

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

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Jun 08 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH LAMAR BROWN, JR.

APPELLANT

APPELLATE CASE NO. 2019-000781

AMENDED RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

CAROLINE M. SCRANTOM
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #38 (PHOTO); STATE’S EXHIBIT #39 (PHOTO); STATE’S EXHIBIT #40 (PHOTO); STATE’S EXHIBIT #41 (PHOTO); STATE’S EXHIBIT #42 (PHOTO); STATE’S EXHIBIT #48 (PHOTO); STATE’S EXHIBIT #49 (PHOTO); STATE’S EXHIBIT #50 (PHOTO); STATE’S EXHIBIT #51 (PHOTO); STATE’S EXHIBIT #78 (DVD – 911 CALL); DEFENDANT’S EXHIBIT #2 (PHOTO); DEFENDANT’S EXHIBIT #3 (PHOTO); DEFENDANT’S EXHIBIT #4 (PHOTO); COURT’S EXHIBIT #5 (PHOTO); COURT’S EXHIBIT #6 (PHOTO); COURT’S EXHIBIT #7 (PHOTO); COURT’S EXHIBIT #8 (PHOTO); COURT’S EXHIBIT #9 (PHOTO); COURT’S EXHIBIT #11 (VIDEO); COURT’S EXHIBIT #13 (PHOTO); COURT’S EXHIBIT #14 (PHOTO).

1 A. Yes.

2 Q. And the bullet that is now in evidence
3 as State's Exhibit Number 65?

4 A. Correct.

5 Q. Now, getting back to the laceration, is
6 it consistent with him having fallen down and
7 hitting his head?

8 A. That is a possibility.

9 Q. Would it also be consistent with him
10 being hit on the head or something, I'm assuming?

11 A. Correct.

12 Q. And any kind of blunt force trauma to
13 that area that was of sufficient force to split the
14 skin could cause something like that?

15 A. Yes.

16 Q. Now, did you examine the victim's
17 clothing as well?

18 A. I did.

19 Q. And did you notice any defects in the
20 clothing which corresponded to the wound that you
21 examined in the neck?

22 A. Yes, I did.

23 Q. And are those depicted in State's
24 Exhibits 55?

25 A. Yes.

1 Q. That would be the -- up there on the
2 actual collar, right-hand part of the collar, that
3 little defect?

4 A. Yes; that round defect on the collar.

5 Q. Okay. And State's Exhibit 56, just the
6 same bullet hole from the inside of the shirt; is
7 that correct?

8 A. Correct.

9 Q. Was a toxicology screen for alcohol and
10 drugs performed as part of your autopsy in this
11 case?

12 A. Yes, it was.

13 Q. What were the results of the toxicology
14 screen?

15 A. He had caffeine and cotinine, which is
16 a nicotine derivative.

17 Q. Not drunk?

18 A. He had no alcohol in his system.

19 Q. No evidence of illegal drugs?

20 A. None that were noted.

21 Q. Based upon the history you obtained in
22 your autopsy, do you have an opinion based upon a
23 reasonable degree of medical certainty as to the
24 cause of death in this case?

25 A. Yes.

1 Q. And what is that opinion?

2 A. A gunshot wound to the neck.

3 Q. Which basically severed an artery,
4 causing the deceased to bleed out?

5 A. Correct.

6 MR. DURANT: Thank you very much.
7 Could you please answer any questions that the
8 defense may ask.

9 MS. NORRIS: No questions. Thank you,
10 Dr. Phillips.

11 THE COURT: Thank you. You may step
12 down. You're free to leave or you're free to stay
13 with us.

14 THE WITNESS: Thank you.

15 MR. DURANT: Thank you, Doctor.

16 THE COURT: Call your next witness.

17 MR. DURANT: The State would call Trey
18 Lorenzo Coleman.

19 THE COURT: Trey Coleman.

20 TREY COLEMAN

21 being first duly sworn, testified as follows:

22 THE CLERK: Please speak into that
23 microphone so we can hear you. State your full
24 name for the record, spelling your last name for
25 us. Thank you, sir.

1 THE WITNESS: Trey Coleman,
2 C-O-L-E-M-A-N.

3 DIRECT EXAMINATION

4 BY MR. DURANT:

5 Q. Mr. Coleman, how old are you?

6 A. Twenty-five.

7 Q. And when was the first time you and I
8 have ever spoken?

9 A. Today.

10 Q. Maybe about an hour ago?

11 A. Yes, sir.

12 Q. And what did I ask you to do?

13 A. Tell you the truth.

14 Q. And in telling me the truth, you're
15 hoping to get a benefit, aren't you?

16 A. Yes, sir.

17 Q. And what benefit have you been given in
18 exchange for you taking the stand and telling this
19 jury what happened that day?

20 A. I get involuntary --

21 Q. No. No, that's --

22 A. Okay.

23 Q. I told you you might be able to plead
24 to voluntary manslaughter instead of murder; is
25 that correct?

1 A. Yes, sir.

2 Q. That you were going to be pleading to
3 armed robbery, correct?

4 A. Yes, sir.

5 Q. That you were going to be pleading to
6 burglary in the first degree?

7 A. Yes, sir.

8 Q. And that you would only get that deal
9 if you cooperated?

10 A. Yes.

11 Q. Correct?

12 A. Yes, sir.

13 Q. If you cooperated and did what?

14 A. Told you the truth.

15 Q. Do you go by Red?

16 A. Yes, sir.

17 Q. That's what people call you?

18 A. Yes, sir.

19 Q. Do you have a Facebook page with the
20 name Moneybag Fly?

21 A. Yes, sir.

22 Q. Back in December of 2015, you had a
23 flip phone, correct?

24 A. Yes, sir.

25 Q. And was the number on that flip phone

1 (843) 609-9577?

2 A. Yes, sir.

3 Q. And can you see -- what is that?

4 A. That's my co-defendant.

5 Q. And what is your co-defendant's name?

6 A. Joseph Brown.

7 Q. And how long have you known Joseph

8 Brown?

9 A. Wasn't that long.

10 Q. You didn't first meet him on

11 December the 23rd of 2016, did you?

12 A. No, sir.

13 Q. You had a relationship with him, didn't

14 you?

15 A. Yes, sir.

16 Q. Y'all were friends, weren't you?

17 A. Yes, sir.

18 Q. Y'all hung out together, didn't you?

19 A. Yes, sir.

20 Q. Y'all texted one another, didn't you?

21 A. Yes, sir.

22 Q. Y'all called one another, didn't you?

23 A. Yes, sir.

24 Q. And had for an extended period of time,

25 at least since November 7th of 2016, correct?

1 A. Yes, sir.

2 Q. How did you meet him?

3 A. Through his stepfather.

4 Q. And what's his stepfather's name?

5 A. Romel.

6 Q. Romel Middleton?

7 A. Yes, sir.

8 Q. I think we all just saw a text with
9 Romel Middleton calling you Red; is that correct?

10 A. Yes, sir.

11 Q. Because that's what people call you is
12 Red, correct?

13 A. Yes, sir.

14 Q. Because you are red?

15 A. (No response)

16 Q. Tell this jury how you know Johnny
17 Pritchard.

18 A. I knew Johnny for awhile.

19 Q. And when you say awhile, for how long?
20 How long did he live at that house on [REDACTED] East
21 Thomas?

22 A. A few years, since I moved down here.

23 Q. And you'd been down here since when?

24 A. Like 2015, 2014.

25 Q. And you and Johnny were friends,

1 weren't you?

2 A. Yes, sir.

3 Q. You hung out at his house, didn't you?

4 A. Yes, sir.

5 Q. He was friends with your -- is James
6 Jordan your father or your stepfather?

7 A. My stepfather.

8 Q. He and your stepfather, James Jordan,
9 were friends?

10 A. Yes.

11 Q. And he was friends with your mother,
12 Barbara Ross, right?

13 A. Yes, sir.

14 Q. And he lived right in front of y'all?

15 A. Yes, sir.

16 Q. And he was helpful to you; he gave you
17 rides and stuff like that, didn't he?

18 A. Yes, sir.

19 Q. And, in fact, he had loaned you money
20 before?

21 A. Yes, sir.

22 Q. And he'd loaned you money recently to
23 get your car out of impound?

24 A. Yes, sir.

25 Q. And your car being a 1998 dark Greene

1 Prism?

2 A. Yes, sir.

3 Q. Chevrolet Prism, correct?

4 A. Yes, sir.

5 Q. And is that the same car you picked him
6 up after he killed -- you used to pick him up after
7 he killed Johnny Pritchard?

8 A. Yes, sir.

9 Q. Getting back to Johnny, he was being
10 helpful to you that day, was he not?

11 A. Yes, sir.

12 Q. What did he do for you?

13 A. He took me to cash my check and go get
14 some laundry detergent.

15 Q. Okay. And that was on December the
16 23rd of 2016, right?

17 A. Yes, sir.

18 Q. Which was a Friday, correct?

19 A. Yes, sir.

20 Q. And he took you to the liquor store up
21 in Summerville?

22 A. To cash my check.

23 Q. And then the Family Dollar store. And
24 then where did y'all go after that?

25 A. We went back to my house.

1 Q. Okay. But not directly. Y'all kind of
2 went the long way around Royal Road; is that
3 correct?

4 A. Yes, sir.

5 Q. And why was that?

6 A. Because we were first -- we were going
7 to his house, but, I guess, the people that he was
8 trying to get in touch to wouldn't answer.

9 Q. Now, when you say you were going to his
10 house, you're talking about the mobile home that he
11 was moving to, right?

12 A. Yes, sir.

13 Q. That was on Royal Road?

14 A. Yes, sir.

15 Q. And you knew he was moving, right?

16 A. Yes, sir.

17 Q. He was going to go show you the
18 trailer, but y'all never got to see it?

19 A. Yes, sir.

20 Q. And you knew Johnny had some money,
21 didn't you?

22 A. Yes, sir.

23 Q. How did you know that?

24 A. He told me -- I know he had a wreck. I
25 even visited him in the hospital.

1 Q. Uh-huh. He had a wreck, and after he
2 got well from his wreck, what did he get?

3 A. He had got a settlement.

4 Q. Yep. He used some of that settlement
5 to buy that mobile home?

6 A. With -- yeah.

7 Q. He used some of that settlement to buy
8 that car that he drove you around in, didn't he?

9 A. Yes, sir.

10 Q. And you knew he had some money?

11 A. Yes, sir.

12 Q. Okay. Let's talk about that Friday.
13 There's been previous testimony of a text to Joseph
14 Brown about an hour before Mr. Pritchard's death
15 saying you need to rob the dude today, I'm with him
16 now. Who sent that text?

17 A. I did.

18 Q. And you've seen the text messages
19 between Red and Joseph Brown, correct?

20 A. Yes, sir.

21 Q. And you were the Red that sent those
22 messages?

23 A. Yes, sir.

24 Q. And who were you sending those messages
25 to?

1 A. Joseph Brown.

2 Q. And when you say, Joseph Brown, you're
3 talking about him? (Indicating)

4 A. Yes, sir.

5 Q. He goes by the name of Joe Joe too?

6 A. Yes, sir.

7 Q. What did you call him?

8 A. I called him Joe Joe.

9 Q. And just to be clear, I'm going to show
10 State's Exhibit Number 110. Take a look at it and
11 take as long as you want to look at it. Do you
12 recognize those?

13 A. Yes, sir.

14 Q. And are those the text messages between
15 you and the Defendant, Joseph Brown, which occurred
16 on the day of Mr. Pritchard's murder starting about
17 an hour before his murder?

18 A. Yes, sir.

19 Q. You already said: Man, you gotta rob
20 dude today. I'm with him now. That was you,
21 right?

22 A. Yes, sir.

23 Q. And he wanted to -- you to drive -- or
24 have Johnny drive by his house so he could rob him
25 over there, right?

1 A. Yes, sir.

2 Q. And you didn't want to do that. Why?

3 A. Just didn't think it was a good plan.

4 Q. You didn't think it was a good plan
5 because Johnny Pritchard would have known you set
6 him up, right?

7 A. Yes, sir.

8 Q. And that's what you told him, right?

9 A. Yes, sir.

10 Q. So then it was going -- decided he was
11 going to rob him at Johnny's house, right?

12 A. Yes, sir.

13 Q. And what were you going to do?

14 A. I would pick him up down the street.

15 Q. Yep. You were going to pick him up
16 down the street, but before that you were going to
17 let him know when Johnny was back in his house,
18 right?

19 A. Yes, sir.

20 Q. And you also told him that, not to shit
21 you, you wanted your 50/50 split; is that true?

22 A. Yes, sir.

23 Q. And you told him when y'all were
24 heading back toward the house, right?

25 A. Yes, sir.

1 Q. Did you tell him who would be in the
2 house with him?

3 A. Yes, sir.

4 Q. Did you tell him which one of the two
5 would have the money on him?

6 A. Yes, sir.

7 Q. And the one who would have the money
8 would be who?

9 A. Johnny.

10 Q. And Johnny would have the money why?

11 A. Because he had a wreck.

12 Q. And when you said you were going to
13 pick him up, where were you going to pick him up
14 at?

15 A. Brenda B.

16 Q. And Brenda B -- you said over there
17 around Smokey and them's house, right?

18 A. Yes, sir.

19 Q. And Smokey is David Felder?

20 A. Yes, sir.

21 Q. Let me ask you this. Did Smokey have
22 anything to do with this?

23 A. No, sir.

24 Q. These text messages aren't on David
25 Felder's phone?

1 A. No, sir.

2 Q. They're on his phone, right?

3 (Indicating)

4 A. Yes, sir.

5 Q. And it was you, right?

6 A. Yes, sir.

7 Q. How much money did you get?

8 A. Nothing.

9 Q. What do you mean none?

10 A. Nothing.

11 Q. What?

12 A. Nothing.

13 Q. Why did you get nothing? You were

14 supposed to get 50/50. You told him you were going

15 to get 50/50?

16 A. I guess he didn't get nothing.

17 Q. Did he tell you he didn't get anything?

18 A. No, he didn't say.

19 Q. Come on.

20 A. He said he didn't get nothing.

21 Q. He told you he didn't get anything?

22 A. Yes, sir.

23 Q. And you were the one that picked him up

24 on Brenda B, right?

25 A. Yes, sir.

1 Q. And where did you take him?

2 A. Home.

3 Q. And you say you never got a dime?

4 A. No, sir.

5 Q. And when you say, you took him home,
6 where was home?

7 A. Abby Lane.

8 Q. And where is Abby Lane?

9 A. Down the street from where it happened.

10 Q. Pretty close to where you lived, right?

11 A. Yes, sir.

12 Q. Just right down the road?

13 A. Yes, sir.

14 Q. Did you have a conversation with him in
15 the car?

16 A. No, sir; we didn't really talk.

17 Q. Other than him to tell you he didn't
18 get any money?

19 A. Yes, sir.

20 Q. Now, let me ask you this: You knew he
21 was going over there with a gun, didn't you?

22 A. Yes, sir.

23 Q. And you knew he had a gun, didn't you?

24 A. Yes, sir.

25 Q. You had asked to borrow that gun twice,

1 hadn't you?

2 A. Yes, sir.

3 Q. So it wasn't any surprise to you that
4 he went over to that house with a gun?

5 A. Yes, sir.

6 Q. Cause -- would he go over to rob two
7 guys in a house without being armed? Would he?

8 A. No, sir.

9 Q. When did you find out that he had
10 killed your friend?

11 A. Once I got back home.

12 Q. From what?

13 A. Dropping him off.

14 Q. After he what?

15 A. I just -- after I picked him up, I knew
16 -- I got back -- when I got back home, Johnny been
17 dead.

18 Q. And Johnny didn't just fall over with a
19 heart attack, did he?

20 A. No, sir.

21 Q. You found out that Mr. Pritchard had
22 died how?

23 A. A gunshot.

24 Q. From your friend, Joseph Brown?

25 A. Man, I guess. I wasn't there to see if

1 he killed him or not.

2 Q. You weren't there to see, but you set
3 the whole thing up, right?

4 A. Yes, sir.

5 Q. Your finger was on that trigger, too,
6 right?

7 A. Yes, sir.

8 Q. Because if it hadn't been for you,
9 Johnny Pritchard would be alive today, right?

10 A. Yes, sir.

11 Q. And just so there'll be no
12 misunderstanding, I want you to watch this portion
13 of State's Exhibit 71.

14 (Playing video)

15 Is that you?

16 A. Yes, sir.

17 Q. Is that your car?

18 A. Yes, sir.

19 Q. Is that you again?

20 A. Yes, sir.

21 Q. And who is that?

22 A. That's Joseph Brown.

23 Q. And, once again, by Joseph Brown, you
24 mean this fellow?

25 A. Yes, sir.

1 Q. Right. Once again, is that you?

2 A. Yes, sir.

3 Q. And what are you doing right there?

4 A. Telling him to come on.

5 Q. Telling who to come on?

6 A. Joseph Brown.

7 Q. And who is that?

8 A. Joseph Brown.

9 Q. And who is that?

10 A. Joseph Brown.

11 Q. And is that the clothing Joseph Brown
12 was wearing that day when you picked him up?

13 A. Yes, sir.

14 Q. And Joseph Brown doesn't have dreads,
15 does he?

16 A. Huh-uh. No, sir.

17 Q. Never has?

18 A. No.

19 MR. DURANT: I have nothing else at
20 this time, Your Honor.

21 THE COURT: All right. Ladies and
22 gentlemen, there is some matters that I must take
23 up outside of your presence. Hold on one second,
24 I'm waiting for Mr. Durant to sit down.

25 MR. DURANT: I'm sorry.

1 THE COURT: Ladies and gentlemen, there
2 are some matters I must take up outside of your
3 presence. I have determined that it's going to
4 take longer than I feel comfortable with you
5 sitting in your jury room, so we're going to break
6 for the evening.

7 Please be back at 9:30 in the morning.
8 Remember all of my admonitions; do not read, watch,
9 or listen to any news accounts regarding this case
10 should there be any. Do not do any independent
11 investigation.

12 You are to draw no conclusion from the
13 fact that we are taking a break at this particular
14 time. It's just simply that I've got to do it at
15 this time.

16 Ladies and gentlemen, please have a
17 wonderful afternoon. I'll see you back at 9:30.
18 Please take your notepads with you so they can lock
19 them up. Please rise for the jury.

20 (Jury out, 2:22 p.m.)

21 THE COURT: Thank you. Please be
22 seated. Mr. Coleman --

23 I think you are going to keep him here.

24 MR. DURANT: We would like to keep him
25 here, Your Honor. I believe a plea is to be

1 entered. I would like do it this afternoon.

2 THE COURT: All right. We can do that
3 momentarily. You can go ahead step down. Make
4 sure he is not transported until you hear me tell
5 you to transport him back.

6 DEPUTY: Yes, ma'am.

7 THE COURT: Thank you.

8 Ms. Norris, I think that we had placed
9 this on the record, but just out of an abundance of
10 caution we're taking an early break to allow you TO
11 prepare for your cross-examination of Mr. Coleman;
12 is that correct?

13 MS. NORRIS: Yes, Your Honor. Plus, I
14 need some time with my client, so this is my
15 request.

16 THE COURT: All right. Thank you.
17 Anything we need to address with this case before
18 we break for the day?

19 MR. DURANT: Not unless you want to go
20 over proposed charges and things of that nature.

21 THE COURT: We can do that, but I'm
22 going to allow -- let's go ahead and take the plea.
23 Are we ready on the plea?

24 We're in recess.

25 (These proceedings were recessed at

1 2:25 p.m., to be continued 6/14/18 at 9:30 a.m.)
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1 (The following proceedings were had
2 June 14, 2018, in re State v. Brown.)

3 THE COURT: Mr. Coleman, I remind you
4 that you are still under oath.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: I need you to speak loudly.
7 Anything before we bring in the jury?

8 MR. DURANT: No, Your Honor.

9 MS. NORRIS: No, Your Honor.

10 THE COURT: Bring in the jury.

11 (Jury in, 9:43 a.m.)

12 THE BAILIFF: All jurors are present.

13 THE COURT: Thank you. Be seated.

14 If you complied with my instructions
15 over the evening hours, please raise your left
16 hand.

17 THE JURY: (Raised hands)

18 THE COURT: Thank you. All 13
19 indicated they complied with the Court's
20 instructions.

21 Ms. Norris, your witness.

22 MS. NORRIS: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. NORRIS:

25 Q. Morning, Mr. Coleman.

1 A. Morning.

2 Q. I just want to talk to you a little bit
3 because it's been a half day since you testified.
4 Now, you testified yesterday that you decided to
5 testify against Mr. Brown because you wanted a
6 benefit, correct?

7 A. Yes.

8 Q. You wanted to avoid the possibility of
9 getting a life-without-parole sentence?

10 A. Yes, ma'am.

11 Q. And that's why you testified?

12 A. Yeah. But, no, like --

13 THE COURT: Mr. Coleman, I need you to
14 speak loudly.

15 THE WITNESS: Yes.

16 BY MS. NORRIS:

17 Q. So it's not because you've, all of a
18 sudden, become a Good Samaritan?

19 A. No.

20 Q. And after your testimony, you did, in
21 fact, plead guilty, right?

22 A. Yes, ma'am.

23 Q. And you didn't get a life sentence?

24 A. No, ma'am.

25 Q. And that's what happened yesterday

1 afternoon.

2 A. (Nodding head)

3 Q. But even hoping for a benefit, and
4 correct me if I'm wrong, all you told us is that
5 you are Red? That's what you go by?

