT: All right. Mr. Duran, you are represented
2 by Mr. Farley?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: I have some questions for Mr. Farley and
5 then I have questions for you. If you wonder why I am
6 asking you -- or asking the questions just let me know and
7 I'll do my best to explain. I'm going to ask Solicitor
8 Sorenson to introduce this case. Yes, sir?

9 MR. SORENSON: Thank you. May it please the Court,
10 Your Honor? We're here on indictment 2019-GS-18-0496, the
11 indictment is for one count of murder and against the
12 defendant, Isaac Duran. We are allowing him to enter a
13 guilty plea on the lesser included offense of voluntary
14 manslaughter. If I could just put on the record, Your
15 Honor.

16 THE COURT: Yes.

17 MR. SORENSON: At the time of this incident, as Your
18 Honor just heard from the prior codefendant, it occurred
19 back on May the 30th of 2018. At that time Mr. Duran was 15
20 years of age. His birthday is in October so he just turned
21 18 this past October, but he was a little more than 15 and a
22 half. The State had filed a notice of motion to waive him
23 to general sessions court. That matter was heard before the
24 Honorable Nancy McLin and she did issue a final waiver order
25 transferring jurisdiction to the Court of General Sessions

1 in October of 2000 -- I'm sorry, it was dated on
2 September 21st of 2019. I just wonder if you wanted to make
3 that a copy of the general sessions --

4 THE COURT: I think so. I think it ought to be made
5 a -- so that the record will be complete.

6 MR. SORENSON: I'm not sure if that's actually in
7 the -- I know obviously it's in the family court.

8 THE COURT: Right. All right. Now, Mr. Farley, you
9 represent Mr. Duran?

10 MR. FARLEY: Yes, Your Honor.

11 THE COURT: Have you explained to Mr. Duran the nature
12 of this offense, the maximum possible penalty and
13 consequences, and his constitutional rights including his
14 right to a jury trial?

15 MR. FARLEY: I have, Judge.

16 THE COURT: And in your opinion does he understand the
17 nature of this offense, the maximum possible penalty and his
18 rights?

19 MR. FARLEY: I believe he does.

20 THE COURT: And tell me how he wishes to plead.

21 MR. FARLEY: Guilty, Judge.

22 THE COURT: And do you concur with his decision?

23 MR. FARLEY: Very much so.

24 THE COURT: And do you believe -- based on your
25 investigation, do you believe that the State could produce

1 sufficient evidence to convict and establish your client's
2 guilt beyond a reasonable doubt?

3 MR. FARLEY: Absolutely, Judge.

4 THE COURT: And do you believe that if he was to stand
5 trial that his conviction would be probable?

6 MR. FARLEY: Yes, Judge.

7 THE COURT: Do you have any concerns regarding his
8 competency?

9 MR. FARLEY: No, Your Honor.

10 THE COURT: All right. Very well. Now, Mr. Duran, I
11 have many questions to ask of you. If you do not understand
12 my question do not answer it but let me know that you don't
13 understand my question. There are many ways to explain any
14 one thing. And if you need to take a break and speak with
15 your attorney I want you to know that that's perfectly fine.

16 Now, I need you to keep your voice up so that I can hear
17 you, and obviously there are barriers between us and I need
18 to be sure I can hear you. Tell me how old you are.

19 THE WITNESS: Eighteen.

20 THE COURT: Tell me how far you went in school.

21 THE WITNESS: Eighth grade.

22 THE COURT: The eighth grade?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Do you have your GED?

25 THE WITNESS: No, ma'am.

1 MR. FARLEY: Judge, he was attending eighth grade. He
2 was actually arrested and his last date of school was eighth
3 grade. He has graduated, so he's gone as far as he possibly
4 could in school.

5 THE COURT: Got you. All right. Now, you are
6 currently not detained; is that correct?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: All right. And are you on house arrest?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right. So you are not working outside
11 of your home?

12 THE WITNESS: No, ma'am.

13 THE COURT: Very well. Have you ever been treated for
14 alcohol or drug abuse?

15 THE WITNESS: No, ma'am.

16 THE COURT: Have you ever been treated for any mental
17 health issues?

18 THE WITNESS: No, ma'am.

19 THE COURT: All right. And when you were in school,
20 were you in regular classes or resource classes?

21 THE WITNESS: Regular.

22 THE COURT: Regular classes? All right. Have you ever
23 failed a grade or have you progressed as you should through
24 school?

25 THE WITNESS: Excuse me?

1 THE COURT: Have you failed a grade up to the eighth
2 grade?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: What grade?

5 THE WITNESS: First.

6 THE COURT: First grade? You repeated the first grade?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Okay. Now, in the last 72 hours have you
9 had any alcohol?

10 THE WITNESS: No, ma'am.

11 THE COURT: Have you had any drugs?

12 THE WITNESS: No, ma'am.

13 THE COURT: Have you had any medication to include but
14 not be limited to a baby's aspirin?

15 THE WITNESS: No, ma'am.

16 THE COURT: Have you had any substances whatsoever in
17 the last 72 hours?

18 THE WITNESS: No, ma'am.

19 THE COURT: All right. Are you under the care of a
20 physician?

21 THE WITNESS: Excuse me?

22 THE COURT: Are you under the care of a doctor?

23 THE WITNESS: No, ma'am.

24 THE COURT: All right. And have you been treated for
25 covid?

1 THE WITNESS: No, ma'am.

2 THE COURT: All right. Are you aware of any problems
3 that you have -- and I will give you some examples, and
4 these are just examples; a physical problem, a mental
5 problem, a nervous problem, a drug problem, an alcohol
6 problem, are you aware of any problems that you have in your
7 life that might or that could keep you from knowing what you
8 were doing here today?

9 THE WITNESS: No, ma'am.

10 ~~THE COURT:~~ THE COURT: Are you aware of any problems that you
11 have, and I give you the same examples; physical problem,
12 nervous problem, drug or alcohol problem, any problem that
13 you have, are you aware of any problem that you have that
14 could interfere with your ability to know what you are doing
15 here today?

16 THE WITNESS: No, ma'am.

17 THE COURT: All right. Now, are you on probation or
18 parole right now?

19 THE WITNESS: No, ma'am.

20 THE COURT: All right. Now, Mr. Duran, it is my
21 understanding that you intend to plead guilty to the offense
22 of voluntary manslaughter. Do you understand that voluntary
23 manslaughter carries a maximum possible penalty of 30 years
24 in prison?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: All right. Do you also understand that
2 there are consequences to a plea to voluntary manslaughter?
3 One is that it is a violent offense, the other is that it is
4 a most serious offense, and I want to talk about each of
5 those with you. First of all, do you understand that this
6 is a violent offense?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Do you understand that when a person is
9 convicted of a violent offense that there are certain
10 consequences that affect that person both inside of the
11 Department of Corrections and then when that person is
12 released from the Department of Corrections? Do you
13 understand that?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: All right. For example, a person who is
16 convicted of a violent offense is housed in the Department
17 of Corrections in a facility intended to house other violent
18 offenders. Do you understand that?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Do you understand that the fact that you
21 will have been convicted of a violent offense has an affect
22 on your ability, or lack thereof, to earn work credits or
23 educational credits?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: All right. Do you understand that when you

1 are discharged from the South Carolina Department of
2 Corrections that -- the fact that you will have been
3 convicted of a violent offense has consequences upon your
4 release? Do you understand that?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: For example, you will not be allowed to
7 hold a residential care or nursing home license.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: You will not be allowed to work in any
10 capacity in a school district. Do you understand?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: All right. And there are other
13 consequences and they may change from time to time because
14 the legislature may choose to do that, to change the
15 consequences of your having pled to a violent offense. It
16 is your responsibility to know what they are and to comply.
17 Do you understand?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right. Do you understand that this is
20 a most serious offense?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: What I mean by that is under 17-25-45 we
23 have a classification -- two classifications of crimes, one
24 serious, one most serious. And if a person is convicted of
25 a most serious offense, if that person later in their life

1 is ever charged with a second most serious offense and the
2 State serves that person notice that the State intends to
3 seek a penalty of life without the possibility of parole,
4 and that person has been convicted, then that person will
5 spend the rest of their life in prison without the
6 possibility of parole. Do you understand that?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: And do you understand that that is a
9 consequence of your plea here today, you will have been
10 convicted of a most serious offense?

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: All right. Mr. Sorenson, is this his first
13 most serious offense?

14 MR. SORENSON: Yes, Your Honor.

15 THE COURT: You concur?

16 MR. FARLEY: Yes, Your Honor.

17 THE COURT: Most importantly, do you understand this is
18 your first most serious offense, Mr. Duran?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: And if you are ever charged with a second
21 most serious offense you could receive the notice that I
22 just spoken of.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Now, do you also understand
25 that under 17-25-45 there is another classification of

1 crimes called serious offenses, and if a person is convicted
2 of two serious offenses, or one most serious offense and one
3 serious offense and then they stand charged with a second
4 serious offense, then if the State serves notice and the
5 person has been convicted under this scenario of that second
6 most serious offense then the person would spend the rest of
7 their life in prison without the possibility of parole. Do
8 you understand that?

9 THE WITNESS: Yes, ma'am.

10 ~~THE COURT:~~ All right. Do you understand that a most
11 ~~serious offense~~ can take the place of a serious offense
12 under the three strike rule that I've just described?

13 THE WITNESS: Excuse me?

14 THE COURT: Do you understand that a most serious
15 offense conviction can take the place of a serious offense
16 conviction under the scenario of the three strike rule that
17 I just went over with you?

18 THE WITNESS: Yes, ma'am.

19 MR. FARLEY: Your Honor, can I just make sure that
20 that's clear with him briefly?

21 THE COURT: Sure.

22 (Break in proceedings.)

23 MR. FARLEY: Judge, I spoke with my client, I believe
24 he understands, I just wanted to make sure that he did.

25 THE COURT: Very well. Do you have any questions, Mr.

1 Duran, of either your attorney or of me with regards to the
2 consequence of your having pled today to a most serious
3 offense?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: What are those questions?

6 THE WITNESS: No, ma'am.

7 THE COURT: You have no questions?

8 THE WITNESS: No, ma'am.

9 THE COURT: Very well. Now, Mr. Duran, I will sentence

10 you with regards to this offense. Do you understand that
11 whatever that sentence is you need to count on serving that
12 sentence day for day?

13 MR. FARLEY: Yes, ma'am.

14 THE COURT: All right. Now, you have told me that you
15 understand this offense of voluntary manslaughter, maximum

16 possible penalty of 30 years and the consequences; it's

17 violent, it's most serious, you have told me that you
18 understand that. Keeping all of these matters in the
19 absolute forefront of your mind, tell me, Mr. Duran, how do
20 you plead to the crime of voluntary manslaughter?

21 THE WITNESS: Guilty.

22 THE COURT: Do you understand that when you plead
23 guilty you give up certain very important constitutional
24 rights?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: We're going to talk about some of them. We
2 won't talk about them all but we're going to talk about some
3 of them. If you have questions I certainly want you to
4 stop, you can ask me or you can certainly ask Mr. Farley.
5 Okay?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: You give up the right to remain silent,
8 that is your 5th Amendment right. You give up the
9 presumption of innocence. You give up your right to require
~~that the State have to prove you guilty beyond a reasonable~~
10 ~~doubt if they can.~~ You give up your right to have your
11 lawyer, Mr. Farley, cross examine witnesses who would
12 testify against you. You give up your right to have your
13 lawyer summon witnesses to testify in your defense, present
14 defenses for you, challenge any incriminating statements
15 that you may have made to law enforcement, those are
16 typically statements made to the government, typically law
17 enforcement, that may be used at trial to help convict you.
18 You give up your right to have him challenge those
19 statements. You give up your right to have your lawyer
20 present defenses for you. You give up your right to have
21 your lawyer challenge any stops or searches or seizures that
22 you think were not appropriate, that's a 4th Amendment
23 right. And you give up your right to a jury trial, which is
24 your 6th Amendment right. We are here, the jury is here, we
25

1 are poised getting ready to select or qualify the jury and
2 then select the jury for your case. So you understand if
3 you wanted the jury trial you would have one, correct? You
4 understand that, Mr. Duran?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: All right. And at that jury trial it would
7 be up to you whether you wish to testify or not. Do you
8 understand that?

