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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

IVINGTON DANIEL ALLEN,

APPELLANT.

APPELLATE CASE NO. 2022-000638

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
 2 COUNTY OF DORCHESTER) TRANSCRIPT OF RECORD

3 -----x
 4 STATE OF SOUTH CAROLINA,)
 5 Plaintiff,)
 6 vs.) Case No. 2019-GS-18-00548
 7) 2019-GS-18-01735
 8) 2019-GS-18-01736
 9 IVINGTON DANIEL ALLEN,)
 Defendant.)
 -----x

April 18, 2022

JURY TRIAL - VOLUME 1 of 3

B E F O R E:

The Honorable Maite Murphy, Presiding Judge; and a jury.

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

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 John Rivers, IV, Esq.
 Attorney for the State

Melisa Gay, Esq.
 Attorney for the Defendant

Recorded by: DCRP/Lorraine Harris

Transcribed by: Bobbi Fisher
 SC Official Court Reporter III

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14

COURT REPORTER LEGEND

15

Dash (--) Indicates an interruption in speech

16

Ellipses (...) Indicates trailing off in speech

17

(ph) Indicates phonetic word

18

[Verbatim] Indicates the word is said as written

19

(Indiscernible) [Transcription] Indicates word(s) is not known due to audio recording quality

20

21

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23

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25

1 P R O C E E D I N G S

2 (Whereupon, the following proceedings started at 10:40 a.m.):

3 THE COURT: Thank you, ladies and gentlemen. The jury
4 panel is now qualified.

5 Solicitor, you may call your first case.

6 MR. OSBORNE: Thank you, Your Honor. This is the case of
7 the State versus Ivington Daniel Allen. Mr. Allen has been
8 charged with murder; the indictment number is 2019-GS-18-0548.
9 And being charged with attempted armed robbery,
10 Indictment No. 2021-GS-18-1736. And possession of firearm
11 during the commission of a violent crime, Indictment No.
12 2021-GS-18-1735.

13 May I approach, Your Honor?

14 THE COURT: Yes, sir.

15 JURY VOIR DIRE

16 THE COURT: Ladies and gentlemen of the jury panel, we're
17 about to begin the trial of the case of the State versus
18 Ivington Daniel Allen. I'm going to read to you the
19 indictments in this case, and this is merely for the purpose
20 of seeing if you know anything about this case or have heard
21 anything about this case or have any information about this
22 case or opinions.23 Ladies and gentlemen, the indictments are not evidence in
24 this case. They're merely the charging documents which bring
25 the case into this court.

JURY VOIR DIRE

1 The first indictment is Indictment 2019-GS-18-0548. It
 2 is the State versus Ivington Allen, and it's indictment for
 3 murder. And it states that: In Dorchester County, on or
 4 about April 21st of 2018, with malice aforethought, the
 5 defendant, Ivington Daniel Allen, did kill one James Williams
 6 by shooting the victim. The victim did die as a proximate
 7 result thereof, this offense being in violation of the South
 8 Carolina Code of Laws.

9 The next indictment is Indictment No. 2021-GS-18-1736.
 10 It's the State versus Ivington Daniel Allen for attempted
 11 armed or allegedly armed robbery. And this indictment states
 12 that: On or about April 21st of 2018, in Dorchester County,
 13 South Carolina, the defendant, Ivington Daniel Allen, by use
 14 of force, threats, or intimidation and while alleging, either
 15 by action or words, he was armed while using a deadly weapon
 16 or a representation of a deadly weapon or other object, which
 17 a person present during the commission of the attempted
 18 robbery, reasonably believed to be a deadly weapon, did
 19 attempt to take and carry away goods and/or monies from the
 20 person or immediate presence of James Williams, deceased, with
 21 the intent to permanently deprive him or her of possession
 22 thereof. This offense being in violation of the South
 23 Carolina Code of Laws as amended.

24 The next indictment is Indictment 2021-GS-18-1735, the
 25 State versus Ivington Daniel Allen, and this is an indictment

1 for possession of a firearm or a knife during the commission
2 of a violent crime. This indictment states that, in
3 Dorchester County, on or about April 21st, 2018, the
4 defendant, Ivington Daniel Allen, did visibly display or have
5 in his position a gun during the commission of a violent crime
6 as defined by Section 16-1-60 of the South Carolina Code of
7 Laws as amended, to wit, murder, thereby violating Section
8 16-23-490 of the South Carolina Code of Laws as amended.

9 Ladies and gentlemen, again, those are the indictments
10 which bring the case into this court. They're not evidence of
11 the allegations that they contain herein.

12 Before we begin the jury selection, I'm going to ask the
13 State to please stand and introduce themselves and members of
14 their office, please.

15 MR. OSBORNE: Thank you, Your Honor. My name is David
16 Osborne. I am an assistant solicitor or prosecutor, is what
17 we're called in every other state. Well, for this trial, John
18 Rivers, he's an assistant solicitor as well. He's going to be
19 helping me prosecute the case.

20 You're also going to see Detective Chaz Easterlin with
21 the Dorchester County Sheriff's Office. He's the case agent.
22 Then you'll be seeing my investigator, Ray Hopp. He'll be
23 coming in and out, rallying witnesses.

24 In our office, our boss, the First Circuit Solicitor is
25 David Pascoe, Mike Spears, Shannon Elliott, Jillian Frederick,

JURY VOIR DIRE

9

1 Kelly LaPlante, and Emily Gates, who are all prosecutors.

2 THE COURT: Thank you, Solicitor.

3 Ladies and gentlemen of the jury panel, anyone related by
4 blood or marriage or has a close personal or social
5 relationship with any members of their office, has ever had a
6 case handled by them or against them, if so, please stand.

7 (No response given.)

8 THE COURT: I find that there is no one standing.

9 Ms. Gay, if you'd please do the same.

10 MS. GAY: Thank you.

11 Ladies and gentlemen, my name is Melisa Gay, and I am a
12 private attorney that works in the tri-county area. I will be
13 assisted today by Ms. Sarah Norton. She's another person in
14 this office. And we represent Mr. Ivington Allen.

15 THE COURT: Thank you, ma'am.

16 Same question: Anyone related by blood or marriage or
17 has a close personal or social relationship with any members
18 of Ms. Gay's office, has ever had a case handled by them or
19 against them? If so, please stand.

20 Yes, ma'am, would you come forward?

21 THE BAILIFF: What's your juror number?

22 JUROR NO. 62: 62.

23 THE BAILIFF: Juror No. 62. Six-two.

24 (Juror No. 62 approaches the bench.)

25 (Discussion at bench inaudible.)

1 THE COURT: Ladies and gentlemen of the jury panel, I'm
2 going to read to you a list of potential witnesses in this
3 case and the same question will apply as if you're related by
4 blood or marriage or have any close or personal relationship
5 with any of these potential witnesses: Dorchester County
6 Sheriff Deputy Michael Contino, ATF Special Agent Adam Smith,
7 South Carolina Highway Patrol Charlie Nicholson, Charleston
8 County Deputy Willis Walker, Dorchester County Detective
9 Sergeant Chaz Easterlin, First Circuit Investigator Ray Hopp,
10 Marie Waring from DMV, James Williams, Shanay Williams,
11 Marlana Boyd, Gladys Williams, Melvin Allen, Terrence Allen,
12 Peter Willis, Gloria Green, and Andreana Allen, Darryl Allen,
13 Dr. Jamie Downs, Mira (ph) Sellers, Haley Mack, and Mickey
14 Carter.

15 Anyone related by blood or marriage or has a close
16 personal or social relationship with any of the potential
17 witnesses? If so, please stand.

18 (No response given.)

19 THE COURT: I find that there's no one standing.

20 And, ladies and gentlemen, to my right, sitting with
21 Ms. Gay, is Mr. Ivington Daniel Allen. Same question applies.

22 Thank you, Mr. Allen. You may have a seat.

23 Same question applies: Anyone related by blood or
24 marriage or has a close personal or social relationship with
25 Mr. Allen? If so, please stand.

1 (No response given.)

2 THE COURT: I find that there is no one standing.

3 MR. OSBORNE: Your Honor, I'm so sorry; I forgot to add
4 Dr. Erin Presnell.

5 THE COURT: Dr. Erin Presnell?

6 MR. OSBORNE: Yes, Your Honor.

7 THE COURT: Ladies and gentlemen, another potential
8 witness is Dr. Erin Presnell. Anyone related by blood or
9 marriage or has a close personal or social relationship with a
10 Dr. Erin Presnell? If so, please stand.

11 (No response given.)

12 THE COURT: I find that there is no one standing.

13 Ladies and gentlemen, the person in this case, which is
14 the deceased person in this case, was James Williams. Anyone
15 related by blood or marriage or had a close personal or social
16 relationship with Mr. James Williams? If so, please stand.

17 (No response given.)

18 THE COURT: I find that there is no one standing.

19 Is there any member of the jury panel who is a member of
20 or a contributor to or has a close affiliation with any group
21 which has its primary concern the promotion of law enforcement
22 or victims' rights? These groups would include, but are not
23 limited to, MADD, SADD, or Citizens Against Violent Crime or
24 the NRA or, in the alternative, is there any member of the
25 jury panel a member of an organization that opposes law

1 enforcement? If so, please stand.

2 Yes, ma'am. Would you come forward?

3 THE BAILIFF: Juror 14. One-four.

4 (Juror No. 14 approaches the bench.)

5 (Discussion at bench inaudible.)

6 THE BAILIFF: Juror No. 3.

7 (Juror No. 3 approaches the bench.)

8 (Discussion at bench inaudible.)

9 THE COURT: Has any member of the jury panel heard
10 anything about this case, read anything about this case, or
11 know anything about this case whatsoever before you arrived
12 here today at the courthouse or even during your time here
13 this morning? If so, please stand.

14 (No response given.)

15 THE COURT: I find that there is no one standing.

16 Ladies and gentlemen of the jury, I read to you the
17 indictments in this case, charging the defendant with three
18 separate crimes: The crime of murder, the crime of attempted
19 armed robbery or allegedly armed robbery, and the crime of
20 possession of a firearm during the commission of a violent
21 crime.

22 Ladies and gentlemen, I read to you the indictments.
23 Anything about this type of case, based upon your personal
24 experience, your family experience, friends, employment,
25 anything at all in this type of case that would cause you to

JURY VOIR DIRE

13

1 hesitate in your ability to be fully fair and impartial to
2 both the State and to the defendant in this case and serve as
3 a juror in this court? If so, please stand.

4 (No response given.)

5 THE BAILIFF: Juror 92. 92.

6 (Juror No. 92 approaches the bench.)

7 (Discussion at bench inaudible.)

8 THE COURT: Has any member of the jury panel formed or
9 expressed an opinion about any potential issue or potential
10 matter involved in this case? If so, please stand.

11 (No response given.)

12 THE COURT: I find that there is no one standing.

13 Is there any member of the jury panel aware of any bias
14 or prejudice towards either the State or to the defense in
15 this case? If so, please stand.

16 (No response given.)

17 THE COURT: I find that there is no one standing.

18 Is there any member of the jury panel that was a member
19 of the grand jury which issued the indictments in this case?
20 If so, please stand.

21 (No response given.)

22 THE COURT: I find that there is no one standing.

23 Ladies and gentlemen, again, you have heard the
24 allegations contained in the indictments in this case and what
25 this case is about. Ladies and gentlemen, based upon there,

1 or any other reason, is there any member of the jury panel who
2 knows of any reason whatsoever why he or she should not serve
3 as a juror in this case, with a particular emphasis being
4 based on your ability to be fully fair and impartial to both
5 the State and to the defense? If so, please stand.

6 (No response given.)

7 THE COURT: I find that there is no one standing.

8 Ladies and gentlemen of the jury, that would conclude the
9 list of questions before we begin the jury selection in this
10 case.

11 Madam Clerk, do you need a few minutes?

12 MS. GAY: Your Honor, may I approach for a minute?

13 THE COURT: Yes, ma'am.

14 BENCH CONFERENCE

15 (The following bench conference was held outside the hearing
16 of the jury and others.)

17 (Discussion at bench inaudible.)

18 THE COURT: Ladies and gentlemen, one more question:
19 Does any member of the jury panel or friends or family members
20 live in the vicinity or the area of 112 Blackies Park Road in
21 Harleyville, South Carolina? If so, please stand.

22 (No response given.)

23 THE COURT: I find that there is no one standing.

24 Thank you, ladies and gentlemen. That will conclude the
25 list of questions.

JURY SELECTION

15

1 Our clerk of court, ladies and gentlemen, takes your
2 names and puts them in somewhat of a blind hopper, and it
3 takes us a minute to organize your names before we begin the
4 jury selection. While she does that, I'll share with you a
5 story that I tell all my jurors to make you feel a little bit
6 fortunate about being here in St. George and your travels
7 here.

8 As members of the judiciary, we're required to travel to
9 Reno, Nevada for judicial education, and while I was there, I
10 met a judge from Alaska, and he was telling me that, in jury
11 selection for his courts in Alaska, they have to provide many
12 jurors transportation to get to the courthouse and lodging
13 because they're so far apart from where their homes are. And
14 most typically in just about every case, he said every juror
15 is provided with a two-hour snowmobile ride, a two-hour dog
16 sled ride, and a two-hour airplane ride, and they're each
17 provided with a weapon and not because of anything that they
18 might handle in court but to protect them against potential
19 bear attacks. So consider yourself very fortunate what we
20 have this nice facility here in Dorchester County that's easy
21 to get to.

JURY SELECTION

22
23 THE CLERK: Okay. While we're waiting for the list to
24 print, when I call your name or if I call your name, if you
25 then come to the front and come up to the center up here and

1 turn around and face the attorneys.

2 Juror No. 167, Bradley Scott.

3 (A Native American male presents.)

4 MR. OSBORNE: Please present this juror.

5 THE CLERK: The defense?

6 MS. GAY: Please seat the juror for the trial of this
7 case.

8 THE CLERK: Okay, sir. If you'll just go back and have a
9 seat back in the jury box.

10 Juror No. 30, Patrick Childs.

11 (A white male presents.)

12 THE CLERK: What say the State?

13 MR. OSBORNE: Please present this juror.

14 THE CLERK: The defense?

15 MS. GAY: One moment, please.

16 Please excuse the juror from the trial of this case.

17 THE CLERK: Have a seat back in the audience.

18 Juror 151, Minh Pham.

19 (An Asian female presents.)

20 THE CLERK: What say the State?

21 MR. OSBORNE: Please present this juror.

22 THE CLERK: The defense?

23 MS. GAY: Please seat the juror for the trial of this
24 case.

25 THE CLERK: Juror 54, Andrew England.

JURY SELECTION

17

1 (A white male presents.)

2 THE CLERK: What say the State?

3 MR. OSBORNE: Please present this juror.

4 THE CLERK: The defense?

5 MS. GAY: Please excuse the juror from the trial of this
6 case.

7 THE CLERK: Juror 136, Keith McNair.

8 (A black male presents.)

9 THE CLERK: What say the State?

10 MR. OSBORNE: Please excuse this juror.

11 THE CLERK: Juror 115, Erin Leighty.

12 (A white female presents.)

13 THE CLERK: What say the State?

14 MS. GAY: Please excuse the juror from the trial of this
15 case.

16 THE CLERK: I'm sorry. What say the State?

17 MS. GAY: I'm sorry.

18 MR. OSBORNE: I'm sorry. What number?

19 THE CLERK: 115, Erin Leighty.

20 MS. GAY: Jumping ahead.

21 MR. OSBORNE: I was going to present.

22 THE CLERK: And the defense?

23 MS. GAY: Please excuse her from the trial of this case.

24 THE CLERK: Juror 25, Nicholas Burlile.

25 (A white male presents.)

1 THE CLERK: What say the State?

2 MR. OSBORNE: Please excuse this juror.

3 THE CLERK: Juror 123, Julius Marchisella.

4 (A white male presents.)

5 THE CLERK: What say the State?

6 MR. OSBORNE: Please present this juror.

7 THE CLERK: The defense?

8 MS. GAY: One moment, please.

9 Please excuse the juror from the trial of this case.

10 THE CLERK: Juror 86, William Hornke.

11 (A white male presents.)

12 THE CLERK: What say the State?

13 MR. OSBORNE: Please excuse this juror.

14 THE CLERK: Juror 168, Rebecca Scaff. I'm sorry. 165.

15 Rebecca Scaff.

16 (A white female presents.)

17 THE CLERK: What say the State?

18 MR. OSBORNE: Please present this juror.

19 THE CLERK: The defense?

20 MS. GAY: Please seat the juror for the trial of this

21 case.

22 THE CLERK: Juror 143, Patrice Nock.

23 (A white female presents.)

24 THE CLERK: What say the State?

25 MR. OSBORNE: Please present this juror.

JURY SELECTION

19

1 THE CLERK: The defense?

2 MS. GAY: Please excuse the juror from the trial of this
3 case.

4 THE COURT: Ms. Gay, was that a strike?

5 MS. GAY: Yes.

6 THE COURT: Okay. I just didn't hear you. Thank you.

7 THE CLERK: Juror 102, Zoe Katz.

8 (A white female presents.)

9 THE CLERK: What say the State?

10 MR. OSBORNE: Please present this juror.

11 THE CLERK: The defense?

12 MS. GAY: One moment, please.

13 Please excuse the juror from the trial of this case.

14 THE CLERK: Have a seat back in the audience.

15 Juror 44, Douglas Crosby.

16 (A white male presents.)

17 THE CLERK: What say the State?

18 MR. OSBORNE: Please present this juror.

19 THE CLERK: The defense?

20 MS. GAY: One moment, please.

21 Please seat the juror for the trial of this case.

22 THE CLERK: Juror 124, Abby Martin.

23 (A white female presents.)

24 THE CLERK: What say the State?

25 MR. OSBORNE: Please present this juror.

1 THE CLERK: The defense?

2 MS. GAY: One moment, please.

3 Please seat the juror for the trial of this case.

4 THE CLERK: Juror 77, Alice Hardy.

5 (A white female presents.)

6 THE CLERK: What say the State?

7 MR. OSBORNE: Please present the juror.

8 THE CLERK: The defense?

9 MS. GAY: Please seat the juror for the trial of this
10 case.

11 THE CLERK: Juror 87, Penny Howard.

12 (A white female presents.)

13 THE CLERK: What say the State?

14 MR. OSBORNE: Please present this juror.

15 THE CLERK: The defense?

16 MS. GAY: Please excuse the juror from the trial of this
17 case.

18 THE CLERK: Juror 194, Noel Williams.

19 (A white female presents.)

20 THE CLERK: What say the State?

21 MR. OSBORNE: Please present this juror.

22 THE CLERK: The defense?

23 MS. GAY: Please seat the juror for the trial of this
24 case.

25 THE CLERK: Juror 32, Shelly Clark.

JURY SELECTION

21

1 (A white female presents.)

2 THE CLERK: What say the State?

3 MR. OSBORNE: Please present this juror.

4 THE CLERK: The defense?

5 MS. GAY: Please -- one moment, please.

6 Please seat the juror for the trial of this case.

7 THE CLERK: Juror 22, Brittany Broderick.

8 (A black female presents.)

9 THE CLERK: What say the State?

10 MR. OSBORNE: Please present this juror.

11 THE CLERK: The defense?

12 MS. GAY: Please seat the juror for the trial of this
13 case.

14 THE CLERK: Juror No. 20, David Bonilla.

15 (A Hispanic male presents.)

16 THE CLERK: What say the State?

17 MR. OSBORNE: Please present this juror.

18 THE CLERK: The defense?

19 MS. GAY: One moment, please.

20 Please seat the juror for the trial of this case.

21 THE CLERK: Juror No. 11, Richard Baker.

22 (A white male presents.)

23 THE CLERK: What say the State?

24 MR. OSBORNE: Please present this juror.

25 THE CLERK: The defense?

1 MS. GAY: Please excuse the juror from the trial of this
2 case.

3 THE CLERK: Have a seat back in the audience.

4 Juror 186, Patricia Walton.

5 (A white female presents.)

6 THE CLERK: What say the State?

7 MR. OSBORNE: Please present this juror.

8 THE CLERK: The defense?

9 MS. GAY: One moment, please.

10 Please excuse the juror from the trial of this case.

11 THE CLERK: Juror 185, Stephanie Walters.

12 (A white female presents.)

13 THE CLERK: What say the State?

14 MR. OSBORNE: Please present this juror.

15 THE CLERK: The defense?

16 MS. GAY: Please seat the juror for the trial of this
17 case.

18 THE CLERK: Juror 65, Kathleen Gill-Hopple.

19 (A white female presents.)

20 THE CLERK: What say the State?

21 MR. OSBORNE: Please present this juror.

22 THE CLERK: The defense?

23 MS. GAY: One moment, please.

24 Please excuse the juror from the trial of this case.

25 THE CLERK: Juror No. 2, Toshiyanna Aiken.

JURY SELECTION

23

1 (A black female presents.)

2 THE CLERK: What say the State?

3 MR. OSBORNE: Please present this juror.

4 THE CLERK: The defense?

5 MS. GAY: One moment, please.

6 Please seat the juror for the trial of this case.

7 Wait. Let me confer with David for one second.

8 Okay.

9 THE CLERK: Okay. For an alternate, Juror 112, Kimberly
10 Lakes.

11 (A white female presents.)

12 THE CLERK: What say the State?

13 MR. OSBORNE: Please present this juror.

14 THE CLERK: The defense?

15 MS. GAY: One moment, please.

16 Okay. Please excuse the juror from the trial of this
17 case.

18 THE CLERK: Juror 201, William Worrell, Jr.

19 (A white male presents.)

20 THE CLERK: What say the State?

21 MR. OSBORNE: Please present this juror.

22 THE CLERK: The defense?

23 MS. GAY: Please excuse the juror from this trial of this
24 case.

25 THE CLERK: Juror 122, Claudette Mannion.

1 (A white female presents.)

2 THE CLERK: What say the State?

3 MR. OSBORNE: Please present this juror.

4 THE CLERK: Defense?

5 MS. GAY: Please seat the juror for the trial of this
6 case.

7 THE CLERK: Juror 110, Brandon Kurkowski.

8 (A white male presents.)

9 THE CLERK: What say the State?

10 MR. OSBORNE: Please present this juror.

11 THE CLERK: The defense?

12 MS. GAY: Please seat the juror for the trial of this
13 case.

14 THE COURT: Madam Clerk, do you want to confirm the
15 strikes with both the State and the defense?

16 THE CLERK: Okay. The plaintiff struck -- or the State
17 struck 136, 25, 86.

18 MR. OSBORNE: That's correct.

19 THE CLERK: Thank you.

20 Defense: 30, 54, 115, 123, 143, 102, 87, 11, 186, 65,
21 112, 201. Is that correct?

22 MS. GAY: Yes, ma'am.

23 THE COURT: Are there any exceptions or objections to the
24 selection of this jury from either the State or from the
25 defense?

JURY SELECTION

25

1 MR. OSBORNE: Not from the State, Your Honor.

2 MS. GAY: I do have a matter, Your Honor, but I just need
3 to ask Mr. Osborne something about the matter. We have a
4 matter that we need to put on the record.

5 THE COURT: Would you approach, please?

6 BENCH CONFERENCE

7 (The following bench conference was held outside the hearing
8 of the jury and others.)

9 (Discussion at bench inaudible.)

10 THE COURT: Thank you, ladies and gentlemen of the jury
11 panel.

12 Ladies and gentlemen of the jury that was selected for
13 the trial of this case, if you would just remain in the
14 courtroom briefly.

15 The remaining members of the jury panel, you have
16 fulfilled your jury service. You are free to go. If you need
17 an excuse from work, the clerk of court's office will be happy
18 to provide that for you.

19 Again, members of the jury: Please remain in the
20 courtroom.

21 (The remaining jury panel exited the courtroom.)

22 THE COURT: Ladies and gentlemen of the jury that has
23 been selected for the trial of this case, we have some matters
24 which we must take up outside of your presence, and it's
25 lunchtime anyway, so it's a good time for us to recess for

1 your lunch break.

2 If you would, please be back in your jury room, which the
3 bailiffs will show you where your jury room will be, at 2:15.
4 We have, again, some matters and things we must take up
5 outside of your presence.

6 Please remember that it is very important that you not
7 discuss this case with anyone, allow anyone to discuss this
8 with you, or do any kind of independent research about this
9 case because you must make your determination of the facts
10 solely from what you hear in this courtroom.

11 Again, we will see you at 2:15. Please follow court
12 security and the bailiffs, and they will show you where to go.

13 (The jury exited the courtroom at 12:10 p.m.)

14 BATSON MOTION

15 THE COURT: All right. Ms. Gay, I understand that you
16 had a matter you wished to place on the record regarding the
17 strikes from the State?

18 MS. GAY: Yes, ma'am. I would -- during the -- at the
19 Court, at the bench, I mentioned to the Court that I would
20 like to raise a *Batson* motion regarding the striking of Juror
21 No. 136, who was a black male, similarly racially situated as
22 my client, who is Mr. Allen, and ask the State to let me know
23 why they did that, and, you know, what the motivation was.

24 THE COURT: Yes, sir, Mr. Osborne?

25 MR. OSBORNE: So he has -- 136 has been arrested twice.

DET

27

1 My take on all this was, if you had handcuffs on him
2 (indiscernible), I was going to strike him.

3 I went ahead and struck 25 even though he had only been
4 arrested one. He was a white male, but it was an A&B third.
5 There was a physical allegation in this one; he was found not
6 guilty. It was too close for me so I struck him.

7 There was a white male who had too many arrests -- more
8 than one. I don't know exactly what they were, but I know he
9 had handcuffs on him twice, so I struck him as well.

10 Those were the only perspective jurors who were called
11 with multiple arrests. In all, I counted that there were
12 three black individuals who were called as perspective jurors.
13 He was in one of those struck.

14 THE COURT: Ms. Gay, do you have anything further to show
15 that any strikes would be pretextual other than what the
16 reason as given?

17 MS. GAY: No, ma'am. Thank you.

18 THE COURT: And as, you know, the *Batson* --

19 MS. GAY: I'm aware.

20 THE COURT: -- analysis, you do have the burden of
21 establishing that. Finding that has not been established,
22 your motion is denied.

23 All right. So anything further? I guess we can break
24 until about a little bit after 1:00 and then (indiscernible)
25 pre-trial so we can go ahead and get started with the *Jackson*

1 v. *Denno*. Would that work?

2 MS. GAY: Yes, ma'am.

3 THE COURT: Thank you.

4 Ms. Gay, I'm assuming that your client has been in
5 custody?

6 MS. GAY: He is in custody, Your Honor, and he will stay
7 in custody, obviously, over lunch, but I need to -- if I could
8 just talk to him for, like, a minute right there before they
9 take him back, then I don't have to go downstairs.

10 THE COURT: All right. We'll see everyone at 1:15.

11 THE BAILIFF: 1:15.

12 MR. OSBORNE: Thank you, Judge.

13 (A lunch recess was taken from 12:13 p.m. to 1:42 p.m.)

14 JACKSON V. DENNO HEARING

15 THE COURT: Are we ready for the *Jackson v. Denno*?

16 MR. OSBORNE: We are, Your Honor.

17 The State calls Detective Chaz Easterlin.

18 THE CLERK: Raise your right hand. State your full name
19 for the record.

20 THE WITNESS: Chaz (indiscernible).

21 DETECTIVE CHAZ EASTERLIN,

22 after having been duly sworn, was examined and testified
23 to as follows:

24 THE COURT: All right. Your witness.

25 MR. OSBORNE: Thank you, Your Honor.

DET. CHAZ EASTERLIN - Direct by Mr. Osborne

29

1 DIRECT EXAMINATION

2 BY MR. OSBORNE:

3 Q Detective, can you state your name and where you
4 currently work.

5 A Chaz Easterlin. I work for the Dorchester County
6 Sheriff's Office. I'm a detective sergeant.

7 Q If you don't mind, just speak into that mic a little bit
8 so we can all hear you pretty good.

9 A Yes, sir.

10 Q All right. We're going to skip ahead a little bit. What
11 was your role in this investigation?

12 A I was the lead investigator assigned to the case.

13 Q Okay. And did you have the opportunity to prepare and
14 obtain warrants for the defendant's arrest?

15 A I did.

16 Q And on February the 5th of 2019, did you have the
17 occasion to speak to the defendant?

18 A I did.

19 Q And where was that?

20 A It would have been at 212 Deming Way at the sheriff's
21 office, our (indiscernible) office.

22 Q And if you could, just pull that microphone even a little
23 bit closer. All right.

24 Was he in custody at the time?

25 A He was. He was arrested, I believe, by Union County

1 along with the (indiscernible).

2 Q Okay. How long was -- and you interviewed him, I take
3 it?

4 A I did.

5 Q And how long was the interview?

6 A Not more than an hour. I'd say 30, 45 minutes max. It
7 wasn't a significantly long interview at all.

8 Q All right. During the interview, did the defendant
9 appear to be intoxicated or under the influence of drugs?

10 A Not at all.

11 Q Did the defendant appear to have any physical or mental
12 disabilities that would have impaired his ability to
13 understand what was being said to him?

14 A He didn't appear so.

15 Q Prior to or during your interview with the defendant, did
16 you offer any breaks, drink, bathroom, or otherwise, or if he
17 had asked, did you deny it to him?

18 A No, typically our procedural policy is that, if someone
19 asks, we offer to them. Typically, when they come into the
20 room, "Hey, do you need to use the restroom, need water,
21 crackers or anything like that, (indiscernible)." If they
22 definitely ask for it, we provide it.

23 Q Okay. Were there any threats or promises made to the
24 defendant in exchange for his statement?

25 A No.

1 Q All right.

2 MR. OSBORNE: Your Honor, may I approach?

3 THE COURT: Yes, sir.

4 BY MR. OSBORNE:

5 Q I'm showing you State's 22 and State's 23. Can you take
6 a look at those and tell me if you recognize those.

7 A Yes. The first one, State's 22, looks like our interview
8 with Mr. Allen that was conducted that we have been talking
9 about thus far. And the second one is just like portions of
10 that same interview, like, clips if you will.

11 Q Okay. So 23 is just clips of 22, and 22 being the entire
12 interview?

13 A Yes, that's right.

14 Q Okay.

15 MR. OSBORNE: All right, Your Honor. At this time, the
16 State will seek to publish clips from 23 -- we'd proceed to
17 move it in.

18 THE COURT: Any objection?

19 MS. GAY: He's publishing them at this point, so I
20 understand they're in.

21 (State's Exhibit No. 22, Interview Video, was marked for
22 identification and received into evidence for the hearing.)

23 (State's Exhibit No. 23, Clips of Interview Video, was
24 marked for identification and received into evidence for the
25 hearing.)

1 (Video plays.)

2 MR. OSBORNE: May I approach?

3 THE COURT: Yes, sir.

4 (State's Exhibit No. 24, Miranda Rights Form, was marked
5 for identification.)

6 BY MR. OSBORNE:

7 Q I'm showing you State's 24. Can you take a look at that
8 and tell me if you recognize that.

9 A I believe it's a copy of the Miranda rights that I
10 (indiscernible).

11 Q Okay. Whose initials are there by the 1 through 5
12 Miranda rights?

13 A Those are Ivington's initials as he signed them.

14 Q Okay. And then whose signature is at the bottom where it
15 says, "Waiver of rights"?

16 A That's Ivington's again.

17 MR. OSBORNE: Your Honor, I have not digitalized this
18 yet. I will when I present it to the jury. May I approach?

19 THE COURT: Yes, sir.

20 Do you want this back?

21 MR. OSBORNE: Yes, ma'am. May I approach?

22 THE COURT: Yes, sir.

23 BY MR. OSBORNE:

24 Q All right. Now I'm showing you Clip 2.

25 (Video plays.)

1 BY MR. OSBORNE:

2 Q So, in the beginning of this clip, you told him that, in
3 the affidavit that was presented to you, the victim was listed
4 as Torrell or James Williams?

5 A James Torrell Williams.

6 Q So is it fair to say he did have some inclination of why
7 he was there?

8 A Correct.

9 MS. GAY: I would object to speculation at that point.
10 He doesn't know what his inclination was.

11 BY MR. OSBORNE:

12 Q Was he presented with an arrest warrant?

13 A He was.

14 Q And the arrest warrant listed why he was in handcuffs?

15 A Correct.

16 Q All right. Playing Clip No. 3.

17 (Video plays.)

18 BY MR. OSBORNE:

19 Q All right. Clip 4.

20 (Video plays.)

21 BY MR. OSBORNE:

22 Q Clip 5.

23 (Video plays.)

24 BY MR. OSBORNE:

25 Q Clip 6.

1 (Video plays.)

2 BY MR. OSBORNE:

3 Q Clip 7.

4 (Video plays.)

5 BY MR. OSBORNE:

6 Q Let me just stop it there one second. It looks like you
7 just sat down. Was there a break there?

8 A Yes. There was a break in between. Typically we convene
9 after a series of questions just to make sure that we're not
10 missing anything (indiscernible) have something else to
11 interject or ask.

12 Q Now is that, what? About 10 or 15 or something like
13 that?

14 A If that long. It's usually, you know, a fairly short
15 process. Five or ten minutes maybe, just to convene with the
16 supervisor as well as to say, "Hey, this is what we have got
17 so far. Can you think of anything else to ask? Are there
18 questions that I may have breezed over or just overlooked?"

19 (Video continues to play.)

20 BY MR. OSBORNE:

21 Q All right. Last clip. Clip 8.

22 (Video plays.)

23 BY MR. OSBORNE:

24 Q All right. And I won't ask you this and don't testify to
25 this, but for purposes of this hearing, did you later

1 terminate the interview?

2 **A** Yes. The interview was terminated.

3 **Q** And was that when he requested an attorney?

4 **A** It was.

5 **Q** And that's when the interview ceased?

6 **A** At that time.

7 **Q** Okay.

8 MR. OSBORNE: No further questions.

9 THE COURT: Cross-examination?

10 CROSS-EXAMINATION

11 BY MS. GAY:

12 **Q** Okay. So that, you described, as No. 23, I believe. But
13 No. 22 is a document of a disc of the whole interview. Right?

14 **A** Yes.

15 **Q** Okay. So and you'd agree with me that, in No. 22,
16 there's a whole lot more shared by you and/or Mr. Allen?
17 Discussed?

18 **A** There was more discussed.

19 **Q** Right. And, so, obviously, Mr. Osborne has cherry-picked
20 some things to pull out of No. 22 to make into that document,
21 this No. 23 -- Exhibit No. 23? He picked certain things to
22 put on those discs and not other things?

23 **A** I'm sorry? You're asking me?

24 **Q** Yes.

25 **A** Yeah, it's -- I would say those are the high points of

1 the interview of things that were valuable to the
2 investigation or to probable cause.

3 Q And to the State?

4 A Correct.

5 Q But there could be other things that are potentially
6 valuable to him in No. 22 if he believed that the whole
7 interview needed to be shown to the jury. There are different
8 things in 22.

9 A Yes.

10 Q Okay. And at the time that you're talking to him and
11 you're -- in the very beginning, you are telling him -- I
12 mean, I don't want to -- you're confirming that we watched
13 this and this is what we saw -- that you are telling him that,
14 in order for him to know what he's doing there, he's got to
15 agree to talk to you. That happened on the tape. You saw
16 that with me; right?

17 A There was statements made to say, "Hey, Ivington, in
18 order for us to ask you questions, we must first have to
19 advise you of your rights, and you have to agree to speak to
20 us before we can proceed with the interview."

21 Q And, also, there's a statement that says, "Before I tell
22 you why you're here, you have to talk -- you have to agree to
23 talk to me." That isn't on the recording. We can go back.
24 The judge saw it. But would you agree that that is basically
25 what was said to him?

1 **A** I'm not going to -- I wouldn't -- I'd have to listen to
2 it again to hear, obviously, if that was what said verbatim.
3 It's more of a, "Hey, in order for me to ask you questions, I
4 have to -- you have to sign the form; otherwise, I can't ask
5 you any questions because you're in custody and the rules of
6 Miranda apply." That's the essence of that.

7 **Q** And he ultimately did initial the forms and did waive to
8 talk to you?

9 **A** He did.

10 MS. GAY: I have no further questions, Your Honor.

11 THE COURT: Any further redirect?

12 REDIRECT EXAMINATION

13 BY MR. OSBORNE:

14 **Q** Well, the only thing -- and I guess we can go ahead and
15 hash this out now. Since Ms. Gay asked you about other things
16 that was said at the interview, was the defendant curious
17 about what the evidence was that was against him that led him
18 to being arrested?

19 **A** He was. It was almost to the point where he -- there
20 were several times that I said it was, from the clips, you
21 know, it has to be a back-and-forth conversation. It can't be
22 one-sided with me, you know, just talking, because that's not
23 a conversation.

24 So it was more so him being curious as to, you know, the
25 facts that led to probable cause against him. He said this a

1 few times.

2 Q And you told him what some of those facts were; right?

3 A I did.

4 Q Part of those facts was that the victim identified him in
5 the photographic line up; right?

6 A Correct.

7 Q And you told him that?

8 A I did.

9 Q And you told him that other witnesses identified him as
10 "A-1"?

11 A I did.

12 MR. OSBORNE: Okay. No further questions.

13 THE COURT: Thank you, Deputy. You may step down.

14 THE WITNESS: Thank you.

15 THE COURT: Any other witnesses?

16 MR. OSBORNE: No, Your Honor.

17 THE COURT: Any argument for the Court based on *Jackson*
18 *v. Denno*?

19 MS. GAY: Obviously (indiscernible).

20 MR. OSBORNE: Go ahead.

21 MS. GAY: All right. Your Honor, based on the
22 questioning that I said to the officer -- and if we need to
23 replay this again -- this officer is not telling him that he
24 was going to talk to him about the charge of murder, the
25 charge of -- you know, that he's charging with killing this

1 man. None of that is discussed in this Miranda colloquy.

2 What he's saying specifically is, "You need to sign this
3 for me to tell you what -- why you're here." "Why you're
4 here" implies -- if we're going to talk about inferences and
5 what people think -- implies, you know, actually why he's
6 being charged. Because Mr. Allen says, "I don't even know
7 what I'm doing here."

8 So, you know, at that point, I don't believe that they
9 served a warrant on him yet. So he is telling him that, in
10 order for him to know why he's in the room and being charged
11 with something, he has to sign the form, and that's not true.
12 I mean, he would be -- unrelated to any kind of waiver, you
13 know, the right to remain silent, he would need to be told,
14 "You're being arrested for murder. This is the warrant. This
15 is the evidence against you. This is what we're charging you
16 with on this date and time, killing this person."

17 So there's no doubt that the -- what the officer actually
18 said is beyond the scope of, you know, normal police contact
19 at that time, advising him of, you know, why they want to talk
20 to him and the fact they're going to be using his statements
21 that he's making against him in his prosecution.

22 At one point, Mr. Allen actually says, "So you're saying
23 I have to sign this to know what's really going on?" And he
24 says, "Yes."

25 And so I believe that this is a violation and should

1 be -- and the statement should be excluded, Your Honor.

2 THE COURT: Thank you, Ms. Gay.

3 Solicitor?

4 MR. OSBORNE: Your Honor, they went ad nauseam to try to
5 explain to him that they could not talk to him unless they
6 read his rights. He did know why he was there because he had
7 already been served with the arrest warrant. What he wanted
8 to do was to probe deeper into the evidence of the case,
9 which, correctly, he was unwilling to do until he waived his
10 Miranda rights.

11 He controlled this interview. He shut it down whenever
12 he had had enough, just like he was advised he could do, and
13 they scrupulously honored his request at that time. It's
14 freely and voluntarily given.

15 THE COURT: Based upon the evidence that has been
16 presented to the Court at this juncture and viewing the video
17 of the defendant being read his Miranda rights and him waiving
18 his rights, the Court does find that the statement is
19 voluntary and in compliance with Miranda. They did indicate
20 to him that he didn't have to talk to him; that he could stop
21 at any time if he did choose to talk to him, and he waived
22 that right. And, further, it appears that he had been served
23 with the arrest warrant, informing him of why he was there and
24 being charged with murder. So the confession comes in -- or
25 the statement comes in.

MOTIONS/MATTERS OF LAW

41

1 MOTIONS/MATTERS OF LAW

2 MR. OSBORNE: Your Honor, the next one -- well, do you
3 want to tackle excited utterances next?

4 MS. GAY: Sure.

5 MR. OSBORNE: Okay. Your Honor, the victim made several
6 statements on the night of the incident, and I'll just go
7 through those quickly. And I think we covered them all in our
8 brief, or at least the ones that we would seek to introduce.

9 The first statement after the victim was shot -- and just
10 as a way of background for the record -- this is the way we
11 understand it -- the victim was shot. After he was shot, he
12 went down the hallway to notify his father, Mr. James
13 Williams.

14 James Williams came out. He told his dad that A-1 shot
15 him and he had shot him over money. Marlena Boyd, who is the
16 victim's wife, was home at the time. Marlena, once she saw
17 that -- once she heard that, she went and notified Shanay
18 Williams. Shanay Williams is the victim's sister.

19 Shanay came over, and Shanay is going to same -- or we
20 expect her to testify to the same sort of thing. When she got
21 there, she said she got shot -- or Torrell said, "I got shot."
22 Shanay said, "What happened?" Torrell said, "A-1 shot me."

23 Shanay then took the victim's children and then took them
24 across the street to get them away from the scene, especially
25 seeing their father shot.

1 Marlena, who was there -- well, Shanay ended up calling
2 their mom, Gladys. Gladys lives, literally, like a mile or
3 two away. Gladys ends up getting to the scene before police
4 get there.

5 Gladys and Marlena are both taking care of Torrell. And
6 the basic gist of what they say is that Torrell said, again,
7 "A-1 shot me." He said that A-1 came to the house, and A-1
8 said that Terrence and Lamont, who are Torrell's cousins, sent
9 A-1 there to borrow a thousand dollars from Torrell for A-1's
10 daughter's prom, which goes back to the video where he said
11 his daughter had a prom that weekend.

12 Torrell told A-1 that he didn't have any money. A-1 then
13 went to his car for his cigarette -- at least that's what he
14 said -- and then he returned with a gun.

15 Torrell's son, Minor 1 who is 13 years old, was home
16 sleeping in the couch in the living room at the time. Torrell
17 believed that A-1 might shoot him in front of his son, so he
18 decided to fight. A-1, full control over the gun. During the
19 struggle, Torrell was shot. A-1 then fled in a black or
20 dark-colored vehicle.

21 Gladys will testify, we expect, to basically the same
22 thing, as she was sitting right there.

23 Now, as Torrell was being taken from the scene by EMS, on
24 body-worn camera -- and we will get this from Deputy
25 Contino -- Torrell is asked, "Who shot you?" And that he

1 says, "A-1." And then he's literally taken away.

2 The next statement that we would seek to admit is from
3 Gloria Williams. She is the victim's aunt. I should say we
4 estimate that the shooting happened around 2:54 or 2:55. EMS
5 got there at about 3:06 and then departed at about 3:20.

6 Gloria responded directly to Trident Medical Center. She
7 got there before Adam Smith got there. Adam Smith was with
8 the Dorchester County Sheriff's Office. He went to the
9 hospital to talk to Torrell.

10 Gloria gives a very similar account, but what she says is
11 that, when A-1 returned from his vehicle, he put a gun to
12 Torrell's head and demand he surrender his money. Torrell
13 thought, "Lord, don't let this fool do something in front of
14 my kid."

15 Torrell then struggled for the gun. A-1 put the gun to
16 Torrell's side and said, "Don't make me shoot you." The gun
17 then went off.

18 At about 4:00 -- so what we do know, looking at the time,
19 we can say that Adam Smith got there at 4:00 in the hospital.
20 So prior to that is when Gloria would have spoken to Torrell.

21 Adam Smith is at the hospital. He speaks to Torrell.
22 This is captured on video. It's only about a minute and a
23 half of body-worn camera. Torrell basically said that he was
24 watching cartoons that night with his three-year-old daughter
25 when he heard a knock on the door. He got up and asked who he

1 was. The voice said A-1. Torrell gives his physical
2 description of A-1.

3 When Sergeant Smith asked what happened, a nurse
4 literally then takes Torrell away. So our position is that
5 the victim was under stress from excitement. The reason why
6 he was under that stress and excitement is because he had been
7 shot. The statements that he made related back to the
8 shooting. So we would submit that they're all excited
9 utterances. I mean, we would concede that the last statement
10 to Detective Sergeant Adam Smith is a little bit more on the
11 fence because it is made to law enforcement. But I think if
12 we were to watch the video -- if you'd like, Your Honor, it's
13 only a minute and a half -- I think you can see that.

14 Based on the totality of circumstances, it's hard to
15 imagine that Torrell is giving that statement to Adam Smith in
16 anticipation of litigation. He's literally -- well, the
17 video, I think speaks for itself.

18 THE COURT: Sure, I think that would be helpful.

19 (Video plays.)

20 MR. OSBORNE: Your Honor, that would be the extent of it.

21 THE COURT: All right. Ms. Gay?

22 MS. GAY: Thank you, Your Honor. As we were talking
23 about these statements and some of the things that I have
24 given to the judge before already about the hearsay situation,
25 first of all, Your Honor, we acknowledge that Mr. Williams is

1 no longer -- he's deceased, so he's not an available witness,
2 obviously.

3 When we look at the law of hearsay and -- because it
4 would be the statement of an unavailable witness, there is an
5 exception. As we talk about this, I do acknowledge that
6 there's an exception for spontaneous utterances and that their
7 reliability would be better because they happened right at the
8 scene or right at the time something occurs.

9 So even though I believe that all of the statements are
10 hearsay and should -- because of the -- they're not exceptions
11 to the hearsay rule, I do acknowledge that these ones that
12 happened on-scene to his family members are arguably
13 spontaneous, Your Honor.

14 With regard to his aunt, she comes to the hospital, and
15 he is, at that time, you know, about ready to undergo medical
16 treatment, and she's saying all these things that he said to
17 her that she wants to come in and testify about, Your Honor.
18 And I think that it was far enough away in time for him to no
19 longer be making spontaneous utterances about the event, you
20 know, as in blurting them out and saying this is what happened
21 to me, A-1 came, he shot me, it was over money, those types of
22 things.

23 With regard to the officer that is the one with the body
24 cam, I acknowledge, Your Honor, that that particular item is
25 also just admissible under the fact that it's his body cam.

1 So it's a statement of my client -- of the deceased but it's
2 something that the officer is going to testify to, and I
3 acknowledge that, Your Honor.

4 With regard to Officer Smith, I have done some research,
5 Your Honor. I have provided this research to the Court about
6 the confrontation clause and how, you know, obviously, my
7 client has the constitutional right to confront the witnesses
8 against him, Mr. Williams being a witness who is no longer
9 available.

10 And I'd like to read this from the case that we have,
11 Your Honor. This case is *State v. Staten*, S-t-a-t-e-n, Court
12 of Appeals case from 2005. It says that, "In determining
13 whether" -- my argument, Your Honor, is that the statements of
14 Mr. Williams given to Mr. Smith are not hearsay at all.
15 They're testimonial responses, and, therefore, any exception
16 to the hearsay rule should not apply.

17 It says that, "In determining whether a statement is
18 testimonial or non-testimonial, courts are consistently
19 applying the Crawford," which is a constitutional case,
20 two-pronged analysis to otherwise admissible hearsay
21 statements; otherwise as admissible hearsay statements
22 possibly even whatever the State wants to argue. "Was the
23 statement made to a government agent or in response to
24 questioning from a government agent?"

25 This man is a police officer. While he was there, while

1 we watched the clip, he is asking him things about the
2 incident, about "Do you know what he drives?" "Do you know
3 where he lives?"

4 So this is not, "Hey, who shot you?" This is inquiries
5 about who this man was for purposes of trying to determine a
6 suspect in the case, which would be in response to questioning
7 from the officer.

8 And "Was the statement made to a government agent?" And,
9 two, "Would this declarant expect his or her statement to be
10 later used at trial?" There is no other reason to ask a
11 person who has been shot, "Who shot you?" "Do you know him?"
12 "What kind of car does he drive?" "Where does he live?"
13 "What happened?" "Why do you think he was there?"

14 These are all things that are expected to be used at
15 trial because they're expected to be used to find the suspect
16 who is the person who shot him.

17 So, obviously, the officer was collecting information to
18 use about the possible information to determine who shot him
19 and would it be, in fact, be used for trial. So, under the
20 constitutional case that's cited in there -- we gave it to
21 you, Your Honor -- the Crawford case, it specifically says
22 that there are -- it says -- held that the police
23 interrogations delineated in Crawford are testimonial and
24 include the investigation of witnesses shortly after the
25 commission of a crime.

1 So these things -- this statement made to Smith is not
2 hearsay. It's not somehow a way that we can just get in these
3 statements by an unavailable declarant based on excited
4 utterance because he's talking to family members about more
5 people at the scene about what happened to him. This is in
6 response to absolute interrogation. That's an aggressive
7 word. What it means is questioning him. He's questioning him
8 about it. The man isn't just saying things. The police
9 officer is then asking him further questions to develop more
10 information.

11 Based on that, Your Honor, I don't believe it's
12 admissible in this case.

13 THE COURT: Solicitor?

14 MR. OSBORNE: You know, I think I have already said. I
15 think the statement to Adam Smith is tight. You know, I
16 acknowledge that. And I think the real question comes down to
17 a primary purpose analysis of that statement at the time that
18 it was being given. And, at that time, I don't know that we
19 can -- any of us can get into Torrell's head, but I don't
20 think Torrell envisioned that we'd be in a murder trial.

21 He had been shot. He wasn't giving up. He was talking.
22 He was trying to give them information to obtain or arrest or
23 apprehend the defendant. It wasn't that this was going to be
24 the statement that would be played in front of you, Your
25 Honor, here today. He's given that information to the officer

1 so that he can find the guy that shot him.

2 MS. GAY: This isn't (indiscernible), but I just want to
3 say that he definitely was giving the police officer
4 information about the suspect, about a shooting, about a scene
5 of the crime, about a felony. It may not be that he was
6 preparing to give statements about a murder case because he
7 didn't know he was going to die; he didn't die until several
8 days later, but he is certainly providing this information to
9 law enforcement with the goal that they go and get a suspect
10 and that suspect would be charged for shooting him.

11 THE COURT: Considering the evidence and looking at the
12 case law, I'm just -- I'm trying to read the case that you
13 provided, but, Ms. Gay, the *Staten* case is no longer good law.
14 That was vacated in part and dismissed.

15 What I'm really more concerned with is the *Crawford* issue
16 as far as the confrontation clause for the defendant. So I
17 think, based on that issue, out of an abundance of caution,
18 I'm going to exclude that statement.

19 MR. OSBORNE: The one to Adam Smith?

20 THE COURT: Correct.

21 MR. OSBORNE: Yes, Your Honor.

22 The next issue that we have regards the business records
23 exception or authenticating business records -- call detail
24 records.

25 Sorry, Your Honor. One second. Okay. I think, if we're

1 all tracking on the same sheet of music, this might help a
2 little bit. I have taken the liberty to mark some Court
3 exhibits, and then I can explain this.

4 MS. GAY: Your Honor, just bouncing back to the hearsay
5 issue. Other than Mr. Smith's statement, all the rest of
6 them, you're allowing in? Is that what your decision is?

7 THE COURT: Correct. And, basically, I think you have
8 pretty much acknowledged that they would probably be put in.

9 MS. GAY: Except for Gladys.

10 THE COURT: Well, then let me go back to that. As far as
11 hers is concerned, I do believe that, under the totality of
12 the circumstances, it's still made within the timeframe which
13 he would be under the stress of having been shot. I mean, she
14 got there before police and law enforcement arrived, and I
15 think, based upon that, it would be, then, excited utterance
16 pursuant to him still being under the stress of being shot,
17 being transported to the hospital, and, under those
18 conditions, have not had time to reflect, and, therefore, it
19 would be admissible.

20 All right. So we can move on to the business records.

21 (Court's Exhibit No. 1, State's Notice of Intent, was
22 marked for identification and received into the record.)

23 (Court's Exhibit No. 2, Faxed Search Warrant, was marked
24 for identification and received into the record.)

25 (Court's Exhibit No. 3, Historical Call Details, was

1 marked for identification and received into the record.)

2 (Court's Exhibit No. 4, List of Computer Files, was
3 marked for identification and received into the record.)

4 (Court's Exhibit No. 5; Letter from Verizon, was marked
5 for identification and received into the record.)

6 MR. OSBORNE: Okay. Your Honor, just as a way of
7 background, I provided the defense notice of our intent to
8 introduce cell phone records and ping from Verizon. That's
9 going to be Court's Exhibit No. 1.

10 The records pertain to (843) 560-4731, which is a phone
11 registered to Andreana Allen, the defendant's wife. Ms. Allen
12 told law enforcement and us that, because her husband did not
13 have a phone during the time frame of the murder, that she
14 allowed him to use her phone, and that's the phone, the 4731
15 phone.

16 Mapping of that phone corroborates much of defendant's
17 movement leading up to and after the murder. Of note, at
18 2:56 a.m., the phone was pinging off of a tower that was
19 serviced near the victim's home. The 911 call came in for the
20 shooting at 2:55 a.m.

21 As per required by the statute 19-5-520 -- and I did
22 provide this to the defense -- there was an attached sworn
23 affidavit from a custodian at Verizon. The defense later
24 indicated to me that she was challenging the authenticity of
25 those records, and her main challenge was, because the

1 custodian said -- and I'm reading from Court's Exhibit 1, on
2 his sworn affidavit, in No. 3 -- he said, "Because the
3 original records are no longer available, Verizon does not
4 have sufficient information to definitively confirm or deny
5 whether the attached records are true and accurate copies of
6 the originals."

7 No. 4, "Based on a review of the format and appearance of
8 the attached records, the attached records bear substantially
9 the same format and appearance of records that are created and
10 maintained by Verizon in the actual course of business. It is
11 Verizon's ordinary and regular practice to create and maintain
12 records that substantially resemble the attached records."

13 Now, as a result of Ms. Gay notifying us of her
14 challenge -- and that's well within the statute, and that she
15 (indiscernible) challenge that -- we did a little bit of
16 research on it.

17 What we found out was that, on May the 10th of 2018,
18 Detective Easterlin faxed over a copy of the search warrant.
19 And that's Court's Exhibit No. 2. Verizon responded back with
20 the requested records six days later on May the 16th of 2018.

21 Now, what you can tell, whenever you look at records,
22 Your Honor -- if you look at Court's Exhibit No. 3, that is a
23 screen shot from some of the records that were sent to
24 Detective Easterlin, and what you notice on there is that the
25 author or the creator of the records is Murph J.O. (ph)

1 MS. GAY: Which exhibit piece of paper are you looking at
2 now?

3 MR. OSBORNE: Court's Exhibit 3.

4 MS. GAY: Three. Okay.

5 MR. OSBORNE: So our next inquiry is who is Murph J.O.?

6 Now, the other important thing to note -- and we found
7 out from the spoiler, Murph J.O. works for Verizon.

8 On Court's Exhibit No. 4, if you look, this is a screen
9 shot of the zip files. If you look on the date modified, it
10 is going to be May the 11th of 2018. This is prior to
11 Detective Easterlin even getting ahold of the records. So you
12 can see that he didn't alter them, he didn't tamper, he didn't
13 damage them or compromise them in any way. If you do alter
14 these records, it's going to create a new date modified date
15 on it.

16 All right. So we -- when I say "we," I mean Investigator
17 Ray Hop. He contacted Verizon and asked them to amend their
18 certificate. So they did, and that's Court's Exhibit No. 5.
19 And what they amended to was saying, in addition to 1 through
20 4, which was the same, No. 5 says, "Furthermore, Murph J.O. is
21 the Verizon employee user name belonging to Joseph Murphy.
22 Joseph Murphy was a Verizon employee on May the 11th, 2018.
23 As part of his duties with Verizon at that time, Joseph Murphy
24 facilitated Verizon's compliance with valid and lawful court
25 orders and search warrants by compiling and producing

1 responsive records. However, because the original records are
2 no longer available or Verizon does not have sufficient
3 information to definitively confirm or deny whether Joseph
4 Murphy certified and produced the attached records..."

5 Detective Easterlin is going to be called as a witness in
6 this case. He will be available for cross-examination. Any
7 challenges that Detective Easterlin altered these records goes
8 to the weight and not to the admissibility, but those records
9 are trustworthy as required by the business records exception.
10 If he had modified them, the date would reflect that. Like I
11 said, he didn't have motion of those records at the time.

12 Your Honor, at this time, we would say that the records
13 are authentic and they should come in, at least meeting that
14 hurdle. I will establish testimony, I believe, to show their
15 relevance.

16 THE COURT: Ms. Gay?

17 MS. GAY: Thank you, Your Honor. I think it's
18 (indiscernible). Ultimately, this piece of paper from
19 Verizon, which is Exhibit 5, says that they do not have
20 sufficient information to definitively confirm or deny whether
21 Joseph Murphy certified and produced the attached records.

22 So everything else about, "Well, we did this, we did
23 that, we have got something from this person named Murphy,"
24 ultimately, the documents that they want to admit must be
25 verified by Verizon as being made in the normal course of

1 business in their business records exception to hearsay rule,
2 and this document right here says that they cannot do that.
3 And it doesn't go to weight. It goes to admissibility when
4 they say specifically that they don't have the ability to
5 confirm it.

6 I think these are the actual pieces of paper. I'd ask
7 you to look at them.

8 MR. OSBORNE: And, Your Honor, just going back to the
9 business records exception, the language says, you know, it's
10 admissible if it's conducted in the regular course of
11 business, which the affidavit says that. And then I think
12 what Ms. Gay is referring to, "Unless the source of
13 information or the method or circumstances of preparation
14 indicate lack of trustworthiness, we can show, in this case,
15 that he didn't even produce these records. Verizon did. And
16 that's the whole point of going through all that. Who created
17 the (indiscernible)? Was it (indiscernible) by Verizon? He
18 is the author of at least some of those records, and that goes
19 back to the requirement of authentication, which is 901.

20 And as we all know, that is a low burden. It's basically
21 that it is what we say it is.

22 THE COURT: All right. And pursuant to 901, certainly
23 the authentication burden is a very low standard that it is
24 what the proponent says it is. As far as that is concerned,
25 the business record exception is just as you stated as far as

1 with the affidavit is concerned. It would go to the weight of
2 the evidence and not the admissibility of it, so I will allow
3 the business records to come in.

4 Ms. Gay, would you like those back? I have a copy.

5 MS. GAY: Your Honor, I don't think they're my copies
6 (indiscernible).

7 MR. OSBORNE: I thought we might just -- oh,
8 (indiscernible).

9 The next thing, Your Honor, is, at the time of the
10 defendant's arrest, he was arrested in Union County, and he
11 presented a fake ID to the trooper. This is State's 31. This
12 is a photograph that the trooper actually took showing the
13 fake ID. We would seek to not only admit this exhibit,
14 State's 31, but we'd also seek to elicit some testimony from
15 the trooper in regards to that interaction.

16 After he's able to identify his true identity, he then
17 places him under arrest, and the defendant was found in
18 possession of a .9 millimeter in his waistband. We can't say
19 definitively whether that was the murder weapon because there
20 was no projectile or shell casings recovered. We would still
21 seek to admit it.

22 The victim was shot with a gun. He was found to be in
23 possession of a gun. But, in all candor, that was nine months
24 after the (indiscernible).

25 THE COURT: Ms. Gay?

1 MS. GAY: Your Honor, a couple of things. The gun, I
2 think, is way too far off to be relevant to this case. I
3 think it's overly prejudicial to my client. There's no --
4 there's no (indiscernible) to tell you that -- you know, that
5 will outweigh that aspect. And so I would ask that you not
6 admit the (indiscernible) of the fake ID or -- I think that we
7 haven't discussed prior bad acts or prior record. Some of
8 this was just motions that are part of the case.

9 But I do think that it's a bad act and that it does bring
10 my character -- or my client's character into evidence that he
11 may have this fake ID certainly because he's going to say he
12 had a fake ID but then he had a warrant and he's hiding from
13 everybody. So -- you know, which is (indiscernible) according
14 to David Osborne.

15 But the reality is, is that, you know, having a fake ID
16 could make the jury question his character, and that is
17 prejudicial to my client. The probative value does not exceed
18 that prejudice that will come out from having an attack on his
19 character which he might have (indiscernible) of ID. I think
20 that it's unnecessary. It happened nine months later. It has
21 no relevance whatsoever to this event.

22 I mean, I would ask that both of those items will be
23 excluded -- and the testimony of any person who would say, you
24 know, what was going on at the time of his arrest. I haven't
25 heard anything about what the officer would say at the time of

1 his arrest that would be relevant to this case. Yes, he's
2 wanted. Yes, they arrested him. But I have heard nothing
3 that would be relevant to this case. I would ask you to
4 exclude his testimony.

5 THE COURT: Well, obviously, until we hear from him to
6 see whether it's relevant or not, it would be a little
7 premature for me to just exclude his testimony.

8 As far as the gun is concerned, I agree with you,
9 Ms. Gay. I think that is too remote in time and overly
10 prejudicial that would outweigh the probative value.

11 And as far as the driver's license is concerned, I do
12 think the probative value outweighs the prejudicial effect on
13 that, and it is certainly relevant. If there was any
14 information that he had prior knowledge of the arrest warrant,
15 it certainly would be evidence of that prior knowledge that he
16 was -- that he was evading law enforcement. So I think that
17 would certainly be admissible.

18 Anything further at this juncture?

19 MR. OSBORNE: The only thing I'd put on the record, Your
20 Honor, is I don't know -- again, in all candor, I don't know
21 that we're going to be able to elicit any testimony or
22 evidence that he was aware that -- you know, that he was
23 wanted, but I think what we'd be seeking to admit that ID
24 on -- in on would be flight evidence. And I'm citing *State v.*
25 *Walker*, 366 S.C. 643. It says, "A critical factor to the

1 admissibility of evidence of flight is whether the totality of
2 the evidence creates an inference that the defendant had
3 knowledge that he was being sought by the authorities."

4 We wouldn't be seeking any charge. That just seems like
5 that's always a problem. What we would be arguing, I think,
6 is that, if you look at the totality of the circumstances, by
7 his own admission, he doesn't see his wife or kids for nine
8 months, and he was seeing them and talking to them at the
9 time. They locate him in Union County and that he presents a
10 fake ID to the deputy indicates that he knew he was wanted and
11 that he was evading the police, and it's evidence of a guilty
12 conscience.

13 THE COURT: And, certainly, evidence of flight has been
14 held admissible, and, again, I wouldn't charge it because I
15 think that would certainly be reversible error to charge it,
16 but it is evidence which is admissible as far as evidence of
17 flight, so I will allow the ID to come in.

18 Anything further?

19 MR. OSBORNE: Can I -- I'm sorry. All right. The last
20 thing we have, Your Honor, is spousal privilege. Ms. Gay has
21 indicated to us that Andreana Allen, the defendant's wife, is
22 asserting spousal privilege and not wish to testify. She has
23 been served with a subpoena.

24 I will just say -- you know, when I called Ms. Allen --
25 you never know when you reach out to a defendant's spouse how

1 they're going to behave, whether they're even going to show
2 up. Not only did she show up, she showed up early for the
3 meeting. (Indiscernible) very nice, very pleasant. She
4 accepted service. Her indication with us was that, you know,
5 obviously, she wasn't thrilled, but she had already spoken to
6 the defense and she knew, if she had to testify, that she
7 would.

8 What we would be seeking to elicit from her is that we
9 presented to her a photograph of Lawrence Cox, a DMV
10 photograph. She stated that she knew Lawrence to be an
11 associate of the defendant and that she would often call
12 her -- call Lawrence when she couldn't get in touch with her
13 husband, to try to get in touch with him.

14 This is important to us because the defendant is seen
15 driving a black Nissan Maxima on the day of the shooting.
16 Later on that night, Shanay Williams, the victim's sister,
17 says that she sees a dark-colored vehicle fleeing from the
18 area right after the shooting. The victim also says that A-1,
19 or the defendant, got into a dark-colored vehicle.

20 The following day -- going back, still dealing with
21 Lawrence Cox and its relevance. The following day, Mera (ph)
22 Sellers, who is the defendant's girlfriend, rents a white
23 Nissan Altima from the exact same rental company that Lawrence
24 Cox rented the black Nissan Maxima days before the shooting.
25 So that's the first piece we did seek to get from her, that

1 she knows Lawrence Cox.

2 The second piece, which, pretty obviously, she would say
3 that her work phone number at the time was 636-4017 -- 843
4 area code -- and her personal cell phone was (843) 560-4731
5 during the time frame of the shooting.

6 On the night of the incident, she says she spoke to her
7 husband right after midnight. Cell tower records show that
8 that call pinged off an area that was within the distance of
9 the Rodeway Inn, which is where he says he was. She said
10 that, when she spoke to him, she didn't get into the substance
11 of the call but she did say that he was whispering, which, to
12 us, sort of corroborates the fact that maybe he was with his
13 girlfriend while he was whispering to his wife.

14 And then, lastly, the last piece of evidence that we
15 would seek to admit, the day after the shooting, her husband,
16 the defendant, came to her home and took photographs of her
17 daughter while she was getting ready to go to prom. The
18 victim said that -- again, back to the prom comment.

19 In dealing with spousal immunity or privilege in general,
20 you know, our state defines spousal -- okay. In any trial or
21 inquiry in any suit, action, proceeding in any Court or for
22 any person having, by law or consent of the parties, authority
23 to examine witnesses or prepare evidence, no husband or wife
24 may be required to disclose any confidential or, in criminal
25 proceedings, any communication made by one or the other during

1 (indiscernible).

2 The whole issue here with the spousal privilege is
3 communication. We don't plan on eliciting any. And I think,
4 also, they call it pillow talk. So we're not seeking on
5 eliciting any pillow talk (indiscernible).