6 A. Yes.

7 Q. And that's Joe Joe?

8 A. Yes.

9 Q. Joseph Brown? It was the two of you
10 texting about robbing Johnny Pritchard?

11 A. Yes.

12 Q. Nothing was said about harming Johnny
13 Pritchard?

14 A. No.

15 Q. You didn't want him harmed?

16 A. No.

17 Q. He was your friend, your next-door
18 neighbor?

19 A. Yes.

20 Q. He was your momma's friend?

21 A. (Nodding head)

22 Q. And you told the State that you assumed
23 Joe Joe was armed because he owned a weapon. You
24 don't actually know that, do you?

25 A. No, ma'am.

1 Q. And you had planned to pick Joe Joe up
2 at the end of Brenda B, correct?

3 A. Yes, ma'am.

4 Q. And you did pick him up at the end of
5 Brenda B. And the solicitor even asked you, did he
6 kill Johnny Pritchard?

7 A. Yes, ma'am.

8 Q. And your response was you weren't
9 there?

10 A. Yes, ma'am.

11 Q. So you can't say it was him?

12 A. Yes, ma'am.

13 Q. You can't say it was David Felder?

14 A. No, ma'am.

15 Q. You can't say it was Mr. Durant? It
16 could have been me.

17 A. Yes.

18 Q. And the only thing that Joe Joe told
19 you afterwards was he didn't have any money -- or
20 Joe Joe did not have any money to give you?

21 A. Yes, ma'am.

22 MS. NORRIS: Thank you, Mr. Coleman.

23 MR. DURANT: I just have one question.
24 Maybe a couple.

25 REDIRECT EXAMINATION

1 BY MR. DURANT:

2 Q. You do know that Joe Joe had a weapon,
3 though. I mean, owned a weapon, correct?

4 A. Yes, sir.

5 Q. Because you asked to borrow it, right?

6 A. Yes, sir.

7 Q. As a matter of fact, the early morning
8 of this murder, you texted him and said, shit, let
9 me get the tone. What is the tone?

10 A. It's a -- I mean, it's a gun. I mean,
11 it's obvious.

12 Q. And you texted him and asked him for
13 the tone, right?

14 A. Yes, sir.

15 Q. And he said, bruh, you know I need my
16 tone since I'm about to go robbed in front of my
17 door. I have to stay on point, bruh. You know
18 that. So you knew he had a gun, right?

19 A. Yes, sir.

20 MR. DURANT: I have nothing further.

21 MS. NORRIS: Nothing further.

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

24 Mr. Durant, call your next witness.

25 MR. DURANT: Your Honor, the State

1 would rest.

2 THE COURT: All right. Ladies and
3 gentlemen, there is a matter of law that I must
4 take up outside of your presence. Do not begin
5 your deliberations, do not discuss the case amongst
6 yourselves.

7 Please rise for the jury.

8 (Jury out, 9:48 a.m.)

9 THE COURT: Thank you. You may be
10 seated.

11 Ms. Norris, motions or matters?

12 MS. NORRIS: Yes, Your Honor. I move
13 for a direct verdict on all charges, specifically
14 on the murder. Obviously, there is a murder, but I
15 don't think that the State has proven in any
16 capacity that it was Joseph Brown. Same for the
17 other offenses: Burglary, robbery, possession of a
18 weapon during a violent crime.

19 Also, to the robbery, I don't believe
20 there is actual evidence that money was taken.
21 Hugh Potter Pritchard said he thinks money was
22 taken. Celeste said she saw a guy running that she
23 thinks dropped money, but picked it up from half of
24 a football field away. Trey Coleman says no money.

25 In addition, I renew all of our other

1 motions to exclude various evidence.

2 THE COURT: Mr. Durant.

3 MR. DURANT: Your Honor, obviously, I
4 think that all of the evidence taken in the light
5 most favorable to the State, which I believe has to
6 be done at this point, there is sufficient evidence
7 for this jury to find the defendant guilty of all
8 these charges.

9 Regarding the identity of her client,
10 all the arrows point in his direction. With regard
11 to the robbery charge, we have testimony that he
12 had withdrawn \$700 two or three days ahead of this
13 time, and the only thing that he had on him after
14 his death was a couple of quarters.

15 We have Mr. Pritchard's testimony that
16 his pockets were gone through, and we have Celeste
17 McBride's testimony that the person she saw running
18 from her house dropped cash in the front of the
19 house and picked it up.

20 I think all of that is certainly
21 circumstantial evidence that the defendant took and
22 carried away property from Mr. Pritchard.

23 THE COURT: Ms. Norris.

24 MS. NORRIS: I don't have anything
25 further.

1 THE COURT: Under Rule 19, Motion Rules
2 of Criminal Procedure, your motion for directed
3 verdict is denied on the charge of murder,
4 possession of a weapon during the commission of a
5 violent crime, burglary in the first degree, and
6 armed robbery.

7 The Court is looking for the existence
8 or nonexistence of the evidence, and based upon the
9 testimony that has been presented, the State has
10 met its burden.

11 Note your exception to my ruling.

12 Ms. Norris, do you have any witnesses?

13 MS. NORRIS: I have one expert from
14 SLED related to gunshot residue.

15 THE COURT: Is that expert witness
16 present?

17 MS. NORRIS: I believe she is.

18 THE COURT: And, Mr. Brown, please
19 stand.

20 Place him under oath.

21 JOSEPH LAMAR BROWN, JUNIOR,
22 being first duly sworn, testified as follows:

23 EXAMINATION

24 BY THE COURT:

25 Q. Mr. Brown, I advised you of your

1 constitutional rights to testify and to not
2 testify. Do you remember me going over those with
3 you?

4 A. Yes.

5 Q. Do you have any questions about those
6 rights?

7 A. No.

8 Q. Have you had an opportunity to speak
9 with your attorneys concerning whether or not you
10 will testify?

11 A. Yes.

12 Q. And what is your position?

13 A. I will not be testifying.

14 THE COURT: And, Ms. Norris, you went
15 over all the constitutional rights, the
16 consequences and the benefits of his decision here
17 today. Do you agree with his decision not to
18 testify?

19 MS. NORRIS: Absolutely, Your Honor.

20 THE COURT: Thank you. And so is this
21 your sole witness?

22 MS. NORRIS: Yes.

23 THE COURT: So that would just be the
24 one.

25 MS. NORRIS: That's right.

1 THE COURT: All right. Bring back the
2 jury.

3 (Jury in, 9:54 a.m.)

4 THE COURT: Thank you. Be seated.

5 Ms. Norris, call your first witness.

6 MS. NORRIS: The defense calls
7 Lieutenant Jennifer Nates.

8 JENNIFER NATES,
9 being first duly sworn, testified as follows:

10 THE CLERK: I need you to speak into
11 that microphone so we can hear you. State your
12 full name for the record and spell your last name.

13 THE WITNESS: Jennifer Nates,
14 N-A-T-E-S.

15 DIRECT EXAMINATION

16 BY MS. NORRIS:

17 Q. And do you go by lieutenant? Agent? I
18 want to make sure I have your title right.

19 A. They usually use the title at work, but
20 I usually don't go by it. I'm a forensic
21 scientist.

22 Q. So lieutenant?

23 A. Yes, ma'am.

24 Q. All right. Lieutenant Nates, would you
25 please tell us where you are employed?

1 A. I'm employed by the South Carolina Law
2 Enforcement Division in the trace evidence section
3 of the forensic laboratory.

4 Q. And if you would, summarize your
5 educational training for us in trace evidence.

6 A. I received a Bachelor of Science degree
7 in chemistry in 1997 from a small state school in
8 Pennsylvania called California University of
9 Pennsylvania. Once I graduated, I performed an
10 internship at SLED in the trace evidence section.
11 At the end of the summer, I was hired in the drug
12 analysis section.

13 I completed their training program to
14 analyze controlled substance and poisons. Once I
15 completed that, I also attended the police academy
16 and went through a nine-week training program. I
17 worked in the drug section for, approximately, one
18 year and then there was an opening in trace
19 evidence.

20 I put in a transfer request that was
21 granted and began the training program in trace
22 evidence in 1998.

23 That training program was a three- to
24 four-year training program where I worked with the
25 lieutenant of the department and senior analyst to

1 basically do -- not an internship, but an
2 apprenticeship so that you could see what kind of
3 cases were analyzed, become familiar with the
4 protocol and procedures.

5 I also took a competency test for each
6 area of analysis in which I was trained, and then I
7 took ongoing proficiency tests yearly for each
8 area. I took outside courses and classes dealing
9 with the instrumentation used in trace evidence and
10 the opinions and conclusions that could be drawn
11 from the analysis of the tests.

12 Q. And are there a lot of different types
13 of trace evidence?

14 A. Every state is different in what they
15 consider trace evidence. In our state, the trace
16 evidence section analyzes fiber evidence, gunshot
17 residue evidence, paint evidence, explosives, fire
18 debris, tape, physical fit which is a fracture
19 match from two different pieces, and we analyze
20 general unknowns and glass.

21 Q. And specific to gunshot residue, how
22 many examinations for gunshot residue would you say
23 that you've done over that 20 years or so?

24 A. Well in excess of a thousand
25 examinations.

1 Q. And have you been qualified as an
2 expert previously in specifics to gunshot residue?

3 A. I've been qualified 124 times in trace
4 evidence and, approximately, 80 -- 75 to 80 were in
5 gunshot residue.

6 MS. NORRIS: I would offer Lieutenant
7 Nates as an expert in trace evidence and, in
8 particular, gunshot residue.

9 THE COURT: Any objection?

10 MR. DURANT: Your Honor, the State is
11 well aware of Lieutenant Nates' qualifications, and
12 we certainly have no objection.

13 THE COURT: She will be so qualified.

14 BY MS. NORRIS:

15 Q. All right. Lieutenant Nates, I just
16 want to get out front that you did some testing in
17 this case, right?

18 A. I did testing in -- the lab number for
19 us was L1710. I performed gunshot residue testing
20 on this case.

21 Q. And there were -- specifically, there
22 was testing of David Felder's hands? Item 1?

23 A. Item 1 was a GSR kit collected from the
24 hands of David Felder.

25 Q. And Item 5, the victim, Johnny

1 Pritchard, was testified for gunshot residue?

2 A. Item 5 was a gunshot residue kit from
3 the hands of Johnny Pritchard.

4 Q. And there was, in fact, gunshot residue
5 on him, right?

6 A. Yes. Upon analysis I determined there
7 was gunshot residue present on the victim.

8 Q. And that's not unexpected; if you get
9 shot you're likely to have that?

10 A. That is correct. If you were shot, we
11 expect to find it in most cases.

12 Q. And then Item 10, there was testing for
13 GSR on David Felder's pants?

14 A. Yes. A pair of red, black, and white
15 pants was submitted for gunshot residue.

16 Q. And Item 11, you tested from David
17 Felder's jacket?

18 A. Yes.

19 Q. Now, explain for us, if you would, what
20 is gunshot residue?

21 A. Gunshot residue is a general term
22 that's used to describe any of the residue that is
23 produced when a firearm is discharged. Typically,
24 for organic gunshot residue, primer gunshot
25 residue, and any metallic or metal particles that

1 may be imparted from the weapon.

2 Our lab specifically analyzes for what
3 is called primer gunshot residue. We refer to it
4 as PGSR. This residue is specific to the primer
5 pump position of the cartridge. So we don't look
6 for the organic gunshot residue or the -- a lot of
7 the metallic particles.

8 We are specific on the primer gunshot
9 residue which is unique to the discharge of a
10 firearm.

11 Q. And how might a person get GSR on them?

12 A. A person can have GSR from handling a
13 weapon. They can also have GSR deposited on them
14 from firing a weapon. And, also, you may have GSR
15 on you from being near someone when a weapon is
16 discharged.

17 So the three ways when we find gunshot
18 residue, you could have had from the transfer from
19 another object, from firing a weapon, or being in
20 the vicinity to the discharge of a firearm.

21 Q. And if I went outside right now and
22 fired a weapon and you immediately tested me is a
23 guaranteed that I would have GSR on me?

24 A. It is not guaranteed, no.

25 Q. And is that because it depends on a

1 number of factors?

2 A. The deposition of gunshot residue
3 depends on many different factors. It's a very
4 random process. It depends on the firearm, the
5 circumstances in the environment, when it was
6 fired, the type of ammunition that is used, how
7 many shots were fired, if the firearm was fired
8 through an intervening object which could prohibit
9 the GSR from being deposited.

10 Also, some guns do not produce as much
11 GSR as other guns. Gunshot residue is very
12 fragile. I can fire a weapon, wash my hands, and
13 it will be completely removed. I can sweat; I can
14 absorb it; I can transfer it to other things.

15 On a living person, we don't expect to
16 find any gunshot residue due to all the
17 circumstances beyond pretty much five to six hours.

18 Q. And if the weapon is fired outside,
19 might the wind be a factor in whether a person
20 either shooting the gun or standing next to the gun
21 would have GSR on them?

22 A. Wind can be a factor, yes.

23 Q. You talked a little bit about transfer.
24 What do you mean by transfer?

25 A. If I handle -- if I fire a weapon and

1 then I get into a vehicle, I can transfer particles
2 from my hands, if they are present, onto the
3 steering wheel of the vehicle. Just like I can
4 transfer it to another person if I touch them.

5 Like I said earlier, it's very random
6 and there really are no studies on how much you
7 expect to be transferred. It's just a possibility
8 that we have to include because it can happen.

9 Q. And if I had gunshot residue on my
10 hands -- the back of my hands and wiped my sleeve,
11 could that transfer it to my sleeve?

12 A. It can.

13 Q. And I believe you said you went to the
14 police academy?

15 A. I did.

16 Q. And the standard procedure for cuffing
17 someone is sort of like this? (Indicating)

18 A. I can't speak on that. I'm a Class III
19 officer at this point. So that training was so
20 long ago, and I no longer cuff anyone.

21 Q. All right. Assuming a person is cuffed
22 in the back, I can still wipe the back of my hand
23 on my sleeves, right?

24 A. Anything your hands touch can remove
25 it.

1 Q. Okay. Now, what is the consistency of
2 gunshot residue?

3 A. It doesn't really have a consistency.
4 It's a very -- it's a microscopic particle, but
5 gunshot residue comes out in the form of a cloud.
6 Normally, you can't see it unless they use stop
7 action photography and they take photographs of,
8 but it can be you have like a baby powder or flour
9 on your hands.

10 Of course the gunshot residue you're
11 not going to see as you see the flour, but it can
12 brush off. It's not sticky. It's not going to be
13 wet. It's just a microscopic particulate matter
14 that will deposit on anything in the vicinity of
15 the discharge.

16 Q. And you said that you test for primer
17 gunshot residue. What elements are you looking for
18 to determine whether it is characteristic of
19 gunshot residue?

20 A. The three elements that are tested for
21 primer gunshot residue are barium, antimony, and
22 lead. These are the three metals that are found in
23 the primer composition of the cartridge which will
24 become airborne and form the microscopic particles
25 after the discharge of the weapon.

1 Q. Are there any other -- are those same
2 elements found in anything other than gunshot
3 residue?

4 A. They can be. Those elements are used
5 in fireworks, but most likely they would not be
6 used in the same combination. So you will find
7 maybe lead or you can find barium in firework
8 residue.

9 When we analyze, we also look for
10 specific elements to determine that was not in the
11 firework residue.

12 Many fireworks have a very high amount
13 of magnesium which disqualifies the particle as
14 being classified as gunshot residue.

15 Some of the airbags can also have these
16 elements present because the airbag is actually an
17 explosion in itself before it discharges, but
18 airbag residue also has different particles that
19 are present that would exclude it as GSR. The
20 principal two are being cobalt and zirconium.

21 If these particles are present in
22 addition to barium, antimony, and lead, we are not
23 able to classify that as gunshot residue.

24 You can find the different particles --
25 you can find barium, antimony, and lead in the

1 environment or in occupational instances, but they
2 are basically alone. You can do lead soldering and
3 have lead on your hands, but you're not going to
4 have the barium and the antimony.

5 You can also find gunshot residue from
6 brakes. Brake pads can potentially have the three
7 components, but they will have excessive amounts of
8 iron which will discredit it as being GSR.

9 So even though we can find it in
10 combinations in various specific instances, there
11 are other elements that are present that let us
12 know that that is not GSR.

13 Q. And so how do you actually test a
14 persons's hands to see if they had GSR on them?

15 A. We provide -- we provide a gunshot
16 residue collection kit to the agencies in the State
17 or they can purchase their own. It is a kit that
18 in the past was a four-particle lift. So a
19 particle lift is a small round, we call it, carbon
20 area that has a very slight adhesive on it.

21 So they would take this and dab it over
22 each area. They would do the back of the right
23 hand, the palm of the right hand, the back of the
24 left hand, and the palm of the left hand.
25 Currently, we have switched the kits at the

1 beginning of this year, so there are only two
2 particle lifts: One for the right hand and one for
3 the left hand.

4 Q. And I believe you mentioned earlier
5 that -- that you won't even test for gunshot
6 residue after six hours?

7 A. It is after six hours. A lot of
8 testing that's been done in the forensic field
9 shows that the majority of the residue will be gone
10 in four to five hours, but we have a six-hour time
11 frame to take into account larger caliber weapons,
12 or just other circumstances that may occur.

13 If we receive a kit that was collected
14 beyond six hours, we do not analyze it.

15 Q. And so if the test was done at five
16 hours on hands, it would be very unlikely to find
17 it?

18 A. It can happen, but we usually don't see
19 it.

20 Q. Okay. And testing -- well, you
21 mentioned other factors that could remove gunshot
22 residue from the hands. Washing your hands?

23 A. Yes.

24 Q. Running?

25 A. Anything -- if you're sweating or

1 rubbing your hands up against anything.

2 Q. Even putting your hands in the pocket?

3 A. Yes, it can. We've had several cases
4 that we tested the inside of pockets and found
5 gunshot residue.

6 Q. So if I were to ask you to test my
7 jacket for gunshot residue, how would you do that?

8 A. If I were asked to test your jacket for
9 GSR, in order for it to be submitted, we have to
10 have some information that it was linked to the
11 scene. We can't just test somebody's entire
12 closets for GSR.

13 If I receive a jacket for gunshot
14 residue, I open the package and determine if it was
15 sealed properly, if the evidence tape was initialed
16 and dated, and that it actually matches that case
17 number. You have to verify as it was logged in to
18 our department to make sure it's the correct
19 evidence for the case.

20 I would open it up and then take the
21 same particle lift that is used on the hand and
22 take a particle lift from each sleeve and from the
23 chest area of the jacket.

24 The reason we sample from these areas,
25 because if someone is near a weapon, those are more

1 than likely the highest probability that the GSR
2 will be deposited on that area.

3 Q. And, in this case, Item 11, David
4 Felder's jacket, you received that from Charleston
5 County Sheriff's Office?

6 A. It was admitted by Charleston County
7 Sheriff's Office.

8 Q. And that was submitted because they had
9 some evidence linking it to the crime or they
10 believed it was relevant to the crime?

11 A. Yes. They believed it was relevant and
12 it was submitted to me for analysis.

13 Q. And when you received that item, 11, do
14 you recall how it was packaged?

15 Let me phrase that differently. Was it
16 packaged properly?

17 A. Yes, it was.

18 Q. Okay. And that was just -- the jacket
19 was packaged separately from other items?

20 A. It was.

21 Q. Okay. And, now, I believe you said
22 that when you test, say, a left sleeve, you would
23 take one of those carbon dabs and do the entire
24 sleeve with that, right?

25 A. We do, depending on the jacket. If

1 it's a jacket that imparts a lot of fibrous
2 materials onto the particle lift, we may have to
3 take two to be able to cover the entire area.

4 Q. And in this case, on David Felder's
5 jacket you used one on each sleeve?

6 A. Yes.

7 Q. And by doing that, you can tell if
8 there is a positive result, which there was in this
9 case, right?

10 A. By collecting it and analyzing it, we
11 can determine whether it's positive or negative for
12 the presence of GSR.

13 Q. And by the fact that you were dabbing
14 the entire arm, you can't say where on the arm that
15 the particles were, right?

16 A. No, it was just on that sleeve.

17 Q. Okay. And, in fact, could the gunshot
18 residue have been all on one arm when it was put in
19 the box, but when you test it, it will be on both
20 arms?

21 A. It can. If the jacket is in the box
22 and areas are touching each other, the particles
23 can move from one area to another.

24 Q. So in particular to Item 11, David
25 Felder's jacket, how many particles -- well, did

1 you find those three elements that are
2 characteristic of GSR?

3 A. I did find particles characteristic of
4 gunshot primer residue on the jacket.

5 Q. Okay. And that was on the right
6 sleeve?

7 A. The particles were actually found on
8 the right sleeve and the left sleeve. We don't
9 report the areas that they are found due to the
10 fact that we collect from that whole area, and we
11 look for the presence or absence of gunshot residue
12 on an item or hands.

13 Q. And so the best we can say is that
14 David Felder's jacket had GSR on it?

15 A. Yes.

16 Q. And that can be because of transfer
17 from something else, him or someone else, or
18 transfer? It could be that?

19 A. Transfer is one of them.

20 Q. It could be because he was near a fired
21 weapon?

22 A. It could be.

23 Q. It could be because he had fired a
24 weapon days before and didn't wash his clothes?

25 A. Right. With clothing -- as I explained

1 earlier, with hands, we don't expect to find it --
2 we don't analyze it after six hours because we
3 don't expect to find it because the residue is
4 fragile.

5 Because you're touching things, you're
6 alive, you're breathing, you're interacting with
7 everything in the environment. With clothing, if I
8 fire a gun in this jacket and hang it up in my
9 closet, I can hang it up after I fired it, and I
10 can pull it out two, three, four months later and
11 the gun GSR would still be there.

12 With clothing I can't give you a time
13 frame on when it was deposited.

14 Q. But if you wash that jacket, it would
15 be very unlikely that it's going to remain on
16 there?

17 A. Yes. Washing clothes removes all of
18 the residue.

19 Q. And so it could have been that, or
20 David Felder's jacket could have GSR because he
21 fired a weapon shortly before the police showed up
22 at his house and collected those clothes?