9 THE WITNESS: Yes, ma'am.

~~10 THE COURT:~~ 10 THE COURT: You can exercise your 5th Amendment right
11 not to testify, and in the event that you had a jury trial
12 and you chose not to testify I would tell the jury that the
13 jury could not, could not consider your decision not to
14 testify on the issue of whether you were guilty or not. In
15 fact, I would tell this jury that they could not even

16 discuss, they couldn't mention the fact that you didn't
17 testify in the jury room, and the reason I would tell them
18 that is because the burden is and remains on the State to
19 prove guilt beyond a reasonable doubt. Do you understand
20 that?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: All right. Now, Mr. Duran, do you
23 understand that we have not talked about all of your
24 constitutional rights?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: We haven't talked about all of your
2 constitutional rights which would be preserved, which are
3 preserved for you at a trial that you waive when you plead
4 guilty. Do you understand that?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: All right. And do you understand that
7 there are certain important constitutional rights which are
8 preserved for at a trial that you waive when you plead
9 guilty?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: And is that what you want to do?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: All right. Now, do you understand that if
14 I accept your plea that I'm going to sentence you?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Do you understand that when you plead
17 guilty that you give up your right to have a jury determine
18 if you're guilty or not guilty?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: All right. Now, Mr. Duran, I want you to
21 listen very carefully to what Mr. Sorenson is going to go
22 over. He's going to go over the facts that the State is
23 prepared to present at trial for the purpose of proving your
24 guilt, and when he's finished I'm simply going to ask you is
25 that what happened or do you need to correct anything that

1 I'm told that needs correcting so that I have an accurate
2 picture of what occurred. All right?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Very well. Yes, sir?

5 MR. SORENSON: Thank you. May it please the Court,
6 Your Honor?

7 THE COURT: Yes, sir.

8 MR. SORENSON: And I believe Mr. Duran was in here
9 during the last presentation also, Your Honor.

10 THE COURT: And I'll ask, is that correct?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: You were present for Mr. Zalenski's plea?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: You heard the factual recitation?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Okay. Thank you.

17 MR. SORENSON: Okay. I'm not going to go quite into as
18 much depth background. But the facts the State would be
19 presenting is that this defendant was in the vehicle with
20 the other three co-defendants when Ms. Bortz basically lured
21 Mr. Bradley to this apartment complex. We believe that this
22 defendant, along with the prior defendant, Mr. Zalenski,
23 that the two of them both (inaudible) covered their faces,
24 had gone and hid behind the building. And basically that
25 the (inaudible-someone in the audience is coughing) in the

1 last presentation. Basically (inaudible) was discussed
2 between them that the two of them would come from around the
3 building when Ms. Bortz started shooting, so they come
4 around. As I indicated in the prior presentation, the
5 ballistics out there, I believe, confirmed that there were
6 two 9-millimeter handguns fired. We do believe this
7 defendant had one of them. Additionally his codefendant,
8 the driver of, Mr. Middleton, as I indicated earlier, did
9 indicate that Mr. Duran was one of the shooters. As I
10 indicated earlier they find -- they get to Ms. Bortz that
11 night and they find the cellphone of the victim, find her
12 with Mr. Zalenski. I believe they had gotten that that's
13 who she was with from her parents. Their interviews lead
14 them to Mr. Middleton that night, and they find the vehicle
15 that matches the vehicle description, so he is arrested the
16 following night, May the 31st. He ultimately, after having
17 gone round and round with law enforcement and his own
18 parents, ultimately identified Mr. Duran as having
19 involvement. Mr. Duran is picked up the following day from
20 school, brought in. He gives a videotaped statement to law
21 enforcement that kind of starts with "I don't know what
22 you're talking about, I was playing video games all day,"
23 which is consistent with a text that he had sent to Mr.
24 Middleton that day before basically asking him to like tell
25 everybody they were playing Fortnite all day yesterday. His

1 statement kind of goes from "I don't know anything, I was
2 playing video games all day," to, "I was there but I didn't
3 get out of the car, to, "I was there but I didn't have a
4 gun," to, "I was there, I had a gun, I don't think it worked
5 and I didn't shoot." So that's kind of (inaudible) he
6 ultimately ends up saying he doesn't want to talk anymore.
7 So I think that's kind of the factual basis. If I need to
8 go back over more I can.

9 THE COURT: Only the fact that this was in Dorchester
10 County.

11 MR. SORENSON: Yes, ma'am, it was. It happened in the
12 Archdale Forest Apartment Complex, which, as I indicated
13 earlier, is off of Dorchester Road off the Archdale
14 Subdivision, which is located pretty close to Charleston
15 County but it was in Dorchester County.

16 THE COURT: Very well. And do you agree with the
17 factual recitation that Mr. Sorenson has been over?

18 THE WITNESS: No, ma'am.

19 THE COURT: All right. Tell me.

20 (Break in proceedings.)

21 MR. FARLEY: Judge, I have spoken to my client and his
22 one concern about the fact pattern is he did not want the
23 Court to think that he had been planning this for weeks and
24 weeks, it was something more or less that came together
25 right fairly closely to when the event happened.

1 THE COURT: Okay. All right.

2 MR. FARLEY: Is that correct? Is what I said correct?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Okay. And did you shoot Mr. Bradley?

5 THE WITNESS: No, ma'am.

6 THE COURT: You did not shoot Mr. Bradley.

7 THE WITNESS: No, ma'am.

8 THE COURT: Okay.

9 MR. SORENSON: I guess the other question is did he

10 fire a gun.

11 THE COURT: Did you fire a gun? Okay. Did you fire a

12 gun?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: In the direction of Mr. Bradley.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right. How many shots did you fire at

17 Mr. Bradley?

18 THE WITNESS: Zero, not at Mr. Bradley. I fired one

19 time.

20 THE COURT: Okay. Well, tell me about that.

21 THE WITNESS: What?

22 THE COURT: Tell me about that. Hold on, Mr. Farley.

23 Tell me what you did.

24 THE WITNESS: I shot in the direction at him but did

25 not hit him.

1 THE COURT: You shot in his direction.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Okay. All right. Now, have you been over
4 with your attorney the concept of the hand of one is the
5 hand of all?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: And do you understand that concept?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Do you understand that when individuals act

10 together and in concert towards an end, that while one

11 person may have actually shot another person, if the group

12 was intending to an enterprise that would bring out the

13 ending that hand of one is the hand of all? Do you

14 understand that?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Okay. All right. Also, do you understand

17 that this is a no parole offense?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right. And the gun that you shot was a

20 9-millimeter?

21 THE WITNESS: I don't know.

22 THE COURT: You just know it was a handgun.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Very well. Now, has anyone

25 promised you anything or held out any hope of a reward to

1 get you to plead guilty?

2 THE WITNESS: No, ma'am.

3 THE COURT: Has anyone tried to force or threaten,
4 pressure or intimidate you to make you plead guilty?

5 THE WITNESS: No, ma'am.

6 THE COURT: And have you had enough time to make up
7 your mind that this is what you want to do?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Are you pleading guilty today freely and
10 voluntarily?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: And are you pleading guilty because you
13 are, in fact, guilty?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Now, are you satisfied with the
16 representation that you have received?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Has Mr. Farley answered all of your
19 questions?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Has he been over with you the elements of
22 the offense of voluntary manslaughter?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: And has he been over with you the evidence
25 that the State has available to present at trial for the

1 purpose of proving your guilt?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: And has your attorney met with you for as
4 many times and for as long a period of time as you believe
5 appropriate for him to properly represent you?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: And has he investigated your case?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Has he talked to everybody you wanted him
10 to talk to?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: All right. Has he done everything for you
13 in your case that you think he should have done or could
14 have done to properly represent you?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Has he done anything in his representation
17 of you that you think he should not have done?

18 THE WITNESS: No, ma'am.

19 THE COURT: And are you completely satisfied with his
20 representation?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Now, has anyone associated with your case
23 mistreated you in any way?

24 THE WITNESS: No, ma'am.

25 THE COURT: And have you understood my questions?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: And do you understand that you have a right
3 to appeal your guilty plea and any sentence that I impose,
4 however, if you wish to appeal you or an attorney on your
5 behalf must appeal within ten days? Do you understand?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Now, with respect to each and every answer
8 that you have given me here today, have you been absolutely
9 candid and truthful?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Have your answers been your own?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Did anybody tell you how to answer any
14 questions?

15 THE WITNESS: No, ma'am.

16 THE COURT: Tell me whose answers you have given me
17 here today.

18 THE WITNESS: Mine.

19 THE COURT: Okay. Very well. I find that there is a
20 substantial factual basis for this plea. I find that the
21 decision of Mr. Duran to plead guilty is freely,
22 voluntarily, knowingly and intelligently made. He's had
23 advice and counsel in Mr. Farley with whom he tells me he is
24 satisfied and I will accept the plea. Now, don't know when
25 I'm going to get to sentencing but we'll talk about that a

1 little bit, but right now I have got to deal with the jury.

2 You will be taken into custody at this time.

3 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had (as
6 recorded by DCRP and transcribed by me) evidence
7 introduced in the trial of the captioned case
8 relative to, in the court of General Sessions for
9 Dorchester County, South Carolina, on the 19th day
10 of October, 2020.

11 I further certify that I am not of kin,
12 counsel, nor interest to any party hereto.

13

14

February 17, 2022

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17

Michael C. Watkins

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Court Reporter

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF DORCHESTER
4 2019-GS-18-00496

5 State of South Carolina

6 Vs.

7 Isaac Duran

8

9 Dorchester, South Carolina

10 November 8, 2020

11 Before the Honorable Diane S. Goodstein

12 APPEARANCES

13 For the State: Donald Sorenson

14 For the Defendant: Mitchell Farley

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16 Reported by: DCRP, (Transcribed by Michael C. Watkins)

17 Official Court Reporter

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1 MR. SORENSON: May it please the Court, Your Honor?

2 THE COURT: Yes.

3 MR. SORENSON: We are back here, Your Honor, on the
4 case of the State versus Isaac Duran on indictment
5 2019-GS-18-0496. Mr. Duran is represented by Mitchell
6 Farley with the Dorchester County Bar. Mr. Duran entered a
7 guilty plea -- he was originally indicted for murder, he
8 entered a guilty plea to the lesser included offense of
9 voluntary manslaughter, I believe, back on October 19th of
10 this year before Your Honor. And Your Honor took him into
11 custody and withheld sentencing at that point in time, so
12 we're back here for the purposes of the sentencing phase.
13 Do you need us to go back over fact-wise anything?

14 THE COURT: I don't think so.

15 MR. SORENSON: I do have -- and I'm not sure if you
16 want to hear from them -- the victim, as you recall, was 20
17 year old Stacey Bradley -- Mr. Bradley's mother and father
18 are present. Would you like to hear from them now before
19 hearing from Mr. Farley or --

20 THE COURT: It doesn't matter. At whatever point is
21 certainly fine. I think that Mr. Farley has -- you have a
22 witness present?

23 MR. FARLEY: I do, Your Honor.

24 THE COURT: I would like to go ahead and perhaps take
25 that witness and then we will proceed.

1 MR. SORENSON: Okay.

2 THE COURT: Very well.

3 MR. FARLEY: If it please the Court, Judge?

4 THE COURT: Yes.

5 MR. FARLEY: First of all, this is a terrible incident,
6 it's a tragic incident. My heart goes out to the parents.
7 They asked me at one point how could you imagine losing a
8 child? And I paused for a minute and I thought, you know,
9 well, we're about to lose another one. So I may have
10 inartfully said that, but I truly am apologetic and I truly
11 do not know how I would feel to lose my child. But, Judge,
12 this child's life has also been altered. During -- he was
13 initially charged as a juvenile, and during that process he
14 was evaluated by Dr. Candice Dunn. At this time the defense
15 would call Dr. Dunn to the stand.

16 THE COURT: Okay.

17 The witness, CANDICE DUNN, was first duly sworn and
18 Testified as follows:

19 THE COURT: Your witness.

20 DIRECT EXAMINATION

21 BY MR. FARLEY:

22 Q Dr. Dunn, I'm briefly just going to go over your
23 educational background. I believe the State has agreed that
24 you are an expert witness, but I wanted to talk to you --
25 what is your educational background in child psychology?