6 THE COURT: Ms. Gay, any response?

7 MS. GAY: Well, Your Honor, even -- to preserve the
8 record, I know we're doing this in limine motion, Your Honor,
9 and I was asking -- you know, I know this is what she wants to
10 do. And at what stage does she do that? Assume that you're
11 telling me that you don't feel it's appropriate to, you know,
12 to allow me to go into the motion -- I guess it is the best
13 way to say it -- when she comes up, it would be great -- and
14 let her tell the Court that that's what she's planning to do,
15 to preserve the issue for the record, and -- you know, for the
16 future, if necessary.

17 Do we -- do I say, "Subject to my objection?" You know,
18 I have never been in this situation before. So if you will --
19 I'm asking the Court's instruction on how I should handle
20 that.

21 But, you know, her position is that she doesn't want
22 to -- she's married to him. They have a child. She does not
23 want to come into this courtroom and get up there and swear
24 under oath for information that she would be testifying
25 against her husband. And we believe that that is spousal

1 immunity, that she does not have to provide information
2 against her husband.

3 Now, that being said, she has provided information --
4 data, we'll call it -- before to the police that is not in the
5 courtroom setting or under oath. We acknowledge -- and this
6 is the case that we presented to you, Your Honor -- we
7 acknowledge that under the case of *Copeland*, that
8 (indiscernible).

9 In the scheme of things, what she said to them can be
10 used, and it was used in their investigate, particularly the
11 information about the phone number and all the investigatory
12 things that happened after that.

13 And so we would ask that she be allowed to assert her
14 immunity and not have to go on the witness stand, but we do
15 realize that the information she's provided to them in the
16 past would be information that would be discussed in front of
17 the jury as part of the investigation.

18 THE COURT: Obviously, under the case law, basically
19 what -- the privilege would extend to communications between
20 them during their marriage. As far as what she provided and
21 what they're looking to introduce, identified Lawrence Cox as
22 a known associate, that's certainly not privileged
23 communication. That's something that she identified as an
24 associate of her husband.

25 On No. 2, her work phone, that's something that's not a

1 privileged communication either.

2 The issue with the whispering, I would akin whispering
3 more to conduct rather than a communication. I would -- and I
4 don't think conduct is certainly part of anything that would
5 be confidential that is protected. Communication privilege is
6 there to protect confidential communications, not conduct made
7 during the marriage. So I will allow it.

8 As far as her not wanting to be here, you know, quite
9 frankly, in all the years I have been practicing, most
10 witnesses don't want to be here, so I don't know that that
11 really falls as to an exception for her to be able to not
12 testify pursuant to the subpoena and does not fall under the
13 communication privilege pursuant to the law. So if -- when
14 she comes up, when she is called as a witness, Ms. Gay, if you
15 would just say, "Pursuant to my previous objection, I make the
16 same arguments," I think that would preserve the record. If
17 you feel that you need to make something further, of course
18 you may do so.

19 MS. GAY: Thank you, Your Honor.

20 David, do you have anything else ready? Because this is
21 just a little housekeeping --

22 MR. OSBORNE: The only other quick thing was in regards
23 to *Biggers*. We do plan on having in-court identifications,
24 one in particular: Shanay Williams. She was presented a
25 lineup. Defense had indicated that they were requesting a

1 *Biggers* hearing. Usually I would have just said, "Okay,
2 fine," but in light of the last Supreme Court case that I just
3 read last week, *State v. Justin Warner*, appellate Case No.
4 2020-000930, the Supreme Court said that *Biggers* is only
5 indicated when there's actually an eyewitness to a crime.

6 Shanay didn't witness it (indiscernible). She's simply
7 saying, "I know this guy did it."

8 THE COURT: Anything on that, Ms. Gay?

9 MS. GAY: One moment, Your Honor.

10 While she's looking for something, Your Honor, can I just
11 briefly chat about some of these other little housekeeping
12 ones?

13 THE COURT: Sure. Is it something that we can -- that
14 needs to be done right now? Because the jury has been waiting
15 about 35 minutes, and we still have this other jury. Is it
16 something that we can talk about -- what is it?

17 MS. GAY: Well, this is not a person that's identifying
18 that person as a suspect or as I saw him do it, I'm thinking.
19 So I do agree with him on that. I think that this is just a
20 witness who says, "I know this person by the name of," and --
21 so I don't know if they're inclined on putting up a lineup or
22 just talking about the fact that she knew him.

23 And I think that if he's planning on putting up the
24 lineup and, you know, that stuff, that there may be a need to
25 have a pretrial hearing, but I don't -- I don't fore -- it

1 isn't as if she's saying that she saw my client do anything.
2 So I think, based upon what he's talking about and what the
3 newer case says, that it's not the defendant doing something
4 that's criminal in nature, I'm not so sure we need -- I'll
5 leave that to the Court's discretion. Certainly any
6 identification is something that we should talk about.

7 THE COURT: And I --

8 [Overlapping conversation.]

9 MS. GAY: -- point of saying it. I mean, is she planning
10 on doing an in-court identification of the -- "and that's
11 him"? Because, you know, that's some of the things about all
12 this stuff is that, whatever happens beforehand, it's what
13 they say on the witness stand and continue to have her
14 identify him as A-1.

15 THE COURT: That's how she knows him. She knows him
16 (indiscernible). You just have to go through the factors as
17 far as how she knows him, could she recognize him and those
18 types of things so we could, of course, make the proper
19 objection at the time, Ms. Gay.

20 All right. Anything further before we bring out Juror
21 No. 20?

22 MS. GAY: Before you do that, Your Honor, I'm just
23 (indiscernible) that she has not -- I really need to make this
24 clear -- she is not going to say -- her testimony is also
25 relevance as (indiscernible) because she does not say she saw

1 A-1 at the scene. She just says that she knows him as A-1.

2 So when she's doing this whole in-court identification,
3 all she can say is, "That is the man that I know as A-1," not
4 "That is the man that I know as A-1 that was at the scene who
5 shot my, you know, relative."

6 THE COURT: Well, that might be the purpose of why
7 they're putting her up. So we'll cross that bridge when the
8 testimony comes up. All right.

9 MS. GAY: The example -- the motion about prior
10 convictions if my client testifies, do you have any
11 (indiscernible) planning on bringing that up and are there any
12 bad acts that you'd be talking about if, in fact, he
13 testifies?

14 THE COURT: Ms. Gay, why don't we get to that once they
15 rest and we get closer to that point, or even in the morning.
16 I don't want to keep the jury waiting. You-all can certainly
17 discuss (indiscernible) issues and maybe come to some sort of
18 an agreement and then we can put that on the record.

19 MS. GAY: Okay. And are we going to take a quick comfort
20 break a few seconds?

21 THE COURT: Two seconds.

22 (A brief recess was taken from 2:53 p.m. to 2:57 p.m.)

23 JUROR ISSUE

24 (Court's Exhibit No. 6, Juror Note, was marked for
25 identification and received into the record.)

1 THE COURT: Juror No. 20.

2 THE BAILIFF: Juror No. 20. Thank you, Judge.

3 I need Juror No. 20.

4 (Juror No. 20 enters the courtroom.)

5 THE BAILIFF: Just go up to the judge.

6 THE COURT: Good afternoon, sir. Mr. Bonilla, I'm going
7 to ask the clerk of court to please swear you in.

8 THE CLERK: If you'd please raise your right hand and
9 state your full name for the record.

10 THE WITNESS: David Bonilla.

11 DAVID BONILLA (JUROR NO. 20)

12 after having been duly sworn, was examined and testified
13 to as follows:

14 THE COURT: So, Mr. Bonilla, I received a note during the
15 lunch break that you're ministering at a funeral tomorrow at
16 2:00 p.m.; is that correct?

17 JUROR NO. 20: Yes, ma'am.

18 THE COURT: And is there a reason why you didn't tell us
19 that during the jury selection as far as your ability to
20 serve?

21 JUROR NO. 20: No. That was just dumb of me. I did not
22 think about it until I called the office and they reminded me
23 of it, so I'm very sorry about that.

24 THE COURT: And is this something -- obviously, you're
25 the presiding minister over this?

JUROR ISSUE

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1 JUROR NO. 20: Yes, ma'am. I tried to reschedule with
2 two other pastors that we got in our ministry, but they're
3 going to be leaving out of town to California tomorrow, so I'm
4 the only one that can do the service.

5 THE COURT: All right, sir. Are there any further
6 questions from either the State or from the defense?

7 MR. OSBORNE: No, Your Honor.

8 MS. GAY: No, Your Honor.

9 THE COURT: Well, Mr. Bonilla, I'm going to -- what I'm
10 going to do is I'm going to transfer you to a different term
11 of court further down the road. If you could -- next time, if
12 something comes up, please be very mindful to bring to the
13 Court's attention any kind of scheduling conflicts so that
14 this does not happen. But I'll excuse you from the trial of
15 this case but you'll receive a new summons for a new term of
16 court. Okay?

17 JUROR NO. 20: Thank you, Your Honor. I'm very sorry
18 about the inconvenience.

19 THE COURT: Your apology is accepted. Thank you.

20 JUROR NO. 20: Thank you.

21 (Juror No. 20 was excused from the trial.)

22 THE BAILIFF: Are you ready for the rest of the jury,
23 Your Honor?

24 THE COURT: Not quite yet.

25 There was one other matter that was just brought to my

1 attention from Teresa. She had indicated that somehow the --
2 and I'll let her explain. Apparently, the clerk's recording
3 system, somebody had, for lack of a better term, tushy-dialed
4 the clerk's office, and it appears to have been one of the
5 jurors on the tape, and I haven't heard it, but I wanted to
6 bring it to everybody's attention and we can place it on the
7 record. She appears not to be too happy about being selected
8 on jury service.

9 So we can play the recording, and then we can see what --
10 where we want to go to from there.

11 Madam Clerk, if you'd please play it.

12 THE CLERK: Y'all may need to -- I don't have much volume
13 here.

14 (Audio recording plays.)

15 MS. GAY: It appears to me that she (indiscernible)
16 saying that she knows the officers because they used to work
17 with her daddy.

18 THE COURT: That she knows the name of the officer but
19 she doesn't know him, is what I heard.

20 MR. OSBORNE: That's correct.

21 THE COURT: I mean, do y'all want me to bring her out and
22 question her, or -- it doesn't sound like she knew the
23 officers, but she's obviously not happy about being on jury
24 duty or driving to St. George, but I didn't see any deception
25 in there as far as the -- because she said she knew of the

1 name but not the actual officers. I'm certainly happy to
2 bring her out and question her regarding her knowledge.

3 MS. GAY: Well, Your Honor, we could just decide to
4 exclude her and add that second alternate in.

5 THE COURT: Well, I hate to do that, considering we
6 haven't even started the trial, and we're already on our
7 second alternate.

8 MS. GAY: Just (indiscernible).

9 THE COURT: Yeah, I hate to do that, Ms. Gay,
10 considering, again, we haven't even started the trial, and
11 we're already down to one alternate. I think the best course
12 of action is to bring her in and make sure that she answered
13 the questions during voir dire truthfully and honestly. The
14 fact that she's not happy to serve, that's on her. I mean, I
15 don't think we can make everybody happy. Maybe at the end of
16 the trial, she'll be happy she served.

17 All right. So let's have -- what juror was that?

18 THE CLERK: No. 2, Judge.

19 THE COURT: Ms. Aiken? All right. Let's have.
20 Juror No. 2, please.

21 (Pause in the proceedings.)

22 THE COURT: Madam Clerk, can we mark this one as a
23 Court's exhibit?

24 (Court's Exhibit No. 7, Juror Note, was marked for
25 identification and received into the record.)

1 (Juror No. 2 entered the courtroom.)

2 JUROR NO. 2: Yes? May I help you?

3 THE COURT: I just need to talk to you a few minutes,
4 ma'am. I'm going to ask the clerk of court to please swear
5 you in.

6 JUROR NO. 2: Sure.

7 THE CLERK: Can you state your full name for the record.

8 JUROR NO. 2: Toshiyanna Rosario Roberts Aiken.

9 TOSHYANNA AIKEN (JUROR NO. 2)

10 after having been duly sworn, was examined and testified
11 to as follows:

12 THE COURT: So, Ms. Aiken, during the lunch break, it
13 appears that you might have accidentally dialed the clerk of
14 court's number and not realized you were talking, so your
15 phone call was recorded.

16 JUROR NO. 2: Okay.

17 THE COURT: And, on the phone call, it appears that
18 you're not too happy about being on jury service, which I can
19 totally understand. I certainly understand that it's an
20 inconvenience and we try to limit any kind of inconvenience to
21 everyone, but, of course, it's a service that citizens must
22 perform for their country.

23 The thing that really concerns me is there was -- you
24 stated something that you knew the officers or the officers'
25 names but you didn't know them personally, due to your

1 father's employment; is that correct?

2 JUROR NO. 2: Yes.

3 THE COURT: Okay.

4 JUROR NO. 2: Not my father. My father-in-law.

5 THE COURT: Your father-in-law.

6 JUROR NO. 2: Yes.

7 THE COURT: So when I read the names, was your answer

8 truthful that you did not personally know the officers?

9 JUROR NO. 2: I do not personally know them.

10 THE COURT: And do you know anything about this case?

11 JUROR NO. 2: No, absolutely not.

12 THE COURT: All right. So do you feel that, during your
13 questioning, you answered each and every question that I asked
14 truthfully and honestly?

15 JUROR NO. 2: Yes, ma'am.

16 THE COURT: And based upon the fact that your
17 father-in-law knows these officers, do you think that you
18 could set that information, that relationship aside in this
19 case and listen to the testimony solely as it comes from the
20 witness stand and make your determination of the facts based
21 on the evidence in this courtroom?

22 JUROR NO. 2: Absolutely.

23 THE COURT: And will you be fully fair and impartial to
24 both the State and to the defense?

25 JUROR NO. 2: Absolutely.

1 THE COURT: And will you follow the law as I give it to
2 you?

3 JUROR NO. 2: Oh, yes, ma'am.

4 THE COURT: Thank you, ma'am.

5 Any further questions from either the State or the
6 defense?

7 MR. OSBORNE: Not at all, Your Honor.

8 MS. GAY: I have a question.

9 THE COURT: Yes. If you could direct those to me,
10 Ms. Gay.

11 MS. GAY: Yeah, I am. She says that these officers know
12 her father-in-law, so I'm wondering how did they know --

13 THE COURT: Is your father-in-law in law enforcement
14 or...

15 JUROR NO. 2: No. Absolutely not. Mm-mmm. A long time
16 ago, he used to own a fish market in Holly Hill, and one of
17 the officers used to deliver fish to him early in the morning
18 at 4:00 when I was sleeping.

19 THE COURT: So it's a kind of relationship that they had
20 being in the (indiscernible).

21 JUROR NO. 2: Exactly. It was nothing with me
22 personally.

23 MS. GAY: Thank you, ma'am.

24 THE BAILIFF: (Indiscernible).

25 UNIDENTIFIED SPEAKER: Slow down, ma'am, slow down.

JUROR ISSUE

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1 JUROR NO. 2: Thank you.

2 THE BAILIFF: You're going back. Don't worry.

3 (Juror No. 2 exited the courtroom.)

4 THE COURT: All right. So anything further before we
5 bring the jury out and start?

6 MR. OSBORNE: No, Your Honor. Mr. Rivers is going to do
7 opening.

8 THE COURT: Anything further, Ms. Gay?

9 MS. GAY: No.

10 THE COURT: All right. Let's have our jury, please.

11 THE BAILIFF: Yes, ma'am. And, Judge, let us know which
12 one we'll move up.

13 THE COURT: That would be No. 122 is now -- that was
14 Alternate No. 1, Ms. Claudette Mannion, is now a juror.

15 (The jury entered the courtroom at 3:08 p.m.)

16 THE COURT: Welcome back, ladies and gentlemen of the
17 jury.

18 Madam Clerk, if you'd please swear in the jury.

19 THE CLERK: If you'll please stand and raise your right
20 hand to be sworn.

21 (The jury was duly sworn.)

22 THE COURT: Ladies and gentlemen of the jury, thank you
23 for accepting the important responsibility of jury service and
24 for your contribution today to our system of justice. What I
25 will now say to you is intended to serve as an introduction to

1 the trial of this case. These remarks are not a charge on the
2 law in this case. I will instruct you on the law applicable
3 to this case at the end of the trial before you retire to
4 consider your verdict. This is merely an explanation of the
5 procedure that we will follow during the trial so you may
6 better understand what is going on during the trial of this
7 case.

8 You may not take notes during the trial of this case.
9 The defendant in this case is charged by indictments filed in
10 this court with three crimes -- the crime of murder,
11 possession of a firearm or knife during the commission of a
12 violent crime, an attempted armed robbery or alleged armed
13 robbery -- the elements of which I will explain to you later.

14 The indictments are simply the charging documents but by
15 which the case is brought into this court, and they're in no
16 way in any sense evidence of any of the allegations that they
17 contain.

18 The defendant has plead not guilty to these indictments.
19 The State, therefore, has the burden of proving each of the
20 elements of each indictment beyond a reasonable doubt. It
21 will be your duty, ladies and gentlemen, to decide whether the
22 State has met that burden.

23 Your purpose as jurors is to find and determine the
24 facts. You are the sole judges of the facts. If, at any
25 time, I make any comment regarding the facts, you must

1 disregard that. You are to determine the facts from the
2 testimony that you hear and other evidence that is introduced
3 into court. It is up to you to determine the inferences which
4 you feel may be properly drawn from the evidence. It is
5 especially responsible that you perform your duty of
6 determining the facts diligently and conscientiously because,
7 ordinarily, there's no way to correct an erroneous
8 determination of the facts by a jury.

9 On the other hand and with equal emphasis, the same law
10 that makes you can judges of the facts makes me the judge of
11 the law. The law as given by the Court is the only law that
12 you may consider. You must accept it and follow it, even
13 though you may disagree with it. I cannot tell you what the
14 facts are, and you cannot disagree with me about what the law
15 is or should be. Your job is to take the law as I give it to
16 you and apply it to the facts as you find them from the
17 testimony of the witnesses and any other evidence that is
18 introduced during this trial. After doing that, you will
19 render your verdict under the solemn oath that you just took
20 as jurors.

21 Until I advise you to begin your deliberations, you must
22 not discuss this case with anyone, including your fellow
23 jurors, your friends, your family members, and anyone involved
24 in this case. This includes any discussions which are
25 face-to-face, anything by telephone, email, text, blogs, or

1 any other method of communication. You may not use a
2 computer, a cell phone, or any other electronic device with
3 communication capabilities at any time while you're in the
4 courtroom or during your deliberations.

5 During your breaks for meals or overnight, if necessary,
6 of course you may use these devices; however, you may not, at
7 any time, use these devices to get or send information about
8 this case. This includes any information about a party, a
9 witness, an attorney, a court officer, any news accounts about
10 this case, research on any topics that may be raised or any
11 topics that you think might be helpful in deciding the case or
12 any testimony that's presented by any witness.

13 During the trial, please do not read, listen to, or watch
14 any potential news reports about this case. This would
15 include anything that may be in the newspaper, TV, internet,
16 or radio. You must not consider anything that you have read
17 or heard about this case outside of this courtroom, whether
18 before or during the trial of this case.

19 After the case is submitted to you, you must discuss it
20 only in your jury room with your fellow jurors. The attorneys
21 and the parties in this case have been instructed not to talk
22 to you, so if you see them coming in and out of the courthouse
23 during the breaks or overnight, if necessary, of course, if
24 they don't speak to you, they're not being rude; they're just
25 following the Court's instructions.

1 It is important that you keep an open mind and not decide
2 any issue in this case until all of the evidence has been
3 presented, the parties have made their closing arguments, and
4 you have been instructed on the law in this case. It is your
5 solemn responsibility to determine the guilt or innocence of
6 the defendant, and your verdict must be based solely on the
7 evidence as it is presented to you in this trial and the law
8 as I instruct you during and at the close of the trial.

9 In just a moment, the solicitor will make what is called
10 an opening statement in which the solicitor will explain to
11 you what the issues in this case are, at least what the
12 solicitor thinks the issues in this case are. The attorney
13 for the defendant may also make an opening statement although
14 they are not required to do so. What the attorneys tell you
15 during their opening statements is not evidence in this case.
16 It is only their contention as to what the issues are.

17 The evidence in this case will be presented to you by the
18 testimony of sworn witnesses from the witness stand and any
19 exhibits that are introduced during the trial of this case.

20 From time to time during the trial, you may hear when the
21 lawyers say, like, I have a question of law or matter of law
22 or "may we approach the bench" or sometimes I myself might
23 find it necessary to excuse you from the courtroom for a short
24 while so that the attorneys and I can discuss a matter of law.
25 The reason for this is because you're the judges of the facts

1 in this case, and sometimes when I'm discussing matters of law
2 with the attorneys, it may be necessary for me to make some
3 comment as to the facts in connection with ruling as to
4 whether or not a particular law applies. I'm not supposed to
5 tell you what I think the facts are, so I will excuse you from
6 the courtroom while these discussions take place so that you,
7 in no way, will be influenced by anything I might say or do in
8 connection with the facts of this case.

9 In determining what the true facts are in this case, you
10 must decide whether the testimony of the witnesses is
11 believable. It will be my responsibility to rule as a matter
12 of law as to whether certain testimony is admissible or not,
13 but once the testimony is admitted, whether or not you believe
14 it, is solely for you to determine.

15 In deciding whether to believe a witness, you have the
16 right to consider the interest of any witness, the bias of any
17 witness, the prejudice of any witness, the opportunity for the
18 witness to have seen the matters and the things about which
19 the witness may testify, and the way that the witness acts on
20 the witness stand. You have a right to consider anything that
21 is in the record that will help you evaluate the testimony of
22 the witnesses. That means it is your duty to pay close
23 attention to these witnesses, to observe the witnesses, to
24 listen to the witnesses, and to please pay close attention to
25 the attorneys and to the Court.

OPENING STATEMENT

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1 Please do not let your thoughts wander but give strict
2 attention to the testimony in this case so, at the end of the
3 testimony, after the arguments of counsel and the charge on
4 the law from the Court, you will then be in a position to
5 determine what the true facts are and apply those facts and
6 render your verdict.

7 It would be the added duty of the foreperson, which I
8 will appoint at a later time, to be the liaison for the Court
9 to -- and also to write the verdict on the verdict form.

10 Are there any exceptions or objections to the opening
11 remarks from me from the State or the defendant?

12 MR. OSBORNE: None, Your Honor.

13 MS. GAY: No, Your Honor.

14 THE COURT: Solicitor?

15 MR. OSBORNE: Thank you, Your Honor. May it please the
16 Court?

17 THE COURT: Yes, sir.

18 MR. OSBORNE: Thank you.

OPENING STATEMENT

19
20 MR. OSBORNE: Ladies and gentlemen, at 2:55 a.m., I think
21 most of us would be in our bed asleep, but on April 21st at --
22 2018, Torrell Williams was not sleeping in his bed. He wasn't
23 sleeping, as he was being robbed at gunpoint in his own home
24 by this man, Ivington Allen, who is the defendant in this
25 case.

1 And that night when Ivington Allen pulled a gun, he left
2 Torrell with a choice. Torrell could hope that the defendant
3 wouldn't kill him or his family, or he could fight. And
4 Torrell chose to fight, and unfortunately for Torrell, he'd
5 lose that fight after he was shot in the stomach and through
6 his liver. And, unfortunately, ten days later, he would lose
7 the fight for his life and die from his wounds.

8 You'll hear that Torrell was 36 years old when he was
9 murdered, and you'll hear from his family that he had pretty
10 serious medical issues. He suffered from COPD and he had to
11 use an oxygen tank at times, but more importantly, Torrell
12 suffered from cirrhosis of the liver. So while you or I may
13 have survived a gunshot wound through the liver, it was just
14 too much for Torrell's body to take.

15 So even though life was hard for Torrell, it was his life
16 and it was one that he enjoyed, but all that changed when
17 Ivington Allen would come looking for an easy target that
18 night, because after being shot, Torrell would spend six days
19 in the hospital, and, when he got out of the hospital,
20 everything changes for Torrell.

21 Torrell was placed on hospice care. He couldn't eat. He
22 couldn't bathe himself; he had to have somebody do it for him.
23 And just four days after being released from the hospital,
24 Torrell would succumb to his injuries and die from his gunshot
25 wounds.

OPENING STATEMENT

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1 The Dorchester County Sheriff's Office investigated this
2 case, and you won't hear from them that they were able to
3 recover a bullet or a shell casing. You won't hear from them
4 that there were any fingerprints or any DNA that placed the
5 defendant at the crime scene. But what you will hear is from
6 the one person who does place Mr. Allen at the crime scene
7 that night, and that's from Torrell Williams himself.

8 You'll hear testimony from some of Torrell's family, and
9 they'll tell you exactly what Torrell told them right after he
10 was shot. And you'll hear him say that, "A-1 shot me," and
11 you'll hear him say that over and over again: "A-1 shot me."

12 Now, Detective Ray will quickly find out who A-1 is. A-1
13 is Ivington Allen's nickname. It's what people know him by.
14 It's what he goes by. The detectives were also able to
15 quickly obtain warrants for Ivington Allen 's arrest. And
16 even before he died, Torrell knew that the detectives were
17 looking for Ivington Allen. And while they were quick to
18 identify him, it wasn't until about nine months later when he
19 was arrested by -- when he was arrested in Union County.
20 State troopers conducted a routine traffic stop on a car, and
21 Ivington Allen was the passenger in that car. He gave the
22 troopers a fake ID. They were able to see through it and,
23 finally, they identified Mr. Allen and placed him to arrest --
24 or, excuse me, placed him under arrest.

25 When he got back to Dorchester, he was interviewed, and

1 he was interviewed by this man right here. This is Detective
2 Chaz Easterlin with the Dorchester County Sheriff's Office.
3 He was the lead investigator in this case. And he told
4 Detective Easterlin that, on the night of the shooting, that
5 he was in a little town called Neeses, in Orangeburg County,
6 at a Rodeway Inn, and that he stayed there all night. Well,
7 ladies and gentlemen, nowadays, if you want to know where
8 somebody was or where they have been, all you really need to
9 do is look at their phone records. Phone records act like
10 footprints, and you will see that this defendant's -- you will
11 see his footprints on the night of his murder.

12 And, yes, he was in Neeses, at least for a time, but
13 around 1:50 a.m.; he started to leave the Rodeway Inn in
14 Neeses. He left Orangeburg. He headed east towards here in
15 St. George, and about 1:00 -- or, excuse me, at about
16 2:56 a.m., you will see one of those footprints on a cell
17 phone that Mr. Allen had that connected to a tower right by
18 Torrell Williams's house. And, after the shooting, you can
19 watch him make and receive phone calls and track them all the
20 way back to the Rodeway Inn in Orangeburg.

21 And so, ladies and gentlemen, Torrell Williams knew who
22 shot him, and by the end of the trial, you will know who shot
23 him also, and we will ask that you return the only just
24 verdict in this trial and find the defendant guilty on all
25 counts. Thank you.

OPENING STATEMENT

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1 THE COURT: Counsel?

2 MS. GAY: Thank you, Your Honor.

3 OPENING STATEMENT

4 MS. GAY: You're all scattered everywhere, so
5 (indiscernible) sitting in one area.

6 So, if you'll recall, my name is Melisa Gay. I'm here
7 and I'm representing Mr. Allen, with Sarah Norton. And we
8 are -- I'm doing this opening statement to tell you that -- I
9 always say the same thing in every trial I have every done:
10 If it was as easy as that, we wouldn't be having a trial.

11 So there's reasons why we're here, and there's reasons
12 why my client is sitting at this table right here, and I
13 believe that you will find him not guilty at the end of this
14 case.

15 So I'd like to welcome all of y'all. Trials are
16 complicated and they're long, and nobody really wants to
17 participate in them, but they're so very important in America.
18 And we all, as American citizens, have the right to be tried
19 by a jury of our peers. And so what's interesting and what
20 you should know at this point is how complicated it is to get
21 to a jury of your peers. Because we started this first thing
22 in the morning, and it's now 3:30 in the afternoon, and we're
23 finally at the point where the case is starting, but each one
24 of y'all were individually selected by Mr. Allen, and each one
25 of y'all is somebody who he chose to put on his jury, as a

1 jury of his peers.

2 And so when the judge discussed this with you, she said
3 that she was going to be the person that told you about the
4 law in the case. And that's right. Everything that we talk
5 about, that we argue about, she's going to be the deciding
6 factor on the law in the case. But you, as the jury, are the
7 main finders of fact, and that's a long-lasting situation.
8 Whatever facts you determine at this point -- though other
9 court processes might happen in the future -- the factual
10 decisions, what happened and how you perceive it, is what
11 really sticks.

12 And so -- now, there's a lot of complicated legal issues
13 that go into trying a case and presenting stuff to --
14 information the right way to the jury, and, you know, there's
15 things like direct evidence, which is a person's individual
16 perception of an event, and then there's circumstantial
17 evidence, which is evidence that might be of circumstances
18 such that there can be an argument at the end but then, when
19 you look at it altogether, you make an inference or decision.

20 What's interesting about this case is there is no direct
21 evidence. There's people testifying to what they heard
22 Mr. Williams say, but there's no people who saw it actually
23 happen. And, so, when the solicitor stands up and says,
24 "Well, you'll hear directly from him what happened," you'll
25 hear from people who said what he happened -- what he said

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1 happened after an event, but nobody was in the room when this
2 happened with him and nobody saw the person who actually shot
3 Mr. Williams.

4 And what's interesting in this case is that there's a lot
5 that goes into a gunshot. Is it an intentional act? Murder
6 is the intentional killing of another with malice
7 aforethought. Intentional, one thing. Malice -- malice is
8 being defined by the judge as a term of art that she'll
9 describe to you at the time this case is over, at the point
10 where you want to do your deliberations, but it requires
11 something pretty bad.

12 And, then, there's other types of charges that she may
13 choose to charge you with, which we call lesser included
14 charges. Those will be determined by the judge at the end of
15 this trial after all this evidence is presented, to see what
16 kind of possible lesser included-type options would be at the
17 end of this trial.

18 Because, ultimately, to find my client guilty of murder,
19 you have to find that he intentionally shot Mr. Williams with
20 malice aforethought, and I don't believe you're going to be
21 able to do that after you hear the evidence in this case.

22 And what's interesting is that, one of the things the
23 judge is going to describe to you is what is proof beyond a
24 reasonable doubt. And, you know, we watch TV, we read things
25 about it, and, you know, now is the day in your life where

1 you're going to have to decide what it's defined as. And what
2 the judge will define it as is a doubt which would cause a
3 reasonable person to hesitate to act, to look at things, to
4 determine facts, to listen to evidence and witnesses, but at
5 the end of the day decide that they have not proven this case
6 beyond a reasonable doubt. Reasonable doubt. Beyond a
7 reasonable doubt. It is a huge burden. And the State has the
8 burden to prove.

9 My client is cloaked as an innocent man. He sits here
10 today as innocent as everybody in this room, and until the
11 point where the State can take you, the jury, and show you
12 that they believe that that cloak of innocence has been
13 removed and he has been found guilty beyond a reasonable
14 doubt, a doubt which would cause a reasonable person to
15 hesitate to act, he is to be found not guilty.

16 And I would say that, at the end of this trial, after you
17 listen to all the facts and you review, there is no
18 information about what actually happened because nobody was
19 there. People that are his family members are repeating
20 things that they say that they believe he said, and that's
21 where we're at: A bunch of statements from other people.

22 So I believe, at the end of this trial, you will find him
23 not guilty, and when the judge asks you to return a verdict in
24 this case, that will be your verdict.

25 THE COURT: You may call your first witness.

DET. MICHAEL CONTINO - Direct by Mr. Rivers

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1 MR. RIVERS: Thank you, Judge. The State would call
2 Detective Michael Contino.

3 THE CLERK: Can you place your left hand on the Bible and
4 raise your right hand and state your full name for the record.

5 THE WITNESS: Mike Contino.

6 DETECTIVE MICHAEL CONTINO,
7 after having been duly sworn, was examined and testified
8 to as follows:

9 DIRECT EXAMINATION

10 BY MR. RIVERS:

11 Q Deputy, thank you for being here today.

12 Would you please start by telling the jury where you
13 currently work.

14 A Dorchester County Sheriff's Office.

15 Q And have you held any other jobs in law enforcement?

16 A Yes, I have. I worked at College of Charleston Public
17 Safety. I started there in 2014 and then I transferred to
18 Dorchester County Sheriff's Office.

19 Q And how long were you with the public safety department
20 at the College of Charleston?

21 A A little over two years.

22 Q And so how long have you been with the sheriff's office
23 here?

24 A Since March 2017.

25 Q And what are -- are you assigned to any specialized unit

1 with the sheriff's department or --

2 **A** Yes. I'm currently a detective in the narcotics unit.

3 **Q** And have you had any other assignments?

4 **A** When I started, I was with the patrol division.

5 **Q** And tell me a little bit about your educational

6 background, please.

7 **A** I have a bachelor's degree from the University of South

8 Carolina.

9 **Q** All right. And were you working during the early morning
10 hours of April 21st of 2018?

11 **A** Yes.

12 **Q** And what was your assignment that night? Or I guess that
13 morning, rather.

14 **A** I was on patrol and working in Zone 1 part of the county.

15 **Q** And describe Zone 1.

16 **A** So Zone 1 is broken down. The beginning of it is at the
17 Highway 78 and 178 split. It goes up to the Orangeburg County
18 line and also to Berkeley County line and Colleton County
19 line.

20 **Q** And does it encompass the area of Harleyville?

21 **A** Yes, it does.

22 **Q** And let me ask you: How was it that you became involved
23 in this case?

24 **A** Approximately 2:55 a.m., I was dispatched to a shooting
25 that occurred at 112 Blackies Park Road in Harleyville in

1 Dorchester County.

2 **Q** All right. And from the time that you were dispatched,
3 how long would you say that it took you to get to 112 Blackies
4 Park Road?

5 **A** I'd say between five and ten minutes.

6 **Q** And were you the first deputy to arrive on the scene?

7 **A** I was just behind Deputy Jefferson, who arrived just a
8 couple of minutes before I did.

9 **Q** And do you recall EMS arriving?

10 **A** They did. They arrived shortly after I did.

11 **Q** Okay. All right. And will you please walk me through
12 very briefly of what you saw and what you did when you arrived
13 that day?

14 **A** So once I arrived on the scene, I went through the
15 front -- what appeared to be the front door, saw the victim,
16 James Williams, on the couch. He was alert and conscious. He
17 appeared to -- what looked like he had a gunshot wound to the
18 stomach. I also saw some red liquid that looked like blood to
19 me in the front doorway and into the living room.

20 **Q** All right. Deputy Contino, I'm going to show you --
21 after I show counsel -- what's been marked as?
22 State's Exhibits 5 through 16.

23 (State's Exhibit Nos. 5-16, Photographs, was marked for
24 identification.)

25

1 BY MR. RIVERS:

2 Q Detective, as soon as I get to that (indiscernible), I'm
3 going to ask you if you recognize this.

4 MR. RIVERS: May I approach, Your Honor?

5 THE COURT: Yes, sir.

6 BY MR. RIVERS:

7 Q And they're not labeled, but let me do this.

8 A Yes, this is the scene that night at 112 Blackies Park
9 Road.

10 Q And do they fairly and accurately depict the crime scene
11 that you saw that night?

12 A Yes.

13 MR. RIVERS: Permission to approach?

14 THE COURT: Are you going to introduce them?

15 MR. RIVERS: Oh, yes, Your Honor.

16 THE COURT: Are those without objection?

17 MS. GAY: No objection, Your Honor.

18 THE COURT: All right. That's 5 through 16?

19 MR. RIVERS: Yes, Your Honor.

20 THE COURT: You may publish them. They're in.

21 (State's Exhibit Nos. 5-16 were received into evidence.)

22 BY MR. RIVERS:

23 Q All right. Detective Contino, what is up on the screen
24 right now is State's Exhibit 5. Can you tell me what you see
25 there?

- 1 **A** That is the front of the trailer at 112 Blackies Park
2 Road.
- 3 **Q** And tell me what you see there.
- 4 **A** This is another picture of the front with the front door
5 there in the center of the photograph.
- 6 **Q** And, just for the record, this is State's Exhibit 6.
7 And I am showing you what's marked as State's No. 7. Can
8 you tell me what you see there?
- 9 **A** That's another camera shot of the front of the residence
10 and the front door.
- 11 **Q** All right. And what's marked as State's 8, what's that?
- 12 **A** That is on the side of the residence there with the front
13 door open.
- 14 **Q** And showing you what's marked as State's 9, what do you
15 see there?
- 16 **A** That is the porch with the front door open that leads
17 into the residence.
- 18 **Q** And this is State's 10. Can you tell me what you see?
- 19 **A** That's the entrance door to the front of the residence.
- 20 **Q** State's 11?
- 21 **A** That's just inside the front door where I'm describing
22 the living room area.
- 23 **Q** And State's 12, what is that?
- 24 **A** That is just inside the front door, the living room area.
- 25 **Q** And State's 13?

1 **A** That is in the living room near -- just beyond the front
2 door.

3 **Q** And State's 14?

4 **A** That is on the floor of the living room.

5 **Q** And State's 15?

6 **A** That is inside the residence down the hallway.

7 **Q** And, finally, State's 16.

8 **A** That is the sofa where I first contacted the victim when
9 I entered into the residence.

10 **Q** All right. And without saying what they told you, did
11 you speak to any of the victims or relatives who were on the
12 scene?

13 **A** Yes. I spoke to his father, James Williams. I spoke to
14 the victim's sister, Shanay Williams, and the victim's
15 girlfriend, Marlena Boyd.

16 **Q** And knowing that you were responding to a shooting, did
17 you and other law enforcement personnel search the area for
18 any type of projectile?

19 **A** Yes, but we did not find one.

20 **Q** What about a fired shell casing, bullet casing?

21 **A** Yes. We looked but could not find one.

22 **Q** Would you describe the trailer that you were responding
23 to as small or large?

24 **A** A small trailer.

25 **Q** All right. And you mentioned that EMS was there. Were

1 there -- was it just one EMS personnel or was it multiple?

2 **A** It was multiple EMS personnel. And then the fire
3 department had their medics there.

4 **Q** And how long would you say they were there?

5 **A** About five to ten minutes before transporting.

6 **Q** And were there other people who were in the trailer at
7 the time of the shooting and also there when Mr. Williams was
8 being attended to by EMS?

9 **A** Yes.

10 **Q** Okay. Now, can you point on your body and show the jury
11 where you observed the entrance and exit wounds on
12 Mr. Williams?

13 **A** Yes. If I can stand up. He was shot right in the upper
14 abdomen part of the stomach and was -- the entrance. And the
15 exit would have been right around the right side of the back.

16 **Q** Now, you said Mr. Williams was alert and conscious;
17 correct?

18 **A** Yes.

19 **Q** Did he say anything as EMS was taking him from the scene?

20 **A** Yes.

21 **Q** Okay. And would you describe -- excuse me. Would you
22 describe Mr. Williams as being calm or was he excited?

23 **A** I would describe him as being in an excited state.

24 Appeared to be in a lot of pain after just being shot.

25 Appeared to be under stress after just being shot.

1 Q And the comment that you heard Mr. Williams state, was it
2 related to what put him in that state?

3 A Yes.

4 Q And what did he say?

5 A He said he was shot by a man named A-1.

6 Q A-1?

7 A Yes, A-1.

8 Q All right, Detective. I'm going to show you what has
9 been marked as State's 25 for identification purposes only.

10 MR. RIVERS: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 (State's Exhibit No. 25, Body Cam Video, was marked for
13 identification.)

14 BY MR. RIVERS:

15 Q Do you recognize that?

16 A Yes.

17 Q And tell me what it is.

18 A That is the body camera footage of Deputy Jefferson's
19 body camera.

20 Q Okay. And how do you know that's what it is?

21 A Because I was there and I saw and heard myself on the
22 body camera. I watched that CD so I know it has video footage
23 on it, and I also initialled and dated the disc.

24 Q All right. And, now, I'm going to show you what's been
25 marked as State's Exhibit No. 26.

1 (State's Exhibit No. 26, Clip of Body Cam Video, was
2 marked for identification.)

3 BY MR. RIVERS:

4 Q Do you recognize that?

5 A Yes.

6 Q And what is that?

7 A That is a shorter clip of State's 25.

8 MR. RIVERS: Your Honor, at this time, the State would
9 seek to admit State's 26 into evidence and publish it to the
10 jury.

11 MS. GAY: Can I see that for a second?

12 MR. RIVERS: Oh, my apologies.

13 THE COURT: Is that without objection?

14 MR. RIVERS: We're approaching, Your Honor.

15 BENCH CONFERENCE

16 (The following bench conference was held outside the hearing
17 of the jury and others.)

18 (Discussion at bench inaudible.)

19 THE COURT: I understand there's an objection, and
20 subject to your objection -- we can place that on the
21 record -- however, your objection is overruled, and I'll allow
22 you to (indiscernible).

23 MS. GAY: Thank you, Your Honor. This body camera DVD
24 that they are attempting to bring in through this officer is
25 not the body camera of this officer. It's the body camera of

1 a different officer. Now, I would object to this officer, in
2 terms of authentication and laying the foundation for this
3 particular DVD to come in based on that it's not his body
4 camera, it's someone else's.

5 THE COURT: And he witnessed the actions and what is
6 contained on there and can authenticate that that is what he
7 saw he and it fairly and accurately depicts his recollection
8 of what he saw and what he described. It would be admissible
9 and authenticated properly, so your objection is overruled.

10 MS. GAY: Thank you, Your Honor.

11 MR. RIVERS: Permission to publish?

12 THE COURT: Yes, sir.

13 (Video plays.)

14 BY MR. RIVERS:

15 Q All right. Detective Contino, I'm going to show you now
16 what's marked as State's 43.

17 (State's Exhibit No. 43, Photograph of Victim, was marked
18 for identification.)

19 MR. RIVERS: May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. RIVERS:

22 Q Tell me if you recognize this.

23 A Yes, I do.

24 Q And can you tell me what that is?

25 A That is the victim shortly after he was shot with what

1 appears to be the entrance wound on the stomach.

2 Q And does it fairly and accurately depict the victim as
3 you saw him?

4 A Yes.

5 MR. RIVERS: Your Honor, the State would -- at this time,
6 the State would seek to move this into evidence and also
7 publish it for the jury.

8 THE COURT: Any objection?

9 MS. GAY: No, Your Honor.

10 THE COURT: All right. It's in.

11 (State's Exhibit No. 43 was received into evidence.)

12 MR. RIVERS: No further questions at this time, Your
13 Honor.

14 THE COURT: Cross-examination? Ms. Gay?

15 MS. GAY: (Indiscernible).

16 CROSS-EXAMINATION

17 BY MS. GAY:

18 Q So, when you were testifying on direct, that particular
19 body camera, as we discussed, is not yours? It's actually a
20 different officer's?

21 A Correct.

22 Q And, then -- so -- and you did testify that that was what
23 you remember him as and it was consistent with what you
24 recalled?

25 A Yes.

1 Q Okay. And then you said that the pictures -- the photos
2 that you identify -- I'm just going to show you this one,
3 which is (indiscernible). This is what's been previously
4 marked as State's Exhibit 10 and 11. Can you describe to the
5 jury what these are?

6 A So 10, it appears, this is the front doorway entering
7 into the residence. Right in here would have been where the
8 living room area was. This is the front porch. The red
9 liquid here, to me, what looked like it was blood from the
10 gunshot wound.

11 Q And so that's 10?

12 A And this is 10, yes.

13 Q And 11 is basically just a different picture of the same
14 thing?

15 A Yes.

16 MS. GAY: Okay. Do you mind -- did I publish these? I
17 think they have been admitted already. 10 and 11. Can you do
18 that for me? You had it on the machine. All right. Oh,
19 there it is. Okay?

20 BY MS. GAY:

21 Q So this is what I'm asking, and this is the relevance of
22 my question: This blood mark is right at the doorway, right
23 at the entrance to the house?

24 A Yes.

25 Q And, so, I believe there's some other pictures that you

1 identified that had to do with trails of blood that kind of
2 went back to the couch that he was on when you met with him?

3 **A** Yes.

4 **Q** But wouldn't you agree that the majority of the blood
5 happened right here at the doorway? Do you recall that?

6 **A** If I can see other -- if I could see other photographs,
7 again, of the blood.

8 **Q** Okay. I'll give all these back to you.

9 While you're looking at that, Officer, sir, you said that
10 when you went in the house, he was actually sitting on the
11 couch?

12 **A** Yes.

13 **Q** And I believe that there's a picture in there of one of
14 the exhibits that is a picture of the couch?

15 **A** Yes.

16 **Q** Okay.

17 **A** So I would say State's Exhibit 12, which is in the living
18 room, has a lot of blood -- probably more blood than inside
19 the doorway, which would be the living room area.

20 **Q** On the way to the couch?

21 **A** On the way, yes, ma'am.

22 **Q** Okay. Great. Thank you.

23 And I think that your testimony was, on direct, that when
24 you saw the gentleman, he had a bullet wound. And this is 43.
25 This is the one that we just showed. The bullet wound is

1 right here kind of in the stomach area?

2 **A** Yes.

3 **Q** And, then, I believe you said that's the entrance wound.

4 And then the exit wound was a similar area but a little bit
5 farther down in the back?

6 **A** Yes. That's what it looked like to me, yes, ma'am.

7 **Q** So it appeared that a bullet went through his body and
8 then kind of went in a downward trajectory, out, but y'all
9 didn't find any bullet?

10 **A** That's correct.

11 **Q** And, so --

12 **MS. GAY:** I don't believe I have any further questions.
13 I need to ask...

14 I have no further questions for this witness, Your Honor.

15 **THE COURT:** Any redirect?

16 **MR. RIVERS:** Nothing further, Your Honor.

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

18 **MR. RIVERS:** And, Judge, may the detective be excused?

19 **THE COURT:** Any objection?

20 **MS. GAY:** I have no objection.

21 **THE COURT:** You're free to go.

22 You may call your next witness.

23 **MR. OSBORNE:** The State calls James Williams.

24 **THE CLERK:** Raise your right hand and state your full
25 name for the record.

1 JAMES WILLIAMS,
2 after having been duly sworn, was examined and testified
3 to as follows:

4 THE COURT: Your witness.

5 DIRECT EXAMINATION

6 BY MR. RIVERS:

7 Q Good afternoon, Mr. Williams.

8 A Good afternoon. How are you?

9 Q And if you would like, you could remove your mask if you
10 feel comfortable doing so.

11 And if you don't mind, if you can just speak up into the
12 microphone or pull it closer to you so the rest of the jurors
13 can hear you. Okay?

14 Sir, where are you originally from?

15 A I'm from Bowman, South Carolina.

16 Q Okay. Did you go to high school in Bowman?

17 A Yes, sir.

18 Q And what type of work have you done throughout your life?

19 A I did a little bit of carpenter and then ceiling work.
20 Finish -- ceiling finisher.

21 Q Ceiling finisher?

22 A Yeah.

23 Q Okay. Do you have any children?

24 A Yes, I did have two kids. Now, I have got one.

25 Q Okay. Shanay, your daughter?

- 1 **A** Yeah.
- 2 **Q** And then James Torrell Williams, who is the victim in
3 this case?
- 4 **A** Mm-hmm.
- 5 **Q** Okay. All right. At the time of this shooting, did you
6 reside with your son? Did everyone call him Torrell?
- 7 **A** Yeah.
- 8 **Q** Did you reside with Torrell?
- 9 **A** Yeah, I was.
- 10 **Q** And that was at 112 Blackies Park Road?
- 11 **A** Yes, sir.
- 12 **Q** And Marlana Boyd, is that Torrell's wife?
- 13 **A** That's his girlfriend.
- 14 **Q** Girlfriend. He had (indiscernible).
- 15 **A** Right.
- 16 **Q** Did she live there as well?
- 17 **A** She lived there, uh-huh.
- 18 **Q** Okay. All right. So I'm just going to get right into
19 the night of the incident, sir. Were you home that night?
- 20 **A** Yes, I was.
- 21 **Q** And that trailer, is that a two- or three-bedroom home?
- 22 **A** Two bedroom.
- 23 **Q** Okay. Were you awakened later in the night or did you --
24 or were you asleep?
- 25 **A** I was asleep and I wake up -- I heard a shot. The

1 shot -- gunshot kind of wake me up.

2 Q After you woke up from hearing the gunshot, what did you
3 do then?

4 A All I heard was my son coming down the hall saying --

5 MS. GAY: Your Honor, I would object at this time based
6 on our previous pretrial hearings.

7 THE COURT: Yes, ma'am. The same ruling applies.

8 A I said all I heard was my son coming down the hall saying
9 he had got shot. And he said -- he said, "A-1 shot me."

10 BY MR. RIVERS:

11 Q Okay. Did he say anything else about what A-1 was doing
12 at the time he shot him?

13 A No. All I heard was he asked him for some money or
14 something. Some money for -- I don't know what it was for.
15 For his daughter for prom or something.

16 Q Okay. So just to make sure I'm understanding this
17 correctly, that A-1 had asked your son for money for prom for
18 his daughter or something like that?

19 A Yeah, yeah, (indiscernible).

20 Q Okay.

21 MR. RIVERS: All right. No further questions.

22 THE COURT: Cross-examination?

23 MS. GAY: Your Honor, hold on a minute.

24 CROSS-EXAMINATION

25

1 BY MS. GAY:

2 Q Good afternoon, sir.

3 A Good afternoon.

4 Q Sorry for the circumstances.

5 So during the investigation of this situation with your
6 son, you have met with an officer by the name of Deputy
7 Contino. Do you remember that meeting closer to the time it
8 all happened?

9 A Not really.

10 Q Do you ever remember talking to the officer?

11 A Yes, I talked to a couple officers that night.

12 Q And do you remember having him hand you a document that
13 you signed called a statement with your information on it?

14 A Yes, I did.

15 Q And if you need to look at that document, I can -- I can
16 show you a copy of it, if it would refresh your recollection.
17 That's fine. But during that time, right after this incident
18 happened, you were trying to remember for the officer all the
19 important stuff that you could to help them figure this out;
20 right?

21 A Like I say, I heard the gunshot. I was asleep because,
22 see, I suffer with that -- that sleep pap [verbatim], and
23 that's --

24 Q And, you know, there's a bunch of oxygen tanks in your
25 house in some of these pictures. Are some of those oxygen

1 tanks for you?

2 **A** No. For my son.

3 **Q** For your son. Okay.

4 And, so, when you talked to him, you never mentioned
5 before that you had heard anything from your son about saying
6 that anybody wanted money for a prom for their daughter, did
7 you, when you were first talking to them?

8 **A** No. I'm telling you, like, what my son said when I --
9 because I hear him say -- I heard him say it.

10 **Q** Okay. So, today, what you're telling the jury is that
11 you heard him say something about the prom and money, but when
12 you met with Contino back in July of 2018, you didn't mention
13 that before. If you need to look at this document, I can let
14 you refresh your recollection.

15 **A** No, because I -- he asked me that. I didn't know it.
16 Because all I did was hear him say A-1. I didn't know that
17 that was his name. I didn't know what kind of name that was.

18 **Q** And so you didn't know it then in July of '18 but you say
19 now you know what might have -- other stuff your son had said?

20 **A** No, I'm just saying what my son had said that night.

21 **Q** But it's not in your statement that you gave to
22 Officer --

23 **A** Yeah, I don't why it ain't in the statement.

24 **MR. RIVERS:** Objection, Your Honor. Asked and answered.

25 **THE COURT:** Hold on. Hold on. You can move on.

1 MS. GAY: I have no further questions, Your Honor.

2 THE COURT: All right. Any redirect?

3 MR. RIVERS: Just briefly.

4 REDIRECT EXAMINATION

5 BY MR. RIVERS:

6 Q All right. The question is, on the statement that she
7 was referring to, did he state the name of the person who shot
8 him?

9 A No, he didn't. All I hear him say is A-1.

10 Q Right.

11 A I didn't (indiscernible).

12 Q Do you know -- did you then know anyone by the name of
13 A-1?

14 A No.

15 Q Okay. Do you remember Deputy Jefferson asking you, "Do
16 you know a guy named A-1?" And you said, "I heard him say
17 A-1."

18 A Mm-hmm.

19 Q Okay.

20 MR. RIVERS: No further questions.

21 THE COURT: You may step down, sir. Mr. Williams, you
22 can step down, sir.

23 MS. GAY: Your Honor, I do have one question based on
24 that last -- direct.

25 THE COURT: You can ask one question.

1 RECCROSS-EXAMINATION

2 BY MS. GAY:

3 Q Do you recall telling Contino: "Did he say the name of
4 the person who shot him?" "Answer: No." on the statement --
5 written statement?6 A I didn't -- I didn't -- the only thing I heard my son say
7 was A-1. That's all I heard him say.8 Q But that's not the same as what you told this officer on
9 this day in July of 2018.

10 A I couldn't say that because I don't know him.

11 MR. RIVERS: Object, again, Your Honor, because that's
12 asked and answered.

13 MS. GAY: Well, he's saying two different things.

14 THE WITNESS: No, I'm not saying two different things.

15 THE COURT: You can step down, Mr. Williams. Thank you.
16 You may call your next witness.17 MR. RIVERS: Thank you, Judge. The State will call
18 Shanay Williams.

19 MR. OSBORNE: I'm so sorry, Judge. May he be released?

20 THE COURT: Is there any objection?

21 MS. GAY: No problem.

22 THE COURT: He's free to go.

23 All right. One second.

24 MS. GAY: Your Honor, could we take a quick comfort
25 break? (Indiscernible). She needs a break.

1 THE COURT: All right, ladies and gentlemen. We're going
2 to take a brief recess. We'll be right back with you. If
3 you'd please go to your jury room. Please remember not to
4 discuss this case amongst yourselves or with anyone else.
5 We'll be back with you -- ten minutes ought to suffice for
6 everyone.

7 (The jury exited the courtroom at 3:58 p.m.)

8 THE COURT: During Mr. Williams' testimony, he had
9 indicated that Ms. Boyd was not his wife but his girlfriend.
10 Is that correct?

11 MS. GAY: I don't believe they're married.

12 THE COURT: Well, then the spousal privilege would not
13 even be an issue.

14 MS. GAY: No, that's who Mr. Allen is married to.

15 THE COURT: Oh, okay. I got confused as to whose
16 statement that was.

17 MS. GAY: He's definitely married, yes.

18 THE COURT: Okay.

19 MR. OSBORNE: For all intents, they have five children.

20 THE COURT: All right. So just making sure I wasn't
21 missing something.

22 All right. We'll take a brief recess.

23 (A brief recess was taken from 3:59 p.m. to 4:10 p.m.)

24 THE COURT: Are the parties ready to proceed?

25 MR. RIVERS: The State's ready, Your Honor.

1 THE COURT: Ms. Gay, are you ready?

2 MS. GAY: Yes, I am, Your Honor.

3 THE COURT: All right. Let's have our jury.

4 (The jury entered the courtroom at 4:11 p.m.)

5 THE COURT: Welcome back, ladies and gentlemen of the
6 jury. We're ready to proceed.

7 You may call your next witness.

8 MR. RIVERS: Thank you, Judge. The State will call
9 Shanay Williams to the stand.

10 THE CLERK: Please place your left hand on the Bible and
11 raise your right hand and state your full name for the record.

12 THE WITNESS: Shanay Williams.

13 SHANAY WILLIAMS,

14 after having been duly sworn, was examined and testified
15 to as follows:

16 THE COURT: Your witness.

17 MR. RIVERS: Thank you, Judge.

18 DIRECT EXAMINATION

19 BY MR. RIVERS:

20 Q And, Ms. Williams, if you're comfortable, you can take
21 your mask off.

22 Ms. Williams, where are you from?

23 A I'm from Bowman, South Carolina.

24 Q And did you go to high school?

25 A Yes.

1 Q And where did you go to high school?

2 A I attended Bowman High School, but I graduated from
3 Woodland High School.

4 Q Did you go to college?

5 A Yes.

6 Q Where did you go to college?

7 A (Indiscernible) Tech and Trident Tech.

8 Q Do you have any children?

9 A No, I don't.

10 Q Do you have any siblings?

11 A One.

12 Q And what was his name?

13 A James Williams.

14 Q But your family and James's friends knew him by Torrell;
15 correct?

16 A Yes.

17 Q And can you tell me what happened to Torrell?

18 A He was murdered.

19 Q And how old was he?

20 A Thirty-six.

21 Q Do you know of any medical conditions that Torrell
22 suffered from?

23 A I think he had -- I'm not really sure. I think he had
24 COPD.

25 Q And do you know if he had any conditions with his liver?

1 A I don't know.

2 Q Was Torrell in hospice care before he was shot?

3 A That I know of.

4 Q And where did Torrell live?

5 A At 112 Blackies Park, right next door to me.

6 Q And did anyone live with Torrell?

7 A Yes.

8 Q Who lived with Torrell?

9 A My father and his girlfriend.

10 Q And can you tell me what his girlfriend's name is?

11 A Marlana Boyd.

12 Q Did Torrell have any kids?

13 A Yes.

14 Q How many kids did he have?

15 A Five.

16 Q And, to your knowledge, were any of those five children
17 present on the night the shooting occurred?

18 A Yes. Three of them were.

19 Q On the night of the shooting, where were you living?

20 A I was living at 115 Blackies Park. Right next door.

21 Q All right, Shanay. I'm going to show you
22 State's Exhibits 32, 33, and 34.

23 (State's Exhibit Nos. 32, 33, and 34, Photographs of
24 House, were marked for identification.)

25 MS. GAY: No objection, Your Honor.

1 MR. RIVERS: May I approach, Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. RIVERS:

4 Q Tell me if you recognize these.

5 A Yes.

6 Q And can you tell me what they are?

7 A 32 is the driveway into our home. 33 is the driveway,
8 with my house on the left, my brother's house at the back.
9 And 34 is my house.

10 Q And do those pictures fairly and accurately show the road
11 or the driveway that goes into where your house and where
12 Torrell's house was?

13 A Yes.

14 MR. RIVERS: Your Honor, at this time, the State would
15 seek to move Exhibits 32, 33, and 34 into evidence and also
16 publish to the jury.

17 THE COURT: And I understand that's without objection?

18 MS. GAY: Without objection, Your Honor.

19 THE COURT: All right. They're in.

20 (State's Exhibit Nos. 32, 33, and 34 were received into
21 evidence.)

22 BY MR. RIVERS:

23 Q And, Shanay, can you tell me what that is?

24 A This is the driveway into our house. Our driveway.

25 MR. RIVERS: And, Judge, I just want to put on the record

1 the previous (indiscernible).

2 THE COURT: Thank you.

3 BY MR. RIVERS:

4 Q And, Shanay, can you please tell me what Exhibit 33 is.

5 A That's the driveway to our house as well.

6 Q I'm sorry; could you repeat?

7 A That's the driveway into our house.

8 Q And can you point to which house is yours.

9 A The one on the left is my house.

10 Q And State's 34, can you tell me what that is?

11 A That's my house.

12 Q Tell me when the last time you saw James was before he
13 was shot.

14 A Before he was shot? Probably that day. I saw him every
15 day. When I'd go to work, he would come to the door and make
16 sure I was -- just make sure I was okay. He would be to the
17 door.

18 Q And, so, the night that all this happened, were you
19 asleep at the time?

20 A No, I was up.

21 Q Did you ever hear a car pull up?

22 A No, I didn't.

23 Q And what was the first thing you heard?

24 A The first thing I heard was a gunshot.

25 Q Did you hear any arguing or anything like that?

1 **A** No.

2 **Q** So after the gunshot, what did you hear then?

3 **A** The next thing I heard was a car door close. That's what
4 made me get up to see.

5 **Q** And what did you do?

6 **A** I went to the door to see what was going on, once I heard
7 the door, and all I saw was a car leaving out fast.

8 **Q** Can you describe it?

9 **A** It was a dark-colored sedan type car.

10 **Q** Is there only one way in and out of where you live?

11 **A** Only one way.

12 **Q** Did you see anyone?

13 **A** No.

14 **Q** Tell us or tell the jury what happened after that.

15 **A** I stood to the door because I was trying to figure out
16 what was going on with this car. And as I stood to the door,
17 my brother came to the door, and he said, "I got shot."

18 MS. GAY: Your Honor, I'd object based on previous
19 objections that we have said.

20 THE COURT: Yes, ma'am. The same rulings applies. You
21 may proceed.

22 BY MR. RIVERS:

23 **Q** And answering yes or no, did James say anything?

24 **A** After he said he got shot? He said he got shot. And I
25 started to call 911, I think. And I went over. When I got

1 there, my dad was applying pressure on the gunshot wound. And

2 I said, "What happened?" He said, "A-1 shot me."

3 Q And how would you describe his demeanor at that time?

4 A I would say he was acting like someone who just got shot.

5 He was in a little pain. He was in pain.

6 Q So you'd say he was in an excited state?

7 A Yes, I would say.

8 Q Was he under a lot of stress?

9 A I would say so.

10 Q Now, the comment that Torrell made, did it relate to the
11 event that caused that excitement or the stress state?

12 A Yes.

13 Q And -- well, you have already said it once before, but
14 tell me again what he said.

15 A "A-1 shot me."

16 Q And tell me where did he get shot on his body.

17 A It was on the right side. Somewhere in here.

18 Q Do you remember the police and EMS coming out to your
19 house or his house?

20 A I remember, yes.

21 Q Did James have any children at the home when the shooting
22 occurred?

23 A Yes.

24 Q What did you do in reference to the kids?

25 A Tried to get them out.

1 Q And tell me why.

2 A Because I didn't want them to see their dad like that.

3 There was blood everywhere.

4 Q Did you go and see James in the hospital?

5 A Yes, I did.

6 Q Do you know who A-1 is?

7 A Yes, I do.

8 Q Did you tell the police that you knew who A-1 was?

9 A Yes, I did.

10 Q And is the person you know as A-1, is he here today?

11 A Yes, he is.

12 Q Can you pick him out and describe what he's wearing for
13 the record.

14 A He's right there in his white shirt with the striped tie
15 and glasses.

16 MR. RIVERS: Your Honor, let the record reflect that
17 Ms. Williams has identified the defendant as the person she
18 knows as A-1.

19 THE COURT: Yes, sir.

20 BY MR. RIVERS:

21 Q Let me ask you: How do you know the defendant?

22 A I was his daughter's manager at McDonald's, and I saw him
23 come there a few times.

24 Q And what is her name?

25 A Kalesia Allen.

1 Q All right, Shanay. I'm going to show you what's been
2 marked as State's Exhibit 19 for identification purposes.

3 (State's Exhibit No. 19, Kalesia Allen Driver Record, was
4 marked for identification.)

5 BY MR. RIVERS:

6 Q Is that the person (indiscernible)?

7 A Yes (indiscernible).

8 Q Who is this person in the picture?

9 A Kalesia. Looks like Kalesia.

10 Q Does this picture fairly and accurately represent her?

11 Or do you know (indiscernible)?

12 A Yes.

13 MS. GAY: Your Honor, may we approach one moment, please?

14 THE COURT: Yes.

15 BENCH CONFERENCE

16 (The following bench conference was held outside the hearing
17 of the jury and others.)

18 (Discussion at bench inaudible.)

19 THE COURT: You may proceed.

20 MR. RIVERS: Thank you, Judge.

21 BY MR. RIVERS:

22 Q Shanay, do you know of anyone else who goes by the name

23 A-1?

24 A No, I don't.

25 Q Do you know A-1's wife?

1 Q Okay. And then this is a picture of your house?

2 A Correct.

3 Q Okay. So I just want to make it clear that when you said
4 that you went to the door to figure out what's going on,
5 that's the door of your own house?

6 A Sure.

7 Q And, then, you said that, when you went over towards the
8 house that was occupied by your brother and his girlfriend and
9 dad, I believe your testimony was that your brother was coming
10 out of the door to talk to you at that point?

11 A No, ma'am.

12 Q He was inside the house?

13 A Mm-hmm.

14 Q Okay. And -- now, in terms of the actual events that
15 happened that led to your brother being shot, you don't have
16 any information to share with this jury about what actually
17 happened that night?

18 A Before he got shot?

19 Q Right. About the shooting itself. You have no
20 information for the jury about the shooting itself? What
21 happened inside the house where your brother was shot?

22 A I know what he said -- I know he said A-1 shot him.

23 Q I understand that. It's not a trick question. In terms
24 of your own testimony, you were not in the room --

25 A I was not in the house.

1 Q Okay. And your testimony at this point is that there was
2 a dark-colored sedan that left the area?

3 A Mm-hmm.

4 Q But I think that when Mr. Rivers was asking you did you
5 see anybody, you did not say that -- your testimony was not
6 that you saw anybody. You didn't see anybody.

7 A I didn't see anyone but someone had to be driving the
8 car.

9 Q Oh, I know that, but you don't know who that person was?

10 A No.

11 Q And, then, I do know that you had some information about
12 my client's daughter. Did you share it with the police?

13 A Mm-hmm.

14 THE COURT: Ms. Williams, if you can answer yes or no so
15 the court record is clear.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you, ma'am.

18 BY MS. GAY:

19 Q That would be a yes?

20 A I know the daughter? Yes.

21 MS. GAY: Okay. I have no further questions. Thank you.

22 THE COURT: Any redirect?

23 MR. RIVERS: Nothing further from the State, Your Honor.

24 THE COURT: You may step down, ma'am. Thank you.

25 THE WITNESS: Thank you.

1 THE COURT: Counsel, please approach.

2 BENCH CONFERENCE

3 (The following bench conference was held outside the hearing
4 of the jury and others.)

5 (Discussion at bench inaudible.)