23 A. I can't rule that out.

24 MS. NORRIS: I don't have anything
25 further. Thank you.

1 THE COURT: Mr. Durant.

2 MR. DURANT: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. DURANT:

5 Q. I have a few questions. First of all,
6 David Felder's -- the gun GSR test from his hands,
7 your Item Number 1, was negative, correct?

8 A. It was.

9 Q. And your Item Number 10, his pants,
10 were negative for GSR as well?

11 A. They were.

12 Q. And you said the -- there was positive
13 gunshot residue findings with regard to the sleeves
14 of his jacket?

15 A. Yes.

16 Q. And it is true, as you said, that GSR
17 can be transferred, correct?

18 A. Easily.

19 Q. And if he's cuffed like this, police
20 officers who have GSR on their hands, that could be
21 transferred to his jacket, can't it?

22 A. If they touched his sleeves, yes.

23 Q. That's especially true if one of the
24 people assisted in cuffing him had his hand on his
25 service weapon, correct?

1 A. Yes.

2 Q. And it's also especially true if the
3 one that was assisted in cuffing him had been
4 standing right next to a guy that had discharged
5 his firearm seconds before Mr. Felder was in
6 custody, correct?

7 A. What was the question?

8 Q. If the one of the people that assisted
9 in cuffing him had been standing right next to a
10 firearm that had been discharged just seconds
11 before he cuffed Mr. Felder?

12 A. That could be a source of the GSR, yes.

13 Q. And, lastly, like you said, even if
14 it's not a transfer, you have no way of knowing how
15 long that GSR was on Mr. Felder's jacket?

16 A. I do not.

17 Q. And because, as you point out, on an
18 inanimate object, as opposed to a person, it can
19 stay on there indefinitely?

20 A. That's correct.

21 MR. DURANT: Thank you very much.

22 THE COURT: Ms. Norris, redirect?

23 MS. NORRIS: No, Your Honor. I ask
24 that she be excused.

25 THE COURT: Any objection?

1 MR. DURANT: No, ma'am.

2 THE COURT: You may step down. You are
3 free to stay with us, but you are free to leave.

4 THE WITNESS: Thank you.

5 THE COURT: Ms. Norris.

6 MS. NORRIS: The defense rests, Your
7 Honor.

8 THE COURT: Reserving all motions and
9 matters, any rebuttal?

10 MR. DURANT: No, Your Honor.

11 THE COURT: You have now heard all of
12 the evidence that would be presented in this case
13 and received into evidence all of the exhibits that
14 would be made part of the record in this case.
15 There is a matter of law I must take up outside of
16 your presence.

17 When you return you will hear closing
18 arguments on behalf of counsel, and I will instruct
19 you on the law applicable to this case.

20 Please rise for the jury.

21 (Jury out, 10:17 a.m.)

22 THE COURT: Thank you. Please be
23 seated. We will take our comfort break.

24 MR. DURANT: Thank you, Your Honor.

25 THE COURT: Ten minutes. Thank you.

1 (A recess transpired.)

2 THE COURT: Ms. Seman, any motions or
3 matters?

4 MS. SEMAN: Yes, you Honor. We renew
5 our motion for a directed verdict on the grounds
6 that counsel argued earlier, and we would renew all
7 of our prior motions and objections.

8 THE COURT: Okay. Mr. Durant, any
9 response?

10 MR. DURANT: No, ma'am.

11 THE COURT: I have heard nothing in the
12 presentation of the defendant's case that would
13 make me change my ruling on your motions for
14 directed verdict. Your motions for directed
15 verdict on all four indictments are denied. The
16 Court stands by all of the original rulings.

17 Note your exception for the record.
18 Anything further?

19 MS. SEMAN: Yes, Your Honor. We have
20 the third-party guilt motion to argue.

21 THE COURT: Do you want to argue that?

22 MS. SEMAN: Yes, Your Honor.

23 Your Honor, at this point, you have
24 heard all of the evidence that we will present in
25 the case, which is very similar to the evidence

1 that I submitted we expected would be heard in my
2 brief. I would like to incorporate all of my
3 arguments I made in that. That brief has been made
4 a Court's exhibit.

5 Your Honor, at this point, the evidence
6 has come in. We think that in closing it's proper
7 for us to argue any inferences that we might make
8 from the evidence.

9 I think the third-party guilt standard
10 is properly analyzed when it's -- when one side is
11 trying to prevent the other from introducing that
12 evidence to the jury in the first place.

13 I don't think that's what we have here.
14 We have a situation where the evidence has come in
15 and we, at this point, would like to be able to
16 argue any inferences that we might make from that.

17 The evidence that I'm specifically
18 speaking about is the fact that Hugh Pritchard said
19 that there was one assailant; Celeste and Allen
20 said that there was one runner; Perez said that he
21 recognized this one runner.

22 There is no evidence of Mr. Brown and
23 David Felder acting together, no other calls or
24 texting on the iPhone found at the scene. So we do
25 believe that proof of Mr. Felder's guilt is

1 inconsistent with Brown's guilt because I think
2 that proving his guilt would exculpate Mr. Brown.

3 We also think that there is a
4 sufficient connection to the crime. It is not mere
5 conjecture or bare suspicion in Gregory. Your
6 Honor, we do believe that he meets most of Merit
7 Williams's specific description which we heard
8 through Detective Goldstein from that portion of
9 Celeste McBride's description.

10 Still wearing the clothing at the scene
11 that day, the 23, the black shirt, the red shoes,
12 it is clear that officers thought he was similar
13 enough to the description to be immediately
14 detained and interrogated and his clothing taken.

15 He did live very close to the victim in
16 this case; his clothing tested positive for GSR as
17 you just heard from Ms. Nates; and, Your Honor, his
18 alibi that he was in court that day, despite the
19 fact that we heard through Goldstein that court was
20 closed.

21 So we would submit that that is
22 certainly more than mere conjecture or suspicion
23 and would ask Your Honor to allow us to argue to
24 any inference that we would make to the facts.

25 MR. DURANT: Your Honor, just briefly.

1 The test, as Your Honor is well aware of, that
2 evidence offered by the accused as to the
3 commission of a crime by another person must be
4 limited to such facts as are inconsistent with his
5 own guilt, and to such facts as to raise a
6 reasonable inference or presumption as to his own
7 innocence.

8 The evidence which can have no other
9 effect than to cast a bare suspicion upon another
10 or to raise a conjectural inference as to the
11 commission of the crime by another is not
12 admissible.

13 Before such testimony can be received,
14 there must be such proof of connection with it,
15 such as a train of facts or circumstances, as
16 stands clearly to point out such other person as
17 the guilty party.

18 It would be our position that the
19 testimony that came out in this case regarding
20 David Felder does not come anywhere close to
21 meeting that test.

22 It is true that Mr. Felder was wearing
23 clothes that one of the three witnesses -- that
24 partially met one of the three witnesses'
25 descriptions in that he had dreads, he had 23 on

1 the back of his jacket, and he had red shoes that
2 were not Converse, but red shoes.

3 He was not wearing all dark or black
4 colors. He was, obviously, not the person picked
5 up by the video on the end of Brenda B Drive; he
6 had an alibi that was confirmed by two separate
7 witnesses; he was cleared by the police; he did not
8 have any text messages on his phone where he was
9 conspiring to rob Johnny Pritchard; and the GSR on
10 his jacket proves nothing.

11 And to top it all off, one of the
12 co-conspirators in the actual crimes we have here,
13 Trey Coleman, indicated that he had nothing to do
14 with it.

15 MS. SEMAN: Just a brief response.
16 Regarding the idea there were no text messages on
17 his phone, I don't believe Mr. Felder's phone was
18 ever received. That's certainly not in evidence at
19 this point.

20 Your Honor, also in the solicitor's
21 quote that he read you from that case, I think the
22 relevant portion is, before such testimony can be
23 received.

24 That was the quote that Mr. Durant
25 read. He received the testimony already, you know.

1 And, in fact, Mr. Durant elicited that testimony
2 from his own witness, Detective Goldstein.

3 So we would argue that he's opened the
4 door. We would argue, again, that the facts are in
5 evidence and we can argue any reasonable inferences
6 therein. Thank you.

7 THE COURT: What is it that you plan on
8 arguing?

9 MS. SEMAN: Ms. Norris is going to do
10 the closing argument, but she claims to argue that
11 David Felder was the person that actually did this.

12 THE COURT: So the test in Gregory is,
13 evidence offered by the accused as to another's
14 commission of the crime charged must be limited to
15 the facts inconsistent with the accused's guilt in
16 raising reasonable inference or presumption of his
17 innocence.

18 Evidence merely casting bare suspicion
19 on another or raising conjectural inferences as to
20 the commission of the crime is inadmissible.

21 So what is the testimony that you plan
22 to link up that isn't just casting bare suspension?

23 MS. SEMAN: Well, Your Honor, just what
24 I just mentioned. Mr. Felder meets most of Mr.
25 Williams' specific description. That description

1 being a person running through the neighborhood
2 wearing a number 23 with shoulder-length dreads,
3 that he had a black shirt, that he had red shoes.

4 All of those parts of the description
5 Mr. Felder matched and we know he matched that
6 because he was on body camera that same day being
7 interrogated by officers. He was still wearing the
8 same clothing when he was interrogated, and that
9 clothing was seized and tested for gunshot residue.

10 We believe that shows -- we believe
11 that we can argue then that Mr. Felder had fired a
12 gun that day because we believe that is a
13 reasonable inference from the facts that were
14 testified to today by Lieutenant Nates.

15 We believe that his alibi was shaky.
16 Again, that came out through the State's witness.
17 He was in Dorchester County court that day, and
18 Dorchester County court was closed. Again, he also
19 lived 920 feet away. He also matches relevant
20 portions of Celeste McBride's description being
21 that he had shoulder-length dreadlocks.

22 Your Honor, we believe those facts show
23 more than mere suspicion -- or mere conjecture or
24 bare suspicion. And there is no evidence of his
25 conspiracy with Mr. Brown.

1 THE COURT: No evidence?

2 MS. SEMAN: No evidence of Mr. Felder
3 conspiring with Mr. Brown or Mr. Coleman.

4 THE COURT: All right. Mr. Durant,
5 your response?

6 MR. DURANT: I have nothing else to
7 add, Your Honor. I would leave it to up to your
8 good judgment.

9 THE COURT: Mr. Durant, what do you say
10 as to Ms. Seman's argument that you opened the door
11 by presenting the testimony and then she should.

12 MR. DURANT: Your Honor, I almost
13 invite them to argue to the jury Mr. Felder killed
14 this guy.

15 THE COURT: Based upon my reading of
16 Gregory, I will allow you to argue any facts that
17 are inconsistent with his guilt that raises
18 reasonable inference or presumption of your
19 client's innocence, but you need to be aware that
20 evidence merely casting suspicion on another and
21 raising some speculation is inadmissible in your
22 closing.

23 MS. SEMAN: Thank you, Judge.

24 THE COURT: Do you need a few moments,
25 or are you ready to bring in the jury?

1 MR. DURANT: I believe I'm ready.

2 MS. NORRIS: We are ready.

3 THE COURT: And you will be giving the
4 closing first; Ms. Norris, you will give your
5 closing; and, Mr. Durant, you have a rebuttal of
6 Ms. Norris's closing. Is that your understanding?

7 MR. DURANT: That's my understanding.

8 THE COURT: Is that your understanding?

9 MS. NORRIS: Yes, Your Honor.

10 THE COURT: Thank you.

11 (Jury in, 10:35 a.m.)

12 THE BAILIFF: All jurors are present.

13 THE COURT: Thank you. Please be
14 seated.

15 Ladies and gentlemen, you have now
16 reached the stage of the trial where you will hear
17 closing arguments on behalf of counsel. Just as I
18 instructed you what was contained in opening
19 statements is not evidence, neither is what is
20 contained in the closing arguments. They are
21 merely the attorneys' contention as to what the
22 evidence has shown you.

23 After you have heard closing arguments,
24 I will instruct you on the law applicable to the
25 case and you will retire to consider your verdict.

1 Please remember, as I instructed you,
2 all of the exhibits that have been made part of the
3 record of the case will go back with you in your
4 deliberations. So, again, if the attorneys are
5 using any exhibits during their closing arguments
6 and you don't have the opportunity, please do not
7 be concerned. Those exhibits will go back with
8 you.

9 In this case, Mr. Durant will give his
10 closing argument. Ms. Norris will give hers, and
11 then Mr. Durant will have an opportunity for a
12 brief rebuttal.

13 Ladies and gentlemen, please remember,
14 I am the sole judge of the law in this case, and if
15 the attorneys tell you anything differently as to
16 the law, you must disregard it, because I am the
17 sole judge of the law in this case.

18 Mr. Durant.

19 MR. DURANT: Thank you, Your Honor.

20 As Judge Harrington told you, she is
21 going to instruct you on the law in this case. If
22 anything I tell you over the next couple of minutes
23 is different from what she is telling you, listen
24 to her; don't listen to me.

25 But I did want to take the opportunity

1 just to kind of go through the charges pending
2 against this Defendant Joseph Lamar Brown so show
3 you what the elements are and what to look for.

4 Believe it or not, probably one of the
5 easiest is this one, murder. Murder only has those
6 elements; the killing of another person with malice
7 aforethought. I want to point out something
8 because you might have been confused from the
9 defense's opening statements that said murder
10 required premeditation.

11 Murder in South Carolina does not
12 require premeditation. Murder in South Carolina
13 has never required premeditation. Murder in South
14 Carolina can be committed by someone that didn't
15 even intend to cause a death. What is required in
16 South Carolina is malice aforethought. And malice
17 aforethought does not equal premeditation.

18 Malice aforethought means that at the
19 time that trigger was pulled, there was malice
20 aforethought in the shooter's mind and in his
21 heart. And that malice could have developed the
22 second before he pulled that trigger, and there is
23 no requirement that it had to be premeditated.

24 Malice is a term of art in the law.
25 Malice is hatred, ill will, or hostility towards

1 another person. It is the intentional doing of a
2 wrongful act without just cause or excuse and with
3 intent to inflict an injury or under circumstances
4 that the law will infer an evil intent. Like when
5 you shoot somebody in the commission of a robbery.

6 Malice aforethought is a state of mind.
7 And because it is a state of mind, there is no
8 machine you can hook someone up to. You infer
9 malice from commonality. You can infer malice from
10 the use of a deadly weapon. You can infer malice
11 from the intentional killing of someone during the
12 commission of a felony.

13 All you have to find, as a jury, is
14 that there was malice. Malice aforethought. And,
15 certainly, in this case you have the murder of
16 someone during the commission of a felony.

17 Mr. Brown is also charged with burglary
18 in the first degree. Basically, it says what it
19 says. You entered a dwelling where someone lives
20 with the intent to commit a crime; in this case,
21 armed robbery. And during the commission of that
22 burglary, if you were armed with a deadly weapon,
23 if you caused physical injury, if you used that
24 weapon or you display a knife or a firearm, that
25 makes it a burglary in the first degree. And you

1 have all four of those in this case.

2 With regard to armed robbery, those are
3 the elements of armed robbery: Taking or
4 attempting to take and carry away the personal
5 property of another with the intent to deprive him
6 of possession by using force, threats, or
7 intimidation while armed with a deadly weapon.

8 And there may be some argument from the
9 defense that, well, there's been no proof that
10 anything was taken. Well, there has been.

11 Mr. Pritchard said that the assailant went through
12 -- Hugh Pritchard said the assailant went through
13 Johnny Pritchard's pockets. There was no cash on
14 Mr. Johnny Pritchard afterwards.

15 The person running down East Owens
16 Drive was observed dropping cash in the ditch and
17 then picking it up and proceeding on before he was
18 picked up by the camera at the end of Brenda B.
19 Despite the fact that Mr. Coleman says that he
20 didn't get any money, which probably is not true,
21 just goes to show there is no honor among thieves.

22 And, finally, the last one, possession
23 of a firearm during the commission of a violent
24 crime. All that means is, if you find Joseph Brown
25 guilty of burglary, or if you find him guilty of

1 armed robbery, or if you find him guilty of murder,
2 and then you determine that he had the -- a firearm
3 during the commission of whichever those offenses
4 you found him guilty of, then he's guilty of that
5 too.

6 On Monday afternoon I stood up here and
7 told you a story about how Johnny Pritchard came to
8 his end. Over the past three days, we have proved
9 to you the truth of that story. The issue in this
10 case is not whether or not Johnny Pritchard was the
11 victim of an armed robbery, of a burglary, or of a
12 murder; we know he was. That's really beyond
13 dispute in this case.

14 The issue is, is he responsible?
15 That's what you have to decide as a jury in this
16 case. And it's true that you've had descriptions
17 of a suspect that were all over the place. Not
18 unusual. You get five people to observe a crime
19 and interview them later, you would be hard-pressed
20 to believe they saw the same thing. And it's just
21 human -- the human condition.

22 Human perceptions are probably the
23 least reliable evidence that you will have as a
24 jury because people -- humans are human. And they
25 perceive things differently. And if that's all we

1 had, we wouldn't be here today. Because, you know,
2 two of them said he had dreads; one of them said he
3 didn't. One said he had 23 on his back; one said
4 he had red shoes, but you put all of them together
5 and what is consistent is this -- basically, is
6 this: That it was a black male, medium build,
7 wearing dark clothes. Everybody kind of agreed on
8 that.

9 And if that's all we had, as I said, we
10 would not be here today. But, in this case, you
11 have much more evidence to consider than just the
12 descriptions of those three witnesses. And you
13 have evidence that is much more reliable starting
14 off with the Perez video.

15 Videos do not have the unreliability of
16 human perception. And what do we learn from the
17 video from Mr. Perez's house? Well, we know that
18 immediately after the murder of Johnny Pritchard, a
19 black male is running down Brenda B Drive from the
20 area of East Owens toward the end of Brenda B.

21 We know that his build is similar to
22 this defendant. We know he's wearing all dark
23 clothing. We know that he has on red Converse-type
24 tennis shoes, red with the white tips on the front.
25 We know he doesn't have dreads, but we do know he's

1 wearing some sort of hoodie. And we do know there
2 is something on the back of that hoodie, but you
3 can't make it out from the video; some sort of
4 design on the back of the hoodie.

5 And the quality of that video is not
6 sufficient because of the distance that you could
7 positively identify Joseph Lamar Brown. You sure
8 can't rule him out, can you?

9 That's State's Exhibit 73.

10 (Indicating) State's Exhibit 74. (Indicating) No
11 dreads, all dark clothes, red Converse tennis
12 shoes. State's 75. (Indicating) There is some
13 design on the back of his dark hoodie. Just don't
14 know what it is. And once again, you sure can't
15 eliminate him as a suspect, can you?

16 That person is picked up and driven
17 away by a person driving a dark-colored sedan who
18 just happens to be wearing the exact same clothes
19 as Trey Coleman was observed wearing before and
20 after the murder of Johnny Pritchard. And we later
21 learned that Trey Coleman and Joe Joe Brown are
22 friends, associates and co-conspirators.

23 Next, you have the testimony of
24 Mr. Perez himself who happened to be out there when
25 all of this was going on. And he sees the car

1 driving up and he sees Coleman getting out of the
2 car and he recognizes Coleman from living in the
3 neighborhood.

4 And he sees Coleman run over to the
5 corner of his yard saying, hurry up, hurry up, and
6 he sees him running up after Mr. Coleman and gets a
7 good look at his face as he's getting in the car.

8 And then about a week later he's on the
9 Internet, and he sees the picture and says, that's
10 the dude that was in my back yard. And who was
11 that? (Pointing) This guy who also happens to be
12 that guy.

13 Next, you have State's Exhibit Number
14 63, the iPhone. And who does that iPhone belong
15 to? That iPhone belongs to him. (Indicating) And
16 how do we know that? Because his mug is on the
17 screen saver; and the picture of his girlfriend is
18 on the screen saver; and the girlfriend says that
19 phone belongs to him; and he says that phone
20 belongs to him; and he says that he's been using
21 that phone for a couple of months.

22 Right up to the time that he lost it,
23 which is right at the time that Johnny Pritchard is
24 murdered. And he loses it in the area of where
25 Johnny Pritchard was murdered and puts himself in

1 the area.

2 Next, we come to, in my mind, the most
3 reliable and probative evidence you have in this
4 case regarding the guilt of Joseph Lamar Brown,
5 Junior. And when you retire to your jury room, if
6 you do nothing else, I want each and every one of
7 you to digest the contents of State's Exhibit
8 Number 110. (Indicating)

9 You really need to go no further than
10 that exhibit to find this defendant guilty of
11 everything with which he is charged. And if you go
12 through that exhibit starting at 11:53 a.m., an
13 hour before -- just about an hour before
14 Mr. Pritchard's death, with the text, man, you
15 gotta rob dude today. I'm with him now.

16 And as I told you in my opening and
17 that you will see when you read that exhibit, for
18 the next hour they conspired together via text
19 message to determine how the robbery will take
20 place, where the robbery will take place, how this
21 man will know when Mr. Pritchard is back in his
22 house, how they are going to split the proceeds of
23 their dirty deed, where Coleman is going to pick up
24 Brown after the robbery takes place, which just
25 happens to be at the end of Brenda B Drive where

1 it's captured on video.

2 And there's also no question from
3 reading those texts who was intended to be robbed.
4 His fat-ass brother and him. The skinny one got
5 the money, though. I want you to run his pocket
6 and take his wallet. The fat one ain't got
7 nothing, but do whatever to take it. Hell, take
8 his pants off of him. And take his phone too.

9 Brown responds, so you want me to go in
10 there when they're both in there? Red responds,
11 they packing because he's about to move. They some
12 pussies. There ain't no gun in that house.