1 A Well, I graduated from the Indiana University of
2 Pennsylvania with a Doctoral Degree in Clinical Psychology.
3 I have had experience as a clinical director at Saratoga
4 Springs, and in that capacity we served primarily youth who
5 have been traumatized typically through sexual abuse. We
6 also served a larger population of underserved from any age
7 that may not have had insurance. So we saw a variety
8 of diagnoses in individual cases. From there I've been with
9 the Department of Juvenile Justice for about seven years in
10 that capacity. I'm the supervising psychologist for the
11 coastal region, and so I have a team of seven other people
12 that I supervise. We provide -- we carry out community
13 evaluations. We consider placements for youth. We do
14 consultations, and we also do waiver evaluations.

15 Q And have you testified in court before?

16 A I have.

17 Q Approximately how many times?

18 A I would say approximately six times.

19 Q And of those times, have you ever been qualified as an
20 expert witness?

21 A I have on every occasions.

22 MR. FARLEY: Your Honor, at this point we would ask
23 that Dr. Dunn be qualified as an expert witness in child
24 psychology.

25 THE COURT: There's no objection, did I hear that?

1 MR. SORENSON: Correct.

2 THE COURT: Correct. She's so qualified.

3 Q Dr. Dunn, during this process, did you have the
4 opportunity to evaluate Isaac?

5 A I did.

6 Q And what does an evaluation like that entail?

7 A Well, we're directed by the Court through a court order
8 to conduct a waiver evaluation. The overall purpose of that
9 evaluation is to address the Kent factors. And our purpose
10 is to assist the Court in determining whether or not a
11 juvenile -- whether or not their case should proceed in
12 family court as a juvenile or in general sessions as an
13 adult, and so we provide information that addresses the Kent
14 factors. We do some personality and psychological testing
15 and we conduct some cognitive testing. We conduct an
16 interview with the parents; an interview with the juvenile;
17 we do records review; and we attempt to draw some
18 conclusions from all of that information to try to collate
19 that and provide it in a report to assist the judge.

20 Q Thank you. And I'm not going to go into -- well,
21 actually -- I'm going to show this if you've seen it before.
22 I can hand it to you. If you would take a look at that and
23 tell me what that is.

24 A This is the pre-adjudicatory transfer evaluation that I
25 conducted with Isaac Duran. I met with him, let's see --

1 well, the report was completed on September 27th of 2018,
2 and that was my signature at the end.

3 Q Okay. Great. So this is a copy of your actual report?

4 A Yes.

5 MR. FARLEY: Judge, at this time we would ask to move
6 this in as Exhibit 1.

7 THE COURT: Any objection?

8 MR. SORENSON: No, Your Honor.

9 THE COURT: Very well.

10 Q During that evaluation you did a battery of
11 psychological exams, some of them -- there was the interview
12 part with the child, but there was also some intellectual
13 functioning type thing tests performed. What are those
14 tests in brief? It doesn't have to be -- that you used to
15 determine his intellectual functioning and basically verbal
16 comprehension and those sorts of things.

17 A So we administered -- we used the Wechsler series of
18 tests. And as noted in my report, we utilize this test --
19 it gives us information about the five areas the cognitive
20 functioning. We're interested in their ability to
21 comprehend things verbally. We're interested in visual
22 spacial reasoning, fluid reasoning, working memory and
23 processing speed. And when all of those scores are tallied,
24 that produces an overall intelligence quotient.

25 Q On your report on page 12 there's two locations where

1 he -- it's been determined that he's low average. The first
2 one is Verbal Comprehension index. What is the Verbal
3 Comprehension Index?

4 A Well, that would be -- it's pretty clear in the title.
5 It's the individual's ability to attend to a verbal content,
6 make sense of it, retain it and be able to process that.

7 Q And when it's a low average, does that mean he's slower
8 at comprehending verbal things, or what does that mean?

9 A Well, that means relative to peers in his age group his
10 abilities are below average.

11 Q And with regards to the Processing Speed Index, what is
12 a Processing Speed Index?

13 A Again, there's a lot of overlap in these domains. But
14 the processing speed, again, as the name implies, is how
15 quickly you can scan stimuli or data and process it and make
16 sense out of it.

17 Q I want to go and kind of skip through this to section
18 six, your conclusions, and kind of see how they apply to the
19 facts in this case in this individual defendant. Level of
20 sophistication and maturity. What did you find in regards
21 to that?

22 A It appeared to me that his level of maturity would be
23 congruent with what would be expected for someone in his age
24 group. He appeared to have similar interests that you would
25 expect from American youth at this time in our popular

1 culture. He seemed to have appropriate interests in peers.
2 He comported himself during the evaluation as I would expect
3 someone of his age to do so. So those are all of the things
4 that we would look at and consider in trying to determine if
5 his maturity level was what we would expect.

6 Q So he is on par for a 15 year old. But being a 15 year
7 old, would he -- do you believe that the fact that he was a
8 15 year old and the other individuals in the case were
9 adults would be affected by his maturity level? In other
10 words, can a 15 year old be persuaded to do things or act
11 differently by peers or actually people that are older?

12 A Well, in general terms that's always -- one would
13 assume that a youth would be likely to defer to an adult.
14 If we're speaking to Isaac Duran specifically, it seemed
15 that he did have a pattern of -- or incidents where he
16 followed others. He was rather ambivalent about whether he
17 was a leader or a follower in portions of the evaluation
18 where he was asked about those things. I think it would be
19 safe for me to offer the opinion that in general a younger
20 person is likely to defer to an older person. It appears
21 that that's what happened in this instance.

22 Q So you're familiar with the facts of the case obviously
23 to some degree. Would the fact that he had issues --
24 basically the allegations are as we see them is that he was
25 in a car with the older people ostensibly to smoke marijuana

1 or buy marijuana, it's kind of ambiguous there. In the car
2 they -- this plan was hatched, or rather Mr. Duran was
3 informed of this plan just before it happened. Would his
4 Verbal Comprehension Index and his Processing Speed Index
5 affect his ability to reason and come up with, you know, to
6 think, or would he -- do you think he would be more likely
7 just to act in the moment?

8 A Well, I think there's no one answer to that. I think
9 anytime you're dealing with adolescents, you know, there's a
10 basic understanding that the parts of their brain that help
11 them form the best decisions is not yet fully formed. And
12 so any youth is typically going to not make fully informed,
13 fully considered decisions in the manner that an adult
14 would. Furthermore, there's some research to support that
15 when youth are in the presence of peers they are less likely
16 to make the best choices, and, in fact, they may even in
17 full recognition of the consequences of their decisions
18 choose to defer that in preference to, for example, seeking
19 the approval of their peers. So there's quite a number of
20 factors that go into the decision making for anyone. For
21 youth it becomes -- youth decision making processes are
22 different than an adult's decision making the processes.
23 The brain is not yet fully formed and have the life
24 experience that an adult does that informs some decisions.
25 Presence of peers is more influential for an adolescent than

1 it is for an adult. So there are a number of significant
2 differences.

3 Q You went into your report to talk about the likelihood
4 of reoffending as well as the services that would be
5 available or possibly do rehabilitate him. Some --

6 MR. FARLEY: Please the Court a minute.

7 THE COURT: Sure.

8 (Break in proceedings.)

9 Q Let's actually skip down to section C, protection of
10 the public. In your report you quote from a study that most
11 youth, even those who commit violent offenses, do not
12 continue to engage in such behavior in adulthood. Could you
13 talk about that? You know, talk about that principle that
14 is involved in, and kind of explain a little bit more of
15 that?

16 A Well, it's generally how that delinquency is in general
17 ameliorated through maturity. As we mature we become better
18 able to process information. We have a larger world view
19 that helps us put our decision making into perspective. We
20 are less sensation seeking as adults, less impulsive as
21 adults. Our executive functions have taken over, more
22 control over our thought processes and actions and ability
23 to inhibit. And so as one physically matures, all of those
24 over mental capacities also mature. And again, life
25 experiences gain informed decisions and help us make better

1 ones. So there are many factors that contribute to how we
2 become better decision makers.

3 Q In your report you talked about some services that
4 could be provided to him. And you don't have to speak
5 specifically about DJJ available, you know, programs, but
6 what kind of services have you seen used in these situations
7 and the effectiveness of them?

8 A Well, to my knowledge, I'm not an expert in this part,
9 but there are programs intended to assist juveniles in
10 obtaining their GED, even giving them some exposure to what
11 college would be like. There are occupational programs that
12 are offered. There are, I think, reading assistance
13 programs perhaps with the juveniles that struggle with that.
14 So there are a number of programs, I believe, they offer. I
15 guess you would call it spiritual assistance. All programs
16 designed to assist them to be able to make improvements for
17 themselves. And also -- and a thought to the long range
18 that when their time with DJJ is done they are better
19 prepared to step back into the community and transition and
20 have that be a successful transition.

21 Q In your experience, would the fact that it's widely
22 reported that juveniles are less likely to reoffend than
23 adults, would the addition of certain types of services also
24 help mitigate the chance of reoffending?

25 A I certainly think that anytime anyone is able to

1 acquire new skills that directly feeds into one's self
2 esteem, and self esteem is a protective factor against the
3 influence of peers against -- it empowers one to be able to
4 have some autonomy and step away from that influence. I
5 think anytime that you are in a structured environment and
6 made accountable for your actions that also lends itself to
7 preparing you to be a more responsible adult.

8 Q The last thing kind of on this subject is you in
9 section B on page 17 talk about the likelihood of reasonable
10 rehabilitation, and you say that there are some positive
11 factors, one of those being his family environment. Can you
12 discuss anymore about -- well, can you discuss about how
13 family relationships affect one's ability to be
14 rehabilitated?

15 A Well, that's a very important area, and his family
~~16 presented as warm and caring about him. They, when I~~
17 interviewed them, were worried and engaged and presented as
18 willing to do what they needed to do to support Isaac Duran.
19 Anytime one has warm family relationships, that also serves
20 as a very strong protective factor against negative
21 influences. In addition, if people are able to sustain and
22 engage in genuine relationships of depth and warmth, it also
23 serves as a deterrent against engaging in negative
24 behaviors. So it's a very important area that we examine.
25 Not all of the juveniles that we evaluate have that. And

1 having an engaged family that hopefully has modeled positive
2 behaviors, better decision making, perhaps ethics and
3 morals, having a family that has tried to implement
4 structure in the home, all of those things are positives
5 that you wish to see to promote good healthy development in
6 a youth.

7 Q And in the final sentence of that section of
8 rehabilitation you talk about there's an absence of
9 recognized risk factors that included no history of self
10 harming behaviors, no history of childhood abuse, and no
11 peer rejection. So you did not observe those factors. And
12 do you find the absence of those factors aid rehabilitation.

13 A Well, anytime that a person doesn't have to have these
14 sorts of issues to deal with them, they can focus on the
15 things at hand that are likely to be -- result in positive
16 improvements for him. In his case his IQ results fell into
17 the average/low average range, so there was no significant
18 deficits there that would make it difficult for him to,
19 let's say, participate in mental health services, or to
20 participate in academic supports or occupational programs
21 that might be offered to him. There was an absence of
22 serious mental health issues that also would have made it
23 difficult for him to fully participate in -- may have made
24 it more difficult for him to participate in those types of
25 programs. He didn't appear to have -- even though there was

1 a period of time in his life when he was placed in foster
2 care, that didn't appear to result in a significant level of
3 trauma for him. Again, that wasn't the focus of my
4 evaluation for him. But having -- not having to deal with
5 those sorts of negative life issues sort of clears the way
6 for him to be more fully engaged and to be able to engage in
7 those certain rehabilitative programs.

8 Q And all of these findings that you did were him when he
9 was 15 years old, correct? And you would expect today that
10 those things have shifted or changed in some way whatsoever
11 by maturity; is that correct?

12 A In a normal developmental pathway we would expect a
13 person to become better at interpersonal relationships,
14 better at understanding rules, and in addition to that the
15 consequences of not attending to those rules.

16 ~~MR. FARLEY:~~ Thank you. Judge, I don't have any
17 further questions.