6 THE COURT: Ladies and gentlemen, it's about 4:30. I
7 think your next witness is going to be a bit lengthier, so it
8 might be a good time for us to recess for the evening. Again,
9 please remember my previous instruction not to discuss this
10 case amongst yourselves or with anyone else or do any kind of
11 independent research.

12 If you'd please be back in your jury room around 9:20.
13 Once we have everyone together, we'll resume with the trial of
14 this case. Have a nice evening, and we'll see you in the
15 morning.

16 (The jury exited the courtroom at 4:28 p.m.)

17 THE COURT: All right, Counsel. Anything before we
18 recess for the evening?

19 MR. RIVERS: No, Your Honor.

20 THE COURT: And if y'all -- just thinking ahead, if y'all
21 mind going ahead and sending any proposed jury instructions
22 that you may have so we can start getting that ball rolling
23 ahead of time. And we should probably finish Wednesday. I'm
24 just trying to plan for the...

25 ///

1 (At 4:29 p.m., the above hearing was adjourned until April
2 19, 2022 at 9:30 a.m.)

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Ivington Daniel Allen
2018-GS-18-0548
DATE OF HEARING: 4/18/2022 (Day 1 of 3)
COURT REPORTER/MONITOR: DCRP/Lorraine Harris

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

Bobbi Fisher, Certified Transcriber

Date Prepared: September 10, 2022

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
)
 2 COUNTY OF DORCHESTER) TRANSCRIPT OF RECORD

3 -----x
 4 STATE OF SOUTH CAROLINA,)
)
 5 Plaintiff,)
)
 6 vs.) Case No. 2019-GS-18-00548
) 2019-GS-18-01735
) 2019-GS-18-01736
 7 IVINGTON DANIEL ALLEN,)
)
 8 Defendant.)
 9 -----x

April 19, 2022

JURY TRIAL - VOLUME 2 of 3

B E F O R E:

The Honorable Maite Murphy, Presiding Judge; and a jury.

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

David Osborne, Esq.
 John Rivers, IV, Esq.
 Attorney for the State

Melisa Gay, Esq.
 Attorney for the Defendant

Recorded by: DCRP/Lorraine Harris

Transcribed by: Bobbi Fisher
 SC Official Court Reporter III

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
1	Voluntary Statement	163	
2	Photograph of Yard/Trailer	165	166
3	Photograph	167	168
4	Photograph of Baseball Field	170	170
17	Andreana Allen DMV Record	222	222
18	Kalesia Allen DMV Record	222	222
20	DVD	223	224
21	CDR Spreadsheet	223	224
23	DVD/Body Cam Video	235	235
24	DVD/Body Cam Video	235	235
27	Photograph of Lawrence	198	241
29	DVD	210	
30	DVD	210	211
31	Lee Tommy Smith Driver's License	210	211
35	Map	242	243
36	Map	228	228
37	Map	225	226
40	Rental Agreement	136	238
41	Rental Agreement	136	241
45	Picture	141	142
47	Rental Agreement	261	261

1		COURT REPORTER LEGEND
2	Dash (--)	Indicates an interruption in speech
3	Ellipses (...)	Indicates trailing off in speech
4	(ph)	Indicates phonetic word
5	[Verbatim]	Indicates the word is said as written
6	(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality
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1 P R O C E E D I N G S

2 (Whereupon, the following proceedings started at 9:55 a.m.):

3 THE COURT: So, before we left yesterday, we got a note
4 from one of the jurors. And I will share it with you-all. I
5 think it should have been signed Dr. So-and-so because I can't
6 read half of it; it's pretty scratchy writing. But the gist
7 of it is that, apparently, she went to Woodland High School,
8 and one of the Allens graduated the same year in 2018. "I'm
9 not sure if that disqualifies me, but I did not know her that
10 well, but just the name sounded familiar."

11 So I thought I would just bring that juror in and just
12 ensure that there's no personal knowledge that would
13 disqualify her. Any objections to that?

14 MR. OSBORNE: None from the State.

15 MS. GAY: None from the defense, Your Honor.

16 THE COURT: All right. And it appears to be, from the
17 signature, Stephanie -- it doesn't look like a Walters but it
18 could be -- will you ask the juror that wrote this? I can't
19 read her writing, as far as what her last name is --

20 THE BAILIFF: Yes, Your Honor. I'll be glad to.

21 THE COURT: -- to come in, please?

22 Thank you.

23 (Pause in the proceedings.)

24 (Juror No. 185 entered the courtroom.)

25 THE COURT: Good morning.

1 JUROR NO. 185: Good morning.

2 THE COURT: Would you please raise your right hand. I'm
3 going to have the clerk of court swear you in.

4 THE CLERK: If you'd please state your full name for the
5 record.

6 JUROR NO. 185: Stephanie Crowley.

7 STEPHANIE CROWLEY,

8 after having been duly sworn, was examined and testified
9 to as follows:

10 THE COURT: Good morning, Ms. Crowley. I received your
11 note yesterday afternoon regarding your potential knowledge of
12 one of the witnesses. Can you tell me what that is?

13 JUROR NO. 185: K.K. or Kalisha Allen.

14 THE COURT: You said that you knew of her in high school;
15 is that right?

16 JUROR NO. 185: Right. I think she graduated the same
17 year I did.

18 THE COURT: Is it something that y'all hung out together
19 and would go to each other's houses?

20 JUROR NO. 185: No, ma'am. I think we were in the same
21 classes, like, in high school, but I don't recall talking to
22 her after.

23 THE COURT: Okay. So you don't know anything about this
24 case before actually being here?

25 JUROR NO. 185: No, ma'am.

1 THE COURT: The fact that you went to high school with
2 her, can you set that aside in this case and listen to the
3 testimony solely as it comes from the witness stand?

4 JUROR NO. 185: Yes, ma'am.

5 THE COURT: And will you be fully fair and impartial to
6 both the State and to the defense?

7 JUROR NO. 185: Yes, ma'am.

8 THE COURT: Will you follow the law as I give it to you?

9 JUROR NO. 185: Yes, ma'am.

10 THE COURT: Any other further questions from either the
11 State or from the defense?

12 MR. OSBORNE: No, Your Honor.

13 THE COURT: Ms. Gay?

14 MS. GAY: No, ma'am.

15 THE COURT: All right. Thank you, ma'am.

16 MS. GAY: What was her juror number?

17 THE COURT: Your juror number, Ms. Crowley?

18 JUROR NO. 185: 185.

19 THE COURT: 185.

20 THE BAILIFF: Jury coming in, Your Honor.

21 THE COURT: Thank you. We can have the rest of the jury.

22 MR. OSBORNE: Your Honor, just one quick issue while
23 they're coming in. We're not going to use (indiscernible)
24 voir dire the jury?

25 THE COURT: I will.

1 MR. OSBORNE: Thank you.

2 THE COURT: Apparently Juror No. 185, who was Stephanie
3 Walters, she must have gotten married because it's Crowley
4 now.

5 THE BAILIFF: They're on their way, Judge.

6 THE COURT: Thank you.

7 (The jury entered the courtroom at 10:02 a.m.)

8 THE COURT: Good morning, ladies and gentlemen of the
9 jury. Welcome back.

10 Ladies and gentlemen of the jury, we have one change in
11 our proposed witness list. I need to ask you this question:
12 If anyone is related by blood or marriage or has a close
13 personal or social relationship with a person of the name of
14 Bobby Hill.

15 (No response given.)

16 THE COURT: I find that no one has answered to that
17 question.

18 All right, Solicitor. You may call your next witness.

19 MR. OSBORNE: Thank you, Your Honor. The State calls
20 Bobby Hill.

21 THE CLERK: Place your left hand on the Bible and raise
22 your right hand. State your full name on the record.

23 THE WITNESS: James Robert Hill, nickname Bobby.

24 JAMES "BOBBY" HILL,

25 after having been duly sworn, was examined and testified

1 to as follows:

2 THE COURT: Your witness.

3 MR. OSBORNE: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. OSBORNE:

6 Q Mr. Hill, thank you so much for coming in, especially on
7 short notice. I bet, as this week began, you didn't believe
8 you'd be testifying in a murder trial.

9 A Not at all.

10 Q Okay. Back in April of 2018, what was your position with
11 Nissan of Orangeburg?

12 A I was the platform manager for the dealership group,
13 which included Nissan of Orangeburg.

14 Q Okay. Did Nissan of Orangeburg, back in April of 2018,
15 rent vehicles to customers?

16 A Yes, we did.

17 Q And I assumed some of those vehicles were Nissans?

18 A They were, yes.

19 Q And when those vehicles were rented, did you or your
20 employees require the customer to enter into a written rental
21 agreement?

22 A We did, yes.

23 Q And, in your position with Nissan of Orangeburg, would
24 you have access to the rental agreements if you wanted to pull
25 one and look at them?

1 **A** Yes, we would.

2 **Q** Okay. And Ricardo Bowman, was he an employee of Nissan
3 of Orangeburg back in April of 2018?

4 **A** He was. He was a service advisor.

5 **Q** Okay. And as a service advisor, would one of his duties
6 and responsibilities have been renting out vehicles?

7 **A** That's correct.

8 **Q** Okay.

9 MR. OSBORNE: All right. Your Honor, may I approach?

10 THE COURT: Yes, sir.

11 (State's Exhibit Nos. 40 and 41, Rental Agreement, was
12 marked for identification.)

13 BY MR. OSBORNE:

14 **Q** For ID purposes only, I'm showing you State's Exhibit 40
15 and 41. Can you take a look at those and tell me if you
16 recognize those?

17 **A** I do.

18 **Q** And what are they?

19 **A** These are rental agreements that we utilize to maintain
20 the rental fleet that we rented out on a regular basis.

21 **Q** Okay. And was it in the ordinary course of business for
22 Nissan of Orangeburg to enter into rental agreements of this
23 nature when cars were rented to customers?

24 **A** Yes.

25 **Q** And are those rental agreements prepared at the time of

1 the rental?

2 **A** They are.

3 **Q** Okay. Thank you so much.

4 MR. OSBORNE: No further questions.

5 THE COURT: Cross-examination?

6 MS. GAY: One moment, please.

7 CROSS-EXAMINATION

8 BY MS. GAY:

9 **Q** Hey, how are you, sir? I'm Melisa Gay. We don't have
10 any questions for you at this time.

11 **A** Okay. Thank you.

12 THE COURT: You may step down.

13 You may call your next witness.

14 MR. OSBORNE: The State calls Marlena Boyd.

15 THE CLERK: Place your left hand on the Bible and raise
16 your right hand. State your name for the record.

17 THE WITNESS: Marlena Boyd.

18 MARLENA BOYD,

19 after having been duly sworn, was examined and testified
20 to as follows:

21 THE CLERK: Thank you. Have a seat (indiscernible).

22 THE COURT: Your answer.

23 MR. OSBORNE: Thank you, Judge.

24 DIRECT EXAMINATION

25

1 BY MR. OSBORNE:

2 Q And, Ms. Boyd, if you want to remove your mask, if that
3 makes you feel comfortable, you can.

4 We're just going to start off by introducing yourself a
5 little bit to the jury. Okay?

6 A Okay.

7 Q Where are you originally from?

8 A Brooklyn but Harleyville.

9 Q Okay. And, if you don't mind, could you bring the
10 microphone up to you real close and speak, I guess,
11 (indiscernible)?

12 A Okay.

13 Q All right. So from New York. When did you move down to
14 South Carolina?

15 A I was about six when I moved to South Carolina.

16 Q Okay. Moved down with your mom and dad?

17 A My grandmother.

18 Q Okay. When you moved down, what part of South Carolina
19 did y'all move to?

20 A Harleyville.

21 Q All right. Is that where you were raised, in the
22 Harleyville area?

23 A Yes, sir.

24 Q Okay. Where did you go to high school?

25 A Harleyville-Ridgeville.

1 Q Okay. Do you have any children?

2 A Seven.

3 Q All right. What was your relationship with James Torrell
4 Williams?

5 A He was my boyfriend.

6 Q Okay. And how many children did y'all have together?

7 A Five.

8 Q And can we just go through them and who they are and
9 their ages?

10 A Okay. I have to think about this now; there's five of
11 them. Okay. Minor 1 he's 17. Minor 2 is 15. Minor 3 is 13.
12 Minor 4 is 11. And Minor 5 is 7.

13 Q Okay. And these are all children that you and Torrell
14 have together?

15 A Yes, sir.

16 Q And you're giving their current ages, so if we went back
17 to 2018, you'd take four away; right?

18 A Yes.

19 Q Okay. All right. So prior to being shot, did Torrell
20 have any medical conditions?

21 A He had I think cirrhosis of the liver.

22 Q And we have seen some pictures. There were some oxygen
23 tanks in the house. Did he use those oxygen tanks to assist
24 him with breathing?

25 A Sometimes. Not all the time at the time.

- 1 Q But he needed it?
- 2 A Yes.
- 3 Q Did he have COPD, I guess?
- 4 A Yes.
- 5 Q Now, in reference to his cirrhosis of the liver, did he
6 need any special treatment?
- 7 A No.
- 8 Q Did he need to have his stomach drained periodically?
- 9 A Yes.
- 10 Q Okay. But -- I mean, I know that he did have medical
11 issues, but did he get around okay prior to being shot?
- 12 A Yes.
- 13 Q Could he take care of himself?
- 14 A Yes.
- 15 Q If he needed to get somewhere, could he drive himself?
- 16 A Yes.
- 17 Q Could he bathe himself?
- 18 A Yes.
- 19 Q Did he play with his children?
- 20 A Yes.
- 21 Q Did he have any issues with eating?
- 22 A No.
- 23 Q Did all that change after he was shot?
- 24 A Yes.
- 25 Q Along those same lines, was he in hospice care prior to

1 being shot?

2 **A** No, sir.

3 **Q** Was he in hospice care after being shot?

4 **A** Yes, sir.

5 **Q** Is it fair to say that Torrell, although he wasn't in
6 good shape medically prior to being shot, he was living his
7 life?

8 **A** Yes, sir.

9 **Q** Hoping for the best?

10 **A** Yes, sir.

11 **Q** Okay. At the time of the shooting, did you and Torrell
12 live together?

13 **A** Yes, sir.

14 **Q** And where was that?

15 **A** Rossville. It's in St. George.

16 **Q** And what about the address? Do you know the address?

17 **A** 112 Blackies Park.

18 MR. OSBORNE: Your Honor, may I approach?

19 THE COURT: Yes, sir.

20 (State's Exhibit No. 45, Picture, was marked for
21 identification.)

22 BY MR. OSBORNE:

23 **Q** All right. I'm showing you State's Exhibit No. 45. Can
24 you take a look at that?

25 **A** Yes, sir.

1 Q And what is that?

2 A That's me and James's home that we was living in at the
3 time.

4 Q Okay.

5 MR. OSBORNE: Your Honor, at this time, the State seeks
6 to admit 45 into evidence.

7 MS. GAY: No objection, Your Honor.

8 THE COURT: It's in.

9 (State's Exhibit No. 45 was received into evidence.)

10 BY MR. OSBORNE:

11 Q And this -- 45 is a picture of your house?

12 A Yes, sir.

13 Q And did Torrell's father, Mr. Williams Minor2 [verbatim],
14 did he live with y'all as well?

15 A Yes, sir.

16 Q And now, the children, as I understand it, they sort of
17 went back and forth between you and the grandmother, Gladys?

18 A Yes, sir.

19 Q All right. On the night of the shooting, who all was at
20 your house?

21 A James, myself, James's father, and two of our kids,
22 Minor 1 and Minor 4

23 Q And Minor 4 was a child at that time; right?

24 A Yes.

25 Q She was three or something?

1 **A** Yes, something like that.

2 **Q** Okay. All right. At the time of the shooting, were you
3 awake or asleep?

4 **A** I was asleep.

5 **Q** Okay. All right. So, if you could, just walk the jury
6 through what woke you up and what happened after that.

7 **A** Okay. Like I said, I was asleep, and I woke up to a loud
8 pop. I was getting off of the bed. At the time of getting
9 off of the bed, James had done made it down the hall, that
10 door. And I said, "What's wrong with you?" I said, "What was
11 that noise?" He said --

12 MS. GAY: Your Honor, I would object at this time,
13 subject to my previous objections.

14 THE COURT: Yes, ma'am. Same ruling.

15 **A** He said, "A-1 shot me. I can't believe he shot me."

16 So I said, "Who is A-1?"

17 He said he don't know him. He went back down the hall.
18 I woke his father up and went and got his sister, Shanay.

19 **Q** Okay. And Shanay lived in the trailer right across from
20 y'all's?

21 **A** Yes, sir.

22 **Q** And she was Torrell's sister?

23 **A** Yes, sir.

24 **Q** Okay. When you first saw Torrell coming down the
25 hallway, you said that he was holding his stomach?

1 **A** He was holding his stomach.

2 **Q** Now, at first -- even though you had heard a loud noise,
3 at first, did you think that Torrell might be joking or
4 kidding?

5 **A** Yes, because he always joked and kid until he held up,
6 and when he held up, the blood dropped.

7 **Q** Okay. And I know that Torrell said that you wouldn't
8 know A-1, but did you know anyone named A-1 at the time of the
9 shooting?

10 **A** No, sir.

11 **Q** Okay. All right. So you said that Shanay got to the
12 trailer at that point?

13 **A** Yes, sir. And I gave her the kids.

14 **Q** And then Shanay took the kids?

15 **A** Yes, sir.

16 **Q** I guess it's obvious but you wanted the kids out of the
17 house?

18 **A** Yes, sir.

19 **Q** All right. Did Torrell's mom, Gladys, show up?

20 **A** Yes, sir.

21 **Q** And did Gladys arrive before law --

22 **A** Before.

23 **Q** Okay. So she got there pretty quick?

24 **A** Yes, sir.

25 **Q** Do you remember calling her or was it Shanay?

1 **A** Shanay.

2 **Q** Okay. So once Gladys showed up -- just yes or no for
3 now. Once Gladys showed up, did Torrell explain more what
4 happened?

5 **A** I have no idea because, like I said, I was in and out of
6 the house, trying to make sure my kids were okay.

7 **Q** I guess, let me put it another way: Did Torrell say more
8 about what happened to him --

9 **A** Oh, yes, sir. Yes, sir.

10 **Q** Now, when Torrell was explaining more what happened to
11 you and his mom, would you describe him as being calm or
12 stressful?

13 **A** Stressful. Angry and upset.

14 **Q** Angry and upset?

15 **A** Yes.

16 **Q** And these comments that Torrell made before EMS and law
17 enforcement arrived, did the comments relate to why -- why he
18 was in a state of stress or upset?

19 **A** Yes, sir.

20 **Q** Okay. All right. What did Torrell say then?

21 **A** He still was saying he didn't believe that A-1 shot him
22 in front of his kid, because Minor 1 was laying on the chair at
23 the time.

24 **Q** Was Minor 1 awake or asleep?

25 **A** He was asleep.

1 Q Okay. And what else did he say?

2 A He just glad the bullet didn't hit his son. You know, he
3 had to tussle with him.

4 Q Did he mention anything about Terrence and Mont?

5 A Yes, sir. He said that A-1 said that Terrence and Mont
6 sent him there to borrow some money from James.

7 Q Okay. Let me just stop you there. Torrell said that A-1
8 told him that Terrence and Mont told Torrell --

9 A Yes, sir.

10 Q -- to borrow some money?

11 A Yes, sir.

12 Q And how much money was it?

13 A A thousand dollars for his daughter's graduation or prom
14 or something like that.

15 Q Okay. Daughter's prom or graduation?

16 A Mm-hmm.

17 Q Okay. Well, let me just pause the story right here from
18 what Torrell was saying.

19 A Okay.

20 Q Would Torrell have had a thousand dollars at that time?

21 A No, sir. Not in the house anyway.

22 Q Okay. Did he recently come into some money?

23 A Yes, sir.

24 Q And for what reason?

25 A For his disability.

1 Q Okay. When -- did Torrell say what he told A-1? What
2 was his response when A-1 was looking for a thousand dollars?

3 A He said he didn't have it. He didn't have any money.

4 Q Okay. Did he say what A-1 did then?

5 A Said he went back to the car. Said he was going to get a
6 cigarette, but he came back with a gun.

7 Q Did Torrell indicate at all what happened once he came
8 back with the gun? I know you mentioned earlier he tussled
9 over a gun but did he mention -- did he get into specifics?

10 A No.

11 Q Okay. And you said his son, Minor¹ was sleeping on the
12 couch?

13 A Yes, sir.

14 Q All right. After Torrell was shot, what happened then?
15 What happened with A-1?

16 A Oh, he left.

17 Q According to Torrell?

18 A According to Torrell, he left in a dark-colored car.

19 Q Okay. After EMS and law enforcement arrived on the
20 scene, was Torrell transported to the hospital?

21 A Yes, sir.

22 Q And did you -- that was at Trident?

23 A Yes, sir.

24 Q Did you ever visit him there?

25 A I stayed there.

1 Q How long was he in the hospital?

2 A About a week. Yeah, about a week.

3 Q And you stayed with him the whole time?

4 A Yes, sir. And his father.

5 Q And James?

6 All right. When he was released, did he need anything at
7 his house that he didn't need prior?

8 A Yes, sir.

9 Q And what was that?

10 A A hospital bed.

11 Q Okay. And you had mentioned earlier, at that point, he
12 was placed in hospice care?

13 A Yes, sir.

14 Q Marlena, did you notice any differences in Torrell in his
15 behavior and how he carried himself prior to the shooting as
16 to after the shooting?

17 A Yes, sir.

18 Q And explain to the jury what you noticed.

19 A Okay. After the shooting, he stopped eating, drinking,
20 stopped, like, doing for his self. He was weak, so I had to
21 do it for him.

22 Q Did you have to bathe him?

23 A I had to bathe him, comb his hair, brush his teeth, put
24 his clothes on him, help him to the bathroom, which he had a
25 pot that sits by the bed. Help him out the bed to the chair,

1 which was right beside the bed.

2 Q And you didn't have to do any of that beforehand, before
3 he was shot?

4 A No, sir.

5 Q How long did it take for him to succumb to his injuries?

6 A I don't know. I was there until he left. He passed
7 away.

8 Q A few days?

9 A Yeah, about eight days.

10 Q All right. No further questions.

11 THE COURT: Cross-examination?

12 MS. GAY: One moment, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. GAY:

15 Q How are you, ma'am?

16 A I'm fine.

17 Q My name is Melisa Gay, and I represent Mr. Allen.

18 When you first -- when all this first happened, you sat
19 down with an officer. I think his name was Mr. Contino. Do
20 you remember sitting down with him?

21 A I remember sitting down with an officer. It was a couple
22 of years ago. I can't remember the name.

23 Q Well, if I were to tell you it was Mr. Contino, because I
24 have a copy of your statement, would you -- is that something
25 you'd agree with?

1 **A** Yes, ma'am.

2 **Q** And, certainly, during that night and during that period
3 of time, y'all were all very stressed and upset, so what you
4 said to him is not nearly as detailed as what you're
5 testifying to today.

6 **A** Okay.

7 **Q** Okay? And one of the things that didn't change about the
8 statement that you told Mr. Contino -- Detective Contino at
9 this time and today was that you did not see any of this
10 happen.

11 **A** Yes, ma'am. I did not see anything.

12 **Q** Right. You're in the back bedroom. You hear a loud
13 sound.

14 So everything that you testified about what Torrell said
15 to you was not something you saw with your own eyes or your
16 own perception?

17 **A** Yes, ma'am, I didn't see it.

18 **Q** So you don't know whether somebody actually left the
19 house, went to the car and came back or not. You didn't see
20 that?

21 **A** No, ma'am.

22 **Q** Thank you. I have no further questions.

23 THE COURT: Any redirect?

24 MR. OSBORNE: None, Your Honor.

25 THE COURT: You may step down, ma'am. Thank you.

1 You may call your next witness.

2 MR. OSBORNE: The State calls Gladys Williams.

3 THE CLERK: Place your left hand on the Bible and raise
4 your right hand and state your name for the record.

5 THE WITNESS: Gladys Williams.

6 GLADYS WILLIAMS,

7 after having been duly sworn, was examined and testified
8 to as follows:

9 THE COURT: Your witness.

10 MR. OSBORNE: Thank you, Judge.

11 DIRECT EXAMINATION

12 BY MR. OSBORNE:

13 Q All right, Ms. Williams. And if you want to remove your
14 mask, you can. Whatever makes you feel comfortable.

15 Where are you originally from?

16 A I'm from St. George, South Carolina.

17 Q Okay. Where did you go to school?

18 A Yes.

19 THE COURT: I can't hear her, David. If you don't mind
20 if you'd just ask her to scoot forward.

21 THE WITNESS: Yes. Can you hear me now?

22 THE COURT: Can you re-ask the question?

23 BY MR. OSBORNE:

24 Q Ms. Williams, where are you originally from?

25 A I'm from St. George, South Carolina.

1 Q The mic wasn't working.

2 Is that where you're born and raised?

3 A Yes, sir.

4 Q Okay. Where did you go to school?

5 A (Indiscernible).

6 Q And I am not going to ask you to name all your brothers
7 and sisters. You have a big family; right?

8 A Yes.

9 Q Okay. Any children?

10 A Two.

11 Q James and Shanay?

12 A Yes, sir.

13 Q Okay. All right. Ms. Williams, I'm just going to get
14 into the night of the incident. Okay?

15 A Okay.

16 Q Where were you when the shooting occurred?

17 A I was home.

18 Q And you live off of Charleston Highway?

19 A Yes, sir.

20 Q Okay. Do you live -- you live close to Torrell?

21 A I live about a mile or two miles from Torrell.

22 Q Okay. Now, how did you find out about the incident?

23 A I got a call about around 2:00. It was my daughter. She
24 called me, told me, "Ma, come over here."
25 I said, "For why?"

1 She said, "Ma, come over here."

2 I said, "Yeah, but why?"

3 She said, "Torrell got shoot [verbatim]."

4 I asked her, "Where at?"

5 She said, "Ma, he got shoot [verbatim] in the stomach."

6 I left home just with what I had on. I was so nervous.

7 I got there. He was sitting in the chair. He said, "Mom."

8 There to [verbatim] I said, "Yes, I'm okay."

9 I said, "What happened, Boo?"

10 He said, "Ma, the dude shot me."

11 I said, "What dude?"

12 He said, "A-1."

13 And I got the emotion and the people were there putting
14 the -- putting the thing on his side and took me out because I
15 got, like, filled up, I couldn't take no more.

16 **Q** Okay. Was Marlana there?

17 **A** Marlana was there, his daddy, and the three kids. The
18 little baby -- the three-year-old baby was there. That's who
19 he had with him.

20 **Q** And by the time you got there, had Shanay already removed
21 the children?

22 **A** She done have removed the kids and took them to her
23 house.

24 **Q** Okay. Well, were you in here when Marlana testified?

25 **A** I walked out for a minute to use the bathroom.

1 Q Okay. Do you feel comfortable telling us what else
2 Torrell had to say?

3 MS. GAY: Your Honor, I object subject to my previous
4 objections.

5 THE COURT: Yes, ma'am. Same ruling.

6 A I left -- I left -- when I leave -- when I had
7 (indiscernible) to help me, (indiscernible) check the car. I
8 gave my son a call and the (indiscernible) said I want to
9 check it. And I had to stand there with him for him to check
10 the car, but it was in my name. So I left and I went home --
11 took the kids home. I told my friend --

12 Q All right. Let me -- I wasn't there, clearly.

13 A Okay.

14 Q When -- before the police showed up and before EMS showed
15 up that night of the incident --

16 A Mm-hmm.

17 Q -- did Torrell relate to you anything else about what
18 happened, other than A-1 shot him?

19 A No. He just said, "Mama, it will be okay." That's all
20 he said. "I'm going to be okay."

21 Q Okay. Did he mention anything to you about how he got
22 shot?

23 A He told me he got shot -- well, he told me at the
24 hospital how he got shot. When I got to the hospital, then he
25 told me that.

1 Q Okay. Okay. But on the scene, the only thing he told
2 you was that A-1 had shot him?

3 A Mm-hmm. I asked him who shot him and he told me.

4 Q All right. No further questions.

5 THE COURT: Cross-examination?

6 MS. GAY: One moment, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. GAY:

9 Q Good morning.

10 A Good morning.

11 Q I'm Melisa Gay.

12 A All right.

13 Q So, on this day that this happened, you said it took you
14 two minutes to get to the house?

15 A Yeah, about -- it take me about five minutes to get
16 there. It might be less than that.

17 Q Okay. And when you arrived, other people had already
18 arrived. Your daughter had arrived as well?

19 A Mm-hmm.

20 Q And I think you said that there was a period of time
21 between -- when you were talking to the solicitor -- there was
22 a period of time between the time you got there and the time
23 EMS and the police arrived, and during that period of time,
24 did you see anything at all that day that would have led you
25 to have a clue about what happened?

1 **A** No. My daughter called me, like I said. And that's how
2 I came. I came when my daughter called me. I put something
3 on. I might have went how I was because --

4 **Q** Maybe in your pajamas, is what you're saying?

5 **A** I would say, yeah.

6 **Q** And so you don't have any information to share with the
7 jury today about what happened that night. You just know what
8 happened afterwards.

9 **A** No, my daughter called me -- like I said, my daughter
10 called me and said, "Ma, come over here because Torrell got
11 shoot [verbatim]."

12 I said, "Where at?"

13 And she said, "The stomach."

14 **Q** I understand.

15 **A** And I got there and he was sitting on the chair. I see
16 the ambulance was holding his stomach.

17 **Q** Exactly.

18 **A** Mm-hmm.

19 **Q** (Indiscernible) on the right side.

20 **A** Mm-hmm, yes.

21 **Q** And then you said that you were responsible for going
22 with the police to have (indiscernible) the car
23 (indiscernible)?

24 **A** Yeah, I had to stay there. I couldn't go to the hospital
25 right then. I had to stay for them to search the car because

1 the car was in my name.

2 Q Okay. I understand. Thank you very much.

3 A You're welcome.

4 MS. GAY: I have no further questions.

5 THE COURT: Any redirect?

6 REDIRECT EXAMINATION

7 BY MR. OSBORNE:

8 Q So you would have got to the hospital later that --

9 A Yeah. After I got the kids straightened out, I got to
10 the hospital, yeah.

11 Q Okay. All right. No further questions.

12 THE COURT: You may step down, ma'am. Thank you.

13 MS. GAY: Your Honor, can we approach one second?

14 BENCH CONFERENCE

15 (The following bench conference was held outside the hearing
16 of the jury and others.)

17 (Discussion at bench inaudible.)

18 THE COURT: You may call your next witness.

19 MR. OSBORNE: The State calls Melvin Lamont Allen.

20 THE CLERK: If you'd raise your right hand and state your
21 full name for the record.

22 THE WITNESS: Melvin Lamont Allen.

23 MELVIN LAMONT ALLEN,

24 after having been duly sworn, was examined and testified
25 to as follows:

1 THE COURT: Your witness?

2 MR. OSBORNE: Okay.

3 DIRECT EXAMINATION

4 BY MR. OSBORNE:

5 Q Melvin, why didn't you come yesterday?

6 A I was -- I was on medicine. This is why.

7 Q But I told you, all you had to do was call me.

8 A I still wasn't ready.

9 Q Okay. All right. Once we get through with this, you can
10 go back. Okay?

11 A All right.

12 Q How old are you?

13 A Forty.

14 Q Where are you from?

15 A Bowman.

16 Q Did you go to Bowman High School?

17 A Yes.

18 Q Graduate?

19 A Night school.

20 Q Okay. Got any brothers?

21 A Yeah, three more brothers.

22 Q Okay. And one of them's named Terrence?

23 A Yeah.

24 Q Okay. And what kind of work have you done?

25 A I do a lot of everything.

1 Q All right. So let's start talking about Torrell, the
2 victim in this case. How do you know Torrell?

3 A Me and Torrell went to school together. Close friends.
4 I know him.

5 Q Okay. Were y'all like cousins?

6 A Yeah, something like that. Brothers.

7 Q Okay. Pretty much like brothers?

8 A Yeah.

9 Q Okay. And when was the last time that you spoke to
10 Torrell in reference to the shooting?

11 A I couldn't tell you as far as any of that.

12 Q Okay. Was it, like, days or weeks?

13 A Mm-hmm. Probably months.

14 Q Months. Okay.

15 Were you aware that Torrell had recently come into some
16 money?

17 A No.

18 Q Okay. Do you remember telling myself and Investigator
19 Hop that you're aware he came into about \$3,000 a few months
20 ago for back pay?

21 A No.

22 Q You --

23 A Who told y'all that?

24 Q Oh, you didn't say that?

25 A No.

- 1 Q Okay.
- 2 A When?
- 3 Q When?
- 4 A Mm-hmm.
- 5 Q When we were at your trailer talking to you.
- 6 A No.
- 7 Q It didn't happen?
- 8 A No.
- 9 Q Okay. And -- well, so you were unaware that James had --
- 10 or Torrell had any money?
- 11 A Yeah.
- 12 Q Okay. Well, let's talk about that guy. Do you know the
- 13 defendant in this case?
- 14 A Yes.
- 15 Q Okay. And what do you know him as?
- 16 A A-1.
- 17 Q A-1. What's his real name?
- 18 A James.
- 19 Q Do you know his last name?
- 20 A Allen.
- 21 Q Okay. Back -- I mean, did you used to hang out -- what
- 22 was your relationship with him?
- 23 A Just friends. Homeboys.
- 24 Q Say it again.
- 25 A Homeboys.

1 Q Homeboys?

2 A Yeah.

3 Q Did you hang out with a him a lot or a little?

4 A Just whenever we met up, whenever we see each other.

5 Q Okay. Let's talk about that a little bit. Okay? In
6 reference to the shooting, when did you meet -- when did you
7 first meet him, A-1, or the defendant? Was it when y'all were
8 little kids or --

9 A No, not little kids. I can't tell you that. I just know
10 we met.

11 Q A couple of years?

12 A Yeah, a couple of years.

13 Q Okay. And how did you meet him?

14 A Through my brother.

15 Q Terrence. Okay.

16 And in any given week -- just trying to get some kind of
17 idea about how much time y'all spent together. In any given
18 week just prior to the shooting, how many times would he come
19 by and you'd see him?

20 A You say during the shooting?

21 Q Prior to the shooting. And I'm trying to get an idea
22 about how often you would see him. So prior to the
23 shooting --

24 A Not that often.

25 Q Okay. Well, do you remember telling me and Ray about

1 you -- he came about three or four times a week?

2 **A** Before the shooting? Oh, yeah, before the shooting,
3 yeah, used to see him.

4 **Q** Okay. Well, that brings up a good point. If you saw him
5 three or four times before the shooting, after the shooting,
6 how many times did you see him per week?

7 **A** I would say about twice. Like I say, I sees him like
8 when I be in Bowman. When I be in Bowman or whatnot.

9 **Q** Did you ever talk to him on the phone?

10 **A** No.

11 **Q** You never talked to him on the phone?

12 **A** After that?

13 **Q** No, before the shooting.

14 **A** Oh, yeah, we used to talk on the phone.

15 **Q** Okay. You didn't talk on the phone after the shooting,
16 though.

17 **A** No.

18 **Q** Okay. And this, you might not remember. Do you remember
19 your phone number back in April of 2018?

20 **A** No. It's (indiscernible). I don't remember no numbers.

21 **Q** No, I get that.

22 Do you remember talking to Detective Easterlin?

23 MR. OSBORNE: You can stand up.

24 **A** Mm-mmm.

25 MR. OSBORNE: Your Honor, may I approach?

1 THE COURT: Yes, sir.

2 (State's Exhibit No. 1, Voluntary Statement, was marked
3 for identification.)

4 BY MR. OSBORNE:

5 Q I'm going to show you, just for ID purposes, State's
6 Exhibit No. 1. Do you recognize that?

7 A Yeah, that's my handwriting.

8 Q Okay. It's your handwriting.

9 A Mm-hmm.

10 Q And what did you -- what is it?

11 A A statement.

12 Q Okay. It's a written statement. That's your name?

13 A Yes.

14 Q And what was your phone number when you gave that
15 statement?

16 A I have no idea. Is it on there?

17 Q Yeah.

18 A Where is it?

19 Q Do you see it up at the top?

20 MS. GAY: David, I don't have a copy of what you're
21 showing him.

22 MR. OSBORNE: It's in discovery.

23 MS. GAY: No, we never got that.

24 MR. OSBORNE: I'll show it to you.

25 MS. GAY: Okay.

1 MR. OSBORNE: Your Honor, may I step around?

2 THE COURT: Yes, sir.

3 A Oh, yes. That's my old phone number.

4 BY MR. OSBORNE:

5 Q Oh, okay.

6 A My grandma's number. My grandmother's number.

7 Q What's the number?

8 A (803) 829-3759.

9 Q 829-3759.

10 Okay. So you said you spoke to the defendant prior to

11 the shooting.

12 A Right.

13 Q Okay. Does the number (843) 560-4731 sound familiar to

14 you?

15 A It sounds familiar.

16 Q It sounds familiar? Okay.

17 And do you know if Torrell, the victim, knew A-1?

18 A Yeah. Yes.

19 Q Did he know him before your brother, before Terrence?

20 A I don't think so.

21 Q Okay. Don't think so?

22 A No, I don't think so.

23 Q All right. So the murder occurred or the shooting

24 occurred April the 21st about 2:00 or 3:00 in the morning. I

25 want to back you up into the day before. Okay? So that would

1 have been April the 20th. Did you see the defendant that
2 morning?

3 **A** Yes.

4 **Q** And how did that come about?

5 **A** He came to get his car washed from my brother.

6 **Q** Okay. And where -- and you and your brother were living
7 together at the time?

8 **A** Yes.

9 **Q** And where was that? What was the address?

10 **A** 864 Porter (ph) Street.

11 **Q** In Bowman?

12 **A** Yes.

13 **Q** Okay. All right.

14 **MR. OSBORNE:** Your Honor, may I approach?

15 **THE COURT:** Yes, sir.

16 (State Exhibit No. 2, Photograph of Yard/Trailer, was
17 marked for identification.)

18 **BY MR. OSBORNE:**

19 **Q** All right. I'm showing you what's been marked as State's
20 Exhibit No. 2. Can you take a look at that and tell me if you
21 recognize that?

22 **A** Yes. This is my yard.

23 **Q** Is that your yard? Is that your trailer in the
24 background?

25 **A** Yes, sir.

1 MR. OSBORNE: All right. Your Honor, at this time, the
2 State seeks to admit No. 2 into evidence.

3 THE COURT: Any objection?

4 MS. GAY: No objection, Your Honor.

5 THE COURT: All right. It's in.

6 (State's Exhibit No. 2 was received into evidence.)

7 MS. GAY: I also don't object to 3 and 4 if that what he
8 plans on.

9 MR. OSBORNE: Okay. All right. I think, without
10 objection, 2 is admitted?

11 THE COURT: Yes, sir.

12 MR. OSBORNE: Just putting this up there for the jury's
13 edification.

14 BY MR. OSBORNE:

15 Q So that's your trailer?

16 A Yes, sir.

17 Q When you said that the defendant came by to have his car
18 washed, what type of car was he in that day?

19 A It was a rental. Black Maxima.

20 Q Black Nissan Maxima?

21 A Yes, sir.

22 Q A rental?

23 A Yes, sir.

24 Q Okay. Just out of curiosity, how do you know it was a
25 rental?

1 **A** Because of the tags on the back of it. Out-of-state
2 tags.

3 **Q** Okay. All right. So about what time in the -- you said
4 he arrived in the morning?

5 **A** It was around -- I'd say around about 9:00. No later
6 than 9:00.

7 **Q** 9:00 in the morning? Okay.

8 After Terrence ended up washing the car, what happened
9 next?

10 **A** Well, we went to get his haircut from my cousin.

11 **Q** Okay. And who is your cousin?

12 **A** Peter Willis.

13 **Q** Okay.

14 MR. OSBORNE: All right. Your Honor, may I approach?

15 THE COURT: Yes, sir.

16 (State's Exhibit No. 3, Photograph, was marked for
17 identification.)

18 BY MR. OSBORNE:

19 **Q** Showing you State's No. 3. Can you take a look at 3 and
20 tell me if you recognize that?

21 **A** Yes.

22 **Q** And what is that?

23 **A** That's Peter's house.

24 **Q** Okay.

25 MR. OSBORNE: Your Honor, at this time, the State seeks

1 to admit, without objection, 3 into evidence.

2 THE COURT: It's in.

3 MS. GAY: No objection, Your Honor.

4 THE COURT: And what was the description?

5 MR. OSBORNE: It's Peter Willis's house, a friend of his.

6 (State's Exhibit No. 3 was received into evidence.)

7 BY MR. OSBORNE:

8 Q Anybody else in that rental car with him?

9 A Me and my brother.

10 Q No, I meant -- I'm sorry; when he first showed up at your
11 trailer.

12 A No, sir.

13 Q Okay. All right. Now showing you 3. So that's Peter
14 Willis -- he doesn't live far from you, does he?

15 A No, he doesn't.

16 Q Okay. All right. After you, your brother, Terrence, and
17 the defendant get to Peter's house, you said you went there --
18 who was getting a haircut?

19 A A-1.

20 Q Okay.

21 A I think.

22 Q Okay. All right. What happened then?

23 A He got his haircut. Then he -- well, I don't know if he
24 did it -- drink -- but he had a few beers and he left.

25 Q Okay. About what time would he have left?

- 1 **A** I'd say about 12:00.
- 2 **Q** Okay.
- 3 **A** No later than 12:00 or 1:00.
- 4 **Q** Sometime in the afternoon -- early afternoon?
- 5 **A** Yes, sir.
- 6 **Q** Okay. Now, how did you spend the rest of your day, going
7 into the night of the shooting?
- 8 **A** I stayed at Peter's house.
- 9 **Q** Okay. You were with Peter all day?
- 10 **A** All day, mm-hmm.
- 11 **Q** Just drank with him and hung out?
- 12 **A** Yes, sir.
- 13 **Q** The next day, did you find out what happened to Torrell,
14 about the shooting at least?
- 15 **A** The next night -- well, in the same night, my uncle came
16 over to ask my mom where we was.
- 17 **Q** Okay. You found out that Torrell had been shot?
- 18 **A** Mm-hmm.
- 19 **Q** Okay. All right. So that Friday going into Saturday --
20 now we're into Saturday -- did you -- okay. Did you see the
21 defendant that weekend at any time?
- 22 **A** Yes.
- 23 **Q** And where did you see him at?
- 24 **A** At a baseball game.
- 25 **Q** Okay. And was he driving that same black Nissan Maxima?

1 **A** No, sir.

2 **Q** What was he driving then?

3 **A** I think a white Altima.

4 **Q** Okay. Did that appear to be a rental too, or do you
5 know?

6 **A** Not that I know of. I don't think that was a rental.

7 **Q** Okay. And you said you saw him at a softball game.
8 About what time was that?

9 **A** About 1:00. No later than 1:00 or 2:00.

10 MR. OSBORNE: Your Honor, may I approach?

11 THE COURT: Yes, sir.

12 (State's Exhibit No. 4, Photograph of Baseball Field, was
13 marked for identification.)

14 BY MR. OSBORNE:

15 **Q** I'm showing you now State's 4. Can you take a look at
16 that and tell me if you recognize that?

17 **A** Uh-huh.

18 **Q** And what is that?

19 **A** That's the baseball field.

20 MR. OSBORNE: Okay. Your Honor, at this time, the State
21 seeks to admit, without objection, 4 into evidence.

22 THE COURT: It's in.

23 (State's Exhibit No. 4 was received into evidence.)

24 BY MR. OSBORNE:

25 **Q** All right. So we're looking at a baseball field -- a

1 softball field?

2 **A** Right.

3 **Q** And you said this would have been, like, around 1:00 or
4 2:00 in the afternoon?

5 **A** Yes, sir.

6 **Q** All right. And what was he doing at the baseball field?

7 **A** Nothing.

8 **Q** Just hanging out?

9 **A** Mm-hmm.

10 **Q** Baseball game going on?

11 **A** Yes, sir.

12 **Q** Did you -- at this point, you knew your cousin had been
13 shot?

14 **A** Yes.

15 **Q** Did you approach him and talk to him?

16 **A** No, sir.

17 **Q** Didn't ask him anything?

18 **A** No, sir.

19 **Q** Okay. The very next day, on Sunday -- this would have
20 been Saturday; right?

21 **A** Mm-hmm.

22 **Q** So, on Sunday, who -- well, let me ask you this: Who is
23 Gloria Green?

24 **A** My aunt.

25 **Q** And Gloria lives in a trailer right in front of your

1 trailer?

2 **A** Yes, sir.

3 **Q** Okay. Does she -- she owns the property; right?

4 **A** I think so, yeah.

5 **Q** Well, you're staying there, right?

6 **A** Right.

7 **Q** In the trailer behind her?

8 **A** Right.

9 **Q** Okay. Did your aunt, Gloria Green -- and she's also
10 Torrell's aunt; right?

11 **A** Right.

12 **Q** Okay. Did she approach you and ask what you knew about
13 Torrell's shooting?

14 MS. GAY: Your Honor, I object.

15 **A** Not the next day. Not the day of that --

16 THE COURT: Wait a second.

17 MS. GAY: I object for him saying anything about what
18 Gloria said to him.

19 MR. OSBORNE: Well, I'll rephrase it.

20 THE COURT: All right, sir.

21 BY MR. OSBORNE:

22 **Q** Just yes or no: On that Sunday, did your aunt, Gloria
23 Green, approach you and ask you anything about the shooting?

24 **A** No.

25 **Q** Never? So you didn't tell your aunt that you spoke to

1 the defendant at the softball game?

2 **A** Mm-mmm.

3 **Q** You didn't tell her that?

4 **A** No, I don't think so.

5 **Q** And you didn't tell her that the defendant told you that
6 he shot him when he struggled over the gun?

7 **A** No.

8 **Q** Those words never came out of your mouth?

9 **A** No.

10 **Q** Okay.

11 MR. OSBORNE: No further questions.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION

14 BY MS. GAY:

15 **Q** Hello. How are you today? My name is Melissa Gay.

16 So all of this, James, the jumpsuit, that's all because
17 of this trial?

18 **A** Right.

19 **Q** There's no other reason that you're incarcerated, in jail
20 at this point other than this trial?

21 **A** Right.

22 **Q** And, so, you told the jury that you had seen Mr. Allen
23 earlier in the day, but you don't have any information to
24 share with the jury today about what actually happened on the
25 night that your cousin, Torrell, was shot?

1 **A** No.

2 **Q** So there's nothing that you can say about what you think
3 might have happened or anything to this jury today?

4 **A** No.

5 MS. GAY: I have no further questions, Your Honor.

6 THE COURT: Any redirect?

7 MR. OSBORNE: No, Your Honor. And may the bench warrant
8 be released?

9 THE COURT: Yes, sir. The bench warrant is rescinded.
10 You'll be free to go, Mr. Allen.

11 THE COURT: You may call your next witness.

12 MR. OSBORNE: The State calls Gloria Green.

13 THE CLERK: Please place your left hand on the Bible and
14 raise your right hand. State your full name for the record.

15 THE WITNESS: Gloria Green.

16 GLORIA GREEN,

17 after having been duly sworn, was examined and testified
18 to as follows:

19 THE COURT: Your witness.

20 DIRECT EXAMINATION

21 BY MR. OSBORNE:

22 **Q** Good morning, Ms. Green.

23 **A** Good morning.

24 **Q** And I tell this to everyone: If you feel comfortable and
25 you want to remove your mask, you can.

1 Where are you originally from?

2 **A** Bowman.

3 **Q** And if you don't mind, just so the all the jurors can
4 hear, just pull the mic a little bit closer to you and just
5 speak up, I guess, louder than you would normally talk.

6 **A** My original home is in (indiscernible), South Carolina,
7 but I reside in Bowman for 34 years.

8 **Q** Okay. Went to high school in Bowman?

9 **A** I went to high school at Harleyville-Ridgeville.

10 **Q** Okay. Did you graduate?

11 **A** In '82.

12 **Q** And I also will not ask you to list your brothers and
13 sisters, but it's fair to say you have a lot?

14 **A** Repeat that again.

15 **Q** I said, I won't ask you to name all your brothers and
16 sisters, but is it fair to say you have quite a bit?

17 **A** Yes, I have quite a bit.

18 **Q** Okay. Any children?

19 **A** Yes. I have two biological children, five between foster
20 and adopted children.

21 **Q** Okay. And where do you work?

22 **A** I am a full-time manager at A&A Fresh Seafood in
23 (indiscernible).

24 **Q** Right around the corner?

25 **A** Right around the corner.

1 Q Okay. Ms. Green, what was your relationship with Torrell
2 Williams?

3 A I'm his aunt.

4 Q Okay. And what did Torrell call you? I know he called
5 you aunt, but what was --

6 A Aunt Dula (ph).

7 Q Aunt what?

8 A Aunt Dula.

9 Q Dula? Okay.

10 A Mm-hmm.

11 Q And everybody calls you that; is that right?

12 A Yes, sir.

13 Q Okay. Now, you know, obviously, most of us have aunts,
14 and some, we're closer to than others. Were you close to
15 Torrell?

16 A Yes, very close.

17 Q Okay. How did you find out about him being shot?

18 A I was at work, and I got a call from my sister. And she
19 called me, and she said -- she said --

20 MS. GAY: Your Honor, I object.

21 THE COURT: Sustained.

22 BY MR. OSBORNE:

23 Q You found out that Torrell had been shot from your
24 sister?

25 A Yes.

1 Q And that's Gladys?

2 A Yes.

3 Q Torrell's mom?

4 A Yes.

5 Q Okay. Once you found out that Torrell had been shot,
6 what did you do?

7 A I left from work, and I got -- got to the scene. I got
8 to the house. When I got into the house, his sister and his
9 father was there, and the police and the EMS was there. And
10 he was on the stretcher, so I ran to him. And -- when I ran
11 to him, I asked him what happened. And he was like --

12 MS. GAY: I'm going to object, based on my previous
13 objections.

14 THE COURT: Same ruling.

15 You may proceed.

16 A He was real upset. Real, real upset. And I was trying
17 to calm him down. And I asked him, I said, "What happened?
18 What happened?"

19 And he said, "This dude shot me. This dude shot me."

20 I said, "Who? Who shot you?"

21 He said, "One."

22 I said, "One who? One who?"

23 He said, "A-1."

24 I said, "For what?"

25 He said, "I don't know. I don't know."

1 So I was just trying to keep him calm at that moment.
2 And I just stayed with him right there until they took him to
3 Trident. And I left behind the EMS and I went to Trident
4 where he was at.

5 **Q** Okay. And I'm going to pause this story here for a
6 second, okay, for what happened that night, and I'm going to
7 ask you a couple of questions.

8 At that time, did you have any idea who A-1 was?

9 **A** Yes.

10 **Q** And how was that?

11 **A** I know him previously of being with my two nephews,
12 Lamont and Terrence. And they stay right behind me, so he
13 have to come through by my house to get to their house. So I
14 seen him, like, three to four times out the week.

15 **Q** Okay. And you said Lamont and Terrence. They're your
16 nephews as well?

17 **A** They are my nephews by marriage.

18 **Q** By marriage. Okay.

19 And Lamont stays in a trailer on your property behind
20 you?

21 **A** Yes, sir.

22 **Q** Okay. Now, through A-1 -- well, do you see A-1 in the
23 courtroom here today?

24 **A** Yes, sir.

25 **Q** And can you point him out and describe what he's wearing?

1 **A** He's wearing a gray shirt with a striped tie.

2 **Q** Okay. Now, so you would see -- is that how you got to
3 know him, through him visiting Lamont and Terrence?

4 **A** That's how we got to know him more, but I knew of him
5 previously before that, because two of his nephews or cousins
6 used to ride my bus.

7 **Q** Oh, okay. So you used to be a bus driver?

8 **A** Yes, sir.

9 **Q** Okay. And so he had family that rode your bus?

10 **A** Yes, sir.

11 **Q** Okay. Did you know A-1's spouse?

12 **A** I knew her through work and through Dorchester School
13 District 4 because I worked at Dorchester School District 4.

14 **Q** Any other jobs?

15 **A** I seen her several times at Family Dollar.

16 **Q** Okay. Do you know anyone else named A-1?

17 **A** No, sir.

18 **Q** Okay. So is it fair to say that when Torrell told you
19 that A-1 shot you [verbatim], Torrell didn't need to explain
20 who he was talking about when he said A-1?

21 **A** No, sir.

22 **Q** Okay. All right. So let's get back into the night of
23 the shooting. When Torrell was taken to Trident, did you go
24 to Trident?

25 **A** Yes, sir.

1 Q Okay. Did you go alone or was there someone else with
2 you?

3 A I was alone.

4 Q Okay. Now, when you got to the hospital, were you able
5 to see Torrell before they took him away to work on him or
6 render medical treatment?

7 A Yes. I was able to see him right quickly, because when I
8 got in there, I asked to see James Williams, and they told me
9 they had him in the back. And one of the nurses came out, and
10 they told me they'd let me see -- you know, can you come back?
11 So she came back out and she said, yeah, she can go back.

12 MS. GAY: Your Honor, I would object to all this
13 reference to what the nurses told her.

14 THE COURT: Just to explain, you can't really say what
15 other people told you unless there's an exception.

16 THE WITNESS: Okay.

17 A I got in the back with James, where Torrell was at. I'm
18 not using to calling him Torrell -- James. James. I'm not
19 used to calling him Torrell.

20 So when I got in the back where Torrell was at, he was
21 like real upset, shaking. They had him wrapped up from --
22 everything was wrapped up on him except his face. So when I
23 got in the back, I was, you know, trying to keep him calm. He
24 was still upset, like, "I'm going to die, I'm going to die."
25 You know, I got children. I don't want to leave my children."

1 And I was just trying to keep him calm, keep him from
2 losing more blood than what he was losing. So...

3 **Q** All right. Just take a second. Okay?

4 I'll do a little bit of talking. So, at that time, is it
5 fair to say that he hadn't been seen by a doctor yet?

6 **A** No, sir, he wasn't.

7 **Q** Okay. And Torrell was saying, "I don't want to die"?

8 **A** Yes. He kept saying he didn't want to die, he didn't
9 want to die. And, at one point, he told me to help him. I
10 didn't know what to do.

11 **Q** All right. How long -- and I forgot to ask you this.
12 When you left the scene, you actually -- is it true you
13 actually followed the EMS to the hospital?

14 **A** Yes.

15 **Q** Okay. So you described how he was. You said he was
16 wrapped up in a blanket and he was shaking. Did you have the
17 opportunity to talk to him prior to him being taken away,
18 about what happened to him?

19 **A** Yes, I did.

20 **Q** Okay. And, if you could, just tell the jury what it is
21 that Torrell told you before they took him away.

22 **A** Before they took him away, I talked to him. I asked him
23 what happened. He said he was in his bedroom, and he heard a
24 knock at the door. And he heard the knock at the door. He
25 got up, and he went to the door without his oxygen. And he

1 asked who was it. And he said the voice said, "One, one."

2 And he said, "One who?" He said, "A-1."

3 So he opened the door, and by -- he got into the door
4 without his oxygen. He said he sat on his chair because he
5 was tired. And he said, at that moment, A-1 came in and A-1
6 said he come to get some money. He said he asked, "What
7 money? What money you want, man? I don't have no money for
8 you."

9 And he said, "Come on, man. Go get the money. Lamont
10 and Terrence already told me you had the money."

11 So he said, "I don't have any money."

12 So he proceeding in asking him would he use the restroom.
13 He said he told him, "I can't let you the bathroom, man. I
14 have my family back there."

15 And he said that A-1 walked outside to the car, and he
16 was sitting -- where he was sitting at, he could see the car.
17 And he said he stands by the car, and he said, at that moment,
18 he was getting up to shut the door, and A-1 came back up the
19 step, come back up in the house, and he sat back down on the
20 couch. And his baby, one of his sons was laying behind him,
21 and he was trying to shield, keep from him seeing him.

22 And the baby moved. And when he moved, he said, in his
23 mind, that, oh, God, that man is going to try something with
24 my baby. And he said, at that moment, A-1 put the gun to his
25 head, and he said, "Come on, man, give me the money. Don't

1 make me shoot you."

2 And he said -- at that moment, he said, "Man" -- all he
3 could think about was this man, when he looked back, he saw
4 the baby, and he said, in his mind, all he could think about
5 was this man may try something with my baby.

6 So he got up, and he start to wrestling him to try to
7 push him out of the door. He said, when the gun fell, he
8 reached to get the gun. And he said, when he reached to get
9 the gun, A-1 caught him like this. He caught him like this.
10 He said, "I was helpless." And he said, at that moment, he
11 tried to get away. Then he put the gun at his right side...

12 **Q** Do you need some water? Drink some water.

13 **A** He said, at that moment, he heard the pop but he really
14 didn't know he got shot until after A-1 shot him, that he
15 backed out of the door. And when he backed out of the door,
16 he got up, and he was holding his side. He hollered, "I got
17 shot, I got shot." And, at that moment, his father jumped up,
18 and his father asked who shot him. He said, "A-1."

19 **Q** Ms. Green, were you -- throughout this trial, have you
20 been sitting in the courtroom?

21 **A** Excuse me?

22 **Q** Throughout this entire trial, have you been in another
23 room or have you been sitting in this courtroom?

24 **A** I was sitting in another room.

25 **Q** Okay. Did Torrell say that A-1 took anything from him?

1 **A** No, he didn't say. He didn't say that he took anything
2 from him.

3 **Q** He tried to?

4 **A** He tried to take his money.

5 **Q** Okay. You said that Torrell made the comment that A-1
6 told him that Terrence and Mont already told me that you have
7 the money.

8 **A** Yes.

9 **Q** And those are the two cousins or two nephews, Terrence
10 and Lamont?

11 **A** Yes, sir.

12 **Q** The ones that live right behind you?

13 **A** Yes, sir.

14 **Q** Or used to. I guess Terrence doesn't live there anymore;
15 right?

16 **A** I don't see him.

17 **Q** Okay. All right. Does that information -- okay. So
18 Torrell, he was then taken away to be, I guess, assisted by
19 the hospital.

20 **A** Yes.

21 **Q** Okay. So that's Friday night going into Saturday.

22 **A** Yes.

23 **Q** On the next Sunday, did you see Lamont at your house?

24 **A** I sees Lamont pretty often.

25 **Q** Okay. Well, did you have the occasion to confront Lamont

1 about what he knew?

2 A I did. I did.

3 Q All right. And was this at your trailer or on your
4 property?

5 A It was on my property.

6 Q Okay. And what did you say to Lamont?

7 A I walked up to Lamont, and I said, "Lamont," I said -- I
8 said, "I just want to know what happened, what you know. Just
9 tell me what you know. That's all I want to know, what you
10 know. I don't know whether you have been there. I don't
11 know. But I just want to know what you know, you know, at
12 this moment. What did you know?"

13 So he told me --

14 MS. GAY: Your Honor, I would object at this point.

15 THE COURT: Yes, ma'am. It's hearsay.

16 MR. OSBORNE: We're using extrinsic evidence to impeach
17 Lamont's statement.

18 THE COURT: All right. You may do so.

19 MR. OSBORNE: Okay.

20 BY MR. OSBORNE:

21 Q So when you confronted Lamont -- before Lamont -- before
22 you say what Lamont says, did Lamont indicate that he had a
23 conversation, yes or no, with the defendant?

24 Well, let me ask it to you another way. What did Lamont
25 say?

1 MS. GAY: I still want to object, Your Honor. I realize
2 that you're overruling, but I'm going to object.

3 THE COURT: Yes, ma'am. For the record, the same ruling
4 applies.

5 **A** I asked Lamont what did he know. Lamont told me that he
6 know -- he told me he wasn't in the car. He wasn't there. He
7 wasn't in the car. But he told me that -- he told me that --
8 I don't believe he told me that A-1 told him he shot Torrell.
9 He told me that he didn't have to do it. He didn't have to
10 shoot Torrell. He didn't really have to shoot, you know,
11 shoot the man.

12 BY MR. OSBORNE:

13 **Q** Did he indicate why?

14 **A** Because he said the man -- Torrell was -- he could have
15 just pushed him down or just (indiscernible) on him and got
16 what he wanted.

17 **Q** Okay. But he didn't tell you about a conversation he had
18 at the softball field with A-1?

19 If you don't remember, that's okay.

20 MR. OSBORNE: All right. No further questions.

21 THE COURT: Cross-examination?

22 MS. GAY: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. GAY:

25 **Q** Hey, how are you today? My name is Melisa Gay.

1 **A** Fine.

2 **Q** All right. So there's a whole lot we need to talk about
3 here.

4 Let's go to the night of the incident that happened. It
5 was two-something in the morning, and I think your testimony
6 on direct was that you were at work? Where do you work at
7 2:00 in the morning.

8 **A** I was doing home health.

9 **Q** And so you're aware, based on the fact that you do home
10 health, that Mr. -- that your nephew, Torrell, had cirrhosis
11 of the liver?

12 **A** Yes.

13 **Q** And cirrhosis of the liver is liver damage usually from
14 some type of excessive drinking and that's what causes
15 cirrhosis of the liver?

16 **A** Yes.

17 **Q** So the -- so, that night, two-ish in the morning when all
18 this happened, you said your sister, who was the mother,
19 Gladys, called you and said for you to come over and you came.
20 How far was it from your place to their place?

21 **A** Probably five, seven minutes.

22 **Q** That close? Okay.

23 And, then, when you got there, there was a police officer
24 there, and his name is Contino. Do you remember talking to
25 him?

1 **A** No, sir -- no, ma'am.

2 **Q** So you do not remember talking to him at the scene?

3 **A** (No audible response.)

4 **Q** And so that kind of goes into my next set of questions is
5 that you never actually met with him either that day or the
6 next day or even the next day to do what we call give a
7 written statement, tell them what you saw and what you know?

8 **A** No.

9 **Q** Yet, in your testimony, you say that, while you were
10 there, your nephew was making statements to you about what had
11 happened and how A-1 had shot him at the time of -- the night
12 of. Is that right?

13 **A** Yes.

14 **Q** But you didn't ever talk to this officer, who was the
15 person -- the detective that was out there talking to people,
16 you never actually talked to him on that night to tell him
17 what your nephew may have said to you?

18 **A** I never talked to him because of the fact that my sister
19 and her husband was speaking to him.

20 **Q** Okay. So other people were talking to him, but you
21 didn't talk to him and you never did sign a written statement
22 about what you heard that night?

23 **A** Not to him.

24 **Q** Okay. And, so, then we move on through this case, and,
25 at some point, I think you met with the detective -- the lead

1 detective in this case whose name is Mr. Easterlin --

2 Detective Easterlin. This man right there. You talked to him
3 before?

4 **A** Yes.

5 **Q** Okay. And, at the time that you talked to him -- let's
6 go back to what you testified. You testified to Mr. Osborne
7 that you knew A-1 by sight, you have seen him a number of
8 times, you mentioned three or four times a week while he was
9 over there meeting with your relatives on your property?

10 **A** True.

11 **Q** Okay. Do you recall, when you met with Mr. Easterlin --
12 Detective Easterlin, that he asked you if you could identify
13 him?

14 **A** Yes.

15 **Q** And that he gave you a photo lineup, but you could not
16 identify him from the photo lineup?

17 **A** I didn't knew him with no hair. I only knew him with
18 braids.

19 **Q** But --

20 **A** At that --

21 **Q** Same thing: You were shown pictures of people?

22 **A** Mm-hmm.

23 **Q** And you didn't pick anybody out?

24 **A** No, because I didn't recognize him without the braids and
25 the glasses.

1 Q I understand that but you didn't pick anybody out. You
2 didn't say, "That's Ivington Allen"?

3 A No.

4 Q You did not do that?

5 A No.

6 Q Okay. So, then, in your conversation with Mr. -- with
7 Detective Easterlin, you mentioned some comment that your
8 nephew made to you, but you mentioned that those comments that
9 were made to you were made at the hospital. Do you recall
10 that?

11 A He made them at the hospital and he made them at the
12 house before he left.

13 Q But you remember not telling Detective Easterlin that he
14 made statements at the house and just telling him that he made
15 statements at the hospital?

16 A He -- I told him -- when he asked me, I told him what he
17 told me before he left, and I told him what he told -- asked
18 me at the hospital.

19 Q Okay. I know that's what you're testifying to today in
20 2022. I know that. I know that you are saying under oath
21 that you had a conversation with your nephew in 2018 at the
22 house and at the hospital, but I just want to ask you that, if
23 Mr. Easterlin's notes do not reflect that you told him
24 anything at the house -- do you really remember that? I know
25 that you're trying --

1 MR. OSBORNE: Objection. Compound. Pitting.

2 Argumentative. Asked and answered.

3 THE COURT: Sustained.

4 BY MS. GAY:

5 Q What I'm asking is, is that the conversation that you had
6 with your nephew at the house involved him identifying Mr. --
7 the shooter as A-1 and lots of details that you have provided
8 to us.

9 A Mm-hmm.

10 Q And you said that he said all this business about and
11 statements about being afraid for his son's safety and that he
12 got up, that he -- you said, at one point, that the gun
13 dropped, the gun fell. You said that on direct; correct?

14 A Yes, ma'am.

15 Q And, then, you said that he had said that the gunshot was
16 in his stomach, not his head or his heart.

17 A To his right side.

18 Q Right side. On the (indiscernible)?

19 A Well, to the area where the liver was at.

20 Q The liver. Yes, ma'am.

21 And, then, you said that -- your testimony is that your
22 nephew -- and I think Mr. Osborne specifically said you were
23 outside of this room and you have not listened to any other
24 testimony in this case. Your nephew, Lamont, said to you
25 that -- some comments about what A-1 was supposed to have said

1 to him about this incident.

2 **A** I just couldn't remember.