13 At 12:47 p.m., Coleman calls him, phone
14 call lasts 48 seconds, and says, he's back in his
15 house. In between then and nine minutes later when
16 911 was called is when he killed Johnny Pritchard.

17 We also know from the phone dump that
18 he and Trey Coleman had -- he and Red had a
19 relationship together extending back at least six
20 weeks. They are friends; they are associates; they
21 are co-conspirators; and they are not strangers.
22 Between November 7th of 2016, and right up to the
23 time Johnny Pritchard was killed, they had
24 communicated with each other via phone and text
25 over 500 times.

1 And we know from the Facebook stuff who
2 Red was, and we know who Red was because Coleman
3 told you he was Red.

4 Next, from this phone dump, we know
5 from the Perez video that the suspect had red
6 Converse-type tennis shoes. His house was searched
7 on January 3rd of 2017, and they didn't find any
8 red Converse-type tennis shoes, but we know he had
9 them. And we know he had them because of State's
10 Exhibit 116, red tennis shoes, Converse-type, white
11 toe. State's 117, State's 120, and State's 121,
12 the famous American flag outfit. (Indicating)

13 Take a good look at what he has in his
14 right hand, in addition to the red Converse-type
15 tennis shoes. This photograph was taken 1:30 a.m.
16 on the day of the shooting. It was taken at Joseph
17 Brown's residence, Abby Lane Townhouses. Yeah, he
18 definitely had a gun.

19 Let's talk about the gun. We also
20 learned from this phone dump that he had a gun.
21 And he had a Smith & Wesson pistol with the serial
22 number HPL 6641. And we know that from State's
23 Exhibits 118 and 119. 118; this is December 15th,
24 a multimedia message that he sent to some unknown
25 phone number with a picture of this gun.

1 It appears to have been taken in his
2 lap. We know it's taken with that iPhone. Appears
3 to be taken in his lap wearing the same clothing
4 he's shown wearing here. Wearing the same clothes
5 he's shown wearing there, (indicating) and wearing
6 the same clothes as he's shown wearing there.

7 And then you have State's Exhibit 119,
8 an iMessage to his friend, big bruh, from Joe Joe.
9 Hi, big bruh. I just finished this nine. That
10 bitch clap worked. Same pistol. This picture,
11 once again, taken by his iPhone and taken sitting
12 on the mattress in his bedroom.

13 And we learned from the trace that that
14 is a Smith & Wesson, Model MMP 9C, 9-millimeter
15 semiautomatic pistol. And we know from Michelle
16 Eichenmiller that that pistol is consistent with
17 having been the murder weapon in this case.

18 She can't tell you it was the murder
19 weapon because she had no weapon to examine, but
20 she can tell you this: That it is consistent with
21 the shell casings that was found in -- having fired
22 the shell casings that was found in Johnny
23 Pritchard's living room, and it was consistent with
24 having found fired the bullet that killed Johnny
25 Pritchard because of the rifling characteristics

1 and because of the firing pin impression.

2 Next, you have State's Exhibit 56, the
3 ammo that was found in his house. And it's various
4 brands, but one of those brands is Speer
5 9-millimeter Luger. The same type of bullet that
6 killed Johnny Pritchard.

7 And, lastly, you have the testimony of
8 Johnny Pritchard's friend, Trey Coleman; also known
9 as Red, also known as Moneybag Fly. Finally comes
10 forward midway through trial and tries to do the
11 right thing to save his behind. Joseph Brown's
12 friend, Joseph Brown's associate, Joseph Brown's
13 co-conspirator. The person that had been
14 communicating with Joseph Brown for months. The
15 person that conspired with Joseph Brown to commit
16 this robbery. The person who set up Johnny
17 Pritchard. The person that showed up after the
18 deed was done and picked him up and took him home,
19 which is the icing on the cake, because you knew
20 that before he testified.

21 Yes, ladies and gentlemen, when
22 everything is taken together in this case, and you
23 consider the testimony of the witnesses, the video
24 evidence, the text messages, the information and
25 photographs from the phone dump, the ballistics

1 information, and the testimony of Trey Coleman, all
2 of the arrows point to one person who burglarized
3 and robbed and murdered Johnny Pritchard.

4 And where do those arrows point?
5 Straight at him. (Indicating) I ask that you
6 retire to your jury room and arrive at a verdict in
7 this case which speaks the truth; to arrive at a
8 verdict in this case which provides justice for the
9 family of Johnny Pritchard; a verdict which finds
10 this defendant guilty of burglary in the first
11 degree, of armed robbery, of murder, and of
12 possession of a weapon during the commission of a
13 violent crime, because there is no reasonable doubt
14 in this case that he's guilty of each and every one
15 of those offenses.

16 Thank you.

17 MS. NORRIS: May it please the Court.

18 Ladies and gentlemen of the jury, let
19 me just start by apologizing to you. It's been a
20 long trial, I know it has, but it's a very serious
21 matter. And the most serious part is still ahead
22 of you because it will be your job, and only your
23 job, to decide whether Joseph Lamar Brown is guilty
24 of murder, armed robbery, burglary, possession of a
25 weapon during a violent crime.

1 And I'm going to apologize to you for
2 using notes, but I don't trust myself not to -- not
3 to forget something that needs to be said. And
4 that young man has been my responsibility for the
5 last 18 months, and he's certainly entitled to have
6 me not forget something that I need to say.

7 And it's an awesome responsibility
8 representing him, but the more serious, the more
9 awesome responsibility in this case is yours. And
10 not many lawyers actually get to sit on a jury, but
11 I've been on that side of the bar. A very long
12 trial where I had to vote guilty or not guilty.

13 And Judge Dennis told you outside of
14 military service, that jury duty is probably the
15 most awesome responsibility that any of us have as
16 a citizen in this country. And having been an army
17 officer, I'm not sure which is tougher.

18 So with that said, Mr. Durant and I
19 brought you the evidence that there is in the case.
20 That's our job. Judge Harrington has already told
21 you, and she will tell you again, she provides the
22 law, but only you can decide whether that young man
23 is guilty or innocent of these offenses.

24 It is part of your duty to look at all
25 the facts and circumstances. Look at what is not

1 in the evidence. If holes are there that you feel
2 should have been presented, then that raises the
3 doubt about whether there is guilt or not.

4 When you look at this particular case,
5 I think that you are going to find that there are
6 some holes in the evidence. And when you do that
7 and you're fulfilling your duties, it is your job
8 to deliberate and discuss with your other jurors,
9 but only you, each individual, can decide for
10 yourself whether Mr. Brown is guilty.

11 Mr. Durant can't take that away; I
12 can't; nobody can. Only you can make that
13 decision. And in order to convict, it has to be
14 all 12 of you beyond a reasonable doubt.

15 We talked a little bit about what is
16 not in dispute. See if we can help narrow it down.
17 It's, obviously, not in dispute that Johnny
18 Pritchard did not deserve to die. He did nothing
19 wrong.

20 But it's also not in dispute that he
21 lived in a bad neighborhood. Poor Mr. Perez, who
22 testified through the interpreter, told us his home
23 in seven years had been burglarized three times; he
24 had a murder in his back yard. And that's just a
25 few blocks down the street.

1 It's also not in dispute that
2 Mr. Pritchard had come into some money and any
3 number of people in that neighborhood knew about
4 it. He talked about it. He talked about it with
5 his neighbors; he bought a new car; he bought a new
6 home, and he told people about that.

7 He loaned money to at least one
8 neighbor, Trey Coleman. And this was not a
9 neighborhood where it's a good idea to be telling
10 people you have just come into some money.

11 And it's also not in dispute, State's
12 Exhibit 110, it was Trey Coleman texting with that
13 young man over there. And I agree with what
14 Mr. Durant said. Read it, digest it. They
15 conspired to commit a robbery. He's not charged
16 with conspiracy. They conspired to commit a
17 burglary. He's not charged with that. He's
18 charged with other offenses.

19 What they talked about doing was
20 robbing Mr. Pritchard. There is nothing about
21 harming him, no discussion, no nothing. Trey
22 Coleman told you that was not part of the plan.
23 It's in here that Trey Coleman said that he would
24 pick him up at the end of the Brenda B. He did.

25 But Trey Coleman can't tell you what

1 happened in the middle. He just knows that they
2 had this discussion, he picked him up. He can't
3 say who shot Johnny Pritchard. Was it that young
4 man or was it somebody else in this neighborhood
5 where murders happen a lot that knew about this
6 money?

7 And it is also not in dispute that not
8 a single witness testified in this courtroom can
9 tell you, I saw Joseph Brown shoot Johnny
10 Pritchard. Not a single witness. And no
11 fingerprints. No fingerprints at the crime scene
12 to say whether Joseph Brown did it or not.

13 And if I take this bullet and load it
14 into a weapon -- if you've ever seen a weapon,
15 there is a magazine you load the bullets into, and
16 those things have springs in them so that it takes
17 some pressure to get it in there. You're going to
18 leave some fingerprints. Investigator McElroy told
19 you that police officers have been able to get
20 fingerprints off shell casings because you have to
21 touch them in order to put them into a weapon.

22 They didn't even try to take the
23 fingerprints. Why? I don't know, but it's not my
24 job. It's their job to prove beyond a reasonable
25 doubt that that young man committed these crimes.

1 We've talked a lot about this picture
2 and this weapon. Owning a weapon is not a crime.
3 Probably half of Charleston County owns weapons.
4 And could that have been the murder weapon? Sure.
5 But a thousand other pistols in this county, or
6 even more, could have been the murder weapon.

7 Photos from Brenda B that the solicitor
8 showed you. (Indicating) That's Joseph Brown. I
9 don't dispute that. It shows him being picked up
10 by Trey Coleman. Does that tell you that he killed
11 anybody? No.

12 The State presented the witness, his
13 girlfriend, Naughty, Nautica. Joseph Brown told
14 her that he was in that neighborhood -- not a
15 crime -- he heard a gunshot, and he ran. Does that
16 mean that he fired the gun? No. It means he had
17 good common sense, because if I hear a gunshot
18 behind me, I'm going to run too.

19 There is no DNA to say who done it.
20 And the solicitor is right, that is the question
21 obviously in this case. And there's no confession.
22 Mr. Durant played portions of his statement to you
23 and seemed to make some deal that he couldn't say
24 for certain what he was wearing. First, he said
25 one thing, then he said another, then he said

1 another.

2 I asked Detective Goldstein what he was
3 wearing eight days ago. He couldn't answer either,
4 other than to say, if I was at work he had a suit.
5 And I will bet most of us in the courtroom right
6 now could not say unless it was a special occasion
7 what we were wearing eight days ago. Does that
8 mean we committed a crime? No.

9 And now Trey Coleman. Even Trey
10 Coleman, who pled guilty and testified here, could
11 not say that Joseph Brown shot Johnny Pritchard.
12 Can't do it. All he told us was basically what is
13 in evidence. He's Red, that's Joe Joe, they were
14 sending texts conspiring to rob and conspiring to
15 commit a burglary. He's not charged with that.
16 That's what he's guilty of.

17 He conspired to do it, but the question
18 is, did he do it or somebody else? And what we
19 know from the evidence is there is one shooter in
20 this case. One. Hugh Pritchard saw one guy. Was
21 that Joseph Brown? Was it somebody else?

22 Ms. Seman talked to you in opening
23 statement about assumptions, and we've got a lot of
24 assumptions in the State's evidence and arguments
25 here. Assumption that because he was in the

1 neighborhood he committed this. Because he dropped
2 the phone, he committed this murder. Because he
3 had conspired to rob that he actually carried it
4 out and robbed him. Assumptions.

5 There is no direct proof of that. What
6 they have is circumstantial evidence. And let's
7 talk about some of that evidence. Mr. Pritchard,
8 Hugh Potter Pritchard, was all over the map. And I
9 understand that. I don't mean to pick on him; it
10 was a horrifying, traumatic experience being in
11 that home and having a loved one be killed.

12 I understand that; but, initially, he
13 could not even say what race the shooter was. And
14 it keeps going from there. But regardless of the
15 changes in statements, et cetera, he could not tell
16 you who shot his cousin.

17 Mr. Pritchard couldn't even tell you
18 correctly where he's staying at present without
19 being corrected by the State. If you recall, the
20 solicitor asked him, where are you staying at
21 present? He said at a friend's house. He was
22 actually staying in a hotel that the State put him
23 in to make sure that he would be here to testify.

24 I don't mean to pick on him because
25 he's homeless -- I feel bad for that -- but it does

1 sort of show that he does not have a close
2 relationship with the truth when he can't answer
3 honestly where he lives.

4 And then there's Celeste McBride. That
5 young lady told you the truth the best that she
6 could. I don't have any doubt of that. She saw a
7 guy running by after a noise. She couldn't tell
8 you whether the noise she heard was a gunshot or
9 something else. She couldn't say where the guy she
10 saw running started. It could have been at
11 Pritchard's house. It could have been five miles
12 away. She doesn't know.

13 She said gray stone-colored pants,
14 couldn't say shirt, shoulder-length dreadlocks.
15 She saw him drop something. She assumed that it
16 was a phone, but she didn't know. Does that mean
17 that Joseph Brown was the person she saw? No.
18 Does that mean that he had lost his phone there?
19 That's for you to decide.

20 She also said that she was convinced
21 that she saw money dropped, but she also conceded
22 that it was more than 30 yards down the way. It's
23 a pretty good distance. Three hundred fifty yards
24 is half the length of a football field. Could I
25 tell seeing somebody at that distance what they

1 dropped? No, of course not.

2 And Allen McBride, really the only
3 thing that he had was that he picked up the phone,
4 and he saw -- he saw the back of the guy that
5 Celeste had seen and he saw the picture on the
6 phone. And he said that the guy he saw, his hair
7 was longer than Joseph Brown.

8 And Detective Goldstein told you about
9 Merit Lafond Williams. He's the guy that Celeste
10 told us was driving slowly beside the guy she saw
11 running, and he had been at Trey Coleman's house.
12 He saw the runner, described him with dark
13 clothing, red Converse shoes, multicolor 23 on the
14 back.

15 And while we're on it, let's talk about
16 those shoes. Those are red Converse tennis shoes.
17 And I've been around a very long time, but even
18 when I was growing up, people were wearing Converse
19 shoes. They're not uncommon shoes. So because
20 Joseph Brown has red Converse shoes, does that make
21 him a killer? No, of course not.

22 And, in fact, when you were downstairs
23 in the jury qualification room, I had to catch
24 myself not to laugh because where the attorneys
25 were sitting on the side, there was a juror in the

1 pool that was sitting right on the end wearing red
2 Converse tennis shoes, the guy who was an assistant
3 professor. So they're not uncommon.

4 And you also heard from Detective
5 Goldstein that David Felder was wearing red shoes.
6 Not Converse. But if I see a guy running, can I
7 tell exactly what kind of shoes? That's for you to
8 decide.

9 The guy that Merit Williams saw also
10 said that that guy was wearing a skully cap. Now,
11 I grew up in the Blue Ridge Mountains. We didn't
12 use the term skully cap, but when I looked it up, I
13 figured out that actually I had one. Something
14 like that. (Indicating)

15 He said that he had a skully cap with
16 writing. State's Exhibit 132, which is David
17 Felder, and you will have the evidence back with
18 you. When you look at his hand, he's got that --
19 he has one of those caps with writing on it. And
20 it's also in 133. It's already laying on the back
21 of the chair.

22 And the guy that Merit Lafond Williams
23 saw had dreadlocks. Nobody has ever said, even the
24 solicitor said, he's never had dreadlocks.

25 Now, then there was Martin Perez who

1 lives across the street from David Felder. Do I
2 believe or does anybody in this courtroom believe
3 that while he was bent down playing with his dog --
4 you can see that in the video. That's what he's
5 doing when they're getting in the car.

6 And the guy ran by real fast. Can he
7 say that's Joseph Brown? Absolutely not, but does
8 it matter? It wasn't Joseph Brown that ran by
9 there, so why Mr. Perez wanted to stretch that out,
10 I don't know. But so what.

11 He's on video getting picked up by Trey
12 Coleman. Again, the important point is who shot
13 Johnny Pritchard? Being in that neighborhood,
14 getting in that car does not mean you're the guy
15 that shot somebody.

16 Now, David Felder. Again, 132.
17 (Indicating) And you can see that David Felder
18 does have shoulder-length dreadlocks. Detective
19 Goldstein also told us that. And this jacket that
20 he had in 133 has the number 23 on it. And this is
21 a gentleman that had gunshot residue on him.
22 That's the jacket that Lieutenant Nates was talking
23 about.

24 And now we had some evidence about the
25 dog -- his dog being shot. And, by the way, the

1 good news is the dog lived and had puppies. So
2 could the gunshot residue have come from Detective
3 Goldstein standing next to the officer who fired or
4 putting his hand on his weapon and wiping that on
5 David Felder? Could have.

6 But could it have come from David
7 Felder shot Johnny Pritchard? Yes. That's for you
8 to decide. But when you have all of these
9 questions about -- the solicitor says, arrows
10 pointing at him, all arrows point at him. That's
11 not enough.

12 Our standard in this courtroom, in this
13 country, is proof beyond a reasonable doubt. If
14 you have any doubt at all that he shot Johnny
15 Pritchard, then the only possible verdict is not
16 guilty.

17 Now, the State said -- Detective
18 Goldstein said, well, you know, we know this stuff
19 about David Felder, but he had an alibi. Who is
20 his alibi? His girlfriend and her sister. If
21 that's all it takes, maybe I should call
22 Mr. Brown's girlfriend. And his story of where he
23 had been was the Dorchester County courthouse.
24 There is no court two days before Christmas.

25 So at the end of this long trial, what

1 we have is, no one saw Joseph Brown, or anybody
2 else -- I take that back. Let me rephrase that.
3 Nobody can say they saw Joseph Brown shoot Johnny
4 Pritchard. Hugh Potter Pritchard can say somebody
5 did. That's it.

6 No one heard Joe Joe confess to
7 shooting Pritchard, no fingerprints, no DNA, it's
8 in the neighborhood, so is David Felder, so are any
9 number of people. But David Felder is the one guy
10 out there that we know had gunshot residue on him.

11 I submit to you, ladies and gentlemen,
12 that the State has failed to prove beyond a
13 reasonable doubt that that young man is guilty.

14 I have talked mostly about the murder.
15 The armed robbery, again, I would just say there is
16 no actual proof money was taken; but murder,
17 burglary, armed robbery, possession of a weapon,
18 he's not guilty.

19 You were chosen for this jury because
20 we trusted you as good, honest jurors. I know each
21 of you had to come up here and stand at the podium
22 and wait while he said, accept the juror, and I
23 said, swear or excuse. So we both chose you and we
24 trust you to do the right thing.

25 Look at all the evidence, look at all

1 the facts, take the law as you hear it, and there
2 is only one possible verdict on each of the
3 charges: Not guilty.

4 Thank you.

5 THE COURT: Mr. Durant.

6 MR. DURANT: Thank you, Your Honor.

7 And, don't worry, I'm not going to be
8 long here. But I did want to address just a couple
9 of points raised by Ms. Norris starting with the
10 bad neighborhood defense.

11 Yes, it's a bad neighborhood. And you
12 know why it's a bad neighborhood? Because people
13 like him (indicating) and Trey Coleman are living
14 there. That's why it's a bad neighborhood. That
15 means nothing. That just further goes to show his
16 complicity because Trey Coleman was the guy's
17 friend and Trey Coleman knew the guy had money.

18 And you heard argument that -- yes. I
19 mean, she admits that her client planned to rob
20 with -- planned with Trey Coleman to rob Johnny
21 Pritchard, but you didn't hear anything about them
22 planning to kill him. So what?

23 The law doesn't require that they had
24 to plan to kill him. The law says that when you go
25 and commit a robbery while armed with a deadly

1 weapon and you kill somebody, you're guilty of
2 murder even if you never intended to kill anybody
3 when you went into the store because you had a gun.

4 Not only is he guilty of murder, Trey
5 Coleman is guilty of murder, because Trey Coleman
6 helped him. And Trey Coleman wasn't even there
7 when the shot was fired, but Trey Coleman set it up
8 and Trey Coleman picked him up.

9 And then under the law, he's just as
10 guilty as if he had had his finger on the trigger
11 himself. So all this stuff about, oh, there was no
12 plan to kill somebody is hogwash. It makes no
13 difference.

14 When you arm yourself with a weapon and
15 go rob somebody, you and all of your confederates
16 are guilty of whatever you do during the commission
17 of that robbery. That's the only way it can be;
18 otherwise, everybody could kill somebody. I didn't
19 mean to kill him. I meant to do all that other
20 stuff, but I didn't mean to kill him. Bull.

21 Fingerprints on the bullet? Nope.
22 Hershel McElroy said, no, I didn't do it. I've
23 never had any luck doing it. And you know why he
24 never had any luck doing it?

25 Because fingerprints are moisture and

1 when a gun is fired, that cartridge case has an
2 explosion that burns off fingerprints. Been doing
3 this for 34 years, never got a fingerprint on a
4 fired shell casing.

5 The part about Joseph Brown changing
6 his story about what he was wearing, this is just
7 such a minor point. And she brought -- and
8 Ms. Norris rightfully brought up that Detective
9 Goldstein didn't remember what he was wearing eight
10 days before. But that's not what Joseph Brown did.

11 Joseph Brown had a very specific
12 recollection of what he was wearing that day. He
13 just kept changing it. Just goes to show you he's
14 a liar. And that's the only reason I brought it up
15 to begin with. He lied about that, just like he
16 lied about the fact that he just happened to lose
17 his gun right at the time Johnny Pritchard was
18 killed.

19 MS. NORRIS: Your Honor, I'm going to
20 object to that. I think he just misspoke, but
21 there is nothing about him losing a gun.