18 THE COURT: All right. Cross examination?

19 MR. SORENSON: I don't have anything for Dr. Dunn.

20 THE COURT: Okay. Very well. Thank you.

21 MR. FARLEY: Thank you, Judge. Ms. Dunn, you are
22 excused.

23 SPEAKER: Thank you.

24 THE COURT: Yes, sir?

25 MR. FARLEY: Thank you. So, Judge, we just heard from

1 Dr. Dunn, and she evaluated Isaac when he was 15 years old.
2 This crime happened when he was 15 years old and he was the
3 only juvenile at the incident. And Dr. Dunn testified that
4 juveniles are subject to peer pressure to begin with, but
5 when you are around adults you're more likely to go along
6 with what an adult says. And, Judge, he very much was a
7 child. He had just completed middle school. And, you know,
8 all of this mitigation is sad because it's focused on a 15
9 year old, you know. And if I can, Judge, what I have here
10 is his eighth grade graduation -- or advancement letter, and
11 we would just ask that that be made an exhibit for the --

12 THE COURT: Thank you.

13 MR. FARLEY: So we very much are dealing with a 15 year
14 old. He still looks like a baby right now, but when I first
15 had him as a client he was very much a child. Dr. Dunn also
16 talked about family support and the importance of family
17 support. He is in -- he's here today with -- or some of his
18 family is here today in support of him. His mother, his
19 father, and his uncle, and another family friend. I do
20 believe that his family did want to address the Court if
21 they could.

22 THE COURT: Sure, absolutely.

23 SPEAKER: Good afternoon, Your Honor. My name is John,
24 last name is spelled A-l-u-y-a-n, it's pro Aluyan. I just
25 have a couple of words to address.

1 THE COURT: Thank you.

2 SPEAKER: I'm a Senior Master Sergeant for the United
3 States Air Force. I've honorably served for 21 years so
4 far. I am here giving my nephew, Isaac Duran. I want to
5 bring to your light the kind of person he is despite the
6 grave allegations that he has faced in recent time. I've
7 been in Isaac's life since he was born and will continue to
8 be in his life --

9 THE COURT: I tell you what, I want to hear you and I'm
10 having a little bit of difficulty, come on forward if you
11 don't mind, a little closer.

12 SPEAKER: Sure.

13 THE COURT: Thank you. We want to keep our social
14 distancing but I do want to hear you, so just grab a spot.
15 Perfect. Right there is perfect. Okay. Now, you may
16 proceed. Thank you.

17 SPEAKER: Yes, ma'am. I just want to bring to your
18 light the kind of person that Isaac is despite the grave
19 allegations that he's faced in recent times. I've been in
20 Isaac's life since he was born and will continue to be in
21 his life as long as I breath. He is a true gentleman. He
22 is always true to his words. He is full of love, laughter.
23 He'll do anything for you. He would give you the shirt off
24 his back. His enthusiasm has led to many great works in
25 society. For example, when he started playing football he

1 was immediately attracted to the coaches and became the
2 captain of the team for his ability to teach and ability to
3 engage with the players and teach them the game of football.

4 THE COURT: And how old was he when he did that?

5 SPEAKER: He was in middle school. He was in middle
6 school.

7 THE COURT: Are you talking about B team?

8 SPEAKER: Yes, ma'am.

9 THE COURT: And what school was he in?

10 SPEAKER: He was at River Oaks, I believe.

11 THE COURT: Okay. And the football program was through
12 the school?

13 SPEAKER: Yes, ma'am.

14 THE COURT: And what was his position?

15 SPEAKER: He played numerous positions.

16 THE COURT: Okay. Do you remember any of them?

17 SPEAKER: The coaches would put him pretty much
18 anywhere, that's how good he was.

19 THE COURT: Was he a starter?

20 SPEAKER: Yes, ma'am.

21 THE COURT: Okay. And was he on the offensive line or
22 defensive line, or was he -- what -- it's important.

23 SPEAKER: Yes, ma'am. Yes, ma'am. He played defense.

24 He was on defense.

25 THE COURT: Okay. He played defense?

1 SPEAKER: Yes, ma'am.

2 THE COURT: Okay. And do you remember, was he on the
3 line or was he a defensive back or --

4 SPEAKER: Linebacker, yes, ma'am.

5 THE COURT: Okay. Did you happen to notice the
6 equipment that they were utilizing?

7 SPEAKER: Yes, ma'am.

8 THE COURT: Okay. What do you remember?

9 SPEAKER: The equipment? It was football pads,
10 helmets.

11 THE COURT: Did you happen to investigate or see for
12 whatever reason the helmets?

13 SPEAKER: The helmets?

14 THE COURT: Uh-huh.

15 SPEAKER: I have no reason to investigate the helmets.

16 THE COURT: Okay. Did you ever happen to go by and pop
17 him on the head and see how his helmet fit?

18 SPEAKER: No. After the games we would leave the
19 stands and congratulate him on his performance.

20 THE COURT: Okay. And how many -- how long did he play
21 ball? How many years? I'm so sorry. How many years?

22 SPEAKER: How many years? I believe it was like five.

23 THE COURT: Okay. Thank you.

24 SPEAKER: He played peewee league all of the way up to
25 middle school.

1 THE COURT: Thank you.

2 SPEAKER: Yes, ma'am.

3 THE COURT: Please continue.

4 SPEAKER: He's a true gentleman, true to his words.

5 I'm very well aware of the charges that he's facing and the
6 consequences of those, but looking at the current situation
7 and the -- I would like to ask for leniency. Isaac is a
8 well-mannered gentleman and he's no threat to himself or
9 others. I'm sure he will learn from this experience and not
10 repeat it. In closing, Your Honor, I'm surprised to learn
11 of the behavior Isaac was charged with. It's completely out
12 of character for him. I can't help but wonder if there were
13 any grave circumstances. I hope you will work in this
14 matter, look into the matter and consider all of the
15 references and everything -- the character of Isaac. Isaac
16 is a great kid who will strive to make amends, and I'm
17 certain that he will -- you will get to see and we'll get to
18 see the works of him bringing good results to our society.
19 That's all I have, Your Honor. Thank you for your time,
20 have a great day.

21 THE COURT: Thank you.

22 MR. FARLEY: I believe his mother, Brenda Duran, would
23 like to speak.

24 THE COURT: All I need you to do, please, ma'am, is
25 state your name for the record.

1 SPEAKER: My name is Brenda Duran, and I'm Isaac's
2 mother.

3 THE COURT: Yes.

4 SPEAKER: If it's okay, can I address the victim's
5 family?

6 THE COURT: Can you do what?

7 SPEAKER: Can I address the victim's family.

8 THE COURT: No.

9 SPEAKER: No? Okay. I just would like to say all of
10 his life Isaac has been a great, caring big brother. He's
11 done well in school, well in sports. He was like my
12 brother-in-law says, he's been in football since he was five
13 and has always been the star of the team. He's always been
14 one of the best players on and off the field. At home he
15 does chores. I've never had any issues with him at home.

16 ~~While he was on house arrest he did acquire new skills. I~~
17 ~~heard Dr. Dunn talking about at the beginning of covid I~~

18 taught Isaac how to sew and he made many masks, face masks
19 to donate to the hospitals and nursing home. And also Isaac
20 learned how to cut hair, and he's been the house barber the
21 whole time he was on house arrest. Whenever this happened
22 it's been a huge shock to our family because it is very out
23 of character for Isaac.

24 THE COURT: Let me ask a couple of questions, Ms.
25 Duran. Was he in foster care?

1 SPEAKER: Yes, ma'am.

2 THE COURT: Tell me about that.

3 SPEAKER: Whenever he was five years old my husband and
4 myself were on drugs and he was taken from us for six months
5 and lived with my brother-in-law that just spoke. It was
6 just under six months. And my husband and -- my husband and
7 myself went through therapy, and we did everything that we
8 needed to get our family back together and have had no
9 issues since.

10 THE COURT: Okay. And what drug were you on?

11 SPEAKER: I'm sorry?

12 THE COURT: What were you on?

13 SPEAKER: Meth.

14 THE COURT: And at the time you were pregnant with him,
15 were you using drugs?

16 SPEAKER: No, ma'am.

17 THE COURT: Marijuana?

18 SPEAKER: No, ma'am.

19 THE COURT: Anything?

20 SPEAKER: Nothing.

21 THE COURT: Drinking?

22 SPEAKER: No, ma'am.

23 THE COURT: Were you using any substances at all when
24 you were pregnant with him?

25 SPEAKER: No, ma'am.

1 THE COURT: All right. Okay. Now, when I told you --
2 let me tell you, sometimes for victim's family when you want
3 to -- when folks want to address them it's much better if
4 you look at me. Even if you want to say I'm very sorry or
5 whatever to them it can be very uncomfortable for a victim's
6 family for you to actually look at them. So if you want
7 to -- you can speak to them but I want you to look at me.
8 It's just tough for victim's family. Do you know what I'm
9 saying? Do you understand?

10 SPEAKER: Yes, ma'am.

11 THE COURT: Okay.

12 SPEAKER: I just wanted to say to the victim's family
13 that as bad as this has been for Isaac's family I know that
14 it's nothing compared to what their family is going through
15 and will continue to go through. I just want them to know
16 ~~that our family does pray for them and their comfort and~~
17 ~~their strength, and just that we are all very sorry for what~~
18 ~~they have gone through and what they will continue to go~~
19 ~~through.~~

20 THE COURT: All right. Now, let me ask you some other
21 questions if I can. Has anybody ever asked you about his
22 development, like how did he develop? Did he walk? Did he
23 talk? When did he walk? When did he talk? When did he
24 rollover? Things like that. Anybody ever ask you those
25 questions?

1 SPEAKER: No one with this case has ever asked about
2 that, no, ma'am.

3 THE COURT: Okay. Other than maybe -- did he have
4 well-baby checks when he was born?

5 SPEAKER: Yes, ma'am.

6 THE COURT: Does he have any brothers and sisters?

7 SPEAKER: Yes, ma'am.

8 THE COURT: Are they older or younger?

9 SPEAKER: Isaac is the second of five children.

10 THE COURT: Okay.

11 SPEAKER: And he learned to walk early, potty training
12 was early, height was early.

13 THE COURT: Do what know?

14 SPEAKER: Potty training was early. Walking. He
15 learned to walk early.

16 THE COURT: Yeah.

17 SPEAKER: Riding a bicycle. He was driving bicycles
18 with no training wheels at three. He was development on
19 time.

20 THE COURT: Did he ever fall?

21 SPEAKER: Only during football.

22 THE COURT: When was that? Meaning -- tell me what --
23 are you telling me just like normal football?

24 SPEAKER: Yes, just normal.

25 THE COURT: Did he ever have a concussion that you were

1 aware of?

2 SPEAKER: Yes, ma'am. In the seventh grade he had a
3 concussion.

4 THE COURT: Were you there for the hit?

5 SPEAKER: Yes, ma'am.

6 THE COURT: Talk to me about it.

7 SPEAKER: He was on the field, and I guess they hit
8 helmet to helmet and then Isaac fell down, and they had to
9 bring the paramedics out there, and then he got up, was
10 fine. We took him to the doctor after that and they said he
11 had had a concussion and to watch him. He had a few visits
12 after that just to make sure everything was okay.

13 THE COURT: And how many visits did he have after that?

14 SPEAKER: I think three total.

15 THE COURT: And that was with the doctor?

16 SPEAKER: Yes, ma'am. It was at Summerville
17 Pediatrics.

18 THE COURT: And how soon after he had the concussion
19 did he continue with his football?

20 SPEAKER: So then football was on Wednesday night -- so
21 that happened on a Wednesday night and he was back at
22 football on the following Monday at practice, and then at
23 the game the next Wednesday.

24 THE COURT: Was he x-rayed after the concussion?

25 SPEAKER: I don't believe so, no, ma'am.

1 THE COURT: Was there any kind of -- was there a CT
2 scan done or anything like that?

3 SPEAKER: No, ma'am.

4 THE COURT: Okay. When was the first time that he
5 interacted with the Department of Juvenile Justice?

6 SPEAKER: I'm sorry, what was that?

7 MR. FARLEY: The event in Texas.

8 SPEAKER: When he was ten years old. (Audio was
9 inaudible.)

10 MR. FARLEY: Your Honor, at that time he was charged
11 with, I believe, spray painting a barn in Texas with his
12 older cousins, older peers.