3 MS. GAY: Okay. I have no further questions.

4 THE COURT: Any redirect?

5 MR. OSBORNE: Yes, Your Honor. Briefly.

6 REDIRECT EXAMINATION

7 BY MR. OSBORNE:

8 **Q** Okay. So you spoke to Detective Easterlin on Saturday;
9 is that correct? The shooting happened Friday night.
10 Saturday?

11 **A** Yes.

12 **Q** Okay. And, at the time you spoke to Detective Easterlin
13 on Saturday -- let's just cover the Lamont thing first. You
14 hadn't even talked to Lamont yet, because that was the next
15 day; right?

16 **A** Yes.

17 **Q** On Sunday. Okay.

18 On Saturday, Torrell is still alive; right?

19 **A** Yes.

20 **Q** And you were aware -- not to get into what he said, but
21 you're aware that Torrell is talking to --

22 **A** Torrell is also talking to the detectives himself.

23 **Q** Well, that's what I'm getting at. So he's talking to the
24 detectives.

25 **A** Yes.

1 Q Right. Okay. So I guess if he wanted to know what
2 happened, he could, at that point, literally just ask Torrell.

3 A Yes.

4 Q Okay. All right.

5 MR. OSBORNE: No further questions.

6 THE COURT: You may step down, ma'am.

7 You may call your next witness. Oh, hold on.

8 MR. OSBORNE: I'd ask this witness be released as well.

9 THE COURT: Yes, ma'am. Do y'all need a comfort break?

10 MS. GAY: That would be great.

11 THE COURT: All right. So I think everyone needs a brief
12 break.

13 If you would please go into your jury room. Please
14 remember my previous instruction not to discuss this case
15 amongst yourselves. We'll be right back with you after our
16 morning break.

17 (The jury exited the courtroom at 11:16 a.m.)

18 THE COURT: All right. We'll be at recess. Let's take
19 about a 15-minute break.

20 MR. OSBORNE: And, Your Honor, just for planning
21 purposes --

22 THE COURT: Yes, sir.

23 MR. OSBORNE: -- we have -- next, we were going to call
24 the defendant's wife. And then the next witness after that
25 would be -- we were hoping to do other witnesses, but we

1 weren't anticipating doing just that. We could call Chaz
2 Easterlin, but I'm thinking he's going to be quite long, maybe
3 after we get done with Andreana, if you're okay with taking a
4 break and then we'll go (indiscernible).

5 THE COURT: Sure, that's fine.

6 MS. GAY: And, Your Honor, the medical examiner is coming
7 in this afternoon.

8 THE COURT: Sure.

9 MS. GAY: All right. (Indiscernible).

10 THE COURT: Did you work out your 609 issues, by any
11 chance?

12 MS. GAY: Do what?

13 THE COURT: Your 609, if your client decides to testify.
14 Have y'all talked about the 609 issues?

15 MS. GAY: (Indiscernible).

16 THE COURT: Okay.

17 (A brief recess was taken at 11:17 a.m. to 11:40 a.m.)

18 THE COURT: -- proceed?

19 MR. OSBORNE: Yes, Your Honor.

20 MS. GAY: Your Honor, we have a preliminary matter we
21 would like to have -- before the jury is brought in.

22 Ms. Allen, as we know, wants to assert spousal immunity, and
23 we would just ask that she be brought in and put that on the
24 record before the jury comes in.

25 THE COURT: Yes, ma'am.

1 So we can go ahead and have her on the witness stand.

2 THE BAILIFF: Okay.

3 ANDREANA ALLEN

4 after having been duly sworn, was examined and testified
5 to as follows:

6 THE COURT: Good morning, Ms. Allen.

7 THE WITNESS: Good morning.

8 THE COURT: Ms. Allen, you have been sworn in.

9 Ms. Gay tells me that you're wishing to assert a spousal
10 privilege. There has been some previous pretrial rulings
11 regarding your request, and South Carolina does not protect
12 certain questions that the solicitor intends on asking you.
13 That is not covered by the spousal privilege. That motion has
14 been denied.

15 So you are here to testify truthfully. I understand that
16 you have been sworn in.

17 Ready for our jury? Anything further?

18 MS. GAY: Well, Your Honor, you have -- she asserted
19 privilege, I said, that's on her behalf, that she'd like to
20 assert a privilege. I'm just renewing my in limine motion
21 that we had.

22 THE COURT: Yes, ma'am. And for the same reasons as
23 articulated previously, that motion is overruled.

24 MS. GAY: Okay.

25 THE COURT: All right. Let's have our jury, please.

1 (The jury entered the courtroom at 11:43 a.m.)

2 THE COURT: Welcome back, ladies and gentlemen of the
3 jury. We're now ready to proceed.

4 You may call your next witness.

5 MR. OSBORNE: The State calls Andreana Allen.

6 (Andreana Allen was re-sworn by the clerk.)

7 THE COURT: Your witness.

8 DIRECT EXAMINATION

9 BY MR. OSBORNE:

10 Q Ms. Allen, if you could, just pull that microphone up
11 closer to you, and just speak louder than you normally would
12 in a conversation.

13 Ms. Allen, what is your relationship to the defendant in
14 this case?

15 A His wife.

16 Q Okay. And you still speak with him frequently; is that
17 fair to say?

18 A Yes.

19 Q Okay. And I know you don't want to testify here;
20 correct?

21 A That's correct.

22 Q All right. I'll be quick. All right?

23 Now, I know you call him Danny (ph), but what do friends
24 call him?

25 A He has a stage name, A-1.

1 Q Stage name?

2 A Yes, sir.

3 Q He does a little music work, I guess? Rapping on the
4 side?

5 A Yes.

6 Q Okay. And where do you work?

7 A I work with Dorchester School District 4 and Family
8 Dollar.

9 Q In April of 2018, where did you live?

10 A [REDACTED] Edisto River Road, St. George.

11 Q Edisto River Road? I'm sorry?

12 A St. George.

13 Q Okay. And during the time frame -- you may still have
14 it; I'm not sure. During the time frame of the shooting, what
15 was your work phone number?

16 A (843) 636-4017.

17 Q Okay. And what was your personal cell phone number?

18 A I don't remember that number offhand because I just
19 recently changed it prior to the number you may have.

20 Q Okay. I understand.

21 Would it help refresh your recollection if I was to show
22 you your written statement?

23 A That would be extra possibly, if you have that.

24 Q Okay.

25 (Counsel conferring off the record.)

1 MR. OSBORNE: Your Honor, may I approach?

2 THE COURT: Yes, sir.

3 BY MR. OSBORNE:

4 Q And what was your number back then? What was that phone
5 number?

6 A (843) 560-4731.

7 Q 4731? Thank you.

8 Now, at the time of the shooting, you weren't using your
9 personal phone; is that correct?

10 A That is correct.

11 Q And who was using your phone?

12 A My husband had left with it earlier that week with it.

13 Q With that phone?

14 A Yes.

15 Q Okay. And, you know, just to sort of, I guess,
16 double-down on that a little bit, so if you wanted to get in
17 touch with him that week, you would actually be calling your
18 own phone because he had it?

19 A Yes.

20 Q Okay.

21 (Counsel conferring off the record.)

22 MS. OSBORNE: Your Honor, may I approach?

23 THE COURT: Yes, sir.

24 (State's Exhibit No. 27, Photo of Lawrence, was marked
25 for identification.)

1 BY MR. OSBORNE:

2 Q All right. I'm showing you for ID purposes only -- well,
3 you know what? I'll just go ahead and show -- I'll show 27
4 first, for ID purposes only. Do you recognize that man right
5 there?

6 A Yes.

7 Q Okay. And how is it that you recognize him?

8 A I did, I guess, print work or card work for him and his
9 girlfriend for a club that they managed.

10 Q Okay. So you did some work -- he was working at a club?

11 A Yes.

12 Q And you did some work for him?

13 A Print work. Like printing the signs. Making the signs
14 or cards that they needed.

15 Q Okay. And what's his name?

16 A Lawrence.

17 Q Lawrence? Do you know his last name?

18 A I don't recall. I just remember Lawrence.

19 Q Okay. Were Lawrence and your husband friends?

20 A I don't know if they were friends.

21 Q Okay. But around the time frame of the shooting, would
22 you sometimes call him to get in touch with your husband?

23 A If I thought he might have been near the club, yes.

24 Q Okay. So you would have had his number back then?

25 A (Witness nodding affirmatively.)

1 Q Okay. All right. So that -- I know you don't know this,
2 but on the weekend of the shooting -- the shooting happened
3 Friday right going into the early morning hours of Saturday.
4 On Saturday night, did your daughter have an event that she
5 was going to?

6 A Yes.

7 Q And what was that?

8 A They were having high school prom.

9 Q Okay. And did the defendant come by your home that
10 afternoon prior to the prom?

11 A Yes.

12 Q Okay. So the night before, Friday night, did you speak
13 to the defendant -- did you call your phone and speak to your
14 husband?

15 A I was checking to see if he was still going to be coming
16 in, yes.

17 Q Okay. So you did. About what time was that?

18 A It was after 12:00. Maybe 12, 1:00. 12:00, 1:00.

19 Q Okay. So 12:00 at night, 1:00 in the morning, you called
20 him to see if he was going to the prom the following day?

21 A Right -- well, that he would be coming.

22 Q All right. When you spoke to him, was -- how should I
23 say it? Was his voice, was it elevated or was he whispering?

24 MS. GAY: Your Honor, I would object to leading at this
25 point. Just ask her how did he sound.

1 MR. OSBORNE: Well, I -- I'm trying to lead her to avoid
2 communication.

3 THE COURT: Don't say what was said, ma'am, but can you
4 describe it? Can you rephrase as to the description of how it
5 was --

6 A Just kind of low tone, I can assume.

7 BY MR. OSBORNE:

8 Q It was a low tone? All right.

9 A Not yelling.

10 Q Okay. Do you remember telling me and Investigator Hopp
11 that he was just kind of -- just (indiscernible) over the
12 phone?

13 A Well, it sounded like y'all would say he was somewhat in
14 fear, yeah.

15 Q All right. No further questions. Thank you, Ms. Allen.

16 THE COURT: Cross-examination?

17 MS. GAY: One moment, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. GAY:

20 Q Hey, how are you? I'm Melisa Gay.

21 Your name is actually pronounced "Ah-dree-na"?

22 A "Ah-dree-na."

23 Q "Ah-dree-na" Allen?

24 A Yes.

25 MS. GAY: I have no further questions.

1 THE COURT: You may step down, ma'am. Thank you.
2 Counsel approach.

3 BENCH CONFERENCE

4 (The following bench conference was held outside the hearing
5 of the jury and others.)

6 (Discussion at bench inaudible.)

7 MR. OSBORNE: Oh, I'm sorry. May Ms. Allen be released
8 as well?

9 THE COURT: Any objection?

10 MS. GAY: No, ma'am. I do not question (indiscernible).

11 THE COURT: Ms. Allen, you're welcome to stay in the
12 courtroom.

13 BENCH CONFERENCE

14 (The following bench conference was held outside the hearing
15 of the jury and others.)

16 (Discussion at bench inaudible.)

17 THE COURT: Ladies and gentlemen of the jury, it's almost
18 12:00. I'm going to go a little bit early for your lunch
19 break. We need to schedule some witnesses and in order to get
20 that done in a timely manner, we'll go ahead and take our
21 lunch break. If you can be back here a few minutes before
22 1:00, we'll resume with the trial of this case.

23 Please remember my previous instruction not to discuss
24 this testimony -- this case with anyone or allow anyone to
25 discuss it with you.

1 Have a nice lunch, and we'll see you right about 1:00.

2 THE BAILIFF: Jury is going to lunch.

3 (The jury exited the courtroom at 11:51 a.m.)

4 THE COURT: We'll recess until about 1:00.

5 (A lunch recess was taken from 11:52 a.m. to 1:21 p.m.)

6 THE COURT: All right. Are you ready to proceed?

7 MR. OSBORNE: Just one quick matter, Judge, because I
8 think we're going to get to Detective Easterlin pretty
9 quickly.

10 So we have introduced a lot of the victims' statements
11 under the excited utterance exception. The victim spoke to
12 Detective Easterlin at least twice, maybe three more times
13 after that, that we have not sought to introduce. I don't
14 mind playing it at the (indiscernible). I'd press play to all
15 of them, play all the body worn. I just want to make sure
16 that, obviously, the defense can ask certain things, but
17 they're asking things that the victim said, that I would be
18 seeking under the rule of completeness to clarify the entire
19 statement.

20 MS. GAY: Your Honor, I don't intend to ask Mr. Easterlin
21 anything about what the victim says.

22 MR. OSBORNE: Okay.

23 MS. GAY: I mean, I intend to ask him lots of things
24 about his investigation and stuff but not what the victim
25 said.

1 THE COURT: Fair enough.

2 All right. Let's have our jury, please.

3 (The jury entered the courtroom at 1:26 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen of the
5 jury. We're now ready to proceed.

6 You may call your next witness, Solicitor.

7 MR. OSBORNE: Thank you, Judge. The State would call
8 Marie Waring (ph) to the stand.

9 THE CLERK: If you'd put your left hand on the Bible and
10 raise your right hand. State your full name.

11 THE WITNESS: Marie Waring (ph).

12 MARIE WARING,

13 after having been duly sworn, was examined and testified
14 to as follows:

15 THE CLERK: Have a seat in that chair and speak into both
16 of those microphones.

17 THE WITNESS: Okay.

18 THE COURT: Your witness?

19 MR. OSBORNE: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. OSBORNE:

22 Q Ms. Waring, if you are comfortable taking your mask off,
23 you can do so.

24 A Okay.

25 Q Thank you for being here this afternoon.

1 Can you tell me where you're employed?

2 **A** At South Carolina Department of Motor Vehicles.

3 **Q** And how long have you been employed there?

4 **A** For 33 years.

5 **Q** And what is your current position there with the DMV?

6 **A** A supervisor of drivers' records.

7 **Q** Can you tell me what kind of records are kept by the
8 South Carolina DMV?

9 **A** It's certified drivers record of the individual driver's
10 licenses.

11 **Q** And do those records typically contain the address of
12 individuals who have driver's license, ID card, that sort of
13 thing?

14 **A** Yes.

15 **Q** And Ms. Waring, I'm going to show you what has been
16 marked as State's Exhibit 17, 18, 19, and 27 for
17 identification only.

18 And can you tell me if you recognize those?

19 **A** Yes.

20 **Q** Tell me what they are.

21 **A** This is a ten-year driver's record.

22 **Q** And have you had the opportunity to review these records?

23 **A** Yes.

24 **Q** And were these records created at or near the time the
25 person was issued a license or renews a license or modifies

1 their license?

2 **A** Yes.

3 **Q** And is it the regular practice of the DMV to keep records
4 such as this?

5 **A** Yes.

6 **Q** And are these records kept in the normal case of DMV
7 business?

8 **A** Correct.

9 **Q** And Ms. Waring, would you please state the names and the
10 addresses of the individuals that are listed on those records?

11 **A** Andreana Allen, [REDACTED] Edisto River, St. George, South
12 Carolina 29477.

13 **Q** And that's --

14 MR. OSBORNE: And, Your Honor, for the record, that is
15 State's 17.

16 BY MR. OSBORNE:

17 **Q** And, Ms. Waring, if you would state the name of the
18 individual and the address listed on State's 18, please.

19 **A** Ivington Daniel Allen, [REDACTED] Edisto River Drive -- Road,
20 St. George, South Carolina 29477.

21 **Q** And the same for State's 19.

22 **A** Yes.

23 **Q** Would you list the name and the address?

24 **A** Yes. Oh the next one?

25 **Q** Yes, ma'am.

1 **A** Okay. Kalesia Danielle Adams, [REDACTED] Edisto River Road,
2 St. George, South Carolina 29477.

3 **Q** And would you list the name of the individual and the
4 address on State's 27?

5 **A** Lawrence Richardson Cox, 86 Rail Street, Bowman, South
6 Carolina 29018.

7 **Q** Thank you.

8 MR. OSBORNE: Your Honor, I don't have any further
9 questions.

10 THE COURT: Cross-examination?

11 MS. GAY: I would just like to see the documents.

12 Okay. One second, Your Honor.

13 I have no questions of this witness.

14 THE COURT: Ma'am, you may step down.

15 MR. OSBORNE: And, Your Honor, may this witness be
16 excused?

17 THE COURT: Any objection?

18 MS. GAY: No objection, Your Honor.

19 THE COURT: You're free to go, ma'am.

20 THE WITNESS: Thank you.

21 THE COURT: You may call your next witness.

22 MR. OSBORNE: Thank you, Your Honor. The State would
23 call Deputy Charlie Nicholson to the stand.

24 THE CLERK: Please place your left hand on the Bible and
25 raise your right hand. State your full name.

1 THE WITNESS: Charlie Nicholson.

2 DEPUTY CHARLIE NICHOLSON,

3 after having been duly sworn, was examined and testified
4 to as follows:

5 THE COURT: Your witness.

6 MR. OSBORNE: Thank you, Judge.

7 DIRECT EXAMINATION

8 BY MR. OSBORNE:

9 Q Deputy Nicholson, thank you for being here today.

10 Will you tell us where you're currently employed.

11 A Union County Sheriff's Department.

12 Q And have you held any other -- excuse me. Have you had
13 any other positions in law enforcement?

14 A Yes, sir, I have.

15 Q And what were those?

16 A My (indiscernible) was a South Carolina Highway Patrol
17 from 2015 to 2021.

18 Q And what was your position with the highway patrol?

19 A I was a trooper with the rank of lance corporal.

20 Q And what is your position with the Union County Sheriff's
21 Office?

22 A Just a road deputy.

23 Q So that would mean that, on January 30th of 2019, you
24 were a highway patrolman; correct?

25 A Yes, sir.

1 Q And did you have to conduct a traffic stop that involved
2 the defendant in this case on that day?

3 A Yes, sir.

4 Q And to the best of your recollection, how many people
5 were in the car at that time?

6 A There were two individuals in the car.

7 Q Were you equipped with a body camera or a dash camera at
8 the time?

9 A The only thing I had was a dash cam. I wasn't issued a
10 body camera at that point in time.

11 Q Who was the first person you spoke to on the date of the
12 traffic stop?

13 A It was the driver.

14 Q And did you ever see the passenger?

15 A Yes, sir, I did.

16 Q Did you check the passenger's license?

17 A Yes, sir.

18 Q And let me ask you why you would have needed to check the
19 passenger's information.

20 A When I obtained the driver's actual license, I noticed it
21 was a beginner's permit, so I approach the passenger to get
22 his license, to make sure he was a licensed driver with the
23 State.

24 Q Did the passenger have one?

25 A Yes, sir.

1 Q And you saw one?

2 A Yes, sir.

3 Q Did you notice there was anything peculiar about the
4 license?

5 A Yes, sir, I noticed, when I first looked at it, there was
6 a gut feeling, so I looked at it closer and I noticed it was a
7 fake ID.

8 Q And how are you sure it was fake?

9 A My attention drew to the upper left corner where the
10 license number is, and it started with a 4, and those are too
11 high numbers to have a license in this state.

12 (State's Exhibit No. 29, DVD, was marked for
13 identification.)

14 (State's Exhibit No. 30, DVD was marked for
15 identification.)

16 (State's Exhibit No. 31, Lee Tommy Smith Driver's
17 License, was marked for identification.)

18 BY MR. OSBORNE:

19 Q Deputy, I'm going to show you what's marked as State's 29
20 and also State's 30. And also, excuse me, State's 31. Tell
21 me if you recognize these.

22 A Yes, sir.

23 Q And can you tell me what these are?

24 A The picture is a picture of the license he gave me, and
25 the other two are discs of the stop from that night.

1 Q All right. And how do you know that's what these are?

2 A That's -- I saw the discs before entering into the court
3 and I initialled them.

4 MR. OSBORNE: Your Honor, at this time, I would seek to
5 enter State's 30 and 31 into evidence.

6 THE COURT: And is that the disc or the picture?

7 MR. OSBORNE: 30 is the disc and 31 is the picture. And
8 I showed Deputy Nicholson State's 29. That's for
9 identification purposes only.

10 THE COURT: Any objection?

11 MS. GAY: Okay. Your Honor, with regard to these items,
12 I had made an objection and we need just to preserve that
13 objection. And with regard to No. 31, I understand that's to
14 be admitted.

15 With regard to 30, I just want to confirm with
16 Mr. Osborne for just a second.

17 THE COURT: Yes, ma'am.

18 (Counsel conferring off the record.)

19 MS. GAY: I just conferred with Mr. Osborne. Subject to
20 my previous objection, No. 30 and 31, Your Honor.

21 THE COURT: And the same ruling applies as previously
22 articulated.

23 (State's Exhibit No. 30 was received into evidence.)

24 (State's Exhibit No. 31 was received into evidence.)

25 THE COURT: You may proceed.

1 MR. OSBORNE: And, Your Honor, may I publish State's 30?

2 THE COURT: Yes, sir.

3 (Video plays.)

4 BY MR. OSBORNE:

5 Q And, Deputy, before we get too far into this video, can
6 you just tell me kind of (indiscernible) and tell us
7 (indiscernible).

8 A Yes, sir. Right here is where I first stopped the
9 vehicle. I'm approaching the driver's side to obtain the --
10 her license, the vehicle information, and explain the reason
11 for the stop.

12 (Video continues to play.)

13 BY MR. OSBORNE:

14 Q And, Deputy Nicholson, when you asked -- who were you
15 speaking to when you asked for their licenses?

16 A At this point in time, all my focus had to go -- I'm
17 sorry -- I'm asking the passenger for the information.

18 Q So you were on the driver's side, speaking to the
19 passenger?

20 A Yes, sir.

21 (Video continues to play.)

22 MR. OSBORNE: And, Your Honor, permission to publish
23 State's 30.

24 THE COURT: Yes, sir.

25

1 BY MR. OSBORNE:

2 Q All right, Deputy Nicholson, was that the ID that was
3 presented to you --

4 A Yes, sir.

5 Q -- from the passenger of that vehicle?

6 And after you determined that it was a fake ID, did he,
7 at any point, mention what his real name was?

8 A Yes, sir. After several times of going back and forth to
9 the vehicle, he eventually gave me his full -- his real name.

10 Q And it was?

11 A Ivington Allen.

12 Q Did he ever mention at any point what he did as far as
13 work?

14 A He told me he was a musician and a recording artist.

15 Q And did you ever request backup during this time?

16 A Yes, sir, I did.

17 Q And can you tell me why?

18 A Yes, sir. Whenever he eventually gave me his real name
19 and date of birth, I did run it through NCIC, and that's when
20 I --

21 MS. GAY: Your Honor, I may need to object at this stage.

22 MR. OSBORNE: Your Honor, that's fine. I'll withdraw the
23 question.

24 THE COURT: All right.

25 MR. OSBORNE: And, Your Honor, I don't believe I have any

1 further questions.

2 THE COURT: All right. Cross-examination?

3 MS. GAY: I have no questions for this witness. I'm not
4 at all opposed for him being (indiscernible).

5 THE COURT: You're free to step down, sir. Thank you.

6 Solicitor, are you requesting that he be released from
7 his subpoena?

8 MR. OSBORNE: I'm sorry?

9 THE COURT: Is he okay to be released from his subpoena?

10 MR. OSBORNE: He is, Your Honor.

11 THE COURT: You're free to go, sir. Thank you.

12 You may call your next witness.

13 MR. OSBORNE: The State calls Detective Chaz Easterlin.

14 THE CLERK: Please place your left hand on the Bible and
15 raise your right hand and state your full name.

16 THE WITNESS: Chaz Easterlin.

17 DETECTIVE CHAZ EASTERLIN,

18 after having been duly sworn, was examined and testified

19 to as follows:

20 THE COURT: Your witness?

21 MR. OSBORNE: Thank you, Judge.

22 DIRECT EXAMINATION

23 BY MR. OSBORNE:

24 Q Detective, before I get into anything else, let me just
25 ask you this. What was your role in this investigation?

1 **A** I was the lead investigator assigned to the case from
2 onset.

3 **Q** And just on that video that we last watched, was that
4 when the defendant was arrested on warrants that you obtained?

5 **A** That's correct.

6 **Q** Okay. Where do you currently work?

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

8 **Q** Okay. Have you had any other jobs in law enforcement?

9 **A** I have. I have worked for the Summerville Police
10 Department as well.

11 **Q** And how long were you with them?

12 **A** I worked for the Summerville Police Department from 2013
13 until 2016.

14 **Q** And what were some of your assignments or duties while
15 you were with Summerville?

16 **A** I was assigned to the patrol division and then I was
17 transferred to Investigations about a year and a half now.

18 **Q** Okay. And then you left from there and went to
19 Dorchester?

20 **A** Correct, a lateral transfer to Dorchester Investigations.

21 **Q** All right. Other than investigations -- well, I guess,
22 what had been some of your ranks, or had you worked your way
23 up?

24 **A** Correct. Patrolman First Class after, you know, just a
25 police officer and then promotion to corporal and then to

1 detective and sergeant.

2 **Q** And that's your rank now?

3 **A** Correct, yes, sir.

4 **Q** Sergeant?

5 **A** Yes, sir.

6 **Q** What is your educational background?

7 **A** I have got a bachelor's degree in criminal justice from
8 Charleston Southern University with a minor emphasis in
9 pre-law.

10 **Q** You said that your role in this case, you were the lead
11 detective or case management, so, you know, it's not
12 (indiscernible). Explain to the jury what are some of your
13 duties and responsibilities as the lead detective assigned to
14 a case?

15 **A** Typically when a major event occurs, the lead
16 investigator is called out, along with a slew of other
17 detectives that are -- the lead detective assigns assignments
18 to -- more so as the person who heads the investigation and
19 did these assignments, if you will.

20 **Q** In the beginning, it's sort of "all hands on deck"?

21 **A** Very much so.

22 **Q** Especially with a case like this?

23 **A** Correct.

24 **Q** All right. What time did you arrive on-scene, on the
25 scene of this incident?

1 **A** On the night of the 18th of 2018, of April, I got there
2 3:20, 3:30 in the morning, something about there.

3 **Q** Okay. So not long. And I think we have already heard
4 testimony that the 911 came in at 2:55. So you got there
5 pretty quick.

6 **A** I did. I had lived fairly close to the incident location
7 at the time, so I was -- my commute was very short. I just
8 needed to get dressed and respond.

9 **Q** Okay. Because you weren't working that night?

10 **A** I was not. I was on call, but I was not actively
11 working. There was not a shift, per se.

12 **Q** Okay. By the time you got to the incident location, was
13 the victim still there, or had he already been transported?

14 **A** The victim was already transported at that time.

15 **Q** Okay. All right. Tell the jury what happened, what you
16 did, what you saw when you got to the scene.

17 **A** I arrived on the scene. I made contact with the
18 responding deputies. ~~I obtained a synopsis of events as was~~
19 relayed to me when I was initially called out. I gathered
20 facts that it was a shooting and that there was a person shot,
21 sustained a gunshot wound injury, that was not deceased. He
22 was being transported.

23 I then made contact with the family members that were
24 present on-scene.

25 **Q** Okay. Deputy Contino said this kind of quick, but it was

1 112 Blackies Park Road? That's the incident location?

2 **A** Correct. 112 Blackies Park Road. I believe it's a
3 Harleyville address.

4 **Q** Okay. In Dorchester County?

5 **A** Yes, sir.

6 **Q** So we have also heard testimony that it was a
7 through-and-through wound?

8 **A** Yes.

9 **Q** And did you make any attempt to locate projectiles?

10 **A** We did.

11 **Q** And, you know, I'm going not to have any firearms guy
12 testify, but projectile, that's the actual bullet; right?

13 **A** The medium that comes out of the firearm when it's
14 discharged.

15 **Q** Okay. Did you find any bullets?

16 **A** We did not.

17 **Q** Okay. And fired shell casings, when you have
18 semi-automatics, when you get the fired shell casings that
19 ejects from the (indiscernible) gun?

20 **A** Correct.

21 **Q** Did y'all find any fired shell casings?

22 **A** We did not.

23 **Q** Is that something, through your training and experience
24 as a violent crimes detective, is that unusual?

25 **A** It's not. Whether it be a matter of, you know, fire

1 trucks, EMS, buses, you know, boots-on-the-ground persons that
2 are actively attending to those that might be injured, it's
3 easy to suggest that, you know, it may have either been
4 collected in the tread of a tire, potentially on the boot of
5 someone on the ground assisting. Various -- it's not
6 uncommon.

7 Q Okay. And kick or stick to the shoes?

8 A Correct.

9 Q All right. You said witnesses were being interviewed.
10 Without getting into what anyone specifically said, did you
11 speak to anyone -- any of these individuals on the scene?

12 A I did. I spoke to someone I identified as Marlana Boyd.
13 She was the girlfriend of the victim. Spoke to the victim's
14 father, both of whom were inside the residence. I then made
15 contact with the victim's sister and as well as the victim's
16 mother on the scene.

17 Q Okay. After conducting these interviews and early on in
18 the case, did you have a suspect of interest or a nickname?

19 A Correct. Almost immediately, there while on the scene,
20 we identified the person's nickname to be A-1 and then later
21 identified him to be Ivington Daniel Allen based off of that
22 initial nickname.

23 Q Now, don't say what Torrell said, but did you or former
24 Deputy Wright have the occasion to speak to him -- to the
25 victim at the hospital?

1 **A** Sergeant Smith?

2 **Q** Oh, Smith. I'm sorry.

3 **A** So, yes, both of us had contact with the victim there
4 after the initial incident.

5 **Q** Okay. And, you know, going into this, did you -- you
6 spoke to Torrell himself, correct, the following morning?

7 **A** I did.

8 **Q** Okay.

9 **A** It might have been the afternoon. I spoke to him the
10 following few hours proceeding thereafter.

11 **Q** Going into Saturday?

12 **A** Correct.

13 **Q** Okay. Now, did the investigation progress at that point
14 to you obtaining a warrant for the defendant's arrest?

15 **A** It did, yes.

16 **Q** Okay. Is it typical of Dorchester County Sheriff's
17 Office protocol to notify the victims of a crime when warrants
18 are obtained against an individual who committed the crime
19 against them?

20 **A** Absolutely.

21 **Q** And was that done in this case?

22 **A** It was initially, and an arrest warrant was sought for
23 attempted murder because Mr. Williams was alive at the time,
24 so we sought an initial arrest warrant for attempted murder
25 and notified him of the same.

1 Q Okay. All right. And you notified Torrell of that?

2 A Yes, correct.

3 Q Okay. And, so, with these attempted -- with the
4 attempted murder warrant in hand, did you make any attempts to
5 locate the defendant?

6 A The warrants would have been forwarded to our warrants
7 division, the active warrants, placed into NCIC and, thus,
8 that reasonable effort to, hey, let's attempt to locate him,
9 he's got an active arrest warrant.

10 Q And we kind of glossed over that. So, in NCIC, is it
11 fair to say that this is just -- was it National Crime
12 Information Center? So it lets everyone know, if they run
13 into someone, that they're wanted.

14 A Correct. It's a common national law enforcement database
15 for wanted persons or stolen property, etc.

16 Q Okay. And Dorchester County Sheriff's Office has a
17 division that is dedicated solely to locating people who are
18 wanted?

19 A Correct.

20 Q Okay. All right. Now, let's move ahead to April the
21 24th. Did you have the occasion to speak with Andreana Allen?

22 A I did. I located Ms. Allen and requested to meet with
23 her. We made contact at the St. George office of Dorchester
24 County Sheriff's Office.

25 Q Okay. And I don't know if these have been moved in yet

1 or not, but I'm going to show you 17 and 18. Take a look at
2 those and tell me if you recognize those.

3 **A** I do.

4 **Q** And what are they?

5 **A** One is the DMV record for Mr. Ivington Allen and then for
6 his wife, Ms. Andreana Allen.

7 MR. OSBORNE: Your Honor, at this time, the State seeks
8 to admit 17 and 18 into evidence.

9 THE COURT: Any objection?

10 MS. GAY: No objection, Your Honor.

11 THE COURT: They're in.

12 (State's Exhibit No. 17, Andreana Allen DMV Record, was
13 marked for identification and received into evidence.)

14 (State's Exhibit No. 18, Kalesia Allen DMV Record, was
15 marked for identification and received into evidence.)

16 BY MR. OSBORNE:

17 **Q** All right. After speaking to Ms. Allen, did you obtain
18 some information that furthered the investigation in another
19 direction?

20 **A** Yes. Ms. Allen was able to provide me with a telephone
21 number that she said belonged to her that was being used by
22 her husband.

23 **Q** Okay. And as a result of getting that information, what
24 did you do?

25 **A** I obtained a search warrant for the call detail records

1 for that specific phone number based off the information
2 received.

3 MR. OSBORNE: Your Honor, may I approach?

4 THE COURT: Yes, sir.

5 (State's Exhibit No. 20, DVD, was marked for
6 identification.)

7 (State's Exhibit No. 21, Spreadsheet, was marked for
8 identification.)

9 BY MR. OSBORNE:

10 Q I'm showing you State's 20 and State's 21. Can you take
11 a look at those, tell me if you recognize those?

12 A I do.

13 Q What is 20?

14 A 20 is a CDR record for the specific phone number sought:
15 4731. The second one is account information received from
16 Verizon that identifies the account. It belonged to
17 Ms. Allen.

18 Q Okay. So, in 20 -- is it fair to say that 20 is a CD
19 that contains the phone records that you requested from that
20 number, from Verizon?

21 A Correct.

22 Q And, in 21, is just a screen shot?

23 A Correct.

24 MR. OSBORNE: Okay. Your Honor, at this time, the State
25 seeks to admit 21 into evidence.

1 THE COURT: Any objection?

2 MS. GAY: May I see the document, please, David --
3 Mr. Osborne?

4 (Counsel conferring off the record.)

5 THE COURT: That's without objection?

6 MS. GAY: Yes, ma'am, without objection. Oh, with --
7 well, specific to my previous objections that I made in
8 writing.

9 THE COURT: Yes, ma'am. Same ruling.

10 (State's Exhibit Nos. 20 and 21 were received into
11 evidence.)

12 BY MR. OSBORNE:

13 Q All right. I'm going to show you State's 21. And I know
14 this is really small here. I wanted to bring up a couple of
15 things.

16 All right. So I'm going to search the value here. What
17 is the phone number?

18 A It's (843) 560-4731, which is the number that Ms. Allen
19 provided me during our interview.

20 Q Okay. Who is the subscriber to that phone number?

21 A That's Ms. Andreana Allen. She's the person that I made
22 contact with that I identified as Mr. Ivington Allen's wife.

23 Q And her address?

24 A ■ Edisto River Road.

25 Q And I just wanted to see what -- okay.

1 What was the date of the shooting again?

2 **A** That would have been April 18th, 2018.

3 **Q** Okay. What is the effective date of these -- of this
4 phone being activated?

5 **A** April the 3rd of 2018.

6 **Q** Okay. And when was this phone disconnected?

7 **A** May 4th, 2018.

8 **Q** Okay. Two weeks later?

9 **A** Correct.

10 **Q** All right. Okay.

11 MR. OSBORNE: Your Honor, may I approach?

12 THE COURT: Yes, sir.

13 (State's Exhibit No. 37, Map, was marked for
14 identification.)

15 BY MR. OSBORNE:

16 **Q** So I'll need you to stand up a little bit. I'm showing
17 you State's 37. So you had mentioned before, had the two --
18 ~~the address from the defendant and his wife as~~ [REDACTED] Edisto
19 River Road -- well, let me ask you: Do you recognize that,
20 first?

21 **A** I do. It's like a Google Maps overall overhead,
22 basically, of the corridor of Interstate 95 and 78. And 15's
23 in there as well.

24 **Q** Okay. Would that overhead capture the location of
25 [REDACTED] Edisto River Road?

1 **A** It does. It's contained in the bottom of the image.

2 MR. OSBORNE: Your Honor, at this time, the State seeks
3 to admit 37 into evidence.

4 THE COURT: Any objection?

5 MS. GAY: Again, just like to see the actual thing right
6 there.

7 MR. OSBORNE: It's all in there.

8 (Counsel conferring off the record.)

9 MR. OSBORNE: And I'm going to move that that be added to
10 the numbers that I gave you earlier.

11 MS. GAY: Okay.

12 MR. OSBORNE: All right. Your Honor, at this time, the
13 State seeks to admit 37 into evidence.

14 THE COURT: And I understand that's without objection.

15 MS. GAY: Without objection, Your Honor.

16 THE COURT: It's in.

17 (State's Exhibit No. 37 was received into evidence.)

18 MR. OSBORNE: And, Your Honor, can Detective Sergeant
19 Easterlin step down and (indiscernible) on that?

20 THE COURT: Yes, sir.

21 BY MR. OSBORNE:

22 **Q** So can you point out to the jury the location of
23 ████ Edisto River Road?

24 **A** It's just here, per se, along the map. It's basically
25 parallel to Interstate 95.

1 Q Okay. All right. And I think we kind of already talked
2 about this, but I just want to make sure. This is already
3 been marked State's Exhibit 2. Did you have the occasion to
4 speak to a Lamont Allen?

5 A I did, during the course of the investigation.

6 Q All right. And Lamont being the cousin to the victim,
7 Torrell?

8 A Correct.

9 Q Okay. Showing you State's 2, is that where you spoke to
10 Lamont?

11 A Correct. On the front porch.

12 Q Okay. And his address?

13 A It's 862 Foliage Street. And I believe it's a Bowman
14 address.

15 Q Okay. And then moving ahead to State's 3. This is
16 already marked and admitted. Do you recognize that address?

17 A This is the residence of Peter Willis. It's in the
18 ~~9000 block. I believe it's 9272 Charleston Highway in St.~~
19 George.

20 Q Okay. Spoke to him in reference to the case?

21 A I did.

22 Q And then, lastly, showing you State's 4, do you recognize
23 that?

24 A I do. This is the -- this is a softball field, and I
25 believe it's a Bowman address. 2 Church Street.

1 Q Okay. You said 2 Church Street?

2 A I believe that's the address.

3 Q Okay. And you said -- I think you have already heard
4 testimony, but the victim's address was 112 Blackies Park
5 Road?

6 A Correct.

7 Q Okay. Now, for this one, we're going to have you point
8 out a couple of different locations.

9 MR. OSBORNE: Your Honor, may I approach?

10 THE COURT: Yes, sir.

11 (State's Exhibit No. 36, Map, was marked for
12 identification.)

13 BY MR. OSBORNE:

14 Q All right. Showing you State's 36. These addresses that
15 we just talked about, State's 36, would that encompass those
16 addresses?

17 A This would be correct.

18 Q Okay.

19 MR. OSBORNE: Your Honor, at this time, the State seeks
20 to admit 36 into evidence.

21 MS. GAY: Without objection, Your Honor.

22 THE COURT: It's in.

23 (State's Exhibit No. 36 was received into evidence.)

24 BY MR. OSBORNE:

25 Q All right. So if you could, for the jury -- and I know

1 it's a little far away, but if we can point out some locations
2 here.

3 **A** Sure. Sorry --

4 **Q** Go ahead.

5 THE COURT: You can use that pointer, if you'd like.

6 **A** Thank you. So there's a couple here that -- I don't
7 believe the campground is going to be -- I mean, excuse me,
8 the softball field is going to be encompassed on this screen;
9 however, Mr. Willis's residence is about here in this general
10 area. And the incident location is about here, in this
11 general area.

12 BY MR. OSBORNE:

13 **Q** Okay. And how about Lamont's house?

14 **A** Lamont's house is going to be up in this general area.
15 The map's a little big, but Foliage Street is just beyond --
16 just across the line.

17 **Q** Okay.

18 **A** About here.

19 **Q** And the softball field would be right on the upper end?

20 **A** Yeah. If it's not -- it may be contained in here, but
21 because they're so large, it's going to be somewhere in this
22 general area right here. Perhaps it may be a little closer to
23 the location (indiscernible) whatever that pin drop is.
24 Somewhere in that general area.

25 **Q** 2 Church Street?

1 **A** Correct.

2 **Q** Okay.

3 **A** And, again, it may be depicted, but the overhead is
4 pretty (indiscernible).

5 **Q** Okay. All right. Thank you.

6 I know we're skipping ahead a lot and you did a lot of
7 things, but let's move ahead to May the 2nd. Did you learn
8 anything about Torrell on that day?

9 **A** May the 2nd, 2018, is when I was advised that
10 Mr. Williams succumbed to his injuries.

11 **Q** On that date?

12 **A** On that date.

13 **Q** So that would have been ten days after he was shot?

14 **A** Correct, about.

15 **Q** Okay. All right, so with that information, did you do
16 anything in reference to the pending warrant or the warrants
17 you have pending?

18 **A** Correct, yes. So I'm not sure if I stated it previously,
19 but additional arrest warrants were sought for him prior to
20 Mr. Williams's demise for attempted armed robbery and
21 possession of a weapon during the commission of a violent
22 crime. Those three warrants were rescinded when Mr. Williams
23 died and a new warrant was sought for murder.

24 **Q** Now, did you have any vehicle description in this case
25 that you were interested in trying to identify?

1 **A** I did. There was a black sedan that I was interested in
2 attempting to identify and/or locate.

3 **Q** And I think specifically a rental vehicle; right?

4 **A** Correct.

5 **Q** And what did you do to try to attempt to locate a black
6 rental vehicle?

7 **A** I went with the largest rental fleet that I'm aware of:
8 Hertz -- or, excuse me, Enterprise. And I contacted them to
9 ask did they have any vehicles rented by Mr. Allen during the
10 time frame. They advised they did not.

11 **Q** No luck?

12 **A** No luck, yeah.

13 **Q** All right. Now, you said that you -- you know, I
14 suppose, upgrade the warrants to murder. Did you do anything
15 to ramp up Dorchester County's efforts to try to locate him?

16 **A** Yeah. Again, we made contact with Ms. Allen, the closest
17 party that, you know, a reasonable person would get to, to
18 ~~say, Hey, we're attempting to locate this person, their~~
19 spouse, you know, the next immediate point, if you can't
20 locate them. That's from, you know, experience.

21 We also -- you know, we advised the warrants division
22 that, Hey, the warrant is not an attempted murder. It's an
23 actual murder warrant now. Normal procedural stuff.

24 **Q** Okay. And we have already heard testimony from Trooper
25 Nicholson.

1 What was the next development in this case?

2 **A** I don't -- I don't recall anything significant between
3 the timeframe that the additional warrants were sought.
4 Obviously, we made contact with Mr. Lamont Allen, Terrence
5 Allen, and Mr. (Indiscernible), as you said. The
6 investigation was still progressing in attempt to locate
7 Mr. Allen, Ivington, until it would have been -- I believe it
8 was January 20th, 2019, is when he was actually located. I
9 was advised that Union County -- or, excuse me, a highway
10 patrolman in Union County located Mr. Allen and took him into
11 custody for the outstanding arrest warrant.

12 **Q** Okay. And I think the date may have been January the
13 30th. Does that sound right?

14 **A** Sure. Yeah. Abouts.

15 **Q** And, so, the defendant being arrested on January 30th,
16 2019, in Union County -- so that would have been about nine
17 months after the incident?

18 **A** Correct.

19 **Q** All right. Did you interview the defendant?

20 **A** I did. I interviewed him May -- excuse me, February 5th.
21 I interviewed him after he was transported to Dorchester
22 County Sheriff's Office after he was served with the arrest
23 warrants. I attempted to speak with him about this event.

24 **Q** Okay. So he's arrested on the 30th in Union County. He
25 needs to be transported back to Dorchester; is that right?

1 **A** Correct.

2 **Q** And you said he was served with the arrest warrants?

3 **A** That's right.

4 **Q** Okay. I'll ask you some questions about the interview
5 now. About how long was the interview with the defendant?

6 **A** It was no more than an hour. I would estimate to say 30
7 or 45 minutes at the most. It was a fairly short interview.

8 **Q** During your interview -- or during the interview, did the
9 defendant appear to be intoxicated or under the influence of
10 drugs?

11 **A** Not at all.

12 **Q** Did the defendant appear to have any physical or mental
13 disability that would have impaired his ability to understand
14 what was being said to him?

15 **A** It did not appear so.

16 **Q** Prior to or during your interview with the defendant, did
17 you offer any breaks, drink, bathroom or otherwise, or, if he
18 had asked, would you have denied him?

19 **A** It's normal policy that, if an individual asks, they are
20 awarded bathroom or drink, any drink, water, crackers,
21 anything of that nature. I don't recall if I specifically
22 asked Mr. Allen if he wanted those items before the interview.
23 Typically, I do, but if it would have been asked, it would
24 have been given for sure.

25 **Q** Okay.

1 MR. OSBORNE: Your Honor, may I approach?

2 THE COURT: Yes, sir.

3 MS. GAY: Well, Your Honor, subject to my previous
4 objection.

5 THE COURT: Yes, ma'am. And the same ruling applies.

6 (State's Exhibit No. 22, DVD, was premarked for
7 identification during pretrial hearing.)

8 (State's Exhibit No. 23, DVD, was premarked for
9 identification during pretrial hearing.)

10 (State's Exhibit No. 24, Miranda Rights Form, was
11 premarked for identification during pretrial hearing.)

12 BY MR. OSBORNE:

13 Q All right. I'm showing you 22, 23, and 24. Can you take
14 a look at those and tell me if you recognize those?

15 A I do. State's Exhibit 24 is the statement or Miranda
16 form that I completed with Mr. Allen on February 5th, 2019,
17 that he initially signed.

18 State's Exhibit 22 is the whole interview with Mr. Allen
19 as it was recorded with our installed software in the room.
20 It records all of our interviews.

21 Q Okay.

22 A And the second clip -- or the second CD is clips of the
23 whole CD of specific moments, State's Exhibit 23.

24 Q Okay.

25 MR. OSBORNE: Your Honor, the State seeks to admit 23 and

1 24 into evidence.

2 THE COURT: And that's subject to your previous
3 objections, Ms. Gay?

4 MS. GAY: Yes, ma'am.

5 THE COURT: They're in.

6 (State's Exhibit Nos. 23 and 24 were received into
7 evidence.)

8 (Video plays.)

9 BY MR. OSBORNE:

10 Q And, Detective, I just wanted to ask you one question.
11 While he's pondering whether he wants to talk to you, he had
12 been served with this arrest warrant?

13 A Correct.

14 Q And let me just ask you this: Now, an arrest warrant --
15 yes or no? It states the reason why someone is being charged
16 with a particular crime?

17 A Correct. As normal policy and procedure at Dorchester
18 County, we put the probable cause on the arrest warrant.

19 Q In all fairness, it's not just Dorchester County. It's
20 law enforcement throughout the country; correct?

21 A Correct.

22 Q Okay. And, so -- and he's been served with those
23 documents and he understands that?

24 A Right.

25 Q Okay.

1 (Video continues to play.)

2 BY MR. OSBORNE:

3 Q Just want to go over that Miranda form real quick. Okay?
4 Show that to the jury. Okay.

5 I'm showing you State's 24. Now, we heard you advise the
6 defendant of his Miranda warnings. Is that what you read
7 from?

8 A Correct.

9 Q Okay. These initials over here off to the side, is that
10 your handwriting?

11 A That's his. I may have drawn the line that we need his
12 initials, just to give him an indicator to sign here or
13 initial here.

14 Q Okay. And you don't have to read it again; we all heard
15 it. But these are the Miranda rights that you read, 1 through
16 5?

17 A Correct.

18 Q Okay. And, then, down here, this last admonition here,
19 "I have had the above rights -- statement of my rights, and I
20 understand each of those rights and I wish/do not wish to
21 waive and make a statement." Is this his signature underneath
22 here?

23 A His signature is on the top line followed by my signature
24 and another detective to assisted with the case as a witness.

25 Q And who was that? Plowman?

1 **A** Detective Plowman.

2 **Q** Okay. Okay. Now, we're playing clip 2.

3 (Video plays.)

4 BY MR. OSBORNE:

5 **Q** Okay. Now, we'll be playing clip 3.

6 (Video plays.)

7 BY MR. OSBORNE:

8 **Q** We'll get to the Rodeway Inn in a minute. Did you
9 actually find there was a Rodeway Inn on or just off of Edisto
10 River Road?

11 **A** I did. There is a Rodeway Inn on John C. Calhoun. I
12 believe it's in the 1400 block.

13 **Q** Okay. So that's why you conceded because his actual
14 address was on that (indiscernible)?

15 **A** Right. He said that it was Edisto Drive, and Edisto Road
16 is...

17 **Q** All right. So now, earlier, you said that you had
18 ~~attempted to locate a rental vehicle, a black Nissan Maxima,~~
19 at the Enterprise in Summerville.

20 **A** Correct.

21 **Q** With that name that he gave you of his girlfriend, Mira
22 Sellers, did you attempt to locate any rental vehicles
23 anywhere else?

24 **A** I did. Given information that he provided to me at that
25 time, I assumed that, potentially, the rental vehicle may have

1 come from Orangeburg, and so I searched the dealerships in
2 Orangeburg and came across -- I believe it's Hudson Nissan may
3 be the -- or Nissan of Orangeburg maybe. I believe that's the
4 correct name for the business.

5 Made contact with the owner or the business management
6 and provided the name of Mira Sellers or Ivington Allen, and I
7 came across that Ms. Sellers did, in fact, rent a vehicle -- I
8 believe it was on the 21st.

9 MR. OSBORNE: Your Honor, may I approach?

10 BY MR. OSBORNE:

11 **Q** Showing you 40 -- showing you State's 40. Can you take a
12 look at it and tell me if you recognize it?

13 **A** Yes. This is the rental agreement that I'm referring to.
14 State's 40 is the rental agreement from Ms. Sellers. This is
15 for a white Maxima.

16 MR. OSBORNE: Okay. Your Honor, at this time, the State
17 seeks to admit 40 --

18 **A** I think it's an Altima.

19 MR. OSBORNE: Altima, yeah.

20 The State seeks to admit 40 into evidence.

21 THE COURT: Any objection?

22 MS. GAY: I have no objection, Your Honor.

23 THE COURT: All right. It's in.

24 (State's Exhibit No. 40 was received into evidence.)

25

1 BY MR. OSBORNE:

2 Q All right. We'll go through 40 first.

3 All right. So, the dealership, which also rented
4 vehicles, we heard -- Nissan of Orangeburg?

5 A Correct.

6 Q And we have the name here?

7 A Right. The location of the dealership and then the
8 location of the person who presented identification who rented
9 the vehicle.

10 Q Okay. And that's a good point. So that's the location
11 of the dealership?

12 A It's 2827 St. Matthew's Road, which is just off of the
13 125, Interstate 95.

14 Q Okay. And, again, Mira Sellers is the renter of the
15 vehicle?

16 A Correct.

17 Q All right. And let's look here at the date and time.

18 ~~When was it rented?~~

19 A I believe it was rented on the 21st.

20 Q Can you see the time?

21 A Yeah. It looks like it went out at 12:37 p.m.

22 Q Okay. And one other point here. What's the phone number
23 that Ms. Sellers listed as being her phone number?

24 A (803) 857-9226.

25 Q Okay. And did you have the opportunity to run that

1 number against the phone records that you had obtained from
2 Verizon for the 4731 number that came back to Andreana Allen?

3 **A** I did.

4 **Q** And did you find any communications over that ten-day
5 period between Mira Sellers 9226 number and the number 4731 on
6 Verizon?

7 **A** Correct. There were approximately a hundred contacts.

8 **Q** A hundred communications?

9 **A** Correct.

10 **Q** All right. And while we're still there --

11 **MR. OSBORNE:** Your Honor, may I approach again?

12 **THE COURT:** Yes, sir.

13 **BY MR. OSBORNE:**

14 **Q** I'm showing you State's 41. Can you take a look at that
15 and tell me if you recognize that?

16 **A** It's a similar rental agreement as was Ms. Sellers. This
17 vehicle was rented by Mr. Lawrence Cox on the 18th of April at
18 2:39 p.m.

19 **Q** Okay. Now, I'm showing you State's 27. Can you take a
20 look at that and tell me if you recognize that?

21 **A** This is the DMV record for Mr. Lawrence Cox.

22 **Q** Okay.

23 **MR. OSBORNE:** Your Honor, the State seeks to admit 41 and
24 27 into evidence.

25 **THE COURT:** Any objection?

1 MS. GAY: Can I look at those for a second, please?

2 No objection, Your Honor.

3 THE COURT: 41 and 27 are in.

4 (State's Exhibit 41 and 27 were received into evidence.)

5 BY MR. OSBORNE:

6 Q All right. I'll start by showing you 41. All right.

7 So, again, same dealer, Nissan of Orangeburg?

8 A Correct.

9 Q Same address?

10 A Same address.

11 Q Coincidentally, same individual that rented it to them.

12 Carlos (indiscernible).

13 A Correct.

14 Q All right. And so this customer was Lawrence Cox?

15 A Correct.

16 Q And what time was -- well, what vehicle was rented here?

17 A So this is a Maxima. This was a black Nissan Maxima as

18 ~~opposed to the white Altima that was rented by Ms. Sellers.~~

19 Similar body style. This vehicle, the biggest difference is

20 the color.

21 Q And when was this rented?

22 A April 18th, 2018, at 2:39 p.m.

23 Q Okay. So this was before the murder?

24 A Yes.

25 Q Or shooting?

1 **A** Yes.

2 **Q** And that individual's name was Lawrence Cox?

3 **A** That's correct.

4 **Q** And this is the DMV for Lawrence Cox?

5 **A** That's correct.

6 **Q** And this was the same individual that we heard testimony
7 from Andreana Allen that she would sometimes call him when she
8 wanted to get in touch with her husband?

9 **A** Yes.

10 **Q** Okay. I think we're on clip 3.

11 (Video plays.)

12 BY MR. OSBORNE:

13 **Q** Let me just show you this real quick. I'm sorry; I
14 forgot to show it to you. Let me make sure this is in.

15 (State's Exhibit No 35, Map, was marked for
16 identification.)

17 BY MR. OSBORNE:

18 **Q** I'm showing you State's 35. Can you take a look at that
19 and tell me if you recognize that?

20 **A** Yes. This is a -- basically an aerial view of greater
21 Orangeburg.

22 **Q** And you gave the address --

23 MR. OSBORNE: Well, Your Honor, at this time, the State
24 seeks to admit 35 into evidence.

25 THE COURT: Any objection?

1 MS. GAY: No objection, Your Honor.

2 THE COURT: All right.

3 (State's Exhibit No. 35 was received into evidence.)

4 BY MR. OSBORNE:

5 Q Sorry; I forgot about that. Let me put this up there
6 real quick, because you did discover the location of the
7 rental company; correct?

8 A Correct.

9 Q And, also, the Rodeway Inn, did you -- I'm showing you
10 35. Can you point out the Rodeway Inn?

11 A All right. So the Rodeway Inn is going to be about here
12 in this general area. And I don't believe this aerial view is
13 going to encompass the Nissan of Orangeburg. That's a little
14 too close. So this general area is where you're going to have
15 the Nissan of Orangeburg.

16 Q Okay.

17 A Excuse me. The Rodeway Inn is here. The Nissan of
18 Orangeburg is not included in this, I do not believe.

19 Q Okay. Was that near the Regional Medical Center, the
20 Nissan of Orangeburg?

21 A It's down -- it's closer toward -- yes, the Regional
22 Medical Center. It's also, like I said, off of
23 Interstate 145 -- Interstate 95, Exhibit 145. There's a
24 Chick-fil-A pretty close by.

25 Q Okay. Showing you clip 5 now.

1 (Video plays.)

2 BY MR. OSBORNE:

3 Q Number 6.

4 (Video plays.)

5 BY MR. OSBORNE:

6 Q And you saw that white car was rented after the shooting?

7 A Yes.

8 Q Clip 7.

9 (Video plays.)

10 BY MR. OSBORNE:

11 Q And the last clip, 8.

12 (Video plays.)

13 MR. OSBORNE: No further questions.

14 THE COURT: Cross-examination?

15 MS. GAY: Your Honor, may we just have a quick comfort
16 break before I start? Because it might take a little bit of
17 time.

18 THE COURT: Sure.

19 Ladies and gentlemen, we'll take about a ten-minute
20 recess. Please return to your jury room. Again, remember not
21 to discuss the case amongst yourselves or with anyone else.
22 We'll be right back with you.

23 (The jury exited the courtroom at 2:34 p.m.)

24 THE COURT: All right. We'll take about a ten-minute
25 break.

1 (A brief recess was taken at 2:35 p.m. to 3:01 p.m.)

2 THE COURT: Can we have our jury, please.

3 (The jury entered the courtroom at 3:04 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen of the
5 jury. We're ready to proceed.

6 You may proceed, Ms. Gay.

7 MS. GAY: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. GAY:

10 Q Good afternoon. How are you?

11 A Good. How are you doing?

12 Q I'm Melissa Gay. And I have gone over a bunch of notes
13 that you have done, your case notes for this file and, also,
14 case notes for different people that are still part of the
15 bigger pile, which is the investigation of this case. Yes?
16 Correct?

17 Okay. So if I look at your notes, which says page 1 of
18 ~~22, that's stuff prepared by you and relevant to this case.~~
19 But then there's also some notes that were part of the
20 investigation for an officer by -- his name is Adam Smith.
21 He's no longer with the agency, but they're still part of the
22 case file; isn't that correct?

23 A Yes.

24 Q Okay. And I think he has a report that says 1 of 5,
25 that's part of this case file.

1 **A** Okay.

2 **Q** So going back chronologically to what happened, there was
3 an incident that occurred, and Mr. Williams was shot, and you
4 responded on the scene that night?

5 **A** Yes.

6 **Q** And spoke to people that were present?

7 **A** Yes.

8 **Q** And then you testified for Mr. Osborne that you also
9 spoke to Mr. Williams at Trident Hospital?

10 **A** Yes.

11 **Q** And during the course of that -- those encounters with
12 individuals that were present at the scene and Mr. Williams,
13 you developed Mr. Ivington Allen as a suspect in the case?

14 **A** Yes.

15 **Q** And you did that through some investigation that you -- a
16 lot of it's already been covered in this case. You spoke to
17 his family members?

18 **A** "His" being the victim?

19 **Q** Yeah, Mr. Williams's family.

20 **A** Yes.

21 **Q** Okay. And then they -- I believe the information is that
22 Mr. Williams identified A-1 -- a person by the name of A-1 as
23 the shooter through the family members?

24 **A** Yes.

25 **Q** And you work for Dorchester County so you're familiar

1 with this whole area of Harleyville and all the --
2 (indiscernible), all these different little towns all in
3 there?

4 **A** Yes.

5 **Q** And through your investigation, you determined that
6 someone -- I think it's his sister -- had some information
7 that may indicate that the identity of A-1 was the father of
8 someone that she, I think, managed a child, a juvenile kid
9 under 18-year-old, that she had managed at a McDonald's.

10 **A** Yes, that was -- yes.

11 **Q** And I think that you asked her and she ultimately
12 identified Mr. Allen, my client, as an individual that she
13 believes goes by the nickname of A-1?

14 **A** Yes.

15 **Q** And I think that you also spoke to -- I think it was his
16 aunt, and she indicated that, in the investigation, that she
17 knew Mr. Allen but was unable to identify him in a photo
18 lineup?

19 **A** That's correct.

20 **Q** And that photo lineup would have been close in time to
21 the event itself, early on in the investigation?

22 **A** Fairly, yes.

23 **Q** And, so, none of the other family members -- the mother,
24 father -- have any information about how -- the identity of
25 A-1 could have been in the investigation? His father didn't.

1 His mother didn't.

2 MR. OSBORNE: Your Honor, we need to approach for that
3 question. I want to make sure...

4 MS. GAY: I'm not suggesting hearsay...

5 BENCH CONFERENCE

6 (The following bench conference was held outside the hearing
7 of the jury and others.)

8 (Discussion at bench inaudible.)

9 BY MS. GAY:

10 Q Let me be clear. I'm talking about witnesses you spoke
11 to.

12 MR. OSBORNE: Your Honor, that doesn't help either.

13 MS. GAY: Let me rephrase that question.

14 BY MS. GAY:

15 Q Did Mr. Williams's father have any information in this
16 investigation to lead to the identity of someone who is known
17 as A-1?

18 A He provided the names as he was told by his son, A-1.

19 Q In terms his own personal knowledge?

20 A I don't believe he had any identification factors that
21 assisted in identifying Mr. Allen.

22 Q I understand. And with regard to the mother, any -- what
23 you just said about identifying information about the identity
24 of A-1? Personal information by the mother.

25 A I don't believe it was anything that we used to further

1 the investigation. I don't recall anything specific from her.
2 She may have had influencing information, but it would have
3 been the same as what was provided from the sister.

4 Q Okay. So as you proceeded through your investigation and
5 you became -- had some information, I believe, primarily from
6 the sister, you then went out, broadened your scope beyond his
7 family members to some individuals in the community?

8 A Yes.

9 Q Okay. And one of those individuals from the community
10 was Melvin Lamont Allen who came and testified?

11 A Yes. He is still family to the victim. He's -- I
12 believe he's a cousin. I could be -- I'm not a genealogy --

13 Q Let me rephrase my question. He wasn't at the scene or
14 anybody associated with that situation.

15 A Correct, yes. Mr. Allen -- Mr. Melvin Lamont Allen was
16 not at the scene that night, but I did interview him.

17 Q And Mr. Allen said -- because you listened to him and you
18 were sitting here -- that he saw Mr. -- my client, Mr. Allen,
19 in a black or a dark -colored car.

20 A That's right.

21 Q And, then, he specifically said -- and if we need to
22 replay the tape -- specifically said that he knew it was a
23 rental car because it had an out-of-state plate. Do you
24 remember that?

25 A I remember him making that statement in court, yes.

1 Q Okay. And, so, one of the things you did also -- I'll
2 kind of go that direction right now -- is you became aware
3 that there were some possible rental agreements that would be
4 relevant to this case?

5 A Correct.

6 Q And I believe that the solicitor showed you two rental
7 agreements: One from Mira Sellers and one from Lawrence Cox.

8 A Correct.

9 Q Okay. I know that you've had occasion to look at this,
10 and if you need to refresh your recollection, I can show you
11 what State's Exhibit No. 41 is. Would you like to look at
12 this?

13 A Sure. This is the one for Mr. Cox.

14 Q Okay. So this is a rental agreement that is not Mr. Cox.
15 Can you look right here and tell me the state of this plate on
16 this rental agreement?

17 A It says -- I'm assuming this means South Carolina, but
18 the tag says Tango Mike Papa, or TMP, and it says slash SC,
19 but the tag is incomplete, so I couldn't tell you what the
20 remaining is. Typical South Carolina plate, unless they're
21 specialized or custom plates, are six digits.

22 Q Okay. Well, it definitely had the initials on as SC.

23 A Correct. The initials SC are there.

24 Q Okay. Thank you.

25 And -- so, and the other one that you looked at was --

1 it's interesting because you actually looked at someone else's
2 too, didn't you? Another plate -- another rental agreement.
3 This has been marked as Defendant's Exhibit for ID purposes
4 No. 2.

5 **A** (Indiscernible).

6 **Q** This is part of this investigative file, provided in this
7 case. And that's State's -- Defense exhibit for ID purposes
8 2. What is that?

9 **A** It is another rental agreement from Nissan of Orangeburg
10 for a Frank Simpson.

11 **MR. OSBORNE:** Objection, Your Honor. Not publishing it.

12 **MS. GAY:** Well, I mean, what is it?

13 **THE COURT:** He can identify it, but you can't publish
14 what's contained in there.

15 **A** This is a Nissan of Orangeburg rental agreement.

16 **BY MS. GAY:**

17 **Q** Does it have Mr. Ivington Allen's name on it?

18 **A** It does not.

19 **Q** Does it have Lawrence Cox's name on it?

20 **A** It does not.

21 **Q** Does it have Mira Sellers' name on it?

22 **A** It does not.

23 **Q** Okay. Thank you.

24 So -- and you said that you had this one which you have
25 identified as No. 40 -- State's Exhibit 40. This is the one

1 from Mira Sellers. This one has been published, so we can
2 talk about it.

3 **A** Yes.

4 **Q** Okay. So, on this one, would you agree with me that this
5 rental agreement started on April 21st, 2018, which would have
6 been later in the day after all this happened?

7 **A** Right, yeah. This would have been thereafter, the time
8 frame of the incident. And now that I'm looking at it
9 further, I believe that license TMP may indicate a temporary
10 tag for South Carolina. I'm not a hundred percent positive on
11 that (indiscernible).

12 **Q** Okay. With regard to that, you remember that Melvin
13 Allen said it was an out-of-state plate? He specifically said
14 that. Do you agree?

15 **A** He did say that in court, yes.

16 **Q** We're going to talk about a little bit more of your
17 investigation before we get to why you knew to go to the
18 rental place, but -- so while this investigation was going on,
19 one of the things that you decided to do was you went to speak
20 to my client's wife, Andreana Allen, and she gave you a phone
21 number. Actually -- is that a yes?

22 **A** Yes. Sorry.

23 **Q** Okay. She actually gave you two phone numbers, didn't
24 she? One for her work phone number and one for her personal
25 phone number?

1 **A** Yeah. She indicated that she was using one to
2 communicate with her husband, her work phone number to
3 communicate with her personal number.

4 **Q** Okay. And, so, she -- and you did what they commonly
5 call a cell phone subpoena for this? A lot of this
6 investigative stuff now has come through subpoenas through
7 cell phone companies.

8 **A** Search warrants, but same concept.

9 **Q** Search warrants. Okay.

10 So you did a search warrant on these two phone numbers.

11 **A** Along with a slew of others.

12 **Q** Exactly.

13 So when you did those two -- we're going to have some
14 information for the jury on that, but you also -- and I think
15 this may have been done by Detective Smith, but as part of
16 your investigation, you said that you're aware that detective
17 Smith did a subpoena for the cell phone of the victim.

18 **A** Okay.

19 **Q** Would you like to see the reports or refresh your
20 recollection?

21 **A** I trust, if it's contained in the report.