22 MR. DURANT: I'm sorry.

23 THE COURT: Ladies and gentlemen,
24 remember, I instructed you that the closing
25 arguments are not evidence. It's simply the

1 attorneys' contention as to what the evidence has
2 shown. Thank you.

3 MR. DURANT: And I apologize for
4 misspeaking, and she is right.

5 I'm not really sure what their theory
6 is on this case. I mean, Ms. Norris, as I
7 understand it, admitted that her client and Trey
8 Coleman conspired to commit this robbery. She
9 admits that her client was at the end of Brenda B
10 being picked up by Trey Coleman.

11 Is it her theory that Joseph Brown went
12 in and robbed Mr. Pritchard and then left, and then
13 somebody else just happened to come in and kill
14 him? Is that what they're trying to get you to
15 believe?

16 And, ladies and gentlemen, if that's
17 what you believe, you go in there and acquit him.
18 But that is a fairytale. You know what happened, I
19 know what happened, and the evidence shows you what
20 happened in this case. And the evidence shows you
21 who is responsible for the death of Johnny
22 Pritchard.

23 Because the problem boils down to this,
24 if that is their theory that she admits -- she's
25 trying to tell you from the descriptions that the

1 person running by Celeste McBride's house was not
2 her client, but the problem that she doesn't point
3 out is that that person dropped his phone.

4 That person was him. That person was
5 the same person picked up on Brenda B that she
6 admits. Celeste McBride who looked at the Perez
7 video and says, yeah, that looks like the guy I
8 saw. This guy looks like the guy I saw. The fact
9 of the matter is, the person who dropped that phone
10 in front of her house is that person who she admits
11 is her client.

12 And now let's talk about David Felder.
13 You heard a lot about David Felder in this case.
14 David Felder is the red herring. There is no proof
15 whatsoever that he had anything to do with the
16 death of Johnny Pritchard, but they want to take a
17 couple of facts and make him into the murderer.

18 And it is true that he had a jacket
19 that had the number 23 on the back of it, and it is
20 true that he had dreads, but it is not true that he
21 had red Converse tennis shoes. It was not true
22 that he was wearing all black clothing. And it's
23 also true that he was not the person that was
24 picked up -- captured being picked up on Brenda B
25 Drive by the Perez video.

1 And we all also know that that person
2 picked up that Miss McBride saw running by her
3 house was not that person depicted here. That
4 person did have an alibi and, yes, the two people
5 that confirmed the alibi was his girlfriend and the
6 girlfriend's sister. All of whom confirmed they
7 had been to St. George and were in St. George at
8 the time that this incident occurred.

9 And they had gone up there to meet a
10 lawyer at the courthouse and discovered that the
11 courthouse was closed when they got there and the
12 lawyer wasn't there. That's the part you didn't
13 hear about. And he didn't have text messages
14 planning the robbery on David Felder's phone.

15 MS. NORRIS: Objection; speculation.

16 THE COURT: Ladies and gentlemen,
17 please remember what is contained in closing
18 argument is not evidence. It's merely the
19 attorney's contention as to what the evidence has
20 shown you. You are the judges of the facts in this
21 case.

22 MR. DURANT: And the GSR on his sleeve
23 proves absolutely nothing. It could have been on
24 there for days, months. It could have been put on
25 there I believe -- which I think is probably the

1 most likely explanation because of the dog
2 incident. And Detective Goldstein just happened to
3 be standing right beside the deputy that fired the
4 weapon.

5 And Detective Goldstein you can see in
6 the photo and still shots had his hand on his
7 weapon at the time he was cuffing David Felder and
8 had his hands all over David Felder's jacket. You
9 see that on the video. And last but not least, you
10 have Trey Coleman that said David Felder had
11 nothing to do with this.

12 Once again, if you go back there and
13 think David Felder did it, let him go, but, ladies
14 and gentlemen, I'm competent that you know what
15 happened that day, and I'm confident that you know
16 that without any reasonable doubt.

17 I believe that each and every one of
18 you are firmly convinced that Joseph Brown is the
19 person responsible for this crime, and that's all
20 the law requires. Thank you.

21 THE COURT: Ladies and gentlemen, I'm
22 now going to instruct you on the law applicable to
23 this case.

24 Ladies and gentlemen, I typically do
25 not send back a copy of my charges, so please

1 listen carefully. Madame Foreperson, for you will
2 be responsible for writing the verdict, but I will
3 go over the verdict forms after I have instructed
4 you on the law applicable to this case.

5 I remind you that during this trial you
6 and I have had certain duties to perform. As the
7 trial judge, it is my responsibility to preside
8 over the trial of this case, and I also have the
9 duty to rule on the admissibility of the evidence
10 offered during this trial.

11 You are to consider only the competent
12 evidence before you. If there was any testimony
13 ordered stricken from the record, you must
14 disregard that testimony. You are to consider only
15 the testimony that has been presented from the
16 witness stand, the exhibits that have been made
17 part of the record of this case.

18 I have the additional duty to charge
19 you the law applicable to this case. As the
20 presiding judge, I am the sole judge of the law of
21 this case. It is your duty as jurors to accept the
22 law as I state it now.

23 If you have any idea as to what the law
24 is or what the law ought to be and it does not
25 agree with what I'm about to tell you, you must

1 abandon your own ideas because you are sworn to
2 accept the law and apply the law exactly as I state
3 it to you now.

4 In every case tried in this courtroom,
5 the jury becomes the sole and exclusive judges of
6 the facts. A trial judge may never make any
7 comment to a jury about the facts in this case.
8 You are the sole judges of the facts in this case.
9 You are not to infer from anything that I have said
10 or done throughout the progress of this trial that
11 I have any opinion about the facts of this case.
12 The law does not allow me to have an opinion about
13 the facts in this case. This is a matter solely
14 for you to determine.

15 As jurors, it is your duty to determine
16 the effect, value, and weight of the evidence
17 presented during this trial.

18 The four indictments charge this
19 defendant with murder, possession of a weapon
20 during the commission of a violent crime, burglary
21 in the first degree, and armed robbery.

22 I remind you of the fact that the
23 defendant was arrested, charged, and indicted in
24 this case is not evidence in this case and cannot
25 be considered by you as evidence of guilt in the

1 case, nor does it create any presumption or
2 inference of guilt.

3 These documents are simply the formal
4 written instrument which contains the charge made
5 against the defendant. An indictment is the formal
6 document by which this case is brought into court.

7 Just as the indictments in this case
8 are not evidence, any terminology or labels used to
9 refer to the individuals involved in this case
10 cannot be considered as evidence. For example, the
11 use of the words, defendant and victim, are merely
12 formal labels and may not be considered as
13 evidence.

14 The indictments in this case allege
15 four different offenses. The charges are
16 Indictment 2017-GS-10-4077, murder;
17 2017-GS-10-4079, possession of a weapon during the
18 commission of a violent crime; 2017-GS-10-4081,
19 burglary in the first degree; Indictment
20 2017-GS-10-4083, armed robbery.

21 Each indictment charges a separate and
22 distinct offense. You must decide each indictment
23 separately on the evidence and the law applicable
24 to it. You will be asked to write a separate
25 verdict of guilt or not guilty of each indictment.

1 The defendant has pled not guilty to
2 each indictment. A person charged with committing
3 a criminal offense in South Carolina is never
4 required to prove himself innocent.

5 I charge you it is an important rule of
6 law that the defendant in a criminal trial, no
7 matter what the seriousness of the charge may be,
8 will be presumed to be innocent of the crime for
9 which the indictment was issued unless guilt has
10 been proven by evidence satisfying you of that
11 guilt beyond a reasonable doubt.

12 This presumption of innocence does not
13 end when you begin your deliberations, but it
14 accompanies the defendant throughout the trial
15 until you reach a verdict of guilt based upon
16 evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 The State has the burden of proving the
19 defendant guilty beyond a reasonable doubt. Some
20 of you may have served as jurors before in civil
21 cases where you were told that it is only necessary
22 to prove the fact is more likely true than not
23 true, such as by the greater weight or
24 preponderance of the evidence.

25 In a criminal case, the State's proof

1 must be more powerful than that. It must be beyond
2 a reasonable doubt. Proof beyond a reasonable
3 doubt is proof that leaves you firmly convinced of
4 the defendant's guilt. There are very few things
5 that we know with absolute certainty, and in
6 criminal cases, the law does not require proof that
7 overcomes every possible doubt.

8 If based upon your consideration of the
9 evidence you are firmly convinced that the
10 defendant is guilty of the crime charged, you must
11 find the defendant guilty. If, on the other hand,
12 you think there is a real possibility that the
13 defendant is not guilty, then you must give the
14 defendant the benefit of the doubt and find him not
15 guilty.

16 There are two types of evidence
17 generally presented during a trial; direct evidence
18 and circumstantial evidence. Direct evidence
19 directly proves the existence of a fact and does
20 not require deductions. Circumstantial evidence is
21 proof of a chain of facts and circumstances
22 indicating the existence of a fact.

23 Crimes may be proven by circumstantial
24 evidence. The law makes no distinction between the
25 weight or value to be given either direct or

1 circumstantial evidence; however, to the extent the
2 State relies on circumstantial evidence, all of the
3 circumstances must be consistent with each other,
4 and when taken together, point conclusively to the
5 guilt of the accused beyond a reasonable doubt.

6 If the circumstances merely portray the
7 defendant's behavior as suspicious, the proof has
8 failed. The State has the burden of proving the
9 defendant guilty beyond a reasonable doubt. This
10 burden rests with the State regardless of whether
11 the State relies on direct evidence, circumstantial
12 evidence, or a combination of the two.

13 Necessarily, you must determine the
14 credibility of the witnesses who have testified in
15 this case. Credibility simply means believability.
16 It becomes your duty as jurors to analyze the facts
17 and determine which evidence convinces you.

18 In determining the believability of the
19 witnesses who have testified in this case, you may
20 believe one witness over several witnesses or
21 several witnesses over one witness. You may
22 believe a part of the testimony of a witness in its
23 entirety and reject the remaining part of the
24 testimony of that same witness. You may believe
25 the testimony of a witness in its entirety or

1 reject the testimony of a witness in its entirety.

2 You may consider if a witness exhibited
3 to you any interest, bias, prejudice, or other
4 motive in this case. You may consider the
5 appearance and manner of a witness while that
6 witness was testifying.

7 The rules of evidence ordinarily do not
8 permit witnesses to testify to opinions or to
9 conclusions. An exception to this rule exists for
10 witnesses we call expert witnesses. A witness who
11 by education and experience has become expert in
12 some art, science, profession, or calling may state
13 an opinion as to a relevant and material matter in
14 which the defendant does claim to be an expert and
15 may also state a reason for that opinion.

16 You should consider any expert opinion
17 received in evidence in this case and, like any
18 other evidence, give it the weight you think it
19 deserves. If you decide the opinion of an expert
20 witness is not based on education and experience,
21 or you conclude that the reasons given in support
22 of the opinion are not sound, or that the opinion
23 is outweighed by other evidence, you may disregard
24 the opinion entirely.

25 An expert witness's testimony is to be

1 given no greater weight than that of other
2 witnesses simply because the witness is qualified
3 as an expert. Further, you are not required to
4 accept an expert opinion even though it was not
5 contradicted.

6 A statement alleged to have been made
7 by the defendant has been admitted into evidence in
8 this case. While the Court has determined that the
9 statement is admissible, I instruct you that you
10 make the ultimate decision of whether or not the
11 defendant made the statement.

12 If the defendant did make the
13 statement, you must determine whether the statement
14 was made by the defendant voluntarily and of his
15 own free will. This means that the statement was
16 not caused by pressure, force, fear, threats,
17 coercion, or intimidation, or by hope, or a promise
18 of leniency, or reward of any kind.

19 In determining whether the statement
20 was voluntary, you should consider the
21 characteristics of the defendant and the details of
22 the questioning.

23 Some of these factors that you must
24 consider are the age of the defendant, the
25 defendant's education or lack of education, the

1 defendant's mental ability or capacity, the
2 defendant's IQ, the defendant's background and
3 environment, the place or length of detention, the
4 nature of the questioning, and the advice or less
5 thereof of the defendant's constitutional rights,
6 including but not limited to the right to remain
7 silent; that any statement could be used against
8 him in a court of law; the right to have a lawyer
9 present; that if he could not afford a lawyer, one
10 would be appointed to represent him at any cost;
11 and that he could stop making a statement at any
12 time.

13 You must carefully consider all of the
14 surrounding circumstances before you give any
15 weight to the alleged statement.

16 The State has the burden of proving
17 beyond a reasonable doubt that the alleged
18 statement was voluntary. If you determine it was,
19 you may give the statement any further
20 consideration you deem proper if you decide what
21 weight, if any, should be given to the alleged
22 statement.

23 If you determine the alleged statement
24 was not the free and voluntary statement of the
25 defendant, you should not consider the statement at

1 all.

2 An issue in this case is the
3 identification of the defendant as the person who
4 committed the crime charged. The State has the
5 burden of proving identity beyond a reasonable
6 doubt. You must be satisfied beyond a reasonable
7 doubt of the accuracy of the defendant before you
8 may convict the defendant.

9 Identification testimony is an
10 expression of belief or impression by a witness.
11 You must determine the accuracy of the
12 identification of the defendant. You must consider
13 the believability of each identification witness in
14 the same way as any other witness. You may
15 consider whether the witness had an adequate
16 opportunity to observe the offender at the time of
17 the offense.

18 This will be affected by things like
19 how long or short of time was available; how close
20 or far the witness was; the lighting conditions and
21 whether the witness had a chance to see or know the
22 person in the past.

23 Once again, I instruct you, the burden
24 of proof on the State extends to every element of
25 the crime charged, and this specifically includes

1 the burden of proving beyond a reasonable doubt the
2 identity of the defendant as the person who
3 committed the crime.

4 If after examining the testimony you
5 have a reasonable doubt as to the accuracy of the
6 identification, you must find the defendant not
7 guilty.

8 In order to establish criminal
9 liability, criminal intent is required. For
10 example, the mental state required by the State for
11 a particular -- for a particular crime to be proven
12 might be purpose, intent, knowledge, recklessness,
13 or criminal negligence.

14 Criminal intent must be proven by the
15 State beyond a reasonable doubt. Criminal intent
16 is always a matter that must be determined by the
17 jury from the circumstances surrounding this
18 situation. There is no way to prove intent to a
19 mathematical certainty.

20 There is no way that medical science
21 can dissect a person's brain and determine what the
22 person had in mind. So the law says that criminal
23 intent may be inferred from the circumstances shown
24 to have existed.

25 This is how you make a determination of

1 whether or not the element requiring intent was
2 present. It is not necessary to prove and
3 establish intent by direct and positive evidence,
4 but intent may be established by inference in the
5 same way as any other fact by taking into
6 consideration the acts of the parties and all the
7 facts and circumstances of the case.

8 Criminal intent is a mental state. It
9 is a conscious wrongdoing. It is up to you to
10 determine what the defendant intended to do based
11 upon the circumstances shown to have existed.
12 Criminal intent can arise from action or a failure
13 to act. It may arise from negligence,
14 recklessness, or an indifference to duty or to
15 consequences that is considered by the law to be
16 the equivalent of criminal intent.

17 The defendant is charged with murder.
18 The State must prove beyond a reasonable doubt that
19 the defendant killed another person with malice
20 aforethought. Malice is hatred, ill will, or
21 hostility towards another person.

22 It is the intentional doing of a
23 wrongful act without just cause or excuse and with
24 the intent to inflict an injury or under
25 circumstances that the law will infer an evil

1 intent.

2 Malice aforethought does not require
3 that malice exists for any particular time before
4 the act is committed, but malice must exist in the
5 mind of the defendant just before and at the time
6 the act is committed; therefore, there must be a
7 combination of the previous evil intent and the
8 act.

9 Malice aforethought may be expressed or
10 inferred. These terms express and inferred do not
11 mean different kinds of malice, but the manner in
12 which malice may be shown to exist. This is either
13 by direct evidence or by inference from the facts
14 and circumstances which are proved.

15 Express malice is shown when a person
16 speaks words which express hatred or ill will
17 towards another or when a person prepared
18 beforehand to do the act which was later
19 accomplished.

20 For example, lying in wait for a person
21 or any other acts of preparation going to show that
22 the deed was within the defendant's mind would be
23 express malice.

24 Malice may be inferred from conduct
25 showing a total disregard for human life. Inferred

1 malice may also arise when the deed is done with a
2 deadly weapon.

3 A deadly weapon is any article,
4 instrument, or substance which is likely to cause
5 death or great bodily harm. Whether an instrument
6 has been used as a deadly weapon depends on the
7 facts and circumstances of each case.

8 The following are examples or
9 instruments which may be a deadly weapon: a
10 pistol, shotgun, rifle, dirk, knife. A gun may be
11 a deadly weapon even if it is not operating.

12 If facts are proved beyond a reasonable
13 doubt sufficient to raise an inference of malice to
14 your satisfaction, this inference would simply be
15 an evidentiary fact to be considered by you along
16 with the other evidence in this case, and you may
17 give it the weight you believe it deserves.

18 If one intentionally kills another
19 during the commission of a felony, the inference of
20 malice may arise. If facts are proven beyond a
21 reasonable doubt sufficient to raise an inference
22 of malice to your satisfaction, this inference
23 would simply be an evidentiary fact to be taken
24 into consideration by you, along with all of the
25 other evidence in this case, and you may give it

1 the weight you think it should receive.

2 The defendant is charged with
3 possession of a weapon during the commission or
4 attempt to commit a violent crime. The State must
5 prove beyond a reasonable doubt that the defendant
6 was in possession of a firearm or visibly displayed
7 what appeared to be a firearm during the commission
8 of a violent crime.

9 A firearm is any machine gun, automatic
10 rifle, revolver, pistol, or any weapon which will,
11 is designed to, or may be readily converted to
12 expel a projectile.

13 In order to find the defendant guilty
14 of possession of a weapon during the commission of
15 a violent crime, you must find the defendant guilty
16 of committing a violent crime. Murder, burglary in
17 the first degree, and armed robbery are violent
18 crimes and felonies under the law of this state.

19 The State must prove beyond a
20 reasonable doubt that the weapon further advanced
21 or helped in the commission of the crime.

22 The defendant is charged with first
23 degree burglary. The State must prove beyond a
24 reasonable doubt that the defendant entered a
25 dwelling without consent. A dwelling is any

1 building or portion of a building in which a person
2 ordinarily sleeps.

3 A building constructed as a dwelling
4 which has never been occupied cannot be considered
5 a dwelling for purposes of a burglary, but a
6 dwelling -- a building is a dwelling even if the
7 residents are temporarily absent from the building.

8 In order to prove that the defendant
9 entered the dwelling, the State does not have to
10 show that the defendant's entire body entered the
11 dwelling. The smallest entry is sufficient. It
12 may be any part of the body, such as a hand or a
13 foot or even an instrument such as a hook or other
14 instrument.

15 In addition, the State does not have to
16 prove that force was used to gain entry. If a
17 person enters a building using deception, trick, or
18 misrepresentation to get consent to enter, this is
19 entry without consent.

20 Next, the State must prove beyond a
21 reasonable doubt that the defendant intended to
22 commit a crime, either a felony or a misdemeanor at
23 the time of the entry. The mere entry into a
24 dwelling without consent is not burglary. If the
25 intent to commit a crime is formed after the entry,

1 it is not burglary.

2 On the other hand, if the defendant
3 intended to commit a crime at the time of the
4 entry, it is burglary even if the intent was
5 abandoned after the entry. It does not matter that
6 the intended crime was not committed.

7 Intent may be shown by acts and conduct
8 of the defendant and other circumstances from which
9 you may naturally and reasonably infer intent.

10 Finally, the State must prove beyond a
11 reasonable doubt that when entering, while in the
12 dwelling or when fleeing, the defendant or an
13 accomplice was armed with a deadly weapon or
14 explosive; or when entering, while in the dwelling,
15 or when fleeing, the defendant or an accomplice
16 caused physical injury to anyone not participating
17 in the crime; or when entering, while in the
18 dwelling, or when fleeing, the defendant or an
19 accomplice used or threatened to use a dangerous
20 object; or when entering, while in the dwelling, or
21 when fleeing the defendant or an accomplice
22 displayed what was or appeared to be a knife,
23 pistol, revolver, rifle, shotgun, machine gun, or
24 other firearm.

25 The defendant is charged with armed

1 robbery. In order to prove this, the State must
2 prove beyond a reasonable doubt that the defendant
3 took personal property from the person or presence
4 of another person.

5 Property is in the presence of a person
6 if it is within the person's reach, inspection,
7 observation, or control so that the person could,
8 if not overcome with violence or present by fear,
9 keep possession of the property.

10 The State must prove beyond a
11 reasonable doubt that the defendant carried the
12 property away intending to permanently deprive the
13 owner of the property and to keep the property for
14 the defendant's own use. The slightest removal of
15 the property or the complete possession of the
16 property, even for an instance, by the defendant is
17 sufficient to show a taking and carrying away of
18 the property. The taking and carrying away of the
19 property.

20 The taking and carrying away must have
21 been done with violence or by putting the owner of
22 the property in fear of violence.

23 Finally, the State must prove beyond a
24 reasonable doubt that the defendant was armed with
25 a deadly weapon during the robbery. A deadly

1 weapon is any article, instrument, or substance
2 which is likely to cause death or great bodily
3 harm.

4 Whether an instrument has been used as
5 a deadly weapon depends on the facts and
6 circumstances of each case.

7 You have heard testimony concerning
8 sentencing and the penalty for the crimes alleged
9 in the indictment. In determining the guilt or
10 innocence of the defendant, you cannot consider any
11 possible penalty for any particular crime.

12 The punishment for the crime is a
13 matter for me to determine and should not be
14 considered by you in any way whatsoever in arriving
15 at an impartial verdict as to the guilt or
16 innocence of the defendant.