13 THE COURT: Okay. I think I saw that, and that got
14 transferred to South Carolina and then terminated here. How
15 old was he on his next interaction with DJJ?

16 SPEAKER: Right before this case.

17 THE COURT: Okay. Now -- and tell me what position he
18 played when he played football. He was a starter I gather.

19 SPEAKER: I'm not very football -- but I know that he
20 did play on offense and defense. I don't really know what
21 positions. My husband is going to be next --

22 THE COURT: Okay. And he would know, you think. Okay.
23 And to your knowledge, did he ever have any other physical
24 trauma?

25 SPEAKER: He had a broken arm when he was six about.

1 THE COURT: When he was six years old?

2 SPEAKER: Uh-huh.

3 THE COURT: How did he break his arm?

4 SPEAKER: Fell off a bunk bed.

5 THE COURT: Okay. And broke his fall with his hand?

6 SPEAKER: Yes, ma'am.

7 THE COURT: Did he hit his head?

8 SPEAKER: I'm not really sure.

9 THE COURT: Okay. I keep interrupting you, I'm sorry.

10 SPEAKER: That's okay.

11 MR. FARLEY: And then his father, Robert Duran, would
12 like to address the Court.

13 THE COURT: Sure. Yes, sir. All I need for you to do
14 is state your name for our record.

15 SPEAKER: Yes. My name is Robert Duran, I'm the father

16 of Isaac Duran. Your Honor, my son is a very big and kind
17 hearted person. I love him dearly. I've been his football

18 coach since he was five years old, started at flag football

19 all of the way up to right before middle school. He's a

20 great athlete, he loves the game. He's always played

21 outside linebacker, he's played running back sometimes, he's

22 played a receiver, slot receiver, sometimes strong safety.

23 He's a -- I'm shocked that he put himself in this situation.

24 I just want to say I'm sorry to the victim's family for what

25 has happened. My son ever since he was growing up has

1 always been a kind person. We numerous times had to stop
2 and give a homeless person some change whatever he had,
3 food. He's very big hearted. And if he's given a second
4 chance, Your Honor, he would give back to society and learn
5 from this mistake dearly. And --

6 THE COURT: So -- and I know this is uncomfortable
7 because I know she's present, but please understand these
8 are the most serious matters so I have to ask questions and
9 so I'm going to do it, so I apologize, I don't mean to be
10 offensive or unkind. When Ms. Duran was pregnant with him,
11 with Isaac, did she use any substances?

12 SPEAKER: No, Your Honor, she did not.

13 THE COURT: Okay. Didn't use any methamphetamine?

14 SPEAKER: No, ma'am.

15 THE COURT: No alcohol?

16 SPEAKER: No, ma'am.

17 THE COURT: No marijuana?

18 SPEAKER: No, ma'am.

19 THE COURT: No substances?

20 SPEAKER: No, ma'am.

21 THE COURT: Okay. And were you present when he
22 received the concussion playing football?

23 SPEAKER: Yes, Your Honor. I mean, it's possible he
24 could have other concussions, he's always been a hitter.

25 He's always been in on a lot of contact. I know he likes to

1 hit. But I was present at that time.

2 THE COURT: Okay.

3 SPEAKER: He has other -- the opponents, both of them
4 laid there for a long time until they were checked out by
5 the paramedic like my wife says.

6 THE COURT: Okay. And tell me about his grades in
7 school.

8 SPEAKER: His grades were good. I mean, they weren't
9 straight A's or anything, but C's, B's and A's. Enough to
10 pass him to the next grade.

11 THE COURT: Okay. And I think I interrupted you,
12 please finish. And counsel, if y'all want to ask questions
13 please --

14 SPEAKER: He also did wrestling. When we first moved
15 here he got into wrestling, his brother was a wrestler as
16 well. I remember he got hurt, you know, a couple of times,
17 a neck injury. But other than that that's it.

18 THE COURT: Okay. Any questions that either of you
19 have?

20 MR. FARLEY: Well, Your Honor, I just wanted to point
21 out that both of the -- there was the foster care situation,
22 both of the parents were using drugs. But this is probably
23 one of the best examples of someone having a problem,
24 recognizing the problem, solving the problem. His mother
25 now works at Boeing. He basically had to quit his job to be

1 on house arrest to be the jailer for Isaac. But these are
2 people that have put their life back together after a
3 serious addiction. And I meant to ask Dr. Dunn this, and I
4 think that she's got it in her report, but there's a history
5 of recovery and rehabilitation in the family, and, you know,
6 that seeing those positive role models coming from something
7 terrible to at least a positive outcome I think definitely
8 would affect his ability to rehabilitate. If he has
9 anything he would want to add about the prior addiction.

10 SPEAKER: If I could, I could give a little bit of
11 detail on why the drug use was happened in the first place.
12 I had a brother who was 19 years old, he passed away at 19
13 from a gunshot wound on accident. After that, you know,
14 going through losing my brother I, you know -- it was
15 introduced and then went downhill from there.

16 THE COURT: I've made you feel defensive and I
17 certainly didn't ask that question for that purpose. Really
18 the reason I asked that question were for developmental
19 issues with regard to Isaac.

20 SPEAKER: Oh, yes, ma'am.

21 THE COURT: Sure. Any others injuries? You've talked
22 about some wrestling injuries. Football, we've talked about
23 that. He broke his arm. Any other times when he would have
24 had a head injury that you were aware of?

25 SPEAKER: No, ma'am, not that I know of.

1 THE COURT: Okay. Very well. Thank you.

2 SPEAKER: Thank you, Your Honor.

3 MR. FARLEY: Judge, I also have a number of letters
4 from other family members that were unable to be here
5 obviously for social distancing reasons.

6 THE COURT: Sure. Have you shown those to Mr.
7 Sorenson?

8 MR. FARLEY: Yes, ma'am, I have. But, Your Honor, you
9 know, those letters are expressing the same, and the running
10 theme with it is that Isaac is not a bad person. From day
11 one with every interaction that I've seen him with older
12 people it's yes, sir and no, sir; yes, ma'am, no, ma'am, you
13 know. I deal with lots of juvenile clients, and you don't
14 see that. Judge, I like doing juvenile defense because I
15 really do feel like we have an opportunity to save someone
16 and point them on the right path. As people get older, you
17 know, I've found we see everyday that rehabilitation becomes
18 harder and harder. Obviously we are here to do justice. We
19 have a child, a freshman in college, you know, doing the
20 right thing that is dead now, and we recognize that. But we
21 also have a 15 year old here that was being influenced by
22 adults, didn't know what he was getting into when he got
23 into that car. I asked Isaac, I said, "When you got into
24 that car and they started talking about this plan, why
25 didn't you leave?" And he looked me straight in the eye,

1 Judge, and he said, "I'm a kid. I didn't know where I was,
2 I didn't know where I was going to go. This guy is handing
3 out guns, you know, he's telling Isaac and everyone else
4 that he's some kind of war hero, when, in fact, he was
5 booted out of the military, dishonorably discharged for
6 criminal activities just after boot camp. So we're dealing
7 with a child here in this situation that he didn't know what
8 to do. Did he do those actions afterwards? Yes, he did.'
9 Judge, Dr. Dunn talked about his functional reasoning at the
10 time and his ability to take a piece of data, process it and
11 make a rational decision, and there's two factors that they
12 test for that found both low average for the same thing. So
13 you put him with adults, you put him with low ability to
14 process information, you put him in a situation where he
15 doesn't really have another place to go and this is where we
16 are. So we are here to do justice, the victims deserves
17 justice. And we would ask the Court to take into account

18 Isaac's age, his role in it, the role of adults that were
19 also involved in this, and whatever factors the Court may
20 consider and craft a sentence that gives him an
21 opportunity -- he's going to get out. All right? One day
22 he's going to get out unless he dies in prison, which we've
23 talked about very recently what happens when kids go to
24 prison, and on these charges obviously he would be
25 classified in a serious detention facility. But, God

1 willing, he will get out, and I don't want him to get out
2 and be, you know, after attending the University of the
3 Department of Corrections and then reoffend. At this age
4 Dr. Dunn said there are services that can be implemented,
5 there is a way to stave that off and there is a way to, you
6 know, fix the problem. Juveniles, even those convicted of
7 violent crimes, it's in the report, are not as likely to
8 reoffend. This case is really hard for me. It's one of the
9 hardest cases that I've had because everyone is a victim in
10 this case. We would just ask the Court to craft a sentence
11 realizing that at the time of this event he was 15 years
12 old. And I would also just point out to the Court that he
13 was actually detained in the department -- in the custody of
14 DJJ for 186 days. After he was released he was put on house
15 arrest. And this isn't house arrest he can go to, you know,
16 church, work, school or whatever, this is legitimate house
17 arrest lockdown, daddy or mom or someone at the house making
18 sure he did not leave. He was on GPS monitor, there were
19 never any issues with that whatsoever. I think one of the
20 only times he did come out of his house was to come to, you
21 know, come to my office and meet with me.

22 THE COURT: Yes.

23 MR. FARLEY: So it seriously was a lockdown and he
24 spent 687 days there. So he's been in some form of
25 detention for 873 days. Judge, I would ask you to --

1 THE COURT: I'm sorry. Can you tell me how much of
2 that was home detention?

3 MR. FARLEY: 186 was in DJJ's custody, 687 days were
4 in --

5 THE COURT: House arrest.

6 MR. FARLEY: House arrest.

7 THE COURT: Got it.

8 MR. FARLEY: So, Judge, we're asking for justice for
9 the victim, obviously, but we're asking for some hope for
10 Isaac and his family. You know, the prior juvenile incident
11 of spray painting a barn when he's ten years old with a
12 bunch of older children, you know, is -- I hate to say to be
13 expected, but it does not shock the conscience that a ten
14 year old would play with spray paint. But, Judge, we would
15 ask for a just sentence. And we would ask the Court if it
16 needs to take the time and take this under advisement
17 because we have just thrown a lot of data at you. So,
18 Judge, thank you.

19 THE COURT: Yeah, absolutely. Thank you so much,
20 Mr. Farley. I'm not cutting you off, I just --

21 MR. FARLEY: No, ma'am.

22 THE COURT: Yeah. And does your client wish to speak?

23 MR. FARLEY: He does, Your Honor.

24 THE COURT: Okay.

25 THE DEFENDANT: To the family and friends of Stacey

1 Bradley I'm writing you this letter today because I do
2 realize my involvement in Stacey's death. I know there's no
3 amount of words I could say that would help to begin to heal
4 your pain, however, I regret my involvement and I'm sorry.
5 I'm not sorry because I got myself caught in the situation
6 with the wrong group of people, I'm not sorry because I'm --
7 I'm sorry because no parent should ever have to bury their
8 child. I'm sorry because I failed to be the protector I was
9 raised to be. I truly wish I could find the right set of
10 words to show I'm sincerely sorry, but there's not enough
11 meaning in that. So I'm here today to accept my
12 consequences to my actions.

13 THE COURT: I don't want to take it from him if he
14 wants to keep it, but I would like to have a copy of it and
15 make it a Court's Exhibit.

16 MR. FARLEY: Yes, ma'am.

17 THE COURT: Yes, sir. Mr. Sorenson? Anyone else I
18 should ask?

19 MR. FARLEY: No, ma'am.

20 THE COURT: Okay.

21 MR. SORENSON: Please the Court, Your Honor?

22 THE COURT: Yes, sir.

23 MR. SORENSON: If you would hear from Mr. and Mrs.
24 Bradley.

25 THE COURT: Of course. All I need you to do is just

1 identify yourself for our record so we'll know who is
2 speaking.