22 **Q** Okay. So contained in that report is that telephone
23 number which, if you need to look at the report, I have
24 (indiscernible), of (803) 570-1849, was a contact in
25 Mr. Williams's phone, A-1. In his cellular phone.

1 **A** Wait, so I believe you're referring to a search warrant
2 that was actually executed on the victim's cell phone, like a
3 forensic extraction of that.

4 **Q** Yes.

5 **A** Not a call detail record.

6 **Q** Exactly.

7 **A** Right, yes.

8 **Q** Extraction of the device. That's a good way to put it.
9 Extraction of the device means that they took out information
10 that was stored in the phone by the person who had the phone,
11 which, in this case, was Torrell Williams.

12 **A** Correct.

13 **Q** Okay. So, again, sir, they took out a phone number:
14 (803) 570-1849. That phone number is not either of the phone
15 numbers that Ms. Allen gave you that her husband or her would
16 have been using at that time?

17 **A** No, ma'am.

18 **Q** So, in the victim's phone, in the information that was
19 stored by Torrell Williams for the contact named A-1, there is
20 no phone number that attaches itself to either Ms. Allen or my
21 client, Mr. Allen?

22 **A** Not based off the information provided by Ms. Allen.

23 **Q** Not based off the information provided in this case,
24 that's going to be provided to this jury; correct?

25 **A** That's your statement.

1 Q Well, I'm just saying that there's nothing in this
2 case -- you're not presenting any evidence at all to this jury
3 that this phone number -- (803) 570-1849 -- indicating in the
4 victim's phone as A-1 is, in fact, Mr. Allen.

5 A There is nothing --

6 Q Right.

7 A Sure. Yes.

8 Q Okay. So that was important and that was in the file as
9 part of Mr. Smith's investigative notes as far as this big
10 picture. So you, then, decide to upgrade your warrant after
11 Mr. Torrell Williams dies and to -- and you put -- Mr. Osborne
12 specifically asked you, you beefed up your NCIC because this
13 is now a murder case, and you were trying to locate
14 Mr. Ivington Allen?

15 A Correct.

16 Q Okay. So when you did -- and we saw the video of him
17 being stopped by the trooper in a different part of the
18 State -- you brought him into the office and sat down with
19 him. And I know that Mr. Osborne had you go through the
20 Miranda form and then we watched excerpts from his interview.

21 A Correct.

22 Q Okay. So, as part of the excerpt from his interview, he
23 said things, which we know because we watched it. He said
24 things about being in Orangeburg; isn't that correct?

25 A He did.

1 Q And he said that he was at the Rodeway Inn in Orangeburg.

2 A He did.

3 Q He said he was at the Rodeway Inn with somebody by the
4 name of Mira Sellers.

5 A Yes.

6 Q And that, interestingly, is one of the names on this --
7 on State's exhibit about the rental agreements. It
8 specifically says Mira Sellers.

9 A Yes.

10 Q Okay. And, so, I guess the best way to say this is that,
11 through your investigation you confirmed Rodeway Inn in
12 Orangeburg, Mira Sellers, and that she had rented a car the
13 next day from the Nissan place.

14 A I think -- I can't confirm the Rodeway Inn. It was
15 information that was provided by your client, Mr. Allen, and
16 as well as by Ms. Sellers that perhaps they did.

17 Q And that's what I wanted to know. You actually spoke to
18 Mira Sellers?

19 A I did.

20 Q Not saying what she said to you but verification that
21 there was an event that she went to with Mr. Allen on the
22 28th, which is the Friday night?

23 A The date --

24 MR. OSBORNE: Your Honor, I'm not sure what that question
25 was. Can she rephrase?

1 BY MS. GAY:

2 Q So pursuant to your investigation, were you able to
3 confirm that there was an event that was attended by
4 Ms. Sellers and Mr. Allen the night before on that Friday
5 night?

6 A According to their statements to me.

7 Q Okay. And, so, you went, then -- you're talking to
8 Mr. Allen about this incident, and Mr. Allen is -- let me go
9 back for one second; I forgot something important.

10 When you were telling me that you -- that you knew and
11 were aware that that phone number that was not Mr. Allen's,
12 you did find out who that phone number was supposed to go to,
13 through your investigation, didn't you?

14 A I have not -- what I did was identified that phone number
15 being associated with the person previously from a previous
16 interaction with the Dorchester County Sheriff's Office. This
17 investigation was not able to confirm that that number still
18 belongs to that person.

19 Q Well, I was going to show you Defendant's Exhibit 3 for
20 ID purposes. Does this have something to do with that person?

21 A Yes. This is the report that I was referring to.

22 Q And this is the police report?

23 A Correct.

24 Q With that other person's information on it, the one that
25 actually came back to that phone number that was in

1 Mr. Torrell Williams's phone as A-1?

2 **A** Again, there was no -- the investigation was unable to
3 definitively say that number at the time of the event belonged
4 to the person that is included in that incident report.

5 **Q** I understand. But it is a real person that does -- it
6 does come back to a real person at one point in time?

7 **A** Right, from at least a year and a half prior.

8 **Q** And this real person did live in Harleyville, didn't
9 they?

10 **A** I don't recall his address. It's possible.

11 **Q** Okay. So back to the investigation. You have Mr. Allen
12 in custody. You're talking to Mr. Allen. He's provided the
13 information to you that -- about where he was and what was
14 going on in his life.

15 And as part of your investigation, you went to the
16 Rodeway Inn to determine what you could find out from that,
17 didn't you?

18 **A** I had to refer to my notes. I don't specifically recall
19 going to the Rodeway Inn, but I may have. I don't
20 specifically recall doing that, though.

21 **Q** Okay. Well, would it -- do you want to look at them?

22 **A** Sure. If you can point to the specific paragraph where
23 it says --

24 **Q** Hold on one second.

25 Okay. So I think it may or may not have been you, but it

1 is in your notes.

2 **A** Yes. So the detective that was previously observed on
3 the video recording assisting me with the investigation, it's
4 apparent that he did go to the Rodeway Inn on my behalf.

5 **Q** And what was he told? Or I don't want to ask about
6 hearsay.

7 Were you able to confirm that they had any records on
8 this?

9 **A** I do not recall. I didn't read further. If the notes
10 say so...

11 **Q** Well, if you want to refresh your recollection again, but
12 would you recall that they didn't have them after three months
13 and that it was months later when he was arrested?

14 **A** If that's what the notes say. Typical, you know, would
15 be for -- I document things as I receive them. So it's
16 contained in my notes, then, yes.

17 **Q** So the fact that Mr. Ivington Allen was in custody
18 ~~several months, quite a while later after this incident is --~~
19 on these notes -- confirmed that the Rodeway didn't have the
20 records because it had been too long ago --

21 **A** Okay, yes.

22 **Q** But, certainly, there was indication that that had
23 happened based on your investigation, that somebody in the
24 group -- that he and Ms. Sellers had stayed there.

25 **A** I think, yeah, according to what he and Ms. Sellers told

1 me.

2 MR. OSBORNE: Your Honor, I'm just going to object. I
3 don't mind that Ms. Sellers [verbatim] is testifying, but I
4 would ask that Detective Easterlin do not testify for her.

5 MS. GAY: I understand. I think (indiscernible).

6 THE COURT: Sustained.

7 BY MS. GAY:

8 Q Okay. Just one more question. This document that I
9 showed you from Defendant's Exhibit 3 for ID purposes, this
10 police report having to do with the individual that was listed
11 as A-1 as a contact from Mr. Williams's phone, that doesn't
12 say Ivington Allen, does it?

13 A What do you mean? I don't believe Ivington Allen's name
14 is included in that report anywhere.

15 Q Anywhere. Okay.

16 All right. Thank you.

17 MS. GAY: I don't believe I have any questions, Your
18 Honor -- any further questions.

19 THE COURT: Any redirect?

20 MR. OSBORNE: Yes, Your Honor.

21 Your Honor, at this time, the State seeks to admit 47.
22 And think that's going to be Defense Exhibit 2 into evidence.

23 THE COURT: Any objection?

24 MS. GAY: Can I see what it is? I know it's my 2, but...

25 Okay.

1 MR. OSBORNE: I told them we'd give you (indiscernible).

2 MS. GAY: No objection except that that was just going to
3 be (indiscernible) testimony.

4 MR. OSBORNE: Okay.

5 THE COURT: So could you give a description of what it
6 is, for me.

7 MR. OSBORNE: This is the one that is the rental
8 agreement that the detective, when he was searching for black
9 Nissans in the name of Frank Simpson.

10 THE COURT: All right. Thank you.

11 (State's Exhibit No. 47, Rental Agreement, was marked for
12 identification and received into evidence.)

13 BY MR. OSBORNE:

14 Q Let's take a look at --

15 MR. OSBORNE: We're going to go ahead and publish that to
16 the jury.

17 BY MR. OSBORNE:

18 Q So that's Frank Simpson?

19 A Correct.

20 Q He's the one that rented the car?

21 A Correct.

22 Q All right. And so, just to clarify, this came up because
23 we were you were looking for any black Nissan Maximas; is that
24 correct?

25 A Right, that would have been rented during the time frame.

1 Q Okay. And, so, this name here, Frank Simpson, this guy
2 that rented this particular car, did it come up throughout
3 your investigation at all?

4 A It did not.

5 Q Associated with the defendant at all?

6 A Did not.

7 Q Associated with the victim at all?

8 A Did not.

9 Q Okay. However, this guy, Lawrence Cox, did his name come
10 up in this investigation?

11 A It did.

12 Q And he also rented not just any black vehicle but a black
13 Nissan Maxima; correct?

14 A Correct.

15 Q And so that brings me to what Lamont Allen said. And you
16 were in here. He testified. He didn't just say black
17 vehicle. He said black Nissan Maxima; correct?

18 A He was very specific.

19 Q Okay. Ms. Green -- when you presented the lineup to have
20 the defendant shown to Ms. Green, in the lineup, he had no
21 braids; is that correct?

22 A You're referring to -- I'm sorry, the victim's aunt,
23 Ms. Gloria Green?

24 Q Gloria Green.

25 A Right. Yes, so I believe all of the photo lineups

1 included in the case file would have been Mr. Allen without
2 braids. I think his head was bald in all of those.

3 Q As he was when he was arrested.

4 A Correct.

5 Q And I think Ms. Green testified that she was familiar
6 with him having braids.

7 A Correct.

8 Q Okay. Ms. Gay asked you about Andreana Allen's personal
9 phone at (843) 560-4731 and she asked about the work phone.
10 Is that the (843) 636-4017 number?

11 A Correct.

12 Q Okay. Well -- and I know this is kind of a dumb
13 question, I guess, but when you check into a hotel room, do
14 you have to stay there all night or can you leave?

15 A I think you can come and go as you please, from my
16 experience.

17 Q Okay. All right. So, then, lastly, let's cover this
18 whole issue about the victim's cell phone. All right. So the
19 victim's cell phone was downloaded, and there was a contact in
20 that phone; correct?

21 A That's correct.

22 Q And it was to A-1?

23 A Correct.

24 Q But there was no phone calls to that contact ; correct?

25 A No.

1 Q No text to that contact; correct?

2 A No.

3 Q In fact, you don't even know when that contact was placed
4 in the phone; is that right?

5 A I do not.

6 Q All right. So going back to Defendant's Exhibit 3, what
7 is the date of that incident report for a motor vehicle theft?

8 A The incident report date is May 13th of 2017.

9 Q Okay.

10 A Or, excuse me, the date of the report is 14th. The date
11 of occurrence is 13th.

12 Q Okay. So May 13th of 2017. And the complainant in that
13 case had the same phone number that was in the victim's phone
14 as A-1?

15 A Correct.

16 Q Okay. So that makes it seem like I mean maybe the victim
17 is talking about someone else; correct?

18 MS. GAY: Your Honor, I'm not sure what that question
19 was, but I think it calls for some form of speculation.

20 BY MR. OSBORNE:

21 Q Ms. Gay --

22 MR. OSBORNE: I mean, I'll rephrase it.

23 THE COURT: You can rephrase it.

24 BY MR. OSBORNE:

25 Q Ms. Gay was asking you questions about a second -- a

1 potential second A-1; correct?

2 **A** Correct.

3 **Q** Okay. That number that was in the victim's phone -- you
4 can't put a date, you can't timestamp it as to when it was put
5 in there; correct?

6 **A** Correct.

7 **Q** And you know that, through your research on that number,
8 that incident from that vehicle theft happened in 2017?

9 **A** Correct.

10 **Q** Okay. Now, you testified to me on direct that, after you
11 placed the warrants out for attempted murder on that man, you
12 notified Torrell.

13 **A** I did.

14 **Q** And you didn't notify Torrell of Anson Fields being
15 wanted, did you?

16 **A** I did not.

17 **Q** You notified him that he was wanted.

18 **A** That's correct.

19 **Q** Okay.

20 MR. OSBORNE: No further questions.

21 THE COURT: You may step down, Detective. Thank you.

22 MS. GAY: Wait a minute. One second, Your Honor.

23 THE COURT: No, ma'am. There was nothing new brought up.
24 You may call your next witness.

25 MR. OSBORNE: The State calls Detective Erin Presnell.

1 Dr. Erin Presnell.

2 THE COURT: Solicitor, would y'all approach?

3 BENCH CONFERENCE

4 (The following bench conference was held outside the hearing
5 of the jury and others.)

6 (Discussion at bench inaudible.)

7 THE CLERK: Place your left hand on the Bible and raise
8 your right hand, please. State your full name for the record.

9 THE WITNESS: Susan Erin Presnell.

10 SUSAN ERIN PRESNELL,

11 after having been duly sworn, was examined and testified
12 to as follows:

13 THE COURT: Your witness.

14 DIRECT EXAMINATION

15 BY MR. OSBORNE:

16 Q Good afternoon, Doctor.

17 A Hello.

18 Q Thanks so much for coming in. We have been moving a lot
19 faster than we anticipated, so I know you're actually coming
20 on short notice, so thank you.

21 A Yes. No problem.

22 Q Doctor, where are you currently employed?

23 A I'm a forensic pathologist at the Medical University of
24 South Carolina down the road in Charleston.

25 Q Okay. And in what capacity are you employed there?

1 **A** I'm a forensic pathologist.

2 **Q** And for how long?

3 **A** Since 1999. I have been on faculty since then, so going
4 on 23 years.

5 **Q** All right. And what is your educational background?

6 **A** So I'm a forensic pathologist, so, to get there, I went
7 to Clemson and graduated there. And then I chose MUSC to do
8 my medical school. So I went there for four years, got my
9 medical degree, and chose pathology as a subspecialty to train
10 in. I did that at MUSC and then stayed on an additional year
11 to do forensics or subspecialty forensics in pathology at
12 MUSC. And, like I said, they hired me to stay on.

13 During this whole process, I have, you know, taken the
14 board, so I'm board certified to -- and licensed to practice
15 medicine in South Carolina, and I'm board certified by the
16 American Board of Pathology in general pathology and forensic
17 pathology.

18 ~~**Q** Okay. What does the area of pathology consist of?~~

19 ~~**A** So pathology in general means the study of disease. So~~
20 ~~most pathologists are general pathologists. We'll look at~~
21 ~~tissues or even organs removed by another doctor and look at~~
22 ~~it under the microscope and diagnose disease.~~

23 Forensic pathology is a subspecialty of that, so I'm not
24 just looking at, you know, a single biopsy, or, you know, an
25 appendix. I'm looking at an entire person, once they have

1 passed, through the process of an autopsy, is how I examine
2 them. And I am looking for disease, but I'm also evaluating
3 trauma and then, ultimately, coming up with a cause of death
4 and a manner of death which I put together in an autopsy
5 report.

6 **Q** Can you define those two terms to a jury? What is
7 "manner of death" and "cause of death"?

8 **A** Well, so, cause of death is exactly like it sounds: What
9 caused a person's death.

10 Manner of death, there are four choices. It could be a
11 natural death, an accidental death, suicide, or homicide,
12 meaning death at the hands of another. And there could be an
13 undetermined manner as well, but those are the four
14 categories.

15 **Q** Approximately how many autopsies have you performed?

16 **A** Approximation? Around 4,000.

17 **Q** Okay. Have you ever been qualified as an expert in a
18 court before in the field of forensic pathology?

19 **A** I have. And I 'd estimate 200ish.

20 **Q** Have you ever failed to qualify?

21 **A** Not in forensic pathology, no.

22 **Q** Okay.

23 **MR. OSBORNE:** Your Honor, at this time, the State would
24 seek to qualify Dr. Presnell as an expert in the field of
25 forensic pathology.

1 THE COURT: Any voir dire?

2 MS. GAY: No, Your Honor, and no objection.

3 THE COURT: I find that she's qualified.

4 BY MR. OSBORNE:

5 Q All right, Doctor. On May the 3rd of 2018, did you have
6 the occasion to perform an autopsy on the victim in this case,
7 James Torrell Williams?

8 A Yes. I performed an autopsy at MUSC, at the University
9 Hospital in Charleston.

10 Q And can you tell us, did he die the day before, on May
11 the 2nd?

12 A Yes.

13 Q All right. And what was his listed height and weight at
14 the time of the autopsy?

15 A I'm referring to my autopsy report. He weighed
16 approximately 146 pounds and he was five-nine.

17 Q Okay. Can you describe to the jury what injury or
18 injuries you observed ~~(indiscernible)~~ during the autopsy?

19 A Well, as far as injuries, he had one -- one main,
20 significant injury, which was a healing gunshot wound to the
21 abdomen. The gunshot wound -- well, because of the appearance
22 of the gunshot wounds holes on the body -- they were
23 healing -- it was difficult for me to say which is entrance
24 and which is exit. But there is a hole on the front of the
25 abdomen, and there is a hole on the right back. And then

1 connecting those two holes is right through the liver where
2 the liver is disrupted, hemorrhagic, and torn.

3 **Q** And I know -- you performed the autopsy some days later
4 after this shooting. Was there -- were you able to determine
5 entry and exit wounds, or was that kind of tough at that
6 point?

7 **A** No, it -- so anatomically or at the time of autopsy, I
8 wouldn't be able to tell which is entrance and which is exit.

9 **Q** Okay. And that's because of healing?

10 **A** Right, because of healing.

11 **Q** Okay. Can you tell anything about trajectory or the
12 path?

13 **A** So it -- the trajectory depends on which one is entrance
14 and which one is exit, and, so, if -- just assuming the
15 entrance is in the front, then the gunshot wound is going a
16 little bit downward, like, angled downward on him to his right
17 and from front to back.

18 **Q** Okay. And I assume, you know, as part of the autopsy,
19 y'all would contact that trace to the victim?

20 **A** So we'll do ancillary studies in our autopsies depending
21 on, you know, what kind of case it is. And, so, for gunshot
22 wound victims, we'll do X-rays so we can try to see if there's
23 a bullet to recover. In this case, we did the X-rays, and
24 there is no bullet.

25 **Q** Okay. Now, when you render your opinion as to the manner

1 or cause of death, do you rely on other documentation, like,
2 from the hospital and things like that?

3 **A** Well, I mean, it is important to know history, if it's
4 available, on anyone that we do an examination on.

5 **Q** And did you do that in this case?

6 **A** I have information from the coroner, coroner report, as
7 well as the emergency room record when he presented on the day
8 of his death, and then an additional excerpt from one of the
9 hospital visits.

10 **Q** Okay. After reviewing those records and maybe from your
11 own observations from the autopsy, was the health issues
12 Mr. Williams was suffering from unrelated to the shooting?

13 **A** So he was a 36-year-old man, and he had some pretty
14 significant health injury -- or health issues. He had
15 congestive heart failure, because his heart was failing. It
16 was very big. And, also, in addition to that, he had
17 cirrhosis of the liver, which is basically end stage liver
18 disease.

19 **Q** Okay. And I think we have all kind of heard that before,
20 but cirrhosis of the liver is sort of common to individuals
21 who drink in excess?

22 **A** Well, so, it's a response to long-term injury, so that
23 can happen with, like, hepatitis, a virus, but certainly
24 alcohol is a common cause of it.

25 **Q** And was a toxicology performed on Mr. Williams's blood?

1 **A** Yes. We did toxicology, and his toxicology showed
2 oxycodone and Tramadol and then a metabolite of that. Both of
3 those are opiates that are not uncommonly used in hospice care
4 for comfort measures.

5 **Q** Okay. How about alcohol? Was there any presence of
6 ethanol?

7 **A** No alcohol.

8 **Q** All right. In reviewing -- okay, let me go back to this.
9 Now, I believe Mr. Williams was discharged from the
10 hospital six days after he was shot? Does that sound right?

11 **A** Yes. I have the -- let's see. He was shot on the 21st,
12 like in the morning, and then discharged on the 26th of April.
13 Sorry.

14 **Q** 26th. So four -- sounds like six days later, he would
15 have passed away?

16 **A** Yes. Well, on May 2nd, so seven.

17 **Q** All right, Doctor. In your expert opinion, please tell
18 the jury, if you are able to, render what was the cause of
19 Mr. Williams's death?

20 **A** Well, one thing that I didn't elaborate on, I told you
21 that the pathway of this gunshot wound is basically through
22 the liver, and that the liver is disrupted and still
23 hemorrhagic in addition to having cirrhosis.

24 But the other thing that I found was his abdomen was --
25 the lining of the abdomen was infected. That's called

1 peritonitis. So he had infection in the abdomen as well as
2 three and a half liters of fluid -- bloody fluid that had
3 accumulated there as well.

4 So, anyhow, putting everything together, I concluded that
5 Mr. Williams passed because he developed this peritonitis, or
6 inflammation, infection in the abdomen that complicated his
7 gunshot wound to the liver -- to the abdomen that disrupted
8 his liver.

9 Q Okay. And you were able to tell if peritonitis was in
10 his abdomen, same location that he was shot?

11 A Yes. So something else we can do is take sections of
12 tissues to look at under the microscope. So I documented a
13 peritonitis or the inflammation/infection in the abdominal
14 soft tissues.

15 Q Okay. So -- and I know this is kind of stupid, but you
16 know, he was shot. That caused an infection. And then the
17 bullet perforated his liver. And it sounds like he already
18 had an compromised liver.

19 A Right. So he would have had a compromised liver with his
20 cirrhosis. And then the gunshot wound is -- well, one of the
21 things liver also does is to help with clotting and to prevent
22 bleeding. So he has the gunshot wound to the liver. It is
23 disrupted. He has a big laceration. I think the surgeons
24 rated it as a grade 4, which is pretty big. Bleeding
25 associated with that.

1 He did still have some blood and fluid in his abdomen.
2 And then, on top of that, you know, we have put a foreign
3 object through the body, you know, with the potential for
4 introduction of organisms or infectious organisms. So,
5 eventually, that fluid in his abdomen became infected and
6 inflamed.

7 **Q** All right. Before I ask you how you classified the
8 manner of death, I do want to ask you this: Are you able to
9 glean at all -- and I know this is kind of a tough question --
10 if a healthy individual had suffered from this type of gunshot
11 wound, would you have anticipated that he might have lived, or
12 would that just be tough to say?

13 **A** I mean, a healthy individual may have, but also may not
14 have. But I can't say. I, obviously, only see the ones that
15 don't, and we have high instances where that may be the only
16 injury.

17 **Q** Okay. Taking into account the injuries that Mr. Williams
18 sustained in addition to taking into account his already
19 preexisting medical condition, were you able to render an
20 opinion regarding the manner of death?

21 **A** Yes. So I classified his manner of death as homicide,
22 meaning that he died at the hands of another.

23 **Q** Thank you, Doctor.

24 THE COURT: Cross-examination?

25 MS. GAY: One moment, please, Your Honor.

1 I have no questions for the doctor at this time, Your
2 Honor.

3 THE COURT: Thank you, Doctor. You may step down.

4 THE WITNESS: Thank you.

5 THE COURT: Ladies and gentlemen of the jury, we
6 certainly appreciate your patience today. I know that you
7 have had a lot of witnesses.

8 Our next witness is going to be rather lengthy, so it
9 might be a good time for us to go ahead and take our evening
10 recess. I want to make sure that you get out of here on time
11 to get home for your families and whatnot, as I'm sure that
12 most of you don't live right here in the St. George area. So,
13 to be mindful of your time, we will go ahead and recess for
14 the evening.

15 If you would, again, be in your jury room at the same
16 time tomorrow morning at 9:20. Once we get everyone together,
17 we will resume with the trial of the case.

18 ~~Again, please remember my instruction not to discuss this~~
19 case with anyone or allow anyone to discuss the case with you
20 or do any independent research on the case.

21 Have a nice evening. We'll see y'all in the morning.

22 (The jury exited the courtroom at 3:46 p.m.)

23 THE COURT: All right, Counsel.

24 Solicitor, how many more witnesses do you think you have?

25 MR. OSBORNE: Just one more and Willis Walker. He did

1 the (indiscernible).

2 THE COURT: Okay. And, Ms. Gay, are you anticipating
3 calling any witnesses?

4 MS. GAY: I do have one witness, Your Honor, and
5 (indiscernible) to do the witnesses, but I do have -- you're
6 not going to object to the qualifications, are you?

7 MR. OSBORNE: Probably not. I did not have a C.V.

8 MS. GAY: Well, I'll give it to you. We have it. But, I
9 mean, he's a pathologist. He's testified in court several
10 times. So he's going to be qualified, but -- in my opinion.

11 But -- so --

12 THE COURT: Was he on the witness list? Do I need to
13 question --

14 MS. GAY: Yes.

15 THE COURT: -- the jury about that? Okay.

16 MS. GAY: And, you know, I mean, I would say his
17 testimony is not going to be that long. I would say we're
18 going to be arguing and charging by the end -- by lunch.

19 THE COURT: All right. So if y'all don't mind, Alan is
20 going to finish up the jury instructions tonight, if you have
21 anything further to submit.

22 MR. OSBORNE: I just had one other issue about this
23 expert, and I have already asked Ms. Gay to provide us a
24 summary or a report on whatever it is he's going to testify
25 to. It's our understanding that she does not know what he's

1 going to testify to, so...

2 MS. GAY: Well, there were medical records which we got
3 today, which I'm going to send to him, and then we need to
4 have those (indiscernible).

5 And I do have some information about jury verdict. I'll
6 give that to you, Alan.

7 MR. OSBORNE: So going back to Dr. (Indiscernible), I
8 just want to make sure we're on the same page.

9 THE COURT: One thing at a time.

10 MR. OSBORNE: Yeah, so going back to that. Per Rule 5, I
11 just want to make sure we're all on the same page. We have
12 made the request that a summary be provided to us to whatever
13 he's going to testify to. So, again, I would just make sure
14 we're all on the same page. When she has some inclination as
15 to what he's going to say, we'd like to (indiscernible).

16 THE COURT: Yes, sir.

17 MS. GAY: I already told you that I will email you before
18 ~~tonight is over, after I talk to the man, after he gets~~
19 through (indiscernible) and (indiscernible) tonight.

20 THE COURT: As long as we're all operating within the
21 rules.

22 MS. GAY: Yes.

23 THE COURT: All right. So if you get those instructions
24 to Alan, he'll have them ready in the morning. So maybe if
25 y'all could be here a little bit early. Say 9:00, Ms. Gay?

1 MS. GAY: Yes. I'm sorry. I'm already being told that I
2 have to get in my car at 7 a.m. and a wake-up call --

3 MR. OSBORNE: I'm calling her 6:00. I have already told
4 her.

5 THE COURT: Don't make me have somebody come pick you up.
6 [Laughter].

7 THE BAILIFF: Thank you, Judge.

8 MS. GAY: I need a helicopter.

9 THE COURT: All right. So please be here by 9:00 to
10 review jury instructions. That way, we can roll right into
11 the closing.

12 All right. Everyone have a good night.

13 (At 3:49 p.m., the trial was adjourned until April 20,
14 2022, at 9:30 a.m.)

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1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Ivington Daniel Allen

3 2018-GS-18-0548

4 DATE OF HEARING: 4/19/2022 (Day 2 of 3)

5 COURT REPORTER/MONITOR: DCRP/Lorraine Harris

6
7 I, Bobbi Fisher, do hereby certify that the foregoing
8 transcript is a true and correct record of the recorded
9 proceedings; that said proceedings were transcribed to the
10 best of my ability from the audio recording and supporting
11 information, and that I am neither counsel for, related to,
12 nor employed by any of the parties to this case, and I have no
13 interest, financial or otherwise, in its outcome.

14
15 

16
17 _____
18 ~~Bobbi Fisher, Certified Transcriber~~

19 Date Prepared: September 10, 2022

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21
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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
 2 COUNTY OF DORCHESTER) TRANSCRIPT OF RECORD

3 -----x
 4 STATE OF SOUTH CAROLINA,)
 5 Plaintiff,)
 6 vs.) Case No. 2019-GS-18-00548
 7) 2019-GS-18-01735
 8) 2019-GS-18-01736
 9 IVINGTON DANIEL ALLEN,)
 10 Defendant.)
 11 -----x

April 20, 2022

JURY TRIAL - VOLUME 3 of 3

B E F O R E:

The Honorable Maite Murphy, Presiding Judge; and a jury.

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

David Osborne, Esq.
 John Rivers, IV, Esq.
 Attorney for the State

Melisa Gay, Esq.
 Attorney for the Defendant

Recorded by: DCRP/Loraine Harris

Transcribed by: Bobbi Fisher
 SC Official Court Reporter III

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
38	Verizon Call Detail	320	320
39	DVD	320	320
48	Discharge Papers	393	393
49	Toxicology Report	397	397
51	Coding Summary	400	400

Defendant's Exhibit

No.	Description	ID.	REC'D
4	Toxicology Report	360	360
5	Autopsy Report	360	361
6	Coding Summary	366	
7	Forensic Summary	366	

Court's Exhibit

No.		REC'D
8	Juror Note	473
9	Juror Note	473
10	Juror Note	473
11	Juror Note	473
12	Juror Note	473
13	Juror Note	473

1		COURT REPORTER LEGEND
2	Dash (--)	Indicates an interruption in speech
3	Ellipses (...)	Indicates trailing off in speech
4	(ph)	Indicates phonetic word
5	[Verbatim]	Indicates the word is said as written
6	(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality
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1 P R O C E E D I N G S

2 (Whereupon, the following proceedings started at 9:30 a.m.):

3 THE COURT: Sir, do you anticipate on calling the doctor
4 as your witness?

5 MR. OSBORNE: I do, Judge.

6 THE COURT: All right. Let's go ahead and call him.

7 MR. OSBORNE: Your Honor, the State calls Dr. Downs.

8 MS. GAY: Oh, you want him now for proffering?

9 MR. OSBORNE: Yes.

10 THE COURT: Yes.

11 MS. GAY: Okay. All right. Hold on. Well, Your Honor,
12 we're looking at Rule 5 right now. Does anybody -- do you
13 have a copy of it?

14 (Pause in the proceedings.)

15 DR. JAMIE DOWNS,

16 after having been duly sworn, was examined and testified
17 to as follows:

18 THE COURT: Your witness.

19 P R O F F E R E D D I R E C T E X A M I N A T I O N

20 BY MR. OSBORNE:

21 Q Good morning, Doctor.

22 A Good morning.

23 Q And if you'd like to remove your mask, if you're
24 comfortable doing that, you're certainly (indiscernible).

25 Now, I know we're still in COVID protocols, so you had to

1 kind of do a little (indiscernible).

2 **A** Different strokes for different folks. I have seen a
3 whole bunch of different ways.

4 **Q** So we just want to ask you a couple of questions.

5 **A** Sure.

6 **Q** And this isn't so much about your results or your
7 findings in this case. It's more about your -- I guess your
8 communications to the defense and when you communicated to
9 them.

10 **A** Sure.

11 **Q** Let me just ask you, so when -- and if you need to refer
12 to any of your notes, that's certainly fine.

13 When were you first retained by the defense?

14 **A** I don't recall specifically. It would have been several
15 months ago.

16 **Q** Okay. Would it help to look at your notes?

17 **A** I don't think I have an email posted like, say, for that,
18 but I would say several months would be a good estimate.

19 **Q** Okay. And when was it that the defense provided to you
20 autopsy reports in this case?

21 **A** Autopsy report? I'd give you the same answer. I got
22 that weeks to months ago. I don't recall specifically. I
23 would have looked at that initially and requested records,
24 which were provided to me actually most recently as last
25 night, that provided me with more new very useful, pertinent

1 information.

2 Q Right. And I get that. And I'm going to be talking
3 about the tox reports.

4 A Sure.

5 Q Okay? So -- and tell me if this sounds about right. In
6 September of last year, Ms. Gay notified me and said that she
7 needed additional reports. And I think this might be what
8 you're referring to. EMS run sheets, scans from the hospital.

9 A CT scans, medical records, that kind of thing.

10 Q So those would have been a request that you made or that
11 you needed?

12 A I couldn't tell you her motivation for doing anything. I
13 did request additional medical records.

14 Q Okay. So, September of last year, does that sound
15 perhaps about the time you might have been involved in this?

16 A I couldn't tell you. I don't recall.

17 Q Okay. How about -- can you say whether you were involved
18 in this case last week?

19 A Oh, sure. Last week, yes.

20 Q Okay. Last month?

21 A Yeah, I believe so. Like I said --

22 Q And how about in January?

23 A -- beyond that, Your Honor, I can't say.

24 Q So your memory only goes back one month?

25 A Without having something in front of me to say, "Oh,

1 yeah, that was what it was," I'm not going to speculate.

2 Q Okay. We know a month but we're not sure about two
3 months.

4 A Again, I have given the best answer I can, sir.

5 Q Okay. And that's because of your memory?

6 Is there any documents that you might be able to refer
7 to?

8 A I'd have to pull up emails, and then I might be able to
9 provide you with additional information.

10 Q Could you do that?

11 A Not as I sit here right now.

12 Q Okay. I didn't know what you had in your satchel.

13 A I have got my computer. My email is in the car because I
14 can't have my cell phone, but that's just a -- an internet
15 book. So --

16 Q Okay.

17 A -- not a whole lot.

18 Q When you reviewed the toxicology on the victim in this
19 case, did something come out to you, like pop out to you?

20 A Yes, sir. Once I had all the records to look at, which,
21 again, I have only gotten very recently, and pertinent
22 additional information as of last night, he -- basically, his
23 acute problem is a drug overdose -- very significant drug
24 overdose.

25 Q Let's get back to the autopsy report, the toxicology

1 again.

2 **A** Sure.

3 **Q** Sorry to keep coming back to that.

4 So you would have been provided -- and I think you had
5 testified to this, although it's a little confusing. You did
6 testify that the toxicology report and the autopsy was
7 provided to you pretty early?

8 **A** Early on in the case, yes, sir.

9 **Q** Okay. So it could have been a month ago, but it could
10 have as far back as September?

11 **A** Yes, sir, but I don't look at partial information.
12 That's a very dangerous thing to do. You want to get all the
13 information, which is why I requested it and, fortunately, got
14 it.

15 **Q** So when you got the email with the toxicology report, you
16 didn't look at that?

17 **A** I don't look at partial information if I can help it
18 because it doesn't provide an accurate picture.

19 **Q** Well, again -- so I'll ask again: When you were provided
20 with the toxicology report, you didn't look at it?

21 **A** I didn't try to interpret it. I saw the values, but I
22 did not interpret it.

23 **Q** Okay. When you looked at that toxicology report, did you
24 see anything that popped out of interest to you?

25 **A** I saw the numbers were high, but, again, I didn't try to

1 interpret it --

2 Q That's where --

3 A -- because it's partial information, sir.

4 Q I'm not asking for your interpretation.

5 When you looked at the numbers and you saw they were
6 high, that would have been early on in the case? It could
7 have been September?

8 A Yeah.

9 Q Could have been --

10 A But, again, I didn't put them in the context of how high.
11 I just know that the numbers were high.

12 Q Right. Not asking what your interpretation was.

13 A I'm sworn to tell the whole truth, sir, so telling part
14 of it doesn't really do justice to the truth.

15 Q We're not getting into interpretation. The jury is not
16 here. The only thing I'm concerned about right now and the
17 only thing I'm asking you about is your communication with the
18 defendant.

19 A Yes, sir. And I'm trying to tell the compete truth as
20 best I can.

21 Q Okay. So, again, you looked at the tox and saw that the
22 numbers were high. When did you relay that information to the
23 defense?

24 A It would have been probably late Sunday night.

25 Q Late Sunday night?

1 **A** Yes, sir.

2 **Q** Okay. That was the first time that you had relayed any
3 concern about the tox?

4 **A** That's correct.

5 **Q** Okay. But you had spoken to her several times since you
6 had been retained in this case?

7 **A** Yes, sir. We talked about the trajectory of the gunshot
8 wound and various things related to that.

9 **Q** So you were willing to talk to her about the trajectory
10 without having the medical reports regarding the CT scans
11 which showed the trajectory?

12 **A** Well, actually, they were described in the autopsy
13 report, so I did the best I could with what I had.

14 **Q** You talked to her about the trajectory, but you didn't
15 mention tox until Sunday?

16 **A** That's correct.

17 **Q** Okay. How many times would you say that you have
18 communicated with her about this case in general? Has it been
19 five times? More than five times?

20 **A** Generally, five or so. It may be a couple less, may be a
21 couple more.

22 **Q** Okay. Starting back -- and when was the first
23 communication with her?

24 **A** Again, as I told you, sir, I don't know. A couple of
25 months.

1 Q Oh, a couple of months.

2 A Again, that's the best I can tell you. If you tell me it
3 was September, great. I don't remember.

4 Q All right. No further questions.

5 THE COURT: Any questions, Ms. Gay?

6 MS. GAY: Yes.

7 PROFFERED CROSS-EXAMINATION

8 BY MS. GAY:

9 Q Okay. You testified that you and I had spoke a number of
10 different times. Is it fair to say that you're very difficult
11 to get in touch with?

12 A I have been told that, yes, ma'am.

13 Q And that, many times, whether I emailed or left a
14 message, you never responded?

15 A I don't know that I never responded, but it was a delayed
16 response. So you might have contacted me a couple of times
17 before I got back to you.

18 Q Or months, maybe, before you got back to me.

19 A Sure.

20 Q And, so, we had discussed my theory of the case that had
21 to do with the bullet wound being in the stomach as opposed to
22 the head and the heart?

23 A Yes, ma'am.

24 Q And I told you that I had believed that there was some
25 other theory other than an intentional killing?

1 **A** That's correct, and I would have said intent really isn't
2 my bailiwick.

3 **Q** But your bailiwick is where the bullet went in and where
4 it came out and things like that.

5 **A** What happened, yes.

6 **Q** Okay. So you -- then, when this trial started --
7 actually, the night before, I talked to him, Mr. Osborne. You
8 gave me this information about these high levels of drugs in
9 his body. Had you ever, ever said to me before, whether in an
10 email or in a conversation, that that was the case?

11 **A** No, I did not, because I didn't have all the information
12 in front of me.

13 **Q** And I think you said that you testified earlier that that
14 report that we gave you last night from Colleton Medical where
15 it says that Mr. Williams was NARCANed several times, and I
16 think the cause of death on that particular report says
17 cardiac arrest and things like that.

18 You had never seen any of that until last night?

19 **A** That's correct.

20 **Q** And you have never provided any report to me in writing,
21 even in email, until last night?

22 **A** That's correct. Last night, I gave you an email that
23 showed you the various drug concentrations and the various
24 levels and the import of those different concentrations and
25 how those drugs were metabolized.

1 Q Right. And so you had -- after I had notified you that
2 you would be getting -- that Mr. Osborne and his office would
3 be getting in touch with you?

4 A Correct.

5 Q And they did?

6 A Yes, ma'am. They called me yesterday sometime during the
7 day. I was working, so I called them back. I think it was
8 4:00, 4:30, something like that. I called two different
9 people. Mr. Osborne actually was the one I got ahold of.

10 Q And after that is when you presented the email, which
11 then I forwarded to Mr. Osborne.

12 A Right. And that was sometime late last night. I would
13 say probably after 9:00 would be my guess.

14 Q So you had mentioned, when you were testifying with
15 Mr. Osborne, that you believed that you needed to have
16 everything or as much as you could before you made a medical
17 opinion.

18 A Yes, ma'am. I try to do that in every case. In fact, in
19 this case, I'm still waiting to see the CT scan, which I
20 understand is available now, but I still haven't seen it.

21 Q I understand.

22 So when you and I were talking, is it true that you were
23 telling me every time that, until you saw everything, you did
24 not want to give me an opinion?

25 A That's correct, because I try to get the best medical

1 information I can, and that involves as many data points as
2 are available, and knowing that there are additional data
3 points out there, I tried to get those.

4 **Q** So did you tell me on Sunday what your medical opinion
5 was or did you need to see the Colleton County records to be
6 able to make that decision yesterday?

7 **A** I gave you the best information I could based on what I
8 had at that point Sunday, but I would say I didn't have --
9 knowing there was additional information, I didn't give you a
10 formal report. I gave you, at that point, my best evaluation
11 of what I had to work with.

12 **Q** But that your -- you needed to see those Colleton records
13 to actually make your final medical determination.

14 **A** Correct. I would not issue a written opinion until I had
15 seen everything, which is, again, knowing there's a CT scan,
16 knowing it's a gunshot wound case, and those Colleton records
17 refer to something specifically about the CTs that I'm
18 interested in. I believe it's the Colleton records. If
19 they're not, I apologize; I don't have them in front of me.
20 But I want to see all that information before I issue a
21 written report.

22 **Q** I understand.

23 And in terms of your testimony to the jury, that would be
24 based on your written report that you did last night?

25 **A** I wouldn't really call what I did last night a written

1 report. It's informational. It's not going to change, but it
2 would be supplemented in a formal written report.

3 Q And do you have that with you today?

4 A I don't, because I still don't have the CT scans.

5 Q So you were planning just to come and testify and tell
6 the jury what your impressions were?

7 A I was planning on looking at a CT scan this morning and
8 then testify to my impressions.

9 Q Because that's because it's on DVD, and we couldn't get
10 it to you last night.

11 A That's correct.

12 Q And so it's -- again, last question: What you believed
13 to be your medical opinion, you really didn't have until last
14 night -- complete medical opinion?

15 A I think that's a fair assessment, yes, ma'am.

16 MS. GAY: I have no further questions, Your Honor.

17 THE COURT: Any redirect?

18 MR. OSBORNE: Just one question.

19 PROFFERED REDIRECT EXAMINATION

20 BY MR. OSBORNE:

21 Q What did you tell Ms. Gay on Sunday night as to your best
22 information or evaluation of the cause or manner of death?

23 A That he had very high drug levels, and that I thought
24 that was significant in his death.

25 Q Sunday night. Okay.

1 MR. OSBORNE: No further questions.

2 THE COURT: You may step down, Doctor. Thank you.

3 Solicitor, did you care to make an argument?

4 ARGUMENT

5 MR. OSBORNE: I am, Judge. And so just as a way of
6 background, a Rule 5 request was sent by Ms. Hubert --
7 Michelle Hubert. She was the original attorney representing
8 Ivington Allen.

9 On February 27th of 2019, we sent reciprocal Rule 5 on
10 March the 12th of 2019. You know, and in our status
11 conference leading up to this case, we have had few of them
12 with Ms. Gay. Ms. Gay has indicated earlier on -- and I have
13 back in September, that was the first notification that I had;
14 I understand he doesn't remember, but it seems like he was
15 probably retained around September of 2021.

16 And most recently, in our continuance motion last week,
17 Ms. Gay said that she needed a continuance for her expert to
18 review medical records. I asked during the motion, "What is
19 your expert looking for? We may be able to stipulate to
20 this." And the word "trajectory" came out. Trajectory was
21 what was at issue.

22 I asked her on Monday -- Monday, the first day of the
23 trial as we were picking the jury -- of what she expected her
24 expert to say, and she said she did not know. She said she
25 had not spoken with him. Again, she mentioned trajectory.

1 Yesterday, Tuesday, I asked again in the morning, and she
2 again said she had not spoken with him yet and did not know
3 what he was going to say. I asked for -- that seemed odd to
4 me. I think we have seen now that that wasn't exactly -- that
5 it was not true.

6 So I asked for Mr. -- or Dr. Downs' contact information.
7 She gave it to me and (indiscernible). Investigator Hopp (ph)
8 called and left a message. He then called me back -- well,
9 even backing up before that. I think this is the kind of
10 thing that's even, again, just disappointing.

11 Yesterday afternoon, when we were in court, I wanted to
12 flesh that out on the record, and I said, you know, Judge, we
13 just want some indication. We're not asking for a
14 (indiscernible); we just want some indication as to what her
15 expert is going to testify to. And I said that, you know,
16 Ms. Gay has indicated that she hasn't even spoken to her
17 expert yet. And Ms. Gay acknowledged, as far as I can recall,
18 that she had not spoken to her expert yet and didn't know what
19 he was going to say; that this was all going to be a big
20 surprise to us this morning, what her doctor was going to say.

21 When I talked to Dr. Downs yesterday, he said basically
22 what he said here today; that the cause of death, in his
23 expert opinion, was due to a drug overdose with a contributing
24 factor of a gunshot, and the manner of death -- homicide,
25 suicide, natural -- he was going to determine or make it

1 undetermined.

2 And I asked him, Well -- he indicated to us, which he's
3 already testified to today, that he had relayed that to
4 Ms. Gay, what his opinion was. She knew this. And I think
5 it's kind of a signal to the gamesmanship that was going on by
6 the defense is that they didn't ask one single question to the
7 pathologist, to the actual doctor who did the autopsy, who
8 prepared an autopsy report, who knew about the toxicology.
9 Not one.

10 We -- it's the State's position that this is a Rule 5
11 violation. And I'm going to Rule 5(b)(1)(B). And kind of
12 moving ahead a little bit, it says, under "Reports of
13 Examinations and Tests," it says that, "...upon compliance
14 with such request by the prosecution," meaning as set by Rule
15 5, "the defendant, on the request of the prosecution," that's
16 our reciprocal, "shall permit the prosecution to inspect and
17 copy any results or reports of physical or mental examinations
18 and the scientific tests or experiments made in connection
19 with the particular case, or copies thereof, within the
20 possession or control of the defendant, which the defendant
21 intends to introduce as evidence in chief..."

22 So, to me, the whole issue here is report. What is a
23 report? I think the defense would argue that a report is
24 something that is reduced to writing. True, that is a report.
25 But I think a report is also when I tell you something, I'm

1 reporting to you. To say that "report" simply means to reduce
2 to writing I think undercuts the spirit of the rule. If we're
3 saying that a report is simply a writing, then it would have
4 said writing.

5 Furthermore, I think, by reducing it to just a writing,
6 that interpretation encourages this type of gamesmanship.
7 Don't make a report, because once you make a report, then I
8 have got to give it to them.

9 Judge, I realize that this is, you know, an extreme
10 remedy, but we're asking -- basically, here's what I suggest.
11 So we have two remedies. One, we can ask for a mistrial or a
12 continuance. That remedy, either one of those, is going to
13 benefit the defense, and I don't see benefitting the defense
14 when these type of games and this type of mischaracterization
15 and, quite frankly, lies, they shouldn't benefit from that.

16 And, secondly, the next one -- and this is the one we're
17 asking for -- we're asking you to suppress Dr. Downs'
18 testimony. If -- and this is why we're asking for this
19 remedy. If she had complied with Rule 5 and reported to us --
20 and all it would have taken was a simple "Dr. Downs' is going
21 to testify that the tox is giving him concern." That's all
22 she would have had to say. If she had said that, then I would
23 have directed my questions differently not just to my forensic
24 pathologist, but during this entire case, every one of those
25 family members, I would have painstakingly asked them the

1 difference between Mr. Williams before he was shot and after
2 he was released from the hospital. I only did that with one,
3 because I knew that was a rough -- that was a rough field to
4 sow.

5 And I'm just going to say one other thing. When I say
6 this is disappointing, it is disappointing. I have known Lisa
7 back in my previous life, when I did this job as a detective
8 sergeant for Charleston Police. I mean, she could have told
9 me, no, I would have accepted that. I mean, I have heard that
10 many times. If she would have just simply said, "David, I'm
11 not going to tell you what Dr. Downs told me. If you want to
12 talk to him, you can talk to him." If she did that, no
13 problem. I would have respected that. She didn't do that.
14 She said she hadn't even talked to him. That's a different
15 ball game.

16 This system, I don't think, is set up for that type of
17 gamesmanship. Thank you, Judge.

18 THE COURT: Ms. Gay?

19 MS. GAY: Thank you, Your Honor. First of all, I don't
20 think -- I just want to put on the record that there was no
21 evil intent here. There was no intent on my part to
22 disadvantage Mr. Allen in his case on any level.

23 During our times -- and I see paperwork here from them.
24 During our times in this case, I put on the record before that
25 I asked Mr. Sorenson for records. When Mr. Osborne finally

1 got the case, when he came, I asked for these records related
2 to the emergency room visit, because I felt like that was the
3 important moment when a lot of this was going on, not the -- I
4 already had the autopsy and things like that, but I believed,
5 in my assessment of the situation, that, medically, something
6 in those emergency records could be important to the case.

7 So when I hired Mr. Downs -- Dr. Downs, I was giving him
8 all of this stuff related to the emergency room. He asked for
9 some stuff -- mental information. We have emails -- this was
10 just in the first part of April -- what date is? It might be
11 able to -- yeah, it was not that long ago.

12 We asked to get these records, and then, on the 7th of
13 April, we got a court order from you to get the records.
14 Every time I -- the few times that I could get Dr. Downs to
15 talk to me, he would say, "I need to have everything together
16 before I tell you what it is I think. I need to be able to
17 look at all of it."

18 So, at times when we were doing pretrials together over
19 the conference calls and virtual hearings, and my
20 conversations with David were, "He won't give me an opinion
21 yet because he has to have everything." If you recall, I
22 specifically said, "I don't have his opinion. I'm not going
23 to be able to get his opinion until he gets all these
24 records."

25 So, as I was trying to get in touch with him to let him

1 know about the scheduling of the case, he did say there's all
2 these high toxicology numbers. I was like, "What?" And he
3 said, "Yeah, that's a real concern."

4 Now, okay, I, maybe on Monday or Tuesday, should have
5 said to David that's what he was going to say, but he had not
6 given me an official cause of death or his opinion -- his
7 medical opinion.

8 When I spoke to David -- I can't even remember what day
9 it was -- during the first part of the trial, he said, "Well,
10 what is he going to say? Is this just about trajectory?"

11 And, in my mind, it was all about trajectory until that
12 conversation. And I said specifically to David, "No, it's
13 about" -- he said, "Is it about trajectory or causation?" And
14 I said, "Well, it is about causation." And I said that to
15 him.

16 So I didn't know at all that Dr. Downs was going to make
17 a determination -- a medical determination that the cause of
18 death was an undetermined -- initially, a drug addiction;
19 secondly, a gunshot wound. I didn't know any of that until
20 yesterday when I received his document that I immediately
21 forwarded to David.

22 David said to me yesterday -- well, I already knew from
23 Dr. Downs' text message that he had gotten a call from them.
24 He said he was going to call them back after he got out of
25 class. I guess he teaches a class. And I said to -- David

1 said, "As soon as you get something from him, send it to me,"
2 which I did. I forwarded it to him at 10-something last
3 night. The document -- and I can certainly forward it to the
4 Court -- they had his medical opinion, but his medical opinion
5 was not given to me until last night about what his cause of
6 death would have been.

7 He did mention to me that he saw these high levels of
8 drugs, and that was pretty cool. I'll admit, you know, I was
9 excited about the fact that somebody -- the expert witness was
10 going to say something different than what the medical
11 examiner was going to say. I didn't ask very good questions
12 because I was intending to call Dr. Downs, who was going to
13 state his medical opinion. But until last night at 10:00, I
14 didn't know what his medical opinion was.

15 And so, you know, looking at Rule 5 -- I have been doing
16 this for 31 years, Your Honor, and I was a public defender
17 under Ashley Pennington before I worked in private practice,
18 and there truly was, in our office at that time as a public
19 defender and my understanding, an understanding that, if it
20 was a written report, you had to provide it, but if it wasn't
21 a written report, you know, that wasn't something that you had
22 to provide as a part of Rule 5.

23 So what David said is, "I would have been okay if she
24 just said no, I'm not telling you." What I said was, "No, I
25 don't know." And so "no, I don't know," even when I said it

1 to him just a few days ago was because this man was telling me
2 that he needed these medical records to make his medical
3 opinion and Colleton County records, which are the ones that
4 have to do with his actual death, were not provided to him
5 until yesterday.

6 As he said on the stand, much of what he based his
7 medical opinion that he gave me so far on were the Colleton
8 County records that he didn't even receive until last night.

9 So what he said to me before was just I have literally
10 never discussed the autopsy with him until he mentioned it to
11 me right before this trial started. I had only been talking
12 to him about -- through text or, at that point, really just
13 through email -- have you reviewed the medical records from
14 Trident, what -- he said, "I need more information." We now
15 have the disk. I asked him to bring his computer because I
16 don't have a computer that opens up a DVD. So he brought his
17 computer so I could give him this disk.

18 So what he testified to, Your Honor, was that he needed
19 everything before he made a decision about death, and I did
20 not know that information. I was remotely aware that the
21 toxicology had a problem. I could have asked a question to
22 the medical examiner about these levels; I chose not to, but
23 she did, in fact, mention that he had these drugs in his
24 system, and their levels, as he said, were high. But I didn't
25 ask the question, and I'm sorry.

1 I think to have a remedy in this situation that would be
2 -- to preclude Mr. Allen from presenting a defense or
3 presenting a witness that's crucially important to his case is
4 extreme and beyond the scope of what we should do to
5 Mr. Allen. You know, what you should do to Melisa Gay,
6 whatever needs to happen to me, but, Your Honor, honestly, I
7 did not do it on purpose. I mean, at the point where he's
8 telling me, you know, I'm going to come in and say something
9 different, strategically, yes, I'm like, "Okay, that's great."
10 And we're all here today doing this trial. That's what
11 happens is that, you know, you prepare your defense in hopes
12 of, you know, counteracting what the State says.

13 But my understanding and my reading of Rule 5 is
14 definitely that I was supposed to provide something if it was
15 a written report, not tell him what the guy was saying just
16 because, you know, he's asking.

17 And if it's my misinterpretation of Rule 5, I'm sorry,
18 but it shouldn't prejudice Mr. Allen at this point. You have
19 heard his testimony. He has something important to share with
20 this jury about this incident, and I did not have an email
21 that said that until last night. I immediately provided it to
22 David. It was in writing at that point.

23 I did tell David, when we spoke earlier this week, that
24 it was about causation, because his eyebrows kind of went up.
25 I let him know that there was a point where we were going to

RULING

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1 talk about causation.

2 This case is about a shooting that happened on a
3 particular day and a man died days later. And so he -- the
4 doctor did not tell me at all that he was even going to phrase
5 it as a cause of death -- type. I'm going to change the cause
6 of death from homicide to undetermined, he never told me that,
7 ever, until last night.

8 RULING

9 THE COURT: A couple of things concern me, Counsel.
10 Obviously, this case is three years old. We have stasured it
11 on multiple times. You knew when it was scheduled for court.
12 I'm going to ask the court reporter to please play back
13 exactly what you said yesterday as far as you haven't talked
14 to your expert or not.

15 Madam Court Reporter, could you please pull that up?

16 (Pause in the proceedings while the court reporter pulls
17 up the requested audio for playback.)

18 THE COURT: Yes, ma'am?

19 MS. GAY: Thank you, Your Honor.

20 At the point where I said that yesterday, I had new
21 medical records, a disk from Trident with the information
22 about the original ER visit, and the Colleton County death
23 records, like where he actually went to Colleton County before
24 he died.

25 Those records were given to Mr. Downs yesterday

1 afternoon. Mr. Downs then created a written email to me,
2 which I forwarded to Mr. Osborne right away. Mr. -- Dr. Downs
3 had been repeatedly telling me that he could not give me a
4 medical opinion until such time as he received those things.
5 And he did. And his -- the email -- I don't recall sending it
6 to you, but I will do that right now.

7 The email says, "This is my medical opinion of cause of
8 death." And then he has it down. But I did not see that or
9 knew that he was even planning on saying that, that there was
10 some different cause of death.

11 THE COURT: The problem, though, Ms. Gay is that you
12 knew, at least on Sunday, that he had concerns regarding the
13 toxicology, and you failed to disclose that. You failed to
14 disclose that you had even talked to him on Sunday. That's a
15 huge problem.

16 My concern is the protection of your client and the
17 rights of the State as well. The problem is, I think you
18 violated Rule 5 and the continuing disclosure, whether it's
19 the spirit of it or the written report of it, and that's a
20 huge concern, because if I exclude this testimony from your
21 case, it hurts your client.

22 MS. GAY: Yes.

23 THE COURT: And whether your conduct was dilatory,
24 negligence, or willful, I don't know, but it certainly affects
25 the complete outcome of this case. I really don't think I

1 have any discourse or any choice but to declare a mistrial in
2 this case based upon defense counsel's misconduct.

3 And, Solicitor, I expect you to report this to the proper
4 authorities.

5 MR. OSBORNE: Your Honor, if I may -- if I may suggest an
6 alternative.

7 THE COURT: Yes, sir.

8 MR. OSBORNE: I think we are prepared to plow forward,
9 let him testify, and I think -- and I think the family would
10 probably agree, and just let -- because really, that's what
11 we're talking about. You know? Justice for the State and
12 also justice for the family. We would ask to just plow
13 forward. I think we're prepared. I have talked to
14 Dr. Presnell. I relayed to her my conversation with
15 Dr. Downs, and she, quite frankly, found it laughable.

16 So I think that, if you're okay, Judge, we would ask the
17 remedy, in the alternative, just let us plow forward, and then
18 we may have -- with closing arguments, I think I can sort
19 of -- I may argue some positions that -- well, I think we'll
20 be okay, is what I'm saying. And if you're agreeable, Judge,
21 I would ask just to plow forward and see what happens.

22 THE COURT: If the family is okay with it...

23 MR. OSBORNE: Can I have just a second?

24 THE COURT: Certainly.

25 (Pause in the proceedings.)

1 MR. OSBORNE: Judge, they're all in agreement. We'll
2 just let the chips fall, and I think we're okay.

3 THE COURT: All right. Mr. Allen, I need to ask you as
4 well, sir, considering that this certainly affects you,
5 Mr. Allen.

6 THE DEPUTY: Stand up, sir.

7 THE COURT: Mr. Allen, obviously, you have been witness
8 to what's been going on. You wish for your expert to be able
9 to testify, is that correct, regarding the cause of death and
10 his opinion?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And considering everything that has come
13 before the Court, do you feel comfortable in that testimony
14 coming in and that's what you wish?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And you have discussed that with your
17 attorney?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And do you need any more time to discuss that
20 with her?

21 THE DEFENDANT: No.

22 THE COURT: All right. So we'll go ahead and -- anything
23 further before I bring the jury in then?

24 MR. OSBORNE: No, Your Honor.

25 THE COURT: And, of course, Solicitor, you'll have

1 latitude to recall witnesses, if you wish to do so.

2 MR. OSBORNE: Okay. Thank you, Judge.

3 THE COURT: Let's have our jury, please.

4 MS. GAY: Your Honor, while they're coming in -- Your
5 Honor, if you'd give me two seconds.

6 THE COURT: Two seconds, Ms. Gay.

7 MS. GAY: (Indiscernible). I try very hard
8 (indiscernible).

9 (The jury entered the courtroom.)

10 THE COURT: Good morning, ladies and gentlemen of the
11 jury. Thank you for your patience this morning. Sometimes
12 things crop up that we don't anticipate and certainly
13 appreciate your patience and your time. We are now ready to
14 proceed with the trial of this case.

15 You may call your next witness.

16 MR. OSBORNE: Thank you, Your Honor. The State calls
17 Willis Walker.

18 THE CLERK: Please place your left hand on the Bible and
19 raise your right hand and state your full name for the record.

20 THE WITNESS: Willis Walker.

21 WILLIS WALKER,

22 after having been duly sworn, was examined and testified
23 to as follows:

24 THE COURT: Your witness.

25 MR. OSBORNE: Thank you, Judge.

1 DIRECT EXAMINATION

2 BY MR. OSBORNE:

3 Q Mr. Walker, what is your current title?

4 A I work for the Charleston County Sheriff's Office as an
5 intelligence analyst.

6 Q Is it -- intelligence analyst? Is that what your title
7 is?

8 A Yes, sir.

9 Q Okay. If you don't mind, just pull the mic up just a
10 little bit closer to you.

11 A Certainly.

12 Q Thank you, sir.

13 I know you have been in law enforcement for awhile. Can
14 you tell us about some of your background and previous
15 assignments and agencies that you have worked for?

16 A Yes, sir. Let's see. I started my career at the age of
17 21, in 1997. I was in school at the University of Georgia,
18 became a police officer there. I did three years there with
19 them. I was a patrol supervisor, became a corporal. Took a
20 little bit of time off school and attended academy. Graduated
21 in '99.

22 April of 2000, I moved to Charleston and accepted a job
23 with the City of Charleston Police Department. Did five years
24 with them. With them, I worked patrol. I worked
25 investigations, detective. I worked special operations, SWAT

1 team, different -- different roles.

2 2004, I was hired by the Drug Enforcement Administration,
3 DEA. Attended Quantico for training and did six years with
4 them in New York working high-level narcotics organizations.

5 **Q** Okay. What is your current duty assignment with the
6 Charleston County Sheriff's Department?

7 **A** So, in 2010, I joined the Charleston County Sheriff's
8 Office. As an intelligence analyst, I'm assigned to SEAHAWK
9 -- they call it SEAHAWK Interagency Operations Center. So
10 it's a group of individuals from different departments and
11 agencies throughout the region, and we kind of work
12 collaboratively on different tasks and things like that. We
13 also have our specialties and stuff like that, but we fall
14 under Department of Homeland Security. I maintain a security
15 clearance, and, you know, I have some training and stuff I
16 have to do through there. But we also fall under SLED, the
17 South Carolina Law Enforcement Division. And there's three --
18 four agents there, a lieutenant, three agents, some other
19 analysts. Therefore, I have an access to a lot of SLED's
20 databases that the normal department would not and some
21 resources and training that I get that other departments and
22 officers wouldn't.

23 **Q** Okay. And that's going to piggyback right into some of
24 that training, and I know it's quite extensive. So if you
25 want to summarize it a little bit. But some of that training,

1 does it have anything to do with analyzing cellular devices
2 and records from cellular devices?

3 **A** Yes, sir, it does. I think it was probably in 2013 maybe
4 I started being tasked looking into the cell phone records
5 that were maintained by different carriers like Verizon,
6 Sprint, T-Mobile, and looking at how that applies historically
7 to incidents that occurred, the mapping of the location of the
8 cell towers and the phones used. I have had training
9 through -- I started with -- cellular training with the DEA.
10 We did a lot of Title 3 wire, read printouts, things like
11 that.

12 Then, looking at call detail records, I got into that
13 around 2013, '14 there. And I have had training from
14 Cellebrite, GeoTime, Geocell, Hawk Analytics. I mean, there's
15 a bunch of different ones and different mapping products are
16 used. The FBI has a cellular team called CAST. It's Cellular
17 Analytic Strategic Team. I have had training with them. I
18 collaborated with Clay Simmons, who is a local agent here, who
19 was -- I think he's a supervisor in that unit, or was, in
20 Oklahoma City, and I think he's still doing that. We collab
21 on different things. And I'm part of a group called the
22 National Domestic Communications Assistance Center, which is
23 in Fredericksburg, Virginia, right outside of Quantico. It's
24 run by the FBI. And then you have the DEA is there, ATF. I
25 just got back from a conference last week.

1 But they deal with all types of technology to includes
2 cell phones and stuff like that. I had extensive training
3 through there.

4 **Q** And do you have any instructional or teaching
5 responsibilities in the area of cell phone analysis?

6 **A** Sure. I have been trained by them as a train the trainer
7 course, a four-day course there, and it gets into the new apps
8 and new technology and stuff like that and how to attain the
9 legal process, search warrants, and things like that. So I
10 assist all the time with departments around here with how to
11 obtain search warrants, the wording needed, that kind of
12 thing, what different providers or apps or cell carriers can
13 provide, how long they retain the information and things like
14 that.

15 **Q** Okay. Approximately how many times have you performed
16 historical cell site analysis and on what type of cases?

17 **A** I look at cell -- we call them CDRs or call detail
18 records. I look at them on a daily basis. I work -- that's
19 the thing, being where I am, I don't work just for Charleston
20 County. I work for anybody throughout the state or wherever,
21 for that matter.

22 I map out all the South Carolina highway patrol
23 (indiscernible) team, fatalities. I work for -- I do more for
24 other departments than I do my own. I have testified at least
25 17 times. But I look at the records every day.

1 Q And you say you have testified 17 times. Was that as an
2 expert in the field of historical cell site analysis?

3 A I have -- on eight occasions, it was. A lot of times,
4 they just kind of agreed to agree. When I first started -- we
5 have come a long way, but when I first started, there wasn't a
6 lot known about it, and you had to kind of educate, you know,
7 the legal system on how -- how it worked.

8 Q Okay. And been qualified eight times as an expert?

9 A Yes, sir.

10 Q And is that in South Carolina courts?

11 A Yes, sir.

12 Q General Sessions courts?

13 A Yes, sir.

14 Q Like this one?

15 MR. OSBORNE: Your Honor, at this time, the State offers
16 as an expert Willis Walker in historical cellular data or
17 telephone record and data analysis.

18 THE COURT: Any voir dire?

19 MS. GAY: No. No objection, Your Honor.

20 THE COURT: All right. He's qualified.

21 BY MR. OSBORNE:

22 Q All right. So we kind of talked about it a little bit,
23 but before we get into your findings in this case, what is
24 kind of -- it's kind of obvious but what is historical cell
25 site analysis?

1 **A** So kind of the process of getting it -- and I'll go into
2 what it is.

3 **Q** Okay.