17 I instruct you and emphasize the fact
18 that the defendant in this case did not testify is
19 not a factor to be considered by you in any way in
20 your deliberations and in your consideration on the
21 question of the guilt or innocence of the
22 defendant. It must not be considered by you in any
23 manner whatsoever.

24 A defendant has the constitutional
25 right to remain silent, and the assertion of his

1 right must not be considered by you in your
2 deliberations.

3 I repeat, under your oath you are to
4 draw no conclusion whatsoever from the fact that
5 the defendant in this case did not testify. The
6 fact that the defendant did not testify should not
7 even be discussed in the jury room.

8 Madame Foreperson, that is one of your
9 duties. The fact that the defendant did not
10 testify should not be considered or discussed in
11 the jury room.

12 The burden of proof, as I stated to
13 you, is on the State. The defendant is not
14 required to prove his innocence. The burden of
15 proof remains on the State to prove guilt beyond a
16 reasonable doubt.

17 Ladies and gentlemen, I am not going to
18 go over the verdict forms with you. Please draw no
19 conclusions whatsoever from the way that I read
20 these verdict forms or the order that I read them.
21 It's simply something must go on the paper first.

22 Madame Foreperson, as I indicated to
23 you, it is your responsibility to complete the
24 verdict form and you will hand those back to us.
25 You will not read the verdict forms out. I know

1 some forepersons do not wish to engage in public
2 speaking, so I want to allay your fears.

3 In the Court of General Sessions for
4 the Ninth Judicial Circuit, Case Number
5 2017-GS-10-4077, State of South Carolina versus
6 Joseph Lamar Brown, Junior. The verdict form: We,
7 the jury, find the Defendant Joseph Lamar Brown,
8 Junior not guilty; or, we, the jury, find the
9 Defendant Joseph Lamar Brown, Junior guilty of the
10 murder of John Glenn Pritchard.

11 Once you have reached a unanimous
12 decision, Madame Foreperson, you will sign and date
13 this verdict form.

14 As I indicated to you, each indictment
15 must be considered separately, based upon the facts
16 and that law that I have given you and the facts as
17 you have found them. Each one must be decided
18 separately, independent of your other verdict on
19 the other three indictments.

20 In the Court of General Sessions, in
21 the Ninth Judicial Circuit, Case Number
22 2017-GS-10-4079: We, the jury, find the Defendant
23 Joseph Lamar Brown, Junior not guilty; or, we, the
24 jury, find the Defendant Joseph Lamar Brown, Junior
25 guilty of possession of a weapon during the

1 commission of a violent crime.

2 Once again, when you have reached a
3 unanimous decision, you will sign and date the
4 verdict form.

5 In the Court of General Sessions for
6 the Ninth Judicial Circuit, Case Number
7 2017-GS-10-4081: We, the jury, find the Defendant
8 Joseph Lamar Brown, Junior not guilty; or, we, the
9 jury, find the Defendant Joseph Lamar Brown, Junior
10 guilty of burglary in the first degree.

11 Once again, when you have reached your
12 decision on this indictment, Madame Foreperson, you
13 will sign and date the form.

14 In the Court of General Sessions for in
15 the Ninth Judicial Circuit, Case Number
16 2017-GS-10-4083: We, the jury, find the Defendant
17 Joseph Lamar Brown, Junior not guilty; or, we, the
18 jury, find the Defendant Joseph Lamar Brown, Junior
19 guilty of armed robbery.

20 Once again, once you have reached your
21 verdict, you will sign and date that verdict form.
22 Madame Foreperson, the decision must be unanimous,
23 meaning all 12 of you must agree.

24 Once you have completed the four
25 verdict forms, if you will knock on the jury room

1 door and indicate to the bailiff that you have
2 completed your verdict on all four indictments.

3 To the first 12, is there any member of
4 the jury panel, for whatever reason, you feel that
5 you would not be able to begin and complete your
6 deliberations in this case? If so, please stand.

7 Thank you. All 12 jurors have
8 indicated that they are able to begin and complete
9 their deliberations.

10 To my alternate, at this time, this
11 completes your service to this case, but I will
12 have you remain with us separate from the other 12
13 until I release you.

14 Ladies and gentlemen, this is the last
15 time that I will say this to you. Do not begin
16 your deliberations; do not begin discussing this
17 case amongst yourselves. We are gathering the
18 evidence and the verdict form, and once we have
19 done that, the bailiffs will indicate to you that
20 you may begin your deliberations.

21 Please rise for the jury.

22 Make sure you take all of your
23 belongings.

24 (Jury out, 12:02 p.m.)

25 THE COURT: Thank you. Be seated.

1 Any objections, corrections to the
2 charges read? From the State?

3 MR. DURANT: No, ma'am.

4 THE COURT: From the defense?

5 MS. NORRIS: No, Your Honor.

6 THE COURT: All right. And you've
7 reviewed the verdict form. Do you want to look at
8 them one more time?

9 MS. NORRIS: You read them; the name is
10 correct now.

11 MR. DURANT: No, Your Honor.

12 THE COURT: If you will come and just
13 verify that all of the exhibits that we're putting
14 in the box are the correct ones.

15 All right. You agree that the evidence
16 that is going back has been admitted.

17 MS. NORRIS: Oh, yes.

18 THE COURT: You may take the box.
19 Thank you.

20 (Jury deliberating, 12:18 p.m.)

21 (COURT EXH. 6, Jury note, was marked
22 for identification.)

23 (COURT EXH. 7, Jury note, was marked
24 for identification.)

25 (COURT EXH. 8, Jury note, was marked

1 for identification.)

2 (Testimony of Hugh Potter Pritchard
3 played to the jury in the jury room.)

4 (COURT EXH. 9, Jury note, was marked
5 for identification.)

6 (COURT EXH. 10, Jury note, was marked
7 for identification.)

8 (Jury in, 4:51 p.m.)

9 THE COURT: Thank you. Please be
10 seated. Ladies and gentlemen, you have indicated
11 that you have been unable to agree on a verdict in
12 this case. As I instructed you earlier, the
13 verdict of the jury must be unanimous.

14 When a matter is in dispute, it isn't
15 always easy for even two people to agree. So when
16 12 people must agree, it becomes even more
17 difficult. In most cases absolute certainty cannot
18 be reached or expected; however, you have a duty to
19 make every reasonable effort to reach a unanimous
20 verdict.

21 In doing this, you should consult with
22 one another; express your own views, and listen to
23 the opinions of your fellow jurors; tell each other
24 how you feel and why you feel that way; discuss
25 your differences with open minds.

1 Although the verdict of the jury must
2 be unanimous, every one of you has the right to
3 your own opinion. The verdict you agree to must be
4 your own verdict, the result of your own
5 convictions. You should not give up your
6 firmly-held beliefs merely to be in agreement with
7 your fellow jurors.

8 The majority should consider the
9 minority's opinion and the minority should consider
10 the majority's opinion. You should carefully
11 consider and respect the opinions of each other and
12 reevaluate your position for reasonableness,
13 correctness, and impartiality.

14 You must lay aside all outside matters
15 and re-examine the questions before you based upon
16 the law and the evidence in this case.

17 If you do not agree on a verdict, I
18 must declare a mistrial. In that case, it does not
19 mean anybody wins. It just means that at some
20 future time I will try this case with some other
21 jury sitting exactly where you are.

22 The same participants will come in and
23 the same lawyers will ask basically the same
24 questions and get basically the same answers. We
25 will go through this whole process again.

1 You were selected in the same manner
2 and from the same source as any future jury will
3 be, and there's no reason for me to suppose that
4 this case will ever be submitted to 12 more
5 intelligent, impartial, and conscientious,
6 competent jurors; or, that any more or clearer
7 evidence will be produced on one side or the other.

8 I ask you to return to your
9 deliberations. Please rise for the jury.

10 (Jury out, 4:54 p.m.)

11 THE COURT: Any objection to the Allen
12 charge?

13 MR. DURANT: Not from the State, Your
14 Honor.

15 MS. NORRIS: No, Your Honor.

16 THE COURT: Thank you. We'll be at
17 ease.

18 (A recess transpired.)

19 THE COURT: Thank you. Be seated. All
20 right. Let's bring in the jury. Please rise for
21 the jury.

22 (COURT EXH. 11, Jury note, was marked
23 for identification.)

24 (COURT EXH. 12, Jury note, was marked
25 for identification.)

1 THE BAILIFF: All jurors are present.

2 THE COURT: Thank you. Please be
3 seated. Madam Foreperson, what is the
4 announcement?

5 THE FOREPERSON: We, Your Honor, have
6 just not been able to come to a unanimous decision
7 on any of the indictments.

8 THE COURT: All right. Thank you. You
9 can have a seat. As I indicated to you, I will
10 have to declare a mistrial at this time. And, as I
11 indicated to you, that does not mean that anybody
12 wins. It simply means that we're going to try the
13 case again, calling the very same witnesses, and
14 the same attorneys will appear.

15 I thank you for your service to
16 Charleston County and for your contribution to the
17 justice system. Your service to this case is
18 complete. Your service is complete for the week.

19 Ladies and gentlemen, you may discuss
20 this case with anyone at this time, but you also
21 have the option not to discuss this case at any
22 time.

23 You may receive a questionnaire from
24 the attorneys involved in this case, and that
25 simply is called the practice of law because

1 sometimes they like to know what they could have
2 done differently. And so feel free to answer those
3 questions, but also feel free not to.

4 You may now talk about this case, post
5 about this case, do anything that you wish to do.

6 Again, I thank you for your service to
7 Charleston County, and you are excused. Good luck
8 to you all. Thank you.

9 Please rise for the jury.

10 You can take your notes with you or
11 leave them and we'll shred, it's up to you.

12 (Jury out, 7:37 p.m.)

13 THE COURT: Thank you. Please be
14 seated. Anything further from the State?

15 MR. DURANT: No, Your Honor.

16 THE COURT: Anything further, Ms.
17 Norris.

18 MS. NORRIS: Your Honor, we have the
19 bond issue. He was out on bond, and I would ask
20 that he -- that his bond be continued. He's got an
21 ankle monitor.

22 THE COURT: State's position?

23 MR. DURANT: I would ask that he be
24 held without bond, Your Honor. I don't believe he
25 should have been on bond to begin with. His bond

1 was set at a time when, admittedly, our case
2 against him was weak.

3 Our case against him has gotten much
4 stronger since then, which he is aware. In
5 addition, at the time that he was arrested for this
6 offense, he was already doing YOA probation for
7 doing substantially the same thing. And we believe
8 that under the circumstances that you should deny
9 bond.

10 THE COURT: Okay. Based upon all of
11 the factors, I am going to keep him in custody and
12 deny your request to release him on bond.

13 MS. NORRIS: Are you ready for him to
14 leave, Your Honor?

15 THE COURT: He appears to be ready.
16 Good luck to you, sir.

17 (Defendant escorted out of the
18 courtroom.)

19 THE COURT: And I believe that I've
20 said this to the three of you before, but thank you
21 for your very zealous representation, Ms. Norris
22 and Ms. Seman.

23 It's unfortunate that your client
24 didn't feel the need to stay, but he received more
25 than appropriate and zealous representation, and

1 you should be very proud what you did for the
2 client here today.

3 And, again, thank you for your
4 contribution to the justice system. And, more
5 importantly, the way the three of y'all worked
6 together was tremendous and truly the epitome of
7 professionalism for everyone involved. So thank
8 you. Thank you, Investigator. Thank you.

9 MR. DURANT: Thank you.

10 THE COURT: We're at ease.

11 (These proceedings were concluded at
12 7:58 p.m.)

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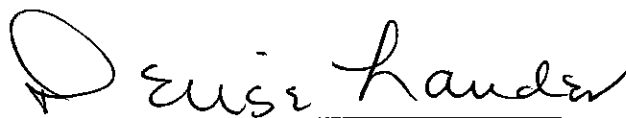
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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered
Professional Reporter and Notary Public for the
State of South Carolina at Large, do hereby certify
that the foregoing transcript is a true, accurate,
and complete record.

I further certify that I am neither related
to nor counsel for any party to the cause pending
or interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 25th day of August, 2018 at
Charleston, Charleston County, South Carolina.



Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
February 27, 2028

INCIDENT SUPPLEMENT

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE, CHARLESTON HEIGHTS, S.C. 29405-7789 • (843) 202-1700

J. Al Cannon, Jr.
Sheriff

SC0100000	DISPATCH NUMBER N/A	ORIGINAL CASE NUMBER 2016-019282-B	PAGE ____ OF ____ PAGES	NCIC ENTRY	INFO.	ENT.
☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL	☒ SUPPLEMENTAL REPORT ☒ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL WITNESSES ☐ ADDITIONAL SUBJECTS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		

INCIDENT TYPE: HOMICIDE - MURDER

Incident Location: ■ EAST THOMAS ST., LINCOLNVILLE SC 29456

Incident Date: 12-23-16



On 12-23-16 I/D responded to a Robbery / Homicide that had just occurred at ■ East Thomas St., in Lincolnville SC. Detective Goldstein responded to the scene and I/D obtained a search warrant from Judge Gosnell for the incident location. The CCSO Patrol Deputies had secured the scene upon their arrival and they were assisted by Patrol Units from the NCPD for traffic / crowd control. The Charleston County Coroner responded and the victim was identified as John Glenn Pritchard. Pritchard was found to have a single GSW to the head and was pronounced deceased at the scene.

While conducting a canvas of the area for potential witnesses I/D identified and made contact with Martin Perez at ■ who had stated that he had a video recording system at his residence and it may have captured a recording of two subjects running through his back yard just after the incident had occurred. I/D contacted CCSO FSU Inv. C. Shelton and we responded together to Perez's residence to view his footage. The footage showed two unknown B/M suspects running from the dead end of Brenda B. towards a vacant lot on East Owens Dr. where the two of them got into and left the area in a black in color unknown vehicle. The DVR system was turned over to Inv. C. Shelton by Perez on his own and he advised I/D that it could be examined for evidence for this investigation.

I/D and Detective Goldstein conducted a second canvas of the neighborhood and a subject that was described to Detective Goldstein by a witness that he had interviewed earlier was observed near the dead end on Brenda B Ln., near Joshua Ln wearing a red running suit and red shoes, and the subjects jacket had a number 23 on his back. This subject was identified as David Felder, the resident of the house at the dead end; ■ Felder was detained and transported to CID where he cooperated and participated in a formal interview. Felder denied any involvement in the incident and he consented to buccal swabs and GSR testing. Felder also turned over his clothing for GSR and DNA testing as well.

Detective Z. Khan was called out and he obtained a second search warrant from Judge Gosnell, for the search of Felder's home on Brenda B. CCSO FSU assisted in the search of Felder's home. Following the interview with Felder at CID with I/D and Detective Goldstein, Felder was released and escorted back to his residence by Detective Goldstein.

NARRATIVE

PROPERTY EST.	TYPE (GROUP)	N/A				TOTAL VALUE	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	
	STOLEN					0	N/A	
	DAMAGED					0		
	BURNED					0	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
	RECOVERED					0	N/A	
	SEIZED					0		
ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ UNFOUNDED	☐ ADM. CLOSED	☐ ARREST UNDER 18 ☐ ARREST 18 AND OVER	☐ EX-CLEARED UNDER 18 ☐ EX-CLEARED 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE		☐ OFFENDER DEATH		☐ NO PROSECUTION		☐ EXTRADITION DENIED	
							☐ VICTIM DECLINES COOPERATION	
							☐ JUVENILE NO CUSTODY	
	REPORTING OFFICER(S)		DATE	BADGE NUMBER	APPROVING OFFICER		DATE	BADGE NUMBER
THOMPSON, MICHAEL E.		1/5/2017	9208	MOYER-SMITH, CHRISTINA L.		1/5/2017	9030	
				FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER		

R5 DBD 18

CCSO - 100 3/1/99

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☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☒ SUPPLEMENTAL REPORT ☒ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL WITNESSES ☐ ADDITIONAL SUBJECTS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		

NARRATIVE

On 12-25-16 Detective Sgt. C. Smith conducted an inspection and follow-up investigation into a cell phone that was recovered from the initial crime scene on 12-23-16. The results from that follow-up revealed that a wallpaper photograph on the cellphones start up menu showed a unknown B/M and an unknown B/M. It was reported by a witness that Detective Goldstein had interviewed on 12-23-16 that the cell phone was dropped by an unknown B/M suspect along with a large amount of money as he fled the immediate area of the initial crime scene. The unknown B/F subject was identified by Detective Sgt. C. Smith as a subject named Nautica Manigault.

On 12-26-16 I/D and Detective Z. Khan made contact with Manigault's family and located her at her biological mother's home located at [REDACTED]. Manigault was found to be a juvenile (16 YOA) and her biological mother, Tawanna Alston permitted her to be interviewed by I/D and Detective Z. Khan. The interview was audio recorded and Manigault was able to positively identify the other subject in the photo with her as her boyfriend, Joseph Lamar Brown Jr.

On 12-26-16 Detective Goldstein obtained an arrest warrant for Brown for MURDER and the warrant was placed into NCIC. The search for and arrest of Brown was assigned to the U S MARSHALS Office of Charleston.

On 1-3-17 Brown was located and positively identified by members of the Summerville POLICE department at his home following a verbal dispute with one of his neighbors. Brown was transported to CID where he was interviewed by Detective Goldstein. I/D and Detective Z. Khan obtained a search warrant for Brown's residence, located at 703 E 3rd North St, apt F-8 from Dorchester County Magistrate Patton. Browns residence was searched by I/D, Detective Z. Khan and Investigator H. McElroy of CCSO FSU. Detective E. Melendez of the Dorchester County Sheriff's Office CID assisted I/D and was present for jurisdictional support.

This case is active and ongoing, many other leads and other information is still being investigated.

PROPERTY EST.	TYPE (GROUP)	N/A				TOTAL VALUE	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY
	STOLEN					0	N/A
	DAMAGED					0	
	BURNED					0	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY
	RECOVERED					0	N/A
	SEIZED					0	

ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE	☐ ADM. CLOSED	☐ ARREST UNDER 18	☐ EX-CLEARED UNDER 18
					☐ UNFOUNDED		☐ ARREST 18 AND OVER	☐ EX-CLEARED 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE		☐ OFFENDER DEATH	☐ NO PROSECUTION	☐ EXTRADITION DENIED	☐ VICTIM DECLINES COOPERATION		☐ JUVENILE NO CUSTODY
	REPORTING OFFICER(S)		DATE	BADGE NUMBER	APPROVING OFFICER		DATE	BADGE NUMBER
	THOMPSON, MICHAEL E.		1/5/2017	9208	MOYER-SMITH, CHRISTINA L.		1/5/2017	9030
					FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER	

May we have the Merrick Williams statement to police? And the transcript for his witness testimony?

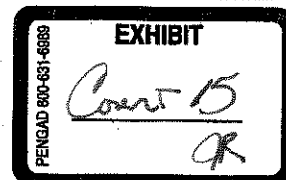
Foreman

~~Can we see Joseph's ~~inter~~ police interaction meaning the clips that were admitted?~~

Police statement not admitted / There is no transcript but Ct. reporter can play back / what portion do want to listen or BA fire testimony?

11/8/18

J. M. Williams
Circuit Judge
2017



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

JOSEPH LAMAR BROWN, JR,
DEFENDANT.

FILED

2018 JUN -7 AM 9:02

JULIE J. ARMSTRONG
CLERK OF COURT

BY *PH*

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

**STATE'S RESPONSE TO DEFENDANT
BROWN'S MOTION TO SUPPRESS EVIDENCE**

Arrest Warrant #K404187
Arrest Warrant #2016A1010206049
Arrest Warrant #2016A1010206050
Arrest Warrant #2016A1010206051
Arrest Warrant #2016A1010206052

Indictment #2017-GS-10-04077
Indictment #2017-GS-10-04079
Indictment #2017-GS-10-04080
Indictment #2017-GS-10-04081
Indictment #2017-GS-10-04083

The State, responding to Defendant Brown's Motion to Suppress Evidence would request that the Court inquire into the matters raised therein and dismiss said motion without the necessity of a hearing as the Defendant Brown has failed to make a preliminary showing that information was omitted from the search warrant affidavit with the intent to make, or in reckless disregard of whether it made, the affidavit misleading to the issuing judge. That, in addition, even if the affidavit included the omitted data it still contained sufficient information to establish probable cause.

FACTS

On December 23, 2016 at approximately 12:50 p.m. at 705 E. Thomas Street in Lincolnton, SC a black male entered the victim's residence through the front door with a gun in his hand. During the course of an armed robbery, the victim was shot once in the neck killing him. The assailant subsequently fled out the front door. The victim's cousin, Hugh Pritchard, observed the incident occur from the kitchen, and fled out of the back door to a neighbor's house

where 911 was called. In various conversations with the deputies and detectives Hugh Pritchard described the assailant as a black male, 20s to 30s, all dark clothing, medium build, wearing a hat and covering his face and hair that was not long.

Immediately after the shooting, and less than 100 yards from the scene of the shooting the victim's next door neighbor observed a black male running away from the scene of the shooting in a northwesterly direction along E. Owens Drive. The suspect inadvertently dropped an iPhone and some cash into the ditch in front of the neighbor's house. The suspect retrieved the cash but failed to retrieve the iPhone. This iPhone was subsequently collected by the Charleston County Sheriff's Office. The neighbor described the subject as a black male wearing stone grey pants with a medium build and dreads. Another witness observed this subject from a vehicle and described him as a dark skinned black male with dreads wearing a black hoodie with the number 23 on the back, black pants and red Converse tennis shoes, skinny and of medium height.

Through an investigation conducted by the Charleston County Sheriff's Office it was determined that the iPhone dropped in the ditch was owned by the Defendant, Joseph Brown. Brown's SCDMV record indicated he was a black male of medium height and build (Height 5'9", Weight 155) who lived at 703 E. 3rd North Street, Apartment 8F. This apartment is approximately ½ mile away from the crime scene in the direction the subject above was seen running.