3 MR. FARLEY: Danita (phonetically) Bradley, I'm Stacey
4 Bradley's mother.

5 THE COURT: I'm listening, Ms. Bradley.

6 SPEAKER: Okay. I have heard everything today. And I
7 understand that he was a minor when he committed the crime,
8 but I also understand that the juvenile system did bump him
9 up to be tried as an adult. The age difference between the
10 young man and the other people involved, because there was a
11 female involved, too, is not that big of an age difference
12 that we are constantly using in this word. And yet, we all
13 were young and we all followed the older kids, but never
14 once after he did it, you didn't cry or show some sense of
15 remorse that went to this loving family that you have and
16 cried on their shoulders so somebody could let somebody
17 know. What he did was, he went to school the next day where

18 he was picked up from, River Oaks, the same school Stacey
19 went to. You played on the B team, so that means that you
20 would have played for Fort Dorchester. Stacey graduated
21 from Fort Dorchester, he played football. He played on the
22 B team (inaudible). So not only did you murder my son, you
23 also murdered a fellow teammate. And you went to school the
24 next day, you said bye to your mom and you said bye to your
25 dad. But today you and your lawyer want me to believe that

1 you were just an innocent kid and that somebody just handed
2 you a gun. So for the sake of my son, Stacey Dale Bradley,
3 II, in honor of him I need justice to be served.

4 SPEAKER: Stacey Dale Bradley. I'm Stacey Dale
5 Bradley, II, the victim's, father. And like my wife said, I
6 sat and I listened to everything today. I don't feel
7 remorse for anybody that killed somebody. When you murder
8 somebody that's the lowest of the lowest. I understand
9 these numbers that were just given out, and it's kind of --
10 almost makes me want to laugh to keep from crying, the
11 numbers of days that he's been incarcerated at the house or
12 in DJJ. My son is dead. When I want to visit him I can't.
13 When he goes to prison his parents can go to the prison.
14 They can see him. They can communicate with him. I don't
15 have that anymore. And that was my only son, the only one
16 that ever carried my name, the only child I would ever have,
17 and I can't visit him. And his lawyer said a very good

18 thing, he will get out one day. My son can't get out. He's
19 gone forever. He's gone. I'll never see him again. He'll
20 never get out. But he will get out, and you'll get another
21 chance at life. So do I feel remorse? No. And I expect
22 justice to be done today, too, Your Honor. Thank you.

23 THE COURT: Yes, sir. Mr. Sorenson?

24 MR. SORENSON: May it please the Court, Your Honor?

25 Just kind of in closing from the State, everything that

1 you've heard this morning, or this afternoon, I'm sorry,
2 from Dr. Dunn and Mr. Farley, from Mr. Duran's family, from
3 Mr. Duran, all of that stuff went in to ultimately the
4 decision that I made and the State of South Carolina made
5 after conferring with Mr. and Mrs. Bradley to allow him to
6 plead to voluntary manslaughter. That, Your Honor, I feel
7 like is the benefit that he has gotten because of the fact
8 that he was 15 years old, and clearly an argument could be
9 made that he was a follower in this. But we took into
10 consideration his age, his involvement versus some of the
11 co-defendants' involvement, his role in all of this, the
12 fact that I was confident, and ultimately, as Your Honor
13 recalls, after a little bit of time of going over during the
14 facts of him admitting to shooting Mr. Bradley. So I think
15 he has gotten at the end of the day potentially a gigantic
16 benefit because of that. Obviously, if we -- you know, if
17 we had not pled him and he went to trial, I'm fairly
18 confident that a jury would have convicted him of murder,
19 and then he would be looking at a minimum of 30 years in
20 prison day for day up to the rest of his life. Obviously
21 now a manslaughter, and the Bradleys were aware of this when
22 they agreed to this plea, the most people get is 30 and he's
23 going to get out one day. So we, Your Honor, would ask you
24 looking at all of these facts, to take into consideration
25 that he has already been given a significant gift, and we

1 respectfully ask Your Honor to sentence him on the very high
2 end of the range.

3 THE COURT: Thank you so much, Mr. Sorenson.

4 (Break in proceedings.)

5 THE COURT: All right. I have heard from everyone, and
6 I thank everyone for your words, and I think I have
7 considered all that has been provided and I thank you for
8 it. At this time it is incumbent upon me to consider all of
9 these things, and in considering all of these things pass
10 sentence. And with that in mind, Mr. Duran, I commit you to
11 the State Department of Corrections for a period of 25
12 years, giving you 186 days credit that you spent with the
13 Department of Juvenile Justice, and 687 days house arrest.
14 The credit will be allowed commensurate with the statute.
15 Good luck to you, sir.

16 (End of the hearing.)

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER

2019-GS-18-0496

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) March 9, 2021

Isaac Duran)

) St. George, South Carolina

) (Via WebEx)

B E F O R E:

The Honorable Diane S. Goodstein, Judge

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

Don Sorenson, Esquire
Attorney for the StateMitchell Farley, Esquire
Attorney for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
First Judicial Circuit

1 THE COURT: Good afternoon, everyone.

2 MR. SORENSON: Hi, Judge.

3 THE COURT: Hi. All right. My
4 understanding is that we have a motion to reconsider,
5 and then we have a plea, and then maybe another motion
6 to reconsider, correct?

7 MR. SORENSON: We have -- the only thing
8 I'm aware of is a motion to reconsider. The plea
9 is not quite right yet, I guess, so to speak.

10 THE COURT: No problem. No problem at all.
11 All right. And, Mr. Farley, it's my understanding this
12 is your motion to reconsider; is that correct?

13 MR. FARLEY: That's correct, Your Honor.

14 THE COURT: I'm listening to you, sir.

15 MR. FARLEY: Thank you, Judge. This motion
16 isn't based on the traditional things of a mistake

17 or an error. It's based on the juvenile, who was 15
18 at the time, asking for mercy from the Court.

19 If the Court recalls, he was sentenced
20 to 25 years for voluntary manslaughter. He's been
21 in the department of corrections since approximately
22 November, and that has been an eye-opening experience
23 to him.

24 Judge, we would just ask the Court to show
25 a little bit more mercy, and we appreciate what the

1 Court has done. But we just ask the Court to show
2 a little bit more mercy towards this boy who was 15,
3 in the eighth grade, had just completed the eighth
4 grade, like, the day before this incident. So, Judge,
5 that's what we're asking for, a reduced sentence.

6 THE COURT: Thank you so much, Mr. Farley.
7 So nothing has changed, other than the -- other than
8 the fact that the department of corrections has been
9 very difficult, and he would like his duration there,
10 understandably, to be less, correct?

11 MR. FARLEY: That's correct, Judge.

12 THE COURT: Very well. All right.

13 Yes, Mr. Sorenson.

14 MR. SORENSON: Thank you. May it please
15 the Court, Your Honor.

16 THE COURT: Let me just tell you what
17 my memory is. I think it might be helpful to both
18 of you. My understanding is that originally he was
19 charged with murder. And as part of the plea
20 negotiations, the charge was reduced as part of the plea
21 to voluntary manslaughter, and that was the cornerstone,
22 as I recall, of the plea.

23 And the facts, as I recall them, are quite
24 aggravated. And, as I recall the plea, this young man,
25 his position is that he shot at the victim. He did

1 not shoot the victim, but I'm not quite certain that
2 that's what the forensics would most probably show.

3 MR. SORENSON: Yes, ma'am, that would be
4 our position. So just by way of kind of going through
5 a little more detail on what, kind of how this
6 proceeding went about. So if Your Honor recalls,
7 we were prepared, and actually had a jury come
8 in the week of October, it was either 18th or 19th,
9 where we were going to try this Defendant, along with
10 a co-defendant, Matthew Zalenski, who is a few years
11 older. I believe Mr. Zalenski was 17 -- was 18,
12 I believe, at the time of the incident. Mr. Zalenski
13 plead guilty to murder, and Your Honor sentenced him
14 to 40 years in prison, which would be a day-for-day
15 sentence on murder.

16 Based on this Defendant's age, and after
17 talking with the Bradleys, who are on our hearing today,
18 we at that point in time decided to extend an offer
19 to allow Mr. Duran to plead to voluntary manslaughter.
20 Your Honor accepted that plea on October 19th,
21 and at that point in time withheld sentencing to allow
22 Mr. Farley to get a psychologist to the hearing and
23 to provide whatever mitigation he felt necessary before
24 Your Honor sentenced his client.

25 That sentencing was held almost a month

1 later on October -- on November 18th of 2020.

2 Your Honor, at that point in time, you heard from --
3 a fairly lengthy presentation from Mr. Farley.

4 And, ultimately, at that point in time, Your Honor,
5 I mean, I think was as familiar with this case as
6 the Court could possibly be, and sentenced him, at that
7 point in time, to 25 years on voluntary manslaughter.

8 You did, however, give him credit for the
9 time he had been on house arrest for a very significant
10 portion of time, I mean, almost two years that Your
11 Honor gave him credit for. And the State's position
12 is that, I mean, there's nothing new that's come out
13 of this to warrant Your Honor changing that sentence.

14 You know, Mr. Farley, indicates that,
15 you know, his client has gotten to the department
16 of corrections and realized it's not all it's cracked
17 up to be. Well, you know, he filed this motion to
18 reconsider the following day, so he wasn't at the
19 department of corrections when he was already, you know,
20 asking for this to be reconsidered.

21 You know, the long and short of it is
22 he is looking at, and I've had an opportunity now
23 to print out his inmate detailed record from the
24 department of corrections, along with his co-defendant,
25 Mr. Zalenski, and he's going to be out of prison over

1 17 years prior to Mr. Zalenski. That's a benefit that
2 he has gotten because of the fact that he was only
3 15 years of age. If he was 16 or 17, he probably
4 would be spending the next 40 years in prison.

5 So we would respectfully ask Your Honor
6 to deny this request to reconsider your sentence.
7 And if you would, I'm sure the Bradleys probably
8 would like to just be briefly heard, if you would
9 hear from them.

10 THE COURT: Oh, I'm happy to hear from the
11 Bradleys. And -- I'm happy to hear from the Bradleys,
12 of course. Absolutely.

13 MS. BRADLEY: I think that Don said
14 everything that he said. I told him we agreed with
15 it. I don't understand -- I thought that it was already
16 a deal, so that's our standing.

17 THE COURT: Thank you so much. Thank you.
18 Thank you very much. All right. Yes, sir, Mr. Farley,
19 anything further?

20 MR. FARLEY: No, Your Honor.

21 THE COURT: Very well. You know,
22 of course, good advocacy is excellent, and, Mr. Farley,
23 you certainly have done a wonderful job, I think,
24 for Mr. Duran in terms of your advocacy.

25 The facts of this particular case

1 are particularly aggravated, and the justification
2 in my mind for the 25 years given this Defendant's
3 conduct, particularly when compared to the older
4 Mr. Zalenski's conduct, the only differentiation would
5 be that of age, that he was a juvenile, and that you
6 can, based upon all the research, you could say that
7 while certainly Mr. Zalenski, his maturity as a male
8 was not, perhaps, as great as it might be.

9 They say a young man really doesn't mature
10 until their mid 20s. The only real explanation for
11 the differentiation has got to be age, the young age
12 of 15 years old that this young man was.

13 You know, this is a -- was an
14 extraordinarily aggravated, terrible set of facts,
15 and Mr. Duran certainly was a principal player in the
16 death of this young man, Mr. Bradley. And you could
17 have said that he certainly got benefit of the bargain
18 in the reduction of the charge because I don't believe
19 that this was a circumstance that -- where voluntary
20 manslaughter was a charge that was in existence for
21 any other reason than a plea. So that was a great,
22 great benefit that you were able to obtain for your
23 client.

24 And adding to that, the credit for the house
25 arrest, that was based upon a very fine argument that

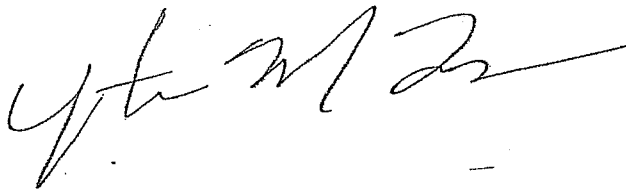
CERTIFICATE OF REPORTER

State of South Carolina)
County of Dorchester)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Dorchester County, South Carolina, on the 9th of March, 2021.

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

August 3, 2021



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

INDICTMENT

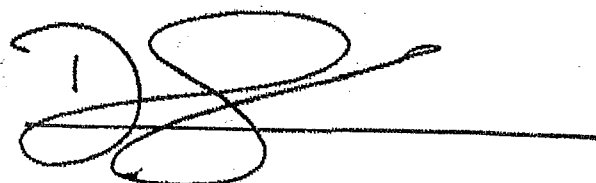
2019GS18-0496

As a Court of General Sessions, convened on March 7, 2019 the Grand Jurors of DORCHESTER County present upon their oath:

MURDER

That in Dorchester County on or about May 30, 2018, with malice aforethought, the defendant, Isaac Colden Duran did kill one Stacey Bradley by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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

A handwritten signature in black ink, appearing to be "DS", with a long horizontal line extending to the right.