4 **A** A detective or an investigator would obtain a search
5 warrant and submit that to the carrier -- be it Verizon,
6 Sprint, T-Mobile -- and they would give probable call and
7 reasoning. But there would be an incident. They would get
8 kind of a time frame. And historical, it's not as it happens,
9 but they would contact, say, Verizon, and Verizon would
10 provide -- they'd give a cellular number, and they would
11 provide the call detail records for that time period, which is
12 what I used to do mapping.

13 **Q** Okay. To do mapping. All right.

14 And were you asked to do some mapping and whatnot in this
15 case?

16 **A** Yes, sir, I was.

17 **Q** All right. I'm going to start off by showing you what's
18 already been identified -- and for information purposes -- as
19 State's 20. Can you take a look at this CD and tell me if you
20 recognize it? And if so, what is it?

21 **A** Yes, sir. These are the call detail records for
22 (843) 560-4731.

23 **Q** Okay. And this was provided to you at the request of --
24 see if you can plot a map with this number?

25 **A** Yes, sir.

1 Q And, so, I guess just kind of -- you said call detail
2 records, and that's what those are, State's 20. Can you tell
3 the jury, like, what type of information is included in the
4 call detail records?

5 A Sure. For the most part, they're going to call --
6 they're going to contain the number that placed the call, the
7 number that received the call, the duration of the call, the
8 type of call, be it a text, a phone call. It will typically
9 show if the call was forwarded to voicemail, if it was
10 answered, how long the conversation took place. And for some,
11 they will have -- for the majority, they will have the cell
12 tower or cell site that was used and the sector, which tells
13 you kind of the site of the tower.

14 Q Okay. And do you need that CD, the call detail records,
15 to perform cellular site analysis?

16 A Yes, sir. That's where all the information comes from.

17 Q Okay. So, without that, you're not going to
18 (indiscernible)?

19 A Correct.

20 Q All right. After being provided with the call detail
21 records in State's 20, what do you do next in your position
22 when asked to perform that function?

23 A Sure. I have had -- didn't mention it before, but I have
24 had training in Excel, Word, ArcGIS, a lot of different
25 mapping programs. I will take that information with a tower

1 list, which has all the towers for the carrier, and I will
2 read the records to see which tower was used and then which
3 side of the tower was used.

4 Q Which side of the tower? Okay. We'll get to that.

5 All right. And that's what's called -- once you put that
6 into your presentation, that's a cell phone mapping?

7 A Yes, sir.

8 Q Okay. Are you requested to do or to narrow it down to
9 specific relevant time frames?

10 A Yes, sir.

11 Q And were you asked to do that in this case?

12 A I was.

13 Q And what was the relevant time frame that you were asked
14 in that?

15 A It was April 21st and 22nd.

16 Q Or 20th through the 21st?

17 A 20th through the 21st, yeah.

18 Q And were you able to identify specific cell towers that
19 were being used by the target phone number during that
20 relevant time period?

21 A Yes, sir, I was.

22 Q Okay. All right. Did you prepare a PowerPoint in
23 preparation for your testimony to present to the jury?

24 A Yes, sir, I did.

25 Q All right.

1 MR. OSBORNE: Judge, may I approach?

2 THE COURT: Yes, sir.

3 (State's Exhibit No. 38, Verizon Call Detail, was marked
4 for identification.)

5 (State's Exhibit No. 39, DVD, was marked for
6 identification.)

7 BY MR. OSBORNE:

8 Q I'm showing you State's 38 and 39.

9 MS. GAY: Your Honor, I don't object to either of them.

10 MR. OSBORNE: Your Honor, at this time, the State seeks
11 to admit 38 and 39.

12 THE COURT: That's without objection. They're in.

13 (State's Exhibit No. 38 and 39 were received into
14 evidence.)

15 BY MR. OSBORNE:

16 Q All right. We'll just start off -- let's see if I can
17 change this. Okay. All right. So, now, looking at the first
18 page here, what are we looking at?

19 A That is the first page of the PowerPoint that I provided
20 to you, and it's showing the phone number and the records that
21 were obtained for the provider, being Verizon. And it's got
22 the Dorchester County Sheriff's Office case number and the
23 time frame, April 20 through the 21st, 2018. And then the
24 records that I mapped start at 12:41 a.m. on the 20th and go
25 through 3:45 p.m. on the 21st.

1 Q All right. Two?

2 A This is showing all of the Verizon cell towers for that
3 area. So the normal person is -- most people are not going to
4 know how many cell towers are cell sites in a general area.
5 That's just showing all of the cell sites for that area.

6 The independent markers there are six different locations
7 that I was asked to place on the map, and they will be on the
8 proceeding slides if they're in that vicinity.

9 Q Okay. Rodeway Inn, this was in Orangeburg?

10 A Yes, sir. That's the turquoise marker to the -- kind of
11 the middle there.

12 Q Okay. 864 Corley Street. We have heard testimony that
13 that's Lamont Allen's address.

14 A That is the blue marker.

15 Q Okay. 602 Church Road. We have heard testimony that's a
16 softball field.

17 A Yes, sir. That is the orange one. It's kind of behind
18 the blue marker. They're very close together there.

19 Q And [REDACTED] Edisto River Road. We have heard testimony that
20 that's the defendant and his wife's residence?

21 A That is the one on the bottom on the south there, the
22 green one.

23 Q 112 Blackies Park Road we have heard is the incident
24 location of the shooting.

25 A So the red one.

1 Q And 9272 Charleston Highway, we have heard testimony
2 that's Peter Willis's house.

3 A That is the yellow one.

4 Q Okay. All right. This is a zoomed-up view?

5 A Yes, sir.

6 Q How is this helpful?

7 A This -- it shows the cell sites that were used, and the
8 different markers are the different cell sites.

9 Q Okay. So when you're looking at the call detail record,
10 you can marry up the cell sites to this actual location?

11 A Yes, sir.

12 Q Okay. All right. A little jump. What does this show?

13 A So this is showing the cell sites and the sectors that we
14 use. The best way to explain it is the red dots are the cell
15 sites or cell towers, and then those little pie shapes are
16 just showing the direction or site of the tower that the
17 signal comes from.

18 Q Yeah. And I think I can probably do this better in
19 another demonstration. But is it fair to say that there's
20 been technology, at least in call detail records, that's going
21 to be able to point to the exact location that phone was at?

22 A That is accurate. There is no -- it's not GPS where
23 you're using satellites and stuff like that. It's just
24 showing you which side of the tower. So it would be -- the
25 phone itself could be outside of that -- that cone. That

1 doesn't mean, when they cross that line, it stops at all.

2 It's just showing you which side of the tower it came from.

3 Q Six is just showing a different --

4 A It's without -- without the labels, yes, sir.

5 Q Okay. Seven?

6 A Just the sites that we use.

7 Q Okay. All right. Now, we're getting into some time
8 frames here. So this would be -- this call was placed on
9 April the 20th at 12:41 a.m.?

10 A Yes, sir.

11 Q Now -- and I notice that it appears as though this call
12 was right next to [REDACTED] Edisto River Road?

13 A Yes, sir. That's correct.

14 Q Okay. At 8:52 a.m., what are we looking at here?

15 A So let me back up just a second. The call detail records
16 are -- no, go to the next one.

17 Q Oh, okay.

18 A It's just -- the one before that. There you go. It says
19 right here. Yeah, so the records are going to give you the
20 lat and long of the cell site or the tower itself, which is
21 that red dot. And then they're going to give you what they
22 call an azimuth, which is a percentage. The best way to
23 describe it is, if you drew a circle around that, 360 degrees
24 would be the top; 180 would be the bottom. So they're going
25 to give you 150, 270, and that's going to be kind of the

1 middle of that -- that, if you drew a line from the tower
2 itself out to the cone there, that would be the middle of
3 that. So it just kind of helps you depict kind of -- and they
4 also give you a horizontal beam width, which is how wide that
5 beam is.

6 Could it be outside of that? Yes. But like this call is
7 not going to be south of that or below.

8 **Q** This probably is a better slide, better than the one we
9 were talking about. You're not -- it's possible, I suppose,
10 that he's at ■■■ or the phone's at ■■■?

11 **A** He could be, yes, sir.

12 **Q** He could be. And so -- and that's what you're saying.
13 It might be just outside of that.

14 **A** Right.

15 **Q** But he's not going to be in Orangeburg?

16 **A** Right, no.

17 **Q** And in reference to this cone, he could be anywhere in
18 here; is that correct?

19 **A** Yes, sir.

20 **Q** But very unlikely he's on this side.

21 **A** He's not going to be -- yeah, he's not going to be, like,
22 down here or certainly not in Orangeburg.

23 **Q** So in this cone or just outside?

24 **A** Yes.

25 **Q** All right. So that's good for illustrative purposes.

1 All right. So the next one, it looks like we're on the
2 move at 8:55 a.m.

3 A Yes, sir. This one is north of where the last one was.

4 Q Okay. And now -- all right. What about here?

5 A That one is just the tower to the west or to the right of
6 the last one.

7 Q And I notice we have something different up here. What
8 does this right here denote?

9 A This is an incoming call that went to voicemail to
10 (843) 636-4017 I believe it is.

11 Q It's 4017?

12 A 4017, yes, sir.

13 Q And we have already heard testimony that that is the
14 defendant's wife's phone number. And you were asked to put
15 that into the slide?

16 A Yes, sir. That was an incoming call from that number
17 that went to voicemail.

18 Q Okay. Or at least that pop-up line.

19 A If you look at the top right, that's showing you the cell
20 site number and the sector it's to. That's the side there.

21 Q Okay. And now we have calls from 10:00 until 12:40 p.m.
22 again on April the 20th?

23 A Yes, sir.

24 Q And, again, the yellow icon was Charleston Highway, 9272?

25 A That is correct.

- 1 Q 11:57 a.m.?
- 2 A Yes, sir. It's another incoming call from the 4017
3 number that went to voicemail.
- 4 Q Okay. 1:00 p.m.?
- 5 A Yes, sir.
- 6 Q And moved from that location?
- 7 A Yes. And that one's a little bit to the west.
- 8 Q Okay. And at 1:50 p.m., it looks like we're in the range
9 of the Rodeway Inn?
- 10 A Yes, sir. That one is back up in Orangeburg.
- 11 Q Again, the call goes to voicemail?
- 12 A Yes, sir, from the 4017 number.
- 13 Q 2:37, still looks like it might be in the Orangeburg
14 area?
- 15 A Yes, sir. That one is just north of where the last one
16 was.
- 17 Q 2:44, still Orangeburg?
- 18 A Yes, sir. To the west.
- 19 Q 2:45, still in the Orangeburg area?
- 20 A Yes, sir.
- 21 Q 48, the same?
- 22 A Yes, sir.
- 23 Q 3:00, back in the cone of the Rodeway Inn?
- 24 A Yes, sir.
- 25 Q 3:22?

- 1 **A** Still Orangeburg.
- 2 **Q** Rodeway Inn, incoming voicemail?
- 3 **A** Yes, sir.
- 4 **Q** Okay. And now we get into 6 p.m. going into 8:30 p.m.
- 5 We're in Woodford?
- 6 **A** Yes, sir. I'm not that familiar with the area, but that
- 7 one is to the northwest of Orangeburg.
- 8 **Q** All right. And, now, this is showing that all of these
- 9 calls, again, were from the number identified as the
- 10 defendant's wife's, and they all went to voicemail?
- 11 **A** That's correct.
- 12 **Q** Same area, voicemail?
- 13 **A** Yes, sir.
- 14 **Q** 9:33, same area?
- 15 **A** Yes, sir.
- 16 **Q** Just looks like the sector might have changed a little
- 17 bit?
- 18 **A** Yes, sir. I would presume from that that the phone is
- 19 very close to the tower, in between the sectors, so it's just
- 20 kind of bouncing -- the signal is bouncing back and forth.
- 21 **Q** All right. So now, again, several calls from the same
- 22 4017 number. Are all the voicemails still in that same area?
- 23 **A** Yes, sir. Four calls.
- 24 **Q** That's just a different illustration.
- 25 Okay. Now, we're at 11:30, and it looks like we're back

1 at the hotel or the Rodeway Inn.

2 **A** It is in that vicinity, yes, sir.

3 **Q** Okay. And his wife called on voicemail?

4 **A** That's correct.

5 **Q** More calls. And these are all calls. You just haven't
6 put those specific numbers in there. And the only phone
7 numbers that are shown in this presentation are the ones from
8 the number that was identified to Andreana Allen?

9 **A** That is correct.

10 **Q** Okay. All right. 11:40?

11 **A** Another incoming call that was sent to voicemail from the
12 4017 number.

13 **Q** Okay. Now, we have 12:00. Different tower?

14 **A** Yes, sir. It's still in the Orangeburg area, north of
15 where the last one was.

16 **Q** All right. From 12:00 -- looks like midnight, 12:59,
17 going all the way until 1 a.m. Now, these calls are to that
18 same number but they're not voicemail, so these are actual
19 calls?

20 **A** These are outgoing.

21 **Q** Right.

22 **A** That's correct. And the -- the fourth one there was sent
23 to voicemail. The top were not.

24 **Q** We're still in the cone of the Rodeway Inn. The other
25 ones look like they're just outside, which is still in

1 Orangeburg?

2 **A** That's correct.

3 **Q** Okay. Same information, just without the pop-up?

4 **A** Yes, sir.

5 **Q** All right. Now we have got something different. At
6 1:45 a.m., on this slide alone, can you say definitively
7 whether he's not in the range of the Rodeway Inn? Or is it
8 possible he's still in the Rodeway Inn?

9 **A** He can still be there, but it's -- it indicates that he
10 has more than likely moved to the southeast.

11 **Q** Okay.

12 **A** Below.

13 **Q** All right. Southeast?

14 **A** Yeah.

15 **Q** And this kind of goes on from what we were saying before.
16 Right? These stretch out; correct?

17 **A** That is correct.

18 **Q** But, at a certain point, you would -- in your expert
19 opinion, would you anticipate that he would be hitting off
20 another tower?

21 **A** That is correct. Now, you can't always say that, like,
22 he's going to use the closest tower, the strongest signal,
23 but, you know, usually, it will probably be the closest one,
24 but there's different things that come into play, like, the
25 topography, like buildings or trees or, you know, the towers

1 don't really get overloaded because, once they get overloaded,
2 they're going to put up more towers. Once they get to, like,
3 50 percent or it would take like a 9/11 or something like
4 that. The bridge run, they bring in extra towers, but...

5 Q It's possible he's moving but not a hundred percent?

6 A If my memory serves me right, the next slide is even
7 further south. There you go. So that definitely indicates
8 movement to me, like he's traveling.

9 Q Okay. And just to backtrack, we have from 1:45, hitting
10 off this tower, so we're continuing, I guess, in a
11 southeastern -- east movement?

12 A That is correct.

13 Q Okay. And this one looks like it came from Bowman.

14 A Correct.

15 Q And now I'm at 2:56.

16 A This one is further to the southeast.

17 Q Okay. So with these three calls right here, he is
18 pinging off the tower that is within the range of the victim's
19 home, the incident location?

20 A That is the 112 Blackies, yes.

21 Q Okay. And so, again -- and I know we have illustrated
22 this before -- you're not going to be able to say -- no one is
23 going to be to say from the call detail records that he was
24 here or here or here, but what you can say is, at 2:56, that
25 call is pinging off of the area of the defendant's home; is

1 that fair?

2 **A** That is -- that's fair, yes. It's in the vicinity. You
3 can't say it was at the home, but it was in that general area.

4 **Q** Correct. All right. At 3:25 a.m., so we're talking
5 about, you know, from 2:55 to about 25 minutes later, where
6 are we now?

7 **A** The phone is back up here Orangeburg.

8 **Q** Okay. So we're headed west again?

9 **A** The Rodeway Inn there is the marker there.

10 **Q** 3:33 a.m.?

11 **A** Further in Orangeburg.

12 **Q** And now, about 4:40 a.m., back at the Rodeway Inn?

13 **A** In that vicinity, yes, sir.

14 **Q** Okay. All right. So now -- and this is just
15 illustrating from 3:48 a.m. all the way until about 11:30 the
16 following morning, still at the tower that's services the
17 Rodeway Inn area?

18 **A** Yes, sir.

19 **Q** All right. From 12:00 until 12:20, still in that general
20 vicinity?

21 **A** Yes, sir.

22 **Q** Okay. 12:30 p.m.?

23 **A** It's utilizing the tower to the kind of north, northeast
24 there, and there are two outgoing calls to the 4017 number.

25 **Q** Okay. And this would have been about at 12:30. This

1 might be really difficult for you to read there, but can you
2 see where that says, "Regional Medical Center"?

3 **A** Yes, sir.

4 **Q** And Chick-fil-A?

5 **A** Yes, sir.

6 **Q** 12:30, same general area?

7 **A** Yes, sir.

8 **Q** Same?

9 **A** Yes.

10 **Q** And then we're still at 12:30, 12:40? Same?

11 **A** Back to the preceding tower, yes, sir.

12 **Q** And this is a separate pop-up showing that number again?

13 **A** Correct.

14 **Q** Okay. Now, we're going to move a little quicker. Still
15 got some movement from 12:55 in Orangeburg?

16 **A** Yes, sir.

17 **Q** 1:15 -- or 1:14, I suppose, we were moving a little bit.

18 **A** We're moving out of -- is moving out of Orangeburg to the
19 southeast.

20 **Q** Okay. And, now, at about 1:20 or so, these sectors right
21 here -- this is what you were talking about before. I guess
22 that's why you put this pop up?

23 **A** Yes, sir.

24 **Q** So at 1:20, when we see Sector 1, is that this cone right
25 here, the one cone?

- 1 **A** That is correct. It was that side of the tower.
- 2 **Q** That side of the tower?
- 3 **A** Yes, sir.
- 4 **Q** And the softball field is serviced by that side of the
5 tower?
- 6 **A** More than likely. It's in that vicinity, yes, sir.
- 7 **Q** It's in that vicinity?
- 8 **A** Yes, sir.
- 9 **Q** Okay. And this is just a close-up?
- 10 **A** Yes, sir.
- 11 **Q** All right. 1:30, St. George?
- 12 **A** Yes, sir.
- 13 **Q** 1:41, moving?
- 14 **A** A little further to the east.
- 15 **Q** 1:44, service in that yellow icon?
- 16 **A** Yes, sir.
- 17 **Q** Right in that area, I guess.
- 18 **A** In that vicinity. And back to the east in that one.
- 19 **Q** Okay. Now, we're at 2:30 the afternoon of April the
20 21st, back in that general area or zone -- or ████ Edisto River
21 Road?
- 22 **A** Yes, sir. Edisto River.
- 23 **Q** Same thing with 2:36?
- 24 **A** Yes, sir.
- 25 **Q** Same up until 2:45?

1 **A** Same area.

2 **Q** Moving again shortly thereafter, or it at least appears
3 that way?

4 **A** To the north, yes, sir.

5 **Q** It's moving again?

6 **A** Yeah, continuing to move.

7 **Q** Same?

8 **A** Correct.

9 **Q** Still on St. George around 3:00?

10 **A** Yes, sir.

11 **Q** Okay.

12 MR. OSBORNE: All right. No further questions, Your
13 Honor.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MS. GAY:

17 **Q** Good afternoon. How are you? I'm Melisa Gay.

18 **A** Good, ma'am. How are you?

19 **Q** When you testified, you described your training and the
20 type of things that your expertise can do, and all of this --
21 the generation of all this is called mapping? Mapping cell
22 phone towers?

23 **A** Yes, sir [verbatim]. Historical cell site records, yes,
24 sir [verbatim].

25 **Q** I didn't hear you. What?

1 **A** Historical cell site records.

2 **Q** Okay. And, so, in the beginning of the pictures that he
3 showed you, it has areas with just lots of red dots on it and
4 a picture of -- there was many red dots throughout the area in
5 question. Well, let me see which number it might have been.
6 It was part of this (indiscernible), so hold on a second.

7 I'm not sure which picture this is but it's part of an
8 exhibit that you gave me, yeah. That one is good. I think
9 this one.

10 **A** Is that it?

11 **Q** Okay. Great. Sorry. There's too many angles.

12 Okay. So this particular exhibit has just lots of red
13 dots; correct?

14 **A** It does, yes, ma'am.

15 **Q** And those are the cell towers that are all in and around
16 this particular area?

17 **A** They were within a 20-mile radius of the -- each
18 individual point. So I point -- in each point, it goes 20
19 miles radius from each of those points.

20 **Q** Okay. And so let me ask it that way. So each one of
21 these dots could go approximately in a 20-mile circle? Are
22 they 20 miles from each other? I guess my question is: What
23 is the radius of each of the dots?

24 **A** The coverage area of the cell site?

25 **Q** Yes.

1 **A** It's unknown. I mean, you would have to -- there's ways
2 to get it, but not historically. There's different devices.
3 It's called a (indiscernible). They're rather expensive, but
4 the FBI has some that go out and do, like, a drive test, and
5 they can get you to where it wouldn't be like a circle. It
6 would be more of like a -- kind of like a blob looking around
7 each cell site.

8 **Q** So if I -- if you -- maybe we'll talk about it
9 (indiscernible).

10 Okay. So I'm going to show you this one that you
11 testified about. And in this particular piece of paper, the
12 number 458 -- see where the number 458 is?

13 **A** Yes, ma'am.

14 **Q** Okay. So that area, that dot, has a -- we're doing the
15 southeast and southwest quadrants of this tower that -- and
16 then there's -- correct? That's what you have demonstrated on
17 this one? You have little pie shapes under that. Did we pull
18 up the wrong one?

19 **A** There's no sectors on that one.

20 **Q** Okay. Hold on. I'm looking for the picture of sectors.
21 I think it's that one.

22 Okay. So looking at No. 458, we have two little pies
23 underneath that?

24 **A** Yes, ma'am.

25 **Q** And that pie is for the southeast and the southwest?

1 **A** Correct.

2 **Q** Okay. And, so, also in that picture is a red dot -- red
3 marker, which is for Blackies Park Road.

4 **A** The marker?

5 **Q** Yes.

6 **A** Yes, ma'am.

7 **Q** Okay. So you just said to me that you have no specific
8 information about how far that tower extends. You just
9 testified to that. You said you don't know. They vary.

10 **A** They vary.

11 **Q** Okay. And, so, this dot, which is 458, if these pies are
12 near Blackies Park Road --

13 **A** They're in the vicinity, yes, ma'am.

14 **Q** In the vicinity.

15 But you don't know and can't tell this jury exactly
16 whether or not this -- him pinging off that tower actually
17 places him -- I think you specifically said -- at the scene of
18 the crime.

19 **A** Right. Pinging is done in real-time. It's misused by
20 everybody. So when you ping a phone, you do it -- you call
21 the company, like Missing Persons or something like that.
22 They call and they do it real-time. This is done
23 historically, and that's not -- so it's just utilizing that
24 cell site. But, yes, ma'am, I can't tell you exactly where
25 that phone was, if it was at that location or not. I can just

1 tell you if it's in the vicinity.

2 Q Okay. And, also, can you tell me, from looking at your
3 created document, approximately how far -- if you don't know
4 the answer, that's fine -- that tower is from I-26?

5 A I don't know off the top of my head.

6 Q Well, looking at that, would you say it's 50 miles?

7 A Can you show me 26 on there?

8 Q Yes. I-26. All right. So this is the document I'm
9 talking about.

10 A Yes, ma'am.

11 Q That's I-26, this yellow line right there.

12 A Yes, ma'am.

13 Q Okay. So, if you don't know exact, that's fine.

14 A There's a ledger on the bottom right that will tell you.
15 It's --

16 Q Is that a 5 kilometers?

17 A I'd have to approach.

18 Q Okay. Let me look at my (indiscernible) document to
19 see --

20 A It very well may be.

21 THE COURT: If it's easier for you, you can step up to
22 the --

23 THE WITNESS: Thank you.

24 MS. GAY: Well, I think the problem is I don't know that
25 we can read it on there, Your Honor.

1 Do you have the one that has (indiscernible)?

2 (Counsel conferring off the record.)

3 MS. GAY: Oh, yeah, here we go. Here's a better one, I
4 think.

5 Do you want to put this one up now? Thank you.

6 BY MS. GAY:

7 Q Okay. Let's start (indiscernible). So this is a new
8 one, a different (indiscernible), and this one should have --
9 what does that say?

10 A Five kilometers.

11 Q So this is a five-kilometer marking thing. So this is
12 our red dot, and these are our ties. And this is I-26, runs
13 right through there. And, so, pursuant to this scale,
14 guesstimation of how far it is?

15 A It's probably within five miles.

16 Q Within five miles. Okay.

17 A Just a guesstimate.

18 Q Okay. So --

19 A Simply, they put them along big interstates because
20 that's where you have the most travelers or the most usage, so
21 they put the tower there.

22 Q And, then, it appears -- just as we're looking at this
23 document, we have a dot here that's also a dot. But these red
24 dots are the ones that the towers that he's -- this phone is
25 pinging off of.

1 **A** Using.

2 **Q** Using. Okay. And, so, up here we have this dot that has
3 a northeast pie, and it's up in this area.

4 **A** Correct.

5 **Q** Okay. And it's -- here's I-26. So about how far away
6 from that do you think it is? Maybe ten miles?

7 **A** Give or take.

8 **Q** Give or take ten miles.

9 And then one, we decided, is somewhere around five miles.

10 And down here in this dot, this particular pie has, it looks
11 like, a southeast and a southwest pie associated with your
12 diagram. And check out where that one is. See where we said
13 I-26 came through?

14 **A** Yeah.

15 **Q** Does it appear to you that it's sitting on I-26?

16 **A** Like I said, usually, they put the towers near the
17 interstate because that's where most of the people are.

18 **Q** Okay.

19 **A** Yeah, that one looks correct, right there.

20 **Q** Okay. And if you could have a seat.

21 MS. GAY: David, do you have a picture you have of all of
22 the dots?

23 (Counsel conferring off the record.)

24 BY MS. GAY:

25 **Q** All right. So I'm going to go back up here again. You

1 don't need to comment. I'm just going to go back up here.

2 So I'm looking at this document right here, on this
3 exhibit.

4 **A** Yes, ma'am.

5 **Q** And this is Blackies Park Road.

6 **A** Correct.

7 **Q** And if you need to look at your -- what we have looked at
8 again -- back up in here is the dot that we said was about
9 five -- the tower that we said was about five miles from the
10 interstate.

11 **A** Give or take.

12 **Q** And the dot here, which is the dot of the tower that
13 would be the one that you said that the phone pinged off of
14 that we determined was basically right on the interstate?

15 **A** It looks like it's right there on 26, yes, ma'am.

16 **Q** Okay. So this map, as you described, these towers are
17 just all available towers in this area. We have decided that
18 that's true; correct?

19 **A** Correct, just to show all the (indiscernible) --

20 **Q** So I would like to show you this dot -- this tower right
21 here.

22 **A** Okay.

23 **Q** Okay. This tower right here is between this I-26 tower
24 and the one that's five miles from I-26. There is a tower
25 right there in between those two, which basically looks like

1 it sits on I-26 or close?

2 **A** Yes, ma'am.

3 **Q** And, then, also, there's a tower right here. And this
4 dot, which is on the intersection of 95 and 178, another dot
5 right here?

6 **A** Yes, ma'am.

7 **Q** And I think this --

8 **A** Southside.

9 **Q** Somewhere in that area?

10 **A** Yes, ma'am.

11 **Q** And this marker, which is 9272 Charleston Highway, just
12 for purposes of (indiscernible) clarification, this yellow --
13 the marker is actually pretty close to this dot right here,
14 which is near the intersection of 178 and 95?

15 **A** Yes, ma'am.

16 **Q** Okay. And when you testified -- and the jury will have
17 all of these documents to look at -- there is no ping to this
18 one right here. That one doesn't have a ping. Can you see
19 your notes?

20 **A** That one wasn't utilized by the phone, I don't recall.

21 **Q** Exactly. So it wasn't utilized by the phone.

22 This one was -- actually, was it this one and the one up
23 here on I-26, the one five miles from I-26, and the one that
24 sits on the intersection of I-26 and a road that looks like
25 it's 453. But not this one right here that's in the middle?

1 **A** I don't believe so.

2 **Q** And you said that you have no idea and can't testify to
3 this jury today what the range of this is, this particular
4 tower right here, the one that was five miles from the
5 interstate, near the intersection of 95 and I-26, you have no
6 idea via --

7 **A** I have a general idea, but I can't tell you precisely.

8 **Q** Okay. All right. Thank you very much.

9 I need to ask co-counsel something.

10 **A** Yes, ma'am.

11 (Counsel conferring off the record.)

12 BY MS. GAY:

13 **Q** Thank you. I have no further questions.

14 **A** Yes, ma'am.

15 THE COURT: Any redirect?

16 MR. OSBORNE: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. OSBORNE:

19 **Q** All right. So I zoomed in a little bit here because I
20 think I know where (indiscernible). So, all right. Zooming
21 back in to this particular page here. All right. We saw --
22 around I'm going to go to this in a second -- the 2:56 call
23 that's pinged off the sector going this general direction
24 right here; right? That's that (indiscernible) cone?

25 **A** It's utilizing that side --

1 Q That side of --

2 A -- cell site or the sector, yes.

3 Q So after -- if the individual who was using a phone, if
4 the next call were to be placed -- ping off of that tower or
5 that tower, he might have just (indiscernible) the evidence;
6 is that correct?

7 A That's correct.

8 Q After that 2:56 call.

9 A Correct.

10 Q Okay. And east would be back toward Charleston?

11 A That's correct.

12 Q And, conversely, after these calls, if you then started
13 to see him pinging off other towers headed in this direction,
14 that would be west?

15 A Northwest, yes.

16 Q And that would be back toward Orangeburg?

17 A Correct.

18 Q And, again -- all right. So, now, let me go through
19 something real quick. So -- and, again, we have heard
20 testimony that the 911 call came in at 2:55. And at 2:56, not
21 to belabor the point, he could be way down here. It's
22 possible?

23 A Possible.

24 Q He could have been anywhere in here? It's possible?

25 A Yes.

1 Q Or he could be heading west or maybe he was up in this
2 area at 2:56?

3 A Yes, sir.

4 Q Okay. And I think we kind of know he was headed west
5 because the next slide shows, at 3:25, again, still headed
6 west.

7 A Yes, sir.

8 Q And, at 3:33, still headed west.

9 A He's up in Orangeburg.

10 Q Okay. And so -- and I just wanted double-back super
11 quick to that drive test issue. So it's my understanding --
12 tell me -- you'll hear it enough, obviously -- it's my
13 understanding that, when you drive test, you actually go
14 around (indiscernible) in this?

15 A Yes, sir.

16 Q And then you can see a particular area where this tower
17 and where this sector services?

18 A Yes. It would look like a blob. It would be a straight
19 line. It would kind of go in and out.

20 Q But it would never be able to tell you it's here or here
21 or here?

22 A No, sir.

23 Q That's not what that does?

24 A No, that's not what that does. And that's a very
25 expensive device that -- you know, it's becoming -- more

1 people are getting them, but primarily, the FBI has them, and
2 they utilize them in certain cases, yeah. Because there's
3 (indiscernible) being used in a lot of cases and their
4 caseload, they could not do everything.

5 Q Yeah.

6 A There's no way they could do every --

7 Q And let me just go right down to the -- and that's the
8 money slide.

9 MR. OSBORNE: Beg the Court's indulgence.

10 BY MR. OSBORNE:

11 Q And, so, if you were -- it doesn't do any good to drive
12 test them now because, in 2018, the cell tower would be
13 different topography (indiscernible)?

14 A Yes, sir.

15 Q All right. But drive testing -- wouldn't -- what -- if I
16 understand you correctly, drive testing wouldn't tell you the
17 place that phone was when that call was made? What it would
18 do is maybe wiggle this line a little bit? The edges?

19 A Correct.

20 Q And maybe this edge a little bit.

21 A That's right.

22 Q And down here; right?

23 A Correct.

24 Q But you wouldn't anticipate this will come --
25 dramatically move in any direction?

1 **A** No.

2 **Q** Okay. All right.

3 MR. OSBORNE: No further questions.

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

5 THE WITNESS: Thank you, Your Honor.

6 MS. GAY: Well, Your Honor, I did have one question.

7 THE COURT: There was nothing new brought up.

8 You may step down.

9 Okay. Call your next witness.

10 MR. OSBORNE: Your Honor, the State rests.

11 THE COURT: Thank you.

12 Ladies and gentlemen of the jury, the State has rested
13 their case. At this juncture, we must take a brief recess.
14 If you'd please go to your jury room. Even though the State
15 has rested their case, again, please do not talk amongst
16 yourselves or anyone else. We'll be right back with you.

17 (The jury exited the courtroom at 11:04 a.m.)

18 THE COURT: Any motions?

19 MS. GAY: Yes, ma'am.

20 MOTIONS/MATTERS OF LAW

21 MS. GAY: Your Honor, at this time, I make a motion for
22 directed verdict on behalf of my client, Ivington Allen.
23 Using the light most favorable to the State, I don't believe
24 that the evidence presented satisfies the elements of the
25 offense in this case of attempted armed robbery, particularly

1 attempted armed robbery, murder, and/or possession of a
2 firearm during the commission of a violent act.

3 Your Honor, this is based on all of my previous motions.
4 I do think that I forgot to object to the Verizon records
5 coming in, but I had done that at some point before in limine,
6 Your Honor. So you (indiscernible) on that. I would just
7 like to reiterate that. It's contemporaneous to this trial
8 date. (Indiscernible) this morning; I apologize.

9 I think that specifically the statements made of
10 Mr. Williams to his family members that were -- the Court
11 found were admissible, I do not believe that they should not
12 have been admitted into this trial based on hearsay and also
13 even just the relevance and probativeness.

14 With regards to the spousal immunity, my client's wife
15 asked on the record to be allowed to -- to assert her
16 privilege, and you ruled against that, Your Honor.

17 With regard to the Verizon records not being
18 authenticated -- the Verizon records, I guess not the
19 expert -- the Verizon records, I did make the motion to
20 exclude those, Your Honor, and -- hold on one second.

21 (Counsel conferring off the record.)

22 And so, Your Honor, based on all of my motions that you
23 have made contrary rulings against my client, I do think that
24 those decisions should have been made in his favor and that
25 the State has not been able to establish the elements of the

1 offense for purposes of the directed verdict.

2 THE COURT: Thank you, ma'am.

3 Solicitor?

4 MR. OSBORNE: Your Honor, there's been ample testimony
5 that the defendant came uninvited to the house -- at least
6 knocked on the door. It was at 2:55 in the morning, requested
7 money from the victim. The victim declined. He then went to
8 his car to retrieve the gun and came back and a struggle
9 ensued.

10 That covers the attempted murder part. Quite simply, you
11 don't get to rob someone and then decide if they're going to
12 fight for their life, and when it costs them their life and
13 they die, you then say it's not murder. There was malice.
14 There was hostility. There was aforethought in the action of
15 going to get the gun to complete the robbery, and murder is a
16 violent crime. So I think there is more than enough evidence
17 to submit to the jury.

18 THE COURT: Based upon the evidence that has been
19 presented to the Court and before the jury, there is direct
20 and circumstantial evidence tending to establish the guilt of
21 the defendant on each element of each of the offenses for
22 which he is charged, and your motion is respectfully denied.

23 MS. GAY: Thank you, Your Honor.

24 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

25 THE COURT: Ms. Gay, is your client prepared for me to

1 question him regarding his right to testify?

2 MS. GAY: Could you just give me just a minute or two to
3 talk to him, Your Honor? It will not be long, just to tell
4 him what the procedure is going to be.

5 (Counsel conferring off the record.)

6 MS. GAY: All right. We're ready.

7 Your Honor, can I bring him up here?

8 THE COURT: Yes, ma'am. Come on up, Mr. Allen.

9 DEFENDANT'S RIGHTS

10 THE CLERK: Please raise your right hand and state your
11 full name for the record.

12 THE DEFENDANT: Ivington Daniel Allen.

13 IVINGTON DANIEL ALLEN,

14 after having been duly sworn, was examined and testified
15 to as follows:

16 THE COURT: Mr. Allen, at this time, I'm going to explain
17 to you your rights. If you do not understand anything that I
18 say, please let me know. If you want me to explain anything
19 in further detail, please let me know. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: We have now reached the stage of the trial
22 where you may present your defense. You have the right to
23 claim the protections given to you by the Fifth Amendment of
24 the Constitution of the United States. This amendment states
25 in part that no person shall be compelled in any criminal case

DEFENDANT'S RIGHTS

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1 to be a witness against himself. This means that you cannot
2 be required to testify in this case. You have the right to
3 testify on your own behalf; however, no one can make you
4 testify. This is a personal right. No one can waive this
5 right except for you.

6 If you decide to testify, you will be subject to the same
7 rules that govern other witnesses, and you may be examined and
8 cross-examined on any relevant issue in this case. In
9 addition, if you have any convictions involving dishonesty or
10 false statement or for crimes punishable by imprisonment for
11 more than one year and I determine that the probative value of
12 admitting this evidence outweighs the prejudicial effect to
13 you, the solicitor will be able to introduce your record and
14 attack your credibility.

15 If you decide to testify, this decision on your part must
16 be made freely, voluntarily, and intelligently, and made with
17 the knowledge of the protections given to by you the Fifth
18 Amendment and the consequences of your decision to testify.
19 If you decide not to testify, I will instruct the jurors that
20 they cannot give that fact that you did not testify any
21 consideration whatsoever and that you have -- there's
22 absolutely no prejudice to you because you did not testify.
23 It is left entirely up to you whether or not you wish to
24 testify. You can talk to your attorney and your family and
25 your friends, but the final decision is completely up to you.

1 Do you understand what I have explained to you?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you have any questions about what I have
4 explained to you?

5 THE DEFENDANT: No.

6 THE COURT: Do you need any more time to talk to your
7 attorney regarding whether or not you wish to testify?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Do you wish to testify?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: All right, sir. Thank you.

12 MS. GAY: Your Honor, for purposes of discussion, I have
13 to talk with Dr. Downs. I just handed him a disc this
14 morning, which we were given yesterday, and it's a DVD. Does
15 your machine upload DVDs? Some do, some don't. Or do I need
16 a laptop? I know he's going to want to refer to some
17 exhibits, and I (indiscernible) he has a machine that shows it
18 but (indiscernible) protect it on to the screen.

19 THE COURT: Well, Ms. Gay, it's time for you to call your
20 first witness. I'm going to bring the jury back in. You need
21 to figure out that.

22 MS. GAY: I just need to talk to him.

23 THE COURT: You have one minute.

24 (Counsel conferring off the record.)

25 THE BAILIFF: Judge, can we take two minutes?

DEFENDANT'S RIGHTS

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1 THE COURT: That's fine.

2 (A brief recess was taken from 11:12 a.m. to 11:15 a.m.)

3 MR. OSBORNE: Oh, Judge. I'm so sorry. I did want to
4 address one issue.

5 THE COURT: All right. Hold on with the jury.

6 THE BAILIFF: I got them outside. Hold up, hold up, hold
7 up. Hold the jury.

8 MR. OSBORNE: Sorry.

9 THE BAILIFF: Hold up with the jury one second.

10 MR. OSBORNE: The only issue that I wanted to address
11 with the Court, through my conversations with Dr. Downs
12 yesterday, he had mentioned during the early part that part of
13 his opinion may or may not reflected on self-defense. I don't
14 believe that, you know, Dr. Downs should be permitted to
15 testify to self-defense. It's my understanding, as an expert
16 in the field of forensic pathology, he determines the manner
17 and cause of death. The manner of death -- you know, what
18 causes the manner, being homicide, the killing of one person
19 through another. Any conversations regarding self-defense
20 would be a legal conclusion, the ultimate issue at fact. And
21 there's plenty of case law that says that experts shouldn't be
22 allowed to testify to legal conclusions.

23 THE COURT: Ms. Gay, any objection to that?

24 MS. GAY: Your Honor, I have not asserted a self-defense
25 argument in this case. And I did speak to Dr. Downs about his

1 conversation with Mr. Osborne. I think, in my professional
2 opinion, of what he was talking about last night, after he
3 talked to him, was that this could have happened in a way
4 other than an intentional killing. But that's, of course, a
5 legal determination, and he's here to talk about trajectory
6 and medical things.

7 So I have told him that I'm not -- that's not something
8 that we're asserting and that -- and so I don't think -- I
9 think he'll stick to what it is he's supposed to talk to
10 about. How a person gets shot, there's lot of different ways,
11 but, you know, what happens after that is what we're here to
12 talk about.

13 THE COURT: So, Dr. Downs, obviously being here in the
14 courtroom, please be mindful not to give any kind of opinion
15 as to any type of self-defense. That would be a legal
16 conclusion, not one --

17 THE WITNESS: Yes, ma'am. And I did not assert anything
18 like that.

19 THE COURT: All right, sir. Thank you very much.
20 All right. Let's have our jury.

21 (Counsel conferring off the record.)

22 (The jury entered the courtroom at 11:19 a.m.)

23 THE COURT: Welcome back, ladies and gentlemen of the
24 jury. We're now ready to proceed.

25 Ms. Gay, do you intend on calling any witnesses?

1 MS. GAY: Yes, ma'am, I do, Your Honor. At the time, I
2 would like to call Dr. Jamie Downs.

3 THE COURT: Come on up, Doctor.

4 THE CLERK: Place your left hand on the Bible and raise
5 your right hand and state your name for the record.

6 THE WITNESS: James Claude Upshaw Downs, M.D.

7 DR. JAMES DOWNS,

8 after having been duly sworn, was examined and testified
9 to as follows:

10 DIRECT EXAMINATION

11 BY MS. GAY:

12 Q Dr. Downs, I'm Melisa Gay. This is David Osborne, John
13 Rivers, Judge Murphy. We are here today about a situation
14 involving a man by the name of Torrell Williams. Do you
15 know -- did you have occasion to look at some information
16 about that case?

17 A I did.

18 Q , Okay. Before we get to what your thoughts are, could you
19 tell the jury a little bit about your training, expertise,
20 information about yourself?

21 A Sure. I received my bachelor of science degree from the
22 University of Georgia, magna cum laude, Phi Beta Kappa. I did
23 my medical school training at the Medical University of South
24 Carolina. My residency in anatomic pathology and clinical
25 pathology, that was also at MUSC.

1 At my fellowship at forensic pathology, again, at MUSC,
2 that did include with one-month rotation through the Dade
3 County, Florida, Miami medical examiner department.

4 In addition, during the course of that training, I did a
5 one-month internship at the FBI Behavioral Sciences Unit,
6 Quantico, Virginia.

7 Since I have completed all of that formal training, I
8 have done continuing medical education on an annual basis ever
9 since.

10 **Q** And have you -- are you a member of any organizations
11 having to do with pathology or forensics?

12 **A** Yes, ma'am, quite a few. I'm a fellow of the National
13 Association of Medical Examiners; a fellow of the American
14 Academy of Forensic Sciences; past board of directors of the
15 National Association of Medical Examiners; fellow of the
16 College of American Pathologists; fellow of the American
17 Society of Clinical Pathologists; International Association of
18 Coroners and Medical Examiners; Heart (ph) Association of --
19 Heart Associates and Police Science, past president of that
20 organization; and quite a few others.

21 **Q** And are you currently involved in any type of
22 profession -- professional duties regarding either forensics
23 or pathology?

24 **A** Yes. I have basically several different hats that I
25 wear. One day a week, I'm the medical director for the

1 physician assistant program at Charleston Southern University.
2 About four days a month, I serve as an associate medical
3 examiner for Gwinnett County, which is suburban Atlanta.
4 Also, on occasion, I serve as a coroner's pathologist for
5 Charleston County. And occasionally, very rarely, I'll do
6 other coroner autopsies. It really just depends on their
7 need. And, also, I do active consulting.

8 **Q** And I think you mentioned on that one that you have
9 participated in or were a part of your educational background,
10 autopsies?

11 **A** Yes, ma'am. That's pretty much bread and butter for
12 forensic pathologists. It's not all that we do, but that's a
13 large part of it.

14 **Q** Have you ever testified in a courtroom before?

15 **A** I have testified in probably 20 different states,
16 testified in federal courts as well. I have testified before
17 subcommittees of the U.S. House, the U.S. Senate. I have
18 testified before the National Commission on Forensic Sciences.
19 All told, I have testified hundreds and hundreds of times.

20 **Q** And at those times when you have been in court, you have
21 been qualified as an expert in the area of forensic pathology?

22 **A** I have.

23 **MS. GAY:** At this time, Your Honor, I would move to have
24 him as an expert.

25 **THE COURT:** Any voir dire?

1 MR. OSBORNE: No, Your Honor.

2 THE COURT: The Court finds that he's qualified.

3 MS. GAY: Thank you.

4 BY MS. GAY:

5 Q So, Dr. Downs, pursuant to this case, the case that we're
6 here about, did you have occasion to become involved and
7 review records and such for a man by the name of James Torrell
8 Williams?

9 A I did.

10 Q And can you tell this Court what -- okay. Mr. Williams
11 was shot on a day which, in this case, it's been determined
12 that that day is the early morning hours of April 21st, 2018.
13 Did you have occasion to review records about the shooting on
14 that day?

15 A I did.

16 Q And where were those records from?

17 A Those were medical records from Trident Hospital.

18 Q So those would have been emergency room records?

19 A Yes, ma'am. Emergency as well as hospital records.

20 Q And did you have occasion to review any type of
21 testing -- CT scans, X-rays, radiology, anything like that --
22 from that date?

23 A I did.

24 Q And those were from Trident Emergency Room?

25 A Yes.

1 Q And Mr. Williams died, the testimony would say in this
2 case, on May 2nd of 2018. Did you have occasion to review
3 medical records about Mr. Williams from that date? And, if
4 so, where were they from?

5 A I did. They were from Colleton Hospital.

6 Q So can you tell the jury a little bit about those records
7 and why they're from Colleton Medical Hospital?

8 A From the records, the patient was having seizure-like
9 activity. EMS was called and called a second time because he
10 had stopped breathing, and they transported him, I assume, to
11 the nearest hospital. That's typically what's done in those
12 situations.

13 Q And that would have been Colleton Medical Hospital?

14 A That's correct.

15 Q Did you have occasion to review an autopsy performed by
16 the Medical University of South Carolina?

17 A I did.

18 Q And did you have occasion to review a document from SLED
19 that would have indicated his toxicology at the time of his
20 death?

21 A Yes.

22 Q And that toxicology at the time of his death would have
23 been from blood serums gathered at the Colleton Medical
24 Hospital or the autopsy?

25 A I believe it was from the autopsy. I would have to

1 actually see that record again to refresh my memory, but I
2 believe it was autopsy.

3 (Defendant's Exhibit No. 4, Toxicology Report, was marked
4 for identification.)

5 BY MS. GAY:

6 Q Okay. I'd like to show you what's been marked as
7 Defendant's Exhibit 4. And could you identify this document?

8 A Yes, ma'am.

9 Q And what is it?

10 A This is the toxicology report from the South Carolina Law
11 Enforcement Division that you were just mentioning.

12 Q And that would have been in association with his autopsy;
13 correct?

14 A That's correct. That's what this says: Peripheral blood
15 labeled Williams James FA-18-369, which would have been his
16 autopsy number.

17 Q Okay. And I'd like to also show you what's been marked
18 as --

19 MS. GAY: I'd like to move this document, No. 4, into
20 evidence, Your Honor. Is there any objection?

21 MR. OSBORNE: No objection to either of them.

22 THE COURT: All right. Thank you.

23 (Defendant's Exhibit No. 4 was received into evidence.)

24 (Defendant's Exhibit No. 5, Autopsy Report, was marked
25 for identification.)

1 BY MS. GAY:

2 Q And I'd like to show you what's marked as Defendant's
3 Exhibit No. 5. And if you could identify that document for
4 the jury. Thank you. What is this?

5 A That's the autopsy report that we were discussing a
6 minute ago.

7 Q All right. Thank you.

8 MS. GAY: I'd also like to move this document in, I
9 believe, without objection.

10 MR. OSBORNE: No objection.

11 THE COURT: It's in.

12 (Defendant's Exhibit No. 5 was received into evidence.)

13 BY MS. GAY:

14 Q So we have now discussed that, in your review, you have
15 the Trident Emergency Room records from the night of the
16 shooting that happened on April -- early morning of April
17 21st, 2018, as well as the radiology's testing results. You
18 reviewed that; correct?

19 A Yes.

20 Q And you reviewed the Colleton County medical records that
21 were associated the day he died?

22 A That's correct.

23 Q And you also reviewed the autopsy and SLED report.

24 A That's right.

25 Q Okay. Can you tell the jury what your impressions of

1 these documents were and what you saw?

2 **A** I'll start with the autopsy report because that's --
3 where I end up as a forensic pathologist. So I get,
4 initially, information from all of those records. The subject
5 had sustained a gunshot wound on the 21st. He was treated for
6 that and released. Then you pick up --

7 **Q** Before you go there, let me ask you a question. Where on
8 his body was he shot?

9 **A** The entry wound was to the right upper abdomen, about 22
10 inches from the top of the head. 2.6 inches or 2 5/8ths
11 inches right at midline. Really in this area that I'm
12 indicating below my ribs.

13 **Q** Would you stand up and show the jury?

14 **A** Sure. So about 22 inches from the top of the head.
15 About 2.6, 2 5/8ths inches, to the right of midline.

16 **Q** And is that where his liver is?

17 **A** That would be where the liver is. The liver moves a
18 little bit, but yes, ma'am.

19 **Q** And in terms of the trajectory of that wound when the
20 shot entered his body, do you have some thoughts on what the
21 angle was or the trajectory was of the bullet in his body?

22 **A** Yes. The exit that corresponded to that was in the area
23 of the 11th and 12th ribs on the backside of the back. So
24 that was about 23 and a half inches from the top of the head,
25 5 and a half inches right of the midline of the back. So I'm

1 going to try to indicate here. So the shot was directed
2 downward to his right and to his back.

3 Q Now, it was not in his head.

4 A That's correct.

5 Q Or in his heart?

6 A That's correct.

7 Q Or in his lungs?

8 A That's correct.

9 Q It was all below and going downward.

10 A That's correct.

11 Q And so did you see anything other than -- anything of
12 importance of your assessment of this situation from the
13 Trident Emergency Room records?

14 A From the initial records? The Trident emergency records?
15 They had done CT scans, and they saw some radio-opaque
16 fragments, which they attributed to be portions of the bullet.
17 So that was associated with the wound track.

18 Other significant conditions that were present, medical
19 conditions, the deceased had quite a few medical issues. He
20 had chronic liver disease with cirrhosis. He had a remarkably
21 enlarged heart. Almost half, again, the maximum normal size.
22 He had had a prior heart attack. He had a medical history. I
23 don't know if I am permitted to get into that or not.

24 Q Hold on a second.

25 A Sure.

1 (Counsel conferring off the record.)

2 MS. GAY: Your Honor, we may have an issue that we need
3 to take up outside the presence of the jury. Can we just
4 approach?

5 BENCH CONFERENCE

6 (The following bench conference was held outside the hearing
7 of the jury and others.)

8 (Discussion at bench inaudible.)

9 BY MS. GAY:

10 Q Okay. What else, if anything, did you note in the
11 records from the Trident Hospital?

12 A Specifically to what I was alluding to?

13 Q I believe so.

14 A He had a history of polysubstance use. That is drug
15 abuse. He had a history of anemia and ascites, which is fluid
16 in his belly. That's associated with his cirrhosis.

17 Q So fluid in his belly was present immediately at the time
18 he was admitted to the ER.

19 A Yes. He actually had an end-dwelling port, which is a
20 place where -- rather than keep sticking him to remove fluid,
21 he had an end-dwelling device that they could do that with.

22 Q So just to kind of dummy that down a little bit, he had
23 some type of thing -- an apparatus?

24 A Like a spigot, if you will. And you open the spigot when
25 you need to drain the fluid off.

1 Q And so that was already previously inserted in his body
2 before this incident that happened on April 21?

3 A That's my understanding.

4 Q Pursuant to all these other medical conditions that he
5 had, particularly about his cirrhosis of the liver?

6 A That's correct.

7 Q And --

8 A And the cirrhosis was also referred to as end-stage,
9 which means you're going to die from it, liver disease.

10 Q Right. So -- end, e-n-d?

11 A E-n-d.

12 Q E-n-d. Okay.

13 And, also, with regard to -- did you see anything at the
14 time of his admission to the hospital that had anything to do
15 with his toxicology or anything that they did at that time.

16 A There was a drug screen done that was negative.

17 Q So the drug screen at Trident ER was negative?

18 A That's correct.

19 Q That would have been for any type of illegal drugs?

20 A It would have been for the illegal drugs that they test
21 for. They don't test -- they can't test for every single
22 drug, but they test for common abused drugs like
23 benzodiazepines, Valium, amphetamines, barbiturates, opiates.
24 They test for that. And all of those broad categories were
25 negative.

1 Q Okay. So, for instance, oxycodiene [verbatim], that's a
2 barbiturates?

3 A That's an opiate.

4 Q An opiate. I'm sorry.

5 How about Tramadol? Is that --

6 A An opiate as well.

7 Q Okay. And so they would have tested for that on the
8 night of the ER on April 21st, 2018, and it was negative.

9 A That's correct.

10 Q Okay. So moving along to what else did you review, you
11 were provided records, you said, from the Colleton Medical
12 Hospital.

13 MS. GAY: And I guess I could mark these for ID purposes
14 only.

15 (Defendant's Exhibit No. 6, Coding Summary, was marked
16 for identification.)

17 (Defendant's Exhibit No. 7, Forensic Summary, was marked
18 for identification.)

19 BY MS. GAY:

20 Q In the event that you need to refresh your recollection,
21 Dr. Downs, I have Defendant's Exhibit 6 for ID purposes only.
22 Can you tell me what this is?

23 A That appears to be excerpts from the Colleton County ER
24 records.

25 Q Okay. And can you tell the jury what you noted in the

1 medical records from Colleton County? And these are dated
2 May 2, 2018, the day he died.

3 **A** Yes, ma'am. I believe the first page had a notation of
4 accidental gunshot wound previously; that, when they
5 responded, they gave him Narcan, which is a drug you give to
6 people when you suspect an opiate overdose. It helps to
7 counter the effects of that, if you get to the patient in
8 time.

9 Those, I believe, were the notable things. Also
10 hypoglycemia and low blood sugar. And I believe -- I'm not
11 sure it's in that record, but it is in the longer version that
12 his cardiac rhythm was ventricular fibrillation, which is a
13 cardiac rhythm, which suggests to me, as a forensic
14 pathologist, this is a cardiac primary issue.

15 **Q** And, so, part of that primary issue means, in layman's
16 terms, that his body was falling apart and being very sick and
17 his heart stopped?

18 **A** Something's going on that affects his heart, yes.

19 **Q** Okay. And, so, when you mentioned that they gave the
20 Narcan, can you please explain to the jury under what reasons
21 medically somebody would receive Narcan?

22 **A** Narcan is given if you suspect an opiate drug overdose.

23 **Q** Okay. And it's in these records?

24 **A** That's correct.

25 **Q** And if you need to look at the records again, I can

1 refresh your recollection on this, but -- and I believe you
2 said -- you testified that you said accidental discharge from
3 firearm. That's part of the diagnosis from Colleton Medical?

4 **A** That's correct. I believe that's actually on the front
5 page that I saw.

6 **Q** Okay. And, so, would this record that you see and
7 reviewed, would it be consistent with this Defense Exhibit
8 No. 4, which is the SLED report for his toxicology? Have you
9 seen that?

10 **A** I have seen it, and it would be consistent with that.

11 **Q** And, so, tell the jury, please, what you see in the SLED
12 report that will be consistent with needed to give a person
13 Narcan upon admission to a hospital.

14 **A** Notably on the SLED toxicology report, there is an
15 elevated -- markedly elevated oxycodone, which is a painkiller
16 and an opiate, as well as even more markedly elevated
17 Tramadol, which, again, is a painkiller.

18 **Q** Okay. So when you say "markedly elevated," I need you to
19 explain that to the jury a little bit more. But both of these
20 you describe as opiates.

21 **A** That's correct.

22 **Q** Not -- it would not have been in his system on the day
23 of -- when he went to Trident Hospital in the emergency room?

24 **A** Not with the original gunshot wound, that's correct.

25 **Q** And, so, describe to the jury -- and I'm going to hand

1 you this document just so you're aware -- exactly what these
2 levels mean and what they mean to you as a forensic
3 pathologist.

4 **A** Okay. So there's three things that are listed as
5 positives here. We talked about the oxycodone. That number
6 is 350 nanograms per milliliter. I'm used to using different
7 units that move the decimal point, so I will do the system
8 that I'm used to, which is .35.

9 Tramadol, which is 1800 nanograms per milliliter. In the
10 system that I'm used to, 1.8.

11 And then there's a metabolite of Tramadol, which is the
12 breakdown product. So Tramadol, that chemical, breaks down to
13 O-desmethyltramadol. Their number is 290 nanograms per
14 milliliter; my system, 0.29.

15 So those are the numbers. The oxycodone is clearly in
16 the lethal range. The Tramadol is clearly in the lethal
17 range. We don't have a lethal number for the metabolite, the
18 O-desmethyltramadol. But of note here: The metabolite
19 is .29. The parent compound is 1.8, which means there's a
20 whole lot more of that fresh drug that hasn't been broken down
21 than there is of the breakdown product, which means this is an
22 acute ingestion of Tramadol, and it's acute in the lethal
23 level.

24 **Q** So when you mean acute, you mean pretty recent?

25 **A** Yes. Half-life is something like three to six hours for

1 Tramadol. The metabolite has a little longer half-life. It
2 stays around a little bit longer. That's something like 6 and
3 a half to 11 and a half hours. So if you were breaking down
4 the Tramadol to the O-desmethyl, you'd expect the O-desmethyl
5 will hang around for a while longer than the Tramadol. So if
6 you're actively breaking it down, you'd expect the metabolite,
7 the O-desmethyl, to pick up a little bit.

8 But, here, we have a significantly higher, like six times
9 higher parent compound than metabolite. So this is an acute
10 overdose.

11 **Q** I understand. And so there's been testimony presented by
12 the medical examiner to this jury that these drugs were the
13 type of drugs used in hospice care. Is that -- can you share
14 what your thoughts are on that?

15 **A** You might use them in hospice care, but this is not your
16 typical patient. He's got cirrhosis of the liver, end-stage
17 liver disease. These drugs metabolize by the liver. You
18 would need to reduce doses and be very careful if you were
19 giving them to a patient with end-stage liver disease because
20 you can have unwanted effects because of how these drugs are
21 metabolized.

22 **Q** So unwanted effects could be an O D and a death?

23 **A** It could be, depending on what happens. He was on the
24 p.r.n., which means as needed. So he wasn't given these,
25 like, on a regular prescription. He was given these "if you

1 feel pain, take these meds."

2 **Q** So, again, this -- your testimony that this is acute and
3 that these metabolites had not digested out of his body that
4 much, do you have an idea about how long before he ended up in
5 Colleton Medical he may have ingested this quantity of drugs?

6 **A** I really couldn't tell you that because I don't know the
7 quantity that we started with, and I don't know how long he's
8 been using this. For instance, if he took Tramadol the day
9 before, I would expect some of the parent compound, the
10 Tramadol, to hang around for awhile because the half-life that
11 I mentioned of three to six hours, that's the time it takes
12 your body to break it down from, say, a level of 10 to 5. And
13 then the next half-life would be from five to two and a half.
14 So there's some variability there.

15 In addition, because of his liver disease, I don't know
16 how he specifically metabolizes it. Instead, I'm looking at
17 the fact that he has very little metabolism. He's got a whole
18 bunch of a parent compound.

19 **Q** All right. And so the next question I have would be:
20 Does this appear that he's taking these drugs for days ahead
21 of time and it's all building up? Or is this something that
22 looks, as you said, more acute, more immediate, right before
23 he ends up at the hospital?

24 **A** I would say that he may have taken some in the days
25 before, but very clearly, this is more an acute process. This

1 is not a process that -- where he took -- the Tramadol, the
2 parent compound, didn't build up like that over a week.

3 Q I understand. So it would have been quickly?

4 A Quickly. And, again, this is an as-needed medication, so
5 he would be taking it as he needed it for pain.

6 Q So isn't --

7 A So you wouldn't expect it like a regular dosing.

8 Q I understand. So this isn't administered by a doctor
9 and, "Here, take a pill and come back ten hours later, and
10 I'll give you another pill." This is something that he
11 himself would have been choosing how many he took.

12 A Or whoever was tending to his needs, yes.

13 Q And I'm going to show you again what's been marked as
14 Defendant's Exhibit 5, and this is the autopsy final report.
15 And I'd like for you to share with the jury what your thoughts
16 are about this autopsy based on what you have seen.

17 A So the autopsy here describes the ultimate cause of death
18 as being the single gunshot wound of the belly. Complicating
19 that was peritonitis, which is an infection inside the belly.

20 And while that's --

21 Q Can I stop you for a minute? Peritonitis has been
22 described to this jury as fluid around the stomach area. Is
23 that what you were saying was already present with the port?

24 A Well, that's not really what peritonitis is.

25 MR. OSBORNE: Your Honor, that's -- I'm going to object

1 to that.

2 MS. GAY: Okay.

3 MR. OSBORNE: That's a mischaracterization of the facts
4 by our expert.

5 BY MS. GAY:

6 Q All right. Well, I withdraw the question. I'm just
7 trying to get clear on what peritonitis is.

8 A Peritonitis is an infection inside the belly.
9 Oftentimes, there's fluid associated with it, pus. But it's
10 an infection inside the belly, in this case, attributed from
11 the autopsy to the gunshot wound as a complication of the
12 gunshot wound.

13 Q So, in your opinion, is there any other possible way he
14 may have gotten peritonitis based on his medical condition?

15 A Well, yes. One of the things that concerns me, in
16 looking at the Colleton records, they describe a vacuum drain,
17 or I believe they call it an apparent vacuum drain, which
18 would be appropriate for the, excuse me, the gunshot wound to
19 the abdomen. But they also describe that as having a Foley
20 bag, which is a urine collection bag associated with it. That
21 is very unusual. I don't believe, in 33, 34 years of
22 practice, I don't think I have ever seen that. It wouldn't
23 provide the kind of suction that you're looking for for a
24 drain. They're vacuum bulbs. That is, you put this bulb on a
25 tube, and it sucks the fluid out of the belly. Here, a Foley

1 bag doesn't do that; it just drains.

2 **Q** And that -- could that have been because of the amount of
3 fluid in his stomach?

4 **A** I couldn't tell you somebody's motivation for doing it.
5 It might be more comfortable that way. I just don't know.
6 But that's not typically the way you would put a drain in
7 somebody.

8 **Q** All right. So back to the autopsy, sir, what else are
9 your thoughts on that particular document?

10 **A** It does describe the diagnoses of the various conditions
11 that are there. There's some pneumonia. Again, that's a
12 complication of the gunshot wound arguably, although it could
13 also be a complication of opiate use, if somebody aspirated or
14 breathed in some gastric content into their lungs, so that
15 could be a complication, but I'm going to say it's more
16 probably from the gunshot wounds.

17 There was a prior stroke, apparently, in the brain that's
18 described. The microscopic sections confirm the heart disease
19 and the pneumonia that I talked about. There's some fat
20 emboli, which are associated with resuscitation so it's really
21 not important. It describes the gunshot wound as healing and
22 it also -- with peritonitis associated with that.

23 Then you get to the summary of the case. Basically, it
24 doesn't really do anything except give the numbers for the
25 toxicology. It doesn't address this toxicology at all, which

1 kind of -- I mean, it really surprises me because, clearly,
2 with the Tramadol and the concentration it is, it's a factor
3 in his death. I believe that's his significant, acute
4 condition.

5 **Q** So after you reviewed all of these -- and the autopsy --
6 and based on your education and training and experience, what,
7 if anything, is your opinion as to the -- with a reasonable
8 degree of medical certainty as to the cause of his death --
9 Mr. Williams's death?

10 **A** Mr. Williams died as a result of polypharmacy, which is a
11 fancy way of saying mixed drug use. Other significant
12 conditions would be the gunshot wound or complications of the
13 gunshot wound. And then the manner of death I would
14 personally call undetermined, although I could certainly see
15 someone calling it an accident because that's an acute event.
16 I don't -- I can't get to a homicide because we have a
17 superseding event. That is something that happens medically
18 that trumps the gunshot wound.

19 If he didn't have the drug -- the gunshot wound, I can
20 see him having died from the gunshot wound. Or, excuse me, if
21 he didn't have the drug overdose, I can see him having died
22 from the gunshot wound eventually, but we know he was alive
23 with the gunshot wound and survived to get a drug overdose.
24 So I really can't get the homicide.

25 So I would call this probably undetermined. If push came

1 to shove and you said you had to pick between homicide or
2 accident, I'd call it an accident.

3 **Q** So just so that the jury understands a little bit more
4 about what these designations are, when you're doing an
5 autopsy and you're asked to decide a cause of death, you
6 brought out some terms here that, just for layman's purposes,
7 can you explain what the options are that you consider when
8 you're reviewing all the material about a death?

9 **A** Sure. So manner of -- cause of death is the initial
10 event that set in motion the unbroken chain of events that
11 caused a person to die. Something happened and a person dies
12 as a direct result of that, even though it might be delayed.

13 Manner of death is the circumstances, how the cause came
14 to be. And, there, I have five choices: Natural, accident --
15 accident would be something that's unforeseen and reasonably
16 unforeseeable. For instance, I could walk out of the
17 courthouse and get hit by a bus. That could happen. Nobody
18 sees it coming.

19 Suicide is death by your own hand. Homicide is death at
20 the hand of another. And then undetermined is a small
21 percentage of cases where I don't have sufficient information
22 to classify it in one of the other four, for reasonable degree
23 of medical certainty.