The search warrant affidavit was drafted by Detective Barry Goldstein although it was presented to the Magistrate by Detective Mike Thompson because Goldstein was tied up. The affidavit reads as follows:

That on 12/23/16 at approximately 13:00hrs. the victim John Glenn Pritchard *W/M* DOB 11/12/70 was shot and killed during the commission of an armed robbery, burglary at 705 E. Thomas St. Lincolnton, S.C. That the subject documented

above Joseph Lamar Brown Jr. is believed to be the assailant in this incident though the affiant's investigation. At the time of the robbery the defendant was armed with a 9mm firearm. Recovered at the crime scene was one 9mm spent casing within proximity of the deceased inside the residence. The assailant was wearing running pants or some type of trouser, stone washed with a shirt of some type with the number 23 on it, and a pair of red sneakers. These descriptions are listed in various statements of witnesses in the area of the homicide who spoke with detectives from the CCSO. A short distance away from the scene of the homicide a witness gave an audio statement that the assailant was dropping cash and his cellphone from his pant pocket onto E. Owens St. Lincolnvile, S.C. as he was running away from the residence. The cellphone was taken as evidence by the CCSO, and during the investigation it was determined that the above subject Joseph Lamar Brown Jr. is the owner. The driver's license and other records reflect that the subject Joseph Lamar Brown Jr. also fits the physical description of the person fleeing the scene, dropping the cellphone as stated above in this affidavit. The affiant believes that the above evidence is at Joseph Lamar Brown Jr.'s listed above, that is also on his SCDL and is in the proximity of the homicide.

LAW

In Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), the United States Supreme Court held that the Fourth and Fourteenth Amendments gave a defendant the right in certain circumstances to challenge the veracity of a warrant affidavit after the warrant had been issued and executed. State v. Missouri, 337 S.C. 548, 553, 524 S.E.2d 394, 396 (1999). Entitlement to a Franks hearing is a matter of law subject to de novo review. United States v. Tate, 524 F.3d 449, 455 (4th Cir. 2008). The Franks test applies in cases when officers include false information in a warrant affidavit and cases when officers omit potentially exculpatory information. Missouri, 337 S.C. at 554, 524 S.E.2d at 397.

“To be entitled to a Franks hearing for an alleged omission, the challenger must make a preliminary showing that the information in question was omitted with the intent to make, or in reckless disregard of whether it made, the affidavit misleading to the issuing judge. There will be no Franks violation if the affidavit, including the omitted data, still contains sufficient information to establish probable cause.” Missouri, 337 S.C. at 554, 524 S.E.2d at 397.

The defendant has the burden of proving the officer acted with the requisite intent. State v. Gore, 408 S.C. 237, 244, 758 S.E.2d 717, 721 (Ct. App. 2014). “A party attempting to demonstrate information was intentionally or recklessly omitted from an affidavit bears a heavy burden of proof.” State v. Lynch, 412 S.C. 156, 179, 771 S.E.2d 346, 358 (Ct. App. 2015). “The defendant must also show that the omitted material was necessary to the finding of probable cause, i.e., that the omitted material was such that *its inclusion* in the affidavit would defeat probable cause.” Id. at 180, 771 S.E.2d at 358–59 (emphasis added) (quoting United States v. Shorter, 328 F.3d 167, 170 (4th Cir. 2003)). “Upon making this two-part preliminary showing, a defendant is entitled to a hearing, at which he bears the burden of proving the allegations by a preponderance of the evidence.” Id. at 180, 771 S.E.2d at 359 (quoting Shorter, 328 F.3d at 170). “If a Franks hearing is appropriate and an affiant’s material perjury or recklessness is established by a preponderance of the evidence, the warrant ‘must be voided’ and evidence or testimony gathered pursuant to it must be excluded.” Id. (quoting United States v. Colkley, 899 F.2d 297, 300 (4th Cir. 1990)).

“The mere fact that the affiant did not list every conceivable conclusion does not taint the validity of the affidavit.” Colkley, 899 F.2d at 301 (quoting United States v. Burnes, 816 F.2d 1354, 1358 (9th Cir. 1987)). “ ‘[M]ere[] neglig[ence] in ... recording the facts relevant to a probable cause determination’ is not enough.” Id. (alterations in original) (quoting Franks, 438 U.S. at 170, 98 S.Ct. 2674). An omission does not per se invalidate the arrest warrant. Gore, 408 S.C. at 245, 758 S.E.2d at 721. The Fourth Circuit has expressed “doubts about the validity of inferring bad motive under Franks from the fact of omission alone, for such an inference collapses into a single inquiry the two elements—‘intentionality’ and ‘materiality’—which Franks states are independently necessary.” Colkley, 899 F.2d at 301.

“Probable cause is a ‘commonsense, nontechnical conception [] that deal[s] with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.’ ” State v. Morris, 411 S.C. 571, 580, 769 S.E.2d 854, 859 (2015) (quoting Ornelas v. United States, 517 U.S. 690, 695, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996)).

ARGUMENT

1. THE INFORMATION CONTAINED IN THE SEARCH WARRANT AFFIDAVIT IS ACCURATE

The State would submit that all of the information contained in the search warrant affidavit is accurate and there has been no showing that it includes knowing and intended false statements or statements made with reckless disregard for the truth. The sentence Defendant complains about (“[T]he driver's license and other records reflect that the subject Joseph Lamar Brown Jr. also fits the physical description of the person fleeing the scene, dropping the cellphone...”) is a true statement. It merely states that the information containing the Defendant’s *physical* build contained in the SCDMV record fits the *physical* description of the person fleeing the scene, ie, a black male of medium height and weight. This certainly does not rise to the level of an intentional false statement.

2. THE OMISSIONS TO THE AFFIDAVIT CLAIMED BY DEFENDANT BROWN ARE NOT MATERIAL TO THE FINDING OF PROBABLE CAUSE

As noted above, the witness descriptions of the suspect varied in both clothing and hairstyle. Due to the disparity in descriptions the detectives had no way of knowing if the assailant had dreads or not. To them, the specific differences in descriptions are not material because witness descriptions of a suspect or an event *always* vary. In their mind, and in reality, the essential and material facts setting forth probable cause for the search were:

- A black male of medium height and weight was observed running away from the crime scene shortly after the commission of the crime;
- The black male subject dropped cash and a cell phone into a ditch a short distance away from the crime scene; and
- That cell phone belongs to the Defendant, Joseph Brown

Those are the material facts establishing probable cause for the search despite the fact the descriptions of the witnesses varied as to hairstyle.

The Defendant's claim that the affidavit should have included information concerning David Felder partially matching a description given by one of the witnesses is patently absurd. He partially matched the description given by witness Williams in that he had dreads, was wearing red shoes (not Converse) and had the number 23 on the back of his jacket. His clothing did not match the description in that the jacket and pants he was wearing were primarily red and not black. No witness claimed the subject was wearing red clothing. In addition, Felder had an alibi to the effect he was in St. George and Cordesville at the time of the crime. This alibi was corroborated by two separate witnesses and, as a result, Felder was no longer even a suspect in this case.

On the issue of exculpatory information being omitted from an affidavit the State would point to the Court of Appeals case of State v. Porch, 417 S.C. 619, 790 S.E.2d 440 (2016). In that case Mallory was arrested for the murder of his wife. He was tried once by jury resulting in a hung jury and a second time at a bench trial resulting in his acquittal. The case was reopened and Porch was arrested and eventually convicted for the murder of Mallory's wife. Porch challenged the arrest warrant in the case arguing the affiant omitted exculpatory information from the affidavit to include: (1) information from an eye witness from the first two trials who testified

she heard a “domestic argument” coming from the apartment and saw a black male running toward a white van; (2) information from a security guard at the hospital Mallory took Victim to who testified he heard Mallory say, “Bitch bled all over my van, my walls, my Playstation” and saw Mallory remove something from his van while it was at the hospital; (3) Mallory had “plenty of time” to commit this murder; information that Mallory had been tried twice for the same crime. In affirming the conviction the Court found the content of the omissions alone was insufficient evidence to demonstrate the affiant acted intentionally or with reckless disregard of whether the omissions would make the affidavit misleading and there was no evidence the affiant had intentionally omitted the statements. The Court went on to say that Porch had failed to make a sufficient showing to even entitle him to a Franks hearing.

Finally, the defense claim that the portion of the affidavit stating the person was seen fleeing the scene was “patently misleading and incorrect” is, quite frankly, patently misleading and incorrect. McBride was the victim’s next door neighbor. The person she observed was running from the direction of the victim’s home and heading in the opposite direction. This can fairly be interpreted as fleeing the scene.

3. THE AFFIDAVIT WAS SUFFICIENT TO ESTABLISH PROBABLE CAUSE EVEN WITH THE INCLUSION OF THE INFORMATION REGARDING VARYING DESCRIPTIONS AND THE OMISSION OF THE FACT FELDER HAD BEEN INVESTIGATED AND CLEARED WAS NOT RELEVANT TO THE ISSUE OF PROBABLE CAUSE

The State would argue that even with the inclusion of the information concerning varying descriptions given by potential witnesses, particularly with regard to hairstyle, there would still have be probable cause for issuance of the search warrant. With the inclusion of this information the search warrant would read as follows:

That on 12/23/16 at approximately 13:00hrs. the victim John Glenn Pritchard *W/M*/ DOB 11/12/70 was shot and killed during the commission of an armed robbery, burglary at 705 E. Thomas St. Lincolnvill, S.C. That the subject documented above Joseph Lamar Brown Jr. is believed to be the assailant in this incident though the affiant's investigation. At the time of the robbery the defendant was armed with a 9mm firearm. Recovered at the crime scene was one 9mm spent casing within proximity of the deceased inside the residence. The assailant was wearing running pants or some type of trouser, stone washed with a shirt of some type with the number 23 on it, and a pair of red sneakers. These descriptions are listed in various statements of witnesses in the area of the homicide who spoke with detectives from the CCSO. **The descriptions provided by the witness varied with two claiming the assailant had dreads and one witness claiming he did not.** A short distance away from the scene of the homicide a witness gave an audio statement that the assailant was dropping cash and his cellphone from his pant pocket onto E. Owens St. Lincolnvill, S.C. as he was running away from the residence. The cellphone was taken as evidence by the CCSO, and during the investigation it was determined that the above subject Joseph Lamar Brown Jr. is the owner. The driver's license and other records reflect that the subject Joseph Lamar Brown Jr. also fits the physical description of the person fleeing the scene, dropping the cellphone as stated above in this affidavit. The affiant believes that the above evidence is at Joseph Lamar Brown Jr.'s listed above, that is also on his SCDL and is in the proximity of the homicide.

The inclusion of this information does not alter the material facts in this case that a black male of medium build was observed fleeing from the direction of the crime scene, dropped his cell phone into a ditch and that the owner of that cell phone is the Defendant, Joseph Brown. On this issue the State refers back to the Court's decision in Porch above. After finding no Franks violation the Court opined that even if the arrest warrant had included the potentially exculpatory information, the affidavit was still sufficient to support a finding of probable cause to secure an arrest warrant against Porch because Porch admitted he was present at the murder scene and his blood was found in the same area where Victim's body was found.

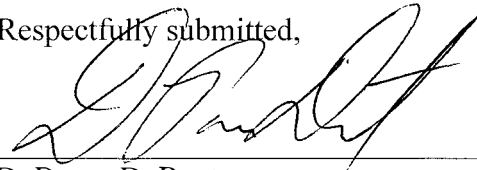
Finally, the State rejects the Defendant's contention that a search warrant affidavit is required to include information that another person was questioned and cleared as a

suspect as such evidence is irrelevant and immaterial to the determination of probable cause.

CONCLUSION

For the forgoing reasons the State would request that the Court deny Defendant's Motion to Suppress Evidence seized from Defendant Brown's home.

Respectfully submitted,



D. Bruce DuRant
Chief Deputy Solicitor
Ninth Judicial Circuit

June 6, 2018
Charleston, South Carolina

FILED

2018 JUN -7 AM 9:02

JULIE J. ARMSTRONG
CLERK OF COURT

BY



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

**RESPONSE TO DEFENSE MOTION TO
INTRODUCE EVIDENCE OF THIRD PARTY
GUILT**

STATE OF SOUTH CAROLINA

FILED
2018 OCT 31 PM 2:50
JULIE J. ARISTRONG
CLERK OF COURT
BY [Signature]
JOSEPH LAMAR BROWN, JR.,
DEFENDANT.

Arrest Warrant #K404187
Arrest Warrant #2016A1010206049
Arrest Warrant #2016A1010206050
Arrest Warrant #2016A1010206051
Arrest Warrant #2016A1010206052

Indictment #2017-GS-10-04077
Indictment #2017-GS-10-04079
Indictment #2017-GS-10-04080
Indictment #2017-GS-10-04081
Indictment #2017-GS-10-04083

The State, responding to Defendant Brown's Motion to Introduce Evidence of Third Party Guilt, would request that the Court inquire into the matters raised therein and issue its order denying said motion and further prohibiting the Defendant from:

- Introducing evidence, either directly or through cross examination of witnesses, regarding the investigation of David Felder as a suspect in this case, and/or
- Introducing evidence, either directly or through cross examination of witnesses, which infers David Felder was the perpetrator of the crimes being tried, and/or
- Arguing to the jury in either opening or closing that David Felder was the perpetrator of the crimes being tried.

RELEVANT FACTS

On December 23, 2016 at approximately 12:50 p.m. the Defendant, Joseph Brown, wearing dark clothing and with something covering his face, entered the victim's residence through the front door with a gun in his hand and the intent to rob the victim, Johnny Pritchard. During the course of the armed robbery, Johnny Pritchard was shot once in the neck killing him. Brown subsequently fled out the front door. The victim's cousin, Hugh Pritchard, observed the

incident occur from the kitchen and fled out of the back door to a neighbor's house where 911 was called.

Immediately after the shooting, the victim's next-door neighbor, Celeste McBride, observed a black male running away from the scene of the shooting in a northwesterly direction along E. Owens Drive. The suspect inadvertently dropped an iPhone and what appeared to be cash into the ditch in front of the neighbor's house. The cash was retrieved by the subject but the iPhone was not. The iPhone was recovered by Charleston County Sheriff's Office and determined to belong to the Defendant Brown.

Ms. McBride described the subject she saw running from the scene of the crime as a black male of medium build with shoulder length dreads and wearing stone gray pants. This subject was also seen by a passing motorist named Merit Williams who described the subject as a young black male with dreads wearing a black hoodie with the number 23 on the back, black pants, red Converse tennis shoes and a skully cap.

Both of these witnesses were interviewed by Det. Barry Goldstein of the CCSO. Approximately 3-4 hours after the murder Det. Goldstein was on Brenda B Lane (approximately 3 blocks from the scene of the murder) and observed David Felder drive up to the residence at [REDACTED] Brenda B Lane. Det. Goldstein confronted Felder because he had dreads and was wearing a jacket with the number 23 on the back. Felder agreed to be transported to CCSO for an interview. Prior to Felder being transported, his dog was aggressive with a deputy who shot the dog with his service weapon. This took place right next to Det. Goldstein. Immediately afterwards, David Felder was cuffed by Detectives Goldstein and Thompson and transported to CCSO.

Felder was interviewed at CCSO and provided an alibi asserting he was in St. George, SC and Cordesville, SC with Carrie Watson and Sharon Harris at the time of the murder. Both Watson and Harris were subsequently interviewed by CCSO and independently corroborated Felder's alibi. Felder was never charged and was released by the CCSO. A subsequent test did find particles characteristic of gunshot primer residue on the sleeves of his jacket which is consistent with him having been cuffed by Det. Goldstein after Goldstein was in close proximity to the deputy that shot at Felder's dog.

Felder's interview at CCSO was audio and video recorded. Screenshots which depict Felder's appearance and clothing on December 23, 2016 are attached hereto as Exhibits A, B and C. These photographs were shown to the witnesses Celeste McBride and Merit Williams, and both would testify that Felder was **not** the person they observed running from the scene of the crime on December 23, 2016.

LAW

For many years the doctrine of third party guilt has limited the ability of a defendant to offer evidence that the crime for which he is being tried was committed by another party. The United States Supreme Court revisited the issue of third-party guilt evidence in the case of Holmes v. South Carolina, 547 U.S. 319, 126 S.Ct. 1727 (2006). While this seminal case vacated a common analysis utilized by South Carolina Appellate Courts in analyzing third-party guilt evidence, it expressly preserved the standard legal analysis regarding evidence of third-party guilt.

The U.S. Supreme Court went on to expressly endorse the South Carolina rule as articulated in the case of State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941). In Gregory, the South Carolina Supreme Court, quoting Corpus Juris and American Jurisprudence, set the standard

rule for third-party guilt evidence in a criminal trial. The South Carolina rule, as it stands today and was endorsed by the U.S. Supreme Court in Holmes, is stated as:

[E]vidence offered by accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible . . . [B]efore such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party.

Holmes, 547 U.S. at 328, 126 S.Ct. at 1733 (quoting Gregory, 198 S.C. at 104-05, 16 S.E.2d at 534-35); see also, Miller v. State, 379 S.C. 108, 114, 665 S.E.2d 596, 599 (S.C. 2008) (reiterating the Gregory rule as it stands post-Holmes)(emphasis added).

This case is governed by the S.C. Court of Appeals case of State v. Mansfield, 343 S.C. 66, 538 S.E.2d 257 (Ct. App. 2000). In Mansfield, eyewitness Diamond called 911 and reported an attempted burglary. Diamond described the burglar as a light-skinned black male, between 5'5" and 5'6" tall, wearing a red jersey, tennis shoes, and short white pants with plaited hair. The subject was walking toward a nearby apartment complex. A police officer was dispatched to the apartment complex and detained Mansfield who was wearing a red jersey, grey sweat pants pulled up to his knees, and Timberland boots. Mansfield was 5'7" tall and had an Afro hairstyle. Mansfield was subsequently identified by the eyewitness Diamond and arrested.

At trial, Mansfield attempted to introduce evidence that a third party named Perry lived in the apartment complex where Mansfield was arrested, was at the apartment complex the day Mansfield was arrested, was 5'7" or 5'8", had a medium build, light black skin and wore his hair in plaits. The evidence was not allowed by the trial court. After conviction, Mansfield was convicted and appealed on this issue, among other. The Court of Appeals, after reviewing the cases on Third Party Guilt, affirmed the trial court holding:

In the instant case, defense counsel attempted to show that a man named Guan Perry, who matched Diamond's physical description of the attempted burglar, lived in the apartment complex where Mansfield was found and was home on the day in question. This evidence casts a mere "bare suspicion" on Perry. The fact that Perry generally fit the description of the perpetrator and lived in the apartment complex does not show his guilt, nor is it inconsistent with *86 Mansfield's guilt. Because the evidence was not inconsistent with Mansfield's own guilt, the trial court exercised sound discretion in excluding it.

ARGUMENT

Based upon the relevant facts outlined above, the Defendant seeks to argue that the crimes in this case were committed by David Felder, however, these facts simply do not support the admission of third party guilt evidence as set forth in the Gregory rule. First of all, there is **no** evidence that these crimes were committed by David Felder. The fact that Felder has dreads and owns a jacket with the number 23 on the back does not clearly point to him as the guilty party. There is no witness that can identify the subject observed running away from the scene of the crime as David Felder. To the contrary, the witnesses that observed this subject would testify that it definitely was **not** David Felder. In addition, with the exception of the number 23 on the back of his jacket (which is Michael Jordan's number and a common and popular article of clothing), the clothing worn by Felder does not even come close to matching the clothing description provided by the witnesses and particularly the clothing description provided by the witness Merit Williams. Williams described the subject as wearing a black hoodie, black pants and red Converse tennis shoes. As can be seen in Exhibits A, B and C, the clothing being worn by Felder was predominantly red.

Secondly, there is no forensic evidence which puts David Felder at the scene of the crime. It is true that particles characteristic of gunshot primer residue were detected on the sleeves of his jacket but this was only after being cuffed by a detective who was in close

proximity to a deputy who has just discharged his service weapon. Even had this incident not occurred, the gunshot residue was located on the Felder's clothing and not his hands so there is no telling how long it may have been present.

Finally Felder provided a statement that he had gone to St. George, SC and then to Cordesville, SC and was not even in the area at the time Johnny Pritchard was murdered. He further indicated that he was accompanied by Carrie Watson and Sharon Harris during this trip. These witnesses were located and interviewed by the CCSO and both independently corroborated Felder's alibi.

As noted by the Court of Appeals in Mansfield, the fact that David Felder partially matched the description provided by the witnesses does nothing other than cast a "mere suspicion" upon Felder and raise a "conjectural inference" that Felder was the guilty party. As our Supreme Court stated in State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941):

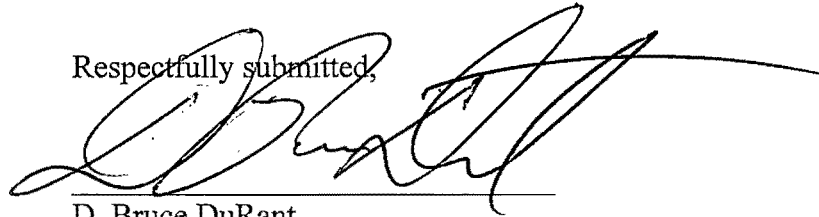
[E]vidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible.... **But before such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party.** Remote acts, disconnected and outside the crime itself, cannot be separately proved for such a purpose. An orderly and unbiased judicial inquiry as to the guilt or innocence of a defendant on trial does not contemplate that such defendant be permitted, by way of defense, to indulge in conjectural inferences that some other person might have committed the offense for which he is on trial, or by fanciful analogy to say to the jury that someone other than he is more probably guilty. Gregory, 198 S.C. at 104–05, 16 S.E.2d at 534–35 (internal quotations and citations omitted, emphasis added).