Donald N. Sorenson, Solicitor

DOCKET NO. 2019GS18-0496

The State of South Carolina
County of DORCHESTER

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

March 11, 2019 TERM

I hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE
vs.

Isaac Colden Duran

214

Defendant

Witness:

C.C.C. PLS. AND G.S.

Indictment for

Murder

SC Code: 16-3-10

FILED-RECORDED

2019 MAR -7 PM 3:16

CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

WITNESSES

John Butcher

Dorchester County Sheriff

18-005853

ARREST WARRANT NUMBER

2019DOR11

Arrested: 0, 0

ACTION OF GRAND JURY

TRUE BILL

Warrant J. Bradshaw

Foreperson of Grand Jury

Date: March 7, 2019

VERDICT

Foreperson of Petit Jury

Date:

STATE VS. 215 INDICTMENT/CASE#: 2019GS18-0496
Isaac Colden Duran A/W#: 2019DOR11
AKA: Date of Offense: 5/30/2018 - 1/1/1753
Race: HISPANIC Sex: M Age: 18 S.C. Code § 16-3-10
DOB: SS#: CDR Code #: 0116
Address: City, State, Zip: North Charleston, SC 29420
DL#: SID#: SENTENCE SHEET
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Voluntary Manslaughter
in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
☐ 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.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, (defendant's initials)
ATTEST: Recommendation by the State.
Sorenson, Donald N. 9512 Defendant Farley, Mitchell Edward SCB74992
SC Bar# Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the
for a determinate term of 35 years or
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Payment Terms: 186 days DJ
Dept. Juvenile
Justice
687 days
house arrest
Credit as allowed
by statute

☐ Set by SCDPPPS
Recipient:
*Fine:
§14-1-206 (Assessments 107.5 %) \$
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§14-1-211(A)(2) (DUI Surcharge) \$100 \$
§56-5-2995 (DUI Assessment) \$12 \$
§56-1-286 (DUI Breath Test) \$25 \$
Proviso (Public Def: Probation) \$500 \$
§14-1-212 (Law Enforce. Funding) \$25 \$ 25
§14-1-213 (Drug Court Surcharge) \$150 \$
§50-21-114 (BUI Breath Test Fee) \$50 \$
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$
% to County (if paid in installments) \$ 3.75
TOTAL \$ 128.75

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ☐
May serve W/E beginning ☐
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$
paid to Public Defender Fund
Other:
☐ Appointed PD or appointed other counsel.
Proviso requires \$500 be paid to Clerk during
probation and shall be collected before any other
fees.
Presiding Judge: [Signature]
Judge Code: 2112
Sentence Date: 11-18-2020

Clerk of Court/ Deputy Clerk: Cheryl Graham
Court Reporter: DAR - Wanda Keller

03-16 216 021

Cheryl Graham
Clerk of CourtSTATE OF SOUTH CAROLINA)
Dorchester County

COUNTY OF DORCHESTER)

IN THE COURT OF GENERAL SESSIONS

The State)

vs.)

ISAAC COLDEN DURAN,
Defendant.)ORDER DENYING MOTION TO
RECONSIDER SENTENCE

Indictment #: 2019-GS-18-0496

CERTIFIED COPY

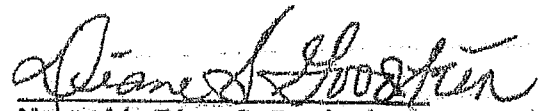
2021 MAR 10 AM 10:51

This matter comes before the Court on March 9, 2021 by way of a Motion to Reconsider Sentence. The Defendant was represented by Mitchell Farley, Esquire and the State was represented by First Asst. Solicitor Donald Sorenson.

The Defendant was originally charged in Family Court with one count of Murder. His case was waived up to General Sessions Court. The Defendant pled guilty on October 19, 2020 to the lesser charge of Voluntary Manslaughter. The Court granted the Defendant's Motion to delay sentencing and ultimately sentenced him on November 18, 2020 to twenty-five (25) years imprisonment giving him credit for the time he was detained at the Department of Juvenile Justice along with the time he was out of jail on strict house arrest. The Defendant timely filed this Motion to Reconsider on November 19, 2020.

After hearing presentations by both Mr. Farley and the State the Court respectfully denies the Defendant's motion to reconsider the twenty-five (25) year sentence imposed on November 18, 2020.

AND IT IS SO ORDERED.



Honorable Diane S. Goodstein
Presiding Judge
First Judicial Circuit



Summerville, South Carolina
This 7 day of March, 2021

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
THE STATE OF SOUTH CAROLINA

V.

ISAAC COLDEN DURAN
a minor under the age of seventeen

IN THE FAMILY COURT OF THE
FIRST JUDICIAL CIRCUIT
2018-JU-18-215

ORDER
Waiver Hearing
(Interim Bench Order)

2019 FEB 15 PM 2:23

FILED RECORDED
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Judge: Nancy C. McLin
Court Reporter: DCRP
Date: February 13, 2019
Solicitor: Vergil A. Deas
Attorney for Minor: Mitchell Farley

THIS MATTER was before the Court on Wednesday, February 13, 2019 for the court's decision whether Isaac Duran, age fifteen, charged on petition number 2018-JU-18-215 with Murder shall be transferred (waived) from Family Court to the Court of General Sessions.

It appears that a waiver hearing had been commenced in the Dorchester County Family Court on Monday, February 11, 2019 pursuant to a motion to waive filed by the State and order that a hearing be held with full investigation to determine whether the matter should be transferred to the Court of General Sessions for Dorchester County. It appears that both the State and the Defense sides completed testimonial evidence and on Tuesday, February 12, 2019 and the State rested. It appears that both the State and the Defense made closing statements before the court. It appears at the conclusion of all matters, the Honorable Nancy McLin took the matter under advisement and ordered all parties to reconvene on Wednesday, February 13, 2019 at 11:00 a.m. when the court will announce its decision.

As the matter reconvened on Wednesday, February 13, 2019, the following were present in the courtroom: Vergil A. Deas, Assistant Solicitor; Mitchell Farley, attorney for the minor; the minor defendant, Isaac Duran; the mother and father of the defendant; the victim's father and mother; Detective Sgt. John Butcher from the Dorchester County Sheriff's Office and representatives from the Department

of Juvenile Justice.

The Court, having considered all matters presented, finds that the State's motion to transfer the matter shall be granted. The Court finds that the matter shall be transferred from the Family Court to the General Sessions Court of Dorchester County on the charge of Murder. The Court finds that there was probable cause that Isaac Duran and co-defendants committed this offense. The Court finds that the minor shall report to the Court of General Sessions, Dorchester County Courthouse, 5200 E. Jim Bilton Blvd, St. George, SC 29477 on Tuesday, February 19, 2019 at 9:00 a.m. The Court finds that as to the matter of the minor's bond, the court will leave that to the discretion of the General Sessions Court. The Court finds that the minor shall continue under the previous order of release with house arrest and electronic monitor and twenty-four hour, seven-day a week adult supervision (as ordered by the Honorable William J. Wylie, Jr. on December). The Court finds that the minor's family shall be a party to the order and cooperate to see that the order is enforced. The Court finds that this is an interim bench order to state the court's findings and the bond conditions upon transfer to the General Sessions Court. The Court finds that a detailed order shall follow this order.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED

That the State's motion to transfer the matter shall be granted;

That the matter shall be transferred from the Family Court to the General Sessions Court of Dorchester County on the charge of Murder;

That there was probable cause that Isaac Duran and co-defendants committed this offense;

That the minor shall report to the Court of General Sessions, Dorchester County Courthouse, 5200 E. Jim Bilton Blvd, St. George, SC 29477 on Tuesday, February 19, 2019 at 9:00 a.m.;

That as to the matter of the minor's bond, the court will leave that to the discretion of the General Sessions Court;

That the minor shall continue under the previous order of release with house arrest and electronic

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monitor and twenty-four hour, seven-day a week adult supervision (as ordered by the Honorable William J. Wylie, Jr. on December);

That the minor's family shall be a party to the order and cooperate to see that the order is enforced;

That this is an interim bench order to state the court's findings and the bond conditions upon transfer to the General Sessions Court;

That a detailed order shall follow;

AND IT IS SO ORDERED.

Summerville, South Carolina

Feb. 15, 2019


JUDGE OF FAMILY COURT
FIRST JUDICIAL CIRCUIT

DETAILED ORDER TO FOLLOW

WJW 3

IN THE FAMILY COURT
FIRST JUDICIAL CIRCUIT
CASE NUMBER: 18-JU-18-0215

FINAL WAIVER ORDER
TRANSFERRING JURISDICTION
TO GENERAL SESSIONS COURT

ISAAC COLDEN DURAN,

Juvenile.

PRESIDING JUDGE: Hon. Nancy C. McLin
HEARING DATE: February 11-14, 2019
SOLICITOR: Virgil A. Deas, Esquire
JUVENILE'S ATTORNEY: Mitchell Farley, Esquire
COURT REPORTER: DCRP

THIS MATTER came before the Court on the 11-14th days of February, 2019, for a Waiver Hearing pursuant to the State's Motion for Transfer/Waiver, filed June 21, 2018, pursuant to South Carolina Code of Laws Section 63-19-1210. Present and appearing at the scheduled time and place were Assistant Solicitor Vergil A. Deas, Esquire; representatives of the Department of Juvenile Justice [herein also referred to as "DJJ"]; Victim's Mother and Father; Juvenile Isaac Colden Duran [herein also referred to as "Juvenile" and/or "Defendant"], who appeared with his attorney, Mitchell Farley Esquire; Juvenile's Mother and Father; and numerous State witnesses.

The record reflects that a Summons and Juvenile Petition were filed on June 4, 2018, charging the Juvenile with Murder pursuant to South Carolina Code of Law Section 16-3-10. The State also filed a Walver Motion on June 21, 2018, requesting a transfer/walver to the Court of General Sessions pursuant to South Carolina Code of Laws Section 63-19-1210. An Order for Pre-Walver Evaluation was entered on June 28,

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CERTIFIED TRUE COPY
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY
DORCHESTER COUNTY

2019. Dr. Candice Dunn of the South Carolina Department of Juvenile Justice completed the pre-waiver evaluation on or about September 27, 2018. See PLAINTIFF'S ¹EXHIBIT 3, Preadjudicatory Transfer (Waiver) Evaluation, dated September 27, 2018.

After careful consideration of the testimony, evidence and all matters of record, the Court makes the following findings of fact and conclusions of law:

1. The Juvenile Isaac Colden Durand was born on October 11, 2002. The Juvenile was fifteen (15) years old at the time of the alleged offense and sixteen (16) years old at the time of the Waiver Hearing.
2. The Juvenile Isaac Colden Durand was charged with Murder.
3. The alleged offense occurred in Dorchester County on or about March 30, 2018.
4. "The Family Court has exclusive jurisdiction over children. S.C. Code Ann. Section 63-3-510(A)(1)(d) (2010). "However, the Family Court may transfer jurisdiction over a criminal matter to the court of general sessions." S.C. Code Ann. Section 63-19-1210(6) (2010).
5. "Upon a motion to transfer jurisdiction, the Family Court must determine if it is the best interest of both the child and the community before granting the transfer request." S.C. Code Ann. Section 63-19-1210(6) (2010); *State v. Jones*, 392 S.C. 647, 652, 709 S.E.2d 696 (S.C.App. 2011).
6. Based upon the evidence, I find that jurisdiction and venue are proper. I find that the parties and subject matter are properly before this Court.

¹ The Digital Monitor utilized labels designated "Plaintiff's Exhibit" for the State's Exhibits.