24 **Q** So, in this case, the autopsy that you looked at by the
25 medical examiner classified it as a homicide?

1 **A** That's correct.

2 **Q** And that being a death caused at the hands of another
3 person?

4 **A** That's correct.

5 **Q** And you said that her report says that he died caused by
6 a gunshot wound?

7 **A** Ultimately, her cause of death was gunshot wound to
8 abdomen.

9 **Q** And the manner of death would be consequences based on
10 the gunshot wound, he died several days later? That's the
11 manner of death?

12 **A** According to that protocol -- and that really is peering
13 over from Colleton, which initially said suspect this is due
14 to the gunshot wound. So the autopsy just kind of carries
15 that line of thought without considering the new information
16 from the autopsy of the toxicologist.

17 **Q** And you said that the autopsy does mention the
18 toxicology, but it doesn't give any significance to the
19 levels.

20 **A** It doesn't even bother to give the reference numbers as
21 to what numbers might be expected. It just lists the
22 findings. So there's no interpretation of the toxicology.
23 It's as though you didn't even need the toxicology.

24 **Q** Would it be fair to say that it's overlooking the concept
25 of what's going on with the toxicology?

1 **A** I think it -- it ignores the toxicology. So I don't know
2 that it's overlooking. It's there but it's like it's given no
3 weight.

4 **Q** I understand. So -- again, so your assessment, after you
5 reviewed the actual ER records from Trident and the diagnostic
6 testing, the Colleton County medical records, based on the day
7 he dies, the autopsy, and the SLED toxicology, your
8 determination is that the correct, in your professional
9 opinion, cause of death is either undetermined or accident,
10 and that's what you're telling the jury today.

11 **A** Much of my opinion of manner of death would be
12 undetermined or, if you pushed me, I could see calling it an
13 accident, yes. I don't -- I can't see calling it a homicide.

14 **Q** And that's because Mr. Williams himself -- I don't want
15 to say intentionally but maliciously consumed these substances
16 in his body, and that led to what happened?

17 MR. OSBORNE: Objection. That would be -- that would go
18 to the ultimate issue.

19 MS. GAY: I'll withdraw my question.

20 BY MS. GAY:

21 **Q** So, your testimony today is that Mr. Williams did some
22 stuff that ultimately caused his death?

23 **A** Mr. Williams had a drug overdose in his system. How he
24 got those medications into his system, I have no idea. He
25 could have taken them. Somebody else could have given them to

1 him. I am -- I don't have any information that somebody else
2 surreptitiously or, you know, somehow slipped him the drugs on
3 the side and he didn't know that. If that happened, we could
4 be having a different discussion. Nobody -- I don't have any
5 evidence that somebody poisoned him.

6 **Q** I understand. So, in terms of what you reviewed, nothing
7 before May 2, 2018, indicated that these types of substances
8 were in Mr. Williams's body based on his medical records.

9 **A** Not to the concentrations they were that killed him.

10 **MS. GAY:** One moment, Your Honor.

11 I have no further questions for this witness, Your Honor.

12 **THE COURT:** Cross-examination?

13 **MR. OSBORNE:** Briefly, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. OSBORNE:**

16 **Q** I'm a fellow graduate magna cum laude myself?

17 **A** I'm in good company, then. Thank you, sir.

18 **Q** I'm kidding. I'm not.

19 [Laughter]

20 **A** I'm still in good company, sir.

21 **Q** All right. When were you retained by the defense in this
22 case?

23 **A** I don't recall specifically. It was several months ago.
24 I couldn't tell you the specific date.

25 **Q** And you know -- and I ask, Doctor, you are paid by the

1 defense?

2 **A** I am paid for my time, yes, sir.

3 **Q** Okay. And is that in a, you know, I guess, one retainer
4 fee? I might have the wrong terms, but is it one retainer fee
5 or is it based on an hourly rate?

6 **A** Typically, I charge \$500 an hour, with ten hours in
7 advance depending on the case. So, at this point, I don't
8 even recall if I have actually received a retainer check or
9 not.

10 **Q** Okay. So what was the agreement with the defense in this
11 case? Was it a retainer? You said typically. In this
12 specific case, was it a retainer or hourly rate?

13 **A** Again, I don't recall, sir. That kind of stuff really
14 isn't important to me. It's like the date isn't important to
15 me. What's important to me are the facts -- the medical facts
16 of the case.

17 **Q** So you're happy not being (indiscernible)?

18 **A** I have done that many times, sir. I donated 140 hours of
19 my time in the Aaron Hernandez case. I don't have a problem
20 doing that if that's necessary.

21 **Q** I gotcha. So you don't even know whether you'd even
22 charge them at all. This could be just on the house?

23 **A** I really -- honestly, I don't recall. I'd have to go
24 look at email traffic, which really isn't pertinent to me
25 being here now.

1 Q Well, actually, Your Honor, or --

2 A Definitely not, sir.

3 Q What's pertinent to you being here or not is up to these
4 ladies and gentlemen, not up to you.

5 A Well, it's -- I was referring to whether it's pertinent
6 to me or not, sir.

7 Q Okay. Well, it's pertinent to me, so....

8 A Fair enough.

9 Q I'm asking you, typically, when you do decide not to go
10 (indiscernible), you charge \$500 an hour with a 10-hour
11 minimum. So that's 5,000 right off the riff. And if you're
12 electing to charge them in this case, you're being paid to be
13 here now.

14 A I would be -- no, that would be inclusive -- I'm just
15 paid for my time. So the ten hours of my experience to review
16 medical records, consult with attorneys and be here, I'm
17 probably -- when I leave here today, I probably, all told,
18 will be right at the ten hours.

19 Q I'm just trying to decide whether I want to keep, you
20 know, tightening up the bill or not.

21 A That's entirely up to you, sir.

22 Q Okay.

23 A I will tell you that --

24 Q At this point (indiscernible)?

25 A -- (indiscernible) whatever it is, I'm going to cap it at

1 ten hours, so you can go as long as you'd like.

2 Q Okay. All right. Now, sometimes -- and, again, I'm not
3 blaming you or anything yet, but sometimes they'll ask you to
4 write a report of your findings, the defense.

5 A Sure.

6 Q Is that fair to say?

7 A Yeah.

8 Q Okay. They didn't ask you to write one in this case.

9 A They did not.

10 Q And you said you did -- and I think that's in evidence --
11 you did review Dr. Presnell's report?

12 A I did.

13 Q And she was the forensic pathologist who conducted the
14 autopsy in this case?

15 A That's correct.

16 Q And you are aware that -- well, her report was shared
17 with you?

18 A That's correct. I think we already discussed that. All
19 four pages of it.

20 Q Right. And are you aware that if they had asked you to
21 generate a report, then that report would have had to have
22 been your report (indiscernible)?

23 A I -- that's my understanding. I'm not an attorney so I
24 couldn't tell you the legality of it.

25 Q But they didn't ask you to do one of those?

1 **A** They didn't ask me to do a report, no, sir.

2 **Q** Okay.

3 **A** But I did share my thoughts in a conversation with you
4 yesterday.

5 **Q** Yesterday?

6 **A** Yes, sir.

7 **Q** And I want to make sure that I'm not putting words into
8 your mouth. Okay? When -- I guess I'll ask you that way.
9 When I did speak to you yesterday -- I think you kind of said
10 this and maybe just in another way, and I kind of caught
11 you -- or you caught me, actually. (Indiscernible)?

12 **A** I had just finished work and I was headed home and I
13 called you. That was the first time that you had contacted me
14 or I happened to talk to you at any time during the course of
15 this. But I called -- actually, I got your assistant first,
16 left a message, and then called you immediately afterwards.
17 You answered on, like, the second ring. I said I really
18 wasn't expecting to get you. I said, I'm in the car, so if
19 that's a problem, we can talk later, and you said let's talk.

20 **Q** So you were in the car.

21 All right. So I think you told me, you know, when I was
22 asking you about cause of death and drug overdose versus the
23 gunshot wound, I think you said something like -- it's not
24 different from what you said there, but I guess I'd just raise
25 (indiscernible) right now and talk about what you said here

1 today. You said, "If I had to pick one, I would go with the
2 drug overdose."

3 **A** I believe that's the same thing that I said today.

4 **Q** And, so -- and I just want to get this terminology
5 correct. Died as a result of a mixture abuse, the overdose,
6 with other significant conditions being the gunshot wound.

7 **A** Complications of the gunshot wound, yes, sir.

8 **Q** Complications. Okay.

9 MR. OSBORNE: I think we're good. Thank you, Your Honor.

10 THE COURT: Any redirect?

11 MS. GAY: One moment, Your Honor.

12 I have no further questions, and I would ask for
13 Dr. Downs to be able to be excused at this point, if it's okay
14 with the State.

15 THE COURT: Any objection?

16 MR. OSBORNE: No objection.

17 THE COURT: You're free to go, Doctor. Thank you.

18 THE WITNESS: Thank you.

19 THE COURT: Counsel, please approach.

20 BENCH CONFERENCE

21 (The following bench conference was held outside the hearing
22 of the jury and others.)

23 (Discussion at bench inaudible.)

24 THE COURT: Ladies and gentlemen of the jury, it is
25 12:00. This is a good time for us to recess for your lunch

1 break. If you would please be back in your jury room at 1:30.
2 We have some other matters that we do need to take up outside
3 of your presence, and I think that should give you plenty of
4 time to go out for a nice lunch, and we will see you at 1:30.

5 Again, please remember my instruction not to discuss this
6 case with anyone or allow anyone to discuss the case with you.

7 (The jury exited the courtroom at 12:02 p.m.)

8 THE COURT: All right. So, Ms. Gay, could you tell the
9 Court exactly what it is you were talking about concerning
10 excerpts.

11 MS. GAY: Your Honor, this morning, Mr. Osborne admitted
12 portions of my client's statement, and I just needed to talk
13 with my client for a minute about whether -- there were some
14 thoughts I had on the entire -- he did it for ID purposes, the
15 whole interview, and then excerpts, but he only brought in the
16 excerpts, and I just need to explain something to my client
17 and need a minute or two to hear it.

18 (Pause in the proceedings.)

19 MS. GAY: Your Honor, at this time, we're not going to
20 present any additional evidence and we're going to rest when
21 the jury comes back.

22 THE COURT: All right. So we'll bring the jury in to
23 rest. Have y'all had an opportunity to review the proposed
24 jury instructions?

25 MS. GAY: Well, I have all kinds of things that I want to

1 talk to the Court about, and we can do that now, obviously,
2 but I believe that, based on the fact that the man did not die
3 on the day that he was shot, that there should be a charge --
4 first of all, in terms of murder, I think that there is some
5 discussion about a struggle over a gun. I would ask for a
6 voluntary manslaughter charge.

7 I also, based on thoughts about the medical --
8 Dr. Downs's testimony, would ask for an involuntary
9 manslaughter charge due to the fact that it could have been an
10 accidental shooting. It was actually said in the Colleton
11 medical records, accidental shooting. So those are related to
12 death.

13 With relation to the events itself, I think that we
14 should have a charge of ABHAN and possibly a charge of
15 assault. The reason I say that is because I'm getting PCR'd
16 right now on a case that had something where I asked for -- it
17 was a trafficking case, and I asked for possession with intent
18 to distribute lesser included offense, and Judge Jefferson
19 ordered that. But the whole thing is now on whether or not I
20 should have asked for the lesser included offense of
21 possession also because there was a way the facts could have
22 been reviewed to just being in possession. So that's all
23 still in the PCR courts, Your Honor.

24 So I'm going to ask for everything, including the kitchen
25 sink, in terms of the assault law, because he didn't die on

1 the day that he was shot.

2 Now, I would also ask for a charge on intervening or
3 superseding events. There's -- the law -- I mean --

4 UNIDENTIFIED SPEAKER: I have an instruction.

5 MS. GAY: You have an instruction? Could you read it to
6 me? We have got to stand up over there (indiscernible).

7 THE COURT: You can just email it to my clerk.

8 MS. GAY: I will email it. And, basically, Your Honor,
9 it says that if there's an intervening or superseding event
10 that breaks the causal change, which we believe the drug
11 addiction -- the drug use and the -- could be one of those,
12 and we would ask for a charge -- I'm sure he's going to object
13 to all of it, but I do think we have to look significantly at
14 the event as being just an assault also. You know, granted,
15 he died for many reasons, including what Mr. Downs -- or
16 Dr. Downs just said, that may or may not be the result of this
17 actual shooting.

18 THE COURT: Solicitor?

19 MR. OSBORNE: I can certainly address this a little bit
20 later. I'm looking at involuntarily earlier too. And so the
21 standard charge for involuntary is to prove -- and I guess
22 I'll just start from the --

23 THE COURT: Do y'all want time to look at it and then
24 come back and talk about it or --

25 MR. OSBORNE: Otherwise, I'm just going off the top of my

1 head.

2 THE COURT: Yeah, I'll give y'all an opportunity. I
3 mean, I told the jury to come back at 1:30. So why don't
4 y'all look at what you have and then come back in chambers at
5 1:00, and then we can talk about what everyone wants to do as
6 far as the jury instructions. Is that sufficient for
7 everyone?

8 MR. OSBORNE: So this is where I would ask for just a wee
9 bit of latitude. So our pathologist will do her best to be
10 here at 12:30, and I would just ask for about 30 minutes to
11 talk to her, in light of this testimony.

12 THE COURT: Sure.

13 MR. OSBORNE: So if we could just push it back a half
14 hour.

15 THE COURT: Sure. That's fine. That's fine.

16 MS. GAY: So meet here at 1:15 maybe?

17 THE COURT: Would that give you enough time?

18 MR. OSBORNE: I think it might.

19 THE COURT: Y'all just let me know.

20 MR. OSBORNE: Okay.

21 MS. GAY: All right. Thank you, Your Honor.

22 (A lunch recess was taken from 12:08 p.m. to 1:44 p.m.)

23 THE COURT: Still working on the jury instructions? I
24 figured we could do the doctor's testimony while he finishes
25 that up, and then we'll take a quick break for everyone to

1 review them before we go into that.

2 Are we ready for the jury?

3 MR. OSBORNE: Yes, Your Honor.

4 MS. GAY: Yes, ma'am.

5 THE COURT: All right. Let's have our jury, please.

6 (The jury entered the courtroom at 1:44 p.m.)

7 THE COURT: Welcome back, ladies and gentlemen of the
8 jury. We're now ready to proceed.

9 Ms. Gay, do you intend on calling any other witnesses?

10 MR. OSBORNE: We do, Your Honor. The State would --

11 MS. GAY: My turn. I have to rest.

12 Your Honor, I do not intend on calling any other
13 witnesses, but I would like to rest at this time.

14 THE COURT: Thank you, ma'am.

15 Any rebuttal from the State?

16 MR. OSBORNE: I'm sorry. Yes, Your Honor. The State
17 calls Dr. Erin Presnell.

18 THE COURT: And, Doctor, you were previously sworn.
19 You're still under oath. Thank you, ma'am.

20 DR. ERIN PRESNELL,

21 after having been previously duly sworn, was examined and
22 testified to as follows:

23 THE COURT: Your witness.

24 MR. OSBORNE: Thank you, Judge.

25 DIRECT EXAMINATION

1 BY MR. OSBORNE:

2 Q Doctor, thanks for coming back on such short notice.

3 Let's get a couple of things out of the way. Are you also a
4 fellow of magna cum laude member?

5 A No. Clemson.

6 Q And do you remember how much we paid you to come here and
7 testify?

8 A I don't -- I don't get paid.

9 Q Okay. Well, we did give you a bag of Doritos?

10 A I did eat a lot of Cheetos and Diet Coke.

11 Q Okay. All right. So something has come up in reference
12 to Mr. Williams's manner and cause of death that I want to
13 address with you. Okay?

14 A Yes.

15 Q So let me first ask you: You did write a report with
16 your findings and conclusions in this case; is that correct?

17 A Yes. It's the autopsy report.

18 Q Okay. So let's start with the toxicology in this report.
19 And just so -- and this is on Defendant's Exhibit No. 5. You
20 list oxycodone and Tramadol, and you put it right there on the
21 first page; correct?

22 A Well, yes. The way that the autopsy report is set up is
23 that there's a list of a final diagnoses because I'm looking
24 at everything. So I put a list of all the diagnoses that we
25 found at autopsy. And then, after that, I put cause and

1 manner of death.

2 MS. GAY: Your Honor, can I get my exhibit back from
3 (indiscernible)?

4 THE COURT: Yes, ma'am.

5 MS. GAY: So I can review (indiscernible).

6 MR. OSBORNE: It's all right in evidence.

7 MS. GAY: Can I look at it while she's testifying?

8 MR. OSBORNE: I'm actually going to need it.

9 MS. GAY: Thank you.

10 THE COURT: All right. You may proceed.

11 BY MR. OSBORNE:

12 Q All right. So we're referencing back to Defendant's
13 Exhibit 5. Just so -- and this is going to -- this is in
14 evidence, so it's going to go back. So it's not like you're
15 trying to -- you're not trying to be surreptitious or
16 anything. It's literally right on the front page, the
17 oxycodone and the Tramadol.

18 A Yeah, it's one of the findings at autopsy.

19 Q All right. So -- and this is -- some confusion was
20 expressed over this. Cause of death doesn't list anything
21 about oxycodone and Tramadol. Can you elaborate on why that's
22 not listed as a cause of death?

23 A Well, I mean, I could have put a number of significant
24 conditions under the cause of death section, including his
25 liver cirrhosis and his congestive heart failure, but I just

1 kept it simple and listed the underlying cause of death, which
2 was his infection and liver disruption due to his gunshot
3 wound.

4 **Q** And that's -- so other issues are what are commonly
5 referred to as contributing factors?

6 **A** Right.

7 **Q** Okay. Now, let me ask you something: This oxycodone and
8 Tramadol, these are opiates?

9 **A** Yes.

10 **Q** And are they -- I mean, they're not like illegal
11 substances or anything. They can be prescribed?

12 **A** Yes. So, in this case, it looks like when he was -- when
13 Mr. Williams was discharged from the hospital after his
14 gunshot wound -- discharged into hospice, they wrote or they
15 designated two prescriptions -- one was Tramadol and one was
16 oxycodone -- to provide comfort care for pain relief as he
17 (indiscernible).

18 **Q** Okay. And you said that was because he was placed in
19 hospice care after he was released from the hospital after
20 being shot?

21 **A** Well, I know they released him to the hospice care,
22 according to the medical notes. And then those two
23 medications were on the prescription list.

24 **Q** Okay. And was he not in hospice care prior to being
25 shot?

1 **A** You know, I'm not sure of all his (indiscernible) versus
2 hospice care prior.

3 **Q** Okay. And, now -- well, before we move on...

4 **MR. OSBORNE:** Your Honor, may I approach?

5 **THE COURT:** Yes, sir.

6 (State's Exhibit No. 48, Discharge Papers, was marked for
7 identification.)

8 **BY MR. OSBORNE:**

9 **Q** I'm going to show you State's 48. Could you take a look
10 at that and tell me if you recognize that.

11 **A** This looks like one of the pages from the hospital
12 medical records, probably the discharge information, where
13 they list diagnoses as well as the two medications, oxycodone
14 and Tramadol, that were prescribed.

15 **Q** Okay.

16 **MR. OSBORNE:** Your Honor, at this time, the State seeks
17 to admit 48 into evidence.

18 **MS. GAY:** No objection, Your Honor.

19 **THE COURT:** It's in.

20 (State's Exhibit No. 48 was received into evidence.)

21 **BY MR. OSBORNE:**

22 **Q** All right. Can you see that okay?

23 **A** Yes.

24 **Q** All right. So it looks like the date here, April 26th,
25 2018, that was the release date. James Williams, the patient.

1 And then here are the two prescriptions for oxycodone and
2 Tramadol.

3 **A** Yes.

4 **Q** Now -- and it says, "As needed for moderate pain."

5 **A** And oxycodone says, "As needed for severe pain."

6 **Q** For severe pain. Okay.

7 Now, you testified the other day about -- and I want to
8 talk about this a little bit, the infection. Peritonitis?

9 **A** Yes.

10 **Q** Now, how would -- was this -- like, would you
11 characterize this peritonitis -- so it's an infection. And
12 you characterize the infection as being mild? Moderate?
13 Severe?

14 **A** Oh, it's severe. Excuse me. It's severe. It's causing
15 his death. Extensive peritonitis infection and inflammation
16 through the abdomen.

17 **Q** Now, what -- you conducted the autopsy; right?

18 **A** I did, yes.

19 **Q** And I don't want to get graphic here, and we're certainly
20 not going to show you any pictures, but when you saw the
21 inside, was it really visible, this infection?

22 **A** Yes.

23 **Q** Okay. And is that painful?

24 **A** Yes.

25 **Q** I think at one point you described it as being raging

1 peritonitis?

2 **A** It was an extensive peritonitis. I wouldn't use "raging"
3 in my notes or my autopsy report. It was an extensive
4 peritonitis.

5 **Q** Okay. Now, let me ask you something that came up.
6 What -- what would you say to -- and I'm not going to use some
7 of the normal terms here, but -- so, apparently, there was a
8 port to Mr. Williams that was used to drain some of the fluid
9 from the liver, I guess, not functioning correctly?

10 **A** Yeah. Well -- so I believe they had a bag over the area
11 of the gunshot wound on the abdomen that was drained.

12 **Q** Now, what would you say if that bag -- I might have some
13 of the wrong terminology here -- but wasn't placed on him in a
14 suction-type manner and that was unusual and that could
15 perhaps lead to an infection? What do you say that -- say to
16 that in reference to the infection?

17 **A** Well, I mean, I guess, again, we're getting down to what
18 is the underlying cause of death. So they have an open wound
19 on the infection -- or, excuse me -- an open wound on the
20 abdomen caused by the gunshot wound. Certainly an open wound
21 can allow access of bacteria and whatnot into the abdomen to
22 facilitate the infection. But, again, present because of the
23 gunshot wound.

24 **Q** Okay. So the infection in this case was caused by a
25 gunshot wound, not because of some port that was --

1 **A** Right. I'm not sure how the part was handled during
2 life, but it's there, and the access to the abdomen is there
3 because of the gunshot wound to the abdomen.

4 **Q** I see.

5 Okay. And you might have touched on this a little bit,
6 and I know -- I mean, I suppose this was a factor, at least in
7 your clarification, you know, but the -- for jury members that
8 don't know, in layman terms, what does it mean whenever you're
9 placed into hospice care?

10 **A** Well, hospice care, for end-of-life care, is when you are
11 treating the patient to provide comfort while they're in the
12 dying process. You're not treating them to cure any diseases.
13 It's a comfort-providing care to someone's end of life.

14 **Q** Okay. And I suppose part of comfort care, as we have
15 noticed from State's Exhibit 48 would be pain medication.

16 **A** Yes.

17 **Q** Opiates?

18 **A** Yes.

19 **Q** Okay. And, so, you said -- and, so, in hospice -- when
20 you're in hospice care, the doctors are literally trying to --
21 and caregivers are literally trying to make Mr. Williams more
22 comfortable. They're no longer treating the cirrhosis.

23 **A** Yes. I don't know if he was any other meds, but the only
24 one in the -- the only two in the toxicology screen -- we did
25 an autopsy -- shows oxycodone and Tramadol, again, the two

1 that he was prescribed when he was discharged.

2 Q And that was -- okay.

3 Now, I want to move to prior to and then discharge.

4 MR. OSBORNE: May I approach?

5 THE COURT: Yes, sir.

6 (State's Exhibit No. 49, Toxicology Report, was marked
7 for identification.)

8 BY MR. OSBORNE:

9 Q All right. I'm showing you State's 49. Can you take a
10 look at that and tell me if you recognize that?

11 A Let's see. This is -- looks like a sheet of laboratory
12 values on Mr. James Williams dated April 21st, 2018, which
13 would have been the day that he was shot.

14 Q Okay. And so -- and these laboratory values are
15 basically like a tox screen that would have been done on him?

16 A Yeah, it's a urine drug screen as well as some other
17 laboratory values.

18 Q Okay.

19 MR. OSBORNE: Your Honor, at this time, the State seeks
20 to admit --

21 MS. GAY: I'd like to look at it, please.

22 MR. OSBORNE: It's going to be 49 into evidence.

23 MS. GAY: Without objection, Your Honor.

24 THE COURT: All right. It's in.

25 (State's Exhibit No. 49 was received into evidence.)

1 BY MR. OSBORNE:

2 Q All right. So -- now we're looking at here the date of
3 April the 21st. We have already heard testimony that's the
4 date that Mr. Williams was actually shot. And the patient
5 name here: James Williams.

6 So let's just move down to the tox. And we have heard
7 before -- well, you testified to it as well -- that oxycodone
8 and Tramadol are opiates. What -- was there any opiates
9 detected in Mr. Williams's tox on the night that he was shot?

10 A So you can see where it says toxicology and then you have
11 urine, urine, urine, urine. So those are all the different
12 drugs that they're screening for. In that first one, there is
13 an opiate screen. Keep in mind, too, this is the screening --
14 a screening test used to help in the treatment of the patient.

15 Q Okay. And so we have no opiates, no barbiturates, no
16 cocaine, no drugs at all?

17 A That are showing up in the urine drug screen. And then
18 the plasmas and alcohol, that looks like it came in at 10,
19 which is .0 on...

20 Q All right. So we're basically talking about -- and I
21 want to reiterate this. When you classify manner of death as
22 homicide, that's simply a term that says the taking of the
23 life by one of another.

24 A Yes.

25 Q Okay. Well, maybe you can just explain it. Based on the

1 tox at the time of death, why didn't you go with accident?

2 **A** Well -- all right. Let me back up a little. So
3 opiates -- so he has two opiates on board: The oxycodone and
4 the Tramadol. His levels are relatively high. However, we
5 know that hospice prescribed him those levels or prescribed
6 him with those medications to provide him comfort care in his
7 dying process.

8 The other interesting thing -- not interesting -- the
9 thing about opiates is that, when patients use them, they can
10 develop a pretty significant amount of tolerance, meaning that
11 the longer you take it, then the more tolerant you are to its
12 effects and that you'd have to take more of the medication to
13 get the same effects.

14 So, you know, in this case, his levels are higher than,
15 like, say, in the, quote, "therapeutic range." However,
16 again, he's taking the medications or being prescribed the
17 medications to provide the comfort due to his gunshot wound
18 that's causing, you know, the painful peritonitis and the
19 lacerated liver.

20 So, ultimately, no matter whether there was a
21 contribution of the drugs to his death or not, the underlying
22 cause of death still remains his gunshot wound to the abdomen.
23 He was shot by somebody else, and therefore, it's a homicide.

24 **Q** Okay. And that kind of brings me to one other exhibit I
25 want to move in.

1 (Counsel conferring off the record.)

2 MR. OSBORNE: May I approach?

3 THE COURT: Yes, sir.

4 (State's Exhibit No. 51, Coding Summary, was marked for
5 identification.)

6 BY MR. OSBORNE:

7 **Q** I'm showing you State's 51. Can you take a look at that
8 and see if you recognize that?

9 **A** Let's see. It looks like a coding summary from Colleton
10 Medical Center from May 2nd, which was the day of his death.

11 **Q** And that's 51, I think?

12 **A** Correct.

13 MR. OSBORNE: Your Honor, at this time, the State seeks
14 to admit 51 into evidence.

15 THE COURT: Any objection?

16 MS. GAY: No, Your Honor.

17 THE COURT: All right. It's in.

18 (State's Exhibit No. 51 was received into evidence.)

19 BY MR. OSBORNE:

20 **Q** All right. I don't have this one digitalized. Can I do
21 (indiscernible)?

22 All right. So these coding numbers over here, I mean,
23 what does it -- it says, "Accidental" -- can you read that
24 okay?

25 **A** Yes.

1 Q It says, "Accidental discharge"?

2 A That looks like it says, "Accident discharge from
3 unspecified firearm or gun, initial encounter."

4 Q "Or gun, initial or initiated encounter"?

5 A Yes.

6 Q And this is -- who typically does coding at a hospital?

7 A I don't know specifically about Colleton, but, typically,
8 a doctor will come up with diagnoses, and then that goes to an
9 administrative coder who will classify the different diagnoses
10 by a number, and that goes to the insurance companies.

11 Q Okay. So -- and, basically, all it's saying is that it's
12 a gun. It could have been a discharge or it could have been
13 from an encounter.

14 A Yes.

15 Q All right. So I just want to ask you some kind of silly,
16 hypothetical questions, I guess. All right. So,
17 hypothetical, if someone is shot -- let's say someone is shot
18 in the head and they're put on life support. Okay? And they
19 we are removed from life support a month later, would you
20 classify that as a homicide or a natural death?

21 A If someone else shot them in the head, I would classify
22 it as a homicide.

23 Q Well, would that change if they had a DNR, do not
24 resuscitate? Would you then classify it as suicide?

25 A If someone else shot them in the head?

1 Q Yeah.

2 A No.

3 Q Okay. And, again, you don't get into murder. You just
4 get into homicide.

5 A Yeah, death at the hands of another.

6 Q Okay. All right. No further questions.

7 THE COURT: Cross-examination?

8 MS. GAY: Yes, ma'am, thank you.

9 CROSS-EXAMINATION

10 BY MS. GAY:

11 Q Good afternoon. I'm Melisa Gay.

12 Okay. May I see what you have?

13 A I have my autopsy report and diagram.

14 Q (Indiscernible). All right. So back to your review of
15 this case. First of all, you work for MUSC?

16 A I do.

17 Q And MUSC is a state medical center, the Medical
18 University of South Carolina?

19 A The hospital is a state entity. I work for MUSC-P, which
20 is a private group inside MUSC.

21 Q All right. So -- and you do, in fact, get a paycheck?

22 A I do.

23 Q Some of that paycheck and things involved -- benefits or
24 whatever, may be health insurance or something related to your
25 job responsibilities?

1 **A** Yes. So I -- yeah, I get a paycheck with my regular
2 salary and I do get health benefits.

3 **Q** Okay. So when you come here today, that's part of your
4 job, that you work for the group for MUSC?

5 **A** Yes.

6 **Q** So, in other words, your time that you're here today
7 about is actually compensated by MUSC group.

8 **A** It is. But, for example, all the stuff I was going to do
9 today, instead of coming back the second time, I'm now going
10 to do at night.

11 **Q** I understand. And I understand that --

12 **A** You're right. You're right though. I do have a salary,
13 and this does fall under my normal job duties.

14 **Q** In which you're compensated for?

15 **A** Yes.

16 **Q** And so the solicitor asked you a couple of different
17 things. First, I would like to reiterate what you initially
18 said in your testimony the first time, was that when you
19 reviewed the information, I believe you said you reviewed the
20 ER records from Trident Hospital; correct?

21 **A** Yes.

22 **Q** And you reviewed the -- you looked at the man himself.
23 Honestly, I cannot remember whether you said that you had
24 renewed Colleton County medical records or not.

25 **A** Yeah, there was -- it was -- what I had in my folder was

1 when he was brought to the ER at the time of his death, and so
2 there was the commentary in that. And there was an additional
3 doctor's note from, like, a year before.

4 Q Okay. So I'm going to show you what's marked as
5 Defendant's Exhibit No. 2 and ask you if you can identify this
6 document for the jury.

7 A This looks like what we just projected up above.

8 Q The first page.

9 A Yes.

10 Q What about the rest of the pages?

11 A This looks like the report -- the hospital visit at the
12 time of his death.

13 Q Okay. And, so, if you -- let me -- so I guess you should
14 keep it for this, but my question is, do you see in this
15 report that it says that this gentleman was Narcaned multiple
16 times upon his arrival at the hospital?

17 A He was administered D-50, which is like a glucose
18 solution and Narcan.

19 Q Okay. Let me look at the next page.

20 So, on this page here, which is the last page of this
21 exhibit I'm showing you, how many rounds does it say that he
22 received of Narcan?

23 A It says, "Several rounds epi," which is epinephrine
24 (indiscernible), slash Narcan slash amiodarone, which is a
25 heart medicine.

1 Q So could you describe to the jury why people receive
2 Narcan?

3 A Yeah.

4 Q If they present to the ER, why do they give that to them?

5 A Yeah. Actually, I'm glad you brought it up. Narcan is a
6 medication that is used to reverse the effects of opiates.
7 Opiate use has become pretty prevalent in our society. And so
8 when there is a first responder responding to an unresponsive
9 person, it is not uncommon to administer Narcan in hopes of
10 reserving an opiate effect if the person was on opiates or if
11 the opiates were actually having an effect.

12 Now, we know that he got multiple rounds of Narcan. That
13 he has opiates obviously didn't change the outcome. To me,
14 that supports that he was dying from his gunshot wound and his
15 infection over the opiate event.

16 Q I understand that, but let's look at Defendant's
17 Exhibit 4. And this is the South Carolina Law Enforcement
18 Division toxicology report.

19 A Yes.

20 Q And, in that report, it indicates that he did have the
21 presence of two opiates on him.

22 A Right. The oxycodone and the Tramadol that he was
23 prescribed at the time of discharge.

24 Q And you mentioned in your -- you said this also in your
25 autopsy that he has high levels of those two.

1 **A** He does.

2 **Q** Very high levels?

3 **A** They're relatively high, yes.

4 **Q** And I think that Mr. Osborne asked you, pursuant to the
5 document that he pulled out, having to do with the hospital.

6 This is State's Exhibit No. 49. You were looking at
7 (indiscernible) the jury. This is this --

8 **A** The drug screen, yes.

9 **Q** The drug screen.

10 And you indicated and he showed the jury that opiates,
11 nondetected; barbiturates, undetected; basically, other
12 things, but that he did have some quantity of alcohol in his
13 system.

14 **A** This says ten, yes. Ten, which is a .01.

15 **Q** Okay. So he was released from the hospital later on and
16 he actually -- from the time of his release from the hospital
17 to the time he gets to the Colleton Medical Center, I think it
18 was about five days. Is that correct? Yes, five days.

19 So during that -- and he was released from the hospital.
20 But he didn't have any opiates in his system on the day he
21 came into the hospital. He wouldn't have had any opiates
22 given to him at the hospital for him to get out of the
23 hospital. That wouldn't have been anything they would do.

24 **A** I don't understand. They may or may not have provided
25 him opiates for comfort relief or for pain relief.

1 Q Well, in terms of how much he had in his system, would it
2 be likely that he had consumed those opiates pretty quick to
3 the time that the test was taken? Because I believe there's
4 something about metabolizing opiates that's in that record.

5 A Well, so, you know, he has the levels he has, so how to
6 you get high levels? You can take lots of the medication, you
7 can take doses that are required to relieve extensive pain.
8 You can also not metabolize them as well. You remember, he
9 has cirrhosis of the liver.

10 So I could argue that there's multiple components into
11 play as to why his levels are high.

12 Q All right. And I understand that. And you actually made
13 the comment -- and this goes back to the (indiscernible). And
14 Mr. Osborne asked you, when you put a cause of death, and you
15 only put two different things, and then you have the manner of
16 death being homicide.

17 You specifically said that you were keeping it simple so
18 that -- you could have put other factors in there, but you
19 chose not to -- other contributing factors.

20 A I mean, there's all things that the cirrhosis might have
21 contributed. The congestive heart failure might have
22 contributed. Some of the respiratory effects of the
23 medications might have contributed. But, ultimately, it all
24 comes down to what started this, you know, the process of his
25 ongoing death, which was the gunshot wound to the abdomen. So

1 that's why I kept that as the cause of death on my cause of
2 death statement.

3 Q And the fact that he had high levels of opiates in his
4 system might have contributed?

5 A It's hard to say.

6 Q But it could have contributed?

7 A It may have.

8 MS. GAY: Your Honor, hold on one moment, please.

9 I have no further questions. Thank you.

10 THE COURT: Any redirect?

11 MR. OSBORNE: Just one topic, I guess.

12 REDIRECT EXAMINATION

13 BY MR. OSBORNE:

14 Q So the Narcan. You testified (indiscernible) this
15 before. With the unfortunate popularity, I guess, of an
16 overdose and that Narcan is used to treat to bring people
17 back.

18 A Yes, to reverse the effects of opiates.

19 Q Reverse the effects of opiates.

20 And, so -- and Mr. Williams was given several dosages, I
21 guess, of Narcan, trying to reverse the effects of the
22 opiates?

23 A If he had -- well, we know he had opiates, but the first
24 responders don't necessarily know what's on board, so they
25 might try multiple times. But, yeah, clearly his course did

1 not reverse.

2 Q So -- yeah. And I guess that's sort of what you said as
3 a valid point. If it had been opiates, the Narcan -- you
4 would presume the Narcan would have worked. In fact, the
5 Narcan didn't work because he had another factor that goes to
6 the gunshot injury (indiscernible)?

7 A Yes. It just supports the gunshot wound and the
8 infection from that. And, you know, ultimately, it's part of
9 the death. I mean, it's the main part of the death, in my
10 opinion. But if there's any contributory role with the
11 gunshot wound whatsoever, that remains a homicide.

12 Q Any contributing factor?

13 A Right. Even if it -- say it was the oxycodone and
14 Tramadol that was -- that somebody might have an opinion that
15 that is the main cause of death, if the gunshot wound is
16 contributing and that was caused by another person, it's still
17 a classification of a homicide.

18 MR. OSBORNE: No further questions.

19 MS. GAY: Your Honor, just that brings up --

20 THE COURT: No, ma'am. There's nothing new brought up.
21 You may step down, Doctor.

22 Any other witnesses, Solicitor?

23 MR. OSBORNE: No, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, both sides
25 have rested their case. We must take a very brief recess

1 before we return for closing arguments and the charge on the
2 law. If you would please go to your jury room. Again, please
3 remember not to discuss this case amongst yourselves or with
4 anyone else. Thank you.

5 (The jury exited the courtroom at 2:16 p.m.)

6 THE COURT: All right, Counsel. Allen's got the proposed
7 jury instructions. If y'all would take a look at those real
8 quick. And the verdict form.

9 MS. GAY: And I just need to put some motions on the
10 record when we get back to this -- all this, Your Honor. Make
11 sure I do what I'm supposed to do.

12 On the first page, Your Honor, it says, "Murder,
13 attempted murder, possession of a firearm." I'm not sure I
14 got the right page. It doesn't have the ones we talked about
15 in the back.

16 THE COURT: Right. Well, he's charged with murder,
17 attempted murder, and armed robbery and commission of a
18 violent crime. But during the jury instructions that we'll go
19 through that, under the murder charge, the lesser included
20 offenses are considered as follows.

21 MS. GAY: Okay.

22 THE COURT: I just want to go page by page or if you tell
23 me there's a problem on each one.

24 (Pause in the proceedings.)

25 THE COURT: All right. So any objections for the

1 proposed jury instructions from the State.

2 MR. OSBORNE: Yes, Your Honor. On attempted murder, I
3 would request that the language -- where it says, "A specific
4 intent to kill is not an element of attempted murder," I would
5 just ask it to say, "A specific intent to kill is an element
6 of attempted murder" and take out "not."

7 THE COURT: Hold on. Let me find the page.

8 MR. OSBORNE: Okay.

9 THE COURT: Where are you?

10 MR. OSBORNE: The cite at the bottom of *State v. Faust*
11 (ph). And it's the second paragraph -- well, the first
12 paragraph on the page.

13 THE COURT: Do y'all want to number yours real quick, and
14 then we'll be on the same page.

15 MR. OSBORNE: Okay.

16 THE COURT: I have attempted murder starting on 17.

17 MS. GAY: Your Honor, it's under the subsection,
18 "(Indiscernible) unreasonable doubt." That's the bottom of
19 one page. That's under reasonable doubt (indiscernible).
20 It's just a page that says, "If facts are..."

21 THE COURT: Oh, I see.

22 MS. GAY: The next page.

23 THE COURT: I gotcha. So it's page 20?

24 MR. OSBORNE: 21, is what I have got.

25 THE COURT: So where are you talking about?

1 MR. OSBORNE: So I think if we say, "A specific intent to
2 kill is an element of attempted murder," and stop there. So
3 we'd be taking out "not," "as if it is." And then, "But there
4 must be general intent to commit serious bodily injury." Take
5 that out. And then go into, "Intent means intending the
6 result."

7 THE COURT: Mine must be numbered differently than yours.
8 Can I look at yours?

9 Oh, I was on the next page. Okay. All right. So just
10 take out that section of that first...

11 MR. OSBORNE: And then the only other thing the State
12 would request is you have the "hesitant to act" under
13 reasonable doubt. We'd just also ask the second part of
14 "firmly convinced" also be charged as well.

15 MS. GAY: Your Honor, I would just ask that it remain as
16 (indiscernible).

17 THE COURT: Firmly convinced, I would note that's the
18 law, so I'll add that. Do you know what I'm talking about?

19 UNIDENTIFIED SPEAKER: I'm not sure. Say it one more
20 time.

21 THE COURT: Firmly convinced under reasonable doubt.

22 MS. GAY: And what did you determine about the --
23 changing it "his satisfaction" with attempted murder, Your
24 Honor?

25 THE COURT: Right. I think he's correct on the law on

1 that. I don't know why that first sentence is in there. We
2 can take that out.

3 MR. OSBORNE: And that's it from the State, Your Honor.

4 THE COURT: All right. Ms. Gay, did you have --

5 MS. GAY: Well, Your Honor, when we were in the back, I
6 did ask for you to consider charging involuntary. I said
7 voluntary manslaughter and involuntary manslaughter just
8 because I think these facts are to be determined by this jury
9 to be any of those, specifically involuntary manslaughter
10 because it does appear that the gun may have discharged, and
11 so it was more of an accidental way as opposed to an
12 intentional act by the person who shot it -- who had the gun.
13 So I'd put that on the record.

14 And then, with regard to the specific request for a
15 charge about superseding/intervening circumstances, I think
16 this has to do with proximate cause: And you refer to your
17 charge as being -- I think my charge on proximate cause covers
18 all this; however, I would ask for a specific charge. We are
19 getting (indiscernible) Black's Law Dictionary: "An
20 intervening cause is when something or someone interrupts the
21 chain of events started by the defendant, a force that
22 actively operates to produce harm to another after the actor's
23 act or omission has been committed. If the intervening cause
24 is strong enough to relieve the wrongdoer of the liability, it
25 becomes the superseding cause. Typically, an intervening,

1 superseding cause cuts the defendant off from criminal
2 liability because it is much closer or proximate to the
3 resulting harm. If proximate cause of the death was a
4 (indiscernible) of the deceased or another in which the
5 defendant, in the exercise of ordinary care should not
6 reasonably have anticipated as likely to happen, the
7 defendant's act is superceded by the intervening cause and is
8 not a proximate cause of death."

9 Obviously, that's a lot of information, and I have
10 presented that to you to see if we could get a jury charge
11 that covers that concept, which I think is important. And I
12 think it's well beyond the scope of just what is proximate
13 cause.

14 THE COURT: And based upon the evidence that was
15 presented and your request, I do not believe that voluntary
16 manslaughter would fit into any of the evidence that was
17 presented to the jury. There was no heat of passion or any
18 sufficient legal provocation.

19 As far as the involuntary, it does not meet that
20 definition either; basically, the defendant unintentionally
21 killed the victim without malice. There's certainly evidence
22 of malice that was presented to the jury. And so -- but while
23 engaged in an unlawful activity, not naturally tending to
24 cause a death or great bodily harm. So, certainly, that
25 definition does not meet as well, and I will not charge either

1 involuntary or voluntary manslaughter.

2 As far as your request to charge on the intervening
3 cause, the proximate cause definition is included in the
4 proposed jury charge as the law of this state, and I feel that
5 it sufficiently encompasses your concerns as far as the cause
6 and proximate cause of the defendant -- the victim's death, so
7 I will decline to charge that.

8 Have y'all looked at the proposed verdict form? Any
9 objections to the proposed verdict form?

10 MR. OSBORNE: No, Your Honor.

11 MS. GAY: No objections from us, Your Honor.

12 THE COURT: All right. Let's bring our jury in.

13 MS. GAY: May we have a five-minute comfort break?

14 THE COURT: Okay. Five minutes. That's it.

15 (A brief recess was taken from 2:29 p.m. to 2:40 p.m.)

16 THE COURT: All right. Anything further before we bring
17 the jury out?

18 MR. OSBORNE: No, Your Honor.

19 THE COURT: Ms. Gay, anything?

20 MS. GAY: No, Your Honor.

21 THE COURT: All right. Let's have our jury, please.

22 (The jury entered the courtroom at 2:41 p.m.)

23 THE COURT: Welcome back, ladies and gentlemen of the
24 jury. Please pay close attention, as it is now time for the
25 closing arguments of counsel.

1 You may proceed, Solicitor.

2 MR. OSBORNE: Thank you, Your Honor.

3 CLOSING ARGUMENT

4 MR. OSBORNE: "A-1 shot me." Torrell told his family.
5 Torrell told law enforcement. Torrell said it over and over
6 and over again. And through the evidence and the testimony,
7 you have heard Torrell say it to you: "A-1 shot me."

8 This defendant left Orangeburg, intending to commit a
9 robbery, but when he shot Torrell in the stomach, he committed
10 a murder.

11 All right. Before I get into the evidence in this case,
12 I want to talk to you about something that's really important,
13 in criminal cases in particular, and that's credibility.
14 Credibility is all yours as jurors. Credibility just simply
15 means believability. You can believe some, none, or all of
16 what comes out of the witness stand.

17 Look at what fits and look at what doesn't.
18 Corroboration. This is going to be key in this case, maybe
19 more than any others that we have commonly done. You
20 corroborate what a witness tells you with what other witnesses
21 tell you at the physical evidence, and when there's a
22 difference, you ask yourself why.

23 And last -- and this is the most important skill that
24 you're going to bring with you when you go back there and
25 deliberate -- use your common sense.

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1 Okay. Torrell told everyone on the night of the shooting
2 that A-1 shot him. What evidence have you heard in this trial
3 that this defendant even goes by that nickname of A-1? Well,
4 first, Shanay Williams, the victim's sister, she told you
5 that's A-1. And she also told you she knows that because she
6 used to work at McDonald's, and she worked with his daughter,
7 Kalesia. With that address information, Detective Easterlin
8 was able to quickly track down the defendant.

9 Now, I want you to take a look at something. We have
10 kind of glossed over this a little bit. Six foot, 240 pounds.
11 Torrell was five-foot-seven and 140 pounds. He was more than
12 five inches taller and outweighed him by 100 pounds.

13 Torrell was physically unmatched even without his medical
14 issues. When Mr. Rivers told you in the beginning, in the
15 opening, that that was a fight he was destined to lose, that's
16 why.

17 But it wasn't just Shanay who told you that that's A-1.
18 Ms. Gloria Green, she told you. A-1 would come visit Terrence
19 and Lamont, her nephews, on the same property in the trailer
20 in the back.

21 His own wife. Had to call her. She says he goes by A-1.

22 But I want you to look at what this defendant said when
23 Detective Easterlin asked him about that name.

24 (Video plays.)

25 MR. OSBORNE: He doesn't want anything to do with that

1 nickname. So listen carefully -- you have got to kind of read
2 between the lines, but listen carefully to what he says later
3 on in the interview.

4 (Video plays.)

5 MR. OSBORNE: Yeah, A-1. That's how I know.

6 When detectives learned this, that this defendant was
7 A-1, they spoke to Ms. Allen. And Ms. Allen told you that her
8 husband -- and he says it during the interview -- that he
9 didn't have a phone. So she let him use her phone:
10 (843) 560-4731.

11 Now, I want you to listen to what he told Detective
12 Easterlin when he asked about that phone. Okay?

13 (Video plays.)

14 MR. OSBORNE: He knows good and well why that man is
15 asking about that phone, and he doesn't want anything to do
16 with that phone because he knows what he did that night and he
17 knows where that phone was.

18 So let's take a look at the footprints left by him and
19 his phone on the day before the murder, the night of the
20 murder, and the following day.

21 Now, you heard from Lamont Allen. Lamont Allen is one of
22 his friends and Torrell's customer. Lamont told you that, on
23 the day of the murders, in the morning time, the defendant
24 came by his trailer. That's Lamont's trailer. He used to
25 live -- or still does -- lives behind Ms. Green's

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1 (indiscernible). Lamont told you that, when the defendant
2 arrived, he was driving a black Nissan Maxima. And I
3 understand that Lamont says, "I think it had out-of-state
4 plates." Black Nissan Maxima.

5 From there, they went to Peter Willis's house. Peter
6 lives right around the corner. Mutual friend.

7 And when you take a look at the phone activity on that
8 day, the morning of the murder, you see the phone right where
9 you might expect it to be, at he and Ms. Allen's home. As the
10 day gets started -- about 9:00, I guess -- looks like he's
11 mobile, moving.

12 Then around 11:00, just like Lamont said, "Came to my
13 house in the morning. Then we went to Peter Willis's house."
14 That phone is right there at Peter Willis's house. Peter
15 lives at 9272 Charleston Highway.

16 All right. Now, let's get into the night of the murders,
17 and let's first say what he had to say about where he was that
18 night.

19 (Video plays.)

20 MR. OSBORNE: Okay? Well, he's telling you a half truth.
21 On the night or the afternoon of the murder, there he is.
22 He's at the Rodeway Inn in Orangeburg. And that's at 3:22.

23 Now, like we talked about through Willis, when you see a
24 pop-up box -- and you're going to have these phone records
25 back there with you. When you see a pop-up box with a phone

1 number, that's his wife calling. He's in a hotel room with
2 his girlfriend. It goes to voicemail.

3 Later that night -- now, he said that he ended up going
4 to Neeses. Gets a phone call -- multiple phone calls. Again,
5 wife calling. He can't answer.

6 Later on, wife calling again. Still the voicemail. And
7 when I talked about corroboration -- this is key -- he said he
8 was near Neeses. There's Neeses right there. He's probably
9 telling the truth. He was at Neeses. He was at Orangeburg
10 that night. And that's corroboration. That is what we --
11 that is called corroboration right here.

12 And just like he said, went back to the hotel room.
13 Still can't answer that call. Wife still calling. He's with
14 his girlfriend. We're at the Rodeway Inn again.

15 Then things start to fall apart for him.

16 Remember when Andreana, Ms. Allen, testified and said
17 that she spoke to her husband after midnight on the night of
18 the shooting, and she said that it was a low tone, maybe
19 whispering or whatever, but, you know, low. There they are.

20 You have multiple calls after midnight. These are not a
21 voicemail. These are daily calls. She's talking to him.
22 That's his wife. He's still at the Rodeway Inn. He's with
23 his girlfriend. Makes sense that he'd be whispering while
24 talking to his wife.

25 Now, look, and here's the sad truth, if he had just

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1 stayed at the hotel room, who knows. Maybe Torrell is still
2 alive, fighting for his life. One thing is for sure: We're
3 not here. But that didn't happen because, at 1:45, he decided
4 he wanted to take a ride. He leaves the hotel room. And,
5 there, you can see, that's confirmed by Mr. -- by Agent
6 Willis. He's headed east. Headed toward
7 Harleyville/St. George.

8 Now, for the next hour -- and, like I said, you're going
9 to have them back there. Look at the phone records. Go
10 through them. For the next hour, he would not make or receive
11 any calls. I don't know what he was doing in that hour. But
12 what we do know is, at the time of the shooting, a 911 call
13 came in at 2:55 a.m. There he is.

14 At 2:56, at 3:01, at 3:02, he still is pinging off of a
15 tower that is right by the victim's home. Fleeing in that
16 black car, that Shanay saw him leaving in, but still in the
17 range of the tower that services his home, and he didn't go
18 east. He went west. Back to the hotel room.

19 Still headed west. So we back up here at the Rodeway
20 Inn, getting there about 3:40. Now, he would stay there until
21 about 11:30 the next day.

22 And now that brings us to Detective Easterlin, trying to
23 identify that black car. Now, he had talked to Lamont, and
24 Lamont told him it was a black Nissan rental, a Maxima, so
25 he's looking at rental cars. So he went to the Enterprise in

1 Summerville. And the lot's a big one, you know, maybe they'll
2 have some record of it. Didn't have any luck.

3 But after he talked to the defendant and heard the name
4 Mira Sellers and heard Orangeburg, well, he decided why not
5 try Orangeburg. So he went to that Nissan of Orangeburg. He
6 didn't have any luck, you know, with the black Nissan. Not at
7 first at least. But he did find a black Nissan and he found,
8 more importantly, the name Mira Sellers. She had rented a
9 white Nissan Altima.

10 And I want you to take a look at a couple of things here.
11 Going back to corroboration. This is the rental agreement
12 from Nissan of Orangeburg. That 9226 number there, you heard
13 was identified to Mira Sellers. Well, you see it right there
14 on the rental agreement. That's her name. That number, over
15 a 30-day period, communicates with that phone over a hundred
16 times. Mira is not calling his wife.

17 Look at what else you see. That Altima was rented at
18 about 12:30 p.m. And remember what Detective Easterlin said.
19 The location of that Nissan Altima on St. Matthew's Road, it's
20 right by the Regional Medical Hospital, right by Chick-fil-A.
21 He's with her when she's renting the car.

22 Lamont saw him in a black Nissan. Torrell saw him drive
23 away in a black car. Shanay saw him fleeing in a black car or
24 at least saw a black car. He needs a different car. He can't
25 be driving around the day after he shot somebody in the same

1 car. So he's with Mira. They're getting a different car now.

2 So while at that Nissan, we decided to look into some
3 other information about that black Nissan, and that's when he
4 came across Lawrence Cox. Lawrence Cox rented a black
5 Nissan -- and you'll have the days back there, but this is
6 going to be before the shooting. And there's Lawrence Cox
7 right there.

8 So what ties in Lawrence Cox to him? Well, remember,
9 Ms. Allen testified that, when she couldn't get ahold of him,
10 she would call Lawrence. Now, you know, in all fairness,
11 there's no evidence to suggest that Lawrence gave this black
12 Nissan to him or black Nissan Maxima, but what we do know is
13 there is a connection between him and Lawrence Cox, and
14 there's a connection between Lawrence Cox and the black
15 Nissan.

16 Now, I'm not going to go through every slide. Okay?
17 You-all were paying attention, but I do want to show some
18 other corroborating points to show that you tie that phone to
19 him. Okay?

20 Lamont said that he saw the defendant at the softball
21 field the following day in that white car. Could have been a
22 rental. And that's exactly where you see him. Sector 1
23 points to the orange icon. The orange icon is a softball
24 field the following day in the afternoon.

25 And when Andreana said that she saw the defendant at her

1 house the following afternoon, that's exactly where he is.

2 Now, Andreana said that the defendant came by their home
3 after the shooting because their daughter was going to a prom
4 that night. And that's important in this case. Because
5 remember what Torrell told his family members. When A-1 came
6 and said he needed money, he needed it for the prom.

7 When Torrell told you, through his family, that this
8 defendant shot him, you can trust him. It's him. Torrell
9 told his kids -- Torrell had kids. He would have known that
10 too. Everyone knew that. He would have known how much these
11 kids meant to Torrell. He tried to play off Torrell's
12 fatherly instincts, talking about his daughter. And when he
13 saw that didn't work, he went to a gun.

14 All right. Now, I'm going to talk to you a little bit
15 about the law. So the way this is going to work is this. I'm
16 going to talk to you here. Ms. Gay is going to talk to you.
17 I'm going to have one more opportunity, if I wish, to address
18 some issues that she might have brought up, and then the judge
19 is going to instruct you on the law. Okay?

20 So if I or Ms. Gay tells you anything different than what
21 the judge tells you, you follow her instructions, not ours.
22 And I would bet you're going to hear something -- and I'm
23 going to say murder (indiscernible) -- about attempted armed
24 robbery. Okay? And it's pretty simple. Most of these are
25 pretty simple. The defendant attempted to take property from

1 another while armed with a deadly weapon. Exactly what you
2 would think it would be.

3 All right. Possession of a weapon during a violent
4 crime. If you go with -- and you have got to kind of follow
5 me here a little bit, because you're going to have a couple of
6 different options. Okay? You're going to have murder.
7 You're going to have attempted murder. You're going to
8 have -- and that's -- and then you're going to have assault
9 and battery in the first degree.

10 Murder and attempted murder are both violent crimes. So
11 is attempted armed robbery. If you convict him of either of
12 those crimes -- you can go with this one, too -- the defendant
13 was in possession of a firearm during the commission of a
14 violent crime. If you go with the less -- any of those:
15 Murder, attempted murder, attempted armed robbery -- you can
16 also convict him of this. But if you go with the lesser
17 included -- A&B first, assault and battery first -- not
18 allowed (indiscernible). If you go down to there, that's not
19 even on the table.

20 All right. Attempted murder. Simple. I don't need to
21 put up slide on there. He tried to kill somebody. Okay? In
22 this case, right, he did more than try. He did.

23 Murder. This is what we're asking you to convict him of.
24 The defendant killed another person with malice aforethought.
25 And here's kind of where the rubber meets the road, malice

1 aforethought. It's an old English term. We don't use this
2 when we're talking to each other anymore. And it's kind of
3 broken down into two separate elements. Okay?

4 First we have malice. Malice is -- you're going to hear
5 a bunch of things. Okay? Give you some highlights. Malice
6 is an ill will or a hostility toward another person. You put
7 a gun to someone and you demand their money, that's the
8 definition of ill will or hostility.

9 Malice is an intentional doing of a wrongful act without
10 just cause. There is no evidence in this case to suggest that
11 this defendant accidentally brought a gun to a robbery. It
12 was an intentional act.

13 We'll combine these two. Malice is an intent to inflict
14 injury or, under circumstances that the law will infer, an
15 evil intent. The circumstances here are clear. Torrell told
16 everyone over and over again. Torrell was home. He was
17 minding his own business when that man came knocking on the
18 door. Malice is an intentional doing of a wrongful act. The
19 wrongful act here is a robbery -- an attempted robbery. That
20 is a wrongful act.

21 If you rob a clerk and the clerk fights back and the gun
22 goes off, guess what? That's murder.

23 No clerk. Nobody, including Torrell, was forced to sit
24 back and (indiscernible) that he would have decided not to
25 take his life. Torrell had a right to fight back.

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1 (Indiscernible). He don't.

2 Now, the second part: Aforethought. Some of the states
3 kind of call this premeditation. We don't call -- we don't
4 have premeditation. We have aforethought. And, simply, there
5 is -- there's a couple of things about it. There's no time
6 requirement to form intent. You can form intent in an
7 instant.

8 Malice aforethought does not require malice, it says, for
9 any particular time before the act was committed. The intent
10 to kill can be formed in an instant. Okay. This simply just
11 means -- and we don't need to show that this defendant was
12 planning to murder Torrell when he left Orangeburg. In fact,
13 he probably wasn't. We don't even need to show that, when he
14 went back to the car and got that gun, that it was with the
15 intent to kill. The intent to kill was formed in an instant.
16 He brought the gun to do the robbery. He owns the
17 consequences. Torrell had every right to fight for his life
18 and who knows, maybe for his kids' lives too.

19 All right. And I'm going to talk about, for a second,
20 reasonable doubt. All right. Prove beyond a reasonable
21 doubt. It's proof that leaves you firmly convinced of the
22 defendant's guilt. The law does not require proof that
23 overcomes every possible doubt. There are few things in life
24 that we know to an absolute certainty.

25 Now, Ms. Gay talks about -- and the judge will also

1 instruct you about hesitation. Okay? And that is true.
2 You're going to hear a charge about hesitation. And I have
3 often heard that defense attorneys talk about hesitation in
4 the sense that, you know, when you go back there, if you're
5 not firmly convinced and you hesitate, then that's not guilt.
6 There is a huge difference between hesitation and
7 deliberation. When y'all go back there, deliberate. Go over
8 the evidence. You'll have it all back there with you. Go
9 through it all. Take your time. That's called deliberation.

10 Listen to the judge whenever she instructs you on
11 reasonable doubt. I have often heard defense attorney's just
12 clever and cute little analogies and whatnot. That's not the
13 law. Okay? Listen to the judge. She instructs you on the
14 law.

15 And I'll end it with this: When this defendant chose to
16 rob Torrell with the gun, like I said, he owns it. Was
17 Torrell's medical condition terminal? Maybe. But no man gets
18 to determine when another meets his maker. This defendant had
19 no right, on that night, to play God. Cutting someone else's
20 life short is murder. We're asking you to hold this defendant
21 accountable for his choices and come back with the only just
22 verdict: Find him guilty of murder, attempted armed robbery,
23 and possession of a weapon during the commission of a violent
24 crime. Thank you.

25 THE COURT: Counsel?

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1 MS. GAY: Thank you, Your Honor.

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3 MS. GAY: So we have come to this long road. We spent a
4 couple of days together on all this. And if you recall, when
5 I first talked to you and I said, you know, how important this
6 day was to Mr. Allen and how he spent hours and hours picking
7 the jury of his peers and now you are the jury that will
8 determine the facts of this case.

9 The judge is going to instruct you on a good bit of law,
10 and, again, she said this in the opening remarks. You know,
11 she's the one that's going to instruct you on the law itself,
12 and then you ultimately have to apply that law and determine
13 what you believe to be the facts.

14 There's two issues in this case. There's the issue of
15 who did this to Mr. Williams and there's the issue of what the
16 person did to Mr. Williams. So there are very distinct
17 issues.

18 With regard to who did it, you will see an interview of
19 my client, Mr. Allen, with Mr. Easterlin, where he says that
20 he did not do it; that he was -- he spent the night with his
21 girlfriend at the time, Mira Sellers, at a Rodeway Inn in
22 Orangeburg.

23 One of the things that Mr. Osborne talked about was
24 corroboration. You know, when you have information, can you
25 corroborate that information and does that affect the

1 credibility of the information. So based on the interview
2 with Mr. Allen, they then went to attempt to contact the
3 Rodeway Inn. The Rodeway Inn's records were too old to find
4 to prove that, you know, whether or not he had actually rented
5 the room, but they also contacted Mira Sellers. The
6 confirmation was is that, yes, the Rodeway Inn is where they
7 were that night, and Mr. Allen was telling the police in that
8 interview, which you'll see, that he spent the whole night at
9 that hotel.

10 So who else could have been this person who is described
11 by Mr. Williams as A-1? Well, none of the people that
12 testified said that they saw any of this happen; that they saw
13 Mr. Ivington Allen commit this offense. They testified to you
14 about what was said to them or what their own personal
15 perceptions of things were, but they -- none of them said --
16 there's no corroboration for the fact that Ivington Allen is
17 the person who is supposed to have shot this man.

18 So when we look at the corroboration that we do find on
19 these statements from people is that we find that he,
20 Mr. Williams, said, "A-1 shot me." But what's interesting is,
21 during the course of this investigation, Mr. Easterlin and his
22 group of people were able to determine and there was specific
23 investigative notes which we discussed, that there was a
24 contact in Mr. Williams's phone for somebody named A-1 that
25 was not Ivington Allen. And so there's going to be maybe a

1 rebuttal to what I just said by saying "but," but the police
2 officer told Mr. Williams before his death that they were
3 going to get a warrant for Mr. Allen. It's possible that he
4 never even knew what the man's real name was. So for him,
5 this person that we identified through the records -- a police
6 report about him and a different telephone number -- that
7 arguably could be the A-1 that he said shot him. Because,
8 see, there's no effective way to cross-examine or to find out
9 more for Mr. Williams about who the shooter was. It was all
10 today. There wasn't even, you know, information that was
11 given to his relatives are what you heard. And his relatives
12 heard what happened that night right then, and all they heard
13 was the name.

14 So just in talking about some of these people,
15 Mr. Williams, his father, very nice man, testified that he was
16 asleep, that he came -- heard shots, came out. He even
17 mentioned something about what his son was supposed to have
18 said about the incident. None of that was mentioned to the
19 police officer on the night. The police officer on the night,
20 which is Contino -- Contino, who is the officer that's the
21 first one you heard from, he came and he actually said, who we
22 talked to, who was on the scene and there was no mention
23 whatsoever of him saying anything other than he heard him say,
24 "A-1 shot me."

25 And then, with regard to his sister, she had a good bit

1 of information. She shared that she knew a person who was
2 known in the community as A-1, and that person who was known
3 in the community as A-1 had a daughter that worked with her at
4 McDonald's. This has a minor child that she gave up this
5 information for to the police about a minor child's father and
6 the fact that she had seen this father come and pick this
7 employee up, which I'll let y'all think about that.

8 So what ends up happening is that she says, which is very
9 important, that she lives in the trailer next door and that
10 she saw a dark-colored sedan. No specific brand, no specific
11 style. But she saw a dark-colored sedan leaving the area.

12 What she also says, she heard -- like I believe she said
13 she heard a door slam. One door slam. And what she said, she
14 didn't even hear that what the -- she didn't see anything.
15 She said she didn't know about anything. And she's not saying
16 that there was this, you know, somebody gets out of the car,
17 they slam the door once. They come up to the door. They
18 decide to go back to the car. They get something out of the
19 car to come back. They slam the door twice. One slam of the
20 door and one dark-colored sedan.

21 So, then, Marlana, who is the girlfriend and the mother
22 of his children, came out, and she said that she was asleep at
23 the time and she was awakened by a gunshot. She was very
24 honest.

25 "Do you know who A-1 is?"

1 "No, I have no idea."

2 She said, "No, I don't. All I heard is that he said it's
3 A-1."

4 And then Gladys, who is his mother, she comes up after
5 the fact -- he's been shot and she comes up and he says to her
6 also, "A-1 shot me." No details. She didn't see a dark
7 sedan. She didn't hear any car door shut. Nothing. The only
8 person that actually had any information about the car was his
9 sister.

10 And then the next witness that Mr. Osborne brought in was
11 the man in chains, and his name is Lamont Allen, and he was
12 incarcerated because of this situation. What he says, which
13 is very important, is that he did see my client, who is, in
14 fact, Ivington Allen, that day, and he said that he was
15 driving the black Maxima. And he didn't say -- of interest is
16 he said that he thought it was a rental because it had
17 out-of-state plates.