CONCLUSION

In conclusion, and for reasons set forth above, it is clear that the desire of the defense to interject David Felder into this case is for no other purpose than to "cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another" and, therefore, is not admissible under the rule set out by the South Carolina Supreme Court in

Gregory and endorsed by the United States Supreme Court in Holmes. In addition, there is **no** direct or circumstantial evidence which places David Felder at the scene of the crime or establishes his complicity in the crimes charged and, as a result, no train of facts or circumstances tending to clearly point at Felder as the guilty party or raising a reasonable inference or presumption of the Defendant's own innocence. The State requests the Court to inquire into the matters raised herein and issue its Order prohibiting the defense from introducing evidence, directly or through the cross examination of witnesses, regarding the investigation of David Felder as a suspect in this case or inferring that David Felder was the perpetrator of the crimes being tried. The State would further request that the defense be prohibited from arguing to the jury in either opening or closing that David Felder was the perpetrator of the crimes being tried.

Respectfully submitted,



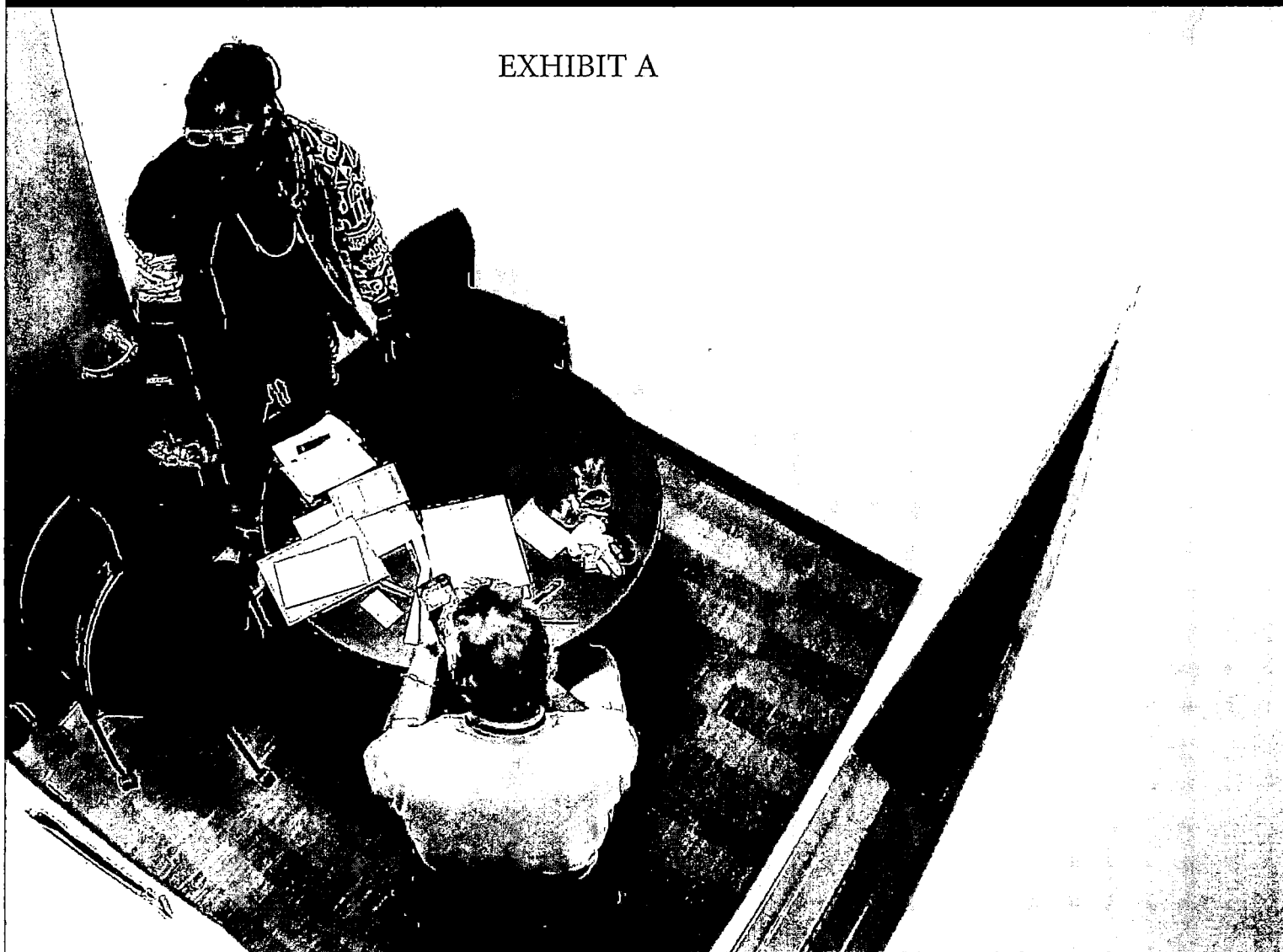
D. Bruce DuRant
Chief Deputy Solicitor
Ninth Judicial Circuit

October 31, 2018
Charleston, South Carolina

FILED
2018 OCT 31 PM 2:50
JULIE J. ARMSTRONG
CLERK OF COURT
BY MT

Interview Room 3 2016-12-23 18:13:02

EXHIBIT A



Interview Room 3 2016-12-23 18:13:23

EXHIBIT B



Interview Room 3 2016-12-23 18:08:13

EXHIBIT C



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

JOSEPH LAMAR BROWN, JR.,

Defendant.

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT

) Indictment Nos.: 2017GS1004077;
) 2017GS1004079; 2017GS1004080;
) 2017GS1004083

**MOTION TO
RECONSIDER SENTENCE**

2018 NOV 15 PM 2:51
JULIE J. ARNSTEDT
CLERK OF COURT

FILED

The Defendant, by and through his undersigned counsel, Teresa L. Norris of the Charleston County Public Defender's Office, hereby moves this Court to reconsider the sentence imposed in the above-referenced cases on November 9, 2018. In support of this motion, the Defendant respectfully shows the Court as follows:

1. On November 9, 2018, Mr. Brown was sentenced on the above-referenced indictment numbers. Mr. Brown was sentenced as follows:
 - a. Murder: Life
 - b. Burglary (First Degree): 50 years
 - c. Attempted Armed Robbery: 10 years
 - d. Possession of a Weapon During a Violent Crime: 5 years
2. The jury found Mr. Brown guilty of Murder, Burglary (First Degree), Attempted Armed Robbery, and Possession of a Weapon During a Violent Crime.
3. The defense asked the court to impose the minimum sentence of thirty years on the Defendant who was 18 years old at the time of the offenses and 20 years old when the sentences were imposed. The State asked for the maximum sentence of Life based on misstatements of the Defendant's prior conviction record by stating a number of prior arrests for which there was no conviction.
4. The Defendant's actual prior record is as follows (all convictions are in Dorchester County):
 - a. Strong Arm Robbery: YOA Sentence not to exceed six years suspended upon

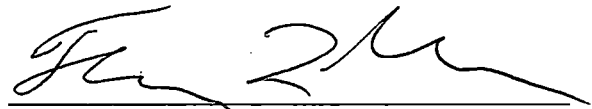
time served and five years of probation

- b. Assault & Battery 1st Degree: YOA Sentence not to exceed six years suspended upon time served and five years of probation
 - c. Assault & Battery 1st Degree: YOA Sentence not to exceed six years suspended upon time served and five years of probation
5. The Defendant's prior record of these three charges were all from the same arrest date, which was February 6, 2015.
 6. The date of the crime for the above-captioned charges is December 23, 2016.

Based on the foregoing, the Defendant respectfully requests that this Court reconsider the sentence imposed in the above-referenced case. Specifically, the Defendant requests that this Court impose a sentence of thirty years on murder and specify that all sentences are to run concurrently.

At minimum, if the Court declines to reconsider the sentence on murder, this Court should specify, as required by S.C. Code § 16-23-490, that the five-year sentence for possession of a weapon during a violent offense does not apply because a life sentence without parole was imposed for murder.

Respectfully submitted,



Teresa L. Norris
Special Assistant Public Defender
Attorney for Joseph Lamar Brown, Jr.

Charleston, South Carolina

Dated: November 15, 2018.

CERTIFICATE OF SERVICE

I hereby certify that this document was served on the Solicitor for the Ninth Judicial Circuit on November 15, 2018.

Charleston County Public Defender's Office

FILED
 2018 NOV 15 PM 2:51
 JULE J. ARMSTRONG
 CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

JOSEPH LAMAR BROWN, JR.,

Defendant.

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT

) Indictment Nos.: 2017GS1004077;
) 2017GS1004079; 2017GS1004080;
) 2017GS1004083

ORDER ON MOTION TO
RECONSIDER SENTENCE

FILED
2019 MAY 10 PM 12:04
JULIE STRONG
CLERK OF COURT

Having heard argument on the Defendant's motion to reconsider the sentence imposed by this Court on November 9, 2018, this Court amends the sentence as follows:

1. The sentence on the indictment for murder, 2017-GS-10-04077, is amended to 52 years imprisonment. The remaining sentences imposed by this Court are unaffected and remain:
 - a. Burglary (First Degree): 50 years
 - b. Attempted Armed Robbery: 10 years
 - c. Possession of a Weapon During a Violent Crime: 5 years

2. All sentences are to run concurrently.

IT IS SO ORDERED.

RECEIVED

MAY 13 2019

SC Court of Appeals

J. C. Nicholson, Jr.
Presiding Judge

Charleston, South Carolina

Dated: May 10, 2019.

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM CHARLESTON COUNTY
Court of General Sessions**

The Honorable J.C. Nicholson, Jr., Presiding Judge

**INDICTMENT NOS.: 2017GS1004077; 2017GS1004079; 2017GS1004081;
2017GS1004083**

WARRANT NOS.: K404187; 2016A1010206049; 2016A1010206051; 2016A1010206052

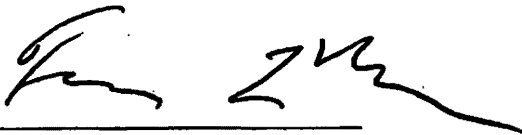
STATE OF SOUTH CAROLINA, RESPONDENT

vs.

JOSEPH LAMAR BROWN, JR., APPELLANT

NOTICE OF APPEAL

Joseph Lamar Brown, Jr., appeals his conviction and sentence following the jury trial held before the Honorable J.C. Nicholson, Jr. wherein he was found guilty and sentenced on November 9, 2018 and a Motion to Reconsider Sentence was heard on May 8, 2019 and an Amended Sentence imposed on May 10, 2019.



Teresa L. Norris
Special Assistant Public Defender
Attorney for Joseph Lamar Brown, Jr.
Charleston County Public Defender's Office
101 Meeting Street, Suite 500
Charleston, SC 29401
(843) 958-1850

Other counsel of record are:

D. Bruce DuRant, Chief Deputy Solicitor
Office of the Solicitor, Ninth Judicial Circuit
O.T. Wallace County Office Building
101 Meeting Street, 4th Floor
Charleston, SC 29401
(843) 958-1900

RECEIVED
MAY 18 2019
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
MAY 19 2019
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable J.C. Nicholson, Jr., Presiding Judge

INDICTMENT NOS.: 2017GS1004077; 2017GS1004079; 2017GS1004081;
2017GS1004083
WARRANT NOS.: K404187; 2016A1010206049; 2016A1010206051;
2016A1010206052

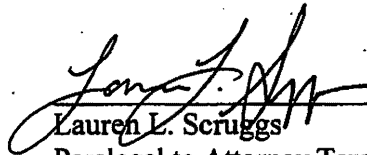
STATE OF SOUTH CAROLINA, RESPONDENT

vs.

JOSEPH LAMAR BROWN, JR., APPELLANT

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on D. Bruce DuRant, Deputy Chief Solicitor for Charleston County, by hand delivering a copy of it to the Charleston County Solicitor's Office at 101 Meeting Street, Charleston, South Carolina 29401, on May 10th, 2019.



Lauren L. Scruggs
Paralegal to Attorney Teresa L. Norris
Charleston County Special Assistant Public Defender
O. T. Wallace County Office Building
101 Meeting Street, 5th Floor
Charleston, SC 29401
(843) 958-1850

Dated: May 10th, 2019.

1154

DBD/0325068
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2016-019282

ARREST WARRANT NUMBER
K404187

DATE OF ARREST
01/03/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

JUL 11 2017

VERDICT

Guilty

Foreperson of Petit Jury

Date:

11/9/18

DOCKET NO. 2017-GS-10-04077

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
JULY TERM 2017

THE STATE

VS.

JOSEPH LAMAR BROWN, JR
B/M DOB: [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON.

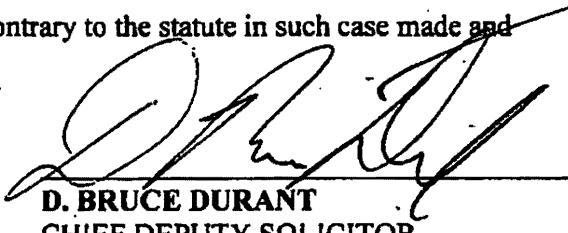
INDICTMENT

At a Court of General Sessions, convened July 2017, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about December 23, 2016, the defendant, Joseph Lamar Brown Jr, feloniously, willfully and with malice aforethought, did kill and murder John Glenn Pritchard by means of shooting him with a pistol, and John Glenn Pritchard did die in Charleston County as a proximate result thereof on or about December 23, 2016; in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

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



D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

JOSEPH LAMAR BROWN, JR

AKA:

Race: Black/African American

Sex: M

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED]

SID# SC02216521

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

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

☒ CONVICTED OF or☐ PLEADSTO: **Murder**

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

1801

D. Bruce DuRant, Chief Deputy Solicitor SC Bar #

Defendant

15081

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%)

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment)

\$12

\$

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test)

\$25

\$

Other: _____

Proviso (Public Def/Probation)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$ 3.75

TOTAL

\$ 128.75

☐ Appointed PD or appointed other counsel;

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Kam C. PhyleCourt Reporter: Joyce RuegerPresiding Judge: [Signature]Judge Code: 244Sentence Date: 11/9/18

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE

VS.

JOSEPH LAMAR BROWN, Jr.

AKA:

Race: Black Sex: M Age: 21

DOB: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

SID# SC02216521*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: MURDERIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

D. BRUCE DURANT

Solicitor

1801

SC Bar #

Defendant

TERESA L. NORRIS

Attorney for Defendant

15081

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 52 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied SCDOC.
Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100.00</u>
§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	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	\$	\$	<u>3.75</u>

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

RECEIVEDINDICTMENT/CASE#: 2017-GS-10-4077

MAY 13 2019

AW#: K404187Date of Offense: 12/23/2016S.C. Code §: 16-03-0010CDR Code #: 0116**SC Court of Appeals****AMENDED
SENTENCE SHEET**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

Judge Code: 2115/10/19

Sentence Date

1158

DBD/0325068
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2016-019282

ARREST WARRANT NUMBER
2016A1010206051

DATE OF ARREST

01/03/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury JUL 11 2017 Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-04081

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
JULY TERM 2017

THE STATE

VS.

JOSEPH LAMAR BROWN, JR
B/M DOB: [REDACTED]

Indictment for

BURGLARY FIRST DEGREE

SC Code: § 16-11-0311
CDR Code: 0079

STATE OF SOUTH CAROLINA

INDICTMENT

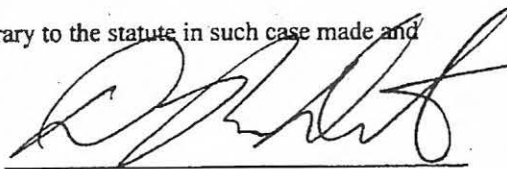
COUNTY OF CHARLESTON

At a Court of General Sessions, convened July 2017, the Grand Jurors of Charleston County present upon their oath:

BURGLARY FIRST DEGREE

That in Charleston County, South Carolina on or about December 23, 2016, the Defendant Joseph Lamar Brown Jr, did enter the dwelling of John Glenn Pritchard without consent and with the intent to commit a crime therein. That, in addition, the defendant caused physical injury to a person who was not a participant in the crime; and/or the defendant displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; and/or the defendant used or threatened the use of a dangerous instrument; and/or the defendant was armed with a deadly weapon or explosive; in violation of § 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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



D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

JOSEPH LAMAR BROWN, JR

AKA:

Race: Black/African American

Sex: M

DOB: 02/28/1979

SS#: 91425-123

Address: 1000 North Street Apt. #10

City, State, Zip: Charleston, SC

DL#: 4A23402

SID# SC02216521

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

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

☒ CONVICTED OF or☐ PLEADS

TO: Burglary First Degree

15-11P2

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

1801

D. Bruce Durant, Chief Deputy Solicitor SC Bar #

Defendant

15081

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 50 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

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: _____

Recipient: _____

*Fine: _____

\$ _____

§14-1-206 (Assessments 107.5%)

\$ _____

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$ _____

§56-5-2995 (DUI Assessment)

\$12

\$ _____

§56-1-286 (DUI Breath Test)

\$25

\$ _____

Proviso (Public Def/Probation)

\$500

\$ _____

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$ _____

§50-21-114 (BUI Breath Test Fee)

\$50

\$ _____

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$ _____

3% to County (if paid in installments)

\$

\$ 3.75

TOTAL

\$ 128.75

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

DBD/0325068
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2016-019282

ARREST WARRANT NUMBER

2016A1010206052

DATE OF ARREST

01/03/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

JUL 11 2017 Date:

VERDICT

Not guilty as to
Armed Robbery but
guilty as to Attempted
Robbery
NDP 11/9/18
Foreperson of Petit Jury Date:

DOCKET NO. 2017-GS-10-04083

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JULY TERM 2017

THE STATE

VS.

JOSEPH LAMAR BROWN, JR
B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

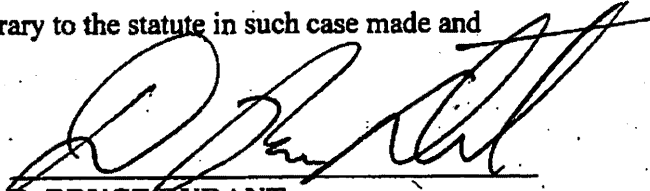
INDICTMENT

At a Court of General Sessions, convened July 2017, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about December 23, 2016, in Charleston County, South Carolina, the Defendant, Joseph Lamar Brown Jr, by use of force, threats or intimidation and while armed with a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of John Glenn Pritchard with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

JOSEPH LAMAR BROWN, JR

AKA:

Race: Black/African American

Sex: M

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED]

SID# SC02216521

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

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

TO: **Attempted Armed Robbery**

In violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations, Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

1801

D. Bruce DeRant, Chief Deputy Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

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

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

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

pmts. of \$ _____ Beginning _____

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

\$ _____ Paid to Public Defender Fund

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

Other: _____

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

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

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

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

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

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Kami C. RiegerCourt Reporter: Joyce RuegerPresiding Judge: [Signature]Judge Code: 2143/1ESentence Date: 11/9/18

1164

DBD/0325068
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2016-019282

ARREST WARRANT NUMBER

2016A1010206049

DATE OF ARREST

01/03/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

JUL 11 2017 Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-04079

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JULY TERM 2017

THE STATE

VS.

JOSEPH LAMAR BROWN, JR

B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490

CDR Code: 0549

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

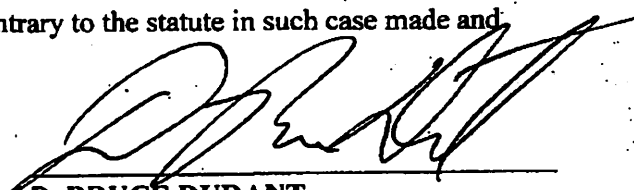
INDICTMENT

At a Court of General Sessions, convened July 2017, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about December 23, 2016, the Defendant, Joseph Lamar Brown Jr, did possess a firearm or did visibly display what appeared to be a firearm during the commission of, or attempted commission of, the following violent crimes, to wit: Murder, Burglary 1st Degree and/or Armed Robbery; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

JOSEPH LAMAR BROWN, JR

AKA:

Race: Black/African American

Sex: M

DOB: 02/23/1972

SSN: 000-00-0000

Address: 000 0th St, Charleston, SC 29401

City, State, Zip: Charleston, SC 29401

DL#: 0000000000

SID# SC02216521

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

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

☒ CONVICTED OF or☐ PLEADS

TO: Possession Of A Weapon During The Commission Of A Violent Crime

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.☐ (def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

D. Bruce Durant, Chief Deputy Solicitor SC Bar # 1801

Defendant

Attorney for Defendant

SC Bar # 15081

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$, plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

\$100

\$ 100.00

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$

§14-1-211 (A)(2)(DUI Surcharge)

\$12

\$

§56-5-2995 (DUI Assessment)

\$25

\$

§56-1-286 (DUI Breath Test)

\$500

\$

Proviso (Public Def/Probation)

\$25

\$ 25.00

§14-1-212 (Law Enforce. Funding)

\$150

\$

§14-1-213 (Drug Court Surcharge)

\$50

\$

§50-21-114 (BUI Breath Test Fee)

\$40/ea

\$

§56-5-2942(J) (Vehicle Assessment)

\$

\$ 3.75

3% to County (if paid in installments)

TOTAL

\$ 128.75Clerk of Court/Deputy Clerk: Karen C. RuyterCourt Reporter: Joyce RiegerPresiding Judge: [Signature]Judge Code: 10/24/18Sentence Date: 10/24/18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Jun 08 2020

SC Court of Appeals

s/Susan B. Hackett

Susan B. Hackett

Appellate Defender

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

ATTORNEY FOR APPELLANT

This 8th day of June, 2020.