7. During the Walver Hearing, the State presented the following witnesses: Deputy William Owens; Crime Scene Detective Hannah Carter; Detective Lt. Dwayne Peters; Detective Melissa Blanchard; Detective Sgt. John Butcher; Detective Corporal Yxsumi Simmons; Detective Corporal Chaz Easterlin; DJJ Psychologist, Candice Dunn; and DJJ Community Specialist Crystal McCray. In addition to the testimony of the witnesses, the State introduced three (3) Exhibits into evidence. More specifically, the State introduced the following Exhibits into evidence:

- PLAINTIFF'S EXHIBIT 1: Photograph of Crime Scene, including cell phone.
- PLAINTIFF'S EXHIBIT 2: Photograph of Crime Scene, including deceased Victim.
- PLAINTIFF'S EXHIBIT 3: Preadjudicatory Transfer (Walver) Evaluation, dated September 27, 2018.

8. During the Walver Hearing, the Juvenile's Mother [Brenda Duran] testified. The Juvenile also introduced one (1) Exhibit into evidence. More specifically, the Juvenile introduced the following Exhibit into evidence:

- DEFENDANT'S EXHIBIT 1: Email from Isaac Duran, dated February 20, 2019 ["Courses I'm Taking"].

9. The State's Petition charging the Juvenile with Murder was filed on June 4, 2018. See S.C. Code Ann. Section 16-3-10.

10. The State's Walver Motion requesting transfer to General Sessions Court was timely filed. See S.C. Code Ann. Section 63-19-1210(6).

11. This Court carefully and deliberately reviewed the evidence introduced in this case. This Court carefully studied the statutory provisions applicable to this matter,

reviewed the case law, and duly considered the applicable factors for the issue of waiver to the Court of General Sessions.

12. The importance and responsibility of this decision was not taken lightly by this Court.

13. This Court carefully considered the following factors required for the State's Waiver Motion:

1. Seriousness of alleged offense to community and whether protection of community requires waiver.
2. Whether alleged offense was committed in aggressive, violent, premeditated or willful manner
3. Whether alleged offense was against person or against property, with greater weight being given to offenses against persons especially if injury resulted.
4. Prosecutorial merit of complaint, including whether there was evidence upon which grand jury may be expected to return indictment.
5. Desirability of trial and disposition of entire offense in one court when juvenile's associates in alleged offense are adults who will be charged with crime.
6. Sophistication and maturity of juvenile as determined by consideration of his home environmental situation, emotional attitude and pattern of living.
7. Juvenile's record and previous criminal or adjudicative history.
8. Prospects for adequate protection of public and likelihood of reasonable rehabilitation of juvenile (if he is found to have committed alleged offense) by use of procedures, services and facilities currently available to juvenile courts.

State v. Jones, 392 S.C. 647, 652, 709 S.E.2d 696 (S.C.App. 2011), *citing Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966).

14. SERIOUSNESS OF ALLEGED OFFENSE TO COMMUNITY AND WHETHER PROTECTION OF COMMUNITY REQUIRES WAIVER: The evidence was undisputed that this offense was a very serious offense to the Victim and the community

involving four (4) codefendants planning and executing a vicious murder. "The serious nature of the offense is a major factor in the transfer decision." *State v. Avery*, 333 S.C. 284, 292, 509 S.E.2d 476, 481 (S.C. 1999). The crime committed was violent and premeditated. The Offense [Murder] committed to which the Defendant-Juvenile has been charged is one of the most serious offenses to the community. The offense of Murder is a serious charge and involved the vicious violation of the rights of the Victim and the disregard for the Victim.

15. WHETHER ALLEGED OFFENSE WAS COMMITTED IN AGGRESSIVE, VIOLENT, PREMEDITATED OR WILLFUL MANNER: The evidence indicated that the murder was committed in an aggressive, violent, premeditated and willful manner. The evidence indicated that the murder of the Victim was committed in a willful, aggressive, violent and premeditated manner with the Victim being shot ten (10) to twelve (12) times by the Defendant-Juvenile and/or his codefendants. The violent shots to the Victim were all over his body with a fatal shot to his head by a shotgun without any regard for the protection of the public.

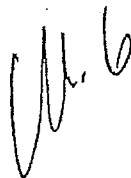
16. WHETHER ALLEGED OFFENSE WAS AGAINST PERSON OR AGAINST PROPERTY, WITH GREATER WEIGHT BEING GIVEN TO OFFENSES AGAINST PERSONS ESPECIALLY IF INJURY RESULTED: The undisputed evidence indicated that this offense of murder was committed against a person, resulting in the Victim's death, which elevated the seriousness of the offense. The evidence indicated that the twenty-one (21) year old Victim was viciously murdered.

17. PROSECUTORIAL MERIT OF COMPLAINT AND WHETHER THERE WAS EVIDENCE UPON WHICH GRAND JURY MAY BE EXPECTED TO RETURN

INDICTMENT: The evidence clearly established probable cause that the crime of murder was committed. The evidence supported prosecutorial merit of the complaint/charge for murder against the Juvenile and his codefendants. The evidence was sufficient upon which the grand jury may be expected to return indictments against the Juvenile. The evidence appeared sufficient that a jury may return a guilty verdict on the charge of murder against the Juvenile.

18. DESIRABILITY OF TRIAL AND DISPOSITION OF ENTIRE OFFENSE IN ONE COURT WHEN JUVENILE'S ASSOCIATES IN ALLEGED OFFENSE ARE CHARGED AS ADULTS: The undisputed evidence indicated that the three (3) other codefendants have been charged as adults and have pending criminal charges in the General Sessions Court. Waiver of the Defendant-Juvenile to General Sessions Court affords the option of disposition of the entire offense in one court; whereas denial of waiver would require disposition in multiple courts and multiple trials. The evidence indicated that it is highly desirable for the trial disposition of this matter to be held in one court, the General Sessions Court where the three (3) co-defendants are charged.

19. SOPHISTICATION AND MATURITY OF JUVENILE AS DETERMINED BY CONSIDERATION OF HIS HOME ENVIRONMENTAL SITUATION, EMOTIONAL ATTITUDE AND PATTERN OF LIVING: The evidence indicated that the Juvenile's sophistication and maturity was typical for juveniles his age. The testimony of the DJJ psychologist [Dr. Candice Dunn] indicated that the Defendant-Juvenile's maturity level was "standard" for a juvenile of his age. The evidence indicated that the Defendant-Juvenile functioned at an age appropriate level of sophistication and maturity.



20. JUVENILE'S RECORD AND PREVIOUS CRIMINAL OR ADJUDICATIVE HISTORY: The Juvenile's record included a previous adjudication for criminal mischief which resulted in a probationary sentence from the State of Texas. The Juvenile's probationary supervision was transferred from Texas to [Dorchester County] South Carolina.

21. PROSPECTS FOR ADEQUATE PROTECTION OF PUBLIC AND LIKELIHOOD OF REASONABLE REHABILITATION OF JUVENILE (IF HE IS FOUND TO HAVE COMMITTED ALLEGED OFFENSE) BY USE OF PROCEDURES, SERVICES AND FACILITIES CURRENTLY AVAILABLE TO JUVENILE COURTS: As to adequate protection of the public, the evidence indicated that the Family Court would provide limited protection of the public as the guidelines suggested that the Juvenile might serve between 36-54 months in custody of the Department of Juvenile Justice. Under state statutes, probationary supervision of a juvenile adjudicated in Family Court terminates when the juvenile reaches the age of eighteen (18) years old. Additionally, the maximum sentence for a juvenile adjudicated delinquent in Family Court would be an indeterminate sentence not to exceed the juvenile's 21st birthday. Therefore, any commitment to DJJ and/or any parole supervision would terminate when the Juvenile reached the age of twenty-one (21) years old and all protections of the public would end when the Juvenile reached the age of twenty-one (21) years old. S.C.Code Ann. Section 63-19-1440. The jurisdiction of the General Sessions Court which would provide the public with significantly greater protection. The jurisdiction of the General Sessions Court would afford the public greater protection for such a serious offense, including but not limited to imprisonment and/or supervision beyond the Defendant's twenty-first (21st) birthday.

22. LIKELIHOOD OF REASONABLE REHABILITATION OF JUVENILE: This Court carefully considered the "likelihood of reasonable rehabilitation" section of the waiver evaluation. See PLAINTIFF'S EXHIBIT 3, Preadjudicatory Transfer (Waiver) Evaluation, dated September 27, 2018, Page 16. The evaluation report included negative and positive factors for the likelihood of reasonable rehabilitation for the juvenile/defendant. Specifically, the evaluation report provided that "negative factors for the Juvenile included his history with the Juvenile Justice System and his association with negative peers. While described as relatively compliant in the home, the Juvenile did not appear to have been able to transfer that obedience and self-control to the community. Testing indicated that the Juvenile has a tendency to seek peer approval even if that means engaging in negative behaviors. In discussing his prior adjudication in Texas, the Juvenile indicated that his cousin took the lead and he followed in vandalizing the property. The Juvenile similarly described his current charge, as his codefendants conceiving of the crime that he again followed. The Juvenile's apparent willingness to be a follower, as well as his lack of resiliency in resisting peer pressures, may make it more likely that he will have difficulty in the future in diverging from the group. The Juvenile also presented as very concrete in his thinking and had some difficulties with abstract thinking and extrapolating meaning. This may make it difficult for him to consider potential consequences for his actions. For the positive treatment outcome within DJJ, the evaluation report indicated that the Juvenile 'was previously able to meet the conditions of his probation and he appeared to understand the need to be cooperative and complete those requirements. His lack of significant mental health issues, his cognitive levels, and the absences of significant substance abuse issues are positives." The Juvenile's family



support was indicated as a positive consideration for rehabilitation. However, while the report indicated that the Juvenile's previous completion of probation was considered as a positive consideration for rehabilitation, it would appear that the probationary services were not rehabilitative since this Juvenile has already had the opportunity for probation and despite the previous probationary services, the evidence indicated that the Juvenile was involved in this violent murder.

23. PROTECTION OF THE COMMUNITY: The evidence indicated that protection of the community requires waiver. "Furthermore, '[t]he best interest of the public or the juvenile may require the juvenile be held accountable as an adult for his criminal conduct.'" *State v. Corey D.*, 339 S.C. 107, 529 S.E.2d 20, (S.C. 2000), *citing Avery*, 333 S.C. at 293, 509 S.E.2d at 481.

24. Therefore, after careful consideration of the evidence presented, the statutory provisions, applicable case law, and the specific factors required for waiver, I find that the State's Motion for Waiver of this Juvenile to the General Sessions Court should be granted. S.C.Code Ann. Section 63-19-1210(6).

25. Considering all the evidence presented, the testimony of the witnesses, the Exhibits introduced into evidence, the pre-waiver evaluation, the Defendant-Juvenile's prior record, the Defendant-Juvenile's negative response to rehabilitative treatments/services; the Defendant-Juvenile's tendency to be a follower in criminal behavior; the Defendant-Juvenile's lack of remorse; the need to protect the public; the serious and violent nature of the offense committed by the Defendant-Juvenile in a willful and premeditated manner, I find that this matter should be transferred to the Court of General Sessions.

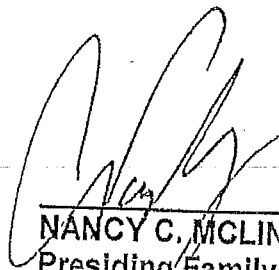
WHEREFORE IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the State's Motion for Transfer/Waiver to the Court of General Sessions is granted; and it is further

ORDERED that jurisdiction of this matter shall be transferred to the Court of General Sessions; and it is further

ORDERED that there was probable cause that the Defendant-Juvenile Isaac Colden Duran committed the offense of Murder; and it is further

ORDERED that pursuant to the previous order the Defendant-Juvenile shall remain on house arrest in his parents' custody until further Order of the Court of General Sessions.

AND IT IS SO ORDERED!



NANCY C. MCLIN
Presiding Family Court Judge
First Judicial Circuit

This 21st day of September, 2019.
Summerville, South Carolina

CH. 10

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED**Nov 04 2022****SC Court of Appeals**

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane Goodstein, Circuit Court Judge

CASE NO.: 2021-00028

The State,

Respondent,

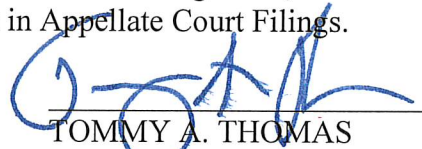
v.

Isaac Duran,

Appellant,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record of Appeal complies with Rule 210 (g), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.



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November 4, 2022