18 It's really important. Everything that we're going to
19 talk about is really important. When you go back in and you
20 review all these pieces of evidence, there is a rental
21 agreement from -- of Lawrence Cox that Mr. Osborne is alleging
22 is the car that ultimately became the car that Mr. -- that my
23 client was supposed to be driving. It has South Carolina
24 plates.

25 And if this man is so attune to him knowing that it's a

1 black Maxima, then there's absolutely no reason why he should
2 have said it had out-of-state plates. It doesn't have
3 out-of-state plates. The plate is a South Carolina plate. It
4 says, "Issuing state: S.C."

5 So he says -- really important -- he says that, when
6 confronted by Mr. Osborne, that his aunt, whose name is Gloria
7 Green, that he did not tell Gloria Green things about the
8 shooting or about what Mr. Ivington Allen may have said or
9 been involved in. He said specifically he did not say things
10 to her that could have been used in this trial.

11 So we're moving along here. We're almost through the
12 fact witnesses. We got to Gloria. A couple of things about
13 Gloria. She's a very nice lady and she loves her nephew. She
14 actually has a couple of nephews in this case. But what she
15 said isn't true. It can't be because Mr. Easterlin --
16 Detective Easterlin and Contino -- I always want to put an "R"
17 in his name -- Contino specifically said that they interviewed
18 the people that were on-scene. They have the names of the
19 people who were on-scene. They have statements from the
20 people who were on-scene. They had follow-up conversations
21 with the people who were on-scene. Never, at any point, was
22 Gloria Green on-scene, and her testimony, under oath, was that
23 she had a conversation with Mr. Torrell Williams on that night
24 in his driveway before the EMS came. That is absolutely not
25 true.

1 So, then, when we take it to the next level of what she
2 said, where she is basically saying and testifying that Lamont
3 Allen told her all this stuff -- he would testify to that
4 point, that he hadn't told her this -- that he had mentioned
5 to her and told her information about this, that he had
6 completely denied.

7 So she's testifying, again, under oath that he said all
8 this, but you can't believe what she says. I'm sorry. And
9 the idea that this man in the hospital, who is about to go
10 into surgery, who is under all kind of medication and getting
11 prepped for surgery is telling her this whole story about how,
12 you know, somebody came up, he went to the car, he came back,
13 he grabbed him by the neck, all of these things are just
14 completely implausible.

15 But what's interesting of what she does say is that the
16 man, Mr. Torrell Williams, said that the gun dropped. He
17 actually testified that the gun fell. So that goes back to my
18 second point of what really happened here.

19 So these two men, allegedly, are struggling over this
20 gun, and the gun falls. And now her version is -- is that the
21 gentleman who is the assailant has grabbed him by the neck and
22 all this and somehow he's reaching for the gun, and the gun
23 popped. There is no part of that that says that he -- the
24 man, the assailant -- had a gun in his hand and pulled the
25 trigger right there into Mr. Williams's stomach. That is not

1 anything that he said to her, not anything that's presented in
2 this case by any witnesses.

3 What she said, which is where we have the idea that
4 Mr. Williams struggled over the gun and that the gun went off,
5 it fell -- her testimony specifically said that the gun fell
6 and that, as he's reaching for it, the gun went off.

7 So he's leaning down or something and then the bullet
8 goes and it hits him. I'm not a ballistics person. I was
9 able to get out through both medical examiners that he was
10 shot over here somewhere and it went down. And that was
11 important because the trajectory is down. The trajectory is
12 not in his head or his heart or even straightforward. There's
13 this strange angle that indicates that the gun was, at some
14 point, grabbed and pulled and then the gun went off. That is
15 not an intentional killing. It's not an intentional killing
16 at all. That's a shooting, which is different.

17 So I'm going to talk about that. I'm going to wrap this
18 up quickly. Easterlin had some really important information
19 that I thought was -- that where he talked about, that A-1, in
20 the contacts in the victim's phone, was not Ivington Allen.
21 It didn't even have a name associated with it. So, to him,
22 how do we know that A-1 is not the person he was referring to.
23 So identity is a major issue in this case, especially since my
24 client said that he was somewhere else.

25 And then, with regard to the Verizon bill -- Verizon

1 (indiscernible), that is really cool stuff. I mean, it really
2 is. You'll go back and you'll see how they mapped and they
3 have all these pies and they show all these things. But if
4 you'll recall, when I talked to the witness up there, there
5 was a tower that was even closer really to the incident
6 location that could have easily picked up a ping, and he
7 specifically said that he had absolutely no idea how many
8 miles these things can go.

9 So and that -- the pings were very important because the
10 ping that was near the victim's house and the ping that was
11 above that, they're all right along the interstate. He said
12 it's less than five miles right along the interstate.

13 So if somebody is traveling on the interstate, they're
14 going to be picked up by those pings. Now, yes, the one
15 that's a little bit lower was not on the day in question, but
16 what's interesting is, is that as this is happening there's
17 no -- he specifically said -- most important witness of the
18 case, "I cannot tell you that this phone was at the location
19 of the incident. I can't tell you that."

20 Now, Mr. Osborne wants you to make the leap that, well,
21 there's enough evidence to believe and to put together and add
22 1 plus 1 plus 1 is whatever -- I'm not good in math. But what
23 he's trying to get you to say is that, well, of course he was
24 at the house because this ping shows that he's out, you know,
25 within a period -- within a location blob or pie of this

1 house. That is not true. The officers -- the man
2 specifically said that he could not place him at the scene.
3 That's up to y'all to decide what you believe to be on the
4 credibility of that information.

5 So I just want to tell you that some of the things that
6 are important about what the judge is going to charge you,
7 she's going to charge you on the law, and you're going to hear
8 some specific things about specific charges. And, you know,
9 we have got murder. We have got attempted murder. So if he
10 didn't -- if this person that was supposed to have been
11 committing this act didn't commit a murder, did this person,
12 who is supposed to have committed this act, commit an
13 attempted murder?

14 One of the other things that we have is a charge called
15 assault and battery first. And assault and battery first is a
16 charge that does not lead to death. That's kind of what it
17 is. Briefly, I want to read to you the important parts,
18 because there's a lot of different things in this statute
19 also.

20 It says that, "If you find that the State has failed to
21 prove beyond a reasonable doubt that the defendant committed
22 an attempted murder and/or murder, you may consider whether
23 the State has proved beyond a reasonable doubt that the
24 defendant committed assault and battery first degree."

25 Okay. So I'm going to let her describe some more things,

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1 but assault and battery first degree does not lead to
2 somebody's death, and that's important because of the medical
3 information that we saw. This charge takes the event that
4 happened on the day of April 21st, 2018, and makes that event
5 a separate event from the death of the man. And that's
6 significant because I believe that's what's going on here.

7 My client says he wasn't there, but whoever did this,
8 that person only shot him, and there was not proximate
9 cause -- very important legal term: Proximate cause -- from
10 the shooting to the death.

11 So, today, we have my expert, Dr. Downs, and then the
12 medical examiner came back again, because all of this is
13 really, really important stuff. All of these medical records
14 that we talked about and all these things that discuss
15 autopsies, toxicology, all that will be back there with you in
16 the jury room. And what you need to look at is not just why
17 this man died, because he died for lots of reasons, but do any
18 of these reasons that caused his death create a breach in
19 proximate cause.

20 So the information that is presented by the judge is
21 going to say, if something happens and it has a proximate
22 result to the event itself, then it's supposed to be possibly
23 associated. But that's if. And that's if you decide that
24 some of these other things that we talked about are not that
25 important.

1 So one of the things, she's given us some information:
2 Proximate cause. Where a person inflicts a fatal injury on
3 another person and that other person dies at a later time, you
4 must be convinced beyond a reasonable doubt that the
5 infliction of the first injury was the proximate cause of the
6 victim's death. Proximate cause is the direct cause. It is
7 an immediate cause. It is an efficient cause. It is that
8 cause without which the death of the victim would not have
9 resulted.

10 Okay. So we talked extensively about information about
11 the toxicology, and we determined that this man was not -- was
12 a polysubstance abuser; that he was not using drugs on the day
13 that he got there on the 21st; that he would have had those --
14 may have had a small quantity of some opiates in his system at
15 the time he was released, but the acute nature of the event
16 that caused him to die on May 2nd, 2018, was an overdose; was
17 the fact that he had come there with such high levels of these
18 opiates in his system that his body no longer functioned. And
19 there's going to be -- the next one is going to say, Well,
20 lots of people get Narcaned. Lots of people get -- you know,
21 the EMSes are giving it to them and it doesn't even -- you
22 know, everybody gets that. That's not true. Not everybody
23 gets that. And there are a lot of people who are dying and
24 die of an opiate overdose that get that medicine and die; that
25 don't have gunshot wounds or cirrhosis of the liver or

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1 anything. They just die because their bodies are having a
2 lethal response to all that opiates.

3 So you're going to see the medical records from Colleton
4 County. You're going to see stuff in documents that we put in
5 about the actual care of this man and what was happening.
6 This man was really sick. He did get shot. But, ultimately,
7 as Dr. Downs said, one of the causes of death that he has to
8 attribute to it is an overdose.

9 Now, the last thing I'm going to say, I am not a doctor
10 and neither is Mr. Osborne, but in the process, we had two
11 doctors tell you two different opinions, and that's what? Two
12 doctors can have two different opinions. They can base it on
13 different things.

14 What you need to look at is whether you think one is --
15 it's up to you how to determine the credibility of that
16 witness. The training of these two people are very similar.
17 Mr. -- Dr. Downs, just because he was -- you know, came into
18 this case because of me doesn't mean he's selling his
19 testimony out for me and he's not, you know, a credible
20 witness. His witness is an employee who gets a paycheck.
21 It's the same thing.

22 I asked this man to review these medical records. I
23 asked him to give me a medical opinion of what he thought the
24 cause and manner of death would be, and that's what he told
25 us. It doesn't matter if it was a report first. He came in

1 and testified to what he believed to be. We provided some
2 additional records, as he discussed this morning, but all of
3 it was about what happened here. "Tell us what you think
4 happened here." And he told you what he thinks happened here,
5 and that is his medical opinion, and he is highly qualified,
6 has lots and lots and lots of qualifications.

7 She has a medical opinion and she has lots and lots of
8 qualifications also, but what was interesting is, yesterday
9 when she testified, she didn't testify about the significance
10 of the level of the opiates. She said today, "Well, that
11 doesn't mean anything to me." Okay. Didn't mean anything to
12 you? That's fine. Not in her report as significant.
13 Definitely in his report as significant.

14 He said that the manner of death should either be
15 indeterminant or possibly an accident. There is records that
16 say, in the Colleton County Medical, that it was an accidental
17 shooting.

18 So the issue becomes: What do you think? What do you
19 think of his testimony? What do you think of her testimony?
20 And that is your choice of how you choose to do that. And the
21 judge will tell you under credibility, you can believe a part
22 of a witness's testimony, you cannot believe a part of a
23 witness's testimony. That's something that you, as a group,
24 will discuss.

25 But I presented evidence in this case that shows that

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1 Mr. Williams's cause of death may not have been a homicide.
2 May not have been a homicide. And my client wasn't there --
3 says he wasn't there, and that whoever was there -- whoever
4 this potential A-1 was -- did not commit an intentional
5 killing of another with malice aforethought. There is the
6 charge. He may be committed just to assault and battery
7 first. You know, there's a gun involved here. But
8 specifically it's the man, when he was talking to Gloria and
9 giving her the whole details, said that the gun dropped and
10 that, as he was leaning for it, the gun went off, pop, which
11 would not put that gun in the hands of the person who shot him
12 at the time that the gun went off.

13 Thank you for your time. I really appreciate this. I
14 know this is complicated and it takes a lot of our effort and
15 time, but Mr. Allen really appreciates your attention.

16 THE COURT: Solicitor?

17 MR. OSBORNE: Thank you, Judge.

18 FINAL CLOSING ARGUMENT

19 MR. OSBORNE: Okay. I want to talk about credibility.
20 Okay? You get to judge credibility. All right? And I also
21 want to talk about one other thing. That's evidence. What
22 comes out of that witness stand is evidence. So whatever
23 Ms. Gay is saying that's evidence, whatever I'm saying that's
24 evidence -- I mean, you can listen to us but trust your own
25 memory. Okay? And trust what you heard. I mean, this isn't

1 a very long trial. Most of this stuff about proximate cause
2 we just heard. I'll rehash a little bit of, what we just
3 heard. So trust your own memory. What we're saying is not
4 evidence.

5 All right. So the whole idea about mistaken identity, I
6 guess that's really what -- I'm going to kind of work
7 backwards here. Okay? And then I'll talk about proximate
8 cause and the law and talk about credibility and talk about
9 the other part of the law that she left out.

10 All right. So mistaken identity. You know, that --
11 she's correct: That is important. And Detective Easterlin
12 told that -- told you that. Yeah, we got warrants out for the
13 guy. We're looking for him.

14 But do you want to know who else knew that they were
15 looking for him? He knew it. Nine months, he was on the run.
16 And when officers just happened to pull him over, he had a
17 fake ID. You'll have that video back there.

18 And there was another clip we kind of went through kind
19 of quick that we did play, but you'll hear the trooper talk
20 about, "Man, that's a good ID." That's solid. That's good.
21 "What's your real name? Where are you really from?" He knew.
22 He knew.

23 And I'm going to breeze through this real quick. Okay?
24 This is going to the victim -- or the victim's family who was
25 testifying. This is what I heard. Okay? I heard the father,

1 yeah, he said that his son told him A-1 shot him, but he also
2 said it was over money.

3 Shanay. Shanay said Torrell said, "A-1 shot me," and she
4 knew him because she worked with his daughter and
5 (indiscernible). You know? He brought his daughter into this
6 whenever he took 'em there. All he did was go and, based on
7 that information, try to find who this person was, and that's
8 what led him to him.

9 I'm glad she liked what Marlana said, because Marlana
10 said something that was very important, and that was in
11 reference to proximate cause. And I'm going to talk about
12 this because I want to make sure I don't miss it now. Marlana
13 was talking about his life before -- Torrell's life before the
14 shooting and his life after the shooting. And I'll cover that
15 more in a little bit when it comes to the law.

16 Gladys had no details. Okay. And this is kind of comes
17 to what the victim said as well. Okay? So, if you remember,
18 when Gladys was testifying, I said, "Have you spoke to -- did
19 you speak to your son?"

20 And she said, "I did."

21 And I said, "Okay. Well, was he upset whenever he was
22 talking to you" and all this?

23 And she said, "Yes."

24 And I said, "Okay. And you talked to him at the house?"

25 And he said, "No. I spoke to him at the hospital after."

1 Okay? So you didn't get to hear that. What you got to
2 hear -- and the law -- and there were decisions that were
3 made -- appropriate decisions -- decisions were made, this is
4 what you can hear, this is what you want to hear. They said
5 they spoke to the victim and they said they talked to them.
6 You didn't get to hear that, and you should get to hear that.
7 That's not appropriate for you to hear. Okay? But to suggest
8 that they didn't or we don't know, that's just not accurate.

9 Gloria Green can't be true -- well, just call her what
10 she is then. She's a liar. I mean, that's what you're
11 saying. She's a liar. I'm going to tell you how much Gloria
12 Green's not a liar. Remember whenever she was on the stand
13 and I sat right there and I asked her, "Did Lamont tell
14 you --" this is the way -- obviously, I wouldn't have asked
15 this if I understood it another way -- "Did Lamont tell you
16 that he had a conversation with that man at the softball field
17 and that man said he shot him when he struggled over the gun?"
18 And, clearly, that's what I thought. And what did she do?
19 She took a deep breath and she said, "I'm not going to lie."
20 She could have stuck him right there, and she didn't because
21 she wasn't going to lie.

22 But she said that they struggled over the gun. I told
23 you before, Torrell's got a right to fight. He
24 (indiscernible) have a right to (indiscernible), and
25 (indiscernible) says he has to (indiscernible). He can fight.

CLOSING ARGUMENT

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1 The other part she left out, when they were in that
2 headlock, I thought -- maybe I'm wrong, but I thought
3 Ms. Green said that Torrell said he said, "Don't make me shoot
4 you." And I don't know, five-foot-seven man, six-foot-tall
5 man, going into the gut, headlock, on the right side, coming
6 up? That seems consistent, exactly what Torrell said.

7 Okay. Tower would have easily picked up a call. I think
8 I covered it with Agent Willis. I'm not going to go through
9 it again, but when you have the cone, okay, if he was headed
10 north or south, then he would be picking up on these other
11 towers. But he's not picking up on those other towers. He's
12 heading from the incident location west. That's why he's
13 hitting off that tower. And when the next call was made, he's
14 on another tower west.

15 Okay. The Narcan -- "Nar-can", "Nar-cain" --
16 Dr. Presnell said, you know, you give that to someone to bring
17 them back. You know, when there's a drug overdose, you give
18 it to them to bring them back. If this had been a drug
19 overdose, that's one clue, you would have expected that Narcan
20 to kick in and bring him back. That's not what killed him.

21 And, so, you know, I want to talk a little bit about
22 misdirection, because, I mean, look, let's put it out there.
23 Throughout this trial, you have seen, you know, Ms. Gay
24 continually ask me and Mr. Rivers, you know, showing exhibits
25 to the witnesses. You know, she -- let's see that. Let me

1 see what you have there. You probably heard me say something
2 like, "But you already have this." And she would say
3 something, "Yeah, I know, but I want to see it." Okay.
4 That's fine.

5 But much like the games that her client was playing in
6 the interview room, this is no game. I agree with him there.
7 This trial is no game. They hired an expert that was willing
8 to come here and tell you (indiscernible). He doesn't even
9 know how much he got paid? Give me a break. He doesn't
10 remember when he was hired? Credibility. And he never wrote
11 a report. He wouldn't put that opinion down on paper because,
12 if he said, they would have had to share it with us.

13 All right. So let's get into proximate cause, because
14 this is kind of what the second part of what Ms. Gay was
15 talking about. I mean, it is interesting. Dr. Presnell was
16 up here the other day, and he was available to be -- or she
17 was available to be cross-examined. We never did hear any
18 questions from her at that time. They could have been asked
19 then. "You know, why didn't you put dots (ph) in there?"
20 Well, she told you why.

21 All right. So let's get into that. Proximate cause.
22 And this is really what proximate cause means: Did the injury
23 cause Mr. Williams's death? And there's some other important
24 legal aspects to proximate cause in which -- you know, was
25 left out on that short discussion on the law.

CLOSING ARGUMENT

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1 All right. So -- and I think it might be right after she
2 left off, actually. There must be a chain of causation from
3 the time of the injury inflicted by the defendant until the
4 time of the victim's death a chain of circumstances that were
5 brought into effect by his actions.

6 Prior to being shot, Torrell wanted to live. You heard
7 him, even after being shot, tell Auntie, I guess, "I want to
8 live. I don't want to die. I don't want to die."

9 And here's his tox that night. Zeros. Nothing. No
10 opiates. Was he battling alcoholism? Yeah. There's no
11 opiates in his blood that night. And you can draw your own
12 conclusions from what that meant. Polysubstance abuser? I
13 guess they're accusing him of being a drug addict and
14 everything else. Why would we get into that? You see the
15 records right there.

16 And, now, was he using drugs after he shot him?
17 Prescription drugs for comfort. He was in hospice care. For
18 those of you who have loved ones, you know what that means:
19 The end is near. And they are prescribing him medication now
20 so that he's in comfort.

21 She didn't want to describe the peritonitis or the
22 infection as being raging but it was bad. He was in pain.
23 And all of that chain of circumstances started with what he
24 did.

25 Okay. And the next -- some other elements or, I guess,

1 aspects of proximate cause. There may be more than one
2 proximate cause. (Indiscernible). There may be more than
3 one. The defendant's act may not be the sole cause of death
4 but must be a proximate cause contributing to the death of the
5 victim. As absurd as that doctor's testimony was, Dr. Downs,
6 he had to concede that.

7 They paid for an expert who conceded that the gunshot was
8 a contributing factor. By his definition, that might not be a
9 homicide, but by our definition, that's murder.

10 Prior to being shot, Torrell was taking care of his kids,
11 he was taking care of himself. Bathing himself, he fed
12 himself, he drove when he needed to get places, and he was
13 living his life. In fact, on the night of this incident, of
14 all those people that were in that home, when there was a
15 knock on the door, who went? Torrell. He went to answer the
16 door. In the hospital, kept telling his aunt, "I don't want
17 to die." He had a will to live. He had a life.

18 And when this person shot Torrell and took that life from
19 him, he had no right to do it. That's why he's guilty of
20 murder. Thank you.

21 JURY CHARGE

22 THE COURT: Ladies and gentlemen of the jury, it's now
23 time for me to charge you on the law in this case. The
24 indictments charge the defendant with murder, attempted armed
25 or allegedly armed robbery, and possession of a firearm or a

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1 knife during the commission of a violent crime. I remind you
2 that the fact that the defendant was arrested, charged, and
3 indicted in this case is not evidence in this case and cannot
4 be considered by you as evidence of guilt in this case nor
5 does it create any presumption or inference of guilt. These
6 documents are simply the formal written instruments which
7 contain the charges made against the defendant. They are the
8 formal documents by which this case is brought into court.

9 The indictments in this case allege several different
10 offenses against the defendant. The charges again are murder,
11 attempted armed or allegedly armed robbery, and possession of
12 a firearm or a knife during the commission of a violent crime.
13 Each indictment charges a separate and a distinct offense.
14 You must decide each indictment separately on the evidence and
15 the law applicable to it, uninfluenced by your decision as to
16 any other indictment. The defendant may be convicted or
17 acquitted on any or all of the offenses charged. You will be
18 asked to write a separate verdict of guilty or not guilty for
19 each indictment.

20 The defendant has pled not guilty to these indictments.
21 That plea puts the burden on the State to prove the defendant
22 guilty. A person charged with committing a criminal offense
23 in South Carolina is never required to prove himself innocent.
24 I charge you that it is an important rule of the law that a
25 defendant in a criminal trial, no matter what the seriousness

1 of the charge may be, will always be presumed innocent of the
2 crimes for the indictments that were issued unless the guilt
3 has been proven by evidence satisfying you of that guilt
4 beyond a reasonable doubt. This presumption of innocence does
5 not end when you begin your deliberations, but it accompanies
6 the defendant throughout the trial until you reach a verdict
7 of guilt based on evidence satisfying you of that guilt beyond
8 a reasonable doubt.

9 The presumption of innocence is like a robe of
10 righteousness placed about the shoulders of the defendant,
11 which remains with the defendant until it has been stripped
12 from the defendant by evidence satisfying you of the
13 defendant's guilt beyond a reasonable doubt. The presumption
14 of innocence is not a mere legal theory. It is not just a
15 legal phrase. It is a substantial right to which every
16 defendant is entitled unless you, the jury, are satisfied from
17 the evidence of the defendant's guilt beyond a reasonable
18 doubt.

19 What is a reasonable doubt in the law? A reasonable
20 doubt is the kind of doubt that would cause a reasonable
21 person to hesitate to act. Proof beyond a reasonable doubt is
22 proof that leaves you firmly convinced of the defendant's
23 guilt. There are very few things in this world that we know
24 with absolute certainty, and in criminal cases, the law does
25 not require that proof overcome every possible doubt. If,

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1 based on your consideration of the evidence, you are firmly
2 convinced that the defendant is guilty of the crime charged,
3 you must find the defendant guilty. If, on the other hand,
4 you think there is a real possibility that the defendant is
5 not guilty, you must give the defendant the benefit of the
6 doubt and find him not guilty.

7 I remind you that, during this trial, you and I have
8 certain duties to perform. I, as the trial judge, it's my
9 responsibility to preside over the trial of this case, and I
10 also have the duty to rule on the admissibility of the
11 evidence offered during this trial. You are to consider only
12 the competent evidence before you. If there was any testimony
13 ordered stricken from the record in this case during this
14 trial, you must disregard that testimony. You are to consider
15 only the testimony which has been presented from the witness
16 stand, any exhibits which have been made part of the record in
17 this case, and any stipulations of counsel.

18 I have the additional duty to charge you the law
19 applicable to this case. As the presiding judge, I'm the sole
20 judge of the law of this case, and it is your duty as jurors
21 to accept and apply the law exactly as I now state it to you.
22 If you already have an idea as to what the law is or what the
23 law ought to be and it does not agree with what I now tell you
24 the law is, you must abandon this idea because you are sworn
25 to accept the law and apply the law exactly as I state it to

1 you.

2 In every case tried in this court before the jury, the
3 jury becomes the sole and exclusive judge of the facts in a
4 case. A trial judge cannot intimate, state, comment on or
5 make any statement to a trial jury about the facts this a
6 case. Since you, the jury, are the sole judges of the facts
7 in this case, you are not to infer from what I have said
8 during the progress of this trial in ruling upon admissibility
9 of evidence or otherwise or anything that I say now during the
10 course of this instruction to you that I have any opinion
11 about the facts in this case.

12 The law does not allow me to have an opinion about the
13 facts in this case. This is a matter solely for you, the
14 jury, to determine. As jurors, it is your duty to determine
15 the effect, value, weight, and the truth of the evidence
16 presented during this trial.

17 There are two types of evidence which are generally
18 presented during a trial: Direct evidence and circumstantial
19 evidence. Direct evidence is the testimony of a person who
20 claims to have actual knowledge of a fact such as an
21 eyewitness. Circumstantial evidence is proof of a chain of
22 facts and circumstances indicating the existence of a fact.
23 The law makes absolutely no distinction between the weight or
24 value to be given to either direct or circumstantial evidence
25 nor is a greater degree of certainty required of

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1 circumstantial evidence than of direct evidence. You should
2 weigh all of the evidence in this case. After weighing all
3 the evidence, if you are not convinced of the guilt of the
4 defendant beyond a reasonable doubt, you must find the
5 defendant not guilty.

6 Necessarily, you must determine the credibility of
7 witnesses who have testified in this case. Credibility simply
8 means believability. It becomes your duty as jurors to
9 analyze and to evaluate the evidence and determine which
10 evidence convinces you of its truth. In determining the
11 believability of witnesses who have testified in this case,
12 you may believe one witness over several witnesses or several
13 witnesses over one witness. You may believe a part of the
14 testimony of a witness and reject the remaining part of the
15 testimony of that same witness. You may believe the testimony
16 of a witness in its entirety or reject the testimony of a
17 witness in its entirety. You may consider whether the witness
18 has exhibited to you any interest, bias, prejudice, or other
19 motive in this case. You may also consider the appearance and
20 the manner of a witness while on the witness stand.

21 The Rules of Evidence ordinarily do not permit witnesses
22 to testify to opinions or conclusions. An exception to this
23 rule exists for witnesses that we call expert witnesses. A
24 witness who, by education and experience, has become an expert
25 in some art, science, profession, or calling may state an

1 opinion as to a relevant and material matter in which the
2 witness claims to be an expert and may also state the reasons
3 for the opinion. You should consider any expert opinion
4 received in evidence in this case and, like any other
5 evidence, give it the weight that you think it deserves.

6 If you decide that the opinion of an expert is not based
7 on sufficient education and experience or if you conclude that
8 the reasons given in support of the opinion are not sound or
9 that the opinion is outweighed by other evidence, you may
10 disregard the opinion entirely.

11 An expert witness's testimony is to be given no greater
12 weight than other witnesses simply because the witness is an
13 expert. Further, you're not required to accept an expert's
14 opinion, even though it's not contradicted.

15 I instruct you and emphasize that the fact that the
16 defendant did not testify is not a factor to be considered by
17 you in any way in your deliberation and in your contribution
18 on the question of the guilt or innocence of the defendant.
19 It must not be considered by you in any manner whatsoever. A
20 defendant has the constitutional right to remain silent, and
21 the assertion of this right must not be considered in your
22 deliberations. I repeat: Under your oath, you are to draw no
23 conclusion whatsoever from the fact that the defendant in this
24 case did not testify.

25 The fact that this defendant did not testify should not

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1 even be discussed in the jury room. The burden of proof, as I
2 have stated to you, is on the State. The defendant is not
3 required to prove his innocence. The burden of proof remains
4 on the State to prove guilt beyond a reasonable doubt.

5 An issue in this case is the identification of the
6 defendant as the person who committed the crime charged. The
7 State has the burden of proving identity beyond a reasonable
8 doubt. You must be satisfied beyond a reasonable doubt of the
9 accuracy of the identification of the defendant before you may
10 convict the defendant. Identification testimony is an
11 expression of belief or impression by a witness. You must
12 determine the accuracy of the identification of the defendant.
13 You must consider the believability of each identification
14 witness in the same way as any other witness. You may
15 consider whether the witness had an adequate opportunity to
16 observe the offender at the time of the offense. This will be
17 effected by things like how long or short a time was
18 available, how far or close the witness was, the lighting
19 conditions, and whether the witness had the chance to see or
20 know the person in the past.

21 Once again, I instruct you that the burden of proof on
22 the State extends to every element of the crime charged, and
23 this specifically includes the burden of proving beyond a
24 reasonable doubt the identity of the defendant as the person
25 who committed the crime.

1 If, after you examine the testimony, you have the
2 reasonable doubt as to the accuracy of the identification, you
3 must find the defendant not guilty.

4 In order to establish criminal liability, criminal intent
5 is required. For example, the mental state required to be
6 proven by the State for a particular crime might be purpose,
7 intent, knowledge, recklessness, or criminal negligence.
8 Criminal intent must be proven by the State beyond a
9 reasonable doubt. Criminal intent is always a matter that
10 must be determined by the jury from the circumstances
11 surrounding the situation. There is no way to prove intent to
12 a mathematical certainty. There is no way medical science can
13 dissect a person's brain and determine what the person had in
14 mind. So the law says that criminal intent may be inferred
15 from circumstances shown to have existed. This is how you
16 make a determination of whether or not the element requiring
17 intent was present. It is not necessary to establish intent
18 by direct and positive evidence, but intent may be established
19 by inference in the same way as any other fact, by taking into
20 consideration the acts of the parties and all of the facts and
21 circumstances of the case.

22 Criminal intent is a mental state, a conscious
23 wrongdoing. It is up to you to determine what the defendant
24 intended to do based upon the circumstances shown to have
25 existed.

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1 Criminal intent can arise from action or a failure to
2 act. It may arise from negligence, recklessness, or an
3 indifference to duty or to consequences that is considered by
4 the law to be the equivalent of criminal intent.

5 Where a person inflicts a fatal injury on another person
6 and that other person dies at a later time, you must be
7 convinced beyond a reasonable doubt that the infliction of the
8 first injury was the proximate cause of the victim's death.
9 Proximate cause is the direct cause. It is the immediate
10 cause. It is the efficient cause. It is that cause without
11 which the death of the victim would not have resulted. There
12 must be a chain of causation from the time of the injury
13 inflicted by the defendant until the time of the victim's
14 death. Proximate cause does not necessarily mean that it
15 occurred immediately prior to the death.

16 There may be more than one proximate cause. The acts of
17 two or more persons may combine together to be a proximate
18 cause of the death of a person. The defendant's act may be
19 regarded as a proximate cause if it is a contributing cause of
20 the death of the victim. The fact that other causes also
21 contribute to the death of the victim does not relieve the
22 defendant from responsibility. The defendant's act need not
23 be the sole cause of the death but must be a proximate cause
24 contributing to the death of the victim.

25 A statement alleged to have been made by the defendant

1 has been admitted into evidence in this case. While the Court
2 has determined that the statement is admissible, I instruct
3 you that you make the ultimate decision of whether or not the
4 defendant made the statement. If the defendant did make the
5 statement, you must determine whether the statement was made
6 by the defendant voluntarily and of his own free will. This
7 means that the statement was not caused by pressure, force,
8 fears, threats, coercion, or intimidation or by hope of a
9 promise of leniency or a reward of any kind.

10 In determining whether the statement was voluntary, you
11 must consider both the characteristics of the defendant and
12 the details of the questioning. Some of the factors that you
13 must consider are the age of the defendant, the defendant's
14 education or lack of education, the defendant's mental ability
15 or capacity, the defendant's IQ or intelligence, the
16 defendant's background and environment, the place and the
17 length of the detention, the nature of the questioning, and
18 the advice, or lack thereof, of the defendant of his
19 constitutional rights, including, but not limited to, the
20 right to remain silent; that any statement could be used
21 against him in a court of law; the right to have a lawyer
22 present; that if he could not afford a lawyer, a lawyer would
23 be appointed to represent him without any cost; that he could
24 stop making a statement at any time.

25 You must consider all of the surrounding circumstances

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1 before you give any weight to an alleged statement. The State
2 has the burden of proving beyond a reasonable doubt that the
3 alleged statement was voluntarily. If you determine that it
4 was, you may give the statement any further consideration that
5 you deem proper. You must decide what weight, if any, should
6 be given to the alleged statement. If you determine the
7 alleged statement was not the free and voluntarily statement
8 of the defendant, you should not consider the statement at
9 all.

10 The defendant is charged with murder. The State must
11 prove beyond a reasonable doubt that the defendant killed
12 another person with malice aforethought. Malice is hatred,
13 ill will, or hostility towards another person. It is the
14 intentional doing of a wrongful act without just cause or
15 excuse and with the intent to inflict an injury or under
16 circumstances that the law will infer an evil intent.

17 Malice aforethought does not require that malice exists
18 for any particular time before the act is committed, but
19 malice must exist in the mind of the defendant just before and
20 at the time that the act is committed. Therefore, there must
21 be a combination of the previous evil intent and the act.

22 Malice aforethought may be expressed or inferred. These
23 terms, "expressed" and "inferred," do not mean different kinds
24 of malice but merely the manner in which the malice may be
25 shown to exist; that is, either by direct evidence or by

1 inference from the facts and circumstances which are proved.

2 Expressed malice is shown when a person speaks words
3 which express hatred or ill will for another or when the
4 person prepared beforehand to do the act which was later
5 accomplished.

6 For example, lying in wait for a person or any other acts
7 of preparation going to show that the deed was within the
8 defendant's mind would be expressed malice.

9 A deadly weapon is any article, instrument, or substance
10 which is likely to cause death or great bodily harm. Whether
11 an instrument has been used as a deadly weapon depends on the
12 facts and circumstances of each case.

13 The following are examples of instruments which may be
14 deadly weapons: A pistol, a shotgun, a rifle, a dirk, a
15 dagger, a knife, a slingshot, metal knuckles, a razor,
16 gasoline, a fire bomb or Molotov cocktail, and lighter fluid.
17 A gun may be a deadly weapon even if it is not operating.

18 If facts are proved beyond a reasonable doubt sufficient
19 to raise an inference of malice to your satisfaction, this
20 inference would simply be an evidentiary fact to be considered
21 by you, along with the other evidence in this case, and you
22 may give it the weight that you decide it should receive.

23 If you find, under the murder indictment, that the State
24 has failed to prove beyond a reasonable doubt that the
25 defendant committed murder, you then may consider whether the

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1 State has proven beyond a reasonable doubt that the defendant
2 committed attempted murder.

3 In order to prove this crime, the State must prove the
4 defendant attempted to kill another person with malice
5 aforethought, either expressed or implied. Again, malice is
6 hatred, ill will, or hostility towards another person; that
7 is, the intentional doing of a wrongful act without just cause
8 or excuse and with the intent to inflict an injury or under
9 circumstances that the law will infer evil intent.

10 Malice aforethought does not require that malice exists
11 for any particular time before the act is committed, but
12 malice must exist in the mind of the defendant just before and
13 at the time the act is committed. Therefore, there must be a
14 combination of the previous evil intent and the act.

15 Malice aforethought may be expressed or inferred. These
16 terms -- again, "expressed" or "inferred" -- do not mean
17 different kinds of malice but merely the manner in which
18 malice may be shown to exist; that is, either by direct
19 evidence or by inference from the facts and circumstances
20 which are proved. Expressed malice is shown when a person
21 speaks forth with expressed hatred or ill will for another or
22 when the person prepared beforehand to do the act which is
23 later accomplished. For example, lying in wait for a person
24 or any other acts of preparation going to show the deed was
25 within the defendant's mind would be expressed malice.

1 Again, the following are examples of instruments which
2 may be deadly weapons: A pistol, a shotgun, a rifle, a dirk,
3 a dagger, a knife, a slingshot, metal knuckles, a razor,
4 gasoline, a fire bomb or Molotov cocktail, and lighter fluid.
5 A gun may be a deadly weapon even if it is not operating.

6 If facts are proved beyond a reasonable doubt sufficient
7 to raise an inference of malice to your satisfaction, this
8 inference would be simply in an evidentiary fact to be
9 considered by you, the jury, along with other evidence in this
10 case, and you may give it the weight that you decide it should
11 receive.

12 Intent means intending the result which actually occurs,
13 not accidentally or involuntary. Intent may be shown by acts
14 and conduct of the defendant and whether the circumstances
15 from which you may naturally and reasonably infer intent.

16 Evidence of the character of the act, the character of
17 the instrument used, the manner in which it was used, the
18 purpose to be accomplished, and the results wounds or injuries
19 may be considered in determining the intent which the act was
20 committed. Intent may also be inferred when it is
21 demonstrating the defendant voluntarily and willfully commits
22 an act, the natural tendency of which is to destroy another's
23 life.

24 If you find that the defendant has failed to prove beyond
25 a reasonable doubt that the defendant committed attempted

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1 murder, you then may consider whether the State has proved
2 beyond a reasonable doubt that the defendant attempted to
3 committed -- or that the defendant committed assault and
4 battery in the first degree.

5 A person commits the offense of assault and battery in
6 the first degree if the person unlawfully injures another
7 person and the act either involves non-consensual touching of
8 the private parts of an adult, either under or above clothing,
9 with lewd and lascivious intent, or occurred during the
10 commission of a robbery, burglary, kidnapping or theft.

11 Private parts means the general area or buttocks of a
12 male or female or the breasts of a female.

13 Two, a person may also commit the offense of assault and
14 battery in the first degree if the person unlawfully offers or
15 attempts to injure another person with the present ability to
16 do so and the act either is accomplished by means likely to
17 produce death or great bodily injury or occurred during the
18 commission of a robbery, burglary, kidnapping or theft.

19 Great bodily injury means bodily injury which causes a
20 substantial risk of death or which causes serious permanent
21 disfigurement or protracted loss or impairment of the function
22 of a bodily member or organ.

23 The next indictment for you to consider is attempted
24 armed or allegedly armed robbery. The defendant is charged
25 with attempted armed or allegedly armed robbery. In order to

1 prove this offense, the State must prove beyond a reasonable
2 doubt that the defendant attempted to take personal property
3 from the person or presence of another person.

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

8 The State must also prove beyond a reasonable doubt that
9 the defendant attempted to carry the property away, intending
10 to permanently deprive the owner of the property and to keep
11 the property for the defendant's own use. The slightest
12 removal of the property for the complete possession of the
13 property, even for an instant by the defendant, is sufficient
14 to show a taking and a carrying away of the property.

15 The taking and carrying away of the property must have
16 been done with violence or by putting the owner of the
17 property in fear of violence.

18 Finally, the State must prove beyond a reasonable doubt
19 that the defendant was armed with a deadly weapon during the
20 robbery. A deadly weapon is any article, instrument, or
21 substance, which is likely to cause death or great bodily
22 harm. Whether an instrument has been used as a deadly weapon
23 depends on the facts and circumstances of each case.

24 Again, the following examples of instruments which may be
25 deadly weapons are: A pistol, a shotgun, a rifle, a dirk, a

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1 dagger, a knife, a slingshot, metal knuckles, a razor,
2 gasoline, a fire bomb or Molotov cocktail, and lighter fluid.
3 A gun, again, may be a deadly weapon even if it is not
4 operating.

5 An attempt is an effort to establish a crime which does
6 not succeed. An attempt includes a specific intent to do a
7 particular criminal act along with an act falling short of the
8 act intended.

9 The State must show more than mere preparation and
10 intent. There must be some overt act committed in the effort
11 to commit the crime. Intent means intending the result which
12 actually occurs, not accidentally or involuntarily. Intent
13 may be shown by acts and conduct of the defendant and other
14 circumstances from which you may naturally and reasonably
15 infer intent.

16 The third indictment for which you will consider is that
17 the defendant is charged with possession of a weapon during
18 the commission of or attempted to commit a violent crime. The
19 State must prove beyond a reasonable doubt that the defendant
20 was in possession of a firearm or visibly displayed what
21 appeared to be a firearm during the commission of a violent
22 crime.

23 Firearm means any machine gun, automatic rifle, revolver,
24 pistol, or any weapon which will, is designed to, or may be
25 readily converted to expel a projectile. A knife means an

1 instruction or tool with a sharp cutting blade, whether or not
2 fastened to a handle which can be used to inflict a cut,
3 slash, or wound.

4 In order to find the defendant guilty of possession of a
5 weapon during the commission of a violent crime, you must
6 first find the defendant guilty of either committing a violent
7 crime or attempting to commit a violent crime.

8 Murder, attempted murder, attempted armed or allegedly
9 armed robbery are violent crimes. The State must prove beyond
10 a reasonable doubt that the weapon further advanced or helped
11 in the commission of the violent crime.

12 Ladies and gentlemen of the jury, you will have a verdict
13 form in your jury room. And before we get to that point,
14 ma'am, in the front row with the black shirt on? Your name,
15 please?

16 JUROR NO. 194: Noel Williams.

17 THE COURT: Noel?

18 JUROR NO. 194: Yes.

19 THE COURT: You can have a seat. I'm going to appoint
20 you as our foreperson, since you're sitting in that seat.
21 It's a very scientific process, you can tell, that you are
22 hereby designated our foreperson of the jury.

23 So it will be your responsibility, ma'am, to go through
24 the indictment form and go -- and I'll go through it with you
25 here. It's very self-explanatory. The first indictment,

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1 which you will consider, is the murder indictment. You will
2 have the indictments back in the jury room with you, and it
3 says, "As to the charge of murder, we, the jury, unanimously
4 find the defendant," and you circle the appropriate verdict;
5 either not guilty or guilty.

6 If you find the defendant guilty of murder, then you move
7 on to the armed robbery indictment. And then you go on to the
8 commission of a violent crime indictment.

9 If you find him not guilty of the murder, then you may
10 consider the lesser included offense of attempted murder. And
11 same thing. If you find him guilty of attempted murder, then
12 you go on to the armed robbery. If you find him not guilty of
13 the attempted murder, then you consider the further lesser
14 included offense of assault and battery in the first degree.

15 You then consider the attempted armed or allegedly armed
16 robbery indictment and circle the appropriate indictment or
17 the appropriate verdict. And the same thing for the
18 possession of a firearm or knife during the commission of a
19 violent crime. You will then sign it and date it.

20 Please be mindful that your verdict must be a unanimous
21 verdict, which, of course, means that all 12 of you must agree
22 on the verdict. You will also have the indictments in the
23 jury room with you, and on the front of each indictment, you
24 will see a section where it says, "Verdict." Please indicate
25 the verdict that the jury has come to and then sign and date

1 as the jury foreperson on each of these indictments.

2 I'm going to ask you to please return to your jury room.
3 Please do not begin your deliberations until you have received
4 the verdict form, all of the exhibits, and the indictments.
5 When you receive those, then you may begin your deliberations.

6 Once you come to a verdict, if you would please knock on
7 the door, we will bring you in to receive your verdict. Thank
8 you. You may return to your jury room.

9 (The jury exited the courtroom at 4:05 p.m.)

10 THE COURT: Are there any exceptions or objections to the
11 charge on the law from either the State or from the defense?

12 MR. OSBORNE: None from the State.

13 MS. GAY: No objections, Your Honor, but I just -- I have
14 diabetes; I get low blood sugar in the afternoon, so sometimes
15 I (indiscernible) off. But at the end of all of everything, I
16 was supposed to renew all of my objections, my directed
17 verdict motion, all my objections about hearsay and all those
18 other things. I just wanted to put on the record that that's
19 what I needed to do at that time.

20 THE COURT: All right. And I'll certainly take that into
21 consideration that you did do it at the appropriate time. And
22 for the same reasons as articulated previously, your
23 motions -- or the same rulings apply.

24 MS. GAY: All right. Thank you.

25 THE COURT: All right. So if y'all would get together,

JURY QUESTION

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1 make sure we have all the exhibits. And here are the verdict
2 forms. Y'all please don't stray too far in case we get a
3 verdict or a question.

4 And anything before I release the alternate?

5 (A brief recess was taken from 4:07 p.m. to 7:33 p.m.)

6 JURY QUESTION

7 THE COURT: The latest note says, "Can we watch the
8 videos?" And they have handed back the DVDs that they wish to
9 watch.

10 Solicitor, I'm going to put y'all in charge of playing
11 those, if that's okay.

12 MR. OSBORNE: May I just get one second, Judge. My
13 computer is shut down.

14 THE COURT: Oh, sure.

15 (Pause in the proceedings.)

16 THE COURT: Are y'all ready?

17 MR. OSBORNE: We are, Your Honor.

18 THE COURT: Okay. Let's have our jury, please.

19 (The jury entered the courtroom at 7:37 p.m.)

20 THE COURT: Ladies and gentlemen of the jury, I have
21 received your request to replay the three exhibits, and we're
22 ready to do that.

23 You may do so, Solicitor.

24 MR. OSBORNE: Thank you, Your Honor. This is State's 26,
25 Deputy Jefferson's body-worn clip.

1 (Video/State's 26 plays.)

2 MR. OSBORNE: All right. State's 30, Clip 1.

3 (Video/State's 30/Clip 1 plays.)

4 MR. OSBORNE: Clip 2.

5 (Video/State's 30/Clip 2 plays.)

6 MR. OSBORNE: Okay. This is State's 23, Clip 1.

7 (Video/State's 23/Clip 1 plays.)

8 MR. OSBORNE: All right. Clip 2.

9 (Video/State's 23/Clip 2 plays.)

10 MR. OSBORNE: Clip 3.

11 (Video/State's 23/Clip 3 plays.)

12 MR. OSBORNE: Clip 4.

13 (Video/State's 23/Clip 4 plays.)

14 MR. OSBORNE: Clip 5.

15 (Video/State's 23/Clip 5 plays.)

16 MR. OSBORNE: Clip 6.

17 (Video/State's 23/Clip 6 plays.)

18 MR. OSBORNE: Clip 7.

19 (Video/State's 23/Clip 7 plays.)

20 MR. OSBORNE: Clip 8.

21 (Video/State's 23/Clip 8 plays.)

22 MR. OSBORNE: That's it, Your Honor.

23 THE COURT: Thank you.

24 Thank you, ladies and gentlemen of the jury. Also, when
25 you return to your jury room to deliberate, if the questions

VERDICT

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1 that you wrote to the Court in the past, if you'd just
2 maintain those. We have to mark those as Court's exhibits.

3 Thank you. You may return to deliberate.

4 (The jury exited the courtroom at 7:59 p.m.)

5 THE COURT: All right. We'll be at ease.

6 (Court's Exhibit Nos. 8 to 13, Juror Notes, were marked
7 for identification and received into the record.)

8 (A brief recess was taken from 8:00 p.m. to 8:20 p.m.)

9 THE COURT: All right. It's my understanding that we
10 have a verdict. Anything before I bring the jury out?

11 MR. OSBORNE: Nothing from the State, Your Honor.

12 MS. GAY: Nothing from the defense, Your Honor.

13 THE COURT: All right. Let's have our jury, please.

14 (The jury entered the courtroom at 8:21 p.m.)

15 THE COURT: Madam Forelady, has the jury reached a
16 verdict?

17 MADAM FORELADY: Yes, Your Honor. We have.

18 THE COURT: Please hand it to court security.

19 Madam Clerk, if you'd please publish the verdict.

20 VERDICT

21 THE CLERK: In the matter of State of South Carolina
22 versus Ivington Daniel Allen, Indictment No. 2019-GS-18-0548,
23 as to the charge of murder, we, the jury, unanimously find the
24 defendant guilty.

25 Indictment No. 2021-GS-18-1736, as to the charge of

1 attempted armed or allegedly armed robbery, we, the jury,
2 unanimous find the defendant guilty.

3 Indictment No. 2021-GS-18-1735, as to the charge of
4 possession of a firearm or a knife during the commission of a
5 violent crime, we, the jury, unanimously find the defendant
6 guilty.

7 Dated April 20th, 2022. Signed by jury foreperson Noel
8 Williams.

9 THE COURT: Ms. Gay, do you wish for the jury to be
10 polled?

11 MS. GAY: Yes, ma'am, I do.

12 THE COURT: Madam Clerk?

13 THE CLERK: When I call your juror number and name, if
14 you'll please stand.

15 Juror No. 167, Bradley Scott. Is this your verdict in
16 the jury room?

17 JUROR NO. 167: Yes.

18 THE CLERK: Is this still your verdict?

19 JUROR NO. 167: Yes.

20 THE CLERK: Thank you.

21 Juror No. 151, Minh Pham.

22 JUROR NO. 151: Yes.

23 THE CLERK: Is this your verdict in the jury room?

24 JUROR NO. 151: Yes, ma'am.

25 THE CLERK: Is this still your verdict?

VERDICT

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1 JUROR NO. 151: Yes, ma'am.

2 THE CLERK: Thank you.

3 Juror No. 165, Rebecca Scaff. Was this your verdict in
4 the jury room?

5 JUROR NO. 165: Yes.

6 THE CLERK: Is this still your verdict?

7 JUROR NO. 165: Yes.

8 THE CLERK: Thank you.

9 Juror No. 44, Douglas Crosby. Was this your verdict in
10 the jury room?

11 JUROR NO. 44: Yes, ma'am.

12 THE CLERK: Is this still your verdict?

13 JUROR NO. 44: Yes, ma'am.

14 THE CLERK: Thank you.

15 Juror No. 124, Abby Martin. Was this your verdict in the
16 jury room?

17 JUROR NO. 124: Yes, ma'am.

18 THE CLERK: Is this still your verdict?

19 JUROR NO. 124: Yes, ma'am.

20 THE CLERK: Thank you.

21 Juror No. 77, Alice Hardy. Was this your verdict in the
22 jury room?

23 JUROR NO. 77: Yes, ma'am.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 77: Yes, ma'am.

1 THE CLERK: Thank you.

2 Juror No. 194, Noel Williams. Was this your verdict in
3 the jury room?

4 JUROR NO. 194: Yes, ma'am.

5 THE CLERK: Is this still your verdict?

6 JUROR NO. 194: Yes, ma'am.

7 THE CLERK: Thank you.

8 Juror No. 32, Shelly Clark. Was this your verdict in the
9 jury room?

10 JUROR NO. 32: Yes, ma'am.

11 THE CLERK: Is this still your verdict?

12 JUROR NO. 32: Yes, ma'am.

13 THE CLERK: Thank you.

14 Juror No. 22, Brittany Broderick. Was this your verdict
15 in the jury room?

16 JUROR NO. 22: Yes.

17 THE CLERK: Is this still your verdict?

18 JUROR NO. 22: Yes.

19 THE CLERK: Thank you.

20 Juror No. 185, Stephanie Walters. Was this your verdict
21 in the jury room? Could you speak up, please?

22 JUROR NO. 185: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR NO. 185: Yes.

25 THE CLERK: Thank you.

VERDICT

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1 Juror No. 2, Toshiyanna Aiken. Was this your verdict in
2 the jury room?

3 JUROR NO. 2: Yes, ma'am.

4 THE CLERK: Is this still your verdict?

5 JUROR NO. 2: Yes.

6 THE CLERK: Thank you.

7 Juror No. 122, Claudette Mannion?

8 JUROR NO. 122: Yes, ma'am.

9 THE CLERK: Was this your verdict in the jury room?

10 JUROR NO. 122: Yes, ma'am.

11 THE CLERK: Is this still your verdict?

12 JUROR NO. 122: Yes, ma'am.

13 THE CLERK: Thank you.

14 THE COURT: Thank you, ladies and gentlemen of the jury.

15 If you'd return to your jury room one last time. I'll be in
16 there momentarily to release you.

17 (The jury exited the courtroom at 8:25 p.m.)

18 THE COURT: Counsel, anything before I release the jury?

19 MS. GAY: Your Honor, at this point, I honestly don't
20 even remember my name at this point, but the -- I do, Your
21 Honor, make the moment for a judgment notwithstanding the
22 verdict and renewing all my previous motions, all my previous
23 objections, my motion at the end of the State case, my motion
24 for directed verdict, and all my pretrial and limine motions,
25 and I believe that this is an inappropriate verdict based on

1 the evidence presented.

2 THE COURT: Thank you. And based on the evidence
3 presented, certainly there was direct and circumstantial
4 evidence tending to establish the guilt of the defendant
5 beyond a reasonable doubt, and here, the motions are
6 respectfully denied. And the previous motions, the same
7 rulings apply as were previously articulated.

8 All right. Solicitor, if you'd please prepare sentencing
9 sheets. I'm going to go release the jury.

10 (A brief recess was taken from 8:26 p.m. to 8:39 p.m.)

11 THE COURT: Solicitor, do you have the sentencing sheets?

12 MR. OSBORNE: I do, Judge.

13 THE COURT: And, Solicitor, before I hear any mitigation
14 from the defense, does the victim's family wish to speak or is
15 there anything from the State?

16 MR. OSBORNE: They do not wish to speak, Your Honor.
17 They just wanted me to relay to you that they would be asking
18 for life.

19 I can publish his record. It's pretty bad.

20 THE COURT: Yes, please.

21 MR. OSBORNE: So in 1999, he has a strong armed robbery
22 conviction as well as a carjacking. Also in '99, possession
23 of a weapon. And this is what was odd. So he had -- looks
24 like he probably pled to this, possession of a weapon during
25 the commission of a violent crime as well. As well as a grand

1 larceny.

2 In 2002, he had an attempted armed robbery conviction and
3 also looked like an ABWIC conviction. He was sentenced to 14
4 years then.

5 In 2019, he has giving false -- I don't know if this is a
6 conviction -- giving false information. Oh, yes, it is. I'm
7 sorry. In 2019.

8 For what it's worth, Judge, I will tell you -- and we
9 provided this in discovery to the defense -- and
10 (indiscernible) suspect, but this isn't the first finding that
11 he was a suspect on. In Raleigh, North Carolina, he and
12 Lawrence Cox were suspects in a murder in that case. The
13 information that was provided to us was that, you know, they
14 felt confident they had their men but they couldn't prove it.

15 At the time of his arrest that we saw here with the
16 trooper, he had a substantial amount of dope on his case. If
17 this case didn't work out the way we hoped it would, with the
18 guns and the dope, he was looking at substantial time on the
19 federal side as well.

20 THE COURT: Anything further from the State?

21 MR. OSBORNE: No, Your Honor.

22 THE COURT: Ms. Gay?

23 MS. GAY: Thank you, Your Honor.

24 His wife is here, as you know, on his behalf. He does
25 have -- how old is your daughter now? 22-year-old daughter.

1 She was much younger then. Do you have any other children?

2 THE DEFENDANT: Yes.

3 MS. GAY: Do you want to tell the judge about the
4 children?

5 THE DEFENDANT: My son, he graduated from Clemson. I
6 have a younger son that's in USC Columbia. My daughter attend
7 USC in Aiken.

8 MS. GAY: Your Honor, his wife has sat here through this
9 whole trial when she was allowed to come in, and she's very
10 supportive of him. You know, there were situations going on
11 in their personal life and, you know, since the arrest, since
12 all this has gone on, they have a very united family force,
13 and she's very supportive of him in whatever way she can be.
14 We would ask you to please be lenient in this situation. This
15 is a verdict, and I understand that, Your Honor.

16 We did make some very good arguments about what we
17 believe to be the case, and we also asked for -- specifically
18 asked for a jury charge that I thought would have been very
19 important to him that was denied. So I would just ask you to
20 be as lenient as possible.

21 THE COURT: Anything further from anyone?

22 MS. GAY: No, ma'am.

23 MR. OSBORNE: No, ma'am.

24 SENTENCING

25 THE COURT: On Indictment 2021-GS-18-1736 for attempted

1 armed or allegedly armed, you're hereby committed to the State
2 Department of Corrections for a period of 30 years.

3 On Indictment 2019-GS-18-0548 for the charge of murder,
4 you're hereby committed to the State Department of Corrections
5 for the remainder of your natural life.

6 And based upon the statute, that would take away any time
7 for -- on Indictment 2021-GS-18-1735.

8 MS. GAY: So are you indicating that he could get time
9 served on the gun for the purposes of how long that has been
10 going on?

11 THE COURT: I'll just say concurrent to the sentences on
12 the other indictments.

13 MS. GAY: Thank you, Your Honor.

14 MR. OSBORNE: Thank you, Judge.

15 THE COURT: And, Ms. Gay, what day was he arrested on?
16 He gets credit, but...

17 MS. GAY: Well, he was arrested on -- I guess the
18 question is when did he get out, and then he got re-arrested
19 on a bond revocation.

20 THE COURT: I'll just check that he gets credit.

21 (The above trial concluded at 8:44 p.m.)
22
23
24
25

1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Ivington Daniel Allen

3 2018-GS-18-0548

4 DATE OF HEARING: 4/20/2022 (Day 3 of 3)

5 COURT REPORTER/MONITOR: DCRP/Lorraine Harris

6
7 I, Bobbi Fisher, do hereby certify that the foregoing
8 transcript is a true and correct record of the recorded
9 proceedings; that said proceedings were transcribed to the
10 best of my ability from the audio recording and supporting
11 information, and that I am neither counsel for, related to,
12 nor employed by any of the parties to this case, and I have no
13 interest, financial or otherwise, in its outcome.

14
15 16
17 _____
18 Bobbi Fisher, Certified Transcriber

19 Date Prepared: September 10, 2022

20
21
22 NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER
23 SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY
24 OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES
25 OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR
NON-PARTIES MUST BE SENT TO THIS REPORTER AT
BFISHER@SCCOURTS.ORG.

WITNESSES

Chaz D Easterlin

Dorchester County Sheriff
18-004264

ARREST WARRANT NUMBER
2018A1810300431

Arrested: February 5, 2019

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: April 2, 2020 10 Jul 2020

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS18-0548

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

July 9, 2020 TERM

THE STATE
vs.

Ivington Daniel Allen

Indictment for
Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2020 JUL 10 10 50 AM
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2019GS18-0548

As a Court of General Sessions, convened on July 9, 2020 the Grand Jurors of DORCHESTER County present upon their oath:

MURDER

That in Dorchester County on or about April 21, 2018, with malice aforethought, the defendant, Ivington Daniel Allen did kill one James Williams by shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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



Donald N. Sorenson, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester

STATE VS.

INDICTMENT/CASE# 2019 - GS - 18 - -0548

Ivington Daniel Allen

A/W#: 2018A1810300431

AKA: _____

Date of Offense: 4/21/2018

Race: _____ Sex: M Age: 43

S.C. Code §: 16-3-10

DOB: _____ SS#: _____

CDR Code #: 0116

Address: Edisto River Rd

City, State, Zip: Saint George, SC 29477-6671

DL# _____ SID# _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder

In violation of § 16-3-10 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:

101325

Solicitor SC Bar # Defendant

63773

Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of Life sentence Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served 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.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: 2019 GS

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Ivington Daniel Allen INDICTMENT/CASE# 2019 - GS - 18 - -0548

SPECIAL CONDITIONS:

- PTUP after _____ months/years
And Other Terms Listed Below:
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
 - Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
 - Mental Health Counseling May serve W/E beginning: _____
 - Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
 - Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
 - Other: _____

- RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-288 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41
§50-21-114 (BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	TBD
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD
TOTAL	\$ 128.75

Clerk of Court/Deputy Clerk: Cheryl Graham
 Court Reporter: DCR

Presiding Judge: Nate Neuf
 Judge Code: 2164
 Sentence Date: 4/20/22

WITNESSES

Chaz D Easterlin

Dorchester County Sheriff

18-004264

ARREST WARRANT NUMBER
2021A1810300648

Arrested: 7/26/2021

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: April 14, 2022

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021GS18-1735

The State of South Carolina

County of DORCHESTER

COURT OF GENERAL SESSIONS

April 18, 2022 TERM

THE STATE
vs.

Ivington Daniel Allen

Indictment for

**POSSESSION OF A FIREARM OR
KNIFE DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: 16-23-490

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2022 APR 14 AM 11:31
CLERK OF COURT
DORCHESTER COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

INDICTMENT
2021GS18-1735

At a Court of General Sessions, convened on April 18, 2022 the Grand Jurors of
Dorchester County present upon their oath:

**POSSESSION OF A FIREARM OR KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME**

That in Dorchester on or about April 21, 2018, the defendant, Ivington Daniel Allen, did
visibly display or have in his possession a gun during the commission of a violent crime
as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to
wit: murder, thereby violating 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.

Del C. R. IV (For David Osborne)

David L Osborne, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester

STATE VS.

INDICTMENT/CASE#: 2021 - GS - 18 - -1735

Ivington Daniel Allen

A/W#: 2021A1810300648

AKA: _____

Date of Offense: 4/21/2018

Race: BLACK Sex: M Age: 43

S.C. Code §: 16-23-490

DOB: _____ SS#: _____

CDR Code #: 0549

Address: Edisto River Rd

City, State, Zip: Saint George, SC 294776671

DL# _____ SID# _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession of a Firearm or Knife During the Commission of a Violent Crime

In violation of § 16-23-490 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:

 _____
Solicitor 101325 SC Bar # Defendant

 _____ 03773
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,
for a determinate term of _____ days/months/years/Time Served Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years/Time Served 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.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: 4/20/22 (life sentence)

- The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months
- To include time spent on monitored house arrest prior to trial and sentencing.
- The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Ivington Daniel Allen INDICTMENT/CASE# 2021 - GS - 18 - -1735

SPECIAL CONDITIONS:

- PTUP after _____ months/years
And Other Terms Listed Below.
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

- RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCPPPS

Recipient: _____

*Fine:		\$ _____
Fine may be pd. in equal consecutive weekly/monthly prmts. of \$ _____ Beginning _____		
\$14-1-206 (Assessments 107.5%)		\$ _____
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100</u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
\$56-5-2995 (DUI Assessment)	\$12	\$ _____
\$56-1-288 (DUI Breath Test)	\$25	\$ _____
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
\$14-1-213 (Drug Court Surcharge)	\$150	\$ _____
\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
\$50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: Cheryl Oran
Court Reporter: _____

Presiding Judge: Walter King
Judge Code: 2106
Sentence Date: 9/20/20

WITNESSES

Chaz D Easterlin

Dorchester County Sheriff

18-004264

ARREST WARRANT NUMBER
2021A1810300649

Arrested: 7/26/2021

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: February 3, 2022

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021GS18-1736

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

February TERM

THE STATE
vs.

Ivington Daniel Allen

Indictment for

ATTEMPTED ARMED, OR ALLEGEDLY
ARMED, ROBBERY

SC Code: 16-11-330(B)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED-RECORDED
2022 FEB -3 PM 12: 20
CHERYL GRAYAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2021GS18-1736

At a Court of General Sessions, convened on February the Grand Jurors of Dorchester County present upon their oath:

ATTEMPTED ARMED, OR ALLEGEDLY ARMED, ROBBERY

That on or about April 21, 2018, in Dorchester County, South Carolina, the Defendant, Ivington Daniel Allen, by use of force, threats or intimidation and while alleging, either by action or words, he was armed while using a deadly weapon or a representation of a deadly weapon or other object which a person present during the commission of the attempted robbery reasonably believed to be a deadly weapon, did attempt to take and carry away goods and/or monies from the person or immediate presence of James Williams (Deceased) with the intent to permanently deprive him or her of possession thereof. This offense being in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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



David L Osborne, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester

STATE VS.

INDICTMENT/CASE# 2021 - GS - 18 --1736

Ivington Daniel Allen

AW#: 2021A1810300649

AKA: _____

Date of Offense: 4/21/2018

Race: _____ Sex: M Age: 43

S.C. Code §: 16-11-330(B)

DOB: _____ SS#: _____

CDR Code #: 0026

Address: Edisto River Rd

City, State, Zip: Saint George, SC 294776671

DL# _____ SID# _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Attempted Armed, or Allegedly Armed, Robbery

In violation of § 16-11-330(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 or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

101325

Solicitor

SC Bar #

Defendant

Attorney for Defendant

03773

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 30 days/months/years/Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served 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.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: 2019 GS 18 0548

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Ivington Daniel Allen INDICTMENT/CASE# 2021 - GS - 18 - -1736

SPECIAL CONDITIONS:

- PTUP after _____ months/years
And Other Terms Listed Below:
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	_____
§56-5-2995 (DUI Assessment)	\$12	\$	_____
§56-1-286 (DUI Breath Test)	\$25	\$	_____
§14-1-212 (Law Enforce. Funding)	\$25	\$	25
§14-1-213 (Drug Court Surcharge)	\$150	\$	_____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	_____
§50-21-114 (BUI Breath Test Fee)	\$50	\$	_____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
3% to County (if paid in installments)	TBD	\$	3.75
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$	_____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	_____
TOTAL		\$	128.75

Clerk of Court/Deputy Clerk: Cheryl Graham
 Court Reporter: DCR

Presiding Judge: Nate Kemp
 Judge Code: 2166
 Sentence Date: 4/20/22

CERTIFICATE OF COUNSEL FOR APPELLANT

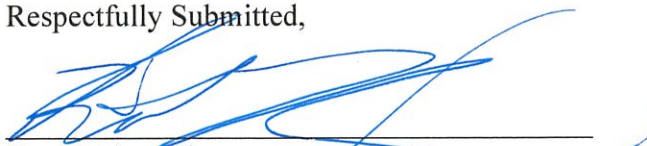
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

Mar 15 2023

SC Court of Appeals

Respectfully Submitted,



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 15th day of March, 2023.

RECEIVED

Mar 15 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

IVINGTON DANIEL ALLEN,

APPELLANT.

APPELLATE CASE NO. 2022-000638

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Ivington Daniel Allen, #260003, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 15th day of March, 2023.



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT